
STATUTORY INSTRUMENTS

2008 No. 346

The Regulated Covered Bonds Regulations 2008

PART 6

PRIORITY OF PAYMENT

Priority in a winding up

27.—(1) Subject to—

- (a) section 115 of the 1986 Act (expenses of voluntary winding up) or, in Northern Ireland, article 100 of the 1989 Order (expenses of voluntary winding up); and
- (b) the priority of the expenses of the winding up in a compulsory liquidation;

where an owner is wound up, the claims of relevant persons shall be paid from the relevant asset pool in priority to all other creditors.

(2) “Relevant persons” are—

- (a) regulated covered bond holders;
- (b) persons providing services for the benefit of those bond holders;
- (c) the counter-parties to hedging instruments which are incidental to the maintenance and administration of the asset pool or to the terms of the regulated covered bond; and
- (d) persons (other than the issuer) providing a loan to the owner to enable it to satisfy the claims of the persons mentioned in sub-paragraph (a), (b) or (c).

(3) The claims of the persons mentioned in paragraph (2)(b), (c) and (d) may rank equally with, but not in priority to, the claims of the persons mentioned in paragraph (2)(a).

Realisation of a charge

28.—(1) Subject to regulation 29, if—

- (a) any asset comprised in the asset pool is charged as security for claims in priority to any charge over that asset granted to secure the claims of relevant persons; and
- (b) the charge which has priority is realised at any time when the owner is not in the course of being wound up;

the proceeds of the realisation of that charge must, after payment of the expenses referred to in regulation 29 and any other expenses relating to that charge, be first applied to satisfy the claims of relevant persons at such time as those claims fall due for payment.

(2) Subject to regulation 29, if—

- (a) any asset comprised in the asset pool is charged as security for several claims;
- (b) any agreement between the creditors of that charge gives priority to the claims of any person above the claims of the relevant persons; and
- (c) that charge is realised at any time when the owner is not in the course of being wound up;

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the proceeds of the realisation of that charge must, after payment of the expenses referred to in regulation 29 and any other expenses relating to that charge, be first applied to satisfy the claims of the relevant persons at such time as those claims fall due for payment.

[^{F1}(3) For the purposes of paragraphs (1) and (2) the claims of the persons mentioned in regulation 27(2)(b), (c) and (d) may rank equally with, but not in priority to, the claims of the persons mentioned in regulation 27(2)(a).]

F1 Reg. 28(3) inserted (22.7.2008) by [The Regulated Covered Bonds \(Amendment\) Regulations 2008](#) (S.I. 2008/1714), regs. 1, **2(5)**

Expenses

[^{F2}**29.**—(1) Disbursements made by a liquidator, provisional liquidator, administrator, administrative receiver, receiver or manager of the owner in respect of costs which—

- (a) are incurred after the commencement of any winding up, administration, administrative receivership or receivership; and
- (b) relate to any of the persons mentioned in paragraph (2);

shall be expenses of the winding up, administration, administrative receivership or receivership, as the case may be, and shall rank equally among themselves in priority to all other expenses.

(2) The persons referred to in paragraph (1)(b) are—

- (a) persons providing services for the benefit of regulated covered bond holders;
- (b) the counter-parties to hedging instruments which are incidental to the maintenance and administration of the asset pool or to the terms of the regulated covered bonds; and
- (c) persons (other than the issuer) providing a loan to the owner to enable it to meet the claims of regulated covered bond holders or pay costs which relate to persons falling within sub-paragraph (a) or (b).]

F2 Reg. 29 substituted (22.7.2008) by [The Regulated Covered Bonds \(Amendment\) Regulations 2008](#) (S.I. 2008/1714), regs. 1, **2(6)**

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Changes and effects yet to be applied to :

- Regulations power to modify conferred by [2023 c. 29 s. 3Sch. 1 Pt. 2](#)
- Regulations revoked by [2023 c. 29 Sch. 1 Pt. 2](#)