

TRANSFER OF MONEY OR OTHER PROPERTY ARISING UNDER OR IN CONNECTION WITH A NETTING AGREEMENT OR QUALIFIED FINANCIAL CONTRACT, OR ANY PLEDGE, SECURITY, COLLATERAL, OR GUARANTEE AGREEMENT OR ANY OTHER SIMILAR SECURITY ARRANGEMENT OR CREDIT SUPPORT DOCUMENT RELATING TO A NETTING AGREEMENT OR QUALIFIED FINANCIAL CONTRACT, THAT IS MADE BEFORE THE COMMENCEMENT OF A DELINQUENCY PROCEEDING UNDER THIS SUBTITLE.

(2) A TRANSFER MAY BE AVOIDED UNDER § 9-221 OF THIS SUBTITLE IF THE TRANSFER WAS MADE WITH ACTUAL INTENT TO HINDER, DELAY, OR DEFRAUD THE INSURER, A RECEIVER APPOINTED FOR THE INSURER, OR EXISTING OR FUTURE CREDITORS.

(G) (1) IN EXERCISING ANY OF ITS POWER UNDER THIS SUBTITLE TO DISAFFIRM OR REPUDIATE A NETTING AGREEMENT OR QUALIFIED FINANCIAL CONTRACT, A RECEIVER SHALL TAKE ACTION WITH RESPECT TO EACH NETTING AGREEMENT OR QUALIFIED FINANCIAL CONTRACT AND ALL TRANSACTIONS ENTERED INTO IN CONNECTION WITH EACH NETTING AGREEMENT OR QUALIFIED FINANCIAL CONTRACT, IN ITS ENTIRETY.

(2) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, ANY CLAIM OF A COUNTERPARTY AGAINST THE ESTATE ARISING FROM A RECEIVER'S DISAFFIRMANCE OR REPUDIATION OF A NETTING AGREEMENT OR QUALIFIED FINANCIAL CONTRACT THAT HAS NOT BEEN PREVIOUSLY AFFIRMED IN THE LIQUIDATION OR IMMEDIATELY PRECEDING REHABILITATION PROCEEDING SHALL BE DETERMINED AND SHALL BE ALLOWED OR DISALLOWED:

(I) AS IF THE CLAIM HAD ARISEN BEFORE THE DATE OF THE FILING OF THE PETITION FOR LIQUIDATION; OR

(II) IF A REHABILITATION PROCEEDING IS CONVERTED TO A LIQUIDATION PROCEEDING, AS IF THE CLAIM HAD ARISEN BEFORE THE DATE OF THE FILING OF THE PETITION FOR REHABILITATION.

(3) (I) THE AMOUNT OF THE CLAIM IDENTIFIED IN PARAGRAPH (2) OF THIS SUBSECTION SHALL BE THE ACTUAL DIRECT COMPENSATORY DAMAGES DETERMINED AS OF THE DATE OF THE DISAFFIRMANCE OR REPUDIATION OF THE NETTING AGREEMENT OR QUALIFIED FINANCIAL CONTRACT.

(II) IN SUBPARAGRAPH (I) OF THIS PARAGRAPH, "ACTUAL DIRECT COMPENSATORY DAMAGES" DOES NOT INCLUDE PUNITIVE OR EXEMPLARY DAMAGES, DAMAGES FOR LOST PROFITS OR LOST OPPORTUNITY, OR DAMAGES FOR PAIN AND SUFFERING, BUT DOES INCLUDE NORMAL AND REASONABLE COSTS OF COVER OR OTHER REASONABLE MEASURES OF DAMAGES USED IN THE DERIVATIVES MARKET FOR THE CONTRACT AND AGREEMENT CLAIMS.

(H) ALL RIGHTS OF COUNTERPARTIES UNDER THIS SUBTITLE SHALL APPLY TO NETTING AGREEMENTS AND QUALIFIED FINANCIAL CONTRACTS ENTERED INTO ON BEHALF OF:

(1) THE GENERAL ACCOUNT; OR

(2) SEPARATE ACCOUNTS IF THE ASSETS OF EACH SEPARATE ACCOUNT