
STATUTORY INSTRUMENTS

2009 No. 356

The Bank Insolvency (England and Wales) Rules 2009

PART 9

THE BANK LIQUIDATOR

CHAPTER 5

SUPPLEMENTARY PROVISIONS

Replacement Bank liquidator

106.—(1) Where the bank liquidator vacates his office for any reason (including death) other than by removal by a meeting of creditors in accordance with rule 90, the Bank of England shall appoint a new bank liquidator as soon as practicable.

(2) Where a bank liquidator has been removed by a meeting of creditors but 1 month has passed and there has been no resolution passed by a meeting of creditors to appoint a new bank liquidator, the Bank of England shall appoint a new bank liquidator as soon as practicable.

(3) The Bank of England shall file in court the document appointing the new bank liquidator (“the appointment document”) together with statements to the effect that the new bank liquidator—

- (a) is qualified to act as an insolvency practitioner in accordance with section 390 of the 1986 Act, and
- (b) consents to act as the bank liquidator.

(4) The bank liquidator shall send a copy of the appointment document to the FSA and registrar of companies.

(5) The bank liquidator shall as soon as reasonably practicable—

- (a) cause the appointment to be gazetted, and
- (b) advertise the appointment in such manner as the bank liquidator thinks fit.

Bank liquidator deceased

107.—(1) Unless notice of the death of the bank liquidator has been given under paragraph (2) or (3), it is the duty of the bank liquidator’s personal representatives, where the bank liquidator has died, to give notice of that fact to the Bank of England and the liquidation committee, specifying the date of the death.

(2) If the deceased bank liquidator was a partner in a firm, notice may be given to the Bank of England, the FSA and liquidation committee by a partner in the firm who is qualified to act as an insolvency practitioner, or is a member of any body recognised by the Secretary of State for the authorisation of insolvency practitioners.

(3) Notice of the death may also be given by any person producing the relevant death certificate or a copy of it to the Bank of England, the FSA and the liquidation committee.

(4) The Bank of England shall give notice to the court, for the purpose of fixing the date of the deceased bank liquidator's release.

Loss of qualification as insolvency practitioner

108.—(1) Apply rule 4.134 of the 1986 Rules. For paragraph (2) substitute—

“(2) The bank liquidator shall immediately give notice of his doing to the Bank of England.

(3) The Bank of England shall file a copy of this notice in court.”

Resignation of the bank liquidator

109.—(1) This rule applies where the bank liquidator was appointed by the bank insolvency order or by the Bank of England.

(2) The bank liquidator can only resign—

- (a) after the liquidation committee have passed a full payment resolution, and
- (b) with the consent of the Bank of England.

(3) Before calling a meeting of creditors under rule 87 to receive notice of the bank liquidator's resignation, the bank liquidator must write to the Bank of England notifying it of the intention to resign.

(4) The Bank of England shall notify the bank liquidator in writing within 21 days as to whether it consents to the resignation; if the Bank of England does not consent to the resignation, it shall set out its reasons in writing.

(5) The bank liquidator, if not content with the Bank of England's response, may apply to the Court for directions under section 168(3) of the 1986 Act.

Notice to Bank of England of intention to vacate office

110.—(1) This rule applies where the bank liquidator was appointed by a meeting of creditors.

(2) Apply rule 4.137 of the 1986 Rules(1).

(3) For “official receiver”, wherever it appears, substitute “Bank of England” and for “receive his resignation” substitute “be notified of his resignation”.

Bank liquidator's duties on vacating office

111. Apply rule 4.138 of the 1986 Rules(2). Ignore paragraph (3).

Power of court to set aside certain transactions

112.—(1) Apply rule 4.149 of the 1986 Rules.

(2) In paragraph (2)—

- (a) leave out “either”, and
- (b) leave out “or” at the end of sub-paragraph (a), and after sub-paragraph (b) insert—
“, or

(c) it is shown to the court's satisfaction that the transaction was entered into by the liquidator for the purpose of achieving Objective 1.”.

(1) The rule was substituted by [S.I. 1987/1919](#).

(2) Rule 4.138 was amended by [S.I. 1987/1919](#) and [S.I. 2004/584](#).

Rule against solicitation

113.—(1) Apply rule 4.150 of the 1986 Rules.**(3)**