



Companies Act 1989

1989 CHAPTER 40

PART VII

FINANCIAL MARKETS AND INSOLVENCY

Other exchanges and clearing houses

[^{F1}170A.EEA central counterparties and third country central counterparties

- (1) In this section and section 170B—
- (a) “assets” has the meaning given by Article 39(10) of the EMIR Level 1 Regulation;
 - (b) “EBA” means the European Banking Authority established by Regulation 1093/2010/EU of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority);
 - (c) “ESMA” means the European Securities and Markets Authority established by Regulation 1095/2010/EU of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority);
 - (d) “overseas competent authority” means a competent authority responsible for the authorisation or supervision of clearing houses or central counterparties in a country or territory other than the United Kingdom;
 - (e) “relevant provisions” means any provisions of the default rules of an EEA central counterparty or third country central counterparty which—
 - (i) provide for the transfer of the positions or assets of a defaulting clearing member;
 - (ii) are not necessary for the purposes of complying with the minimum requirements of Articles 48(5) and (6) of the EMIR Level 1 Regulation; and
 - (iii) may be relevant to a question falling to be determined in accordance with the law of a part of the United Kingdom;
 - (f) “relevant requirements” means the requirements specified in paragraph 34(2) (portability of accounts: default rules going beyond requirements of EMIR)

Status: Point in time view as at 01/04/2013. This version of this provision has been superseded.

Changes to legislation: There are currently no known outstanding effects for the Companies Act 1989, Section 170A. (See end of Document for details)

of Part 6 of the Schedule to the Financial Services and Markets Act 2000 (Recognition Requirements for Investment Exchanges and Clearing Houses) Regulations 2001;

- (g) “UK clearing member” means a clearing member to which the law of a part of the United Kingdom will apply for the purposes of an insolvent reorganisation or winding up.
- (2) This Part applies to transactions cleared through an EEA central counterparty or a third country central counterparty by a UK clearing member as it applies to transactions cleared through a recognised central counterparty, but subject to the modifications in subsections (3) to (5).
- (3) For section 157 there is to be substituted—

157. “Change in default rules

- (1) An EEA central counterparty or a third country central counterparty in respect of which an order under section 170B(4) has been made and not revoked must give the Bank of England at least three months’ notice of any proposal to amend, revoke or add to its default rules.
- (2) The Bank of England may, if it considers it appropriate to do so, agree a shorter period of notice.
- (3) Where notice is given to the Bank of England under subsection (1) an EEA central counterparty or third country central counterparty must provide the Bank of England with such information, documents and reports as the Bank of England may require.
- (4) Information, documents and reports required under subsection (3) must be provided in English and be given at such times, in such form and at such place, and verified in such a manner, as the Bank of England may direct.”.
- (4) Section 162 does not apply to an EEA central counterparty or a third country central counterparty unless it has been notified by the Bank of England that a report under that section is required for the purposes of insolvency proceedings in any part of the United Kingdom.
- (5) In relation to an EEA central counterparty or third country central counterparty, references in this Part to the “rules” or “default rules” of the central counterparty are to be taken not to include references to any relevant provisions unless—
- (a) the relevant provisions satisfy the relevant requirements; or
- (b) the Bank of England has made an order under section 170B(4) recognising that the relevant provisions of its default rules satisfy the relevant requirements and the order has not been revoked.]

Textual Amendments

- F1** Ss. 170A, 170B 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(12)** (with regs. 52-58)

Status:

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Changes to legislation:

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