STATUTORY INSTRUMENTS

2011 No. 1301

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

PART 3

Process of Special Administration

CHAPTER 1

Notice of appointment and statement of affairs

Notification and advertisement of administrator's appointment

51.—(1) The notice of appointment to be given by the administrator as soon as reasonably practicable after appointment under paragraph 46(2)(b)—

(a) shall be gazetted; and

(b) may be advertised in such other manner as the administrator thinks fit.

(2) In addition to the standard contents, the notice must state that an administrator has been appointed and the date of the appointment.

(3) The administrator shall as soon as practicable after appointment give notice of the appointment to—

(a) any enforcement officer who, to the administrator's knowledge, is charged with execution or other legal process against the investment bank;

(b) any person who, to the administrator's knowledge, has distrained against the investment bank; and

(c) any supervisor of a voluntary arrangement under Part 1 of the 1986 Act.

(4) The administrator shall send the notice of appointment to the registrar of companies within 7 days of the date of the order appointing them.

(5) Any notice required to be sent by the administrator under these Rules or under Schedule B1 must contain—

(a) details of the court where the proceedings are and the relevant court reference number;

(b) the full name, registered address and registered number of the investment bank; and

(c) the name and business address of the person or persons appointed as administrator and the date of their appointment.

Notice requiring statement of affairs

52.—(1) In this Part, "relevant person" has the meaning given to it in paragraph 47(3).

(2) The administrator shall send notice to each relevant person who the administrator deems appropriate requiring that person to prepare and submit a statement of the investment bank's affairs.

(3) The notice shall inform each of the relevant persons—

(a) that the proceedings are being held in the High Court and the court reference number;

(b) of the full name, registered address and registered number of the investment bank;

(c) of the name and the business address of the administrator;

(d) of the name and addresses of all others (if any) to whom the same notice has been sent;

(e) that the statement must be delivered to the administrator within 11 days of receipt of the notice;

(f) of the effect of paragraph 48(4) (penalty for non-compliance); and

(g) of the application to that person, and to each other relevant person, of section 235 of the 1986 Act(**1**) (duty to provide information and to attend on the administrator if required).

(4) The administrator shall, on request, provide details to the relevant person as to how the statement should be prepared.

Details of the client assets held by the investment bank

53.—(1) The statement of affairs shall include particulars of the client assets held by the investment bank..

(2) The particulars shall include—

(a) the names and addresses of clients of the investment bank for whom the investment bank holds client assets, but where these clients are individuals, the administrator shall not disclose their names and addresses;

(b) details as to the amount of client assets held, categorised into type and securities of a particular description;

(c) details as to the types of ownership those clients assert over the client assets; and

(d) details as to any security interest held by the investment bank or another person in respect of the client assets.

Verification and filing

54.—(1) In addition to the information required under rule 53, the statement of affairs shall be in Form 2.14B, contain all the particulars required by that form and be verified by a statement of truth by the relevant person.

(2) The administrator may require any relevant person to submit a statement of concurrence in Form 2.15B stating their concurrence in the statement of affairs and where the administrator does so, the relevant person making the statement of affairs shall be informed of that fact.

(3) The statement of affairs shall be delivered by a relevant person making the statement of truth, together with a copy, to the administrator, and the relevant person shall also deliver a copy of the statement of affairs to all those persons whom the administrator has required to make a statement of concurrence.

(4) A person required to submit a statement of concurrence shall do so before the end of the period of 5 business days (or such other period as the administrator may agree) beginning on the day on which the statement of affairs being concurred with is received by that person.

(5) A statement of concurrence may be qualified in respect of matters dealt with by the statement of affairs, where the maker of the statement of concurrence is not in agreement with the relevant person, or where they consider the statement of affairs to be erroneous or misleading, or where they are without the direct knowledge necessary for concurring with it.

(**1**) Section 235 was amended by the Enterprise Act 2002 (c. 40) section 248(3), Schedule 17 paragraphs 9, 24.

(6) Every statement of concurrence shall be verified by a statement of truth and be delivered to the administrator by the person who makes it, together with a copy of it.

(7) Subject to rule 55, the administrator shall as soon as reasonably practicable send a copy of the statement of affairs and any statement of concurrence to the registrar of companies and file them with the court.

(8) In this rule, a reference to a specific form shall be to that form as prescribed in the Insolvency Rules 1986(**2**), with any modification that the person using the form thinks desirable to reflect the nature of special administration.

Limited disclosure

55.—(1) Where the administrator thinks that it would prejudice the conduct of the administration (or might reasonably be expected to lead to violence against any person) for the whole or part of the statement of the investment bank's affairs to be disclosed, the administrator may apply to the court for an order of limited disclosure in respect of the statement.

(2) The court may, on such application, order that the statement or, as the case may be, the specified part of it, shall not be filed with the registrar of companies.

(3) The administrator shall, as soon as reasonably practicable, send a copy of the order and the statement of affairs (to the extent provided by the order) and any statement of concurrence to the registrar of companies.

(4) If a creditor or a client seeks disclosure of a statement of affairs or a specified part of it in relation to which an order has been made under this rule, that person may apply to the court for an order that the administrator disclose it or a specified part of it.

(5) An application under paragraph (4) shall be supported by written evidence in the form of a witness statement.

(6) Where a special administration (bank administration) order has been made, and where an application has been made under paragraph (4), the Bank of England and the FSA may appear and be heard at the hearing or may make written representations.

(7) The applicant shall give the administrator notice of the application at least 3 business days before the hearing.

(8) The court may make any order for disclosure subject to any conditions as to confidentiality, duration, the scope of the order in the event of any change of circumstances, or other matters as it sees just.

(9) If there is a material change in circumstances rendering the limit on disclosure or any part of it unnecessary, the administrator shall, as soon as reasonably practicable after the change, apply to the court for the order or any part of it to be rescinded.

(10) The administrator shall, as soon as reasonably practicable after the making of an order under paragraph (9), file a copy of the statement of affairs to the extent provided by the order with the registrar of companies.

(11) When the statement of affairs is filed in accordance with paragraph (10), the administrator shall, where they have sent a statement of proposals under paragraph 49, or, in a special administration (bank administration), paragraph 9 of Schedule 2 to the Regulations, provide the creditors and clients with a copy of the statement of affairs as filed, or a summary thereof.

(12) The provisions of CPR Part 31 shall not apply to an application under this rule.

(**2**) S.I. 1986/1925; this instrument has been amended by a number of instruments: relevant amendments have been made by S.I. 1987/1919, S.I. 2002/1307, S.I. 2003/730 and S.I. 2010/686.

Release from duty to submit statement of affairs

56.—(1) The power of the administrator under paragraph 48(2) to give a release from the obligation imposed by paragraph 47(1) or to grant an extension of time may be exercised at the administrator's own discretion, or at the request of any relevant person.

(2) A relevant person may, if they request a release of extension of time and it is refused by the administrator, apply to the court for it and when such an application is made, the period referred to in paragraph 48(1) is suspended pending the court's decision.

(3) The court may, if it thinks that no sufficient cause is shown for the application, dismiss it without a hearing but it shall not do so without giving the relevant person at least 5 business days' notice, upon receipt of which the relevant person may request the court to list the application for a without notice hearing.

(4) If the application is not dismissed under paragraph (3), the court shall fix a venue for it to be heard, and give notice to the relevant person and to the FSA accordingly.

(5) Where an application has been made under paragraph (2), the FSA may appear and be heard at the hearing and in a special administration (bank administration), the Bank of England may also be given notice of the hearing and may appear and be heard at the hearing or may make written representations.

(6) The relevant person shall, at least 14 days before the hearing, send to the administrator a notice stating the venue and accompanied by a copy of the application and of any evidence which the relevant person intends to adduce in support of it.

(7) The administrator may appear and be heard on the application and, whether or not they appear, the administrator may file a written report of any matters which they consider ought to be drawn to the court's attention.

(8) If a report is filed under paragraph (7), a copy of it shall be sent by the administrator to the relevant person not later than 5 business days before the hearing.

(9) Sealed copies of any order made on the application shall be sent by the court to the relevant person and the administrator.

(10) On any application under this rule, the relevant person's costs shall be paid in any event by that person and, unless the court otherwise orders, no allowance towards them shall be made as an expense of the special administration.

Expenses of statement of affairs

57.—(1) A relevant person making the statement of the investment bank's affairs or a statement of concurrence shall be allowed, and paid by the administrator as an expense of the special administration, any expenses incurred by the relevant person in so doing which the administrator considers reasonable.

(2) Any decision by the administrator under this rule is subject to appeal to the court.

(3) Nothing in this rule relieves a relevant person from any obligation with respect to the preparation, verification and submission of the statement of affairs or to the provision of information to the administrator.

Submission of accounts

58.—(1) Any of the persons specified in section 235(3) of the 1986 Act shall, at the request of the administrator, provide the administrator with the investment bank's accounts as at such date and for such period as the administrator may specify.

(2) The period specified may begin from a date up to 3 years preceding the date the investment bank entered special administration, or from an earlier date to which the audited accounts of the investment bank were last prepared.

(3) The court may, on the administrator's application, require accounts for an earlier period.

(4) Rule 57 applies (with the necessary modification) in relation to the accounts to be provided under this rule as it applies to the statement of affairs.

(5) The accounts shall (if the administrator so requires) be verified by a statement of truth and (whether or not so verified) be delivered within 21 days of the request under paragraph (1) (or such longer period as the administrator may allow).

CHAPTER 2

Statement of proposals

Administrator's proposals

59.—(1) The administrator shall under paragraph 49 (or in the case of a special administration (bank administration) paragraph 7 of Schedule 2 to the Regulations) make a statement of proposals which shall be sent to the registrar of companies.

(2) In addition to the information required by that paragraph, the statement of proposals must include—

(a) a statement that the proceedings are being held in the High Court and the court reference number;

(b) the full name, any other trading names, the registered address and registered number of the investment bank;

(c) details of the administrator's appointment (including the date of appointment);

(d) in the case of joint administrators, details of the apportionment of functions;

(e) the names of the directors and secretary of the investment bank and details of any shareholdings in the investment bank they have;

(f) an account of the circumstances giving rise to the application for the appointment of the administrator;

(g) if a statement of the investment bank's affairs has been submitted, a copy or summary of it with the administrator's comments, if any;

(h) if an order limiting the disclosure of the statement of affairs has been made under rule 55, a statement of that fact, as well as—

(i) details of who provided the statement of affairs,

(ii) the date of the order for limited disclosure, and

(iii) the details or a summary of the details that are not subject to that order;

(i) if a full statement of affairs is not provided, the names, addresses and debts of the creditors including details of any security held (or in case of any depositors of the investment bank, a single statement of their aggregate debt);

(j) if a full statement of affairs is not provided, or if no statement of affairs is provided, the names and addresses of clients of the investment bank together with a description of the amount and type of client assets held, the type of ownership the clients have in respect of those assets and details as to any security interest held by the investment bank or another person in respect of those assets, but where those clients are individuals, their names and addresses are not to be disclosed;

(k) if no statement of affairs is provided, details of the financial position of the investment bank at the latest practicable date (which must, unless the court otherwise orders, be a date not earlier than that on which the investment bank entered special administration), a list of the investment bank's creditors including their names, addresses and details of their debts, including any security held (or in case of any depositors of the investment bank, a single statement of their aggregate debt) and an explanation as to why there is no statement of affairs;

(l) the basis upon which it is proposed that the administrator's remuneration should be fixed under rule 196, and, if this basis has already been set by the Objective A committee or by the Bank of England in respect of Objective A, or in respect of Objectives 2 and 3 of the special administration objectives, details as to what has been set and any proposals for this to be changed;

(m) a statement complying with paragraph (4) of any pre-administration costs charged or incurred by the administrator or, to the administrator's knowledge, by any other person qualified to act as an insolvency practitioner;

(n) details of whether (and why) the administrator proposes to apply to the court under section 176A(5) of the 1986 Act as applied by regulation 15 (unless the administrator intends to propose a company voluntary arrangement);

(o) an estimate of the value of the prescribed part for the purposes of section 176A (unless the investment bank intends to propose a company voluntary arrangement) certified as being made to the best of the administrator's knowledge and belief;

(p) an estimate of the value of the investment bank's net property (unless the administrator intends to propose a company voluntary arrangement) certified as being made to the best of the administrator's knowledge and belief;

(q) in—

(i) a special administration, an explanation of the priority that has been given since the commencement of special administration to the special administration objectives (and where the FSA has given a direction under regulation 16, an explanation as to how this has dictated the priority given to a particular objective), and

(ii) a special administration (bank insolvency) or a special administration (bank administration)—

(aa) a summary of how Objective A is being or has been achieved and the resources devoted to the pursuit of Objective A; and

(bb) an explanation of the priority that has been given since the commencement of special administration to the special administration objectives (and where the FSA has given a direction under regulation 16, an explanation as to how this has dictated the priority given to a particular objective);

(r) the manner in which the affairs and business of the investment bank have been managed and financed since the date of the administrator's appointment (including the reasons for and terms of any disposal of assets);

(s) details as to the order in which the administrator aims to pursue the special administration objectives and the manner in which the affairs and business of the investment bank will be managed and financed if the administrator's proposals are approved;

(t) whether the administrator expects a dividend to be paid to creditors and an estimate of the amount of this dividend;

(u) how it is proposed that the special administration shall end (winding-up or voluntary arrangement), in accordance with Objective 3 as set out in regulation 10(1)(c); and

(v) any other information which the administrator thinks necessary to enable creditors and clients to vote for the approval of the statement of proposals.

(3) In this Part—

(a) "pre-administration costs" are—

(i) fees charged, and

(ii) expenses incurred,

by the administrator, or another person qualified to act as an insolvency practitioner, before the investment bank entered special administration but with a view to its doing so; and

(b) "unpaid pre-administration costs" are pre-administration costs which had not been paid when the investment bank entered special administration.

(4) A statement of pre-administration costs complies with this paragraph if it includes—

(a) details of any agreement under which the fees were charged and expenses incurred, including the parties to the agreement and the date on which the agreement was made;

(b) details of the work done for which the fees were charged and expenses incurred;

(c) an explanation of why the work was done before the investment bank entered special administration and how it would further the achievement of the special administration objectives;

(d) a statement of the amount of the pre-administration costs, setting out separately—

(i) the fees charged by the administrator,

(ii) the expenses incurred by the administrator,

(iii) the fees charged (to the administrator's knowledge) by any other person qualified to act as an insolvency practitioner (and, if more than one, by each separately), and

(iv) the expenses incurred (to the administrator's knowledge) by any other person qualified to act as an insolvency practitioner (and, if more than one, by each separately);

(e) a statement of the amounts of pre-administration costs which have already been paid (set out separately as under sub-paragraph (d)),

(f) the identity of the person who made the payment or, if more than one person made the payment, the identity of each such person and of the amounts paid by each such person set out separately as under sub-paragraph (d),

(g) a statement of the amounts of unpaid pre-administration costs (set out separately as under sub-paragraph (d)), and

(h) a statement that the payment of unpaid pre-administration costs as an expense of the administration is—

(i) subject to approval under rule 136; and

(ii) not part of the proposals subject to approval under paragraph 53.

(5) The statement of proposals—

(a) may exclude information the disclosure of which could seriously prejudice the commercial interests of the investment bank, and

(b) must include a statement of any exclusion.

(6) In the case of special administration (bank administration) following transfer to a bridge bank under section 12(2) of the 2009 Act—

(a) the statement of proposals must state whether any payment is to be made to the investment bank from a scheme under a resolution fund order; or

(b) if that information is unavailable when the statement of proposals is made, the administrator must issue a supplemental statement when the information is available.

(7) Following an application by the administrator under paragraph 107, where the court orders an extension of the period of time in paragraph 49(5), the administrator shall notify—

(a) every creditor of the investment bank of whose address the administrator is aware;

(b) every client of the investment bank of whose claim the administrator is aware and has a means of contacting; and

(c) the FSA,

as soon as possible after the order is made.

(8) Where the administrator wishes to publish a notice under paragraph 49(6) or gives notice that the statement of proposals is to be provided free of charge to a market infrastructure body, either notice shall be advertised in such a manner as the administrator thinks fit.

(9) In addition to the standard contents, a notice under paragraph (7) must state—

(a) that persons can write for a copy of the statement of proposals for achieving the purpose of administration; and

(b) the address to which to write.

(10) This notice must be published as soon as reasonably practicable after the administrator sends out the statement of proposals in accordance with paragraph 49(4) (or in the case of a special administration (bank administration) under paragraph 9 of Schedule 2 to the Regulations), but no later than 8 weeks (or such other period as may be agreed by the creditors and clients or as the court may order) from the date that the investment bank entered special administration.

Limited disclosure of the statement of proposals

60.—(1) Where the administrator thinks that it would prejudice the conduct of the administration (or might reasonably be expected to lead to violence against any person) for any of the matters specified in rule 59(2)(i) to (k) to be disclosed, the administrator may apply to the court for an order of limited disclosure in respect of any specified part of the statement of proposals.

(2) The court may, on such application, order that some or all of the specified part of the statement must not be sent to the registrar of companies or to creditors, clients or members of the company as otherwise required by paragraph 49(4), or, in the case of a special administration (bank administration), paragraph 9 of Schedule 2 to the Regulations.

(3) The administrator must as soon as reasonably practicable send to the persons specified in paragraph (2) the statement of proposals (to the extent provided by the order) and an indication of the nature of the matter in relation to which the order was made.

(4) The administrator must also send a copy of the order to the registrar of companies.

(5) A creditor who seeks disclosure of a part of the statement of proposals in relation to which an order has been made under this rule may apply to the court for an order that the administrator disclose it, and the application must be supported by written evidence in the form of a witness statement.

(6) Where a special administration (bank administration) order has been made and an application has been made under paragraph (5), the Bank of England and the FSA may appear and be heard at the hearing or may make written representations.

(7) The applicant must give the administrator notice of the application at least 3 business days before the hearing.

(8) The court may make any order for disclosure subject to any conditions as to confidentiality, duration, the scope of the order in the event of any change of circumstances, or other matters as it sees just.

(9) If there is a material change in circumstances rendering the limit on disclosure or any part of it unnecessary, the administrator must, as soon as reasonably practicable after the change, apply to the court for the order or any part of it to be rescinded.

(10) The administrator must, as soon as reasonably practicable after the making of an order under paragraph (9), send to the persons specified in paragraph (2) a copy of the statement of proposals to the extent provided by the order.

(11) The provisions of CPR Part 31 do not apply to an application under this rule.

CHAPTER 3

Initial meeting to consider proposals

Initial meeting

61.—(1) As soon as reasonably practicable after an invitation to the initial meeting has been sent out in accordance with paragraph 51(1) (or in a special administration (bank administration), in accordance with paragraph 10 of Schedule 2 to the Regulations), the administrator must have gazetted—

(a) that an initial meeting of creditors and clients is to take place;

(b) the venue fixed for the meeting; and

(c) the full name and business address of the administrator.

(2) The information required to be gazetted under paragraph (1) may also be advertised in such other manner as the administrator thinks fit.

(3) Where the court orders an extension to the period set out in paragraph 51(2)(b), the administrator shall notify each person who was sent notice in accordance with paragraph 49(4) (or in a special administration (bank administration), paragraph 9 to Schedule 2 to the Regulations).

(4) In a special administration (bank insolvency) or a special administration (bank administration) the Bank of England and the FSCS shall also be invited to the initial meeting, and where paragraph (3) applies, shall be notified of the extension of the period set out in paragraph 51(2)(b).

(5) This rule shall not apply where the FSA has given a direction under regulation 16 and the direction has not been withdrawn.

Notice to officers

62.—(1) Where rule 61 applies, notice to attend the meeting must be given to every present or former officer of the investment bank whose presence the administrator thinks is required at the same time that notice is sent to creditors and clients.

(2) That notice must contain—

(a) a statement that the proceedings are being held in the High Court and the court reference number;

(b) the full name, registered address, registered number and any other trading names of the investment bank;

(c) the full name and business address of the administrator; and

(d) details of the venue of the meeting.

(3) Every person who receives a notice under paragraph (1) must attend.

Business of the initial meeting

63.—(1) At the initial meeting of creditors and clients—

(a) a creditors' committee may be established in accordance with Chapter 8 of this Part; and

(b) the statement of proposals shall be approved as follows.

(2) The proposals shall not be approved unless both classes of voter have voted to approve them.

(3) The creditors and the clients shall vote separately on whether to approve the proposals.

(4) In a special administration (bank insolvency) (and in a special administration (bank administration) if there are depositors) the FSCS shall be entitled to vote as a creditor under this rule and rule 86 has effect with respect to its voting rights.

(5) If the proposals are approved by a class of voter subject to a modification, the proposals will not be considered approved by the other class unless that other class has approved the proposals as modified.

(6) Where the administrator is unable to get the requisite majority of a class of voter for approval of the statement of proposals (with or without any modifications), rule 64 applies.

(7) Paragraph (6) shall not apply in a special administration (bank administration).

(8) This rule shall not apply where the FSA has given a direction under regulation 16 and the direction has not been withdrawn.

Adjournment of meeting to approve the statement of proposals

64.—(1) If, at the initial meeting of creditors and clients, there is not the requisite majority for approval of the statement of proposals (with or without any modifications), the administrator may, and shall if a resolution is passed to that effect, adjourn the meeting for not more than 14 days (subject to any direction by the court).

(2) If there are subsequently further adjournments, the final adjournment must not be to a day later than 14 days after the date on which the meeting was originally held, (subject to any direction by the court).

(3) Where a meeting is adjourned under this rule, proofs and proxies may be used if lodged at any time up to 12.00 hours on the business day immediately before the adjourned meeting.

(4) Where at the initial meeting, the proposals were approved (whether or not with modifications) by one class of voter but not the other, that approval shall no longer stand at the adjourned meeting unless the version of the proposals to be voted on has not been modified from the version that was approved.

(5) If the administrator is unable to get the requisite majority of creditors or clients for approval of the statement of proposals, the administrator may apply to the court for directions under paragraph 63.

(6) This rule shall not apply in a special administration (bank administration).

Revision of the statement of proposals

65.—(1) The administrator shall under paragraph 54 (or regulation 18 or paragraph 11 of Schedule 2 to the Regulations as the case may be) make a statement setting out the proposed revisions to the statement of proposals ("the revised statement").

(2) The revised statement, which shall be sent out in accordance with paragraph 54(2)(b) and (c), shall include—

(a) a statement that the proceedings are being held in the High Court and the court reference number;

(b) the full name, registered address, registered number and any other trading names of the investment bank;

(c) details of the administrator's appointment (including the date of appointment);

(d) in the case of joint administrators, details of the apportionment of functions;

(e) the names of the directors and secretary of the investment bank and details of any shareholdings in the investment bank they have;

(f) a summary of the initial proposals and the reasons for proposing a revision;

(g) details of the proposed revision including details of the administrator's assessment of the likely impact of the proposed revision upon the creditors generally or upon each class of creditor or on the clients (as the case may be); and

(h) any other information that the administrator thinks necessary to enable creditors to decide whether or not to vote for the proposed revisions.

(3) The FSA shall be sent a copy of the revised statement at the same time as the revised statement is sent out.

(4) Where the administrator considers that the revision proposed will only affect creditors or, as the case may be, clients, the notice of the meeting to consider the revised proposals shall be sent to both creditors and clients, but will state who is invited to the meeting.

(5) In a special administration (bank insolvency) or a special administration (bank administration) the Bank of England and the FSCS shall also be invited to the meeting.

(6) Subject to paragraph 54(3), within 5 business days of sending out the revised statement the administrator shall send a copy of the statement to every member of the investment bank.

(7) Any notice to be published under paragraph 54(3) shall be advertised in such a manner as the administrator thinks fit.

(8) The notice shall be published as soon as reasonably practicable after the administrator sends the revised statement in accordance with paragraph 54(2) and, in addition to the standard contents, shall—

(a) state that members can write for a copy of the statement of revised proposals and

(b) the address to which to write.

(9) Paragraphs (4) and (5) shall not apply—

(a) in a special administration (bank administration) where—

(i) the FSA has given a direction under regulation 16 and has not withdrawn its direction at the time that the administrator proposes a revision to the statement of proposals, and

(ii) Objective A has been achieved; and

(b) in a special administration or a special administration (bank insolvency) where the FSA has given a direction under regulation 16 and has not withdrawn its direction at the time that the administrator proposes a revision to the statement of proposals.

(10) In this rule, a reference to—

"paragraph 54(2)" also includes a reference to regulation 18(4) or paragraph 13(4) of Schedule 2 to the Regulations as the case may be; and

"paragraph 54(3)" also includes a reference to regulation 18(5) or paragraph 13(5) of Schedule 2 to the Regulations as the case may be.

Meeting to approve the revised statement of proposals

66.—(1) This rule applies to a meeting of creditors, a meeting of clients or a meeting of creditors and clients to approve the revisions to the statement of proposals.

(2) Where the revisions are being approved by a meeting of creditors and clients—

(a) the creditors and the clients shall vote separately on whether to approve the revisions;

(b) the revisions shall not be approved unless both classes of voter have voted to approve them; and

(c) where the revisions are approved by a class of voter subject to a modification, the proposals will not be considered approved by the other class unless that other class has approved the proposals as modified.

(3) In a special administration (bank insolvency) (and in a special administration (bank administration) if there are depositors) the FSCS shall be entitled to vote as a creditor under this rule and rule 86 has effect with respect to its voting rights.

(4) In a special administration or a special administration (bank insolvency), where the FSA has given a direction under regulation 16 and has not withdrawn its direction at the time that the administrator proposes a revision to the statement of proposals, this rule shall not apply.

(5) In a special administration (bank administration), where the FSA has given a direction under regulation 16 and has not withdrawn its direction at the time that the administrator proposes a revision to the statement of proposals—

(a) if Objective A has not been achieved, paragraph (2)(c) shall not apply; and

(b) if Objective A has been achieved, this rule shall not apply.

Notice to creditors and clients

67. As soon as reasonably practicable after the conclusion of a meeting of creditors or clients, or of creditors and clients to consider the administrator's proposals or revised proposals, the administrator shall—

(a) send notice of the result of the meeting to every person who received a copy of the original proposals;

(b) attach a copy of the proposals considered at the meeting to the notice sent to each creditor and each client who did not receive notice of the meeting but of whose claim the administrator has subsequently become aware; and

(c) file with the court a copy of the proposals considered at the meeting and notice of the result of the meeting.

CHAPTER 4

Meetings generally

Meetings generally

68. This chapter, except where different provision is made in the Regulations or these Rules, applies to meetings summoned by the administrator under—

(a) paragraph 51 (initial meeting);

(b) paragraph 54(2) (meeting to consider revision to the administrator's proposals);

(c) paragraph 62 (general power to summon meetings),

or following a request or a direction from the court under paragraph 56 (further creditors' meetings).

Venue

69.—(1) In fixing the venue for a meeting, the convener must have regard to the convenience of those attending.

(2) Meetings must be summoned for commencement between 10.00 and 16.00 hours on a business day (subject to any direction by the court).

(3) In this rule, "meeting" includes an adjourned meeting.

Notice of meeting by individual notice: when and where sent

70.—(1) This rule applies except where the court orders under rule 72 that notice of a meeting be given by advertisement only.

(2) Notice summoning a meeting must be delivered at least 14 days before the day fixed for the meeting as provided in paragraph (3).

(3) Notice must be sent—

(a) for a meeting involving the creditors, to all the creditors of whose address the administrator is aware and who had claims against the investment bank at the date when it entered administration (except for those who have subsequently been paid in full);

(b) for a meeting involving the clients, to all clients of whose claim the administrator is aware (except for those who have no outstanding claim to clients assets held by the investment bank) and has a means of contacting;

(c) for a meeting of contributories, to every person appearing (by the investment bank's books or otherwise) to be a contributory of the investment bank.

(4) The FSA, and in a special administration (bank insolvency) or special administration (bank administration), the Bank of England and the FSCS, shall also be notified of any such meeting.

Notice of meeting by individual notice: content and accompanying documents

71.—(1) This rule applies except where the court orders under rule 72 that notice of a meeting be given by advertisement only.

(2) Notice summoning a meeting must specify the purpose of and venue for the meeting and state that claims or proofs and (if applicable) proxies must be lodged at a specified place not later than 12.00 hours on the business day before the date fixed for the meeting in order that creditors or clients may be entitled to vote at the meeting.

(3) Forms of proxy complying with rule 125 must be sent out with every notice summoning a meeting.

Notice of meeting by advertisement only

72.—(1) The court may order that notice of any meeting under these Rules be given by advertisement and not by individual notice to the persons concerned.

(2) In considering whether so to order, the court must have regard to the cost of advertisement, the amount of assets available and the extent of the interest of creditors, clients, members and contributories or any particular class of them.

Content of notice for meetings

73.—(1) Notice of a meeting of the creditors, clients or a meeting of creditors and clients, must contain the following information—

(a) a statement that the proceedings are being held in the High Court and the court reference number;

(b) the full name, registered address, registered number and any other trading names of the investment bank;

(c) the full name and business address of the administrator;

(d) details of the venue of the meeting;

(e) whether the meeting is—

(i) an initial creditors' and clients' meeting under paragraph 51,

(ii) to consider revisions to the administrator's proposals under paragraph 54(2),

(iii) a further creditors', or creditors and clients', or clients' meeting under paragraph 56, or

(iv) a meeting under paragraph 62,

unless the court orders that it be given by advertisement only in accordance with rule 72.

(2) Where the court orders an extension to the period set out in paragraph 51(2)(b), the administrator shall notify each person who was sent notice in accordance with paragraph 49(4) (or in a special administration (bank administration), paragraph 9 to Schedule 2 to the Regulations).

Gazetting and advertisement of meetings

74.—(1) The administrator, in convening a meeting under these Rules, must have gazetted a notice which, in addition to the standard contents, must state—

(a) that a creditors', clients', creditors and clients', members' or contributories' meeting is to take place;

(b) the venue fixed for the meeting;

(c) the purpose of the meeting; and

(d) the time and date by which, and place at which, those attending must lodge proxies and (in the case of a meeting of creditors, clients or both) claims or proofs in order to be entitled to vote.

(2) Notice under this Rule must be gazetted before or as soon as reasonably practicable after notice is given to those attending.

(3) Information to be gazetted under this Rule may also be advertised in such other manner as the administrator thinks fit.

Non-receipt of notice of meeting

75. Where, in accordance with the Regulations or these Rules, a meeting is summoned by notice, the meeting is presumed to have been duly summoned and held, even if not all those to whom the notice is to be given have received it.

Requisition of meetings

76.—(1) In this Chapter, "requisitioned meeting" means a meeting requested under paragraph 56(1).

(2) A request for a meeting must contain the following information—

(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 address of the creditor requesting the meeting; and

(d) the full amount of that creditor's claim.

(3) The request for a requisitioned meeting must include a statement of the purpose of the proposed meeting and—

(a) either—

(i) a list of the creditors or contributories concurring with the request and of the amounts of their respective claims or values, and

(ii) written confirmation of concurrence from each creditor or contributory concurring, or

(b) a statement that the requesting creditor's debt or contributory's value alone is sufficient without the concurrence of other creditors or contributories.

(4) In the preceding paragraph, a contributory's value is the amount in respect of which the contributory may vote at any meeting.

(5) A requisitioned meeting must be held within 28 days of the date of the administrator's receipt of the notice.

(6) The administrator—

(a) shall notify the FSA of the details and purpose of the requisitioned meeting;

(b) shall—

(i) in a special administration (bank insolvency), notify the Bank of England of the details and purpose of the requisitioned meeting, or

(ii) in a special administration (bank administration) notify the Bank of England and the FSCS of the details and purpose of the requisitioned meeting, and

(c) may, if the administrator thinks appropriate, also summon the clients to the requisitioned meeting.

Expenses of requisitioned meetings

77.—(1) The expenses of summoning and holding a requisitioned meeting shall be paid by the person who makes the request, who shall deposit with the administrator security for their payment.

(2) The sum to be deposited shall be such as the administrator may determine, and the administrator shall not act without the deposit having been made.

(3) The meeting may resolve that the expenses of summoning and holding it are to be payable out of the assets of the investment bank as an expense of the administration.

(4) To the extent that any deposit made under this rule is not required for the payment of expenses of summoning and holding the meeting, it shall be repaid to the person who made it.

Quorum at meetings

78.—(1) A meeting of creditors, clients, creditors and clients or contributories is not competent to act unless a quorum is present.

(2) A quorum is—

(a) in the case of a meeting of creditors, at least one creditor entitled to vote;

(b) in the case of a meeting of clients, at least one client entitled to vote;

(c) in the case of a meeting of creditors and clients, at least one creditor and one client who are each entitled to vote;

(d) in the case of a meeting of contributories, at least 2 contributories so entitled, or all the contributories, if their number does not exceed 2.

(3) Where at any meeting under paragraph (2)—

(a) the provisions of this rule as to a quorum being present are satisfied by the attendance of—

(i) the chair alone, or

(ii) one other person in addition to the chair, and

(b) the chair is aware, by virtue of claims or proofs and proxies received or otherwise, that one or more additional persons would, if attending, be entitled to vote,

the meeting must not commence until at least the expiry of 15 minutes after the time appointed for its commencement.

Chair at meetings

79.—(1) At any meeting of creditors, clients, or creditors and clients summoned by the administrator, either the administrator shall be the chair, or a person nominated by the administrator in writing to act in the administrator's place.

(2) A person so nominated must be either—

(a) one who is qualified to act as an insolvency practitioner in relation to the investment bank; or

(b) an employee of the administrator or the administrator's firm who is experienced in insolvency matters.

(3) Where the chair holds a proxy which includes a requirement to vote for a particular resolution and no other person proposes that resolution—

(a) the chair must propose it unless the chair considers that there is good reason for not doing so, and

(b) if the chair does not propose it, the chair must as soon as reasonably practicable after the meeting notify the principal of the reason why not.

Adjournment by chair

80.—(1) The chair may, and must if the meeting so resolves, adjourn the meeting to such time and place as seems to the chair to be appropriate in the circumstances.

(2) An adjournment under this paragraph must not be for a period of more than 14 days, subject to any direction by the court.

(3) If there are further adjournments, the final adjournment must not be to a day later than 14 days after the date on which the meeting was originally held.

(4) Rule 69 applies with regard to the venue fixed for a meeting adjourned under this rule.

(5) This rule does not apply to the initial meeting of creditors and clients.

Adjournment in absence of chair

81.—(1) If within 30 minutes from the time fixed for commencement of a meeting there is no person present to act as chair, the meeting stands adjourned to the same time and place in the following week or, if that is not a business day, to the business day immediately following.

(2) If within 30 minutes from the time fixed for the commencement of the meeting those persons attending the meeting do not constitute a quorum, the chair may adjourn the meeting to such time and place as the chair may appoint.

Claims, proofs and proxies in adjournment

82. Where a meeting under these rules is adjourned, claims, proofs and proxies may be used if lodged at any time up to 12.00 hours on the business day immediately before the adjourned meeting.

Suspension

83. Once only in the course of a meeting, the chair may, without an adjournment, declare it suspended for any period up to 1 hour.

Venue and conduct of company meetings

84.—(1) Where the administrator summons a meeting of members of the investment bank, the administrator shall fix a venue for it having regard to their convenience.

(2) The chair of the meeting shall be the administrator or a person nominated by the administrator in writing to act in the administrator's place.

(3) A person so nominated must be either—

(a) one who is qualified to act as an insolvency practitioner in relation to the investment bank; or

(b) an employee of the administrator or the administrator's firm who is experienced in insolvency matters.

(4) If within 30 minutes from the time fixed for commencement of the meeting there is no person present to act as chair, the meeting stands adjourned to the same time and place in the following week or, if that is not a business day, to the business day immediately following.

(5) Subject to anything to the contrary in the Regulations and these Rules, the meeting must be summoned and conducted in accordance with the law of England and Wales, including any applicable provision in or made under the 2006 Act.

(6) The chair of the meeting shall cause minutes of its proceedings to be entered in the company's minute book.

CHAPTER 5

Entitlement to vote at meetings

Entitlement to vote (creditors)

85.—(1) A creditor is entitled to vote at a meeting of creditors, or at a meeting of creditors and clients, only if—

(a) the administrator has been given written details of the debt which is claimed as due to that person from the investment bank, including any calculation for the purposes of rule 87 or rule 88;

(b) the details were given to the administrator—

(i) not later than 12.00 hours on the business day before the day fixed for the meeting, or

(ii) later than that time but the chair of the meeting is satisfied that that was due to circumstances beyond that person's control; and

(c) the claim has been admitted for the purposes of entitlement to vote,

and there has been lodged with the administrator any proxy intended to be used on behalf of that person.

(2) For the purposes of this Chapter, written details of a claim, once lodged or given in accordance with this rule, need not be lodged or given again.

(3) The chair of a meeting of creditors, or at a meeting of creditors and clients, may call for any document or other evidence to be produced if the chair thinks it necessary for the purpose of substantiating the whole or any part of a claim.

FSCS and voting rights

86.—(1) For the purpose of voting at a meeting in a special administration (bank insolvency) (or in a special administration (bank administration) if there are depositors), the FSCS may submit, instead of giving written details, a statement containing—

(a) the names of the creditors of the investment bank in respect of whom an obligation of the FSCS has arisen or may reasonably be expected to arise;

(b) the amount of each such obligation; and

(c) the total amount of all such obligations.

(2) The FSCS may from time to time submit a further statement; and each such statement supersedes any previous statement.

(3) Any voting rights which a creditor might otherwise exercise in the special administration in respect of a claim are reduced by a sum equal to the amount of that claim in relation to which the FSCS, by virtue of its having submitted a statement under this rule, is entitled to exercise voting rights at the meeting.

Calculation of voting rights (creditors)

87.—(1) Votes are calculated according to the amount of each creditor's claim as at the date on which the investment bank entered special administration, less any payments that have been made to the creditor after that date in respect of the claim and any adjustment by way of set-off in accordance with rule 164 or 165 as if those rules were applied on the date on which the votes are counted.

(2) A creditor may vote in respect of a debt which is for an unliquidated amount or the value of which is not ascertained if the chair decides to put upon it an estimated minimum value for the purpose of entitlement to vote and admits the claim for that purpose.

(3) Paragraph (2) does not apply to a shortfall claim described in rule 90(4)(b).

(4) A creditor may not vote in respect of any claim or part of a claim—

(a) where the claim or part is secured, except where the vote is cast in respect of the balance (if any) of the debt after deduction of the value of the security as estimated by the creditor;

(b) where the claim is in respect of a debt wholly or partly on, or secured by, a current bill of exchange or promissory note, unless the creditor is willing—

(i) to treat as a security in the creditor's hands the liability on the bill or note of every person who is liable on it antecedently to the investment bank, and—

(aa) in the case of a company, has not gone into liquidation, or

(bb) in the case of an individual, against whom a bankruptcy order has not been made or whose estate has not been sequestrated, and

(ii) to estimate the value of the security and for the purposes of voting (but not otherwise) to deduct it from the claim.

Calculation of voting rights: special cases (creditors)

88.—(1) An owner of goods under a hire-purchase or chattel leasing agreement, or a seller of goods under a conditional sale agreement, is entitled to vote in respect of the amount of the debt due and payable by the investment bank on the date on which it entered special administration.

(2) In calculating the amount of any debt for the purpose of paragraph (1), no account is to be taken of any amount attributable to the exercise of any right under the relevant agreement so far as the right has become exercisable solely by virtue of—

(a) the making of a special administration application; or

(b) the investment bank entering special administration.

Procedure for admitting creditors' claims for voting

89.—(1) At a meeting of creditors, the chair must ascertain the entitlement of persons wishing to vote as creditors and admit or reject their claims accordingly.

(2) The chair may admit or reject a claim in whole or in part.

(3) If the chair is in any doubt whether a claim should be admitted or rejected, the claim must be marked as objected to and allow votes to be cast in respect of it, subject to such votes being subsequently declared invalid if the objection to the claim is sustained.

Entitlement to vote (clients)

90.—(1) A client is entitled to vote at a meeting of creditors and clients or clients only if—

(a) the administrator has been given written details of the client's claim as to the total amount of client assets over which the client asserts—

(i) a beneficial right of ownership,

(ii) a right of ownership as bailor, or

(iii) another means of ownership; and

(b) the details were given to the administrator—

(i) not later than 12.00 hours on the business day before the day fixed for the meeting, or

(ii) later than that time but the chair of the meeting is satisfied that the delay was due to circumstances beyond that client's control; and

(c) the claim for client assets has been admitted for the purposes of entitlement to vote,

and there has been lodged with the administrator any proxy intended to be used on behalf of that person.

(2) Subject to paragraph (4), for the purposes of this Chapter, written details of a claim for client assets, once lodged or given in accordance with this rule, need not be lodged or given again.

(3) The chair may call for any document or other evidence to be produced if the chair thinks it necessary for the purpose of substantiating the whole or any part of a claim for client assets.

(4) Where at the date of the meeting the client is aware that there will be a shortfall in respect of their claim to client assets, the client shall—

(a) submit a claim under paragraph (1), subtracting the value of the shortfall of assets from that claim (as calculated, in respect of securities, in accordance with rule 91); and

(b) submit a claim under rule 85 as to the debt owed to the client by the investment bank in respect of the shortfall.

(5) If at the time that the invitation to the initial meeting, or notice of a creditors and clients' or a client's meeting, is sent out, the administrator has become aware that there will be a shortfall in respect of a client's claim to client assets, the administrator shall notify the client at the same time the invitation or notice is sent out.

(6) If after the time that the invitation to the initial meeting, or notice of a creditors and clients' or a clients' meeting, is sent out, the administrator becomes aware that there will be a shortfall in respect of a client's claim to client assets, the administrator shall notify the client as soon as reasonably practicable prior to the meeting and take this shortfall into account in calculating the client's entitlement to vote.

Calculation of voting rights (clients)

91.—(1) For the purposes of this Chapter, a client's voting rights are calculated according to the value of the client's claim submitted under rule 90, taking into account any shortfall identified prior to the meeting.

(2) Subject to paragraph (4), the chair is to value any securities making up the client's claim under paragraph (1) by reference to the closing or settlement price for such securities of a particular description.

(3) In paragraph (2)—

"closing or settlement price" means—

(a) in relation to securities traded on a relevant exchange, the closing or settlement price published by that exchange; and

(b) in relation to securities traded elsewhere, the closing or settlement price published by an appropriate pricing source on the last business day before the date the investment bank entered special administration; but where such securities are traded outside the United Kingdom, the closing or settlement price shall be the most recent closing price before that date; and

"securities of a particular description" has the meaning set out in regulation 12(9);

and in this paragraph—

"appropriate pricing source" means a reputable source used by the investment bank immediately prior to the investment bank entering special administration for valuing or reporting in respect of those securities, unless the client asserts with good reason (and the chair agrees) that an alternative source should be used; and

"relevant exchange" means a recognised investment exchange or recognised overseas investment exchange used by the investment bank to trade such securities immediately prior to the investment bank entering special administration, unless the client asserts with good reason (and the chair agrees) that an alternative exchange should be used.

(4) Where the chair considers that it is not practicable to value a client asset by reference to a closing or settlement price published by a relevant exchange or an appropriate pricing source, the chair may put upon the asset an estimated minimum value for the purposes of the entitlement to vote.

(5) Where client assets are quoted in currencies other than sterling, in order to value the assets for the purposes of this chapter, the administrator shall convert the market price of the assets to sterling at the rate of exchange for that other currency as at the mean of the buying and selling spot rates prevailing in the London market as published at the close of business on the business day prior to the date the investment bank entered special administration or, in the absence of any such published rate, such rate as the court determines.

Procedure for admitting clients' claims for voting

92.—(1) At a meeting of creditors and clients, or clients, the chair must ascertain the entitlement of persons wishing to vote as clients and admit or reject their claims accordingly.

(2) The chair may admit or reject a claim in whole or in part.

(3) If the chair is in any doubt whether a claim should be admitted or rejected, the claim must be marked as objected to and allow votes to be cast in respect of it, subject to such votes being subsequently declared invalid if the objection to the claim is sustained.

Voting at meetings of creditors and clients

93.—(1) This rule applies to meetings of creditors and clients.

(2) If the administrator thinks it appropriate, the creditors and clients may vote on the same resolution at the meeting, however the creditors and the clients shall vote separately on the resolution.

(3) In a special administration (bank insolvency) the FSCS shall be entitled to vote as a creditor under this rule and rule 86 has effect with respect to its voting rights.

Requisite majorities

94.—(1) Subject to paragraph (2), at a meeting of creditors or clients, or of creditors and clients, a resolution is passed when a majority (in value) of those present and voting, in person or by proxy, have voted in favour of it.

(2) Any resolution is invalid if those voting against it include more than half in value of the creditors, or, as the case may be, clients, to whom notice of the meeting was sent and who are not, to the best of the chair's belief, persons connected with the investment bank.

Requisite majorities at contributories' meetings

95. At a meeting of contributories, voting rights are as at a general meeting of the investment bank, subject to any provision of the articles affecting entitlement to vote, either generally or at a time when the investment bank is in liquidation.

Appeals against decisions under this Chapter

96.—(1) The chair's decisions under this Chapter are subject to appeal to the court by any creditor, client or contributory or member.

(2) If the chair's decision is reversed or varied, or votes are declared invalid, the court may order another meeting to be summoned or make such order as it thinks just.

(3) An appeal under this rule may not be made later than 21 days after the date of the meeting.

(4) The chair is not personally liable for costs incurred by any person in respect of an appeal under this rule unless the court makes an order to that effect.

CHAPTER 6

Correspondence and remote attendance

Correspondence instead of meetings

97.—(1) The administrator, when convening a meeting, may seek to obtain the passing by creditors, clients or contributories of a written resolution by sending a notice to that effect to every creditor, client or contributory (as the case may be) who would be entitled to be notified of (or in the case of clients, the administrator thinks it appropriate that they are summoned to) a meeting at which the resolution could be passed.

(2) Notice under paragraph (1) must contain the following information—

(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) the resolution to be voted on; and

(e) the closing date by which the recipient must respond to the administrator.

(3) In order to be counted, votes must—

(a) be received by the administrator by 12.00 hours on the closing date specified in the notice;

(b) in the case of a vote cast by a creditor or by a client, be accompanied by a statement of entitlement to vote on the resolution unless one has already been lodged with or given to the administrator.

(4) A statement of entitlement is written details of the creditor's claim or the client's claim in respect of client assets.

(5) The closing date is to be set at the discretion of the administrator, but must be not less than 14 days from the date of issue of the notice.

(6) Votes must be disregarded if—

(a) the requisite statement of entitlement had not accompanied them or previously been lodged with or given to the administrator, or

(b) in the application of Chapter 5 of this Part, the administrator decides that the creditor or client is not entitled to cast the votes.

(7) For the resolution to be passed, the administrator must receive at least one valid vote in favour by the closing date specified in the notice.

(8) If no valid vote is received by the closing date, the creditor must call a meeting of creditors, clients or contributories (as the case may be) to consider the resolution.

(9) Creditors the debts of whom amount to at least 10% of the total debts of the investment bank may, within 5 business days from the date of issue of the notice, require the administrator to call a meeting of creditors to consider the resolution.

(10) Clients asserting claims over at least 10% of the total value of client assets held by the investment bank may, within 5 business days from the date of issue of the notice, require the administrator to call a meeting of clients to consider the resolution.

(11) Contributories representing at least 10% of the total voting rights of all contributories having the right to vote a at meeting of contributories may, within 5 business days from the date of issue of the notice, require the administrator to call a meeting of contributories to consider the resolution.

(12) A reference in these Rules to anything done or required to be done at, or in connection with, or in consequence of, a meeting of creditors, clients or contributories extends to anything done in the course of correspondence in accordance with this rule.

Remote attendance at meetings conducted in accordance with section 246A

98.—(1) This Rule applies to a request to the administrator for a meeting under section 246A(9) of the 1986 Act(**3**) to specify a place for the meeting.

(2) The request must be accompanied by—

(a) in the case of a request by creditors, a list of the creditors making or concurring with the request and the amounts of their respective debts in the special administration;

(b) in the case of a request by clients, a list of the clients making or concurring with the request and the amounts of their respective claims in respect of client assets in the special administration;

(c) in the case of a request by contributories, a list of the contributories making or concurring with the request and their respective values (being the amounts for which they may vote at the meeting);

(d) in the case of a request by members, a list of the members making or concurring with the request and their voting rights; and

(e) from each person concurring, written confirmation of that person's concurrence.

(**3**) Section 246A was inserted by S.I. 2010/18.

(3) The request must be made within 7 business days of the date on which the administrator sent the notice of the meeting in question.

(4) Where the administrator considers that the request has been properly made in accordance with the Regulations and this rule, the administrator must—

(a) give notice to all those previously given notice of the meeting—

(i) that it is to be held at a specified place, and

(ii) as to whether the date and time are to remain the same or not;

(b) set a venue (including specification of a place) for the meeting, the date of which must be not later than 28 days after the original date for the meeting; and

(c) give at least 14 days' notice of that venue to all those previously given notice of the meeting,

and the notices required by sub-paragraphs (a) and (c) may be given at the same or different times.

(5) Where the administrator has specified a place for the meeting in response to a request to which this rule applies, the chair of the meeting must attend the meeting by being present in person at that place.

(6) Rule 77 (expenses of requisitioned meetings) does not apply to the summoning and holding of a meeting at a place specified in accordance with section 246A(9).

Action where person excluded

99.—(1) In this rule and rules 100 and 101, an "excluded person" means a person who —

(a) has taken all steps necessary to attend a meeting under the arrangements put in place to do so by the administrator under section 246A(6) of the 1986 Act; and

(b) is not permitted by those arrangements to attend the whole or part of that meeting.

(2) Where the chair becomes aware during the course of the meeting that there is an excluded person, the chair may—

(a) continue the meeting;

(b) declare the meeting void and convene the meeting again;

(c) declare the meeting valid up to the point where the person was excluded and adjourn the meeting.

(3) Where the chair continues the meeting, the meeting is valid unless—

(a) the chair decides in consequence of a complaint under rule 101 to declare the meeting void and hold the meeting again; or

(b) the court directs otherwise.

(4) Without prejudice to paragraph (2), where the chair becomes aware during the course of the meeting that there is an excluded person, the chair may, in the chair's discretion and without an adjournment, declare the meeting suspended for any period up to 1 hour.

Indication to excluded person

100.—(1) A person who claims to be an excluded person may request an indication of what occurred during the period of that person's claimed exclusion (an "indication").

(2) A request under paragraph (1) must be made as soon as reasonably practicable and, in any event, no later than 16.00 hours on the business day following the day on which the exclusion is claimed to have occurred.

(3) A request under paragraph (1) must be made to—

(a) the chair, where it is made during the course of the business of the meeting; or

(b) the administrator where it is made after the conclusion of the business of the meeting.

(4) Where satisfied that the person making the request is an excluded person, the person to whom the request is made under paragraph (3) must give the indication as soon as reasonably practicable and, in any event, no later than 16.00 hours on the business day following the day on which the request was made under paragraph (1).

Complaint

101.—(1) Any person who—

(a) is, or claims to be, an excluded person; or

(b) attends the meeting (in person or by proxy) and considers that they have been adversely affected by a person's actual, apparent or claimed exclusion,

("the complainant") may make a complaint.

(2) The person to whom the complaint must be made ("the relevant person") is—

(a) the chair, where it is made during the course of the meeting; or

(b) the administrator where it is made after the meeting.

(3) The relevant person must—

(a) consider whether there is an excluded person; and

(b) where satisfied that there is an excluded person, consider the complaint,

and, where satisfied that there has been prejudice, take such action as the relevant person considers fit to remedy the prejudice.

(4) Paragraph (5) applies where—

(a) the relevant person is satisfied that the complainant is an excluded person;

(b) during the period of the person's exclusion, a resolution was put to the meeting and was voted on; and —

(c) the excluded person asserts how the excluded person intended to vote on the resolution.

(5) Subject to paragraph (6), where satisfied that the effect of the intended vote in paragraph (4), if cast, would have changed the result of the resolution, the relevant person must—

(a) count the intended vote as being cast in accordance with the complainant's stated intention;

(b) amend the record of the result of the resolution; and

(c) where those entitled to attend the meeting have been notified of the result of the resolution, notify them of the change.

(6) Where satisfied that more than one complainant in paragraph (4) is an excluded person, the relevant person must have regard to the combined effect of the intended votes.

(7) The relevant person must notify the complainant in writing of any decision.

(8) A complaint must be made as soon as reasonably practicable and, in any event, no later than 16.00 hours on the business day following—

(a) the day on which the person was, appeared or claimed to be excluded; or

(b) where an indication is sought under rule 100, the day on which the complainant received the indication.

(9) A complainant who is not satisfied by the action of the relevant person may apply to the court for directions and any application must be made within 2 business days of the date of receiving the decision of the relevant person.

CHAPTER 7

Records, returns and reports

Minutes

102.—(1) The chair of any meeting under the Regulations or these Rules, other than a company meeting (for which see rule 84), must cause minutes of its proceedings to be kept.

(2) The minutes must be authenticated by the chair, and be retained by the chair as part of the records of the special administration.

(3) The minutes must include—

(a) a list of the names of creditors who attended a meeting of creditors or a meeting of both creditors and clients (personally, by proxy or by corporate representative) and their claims;

(b) a list of the names of clients who attended a meeting of clients or a meeting of both creditors and clients (personally, by proxy or by corporate representative) and their claims in respect of client assets;

(c) a list of the names of contributories who attended a meeting of contributories;

(d) if a creditors' committee has been established, the names and addresses of those elected to be members of the committee; and

(e) a record of every resolution passed.

Returns or reports of meetings

103. In addition to the information required by rule 313, the notification of a return or a report of a meeting must specify—

(a) the purpose of the meeting including the regulation or rule under which it was convened;

(b) the venue fixed for the meeting;

(c) whether a required quorum was present for the meeting to take place; and

(d) if the meeting took place, the outcome of the meeting (including any resolutions passed at the meeting).

CHAPTER 8

The creditors' committee

Constitution of committee

104.—(1) Where it is resolved by a creditors and clients' meeting to establish a creditors' committee for the purposes of the special administration, the committee shall consist of at least 3 and not more than 5 persons elected at the meeting.

(2) In a special administration (bank insolvency), the FSCS shall be a member of the creditors' committee unless it informs the administrator prior to the meeting referred to in paragraph (1) that it does not wish to be a member.

(3) Where paragraph (1) applies, before receiving nominations for members of the committee, the administrator will set out the maximum number of members to be elected onto the committee by each class of voter so as to ensure that, subject to paragraph (2), the make-up of the committee is a reflection of all parties with an interest in the achievement of the special administration objectives.

(4) The classes of voters mentioned in paragraph (3) are—

(a) creditors; and

(b) clients.

(5) A person claiming to be a creditor is entitled to be a member of the committee provided that—

(a) that person's claim has neither been wholly disallowed for voting purposes, nor wholly rejected for the purpose of distribution or dividend; and

(b) the claim mentioned in sub-paragraph (a) is not fully secured.

(6) A person claiming to be a client is entitled to be a member of the committee provided that that person's claim in respect of client assets has neither been wholly disallowed for voting purposes, nor wholly rejected for the purpose of returning client assets.

(7) A body corporate may be a member of the committee, but it cannot act as such otherwise than by a representative appointed under rule 109.

Formalities of establishment

105.—(1) The creditors' committee does not come into being and accordingly cannot act until the administrator has issued a certificate of its due constitution.

(2) The certificate shall state that the creditors' committee of the investment bank has been duly constituted and shall include the following—

(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; and

(d) the full name and address of each member of the committee.

(3) If the chair of the creditors' meeting which resolves to establish the committee is not the administrator, the chair must as soon as reasonably practicable give notice of the resolution to the administrator and inform the administrator of the names and addresses of the persons elected to be members of the committee.

(4) No person may act as a member of the committee unless and until they have agreed to do so and, unless the relevant proxy or authorisation contains a statement to the contrary, such agreement may be given by their proxy-holder present at the meeting establishing the committee or, in the case of a corporation, by its duly appointed representative.

(5) The administrator's certificate of the committee's due constitution shall not be issued before the persons elected to be members of the committee in accordance with rule 104 have agreed to act and shall be issued as soon as reasonably practicable thereafter.

(6) If any further members are elected onto the committee at a later date, the administrator shall issue an amended certificate as and when those persons have agreed to act.

(7) The certificate, and any amended certificate, shall be sent to the registrar of companies by the administrator, as soon as reasonably practicable.

(8) If after the establishment of the committee there is any change in its membership, the administrator shall as soon as reasonably practicable report the change to the registrar of companies by filing an amended certificate.

Functions and meetings of the committee

106.—(1) In addition to any functions conferred on the creditors' committee by any provision of the Regulations, the creditors' committee shall assist the administrator in discharging the administrator's functions, and act in relation to the administrator in such manner as may be agreed from time to time.

(2) Subject as follows, meetings of the committee shall be held at a time and place determined by the administrator.

(3) The administrator must call a first meeting of the committee to take place within 6 weeks of the committee's establishment.

(4) After the calling of the first meeting, the administrator must call a meeting—

(a) if so requested by a member of the committee or the member's representative (the meeting then to be held within 21 days of the request being received by the administrator); and

(b) for a specified date, if the committee has previously resolved that a meeting be held on that date.

(5) Subject to paragraph (8), the administrator shall give 5 business days' written notice of the venue of any meeting to every member of the committee (or their representative designated for that purpose) unless in any case the requirement of notice has been waived by or on behalf of any member. Waiver may be signified either at or before the meeting.

(6) The FSA shall also be given the notice in paragraph (5).

(7) In a special administration (bank administration), if the meeting is to be held before the Bank of England has given the Objective A Achievement Notice, the Bank of England shall be given the notice in paragraph (5).

(8) Where the administrator has determined that a meeting should be conducted and held in the manner referred to in rule 115**,** the notice period mentioned in paragraph (5) is 7 business days.

The chair at meetings

107.—(1) The chair at any meeting of the creditors' committee must be the administrator, or a person appointed by the administrator in writing to act.

(2) A person so appointed must be either—

(a) one who is qualified to act as an insolvency practitioner in relation to the investment bank; or

(b) an employee of the administrator or the administrator's firm who is experienced in insolvency matters.

Quorum

108. A meeting of the committee is duly constituted if due notice of it has been given to all the members, and at least 2 members are present or represented.

Committee members' representatives

109.—(1) A member of the committee may, in relation to the business of the committee, be represented by another person duly authorised by the member for that purpose.

(2) A person acting as a committee-member's representative must hold a letter of authority entitling them so to act (either generally or specially) and authenticated by or on behalf of the committee-member.

(3) For the purpose of paragraph (2), any proxy in relation to any meeting of creditors, or clients, or creditors and clients shall, unless it contains a statement to the contrary, be treated as a letter of authority to act generally, authenticated by or on behalf of the committee-member.

(4) The chair at any meeting of the committee may call on a person claiming to act as a committee-member's representative to produce the letter of authority, and may exclude that person if it appears that their authority is deficient.

(5) No member may be represented by—

(a) another member of the committee;

(b) a person who is at the same time representing another committee member;

(c) a body corporate;

(d) an undischarged bankrupt;

(e) a disqualified director; or

(f) a person who is subject to a bankruptcy restrictions order (including an interim order), a bankruptcy restrictions undertaking, a debt relief restrictions order (including an interim order) or a debt relief restrictions undertaking.

(6) Where a member's representative authenticates any document on the member's behalf, the fact that the representative so authenticates must be stated below the authentication.

Resignation

110. A member of the committee may resign by notice in writing delivered to the administrator.

Termination of membership

111.—(1) Membership of the creditors' committee is automatically terminated if the member—

(a) becomes bankrupt;

(b) at 3 consecutive meetings of the committee is neither present nor represented (unless at the third of those meetings it is resolved that this rule is not to apply in that member's case);

(c) subject to paragraph (3), if voted onto the committee under rule 104 by the creditors of the investment bank, ceases to be a creditor and a period of 3 months has elapsed from the date that that member ceased to be a creditor or is found never to have been a creditor; or

(d) subject to paragraph (4), if voted onto the committee under rule 104 by the clients of the investment bank, has had all client assets claimed for under Part 5 returned to them (subject to there being an identified shortfall in the assets to be returned to them or any assets being retained by the administrator under rule 144(1)(e)), or is found never to have been a client.

(2) However, if the cause of termination is the member's bankruptcy, their trustee in bankruptcy shall replace them as a member of the committee.

(3) A person to whom paragraph (1)(c) applies shall not have their membership terminated if—

(a) they are also a client of the investment bank; and

(b) they have not had all client assets claimed for under Part 5 returned to them (subject to there being an identified shortfall in the assets to be returned to them or any of their assets being retained by the administrator under rule 144(1)(e)),

but the administrator may require them to resign if the administrator thinks that the make-up of the committee does not reflect all parties with an interest in the achievement of the special administration objectives.

(4) A person to whom paragraph (1)(d) applies shall not have their membership terminated if they are also a creditor of the investment bank but the administrator may require them to resign if the administrator thinks that the make-up of the committee does not reflect all parties with an interest in the achievement of the special administration objectives.

Removal

112.—(1) A member of the committee may be removed by resolution at a meeting of creditors and clients, at least 14 days' notice having been given of the intention to move that resolution.

(2) The resolution in paragraph (1) will be voted on only by the relevant class of voter in respect of the member to be removed.

Vacancies

113.—(1) The following applies if there is a vacancy in the membership of the creditors' committee.

(2) The vacancy need not be filled if the administrator and a majority of the remaining members of the committee so agree, provided that—

(a) the total number of members does not fall below 3; and

(b) the administrator thinks that the make-up of the committee will continue to reflect all parties with an interest in the achievement of the special administration objectives.

(3) The administrator may appoint a person (being qualified under these Rules to be a member of the committee) from the same class of voters as the previous member to fill the vacancy, if—

(a) a majority of the other members of the committee agree to the appointment; and

(b) the person concerned consents to act.

Procedure at meetings

114.—(1) At any meeting of the creditors' committee, each member of it (whether present or represented) has one vote, and a resolution is passed when a majority of the members present or represented have voted in favour of it.

(2) Every resolution passed must be recorded in writing and authenticated by the chair, either separately or as part of the minutes of the meeting, and the record must be kept with the records of the proceedings.

Remote attendance at meetings of creditors' committee

115.—(1) This rule applies to any meeting of a creditors' committee held under these Rules.

(2) Where the administrator considers it appropriate, the meeting may be conducted and held in such a way that persons who are not present together at the same place may attend it.

(3) Where a meeting is conducted and held in the manner referred to in paragraph (2), a person attends the meeting if that person is able to exercise any rights which that person may have to speak and vote at the meeting.

(4) For the purposes of this rule—

(a) a person is able to exercise the right to speak at a meeting when that person is in a position to communicate to all those attending the meeting, during the meeting, any information or opinions which that person has on the business of the meeting; and

(b) a person is able to exercise the right to vote at a meeting when—

(i) that person is able to vote, during the meeting, on resolutions or determinations put to the vote at the meeting, and

(ii) that person's vote can be taken into account in determining whether or not such resolutions or determinations are passed at the same time as the votes of all the other persons attending the meeting.

(5) Where a meeting is to be conducted and held in the manner referred to in paragraph (2), the administrator must make whatever arrangements the administrator considers appropriate to—

(a) enable those attending the meeting to exercise their rights to speak or vote; and

(b) ensure the identification of those attending the meeting and the security of any electronic means used to enable attendance.

(6) Where in the reasonable opinion of the office-holder—

(a) a meeting will be attended by persons who will not be present together at the same place; and

(b) it is unnecessary or inexpedient to specify a place for the meeting,

any requirement under these Rules to specify a place for the meeting may be satisfied by specifying the arrangements the office-holder proposes to enable persons to exercise their rights to speak or vote.

(7) In making the arrangements referred to in paragraph (5) and in forming the opinion referred to in paragraph (6)(b), the administrator must have regard to the legitimate interests of the committee members or their representatives attending the meeting in the efficient despatch of the business of the meeting.

(8) If—

(a) the notice of a meeting does not specify a place for the meeting,

(b) the administrator is requested in accordance with rule 116 to specify a place for the meeting, and

(c) that request is made by at least one member of the committee,

the administrator must specify a place for the meeting.

Procedure for requests that a place for a meeting should be specified

116.—(1) This rule applies to a request to the administrator of a meeting under rule 115 to specify a place for the meeting.

(2) The request must be made within 5 business days of the date on which the administrator sent the notice of the meeting in question.

(3) Where the administrator considers that the request has been properly made in accordance with this rule, the administrator must—

(a) give notice to all those previously given notice of the meeting—

(i) that it is to be held at a specified place, and

(ii) as to whether the date and time are to remain the same or not;

(b) set a venue (including specification of a place) for the meeting, the date of which must be not later than 7 business days after the original date for the meeting; and

(c) give 5 business days' notice of the venue to all those previously given notice of the meeting;

and the notices required by sub-paragraphs (a) and (c) may be given at the same or different times.

(4) Where the administrator has specified a place for the meeting in response to a request to which this rule applies, the chair of the meeting must attend the meeting by being present in person at that place.

Resolutions of creditors' committees by post

117.—(1) The administrator may seek to obtain the agreement of members of the creditors' committee to a resolution by sending to every member of the committee (or designated representative) a copy of the proposed resolution.

(2) Where the administrator makes use of this procedure, the administrator shall notify each member or their representative of each proposed resolution on which a decision is sought.

(3) The FSA shall also be notified of each proposed resolution under this rule.

(4) In a special administration (bank administration), if the notification in paragraph (2) happens before the Bank of England has given the Objective A Achievement Notice, the Bank of England shall be notified of each proposed resolution under this rule.

(5) Any member of the committee may, within 7 business days of the date of the administrator notifying them of a resolution, require the administrator to summon a meeting of the committee to consider matters raised by the resolution.

(6) In the absence of such a request, the resolution is deemed to have been passed by the committee if and when the administrator is notified in writing by a majority of the members that they agree with the resolution.

(7) A copy of every resolution passed under this rule, and a note that the committee's concurrence was obtained, shall be kept with the records of the proceedings.

Information from administrator

118.—(1) Where the committee resolves to require the attendance of the administrator under paragraph 57(3)(a), the notice to the administrator shall be in writing, authenticated by the majority of the members of the committee for the time being.

(2) A member's authentication under paragraph (1) may be made by that member's representative.

(3) The meeting at which the administrator's attendance is required shall be fixed by the committee for a business day, and shall be held at such time and place as the administrator determines.

(4) The administrator shall notify the FSA of the time and place of the meeting.

(5) In a special administration (bank administration), if the meeting is to be held before the Bank of England has given the Objective A Achievement Notice, the Bank of England shall be given the notice in paragraph (4).

(6) Where the administrator so attends, the members of the committee may elect any one of their number to be chair of the meeting, in place of the administrator or the administrator's nominee.

Expenses of members

119.—(1) Subject to paragraph (2), the administrator shall, out of the assets of the investment bank, defray, in the prescribed order of priority as set out in rule 134, any reasonable travelling expenses directly incurred by members of the creditors' committee or their representatives in relation to their attendance at the committee's meetings, or otherwise on the committee's business, as an expense of the administration.

(2) Any client members of the committee shall have their expenses referred to in paragraph (1) paid out of the client assets held by the investment bank.

(3) Paragraph (1) does not apply to any meeting of the committee held within 6 weeks of a previous meeting, unless the meeting in question is summoned at the instance of the administrator.

Members dealing with the investment bank

120.—(1) Membership of the committee does not prevent a person from dealing with the investment bank while it is in special administration, provided that any transactions in the course of such dealings are in good faith and for value.

(2) The court may, on the application of any person interested, set aside any transaction which appears to it to be contrary to the requirements of this rule, and may give such consequential directions as it thinks just for compensating the investment bank for any loss which it may have incurred in consequence of the transaction.

Formal defects

121. The acts of the creditors' committee established for a special administration are valid despite any defect in the appointment, election or qualifications of any member of the committee or any committee-member's representative or in the formalities of its establishment.

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.

CHAPTER 10

Proxies and corporate representation

Definition of proxy

124.—(1) For the purposes of these Rules, a proxy is an authority given by a person ("the principal") to another person ("the proxy-holder") to attend a meeting and speak and vote as the principal's representative.

(2) Proxies are for use at creditors', creditor and clients', clients, company or contributories' meetings summoned or called under the Regulations or the Rules.

(3) Only one proxy may be given by a person for any one meeting at which that person desires to be represented; and it may only be given to one person, being an individual aged 18 or over. But the principal may specify one or more other such individuals to be proxy-holder in the alternative, in the order in which they are named in the proxy.

(4) Without prejudice to the generality of paragraph (3), a proxy for a particular meeting may be given to whoever is to be the chair of the meeting.

(5) A person given a proxy under paragraph (4) cannot decline to be the proxy-holder in relation to that proxy.

(6) A proxy requires the holder to give the principal's vote on matters arising for determination at the meeting, or to abstain, or to propose, in the principal's name, a resolution to be voted on by the meeting, either as directed or in accordance with the holder's own discretion.

Issue and use of forms

125.—(1) When notice is given of a meeting to be held in the course of the special administration and forms of proxy are sent out with the notice, no form so sent out shall have inserted in it the name or description of any person.

(2) No form of proxy shall be used at any meeting except that which is sent out with the notice summoning the meeting, or a substantially similar form.

(3) A form of proxy shall be authenticated by the principal, or by some person authorised by that principal (either generally or with reference to a particular meeting). If the form is authenticated by a person other than the principal, the nature of the person's authority shall be stated.

Use of proxies at meetings

126.—(1) A proxy given for a particular meeting may be used at any adjournment of that meeting.

(2) Where the administrator holds proxies to be used by the administrator as chair of a meeting, and some other person acts as chair, the other person may use the administrator's proxies as if that person was the proxy-holder.

(3) Where a proxy directs a proxy-holder to vote for or against a resolution for the nomination or appointment of a person as the administrator, the proxy-holder may, unless the proxy states otherwise, vote for or against (as they think fit) any resolution for the nomination or appointment of that person jointly with another or others.

(4) A proxy-holder may propose any resolution which, if proposed by another, would be a resolution in favour of which by virtue of the proxy they would be entitled to vote.

(5) Where a proxy gives specific directions as to voting, this does not, unless the proxy states otherwise, preclude the proxy-holder from voting at their discretion on resolutions put to the meeting which are not dealt with in the proxy.

Retention of proxies

127.—(1) Subject as follows, proxies used for voting at any meeting shall be retained by the chair of the meeting.

(2) The chair shall deliver the proxies, as soon as reasonably practicable after the meeting, to the administrator (where the administrator is someone other than the chair).

Right of inspection

128.—(1) So long as proxies lodged with the administrator are in the administrator's hands, the administrator shall allow them to be inspected, at all reasonable times on any business day, by—

(a) the creditors, in the case of proxies used at a meeting of creditors, or a meeting of creditors and clients;

(b) the clients, in the case of proxies used at a meeting of clients, or a meeting of creditors and clients; and

(c) the investment bank's members or contributories, in the case of proxies used at a meeting of the company or of its contributories.

(2) The reference in paragraph (1) to creditors or to clients is to persons who have submitted in writing a claim to be creditors or, as the case may be, clients of the investment bank, but does not include a person whose proof or claim has been wholly rejected for purposes of voting, dividend or otherwise.

(3) The right of inspection given by this rule is also exercisable by the directors of the investment bank in special administration.

(4) Any person attending a meeting in the course of the special administration is entitled, immediately before or during the meeting, to inspect proxies and associated documents (including proofs) sent or given, in accordance with directions contained in any notice convening the meeting,

to the chair of that meeting or to any other person by a creditor, client, member or contributory for the purpose of that meeting.

(5) This rule is subject to rule 320.

Proxy holder with financial interest

129.—(1) A proxy-holder ('P') shall not vote in favour of any resolution which would directly or indirectly place P, or any associate of P's, in a position to receive any remuneration out of the insolvent estate or the client assets, unless the proxy specifically directs P to vote in that way.

(2) Where P has authenticated the proxy as being authorised to do so by P's principal and the proxy specifically directs P to vote in the way mentioned in paragraph (1), P shall nevertheless not vote in that way unless P produces to the chair of the meeting written authorisation from P's principal sufficient to show that P was entitled so to authenticate the proxy.

(3) This rule applies also to any person acting as chair of a meeting and using proxies in that capacity under rule 124 and in its application to the chair, P is deemed an associate of that person.

Company representation

130.—(1) Where a person is authorised to represent a corporation at a meeting held under the Regulations or these Rules, that person shall produce to the chair of the meeting a copy of the resolution from which that person's authority is derived.

(2) The copy resolution must be under the seal of the corporation, or certified by the secretary or a director of the corporation to be a true copy.

(3) Nothing in this rule requires the authority of a person to authenticate a proxy on behalf of a principal which is a corporation to be in the form of a resolution of that corporation.

CHAPTER 11

Disposal of charged property

Application to dispose of charged property

131.—(1) The following applies where the administrator applies to the court under paragraph 71 or 72 for authority to dispose of property of the investment bank which is subject to a security (other than a floating charge), or goods in the possession of the investment bank under a hire purchase agreement.

(2) The court shall fix a venue for the hearing of the application, and the administrator shall as soon as reasonably practicable give notice of the venue to the person who is the holder of the security or, as the case may be, the owner under the agreement.

(3) If an order is made under paragraph 71 or 72 the court shall send 2 sealed copies to the administrator.

(4) The administrator shall send one of the copies to the person who is the holder of the security or owner under the agreement.

(5) The administrator must send notice of the order to the registrar of companies.

Application in a special administration (bank administration)

132. If an application referred to in rule 131(1) is made before the Bank of England has given an Objective A Achievement Notice—

(a) the administrator must notify the Bank of England of the time and place of the hearing;

(b) the Bank of England may appear at the hearing;

(c) if an order is made, the administrator must send a copy to the Bank of England as soon as is reasonably practicable.