
DRAFT STATUTORY INSTRUMENTS

2023 No.

The Financial Services and Markets Act 2023 (Resolution of Central Counterparties: Partial Property Transfers and Safeguarding of Protected Arrangements) Regulations 2023

PART 3

Restriction of Write-down Provision

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

14.—(1) In this Part—

- (a) “derivative” means a financial instrument referred to in paragraphs 4 to 10 of Part 1 of Schedule 2 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001⁽¹⁾;
- (b) “financial contract” means any or any combination of the following (other than a derivative)—
 - (i) a contract for the purchase, sale, transfer or loan of a transferrable security, a group of transferrable securities or index of transferrable securities;
 - (ii) a repurchase or reverse repurchase transaction on any transferable security, group of transferable securities or index of transferable securities;
 - (iii) a commodities contract of a financial nature, including—
 - (aa) a contract for the purchase, sale, transfer or loan of a commodity, a group of commodities or an index of commodities for future delivery;
 - (bb) a swap or option on a commodity, a group of commodities or an index of commodities;
 - (cc) a repurchase or reverse repurchase transaction on a commodity, a group of commodities or index of commodities;
 - (iv) 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.

(2) In regulation 13 (set-off and netting), “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.

⁽¹⁾ Amended in relevant part by [S.I. 2006/3384](#), [2017/488](#) and [2018/1403](#).

Draft Legislation: This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument: The Financial Services and Markets Act 2023 (Resolution of Central Counterparties: Partial Property Transfers and Safeguarding of Protected Arrangements) Regulations 2023 No. 1316
