
EXPLANATORY NOTE

(This note is not part of the Regulations)

1. These Regulations make provision for the transfer without a written instrument, and the evidencing otherwise than by a certificate, of title to a unit of a security, in accordance with a computer-based system and procedures known as the “relevant system”. The relevant system centres on a person known as the “Operator”. The legal framework underlying the operation of the relevant system, together with the criteria which the Operator and the relevant system must meet, are enshrined in these Regulations.

2. Regulations 2 and 3 set out the purposes of and definitions used in the Regulations. A unit of a security which may be transferred by means of the relevant system is referred to as an “uncertificated” unit. A security, the units of which may become uncertificated, is referred to as a “participating security”. An issuer who issues a participating security is, in relation to that security, referred to as a “participating issuer”. Instructions sent by means of the relevant system are referred to as “dematerialised instructions”.

3. Regulations 4 to 13 make provision for the approval of the Operator by the Treasury if it appears to them that he, his rules and any relevant system meet certain criteria specified in Schedule 1. The Regulations give the Treasury certain powers in relation to the Operator if he, his rules or the relevant system, fails to meet the criteria, or if necessary for the performance of their functions under the Regulations. Provision is also made for the delegation by the Treasury of their functions under the Regulations to the Financial Services Authority, which is referred to in the Regulations as the “designated agency” when carrying out functions which have been so delegated. Schedule 2 provides for oversight by the Director General of Fair Trading of the rules and guidance of the Operator to ensure that they do not distort competition. Schedule 3 sets out the procedure to be followed before refusing or withdrawing approval as an Operator, giving a direction to an Operator, or exercising certain powers under Schedule 2.

4. Regulations 14 to 19 set out the conditions on which issuers may allow securities issued by them to become participating securities and hence to be held in uncertificated form and transferred by means of the relevant system. Provision is made for a class of shares governed by articles of association which are in all respects consistent with the Regulations to become a participating security. Provision is also made for the directors of a company to pass a “directors' resolution” so that other classes of shares can become participating securities notwithstanding any contrary provisions in the articles of association, and for the members of the company to prevent or reverse a directors' resolution. Conditions are specified for securities other than share to become participating securities. Transitional provision is made in respect of securities which were participating securities for the purposes of the Uncertificated Securities Regulations 1995. The 1995 Regulations are superseded by these Regulations.

5. Regulations 20 to 26 (together with Schedule 4) make provision for the keeping of “registers of securities” and “records of securities” in respect of participating securities. In particular, provision is made for the keeping by the Operator of registers recording persons holding uncertificated units of a participating security, and for the legal effect of entries on the registers which the Regulations require to be kept. Provision is also made in respect to the rectification or closing of such registers.

6. Regulations 27 to 30 make provision for the registration of transfers of title to units of a participating security. Provision is made for registration by the Operator of a transfer of title to an uncertificated unit of a security in certain circumstances (in particular, upon settlement of the transfer

in accordance with the Operator's rules). Provision is also made for a participating issuer, subject to a number of exceptions, to register the transfer of title to a relevant unit of a security following an Operator-instruction to do so. Further provision is made to allow the Operator to register two or more transfers of uncertificated units of a security on a net basis, or simultaneously, in certain circumstances.

7. Regulations 31 applies in a case in which, as a consequence of a transfer of a unit of a participating security, that unit ceases to be held in uncertificated form, so that the transfer of title to the unit is therefore required to be registered on a register of securities kept by the participating issuer. Provision is made for the transferee to acquire a property right in such units of a security before his name appears on the register of securities kept by the participating issuer. Other than in the case of Scottish securities, the transferee acquires an equitable interest in a number of units calculated in accordance with the regulation. In relation to Scottish securities, the transferor is deemed to hold on trust for the transferee a number of units which is calculated in the same way.

8. Regulations 32 to 34 make provision for the conversion of units of a participating security between certificated and uncertificated form, and for the issuer of new units of participating security in uncertificated form.

9. Regulation 35 prevents persons who send certain dematerialised instructions, and persons on whose behalf they are sent, from denying particular matters relating to the instructions. It also makes provision for persons receiving such instructions to accept, with certain exceptions, that the information contained in them and matters relating to them are correct.

10. Regulation 36 provides that the Operator is liable, in certain circumstances, if a person suffers loss as a result of the sending of certain dematerialised instructions, or the making of certain amendments to a register of securities kept by the Operator.

11. Regulations 37 and 38 amend certain references in enactments and rules of law, and disapply certain formalities and requirements.

12. Regulation 39 preserves the Operator's right to charge for carrying out functions under these Regulations, other than charging a participating issuer for maintaining an Operator register of securities.

13. Regulation 40 makes provision for trustees and personal representatives to use a relevant system and for debentures to be held in uncertificated form and transferred by means of a relevant system.

14. Regulation 41 makes provision for giving notices of meetings and for sending copies of certain documents.

15. Regulations 42 and 43 make provision relating to take-overs of companies with shares held in uncertificated form.

16. Regulation 44 makes provision as to the determination of actual notice of a fact, matter or thing for the purposes of the Regulation.

17. Regulation 45 provides that certain obligations to which the Regulations would otherwise give rise do not arise in the case of a wholly dematerialised security as defined in Regulation 3(1).

18. Regulations 46 to 48 makes provision as to liability for defaults and contraventions. Provision is made for participating issuers to be liable for breach of statutory duty for contravening certain regulations, and for the liability of officers of participating issuers and the Operator in respect of certain contraventions. Provision is also made for certain exemptions from liability.

19. Regulation 49 and Schedule 5 adapt the Regulations as they apply to Northern Ireland.

20. Regulation 50 gives effect to Schedule 6, which sets out the modified form in which certain provisions of the Regulations will take effect before the main provision of the Financial Services and Markets Act 2000 come into force.

21. Regulation 51 gives effect to Schedule 7 which makes minor and consequential amendments to certain enactment's.

22. Regulation 52 revokes certain enactments, including the Uncertificated Securities Regulations 1995.