STATUTORY INSTRUMENTS

1989 No. 1535

FINANCIAL SERVICES

The Financial Services (Authorised Unit Trust Scheme) (Certificate of Compliance) Regulations 1989

Made - - - -	*23rd August 1989*
Laid before Parliament	*25th August 1989*
Coming into force	*15th September 1989*

Whereas section 78(8) of the Financial Services Act 1986(**a**) confers power on the Secretary of State, on making an order under that section declaring a unit trust scheme to be an authorised unit trust scheme for the purposes of that Act, to issue a certificate to the effect that the scheme complies with the conditions necessary for it to enjoy the rights conferred by any relevant Community instrument, and

Whereas the Secretary of State has transferred his functions under the said section 78(8) to the Securities and Investments Board(**b**), and

Whereas Council Directive No. 85/611/EEC co-ordinating the laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities(**c**) will confer rights on such undertakings to market their units throughout the European Community, and

Whereas it is a condition of the exercise of those rights that an undertaking send to the competent authorities in each member State in which it proposes to market its units an attestation by the competent authorities of the member State in which it is situated to the effect that it fulfils the conditions imposed by the said Council Directive, and

Whereas section 78(8) of the Financial Services Act 1986 enables the necessary attestation to be given only on the making of an order under that section, and

Whereas by virtue of paragraph 9 of Schedule 15 to the Financial Services Act 1986 there exists a class of undertakings with respect to which the power conferred by the said section 78(8) cannot be exercised because they are treated as authorised unit trust schemes without the need for an order to be made under that section, and

Whereas undertakings have been authorised by an order made under section 78 of the Financial Services Act 1986 which fulfil the conditions necessary to enable them to enjoy the rights conferred by the said directive but which were not issued with a certificate under the said section 78(8) on the making of the authorisation order; and

Whereas there may in the future be undertakings which do not, on the making of an order under the said section 78, wish to be issued with a certificate under the said section 78(8) but which may subsequently desire that such a certificate be issued to them, and

Whereas it is accordingly not possible for the necessary certificate to be issued to undertakings falling within any of the classes mentioned above, and

(**a**) 1986 c.60.
(**b**) S.I. 1988/738.
(**c**) O.J. No. L375/3. The directive has been amended by Council Directive No. 88/220/EEC (O.J. No. L100/31).

Whereas it is therefore necessary for the purposes of enabling undertakings falling within any of the classes mentioned above to exercise the rights to be enjoyed by the United Kingdom under the said Council Directive that the Securities and Investments Board should have power to issue such undertakings with the necessary certificate.

Now, therefore, the Secretary of State, being a minister designated for the purposes of section 2(2) of the European Communities Act 1972(a) in relation to measures relating to open-ended collective investment schemes which have as their purpose investment in transferable securities, with the aim of spreading investment risk, of funds raised from the public(b), in exercise of the powers conferred on him by that section, and of all other powers enabling him, hereby makes the following Regulations:

1. These Regulations may be cited as the Financial Services (Authorised Unit Trust Scheme) (Certificate of Compliance) Regulations 1989 and shall come into force on 15th September 1989.

2. The Securities and Investments Board shall, in addition to the power exercisable by it under section 78(8) of the Financial Services Act 1986, also have power, exercisable otherwise than on the making of an order under the said section 78, to issue a certificate to the effect that an authorised unit trust scheme complies with the conditions necessary for it to enjoy the rights conferred by Council Directive No. 85/611/EEC co-ordinating the laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities.

Eric Forth
Parliamentary Under Secretary of State,
Department of Trade and Industry

23rd August 1989

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations confer power on the Securities and Investments Board, additional to that exercisable by it under section 78(8) of the Financial Services Act 1986, to issue a certificate to the effect that an authorised unit trust scheme complies with the conditions necessary for it to enjoy the rights conferred by Council Directive No. 85/611/EEC co-ordinating the laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities.

(a) 1972 c.68.
(b) S.I. 1988/2240.

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