

SCHEDULE 1

Article 2(a)

Application of the Financial Services and Markets Act 2000 to transferred functions

Interpretation

1. In this Schedule—

- (a) “mutuals expenditure” means expenditure of the FCA or the PRA(1) incurred—
 - (i) in carrying out functions which are conferred by the legislation relating to mutual societies(2) or are otherwise exercisable by virtue of this Order;
 - (ii) for any purpose incidental to or in connection with the carrying out of such functions (including expenditure incurred before 1st April 2013 in preparation for the assumption of those functions); and
- (b) any reference to a section or Schedule is a reference to FSMA 2000.

General

2.—(1) For the purposes of the provisions specified in sub-paragraph (2), functions transferred by this Order are to be treated as functions conferred on the FCA under a provision of FSMA 2000.

(2) The provisions are—

- (a) section 1A(3) and Schedule 1ZA (which make general provision in relation to the FCA and its functions);
- (b) section 1S (reviews);
- (c) section 3D (duty of FCA and PRA to ensure co-ordinated exercise of functions);
- (d) section 3E (memorandum of understanding);
- (e) sections 3I to 3K(3) (power of PRA to restrain proposed action by FCA);
- (f) section 139A(4) (power of the FCA to give guidance); and
- (g) section 415(5) (jurisdiction in civil proceedings).

3.—(1) For the purposes of the provisions specified in sub-paragraph (2), functions transferred by this Order are to be treated as functions conferred on the PRA under a provision of FSMA 2000.

(2) The provisions are—

- (a) section 2A(3) and Schedule 1ZB (which make general provision in relation to the PRA and its functions);
- (b) sections 2B to 2I (the PRA’s general duties);
- (c) section 2O(6) (reviews);

(1) Section 117 of the 2012 Act defines “the FCA” as meaning the Financial Conduct Authority and “the PRA” as meaning the Prudential Regulation Authority.

(2) Section 50(2) of the 2012 Act defines “the legislation relating to mutual societies” as the Industrial and Provident Societies Act 1965 (c.12), the Industrial and Provident Societies Act 1967 (c.48), the Friendly and Industrial and Provident Societies Act 1968 (c.55), the Industrial and Provident Societies Act (Northern Ireland) 1969 (Chapter 24), the Friendly Societies Act 1974 (c.46), the Credit Unions Act 1979 (c.34), the Credit Unions (Northern Ireland) Order 1985 (S.I. 1985/1205 (N.I. 12)), the Building Societies Act 1986 (c.53) and the Friendly Societies Act 1992 (c.40).

(3) Sections 1A, 1S, 3D, 3E, and 3I to 3K of, and Schedule 1ZA to, FSMA 2000 are inserted by section 6 of and Schedule 3 to the 2012 Act.

(4) Section 139A of FSMA 2000 is inserted by section 24 of the 2012 Act.

(5) Section 415 of FSMA 2000 is amended by section 16(14)(j) of, and paragraph 24 of Schedule 18 to, the 2012 Act.

(6) Sections 2A to 2I and section 2O of, and Schedule 1ZB to, FSMA 2000 are inserted by section 6 of and Schedule 3 to the 2012 Act.

- (d) sections 3D (duty of FCA and PRA to ensure co-ordinated exercise of functions);
 - (e) section 3E (memorandum of understanding); and
 - (f) sections 3I to 3K (power of PRA to restrain proposed action by FCA).
4. As it applies by virtue of paragraphs 2(2)(e) and 3(2)(f), section 3I (power of PRA to require FCA to refrain from specified action) is to be read as if—
- (a) the references in subsection (2) of that section to regulatory powers were references to the functions transferred by this Order; and
 - (b) subsections (2)(b) and (3) of that section were omitted.
- 5.—(1) The FCA must maintain arrangements designed to enable it to determine whether persons are complying with requirements imposed on them by or under—
- (a) the legislation relating to mutual societies;
 - (b) the Industrial and Provident Societies Act 1975(7);
 - (c) the Industrial and Provident Societies Act 1978(8).

Rules relating to fees

6.—(1) This paragraph applies if the FCA makes, or proposes to make, rules under paragraph 23 of Schedule 1ZA (the Financial Conduct Authority: fees) which require the payment to the FCA of fees which relate in whole or in part to mutuals expenditure.

(2) In the application of paragraph 23 of Schedule 1ZA to the rules, the reference to fees and charges provided for by any other provision of FSMA 2000 includes a reference to fees and charges provided for by any provision of the legislation relating to mutual societies.

(3) To the extent that the fees relate to mutuals expenditure—

- (a) section 138I(2)(d) (requirement for draft rules to be accompanied by an explanation of the FCA’s reasons for believing that making the proposed rules is compatible with section 1B(1))(9) does not apply in relation to the rules; and
- (b) the rules are not to be treated as a “regulating provision” within the meaning of section 140A(1)(10) (interpretation of Chapter 4 of Part 9A (competition scrutiny)).

7.—(1) This paragraph applies if the PRA makes, or proposes to, make rules under paragraph 31 of Schedule 1ZB (the Prudential Regulation Authority: fees) which require the payment to the PRA of fees which relate in whole or in part to mutuals expenditure.

(2) In the application of paragraph 31 of Schedule 1ZB to the rules, the reference to fees and charges provided for by any other provision of FSMA 2000 includes a reference to fees and charges provided for by any provision of the legislation relating to mutual societies.

(3) To the extent that the fees relate to mutuals expenditure, the rules are not to be treated as a “regulating provision” within the meaning of section 140A(1).

(7) 1975 c.41.

(8) 1978 c.34.

(9) Section 138I of FSMA 2000 is inserted by section 24 of the 2012 Act.

(10) Section 140A of FSMA 2000 is inserted by section 24 of the 2012 Act.

Guidance

8. Sections 139A(3) (power of FCA to give guidance) and 139B(5)(**11**) (notification of FCA guidance to the Treasury) apply to guidance given to building societies, friendly societies and industrial and provident societies generally or to a class of such societies.

9.—(1) This paragraph applies if guidance is given by the FCA under section 139A on the operation of a rule of the kind mentioned in paragraph 6 above.

(2) To the extent that the fees required to be paid by the rule relate to mutuals expenditure, the guidance is not to be treated as a “regulating provision” within the meaning of section 140A(1).

10.—(1) This paragraph applies if general guidance is given by the FCA under section 139A with respect to any matter relating to functions exercisable under, or to any provision of or made under, the legislation relating to mutual societies, unless paragraph 8 above applies.

(2) The guidance is not to be treated as a “regulating provision” within the meaning of section 140A(1).

(11) Sections 139A and 139B of FSMA 2000 are inserted by section 24 of the 2012 Act.