



ABU DHABI GLOBAL MARKET
سوق أبوظبي العالمي

INSOLVENCY (AMENDMENT No. 4) REGULATIONS 2020

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Regulations amending the Insolvency Regulations 2015

Date of Enactment: **8 July 2020**

The Board of Directors of the Abu Dhabi Global Market, in exercise of its powers under Article 6(1) of Law No. 4 of 2013 concerning the Abu Dhabi Global Market issued by His Highness the Ruler of the Emirate of Abu Dhabi, hereby enacts the following—

1. Amendments to the Insolvency Regulations 2015

The Insolvency Regulations 2015 are amended as follows.

- (1) Section 10(5), for the words “which shall be in the prescribed form”, the words “containing the information prescribed in paragraph 46 of Schedule 1” shall be substituted.
- (2) Sections 12(1) to (3) shall be deleted in their entirety and replaced in full by the following:
 - “(1) The administration application (and all supporting documents) shall be filed with the Court in accordance with paragraph 37 of Schedule 1 (*Electronic delivery of documents to or by the Court*) and served in accordance with Section 13 (*Service of administration application*).
 - (2) When issuing the administration application, the Court shall endorse it with the date and time of filing.
 - (3) The Court shall fix a venue for the hearing which shall be included in a notice of listing which is to be served with the administration application.”
- (3) Sections 15(2) to (4) shall be deleted in their entirety and replaced in full by the following:
 - “(2) Service shall be effected on the Company or any other person in accordance with Part 4 of the ADGM Court Procedure Rules.”
- (4) Section 17(1)(b), for the words “in the prescribed form”, the words “containing the information prescribed in paragraph 46 of Schedule 1” shall be substituted.
- (5) Section 19(2) shall be deleted in its entirety and replaced in full by the following:
 - “(2) If the Court makes an administration order, it shall contain such matters as may be prescribed with such amendments as the Court considers appropriate.”
- (6) In Section 23(1)(a), for the words “in the prescribed form”, the words “containing the information prescribed in paragraph 50 of Schedule 1” shall be substituted.
- (7) In Section 23(1)(b), for the words “in the prescribed form”, the words “containing the information prescribed in paragraph 46 of Schedule 1” shall be substituted.
- (8) In Section 23(2), for the words "(in a form prescribed by the Board in rules made by the Board)" the words "containing the information prescribed in paragraph 50 of Schedule 1" shall be substituted.
- (9) Section 24(1) shall be deleted in its entirety and replaced in full by the following:

- “(1) The notice of intention to appoint an administrator by a holder of a qualifying charge shall include such information as prescribed in paragraph 48 of Schedule 1.”
- (10) Section 24(2) shall be deleted in its entirety and replaced in full by the following:
- “(2) A copy of the notice of intention to appoint shall be filed with the Court at the same time as it is sent in accordance with Section 22(1) (*Restrictions on power to appoint*) to the holder of any prior qualifying charge.”
- (11) In Section 24(3), for the words “Section 15(2) to (4)” the words “Section 15(2)” shall be substituted.
- (12) Sections 25(4) and (5) shall be deleted in their entirety and replaced in full by the following:
- “(4) The notice of appointment shall be filed with the Court in accordance with paragraph 37 of Schedule 1 (*Electronic delivery of documents to or by the Court*).
- (5) When issuing the notice of appointment, the Court shall endorse it with the date and time of filing and the person making the appointment shall as soon as reasonably practicable send an endorsed copy to the administrator of the Company.”
- (13) In section 26(2)(a), for the words “such other persons as may be prescribed”, the words “such other persons as prescribed under Section 8(2) (*Administration application*)” shall be substituted.
- (14) Sections 27(1) to (13) shall be deleted in their entirety and replaced in full by the following:
- “(1) The holder of a qualifying charge may file a notice of appointment with the Court, notwithstanding that the Court is not open for public business, in accordance with paragraph 37 of Schedule 1 (*Electronic delivery of documents to or by the Court*). The notice of appointment shall:
- (a) contain the information prescribed in paragraph 50 of Schedule 1;
- (b) attach or include a statement providing full reasons for the out of hours filing of the notice of appointment, including why it would have been damaging to the Company and its creditors not to have so acted; and
- (c) be accompanied by all of the necessary supporting documents as may be prescribed in Section 23 (*Notice of Appointment*) and, as applicable, Section 25 (*Notice of Appointment*).
- (2) The filing of a notice in accordance with this Section shall have the same effect for all purposes as a notice of appointment filed with the Court in accordance with Section 26(1) (*Commencement of Appointment*).
- (3) As soon as reasonably practicable, the appointor shall notify the administrator that the notice of appointment has been issued by the Court and send him a sealed copy of the notice.”
- (15) In Section 31(3)(b), for the words “be in the prescribed form”, the words “contain the information prescribed in Section 49 of Schedule 1” shall be substituted.
- (16) In Section 31(5), for the words “(in a form prescribed by the Board in rules made by the Board)” the words “containing the information prescribed in this subsection” shall be substituted.

- (17) In Section 32(1), for the words “Section 15(2) to (4)” the words “Section 15(2)” shall be substituted.
- (18) In Section 33(2), for the words “(in a form prescribed by the Board in rules made by the Board)” the words “containing the information prescribed in this subsection” shall be substituted.
- (19) Section 33(5) shall be deleted in its entirety and replaced in full by the following:
“(5) The notice of appointment shall contain the information prescribed by subsections (2) and (3).”
- (20) In Section 34(1)(a), for the words “in the prescribed form” the words “containing the information prescribed in paragraph 46 of Schedule 1 ” shall be substituted.
- (21) Sections 34(3) and (4) shall be deleted in their entirety and replaced in full by the following:
“(3) The notice of appointment shall be filed with the Court in accordance with paragraph 37 of Schedule 1 (*Electronic delivery of documents to or by the Court*).
(4) When issuing the notice of appointment, the Court shall endorse it with the date and time of filing and the person making the appointment shall as soon as reasonably practicable send an endorsed copy to the administrator of the Company.”
- (22) In Section 35(2)(a), for the words “such other persons as may be prescribed”, the words “such other persons as prescribed under Section 8(2) (*Administration application*)” shall be substituted.
- (23) In Section 39(3)(b), the words “with such amendments as the Court considers appropriate” shall be added to end of the subsection.
- (24) In Section 39(5)(b), the words” with such amendments as the Court considers appropriate “shall be added to the end of the subsection.
- (25) In Section 46(3), for the words “only if it is in the prescribed form” the words “only if it contains the information prescribed in paragraph 48 of Schedule 1” shall be substituted.
- (26) In Section 49(2), for the words “he shall do so in the prescribed form” the words “he shall include the information prescribed in subsection (1)” shall be substituted.
- (27) In Section 50(1), for the words “notice in the prescribed form” the words “notice containing the information prescribed in subsection (2)” shall be substituted.
- (28) In Section 50(3), for the words “in the prescribed form” the words “in accordance with this Section” shall be substituted.
- (29) Section 54(7) shall be deleted in its entirety and replaced in full by the following:
“(7) A sealed copy of any order shall be provided by the Court to the relevant person and the administrator of the Company in accordance with paragraph 37 of Schedule 1 (*Electronic delivery of documents to or by the Court*).”
- (30) In Section 56(2)(a), for the words “such matters as may be prescribed” the words “such matters as may be prescribed by Section 57 (*Administrator’s statement of proposals*)” shall be substituted.

- (31) In Section 57(5)(a), the words “in the prescribed form” shall be deleted, and the words “including the information prescribed by Schedule 1, Part 6 and Schedule 6, Part 3” shall be added to the end of the subsection.
- (32) In Section 61(8), for the words “a date in the prescribed period” the words “a date in the period prescribed by Schedule 6” shall be substituted.
- (33) In Section 62, for the words “shall be in the prescribed form” the words “shall contain the information prescribed by Schedule 6” shall be substituted.
- (34) In Section 65(2)(b), for the words “send a statement in the prescribed form” the words “send a statement including the information specified by Section 66” shall be substituted.
- (35) In Section 68(1)(a), the words “in the prescribed form” shall be deleted, and the words “in the form prescribed by Schedule 1” shall be added to the end of the subsection.
- (36) In Section 69(8)(a), for the words “attached to the prescribed form” the words “attached to notice in the form prescribed by Schedule 1” shall be substituted.
- (37) In Section 71(1)(a), for the words “requested in the prescribed manner” the words “requested in the manner prescribed by Schedule 6” shall be substituted.
- (38) In Section 81(2), paragraphs (c) and (d) shall be deleted in their entirety and replaced in full by the following:
- “(c) any other interested person;
- (d) the Financial Services Regulator; or
- (e) the Registrar.”
- (39) Section 91(2) shall be deleted in its entirety and replaced in full by the following:
- “(2) The notice of termination must be in the form prescribed by Schedule 1.”
- (40) Section 94(1)(c) shall be deleted in its entirety and replaced in full by the following:
- “(c) contains the information prescribed by paragraph 53 of Schedule 1;”
- (41) Section 94(2)(a) shall be deleted in its entirety and replaced in full by the following:
- “(a) contains the information prescribed by paragraph 53 of Schedule 1;”
- (42) After Section 109, a new Chapter 9A shall be inserted as follows:

“Chapter 9A - Priority Financing

109A. Priority funding

- (1) An administrator may obtain unsecured credit and incur unsecured debt in the ordinary course of business, and any such credit or debt shall be payable as an expense of the administration in accordance with Section 143 (Vacation of office: charges and liabilities).
- (2) If an administrator is unable to obtain unsecured credit in accordance with subsection (1), the Court may, following an application by the administrator, permit for all

purposes, irrespective of prior rights and prohibitions to the contrary, the obtaining of credit or the incurring of debt:

- (a) with priority over any or all expenses of the administration;
 - (b) secured by a security interest on property of the insolvent estate that is not otherwise subject to a security interest; or
 - (c) secured by a security interest on property of the insolvent estate where:
 - (i) such property is already subject to a security interest; and
 - (ii) the new security interest ranks, as a matter of priority, below any existing security interest in respect of the same property.
- (3) The Court may, following an application by the administrator, permit for all purposes, irrespective of prior rights and prohibitions to the contrary, the obtaining of credit or the incurring of debt secured by a security interest on property of the insolvent estate where:
- (a) such property is already subject to a security interest; and
 - (b) the new security interest ranks, as a matter of priority, equally with or above any existing security interest in respect of the same property,
- only if:
- (A) the administrator is unable to obtain such credit otherwise; and
 - (B) there is adequate protection of the interest of the holder of the existing security interest on the property of the insolvent estate on which the security interest is proposed to be granted.

In any hearing under this subsection (3), the administrator has the burden of proof on the issue of adequate protection.

- (4) The reversal or modification on appeal of an order under this section to obtain credit or incur debt, or of a grant under this section of a priority or a security interest, does not affect the validity of any debt so incurred, or any priority or security interest so granted, to an entity that extended such credit or debt in good faith, whether or not such entity knew of the pendency of the appeal, unless such order and the incurring of such debt, or the granting of such priority or security interest, were stayed pending appeal.
- (5) Following an application to the Court by the administrator under subsection (2) or (3), the administrator shall, as soon as reasonably practicable after the making of such application, notify each known creditor of the Company that such application has been made or, if that is not practicable in the circumstances, publish a notice of the application on the Registrar's website and in an English language newspaper distributed in the United Arab Emirates and available in the Abu Dhabi Global Market.
- (6) At a hearing of an application in respect of subsection (2) or (3), any of the following may appear to be represented:
 - (a) the administrator;

- (b) any creditor which holds security over property to which the application relates; and
- (c) with the permission of the Court, any other person who appears to have an interest justifying his appearance.

109B Adequate protection

- (1) When adequate protection is required under Section 109A (Priority funding) of an interest of an entity in property, such adequate protection may be provided by:
 - (a) requiring the administrator to make a cash payment or periodic cash payments to such entity, to the extent that any grant of a security interest under Section 109A (Priority funding) results in a decrease in the value of such entity's interest in such property;
 - (b) providing to such entity an additional or replacement security interest to the extent that such grant results in a decrease in the value of such entity's interest in such property; or
 - (c) granting such other relief as will result in the realization by such entity of the indubitable equivalent of such entity's interest in such property.
- (2) For the purposes of Section 109A (Priority funding) and without limiting the scope of Section 109B(1), adequate protection is provided if the Court is satisfied that the provision of credit or debt:
 - (a) would enable the administrator to achieve one of the purposes of the administration set out in Section 2(1)(a) or Section 2(1)(b); and
 - (b) the grant of the security interest referred to in Section 109A(3)(a) is likely to achieve a better result for each creditor which benefits from an existing security interest over the same property than would likely be achieved if the new security interest was not granted."
- (43) In Section 115(2), for the words "notice in the prescribed form" the words "notice containing the information prescribed by paragraph 53 of Schedule 1" shall be substituted.
- (44) Section 117(3) shall be deleted in its entirety and replaced in full by the following:

"(3) A sealed copy of any order to end the administration shall be provided by the Court to the administrator of the Company in accordance with paragraph 37 of Schedule 1 (*Electronic delivery of documents to or by the Court*)."
- (45) Sections 119(1) and (2) shall be deleted in their entirety and replaced in full by the following:
 - "(1) For the purpose of any application to the Court for an order ending the administration, the appointment shall cease to have effect from the date and, if necessary, the time specified in the order.
 - (2) A sealed copy of the order shall be provided by the Court to the administrator of the Company in accordance with paragraph 37 of Schedule 1 (*Electronic delivery of documents to or by the Court*)."

- (46) In Section 120(2), for the words “copy of the notice” the words “copy of the order” shall be substituted.
- (47) In Section 130(1), the words “in the prescribed form” shall be deleted, and the words “containing the information prescribed in paragraph 52 of Schedule 1 (*Notice of intention to Resign*)” shall be inserted before “to the following persons”.
- (48) Section 131(1) shall be deleted in its entirety and replaced in full by the following:
“(1) The notice of resignation shall contain the information prescribed in paragraph 52 of Schedule 1 (*Notice of intention to resign*).”
- (49) Section 133(3) shall be deleted in its entirety and replaced in full by the following:
“(3) A sealed copy of any order removing the administrator shall be provided by the Court to the applicant in accordance with paragraph 37 of Schedule 1 (*Electronic delivery of documents to or by the Court*), following which the applicant shall as soon as reasonably practicable send a copy of the order to the administrator.”
- (50) In Section 138(1), for the words “written statement in the prescribed form” the words “written statement containing the information prescribed in paragraph 46 of Schedule 1” shall be substituted.
- (51) In Section 152(8)(c), for the word "Board", the word "Registrar" shall be substituted.
- (52) Section 158(1) shall be deleted in its entirety and replaced in full by the following:
“(1) A receiver of the property of a Company appointed under powers contained in an instrument, or the persons by whom or on whose behalf a receiver has been so appointed, or a creditor or other interested person, may apply to the Court for directions in relation to any particular matter arising in connection with the performance of the functions of the receiver.”
- (53) In Section 164(3), for the words “notice in the prescribed form”, the words “notice containing the content prescribed by subsection (2)” shall be substituted.
- (54) In Section 175(1), for the words "(in a form prescribed by the Board in rules made by the Board)" the words "containing the information prescribed in paragraph 54 of Schedule 1," shall be substituted.
- (55) In Section 182(3), for the words “seven (7) calendar days” the words “seven (7) days” shall be substituted.
- (56) Section 200(1)(a) shall be deleted in its entirety and replaced in full by the following:
“(a) If a creditor to whom the Company is indebted in a sum exceeding \$2,000 then due has served a written demand on the Company at its registered office in accordance with Part 4 of the ADGM Court Procedure Rules or, if that is not practicable or the Company has no registered office:
(i) by any other method permitted by Part 4 of the ADGM Court Procedure Rules; or
(ii) by any method as the Court may by order approve or direct,

requiring the Company to pay the sum so due and the Company has for three (3) weeks thereafter neglected to pay the sum or agree terms in relation to its payment to the reasonable satisfaction of the creditor;”

(57) Section 202(1) shall be deleted in its entirety and replaced in full by the following:

“(1) Subject to any provision of Abu Dhabi Global Market legislation to the contrary, a petition to the Court for the winding-up of a Company may only be presented by:

- (a) the Company;
- (b) the Directors;
- (c) an administrative receiver;
- (d) an administrator;
- (e) any creditor or creditors (including any contingent or prospective creditor or creditors);
- (f) a contributory or contributories; or
- (g) any other person who under any enactment would be entitled to present a petition for the winding-up of the Company.”

(58) In Section 203, including the heading to Section 203, for the words “Financial Services Regulator” the words “Financial Services Regulator or the Registrar” shall be substituted in all cases.

(59) Section 204(2) shall be deleted in its entirety and replaced in full by the following:

“(2) The petition shall be filed in, and sealed by, the Court and served by the petitioner on the Company at its registered office (if the petitioner is not the Company) in accordance with Part 4 of the ADGM Court Procedure Rules or, if that is not practicable or the Company has no registered office:

- (a) by any other method permitted by Part 4 of the ADGM Court Procedure Rules;
or
- (b) by any method as the Court may be order approve or direct,

following which a certificate of service and a certificate of compliance in the prescribed form are to be filed with the Court.”

(60) Section 204(3) shall be deleted in its entirety and replaced with the following:

“(3) One copy of the petition shall be sent by the petitioner to:

- (a) if the Company is an Authorised Person or Recognised Body and the petitioner is not the Financial Services Regulator, the Financial Services Regulator; or
- (b) in all other cases, if the petitioner is not the Registrar, the Registrar.”

(61) Section 204(8) shall be inserted as follows:

- “(8) The petition must be verified by a statement of truth. Where the petition is in respect of debts due to different creditors the debt to each creditor must be verified separately in the prescribed form.”
- (62) Section 205(1) shall be deleted in its entirety and replaced in full by the following:
- “(1) Notice of the petition shall be published in the Abu Dhabi Global Market in the manner prescribed in these Regulations, as applicable, or in such manner as directed by the Court:
- (a) if the petitioner is not the Company, not less than seven (7) business days after service of the petition on the Company; or
 - (b) if the petitioner is the Company itself, not less than (7) business days before the day appointed for the hearing,
- following which the petitioner shall file a certificate of compliance in the prescribed form with the Court.”
- (63) Section 205(2) shall be deleted in its entirety and replaced in full by the following:
- “(2) The notice must state –
- (a) that a petition has been presented for the winding-up of the Company;
 - (b) the name and address of the petitioner;
 - (c) the date on which the petition was presented;
 - (d) the venue fixed for the hearing of the petition;
 - (e) the name and address of the insolvency practitioner (if any) whom the petitioner proposes for appointment as liquidator, or as provisional liquidator;
 - (f) the name and address of the petitioner’s legal representatives (if any); and
 - (g) that any person intending to appear at the hearing (whether to support or oppose the petition) must give the petitioner notice of that intention, no later than 16.00 hours on the business day before the day appointed for the hearing.”
- (64) Section 205(3) shall be inserted as follows:
- “(3) The petitioner must prepare for the Court a list of the persons who have given notice under Section 205(2)(g) (*Advertisement of petition*) and the petitioner must provide a copy of the list to the Court in the prescribed form before the hearing commences.”
- (65) In Section 206(2), the words “or provisional liquidator” shall be inserted after “as liquidator”.
- (66) Section 207(1) shall be deleted in its entirety and replaced in full with the following:
- “(1) When a winding-up order has been made, the Court shall immediately:
- (a) give notice of the fact to the Company, the petitioner, the Financial Services Regulator (in the case of an Authorised Person or Recognised Body and any other person represented at the hearing; and
 - (b) provide a sealed copy of the order to the liquidator;

in accordance with paragraph 37 of Schedule 1 (Electronic delivery of documents to or by the Court), or in such other manner as the Court considers appropriate.”

- (67) Section 211(1) shall be deleted in its entirety and replaced in full with the following:
- “(1) The Court may at any time after an order for winding-up is made, on the application of the liquidator, provisional liquidator, Financial Services Regulator, Registrar or any creditor or contributory, make an order staying the proceedings on such terms and conditions as the Court thinks fit.”
- (68) In Section 211(2), the words “, the Financial Services Regulator or any other Office-holder, as applicable” shall be inserted at the end of the subsection.
- (69) Section 211(4) shall be inserted as follows:
- “(4) The Court may, before making an order, give notice of the application to the Financial Services Regulator or the Registrar, who may furnish the Court with a report with respect to any facts or matters which are in its opinion relevant to the application.”
- (70) In section 217(11), for the word “Board”, the word “Registrar” shall be substituted.
- (71) In Section 231(3), for the words “notice in the prescribed form” the words “notice containing the prescribed information” shall be substituted.
- (72) Section 236(7) shall be deleted in its entirety and replaced in full by the following:
- “(7) A sealed copy of any order made on the application shall be provided by the Court to the relevant person and the liquidator in accordance with paragraph 37 of Schedule 1 (*Electronic delivery of documents to or by the Court*).
- (73) In Section 267(1)(a), for the words “a written demand in the prescribed form”, the words “a written demand containing the information specified in Section 201(3) (*The statutory demand*)” shall be substituted.
- (74) Section 289(2) shall be deleted in its entirety and replaced in full by the following:
- “(2) Without limiting the generality of subsection (1), no insolvency practitioner may be appointed by the Court as—
- (a) liquidator under Section 207 (Notice of winding-up order); or
- (b) provisional liquidator under Section 210 (Appointment of provisional liquidator or of liquidator following administration),
- unless he is further registered with the Registrar as an official liquidator under this Part 9 (*Insolvency Practitioners*).”
- (75) Subsection 297(3) shall be deleted in its entirety and replaced in full by the following:
- “(3) A reference to “**prescribed form**”, “**prescribed manner**”, “**prescribed circumstances**”, “**prescribed condition**”, “**prescribed information**”, “**prescribed persons**”, “**prescribed matters**”, “**prescribed period**”, “**prescribed provisions**” or to be as “**prescribed**” without further reference is a reference to such form, manner, circumstances, condition, information, persons, matters, period, provisions or otherwise as to be determined by:

- (a) these Regulations (including the Schedules);
 - (b) any rules or forms made or published by the Registrar; or
 - (c) any rules, practice directions or forms made or published by the Court.”
- (76) In Section 298:
- “(a) the definition for “file with the Court” shall be amended to read “means submit for filing in the Court in accordance with the relevant practice direction”;
 - (b) the definition for “service” shall be deleted in its entirety and replaced in full with the following: “**“service”** means both for Court documents and other documents, service in accordance with Part 4 of the ADGM Court Procedure Rules or by any method as the Court may by order approve or direct”.
 - (c) the following definition for “Court” is to be inserted: “**“Court”** means the Abu Dhabi Global Market Courts unless the context otherwise requires”; and
 - (d) the following definition for “eCourts Platform” is to be inserted: “**“eCourts Platform”** means the Abu Dhabi Global Markets Courts electronic filing and case management systems”.
- (77) Paragraph 26 of Schedule 1 shall be deleted in its entirety and replaced in full by the following:
- “26. Standard contents of notices relating to Court proceedings or orders**
- A notice relating to Court proceedings must also identify those proceedings (including the Court name and any assigned number to the proceedings by the Court) and if the notice relates to a Court order, specify –
- (a) the nature of the Court order; and
 - (b) the date of the order.”
- (78) Subparagraph 29(1) of Schedule 1 shall be amended by deleting the word “An” and including the following words at the commencement of the subsection, “Subject to any relevant practice direction, an..”.
- (79) Paragraph 29A shall be inserted into Schedule 1 as follows:
- “29A Orders and procedures of the Court**
- (1) Nothing in these Regulations shall:
 - (a) prevent the Court from making such orders or providing such directions as it considers appropriate; or
 - (b) limit or override any provision of the ADGM Court Procedure Rules or any practice direction unless otherwise stated.
 - (2) Without limiting subparagraph (1), the Court shall be entitled to make or publish such rules or practice directions that it considers appropriate in connection with the conduct of Insolvency Proceedings and related matters before the Court.”
- (80) Paragraph 29B shall be inserted into Schedule 1 as follows:

“29B. Formal defects

No Insolvency Proceedings shall be invalidated by any formal defect or by any other irregularity, unless the Court before which the objection is made considers that substantial injustice has been caused by the defect or irregularity and that the injustice cannot be remedied by any order of the Court.”

- (81) Paragraph 29C shall be inserted into Schedule 1 as follows:

“29C. Block transfer order

The Court may make a block transfer order subject to and in accordance with the relevant practice direction.”

- (82) Subparagraph 36(6) shall be inserted into Schedule 1 as follows:

“(6) Nothing in this section modifies any provision of the ADGM Court Procedure Rules or any practice direction in relation to the electronic delivery of documents to or from the Court.”

- (83) Paragraph 37 of Schedule 1 shall be deleted in its entirety and replaced in full by the following:

“37. Electronic delivery of documents to or by the Court

- (1) Any document that is required under these Regulations to be filed with or delivered to the Court shall be filed or delivered in accordance with the relevant practice direction.
- (2) Any document, including notice of any document, that is required under these Regulations to be provided or delivered by the Court to a person shall be provided or delivered through the eCourts Platform, or by such other means that the Court considers appropriate.”

- (84) Paragraph 42A shall be inserted into Schedule 1 as follows:

“42A. Inspection of documents on the Court file

A person may inspect a document on the Court file subject to and in accordance with the relevant practice direction.”

- (85) Schedule 1 shall be further amended to include the following:

“Part 10

Administration Applications

46. Administrator’s written statement in support of administration application (Section 10(5), 17(1)(b), 23(1)(b), 34(1)(a), 138(1))

- (1) A written statement of an administrator seeking to act shall be titled “Proposed administrator's statement and consent to act” and shall contain:
 - (a) identification details for the Company;

- (b) a certificate that the proposed administrator is qualified to act as an insolvency practitioner in relation to the Company;
 - (c) the proposed administrator's commercial license details;
 - (d) the name of the relevant recognised professional body which is the source of the proposed administrator's authorisation to act in relation to the Company;
 - (e) a statement that the proposed administrator consents to act as administrator of the Company;
 - (f) details of any prior professional relationship that he has had with the Company to which he is to be appointed as administrator;
 - (g) the name of the person by whom the appointment is to be made or the applicant in the case of an application to the Court for an appointment; and
 - (h) a statement that the proposed administrator is of the opinion that the purpose of administration is reasonably likely to be achieved.
- (2) The statement and consent to act must be authenticated and dated by the proposed administrator.
- (3) Where a number of persons are proposed to be appointed to act jointly or concurrently as the administrator of a Company, each must make a separate statement and consent to act.

47. Prescribed matters for Court order (Sections 19(2), 39(3)(b) and 39(5)(b))

- (1) Where the Court makes an administration order the Court's order must be headed "Administration order" and shall contain the following, with such amendments as the Court considers appropriate:
- (a) identification details for the proceedings;
 - (b) the name and title of the judge making the order;
 - (c) the address of the applicant;
 - (d) details of any other parties (including the Company) appearing and by whom they are represented;
 - (e) an order that during the period the order is in force the affairs, business and property of the Company is to be managed by the administrator;
 - (f) the name of the person appointed as administrator;
 - (g) an order that that person is appointed as administrator of the Company;
 - (j) the date of the order (and if the Court so orders the time); and
 - (k) such other provisions if any as the Court thinks just.
- (2) Where two or more administrators are appointed the order must also specify:
- (a) which functions (if any) are to be exercised by those persons acting jointly; and
 - (b) which functions (if any) are to be exercised by any or all of those persons.

48. Notice of intention to appoint an administrator by the holder of a qualifying charge (Sections 24(1), 46(3))

- (1) The notice filed with the Court must be headed “Notice of intention to appoint an administrator by holder of qualifying floating charge” and must contain the following—
- (a) identification details for the proceedings;
 - (b) the name and address of the appointor;
 - (c) a statement that the appointor intends to appoint an administrator of the Company;
 - (d) the name and address of the proposed administrator;
 - (e) a statement that the appointor is the holder of the qualifying floating charge in question and that it is now enforceable;
 - (f) details of the charge, the date upon which it was registered and the maximum amount if any secured by the charge;
 - (g) a statement that the notice is being given in accordance with Section 22(1)(a) (*Restrictions on power to appoint*) to the holder of every prior floating charge which satisfies Section 21(2)(*Power to Appoint*);
 - (h) the names and addresses of the holders of such prior floating charges and details of the charges; and
 - (i) a statement whether the Company is or is not subject to insolvency proceedings at the date of the notice, and details of the proceedings if it is.

49. Notice of intention to appoint an administrator by the Company or directors (Sections 31(3)(b), 46(4))

- (1) The notice of an appointment must be headed “Notice of intention to appoint an administrator by Company” or “Notice of intention to appoint an administrator by the directors of a Company” and must contain—
- (a) identification details for the proceedings;
 - (b) a statement that the Company, as represented by its directors or members, intends to appoint an administrator of the Company;
 - (c) the name and address of the proposed administrator;
 - (d) the names and addresses of the persons to whom notice is being given in accordance with Section 31(1) (Notice of intention to appoint);
 - (e) a statement that each of those persons is or may be entitled to appoint—
 - (i) an administrative receiver of the Company, or
 - (ii) an administrator of the Company;

- (f) a statement that the Company has not within the preceding 12 months been in administration;
 - (g) a statement that in relation to the Company there is no—
 - (i) petition for winding up which has been presented but not yet disposed of;
 - (ii) administration application which has not yet been disposed of, or
 - (iii) administrative receiver in office;
 - (h) a statement whether the Company holds or has held a Financial Services Permission or Recognition Order granted by the Financial Services Regulator;
 - (j) a statement that the notice is accompanied (as appropriate) by either—
 - (i) a copy of the resolution of the Company’s members to appoint an administrator, or
 - (ii) a record of the decision of the directors to appoint an administrator; and
 - (k) a statement that if a recipient of the notice who is named in paragraph (e) wishes to consent in writing to the appointment, that person may do so but that after five business days have expired from delivery of the notice the appointor may make the appointment although such a recipient has not replied.
- (2) The notice must be accompanied by—
 - (a) a copy of the resolution of the Company to appoint an administrator, where the Company intends to make the appointment, or
 - (b) a record of the decision of the directors, where the directors intend to make the appointment.
 - (3) A copy of the notice must be delivered at the same time to—
 - (a) any enforcement agent or other officer who, to the knowledge of the person giving the notice, is charged with distress or other legal process against the Company;
 - (b) any person who, to the knowledge of the person giving the notice, has distrained against the Company or its property;
 - (c) the Registrar; and
 - (d) the members of the Company, if the appointment has been made by the directors of the Company.
 - (4) The declaration accompanying the notice in accordance with Section 31(5) (*Notice of intention to appoint*) must, if it is not made by the person making the appointment, indicate the capacity in which the person making the declaration does so.

50. Notice of appointment by creditor holding a qualifying charge (Section 23(1)(a), 23(2), 23(3)(c), 24(1), 27(1)(a))

Notice of an appointment under Section 23(1)(a) (*Notice of appointment*) must be headed “Notice of appointment of an administrator by holder of a qualifying charge” and must contain—

- (a) identification details for the proceedings;
- (b) the name and address of the appointor;
- (c) a statement that the appointor has appointed the person named as administrator of the Company;
- (d) the name and address of the person appointed as administrator;
- (e) a statement that a copy of the administrator’s consent to act accompanies the notice;
- (f) a declaration that:
 - (i) the appointor is the holder of the qualifying charge in question;
 - (ii) that the charge is now enforceable (and the details of the charge including its date of creation, registration and the maximum amount secured by the charge, or if the appointor holds no charge, a statement to that effect); and
 - (iii) the appointment is in accordance with Part 1 of the Regulations.
- (g) details of the charge including the date of the charge, the date on which it was registered and the maximum amount if any secured by the charge;
- (h) one of the following statements—
 - (i) that notice has been given in accordance with Section 24(2) (*Notice of intention to appoint*) to the holder of every prior charge and that two business days have elapsed from the date the last such notice was given (if more than one) and that a copy of every such notice was filed with the Court under Section 23(1) (*Notice of appointment*), and the date of that filing (or the latest date of filing if more than one);
 - (ii) that the holder of every such charge to whom notice was given has consented in writing to the making of the appointment and that a copy of every consent accompanies the notice of appointment;
 - (iii) that the holder of every such charge has consented in writing to the making of the appointment without notice having been given to all and that a copy of every consent accompanies the notice of appointment, or
 - (iv) that there is no such charge; and
- (j) a statement whether the Company is or is not subject to insolvency proceedings at the date of the notice, and details of the proceedings if it is.

51. Notice of appointment of administrator by Company or directors (Section 33(5))

- (1) Notice of an appointment under Section 33(*Notice of appointment*) must be headed “Notice of appointment of an administrator by a Company” or “Notice of appointment of an administrator by the directors of a Company” and must contain—
 - (a) identification details for the Company immediately below the heading;
 - (b) a statement that the Company has, or the directors have as the case may be, appointed the person named as administrator of the Company;

- (c) the name and address of the person appointed as administrator;
 - (d) a statement that a copy of the administrator's consent to act accompanies the notice;
 - (e) a statement that the Company is, or the directors are as the case may be, entitled to make an appointment under Section 29 (*Power to appoint*);
 - (f) a statement that the appointment is in accordance with Part 1 of the Regulations;
 - (g) a statement that the Company has, or the directors have as the case may be, given notice of their intention to appoint in accordance with Section 31 (*Notice of intention to appoint*), that a copy of the notice was filed with the Court, the date of that filing and either—
 - (ii) that five business days have elapsed from that date, or
 - (iii) that each person to whom the notice was given has consented to the appointment; and
 - (h) the date and time of the appointment.
- (2) Where two or more administrators are appointed the notice must also specify —
- (a) which functions (if any) are to be exercised by those persons acting jointly; and
 - (b) which functions (if any) are to be exercised by any or all of those persons.

52 Notice of intention to resign as administrator (Sections 130(1), 131(1))

- (1) Notice of intention to resign as administrator must contain—
- (a) identification details for the proceedings;
 - (b) the date of the appointment of the administrator;
 - (c) the name of the person who made the appointment or the administration application, as the case may be;
 - (d) the date with effect from which the administrator intends to resign; or
 - (e) where the administrator was appointed by an administration order, the date on which the administrator intends to file with the Court an application for permission to resign.
- (2) The notice must be accompanied by a summary of the administrator's receipts and payments.

53. Content of reports relating to administration, including Deed of Company Arrangement (Sections 94(1)(c), 94(2)(a). 115(2))

- (1) The administrator's progress report or final report relating to administration, including by way of Deed of Company Arrangement, must contain the following—
- (a) identification details for the proceedings;
 - (b) identification details for the Company;
 - (c) identification and contact details for the administrator;

- (d) the date of appointment of the administrator and any changes in the administrator;
 - (e) details of progress during the period of the report, including a summary account of receipts and payments during the period of the report;
 - (f) the information relating to remuneration and expenses;
 - (g) the information relating to distributions;
 - (h) details of what remains to be done; and
 - (i) any other information of relevance to the creditors.
- (2) The receipts and payments account in a final progress report must state the amount paid to unsecured creditors.
- (3) A change in the administrator is only required to be shown in the next report after the change.
- (4) However if the current administrator is seeking the repayment of pre-administration expenses from a former administrator the change in administrator must continue to be shown until the next report after the claim is settled.
- (5) Where the period of an administrator's appointment is extended, the next progress report after the date the extension is granted must contain details of the extension.
- (6) Where an administration has converted to a voluntary winding up, the first progress report by the liquidator must include a note of any information received by the liquidator from the former administrator.
- (7) The information relating to remuneration and expenses referred to in (1)(f) is as follows—
- (a) the basis for the remuneration of the administrator;
 - (b) a statement of—
 - (i) the remuneration charged by the administrator during the period of the report, and
 - (ii) the remuneration charged by the office-holder during the periods covered by the previous reports, together with a description of the things done by the office-holder during those periods in respect of which the remuneration was charged;
 - (c) a statement of the expenses incurred by the administrator during the period of the report;
 - (d) a statement setting out whether at the date of the report—
 - (i) in a case other than a members' voluntary winding up, the remuneration expected to be charged by the administrator is likely to exceed the fees estimate or any approval given;
 - (ii) the expenses incurred or expected to be incurred are likely to exceed, or have exceeded, the details given to the creditors; and

- (iii) the reasons for that excess; and
- (f) a statement of the rights of creditors and, in a members' voluntary winding up, of members—
 - (i) to request information about remuneration or expenses under Section 70 (Creditors' request for further information); and
 - (ii) to challenge the administrator's remuneration and expenses under Paragraph 9 of Schedule 12.
- (8) The information about remuneration and expenses is required irrespective of whether payment was made in respect of them during the period of the report.

Part 11

Voluntary Winding Up

54. Content of a declaration of solvency made in support of voluntary winding up (Section 175(1))

- (1) The declaration of solvency required by Section 175 (*Declaration of solvency*) must identify the Company and state—
 - (a) the name and address for each director making the declaration;
 - (b) either—
 - (i) that all of the directors, or
 - (ii) that a majority of the directors

have made a full inquiry into the Company's affairs and that, having done so, they have formed the opinion that the Company will be able to pay its debts in full together with interest at the official interest rate within a specified period (which must not exceed 12 months) from the commencement of the winding up; and
 - (c) that the declaration is accompanied by a statement of the Company's assets and liabilities as at a date which is stated.
- (2) The statement of the Company's assets and liabilities must contain—
 - (a) the date of the statement;
 - (b) a statement that the statement shows the assets of the Company at estimated realisable values and liabilities of the Company expected to rank as at the date referred to in subparagraph (1)(c);
 - (c) a summary of the assets of the Company, setting out 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 to preferential creditors;
- (d) the value of each of the following secured liabilities of the Company expected to rank for payment—
- (i) liabilities secured on specific assets, and
 - (ii) liabilities secured by floating charges;
- (e) a summary of the unsecured liabilities of the Company expected to rank for payment;
- (f) the estimated costs of the winding up and other expenses;
- (g) the estimated amount of interest accruing until payment of debts in full; and
- (h) the estimated value of any surplus after paying debts in full together with interest at the official rate.”
- (86) Subparagraphs 5(1)(d) and (e) of Schedule 11 (*Supplemental provisions applicable to protected cell companies*) shall be deleted in their entirety and replaced in full by the following:
- “(d) any cell member in respect of that cell;
- (e) the Financial Services Regulator; or
- (f) the Registrar.”
- (87) Subparagraphs 5(2)(b) and (c) of Schedule 11 (*Supplemental provisions applicable to protected cell companies*) shall be deleted in their entirety and replaced in full by the following:
- “(b) the Financial Services Regulator;
- (c) the Registrar; and
- (d) such other persons, if any, as the Court may direct.”
- (88) Subparagraph 3(9)(a) of Schedule 12 (*Remuneration*) shall be deleted in its entirety and replaced in full by the following:
- “(a) applying the following realisation scale to the moneys received by the liquidator from the realisation of the assets of the Company (after deducting any sums paid to secured creditors in respect of their securities and any sums spent out of money received in carrying on the business of the Company):

On the first \$6,000	20%
On the next \$6,000	15%
On the next \$110,000	10%
On all further sums realised	5%

(89) Subparagraph 3(9)(b) of Schedule 12 (*Remuneration*) shall be deleted and replaced in full by the following:

“(b) adding to the sum arrived at under subparagraph (a) such sum as is arrived at by applying the following distribution scale to the value of assets distributed to creditors of the Company (including payments made in respect of preferential debts) and to contributories:

On the first \$6,000	10%
On the next \$6,000	7.5%
On the next \$110,000	5%
On all further sums distributed	2.5%

2. Short title, extent and commencement

- (1) These Regulations may be cited as the Insolvency (Amendment No. 4) Regulations 2020.
- (2) These Regulations shall apply in the Abu Dhabi Global Market.
- (3) These Regulations come into force on the date of their publication.