



Companies Act 1989

1989 CHAPTER 40

PART VII

FINANCIAL MARKETS AND INSOLVENCY

Recognised investment exchanges and clearing houses

166 Powers of Secretary of State to give directions

- (1) The powers conferred by this section are exercisable in relation to a recognised UK investment exchange or recognised UK clearing house.
- (2) Where in any case an exchange or clearing house has not taken action under its default rules—
 - (a) if it appears to the Secretary of State that it could take action, he may direct it to do so, and
 - (b) if it appears to the Secretary of State that it is proposing to take or may take action, he may direct it not to do so.
- (3) Before giving such a direction the Secretary of State shall consult the exchange or clearing house in question; and he shall not give a direction unless he is satisfied, in the light of that consultation—
 - (a) in the case of a direction to take action, that failure to take action would involve undue risk to investors or other participants in the market, or
 - (b) in the case of a direction not to take action, that the taking of action would be premature or otherwise undesirable in the interests of investors or other participants in the market.
- (4) A direction shall specify the grounds on which it is given.
- (5) A direction not to take action may be expressed to have effect until the giving of a further direction (which may be a direction to take action or simply revoking the earlier direction).
- (6) No direction shall be given not to take action if, in relation to the person in question—

Status: This is the original version (as it was originally enacted).

- (a) a bankruptcy order or an award of sequestration of his estate has been made, or an interim receiver or interim trustee has been appointed, or
- (b) a winding up order has been made, a resolution for voluntary winding up has been passed or an administrator, administrative receiver or provisional liquidator has been appointed;

and any previous direction not to take action shall cease to have effect on the making or passing of any such order, award or appointment.

- (7) Where an exchange or clearing house has taken or been directed to take action under its default rules, the Secretary of State may direct it to do or not to do such things (being things which it has power to do under its default rules) as are specified in the direction.

The Secretary of State shall not give such a direction unless he is satisfied that it will not impede or frustrate the proper and efficient conduct of the default proceedings.

- (8) A direction under this section is enforceable, on the application of the Secretary of State, by injunction or, in Scotland, by an order under section 45 of the Court of Session Act 1988; and where an exchange or clearing house has not complied with a direction, the court may make such order as it thinks fit for restoring the position to what it would have been if the direction had been complied with.