

SCHEDULES

SCHEDULE 8

Section 54

CASH ACCESS SERVICES

PART 1

NEW PART 8B OF FSMA 2000

1 After Part 8A of FSMA 2000 (short selling) insert—

“PART 8B

CASH ACCESS SERVICES

Introductory

131M Overview

This Part—

- (a) requires the Treasury to publish a statement of policy concerning cash deposit and withdrawal services,
- (b) enables the Treasury to designate persons involved in the provision of such services, and
- (c) gives the FCA functions in relation to designated persons.

131N Cash access services and coordination arrangements

- (1) This section defines “cash”, “cash access service”, “free cash access service” and “cash access coordination arrangements” for the purposes of this Part.
- (2) “Cash” means—
 - (a) banknotes issued by the Bank of England, or an authorised bank in its capacity as an issuer of banknotes in Scotland or Northern Ireland (see Part 6 of the Banking Act 2009), or
 - (b) coins made by the Mint, within the meaning of the Coinage Act 1971 (see section 11 of that Act).
- (3) A “cash access service” is—
 - (a) a service which enables cash to be placed on a relevant current account (a “cash deposit service”), or
 - (b) a service which enables cash to be withdrawn from a relevant current account (a “cash withdrawal service”).
- (4) A “free cash access service” is a cash access service that is—

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- (a) a free of charge service which enables cash to be placed on a relevant personal current account, or
 - (b) a free of charge service which enables cash to be withdrawn from a relevant personal current account.
- (5) “Cash access coordination arrangements” are arrangements—
- (a) which are designed to coordinate the provision of cash access services by two or more providers of such services, but
 - (b) which do not directly provide cash access services to any person.
- (6) In relation to cash access coordination arrangements—
- (a) a reference to the “operator” of such arrangements is to any person with responsibility under the arrangements for managing or operating them;
 - (b) a reference to the operation of such arrangements includes their management.
- (7) In this section, “relevant current account” has the meaning given by section [1310](#).

1310 Current accounts and relevant current account providers

- (1) This section defines “current account”, “relevant current account”, “relevant personal current account” and “relevant current account provider” for the purposes of this Part.
- (2) “Current account” means an account by means of which one or more named persons are able to—
- (a) place cash,
 - (b) withdraw cash, and
 - (c) execute and receive payment transactions to and from third parties, including the execution of credit transfers.
- (3) For the purposes of subsection (2)(c), “payment transaction” means an act initiated by the payer or payee, or on behalf of the payer, of placing, transferring or withdrawing funds, irrespective of any underlying obligations between the payer and payee.
- (4) A “relevant personal current account” means a relevant current account held by one or more individuals for purposes outside any business, trade, craft or profession of that individual or those individuals.
- (5) “Relevant current account provider” means a person—
- (a) who has a Part 4A permission to accept deposits, and
 - (b) who provides current accounts in reliance on that permission (“relevant current accounts”).
- (6) But the following are not relevant current account providers—
- (a) credit unions, within the meaning given by section 31(1) of the Credit Unions Act 1979 or Article 2(2) of the Credit Unions (Northern Ireland) Order 1985 ([S.I. 1985/1205](#))([N.I.12](#));

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- (b) a society that is registered within the meaning of the Friendly Societies Act 1974 (see section 111(1) of that Act) or incorporated under the Friendly Societies Act 1992.
- (7) The Treasury may by regulations—
- (a) amend a definition in this section;
 - (b) amend any other provision of this Part in consequence of provision made under paragraph (a).

Cash access policy statement

131P Cash access policy statement

- (1) The Treasury must prepare a cash access policy statement.
- (2) A “cash access policy statement” is a statement of the policies of His Majesty’s Government concerning cash access services in the United Kingdom, or a part of the United Kingdom.
- (3) The reference to cash access services in subsection (2) includes free cash access services.
- (4) Policies may be stated in relation to, among other things—
 - (a) cash deposit services and cash withdrawal services;
 - (b) services provided in relation to current accounts of different descriptions;
 - (c) services provided in predominantly urban areas and services provided in predominantly rural areas.
- (5) In preparing a cash access policy statement, the Treasury must—
 - (a) consult the FCA, and
 - (b) have regard to any report provided under section 131Q.
- (6) The Treasury must publish a cash access policy statement in such manner as they consider appropriate.
- (7) The Treasury—
 - (a) must keep the cash access policy statement under review;
 - (b) may prepare a revised statement (and subsections (5) and (6) apply in relation to any revised statement).

131Q Provision of reports to assist the Treasury

- (1) The FCA must, on a request from the Treasury, prepare and send to the Treasury a report on a matter specified in the request.
- (2) The Treasury may only make a request under this section for a report that they reasonably require in connection with—
 - (a) the preparation of a cash access policy statement (see section 131P),
or
 - (b) a decision whether or not to designate a person for the purposes of this Part (see section 131R).

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- (3) A request for a report under this section—
 - (a) must be made in writing, and
 - (b) may require the FCA to send the report to the Treasury within such reasonable period as may be specified in the request (or such other period as may be agreed).
- (4) Nothing in section 348, or in regulations made under section 349, is to be taken as preventing or restricting the ability of the FCA to disclose information to the Treasury for the purposes of this section.
- (5) Subsection (4) does not apply in relation to information provided to the FCA by a regulatory authority outside the United Kingdom.

Designation

131R Designation

- (1) The Treasury may designate a person for the purposes of this Part if the person is—
 - (a) a relevant current account provider, or
 - (b) an operator of cash access coordination arrangements, and at least one of the participants in the arrangements is a relevant current account provider designated under this section.
- (2) A person is designated by giving the person (the “designated person”) a notice in accordance with this Part (a “designation notice”).
- (3) A designation notice must specify whether the person is designated in relation to—
 - (a) the United Kingdom,
 - (b) Great Britain only, or
 - (c) Northern Ireland only.
- (4) A designation notice given to the operator of cash access coordination arrangements must specify the arrangements in as much detail as is reasonably practicable.
- (5) Before giving a designation notice to a person the Treasury must—
 - (a) consult the FCA,
 - (b) notify the person, and
 - (c) consider any representations made.
- (6) A designated person must—
 - (a) comply with rules made by the FCA under section 131V;
 - (b) comply with directions given by the FCA to the designated person under section 131W.

131S Designation criteria

- (1) The Treasury may designate a person for the purposes of this Part, in relation to the United Kingdom, Great Britain only, or Northern Ireland only (as the

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case may be), only if satisfied that doing so is likely to further the purpose mentioned in section 131U(1).

- (2) In considering whether to designate a relevant current account provider, the Treasury must have regard to—
 - (a) the distribution of cash access services operated by the provider in the United Kingdom, Great Britain or Northern Ireland (as the case may be);
 - (b) the distribution in the United Kingdom, Great Britain or Northern Ireland (as the case may be) of persons holding current accounts provided by the provider;
 - (c) the provider's share of the current account market in the United Kingdom, Great Britain or Northern Ireland (as the case may be);
 - (d) the total value of the deposits held in current accounts provided by the provider in the United Kingdom, Great Britain or Northern Ireland (as the case may be).
- (3) If a relevant current account provider is part of a group which includes one or more other relevant current account providers, references in subsection (2) to the provider are to be read as references to—
 - (a) the provider, and
 - (b) each of those other relevant current account providers.
- (4) For the purposes of subsection (3), section 421 (meaning of “group”) applies with the omission of subsection (1)(g) of that section.

131T Cancellation or variation of a designation notice

- (1) If a designation notice has been given to a person the Treasury may, by further notice, cancel the designation notice.
- (2) If a designation notice has been given to a person (including a designation notice as varied by a notice under this subsection), the Treasury may by further notice, vary the earlier notice.
- (3) If a further notice under subsection (2) would designate a person in relation to a part of the United Kingdom in relation to which the person was not designated by the earlier notice, sections 131R(3) and (5) and 131S apply in relation to the further notice.

Supervision of designated persons

131U Purpose for which FCA must exercise functions under this Part

- (1) The FCA must exercise its functions under this Part for the purpose of seeking to ensure reasonable provision of cash access services in the United Kingdom, or a part of the United Kingdom.
- (2) In this section references to cash access services include references to free cash access services.
- (3) “Reasonable provision” of cash access services is provision of such nature and extent as the FCA may determine, having regard to—

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- (a) the cash access policy statement currently in effect (see section 131P), and
 - (b) such other matters as it considers appropriate.
- (4) In making a determination for the purposes of subsection (3) the FCA must, in particular, have regard to any local deficiencies in provision of cash access services—
- (a) which the FCA is aware of, and
 - (b) the impacts of which the FCA considers to be significant.
- (5) A local deficiency in provision of cash access services is a circumstance which limits the ability of persons in any locality in a part of the United Kingdom to—
- (a) withdraw cash from a relevant current account, or
 - (b) place cash on a relevant current account.
- (6) In determining whether there are local deficiencies in the provision of cash access services, and the significance of the impacts of such deficiencies, the FCA must have regard to—
- (a) the cash access policy statement currently in effect, and
 - (b) such other matters as it considers appropriate.
- (7) Those other matters may include (but are not limited to)—
- (a) the number of persons likely to be affected by the deficiency;
 - (b) the characteristics of the persons likely to be affected by the deficiency;
 - (c) the likely impact on the persons likely to be affected.

131V FCA rules

- (1) The FCA may make such rules applying to designated persons as appear to the FCA to be necessary or expedient for the purpose mentioned in section 131U(1).
- (2) Rules under this section must not require a designated person to do (or refrain from doing) any thing in relation to a part of the United Kingdom in relation to which the person is not designated.
- (3) Section 137T (general supplementary powers for rules made by a regulator) applies in relation to rules made by the FCA under this section as if, in paragraph (a), the reference to descriptions of authorised persons, activity or investment were to descriptions of designated persons and activities carried on by such persons.
- (4) Section 138A (modification or waiver of rules) applies in relation to rules made by the FCA under this section as if subsection (4)(b) were omitted.
- (5) Section 138I (consultation by FCA before making rules) applies to rules under this section as if, in subsection (2)(d), the reference to the FCA's duties under section 1B(1) and (5)(a) were to the purpose for which the FCA must exercise its functions under this Part.

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131W Power to direct designated persons

- (1) The FCA may give a direction under this section to a designated person if it considers that it is desirable to give the direction for the purpose mentioned in section 131U(1).
- (2) A direction under this section must not require a designated person to do (or refrain from doing) any thing in relation to a part of the United Kingdom in relation to which the person is not designated.
- (3) A direction under this section may require the person to—
 - (a) take specified action;
 - (b) refrain from taking specified action;
 - (c) review, or take remedial action in respect of, past conduct.
- (4) A requirement imposed by a direction under this section may be expressed to expire at the end of a specified period, but the imposition of a requirement that expires at the end of a specified period does not affect the power to give a further direction imposing a new requirement.
- (5) A direction under this section—
 - (a) may be revoked by the FCA by written notice to the person to whom it is given, and
 - (b) ceases to be in force if the person to whom it is given ceases to be a designated person.

131X Procedure for directions

- (1) If the FCA proposes to give a direction under section 131W, or gives such a direction with immediate effect, it must give written notice to the designated person to whom the direction is given (or to be given).
- (2) A direction under section 131W takes effect—
 - (a) immediately, if the notice under subsection (1) states that is the case,
 - (b) on such other date as may be specified in the notice, or
 - (c) if no date is specified in the notice, when the matter to which the notice relates is no longer open to review.
- (3) A direction under section 131W may be expressed to take effect immediately (or on a specified date) only if the FCA reasonably considers that it is necessary for the direction to take effect immediately (or on that date).
- (4) The notice under subsection (1) must—
 - (a) give details of the direction;
 - (b) state the FCA's reasons for the direction and for its determination as to when the direction takes effect;
 - (c) inform the designated person that the person may make representations to the FCA within such period as may be specified in the notice (whether or not the person has referred the matter to the Tribunal);
 - (d) inform the designated person of the person's right to refer the matter to the Tribunal.

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- (5) The FCA may extend the period allowed under the notice for making representations.
- (6) The FCA must give the designated person written notice if, having considered any representations made by the person, it decides—
 - (a) to give the direction proposed;
 - (b) if the direction has been given, not to revoke the direction.
- (7) The FCA must give the designated person written notice if, having considered any representations made by the person, it decides—
 - (a) not to give the direction proposed;
 - (b) to give a different direction;
 - (c) to revoke a direction.
- (8) A notice given under subsection (6) must inform the notified person of the person's right to refer the matter to the Tribunal.
- (9) A notice under subsection (7)(b) must comply with subsection (4).
- (10) If a notice informs the designated person of the person's right to refer a matter to the Tribunal, it must give an indication of the procedure on such a reference.
- (11) For the purposes of subsection (2)(c), whether a matter is open to review is to be determined in accordance with section 391(8).

131Y Information gathering and investigations

- (1) For the purposes of this Part, Part 11 (information gathering and investigations) applies in accordance with this section.
- (2) Sections 165A to 165C, 169 and 169A do not apply.
- (3) Any reference to an authorised person includes a person designated for the purposes of this Part (whether or not the person is an authorised person).
- (4) In addition—
 - (a) references to an authorised person in sections 165 and 176(3A)(a) include a person mentioned in subsection (5) (whether or not the person is an authorised person);
 - (b) sections 175 to 177 apply in relation to section 165 as modified in accordance with paragraph (a).
- (5) The persons are—
 - (a) a relevant current account provider who is not a designated person for the purposes of this Part;
 - (b) an operator of cash access coordination arrangements who is not a designated person for the purposes of this Part;
 - (c) the operator of, or an infrastructure provider in relation to, a payment system, who is not a designated person for the purposes of this Part;
 - (d) a person (other than a person mentioned in paragraph (a), (b) or (c)) who provides cash access services and is not a designated person for the purposes of this Part;

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- (e) a person who provides a relevant service to a person mentioned in paragraph (a), (b), (c) or (d) and is not a designated person for the purposes of this Part.
- (6) In subsection (5)(c), “payment system”, and “operator” and “infrastructure provider” in relation to a payment system, have the same meanings as in Part 5 of the Financial Services (Banking Reform) Act 2013 (see section 110 of that Act).
- (7) For the purposes of subsection (5)(e), a “relevant service” is a service provided in connection with the provision of cash access services.
- (8) In relation to a person who is not an authorised person but is treated as such for the purposes of this Part (by virtue of subsection (3) or (4)), any reference to “either regulator” is to the FCA only.

131Z Disciplinary measures

For the purposes of enforcing a requirement imposed by or under this Part, Part 14 (disciplinary measures) applies as if—

- (a) any reference to an authorised person includes a person designated for the purposes of this Part (whether or not that person is an authorised person), and
- (b) section 206A (suspending permission to carry on regulated activities etc) were omitted.

131Z1 Costs of supervision

Rules made under paragraph 23 of Schedule 1ZA, in connection with the carrying out of any of the FCA’s functions under this Part, must not provide for the payment of fees to the FCA by any person other than a designated person who is a relevant current account provider.

131Z2 Exclusion and modification of other FCA duties

- (1) Where the FCA is discharging a function under this Part, section 1B (FCA’s general duties) applies as if—
 - (a) in subsection (1)(b), the reference to one or more of the FCA’s operational objectives were to the purpose mentioned in section 131U(1);
 - (b) subsections (4) and (4A) (promoting effective competition in the interests of consumers and advancing competitiveness and growth) do not apply.
- (2) In discharging its functions under this Part, the regulatory principles in section 3B(1) have effect as if, in paragraph (g), the reference to the FCA’s objectives included the purpose mentioned in section 131U(1).
- (3) Section 395 applies in relation to a decision of the FCA made in connection with a function under this Part as if, in subsection (3)(a), the reference to the FCA’s operational objectives included the purpose mentioned in section 131U(1).”

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Commencement Information

I1 Sch. 8 para. 1 in force at 29.8.2023, see s. 86(2)(c)

PART 2

CONSEQUENTIAL AMENDMENTS TO FSMA 2000

2 FSMA 2000 is amended as follows.

Commencement Information

I2 Sch. 8 para. 2 in force at 29.8.2023, see s. 86(2)(c)

3 In section 3D (duty of FCA and PRA to ensure co-ordinated exercise of functions), in subsection (4), after “operational objectives”, insert “, or the purpose for which the FCA must exercise its functions under Part 8B (see section 131U(1))”.

Commencement Information

I3 Sch. 8 para. 3 in force at 29.8.2023, see s. 86(2)(c)

4 In section 55H (variation by FCA at request of authorised person), in subsection (4), after “objectives” insert “, or the purpose for which the FCA must exercise its functions under Part 8B (see section 131U(1))”.

Commencement Information

I4 Sch. 8 para. 4 in force at 29.8.2023, see s. 86(2)(c)

5 In section 55L (imposition of requirements by FCA), in subsection (6), after “objectives” insert “, or the purpose for which the FCA must exercise its functions under Part 8B (see section 131U(1))”.

Commencement Information

I5 Sch. 8 para. 5 in force at 29.8.2023, see s. 86(2)(c)

6 In section 55T (persons whose interests are protected), after “operational objectives,” insert “the purpose for which the FCA must exercise its functions under Part 8B,”.

Commencement Information

I6 Sch. 8 para. 6 in force at 29.8.2023, see s. 86(2)(c)

7 In section 232A (ombudsman scheme operator’s duty to provide information to FCA), after “objectives,” insert “, or the purpose for which the FCA must exercise its functions under Part 8B (see section 131U(1))”.

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Commencement Information

I7 Sch. 8 para. 7 in force at 29.8.2023, see s. 86(2)(c)

- 8 In section 395 (the FCA’s and PRA’s procedures), in subsection (13), after paragraph (bbzb) insert—
“(bbzc) 131W;”

.....

Commencement Information

I8 Sch. 8 para. 8 in force at 29.8.2023, see s. 86(2)(c)

- 9 In section 429 (Parliamentary control of statutory instruments), in subsection (2), in the list of sections beginning with “90B” insert at the appropriate place “131O(7),”.

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Commencement Information

I9 Sch. 8 para. 9 in force at 29.8.2023, see s. 86(2)(c)

Changes to legislation:

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