



# Companies Act 1989

## 1989 CHAPTER 40

### PART VII

#### FINANCIAL MARKETS AND INSOLVENCY

#### *[<sup>F1</sup>Recognised bodies]*

#### **[<sup>F1</sup>155A. Qualifying collateral arrangements and qualifying property transfers**

- (1) In this Part—
  - (a) “qualifying collateral arrangements” means the contracts and contractual obligations to which this Part applies by virtue of subsection (2); and
  - (b) “qualifying property transfers” means the property transfers to which this Part applies by virtue of subsection (4).
- (2) In relation to transactions which are cleared through a recognised central counterparty, this Part applies to any contracts or contractual obligations for, or arising out of, the provision of property as margin where—
  - (a) the margin is provided to a recognised central counterparty and is recorded in the accounts of the recognised central counterparty as an asset held for the account of a client, an indirect client, or a group of clients or indirect clients; or
  - (b) the margin is provided to a client or clearing member for the purpose of providing cover for exposures arising out of present or future client trades.
- (3) In subsection (2)—
  - (a) “property” has the meaning given by section 436(1) of the Insolvency Act 1986 and
  - (b) the reference to a contract or contractual obligation for, or arising out of, the provision of property as margin in circumstances falling within paragraph (a) or (b) of that subsection includes a reference to a contract or contractual obligation of that kind which has been amended to reflect the transfer of a clearing member client contract or client trade.

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*Changes to legislation: There are currently no known outstanding effects for the Companies Act 1989, Section 155A. (See end of Document for details)*

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- (4) In relation to transactions which are cleared through a recognised central counterparty, this Part applies to—
- (a) transfers of property made in accordance with Article 48(7) of the EMIR Level 1 Regulation;
  - [<sup>F2</sup>(aa) transfers of property made in accordance with Article 4(6) and (7) of the EMIR Level 2 Regulation or Article 4(6) and (7) of the MIFIR Level 2 Regulation;]
  - (b) transfers of property to the extent that they—
    - (i) are made by a recognised central counterparty to a non-defaulting clearing member instead of, or in place of, a defaulting clearing member;
    - (ii) represent the termination or close out value of a clearing member client contract which is transferred from a defaulting clearing member to a non-defaulting clearing member; and
    - (iii) are determined in accordance with the default rules of the recognised central counterparty.]
  - [<sup>F3</sup>(c) transfers of property to the extent that they—
    - (i) are made by a clearing member to a non-defaulting client or another clearing member instead of, or in place of, a defaulting client;
    - (ii) represent the termination or close out value of a client trade which is transferred from a defaulting client to another clearing member or a non-defaulting client; and
    - (iii) do not exceed the termination or close out value of the clearing member client contract corresponding to that client trade, as determined in accordance with the default rules of the recognised central counterparty.]

#### Textual Amendments

- F1** S. 155A 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(3)** (with regs. 52-58)
- F2** S. 155A(4)(aa) substituted (3.1.2018) by [The Companies Act 1989 \(Financial Markets and Insolvency\) \(Amendment\) Regulations 2017 \(S.I. 2017/1247\)](#), regs. 1, **2(2)**
- F3** S. 155A(4)(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(3)(b)**

**Changes to legislation:**

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