

Status: Point in time view as at 07/07/2020.

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SCHEDULES

[F1]SCHEDULE ZA2

Section A18

MORATORIUM: CONTRACT OR OTHER INSTRUMENT INVOLVING FINANCIAL SERVICES

Textual Amendments

- F1** Sch. ZA2 inserted (26.6.2020) by [Corporate Insolvency and Governance Act 2020 \(c. 12\), s. 49\(1\), Sch. 2](#) (with ss. [2\(2\)](#), [5\(2\)](#))

Introductory

- 1 For the purposes of section A18 “contract or other instrument involving financial services” means a contract or other instrument to which any of the following paragraphs applies.

Financial contracts

- 2 (1) This paragraph applies to a financial contract.
- (2) “Financial contract” means—
- (a) a contract for the provision of financial services consisting of—
 - (i) lending (including the factoring and financing of commercial transactions),
 - (ii) financial leasing, or
 - (iii) providing guarantees or commitments;
 - (b) a securities contract, including—
 - (i) a contract for the purchase, sale or loan of a security, group or index of securities;
 - (ii) an option on a security or group or index of securities;
 - (iii) a repurchase or reverse repurchase transaction on any such security, group or index;
 - (c) a commodities contract, including—
 - (i) a contract for the purchase, sale or loan of a commodity or group or index of commodities for future delivery;
 - (ii) an option on a commodity or group or index of commodities;
 - (iii) a repurchase or reverse repurchase transaction on any such commodity, group or index;
 - (d) a futures or forwards contract, including a contract (other than a commodities contract) for the purchase, sale or transfer of a commodity or property of any other description, service, right or interest for a specified price at a future date;
 - (e) a swap agreement, including—

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- (i) a swap or option relating to interest rates, spot or other foreign exchange agreements, currency, an equity index or equity, a debt index or debt, commodity indexes or commodities, weather, emissions or inflation;
 - (ii) a total return, credit spread or credit swap;
 - (iii) any agreement or transaction that is similar to an agreement that is referred to in sub-paragraph (i) or (ii) and is the subject of recurrent dealing in the swaps or derivatives markets;
 - (f) an inter-bank borrowing agreement where the term of the borrowing is three months or less;
 - (g) a master agreement for any of the contracts or agreements referred to in paragraphs (a) to (f).
- (3) For the purposes of this paragraph “commodities” includes—
- (a) units recognised for compliance with the requirements of [EU Directive 2003/87/EC](#) establishing a scheme for greenhouse gas emission allowance trading,
 - (b) allowances under paragraph 5 of Schedule 2 to the Climate Change Act 2008 relating to a trading scheme dealt with under Part 1 of that Schedule (schemes limiting activities relating to emissions of greenhouse gas), and
 - (c) renewables obligation certificates issued—
 - (i) by the Gas and Electricity Markets Authority under an order made under section 32B of the Electricity Act 1989, or
 - (ii) by the Northern Ireland Authority for Utility Regulation under the Energy (Northern Ireland) Order 2003 ([S.I. 2003/419 \(N.I. 6\)](#)) and pursuant to an order made under Articles 52 to 55F of that Order.

Securities financing transactions

- 3 (1) This paragraph applies to—
- (a) a securities financing transaction, and
 - (b) a master agreement for securities financing transactions.
- (2) “Securities financing transaction” has the meaning given by Article 3(11) of [Regulation \(EU\) 2015/2365](#) on the transparency of securities financing transactions.
- (3) But for the purposes of that Article as it applies for the purposes of this paragraph, references to “commodities” in that Regulation are to be taken as including the units, allowances and certificates referred to in paragraph 2(3)(a), (b) and (c).

Derivatives

- 4 (1) This paragraph applies to—
- (a) a derivative, and
 - (b) a master agreement for derivatives.
- (2) “Derivative” has the meaning given by Article 2(5) of [Regulation \(EU\) No. 648/2012](#).

Spot contracts

- 5 (1) This paragraph applies to—

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- (a) a spot contract, and
- (b) a master agreement for spot contracts.

- (2) “Spot contract” has the meaning given by Article 7(2) or 10(2) of Commission Delegated Regulation of 25.4.2016 supplementing [Directive 2014/65/EU](#) of the European Parliament and of the Council as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive.

Capital market investments

- 6 (1) This paragraph applies to an agreement which is, or forms part of, an arrangement involving the issue of a capital market investment.
- (2) “Capital market investment” has the meaning given by paragraph 14 of Schedule ZA1.

Contracts forming part of a public-private partnership

- 7 This paragraph applies to a contract forming part of a public-private partnership project within the meaning given by paragraph 16 of Schedule ZA1.

Market contracts

- 8 This paragraph applies to a market contract within the meaning of Part 7 of the Companies Act 1989 (see section 155 of that Act).

Qualifying collateral arrangements and qualifying property transfers

- 9 This paragraph applies to qualifying collateral arrangements and qualifying property transfers within the meaning of Part 7 of the Companies Act 1989 (see section 155A of that Act).

Contracts secured by certain charges or arrangements

- 10 This paragraph applies to a contract where any obligation under the contract is—
- (a) secured by a market charge within the meaning of Part 7 of the Companies Act 1989 (see section 173 of that Act),
 - (b) secured by a system-charge within the meaning of the Financial Markets and Insolvency Regulations 1996 ([S.I. 1996/1469](#)) (see regulation 2 of those Regulations), or
 - (c) secured or otherwise covered by a financial collateral arrangement within the meaning of the Financial Collateral Arrangements (No. 2) Regulations 2003 ([S.I. 2003/3226](#)) (see regulation 3 of those Regulations).

Default arrangements and transfer orders

- 11 This paragraph applies to a contract which is included in default arrangements, or a transfer order, within the meaning of the Financial Markets and Insolvency (Settlement Finality) Regulations 1999 ([S.I. 1999/2979](#)) (see regulation 2 of those Regulations).

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Card-based payment transactions

- 12 This paragraph applies to a contract to accept and process card-based payment transactions within the meaning given by [Regulation \(EU\) 2015/751](#) of the European Parliament and of the Council of 29th April 2015 on interchange fees for card-based payment transactions.

Power to amend Schedule

- 13 (1) The Secretary of State may by regulations amend this Schedule so as to change the meaning of “contract or other instrument involving financial services” for the purposes of section A18.
- (2) Regulations under this paragraph are subject to the affirmative resolution procedure.]

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