



**ABU DHABI GLOBAL MARKET**  
**سوق أبوظبي العالمي**

**INSOLVENCY (AMENDMENT No. 3) REGULATIONS 2018**

# INSOLVENCY (AMENDMENT No. 3) REGULATIONS 2018

Date of Enactment: 11 December 2018

The Board of Directors of the Abu Dhabi Global Market, in exercise of its powers under Article 6(1) of Law No. 4 of 2013 concerning the Abu Dhabi Global Market issued by His Highness the Ruler of the Emirate of Abu Dhabi, hereby enacts the following Regulations:-

## 1. Amendments to the Insolvency Regulations 2015

### PART 7: FINANCIAL MARKETS AND NETTING

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#### Chapter 2 – Netting and Collateral

#### 276. Netting Provisions to take effect in accordance with their terms

- (1) The provisions of a netting agreement will be enforceable in accordance with their terms, including against an insolvent party, and, where applicable, against a guarantor or other person providing security for a party (including a guarantor or other person that is insolvent) and will not be stayed, avoided or otherwise limited by—
  - (a) the appointment of, or any application for the appointment of, or notice relating to the appointment of, an Office-holder or any action of an Office-holder;
  - (b) any other provision of law, excluding sections 60 to 62 of the Bank Recovery and Resolution Regulations 2018, relating to administration, liquidation, bankruptcy, reorganisation, composition with creditors, receivership, conservatorship or any other Insolvency Proceedings an insolvent party may be subject to; or
  - (c) any other provision of law that may be applicable to an insolvent party,subject to the conditions contained in the applicable netting agreement.
- (2) After commencement of Insolvency Proceedings in relation to a party, the only obligation, if any, of either party to make payment or delivery under or pursuant to a netting agreement or under or pursuant to any qualified financial contract or contract or transaction to which that netting agreement applies shall be equal to its net obligation to the other party as determined in accordance with the terms of the applicable netting agreement.
- (3) After commencement of Insolvency Proceedings in relation to a party, the only right, if any, of either party to receive payment or delivery under or pursuant to a netting agreement or under or pursuant to any qualified financial contract or contract or transaction to which that netting agreement applies shall be equal to its net entitlement with respect to the other party as determined in accordance with the terms of the applicable netting agreement.
- (4) Any powers of an Office-holder to assume or repudiate individual contracts or transactions will not prevent the termination, liquidation, acceleration and/or conversion of all payment or delivery obligations or entitlements, and all obligations or entitlements relating to the making of payments

or deliveries under one or more qualified financial contracts or other contracts or transactions entered into pursuant to a netting agreement or to which a netting agreement shall apply, and will apply, if at all, only to the net amount or net entitlement due in respect of all such qualified financial contracts or other contracts or transactions in accordance with the terms of such netting agreement.

- (5) The provisions of a netting agreement which provide for the determination of a net balance of the close-out values, market values, liquidation values, replacement values or other relevant values calculated in respect of accelerated and/or terminated payment or delivery obligations or entitlements or accelerated and/or terminated obligations or entitlements relating to the making of payments or deliveries in either case, under one or more qualified financial contracts or other contracts or transactions entered into thereunder or to which such netting agreement applies (including a payment or delivery in respect of a contract or transaction required to be entered into under or pursuant to such provisions) will not be affected by any applicable insolvency laws, excluding sections 60 and 62 of the Bank Recovery and Resolution Regulations 2018, limiting the exercise of rights to set off, offset or net out obligations, payment amounts or termination values owed between an insolvent party and another party.

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**278. Pre-emption and confirmation of disapplication of certain provisions of these Regulations to netting agreements**

- (1) Subject to sections 60 to 62 of the Bank Recovery and Resolution Regulations 2018, ~~n~~No stay, injunction, avoidance, moratorium, or similar proceeding or order, whether issued or granted by a Court, administrative agency, Office-holder or otherwise, shall limit or delay application of otherwise enforceable netting agreements or collateral arrangements and transactions entered into thereunder or pursuant thereto or to which an otherwise enforceable netting agreement or collateral arrangement applies.

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**2. Short title, extent and commencement**

- (1) These Regulations may be cited as the Insolvency (Amendment No. 3) Regulations 2018.
- (2) These Regulations shall apply in the Abu Dhabi Global Market.
- (3) These Regulations come into force on the date of their publication.