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STATUTORY INSTRUMENTS

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**2010 No. 2584**

**The Building Society Insolvency (Scotland) Rules 2010**

**PART 5**

**INFORMATION TO CREDITORS AND CONTRIBUTORIES**

**Report by building society liquidator**

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

(2) Regardless of whether the liquidation committee has passed a full payment resolution, the first report under paragraph (1) shall be, within eight weeks of the commencement of the building society insolvency, made publicly available on the building society's website and the building society liquidator shall offer to send a copy of it to any creditor or contributory on request.

(3) The building society 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 registered name of the building society, any other trading names of the building society, and the address of its principal office;
- (c) details relating to the building society 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 or all of the persons appointed;
- (d) the names of the directors, chief executive and secretary of the building society and details of any shareholdings in the building society that they have;
- (e) an account of the circumstances giving rise to the building society 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) the names, addresses and details of any debts owed to the creditors, including details of any security held (or in the case of depositors who are still creditors of the building society at the time the report is made, a single statement of their aggregate debt);
  - (ii) details of the shares issued by the society (including the types of shares issued and the number of each type in issue); and
  - (iii) details of the financial position of the building society at the latest practicable date (which must, unless the court orders otherwise, be a date not earlier than the commencement of building society insolvency);
- (h) the basis upon which it has been proposed under rule 25, or, if the full payment resolution has yet to be passed, rule 9, that the building society liquidator's remuneration be fixed;

- (i) to the best of the building society liquidator’s knowledge and belief—
  - (i) an estimate of the value of the prescribed part (within the meaning of section 176A of the Insolvency Act) regardless of whether—
    - (aa) the building society liquidator proposes to make an application to the court under section 176A(5) of that Act<sup>(1)</sup>; or
    - (bb) section 176A(3) of that Act applies;
  - (ii) an estimate of the value of the building society’s net property;
- (j) whether, and if so, why, the building society liquidator proposes to make an application to the court under section 176A(5) of the Insolvency Act;
- (k) a summary of—
  - (i) how Objective 1 is being or has been achieved and an estimate of the costs to the building society liquidator of achieving it;
  - (ii) the manner in which the affairs and business of the building society not involved in the achievement of Objective 1 have, since the commencement of the building society 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 building society will continue to be managed and financed; and
- (l) an explanation of how it is envisaged the objectives of the building society liquidator 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 building society 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 building society. 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 building society liquidator to be creditors of the building society.

(6) Where a statement of affairs has been submitted to the building society liquidator, the building society 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 the building society liquidator thinks fit to make with respect to it.

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

### **Information as to pending liquidations**

**22.** Apply rule 4.11 of the 1986 Rules<sup>(2)</sup>.

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<sup>(1)</sup> Section 176A was inserted by section 252 of the Enterprise Act 2002 (c.40).

<sup>(2)</sup> 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.