

SCHEDULE 1

Modified application of Parts 1 and 2 of the Insolvency Act 1986 to relevant societies

PART 3

Modified application of Part 2 of the Insolvency Act 1986 to relevant societies (further modifications)

9. Part 2 of the 1986 Act applies in relation to a relevant society with the further modifications set out in this Part and with any other necessary modification.

10. In this Part—

- (a) a reference to a numbered paragraph is a reference to the paragraph so numbered in Schedule B1 to the 1986 Act (administration)(1); and
- (b) a reference to a sub-paragraph is a reference to a sub-paragraph of such a paragraph.

Nature of administration

11. Paragraph 3 (purpose of administration) has effect as if a reference to the company's creditors as a whole included a reference to any member of the society to whom an amount is owed in respect of the member's shares where—

- (a) the society is an authorised deposit taker; and
- (b) the amount concerned is owed in respect of a deposit.

Appointment of administrator by court

12. Paragraph 12 (administration application) has effect as if—

- (a) in sub-paragraph (1)(c) the reference to the company's creditors included a reference to any member of the society who would be entitled to petition for the winding up of the society;
- (b) sub-paragraph (1) provided that—
 - (i) an application to the court for an administration order may also be made by the FCA in its capacity as the authority responsible for the registration of the society under the 1965 Act; and
 - (ii) in the case of a relevant society which is or has been an authorised person, such power is in addition to the power to make an administration application conferred on the FCA by section 359 of FSMA (administration order); and
- (c) sub-paragraph (2) required the applicant also to notify the FCA (unless the FCA is the applicant).

Appointment of administrator by holder of floating charge

13. In paragraph 14 (power to appoint) sub-paragraph (2) has effect as if—

- (a) paragraph (a) required the instrument to include the following statement—

(1) Schedule B1 was inserted by the Enterprise Act 2002, section 248(2) and Schedule 16; and was amended by the Financial Services Act 2012, Schedule 18, paragraphs 51 and 55, and by [S.I. 2003/2096](#), [2008/948](#) and [2008/1897](#). There are other amendments not relevant to this Order.

“Paragraph 14 of Schedule B1 to the Insolvency Act 1986, as applied in relation to relevant societies by article 2(2) of the Industrial and Provident Societies and Credit Unions (Arrangements, Reconstructions and Administration) Order 2014, applies to this floating charge.”;

- (b) in paragraph (c) the words “within the meaning given by section 29(2)” were omitted; and
- (c) paragraph (d) were omitted.

14. Paragraph 15 (restrictions on power to appoint) has effect as if for sub-paragraph (3) there were substituted—

“(3) In relation to a relevant society whose registered office is situated in Scotland, sub-paragraph (2) has effect as if the following were substituted for paragraph (a)—

- “(a) it has priority of ranking in accordance with section 464(4)(b) of the Companies Act 1985 as applied in relation to a relevant society by section 3 of the Industrial and Provident Societies Act 1967(2),”.

Effect of administration

15. In paragraph 41 (dismissal of administrative or other receiver), in sub-paragraph (3) ignore paragraph (b).

16. In paragraph 45 (publicity) sub-paragraph (3) has effect as if after paragraph (b) there were inserted—

- “(ba) a statement of account,
- (bb) an advertisement,”.

17. Paragraph 46 (announcement of administrator’s appointment) has effect as if sub-paragraph (2) required the administrator to send a notice of appointment also to every member of the society.

Process of administration

18. Paragraph 49 (administrator’s proposals) has effect as if—

- (a) after sub-paragraph (3) there were inserted—

“(3A) In the case of a relevant society, proposals under this paragraph may include provision for amending the society’s rules only if the Financial Conduct Authority has issued a statement to the effect that it would register an amendment in the terms proposed if copies were sent to it for registration in accordance with section 10 of the Industrial and Provident Societies Act 1965(3).

(3B) The proposals must not include any measure which would be contrary to the provisions of the Industrial and Provident Societies Acts 1965 to 1968 or the Credit Unions Act 1979.

(3C) Sub-paragraph (3A) does not apply if the intended effect of the proposals is that the society will cease to be registered under the Industrial and Provident Societies Act 1965.”;

- (b) in sub-paragraph (4)(c) the words “of whose address he is aware” were omitted; and
- (c) sub-paragraph (6) were omitted.

(2) Section 3 was substituted by the Companies Consolidation (Consequential Provisions) Act 1985 (c. 9), section 26, was amended by S.I. 2001/2617 and 2009/1941, and is prospectively substituted by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), section 49(1).

(3) Section 10 was amended by S.I. 1996/1738, 2001/2617, 2001/3649 and 2013/496.

- 19.** Paragraph 51 (requirement for initial creditors' meeting) has effect as if—
- (a) after sub-paragraph (1) there were inserted—
“(1A) Each copy of an administrator's statement of proposals sent to a member under paragraph 49(4)(c) must be accompanied by an invitation to a members' meeting.”; and
 - (b) in sub-paragraphs (2) and (3) the reference to an initial creditors' meeting included a reference to a members' meeting.
- 20.** Paragraph 52 (requirement for initial creditors' meeting) has effect as if—
- (a) in sub-paragraph (1) for “Paragraph 51(1)” there were substituted “Paragraph 51(1) and (1A)”;
 - (b) where the administrator is required to summon an initial creditors' meeting under sub-paragraph (2), it required the administrator also to summon a members' meeting for a date within the period mentioned in sub-paragraph (3).
- 21.** In paragraph 53 (business and result of initial creditors' meeting), in sub-paragraphs (1) and (2) the reference to an initial creditors' meeting includes a reference to a members' meeting.
- 22.** Paragraph 54 (revision of administrator's proposals) has effect as if—
- (a) in sub-paragraph (1) the reference to an initial creditors' meeting, and in sub-paragraphs (2) and (5) the reference to a creditors' meeting, included a reference to a members' meeting;
 - (b) after sub-paragraph (1) there were inserted—
“(1A) Where a revision is proposed in the case of a relevant society, sub-paragraphs (3A) to (3C) of paragraph 49 apply in relation to the revision.”;
 - (c) sub-paragraph (2) required the administrator—
 - (i) to summon a members' meeting (as well as a creditors' meeting); and
 - (ii) to send a statement of the proposed revision in the prescribed form (as well as to each creditor) to every member of the society;
 - (d) sub-paragraphs (2)(c) and (3) were omitted; and
 - (e) sub-paragraph (6) required the administrator to report any decision taken at a creditors' meeting and any decision taken at a members' meeting as soon as is reasonably practicable after the conclusion of both meetings.
- 23.** In paragraph 55 (failure to obtain approval of administrator's proposals) sub-paragraph (1) has effect as if after “an initial creditors' meeting” and “a creditors' meeting” there were inserted “or a members' meeting”.
- 24.** Paragraph 56 (further creditors' meetings) has effect as if—
- (a) in sub-paragraph (1)(a) the reference to creditors of the company whose debts amount to at least 10% of the total debts of the company were a reference to at least 10% of the total number of creditors of the society or to creditors whose debts amount to at least 10% of the total debts of the society;
 - (b) sub-paragraph (1) also required the administrator to summon a meeting of the society's members if—
 - (i) a meeting is requested in the same manner prescribed for a creditors' meeting by at least 10% of the total number of those members; or
 - (ii) the administrator is directed to do so by the court; and
 - (c) in sub-paragraph (2) the reference to a creditors' meeting included a reference to a members' meeting.

25. In paragraph 58 (correspondence instead of creditors' meeting)—

- (a) a reference to a creditors' meeting includes a reference to a members' meeting; and
- (b) in sub-paragraph (1) the reference to correspondence between the administrator and creditors includes a reference to correspondence between the administrator and members.

Functions of administrator

26. Paragraph 59 (general powers) has effect as if it required the administrator to ensure compliance with the rules of the society and the provisions of the Industrial and Provident Societies Acts 1965 to 1968 and the Credit Unions Act 1979.

27. Paragraph 61 (removal and appointment of director) has effect as if it required the administrator not to appoint any person to be an officer of the society unless that person is a fit and proper person to hold that position.

28. In paragraph 64 (exercise of management power), in sub-paragraph (2)(b) the reference to an instrument includes a reference to the rules of the society.

29. In paragraph 65 (distribution) sub-paragraph (1) has effect as if it provided that the administrator may make a distribution to a member of the society in relation to any amount owed by the society in respect of the member's shares where—

- (a) the society is an authorised deposit taker; and
- (b) the amount concerned is owed in respect of a deposit.

Ending administration

30. In paragraph 80 (termination of administration where objective achieved)—

- (a) sub-paragraph (4) has effect as if it required the administrator, where the administrator sends a copy of a notice filed under sub-paragraph (2) to creditors, to send a copy also to the members of the society; and
- (b) in sub-paragraph (5) a reference to a creditor includes a reference to a member of the society.

31. In paragraph 84 (moving from administration to dissolution) sub-paragraph (5) has effect as if it required the administrator, where the administrator sends a copy of a notice under sub-paragraph (1) to creditors, to send a copy also to the members of the society.

Replacing administrator

32. Paragraph 91 (supplying vacancy in office of administrator) has effect as if in sub-paragraph (1) after paragraph (c) there were inserted—

- “(ca) in the case of a relevant society, the Financial Conduct Authority,
- (cb) in the case of a relevant society which is or has been a PRA-authorised person (within the meaning given in section 2B(5) of the Financial Services and Markets Act 2000), the Financial Conduct Authority or the Prudential Regulation Authority.”

33. Paragraph 96 (substitution of administrator: competing floating charge-holder) has effect as if for sub-paragraph (4) there were substituted—

- “(4) In relation to a relevant society whose registered office is situated in Scotland, sub-paragraph (3) has effect as if the following were substituted for paragraph (a)—

- “(a) it has priority of ranking in accordance with section 464(4)(b) of the Companies Act 1985 as applied in relation to a relevant society by section 3 of the Industrial and Provident Societies Act 1967,”.”.

General

34. Paragraph 111 (interpretation) has effect as if—

- (a) “administrative receiver” and “floating charge” were given the same meaning as in Schedule A1 to the 1986 Act (as applied in relation to a relevant society)(4); and
- (b) there were inserted at the appropriate place—
 - ““relevant society” means a society which is registered under the Industrial and Provident Societies Act 1965 and is not—
 - (a) a private registered provider of social housing; or
 - (b) registered as a social landlord under Part 1 of the Housing Act 1996 or under Part 2 of the Housing (Scotland) Act 2010,”.

(4) For the meaning of “administrative receiver” see paragraph 1 of Schedule A1 as modified by paragraph 6(a) of this Schedule; and for the meaning of “floating charge” see the modification of Schedule A1 made by paragraph 7 of this Schedule.