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SCHEDULES

^{F1}SCHEDULE 1

Section 1.

Textual Amendments

- F1** Schs. 1ZA, 1ZB substituted for Sch. 1 (24.1.2013 for specified purposes, 19.2.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 3](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(b)(c)(2), Sch. Pts. 2, 3, 4; S.I. 2013/423, art. 3, Sch.

[^{F1}SCHEDULE 1ZA

Section 1A

THE FINANCIAL CONDUCT AUTHORITY

PART 1

GENERAL

Interpretation

- 1 In this Schedule—
“the Bank” means the Bank of England;
“functions”, in relation to the FCA, means functions conferred on the FCA by or under any provision of this Act (see section 1A(6) which affects the meaning of references to such functions).

Constitution

- 2 (1) The constitution of the FCA must provide for the FCA to have a governing body.
(2) The governing body must consist of—
(a) a chair appointed by the Treasury,
(b) a chief executive appointed by the Treasury,
(c) the Bank's Deputy Governor for prudential regulation,
(d) 2 members appointed jointly by the Secretary of State and the Treasury, and
(e) at least one other member appointed by the Treasury.
(3) The members referred to in sub-paragraph (2)(a), (c) and (d) are to be non-executive members.

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- (4) In exercising its powers under sub-paragraph (2)(e) to appoint executive or non-executive members, the Treasury must secure that the majority of members of the governing body are non-executive members.
- (5) An employee of the FCA may not be appointed as a non-executive member.
- (6) In the following provisions of this Schedule an “appointed member” means a member of the governing body appointed under sub-paragraph (2)(a), (b), (d) or (e).
- 3 (1) The terms of service of the appointed members are to be determined by the Treasury.
- (2) In the case of a member appointed under paragraph 2(2)(d), the Treasury must consult the Secretary of State about the terms of service.
- (3) Before appointing a person as an appointed member, the Treasury (or as the case requires the Treasury and the Secretary of State) must consider whether the person has any financial or other interests that could have a material effect on the extent of the functions as member that it would be proper for the person to discharge.
- (4) The terms of service of an appointed member (“M”) must be such as—
- (a) to secure that M is not subject to direction by the Treasury or the Secretary of State,
 - (b) to require M not to act in accordance with the directions of any other person, and
 - (c) to prohibit M from acquiring any financial or other interests that have a material effect on the extent of the functions as member that it would be proper for M to discharge.
- (5) If an appointed member is an employee of the FCA, the member's interest as employee is to be disregarded for the purposes of sub-paragraphs (3) and (4)(c) and paragraph 4(1)(b).
- (6) A person who is an employee of the PRA is disqualified for appointment as an appointed member.
- (7) The FCA may pay expenses to the Bank's Deputy Governor for prudential regulation in respect of that person's service as a member.
- 4 (1) The Treasury may remove an appointed member from office—
- (a) on the grounds of incapacity or serious misconduct, or
 - (b) on the grounds that in all the circumstances the member's financial or other interests are such as to have a material effect on the extent of the functions as member that it would be proper for the person to discharge.
- (2) Before removing from office a member appointed under paragraph 2(2)(d), the Treasury must consult the Secretary of State.
- 5 The validity of any act of the FCA is not affected—
- (a) by any vacancy in any of the offices mentioned in paragraph 2(2)(a), (b) or (c), or
 - (b) by a defect in the appointment of a person—
 - (i) to any of those offices, or
 - (ii) as an appointed member.
- 6 The Bank's Deputy Governor for prudential regulation must not take part in any discussion by or decision of the FCA which relates to—

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- (a) the exercise of the FCA's functions in relation to a particular person, or
- (b) a decision not to exercise those functions.

Remuneration

7 The FCA must pay to the appointed members such remuneration as may be determined—

- (a) in the case of the non-executive members, by the Treasury;
- (b) in the case of the executive members, by the FCA.

Arrangements for discharging functions

8 (1) The FCA may make arrangements for any of its functions to be discharged by a committee, sub-committee, officer or member of staff of the FCA, but subject to the following provisions.

(2) In exercising its legislative functions, the FCA must act through its governing body.

(3) For that purpose, the following are the FCA's legislative functions—

- (a) making rules;
- (b) issuing codes under section 64 or 119;
- (c) issuing statements under—
 - (i) section 63C, 64, 69, 88C, 89S, 93, 124, 131J, 138N, 192H, 192N, 210 or 312J,
 - (ii) section 345D (whether as a result of section 345(2) or section 249(1)), or
 - (iii) section 80 of the Financial Services Act 2012;
- (d) giving directions under section 316, 318 or 328.

(4) The function of issuing general guidance (as defined in section 139B(5)) may not be discharged by an officer or member of staff of the FCA.

Records

9 The FCA must maintain satisfactory arrangements for—

- (a) recording decisions made in the exercise of its functions, and
- (b) the safe-keeping of those records which it considers ought to be preserved.

Publication of record of meetings of governing body

10 (1) The FCA must publish a record of each meeting of its governing body—

- (a) before the end of the period of 6 weeks beginning with the day of the meeting, or
- (b) if no meeting of the governing body is subsequently held during that period, before the end of the period of 2 weeks beginning with the day of the next meeting.

(2) The record must specify any decision taken at the meeting (including decisions to take no action) and must set out, in relation to each decision, a summary of the deliberations of the governing body.

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- (3) Sub-paragraphs (1) and (2) do not require the publication of information whose publication within the time required by sub-paragraph (1) would in the opinion of the governing body be against the public interest.
- (4) Publication under this section is to be in such manner as the FCA thinks fit.

Annual report

- 11 (1) At least once a year the FCA must make a report to the Treasury on—
 - (a) the discharge of its functions,
 - (b) the extent to which, in its opinion, its operational objectives have been advanced,
 - (c) the extent to which, in its opinion, it has acted compatibly with its strategic objective,
 - (d) how, in its opinion, it has complied with the duty in section 1B(4),
 - (e) its consideration of the matter mentioned in section 1B(5)(b),
 - (f) its consideration of the principles in section 3B,
 - (g) how it has complied with section 3D,
 - (h) any direction received under section 3I or 3J during the period to which the report relates,
 - (i) how it has complied with section 354A(1) so far as relating to co-operation with persons outside the United Kingdom, and
 - (j) such other matters as the Treasury may from time to time direct.
- (2) Sub-paragraph (1) does not require the inclusion in the report of any information whose publication would in the opinion of the FCA be against the public interest.
- (3) The report must be accompanied by—
 - (a) a statement of the remuneration of the appointed members of the governing body of the FCA during the period to which the report relates, and
 - (b) such other reports or information, prepared by such persons, as the Treasury may from time to time direct.
- (4) The Treasury must lay before Parliament a copy of each report received by them under this paragraph.

Annual public meeting

- 12 (1) Not later than 3 months after making a report under paragraph 11, the FCA must hold a public meeting (“the annual meeting”) for the purposes of enabling that report to be considered.
- (2) The FCA must organise the annual meeting so as to allow—
 - (a) a general discussion of the contents of the report which is being considered, and
 - (b) a reasonable opportunity for those attending the meeting to put questions to the FCA about the way in which it discharged, or failed to discharge, its functions during the period to which the report relates.
- (3) But otherwise the annual meeting is to be organised and conducted in such a way as the FCA considers appropriate.

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- (4) The FCA must give reasonable notice of its annual meeting.
- (5) That notice must—
 - (a) give details of the time and place at which the meeting is to be held,
 - (b) set out the proposed agenda for the meeting,
 - (c) indicate the proposed duration of the meeting,
 - (d) give details of the FCA's arrangements for enabling persons to attend, and
 - (e) be published by the FCA in the way appearing to it to be best calculated to bring the notice to the attention of the public.
- (6) If the FCA proposes to alter any of the arrangements which have been included in the notice given under sub-paragraph (5), it must—
 - (a) give reasonable notice of the alteration, and
 - (b) publish that notice in the way appearing to the FCA to be best calculated to bring it to the attention of the public.

Report of annual meeting

- 13 Not later than one month after its annual meeting, the FCA must publish a report of the proceedings of the meeting.

Accounts and audit

- 14 (1) The Treasury may—
 - (a) require the FCA to comply with any provisions of the Companies Act 2006 about accounts and their audit which would not otherwise apply to it, or
 - (b) direct that any provision of that Act about accounts and their audit is to apply to the FCA with such modifications as are specified in the direction, whether or not the provision would otherwise apply to the FCA.
- (2) Compliance with any requirement under sub-paragraph (1)(a) or (b) is enforceable by injunction or, in Scotland, an order for specific performance under section 45 of the Court of Session Act 1988.
- (3) Proceedings under sub-paragraph (2) may be brought only by the Treasury.
- 15 (1) The FCA must send a copy of its annual accounts to the Comptroller and Auditor General as soon as is reasonably practicable.
- (2) The Comptroller and Auditor General must—
 - (a) examine, certify and report on accounts received under this paragraph, and
 - (b) send a copy of the certified accounts and the report to the Treasury.
- (3) The Treasury must lay the copy of the certified accounts and the report before Parliament.
- (4) Except as provided by paragraph 14(1), the FCA is exempt from the requirements of Part 16 of the Companies Act 2006 (audit), and its balance sheet must contain a statement to that effect.
- (5) In this paragraph “annual accounts” has the meaning given in section 471 of the Companies Act 2006.

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PART 2

STATUS

Status

- 16 In relation to any of its functions—
- (a) the FCA is not to be regarded as acting on behalf of the Crown, and
 - (b) its members, officers and staff are not to be regarded as Crown servants.

Exemption from requirement for use of “limited” in name of FCA

- 17 The FCA is to continue to be exempt from the requirements of the Companies Act 2006 relating to the use of “limited” as part of its name.
- 18 If the Secretary of State is satisfied that any action taken by the FCA makes it inappropriate for the exemption given by paragraph 17 to continue, the Secretary of State may, after consulting the Treasury, give a direction removing it.

PART 3

PENALTIES AND FEES

Penalties

- 19 In determining its policy with respect to the amounts of penalties to be imposed by it under this Act, the FCA must take no account of the expenses which it incurs, or expects to incur, in discharging its functions.
- 20 (1) The FCA must in respect of each of its financial years pay to the Treasury its penalty receipts after deducting its enforcement costs.
- (2) The FCA's “penalty receipts” in respect of a financial year are any amounts received by it during the year by way of penalties imposed under this Act.
- (3) The FCA's “enforcement costs” in respect of a financial year are the expenses incurred by it during the year in connection with—
- (a) the exercise, or consideration of the possible exercise, of any of its enforcement powers in particular cases, or
 - (b) the recovery of penalties imposed under this Act.
- (4) For this purpose the FCA's enforcement powers are—
- (a) its powers under any of the provisions mentioned in section 133(7A),
 - (b) its powers under section 56 (prohibition orders),
 - (c) its powers under Part 25 of this Act (injunctions and restitution),
 - (d) its powers under any other enactment specified by the Treasury by order,
 - (e) its powers in relation to the investigation of relevant offences, and
 - (f) its powers in England and Wales or Northern Ireland in relation to the prosecution of relevant offences.
- (5) “Relevant offences” are—
- (a) offences under FSMA 2000,

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- (b) offences under subordinate legislation made under that Act,
 - (c) offences falling within section 402(1) of that Act,
 - (d) offences under Part 7 of the Financial Services Act 2012, and
 - (e) any other offences specified by the Treasury by order.
- (6) The Treasury may give directions to the FCA as to how the FCA is to comply with its duty under sub-paragraph (1).
- (7) The directions may in particular—
 - (a) specify descriptions of expenditure that are, or are not, to be regarded as incurred in connection with either of the matters mentioned in sub-paragraph (3),
 - (b) relate to the calculation and timing of the deduction in respect of the FCA's enforcement costs, and
 - (c) specify the time when any payment is required to be made to the Treasury.
- (8) The directions may also require the FCA to provide the Treasury at specified times with specified information relating to—
 - (a) penalties that the FCA has imposed under this Act, or
 - (b) the FCA's enforcement costs.
- (9) The Treasury must pay into the Consolidated Fund any sums received by them under this paragraph.
- 21 (1) The FCA must prepare and operate a scheme (“the financial penalty scheme”) for ensuring that the amounts that, as a result of the deduction for which paragraph 20(1) provides, are retained by the FCA in respect of amounts paid to it by way of penalties imposed under this Act are applied for the benefit of regulated persons.
- (2) “Regulated persons” means—
 - (a) authorised persons,
 - (b) recognised investment exchanges,
 - (c) issuers of securities admitted to the official list, and
 - (d) issuers who have requested or approved the admission of financial instruments to trading on a regulated market.
- (3) The financial penalty scheme may, in particular, make different provision with respect to different classes of regulated person.
- (4) The financial penalty scheme must ensure that those who have become liable to pay a penalty to the FCA in any financial year of the FCA do not receive any benefit under the scheme in the following financial year.
- (5) Up-to-date details of the financial penalty scheme must be set out in a document (“the scheme details”).
- 22 (1) The scheme details must be published by the FCA in the way appearing to it to be best calculated to bring them to the attention of the public.
- (2) Before making the financial penalty scheme, the FCA must publish a draft of the proposed scheme in the way appearing to the FCA to be best calculated to bring it to the attention of the public.
- (3) The draft must be accompanied by notice that representations about the proposals may be made to the FCA within a specified time.

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- (4) Before making the scheme, the FCA must have regard to any representations made to it in accordance with sub-paragraph (3).
- (5) If the FCA makes the proposed scheme, it must publish an account, in general terms, of—
 - (a) the representations made to it in accordance with sub-paragraph (3), and
 - (b) its response to them.
- (6) If the scheme differs from the draft published under sub-paragraph (2) in a way which is, in the opinion of the FCA, significant, the FCA must (in addition to complying with sub-paragraph (5)) publish details of the difference.
- (7) The FCA must, without delay, give the Treasury a copy of any scheme details published by it.
- (8) The FCA may charge a reasonable fee for providing a person with a copy of—
 - (a) a draft published under sub-paragraph (2);
 - (b) scheme details.
- (9) Sub-paragraphs (2) to (6) and (8)(a) also apply to a proposal to alter or replace the financial penalty scheme.

Fees

- 23 (1) The FCA may make rules providing for the payment to it of such fees, in connection with the discharge of any of its qualifying functions, as it considers will (taking account of its expected income from fees and charges provided for by any other provision of this Act) enable it—
 - (a) to meet expenses incurred in carrying out its functions or for any incidental purpose,
 - (b) to repay the principal of, and pay any interest on, any relevant borrowing and to meet relevant commencement expenses, and
 - (c) to maintain adequate reserves.
- (2) The “qualifying functions” of the FCA are—
 - (a) its functions under or as a result of this Act or any of the other Acts mentioned in section 1A(6), and
 - (b) its functions under or as a result of a qualifying EU provision that is specified, or of a description specified, for the purposes of this sub-paragraph by the Treasury by order.
- (3) In sub-paragraph (1)(b)—

“relevant borrowing” means any money borrowed by the FCA which has been used for the purpose of meeting expenses incurred in relation to its assumption of functions under this Act, and

“relevant commencement expenses” means expenses incurred by the FCA—

 - (a) in preparation for the exercise of functions by the FCA under this Act, or
 - (b) for the purpose of facilitating the exercise by the FCA of those functions or otherwise in connection with their exercise by it.

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- (4) Neither section 1A(6)(d) nor the definition of “functions” in paragraph 1 applies for the purposes of sub-paragraph (2).
- (5) For the purposes of sub-paragraph (3) it is irrelevant when the borrowing of the money, the incurring of the expenses or the assumption of functions took place (and, in particular, it is irrelevant if any of those things were done at a time when the FCA was known as the Financial Services Authority).
- (6) In the case of rules made under Part 6 of this Act, the rules may, in particular, require the payment of fees in respect of—
 - (a) the continued inclusion of securities or persons in any list or register required to be kept by the FCA as a result of any provision made by or under that Part,
 - (b) access to any list or register within paragraph (a), and
 - (c) the continued admission of financial instruments to trading on a regulated market.
- (7) In fixing the amount of any fee which is to be payable to the FCA, no account is to be taken of any sums which the FCA receives, or expects to receive, by way of penalties imposed by it under this Act.
- (8) Any fee which is owed to the FCA under any provision made by or under this Act may be recovered as a debt due to the FCA.

Services for which fees may not be charged

- 24 The power conferred by paragraph 23 may not be used to require—
- (a) a fee to be paid in respect of the discharge of any of the FCA's functions under paragraph 13, 14, 19 or 20 of Schedule 3, or
 - (b) a fee to be paid by any person whose application for approval under section 59 has been granted.

PART 4

MISCELLANEOUS

Exemption from liability in damages

- 25 (1) None of the following is to be liable in damages for anything done or omitted in the discharge, or purported discharge, of the FCA's functions—
- (a) the FCA;
 - (b) any person (“P”) who is, or is acting as, a member, officer or member of staff of the FCA;
 - (c) any person who could be held vicariously liable for things done or omitted by P, but only in so far as the liability relates to P's conduct.
- (2) Anything done or omitted by a person mentioned in sub-paragraph (1)(a) or (b) while acting, or purporting to act, as a result of an appointment under any of sections 166 to 169 is to be taken for the purposes of sub-paragraph (1) to have been done or omitted in the discharge, or as the case may be purported discharge, of the FCA's functions.
- (3) Sub-paragraph (1) does not apply—
- (a) if the act or omission is shown to have been in bad faith, or

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- (b) so as to prevent an award of damages made in respect of an act or omission on the ground that the act or omission was unlawful as a result of section 6(1) of the Human Rights Act 1998.

Accredited financial investigators

- 26 For the purposes of this Act anything done by an accredited financial investigator within the meaning of the Proceeds of Crime Act 2002 who—
- (a) is, or is acting as, an officer of, or member of the staff of, the FCA, or
- (b) is appointed by the FCA under section 97, 167 or 168 to conduct an investigation,
- is to be treated as done in the exercise or discharge of a function of the FCA.

Amounts required by rules to be paid to the FCA

- 27 Any amount (other than a fee) which is required by rules to be paid to the FCA may be recovered as a debt due to the FCA.

SCHEDULE 1ZB

Section 2A

THE PRUDENTIAL REGULATION AUTHORITY

PART 1

GENERAL

Interpretation

- 1 In this Schedule—
- “the Bank” means the Bank of England;
- “functions”, in relation to the PRA, means functions conferred on the PRA by or under any provision of this Act (see section 2A(6) which affects the meaning of references to such functions).

Constitution

- 2 The constitution of the PRA must provide—
- (a) for the Governor of the Bank to be the chair of the PRA,
- (b) for the Bank's Deputy Governor for prudential regulation to be the chief executive of the PRA, and
- (c) for the PRA to have a governing body.
- 3 The governing body must consist of—
- (a) the chair,
- (b) the chief executive,
- (c) the Bank's Deputy Governor for financial stability,
- (d) the chief executive of the FCA, and
- (e) other members (in this Schedule referred to as “appointed members”).

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- 4 The validity of any act of the PRA is not affected—
- (a) by any vacancy resulting from a vacancy in the office of Governor of the Bank, Deputy Governor of the Bank for prudential regulation, Deputy Governor of the Bank for financial stability, or chief executive of the FCA, or
 - (b) by a defect in the appointment of a person—
 - (i) to any of those offices, or
 - (ii) as an appointed member.
- 5 The chief executive of the FCA must not take part in any discussion by or decision of the PRA which relates to—
- (a) the exercise of the PRA's functions in relation to a particular person, or
 - (b) a decision not to exercise those functions.

Appointed members of governing body

- 6 The appointed members must be appointed by the court of directors of the Bank with the approval of the Treasury.
- 7 Paragraphs 8 to 12 apply to the exercise by the court of directors of the Bank of its power to appoint appointed members.
- 8 The court of directors must secure that the majority of the members of the governing body of the PRA are non-executive members.
- 9 For the purposes of paragraph 8, and for the purposes of the PRA's duty in section 3C (duty to follow principles of good governance) none of the following is a non-executive member—
- (a) the members referred to in paragraph 3(a), (b) and c), and
 - (b) a member who is an employee of the PRA or of the Bank.
- 10 The court of directors must have regard to generally accepted principles of good practice relating to the making of public appointments.
- 11 (1) Before appointing a person as an appointed member, the court of directors must consider whether the person has any financial or other interests that could have a material effect on the extent of the functions as member that it would be proper for the person to discharge.
- (2) The terms on which an appointed member (“M”) is appointed must be such as—
- (a) to secure that M is not subject to direction by the Bank,
 - (b) to require M not to act in accordance with the directions of any other person, and
 - (c) to prohibit M from acquiring any financial or other interests that have a material effect on the extent of the functions as member that it would be proper for M to discharge.
- (3) If M is an employee of the PRA, M's interest as employee is to be disregarded for the purposes of sub-paragraphs (1) and (2)(c) and paragraph 14.
- 12 An employee of the FCA is disqualified for appointment as an appointed member.
- 13 The PRA must pay to the Bank the amount of any expenses incurred by the Bank in connection with the appointment of appointed members.

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- 14 The court of directors of the Bank may, with the approval of the Treasury, remove an appointed member from office—
- (a) on the grounds of incapacity or serious misconduct, or
 - (b) on the grounds that in all the circumstances the member's financial or other interests are such as to have a material effect on the extent of the functions as member that it would be proper for the person to discharge.

Terms of service

- 15 (1) The terms of service of the members of the governing body are to be determined by the Oversight Committee of the Bank.
- (2) The PRA must pay to the members of its governing body such remuneration as may be determined by that Committee.

Arrangements for discharging functions

- 16 (1) The PRA may make arrangements for any of its functions to be discharged by a committee, sub-committee, officer or member of staff of the PRA, but subject to the following provision.
- (2) In exercising its legislative functions or its functions under section 2E (strategy), the PRA must act through its governing body.
- (3) For that purpose, the following are the PRA's legislative functions—
- (a) making rules;
 - (b) issuing codes under section 64;
 - (c) issuing statements under—
 - (i) section 63C, 64, 69, 192H, 192N, 210 or 345D, or
 - (ii) section 80 of the Financial Services Act 2012;
 - (d) giving directions under section 316 or 318;
 - (e) issuing guidance under section 2I.

Records

- 17 The PRA must maintain satisfactory arrangements for—
- (a) recording decisions made in the exercise of its functions, and
 - (b) the safe-keeping of those records which it considers ought to be preserved.

Budget

- 18 (1) The PRA must, for each of its financial years, adopt an annual budget which has been approved by the Bank.
- (2) The budget must be adopted before the start of the financial year to which it relates, except that the first budget must be adopted as soon as reasonably practicable after the coming into force of this paragraph.
- (3) The PRA may, with the approval of the Bank, vary the budget for a financial year at any time after its adoption.
- (4) The PRA must publish each budget, and each variation of a budget, in such manner as the PRA thinks fit.

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Annual report

- 19 (1) At least once a year the PRA must make a report to the Treasury on—
- (a) the discharge of its functions,
 - (b) the extent to which, in its opinion, its objectives have been advanced,
 - (c) its consideration of the principles in section 3B and of the matter mentioned in section 2H(1)(b),
 - (d) how it has complied with section 3D,
 - (e) any direction given under section 3I or 3J during the period to which the report relates,
 - (f) how it has complied with section 354B(1) so far as relating to co-operation with persons outside the United Kingdom, and
 - (g) such other matters as the Treasury may from time to time direct.
- (2) Sub-paragraph (1) does not require the inclusion in the report of any information whose publication would in the opinion of the PRA be against the public interest.
- (3) The report must be accompanied by—
- (a) a statement of the remuneration of the members of the governing body of the PRA during the period to which the report relates, and
 - (b) such other reports or information, prepared by such persons, as the Treasury may from time to time direct.
- (4) The Treasury must lay before Parliament a copy of each report received by them under this paragraph.

Consultation about annual report

- 20 (1) In relation to each report made under paragraph 19, the PRA must publish at the same time as the report an invitation to members of the public to make representations to the PRA, within the 3 months beginning with the date of publication—
- (a) about the report,
 - (b) about the way in which the PRA has discharged, or failed to discharge, its functions during the period to which the report relates, and
 - (c) about the extent to which, in their opinion, the PRA's objectives have been advanced and the PRA has considered the regulatory principles in section 3B and the matter mentioned in section 2H(1)(b).
- (2) The invitation must be published in the way appearing to it to be best calculated to bring the invitation to the attention of the public.

Report on consultation

- 21 (1) The PRA must publish a report about its consultation in accordance with paragraph 20.
- (2) The report must contain an account, in general terms, of any representations received in pursuance of the invitation published under that paragraph.
- (3) The report must be published not later than 4 months after the date on which the report under paragraph 19 was published.

Status: Point in time view as at 19/02/2013.

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Accounts and audit

- 22 (1) The Treasury may—
- (a) require the PRA to comply with any provisions of the Companies Act 2006 about accounts and their audit which would not otherwise apply to it, or
 - (b) direct that any provision of that Act about accounts and their audit is to apply to the PRA with such modifications as are specified in the direction, whether or not the provision would otherwise apply to the PRA.
- (2) Compliance with any requirement under sub-paragraph (1)(a) or (b) is enforceable by injunction or, in Scotland, an order for specific performance under section 45 of the Court of Session Act 1988.
- (3) Proceedings under sub-paragraph (2) may be brought only by the Treasury.
- 23 (1) The PRA must send a copy of its annual accounts to the Comptroller and Auditor General as soon as is reasonably practicable.
- (2) The Comptroller and Auditor General must—
- (a) examine, certify and report on accounts received under this paragraph, and
 - (b) send a copy of the certified accounts and the report to the Treasury.
- (3) The Treasury must lay the copy of the certified accounts and the report before Parliament.
- (4) The PRA must send a copy of the certified accounts and the report to the Bank.
- (5) Except as provided by paragraph 22(1), the PRA is exempt from the requirements of Part 16 of the Companies Act 2006 (audit), and its balance sheet must contain a statement to that effect.
- (6) In this paragraph “annual accounts” has the meaning given in section 471 of the Companies Act 2006.

PART 2

STATUS

Status

- 24 In relation to any of its functions—
- (a) the PRA is not to be regarded as acting on behalf of the Crown, and
 - (b) its members, officers and staff are not to be regarded as Crown servants.
- Exemption from requirement for use of “limited” in name of PRA*
- 25 The PRA is to be exempt from the requirements of the Companies Act 2006 relating to the use of “limited” as part of its name.
- 26 If the Secretary of State is satisfied that any action taken by the PRA makes it inappropriate for the exemption given by paragraph 25 to continue, the Secretary of State may, after consulting the Treasury, give a direction removing it.

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PART 3

PENALTIES AND FEES

Penalties

- 27 In determining its policy with respect to the amounts of penalties to be imposed by it under this Act, the PRA must take no account of the expenses which it incurs, or expects to incur, in discharging its functions.
- 28 (1) The PRA must in respect of each of its financial years pay to the Treasury its penalty receipts after deducting its enforcement costs.
- (2) The PRA's "penalty receipts" in respect of a financial year are any amounts received by it during the year by way of penalties imposed under this Act.
- (3) The PRA's "enforcement costs" in respect of a financial year are the expenses incurred by it during the year in connection with—
- (a) the exercise, or consideration of the possible exercise, of any of its enforcement powers in particular cases, or
 - (b) the recovery of penalties imposed under this Act.
- (4) For this purpose the PRA's enforcement powers are—
- (a) its powers under any of the provisions mentioned in section 133(7A),
 - (b) its powers under section 56 (prohibition orders),
 - (c) its powers under Part 25 of this Act (injunctions and restitution),
 - (d) its powers under any other enactment specified by the Treasury by order,
 - (e) its powers in relation to the investigation of relevant offences, and
 - (f) its powers in England and Wales or Northern Ireland in relation to the prosecution of relevant offences.
- (5) "Relevant offences" are—
- (a) offences under FSMA 2000,
 - (b) offences under subordinate legislation made under that Act, and
 - (c) any other offences specified by the Treasury by order.
- (6) The Treasury may give directions to the PRA as to how the PRA is to comply with its duty under sub-paragraph (1).
- (7) The directions may in particular—
- (a) specify descriptions of expenditure that are, or are not, to be regarded as incurred in connection with either of the matters mentioned in sub-paragraph (3),
 - (b) relate to the calculation and timing of the deduction in respect of the PRA's enforcement costs, and
 - (c) specify the time when any payment is required to be made to the Treasury.
- (8) The directions may also require the PRA to provide the Treasury at specified times with information relating to—
- (a) penalties that the PRA has imposed under FSMA 2000, or
 - (b) the PRA's enforcement costs.

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- (9) The Treasury must pay into the Consolidated Fund any sums received by them under this paragraph.
- 29 (1) The PRA must prepare and operate a scheme (“the financial penalty scheme”) for ensuring that the amounts that, as a result of the deduction for which paragraph 28(1) provides, are retained by the PRA in respect of amounts paid to it by way of penalties imposed under this Act are applied for the benefit of PRA-authorised persons.
- (2) The financial penalty scheme may, in particular, make different provision with respect to different classes of PRA-authorised person.
- (3) The financial penalty scheme must ensure that those who have become liable to pay a penalty to the PRA in any financial year of the PRA do not receive any benefit under the scheme in the following financial year.
- (4) Up-to-date details of the financial penalty scheme must be set out in a document (“the scheme details”).
- 30 (1) The scheme details must be published by the PRA in the way appearing to it to be best calculated to bring them to the attention of the public.
- (2) Before making the financial penalty scheme, the PRA must publish a draft of the proposed scheme in the way appearing to the PRA to be best calculated to bring it to the attention of the public.
- (3) The draft must be accompanied by notice that representations about the proposals may be made to the PRA within a specified time.
- (4) Before making the scheme, the PRA must have regard to any representations made to it in accordance with sub-paragraph (3).
- (5) If the PRA makes the proposed scheme, it must publish an account, in general terms, of—
- (a) the representations made to it in accordance with sub-paragraph (3), and
 - (b) its response to them.
- (6) If the scheme differs from the draft published under sub-paragraph (2) in a way which is, in the opinion of the PRA, significant, the PRA must (in addition to complying with sub-paragraph (5)) publish details of the difference.
- (7) The PRA must, without delay, give the Treasury a copy of any scheme details published by it.
- (8) The PRA may charge a reasonable fee for providing a person with a copy of—
- (a) a draft published under sub-paragraph (2);
 - (b) scheme details.
- (9) Sub-paragraphs (2) to (6) and (8)(a) also apply to a proposal to alter or replace the financial penalty scheme.

Fees

- 31 (1) The PRA may make rules providing for the payment to it of such fees, in connection with the discharge of any of its qualifying functions, as it considers will (taking account of its expected income from fees and charges provided for by any other provision of this Act) enable it—

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- (a) to meet expenses incurred in carrying out its functions or for any incidental purpose,
 - (b) to repay the principal of, and pay any interest on, any relevant borrowing and to meet relevant commencement expenses, and
 - (c) to maintain adequate reserves.
- (2) The “qualifying functions” of the PRA are—
- (a) its functions under or as a result of this Act or any of the other Acts mentioned in section 2A(6), and
 - (b) its functions under or as a result of a qualifying EU provision that is specified, or of a description specified, for the purposes of this sub-paragraph by the Treasury by order.
- (3) In sub-paragraph (1)(b)—
- “relevant borrowing” means any money borrowed by the PRA which has been used for the purpose of meeting expenses incurred in relation to its assumption of functions under this Act, and
- “relevant commencement expenses” means expenses incurred by the PRA, the FCA or the Bank—
- (a) in preparation for the exercise of functions by the PRA under this Act, or
 - (b) for the purpose of facilitating the exercise by the PRA of those functions or otherwise in connection with their exercise by it.
- (4) Neither section 2A(6)(d) nor the definition of “functions” in paragraph 1 applies for the purposes of sub-paragraph (2).
- (5) For the purposes of sub-paragraph (3) it is irrelevant when the borrowing of the money, the incurring of the expenses or the assumption of functions took place (and, in particular, it is irrelevant if expenses were incurred by the FCA at a time when it was known as the Financial Services Authority).
- (6) In fixing the amount of any fee which is to be payable to the PRA, no account is to be taken of any sums which the PRA receives, or expects to receive, by way of penalties imposed by it under this Act.
- (7) Any fee which is owed to the PRA under any provision made by or under this Act may be recovered as a debt due to the PRA.

Services for which fees may not be charged

- 32 The power conferred by paragraph 31 may not be used to require—
- (a) a fee to be paid in respect of the discharge of any of the PRA's functions under paragraph 13, 14, 19 or 20 of Schedule 3, or
 - (b) a fee to be paid by any person whose application for approval under section 59 has been granted.

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PART 4

MISCELLANEOUS

Exemption from liability in damages

- 33 (1) None of the following is to be liable in damages for anything done or omitted in the discharge, or purported discharge, of the PRA's functions—
- (a) the PRA;
 - (b) any person (“P”) who is, or is acting as, a member, officer or member of staff of the PRA;
 - (c) any person who could be held vicariously liable for things done or omitted by P, but only in so far as the liability relates to P's conduct.
- (2) Anything done or omitted by a person mentioned in sub-paragraph (1)(a) or (b) while acting, or purporting to act, as a result of an appointment under any of sections 97, 166 to 169 and 284 is to be taken for the purposes of sub-paragraph (1) to have been done or omitted in the discharge, or as the case may be purported discharge, of the PRA's functions.
- (3) Sub-paragraph (1) does not apply—
- (a) if the act or omission is shown to have been in bad faith, or
 - (b) so as to prevent an award of damages made in respect of an act or omission on the ground that the act or omission was unlawful as a result of section 6(1) of the Human Rights Act 1998.

Accredited financial investigators

- 34 For the purposes of this Act anything done by an accredited financial investigator within the meaning of the Proceeds of Crime Act 2002 who—
- (a) is, or is acting as, an officer of, or member of the staff of, the PRA, or
 - (b) is appointed by the PRA under section 167 or 168 to conduct an investigation,
- is to be treated as done in the exercise or discharge of a function of the PRA.

Amounts required by rules to be paid to the PRA

- 35 Any amount (other than a fee) which is required by rules to be paid to the PRA may be recovered as a debt due to the PRA.]

[^{F2}SCHEDULE 1A

[^{F3}Section 3S]

FURTHER PROVISION ABOUT THE CONSUMER FINANCIAL EDUCATION BODY

Textual Amendments

- F2** Sch. 1A inserted (8.4.2010 for certain purposes and 1.4.2011 otherwise) by [Financial Services Act 2010](#) (c. 28), ss. 2(6), 26(1)(b)(k), [Sch. 1 para. 1](#) (with [Sch. 1 para. 2](#)); S.I. 2010/2480, [art. 3](#)

Status: Point in time view as at 19/02/2013.

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- F3** Words in Sch. 1A substituted (24.1.2013 for specified purposes) by Financial Services Act 2012 (c. 21), s. 122(3), Sch. 15 para. 16 (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3

PART 1

GENERAL

Ensuring exercise of consumer financial education function etc

- 1 (1) The [F⁴FCA] must take such steps as are necessary to ensure that the consumer financial education body is, at all times, capable of exercising the consumer financial education function.
- (2) In complying with the duty under sub-paragraph (1) the [F⁴FCA] may, in particular, provide services to that body which the [F⁴FCA] considers would facilitate the exercise of that function.

Textual Amendments

- F4** Word in Sch. 1A para. 1 substituted (24.1.2013 for specified purposes) by Financial Services Act 2012 (c. 21), s. 122(3), Sch. 15 para. 2 (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3

Constitution

- 2 (1) The constitution of the consumer financial education body must provide for it to have—
- (a) a chair;
 - (b) a chief executive; and
 - (c) a board (which must include the chair and chief executive) whose members are the body's directors.
- (2) The members of the board must be persons appointed, and liable to removal from office, by the [F⁵FCA] (acting, in the case of the chair or chief executive, with the approval of the Treasury).
- (3) But the terms of appointment of members of the board (and in particular those governing removal from office) must be such as to secure their independence from the [F⁵FCA] in the exercise of the consumer financial education function.
- (4) The [F⁵FCA] may appoint a person to be a member of the board only if it is satisfied that the person has knowledge or experience which is likely to be relevant to the exercise by the body of the consumer financial education function.

Textual Amendments

- F5** Word in Sch. 1A para. 2 substituted (24.1.2013 for specified purposes) by Financial Services Act 2012 (c. 21), s. 122(3), Sch. 15 para. 3 (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3

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Status

- 3 (1) The consumer financial education body is not to be regarded as exercising functions on behalf of the Crown.
- (2) The body's ^{F6}... officers and staff are not to be regarded as Crown servants.

Textual Amendments

F6 Words in *Sch. 1A para. 3(2)* omitted (24.1.2013 for specified purposes) by virtue of *Financial Services Act 2012 (c. 21)*, s. 122(3), **Sch. 15 para. 4** (with *Sch. 20*); S.I. 2013/113, art. 2(1)(c), *Sch. Pt. 3*

Discharge of function by others

- 4 (1) The consumer financial education body may discharge the consumer financial education function by—
- (a) supporting the doing by other persons of anything that it considers would enhance the understanding, knowledge or ability mentioned in [^{F7}section 3S(3)]; or
- (b) arranging for other persons to do anything that it considers would enhance that understanding, knowledge or ability.
- (2) The reference in sub-paragraph (1)(a) to support includes financial support.
- (3) The reference in sub-paragraph (1)(b) to arrangements includes arrangements under which payments are made to the other persons.
- (4) Nothing in this paragraph is to limit other ways in which the consumer financial education body may discharge the consumer financial education function.

Textual Amendments

F7 Words in *Sch. 1A para. 4(1)(a)* substituted (24.1.2013 for specified purposes) by *Financial Services Act 2012 (c. 21)*, s. 122(3), **Sch. 15 para. 5** (with *Sch. 20*); S.I. 2013/113, art. 2(1)(c), *Sch. Pt. 3*

- 5 (1) This paragraph applies if the consumer financial education body arranges for any person (including one established by or under an enactment) to do anything that it considers would enhance the understanding, knowledge or ability mentioned in [^{F8}section 3S(3)].
- (2) The person may do that thing despite any limitation on its capacity (whether under a rule of law or otherwise) which, but for this paragraph, would have applied.

Textual Amendments

F8 Words in *Sch. 1A para. 5(1)* substituted (24.1.2013 for specified purposes) by *Financial Services Act 2012 (c. 21)*, s. 122(3), **Sch. 15 para. 6** (with *Sch. 20*); S.I. 2013/113, art. 2(1)(c), *Sch. Pt. 3*

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[^{F9}Discharge of functions: considerations

Textual Amendments

F9 Sch. 1A paras. 6-6B substituted for Sch. 1A para. 6 (24.1.2013 for specified purposes) by Financial Services Act 2012 (c. 21), s. 122(3), Sch. 15 para. 7 (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3

- 6 In discharging the consumer financial education function the consumer financial education body must have regard to the duty of the FCA to advance its operational objectives.]

[^{F9}Relationship with the FCA

- 6A (1) The consumer financial education body and the FCA must each take such steps as it considers appropriate to co-operate with the other in the exercise of their functions under this Act.
- (2) The consumer financial education body and the FCA must prepare and maintain a memorandum describing how they intend to comply with sub-paragraph (1).
- (3) The consumer financial education body must ensure that the memorandum as currently in force is published in the way appearing to it to be best calculated to bring it to the attention of the public.
- 6B If the consumer financial education body considers that it has information that, in its opinion, would or might be of assistance to the FCA in advancing one or more of the FCA's operational objectives, it must disclose that information to the FCA.]

Budget

- 7 (1) The consumer financial education body must adopt an annual budget which has been approved by the [^{F10}FCA].
- (2) The budget must be adopted—
- (a) in the case of the body's first financial year, as soon as reasonably practicable after the body is established; and
- (b) in the case of each subsequent financial year, before the start of the financial year.
- (3) The consumer financial education body may, with the approval of the [^{F10}FCA], vary the budget for a financial year at any time after its adoption.
- (4) Before adopting or varying a budget, the consumer financial education body must consult—
- (a) the Treasury;
- (b) the Secretary of State;
- (c) the Office of Fair Trading; and
- (d) such other persons (if any) as the body considers appropriate.
- (5) The consumer financial education body must publish each budget, and each variation of a budget, in the way it considers appropriate.

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Textual Amendments

F10 Word in Sch. 1A para. 7 substituted (24.1.2013 for specified purposes) by Financial Services Act 2012 (c. 21), s. 122(3), Sch. 15 para. 8 (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3

Annual plan

- 8 (1) The consumer financial education body must in respect of each of its financial years prepare an annual plan which has been approved by the ^{F11}FCA].
- (2) The plan must be prepared—
- (a) in the case of the body's first financial year, as soon as reasonably practicable after the body is established; and
 - (b) in the case of each subsequent financial year, before the start of the financial year.
- (3) The consumer financial education body may, with the approval of the ^{F11}FCA], vary the plan in respect of a financial year at any time after its preparation.
- (4) An annual plan in respect of a financial year must set out—
- (a) the objectives of the consumer financial education body for the year;
 - (b) how the extent to which each of those objectives is met is to be determined;
 - (c) the relative priorities of each of those objectives; and
 - (d) how its resources are to be allocated among the activities to be carried on in connection with the discharge of the consumer financial education function.
- (5) In sub-paragraph (4) references to objectives for a financial year include objectives for a longer period that includes that year.
- (6) Before preparing or varying an annual plan, the consumer financial education body must consult—
- (a) the Treasury;
 - (b) the Secretary of State;
 - (c) the Office of Fair Trading;
 - (d) the Practitioner Panel;
 - [the Smaller Business Practitioner Panel;]
 - ^{F12}(da) the Consumer Panel; and
 - (f) such other persons (if any) as the body considers appropriate.
- (7) The consumer financial education body must publish each annual plan, and each variation of an annual plan, in the way it considers appropriate.

Textual Amendments

F11 Word in Sch. 1A para. 8 substituted (24.1.2013 for specified purposes) by Financial Services Act 2012 (c. 21), s. 122(3), Sch. 15 para. 9(a) (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3

F12 Sch. 1A para. 8(6)(da) inserted (24.1.2013 for specified purposes) by Financial Services Act 2012 (c. 21), s. 122(3), Sch. 15 para. 9(b) (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3

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Annual reports

- 9 (1) At least once a year, the consumer financial education body must make a report to the [F13FCA] in relation to the discharge of the consumer financial education function.
- (2) The report must—
- (a) set out the extent to which the body has met its objectives and priorities for the period covered by the report;
 - (b) include a copy of its latest accounts; and
 - (c) comply with any requirements specified in rules made by the [F13FCA].
- (3) The consumer financial education body must publish each report in the way it considers appropriate.
- (4) Nothing in this paragraph requires the consumer financial education body to make a report at any time in the period of 12 months beginning with its establishment.
- [The Treasury may—
- ^{F14}(5) (a) require the consumer financial education body to comply with any provision of the Companies Act 2006 about accounts and their audit which would not otherwise apply to it, or
- (b) direct that any provision of that Act about accounts and their audit is to apply to the consumer financial education body with such modifications as are specified in the direction, whether or not the provision would otherwise apply to it.
- (6) Compliance with any requirement under sub-paragraph (5)(a) or (b) is enforceable by injunction or, in Scotland, an order for specific performance under section 45 of the Court of Session Act 1988.
- (7) Proceedings under sub-paragraph (6) may be brought only by the Treasury.]

Textual Amendments

- F13** Word in *Sch. 1A para. 9* substituted (24.1.2013 for specified purposes) by *Financial Services Act 2012 (c. 21)*, s. 122(3), **Sch. 15 para. 10(a)** (with *Sch. 20*); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F14** *Sch. 1A para. 9(5)-(7)* inserted (24.1.2013 for specified purposes) by *Financial Services Act 2012 (c. 21)*, s. 122(3), **Sch. 15 para. 10(b)** (with *Sch. 20*); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3

[F15 Audit of accounts

Textual Amendments

- F15** *Sch. 1A para. 9A* and cross-heading inserted (24.1.2013 for specified purposes) by *Financial Services Act 2012 (c. 21)*, s. 122(3), **Sch. 15 para. 11** (with *Sch. 20*); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3

- 9A (1) The consumer financial education body must send a copy of its annual accounts to the Comptroller and Auditor General and the Treasury as soon as is reasonably practicable.
- (2) The Comptroller and Auditor General must—
- (a) examine, certify and report on accounts received under this paragraph, and

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- (b) send a copy of the certified accounts and the report to the Treasury.
- (3) The Treasury must lay the copy of the certified accounts and the report before Parliament.
- (4) The consumer financial education body must send a copy of the certified accounts and the report to the FCA.
- (5) Except as provided for by paragraph 9(5), the consumer financial education body is exempt from the requirements of Part 16 of the Companies Act 2006 (audit) and its balance sheet must contain a statement to that effect.
- (6) In this paragraph “annual accounts” has the meaning given by section 471 of the Companies Act 2006.]

Exemption from consumer credit rules

- 10 (1) A licence is not required under Part 3 of the Consumer Credit Act 1974 in respect of anything done by—
- (a) the consumer financial education body in discharging the consumer financial education function; or
 - (b) a person acting on its behalf in accordance with arrangements made under paragraph 4(1)(b).
- (2) Nothing in Part 4 or 10 of that Act (seeking business or ancillary credit business) is to apply in relation to anything done by—
- (a) the consumer financial education body in discharging the consumer financial education function; or
 - (b) a person acting on its behalf in accordance with arrangements made under paragraph 4(1)(b).

PART 2

FUNDING

Meaning of “the relevant costs”

- 11 (1) In this Part of this Schedule “the relevant costs” means—
- (a) the expenses incurred by the [F16FCA] in establishing the consumer financial education body; and
 - (b) the expenses incurred, or expected to be incurred, by the consumer financial education body in connection with the discharge of the consumer financial education function.
- (2) For the purposes of sub-paragraph (1)(a) it does not matter when the expenses were incurred.

Textual Amendments

F16 Word in *Sch. 1A para. 11* substituted (24.1.2013 for specified purposes) by *Financial Services Act 2012* (c. 21), s. 122(3), *Sch. 15 para. 12* (with *Sch. 20*); S.I. 2013/113, art. 2(1)(c), *Sch. Pt. 3*

Status: Point in time view as at 19/02/2013.

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*Funding of the relevant costs by authorised persons ^{F17},
payment service providers or electronic money issuers*

Textual Amendments

F17 Words in cross-heading preceding Sch. 1A para. 12 substituted (9.2.2011 for certain purposes, otherwise 30.4.2011) by [The Electronic Money Regulations 2011 \(S.I. 2011/99\)](#), regs. 1(2)(a)(xv)(b), 79, [Sch. 4 para. 2\(6\)\(a\)](#) (with art. 3)

- 12 (1) For the purpose of meeting a proportion of the relevant costs the ^{F18}FCA] may makes rules requiring—
- (a) authorised persons ^{F19}, electronic money issuers] or payment service providers, or
 - (b) any specified class of authorised person ^{F20}, electronic money issuer] or payment service provider,
- to pay to the ^{F18}FCA] specified amounts or amounts calculated in a specified way.
- (2) Before making the rules the ^{F18}FCA] must have regard to other anticipated sources of funding of the relevant costs.
- (3) The amounts to be paid under the rules may include a component to cover the expenses of the ^{F18}FCA] in collecting the payments (“collection costs”).
- (4) The ^{F18}FCA] must pay to the consumer financial education body the amounts that it receives under the rules apart from amounts in respect of its collection costs (which it may keep).
- [“Electronic money issuer” means a person who is an electronic money issuer for the ^{F21}(4A) purposes of the Electronic Money Regulations 2011 as a result of falling within any of paragraphs (a) to (e) and (h) to (j) of the definition in regulation 2(1).]
- (5) “Payment service provider” means a person who is a payment service provider for the purposes of the Payment Services Regulations 2009 as a result of falling within any of paragraphs (a) to (f) of the definition in regulation 2(1).
- (6) “Specified” means specified in the rules.

Textual Amendments

- F18** Word in [Sch. 1A para. 12](#) substituted (24.1.2013 for specified purposes) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 15 para. 13](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), [Sch. Pt. 3](#)
- F19** Words in [Sch. 1A para. 12\(1\)\(a\)](#) inserted (9.2.2011 for certain purposes, otherwise 30.4.2011) by [The Electronic Money Regulations 2011 \(S.I. 2011/99\)](#), regs. 1(2)(a)(xv)(b), 79, [Sch. 4 para. 2\(6\)\(b\)](#) (with art. 3)
- F20** Words in [Sch. 1A para. 12\(1\)\(b\)](#) inserted (9.2.2011 for certain purposes, otherwise 30.4.2011) by [The Electronic Money Regulations 2011 \(S.I. 2011/99\)](#), regs. 1(2)(a)(xv)(b), 79, [Sch. 4 para. 2\(6\)\(c\)](#) (with art. 3)
- F21** [Sch. 1A para. 12\(4A\)](#) inserted (9.2.2011 for certain purposes, otherwise 30.4.2011) by [The Electronic Money Regulations 2011 \(S.I. 2011/99\)](#), regs. 1(2)(a)(xv)(b), 79, [Sch. 4 para. 2\(6\)\(d\)](#) (with art. 3)

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Funding of the relevant costs by consumer credit licensees etc

- 13 (1) For the purpose of meeting a proportion of the relevant costs the OFT may, with the approval of the Secretary of State and the Treasury, from time to time require—
- (a) qualifying consumer credit licensees or applicants, or
 - (b) any specified class of qualifying consumer credit licensee or applicant,
- to pay to the OFT specified amounts or amounts calculated in a specified way.
- (2) The requirements are to be imposed by general notice.
- (3) “Qualifying consumer credit licensee or applicant” means—
- (a) a licensee under a licence which covers to any extent the carrying on of a type of business specified in an order under section 226A(2)(e); or
 - (b) an applicant for a licence, or for the renewal of a licence, which (if granted or renewed) will fall within paragraph (a) above.
- (4) Before giving a general notice the OFT must have regard to other anticipated sources of funding of the relevant costs.
- (5) Before giving a general notice, the OFT must consult—
- (a) the ^{F22}FCA;
 - (b) the consumer financial education body; and
 - (c) such other persons (if any) as the OFT considers appropriate.
- (6) The amounts to be paid under a general notice may include a component to cover the expenses of the OFT in collecting the payments (“collection costs”).
- (7) The OFT must pay to the consumer financial education body the amounts that it receives under a general notice apart from amounts in respect of its collection costs (which it may keep).
- (8) A general notice may—
- (a) specify the time at or by which the payments are to be made;
 - (b) provide for exceptions from requirements imposed on a class of qualifying consumer credit licensee or applicant;
 - (c) impose different requirements on different classes of qualifying consumer credit licensee or applicant;
 - (d) make provision for refunds in specified circumstances.
- (9) Expressions which are used in sub-paragraph (3) and in the Consumer Credit Act 1974 have the same meaning in that sub-paragraph as in that Act.
- (10) In this paragraph—
- “general notice” means a notice published by the OFT at a time and in a manner appearing to it suitable for securing that the notice is seen within a reasonable time by persons likely to be affected by it;
- “the OFT” means the Office of Fair Trading;
- “specified” means specified in the general notice.

Textual Amendments

F22 Word in *Sch. 1A para. 13(5)(a)* substituted (24.1.2013 for specified purposes) by *Financial Services Act 2012 (c. 21), s. 122(3), Sch. 15 para. 14* (with *Sch. 20*); *S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3*

Status: Point in time view as at 19/02/2013.

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Funding by grants or loans etc made by Treasury or Secretary of State

- 14 (1) The Treasury or the Secretary of State may—
- (a) make grants or loans, or
 - (b) provide any other form of financial assistance,
- to the consumer financial education body for the purpose of meeting any expenses incurred by it in connection with the discharge of the consumer financial education function.
- (2) Any grant or loan or other form of financial assistance under this paragraph may be made or provided subject to such terms as the Treasury or the Secretary of State consider appropriate.
- (3) Any expenses incurred by the Treasury or the Secretary of State under this paragraph are to be met out of money provided by Parliament.

PART 3

REVIEWS

Reviews of economy etc of the consumer financial education body

- 15 (1) The [F23FCA] may appoint an independent person to conduct a review of the economy, efficiency and effectiveness with which the consumer financial education body has used its resources in discharging the consumer financial education function.
- (2) The [F23FCA] must consult the Treasury before acting under this paragraph.
- (3) A review is not to be concerned with the merits of the body's general policy or principles in discharging the consumer financial education function.
- (4) On completion of a review, the person conducting it must make a written report to the [F23FCA]—
- (a) setting out the result of the review; and
 - (b) making such recommendations (if any) as the person considers appropriate.
- (5) The [F23FCA] must publish a copy of the report in the way it considers appropriate.
- (6) Any expenses reasonably incurred in the conduct of the review are to be met by the [F23FCA].
- (7) “Independent” means appearing to the [F23FCA] to be independent of the consumer financial education body.

Textual Amendments

- F23** Word in *Sch. 1A para. 15* substituted (24.1.2013 for specified purposes) by *Financial Services Act 2012* (c. 21), s. 122(3), *Sch. 15 para. 15* (with *Sch. 20*); S.I. 2013/113, art. 2(1)(c), *Sch. Pt. 3*

Right to obtain documents and information

- 16 (1) A person conducting a review under paragraph 15—

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- (a) has a right of access at any reasonable time to all such documents as the person may reasonably require for the purposes of the review; and
 - (b) may require any person holding or accountable for any such document to provide such information and explanation as are reasonably required for those purposes.
- (2) This paragraph applies only to documents in the custody or under the control of the consumer financial education body.
- (3) An obligation imposed on a person as a result of this paragraph is enforceable by an injunction or, in Scotland, by an order for specific performance under section 45 of the Court of Session Act 1988.]

SCHEDULE 2

Section 22(2).

REGULATED ACTIVITIES

Modifications etc. (not altering text)

- C1** Sch. 2 applied by 1974 c. 39, s. 16(6E)(c) (as inserted (1.9.2002) by S.I. 2001/544, arts. 2(1)(2)(b), 90(2); S.I. 2001/3538, art. 2(1))

PART I

[^{F24}REGULATED ACTIVITIES: GENERAL]

Textual Amendments

- F24** Sch. 2 Pt. 1 heading substituted (12.3.2009) by Dormant Bank and Building Society Accounts Act 2008 (c. 31), ss. 15, 31(1), Sch. 2 para. 1(2); S.I. 2009/490, art. 2 (with art. 3)

General

- 1 The matters with respect to which provision may be made under section 22(1) in respect of activities include, in particular, those described in general terms in this Part of this Schedule.

Dealing in investments

- 2 (1) Buying, selling, subscribing for or underwriting investments or offering or agreeing to do so, either as a principal or as an agent.
- (2) In the case of an investment which is a contract of insurance, that includes carrying out the contract.

Arranging deals in investments

- 3 Making, or offering or agreeing to make—

Status: Point in time view as at 19/02/2013.

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- (a) arrangements with a view to another person buying, selling, subscribing for or underwriting a particular investment;
- (b) arrangements with a view to a person who participates in the arrangements buying, selling, subscribing for or underwriting investments.

Deposit taking

- 4 Accepting deposits.

Safekeeping and administration of assets

- 5 (1) Safeguarding and administering assets belonging to another which consist of or include investments or offering or agreeing to do so.
- (2) Arranging for the safeguarding and administration of assets belonging to another, or offering or agreeing to do so.

Managing investments

- 6 Managing, or offering or agreeing to manage, assets belonging to another person where—
- (a) the assets consist of or include investments; or
 - (b) the arrangements for their management are such that the assets may consist of or include investments at the discretion of the person managing or offering or agreeing to manage them.

Investment advice

- 7 Giving or offering or agreeing to give advice to persons on—
- (a) buying, selling, subscribing for or underwriting an investment; or
 - (b) exercising any right conferred by an investment to acquire, dispose of, underwrite or convert an investment.

Establishing collective investment schemes

- 8 Establishing, operating or winding up a collective investment scheme, including acting as—
- (a) trustee of a unit trust scheme;
 - (b) depositary of a collective investment scheme other than a unit trust scheme; or
 - (c) sole director of a body incorporated by virtue of regulations under section 262.

Using computer-based systems for giving investment instructions

- 9 (1) Sending on behalf of another person instructions relating to an investment by means of a computer-based system which enables investments to be transferred without a written instrument.
- (2) Offering or agreeing to send such instructions by such means on behalf of another person.

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- (3) Causing such instructions to be sent by such means on behalf of another person.
- (4) Offering or agreeing to cause such instructions to be sent by such means on behalf of another person.

[^{F25}PART 1A

REGULATED ACTIVITIES: RECLAIM FUNDS

Textual Amendments

F25 Sch. 2 Pt. 1A inserted (12.3.2009) by [Dormant Bank and Building Society Accounts Act 2008 \(c. 31\)](#), ss. 15, 31(1), [Sch. 2 para. 1\(3\)](#); S.I. 2009/490, [art. 2](#) (with [art. 3](#))

Activities of reclaim funds

- 9A (1) The matters with respect to which provision may be made under section 22(1) in respect of activities include, in particular, any of the activities of a reclaim fund.
- (2) “Reclaim fund” has the meaning given by section 5(1) of the Dormant Bank and Building Society Accounts Act 2008.]

PART II

INVESTMENTS

General

- 10 The matters with respect to which provision may be made under section 22(1) in respect of investments include, in particular, those described in general terms in this Part of this Schedule.

Securities

- 11 (1) Shares or stock in the share capital of a company.
- (2) “Company” includes—
 - (a) any body corporate (wherever incorporated), and
 - (b) any unincorporated body constituted under the law of a country or territory outside the United Kingdom,
 other than an open-ended investment company.

Instruments creating or acknowledging indebtedness

- 12 Any of the following—
 - (a) debentures;
 - (b) debenture stock;
 - (c) loan stock;
 - (d) bonds;

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- (e) certificates of deposit;
- (f) any other instruments creating or acknowledging a present or future indebtedness.

Modifications etc. (not altering text)

- C2** Sch. 2 para. 12(f) extended (24.6.2003) by [The Uncertificated Securities \(Amendment\) \(Eligible Debt Securities\) Regulations 2003 \(S.I. 2003/1633\)](#), regs. 1(1), 15, **Sch. 2 para. 8(2)(h)**

Government and public securities

- 13 (1) Loan stock, bonds and other instruments—
- (a) creating or acknowledging indebtedness; and
 - (b) issued by or on behalf of a government, local authority or public authority.
- (2) “Government, local authority or public authority” means—
- (a) the government of the United Kingdom, of Northern Ireland, or of any country or territory outside the United Kingdom;
 - (b) a local authority in the United Kingdom or elsewhere;
 - (c) any international organisation the members of which include the United Kingdom or another member State.

Instruments giving entitlement to investments

- 14 (1) Warrants or other instruments entitling the holder to subscribe for any investment.
- (2) It is immaterial whether the investment is in existence or identifiable.

Certificates representing securities

- 15 Certificates or other instruments which confer contractual or property rights—
- (a) in respect of any investment held by someone other than the person on whom the rights are conferred by the certificate or other instrument; and
 - (b) the transfer of which may be effected without requiring the consent of that person.

Units in collective investment schemes

- 16 (1) Shares in or securities of an open-ended investment company.
- (2) Any right to participate in a collective investment scheme.

Options

- 17 Options to acquire or dispose of property.

Futures

- 18 Rights under a contract for the sale of a commodity or property of any other description under which delivery is to be made at a future date.

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Contracts for differences

- 19 Rights under—
- (a) a contract for differences; or
 - (b) any other contract the purpose or pretended purpose of which is to secure a profit or avoid a loss by reference to fluctuations in—
 - (i) the value or price of property of any description; or
 - (ii) an index or other factor designated for that purpose in the contract.

Contracts of insurance

- 20 Rights under a contract of insurance, including rights under contracts falling within head C of Schedule 2 to the ^{M1}Friendly Societies Act 1992.

Marginal Citations

M1 1992 c. 40.

Participation in Lloyd's syndicates

- 21 (1) The underwriting capacity of a Lloyd's syndicate.
- (2) A person's membership (or prospective membership) of a Lloyd's syndicate.

Deposits

- 22 Rights under any contract under which a sum of money (whether or not denominated in a currency) is paid on terms under which it will be repaid, with or without interest or a premium, and either on demand or at a time or in circumstances agreed by or on behalf of the person making the payment and the person receiving it.

[^{F26}Loans and other forms of credit]

Textual Amendments

F26 Sch. 2 para. 23 and crossheading substituted (24.1.2013) by [Financial Services Act 2012 \(c. 21\), ss. 7\(3\), 122\(3\)](#) (with [Sch. 20](#)); [S.I. 2013/113, art. 2\(1\)\(a\)](#), [Sch. Pt. 1](#)

- [^{F26}23 (1) Rights under any contract under which one person provides another with credit.
- (2) "Credit" includes any cash loan or other financial accommodation.
 - (3) "Cash" includes money in any form.
 - (4) It is immaterial for the purposes of sub-paragraph (1) whether or not the obligation of the borrower is secured on property of any kind.]

Status: Point in time view as at 19/02/2013.

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[^{F27}Other finance arrangements involving land

Textual Amendments

F27 Sch. 2 para. 23A inserted (19.2.2006) by [Regulation of Financial Services \(Land Transactions\) Act 2005 \(c. 24\), ss. 1, 2\(2\)](#)

- 23A (1) Rights under any arrangement for the provision of finance under which the person providing the finance either—
- (a) acquires a major interest in land from the person to whom the finance is provided, or
 - (b) disposes of a major interest in land to that person, as part of the arrangement.
- (2) References in sub-paragraph (1) to a “major interest” in land are to—
- (a) in relation to land in England or Wales—
 - (i) an estate in fee simple absolute, or
 - (ii) a term of years absolute,whether subsisting at law or in equity;
 - (b) in relation to land in Scotland—
 - (i) the interest of an owner of land, or
 - (ii) the tenant's right over or interest in a property subject to a lease;
 - (c) in relation to land in Northern Ireland—
 - (i) any freehold estate, or
 - (ii) any leasehold estate,whether subsisting at law or in equity.
- (3) It is immaterial for the purposes of sub-paragraph (1) whether either party acquires or (as the case may be) disposes of the interest in land—
- (a) directly, or
 - (b) indirectly.]

[^{F28}Contracts for hire of goods

Textual Amendments

F28 Sch. 2 para. 23B and crossheading inserted (24.1.2013) by [Financial Services Act 2012 \(c. 21\), ss. 7\(4\), 122\(3\)](#) (with [Sch. 20](#)); [S.I. 2013/113, art. 2\(1\)\(a\)](#), [Sch. Pt. 1](#)

- 23B (1) Rights under a contract for the bailment or (in Scotland) hiring of goods to a person other than a body corporate.
- (2) “Goods” has the meaning given in section 61(1) of the Sale of Goods Act 1979.
- (3) It is immaterial for the purposes of sub-paragraph (1) whether the rights of the person to whom the goods are bailed or hired have been assigned to a body corporate.]

Status: Point in time view as at 19/02/2013.

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Rights in investments

- 24 Any right or interest in anything which is an investment as a result of any other provision made under section 22(1).

[^{F29}PART 2A

REGULATED ACTIVITIES RELATING TO INFORMATION ABOUT PERSONS' FINANCIAL STANDING

Textual Amendments

- F29** Sch. 2 Pts. 2A, 2B inserted (24.1.2013) by [Financial Services Act 2012 \(c. 21\), ss. 7\(5\), 122\(3\)](#) (with [Sch. 20](#)); [S.I. 2013/113, art. 2\(1\)\(a\)](#), [Sch. Pt. 1](#)

General

- 24A The matters with respect to which provision may be made under section 22(1A)(a) include, in particular, those described in general terms in this Part of this Schedule.

Providing credit reference services

- 24B Furnishing persons with information that—
- (a) is relevant to the financial standing of persons other than bodies corporate, and
 - (b) is collected for that purpose by the person furnishing it.

Providing credit information services

- 24C (1) Taking steps on behalf of a person other than a body corporate in connection with information relevant to that person's financial standing that is or may be held by a regulated person.
- (2) “Regulated person” means—
- (a) a person who is carrying on a regulated activity, or
 - (b) a person who is carrying on a business in respect of which a licence under section 21 of the Consumer Credit Act 1974 is required.
- 24D Giving advice to a person other than a body corporate in relation to the taking of any steps of the kind mentioned in paragraph 24C(1).

PART 2B

REGULATED ACTIVITIES RELATING TO THE SETTING OF BENCHMARKS

General

- 24E The matters with respect to which provisions may be made under section 22(1A)(b) include, in particular, those described in general terms in this Part of this Schedule.

Status: Point in time view as at 19/02/2013.

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Providing information

- 24F Providing any information or expression of opinion that—
- (a) is required by another person in connection with the determination of a benchmark, and
 - (b) is provided to that person for that purpose.

Administration

- 24G (1) Administering the arrangements for determining a benchmark.
- (2) Collecting, analysing or processing information or expressions of opinion for the purpose of the determination of a benchmark.

Determining or publishing benchmark or publishing connected information

- 24H (1) Determining a benchmark.
- (2) Publishing a benchmark or information connected with a benchmark.]

PART III

SUPPLEMENTAL PROVISIONS

The order-making power

- 25 (1) An order under section 22(1) [F30 or (1A)] may—
- (a) provide for exemptions;
 - (b) confer powers on the Treasury or [F31 either regulator];
 - (c) authorise the making of regulations or other instruments by the Treasury for purposes of, or connected with, any relevant provision;
 - (d) authorise the making of rules or other instruments by [F31 either regulator] for purposes of, or connected with, any relevant provision;
 - (e) make provision in respect of any information or document which, in the opinion of the Treasury or [F31 either regulator], is relevant for purposes of, or connected with, any relevant provision;
 - (f) make such consequential, transitional or supplemental provision as the Treasury consider appropriate for purposes of, or connected with, any relevant provision.
- (2) Provision made as a result of sub-paragraph (1)(f) may amend any primary or subordinate legislation, including any provision of, or made under, this Act.
- (3) “Relevant provision” means any provision—
- (a) of section 22 or this Schedule; or
 - (b) made under that section or this Schedule.

Textual Amendments

F30 Words in Sch. 2 para. 25(1) inserted (24.1.2013) by [Financial Services Act 2012 \(c. 21\)](#), **ss. 8(2)(a)**, [122\(3\)](#) (with [Sch. 20](#)); [S.I. 2013/113](#), [art. 2\(1\)\(a\)](#), [Sch. Pt. 1](#)

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F31 Words in Sch. 2 para. 25(1) substituted (24.1.2013) by [Financial Services Act 2012 \(c. 21\), ss. 8\(2\)\(b\), 122\(3\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(a), Sch. Pt. 1

[^{F32}Parliamentary control]

Textual Amendments

F32 Sch. 2 para. 26 and crossheading substituted (24.1.2013) by [Financial Services Act 2012 \(c. 21\), ss. 8\(3\), 122\(3\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(a), Sch. Pt. 1

- ^{F32}26 (1) This paragraph applies to any order made under section 22(1) or (1A) which contains a statement by the Treasury that, in their opinion, the effect (or one of the effects) of the proposed order would be that an activity which is not a regulated activity would become a regulated activity.
- (2) No order to which this paragraph applies may be made unless—
- (a) a draft of the order has been laid before Parliament and approved by a resolution of each House, or
 - (b) sub-paragraph (4) applies.
- (3) Sub-paragraph (4) applies if an order to which this paragraph applies also contains a statement that the Treasury are of the opinion that, by reason of urgency, it is necessary to make the order without a draft being so laid and approved.
- (4) Where this sub-paragraph applies the order—
- (a) must be laid before Parliament after being made, and
 - (b) ceases to have effect at the end of the relevant period unless before the end of that period the order is approved by a resolution of each House of Parliament (but without that affecting anything done under the order or the power to make a new order).
- (5) The “relevant period” is a period of 28 days beginning with the day on which the order is made.
- (6) In calculating the relevant period no account is to be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than 4 days.]

Interpretation

- 27 (1) In this Schedule—
- “buying” includes acquiring for valuable consideration;
 - “offering” includes inviting to treat;
 - “property” includes currency of the United Kingdom or any other country or territory; and
 - “selling” includes disposing for valuable consideration.
- (2) In sub-paragraph (1) “disposing” includes—
- (a) in the case of an investment consisting of rights under a contract—
 - (i) surrendering, assigning or converting those rights; or
 - (ii) assuming the corresponding liabilities under the contract;

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- (b) in the case of an investment consisting of rights under other arrangements, assuming the corresponding liabilities under the contract or arrangements;
 - (c) in the case of any other investment, issuing or creating the investment or granting the rights or interests of which it consists.
- (3) In this Schedule references to an instrument include references to any record (whether or not in the form of a document).

SCHEDULE 3

Sections 31(1)(b) and 37.

EEA PASSPORT RIGHTS

Modifications etc. (not altering text)

- C3** Sch. 3 extended (with modifications) (1.12.2001) by [S.I. 2001/2636](#), [arts. 1\(2\)\(b\)](#), 25-27; [S.I. 2001/3538](#), [art. 2\(1\)](#)
- Sch. 3 extended (with modifications) (Gibraltar) (5.10.2001 for specified purposes, 1.12.2001 in so far as not already in force) by [S.I. 2001/3084](#), [arts. 1\(1\)](#), [2-4](#) (as amended (16.6.2014) by [The Alternative Investment Fund Managers Order 2014](#) ([S.I. 2014/1292](#)), [arts. 1\(2\)](#), [3](#) (which amending S.I. is itself amended by [S.I. 2014/1313](#), [arts. 1](#), [2\(a\)](#)); and as amended (31.12.2020) by [S.I. 2019/589](#), [regs. 1\(3\)](#), [5-9](#) (with [reg. 12](#)) (as amended by [S.I. 2020/1274](#), [regs. 1](#), [2](#))); [S.I. 2001/3538](#), [art. 2\(1\)](#)
- Sch. 3 modified (1.12.2001) by [S.I. 2001/3592](#), [arts. 1\(2\)](#), 114(3)(b), 128(3)(b) (with [art. 23\(2\)](#))

PART I

DEFINED TERMS

The single market directives

- 1 “The single market directives” means—
- ^{F33}(a) the banking consolidation directive;
 - (c) the insurance directives; ^{F34} . . .
 - ^{F35}(ca) the reinsurance directive;
 - (d) the ^{F36}markets in financial instruments directive^{F37}; ^{F38} . . .
 - (e) the insurance mediation directive^{F39}; and
 - (f) the UCITS directive.]

Textual Amendments

- F33** Sch. 3 para. 1(a) substituted (22.11.2000) for Sch. 3 para. 1(a)(b) by [S.I. 2000/2952](#), [reg. 8\(5\)\(a\)](#)
- F34** Word in Sch. 3 para. 1(c) omitted (14.1.2005) by virtue of [The Insurance Mediation Directive \(Miscellaneous Amendments\) Regulations 2003](#) ([S.I. 2004/1473](#)), [reg. 2\(2\)\(a\)\(i\)](#)
- F35** Sch. 3 para. 1(ca) inserted (10.12.2007) by [The Reinsurance Directive Regulations 2007](#) ([S.I. 2007/3253](#)), [reg. 2\(1\)](#), [Sch. 1 para. 6\(a\)](#)
- F36** Words in Sch. 3 para. 1(d) substituted (1.4.2007 for certain purposes, otherwise 1.11.2007) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2007](#) ([S.I. 2007/126](#)), [regs. 1\(2\)](#), 3(4), [Sch. 4 para. 2](#)

Status: Point in time view as at 19/02/2013.

Changes to legislation: Financial Services and Markets Act 2000 is up to date with all changes known to be in force on or before 10 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- F37** Sch. 3 para. 1(e) and preceding word inserted (14.1.2005) by [The Insurance Mediation Directive \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2004/1473\)](#), [reg. 2\(2\)\(a\)\(ii\)](#)
- F38** Word in Sch. 3 para. 1(d) omitted (13.2.2004) by virtue of [The Collective Investment Schemes \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/2066\)](#), [reg. 2\(2\)\(a\)\(i\)](#)
- F39** Sch. 3 para. 1(f) and preceding word inserted (13.2.2004) after Sch. 3 para. 1(e) by [The Collective Investment Schemes \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/2066\)](#), [reg. 2\(2\)\(a\)\(i\)](#)

Commencement Information

- I1** Sch. 3 Pt. I para. 1 wholly in force at 1.12.2001; Sch. 3 Pt. I para. 1 not in force at Royal Assent see s. 431(2); Sch. 3 Pt. I para. 1 in force for certain purposes at 25.2.2001 by [S.I. 2001/516](#), [art. 2\(b\)\(c\)](#), [Sch. Pts. 2, 3](#); Sch. 3 Pt. I para. 1 in force for specified purposes at 18.6.2001 by [S.I. 2001/1820](#), [art. 2](#), [Sch.](#); Sch. 3 Pt. I para. 1 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538](#), [art. 2\(1\)](#)

The banking co-ordination directives

- [^{F40} 2 ”The banking consolidation directive” means Directive [2006/48/ EC](#) of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions [^{F41} as last amended [^{F42} on 24th November 2010 by Directives [2010/76/ EU](#) and [2010/78/ EU](#)] of the European Parliament and of the Council] .]

Textual Amendments

- F40** Sch. 3 para. 2 substituted (1.1.2007) by [The Capital Requirements Regulations 2006 \(S.I. 2006/3221\)](#), [reg. 29\(1\)](#), [Sch. 3 para. 2\(2\)](#)
- F41** Words in Sch. 3 para. 2 inserted (31.12.2010) by [The Capital Requirements \(Amendment\) Regulations 2010 \(S.I. 2010/2628\)](#), [reg. 14](#), [Sch. 1 para. 2](#)
- F42** Words in Sch. 3 para. 2 substituted (16.4.2012) by [The Capital Requirements \(Amendment\) Regulations 2012 \(S.I. 2012/917\)](#), [reg. 1](#), [Sch. 1 para. 2](#)

Modifications etc. (not altering text)

- C4** Sch. 3 para. 2 modified (9.2.2011 for certain purposes, otherwise 30.4.2011) by [The Electronic Money Regulations 2011 \(S.I. 2011/99\)](#), [regs. 1\(2\)\(a\)\(xiii\)\(b\)](#), [78](#) (with [art. 3](#))

Commencement Information

- I2** Sch. 3 Pt. I para. 2 wholly in force at 1.12.2001; Sch. 3 Pt. I para. 2 not in force at Royal Assent see s. 431(2); Sch. 3 Pt. I para. 2 in force for certain purposes at 25.2.2001 by [S.I. 2001/516](#), [art. 2\(b\)\(c\)](#), [Sch. Pts. 2, 3](#); Sch. 3 Pt. I para. 2 in force for specified purposes at 18.6.2001 by [S.I. 2001/1820](#), [art. 2](#), [Sch.](#); Sch. 3 Pt. I para. 2 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538](#), [art. 2\(1\)](#)

The insurance directives

- 3 (1) “The insurance directives” means the first, second and third non-life insurance directives and the [^{F43}life assurance consolidation directive].
- (2) “First non-life insurance directive” means the Council Directive of 24 July 1973 on the co-ordination of laws, regulations and administrative provisions relating to the taking up and pursuit of the business of direct insurance other than life assurance (No.[73/239/EEC](#)).
- (3) “Second non-life insurance directive” means the Council Directive of 22 June 1988 on the co-ordination of laws, etc, and laying down provisions to facilitate the

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effective exercise of freedom to provide services and amending Directive [73/239/EEC](#) (No. [88/357/EEC](#)).

(4) “Third non-life insurance directive” means the Council Directive of 18 June 1992 on the co-ordination of laws, etc, and amending Directives [73/239/EEC](#) and [88/357/EEC](#) (No. [92/49/EEC](#)).

[^{F44}(8) “ Life assurance consolidation directive ” means Directive [2002/83/EC](#) of the European Parliament and of the Council of 5th November 2002 concerning life assurance.]

Textual Amendments

F43 Words in Sch. 3 para. 3(1) substituted (11.1.2005) by [The Life Assurance Consolidation Directive \(Consequential Amendments\) Regulations 2004 \(S.I. 2004/3379\)](#), **reg. 6(6)(a)(i)**

F44 Sch. 3 para. 3(8) substituted (11.1.2005) for Sch. 3 para. 3(5)(6)(7) by [The Life Assurance Consolidation Directive \(Consequential Amendments\) Regulations 2004 \(S.I. 2004/3379\)](#), **reg. 6(6)(a)(ii)**

Commencement Information

I3 Sch. 3 Pt. I para. 3 wholly in force at 1.12.2001; Sch. 3 Pt. I para. 3 not in force at Royal Assent see s. 431(2); Sch. 3 Pt. I para. 3 in force for certain purposes at 25.2.2001 by [S.I. 2001/516](#), art. 2(b)(c), [Sch. Pts. 2, 3](#); Sch. 3 Pt. I para. 3 in force for specified purposes at 18.6.2001 by [S.I. 2001/1820](#), art. 2, [Sch.](#); Sch. 3 Pt. I para. 3 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538](#), **art. 2(1)**

[^{F45}The reinsurance directive

Textual Amendments

F45 Sch. 3 para. 3A and cross-heading inserted (10.12.2007) by [The Reinsurance Directive Regulations 2007 \(S.I. 2007/3253\)](#), reg. 2(1), **Sch. 1 para. 6(b)**

3A “ The reinsurance directive ” means Directive [2005/68/EC](#) of the European Parliament and of the Council of 16 November 2005 on reinsurance and amending Council Directives [73/239/EEC](#) , [92/49/EEC](#) as well as Directives [98/78/EC](#) and [2002/83/EC](#) .]

The investment services directive

4 ^{F46}

Textual Amendments

F46 Sch. 3 para. 4 repealed (1.4.2007 for certain purposes and 1.11.2007 otherwise) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2007 \(S.I. 2007/126\)](#), regs. 1(2), 3(4), **Sch. 4 para. 3**

Status: Point in time view as at 19/02/2013.

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[^{F47}The insurance mediation directive

Textual Amendments

F47 Sch. 3 para. 4A and cross-heading inserted (14.1.2005) by [The Insurance Mediation Directive \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/1473\)](#), **reg. 2(b)**

4A “The insurance mediation directive” means the European Parliament and Council Directive of 9th December 2002 on insurance mediation (No.2002/92/EC).]

[^{F48}The UCITS directive

Textual Amendments

F48 Sch. 3 para. 4B and cross-heading inserted (13.2.2004) by [The Collective Investment Schemes \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/2066\)](#), **reg. 2(2)(b)**

[^{F49}4B “The UCITS directive” means the Directive of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (No 2009/65/EC).]]

Textual Amendments

F49 Sch. 3 para. 4B substituted (1.7.2011) by The Undertakings for Collective Investment in [Transferable Securities Regulations 2011 \(S.I. 2011/1613\)](#), **reg. 2(33)(a)**

[^{F50}The markets in financial instruments directive

Textual Amendments

F50 Sch. 3 para. 4C and preceding cross-heading inserted (6.12.2006) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) \(Modification of Powers\) Regulations 2006 \(S.I. 2006/2975\)](#), **reg. 13**

4C “The markets in financial instruments directive” means Directive [2004/39/ EC](#) of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments.]

The emission allowance auctioning regulation

[^{F51}4D. “The emission allowance auctioning regulation” means Commission Regulation (EU) No 1031/2010 of 12 November 2010 on the timing, administration and other aspects of auctioning of greenhouse gas emission allowances pursuant to Directive [2003/87/ EC](#) of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community.]

Status: Point in time view as at 19/02/2013.

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Textual Amendments

- F51** Sch. 3 para. 4D inserted (20.7.2012) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2012 \(S.I. 2012/1906\)](#), arts. 1, **4(2)**

EEA firm

- 5 “EEA firm” means any of the following if it does not have its [^{F52}relevant office] in the United Kingdom—
- (a) an investment firm (as defined in [^{F53}Article 4.1.1 of the markets in financial instruments directive]) which is authorised (within the meaning of [^{F54}Article 5]) by its home state regulator;
 - [^{F55}(b) a credit institution (as defined in Article 4.1 of the banking consolidation directive) which is authorised (within the meaning of Article 4.2) by its home state regulator,
 - (c) a financial institution (as defined in Article 4.5 of the banking consolidation directive) which is a subsidiary of the kind mentioned in Article 24 and which fulfils the conditions in that Article;]
 - (d) an undertaking pursuing the activity of direct insurance (within the meaning of [^{F56}Article 2 of the life assurance consolidation directive or Article 1 of the first non-life insurance directive]) which has received authorisation under [^{F57}Article 4 of the life assurance consolidation directive or Article 6 of the first non-life insurance directive] from its home state regulator. [^{F58}, ^{F59} . . .
 - [^{F60}(da) an undertaking pursuing the activity of reinsurance (within the meaning of Article 2.1(a) of the reinsurance directive) which has received authorisation under (or is deemed to be authorised in accordance with) Article 3 of the reinsurance directive from its home state regulator;]
 - (e) an insurance intermediary (as defined in Article 2.5 of the insurance mediation directive), or a reinsurance intermediary (as defined in Article 2.6) which is registered with its home state regulator under Article 3; [^{F61} . . .
 - [^{F62}(f) a management company (as defined in paragraph 11B) which is authorised (within the meaning of Article 6 of the UCITS directive) by its home state regulator.] [^{F63}; or
 - (g) a person who has received authorisation under Article 18.2 of the emission allowance auctioning regulation.]

Textual Amendments

- F52** Words in Sch. 3 para. 5 substituted (14.1.2005) by [The Insurance Mediation Directive \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/1473\)](#). {reg. 2(c)(i)}
- F53** Words in Sch. 3 para. 5(a) substituted (1.4.2007 for certain purposes, otherwise 1.11.2007) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2007 \(S.I. 2007/126\)](#), regs. 1(2), 3(4), **Sch. 4 para. 4(a)**
- F54** Words in Sch. 3 para. 5(a) substituted (1.4.2007 for certain purposes, otherwise 1.11.2007) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2007 \(S.I. 2007/126\)](#), regs. 1(2), 3(4), **Sch. 4 para. 4(b)**
- F55** Sch. 3 para. 5(b)(c) substituted (1.1.2007) by [The Capital Requirements Regulations 2006 \(S.I. 2006/3221\)](#), reg. 29(1), **Sch. 3 para. 2(3)**

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- F56** Words in Sch. 3 para. 5(d) substituted (11.1.2005) by [The Life Assurance Consolidation Directive \(Consequential Amendments\) Regulations 2004 \(S.I. 2004/3379\)](#), **reg. 6(6)(b)(i)**
- F57** Words in Sch. 3 para. 5(d) substituted (11.1.2005) by [The Life Assurance Consolidation Directive \(Consequential Amendments\) Regulations 2004 \(S.I. 2004/3379\)](#), **reg. 6(6)(b)(ii)**
- F58** Sch. 3 para. 5(e) and preceding word inserted (14.1.2005) by [The Insurance Mediation Directive \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/1473\)](#), **reg. 2(c)(iii)**
- F59** Word in Sch. 3 para. 5(d) omitted (13.2.2004) by virtue of [The Collective Investment Schemes \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/2066\)](#), **reg. 2(2)(c)(i)**
- F60** Sch. 3 para. 5(da) inserted (10.12.2007) by [The Reinsurance Directive Regulations 2007 \(S.I. 2007/3253\)](#), **reg. 2(1)**, **Sch. 1 para. 6(c)**
- F61** Word in Sch. 3 para. 5(e) omitted (20.7.2012) by virtue of [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2012 \(S.I. 2012/1906\)](#), arts. 1, **4(3)(a)**
- F62** Sch. 3 para. 5(f) substituted (1.7.2011) by [The Undertakings for Collective Investment in Transferable Securities Regulations 2011 \(S.I. 2011/1613\)](#), **reg. 2(33)(b)**
- F63** Sch. 3 para. 5(g) and preceding word inserted (20.7.2012) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2012 \(S.I. 2012/1906\)](#), arts. 1, **4(3)(b)**

Commencement Information

- I4** Sch. 3 Pt. I para. 5 wholly in force at 1.12.2001; Sch. 3 Pt. I para. 5 not in force at Royal Assent see s. 431(2); Sch. 3 Pt. I para. 5 in force for certain purposes at 25.2.2001 by [S.I. 2001/516](#), art. 2(b)(c), [Sch. Pts. 2, 3](#); Sch. 3 Pt. I para. 5 in force for specified purposes at 18.6.2001 by [S.I. 2001/1820](#), **art. 2 Sch.**; Sch. 3 Pt. I para. 5 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538](#), **art. 2(1)**

- [^{F64}5A In paragraph 5, “relevant office” means—
- (a) in relation to a firm falling within sub-paragraph (e) of that paragraph which has a registered office, its registered office;
- (b) in relation to any other firm, its head office.]

Textual Amendments

- F64** Sch. 3 para. 5A inserted (14.1.2005) by [The Insurance Mediation Directive \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/1473\)](#), **reg. 2(2)(d)**

EEA authorisation

- [^{F65} 6 “EEA authorisation” means—
- (a) in relation to an EEA firm falling within paragraph 5(e), registration with its home state regulator under Article 3 of the insurance mediation directive;
- (b) in relation to any other EEA firm, authorisation granted to an EEA firm by its home state regulator for the purpose of the relevant single market directive [^{F66}or, as the case may be, the emission allowance auctioning regulation].]

Textual Amendments

- F65** Sch. 3 para. 6 substituted (14.1.2005) by [The Insurance Mediation Directive \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/1473\)](#), **reg. 2(2)(e)**
- F66** Words in Sch. 3 para. 6(b) inserted (20.7.2012) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2012 \(S.I. 2012/1906\)](#), arts. 1, **4(4)**

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Commencement Information

- I5** Sch. 3 Pt. I para. 6 wholly in force at 1.12.2001; Sch. 3 Pt. I para. 6 not in force at Royal Assent see s. 431(2); Sch. 3 Pt. I para. 6 in force for certain purposes at 25.2.2001 by [S.I. 2001/516](#), art. 2(b)(c), [Sch. Pts. 2, 3](#); Sch. 3 Pt. I para. 6 in force for specified purposes at 18.6.2001 by [S.I. 2001/1820](#), art. 2, [Sch.](#); Sch. 3 Pt. I para. 6 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538](#), [art. 2\(1\)](#)

EEA right

- 7 “EEA right” means the entitlement of a person to establish a branch, or provide services, in an EEA State other than that in which he has his [^{F67}relevant office]—
- (a) in accordance with the Treaty as applied in the EEA; and
 - (b) subject to the conditions of the relevant single market directive [^{F68}or, as the case may be, the emission allowance auctioning regulation].

Textual Amendments

- F67** Words in Sch. 3 para. 7 substituted (14.1.2005) by [The Insurance Mediation Directive \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/1473\)](#), [reg. 2\(2\)\(f\)](#)
- F68** Words in Sch. 3 para. 7(b) inserted (20.7.2012) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2012 \(S.I. 2012/1906\)](#), arts. 1, [4\(4\)](#)

Commencement Information

- I6** Sch. 3 Pt. I para. 7 wholly in force at 1.12.2001; Sch. 3 Pt. I para. 7 not in force at Royal Assent see s. 431(2); Sch. 3 Pt. I para. 7 in force for certain purposes at 25.2.2001 by [S.I. 2001/516](#), art. 2(b)(c), [Sch. Pts. 2, 3](#); Sch. 3 Pt. I para. 7 in force for specified purposes at 18.6.2001 by [S.I. 2001/1820](#), art. 2, [Sch.](#); Sch. 3 Pt. I para. 7 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538](#), [art. 2\(1\)](#)

- [^{F69}7A In paragraph 7, “relevant office” means—
- (a) in relation to a person who has a registered office and whose entitlement is subject to the conditions of the insurance mediation directive, his registered office;
 - (b) in relation to any other person, his head office.]

Textual Amendments

- F69** Sch. 3 para. 7A inserted (14.1.2005) by [The Insurance Mediation Directive \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/1473\)](#), [reg. 2\(2\)\(g\)](#)

EEA State

- [^{F70}8 “EEA State” has the meaning given by Schedule 1 to the Interpretation Act 1978.]

Textual Amendments

- F70** Sch. 3 para. 8 substituted (13.2.2007) by [The Financial Services \(EEA State\) Regulations 2007 \(S.I. 2007/108\)](#), [reg. 2](#)

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Commencement Information

- 17** Sch. 3 Pt. I para. 8 wholly in force at 1.12.2001; Sch. 3 Pt. I para. 8 not in force at Royal Assent see s. 431(2); Sch. 3 Pt. I para. 8 in force for certain purposes at 25.2.2001 by [S.I. 2001/516](#), [art. 2\(b\)\(c\)](#), [Sch. Pts. 2, 3](#); Sch. 3 Pt. I para. 8 in force for specified purposes at 18.6.2001 by [S.I. 2001/1820](#), [art. 2](#), [Sch.](#); Sch. 3 Pt. I para. 8 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538](#), [art. 2\(1\)](#)

Home state regulator

- 9 “Home state regulator” means the competent authority (within the meaning of the relevant single market directive [^{F71}or, as the case may be, the emission allowance auctioning regulation]) of an EEA State (other than the United Kingdom) in relation to the EEA firm concerned.

Textual Amendments

- F71** Words in Sch. 3 para. 9 inserted (20.7.2012) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2012 \(S.I. 2012/1906\)](#), [arts. 1, 4\(4\)](#)

Commencement Information

- 18** Sch. 3 Pt. I para. 9 wholly in force at 1.12.2001; Sch. 3 Pt. I para. 9 not in force at Royal Assent see s. 431(2); Sch. 3 Pt. I para. 9 in force for certain purposes at 25.2.2001 by [S.I. 2001/516](#), [art. 2\(b\)\(c\)](#), [Sch. Pts. 2, 3](#); Sch. 3 Pt. I para. 9 in force for specified purposes at 18.6.2001 by [S.I. 2001/1820](#), [art. 2](#), [Sch.](#); Sch. 3 Pt. I para. 9 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538](#), [art. 2\(1\)](#)

UK firm

- 10 “UK firm” means a person whose [^{F72}relevant office] is in the UK and who has an EEA right to carry on activity in an EEA State other than the United Kingdom.

Textual Amendments

- F72** Words in Sch. 3 para. 10 substituted (14.1.2005) by [The Insurance Mediation Directive \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/1473\)](#), [reg. 2\(2\)\(h\)](#)

Commencement Information

- 19** Sch. 3 Pt. I para. 10 wholly in force at 1.12.2001; Sch. 3 Pt. I para. 10 not in force at Royal Assent see s. 431(2); Sch. 3 Pt. I para. 10 in force for certain purposes at 25.2.2001 by [S.I. 2001/516](#), [art. 2\(b\)\(c\)](#), [Sch. Pts. 2, 3](#); Sch. 3 Pt. I para. 10 in force for specified purposes at 18.6.2001 by [S.I. 2001/1820](#), [art. 2](#), [Sch.](#); Sch. 3 para. 10 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538](#), [art. 2\(1\)](#)

- [^{F73}
^{F73}10A In paragraph 10, “relevant office” means—
- (a) in relation to a firm whose EEA right derives from the insurance mediation directive and which has a registered office, its registered office;
 - (b) in relation to any other firm, its head office.]]

Textual Amendments

- F73** Sch. 3 para. 10A inserted (14.1.2005) by [The Insurance Mediation Directive \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/1473\)](#), [reg. 2\(2\)\(i\)](#)

Status: Point in time view as at 19/02/2013.

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[^{F74}UK investment firm

Textual Amendments

F74 Sch. 3 para. 10B inserted (1.4.2007 for certain purposes, otherwise 1.11.2007) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2007 \(S.I. 2007/126\)](#), regs. 1(2), 3(4), [Sch. 4 para. 5](#)

- 10B “UK investment firm” means a UK firm—
- (a) which is an investment firm, and
 - (b) whose EEA right derives from the markets in financial instruments directive.]

Host state regulator

- 11 “Host state regulator” means the competent authority (within the meaning of the relevant single market directive [^{F75}or, as the case may be, the emission allowance auctioning regulation]) of an EEA State (other than the United Kingdom) in relation to a UK firm’s exercise of EEA rights there.

Textual Amendments

F75 Words in Sch. 3 para. 11 inserted (20.7.2012) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2012 \(S.I. 2012/1906\)](#), arts. 1, [4\(4\)](#)

Commencement Information

I10 Sch. 3 Pt. I para. 11 wholly in force at 1.12.2001; Sch. 3 Pt. I para. 11 not in force at Royal Assent see s. 431(2); Sch. 3 Pt. I para. 11 in force for certain purposes (25.2.2001) by [S.I. 2001/516](#), [art. 2 Sch. Pts. 2, 3](#); Sch. 3 Pt. I para. 11 in force for specified purposes (18.6.2001) by [S.I. 2001/1820](#), [art. 2 Sch.](#); Sch. 3 Pt. I para. 11 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538](#), [art. 2\(1\)](#)

[^{F76}Tied agent

Textual Amendments

F76 Sch. 3 para. 11A inserted (1.4.2007 for certain purposes, otherwise 1.11.2007) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2007 \(S.I. 2007/126\)](#), regs. 1(2), 3(4), [Sch. 4 para. 6](#)

- 11A “Tied agent” has the meaning given in Article 4.1.25 of the markets in financial instruments directive.

Management company

- [^{F77} “Management company” has the meaning given in Article 2.1(b) of the UCITS directive.]
^{F77}11B

Status: Point in time view as at 19/02/2013.

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Textual Amendments

F77 Sch. 3 paras. 11B, 11C inserted (1.7.2011) by The Undertakings for Collective Investment in [Transferable Securities Regulations 2011 \(S.I. 2011/1613\)](#), **reg. 2(33)(c)**

UCITS

11C “UCITS]” has the meaning given in Article 1.2 of the UCITS directive.]

Textual Amendments

F77 Sch. 3 paras. 11B, 11C inserted (1.7.2011) by The Undertakings for Collective Investment in [Transferable Securities Regulations 2011 \(S.I. 2011/1613\)](#), **reg. 2(33)(c)**

PART II

EXERCISE OF PASSPORT RIGHTS BY EEA FIRMS

Firms qualifying for authorisation

- 12 (1) Once an EEA firm which is seeking to establish a branch in the United Kingdom in exercise of an EEA right satisfies the establishment conditions, it qualifies for authorisation.
- (2) Once an EEA firm which is seeking to provide services in the United Kingdom in exercise of an EEA right satisfies the service conditions, it qualifies for authorisation.
- [^{F78}(3) If an EEA firm falling within paragraph 5(a) is seeking to use a tied agent established in the United Kingdom in connection with the exercise of an EEA right deriving from the markets in financial instruments directive, this Part of this Schedule applies as if the firm were seeking to establish a branch in the United Kingdom.
- (4) But if—
- an EEA firm already qualifies for authorisation by virtue of sub-paragraph (1); and
 - the EEA right which it is exercising derives from the markets in financial instruments directive,
- sub-paragraph (3) does not require the firm to satisfy the establishment conditions in respect of its use of the tied agent in question.]
- [^{F79}(5) An EEA firm which falls within paragraph 5(da) which establishes a branch in the United Kingdom, or provides services in the United Kingdom, in exercise of an EEA right qualifies for authorisation.
- (6) Sub-paragraphs (1) and (2) do not apply to an EEA firm falling within paragraph 5(da).]
- [^{F80}(7) Sub-paragraph (2) does not apply to an EEA firm which falls within paragraph 5(a), (b) or (g), and only provides services in the exercise of its right under Article 18 of the emission allowance auctioning regulation.
- (8) An EEA firm which falls within paragraph 5(g) qualifies for authorisation.

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- (9) An EEA firm which falls within paragraph 5(a) or (b) but does not qualify for authorisation under sub-paragraph (1) or (2) qualifies for authorisation under this sub-paragraph if it—
- (a) has received authorisation from its home state regulator under Article 18.3 of the emission allowance auctioning regulation; and
 - (b) is seeking to provide services or establish a branch in the United Kingdom in the exercise of the EEA right arising under that provision.]

Textual Amendments

- F78** Sch. 3 para. 12(3)(4) inserted (1.4.2007 for certain purposes, otherwise 1.11.2007) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2007 \(S.I. 2007/126\)](#), regs. 1(2), 3(4), [Sch. 4 para. 7](#)
- F79** Sch. 3 para. 12(5)(6) inserted (10.12.2007) by [The Reinsurance Directive Regulations 2007 \(S.I. 2007/3253\)](#), reg. 2(1), [Sch. 1 para. 6\(d\)](#)
- F80** Sch. 3 para. 12(7)-(9) inserted (20.7.2012) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2012 \(S.I. 2012/1906\)](#), arts. 1, [4\(5\)](#)

Commencement Information

- I11** Sch. 3 Pt. II para. 12 wholly in force at 1.12.2001; Sch. 3 Pt. II para. 12 not in force at Royal Assent see s. 431(2); Sch. 3 Pt. II para. 12 in force for certain purposes at 25.2.2001 by [S.I. 2001/516](#), art. 2(b)(c), [Sch. Pts. 2, 3](#); Sch. 3 Pt. II para. 12 in force for specified purposes at 18.6.2001 by [S.I. 2001/1820](#), art. 2, [Sch.](#); Sch. 3 Pt. II para. 12 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538](#), [art. 2\(1\)](#)

Establishment

- 13 (1) [^{F81}If the firm falls within paragraph 5(a), (b), [^{F82}(c), (d) or (f)],] the establishment conditions are that—
- (a) the Authority has received notice (“a consent notice”) from the firm’s home state regulator that it has given the firm consent to establish a branch in the United Kingdom;
 - (b) the consent notice—
 - (i) is given in accordance with the relevant single market directive;
 - (ii) identifies the activities to which consent relates; and
 - (iii) includes such other information as may be prescribed; ^{F83} . . .
 - [^{F84}(ba) in the case of a firm falling within paragraph 5(a), the Authority has given the firm notice for the purposes of this paragraph or two months have elapsed beginning with the date when the home state regulator gave the consent notice; and]
 - (c) [^{F85}in the case of a firm falling within paragraph 5(b), (c), (d) or (f),] the firm has been informed of the applicable provisions or two months have elapsed beginning with the date when the Authority received the consent notice.
- [^{F86}(1A) If the firm falls within paragraph 5(e), the establishment conditions are that—
- (a) the firm has given its home state regulator notice of its intention to establish a branch in the United Kingdom;
 - (b) the Authority has received notice (“a regulator’s notice”) from the firm’s home state regulator that the firm intends to establish a branch in the United Kingdom;

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- (c) the firm’s home state regulator has informed the firm that the regulator’s notice has been sent to the Authority; and
 - (d) one month has elapsed beginning with the date on which the firm’s home state regulator informed the firm that the regulator’s notice has been sent to the Authority.]
- (2) If the Authority has received a consent notice, it must—
- (a) prepare for the firm’s supervision;
 - (b) [^{F87}except if the firm falls within paragraph 5(a),] notify the firm of the applicable provisions (if any); and
 - (c) if the firm falls within paragraph 5(d), notify its home state regulator of the applicable provisions (if any).
- (3) A notice under sub-paragraph (2)(b) or (c) must be given before the end of the period of two months beginning with the day on which the Authority received the consent notice.
- (4) For the purposes of this paragraph—
- “applicable provisions” means the host state rules with which the firm is required to comply when carrying on a permitted activity through a branch in the United Kingdom;
- “host state rules” means rules—
- (a) made in accordance with the relevant single market directive [^{F88}or for the purposes of the emission allowance auctioning regulation]; and
 - (b) which are the responsibility of the United Kingdom (both as to implementation and as to supervision of compliance) in accordance with that directive [^{F89}or for the purposes of that regulation]; and
- “permitted activity” means an activity identified in the consent notice [^{F90}or regulator’s notice, as the case may be].

Textual Amendments

- F81** Words in Sch. 3 para. 13(1) inserted (14.1.2005) by [The Insurance Mediation Directive \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/1473\)](#), **reg. 3(2)**
- F82** Words in Sch. 3 para. 13(1) substituted (13.2.2004) by [The Collective Investment Schemes \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/2066\)](#), **reg. 3(1)(a)**
- F83** Word in Sch. 3 para. 13(1)(b) omitted (1.4.2007 for certain purposes, otherwise 1.11.2007) by virtue of [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2007 \(S.I. 2007/126\)](#), regs. 1(2), 3(4), **Sch. 4 para. 8(a)(i)** (with reg. 6)
- F84** Sch. 3 para. 13(1)(ba) inserted (1.4.2007 for certain purposes, otherwise 1.11.2007) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2007 \(S.I. 2007/126\)](#), regs. 1(2), 3(4), **Sch. 4 para. 8(a)(ii)** (with reg. 6)
- F85** Words in Sch. 3 para. 13(1)(c) inserted (1.4.2007 for certain purposes, otherwise 1.11.2007) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2007 \(S.I. 2007/126\)](#), regs. 1(2), 3(4), **Sch. 4 para. 8(a)(iii)** (with reg. 6)
- F86** Sch. 3 para. 13(1A) inserted (14.1.2005) by [The Insurance Mediation Directive \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/1473\)](#), **reg. 3(3)**
- F87** Words in Sch. 3 para. 13(2)(b) inserted (1.4.2007 for certain purposes, otherwise 1.11.2007) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2007 \(S.I. 2007/126\)](#), regs. 1(2), 3(4), **Sch. 4 para. 8(b)** (with reg. 6)

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- F88** Words in Sch. 3 para. 13(4) inserted (20.7.2012) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2012 \(S.I. 2012/1906\)](#), arts. 1, **4(6)(a)**
- F89** Words in Sch. 3 para. 13(4) inserted (20.7.2012) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2012 \(S.I. 2012/1906\)](#), arts. 1, **4(6)(b)**
- F90** Sch. 3 para. 13(4): words in definition of "permitted activity" inserted (14.1.2005) by [The Insurance Mediation Directive \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/1473\)](#), **reg. 3(4)**

Modifications etc. (not altering text)

- C5** Sch. 3 para. 13 extended (1.12.2001) by [S.I. 2001/3592](#), **arts. 1(2)**, 96 (with art. 23(2))

Commencement Information

- I12** Sch. 3 Pt. II para. 13 wholly in force at 1.12.2001; Sch. 3 Pt. II para. 13 not in force at Royal Assent see s. 431(2); Sch. 3 Pt. II para. 13 in force for certain purposes at 25.2.2001 by [S.I. 2001/516](#), art. 2(b)(c), [Sch. Pts. 2, 3](#); Sch. 3 Pt. II para. 13 in force for specified purposes at 18.6.2001 by [S.I. 2001/1820](#), art. 2, [Sch.](#); Sch. 3 Pt. II para. 13 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538](#), **art. 2(1)**

Services

- 14 (1) The service conditions are that—
- (a) the firm has given its home state regulator notice of its intention to provide services in the United Kingdom (“a notice of intention”);
 - (b) if the firm falls within [^{F91}paragraph 5(a), [^{F92}(d), (e) or (f)]], the Authority has received notice (“a regulator’s notice”) from the firm’s home state regulator containing such information as may be prescribed; ^{F93} . . .
 - [^{F94}(ba) if the firm falls within paragraph 5(b) and is seeking to provide services in exercise of the right under Article 31.5 of the markets in financial instruments directive, the Authority has received notice (“a regulator’s notice”) from the firm’s home state regulator stating that the firm intends to exercise that right in the United Kingdom;]
 - (c) if the firm falls within [^{F95}paragraph 5(d) or (e)], its home state regulator has informed it that the regulator’s notice has been sent to the Authority. [^{F96}; and
 - (d) if the firm falls within paragraph 5(e), one month has elapsed beginning with the date on which the firm’s home state regulator informed the firm that the regulator’s notice has been sent to the Authority.]
- (2) If the Authority has received a regulator’s notice or, where none is required by sub-paragraph (1), has been informed of the firm’s intention to provide services in the United Kingdom, it must [^{F97}, unless the firm falls within paragraph 5(e),]—
- (a) prepare for the firm’s supervision; and
 - (b) notify the firm of the applicable provisions (if any).
- [^{F98}(2A) Sub-paragraph (2)(b) does not apply in the case of a firm falling within paragraph 5(a).]
- (3) A notice under sub-paragraph (2)(b) must be given before the end of the period of two months beginning on the day on which the Authority received the regulator’s notice, or was informed of the firm’s intention.
- (4) For the purposes of this paragraph—

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“applicable provisions” means the host state rules with which the firm is required to comply when carrying on a permitted activity by providing services in the United Kingdom;

“host state rules” means rules—

- (a) made in accordance with the relevant single market directive [^{F99}or for the purposes of the emission allowance auctioning regulation]; and
- (b) which are the responsibility of the United Kingdom (both as to implementation and as to supervision of compliance) in accordance with that directive [^{F100}or for the purposes of that regulation]; and

“permitted activity” means an activity identified in—

- (a) the regulator’s notice; or
- (b) where none is required by sub-paragraph (1), the notice of intention.

Textual Amendments

- F91** Words in Sch. 3 para. 14(1)(b) substituted (14.1.2005) by [The Insurance Mediation Directive \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/1473\)](#), [reg. 4\(2\)\(a\)](#)
- F92** Words in Sch. 3 para. 14(1)(b) substituted (13.2.2004) by [The Collective Investment Schemes \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/2066\)](#), [reg. 3\(1\)\(b\)](#)
- F93** Word in Sch. 3 para. 14(1)(b) omitted (14.1.2005) by virtue of [The Insurance Mediation Directive \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/1473\)](#), [reg. 4\(2\)\(b\)](#)
- F94** Sch. 3 para. 14(1)(ba) inserted (1.4.2007 for certain purposes, otherwise 1.11.2007) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2007 \(S.I. 2007/126\)](#), [regs. 1\(2\), 3\(4\)](#), [Sch. 4 para. 9\(a\)](#)
- F95** Words in Sch. 3 para. 14(1)(c) substituted (14.1.2005) by [The Insurance Mediation Directive \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/1473\)](#), [reg. 4\(2\)\(c\)](#)
- F96** Sch. 3 para. 14(1)(d) and preceding word inserted (14.1.2005) by [The Insurance Mediation Directive \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/1473\)](#), [reg. 4\(2\)\(d\)](#)
- F97** Words in Sch. 3 para. 14(2) inserted (14.1.2005) by [The Insurance Mediation Directive \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/1473\)](#), [reg. 4\(3\)](#)
- F98** Sch. 3 para. 14(2A) inserted (1.4.2007 for certain purposes, otherwise 1.11.2007) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2007 \(S.I. 2007/126\)](#), [regs. 1\(2\), 3\(4\)](#), [Sch. 4 para. 9\(b\)](#)
- F99** Words in Sch. 3 para. 14(4) inserted (20.7.2012) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2012 \(S.I. 2012/1906\)](#), [arts. 1, 4\(7\)\(a\)](#)
- F100** Words in Sch. 3 para. 14(4) inserted (20.7.2012) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2012 \(S.I. 2012/1906\)](#), [arts. 1, 4\(7\)\(b\)](#)

Modifications etc. (not altering text)

- C6** Sch. 3 para. 14(1) extended (1.12.2001) by [S.I. 2001/3592](#), [arts. 1\(2\), 97](#) (with [art. 23\(2\)](#))

Commencement Information

- I13** Sch. 3 Pt. II para. 14 wholly in force at 1.12.2001; Sch. 3 Pt. II para. 14 not in force at Royal Assent see s. 431(2); Sch. 3 Pt. II para. 14 in force for certain purposes at 25.2.2001 by [S.I. 2001/516](#), [art. 2\(b\)\(c\)](#), [Sch. Pts. 2, 3](#); Sch. 3 Pt. II para. 14 in force for specified purposes at 18.6.2001 by [S.I. 2001/1820](#), [art. 2](#), [Sch.](#); Sch. 3 Pt. II para. 14 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538](#), [art. 2\(1\)](#)

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Grant of permission

- 15 (1) On qualifying for authorisation as a result of ^{F101}paragraph 12(1), (2) or (3), a firm has, in respect of each permitted activity which is a regulated activity, permission to carry it on through its United Kingdom branch (if it satisfies the establishment conditions) or by providing services in the United Kingdom (if it satisfies the service conditions).
- ^{F102}(1A) Sub-paragraph (1) is to be read subject to ^{F103}paragraphs 15A(3) and 15ZA(1).]
- (2) The permission is to be treated as being on terms equivalent to those appearing from the consent notice, regulator’s notice or notice of intention.
- (3) Sections ^{F104}21 and 39(1)] of the ^{M2}Consumer Credit Act 1974 (business requiring a licence under that Act) do not apply in relation to the carrying on of a permitted activity which is Consumer Credit Act business by a firm which qualifies for authorisation as a result of paragraph 12, unless ^{F105}the Office of Fair Trading] has exercised the power conferred on ^{F106}it] by section 203 in relation to the firm.
- (4) “Consumer Credit Act business” has the same meaning as in section 203.
- ^{F107}(5) A firm which qualifies for authorisation as a result of paragraph 12(5) has, in respect of each permitted activity which is a regulated activity, permission to carry it on through its United Kingdom branch or by providing services in the United Kingdom.
- (6) The permission is to be treated as being on terms equivalent to those appearing in the authorisation granted to the firm under Article 3 of the reinsurance directive by its home state regulator (“its home authorisation”).
- (7) For the purposes of sub-paragraph (5), “permitted activity” means an activity which the firm is permitted to carry on under its home authorisation.]

Textual Amendments

- F101** Words in Sch. 3 para. 15(1) substituted (10.12.2007) by [The Reinsurance Directive Regulations 2007 \(S.I. 2007/3253\)](#), reg. 2(1), **Sch. 1 para. 6(e)(i)**
- F102** Sch. 3 para. 15(1A) inserted (13.2.2004) by [The Collective Investment Schemes \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/2066\)](#), **reg 3(1)(c)**
- F103** Words in Sch. 3 para. 15(1A) substituted (20.7.2012) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2012 \(S.I. 2012/1906\)](#), arts. 1, **4(8)**
- F104** Words in Sch. 3 para. 15(3) substituted (6.4.2008) by [Consumer Credit Act 2006 \(c. 14\)](#), **ss. 33(9)**, 71(2); [S.I. 2007/3300](#), **art. 3(2)**, Sch. 2
- F105** Words in Sch. 3 para. 15(3) substituted (1.4.2003) by [Enterprise Act 2002 \(c. 40\)](#), ss. 278(1), 279, **Sch. 25 para. 40(19)(a)**; [S.I. 2003/766](#), **art. 2**, Sch. (with art. 3)
- F106** Word in Sch. 3 para. 15(3) substituted (1.4.2003) by [Enterprise Act 2002 \(c. 40\)](#), ss. 278(1), 279, **Sch. 25 para. 40(19)(a)**; [S.I. 2003/766](#), **art. 2**, Sch. (with art. 3)
- F107** Sch. 3 para. 15(5)-(7) inserted (10.12.2007) by [The Reinsurance Directive Regulations 2007 \(S.I. 2007/3253\)](#), reg. 2(1), **Sch. 1 para. 6(e)(ii)**

Commencement Information

- I14** Sch. 3 Pt. II para. 15 wholly in force at 1.12.2001; Sch. 3 Pt. II para. 15 not in force at Royal Assent see s. 431(2); Sch. 3 Pt. II para. 15 in force for certain purposes at 25.2.2001 by [S.I. 2001/516](#), art. 2(b)(c), **Sch. Pts. 2, 3**; Sch. 3 Pt. II para. 15 in force for specified purposes at 18.6.2001 by [S.I. 2001/1820](#), art. 2, **Sch.**; Sch. 3 Pt. II para. 15 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538](#), **art. 2(1)**

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Marginal Citations

M2 1974 c. 39.

Grant of permission: bidding for emission allowances

- [^{F108}15ZA] A firm that qualifies for authorisation as a result of paragraph 12(1) or (2) has permission to receive, transmit or submit a bid on behalf of its clients in the exercise of its rights under Article 18.3 of the emission allowance auctioning regulation if it has received authorisation under that provision from its home state regulator.
- (2) Permission under sub-paragraph (1) is to be treated as being on terms equivalent to those appearing in the authorisation granted to the firm pursuant to Article 18.3 of the emission allowance auctioning regulation.
 - (3) A firm which qualifies for authorisation as a result of paragraph 12(9) has permission to receive, transmit and submit a bid on behalf of its clients in the exercise of its rights under Article 18.3 of the emission allowance auctioning regulation.
 - (4) A firm which qualifies for authorisation as a result of paragraph 12(8) has permission to receive, transmit and submit a bid on its own account or on behalf of clients of its main business under Article 18.2 of the emission allowance auctioning regulation.
 - (5) The permissions referred to in sub-paragraphs (3) and (4) are to be treated as being on terms equivalent to those appearing in the authorisation granted to the firm pursuant to Article 18.2 or 18.3 of the emission allowance auctioning regulation.]

Textual Amendments

F108 Sch. 3 para. 15ZA inserted (20.7.2012) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2012 \(S.I. 2012/1906\)](#), arts. 1, 4(9)

^{F109} *Power to restrict permission of management companies*

Textual Amendments

F109 Sch. 3 para. 15A and cross-heading inserted (13.2.2004) by [The Collective Investment Schemes \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/2066\)](#), reg. 3(1)(d)

Application for approval to manage UCITS

- [^{F110}15A] (1) An EEA firm falling within paragraph 5(f) which wishes to manage a UKUCITS must apply to the Authority in the specified form for approval to manage that UCITS.
- (2) Where the EEA firm satisfies the conditions in paragraph 13 (establishment conditions) or paragraph 14 (service conditions), the Authority may only refuse the application if it determines that one of the grounds set out in sub-paragraph (3) applies.
 - (3) The grounds referred to in sub-paragraph (2) are—
 - (a) that the EEA firm does not comply with the UCITS home state rules;

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- (b) that the firm is not authorised by its home state regulator to manage the type of collective investment scheme for which authorisation is requested; or
 - (c) that the firm has not provided the documentation required under Article 20(1) of the UCITS directive.
- (4) The Authority must give a notice to the EEA firm, the firm's home state regulator and the Commission of the Authority's determination under sub-paragraph (2).
- (5) Before giving a notice under sub-paragraph (4), the Authority must consult the home state regulator of the firm.
- (6) A notice given by the Authority under sub-paragraph (4) must—
- (a) give the Authority's reasons for considering that one of the grounds set out in sub-paragraph (3) is satisfied; and
 - (b) specify a reasonable period (which may not be less than 28 days) within which any person to whom it is given may make representations to the Authority.
- (7) In this paragraph—
- “ specified ” means specified—
 - (a) in rules made by the Authority to implement the UCITS directive, or
 - (b) in any directly applicable Community regulation or decision made under the UCITS directive;
 - “ UCITS home state rules ” means requirements which are imposed by or under this Act so far as relating to matters falling within Article 19(3) and (4) of the UCITS directive.]

Textual Amendments

F110 Sch. 3 paras. 15A-15C substituted for Sch. 3 para. 15A (1.7.2011) by The Undertakings for Collective Investment in [Transferable Securities Regulations 2011 \(S.I. 2011/1613\)](#), **reg. 2(33)(d)**

Representations and references to the Tribunal

- [
F111] (1) Within a reasonable time after the end of the period for making representations, the Authority must decide, in the light of any representations made to it during that period
F111 15B by a person to whom notice has been given under paragraph 15A(4), whether to withdraw the notice.
- (2) If the Authority decides not to withdraw its notice, it must—
- (a) give a decision notice to each person to whom the notice under paragraph 15A(4) was given, and
 - (b) inform the firm's home state regulator and the Commission that authorisation has been refused, and of the grounds for the refusal.
- (3) The management company to whom the decision notice is given may refer the matter to the Tribunal.]

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Textual Amendments

F111 Sch. 3 paras. 15A-15C substituted for Sch. 3 para. 15A (1.7.2011) by The Undertakings for Collective Investment in [Transferable Securities Regulations 2011 \(S.I. 2011/1613\)](#), **reg. 2(33)(d)**

Information to home state regulator

- 15C (1) Where an EEA firm falling within paragraph 5(f) has applied to manage a UCITS established in the United Kingdom, the Authority must without delay inform the home state regulator of that firm of any problem of which they are aware that may materially affect the ability of the firm—
- (a) to perform its duties properly, or
 - (b) to comply with the home state rules.
- (2) In sub-paragraph (1), “home state rules” means rules—
- (a) made by the EEA State concerned in accordance with the UCITS directive; and
 - (b) which are the responsibility of that EEA State (both as to implementation and as to supervision of compliance) in accordance with that directive.]]

Textual Amendments

F111 Sch. 3 paras. 15A-15C substituted for Sch. 3 para. 15A (1.7.2011) by The Undertakings for Collective Investment in [Transferable Securities Regulations 2011 \(S.I. 2011/1613\)](#), **reg. 2(33)(d)**

Effect of carrying on regulated activity when not qualified for authorisation

- 16 (1) This paragraph applies to an EEA firm which is not qualified for authorisation under paragraph 12.
- (2) Section 26 does not apply to an agreement entered into by the firm.
 - (3) Section 27 does not apply to an agreement in relation to which the firm is a third party for the purposes of that section.
 - (4) Section 29 does not apply to an agreement in relation to which the firm is the deposit-taker.

Commencement Information

I15 Sch. 3 Pt. II para. 16 wholly in force at 1.12.2001; Sch. 3 Pt. II para. 16 not in force at Royal Assent see s. 431(2); Sch. 3 Pt. II para. 16 in force for certain purposes at 25.2.2001 by [S.I. 2001/516](#), **art. 2(b)(c)**, [Sch. Pts. 2, 3](#); Sch. 3 Pt. II para. 16 in force for specified purposes at 18.6.2001 by [S.I. 2001/1820](#), **art. 2, Sch.**; Sch. 3 Pt. II para. 16 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538](#), **art. 2(1)**

Continuing regulation of EEA firms

- 17 Regulations may—
- [^{F112}(za) require the FCA and the PRA to notify each other about EEA firms qualifying for authorisation;]

Status: Point in time view as at 19/02/2013.

Changes to legislation: Financial Services and Markets Act 2000 is up to date with all changes known to be in force on or before 10 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) modify any provision of this Act which is an applicable provision (within the meaning of paragraph 13 or 14) in its application to an EEA firm qualifying for authorisation;
- (b) make provision as to any change (or proposed change) of a prescribed kind relating to an EEA firm or to an activity that it carries on in the United Kingdom and as to the procedure to be followed in relation to such cases;
- (c) provide that [^{F113}the FCA or the PRA] may treat an EEA firm's notification that it is to cease to carry on regulated activity in the United Kingdom as a request for cancellation of its qualification for authorisation under this Schedule.

Textual Amendments

F112 Sch. 3 para. 17(za) inserted (24.1.2013 for specified purposes) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 4 para. 7\(a\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(b), Sch. Pt. 2

F113 Words in Sch. 3 para. 17(c) substituted (24.1.2013 for specified purposes) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 4 para. 7\(b\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(b), Sch. Pt. 2

Commencement Information

I16 Sch. 3 Pt. II para. 17 wholly in force at 1.12.2001; Sch. 3 Pt. II para. 17 not in force at Royal Assent see s. 431(2); Sch. 3 Pt. II para. 17 in force for certain purposes at 25.2.2001 by S.I. 2001/516, art. 2(b)(c), [Sch. Pts. 2, 3](#); Sch. 3 Pt. II para. 17 in force for specified purposes at 18.6.2001 by S.I. 2001/1820, art. 2, [Sch.](#); Sch. 3 Pt. II para. 17 in force in so far as not already in force at 1.12.2001 by S.I. 2001/3538, [art. 2\(1\)](#)

Giving up right to authorisation

- 18 Regulations may provide that in prescribed circumstances an EEA firm falling within paragraph 5(c) may, on following the prescribed procedure—
- (a) have its qualification for authorisation under this Schedule cancelled; and
 - (b) seek to become an authorised person by applying for a Part IV permission.

Commencement Information

I17 Sch. 3 Pt. II para. 18 wholly in force at 1.12.2001; Sch. 3 Pt. II para. 18 not in force at Royal Assent see s. 431(2); Sch. 3 Pt. II para. 18 in force for specified purposes at 25.2.2001 by S.I. 2001/516, art. 2(b)(c), [Sch. Pts. 2, 3](#); Sch. 3 Pt. I para. 18 in force for specified purposes at 18.6.2001 by S.I. 2001/1820, [art. 2 Sch.](#); Sch. 3 Pt. II para. 18 in force in so far as not already in force at 1.12.2001 by S.I. 2001/3538, [art. 2\(1\)](#)

PART III

EXERCISE OF PASSPORT RIGHTS BY UK FIRMS

Establishment

- 19 (1) [^{F114}Subject to [^{F115}sub-paragraphs (5ZA) [^{F116}, (5ZB)] and (5A)],] a UK firm may not exercise an EEA right to establish a branch unless three conditions are satisfied.

Status: Point in time view as at 19/02/2013.

Changes to legislation: Financial Services and Markets Act 2000 is up to date with all changes known to be in force on or before 10 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (2) The first is that the firm has given the Authority, in the specified way, notice of its intention to establish a branch (“a notice of intention”) which—
- (a) identifies the activities which it seeks to carry on through the branch; and
 - (b) includes such other information as may be specified.
- (3) [^{F117}Subject to sub-paragraph (5B), the] activities identified in a notice of intention may include activities which are not regulated activities.
- [^{F118}(4) The second is that—
- (a) the Authority has given notice in specified terms (“a consent notice”) to the host state regulator; and
 - (b) where the firm is a management company which wishes to pursue the activity of collective portfolio management referred to in Annex II to the UCITS directive, the Authority has provided to the host state regulator—
 - (i) confirmation that the firm has been authorised as a management company pursuant to the provisions of the UCITS directive;
 - (ii) a description of the scope of the management company's authorisation; and
 - (iii) details of any restriction on the types of UCITS that the management company is authorised to manage.]
- [^{F119}(5) The third is—
- (a) if the EEA right in question derives from the insurance mediation directive, that one month has elapsed beginning with the date on which the firm received notice, in accordance with sub-paragraph (11), that the Authority has given a consent notice;
 - (b) in any other case, that either—
 - (i) the host state regulator has notified the firm (or, where the EEA right in question derives from any of the insurance directives, the Authority) of the applicable provisions; or
 - (ii) two months have elapsed beginning with the date on which the Authority gave the consent notice.]
- [^{F120}(5ZA) This paragraph does not apply to a UK firm having an EEA right which is subject to the conditions of the reinsurance directive.]
- [^{F121}(5ZB) This paragraph does not apply to a UK firm having an EEA right which is subject to the conditions of the emission allowance auctioning regulation, in respect of its exercise of that EEA right.]
- [^{F122}(5A) If—
- (a) the EEA right in question derives from the insurance mediation directive, and
 - (b) the EEA State in which the firm intends to establish a branch has not notified the Commission, in accordance with Article 6(2) of that directive, of its wish to be informed of the intention of any UK firm to establish a branch in its territory,
- the second and third conditions do not apply (and so the firm may establish the branch to which its notice of intention relates as soon as the first condition is satisfied).]

Status: Point in time view as at 19/02/2013.

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- [^{F123}(5B) If the firm is a UK investment firm, a notice of intention may not include ancillary services unless such services are to be provided in connection with the carrying on of one or more investment services and activities.
- (5C) In sub-paragraph (5B) “ancillary services” has the meaning given in Article 4.1.3 of the markets in financial instruments directive.]
- (6) If the firm’s EEA right derives from [^{F124}the banking consolidation directive,
^{F125}[^{F126} . . . or, in the case of a credit institution authorised under the banking consolidation directive, the markets in financial instruments directive]] and the first condition is satisfied, the Authority must give a consent notice to the host state regulator unless it has reason to doubt the adequacy of the firm’s resources or its administrative structure.
- [^{F127}(6A) If the firm's EEA right derives from the UCITS directive and the first condition is satisfied, the Authority must give a consent notice and information about the compensation scheme to the host state regulator unless it has reason to doubt the adequacy of the firm's resources or its administrative structure, and must do so within two months beginning with the date on which it received the firm's notice of intention.]
- (7) If the firm’s EEA right derives from any of the insurance directives and the first condition is satisfied, the Authority must give a consent notice unless it has reason—
- (a) to doubt the adequacy of the firm’s resources or its administrative structure, or
 - (b) to question the reputation, qualifications or experience of the directors or managers of the firm or the person proposed as the branch’s authorised agent for the purposes of those directives,
- in relation to the business to be conducted through the proposed branch.
- [^{F128}(7A) If—
- (a) the firm’s EEA right derives from the insurance mediation directive,
 - (b) the first condition is satisfied, and
 - (c) the second condition applies,
- the Authority must give a consent notice, and must do so within one month beginning with the date on which it received the firm’s notice of intention.]
- [^{F129}(7B) If the firm is a UK investment firm and the first condition is satisfied, the Authority must give a consent notice to the host state regulator within three months beginning with the date on which it received the firm's notice of intention unless the Authority has reason to doubt the adequacy of the firm's resources or its administrative structure.]
- (8) If the Authority proposes to refuse to give a consent notice it must give the firm concerned a warning notice.
- (9) If the firm’s EEA right derives from any of the insurance directives and the host state regulator has notified it of the applicable provisions, the Authority must inform the firm of those provisions.
- (10) Rules may specify the procedure to be followed by the Authority in exercising its functions under this paragraph.

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- (11) If the Authority gives a consent notice it must give written notice that it has done so to the firm concerned.
- (12) If the Authority decides to refuse to give a consent notice—
- (a) it must, [^{F130}within the relevant period], give the person who gave that notice a decision notice to that effect; and
 - (b) that person may refer the matter to the Tribunal.
- [^{F131}(12ZA) If the firm's EEA right derives from the UCITS directive, the Authority must inform [^{F132}ESMA and] the Commission if it decides to refuse to give a consent notice, giving the reasons for that refusal.]
- [^{F133}(12A) In sub-paragraph (12), “the relevant period” means—
- (a) if the firm’s EEA right derives from the UCITS directive, two months beginning with the date on which the Authority received the notice of intention;
 - (b) in any other case, three months beginning with that date.]
- (13) In this paragraph, “applicable provisions” means the host state rules with which the firm will be required to comply when conducting business through the proposed branch in the EEA State concerned.
- (14) In sub-paragraph (13), “host state rules” means rules—
- (a) made in accordance with the relevant single market directive; and
 - (b) which are the responsibility of the EEA State concerned (both as to implementation and as to supervision of compliance) in accordance with that directive.
- (15) “Specified” means specified in rules.

Textual Amendments

- F114** Words in Sch. 3 para. 19(1) inserted (14.1.2005) by [The Insurance Mediation Directive \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/1473\)](#), **reg. 5(2)**
- F115** Words in Sch. 3 para. 19(1) substituted (10.12.2007) by [The Reinsurance Directive Regulations 2007 \(S.I. 2007/3253\)](#), **reg. 2(1)**, **Sch. 1 para. 6(f)**
- F116** Word in Sch. 3 para. 19(1) inserted (20.7.2012) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2012 \(S.I. 2012/1906\)](#), arts. 1, **4(10)(a)**
- F117** Words in Sch. 3 para. 19(3) substituted (1.4.2007 for certain purposes, otherwise 1.11.2007) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2007 \(S.I. 2007/126\)](#), regs. 1(2), 3(4), **Sch. 4 para. 10(a)**
- F118** Sch. 3 para. 19(4) substituted (1.7.2011) by [The Undertakings for Collective Investment in Transferable Securities Regulations 2011 \(S.I. 2011/1613\)](#), **reg. 2(33)(e)**
- F119** Sch. 3 para. 19(5) substituted (14.1.2005) by [The Insurance Mediation Directive \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/1473\)](#), **reg. 5(3)**
- F120** Sch. 3 para. 19(5ZA) inserted (10.12.2007) by [The Reinsurance Directive Regulations 2007 \(S.I. 2007/3253\)](#), **reg. 2(1)**, **Sch. 1 para. 6(g)**
- F121** Sch. 3 para. 19(5ZB) inserted (20.7.2012) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2012 \(S.I. 2012/1906\)](#), arts. 1, **4(10)(b)**
- F122** Sch. 3 para. 19(5A) inserted (14.1.2005) by [The Insurance Mediation Directive \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/1473\)](#), **reg. 5(4)**

Status: Point in time view as at 19/02/2013.

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- F123** Sch. 3 para. 19(5B)(5C) inserted (1.4.2007 for certain purposes, otherwise 1.11.2007) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2007 \(S.I. 2007/126\)](#), regs. 1(2), 3(4), **Sch. 4 para. 10(b)**
- F124** Words in Sch. 3 para. 19(6) substituted (13.2.2004) by [The Collective Investment Schemes \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/2066\)](#), **reg 4(1)(a)(i)**
- F125** Words in Sch. 3 para. 19(6) omitted (1.7.2011) by virtue of [The Undertakings for Collective Investment in Transferable Securities Regulations 2011 \(S.I. 2011/1613\)](#), **reg. 2(33)(f)**
- F126** Words in Sch. 3 para. 19(6) substituted (1.4.2007 for certain purposes, otherwise 1.11.2007) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2007 \(S.I. 2007/126\)](#), regs. 1(2), 3(4), **Sch. 4 para. 10(c)** (with reg. 8)
- F127** Sch. 3 para. 19(6A) inserted (1.7.2011) by [The Undertakings for Collective Investment in Transferable Securities Regulations 2011 \(S.I. 2011/1613\)](#), **reg. 2(33)(g)**
- F128** Sch. 3 para. 19(7A) inserted (14.1.2005) by [The Insurance Mediation Directive \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/1473\)](#), **reg. 5(5)**
- F129** Sch. 3 para. 19(7B) inserted (1.4.2007 for certain purposes, otherwise 1.11.2007) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2007 \(S.I. 2007/126\)](#), regs. 1(2), 3(4), **Sch. 4 para. 10(d)** (with reg. 8)
- F130** Words in Sch. 3 para. 19(12)(a) substituted (13.2.2004) by [The Collective Investment Schemes \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/2066\)](#), **reg 4(1)(a)(ii)**
- F131** Sch. 3 para. 19(12ZA) inserted after Sch. 3 para. 19(12) (1.7.2011) by [The Undertakings for Collective Investment in Transferable Securities Regulations 2011 \(S.I. 2011/1613\)](#), **reg. 2(33)(h)**
- F132** Words in Sch. 3 para. 19(12ZA) inserted (16.4.2012) by [The Financial Services \(Omnibus 1 Directive\) Regulations 2012 \(S.I. 2012/916\)](#), regs. 1, **2(15)**
- F133** Sch. 3 para. 19(12A) inserted (13.2.2004) by [The Collective Investment Schemes \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/2066\)](#), **reg 4(1)(a)(iii)**

Modifications etc. (not altering text)

- C7** Sch. 3 Pt. III para. 19 applied (1.12.2001) by [S.I. 2001/3592](#), **arts. 1(2)**, 104(3)(a) (with art. 23(2))
Sch. 3 Pt. III para. 19 modified (1.12.2001) by [S.I. 2001/2636](#), **arts. 1(2)(b)**, 77(1)-(3)(7); [S.I. 2001/3538](#), **art. 2(1)**
- C8** Sch. 3 Pt. III para. 19(2)(4)(6)(7) extended (1.12.2001) by [S.I. 2001/3592](#), **arts. 1(2)**, 100 (with art. 23(2))

Commencement Information

- I18** Sch. 3 Pt. III para. 19 wholly in force at 1.12.2001; Sch. 3 Pt. III para. 19 not in force at Royal Assent see s. 431(2); Sch. 3 Pt. III para. 19 in force for certain purposes at 25.2.2001 by [S.I. 2001/516](#), **art. 2(b)(c)**, **Sch. Pts. 2, 3**; Sch. 3 Pt. III para. 19 in force for specified purposes at 18.6.2001 by [S.I. 2001/1820](#), **art. 2**, **Sch.**; Sch. 3 Pt. III para. 19 in force for specified purposes at 3.9.2001 by [S.I. 2001/2632](#), **art. 2(2)**, **Sch. Pt. 2**; Sch. 3 Pt. III para. 19 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538](#), **art. 2(1)**

Services

- 20 (1) ^{F134}Subject to ^{F135}sub-paragraphs (4D) and (4E)], a UK firm may not exercise an EEA right to provide services unless the firm has given the Authority, in the specified way, notice of its intention to provide services (“a notice of intention”) which—
- identifies the activities which it seeks to carry out by way of provision of services; and
 - includes such other information as may be specified.
- (2) ^{F136}Subject to sub-paragraph (2A), the] activities identified in a notice of intention may include activities which are not regulated activities.

Status: Point in time view as at 19/02/2013.

Changes to legislation: Financial Services and Markets Act 2000 is up to date with all changes known to be in force on or before 10 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- [^{F137}(2A) If the firm is a UK investment firm, a notice of intention may not include ancillary services unless such services are to be provided in connection with the carrying on of one or more investment services and activities.
- (2B) In sub-paragraph (2A) “ancillary services” has the meaning given in Article 4.1.3 of the markets in financial instruments directive.]
- (3) If the firm’s EEA right derives from [^{F138}the banking consolidation directive, [^{F139}markets in financial instruments directive] or the UCITS directive], the Authority must, within one month of receiving a notice of intention, send a copy of it to the host state regulator [^{F140}with such other information as may be specified].
- [^{F141}(3ZA) If the firm’s EEA right derives from the UCITS directive, the Authority must provide information about the compensation scheme with the information provided to the host state regulator under sub-paragraph (3).]
- [^{F142}(3A) If the firm’s EEA right derives from any of the insurance directives, the Authority must, within one month of receiving the notice of intention—
- (a) give notice in specified terms (“a consent notice”) to the host state regulator;
 - or
 - (b) give written notice to the firm of—
 - (i) its refusal to give a consent notice; and
 - (ii) its reasons for that refusal.]
- [^{F143}(3B) If the firm’s EEA right derives from the insurance mediation directive and the EEA State in which the firm intends to provide services has notified the Commission, in accordance with Article 6(2) of that directive, of its wish to be informed of the intention of any UK firm to provide services in its territory—
- (a) the Authority must, within one month of receiving the notice of intention, send a copy of it to the host state regulator;
 - (b) the Authority, when it sends the copy in accordance with sub-paragraph (a), must give written notice to the firm concerned that it has done so; and
 - (c) the firm concerned must not provide the services to which its notice of intention relates until one month, beginning with the date on which it receives the notice under sub-paragraph (b), has elapsed.]
- [^{F144}(3C) If the firm is a management company which wishes to pursue the activity of collective portfolio management referred to in Annex II to the UCITS directive, the Authority must send with the documentation provided to the host state regulator under sub-paragraph (3)—
- (a) confirmation that the firm has been authorised as a management company pursuant to the provisions of the UCITS directive;
 - (b) a description of the scope of the management company’s authorisation; and
 - (c) details of any restriction on the types of UCITS that the management company is authorised to manage.]
- (4) When the Authority sends the copy under sub-paragraph (3) [^{F145}or gives a consent notice], it must give written notice to the firm concerned.
- [^{F146}(4A) If the firm is given notice under sub-paragraph (3A)(b), it may refer the matter to the Tribunal.

Status: Point in time view as at 19/02/2013.

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(4B) If the firm's EEA right derives from any of the insurance directives [^{F147} or from the markets in financial instruments directive][^{F148} or the UCITS directive], it must not provide the services to which its notice of intention relates until it has received written notice under sub-paragraph (4).

[If the firm's EEA right derives from the markets in financial instruments directive,
^{F149}(4BA) the Authority must comply as soon as reasonably practicable with a request for information under the second sub-paragraph of Article 31.6 of that directive from the host state regulator.]

(4C) Rules may specify the procedure to be followed by the Authority under this paragraph.]

[^{F150}(4D) This paragraph does not apply to a UK firm having an EEA right which is subject to the conditions of the reinsurance directive.]

[^{F151}(4E) This paragraph does not apply to a UK firm having an EEA right which is subject to the conditions of the emission allowance auctioning regulation, in respect of its exercise of that EEA right.]

^{F152}(5)

(6) "Specified" means specified in rules.

Textual Amendments

- F134** Words in Sch. 3 para. 20(1) inserted (10.12.2007) by [The Reinsurance Directive Regulations 2007 \(S.I. 2007/3253\)](#), [reg. 2\(1\)](#), [Sch. 1 para. 6\(h\)](#)
- F135** Words in Sch. 3 para. 20(1) substituted (20.7.2012) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2012 \(S.I. 2012/1906\)](#), arts. 1, [4\(11\)\(a\)](#)
- F136** Words in Sch. 3 para. 20(2) substituted (1.4.2007 for certain purposes, otherwise 1.11.2007) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2007 \(S.I. 2007/126\)](#), regs. 1(2), 3(4), [Sch. 4 para. 11\(a\)](#)
- F137** Sch. 3 para. 20(2A)(2B) inserted (1.4.2007 for certain purposes, otherwise 1.11.2007) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2007 \(S.I. 2007/126\)](#), regs. 1(2), 3(4), [Sch. 4 para. 11\(b\)](#)
- F138** Words in Sch. 3 para. 20(3) substituted (13.2.2004) by [The Collective Investment Schemes \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/2066\)](#), [reg 4\(1\)\(b\)\(i\)](#)
- F139** Words in Sch. 3 para. 20(3) substituted (1.4.2007 for certain purposes, otherwise 1.11.2007) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2007 \(S.I. 2007/126\)](#), regs. 1(2), 3(4), [Sch. 4 para. 11\(c\)](#)
- F140** Words in Sch. 3 para. 20(3) inserted (13.2.2004) by [The Collective Investment Schemes \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/2066\)](#), [reg 4\(1\)\(b\)\(ii\)](#)
- F141** Sch. 3 para. 20(3ZA) inserted after Sch. 3 para. 20(3) (1.7.2011) by [The Undertakings for Collective Investment in Transferable Securities Regulations 2011 \(S.I. 2011/1613\)](#), [reg. 2\(33\)\(i\)](#)
- F142** Sch. 3 Pt. III para. 20(3A) inserted (30.4.2001) by [S.I. 2001/1376](#), [regs. 1, 2\(2\)](#)
- F143** Sch. 3 para. 20(3B) inserted (14.1.2005) by [The Insurance Mediation Directive \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/1473\)](#), [reg. 6\(1\)](#)
- F144** Sch. 3 para. 20(3C) inserted (1.7.2011) by [The Undertakings for Collective Investment in Transferable Securities Regulations 2011 \(S.I. 2011/1613\)](#), [reg. 2\(33\)\(j\)](#)
- F145** Words in Sch. 3 Pt. III para. 20(4) inserted (30.4.2001) by [S.I. 2001/1376](#), [regs. 1, 2\(3\)](#)
- F146** Sch. 3 Pt. III para. 20(4A)-(4C) inserted (30.4.2001) by [S.I. 2001/1376](#), [regs. 1, 2\(4\)](#)

Status: Point in time view as at 19/02/2013.

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- F147** Words in Sch. 3 para. 20(4B) inserted (1.4.2007 for certain purposes, otherwise 1.11.2007) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2007 \(S.I. 2007/126\)](#), regs. 1(2), 3(4), **Sch. 4 para. 11(d)**
- F148** Words in Sch. 3 para. 20(4B) inserted (1.7.2011) by [The Undertakings for Collective Investment in Transferable Securities Regulations 2011 \(S.I. 2011/1613\)](#), **reg. 2(33)(k)**
- F149** Sch. 3 para. 20(4BA) inserted (1.4.2007 for certain purposes, otherwise 1.11.2007) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2007 \(S.I. 2007/126\)](#), regs. 1(2), 3(4), **Sch. 4 para. 11(e)**
- F150** Sch. 3 para. 20(4D) inserted (10.12.2007) by [The Reinsurance Directive Regulations 2007 \(S.I. 2007/3253\)](#), **reg. 2(1)**, **Sch. 1 para. 6(i)**
- F151** Sch. 3 para. 20(4E) inserted (20.7.2012) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2012 \(S.I. 2012/1906\)](#), arts. 1, **4(11)(b)**
- F152** Sch. 3 Pt. III para. 20(5) omitted (30.4.2001) by virtue of [S.I. 2001/1376](#), **regs. 1, 2(5)**

Modifications etc. (not altering text)

- C9** Sch. 3 Pt. III para. 20(1) modified (1.12.2001) by [S.I. 2001/2636](#), **arts. 1(2)(b)**, 77(1)(4)-(7); [S.I. 2001/3538](#), **art. 2(1)**
- C10** Sch. 3 Pt. III para. 20(1)(3A)(a) extended (1.12.2001) by [S.I. 2001/3592](#), **arts. 1(2)**, 101 (with art. 23(2))

Commencement Information

- I19** Sch. 3 Pt. III para. 20 wholly in force at 1.12.2001; Sch. 3 Pt. III para. 20 not in force at Royal Assent see s. 431(2); Sch. 3 Pt. III para. 20 in force for certain purposes at 25.2.2001 by [S.I. 2001/516](#), **art. 2(b)(c)**, **Sch. Pts. 2, 3**; Sch. 3 Pt. III para. 20 in force for specified purposes at 18.6.2001 by [S.I. 2001/1820](#), **art. 2**, **Sch.**; Sch. 3 Pt. III para. 20 in force for specified purposes at 3.9.2001 by [S.I. 2001/2632](#), **art. 2(2)**, **Sch. Pt. 2**; Sch. 3 Pt. III para. 20 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538](#), **art. 2(1)**

Information for host state regulator

- ^{F153} (1) The Authority must keep a record of the confirmation and other information provided ^{F153}20ZA to the host state regulator under paragraph 19(4) or paragraph 20(3C) in relation to a UK firm which is a management company.
- (2) The Authority must inform the host state regulator whenever there is a change in the confirmation or other information referred to in sub-paragraph (1).]]

Textual Amendments

- F153** Sch. 3 para. 20ZA inserted (1.7.2011) by [The Undertakings for Collective Investment in Transferable Securities Regulations 2011 \(S.I. 2011/1613\)](#), **reg. 2(33)(l)**

^{F154}Tied agents

Textual Amendments

- F154** Sch. 3 para. 20A and preceding cross-heading inserted (1.4.2007 for certain purposes, otherwise 1.11.2007) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2007 \(S.I. 2007/126\)](#), regs. 1(2), 3(4), **Sch. 4 para. 12**

- 20A (1) If a UK investment firm is seeking to use a tied agent established in an EEA State (other than the United Kingdom) in connection with the exercise of an EEA right

Status: Point in time view as at 19/02/2013.

Changes to legislation: Financial Services and Markets Act 2000 is up to date with all changes known to be in force on or before 10 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

deriving from the markets in financial instruments directive, this Part of this Schedule applies as if the firm were seeking to establish a branch in that State.

- (2) But if—
- (a) a UK investment firm has already established a branch in an EEA State other than the United Kingdom in accordance with paragraph 19; and
 - (b) the EEA right which it is exercising derives from the markets in financial instruments directive,
- paragraph 19 does not apply in respect of its use of the tied agent in question.

Notice of intention to market

- [^{F155} (1) The operator of a UCITS established in the United Kingdom may not exercise an EEA right to market the units of that UCITS in the territory of another EEA State unless the operator has given the Authority, in the specified way, notice of its intention to market the units (“notice of intention”) which contains, and is accompanied by, such information as may be specified in rules, or in regulations made by the European Commission under the UCITS directive.
- ^{F155}20B
- (2) The Authority must ensure that the information referred to in sub-paragraph (1) may be transmitted to it electronically.
 - (3) The Authority must verify whether the information submitted with the notice of intention is complete and, within 10 days of the date on which the Authority received the complete information required, send to the host state regulator—
 - (a) a copy of the notice of intention;
 - (b) the accompanying information; and
 - (c) confirmation that the operator and the UCITS fulfil the conditions imposed by the UCITS directive.
 - (4) The Authority must ensure that the host state regulator has electronic access to the information and documents referred to in sub-paragraph (3).
 - (5) The Authority must notify the operator immediately that the information referred to in sub-paragraph (3) has been sent to the competent authorities of the host state regulator.
 - (6) The operator may market the units of the UCITS in the territory of the host state regulator from the moment it receives the notification referred to in sub-paragraph (5).
 - (7) In this paragraph—
 - “operator” has the same meaning as in section 237 of this Act;
 - “specified” means specified in rules.]]]

Textual Amendments

F155 Sch. 3 para. 20B inserted (1.7.2011) by The Undertakings for Collective Investment in [Transferable Securities Regulations 2011 \(S.I. 2011/1613\)](#), [reg. 2\(33\)\(m\)](#)

Status: Point in time view as at 19/02/2013.

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Offence relating to exercise of passport rights

- 21 (1) If a UK firm which is not an authorised person contravenes the prohibition imposed by—
- (a) sub-paragraph (1) of paragraph 19, or
 - (b) [^{F156}sub-paragraph (1), (3B)(c) or (4B)] of paragraph 20,
- it is guilty of an offence.
- (2) A firm guilty of an offence under sub-paragraph (1) is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum; or
 - (b) on conviction on indictment, to a fine.
- (3) In proceedings for an offence under sub-paragraph (1), it is a defence for the firm to show that it took all reasonable precautions and exercised all due diligence to avoid committing the offence.

Textual Amendments

F156 Words in Sch. 3 para. 21(1)(b) substituted (14.1.2005) by [The Insurance Mediation Directive \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/1473\)](#), **reg. 6(2)**

Commencement Information

I20 Sch. 3 Pt. III para. 21 wholly in force at 1.12.2001; Sch. 3 Pt. III para. 21 not in force at Royal Assent see s. 431(2); Sch. 3 Pt. III para. 21 in force for certain purposes at 25.2.2001 by [S.I. 2001/516](#), [art. 2\(b\)\(c\)](#), [Sch. Pts. 2, 3](#); Sch. 3 Pt. III para. 21 in force for specified purposes at 18.6.2001 by [S.I. 2001/1820](#), [art. 2, Sch.](#); Sch. 3 Pt. III para. 21 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538](#), [art. 2\(1\)](#)

Continuing regulation of UK firms

- 22 (1) Regulations may make such provision as the Treasury consider appropriate in relation to a UK firm's exercise of EEA rights, and may in particular provide for the application (with or without modification) of any provision of, or made under, this Act in relation to an activity of a UK firm.
- (2) Regulations may—
- (a) make provision as to any change (or proposed change) of a prescribed kind relating to a UK firm or to an activity that it carries on and as to the procedure to be followed in relation to such cases;
 - (b) make provision with respect to the consequences of the firm's failure to comply with a provision of the regulations.
- (3) Where a provision of the kind mentioned in sub-paragraph (2) requires the Authority's consent to a change (or proposed change)—
- (a) consent may be refused only on prescribed grounds; and
 - (b) if the Authority decides to refuse consent, the firm concerned may refer the matter to the Tribunal.

Commencement Information

I21 Sch. 3 Pt. III para. 22 wholly in force at 1.12.2001; Sch. 3 Pt. III para. 22 not in force at Royal Assent see s. 431(2); Sch. 3 Pt. III para. 22 in force for certain purposes at 25.2.2001 by [S.I. 2001/516](#), [art. 2\(b\)\(c\)](#),

Status: Point in time view as at 19/02/2013.

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Sch. Pts. 2, 3; Sch. 3 Pt. III para. 22 in force for specified purposes at 18.6.2001 by S.I. 2001/1820, art. 2, Sch.; Sch. 3 Pt. III para. 22 in force in so far as not already in force at 1.12.2001 by S.I. 2001/3538, art. 2(1)

- 23 (1) [^{F157}Sub-paragraphs (2) and (2A) apply] if a UK firm—
- (a) has a Part IV permission; and
 - (b) is exercising an EEA right to carry on any Consumer Credit Act business in an EEA State other than the United Kingdom.
- (2) The Authority may exercise its power under section 45 in respect of the firm if [^{F158}the Office of Fair Trading] has informed the Authority that—
- (a) the firm,
 - (b) any of the firm's employees, agents or associates (whether past or present), or
 - (c) if the firm is a body corporate, a controller of the firm or an associate of such a controller,
- has done any of the things specified in paragraphs [^{F159}(a) to (e) of section 25(2A)] of the ^{M3}Consumer Credit Act 1974.
- [^{F160}(2A) The Authority may also exercise its power under section 45 in respect of the firm if the Office of Fair Trading has informed the Authority that it has concerns about any of the following—
- (a) the firm's skills, knowledge and experience in relation to Consumer Credit Act businesses;
 - (b) such skills, knowledge and experience of other persons who are participating in any Consumer Credit Act business being carried on by the firm;
 - (c) practices and procedures that the firm is implementing in connection with any such business.]
- (3) “Associate”, “Consumer Credit Act business” and “controller” have the same meaning as in section 203.

Textual Amendments

- F157** Words in Sch. 3 para. 23(1) substituted (6.4.2008) by Consumer Credit Act 2006 (c. 14), ss. 33(10), 71(2); S.I. 2007/3300, art. 3(2), Sch. 2
- F158** Words in Sch. 3 para. 23(2) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), ss. 278(1), 279, Sch. 25 para. 40(19)(b); S.I. 2003/766, art. 2, Sch. (with art. 3)
- F159** Words in Sch. 3 para. 23(2) substituted (6.4.2008) by Consumer Credit Act 2006 (c. 14), ss. 33(11), 71(2); S.I. 2007/3300, art. 3(2), Sch. 2
- F160** Sch. 3 para. 23(2A) inserted (6.4.2008) by Consumer Credit Act 2006 (c. 14), ss. 33(12), 71(2); S.I. 2007/3300, art. 3(2), Sch. 2

Commencement Information

- I22** Sch. 3 Pt. III para. 23 wholly in force at 1.12.2001; Sch. 3 Pt. III para. 23 not in force at Royal Assent see s. 431(2); Sch. 3 Pt. III para. 23 in force for certain purposes at 25.2.2001 by S.I. 2001/516, art. 2(b)(c) Sch. Pts. 2, 3; Sch. 3 Pt. III para. 23 in force for specified purposes at 18.6.2001 by S.I. 2001/1820, art. 2, Sch.; Sch. 3 Pt. III para. 23 in force in so far as not already in force at 1.12.2001 by S.I. 2001/3538, art. 2(1)

Marginal Citations

- M3** 1974 c. 39.

Status: Point in time view as at 19/02/2013.

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- 24 (1) Sub-paragraph (2) applies if a UK firm—
- (a) is not required to have a Part IV permission in relation to the business which it is carrying on; and
 - (b) is exercising the right conferred by ^{F161}[^{F162}Article 24] of the banking consolidation directive] to carry on that business in an EEA State other than the United Kingdom.
- (2) If requested to do so by the host state regulator in the EEA State in which the UK firm's business is being carried on, the Authority may impose any requirement in relation to the firm which it could impose if—
- (a) the firm had a Part IV permission in relation to the business which it is carrying on; and
 - (b) the Authority was entitled to exercise its power under that Part to vary that permission.

Textual Amendments

F161 Words in Sch. 3 Pt. III para. 24(1)(b) substituted (22.11.2000) by [S.I. 2000/2952, reg. 8\(5\)\(f\)](#)

F162 Words in Sch. 3 para. 24(1)(b) substituted (1.1.2007) by [The Capital Requirements Regulations 2006 \(S.I. 2006/3221\), reg. 29\(1\), Sch. 3 para. 2\(4\)](#)

Commencement Information

I23 Sch. 3 Pt. III para. 24 wholly in force at 1.12.2001; Sch. 3 Pt. III para. 24 not in force at Royal Assent see s. 431(2); Sch. 3 Pt. III para. 24 in force for certain purposes at 25.2.2001 by [S.I. 2001/516, art. 2\(b\)\(c\), Sch. Pts. 2, 3](#); Sch. 3 Pt. III para. 24 in force for specified purposes at 18.6.2001 by [S.I. 2001/1820, art. 2, Sch.](#); Sch. 3 Pt. III para. 24 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538, art. 2\(1\)](#)

^{F163}Arrangements between FCA and PRA

Textual Amendments

F163 Sch. 3 para. 24A and cross-heading inserted (24.1.2013 for specified purposes, 27.2.2013 for specified purposes) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 4 para. 17 \(with Sch. 20\); S.I. 2013/113, art. 2\(1\)\(c\), Sch. Pt. 3; S.I. 2013/423, art. 2](#)

- 24A (1) The regulators may make arrangements about—
- (a) how they will consult each other when required to do so by paragraph 19(7C) or (7D) or 20(3AA) or (3AB) or by regulations under paragraph 22;
 - (b) how each of them will act in response to any advice or representations received from the other.
- (2) The arrangements may require one regulator to obtain the consent of the other in specified circumstances before—
- (a) giving a consent notice under paragraph 19 or 20, or
 - (b) exercising specified functions under regulations under paragraph 22.
- (3) The arrangements must be in writing, and must specify—
- (a) the EEA rights to which they relate, and
 - (b) the date on which they come into force.

Status: Point in time view as at 19/02/2013.

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- (4) Where arrangements are in force under this paragraph, the regulators must exercise functions in accordance with the arrangements.
- (5) The regulators must publish any arrangements under this paragraph in such manner as they think fit.]

[^{F164}Information to be included in the public record

Textual Amendments

F164 Sch. 3 para. 25 and preceding cross-heading inserted (14.1.2005) by [The Insurance Mediation Directive \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/1473\)](#), **reg. 7**

- 25 The Authority must include in the record that it maintains under section 347 in relation to any UK firm whose EEA right derives from the insurance mediation directive information as to each EEA State in which the UK firm, in accordance with such a right—
- (a) has established a branch; or
 - (b) is providing services.

UK management companies: delegation of functions

- [^{F165}
^{F165}26 Where a UK firm which is a management company and is providing services in the exercise of an EEA right to an EEAUCITS informs the Authority that it has delegated one or more of its functions to a third party, the Authority must transmit that information to the home state regulator of the EEAUCITS without delay.]

Textual Amendments

F165 Sch. 3 paras. 26-28 inserted (1.7.2011) by The Undertakings for Collective Investment in [Transferable Securities Regulations 2011 \(S.I. 2011/1613\)](#), **reg. 2(33)(n)**

UK management companies: withdrawal of authorisation

- 27 Where a UK firm which is a management company has exercised an EEA right deriving from the UCITS directive to establish a branch or to provide services in another EEA State, the Authority must consult the home state regulator of any UCITS managed by that management company before taking a decision to withdraw the authorisation of the management company under section 33.

Textual Amendments

F165 Sch. 3 paras. 26-28 inserted (1.7.2011) by The Undertakings for Collective Investment in [Transferable Securities Regulations 2011 \(S.I. 2011/1613\)](#), **reg. 2(33)(n)**

Management companies: request for information

- 28 (1) Where a UK firm has applied to manage a UCITS which is established in another EEA State, the home state regulator of the UCITS may—

Status: Point in time view as at 19/02/2013.

Changes to legislation: Financial Services and Markets Act 2000 is up to date with all changes known to be in force on or before 10 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) request further information from the Authority regarding the documents referred to in Article 20.1 of the UCITS directive, and
 - (b) ask the Authority whether the type of UCITS for which the UK firm has applied to provide its services falls within the scope of the authorisation of the UK firm.
- (2) The Authority must respond to a request under sub-paragraph (1)(a) or (b) within 10 working days of the date on which the request was received.]]

Textual Amendments
F165 Sch. 3 paras. 26-28 inserted (1.7.2011) by The Undertakings for Collective Investment in [Transferable Securities Regulations 2011 \(S.I. 2011/1613\)](#), **reg. 2(33)(n)**

SCHEDULE 4

Section 31(1)(c).

TREATY RIGHTS

Modifications etc. (not altering text)
C11 Sch. 4 extended (1.12.2001) by [S.I. 2001/2636](#), **arts. 1(2)(b)**, 28-32; [S.I. 2001/3538](#), **art. 2(1)**

Definitions

1 ^{F166}(1) In this Schedule—

^{F167}

“Treaty firm” means a person—

- (a) whose head office is situated in an EEA State (its “home state”) other than the United Kingdom; and
 - (b) which is recognised under the law of that State as its national; and
- “home state regulator”, in relation to a Treaty firm, means the competent authority of the firm’s home state for the purpose of its home state authorisation (as to which see paragraph 3(1)(a)).

^{F168}(2) Section 425A (meaning of “consumers”) applies for the purposes of this Schedule.]

Textual Amendments
F166 Sch. 4 para. 1 renumbered (8.4.2010) as Sch. 4 para. 1(1) by virtue of [Financial Services Act 2010 \(c. 28\)](#), ss. 24(1), 26(1)(g)(l), **Sch. 2 para. 35(2)**
F167 Sch. 4 para. 1(1): definition of "consumers" omitted (8.4.2010) by virtue of [Financial Services Act 2010 \(c. 28\)](#), ss. 24(1), 26(1)(g)(l), **Sch. 2 para. 35(3)**
F168 Sch. 4 para. 1(2) inserted (8.4.2010) by [Financial Services Act 2010 \(c. 28\)](#), ss. 24(1), 26(1)(g)(l), **Sch. 2 para. 35(4)**

Status: Point in time view as at 19/02/2013.

Changes to legislation: Financial Services and Markets Act 2000 is up to date with all changes known to be in force on or before 10 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Firms qualifying for authorisation

- 2 Once a Treaty firm which is seeking to carry on a regulated activity satisfies the conditions set out in paragraph 3(1), it qualifies for authorisation.

Exercise of Treaty rights

- 3 (1) The conditions are that—
- (a) the firm has received authorisation (“home state authorisation”) under the law of its home state to carry on the regulated activity in question (“the permitted activity”);
 - (b) the relevant provisions of the law of the firm’s home state—
 - (i) afford equivalent protection; or
 - (ii) satisfy the conditions laid down by ^{F169}an EU] instrument for the co-ordination or approximation of laws, regulations or administrative provisions of member States relating to the carrying on of that activity; and
 - (c) the firm has no EEA right to carry on that activity in the manner in which it is seeking to carry it on.
- (2) A firm is not to be regarded as having home state authorisation unless its home state regulator has so informed the Authority in writing.
- (3) Provisions afford equivalent protection if, in relation to the firm’s carrying on of the permitted activity, they afford consumers protection which is at least equivalent to that afforded by or under this Act in relation to that activity.
- (4) A certificate issued by the Treasury that the provisions of the law of a particular EEA State afford equivalent protection in relation to the activities specified in the certificate is conclusive evidence of that fact.

Textual Amendments

F169 Words in Sch. 4 para. 3(1)(b)(ii) substituted (22.4.2011 with application in accordance with art. 3 of the amending S.I.) by virtue of [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), [art. 6\(1\)\(3\)\(4\)](#)

Commencement Information

I24 Sch. 4 para. 3 wholly in force at 1.12.2001; Sch. 4 para. 3 not in force at Royal Assent see s. 431(2); Sch. 4 para. 3 force for specified purposes at 3.9.2001 by [S.I. 2001/2632](#), [art. 2\(2\)](#), [Sch. Pt. 2](#); Sch. 4 para. 3 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538](#), [art. 2\(1\)](#)

^{F170}Notification between UK regulators

Textual Amendments

F170 Sch. 4 para. 3A and cross-heading inserted (24.1.2013 for specified purposes) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 4 para. 24](#) (with Sch. 20); [S.I. 2013/113](#), [art. 2\(1\)\(b\)](#), [Sch. Pt. 2](#)

- 3A Regulations may require the PRA and the FCA to notify each other about Treaty firms qualifying for authorisation.]

Status: Point in time view as at 19/02/2013.

Changes to legislation: Financial Services and Markets Act 2000 is up to date with all changes known to be in force on or before 10 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Permission

- 4 (1) On qualifying for authorisation under this Schedule, a Treaty firm has permission to carry on each permitted activity through its United Kingdom branch or by providing services in the United Kingdom.
- (2) The permission is to be treated as being on terms equivalent to those to which the firm's home state authorisation is subject.
- (3) If, on qualifying for authorisation under this Schedule, a firm has a Part IV permission which includes permission to carry on a permitted activity, the Authority must give a direction cancelling the permission so far as it relates to that activity.
- (4) The Authority need not give a direction under sub-paragraph (3) if it considers that there are good reasons for not doing so.

Notice to Authority

- 5 (1) Sub-paragraph (2) applies to a Treaty firm which—
- qualifies for authorisation under this Schedule, but
 - is not carrying on in the United Kingdom the regulated activity, or any of the regulated activities, which it has permission to carry on there.
- (2) At least seven days before it begins to carry on such a regulated activity, the firm must give the Authority written notice of its intention to do so.
- (3) If a Treaty firm to which sub-paragraph (2) applies has given notice under that sub-paragraph, it need not give such a notice if it again becomes a firm to which that sub-paragraph applies.
- [^{F171}(4) Subsections (1), (4) and (8) of section 55U apply to a notice under sub-paragraph (2) as they apply to an application for a Part 4A permission.]

Textual Amendments

F171 Sch. 4 para. 5(4) substituted (24.1.2013 for specified purposes, 27.2.2013 for specified purposes) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 4 para. 26\(4\)](#) (with [Sch. 20](#)); [S.I. 2013/113](#), art. 2(1) (c), [Sch. Pt. 3](#); [S.I. 2013/423](#), art. 2

Modifications etc. (not altering text)

C12 Sch. 4 para. 5(1) amended (*temp.* from 3.9.2001 to 1.12.2001) by [S.I. 2001/2659](#), [arts. 1\(2\)](#), 3(12); [S.I. 2001/3538](#), [art. 2\(1\)](#)

Commencement Information

I25 Sch. 4 para. 5 wholly in force at 1.12.2001; Sch. 4 para. 5 not in force at Royal Assent see s. 431(2); Sch. 4 para. 5 force for specified purposes at 3.9.2001 by [S.I. 2001/2632](#), [art. 2\(2\)](#), [Sch. Pt. 2](#); Sch. 4 para. 5 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538](#), [art. 2\(1\)](#)

Offences

- 6 (1) A person who contravenes paragraph 5(2) is guilty of an offence.

Status: Point in time view as at 19/02/2013.

Changes to legislation: Financial Services and Markets Act 2000 is up to date with all changes known to be in force on or before 10 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (2) In proceedings against a person for an offence under sub-paragraph (1) it is a defence for him to show that he took all reasonable precautions and exercised all due diligence to avoid committing the offence.
- (3) A person is guilty of an offence if in, or in connection with, a notice given by him under paragraph 5(2) he—
 - (a) provides information which he knows to be false or misleading in a material particular; or
 - (b) recklessly provides information which is false or misleading in a material particular.
- (4) A person guilty of an offence under this paragraph is liable—
 - (a) on summary conviction, to a fine not exceeding the statutory maximum;
 - (b) on conviction on indictment, to a fine.

SCHEDULE 5

Section 36.

PERSONS CONCERNED IN COLLECTIVE INVESTMENT SCHEMES

Authorisation

- 1 (1) A person who for the time being is an operator, trustee or depositary of a recognised collective investment scheme is an authorised person.
- (2) “Recognised” means recognised by virtue of section 264.
- (3) An authorised open-ended investment company is an authorised person.
- [^{F172}(4) A body—
 - (a) incorporated by virtue of regulations made under section 1 of the Open-Ended Investment Companies Act (Northern Ireland) 2002 in respect of which an authorisation order is in force, and
 - (b) to which the UCITS directive applies,is an authorised person.
- (5) “Authorisation order” means an order made under (or having effect as made under) any provision of those regulations which is made by virtue of section 1(2)(1) of that Act (provision corresponding to Chapter 3 of Part 17 of the Act).]

Textual Amendments

F172 Sch. 5 para. 1(4)(5) inserted (13.2.2004) by [The Collective Investment Schemes \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/2066\)](#), **reg 10(a)**

Permission

- 2 (1) A person authorised as a result of paragraph 1(1) has permission to carry on, so far as it is a regulated activity—
 - (a) any activity, appropriate to the capacity in which he acts in relation to the scheme, of the kind described in paragraph 8 of Schedule 2;

Status: Point in time view as at 19/02/2013.

Changes to legislation: Financial Services and Markets Act 2000 is up to date with all changes known to be in force on or before 10 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (b) any activity in connection with, or for the purposes of, the scheme.
- (2) A person authorised as a result of paragraph 1(3) [^{F173}or (4)] has permission to carry on, so far as it is a regulated activity—
 - (a) the operation of the scheme;
 - (b) any activity in connection with, or for the purposes of, the operation of the scheme.

Textual Amendments

F173 Words in Sch. 5 para. 2(2) inserted (13.2.2004) by [The Collective Investment Schemes \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/2066\)](#), **reg 10(b)**

SCHEDULE 6

Section 41.

THRESHOLD CONDITIONS

Modifications etc. (not altering text)

C13 Sch. 6 modified (3.9.2001) by [S.I. 2001/2507](#), **arts. 1(1), 3(1)**; [S.I. 2001/2632](#), **art. 2(2)**, **Sch. Pt. 2**

PART I

PART IV PERMISSION

Legal status

- 1 (1) If the regulated activity concerned is the effecting or carrying out of contracts of insurance the authorised person must be a body corporate [^{F174}(other than a limited liability partnership)], a registered friendly society or a member of Lloyd's.
- (2) If the person concerned appears to the Authority to be seeking to carry on, or to be carrying on, a regulated activity constituting accepting deposits [^{F175}or issuing electronic money], it must be—
 - (a) a body corporate; or
 - (b) a partnership.

Textual Amendments

F174 Words in Sch. 6 para. 1(1) inserted (3.9.2001) by [S.I. 2001/2507](#), **arts. 1(1), 2**; [S.I. 2001/2632](#), **art. 2(2)**, **Sch. Pt. 2**

F175 Words in Sch. 6 para. 1(2) inserted (11.4.2002) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2002 \(S.I. 2002/682\)](#), **art. 8**

Status: Point in time view as at 19/02/2013.

Changes to legislation: Financial Services and Markets Act 2000 is up to date with all changes known to be in force on or before 10 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Location of offices

- 2 (1) [^{F176}Subject to [^{F177}sub-paragraphs (2A) and (3)],] if the person concerned is a body corporate constituted under the law of any part of the United Kingdom—
- (a) its head office, and
 - (b) if it has a registered office, that office,
- must be in the United Kingdom.
- (2) If the person concerned has its head office in the United Kingdom but is not a body corporate, it must carry on business in the United Kingdom.
- [^{F178}(2A) If—
- (a) the regulated activity concerned is any of the investment services and activities, and
 - (b) the person concerned is a body corporate with no registered office,
- sub-paragraph (2B) applies in place of sub-paragraph (1).
- (2B) If the person concerned has its head office in the United Kingdom, it must carry on business in the United Kingdom.]
- [^{F179}(3) If the regulated activity concerned is an insurance mediation activity, sub-paragraph (1) does not apply.
- (4) If the regulated activity concerned is an insurance mediation activity, the person concerned—
- (a) if he is a body corporate constituted under the law of any part of the United Kingdom, must have its registered office, or if it has no registered office, its head office, in the United Kingdom;
 - (b) if he is a natural person, is to be treated for the purposes of sub-paragraph (2), as having his head office in the United Kingdom if his residence is situated there.
- (5) “Insurance mediation activity” means any of the following activities—
- (a) dealing in rights under a contract of insurance as agent;
 - (b) arranging deals in rights under a contract of insurance;
 - (c) assisting in the administration and performance of a contract of insurance;
 - (d) advising on buying or selling rights under a contract of insurance;
 - (e) agreeing to do any of the activities specified in sub-paragraph (a) to (d).
- (6) Paragraph (5) must be read with—
- (a) section 22;
 - (b) any relevant order under that section; and
 - (c) Schedule 2.]

Textual Amendments

F176 Words in Sch. 6 para. 2(1) inserted (31.10.2004 for certain purposes, otherwise 14.1.2005) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No. 2\) Order 2003 \(S.I. 2003/1476\)](#), arts. 1(3), **19(a)**

F177 Words in Sch. 6 para. 2(1) substituted (1.4.2007 for certain purposes, otherwise 1.11.2007) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2007 \(S.I. 2007/126\)](#), regs. 1(2), 3(5), **Sch. 5 para. 24(a)**

Status: Point in time view as at 19/02/2013.

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F178 Sch. 6 para. 2(2A)(2B) inserted (1.4.2007 for certain purposes, otherwise 1.11.2007) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2007 \(S.I. 2007/126\)](#), regs. 1(2), 3(5), **Sch. 5 para. 24(b)**

F179 Sch. 6 para. 2(3)-(6) inserted (31.10.2004 for certain purposes, otherwise 14.1.2005) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No. 2\) Order 2003 \(S.I. 2003/1476\)](#), arts. 1(3), **19(b)**

Appointment of claims representatives

[^{F180}] (1) If it appears to the Authority that—

- ^{F180}2A**
- (a) the regulated activity that the person concerned is carrying on, or is seeking to carry on, is the effecting or carrying out of contracts of insurance, and
 - (b) contracts of insurance against damage arising out of or in connection with the use of motor vehicles on land (other than carrier’s liability) are being, or will be, effected or carried out by the person concerned,

that person must have a claims representative in each EEA State other than the United Kingdom.

- (2) For the purposes of sub-paragraph (1)(b), contracts of reinsurance are to be disregarded.
- (3) A claims representative is a person with responsibility for handling and settling claims arising from accidents of the kind mentioned in Article 1(2) of the fourth motor insurance directive.
- (4) In this paragraph “fourth motor insurance directive” means Directive [2000/26/EC](#) of the European Parliament and of the Council of 16th May 2000 on the approximation of the laws of the Member States relating to insurance against civil liability in respect of the use of motor vehicles and amending Council Directives [73/239/EEC](#) and [88/357/EEC](#).]]

Textual Amendments

F180 Sch. 6 para. 2A inserted (19.1.2003) by [The Financial Services and Markets Act 2000 \(Variation of Threshold Conditions\) Order 2002 \(S.I. 2002/2707\)](#), **art. 2**

Close links

- 3 (1) If the person concerned (“A”) has close links with another person (“CL”) the Authority must be satisfied—
 - (a) that those links are not likely to prevent the Authority’s effective supervision of A; and
 - (b) if it appears to the Authority that CL is subject to the laws, regulations or administrative provisions of a territory which is not an EEA State (“the foreign provisions”), that neither the foreign provisions, nor any deficiency in their enforcement, would prevent the Authority’s effective supervision of A.
- (2) A has close links with CL if—
 - (a) CL is a parent undertaking of A;
 - (b) CL is a subsidiary undertaking of A;

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- (c) CL is a parent undertaking of a subsidiary undertaking of A;
 - (d) CL is a subsidiary undertaking of a parent undertaking of A;
 - (e) CL owns or controls 20% or more of the voting rights or capital of A; or
 - (f) A owns or controls 20% or more of the voting rights or capital of CL.
- (3) “Subsidiary undertaking” includes all the instances mentioned in Article 1(1) and (2) of the Seventh Company Law Directive in which an entity may be a subsidiary of an undertaking.

Modifications etc. (not altering text)

C14 Sch. 6 para. 3 restricted (3.9.2001) by [S.I. 2001/2507](#), [arts. 1\(1\), 3\(3\)](#); [S.I. 2001/2632](#), [art. 2\(2\)](#), [Sch. Pt. 2](#)

Adequate resources

- 4 (1) The resources of the person concerned must, in the opinion of the Authority, be adequate in relation to the regulated activities that he seeks to carry on, or carries on.
- (2) In reaching that opinion, the Authority may—
- (a) take into account the person’s membership of a group and any effect which that membership may have; and
 - (b) have regard to—
 - (i) the provision he makes and, if he is a member of a group, which other members of the group make in respect of liabilities (including contingent and future liabilities); and
 - (ii) the means by which he manages and, if he is a member of a group, which other members of the group manage the incidence of risk in connection with his business.

Modifications etc. (not altering text)

C15 Sch. 6 para. 4 restricted (3.9.2001) by [S.I. 2001/2507](#), [arts. 1\(1\), 3\(3\)](#); [S.I. 2001/2632](#), [art. 2\(2\)](#), [Sch. Pt. 2](#)

Suitability

- 5 The person concerned must satisfy the Authority that he is a fit and proper person having regard to all the circumstances, including—
- (a) his connection with any person;
 - (b) the nature of any regulated activity that he carries on or seeks to carry on; and
 - (c) the need to ensure that his affairs are conducted soundly and prudently.

Modifications etc. (not altering text)

C16 Sch. 6 para. 5 restricted (3.9.2001) by [S.I. 2001/2507](#), [arts. 1\(1\), 3\(3\)](#); [S.I. 2001/2632](#), [art. 2\(2\)](#), [Sch. Pt. 2](#)

Status: Point in time view as at 19/02/2013.

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PART II

AUTHORISATION

Authorisation under Schedule 3

- 6 In relation to an EEA firm qualifying for authorisation under Schedule 3, the conditions set out in paragraphs 1 and 3 to 5 apply, so far as relevant, to—
- (a) an application for permission under Part IV;
 - (b) exercise of the Authority’s own-initiative power under section 45 in relation to a Part IV permission.

Authorisation under Schedule 4

- 7 In relation to a person who qualifies for authorisation under Schedule 4, the conditions set out in paragraphs 1 and 3 to 5 apply, so far as relevant, to—
- (a) an application for an additional permission;
 - (b) the exercise of the Authority’s own-initiative power under section 45 in relation to additional permission.

PART III

ADDITIONAL CONDITIONS

- 8 (1) If this paragraph applies to the person concerned, he must, for the purposes of such provisions of this Act as may be specified, satisfy specified additional conditions.
- (2) This paragraph applies to a person who—
- (a) has his head office outside the EEA; and
 - (b) appears to the Authority to be seeking to carry on a regulated activity relating to insurance business.
- (3) “Specified” means specified in, or in accordance with, an order made by the Treasury.

Commencement Information

I26 Sch. 6 Pt. III para. 8 wholly in force at 3.9.2001; Sch. 6 Pt. III para. 8 not in force at Royal Assent see s. 431(2); Sch. 6 Pt. III para. 8 in force for certain purposes at 25.2.2001 by [S.I. 2001/516, art. 2\(b\)](#), [Sch. Pt. 2](#); Sch. 6 Pt. III para. 8 in force in so far as not already in force at 3.9.2001 by [S.I. 2001/2632, art. 2\(2\)](#), [Sch. Pt. 2](#)

- 9 The Treasury may by order—
- (a) vary or remove any of the conditions set out in Parts I and II;
 - (b) add to those conditions.

Commencement Information

I27 Sch. 6 Pt. III para. 9 wholly in force at 3.9.2001; Sch. 6 Pt. III para. 9 not in force at Royal Assent see s. 431(2); Sch. 6 Pt. III para. 9 in force for certain purposes at 25.2.2001 by [S.I. 2001/516, art. 2\(b\)](#),

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Sch. Pt. 2; Sch. 6 Pt. III para. 9 in force in so far as not already in force at 3.9.2001 by S.I. 2001/2632, art. 2(2), **Sch. Pt. 2**

^{F181}SCHEDULE 7

Section 72(2).

Textual Amendments

F181 Sch. 7 omitted (24.1.2013 for specified purposes) by virtue of Financial Services Act 2012 (c. 21), ss. **16(14)(k)**, 122(3) (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3

^{F182}SCHEDULE 8

Section 72(3).

Textual Amendments

F182 Sch. 8 omitted (24.1.2013 for specified purposes) by virtue of Financial Services Act 2012 (c. 21), ss. **16(14)(l)**, 122(3) (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3

^{F183}^{F183}SCHEDULE 9

Textual Amendments

F183 Sch. 9 repealed (1.7.2005) by The Prospectus Regulations 2005 (S.I. 2005/1433), reg. 2(1), **Sch. 1 para. 16**

SCHEDULE 10

Section 90(2) and (5).

COMPENSATION: EXEMPTIONS

Modifications etc. (not altering text)

C17 Sch. 10 restricted (1.12.2001) by S.I. 2001/2957, arts. 1, 7(3); S.I. 2001/3538, art. 2(1)

Status: Point in time view as at 19/02/2013.

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Statements believed to be true

- 1 (1) In this paragraph “statement” means—
- (a) any untrue or misleading statement in listing particulars; or
 - (b) the omission from listing particulars of any matter required to be included by section 80 or 81.
- (2) A person does not incur any liability under section 90(1) for loss caused by a statement if he satisfies the court that, at the time when the listing particulars were submitted to the [^{F184}FCA], he reasonably believed (having made such enquiries, if any, as were reasonable) that—
- (a) the statement was true and not misleading, or
 - (b) the matter whose omission caused the loss was properly omitted,
- and that one or more of the conditions set out in sub-paragraph (3) are satisfied.
- (3) The conditions are that—
- (a) he continued in his belief until the time when the securities in question were acquired;
 - (b) they were acquired before it was reasonably practicable to bring a correction to the attention of persons likely to acquire them;
 - (c) before the securities were acquired, he had taken all such steps as it was reasonable for him to have taken to secure that a correction was brought to the attention of those persons;
 - (d) he continued in his belief until after the commencement of dealings in the securities following their admission to the official list and they were acquired after such a lapse of time that he ought in the circumstances to be reasonably excused.

Textual Amendments

F184 Word in [Sch. 10](#) substituted (24.1.2013 for specified purposes) by [Financial Services Act 2012 \(c. 21\)](#), [ss. 16\(13\)](#), [122\(3\)](#) (with [Sch. 20](#)); [S.I. 2013/113](#), [art. 2\(1\)\(c\)](#), [Sch. Pt. 3](#)

Statements by experts

- 2 (1) In this paragraph “statement” means a statement included in listing particulars which—
- (a) purports to be made by, or on the authority of, another person as an expert; and
 - (b) is stated to be included in the listing particulars with that other person’s consent.
- (2) A person does not incur any liability under section 90(1) for loss in respect of any securities caused by a statement if he satisfies the court that, at the time when the listing particulars were submitted to the [^{F184}FCA], he reasonably believed that the other person—
- (a) was competent to make or authorise the statement, and
 - (b) had consented to its inclusion in the form and context in which it was included,
- and that one or more of the conditions set out in sub-paragraph (3) are satisfied.

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- (3) The conditions are that—
- (a) he continued in his belief until the time when the securities were acquired;
 - (b) they were acquired before it was reasonably practicable to bring the fact that the expert was not competent, or had not consented, to the attention of persons likely to acquire the securities in question;
 - (c) before the securities were acquired he had taken all such steps as it was reasonable for him to have taken to secure that that fact was brought to the attention of those persons;
 - (d) he continued in his belief until after the commencement of dealings in the securities following their admission to the official list and they were acquired after such a lapse of time that he ought in the circumstances to be reasonably excused.

Textual Amendments

F184 Word in [Sch. 10](#) substituted (24.1.2013 for specified purposes) by [Financial Services Act 2012 \(c. 21\)](#), [ss. 16\(13\), 122\(3\)](#) (with [Sch. 20](#)); [S.I. 2013/113](#), [art. 2\(1\)\(c\)](#), [Sch. Pt. 3](#)

Corrections of statements

- 3
- (1) In this paragraph “statement” has the same meaning as in paragraph 1.
 - (2) A person does not incur liability under section 90(1) for loss caused by a statement if he satisfies the court—
 - (a) that before the securities in question were acquired, a correction had been published in a manner calculated to bring it to the attention of persons likely to acquire the securities; or
 - (b) that he took all such steps as it was reasonable for him to take to secure such publication and reasonably believed that it had taken place before the securities were acquired.
 - (3) Nothing in this paragraph is to be taken as affecting paragraph 1.

Corrections of statements by experts

- 4
- (1) In this paragraph “statement” has the same meaning as in paragraph 2.
 - (2) A person does not incur liability under section 90(1) for loss caused by a statement if he satisfies the court—
 - (a) that before the securities in question were acquired, the fact that the expert was not competent or had not consented had been published in a manner calculated to bring it to the attention of persons likely to acquire the securities; or
 - (b) that he took all such steps as it was reasonable for him to take to secure such publication and reasonably believed that it had taken place before the securities were acquired.
 - (3) Nothing in this paragraph is to be taken as affecting paragraph 2.

Status: Point in time view as at 19/02/2013.

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Official statements

- 5 A person does not incur any liability under section 90(1) for loss resulting from—
- (a) a statement made by an official person which is included in the listing particulars, or
 - (b) a statement contained in a public official document which is included in the listing particulars,
- if he satisfies the court that the statement is accurately and fairly reproduced.

False or misleading information known about

- 6 A person does not incur any liability under section 90(1) or (4) if he satisfies the court that the person suffering the loss acquired the securities in question with knowledge—
- (a) that the statement was false or misleading,
 - (b) of the omitted matter, or
 - (c) of the change or new matter,
- as the case may be.

Belief that supplementary listing particulars not called for

- 7 A person does not incur any liability under section 90(4) if he satisfies the court that he reasonably believed that the change or new matter in question was not such as to call for supplementary listing particulars.

Meaning of “expert”

- 8 “Expert” includes any engineer, valuer, accountant or other person whose profession, qualifications or experience give authority to a statement made by him.

[^{F185}SCHEDULE 10A

Section 90A

LIABILITY OF ISSUERS IN CONNECTION WITH PUBLISHED INFORMATION

Textual Amendments

F185 Sch. 10A inserted (1.10.2010 with effect in accordance with reg. 3(1) of the amending S.I.) by [The Financial Services and Markets Act 2000 \(Liability of Issuers\) Regulations 2010 \(S.I. 2010/1192\)](#), reg. 2(3), [Sch.](#)

PART 1

SCOPE OF THIS SCHEDULE

Securities to which this Schedule applies

- 1 (1) This Schedule applies to securities that are, with the consent of the issuer, admitted to trading on a securities market, where—

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- (a) the market is situated or operating in the United Kingdom, or
 - (b) the United Kingdom is the issuer's home State.
- (2) For the purposes of this Schedule—
- (a) an issuer of securities is not taken to have consented to the securities being admitted to trading on a securities market by reason only of having consented to their admission to trading on another market as a result of which they are admitted to trading on the first-mentioned market;
 - (b) an issuer who has accepted responsibility (to any extent) for any document prepared for the purposes of the admission of the securities to trading on a securities market (such as a prospectus or listing particulars) is taken to have consented to their admission to trading on that market.
- (3) For the purposes of this Schedule the United Kingdom is the home State of an issuer—
- (a) in the case of securities in relation to which the transparency obligations directive applies, if the United Kingdom is the home Member State for the purposes of that directive (see Article 2.1 of the directive);
 - (b) in any other case, if the issuer has its registered office (or, if it does not have a registered office, its head office) in the United Kingdom.

Published information to which this Schedule applies

- 2 (1) This Schedule applies to information published by the issuer of securities to which this Schedule applies—
- (a) by recognised means, or
 - (b) by other means where the availability of the information has been announced by the issuer by recognised means.
- (2) It is immaterial whether the information is required to be published (by recognised means or otherwise).
- (3) The following are “recognised means”—
- (a) a recognised information service;
 - (b) other means required or authorised to be used to communicate information to the market in question, or to the public, when a recognised information service is unavailable.
- (4) A “recognised information service” means—
- (a) in relation to a securities market situated or operating in the EEA, a service used for the dissemination of information in accordance with Article 21 of the transparency obligations directive;
 - (b) in relation to a securities market situated or operating outside the EEA, a service used for the dissemination of information corresponding to that required to be disclosed under that directive; or
 - (c) in relation to any securities market, any other service used by issuers of securities for the dissemination of information required to be disclosed by the rules of the market.

Status: Point in time view as at 19/02/2013.

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PART 2

LIABILITY IN CONNECTION WITH PUBLISHED INFORMATION

Liability of issuer for misleading statement or dishonest omission

- 3 (1) An issuer of securities to which this Schedule applies is liable to pay compensation to a person who—
- (a) acquires, continues to hold or disposes of the securities in reliance on published information to which this Schedule applies, and
 - (b) suffers loss in respect of the securities as a result of—
 - (i) any untrue or misleading statement in that published information, or
 - (ii) the omission from that published information of any matter required to be included in it.
- (2) The issuer is liable in respect of an untrue or misleading statement only if a person discharging managerial responsibilities within the issuer knew the statement to be untrue or misleading or was reckless as to whether it was untrue or misleading.
- (3) The issuer is liable in respect of the omission of any matter required to be included in published information only if a person discharging managerial responsibilities within the issuer knew the omission to be a dishonest concealment of a material fact.
- (4) A loss is not regarded as suffered as a result of the statement or omission unless the person suffering it acquired, continued to hold or disposed of the relevant securities—
- (a) in reliance on the information in question, and
 - (b) at a time when, and in circumstances in which, it was reasonable for him to rely on it.
- 4 An issuer of securities to which this Schedule applies is not liable under paragraph 3 to pay compensation to a person for loss suffered as a result of an untrue or misleading statement in, or omission from, published information to which this Schedule applies if—
- (a) the published information is contained in listing particulars or a prospectus (or supplementary listing particulars or a supplementary prospectus), and
 - (b) the issuer is liable under section 90 (compensation for statements in listing particulars or prospectus) to pay compensation to the person in respect of the statement or omission.

Liability of issuer for dishonest delay in publishing information

- 5 (1) An issuer of securities to which this Schedule applies is liable to pay compensation to a person who—
- (a) acquires, continues to hold or disposes of the securities, and
 - (b) suffers loss in respect of the securities as a result of delay by the issuer in publishing information to which this Schedule applies.
- (2) The issuer is liable only if a person discharging managerial responsibilities within the issuer acted dishonestly in delaying the publication of the information.

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Meaning of dishonesty

- 6 For the purposes of paragraphs 3(3) and 5(2) a person's conduct is regarded as dishonest if (and only if)—
- (a) it is regarded as dishonest by persons who regularly trade on the securities market in question, and
 - (b) the person was aware (or must be taken to have been aware) that it was so regarded.

Exclusion of certain other liabilities

- 7 (1) The issuer is not subject—
- (a) to any liability other than that provided for by paragraph 3 in respect of loss suffered as a result of reliance by any person on—
 - (i) an untrue or misleading statement in published information to which this Schedule applies, or
 - (ii) the omission from any such published information of any matter required to be included in it;
 - (b) to any liability other than that provided for by paragraph 5 in respect of loss suffered as a result of delay in the publication of information to which this Schedule applies.
- (2) A person other than the issuer is not subject to any liability, other than to the issuer, in respect of any such loss.
- (3) This paragraph does not affect—
- (a) civil liability—
 - (i) under section 90 (compensation for statements in listing particulars or prospectus),
 - (ii) under rules made by virtue of section 954 of the Companies Act 2006 (compensation),
 - (iii) for breach of contract,
 - (iv) under the Misrepresentation Act 1967, or
 - (v) arising from a person's having assumed responsibility, to a particular person for a particular purpose, for the accuracy or completeness of the information concerned;
 - (b) liability to a civil penalty; or
 - (c) criminal liability.
- (4) This paragraph does not affect the powers conferred by sections 382 and 384 (powers of the court to make a restitution order and of the Authority to require restitution).
- (5) References in this paragraph to liability, in relation to a person, include a reference to another person being entitled as against that person to be granted any civil remedy or to rescind or repudiate an agreement.

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PART 3

SUPPLEMENTARY PROVISIONS

Interpretation

- 8 (1) In this Schedule—
- (a) “securities” means transferable securities within the meaning of Article 4.1.18 of the markets in financial instruments directive, other than money-market instruments as defined in Article 4.1.19 of that directive that have a maturity of less than 12 months (and includes instruments outside the EEA);
 - (b) “securities market” means—
 - (i) a regulated market as defined in Article 4.1.14 of the markets in financial instruments directive,
 - (ii) a multilateral trading facility as defined in Article 4.1.15 of the markets in financial instruments directive, or
 - (iii) a market or facility of a corresponding description outside the EEA.
- (2) References in this Schedule to the issuer of securities are—
- (a) in relation to a depositary receipt, derivative instrument or other financial instrument representing securities where the issuer of the securities represented has consented to the admission of the instrument to trading as mentioned in paragraph 1(1), to the issuer of the securities represented;
 - (b) in any other case, to the person who issued the securities.
- (3) References in this Schedule to the acquisition or disposal of securities include—
- (a) acquisition or disposal of any interest in securities, or
 - (b) contracting to acquire or dispose of securities or of any interest in securities, except where what is acquired or disposed of (or contracted to be acquired or disposed of) is a depositary receipt, derivative instrument or other financial instrument representing securities.
- (4) References to continuing to hold securities have a corresponding meaning.
- (5) For the purposes of this Schedule the following are persons “discharging managerial responsibilities” within an issuer—
- (a) any director of the issuer (or person occupying the position of director, by whatever name called);
 - (b) in the case of an issuer whose affairs are managed by its members, any member of the issuer;
 - (c) in the case of an issuer that has no persons within paragraph (a) or (b), any senior executive of the issuer having responsibilities in relation to the information in question or its publication.
- (6) The following definitions (which apply generally for the purposes of Part 6 of this Act) do not apply for the purposes of this Schedule:
- (a) section 102A(1), (2) and (6) (meaning of “securities” and “issuer”);
 - (b) section 102C (meaning of “home State” in relation to transferable securities).]

Status: Point in time view as at 19/02/2013.

Changes to legislation: Financial Services and Markets Act 2000 is up to date with all changes known to be in force on or before 10 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

F186F186 SCHEDULE 11

Textual Amendments

F186 Sch. 11 repealed (1.7.2005) by [The Prospectus Regulations 2005 \(S.I. 2005/1433\)](#), reg. 2(1), **Sch. 1 para. 16**

F191 SCHEDULE 11A

Section 85(5)(a)

TRANSFERABLE SECURITIES

Textual Amendments

F191 Sch. 11A inserted (1.7.2005) by [The Prospectus Regulations 2005 \(S.I. 2005/1433\)](#), reg. 2(2), **Sch. 2**

PART 1

- 1 Units (within the meaning in section 237(2)) in an open-ended collective investment scheme.
- 2 Non-equity transferable securities issued by
 - (a) the government of an EEA State;
 - (b) a local or regional authority of an EEA State;
 - (c) a public international body of which an EEA State is a member;
 - (d) the European Central Bank;
 - (e) the central bank of an EEA State.
- 3 Shares in the share capital of the central bank of an EEA State.
- 4 Transferable securities unconditionally and irrevocably guaranteed by the government, or a local or regional authority, of an EEA State.
- 5 (1) Non-equity transferable securities, issued in a continuous or repeated manner by a credit institution, which satisfy the conditions in sub-paragraph (2).
(2) The conditions are that the transferable securities—
 - (a) are not subordinated, convertible or exchangeable;
 - (b) do not give a right to subscribe to or acquire other types of securities and are not linked to a derivative instrument;
 - (c) materialise reception of repayable deposits; and
 - (d) are covered by a deposit guarantee under directive [94/19/EC](#) of the European Parliament and of the Council on deposit-guarantee schemes.
- 6 Non-fungible shares of capital—
 - (a) the main purpose of which is to provide the holder with a right to occupy any immovable property, and
 - (b) which cannot be sold without that right being given up.

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PART 2

- 7 (1) Transferable securities issued by a body specified in sub-paragraph (2) if, and only if, the proceeds of the offer of the transferable securities to the public will be used solely for the purposes of the issuer's objectives.
- (2) The bodies are
- (a) a charity
 - ^{F192}(i) as defined by section 1(1) of the Charities Act 2011, or
 - (ii) within the meaning of] section 35 of the Charities Act (Northern Ireland) 1964 (c. 33 (N.I.));
 - ^{F193}(b) a body entered in the Scottish Charity Register;]
 - (c) a housing association within the meaning of—
 - (i) section 5(1) of the Housing Act 1985 (c. 68),
 - (ii) section 1 of the Housing Associations Act 1985 (c. 69), or
 - (iii) Article 3 of the Housing (Northern Ireland) Order 1992 (S.I. 1992/1725 (N.I. 15));
 - (d) an industrial and provident society registered in accordance with—
 - (i) section 1(2)(b) of the Industrial and Provident Societies Act 1965 (c. 12), or
 - (ii) section 1(2)(b) of the Industrial and Provident Societies Act (Northern Ireland) 1969 (c. 24 (N.I.));
 - (e) a non-profit making association or body recognised by an EEA State with objectives similar to those of a body falling within any of sub-paragraphs (a) to (d).

Textual Amendments

F192 Words in Sch. 11A para. 7(2)(a) substituted (14.3.2012) by [Charities Act 2011 \(c. 25\)](#), ss. 354(1)(2), 355, [Sch. 7 para. 86](#) (with s. 20(2), [Sch. 8](#))

F193 Sch. 11A para. 7(2)(b) substituted (1.4.2006) by [The Charities and Trustee Investment \(Scotland\) Act 2005 \(Consequential Provisions and Modifications\) Order 2006 \(S.I. 2006/242\)](#), arts. 1(3), 5, [Sch. para. 7](#)

- 8 (1) Non-equity transferable securities, issued in a continuous or repeated manner by a credit institution, which satisfy the conditions in sub-paragraph (2).
- (2) The conditions are—
- ^{F194}(a) that the total consideration for the transferable securities being offered in the EEA States is less than 75,000,000 euros (or an equivalent amount); and]
 - (b) those mentioned in paragraph 5(2)(a) and (b).
- (3) In determining whether sub-paragraph (2)(a) is satisfied in relation to an offer (“offer A”), offer A is to be taken together with any other offer of transferable securities of the same class made by the same person which—
- (a) was open at any time within the period of 12 months ending with the date on which offer A is first made; and
 - (b) had previously satisfied sub-paragraph (2)(a).

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- (4) For the purposes of this paragraph, an amount (in relation to an amount denominated in euros) is an “equivalent amount” if it is an amount of equal value denominated wholly or partly in another currency or unit of account.
- (5) The equivalent is to be calculated at the latest practicable date before (but in any event not more than 3 working days before) the date on which the offer is first made.
- (6) “Credit institution ” means a credit institution as defined in ^{F195} Article ^{F196} 4(1)] of the banking consolidation directive.

Textual Amendments

- F194** Sch. 11A para. 8(2)(a) substituted (1.7.2012) by [The Prospectus Regulations 2012 \(S.I. 2012/1538\)](#), regs. 1(1), 2(4)
- F195** Words in Sch. 11A para. 8(6) substituted (1.1.2007) by [The Capital Requirements Regulations 2006 \(S.I. 2006/3221\)](#), reg. 29(1), **Sch. 3 para. 3**
- F196** Sch. 11A para. 8(6): “4(1)” substituted (9.2.2011 for certain purposes and 30.4.2011 otherwise) for “4(1)(a)” by [The Electronic Money Regulations 2011 \(S.I. 2011/99\)](#), regs. 1(2)(a)(xv)(b), 79, **Sch. 4 para. 2(7)** (with reg. 3)

- 9 (1) Transferable securities included in an offer where ^{F197}^{F198}the total consideration for the transferable securities being offered in the EEA States] is less than 5,000,000 euros (or an equivalent amount)].
- (2) Sub-paragraphs (3) to (5) of paragraph 8 apply for the purposes of this paragraph but with the references in sub-paragraph (3) to “sub-paragraph (2)(a)” being read as references to “paragraph 9(1)”.]

Textual Amendments

- F197** Words in Sch. 11A para. 9(1) substituted (31.7.2011) by [The Prospectus Regulations 2011 \(S.I. 2011/1668\)](#), reg. 1(3)
- F198** Words in Sch. 11A para. 9(1) substituted (1.7.2012) by [The Prospectus Regulations 2012 \(S.I. 2012/1538\)](#), regs. 1(1), 2(5)

^{F199}SCHEDULE 11B

Section 96B(2)

CONNECTED PERSONS

Textual Amendments

- F199** Sch. 11B inserted (1.10.2009) by [The Financial Services and Markets Act 2000 \(Amendment\) Regulations 2009 \(S.I. 2009/2461\)](#), reg. 2(2)(3), **Sch.** (this amendment supersedes the amendment in para. 181(2) of Sch. 1 to the [Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#))

Status: Point in time view as at 19/02/2013.

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PART 1

MEANING OF “CONNECTED PERSON”

Introduction

- 1 (1) In this Schedule “manager” means a person discharging managerial responsibilities within an issuer.
- (2) This Schedule defines what is meant by references in the provisions of this Part relating to disclosure rules to a person being “connected” with a manager (or a manager being “connected” with a person).

Meaning of “connected person”

- 2 (1) The following persons (and only those persons) are connected with a manager—
 - (a) members of the manager's family (see paragraph 3);
 - (b) a body corporate with which the manager is associated (as defined in paragraph 4);
 - (c) a person acting in his capacity as trustee of a trust—
 - (i) the beneficiaries of which include the manager or a person who by virtue of paragraph (a) or (b) is connected with him, or
 - (ii) the terms of which confer a power on the trustees that may be exercised for the benefit of the manager or any such person,
 other than a trust for the purposes of an employees' share scheme or a pension scheme;
 - (d) a person acting in his capacity as partner—
 - (i) of the manager, or
 - (ii) of a person who, by virtue of paragraph (a), (b) or (c), is connected with that manager;
 - (e) a firm that is a legal person under the law by which it is governed and in which—
 - (i) the manager is a partner,
 - (ii) a partner is a person who, by virtue of paragraph (a), (b) or (c) is connected with the manager, or
 - (iii) a partner is a firm in which the manager is a partner or in which there is a partner who, by virtue of paragraph (a), (b) or (c), is connected with the director.
- (2) References to a person connected with a manager do not include a person who is also a manager of the issuer in question.

Family members

- 3 (1) This paragraph defines what is meant by references to members of a manager's family.
- (2) The members of a manager's family are—
 - (a) the manager's spouse or civil partner;
 - (b) any relative of the manager who, on the date of the transaction in question, has shared the same household as the manager for at least 12 months;

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- (c) the manager's children or step-children under the age of 18.

Associated bodies corporate

- 4 (1) This paragraph defines what is meant by a manager being “associated” with a body corporate.
- (2) A manager is associated with a body corporate if, but only if—
- (a) the manager, or a person connected with the manager, is a director or senior executive who has the power to make management decisions affecting the future development and business prospects of the body corporate; or
 - (b) the manager and the persons connected with the manager together—
 - (i) are interested in shares comprised in the equity share capital of that body corporate of a nominal value equal to at least 20% of that share capital, or
 - (ii) are entitled to exercise or control the exercise of more than 20% of the voting power at any general meeting of that body.
- (3) The rules set out in Part 2 of this Schedule (references to interest in shares or debentures) apply for the purposes of this paragraph.
- (4) References in this paragraph to voting power the exercise of which is controlled by a manager include voting power whose exercise is controlled by a body corporate controlled by the manager.
- (5) Shares in a company held as treasury shares, and any voting rights attached to such shares, are disregarded for the purposes of this paragraph.

Control of a body corporate

- 5 (1) This paragraph defines what is meant by a manager “controlling” a body corporate.
- (2) A manager is taken to control a body corporate if, but only if—
- (a) the manager or a person connected with the manager—
 - (i) is interested in any part of the equity share capital of that body, or
 - (ii) is entitled to exercise or control the exercise of any part of the voting power at any general meeting of that body, and
 - (b) the manager, the persons connected with the manager and the other managers of the issuer in question, together—
 - (i) are interested in more than 50% of that share capital, or
 - (ii) are entitled to exercise or control the exercise of more than 50% of that voting power.
- (3) The rules set out in Part 2 of this Schedule (references to interest in shares or debentures) apply for the purposes of this paragraph.
- (4) References in this paragraph to voting power the exercise of which is controlled by a manager include voting power whose exercise is controlled by a body corporate controlled by the manager.
- (5) Shares in a company held as treasury shares, and any voting rights attached to such shares, are disregarded for the purposes of this paragraph.

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Supplementary provisions

- 6 For the purposes of paragraphs 4 and 5 (associated bodies corporate and control of a body corporate)—
- (a) a body corporate with which a manager is associated is not treated as connected with that manager unless it is also connected with that manager by virtue of sub-paragraph (1)(c) or (d) of that paragraph (connection as trustee or partner); and
 - (b) a trustee of a trust the beneficiaries of which include (or may include) a body corporate with which a manager is associated is not treated as connected with a manager by reason only of that fact.

PART 2

CONNECTED PERSONS: REFERENCES TO AN INTEREST IN SHARES OR DEBENTURES

Introduction

- 7 (1) The provisions of this Part of this Schedule have effect for the interpretation of references in paragraphs 4 and 5 (associated bodies corporate and control of a body corporate) to an interest in shares or debentures.
- (2) The provisions are expressed in relation to shares but apply to debentures as they apply to shares.

General provisions

- 8 (1) A reference to an interest in shares includes any interest of any kind whatsoever in shares.
- (2) Any restraints or restrictions to which the exercise of any right attached to the interest is or may be subject shall be disregarded.
- (3) It is immaterial that the shares in which a person has an interest are not identifiable.
- (4) Persons having a joint interest in shares are deemed each of them to have that interest.

Rights to acquire shares

- 9 (1) A person who enters into a contract to acquire shares is taken to have an interest in the shares.
- (2) A person who—
- (a) has a right to call for delivery of shares to the person or to the person's order, or
 - (b) has a right to acquire an interest in shares or is under an obligation to take an interest in shares,
- is taken to have an interest in the shares, whether the right or obligation is conditional or absolute.
- (3) Rights or obligations to subscribe for shares are not to be taken for the purposes of sub-paragraph (2) to be rights to acquire or obligations to take an interest in shares.

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- (4) A person (“A”) ceases to have an interest in shares by virtue of this paragraph—
- (a) on the shares being delivered to another person at A's order—
 - (i) in fulfilment of a contract for their acquisition by A, or
 - (ii) in satisfaction of a right of A's to call for their delivery;
 - (b) on a failure to deliver the shares in accordance with the terms of such a contract or on which such a right falls to be satisfied;
 - (c) on the lapse of A's right to call for the delivery of shares.

Right to exercise or control exercise of rights

- 10 (1) A person who, not being the registered holder, is entitled—
- (a) to exercise any right conferred by the holding of the shares, or
 - (b) to control the exercise of any such right.
- is taken to have an interest in the shares.
- (2) For this purpose a person is taken to be entitled to exercise or control the exercise of a right conferred by the holding of shares who—
- (a) has a right (whether subject to conditions or not) the exercise of which would make the person so entitled, or
 - (b) is under an obligation (whether or not so subject) the fulfilment of which would make the person so entitled.
- (3) A person who—
- (a) has been appointed a proxy to exercise any of the rights attached to the shares, or
 - (b) has been appointed by a body corporate to act as its representative at any meeting of a company or of any class of its members,
- is not, by reason only of that fact, to be taken by virtue of this paragraph to be interested in the shares.

Bodies corporate

- 11 (1) A person is taken to be interested in shares if a body corporate is interested in them and—
- (a) the body corporate or its directors are accustomed to act in accordance with the person's directions or instructions, or
 - (b) the person is entitled to exercise or control the exercise of more than one-half of the voting power at general meetings of the body corporate.
- (2) For the purposes of sub-paragraph (1)(b) where—
- (a) a person is entitled to exercise or control the exercise of more than one-half of the voting power at general meetings of a body corporate, and
 - (b) that body corporate is entitled to exercise or control the exercise of any of the voting power at general meetings of another body corporate,
- the voting power mentioned in paragraph (b) above is taken to be exercisable by that person.

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Trusts

- 12 (1) Where an interest in shares is comprised in property held on trust, every beneficiary of the trust is taken to have an interest in shares, subject as follows.
- (2) So long as a person is entitled to receive, during the lifetime of that person or another, income from trust property comprising shares, an interest in the shares in reversion or remainder or (as regards Scotland) in fee shall be disregarded.
- (3) A person is treated as not interested in shares if and so long as the person holds them—
- (a) under the law in force in any part of the United Kingdom, as a bare trustee or as a custodian trustee, or
 - (b) under the law in force in Scotland, as a simple trustee.
- (4) There shall be disregarded any interest of a person subsisting by virtue of—
- (a) an authorised unit trust scheme (within the meaning of section 237 (other definitions));
 - (b) a scheme made under section 22 or 22A of the Charities Act 1960 (c. 58), section 25 of the Charities Act (Northern Ireland) 1964 (c. 33 (N.I.)) [^{F200}section 24 or 25 of the Charities Act 1993 or section 96 or 100 of the Charities Act 2011], section 11 of the Trustee Investments Act 1961 (c. 62) or section 42 of the Administration of Justice Act 1982 (c. 53); or
 - (c) the scheme set out in the Schedule to the Church Funds Investment Measure 1958 (1958 No. 1).
- (5) There shall be disregarded any interest—
- (a) of the Church of Scotland General Trustees or of the Church of Scotland Trust in shares held by them;
 - (b) of any other person in shares held by those Trustees or that Trust otherwise than as simple trustees.

“The Church of Scotland General Trustees” are the body incorporated by the order confirmed by the Church of Scotland (General Trustees) Order Confirmation Act 1921 (1921 c. xxv), and “the Church of Scotland Trust” is the body incorporated by the order confirmed by the Church of Scotland Trust Order Confirmation Act 1932 (1932 c. xxi).]

Textual Amendments

F200 Words in Sch. 11B para. 12(4)(b) substituted (14.3.2012) by [Charities Act 2011 \(c. 25\), ss. 354\(1\)\(2\), 355, Sch. 7 para. 87](#) (with [s. 20\(2\), Sch. 8](#))

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SCHEDULE 12

Sections 111(2) and 115.

TRANSFER SCHEMES: CERTIFICATES

PART I

INSURANCE BUSINESS TRANSFER SCHEMES

Modifications etc. (not altering text)

C19 Sch. 12 Pt. I (paras. 1-6) applied (1.12.2001) by [S.I. 2001/3626](#), [arts. 1, 3\(c\)](#)

- 1 (1) For the purposes of section 111(2) the appropriate certificates, in relation to an insurance business transfer scheme, are—
- (a) a certificate under paragraph 2;
 - (b) if sub-paragraph (2) applies, a certificate under paragraph 3;
 - (c) if sub-paragraph (3) applies, a certificate under paragraph 4;
 - (d) if sub-paragraph (4) applies, a certificate under paragraph 5^[F201];
 - (e) if sub-paragraph (5) applies, the certificates under paragraph 5A.]
- (2) This sub-paragraph applies if—
- (a) the authorised person concerned is a UK authorised person which has received authorisation under ^[F202]Article 4 of the life assurance consolidation directive or Article 6] or of the first non-life insurance directive from the Authority; and
 - (b) the establishment from which the business is to be transferred under the proposed insurance business transfer scheme is in an EEA State other than the United Kingdom.
- (3) This sub-paragraph applies if—
- (a) the authorised person concerned has received authorisation under ^[F203]Article 4 ^[F204]or Article 51] of the life assurance consolidation directive] from the Authority;
 - (b) the proposed transfer relates to business which consists of the effecting or carrying out of contracts of long-term insurance; and
 - (c) as regards any policy which is included in the proposed transfer and which evidences a contract of insurance (other than reinsurance), an EEA State other than the United Kingdom is the State of the commitment.
- (4) This sub-paragraph applies if—
- (a) the authorised person concerned has received authorisation under Article 6 ^[F205]or Article 23] of the first non-life insurance directive from the Authority;
 - (b) the business to which the proposed insurance business transfer scheme relates is business which consists of the effecting or carrying out of contracts of general insurance; and
 - (c) as regards any policy which is included in the proposed transfer and which evidences a contract of insurance (other than reinsurance), the risk is situated in an EEA State other than the United Kingdom.
- ^[F206](5) This sub-paragraph applies if—

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- (a) the authorised person concerned has received authorisation under Article 23 of the first non-life insurance directive or Article 51 of the life assurance consolidation directive from the Authority; and
- (b) the proposed transfer is to a branch or agency, in an EEA State other than the United Kingdom, authorised under the same Article.]

Textual Amendments

- F201** Sch. 12 para. 1(1)(e) inserted (10.12.2007) by [The Reinsurance Directive Regulations 2007 \(S.I. 2007/3253\)](#), [reg. 2\(1\)](#), [Sch. 1 para. 2\(5\)\(a\)](#)
- F202** Words in Sch. 12 para. 1(2)(a) substituted (11.1.2005) by [The Life Assurance Consolidation Directive \(Consequential Amendments\) Regulations 2004 \(S.I. 2004/3379\)](#), [reg. 6\(7\)\(a\)\(i\)](#)
- F203** Words in Sch. 12 para. 1(3)(a) substituted (11.1.2005) by [The Life Assurance Consolidation Directive \(Consequential Amendments\) Regulations 2004 \(S.I. 2004/3379\)](#), [reg. 6\(7\)\(a\)\(ii\)](#)
- F204** Words in Sch. 12 para. 1(3)(a) inserted (10.12.2007) by [The Reinsurance Directive Regulations 2007 \(S.I. 2007/3253\)](#), [reg. 2\(1\)](#), [Sch. 1 para. 2\(5\)\(b\)](#)
- F205** Words in Sch. 12 para. 1(4)(a) inserted (10.12.2007) by [The Reinsurance Directive Regulations 2007 \(S.I. 2007/3253\)](#), [reg. 2\(1\)](#), [Sch. 1 para. 2\(5\)\(c\)](#)
- F206** Sch. 12 para. 1(5) inserted (10.12.2007) by [The Reinsurance Directive Regulations 2007 \(S.I. 2007/3253\)](#), [reg. 2\(1\)](#), [Sch. 1 para. 2\(5\)\(d\)](#)

Modifications etc. (not altering text)

- C20** Sch. 12 Pt. I para. 1(2)(a)(3)(a)(4)(a) modified (1.12.2001) by [S.I. 2001/3626](#), [arts. 1, 5\(2\)](#)

Certificates as to margin of solvency

- 2 (1) A certificate under this paragraph is to be given—
- (a) by the relevant authority; or
 - (b) in a case in which there is no relevant authority, by the Authority.
- (2) A certificate given under sub-paragraph (1)(a) is one certifying that, taking the proposed transfer into account—
- (a) the transferee possesses, or will possess before the scheme takes effect, the necessary margin of solvency; or
 - (b) there is no necessary margin of solvency applicable to the transferee.
- (3) A certificate under sub-paragraph (1)(b) is one certifying that the Authority has received from the authority which it considers to be the authority responsible for supervising persons who effect or carry out contracts of insurance in the place to which the business is to be transferred that, taking the proposed transfer into account—
- (a) the transferee possesses or will possess before the scheme takes effect the margin of solvency required under the law applicable in that place; or
 - (b) there is no such margin of solvency applicable to the transferee .
- (4) “Necessary margin of solvency” means the margin of solvency required in relation to the transferee, taking the proposed transfer into account, under the law which it is the responsibility of the relevant authority to apply.
- (5) “Margin of solvency” means the excess of the value of the assets of the transferee over the amount of its liabilities.

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- (6) “Relevant authority” means—
- (a) if the transferee is an EEA firm falling within paragraph 5(d) [^{F207} or (da)] of Schedule 3, its home state regulator;
 - [^{F208}(aa) if the transferee is a non-EEA branch, the competent authorities of the EEA State in which the transferee is situated or, where appropriate, the competent authorities of an EEA State which supervises the state of solvency of the entire business of the transferee's agencies and branches within the EEA in accordance with Article 26 of the first non-life insurance directive or Article 56 of the life assurance consolidation directive;]
 - (b) if the transferee is a Swiss general insurer, the authority responsible in Switzerland for supervising persons who effect or carry out contracts of insurance;
 - (c) if the transferee is an authorised person not falling within [^{F209} paragraph (a), (aa)] or (b), the Authority.
- (7) In sub-paragraph (6), any reference to a transferee of a particular description includes a reference to a transferee who will be of that description if the proposed scheme takes effect.

[^{F210}(7A) “Competent authorities” has the same meaning as in the insurance directives.]

- (8) “Swiss general insurer” means a body—
- (a) whose head office is in Switzerland;
 - (b) which has permission to carry on regulated activities consisting of the effecting and carrying out of contracts of general insurance; and
 - (c) whose permission is not restricted to the effecting or carrying out of contracts of reinsurance.

[^{F211}(9) “Non-EEA branch” means a branch or agency which has received authorisation under Article 23 of the first non-life insurance directive or Article 51 of the life assurance consolidation directive.]

Textual Amendments

- F207** Words in Sch. 12 para. 2(6)(a) inserted (10.12.2007) by [The Reinsurance Directive Regulations 2007 \(S.I. 2007/3253\)](#), reg. 2(1), **Sch. 1 para. 2(5)(e)(i)**
- F208** Sch. 12 para. 2(6)(aa) inserted (10.12.2007) by [The Reinsurance Directive Regulations 2007 \(S.I. 2007/3253\)](#), reg. 2(1), **Sch. 1 para. 2(5)(e)(ii)**
- F209** Words in Sch. 12 para. 2(6)(c) substituted (10.12.2007) by [The Reinsurance Directive Regulations 2007 \(S.I. 2007/3253\)](#), reg. 2(1), **Sch. 1 para. 2(5)(e)(iii)**
- F210** Sch. 12 para. 2(7A) inserted (10.12.2007) by [The Reinsurance Directive Regulations 2007 \(S.I. 2007/3253\)](#), reg. 2(1), **Sch. 1 para. 2(5)(e)(iv)**
- F211** Sch. 12 para. 2(9) inserted (10.12.2007) by [The Reinsurance Directive Regulations 2007 \(S.I. 2007/3253\)](#), reg. 2(1), **Sch. 1 para. 2(5)(e)(v)**

Certificates as to consent

- 3 A certificate under this paragraph is one given by the Authority and certifying that the host State regulator has been notified of the proposed scheme and that—
- (a) that regulator has responded to the notification; or

Status: Point in time view as at 19/02/2013.

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- (b) that it has not responded but the period of three months beginning with the notification has elapsed.

Certificates as to long-term business

- 4 A certificate under this paragraph is one given by the Authority and certifying that the authority responsible for supervising persons who effect or carry out contracts of insurance in the State of the commitment has been notified of the proposed scheme and that—
- (a) that authority has consented to the proposed scheme; or
- (b) the period of three months beginning with the notification has elapsed and that authority has not refused its consent.

Certificates as to general business

- 5 A certificate under this paragraph is one given by the Authority and certifying that the authority responsible for supervising persons who effect or carry out contracts of insurance in the EEA State in which the risk is situated has been notified of the proposed scheme and that—
- (a) that authority has consented to the proposed scheme; or
- (b) the period of three months beginning with the notification has elapsed and that authority has not refused its consent.

^{F212}Certificates as to legality and as to consent

Textual Amendments

F212 Sch. 12 para. 5A and cross-heading inserted (10.12.2007) by [The Reinsurance Directive Regulations 2007 \(S.I. 2007/3253\)](#), reg. 2(1), [Sch. 1 para. 2\(5\)\(f\)](#)

- 5A (1) The certificates under this paragraph are to be given—
- (a) in the case of the certificate under sub-paragraph (2), by the Authority;
- (b) in the case of the certificate under sub-paragraph (3), by the relevant authority.
- (2) A certificate given under this sub-paragraph is one certifying that the relevant authority has been notified of the proposed scheme and that—
- (a) the relevant authority has consented to the proposed scheme; or
- (b) the period of three months beginning with the notification has elapsed and that relevant authority has not refused its consent.
- (3) A certificate given under this sub-paragraph is one certifying that the law of the EEA State in which the transferee is set up permits such a transfer.
- (4) “Relevant authority” means the competent authorities (within the meaning of the insurance directives) of the EEA State in which the transferee is set up.]

Interpretation of Part I

- 6 (1) “State of the commitment”, in relation to a commitment entered into at any date, means—

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- (a) if the policyholder is an individual, the State in which he had his habitual residence at that date;
 - (b) if the policyholder is not an individual, the State in which the establishment of the policyholder to which the commitment relates was situated at that date.
- (2) “Commitment” means a commitment represented by contracts of insurance of a prescribed class.
- (3) References to the EEA State in which a risk is situated are—
- (a) if the insurance relates to a building or to a building and its contents (so far as the contents are covered by the same policy), to the EEA State in which the building is situated;
 - (b) if the insurance relates to a vehicle of any type, to the EEA State of registration;
 - (c) in the case of policies of a duration of four months or less covering travel or holiday risks (whatever the class concerned), to the EEA State in which the policyholder took out the policy;
 - (d) in a case not covered by paragraphs (a) to (c)—
 - (i) if the policyholder is an individual, to the EEA State in which he has his habitual residence at the date when the contract is entered into; and
 - (ii) otherwise, to the EEA State in which the establishment of the policyholder to which the policy relates is situated at that date.
- [^{F213}(4) If the insurance relates to a vehicle dispatched from one EEA State to another, in respect of the period of 30 days beginning with the day on which the purchaser accepts delivery a reference to the EEA State in which a risk is situated is a reference to the State of destination (and not, as provided by sub-paragraph (3)(b), to the State of registration).]

Textual Amendments

F213 Sch. 12 para. 6(4) added (5.9.2007) by [The Financial Services and Markets Act 2000 \(Motor Insurance\) Regulations 2007 \(S.I. 2007/2403\)](#), **reg. 2(2)**

Commencement Information

I28 Sch. 12 Pt I para. 6 wholly in force at 1.12.2001; Sch. 12 Pt. I para. 6 not in force at Royal Assent see s. 431(2); Sch. 12 para. 6(2) in force at 25.2.2001 by [S.I. 2001/516](#), **art. 2(b)**, [Sch. Pts. 1, 3](#); Sch. 12 Pt. I para. 6 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538](#), **art. 2(1)**

PART II

BANKING BUSINESS TRANSFER SCHEMES

- 7 (1) For the purposes of section 111(2) the appropriate certificates, in relation to a banking business transfer scheme, are—
- (a) a certificate under paragraph 8; and
 - (b) if sub-paragraph (2) applies, a certificate under paragraph 9.
- (2) This sub-paragraph applies if the authorised person concerned or the transferee is an EEA firm falling within paragraph 5(b) of Schedule 3.

Status: Point in time view as at 19/02/2013.

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Certificates as to financial resources

- 8 (1) A certificate under this paragraph is one given by the relevant authority and certifying that, taking the proposed transfer into account, the transferee possesses, or will possess before the scheme takes effect, adequate financial resources.
- (2) “Relevant authority” means—
- (a) if the transferee is a person with a Part IV permission or with permission under Schedule 4, the Authority;
 - (b) if the transferee is an EEA firm falling within paragraph 5(b) of Schedule 3, its home state regulator;
 - (c) if the transferee does not fall within paragraph (a) or (b), the authority responsible for the supervision of the transferee’s business in the place in which the transferee has its head office.
- (3) In sub-paragraph (2), any reference to a transferee of a particular description of person includes a reference to a transferee who will be of that description if the proposed banking business transfer scheme takes effect.

Certificates as to consent of home state regulator

- 9 A certificate under this paragraph is one given by the Authority and certifying that the home State regulator of the authorised person concerned or of the transferee has been notified of the proposed scheme and that—
- (a) the home State regulator has responded to the notification; or
 - (b) the period of three months beginning with the notification has elapsed.

[^{F214}PART 2A

RECLAIM FUND BUSINESS TRANSFER SCHEMES

Textual Amendments

F214 Sch. 12 Pt. 2A inserted (12.3.2009) by [Dormant Bank and Building Society Accounts Act 2008 \(c. 31\)](#), ss. 15, 31(1)(2), [Sch. 2 para. 5](#); S.I. 2009/490, [art. 2](#) (with [art. 3](#))

Certificate as to financial resources

- 9A For the purposes of section 111(2) the appropriate certificate, in relation to a reclaim fund business transfer scheme, is a certificate given by the Authority certifying that, taking the proposed transfer into account, the transferee possesses, or will possess before the scheme takes effect, adequate financial resources.]

PART III

INSURANCE BUSINESS TRANSFERS EFFECTED OUTSIDE THE UNITED KINGDOM

- 10 (1) This paragraph applies to a proposal to execute under provisions corresponding to Part VII in a country or territory other than the United Kingdom an instrument transferring all the rights and obligations of the transferor under general or long-term insurance policies, or under such descriptions of such policies as may be specified

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in the instrument, to the transferee if any of the conditions in sub-paragraphs (2), (3) or (4) is met in relation to it.

- (2) The transferor is an EEA firm falling within paragraph 5(d) [^{F215}or (da)] of Schedule 3 and the transferee is an authorised person whose margin of solvency is supervised by the Authority.
- (3) The transferor is a company authorised in an EEA State other than the United Kingdom under [^{F216}Article 51 of the life assurance consolidation directive], or Article 23 of the first non-life insurance directive and the transferee is a UK authorised person which has received authorisation under [^{F217}Article 4 of the life assurance consolidation directive or Article 6 of the first non-life insurance directive].
- (4) The transferor is a Swiss general insurer and the transferee is a UK authorised person which has received authorisation under [^{F218}Article 4 of the life assurance consolidation directive or Article 6 of the first non-life insurance directive].
- (5) In relation to a proposed transfer to which this paragraph applies, the Authority may, if it is satisfied that the transferee possesses the necessary margin of solvency, issue a certificate to that effect.
- (6) “Necessary margin of solvency” means the margin of solvency which the transferee, taking the proposed transfer into account, is required by the Authority to maintain.
- (7) “Swiss general insurer” has the same meaning as in paragraph 2.
- (8) “General policy” means a policy evidencing a contract which, if it had been effected by the transferee, would have constituted the carrying on of a regulated activity consisting of the effecting of contracts of general insurance.
- (9) “Long-term policy” means a policy evidencing a contract which, if it had been effected by the transferee, would have constituted the carrying on of a regulated activity consisting of the effecting of contracts of long-term insurance.

Textual Amendments

F215 Words in Sch. 12 para. 10(2) inserted (10.12.2007) by [The Reinsurance Directive Regulations 2007 \(S.I. 2007/3253\)](#), reg. 2(1), **Sch. 1 para. 2(5)(g)**

F216 Words in Sch. 12 para. 10(3) substituted (11.1.2005) by [The Life Assurance Consolidation Directive \(Consequential Amendments\) Regulations 2004 \(S.I. 2004/3379\)](#), reg. 6(7)(b)(i)

F217 Words in Sch. 12 para. 10(3) substituted (11.1.2005) by [The Life Assurance Consolidation Directive \(Consequential Amendments\) Regulations 2004 \(S.I. 2004/3379\)](#), reg. 6(7)(b)(ii)

F218 Words in Sch. 12 para. 10(4) substituted (11.1.2005) by [The Life Assurance Consolidation Directive \(Consequential Amendments\) Regulations 2004 \(S.I. 2004/3379\)](#), reg. 6(7)(c)

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Textual Amendments

F219 Sch. 13 omitted (6.4.2010) by virtue of [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), art. 1(2)(e), 5(1), [Sch. 2 para. 49](#)

SCHEDULE 14

Section 162.

ROLE OF THE COMPETITION COMMISSION

Provision of information by Treasury

- 1 (1) The Treasury's powers under this paragraph are to be exercised only for the purpose of assisting the Commission in carrying out an investigation under section 162.
- (2) The Treasury may give to the Commission—
- (a) any information in their possession which relates to matters falling within the scope of the investigation; and
 - (b) other assistance in relation to any such matters.
- (3) In carrying out an investigation under section 162, the Commission must have regard to any information given to it under this paragraph.

Consideration of matters arising on a report

- 2 In considering any matter arising from a report made by the [^{F229}OFT] under section 160, the Commission must have regard to—
- (a) any representations made to [^{F230}the Commission] in connection with the matter by any person appearing to the Commission to have a substantial interest in the matter; and
 - (b) any cost benefit analysis prepared by the Authority (at any time) in connection with the regulatory provision or practice, or any of the regulatory provisions or practices, which are the subject of the report.

Textual Amendments

F229 Words in Sch. 14 para. 2(a) substituted (1.4.2003) by virtue of [Enterprise Act 2002 \(c. 40\)](#), ss. 278(1), 279, [Sch. 25 para. 40\(20\)\(a\)](#); S.I. 2003/766, [art. 2](#), Sch. (with art. 3)

F230 Words in Sch. 14 para. 2(a) substituted (1.4.2003) by [Enterprise Act 2002 \(c. 40\)](#), ss. 278(1), 279, [Sch. 25 para. 40\(20\)\(a\)](#); S.I. 2003/766, [art. 2](#), Sch. (with art. 3)

^{F231}*Investigations under section 162: application of Enterprise Act 2002*

Textual Amendments

F231 Sch. 14 paras. 2A-2C inserted (20.6.2003) by [Enterprise Act 2002 \(c. 40\)](#), ss. 278(1), 279, [Sch. 25 para. 40\(20\)\(b\)](#); S.I. 2003/1397, [art. 2\(1\)](#), Sch. (with art. 8)

Status: Point in time view as at 19/02/2013.

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- 2A (1) The following sections of Part 3 of the Enterprise Act 2002 shall apply, with the modifications mentioned in sub-paragraphs (2) and (3), for the purposes of any investigation by the Commission under section 162 of this Act as they apply for the purposes of references under that Part—
- (a) section 109 (attendance of witnesses and production of documents etc.);
 - (b) section 110 (enforcement of powers under section 109: general);
 - (c) section 111 (penalties);
 - (d) section 112 (penalties: main procedural requirements);
 - (e) section 113 (payments and interest by instalments);
 - (f) section 114 (appeals in relation to penalties);
 - (g) section 115 (recovery of penalties); and
 - (h) section 116 (statement of policy).
- (2) Section 110 shall, in its application by virtue of sub-paragraph (1), have effect as if—
- (a) subsection (2) were omitted; and
 - (b) in subsection (9) the words from “or section” to “section 65(3)” were omitted.
- (3) Section 111(5)(b) shall, in its application by virtue of sub-paragraph (1), have effect as if for sub-paragraph (ii) there were substituted—
- (“ if earlier, the day on which the report of the Commission on the investigation concerned is made or, if the Commission decides not to make a report, the day on which the Commission makes the statement required by section 162(3) of the Financial Services and Markets Act 2000. ”
- (4) Section 117 of the Enterprise Act 2002 (false or misleading information) shall apply in relation to functions of the Commission in connection with an investigation under section 162 of this Act as it applies in relation to its functions under Part 3 of that Act but as if, in subsections (1)(a) and (2), the words [F232 “the OFT, OFCOM,”] and “or the Secretary of State” were omitted.
- (5) Provisions of Part 3 of the Enterprise Act 2002 which have effect for the purposes of sections 109 to 117 of that Act (including, in particular, provisions relating to offences and the making of orders) shall, for the purposes of the application of those sections by virtue of sub-paragraph (1) or (4) above, have effect in relation to those sections as applied by virtue of those sub-paragraphs.
- (6) Accordingly, corresponding provisions of this Act shall not have effect in relation to those sections as applied by virtue of those sub-paragraphs.

Textual Amendments

F231 Sch. 14 paras. 2A-2C inserted (20.6.2003) by *Enterprise Act 2002* (c. 40), ss. 278(1), 279, **Sch. 25 para. 40(20)(b)**; S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)

F232 Words in Sch. 14 para. 2A(4) substituted (29.12.2003) by *Communications Act 2003* (c. 21), ss. 389(1), 411(2), **Sch. 16 para. 5** (with transitional provisions in Sch. 18); S.I. 2003/3142, **art. 3(1)**, Sch. 1 (subject to art. 3(3) and with art. 11)

Status: Point in time view as at 19/02/2013.

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- 2B For the purposes of its application in relation to the function of the Commission of deciding in accordance with section 162(2) of this Act not to make a report, paragraph 15(7) of Schedule 7 to the Competition Act 1998 (power of the Chairman to act on his own while a group is being constituted) has effect as if, after paragraph (a), there were inserted “; or
- (aa) in the case of an investigation under section 162 of the Financial Services and Markets Act 2000, decide not to make a report in accordance with subsection (2) of that section (decision not to make a report where no useful purpose would be served).”

Textual Amendments

F231 Sch. 14 paras. 2A-2C inserted (20.6.2003) by [Enterprise Act 2002 \(c. 40\)](#), ss. 278(1), 279, [Sch. 25 para. 40\(20\)\(b\)](#); S.I. 2003/1397, [art. 2\(1\)](#), Sch. (with art. 8)

Reports under section 162: further provision

- 2C (1) For the purposes of section 163 of this Act, a conclusion contained in a report of the Commission is to be disregarded if the conclusion is not that of at least two-thirds of the members of the group constituted in connection with the investigation concerned in pursuance of paragraph 15 of Schedule 7 to the Competition Act 1998.
- (2) If a member of a group so constituted disagrees with any conclusions contained in a report made under section 162 of this Act as the conclusions of the Commission, the report shall, if the member so wishes, include a statement of his disagreement and of his reasons for disagreeing.
- (3) For the purposes of the law relating to defamation, absolute privilege attaches to any report made by the Commission under section 162.]

Textual Amendments

F231 Sch. 14 paras. 2A-2C inserted (20.6.2003) by [Enterprise Act 2002 \(c. 40\)](#), ss. 278(1), 279, [Sch. 25 para. 40\(20\)\(b\)](#); S.I. 2003/1397, [art. 2\(1\)](#), Sch. (with art. 8)

Applied provisions

- 3 **F233**

Textual Amendments

F233 Sch. 14 para. 3 repealed (20.6.2003) by [Enterprise Act 2002 \(c. 40\)](#), ss. 278(1)(2), 279, [Sch. 25 para. 40\(20\)\(c\)](#), [Sch. 26](#); S.I. 2003/1397, [art. 2\(1\)](#), Sch. (with art. 8)

Publication of reports

- 4 (1) If the Commission makes a report under section 162, it must publish it in such a way as appears to it to be best calculated to bring it to the attention of the public.

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- (2) Before publishing the report the Commission must, so far as practicable, exclude any matter which relates to the private affairs of a particular individual the publication of which, in the opinion of the Commission, would or might seriously and prejudicially affect his interests.
- (3) Before publishing the report the Commission must, so far as practicable, also exclude any matter which relates to the affairs of a particular body the publication of which, in the opinion of the Commission, would or might seriously and prejudicially affect its interests.
- (4) Sub-paragraphs (2) and (3) do not apply in relation to copies of a report which the Commission is required to send under section 162(10).

SCHEDULE 15

Sections 165(11) and 171(4).

INFORMATION AND INVESTIGATIONS: CONNECTED PERSONS

PART I

RULES FOR SPECIFIC BODIES

Modifications etc. (not altering text)

- C29** Sch. 15 Pt. I (paras. 1-7) modified (1.12.2001) by [S.I. 2001/2657](#), [arts. 1\(1\)](#), [15\(2\)](#) (which was revoked (8.10.2001) by [S.I. 2001/3083](#), [arts. 1\(2\)](#), [23](#)); [S.I. 2001/3538](#), [art. 2\(1\)](#)
Sch. 15 Pt. I (paras. 1-7) modified (1.12.2001) by [S.I. 2001/3083](#), [arts. 1\(2\)](#), [15\(2\)](#); [S.I. 2001/3538](#), [art. 2\(1\)](#)
Sch. 15 Pt. I (paras. 1-7) amended (*temp.* from 11.8.2001 to 1.12.2001) by [S.I. 2001/2659](#), [arts. 1\(2\)](#), [2\(2\)](#); [S.I. 2001/3538](#), [art. 2\(1\)](#)
- C30** Sch. 15 Pt. I modified (8.4.2002) by [The Financial Services and Markets Act 2000 \(Permission and Applications\) \(Credit Unions etc.\) Order 2002](#) ([S.I. 2002/704](#)), [art. 8\(2\)](#)
- C31** Sch. 15 Pt. I modified (31.12.2011) by [The Financial Services and Markets Act 2000 \(Permissions, Transitional Provisions and Consequential Amendments\) \(Northern Ireland Credit Unions\) Order 2011](#) ([S.I. 2011/2832](#)), [art. 9\(2\)](#)

Corporate bodies

- 1 If the authorised person (“BC”) is a body corporate, a person who is or has been—
 - (a) an officer or manager of BC or of a parent undertaking of BC;
 - (b) an employee of BC;
 - (c) an agent of BC or of a parent undertaking of BC.

Partnerships

- 2 If the authorised person (“PP”) is a partnership, a person who is or has been a member, manager, employee or agent of PP.

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Unincorporated associations

- 3 If the authorised person (“UA”) is an unincorporated association of persons which is neither a partnership nor an unincorporated friendly society, a person who is or has been an officer, manager, employee or agent of UA.

Friendly societies

- 4 (1) If the authorised person (“FS”) is a friendly society, a person who is or has been an officer, manager or employee of FS.
- (2) In relation to FS, “officer” and “manager” have the same meaning as in section 119(1) of the ^{M17}Friendly Societies Act 1992.

Marginal Citations

M17 1992 c. 40.

Building societies

- 5 (1) If the authorised person (“BS”) is a building society, a person who is or has been an officer or employee of BS.
- (2) In relation to BS, “officer” has the same meaning as it has in section 119(1) of the ^{M18}Building Societies Act 1986.

Marginal Citations

M18 1986 c. 53.

Individuals

- 6 If the authorised person (“IP”) is an individual, a person who is or has been an employee or agent of IP.

Application to sections 171 and 172

- 7 For the purposes of sections 171 and 172, if the person under investigation is not an authorised person the references in this Part of this Schedule to an authorised person are to be taken to be references to the person under investigation.

PART II

ADDITIONAL RULES

- 8 A person who is, or at the relevant time was, the partner, manager, employee, agent, appointed representative, banker, auditor, actuary or solicitor of—
- (a) the person under investigation (“A”);
 - (b) a parent undertaking of A;
 - (c) a subsidiary undertaking of A;
 - (d) a subsidiary undertaking of a parent undertaking of A; or

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- (e) a parent undertaking of a subsidiary undertaking of A.

SCHEDULE 16

Section 203(8).

PROHIBITIONS AND RESTRICTIONS IMPOSED BY [F234OFFICE OF FAIR TRADING]

Textual Amendments

F234 Sch. 16: words in heading substituted (1.4.2003) by Enterprise Act 2002 (c. 40), ss. 278, 279, Sch. 25 para. 40(21)(a); S.I. 2003/766, art. 2, Sch. (with art. 3)

Modifications etc. (not altering text)

C32 Sch. 16 applied (with modifications) (1.5.2009 for certain purposes and 1.11.2009 otherwise) by The Payment Services Regulations 2009 (S.I. 2009/209), regs. 1(2), 26(1) (with reg. 3)

C33 Sch. 16 applied (with modifications) (30.4.2011) by The Electronic Money Regulations 2011 (S.I. 2011/99), reg. 31(1) (with reg. 3)

Preliminary

- 1 In this Schedule—

“appeal period” has the same meaning as in the ^{M19}Consumer Credit Act 1974;

“prohibition” means a consumer credit prohibition under section 203;

“restriction” means a restriction under section 204.

Marginal Citations

M19 1974 c. 39.

Notice of prohibition or restriction

- 2 (1) This paragraph applies if the [F235OFT] proposes, in relation to a firm—
- to impose a prohibition;
 - to impose a restriction; or
 - to vary a restriction otherwise than with the agreement of the firm.
- (2) The [F235OFT] must by notice—
- inform the firm of [F236its] proposal, stating [F236its] reasons; and
 - invite the firm to submit representations in accordance with paragraph 4.
- (3) If [F237the OFT] imposes the prohibition or restriction or varies the restriction, the [F235OFT] may give directions authorising the firm to carry into effect agreements made before the coming into force of the prohibition, restriction or variation.
- (4) A prohibition, restriction or variation is not to come into force before the end of the appeal period.

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- (5) If the [F235OFT] imposes a prohibition or restriction or varies a restriction, [F237the OFT] must serve a copy of the prohibition, restriction or variation—
- (a) on the Authority; and
 - (b) on the firm's home state regulator.

Textual Amendments

- F235** Sch. 16: words substituted (1.4.2003) in each place by [Enterprise Act 2002 \(c. 40\), ss. 278, 279, Sch. 25 para. 40\(21\)\(b\); S.I. 2003/766, art. 2, Sch. \(with art. 3\)](#)
- F236** Sch. 16: word substituted (1.4.2003) in each place by [Enterprise Act 2002 \(c. 40\), ss. 278, 279, Sch. 25 para. 40\(21\)\(b\); S.I. 2003/766, art. 2, Sch. \(with art. 3\)](#)
- F237** Sch. 16: words substituted (1.4.2003) in both places by [Enterprise Act 2002 \(c. 40\), ss. 278, 279, Sch. 25 para. 40\(21\)\(b\); S.I. 2003/766, art. 2, Sch. \(with art. 3\)](#)

Modifications etc. (not altering text)

- C34** Sch. 16 para. 2(2) extended (1.12.2001) by [S.I. 2001/3592, arts. 1\(2\), 24 \(with art. 23\(2\)\)](#)
- C35** Sch. 16 para. 2(3) extended (1.12.2001) by [S.I. 2001/2636, arts. 1\(2\)\(b\), 53\(4\); S.I. 2001/3538, art. 2\(1\)](#)

Application to revoke prohibition or restriction

- 3 (1) This paragraph applies if the [F238OFT] proposes to refuse an application made by a firm for the revocation of a prohibition or restriction.
- (2) The [F238OFT] must by notice—
- (a) inform the firm of the proposed refusal, stating [F239its] reasons; and
 - (b) invite the firm to submit representations in accordance with paragraph 4.

Textual Amendments

- F238** Sch. 16: words substituted (1.4.2003) in each place by [Enterprise Act 2002 \(c. 40\), ss. 278, 279, Sch. 25 para. 40\(21\)\(b\); S.I. 2003/766, art. 2, Sch. \(with art. 3\)](#)
- F239** Sch. 16: word substituted (1.4.2003) in each place by [Enterprise Act 2002 \(c. 40\), ss. 278, 279, Sch. 25 para. 40\(21\)\(b\); S.I. 2003/766, art. 2, Sch. \(with art. 3\)](#)

Representations to [F240OFT]

Textual Amendments

- F240** Sch. 16: words in substituted (1.4.2003) in each place by [Enterprise Act 2002 \(c. 40\), ss. 278, 279, Sch. 25 para. 40\(21\)\(b\); S.I. 2003/766, art. 2, Sch. \(with art. 3\)](#)

- 4 (1) If this paragraph applies to an invitation to submit representations, the [F241OFT] must invite the firm, within 21 days after the notice containing the invitation is given to it or such longer period as [F242the OFT] may allow—
- (a) to submit its representations in writing to [F243the OFT]; and
 - (b) to give notice to [F243the OFT], if the firm thinks fit, that it wishes to make representations orally.

Status: Point in time view as at 19/02/2013.

Changes to legislation: Financial Services and Markets Act 2000 is up to date with all changes known to be in force on or before 10 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(2) If notice is given under sub-paragraph (1)(b), the [F241OFT] must arrange for the oral representations to be heard.

(3) The [F241OFT] must give the firm notice of [F244its] determination.

Textual Amendments

F241 Sch. 16: words substituted (1.4.2003) in each place by [Enterprise Act 2002 \(c. 40\)](#), ss. 278, 279, **Sch. 25 para. 40(21)(b)**; S.I. 2003/766, **art. 2**, Sch. (with art. 3)

F242 Sch. 16: words substituted (1.4.2003) in both places by [Enterprise Act 2002 \(c. 40\)](#), ss. 278, 279, **Sch. 25 para. 40(21)(b)**; S.I. 2003/766, **art. 2**, Sch. (with art. 3)

F243 Sch. 16: words substituted (1.4.2003) in both places by [Enterprise Act 2002 \(c. 40\)](#), ss. 278, 279, **Sch. 25 para. 40(21)(b)**; S.I. 2003/766, **art. 2**, Sch. (with art. 3)

F244 Sch. 16: word substituted (1.4.2003) in each place by [Enterprise Act 2002 \(c. 40\)](#), ss. 278, 279, **Sch. 25 para. 40(21)(b)**; S.I. 2003/766, **art. 2**, Sch. (with art. 3)

Appeals

5 Section 41 of the ^{M20}Consumer Credit Act 1974 (appeals to the Secretary of State) has effect as if—

- (a) the following determinations were mentioned in column 1 of the table set out at the end of that section—
 - (i) imposition of a prohibition or restriction or the variation of a restriction; and
 - (ii) refusal of an application for the revocation of a prohibition or restriction; and
- (b) the firm concerned were mentioned in column 2 of that table in relation to those determinations.

Marginal Citations

M20 [1974 c. 39](#).

Modifications etc. (not altering text)

C36 Sch. 17 applied (1.5.2009 for certain purposes and 1.11.2009 otherwise) by [The Payment Services Regulations 2009 \(S.I. 2009/209\)](#), **regs. 1(2), 125** (with **reg. 3**)

C37 Sch. 17 applied (30.4.2011) by [The Electronic Money Regulations 2011 \(S.I. 2011/99\)](#), **reg. 76(2)** (with **reg. 3**)

Status: Point in time view as at 19/02/2013.

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PART I

GENERAL

Interpretation

- 1 In this Schedule—
- “ombudsman” means a person who is a member of the panel; and
- “the panel” means the panel established under paragraph 4.

PART II

THE SCHEME OPERATOR

[^{F245} Duty of FCA

Textual Amendments

F245 Sch. 17 para. 2 and cross-heading substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 11 para. 14](#) (with [Sch. 20](#)); [S.I. 2013/113](#), art. 2(1)(c), [Sch. Pt. 3](#); [S.I. 2013/423](#), art. 3, [Sch.](#)

- 2 The FCA must take such steps as are necessary to ensure that the body corporate established by the Financial Services Authority under this Schedule as originally enacted is, at all times, capable of exercising the functions conferred on the scheme operator by or under this Act.]

Constitution

- 3 (1) The constitution of the scheme operator must provide for it to have—
- (a) a chairman; and
 - (b) a board (which must include the chairman) whose members are the scheme operator’s directors.
- (2) The chairman and other members of the board must be persons appointed, and liable to removal from office, by the [^{F246}FCA] (acting, in the case of the chairman, with the approval of the Treasury).
- (3) But the terms of their appointment (and in particular those governing removal from office) must be such as to secure their independence from the [^{F246}FCA] in the operation of the scheme.
- (4) The function of making voluntary jurisdiction rules under section 227 [^{F247}, the function of making consumer credit rules, the function of making determinations under section 234A(1)] and the functions conferred by paragraphs 4, 5, 7, 9 [^{F248}, 9A] or 14 may be exercised only by the board.
- (5) The validity of any act of the scheme operator is unaffected by—
- (a) a vacancy in the office of chairman; or
 - (b) a defect in the appointment of a person as chairman or as a member of the board.

Status: Point in time view as at 19/02/2013.

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Textual Amendments

- F246** Word in [Sch. 17 para. 3](#) substituted (24.1.2013 for specified purposes) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\)](#), [Sch. 11 para. 15\(a\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F247** Words in [Sch. 17 para. 3\(4\)](#) inserted (16.6.2006) by [Consumer Credit Act 2006 \(c. 14\), ss. 61\(10\)\(a\), 71\(2\)](#); S.I. 2006/1508, [art. 3\(1\)](#), Sch. 1
- F248** Word in [Sch. 17 para. 3\(4\)](#) inserted (24.1.2013 for specified purposes) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\)](#), [Sch. 11 para. 15\(b\)](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3

[^{F249}Relationship with FCA

Textual Amendments

- F249** [Sch. 17 para. 3A](#) and cross-heading inserted (24.1.2013 for specified purposes) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\)](#), [Sch. 11 para. 16](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3

- 3A (1) The scheme operator and the FCA must each take such steps as it considers appropriate to co-operate with the other in the exercise of their functions under this Part of this Act.
- (2) The scheme operator and the FCA must prepare and maintain a memorandum describing how they intend to comply with sub-paragraph (1).
- (3) The scheme operator must ensure that the memorandum as currently in force is published in the way appearing to the scheme operator to be best calculated to bring it to the attention of the public.]

The panel of ombudsmen

- 4 (1) The scheme operator must appoint and maintain a panel of persons, appearing to it to have appropriate qualifications and experience, to act as ombudsmen for the purposes of the scheme.
- (2) A person's appointment to the panel is to be on such terms (including terms as to the duration and termination of his appointment and as to remuneration) as the scheme operator considers—
- consistent with the independence of the person appointed; and
 - otherwise appropriate.

The Chief Ombudsman

- 5 (1) The scheme operator must appoint one member of the panel to act as Chief Ombudsman.
- (2) The Chief Ombudsman is to be appointed on such terms (including terms as to the duration and termination of his appointment) as the scheme operator considers appropriate.

Status

- 6 (1) The scheme operator is not to be regarded as exercising functions on behalf of the Crown.

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- (2) The scheme operator's ^{F250}... officers and staff are not to be regarded as Crown servants.
- (3) Appointment as Chief Ombudsman or to the panel or as a deputy ombudsman does not confer the status of Crown servant.

Textual Amendments

F250 Words in Sch. 17 para. 6(2) omitted (24.1.2013 for specified purposes) by virtue of Financial Services Act 2012 (c. 21), s. 122(3), Sch. 11 para. 17 (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3

Annual reports

- 7 (1) At least once a year—
 - (a) the scheme operator must make a report to the [^{F251}FCA] on the discharge of its functions; and
 - (b) the Chief Ombudsman must make a report to the [^{F251}FCA] on the discharge of his functions.
- (2) Each report must distinguish between functions in relation to the scheme's compulsory jurisdiction [^{F252}, functions in relation to its consumer credit jurisdiction] and functions in relation to its voluntary jurisdiction.
- (3) Each report must also comply with any requirements specified in rules made by the [^{F251}FCA].
- (4) The scheme operator must publish each report in the way it considers appropriate.
- ^{F253}(5) The Treasury may—
 - (a) require the scheme operator to comply with any provisions of the Companies Act 2006 about accounts and their audit which would not otherwise apply to it, or
 - (b) direct that any provision of that Act about accounts and their audit is to apply to the scheme operator with such modifications as are specified in the direction, whether or not the provision would otherwise apply to the scheme manager.
- (6) Compliance with any requirement under sub-paragraph (5)(a) or (b) is enforceable by injunction or, in Scotland, an order for specific performance under section 45 of the Court of Session Act 1988.
- (7) Proceedings under sub-paragraph (6) may be brought only by the Treasury.]

Textual Amendments

F251 Word in Sch. 17 para. 7 substituted (24.1.2013 for specified purposes) by Financial Services Act 2012 (c. 21), s. 122(3), Sch. 11 para. 18(a) (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3

F252 Words in Sch. 17 para. 7(2) inserted (16.6.2006) by Consumer Credit Act 2006 (c. 14), ss. 61(10)(b), 71(2); S.I. 2006/1508, art. 3(1), Sch. 1

F253 Sch. 17 para. 7(5)-(7) inserted (24.1.2013 for specified purposes) by Financial Services Act 2012 (c. 21), s. 122(3), Sch. 11 para. 18(b) (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3

Status: Point in time view as at 19/02/2013.

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[^{F254}Audit of accounts

Textual Amendments

F254 Sch. 17 para. 7A and cross-heading inserted (24.1.2013 for specified purposes) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 11 para. 19](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3

- 7A (1) The scheme operator must send a copy of its annual accounts to the Comptroller and Auditor General as soon as is reasonably practicable.
- (2) The Comptroller and Auditor General must—
- (a) examine, certify and report on accounts received under this paragraph, and
 - (b) send a copy of the certified accounts and the report to the Treasury.
- (3) The Treasury must lay the copy of the certified accounts and the report before Parliament.
- (4) The scheme operator must send a copy of the certified accounts and the report to the FCA.
- (5) Except as provided by paragraph 7(5), the scheme operator is exempt from the requirements of Part 16 of the Companies Act 2006 (audit), and its balance sheet must contain a statement to that effect.
- (6) In this paragraph “annual accounts” has the meaning given by section 471 of the Companies Act 2006.]

[^{F255}Information, advice and guidance]

Textual Amendments

F255 Sch. 17 para. 8 cross-heading substituted (24.1.2013 for specified purposes) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 11 para. 20](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3

- 8 The scheme operator may publish [^{F256}such information, guidance or advice] as it considers appropriate and may charge for it or distribute it free of charge.

Textual Amendments

F256 Words in [Sch. 17 para. 8](#) substituted (24.1.2013 for specified purposes) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 11 para. 21](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3

Budget

- 9 (1) The scheme operator must, before the start of each of its financial years, adopt an annual budget which has been approved by the [^{F257}FCA].
- (2) The scheme operator may, with the approval of the [^{F257}FCA], vary the budget for a financial year at any time after its adoption.
- (3) The annual budget must include an indication of—
- (a) the distribution of resources deployed in the operation of the scheme, and

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- (b) the amounts of income of the scheme operator arising or expected to arise from the operation of the scheme,
distinguishing between the scheme’s compulsory [^{F258}, consumer credit] and voluntary jurisdiction.

Textual Amendments

F257 Word in Sch. 17 para. 9 substituted (24.1.2013 for specified purposes) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\)](#), [Sch. 11 para. 22](#) (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3

F258 Words in Sch. 17 para. 9(3) inserted (16.6.2006) by [Consumer Credit Act 2006 \(c. 14\), ss. 61\(10\)\(c\), 71\(2\)](#); S.I. 2006/1508, [art. 3\(1\)](#), Sch. 1

Modifications etc. (not altering text)

C38 Sch. 17 para. 9(3) excluded (18.6.2001) by S.I. 2001/1821, [arts. 1\(1\), 4\(1\)](#)

^{F259}Annual plan

Textual Amendments

F259 Sch. 17 para. 9A and cross-heading inserted (24.1.2013 for specified purposes) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\)](#), [Sch. 11 para. 23](#) (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3

- 9A (1) The scheme operator must in respect of each of its financial years prepare an annual plan.
- (2) The plan must be prepared before the start of the financial year.
- (3) An annual plan in respect of a financial year must make provision about the use of the resources of the scheme operator.
- (4) The plan may include material relating to periods longer than the financial year in question.
- (5) Before preparing an annual plan, the scheme operator must consult such persons (if any) as the scheme operator considers appropriate.
- (6) The scheme operator must publish each annual plan in the way it considers appropriate.]

Exemption from liability in damages

- 10 (1) No person is to be liable in damages for anything done or omitted in the discharge, or purported discharge, of any functions under this Act in relation to the compulsory jurisdiction [^{F260}or to the consumer credit jurisdiction].
- (2) Sub-paragraph (1) does not apply—
- (a) if the act or omission is shown to have been in bad faith; or
- (b) so as to prevent an award of damages made in respect of an act or omission on the ground that the act or omission was unlawful as a result of section 6(1) of the ^{M21}Human Rights Act 1998.

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Textual Amendments

F260 Words in Sch. 17 para. 10(1) inserted (16.6.2006) by [Consumer Credit Act 2006 \(c. 14\)](#), **ss. 61(10)(d)**, 71(2); S.I. 2006/1508, **art. 3(1)**, Sch. 1

Modifications etc. (not altering text)

C39 Sch. 17 para. 10(1) amended (19.7.2001 for specified purposes otherwise 1.12.2001) by S.I. 2001/2326, **arts. 1(1)**, 13; S.I. 2001/3538, **art. 2(1)**

C40 Sch. 17 para. 10(1) extended (31.10.2004 for certain purposes and 14.1.2005 otherwise) by [The Financial Services and Markets Act 2000 \(Transitional Provisions\) \(Complaints Relating to General Insurance and Mortgages\) Order 2004 \(S.I. 2004/454\)](#), arts. 1(2), 7

Marginal Citations

M21 1998 c. 42.

Privilege

- 11 For the purposes of the law relating to defamation, proceedings in relation to a complaint which is subject to the compulsory jurisdiction [^{F261}or to the consumer credit jurisdiction] are to be treated as if they were proceedings before a court.

Textual Amendments

F261 Words in Sch. 17 para. 11 inserted (16.6.2006) by [Consumer Credit Act 2006 \(c. 14\)](#), **ss. 61(10)(d)**, 71(2); S.I. 2006/1508, **art. 3(1)**, Sch. 1

Modifications etc. (not altering text)

C41 Sch. 17 para. 11 amended (19.7.2001 for specified purposes otherwise 1.12.2001) by S.I. 2001/2326, **arts. 1(1)**, 14; S.I. 2001/3538, **art. 2(1)**

C42 Sch. 17 para. 11 extended (31.10.2004 for certain purposes and 14.1.2005 otherwise) by [The Financial Services and Markets Act 2000 \(Transitional Provisions\) \(Complaints Relating to General Insurance and Mortgages\) Order 2004 \(S.I. 2004/454\)](#), arts. 1(2), 8

PART III

THE COMPULSORY JURISDICTION

Introduction

- 12 This Part of this Schedule applies only in relation to the compulsory jurisdiction.

[^{F262}FCA's] procedural rules

Textual Amendments

F262 Word in Sch. 17 para. 13 cross-heading substituted (24.1.2013 for specified purposes) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 11 para. 24(b)** (with Sch. 20); S.I. 2013/113, **art. 2(1)(c)**, Sch. Pt. 3

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- 13 (1) The [F263FCA] must make rules providing that a complaint is not to be entertained unless the complainant has referred it under the ombudsman scheme before the applicable time limit (determined in accordance with the rules) has expired.
- (2) The rules may provide that an ombudsman may extend that time limit in specified circumstances.
- (3) The [F263FCA] may make rules providing that a complaint is not to be entertained (except in specified circumstances) if the complainant has not previously communicated its substance to the respondent and given him a reasonable opportunity to deal with it.
- (4) The [F263FCA] may make rules requiring an authorised person [F264, [F265, an electronic money issuer within the meaning of the Electronic Money Regulations 2011] or a payment service provider within the meaning of the Payment Services Regulations 2009,] who may become subject to the compulsory jurisdiction as a respondent to establish such procedures as the [F263FCA] considers appropriate for the resolution of complaints which—
- (a) may be referred to the scheme; and
 - (b) arise out of activity to which the [F266FCA's] powers under [F267Part 9A] do not apply.

Textual Amendments

- F263** Word in Sch. 17 para. 13 substituted (24.1.2013 for specified purposes) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 11 para. 24\(a\)](#) (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F264** Words in Sch. 17 para. 13(4) inserted (2.3.2009 for certain purposes, 1.5.2009 for certain further purposes and 1.11.2009 otherwise) by [The Payment Services Regulations 2009 \(S.I. 2009/209\)](#), regs. 1(2), 126, [Sch. 6 para. 1\(2\)](#) (with reg. 3)
- F265** Words in Sch. 17 para. 13(4) inserted (9.2.2011 for certain purposes and 30.4.2011 otherwise) by [The Electronic Money Regulations 2011 \(S.I. 2011/99\)](#), regs. 1(2)(a)(xv)(b), 79, [Sch. 4 para. 2\(8\)](#) (with reg. 3)
- F266** Word in Sch. 17 para. 13 substituted (24.1.2013 for specified purposes) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 11 para. 24\(b\)](#) (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- F267** Words in Sch. 17 para. 13(4)(b) substituted (24.1.2013 for specified purposes) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 11 para. 24\(c\)](#) (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3

Modifications etc. (not altering text)

- C43** Sch. 17 para. 13 amended (19.7.2001 for specified purposes otherwise 1.12.2001) by [S.I. 2001/2326, arts. 1\(1\), 4](#); [S.I. 2001/3538, art. 2\(1\)](#)
- C44** Sch. 17 para. 13 modified (31.10.2004 for certain purposes and 14.1.2005 otherwise) by [The Financial Services and Markets Act 2000 \(Transitional Provisions\) \(Complaints Relating to General Insurance and Mortgages\) Order 2004 \(S.I. 2004/454\)](#), arts. 1(2), 3

The scheme operator's rules

- 14 (1) The scheme operator must make rules, to be known as “scheme rules”, which are to set out the procedure for reference of complaints and for their investigation, consideration and determination by an ombudsman.
- (2) Scheme rules may, among other things—

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- (a) specify matters which are to be taken into account in determining whether an act or omission was fair and reasonable;
 - (b) provide that a complaint may, in specified circumstances, be dismissed without consideration of its merits;
 - (c) provide for the reference of a complaint, in specified circumstances and with the consent of the complainant, to another body with a view to its being determined by that body instead of by an ombudsman;
 - (d) make provision as to the evidence which may be required or admitted, the extent to which it should be oral or written and the consequences of a person's failure to produce any information or document which he has been required (under section 231 or otherwise) to produce;
 - (e) allow an ombudsman to fix time limits for any aspect of the proceedings and to extend a time limit;
 - (f) provide for certain things in relation to the reference, investigation or consideration (but not determination) of a complaint to be done by a member of the scheme operator's staff instead of by an ombudsman;
 - [^{F268}(fa) allow the correction of any clerical mistake in the written statement of a determination made by an ombudsman;
 - (fb) provide that any irregularity arising from a failure to comply with any provisions of the scheme rules does not of itself render a determination void;]
 - (g) make different provision in relation to different kinds of complaint.
- (3) The circumstances specified under sub-paragraph (2)(b) may include the following—
- (a) the ombudsman considers the complaint frivolous or vexatious;
 - (b) legal proceedings have been brought concerning the subject-matter of the complaint and the ombudsman considers that the complaint is best dealt with in those proceedings; or
 - (c) the ombudsman is satisfied that there are other compelling reasons why it is inappropriate for the complaint to be dealt with under the ombudsman scheme.
- (4) If the scheme operator proposes to make any scheme rules it must publish a draft of the proposed rules in the way appearing to it to be best calculated to bring them to the attention of persons appearing to it to be likely to be affected.
- (5) The draft must be accompanied by a statement that representations about the proposals may be made to the scheme operator within a time specified in the statement.
- (6) Before making the proposed scheme rules, the scheme operator must have regard to any representations made to it under sub-paragraph (5).
- (7) The consent of the [^{F269}FCA] is required before any scheme rules may be made.

Textual Amendments

F268 Sch. 17 para. 14(2)(fa)(fb) inserted (24.1.2013 for specified purposes) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 11 para. 25(a)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3

F269 Word in Sch. 17 para. 14(7) substituted (24.1.2013 for specified purposes) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 11 para. 25(b)** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3

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Modifications etc. (not altering text)

- C45** Sch. 17 para. 14 amended (19.7.2001 for specified purposes otherwise 1.12.2001) by [S.I. 2001/2326](#), [arts. 1\(1\)](#), 5; [S.I. 2001/3538](#), [art. 2\(1\)](#)
- C46** Sch. 17 para. 14 modified (31.10.2004 for certain purposes and 14.1.2005 otherwise) by [The Financial Services and Markets Act 2000 \(Transitional Provisions\) \(Complaints Relating to General Insurance and Mortgages\) Order 2004](#) (S.I. 2004/454), [arts. 1\(2\)](#), 4
- C47** Sch. 17 para. 14 modified by [The Payment Services Regulations 2009](#) (S.I. 2009/209), Sch. 7 para. 3(2) (as inserted (1.10.2009 for certain purposes and 1.11.2009 otherwise) by [S.I. 2009/2475](#), [reg. 13](#))
- C48** Sch. 17 para. 14(4)(5) amended (19.7.2001) by [S.I. 2001/2326](#), [arts. 1\(1\)\(a\)](#), 16(a); [S.I. 2001/3538](#), [art. 2\(1\)](#)
- C49** Sch. 17 para. 14(4)-6) excluded by [S.I. 2004/454](#), [art. 12\(2\)](#) (as inserted (15.7.2004) by [The Financial Services and Markets Act 2000 \(Transitional Provisions\) \(Complaints Relating to General Insurance and Mortgages\) \(Amendment\) Order 2004](#) (S.I. 2004/1609), [art. 6](#))

Fees

- 15 (1) Scheme rules may require a respondent to pay to the scheme operator such fees as may be specified in the rules.
- (2) The rules may, among other things—
- (a) provide for the scheme operator to reduce or waive a fee in a particular case;
 - (b) set different fees for different stages of the proceedings on a complaint;
 - (c) provide for fees to be refunded in specified circumstances;
 - (d) make different provision for different kinds of complaint.

Modifications etc. (not altering text)

- C50** Sch. 17 para. 15 amended (19.7.2001 for specified purposes otherwise 1.12.2001) by [S.I. 2001/2326](#), [arts. 1\(1\)](#), 12(2)(3); [S.I. 2001/3538](#), [art. 2\(1\)](#)
- C51** Sch. 17 para. 15 extended (31.10.2004 for certain purposes and 14.1.2005 otherwise) by [The Financial Services and Markets Act 2000 \(Transitional Provisions\) \(Complaints Relating to General Insurance and Mortgages\) Order 2004](#) (S.I. 2004/454), [arts. 1\(2\)](#), [6\(2\)\(3\)](#)

Enforcement of money awards

- 16 A money award, including interest, which has been registered in accordance with scheme rules may—
- (a) if a county court so orders in England and Wales, be recovered by execution issued from the county court (or otherwise) as if it were payable under an order of that court;
 - (b) be enforced in Northern Ireland as a money judgment under the ^{M22}Judgments Enforcement (Northern Ireland) Order 1981;
 - (c) be enforced in Scotland by the sheriff, as if it were a judgment or order of the sheriff and whether or not the sheriff could himself have granted such judgment or order.

Modifications etc. (not altering text)

- C52** Sch. 17 para. 16 applied (19.7.2001 for specified purposes otherwise 1.12.2001) by [S.I. 2001/2326](#), [arts. 1\(1\)](#), 16(4)(6); [S.I. 2001/3538](#), [art. 2\(1\)](#)

Status: Point in time view as at 19/02/2013.

Changes to legislation: Financial Services and Markets Act 2000 is up to date with all changes known to be in force on or before 10 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Marginal Citations

M22 S.I. 1981/226 (N.I.6).

[^{F270}PART 3A

THE CONSUMER CREDIT JURISDICTION

Textual Amendments

F270 Sch. 17 Pt. 3A inserted (16.6.2006) by [Consumer Credit Act 2006 \(c. 14\)](#), ss. 59(2), 71(2), [Sch. 2](#); S.I. 2006/1508, [art. 3\(1\)](#), Sch. 1

Introduction

16A This Part of this Schedule applies only in relation to the consumer credit jurisdiction.

Procedure for complaints etc.

16B (1) Consumer credit rules—

- (a) must provide that a complaint is not to be entertained unless the complainant has referred it under the ombudsman scheme before the applicable time limit (determined in accordance with the rules) has expired;
- (b) may provide that an ombudsman may extend that time limit in specified circumstances;
- (c) may provide that a complaint is not to be entertained (except in specified circumstances) if the complainant has not previously communicated its substance to the respondent and given him a reasonable opportunity to deal with it;
- (d) may make provision about the procedure for the reference of complaints and for their investigation, consideration and determination by an ombudsman.
- [^{F271}(e) may provide that an ombudsman may correct any clerical mistake in a determination made by that ombudsman;
- (f) provide that any irregularity arising from a failure to comply with any provisions of the consumer credit rules does not of itself render a determination void.]

(2) Sub-paragraphs (2) and (3) of paragraph 14 apply in relation to consumer credit rules under sub-paragraph (1) of this paragraph as they apply in relation to scheme rules under that paragraph.

(3) Consumer credit rules may require persons falling within sub-paragraph (6) to establish such procedures as the scheme operator considers appropriate for the resolution of complaints which may be referred to the scheme.

(4) Consumer credit rules under sub-paragraph (3) may make different provision in relation to persons of different descriptions or to complaints of different descriptions.

Status: Point in time view as at 19/02/2013.

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- (5) Consumer credit rules under sub-paragraph (3) may authorise the scheme operator to dispense with or modify the application of such rules in particular cases where the scheme operator—
- (a) considers it appropriate to do so; and
 - (b) is satisfied that the specified conditions (if any) are met.
- (6) A person falls within this sub-paragraph if he is licensed by a standard licence (within the meaning of the Consumer Credit Act 1974) to carry on to any extent a business of a type specified in an order under section 226A(2)(e) of this Act.

Textual Amendments

F271 Sch. 17 para. 16B(1)(e)(f) inserted (24.1.2013 for specified purposes) by [Financial Services Act 2012](#) (c. 21), s. 122(3), [Sch. 11 para. 26](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3

Fees

- 16C (1) Consumer credit rules may require a respondent to pay to the scheme operator such fees as may be specified in the rules.
- (2) Sub-paragraph (2) of paragraph 15 applies in relation to consumer credit rules under this paragraph as it applies in relation to scheme rules under that paragraph.

Enforcement of money awards

- 16D A money award, including interest, which has been registered in accordance with consumer credit rules may—
- (a) if a county court so orders in England and Wales, be recovered by execution issued from the county court (or otherwise) as if it were payable under an order of that court;
 - (b) be enforced in Northern Ireland as a money judgment under the Judgments Enforcement (Northern Ireland) Order 1981;
 - (c) be enforced in Scotland as if it were a decree of the sheriff and whether or not the sheriff could himself have granted such a decree.

Procedure for consumer credit rules

- 16E (1) If the scheme operator makes any consumer credit rules, it must give a copy of them to the ^{F272}FCA without delay.
- (2) If the scheme operator revokes any such rules, it must give written notice to the ^{F272}FCA without delay.
- (3) The power to make such rules is exercisable in writing.
- (4) Immediately after the making of such rules, the scheme operator must arrange for them to be printed and made available to the public.
- (5) The scheme operator may charge a reasonable fee for providing a person with a copy of any such rules.

Status: Point in time view as at 19/02/2013.

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Textual Amendments

F272 Word in [Sch. 17 para. 16E](#) substituted (24.1.2013 for specified purposes) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\)](#), [Sch. 11 para. 27](#) (with [Sch. 20](#)); [S.I. 2013/113, art. 2\(1\)\(c\)](#), [Sch. Pt. 3](#)

Verification of consumer credit rules

- 16F (1) The production of a printed copy of consumer credit rules purporting to be made by the scheme operator—
- (a) on which there is endorsed a certificate signed by a member of the scheme operator's staff authorised by the scheme operator for that purpose, and
 - (b) which contains the required statements,
- is evidence (or in Scotland sufficient evidence) of the facts stated in the certificate.
- (2) The required statements are—
- (a) that the rules were made by the scheme operator;
 - (b) that the copy is a true copy of the rules; and
 - (c) that on a specified date the rules were made available to the public in accordance with paragraph 16E(4).
- (3) A certificate purporting to be signed as mentioned in sub-paragraph (1) is to be taken to have been duly signed unless the contrary is shown.

Consultation

- 16G (1) If the scheme operator proposes to make consumer credit rules, it must publish a draft of the proposed rules in the way appearing to it to be best calculated to bring the draft to the attention of the public.
- (2) The draft must be accompanied by—
- (a) an explanation of the proposed rules; and
 - (b) a statement that representations about the proposals may be made to the scheme operator within a specified time.
- (3) Before making any consumer credit rules, the scheme operator must have regard to any representations made to it in accordance with sub-paragraph (2)(b).
- (4) If consumer credit rules made by the scheme operator differ from the draft published under sub-paragraph (1) in a way which the scheme operator considers significant, the scheme operator must publish a statement of the difference.]

PART IV

THE VOLUNTARY JURISDICTION

Introduction

- 17 This Part of this Schedule applies only in relation to the voluntary jurisdiction.

Status: Point in time view as at 19/02/2013.

Changes to legislation: Financial Services and Markets Act 2000 is up to date with all changes known to be in force on or before 10 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Terms of reference to the scheme

- 18 (1) Complaints are to be dealt with and determined under the voluntary jurisdiction on standard terms fixed by the scheme operator with the approval of the [^{F273}FCA].
- (2) Different standard terms may be fixed with respect to different matters or in relation to different cases.
- (3) The standard terms may, in particular—
- (a) require the making of payments to the scheme operator by participants in the scheme of such amounts, and at such times, as may be determined by the scheme operator;
 - (b) make provision as to the award of costs on the determination of a complaint.
- (4) The scheme operator may not vary any of the standard terms or add or remove terms without the approval of the [^{F273}FCA].
- (5) The standard terms may include provision to the effect that (unless acting in bad faith) none of the following is to be liable in damages for anything done or omitted in the discharge or purported discharge of functions in connection with the voluntary jurisdiction—
- (a) the scheme operator;
 - (b) any member of its governing body;
 - (c) any member of its staff;
 - (d) any person acting as an ombudsman for the purposes of the scheme.

Textual Amendments

F273 Word in [Sch. 17 para. 18](#) substituted (24.1.2013 for specified purposes) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 11 para. 28](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), [Sch. Pt. 3](#)

Delegation by and to other schemes

- 19 (1) The scheme operator may make arrangements with a relevant body—
- (a) for the exercise by that body of any part of the voluntary jurisdiction of the ombudsman scheme on behalf of the scheme; or
 - (b) for the exercise by the scheme of any function of that body as if it were part of the voluntary jurisdiction of the scheme.
- (2) A “relevant body” is one which the scheme operator is satisfied—
- (a) is responsible for the operation of a broadly comparable scheme (whether or not established by statute) for the resolution of disputes; and
 - (b) in the case of arrangements under sub-paragraph (1)(a), will exercise the jurisdiction in question in a way compatible with the requirements imposed by or under this Act in relation to complaints of the kind concerned.
- (3) Such arrangements require the approval of the [^{F274}FCA].

Textual Amendments

F274 Word in [Sch. 17 para. 19\(3\)](#) substituted (24.1.2013 for specified purposes) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 11 para. 29](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), [Sch. Pt. 3](#)

Status: Point in time view as at 19/02/2013.

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Voluntary jurisdiction rules: procedure

- 20 (1) If the scheme operator makes voluntary jurisdiction rules, it must give a copy to the [F275FCA] without delay.
- (2) If the scheme operator revokes any such rules, it must give written notice to the [F275FCA] without delay.
- (3) The power to make voluntary jurisdiction rules is exercisable in writing.
- (4) Immediately after making voluntary jurisdiction rules, the scheme operator must arrange for them to be printed and made available to the public.
- (5) The scheme operator may charge a reasonable fee for providing a person with a copy of any voluntary jurisdiction rules.

Textual Amendments

F275 Word in [Sch. 17 para. 20](#) substituted (24.1.2013 for specified purposes) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 11 para. 30](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), [Sch. Pt. 3](#)

Verification of the rules

- 21 (1) The production of a printed copy of voluntary jurisdiction rules purporting to be made by the scheme operator—
- (a) on which is endorsed a certificate signed by a member of the scheme operator’s staff authorised by the scheme operator for that purpose, and
 - (b) which contains the required statements,
- is evidence (or in Scotland sufficient evidence) of the facts stated in the certificate.
- (2) The required statements are—
- (a) that the rules were made by the scheme operator;
 - (b) that the copy is a true copy of the rules; and
 - (c) that on a specified date the rules were made available to the public in accordance with paragraph 20(4).
- (3) A certificate purporting to be signed as mentioned in sub-paragraph (1) is to be taken to have been duly signed unless the contrary is shown.

Consultation

- 22 (1) If the scheme operator proposes to make voluntary jurisdiction rules, it must publish a draft of the proposed rules in the way appearing to it to be best calculated to bring them to the attention of the public.
- (2) The draft must be accompanied by—
- (a) an explanation of the proposed rules; and
 - (b) a statement that representations about the proposals may be made to the scheme operator within a specified time.
- (3) Before making any voluntary jurisdiction rules, the scheme operator must have regard to any representations made to it in accordance with sub-paragraph (2)(b).

Status: Point in time view as at 19/02/2013.

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- (4) If voluntary jurisdiction rules made by the scheme operator differ from the draft published under sub-paragraph (1) in a way which the scheme operator considers significant, the scheme operator must publish a statement of the difference.

Modifications etc. (not altering text)

C53 Sch. 17 para. 22(1)(2) amended (19.7.2001) by [S.I. 2001/2326](#), [arts. 1\(1\)\(a\), 16\(b\)](#); [S.I. 2001/3538](#), [art. 2\(1\)](#)

[^{F276}SCHEDULE 17A

Section 285A

FURTHER PROVISION IN RELATION TO EXERCISE
OF PART 18 FUNCTIONS BY BANK OF ENGLAND

Textual Amendments

F276 Sch. 17A inserted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), [ss. 29\(2\), 122\(3\)](#), [Sch. 7](#) (with [Sch. 20](#)); [S.I. 2013/113](#), [art. 2\(1\)\(b\)\(c\)](#), [Sch. Pts. 2, 3](#); [S.I. 2013/423](#), [art. 3](#), [Sch.](#)

PART 1

CO-OPERATION BETWEEN APPROPRIATE REGULATORS

Memorandum of understanding between appropriate regulators and PRA

- 1 (1) The appropriate regulators must prepare and maintain a memorandum describing how they intend to work together in exercising their functions in relation to persons who are recognised bodies.
- (2) The memorandum must in particular make provision about—
- (a) the need for each party when exercising a function in relation to any person (“A”) who is a recognised body, or any member of A’s group, to have regard to the exercise (or possible exercise) of any function by the other party in relation to A or any member of A’s group;
 - (b) the role of each party in cases where they are both exercising functions in relation to the same persons;
 - (c) the obtaining and disclosure of information;
 - (d) the co-ordination by the parties of the exercise of their powers to appoint competent persons under Part 11 (information gathering and investigations) to conduct investigations on their behalf.
- (3) In this paragraph any reference to a function is to any function whether conferred by or under any provision of this Part of this Act or any other provision of this Act or otherwise.

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- 2 (1) The appropriate regulators and the PRA must prepare and maintain a memorandum describing how they intend to work together in exercising their functions in relation to persons who are recognised bodies and who—
- (a) are PRA-authorised persons; or
 - (b) are members of a group of which a member is a PRA-authorised person.
- (2) The memorandum must in particular make provision about—
- (a) the need for each party when exercising a function in relation to any person (“A”) who is a recognised body, or any member of A’s group, to have regard to the exercise (or possible exercise) of any function by the other party in relation to A or any member of A’s group;
 - (b) the role of each party in cases where they are both exercising functions in relation to the same persons;
 - (c) the obtaining and disclosure of information;
 - (d) the co-ordination by the parties of the exercise of their powers to appoint competent persons under Part 11 (information gathering and investigations) to conduct investigations on their behalf.
- (3) In this paragraph any reference to a function is to any function whether conferred by or under any provision of this Part of this Act or any other provision of this Act or otherwise.
- 3 The parties to a memorandum under paragraph 1 or 2 must review the memorandum at least once in each calendar year.
- 4 The parties to a memorandum under paragraph 1 or 2 must give the Treasury a copy of the memorandum and any revised memorandum.
- 5 The Treasury must lay before Parliament a copy of any document received by them under paragraph 4.
- 6 The parties to a memorandum under paragraph 1 or 2 must ensure that the memorandum as currently in force is published in the way appearing to them to be best calculated to bring it to the attention of the public.

Notification by FCA of action in relation to recognised clearing houses

- 7 The FCA must notify the Bank of England of any direction given by it under section 128 to a recognised clearing house (market abuse: suspension of investigations).
- 8 The FCA must notify the Bank of England of any requirement imposed by it under section 313A on a recognised clearing house (power to require suspension or removal of financial instruments from trading).

PART 2

APPLICATION OF PROVISIONS OF THIS ACT IN RELATION TO BANK OF ENGLAND

Introduction

- 9 (1) The provisions of this Act mentioned in this Part of this Schedule are to apply in relation to the Bank of England in accordance with the provision made by this Part of this Schedule.

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- (2) In any case where sub-paragraph (1) applies—
- (a) any reference in this Act to the FCA or the PRA which is contained in, or relates to, any of those provisions (however expressed) is to be read as a reference to the Bank; and
 - (b) this Act has effect with any other necessary modifications.

Rules

- 10 (1) The following provisions of Part 9A of this Act are to apply in relation to rules made by the Bank under any provision made by or under this Act—
- (a) section 137T (general supplementary powers);
 - (b) sections 138A and 138B (modification or waiver of rules), but with the omission of subsection (4)(b) of section 138A and subsection (4) of section 138B;
 - (c) section 138C (evidential provisions);
 - (d) section 138D (actions for damages), but with the omission of subsection (2);
 - (e) section 138E (limits on effect of contravening rules);
 - (f) section 138F (notification of rules);
 - (g) section 138G (rule-making instruments);
 - (h) section 138H (verification of rules);
 - (i) section 138J (consultation), but with the omission of subsections (1)(a), (2)(c) and (5)(b); and
 - (j) section 138L (consultation: general exemptions), but with the omission of subsections (1) and (3).
- (2) Any reference in any of those provisions to an authorised person is to be read as a reference to a recognised clearing house.
- (3) Section 138J(2)(d) has effect in relation to rules proposed to be made by the Bank as if the reference to the compatibility of the proposed rules with the provisions mentioned in section 138J(2)(d) were a reference to their compatibility with the Bank's financial stability objective.
- (4) Section 138L(2) has effect as if for paragraphs (a) and (b) there were substituted “be prejudicial to financial stability”.

Information gathering and investigations

- 11 (1) The powers conferred by section 165(1) and (3) (power to require information) are exercisable by the Bank or (as the case may be) its officers to impose requirements on—
- (a) a recognised clearing house;
 - (b) a person who for the purposes of section 165 is connected with a recognised clearing house.
- (2) The information or documents that the Bank may require to be provided or produced are limited to—
- (a) information or documents reasonably required in connection with the exercise by the Bank of functions conferred on it by or under this Part of this Act;

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- (b) information or documents reasonably required in connection with the exercise by the Bank of any of its other functions in pursuance of its financial stability objective; and
 - (c) information or documents which the Bank reasonably considers may enable or assist the FCA in discharging functions conferred on the FCA by or under this Act.
- (3) In consequence of the provision made by sub-paragraph (2), section 165(4) is not to apply in relation to section 165(1) and (3) as applied by this paragraph.
- 12 The power conferred by section 166 (reports by skilled person) is exercisable by the Bank as if references in that section to an authorised person were to a recognised clearing house.
- 13 (1) The powers conferred by section 167 (appointment of persons to carry out general investigations) are exercisable by the Bank as if references in that section to an authorised person were to any recognised clearing house other than an overseas clearing house.
 - (2) In addition to the powers conferred by section 171, a person conducting an investigation under section 167 as a result of this paragraph is to have the powers conferred by sections 172 and 173 (and for this purpose the references in those sections to an investigator are to be read accordingly).
- 14 (1) The power conferred by section 168(5) (appointment of persons to carry out investigations in particular cases) is exercisable by the Bank.
 - (2) That power is exercisable if it appears to the Bank that there are circumstances suggesting that—
 - (a) a clearing house may be guilty of an offence under section 398(1) or an offence under prescribed regulations relating to money laundering;
 - (b) a clearing house may have contravened a rule made by the Bank under this Part of this Act;
 - (c) a clearing house may have contravened the recognition requirements;
 - (d) a clearing house may have contravened any qualifying EU provision that is specified, or of a description specified, for the purposes of this sub-paragraph by the Treasury by order;
 - (e) a clearing house may have breached the general prohibition.
 - (3) In addition to the powers conferred by section 171, a person conducting an investigation under section 168(5) as a result of this paragraph is to have the powers conferred by sections 172 and 173 (and for this purpose the references in those sections to an investigator are to be read accordingly).
- 15 An overseas regulator may, in accordance with section 169, request the Bank to exercise the power conferred by section 165 (as applied by paragraph 11 of this Schedule).
- 16 The power to give information under section 176(1) (entry of premises under warrant) is exercisable by the Bank, or an investigator appointed by the Bank, as if the reference to the second set of conditions were omitted.

Powers in relation to parent undertakings

- 17 (1) The following provisions of Part 12A of this Act are to apply in relation to the Bank—

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- (a) section 192C (power to direct qualifying parent undertaking);
 - (b) section 192D (requirements that may be imposed);
 - (c) section 192E (direction: procedure);
 - (d) section 192G (references to Tribunal);
 - (e) section 192H (statement of policy);
 - (f) section 192I (statement of policy: procedure);
 - (g) section 192J (rules requiring provision of information);
 - (h) sections 192K to 192N (enforcement).
- (2) For the purposes of those provisions section 192B (meaning of “qualifying parent undertaking”) is to apply as if the reference in subsection (1) to a qualifying authorised person or recognised UK investment exchange were a reference to a recognised clearing house other than an overseas clearing house.
- (3) Section 192C has effect as if—
- (a) the general condition in subsection (2) were that the Bank considers that it is desirable to give the direction for the purpose of the effective regulation of one or more recognised clearing houses in the group of the qualifying parent undertaking,
 - (b) subsections (3) and (4) were omitted, and
 - (c) the reference in subsection (5)(a) to authorised persons or recognised investment exchanges were a reference to recognised clearing houses.
- (4) Section 192E has effect as if the reference in subsection (1) to an authorised person or recognised investment exchange were a reference to a recognised clearing house.
- (5) Section 192I has effect as if the reference in subsection (1)(a) to the other regulator and the Bank were a reference to the FCA and the PRA.
- (6) Before the Bank gives a notice under section 192E(1) or (8)(b)—
- (a) if the notice relates to the parent undertaking of an authorised person or recognised investment exchange, the Bank must consult the FCA, and
 - (b) if the notice relates to the parent undertaking of a PRA-authorised person, the Bank must also consult the PRA.

Auditors

- 18 (1) Section 342 (information given by auditor to a regulator) applies in relation to a relevant auditor as if—
- (a) the references in that section to a recognised investment exchange were to a recognised clearing house,
 - (b) in the case of an auditor of a recognised clearing house which is also an authorised person or recognised investment exchange, the references to a regulator included the Bank, and
 - (c) in the case of an auditor of a recognised clearing house not falling within paragraph (b), the references to a regulator were to the Bank.
- (2) A “relevant auditor” is a person who is, or has been, an auditor of a recognised clearing house appointed under or as a result of a statutory provision.
- 19 (1) Section 343 (information given by auditor: person with close links) applies in relation to a relevant auditor as if—

Status: Point in time view as at 19/02/2013.

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- (a) the references in that section to a recognised investment exchange were to a recognised clearing house,
 - (b) in the case of an auditor of a recognised clearing house which is an authorised person or which is a recognised investment exchange, the references to a regulator included the Bank, and
 - (c) in the case of an auditor of a recognised clearing house not falling within paragraph (b), the references to a regulator were to the Bank.
- (2) A “relevant auditor” is a person who—
- (a) is, or has been, an auditor of a recognised clearing house appointed under or as a result of a statutory provision, and
 - (b) is, or has been, an auditor of a person who has close links with the recognised clearing house.
- 20 Section 344 (duty of auditor resigning to give notice) applies to an auditor to whom section 342 applies (whether by virtue of paragraph 18 or otherwise) as if—
- (a) the references in that section to a recognised investment exchange were to a recognised clearing house,
 - (b) in the case of an auditor of a recognised clearing house which is neither an authorised person nor a recognised investment exchange, the reference in the definition of “the appropriate regulator” to the FCA were a reference to the Bank,
 - (c) in the case of an auditor of a recognised clearing house which is a PRA-authorized person, the reference in the definition of “the appropriate regulator” to the PRA were a reference to the PRA and the Bank, and
 - (d) in the case, not falling within paragraph (c), of an auditor of a recognised clearing house which is an authorised person or which is a recognised investment exchange, the reference in the definition of “the appropriate regulator” to the FCA were a reference to the FCA and the Bank.
- 21 Sections 345A to 345E apply to auditors to whom section 342 applies only by virtue of paragraph 18 as if—
- (a) the references in those sections to an auditor or actuary to whom section 342 applies were to an auditor to whom section 342 applies by virtue of paragraph 18,
 - (b) the references in those sections to a PRA-authorized person were to a recognised clearing house,
 - (c) in a case where the Bank disqualifies a person from being an auditor of a recognised clearing house that is also a recognised investment exchange, section 345A(5)(a) required the Bank to notify the FCA, and
 - (d) the references in sections 345D and 345E to a regulator included the Bank.

Public record and disclosure of information

- 22 Section 347 (record of authorised persons, recognised investment exchanges, etc), so far as it relates to recognised investment exchanges, applies in relation to the Bank as if references in that section to a recognised investment exchange were to a recognised clearing house.
- 23 Sections 348 to 350 and 353 (disclosure of information) apply in relation to information received by the Bank for the purposes of, or in the discharge of, any of its functions relating to recognised clearing houses.

Status: Point in time view as at 19/02/2013.

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Insolvency

- 24 (1) The following provisions of Part 24 of this Act are to apply in relation to the Bank—
- (a) section 356 (powers to participate in proceedings: company voluntary arrangements);
 - (b) section 358 (powers to participate in proceedings: trust deeds for creditors in Scotland);
 - (c) section 359 (administration order);
 - (d) section 362 (powers to participate in administration proceedings);
 - (e) section 362A (consent to appointment of administrator);
 - (f) section 363 (powers to participate in proceedings: receivership);
 - (g) section 365 (powers to participate in proceedings: voluntary winding-up);
 - (h) section 367 (winding-up petitions);
 - (i) section 371 (powers to participate in proceedings: winding-up).
- (2) Those provisions are to apply as if any reference to an authorised person or recognised investment exchange were a reference to a recognised clearing house.
- 25 In the case of any regulated activity which is carried on for the purposes of, or in connection with, the provision of clearing services, the reference to the FCA in section 375(1) is to be read as including a reference to the Bank.

Injunctions and restitution

- 26 (1) The power to make an application under section 380(1), (2) or (3) (injunctions) is exercisable by the Bank.
- (2) For the purposes of the application, any reference in that section to a relevant requirement is to—
- (a) a requirement that is imposed by or under any provision of this Part of this Act that relates to a recognised clearing house;
 - (b) a requirement that is imposed under any other provision of this Act by the Bank;
 - (c) a requirement that is imposed by any qualifying EU provision that is specified, or of a description specified, for the purposes of this sub-paragraph by the Treasury by order; or
 - (d) a requirement that is imposed by this Act and whose contravention constitutes an offence that the Bank has power to prosecute under this Act (see section 401, as applied by paragraph 31).
- 27 (1) The power to make an application under section 382(1) (restitution order) is exercisable by the Bank.
- (2) For the purposes of the application, any reference in that section to a relevant requirement is to be read in accordance with paragraph 26(2) of this Schedule.
- 28 (1) The power conferred by section 384(5) (power of FCA to require restitution order) is exercisable by the Bank.
- (2) That power is exercisable if the Bank is satisfied that a recognised clearing house has contravened a relevant requirement, or been knowingly concerned in the contravention of a relevant requirement, and—
- (a) that profits have accrued to the recognised clearing house as a result of the contravention; or

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- (b) that one or more persons have suffered loss or been otherwise adversely affected as a result of the contravention.
- (3) For the purposes of that power, “relevant requirement” is to be read in accordance with paragraph 26(2) of this Schedule.
- (4) Where this paragraph applies, section 384(5) and (6) are to have effect as if—
 - (a) any reference to the person concerned were a reference to the recognised clearing house; and
 - (b) any reference to subsection (1) were a reference to sub-paragraph (2) of this paragraph.

Notices

- 29 The provisions of Part 26 of this Act (notices) apply in relation to a warning or decision notice given by the Bank under section 192L, 312G or 312H as they apply in relation to such a notice given by the FCA under that section.

Offences

- 30 Section 398 (misleading the FCA: residual cases) applies to information given to the Bank in purported compliance with—
 - (a) a requirement that is imposed by or under any provision of Part 18 of this Act that relates to a recognised clearing house;
 - (b) a requirement that is imposed under any other provision of this Act by the Bank; or
 - (c) a requirement that is imposed by any qualifying EU provision specified, or of a description specified, for the purposes of this paragraph by the Treasury by order.
- 31 (1) Section 401 (proceedings for an offence) applies to the Bank as if for the purposes of subsections (2)(a) and (3)(a) of that section the Bank were an appropriate regulator in respect of each of the following offences—
 - (a) an offence under section 177(3) where the investigation is being, or is likely to be, conducted on behalf of the Bank;
 - (b) an offence under section 177(4) where the requirement is imposed by the Bank;
 - (c) an offence under section 177(6) where the warrant is issued as a result of information on oath given by the Bank or a person appointed by it to conduct an investigation on its behalf;
 - (d) an offence under section 398(1) where the information was given to the Bank.
- (2) Section 401(3B) has effect subject to the provision made by this paragraph (so that the FCA is not the appropriate regulator for the purposes of subsections (2)(a) and (3)(a) in respect of the above offences).

Records

- 32 Paragraph 17 of Schedule 1ZB (records) applies in relation to the recording of decisions made by the Bank in the exercise of its functions relating to recognised clearing houses.

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Annual report

- 33 Paragraph 19 of Schedule 1ZB (annual report by PRA) applies in relation to the Bank, but—
- (a) as if for paragraphs (a) to (f) of sub-paragraph (1) there were substituted—
 - “(a) the discharge of its functions relating to recognised clearing houses,
 - (b) the extent to which, in its opinion, in discharging those functions its financial stability objective has been met,”,
 - and”
 - (b) as if sub-paragraph (3) were omitted.

PART 3

WINDING UP, ADMINISTRATION OR INSOLVENCY OF UK CLEARING HOUSES

Notice to Bank of England of preliminary steps

- 34 (1) An application for an administration order in respect of a UK clearing house may not be determined unless the conditions below are satisfied.
- (2) A petition for a winding up order in respect of a UK clearing house may not be determined unless the conditions below are satisfied.
- (3) A resolution for voluntary winding up of a UK clearing house may not be made unless the conditions below are satisfied.
- (4) An administrator of a UK clearing house may not be appointed unless the conditions below are satisfied.
- (5) Condition 1 is that the Bank of England has been notified—
- (a) by the applicant for an administration order, that the application has been made,
 - (b) by the petitioner for a winding up order, that the petition has been presented,
 - (c) by the UK clearing house, that a resolution for voluntary winding up may be made, or
 - (d) by the person proposing to appoint an administrator, of the proposed appointment.
- (6) Condition 2 is that a copy of the notice complying with Condition 1 has been filed (in Scotland, lodged) with the court (and made available for public inspection by the court).
- (7) Condition 3 is that—
- (a) the period of 2 weeks, beginning with the day on which the notice is received, has ended, or
 - (b) the Bank of England has informed the person who gave the notice that—
 - (i) it has no objection to the order, resolution or appointment being made, and
 - (ii) it does not intend to exercise a stabilisation power under Part 1 of the Banking Act 2009.

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- (8) Arranging for the giving of notice in order to satisfy Condition 1 can be a step with a view to minimising the potential loss to a UK clearing house's creditors for the purpose of section 214 of the Insolvency Act 1986 (wrongful trading).
- (9) In this paragraph “the court” means—
- (a) in England and Wales, the High Court,
 - (b) in Scotland, the Court of Session, and
 - (c) in Northern Ireland, the High Court.

Power to give directions to insolvency practitioner

- 35 (1) This paragraph applies where a person has been appointed to act as an insolvency practitioner (within the meaning of section 388 of the Insolvency Act 1986 or Article 3 of the Insolvency (Northern Ireland) Order 1989) in relation to a company which is, or has been, a UK clearing house.
- (2) The Bank of England may give directions to the person if satisfied that it is desirable to give the directions, having regard to the public interest in—
- (a) protecting and enhancing the stability of the UK financial system,
 - (b) protecting and enhancing public confidence in the stability of the UK financial system, and
 - (c) maintaining the continuity of central counterparty clearing services.
- (3) Before giving directions the Bank of England must consult—
- (a) the Treasury,
 - (b) (if the clearing house is a PRA-authorized person) the PRA, and
 - (c) the FCA.
- (4) Directions are enforceable, on an application by the Bank of England, by an injunction or, in Scotland, by an order for specific performance under section 45 of the Court of Session Act 1988.
- (5) A person is not liable for damages in respect of action or inaction in accordance with directions.
- (6) The immunity does not extend to action or inaction—
- (a) in bad faith, or
 - (b) in contravention of section 6(1) of the Human Rights Act 1998.

PART 4

FEEES

- 36 (1) The Bank of England may, in connection with the discharge of any of its qualifying functions, require recognised clearing houses to pay fees to the Bank.
- (2) The “qualifying functions” of the Bank are—
- (a) its functions under or as a result of this Part of this Act, and
 - (b) its functions under or as a result of a qualifying EU provision that is specified, or of a description specified, for the purposes of this sub-paragraph by the Treasury by order.

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- (3) The power of the Bank to set fees includes power to set fees for the purpose of meeting expenses incurred by it or the FCA—
- (a) in preparation for the exercise of functions by the Bank under this Part of this Act, or
 - (b) for the purpose of facilitating the exercise by the Bank of those functions or otherwise in connection with their exercise by it.
- (4) It is irrelevant when the expenses were incurred (and, in particular, it is irrelevant if expenses were incurred by the FCA at a time when it was known as the Financial Services Authority).
- 37 Any fee which is owed to the Bank under paragraph 36 may be recovered as a debt due to the Bank.]

SCHEDULE 18

Sections 334, 336 and 338.

MUTUALS

PART I

FRIENDLY SOCIETIES

The Friendly Societies Act 1974 (c.46)

- 1 Omit sections 4 (provision for separate registration areas) and 10 (societies registered in one registration area carrying on business in another).
- 2 In section 7 (societies which may be registered), in subsection (2)(b), for “in the central registration area or in Scotland” substitute “ in the United Kingdom, the Channel Islands or the Isle of Man ”.
- 3 In section 11 (additional registration requirements for societies with branches), omit “and where any such society has branches in more than one registration area, section 10 above shall apply to that society”.
- 4 In section 99(4) (punishment of fraud etc and recovery of property misapplied), omit “in the central registration area”.

The Friendly Societies Act 1992 (c.40)

- 5 Omit sections 31 to 36A (authorisation of friendly societies business).
- 6 In section 37 (restrictions on combinations of business), omit subsections (1), (1A) and (7A) to (9).
- 7 Omit sections 38 to 43 (restrictions on business of certain authorised societies).
- 8 Omit sections 44 to 50 (regulation of friendly societies business).

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PART II

FRIENDLY SOCIETIES: SUBSIDIARIES AND CONTROLLED BODIES

Interpretation

- 9 In this Part of this Schedule—
“the 1992 Act” means the ^{M23}Friendly Societies Act 1992; and
“section 13” means section 13 of that Act.

Marginal Citations

M23 1992 c. 40.

Qualifying bodies

- 10 (1) Subsections (2) to (5) of section 13 (incorporated friendly societies allowed to form or acquire control or joint control only of qualifying bodies) cease to have effect.
(2) As a result, omit—
(a) subsections (8) and (11) of that section, and
(b) Schedule 7 to the 1992 Act (activities which may be carried on by a subsidiary of, or body jointly controlled by, an incorporated friendly society).

Bodies controlled by societies

- 11 In section 13(9) (defined terms), after paragraph (a) insert—
“(aa) an incorporated friendly society also has control of a body corporate if the body corporate is itself a body controlled in one of the ways mentioned in paragraph (a)(i), (ii) or (iii) by a body corporate of which the society has control;”.

Joint control by societies

- 12 In section 13(9), after paragraph (c) insert—
“(cc) an incorporated friendly society also has joint control of a body corporate if—
(i) a subsidiary of the society has joint control of the body corporate in a way mentioned in paragraph (c)(i), (ii) or (iii);
(ii) a body corporate of which the society has joint control has joint control of the body corporate in such a way; or
(iii) the body corporate is controlled in a way mentioned in paragraph (a)(i), (ii) or (iii) by a body corporate of which the society has joint control;”.

Acquisition of joint control

- 13 In section 13(9), in the words following paragraph (d), after “paragraph (c)” insert “or (cc)”.

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Amendment of Schedule 8 to the 1992 Act

- 14 (1) Schedule 8 to the 1992 Act (provisions supplementing section 13) is amended as follows.
- (2) Omit paragraph 3(2).
- (3) After paragraph 3 insert—
- “3A (1) A body is to be treated for the purposes of section 13(9) as having the right to appoint to a directorship if—
- (a) a person’s appointment to the directorship follows necessarily from his appointment as an officer of that body; or
- (b) the directorship is held by the body itself.
- (2) A body (“B”) and some other person (“P”) together are to be treated, for the purposes of section 13(9), as having the right to appoint to a directorship if—
- (a) P is a body corporate which has directors and a person’s appointment to the directorship follows necessarily from his appointment both as an officer of B and a director of P;
- (b) P is a body corporate which does not have directors and a person’s appointment to the directorship follows necessarily from his appointment both as an officer of B and as a member of P’s managing body; or
- (c) the directorship is held jointly by B and P.
- (3) For the purposes of section 13(9), a right to appoint (or remove) which is exercisable only with the consent or agreement of another person must be left out of account unless no other person has a right to appoint (or remove) in relation to that directorship.
- (4) Nothing in this paragraph is to be read as restricting the effect of section 13(9).”
- (4) In paragraph 9 (exercise of certain rights under instruction by, or in the interests of, incorporated friendly society) insert at the end “ or in the interests of any body over which the society has joint control ”.

Consequential amendments

- 15 (1) Section 52 of the 1992 Act is amended as follows.
- (2) In subsection (2), omit paragraph (d).
- (3) In subsection (3), for “(4) below” substitute “ (2) ”.
- (4) For subsection (4) substitute—
- “(4) A court may not make an order under subsection (5) unless it is satisfied that one or more of the conditions mentioned in subsection (2) are satisfied.”
- (5) In subsection (5), omit the words from “or, where” to the end.

References in other enactments

- 16 References in any provision of, or made under, any enactment to subsidiaries of, or bodies jointly controlled by, an incorporated friendly society are to be read as

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including references to bodies which are such subsidiaries or bodies as a result of any provision of this Part of this Schedule.

PART III

BUILDING SOCIETIES

The Building Societies Act 1986 (c.53)

- 17 Omit section 9 (initial authorisation to raise funds and borrow money).
- 18 Omit Schedule 3 (supplementary provisions about authorisation).

PART IV

INDUSTRIAL AND PROVIDENT SOCIETIES

The Industrial and Provident Societies Act 1965 (c.12)

- 19 Omit section 8 (provision for separate registration areas for Scotland and for England, Wales and the Channel Islands).
- 20 Omit section 70 (scale of fees to be paid in respect of transactions and inspection of documents).

PART V

CREDIT UNIONS

The Credit Unions Act 1979 (c.34)

- 21 In section 6 (minimum and maximum number of members), omit subsections (2) to (6).
- 22 In section 11 (loans), omit subsections (2) and (6).
- 23 Omit sections 11B (loans approved by credit unions), 11C (grant of certificates of approval) and 11D (withdrawal of certificates of approval).
- 24 In section 12, omit subsections (4) and (5).
- 25 In section 14, omit subsections (2), (3), (5) and (6).
- 26 In section 28 (offences), omit subsection (2).

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Textual Amendments

F277 Sch. 19 repealed (20.6.2003) by Enterprise Act 2002 (c. 40), ss. 247(k), 278(2), 279, Sch. 26 (with s. 237); S.I. 2003/1397, art. 2(1), Sch.

SCHEDULE 20

Section 432(1).

MINOR AND CONSEQUENTIAL AMENDMENTS

The House of Commons Disqualification Act 1975 (c. 24)

- 1 In Part III of Schedule 1 to the House of Commons Disqualification Act 1975 (disqualifying offices)—
- (a) omit—
- “Any member of the Financial Services Tribunal in receipt of remuneration”;
- and
- (b) **F278**

Textual Amendments

F278 Sch. 20 para. 1(b) repealed (6.4.2010) by The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), arts. 1(2)(g), 5(3), Sch. 4 Pt. 2

Commencement Information

I30 Sch. 20 para. 1 wholly in force at 1.12.2001; Sch. 20 para. 1 not in force at Royal Assent see s. 431(2); Sch. 20 para. 1(b) in force at 3.9.2001 by S.I. 2001/2632, art. 2(2), Sch. Pt. 2; Sch. 20 para. 1 in force in so far as not already in force at 1.12.2001 by S.I. 2001/3538, art. 2(1)

The Northern Ireland Assembly Disqualification Act 1975 (c. 25)

- 2 In Part III of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (disqualifying offices)—
- (a) omit—
- “Any member of the Financial Services Tribunal in receipt of remuneration”;
- and
- (b) **F279**

Textual Amendments

F279 Sch. 20 para. 2(b) repealed (6.4.2010) by The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), arts. 1(2)(g), 5(3), Sch. 4 Pt. 2

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Commencement Information

- I31** Sch. 20 para. 2 wholly in force at 1.12.2001; Sch. 20 para. 2 not in force at Royal Assent see s. 431(2); Sch. 20 para. 2(b) in force at 3.9.2001 by [S.I. 2001/2632, art. 2\(2\)](#), [Sch. Pt. 2](#); Sch. 20 para. 2 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538, art. 2\(1\)](#)

The Civil Jurisdiction and Judgments Act 1982 (c. 27)

- 3 In paragraph 10 of Schedule 5 to the Civil Jurisdiction and Judgments Act 1982 (proceedings excluded from the operation of Schedule 4 to that Act), for “section 188 of the Financial Services Act 1986” substitute “ section 415 of the Financial Services and Markets Act 2000 ”.

The Income and Corporation Taxes Act 1988 (c. 1)

- 4 (1) The Income and Corporation Taxes Act 1988 is amended as follows.
- (2) In section 76 (expenses of management: insurance companies), in subsection (8), omit the definitions of—
- “the 1986 Act”;
 - “authorised person”;
 - “investment business”;
 - “investor”;
 - “investor protection scheme”;
 - “prescribed”; and
 - “recognised self-regulating organisation”.

- (3) **F280**
- (4) **F281**
- (5) **F282**
- (6) **F283**

Textual Amendments

- F280** Sch. 20 para. 4(3) repealed (1.4.2010 with effect in accordance with [s. 1184\(1\)](#) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), 1181(1), 1184(1)(3)(4), {Sch. 3 Pt. 1} (subject to Sch. 2)
- F281** Sch. 20 para. 4(4) repealed (6.4.2007 with effect in accordance with [s. 1034\(1\)](#) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1031, 1034(1), [Sch. 3 Pt. 1](#) (with transitional provisions and savings in Sch. 2)
- F282** Sch. 20 para. 4(5) omitted (13.8.2009) by virtue of The Finance Act 2009, Schedule 47 (Consequential Amendments) Order 2009 ([S.I. 2009/2035](#)), art. 2, {Sch. para. 60(h)}
- F283** Sch. 20 para. 4(6) repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), s. 114, [Sch. 27 Pt. 6\(5\)](#)

The Finance Act 1991 (c. 31)

- 5 (1) The Finance Act 1991 is amended as follows.
- (2) In section 47 (investor protection schemes), omit subsections (1), (2) and (4).

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- (3) In section 116 (investment exchanges and clearing houses: stamp duty), in subsection (4)(b), for “Financial Services Act 1986” substitute “ Financial Services and Markets Act 2000 ”.

The Tribunals and Inquiries Act 1992 (c. 53)

6 F284

Textual Amendments
F284 Sch. 20 para. 6 repealed (6.4.2010) by [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), arts. 1(2)(g), 5(3), **Sch. 4 Pt. 2**

Commencement Information
I32 Sch. 20 para. 6 in force at 3.7.2001; Sch. 20 para. 6 not in force at Royal Assent see s. 431(2); Sch. 20 para. 6 in force at 3.7.2001 by [S.I. 2001/2364](#), **art. 2(a)** (with transitional savings in [art. 3](#))

The Judicial Pensions and Retirement Act 1993 (c. 8)

- 7 (1) The Judicial Pensions and Retirement Act 1993 is amended as follows.
- (2) F285
- (3) In Schedule 5 (relevant offices in relation to retirement provisions)—
 - (a) omit the entry—
 - “Member of the Financial Services Tribunal appointed by the Lord Chancellor”;
 - and
 - (b) F286

Textual Amendments
F285 Sch. 20 para. 7(2) repealed (6.4.2010) by [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), arts. 1(2)(g), 5(3), **Sch. 4 Pt. 2**

F286 Sch. 20 para. 7(3)(b) repealed (6.4.2010) by [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), arts. 1(2)(g), 5(3), **Sch. 4 Pt. 2**

Commencement Information
I33 Sch. 20 para. 7 wholly in force at 1.12.2001; Sch. 20 para. 7 not in force at Royal Assent see s. 431(2); Sch. 20 para. 7(except sub-para. (3)(a)) in force at 3.9.2001 by [S.I. 2001/2632](#), **art. 2(2)**, **Sch. Pt. 2**; Sch. 20 para. 7 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538](#), **art. 2(1)**

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SCHEDULE 21

Section 432(2).

TRANSITIONAL PROVISIONS AND SAVINGS

Self-regulating organisations

- 1
- (1) No new application under section 9 of the 1986 Act (application for recognition) may be entertained.
 - (2) No outstanding application made under that section before the passing of this Act may continue to be entertained.
 - (3) After the date which is the designated date for a recognised self-regulating organisation—
 - (a) the recognition order for that organisation may not be revoked under section 11 of the 1986 Act (revocation of recognition);
 - (b) no application may be made to the court under section 12 of the 1986 Act (compliance orders) with respect to that organisation.
 - (4) The powers conferred by section 13 of the 1986 Act (alteration of rules for protection of investors) may not be exercised.
 - (5) “Designated date” means such date as the Treasury may by order designate.
 - (6) Sub-paragraph (3) does not apply to a recognised self-regulating organisation in respect of which a notice of intention to revoke its recognition order was given under section 11(3) of the 1986 Act before the passing of this Act if that notice has not been withdrawn.
 - (7) Expenditure incurred by the Authority in connection with the winding up of any body which was, immediately before the passing of this Act, a recognised self-regulating organisation is to be treated as having been incurred in connection with the discharge by the Authority of functions under this Act.
 - (8) “Recognised self-regulating organisation” means an organisation which, immediately before the passing of this Act, was such an organisation for the purposes of the 1986 Act.
 - (9) “The 1986 Act” means the ^{M41}Financial Services Act 1986.

Marginal Citations

M41 1986 c. 60.

Self-regulating organisations for friendly societies

- 2
- (1) No new application under paragraph 2 of Schedule 11 to the 1986 Act (application for recognition) may be entertained.
 - (2) No outstanding application made under that paragraph before the passing of this Act may continue to be entertained.
 - (3) After the date which is the designated date for a recognised self-regulating organisation for friendly societies—

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- (a) the recognition order for that organisation may not be revoked under paragraph 5 of Schedule 11 to the 1986 Act (revocation of recognition);
- (b) no application may be made to the court under paragraph 6 of that Schedule (compliance orders) with respect to that organisation.
- (4) “Designated date” means such date as the Treasury may by order designate.
- (5) Sub-paragraph (3) does not apply to a recognised self-regulating organisation for friendly societies in respect of which a notice of intention to revoke its recognition order was given under section 11(3) of the 1986 Act (as applied by paragraph 5(2) of that Schedule) before the passing of this Act if that notice has not been withdrawn.
- (6) Expenditure incurred by the Authority in connection with the winding up of any body which was, immediately before the passing of this Act, a recognised self-regulating organisation for friendly societies is to be treated as having been incurred in connection with the discharge by the Authority of functions under this Act.
- (7) “Recognised self-regulating organisation for friendly societies” means an organisation which, immediately before the passing of this Act, was such an organisation for the purposes of the 1986 Act.
- (8) “The 1986 Act” means the ^{M42}Financial Services Act 1986.

Marginal Citations

M42 1986 c. 60.

SCHEDULE 22

Section 432(3).

REPEALS

Commencement Information

I34 Sch. 22 wholly in force at 2.7.2002; Sch. 22 not in force at Royal Assent see s. 431(2); Sch. 22 in force for specified purposes at 30.4.2001 by S.I. 2001/1282, **art. 2(b)**; Sch. 22 in force 2.7.2002 in relation to the Credit Union Act 1979 by S.I. 2001/3538, **art. 2(5)(b)**; Sch. 22 in force at in so far as not already in force at 1.12.2001 by S.I. 2001/3538, **art. 2(1)**

Chapter	Short title	Extent of repeal
1923 c. 8.	The Industrial Assurance Act 1923.	The whole Act.
1948 c. 39.	The Industrial Assurance and Friendly Societies Act 1948.	The whole Act.
1965 c. 12.	The Industrial and Provident Societies Act 1965.	Section 8. Section 70.

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1974 c. 46.	The Friendly Societies Act 1974.	Section 4. Section 10. In section 11, from “and where” to “that society”. In section 99(4), “in the central registration area”.
1975 c. 24.	The House of Commons Disqualification Act 1975.	In Schedule 1, in Part III, “Any member of the Financial Services Tribunal in receipt of remuneration”.
1975 c. 25.	The Northern Ireland Assembly Dis-qualification Act 1975.	In Schedule 1, in Part III, “Any member of the Financial Services Tribunal in receipt of remuneration”.
1977 c. 46.	The Insurance Brokers (Registration) Act 1977.	The whole Act.
1979 c. 34.	The Credit Unions Act 1979.	Section 6(2) to (6). Section 11(2) and (6). Sections 11B, 11C and 11D. Section 12(4) and (5). In section 14, subsections (2), (3), (5) and (6). Section 28(2).
1986 c. 53.	The Building Societies Act 1986.	Section 9. Schedule 3.
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 76, in subsection (8), the definitions of “the 1986 Act”, “authorised person”, “investment business”, “investor”, “investor protection scheme”, “prescribed” and “recognised self-regulating organisation”.
1991 c. 31.	The Finance Act 1991.	In section 47, subsections (1), (2) and (4).
1992 c. 40.	The Friendly Societies Act 1992.	In section 13, subsections (2) to (5), (8) and (11). Sections 31 to 36. In section 37, subsections (1), (1A) and (7A) to (9).

Status: Point in time view as at 19/02/2013.

Changes to legislation: *Financial Services and Markets Act 2000 is up to date with all changes known to be in force on or before 10 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

		Sections 38 to 50.
		In section 52, subsection (2) (d) and, in subsection (5), the words from “or where” to the end.
		Schedule 7.
		In Schedule 8, paragraph 3(2).
1993 c. 8.	The Judicial Pensions and Retirement Act 1993.	In Schedule 5, “Member of the Financial Services Tribunal appointed by the Lord Chancellor”.

Status:

Point in time view as at 19/02/2013.

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