

Status: Point in time view as at 26/06/2020.

Changes to legislation: The Insolvency (Northern Ireland) Order 1989, Cross Heading: Parties to capital market arrangement is up to date with all changes known to be in force on or before 29 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

[^{F1}SCHEDULE ZA1

MORATORIUM: ELIGIBLE COMPANIES

F1 Sch. ZA1 inserted (26.6.2020) by [Corporate Insolvency and Governance Act 2020 \(c. 12\)](#), s. 49(1), [Sch. 5](#) (with ss. 2(2), 5(2), 13)

Modifications etc. (not altering text)

C1 Sch. ZA1 modified (temp.) (26.6.2020) by [Corporate Insolvency and Governance Act 2020 \(c. 12\)](#), s. 49(1), [Sch. 8 para. 7\(b\)](#) (with ss. 2(2), 5(2), [Sch. 8 para. 1](#))

C1 Sch. ZA1 modified (temp.) (26.6.2020) by [Corporate Insolvency and Governance Act 2020 \(c. 12\)](#), s. 49(1), [Sch. 8 para. 6\(1\)\(c\)](#) (with ss. 2(2), 5(2), [Sch. 8 para. 1](#))

Parties to capital market arrangement

13.—(1) A company is excluded from being eligible if, on the filing date—

- (a) it is a party to an agreement which is or forms part of a capital market arrangement (see sub-paragraph (2)),
- (b) a party has incurred, or when the agreement was entered into was expected to incur, a debt of at least £10 million under the arrangement (at any time during the life of the capital market arrangement), and
- (c) the arrangement involves the issue of a capital market investment (see paragraph 14).

(2) For the purposes of this paragraph, an arrangement is a “capital market arrangement” if any of the following applies—

- (a) it involves a grant of security to a person holding it as trustee for a person who holds a capital market investment issued by a party to the arrangement;
- (b) at least one party guarantees the performance of obligations of another party;
- (c) at least one party provides security in respect of the performance of obligations of another party;
- (d) the arrangement involves an investment of a kind described in articles 83 to 85 of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544) (options, futures and contracts for differences).

(3) For the purposes of sub-paragraph (2)—

- (a) a reference to holding a security as trustee includes a reference to holding it as nominee or agent,
- (b) a reference to holding for a person who holds a capital market investment includes a reference to holding for a number of persons at least one of whom holds a capital market investment, and
- (c) a reference to holding a capital market investment is to holding a legal or beneficial interest in it.

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(4) For the purposes of sub-paragraph (1)(b), where a debt is denominated wholly or partly in a foreign currency, the sterling equivalent is to be calculated as at the time when the arrangement is entered into.

14.—(1) For the purposes of paragraph 13 an investment is a “capital market investment” if condition A or B is met.

(2) Condition A is that the investment—

- (a) is within article 77 or 77A of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544) (debt instruments), and
- (b) is rated, listed or traded or designed to be rated, listed or traded.

(3) In sub-paragraph (2)—

“listed” means admitted to the official list within the meaning given by section 103(1) of the Financial Services and Markets Act 2000 (interpretation);

“rated” means rated for the purposes of investment by an internationally recognised rating agency;

“traded” means admitted to trading on a market established under the rules of a recognised investment exchange or on a foreign market.

(4) In sub-paragraph (3)—

“foreign market” has the same meaning as “relevant market” in article 67(2) of the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005 (S.I. 2005/1529) (foreign markets);

“recognised investment exchange” has the meaning given by section 285 of the Financial Services and Markets Act 2000 (recognised investment exchange).

(5) Condition B is that the investment consists of a bond or commercial paper issued to one or more of the following—

- (a) an investment professional within the meaning of article 19(5) of the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005 (S.I. 2005/1529);
- (b) a person who, when the agreement mentioned in paragraph 13(1) is entered into, is a certified high net worth individual in relation to a communication within the meaning of article 48(2) of that Order;
- (c) a person to whom article 49(2) of that Order applies (high net worth company, etc);
- (d) a person who, when the agreement mentioned in paragraph 13(1) is entered into, is a certified sophisticated investor in relation to a communication within the meaning of article 50(1) of that Order;
- (e) a person in a State other than the United Kingdom who under the law of that State is not prohibited from investing in bonds or commercial paper.

(6) For the purposes of sub-paragraph (5)—

- (a) in applying article 19(5) of the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005—
 - (i) in article 19(5)(b), ignore the words after “exempt person”,
 - (ii) in article 19(5)(c)(i), for the words from “the controlled activity” to the end substitute “ a controlled activity ”, and
 - (iii) in article 19(5)(e), ignore the words from “where the communication” to the end;
- (b) in applying article 49(2) of that Order, ignore article 49(2)(e);
- (c) “bond” means—

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- (i) a bond that is within article 77(1) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001, or
- (ii) an alternative finance investment bond within the meaning of article 77A of that Order;
- (d) “commercial paper” has the meaning given by article 9(3) of that Order.]

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