
STATUTORY INSTRUMENTS

1992 No. 225

The Uncertificated Securities Regulations 1992

PART VII

**FURTHER PROVISIONS WITH RESPECT TO THE
OPERATOR, CONTROLLERS, AND OTHER PARTICIPANTS**

Controller's default nominee

61.—(1) It is the duty of a controller:

- (a) to appoint a relevant person (other than himself or itself) to act as his or its “default nominee” for the purposes of these Regulations (that is to say as the person to be registered as the holder of units of a security to which the controller holds entitlements where the controller has failed for any reason to issue a proper instruction to register with respect to the units or such an instruction has not been acted upon for any reason by the company); and
- (b) to notify every relevant company of the name and address of the person so appointed (unless the Operator has agreed to communicate, or has communicated, this information to the company on behalf of the controller).

For the purposes of sub-paragraph (a) a “relevant person” is a body corporate whose sole business is holding property of any description on behalf of others.

(2) The registration of a default nominee, in its capacity as such, as the holder of a unit of an uncertificated security shall not cause the relevant entitlement to be held for the default nominee or the default nominee to be regarded as the account holder with respect to it.

(3) A controller's default nominee, having been registered on an appropriate register as the holder of a unit of an uncertificated security in that capacity, shall hold that unit on trust:

- (a) (in the case of its registration under regulation 38 as a consequence of the provisions of regulation 21) for the account holder who has been refused registration, until another person is registered as the holder of the unit; or
- (b) (in any other case) for the account holder who ought to be registered as holder of the unit, until such time as that account holder has been registered as the holder.

(4) A default nominee shall, in connection with a unit of an uncertificated security held on trust by it in its capacity as default nominee, act, and only act, in accordance with the instructions of the account holder on whose behalf it holds the unit.

(5) A default nominee shall not accept instructions from such an account holder except where the instruction is given on behalf of the account holder by the controller concerned or the instruction is given with the consent of the controller. It is the duty of the controller to give such instructions if, but only if, he or it has the like instructions from the account holder concerned.

(6) Subject to any provision to the contrary (in the case of shares) in a company's articles of association or (in the case of any type of security) in the terms of issue of a security, where a controller's default nominee is registered in that capacity as the holder of a unit of a security, the

default nominee is prohibited from exercising any voting right attached to the unit and any purported exercise of such a right in contravention of this paragraph shall be disregarded for all purposes.

(7) A company shall not be treated, for the purposes of section 24 of the 1985 Act, as having less than two members by reason only of the fact that its sole member is a controller's default nominee registered in that capacity.

(8) It is the duty of a controller whose default nominee is registered on an appropriate register as holder of a unit of an uncertificated security in that capacity (except by virtue of regulation 38 as a consequence of the provisions of regulation 21) to issue an instruction to register the person who was the account holder with respect to the entitlement to that unit at the date by reference to which the register was updated, as soon as practicable.

(9) A controller may substitute another person as his or its default nominee and, if the controller does so, he or it shall notify the Operator and every company, in a security of whose the controller holds an entitlement, of the name and address of the person so substituted (unless the Operator has agreed to notify the company on behalf of the controller). However a company shall continue to regard the latest person notified to it as the controller's default nominee as that nominee unless it has been given specific notice by the controller or (as the case may be) the Operator of the substitution and the name and address of the person substituted.

(10) If a controller's default nominee is registered on an appropriate register as the holder of a unit of an uncertificated security in that capacity at the time a company is notified under paragraph (9) of a substitution, the company shall as soon as reasonably practicable substitute the new default nominee for the old on that register.

(11) A commercial controller shall be jointly and severally liable with a person appointed by the controller to act as the controller's default nominee for any breach of trust or duty on the part of that person acting as such default nominee. A company and a company controller appointed by it shall also be jointly and severally liable with a person appointed by the controller to act as the controller's default nominee with respect to the security of the company concerned for any breach of trust or duty on the part of that person whilst acting as such default nominee.