
STATUTORY INSTRUMENTS

2011 No. 1301

The Investment Bank Special Administration
(England and Wales) Rules 2011

PART 3

Process of Special Administration

CHAPTER 4

Meetings generally

Meetings generally

68. This chapter, except where different provision is made in the Regulations or these Rules, applies to meetings summoned by the administrator under—

- (a) paragraph 51 (initial meeting);
- (b) paragraph 54(2) (meeting to consider revision to the administrator's proposals);
- (c) paragraph 62 (general power to summon meetings),

or following a request or a direction from the court under paragraph 56 (further creditors' meetings).

Venue

69.—(1) In fixing the venue for a meeting, the convener must have regard to the convenience of those attending.

(2) Meetings must be summoned for commencement between 10.00 and 16.00 hours on a business day (subject to any direction by the court).

(3) In this rule, "meeting" includes an adjourned meeting.

Notice of meeting by individual notice: when and where sent

70.—(1) This rule applies except where the court orders under rule 72 that notice of a meeting be given by advertisement only.

(2) Notice summoning a meeting must be delivered at least 14 days before the day fixed for the meeting as provided in paragraph (3).

(3) Notice must be sent—

- (a) for a meeting involving the creditors, to all the creditors of whose address the administrator is aware and who had claims against the investment bank at the date when it entered administration (except for those who have subsequently been paid in full);

- (b) for a meeting involving the clients, to all clients of whose claim the administrator is aware (except for those who have no outstanding claim to clients assets held by the investment bank) and has a means of contacting;
- (c) for a meeting of contributories, to every person appearing (by the investment bank's books or otherwise) to be a contributory of the investment bank.

(4) The FSA, and in a special administration (bank insolvency) or special administration (bank administration), the Bank of England and the FSCS, shall also be notified of any such meeting.

Notice of meeting by individual notice: content and accompanying documents

71.—(1) This rule applies except where the court orders under rule 72 that notice of a meeting be given by advertisement only.

(2) Notice summoning a meeting must specify the purpose of and venue for the meeting and state that claims or proofs and (if applicable) proxies must be lodged at a specified place not later than 12.00 hours on the business day before the date fixed for the meeting in order that creditors or clients may be entitled to vote at the meeting.

(3) Forms of proxy complying with rule 125 must be sent out with every notice summoning a meeting.

Notice of meeting by advertisement only

72.—(1) The court may order that notice of any meeting under these Rules be given by advertisement and not by individual notice to the persons concerned.

(2) In considering whether so to order, the court must have regard to the cost of advertisement, the amount of assets available and the extent of the interest of creditors, clients, members and contributories or any particular class of them.

Content of notice for meetings

73.—(1) Notice of a meeting of the creditors, clients or a meeting of creditors and clients, must contain the following information—

- (a) a statement that the proceedings are being held in the High Court and the court reference number;
- (b) the full name, registered address, registered number and any other trading names of the investment bank;
- (c) the full name and business address of the administrator;
- (d) details of the venue of the meeting;
- (e) whether the meeting is—
 - (i) an initial creditors' and clients' meeting under paragraph 51,
 - (ii) to consider revisions to the administrator's proposals under paragraph 54(2),
 - (iii) a further creditors', or creditors and clients', or clients' meeting under paragraph 56, or
 - (iv) a meeting under paragraph 62,

unless the court orders that it be given by advertisement only in accordance with rule 72.

(2) Where the court orders an extension to the period set out in paragraph 51(2)(b), the administrator shall notify each person who was sent notice in accordance with paragraph 49(4) (or in a special administration (bank administration), paragraph 9 to Schedule 2 to the Regulations).

Gazetting and advertisement of meetings

74.—(1) The administrator, in convening a meeting under these Rules, must have gazetted a notice which, in addition to the standard contents, must state—

- (a) that a creditors', clients', creditors and clients', members' or contributories' meeting is to take place;
- (b) the venue fixed for the meeting;
- (c) the purpose of the meeting; and
- (d) the time and date by which, and place at which, those attending must lodge proxies and (in the case of a meeting of creditors, clients or both) claims or proofs in order to be entitled to vote.

(2) Notice under this Rule must be gazetted before or as soon as reasonably practicable after notice is given to those attending.

(3) Information to be gazetted under this Rule may also be advertised in such other manner as the administrator thinks fit.

Non-receipt of notice of meeting

75. Where, in accordance with the Regulations or these Rules, a meeting is summoned by notice, the meeting is presumed to have been duly summoned and held, even if not all those to whom the notice is to be given have received it.

Requisition of meetings

76.—(1) In this Chapter, "requisitioned meeting" means a meeting requested under paragraph 56(1).

(2) A request for a meeting must contain the following information—

- (a) a statement that the proceedings are being held in the High Court and the court reference number;
- (b) the full name, registered address and registered number of the investment bank;
- (c) the full name and address of the creditor requesting the meeting; and
- (d) the full amount of that creditor's claim.

(3) The request for a requisitioned meeting must include a statement of the purpose of the proposed meeting and—

- (a) either—
 - (i) a list of the creditors or contributories concurring with the request and of the amounts of their respective claims or values, and
 - (ii) written confirmation of concurrence from each creditor or contributory concurring, or
- (b) a statement that the requesting creditor's debt or contributory's value alone is sufficient without the concurrence of other creditors or contributories.

(4) In the preceding paragraph, a contributory's value is the amount in respect of which the contributory may vote at any meeting.

(5) A requisitioned meeting must be held within 28 days of the date of the administrator's receipt of the notice.

(6) The administrator—

- (a) shall notify the FSA of the details and purpose of the requisitioned meeting;

- (b) shall—
 - (i) in a special administration (bank insolvency), notify the Bank of England of the details and purpose of the requisitioned meeting, or
 - (ii) in a special administration (bank administration) notify the Bank of England and the FSCS of the details and purpose of the requisitioned meeting, and
- (c) may, if the administrator thinks appropriate, also summon the clients to the requisitioned meeting.

Expenses of requisitioned meetings

77.—(1) The expenses of summoning and holding a requisitioned meeting shall be paid by the person who makes the request, who shall deposit with the administrator security for their payment.

(2) The sum to be deposited shall be such as the administrator may determine, and the administrator shall not act without the deposit having been made.

(3) The meeting may resolve that the expenses of summoning and holding it are to be payable out of the assets of the investment bank as an expense of the administration.

(4) To the extent that any deposit made under this rule is not required for the payment of expenses of summoning and holding the meeting, it shall be repaid to the person who made it.

Quorum at meetings

78.—(1) A meeting of creditors, clients, creditors and clients or contributories is not competent to act unless a quorum is present.

- (2) A quorum is—
 - (a) in the case of a meeting of creditors, at least one creditor entitled to vote;
 - (b) in the case of a meeting of clients, at least one client entitled to vote;
 - (c) in the case of a meeting of creditors and clients, at least one creditor and one client who are each entitled to vote;
 - (d) in the case of a meeting of contributories, at least 2 contributories so entitled, or all the contributories, if their number does not exceed 2.
- (3) Where at any meeting under paragraph (2)—
 - (a) the provisions of this rule as to a quorum being present are satisfied by the attendance of—
 - (i) the chair alone, or
 - (ii) one other person in addition to the chair, and
 - (b) the chair is aware, by virtue of claims or proofs and proxies received or otherwise, that one or more additional persons would, if attending, be entitled to vote,

the meeting must not commence until at least the expiry of 15 minutes after the time appointed for its commencement.

Chair at meetings

79.—(1) At any meeting of creditors, clients, or creditors and clients summoned by the administrator, either the administrator shall be the chair, or a person nominated by the administrator in writing to act in the administrator's place.

- (2) A person so nominated must be either—
 - (a) one who is qualified to act as an insolvency practitioner in relation to the investment bank;
 - or

- (b) an employee of the administrator or the administrator's firm who is experienced in insolvency matters.
- (3) Where the chair holds a proxy which includes a requirement to vote for a particular resolution and no other person proposes that resolution—
 - (a) the chair must propose it unless the chair considers that there is good reason for not doing so, and
 - (b) if the chair does not propose it, the chair must as soon as reasonably practicable after the meeting notify the principal of the reason why not.

Adjournment by chair

- 80.**—(1) The chair may, and must if the meeting so resolves, adjourn the meeting to such time and place as seems to the chair to be appropriate in the circumstances.
- (2) An adjournment under this paragraph must not be for a period of more than 14 days, subject to any direction by the court.
- (3) If there are further adjournments, the final adjournment must not be to a day later than 14 days after the date on which the meeting was originally held.
- (4) Rule 69 applies with regard to the venue fixed for a meeting adjourned under this rule.
- (5) This rule does not apply to the initial meeting of creditors and clients.

Adjournment in absence of chair

- 81.**—(1) If within 30 minutes from the time fixed for commencement of a meeting there is no person present to act as chair, the meeting stands adjourned to the same time and place in the following week or, if that is not a business day, to the business day immediately following.
- (2) If within 30 minutes from the time fixed for the commencement of the meeting those persons attending the meeting do not constitute a quorum, the chair may adjourn the meeting to such time and place as the chair may appoint.

Claims, proofs and proxies in adjournment

- 82.** Where a meeting under these rules is adjourned, claims, proofs and proxies may be used if lodged at any time up to 12.00 hours on the business day immediately before the adjourned meeting.

Suspension

- 83.** Once only in the course of a meeting, the chair may, without an adjournment, declare it suspended for any period up to 1 hour.

Venue and conduct of company meetings

- 84.**—(1) Where the administrator summons a meeting of members of the investment bank, the administrator shall fix a venue for it having regard to their convenience.
- (2) The chair of the meeting shall be the administrator or a person nominated by the administrator in writing to act in the administrator's place.
- (3) A person so nominated must be either—
 - (a) one who is qualified to act as an insolvency practitioner in relation to the investment bank; or
 - (b) an employee of the administrator or the administrator's firm who is experienced in insolvency matters.

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(4) If within 30 minutes from the time fixed for commencement of the meeting there is no person present to act as chair, the meeting stands adjourned to the same time and place in the following week or, if that is not a business day, to the business day immediately following.

(5) Subject to anything to the contrary in the Regulations and these Rules, the meeting must be summoned and conducted in accordance with the law of England and Wales, including any applicable provision in or made under the 2006 Act.

(6) The chair of the meeting shall cause minutes of its proceedings to be entered in the company's minute book.