This Draft Statutory Instrument has been printed in substitution of the Draft Statutory Instrument of the same title, which was laid on 25th November 2008, and is being issued free of charge to all known recipients of that Draft Statutory Instrument.
Draft Order laid before Parliament under section 9(4) of the Electronic Communications Act 2000, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2009 No.

FINANCIAL SERVICES AND MARKETS

The Unit Trusts (Electronic Communications) Order 2009

Made - - - -	*2009*
Coming into force - -	*2009*

A draft of this Order has been laid before Parliament in accordance with section 9(4) of the Electronic Communications Act 2000(**1**) and approved by resolution of each House of Parliament;

The Treasury, considering that the authorisation of the use of electronic communications by this Order for any purpose is such that the extent (if any) to which records of things done for that purpose will be available will be no less satisfactory in cases where use is made of electronic communications than in other cases, make the following Order in exercise of the powers conferred on them by sections 8 and 9 of the Electronic Communications Act 2000:

Citation and commencement

1. This Order may be cited as the Unit Trusts (Electronic Communications) Order 2009 and comes into force on the day after the day on which it is made.

Interpretation

2. In this Order—

"the 2001 instrument" means the General Provisions and Glossary Instrument 2001 (2001/7)(**2**) made by the Authority under the Act on 21st June 2001;

"the Act" means the Financial Services and Markets Act 2000(**3**);

"authorised unit trust scheme" has the meaning given in section 237(3) of the Act;

"the Authority" means the Financial Services Authority;

(**1**) 2000 c. 7. The definition of "electronic communication" in section 15(1) was amended by the Communications Act 2003 (c. 21), section 406(1) and Schedule 17, paragraph 158.
(**2**) This instrument is available on the Authority's website (www.fsa.gov.uk).
(**3**) 2000 c. 8.

"manager" has the meaning given in that part of its definition in the Glossary contained in the 2001 instrument which relates to an authorised unit trust scheme;

"register" has the meaning given in that part of its definition in the Glossary contained in the 2001 instrument(**4**) which relates to unitholders of an authorised unit trust scheme;

"trust deed" has the meaning given in that part of its definition in the Glossary contained in the 2001 instrument(**5**) which relates to an authorised unit trust scheme;

"trustee" has the meaning given in section 237(2) of the Act;

"unit" has the meaning given in that part of its definition in the Glossary contained in the 2001 instrument which relates to an authorised unit trust scheme; and

"unitholder" has the meaning given in that part of its definition in the Glossary contained in the 2001 instrument (**6**).

Dispositions of units in authorised unit trust schemes by electronic communication

3.—(1) This article extends to England and Wales only.

(2) Subject to paragraph (4), section 53(1)(c) of the Law of Property Act 1925(**7**) (which imposes requirements for certain dispositions to be in writing) shall not apply (if it would otherwise do so) to any disposition of units in an authorised unit trust scheme where—

(a) the disposition is by means of electronic communication;

(b) the electronic communication is made by the person disposing of the units or by his agent authorised in writing or by will; and

(c) such evidence (if any) as the trustee or manager of the scheme, being the person responsible for the register of unitholders in accordance with the trust deed, may require to prove the right of the person referred to in sub-paragraph (b) to dispose of the units is provided to the trustee or manager.

(3) The trustee or manager mentioned in paragraph (2)(c) may refuse to register a transfer of units by means of electronic communication.

(4) This article shall be of no effect in a particular case if the trustee or manager mentioned in paragraph (2)(c) refuses to register the transfer of units which would, apart from paragraph (3), be made by the disposition in that case.

Gratuitous unilateral obligations relating to units in authorised unit trust schemes

4.—(1) This article extends to Scotland only.

(2) Subject to paragraph (5), section 1(2)(a)(ii) of the Requirements of Writing (Scotland) Act 1995(**8**) (which requires certain gratuitous unilateral obligations to be in writing) shall not apply (if it would otherwise do so) to any gratuitous unilateral obligation relating to units in an authorised unit trust scheme where—

(a) the obligation is created by means of electronic communication;

(b) the electronic communication is made by the debtor in the obligation; and

(**4**) The definition of "register" in the 2001 instrument was amended by the Collective Investment Schemes Sourcebook (Consequential Amendments) Instrument (2004/34) made by the Authority under the Act on 18th March 2004, which is available on the Authority's website (www.fsa.gov.uk).
(**5**) The definition of "trust deed" in the 2001 instrument was amended by the Collective Investment Schemes Sourcebook (Consequential Amendments) Instrument (2004/34), which is available on the Authority's website (www.fsa.gov.uk).
(**6**) The definition of "unitholder" in the 2001 instrument was amended by the Collective Investment Schemes Sourcebook (Consequential Amendments) Instrument (2004/34).
(**7**) 1925 c. 20.
(**8**) 1995 c. 7.