

SCHEDULES

SCHEDULE 5

Section 27

REGULATION OF CLAIMS MANAGEMENT SERVICES: TRANSITIONAL PROVISION

FCA information gathering powers

- 1 Part 11 of the Financial Services and Markets Act 2000 (information gathering and investigations) has effect as if—
- (a) to the extent that they relate to a notice or authorisation of the FCA, the references in section 165(1), (3) and (7)(a) to an authorised person include a reference to a person falling within paragraph 2,
 - (b) the reference in section 165(4)(a) to the exercise by either regulator of functions conferred on it under the Financial Services and Markets Act 2000 includes a reference to the steps taken, or to be taken, by the FCA in preparation for the conferral of functions on it by virtue of the making of an order under section 22(1B) of that Act (“a regulated claims management activity order”), and
 - (c) the reference in section 166(2)(a) to an authorised person includes a reference to a person falling within paragraph 3.
- 2 A person falls within this paragraph if the person—
- (a) is or at any time was authorised under section 5(1)(a) of the Compensation Act 2006 (provision of regulated claims management services), or
 - (b) is, or at any time was, providing services in Scotland which the person would be, or would have been, prohibited from providing in England and Wales by section 4(1) of the Compensation Act 2006 unless authorised under section 5(1)(a) of that Act.
- 3 A person falls within this paragraph if the person—
- (a) is authorised under section 5(1)(a) of the Compensation Act 2006 (provision of regulated claims management services), or
 - (b) is providing services in Scotland which the person would be prohibited from providing in England and Wales by section 4(1) of the Compensation Act 2006 unless authorised under section 5(1)(a) of that Act.

FCA preparatory steps

- 4 The FCA may, before the making of a regulated claims management activity order, take such steps as the FCA considers necessary or expedient in preparation for the conferral of functions on it as a result of the making of the order.

Consultation requirements

- 5 Paragraphs 6 and 7 apply in connection with the making or issuing of any rules or other instrument or document relating to an activity—

Changes to legislation: There are currently no known outstanding effects for the Financial Guidance and Claims Act 2018, SCHEDULE 5. (See end of Document for details)

- (a) of a kind specified in a regulated claims management activity order, or
 - (b) of a kind specified in an order under section 21(10B) of the Financial Services and Markets Act 2000.
- 6 Any requirement imposed on the FCA—
- (a) to publish a draft of the rules or other instrument or document and invite representations about it, or
 - (b) to consult particular persons,
- may be satisfied by things done by the FCA before the coming into effect of the order or the passing of this Act.
- 7 Section 138I of the Financial Services and Markets Act 2000 (consultation by the FCA) does not apply in relation to rules which make provision similar to any provision in or made under Part 2 of the Compensation Act 2006.

Designation of Regulator's rules

- 8 After the making of a regulated claims management activity order, rules which—
- (a) were made by the Regulator by virtue of provision in or under Part 2 of the Compensation Act 2006, and
 - (b) are designated by the FCA,
- are to be treated as having been made by the FCA by virtue of comparable provision in the Financial Services and Markets Act 2000.
- 9 The rules may be modified by the FCA.

Provision of information by Regulator and OLC

- 10 The Regulator may disclose to the FCA or the FOS any information which the Regulator considers that it is necessary or expedient to disclose to the FCA or, as the case may be, the FOS so that the FCA or the FOS can take steps in preparation for the conferral of functions on it as a result of the making of a regulated claims management activity order.
- 11 Section 244 of the Enterprise Act 2002 (considerations relevant to disclosure of information) does not apply in relation to a disclosure under paragraph 10.
- 12 The OLC may disclose to the FOS or the FCA any information which the OLC considers that it is necessary or expedient to disclose to the FOS or, as the case may be, the FCA so that the FOS or the FCA can take steps in preparation for the conferral of functions on it as a result of the making of a regulated claims management activity order.

Complaints handling

- 13 Where a regulated claims management activity order is made which requires the OLC to continue to deal with complaints made to it on or before a date or event identified in the order—
- (a) the FCA is to reimburse the OLC for the cost it incurs in doing so, and
 - (b) this reimbursement obligation is to be treated for the purposes of paragraph 23 of Schedule 1ZA to the Financial Services and Markets Act 2000 (fees) as a qualifying function conferred on the FCA under that Act.

Interpretation

14 In this Schedule—

“the FCA” means the Financial Conduct Authority;

“the FOS” means the body corporate which administers the ombudsman scheme provided for in Part 16 of the Financial Services and Markets Act 2000 (see section 225 of that Act);

“the OLC” means the Office for Legal Complaints established by section 114 of the Legal Services Act 2007;

“the Regulator” means the person designated under section 5(1) of the Compensation Act 2006 or, if no person is so designated, the Secretary of State;

“regulated claims management activity order” has the meaning given in paragraph 1(b).

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