
STATUTORY INSTRUMENTS

2021 No. 1178

The Payment and Electronic Money Institution
Insolvency (England and Wales) Rules 2021

PART 7

Distributions to creditors

CHAPTER 2

Proofs of debt

Proving a debt

120.—(1) Subject to paragraph (7), a person claiming to be a creditor of the institution and wishing to recover their debt in whole or in part must (subject to any order of the court to the contrary) submit their claim in writing to the administrator.

(2) A creditor who claims is referred to as “proving” for their debt and a document by which that creditor seeks to establish their claim is their “proof”.

(3) Subject to paragraph (4) and paragraph (6), a proof must—

- (a) be made out by, or under the direction of, the creditor and authenticated by the creditor or a person authorised in that behalf, and
- (b) state the following matters—
 - (i) the creditor’s name and address,
 - (ii) if the creditor is a company, its registered number,
 - (iii) the total amount of the creditor’s claim (including value added tax) as at the date on which the institution entered special administration, less any payments made after that date in respect of the claim, any deduction under rule 131 and any adjustment by way of set-off in accordance with rule 132,
 - (iv) whether or not the claim includes outstanding uncapitalised interest,
 - (v) particulars of how and when the debt was incurred by the institution,
 - (vi) particulars of any security held, the date on which it was given and the value which the creditor puts on it,
 - (vii) details of any reservation of title in respect of goods to which the debt refers, and
 - (viii) the name, address and authority of the person authenticating the proof (if not the creditor).

(4) There must be specified in the proof details of any documents by reference to which the debt can be substantiated but, subject to paragraph (5), it is not essential that such document be attached to the proof or submitted with it.

Status: Point in time view as at 12/11/2021.

Changes to legislation: There are currently no known outstanding effects for the The Payment and Electronic Money Institution Insolvency (England and Wales) Rules 2021, Section 120. (See end of Document for details)

(5) The administrator may call for any document or other evidence to be produced, where the administrator thinks it necessary for the purpose of substantiating the whole or any part of the claim made in the proof.

(6) Where the administrator has become aware that a customer has a shortfall claim, the administrator must—

- (a) keep a record of the shortfall claim, including the details set out in paragraph (3)(b) to the extent relevant,
- (b) treat each record under sub-paragraph (a) as if it were a proof submitted by a customer in respect of its shortfall claim and references to “proofs” and to “proving” shall include all records prepared under sub-paragraph (a), and
- (c) notify the customer that a proof for the shortfall claim has been submitted under this rule as soon as is reasonably practicable.

(7) Where paragraph (6) applies, a customer does not need to submit a separate proof under paragraph (1) for a shortfall claim.

Commencement Information

II Rule 120 in force at 12.11.2021, see [rule 2](#)

Status:

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