



# Financial Services (Banking Reform) Act 2013

## 2013 CHAPTER 33

### PART 6

#### SPECIAL ADMINISTRATION FOR OPERATORS OF CERTAIN INFRASTRUCTURE SYSTEMS

##### *FMI administration orders*

#### **117 Powers of court**

- (1) The court may make an FMI administration order in relation to an infrastructure company if satisfied—
  - (a) that the company is unable to pay its debts,
  - (b) that the company is likely to be unable to pay its debts, or
  - (c) that, on a petition presented by the Secretary of State under section 124A of the 1986 Act (petition for winding up on grounds of public interest), it would be just and equitable (disregarding the objective of the FMI administration) to wind up the company.
- (2) The court may not make an FMI administration order on the ground set out in subsection (1)(c) unless the Secretary of State has certified to the court that the case is one in which the Secretary of State considers (disregarding the objective of the FMI administration) that it would be appropriate to petition under section 124A of the 1986 Act.
- (3) On an application for an FMI administration order, the court may—
  - (a) grant the application;
  - (b) dismiss the application;
  - (c) adjourn the application (generally or to a specified date);
  - (d) make an interim order;

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*Status: This is the original version (as it was originally enacted).*

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- (e) treat the application as a winding-up petition and make any order which the court could make under section 125 of the 1986 Act;
  - (f) make any other order which the court thinks appropriate.
- (4) An interim order under subsection (3)(d) may, in particular—
- (a) restrict the exercise of a power of the company or of its directors;
  - (b) make provision conferring a discretion on the court or on a person qualified to act as an insolvency practitioner in relation to the company.
- (5) For the purposes of this section a company is unable to pay its debts if it is treated as being so unable under section 123 of the 1986 Act (definition of inability to pay debts).