



Building Societies Act 1986

1986 CHAPTER 53

PART X

DISSOLUTION, WINDING UP, MERGERS AND TRANSFER OF BUSINESS

Dissolution and winding up

[^{F1}90D. Notice to the [^{F2}FCA and the PRA] of preliminary steps

- (1) An application for an administration order in respect of a building society may not be determined unless the conditions below are satisfied.
- (2) A petition for a winding up order in respect of a building society may not be determined unless the conditions below are satisfied.
- (3) A resolution for voluntary winding up of a building society may not be passed unless the conditions below are satisfied.
- (4) An administrator of a building society may not be appointed unless the conditions below are satisfied.
- (5) Condition 1 is that the [^{F3}FCA]^{F4}, the Bank of England] and, if the society is a PRA-
authorised person, the PRA have] been notified—
 - (a) by the applicant for an administration order, that the application has been made,
 - (b) by the petitioner for a winding up order, that the petition has been presented,
 - (c) by the building society, that a resolution for voluntary winding up may be passed, or
 - (d) by the person proposing to appoint an administrator, of the proposed appointment.
- (6) Condition 2 is that a copy of the notice complying with Condition 1 has been filed with the court (and made available for public inspection by the court).
- (7) Condition 3 is that—

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- (a) the period of [^{F57} days] , beginning with the day on which the notice is received, has ended, or
- [^{F6}(b) both—
 - (i) the Bank of England has informed the person who gave the notice that it does not intend to exercise a stabilisation power under Part 1 of the Banking Act 2009 in relation to the building society (and condition 5 has been met, if applicable), and
 - (ii) each of the PRA and the Bank of England has informed the person who gave the notice that it does not intend to apply for a building society insolvency order (under section 95 of the Banking Act 2009 as applied by section 90C).]
- (8) Condition 4 is that no application for a building society insolvency order is pending.
- [Condition 5—
- ^{F7}(8A) (a) applies only if a resolution instrument has been made under section 12A of the Banking Act 2009 with respect to the building society in the three months ending with the date on which the Bank of England receives the notification under Condition 1, and
- (b) is that the Bank of England has informed the person who gave the notice that it consents to the insolvency procedure to which the notice relates going ahead.]
- (9) Arranging for the giving of notice in order to satisfy Condition 1 can be a step with a view to minimising the potential loss to a building society’s creditors for the purpose of section 214 of the Insolvency Act 1986 (wrongful trading) or Article 178 (wrongful trading) of the Insolvency (Northern Ireland) Order 1989 as applied in relation to building societies by section 90 of, and Schedule 15 to, this Act.
- (10) Where [^{F8}the society is a PRA-authorized person and][^{F9}notice has been given under Condition 1] —
 - ^{F10}(a)
 - (b) the [^{F11}PRA] shall inform the person who gave the notice, within the period in Condition 3(a), whether it intends to apply for a building society insolvency order, ^{F12}...
 - (c) if the Bank of England decides to apply for a building society insolvency order or to exercise a stabilisation power under Part 1 of the Banking Act 2009, the Bank shall inform the person who gave the notice, within the period in Condition 3(a)][^{F13}; and
 - (d) if Condition 5 applies, the Bank of England must, within the period in Condition 3(a), inform the person who gave the notice whether or not it consents to the insolvency procedure to which the notice relates going ahead.]
- [Where the society is not a PRA-authorized person and [^{F15}notice has been received
- ^{F14}(11) under Condition 1]
 - ^{F16}(a)
 - (b) if the Bank of England decides to apply for a building society insolvency order or to exercise a stabilisation power under Part 1 of the Banking Act 2009, the Bank shall inform the person who gave the notice, within the period in Condition 3(a)][^{F17}; and
 - (c) if Condition 5 applies, the Bank of England must, within the period in Condition 3(a), inform the person who gave the notice whether or not it consents to the insolvency procedure to which the notice relates going ahead.]

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[References in this section to the insolvency procedure to which the notice relates are ^{F18}(12) to the procedure for the determination, resolution or appointment in question (see subsections (1) to (4)).]

Textual Amendments

- F1** Ss. 90D, 90E inserted (29.3.2009) by [The Building Societies \(Insolvency and Special Administration\) Order 2009 \(S.I. 2009/805\)](#), **art. 6**
- F2** Words in s. 90D heading substituted (1.4.2013) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2013 \(S.I. 2013/496\)](#), **art. 1(1)**, **Sch. 8 para. 35(6)** (with Sch. 12)
- F3** Words in s. 90D(5) substituted (1.4.2013) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2013 \(S.I. 2013/496\)](#), **art. 1(1)**, **Sch. 8 para. 35(2)** (with Sch. 12)
- F4** Words in s. 90D(5) inserted (10.1.2015) by [The Building Societies \(Bail-in\) Order 2014 \(S.I. 2014/3344\)](#), **arts. 1, 4(2)**
- F5** Words in s. 90D(7)(a) substituted (10.1.2015) by [The Building Societies \(Bail-in\) Order 2014 \(S.I. 2014/3344\)](#), **arts. 1, 4(3)(a)**
- F6** S. 90D(7)(b) substituted (10.1.2015) by [The Building Societies \(Bail-in\) Order 2014 \(S.I. 2014/3344\)](#), **arts. 1, 4(3)(b)**
- F7** S. 90D(8A) inserted (10.1.2015) by [The Building Societies \(Bail-in\) Order 2014 \(S.I. 2014/3344\)](#), **arts. 1, 4(4)**
- F8** Words in s. 90D(10) inserted (1.4.2013) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2013 \(S.I. 2013/496\)](#), **art. 1(1)**, **Sch. 8 para. 35(4)(a)** (with Sch. 12)
- F9** Words in s. 90D(10) substituted (10.1.2015) by [The Building Societies \(Bail-in\) Order 2014 \(S.I. 2014/3344\)](#), **arts. 1, 4(5)(a)**
- F10** S. 90D(10)(a) omitted (10.1.2015) by virtue of [The Building Societies \(Bail-in\) Order 2014 \(S.I. 2014/3344\)](#), **arts. 1, 4(5)(b)**
- F11** Word in s. 90D(10) inserted (1.4.2013) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2013 \(S.I. 2013/496\)](#), **art. 1(1)**, **Sch. 8 para. 35(4)(b)** (with Sch. 12)
- F12** Word in s. 90D(10)(b) omitted (10.1.2015) by virtue of [The Building Societies \(Bail-in\) Order 2014 \(S.I. 2014/3344\)](#), **arts. 1, 4(5)(c)**
- F13** S. 90D(10)(d) and word inserted (10.1.2015) by [The Building Societies \(Bail-in\) Order 2014 \(S.I. 2014/3344\)](#), **arts. 1, 4(5)(d)**
- F14** S. 90D(11) inserted (1.4.2013) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2013 \(S.I. 2013/496\)](#), **art. 1(1)**, **Sch. 8 para. 35(5)** (with Sch. 12)
- F15** Words in s. 90D(11) substituted (10.1.2015) by [The Building Societies \(Bail-in\) Order 2014 \(S.I. 2014/3344\)](#), **arts. 1, 4(6)(a)**
- F16** S. 90D(11)(a) omitted (10.1.2015) by virtue of [The Building Societies \(Bail-in\) Order 2014 \(S.I. 2014/3344\)](#), **arts. 1, 4(6)(b)**
- F17** S. 90D(11)(c) and word inserted (10.1.2015) by [The Building Societies \(Bail-in\) Order 2014 \(S.I. 2014/3344\)](#), **arts. 1, 4(6)(c)**
- F18** S. 90D(12) inserted (10.1.2015) by [The Building Societies \(Bail-in\) Order 2014 \(S.I. 2014/3344\)](#), **arts. 1, 4(7)**

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 5(11)-(14) inserted by [2007 c. 26 s. 1\(2\)](#)
- s. 5(13)(a) substituted by [S.I. 2013/496 Sch. 8 para. 4\(4\)](#)
- s. 7(6A)-(6C) inserted by [2007 c. 26 s. 1\(1\)\(a\)](#)
- s. 7(8A) inserted by [2007 c. 26 s. 1\(1\)\(c\)](#)
- s. 176ZB excluded by [S.I. 2017/400 reg. 14](#)
- s. 246ZA-246ZC excluded by [S.I. 2017/400 reg. 15](#)
- s. 246ZD excluded by [S.I. 2017/400 reg. 16](#)