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STATUTORY INSTRUMENTS

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**2001 No. 2967**

**The Financial Services and Markets Act 2000  
(Transitional Provisions, Repeals and Savings)  
(Financial Services Compensation Scheme) Order 2001**

**PART 3**

**COMPENSATION SCHEMES IN RELATION TO  
INSURANCE BUSINESS AND DEPOSIT TAKING**

**Applications under the new scheme**

**12.**—(1) Notwithstanding anything in Part XV of the Act, a person (“the applicant”) may after commencement make an application to the scheme manager for compensation under the new scheme as modified by rules made by the Authority under paragraph (3), if—

- (a) the application is made in respect of the inability (or likely inability) of —
  - (i) a participating deposit-taker or participating institution to satisfy a claim made against him by the applicant in respect of a deposit within the meaning of the Banking Act, or a protected investment within the meaning of section 27 of the Building Societies Act;
  - (ii) an authorised insurer to satisfy a claim made against him by the applicant in respect of liability under a policy of insurance; or
  - (iii) a member society to satisfy a claim made against it by the applicant in respect of liability under a policy of insurance;
- (b) the circumstances giving rise to the applicant’s claim against the relevant body occurred before commencement, and were of a kind capable of giving rise to a duty to make a payment to the applicant in accordance with the PPS, the DPS, the BSIPS or the FSPS;
- (c) none of the former schemes referred to in sub-paragraph (b) has effect, by virtue of article 9, in relation to the circumstances giving rise to the applicant’s claim;
- (d) the applicant is not entitled to make an application for compensation in accordance with article 10; and
- (e) the applicant’s claim would not, apart from this article and any rules made under it, be capable of giving rise to an entitlement to compensation under the new scheme.

(2) An application is not to be regarded as falling outside paragraph (1) by reference to sub-paragraph (b) merely because no article 9 default occurred before commencement.

(3) The Authority must make rules modifying the new scheme to enable the scheme manager to receive, assess and determine applications for compensation made in accordance with this article.

(4) For the purposes of assessing and determining applications for compensation made pursuant to paragraph (1)—

- (a) section 219 of the Act applies as if the references to the relevant person include a reference to a relevant body;
  - (b) section 221 of the Act applies as if the reference to a requirement under section 219 includes a reference to a requirement imposed under section 219 as it applies by virtue of this article;
  - (c) where a relevant body is insolvent, sections 220, 221 and 224 of the Act apply as if—
    - (i) references to a relevant person include references to a relevant body;
    - (ii) the reference in section 221 to a failure to permit documents to be inspected under section 220 includes a reference to a failure to permit documents to be inspected under section 220 as it applies by virtue of this article; and
    - (iii) the reference in section 224(1)(a) to the compensation scheme includes a reference to the scheme as modified by rules made by the Authority under paragraph (3).
- (5) In this article, “relevant body” means a participating deposit-taker, participating institution, authorised insurer or member society against whom an applicant has a claim of a kind falling within paragraph (1)(a) and (b).