
EXPLANATORY NOTE

(This note is not part of the Order)

This Order is made under the Banking (Special Provisions) Act 2008 (c.2) (“the 2008 Act”) and provides for certain rights and liabilities to be transferred from Heritable Bank Plc (“Heritable”) to Deposits Management (Heritable) Limited and for the operation of the Financial Services Compensation Scheme in relation to the transfer.

The transfer is given effect by article 3, which transfers the liabilities of Heritable to claimants who are eligible under the Financial Services Compensation Scheme in respect of deposit accounts to Deposits Management (Heritable), and confers associated rights on Deposits Management (Heritable).

The remainder of the articles in Part 2 make provision associated with the transfer, including in relation to interests, rights and liabilities of third parties relating to rights and liabilities transferred (article 6), payment of transferred liabilities by Deposits Management (Heritable) (article 7), and exemption of Deposits Management (Heritable) from the general prohibition in the Financial Services and Markets Act 2000 in respect of accepting deposits (article 10).

Part 3 concerns the Financial Services Compensation Scheme and applies where before the transfer Heritable is in default for the purposes of that Scheme. It provides for certain sums to be paid to Deposits Management (Heritable) by the Financial Services Compensation Scheme and the Treasury (article 13).

Article 14 provides that, for the purposes of the provisions which govern that Scheme, the payments made by the FSCS under article 13 constitute the payment of compensation to each qualifying claimant under that Scheme.

Article 15 provides for certain liabilities of Heritable to the FSCS, and requires the FSCS to account to the Treasury for certain amounts recovered by it from Heritable.

Part 4 makes provision in relation to the administrator and applies if after the transfer Heritable is placed into administration or an interim administration order is made in relation to it.

Article 20 imposes overriding objectives on the administrator relating to Heritable’s obligations under the Order and the provision of services by Heritable to Deposit Management (Heritable) to enable it to operate the transferred accounts. It also provides that the administrator may have regard to objectives relating to the stability of the UK financial system, public confidence in the stability of the banking system and protecting depositors.

Article 24 imposes obligations and restrictions in relation to contracts to which Heritable is a party.

Part 5 contains miscellaneous provisions, including provision on shadow directorships in relation to Deposit Management (Heritable) (article 26).

An Impact Assessment of the effect of this instrument on the costs to business has been prepared. It may be obtained from the Financial Stability Team, HM Treasury, 1 Horse Guards Road, London SW1A 2HQ. It is also available on HM Treasury’s website (www.hm-treasury.gov.uk). Copies of the document have been placed in the libraries of both Houses of Parliament.