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DRAFT STATUTORY INSTRUMENTS

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**2014 No.**

**The Banks and Building Societies (Depositor Preference and Priorities) Order 2014**

**PART 7**

**Amendments of Schedule 15 to Building Societies Act 1986**

**Modified application of Part 4 of the Insolvency Act 1986**

**33.**—(1) Part 2 of Schedule 15 to the Building Societies Act 1986 (modified application of Insolvency Act 1986, Parts 4 and 12) is amended as follows.

(2) After paragraph 6 insert—

“**6A.** In the following provisions of the Act a reference to the creditors, general creditors or unsecured creditors of a company includes a reference to every shareholding member of the building society to whom a sum due from the society in relation to the member’s shareholding is due in respect of a deposit—

- (a) subsection (1) of section 143 (general functions of liquidator in winding up by the court);
- (b) subsection (3) of section 149 (debts due from contributory to company);
- (c) subsection (4) of section 168 (supplementary powers (England and Wales));
- (d) subsection (2)(b) of section 175 (preferential debts (general provision));
- (e) subsection (1) of section 176ZA (payment of expenses of winding up (England and Wales)(1)); and
- (f) subsections (3)(b) and (5)(a) of section 176A (share of assets for unsecured creditors)(2).”

(3) In paragraph 7 after sub-paragraph (3) insert—

“(3A) In paragraph (f) of subsection (2) the reference to a sum due to a member of the company by way of dividends, profits or otherwise does not include a sum due to a shareholding member of a building society in respect of a deposit.”

(4) In paragraph 12 after sub-paragraph (2) insert—

“(3) In sub-paragraph (2) the reference to the society’s liabilities to creditors includes a reference to the society’s liabilities to shareholding members of the society in respect of deposits which are not relevant deposits.”

(5) After paragraph 23 insert—

“**23A.** Section 143 (general functions of liquidator in winding up by the court) of the Act has effect as if after subsection (1) there were inserted—

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(1) Section 176ZA was inserted by the Companies Act 2006 (c. 46), section 1282(1).

(2) Section 176A was inserted by the Enterprise Act 2002 (c. 40), section 252.

“(1A) Subject to the provisions of Part 4 relating to preferential payments, a building society’s property in the winding up shall be applied in satisfaction of the society’s liabilities to creditors *pari passu* and, subject to that application, in accordance with the rules of the society.

(1B) In subsection (1A) the reference to the society’s liabilities to creditors includes a reference to the society’s liabilities to shareholding members of the society in respect of deposits which are not relevant deposits.””