

SCHEDULE 9

AMENDMENTS OF FINANCIAL SERVICES ACT

Conduct of business

- 9.**—(1) Section 47A of the Act⁽¹⁾ (statements of principle) shall have effect as if—
- (a) the reference in subsection (1) to the conduct expected of persons authorised to carry on investment business included a reference to the conduct expected of European institutions carrying on home-regulated investment business in the United Kingdom; and
 - (b) the reference in subsection (4) to the withdrawal or suspension of authorisation under section 28 of the Act included a reference to the imposition of a prohibition under regulation 15 of these Regulations.
- (2) That section shall also have effect as if it included provision that a statement of principle issued under that section shall not include, as respects any European institution—
- (a) provision as to the fitness of the institution to carry on any home-regulated investment business; or
 - (b) provision as to any other matter for which, under the Second Council Directive, responsibility is reserved to the relevant supervisory authority in the institution’s home State.
- 10.**—(1) Section 48 of the Act⁽²⁾ (conduct of business rules) shall have effect as if—
- (a) the reference in subsection (1) to the conduct of investment business by authorised persons included a reference to the conduct of home-regulated investment business carried on in the United Kingdom by European institutions; and
 - (b) the reference in subsection (2) to an authorised person included a reference to a European institution carrying on home-regulated investment business in the United Kingdom.
- (2) That section shall have effect as if it included provision that rules under that section shall not include, as respects any European institution—
- (a) provision prohibiting the institution from carrying on, or holding itself out as carrying on, any home-regulated investment business; or
 - (b) provision as to any matter for which, under the Second Council Directive, responsibility is reserved to the relevant supervisory authority in the institution’s home State.
- 11.**—(1) Section 49 of the Act⁽³⁾ (financial resources rules) shall have effect as if it included provision that rules under that section shall not include, as respects any European institution which is a member of a recognised self-regulating organisation, provision requiring the institution to have and maintain financial resources in respect of any home-regulated investment business carried on by it.
- (2) Subsection (2) of that section shall also have effect in relation to an authorised person who is a European institution as if the reference in paragraph (b) to any business (whether or not investment business) carried on by the person concerned did not include a reference to any homeregulated investment business.
- 12.**—(1) Section 51 of the Act (cancellation rules) shall have effect as if the reference in subsection (1) to a person who has entered or offered to enter into an investment agreement with

(1) Section 47A was inserted by section 192 of the Companies Act 1989 (c. 40).

(2) Section 48 has been amended by sections 206 and 212 of, and Schedules 23 and 24 to, the Companies Act 1989 (c. 40).

(3) Section 49 has been amended by section 206 of, and Schedule 23 to, the Companies Act 1989 (c. 40).

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an authorised person included a reference to a person who has entered or offered to enter into an investment agreement to which sub-paragraph (2) below applies.

(2) This sub-paragraph applies to an investment agreement which is made by a European institution in the course of the carrying on by it of home-regulated investment business in the United Kingdom.

13.—(1) Section 52 of the Act(4) (notification regulations) shall have effect as if any reference to authorised persons, or an authorised person, included a reference to European institutions, or a European institution, carrying on home-regulated investment business in the United Kingdom.

(2) That section shall also have effect as if it included provision that regulations under that section shall not require European institutions to furnish information which is not reasonably required for purposes connected with the exercise of functions under the Act or these Regulations.

14. Section 53 of the Act (indemnity rules) shall have effect as if the reference in subsection (1) to civil liability incurred by an authorised person in connection with his investment business included a reference to civil liability incurred by a European institution in connection with home-regulated investment business carried on by it in the United Kingdom.

15. Section 54 of the Act(5) (compensation fund) shall have effect as if—

- (a) it included provision that rules establishing a scheme under that section may include in the scheme provision for compensating investors in cases where persons who are or have been European institutions are unable, or likely to be unable, to satisfy claims in respect of any civil liability incurred by them in connection with home-regulated investment business carried on by them in the United Kingdom; and
- (b) any reference in subsection (2) to authorised persons included a reference to European institutions carrying on home-regulated investment business in the United Kingdom.

16. Section 55 of the Act(6) (clients' money) shall have effect as if any reference to authorised persons, or an authorised person, included a reference to European institutions, or a European institution, carrying on home-regulated investment business in the United Kingdom.

17. Section 57 of the Act (restrictions on advertising) shall have effect as if any reference to an authorised person included a reference to a European institution carrying on home-regulated investment business in the United Kingdom.

18. Section 59 of the Act (employment of prohibited persons) shall have effect as if any reference to authorised persons, or an authorised person, included a reference to European institutions, or a European institution, carrying on home-regulated investment business in the United Kingdom.

19. Section 60 of the Act (public statement as to person's misconduct) shall have effect as if—

- (a) the reference in subsection (1) to a person who is or was an authorised person by virtue of section 25 of that Act included a reference to a person who is or was a European institution carrying on home-regulated investment business in the United Kingdom;
- (b) the reference in subsection (3) to the authorised person included a reference to the European institution; and
- (c) it included provision that where any notice under that section is given to a person who is or was a European institution, a copy of the notice shall be served on the Bank.

20. Section 64 of the Act (scope of powers of intervention) shall have effect in relation to an authorised person who is a European institution as if the reference in subsection (1) to investment

(4) Section 52 has been amended by section 206 of, and Schedule 23 to, the Companies Act 1989 (c. 40).

(5) Section 54 has been amended by article 389 of, and Schedule 9 to, the Insolvency (Northern Ireland) Order 1989 (S.I.1989/2405 (N.I.19)).

(6) Section 55 has been amended by section 206 of, and Schedule 23 to, the Companies Act 1989 (c. 40).

business of a particular kind did not include a reference to any home-regulated investment business which the authorised person is carrying on or proposing to carry on.

21. Section 65 of the Act (restriction of business) shall have effect as if the reference in subsection (1) to an authorised person included a reference to a European institution carrying on home-regulated investment business in the United Kingdom.

22. Section 66 of the Act (restriction on dealing with assets) shall have effect as if—

- (a) the reference in subsection (1) to an authorised person included a reference to a European institution carrying on home-regulated investment business in the United Kingdom; and
- (b) it included provision that a prohibition may not be imposed under that section in relation to a European institution unless the relevant supervisory authority in the institution's home State has requested that measures be taken for the purpose of ensuring that the institution has sufficient assets available to cover risks arising from open positions on financial markets in the United Kingdom.

23. Section 67 of the Act (vesting of assets in trustee) shall have effect as if—

- (a) any reference to an authorised person included a reference to a European institution carrying on home-regulated investment business in the United Kingdom; and
- (b) it included provision that a requirement may not be imposed under that section in relation to a European institution unless the relevant supervisory authority in the institution's home State has requested that measures be taken for the purpose of ensuring that the institution has sufficient assets available to cover risks arising from open positions on financial markets in the United Kingdom.