

*Status: Point in time view as at 18/02/2014.*

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## SCHEDULES

### [<sup>F1</sup>SCHEDULE 8A

#### TRANSFER DIRECTIONS: MODIFICATIONS OF PART X

##### Textual Amendments

**F1** Sch. 8A inserted (9.6.1997) by 1997 c. 32, s. 17(2), **Sch. 4**; S.I. 1997/1427, **art. 2(c)**

#### PART I

##### DIRECTIONS UNDER SECTION 42B(3)

###### *Preliminary*

- 1 This Part of this Schedule applies where a direction is given under section 42B(3) (“the direction”).

###### *Compensation for loss of office*

- 2 (1) The consent of the [<sup>F2</sup>appropriate authority] shall be sufficient authority for the provision for any such compensation as is mentioned in section 96(1)(a).  
(2) A resolution of the board of directors passed in pursuance of the direction shall be sufficient authority for any such payments as are mentioned in section 96(1)(b).

##### Textual Amendments

**F2** Words in Sch. 8A substituted (1.4.2013) by **The Financial Services Act 2012 (Mutual Societies) Order 2013** (S.I. 2013/496), **art. 1(1)**, **Sch. 8 para. 54(2)** (with Sch. 12)

###### *Statements to members*

- 3 (1) The following provisions of this paragraph shall apply in place of paragraph 1 of Schedule 16.  
(2) The society shall send to every member entitled to notice of a meeting of the society, a statement containing—  
(a) the particulars required, in relation to prescribed matters, by regulations under section 42B(8); and  
(b) particulars of any other matters required by the [<sup>F2</sup>appropriate authority] in the case of the particular transfer of engagements,  
with or without other particulars regarding that transfer.

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[ The PRA must consult the FCA before requiring any particulars under sub-<sup>F3</sup>(2ZA) paragraph (2)(b).]

[ Where a statement is required to be sent to a member under sub-paragraph (2)—<sup>F4</sup>(2A) (a) it may be sent to him electronically only if it is sent to an electronic address notified to the society by that member for the purpose;  
 (b) the requirement to send it shall also be treated as satisfied if the conditions set out in sub-paragraph (2B) are satisfied.

(2B) The conditions of this sub-paragraph are satisfied in the case of a statement if—  
 (a) the society and that person have agreed that information that is required to be sent to him may instead be accessed by him on a web site;  
 (b) the agreement applies to the statement in question;  
 (c) <sup>F5</sup>... the society notifies him within the period specified in sub-paragraph (3) below of—  
     (i) the publication of the notice and any statement on a web site,  
     (ii) the address of that web site,  
     (iii) the place on that web site where the documents may be accessed, and how they may be accessed; and  
 (d) that statement is published continuously on that web site throughout the period beginning with the giving of that notification and ending with the decision of the [<sup>F2</sup>appropriate authority] whether to confirm the transfer pursuant to section 95.

(2C) In a case in which sub-paragraph (2A)(b) is relied on for compliance with a requirement under sub-paragraph (2)—  
 (a) a statement is published for a part, but not all, of the period mentioned in subparagraph (2B)(d), but  
 (b) the failure to publish it throughout that period is wholly attributable to circumstances which it would not be reasonable to have expected the society to prevent or avoid,  
 the failure shall not invalidate the proceedings of the meeting.]

(3) The statement shall be sent—  
 (a) where the [<sup>F2</sup>appropriate authority] has given the society a direction under section 42B(1)(a), within the period (not being less than 28 days) specified in [<sup>F6</sup>a final notice given by the [<sup>F2</sup>appropriate authority] under section 390 of the Financial Services and Markets Act 2000];  
 (b) where the [<sup>F2</sup>appropriate authority] has not given the society such a direction, within 14 days of the board of directors passing a resolution in pursuance of the direction.

[ For the purposes of sub-paragraph (3) above, in a case in which sub-paragraph (2A)<sup>F7</sup>(3A) (b) is relied on for compliance with a requirement under sub-paragraph (2), a statement published on a web site in accordance with sub-paragraph (2B) is to be treated as sent to a person on the day that the notification is given in accordance with sub-paragraph (2B)(c).]

(4) No statement shall be sent unless its contents, so far as they concern the prescribed matters or any matter of which particulars are required to be given under sub-paragraph (2)(b) above, have been approved by the [<sup>F2</sup>appropriate authority] .

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- (5) A failure to comply with a requirement of this paragraph shall not invalidate the transfer of engagements; but, if the society fails without reasonable excuse to comply with such a requirement the society shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale and so shall any officer who is also guilty of the offence.

#### Textual Amendments

- F2** Words in Sch. 8A substituted (1.4.2013) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2013 \(S.I. 2013/496\)](#), art. 1(1), **Sch. 8 para. 54(2)** (with Sch. 12)
- F3** Sch. 8A para. 3(2ZA) inserted (1.4.2013) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2013 \(S.I. 2013/496\)](#), art. 1(1), **Sch. 8 para. 54(3)** (with Sch. 12)
- F4** Sch. 8A para. 3(2A)-(2C) inserted (20.3.2003) by [The Building Societies Act 1986 \(Electronic Communications\) Order 2003 \(S.I. 2003/404\)](#), arts. 1(1), **20(2)**
- F5** Words in Sch. 8A para. 3(2B)(c) omitted (18.2.2014) by virtue of [Financial Services \(Banking Reform\) Act 2013 \(c. 33\)](#), s. 148(2), **Sch. 9 para. 13**
- F6** Words in Sch. 8A para. 3(3)(a) substituted (17.8.2001 for certain purposes and otherwise 1.12.2001) by [S.I. 2001/2617](#), arts. 2, 8, 13(1), **Sch. 3 Pt. II para. 204(b)** (with art. 13(3), Sch. 5); [S.I. 2001/3538](#), **art. 2**
- F7** Sch. 8A para. 3(3A) inserted (20.3.2003) by [The Building Societies Act 1986 \(Electronic Communications\) Order 2003 \(S.I. 2003/404\)](#), arts. 1(1), **20(3)**

#### *Application for confirmation*

- 4 No application for confirmation by the [<sup>F2</sup>appropriate authority] of the transfer of engagements may be made under Part III of Schedule 16 until after the society has complied with the requirements of paragraph 3 above.

#### Textual Amendments

- F2** Words in Sch. 8A substituted (1.4.2013) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2013 \(S.I. 2013/496\)](#), art. 1(1), **Sch. 8 para. 54(2)** (with Sch. 12)

#### *Grounds for not confirming transfer*

- 5 Section 95 shall apply as if—
- (a) for paragraphs (a) and (b) of subsection (4) there were substituted the following paragraph—
- “(a) the members or a proportion of them would be unreasonably prejudiced by the transfer;” and
- (b) in subsection (6), for the words “paragraphs (a), (b) and (c)” there were substituted the words “ paragraphs (a) and (c) ” and, in paragraph (a), the words “, including the calling of a further meeting,” were omitted.

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## PART II

### DIRECTIONS UNDER SECTION 42B(4)

#### *Preliminary*

- 6 This Part of this Schedule applies where a direction is given under section 42B(4) (“the direction”).

#### *Compensation for loss of office*

- 7 (1) The consent of the [F<sup>2</sup>appropriate authority] shall be sufficient authority for the provision for any such compensation as is mentioned in section 99(2)(a).
- (2) A resolution of the board of directors passed in pursuance of the direction shall be sufficient authority for any such payments as are mentioned in section 99(2)(b).

#### **Textual Amendments**

- F2** Words in Sch. 8A substituted (1.4.2013) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2013 \(S.I. 2013/496\)](#), art. 1(1), [Sch. 8 para. 54\(2\)](#) (with Sch. 12)

#### *Increased remuneration*

- 8 If the [F<sup>2</sup>appropriate authority] consents to the inclusion of any such provision as is mentioned in section 99A(1), it shall not be necessary for an ordinary resolution approving the provision to be put before a meeting of the society.

#### **Textual Amendments**

- F2** Words in Sch. 8A substituted (1.4.2013) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2013 \(S.I. 2013/496\)](#), art. 1(1), [Sch. 8 para. 54\(2\)](#) (with Sch. 12)

#### *Statements to members*

- 9 (1) The following provisions of this paragraph shall apply in place of Part I of Schedule 17.
- (2) The society shall send to every member entitled to notice of a meeting of the society, a statement containing—
- (a) the particulars required, in relation to prescribed matters, by regulations under section 42B(8); and
  - (b) particulars of any other matters required by the [F<sup>2</sup>appropriate authority] in the case of the particular transfer of business,
- with or without other particulars regarding that transfer.

[ The PRA must consult the FCA before requiring any particulars under sub-F<sup>8</sup>(2ZA) paragraph (2)(b).]

[ Where a statement is required to be sent to a member under sub-paragraph (2)—  
 F<sup>9</sup>(2A)

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- (a) it may be sent to him electronically only if it is sent to an electronic address notified to the society by that member for the purpose;
  - (b) the requirement to send it shall also be treated as satisfied if the conditions set out in sub-paragraph (2B) are satisfied.
- (2B) The conditions of this sub-paragraph are satisfied in the case of a statement if—
- (a) the society and that person have agreed that statements that are required to be sent to him may instead be accessed by him on a web site;
  - (b) the agreement applies to the statement in question;
  - (c) <sup>F10</sup>...the society notifies him within the period specified in sub-paragraph (3) of—
    - (i) the publication of the notice and any statement on a web site,
    - (ii) the address of that web site,
    - (iii) the place on that web site where the documents may be accessed, and how they may be accessed; and
  - (d) that statement is published continuously on that web site throughout the period beginning with the giving of that notification and ending with the decision of the [<sup>F2</sup>appropriate authority] whether to confirm the transfer pursuant to section 98.
- (2C) Where, in a case in which sub-paragraph (2A)(b) is relied on for compliance with a requirement of sub-paragraph (2)—
- (a) a statement is published for a part, but not all, of the period mentioned in subparagraph (2B)(d), but
  - (b) the failure to publish it throughout that period is wholly attributable to circumstances which it would not be reasonable to have expected the society to prevent or avoid,
- the failure shall not invalidate the proceedings of the meeting.]
- (3) The statement shall be sent—
- (a) where the [<sup>F2</sup>appropriate authority] has given the society a direction under [<sup>F11</sup>section 42B(1)(aa) or (b)], within the period (not being less than 28 days) specified in [<sup>F12</sup>a final notice given by the [<sup>F2</sup>appropriate authority] under section 390 of the Financial Services and Markets Act 2000];
  - (b) where the [<sup>F2</sup>appropriate authority] has not given the society such a direction, within 14 days of the board of directors passing a resolution in pursuance of the direction.
- [ For the purposes of sub-paragraph (3) above, in a case in which sub-paragraph (2A)
- <sup>F13</sup>(3A) (b) is relied on for compliance with a requirement under sub-paragraph (2), a statement published on a web site in accordance with sub-paragraph (2B) is to be treated as sent to a person on the day that the notification is given in accordance with sub-paragraph (2B)(c).]
- (4) No statement shall be sent unless its contents, so far as they concern the prescribed matters or any matter of which particulars are required to be given under sub-paragraph (2)(b) above, have been approved by the [<sup>F2</sup>appropriate authority] .
  - (5) A failure to comply with a requirement of this paragraph shall not invalidate the transfer of business; but, if the society fails without reasonable excuse to comply with such a requirement the society shall be liable on summary conviction to a fine

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not exceeding level 4 on the standard scale and so shall any officer who is also guilty of the offence.

#### Textual Amendments

- F2** Words in Sch. 8A substituted (1.4.2013) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2013 \(S.I. 2013/496\)](#), art. 1(1), **Sch. 8 para. 54(2)** (with Sch. 12)
- F8** Sch. 8A para. 9(2ZA) inserted (1.4.2013) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2013 \(S.I. 2013/496\)](#), art. 1(1), **Sch. 8 para. 54(4)** (with Sch. 12)
- F9** Sch. 8A para. 9(2A)-(2C) inserted (20.3.2003) by [The Building Societies Act 1986 \(Electronic Communications\) Order 2003 \(S.I. 2003/404\)](#), arts. 1(1), **21(2)**
- F10** Words in Sch. 8A para. 9(2B)(c) omitted (18.2.2014) by virtue of [Financial Services \(Banking Reform\) Act 2013 \(c. 33\)](#), s. 148(2), **Sch. 9 para. 13**
- F11** Words in Sch. 8A para. 9(3) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), **ss. 56(5), 122(3)** (with Sch. 20); S.I. 2013/423, art. 3, Sch.
- F12** Words in Sch. 8A para. 9(3)(a) substituted (17.8.2001 for certain purposes and otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 8, 13(1), **Sch. 3 Pt. II para. 204(b)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2**
- F13** Sch. 8A para. 9(3A) inserted (20.3.2003) by [The Building Societies Act 1986 \(Electronic Communications\) Order 2003 \(S.I. 2003/404\)](#), arts. 1(1), **21(3)**

#### Modifications etc. (not altering text)

- C1** Sch. 8A para. 9 amended (2.3.1998) by S.I. 1998/212, reg. 5(1), **Sch. 3**

#### *Application for confirmation*

- 10 No application for confirmation by the [<sup>F2</sup>appropriate authority] of the transfer of business may be made under Part II of Schedule 17 until after the society has complied with the requirements of paragraph 9 above.

#### Textual Amendments

- F2** Words in Sch. 8A substituted (1.4.2013) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2013 \(S.I. 2013/496\)](#), art. 1(1), **Sch. 8 para. 54(2)** (with Sch. 12)

#### *Grounds for not confirming transfer*

- 11 Section 98 shall apply as if—
- (a) for paragraphs (a) and (b) of subsection (3) there were substituted the following paragraph—
    - “(a) the members or a proportion of them would be unreasonably prejudiced by the transfer;”;
  - (b) in subsection (5), for the words “paragraphs (a), (b), (c) and (d)” there were substituted the words “ paragraphs (a), (c) and (d) ”; and
  - (c) in subsection (6), the words “the calling of a further meeting,” were omitted.]

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