



Financial Services and Markets Act 2000

2000 CHAPTER 8

PART XV

THE FINANCIAL SERVICES COMPENSATION SCHEME

Provisions of the scheme

214 General.

- (1) The compensation scheme may, in particular, make provision—
- (a) as to the circumstances in which a relevant person [^{F1}or relevant exchange] is to be taken (for the purposes of the scheme) to be unable, or likely to be unable, to satisfy claims made against him [^{F2}or it];
 - [^{F3}(aa) as to the circumstances in which a successor falling within section 213(1)(b) is to be taken (for the purposes of the scheme) to be unable, or likely to be unable, to satisfy claims against the successor that are based on the acts or omissions of a relevant person [^{F4}or relevant exchange];]
 - (b) for the establishment of different funds for meeting different kinds of claim;
 - (c) for the imposition of different levies in different cases;
 - (d) limiting the levy payable by a person in respect of a specified period;
 - (e) for repayment of the whole or part of a levy in specified circumstances;
 - (f) for a claim to be entertained only if it is made by a specified kind of claimant;
 - (g) for a claim to be entertained only if it falls within a specified kind of claim;
 - (h) as to the procedure to be followed in making a claim;
 - (i) for the making of interim payments before a claim is finally determined;
 - (j) limiting the amount payable on a claim to a specified maximum amount or a maximum amount calculated in a specified manner;
 - (k) for payment to be made, in specified circumstances, to a person other than the claimant.

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- [^{F5}(1A) Rules by virtue of subsection (1)(h) may, in particular, allow the scheme manager to treat persons who are or may be entitled to claim under the scheme as if they had done so.
- (1B) A reference in any enactment or instrument to a claim or claimant under this Part includes a reference to a deemed claim or claimant in accordance with subsection (1A).
- (1C) Rules by virtue of subsection (1)(j) may, in particular, allow, or be subject to rules which allow, the scheme manager to settle a class of claim by payment of sums fixed without reference to, or by modification of, the normal rules for calculation of maximum entitlement for individual claims.]
- (2) Different provision may be made with respect to different kinds of claim.
- (3) The scheme may provide for the determination and regulation of matters relating to the scheme by the scheme manager.
- (4) The scheme, or particular provisions of the scheme, may be made so as to apply only in relation to—
- (a) activities carried on,
 - (b) claimants,
 - (c) matters arising, or
 - (d) events occurring,
- in specified territories, areas or localities.
- (5) The scheme may provide for a person who—
- (a) qualifies for authorisation under Schedule 3, and
 - (b) falls within a prescribed category,
- to elect to participate in the scheme in relation to some or all of the activities for which he has permission as a result of any provision of, or made under, that Schedule.
- (6) The scheme may provide for the scheme manager to have power—
- (a) in specified circumstances,
 - (b) but only if the scheme manager is satisfied that the claimant is entitled to receive a payment in respect of his claim—
 - (i) under a scheme which is comparable to the compensation scheme, or
 - (ii) as the result of a guarantee given by a government or other authority, to make a full payment of compensation to the claimant and recover the whole or part of the amount of that payment from the other scheme or under that guarantee.

Textual Amendments

- F1** Words in s. 214(1)(a) inserted (29.6.2017 for specified purposes, 3.7.2017 for specified purposes) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2017 \(S.I. 2017/701\)](#), reg. 1(2)(3)(4)(6), **Sch. 2 para. 24(a)(i)** (with reg. 7)
- F2** Words in s. 214(1)(a) inserted (29.6.2017 for specified purposes, 3.7.2017 for specified purposes) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2017 \(S.I. 2017/701\)](#), reg. 1(2)(3)(4)(6), **Sch. 2 para. 24(a)(ii)** (with reg. 7)
- F3** S. 214(1)(aa) inserted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 10 para. 4** (with Sch. 20); [S.I. 2013/113](#), art. 2(1)(c), Sch. Pt. 3; [S.I. 2013/423](#), art. 3, Sch.

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- F4** Words in s. 214(1)(aa) inserted (29.6.2017 for specified purposes, 3.7.2017 for specified purposes) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2017 \(S.I. 2017/701\)](#), reg. 1(2)(3)(4)(6), [Sch. 2 para. 24\(b\)](#) (with reg. 7)
- F5** S. 214(1A)-(1C) inserted (17.2.2009 for certain purposes and 21.2.2009 otherwise) by [Banking Act 2009 \(c. 1\)](#), [ss. 174\(1\)](#), [263\(1\)\(2\)](#) (with s. 247); [S.I. 2009/296](#), [arts. 2, 3](#), [Sch.](#)

Commencement Information

- I1** S. 214 wholly in force at 18.6.2001; s. 214 not in force at Royal Assent see s. 431(2); s. 214(5) in force for certain purposes at 25.2.2001 by [S.I. 2001/516](#), [art. 2\(b\)](#), [Sch. Pt. 2](#); s. 214 in force in so far as not already in force at 18.6.2001 by [S.I. 2001/1820](#), [art. 2](#), [Sch.](#)

PROSPECTIVE

[^{F6}214A Contingency funding

- (1) The Treasury may make regulations (“contingency fund regulations”) permitting the scheme manager to impose levies under section 213 for the purpose of maintaining contingency funds from which possible expenses may be paid.
- (2) Contingency fund regulations may make provision about the establishment and management of contingency funds; in particular, the regulations may make provision about—
 - (a) the number and size of funds;
 - (b) the circumstances and timing of their establishment;
 - (c) the classes of person from whom contributions to the funds may be levied;
 - (d) the amount and timing of payments into and out of funds (which may include provision for different levies for different classes of person);
 - (e) refunds;
 - (f) the ways in which funds' contents may be invested (including (i) the extent of reliance on section 223A, and (ii) the application of investment income);
 - (g) the purposes for which funds may be applied, but only so as to determine whether a fund is to be used (i) for the payment of compensation, (ii) for the purposes of co-operating with a bank liquidator in accordance with section 99 of the Banking Act 2009, or (iii) for contributions under section 214B;
 - (h) procedures to be followed in connection with funds, including the keeping of records and the provision of information.
- (3) The compensation scheme may include provision about contingency funds provided that it is not inconsistent with contingency fund regulations.]

Textual Amendments

- F6** S. 214A inserted (prosp.) by [Banking Act 2009 \(c. 1\)](#), [ss. 170\(1\)](#), [263\(1\)\(2\)](#) (with s. 247)

[^{F7}[^{F8}214B Contribution to costs of special resolution regime

- (1) This section applies if—

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- (a) a stabilisation power under Part 1 of the Banking Act 2009 has been exercised in respect of a bank, building society ^{F9}, credit union or investment firm] within the meaning of that Part (“the institution”); and
 - (b) the Treasury think that the institution was or was likely to have been, or but for the exercise of the power would have become, unable to satisfy claims against it.
- (2) The Treasury may require the scheme manager to make payments (to the Treasury or any other person) in respect of expenses of a prescribed description incurred (by the Treasury or that person) in connection with the exercise of the power.
- (3) Subsection (2) is subject to section 214C (limit on amount of special resolution regime payments).
- (4) In subsection (2) “expenses” includes interest at a specified rate on the difference, at any time, between—
- (a) the total amount of expenses (including interest) incurred at or before that time; and
 - (b) the total amount recovered, or received from the scheme manager, in respect of the institution, at or before that time, by—
 - (i) the Treasury; and
 - (ii) any other person who has incurred expenses in connection with the exercise of the power that are of a description prescribed under subsection (2).
- (5) Any payment made by the scheme manager under subsection (2) is to be treated for the purposes of this Part as an expense under the compensation scheme.
- (6) In this section and section 214C “specified rate” means a rate specified by the Treasury.
- (7) Different rates may be specified under different provisions or for different periods.
- (8) A rate may be specified by reference to a rate set (from time to time) by any person.]]

Textual Amendments

- F7** S. 214B inserted (17.2.2009 for certain purposes and 21.2.2009 otherwise) by [Banking Act 2009 \(c. 1\)](#), [ss. 171\(1\)](#), [263\(1\)\(2\)](#) (with [s. 247](#)); [S.I. 2009/296](#), [arts. 2, 3](#), [Sch.](#)
- F8** Ss. 214B-214D substituted (8.4.2010) for s. 214B by [Financial Services Act 2010 \(c. 28\)](#), [ss. 16\(1\)](#), [26\(1\)](#)
- F9** Words in s. 214B(1)(a) substituted (1.8.2014) by [Financial Services Act 2012 \(c. 21\)](#), [ss. 101\(10\)](#), [122\(3\)](#) (with [Sch. 20](#)); [S.I. 2014/1847](#), [art. 2](#)

Modifications etc. (not altering text)

- C1** S. 214B applied (with modifications) (17.2.2009 for certain purposes and 21.2.2009 otherwise) by [Banking Act 2009 \(c. 1\)](#), [ss. 83\(2\)\(h\)\(i\)](#), [263\(1\)\(2\)](#) (with [s. 247](#)); [S.I. 2009/296](#), [arts. 2, 3](#), [Sch.](#)
- C2** Ss. 214B-214D applied (with modifications) (8.4.2010) by [Financial Services Act 2010 \(c. 28\)](#), [ss. 16\(2\)](#), [26\(1\)](#)
- C3** S. 214B applied (with modifications) by 2009 c. 1, s. 81CA(7) (as inserted (31.12.2014) by [Financial Services \(Banking Reform\) Act 2013 \(c. 33\)](#), s. 148(5), [Sch. 2 para. 7\(2\)](#); [S.I. 2014/3160](#), [art. 2\(1\)\(b\)](#))

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[^{F10}214C] Limit on amount of special resolution regime payments

- (1) The total amount of special resolution regime payments required to be made in respect of a person (“the institution”) may not exceed—
 - (a) notional net expenditure (see subsection (3)), minus
 - (b) actual net expenditure (see subsection (4)).
- (2) A “special resolution regime payment” is—
 - (a) a payment under section 214B(2); or
 - (b) a payment required to be made by the scheme manager by virtue of section 61 of the Banking Act 2009 (special resolution regime: compensation).
- (3) Notional net expenditure is—
 - (a) the total amount of expenses that would have been incurred under the compensation scheme in respect of the institution if the stabilisation power had not been exercised and the institution had been unable to satisfy claims against it, minus
 - (b) the total amount that would have been likely, at the time when the power was exercised, to be recovered by the scheme manager in respect of the institution in those circumstances.
- (4) Actual net expenditure is—
 - (a) the total amount of expenses (other than special resolution regime payments) actually incurred by the scheme manager in respect of the institution, minus
 - (b) the total amount actually recovered by the scheme manager in respect of the institution.
- (5) In subsection (3)(a) “expenses” includes interest at a specified rate on the difference, at any time, between—
 - (a) the total amount of expenses (including interest) that would have been incurred as mentioned in subsection (3)(a) at or before that time; and
 - (b) the total amount that would have been likely to have been recovered as mentioned in subsection (3)(b) at or before that time.
- (6) In subsection (4)(a) “expenses” includes interest at a specified rate on the difference, at any time, between—
 - (a) the total amount of expenses (including special resolution regime payments and interest) actually incurred by the scheme manager in respect of the institution at or before that time; and
 - (b) the total amount actually recovered by the scheme manager in respect of the institution at or before that time.
- (7) In paragraph (b) of subsections (3) to (6) references to amounts recovered (or likely to have been recovered) by the scheme manager do not include any levy received (or likely to have been received) by it.

Textual Amendments

F10 Ss. 214B-214D substituted (8.4.2010) for s. 214B by [Financial Services Act 2010 \(c. 28\)](#), **ss. 16(1), 26**

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Modifications etc. (not altering text)

C4 Ss. 214B-214D applied (with modifications) (8.4.2010) by [Financial Services Act 2010 \(c. 28\)](#), **ss. 16(2), 26(1)**

214D Contributions under section 214B: supplementary

- (1) This section supplements sections 214B and 214C.
- (2) The scheme manager must determine—
 - (a) the amounts of expenses (other than interest) that would have been incurred as mentioned in section 214C(3)(a); and
 - (b) the time or times at which those amounts would have been likely to have been incurred.
- (3) The Treasury, or a person designated by the Treasury, must in accordance with regulations appoint a person (“the valuer”) to determine—
 - (a) the amounts that would have been likely, at the time when the stabilisation power was exercised, to be recovered as mentioned in section 214C(3)(b); and
 - (b) the time or times at which those amounts would have been likely to be recovered.

The person appointed under this subsection may be the person appointed as valuer under section 54 of the Banking Act 2009 in respect of the exercise of the stabilisation power.
- (4) Regulations may enable the Treasury to specify principles to be applied by—
 - (a) the scheme manager when exercising functions under subsection (2); or
 - (b) the valuer when exercising functions under subsection (3).
- (5) The regulations may in particular enable the Treasury to require the scheme manager or valuer—
 - (a) to use, or not to use, specified methods;
 - (b) to take specified matters into account in a specified manner; or
 - (c) not to take specified matters into account.
- (6) Regulations—
 - (a) must provide for independent verification of expenses within section 214B(2);
 - (b) may provide for the independent verification of other matters; and
 - (c) may contain provision about the appointment and payment of an auditor.
- (7) Regulations—
 - (a) must contain provision enabling the valuer to reconsider a decision;
 - (b) must provide a right of appeal to a court or tribunal against any decision of the valuer;
 - (c) may provide for payment of the valuer; and
 - (d) may apply (with or without modifications) or make provision corresponding to—
 - (i) any provision of sections 54 to 56 of the Banking Act 2009; or
 - (ii) any provision made, or that could be made, by virtue of any of those sections.
- (8) Regulations may make provision for payments under section 214B(2) to be made—

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- (a) before any verification required by the regulations is undertaken, and
 - (b) before the limit imposed by section 214C is calculated,
- subject to any necessary later adjustment.
- (9) If they do so they must provide that the amount of any payment required by virtue of subsection (8) must not be such as to give rise to an expectation that an amount will be required to be repaid to the scheme manager (once any necessary verification has been undertaken and the limit imposed by section 214C has been calculated).
- (10) Regulations may—
- (a) make provision supplementing section 214B or 214C or this section;
 - (b) make further provision about the method by which amounts to be paid under section 214B(2) are to be determined;
 - (c) make provision about timing;
 - (d) make provision about procedures to be followed;
 - (e) provide for discretionary functions to be exercised by a specified body or by persons of a specified class; and
 - (f) make provision about the resolution of disputes (which may include provision conferring jurisdiction on a court or tribunal).
- (11) “Regulations” means regulations made by the Treasury.
- (12) Any payment made by the Treasury by virtue of this section is to be met out of money provided by Parliament.
- (13) The compensation scheme may make provision about payments under section 214B(2) and levies in connection with such payments (except provision inconsistent with any provision made by or under section 214B or 214C or this section).]

Textual Amendments

F10 Ss. 214B-214D substituted (8.4.2010) for s. 214B by [Financial Services Act 2010 \(c. 28\)](#), **ss. 16(1), 26**

Modifications etc. (not altering text)

C5 Ss. 214B-214D applied (with modifications) (8.4.2010) by [Financial Services Act 2010 \(c. 28\)](#), **ss. 16(2), 26(1)**

215 [F11] Rights of the scheme in insolvency]

[F12(1) The compensation scheme may make provision—

- (a) about the effect of a payment of compensation under the scheme on rights or obligations arising out of matters in connection with which the compensation was paid;
- (b) giving the scheme manager a right of recovery in respect of those rights or obligations.]

(2) Such a right of recovery conferred by the scheme does not, in the event of [F13 a person's insolvency], exceed such right (if any) as the claimant would have had in that event.

[F14(2A) Any payment made by the scheme manager under section 214B(2) in connection with the exercise of a stabilisation power in respect of a bank, building society or credit

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union is to be treated as a debt due to the scheme manager from that bank, building society or (as the case may be) credit union.

(2B) In subsection (2)—

“bank” has the meaning given in section 2 of the Banking Act 2009;

“building society” has the meaning given in the Building Societies Act 1986;

“credit union” means a credit union within the meaning of—

(a) the Credit Unions Act 1979; or

(b) article 2 of the Credit Unions (Northern Ireland) Order 1985.]

(3) If a person other than the scheme manager [^{F15}makes an administration application under Schedule B1 to the 1986 Act or [^{F16}Schedule B1 to] the 1989 Order] in relation to [^{F17}—

(a) a company or partnership which is a relevant person; or

(b) a body corporate or unincorporated association which is a relevant exchange;

the scheme manager has the same rights as are conferred on the regulators by section 362.]

[^{F18}(3A) In subsection (3) the reference to making an administration application includes a reference to—

(a) appointing an administrator under paragraph 14 or 22 of Schedule B1 to the 1986 Act [^{F19}or paragraph 15 or 23 of Schedule B1 to the 1989 Order], or

(b) filing with the court a copy of notice of intention to appoint an administrator under [^{F20}any] of those paragraphs.]

(4) If a person other than the scheme manager presents a petition for the winding up of a body which is a relevant person [^{F21}or relevant exchange] , the scheme manager has the same rights as are conferred on the [^{F22}regulators] by section 371.

(5) If a person other than the scheme manager presents a bankruptcy petition to the court in relation to an individual who, or an entity which, is a relevant person, the scheme manager has the same rights as are conferred on the [^{F22}regulators] by section 374.

(6) Insolvency rules may be made for the purpose of integrating any procedure for which provision is made as a result of subsection (1) into the general procedure on the administration of a company or partnership or on a winding-up, bankruptcy or sequestration.

(7) “Bankruptcy petition” means a petition to the court—

(a) under section 264 of the 1986 Act or Article 238 of the 1989 Order for a bankruptcy order to be made against an individual;

(b) under section [^{F23}2 or 5 of the 2016] Act for the sequestration of the estate of an individual; or

(c) under section 6 of the [^{F24}2016] Act for the sequestration of the estate belonging to or held for or jointly by the members of an entity mentioned in subsection (1) of that section.

(8) “Insolvency rules” are—

(a) for England and Wales, rules made under sections 411 and 412 of the 1986 Act;

(b) for Scotland, rules made by order by the Treasury, after consultation with the Scottish Ministers, for the purposes of this section; and

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- (c) for Northern Ireland, rules made under Article 359 of the 1989 Order and section 55 of the ^{M1}Judicature (Northern Ireland) Act 1978.
- (9) ^{F25} ... “the 1986 Act”, “the 1989 Order” [^{F26}, “the 2016 Act”] and “court” have the same meaning as in Part XXIV.

Textual Amendments

- F11** S. 215: heading substituted (17.2.2009 for certain purposes and 21.2.2009 otherwise) by virtue of [Banking Act 2009 \(c. 1\)](#), **ss. 175(4)**, 263(1)(2) (with s. 247); S.I. 2009/296, **arts. 2, 3**, Sch.
- F12** S. 215(1) substituted (17.2.2009 for certain purposes and 21.2.2009 otherwise) by [Banking Act 2009 \(c. 1\)](#), **ss. 175(2)**, 263(1)(2) (with s. 247); S.I. 2009/296, **arts. 2, 3**, Sch.
- F13** Words in s. 215(2) substituted (17.2.2009 for certain purposes and 21.2.2009 otherwise) by [Banking Act 2009 \(c. 1\)](#), **ss. 175(3)**, 263(1)(2) (with s. 247); S.I. 2009/296, **arts. 2, 3**, Sch.
- F14** S. 215(2A)(2B) inserted (26.3.2015) by [The Deposit Guarantee Scheme Regulations 2015 \(S.I. 2015/486\)](#), regs. 1(2), **13(3)**
- F15** Words in s. 215(3) substituted (15.9.2003) by [Enterprise Act 2002 \(c. 40\)](#), **ss. 248(3)**, 279, **Sch. 17 para. 54(2)**; S.I. 2003/2093, **art. 2(1)**, Sch. 1 (subject to arts. 1(3)-(5), 3-8 (as amended by S.I. 2003/2332, art. 2))
- F16** Words in s. 215(3) substituted (N.I.) (27.3.2006) by [The Insolvency \(Northern Ireland\) Order 2005 \(S.I. 2005/1455 \(N.I. 10\)\)](#), arts. 1(3), 3(3), **Sch. 2 para. 57(2)**; S.R. 2006/21, **art. 2** (subject to S.R. 2006/22, arts. 2-7)
- F17** Words in s. 215(3) substituted (29.6.2017 for specified purposes, 3.7.2017 for specified purposes) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2017 \(S.I. 2017/701\)](#), reg. 1(2)(3)(4)(6), **Sch. 2 para. 25(2)** (with reg. 7)
- F18** S. 215(3A) inserted (15.9.2003) by [Enterprise Act 2002 \(c. 40\)](#), **ss. 248(3)**, 279, **Sch. 17 para. 54(3)**; S.I. 2003/2093, **art. 2(1)**, Sch. 1 (subject to arts. 1(3)-(5), 3-8 (as amended by S.I. 2003/2332, art. 2))
- F19** Words in s. 215(3A)(a) inserted (N.I.) (27.3.2006) by [The Insolvency \(Northern Ireland\) Order 2005 \(S.I. 2005/1455 \(N.I. 10\)\)](#), arts. 1(3), 3(3), **Sch. 2 para. 57(3)(a)**; S.R. 2006/21, **art. 2** (subject to S.R. 2006/22, arts. 2-7)
- F20** Word in s. 215(3A)(b) substituted (N.I.) (27.3.2006) by [The Insolvency \(Northern Ireland\) Order 2005 \(S.I. 2005/1455 \(N.I. 10\)\)](#), arts. 1(3), 3(3), **Sch. 2 para. 57(3)(b)**; S.R. 2006/21, **art. 2** (subject to S.R. 2006/22, arts. 2-7)
- F21** Words in s. 215(4) inserted (29.6.2017 for specified purposes, 3.7.2017 for specified purposes) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2017 \(S.I. 2017/701\)](#), reg. 1(2)(3)(4)(6), **Sch. 2 para. 25(3)** (with reg. 7)
- F22** Word in s. 215 substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 10 para. 5** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F23** Words in s. 215(7)(b) substituted (30.11.2016) by [The Bankruptcy \(Scotland\) Act 2016 \(Consequential Provisions and Modifications\) Order 2016 \(S.I. 2016/1034\)](#), art. 1, **Sch. 1 para. 20(2)(a)(i)**
- F24** Word in s. 215(7)(c) substituted (30.11.2016) by [The Bankruptcy \(Scotland\) Act 2016 \(Consequential Provisions and Modifications\) Order 2016 \(S.I. 2016/1034\)](#), art. 1, **Sch. 1 para. 20(2)(a)(ii)**
- F25** Words in s. 215(9) omitted (30.11.2016) by virtue of [The Bankruptcy \(Scotland\) Act 2016 \(Consequential Provisions and Modifications\) Order 2016 \(S.I. 2016/1034\)](#), art. 1, **Sch. 1 para. 20(2)(b)(i)**
- F26** Words in s. 215(9) inserted (30.11.2016) by [The Bankruptcy \(Scotland\) Act 2016 \(Consequential Provisions and Modifications\) Order 2016 \(S.I. 2016/1034\)](#), art. 1, **Sch. 1 para. 20(2)(b)(ii)**

Modifications etc. (not altering text)

- C6** S. 215 modified (21.2.2009) by [The Banking Act 2009 \(Parts 2 and 3 Consequential Amendments\) Order 2009 \(S.I. 2009/317\)](#), **art. 5(1)(2)**

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- C7** S. 215 applied (with modifications) (8.2.2011 with application in accordance with reg. 27(a) of the applying S.I.) by [The Investment Bank Special Administration Regulations 2011 \(S.I. 2011/245\)](#), reg. 27, **Sch. 6 Pt. 2 para. 3(2)** (as amended (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\)](#), **Sch. 2 para. 198(s)(i)** (with Sch. 2 para. 213))
- C8** S. 215 applied (with modifications) (E.W.S.) (6.4.2014) by [The Industrial and Provident Societies and Credit Unions \(Arrangements, Reconstructions and Administration\) Order 2014 \(S.I. 2014/229\)](#), arts. 1, 5 (with art. 10)
- C9** S. 215(3)(4)(6) applied (with modifications) (6.4.2001 for E.W.S and 13.9.2004 for N.I.) by [S.I. 2001/1090](#), regs. 1, 6; [S.R. 2004/307](#), **reg. 6**

Commencement Information

- I2** S. 215 wholly in force at 18.6.2001; s. 215 not in force at Royal Assent see s. 431(2); s. 215(6)(8)(9) in force at 25.2.2001 by [S.I. 2001/516](#), art. 2(a), **Sch. Pt. 1**; s. 215 in force in so far as not already in force at 18.6.2001 by [S.I. 2001/1820](#), art. 2, **Sch.**

Marginal Citations

- M1** 1978 c. 23.

216 Continuity of long-term insurance policies.

- (1) The compensation scheme may, in particular, include provision requiring the scheme manager to make arrangements for securing continuity of insurance for policyholders, or policyholders of a specified class, of relevant long-term insurers.
- (2) “Relevant long-term insurers” means relevant persons who—
 - (a) have permission to effect or carry out contracts of long-term insurance; and
 - (b) are unable, or likely to be unable, to satisfy claims made against them.
- (3) The scheme may provide for the scheme manager to take such measures as appear to him to be appropriate—
 - (a) for securing or facilitating the transfer of a relevant long-term insurer’s business so far as it consists of the carrying out of contracts of long-term insurance, or of any part of that business, to another authorised person;
 - (b) for securing the issue by another authorised person to the policyholders concerned of policies in substitution for their existing policies.
- (4) The scheme may also provide for the scheme manager to make payments to the policyholders concerned—
 - (a) during any period while he is seeking to make arrangements mentioned in subsection (1);
 - (b) if it appears to him that it is not reasonably practicable to make such arrangements.
- (5) A provision of the scheme made by virtue of section 213(3)(b) may include power to impose levies for the purpose of meeting expenses of the scheme manager incurred in—
 - (a) taking measures as a result of any provision of the scheme made by virtue of subsection (3);
 - (b) making payments as a result of any such provision made by virtue of subsection (4).

Status: Point in time view as at 03/07/2017. This version of this cross heading contains provisions that are prospective.

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217 Insurers in financial difficulties.

- (1) The compensation scheme may, in particular, include provision for the scheme manager to have power to take measures for safeguarding policyholders, or policyholders of a specified class, of relevant insurers.
- (2) “Relevant insurers” means relevant persons who—
 - (a) have permission to effect or carry out contracts of insurance; and
 - (b) are in financial difficulties.
- (3) The measures may include such measures as the scheme manager considers appropriate for—
 - (a) securing or facilitating the transfer of a relevant insurer’s business so far as it consists of the carrying out of contracts of insurance, or of any part of that business, to another authorised person;
 - (b) giving assistance to the relevant insurer to enable it to continue to effect or carry out contracts of insurance.
- (4) The scheme may provide—
 - (a) that if measures of a kind mentioned in subsection (3)(a) are to be taken, they should be on terms appearing to the scheme manager to be appropriate, including terms reducing, or deferring payment of, any of the things to which any of those who are eligible policyholders in relation to the relevant insurer are entitled in their capacity as such;
 - (b) that if measures of a kind mentioned in subsection (3)(b) are to be taken, they should be conditional on the reduction of, or the deferral of the payment of, the things to which any of those who are eligible policyholders in relation to the relevant insurer are entitled in their capacity as such;
 - (c) for ensuring that measures of a kind mentioned in subsection (3)(b) do not benefit to any material extent persons who were members of a relevant insurer when it began to be in financial difficulties or who had any responsibility for, or who may have profited from, the circumstances giving rise to its financial difficulties, except in specified circumstances;
 - (d) for requiring the scheme manager to be satisfied that any measures he proposes to take are likely to cost less than it would cost to pay compensation under the scheme if the relevant insurer became unable, or likely to be unable, to satisfy claims made against him.
- (5) The scheme may provide for the [^{F27}either regulator or both regulators] to have power—
 - (a) to give such assistance to the scheme manager as it considers appropriate for assisting the scheme manager to determine what measures are practicable or desirable in the case of a particular relevant insurer;
 - (b) to impose constraints on the taking of measures by the scheme manager in the case of a particular relevant insurer;
 - (c) to require the scheme manager to provide it with information about any particular measures which the scheme manager is proposing to take.
- (6) The scheme may include provision for the scheme manager to have power—
 - (a) to make interim payments in respect of eligible policyholders of a relevant insurer;
 - (b) to indemnify any person making payments to eligible policyholders of a relevant insurer.

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- (7) A provision of the scheme made by virtue of section 213(3)(b) may include power to impose levies for the purpose of meeting expenses of the scheme manager incurred in—
- (a) taking measures as a result of any provision of the scheme made by virtue of subsection (1);
 - (b) making payments or giving indemnities as a result of any such provision made by virtue of subsection (6).
- (8) “Financial difficulties” and “eligible policyholders” have such meanings as may be specified.

Textual Amendments

- F27** Words in s. 217(5) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 10 para. 6](#) (with [Sch. 20](#)); [S.I. 2013/113](#), art. 2(1)(c), [Sch. Pt. 3](#); [S.I. 2013/423](#), art. 3, [Sch.](#)

Status:

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