

nara

The Association of Property
and Fixed Charge Receivers

www.nara.org.uk

Fixed Charge Receivership v. Administration

nara...real estate insolvency defined



the facts

Fixed Charge Receivership (FCR) v. Administration

FCR is a unique, cost effective, swift and efficient route to recover distressed loans and to exit. Authority is derived from the charge documentation and Ss101-110inc. of the Law of Property Act 1925. It is a long-established exit route for lenders: it concentrates solely on the security of the fixed charge and is distinctly segregated from the other personal or corporate issues of the borrower. It is expressly not an appropriate route for floating charges.

Whilst principally used for real estate - commercial, residential (including buy-to-let) and agricultural, the remedy can be equally effective for loans secured on plant & machinery, shares, pubs (especially where trading licences are critical) and care homes.

It is a particularly effective remedy in dealing with part-built real estate developments. Refer to our Build Out Guide available **FREE** from our website: [click here](#).

FCR offers the ability to appoint specialists in the specific asset class charged, thus securing a swift informed exit at maximum value. It transparently discharges the duties to both lender and borrower, and is well capable of meeting TCF rules. It can be used by second, as well as first, charge holders – usually a gearing driven decision.

This handy guide is designed to assist lenders in deciding whether to exit a delinquent loan via the FCR route or by Administration of the borrower company. For more detailed information, refer to our comprehensive Guide to Property Receivership booklet available **FREE** from our website: [click here](#)

Why use a **Nara** Member?

All our practitioner members are :

- Professionally qualified
- Understand TCF
- Regulated, by their own professional body (a pre-requisite of membership) and by the Registered Property Receivership Scheme
- Bound by our Code of Practice
- Trained
- Monitored
- Up to date via specialist annual CPD
- Specialists in their asset class

FCR or Administration?

	FCR	Admin
Ease and speed of appointment	✓	
Complex case law on appointments		✓
Asset specialism readily available	✓	
Speed of exit	✓	
Potential multiple professional fees		✓
Obligation to other creditors		✓
Liability for property rates		✓
Company compliance & risk		✓
Liability for employees		✓
Insurance	✓	✓
Bond		✓
Crown Preference		✓
Offshore trading entity complexity		✓
VAT recovery	✓	✓
Trading		✓
Control (& liability) for other borrower assets		✓
PG's protected	✓	✓
Moratorium		✓
Legal control over borrower/directors		✓
Access to books & records		✓

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¹ Priority of legal charges will apply.

² See note 4 below.

³ FCR can offset input against output only; Administrator can secure full recovery.

NB prior VAT liabilities not applicable to FCR nor those unrelated to the charged asset; all VAT liabilities apply to Co. Admin.

⁴ Some special trading entities under a fixed charge may require staff engagement to preserve value. e.g. pub manager/licence holder. Otherwise FCR normally accepts no liability for borrower staff retention or redundancy.

⁵ No Statutory moratorium applies in relation to the borrower company. However, this omission is not usually relevant to a fixed charged asset.

Lender Services

Affiliate membership of **Nara** is **FREE** to lenders. Affiliates benefit from:

- technical updates
- news updates
- access to helpline
- discounted course rates
- free conference attendance
- membership web access

We offer bespoke training to lenders and loan service providers, both high level and detailed, to assist in understanding the FCR route, the potential risks and liabilities, case management and what a lender can expect from a regulated **Nara** practitioner member.

about Nara

Nara is the trade association representing fixed charge receivers. Formed in 1995 to establish and maintain standards, we are a founding member of the Registered Property Receivership Scheme run jointly by us, Insolvency Practitioners Association and the Royal Institution of Chartered Surveyors.

We offer training for lenders as well as practitioners, produce Practice Guidance Notes, a Code of Practice, a helpline and lobby on behalf of receivers.

To join **Nara** as a Lender for **FREE** please contact us at membership@nara.org.uk

For further information on our training courses contact us at admin@nara.org.uk

To find out more:

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