STATUTORY INSTRUMENTS

1983 No. 1943

SECURITIES

The Dealers in Securities (Deposits and Undertakings) Regulations 1983

Made - - - -	*22nd December* 1983
Laid before Parliament	*11th January* 1984
Coming into Operation	*1st February* 1984

ARRANGEMENT OF REGULATIONS

PART I

INTRODUCTORY

1. Citation, commencement and revocation.
2. Interpretation.

PART II

DEPOSITS

3. Application of the Rules.
4. Investment.
5. Interest and dividends.
6. Withdrawals.

PART III

UNDERTAKINGS

7. Prescribed forms of undertakings.

SCHEDULES

Schedule 1—Prescribed forms of undertakings.
Schedule 2—Revocations.

The Secretary of State, in exercise of the powers conferred by sections 4 and 21 of the Prevention of Fraud (Investments) Act 1958(**a**) and by section 14(3) of the Administration of Justice Act 1965(**b**), and now vested in him(**c**), and of all other powers enabling him in that behalf, hereby makes the following regulations:—

PART I

INTRODUCTORY

Citation, commencement and revocation

1.— (1) These regulations may be cited as the Dealers in Securities (Deposits and Undertakings) Regulations 1983 and shall come into operation on 1st February 1984.

(2) The regulations listed in Schedule 2 hereto are hereby revoked.

Interpretation

2. In these regulations, unless the context otherwise requires —

"the Act" means the Prevention of Fraud (Investments) Act 1958;

"the Rules" means, with the modifications made thereto at the date these regulations are made, rule 4 of the 1975 Rules, the new rule 31 substituted in the 1975 Rules by the Supreme Court Funds (Amendment) Rules 1983(**d**), so far as the new rule 38A substituted in the 1975 Rules by the Supreme Court Funds (Amendment) Rules 1981(**e**) relates to a payment dependent upon the sale of securities, that rule, and rules 51, 52 and 54 of the 1975 Rules, being provisions of rules for the time being in force under section 7 of the Administration of Justice Act 1975; and, for the purposes of this definition, "the 1975 Rules" means the Supreme Court Funds Rules 1975(**f**).

PART II

DEPOSITS

Application of the Rules

3. The Rules shall apply, subject to and for the purposes of these regulations, to any sums deposited or to be deposited with the Accountant General under section 4 of the Act, and to funds representing such sums, as if those sums were funds ordered to be paid into court.

Investment

4.—(1) Subject to paragraph (2) below, the Accountant General shall

(**a**) 1958 c.45.
(**b**) 1965 c.2.
(**c**) S.I. 1970/1537.
(**d**) S.I. 1983/290.
(**e**) S.I. 1981/1589.
(**f**) S.I. 1975/1803.

forthwith upon receipt invest or lay out at interest any deposit made with him under section 4 of the Act in any manner authorised for dealing with deposits under paragraph (4) below.

(2) Subject to paragraph (3) below, whenever —

(a) a depositor requests that the deposit shall be invested or laid out in a particular manner; and

(b) that manner is a manner authorised for dealing with deposits under paragraph (4) below,

the Accountant General shall deal with the deposit in accordance with the request.

(3) Paragraph (2) above shall not apply, where the value of the deposit on the date of the request is less than five hundred pounds, unless and until there is deposited with the Accountant General a sum sufficient to make the total value of the deposit not less than five hundred pounds.

(4) The Accountant General may from time to time—

(a) invest any deposit in any securities or common investment fund in which funds in court may from time to time be invested; or

(b) lay out at interest any deposit in any manner authorised for the placing on deposit of funds in court.

Interest and dividends

5. The Accountant General shall pay to the depositor any interest or dividends from time to time accruing due on a deposit under section 4 of the Act or on any securities in which such a deposit is for the time being invested, provided always that this regulation shall not require the Accountant General to pay to the depositor any dividend in advance of his receipt of that dividend.

Withdrawals

6.—(1) The circumstances in which, apart from the provisions of paragraphs *(a)* and *(b)* of subsection (2) of section 4 of the Act, a sum deposited under that section may be withdrawn, are—

(a) upon an application in that behalf, where—

(i) the depositor has ceased to hold a principal's licence;

(ii) the applicant by statutory declaration satisfies the Secretary of State of the matters specified by paragraph (2) below and that there has been inserted in a newspaper circulating in the district where the holder of the licence had his principal place of business or, where the holder of the licence has not commenced business, in a national newspaper, a notice stating that the applicant has applied to the Secretary of State for the withdrawal of the sum deposited and inviting any person who has made or is entitled to make a claim to or on that sum to make representations to the Secretary of State within four weeks; and

(iii) no such person represented to the Secretary of State in the four

weeks following the date of publication of the notice that the sum should not be withdrawn; or

(b) upon an application in that behalf, where—

(i) the applicant by statutory declaration satisfies the Secretary of State of the matters specified by paragraph (2) below; and

(ii) the depositor has not held a principal's licence for a period of six months; or

(c) where the depositor is a corporation which is being wound up otherwise than by, or under the supervision of, the court, upon an application in that behalf made by a person who satisfies the Secretary of State that he is the liquidator of that corporation; or

(d) where the depositor has ceased to hold a principal's licence and either has become a member of a recognised stock exchange or recognised association of dealers in securities or has been declared to be an exempted dealer for the purposes of the Act; or

(e) where the depositor holds a principal's licence for the time being in force and granted upon an undertaking pursuant to subsection (4) of section 4 of the Act.

(2) The matters specified by this paragraph are that the applicant knows of no other person who has made or is entitled to make a claim to or on the sum and, if he is not the depositor, that he is entitled to give a good discharge for the sum and the circumstances in which he is so entitled.

(3) In any of the circumstances mentioned in paragraph (1) above any securities in which a deposit is for the time being invested shall be realised prior to the withdrawal of the deposit.

PART III

UNDERTAKINGS

Prescribed forms of undertakings

7. An undertaking given under subsection (4) of section 4 of the Act (deposits or guarantees required in connection with applications for principal's licences) shall be in the form set out in Part 1 or Part 2 of Schedule 1 to these regulations, as the case may be.

Alexander Fletcher,
Parliamentary Under-Secretary of State,
Department of Trade and Industry.

22nd December 1983.

SCHEDULE 1 Regulation 7

PRESCRIBED FORMS OF UNDERTAKINGS

PART I

THE PREVENTION OF FRAUD (INVESTMENTS) ACT 1958 ("THE ACT")
FORM OF UNDERTAKING PURSUANT TO SECTION 4(4) OF THE ACT

SINGLE LICENCE

Licence applicant:

Person giving the undertaking:

Upon the application for a principal's licence dated [ ]* and made by the person named above as the applicant, the person named above as the person giving the undertaking hereby undertakes that, in consideration of the Secretary of State granting such a licence upon that application, he will, upon the occurrence of the following event at any time before a further principal's licence is granted to the holder of the licence referred to above, that is to say, the holder becoming bankrupt, or, in a case where the holder is a corporation, the corporation being ordered to be wound up by, or under the supervision of, the court, pay the sum of five hundred pounds to the trustee in bankruptcy or to the corporation, as the case may be.

Signed:

By, or for and on behalf of, the person giving the undertaking.

*Insert date.

PART II

THE PREVENTION OF FRAUD (INVESTMENTS) ACT 1958 ("THE ACT")
FORM OF UNDERTAKING PURSUANT TO SECTION 4(4) OF THE ACT

SERIES OF LICENCES

Licence applicant:

Person giving the undertaking:

Upon each application for a principal's licence made by the person named above as the applicant, the person named above as the person giving the undertaking hereby undertakes that, in consideration of the Secretary of State granting such a licence upon that application, he will, upon the occurrence of the following event at any time before a further principal's licence is granted to the holder of the licence referred to above, that is to say, the holder becoming bankrupt, or, in a case where the holder is a Corporation, the corporation being ordered to be wound up by, or under the supervision of, the court, pay the sum of five hundred pounds to the trustee in bankruptcy, or to the corporation, as the case may be.

Signed:

By, or for and on behalf of, the person giving the undertaking.

Regulation 1

SCHEDULE 2

REVOCATIONS

	Regulations revoked	References
1.	The Prevention of Fraud (Investments) Forms Regulations 1944	S.R. & O. 1944/540
2.	The Prevention of Fraud (Investments) Deposits Regulations 1944	S.R. & O. 1944/541

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These regulations (which replace the Prevention of Fraud (Investments) Deposits Regulations 1944 and the Prevention of Fraud (Investments) Forms Regulations 1944) amend the provisions relating to the investment and withdrawal of the deposit required to be made under the Prevention of Fraud (Investments) Act 1958 by an applicant for a principal's licence to carry on the business of dealing in securities; and revise the form of the undertaking which may be provided instead of a deposit. In particular the regulations:—

1. provide for such deposits (to which certain provisions of the Supreme Court Funds Rules are applied) to be invested in one of the alternative ways specified in the regulations and in accordance with a request of the depositor, to whom the interest or dividends are paid (regulations 3 to 5);

2. simplify the procedures and extend the circumstances in which, apart from the circumstances provided for in the Prevention of Fraud (Investments) Act 1958, a deposit may be withdrawn (regulation 6); and

3. prescribe two alternative forms of undertakings which may be given under section 4(4) of the Prevention of Fraud (Investments) Act 1958 (regulation 7 and Schedule 1).

The existing Prevention of Fraud (Investments) Deposits Regulations 1944 and the Prevention of Fraud (Investments) Forms Regulations 1944 are revoked.

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