



Banking Act 2009

2009 CHAPTER 1

PART 2

BANK INSOLVENCY

Termination of process, &c.

113 Company voluntary arrangement

- (1) A bank liquidator may make a proposal in accordance with section 1 of the Insolvency Act 1986 (company voluntary arrangement).
- (2) Before making a proposal the bank liquidator—
 - (a) shall present a final report on the bank liquidation to the liquidation committee,
 - (b) shall send a copy of the report to—
 - [^{F1}(i) the PRA,
 - (ia) the FCA,]
 - (ii) the FSCS,
 - (iii) the Bank of England,
 - (iv) the Treasury, and
 - (v) the registrar of companies, and
 - (c) shall make the report available to members, creditors and contributories on request.
- (3) A proposal may be made only with the consent of the liquidation committee.
- (4) The liquidation committee may consent only if—
 - (a) it has passed a full payment resolution, and
 - (b) the bank liquidator is satisfied, as a result of arrangements made with the FSCS, that any depositor still eligible for compensation under the scheme will be dealt with in accordance with section 99(2)(a) or (b).

Changes to legislation: Banking Act 2009, Cross Heading: Termination of process, &c. is up to date with all changes known to be in force on or before 21 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (5) The bank liquidator must be the nominee (see section 1(2) of the 1986 Act).
- (6) Part 1 of the 1986 Act shall apply to a proposal made by a bank liquidator, with the following modifications.
- (7) In section 3 (summoning of meetings) subsection (2) (and not (1)) applies.
- (8) The action that may be taken by the court under section 5(3) (effect of approval) includes suspension of the bank insolvency order.
- (9) On the termination of a company voluntary arrangement the bank liquidator may apply to the court to lift the suspension of the bank insolvency order.

Textual Amendments

- F1** S. 113(2)(b)(i)(ia) substituted for s. 113(2)(b)(i) (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 17 para. 41](#) (with [Sch. 20](#)); S.I. 2013/423, art. 3, [Sch.](#)

Commencement Information

- I1** S. 113 in force at 21.2.2009 by [S.I. 2009/296](#), art. 3, [Sch. para. 2](#)

114 Administration

- (1) A bank liquidator who thinks that administration would achieve a better result for the bank's creditors as a whole than bank insolvency may apply to the court for an administration order (under paragraph 38 of Schedule B1 to the Insolvency Act 1986).
- (2) An application may be made only if the following conditions are satisfied.
- (3) Condition 1 is that the liquidation committee has passed a full payment resolution.
- (4) Condition 2 is that the liquidation committee has resolved that moving to administration might enable the rescue of the bank as a going concern.
- (5) Condition 3 is that the bank liquidator is satisfied, as a result of arrangements made with the FSCS, that any depositors still eligible for compensation under the scheme will receive their payments or have their accounts transferred during administration.

Commencement Information

- I2** S. 114 in force at 21.2.2009 by [S.I. 2009/296](#), art. 3, [Sch. para. 2](#)

115 Dissolution

- (1) A bank liquidator who thinks that the winding up of the bank is for practical purposes complete shall summon a final meeting of the liquidation committee.
- (2) The bank liquidator—
 - (a) shall present a final report on the bank insolvency to the meeting,
 - (b) shall send a copy of the report to—
 - [^{F2}(i) the PRA,
 - (ia) the FCA,]

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- (ii) the FSCS,
 - (iii) the Bank of England,
 - (iv) the Treasury, and
 - (v) the registrar of companies, and
 - (c) shall make the report available to members, creditors and contributories on request.
- (3) At the meeting the liquidation committee shall—
- (a) consider the report, and
 - (b) decide whether to release the bank liquidator.
- (4) If the liquidation committee decides to release the bank liquidator, the bank liquidator—
- (a) shall notify the court and the registrar of companies, and
 - (b) vacates office, and has release, when the court is notified.
- (5) If the liquidation committee decides not to release the bank liquidator, the bank liquidator may apply to the Secretary of State for release; if the application is granted, the bank liquidator—
- (a) vacates office when the application is granted, and
 - (b) has release from a time determined by the Secretary of State.
- (6) In the case of a bank liquidator in Scotland, a reference in subsection (5) to the Secretary of State is a reference to the Accountant of Court.
- (7) On receipt of a notice under subsection (4)(a) the registrar of companies shall register it.
- (8) At the end of the period of 3 months beginning with the day of the registration of the notice, the bank is dissolved (subject to deferral under section 116).

Textual Amendments

- F2** S. 115(2)(b)(i)(ia) substituted for s. 115(2)(b)(i) (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 17 para. 42](#) (with [Sch. 20](#)); S.I. 2013/423, art. 3, [Sch.](#)

Commencement Information

- I3** S. 115 in force at 21.2.2009 by [S.I. 2009/296](#), art. 3, [Sch. para. 2](#)

116 Dissolution: supplemental

- (1) The Secretary of State may by direction defer the date of dissolution under section 115, on the application of a person who appears to the Secretary of State to be interested.
- (2) An appeal to the court lies from any decision of the Secretary of State on an application for a direction under subsection (1).
- (3) Subsection (1) does not apply where the bank insolvency order was made by the court in Scotland; but the court may by direction defer the date of dissolution on an application by a person appearing to the court to have an interest.

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- (4) A person who obtains deferral under subsection (1) or (3) shall, within 7 days after the giving of the deferral direction, deliver a copy of the direction to the registrar of companies for registration.
- (5) A person who without reasonable excuse fails to comply with subsection (4) is liable to a fine and, for continued contravention, to a daily default fine, in each case of the same amount as for a contravention of section 205(6) of the Insolvency Act 1986 (dissolution).
- (6) The bank liquidator may give the notice summoning the final meeting under section 115 above at the same time as giving notice of any final distribution of the bank's property; but, if summoned for an earlier date the meeting shall be adjourned (and, if necessary, further adjourned) until a date on which the bank liquidator is able to report to the meeting that the winding up of the bank is for practical purposes complete.
- (7) A bank liquidator must retain sufficient sums to cover the expenses of the final meeting under section 115 above.

Commencement Information

I4 S. 116 in force at 21.2.2009 by [S.I. 2009/296](#), art. 3, [Sch. para. 2](#)

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 4(8A)(8B) inserted by [2012 c. 21 s. 96\(3\)](#)
- s. 8(2)(d) and word inserted by [2012 c. 21 s. 96\(4\)\(b\)](#)