
STATUTORY INSTRUMENTS

2008 No. 2674

**The Kaupthing Singer & Friedlander Limited
Transfer of Certain Rights and Liabilities Order 2008**

PART 5

THE ADMINISTRATOR AND TRANSITIONAL PROVISIONS

Objectives etc. of the administrator

21.—(1) This article only applies during the transitional period.

(2) The administrator must perform his or her functions with the objectives (“the overriding objectives”) of—

- (a) ensuring that Kaupthing provides, and managing the affairs, business and property of Kaupthing to enable it to provide, the services and facilities reasonably required by ING to discharge its obligations in respect of the rights and liabilities under the second transfer; and
- (b) ensuring that Kaupthing performs the other obligations imposed on it by or under this Order.

(3) The administrator shall only perform his or her functions with the objective determined in accordance with paragraph 3 of Schedule B1 to the 1986 Act to the extent that to do so is not inconsistent with and does not interfere with the achievement of the overriding objectives.

(4) Paragraph 3(2) of Schedule B1 to the 1986 Act only applies to the performance of the functions of the administrator to the extent that it is not inconsistent with and does not interfere with the achievement of the overriding objectives.

(5) The Treasury may, by notice in writing, give a direction to the administrator specifying that an act (or omission) is required for the overriding objectives.

(6) The Treasury may also, by notice in writing, give a direction to the administrator requiring him or her to act (or not act) if the Treasury consider that it is necessary to give such a direction for the purposes of—

- (a) protecting or enhancing the stability of the financial systems of the United Kingdom;
- (b) protecting or enhancing public confidence in the stability of the banking system of the United Kingdom; or
- (c) protecting depositors.

(7) The Treasury may also, by notice in writing, give a direction to the administrator that he or she need not perform his or her functions in accordance with the overriding objectives, either in relation to a particular matter or generally.

(8) The administrator must comply with any directions given under paragraph (5), (6) or (7).

(9) The services and facilities to which paragraph (2)(a) applies include (but are not limited to) the services and facilities specified in the Schedule.

(10) The administrator shall not be required to include any proposals for achieving the overriding objectives in any statement he or she makes under paragraph 49 (administrator’s proposals) or paragraph 54 (revision of administrator’s proposals) of Schedule B1 to the 1986 Act or to obtain approval of such proposals at any creditors’ meeting or from the court.

(11) The administrator shall not enter into a transaction or a series of transactions (whether related or not) to sell, lease, transfer or otherwise dispose of any property or right of Kaupthing having in aggregate a value of more than £50 million at any time unless—

- (a) the court orders otherwise;
- (b) the Treasury gives its consent to the transaction; or
- (c) the sale, lease, transfer or disposal has been specifically approved at a meeting of creditors summoned under paragraph 51(1), 54(2) or 62 of Schedule B1 to the 1986 Act or by a creditors’ committee constituted in accordance with rule 2.50 of the Insolvency Rules and the Treasury has consented to the sale, lease, transfer or disposal.

(12) In this article, “court” means—

- (a) in England and Wales, the High Court;
- (b) in Scotland, the Court of Session;
- (c) in Northern Ireland, the High Court.