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STATUTORY INSTRUMENTS

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**2003 No. 1102**

**The Insurers (Reorganisation and  
Winding Up) Regulations 2003**

**PART II**

*Insolvency measures and proceedings: jurisdiction in relation to insurers*

**Schemes of arrangement: EEA insurers**

5.—(1) For the purposes of section 425(6)(a) of the 1985 Act or Article 418(5)(a) of the Companies Order, an EEA insurer or a branch of an EEA insurer is to be treated as a company liable to be wound up under the 1986 Act or the 1989 Order if it would be liable to be wound up under that Act or Order but for the prohibition in regulation 4(1)(a).

(2) But a court may not make a relevant order under section 425(2) of the 1985 Act or Article 418(2) of the Companies Order in relation to an EEA insurer which is subject to a directive reorganisation measure or directive winding up proceedings, or a branch of an EEA insurer which is subject to such a measure or proceedings unless the conditions set out in paragraph (3) are satisfied.

(3) Those conditions are—

(a) the person proposing the section 425 or Article 418 compromise or arrangement (“the proposal”) has given—

(i) the administrator or liquidator, and

(ii) the relevant competent authority,

reasonable notice of the details of that proposal; and

(b) no person notified in accordance with sub-paragraph (a) has objected to the proposal.

(4) Nothing in this regulation invalidates a compromise or arrangement which was sanctioned by the court by an order made before the relevant date.

(5) For the purposes of paragraph (2), a relevant order means an order sanctioning a section 425 or Article 418 compromise or arrangement which—

(a) is intended to enable the insurer, and the whole or any part of its undertaking, to survive as a going concern and which affects the rights of persons other than the insurer or its contributories; or

(b) includes among its purposes a realisation of some or all of the assets of the EEA insurer to which the order relates and the distribution of the proceeds to creditors, with a view to terminating the whole or any part of the business of that insurer.

(6) For the purposes of this regulation—

(a) “administrator” means an administrator, as defined by Article 2(i) of the directive who is appointed in relation to the EEA insurer in relation to which the proposal is made;

(b) “liquidator” means a liquidator, as defined by Article 20(j) of the directive who is appointed in relation to the EEA insurer in relation to which the proposal is made;

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- (c) “competent authority” means the competent authority, as defined by Article 2(g) of the reorganisation and winding-up directive, which is competent for the purposes of the directive reorganisation measure or directive winding up proceedings mentioned in paragraph (2).