
STATUTORY INSTRUMENTS

2021 No. 716

**The Payment and Electronic Money
Institution Insolvency Regulations 2021**

Notice to FCA: other proceedings

11.—(1) An application for a Schedule B1 administration order in respect of an institution may not be determined unless all of Conditions 1 to 4 are satisfied.

(2) An application for an order under regulation 5 of the IBSAR 2011 in respect of an institution may not be determined unless all of Conditions 1 to 4 are satisfied.

(3) A petition for a winding-up order in respect of an institution may not be determined unless all of Conditions 1 to 4 are satisfied.

(4) A resolution for voluntary winding up of an institution may not be made unless all of Conditions 1 to 4 are satisfied.

(5) A Schedule B1 administrator of an institution may not be appointed unless all of Conditions 1 to 4 are satisfied.

(6) Condition 1 is that the FCA has been notified—

- (a) by the applicant for a Schedule B1 administration order, that the application has been made,
- (b) by the applicant for an order under regulation 5 of the IBSAR 2011, that the application has been made,
- (c) by the petitioner for a winding-up order, that the petition has been presented,
- (d) by the institution, that a resolution for voluntary winding up may be made, or
- (e) by the person proposing to appoint a Schedule B1 administrator, of the proposed appointment.

(7) 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.

(8) Condition 3 is that—

- (a) the period of 2 weeks, beginning with the day on which the notice is received by the FCA, has ended, or
- (b) the FCA has informed the person who gave the notice that it consents to the proceedings to which the notice relates going ahead.

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

(10) Where the FCA receives notice under Condition 1, it must inform the person who gave the notice, within the period in Condition 3—

- (a) whether or not it consents to the proceedings to which the notice relates going ahead,
- (b) whether or not it intends to apply for those (or alternative) proceedings itself, or
- (c) whether it intends to apply for a special administration order.

(11) 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 institution's creditors for the purpose of

section 214 of the IA 1986 [^{F1}or, as the case may be, Article 178 of the I(NI)O 1989] as applied and modified by these Regulations.

F1 Words in [reg. 11\(11\)](#) inserted (4.1.2024) by [The Payment and Electronic Money Institution Insolvency \(Amendment\) Regulations 2023 \(S.I. 2023/1399\)](#), regs. 1(2), [9](#)

Commencement Information

I1 Reg. 11 in force at 8.7.2021, see [reg. 2](#)

Changes to legislation:

There are currently no known outstanding effects for the The Payment and Electronic Money Institution Insolvency Regulations 2021, Section 11.