STATUTORY INSTRUMENTS

2021 No. 1178

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

PART 3

Process of Special Administration

CHAPTER 1

Notice of appointment and statement of affairs

Notification and advertisement of administrator's appointment

17.—(1) The notice of appointment under paragraph 46(2)(b) to be given by the administrator as soon as is reasonably practicable after appointment—

(a) must be gazetted, and

(b) may be advertised in such other manner as the administrator thinks fit.

(2) In addition to the standard contents, the notice must state that an administrator has been appointed and the date of the appointment.

(3) The administrator must as soon as is practicable after appointment give notice of the appointment to—

(a) any enforcement officer who, to the administrator's knowledge, is charged with execution or other legal process against the institution,

(b) any person who, to the administrator's knowledge, has distrained against the institution, and

(c) any supervisor of a voluntary arrangement under Part 1 of the IA 1986.

(4) The administrator shall send the notice of appointment to the registrar of companies within seven days of the date of the order appointing them.

(5) Any notice required to be sent by the administrator under these Rules or under Schedule B1 must—

(a) contain details of the court where the proceedings are and the relevant court reference number,

(b) contain the full name, registered address, registered number, all trading names and principal trading office of the institution,

(c) contain the name, business address and IP number of the person or persons appointed as administrator and the date of their appointment, and

(d) be authenticated and dated by the administrator.

Notice requiring statement of affairs

18.—(1) In this Part, "relevant person" has the meaning given to it in paragraph 47(3) and "nominated person" is the relevant person who has been required by the administrator to make out and deliver a statement of affairs to the administrator.

(2) The administrator must deliver notice to each relevant person who the administrator deems appropriate requiring that relevant person to make out and deliver a statement of the institution's affairs.

(3) The notice must be headed "notice requiring statement of affairs" and must inform each of the nominated persons—

(a) that the proceedings are being held in the court and the court reference number,

(b) of the full name, registered address and registered number of the institution,

(c) of the name and the business address of the administrator,

(d) of the name and addresses of all others (if any) to whom the same notice has been sent,

(e) of the date by which the statement must be delivered to the administrator, being before the end of the period of eleven days beginning with the day on which the nominated person receives notice of the requirement,

(f) of the effect of paragraph 48(4), and

(g) of the application to that nominated person, and to each other relevant person, of section 235 of the IA 1986(**1**).

(4) The administrator must, on request, provide details to the nominated person as to how the statement should be prepared.

Statement of affairs: content

19.—(1) The statement of the institution's affairs must be headed "Statement of affairs" and must—

(a) identify the institution immediately below the heading, and

(b) state that it is a statement of the affairs of the institution on a specified date, being the date on which it entered special administration.

(2) The statement of affairs must contain (in addition to the matters required by paragraph 47(2)) —

(a) a summary of the assets of the institution, setting out the book value and the estimated realisable value of—

(i) any assets subject to a fixed charge,

(ii) any assets subject to a floating charge,

(iii) any uncharged assets, and

(iv) the total value of all the assets available for preferential creditors,

(b) a summary of the liabilities of the institution, setting out—

(i) the amount of preferential debts,

(ii) an estimate of the deficiency with respect to preferential debts or the surplus available after paying the preferential debts,

(iii) an estimate of the prescribed part, if applicable,

(iv) an estimate of the total assets available to pay debts secured by floating charges,

(**1**) Section 235 was amended by S.I. 2011/245. There are other amending instruments but none is relevant.

(v) the amount of debts secured by floating charges,

(vi) an estimate of the deficiency with respect to debts secured by floating charges or the surplus available after paying the debts secured by fixed or floating charges,

(vii) the amount of unsecured debts (excluding preferential debts),

(viii) an estimate of the deficiency with respect to unsecured debts or the surplus available after paying unsecured debts,

(ix) any issued and called-up capital, and

(x) an estimate of the deficiency with respect to, or surplus available to, members of the institution,

(c) a list of the institution's creditors with the further particulars required by paragraph (3) indicating—

(i) any creditors under hire-purchase, chattel leasing or conditional sales agreements, and

(ii) any creditors claiming retention of title over property in the institution's possession, and

(d) the name and address of each member of the institution and the number, nominal value and other details of the shares held by each member.

(3) Subject to paragraphs (4) and (5), the list of creditors required by paragraph 47(2) and paragraph (2)(c) of this rule must contain the following details—

(a) the name and postal address of the creditor,

(b) the amount of the debt owed to the creditor,

(c) details of any security held by the creditor,

(d) the date on which the security was given, and

(e) the value of any such security.

(4) Paragraph (5) applies where the particulars required by paragraph (3) relate to creditors who are either-

(a) employees or former employees of the institution, or

(b) consumers claiming amounts paid in advance for the supply of goods or services.

(5) Where this paragraph applies—

(a) the statement of affairs itself must state—

(i) the number of employees or former employees of the institution and the total of the debts owed to them, and

(ii) the number of consumers claiming amounts paid in advance for the supply of goods or services and the total of the debts owed to them, and

(b) the particulars required by paragraph (3) must be set out in a separate schedule to the statement of affairs for each of the employees, former employees and consumers referred to in paragraphs (4)(a) and (b).

(6) Subject to paragraph (7), the administrator must not—

(a) disclose to any person any schedule or any of the details contained in any schedule provided under paragraph (5)(b),

(b) send or deliver to any person (including the registrar of companies) any schedule provided under paragraph (5)(b) at the same time as sending or delivering the statement of affairs, or

(c) include a schedule or any of the details contained in any schedule provided under paragraph (5)(b) in a statement of proposals or revised statement of proposals under rule 26 or rule 32.

(7) Following a written request from the FCA, the administrator must, as soon as is reasonably practicable, send or deliver to the FCA a copy of any schedule provided under paragraph (5)(b).

Details of the asset pool, safeguarding measures and reconciliation

20.—(1) In addition to the matters required by paragraph 47(2) and under rule 19, the statement of affairs must include particulars of the asset pool including the relevant funds held by the institution.

(2) The particulars must include—

(a) subject to paragraph (3), the names and contact details of each customer of the institution and each such customer's relevant funds claim,

(b) details of the asset pool including details of—

(i) the safeguarding measures employed by the institution and the amount of relevant funds safeguarded in accordance with each of such measures,

(ii) any relevant funds invested (in the case of a payment institution) in secure, liquid assets approved by the FCA in accordance with regulation 23(6) of the PSR 2017(**2**) or (in the case of an electronic money institution) in secure, liquid low-risk assets in accordance with regulation 21(2) of the EMR 2011(**3**),

(iii) any insurance policy covering relevant funds,

(iv) the accounts in which relevant funds are held,

(v) any guarantee given by an authorised insurer or authorised credit institution covering relevant funds, and

(c) details as to any security interest held by the institution or another person in respect of the asset pool.

(3) Where the particulars required by paragraph (2)(a) relate to customers who are individuals—

(a) the particulars must be set out in a separate schedule from the statement of affairs, and

(b) the statement of affairs must state the number of customers who are individuals and the total of the debts owed to them.

(4) Subject to paragraph (5), the administrator must not—

(a) disclose to any person any schedule or any of the details contained in any schedule provided under paragraph (3)(a),

(b) send or deliver to any person (including the registrar of companies) any schedule provided under paragraph (3)(a) at the same time as sending or delivering the statement of affairs, or

(c) include any schedule or any of the details contained in any schedule provided under paragraph (3)(a) in a statement of proposals or revised statement of proposals under rule 26 or rule 32.

(5) Following a written request from the FCA, the administrator must, as soon as is reasonably practicable, send or deliver to the FCA a copy of any schedule provided under paragraph (3)(a).

Verification, filing and statement of concurrence

21.—(1) The statement of affairs must be verified by a statement of truth by the nominated person.

(**2**) S.I. 2017/752, amended by S.I. 2017/1173, 2018/1021. There are other amending instruments but none is relevant.
(**3**) S.I. 2011/99, amended by S.I. 2013/3115, 2015/575, 2017/252, 2017/1173, 2018/1021. There are other amending instruments but none is relevant.

(2) The administrator may require any relevant person to submit a statement of concurrence.

(3) Where the administrator requires a statement of concurrence, the nominated person making the statement of affairs must be informed of that fact.

(4) The nominated person must deliver the statement of affairs together with the statement of truth, together with a copy, to the administrator.

(5) The nominated person must also deliver a copy of the statement of affairs to every person who has been required to submit a statement of concurrence.

(6) The relevant person required to submit a statement of concurrence must deliver the statement of concurrence together with a copy before the end of the period of five business days (or such other period as the administrator may agree) beginning on the day on which the statement of affairs being concurred with is received by that relevant person.

(7) A statement of concurrence—

(a) must identify the institution, and

(b) may be qualified in respect of matters dealt with by the statement of affairs, where the relevant person making the statement of concurrence-

(i) is not in agreement with the nominated person,

(ii) considers the statement of affairs to be erroneous or misleading, or

(iii) is without the direct knowledge necessary for concurring with it.

(8) Subject to paragraph (9) and rule 22, the administrator must as soon as is reasonably practicable deliver a copy of the statement of affairs and any statement of concurrence to the registrar of companies and file them with the court.

(9) The administrator must not deliver to the registrar of companies with the statement of affairs and any statement of concurrence any schedule required by rule 19(5)(b) or rule 20(3)(a).

Limited disclosure

22.—(1) Where the administrator thinks that it would prejudice the conduct of the special administration (or might reasonably be expected to lead to violence against any person) for the whole or part of a statement of affairs or a statement of concurrence to be disclosed, the administrator may apply to the court for an order of limited disclosure in respect of the whole or any part of a statement of affairs or a statement of concurrence.

(2) The court may, on such application, order that the statement of affairs or any statement of concurrence or, as the case may be, a specified part of either must not be filed with the registrar of companies.

(3) The administrator must, as soon as is reasonably practicable, deliver a copy of the order, the statement of affairs and any statement of concurrence (to the extent provided by the order) to the registrar of companies.

(4) If a creditor or a customer seeks disclosure of a statement of affairs, a statement of concurrence or a specified part of either in relation to which an order has been made under this rule, that person may apply to the court for an order that the administrator disclose it or a specified part of it.

(5) An application under paragraph (4) must be supported by written evidence in the form of a witness statement.

(6) The applicant must give the administrator notice of the application at least three business days before the hearing.

(7) The court may make any order for disclosure subject to any conditions as to:

(a) confidentiality,

(b) duration,

(c) the scope of the order in the event of any change of circumstances, or

(d) other matters as it thinks just.

(8) If there is a material change in circumstances rendering the limit on disclosure or any part of it unnecessary, the administrator must, as soon as is reasonably practicable after the change, apply to the court for the order or any part of it to be rescinded.

(9) The administrator must, as soon as is reasonably practicable after the making of an order under paragraph (8), file a copy of the statement of affairs and any statement of concurrence to the extent provided by the order with the registrar of companies.

(10) When the statement of affairs or a statement of concurrence is filed in accordance with paragraph (9), the administrator must, where they have sent a statement of proposals under paragraph 49, provide the creditors and the customers with a copy or summary of the statement of affairs and any statement of concurrence as filed.

(11) The provisions of CPR Part 31(**4**) do not apply to an application under this rule.

Release from duty to submit statement of affairs

23.—(1) The power of the administrator under paragraph 48(2) to revoke a requirement to submit a statement of affairs or to extend the period within which it must be submitted may be exercised at the administrator's own discretion, or at the request of any nominated person who has been required to provide the statement of affairs.

(2) The nominated person may, if they request a revocation or extension and it is refused by the administrator, apply to the court for it and when such an application is made, the period referred to in paragraph 48(1) and rule 18(3)(e) is suspended pending the court's decision.

(3) The court may, if it thinks that no sufficient cause is shown for the application, dismiss it without giving notice to any other party other than the applicant.

(4) If the application is not dismissed under paragraph (3), the court must fix a venue for it to be heard, and give notice to the relevant person and to the FCA accordingly.

(5) Where an application has been made under paragraph (2), the FCA may appear and be heard at the hearing or may make written representations.

(6) The applicant must, at least fourteen days before the hearing, deliver to the administrator a notice stating the venue and accompanied by a copy of the application and of any evidence on which the applicant intends to rely.

(7) The administrator may appear and be heard on the application and, whether or not they appear, the administrator may file a written report of any matters which they consider ought to be drawn to the court's attention.

(8) If a report is filed under paragraph (7), a copy of it must be delivered by the administrator to the applicant not later than five business days before the hearing.

(9) Sealed copies of any order made on the application must be delivered by the court to the applicant and the administrator.

(10) On any application under this rule, the applicant's costs must be paid in any event by the applicant and, unless the court otherwise orders, no allowance towards them must be made as an expense of the special administration.

(**4**) Part 31 was substituted by S.I. 2008/2178.

Expenses of statement of affairs

24.—(1) A nominated person making the statement of affairs or a relevant person making a statement of concurrence must be allowed, and paid by the administrator as an expense of the special administration, any expenses incurred by the nominated person or relevant person in so doing which the administrator considers reasonable.

(2) Any decision by the administrator under this rule is subject to appeal to the court.

(3) Nothing in this rule relieves a nominated person or a relevant person from any obligation with respect to:

(a) the preparation, verification and submission of the statement of affairs or a statement of concurrence, or

(b) the provision of information to the administrator.

Submission of accounts

25.—(1) Any of the persons specified in section 235(3) of the IA 1986 must, at the request of the administrator, provide the administrator with the institution's accounts as at such date and for such period as the administrator may specify.

(2) The period specified may begin from a date up to 3 years preceding the date the institution entered special administration, or from an earlier date to which the audited accounts of the institution were last prepared.

(3) The court may, on the administrator's application, require accounts for an earlier period.

(4) Rule 24 applies (with the necessary modification) in relation to the accounts to be provided under this rule as it applies to the statement of affairs.

(5) The accounts must (if the administrator so requires) be verified by a statement of truth and (whether or not so verified) be delivered within twenty-one days of the request under paragraph (1) (or such longer period as the administrator may allow).

CHAPTER 2

Statement of proposals

Administrator's proposals

26.—(1) The administrator must under paragraph 49 (or regulation 39 where the FCA has given a direction under regulation 38 which has not been withdrawn) make a statement of proposals, which is required by paragraph 49(4) to be delivered to the registrar of companies, creditors, every customer of whose claim the administrator is aware and who the administrator has a means of contacting, the FCA and members.

(2) In addition to the information required by paragraph 49 (or regulation 39, if applicable), the statement of proposals must include—

(a) a statement that the proceedings are being held in the court and the court reference number,

(b) the full name, any other trading names, the registered address and registered number of the institution,

(c) details of the administrator's appointment (including the date of appointment and details of who applied for the appointment),

(d) in the case of joint administrators, details of the apportionment of functions,

(e) the names of the directors and secretary of the institution and details of any shareholdings in the institution they have,

(f) an account of the circumstances giving rise to the application for the appointment of the administrator,

(g) if a statement of affairs has been submitted:

(i) a copy or summary of it, except so far as an order under rule 22 limits disclosure of it, and excluding any schedule referred to in rule 19(5)(b) or rule 20(3)(a) or the particulars relating to creditors or customers contained in any such schedule, and

(ii) any comments which the administrator may have on the statement of affairs,

(h) if an order limiting the disclosure of the statement of affairs has been made under rule 22, a statement of that fact, as well as—

(i) details of who submitted the statement of affairs,

(ii) the date of the order for limited disclosure, and

(iii) the details or a summary of the details that are not subject to that order,

(i) subject to sub-paragraphs (j) and (k), if a full statement of affairs is not submitted, or if no statement of affairs is submitted, the name, postal address and the amount of the debt owing to each creditor of the institution including details of any security held and the value of any such security,

(j) sub-paragraph (k) applies where the particulars required by sub-paragraph (i) relate to creditors who are either—

(i) employees or former employees of the institution, or

(ii) consumers claiming amounts paid in advance for the supply of goods or services,

(k) where this paragraph applies—

(i) the particulars required under sub-paragraph (i) must state separately for each of sub-paragraphs (j)(i) and (ii) the number of such creditors and the total of the debts owed to them, and

(ii) the particulars required by sub-paragraph (i) in respect of such creditors under sub-paragraph (j)(i) and (ii) must be set out in separate schedules,

(l) subject to sub-paragraph (m), if a full statement of affairs is not submitted, or if no statement of affairs is submitted, the name and (to the extent known to the administrator after making all reasonable enquiries) the contact details of each customer of the institution and each customer's relevant funds claim together with:

(i) details as to any security interest held by the institution or another person in respect of the asset pool, and

(ii) details of the asset pool and the measures used by the institution to safeguard relevant funds,

(m) where customers are individuals—

(i) the particulars required under sub-paragraph (l) must state separately the number of such customers and the total of the debts owed to them, and

(ii) the remaining details required under sub-paragraph (l) in relation to such customers must be set out in a separate schedule,

(n) if no statement of affairs is submitted, details of the financial position of the institution at the latest practicable date (which must, unless the court otherwise orders, be a date not earlier than that on which the institution entered special administration), and an explanation as to why there is no statement of affairs,

(o) the basis upon which it is proposed that the administrator's remuneration should be fixed under rule 163, and, if this basis has already been set, details as to what has been set and any proposals for this to be changed,

(p) a statement complying with paragraph (4) of any pre-administration costs charged or incurred by the administrator or, to the administrator's knowledge, by any other person qualified to act as an insolvency practitioner,

(q) details of whether (and why) the administrator proposes to apply to the court under section 176A(5) of the IA 1986 (unless the administrator intends to propose a company voluntary arrangement),

(r) an estimate of the value of the prescribed part for the purposes of section 176A of the IA 1986 (unless the institution intends to propose a company voluntary arrangement) certified as being made to the best of the administrator's knowledge and belief,

(s) an estimate of the value of the institution's net property (unless the administrator intends to propose a company voluntary arrangement) certified as being made to the best of the administrator's knowledge and belief,

(t) an explanation of the priority that has been given since the commencement of special administration to the special administration objectives (and where the FCA has given a direction under regulation 38, an explanation as to how this has dictated the priority given to a particular objective),

(u) the manner in which the affairs and business of the institution have been managed and financed since the date of the administrator's appointment (including the reasons for and terms of any disposal of assets),

(v) details as to the order in which the administrator aims to pursue the special administration objectives and the manner in which the affairs and business of the institution will be managed and financed if the administrator's proposals are approved,

(w) details of any reconciliation undertaken by the administrator (whether under regulation 13 or otherwise),

(x) details of the steps taken by the administrator to constitute any asset pool,

(y) whether the administrator expects a dividend to be paid to creditors and an estimate of the amount of this dividend,

(z) how it is proposed that the special administration shall end, in accordance with Objective 3 as set out in regulation 12(4), and

(aa) any other information which the administrator thinks necessary to enable creditors and customers to decide whether or not to approve the statement of proposals.

(3) Subject to paragraph (4), the administrator must not—

(a) disclose any schedule or any of the details contained in any schedule provided under paragraph (2)(k)(ii) or paragraph (2)(m)(ii) to any person,

(b) send or deliver any schedule provided under paragraph (2)(k)(ii) or paragraph (2)(m)(ii) with a statement of proposals or revised statement of proposals to any person (including the registrar of companies).

(4) Following a written request from the FCA, the administrator must, as soon as is reasonably practicable, send or deliver to the FCA a copy of any schedule provided under paragraph (2)(k)(ii) or paragraph (2)(m)(ii).

(5) In this Part—

(a) "pre-administration costs" are—

(i) fees charged, and

(ii) expenses incurred,

by the administrator, or another person qualified to act as an insolvency practitioner, before the institution entered special administration but with a view to its doing so, and

(b) "unpaid pre-administration costs" are pre-administration costs which had not been paid when the institution entered special administration.

(6) A statement of pre-administration costs complies with this paragraph if it includes—

(a) details of any agreement under which the fees were charged and expenses incurred, including the parties to the agreement and the date on which the agreement was made,

(b) details of the work done for which the fees were charged and expenses incurred,

(c) an explanation of why the work was done before the institution entered special administration and how it would further the achievement of the special administration objectives,

(d) a statement of the amount of the pre-administration costs, setting out separately—

(i) the costs incurred in connection with the pursuit of Objective 1,

(ii) the costs incurred in connection with the pursuit of Objectives 2 and 3,

(iii) the fees charged by the administrator,

(iv) the expenses incurred by the administrator,

(v) the fees charged (to the administrator's knowledge) by any other person qualified to act as an insolvency practitioner (and, if more than one, by each separately), and

(vi) the expenses incurred (to the administrator's knowledge) by any other person qualified to act as an insolvency practitioner (and, if more than one, by each separately),

(e) a statement of the amounts of pre-administration costs which have already been paid (set out separately as under sub-paragraph (d)),

(f) the identity of the person who made the payment or, if more than one person made the payment, the identity of each such person and of the amounts paid by each such person set out separately as under sub-paragraph (d),

(g) a statement of the amounts of unpaid pre-administration costs (set out separately as under sub-paragraph (d)), and

(h) a statement that the payment of unpaid pre-administration costs as an expense of the special administration is—

(i) subject to approval under rule 100, and

(ii) not part of the proposals subject to approval under paragraph 53.

(7) The statement of proposals—

(a) may exclude information the disclosure of which could seriously prejudice the commercial interests of the institution, and

(b) must include a statement of any exclusion.

(8) In addition to the standard contents, a notice published by the administrator under paragraph 49(6) must:

(a) identify the proceedings,

(b) be advertised in such manner as the administrator thinks fit, and

(c) be published as soon as is reasonably practicable after the administrator has delivered the statement of proposals to the institution's creditors and customers but no later than eight

weeks (or such other period as may be agreed by the creditors and customers or as the court may order) from the date on which the institution entered special administration.

(9) In addition to the standard contents, a notice published by the administrator under paragraph 49 that the statement of proposals is to be provided free of charge to a payment system operator must:

(a) identify the proceedings,

(b) include a statement confirming that a copy of the statement of proposals will also be provided free of charge to the Payment Systems Regulator if it applies in writing to a specified address,

(c) be advertised in such a manner as the administrator thinks fit, and

(d) be published as soon as is reasonably practicable after the administrator has delivered the statement of proposals to the institution's creditors and customers but no later than eight weeks (or such other period as may be agreed by the creditors and customers or as the court may order) from the date on which the institution entered special administration.

(10) Following an application by the administrator under paragraph 107, where the court orders an extension of the period of time in paragraph 49(5), the administrator must as soon as is possible after the order has been made deliver a notice of the extension to—

(a) every creditor of the institution of whose address the administrator is aware,

(b) every customer of the institution who the administrator has a means of contacting and of whose relevant funds claim the administrator is aware,

(c) the members of the institution of whose address the administrator is aware,

(d) any relevant payment system operator,

(e) the registrar of companies, and

(f) the FCA.

(11) A notice under paragraph (10) must:

(a) identify the proceedings,

(b) state the date to which the court has ordered an extension, and

(c) contain the registered office of the institution.

(12) The administrator is taken to have complied with paragraph (10)(c) if the administrator publishes a notice which:

(a) contains the standard contents,

(b) contains the information in paragraph (9),

(c) is advertised in such a manner as the administrator thinks fit,

(d) states that the member may request in writing a copy of the notice of the extension, and states the address to which to write, and

(e) is published as soon as is reasonably practicable after the administrator has delivered the notice of the extension to the institution's creditors and customers.

(13) The administrator is taken to have complied with paragraph (10)(d) if the administrator publishes a notice which:

(a) contains the standard contents,

(b) contains the information in paragraph 9,

(c) is advertised in such a manner as the administrator thinks fit,

(d) states that the payment system operator may request in writing a copy of the notice of the extension free of charge, and states the address to which to write, and

(e) is published as soon as is reasonably practicable after the administrator has delivered the notice of the extension to the institution's creditors and customers.

Limited disclosure of the statement of proposals

27.—(1) Where the administrator thinks that it would prejudice the conduct of the special administration (or might reasonably be expected to lead to violence against any person) for any of the matters specified in rule 26(2)(i) to (n) to be disclosed, the administrator may apply to the court for an order of limited disclosure in respect of any specified part of the statement of proposals.

(2) The court may, on such application, order that some or all of the specified part of the statement must not be sent to the registrar of companies or to creditors, customers or members of the company as otherwise required by paragraph 49(4) or to a payment system operator or to the Payment Systems Regulator.

(3) The administrator must as soon as is reasonably practicable deliver to the persons specified in paragraph (2) the statement of proposals (to the extent provided by the order) and an indication of the nature of the matter in relation to which the order was made.

(4) The administrator must also deliver a copy of the order to the registrar of companies.

(5) A creditor who seeks disclosure of a part of the statement of proposals in relation to which an order has been made under this rule may apply to the court for an order that the administrator disclose it, and the application must be supported by written evidence in the form of a witness statement.

(6) The applicant must give the administrator notice of the application at least three business days before the hearing.

(7) The court may make any order for disclosure subject to any conditions as to:

(a) confidentiality,

(b) duration,

(c) the scope of the order in the event of any change of circumstances, or

(d) other matters as it thinks just.

(8) If there is a material change in circumstances rendering the limit on disclosure or any part of it unnecessary, the administrator must, as soon as is reasonably practicable after the change, apply to the court for the order or any part of it to be rescinded.

(9) The administrator must, as soon as is reasonably practicable after the making of an order under paragraph (7), deliver to the persons specified in paragraph (2) a copy of the statement of proposals to the extent provided by the order.

(10) The provisions of CPR Part 31 do not apply to an application under this rule.

CHAPTER 3

Initial meeting to consider proposals

Initial meeting

28.—(1) As soon as is reasonably practicable after an invitation to the initial meeting has been sent out in accordance with paragraph 51(1), the administrator must have gazetted—

(a) that an initial meeting of creditors and customers is to take place,

(b) the venue fixed for the meeting, and

(c) the full name and business address of the administrator.

(2) The information required to be gazetted under paragraph (1) may also be advertised in such other manner as the administrator thinks fit.

(3) Where the court orders an extension to the period set out in paragraph 51(2)(b), the administrator must notify each person who was sent notice in accordance with paragraph 49(4).

(4) This rule does not apply where the FCA has given a direction under regulation 38 and the direction has not been withdrawn.

Notice to officers

29.—(1) Where rule 28 applies, notice to attend the meeting must be given to every present or former officer of the institution whose presence the administrator thinks is required at the same time that notice is sent to creditors and customers.

(2) That notice must contain—

(a) a statement that the proceedings are being held in the court and the court reference number,

(b) the full name, registered address, registered number and any other trading names of the institution,

(c) the full name and business address of the administrator, and

(d) details of the venue of the meeting.

(3) Every person who receives a notice under paragraph (1) must attend.

Business of the initial meeting

30.—(1) At the initial meeting of creditors and customers—

(a) a creditors' committee may be established in accordance with Chapter 8 of this Part, and

(b) the statement of proposals must be approved as follows.

(2) Creditors and customers must vote as separate classes on whether to approve the proposals.

(3) The proposals must not be approved unless both classes of voter have voted to approve them.

(4) If the proposals are approved by a class of voter subject to a modification, the proposals will not be considered approved by the other class unless that other class has approved the proposals as modified.

(5) Where the administrator is unable to get the requisite majority of a class of voter for approval of the statement of proposals (with or without any modifications), rule 31 applies.

(6) This rule does not apply where the FCA has given a direction under regulation 38 and the direction has not been withdrawn.

Adjournment of meeting to approve the statement of proposals

31.—(1) If, at the initial meeting of creditors and customers, there is not the requisite majority for approval of the statement of proposals (with or without any modifications) for each class of voter, the administrator may, and must if a resolution is passed to that effect, adjourn the meeting for not more than fourteen days (subject to any direction by the court).

(2) If there are subsequently further adjournments, the final adjournment must not be to a day later than fourteen days after the date on which the meeting was originally held, (subject to any direction by the court).

(3) Where a meeting is adjourned under this rule, 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.

(4) Where at the initial meeting, the proposals were approved (whether or not with modifications) by one class of voter but not the other, that approval must no longer stand at the adjourned meeting unless the version of the proposals to be voted on has not been modified from the version that was approved.

(5) If the administrator is unable to get the requisite majority of creditors or customers for approval of the statement of proposals, the administrator may apply to the court for directions under paragraph 63.

Revision of the statement of proposals

32.—(1) The administrator must under paragraph 54 (or regulation 40 where the FCA has given a direction under regulation 38 which has not been withdrawn) make a statement setting out the proposed revisions to the statement of proposals ("the revised statement").

(2) The revised statement, which must be delivered in accordance with paragraph 54(2)(b) and (c), must include—

(a) a statement that the proceedings are being held in the court and the court reference number,

(b) the full name, registered address, registered number and any other trading names of the institution,

(c) details of the administrator's appointment (including the date of appointment),

(d) in the case of joint administrators, details of the apportionment of functions,

(e) the names of the directors and secretary of the institution and details of any shareholdings in the institution they have,

(f) a summary of the initial proposals and the reasons for proposing a revision,

(g) details of the proposed revision including details of the administrator's assessment of the likely impact of the proposed revision upon the creditors generally or upon each class of creditor or upon the customers (as the case may be), and

(h) any other information that the administrator thinks necessary to enable creditors and customers (where applicable) to decide whether or not to approve the proposed revisions.

(3) A copy of the revised statement must be delivered to the FCA at the same time as the revised statement is delivered to others in accordance with paragraph 54(2).

(4) Where the administrator considers that the revision proposed will only affect creditors or, as the case may be, customers, the notice of the meeting to consider the revised statement must be sent to both creditors and customers, but will state who is invited to the meeting.

(5) Subject to paragraph 54(3), within five business days of delivering the revised statement the administrator must deliver a copy of the statement to every member of the institution of whose address the administrator is aware.

(6) Any notice to be published under paragraph 54(3) must be advertised in such a manner as the administrator thinks fit.

(7) The notice must be published as soon as is reasonably practicable after the administrator delivers the revised statement in accordance with paragraph 54(2) and, in addition to the standard contents, must—

(a) state that members can write for a copy of the statement of revised proposals and

(b) state the address to which to write.

(8) Paragraph (4) shall not apply where the FCA has given a direction under regulation 38 which has not been withdrawn at the time the administrator proposes a revision to the statement of proposals.

(9) In this rule, a reference to—

"paragraph 54(2)" also includes a reference to regulation 40(4), and

"paragraph 54(3)" also includes a reference to regulation 40(5).

Meeting to approve the revised statement of proposals

33.—(1) This rule applies to a meeting of creditors, a meeting of customers or a meeting of creditors and customers to approve the revisions to the statement of proposals.

(2) Where the revisions are being approved by a meeting of creditors and customers—

(a) creditors and customers must vote as separate classes on whether to approve the revisions,

(b) the revisions shall not be approved unless both classes of voter have voted to approve them, and

(c) where the revisions are approved by a class of voter subject to a modification, the proposals will not be considered approved by the other class unless that other class has approved the proposals as modified.

(3) If the administrator is unable to get the requisite majority of creditors or customers for approval of the revised statement of proposals, the administrator may apply to the court for directions under paragraph 55.

(4) Where the FCA has given a direction under regulation 38 and has not withdrawn its direction at the time that the administrator proposes a revision to the statement of proposals, this rule shall not apply.

Notice to creditors and customers

34.—(1) As soon as is reasonably practicable after the conclusion of a meeting of creditors, of customers, or of creditors and customers to consider the administrator's proposals or revised proposals, the administrator must—

(a) deliver notice of the result of the meeting to every person who received a copy of the original proposals,

(b) deliver notice of the result of the meeting to the Payment Systems Regulator and any payment system operator,

(c) attach a copy of the proposals considered at the meeting to the notice sent to each creditor and each customer who did not receive notice of the meeting but of whose claim the administrator has subsequently become aware, and

(d) file with the court a copy of the proposals considered at the meeting and notice of the result of the meeting.

(2) The administrator is taken to have complied with paragraph (1)(b) if the administrator publishes a notice which:

(a) contains the standard contents,

(b) identifies the proceedings,

(c) contains the registered office of the institution,

(d) is advertised in such a manners as the administrator thinks fit,

(e) states that the payment system operator may request in writing a copy of the notice of the result of the meeting free of charge, and states the address to which to write, and

(f) is published as soon as is reasonably practicable after the administrator has delivered the notice of the result of the meeting to those who received a copy of the original proposals.

CHAPTER 4

Meetings generally

Meetings generally

35. Except where different provision is made in the Regulations or these Rules, this Chapter applies to meetings summoned by the administrator under—

(a) paragraph 51;

(b) paragraph 54(2);

(c) paragraph 62;

or following a request or a direction from the court under paragraph 56.

Venue

36.—(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

37.—(1) This rule applies except where the court orders under rule 39 that notice of a meeting be given by advertisement only.

(2) Notice summoning a meeting must be delivered at least fourteen 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 institution at the date when it entered special administration (except for those who have subsequently been paid in full);

(b) for a meeting involving the customers, to all customers of whose relevant funds claim the administrator is aware and has a means of contacting (except for those who have no outstanding relevant funds claims);

(c) for a meeting of contributories, to every person appearing (by the institution's books or otherwise) to be a contributory of the institution and of whose address the administrator is aware.

(4) The FCA must also be notified of any such meeting.

Notice of meeting by individual notice: content and accompanying documents

38.—(1) This rule applies except where the court orders under rule 39 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 a creditor or customer wishing to vote at the meeting must lodge claims (including relevant funds claims) or proofs and (if applicable) proxies at a specified place not later than 12.00 hours on the business day before the date fixed for the meeting.

(3) A blank proxy complying with rule 90 must be sent out with every notice summoning a meeting.

Notice of meeting by advertisement only

39.—(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:

(a) the cost of advertisement,

(b) the amount of assets available, and

(c) the extent of the interest of creditors, customers, members and contributories or any particular class of them.

Content of notice for meetings

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

(a) a statement that the proceedings are being held in the court and the court reference number;

(b) the full name, registered address, registered number and any other trading names of the institution;

(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 customers' meeting under paragraph 51,

(ii) to consider revisions to the administrator's proposals under paragraph 54(2),

(iii) a further creditors', or creditors and customers', or customers' 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 39.

(2) Where the court orders an extension to the period set out in paragraph 51(2)(b), the administrator must notify each person who was sent notice in accordance with paragraph 49(4).

Gazetting and advertisement of meetings

41.—(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 meeting of:

(i) creditors,

(ii) customers,

(iii) creditors and customers,

(iv) members, or

(v) contributories

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 who wish to vote must lodge proxies and (in the case of a meeting of creditors, customers or both) claims or proofs.

(2) Notice under this rule must be gazetted before or as soon as is 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

42. 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

43.—(1) A request for a requisitioned meeting must contain the following information—

(a) a statement that the proceedings are being held in the court and the court reference number,

(b) the full name, registered address and registered number of the institution,

(c) the full name and address of the creditor requesting the meeting, and

(d) the full amount of that creditor's claim.

(2) 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 concurring with the request and of the amounts of their respective claims, and

(ii) written confirmation of concurrence from each creditor concurring, or

(b) a statement that the requesting creditor's debt alone is sufficient without the concurrence of other creditors.

(3) A requisitioned meeting must be held within twenty-eight days of the date of the administrator's receipt of the notice.

(4) The administrator—

(a) must notify the FCA of the details and purpose of the requisitioned meeting, and

(b) may, if the administrator thinks appropriate, also summon customers to the requisitioned meeting.

Expenses of requisitioned meetings

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

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

(3) The meeting may resolve that the expenses of summoning and holding it are to be payable out of the assets of the institution as an expense of the special 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 must be repaid to the person who made it.

Quorum at meetings

45.—(1) A meeting of creditors, customers, creditors and customers 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 customers, at least one customer entitled to vote;

(c) in the case of a meeting of creditors and customers, at least one creditor and one customer who are each entitled to vote;

(d) in the case of a meeting of contributories, at least two contributories so entitled, or all the contributories, if their number does not exceed two.

(3) Where—

(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

46.—(1) At any meeting of the creditors, the customers, or creditors and customers summoned by the administrator, either the administrator must 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 institution, 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 is reasonably practicable after the meeting notify the principal of the reason why not.

Adjournment by chair

47.—(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 rule must not be for a period of more than fourteen 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 fourteen days after the date on which the meeting was originally held.

(4) Rule 36 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 customers.

Adjournment in absence of chair

48.—(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

49. 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

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

Venue and conduct of company meetings

51.—(1) Where the administrator summons a meeting of members of the institution, the administrator must fix a venue for it having regard to their convenience.

(2) The chair of the meeting must 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—

(a) one who is qualified to act as an insolvency practitioner in relation to the institution, or

(b) an employee of the administrator or the administrator's firm who is experienced in insolvency matters.

(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 CA 2006.

(6) The chair of the meeting must ensure that minutes of its proceedings are entered in the company's minute book.

CHAPTER 5

Entitlement to vote at meetings

Entitlement to vote (creditors)

52.—(1) A creditor is entitled to vote at a meeting of creditors, or at a meeting of creditors and customers, only if—

(a) the administrator has been given written details of the debt which is claimed as due to that person from the institution, including any calculation for the purposes of rule 53 or rule 54,

(b) the details were given to the administrator—

(i) not later than 12.00 hours on the business day before the day fixed for the meeting, or

(ii) later than that time but the chair of the meeting is satisfied that that was due to circumstances beyond that person's control,

(c) the claim has been admitted for the purposes of entitlement to vote, and

(d) there has been lodged with the administrator any proxy intended to be used on behalf of that person.

(2) Where under rule 56(4) the administrator has become aware that a customer has a shortfall claim:

(a) the administrator shall treat the customer as having provided details of the shortfall claim under paragraphs (1)(a) and (b);

(b) the claim shall be admitted under paragraph 1(c) for the purposes of entitlement to vote, and

(c) the customer does not need to submit a separate claim under paragraph (1) in order to be entitled to vote as a creditor at a meeting of creditors and customers in respect of its shortfall claim but a customer should if relevant lodge a proxy in accordance with paragraph (1)(d).

(3) For the purposes of this Chapter, written details of a claim, once lodged or given in accordance with this rule, need not be lodged or given again.

(4) The chair of a meeting of creditors, or of a meeting of creditors and customers, may call for any document or other evidence to be produced if the chair thinks it necessary for the purpose of substantiating the whole or any part of a claim.

Calculation of voting rights (creditors)

53.—(1) Votes are calculated according to the amount of each creditor's claim as at the date on which the institution entered special administration, less any payments that have been made to the creditor after that date in respect of the claim and any adjustment by way of set-off in accordance with rule 132 as if that rule were applied on the date on which the votes are counted.

(2) A creditor may vote in respect of a debt which is for an unliquidated amount or the value of which is not ascertained if the chair decides to put upon it an estimated minimum value for the purpose of entitlement to vote and admits the claim for that purpose.

(3) Paragraph (2) does not apply to a shortfall claim.

(4) A creditor may not vote in respect of any claim or part of a claim—

(a) where the claim or part is secured, except where the vote is cast in respect of the balance (if any) of the debt after deduction of the value of the security as estimated by the creditor, or

(b) where the claim is in respect of a debt wholly or partly on, or secured by, a current bill of exchange or promissory note, unless the creditor is willing—

(i) to treat as a security in the creditor's hands the liability on the bill or note of every person who is liable on it antecedently to the institution, and—

(aa) in the case of a company, has not gone into liquidation, or

(bb) in the case of an individual, against whom a bankruptcy order has not been made or whose estate has not been sequestrated, and

(ii) to estimate the value of the security and for the purposes of voting (but not otherwise) to deduct it from the claim.

Calculation of voting rights: special cases (creditors)

54.—(1) An owner of goods under a hire-purchase or chattel leasing agreement, or a seller of goods under a conditional sale agreement, is entitled to vote in respect of the amount of the debt due and payable by the institution on the date on which it entered special administration.

(2) In calculating the amount of any debt for the purpose of paragraph (1), no account is to be taken of any amount attributable to the exercise of any right under the relevant agreement so far as the right has become exercisable solely by virtue of—

(a) the making of a special administration application, or

(b) the institution entering special administration.

Procedure for admitting creditors' claims for voting

55.—(1) At a meeting of creditors, the chair must ascertain the entitlement of persons wishing to vote as creditors and admit or reject their claims accordingly.

(2) The chair may admit or reject a claim in whole or in part.

(3) If the chair is in any doubt whether a claim should be admitted or rejected, the claim must be marked as objected to and allow votes to be cast in respect of it, subject to such votes being subsequently declared invalid if the objection to the claim is sustained.

Entitlement to vote (customers)

56.—(1) A customer is entitled to vote at a meeting of creditors and customers, or customers only if—

(a) the administrator has been given written details of the customer's relevant funds claim in accordance with rule 102,

(b) the details were given to the administrator—

(i) not later than 12.00 hours on the business day before the day fixed for the meeting, or

(ii) later than that time but the chair of the meeting is satisfied that the delay was due to circumstances beyond that customer's control,

(c) the relevant funds claim has been admitted for the purposes of entitlement to vote, and

(d) there has been lodged with the administrator any proxy intended to be used on behalf of that person.

(2) Subject to paragraph (4), for the purposes of this Chapter, written details of a relevant funds claim, once lodged or given in accordance with this rule, need not be lodged or given again.

(3) The chair at a meeting of customers, or creditors and customers, may call for any document or other evidence to be produced if the chair thinks it necessary for the purpose of substantiating the whole or any part of a relevant funds claim.

(4) If at any time prior to the initial meeting or to a meeting of creditors and customers, or customers only, the administrator has become aware that a customer has a shortfall claim, the administrator must—

(a) adjust the relevant funds claim submitted under paragraph (1), subtracting the value of the shortfall claim from that relevant funds claim,

(b) submit a claim under rule 52(1)(c) on behalf of the customer as to the shortfall claim,

(c) take this shortfall into account in calculating the customer's entitlement to vote, and

(d) as soon as is reasonably practicable, notify the customer—

(i) of the amended relevant funds claim and the shortfall claim, and

(ii) that a claim for the shortfall claim has been submitted under rule 52.

(5) For the purposes of this Chapter, a customer's voting rights are calculated according to the value of the customer's relevant funds claim submitted under this rule, taking into account any shortfall claim identified prior to the meeting.

Procedure for admitting customers' relevant funds claims for voting

57.—(1) At a meeting of creditors and customers, or customers only, the chair must ascertain the entitlement of persons wishing to vote as customers and admit or reject their relevant funds claims accordingly.

(2) The chair may admit or reject a relevant funds claim in whole or in part.

(3) If the chair is in any doubt whether a relevant funds claim should be admitted or rejected, the relevant funds claim must be marked as objected to and votes allowed to be cast in respect of it, subject to such votes being subsequently declared invalid if the objection to the relevant funds claim is sustained.

Voting at meetings of creditors and customers

58.—(1) This rule applies to meetings of creditors and customers.

(2) If the administrator thinks it appropriate, the creditors and customers may vote on the same resolution at the meeting, however the creditors and the customers must vote in separate classes on the resolution.

Requisite majorities

59.—(1) Subject to paragraph (2), at a meeting of creditors or customers, or of creditors and customers, a resolution is passed when a majority (in value) of those present and voting in each class, in person or by proxy, have voted at the relevant meeting in favour of it.

(2) Any resolution is invalid if those voting against it include more than half in value of the creditors, or, as the case may be, customers, to whom notice of the meeting was sent and who are not, to the best of the chair's belief, persons connected with the institution.

(3) "Persons connected with the institution" has the same meaning in respect of the institution as a person connected with a company in accordance with section 249 of the IA 1986.

Requisite majorities at contributories' meetings

60. At a meeting of contributories, voting rights are as at a general meeting of the institution, subject to any provision of the articles affecting entitlement to vote, either generally or at a time when the institution is in liquidation.

Appeals against decisions under this Chapter

61.—(1) The chair's decisions under this Chapter are subject to appeal to the court by any creditor, customer, contributory or member.

(2) If the chair's decision is reversed or varied, or votes are declared invalid, the court may order another meeting to be summoned or make such order as it thinks just.

(3) An appeal under this rule may not be made later than twenty-one days after the date of the meeting.

(4) The chair is not personally liable for costs incurred by any person in respect of an appeal under this rule unless the court makes an order to that effect.

CHAPTER 6

Correspondence and remote attendance

Correspondence instead of meetings

62.—(1) The administrator may seek to obtain the passing by creditors, customers, or contributories of a written resolution by delivering a notice to that effect to every creditor, customer, or contributory (as the case may be) who would be entitled to be notified of a meeting at which the resolution could be passed.

(2) Notice under paragraph (1) must contain the following information—

(a) a statement that the proceedings are being held in the court and the court reference number,

(b) the full name, registered address and registered number of the institution,

(c) the full name and business address of the administrator,

(d) the resolution to be voted on, and

(e) the closing date by which the recipient must respond to the administrator.

(3) In order to be counted, votes must—

(a) be received by the administrator by 12.00 hours on the closing date specified in the notice, and

(b) in the case of a vote cast by a creditor or by a customer, be accompanied by a statement of entitlement to vote on the resolution unless one has already been lodged with or given to the administrator.

(4) A statement of entitlement is written details of the creditor's claim or the customer's relevant funds claim.

(5) The closing date is to be set at the discretion of the administrator, but must be not less than fourteen days from the date of issue of the notice.

(6) Votes must be disregarded if—

(a) the requisite statement of entitlement had not accompanied them or previously been lodged with or given to the administrator, or

(b) in the application of Chapter 5 of this Part, the administrator decides that the creditor or customer is not entitled to cast the votes.

(7) For the resolution to be passed, the administrator must receive at least one valid vote in favour by the closing date specified in the notice or where the resolution is one which were it to be passed at a meeting of creditors and customers would require approval by each class voting separately, at least one valid vote from each class.

(8) If no valid vote is received by the closing date, the administrator must call a meeting of creditors, creditors and customers, customers or contributories (as the case may be) to consider the resolution.

(9) Creditors whose debts amount to at least ten per cent of the total debts of the institution may, within five business days from the date of issue of the notice, require the administrator to call a meeting of creditors and customers (if relevant) to consider the resolution.

(10) Customers whose relevant funds claims amount to at least ten per cent of the total relevant funds claims may, within five business days from the date of issue of the notice, require the administrator to call a meeting of customers and creditors (if relevant) to consider the resolution.

(11) Contributories representing at least ten per cent of the total voting rights of all contributories having the right to vote a at meeting of contributories may, within five business days from the date

of issue of the notice, require the administrator to call a meeting of contributories to consider the resolution.

(12) A reference in these Rules to anything done or required to be done at, or in connection with, or in consequence of, a meeting of creditors, customers or contributories extends to anything done in the course of correspondence in accordance with this rule.

Remote attendance at meetings conducted in accordance with section 246A

63.—(1) This rule applies to a request for the administrator under section 246A(9) of the IA 1986(**5**) to specify a place for the meeting.

(2) The request must be accompanied by—

(a) in the case of a request by creditors, a list of the creditors making or concurring with the request and the amounts of their respective debts in the special administration,

(b) in the case of a request by customers, a list of the customers making or concurring with the request and the amounts of their respective relevant funds claims in the special administration,

(c) in the case of a request by contributories, a list of the contributories making or concurring with the request and their respective values (being the amounts for which they may vote at the meeting),

(d) in the case of a request by members, a list of the members making or concurring with the request and their voting rights, and

(e) from each person concurring, written confirmation of that person's concurrence.

(3) The request must be made within seven business days of the date on which the administrator sent the notice of the meeting in question.

(4) Where the administrator considers that the request has been properly made in accordance with the Regulations and this rule, the administrator must—

(a) give notice to all those previously given notice of the meeting—

(i) that it is to be held at a specified place, and

(ii) as to whether the date and time are to remain the same or not,

(b) set a venue (including specification of a place) for the meeting, the date of which must be not later than twenty-eight days after the original date for the meeting, and

(c) give at least fourteen days' notice of that venue to all those previously given notice of the meeting,

and the notices required by sub-paragraphs (a) and (c) may be given at the same or different times.

(5) Where the administrator has specified a place for the meeting in response to a request to which this rule applies, the chair of the meeting must attend the meeting by being present in person at that place.

(6) Rule 44 does not apply to the summoning and holding of a meeting at a place specified in accordance with section 246A(9).

Action where person excluded

64.—(1) In this rule and rules 65 and 66, an "excluded person" means a person who-

(a) has taken all steps necessary to attend a meeting under the arrangements put in place to do so by the administrator under section 246A(6) of the IA 1986, and

(**5**) Section 246A was inserted by S.I. 2010/18.

(b) is not permitted by those arrangements to attend the whole or part of that meeting.

(2) Where the chair becomes aware during the course of the meeting that there is an excluded person, the chair may—

(a) continue the meeting,

(b) declare the meeting void and convene the meeting again, or

(c) declare the meeting valid up to the point where the person was excluded and adjourn the meeting.

(3) Where the chair continues the meeting, the meeting is valid unless—

(a) the chair decides in consequence of a complaint under rule 66 to declare the meeting void and hold the meeting again, or

(b) the court directs otherwise.

(4) Without prejudice to paragraph (2), where the chair becomes aware during the course of the meeting that there is an excluded person, the chair may, without an adjournment, declare the meeting suspended for any period up to 1 hour.

Indication to excluded person

65.—(1) A person who claims to be an excluded person may request an indication of what occurred during the period of that person's claimed exclusion (an "indication").

(2) A request under paragraph (1) must be made as soon as is reasonably practicable and, in any event, no later than 16.00 hours on the business day following the day on which the exclusion is claimed to have occurred.

(3) A request under paragraph (1) must be made to—

(a) the chair, where it is made during the course of the business of the meeting, or

(b) the administrator where it is made after the conclusion of the business of the meeting.

(4) Where satisfied that the person making the request is an excluded person, the person to whom the request is made under paragraph (3) must give the indication as soon as is reasonably practicable and, in any event, no later than 16.00 hours on the business day following the day on which the request was made under paragraph (1).

Complaint

66.—(1) Any person who—

(a) is, or claims to be, an excluded person, or

(b) attends the meeting (in person or by proxy) and considers that they have been adversely affected by a person's actual, apparent or claimed exclusion,

("the complainant") may make a complaint.

(2) The person to whom the complaint must be made ("the relevant person") is—

(a) the chair, where it is made during the course of the meeting, or

(b) the administrator where it is made after the meeting.

(3) The relevant person must—

(a) consider whether there is an excluded person, and

(b) where satisfied that there is an excluded person, consider the complaint,

and, where satisfied that there has been prejudice, take such action as the relevant person considers fit to remedy the prejudice.

(4) Paragraph (5) applies where—

(a) the relevant person is satisfied that the complainant is an excluded person,

(b) during the period of the person's exclusion, a resolution was put to the meeting and was voted on, and

(c) the excluded person asserts how the excluded person intended to vote on the resolution.

(5) Subject to paragraph (6), where satisfied that the effect of the intended vote in paragraph (4), if cast, would have changed the result of the resolution, the relevant person must—

(a) count the intended vote as being cast in accordance with the complainant's stated intention,

(b) amend the record of the result of the resolution, and

(c) where those entitled to attend the meeting have been notified of the result of the resolution, notify them of the change.

(6) Where satisfied that more than one complainant in paragraph (4) is an excluded person, the relevant person must have regard to the combined effect of the intended votes.

(7) The relevant person must notify the complainant in writing of any decision.

(8) A complaint must be made as soon as is reasonably practicable and, in any event, no later than 16.00 hours on the business day following—

(a) the day on which the person was, appeared or claimed to be excluded, or

(b) where an indication is sought under rule 65, the day on which the complainant received the indication.

(9) A complainant who is not satisfied by the action of the relevant person may apply to the court for directions and any application must be made within two business days of the date of receiving the decision of the relevant person.

CHAPTER 7

Records, returns and reports

Minutes

67.—(1) The chair of any meeting under the Regulations or these Rules, other than a company meeting (for which see rule 51(6)), must ensure minutes of its proceedings are kept.

(2) The minutes must be authenticated by the chair, and be retained by the chair as part of the records of the special administration.

(3) The minutes must include—

(a) a list of the names of creditors who attended a meeting of creditors or a meeting of both creditors and customers (personally, by proxy or by corporate representative) and their claims,

(b) a list of the names of customers who attended a meeting of customers or a meeting of both creditors and customers (personally, by proxy or by corporate representative) and their relevant funds claims,

(c) a list of the names of contributories who attended a meeting of contributories,

(d) if a creditors' committee has been established, the names and addresses of those elected to be members of the creditors' committee, and

(e) a record of every resolution passed.

Returns or reports of meetings

68. In addition to the information required by rule 274, the notification of a return or a report of a meeting must specify—

(a) the purpose of the meeting including the regulation or rule under which it was convened,

(b) the venue fixed for the meeting,

(c) whether a required quorum was present for the meeting to take place, and

(d) if the meeting took place, the outcome of the meeting (including any resolutions passed at the meeting).

CHAPTER 8

The creditors' committee

Constitution of creditors' committee

69.—(1) Where it is resolved by a meeting of creditors and customers to establish a creditors' committee for the purposes of the special administration, the creditors' committee must consist of at least three and not more than five persons elected at the meeting.

(2) Where paragraph (1) applies, before receiving nominations for members of the creditors' committee, the administrator will set out the maximum number of members to be elected onto the creditors' committee by each class of voter so as to ensure that the make-up of the creditors' committee is a reflection of all parties with an interest in the achievement of the special administration objectives.

(3) The classes of voters mentioned in paragraph (2) are—

(a) creditors, and

(b) customers.

(4) A person claiming to be a creditor is entitled to be a member of the committee provided that—

(a) that person's claim has neither been wholly disallowed for voting purposes, nor wholly rejected for the purpose of distribution or dividend, and

(b) the claim mentioned in sub-paragraph (a) is not fully secured.

(5) A person claiming to be a customer is entitled to be a member of the creditors' committee provided that that person's relevant funds claim has neither been wholly disallowed for voting purposes, nor wholly rejected for the purpose of settling relevant funds claims.

(6) A body corporate may be a member of the creditors' committee, but it cannot act as such otherwise than by a representative appointed under rule 74.

Formalities of establishment

70.—(1) The creditors' committee does not come into being and accordingly cannot act until the administrator has issued a certificate of its due constitution.

(2) The certificate must state that the creditors' committee of the institution has been duly constituted and must include the following—

(a) a statement that the proceedings are being held in the court and the court reference number,

(b) the full name, registered address and registered number of the institution,

(c) the full name and business address of the administrator, and

(d) the full name and address of each member of the creditors' committee.

(3) If the chair of the meeting of creditors and customers which resolves to establish the creditors' committee is not the administrator, the chair must as soon as is reasonably practicable give notice of the resolution to the administrator and inform the administrator of the names and addresses of the persons elected to be members of the creditors' committee.

(4) No person may act as a member of the creditors' committee unless and until they have agreed to do so and, unless the relevant proxy or authorisation contains a statement to the contrary, such agreement may be given by their proxy-holder present at the meeting establishing the creditors' committee or, in the case of a corporation, by its duly appointed representative.

(5) The administrator's certificate of the creditors' committee's due constitution must not be issued before the persons elected to be members of the creditors' committee in accordance with rule 69 have agreed to act and must be issued as soon as is reasonably practicable thereafter.

(6) If any further members are elected onto the creditors' committee at a later date, the administrator must issue an amended certificate as and when those persons have agreed to act.

(7) A copy of the certificate, and of any amended certificate, must be sent to the registrar of companies by the administrator, as soon as is reasonably practicable.

(8) If after the establishment of the creditors' committee there is any change in its membership, the administrator must as soon as is reasonably practicable report the change to the registrar of companies by filing a copy of the amended certificate.

Functions and meetings of the creditors' committee

71.—(1) In addition to any functions conferred on the creditors' committee by any provision of the Regulations, the creditors' committee must assist the administrator in discharging the administrator's functions, and act in relation to the administrator in such manner as may be agreed from time to time.

(2) Subject to paragraphs (3) to (7), meetings of the creditors' committee must be held at a time and place determined by the administrator.

(3) The administrator must call a first meeting of the creditors' committee to take place within six weeks of the creditors' committee's establishment.

(4) After the calling of the first meeting, the administrator must call a meeting—

(a) if so requested by a member of the creditors' committee or the member's representative (the meeting then to be held within twenty-one days of the request being received by the administrator), and

(b) for a specified date, if the creditors' committee has previously resolved that a meeting be held on that date.

(5) Subject to paragraph (7), the administrator must give five business days' written notice of the venue of any meeting to every member of the creditors' committee (or their representative designated for that purpose) unless in any case the requirement of notice has been waived by or on behalf of any member. Waiver may be signified either at or before the meeting.

(6) The FCA must also be given the notice in paragraph (5).

(7) Where the administrator has determined that a meeting should be conducted and held in the manner referred to in rule 80, the notice period mentioned in paragraph (5) is seven business days.

The chair at meetings

72.—(1) The chair at any meeting of the creditors' committee must be the administrator, or a person appointed by the administrator in writing to act.

(2) A person so appointed must be—

(a) one who is qualified to act as an insolvency practitioner in relation to the institution, or

(b) an employee of the administrator or the administrator's firm who is experienced in insolvency matters.

Quorum

73. A meeting of the creditors' committee is duly constituted if due notice of it has been given to all the members, and at least two members are present or represented.

Creditors' committee members' representatives

74.—(1) A member of the creditors' committee may, in relation to the business of the creditors' committee, be represented by another person duly authorised by the member for that purpose.

(2) A person acting as a representative of a creditors' committee member must hold a letter of authority entitling them so to act (either generally or specially) and authenticated by or on behalf of the creditors' committee-member.

(3) For the purpose of paragraph (2), any proxy in relation to any meeting of creditors, or customers, or creditors and customers must, unless it contains a statement to the contrary, be treated as a letter of authority to act generally, authenticated by or on behalf of the creditors' committee-member.

(4) The chair at any meeting of the creditors' committee may call on a person claiming to act as a creditors' committee-member's representative to produce the letter of authority, and may exclude that person if it appears that their authority is deficient.

(5) No member may be represented by—

(a) another member of the creditors' committee,

(b) a person who is at the same time representing another creditors' committee member,

(c) a body corporate,

(d) an undischarged bankrupt,

(e) a disqualified director, or

(f) a person who is subject to a bankruptcy restrictions order (including an interim order), a bankruptcy restrictions undertaking, a debt relief restrictions order (including an interim order) or a debt relief restrictions undertaking.

(6) Where a member's representative authenticates any document on the member's behalf, the fact that the representative so authenticates must be stated below the authentication.

Resignation

75. A member of the creditors' committee may resign by notice in writing delivered to the administrator.

Termination of membership

76.—(1) Membership of the creditors' committee is automatically terminated if the member—

(a) becomes bankrupt,

(b) at three consecutive meetings of the creditors' committee is neither present nor represented (unless at the third of those meetings it is resolved that this rule is not to apply in that member's case),

(c) subject to paragraph (3), if voted onto the creditors' committee under rule 69 by the creditors of the institution, ceases to be a creditor and a period of three months has elapsed from the date that that member ceased to be a creditor or is found never to have been a creditor, or

(d) subject to paragraph (4), if voted onto the creditors' committee under rule 69 by the customers of the institution, has had all relevant funds claims settled (subject to there being an identified shortfall claim or any amounts being retained by the administrator under rule 112(2)(d)), or is found never to have been a customer.

(2) If the cause of termination is the member's bankruptcy, their trustee in bankruptcy must replace them as a member of the creditors' committee.

(3) A person to whom paragraph (1)(c) applies must not have their membership terminated if—

(a) that person is also a customer of the institution, and

(b) that person has not had all relevant funds claims settled (subject to there being an identified shortfall claim or any amount being retained by the administrator under rule 112(2)(d)),

but the administrator may require that person to resign if the administrator thinks that the make-up of the creditors' committee does not reflect all parties with an interest in the achievement of the special administration objectives.

(4) A person to whom paragraph (1)(d) applies must not have their membership terminated if they are also a creditor of the institution but the administrator may require them to resign if the administrator thinks that the make-up of the creditors' committee does not reflect all parties with an interest in the achievement of the special administration objectives.

Removal

77.—(1) A member of the creditors' committee may be removed by resolution at a meeting of creditors and customers, at least fourteen days' notice having been given of the intention to move that resolution.

(2) The resolution in paragraph (1) will be voted on only by the relevant class of voter in respect of the member to be removed.

Vacancies

78.—(1) The following applies if there is a vacancy in the membership of the creditors' committee.

(2) The vacancy need not be filled if the administrator and a majority of the remaining members of the creditors' committee so agree, provided that—

(a) the total number of members does not fall below three, and

(b) the administrator thinks that the make-up of the creditors' committee will continue to reflect all parties with an interest in the achievement of the special administration objectives.

(3) The administrator may appoint a person (being qualified under these Rules to be a member of the creditors' committee) from the same class of voters as the previous member to fill the vacancy, if—

(a) a majority of the other members of the creditors' committee who are from the same class of voters agree to the appointment, and

(b) the person concerned consents to act.

Procedure at meetings

79.—(1) At any meeting of the creditors' committee, each member of it (whether present or represented) has one vote, and a resolution is passed when a majority of the members present or represented have voted in favour of it.

(2) Every resolution passed must be recorded in writing and authenticated by the chair, either separately or as part of the minutes of the meeting, and the record must be kept with the records of the proceedings.

Remote attendance at meetings of creditors' committee

80.—(1) This rule applies to any meeting of a creditors' committee held under these Rules.

(2) Where the administrator considers it appropriate, the meeting may be conducted and held in such a way that persons who are not present together at the same place may attend it.

(3) Where a meeting is conducted and held in the manner referred to in paragraph (2), a person attends the meeting if that person is able to exercise any rights which that person may have to speak and vote at the meeting.

(4) For the purposes of this rule—

(a) a person is able to exercise the right to speak at a meeting when that person is in a position to communicate to all those attending the meeting, during the meeting, any information or opinions which that person has on the business of the meeting, and

(b) a person is able to exercise the right to vote at a meeting when—

(i) that person is able to vote, during the meeting, on resolutions or determinations put to the vote at the meeting, and

(ii) that person's vote can be taken into account in determining whether or not such resolutions or determinations are passed at the same time as the votes of all the other persons attending the meeting.

(5) Where a meeting is to be conducted and held in the manner referred to in paragraph (2), the administrator must make whatever arrangements the administrator considers appropriate to—

(a) enable those attending the meeting to exercise their rights to speak or vote, and

(b) ensure the identification of those attending the meeting and the security of any electronic means used to enable attendance.

(6) Any requirement under these Rules to specify a venue for the meeting may be satisfied by specifying the arrangements the administrator proposes to enable persons to exercise their rights to speak or vote where in the reasonable opinion of the administrator—

(a) a meeting will be attended by persons who will not be present together at the same place, and

(b) it is unnecessary or inexpedient to specify a venue for the meeting.

(7) In making the arrangements referred to in paragraph (5) and in forming the opinion referred to in paragraph (6)(b), the administrator must have regard to the legitimate interests of the creditors' committee members or their representatives attending the meeting in the efficient despatch of the business of the meeting.

(8) The administrator must specify a place for the meeting if—

(a) the notice of a meeting does not specify a place for the meeting,

(b) the administrator is requested in accordance with rule 81 to specify a place for the meeting, and

(c) that request is made by at least one member of the creditors' committee.

Procedure for requests that a place for a meeting should be specified

81.—(1) This rule applies to a request to the administrator of a meeting under rule 80 to specify a place for the meeting.

(2) The request must be made within five business days of the date on which the administrator sent the notice of the meeting in question.

(3) Where the administrator considers that the request has been properly made in accordance with this rule, the administrator must—

(a) give notice to all those previously given notice of the meeting—

(i) that it is to be held at a specified place, and

(ii) as to whether the date and time are to remain the same or not,

(b) set a venue (including specification of a place) for the meeting, the date of which must be not later than seven business days after the original date for the meeting, and

(c) give five business days' notice of the venue to all those previously given notice of the meeting.

(4) The notices required by paragraphs (3)(a) and (c) may be given at the same or different times.

(5) Where the administrator has specified a place for the meeting in response to a request to which this rule applies, the chair of the meeting must attend the meeting by being present in person at that place.

Resolutions of creditors' committees by post

82.—(1) The administrator may seek to obtain the agreement of members of the creditors' committee to a resolution by delivering to every member of the creditors' committee (or designated representative) a copy of the proposed resolution.

(2) Where the administrator makes use of this procedure, the administrator must notify each member or their representative of each proposed resolution on which a decision is sought.

(3) The FCA must also be notified of each proposed resolution under this rule.

(4) Any member of the creditors' committee may, within seven business days of the date of the administrator notifying them of a resolution, require the administrator to summon a meeting of the creditors' committee to consider matters raised by the resolution.

(5) In the absence of such a request, the resolution is deemed to have been passed by the creditors' committee if and when the administrator is notified in writing by a majority of the members that they agree with the resolution.

(6) A copy of every resolution passed under this rule, and a note that the creditors' committee's concurrence was obtained, must be kept with the records of the proceedings.

Information from administrator

83.—(1) Where the creditors' committee resolves to require the attendance of the administrator under paragraph 57(3)(a), the notice to the administrator must be in writing, authenticated by the majority of the members of the creditors' committee for the time being.

(2) A member's authentication under paragraph (1) may be made by that member's representative.

(3) The meeting at which the administrator's attendance is required must be fixed by the creditors' committee for a business day, and must be held at such time and place as the administrator determines.

(4) The administrator must notify the FCA of the time and place of the meeting.

(5) Where the administrator so attends, the members of the creditors' committee may elect any one of their number to be chair of the meeting, in place of the administrator or the administrator's nominee.

Expenses of members

84.—(1) The administrator must pay any reasonable travelling expenses directly incurred by members of the creditors' committee or their representatives in relation to their attendance at the creditors' committee's meetings, or otherwise on the creditors' committee's business.

(2) Where the expenses referred to in paragraph (1) are incurred by a customer member of the creditors' committee, the expenses will be paid out of the relevant funds as an expense of the special administration in the order of priority of payments laid down by rule 99.

(3) Where the expenses referred to in paragraph (1) are incurred by a creditor member of the creditors' committee, the expenses will be paid out of assets of the institution as an expense of the special administration in the order of priority of payments laid down by rule 98.

(4) Paragraph (1) does not apply to any meeting of the creditors' committee held within six weeks of a previous meeting, unless the meeting in question is summoned at the instance of the administrator.

Members dealing with the institution

85.—(1) Membership of the creditors' committee does not prevent a person from dealing with the institution while it is in special administration, provided that any transactions in the course of such dealings are in good faith and for value.

(2) The court may, on the application of any person interested, set aside any transaction which appears to it to be contrary to the requirements of this rule, and may give such consequential directions as it thinks just for compensating the institution for any loss which it may have incurred in consequence of the transaction.

Formal defects

86. The acts of the creditors' committee established for a special administration are valid despite any defect in the appointment, election or qualifications of any member of the creditors' committee or any creditors' committee-member's representative or in the formalities of its establishment.

CHAPTER 9

Progress reports

Content of progress report

87.—(1) A progress report must include—

(a) a statement that the proceedings are being held in the court and the court reference number,

(b) the full name, registered address and registered number of the institution,

(c) the full name and business address of the administrator,

(d) the date of appointment of the administrator and (subject to paragraph (8)) details of any changes in the administrator since the previous report,

(e) where there are joint administrators, details of the apportionment of functions,

(f) details of the basis fixed for the remuneration of the administrator under rule 163 (or if not fixed at the date of the report, the steps taken during the period of the report to fix it),

(g) if the basis of remuneration has been fixed, a statement of—

(i) the remuneration charged by the administrator during the period of the report (subject to paragraph (3), and

(ii) where the report is the first to be made after the basis has been fixed, the remuneration charged by the administrator during the periods covered by the previous reports (subject to paragraph (3)), together with a description of the things done by the administrator during those periods in respect of which the remuneration was charged,

irrespective in either case of whether payment was made in respect of that remuneration during the period of the report,

(h) a statement of the expenses incurred by the administrator during the period of the report, irrespective of whether payment was made in respect of them during that period: the statement to contain a breakdown of expenses incurred in respect of the administrator pursuing Objective 1 of the special administration objectives,

(i) whether the FCA have given a direction under regulation 38 and whether that direction has been withdrawn,

(j) details of progress during the period of the report, including a receipts and payments account (as detailed in paragraph (2) below),

(k) details of any assets of the institution that remain to be realised,

(l) details of whether a bar date has been set and progress made in pursuit of Objective 1 of the special administration objectives,

(m) where no distribution plan has been approved by the court, how the administrator proposes that the expenses of the special administration, to be paid out of the relevant funds in accordance with Part 4, are to be allocated where the institution has more than one asset pool,

(n) a statement of the creditors' right to request information under rule 166 and their right to challenge the administrator's remuneration and expenses under rule 167, and

(o) any other relevant information for the creditors or the customers.

(2) A receipts and payments account must be in the form of an abstract showing receipts and payments during the period of the report and, must also include a statement as to the amount paid to unsecured creditors by virtue of the application of section 176A of the IA 1986.

(3) Where the basis for the remuneration is a set amount under rule 163(2)(c), it may be shown as that amount without any apportionment to the period of the report.

(4) Where the administrator has made a statement of pre-administration costs under rule 26(2)(p)—

(a) if they are approved under rule 100 the first progress report after the approval must include a statement setting out the date of the approval and the amounts approved,

(b) each successive report, so long as any of the costs remain unapproved, must include a statement either—

(i) of any steps taken to get approval, or

(ii) that the administrator has decided, or (as the case may be) another insolvency practitioner entitled to seek approval has told the administrator of that practitioner's decision, not to seek approval.

(5) The progress report must cover the period of six months commencing on the date on which the institution entered special administration and every subsequent period of six months.

(6) The periods for which progress reports are required under paragraph (5) are unaffected by any change in the administrator.

(7) However, where an administrator ceases to act the succeeding administrator must, as soon as is reasonably practicable after being appointed, deliver a notice to the creditors of any matters about which the succeeding administrator thinks the creditors should be informed.

(8) Where the current administrator is seeking repayment of pre-administration expenses from a former administrator, the change in office-holder must be noted in each report until the claim is settled.

Delivering a progress report

88.—(1) The administrator must, within one month of the end of the period covered by the report, deliver—

(a) a copy to the creditors and to the customers, and

(b) a copy to the registrar of companies,

but this paragraph does not apply when the period covered by the report is that of a final progress report under rule 182.

(2) The copy sent under paragraph (1)(a) must be accompanied by a statement setting out—

(a) that the proceedings are being held in the court and the court reference number,

(b) the full name, registered address and registered number of the institution,

(c) the full name and business address of the administrator,

(d) the period covered by the progress report.

(3) The court may, on the administrator's application, extend the period of one month mentioned in paragraph (1), or make such other order in respect of the content of the report as it thinks just.

(4) If the administrator makes default in complying with this rule, the administrator is liable to a fine and, for continued contravention, to a daily default fine in each case as set out in the Schedule to these Rules.

CHAPTER 10

Proxies and corporate representation

Definition of proxy

89.—(1) For the purposes of these Rules, a "proxy" is a document made by a creditor, customer, member or contributory (the "principal") which directs or authorises another person ("the proxy-holder") to act as the representative of the principal at one or more meetings by speaking, voting on, abstaining from, or proposing resolutions.

(2) A proxy-holder must be an individual aged 18 or over.

(3) Proxies are for use at meetings summoned or called under the Regulations or these Rules.

(4) Only one proxy-holder may be appointed by a principal for any one meeting at which the principal wants to be represented, but the principal may specify one or more proxy-holders in the alternative, in the order in which they are named in the proxy.

(5) Without prejudice to paragraph (4), a proxy for a particular meeting may be given to whoever is to be the chair of the meeting.

(6) Where a proxy appoints the chair (howsoever described in the proxy) as proxy-holder, the chair may not refuse to be the proxy-holder.

(7) A proxy may be either—

(a) a specific proxy which relates to a specific meeting, or

(b) a continuing proxy for the duration of the special administration.

(8) A proxy is to be treated as a specific proxy for the meeting which is identified in the proxy unless it states that it is a continuing proxy for the duration of the special administration.

(9) A specific proxy must—

(a) direct the proxy-holder how to act at the meeting by giving specific instructions,

(b) authorise the proxy-holder to act at the meeting without specific instructions, or

(c) contain both direction and authorisation.

(10) A continuing proxy must authorise the proxy-holder to attend, speak, vote on or abstain from voting on, or propose resolutions without giving the proxy-holder any specific instructions how to do so.

(11) A continuing proxy may be superseded by a proxy for a specific meeting or withdrawn by a written notice to the administrator.

Issue and use of forms

90.—(1) When notice is given of a meeting to be held in the course of the special administration and a form of proxy is sent out with the notice, such form must be a "blank proxy".

(2) A "blank proxy" is a document which—

(a) complies with the requirements in this rule, and

(b) when completed with the details specified in paragraph (4) will be a proxy as described in rule 89.

(3) A blank proxy must state that the principal named in the document (when completed) appoints a person who is named or identified as the proxy-holder of the principal.

(4) The specified details are—

(a) the name and address of the creditor, customer, member or contributory,

(b) either the name of the proxy-holder or the identification of the proxy-holder (such as the chair of the meeting or the administrator),

(c) a statement that the proxy is either—

(i) for a specific meeting, which is identified in the proxy, or

(ii) a continuing proxy for the proceedings, and

(d) if the proxy is for a specific meeting, instructions as to the extent to which the proxy-holder is directed to vote in a particular way, to abstain or to propose any resolution.

(5) When it is delivered to the principal, a blank proxy must not contain the name or description of any person as proxy-holder, or instructions as to how a proxy-holder is to act.

(6) A blank proxy must have a note to the effect that the proxy may be completed with the name of the person or the chair of the meeting who is to be proxy-holder.

(7) A form of proxy must be authenticated by the principal, or by some person authorised by that principal (either generally or with reference to a particular meeting).

(8) If the form is authenticated by a person other than the principal, the nature of the person's authority must be stated.

Use of proxies at meetings

91.—(1) A proxy for a specific meeting must be delivered to the chair before the meeting.

(2) A continuing proxy must be delivered to the administrator and may be exercised by the proxy-holder at any meeting which begins after the proxy is delivered.

(3) A proxy given for a particular meeting may be used at any adjournment of that meeting but if a different proxy is given for use at a resumed meeting, that proxy must be delivered to the chair before the start of the resumed meeting.

(4) Where the administrator holds proxies to be used by the administrator as chair of a meeting, and some other person acts as chair, the other person may use the administrator's proxies as if that person was the proxy-holder.

(5) Where a proxy directs a proxy-holder to vote for or against a resolution for the nomination or appointment of a person as the administrator, the proxy-holder may, unless the proxy states otherwise, vote for or against (as they think fit) any resolution for the nomination or appointment of that person jointly with another or others.

(6) A proxy-holder may propose any resolution which, if proposed by another, would be a resolution in favour of which by virtue of the proxy they would be entitled to vote.

(7) Where a proxy gives specific directions as to voting, this does not, unless the proxy states otherwise, preclude the proxy-holder from voting at their discretion on resolutions put to the meeting which are not dealt with in the proxy.

Retention of proxies

92.—(1) Subject to paragraph (2), proxies used for voting at any meeting must be retained by the chair of the meeting.

(2) The chair must deliver the proxies, as soon as is reasonably practicable after the meeting, to the administrator (where the administrator is someone other than the chair).

Right of inspection

93.—(1) So long as proxies lodged with the administrator are in the administrator's hands, the administrator must allow them to be inspected, at all reasonable times on any business day, by—

(a) the creditors, in the case of proxies used at a meeting of creditors or at a meeting of creditors and customers;

(b) the customers, in the case of proxies used at a meeting of customers or at a meeting of creditors and customers, and

(c) the institution's members or contributories, in the case of proxies used at a meeting of the institution or of its contributories.

(2) The reference in paragraph (1) to creditors or to customers is to persons who have submitted in writing a claim to be creditors or, as the case may be, customers of the institution, but does not include a person whose proof or claim has been wholly rejected for purposes of voting, dividend or otherwise.

(3) The right of inspection given by this rule is also exercisable by the directors of the institution in special administration.

(4) Any person attending a meeting in the course of the special administration is entitled, immediately before or during the meeting, to inspect proxies and associated documents (including proofs) sent or given, in accordance with directions contained in any notice convening the meeting, to the chair of that meeting or to any other person by a creditor, customer, member or contributory for the purpose of that meeting.

(5) This rule is subject to rule 281.

Proxy-holder with financial interest

94.—(1) A proxy-holder ('P') must not vote in favour of any resolution which would directly or indirectly place P, or any associate of P's, in a position to receive any remuneration out of the insolvent estate or the asset pool, unless the proxy specifically directs P to vote in that way.

(2) Where P has authenticated the proxy as being authorised to do so by P's principal and the proxy specifically directs P to vote in the way mentioned in paragraph (1), P must nevertheless not vote in that way unless P produces to the chair of the meeting written authorisation from P's principal sufficient to show that P was entitled so to authenticate the proxy.

(3) This rule applies also to any person acting as chair of a meeting and using proxies in that capacity under rule 89 and in its application to the chair, P is deemed an associate of that person.

Corporate representation

95.—(1) Where a person is authorised to represent a corporation (other than as proxy-holder) at a meeting held under the Regulations or these Rules, that person must produce to the chair of the meeting a copy of the resolution from which that person's authority is derived.

(2) The copy resolution must be under the seal of the corporation, or certified by the secretary or a director of the corporation to be a true copy.

(3) Nothing in this rule requires the authority of a person to authenticate a proxy on behalf of a principal which is a corporation to be in the form of a resolution of that corporation.

CHAPTER 11

Disposal of charged property

Application to dispose of charged property

96.—(1) This rule applies where the administrator applies to the court under paragraph 71 or 72 for authority to dispose of property which is subject to a security (other than a floating charge), or goods in the possession of the institution under a hire purchase agreement.

(2) The court must fix a venue for the hearing of the application, and the administrator must as soon as is reasonably practicable give notice of the venue to the person who is the holder of the security or the owner of the goods.

(3) If an order is made under paragraph 71 or 72 the court must deliver 2 sealed copies to the administrator.

(4) The administrator must deliver—

(a) one of the sealed copies to the person who is the holder of the security or owner of the goods under the agreement, and

(b) a copy of the sealed order to the registrar of companies.