Draft Regulations laid before Parliament under paragraph 2 of Schedule 2 to the European Communities Act 1972, section 104(5) of the Building Societies Act 1986, section 112(3) of the Deregulation Act 2015 and sections 159(3) and 161(4) of the Small Business, Enterprise and Employment Act 2015, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2017 No. XXXX

INSOLVENCY

FINANCIAL SERVICES AND MARKETS

The Deregulation Act 2015, the Small Business, Enterprise and Employment Act 2015 and the Insolvency (Amendment) Act (Northern Ireland) 2016 (Consequential Amendments and Transitional Provisions) Regulations 2017

Made - - - - ***

Coming into force in accordance with regulation 1(2)

The Secretary of State makes the following Regulations, except regulations 2 and 7 so far as they relate to Northern Ireland and regulations 11(3) and 18, in exercise of the powers conferred by section 112(1) and (2) of the Deregulation Act 2015(**a**) and section 159(1), (2) and (9) and 161(2) and (6) of the Small Business, Enterprise and Employment Act 2015(**b**).

The Treasury make—

(a) regulation 2, so far as it relates to Northern Ireland, in exercise of the powers conferred by section 104(1), (2)(d) and (6) of the Building Societies Act 1986(**c**); and

(b) regulation 7, so far as it relates to Northern Ireland, and regulations 11(3) and 18, which relate to Northern Ireland, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(**d**).

The Treasury are designated(**e**) for the purposes of the European Communities Act 1972 in relation to financial services.

A draft of these Regulations has been laid before Parliament and approved by a resolution of each House of Parliament in accordance with paragraph 2(2) of Schedule 2 to the European Communities Act 1972, section 104(5) of the Building Societies Act 1986, section 112(3) of the

(**a**) 2015 c. 20.
(**b**) 2015 c. 26.
(**c**) 1986 c. 53.
(**d**) 1972 c. 68. Section 2(2) was amended by the Legislative and Regulatory Reform Act 2006 (c. 51), section 27(1)(a), and by the European Union (Amendment) Act 2008 (c. 7), section 3 and the Schedule, Part 1.
(**e**) S.I. 2012/1759.

Deregulation Act 2015 and sections 159(3) and 161(4) of the Small Business, Enterprise and Employment Act 2015.

PART 1

Introductory provision

Citation and commencement

1.—(1) These Regulations may be cited as the Deregulation Act 2015, the Small Business, Enterprise and Employment Act 2015 and the Insolvency (Amendment) Act (Northern Ireland) 2016 (Consequential Amendments and Transitional Provisions) Regulations 2017.

(2) These Regulations come into force on the 21st day after the day on which they are made.

PART 2

Amendments of primary legislation

The Building Societies Act 1986

2.—(1) The Building Societies Act 1986 is amended as follows.

(2) In section 90E(**a**) (disqualification of directors)—

(a) for subsections (3) and (4) substitute—

"(3) For the purposes of the application of section 7A of the Disqualification Act(**b**) (office-holder's report on conduct of directors) to a building society which is subject to a building society insolvency order—

(a) the "office-holder" is the building society liquidator,

(b) the "insolvency date" means the date on which the building society insolvency order is made, and

(c) subsections (9) to (11) are omitted.

(4) For the purposes of the application of that section to a building society which is subject to a building society special administration order—

(a) the "office-holder" is the building society special administrator,

(b) the "insolvency date" means the date on which the building society special administration order is made, and

(c) subsections (9) to (11) are omitted."; and

(b) in subsection (5) for the words from "the reference" to the end substitute—

"in subsections (3) and (4)—

(a) the reference to section 7A of the Disqualification Act is a reference to Article 10A of that Order(**c**) (office-holder's report on conduct of directors), and

(b) the reference to subsections (9) to (11) of that section is a reference to paragraphs (9) to (11) of that Article.".

(3) In Schedule 15(**d**) (application of companies winding up legislation to building societies)—

(**a**) Section 90E was inserted by S.I. 2009/805.

(**b**) In section 90E "the Disqualification Act" means the Company Directors Disqualification Act 1986 (c. 46). Section 7A was inserted by the Small Business, Enterprise and Employment Act 2015, section 107(2).

(**c**) Article 10A of the Company Directors Disqualification (Northern Ireland) Order 2002 (S.I. 2002/3150 (N.I. 4)) was inserted by the Small Business, Enterprise and Employment Act 2015, section 112 and Schedule 8, paragraph 5.

(**d**) Schedule 15 was amended by S.I. 2016/679.

(a) in paragraph 3(1)(a) at the end insert "(except as otherwise specified in paragraphs 33B and 55G below)";

(b) in the heading to Part 2 (modified application of Insolvency Act 1986 Parts 4 and 12) for "and XII" substitute ", 12 and 13";

(c) in paragraph 6A(**a**) omit "and" after sub-paragraph (e) and after sub-paragraph (f) insert—

"(g) subsection (1)(e) of section 391O (direct sanctions orders);

(h) subsection (5) of section 391Q (direct sanctions order: conditions); and

(i) subsection (3)(e) of section 391R(**b**) (direct sanctions direction instead of order).";

(d) after paragraph 33 insert—

"*Insolvency practitioners: their qualification and regulation*

33A. Section 390 of the Act(**c**) (persons not qualified to act as insolvency practitioners) has effect as if for subsection (2) there were substituted—

"(2) A person is not qualified to act as an insolvency practitioner in relation to a building society at any time unless at that time the person is fully authorised to act as an insolvency practitioner or partially authorised to act as an insolvency practitioner only in relation to companies.".

33B.—(1) In the following provisions of the Act, in a reference to authorisation or permission to act as an insolvency practitioner in relation to (or only in relation to) companies, the reference to companies has effect without the modification in paragraph 3(1)(a) above—

(a) sections 390A and 390B(1) and (3)(**d**) (authorisation of insolvency practitioners); and

(b) sections 391O(1)(b) and 391R(3)(b) (court sanction of insolvency practitioners in public interest cases).

(2) In sections 391Q(2)(b) (direct sanctions order: conditions) and 391S(3)(e)(**e**) (power for Secretary of State to obtain information) of the Act the reference to a company has effect without the modification in paragraph 3(1)(a) above.";

(e) in the heading to Part 3 (modified application of Insolvency (Northern Ireland) Order 1989, Parts 5 and 11) for "and XI" substitute ", 11 and 12";

(f) in paragraph 34A(**f**) omit "and" after sub-paragraph (e) and after sub-paragraph (f) insert—

"(g) paragraph (1)(e) of Article 350O (direct sanctions orders);

(h) paragraph (5) of Article 350Q (direct sanctions order: conditions); and

(i) paragraph (3)(e) of Article 350R(**g**) (direct sanctions direction instead of order).";
and

(g) after paragraph 55E(**h**) insert—

"*Insolvency practitioners: their qualification and regulation*

55F. Article 349(**i**) (persons not qualified to act as insolvency practitioners) has effect as if for paragraph (2) there were substituted—

(**a**) Paragraph 6A was inserted by S.I. 2014/3486.
(**b**) Sections 391O, 391Q and 391R were inserted by the Small Business, Enterprise and Employment Act 2015, section 141.
(**c**) Section 390 was amended by the Deregulation Act 2015, section 17(1) and (2).
(**d**) Sections 390A and 390B were inserted by the Deregulation Act 2015, section 17(1) and (3).
(**e**) Section 391S was inserted by the Small Business, Enterprise and Employment Act 2015, section 142.
(**f**) Paragraph 34A was inserted by S.I. 2014/3486.
(**g**) Articles 350O, 350Q and 350R were inserted by the Insolvency (Amendment) Act (Northern Ireland) 2016 (c. 2), section 18.
(**h**) Paragraph 55E was substituted by S.I. 1989/2405.
(**i**) Article 349 was amended by the Insolvency (Amendment) Act (Northern Ireland) 2016, section 14(1) and (2).

"(2) A person is not qualified to act as an insolvency practitioner in relation to a building society at any time unless at that time the person is fully authorised to act as an insolvency practitioner or partially authorised to act as an insolvency practitioner only in relation to companies.".

55G.—(1) In the following provisions of the Order, in a reference to authorisation or permission to act as an insolvency practitioner in relation to (or only in relation to) companies, the reference to companies has effect without the modification in paragraph 3(1)(a) above—

(a) Articles 349A and 349B(1) and (3)(**a**) (authorisation of insolvency practitioners); and

(b) Articles 350O(1)(b) and 350R(3)(b) (court sanction of insolvency practitioners in public interest cases).

(2) In Articles 350Q(2)(b) (direct sanctions order: conditions) and 350S(3)(e)(**b**) (power for Department to obtain information) the reference to a company has effect without the modification in paragraph 3(1)(a) above.".

(4) In Schedule 15A(**c**) (application of other companies insolvency legislation to building societies)—

(a) in paragraph 1(2)(a) for ", III," substitute "and 3, section 176ZB(**d**) (in Part 4), and";

(b) in paragraph 2(1)(a) at the end insert "(except as otherwise specified in paragraphs 27H and 54 below)";

(c) in the heading to Part 2 (modified application of Parts 1 to 3 of Insolvency Act 1986)(**e**) after "III" insert "and 13";

(d) after paragraph 27F insert—

"*Insolvency practitioners: their qualification and regulation*

27G. Section 390 of the Act (persons not qualified to act as insolvency practitioners) has effect as if for subsection (2) there were substituted—

"(2) A person is not qualified to act as an insolvency practitioner in relation to a building society at any time unless at that time the person is fully authorised to act as an insolvency practitioner or partially authorised to act as an insolvency practitioner only in relation to companies.".

27H.—(1) In the following provisions of the Act, in a reference to authorisation or permission to act as an insolvency practitioner in relation to (or only in relation to) companies the reference to companies has effect without the modification in paragraph 2(1)(a) above—

(a) sections 390A and 390B(1) and (3) (authorisation of insolvency practitioners); and

(b) sections 391O(1)(b) and 391R(3)(b) (court sanction of insolvency practitioners in public interest cases).

(2) In sections 391Q(2)(b) (direct sanctions order: conditions) and 391S(3)(e) (power for Secretary of State to obtain information) of the Act the reference to a company has effect without the modification in paragraph 2(1)(a) above.

27I. In sections 391O, 391Q and 391R of the Act a reference to the creditors of a company includes a reference to every shareholding member of the building society to whom a sum due from the society in relation to the member's shareholding is due in respect of a deposit.";

(**a**) Articles 349A and 349B were inserted by the Insolvency (Amendment) Act (Northern Ireland) 2016, section 14(1) and (3).
(**b**) Article 350S was inserted by the Insolvency (Amendment) Act (Northern Ireland) 2016, section 19.
(**c**) Schedule 15A was inserted by the Building Societies Act 1997 (c. 32), section 39(2) and Schedule 6; and was amended by S.I. 2016/679. There are other amendments, but they are not relevant.
(**d**) Section 176ZB was inserted by the Small Business, Enterprise and Employment Act 2015, section 119.
(**e**) The heading to Part 2 was amended, and paragraphs 27 to 27F were substituted, by S.I. 2016/679.

(e) in the heading to Part 3 (modified application of Parts 2, 3 and 4 of Insolvency (Northern Ireland) Order 1989) for "and IV" substitute ", 4 and 12"; and

(f) after paragraph 52(**a**) insert—

"*Insolvency practitioners: their qualification and regulation*

53. Article 349 of the Order (persons not qualified to act as insolvency practitioners) has effect as if for paragraph (2) there were substituted—

"(2) A person is not qualified to act as an insolvency practitioner in relation to a building society at any time unless at that time the person is fully authorised to act as an insolvency practitioner or partially authorised to act as an insolvency practitioner only in relation to companies.".

54.—(1) In the following provisions of the Order, in a reference to authorisation or permission to act as an insolvency practitioner in relation to (or only in relation to) companies the reference to companies has effect without the modification in paragraph 2(1)(a) above—

(a) Articles 349A and 349B(1) and (3) (authorisation of insolvency practitioners); and

(b) Articles 350O(1)(b) and 350R(3)(b) (court sanction of insolvency practitioners in public interest cases).

(2) In Articles 350Q(2)(b) (direct sanctions order: conditions) and 350S(3)(e) (power for Department to obtain information) of the Order the reference to a company has effect without the modification in paragraph 2(1)(a) above.

55. In Articles 350O, 350Q and 350R of the Order a reference to the creditors of a company includes a reference to every shareholding member of the building society to whom a sum due from the society in relation to the member's shareholding is due in respect of a deposit.".

The Friendly Societies Act 1992

3. In Schedule 10 to the Friendly Societies Act 1992(**b**) (application of companies winding up legislation to incorporated friendly societies), in Part 2 (modified application of Insolvency Act 1986 Parts 4 and 12)—

(a) in the heading for "and XII" substitute ", 12 and 13"; and

(b) after paragraph 36 insert—

"*Insolvency practitioners: their qualification and regulation*

36A. Section 390 of the Act (persons not qualified to act as insolvency practitioners) has effect as if for subsection (2) there were substituted—

"(2) A person is not qualified to act as an insolvency practitioner in relation to an incorporated friendly society at any time unless at that time the person is fully authorised to act as an insolvency practitioner or partially authorised to act as an insolvency practitioner only in relation to companies.".

36B.—(1) In the following provisions of the Act, in a reference to authorisation or permission to act as an insolvency practitioner in relation to (or only in relation to) companies the reference to companies has effect without the modification in paragraph 3(1)(a) above—

(a) sections 390A and 390B(1) and (3) (authorisation of insolvency practitioners); and

(b) sections 391O(1)(b) and 391R(3)(b) (court sanction of insolvency practitioners in public interest cases).

(**a**) Paragraphs 49 to 52 were substituted, by S.I. 2016/679.
(**b**) 1992 c. 40.

(2) In sections 391Q(2)(b) (direct sanctions order: conditions) and 391S(3)(e) (power for Secretary of State to obtain information) of the Act the reference to a company has effect without the modification in paragraph 3(1)(a) above.".

The Financial Services and Markets Act 2000

4. In section 376 of the Financial Services and Markets Act 2000(**a**) (continuation of contracts of long-term insurance where insurer in liquidation), in subsection (12) for the words from "section 167 of" to the end substitute "Article 142 of, and Schedule 2 to, the 1989 Order.".

The Banking Act 2009

5.—(1) The Banking Act 2009(**b**) is amended as follows.

(2) In section 94 (bank insolvency order), in subsection (2) at the end insert "in relation to the bank".

(3) In section 103 (general powers and duties of bank liquidators and effect of bank insolvency), in subsection (4) at the beginning of paragraph (h) insert "except where otherwise specified in the Table,".

(4) In section 103, in the Table of applied provisions of the Insolvency Act 1986(**c**)—

(a) in the entry for section 135 (provisional appointment), in the third column, in paragraph (d) after "practitioner" insert "in relation to the bank";

(b) in the entry for section 169 (supplementary powers (Scotland)), in the third column omit paragraph (a);

(c) after the entry for section 176ZA(**d**) insert—

"Section 176ZB	Application of proceeds of office-holder claims"	

(d) for the entry for section 214 substitute—

"Section 214	Wrongful trading	(a) Treat the reference in subsection (2)(b) to entering insolvent administration as a reference to entering bank administration under Part 3 of this Act at a time when the bank's assets are insufficient for the payment of its debts and other liabilities and the expenses of the administration. (b) Ignore subsection (6A)."

(e) after the entry for section 246 insert—

"Section 246ZD(**e**)	Power to assign certain causes of action"	

(f) for the entries for sections 390 and 391(**a**) substitute—

(**a**) 2000 c. 8.
(**b**) 2009 c. 1.
(**c**) 1986 c. 45.
(**d**) Section 176ZA was inserted by the Companies Act 2006 (c. 46), section 1282(1).
(**e**) Section 246ZD was inserted by the Small Business, Enterprise and Employment Act 2015, section 118.

"Sections 390 to 391T(**b**)	Authorisation and regulation of insolvency practitioners	(a) In section 390 treat references to acting as an insolvency practitioner as references to acting as a bank liquidator. (b) Read subsection (2) of that section (as so modified) as if after "authorised" there were inserted "to act as an insolvency practitioner". (c) An order under section 391 has effect in relation to any provision applied for the purposes of bank insolvency. (d) In sections 390A, 390B(1) and (3), 391O(1)(b) and 391R(3)(b), in a reference to authorisation or permission to act as an insolvency practitioner in relation to (or only in relation to) companies the reference to companies has effect without the modification in subsection (4)(h) of this section. (e) In sections 391Q(2)(b) and 391S(3)(e) the reference to a company has effect without the modification in subsection (4)(h) of this section."

(5) In section 110 (disqualification), in subsection (1) after "practitioner" insert "in relation to the bank".

(6) In section 121 (disqualification of directors) for subsection (3) substitute—

"(3) For the purposes of the application of section 7A of the Disqualification Act(**c**) (office-holder's report on conduct of directors) to a bank which is subject to a bank insolvency order—

(a) the "office-holder" is the bank liquidator,

(b) the "insolvency date" means the date on which the bank insolvency order is made, and

(c) subsections (9) to (11) are omitted.".

(7) In section 141 (bank administration order), in subsection (2) at the end insert "in relation to the bank".

(8) In section 145 (general powers and duties of bank administrators and effect of bank administration), in subsection (4)—

(a) at the beginning of paragraph (d) insert "except where otherwise specified in Table 2,"; and

(b) in paragraph (f) after "Schedule B1" insert "and section 246ZB(**d**)".

(9) In section 145, in Table 1 (applied provisions of the Insolvency Act 1986, Schedule

(**a**) Section 390 was amended by the Deregulation Act 2015, section 17(1) and (2). Section 391 was substituted by section 17(1) and (4) of that Act and then by the Small Business, Enterprise and Employment Act 2015, section 137.
(**b**) Sections 391A to 391T were inserted by the Small Business, Enterprise and Employment Act 2015, sections 137 to 143.
(**c**) In section 121 "the Disqualification Act" means the Company Directors Disqualification Act 1986.
(**d**) Section 246ZB was inserted by the Small Business, Enterprise and Employment Act 2015, section 117.

(a) in the entry for paragraph 65 (distribution to creditors), in the third column for paragraph (b) substitute—

"(b) Where paragraph (a) applies, ignore sub-para (3).."; and

(b) for the entry for paragraphs 112 to 116 (Scotland), substitute—

"Paras 112 to 114	Scotland: miscellaneous	
Para 115	Scotland: floating charges	(a) In Scotland, on the giving by the Bank of England of consent as provided for in Para 65 (as applied by this section), any floating charge granted by the bank attaches to the property which is subject to the charge, unless it has already so attached, but only if the distribution concerned is to be made to creditors of the residual bank who are neither secured creditors nor preferential creditors and otherwise than by virtue of section 176A(2)(a) (as applied by this section). (b) Where paragraph (a) applies, ignore sub-paras (1A) and (1B)(**b**).
Para 116	Scotland: payment to holder of floating charge subject to rights"	

(10) In section 145, in Table 2 (other applied provisions of the Insolvency Act 1986)—

(a) in the entry for section 135 (provisional appointment), in the third column, in paragraph (d) after "practitioner" insert "in relation to the bank";

(b) after the entry for section 168(4) insert—

"Section 176ZB	Application of proceeds of office-holder claims"	

(c) omit the entries for sections 213 and 214 (fraudulent trading and wrongful trading);

(d) after the entry for section 246 insert—

"Section 246ZA(**c**)	Fraudulent trading: administration	
Section 246ZB	Wrongful trading: administration	(a) Treat the reference in subsection (2)(b) to going into insolvent liquidation as a reference to entering bank insolvency under Part 2 of this Act at a time when the bank's assets are insufficient for the payment of its debts and other liabilities and the expenses of the bank insolvency.

(**a**) Schedule B1 was inserted by the Enterprise Act 2002, section 248(2) and Schedule 16; and was amended by the Small Business, Enterprise and Employment Act 2015, sections 128(1) and (2) and 130. There are other amendments not relevant to these Regulations.

(**b**) Sub-paragraphs (1A) and (1B) were inserted by the Small Business, Enterprise and Employment Act 2015, section 130(1) and (2).

(**c**) Sections 246ZB to 246ZD were inserted by the Small Business, Enterprise and Employment Act 2015, section 117 and 118.

		(b) Ignore subsection (6)(b).
Section 246ZC	Proceedings under section 246ZA or 246ZB	
Section 246ZD	Power to assign certain causes of action"	

(e) for the entries for sections 390 and 391 substitute—

"Sections 390 to 391T	Authorisation and regulation of insolvency practitioners	(a) In section 390 treat references to acting as an insolvency practitioner as references to acting as a bank administrator. (b) Read subsection (2) of that section (as so modified) as if after "authorised" there were inserted "to act as an insolvency practitioner". (c) An order under section 391 has effect in relation to any provision applied for the purposes of bank administration. (d) In sections 390A, 390B(1) and (3), 391O(1)(b) and 391R(3)(b), in a reference to authorisation or permission to act as an insolvency practitioner in relation to (or only in relation to) companies the reference to companies has effect without the modification in subsection (4)(d) of this section. (e) In sections 391Q(2)(b) and 391S(3)(e) the reference to a company has effect without the modification in subsection (4)(d) of this section."

(11) In section 155 (disqualification of directors) for subsection (3) substitute—

"(3) For the purposes of the application of section 7A of the Disqualification Act(**a**) (office-holder's report on conduct of directors) to a bank which is subject to a bank administration order—

(a) the "office-holder" is the bank administrator;

(b) the "insolvency date" means the date on which the bank administration order is made; and

(c) subsections (9) to (11) are omitted.".

The Financial Services (Banking Reform) Act 2013

6. In Schedule 6 to the Financial Services (Banking Reform) Act 2013(**b**) (conduct of FMI administration)—

(a) in paragraph 3 at the beginning of sub-paragraph (e) insert "except where otherwise specified in Table 2,";

(**a**) In section 155 "the Disqualification Act" means the Company Directors Disqualification Act 1986.
(**b**) 2013 c. 33.

(b) in Table 1 (applied provisions of Schedule B1 to the Insolvency Act 1986), in the entry for paragraph 98 (vacation from office: discharge from liability), in the third column after "(b)" insert "and (ba)"; and

(c) in Table 2 (other applied provisions of the Insolvency Act 1986)—

(i) before the entry for section 233 insert—

"Section 176ZB	Application of proceeds of office-holder claims"	

(ii) after the entry for section 246 insert—

"Sections 246ZA to 246ZC	Administration: penalisation of directors etc	
Section 246ZD	Power to assign certain causes of action"	

(iii) for the entries for sections 390 and 391 substitute—

"Sections 390 to 391T	Authorisation and regulation of insolvency practitioners	(a) In section 390 treat references to acting as an insolvency practitioner as references to acting as an FMI administrator. (b) For subsection (2) of that section there is to be taken to be substituted— "(2) A person is not qualified to act as an FMI administrator at any time unless at that time the person is fully authorised to act as an insolvency practitioner or partially authorised to act as an insolvency practitioner only in relation to companies.". (c) An order under section 391 has effect in relation to any provision applied for the purposes of FMI administration. (d) In sections 390A, 390B(1) and (3), 391O(1)(b) and 391R(3)(b), in a reference to authorisation or permission to act as an insolvency practitioner in relation to (or only in relation to) companies the reference to companies has effect without the modification in paragraph 3(e) of this Schedule. (e) In sections 391Q(2)(b) and 391S(3)(e) the reference to a company has effect without the modification in paragraph 3(e) of this Schedule."

PART 3

Amendments of subordinate legislation

The Insurers (Reorganisation and Winding Up) (Lloyd's) Regulations 2005

7. In regulation 9 of the Insurers (Reorganisation and Winding Up) (Lloyd's) Regulations 2005(**a**) (reorganisation controller), in paragraph (2) after "qualified" insert "and fully authorised".

The Building Societies (Insolvency and Special Administration) Order 2009

8.—(1) Schedule 1 to the Building Societies (Insolvency and Special Administration) Order 2009(**b**) (modified application of Parts 2 and 3 of the Banking Act 2009 to building societies) is amended as follows.

(2) In Part 1 (general mode of application), in paragraph 3(b) at the beginning insert "except where otherwise specified in this Schedule,".

(3) In Part 2 (modified application of Part 2 of the Banking Act 2009), in paragraph 13 (process of building society liquidation) after sub-paragraph (6) insert—

"(6A) For the entry for sections 390 to 391T(**c**) substitute—

"Sections 390 to 391T	Authorisation and regulation of insolvency practitioners	(a) In section 390 treat references to acting as an insolvency practitioner as references to acting as a building society liquidator. (b) For subsection (2) of that section substitute— "(2) A person is not qualified to act as a building society liquidator at any time unless at that time the person is fully authorised to act as an insolvency practitioner or partially authorised to act as an insolvency practitioner only in relation to companies.". (c) An order under section 391 has effect in relation to any provision applied for the purposes of building society insolvency. (d) In sections 390A, 390B(1) and (3), 391O(1)(b) and 391R(3)(b), in a reference to authorisation or permission to act as an insolvency practitioner in relation to (or only in relation to) companies the reference to companies has effect without the modification in paragraph 3(b) of this Schedule. (e) In sections 391Q(2)(b) and 391S(3)(e) the reference to a company has effect without the modification in paragraph 3(b) of

(**a**) S.I. 2005/1998, as amended by S.I. 2007/851. There are other amendments, but they are not relevant.
(**b**) S.I. 2009/805.
(**c**) The entry for sections 390 to 391T is inserted in the Table in section 103 of the Banking Act 2009 by regulation 5(4)(f) of these Regulations.

		this Schedule. (f) In sections 391O, 391Q and 391R a reference to the creditors of a company includes a reference to every shareholding member of the building society to whom a sum due from the society in relation to the member's shareholding is due in respect of a deposit.".”

(4) In Part 3 (modified application of Part 3 of the Banking Act 2009)—

(a) in paragraph 27(3), in the substituted entry for paragraph 65, in the third column for paragraph (c) substitute—

“(c) Where paragraph (b) applies, ignore sub para. (3).”; and

(b) in paragraph 28 after sub-paragraph (2) insert—

“(2A) For the entry for sections 390 to 391T(**a**) substitute—

“Sections 390 to 391T	Authorisation and regulation of insolvency practitioners	(a) In section 390 treat references to acting as an insolvency practitioner as references to acting as a building society special administrator. (b) For subsection (2) of that section substitute— “(2) A person is not qualified to act as a building society special administrator at any time unless at that time the person is fully authorised to act as an insolvency practitioner or partially authorised to act as an insolvency practitioner only in relation to companies.”. (c) An order under section 391 has effect in relation to any provision applied for the purposes of building society special administration. (d) In sections 390A, 390B(1) and (3), 391O(1)(b) and 391R(3)(b), in a reference to authorisation or permission to act as an insolvency practitioner in relation to (or only in relation to) companies the reference to companies has effect without the modification in paragraph 3(b) of this Schedule. (e) In sections 391Q(2)(b) and 391S(3)(e) the reference to a company has effect without the modification in paragraph 3(b) of this Schedule. (f) In sections 391O, 391Q and 391R a reference to the creditors of

(**a**) The entry for sections 390 to 391T is inserted in Table 2 in section 145 of the Banking Act 2009 by regulation 5(10)(e) of these Regulations.

		a company includes a reference to every shareholding member of the building society to whom a sum due from the society in relation to the member's shareholding is due in respect of a deposit.".”

The Financial Services and Markets Act 2000 (Administration Orders Relating to Insurers) Order 2010

9. In the Schedule to the Financial Services and Markets Act 2000 (Administration Orders Relating to Insurers) Order 2010(**a**) omit paragraph 7.

The Investment Bank Special Administration Regulations 2011

10.—(1) The Investment Bank Special Administration Regulations 2011(**b**) are amended as follows.

(2) In regulation 4 (special administration order), in paragraph (2) after "practitioner" insert "in relation to the investment bank".

(3) In regulation 15 (general powers and duties of administrators and effect of special administration), in paragraph (6) at the beginning of sub-paragraph (i) insert "except where otherwise specified in Table 2,".

(4) In regulation 15, in Table 1 (applied provisions of Schedule B1 to the Insolvency Act 1986)—

(a) in the entry for paragraph 65 (distribution to creditors), in the third column after "applied" insert "in England and Wales"; and

(b) in the entry for paragraph 98 (vacation from office: discharge from liability), in the third column after "(b)" insert "and (ba)".

(5) In regulation 15, in Table 2 (other applied provisions of the Insolvency Act 1986)—

(a) in the entry for section 167 (winding up by the court), in the third column, in paragraph (a) for "subsections (1) and (2), references" substitute "subsection (2) the reference";

(b) after the entry for section 176 insert—

"Section 176ZB	Application of proceeds of office-holder claims"	

(c) after the entry for section 246 insert—

"Section 246ZD	Power to assign certain causes of action	(a) Subsection (1) is not applied. (b) "Office holder" means the administrator."

(d) in the entry for section 389 (offence of acting without being qualified), in the third column, for paragraph (b) substitute "Subsection (2) is not applied.";

(e) for the entries for sections 390 and 391 substitute—

"Sections 390 to 391T	Authorisation and regulation of insolvency	(a) In section 390 treat references to acting as an insolvency practitioner

(**a**) S.I. 2010/3023.
(**b**) S.I. 2011/245.

	practitioners	as references to acting as the administrator. (b) Read subsection (2) of that section (as so modified) as if after "authorised" there were inserted "to act as an insolvency practitioner". (c) An order under section 391 has effect in relation to any provision applied for the purposes of special administration. (d) In sections 390A, 390B(1) and (3), 391O(1)(b) and 391R(3)(b), in a reference to authorisation or permission to act as an insolvency practitioner in relation to (or only in relation to) companies the reference to companies has effect without the modification in paragraph (6)(i) of this regulation. (e) In sections 391Q(2)(b) and 391S(3)(e) the reference to a company has effect without the modification in paragraph (6)(i) of this regulation."

(6) In regulation 23 (disqualification of directors) for paragraph (3) substitute—

"(3) For the purposes of the application of section 7A of the Disqualification Act(**a**) (office-holder's report on conduct of directors) to an investment bank which is in special administration—

(a) the "office-holder" is the administrator;

(b) the "insolvency date" means the date on which the special administration order is made; and

(c) subsections (9) to (11) are omitted.".

(7) In Schedule 1 (special administration (bank insolvency)), in paragraph 8(1)(b)(iii) and (2)(c) after "practitioner" insert "in relation to the investment bank".

(8) In Schedule 5 (table of enactments referred to in the Regulations together with the equivalent enactment having effect in relation to Northern Ireland)—

(a) in the entry for section 167 of the Insolvency Act 1986 (and Schedule 4 to that Act), in the third column insert "In Article 142, in paragraphs (1) and (2) the reference to the liquidation committee is a reference to the creditors' committee";

(b) for the entries for sections 390 and 391 of the Insolvency Act 1986 substitute—

"Sections 390 to 391T	Articles 349 to 350T(**b**)"	

(c) in the entry for paragraph 65 of Schedule B1 to the Insolvency Act 1986, in the third column insert "In Para 66, sub-paragraph (3) is not applied."; and

(**a**) In the Investment Bank Special Administration Regulations 2011 "the Disqualification Act" means the Company Directors Disqualification Act 1986. Section 7A was inserted by the Small Business, Enterprise and Employment Act 2015, section 107(2).

(**b**) Article 349 was amended by the Insolvency (Amendment) Act (Northern Ireland) 2016 (c. 2), section 14(1) and (2). Articles 349A to 350T were inserted by sections 14(1), (3) and (4) and 15 to 20 of that Act.

(d) in the entry for section 7 of the Company Directors Disqualification Act 1986—

(i) in the first column for "7" substitute "7A"; and

(ii) in the second column for "10" substitute "10A(**a**)".

The Collective Investment in Transferable Securities (Contractual Scheme) Regulations 2013

11.—(1) Schedule 2 to the Collective Investment in Transferable Securities (Contractual Scheme) Regulations 2013(**b**) (co-ownership schemes: application of the Insolvency Act 1986 and the Insolvency (Northern Ireland) Order 1989) is amended as follows.

(2) In Part 3 (table of applied provisions of the Insolvency Act 1986)—

(a) in the entry for section 169 (supplementary powers (Scotland)), omit the words in the second column;

(b) after the entry for section 246 insert—

"Section 246ZD (power to assign certain causes of action)"	

(c) in the entry for section 390(**c**) (persons not qualified to act as insolvency practitioner), in the second column for the words from "unless" to the end substitute "unless at that time the person is fully authorised to act as an insolvency practitioner or partially authorised to act as an insolvency practitioner only in relation to companies."; and

(d) for the entry for sections for 390A to 391T(**d**) (qualification and regulation of insolvency practitioners) substitute—

"Section 390A (authorisation of insolvency practitioners) Sections 391 to 391T (regulation of insolvency practitioners)	In these sections a reference to a company, except in a reference to creditors of a company, is to be read without modification by this Schedule(**e**)."

(3) In Part 4 (table of applied provisions of the Insolvency (Northern Ireland) Order 1989) after the entry for Article 348 (acting as insolvency practitioner without qualification) insert—

"Article 349 (persons not qualified to act as insolvency practitioner)	This Article is to be read as if for paragraph (2) there were substituted— "(2) A person is not qualified to act at any time as an insolvency practitioner in relation to a relevant scheme unless at that time the person is fully authorised to act as an insolvency practitioner or partially authorised to act as an insolvency practitioner only in relation to companies.".
Article 349A (authorisation of insolvency practitioners) Articles 350 to 350T (regulation of insolvency practitioners)	In these Articles a reference to a company, except in a reference to creditors of a company, is to be read without modification by this Schedule(**f**)."

(**a**) Article 10A of the Company Directors Disqualification (Northern Ireland) Order 2002 (S.I. 2002/3150 (N.I. 4)) was inserted by the Small Business, Enterprise and Employment Act 2015, section 112 and Schedule 8, paragraph 5.

(**b**) S.I. 2013/1388, as amended by S.I. 2015/1641 and 1651.

(**c**) The entry for section 390 was inserted by S.I. 2015/1641.

(**d**) The entry for sections 390A to 391T was inserted by S.I. 2015/1651.

(**e**) A reference to a creditor of a company is to be read as a reference to a creditor of a relevant scheme by virtue of paragraph 5(c) of Schedule 2 to the Collective Investment in Transferable Securities (Contractual Scheme) Regulations 2013. Other references to a company are modified by paragraph 5(a) of that Schedule or by the entry in that Schedule for section 388.

(**f**) See footnote (e) in relation to the entry inserted by paragraph (2)(d).

The Co-operative and Community Benefit Societies and Credit Unions (Arrangements, Reconstructions and Administration) Order 2014

12.—(1) The Co-operative and Community Benefit Societies and Credit Unions (Arrangements, Reconstructions and Administration) Order 2014(**a**) is amended as follows.

(2) After article 2 insert—

"**Application of section 176ZB of the 1986 Act**

2A. Section 176ZB of the 1986 Act (application of proceeds of office-holder claims) applies in relation to a relevant society which is in administration, and for that purpose—

(a) a reference to a company includes a reference to a relevant society;

(b) a reference to a section of the 1986 Act is a reference to that section as applied in relation to a relevant society; and

(c) the reference to Part 26 of the 2006 Act is a reference to that Part as applied in relation to a relevant society.".

(3) In Schedule 3 (modified application of other provisions of the Insolvency Act 1986)—

(a) in paragraph 2(b) after "those modifications" insert "and unless otherwise specified in this Schedule";

(b) for the heading to paragraph 5 substitute "Insolvency practitioners: qualification and regulation"; and

(c) after paragraph 5 insert—

"**5A.** Section 390 (persons not qualified to act as insolvency practitioners) has effect as if for subsection (2) there were substituted—

"(2) A person is not qualified to act as an insolvency practitioner in relation to a relevant society (within the meaning given in article 1(2) of the Co-operative and Community Benefit Societies and Credit Unions (Arrangements, Reconstructions and Administration) Order 2014) at any time unless at that time the person is fully authorised to act as an insolvency practitioner or partially authorised to act as an insolvency practitioner only in relation to companies.".

5B.—(1) In the following provisions, in a reference to authorisation or permission to act as an insolvency practitioner in relation to (or only in relation to) companies the reference to companies has effect without the modification in paragraph 1(c) of Schedule 1—

(a) sections 390A and 390B(1) and (3) (authorisation of insolvency practitioners); and

(b) sections 391O(1)(b) and 391R(3)(b) (court sanction of insolvency practitioners in public interest cases).

(2) In sections 391Q(2)(b) (direct sanctions order: conditions) and 391S(3)(e) (power for Secretary of State to obtain information) the reference to a company has effect without the modification in paragraph 1(c) of Schedule 1.".

(**a**) S.I. 2014/229, as amended by S.I. 2014/1815 and 2014/1822. Originally cited as the Industrial and Provident Societies and Credit Unions (Arrangements, Reconstructions and Administration Order 2014, and given a new citation by S.I. 2014/1815.

PART 4

Transitional provisions

Interpretation of Part

13.—(1) In this Part—

"the 1986 Act" means the Insolvency Act 1986;

"the 2009 Act" means the Banking Act 2009; and

"commencement date" means the date on which these Regulations come into force.

(2) In this Part, unless otherwise specified, a reference to a section is a reference to a section of the 1986 Act.

Section 176ZB

14.—(1) Section 176ZB (application of proceeds of office-holder claims) does not apply in relation to any relevant proceedings commenced before the commencement date.

(2) "Relevant proceedings" means—

(a) bank insolvency under Part 2 of the 2009 Act or bank administration under Part 3 of that Act;

(b) building society insolvency under Part 2 of the 2009 Act (as applied by section 90C of the Building Societies Act 1986(**a**));

(c) building society special administration under Part 3 of the 2009 Act (as applied by section 90C of the Building Societies Act 1986);

(d) the administration of a building society under Part 2 of the 1986 Act (as applied by section 90A of the Building Societies Act 1986(**b**));

(e) special administration, special administration (bank insolvency) or special administration (bank administration) under the Investment Bank Special Administration Regulations 2011; or

(f) the administration of a relevant society (within the meaning given in article 1(2) of the Co-operative and Community Benefit Societies and Credit Unions (Arrangements, Reconstructions and Administration) Order 2014) under Part 2 of the 1986 Act as applied by article 2(2) of that Order.

Sections 246ZA to 246ZC

15.—(1) Sections 246ZA to 246ZC (administration: penalisation of directors etc) do not apply in relation to—

(a) any relevant proceedings commenced before the commencement date; or

(b) the administration of a building society under Part 2 of the 1986 Act (as applied by section 90A of the Building Societies Act 1986) commenced before the commencement date.

(2) Regulation 5(10)(c) (the omission of the entries for section 213 and 214 of the 1986 Act in Table 2 in section 145 of the 2009 Act) does not apply in relation to any relevant proceedings commenced before the commencement date.

(3) "Relevant proceedings" means—

(a) bank administration under Part 3 of the 2009 Act; or

(**a**) Section 90C was inserted by S.I. 2009/805.
(**b**) Section 90A was inserted by the Building Societies Act 1997 (c. 3).

(b) building society special administration under Part 3 of the 2009 Act (as applied by section 90C of the Building Societies Act 1986).

Section 246ZD

16.—(1) Section 246ZD (power to assign certain causes of action) does not apply in relation to any relevant proceedings commenced before the commencement date.

(2) "Relevant proceedings" means—

(a) any proceedings of a kind specified in regulation 14(2)(a) to (e); or

(b) the winding up of a relevant scheme (within the meaning given in regulation 17(1)(a) of the Collective Investment in Transferable Securities (Contractual Scheme) Regulations 2013).

Sections 391O to 391R

17.—(1) Regulations 5(4)(f) and (10)(e) and 10(5)(e) and (8)(b), so far as they relate to sections 391O to 391R (court sanction of insolvency practitioners in public interest cases), have effect in relation to a person who acts as an insolvency practitioner in any relevant proceedings on or after the commencement date, but disregarding any conduct of that person before that date.

(2) Paragraph (1) applies notwithstanding that the date of the person's authorisation to act as an insolvency practitioner or appointment to act in the relevant proceedings precedes the commencement date.

(3) "Relevant proceedings" means any proceedings of a kind specified in regulation 14(2)(a), (b), (c) and (e).

Articles 350O to 350R of the Insolvency (Northern Ireland) Act 1989

18.—(1) Articles 350O to 350R of the Insolvency (Northern Ireland) Order 1989(**a**) (court sanction of insolvency practitioners in public interest cases) have effect in relation to a person who acts as an insolvency practitioner in relevant proceedings on or after the commencement date, but disregarding any conduct of that person before that date.

(2) Paragraph (1) applies notwithstanding that the date of the person's authorisation to act as an insolvency practitioner or appointment to act in the relevant proceedings precedes the commencement date.

(3) "Relevant proceedings" means the winding up of a relevant scheme (within the meaning given in regulation 17(1)(a) of the Collective Investment in Transferable Securities (Contractual Scheme) Regulations 2013).

Name
Parliamentary Under Secretary of State
Date Department for Business, Energy and Industrial Strategy

Name
Name
Date Two of the Lords Commissioners of Her Majesty's Treasury

(**a**) S.I. 1989/2405 (N.I. 19). Articles 350O, 350Q and 350R were inserted by the Insolvency (Amendment) Act (Northern Ireland) 2016, section 18.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend certain enactments in consequence of—

(a) certain provisions of the Deregulation Act 2015 (c. 20) and the Small Business, Enterprise and Employment Act 2015 (c. 26) ("SBEEA") which amend the Insolvency Act 1986 (c. 45) and the Company Directors Disqualification Act 1986 (c. 46); and

(b) certain provisions of the Insolvency (Amendment) Act (Northern Ireland) 2016 (c. 2) ("the 2016 Act") which amend the Insolvency (Northern Ireland) Order 1989.

These Regulations are made in consequence of the following provisions—

— section 17 of the Deregulation Act 2015 (authorisation of insolvency practitioners);

— section 19 of that Act (insolvency and company law: miscellaneous), so far as it relates to paragraph 7 and Part 6 of Schedule 6 to the Act, and those provisions of that Schedule;

— section 107 of SBEEA (reports of office-holders on conduct of directors of insolvent companies);

— sections 117 to 119 of SBEEA (office-holder actions);

— section 120 of SBEEA (exercise of powers by liquidator: removal of need for sanction);

— section 127 of SBEEA (extension of administrator's term of office);

— section 128 of SBEEA (administration: payments to unsecured creditors);

— section 130 of SBEEA (attachment of floating charges on administration (Scotland));

— sections 137 to 143 of SBEEA (regulation of insolvency practitioners: amendments to existing regime); and

— sections 14 to 20 of the 2016 Act (authorisation and regulation of insolvency practitioners: amendments to existing regime).

The specified provisions of the Deregulation Act 2015 and of SBEEA, except for section 107 of SBEEA, came into force on 26th May or 1st October 2015. Section 107 came into force on 6th April 2016.

The specified provisions of the 2016 Act came into force on 1st April 2016.

Part 2 of these Regulations amends primary legislation.

Part 3 of these Regulations amends subordinate legislation.

Part 4 of these Regulations makes transitional provision in relation to the application by other provision made by these Regulations of—

(a) the sections of the Insolvency Act 1986 which are inserted by sections 117, 118, 119 and 141 of SBEEA; and

(b) Articles 350O to 350R of the Insolvency (Northern Ireland) Order 1989 which are inserted by section 18 of the 2016 Act.

An impact assessment has not been produced for this instrument as no impact on the costs of business or the voluntary sector is foreseen.

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