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*Changes to legislation: There are currently no known outstanding effects for the Financial Services Act 2010. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 1 **U.K.**

Section 2

#### FURTHER PROVISION ABOUT THE CONSUMER FINANCIAL EDUCATION BODY

##### Commencement Information

**II** Sch. 1 partly in force; Sch. 1 in force for specified purposes at Royal Assent see s. 26(1)(k)

1 This is the Schedule 1A to be inserted in the Financial Services and Markets Act 2000 after Schedule 1—

### “SCHEDULE 1A **U.K.**

Section 6A

#### FURTHER PROVISION ABOUT THE CONSUMER FINANCIAL EDUCATION BODY

### PART 1 **U.K.**

#### GENERAL

##### *Ensuring exercise of consumer financial education function etc*

- 1 (1) The Authority must take such steps as are necessary to ensure that the consumer financial education body is, at all times, capable of exercising the consumer financial education function.
- (2) In complying with the duty under sub-paragraph (1) the Authority may, in particular, provide services to that body which the Authority considers would facilitate the exercise of that function.

##### *Constitution*

- 2 (1) The constitution of the consumer financial education body must provide for it to have—
  - (a) a chair;
  - (b) a chief executive; and
  - (c) a board (which must include the chair and chief executive) whose members are the body's directors.
- (2) The members of the board must be persons appointed, and liable to removal from office, by the Authority (acting, in the case of the chair or chief executive, with the approval of the Treasury).
- (3) But the terms of appointment of members of the board (and in particular those governing removal from office) must be such as to secure their

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independence from the Authority in the exercise of the consumer financial education function.

- (4) The Authority may appoint a person to be a member of the board only if it is satisfied that the person has knowledge or experience which is likely to be relevant to the exercise by the body of the consumer financial education function.

*Status*

- 3 (1) The consumer financial education body is not to be regarded as exercising functions on behalf of the Crown.
- (2) The body's board members, officers and staff are not to be regarded as Crown servants.

*Discharge of function by others*

- 4 (1) The consumer financial education body may discharge the consumer financial education function by—
- (a) supporting the doing by other persons of anything that it considers would enhance the understanding, knowledge or ability mentioned in section 6A(1); or
  - (b) arranging for other persons to do anything that it considers would enhance that understanding, knowledge or ability.
- (2) The reference in sub-paragraph (1)(a) to support includes financial support.
- (3) The reference in sub-paragraph (1)(b) to arrangements includes arrangements under which payments are made to the other persons.
- (4) Nothing in this paragraph is to limit other ways in which the consumer financial education body may discharge the consumer financial education function.
- 5 (1) This paragraph applies if the consumer financial education body arranges for any person (including one established by or under an enactment) to do anything that it considers would enhance the understanding, knowledge or ability mentioned in section 6A(1).
- (2) The person may do that thing despite any limitation on its capacity (whether under a rule of law or otherwise) which, but for this paragraph, would have applied.

*Market confidence and financial stability*

- 6 In discharging the consumer financial education function, the consumer financial education body must have regard to the importance of—
- (a) maintaining confidence in the UK financial system; and
  - (b) maintaining the stability of the UK financial system.

*Budget*

- 7 (1) The consumer financial education body must adopt an annual budget which has been approved by the Authority.

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- (2) The budget must be adopted—
  - (a) in the case of the body's first financial year, as soon as reasonably practicable after the body is established; and
  - (b) in the case of each subsequent financial year, before the start of the financial year.
- (3) The consumer financial education body may, with the approval of the Authority, vary the budget for a financial year at any time after its adoption.
- (4) Before adopting or varying a budget, the consumer financial education body must consult—
  - (a) the Treasury;
  - (b) the Secretary of State;
  - (c) the Office of Fair Trading; and
  - (d) such other persons (if any) as the body considers appropriate.
- (5) The consumer financial education body must publish each budget, and each variation of a budget, in the way it considers appropriate.

#### *Annual plan*

- 8 (1) The consumer financial education body must in respect of each of its financial years prepare an annual plan which has been approved by the Authority.
- (2) The plan must be prepared—
  - (a) in the case of the body's first financial year, as soon as reasonably practicable after the body is established; and
  - (b) in the case of each subsequent financial year, before the start of the financial year.
- (3) The consumer financial education body may, with the approval of the Authority, vary the plan in respect of a financial year at any time after its preparation.
- (4) An annual plan in respect of a financial year must set out—
  - (a) the objectives of the consumer financial education body for the year;
  - (b) how the extent to which each of those objectives is met is to be determined;
  - (c) the relative priorities of each of those objectives; and
  - (d) how its resources are to be allocated among the activities to be carried on in connection with the discharge of the consumer financial education function.
- (5) In sub-paragraph (4) references to objectives for a financial year include objectives for a longer period that includes that year.
- (6) Before preparing or varying an annual plan, the consumer financial education body must consult—
  - (a) the Treasury;
  - (b) the Secretary of State;
  - (c) the Office of Fair Trading;

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- (d) the Practitioner Panel;
  - (e) the Consumer Panel; and
  - (f) such other persons (if any) as the body considers appropriate.
- (7) The consumer financial education body must publish each annual plan, and each variation of an annual plan, in the way it considers appropriate.

*Annual reports*

- 9 (1) At least once a year, the consumer financial education body must make a report to the Authority in relation to the discharge of the consumer financial education function.
- (2) The report must—
- (a) set out the extent to which the body has met its objectives and priorities for the period covered by the report;
  - (b) include a copy of its latest accounts; and
  - (c) comply with any requirements specified in rules made by the Authority.
- (3) The consumer financial education body must publish each report in the way it considers appropriate.
- (4) Nothing in this paragraph requires the consumer financial education body to make a report at any time in the period of 12 months beginning with its establishment.

*Exemption from consumer credit rules*

- 10 (1) A licence is not required under Part 3 of the Consumer Credit Act 1974 in respect of anything done by—
- (a) the consumer financial education body in discharging the consumer financial education function; or
  - (b) a person acting on its behalf in accordance with arrangements made under paragraph 4(1)(b).
- (2) Nothing in Part 4 or 10 of that Act (seeking business or ancillary credit business) is to apply in relation to anything done by—
- (a) the consumer financial education body in discharging the consumer financial education function; or
  - (b) a person acting on its behalf in accordance with arrangements made under paragraph 4(1)(b).

**PART 2** **U.K.**

FUNDING

*Meaning of “the relevant costs”*

- 11 (1) In this Part of this Schedule “the relevant costs” means—
- (a) the expenses incurred by the Authority in establishing the consumer financial education body; and

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- (b) the expenses incurred, or expected to be incurred, by the consumer financial education body in connection with the discharge of the consumer financial education function.
- (2) For the purposes of sub-paragraph (1)(a) it does not matter when the expenses were incurred.

*Funding of the relevant costs by authorised persons or payment service providers*

- 12 (1) For the purpose of meeting a proportion of the relevant costs the Authority may make rules requiring—
- (a) authorised persons or payment service providers, or
  - (b) any specified class of authorised person or payment service provider,
- to pay to the Authority specified amounts or amounts calculated in a specified way.
- (2) Before making the rules the Authority must have regard to other anticipated sources of funding of the relevant costs.
- (3) The amounts to be paid under the rules may include a component to cover the expenses of the Authority in collecting the payments (“collection costs”).
- (4) The Authority must pay to the consumer financial education body the amounts that it receives under the rules apart from amounts in respect of its collection costs (which it may keep).
- (5) “Payment service provider” means a person who is a payment service provider for the purposes of the Payment Services Regulations 2009 as a result of falling within any of paragraphs (a) to (f) of the definition in regulation 2(1).
- (6) “Specified” means specified in the rules.

*Funding of the relevant costs by consumer credit licensees etc*

- 13 (1) For the purpose of meeting a proportion of the relevant costs the OFT may, with the approval of the Secretary of State and the Treasury, from time to time require—
- (a) qualifying consumer credit licensees or applicants, or
  - (b) any specified class of qualifying consumer credit licensee or applicant,
- to pay to the OFT specified amounts or amounts calculated in a specified way.
- (2) The requirements are to be imposed by general notice.
- (3) “Qualifying consumer credit licensee or applicant” means—
- (a) a licensee under a licence which covers to any extent the carrying on of a type of business specified in an order under section 226A(2)(e); or
  - (b) an applicant for a licence, or for the renewal of a licence, which (if granted or renewed) will fall within paragraph (a) above.

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- (4) Before giving a general notice the OFT must have regard to other anticipated sources of funding of the relevant costs.
- (5) Before giving a general notice, the OFT must consult—
  - (a) the Authority;
  - (b) the consumer financial education body; and
  - (c) such other persons (if any) as the OFT considers appropriate.
- (6) The amounts to be paid under a general notice may include a component to cover the expenses of the OFT in collecting the payments (“collection costs”).
- (7) The OFT must pay to the consumer financial education body the amounts that it receives under a general notice apart from amounts in respect of its collection costs (which it may keep).
- (8) A general notice may—
  - (a) specify the time at or by which the payments are to be made;
  - (b) provide for exceptions from requirements imposed on a class of qualifying consumer credit licensee or applicant;
  - (c) impose different requirements on different classes of qualifying consumer credit licensee or applicant;
  - (d) make provision for refunds in specified circumstances.
- (9) Expressions which are used in sub-paragraph (3) and in the Consumer Credit Act 1974 have the same meaning in that sub-paragraph as in that Act.
- (10) In this paragraph—
 

“general notice” means a notice published by the OFT at a time and in a manner appearing to it suitable for securing that the notice is seen within a reasonable time by persons likely to be affected by it;

“the OFT” means the Office of Fair Trading;

“specified” means specified in the general notice.

*Funding by grants or loans etc made by Treasury or Secretary of State*

- 14 (1) The Treasury or the Secretary of State may—
  - (a) make grants or loans, or
  - (b) provide any other form of financial assistance,

to the consumer financial education body for the purpose of meeting any expenses incurred by it in connection with the discharge of the consumer financial education function.
- (2) Any grant or loan or other form of financial assistance under this paragraph may be made or provided subject to such terms as the Treasury or the Secretary of State consider appropriate.
- (3) Any expenses incurred by the Treasury or the Secretary of State under this paragraph are to be met out of money provided by Parliament.

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### PART 3 **U.K.**

#### REVIEWS

##### *Reviews of economy etc of the consumer financial education body*

- 15 (1) The Authority may appoint an independent person to conduct a review of the economy, efficiency and effectiveness with which the consumer financial education body has used its resources in discharging the consumer financial education function.
- (2) The Authority must consult the Treasury before acting under this paragraph.
- (3) A review is not to be concerned with the merits of the body's general policy or principles in discharging the consumer financial education function.
- (4) On completion of a review, the person conducting it must make a written report to the Authority—
- (a) setting out the result of the review; and
  - (b) making such recommendations (if any) as the person considers appropriate.
- (5) The Authority must publish a copy of the report in the way it considers appropriate.
- (6) Any expenses reasonably incurred in the conduct of the review are to be met by the Authority.
- (7) “Independent” means appearing to the Authority to be independent of the consumer financial education body.

##### *Right to obtain documents and information*

- 16 (1) A person conducting a review under paragraph 15—
- (a) has a right of access at any reasonable time to all such documents as the person may reasonably require for the purposes of the review; and
  - (b) may require any person holding or accountable for any such document to provide such information and explanation as are reasonably required for those purposes.
- (2) This paragraph applies only to documents in the custody or under the control of the consumer financial education body.
- (3) An obligation imposed on a person as a result of this paragraph is enforceable by an injunction or, in Scotland, by an order for specific performance under section 45 of the Court of Session Act 1988.”
- 2 (1) This paragraph applies to rules under paragraph 12 of Schedule 1A to FSMA 2000 (as inserted by this Schedule).
- (2) The FSA may before commencement—
- (a) propose to make rules under that paragraph, and

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- (b) publish a draft of the proposed rules in the way appearing to it to be best calculated to bring them to the attention of the public.
- (3) The draft must be accompanied by—
- (a) an explanation of the purpose of the proposed rules,
  - (b) an explanation of the FSA's reasons for believing that making the proposed rules is compatible with its general duties under section 2 of FSMA 2000,
  - (c) notice that representations about the proposals may be made to the FSA within a specified time, and
  - (d) details of the expected expenditure by reference to which the proposal is made.
- (4) Before making the proposed rules after commencement, the FSA must have regard to any representations made to it in accordance with sub-paragraph (3)(c).
- (5) If the FSA makes the proposed rules, it must publish an account, in general terms, of—
- (a) the representations made to it in accordance with sub-paragraph (3)(c), and
  - (b) its response to them.
- (6) If the rules differ from the draft published under sub-paragraph (2) in a way which is, in the FSA's opinion, significant, the FSA must (in addition to complying with sub-paragraph (5)) publish details of the difference.
- (7) If the FSA acts in accordance with this paragraph, section 155 of FSMA 2000 (which contains corresponding provision) does not apply.
- (8) The FSA may charge a reasonable fee for providing a person with a copy of a draft published under sub-paragraph (2).
- (9) In this paragraph—
- “commencement” means the commencement of paragraph 12 of Schedule 1A to FSMA 2000;
- “the FSA” means the Financial Services Authority;
- “FSMA 2000” means the Financial Services and Markets Act 2000.

## SCHEDULE 2 U.K.

Section 24

### MINOR AND CONSEQUENTIAL AMENDMENTS

#### PART 1 U.K.

##### AMENDMENTS OF FINANCIAL SERVICES AND MARKETS ACT 2000

1 The Financial Services and Markets Act 2000 is amended as follows.

- 2 (1) Section 3 (market confidence) is amended as follows.
- (2) In subsection (1), for “the financial system” substitute “ the UK financial system ”.
- (3) In subsection (2), for “ “The financial system”” substitute “ In this Act “the UK financial system” ”.



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- 3        Until the commencement of the repeal of section 4 (public awareness) by section 2(3) of this Act, section 4 has effect as if—
- (a) the reference in subsection (1) to the financial system were to the UK financial system, and
  - (b) subsection (3) were omitted.
- 4        In section 5 (the protection of consumers), for subsection (3) substitute—
- “ (3) Sections 425A and 425B (meaning of “consumers”) apply for the purposes of this section.”
- 5        In section 10 (the Consumer Panel), for subsection (7) substitute—
- “ (7) Sections 425A and 425B (meaning of “consumers”) apply for the purposes of this section, but the references to consumers in this section do not include consumers who are authorised persons.”
- 6        (1) Section 14 (cases in which the Treasury may arrange independent inquiries) is amended as follows.
- (2) In subsection (2)(a), for “the financial system” substitute “ the UK financial system ”.
  - (3) For subsection (5) substitute—

“ (5) Sections 425A and 425B (meaning of “consumers”) apply for the purposes of this section.”
  - (4) Omit subsection (6).
- 7        In the italic cross-heading before section 64, at the end insert “ *of approved persons* ”.
- 8        (1) Section 66 (performance of regulated activities: disciplinary powers) is amended as follows.
- (2) After subsection (5) insert—

“ (5A) Approval” means an approval given under section 59.”
  - (3) In subsection (7), omit “under section 59”.
  - (4) After that subsection insert—

“ (8) In relation to any time while a suspension is in force under subsection (3) (aa) in relation to part of a function, any reference in section 59 or 63A to the performance of a function includes the performance of part of a function.

(9) If at any time a restriction imposed under subsection (3)(ab) is contravened, the approval in relation to the person concerned is to be treated for the purposes of sections 59 and 63A as if it had been withdrawn at that time.”
- 9        (1) Section 67 (disciplinary measures: procedure and right to refer to Tribunal) is amended as follows.
- (2) In subsection (1), at the end insert “ ; and if it proposes to take action under subsection (3)(aa) or (ab) of that section, it must also give each of the other interested parties a warning notice. ”
  - (3) After subsection (2) insert—

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- “(2A) A warning notice about a proposal—
- (a) to suspend an approval, or
  - (b) to impose a restriction in relation to the performance of a function,
- must state the period for which the suspension or restriction is to have effect.”
- (4) In subsection (4), at the end insert “ ; and if it decides to take action under subsection (3)(aa) or (ab) of that section, it must also give each of the other interested parties a decision notice. ”
- (5) After subsection (5) insert—
- “(5A) A decision notice about—
- (a) the suspension of an approval, or
  - (b) the imposition of a restriction in relation to the performance of a function,
- must state the period for which the suspension or restriction is to have effect.”
- (6) In subsection (7), at the end insert “ ; and if the Authority decides to take action under section 66(3)(aa) or (ab), each of the other interested parties may also refer the matter to the Tribunal. ”
- (7) After that subsection insert—
- “(8) Approval” means an approval given under section 59.
- (9) “Other interested parties”, in relation to an approved person (“A”), are—
- (a) the person on whose application the approval was given (“B”); and
  - (b) the person by whom A's services are retained, if not B.
- The reference in this subsection to an approved person has the same meaning as in section 64.”
- 10 (1) Section 69 (statement of policy) is amended as follows.
- (2) In subsection (1), for paragraphs (a) and (b) substitute—
- “(a) the imposition of penalties, suspensions or restrictions under section 66;
  - (b) the amount of penalties under that section; and
  - (c) the period for which suspensions or restrictions under that section are to have effect.”
- (3) In subsection (2)—
- (a) in the opening words, after “should be” insert “ , or what the period for which a suspension or restriction is to have effect should be, ”, and
  - (b) in paragraph (c), for “the person on whom the penalty is to be imposed” substitute “ the person against whom action is to be taken ”.
- 11 In section 138 (general rule-making power), omit subsections (3) and (7) to (9).
- 12 In section 150(4) (actions for damages), after paragraph (a) (but before the “or” at the end of it) insert—
- “(aa) rules under section 131B (short selling rules);”.
- 13 In section 155(9) (consultation: exception to general rule that cost benefit analysis required), after paragraph (d) insert—

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- “(e) paragraph 12 of Schedule 1A.”
- 14 In section 157 (guidance), after subsection (3) insert—
- “(3A) Subsection (3) also applies in relation to guidance which the Authority proposes to give to persons generally, or to a class of person, in relation to rules under section 131B (short selling rules) to which those persons are subject.”
- 15 In section 165 (FSA's power to require information), in the heading, at the end insert “: **authorised persons etc**”.
- 16 (1) Section 168 (appointment of persons to carry out investigations in particular cases) is amended as follows.
- (2) In subsection (4), in paragraph (c), for “an authorised person” substitute “a person”.
- (3) In that subsection, after paragraph (h) insert—
- “(ha) a person may have performed a controlled function without approval for the purposes of section 63A;”.

#### Commencement Information

- I2** Sch. 2 para. 16 wholly in force at 8.6.2010; Sch. 2 para. 16(1)(2) in force at Royal Assent and Sch. 2 para. 16(3) in force at 8.6.2010 see s. 26(1)(1)(2)(e)

- 17 In section 176(11)(a) (entry of premises under warrant), after “165” insert “, 165A, 169A”.
- 18 (1) Section 207 (proposal to take disciplinary measures) is amended as follows.
- (2) In subsection (1), omit the “or” before paragraph (b) and at the end of that paragraph insert “or
- (c) to suspend a permission of an authorised person or impose a restriction in relation to the carrying on of a regulated activity by an authorised person (under section 206A);”.
- (3) At the end insert—
- “(4) A warning notice about a proposal to suspend a permission or impose a restriction must state the period for which the suspension or restriction is to have effect.”
- 19 (1) Section 208 (decision notice) is amended as follows.
- (2) In subsection (1), omit the “or” before paragraph (b) and at the end of that paragraph insert “or
- (c) to suspend a permission or impose a restriction under section 206A (whether or not in the manner proposed);”.
- (3) After subsection (3) insert—
- “(3A) In the case of a suspension or restriction, the decision notice must state the period for which the suspension or restriction is to have effect.”
- (4) In subsection (4), omit the “or” before paragraph (b) and at the end of that paragraph insert “or

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- (c) suspend a permission of an authorised person, or impose a restriction in relation to the carrying on of a regulated activity by an authorised person, under section 206A.”.
- 20 (1) Section 210 (statements of policy) is amended as follows.
- (2) In subsection (1), for paragraphs (a) and (b) substitute—
- “(a) the imposition of penalties, suspensions or restrictions under this Part;
- (b) the amount of penalties under this Part; and
- (c) the period for which suspensions or restrictions under this Part are to have effect.”
- (3) In subsection (2)—
- (a) in the opening words, after “should be” insert “, or what the period for which a suspension or restriction is to have effect should be, ”, and
- (b) in paragraph (c), for “the person on whom the penalty is to be imposed” substitute “ the person against whom action is to be taken ”.
- (4) In subsection (7), after “206” insert “ or 206A ”.
- 21 In section 212(2) (the scheme manager), after “those functions” insert “ and the functions conferred on it by or under Part 15A ”.

#### Commencement Information

**I3** Sch. 2 para. 21 in force at 12.10.2010 by S.I. 2010/2480, art. 2(f)

- 22 In section 219(3A) (scheme manager's power to require information), for “applying regulations under section 214B(3) above” substitute “ determining the matters mentioned in section 214D(2)(a) and (b) above ”.
- 23 In section 221A(3) (delegation of functions of FSCS manager), after “management expenses of the scheme manager” insert “ except where the function in question is one under Part 15A ”.

#### Commencement Information

**I4** Sch. 2 para. 23 in force at 12.10.2010 by S.I. 2010/2480, art. 2(f)

- 24 (1) Section 223 (FSCS manager's management expenses) is amended as follows.
- (2) In subsection (3), in paragraph (c), after “214B” insert “ or 214D ”.
- (3) After that paragraph insert—
- “(d) under Part 15A.”

#### Commencement Information

**I5** Sch. 2 para. 24 partly in force; Sch. 2 para. 24(1)(2) in force at Royal Assent see s. 26(1)(l)

**I6** Sch. 2 para. 24(3) in force at 12.10.2010 by S.I. 2010/2480, art. 2(f)

- 25 (1) Section 224A (functions under the Banking Act 2009) is amended as follows.

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- (2) The existing provision becomes subsection (1) of that section.
- (3) After that subsection insert—
- “**(2)** Any payment required to be made by the scheme manager by virtue of section 61 of that Act (special resolution regime: compensation) is to be treated for the purposes of this Part as an expense under the compensation scheme.”
- 26 In section 348(5)(d) (restrictions on disclosure of confidential information by Authority etc), after “a person appointed” insert “ to collect or update information under section 139E or ”.
- 27 In section 354 (FSA's duty to co-operate with others), after subsection (1A) insert—
- “**(1B)** In pursuing its financial stability objective, the Authority must take such steps as it considers appropriate to co-operate with other relevant bodies (including the Treasury and the Bank of England).”
- 28 In section 391 (publication), for subsection (11) substitute—
- “**(11)** Section 425A (meaning of “consumers”) applies for the purposes of this section.”
- 29 (1) Section 392 (warning and decision notices: third party rights and access to evidence) is amended as follows.
- (2) In paragraph (a)—
- (a) after “63(3),” insert “ 63B(1), ”, and
- (b) after “126(1),” insert “ 131H(1), ”.
- (3) In paragraph (b)—
- (a) after “63(4),” insert “ 63B(3), ”, and
- (b) after “127(1),” insert “ 131H(4), ”.
- 30 After section 415 insert—

#### *“Powers of the Authority*

#### **415A Powers of the Authority**

Any power which the Authority has under any provision of this Act is not limited in any way by any other power which it has under any other provision of this Act.”

- 31 In section 417(1) (definitions), after the definition of “UK authorised person” (but before the “and” at the end of it) insert—
- ““the UK financial system” has the meaning given in section 3;”.
- 32 After section 425 insert—

#### **“425A Consumers: regulated activities etc carried on by authorised persons**

- (1) This section has effect for the purposes of the provisions of this Act which apply this section.

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- (2) “Consumers” means persons who—
- (a) use, have used or may use any of the services within subsection (3); or
  - (b) have relevant rights or interests in relation to any of those services.
- (3) The services within this subsection are services provided by—
- (a) authorised persons in carrying on regulated activities;
  - (b) authorised persons who are investment firms, or credit institutions, in providing relevant ancillary services; or
  - (c) persons acting as appointed representatives.
- (4) A person (“P”) has a “relevant right or interest” in relation to any services within subsection (3) if P has a right or interest—
- (a) which is derived from, or is otherwise attributable to, the use of the services by others; or
  - (b) which may be adversely affected by the use of the services by persons acting on P's behalf or in a fiduciary capacity in relation to P.
- (5) If a person is providing a service within subsection (3) as a trustee, the persons who are, have been or may be beneficiaries of the trust are to be treated as persons who use, have used or may use the service.
- (6) A person who deals with another person (“A”) in the course of A providing a service within subsection (3) is to be treated as using the service.
- (7) In this section—
- “credit institution” means—
- (a) a credit institution authorised under the banking consolidation directive; or
  - (b) an institution which would satisfy the requirements for authorisation as a credit institution under that directive if it had its registered office (or if does not have one, its head office) in an EEA State;
- “relevant ancillary service” means any service of a kind mentioned in Section B of Annex I to the markets in financial instruments directive the provision of which does not involve the carrying on of a regulated activity.

#### **425B Consumers: regulated activities carried on by others**

- (1) This section has effect for the purposes of the provisions of this Act which apply this section.
  - (2) “Consumers” means persons who, in relation to regulated activities carried on otherwise than by authorised persons, would be consumers as defined by section 425A if the activities were carried on by authorised persons.”
- 33 (1) Section 429 (Parliamentary control of statutory instruments) is amended as follows.
- (2) In subsection (1)(a)—
- (a) omit “404”, and
  - (b) after “236(5),” insert “ 404G ”.

*Status: Point in time view as at 12/10/2010.*

*Changes to legislation: There are currently no known outstanding effects for the Financial Services Act 2010. (See end of Document for details)*

(3) In subsection (2), after “214B” insert “ , 214D ”.

(4) In subsection (8), after “one made under section” insert “ 165A(2)(d) or ”.

#### Commencement Information

**I7** Sch. 2 para. 33 partly in force; Sch. 2 para. 33(1)(3) in force at Royal Assent and Sch. 2 para. 33(4) in force at 8.6.2010 see s. 26(1)(l)(2)(e)

**I8** Sch. 2 para. 33(2) in force at 12.10.2010 by S.I. 2010/2480, art. 2(f)

34 (1) Schedule 1 (general provision about the FSA) is amended as follows.

(2) In paragraph 5(2)(a), after “paragraph 1(2)(a) to (d)” insert “ or in determining or reviewing its strategy in relation to the financial stability objective ”.

(3) After paragraph 19A insert—

*“Amounts required by rules to be paid to the Authority*

19B Any amount (other than a fee) which is required by rules to be paid to the Authority may be recovered as a debt due to the Authority.”

35 (1) In Schedule 4 (treaty rights), paragraph 1 is amended as follows.

(2) The existing provision becomes sub-paragraph (1) of that paragraph.

(3) In that sub-paragraph, omit the definition of “consumers”.

(4) After that sub-paragraph insert—

“(2) Section 425A (meaning of “consumers”) applies for the purposes of this Schedule.”

## PART 2 U.K.

### AMENDMENTS OF OTHER LEGISLATION

PROSPECTIVE

#### *Consumer Credit Act 1974*

36 In section 25(2A)(b) of the Consumer Credit Act 1974 (evidence as to whether a licensee is a fit person), after sub-paragraph (i) insert—

“(ia) paragraph 13 of Schedule 1A to the Financial Services and Markets Act 2000;”.

#### *Contracting Out (Functions Relating to National Savings) Order 1998*

37 In article 3 of the Contracting Out (Functions Relating to National Savings) Order 1998 (contracting out of functions), after paragraph (2) insert—

*Status: Point in time view as at 12/10/2010.*

*Changes to legislation: There are currently no known outstanding effects for the Financial Services Act 2010. (See end of Document for details)*

“(3) Any function conferred on the Director under rules made under section 38(7) of the Administration of Justice Act 1982 (court funds rules) may be exercised by, or by employees of, such person (if any) as may be authorised in that behalf by the Director.”

*Financial Services and Markets Act 2000 (Markets in Financial Instruments) (Modification of Powers) Regulations 2006*

38 In the Financial Services and Markets Act 2000 (Markets in Financial Instruments) (Modification of Powers) Regulations 2006, omit regulation 3(b)(ii) (which made an amendment of the Financial Services and Markets Act 2000 superseded by this Act).

*Banking Act 2009*

39 The Banking Act 2009 is amended as follows.

40 In section 1(6) (table describing provisions of Part 1), in the entry relating to sections 33 to 48, for “48” substitute “48A”.

41 In section 61(2)(b) (sources of compensation), for the words from “subject” to “below),” substitute “subject to section 214C of the Financial Services and Markets Act 2000 (limit on amount of special resolution regime payments),”.

42 In section 83(2)(h) (supplemental), omit “- inserted by section 171 below”.

43 Omit section 171 (which made amendments of the Financial Services and Markets Act 2000 superseded by this Act).

44 In section 183(c) (interpretation of expressions for purposes of Part 5), omit “to “the financial system””.

45 In section 204(1)(a) (inter-bank payment systems: information), after “order” insert “or an order under section 206A”.

46 Omit section 248 (which made an amendment of the Financial Services and Markets Act 2000 superseded by this Act).

47 In section 250(2) (collection of information by FSA relevant to financial stability)

(a) after “section 165” insert “or 165A”, and

(b) after “as qualified” insert “, in the case of the section 165 power,”.

48 (1) Section 259 (statutory instruments) is amended as follows.

(2) In the table in subsection (3), omit the entry relating to section 171.

(3) In that table, after the entry relating to section 204 insert—

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“206A	Services forming part of recognised inter-bank payment systems	Draft affirmative resolution”
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(4) In subsection (5), omit paragraph (o) and the “and” before it.



**Status:**

Point in time view as at 12/10/2010.

**Changes to legislation:**

There are currently no known outstanding effects for the Financial Services Act 2010.