

*Draft order laid before Parliament under section 64(2) of the Criminal Justice Act 1993 for approval  
by resolution of each House of Parliament*

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DRAFT STATUTORY INSTRUMENTS

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2002 No.

**INSIDER DEALING**

The Insider Dealing (Securities and Regulated  
Markets)(Amendment) Order 2002

*Made* ..... 2002

*Coming into force* ..... 2002

Whereas a draft of this Order has been approved by a resolution of each House of Parliament pursuant to section 64(2) of the Criminal Justice Act 1993(a);

Now, therefore, the Treasury, in exercise of the powers conferred on them by section 60(1), 62(1) and 64(3) of that Act, hereby make the following Order:

**Citation and commencement**

1. This Order may be cited as the Insider Dealing (Securities and Regulated Markets)(Amendment) Order 2002, and comes into force on the day after the day on which it is made.

**Amendment of the 1994 Order**

2. –(1) The Insider Dealing (Securities and Regulated Markets) Order 1994(b) is amended as follows.

(2) For article 2, substitute-

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(a) 1993 c. 36.

(b) S.I. 1994/187.

“2. In this Order-

“State within the European Economic Area” means a State which is a contracting party to the agreement on the European Economic Area signed at Oporto on 2 May 1992 as it has effect for the time being;

“recognised investment exchange” means a recognised investment exchange within the meaning of section 285 of the Financial Services and Markets Act 2000(a).”.

(3) For article 9, substitute-

“9. –(1) The markets referred to in paragraph (2) are regulated markets for the purposes of Part V of the Act of 1993.

(2) Those markets are-

(a) any market established under the rules of-

(i) an investment exchange specified in Part I of the Schedule to this Order; or

(ii) a recognised investment exchange;

(b) any market (other than a market referred to in (a)) which meets the criteria referred to in Part II of the Schedule to this Order; and

(c) the market known as OFEX.”.

(4) For article 10, substitute-

“The regulated markets which are regulated in the United Kingdom for the purposes of Part V of the Act of 1993 are-

(a) any market which is established under the rules of a recognised investment exchange whose head office is situated in the United Kingdom; and

(b) the market known as OFEX.”.

(5) In the Schedule-

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(a) 2000 c. 8.

(a) after “REGULATED MARKETS”, insert “Part I”;

(b) omit-

“CORDEAL Limited”;

“LIFFE Administration and Management”;

“The London Stock Exchange Limited”;

“OMLX, the London Securities and Derivative Exchange Limited”; and

“Tradepoint Financial Networks plc”.

(c) at the end, insert-

## “PART II

The criteria are that the market-

(a) is established under the rules of an investment exchange which is recognised by a public authority, and whose head office is situated in a State within the European Economic Area;

(b) is subject to requirements in that State as to –

(i) the manner in which it operates;

(ii) the means by which access may be had to the facilities it provides;

(iii) the conditions to be satisfied before a security may be dealt in, or its price may be quoted, on the market; and

(iv) the reporting and publication of dealing on the market; and

(c) operates regularly and is accessible directly or indirectly to the public.”.

**EXPLANATORY NOTE**

*(This note is not part of the Order)*

The Insider Dealing (Securities and Regulated Markets) Order 1994 (“the 1994 Order”) identifies certain markets as “regulated markets” for the purposes of insider dealing offences created by Part V of the Criminal Justice Act 1993. It further identifies certain of those markets as markets which are regulated in the United Kingdom for the purposes of that Part. Part V is based on Council Directive 89/592/EEC (“the insider dealing directive”).

This Order amends the 1994 Order by substituting a new description of “regulated markets” in article 9, and a new description of markets regulated in the United Kingdom in article 10.

Previously, article 9 defined “regulated markets” by reference to markets established under the rules of the investment exchanges listed by name in the Schedule to the 1994 Order. There was also a separate reference in the article to the market known as OFEX.

The new definition states that a market is a “regulated market” for the purposes of the 1994 Order if-

- (a) it is established under the rules of-
  - (i) an investment exchange listed in Part I of the Schedule to the Order;
  - (ii) a recognised investment exchange (as defined in section 285 of the Financial

Services and Markets Act 2000); or

(b) it meets the criteria set out in Part II of the Schedule to the Order.

The separate reference to the market known as OFEX is retained.

The new regulation 9 provides that the list in Part I of the Schedule does not overlap with the reference to recognised investment exchanges. Hence CORDEAL Limited, LIFFE Administration and Management, The London Stock Exchange Limited, OMLX - the London Securities and Derivative Exchange Limited and Tradepoint Financial Networks plc are removed from the list, but markets established under their rules remain covered by the definition because they are all recognised investment exchanges.

Article 2(5)(c) inserts Part II into the Schedule to the 1994 Order, which sets out additional criteria for establishing whether a market is a “regulated market”. These are exclusive of any markets mentioned elsewhere in article 9, and are based on the description of markets given in article 1(2) of the insider dealing directive. The criteria include markets established under the rules of investment exchanges recognised by public authorities, where the head office of the investment exchange is situated in a State within the European Economic Area. The markets in question must also be subject to requirements as to the manner of their operation, the means of access to their facilities, the conditions on which securities can be traded (or their prices quoted) on them, and the reporting and publication of dealing. (These criteria refer to the regulation and supervision of the markets in question, and derive from Article 1(13) of the Investment Services Directive (Council Directive 93/22/EEC)). The markets must also operate regularly, and be accessible directly or indirectly to the public.

Article 10 of the 1994 Order is amended to include all recognised investment exchanges whose head office is in the United Kingdom as markets which are regulated in the United Kingdom for the purposes of Part V of the Criminal Justice Act.

This Order also updates references to the European Economic Area in the 1994 Order.

