

Enforcement Guide

Chapter 13

Insolvency

13.8 Power to apply to court for a provisional liquidator

13.8.1

Where a petition has been presented for the winding up of a body, the court may appoint a provisional liquidator in the interim period pending the hearing of the petition. An appointment may be sought and made to:

- (1) permit the continuation of the business for the protection of *consumers*; or
- (2) secure, protect, or realise assets or property in the possession or under the control of the *company* or *partnership* (in particular where there is a risk that the assets will be dissipated) for the benefit of creditors or *consumers*.

13.8.2

In cases where it decides to petition for the compulsory winding up of a body under section 367 of the *Act*, the *FCA* will also consider whether it should seek the appointment of a provisional liquidator. The *FCA* will have regard, in particular, to the extent to which there may be a need to protect *consumers'* claims and *consumers'* funds or other assets. Where the *FCA* decides to petition for the compulsory winding up of a *company* or *partnership* on the just and equitable ground and where the *company* or *partnership* is solvent but may become insolvent, the *FCA* will also consider whether the appointment of a provisional liquidator would serve to maintain the solvency of the *company* or *partnership*.