
Changes to legislation: There are currently no known outstanding effects for the Corporate Insolvency and Governance Act 2020, SCHEDULE 6. (See end of Document for details)

SCHEDULES

SCHEDULE 6

Section 4(3)

MORATORIUMS IN NORTHERN IRELAND: CONTRACTS INVOLVING FINANCIAL SERVICES

In the Insolvency (Northern Ireland) Order 1989, after Schedule ZA1 (inserted by Schedule 5 to this Act) insert—

“SCHEDULE ZA2

Article 13D

MORATORIUM: CONTRACT OR OTHER INSTRUMENT INVOLVING FINANCIAL SERVICES

Introductory

- 1 For the purposes of Article 13D “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—
- (a) a spot contract, and

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(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 5 of the Companies (No.2) (Northern Ireland) Order 1990 (see Article 80 of that Order).

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 5 of the Companies (No.2) (Northern Ireland) Order 1990 (see Article 95 of that Order),
 - (b) secured by a system-charge within the meaning of the Financial Markets and Insolvency Regulations (Northern Ireland) 1996 (S.R. (N.I.) 1996/252) (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).

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

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Parliament and of the Council of 29th April 2015 on interchange fees for card-based payment transactions.

Power to amend Schedule

- 13 (1) Regulations may amend this Schedule so as to change the meaning of “contract or other instrument involving financial services” for the purposes of Article 13D.
- (2) Regulations may not be made under this paragraph unless a draft of the regulations has been laid before, and approved by a resolution of, the Assembly.”

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