

## SCHEDULE 3

### Amendments

## PART 3

### Amendments of secondary legislation

#### Financial Collateral Arrangements (No 2) Regulations 2003

9.—(1) The Financial Collateral Arrangements (No 2) Regulations 2003 <sup>F1</sup> are amended as follows.

(2) In regulation 3 <sup>F2</sup>—

(a) in paragraph (1)—

(i) omit the definition of “enforcement event”;

(ii) after the definition of “non-natural person” insert—

““recovery and resolution directive” means Directive 2014/59/EU of the European Parliament and of the Council of 15th May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms.”; and

(b) after paragraph (1) insert—

“(1A) For the purpose of these Regulations—

(a) “enforcement event” means an event of default, or (subject to sub-paragraph (b)) any similar event as agreed between the parties, on the occurrence of which, under the terms of a financial collateral agreement or by operation of law, the collateral taker is entitled to realise or appropriate financial collateral or a close-out netting provision comes into effect;

(b) a crisis management measure or crisis prevention measure taken in relation to an entity under the recovery and resolution directive shall not be considered to be an enforcement event pursuant to an agreement between the parties if the substantive obligations provided for in that agreement (including payment and delivery obligations and provision of collateral) continue to be performed; and

(c) for the purposes of sub-paragraph (b) “crisis prevention measure” and “crisis management measure” have the meaning given in section 48Z of the Banking Act 2009.”.

(3) In regulation 12, after paragraph (4) insert—

“(5) Nothing in this regulation prevents the Bank of England imposing a restriction on the effect of a close out netting provision in the exercise of its powers under Part 1 of the Banking Act 2009.”

(4) After regulation 18 insert—

**“Restrictions on enforcement of financial collateral arrangements, etc.**

**18A.**—(1) Nothing in regulations 16 and 17 <sup>F3</sup> prevents the Bank of England imposing a restriction—

(a) on the enforcement of financial collateral arrangements, or

(b) on the effect of a security financial collateral arrangement, close out netting provision or set-off arrangement,

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in the exercise of its powers under Part 1 of the Banking Act 2009.

(2) For the purpose of paragraph (1) “set-off arrangement” has the meaning given in Article 2.1(99) of the recovery and resolution directive.”.

**F1** [S.I. 2003/3226](#).

**F2** [Regulation 3](#) was amended by [S.I. 2010/2993](#).

**F3** [Regulations 12, 16 and 17](#) were amended by [S.I. 2010/2993](#).

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**Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:**

- Order power to apply (with modifications) conferred by [2023 c. 29 Sch. 11 para. 165](#)
- Order power to modify conferred by [2023 c. 29 s. 3Sch. 1 Pt. 2](#)
- Order revoked by [2023 c. 29 Sch. 1 Pt. 2](#)