

O-605-17

ORDER under the Companies Act 2006

In the matter of application No. 1437

By AXA

for a change of company name of registration

No. 10707276

DECISION

The company name AXA INVESTORS LTD has been registered since 4 April 2017.

By an application filed on 12 May 2017, AXA applied for a change of name of this registration under the provisions of section 69(1) of the Companies Act 2006 (the Act).

A copy of this application was sent to the primary respondent's registered office on 20 June 2017, in accordance with rule 3(2) of the Company Names Adjudicator Rules 2008. The copy of the application was sent by Royal Mail special delivery. The letter to the primary respondent was subsequently returned to the tribunal marked "refused". It was reissued by ordinary post on 17 July 2017 and returned to the tribunal with the window for the primary respondent's address crossed through.

On 2 August 2017 the primary respondent was advised that no defence had been received to the application and so the adjudicator may treat the application as not being opposed. The primary respondent was granted a period of 14 days to request a hearing in relation to this matter, if they so wished. That letter was returned to the tribunal marked "RTS". Because of a procedural irregularity in the tribunal, the applicant was not advised until 20 November 2017 that no defence had been received to the application and so the adjudicator may treat the application as not being opposed. In a letter dated 24 November 2017, the applicant indicated that it did not "wish to submit a response."

The primary respondent did not file a defence within the one month period specified by the adjudicator under rule 3(3). Rule 3(4) states:

"The primary respondent, before the end of that period, shall file a counter-statement on the appropriate form, otherwise the adjudicator may treat it as not opposing the application and may make an order under section 73(1)."

Under the provisions of this rule, the adjudicator may exercise discretion so as to treat the respondent as opposing the application. In this case I can see no reason to exercise such discretion and, therefore, decline to do so.

O-605-17

As the primary respondent has not responded to the allegations made, it is treated as not opposing the application. Therefore, in accordance with section 73(1) of the Act I make the following order:

- (a) AXA INVESTORS LTD shall change its name **within one month** of the date of this order to one that is not an offending nameⁱ;
- (b) AXA INVESTORS LTD. shall:
 - (i) take such steps as are within its power to make, or facilitate the making, of that change;
 - (ii) not cause or permit any steps to be taken calculated to result in another company being registered with a name that is an offending name.

In accordance with section 73(3) of the Act, this order may be enforced in the same way as an order of the High Court or, in Scotland, the Court of Session.

In any event, if no such change is made within one month of the date of this order, I will determine a new company name as per section 73(4) of the Act and will give notice of that change under section 73(5) of the Act.

Costs

AXA having been successful, is entitled to a contribution towards its costs. I order AXA INVESTORS LTD to pay to AXA costs on the following basis:

Fee for application: £400

Statement of case: £400

Total: £800

This sum is to be paid within seven days of the expiry of the appeal period or within seven days of the final determination of this case if any appeal against this decision is unsuccessful.

Any notice of appeal against this decision to order a change of name must be given within one month of the date of this order. Appeal is to the High Court in England, Wales and Northern Ireland and to the Court of Session in Scotland.

O-605-17

The company adjudicator must be advised if an appeal is lodged, so that implementation of the order is suspended.

Dated this 29th day of November 2017

Christopher Bowen
Company Names Adjudicator

ⁱAn “offending name” means a name that, by reason of its similarity to the name associated with the applicant in which he claims goodwill, would be likely— to be the subject of a direction under section 67 (power of Secretary of State to direct change of name), or to give rise to a further application under section 69.