
DRAFT STATUTORY INSTRUMENTS

2017 No.

The Risk Transformation Regulations 2017

PART 4

Protected Cell Companies

CHAPTER 15

Insolvency

Insolvency of the core

167.—(1) The core of a protected cell company may be—

- (a) put into administration as if it were a company under Schedule B1 (administration) to the Insolvency Act 1986 or Schedule B1 (administration) to the Insolvency (Northern Ireland) Order 1989; or
- (b) wound up as if it were an unregistered company under Part 5 (winding up of unregistered companies) of the Insolvency Act 1986 or Part 6 (winding up of unregistered companies) of the Insolvency (Northern Ireland) Order 1989.

(2) For these purposes, the insolvency legislation applies in relation to the core with the modifications set out in Schedule 3.

(3) Where a written demand is served on the core by a creditor in accordance with section 222(1)(a) (inability to pay debts: unpaid creditor of £750 or more) of the Insolvency Act 1986 or Article 186(1)(a) (inability to pay debts: unpaid creditor of £750 or more) of the Insolvency (Northern Ireland) Order 1989, the core may apply to the High Court (or in Scotland the Court of Session) for an injunction restraining (or in Scotland an interdict prohibiting) the creditor from presenting or giving notice of a winding-up petition as if the core has distinct legal personality.

(4) The entry of the core of a protected cell company into administration or liquidation does not affect the powers of the protected cell company or the directors of the protected cell company to act in relation to the core or the cells.

(5) But the protected cell company and the directors of the protected cell company may not exercise a management power in relation to—

- (a) the core of the protected cell company; or
- (b) any cell of the protected cell company which is not in administration or liquidation,

without the consent of the administrator or liquidator of the core.

(6) For the purposes of paragraph (5)—

- (a) “management power” means a power which could be exercised so as to interfere with the exercise of the powers of the administrator or liquidator;
- (b) it is immaterial whether the power is conferred on the protected cell company or the directors by an enactment or an instrument; and
- (c) consent may be general or specific.