

FINANCIAL SERVICES ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS AND SCHEDULES

Financial Services Compensation Scheme

Section 17: Power to require FSCS manager to act in relation to other schemes

194. This section, which inserts new Part 15A into FSMA (comprising sections 224B to 224F), extends the scope of the FSCS manager's powers to enable it to make payments on behalf of another compensation scheme or arrangement that pays compensation in respect of institutions that provide financial services, including institutions that are not authorised persons under FSMA.
195. New section 224B defines the terms used, including the kinds of scheme or arrangement under which the Treasury can require the FSCS manager to act on behalf of another person paying compensation to customers of financial services firms ("the relevant scheme"). *Subsection (9)* makes clear that the provisions of new Part 15A apply equally in cases where the relevant scheme is operated by the UK Government. New section 224C provides that if compensation is payable under a relevant scheme, the Treasury may issue a notice requiring the FSCS manager to act on behalf of the relevant scheme's manager. The notice will specify the functions to be performed by the FSCS manager on behalf of the manager of the relevant scheme.
196. Section 224D provides that the FSCS manager may decline to act if a ground in section 224E is met, and a notice to this effect is given to the Treasury. The grounds are: where the FSCS manager is not satisfied that it will be able to obtain the necessary information, advice or assistance from the administrator to comply with the notice; where it is not satisfied that funding is being provided to meet the expenditure that it will incur in acting on behalf of the relevant scheme manager; where it is of the opinion that complying with the notice would detrimentally affect the exercise of its FSCS functions; where the manager of the relevant scheme has not given an undertaking not to bring proceedings against the FSCS manager; or where there are no arrangements for the reimbursement of expenses arising out of claims brought against the FSCS manager by third parties.
197. New section 224F enables the FSA to make rules in connection with FSCS manager acting as a paying agent on behalf of relevant schemes. This includes conferring a power on the FSCS manager to impose levies to cover its expenses under this section; however if the FSA do impose such a power, it may be exercised only if the FSCS manager has tried and failed to obtain reimbursement of its expenses elsewhere.