

Status: Point in time view as at 01/04/2013.

Changes to legislation: Financial Services Act 2012, SCHEDULE 10 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 10 **U.K.**

Section 38

THE FINANCIAL SERVICES COMPENSATION SCHEME

- 1 Part 15 of FSMA 2000 (the Financial Services Compensation Scheme) is amended as follows.

Commencement Information

- I1** Sch. 10 para. 1 in force at 24.1.2013 for specified purposes by S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
I2 Sch. 10 para. 1 in force at 1.4.2013 in so far as not already in force by S.I. 2013/423, art. 3, Sch.

- 2 (1) Section 212 (the scheme manager) is amended as follows.
- (2) For subsections (1) and (2) substitute—
- “(1) The scheme manager” means the body corporate established by the Financial Services Authority under this section as originally enacted.
- (2) The regulators must take such steps as are necessary to ensure that the scheme manager is, at all times, capable of exercising the functions conferred on it by or under this Part or Part 15A.”
- (3) In subsections (4) and (5) for “Authority” substitute “ regulators ”.
- (4) In subsection (7), omit “board members,”.

Commencement Information

- I3** Sch. 10 para. 2 in force at 24.1.2013 for specified purposes by S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
I4 Sch. 10 para. 2 in force at 1.4.2013 in so far as not already in force by S.I. 2013/423, art. 3, Sch.

- 3 (1) Section 213 (the compensation scheme) is amended as follows.
- (2) In each place, for “Authority” substitute “ regulators ”.
- (3) In subsection (1)—
- (a) after “rules” insert “ made in accordance with an order under subsection (1A) ”, and
- (b) for the words from “cases where” to the end substitute “cases where—
- (a) relevant persons are unable, or likely to be unable, to satisfy claims against them, or
- (b) persons who have assumed responsibility for liabilities arising from acts or omissions of relevant persons (“successors”) are unable, or likely to be unable, to satisfy claims against the successors that are based on those acts or omissions.”

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(4) After subsection (1) insert—

“(1A) The Treasury must by order specify—

- (a) the cases in which the FCA may, or may not, make rules under subsection (1), and
- (b) the cases in which the PRA may, or may not, make rules under that subsection.”

(5) In subsection (2), after “rules” insert “ (taken together) ”.

(6) In subsection (9)(a), after “against him” insert “ , or against a successor falling within subsection (1)(b), ”.

Commencement Information

- I5** Sch. 10 para. 3 in force at 24.1.2013 for specified purposes by S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- I6** Sch. 10 para. 3 in force at 24.1.2013 for specified purposes by S.I. 2013/113, art. 2(1)(b), Sch. Pt. 2
- I7** Sch. 10 para. 3 in force at 1.4.2013 in so far as not already in force by S.I. 2013/423, art. 3, Sch.

4 In section 214 (general provisions of the scheme), in subsection (1), after paragraph (a) insert—

“(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;”.

Commencement Information

- I8** Sch. 10 para. 4 in force at 24.1.2013 for specified purposes by S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- I9** Sch. 10 para. 4 in force at 1.4.2013 in so far as not already in force by S.I. 2013/423, art. 3, Sch.

5 In section 215 (rights of the scheme in insolvency), for “Authority”, in each place, substitute “ regulators ”.

Commencement Information

- I10** Sch. 10 para. 5 in force at 24.1.2013 for specified purposes by S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- I11** Sch. 10 para. 5 in force at 1.4.2013 in so far as not already in force by S.I. 2013/423, art. 3, Sch.

6 In section 217 (insurers in financial difficulties), in subsection (5), for “Authority” substitute “ either regulator or both regulators ”.

Commencement Information

- I12** Sch. 10 para. 6 in force at 24.1.2013 for specified purposes by S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- I13** Sch. 10 para. 6 in force at 1.4.2013 in so far as not already in force by S.I. 2013/423, art. 3, Sch.

7 After section 217 insert—

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“Relationship with the regulators

217A Co-operation

- (1) Each regulator and the scheme manager must take such steps as they consider appropriate to co-operate with each other in the exercise of their functions under this Part and Part 15A.
- (2) Each regulator and the scheme manager must prepare and maintain a memorandum describing how that regulator and the scheme manager intend to comply with subsection (1).
- (3) The scheme manager must ensure that the memoranda as currently in force are published in the way appearing to it to be best calculated to bring them to the attention of the public.”

Commencement Information

I14 Sch. 10 para. 7 in force at 24.1.2013 for specified purposes by S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3

I15 Sch. 10 para. 7 in force at 1.4.2013 in so far as not already in force by S.I. 2013/423, art. 3, Sch.

8 For the italic heading before section 218 substitute “ *Annual plan and report* ”.

Commencement Information

I16 Sch. 10 para. 8 in force at 24.1.2013 for specified purposes by S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3

I17 Sch. 10 para. 8 in force at 1.4.2013 in so far as not already in force by S.I. 2013/423, art. 3, Sch.

9 Before section 218 insert—

Annual plan

- “217~~B~~) The scheme manager must in respect of each of its financial years prepare an annual plan.
- (2) The plan must be prepared before the start of the financial year.
 - (3) An annual plan in respect of a financial year must make provision about the use of the resources of the scheme manager.
 - (4) The plan may include material relating to periods longer than the financial year in question.
 - (5) Before preparing an annual plan, the scheme manager must consult such persons (if any) as the scheme manager considers appropriate.
 - (6) The scheme manager must publish each annual plan in the way it considers appropriate.”

Commencement Information

I18 Sch. 10 para. 9 in force at 24.1.2013 for specified purposes by S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3

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119 Sch. 10 para. 9 in force at 1.4.2013 in so far as not already in force by S.I. 2013/423, art. 3, Sch.

- 10 (1) Section 218 (annual report) is amended as follows.
- (2) In subsections (1) and (2)(b), for “Authority” substitute “ regulators ”.
- (3) At the end insert—
- “(4) The Treasury may—
- (a) require the scheme manager to comply with any provisions of the Companies Act 2006 about accounts and their audit which would not otherwise apply to it, or
- (b) direct that any such provision of that Act is to apply to the scheme manager with such modifications as are specified in the direction.
- (5) Compliance with any requirement under subsection (4)(a) or (b) is enforceable by injunction or, in Scotland, an order for specific performance under section 45 of the Court of Session Act 1988.
- (6) Proceedings under subsection (5) may be brought only by the Treasury.”

Commencement Information

I20 Sch. 10 para. 10 in force at 24.1.2013 for specified purposes by S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3

I21 Sch. 10 para. 10 in force at 1.4.2013 in so far as not already in force by S.I. 2013/423, art. 3, Sch.

11 After section 218 insert—

“218ZA Audit of accounts

- (1) The scheme manager must send a copy of its annual accounts to the Comptroller and Auditor General and the Treasury as soon as is reasonably practicable.
- (2) The Comptroller and Auditor General must—
- (a) examine, certify and report on accounts received under this section, and
- (b) send a copy of the certified accounts and the report to the Treasury.
- (3) The Treasury must lay the copy of the certified accounts and the report before Parliament.
- (4) The scheme manager must send a copy of the certified accounts and the report to the regulators.
- (5) Except as provided by section 218(4), the scheme manager is exempt from the requirements of Part 16 of the Companies Act 2006 (audit), and its balance sheet must contain a statement to that effect.
- (6) In this section “annual accounts” has the meaning given by section 471 of the Companies Act 2006.”

Commencement Information

I22 Sch. 10 para. 11 in force at 24.1.2013 for specified purposes by S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3

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I23 Sch. 10 para. 11 in force at 1.4.2013 in so far as not already in force by S.I. 2013/423, art. 3, Sch.

- 12 (1) Section 218A (power to require information) is amended as follows.
- (2) In subsection (1)—
- (a) for “The Authority”, in the first place, substitute “ Each regulator ”, and
- (b) for “the Authority”, in the second and third place, substitute “ that regulator ”.
- (3) In subsections (2) and (4), for “Authority” substitute “ regulator ”.
- (4) In subsection (5), for “Authority's” substitute “regulator's”.
- (5) In the heading, for “Authority's” substitute “Regulators”.

Commencement Information

- I24** Sch. 10 para. 12 in force at 24.1.2013 for specified purposes by S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- I25** Sch. 10 para. 12 in force at 1.4.2013 in so far as not already in force by S.I. 2013/423, art. 3, Sch.

- 13 In section 221 (powers of court), in subsection (2), after “director or” insert “ other ”.

Commencement Information

- I26** Sch. 10 para. 13 in force at 24.1.2013 for specified purposes by S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- I27** Sch. 10 para. 13 in force at 1.4.2013 in so far as not already in force by S.I. 2013/423, art. 3, Sch.

- 14 In section 222 (statutory immunity), in subsection (1), omit “board member”.

Commencement Information

- I28** Sch. 10 para. 14 in force at 24.1.2013 for specified purposes by S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- I29** Sch. 10 para. 14 in force at 1.4.2013 in so far as not already in force by S.I. 2013/423, art. 3, Sch.

- 15 In section 224 (scheme manager's power to inspect documents), in subsection (1), after “relevant person,” insert “ or a successor falling within section 213(1)(b), ”.

Commencement Information

- I30** Sch. 10 para. 15 in force at 24.1.2013 for specified purposes by S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3
- I31** Sch. 10 para. 15 in force at 1.4.2013 in so far as not already in force by S.I. 2013/423, art. 3, Sch.

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