
STATUTORY INSTRUMENTS

2023 No. 1313

**The Resolution of Central Counterparties
(Modified Application of Corporate Law and
Consequential Amendments) Regulations 2023**

PART 3

Consequential Amendments

Amendments to the Finance Act 1986

7.—(1) Section 85A of the Finance Act 1986⁽¹⁾ (resolution of financial institutions) is amended as follows.

(2) In subsection (2)—

- (a) in paragraph (n), omit “or”;
- (b) after paragraph (o), insert—

- “(p) a share transfer instrument or property transfer instrument made in accordance with paragraph 29(3) (bridge central counterparty) of Schedule 11 to the Financial Services and Markets Act 2023 (central counterparties),
- (q) a share transfer instrument made in accordance with paragraph 30(2) of that Schedule (transfer of ownership),
- (r) a write-down instrument made in accordance with paragraph 34(2) of that Schedule (write-down power),
- (s) a supplemental share transfer instrument made in accordance with paragraph 49 of that Schedule (supplemental instruments), where the original instrument was made in accordance with paragraph 29(3) or 30(2) of that Schedule,
- (t) a property transfer instrument made in accordance with paragraph 66(2) of that Schedule (transfer of property subsequent to resolution instrument),
- (u) a supplemental property transfer instrument made in accordance with paragraph 67(2) of that Schedule (supplemental instruments) where the original instrument was made in accordance with paragraph 29(3) of that Schedule,
- (v) a bridge central counterparty supplemental property transfer instrument made in accordance with paragraph 73(2) of that Schedule (bridge central counterparty: supplemental property transfer powers),
- (w) a supplemental resolution instrument made in accordance with paragraph 82(2) of that Schedule (supplemental resolution instruments), or

⁽¹⁾ 1986 c. 41. Section 85A was inserted by section 49(1) of the Finance Act 2019 (c. 1).

- (x) a third-country instrument made in accordance with paragraph 145(2) (third-country resolution actions) or 146(4) (effects of recognition on third-country resolution action) of that Schedule.”.

Amendment to the Companies Act 1989

8.—(1) The Companies Act 1989(2) is amended as follows.

(2) In section 87(2)(b)(iii)(3) (exceptions from restrictions on disclosure), for “or the Banking Act 2009” substitute “, the Banking Act 2009 or Schedule 11 to the Financial Services and Markets Act 2023”.

(3) In section 166(4) (powers to give directions)—

(a) in subsection (3)(d)—

(i) in sub-paragraph (i), after “regime” insert “or Schedule 11 to the Financial Services and Markets Act 2023 (central counterparties)”;

(ii) in sub-paragraph (ii), after “Part” insert “or that Schedule”;

(b) in subsection (7B)—

(i) in paragraph (b)(ii), after “regime” insert “or Schedule 11 to the Financial Services and Markets Act 2023 (central counterparties)”;

(ii) in paragraph (b)(iii), after “Part” insert “or that Schedule”.

Amendments to the Bank of England Act 1998

9.—(1) The Bank of England Act 1998(5) is amended as follows.

(2) In section 7A(9)(6) (accounts of companies wholly owned by the Bank), after paragraph (b), insert—

“, or

(c) a company which is a bridge central counterparty for the purpose of paragraph 29 of Schedule 11 to the Financial Services and Markets Act 2023.”.

(3) In section 9O(3)(7) (making of recommendations within the Bank), in paragraph (b), after “2009” insert “or Schedule 11 to the Financial Services and Markets Act 2023”.

Amendments to the Financial Services and Markets Act 2000

10.—(1) Part 3 of Schedule 17A to the Financial Services and Markets Act 2000(8) (further provision in relation to exercise of Part 18 functions, or other FMI functions) is amended as follows.

(2) In paragraph 34(7)(b)(ii), for “Part 1 of the Banking Act 2009” substitute “Schedule 11 to the Financial Services and Markets Act 2023”.

(2) 1989 c. 40.

(3) Section 87 was amended in relevant part by [S.I. 2010/22](#).

(4) Section 166 was amended in relevant part by [S.I. 2013/504](#) and [2017/1064](#).

(5) 1998 c. 11.

(6) Section 7A was inserted by section 137(3) of the Financial Services (Banking Reform) Act 2013 (c. 33) and amended by paragraph 10 of Part 1 of Schedule 2 to the Bank of England and Financial Services Act 2016 (c. 14).

(7) Section 9O was inserted by section 4(1) of the Financial Services Act 2012 (c. 21).

(8) 2000 c. 8. Schedule 17A was inserted by section 29 and Schedule 7 to the Financial Services Act 2012.

Amendments to the Finance Act 2003

11.—(1) Section 66A(2) of the Finance Act 2003⁽⁹⁾ (resolution of financial institutions) is amended as follows.

(2) In paragraph (f), omit “or”;

(3) After paragraph (g), insert—

- “(h) a property transfer instrument made in accordance with paragraph 29(3) (bridge central counterparty) of Schedule 11 to the Financial Services and Markets Act 2023 (central counterparties),
- (i) a property transfer instrument made in accordance with paragraph 66(2) of that Schedule (transfer of property subsequent to resolution instrument),
- (j) a supplemental property transfer instrument made in accordance with paragraph 67(2) of that Schedule (supplemental instruments) where the original instrument was made in accordance with paragraph 29(3) of that Schedule,
- (k) a property transfer instrument made in accordance with paragraph 71(2) (transfer of ownership and private sector purchaser: property transfer) where the original instrument was made in accordance with paragraph 30(2) of that Schedule (transfer of ownership), or
- (l) a third-country instrument made in accordance with paragraph 145(2) (third-country resolution actions) or 146(4) (effects of recognition on third-country resolution action) of that Schedule.”.

Amendment to the Corporation Tax Act 2009

12. In section 322(5A) of the Corporation Tax Act 2009⁽¹⁰⁾ (release of debts: cases where credits not required to be brought into account), after “2009” insert “or the exercise of a third-country instrument or a stabilisation power under Schedule 11 to the Financial Services and Markets Act 2023”.

Amendment to the Taxation (International and Other Provisions) Act 2010

13. In section 259NEC(6) of the Taxation (International and Other Provisions) Act 2010⁽¹¹⁾ (release of debts), after “2009” insert “or the exercise of a third-country instrument or a stabilisation power under Schedule 11 to the Financial Services and Markets Act 2023”.

Amendment to the Financial Services Act 2012

14. In section 60(5)(b) of the Financial Services Act 2012⁽¹²⁾ (circumstances in which Treasury power of direction exercisable), after “2009” insert “or under Schedule 11 to the Financial Services and Markets Act 2023”.

Amendments to the Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001

15.—(1) The Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001⁽¹³⁾ are amended as follows.

(2) In regulation 2 (interpretation)—

⁽⁹⁾ 2003 c. 14. Section 66A was inserted by section 45(1) of the Finance Act 2019 (c. 1)..

⁽¹⁰⁾ 2009 c. 4. Subsection 5A was inserted into section 322 by section 26(3) of the Finance Act 2014 (c. 26) and amended by S.I. 2014/3329.

⁽¹¹⁾ 2010 c. 8. Section 259NEC was inserted by paragraph 5 of Schedule 7 to the Finance Act 2021 (c. 26).

⁽¹²⁾ 2012 c. 21.

⁽¹³⁾ S.I. 2001/2188, amended by S.I. 2014/3348 and 2019/681; there are other amending instruments but none is relevant.

- (a) after the definition of “capital requirements directive information”, insert—
 - ““CCP” has the meaning given in paragraph 154 of Schedule 11 to the Financial Services and Markets Act 2023;”;
- (b) in the definition of “recovery and resolution information”—
 - (i) in paragraph (a), for “or the Bank Recovery and Resolution (No. 2) Order 2014” substitute “, the Bank Recovery and Resolution (No. 2) Order 2014 or Schedule 11 to the Financial Services and Markets Act 2023”;
 - (ii) in paragraph (b), for “or the Bank Recovery and Resolution (No. 2) Order 2014” substitute “, the Bank Recovery and Resolution (No. 2) Order 2014 or Schedule 11 to the Financial Services and Markets Act 2023”;
- (c) in the definition of “third country resolution authority”—
 - (i) after “section 89H of the Banking Act 2009” insert “or within the meaning of paragraph 145 of Schedule 11 to the Financial Services and Markets Act 2023, as appropriate”;
 - (ii) for “or the Bank Recovery and Resolution (No. 2) Order 2014” substitute “, the Bank Recovery and Resolution (No. 2) Order 2014 or Schedule 11 to the Financial Services and Markets Act 2023”.
- (3) In regulation 9(2C) (disclosure by regulators or regulator workers to certain other persons)—
 - (a) in paragraph (c), for “or the Bank Recovery and Resolution (No. 2) Order 2014” substitute “, the Bank Recovery and Resolution (No. 2) Order 2014 or Schedule 11 to the Financial Services and Markets Act 2023”.
 - (b) in paragraph (d)(i)—
 - (i) after “section 89H of the Banking Act 2009” insert “or within the meaning of paragraph 145 of Schedule 11 to the Financial Services and Markets Act 2023, as appropriate”;
 - (ii) for “or the Bank Recovery and Resolution (No. 2) Order 2014” substitute “, the Bank Recovery and Resolution (No. 2) Order 2014 or Schedule 11 to the Financial Services and Markets Act 2023”.
- (4) In regulation 10A(1) (disclosure of recovery and resolution information)—
 - (a) in paragraph (a), omit “or”;
 - (b) in paragraph (b), after “2011,” insert “or”;
 - (c) after paragraph (b), insert—
 - “(c) Schedule 11 to the Financial Services and Markets Act 2023,”.
- (5) In regulation 10B(2) (assessment of effects of disclosure)—
 - (a) in the definition of “recovery plan”, after “Bank Recovery and Resolution (No. 2) Order 2014”, insert “(“the 2014 Order”) or in paragraph 2 of Schedule 11 to the Financial Services and Markets Act 2023”;
 - (b) in the definition of “resolution plan”, for “that Order” substitute “the 2014 Order, or as defined in paragraph 4 of Schedule 11 to the Financial Services and Markets Act 2023”.
- (6) In the table in Schedule 1 (disclosure of confidential information whether or not subject to retained EU law restrictions)—
 - (a) in the entry relating to “The Bank of England”, in the second column, for “and under the Investment Bank Special Administration Regulations 2011” substitute “, under the Investment Bank Special Administration Regulations 2011 and under Schedule 11 to the Financial Services and Markets Act 2023”;

- (b) in the entry relating to “An official receiver appointed under section 399 of the Insolvency Act 1986, or an official receiver for Northern Ireland appointed under article 355 of the Insolvency (Northern Ireland) Order 1989”, in the second column—
 - (i) in sub-paragraph (iii) after “2009” insert “; or”
 - (ii) after sub-paragraph (iii) insert—
 - “(iv) CCP group companies (as defined in paragraph 156 of Schedule 11 to the Financial Services and Markets Act 2023)”;
- (c) in the entry relating to “A person appointed in judicial or administrative proceedings in the United Kingdom or a country or territory outside the United Kingdom, pursuant to a law relating to insolvency, to administer the reorganisation or the liquidation of a debtor’s assets or affairs”, in the second column—
 - (i) in sub-paragraph (iii) after “2009” insert “; or”
 - (ii) after sub-paragraph (iii) insert—
 - “(iv) CCP group companies (as defined in paragraph 156 of Schedule 11 to the Financial Services and Markets Act 2023)”;
- (d) in the entry relating to “An auditor of an authorised person or banking group company (as defined in section 81D of the Banking Act 2009) appointed under or as a result of an enactment (other than the Act)”, in the first column—
 - (i) for “or banking group company” substitute “, a CCP, a banking group company”;
 - (ii) after “2009” insert “or a CCP group company (as defined in paragraph 156 of Schedule 11 to the Financial Services and Markets Act 2023)”.

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

16.—(1) The Financial Collateral Arrangements (No. 2) Regulations 2003⁽¹⁴⁾ are amended as follows.

- (2) In regulation 3(1A) (interpretation)—
 - (a) in paragraph (b), after “crisis prevention measure” insert “or resolution measure”;
 - (b) in paragraph (c) after “2009” insert “and “resolution measure” has the meaning given in paragraph 84 of Schedule 11 to the Financial Services and Markets Act 2023”.
- (3) In regulation 12(5) (close-out netting provisions to take effect in accordance with their terms) after “2009” insert “or under Schedule 11 to the Financial Services and Markets Act 2023”.
- (4) In regulation 18A(1) (restrictions on enforcement of financial collateral arrangements, etc.) after “2009” insert “or under Schedule 11 to the Financial Services and Markets Act 2023”.

⁽¹⁴⁾ S.I. 2003/3226, amended by S.I. 2014/3348 and S.I. 2019/341; there are other amending instruments but none is relevant.