
DRAFT STATUTORY INSTRUMENTS

2017 No.

**The Investment Bank (Amendment of Definition) and
Special Administration (Amendment) Regulations 2017**

PART 3

Investment bank insolvency regulations

General powers, duties and effect

14. In regulation 15 (general powers, duties and effect), in Table 1 (applied provisions: Schedule B1), in the entry for Para 74 (challenge to administrator's conduct), in the third column after paragraph (d) insert—

- “(e) FSCS may make an application under this paragraph on the grounds that the administrator is not performing the duties set out in regulation 10A(1) as quickly or as efficiently as is reasonably practicable.
- (f) Any of the following persons may make an application under this paragraph on the grounds that the administrator has made, or proposes to make, a partial property transfer (within the meaning given in regulation 10B(13)) (“relevant transfer”) in contravention of regulation 10E, 10F or 10G—
 - (i) the Bank of England;
 - (ii) the FCA;
 - (iii) where the investment bank is a PRA-authorized person, the PRA.
- (g) Any person, other than the investment bank, who is party to an arrangement of a kind referred to in regulation 10E(1) or 10F(1) may make an application under this paragraph on the grounds that the administrator has made, or proposes to make, a relevant transfer in contravention of that regulation.
- (h) A recognised investment exchange, a recognised clearing house or any person, other than the investment bank, who is party to a market contract may make an application under this paragraph on the grounds that the administrator has made, or proposes to make, a relevant transfer in contravention of regulation 10G.
- (i) Where an application is made under this paragraph on the grounds that the administrator has made a relevant transfer in contravention of regulation 10G—
 - (i) sub-paragraphs (3)(a), (d) and (e) and (4) are not applied;
 - (ii) the court may make an order declaring that the transfer was made in contravention of the regulation concerned.
- (j) Where an application is made under this paragraph on the grounds that the administrator has made a relevant transfer in contravention of regulation 10E or 10F,

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the court may make such order as it thinks fit for restoring the position to what it would have been if the transfer had been made in contravention of the regulation concerned.

- (k) The FCA and, where the investment bank is a PRA-authorised person, the PRA may make an application under this paragraph on the grounds that the administrator has failed to carry out a client money reconciliation in accordance with regulation 10H(2) or to transfer an amount in accordance with regulation 10H(3) or (4).”