

SCHEDULE 4

Regulation 25

Application of these Regulations to partnerships

1. In this Schedule, “the 1994 Order” means the Insolvent Partnerships Order 1994(1).
2. These Regulations apply where the investment bank is a partnership subject to the following modifications.
3. In the application of these Regulations and the Disqualification Act to partnerships, unless the contrary intention appears, the following apply—
 - (a) references to companies shall be construed as references to partnerships and all references to the registrar of companies shall be omitted;
 - (b) references to shares of a company shall be construed—
 - (i) in relation to a partnership with capital, as references to rights to share in that capital, and
 - (ii) in relation to a partnership without capital, as references to interests—
 - (aa) conferring any right to share in the profits or liability to contribute to the losses of the partnership, or
 - (bb) giving rise to an obligation to contribute to the debts or expenses of the partnership in the event of special administration; and
 - (c) other expressions appropriate to companies shall be construed, in relation to partnerships, as references to the corresponding persons, officers, documents or organs (as the case may be) appropriate to a partnership.
- 4.—(1) The provisions of Schedule B1 as applied by regulation 15 apply in respect of a partnership but where a provision of Schedule B1 is listed in Table 1 below, that provision shall apply—
 - (a) as modified by Schedule 2 to the 1994 Order; and
 - (b) with the modifications set out in column 3 of Table 1,instead of as modified in accordance with regulation 15.
 - (2) In the provisions referred to in the second column of Table 1, a reference to—
 - (a) a provision of the Insolvency Act is to that provision as applied by regulation 15 (subject to sub-paragraph (1));
 - (b) action includes a reference to inaction;
 - (c) the administrator means the administrator appointed under regulation 7;
 - (d) the court means the court as defined in regulation 2;
 - (e) the creditors’ meeting has the meaning given by paragraph 50 of Schedule B1 (as applied by regulation 15);
 - (f) entering administration means entering special administration;
 - (g) a hire purchase agreement includes a conditional sale agreement, a chattel leasing agreement and a retention of title agreement;
 - (h) an insolvency order is to a special administration order;
 - (i) an insolvency petition means an application for a special administration order;
 - (j) insolvency proceedings means special administration;

(1) [S.I. 1994/2421](#); this instrument was amended by [S.I. 2005/1516](#).

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- (k) market value means the amount which would be realised on a sale of property in the open market by a willing vendor;
- (l) the purpose of administration means the pursuit of the special administration objectives;
- (m) partnership is to an investment bank;
- (n) the partnership being in administration is to the investment bank being in special administration;
- (o) a responsible insolvency practitioner is to the administrator;
- (p) a thing in writing includes a reference to a thing in electronic form; and
- (q) an inability to pay its debts has the meaning given in regulation 2(4).

Table 1: Applied provisions of the 1994 Order with respect to Schedule B1

<i>Provision of Schedule 2</i>	<i>Subject</i>	<i>Modification or comment</i>
Para 17	Para 42: moratorium on insolvency proceedings	In the modified paragraph 42, sub-paragraph (5)(a) is not applied.
Para 18	Para 43: moratorium on other legal process	In the modified paragraph 43, sub-paragraph (6) is not applied.
Para 19	Para 47: statement of affairs	In the modified paragraph 47, in sub-paragraph (2), the statement must also include particulars (to the extent prescribed) of the client assets held by the investment bank.
Para 20	Para 49: administrator’s proposals	In the modified paragraph 49— (a) sub-paragraph (2)(b) is not applied; (b) under sub-paragraph (4), the administrator shall also send a copy of the statement of proposals to— (i) every client of the investment bank of whose claim the administrator is aware and has a means of contacting, and (ii) the FSA; and (c) the administrator shall also give notice in the prescribed manner that the statement of proposals is to be provided free of charge to a market infrastructure body who applies in writing to a specified address.
Para 22	Para 61: management	

<i>Provision of Schedule 2</i>	<i>Subject</i>	<i>Modification or comment</i>
Para 23	Para 65: distribution to creditors	In the modified paragraph 61, sub-paragraph (3) is not applied.
Para 24	Para 69: agency	
Para 25	Para 73: protection for secured or preferential creditors	
Para 26	Para 74: challenge to administrator's conduct	<p>In the modified paragraph 74—</p> <ul style="list-style-type: none"> (a) the FSA may also make an application under this modified paragraph on the grounds that— <ul style="list-style-type: none"> (i) the administrator is acting or has acted so as unfairly to harm the interests of some or all of the members, creditors or clients; or (ii) the administrator is proposing to act in a way which would unfairly harm the interests of some or all of the members, creditors or clients; (b) a client may also make an application under sub-paragraph (1) or (2); (c) where the FSA has given a direction under regulation 16 which has not been withdrawn, an order may not be made under this paragraph if it would impede or prevent compliance with the direction; and (d) any of the following persons may make an application under this paragraph on the grounds that the administrator is not taking any action in response to a request from that person under regulation 13(2) and that the person is of the opinion that the action requested would not lead to a material reduction in the value of the property of the investment bank— <ul style="list-style-type: none"> (i) the Bank of England, (ii) the Treasury,

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<i>Provision of Schedule 2</i>	<i>Subject</i>	<i>Modification or comment</i>
		(iii) the FSA, or (iv) a market infrastructure body.
Para 28	Para 84: termination: no more assets for distribution	In the modified paragraph 84— (a) the administrator shall only file a notice under sub-paragraph (1) if the investment bank no longer holds client assets; and (b) in sub-paragraph (5), a copy of the notice shall be sent to every client of the investment bank of whom the administrator is aware and the FSA.
Para 29	Para 87: resignation	In the modified paragraph 87— (a) where the administrator was appointed on the application of the Secretary of State or the FSA, the notice given in accordance with sub-paragraph (2)(a) must also be given to the applicant; and (b) sub-paragraphs (2)(b) and (c) are not applied.
Para 30	Para 89: disqualification	In the modified paragraph 89— (a) where the administrator was appointed by the Secretary of State or the FSA, the notice given in accordance with sub-paragraph (2)(a) must also be given to the applicant; and (b) sub-paragraphs (2)(b) and (c) are not applied.
Para 31	Para 90: replacement	In the modified paragraph 90, the reference to paragraphs 91 to 93 and 95 is to paragraph 91.
Para 32	Para 91: replacement	In the modified paragraph 91, the FSA is added to the list of persons who may make an application to appoint an administrator but to whom the restrictions in sub-paragraph (2) apply.
Para 38	Para 103: joint administrators	In the modified paragraph 103— (a) in sub-paragraph (2)(a), the reference to paragraph 12(1)

<i>Provision of Schedule 2</i>	<i>Subject</i>	<i>Modification or comment</i>
		(a) to (c) is to regulation 5(1); and (b) sub-paragraphs (3) and (4) are not applied.
Para 39	Para 105: majority decision of directors	Paragraph 105 is not applied.
Para 40	Para 106: fines	In the modified paragraph 106, sub-paragraphs (2)(a), (2)(b), (2)(j) and (2)(k) are not applied.
Para 42	Paras 112 to 116: Scotland	Paragraphs 112 to 116 are not applied.

5.—(1) The provisions of the Insolvency Act other than those in Schedule B1 as applied by regulation 15 apply in respect of a partnership but where the provision is listed in Table 2 below, that provision shall apply subject to this paragraph.

(2) The provisions of the 1994 Order set out in Table 2 apply in relation to these Regulations, with—

- (a) the modifications set out in sub-paragraph (3); and
- (b) any other modification set out in Table 2.
- (3) The modifications are that a reference to—
 - (a) the Act (the Insolvency Act) is a reference to the Regulations;
 - (b) a provision of the Insolvency Act is to that provision as applied and modified by regulation 15, unless the provision appears in Table 1;
 - (c) being wound up means that the partnership is in special administration;
 - (d) office-holder means the administrator; and
 - (e) insolvency order means a special administration order.

Table 2: Applied provisions of the 1994 Order (general)

<i>Provision</i>	<i>Subject</i>	<i>Modification or comment</i>
Article 16	Application of the Disqualification Act	The reference to the partnership being wound up as an unregistered company under Part V of the Insolvency Act is a reference to it being placed in special administration under these Regulations.
Article 18	Subordinate legislation	
Schedule para 43	Schedule 1 to the Insolvency Act	Paragraph 19 is not applied.
Schedule para 9	Section 234 of the Insolvency Act	The reference in sub-paragraph (1) to article 7 of the 1994 Order is to be read as a reference to regulation 7.

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<i>Provision</i>	<i>Subject</i>	<i>Modification or comment</i>
Schedule 3, para 10	Schedule 4 to the Insolvency Act	In Schedule 4, paragraphs 4 to 10, and paragraph 12, are not applied, and in paragraph 13, the reference to “winding up the partnership’s affairs and distributing its property” is a reference to “pursuing the special administration objectives.”
Schedule 4, para 25	Section 211	Sub-paragraph (1) is not applied.
Schedule 8	Application of the Disqualification Act	The provisions of the Disqualification Act listed in Article 16, and applied with modification by Schedule 8, are to be read with the modifications set out in regulation 23.
Schedule 10	Subordinate legislation	<p>(a) The reference to the Insolvency Rules 1986 is a reference to insolvency rules.</p> <p>(b) Ignore the reference to the following instruments—</p> <ul style="list-style-type: none"> (i) The Insolvency Proceedings (Monetary Limits) Order 1986(2), (ii) The Administration of Insolvent Estates of Deceased Persons Order 1986(3), (iii) The Insolvency (Amendment of Subordinate Legislation) Order 1986(4), (iv) The Companies (Disqualification Orders) Regulations 2001(5), (v) The Co-operation of Insolvency Courts (Designation of Relevant Countries and Territories) Order 1986(6), (vi) The Insolvency Practitioners and Insolvency Services Accounts (Fees) Order 2003(7); and

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- (2) S.I. 1986/1996.
(3) S.I. 1986/ 1999.
(4) S.I. 1986/2001.
(5) S.I. 2001/967 (now revoked).
(6) S.I. 1986/2123.
(7) S.I. 2003/3363.

<i>Provision</i>	<i>Subject</i>	<i>Modification or comment</i>
		(vii) The Insolvency Proceedings (Fees) Order 2004(8).