
STATUTORY INSTRUMENTS

2008 No. 2674

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

PART 6

MISCELLANEOUS

Construction of documents etc.

- 28.** As from the effective time and save as otherwise provided in this Order—
- (a) agreements made or other things done by or in relation to Kaupthing shall be treated, so far as may be necessary for the purposes of or in connection with the first transfer or the second transfer (but not otherwise) as made or done by or in relation to Deposits Management (Edge) or ING or both, as the case may be and as the context requires;
 - (b) references to Kaupthing or to any officer or employee of Kaupthing in instruments or documents relating to the transferred rights and liabilities and rights and liabilities transferred under the second transfer, shall have effect as if they were references to Deposits Management (Edge) or ING or both, or to any officer or employee of Deposits Management (Edge) or ING, as the case may be and as the context requires.

Modification to Authority's rule-making power

29.—(1) Subsections (1) and (1A)(1) of section 138 of the 2000 Act (general rule-making power) have effect as if modified by inserting after “protecting the interests of consumers”—

“or for the purposes of, to facilitate or in consequence of, a transfer under section 6 or section 8 of the Banking (Special Provisions) Act 2008”.

(2) Section 148(2)(2) of the 2000 Act (modification or waiver of rules) shall also apply in relation to Kaupthing—

- (a) in the absence of an application by a person subject to rules made by the Authority; and
- (b) without any requirement for the consent of such a person.

(3) Section 148(4)(3) of the 2000 Act shall not prevent the Authority from modifying or waiving rules in relation to Kaupthing under section 148 of that Act provided that the Authority is satisfied that the modification or waiver is necessary for the purposes of, to facilitate or in consequence of the first transfer or the second transfer.

(1) Subsections (1A) to (1C) were inserted by [S.I. 2006/2975](#).
(2) Subsection (2) was substituted by [S.I. 2007/1973](#).
(3) Subsection (4)(a) was amended by [S.I. 2007/1973](#).

Modification to Authority's duty to consult on rule changes

30.—(1) Section 155(7) of the 2000 Act (consultation) has effect as if modified by adding at the end—

“or if it is making rules for the purposes of, or to facilitate or in consequence of, a transfer under section 6 or section 8 of the Banking (Special Provisions) Act 2008.”

(2) Section 157 of the 2000 Act (guidance) has effect as if modified by adding after subsection (3)

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“(3A) Section 155(7) applies to proposed guidance as it applies to proposed rules with the modification made by article 30 of the Kaupthing Singer & Friedlander Limited Transfer of Certain Rights and Liabilities Order 2008.”.

Freedom of information

31. For the purposes of section 3(2)(b) of the Freedom of Information Act 2000 (public authorities)(4), Deposits Management (Edge) shall be deemed not to hold information on behalf of the Bank.

Proceedings against directors

32.—(1) No director of—

- (a) Kaupthing; or
- (b) Deposits Management (Edge),

shall be liable in connection with the first transfer or the second transfer or any other provisions of this Order and accordingly no proceedings may be brought (or, in Scotland, raised) against any such director in respect of such matters.

(2) The Treasury may in writing—

- (a) waive the effect of paragraph (1), and
- (b) give consent to bring (or, in Scotland, raise) such proceedings against such directors.

(3) Where paragraph (1) applies, section 232 of the Companies Act 2006(5) (provisions protecting directors from liability) shall not apply to a relevant undertaking.

(4) In this article—

“director” means a person who was a director immediately before the effective time, whether or not he has ceased to be a director at the time when proceedings in respect of that liability commenced;

“proceedings” includes proceedings under Part 11 of the Companies Act 2006 (derivative claims and proceedings by members).

Immunity of Bank

33.—(1) The Bank has immunity in relation to action or inaction in relation to or pursuant to this Order.

(2) In this article—

- (a) a reference to the Bank is a reference to the Bank and anyone who acts or purports to act as a director, officer, servant or agent of the Bank;
- (b) “immunity” means immunity from liability in damages.

(4) 2000 c.36.

(5) 2006 c.46.

- (3) The immunity does not extend to action taken—
- (a) in bad faith, or
 - (b) in contravention of section 6(1) of the Human Rights Act 1998⁽⁶⁾.

Transfer of data

34. Any transfer of data under this Order is not to be taken to breach any restriction on disclosure of information, however imposed.

⁽⁶⁾ 1998 c.42.