
STATUTORY INSTRUMENTS

2009 No. 2462

FINANCIAL SERVICES AND MARKETS

**The Financial Collateral Arrangements (No. 2)
Regulations 2003 (Amendment) Regulations 2009**

<i>Made</i>	- - - -	<i>8th September 2009</i>
<i>Laid before Parliament</i>		<i>9th September 2009</i>
<i>Coming into force</i>	- -	<i>1st October 2009</i>

The Treasury, being a government department designated⁽¹⁾ for the purposes of section 2(2) of the European Communities Act 1972⁽²⁾ in relation to collateral security, in exercise of the powers conferred on them by that section, hereby make the following Regulations:

Citation and commencement

1.—(1) These Regulations may be cited as the Financial Collateral Arrangements (No. 2) Regulations 2003 (Amendment) Regulations 2009.

(2) These Regulations come into force on 1st October 2009.

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

2.—(1) The Financial Collateral Arrangements (No. 2) Regulations 2003⁽³⁾ are amended as follows.

(2) In paragraph (4) of regulation 4 (certain legislation requiring formalities not to apply to financial collateral arrangements)—

(a) omit from “Section 395” to “registered)” and substitute “Sections 860 (charges created by a company) and 874 (consequence of failure to register charges created by a company) of the Companies Act 2006”;

(b) for “(if it would otherwise do so)” substitute “(if they would otherwise do so)”.

(3) In regulation 5 (certain legislation affecting Scottish companies not to apply to financial collateral arrangements)—

(1) S.I. 2003/1888.

(2) 1972 c.68; section 2(2) and paragraph 2 of Schedule 2 to the 1972 Act were amended by section 27 of the [Legislative and Regulatory Reform Act 2006 \(c.51\)](#).

(3) S.I. 2003/3226.

- (a) omit from “Section 410” to “Scotland))” and substitute “Sections 878 (charges created by a company) and 889 (charges void unless registered) of the Companies Act 2006”;
- (b) for “(if it would otherwise do so)” substitute “(if they would otherwise do so)”;
- (4) after regulation 6 insert—

“Certain legislation affecting overseas companies not to apply to financial collateral arrangements

6A. Any provision about registration of charges made by regulations under section 1052 of the Companies Act 2006 (overseas companies) does not apply (if it would otherwise do so) in relation to a security financial collateral arrangement or any charge created or otherwise arising under a security financial collateral arrangement.”

(5) Omit regulation 7 (certain legislation affecting Northern Ireland companies and requiring formalities not to apply to financial collateral arrangements).

(6) In paragraph (6) of regulation 10 (certain insolvency legislation on avoidance of contracts and floating charges not to apply to financial collateral arrangements), for “Section 196 of the Companies Act 1985 (payment of debts out of assets subject to a floating charge (England and Wales))” substitute “Section 754 of the Companies Act 2006 (priorities where debentures secured by floating charge)”.

(7) Omit paragraph (5) of regulation 11 (certain Northern Ireland insolvency legislation on avoidance of contracts and floating charges not to apply to financial collateral arrangements).

Bob Blizzard

Dave Watts

Two of the Lords Commissioners of Her Majesty’s Treasury

8th September 2009

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations continue the implementation of Directive of the European Parliament and of the Council of 6 June 2002 on financial collateral arrangements ([2002/47/EC](#)). They make a number of consequential amendments to the Financial Collateral Arrangements (No. 2) Regulations 2003, in relation to the [Companies Act 2006 \(c. 46\)](#).