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STATUTORY INSTRUMENTS

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**2013 No. 1388**

The Collective Investment in Transferable  
Securities (Contractual Scheme) Regulations 2013

PART 5

WINDING UP INSOLVENT CONTRACTUAL SCHEMES

**Partnership schemes: liability of the general partner (Scotland)**

19.—(1) In this regulation—

“the Act” means the Bankruptcy (Scotland) Act 1985(1);

“authorisation order” means an order made under section 261D(1) of FSMA;

“authorised partnership” means a partnership scheme in respect of which an authorisation order has been made (even if revoked); and

“relevant debts and obligations”, in relation to an authorised partnership, means debts and obligations of the partnership which are incurred while the authorisation order made in respect of the partnership is in force.

(2) The Act has effect with the following modifications in its application to an authorised partnership—

(a) in section 6 (sequestration of other estates), in subsection (4), paragraph (b) is to be read as if after sub-paragraph (i) there were inserted—

“(ia) the Financial Conduct Authority;”;

(b) the following provisions are to be read as if after the words “presented by a creditor” there were inserted “, the Financial Conduct Authority”—

(i) in section 2 (appointment and functions of the trustee in the sequestration), subsections (5) and (7)(a)(2);

(ii) in section 12 (when sequestration is awarded), subsections (2), (3) and (4)(b)(3);

(iii) in section 15 (further provisions relating to award of sequestration), subsection (5);

(iv) in section 70 (supplies by utilities), subsection (1)(b); and

(c) in section 12, in subsection (3)(d), after “a creditor” insert “or the Financial Conduct Authority”.

(3) Where sequestration of the estate of an authorised partnership is awarded under section 12(1) or (3) of the Act, the general partner of the partnership has no personal liability for relevant debts and obligations.

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(1) 1985 c. 66.

(2) Section 2 was substituted by the Bankruptcy (Scotland) Act 1993 (c. 6). Subsection (5) was amended and subsection (7)(a) was substituted by the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3).

(3) Subsections (3) and (4) were substituted by the Bankruptcy (Scotland) Act 1993 (c. 6).

(4) Paragraph (3) is without prejudice to the power of the court to make an order compelling the general partner to repay, restore or account for any money or property, or to contribute to the assets of the partnership, if the general partner has misapplied or retained, or become accountable for, any money or other property of the partnership, or been guilty of any misfeasance or breach of any fiduciary or other duty in relation to the partnership.