

Status: Point in time view as at 01/04/2011.

Changes to legislation: There are currently no known outstanding effects for the Financial Services Act 2010, SCHEDULE 1. (See end of Document for details)

SCHEDULES

SCHEDULE 1

Section 2

FURTHER PROVISION ABOUT THE CONSUMER FINANCIAL EDUCATION BODY

Commencement Information

II Sch. 1 partly in force; Sch. 1 in force for specified purposes at Royal Assent see s. 26(1)(k)

1 This is the Schedule 1A to be inserted in the Financial Services and Markets Act 2000 after Schedule 1—

“SCHEDULE 1A

Section 6A

FURTHER PROVISION ABOUT THE CONSUMER FINANCIAL EDUCATION BODY

PART 1

GENERAL

Ensuring exercise of consumer financial education function etc

- 1 (1) The Authority 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 Authority may, in particular, provide services to that body which the Authority considers would facilitate the exercise of that function.

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 Authority (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

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independence from the Authority in the exercise of the consumer financial education function.

- (4) The Authority 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.

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 board members, officers and staff are not to be regarded as Crown servants.

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 section 6A(1); 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.
- 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 section 6A(1).
- (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.

Market confidence and financial stability

- 6 In discharging the consumer financial education function, the consumer financial education body must have regard to the importance of—
- (a) maintaining confidence in the UK financial system; and
- (b) maintaining the stability of the UK financial system.

Budget

- 7 (1) The consumer financial education body must adopt an annual budget which has been approved by the Authority.

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- (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 Authority, 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.

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 Authority.
- (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 Authority, 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;

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- (d) the Practitioner Panel;
 - (e) 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.

Annual reports

- 9 (1) At least once a year, the consumer financial education body must make a report to the Authority 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 Authority.
- (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.

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 Authority in establishing the consumer financial education body; and

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- (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.

Funding of the relevant costs by authorised persons or payment service providers

- 12 (1) For the purpose of meeting a proportion of the relevant costs the Authority may make rules requiring—
- (a) authorised persons or payment service providers, or
 - (b) any specified class of authorised person or payment service provider,
- to pay to the Authority specified amounts or amounts calculated in a specified way.
- (2) Before making the rules the Authority 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 Authority in collecting the payments (“collection costs”).
- (4) The Authority 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).
- (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.

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.

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- (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 Authority;
 - (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.

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.

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PART 3

REVIEWS

Reviews of economy etc of the consumer financial education body

- 15 (1) The Authority 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 Authority 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 Authority—
- (a) setting out the result of the review; and
 - (b) making such recommendations (if any) as the person considers appropriate.
- (5) The Authority 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 Authority.
- (7) “Independent” means appearing to the Authority to be independent of the consumer financial education body.

Right to obtain documents and information

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

Commencement Information

I2 Sch. 1 para. 1 in force at 1.4.2011 in so far as not already in force by S.I. 2010/2480, art. 3

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- 2 (1) This paragraph applies to rules under paragraph 12 of Schedule 1A to FSMA 2000 (as inserted by this Schedule).
- (2) The FSA may before commencement—
- (a) propose to make rules under that paragraph, and
 - (b) 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.
- (3) The draft must be accompanied by—
- (a) an explanation of the purpose of the proposed rules,
 - (b) an explanation of the FSA's reasons for believing that making the proposed rules is compatible with its general duties under section 2 of FSMA 2000,
 - (c) notice that representations about the proposals may be made to the FSA within a specified time, and
 - (d) details of the expected expenditure by reference to which the proposal is made.
- (4) Before making the proposed rules after commencement, the FSA must have regard to any representations made to it in accordance with sub-paragraph (3)(c).
- (5) If the FSA makes the proposed rules, it must publish an account, in general terms, of—
- (a) the representations made to it in accordance with sub-paragraph (3)(c), and
 - (b) its response to them.
- (6) If the rules differ from the draft published under sub-paragraph (2) in a way which is, in the FSA's opinion, significant, the FSA must (in addition to complying with sub-paragraph (5)) publish details of the difference.
- (7) If the FSA acts in accordance with this paragraph, section 155 of FSMA 2000 (which contains corresponding provision) does not apply.
- (8) The FSA may charge a reasonable fee for providing a person with a copy of a draft published under sub-paragraph (2).
- (9) In this paragraph—
- “commencement” means the commencement of paragraph 12 of Schedule 1A to FSMA 2000;
 - “the FSA” means the Financial Services Authority;
 - “FSMA 2000” means the Financial Services and Markets Act 2000.

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