



Companies Act 1989

1989 CHAPTER 40

PART VII

FINANCIAL MARKETS AND INSOLVENCY

[^{F1}Recognised bodies]

155 Market contracts.

[^{F1}(1) In this Part—

- (a) “clearing member client contract” means a contract between a recognised central counterparty and one or more of the parties mentioned in subsection (1A) which is recorded in the accounts of the recognised central counterparty as a position held for the account of a client, an indirect client or a group of clients or indirect clients;
- (b) “clearing member house contract” means a contract between a recognised central counterparty and a clearing member recorded in the accounts of the recognised central counterparty as a position held for the account of a clearing member;
- (c) “client trade” means a contract between two or more of the parties mentioned in subsection (1A) which corresponds to a clearing member client contract;
- (d) “market contracts” means the contracts to which this Part applies by virtue of subsections (2) to [^{F2}(3ZA)].]

[^{F3}(1A) The parties referred to in subsections (1)(a) and (c) are—

- (a) a clearing member;
- (b) a client; and
- (c) an indirect client.]

[^{F4}(2) Except as provided in subsection (2A), in relation to a recognised investment exchange this Part applies to—

- (a) contracts entered into by a member or designated non-member of the exchange [^{F5}with a person other than the exchange] which are either

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- (i) contracts made on the exchange or on an exchange to whose undertaking the exchange has succeeded whether by amalgamation, merger or otherwise; or
- (ii) contracts in the making of which the member or designated non-member was subject to the rules of the exchange or of an exchange to whose undertaking the exchange has succeeded whether by amalgamation, merger or otherwise; ^{F6}...
- ^{F7}(b) contracts entered into by the exchange, in its capacity as such, with a member of the exchange or with a recognised clearing house ^{F8}or with a recognised CSD] or with another recognised investment exchange for the purpose of enabling the rights and liabilities of that member ^{F9}or recognised body] under a transaction to be settled; and
- (c) contracts entered into by the exchange with a member of the exchange or with a recognised clearing house ^{F8}or with a recognised CSD] or with another recognised investment exchange for the purpose of providing central counterparty clearing services to that member ^{F9}or recognised body].]

A “designated non-member” means a person in respect of whom action may be taken under the default rules of the exchange but who is not a member of the exchange.

^{F10}(2A) Where the exchange in question is a recognised overseas investment exchange, this Part does not apply to a contract that falls within paragraph (a) of subsection (2) (unless it also falls within subsection (3)).]

^{F11}(2B) In relation to transactions which are cleared through a recognised central counterparty, this Part applies to—

- (a) clearing member house contracts;
- (b) clearing member client contracts;
- (c) client trades, other than client trades excluded by subsection (2C) ^{F12}or (2D)]; and
- (d) contracts entered into by the recognised central counterparty with a recognised investment exchange ^{F13}or with a recognised CSD] or a recognised clearing house for the purpose of providing central counterparty clearing services to ^{F14}that recognised body].

(2C) A client trade is excluded by this subsection from subsection (2B)(c) if—

- (a) the clearing member which is a party to the clearing member client contract corresponding to the client trade defaults; and
- (b) the clearing member client contract is not transferred to another clearing member within the period specified for this purpose in the default rules of the recognised central counterparty.]

^{F15}(2D) A client trade is also excluded by this subsection from subsection (2B)(c) if—

- (a) the client trade was entered into by a client in the course of providing indirect clearing services to an indirect client;
- (b) the client defaults; and
- (c) the clearing member client contract corresponding to the client trade is not transferred within—
 - (i) the period specified for this purpose in the default rules of the recognised central counterparty; or

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(ii) if no such period is specified in the default rules of the recognised central counterparty, a period of 14 days beginning with the day on which proceedings in respect of the client's insolvency are begun.]

[^{F16}(3) In relation to a recognised clearing house [^{F17}which is not a recognised central counterparty,] this Part applies to—

- (a) contracts entered into by the clearing house, in its capacity as such, with a member of the clearing house or with a recognised investment exchange [^{F18}or with a recognised CSD] or with another recognised clearing house for the purpose of enabling the rights and liabilities of that member [^{F19}or recognised body] under a transaction to be settled; and
- (b) contracts entered into by the clearing house with a member of the clearing house or with a recognised investment exchange [^{F20}or with a recognised CSD] or with another recognised clearing house for the purpose of providing central counterparty clearing services to that member [^{F21}or recognised body].]

[^{F22}(3ZA) In relation to a recognised CSD, this Part applies to contracts entered into by the central securities depository with a member of the central securities depository or with a recognised investment exchange or with a recognised clearing house or with another recognised CSD for the purpose of providing authorised central securities depository services to that member or recognised body.]

[^{F23}(3A) In this section “central counterparty clearing services” means—

- (a) the services provided by a recognised investment exchange or a recognised clearing house to the parties to a transaction in connection with contracts between each of the parties and the investment exchange or clearing house (in place of, or as an alternative to, a contract directly between the parties),
- (b) the services provided by a recognised clearing house to [^{F24}a recognised body] in connection with contracts between them, or
- (c) the services provided by a recognised investment exchange to [^{F25}a recognised body] in connection with contracts between them.]

[^{F26}(3B) The reference in subsection (2D)(c)(ii) to the beginning of insolvency proceedings is to—

- (a) [^{F27}the making of a bankruptcy application or] the presentation of a bankruptcy petition or a petition for sequestration of a client's estate, or
- (b) the application for an administration order or the presentation of a winding-up petition or the passing of a resolution for voluntary winding up, or
- (c) the appointment of an administrative receiver.

(3C) In subsection (3B)(b) the reference to an application for an administration order is to be taken to include a reference to—

- (a) in a case where an administrator is appointed under paragraph 14 or 22 of Schedule B1 to the Insolvency Act 1986 (appointment by floating charge holder, company or directors) following filing with the court of a copy of a notice of intention to appoint under that paragraph, the filing of the copy of the notice, and
- (b) in a case where an administrator is appointed under either of those paragraphs without a copy of a notice of intention to appoint having been filed with the court, the appointment of the administrator.]

[^{F28}(3D) In this Part “authorised central securities depository services” means, in relation to a recognised CSD—

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- (a) the core services listed in Section A of the Annex to the CSD regulation which that central securities depository is authorised to provide pursuant to Article 16 or 19(1)(a) or (c) of the CSD regulation;
 - (b) the non-banking-type ancillary services listed in or permitted under Section B of that Annex which that central securities depository is authorised to provide, including services notified under Article 19 of the CSD regulation; and
 - (c) the banking-type ancillary services listed in or permitted under Section C of that Annex which that central securities depository is authorised to provide pursuant to Article 54(2)(a) of the CSD regulation.]
- (4) The Secretary of State may by regulations make further provision as to the contracts to be treated as “market contracts”, for the purposes of this Part, in relation to [F29 a recognised body].
- (5) The regulations may add to, amend or repeal the provisions of subsections [F30(2), (3), (3ZA) and (3D)] above.

Textual Amendments

- F1** S. 155(1) substituted (1.4.2013) by [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) Regulations 2013 \(S.I. 2013/504\)](#), regs. 1(2), **4(2)(a)** (with regs. 52-58)
- F2** Word in s. 155(1)(d) substituted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, **3(3)(a)** (with regs. 7(4), 9(1))
- F3** S. 155(1A) inserted (1.4.2013) by [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) Regulations 2013 \(S.I. 2013/504\)](#), regs. 1(2), **4(2)(b)** (with regs. 52-58)
- F4** S. 155(2)(2A) substituted for s. 155(2) by S.I. 1991/880, **reg. 3**
- F5** Words in s. 155(2)(a) inserted (11.8.1998) by S.I. 1998/1748, **reg. 3(a)**
- F6** Word in s. 155(2)(a) omitted (15.6.2009) by virtue of [The Financial Markets and Insolvency Regulations 2009 \(S.I. 2009/853\)](#), regs. 1(1), **2(3)(a)**
- F7** S. 155(2)(b)(c) substituted for s. 155(2)(b) (15.6.2009) by [The Financial Markets and Insolvency Regulations 2009 \(S.I. 2009/853\)](#), regs. 1(1), **2(3)(a)**
- F8** Words in s. 155(2)(b)(c) substituted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, **3(3)(b)(i)** (with regs. 7(4), 9(1))
- F9** Words in s. 155(2)(b)(c) substituted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, **3(3)(b)(ii)** (with regs. 7(4), 9(1))
- F10** S. 155(2A) substituted (15.6.2009) by [The Financial Markets and Insolvency Regulations 2009 \(S.I. 2009/853\)](#), regs. 1(1), **2(3)(b)**
- F11** S. 155(2B)(2C) inserted (1.4.2013) by [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) Regulations 2013 \(S.I. 2013/504\)](#), regs. 1(2), **4(2)(c)** (with regs. 52-58)
- F12** Words in s. 155(2B)(c) inserted (26.8.2013) by [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) \(No. 2\) Regulations 2013 \(S.I. 2013/1908\)](#), regs. 1(3)(c), **2(2)(a)**
- F13** Words in s. 155(2B)(d) inserted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, **3(3)(c)(i)** (with regs. 7(4), 9(1))
- F14** Words in s. 155(2B)(d) substituted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), regs. 1, **3(3)(c)(ii)** (with regs. 7(4), 9(1))
- F15** S. 155(2D) inserted (26.8.2013) by [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) \(No. 2\) Regulations 2013 \(S.I. 2013/1908\)](#), regs. 1(3)(c), **2(2)(b)**

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- F16** S. 155(3) substituted (15.6.2009) by The Financial Markets and Insolvency Regulations 2009 (S.I. 2009/853), regs. 1(1), **2(3)(c)**
- F17** Words in s. 155(3) inserted (1.4.2013) by The Financial Services and Markets Act 2000 (Over the Counter Derivatives, Central Counterparties and Trade Repositories) Regulations 2013 (S.I. 2013/504), regs. 1(2), **4(2)(d)** (with regs. 52-58)
- F18** Words in s. 155(3)(a) inserted (28.11.2017) by The Central Securities Depositories Regulations 2017 (S.I. 2017/1064), regs. 1, **3(3)(d)(i)** (with regs. 7(4), 9(1))
- F19** Words in s. 155(3)(a) substituted (28.11.2017) by The Central Securities Depositories Regulations 2017 (S.I. 2017/1064), regs. 1, **3(3)(d)(ii)** (with regs. 7(4), 9(1))
- F20** Words in s. 155(3)(b) inserted (28.11.2017) by The Central Securities Depositories Regulations 2017 (S.I. 2017/1064), regs. 1, **3(3)(d)(i)** (with regs. 7(4), 9(1))
- F21** Words in s. 155(3)(b) substituted (28.11.2017) by The Central Securities Depositories Regulations 2017 (S.I. 2017/1064), regs. 1, **3(3)(d)(ii)** (with regs. 7(4), 9(1))
- F22** S. 155(3ZA) inserted (28.11.2017) by The Central Securities Depositories Regulations 2017 (S.I. 2017/1064), regs. 1, **3(3)(e)** (with regs. 7(4), 9(1))
- F23** S. 155(3A) inserted (15.6.2009) by The Financial Markets and Insolvency Regulations 2009 (S.I. 2009/853), regs. 1(1), **2(3)(d)**
- F24** Words in s. 155(3A)(b) substituted (28.11.2017) by The Central Securities Depositories Regulations 2017 (S.I. 2017/1064), regs. 1, **3(3)(f)(i)** (with regs. 7(4), 9(1))
- F25** Words in s. 155(3A)(c) substituted (28.11.2017) by The Central Securities Depositories Regulations 2017 (S.I. 2017/1064), regs. 1, **3(3)(f)(ii)** (with regs. 7(4), 9(1))
- F26** S. 155(3B)(3C) inserted (26.8.2013) by The Financial Services and Markets Act 2000 (Over the Counter Derivatives, Central Counterparties and Trade Repositories) (No. 2) Regulations 2013 (S.I. 2013/1908), regs. 1(3)(c), **2(2)(c)**
- F27** Words in s. 155(3B)(a) inserted (6.4.2016) by The Enterprise and Regulatory Reform Act 2013 (Consequential Amendments) (Bankruptcy) and the Small Business, Enterprise and Employment Act 2015 (Consequential Amendments) Regulations 2016 (S.I. 2016/481), reg. 1, **Sch. 1 para. 9(2)**
- F28** S. 155(3D) inserted (28.11.2017) by The Central Securities Depositories Regulations 2017 (S.I. 2017/1064), regs. 1, **3(3)(g)** (with regs. 7(4), 9(1))
- F29** Words in s. 155(4) substituted (28.11.2017) by The Central Securities Depositories Regulations 2017 (S.I. 2017/1064), regs. 1, **3(3)(h)** (with regs. 7(4), 9(1))
- F30** Words in s. 155(5) substituted (28.11.2017) by The Central Securities Depositories Regulations 2017 (S.I. 2017/1064), regs. 1, **3(3)(i)** (with regs. 7(4), 9(1))

Commencement Information

- I1** S. 155 wholly in force at 25.4.1991. See s. 215 and S.I. 1991/488, **art. 2(2)**; 1991/878, art. 2, Sch.

Changes to legislation:

There are currently no known outstanding effects for the Companies Act 1989, Section 155.