
STATUTORY INSTRUMENTS

2005 No. 1998

The Insurers (Reorganisation and Winding Up) (Lloyd's) Regulations 2005

PART 4

APPLICATION OF PARTS 4 AND 5 OF THE PRINCIPAL REGULATIONS

Priority for insurance claims

40.—(1) Part 4 of the principal Regulations applies with the modifications set out in paragraphs (2) to (11).

(2) References, in relation to a UK insurer, to a winding up by the court have effect as if they included a reference to the bankruptcy or sequestration of a member or former member.

(3) References to the making of a winding up order in relation to a UK insurer have effect as if they included a reference to the making of a bankruptcy order or, in Scotland, an award of sequestration in relation to an individual member or a member or former member that is a Scottish limited partnership.

(4) References to an administration order in relation to a UK insurer have effect as if they included a reference to an individual voluntary arrangement in relation to an individual member and a trust deed for creditors within the meaning of section 5(4A) of the Bankruptcy (Scotland) Act.

(5) Regulation 20 (preferential debts: disapplication of section 175 of the 1986 Act or Article 149 of the 1989 Order) has effect as if the references to section 175 of the 1986 Act and Article 149 of the 1989 Order included a reference to section 328 of that Act, Article 300 of that Order and section 51(1) (d) to (h) of the Bankruptcy (Scotland) Act 1985.

(6) Regulation 21(3) (preferential debts : long term insurers and general insurers) has effect as if after the words “rank equally among themselves” there were inserted the words “after the expenses of the bankruptcy or sequestration”.

(7) Regulation 27 (composite insurers: application of other assets) has effect as if the reference to section 175 of the 1986 Act or Article 149 of the 1989 Order included a reference to section 328 of that Act, Article 300 of that Order and section 51(1) (e) to (h) of the Bankruptcy (Scotland) Act.

(8) Regulation 29 (composite insurers: general meetings of creditors) has effect as if [^{F1}in paragraph (1) the words from “, but only if” to the end were omitted and] after paragraph (2) there were inserted—

[^{F2}“(3) If the bankrupt’s creditors propose to establish a creditors’ committee pursuant to section 301(1) of the 1986 Act or if the general meeting of the bankrupt’s creditors proposes to establish a creditors’ committee pursuant to Article 274(1) of the 1989 Order, separate committees must be established for creditors in respect of long-term business liabilities and creditors in respect of general business liabilities.]

(4) The committee of creditors in respect of long-term business liabilities may exercise the functions of a creditors' committee under the 1986 Act or the 1989 Order in relation to long term business liabilities only.

Changes to legislation: *The Insurers (Reorganisation and Winding Up) (Lloyd's) Regulations 2005, PART 4 is up to date with all changes known to be in force on or before 07 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(5) The committee of creditors in respect of general business liabilities may exercise the functions of a creditors' committee under the 1986 Act or the 1989 Order in relation to general business liabilities only.

(6) If, in terms of section 30(1) of the Bankruptcy (Scotland) Act 1985, at the statutory meeting or any subsequent meeting of creditors it is proposed to elect one or more commissioners (or new or additional commissioners) in the sequestration, it shall elect separate commissioners in respect of the long-term business liabilities and the general business liabilities.

(7) Any commissioner elected in respect of the long-term business liabilities shall exercise his functions under the Bankruptcy (Scotland) Act 1985 in respect of the long-term business liabilities only.

(8) Any commissioner elected in respect of the general business liabilities shall exercise his functions under the Bankruptcy (Scotland) Act 1985 in respect of the general business liabilities only.”

(9) Regulation 30 (composite insurers: apportionment of costs payable out of the assets) has effect as if in its application to members or former members who are individuals or Scottish limited partnerships—

- (a) in England and Wales, the reference to [F³rule 6.42 or 7.108] of the Insolvency Rules (general rule as to priority) included a reference to [F⁴rule 10.149] of the Insolvency Rules (general rule as to priority (bankruptcy));
- (b) in Northern Ireland, the reference to Rule 4.228 of the Insolvency Rules (Northern Ireland) (general rule as to priority) included a reference to Rule 6.222 of the Insolvency Rules (Northern Ireland) (general rule as to priority (bankruptcy)); and
- (c) in Scotland, the reference to [F⁵Rule 7.28 of the Insolvency (Scotland) (Receivership and Winding up) Rules 2018] includes reference to—
 - (i) any finally determined outlays or remuneration in a sequestration within the meaning of section 53 of the Bankruptcy (Scotland) Act 1985 and shall be calculated and applied separately in respect of the long-term business assets and the general business assets of that member; and
 - (ii) the remuneration and expenses of a trustee under a trust deed for creditors within the meaning of the Bankruptcy (Scotland) Act 1985,

and references to a liquidator include references to a trustee in bankruptcy, interim or permanent trustee, trustee under a trust deed for creditors, Accountant in Bankruptcy or Commissioners where appropriate.

(10) Regulation 31 (summary remedies against liquidators) has effect as if—

- (a) the reference to section 212 of the 1986 Act or Article 176 of the 1989 Order included a reference to section 304 of that Act or Article 277 of that Order (liability of trustee);
- (b) the references to a liquidator included a reference to a trustee in bankruptcy in respect of a qualifying insolvent member; and
- (c) the reference to section 175 of the 1986 Act or Article 149 of the 1989 Order included a reference to section 328 of that Act or Article 300 of that Order.

(11) Regulation 33 (voluntary arrangements: treatment of insurance debts) has effect as if after paragraph (3) there were inserted—

“(4) The modifications made by paragraph (5) apply where an individual member proposes an individual voluntary arrangement in accordance with Part 8 of the 1986 Act or Part 8 of the 1989 Order, and that arrangement includes—

- (a) a composition in satisfaction of any insurance debts; and

- (b) a distribution to creditors of some or all of the assets of that member in the course of, or with a view to, terminating the whole or any part of the insurance business of that member carried on at Lloyd's.
- (5) Section 258 of the 1986 Act [^{F6}(approval of debtor's proposal)] has effect as if—
 - (a) after subsection (5) there were inserted—

“(5A) [^{F7}Where a Lloyd's market reorganisation order is in force and the debtor is an individual member, the debtor's creditors] shall not approve any proposal or modification under which any insurance debt of that member is to be paid otherwise than in priority to such of his debts as are not insurance debts or preferential debts.”;
 - (b) after subsection (7) there were inserted—

“(8) For the purposes of this section—

 - (a) “insurance debt” has the meaning it has in the Insurers (Reorganisation and Winding Up) Regulations 2004;
 - (b) “Lloyd's market reorganisation order” and “individual member” have the meaning they have in the Insurers (Reorganisation and Winding Up) (Lloyd's) Regulations 2005.”.
- (6) Article 232 of the 1989 Order (Decisions of creditors' meeting) has effect as if—
 - (a) after paragraph (6) there were inserted—

“(6A) A meeting so summoned in relation to an individual member and taking place when a Lloyd's market reorganisation order is in force shall not approve any proposal or modification under which any insurance debt of that member is to be paid otherwise than in priority to such of his debts as are not insurance debts or preferential debts.”;
 - (b) after paragraph (9) there were inserted—

“(10) For the purposes of this Article—

 - (a) “insurance debt” has the meaning it has in the Insurers (Reorganisation and Winding Up) Regulations 2004;
 - (b) “Lloyd's market reorganisation order” and “individual member” have the meaning they have in the Insurers (Reorganisation and Winding Up) (Lloyd's) Regulations 2005.”.
- (7) In Scotland, where a member or former member grants a trust deed for creditors, Schedule 5 to the Bankruptcy (Scotland) Act 1985 shall be read as if after paragraph 4 there were included paragraphs 4A and 4B as follows—

“**4A.** Whether or not provision is made in any trust deed, where such a trust deed includes a composition in satisfaction of any insurance debts of a member or former member and a distribution to creditors of some or all of the assets of that member or former member in the course of or with a view to meeting obligations of his insurance business carried on at Lloyd's, the trustee may not provide for any insurance debt to be paid otherwise than in priority to such of his debts as are not insurance debts or preferred debts within the meaning of section 51(2).

4B For the purposes of paragraph 4A ,

- (a) “insurance debt” has the meaning it has in the Insurance (Reorganisation and Winding Up) Regulations 2004; and

Changes to legislation: *The Insurers (Reorganisation and Winding Up) (Lloyd's) Regulations 2005, PART 4 is up to date with all changes known to be in force on or before 07 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (b) “member” and “former member” have the meaning given in regulation 2(1) of the Insurers (Reorganisation and Winding Up) (Lloyd's) Regulations 2005 .”.

(12) The power to apply to court in section 303 of the 1986 Act or Article 276 of the 1989 Order or section 63 of the Bankruptcy (Scotland) Act (general control of trustee by court) may be exercised by the reorganisation controller if it appears to him that any act, omission or decision of a trustee of the estate of a member contravenes the provisions of Part 4 of the principal Regulations (as applied by this regulation).

Textual Amendments

- F1** Words in reg. 40(8) omitted (13.3.2018) by virtue of [The Small Business, Enterprise and Employment Act 2015 \(Consequential Amendments, Savings and Transitional Provisions\) Regulations 2018 \(S.I. 2018/208\)](#), regs. 1(3), **10(10)(a)(i)** (with reg. 21)
- F2** Words in reg. 40(8) substituted (13.3.2018) by [The Small Business, Enterprise and Employment Act 2015 \(Consequential Amendments, Savings and Transitional Provisions\) Regulations 2018 \(S.I. 2018/208\)](#), regs. 1(3), **10(10)(a)(ii)** (with reg. 21)
- F3** Words in reg. 40(9)(a) substituted (23.4.2019) by [The Financial Services and Markets \(Insolvency\) \(Amendment of Miscellaneous Enactments\) Regulations 2019 \(S.I. 2019/755\)](#), regs. 1, **6(6)(a)(i)**
- F4** Words in reg. 40(9)(a) substituted (23.4.2019) by [The Financial Services and Markets \(Insolvency\) \(Amendment of Miscellaneous Enactments\) Regulations 2019 \(S.I. 2019/755\)](#), regs. 1, **6(6)(a)(ii)**
- F5** Words in reg. 40(9)(c) substituted (23.4.2019) by [The Financial Services and Markets \(Insolvency\) \(Amendment of Miscellaneous Enactments\) Regulations 2019 \(S.I. 2019/755\)](#), regs. 1, **6(6)(b)**
- F6** Words in reg. 40(11) substituted (13.3.2018) by [The Small Business, Enterprise and Employment Act 2015 \(Consequential Amendments, Savings and Transitional Provisions\) Regulations 2018 \(S.I. 2018/208\)](#), regs. 1(3), **10(10)(b)(i)** (with reg. 21)
- F7** Words in reg. 40(11) substituted (13.3.2018) by [The Small Business, Enterprise and Employment Act 2015 \(Consequential Amendments, Savings and Transitional Provisions\) Regulations 2018 \(S.I. 2018/208\)](#), regs. 1(3), **10(10)(b)(ii)** (with reg. 21)

Treatment of liabilities arising in connection with a contract subject to reinsurance to close

41.—(1) Where in respect of a member or former member who is subject to a Lloyd's market reorganisation order any of the events specified in paragraph (2)(a) have occurred, for the purposes of the application of Part 4 of the principal Regulations to that member (and only for those purposes), an obligation of that member under a reinsurance to close contract in respect of a debt due or treated as due under a contract of insurance written at Lloyd's is to be treated as an insurance debt.

(2) For the purposes of this regulation—

(a) The events are—

- (i) in respect of a member which is a corporation the appointment of a liquidator, provisional liquidator or administrator;
- (ii) in respect of an individual member, the appointment of a receiver or trustee in bankruptcy; and
- (iii) in respect of a member in Scotland being either an individual or a Scottish limited partnership, the making of a sequestration order or the appointment of an interim or permanent trustee;

(b) “reinsurance to close contract” means a contract under which, in accordance with the rules or practices of Lloyd's, underwriting members (“the reinsured members”) who are members of a syndicate for a year of account (“the closed year”) agree with underwriting members who constitute that or another syndicate for a later year of account (“the

reinsuring members”) that the reinsuring members will indemnify the reinsured members against all known and unknown liabilities of the reinsured members arising out of the insurance business underwritten through that syndicate and allocated to the closed year (including liabilities under any reinsurance to close contract underwritten by the reinsured members).

Assets of members

42.—(1) This regulation applies where a member or former member is treated as a UK insurer in accordance with regulations 13 and 40 above.

(2) Subject to paragraphs (3) and (4), the undistributed assets of the member are to be treated as assets of the insurer for the purposes of the application of Part 4 of the principal Regulations in accordance with regulation 43 below.

(3) For the purposes of this regulation, the undistributed assets of the member so treated do not include any asset held in a relevant trust fund.

(4) But any asset released from a relevant trust fund and received by such a member is to be treated as an asset of the insurer for the purposes of the application of Part 4 of the principal Regulations.

Application of Part 4 of the principal Regulations: protection of settlements

43.—(1) This regulation applies where a member or former member is subject to an insolvency measure mentioned in paragraph (4) at the time that a Lloyd's market reorganisation order comes into force.

(2) Nothing in these Regulations or Part 4 of the principal Regulations affects the validity of any payment or disposition made, or any settlement agreed, by the relevant officer before the date when the Lloyd's market reorganisation order came into force.

(3) For the purposes of the application of Part 4 of the principal Regulations, the insolvent estate of the member or former member shall not include any assets which are subject to a [^{F8}relevant compromise or arrangement], a relevant individual voluntary arrangement, or a relevant trust deed for creditors.

(4) In paragraph (2) “relevant officer” means—

- (a) where the insolvency measure is a voluntary arrangement, the nominee;
- (b) where the insolvency measure is administration, the administrator;
- (c) where the insolvency measure is the appointment of a provisional liquidator, the provisional liquidator;
- (d) where the insolvency measure is a winding up, the liquidator;
- (e) where the insolvency measure is an individual voluntary arrangement, the nominee or supervisor;
- (f) where the insolvency measure is bankruptcy, the trustee in bankruptcy ;
- (g) where the insolvency measure is sequestration, the interim or permanent trustee; and
- (h) where the insolvency measure is a trust deed for creditors, the trustee.

(5) For the purposes of paragraph (3)—

- (a) “assets” has the same meaning as “property” in section 436 of the 1986 Act or Article 2(2) of the 1989 Order;
- (b) “insolvent estate” in England and Wales and Northern Ireland has the meaning given by [^{F9}rule 1.2] of the Insolvency Rules or Rule 0.2 of the Insolvency Rules (Northern Ireland), and in Scotland means the whole estate of the member;

Changes to legislation: *The Insurers (Reorganisation and Winding Up) (Lloyd's) Regulations 2005, PART 4 is up to date with all changes known to be in force on or before 07 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- [^{F10}(c) “a relevant compromise or arrangement” means—
- (i) a compromise or arrangement—
 - (aa) sanctioned by the court under section 425 of the Companies Act 1985 (excluding a compromise or arrangement falling within section 427 or 427A of that Act),
 - (bb) sanctioned by the court under Article 418 of the Companies (Northern Ireland) Order 1986 (excluding a compromise or arrangement falling within Article 420 or 420A of that Order), or
 - (cc) [^{F11}which is a compromise or arrangement under section 899 or section 901F,]

that was sanctioned by the court before the date on which an application for a Lloyd’s market reorganisation order was made, or
 - (ii) any subsequent compromise or arrangement—
 - (aa) sanctioned by the court as mentioned in paragraph (i)(aa) or (bb), or
 - (bb) [^{F12}which is a compromise or arrangement under section 899 or section 901F,]

that was sanctioned by the court to amend or replace a compromise or arrangement of the kind mentioned in paragraph (i);]
 - (d) “a relevant individual voluntary arrangement” and “a relevant trust deed for creditors” mean an individual voluntary arrangement or trust deed for creditors which was sanctioned by the court or entered into before the date on which an application for a Lloyd’s market reorganisation order was made.

Textual Amendments

- F8** Words in reg. 43(3) substituted (12.5.2011) by [The Companies Act 2006 \(Consequential Amendments and Transitional Provisions\) Order 2011 \(S.I. 2011/1265\)](#), arts. 1(2), **27(11)(a)**
- F9** Word in reg. 43(5)(b) substituted (23.4.2019) by [The Financial Services and Markets \(Insolvency\) \(Amendment of Miscellaneous Enactments\) Regulations 2019 \(S.I. 2019/755\)](#), regs. 1, **6(7)**
- F10** Reg. 43(5)(c) substituted (12.5.2011) by [The Companies Act 2006 \(Consequential Amendments and Transitional Provisions\) Order 2011 \(S.I. 2011/1265\)](#), arts. 1(2), **27(11)(b)**
- F11** Reg. 43(5)(c)(i)(cc) substituted (18.7.2020) by [The Co-operative and Community Benefit Societies and Credit Unions \(Arrangements, Reconstructions and Administration\) \(Amendment\) and Consequential Amendments Order 2020 \(S.I. 2020/744\)](#), arts. 1, **16(7)(a)**
- F12** Reg. 43(5)(c)(ii)(bb) substituted (18.7.2020) by [The Co-operative and Community Benefit Societies and Credit Unions \(Arrangements, Reconstructions and Administration\) \(Amendment\) and Consequential Amendments Order 2020 \(S.I. 2020/744\)](#), arts. 1, **16(7)(b)**

Challenge by reorganisation controller to conduct of insolvency practitioner

44.—(1) The reorganisation controller may apply to the court claiming that a relevant officer is acting, has acted, or proposes to act in a way that fails to comply with a requirement of Part 4 of the principal Regulations.

(2) The reorganisation controller must send a copy of an application under paragraph (1) to the relevant officer in respect of whom the application is made.

(3) In the case of a relevant officer who is acting in respect of a member or former member subject to the jurisdiction of a Scottish court, the application must be made to the Court of Session.

(4) The court may—

- (a) dismiss the application;
 - (b) make an interim order;
 - (c) make any other order it thinks appropriate.
- (5) In particular, an order under this regulation may—
- (a) regulate the relevant officer's exercise of his functions;
 - (b) require that officer to do or not do a specified thing;
 - (c) make consequential provision.
- (6) An order may not be made under this regulation if it would impede or prevent the implementation of—
- (a) a voluntary arrangement approved under Part 1 of the 1986 Act or Part 2 of the 1989 Order before the date when the Lloyd's market reorganisation order was made;
 - (b) an individual voluntary arrangement approved under Part 8 of that Act or Part 8 of that Order before the date when the Lloyd's market reorganisation order was made; or
 - [^{F13}(c) a compromise or arrangement sanctioned by the court before the date when the Lloyd's market reorganisation order was made which is—
 - [^{F14}(i) which is a compromise or arrangement under section 899 or section 901F,]
 - (ii) a compromise or arrangement sanctioned under section 425 of the Companies Act 1985 (excluding a compromise or arrangement falling within section 427 or 427A of that Act), or
 - (iii) a compromise or arrangement sanctioned under Article 418 of the Companies (Northern Ireland) Order 1986 (excluding a compromise or arrangement falling within Article 420 or 420A of that Order).]
- (7) In this regulation “relevant officer” means—
- (a) a liquidator,
 - (b) a provisional liquidator,
 - (c) an administrator
 - (d) the official receiver or a trustee in bankruptcy, or
 - (e) in Scotland, an interim or permanent trustee or a trustee for creditors,
- who is appointed in relation to a member or former member.

Textual Amendments

F13 Reg. 44(6)(c) substituted (12.5.2011) by [The Companies Act 2006 \(Consequential Amendments and Transitional Provisions\) Order 2011 \(S.I. 2011/1265\)](#), arts. 1(2), **27(12)**

F14 Reg. 44(6)(c)(i) substituted (18.7.2020) by [The Co-operative and Community Benefit Societies and Credit Unions \(Arrangements, Reconstructions and Administration\) \(Amendment\) and Consequential Amendments Order 2020 \(S.I. 2020/744\)](#), arts. 1, **16(8)**

Application of Part 5 of the principal Regulations

45.—(1) Part 5 of the principal Regulations (reorganisation or winding up of UK insurers ^{F15}... applies with the modifications set out in regulation 46 where, on or after the date that a Lloyd's market reorganisation order comes into force, a member or former member is or becomes subject to a reorganisation or insolvency measure.

(2) For the purposes of this regulation a “reorganisation or insolvency measure” means—

Changes to legislation: *The Insurers (Reorganisation and Winding Up) (Lloyd's) Regulations 2005, PART 4 is up to date with all changes known to be in force on or before 07 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (a) a voluntary arrangement, having a qualifying purpose, approved in accordance with section 4A of the 1986 Act or Article 17A of the 1989 Order;
 - (b) administration pursuant to an order under paragraph 13 of Schedule B1 ^{F16}or under paragraph 14 of Schedule B1 to the 1989 Order];
 - (c) the reduction by the court of the value of one or more relevant contracts of insurance under section 377 of the 2000 Act or section 24(5) of the Friendly Societies Act 1992 ^{M1};
 - (d) winding up;
 - (e) the appointment of a provisional liquidator in accordance with section 135 of the 1986 Act or Article 115 of the 1989 Order;
 - (f) an individual voluntary arrangement, having a qualifying purpose, approved in accordance with section 258 of the 1986 Act or Article 232 of the 1989 Order;
 - (g) in Scotland a qualifying trust deed for creditors within the meaning of section 5(4A) of the Bankruptcy (Scotland) Act 1985;
 - (h) bankruptcy, in accordance with Part 9 of the 1986 Act or Part 9 of the 1989 Order; or
 - (i) sequestration under the Bankruptcy (Scotland) Act 1985.
- (3) A measure imposed under the law of a State or country other than the United Kingdom is not a reorganisation or insolvency measure for the purposes of this regulation.
- (4) For the purposes of sub-paragraphs (a), (f) and (g) of paragraph (2), a voluntary arrangement or individual voluntary arrangement has a qualifying purpose and a trust deed is a qualifying trust deed if it—
- (a) varies the rights of creditors as against the member and is intended to enable the member to continue to carry on an insurance market activity at Lloyd's; or
 - (b) includes a realisation of some or all of the assets of the member and the distribution of proceeds to creditors, with a view to terminating the whole or any part of that member's business at Lloyd's.

Textual Amendments

- F15** Words in reg. 45(1) omitted (31.12.2020) by virtue of [The Credit Institutions and Insurance Undertakings Reorganisation and Winding Up \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/38\)](#), regs. 1(3), **4(6)**; 2020 c. 1, Sch. 5 para. 1(1)
- F16** Words in reg. 45(2)(b) added (6.4.2007) by [The Insurers \(Reorganisation and Winding Up\) \(Amendment\) Regulations 2007 \(S.I. 2007/851\)](#), regs. 1, **3(16)**

Marginal Citations

- M1** 1992 c. 40.

Modification of provisions in Part 5 of the principal Regulations

- 46.—**(1) The modifications mentioned in regulation 45(1) are as follows.
- (2) Regulation 35 is disappplied.
 - (3) Regulation 36 (interpretation of Part 5) has effect as if—
 - (a) in paragraph (1)—
 - (i) the meaning of “affected insurer” included a member or former member who, on or after the date that a Lloyd's market reorganisation order comes into force, is or

Changes to legislation: *The Insurers (Reorganisation and Winding Up) (Lloyd's) Regulations 2005, PART 4 is up to date with all changes known to be in force on or before 07 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- becomes subject to a reorganisation or insolvency measure within the meaning given by regulation 44(2) of these Regulations;
- (ii) the meaning of “relevant reorganisation or relevant winding up” included any reorganisation or insolvency measure, in respect of a member or former member, to which Part 5 of the principal Regulations applies by virtue of regulation 45(1) of these Regulations;
 - (iii) in the case of sequestration, the date of sequestration within the meaning of section 12 of the Bankruptcy (Scotland) Act 1985; and
- (b) in paragraph (2) references to the opening of a relevant reorganisation or a relevant winding up meant (in addition to the meaning in the cases set out in that paragraph)—
- (i) in the case of an individual voluntary arrangement, the date when a decision with respect to that arrangement has effect in accordance with section 258 of the 1986 Act or Article 232 of the 1989 Order;
 - (ii) in the case of bankruptcy, the date on which the bankruptcy order is made under Part 9 of the 1986 Act or Part 9 of the 1989 Order;
 - (iii) in the case of a trust deed for creditors under the Bankruptcy (Scotland) Act 1985 the date when the trust deed was granted.
- (4) Regulation 37 of the principal Regulations (^{F17}... applicable law in the winding up of a UK insurer) has effect as if—
- (a) references to a relevant winding up included (in each case) a reference to a reorganisation or insolvency measure within the meaning given by sub-paragraphs (d), (g) (h) and (i) of regulation 45(2) of these Regulations (winding up and bankruptcy) in respect of a member or former member; and
 - (b) the reference in paragraph (3)(c) to the liquidator included a reference to the trustee in bankruptcy or in Scotland to the interim or permanent trustee.

^{F18}(5)

Textual Amendments

F17 Words in [reg. 46\(4\)](#) omitted (31.12.2020) by virtue of [The Credit Institutions and Insurance Undertakings Reorganisation and Winding Up \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/38\)](#), regs. 1(3), [4\(7\)\(a\)](#); 2020 c. 1, Sch. 5 para. 1(1)

F18 [Reg. 46\(5\)](#) omitted (31.12.2020) by virtue of [The Credit Institutions and Insurance Undertakings Reorganisation and Winding Up \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/38\)](#), regs. 1(3), [4\(7\)\(b\)](#); 2020 c. 1, Sch. 5 para. 1(1)

Application of Part 5 of the principal Regulations: protection of dispositions etc. made before a Lloyd's market reorganisation order comes into force

- 47.—**(1) This regulation applies where—
- (a) a member or former member is subject to a reorganisation or insolvency measure on the date when a Lloyd's market reorganisation order comes into force; and
 - (b) Part 5 of the principal Regulations applies in relation to that reorganisation or insolvency measure by virtue of regulation 45 above.
- (2) Nothing in Part 5 of the principal Regulations affects the validity of any payment or disposition made, or any settlement agreed, by the relevant officer before the date when the Lloyd's market reorganisation order came into force.

Changes to legislation: *The Insurers (Reorganisation and Winding Up) (Lloyd's) Regulations 2005, PART 4 is up to date with all changes known to be in force on or before 07 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(3) For the purposes of the application of Part 5 of the principal Regulations, the insolvent estate of the member does not include any assets which are subject to a [^{F19}relevant compromise or arrangement], a relevant individual voluntary arrangement, or a relevant trust deed for creditors.

(4) In paragraph (2) “relevant officer” means—

- (a) where the member is subject to a voluntary arrangement in accordance with section 4A of the 1986 Act or Article 17A of the 1989 Order, the supervisor;
- (b) where the member is in administration in accordance with Schedule B1 [^{F20}or with Schedule B1 to the 1989 Order], the administrator;
- (c) where a provisional liquidator has been appointed in relation to a member in accordance with section 135 of the 1986 Act or Article 115 of the 1989 Order, the provisional liquidator;
- (d) where the member is being wound up under Part 4 of the 1986 Act or Part 5 of the 1989 Order, the liquidator;
- (e) where the member has made a voluntary arrangement in accordance with Part 8 of the 1986 Act or Part 8 of the 1989 Order, the nominee;
- (f) where the member is bankrupt within the meaning of Part 9 of the 1986 Act or Part 9 of the 1989 Order, the official receiver or trustee in bankruptcy;
- (g) where the member is being sequestrated, the interim or permanent trustee; and
- (h) where a trust deed for creditors has been granted, the trustee.

(5) For the purposes of paragraph (3)—

- (a) “assets” has the same meaning as “property” in section 436 of the 1986 Act or Article 2(2) of the 1989 Order, except in relation to relevant trust deeds;
- (b) “insolvent estate” in England and Wales and Northern Ireland has the meaning given by [^{F21}Rule 1.2] of the Insolvency Rules or Rule 0.2 of the Insolvency Rules (Northern Ireland), and in Scotland means the assets of the member;

[^{F22}(c) “relevant compromise or arrangement” means—

(i) a compromise or arrangement—

- (aa) sanctioned by the court under section 425 of the Companies Act 1985 (excluding a compromise or arrangement falling within section 427 or 427A of that Act),
- (bb) sanctioned by the court under Article 418 of the Companies (Northern Ireland) Order 1986 (excluding a compromise or arrangement falling within Article 420 or 420A of that Order), or
- (cc) [^{F23}which is a compromise or arrangement under section 899 or section 901F,]

that was sanctioned by the court before the date on which an application for a Lloyd’s market reorganisation order was made, or

(ii) any subsequent compromise or arrangement—

- (aa) sanctioned by the court as mentioned in sub-paragraph (aa) or (bb) of paragraph (i), or
- (bb) [^{F24}which is a compromise or arrangement under section 899 or section 901F,]

that was sanctioned by the court to amend or replace a compromise or arrangement of the kind mentioned in paragraph (i);]

Changes to legislation: *The Insurers (Reorganisation and Winding Up) (Lloyd's) Regulations 2005, PART 4 is up to date with all changes known to be in force on or before 07 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (d) “relevant individual voluntary arrangement” means—
- (i) an individual voluntary arrangement approved under Part 8 of the 1986 Act [^{F25}or Part 8 of the 1989 Order] before the date when a Lloyd's market reorganisation order came in to force, and
 - (ii) any subsequent individual voluntary arrangement sanctioned by the court to amend or replace an arrangement of the kind mentioned in paragraph (i); and
- (e) “relevant trust deed” means a trust deed granted by a member or former member before the date when the Lloyd's market reorganisation order entered into force.

Textual Amendments

- F19** Words in reg. 47(3) substituted (12.5.2011) by [The Companies Act 2006 \(Consequential Amendments and Transitional Provisions\) Order 2011 \(S.I. 2011/1265\)](#), arts. 1(2), **27(13)(a)**
- F20** Words in reg. 47(4)(b) inserted (6.4.2007) by [The Insurers \(Reorganisation and Winding Up\) \(Amendment\) Regulations 2007 \(S.I. 2007/851\)](#), regs. 1, **3(17)(a)**
- F21** Word in reg. 47(5)(b) substituted (23.4.2019) by [The Financial Services and Markets \(Insolvency\) \(Amendment of Miscellaneous Enactments\) Regulations 2019 \(S.I. 2019/755\)](#), regs. 1, **6(8)**
- F22** Reg. 47(5)(c) substituted (12.5.2011) by [The Companies Act 2006 \(Consequential Amendments and Transitional Provisions\) Order 2011 \(S.I. 2011/1265\)](#), arts. 1(2), **27(13)(b)**
- F23** Reg. 47(5)(c)(i)(cc) substituted (18.7.2020) by [The Co-operative and Community Benefit Societies and Credit Unions \(Arrangements, Reconstructions and Administration\) \(Amendment\) and Consequential Amendments Order 2020 \(S.I. 2020/744\)](#), arts. 1, **16(9)(a)**
- F24** Reg. 47(5)(c)(ii)(bb) substituted (18.7.2020) by [The Co-operative and Community Benefit Societies and Credit Unions \(Arrangements, Reconstructions and Administration\) \(Amendment\) and Consequential Amendments Order 2020 \(S.I. 2020/744\)](#), arts. 1, **16(9)(b)**
- F25** Words in reg. 47(5)(d)(i) added (6.4.2007) by [The Insurers \(Reorganisation and Winding Up\) \(Amendment\) Regulations 2007 \(S.I. 2007/851\)](#), regs. 1, **3(17)(b)**

Non-EEA countries

48. In respect of a member or former member who is established in a country outside [^{F26}the United Kingdom], the court or the [^{F27}PRA] may, subject to sections 348 and 349 of the 2000 Act, make such disclosures as each considers appropriate to a court or to a regulator with a role equivalent to that of the [^{F27}PRA] for the purpose of facilitating the work of the reorganisation controller.

Textual Amendments

- F26** Words in reg. 48 substituted (31.12.2020) by [The Credit Institutions and Insurance Undertakings Reorganisation and Winding Up \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/38\)](#), regs. 1(3), **4(8)**; 2020 c. 1, Sch. 5 para. 1(1)
- F27** Words in reg. 48 substituted (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\)](#), **Sch. 2 para. 109(j)**

Amendment of principal Regulations

49. In regulation 19(2)(b) of the principal Regulations, for “regulation 18(4)”, substitute “regulation 18(5)”.

Changes to legislation:

The Insurers (Reorganisation and Winding Up) (Lloyd's) Regulations 2005, PART 4 is up to date with all changes known to be in force on or before 07 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

Changes and effects yet to be applied to :

- Regulations revoked by [2023 c. 29 Sch. 1 Pt. 2](#)