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## STATUTORY INSTRUMENTS

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# 2017 No. 1064

## The Central Securities Depositories Regulations 2017

### PART 3

#### Amendments to Part 7 of the Companies Act 1989

##### Amendments to Part 7 of the Companies Act 1989

- 3.—(1) The Companies Act 1989 is amended as follows.
- (2) For the italic heading before section 155 substitute “ Recognised bodies ”.
- (3) In section 155 (market contracts)—
- (a) in subsection (1)(d), for “(3)” substitute “ (3ZA) ”;
  - (b) in subsection (2), in paragraphs (b) and (c)—
    - (i) after “with a recognised clearing house” insert “ or with a recognised CSD ”;
    - (ii) for “or clearing house or other investment exchange” substitute “ or recognised body ”;
  - (c) in subsection (2B)(d)—
    - (i) after “with a recognised investment exchange” insert “ or with a recognised CSD ”;
    - (ii) for “that exchange or clearing house” substitute “ that recognised body ”;
  - (d) in subsection (3), in paragraphs (a) and (b)—
    - (i) after “with a recognised investment exchange” insert “ or with a recognised CSD ”;
    - (ii) for “or investment exchange or other clearing house” substitute “ or recognised body ”;
  - (e) after subsection (3) insert—

“(3ZA) In relation to a recognised CSD, this Part applies to contracts entered into by the central securities depository with a member of the central securities depository or with a recognised investment exchange or with a recognised clearing house or with another recognised CSD for the purpose of providing authorised central securities depository services to that member or recognised body.”;
  - (f) in subsection (3A)—
    - (i) in paragraph (b) for “a recognised investment exchange or to another recognised clearing house” substitute “ a recognised body ”;
    - (ii) in paragraph (c) for “a recognised clearing house or to another recognised investment exchange” substitute “ a recognised body ”;
  - (g) after subsection (3C) insert—

“(3D) In this Part “authorised central securities depository services” means, in relation to a recognised CSD—

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- (a) the core services listed in Section A of the Annex to the CSD regulation which that central securities depository is authorised to provide pursuant to Article 16 or 19(1)(a) or (c) of the CSD regulation;
  - (b) the non-banking-type ancillary services listed in or permitted under Section B of that Annex which that central securities depository is authorised to provide, including services notified under Article 19 of the CSD regulation; and
  - (c) the banking-type ancillary services listed in or permitted under Section C of that Annex which that central securities depository is authorised to provide pursuant to Article 54(2)(a) of the CSD regulation.”;
- (h) in subsection (4) for “a recognised investment exchange or recognised clearing house” substitute “ a recognised body ”;
- (i) in subsection (5), for “(2) and (3)” substitute “ (2), (3), (3ZA) and (3D) ”.
- (4) In section 157 (change in default rules)—
  - (a) in subsection (1)—
    - (i) for “A recognised UK investment exchange or recognised clearing house” substitute “ A recognised body ”;
    - (ii) for “the exchange or clearing house” substitute “ the recognised body ”;
  - (b) in subsection (3) for “an exchange or clearing house” substitute “ a recognised body ”;
  - (c) in subsection (4)(b) after “recognised clearing house” insert “ or a recognised CSD ”.
- (5) In section 158 (modifications of the law of insolvency)—
  - (a) in subsection (1)(b) for “a recognised investment exchange, or a recognised clearing house which is not a recognised central counterparty” substitute “ a recognised body other than a recognised central counterparty ”;
  - (b) in subsection (2)—
    - (i) omit “and” at the end of paragraph (aa);
    - (ii) after paragraph (aa) insert—
      - “(ab) proceedings in respect of a recognised CSD or a member of a recognised CSD, and”;
    - (iii) in paragraph (b) for “a recognised investment exchange or recognised clearing house” substitute “ a recognised body ”.
- (6) In section 159 (proceedings of exchange or clearing house take precedence over insolvency procedures)—
  - (a) for the heading substitute “ proceedings of recognised bodies take precedence over insolvency procedures ”;
  - (b) in subsection (1)(b) for “a recognised investment exchange or recognised clearing house” substitute “ a recognised body ”;
  - (c) in subsection (1)(c) for “a recognised investment exchange, or of a recognised clearing house which is not a recognised central counterparty,” substitute “ a recognised body other than a recognised central counterparty ”;
  - (d) in subsection (2)(a) for “a recognised investment exchange, or recognised clearing house which is not a recognised central counterparty,” substitute “ a recognised body other than a recognised central counterparty ”;
  - (e) in subsection (2)(b) for “a recognised investment exchange, or clearing house which is not a recognised central counterparty” substitute “ a recognised body other than a recognised central counterparty ”.

- (7) In section 160 (duty to give assistance for purposes of default proceedings)—
  - (a) in subsections (1) and (5) for “a recognised investment exchange or recognised clearing house” substitute “ a recognised body ”;
  - (b) in subsections (3), (4) and (5) for “the exchange or clearing house” substitute “ the recognised body ”.
- (8) In section 161 (supplementary provisions as to default proceedings)—
  - (a) in subsection (2) for “the exchange or clearing house” substitute “ the recognised body ”;
  - (b) in subsection (4) for “an exchange or clearing house” substitute “ a recognised body ”.
- (9) In section 162 (duty to report on completion of default proceedings)—
  - (a) in subsection (1) for “a recognised investment exchange or recognised clearing house” substitute “ a recognised body ”;
  - (b) in subsections (2) and (3) for “The exchange or clearing house” substitute “ The recognised body ”;
  - (c) in subsection (5) for “An exchange or clearing house” substitute “ A recognised body ”;
  - (d) in subsection (6) for “the exchange or clearing house”, in both places, substitute “ the recognised body ”;
  - (e) in subsection (7)(b) after “in relation to a” insert “ recognised CSD, a ”.
- (10) In section 163 (net sum payable on completion of default proceedings), in subsections (1) and (5), for “a recognised investment exchange or recognised clearing house” substitute “ a recognised body ”.
- (11) In section 164 (disclaimer of property, rescission of contracts, &c)—
  - (a) in subsection (1)(b) for “the exchange or clearing house” substitute “ the recognised body ”;
  - (b) in subsection (3) for “the exchange or clearing house”, in each place, substitute “ the recognised body ”;
  - (c) in subsection (5)—
    - (i) for “a recognised investment exchange or recognised clearing house” substitute “ a recognised body ”;
    - (ii) for “an exchange or clearing house” substitute “ a recognised body ”.
- (12) In section 165 (adjustment of prior transactions)—
  - (a) in subsections (3)(a) and (5)(a), (b) and (c) for “recognised investment exchange or recognised clearing house” substitute “ recognised body ”;
  - (b) in subsection (4)(b) and (c) for “the exchange or clearing house” substitute “ the recognised body ”.
- (13) In section 166 (powers to give directions)—
  - (a) in subsection (1) after “recognised clearing house” insert “ or recognised CSD ”;
  - (b) in subsections (2) and (7) for “an exchange or clearing house” substitute “ a recognised body ”;
  - (c) in subsections (3), (7A) and (7B) for “exchange or clearing house” substitute “ recognised body ”;
  - (d) in subsection (8) for “an exchange, a clearing house” substitute “ a recognised body ”;
  - (e) in subsection (9)(b) after “in relation to a” insert “ recognised CSD, a ”.
- (14) In section 167 (application to determine whether default proceedings to be taken)—

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- (a) in subsection (1)—
  - (i) omit “or” at the end of paragraph (b);
  - (ii) after paragraph (b) insert—
    - “(ba) a recognised CSD or a member of a recognised CSD, or”;
  - (iii) in the words after paragraph (c) for “The investment exchange, member, designated non-member clearing house or client” substitute “ The person referred to in paragraphs (a) to (c) ”;
- (b) in subsection (1B) for “a recognised investment exchange or a recognised clearing house” substitute “ a recognised body ”;
- (c) in subsections (1B), (2), (3), (4) and (5) for “the responsible exchange or clearing house”, in each place, substitute “ the responsible recognised body ”;
- (d) for subsection (6) substitute—
  - “(6) “The appropriate regulator”—
    - (a) in relation to a recognised investment exchange, means the FCA, and
    - (b) in relation to a recognised clearing house or recognised CSD, means the Bank of England.”.
- (15) In section 169 (supplementary provisions)—
  - (a) after subsection (2) insert—
    - “(2A) Section 296 of the Financial Services and Markets Act 2000 applies in relation to a failure by a recognised CSD to comply with an obligation under this Part as to a failure to comply with an obligation under that Act.”;
  - (b) in subsection (3) for “an investment exchange or clearing house” substitute “ an investment exchange, clearing house or central securities depository ”;
  - (c) in subsection (3A)—
    - (i) omit “and” at the end of paragraph (b);
    - (ii) after paragraph (c) insert—
      - “, and
      - (d) in the case of a central securities depository, the Bank of England.”.
- (16) In section 170A (EEA central counterparties and third country central counterparties), in subsection (1)(f), for “and Clearing Houses” substitute “ , Clearing Houses and Central Securities Depositories ”.
- (17) After section 170B insert—

#### **“170C EEA CSDs and third country CSDs**

(1) This Part applies to transactions settled through an EEA CSD or a third country CSD by a UK member of the central securities depository as it applies to transactions settled through a recognised CSD, but subject to subsections (2), (3) and (4).

(2) The definition of “authorised central securities depository services” in section 155(3D) applies to third country CSDs as if it read—

““authorised central securities depository services” means, in relation to a third country CSD, those services which that central securities depository is authorised to provide that are equivalent to the services listed in the Annex to the CSD regulation.”.

(3) Section 157 does not apply to an EEA CSD or a third country CSD.

(4) Section 162 does not apply to an EEA CSD or a third country CSD 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. Where an EEA CSD or a third country CSD has been so notified, the appropriate regulator for the purposes of section 162 shall be the Bank of England.

(5) In this section “UK member” means a member of an EEA CSD or a third country CSD to which the law of a part of the United Kingdom will apply for the purposes of an insolvent reorganisation or winding up.”.

(18) In section 172 (settlement arrangements provided by the Bank of England), in subsection (1), for “a recognised investment exchange or recognised clearing house” substitute “ a recognised body ”.

(19) In section 173 (market charges)—

(a) in subsection (1)—

(i) omit “or” at the end of paragraph (b);

(ii) after paragraph (b) insert—

“(ba) in favour of a recognised CSD, for the purpose of securing debts or liabilities arising in connection with their ensuring the performance of market contracts, or”;

(b) in subsections (2) and (4) after “(b)” insert “, (ba) ”.

(20) In section 176 (power to make provision about certain other charges)—

(a) in subsection (2), after paragraph (a) insert—

“(aa) an EEA CSD or a third country CSD,”;

(b) in subsection (3)—

(i) after “clearing services” insert “ or settlement arrangements ”;

(ii) at the end insert “, or in connection with authorised central securities depository services (see section 155(3D)) provided by a recognised CSD ”;

(c) in subsection (6) after “clearing services” insert “ or settlement arrangements ”.

(21) In section 177 (application of margin or default fund contribution not affected by certain other interests)—

(a) in subsection (1) for “a recognised investment exchange or recognised clearing house” substitute “ a recognised body ”;

(b) in subsections (1) (2), (3) and (4) for “the exchange or clearing house”, in each place, substitute “ the recognised body ”;

(c) in subsection (4) for “an exchange or clearing house” substitute “ a recognised body ”.

(22) In section 180 (proceedings against market property by unsecured creditors), in subsection (1)—

(a) for “a recognised investment exchange or recognised clearing house” substitute “ a recognised body ”;

(b) in paragraph (a) for “the investment exchange or clearing house” substitute “ the recognised body ”.

(23) In section 184 (indemnity for certain acts, &c)—

(a) in subsections (1), (2), (3) and (5) for “recognised investment exchange or recognised clearing house”, in each place, substitute “ recognised body ”;

(b) in subsection (4) for “the exchange or clearing house” substitute “ the recognised body ”.

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- (24) In section 188 (meaning of “default rules” and related expressions)—
- (a) in subsection (1)—
    - (i) for “recognised investment exchange or recognised clearing house”, in both places, substitute “ recognised body ”;
    - (ii) for “the exchange or clearing house” substitute “ the recognised body ”;
  - (b) after subsection (1A) insert—
 

“(1B) In the case of a recognised CSD, “default rules” includes the default rules and procedures referred to in Article 41 of the CSD regulation.”;
  - (c) in subsections (2) and (3) for “a recognised investment exchange or recognised clearing house” substitute “ a recognised body ”;
  - (d) in subsection (3A)—
    - (i) for paragraph (c)(i) substitute—
 

“(i) is maintained by another recognised body (A) for the purpose of covering losses arising in connection with defaults by recognised bodies other than A or by any of their members, and”;
    - (ii) omit “or” at the end of paragraph (c);
    - (iii) for paragraph (d)(i) substitute—
 

“(i) is maintained by another recognised body (A) for the purpose of covering losses arising in connection with defaults by recognised bodies other than A or by any of their members, and”;
    - (iv) after paragraph (d) insert—
 

“(e) contribution by a member of a recognised CSD to a fund which—

      - (i) is maintained by that central securities depository for the purpose of covering losses arising in connection with defaults by any of the members of the central securities depository, and
      - (ii) may be applied for that purpose under the default rules of the central securities depository; or

(f) contribution by a recognised CSD to a fund which—

      - (i) is maintained by another recognised body (A) for the purpose of covering losses arising in connection with defaults by recognised bodies other than A or by any of their members, and
      - (ii) may be applied for that purpose under A's default rules.”;
    - (e) in subsection (4) for “an exchange or clearing house” substitute “ a recognised body ”.

(25) In section 190 (minor definitions), in subsection (1)—

    - (a) insert at the appropriate places—
 

““CSD regulation” means Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories;”;

““member”, in relation to a central securities depository, means a participant of that central securities depository as defined in Article 2(1)(19) of the CSD regulation;”;

““recognised body” has the same meaning as in section 313 of the Financial Services and Markets Act 2000;”;
    - (b) in the definition of “overseas”, after “clearing house” insert “ or central securities depository ”;

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- (c) for the definition of “recognised central counterparty”, “recognised clearing house” and “recognised investment exchange” substitute—

““EEA CSD”, “recognised central counterparty”, “recognised CSD”, “recognised clearing house”, “recognised investment exchange” and “third country CSD” have the same meaning as in the Financial Services and Markets Act 2000 (see section 285 of that Act);”.

- (26) In section 191 (index of defined expressions) in the Table—

- (a) insert at the appropriate places—

“authorised central securities depository services	Section 155(3D)”
“CSD regulation	Section 190(1)”
“EEA CSD	Section 190(1)”
“member (in relation to a central securities depository)	Section 190(1)”
“recognised body	Section 190(1)”
“recognised CSD	Section 190(1)”
“third country CSD	Section 190(1)”;

- (b) in the expression “overseas” for “and clearing houses” substitute “, clearing houses and central securities depositories ”.

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**Changes and effects yet to be applied to :**

- Regulations revoked by [2023 c. 29 Sch. 1 Pt. 2](#)