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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order implements the transfer of regulation of claims management activity in Great Britain from the Claims Management Regulation Unit (the “CMRU”), a part of the Ministry of Justice, to the Financial Conduct Authority (the “FCA”).

The Financial Guidance and Claims Act 2018 (c. 10) (“the 2018 Act”) amends the Financial Services and Markets Act 2000 (c. 8) (“the 2000 Act”) to make claims management activity a regulated activity under the 2000 Act. Claims management services include services in relation to claims for compensation, restitution, repayment or any other remedy or relief in respect of loss or damage, or in respect of an obligation.

Under powers inserted into the 2000 Act by section 27 of the 2018 Act, the Treasury may by order prescribe when a person is or is not to be treated as carrying on a claims management activity in Great Britain, and the types of claim in respect of which claims management activity is to be regulated.

This Order sets out those claims management activities which are subject to regulation and the classes of persons who are exempt from authorisation by the FCA. The amendments made by the 2018 Act to the 2000 Act make provision for regulation of claims management activity in Scotland for the first time.

Part 1 of the Order sets out preliminary matters. It makes provision for the Order to come into force ahead of the transfer date of 1st April 2019 to enable the FCA and Financial Ombudsman Service to make rules. Additionally, it sets out when a person is to be treated as carrying on a regulated claims management activity in Great Britain.

Part 2 of the Order carries out key elements of the transfer of the existing claims management regulatory regime from the CMRU to the FCA. It amends the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I 2001/544) (“the Regulated Activities Order”) to specify the claims management activities which are to be treated as “regulated activities” which require authorisation by the FCA.

Those activities include advertising for claimants or potential claimants, advice and representation in respect of claims, and the investigation of claims. The types of claim include: personal injury claims and criminal injury compensation claims, claims relating to financial services or financial products (which include claims made pursuant to section 75 of the Consumer Credit Act 1974 (c. 39)), claims for housing disrepair, employment-related claims and claims for industrial injury disability benefits.

Members of certain professions (notably solicitors, barristers, advocates and legal executives) and certain other classes of person are exempted from regulation under the Regulated Activities Order by the FCA when undertaking claims management activity in the ordinary course of legal practice pursuant to the professional rules to which they are subject as legal practitioners. Certain persons or bodies providing regulated claims management services on a not-for-profit basis will also be exempted.

Part 2 of the Order also amends the Financial Services and Markets Act 2000 (Financial Promotions) Order 2005 (S.I 2005/1529) by specifying claims management activities which are controlled activities for the purposes of section 21 of the 2000 Act. Section 21(1) of that Act prohibits a person from communicating an invitation or inducement to engage in claims management activity unless the content of the communication is approved by an authorised person or unless an exemption applies.

Part 3 of the Order contains transitional provisions.

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Part 4 of the Order contains provisions relating to rules and guidance made by the FCA.

Part 5 of the Order contains miscellaneous provisions.

Part 6 of the Order makes consequential amendments to primary and secondary legislation. It provides for the repeal of Part 2 of the Compensation Act 2006 which contains provisions relating to the regulation of claims management services under that Act. It also revokes a number of statutory instruments in consequence of the repeal of that Act and contains a number of saving provisions which are necessary to give effect to certain transitional provisions contained in Part 3 of the Order.

Part 7 of the Order requires the Treasury to review the regulatory provision contained in the Order within 5 years of the Order coming into force.

A de minimis assessment of the effect that this Order will have on the costs of business and the voluntary sector is available from Her Majesty's Treasury, 1 Horse Guards Road, London SW10 2HQ on [www.hm-treasury.gov.uk](http://www.hm-treasury.gov.uk) and is published alongside the Order on [www.legislation.gov.uk](http://www.legislation.gov.uk).