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STATUTORY RULES OF NORTHERN IRELAND

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**1997 No. 251**

**Open-Ended Investment Companies (Investment Companies with Variable Capital) Regulations (Northern Ireland) 1997**

**Part II**

**Formation Supervision and Control**

*Winding up*

**Winding up by the court**

**25.**—(1) Where an investment company with variable capital is wound up as an unregistered company under Part VI of the Insolvency (Northern Ireland) Order 1989<sup>(1)</sup>, the provisions of that Order shall apply for the purposes of the winding up with the following modifications.

(2) A petition for the winding up of an investment company with variable capital may be presented by the depositary of the company as well as by any person authorised under Article 104 or 104A of the Insolvency (Northern Ireland) Order 1989<sup>(2)</sup>, (as those Articles apply by virtue of Part VI of that Order), to present a petition for the winding up of the company.

(3) Where a petition for the winding up of an investment company with variable capital is presented by a person other than SIB—

- (a) that person shall serve a copy of the petition on SIB; and
- (b) SIB shall be entitled to be heard on the petition.

(4) If, before the presentation of a petition for the winding up by the court of an investment company with variable capital as an unregistered company under Part VI of the Insolvency (Northern Ireland) Order 1989, the affairs of the company are being wound up otherwise than by the court—

- (a) Article 109(2) of the Insolvency (Northern Ireland) Order 1989 (commencement of winding up by the High Court) shall not apply; and
- (b) any winding up of the company by the court shall be deemed to have commenced—
  - (i) at the time at which SIB gave its approval to a proposal mentioned in paragraph (1) (d) of regulation 15; or
  - (ii) in a case falling within paragraph (3)(b) of that regulation, on the day next following the end of the three month period mentioned in that paragraph.

**Dissolution on winding up by the court**

**26.**—(1) This regulation applies where, in respect of an investment company with variable capital, the registrar receives—

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(1) [S.I. 1989/2405 \(N.I. 19\)](#)

(2) Article 104A was inserted by Article 8 of the Companies (No. 2) (Northern Ireland) Order 1990 ([S.I. 1990/1504 \(N.I. 10\)](#))

- (a) a notice served for the purposes of Article 146(7) of the Insolvency (Northern Ireland) Order 1989 (final meeting of creditors and vacation of office by liquidator), as that Article applies by virtue of Part VI of that Order; or
  - (b) a notice from the official receiver that the winding up by the court of the company is complete.
- (2) The registrar shall, on receipt of the notice, forthwith register it; and, subject as follows, at the end of the period of three months beginning with the day of the registration of the notice, the company shall be dissolved.
- (3) The Department may, on the application of the official receiver or any other person who appears to the Department to be interested, give a direction deferring the date at which the dissolution of the company is to take effect for such period as the Department thinks fit.
- (4) An appeal to the court lies from any decision of the Department on an application for a direction under paragraph (3).
- (5) It is the duty of the person—
- (a) on whose application a direction is given under paragraph (3); or
  - (b) in whose favour an appeal with respect to an application for such a direction is determined;
- not later than seven days after the giving of the direction, or the determination of the appeal, to deliver to the registrar for registration a copy of the direction or determination.
- (6) If a person without reasonable excuse fails to deliver a copy as required by paragraph (5), he is guilty of an offence.
- (7) A person guilty of an offence under paragraph (6) is liable, on summary conviction—
- (a) to a fine not exceeding £200; and
  - (b) on a second or subsequent conviction instead of the penalty set out in sub-paragraph (a), to a fine of £100 for each day on which the contravention is continued.

### **Dissolution in other circumstances**

- 27.—(1) Where the affairs of an investment company with variable capital have been wound up otherwise than by the court, SIB shall ensure that, as soon as is reasonably practicable after the winding up is complete, the registrar is sent notice of that fact.
- (2) The registrar shall, upon receipt of the notice, forthwith register it; and, subject as follows, at the end of the period of three months beginning with the day of the registration of the notice, the company shall be dissolved.
- (3) The court may on the application of SIB or the company make an order deferring the date at which the dissolution of the company is to take effect for such period as the court thinks fit.
- (4) It is the duty of the person on whose application an order of the court under paragraph (3) is made to deliver, not later than seven days after the making of the order, to the registrar a copy of the order for registration.
- (5) Where any company is dissolved by virtue of paragraph (2), any sum of money (including unclaimed distributions) standing to the account of the company at the date of the dissolution shall on such date as is determined in relation to the dissolution of that company in accordance with SIB regulations, be paid into court.