

## SCHEDULES

### SCHEDULE 9

#### ARRANGEMENTS AND RECONSTRUCTIONS FOR COMPANIES IN FINANCIAL DIFFICULTY

#### PART 2

##### CONSEQUENTIAL AMENDMENTS

##### *Financial Services and Markets Act 2000*

- 20 (1) Part 24 (insolvency) is amended as follows.  
(2) After section 355 insert—

*“Arrangements and reconstructions: companies in financial difficulty*

##### **355A Powers of FCA and PRA to participate in proceedings**

- (1) This section applies where Part 26A of the Companies Act 2006 (“the 2006 Act”) (arrangements and reconstructions: companies in financial difficulty) applies in relation to a company which—
- (a) is, or has been, an authorised person or recognised investment exchange;
  - (b) is, or has been, any of the following—
    - (i) an electronic money institution;
    - (ii) an authorised payment institution;
    - (iii) a small payment institution;
    - (iv) a registered account information service provider;
  - (c) is, or has been, an appointed representative; or
  - (d) is carrying on, or has carried on, a regulated activity in contravention of the general prohibition.
- (2) A relevant applicant must give notice to the appropriate regulator of—
- (a) any application which the relevant applicant intends to make under section 901C(1) of the 2006 Act, and
  - (b) any application which the relevant applicant believes a creditor or member of the company has made, or intends to make, under section 901C(1) of that Act in relation to the company.
- (3) A relevant applicant may not make an application under section 901C(1) of the 2006 Act in relation to a company that is a PRA-regulated person without the consent of the PRA.
- (4) In this section “relevant applicant”, in relation to a company, means—

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- (a) the company;
  - (b) if the company is being wound up, the liquidator;
  - (c) if the company is in administration, the administrator.
- (5) The appropriate regulator is entitled to be heard at any hearing of an application made under section 901C or 901F of the 2006 Act in relation to the company.
- (6) Any notice or other document required to be sent to a creditor of the company must also be sent to the appropriate regulator.
- (7) A person appointed for the purpose by the appropriate regulator is entitled—
- (a) to attend any meeting of creditors of the company summoned under section 901C of the 2006 Act;
  - (b) to make representations as to any matter for decision at such a meeting.
- (8) In this section—
- “the appropriate regulator” means—
- (a) where the company is a PRA-regulated person, each of the FCA and the PRA, except that the reference in subsection (7) to a person appointed by the appropriate regulator is to be read as a reference to a person appointed by either the FCA or the PRA;
  - (b) in any other case, the FCA;
- “authorised payment institution”, “small payment institution” and “registered account information service provider” have the same meaning as in the Payment Services Regulations 2017 ([S.I. 2017/752](#)) (see regulation 2 of those Regulations);
- “electronic money institution” has the same meaning as in the Electronic Money Regulations 2011 ([S.I. 2011/99](#)) (see regulation 2 of those Regulations).

### **355B Enforcement of requirements imposed by section 355A**

- (1) For the purpose of enforcing a requirement imposed on a company by section 355A(2) or (3), the appropriate regulator may exercise any of the following powers (so far as it would not otherwise be exercisable)—
- (a) the power to publish a statement under section 205 (public censure);
  - (b) the power to impose a financial penalty under section 206.
- (2) Accordingly, sections 205 and 206, and so much of this Act as relates to either of those sections, have effect in relation to a requirement imposed by section 355A(2) or (3) as if—
- (a) any reference to an authorised person included (so far as would not otherwise be the case) a reference to a company falling within any of paragraphs (a) to (d) of section 355A(1),
  - (b) any reference to a relevant requirement included (so far as would not otherwise be the case) a reference to a requirement imposed by section 355A(2) or (3), and
  - (c) “the appropriate regulator” had the same meaning as in section 355A.

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- (3) In this section “the appropriate regulator” has the same meaning as in section 355A.”
- (3) In section 362 (powers of FCA and PRA to participate in administration proceedings)—
- (a) in subsection (6)—
- (i) after “arrangement” insert “in relation to which Part 26 of the Companies Act 2006 applies”, and
- (ii) for “the Companies Act 2006” substitute “that Act”;
- (b) after that subsection insert—
- “(6A) If, during the course of the administration of a company, a compromise or arrangement in relation to which Part 26A of the Companies Act 2006 applies is proposed between the company and its creditors, or any class of them, the appropriate regulator may apply to the court under section 901C or 901F of that Act.”
- (4) In section 365 (powers of FCA and PRA to participate in voluntary winding up proceedings)—
- (a) in subsection (7)—
- (i) after “arrangement” insert “in relation to which Part 26 of the Companies Act 2006 applies”, and
- (ii) for “the Companies Act 2006” substitute “that Act”;
- (b) after that subsection insert—
- “(7A) If, during the course of the winding up of the company, a compromise or arrangement in relation to which Part 26A of the Companies Act 2006 applies is proposed between the company and its creditors, or any class of them, the appropriate regulator may apply to the court under section 901C or 901F of that Act.”
- (5) In section 371 (powers of FCA and PRA to participate in proceedings for winding up by court)—
- (a) in subsection (5)—
- (i) after “arrangement” insert “in relation to which Part 26 of the Companies Act 2006 applies”, and
- (ii) for “the Companies Act 2006” substitute “that Act”;
- (b) after that subsection insert—
- “(5A) If, during the course of the winding up of a company, a compromise or arrangement in relation to which Part 26A of the Companies Act 2006 applies is proposed between the company and its creditors, or any class of them, the appropriate regulator may apply to the court under section 901C or 901F of that Act.”