
STATUTORY INSTRUMENTS

2003 No. 3226

The Financial Collateral Arrangements (No.2) Regulations 2003

PART 4

Right of use and appropriation

Right of use under a security financial collateral arrangement

16.—(1) If a security financial collateral arrangement provides for the collateral-taker to use and dispose of any financial collateral provided under the arrangement, as if it were the owner of it, the collateral-taker may do so in accordance with the terms of the arrangement.

(2) If a collateral-taker exercises such a right of use, it is obliged to replace the original financial collateral by transferring equivalent financial collateral on or before the due date for the performance of the relevant financial obligations covered by the arrangement or, if the arrangement so provides, it may set off the value of the equivalent financial collateral against or apply it in discharge of the relevant financial obligations in accordance with the terms of the arrangement.

(3) The equivalent financial collateral which is transferred in discharge of an obligation as described in paragraph (2), shall be subject to the same terms of the security financial collateral arrangement as the original financial collateral was subject to and shall be treated as having been provided under the security financial collateral arrangement at the same time as the original financial collateral was first provided.

[^{F1}(3A) In Scotland, paragraphs (1) and (3) apply to title transfer financial collateral arrangements as they apply to security financial collateral arrangements.]

(4) If a collateral-taker has an outstanding obligation to replace the original financial collateral with equivalent financial collateral when an enforcement event occurs, that obligation may be the subject of a close-out netting provision.

[^{F2}(5) This regulation does not apply in relation to credit claims.]

Textual Amendments

- F1** Reg. 16(3A) inserted (6.4.2011) by [The Financial Markets and Insolvency \(Settlement Finality and Financial Collateral Arrangements\) \(Amendment\) Regulations 2010 \(S.I. 2010/2993\)](#), regs. 1, **4(14)(a)** (with reg. 3)
- F2** Reg. 16(5) inserted (6.4.2011) by [The Financial Markets and Insolvency \(Settlement Finality and Financial Collateral Arrangements\) \(Amendment\) Regulations 2010 \(S.I. 2010/2993\)](#), regs. 1, **4(14)(b)** (with reg. 3)

Changes to legislation:

The Financial Collateral Arrangements (No.2) Regulations 2003, Section 16 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

Changes and effects yet to be applied to :

- Regulations revoked by [2023 c. 29 Sch. 1 Pt. 2](#)