
STATUTORY INSTRUMENTS

2011 No. 1301

The Investment Bank Special Administration
(England and Wales) Rules 2011

PART 3

Process of Special Administration

CHAPTER 9

Progress reports

Content of progress report

- 122.**—(1) “Progress report” means a report which includes—
- (a) a statement that the proceedings are being held in the High Court and the court reference number;
 - (b) the full name, registered address and registered number of the investment bank;
 - (c) the full name and business address of the administrator;
 - (d) where there are joint administrators, details of the apportionment of functions;
 - (e) details of the basis fixed for the remuneration of the administrator under rules 29, 48 or 196 (or if not fixed at the date of the report, the steps taken during the period of the report to fix it);
 - (f) if the basis of remuneration has been fixed, a statement of—
 - (i) the remuneration charged by the administrator during the period of the report (subject to paragraph (5), and
 - (ii) where the report is the first to be made after the basis has been fixed, the remuneration charged by the administrator during the periods covered by the previous reports (subject to paragraph (5)), together with a description of the things done by the administrator during those periods in respect of which the remuneration was charged, irrespective in either case of whether payment was made in respect of that remuneration during the period of the report;
 - (g) a statement of the expenses incurred by the administrator during the period of the report, (irrespective of whether payment was made in respect of them during that period): the statement to contain a breakdown of expenses incurred in respect of the administrator pursuing Objective 1 of the Special Administration Objectives;
 - (h) whether the FSA have given a direction under regulation 16 and whether that direction has been withdrawn;
 - (i) details of progress during the period of the report, including a receipts and payments account (as detailed in paragraph (4) below);
 - (j) details of any assets of the investment bank that remain to be realised;

- (k) in a special administration (bank administration), details of any amounts received from a scheme under a resolution fund order;
 - (l) details of whether a bar date has been set and progress made in pursuit of Objective 1 of the Special Administration Objectives;
 - (m) a statement of the creditors' right to request information under rule 201 and their right to challenge the administrator's remuneration and expenses under rule 202; and
 - (n) any other relevant information for the creditors or the clients.
- (2) In a special administration (bank insolvency), before a full payment resolution has been passed, a progress report must contain details of—
- (a) how Objective A (as defined in paragraph 9 of Schedule 1 to the Regulations) is being achieved;
 - (b) the arrangements for managing and financing the investment bank while Objective A continues to be pursued;
 - (c) the basis for the administrator's remuneration fixed under rule 29 and whether that has been confirmed or redetermined in accordance with rule 197.
- (3) In a special administration (bank administration), before the Bank of England has given an Objective A Achievement Notice, a progress report must contain details of—
- (a) the extent of the business of the investment bank that has been transferred;
 - (b) the property, rights and liabilities that have been transferred or which the administrator expects to be transferred, under a power in Part 1 of the 2009 Act (special resolution regime);
 - (c) any requirements imposed on the investment bank for the purposes of the pursuit of Objective A (as defined in paragraph 3(a) of Schedule 2 to the Regulations), under a power in Part 1 of the 2009 Act;
 - (d) the arrangements for managing and financing the investment bank while Objective A continues to be pursued; and
 - (e) the basis for the administrator's remuneration fixed under rule 48 and whether that has been confirmed or redetermined in accordance with rule 198.
- (4) A receipts and payments account must be in the form of an abstract showing receipts and payments during the period of the report and, where the administrator has ceased to act, must also include a statement as to the amount paid to unsecured creditors by virtue of the application of section 176A of the 1986 Act.
- (5) Where the basis for the remuneration is a set amount under rule 196(2)(c), it may be shown as that amount without any apportionment to the period of the report.
- (6) Where the administrator has made a statement of pre-administration costs under rule 59(2)(m)—
- (a) if they are approved under rule 136 the first progress report after the approval must include a statement setting out the date of the approval and the amounts approved;
 - (b) each successive report, so long as any of the costs remain unapproved, must include a statement either—
 - (i) of any steps taken to get approval, or
 - (ii) that the administrator has decided, or (as the case may be) another insolvency practitioner entitled to seek approval has told the administrator of that practitioner's decision, not to seek approval.

(7) The progress report must, except where paragraph (6) applies, cover the period of 6 months commencing on the date on which the investment bank entered special administration and every subsequent period of 6 months.

(8) The period to be covered by a progress report ends on the date when an administrator ceases to act, and the period to be covered by each subsequent progress report is each successive period of 6 months beginning immediately after that date (subject to the further application of this paragraph when another administrator ceases to act).

Sending progress report

123.—(1) The administrator must, within 1 month of the end of the period covered by the report, send—

- (a) a copy to the creditors and to the clients, and
- (b) a copy to the registrar of companies;

but this paragraph does not apply when the period covered by the report is that of a final progress report under rule 220.

(2) The copy sent under paragraph (1)(a) must be accompanied by a statement setting out—

- (a) that the proceedings are being held in the High Court and the court reference number;
- (b) the full name, registered address and registered number of the investment bank;
- (c) the full name and address of the administrator;
- (d) the period covered by the progress report.

(3) The court may, on the administrator's application, extend the period of 1 month mentioned in paragraph (1), or make such other order in respect of the content of the report as it thinks just.

(4) If the administrator makes default in complying with this rule, the administrator is liable to a fine and, for continued contravention, to a daily default fine.