



# Financial Services Act 2012

## 2012 CHAPTER 21

### PART 9

#### MISCELLANEOUS

##### *Amendments of Companies Act 1989*

#### **111 Amendments of Companies Act 1989**

- (1) Section 166 of the Companies Act 1989 (power of Secretary of State to give directions to recognised investment exchange or recognised clearing house) is amended as follows.
- (2) In subsection (2)(a)—
  - (a) for “Authority”, in the first place, substitute “appropriate regulator”, and
  - (b) for “Authority”, in the second place, substitute “regulator”.
- (3) In subsection (2)(b)—
  - (a) for “Authority”, in the first place, substitute “appropriate regulator”, and
  - (b) for “Authority”, in the second place, substitute “regulator”.
- (4) In subsection (3)—
  - (a) for “Authority” substitute “appropriate regulator”,
  - (b) omit the “or” following paragraph (a), and
  - (c) at the end insert—
    - “(c) in either case, that the direction is necessary having regard to the public interest in the stability of the financial system of the United Kingdom, or
    - (d) in either case, that the direction is necessary—
      - (i) to facilitate a proposed or possible use of a power under Part 1 of the Banking Act 2009 (special resolution regime), or

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*Status: This is the original version (as it was originally enacted).*

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(ii) in connection with a particular exercise of a power under that Part.”

(5) In subsection (7)—

- (a) for “Authority”, in the first place, substitute “appropriate regulator”, and,
- (b) omit the words from “The Authority shall not” to the end.

(6) After that subsection insert—

“(7A) Where the exchange or clearing house is acting in accordance with a direction under subsection (2)(a) that was given only by virtue of paragraph (a) of subsection (3), the appropriate regulator shall not give a direction under subsection (7) unless it is satisfied that the direction under that subsection will not impede or frustrate the proper and efficient conduct of the default proceedings.

(7B) Where the exchange or clearing house has taken action under its default rules without being directed to do so, the appropriate regulator shall not give a direction under subsection (7) unless—

- (a) it is satisfied that the direction under that subsection will not impede or frustrate the proper and efficient conduct of the default proceedings, or
- (b) it is satisfied that the direction is necessary—
  - (i) having regard to the public interest in the stability of the financial system of the United Kingdom,
  - (ii) to facilitate a proposed or possible use of a power under Part 1 of the Banking Act 2009 (special resolution regime), or
  - (iii) in connection with a particular exercise of a power under that Part.”

(7) In subsection (8), for “Authority” substitute “regulator which gave the direction”.

(8) At the end insert—

“(9) The appropriate regulator”—

- (a) in relation to a recognised UK investment exchange, means the FCA, and
- (b) in relation to a recognised UK clearing house, means the Bank of England.”

(9) In the heading, omit “of Secretary of State”.