

Status: Point in time view as at 25/03/1991.

Changes to legislation: There are currently no known outstanding effects for the Companies Act 1989, Part I. (See end of Document for details)

SCHEDULES

SCHEDULE 21

ADDITIONAL REQUIREMENTS FOR RECOGNITION

PART I

U.K. INVESTMENT EXCHANGES

Default Rules

- 1 (1) The exchange must have default rules which, in the event of a member of the exchange appearing to be unable to meet his obligations in respect of one or more market contracts, enable action to be taken in respect of unsettled market contracts to which he is a party.
- (2) The rules may authorise the taking of the same or similar action in relation to a member who appears to be likely to become unable to meet his obligations in respect of one or more market contracts.
- (3) The rules must enable action to be taken in respect of all unsettled market contracts, other than those entered into by a recognised clearing house for the purposes of or in connection with the provision of clearing services for the exchange.
- (4) As regards contracts entered into by the exchange for the purposes of or in connection with the provision of its own clearing services, the rules must contain provision corresponding to that required by paragraphs 9 to 11 below in the case of a UK clearing house.
- (5) As regards other contracts the rules must contain provision complying with paragraphs 2 and 3 below.

Commencement Information

- II** [Sch. 21](#) wholly in force at 25.4.1991; [Sch. 21](#) in force on 25.3.1991 insofar as is necessary to enable regulations to be made under para. 2(3) and wholly in force at 25.4.1991 see [s. 215\(2\)](#) and [S.I. 1991/488](#), [art. 2\(2\)](#), 1991/878, art. 2, Sch.

Content of rules

- 2 (1) The rules must provide for all rights and liabilities between those party as principal to unsettled market contracts to which the defaulter is party as principal to be discharged

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and for there to be paid by one party to the other such sum of money (if any) as may be determined in accordance with the rules.

- (2) The rules must further provide—
- (a) for the sums so payable in respect of different contracts between the same parties to be aggregated or set off so as to produce a net sum, and
 - (b) for the certification by or on behalf of the exchange of the net sum payable or, as the case may be, of the fact that no sum is payable.
- (3) The rules may make special provision with respect to, or exclude from the provisions required by sub-paragraphs (1) and (2), contracts of any description prescribed for the purposes of this sub-paragraph by regulations made by the Secretary of State.

Commencement Information

I2 [Sch.21 para 2\(3\)](#) in force for certain purposes at 25.3.1991. See 215(2) and [S.I. 1991/488 art.2\(2\)](#).

Notification to other parties affected

- 3 The exchange must have adequate arrangements for securing that—
- (a) parties to unsettled market contracts with a defaulter acting as principal are notified as soon as reasonably practicable of the default and of any decision taken under the rules in relation to contracts to which they are a party; and
 - (b) parties to unsettled market contracts with a defaulter acting as agent and the defaulter's principals are notified as soon as reasonably practicable of the default and of the identity of the other party to the contract.

Commencement Information

I3 Sch. 21 wholly in force at 25.4.1991; Sch. 21 in force on 25.3.1991 insofar as is necessary to enable regulations to be made under para. 2(3) and wholly in force at 25.4.1991 see s. 215(2) and [S.I. 1991/488, art. 2\(2\)](#), 1991/878, art. 2, Sch.

Application of default rules to designated non-members

- 4 (1) The rules may make the same or similar provision in relation to designated non-members as in relation to members of the exchange.
- (2) If such provision is made, the exchange must have adequate procedures—
- (a) for designating the persons, or descriptions of person, in respect of whom action may be taken,
 - (b) for keeping under review the question which persons or descriptions of person should be or remain so designated, and
 - (c) for withdrawing such designation.
- (3) The procedures shall be designed to secure that a person is not or does not remain designated if failure by him to meet his obligations in respect of one or more market contracts would be unlikely adversely to affect the operation of the market, and that

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a description of persons is not or does not remain designated if failure by a person of that description to meet his obligations in respect of one or more market contracts would be unlikely adversely to affect the operation of the market.

- (4) The exchange must have adequate arrangements—
- (a) for bringing a designation or withdrawal of designation to the attention of the person or description of persons concerned, and
 - (b) where a description of persons is designated, or the designation of a description of persons is withdrawn, for ascertaining which persons fall within that description.

Commencement Information

- I4** Sch. 21 wholly in force at 25.4.1991; Sch. 21 in force on 25.3.1991 insofar as is necessary to enable regulations to be made under para. 2(3) and wholly in force at 25.4.1991 see s. 215(2) and [S.I. 1991/488, art. 2\(2\)](#), 1991/878, art. 2, Sch.

Delegation of functions in connection with default procedures

- 5 The rules may make provision for the whole or part of the functions mentioned in paragraphs 1 to 4 to be performed by another body or person on behalf of the exchange.

Commencement Information

- I5** Sch. 21 wholly in force at 25.4.1991; Sch. 21 in force on 25.3.1991 insofar as is necessary to enable regulations to be made under para. 2(3) and wholly in force at 25.4.1991 see s. 215(2) and [S.I. 1991/488, art. 2\(2\)](#), 1991/878, art. 2, Sch.

Co-operation with other authorities

- 6 The exchange must be able and willing to co-operate, by the sharing of information and otherwise, with the Secretary of State, any relevant office-holder and any other authority or body having responsibility for any matter arising out of, or connected with, the default of a member of the exchange or any designated non-member.

Commencement Information

- I6** Sch. 21 wholly in force at 25.4.1991; Sch. 21 in force on 25.3.1991 insofar as is necessary to enable regulations to be made under para. 2(3) and wholly in force at 25.4.1991 see s. 215(2) and [S.I. 1991/488, art. 2\(2\)](#), 1991/878, art. 2, Sch.

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Margin

- 7 Where the exchange provides its own clearing arrangements and margined transactions are effected, paragraph 14 below applies as it applies in relation to a clearing house.

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- I7** [Sch. 21](#) wholly in force at 25.4.1991; [Sch. 21](#) in force on 25.3.1991 insofar as is necessary to enable regulations to be made under para. 2(3) and wholly in force at 25.4.1991 see [s. 215\(2\)](#) and [S.I. 1991/488, art. 2\(2\)](#), 1991/878, art. 2, Sch.

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