

1989 No. 1437

FINANCIAL SERVICES

The Authorised Unit Trust Scheme (Investment and Borrowing Powers) (Amendment) Regulations 1989

<i>Made - - - -</i>	<i>7th August 1989</i>
<i>Laid before Parliament</i>	<i>11th August 1989</i>
<i>Coming into force</i>	<i>4th September 1989</i>

The Secretary of State, in exercise of the powers conferred on him by section 81 of the Financial Services Act 1986(a) and all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Authorised Unit Trust Scheme (Investment and Borrowing Powers) (Amendment) Regulations 1989 and shall come into force on 4th September 1989.

Interpretation

2. In these Regulations, "the Principal Regulations" mean the Authorised Unit Trust Scheme (Investment and Borrowing Powers) Regulations 1988(b) and, unless the context otherwise requires, words and expressions used in these Regulations have the meanings assigned to them in the Principal Regulations.

Amendment of definitions of "approved market" and "approved securities"

3. In regulation 2 of the Principal Regulations—

(a) the definition of "approved market" shall be deleted and the following substituted—

"approved market" means the principal or only market established in a member State on which shares admitted to the Official List of that member State are dealt in or traded and the principal or only market established under the rules of an investment exchange specified in Part I of Schedule 1 to these Regulations and also any market specified in Part II of that Schedule;"; and

(b) sub-paragraphs (a) and (b) of the definition of "approved securities" shall be deleted and the following substituted—

"(a) transferable securities which are admitted to the Official List of a member State;

(b) transferable securities which are traded on or under the rules of an approved market otherwise than by virtue of the specific permission of the market authority; and

(c) recently issued transferable securities,".

(a) 1986 c.60.

(b) S.I. 1988/284.

Restriction of investment powers exercisable in relation to authorised unit trust schemes

4.—(1) Paragraph 9(2) of the Principal Regulations shall be deleted and the following substituted—

“(2) Subject to the provisions of paragraph (4), units in a collective investment scheme which has the characteristics described in section 78(6) of the Act or which is treated as having those characteristics by virtue of that provision being in either case a collective investment scheme which is managed or operated by the manager or by a person in the same group as the manager or by a person who is a controller of the manager or of whom the manager is a controller may not be acquired for a scheme or disposed of out of the property of a scheme unless the manager is under a duty—

- (a) in any case in which the units are issued in consideration for a sum which includes a charge made by the issuer of the units, to pay into the property of the scheme before the close of business on the fourth business day next after the agreement to buy the units, the maximum amount of any preliminary charge which may be made by the issuer of the units or, if the manager knows the price at which the relevant units would have been created at the time at which they were acquired, the difference between that price and the price he paid for the units if the price he paid for the units is greater than the relevant creation price; and
- (b) to pay into the property of the scheme before the close of business on the fourth business day next after the agreement to sell the units the amount of any charge which is made by the issuer on redemption of the units.”.

(2) Paragraph 9(4) of the Principal Regulations shall be deleted and the following substituted—

“(4) Paragraph (2) shall have effect in relation to the acquisition or disposal of units included or to be included in the property of a money market fund or of any authorised securities scheme which is either a Government and other public securities fund or is a scheme more than 35% in value of the property of which consists of Government and other public securities as if the periods specified in paragraph (2)(a) and (b) were periods ending with the close of business on the business day next after the agreement to buy or, as the case may be, to sell the units in question.”.

Limitation on acquisition of influential stake

5.—(1) Regulation 16(1)(b)(ii) of the Principal Regulations shall be deleted and the following substituted—

“(b) (ii) any investment falling within paragraph 2 of Schedule 1 to the Act issued by the same issuer being an investment which is neither a Government and other public security nor an investment which is convertible into an investment falling within paragraph 1 of that Schedule; or”.

(2) The following paragraph shall be inserted after regulation 16(1) of the Principal Regulations—

“(1A) Subject to the provisions of paragraph (2), no investment which falls within paragraph 2 of Schedule 1 to the Act which is convertible into an investment falling within paragraph 1 of that Schedule shall be acquired for the property of an authorised securities scheme if the effect of the acquisition would be that the property of the scheme included more than 10% of any investment, other than a Government and other public security, which falls within paragraph 2 of Schedule 1 to the Act and is issued by the same issuer.”.

(3) Regulation 16(2) of the Principal Regulations shall be deleted and the following substituted—

“(2) Neither the provisions of sub-paragraphs (a) and (b)(ii) of paragraph (1) nor those of paragraph (1A) shall have effect in any case in which it was not possible, at the time transferable securities were acquired, to ascertain whether the acquisition would contravene those provisions.”.

(4) Regulation 25 of the Principal Regulations shall be deleted and the following substituted—

“25. The provisions of regulation 16(1)(b)(ii) and (1)(A) and those of regulation 16(2) insofar as they relate to the provisions of regulation 16(1)(b)(ii) and (1A) shall apply in relation to a money market fund in the same way as they apply in relation to an authorised securities scheme.”.

Ability of securities scheme which is not a Government and other public securities fund to invest in Government and other public securities

6. Regulation 18 of the Principal Regulations shall be renumbered regulation 18(1) and the following shall be substituted for sub-paragraph (b) of that regulation—

- “(b) up to 35% in value of the property of an authorised securities scheme may consist of Government and other public securities issued by the same issuer; and
 - (c) up to 100% in value of the property of an authorised securities scheme may consist of Government and other public securities issued or guaranteed by the same person provided that the conditions described in paragraph (2) are fulfilled.
- (2) The conditions described in this paragraph are that—
- (a) if it is intended that it should be possible for more than 35% in value of the property of an authorised securities scheme to consist of Government and other public securities issued or guaranteed by the same person, the deed constituting the scheme in question and the most recently published scheme particulars must clearly state that fact and the identity of the issuer or guarantor in question; and
 - (b) not more than 35% in value of the property of an authorised securities scheme shall consist of Government and other public securities issued or guaranteed by the same person unless—
 - (i) the property of the scheme includes Government and other public securities issued or guaranteed by that person of at least six different issues;
 - (ii) not more than 30% in value of the property of the scheme consists of Government and other public securities issued or guaranteed by that person of the same issue; and
 - (iii) the most recently published scheme particulars clearly state that more than 35% in value of the scheme consist of Government and other public securities issued by the same issuer and identify the issuer or guarantor.”.

Approved markets and approved options and futures markets

7.—(1) In Part I of Schedule 1 to the Principal Regulations paragraph 6 shall be deleted and the following paragraphs substituted—

“6. NASDAQ, the electronic inter-dealer quotation system operated by the National Association of Securities Dealers Inc.

7. The Securities Exchange of Thailand.”.

(2) The following paragraphs shall be added to Part II of Schedule 1 to the Principal Regulations—

“4. The market known as “the Grey Book Market” that is to say the market which is conducted by those persons for the time being included in the list maintained by the Bank of England for the purposes of section 43 of the Act under the conditions imposed by the Bank of England under that section.

5. The market in transferable securities issued by or on behalf of the Government of the United States of America conducted through those persons recognised and supervised by the Federal Reserve Bank of New York and known as primary dealers.”

(3) The Luxembourg Stock Exchange shall be added to the markets specified in Schedule 2 to the Principal Regulations.

7th August 1989

John Redwood
Parliamentary Under-Secretary of State,
Department of Trade and Industry

EXPLANATORY NOTE

(This note is not part of the regulations)

These Regulations amend the Authorised Unit Trust Scheme (Investment and Borrowing Powers) Regulations 1988 (“the Principal Regulations”) in various respects. They amend the definitions of “approved market” and “approved securities” so as to deal more clearly with the position of the Official List of a member State and with the markets upon which shares admitted to the Official List are dealt in or traded. They make new provision as to circumstances in which the manager of a scheme must pay sums into the property of a scheme following an acquisition or disposal of units in another scheme. They make provision as to the ability of an authorised securities scheme or a money market fund to continue to hold investments convertible into other investments. They also make provision as to the ability of an authorised securities scheme which is not a Government and other public securities fund to invest in Government and other public securities. They add the markets specified in regulation 7(1) to the list of markets specified in Part I of Schedule 1 to the Principal Regulations, the markets specified in regulation 7(2) to the list of markets specified in Part II of that Schedule and the market specified in paragraph 7(3) to the list of markets specified in Schedule 2 to those Regulations.

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