Draft Regulations laid before Parliament under section 207(9) of the Companies Act 1989, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2006 No.XXXX

COMPANIES

The Uncertificated Securities (Amendment) Regulations 2006

Made - - - - *…….*

Coming into force - - *1st November 2007*

A draft of these Regulations has been approved by resolution of each House of Parliament pursuant to section 207(9) of the Companies Act 1989(**1**);

The Treasury make the following Regulations in exercise of the powers conferred by section 207 of the Companies Act 1989 and now vested in them(**2**):

Citation and commencement

1. These Regulations may be cited as the Uncertificated Securities (Amendment) Regulations 2006 and come into force on 1st November 2007.

Amendment of the Uncertificated Securities Regulations 2001

2. In regulation 3, in the definition of "settlement", after ""settlement,"" insert "except in paragraph 28 of Schedule 1,".

3. After paragraph 27 of Schedule 1 to the Uncertificated Securities Regulations 2001(**3**) insert—

"**Access to central counterparty, clearing and settlement facilities**

28.—(1) The Operator must make transparent and non-discriminatory rules, based on objective criteria, governing access to his settlement facilities.

(2) The rules under sub-paragraph (1) must enable an investment firm or a credit institution authorised by the competent authority of another EEA State (including a branch established in the United Kingdom of such a firm or institution) to have access to those facilities on the same terms as a UK firm for the purposes of finalising or arranging the finalisation of transactions in financial instruments.

(**1**) 1989 c.40. Section 207 was amended by the Bank of England Act 1998 (c.11), section 35, and S.I. 2001/3649. It is prospectively repealed by the Companies Act 2006 (c. 46) and re-enacted at Chapter 2 of Part 21 of that Act.
(**2**) Transfer of Functions (Financial Services) Order 1992 (S.I. 1992/1315).
(**3**) S.I. 2001/3755.

(3) The Operator may refuse access to those facilities on legitimate commercial grounds.

(4) In this paragraph—

"banking consolidation directive" means Directive 2006/48/EC of the European Parliament and of the Council of 14th June 2006 relating to the taking up and pursuit of the business of credit institutions(**4**);

"branch" in relation to an investment firm has the meaning given in Article 4.1.26 of the markets in financial instruments directive and in relation to a credit institution has the meaning given in Article 4.3 of the banking consolidation directive;

"competent authority", in relation to an investment firm or credit institution, means the competent authority in relation to that firm or institution for the purposes of the markets in financial instruments directive;

"credit institution" means—

(a) a credit institution authorised under the banking consolidation directive, or

(b) an institution which would satisfy the requirements for authorisation as a credit institution under that directive if it had its registered office (or if it does not have a registered office, its head office) in an EEA State;

"EEA State" has the meaning given by paragraph 8 of Schedule 3 to the 2000 Act(**5**);

"financial instrument" has the meaning given by Article 4.1.17 of the markets in financial instruments directive;

"investment firm" has the meaning given by section 424A of the 2000 Act(**6**);

"markets in financial instruments directive" means Directive 2004/39/EC of the European Parliament and of the Council of 21st April 2004 on markets in financial instruments(**7**);

"regulated activity" has the meaning given by section 22 of the 2000 Act;

"settlement" has the same meaning as in the markets in financial instruments directive;

"UK firm" means an investment firm or credit institution which has a permission given by the Authority under Part 4 of the 2000 Act (or having effect as if so given) to carry on one or more regulated activities.".

""banking consolidation directive" means Directive 2006/48/EC of the European Parliament and of the Council of 14th June 2006 relating to the taking up and pursuit of the business of credit institutions(**4**);

"branch" in relation to an investment firm has the meaning given in Article 4.1.26 of the markets in financial instruments directive and in relation to a credit institution has the meaning given in Article 4.3 of the banking consolidation directive;

"competent authority", in relation to an investment firm or credit institution, means the competent authority in relation to that firm or institution for the purposes of the markets in financial instruments directive;

"credit institution" means—

(a) a credit institution authorised under the banking consolidation directive, or

(**4**) OJ No L 177, 30.6.2006, p.1.
(**5**) 2000 c. 8.
(**6**) Section 424A was inserted by S.I. 2006/2975.
(**7**) OJ No L 145, 30.4.2004, p.1.
(**4**) OJ No L 177, 30.6.2006, p.1.