

STATUTORY INSTRUMENTS

2014 No. 3350

The Banking Act 2009 (Restriction of Special Bail-in Provision, etc.) Order 2014

Set-off and netting: meaning of “derivative”, “financial contract” and “qualifying master agreement”

5.—(1) In this Order “derivative” means a derivative as defined in Article 2(5) of Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4th July 2012 on OTC derivatives, central counterparties and trade repositories ^{F1}[^{F2}as it [^{F3}forms part of retained EU law]].

(2) In this Order “financial contract” means any or any combination of the following (other than a derivative)—

- (a) a contract for the purchase, sale, transfer or loan of a transferable security, a group of transferable securities or index of transferable securities;
 - (b) a repurchase or reverse repurchase transaction on any transferable security, group of transferable securities or index of transferable securities;
 - (c) a commodities contract of a financial nature, including—
 - (i) a contract for the purchase, sale, transfer or loan of a commodity, a group of commodities or an index of commodities for future delivery;
 - (ii) a swap or option on a commodity, a group of commodities or an index of commodities;
 - (iii) a repurchase or reverse repurchase transaction on any such commodity, group or index;
 - (d) a futures contract, including a contract (other than a commodities contract) for the purchase, sale or transfer of property of any description under which delivery is to be made at a future date and at a price agreed when the contract is made.
- (3) In article 4 “qualifying master agreement” means a master agreement in so far as it relates to—
- (a) a derivative,
 - (b) a financial contract, or
 - (c) a contract for the sale, purchase or delivery of the currency of the United Kingdom or any other country, territory or monetary union.

F1 OJ L 201, 27.7.2012, p.1.

F2 Words in art. 5(1) inserted (21.12.2018) by [The Bank Recovery and Resolution and Miscellaneous Provisions \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1394\)](#), reg. 1(3), [Sch. 4 para. 7\(3\)](#)

F3 Words in art. 5(1) substituted (31.12.2020 immediately before IP completion day) by [The Securities Financing Transactions, Securitisation and Miscellaneous Amendments \(EU Exit\) Regulations 2020 \(S.I. 2020/1385\)](#), reg. 1(4), [Sch. para. 1\(1\)\(2\)\(h\)](#)

Changes to legislation:

There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Banking Act 2009 (Restriction of Special Bail-in Provision, etc.) Order 2014. Any changes that have already been made by the team appear in the content and are referenced with annotations.

[View outstanding changes](#)

Changes and effects yet to be applied to :

- art. 5(1) amendment to earlier affecting provision S.I. 2018/1394, Sch. 4 para. 7(3) by [S.I. 2020/1385 Sch. para. 1\(1\)](#)[para. 1\(2\)\(k\)\(iv\)](#)

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

- Order power to modify conferred by [2023 c. 29 s. 3](#)[Sch. 1 Pt. 2](#)
- Order revoked by [2023 c. 29 Sch. 1 Pt. 2](#)