

SoA outlook (i.e. excluding costs)	EOS outlook (i.e. including costs)	Apparent position in following letter of Act/Rules – Meeting? Fees approval?				Apparent position per the “spirit” of the Act/Rules – fees?
		If Para 52(1)(b) requires a p part and Admin “thinks” on EOS basis	If Para 52(1)(b) does not require a p part and Admin “thinks” on EOS basis	If Para 52(1)(b) requires a p part and Admin “thinks” on SoA basis	If Para 52(1)(b) does not require a p part and Admin “thinks” on SoA basis	
Shortfall to secured; no funds for prefs	Shortfall to secured; no funds for prefs	Yes (unless para 52(1)(c) – unsecured	No (para 52(1)(b)) – secured	Yes (unless para 52(1)(c) – unsecured	No (para 52(1)(b)) – secured	Secured
Shortfall to secured; pref distribution	Shortfall to secured; no funds for prefs	Yes (unless para 52(1)(c) – unsecured	No (para 52(1)(b)) – secured	Yes (unless para 52(1)(c) – unsecured	No (para 52(1)(b)) – secured & prefs	Secured & prefs
Shortfall to secured; pref distribution	Shortfall to secured; pref distribution	Yes (unless para 52(1)(c) – unsecured	No (para 52(1)(b)) – secured & prefs	Yes (unless para 52(1)(c) – unsecured	No (para 52(1)(b)) – secured & prefs	Secured & prefs
Shortfall to secured; prefs in full; prescribed part	Shortfall to secured; no funds for prefs or unsecureds	Yes (unless para 52(1)(c) – unsecured	No (para 52(1)(b)) – secured	No (para 52(1)(b)) – secured & prefs	No (para 52(1)(b)) – secured & prefs	Secured, prefs & (unsecured)
Shortfall to secured; prefs in full; prescribed part	Shortfall to secured; pref distribution; no prescribed part	Yes (unless para 52(1)(c) – unsecured	No (para 52(1)(b)) – secured & prefs	No (para 52(1)(b)) – secured & prefs	No (para 52(1)(b)) – secured & prefs	Secured, prefs & (unsecured)
Shortfall to secured; prefs in full; prescribed part	Shortfall to secured; prefs in full; prescribed part	No (para 52(1)(b)) – secured & prefs	No (para 52(1)(b)) – secured & prefs	No (para 52(1)(b)) – secured & prefs	No (para 52(1)(b)) – secured & prefs	Secured & (unsecured)
Secured in full; no funds for prefs	Shortfall to secured; no funds for prefs	Yes (unless para 52(1)(c) – unsecured	No (para 52(1)(b)) – secured	Yes (unless para 52(1)(c) – unsecured	No (para 52(1)(b)) – secured	Secured
Secured in full; pref distribution	Secured in full; no funds for prefs	Yes (unless para 52(1)(c) – unsecured	No (para 52(1)(b)) – secured	Yes (unless para 52(1)(c) – unsecured	No (para 52(1)(b)) – secured & prefs	Prefs
Secured in full; pref distribution	Secured in full; pref distribution	Yes (unless para 52(1)(c) – unsecured	No (para 52(1)(b)) – secured & prefs	Yes (unless para 52(1)(c) – unsecured	No (para 52(1)(b)) – secured & prefs	Prefs
Secured in full; pref distribution	Shortfall to secured; no funds for prefs	Yes (unless para 52(1)(c) – unsecured	No (para 52(1)(b)) – secured	Yes (unless para 52(1)(c) – unsecured	No (para 52(1)(b)) – secured & prefs	Secured & prefs
Secured in full; pref distribution	Shortfall to secured; pref distribution	Yes (unless para 52(1)(c) – unsecured	No (para 52(1)(b)) – secured & prefs	Yes (unless para 52(1)(c) – unsecured	No (para 52(1)(b)) – secured & prefs	Secured & prefs
Secured in full; prefs in full; prescribed part; non-p part dividend	Shortfall to secured; no funds for prefs or unsecured	Yes (unless para 52(1)(c) – unsecured	No (para 52(1)(b)) – secured	Yes (unless para 52(1)(c) – unsecured	Yes (unless para 52(1)(c)) – unsecured	Secured, prefs & (unsecured)
Secured in full; prefs in full; prescribed part; non-p part dividend	Secured in full; pref distribution; no prescribed part	Yes (unless para 52(1)(c) – unsecured	No (para 52(1)(b)) – secured & prefs	Yes (unless para 52(1)(c) – unsecured	Yes (unless para 52(1)(c)) – unsecured	(Prefs &) unsecured
Secured in full; prefs in full; prescribed part; non-p part dividend	Shortfall to secured; pref distribution; no prescribed part	Yes (unless para 52(1)(c) – unsecured	No (para 52(1)(b)) – secured & prefs	Yes (unless para 52(1)(c) – unsecured	Yes (unless para 52(1)(c)) – unsecured	Secured, prefs & unsecured
Secured in full; prefs in full; prescribed part; non-p part dividend	Shortfall to secured; no funds for prefs; no prescribed part	Yes (unless para 52(1)(c) – unsecured	No (para 52(1)(b)) – secured	Yes (unless para 52(1)(c) – unsecured	Yes (unless para 52(1)(c)) – unsecured	Secured, prefs & unsecured

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		If Para 52(1)(b) requires a p part and Admin “thinks” on EOS basis	If Para 52(1)(b) does not require a p part and Admin “thinks” on EOS basis	If Para 52(1)(b) requires a p part and Admin “thinks” on SoA basis	If Para 52(1)(b) does not require a p part and Admin “thinks” on SoA basis	
Secured in full; prefs in full; prescribed part; non-p part dividend	Secured in full; prefs in full; prescribed part	No (para 52(1)(b)) – secured & prefs	No (para 52(1)(b)) – secured & prefs	Yes (unless para 52(1)(c)) – unsecured	Yes (unless para 52(1)(c)) – unsecured	Unsecured
Secured in full; prefs in full; prescribed part; non-p part dividend	Secured in full; prefs in full; no prescribed part	Yes (unless para 52(1)(c)) – unsecured	No (para 52(1)(b)) – secured & prefs	Yes (unless para 52(1)(c)) – unsecured	Yes (unless para 52(1)(c)) – unsecured	Unsecured
Secured in full; prefs in full; prescribed part; non-p part dividend	Shortfall to secured; prefs in full; prescribed part	No (para 52(1)(b)) – secured & prefs	No (para 52(1)(b)) – secured & prefs	Yes (unless para 52(1)(c)) – unsecured	Yes (unless para 52(1)(c)) – unsecured	Secured & unsecured
Shortfall on secured; prefs in full; prescribed part	Shortfall on secured; prefs in full; prescribed part	No (para 52(1)(b)) – secured & prefs	No (para 52(1)(b)) – secured & prefs	No (para 52(1)(b)) – secured & prefs	No (para 52(1)(b)) – secured & prefs	Secured & (unsecured)
Shortfall on secured; prefs in full; prescribed part	Shortfall on secured; prefs in full; no prescribed part	Yes (unless para 52(1)(c)) – unsecured	No (para 52(1)(b)) – secured & prefs	No (para 52(1)(b)) – secured & prefs	No (para 52(1)(b)) – secured & prefs	Secured & (unsecured)
Shortfall on secured; prefs in full; prescribed part	Shortfall on secured; pref distribution; no prescribed part	Yes (unless para 52(1)(c)) – unsecured	No (para 52(1)(b)) – secured & prefs	No (para 52(1)(b)) – secured & prefs	No (para 52(1)(b)) – secured & prefs	Secured, prefs & (unsecured)
Shortfall on secured; prefs in full; prescribed part	Shortfall on secured; no funds for prefs or unsecured	Yes (unless para 52(1)(c)) – unsecured	No (para 52(1)(b)) – secured & prefs	No (para 52(1)(b)) – secured & prefs	No (para 52(1)(b)) – secured & prefs	Secured, prefs & (unsecured)
Secured in full; prefs in full; no prescribed part (as old charge)	Secured in full; pref distribution	Yes (unless para 52(1)(c)) – unsecured	No (para 52(1)(b)) – secured & prefs	Yes (unless para 52(1)(c)) – unsecured	No (para 52(1)(b)) – secured & prefs	Prefs
Secured in full; prefs in full; no prescribed part (as old charge)	Shortfall on secured; pref distribution	Yes (unless para 52(1)(c)) – unsecured	No (para 52(1)(b)) – secured & prefs	Yes (unless para 52(1)(c)) – unsecured	No (para 52(1)(b)) – secured & prefs	Secured & prefs
Secured in full; prefs in full; no prescribed part (as old charge)	Shortfall on secured; prefs in full; no funds for unsecured	Yes (unless para 52(1)(c)) – unsecured	No (para 52(1)(b)) – secured & prefs	Yes (unless para 52(1)(c)) – unsecured	No (para 52(1)(b)) – secured & prefs	Secured
Secured in full; prefs in full; non-p part dividend	Secured in full; prefs in full; non-p part dividend	Yes (unless para 52(1)(c)) – unsecured	Yes (unless para 52(1)(c)) – unsecured	Yes (unless para 52(1)(c)) – unsecured	Yes (unless para 52(1)(c)) – unsecured	Unsecured
Secured in full; prefs in full; non-p part dividend	Secured in full; pref distribution	Yes (unless para 52(1)(c)) – unsecured	No (para 52(1)(b)) – secured & prefs	Yes (unless para 52(1)(c)) – unsecured	Yes (unless para 52(1)(c)) – unsecured	(Prefs &) unsecured
Secured in full; prefs in full; non-p part dividend	Shortfall on secured; pref distribution	Yes (unless para 52(1)(c)) – unsecured	No (para 52(1)(b)) – secured & prefs	Yes (unless para 52(1)(c)) – unsecured	Yes (unless para 52(1)(c)) – unsecured	Secured, (prefs &) unsecured
Secured in full; prefs in full; non-p part dividend	Secured in full; prefs in full; no funds for unsecured	Yes (unless para 52(1)(c)) – unsecured	No (para 52(1)(b)) – secured & prefs	Yes (unless para 52(1)(c)) – unsecured	Yes (unless para 52(1)(c)) – unsecured	Unsecured
Secured in full; prefs in full; non-p part dividend	Shortfall on secured; prefs in full; no funds for unsecured	Yes (unless para 52(1)(c)) – unsecured	No (para 52(1)(b)) – secured & prefs	Yes (unless para 52(1)(c)) – unsecured	Yes (unless para 52(1)(c)) – unsecured	Secured & unsecured
No secured creditor; prefs in full; dividend to unsecured	No secured creditor; prefs in full; dividend to unsecured	Yes (unless para 52(1)(c)) – unsecured	Yes (unless para 52(1)(c)) – unsecured	Yes (unless para 52(1)(c)) – unsecured	Yes (unless para 52(1)(c)) – unsecured	Unsecured

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		If Para 52(1)(b) requires a p part and Admin “thinks” on EOS basis	If Para 52(1)(b) does not require a p part and Admin “thinks” on EOS basis	If Para 52(1)(b) requires a p part and Admin “thinks” on SoA basis	If Para 52(1)(b) does not require a p part and Admin “thinks” on SoA basis	
No secured creditor; prefs in full; dividend to unsecured	No secured creditor; prefs in full; no funds for unsecured	Yes (unless para 52(1)(c) – unsecured	No (para 52(1)(b)) – prefs	Yes (unless para 52(1)(c) – unsecured	Yes (unless para 52(1)(c)) – unsecured	Unsecured
No secured creditor; prefs in full; dividend to unsecured	No secured creditor; pref distribution	Yes (unless para 52(1)(c) – unsecured	No (para 52(1)(b)) – prefs	Yes (unless para 52(1)(c) – unsecured	Yes (unless para 52(1)(c)) – unsecured	(Prefs & unsecured
No secured creditor; prefs in full; dividend to unsecured	No secured creditor; no funds for prefs or unsecured	Yes (unless para 52(1)(c) – unsecured	No (para 52(1)(b)) – no one!	Yes (unless para 52(1)(c) – unsecured	Yes (unless para 52(1)(c)) – unsecured	(Prefs & unsecured
No secured creditor; pref distribution	No secured creditor; pref distribution	Yes (unless para 52(1)(c) – unsecured	No (para 52(1)(b)) – prefs	Yes (unless para 52(1)(c) – unsecured	No (para 52(1)(b)) – prefs	Prefs
No secured creditor; pref distribution	No secured creditor; no funds for prefs or unsecured	Yes (unless para 52(1)(c) – unsecured	No (para 52(1)(b)) – no one!	Yes (unless para 52(1)(c) – unsecured	No (para 52(1)(b)) – prefs	Prefs
NUMBER OF SCENARIOS THAT FIT SPIRIT OF ACT/RULES		10	16	17	30	36

Notes:

This is for illustrative purposes only. I do not claim to have reflected the outcomes correctly in every case.

To be read in conjunction with the insolvencyoracle blog post on 23 June 2013.

It is assumed that there is never more than one secured creditor.

The first question answered in columns 3 to 6 is: does the Administrator need to convene a Para 51 creditors’ meeting? The second is: from whom does the Administrator need to seek approval for the basis of his fees? The question answered in column 7 is: the recovery prospects of which creditor group(s) are affected by the costs of the Administration?

“(unsecured)” appears in the final column, where the outcome for non-preferential unsecured creditors is impacted by costs only in relation to any prescribed part.

“(prefs)” appears in the final column, where the non-preferential unsecured creditors’ outcome is also impacted by costs and thus no real distinction needs to be made between prefs and non-prefs.

Cells are highlighted in yellow where it appears that following the letter of the Act/Rules (per the particular interpretation headed by the column) results in an outcome similar to the apparent spirit understood to be behind the Act/Rules.