1991 No. 443

FINANCIAL SERVICES

INSOLVENCY

Financial Markets and Insolvency Regulations (Northern Ireland) 1991

Made	*1st October 1991*
Coming into operation . .	*1st October 1991*

ARRANGEMENT OF REGULATIONS

PART I

GENERAL

1. Citation and commencement
2. Interpretation: general

PART II

FURTHER PROVISION AS TO MARKET CONTRACTS

3. Further provision as to market contracts

PART III

INSOLVENCY PROCEEDINGS

4. Voting at meetings of creditors
5. Ranking of expenses of relevant office-holder

PART IV

REPORTS BY RECOGNISED OVERSEAS INVESTMENT EXCHANGE OR CLEARING HOUSE

6. Duty of recognised overseas investment exchange or clearing house to report on completion of default proceedings

PART V

MARKET CHARGES

7. Interpretation of Part V
8. Charges on land or any interest in land not to be treated as market charges
9. Amendments to Article 95 of the Order concerning certain charges granted in favour of The Stock Exchange and certain charges securing debts and liabilities arising in connection with allotment of specified securities
10. Extent to which charge granted in favour of recognised investment exchange to be treated as market charge
11. Extent to which charge granted in favour of recognised clearing house to be treated as market charge
12. Circumstances in which CGO Service charge to be treated as market charge
13. Extent to which CGO Service charge to be treated as market charge
14. Limitation on disapplication of Articles 23(1)(*b*) and 24(3)(*c*) of the Insolvency Order in relation to CGO Service charges
15. Ability of administrator or receiver to recover assets in case of property subject to CGO Service charge or Talisman charge

PART VI

LEGAL PROCEEDINGS

16. Applications for order under Article 97(2) of the Order
17. Court having jurisdiction in respect of proceedings under Part V of the Order

The Department of Economic Development, in exercise of the powers conferred on it by Articles 80(4) and (5), 81(4) and (5), 83(5) and (7), 95(4) and (5), 96(2) to (4), 106(1) and (3) and 107(1) of the Companies (No. 2) (Northern Ireland) Order 1990(**a**) and of every other power enabling it in that behalf, having consulted the Treasury and the Bank of England in accordance with Articles 95(6) and 96(5) of that Order, hereby makes the following Regulations:

(**a**) S.I. 1990/1504 (N.I. 10)

PART I

GENERAL

Citation and commencement

1. These Regulations may be cited as the Financial Markets and Insolvency Regulations (Northern Ireland) 1991 and shall come into operation on 1st October 1991.

Interpretation

2. In these Regulations "the Order" means the Companies (No. 2) (Northern Ireland) Order 1990.

PART II

FURTHER PROVISION AS TO MARKET CONTRACTS

Further provision as to market contracts

3. For paragraph (2) of Article 80 of the Order (market contracts) substitute—

"(2) Except as provided in paragraph (2A), in relation to a recognised investment exchange this Part applies to—

(*a*) contracts entered into by a member or designated non-member of the exchange which are either—

(i) contracts made on the exchange or on an exchange to whose undertaking the exchange has succeeded whether by amalgamation, merger or otherwise; or

(ii) contracts in the making of which the member or designated non-member was subject to the rules of the exchange or of an exchange to whose undertaking the exchange has succeeded whether by amalgamation, merger or otherwise; and

(*b*) contracts subject to the rules of the exchange entered into by the exchange for the purposes of or in connection with the provision of clearing services.

A "designated non-member" means a person in respect of whom action may be taken under the default rules of the exchange but who is not a member of the exchange.

(2A) This Part does not apply to contracts falling within paragraph (2)(*a*) where the exchange in question is a recognised overseas investment exchange.".

PART III

INSOLVENCY PROCEEDINGS

Voting at meetings of creditors

4.—(1) Article 82 of the Order (proceedings of exchange or clearing house take precedence over insolvency procedures) shall be amended as follows.

(2) After paragraph (4) there shall be inserted the following new paragraph—

"(4A) However, prior to the completion of default proceedings—

(*a*) where it appears to the chairman of the meeting of creditors that a sum will be certified under Article 85(1) to be payable, paragraph (4) shall not prevent any proof including or consisting of an estimate of that sum which has been lodged from being admitted for the purpose only of determining the entitlement of a creditor to vote at a meeting of creditors; and

(*b*) a creditor whose proof has been lodged and admitted for the purpose of determining the entitlement of a creditor to vote at a meeting of creditors and which has not been subsequently wholly withdrawn, disallowed or rejected, is eligible as a creditor to be a member of a liquidation committee or, in bankruptcy proceedings, a creditors' committee.".

(3) In paragraph (5) for the words "paragraph (4)" there shall be substituted the words "paragraphs (4) and (4A)".

Ranking of expenses of relevant office-holder

5. At the end of paragraph (4) of Article 83 of the Order (duty to give assistance for purposes of default proceedings) there shall be added the following words—

"and for the purpose of determining the priority in which his expenses are payable out of the assets, sums in respect of time spent shall be treated as his remuneration and other sums shall be treated as his disbursements.".

PART IV

REPORTS BY RECOGNISED OVERSEAS INVESTMENT EXCHANGE OR CLEARING HOUSE

Duty of recognised overseas investment exchange or clearing house to report on completion of default proceedings

6.—(1) Article 85 of the Order (duty to report on completion of default proceedings) shall be amended as follows.

(2) At the beginning of paragraph (1) insert "Subject to paragraph (1A),".

(3) After paragraph (1) insert the following new paragraph—

"(1A) A recognised overseas investment exchange or recognised overseas clearing house shall not be subject to the obligation under paragraph (1) unless it has been notified by the Secretary of State that a report is required for the purpose of insolvency proceedings in any part of the United Kingdom.".

PART V

MARKET CHARGES

Interpretation of Part V

7. In this Part—

"the Bank" means the Bank of England;

"business day" has the same meaning as in Article 90(3) of the Order;

"CGO" means the Central Gilts Office of the Bank;

"CGO Service" means the computer-based system established by the Bank and The Stock Exchange to facilitate the transfer of specified securities;

"CGO Service charge" means a charge of the kind described in Article 95(1)(*c*) of the Order;

"CGO Service member" means a person who is entitled by contract with the Bank to use the CGO Service;

"former CGO Service member" means a person whose entitlement by contract with the Bank to use the CGO Service has been terminated or suspended;

"market charge" means a charge which is a market charge for the purposes of Part V of the Order;

"settlement bank" means a person who has agreed under a contract with the Bank to make payments of the kind mentioned in Article 95(1)(*c*) of the Order;

"specified securities" has the meaning given in Article 95(3) of the Order;

"Talisman" means The Stock Exchange settlement system known as Talisman;

"Talisman charge" means a charge granted in favour of The Stock Exchange over property credited to an account within Talisman maintained in the name of the chargor in respect of certain property beneficially owned by the chargor; and

"transfer" when used in relation to specified securities has the meaning given in Article 95(3) of the Order.

Charges on land or any interest in land not to be treated as market charges

8.—(1) No charge, whether fixed or floating, shall be treated as a market charge to the extent that it is a charge on land or any interest in land.

(2) For the purposes of paragraph (1), a charge on a debenture forming part of an issue or series shall not be treated as a charge on land or any interest