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STATUTORY INSTRUMENTS

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**2011 No. 245**

**The Investment Bank Special Administration Regulations 2011**

**Notice to FSA of preliminary steps to other insolvency proceedings**

**8.—(1)** An application for an administration order in respect of an investment bank may not be made unless the conditions in paragraph (5) are satisfied.

(2) A petition for a winding up order in respect of an investment bank may not be made unless the conditions in paragraph (5) are satisfied.

(3) A resolution for the voluntary winding up of an investment bank may not be made unless the conditions in paragraph (5) are satisfied.

(4) An administrator of an investment bank may not be appointed unless the conditions in paragraph (5) are satisfied.

(5) The conditions are as follows—

(a) Condition 1 is that the FSA has been notified of the preliminary steps taken in respect of an insolvency procedure;

(b) Condition 2 is that a copy of the notice complying with Condition 1 has been filed (in Scotland, lodged) with the court (and made available for public inspection by the court);

(c) Condition 3 is that —

(i) the period of 2 weeks, beginning with the day on which the notice is received by the FSA, has ended, or

(ii) the FSA has informed the person who gave the notice that it consents to the insolvency procedure to which the notice relates going ahead; and

(d) Condition 4 is that no application for a special administration order is pending.

(6) Where the FSA receives notice under Condition 1, it shall inform the person who gave the notice, within the period in Condition 3—

(a) whether or not it consents to the insolvency procedure to which the notice relates going ahead;

(b) whether or not it intends to apply for that (or an alternative) insolvency procedure itself; or

(c) whether it intends to apply for a special administration order.

(7) Arranging for the giving of the notice in order to satisfy Condition 1 may be treated as a step with a view to minimising the potential loss to the investment bank's creditors for the purpose of section 214 of the Insolvency Act (as applied by regulation 15).

(8) In this regulation—

“investment bank” does not include an investment bank that is a deposit-taking bank; and

“preliminary steps taken in respect of an insolvency procedure” means that—

(a) an application for an administration order has been made;

(b) a petition for a winding up order has been presented;

(c) a resolution for voluntary winding up has been proposed by the investment bank; or

- (d) a resolution for the appointment of an administrator has been proposed.