

# FINANCIAL SERVICES ACT 2010

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS AND SCHEDULES

#### *Measures to protect consumers*

#### *Section 14: Consumer redress schemes*

#### **New section 404: Consumer redress schemes**

173. *Subsections (1) and (3)* provide that the FSA may make section 404 rules if it appears to it that (a) there may have been a widespread or regular failure by a relevant firm (defined in *subsection (2)* as an authorised person or payment service provider) to comply with the requirements for carrying on an activity; (b) as a result, consumers have suffered or may suffer loss for which redress would be available in legal proceedings; and (c) it is desirable to establish a scheme to secure redress for consumers.
174. ‘Consumers’ is defined in new section 404E.
175. New section 404F(5) provides that references to a relevant firm include a person who was, but is no longer, an authorised person or payment service provider and a person who has assumed a liability incurred by a relevant firm.
176. *Subsections (4) to (7)* of new section 404 define ‘consumer redress scheme’ as one in which a firm is required to take one or more of the following steps:
- investigate whether it has failed to comply with its obligations in carrying out a specified activity;
  - if it determines that it has failed to comply with an obligation, determine the nature and extent of the failure, and whether the failure has caused or may cause any loss to consumers;
  - if it determines that consumers have suffered loss, to make appropriate redress.