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STATUTORY INSTRUMENTS

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**1994 No. 1908**

**TRUSTEES**

**The Trustee Investments (Additional Powers) Order No. 2 1994**

*Made* - - - - - *19th July 1994*  
*Laid before Parliament* *29th July 1994*  
*Coming into force* - - - *22nd August 1994*

At the court at Buckingham Palace, the 19th day of July 1994

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred on Her by section 12 of the Trustee Investments Act 1961(1) and by section 2(2) of the European Communities Act 1972(2), and of all other powers enabling her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

**Citation and commencement**

1. This Order may be cited as the Trustee Investments (Additional Powers) Order No. 2 1994 and shall come into force on 22nd August 1994.

**New powers of investment of trustees**

2.—(1) For paragraph 10A(3) of Part II of Schedule 1 to the Trustee Investments Act 1961 there shall be substituted—

“**10A.** In any units of a gilt unit trust scheme.

References in this Schedule to a gilt unit trust scheme are references to a collective investment scheme—

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(1) 1962 c. 62.

(2) 1972 c. 68.

(3) Paragraph 10A was inserted by section 150 of the Finance Act 1982 (c. 39); and has been amended by section 822 of, and paragraphs 32 (Table) of Schedule 29 to, the Income and Corporation Taxes Act 1988 (c. 1). It refers to a provision of the Income and Corporation Taxes Act 1988 that was repealed by section 52(2) of, and Part IV of Schedule 19 to, the Finance Act 1990 (c. 29).

- (a) which is an authorised unit trust scheme within the meaning of the Financial Services Act 1986, a recognised scheme within the meaning of that Act or a UCITS; and
- (b) whose objective is to invest not less than 90% of the property of the scheme in loan stock, bonds and other instruments creating or acknowledging indebtedness which are transferable and which are issued or guaranteed by—
  - (i) the government of the United Kingdom or elsewhere,
  - (ii) by a local authority in the United Kingdom or in a relevant state, or
  - (iii) by an international organisation the members of which include the United Kingdom or a relevant state;
 and, in respect of the remainder of the property of the scheme, whose objective is to invest in any instrument falling within any of paragraphs 1 to 3, 5 to 6 of Schedule 1 to the Financial Services Act 1986.”.

(2) After paragraph 15 of Part II of that Schedule, there shall be inserted—

“**16.** In fixed-interest or variable interest securities issued by the Government of a relevant state.

**17.** In any securities the payment of interest in which is guaranteed by the Government of a relevant state.

**18.** In fixed-interest securities issued in a relevant state by any public authority or nationalised industry or undertaking in any such state.

**19.** In fixed-interest or variable interest securities issued in a relevant state by the Government of any overseas territory within the Commonwealth or by any public or local authority within such a territory.

References in this paragraph to an overseas territory or to the government of such a territory shall be construed as if they occurred in the Overseas Development and Co-operation Act 1980(4).

**20.** In fixed-interest or variable interest securities issued in a relevant state by—

- (a) the African Development Bank;
- (b) the Asian Development Bank;
- (c) the Caribbean Development Bank;
- (d) the International Finance Corporation;
- (e) the International Monetary Fund;
- (f) the International Bank for Reconstruction and Development;
- (g) the Inter-American Development Bank;
- (h) the European Atomic Energy Community;
- (i) the European Bank for Reconstruction and Development;
- (j) the European Economic Community;
- (k) the European Investment Bank; or
- (l) the European Coal or Steel Community.

**21.** In debentures issued in a relevant state by a company incorporated in any relevant state.

**22.** In loans to any authority to which this paragraph applies charged on all or any of the revenues of the authority or on a fund into which all or any of those revenues are payable, in fixed-interest or variable interest securities issued in a relevant state by any such authority in that state for the purpose of borrowing money so secured, and in deposits with any authority to which this paragraph applies by way of temporary loan made on the giving of a receipt for the loan by the treasurer or other similar officer of the authority and on the giving of an undertaking by the authority that, if requested to charge the loan as aforesaid, it will either comply with the request or repay the loan.

This paragraph applies to the following authorities, that is to say—

- (a) any local authority in a relevant state; or
- (b) any authority all the members of which are appointed or elected by one or more local authorities in any such state.

**23.** In deposits with a mutual investment society whose head office is located in a relevant state.

**24.** In loans secured on interests in property in a relevant state which corresponds to an interest in property falling within paragraph 13 of this Part of this Schedule.”.

(3) After paragraph 3 of Part III of the Schedule there shall be inserted—

“**4.** In any securities issued in a relevant state by a company incorporated in that state or by any unincorporated body constituted under the law of that state, not being (in either case) securities falling within Part II of this Schedule or paragraph 6 of this Part of this Schedule.

**5.** In shares in a mutual investment society whose head office is located in a relevant state.

**6.** In any units of a collective investment scheme which is—

- (a) a recognised scheme within the meaning of the Financial Services Act 1986<sup>(5)</sup> which is constituted in a relevant state; or
- (b) a UCITS;

and which does not fall within Part II of this Schedule.”.

## **Minor and consequential amendments related to Article 2**

**3.—**(1) Part IV of Schedule 1 to the Trustee Investments Act 1961 shall be amended as follows.

(2) At the end of paragraph 1, there shall be inserted the words “, in the currency of a relevant state or in the European currency unit (as defined in article 1 of Council Regulation No. 3180/78/EEC)<sup>(6)</sup>”.

(3) In paragraph 2, after the words “the Financial Services Act 1986” there shall be inserted the words “or on an investment exchange which constitutes the principal or only market established in a relevant state on which securities admitted to official listing are dealt in or traded”.

(4) After paragraph 2, there shall be inserted—

“**2A.** The securities mentioned in paragraphs 16 to 21 of Part II of this Schedule, other than securities traded on a relevant money market or securities falling within paragraph 22 of Part II of this Schedule, and the securities mentioned in paragraph 4 of Part III of this Schedule do not include—

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<sup>(5)</sup> 1986 c. 60.

<sup>(6)</sup> OJ No. L379, 30.12.78, p.1; the relevant amending instrument is Council Regulation (EEC) No. 1971/89, OJ No. L189, 4.7.89, p.1.

- (a) securities the price for which is not quoted on a recognised investment exchange within the meaning of the Financial Services Act 1986 or on an investment exchange which constitutes the principal or only market established in a relevant state on which securities admitted to official listing are dealt in or traded;
  - (b) shares or debenture stock not fully paid up (except shares or debenture stock which by the terms of issue are required to be fully paid up within nine months of the date of issue or shares issued with no nominal value).”.
- (5) In paragraph 3—
- (a) after the words “securities mentioned in paragraph 6” there shall be inserted the words “and 21”;
  - (b) after the words “and paragraph 1” there shall be inserted the words “or 4”;
  - (c) after sub-paragraph (a), there shall be inserted—
    - “(ab) shares or debentures of an incorporated company of which the total issued and paid up share capital at any time on the business day before the investment is made is less than the equivalent of one million pounds in the currency of a relevant state (at the exchange rate prevailing in the United Kingdom at the close of business on the day before the investment is made);”.
- (6) In paragraph 4—
- (a) after the definition of “local authority” there shall be inserted—
    - ““mutual investment society” means a credit institution which operates on mutual principles and which is authorised by the appropriate supervisory authority of a relevant state;
    - “relevant money market” means a money market which is supervised by a central bank or a government agency of a relevant state;
    - “relevant state” means Austria, Finland, Iceland, Liechtenstein, Norway, Sweden or a member state other than the United Kingdom;”;
  - (b) in the definition of “securities”, after the words “units within paragraph 3” there shall be inserted the words “or 6”.
- (7) In paragraph 6, at the beginning there shall be inserted the words “In relation to the United Kingdom,”.
- (8) After paragraph 6 there shall be inserted—
- “**6A.** References in this Schedule to a UCITS are references to a collective investment scheme which is constituted in a relevant state and which complies with the conditions necessary for it to enjoy the rights conferred by Council Directive [85/611/EEC](#) co-ordinating the laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities(7); and section 86(8) of the Financial Services Act 1986 (meaning of “constituted in a member state”) shall apply for the purposes of this paragraph as it applies for the purposes of that section but as if for references in that section to a member state there were substituted references to a relevant state.”.

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(7) OJ No. L375, 31.12.85, p.3, as amended by Council Directive [88/220/EEC](#) (OJ No. L100, 19.4.88, p.31).

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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*N. H. Nicholls*  
Clerk to the Privy Council

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## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order amends Schedule 1 to the Trustee Investments Act 1961. It adds units of a gilt unit trust scheme to the list of investments in Part II of Schedule 1 to the Act. In order to comply with Article 73b of the Treaty establishing the European Community, the Order also adds certain investments to Parts II and III of Schedule 1. Part II sets out the narrower-range, and Part III sets out the wider-range, of investments that may be made by trustees. Before exercising any power to invest in a manner specified in either Part, a trustee must obtain and consider proper advice on the question whether the investment is satisfactory having regard to the trustee's duties under the Act. The Order makes minor and consequential amendments to the supplemental provisions in Part IV of Schedule 1.