

## SCHEDULE 6

### Modifications and consequential amendments

## PART 2

### Specific modifications

2. Where this Part of this Schedule applies, the enactments set out below apply with the modifications indicated.

#### **Financial Services and Markets Act 2000**

3.—(1) The following provisions of the Financial Services and Markets Act 2000 apply with the modifications set out in this paragraph.

(2) In section 215(1) (rights of the scheme in insolvency)—

- (a) in subsection (3), the reference to making an administration application is to be read as including making an application for a special administration order; and
- (b) subsection (4) is to be read as if it provided the following—

“(4) In the case of a special administration (bank insolvency), if the scheme manager decides, pursuant to section 101 of the Banking Act 2009, as applied by paragraph 6(2) of Schedule 1 to the Investment Bank Special Administration Regulations 2011, not to be a member of the creditors’ committee, the scheme manager has the same rights as are conferred on the Authority by section 371.”

(3) In section 220(3)(2), the reference to an administrator is to be read as including an administrator appointed under a special administration order.

(4) In section 362(6)(3), the reference to administration is to be read as including special administration.

(5) In section 375 (Authority’s right to apply for an order), references to the provisions of the Insolvency Act 1986 and the Insolvency (Northern Ireland) Order 1989 are to be read as including references to those provisions as applied and modified by—

- (a) regulation 15; or
- (b) section 145 of the Banking Act 2009 (with the modifications set out in paragraph 6(3) of Schedule 2).

#### **Pensions Act 2004**

4. In section 121(3)(d) of the Pensions Act 2004 (meaning of insolvency event), the reference to “the company enters administration within the meaning of paragraph 1(2)(b) of Schedule B1 to that Act” is to be read so as to include the investment bank entering special administration.

#### **Companies Act 2006**

5.—(1) The following provisions of the Companies Act 2006 apply with the modifications set out in this paragraph.

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- (1) Section 215(3) was amended by the Enterprise Act 2002 (c. 40), section 248(3), Schedule 17, paragraphs 53, 54(1), (2) and by S.I. 2005/1455.
  - (2) Section 220(3) was amended but the amendments are not relevant.
  - (3) Section 362(6) was amended by S.I. 2008/948.

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- (2) In section 461 (permitted disclosure of information obtained under compulsory powers)—
- (a) subsection (4)(c) is to be read so as to include these Regulations in the list of enactments in that subsection; and
  - (b) subsection (4)(g) is to be read so as to include these Regulations in the list of enactments in that subsection.
- (3) Any references in Part 35 (the registrar of companies) to the Insolvency Act 1986 and the Insolvency (Northern Ireland) Order 1989 are to be read as including that legislation as applied and modified by these Regulations.
- (4) Where an application is made to the court for—
- (a) a special administration order; or
  - (b) the appointment of a person under section 135 of the Insolvency Act 1986 or article 115 of the Insolvency (Northern Ireland) Order 1989 as applied by these Regulations,
- sections 1139 and 1140 (service of documents on company, directors, secretaries and others) have effect subject to the provisions for service set out in rules made under section 411 of the Insolvency Act as applied and modified by regulation 15 of these Regulations.
- (5) In Part 2 of Schedule 2(4) (Specified descriptions of disclosures for the purposes of section 948), under heading A—
- (a) paragraph 13 is to be read so as to include these Regulations in the list of enactments in that paragraph, and
  - (b) paragraph 37 is to be read so as to include these Regulations in the list of enactments in that paragraph.
- (6) In Part 2 of Schedule 11A(5) (Specified descriptions of disclosures for the purposes of section 1224A)—
- (a) paragraph 30 is to be read so as to include these Regulations in the list of enactments in that paragraph, and
  - (b) paragraph 52 is to be read so as to include these Regulations in the list of enactments in that paragraph.

### **Land Registration Rules 2003**

6. Rule 184(1) of the Land Registration Rules 2003(6) is to be read as if the reference to administration included special administration.

### **Credit Institutions (Reorganisation and Winding Up) Regulations 2004**

7.—(1) The following provision of the Credit Institutions (Reorganisation and Winding Up) Regulations 2004(7) applies with the modification set out in this paragraph.

(2) Regulation 11(2) is to be read as if it provided the following—

“(2) The prescribed circumstances are that, after the appointment of the administrator, the administrator, in drawing up the statement of proposals in accordance with paragraph 49 of Schedule B1 (as applied by regulation 15(6) of the Investment Bank Special Administration Regulations 2011) or paragraph 7 of Schedule 2 to those Regulations has concluded that it is not possible to rescue the investment bank as a going concern.”.

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(4) Schedule 2 was inserted by [S.I. 2009/1208](#).

(5) Schedule 11A was inserted by [S.I. 2007/3494](#).

(6) [S.I. 2003/1417](#); this instrument was amended by [S.I. 2003/2096](#).

(7) [S.I. 2004/1045](#).

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