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STATUTORY INSTRUMENTS

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**2019 No. 38**

**The Credit Institutions and Insurance  
Undertakings Reorganisation and Winding  
Up (Amendment) (EU Exit) Regulations 2019**

**PART 2**

Amendment of secondary legislation

**Amendment of the Insurers (Reorganisation and Winding Up) Regulations 2004**

**2.—**(1) The Insurers (Reorganisation and Winding Up) Regulations 2004(1) are amended as follows.

(2) In regulation 2 (interpretation)—

(a) in paragraph (1) omit the following definitions—

- (i) “branch”;
- (ii) “directive reorganisation measure”;
- (iii) “directive winding up proceedings”;
- (iv) “EEA creditor”;
- (v) “EEA insurer”;
- (vi) “EEA regulator”;
- (vii) “EEA State”;
- (viii) “home state regulator”;
- (ix) “official language”;
- (x) “the Solvency 2 Directive”; and

(b) omit paragraph (2).

(3) Omit Part 2 (insolvency measures and proceedings: jurisdiction in relation to insurers).

(4) Omit regulation 10 (notification of relevant decision to EEA regulators).

(5) Omit regulation 11 (publication of voluntary arrangement, administration order, winding up order or scheme of arrangement).

(6) In regulation 12 (notification to creditors: winding-up proceedings)—

- (a) in paragraph (7) omit “Subject to paragraph (8),” and the words from “, and that heading” to the end; and
- (b) omit paragraph (8).

(7) Omit regulation 13 (submission of claims by EEA creditors).

- (8) Omit regulation 16 (disclosure of confidential information received from an EEA regulator).
- (9) In regulation 17 (interpretation of Part 4), in paragraph (1)—
- (a) in the definition of “composite insurer” omit “, in accordance with Article 73(2) of the Solvency 2 Directive”;
  - (b) in the definition of “general business assets” omit the words from “, in accordance with” to the end; and
  - (c) in the definition of “long term business assets” omit the words from “, in accordance with” to the end.
- (10) In the heading of Part 5 omit “: Recognition of EEA rights”.
- (11) In regulation 36 (interpretation of Part 5), in paragraph (1) omit sub-paragraph (c) (the definition of “relevant time”) and the word “and” which immediately precedes that sub-paragraph.
- (12) For regulation 37 (EEA rights: applicable law in the winding up of a UK insurer) substitute—

**“Applicable law in the winding up of a UK insurer**

**37.** The general law of insolvency of the United Kingdom is applicable in a relevant winding up, subject only to the provisions of regulations 43 and 44.”.

- (13) Omit the following regulations—
- (a) regulation 38 (employment contracts and relationships);
  - (b) regulation 39 (contracts in connection with immovable property);
  - (c) regulation 40 (registrable rights);
  - (d) regulation 41 (third parties’ rights in rem); and
  - (e) regulation 42 (reservation of title agreements etc.).
- (14) In regulation 43 (creditors’ rights to set off)—
- (a) in paragraph (1) for “applicable EEA law” substitute “law applicable to the affected insurer’s claim”; and
  - (b) omit paragraph (2).
- (15) In regulation 44 (regulated markets)—
- (a) in paragraph (1)—
    - (i) omit “Without prejudice to regulation 40,”;
    - (ii) for “a regulated market operating in an EEA State” substitute “UK regulated market”; and
  - (b) for paragraph (3) substitute—
 

“(3) For the purposes of this regulation “UK regulated market” has the meaning given by point (13A) of Article 2(1) of Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012.”.
- (16) Omit the following regulations—
- (a) regulation 45 (detrimental acts pursuant to the law of an EEA State);
  - (b) regulation 46 (protection of third party purchasers); and
  - (c) regulation 47 (lawsuits pending).
- (17) In regulation 48 (interpretation of Part 6), in paragraph (1)(b) (definition of third country insurer)—

- (a) in paragraph (i) after “contracts of insurance” insert “other than by virtue of regulation 8 or 11 of the EEA Passport Rights (Amendment, etc., and Transitional Provisions) (EU Exit) Regulations 2018(2)”; and
  - (b) in paragraph (ii) omit “or an EEA State”.
- (18) Omit regulation 50 (disclosure of confidential information: third country insurers).

### **Amendment of the Credit Institutions (Reorganisation and Winding up) Regulations 2004**

3.—(1) The Credit Institutions (Reorganisation and Winding up) Regulations 2004(3) are amended as follows.

- (2) In regulation 2 (interpretation)—
  - (a) in paragraph (1)—
    - (i) omit the following definitions—
      - (aa) “branch”;
      - (bb) “capital requirements directive”;
      - (cc) “directive reorganisation measure”;
      - (dd) “directive winding-up proceedings”;
      - (ee) “Disclosure Regulations”;
      - (ff) “EEA credit institution”;
      - (gg) “EEA creditor”;
      - (hh) “EEA regulator”;
      - (ii) “EEA State”;
      - (jj) “home state regulator”;
      - (kk) “official language”; and
      - (ll) “the reorganisation and winding up directive”.
    - (ii) in the definition of “liquidator” omit “, except for the purposes of regulation 4,”;
    - (iii) in the definition of “recovery and resolution directive” at the end insert “, as it had effect immediately before exit day”;
  - (b) after paragraph (1) insert—

“(1A) In the definition of “capital requirements regulation” the reference to Regulation (EU) No. 575/2013 is to be treated as a reference to that EU Regulation as it had effect on the day on which the Credit Institutions and Insurance Undertakings Reorganisation and Winding Up (Amendment) (EU Exit) Regulations 2019 were made.”;
  - (c) omit paragraph (2).
- (3) Omit Part 2 (insolvency measures and proceedings: jurisdiction in relation to credit institutions).
- (4) Omit regulation 10 (notification to EEA regulators).
- (5) Omit regulation 12 (publication of voluntary arrangement, administration order, winding-up order or scheme of arrangement).
- (6) Omit regulation 13 (honouring of certain obligations).

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(2) [S.I. 2018/1149](#).

(3) [S.I. 2004/1045](#).

(7) In regulation 14 (notification to creditors: winding-up proceedings), in paragraph (6) omit “, and that heading must be given in every official language”.

(8) Omit regulation 15 (submission of claims by EEA creditors).

(9) Omit regulation 18 (disclosure of confidential information received from an EEA regulator).

(10) In the heading of Part 4 omit “: Recognition of EEA rights”.

(11) In regulation 21 (interpretation of Part 4), in paragraph (1) omit sub-paragraph (c) (the definition of “relevant time”) and the word “and” which immediately precedes that sub-paragraph.

(12) For regulation 22 (EEA rights: applicable law in the winding up of a UK credit institution) substitute—

**“Applicable law in the winding up of a UK credit institution**

**22.** The general law of insolvency of the United Kingdom is applicable in a relevant winding up, subject only to the provisions of regulations 28, 29, 34 and 35.”.

(13) Omit the following regulations—

(a) regulation 23 (employment contracts and relationships);

(b) regulation 24 (contracts in connection with immovable property);

(c) regulation 25 (registrable rights);

(d) regulation 26 (third parties’ rights in rem); and

(e) regulation 27 (reservation of title agreements etc.).

(14) In regulation 29 (regulated markets)—

(a) in paragraph (1)—

(i) omit “Subject to regulation 33,”;

(ii) for “a regulated market operating in an EEA State” substitute “UK regulated market”; and

(b) for paragraph (2) substitute—

“(2) For the purposes of this regulation “UK regulated market” has the meaning given by point (13A) of Article 2(1) of Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012.”.

(15) Omit the following regulations—

(a) regulation 30 (detrimental acts pursuant to the law of an EEA State);

(b) regulation 31 (protection of third party purchasers);

(c) regulation 32 (lawsuits pending); and

(d) regulation 33 (lex rei sitae).

(16) In regulation 34 (netting agreements) omit paragraph (2)(c).

(17) In regulation 35 (repurchase agreements)—

(a) omit “Subject to regulation 33,”; and

(b) omit paragraph (2)(c).

(18) In regulation 36 (interpretation of Part 5), in paragraph (1)(b)(ii) omit “or an EEA State”.

(19) For regulation 37 (application of these Regulations to a third country credit institution), ignoring the heading, substitute—

- “37. Regulation 9 applies where a third country credit institution is subject to a relevant measure, and is to be read for that purpose as if a reference to the institution or, in paragraph (6), to the credit institution included a reference to a third country credit institution.”.
- (20) Omit regulation 38 (disclosure of confidential information: third country credit institution).
- (21) In regulation 39 (interpretation of Part 6) omit paragraph (a).
- (22) Omit the following regulations—
- (a) regulation 41 (application to EEA investment firms);
  - (b) regulation 43 (reorganisation measures and winding-up proceedings in respect of EEA investment firms effective in the United Kingdom).
- (23) In regulation 44 (interpretation of Part 7) omit paragraph (a).
- (24) Omit the following regulations—
- (a) regulation 46 (application to EEA group companies);
  - (b) regulation 47 (reorganisation measures and winding-up proceedings in respect of EEA group companies effective in the United Kingdom).
- (25) In regulation 48 (interpretation of Part 8)—
- (a) for the heading substitute “Members not established in the United Kingdom”; and
  - (b) for “an EEA State” substitute “the United Kingdom”.

#### **Amendment of the Insurers (Reorganisation and Winding Up (Lloyd’s) Regulations 2005**

4.—(1) The Insurers (Reorganisation and Winding Up) (Lloyd’s) Regulations 2005(4) are amended as follows.

- (2) In regulation 2 (interpretation), in paragraph (1)—
- (a) in the definition of “the association of underwriters known as Lloyd’s” at the end insert “, as it had effect immediately before exit day”; and
  - (b) in the definition of “overseas insurance business” for “that is not or is not part of an EEA State” substitute “other than the United Kingdom”.
- (3) In regulation 10 (announcement of appointment of controller) omit paragraph (2).
- (4) Omit the following regulations—
- (a) regulation 34 (notification of relevant decision to EEA Regulators);
  - (b) regulation 35 (application of certain publication requirements in the principal Regulations to members);
  - (c) regulation 36 (notification to creditors: winding up proceedings relating to members); and
  - (d) regulation 37 (submission of claims by EEA creditor).
- (5) In regulation 39 (service of notices and documents)—
- (a) in paragraph (1) for “regulations 33 to 35” substitute “regulation 33”; and
  - (b) in paragraph (3) for “regulations 33 to 37 above” substitute “regulation 33”.
- (6) In regulation 45 (application of Part 5 of the principal Regulations), in paragraph (1) omit “: recognition of EEA rights”.
- (7) In regulation 46 (modification of provisions in Part 5 of the principal Regulations)—

- (a) in paragraph (4), in the opening words (the reference to regulation 37 of the principal Regulations) omit “EEA rights.”; and
  - (b) omit paragraph (5).
- (8) In regulation 48 (non-EEA countries) for “the EEA” substitute “the United Kingdom”.