
EXPLANATORY NOTE

(This note is not part of the Regulations).

These Regulations bring into force the specified provisions in Part 1 of the Financial Guidance and Claims Act 2018 (c. 10) on 1st October 2018 in order to establish a single financial guidance body and make associated and consequential provision.

Section 1(1) and (3) to (5) establishes the single financial guidance body and provides that the name of the body is to be determined by regulations made by the Secretary of State (subject to annulment in pursuance of a resolution by either House of Parliament). Section 1(2) and (7) gives effect to Schedule 1 (which makes further provision about the single financial guidance body) and Schedule 2 (which makes provision about schemes for the transfer of staff, property, rights and liabilities from the Secretary of State and the Pensions Advisory Service Limited to the single financial guidance body and from the consumer financial education body (known as the Money Advice Service) to the single financial guidance body and the devolved authorities).

Section 2 sets out the objectives of the single financial guidance body and provides that the body must have regard to these objectives when it exercises its functions.

Section 3(2) provides the single financial guidance body with the function of providing advice and assistance to the Secretary of State on matters relating to its pensions guidance, debt advice, money guidance, consumer protection and strategic functions and advice to the Secretary of State on the establishment of a debt respite scheme (also known as a breathing space scheme). Section 3(3) provides that the single financial guidance body may do anything which is incidental or conducive to the exercise of its functions.

Regulation 3(a) provides that section 3(1), (4) to (7) and (9) comes into force but only for specified purposes. This includes for the purposes of section 3(2)(a) and this enables the single financial guidance body to provide advice and assistance to the Secretary of State on matters relating to its pensions guidance, debt advice, money guidance, consumer protection and strategic functions before these functions are fully commenced. Section 3(1), (4) to (7) and (9) also comes into force for the purposes of section 3(3) which enables the single financial guidance body to do anything that is incidental or conducive to the exercise of these functions before they are fully commenced.

Section 6 requires the Secretary of State to seek advice from the single financial guidance body on the establishment of a debt respite scheme within three months of its establishment. The single financial guidance body must then provide this advice within 12 months of its establishment. Section 7 provides that the Secretary of State may make regulations establishing a debt respite scheme after receiving the advice from the single financial guidance body under section 6.

Section 8 provides that the Secretary of State may issue guidance and directions to the single financial guidance body about the exercise of its functions. Regulation 3(a) provides that section 3(1), (4) to (7) and (9) comes into force for the purposes of section 8(1). This enables the Secretary of State to issue the single financial guidance body with guidance and directions about the exercise of its pensions guidance, debt advice, money guidance, consumer protection and strategic functions before they are fully commenced.

Section 9 provides that the single financial guidance body must set standards to be complied with by persons providing information or guidance in pursuance of the body's pensions guidance and money guidance functions or information or advice in pursuance of the body's debt advice function. The standards must be approved by the Financial Conduct Authority. Regulation 3(b) provides that section 3(1)(a) to (c) and (4) to (6) comes into force for the purposes of section 9(1). This enables

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the single financial guidance body to set standards before its pensions guidance, debt advice and money guidance functions are fully commenced.

Section 11(1) and (3) came into force on the day the Financial Guidance and Claims Act 2018 was passed (see section 37(1)(a)). These Regulations bring into force the remaining provision in section 11, which is subsection (2). This provides that the Secretary of State may give financial assistance to the single financial guidance body for the purpose of enabling it to carry out its functions.

Section 15 provides that it is an offence for a person to hold themselves out as providing information, guidance or advice on behalf of the single financial guidance body when that is not in fact the case. Section 16 makes further provision in relation to offences under section 15 committed by bodies corporate, partnerships and other unincorporated associations.

Section 17(1) to (3) provides that the single financial guidance body may disclose information to the Secretary of State, the devolved authorities and the Financial Conduct Authority (and the Secretary of State, the devolved authorities and the Financial Conduct Authority may disclose information to the single financial guidance body) for specified purposes. Regulation 3(a) provides that section 3(1), (4) to (7) and (9) comes into force for the purposes of section 17(1) to (3). This enables the single financial guidance body to disclose information to the Secretary of State, the devolved authorities and the Financial Conduct Authority (and the Secretary of State, the devolved authorities and the Financial Conduct Authority may disclose information to the single financial guidance body) for specified purposes, relating to the body's pensions guidance, debt advice, money guidance, consumer protection and strategic functions, before these functions are fully commenced.

Section 17(6)(a) requires the single financial guidance body to disclose information to the Secretary of State when requested to do so. Section 17(7) and (8) provides that a disclosure authorised or required by this section does not breach an obligation of confidence or other restriction, but nothing in this section authorises a disclosure which contravenes data protection legislation (as defined in section 26(1)) or the specified provisions in the Investigatory Powers Act 2016 (c. 25).

Section 23 provides that the Secretary of State may make regulations to dissolve the single financial guidance body. Section 24 provides that the regulations must be approved by a resolution of each House of Parliament.

Section 26 gives the meaning of specified terms used in the Financial Guidance and Claims Act 2018 (c. 10). This includes that references in Part 1 to the Secretary of State are to be read as references to the Secretary of State or the Treasury, other than in section 1(7)(a) and paragraph 11(1) of Schedule 2.

The relevant paragraphs in Schedule 3 make minor and consequential amendments relating to the coming into force of the relevant provisions in Part 1.

Paragraph 11 of Schedule 3 comes into force subject to a transitory modification to enable the Financial Conduct Authority and the Prudential Regulation Authority to continue to provide services to the consumer financial education body until section 1(6) comes into force, which will dissolve the consumer financial education body.

Paragraph 21(2)(b) and (3)(b) of Schedule 3 requires the Financial Conduct Authority to act through its governing body when exercising its functions relating to approving and reviewing the standards set by the single financial guidance body and to set out how it considers it has complied with these functions in its annual report to the Treasury. Paragraph 30(c) of Schedule 3 provides that the scope of the Financial Conduct Authority's complaint scheme (see Part 6 of the Financial Services Act 2012 (c. 21)) does not extend to the Authority's performance of (or failure to perform) these functions. These provisions come into force subject to transitory modifications and have effect as if the reference to section 10 (which gives the Financial Conduct Authority its function of reviewing the standards set by the single financial guidance body) was omitted until this section comes into force.

These are the third commencement regulations made under the Financial Guidance and Claims Act 2018 (c. 10).

A full impact assessment has not been produced for these Regulations as they have no impact on the costs of business or the voluntary sector. A full impact assessment has been produced in relation to the provisions of the Financial Guidance and Claims Act 2018 (c. 10), including the provisions that are commenced by these Regulations, and a copy is available at <http://www.legislation.gov.uk/ukpga/2018/10/resources>. A hard copy of this impact assessment can be obtained from Private Pensions, Projects and Guidance, Department for Work and Pensions, Floor 1, Caxton House, 6 – 12 Tothill Street, London, SW1H 9NA.