EXPLANATORY MEMORANDUM TO

THE UNCERTIFICATED SECURITIES (AMENDMENT) REGULATIONS 2013

2013 No. [XXXX]

1. This explanatory memorandum has been prepared by the Treasury and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The purpose of these Regulations is to make amendments to the Uncertificated Securities Regulations 2001 (S.I. 2001/3755) to transfer responsibility for the approval and regulation of operators of securities settlement systems from the Treasury (who had delegated the responsibility to the Financial Services Authority) to the Bank of England. The Regulations also provide the Bank of England with new powers to require reports to be produced by skilled persons in respect of operators; to appoint investigators for the purpose of making inquiries about operators and to publicly censure operators in appropriate cases. The Regulations also replace the existing provision regarding the prevention of restrictive practices with provision for the purpose of preventing operators from adopting excessive regulatory provision.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Context

4.1 Section 785 of the Companies Act 2006 has been amended by section 112 of the Financial Services Act 2012.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

The Treasury have made the following statement regarding Human Rights:

In our view the provisions of the Draft Uncertificated Securities (Amendment) Regulations 2013 are compatible with the Convention rights.

7. Policy background

7.1 The Regulations complete the implementation of the Government regulatory reforms in respect of operators of securities settlement systems. The amendments to the Uncertificated Securities Regulations 2001 will ensure that the arrangements for regulating operators of securities settlement systems remain broadly in step with the arrangements for regulating recognised clearing houses in Part 18 of the Financial

Services and Markets Act 2000 (which have also been changed by the Financial Services Act 2012), including in relation to the prevention of excessive regulatory provision.

8. Consultation outcome

8.1 The draft Regulations were sent for comment to the one UK approved operator of a securities settlement system and to the investment exchanges and clearing houses recognised under Part 18 of the Financial Services and Markets Act 2000. Comments were received from the approved operator. The draft Regulations were not changed in the light of those comments.

9. Guidance

9.1 The Treasury will not publish any guidance on the Regulations.

10. Impact

10.1 The instrument, in itself, does not impose any additional regulatory burdens on business, charities or voluntary bodies. The impact of the overall change to the regulatory system on business, charities or voluntary bodies, in so far as they are regulated financial services firms, is set out in the overarching impact assessment for the Financial Services Act 2012.

10.2 The impact on the public sector of the Government's regulatory reforms is set out in the overarching impact assessment for the Financial Services Act 2012.

10.3 A separate Impact Assessment has not been prepared for this instrument. The overarching Impact Assessment that covers the changes to the regulatory system provided for by the Financial Services Act 2012 is available on the Treasury website as Annex H to the following publication: http://www.hm-treasury.gov.uk./d/condoc_fin_regulation_draft_secondary_leg.pdf.

11. Regulating small business

11.1 The Uncertificated Securities Regulations 2001 (as amended by these regulations) apply to all operators of securities settlement systems irrespective of size. In practice, no operator of a securities settlement system would be a small business.

12. Monitoring & review

12.1 HM Treasury will monitor the practical effects of this instrument to ensure it continues to meet the policy aims.

13. Contact

David Sly at the Treasury Tel: 020 7270 5162 or email: david.sly@hmtreasury.gsi.gov.uk can answer any queries regarding the instrument.