

SCHEDULES

SCHEDULE 21

ADDITIONAL REQUIREMENTS FOR RECOGNITION

PART II

U.K. CLEARING HOUSES

Default rules

- 8 (1) The clearing house must have default rules which, in the event of a member of the clearing house appearing to be unable to meet his obligations in respect of one or more market contracts, enable action to be taken to close out his position in relation to all unsettled market contracts to which he is a party.
- (2) The rules may authorise the taking of the same or similar action where a member appears to be likely to become unable to meet his obligations in respect of one or more market contracts.

Content of rules

- 9 (1) The rules must provide for all rights and liabilities of the defaulter under or in respect of unsettled market contracts to be discharged and for there to be paid by or to the defaulter such sum of money (if any) as may be determined in accordance with the rules.
- (2) The rules must further provide—
- (a) for the sums so payable by or to the defaulter in respect of different contracts to be aggregated or set off so as to produce a net sum;
 - (b) for that sum—
 - (i) if payable by the defaulter to the clearing house, to be set off against any property provided by or on behalf of the defaulter as cover for margin (or the proceeds of realisation of such property) so as to produce a further net sum, and
 - (ii) if payable by the clearing house to the defaulter to be aggregated with any property provided by or on behalf of the defaulter as cover for margin (or the proceeds of realisation of such property); and
 - (c) for the certification by or on behalf of the clearing house of the sum finally payable or, as the case may be, of the fact that no sum is payable.
- 10 (1) The reference in paragraph 9 to the rights and liabilities of a defaulter under or in respect of an unsettled market contract includes (without prejudice to the generality of that provision) rights and liabilities arising in consequence of action taken under provisions of the rules authorising—

Status: This is the original version (as it was originally enacted).

- (a) the effecting by the clearing house of corresponding contracts in relation to unsettled market contracts to which the defaulter is a party;
 - (b) the transfer of the defaulter's position under an unsettled market contract to another member of the clearing house;
 - (c) the exercise by the clearing house of any option granted by an unsettled market contract.
- (2) A "corresponding contract" means a contract on the same terms (except as to price or premium) as the market contract, but under which the person who is the buyer under the market contract agrees to sell and the person who is the seller under the market contract agrees to buy.

This sub-paragraph applies with any necessary modifications in relation to a market contract which is not an agreement to sell.

- (3) The reference in paragraph 9 to the rights and liabilities of a defaulter under or in respect of an unsettled market contract does not include, where he acts as agent, rights or liabilities of his arising out of the relationship of principal and agent.

Notification to other parties affected

- 11 The clearing house must have adequate arrangements for securing that parties to unsettled market contracts with a defaulter are notified as soon as reasonably practicable of the default and of any decision taken under the rules in relation to contracts to which they are a party.

Delegation of functions in connection with default procedures

- 12 The rules may make provision for the whole or part of the functions mentioned in paragraphs 8 to 11 to be performed by another body or person on behalf of the clearing house.

Co-operation with other authorities

- 13 The clearing house must be able and willing to co-operate, by the sharing of information and otherwise, with the Secretary of State, any relevant office-holder and any other authority or body having responsibility for any matter arising out of, or connected with, the default of a member of the clearing house.

Margin

- 14 (1) The rules of the clearing house must provide that, in the event of a default, margin provided by the defaulter for his own account is not to be applied to meet a shortfall on a client account.
- (2) This is without prejudice to the requirements of any relevant regulations under section 55 of the Financial Services Act 1986 (clients' money).