
STATUTORY INSTRUMENTS

2008 No. 2546

The Bradford & Bingley plc Transfer of
Securities and Property etc. Order 2008

PART 6

FINANCIAL SERVICES COMPENSATION SCHEME

Sums to be paid to Abbey following the second transfer

28.—(1) The following liabilities arise on the occurrence of the second transfer—

- (a) the FSCS is liable to pay, as soon as practicable, to Abbey an amount equal to the amount that qualifying claimants would, immediately before the first transfer time, have been entitled to claim from the FSCS in respect of claims against Bradford & Bingley for protected deposits; and
- (b) the Treasury are liable to pay, as soon as practicable, to Abbey an amount equal to the aggregate amount of the liabilities transferred to Abbey under article 16(1)(a) less the amount specified in sub-paragraph (a) and less £612 000 000,

and the Treasury shall subsequently make the necessary adjustments such that Bradford & Bingley obtains the benefit of the reduction of £612 000 000 referred to in sub-paragraph (b).

(2) For the purposes of paragraph (1)(a), if the quantification date for a claim would have been a date other than the date on which Bradford & Bingley was determined to be in default for the purposes of section 6.3 of the COMP Sourcebook, the amount that a qualifying claimant would have been entitled to claim from the FSCS is the lesser of—

- (a) the amount which the FSCS quantifies as being the value of that claim as at immediately before the first transfer time; and
- (b) the amount that would have been payable at the quantification date, if different, for that claim.

(3) In paragraph (2), “quantification date” has the meaning given in rule 12.3.1 of the COMP Sourcebook.

(4) Immediately after the second transfer time—

- (a) Bradford & Bingley shall estimate the aggregate amount of the liabilities transferred to Abbey under article 16(1)(a);
- (b) the FSCS shall pay to Abbey the amount it is liable to pay under paragraph (1)(a) as estimated by the Authority; and
- (c) the Treasury shall pay to Abbey an amount equal to the amount estimated by Bradford & Bingley in accordance with sub-paragraph (a) less the amount estimated by the Authority in accordance with sub-paragraph (b) and less £612 000 000.

(5) From time to time—

- (a) the FSCS may revise the estimate of its liability under paragraph (1)(a); and

(b) Bradford & Bingley may revise the estimate of the aggregate amount of the liabilities transferred to Abbey under article 16(1)(a), and the FSCS, the Treasury and Abbey shall make such corresponding payments to each other as are necessary to ensure that the FSCS and the Treasury have each paid to Abbey the amount required to meet their liability under paragraph (1) (and no more than such amount).

(6) The liability referred to in paragraph (1)(a) shall be assessed by the FSCS and, in doing so, the FSCS may calculate, by any methodology or approach it considers appropriate, the total amounts of compensation that would have been paid to all qualifying claimants, if (and to the extent that) it considers that the costs of ascertaining the entitlement to and amount of compensation by reference to each qualifying claimant would exceed or be disproportionate to the benefit of doing so.