
STATUTORY INSTRUMENTS

1995 No. 3272

The Uncertificated Securities Regulations 1995

PART I

CITATION, COMMENCEMENT AND INTERPRETATION

Citation and Commencement

1. These Regulations may be cited as the Uncertificated Securities Regulations 1995 and shall come into force the day after the day on which they are made.

Purposes and basic definitions

2.—(1) These Regulations enable title to units of a security to be evidenced otherwise than by a certificate and transferred otherwise than by a written instrument, and make provision for certain supplementary and incidental matters; and in these Regulations “relevant system” means a computer-based system, and procedures, which enable title to units of a security to be evidenced and transferred without a written instrument, and which facilitate supplementary and incidental matters.

(2) Where title to a unit of a security is evidenced otherwise than by a certificate by virtue of these Regulations, the transfer of title to such a unit of a security shall be subject to these Regulations.

(3) Part II of these Regulations has effect for the purpose of securing—

- (a) that the Operator of a relevant system is a person approved for the purpose by the Treasury; and
- (b) that a person is only approved if it appears to the Treasury that certain requirements are satisfied with respect to that person, the relevant system and his rules and practices.

(4) Part III of these Regulations has effect for the purpose—

- (a) of enabling companies and other persons to become participating issuers in relation to a relevant system, that is to say, persons who permit—
 - (i) the holding of units of securities issued by them in uncertificated form; and
 - (ii) the transfer by means of the system of title to units of such of the securities issued by them as are held in that form; and
- (b) of establishing the duties and obligations of participating issuers in relation to uncertificated units of a security with respect to the keeping of registers, the registration of transfers and other matters.

(5) Part IV of these Regulations has effect for the purpose of securing—

- (a) in certain circumstances—
 - (i) that the persons expressed to have sent instructions by means of a relevant system which are properly authenticated, and the persons on whose behalf those instructions are expressed to have been sent, are prevented from denying to the persons to whom those instructions are addressed that certain information relating to them is correct; and

- (ii) that the persons to whom the instructions referred to in subparagraph (a)(i) are addressed may accept that certain information relating to them is correct; and
- (b) in certain circumstances that persons suffering loss are compensated by the person approved under Part II of these Regulations.

Interpretation

3.—(1) In these Regulations—

“the 1985 Act” means the Companies Act 1985(1);

“the 1986 Act” means the Financial Services Act 1986(2);

“certificate” means any certificate, instrument or other document of, or evidencing, title to units of a security;

“company” means a company within the meaning of section 735(1) of the 1985 Act;

“dematerialised instruction” means an instruction sent or received by means of a relevant system;

“designated agency” has the meaning given by regulation 11(1);

“enactment” includes an enactment comprised in any subordinate legislation within the meaning of the Interpretation Act 1978(3);

“generate”, in relation to an Operator-instruction, means to initiate the procedures by which an Operator-instruction comes to be sent;

“guidance”, in relation to an Operator, means guidance issued by him which is intended to have continuing effect and is issued in writing or other legible form, which if it were a rule, would come within the definition of a rule;

“instruction” includes any instruction, election, acceptance or any other message of any kind;

“interest in a security” means any legal or equitable interest or right in relation to a security, including—

- (a) an absolute or contingent right to acquire a security created, allotted or issued or to be created, allotted or issued; and
- (b) the interests or rights of a person for whom a security is held by a custodian or depositary;

“issue”, in relation to a new unit of a security, means to confer title to a new unit on a person;

“issuer-instruction” means a properly authenticated dematerialised instruction attributable to a participating issuer;

“officer”, in relation to a participating issuer, includes—

- (a) where the participating issuer is a company, such persons as are mentioned in section 744 of the 1985 Act;
- (b) where the participating issuer is a partnership, a partner; or in the event that no partner is situated in the United Kingdom, a person in the United Kingdom who is acting on behalf of a partner; and
- (c) where the participating issuer is neither a company nor a partnership, any member of its governing body; or in the event that no member of its governing body is situated in the United Kingdom, a person in the United Kingdom who is acting on behalf of any member of its governing body;

(1) 1985 c. 6
(2) 1986 c. 60
(3) 1978 c. 30

“Operator” means a person approved by the Treasury under these Regulations as Operator of a relevant system;

“Operator-instruction” means a properly authenticated dematerialised instruction attributable to an Operator;

“Operator-system” means those facilities and procedures which are part of the relevant system, which are maintained and operated by or for an Operator, by which he generates Operator-instructions and receives dematerialised instructions from system-participants and by which persons change the form in which units of a participating security are held;

“the 1986 Order” means the Companies (Northern Ireland) Order 1986(4);

“participating issuer” means a person who has issued a security which is a participating security;

“participating security” means a security title to units of which is permitted by an Operator to be transferred by means of a relevant system;

“register of members” means a register of members maintained by a company under section 352 of the 1985 Act;

“register of securities”—

(a) in relation to shares, means a register of members; and

(b) in relation to units of a security other than shares, means a register maintained by the issuer, whether by virtue of these Regulations or otherwise, of persons holding the units;

“relevant system” has the meaning given by regulation 2(1); and “relevant system” includes an Operator-system;

“rules”, in relation to an Operator, means rules made or conditions imposed by him with respect to the provision of the relevant system;

“securities” means shares, stock, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the 1986 Act, rights under a depositary receipt within the meaning of paragraph 4 of Schedule 2 to the Criminal Justice Act 1993(5), and other securities of any description, and interests in a security;

“settlement bank”, in relation to a relevant system, means a person who has contracted to make payments in connection with transfers of title to uncertificated units of a security by means of that system;

“share” means share (or stock) in the share capital of a company;

“system-member”, in relation to a relevant system, means a person who is permitted by an Operator to transfer by means of that system title to uncertificated units of a security held by him, and shall include, where relevant, two or more persons who are jointly so permitted;

“system-member instruction” means a properly authenticated dematerialised instruction attributable to a system-member;

“system-participant”, in relation to a relevant system, means a person who is permitted by an Operator to send and receive properly authenticated dematerialised instructions; and “sponsoring system-participant” means a system-participant who is permitted by an Operator to send properly authenticated dematerialised instructions attributable to another person and to receive properly authenticated dematerialised instructions on another person’s behalf;

“system-user”, in relation to a relevant system, means a person who as regards that system is a participating issuer, system-member, system-participant or settlement bank;

(4) S.I.1986/1032 (N.I.6)

(5) 1993 c. 36

“uncertificated unit of a security” means a unit of a security title to which is recorded on the relevant register of securities as being held in uncertificated form, and title to which, by virtue of these Regulations, may be transferred by means of a relevant system; and “certificated unit of a security” means a unit of a security which is not an uncertificated unit;

“unit of a security” means the smallest possible transferable unit of the security (for example a single share); and other expressions have the meanings given to them by the 1985 Act.

- (2) For the purposes of these Regulations—
- (a) a dematerialised instruction is properly authenticated if it complies with the specifications referred to in paragraph 5(b) of Schedule 1 to these Regulations; and
 - (b) a dematerialised instruction is attributable to a person if it is expressed to have been sent by that person, or if it is expressed to have been sent on behalf of that person, in accordance with the specifications of the Operator referred to in paragraph 5(c) of Schedule 1 to these Regulations; and a dematerialised instruction may be attributable to more than one person.
- (3) In these Regulations, except where otherwise indicated—
- (a) a reference to a numbered regulation or Schedule is a reference to the regulation or the Schedule to these Regulations so numbered;
 - (b) a reference in a regulation to a numbered paragraph is a reference to the paragraph of that regulation so numbered;
 - (c) a reference in a Schedule to a numbered paragraph is a reference to the paragraph of that Schedule so numbered; and
 - (d) a reference in a paragraph to a numbered subparagraph is a reference to the subparagraph of that paragraph so numbered.