
STATUTORY INSTRUMENTS

2009 No. 356

The Bank Insolvency (England and Wales) Rules 2009

PART 9

THE BANK LIQUIDATOR

CHAPTER 2

RESIGNATION AND REMOVAL

Creditors' meeting to be notified of the bank liquidator's resignation

87.—(1) Apply rule 4.108 of the 1986 Rules(1).

(2) For paragraph (1), substitute—

“(1) Before resigning office, the bank liquidator must obtain the consent of the Bank of England and must call a meeting of creditors to notify them of this.

(1A) The notice summoning the meeting shall indicate that this is the purpose, or one of the purposes, of the meeting and shall draw the attention of the creditors to rule 95 with respect to the bank liquidator's release.

(1B) The notice in (1A) shall enclose a copy of the Bank of England's consent.”

(3) For paragraph (2) substitute—

“(2) Copies of the notice and of the account mentioned in paragraph (3) shall be sent to the court, the Bank of England and the FSA.”.

Action following acceptance of resignation

88.—(1) This rule applies where a meeting is summoned to notify the creditors of the bank liquidator's resignation

(2) The meeting will resolve whether to give the bank liquidator their release.

(3) If the meeting decides to not give the bank liquidator his release, the bank liquidator will be given a copy of that resolution and rule 95 applies.

(4) After the meeting the bank liquidator shall file the notice of his resignation in court and will send copies of the notice to the Bank of England, the FSA and the registrar of companies.

(5) The bank liquidator's resignation is effective as from the date on which the court receives the notice of his resignation, and the court will endorse that date on the notice.

Advertisement of resignation

89. Apply rule 4.112 of the 1986 Rules.

(1) Paragraphs (6) and (7) were added by [S.I.1987/1919](#).

Meeting of creditors to remove bank liquidator

- 90.**—(1) Apply rule 4.113 of the 1986 Rules.
- (2) In paragraph (1), for “section 174(4)” substitute “section 109 of the Banking Act 2009”.
- (3) In paragraph (2), for “official receiver” substitute “Bank of England and the FSA”.
- (4) In paragraph (4) substitute—
- “(4) Where the meeting passes a resolution that—
- (a) the bank liquidator be removed;
- (b) a new bank liquidator be appointed, or
- (c) the bank liquidator not to be given their release
- the bank liquidator will be given a copy of that resolution and if it has been resolved to remove the bank liquidator, the bank liquidator will be given a certificate to that effect.”
- (5) For paragraph (5) substitute—
- “(5) If the creditors have resolved to appoint a new bank liquidator, the certificate of his appointment shall also be sent to the registrar of companies within that time and rule 4.100 shall apply.”

Court’s power to regulate meetings under rule 90

- 91.** Apply rule 4.115 of the 1986 Rules. Leave out “or 4.114–CVL”.

Procedure on removal

- 92.**—(1) Apply rule 4.116 of the 1986 Rules.
- (2) For “official receiver”, wherever it appears, substitute “out-going bank liquidator”.
- (3) For paragraph (3) substitute—
- “(3) A copy of the certificate so endorsed shall be sent by the court to the outgoing bank liquidator and, if a new liquidator has been appointed, to him.”
- (4) Ignore paragraph (4).

Advertisement of removal

- 93.** Apply rule 4.118 of the 1986 Rules.

Removal of bank liquidator by the court

- 94.**—(1) Apply rule 4.119 of the 1986 Rules(2).
- (2) After paragraph (1) insert—
- “(2A) If the liquidation committee has not yet passed a full payment resolution, the court shall dismiss any application under paragraph (1) where the application is made by someone other than the Bank of England, the FSA or the liquidation committee.”
- (3) In paragraph (2), for “at least 7 days’ notice” substitute—
- “(a) if the application is made before the passing of a full payment resolution, such notice as is reasonable in all the circumstances, and

(2) Paragraph 5 of rule 4.119 was amended by [S.I. 2008/737](#).

- (b) if the application is made after the passing of a full payment resolution, at least 7 days' notice.”.
- (4) In paragraph (4), leave out “, at least 14 days before the hearing,”.
- (5) After paragraph (4) insert—
 - “(4A) The notice and copies mentioned in paragraph (4) shall be sent—
 - (a) if the application is made before the passing of a full payment resolution, within such time so as to give the bank liquidator notice of the hearing as is reasonable in all the circumstances, and
 - (b) if the application is made after the passing of a full payment resolution, at least 14 days before the hearing.”.
- (6) In paragraph (6)—
 - (a) in sub-paragraph (a), for “official receiver” substitute “Bank of England and the FSA” and at the end insert “and”, and
 - (b) leave out “and” at the end of sub-paragraph (b), and sub-paragraph (c).

Release of resigning or removed bank liquidator

- 95.**—(1) Apply rule 4.121 of the 1986 Rules.
- (2) In paragraph (1), for “accepted by” substitute “notified to”.
 - (3) For rule 4.109 substitute “rule 88 of the Bank Insolvency Rules 2009”.
 - (4) In paragraph (3)—
 - (a) in sub paragraph (a) for “receive his resignation” substitute “be notified of his resignation”; and
 - (b) leave out “or” at the end of sub-paragraph (a) and at the end of sub-paragraph (b) insert—
 - “, or
 - (c) the bank liquidator resigns, and the Bank of England has refused his release,”.
 - (5) For paragraph (4) substitute—
 - “(4) When the Secretary of State gives the release, he shall certify it accordingly, file the certificate in court and send a copy to the registrar of companies.”