



# Financial Services and Markets Act 2000

## 2000 CHAPTER 8

### PART XXIV

#### INSOLVENCY

##### *Administration orders*

#### **362 [F<sup>1</sup>Powers of FCA and PRA] to participate in proceedings.**

- (1) This section applies if a person <sup>F2</sup>... [<sup>F3</sup>makes an administration application under Schedule B1 to the 1986 Act [<sup>F4</sup>or Schedule B1 to the 1989 Order]] in relation to a company or partnership which—
- (a) is, or has been, an authorised person [<sup>F5</sup>or recognised investment exchange];
  - (b) is, or has been, an appointed representative; or
  - (c) is carrying on, or has carried on, a regulated activity in contravention of the general prohibition.

[<sup>F6</sup>(1A) This section also applies in relation to—

- (a) the appointment under paragraph 14 or 22 of Schedule B1 to the 1986 Act [<sup>F7</sup>or paragraph 15 or 23 of Schedule B1 to the 1989 Order] of an administrator of a company of a kind described in subsection (1)(a) to (c), or
- (b) the filing with the court of a copy of notice of intention to appoint an administrator under [<sup>F8</sup>any] of those paragraphs.]

[<sup>F9</sup>(1B) This section also applies in relation to—

- (a) the appointment under paragraph 22 of Schedule B1 to the 1986 Act (as applied by order under section 420 of the 1986 Act), or under paragraph 23 of Schedule B1 to the 1989 Order (as applied by order under Article 364 of the 1989 Order), of an administrator of a partnership of a kind described in subsection (1)(a) to (c), or
- (b) the filing with the court of a copy of notice of intention to appoint an administrator under either of those paragraphs (as so applied).]

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- (2) The [<sup>F10</sup>appropriate regulator] is entitled to be heard—
- (a) at the hearing of the [<sup>F11</sup>administration application [<sup>F12</sup>or the petition]]; and
  - (b) at any other hearing of the court in relation to the company or partnership under Part II of the 1986 Act (or Part III of the 1989 Order).
- (3) Any notice or other document required to be sent to a creditor of the company or partnership must also be sent to the [<sup>F10</sup>appropriate regulator].
- [<sup>F13</sup>(4) The [<sup>F10</sup>appropriate regulator] may apply to the court under paragraph 74 of Schedule B1 to the 1986 Act [<sup>F14</sup>or paragraph 75 of Schedule B1 to the 1989 Order].
- (4A) In respect of an application under subsection (4)—
- (a) paragraph 74(1)(a) and (b) shall have effect as if for the words “harm the interests of the applicant (whether alone or in common with some or all other members or creditors)” there were substituted the words “harm the interests of some or all members or creditors”, and
  - [<sup>F15</sup>(b) paragraph 75(1)(a) and (b) of Schedule B1 to the 1989 Order shall have effect as if for the words “harm the interests of the applicant (whether alone or in common with some or all other members or creditors)” there were substituted the words harm the interests of some or all members or creditors.]]
- (5) A person appointed for the purpose by the [<sup>F10</sup>appropriate regulator] is entitled—
- (a) to attend any meeting of creditors of the company or partnership summoned under any enactment;
  - (b) to attend any meeting of a committee established under [<sup>F16</sup>paragraph 57 of Schedule B1 to the 1986 Act] (or [<sup>F17</sup>paragraph 58 of Schedule B1 to the 1989 Order]; and
  - (c) to make representations as to any matter for decision at such a meeting.
- (6) If, during the course of the administration of a company, a compromise or arrangement is proposed between the company and its creditors, or any class of them, the [<sup>F10</sup>appropriate regulator] may apply to the court under [<sup>F18</sup>section 896 or 899 of the Companies Act 2006].
- [<sup>F19</sup>(7) "The appropriate regulator" means—
- (a) for the purposes of subsections (2) to (4) and (6)—
    - (i) where the company or partnership is a PRA-regulated person, each of the FCA and the PRA, and
    - (ii) in any other case, the FCA;
  - (b) for the purposes of subsection (5)—
    - (i) where the company or partnership is a PRA-regulated person, the FCA or the PRA, and
    - (ii) in any other case, the FCA.
- (8) But where the administration application was made by a regulator “the appropriate regulator” does not include that regulator.]

#### Textual Amendments

- F1** Words in s. 362 heading substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 14 para. 8\(6\)](#) (with [Sch. 20](#)); [S.I. 2013/423, art. 3, Sch.](#)

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- F2** Words in s. 362(1) omitted (1.4.2013) by virtue of Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 14 para. 8(2)(a)** (with Sch. 20); S.I. 2013/423, art. 3, Sch.
- F3** Words in s. 362(1) substituted (15.9.2003) by Enterprise Act 2002 (c. 40), ss. 248(3), 279, **Sch. 17 para. 57(a)** (with s. 249(1)-(3)); S.I. 2003/2093, **art. 2(1)**, Sch. 1 (subject to arts. 1(3)-(5), 3-8 (as amended by S.I. 2003/2332, **art. 2**))
- F4** Words in s. 362(1) substituted (N.I.) (27.3.2006) by The Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 3(3), **Sch. 2 para. 60(2)**; S.R. 2006/21, **art. 2** (subject to S.R. 2006/22, arts. 2-7)
- F5** Words in s. 362(1)(a) inserted (1.4.2013) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 14 para. 8(2)(b)** (with Sch. 20); S.I. 2013/423, art. 3, Sch.
- F6** S. 362(1A) inserted (15.9.2003) by Enterprise Act 2002 (c. 40), ss. 248(3), 279, **Sch. 17 para. 57(b)** (with s. 249(1)-(3)); S.I. 2003/2093, **art. 2(1)**, Sch. 1 (subject to arts. 1(3)-(5), 3-8 (as amended by S.I. 2003/2332, **art. 2**))
- F7** Words in s. 362(1A)(a) inserted (N.I.) (27.3.2006) by The Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 3(3), **Sch. 2 para. 60(3)(a)**; S.R. 2006/21, **art. 2** (subject to S.R. 2006/22, arts. 2-7)
- F8** Word in s. 362(1A)(b) substituted (N.I.) (27.3.2006) by The Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 3(3), **Sch. 2 para. 60(3)(b)**; S.R. 2006/21, **art. 2** (subject to S.R. 2006/22, arts. 2-7)
- F9** S. 362(1B) inserted (1.4.2013) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 14 para. 8(3)** (with Sch. 20); S.I. 2013/423, art. 3, Sch.
- F10** Words in s. 362(2)-(6) substituted (1.4.2013) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 14 para. 8(4)** (with Sch. 20); S.I. 2013/423, art. 3, Sch.
- F11** Words in s. 362(2)(a) substituted (15.9.2003) by Enterprise Act 2002 (c. 40), ss. 248(3), 279, **Sch. 17 para. 57(c)** (with s. 249(1)-(3)); S.I. 2003/2093, **art. 2(1)**, Sch. 1 (subject to arts. 1(3)-(5), 3-8 (as amended by S.I. 2003/2332, **art. 2**))
- F12** Words in s. 362(2)(a) repealed (N.I.) (27.3.2006) by The Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 3(3), 31, Sch. 2 para. 60(4), **Sch. 9**; S.R. 2006/21, **art. 2** (subject to S.R. 2006/22, arts. 2-7)
- F13** S. 362(4)(4A) substituted (15.9.2003) for s. 362(4) by Enterprise Act 2002 (c. 40), ss. 248(3), 279, **Sch. 17 para. 57(d)** (with s. 249(1)-(3)); S.I. 2003/2093, **art. 2(1)**, Sch. 1 (subject to arts. 1(3)-(5), 3-8 (as amended by S.I. 2003/2332, **art. 2**))
- F14** Words in s. 362(4) substituted (N.I.) (27.3.2006) by The Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 3(3), **Sch. 2 para. 60(5)**; S.R. 2006/21, **art. 2** (subject to S.R. 2006/22, arts. 2-7)
- F15** S. 362(4A)(b) substituted (N.I.) (27.3.2006) by The Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 3(3), **Sch. 2 para. 60(6)**; S.R. 2006/21, **art. 2** (subject to S.R. 2006/22, arts. 2-7)
- F16** Words in s. 362(5)(b) substituted (15.9.2003) by Enterprise Act 2002 (c. 40), ss. 248(3), 279, **Sch. 17 para. 57(e)** (with s. 249(1)-(3)); S.I. 2003/2093, **art. 2(1)**, Sch. 1 (subject to arts. 1(3)-(5), 3-8 (as amended by S.I. 2003/2332, **art. 2**))
- F17** Words in s. 362(5)(b) substituted (N.I.) (27.3.2006) by The Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 3(3), **Sch. 2 para. 60(7)**; S.R. 2006/21, **art. 2** (subject to S.R. 2006/22, arts. 2-7)
- F18** Words in s. 362(6) substituted (6.4.2008) by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), arts. 2(2), 3(1), **Sch. 1 para. 211(4)** (with arts. 6, 11, 12)
- F19** S. 362(7)(8) inserted (1.4.2013) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 14 para. 8(5)** (with Sch. 20); S.I. 2013/423, art. 3, Sch.

#### Modifications etc. (not altering text)

- C1** S. 362 applied (with modifications) (6.4.2001) by S.I. 2001/1090, **regs. 1, 6**
- C2** Ss. 361-365 applied (with modifications) (N.I.) (13.9.2004) by Limited Liability Partnerships Regulations (Northern Ireland) 2004 (S.R. 2004/307), **reg. 6**

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- C3** S. 362 modified (21.2.2009) by [The Banking Act 2009 \(Parts 2 and 3 Consequential Amendments\) Order 2009 \(S.I. 2009/317\)](#), **art. 5(1)(5)**
- C4** S. 362 applied (with modifications) (E.W.S.) (6.4.2014) by [The Industrial and Provident Societies and Credit Unions \(Arrangements, Reconstructions and Administration\) Order 2014 \(S.I. 2014/229\)](#), arts. 1, 9 (with art. 10)
- C5** S. 362(6) applied (with modifications) (8.2.2011 with application in accordance with reg. 27(a) of the applying S.I.) by [The Investment Bank Special Administration Regulations 2011 \(S.I. 2011/245\)](#), regs. 1, 27(a), **Sch. 6 para. 3(4)**

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