

SCHEDULE 1

Article 2(a)

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

Interpretation

1. In this Schedule—

- (a) a reference to a numbered section or Schedule is a reference to that section of, or Schedule to, FSMA 2000;
- (b) “the legislation relating to mutual societies in Northern Ireland” means—
 - (i) the Co-operative and Community Benefit Societies Act (Northern Ireland) 1969(1); and
 - (ii) the Credit Unions (Northern Ireland) Order 1985(2).
- (c) “mutuals expenditure” means expenditure incurred by the FCA—
 - (i) in carrying out functions which are conferred by the legislation relating to mutual societies in Northern Ireland 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 6th April 2018 in preparation for the assumption of those functions).

General

2.—(1) For the purposes of the provisions specified in sub-paragraph (2) the 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(3) (which make general provision in relation to the FCA and its functions);
- (b) section 1S (reviews)(4);
- (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 (power of PRA to restrain proposed action by FCA);
- (f) section 139A(5) (power of the FCA to give guidance); and
- (g) section 415(6) (jurisdiction in civil proceedings).

3. Section 3I (power of PRA to restrain proposed action by FCA), as applied by paragraph 2(2)(e), has effect as if—

- (a) in subsection (2)(a) the reference to regulatory powers were a reference to the functions transferred by this Order; and

(1) 1969 c. 24. This citation is given by the Credit Unions and Co-operative and Community Benefit Societies Act (Northern Ireland) 2016 (c. 16), section 8(2), which comes into force on the same date as this Order by virtue of S.R. (N.I.) 2017 No. 217. The previous citation was the Industrial and Provident Societies Act (Northern Ireland) 1969.

(2) S.I. 1985/1205 (N.I. 12), as amended by the Friendly Societies Act 1992 (c. 40) and by S.I. 2011/2832 and 2013/496. There are other amendments, but they are not relevant.

(3) Sections 1A, 1S, 3D, 3E and 3I to 3K of, and Schedule 1ZA to, FSMA 2000 were inserted by the Financial Services Act 2012, section 6 and Schedule 3. Schedule 1ZA to FSMA 2000 was also amended by the Bank of England and Financial Services Act 2016 (c. 14), the Financial Services (Banking Reform) Act 2013 (c. 33) and the Pension Schemes Act 2015 (c. 8).

(4) Section 1S was amended by Schedule 3 to the Pension Schemes Act 2015.

(5) Section 139A of FSMA 2000 was inserted by the Financial Services Act 2012, section 24. Sub-section 1A was inserted by paragraph 9 of Schedule 3 to the Pension Schemes Act 2015. Sub-section 4 was amended by SI 2016/680.

(6) Section 415 of FSMA 2000 was amended by the Financial Services Act 2012, section 16(14)(j) and Schedule 18, paragraph 24.

(b) subsections (2)(b) and (3) were omitted.

4. The FCA must maintain arrangements designed to enable it to determine whether persons are complying with requirements imposed on them by or under the legislation relating to mutual societies in Northern Ireland.

Rules relating to fees

5.—(1) This paragraph applies where 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) Paragraph 23 of Schedule 1ZA, as applied by paragraph 2(2)(a), has effect as if the reference to fees and charges provided for by any other provision of FSMA 2000 included a reference to fees and charges provided for by any provision of the legislation relating to mutual societies in Northern Ireland.

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

- (a) section 138I(2)(d)(7) (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)) does not apply in relation to the rules; and
- (b) the rules are not to be treated as a “regulating provision” within the meaning given in section 140A(1) (interpretation of Chapter 4 of Part 9A (competition scrutiny)).

Guidance

6. Sections 139A(3) (power of FCA to give guidance) and 139B(5)(8) (notification of FCA guidance to the Treasury) apply to guidance given to co-operative and community benefit societies whose registered offices are in Northern Ireland, whether or not the guidance is also given to co-operative and community benefit societies whose registered offices are in England and Wales or Scotland.

7.—(1) This paragraph applies where the FCA gives guidance under section 139A on the operation of a rule of the kind mentioned in paragraph 5.

(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 given in section 140A(1).

8.—(1) This paragraph applies where—

- (a) the FCA gives general guidance 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 in Northern Ireland; and
- (b) paragraph 6 does not apply.

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

(7) Sections 138I and 140A of FSMA 2000 were inserted by the Financial Services Act 2012, section 24.

(8) Section 139B was inserted by the Financial Services Act 2012, section 24.