

Further matters respecting an umbrella fund to which section 1405 (1) applies

1407. (1) Without prejudice to the other provisions of sections 1405 and 1406, Schedule 17 and this section, a sub-fund of an umbrella fund is not a legal person separate from that umbrella fund, but an umbrella fund may sue and be sued in respect of a particular sub-fund and may exercise the same rights of set-off, if any, as between its sub-funds as apply at law in respect of companies and the property of a sub-fund is subject to orders of the court as it would have been if the sub-fund were a separate legal person.

(2) Nothing in section 1405 or 1406, Schedule 17 or this section shall prevent the application of any enactment or rule of law which would require the application of the assets of any sub-fund in discharge of some or all of the liabilities of any other sub-fund on the grounds of fraud or misrepresentation and, in particular, by reason of the application of section 443, 557, 604 or 608.

(3) A sub-fund may be wound up in accordance with section 569 (1)(d) or 586 (2) as if the sub-fund were a separate company but, in any such case, the appointment of the liquidator or any provisional liquidator and the powers, rights, duties and responsibilities of the liquidator or any provisional liquidator shall be confined to the sub-fund or sub-funds which is or are being wound up.

(4) For the purposes of subsection (3), all references made in section 569 (1)(d) or 586 (2), and in all relevant provisions of this Act relating to the winding up of a company pursuant to section 569 (1)(d) or 586 (2), to one of the following words shall be read as follows:

(a) “company” shall be read as referring to the sub-fund or sub-funds which is or are being wound up;

(b) a “member” or “members” shall be read as referring to the holders of the shares in that sub-fund or sub-funds; and

(c) “creditors” shall be read as referring to the creditors of that sub-fund or sub-funds.