EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules set out the procedure for the bank insolvency process under Part 2 of the Banking Act 2009 (c. 1).

The main features of bank insolvency are as follows. In the event of a deposit-taking bank becoming insolvent, it enables those depositors who are eligible for compensation under the Financial Services Compensation Scheme (FSCS) to either –

(a) receive compensation for their lost deposits as soon as possible after the bank goes into bank insolvency; or

(b) have their account transferred to a different bank.

This is the first objective of the insolvency process.

The procedure can only be initiated by the Bank of England, the Financial Services Authority or the Secretary of State by application to the court. The court then makes a bank insolvency order, appointing a bank liquidator. In the initial stages, the bank liquidator is accountable to a liquidation committee formed of the FSA, the Bank of England and the FSCS.

Once the bank liquidator considers that the first objective is achieved, the liquidation committee will pass a resolution to that effect and the bank insolvency will move to the second objective which is to wind up the affairs of the bank so as to achieve the best results for the creditors as a whole.

The Rules are based on, and follow the same order as, the Insolvency Rules 1986 (S.I. 1986/1925) ("the 1986 Rules") and certain provisions of the 1986 Rules are applied to these Rules, subject to a number of general and specific modifications.

Part 2 of the Rules sets out the application process for a bank insolvency order.

Part 3 sets out the procedure for appointing a provisional bank liquidator.

Parts 4 to 8 set out the procedure concerning the creditors and contributories.

Part 9 sets out provisions concerning the bank liquidator.

Part 10 sets out provisions concerning the liquidation committee.

Parts 11- 17 set out provisions relating to the bank's assets and other miscellaneous provisions.

Part 18 sets out court procedure and practice.

Part 19 sets out provisions re proxies and company representation.

Part 20 sets out provisions concerning the examination of persons concerned in bank insolvency.

Part 21 sets out provisions relating to the declaration of dividend.

Parts 22 and 23 set out miscellaneous and general provisions relating to the procedure.

An Impact Assessment of the effect of the Banking Act 2009 is available on HM Treasury's website (www.hm-treasury.gov.uk).