

2023 No. 1313

FINANCIAL SERVICES

**The Resolution of Central Counterparties (Modified Application
of Corporate Law and Consequential Amendments) Regulations
2023**

Made - - - - *4th December 2023*

Coming into force - - *31st December 2023*

The Treasury make these Regulations in exercise of the powers conferred by sections 83(1) and (2) and 84(2) of, and paragraph 165(1) of Schedule 11 to, the Financial Services and Markets Act 2023^(a).

A draft of these Regulations has been laid before and approved by a resolution of each House of Parliament, in accordance with sections 83(3) and 84(3) of, and paragraph 165(1) of Schedule 11 to, the Financial Services and Markets Act 2023.

PART 1

General

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Resolution of Central Counterparties (Modified Application of Corporate Law and Consequential Amendments) Regulations 2023.

(2) These Regulations come into force on 31st December 2023.

(3) These Regulations extend to England and Wales, Scotland and Northern Ireland.

PART 2

Modifications of the Companies Act 2006

Interpretation

2.—(1) In this Part—

“the Schedule” means Schedule 11 to the Financial Services and Markets Act 2023;

“the use of CCP resolution tools, powers and mechanisms” means—

- (a) the exercise by the Bank of a stabilisation power within the meaning of paragraph 1(4) of the Schedule; or
 - (b) the exercise by the Treasury of its powers as described in paragraph 157 of the Schedule.
- (2) Terms which are defined in the Schedule have the same meaning for the purposes of these Regulations.
- (3) For the purposes of this Part—
- (a) a company is a company under resolution if it is a UK-registered company in respect of which the Bank has exercised its powers under the Schedule, but
 - (b) such a company is not a company under resolution if—
 - (i) it has ceased to be subject to the exercise of a stabilisation power; and
 - (ii) the results which are to be achieved by an instrument made in respect of the company under the Schedule have been achieved.

Modified application of the Companies Act 2006 (disapplication of takeover rules)

3. Part 28 of the Companies Act 2006(a) (Takeovers etc) has effect as if, in section 943 (rules), after subsection (1) there were inserted—

“(1ZA) Rules made in accordance with paragraph 7(1) and (2) of Part 2 of Schedule 1C must provide that they do not apply in relation to any change in interests in shares or other transaction which is effected by the use of CCP resolution tools, powers and mechanisms (within the meaning given in regulation 2 of the Resolution of Central Counterparties (Modified Application of Corporate Law and Consequential Amendments) Regulations 2023.”.

Modified application of the Companies Act 2006 (shareholders’ rights)

4.—(1) The provisions of the Companies Act 2006(b) concerning the rights of shareholders to call general meetings and to amend the articles of association of the company apply to traded companies to which the Schedule applies with the following modifications.

(2) “Traded company” has the meaning given in section 360C of the Companies Act 2006.

(3) Section 21 (amendment of articles) has effect as if, after subsection (3), there were inserted—

“(3A) A traded company (within the meaning of section 360C) to which Schedule 11 to the Financial Services and Markets Act 2023 applies may also amend its articles in accordance with section 307B.”.

(4) Section 307A (notice required of general meeting: certain meetings of traded companies), has effect as if, at the beginning of subsection (1), there were inserted “Subject to section 307B,”.

(5) Part 13 (resolutions and meetings) has effect as if after section 307A there were inserted—

“307B Notice required of general meeting: traded companies meeting the conditions for early intervention relating to central counterparties

(1) Where the conditions in subsections (2) and (3) are satisfied, the members of a traded company to which Schedule 11 to the Financial Services and Markets Act 2023 (general conditions) applies may, by a resolution passed at a general meeting by a majority of two-thirds of those voting in person or by proxy—

- (a) require the company to call a general meeting to pass a resolution to increase the company’s share capital, provided that the meeting is to be called by notice of at least 10 days;

(a) 2006 c. 46.

(b) Sections 307A and 360C were inserted by S.I. 2009/1632.

- (b) amend the company’s articles of association to permit a general meeting to be called to consider a proposal to increase the company’s share capital by notice of at least 10 days.
- (2) The condition in this subsection is satisfied if—
- (a) the company has infringed, or is likely in the near future to infringe, a relevant requirement within the meaning of section 312E(3) of the Financial Services and Markets Act 2000; or
 - (b) the conditions for appointment of a temporary manager under paragraph 6(1) of Schedule 11 to the Financial Services and Markets Act 2023 (temporary manager) are met in relation to the company.
- (3) The condition in this subsection is satisfied if an increase in the share capital of the company is necessary to prevent the conditions in paragraph 17 of Schedule 11 to the Financial Services and Markets Act 2023 for the exercise of the stabilisation powers provided for in that Schedule being met in relation to the company.”.

Modified application of the Companies Act 2006 (application of the Bank Recovery and Resolution (No. 2) Order 2014)

5. For the purposes of the Schedule, the modifications made to the Companies Act 2006 by Schedule 4 to the Bank Recovery and Resolution (No. 2) Order 2014(a) apply as if in that Schedule—

- (a) in paragraphs 1, 25, and 35(b), the references to “a company under resolution” had the meaning given in regulation 2(3);
- (b) in the modifications made by paragraph 24—
 - (i) the first reference to “a company under resolution” had the meaning given in regulation 2(3);
 - (ii) for “Part 17 of the Bank Recovery and Resolution (No. 2) Order 2014” there were substituted “the Resolution of Central Counterparties (Modified Application of Corporate Law and Consequential Amendments) Regulations 2023”;
- (c) in the modifications made by paragraph 26(b), for “Part 17 of the Bank Recovery and Resolution (No. 2) Order 2014” there were substituted “the Resolution of Central Counterparties (Modified Application of Corporate Law and Consequential Amendments) Regulations 2023”;
- (d) in the modifications made by paragraph 27—
 - (i) for “Part 17 of the Bank Recovery and Resolution (No. 2) Order 2014” there were substituted “the Resolution of Central Counterparties (Modified Application of Corporate Law and Consequential Amendments) Regulations 2023”;
 - (ii) for “resolution tools, powers and mechanisms (within the meaning given in article 216 of that Order)” there were substituted “CCP resolution tools, powers and mechanisms (within the meaning given in regulation 2 of those Regulations) (interpretation)”;
- (e) in the modifications made by paragraph 32—
 - (i) for “resolution tools, powers and mechanisms (within the meaning given in article 216 of the Bank Recovery and Resolution (No. 2) Order 2014)” there were substituted “CCP resolution tools, powers and mechanisms (within the meaning given in regulation 2 of the Resolution of Central Counterparties (Modified Application of Corporate Law and Consequential Amendments) Regulations 2023) (interpretation)”;
 - (ii) For “Part 17 of that Order” substitute “those Regulations”;

(a) S.I. 2014/3348.

- (f) in the modifications made by paragraph 33—
 - (i) for “Part 17 of the Bank Recovery and Resolution (No. 2) Order 2014” there were substituted “the Resolution of Central Counterparties (Modified Application of Corporate Law and Consequential Amendments) Regulations 2023”;
 - (ii) for “resolution tools, powers and mechanisms (within the meaning given in article 216 of that Order)” there were substituted “CCP resolution tools, powers and mechanisms (within the meaning given in regulation 2 of those Regulations) (interpretation)”;
- (g) in the modifications made by paragraph 34, for “Part 17 of the Bank Recovery and Resolution (No. 2) Order 2014, by the use of resolution tools, powers and mechanisms (within the meaning given in article 216 of that Order)” there were substituted “the Resolution of Central Counterparties (Modified Application of Corporate Law and Consequential Amendments) Regulations 2023 by the use of CCP resolution tools, powers and mechanisms (with the meaning given in regulation 2 of those Regulations) (interpretation)”;
- (h) in the modifications made by paragraph 36—
 - (i) for “Part 17 of the Bank Recovery and Resolution (No. 2) Order 2014 (“the Order”)” there were substituted “the Resolution of Central Counterparties (Modified Application of Corporate Law and Consequential Amendments) Regulations 2023 (“the Regulations”)”;
 - (ii) for “resolution tools, powers and mechanisms (within the meaning given in article 216 of the Order)” there were substituted “CCP resolution tools, powers and mechanisms (within the meaning given in regulation 2 of the Regulations) (interpretation)”.

Modification of the Companies Act 2006 (Commencement No. 8, Transitional Provisions and Savings) Order 2008

6. The Companies Act 2006 (Commencement No. 8, Transitional Provisions and Savings) Order 2008(a) applies as if in Schedule 2 (transitional provisions and savings) after paragraph 43 (power of directors to allot shares etc: private company with only one class of shares (s. 550)) there were inserted—

“43A. Paragraph 43 does not apply in relation to an existing company or a transitional company which is a company under resolution for the purposes of the Resolution of Central Counterparties (Modified Application of Corporate Law and Consequential Amendments) Regulations 2023.”.

PART 3

Consequential Amendments

Amendments to the Finance Act 1986

7.—(1) Section 85A of the Finance Act 1986(b) (resolution of financial institutions) is amended as follows.

- (2) In subsection (2)—
 - (a) in paragraph (n), omit “or”;
 - (b) after paragraph (o), insert—

(a) S.I. 2008/2860.

(b) 1986 c. 41. Section 85A was inserted by section 49(1) of the Finance Act 2019 (c. 1).

- “(p) a share transfer instrument or property transfer instrument made in accordance with paragraph 29(3) (bridge central counterparty) of Schedule 11 to the Financial Services and Markets Act 2023 (central counterparties),
- (q) a share transfer instrument made in accordance with paragraph 30(2) of that Schedule (transfer of ownership),
- (r) a write-down instrument made in accordance with paragraph 34(2) of that Schedule (write-down power),
- (s) a supplemental share transfer instrument made in accordance with paragraph 49 of that Schedule (supplemental instruments), where the original instrument was made in accordance with paragraph 29(3) or 30(2) of that Schedule,
- (t) a property transfer instrument made in accordance with paragraph 66(2) of that Schedule (transfer of property subsequent to resolution instrument),
- (u) a supplemental property transfer instrument made in accordance with paragraph 67(2) of that Schedule (supplemental instruments) where the original instrument was made in accordance with paragraph 29(3) of that Schedule,
- (v) a bridge central counterparty supplemental property transfer instrument made in accordance with paragraph 73(2) of that Schedule (bridge central counterparty: supplemental property transfer powers),
- (w) a supplemental resolution instrument made in accordance with paragraph 82(2) of that Schedule (supplemental resolution instruments), or
- (x) a third-country instrument made in accordance with paragraph 145(2) (third-country resolution actions) or 146(4) (effects of recognition on third-country resolution action) of that Schedule.”.

Amendment to the Companies Act 1989

8.—(1) The Companies Act 1989(a) is amended as follows.

(2) In section 87(2)(b)(iii)(b) (exceptions from restrictions on disclosure), for “or the Banking Act 2009” substitute “, the Banking Act 2009 or Schedule 11 to the Financial Services and Markets Act 2023”.

(3) In section 166(c) (powers to give directions)—

(a) in subsection (3)(d)—

- (i) in sub-paragraph (i), after “regime)” insert “or Schedule 11 to the Financial Services and Markets Act 2023 (central counterparties)”;
- (ii) in sub-paragraph (ii), after “Part” insert “or that Schedule”;

(b) in subsection (7B)—

- (i) in paragraph (b)(ii), after “regime)” insert “or Schedule 11 to the Financial Services and Markets Act 2023 (central counterparties)”;
- (ii) in paragraph (b)(iii), after “Part” insert “or that Schedule”.

Amendments to the Bank of England Act 1998

9.—(1) The Bank of England Act 1998(d) is amended as follows.

(2) In section 7A(9)(e) (accounts of companies wholly owned by the Bank), after paragraph (b), insert—

(a) 1989 c. 40.

(b) Section 87 was amended in relevant part by S.I. 2010/22.

(c) Section 166 was amended in relevant part by S.I. 2013/504 and 2017/1064.

(d) 1998 c. 11.

(e) Section 7A was inserted by section 137(3) of the Financial Services (Banking Reform) Act 2013 (c. 33) and amended by paragraph 10 of Part 1 of Schedule 2 to the Bank of England and Financial Services Act 2016 (c. 14).

“, or

- (c) a company which is a bridge central counterparty for the purpose of paragraph 29 of Schedule 11 to the Financial Services and Markets Act 2023.”.

(3) In section 9O(3)(a) (making of recommendations within the Bank), in paragraph (b), after “2009” insert “or Schedule 11 to the Financial Services and Markets Act 2023”.

Amendments to the Financial Services and Markets Act 2000

10.—(1) Part 3 of Schedule 17A to the Financial Services and Markets Act 2000(b) (further provision in relation to exercise of Part 18 functions, or other FMI functions) is amended as follows.

(2) In paragraph 34(7)(b)(ii), for “Part 1 of the Banking Act 2009” substitute “Schedule 11 to the Financial Services and Markets Act 2023”.

Amendments to the Finance Act 2003

11.—(1) Section 66A(2) of the Finance Act 2003(c) (resolution of financial institutions) is amended as follows.

(2) In paragraph (f), omit “or”;

(3) After paragraph (g), insert—

- “(h) a property transfer instrument made in accordance with paragraph 29(3) (bridge central counterparty) of Schedule 11 to the Financial Services and Markets Act 2023 (central counterparties),
- (i) a property transfer instrument made in accordance with paragraph 66(2) of that Schedule (transfer of property subsequent to resolution instrument),
- (j) a supplemental property transfer instrument made in accordance with paragraph 67(2) of that Schedule (supplemental instruments) where the original instrument was made in accordance with paragraph 29(3) of that Schedule,
- (k) a property transfer instrument made in accordance with paragraph 71(2) (transfer of ownership and private sector purchaser: property transfer) where the original instrument was made in accordance with paragraph 30(2) of that Schedule (transfer of ownership), or
- (l) a third-country instrument made in accordance with paragraph 145(2) (third-country resolution actions) or 146(4) (effects of recognition on third-country resolution action) of that Schedule.”.

Amendment to the Corporation Tax Act 2009

12. In section 322(5A) of the Corporation Tax Act 2009(d) (release of debts: cases where credits not required to be brought into account), after “2009” insert “or the exercise of a third-country instrument or a stabilisation power under Schedule 11 to the Financial Services and Markets Act 2023”.

(a) Section 9O was inserted by section 4(1) of the Financial Services Act 2012 (c. 21).

(b) 2000 c. 8. Schedule 17A was inserted by section 29 and Schedule 7 to the Financial Services Act 2012.

(c) 2003 c. 14. Section 66A was inserted by section 45(1) of the Finance Act 2019 (c. 1)..

(d) 2009 c. 4. Subsection 5A was inserted into section 322 by section 26(3) of the Finance Act 2014 (c. 26) and amended by S.I. 2014/3329.

Amendment to the Taxation (International and Other Provisions) Act 2010

13. In section 259NEC(6) of the Taxation (International and Other Provisions) Act 2010(a) (release of debts), after “2009” insert “or the exercise of a third-country instrument or a stabilisation power under Schedule 11 to the Financial Services and Markets Act 2023”.

Amendment to the Financial Services Act 2012

14. In section 60(5)(b) of the Financial Services Act 2012(b) (circumstances in which Treasury power of direction exercisable), after “2009” insert “or under Schedule 11 to the Financial Services and Markets Act 2023”.

Amendments to the Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001

15.—(1) The Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001(c) are amended as follows.

(2) In regulation 2 (interpretation)—

(a) after the definition of “capital requirements directive information”, insert—

““CCP” has the meaning given in paragraph 154 of Schedule 11 to the Financial Services and Markets Act 2023;”;

(b) in the definition of “recovery and resolution information”—

(i) in paragraph (a), for “or the Bank Recovery and Resolution (No. 2) Order 2014” substitute “, the Bank Recovery and Resolution (No. 2) Order 2014 or Schedule 11 to the Financial Services and Markets Act 2023”;

(ii) in paragraph (b), for “or the Bank Recovery and Resolution (No. 2) Order 2014” substitute “, the Bank Recovery and Resolution (No. 2) Order 2014 or Schedule 11 to the Financial Services and Markets Act 2023”;

(c) in the definition of “third country resolution authority”—

(i) after “section 89H of the Banking Act 2009” insert “or within the meaning of paragraph 145 of Schedule 11 to the Financial Services and Markets Act 2023, as appropriate”;

(ii) for “or the Bank Recovery and Resolution (No. 2) Order 2014” substitute “, the Bank Recovery and Resolution (No. 2) Order 2014 or Schedule 11 to the Financial Services and Markets Act 2023”.

(3) In regulation 9(2C) (disclosure by regulators or regulator workers to certain other persons)—

(a) in paragraph (c), for “or the Bank Recovery and Resolution (No. 2) Order 2014” substitute “, the Bank Recovery and Resolution (No. 2) Order 2014 or Schedule 11 to the Financial Services and Markets Act 2023”.

(b) in paragraph (d)(i)—

(i) after “section 89H of the Banking Act 2009” insert “or within the meaning of paragraph 145 of Schedule 11 to the Financial Services and Markets Act 2023, as appropriate”;

(ii) for “or the Bank Recovery and Resolution (No. 2) Order 2014” substitute “, the Bank Recovery and Resolution (No. 2) Order 2014 or Schedule 11 to the Financial Services and Markets Act 2023”.

(4) In regulation 10A(1) (disclosure of recovery and resolution information)—

(a) in paragraph (a), omit “or”;

(a) 2010 c. 8. Section 259NEC was inserted by paragraph 5 of Schedule 7 to the Finance Act 2021 (c. 26).

(b) 2012 c. 21.

(c) S.I. 2001/2188, amended by S.I. 2014/3348 and 2019/681; there are other amending instruments but none is relevant.

- (b) in paragraph (b), after “2011,” insert “or”;
- (c) after paragraph (b), insert—
 - “(c) Schedule 11 to the Financial Services and Markets Act 2023.”
- (5) In regulation 10B(2) (assessment of effects of disclosure)—
 - (a) in the definition of “recovery plan”, after “Bank Recovery and Resolution (No. 2) Order 2014”, insert “(“the 2014 Order”) or in paragraph 2 of Schedule 11 to the Financial Services and Markets Act 2023”;
 - (b) in the definition of “resolution plan”, for “that Order” substitute “the 2014 Order, or as defined in paragraph 4 of Schedule 11 to the Financial Services and Markets Act 2023”.
- (6) In the table in Schedule 1 (disclosure of confidential information whether or not subject to retained EU law restrictions)—
 - (a) in the entry relating to “The Bank of England”, in the second column, for “and under the Investment Bank Special Administration Regulations 2011” substitute “, under the Investment Bank Special Administration Regulations 2011 and under Schedule 11 to the Financial Services and Markets Act 2023”;
 - (b) in the entry relating to “An official receiver appointed under section 399 of the Insolvency Act 1986, or an official receiver for Northern Ireland appointed under article 355 of the Insolvency (Northern Ireland) Order 1989”, in the second column—
 - (i) in sub-paragraph (iii) after “2009)” insert “; or”
 - (ii) after sub-paragraph (iii) insert—
 - “(iv) CCP group companies (as defined in paragraph 156 of Schedule 11 to the Financial Services and Markets Act 2023)”;
 - (c) in the entry relating to “A person appointed in judicial or administrative proceedings in the United Kingdom or a country or territory outside the United Kingdom, pursuant to a law relating to insolvency, to administer the reorganisation or the liquidation of a debtor’s assets or affairs”, in the second column—
 - (i) in sub-paragraph (iii) after “2009)” insert “; or”
 - (ii) after sub-paragraph (iii) insert—
 - “(iv) CCP group companies (as defined in paragraph 156 of Schedule 11 to the Financial Services and Markets Act 2023)”;
 - (d) in the entry relating to “An auditor of an authorised person or banking group company (as defined in section 81D of the Banking Act 2009) appointed under or as a result of an enactment (other than the Act)”, in the first column—
 - (i) for “or banking group company” substitute “, a CCP, a banking group company”;
 - (ii) after “2009)” insert “or a CCP group company (as defined in paragraph 156 of Schedule 11 to the Financial Services and Markets Act 2023)”.

Amendments to the Financial Collateral Arrangements (No. 2) Regulations 2003

16.—(1) The Financial Collateral Arrangements (No. 2) Regulations 2003(a) are amended as follows.

- (2) In regulation 3(1A) (interpretation)—
 - (a) in paragraph (b), after “crisis prevention measure” insert “or resolution measure”;
 - (b) in paragraph (c) after “2009” insert “and “resolution measure” has the meaning given in paragraph 84 of Schedule 11 to the Financial Services and Markets Act 2023”.
- (3) In regulation 12(5) (close-out netting provisions to take effect in accordance with their terms) after “2009” insert “or under Schedule 11 to the Financial Services and Markets Act 2023”.

(a) S.I. 2003/3226, amended by S.I. 2014/3348 and S.I. 2019/341; there are other amending instruments but none is relevant.

(4) In regulation 18A(1) (restrictions on enforcement of financial collateral arrangements, etc.) after “2009” insert “or under Schedule 11 to the Financial Services and Markets Act 2023”.

Scott Mann
Stuart Anderson

4th December 2023

Two of the Lords Commissioners of His Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations apply certain provisions of the Companies Act 2006 (c. 46) (“the 2006 Act”) and related legislation with modifications, and make consequential amendments to primary and secondary legislation, in relation to the introduction of a new special resolution regime for central counterparties (“CCPs”) in Schedule 11 (central counterparties) to the Financial Services Act 2023 (c. 29) (“the CCP Schedule”). This replaces the current special resolution regime in Part 1 of the Banking Act 2009 (c. 1) (“the BA09 regime”).

Part 2 of these Regulations applies certain provisions of the 2006 Act with modifications for the purposes of the CCP Schedule, in keeping with similar modifications already made in respect of the BA09 regime. Regulations 3 to 6 make technical modifications to certain provisions in the 2006 Act and in the Companies Act 2006 (Commencement No. 8, Transitional Provisions and Savings) Order 2008 (S.I. 2008/2860), in relation to the use of stabilisation options under the CCP Schedule. These relate to the disapplication of certain rules in relation to transactions effected by instruments made under the CCP Schedule, the modification of shareholders’ rights to call general meetings and amend the articles of association of a company, and the modification of certain rights of shareholders in listed companies and in existing or transitional companies (within the meaning of the 2006 Act).

Part 3 of these Regulations makes consequential amendments to primary and secondary legislation relating to the CCP Schedule, which align with amendments previously made in respect of the BA09 regime. Regulation 7 amends section 85A (resolution of financial institutions) of the Finance Act 1986 (c. 41) so that stamp duty is not payable in respect of transfers made in certain instruments under the CCP Schedule.

Regulation 8 amends section 87(2) (exceptions from restrictions on disclosure) and section 166 (powers to give directions) of the Companies Act 1989 (c. 40) to allow information which is subject to disclosure restrictions under section 86 (restrictions on disclosure of information) of that Act to be disclosed for the purpose of civil proceedings relating to an assessment of compensation under the CCP Schedule, and to ensure that a direction can be made by an appropriate regulator under section 166 where necessary to facilitate the use of a power under the CCP Schedule, or in connection with the use of such a power.

Regulation 9 amends sections 7A (accounts of companies wholly owned by the Bank) and 90 (making of recommendations within the Bank) of the Bank of England Act 1998 (c. 11) to exclude a company which is a bridge central counterparty for the purpose of the CCP Schedule from the definition of a “qualifying company” for the purpose of section 7A, and to specify that (under section 90) the Financial Policy Committee may not make recommendations in relation to the exercise of the Bank’s powers under the CCP Schedule.

Regulation 10 amends paragraph 34(7) of Part 3 of Schedule 17A (further provision in relation to exercise of Part 18 functions or other FMI functions by Bank of England) to the Financial Services and Markets Act 2000 (c. 8) to replace a reference to the intended use of a stabilisation power under the BA09 regime with a reference to the intended use of such a power under the CCP Schedule.

Regulations 11 to 13 make certain amendments relating to taxes as they apply further to the making of instruments under the CCP Schedule. Regulation 11 ensures that certain transactions arising from such instruments are exempt from Stamp Duty Land Tax. The amendments made in regulation 12 disapply certain aspects of corporation tax in respect of the effects of those

instruments, and regulation 13 makes provision concerning the application of relevant debt relief under section 259NEB (relevant debt relief circumstances) of the Taxation (International and Other Provisions) Act 2010 (c. 8) in that context.

Regulation 14 amends the circumstances in which Treasury power of direction under section 61 of the Financial Services Act 2012 (c. 21) is exercisable to include circumstances where the Treasury has incurred expenditure in connection with the exercise of any powers under the CCP Schedule.

Regulation 15 makes amendments to the Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001 (S.I. 2001/2188) (“the 2001 Regulations”) so that the disclosure of confidential information received by the relevant authorities in the course of discharging functions under the CCP Schedule is permitted, and to ensure that the 2001 Regulations apply in general to the special resolution regime under the CCP Schedule in the same way as they apply to the BA09 regime.

Regulation 16 amends regulations 3(1A), 12(5) and 18A(1) of the Financial Collateral Arrangements (No. 2) Regulations 2003 (S.I. 2003/3226) to ensure that actions taken under the CCP Schedule are excluded from the definition of an “enforcement event” for the purpose of those Regulations, and to specify that nothing in the relevant regulations prevents the Bank of England (in the exercise of its powers under the CCP Schedule) from imposing restrictions on the effect of a close-out netting provision, on the enforcement of financial collateral arrangements, or on the effect of a security financial collateral arrangement, close-out netting provision or set-off arrangement.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen. A de minimis impact assessment is available from HM Treasury, 1 Horse Guards Road, London, SW1A 2HQ and is published with the Explanatory Memorandum alongside this instrument on www.legislation.gov.uk.

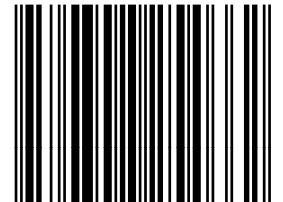
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