
STATUTORY INSTRUMENTS

2008 No. 2674

**The Kaupthing Singer & Friedlander Limited
Transfer of Certain Rights and Liabilities Order 2008**

PART 5

THE ADMINISTRATOR AND TRANSITIONAL PROVISIONS

Continuity

26.—(1) During the transitional period, any person wishing to terminate or modify (or treat as terminated or modified) any contract or agreement with Kaupthing for services and facilities or any right or obligation under such a contract or agreement must give not less than 14 days' prior written notice to the administrator and to ING.

(2) During the transitional period, any person who provides to Kaupthing, pursuant to any contract or agreement, services or facilities which are reasonably required by Kaupthing to perform its duties under or pursuant to this Order or the agreement dated 8th October 2008 between the Treasury and ING relating to the provision of transitional services by Kaupthing to ING shall, whether or not required pursuant to such contract or agreement, provide such services to Kaupthing for the benefit of ING or, at Kaupthing's request, directly to ING.

(3) Except with the consent of the Treasury or the permission of the court, during the transitional period—

(a) no person is entitled—

(i) to terminate or modify any contract or agreement with Kaupthing for services and facilities, or any right or obligation under such a contract or agreement, where the contract or agreement or right or obligation relates to services or facilities which are reasonably required by—

(aa) Kaupthing to perform its duties under or pursuant to this Order;

(bb) the administrator to perform his or her duties under or pursuant to this Order;
or

(cc) ING to carry on its functions in relation to the transferred rights and liabilities, or

(ii) to treat such a contract, agreement, right or obligation as terminated or modified, by virtue of, or in connection with, the first transfer or the second transfer, the requirement to provide services or facilities to or for the benefit of ING under paragraph (2) or the commencement of the administration in relation to Kaupthing; and

(b) any counterparty to such a contract or agreement must perform his or her obligations in accordance with that contract or agreement.

(4) The services and facilities to which paragraphs (1), (2) and (3) apply include (but are not limited to) the services and facilities specified in the Schedule.

(5) Any purported termination or modification of any contract, agreement, right or obligation in contravention of paragraph (1), (2) or (3), and any action taken in consequence of any such purported termination or modification, shall have no effect.

(6) Paragraph (2) does not apply where—

- (a) Kaupthing, ING or the administrator, as the case may be, has failed to perform its payment obligations under the relevant contract or agreement and such non-payment is not remedied within 14 days of that person becoming aware of the non-performance; or
- (b) Kaupthing, ING or the administrator, as the case may be, fails to notify the counterparty to the relevant contract or agreement within 14 days of its becoming aware of the request for consent to such termination, modification or non-performance of an obligation, that such consent has been withheld.

(7) Without prejudice to the generality of paragraph (3), the first transfer or the second transfer shall not have the effect of terminating or otherwise changing the terms of Kaupthing's membership (if any) of any payment system, including, in particular, BACS, CHAPS and the LINK payments systems.

(8) "Court" has the meaning given by article 21(12).

(9) This article is subject to any requirement of Community law.