
STATUTORY INSTRUMENTS

2004 No. 1045

**The Credit Institutions (Reorganisation
and Winding up) Regulations 2004**

PART 2

Insolvency Measures and Proceedings: Jurisdiction in Relation to Credit Institutions

Reorganisation measures and winding-up proceedings in respect of EEA credit institutions effective in the United Kingdom

5.—(1) An EEA insolvency measure has effect in the United Kingdom in relation to—

- (a) any branch of an EEA credit institution,
- (b) any property or other assets of that credit institution,
- (c) any debt or liability of that credit institution,

as if it were part of the general law of insolvency of the United Kingdom.

(2) Subject to paragraph (4)—

- (a) a competent officer who satisfies the condition mentioned in paragraph (3); or
- (b) a qualifying agent appointed by a competent officer who satisfies the condition mentioned in paragraph (3),

may exercise in the United Kingdom, in relation to the EEA credit institution which is subject to an EEA insolvency measure, any function which, pursuant to that measure, he is entitled to exercise in relation to that credit institution in the relevant EEA State.

(3) The condition mentioned in paragraph (2) is that the appointment of the competent officer is evidenced—

- (a) by a certified copy of the order or decision by a judicial or administrative authority in the relevant EEA State by or under which the competent officer was appointed; or
- (b) by any other certificate issued by the judicial or administrative authority which has jurisdiction in relation to the EEA insolvency measure,

and accompanied by a certified translation of that order, decision or certificate (as the case may be).

(4) In exercising the functions of the kind mentioned in paragraph (2), the competent officer or qualifying agent—

- (a) may not take any action which would constitute an unlawful use of force in the part of the United Kingdom in which he is exercising those functions;
- (b) may not rule on any dispute arising from a matter falling within Part 4 of these Regulations which is justiciable by a court in the part of the United Kingdom in which he is exercising those functions; and
- (c) notwithstanding the way in which functions may be exercised in the relevant EEA State, must act in accordance with relevant laws or rules as to procedure which have effect in the part of the United Kingdom in which he is exercising those functions.

- (5) For the purposes of paragraph (4)(c), “relevant laws or rules as to procedure” means—
- (a) requirements as to consultation with or notification of employees of an EEA credit institution;
 - (b) law and procedures relevant to the realisation of assets;
 - (c) where the competent officer is bringing or defending legal proceedings in the name of, or on behalf of an EEA credit institution, the relevant rules of court.

- (6) In this regulation—

“competent officer” means a person appointed under or in connection with an EEA insolvency measure for the purpose of administering that measure;

“qualifying agent” means an agent validly appointed (whether in the United Kingdom or elsewhere) by a competent officer in accordance with the relevant law in the relevant EEA State;

“EEA insolvency measure” means, as the case may be, a directive reorganisation measure or directive winding-up proceedings which have effect in relation to an EEA credit institution by virtue of the law of the relevant EEA State;

“relevant EEA State”, in relation to an EEA credit institution, means the EEA State in which that credit institution has been authorised in accordance with Article 4 of the banking consolidation directive.