
STATUTORY RULES OF NORTHERN IRELAND

2004 No. 335

**Open-Ended Investment Companies
Regulations (Northern Ireland) 2004**

PART II

FORMATION, SUPERVISION AND CONTROL

Winding up

Winding up by the court

31.—(1) Where an open-ended investment company is wound up as an unregistered company under Part VI of the 1989 Order, the provisions of that Order apply for the purposes of the winding up with the following modifications.

(2) A petition for the winding up of an open-ended investment company may be presented by the depositary of the company as well as by any person authorised under Article 104 (application for winding up) or Article 104A(1) of the 1989 Order (petition for winding up on grounds of public interest), 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 open-ended investment company is presented by a person other than the Authority –

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

(4) If, before the presentation of a petition for the winding up by the court of an open-ended investment company as an unregistered company under Part VI of the 1989 Order, the affairs of the company are being wound up otherwise than by the court –

- (a) Article 109(2) of the 1989 Order (commencement of winding up by the court) is not to apply; and
- (b) any winding up of the company by the court is to be deemed to have commenced –
 - (i) at the time at which the Authority gave its approval to a proposal mentioned in paragraph (1)(d) of regulation 21; or
 - (ii) in a case falling within paragraph (3)(b) of that regulation, on the day following the end of the one-month period mentioned in that paragraph.

(1) Article 104A was inserted by Article 8(3) of the Companies (No. 2) (Northern Ireland) Order 1990 (S.I.1990/1504 (N.I. 10)) and amended by section 79(14) of, and Part II of Schedule 6 to, the Criminal Justice Act 1993 (c. 36) and S.I. 2001/3649

Dissolution on winding up by the court

32.—(1) Article 146(7) of the 1989 Order (final meeting of creditors and vacation of office by liquidator), as that Article applies by virtue of Part VI of that Order (winding up of unregistered companies) has effect, in relation to open-ended investment companies, as if the reference to the registrar was a reference to the Authority.

- (2) Where, in respect of an open-ended investment company, the Authority receives –
- (a) a notice given for the purposes of Article 146(7) of the 1989 Order (as aforesaid); or
 - (b) a notice from the official receiver that the winding up, by the court, of the company is complete;

the Authority must, on receipt of the notice, forthwith register it and, subject to the provisions of this regulation, at the end of the period of three months beginning with the day of the registration of the notice, the company is to 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 Authority 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 level 1 on the standard scale; 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

33.—(1) Where the affairs of an open-ended investment company have been wound up otherwise than by the court, the Authority must, as soon as is reasonably practicable after the winding up is complete, register that fact and, subject to the provisions of this regulation, at the end of the period of three months beginning with the day of the registration, the company is to be dissolved.

(2) The court may, on the application of the Authority 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.

(3) It is the duty of the company, on whose application an order of the court under paragraph (2) is made, to deliver to the Authority, not later than seven days after the making of the order, a copy of the order for registration.

(4) Where any company is dissolved by virtue of paragraph (1), any sum of money (including unclaimed distributions) standing to the account of the company at the date of the dissolution must on such date as is determined in accordance with FSA rules, be paid into court.