

Definitions for the purposes of de-registration provisions contained in sections 1413 and 1414

1412. (1) In sections 1413 and 1414—

“applicant” means an investment company that applies under section 1413 to be de-registered under section 1414;

“relevant jurisdiction” means the place, outside the State, prescribed under subsection (2) in which the investment company proposes to be registered;

“transfer documents”, in relation to an applicant, means the following documents:

(a) a statutory declaration, in the prescribed form, of a director of the applicant made not more than 28 days before the date on which the application is made to the Registrar to the effect that—

(i) the applicant will, upon registration, continue as a body corporate under the laws of the relevant jurisdiction;

(ii) no petition or other similar proceeding to wind up or liquidate the applicant has been notified to the applicant and remains outstanding in any place, and no order has been notified to the applicant or resolution adopted to wind up or liquidate the applicant in any place;

(iii) the appointment of a receiver, liquidator, examiner or other similar person has not been notified to the applicant and, at the date of the declaration, no such person is acting in that capacity in any place with respect to the applicant or its property or any part thereof;

(iv) the applicant is not, at the date of the declaration, operating or carrying on business under any scheme, order, compromise or other similar arrangement entered into or made by the applicant with creditors in any place;

(v) the application for de-registration is not intended to defraud persons who are, at the date of the declaration, creditors of the applicant;

(vi) any consent or approval to the proposed de-registration required by any contract entered into or undertaking given by the applicant has been obtained or waived, as the case may be; and

(vii) the de-registration is permitted by the memorandum and articles of the applicant;

(b) a declaration of solvency prepared in accordance with the provisions of section 1415; and

(c) a copy of a special resolution of the applicant that approves the proposed de-registration and the transfer of the applicant to the relevant jurisdiction.

(2) The Minister may make regulations prescribing places, outside the State, for the purposes of the definition of “relevant jurisdiction” in subsection (1), where he or she is satisfied that the law of the place concerned makes provision for bodies corporate that are substantially similar to applicants under section 1413 to continue under the laws of the State in a substantially similar manner to continuations under section 1410 or for companies to continue under the laws of that place.