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STATUTORY INSTRUMENTS

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**2010 No. 2580**

The Building Society Special Administration  
(England and Wales) Rules 2010

PART 3

Process of Building Society Special Administration

**Disapplication of set-off for protected deposits**

49.—(1) This rule applies if—

- (a) FSA Rules allow the FSCS to make gross payments of compensation in respect of protected deposits; and
- (b) all or part of a creditor's claim against the building society is in respect of protected deposits.

(2) In respect of protected deposits Rule 2.85 of the Insolvency Rules 1986 (as applied by Rule 60 below) shall apply and, for the purpose of determining the sums due from the building society to an eligible depositor under rule 2.85(3)—

- (a) where the total of the sums held by the building society for the eligible depositor in respect of protected deposits is no more than the prescribed limit then paragraph (3) applies; and
- (b) where the sums held exceed the prescribed limit, then paragraph (4) applies.

(3) Where this paragraph applies, there shall be deemed to have been no mutual dealings, regardless of whether there are any sums due from the depositor to the building society, and the sum due to the eligible depositor from the building society in respect of the protected deposits will be the total of the sums held by the building society for that depositor in respect of those deposits.

(4) Where this paragraph applies then—

- (a) any mutual dealings shall be treated as being mutual dealings only in relation to the amount by which the total of the sums due to the eligible depositor exceeds the prescribed limit, and
- (b) the sums due from the building society to the eligible depositor in respect of protected deposits will be—

- (i) the amount by which that total exceeds the prescribed limit, set off in accordance with rule 2.85(3); and

- (ii) the sums held by the bank for the eligible depositor in respect of protected deposits up to the prescribed limit.

(5) Any arrangements with regard to set-off between the building society and the eligible depositor in existence before the date of the notice referred to in rule 2.85(1) shall be subject to this rule in so far as they relate to protected deposits.

(6) In this rule—

“eligible depositor” has the meaning given to it by section 93(3) of the Banking Act 2009;

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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“FSA Rules” mean the FSA’s Compensation Sourcebook, as amended from time to time, made under section 213 of the Financial Services and Markets Act 2000<sup>(1)</sup>;

“prescribed limit” means the amount prescribed as the maximum compensation payable in respect of protected deposits under Part 15 of the Financial Services and Markets Act 2000; and

“protected deposit” means a protected deposit within the meaning given by the FSA Rules held by the building society at the date of the notice referred to in rule 2.85(1) but does not include a share in the society held by an eligible depositor.

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<sup>(1)</sup> 2008 c.8.