

SCHEDULE 1

Regulation 9

Special administration (bank insolvency)

1. This Schedule provides for a procedure known as special administration (bank insolvency) to be used as an alternative to bank insolvency (as set out in Part 2 of the Act) where the investment bank is a deposit-taking bank.

2. A special administration (bank insolvency) order is an order appointing a person as the administrator for the purpose of this Schedule.

3. A special administration (bank insolvency) order is to be treated as a special administration order and an administrator appointed under a special administration (bank insolvency) order is to be treated as if they were appointed under a special administration order for all purposes, save that—

- (a) the modifications set out in this Schedule shall apply; and
- (b) in regulation 22, the Bank of England may also make an application under paragraph (1) and the FSA can only make an application with the consent of the Bank of England.

4.—(1) An administrator appointed under a special administration (bank insolvency) order has the following objectives—

- (a) Objective A is to work with the FSCS so as to ensure that as soon as is reasonably practicable each eligible depositor—
 - (i) has the relevant account transferred to another financial institution, or
 - (ii) receives payments from (or on behalf of) the FSCS; and
- (b) the special administration objectives as set out in regulation 10.

(2) Objective A takes precedence over the special administration objectives until a full payment resolution is passed (but the administrator is to begin working towards the special administration objectives immediately on appointment, in accordance with regulation 10).

(3) The administrator must not comply with a direction of the FSA given under regulation 16 in a way which prejudices the achievement of Objective A.

5.—(1) The provisions of the Insolvency Act as applied by regulation 15 shall apply to special administration (bank insolvency) subject to the following additional modifications to Schedule B1—

- (a) the FSCS shall be appointed as a member of the creditors' committee referred to in paragraph 57 unless it informs the administrator that it does not wish to be appointed;
- (b) the Objective A committee may also make an application under paragraph 74(2));
- (c) disregard paragraph 81;
- (d) in the application of paragraph 87, before the Objective A committee has passed a full payment resolution, the administrator may only resign with the consent of the Bank of England and the notice of resignation shall be copied to the Bank of England;
- (e) before the Objective A committee has passed a full payment resolution, only the Bank of England or the Objective A committee may make an application to remove the administrator from office under paragraph 88;
- (f) the notice given under paragraph 89(2)(a) must also be copied to the Bank of England;
- (g) before the passing of the full payment resolution, paragraph 91 has effect as if it provided for the Bank of England to appoint a replacement administrator as soon as is reasonably practicable;
- (h) the Bank of England may also make an application under paragraph 103(2); and

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- (i) a reference to a provisional liquidator is to a person appointed under section 135 of the Insolvency Act as applied by paragraph 8.
- (2) If any application is made to the court under these Regulations (including under the Insolvency Act as applied by these Regulations) before the Objective A committee has passed a full payment resolution, the court, in giving directions, must have regard to the achievement of Objective A.

6.—(1) The provisions of Part 2 of the Act (bank insolvency) set out in the Table apply in relation to special administration (bank insolvency) with the following modifications—

- (a) the modifications set out in sub-paragraph (2); and
- (b) any other modification specified in the Table.
- (2) The modifications are that a reference to—
- (a) a bank is to a deposit-taking bank;
- (b) bank insolvency is to special administration (bank insolvency);
- (c) a bank insolvency order is to a special administration (bank insolvency) order;
- (d) the bank liquidator is to the administrator;
- (e) Objective 1 in section 99 of the Act or Objective 1 is to Objective A;
- (f) the liquidation committee is to the Objective A committee;
- (g) rules made under section 411 of the Insolvency Act 1986 is to insolvency rules; and
- (h) section 168(5) of the Insolvency Act is to paragraph 74(2) of Schedule B1 (as applied by regulation 15).

Table of applied provisions

<i>Provision of Part 2 of the Act</i>	<i>Subject</i>	<i>Modification or comment</i>
Section 94(2) to (4)	The order	
Section 95	Application	Subsection (1)(c) is not applied.
Section 96	Grounds for applying	
Section 97	Grounds for making	In making a special administration (bank insolvency) order, the court must also be satisfied that the company is an investment bank.
Section 98	Commencement	
Section 100	Liquidation committee	(a) This committee is established only for the purpose of ensuring that the administrator works towards the achievement of Objective A. (b) Subsections (6) and (7) are not applied.
Section 101	Liquidation committee: supplemental	(a) In subsection (2) ignore the words from “While the liquidation” to “nominated replacements”. (b) The references in subsection (5)(b) to sections 168(3) or 169(2) of the Insolvency Act are to paragraph 63 of Schedule B1 (as applied by regulation 15).

<i>Provision of Part 2 of the Act</i>	<i>Subject</i>	<i>Modification or comment</i>
		(c) On the passing of the full payment resolution, the Objective A committee ceases to exist but the FSCS shall have the right to be a member of the creditors' committee. (d) Subsections (7) to (9) are not applied.
Section 102	Objective 1: (a) or (b)	(a) The references to "Objective 1 (a)" and to "Objective 1(b)" are to Objective A(a) and Objective A(b) respectively. (b) The reference to Objective 2 is a reference to the special administration objectives.
Section 123	Role of the FSCS	Ignore subsection (3).
Section 124	Transfer of accounts	

7. Section 120 of the Act is applied with the following modifications—

- (a) in subsection (7)(b), the reference to a bank insolvency order includes a special administration order;
- (b) in subsection (8), the reference to bank insolvency order includes a special administration order or a special administration (bank insolvency) order;
- (c) in subsection (10)(b), the reference to bank insolvency order includes a special administration order or a special administration (bank insolvency) order; and
- (d) in subsection (10)(c), the reference to bank insolvency order includes a special administration (bank insolvency) order.

8.—(1) Section 135 of the Insolvency Act is applied with the following modifications where an application is made for a special administration (bank insolvency) order—

- (a) in subsection (1), the reference to the presentation of a winding up petition is to an application for a special administration (bank insolvency) order;
- (b) in subsection (2)—
 - (i) the reference to England and Wales includes Scotland,
 - (ii) the reference to a winding up order is to a special administration order,
 - (iii) "other fit person" means a person qualified to act as an insolvency practitioner and who consents to act, and
 - (iv) ignore the reference to the official receiver; and
- (c) subsection (3) is not applied.

(2) A person appointed under section 135 (as applied by this paragraph)—

- (a) must not pay dividends to creditors;
- (b) may only be removed by order of the court; and
- (c) shall vacate office if they cease to be qualified to act as a insolvency practitioner.

(3) The appointment of the person appointed under section 135 (as applied by this paragraph) lapses on the appointment of an administrator under a special administration (bank insolvency) order.

9. In this Schedule—

"eligible depositor" has the meaning set out in section 93(3) of the Act;

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“full payment resolution” has the meaning set out in section 100(5) of the Act as applied by paragraph 6;

“Objective A” has the meaning set out in paragraph 4; and

“Objective A committee” means the committee set up to oversee the achievement of Objective A in paragraph 4, (see paragraph 6(2) and the modification to section 100 of the Act in paragraph 6).