

Chapter 2

Recognition requirements

2.8 Settlement and clearing facilitation services

2.8.1 UK Schedule to the Recognition Requirements Regulations, Paragraph 4(2)(d)

[Note: This sub-paragraph is relevant to *regulated markets* only. See REC 2.16A regarding *MTFs* or *OTFs*.]

Without prejudice to the generality of sub-paragraph [4(1)], the [UK RIE] must ensure that -

satisfactory arrangements which comply with paragraph 7D are made for securing the timely discharge (whether by performance, compromise or otherwise) of the rights and liabilities of the parties to transactions effected on the [UK RIE] (being rights and liabilities in relation to those transactions);

[Note: article 29 of *MiFIR* and *MiFID RTS 26* contain requirements for the clearing of *derivative* transactions for operators of *regulated markets*]

2.8.1A UK Schedule to the Recognition Requirements Regulations, Paragraph 7D

- (1) The rules of the [UK RIE] must permit a user or member of a *regulated market* operated by it to use whatever settlement facility he chooses for a transaction.
- (2) Sub-paragraph (1) only applies where -
 - (a) such links and arrangements exist between the chosen settlement facility and any other settlement facility as are necessary to ensure the efficient and economic settlement of the transaction; and
 - (b) the [UK RIE] is satisfied that the smooth and orderly functioning of the financial markets will be maintained.

2.8.2 UK [deleted]

2.8.3 G In determining whether there are satisfactory arrangements for securing the timely discharge of the rights and liabilities of the parties to transactions effected on its *regulated markets*, the FCA may have regard to:

- (1A) (in relation to transactions in *derivatives*) the *UK recognised body's* ability to demonstrate that such transactions are cleared by a *CCP* in accordance with article 29(1) of *MiFIR*;

- (1B) (in relation to transactions in *derivatives* which are to be cleared pursuant to article 29(1) of *MiFIR* or under article 4 of *EMIR*) the *UK recognised body's* ability to demonstrate that its *regulated markets* ensure such transactions are submitted and accepted for clearing as quickly as technologically practicable using automated systems in accordance with article 29(2) of *MiFIR* and *MiFID RTS 26*; and
- (1C) (in relation to other types of transactions effected on the *UK recognised body's regulated markets*) the following factors:
 - (a) the rules and practices relating to clearing and settlement including its arrangements with another person for the provision of clearing and settlement services, and where relevant the degree of oversight or supervision already exercised by central banks or other supervisory authorities with respect to such other provider of clearing and settlement services;
 - (b) arrangements for matching trades and ensuring that the parties are in agreement about trade details;
 - (c) where relevant, arrangements in making deliveries and payments, in all relevant jurisdictions;
 - (d) procedures to detect and deal with the failure of a *member* to settle in accordance with its rules;
 - (e) arrangements for taking action to settle a trade if a *member* does not settle in accordance with its rules;
 - (f) arrangements for monitoring its *members'* settlement performance; and
 - (g) (where appropriate) *default rules* and default procedures.
- (1) [deleted]
- (2) [deleted]
- (3) [deleted]
- (4) [deleted]
- (5) [deleted]
- (6) [deleted]
- (7) [deleted]

2.8.4

G A *UK recognised body* will not be regarded as failing to comply with the *recognition requirement* merely because it is unable to arrange for a specific transaction to be settled.