
STATUTORY INSTRUMENTS

2009 No. 351

The Bank Insolvency (Scotland) Rules 2009

PART 5

INFORMATION TO CREDITORS AND CONTRIBUTORIES

Report by bank liquidator

21.—(1) The bank liquidator shall, at least once after the making of the bank insolvency order, make a report with respect to the proceedings in the bank insolvency and the state of the bank's affairs.

(2) Regardless of whether the liquidation committee has passed a full payment resolution, the first report under paragraph (1) shall be, within 8 weeks of the commencement of the bank insolvency, made publicly available on the bank's website.

- (3) The bank liquidator shall include in the report under paragraph (1)—
- (a) a statement that a petition has been presented to the court and the relevant court number;
 - (b) the full name, registered address, registered number and any other trading names of the bank;
 - (c) details relating to the bank liquidator's appointment, including the date of appointment, and where there are joint liquidators, details of—
 - (i) which functions (if any) are to be exercised by the persons appointed acting jointly, and
 - (ii) which functions (if any) are to be exercised by any of all of the persons appointed.
 - (d) the names of the directors and secretary of the bank and details of any shareholdings in the bank that they have;
 - (e) an account of the circumstances giving rise to the bank insolvency;
 - (f) if a statement of affairs has been submitted, a copy of that statement;
 - (g) if a statement of affairs has yet to be submitted—
 - (i) subject to sub-paragraph (ii) the names, addresses and details of any debts of the creditors, including details of any security held (or in the case of depositors who still are creditors of the bank at the time the report is made, a single statement of their aggregate debt); and
 - (ii) details of the financial position of the bank at the latest practicable date (which must, unless the court orders otherwise, be a date not earlier than the commencement of bank insolvency);
 - (h) the basis upon which it has been proposed under rule 24, or, if the full payment resolution has yet to be passed, rule 9, that the bank liquidator's remuneration has been fixed;
 - (i) to the best of the bank liquidator's knowledge and belief—

- (i) an estimate of the value of the prescribed part (within the meaning of section 176A of the 1986 Act) regardless of whether—
 - (aa) the bank liquidator proposes to make an application to the court under section 176A(5) of that Act⁽¹⁾; or
 - (bb) section 176A(3) of that Act applies);
- (ii) an estimate of the value of the company’s net property;
- (j) whether, and if so, why, the bank liquidator proposes to make an application to the court under section 176A(5) of the 1986 Act;
- (k) a summary of—
 - (i) how Objective 1 is being or has been achieved and an estimate of the costs to the bank liquidator of achieving it;
 - (ii) the manner in which the affairs and business of the bank not involved in the achievement of Objective 1 have, since the commencement of the bank insolvency, been managed and financed, including, where any assets have been disposed of, the reasons for such disposals and the terms upon which such disposals were made; and
 - (iii) how the affairs and business of the bank will continue to be managed and financed; and
- (l) an explanation of how it is envisaged the purpose of the bank liquidation will be achieved, including whether a dividend will be paid and an estimate as to the amount of this dividend and how it is proposed that the bank liquidation shall end.

(4) Nothing in this rule is to be taken as requiring either estimate mentioned in paragraph (3)(i) to include any information, the disclosure of which could seriously prejudice the commercial interests of the bank. If such information is excluded from the calculation, the estimate shall be accompanied by a statement to that effect.

(5) Any reference in this rule to creditors is to persons known to the bank liquidator to be creditors of the bank.

(6) Where a statement of affairs has been submitted to him, the bank liquidator may send out to creditors and contributories with the next convenient report to be made under paragraph (1) a summary of the statement and such observations (if any) as he thinks fit to make with respect to it.

(7) The bank liquidator shall insert a copy of any report sent under this rule in the sederunt book.

Information as to pending liquidations

22.—(1) Apply rule 4.11 of the 1986 Rules⁽²⁾.

(2) In rule 4.11(1) after “the Accountant in Bankruptcy” insert “and the registrar of companies”.

⁽¹⁾ Section 176A was inserted by section 252 of the [Enterprise Act 2002 \(c.40\)](#).

⁽²⁾ Rule 4.11 was amended by paragraph 13 of Schedule 1(I) to [S.I. 1987/1921](#), and paragraph 141(6) of Schedule 2(II) to [S.I. 1999/1820](#).