

SCHEDULE

The Bradford & Bingley plc Compensation Scheme

PART 5

References to the Tribunal

Modification of Financial Services and Markets Tribunal Rules 2001

26. After rule 10 (particular types of directions) insert—

“Same issues proceedings

10A.—(1) The President may, of his own motion or on application by a party, direct that a reference is heard as a lead case where—

- (a) two or more references under paragraph 12 of the Schedule to the Bradford & Bingley plc Compensation Scheme Order 2008 have been made, but have not yet been determined by the Tribunal; and
- (b) it appears to the President that those references give rise to common or related issues of fact or law (“same issues proceedings”).

(2) The President may—

- (a) make such further directions as he considers appropriate for determination of the lead case; and
- (b) direct that pending determination of the lead case all other same issues proceedings before the Tribunal shall be stayed.

(3) All parties in same issue proceedings must be allowed to make representations prior to the President making a direction under paragraph (1) or (2).

(4) Without prejudice generally to the parties’ rights of appeal and to paragraphs (5) to (7), the Tribunal’s determination of the same issues in the lead case shall be binding on the parties to each of the same issues proceedings unless the Tribunal or the President directs otherwise.

(5) Any party to any of the same issues proceedings may apply to the President for a direction that the determination of the same issues in the lead case does not apply to that party’s case.

(6) An application under paragraph (5) must be made not later than 21 days after the date on which that party received notice of the determination of the same issues in the lead case.

(7) Within 28 days beginning with the date of determination of the same issues in the lead case the President may make further directions in relation to—

- (a) the lead case and each of the same issues proceedings stayed pending the determination of the same issues in the lead case;
- (b) the extent to which the determination of the same issues in the lead case is binding on any subsequent proceedings; and
- (c) any further directions required as a result of an application under paragraph (5), including a direction as to any further hearing required in relation to those proceedings.

(8) Where a direction has been made for any proceedings to be heard as a lead case and those proceedings are withdrawn or discontinued either before or during the hearing, the President may direct—

- (a) that one of the remaining same issues proceedings be substituted as the lead case; and
- (b) the extent to which any directions made prior to substitution shall be binding in relation to the substituted proceedings.

(9) The Secretary must send notice of the directions to be made under paragraphs (1) and (2), a copy of the directions made under paragraphs (1), (2), (4), (5), (7) and (8) and the determination of the same issues in the lead case to all the parties to the same issues proceedings.

Joining of parties to proceedings

10B. If it appears to the President or the Chairman, whether on the application of a party or otherwise, that it is desirable that any person other than the respondent be made a party to any proceedings, he may direct that such person be joined as a party in the proceedings and may make such further directions for giving effect to, or in connection with, the direction as he thinks fit.”.