
STATUTORY INSTRUMENTS

2008 No. 2666

The Transfer of Rights and Liabilities to ING Order 2008

PART 3

FINANCIAL SERVICES COMPENSATION SCHEME

Sum to be paid to ING following the transfer

9.—(1) Deposits Management (Heritable) is liable to pay (as soon as practicable after the effective time) to ING an amount equal to the aggregate amount of the liabilities transferred to ING under article 3 less £1,000,000.

(2) The Treasury shall subsequently make the necessary adjustments such that Heritable obtains the benefit of the reduction of £1,000,000 referred to in paragraph (1) less the total of all costs and liabilities incurred by Deposits Management (Heritable) in performing its obligations under this Order or the first Order.

Amendments to Part 3 of the first Order

10.—(1) Part 3 of the first Order (Financial Services Compensation Scheme) shall be amended as follows.

(2) In article 13 (sums to be paid to Deposits Management (Heritable) following the transfer), insert at the end—

“(7) The liability referred to in paragraph (1)(a) shall be assessed by the FSCS and, in so doing, the FSCS may calculate, by any methodology or approach it considers appropriate, the total amounts of compensation that would have been paid to all eligible 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.”

(3) In paragraph (3) of article 15 (liability of Heritable to the FSCS and the Treasury) —

- (a) after “administration” in each place where it occurs insert “or liquidation”;
- (b) substitute for “would have been provable”, “the FSCS is entitled to recover”.

Balancing payments

11.—(1) Any payment which is required to be made pursuant to article 13(5) of the first Order by or to Deposits Management (Heritable) after the effective time shall be made by or, as the case may be, to ING.

(2) Deposits Management (Heritable) shall have no obligation to make or, as the case may be, right to receive any such payment.

Payment by the FSCS to ING

12. Any payment by the FSCS to ING pursuant to article 11 shall for the purposes of article 14(a) of the first Order be deemed to be a payment by the FSCS to Deposits Management (Heritable) under article 13(5) of the first Order.

FSCS power to require information

13.—(1) The FSCS may, by notice in writing given to ING, require it—

- (a) to provide specified information or information of a specified description; or
- (b) to produce specified documents or documents of a specified description.

(2) Paragraph (1) only applies to information and documents the provision or production of which the FSCS considers to be necessary (or likely to be necessary) for the exercise of its functions under or by virtue of this Order or the first Order.

(3) Subsections (2), (4), (5) and (7) of section 219 of the 2000 Act (scheme manager's power to require information) apply to a requirement imposed under paragraph (1) as if it were a requirement imposed under that section.

Statutory immunity

14. For the purposes of section 222 (statutory immunity) of the 2000 Act the scheme manager's functions shall include any acts or omissions carried out by the FSCS pursuant to or in connection with this Order.