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STATUTORY INSTRUMENTS

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**2009 No. 3056**

The Scottish and Northern Ireland Banknote Regulations 2009

PART 6

Insolvency

**Interpretation**

**19.**—(1) In this Part—

“appointed insolvency practitioner” means an insolvency practitioner or similar office holder appointed in respect of an insolvent bank for the purposes of an insolvency process;

“insolvency process” means—

- (a) liquidation;
- (b) bank insolvency;
- (c) the appointment of a provisional liquidator;
- (d) the appointment of a provisional bank liquidator;
- (e) administration;
- (f) bank administration;
- (g) the appointment of a provisional bank administrator;
- (h) receivership;
- (i) a composition between a bank and its creditors;
- (j) a scheme of arrangement of a bank’s affairs; and
- (k) the processes specified in Part 1 of Schedule 2;

“insolvent bank” means an authorised bank which has entered an insolvency process;

“note exchange programme” means the arrangements made by the Bank of England for the purposes of regulation 21(1);

“noteholder” means a person holding banknotes of an insolvent bank;

“protected period” means the duration of the note exchange programme.

(2) In this Part, a reference to a noteholder’s claim is a reference to a claim which is—

- (a) by a noteholder against an insolvent bank; and
- (b) for the payment of the total amount of money recorded as payable on the banknotes issued by that bank of which the noteholder is bearer.

**Notification of insolvency**

**20.** An authorised bank must notify the Bank of England without delay if it is, or is likely to be, unable to pay its debts as they fall due.

### **Note exchange programme**

**21.**—(1) The Bank of England must make arrangements in relation to an insolvent bank to ensure that—

- (a) noteholders may exchange the banknotes giving rise to their claims for an equal value of banknotes, coins or funds of such other bank as the Bank of England may specify; and
  - (b) the insolvent bank's backing assets are applied for the purpose of satisfying noteholders' claims.
- (2) The reference to another bank in paragraph (1)(a) includes a reference to the Bank of England.
- (3) The Bank of England shall have the right, for the purpose of such arrangements, to—
- (a) take immediate control of the insolvent bank's backing assets;
  - (b) exchange backing assets for other assets, and require the insolvent bank to hold those other assets as backing assets;
  - (c) transfer the backing assets to noteholders in satisfaction of their claims;
  - (d) satisfy the claims of noteholders with banknotes, coins or other funds belonging to the Bank of England and obtain reimbursement from the backing assets.

### **Rights of noteholders**

**22.**—(1) The noteholders in respect of an insolvent bank shall, during the protected period, have the right to have the bank's backing assets applied solely for the purpose of satisfying their claims.

(2) The right referred to in paragraph (1) may only be exercised by a noteholder by participating in a note exchange programme.

(3) At the end of the protected period, the right referred to in paragraph (1) shall cease.

### **Backing assets**

**23.**—(1) During the protected period, the Bank of England may issue directions in relation to the insolvent bank's backing assets, with which the bank must comply.

- (2) An insolvent bank's backing assets shall—
- (a) be excluded from any insolvency process; and
  - (b) during the protected period, be used solely for the purpose of satisfying noteholders' claims by means of the note exchange programme.
- (3) At the end of the protected period—
- (a) paragraph (2)(a) and regulation 9(1)(b) and (2) shall cease to apply to any remaining backing assets; and
  - (b) any remaining backing assets under the control of the Bank of England shall be returned to the insolvent bank or the appointed insolvency practitioner.

### **Note exchange programme: commencement and duration**

**24.**—(1) The Bank of England must determine the date on which a note exchange programme commences, which must be after the authorised bank has entered an insolvency process.

(2) Subject to regulation 11(2)(a), a note exchange programme shall continue for a period of one year, or for such longer period as the Treasury may determine after consulting the Bank of England.

(3) The Bank of England must make such arrangements as it considers appropriate for ensuring that the commencement of a note exchange programme and any extension by the Treasury of its

duration are brought to the attention of the noteholders, the insolvent bank and any appointed insolvency practitioner.

### **Unissued banknotes**

**25.**—(1) During the protected period—

- (a) the Bank of England shall have the right to take immediate control of the banknotes of the insolvent bank which have not been issued;
- (b) the Bank of England may issue directions in relation to the insolvent bank’s unissued banknotes, with which the bank must comply.

(2) All other claims to or interests in such banknotes shall be extinguished on the commencement of the protected period or, if the Bank of England has granted the bank permission under regulation 27(1) to issue notes for a transitional period, at the end of that transitional period.

### **Rules relating to a note exchange programme and destruction of banknotes**

**26.**—(1) The rules may make provision for the implementation of a note exchange programme and for the collection and destruction of an authorised bank’s banknotes.

(2) In particular, the rules may specify—

- (a) the procedure which noteholders must follow in order to make their claims;
- (b) requirements with which an authorised bank must comply;
- (c) assistance and information which an authorised bank must provide; and
- (d) permissions or consents which an authorised bank must grant to the Bank of England or a person acting on its behalf.

### **Temporary continuation of note issuing after insolvency**

**27.**—(1) The Bank of England may, with the consent of the Treasury, permit an authorised bank to issue banknotes for a transitional period of no more than six months after the bank loses the right to rely on section 213 of the Act by virtue of section 220(5) of the Act.

(2) The Bank of England may grant such permission before or after the bank loses the right to rely on section 213.

(3) Where the Bank of England permits a bank to issue banknotes under paragraph (1), the total value at any time during the transitional period of the bank’s banknotes in circulation and with the potential to enter circulation must not exceed the value of the bank’s backing assets at that time.

(4) The Bank of England may grant permission under paragraph (1) subject to conditions.

(5) The Bank of England may, by giving reasonable notice to the insolvent bank—

- (a) withdraw permission under paragraph (1);
- (b) amend or revoke a condition to which the permission is subject.

### **Notes issued after loss of note issuing rights**

**28.**—(1) This regulation applies where any banknotes are issued by an insolvent bank—

- (a) after it loses the right to rely on section 213 of the Act by virtue of section 220(5) or 223(5) of the Act; and
- (b) without the permission of the Bank of England under regulation 27(1).

(2) The holders of any such banknotes may participate in a note exchange programme despite the matters referred to in paragraph (1)(a) and (b).

### **Modification of law of insolvency**

**29.** Schedule 1, which contains modifications to the law of insolvency as it applies in relation to an authorised bank, has effect.

### **Processes serving a similar purpose to insolvency**

**30.** For the purposes of section 217(6)(h) of the Act (backing assets), the processes in the Republic of Ireland set out in Part 1 of Schedule 2 serve a similar purpose to the processes listed in section 217(6)(a) to (g).

### **Laws serving a similar purpose to Part 4 of the Financial Services and Markets Act 2000**

**31.** For the purposes of section 223(6) of the Act, the provision of the law of the Republic of Ireland referred to in Part 2 of Schedule 2 serves a similar purpose to Part 4 of the Financial Services and Markets Act 2000 (permission to carry on regulated activities).