
STATUTORY INSTRUMENTS

2003 No. 3226

The Financial Collateral Arrangements (No.2) Regulations 2003

PART 3

Modification of insolvency law

Certain insolvency legislation on avoidance of contracts and floating charges not to apply to financial collateral arrangements

10.—(1) In relation to winding-up proceedings of a collateral-taker or collateral-provider, section 127 of the Insolvency Act 1986 (avoidance of property dispositions, etc) shall not apply (if it would otherwise do so)—

- (a) to any property or security interest subject to a disposition or created or otherwise arising under a financial collateral arrangement; or
- (b) to prevent a close-out netting provision taking effect in accordance with its terms.

(2) Section 88 of the Insolvency Act 1986 (avoidance of share transfers, etc after winding-up resolution) shall not apply (if it would otherwise do so) to any transfer of shares under a financial collateral arrangement.

(3) Section 176A of the Insolvency Act 1986 **(1)** (share of assets for unsecured creditors) shall not apply (if it would otherwise do so) to any charge created or otherwise arising under a financial collateral arrangement.

(4) Section 178 of the Insolvency Act 1986 (power to disclaim onerous property) or, in Scotland, any rule of law having the same effect as that section, shall not apply where the collateral-provider or collateral-taker under the arrangement is being wound up, to any financial collateral arrangement.

(5) Section 245 of the Insolvency Act 1986 (avoidance of certain floating charges) shall not apply (if it would otherwise do so) to any charge created or otherwise arising under a security financial collateral arrangement.

(6) Section 196 of the Companies Act 1985 (payment of debts out of assets subject to a floating charge (England and Wales) shall not apply (if it would otherwise do so) to any charge created or otherwise arising under a financial collateral arrangement.

(1) Section 176A of the Insolvency Act 1986 was inserted by section 252 of the Enterprise Act 2002.