
STATUTORY INSTRUMENTS

2019 No. 38

**The Credit Institutions and Insurance
Undertakings Reorganisation and Winding
Up (Amendment) (EU Exit) Regulations 2019**

PART 3

Transitional and saving provisions

CHAPTER 1

EEA institutions subject on exit day to reorganisation or winding up in another EEA State

Grounds for making an order under regulation 8

- 9.—(1) In this regulation “relevant measure” does not include—
- (a) the application of a resolution tool within the meaning given by Article 2.1(19) of the recovery and resolution directive;
 - (b) the exercise of a resolution power within the meaning given by Article 2.1(20) of the recovery and resolution directive;
 - (c) any other measure to which Article 66 of the recovery and resolution directive applied immediately before exit day.
- (2) The court may make an order under regulation 8 only if the court is satisfied that one or more of the following conditions are met—
- (a) that if an order is not made (on application by the Bank)—
 - (i) the relevant measure or relevant proceedings will have an adverse effect on financial stability in the United Kingdom;
 - (ii) the taking of action in relation to a branch of the relevant institution located in the United Kingdom is necessary to achieve one or more of the special resolution objectives (within the meaning given in section 4 of the Banking Act 2009);
 - (b) that an order should be made (on application by the Bank or a UK creditor) because under the relevant measure or in the relevant proceedings UK creditors of the relevant institution would be materially prejudiced by the operation of the law of the EEA State under which the measure was adopted or imposed or the proceedings were opened—
 - (i) in relation to its treatment of the United Kingdom as a State which is outside the EEA; or
 - (ii) by reason of its different treatment of UK creditors by comparison with its treatment of EEA creditors who have similar rights;
 - (c) that having regard to the operation of the law of the EEA State under which the measure was adopted or imposed or the proceedings were opened, a refusal to make the order (on application by the Bank or a UK creditor) would be unlawful under section 6 of the Human

Rights Act 1998⁽¹⁾ (public authority not to act incompatibly with European Convention on Human Rights).

- (3) Where the court makes an order under regulation 8—
 - (a) the court must state in the order which one or more of the conditions specified in paragraph (2) are met; and
 - (b) an officer of the court must serve a copy of the order on—
 - (i) the applicant for the order;
 - (ii) if the Bank is not the applicant, the Bank;
 - (iii) the Prudential Regulation Authority;
 - (iv) the Financial Conduct Authority;
 - (v) the relevant institution.

⁽¹⁾ 1998 c. 42.