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STATUTORY INSTRUMENTS

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**2009 No. 356**

**The Bank Insolvency (England and Wales) Rules 2009**

**PART 5**

**INFORMATION TO CREDITORS AND CONTRIBUTORIES**

**Report by bank liquidator**

**34.**—(1) The bank liquidator shall, at least once after the making of the bank insolvency order, make a report with respect to the proceedings in the bank insolvency and the state of the bank's affairs.

(2) Regardless of whether the liquidation committee has passed a full payment resolution, the first report under paragraph (1) shall be, within 8 weeks of the commencement of the bank insolvency, made publicly available on the bank's website.

- (3) The bank liquidator shall include in the report under paragraph (1)—
- (a) a statement that the proceedings are being held in the High Court and the relevant court reference number;
  - (b) the full name, registered office address, registered companies house number and any other trading names of the bank;
  - (c) details relating to the bank liquidator's appointment, including the date of appointment, and where there are joint liquidators, details of—
    - (i) which functions (if any) are to be exercised by the persons appointed acting jointly, and
    - (ii) which functions (if any) are to be exercised by any of all of the persons appointed.
  - (d) the names of the directors and secretary of the bank and details of any shareholdings in the bank that they have;
  - (e) an account of the circumstances giving rise to the bank insolvency;
  - (f) if a statement of affairs has been submitted, a copy of that statement;
  - (g) if a statement of affairs has yet to be submitted—
    - (i) subject to sub paragraph (ii), the names, addresses and details of any debts of the creditors, including details of any security held (or, in the case of depositors who still are creditors of the bank at the time the report is made, a single statement of their aggregate debt),
    - (ii) details of the financial position of the bank at the latest practicable date (which must, unless the court orders otherwise, be a date not earlier than the commencement of bank insolvency);
  - (h) the basis upon it has been proposed under rule 41, or, if the full payment resolution has yet to be passed, rule 18, that the bank liquidator's remuneration has been fixed;
  - (i) to the best of the bank liquidator's knowledge and belief—

- (i) an estimate of the value of the prescribed part (within the meaning of section 176A of the 1986 Act) regardless of whether—
  - (aa) the bank liquidator proposes to make an application to the court under section 176A(5) of that Act, or
  - (bb) section 176A(3) of that Act applies, and
- (ii) an estimate of the value of the company’s net property;
- (j) whether, and if so, why, the bank liquidator proposes to make an application to court under section 176A(5) of the 1986 Act;
- (k) a summary of—
  - (i) how Objective 1 is being or has been achieved and an estimate of the costs to the bank liquidator of achieving it,
  - (ii) the manner in which the affairs and business of the bank not involved in the achievement of Objective 1 have, since the commencement of the bank insolvency; been managed and financed, including, where any assets have been disposed of, the reasons for such disposals and the terms upon which such disposals were made, and
  - (iii) how the affairs and business of the bank will continue to be managed and financed; and
- (l) an explanation of how it is envisaged the purpose of the bank liquidation will be achieved, including whether a dividend will be paid and an estimate as to the amount of this dividend and how it is proposed that the bank liquidation shall end.

(4) Nothing in this rule is to be taken as requiring either estimate mentioned in paragraph (3) to include any information the disclosure of which could seriously prejudice the commercial interests of the company. If such information is excluded from the calculation the estimate shall be accompanied by a statement to that effect.

(5) The bank liquidator shall file with the court a copy of any report sent under this rule.

#### **Meaning of “creditors”**

35. Apply rule 4.44 of the 1986 Rules.

#### **Report where statement of affairs lodged**

36. Apply rule 4.45 of the 1986 Rules(1). For “official receiver”, substitute “Bank of England”.

#### **Statement of affairs dispensed with**

37. Apply rule 4.46 of the 1986 Rules.

#### **General rule as to reporting**

38.—(1) Apply rule 4.47 of the 1986 Rules.

(2) In paragraph (1), for “Chapter” substitute “Part”.

(3) In paragraph (2), for “official receiver”, substitute “Bank of England”.

#### **Bank insolvency stayed**

39.—(1) Apply rule 4.48 of the 1986 Rules.

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(1) Paragraph (1) was amended by [S.I. 1987/1919](#).

- (2) In paragraph (1), for “Chapter” substitute “Part”.
- (3) In paragraph (2), for “official receiver”, substitute “Bank of England”.