
STATUTORY INSTRUMENTS

2021 No. 716

**The Payment and Electronic Money
Institution Insolvency Regulations 2021**

Objectives 1 and 3: PPTAs: security interests

32.—(1) This regulation applies where under any binding arrangement one party owes to the other a liability which is secured against any property or rights.

(2) But this regulation does not apply if the institution entered into the binding arrangement in contravention of—

- (a) regulation 21(4) or 22(2) of the EMR 2011,
- (b) any authorisation of the institution as a electronic money institution (or variation of that authorisation) under the EMR 2011 (see regulations 5 to 11 of those regulations),
- (c) regulation 23(8) of the PSR 2017,
- (d) any authorisation of the institution as a payment institution (or variation of that authorisation) under the PSR 2017 (see regulations 5 to 12 of those regulations).
- (e) a rule prohibiting such arrangements made by the FCA under the FSMA 2000, or
- (f) otherwise than in accordance with the institution's Part 4A permission within the meaning given by section 55A(5) of the FSMA 2000.

(3) In paragraph (1), it is immaterial whether or not—

- (a) the liability is secured against all or substantially all of the property or rights of a person,
- (b) the liability is secured against specified property or rights, or
- (c) the property or rights against which the liability is secured are owned by the person who owes the liability.

(4) A PPTA may not transfer the property or rights against which the liability is secured unless that liability and the benefit of the security are also transferred.

(5) A PPTA may not transfer the benefit of the security unless the liability which is secured is also transferred.

(6) A PPTA may not transfer the liability unless the benefit of the security is also transferred.

(7) If a PPTA purports to be in compliance with paragraphs (4) to (6) despite a possibility that any property, right or liability is foreign property (and might not have been effectively transferred), the administrator may assume the property, rights and liabilities may be transferred in accordance with paragraphs (4) to (6).

Commencement Information

II Reg. 32 in force at 8.7.2021, see [reg. 2](#)

Changes to legislation:

There are currently no known outstanding effects for the The Payment and Electronic Money Institution Insolvency Regulations 2021, Section 32.