

2006 No. 50

FINANCIAL SERVICES

**The Financial Markets and Insolvency (Settlement Finality)
(Amendment) Regulations 2006**

<i>Made</i>	- - - -	<i>11th January 2006</i>
<i>Laid before Parliament</i>		<i>12th January 2006</i>
<i>Coming into force</i>	- -	<i>2nd February 2006</i>

The Treasury, being a government department designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to measures—

- (i) relating to investment firms and to the provision of investment services and to the operation of regulated markets and clearing or settlement systems;
- (ii) relating to payment systems; and
- (iii) relating to collateral security provided to the central banks of member States or to the European Central Bank;

hereby make the following Order:

Citation and commencement

1. These Regulations may be cited as the Financial Markets and Insolvency (Settlement Finality) (Amendment) Regulations and come into force on 2nd February 2006.

Amendment of the Financial Markets and Insolvency (Settlement Finality) Regulations 1999

2.—(1) The Financial Markets and Insolvency (Settlement Finality) Regulations 1999(c) are amended as follows.

- (2) In regulation 1, paragraph (2) is deleted.
- (3) In regulation 2, in paragraph (1),
 - (a) in the definition of “creditors’ voluntary winding up resolution” after “Insolvency Act 1986” insert “or the Insolvency (Northern Ireland) Order 1989(d)” and at the end after “Act” insert “or that Order”;
 - (b) in the definition of “default arrangements” after “within the meaning of Part VII” insert “or Part V”;
 - (c) after the definition of “netting” insert the following definition —

(a) S.I. 1993/2661 and S.I. 1998/2793

(b) 1972 c. 68

(c) S.I. 1999/2979 amended by S.I. 2000/2952, S.I.2001/3929, S.I. 2002/765, S.I. 2002/1555 and S.I. 2003/2096.

(d) S.I. 1989/2405 (N.I.19)

- ““Part V” means Part V of the Companies (No. 2) (Northern Ireland) Order 1990”(a)”;
- (d) in the definition of “relevant office-holder” at the end insert “or the Insolvency (Northern Ireland) Order 1989”;
 - (e) in the definition of “winding up” after “Insolvency Act 1986” insert “or the Insolvency (Northern Ireland) Order 1989” and at the end after “Act” insert “or that Order”;
- (4) In regulation 2, in sub-paragraph (a) of paragraph (2), in the second line after “Insolvency Act 1986” insert “, the Insolvency (Northern Ireland) Order 1989” and in the fourth line after “Insolvency Act 1986” insert “or the Insolvency (Northern Ireland) Order 1989”;
- (5) In regulation 13, in paragraph (3) after “Part VII” insert “or Part V”;
- (6) In regulation 14—
- (a) in paragraph (2) after “Insolvency Act 1986” insert “, the Insolvency (Northern Ireland) Order 1989”;
 - (b) in sub-paragraph (a) of paragraph (5) after “section 735 of the Companies Act 1985” insert “or Article 3 of the Companies (Northern Ireland) Order 1986”(b);
 - (c) in sub-paragraph (a)(i) of paragraph (5) after “section 175 of the Insolvency Act 1986” insert “or Article 149 of the Insolvency (Northern Ireland) Order 1989”;
 - (d) in sub-paragraph (a)(ii) of paragraph (5)-
 - (i) after “to that Act” insert “or Articles 31(4) and 50 of the Insolvency (Northern Ireland) Order 1989”,
 - (ii) after “section 196 of the Companies Act 1985” insert “or Article 205 of the Companies (Northern Ireland) Order 1986”,
 - (e) in sub-paragraph (b) of paragraph (5) after “section 328(1) and (2) of the Insolvency Act 1986” insert “or, in Northern Ireland, Article 300(1) and (2) of the Insolvency (Northern Ireland) Order 1989”;
 - (f) in sub-paragraph (a) of paragraph (6) after “sections 115 and 156 of the Insolvency Act 1986” insert “or Articles 100 and 134 of the Insolvency (Northern Ireland) Order 1989”, after “of that Act” insert “or that Order” and after “Schedule B1 of that Act” insert “or in Article 31(4) of that Order”;
 - (g) in sub-paragraph (b) of paragraph (6) after “section 386 of that Act” insert “or Article 346 of that Order”.
- (7) In regulation 15—
- (a) in paragraph (1) after “Part VII” insert “or Part V” and after “sections 162 and 163 of the Companies Act 1989” insert “or Articles 85 and 86 of the Companies (No. 2) (Northern Ireland) Order 1990”;
 - (b) in the first line of paragraph (2) after “Wales” insert “or Northern Ireland”;
 - (c) in sub-paragraph (b) of paragraph (2) after “section 323 of the Insolvency Act 1986” insert “or Article 296 of the Insolvency (Northern Ireland) Order 1989”;
 - (d) in the penultimate line of paragraph (2) after “section 247 of the Insolvency Act 1986” insert “or Article 6 of the Insolvency (Northern Ireland) Order 1989”;
- (8) In regulation 16—
- (a) in paragraph (1) after “Sections 178, 186, 315 and 345 of the Insolvency Act 1986” insert “or Articles 152, 157, 288 and 318 of the Insolvency (Northern Ireland) Order 1989”;
 - (b) in paragraph (3) after “Sections 127 and 284 of the Insolvency Act 1986” insert “or Articles 107 and 257 of the Insolvency (Northern Ireland) Order 1989”.
- (9) In regulation 17 —

(a) S.I. 1990/1504 (N.I. 10)
 (b) S.I. 1986/1032 (N.I. 6)

- (a) in sub-paragraph (a) of paragraph (1) after “section 238 or 339 of the Insolvency Act 1986” insert “or Article 202 or 312 of the Insolvency (Northern Ireland) Order 1989”;
 - (b) in sub-paragraph (b) of paragraph (2) after “section 239 or 340 of that Act” insert “or Article 203 or 313 of that Order”;
 - (c) in sub-paragraph (c) of paragraph (1) after “section 423 of that Act” insert “or Article 367 of that Order”.
- (10) In regulation 19 —
- (a) after paragraph (1) insert
 - “(1A) The following provisions of the Insolvency (Northern Ireland) Order 1989 (which relate to administration orders and administrators) do not apply in relation to a collateral security charge—
 - (a) Articles 23(1)(b) and 24(3)(c) (restrictions on enforcement of security while petition for administration order pending or order in force); and
 - (b) Article 28(1) and (2) (power of administrator to deal with charged property); and Article 24(2) of that Order (receiver to vacate office when so required by administrator) does not apply to a receiver appointed under such a charge.”
 - (b) in paragraph (3) after “Sections 127 and 284 of the Insolvency Act 1986” insert “or Articles 107 and 257 of the Insolvency (Northern Ireland) Order 1989”.
- (11) In regulation 21 —
- (a) in the heading after “Part VII” insert “and Part V”;
 - (b) in paragraph (1) after “the Companies Act 1989” insert “ or the Companies (No. 2) (Northern Ireland) Order 1990”;
 - (c) in sub-paragraph (a) of paragraph (2) after “section 163(4) to (6)” insert “and Article 86(3) to (5)”;
 - (d) in sub-paragraph (b) of paragraph (2) after “section 164 (4) to (6)” insert “and Article 87(3) to (5)”;
 - (e) in sub-paragraph (c) of paragraph (2) after “section 175(5) and (6)” insert “and Article 97(5) and (6)”.
- (12) In regulation 24, before “or in Scotland” insert “, the High Court in Northern Ireland”.
- (13) In regulation 25, in paragraph (2) after “or in Scotland” insert “, the High Court in Northern Ireland”.
- (14) In regulation 26—
- (a) in the heading delete “, Northern Ireland”;
 - (b) in paragraph (1) after “or Scotland” insert “or Northern Ireland”;
 - (c) in sub-paragraph (a) of paragraph (2) delete “, Northern Ireland”
- (15) In the Schedule to the Regulations, in paragraph 1(1) after “must be in” delete “Great Britain” and insert “the United Kingdom” and after “England and Wales” insert “, Northern Ireland”.

Vernon Coaker
Joan Ryan

11 January 2006

Two of the Lords Commissioners of Her Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Financial Markets and Insolvency (Settlement Finality) Regulations 1999 (“the 1999 Regulations”) so that they extend to Northern Ireland. The 1999 Regulations implemented Directive 98/26/EC of the European Parliament and of the Council on settlement finality on payment and securities settlement systems (OJ L166, 19.5.98, p45) for England and Wales and Scotland. The Directive seeks to reduce the risks associated with participation in payments and securities settlement systems by minimising the disruption caused by insolvency proceedings brought against a participant in such a system.

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