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STATUTORY INSTRUMENTS

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**2021 No. 1178**

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

PART 7

Distributions to creditors

CHAPTER 3

Quantification of claims

**Mutual credit and set-off**

**132.**—(1) This rule applies where the administrator has, under rule 142, given notice of a proposal to make a distribution.

(2) In this rule, “mutual dealings” means mutual credits, mutual debts or other mutual dealings between the institution and a creditor of the institution proving or claiming to prove for a debt in the special administration, but does not include any of the following—

- (a) any debt arising out of an obligation incurred after the institution entered special administration,
- (b) any debt arising out of an obligation incurred at a time when the creditor had notice that an application for a special administration order was pending, or
- (c) any debt which has been acquired by a creditor by assignment or otherwise, pursuant to an agreement between the creditor and any other party where that agreement was entered into—
  - (i) after the institution entered special administration, or
  - (ii) at a time when the creditor had notice that an application for a special administration order was pending.

(3) An account must be taken as at the date of the notice referred to in paragraph (1) of what is due from each party to the other in respect of the mutual dealings and the sums due from one party must be set off against the sums due from the other.

(4) A sum must be regarded as being due to or from the institution for the purposes of paragraph (3) whether—

- (a) it is payable at present or in the future,
- (b) the obligation by virtue of which it is payable is certain or contingent, or
- (c) its amount is fixed or liquidated, or is capable of being ascertained by fixed rules or as a matter of opinion.

(5) Rule 128 shall apply for the purposes of this rule to any obligation to or from the institution which, by reason of its being subject to any contingency or for any other reason, does not bear a certain value.

(6) Rules 133 to 135 shall apply for the purposes of this rule in relation to any sums due to the institution which—

- (a) are payable in a currency other than sterling,
- (b) are of a periodical nature, or
- (c) bear interest.

(7) Rule 153 shall apply for the purposes of this rule to any sum due to or from the institution which is payable in the future.

(8) Only the balance (if any) of the account owed to the creditor is provable in the special administration. Alternatively the balance (if any) owed to the institution must be paid to the administrator as part of the assets except where all or part of the balance results from a contingent or prospective debt owed by the creditor and in such a case the balance (or that part of it which results from the contingent or prospective debt) must be paid if and when that debt becomes due and payable.

(9) In this rule, “obligation” means an obligation however arising, whether by virtue of an agreement, rule of law or otherwise.