

## SCHEDULES

### SCHEDULE 22

#### FINANCIAL MARKETS AND INSOLVENCY: PROVISIONS APPLYING TO PRE-COMMENCEMENT CASES

##### *Recognised investment exchanges and clearing houses*

- 7 (1) Sections 178, 186, 315 and 345 of the Insolvency Act 1986 (power to disclaim onerous property and court's power to order rescission of contracts, &c.) do not apply in relation to—
- (a) a market contract, or
  - (b) a contract effected by the exchange or clearing house for the purpose of realising property provided as margin in relation to market contracts.
- In the application of this sub-paragraph in Scotland, the reference to sections 178 and 315 shall be construed as a reference to any rule of law having the like effect as those sections.
- (2) Sections 127 and 284 of the Insolvency Act 1986 (avoidance of property dispositions effected after commencement of winding up or presentation of bankruptcy petition) do not apply to—
- (a) a market contract, or any disposition of property in pursuance of such a contract,
  - (b) the provision of margin in relation to market contracts,
  - (c) a contract effected by the exchange or clearing house for the purpose of realising property provided as margin in relation to a market contract, or any disposition of property in pursuance of such a contract, or
  - (d) any disposition of property in accordance with the rules of the exchange or clearing house as to the application of property provided as margin.
- (3) However, if a person enters into a market contract knowing that a petition has been presented for the winding up or bankruptcy of the other party to the contract, the value of any profit or benefit to him arising from the contract is recoverable from him by the relevant office-holder unless the court directs otherwise.
- (4) Any sum recoverable by virtue of sub-paragraph (3) has the same priority, in the event of the insolvency of the person from whom it is due, as if it were secured by a fixed charge.