

Status: Point in time view as at 08/09/2018.

Changes to legislation: There are currently no known outstanding effects for the Financial Guidance and Claims Act 2018. (See end of Document for details)

SCHEDULES

VALID FROM 01/10/2018

SCHEDULE 1

Section 1

THE SINGLE FINANCIAL GUIDANCE BODY

Status

- 1 (1) The single financial guidance body is not to be regarded—
- (a) as a servant or agent of the Crown, or
 - (b) as enjoying any status, immunity or privilege of the Crown.
- (2) The members and employees of the single financial guidance body are not to be regarded as Crown servants.

Members: general

- 2 (1) The single financial guidance body is to consist of—
- (a) a chair (who is to be a non-executive member of the body) appointed by the Secretary of State,
 - (b) other non-executive members appointed by the Secretary of State, and
 - (c) executive members, appointed in accordance with paragraph 6.
- (2) The Secretary of State and the non-executive members must ensure, so far as practicable, that the number of non-executive members is at all times greater than the number of executive members.

Non-executive members: tenure

- 3 (1) The non-executive members hold and vacate office in accordance with the terms of their appointment (subject to this Schedule).
- (2) A non-executive member may resign by notice in writing to the Secretary of State.
- (3) The Secretary of State may remove a non-executive member from office by notice if the Secretary of State is satisfied that the member—
- (a) has a conflict of interest (see paragraph 4),
 - (b) has at any time been the subject of a bankruptcy order or has had his or her estate sequestrated,
 - (c) has at any time made a composition or arrangement with, or granted a trust deed for, his or her creditors,
 - (d) has at any time been convicted of any offence involving dishonesty or deception,
 - (e) is unfit for office by reason of misconduct,

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- (f) has failed to comply with the terms of his or her appointment,
- (g) has without reasonable excuse failed to discharge the functions of his or her office, or
- (h) is otherwise incapable of discharging, or unfit or unwilling to discharge, the functions of his or her office.

Non-executive members: conflicts of interest

- 4
- (1) Before appointing a person to be a non-executive member, the Secretary of State must be satisfied that the person does not have a conflict of interest.
 - (2) A non-executive member, or a person the Secretary of State proposes to appoint as a non-executive member, must provide the Secretary of State with such information as the Secretary of State requires from the person in order to determine whether the person has a conflict of interest (whether for the purposes of sub-paragraph (1) or paragraph 3(3)(a)).
 - (3) In this Schedule, “conflict of interest”, in relation to a person, means a financial or other interest which is likely to affect prejudicially the discharge by the person of his or her functions as a member or employee of the single financial guidance body, or as a member of a committee or sub-committee of the single financial guidance body.

Non-executive members: remuneration etc

- 5
- (1) The single financial guidance body may—
 - (a) pay to the non-executive members such remuneration, and
 - (b) pay to or in respect of the non-executive members such sums by way of or in respect of allowances and gratuities,
 as the Secretary of State may determine.
 - (2) Where—
 - (a) a person whose term of office as a non-executive member has not expired ceases to hold that office, and
 - (b) the Secretary of State thinks there are special circumstances that make it right for the person to receive compensation,
 the single financial guidance body may make a payment to the person of such amount as the Secretary of State may determine.

Executive members: appointment

- 6
- (1) Before the date on which the single financial guidance body first starts to provide services to members of the public, the Secretary of State must appoint—
 - (a) a person to be the chief executive of the single financial guidance body, and
 - (b) other persons to be the executive members of the body.
 - (2) Appointments of executive members (including the chief executive) made on or after the date on which the single financial guidance body first starts to provide services to members of the public are to be made by the single financial guidance body, with the approval of the Secretary of State.

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Executive members: terms and conditions

- 7
- (1) The executive members are to be employees of the single financial guidance body.
 - (2) Executive members appointed under paragraph 6(1) are to be employed by the single financial guidance body on such terms and conditions, including those as to remuneration, as the Secretary of State may determine.
 - (3) Executive members appointed under paragraph 6(2) are to be employed by the single financial guidance body on such terms and conditions, including those as to remuneration, as the body may determine, with the approval of the Secretary of State.
 - (4) The single financial guidance body must—
 - (a) pay to or in respect of the executive members such pensions, allowances and gratuities, or
 - (b) provide and maintain for them such pension schemes (whether contributory or not),as the body may determine, with the approval of the Secretary of State.

Other staff: appointment, terms and conditions

- 8
- The single financial guidance body may appoint other employees on such terms and conditions, including those as to remuneration and pension arrangements, as the single financial guidance body may determine.

Committees

- 9
- (1) The single financial guidance body may—
 - (a) establish a committee for the purpose of discharging any of its functions, and
 - (b) establish a committee for the purpose of giving advice to the body about matters relating to the discharge of its functions.
 - (2) A committee may consist of or include persons who are neither members nor employees of the single financial guidance body.
 - (3) But a committee that discharges any functions of the single financial guidance body, by virtue of sub-paragraph (1)(a) or paragraph 10, must include at least one person who is either a member or an employee of the single financial guidance body.
 - (4) Where a person who is neither a member nor an employee of the single financial guidance body is a member of a committee, the body may pay to that person such remuneration and expenses as it may determine.
 - (5) A committee may establish a sub-committee.
 - (6) A sub-committee must include at least one person who is a member of the committee that established it.
 - (7) A sub-committee that discharges any functions of the single financial guidance body must include at least one person who is either a member or an employee of the single financial guidance body.

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Delegation

- 10 (1) The single financial guidance body may delegate any function conferred on it to—
- (a) a committee,
 - (b) a member, or
 - (c) an employee.
- (2) A committee may delegate any function conferred on it to—
- (a) a sub-committee,
 - (b) a member of the committee,
 - (c) a member of the single financial guidance body, or
 - (d) an employee of the single financial guidance body.

Procedure etc

- 11 (1) The single financial guidance body may regulate its own procedures (including quorum) and the procedures of its committees and sub-committees.
- (2) The single financial guidance body's procedures must include arrangements for dealing with conflicts of interests of members, employees and members of committees and sub-committees, which must oblige a person who has or may have a conflict of interest—
- (a) to declare any financial or other personal interest relevant to the exercise of a function, and
 - (b) to withdraw from the exercise of the function, unless the single financial guidance body directs otherwise, being satisfied that the interest will not influence the exercise of the function.

For the meaning of “conflict of interest” in this Schedule, see paragraph 4(3).

- (3) The single financial guidance body must publish details of its procedures and the procedures of its committees and sub-committees.
- (4) The single financial guidance body must make arrangements for the keeping of proper records—
- (a) of its proceedings,
 - (b) of the proceedings of its committees and sub-committees,
 - (c) of anything done by a person to whom functions have been delegated (see paragraph 10).

Validity of acts

- 12 A defect in appointment does not affect the validity of things done by a member of the single financial guidance body.

Authentication of seal

- 13 (1) The application of the single financial guidance body's seal must be authenticated by the signature of—
- (a) a member of the single financial guidance body, or
 - (b) some other person who has been authorised by the single financial guidance body for that purpose (whether generally or specifically).

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(2) A document appearing to be duly sealed or signed on behalf of the single financial guidance body is to be received in evidence and, unless the contrary is proved, is to be taken to be duly signed or sealed.

(3) This paragraph does not apply to Scotland.

Reports and accounts

14 (1) As soon as reasonably practicable after the end of each financial year, the single financial guidance body must send to the Secretary of State a report on the exercise of the single financial guidance body's functions during that year.

(2) The report must include—

- (a) a report on the proceedings of the single financial guidance body during the year, and
- (b) such other information as the Secretary of State may direct.

(3) On receiving the report, the Secretary of State must lay it before Parliament.

(4) The single financial guidance body must—

- (a) keep proper accounting records, and
- (b) prepare a statement of accounts in respect of each financial year.

(5) The statement must be in such form as the Secretary of State may direct.

(6) The single financial guidance body must send a copy of the statement of accounts to—

- (a) the Secretary of State, and
- (b) the Comptroller and Auditor General,

within the time period directed by the Secretary of State.

(7) The Comptroller and Auditor General must—

- (a) examine, certify and report on the statement of accounts, and
- (b) send a copy of the report to the Secretary of State.

(8) The Secretary of State must lay before Parliament the statement of accounts and the report of the Comptroller and Auditor General.

(9) In this paragraph, “financial year” means—

- (a) the period beginning with the day on which this Schedule comes into force and ending with the following 31st March, and
- (b) every subsequent period of 12 months ending with 31st March.

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VALID FROM 01/10/2018

SCHEDULE 2

Section 1

TRANSFER SCHEMES UNDER SECTION 1

Power to make transfer schemes

- 1
- (1) The Secretary of State may make one or more schemes providing for the transfer of designated property, rights and liabilities of the Secretary of State and the Pensions Advisory Service Limited to the single financial guidance body.
 - (2) The Secretary of State may make one or more schemes providing for the transfer of designated property, rights and liabilities of the consumer financial education body to the single financial guidance body and the devolved authorities.
 - (3) The rights and liabilities that may be transferred by a scheme include rights and liabilities under a contract of employment.
 - (4) For that purpose—
 - (a) an individual who holds employment in the civil service of the State is to be treated as employed by virtue of a contract of employment; and
 - (b) the terms on which the individual holds that employment are to be regarded as constituting the terms of that contract.
 - (5) In this Schedule—
 - “designated” means specified in, or determined in accordance with, the scheme;
 - “property” includes interests of any description.

Contents of a scheme

- 2
- (1) A scheme under this Schedule may, in particular, make provision—
 - (a) for anything done by or in relation to the transferor in connection with any property, rights or liabilities transferred by the scheme to be treated as done, or to be continued, by or in relation to the transferee;
 - (b) for references (however expressed) to the transferor in any agreement, instrument or other document relating to property, rights or liabilities transferred by the scheme to be treated as references to the transferee;
 - (c) about the continuation of legal proceedings;
 - (d) for transferring property, rights or liabilities which could not otherwise be transferred or assigned;
 - (e) for transferring property, rights or liabilities irrespective of any requirement for consent which would otherwise apply;
 - (f) for preventing a right of pre-emption, right of reverter, right of forfeiture, right to compensation or other similar right from arising or becoming exercisable as a result of the transfer of property, rights or liabilities;
 - (g) for dispensing with any formality in relation to the transfer of property, rights or liabilities by the scheme;

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- (h) for transferring property acquired, or rights or liabilities arising, after the scheme is made but before it takes effect;
- (i) for apportioning property, rights or liabilities;
- (j) for creating rights, or imposing liabilities, in connection with property, rights or liabilities transferred by the scheme;
- (k) for requiring the transferee to enter into any agreement of any kind, or for a purpose, specified in or determined in accordance with the scheme;
- (l) that is the same as or similar to provision made by the Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246), if those Regulations do not apply to the transfer.

(2) Sub-paragraph (1)(b) does not apply to references in any of the following—

- (a) an Act of Parliament;
- (b) an Act of the Scottish Parliament;
- (c) an Act or Measure of the National Assembly for Wales;
- (d) Northern Ireland legislation;
- (e) subordinate legislation within the meaning of the Interpretation Act 1978 (see section 21(1) of that Act);
- (f) an instrument made under legislation of the kind mentioned in paragraph (b), (c) or (d).

(3) In sub-paragraph (1)(b), “agreement” includes an agreement that is not in writing.

Modifications to a scheme

- 3
- (1) The Secretary of State may modify a scheme made under this Schedule; but a modification relating to a transfer that has taken effect may be made only with the agreement of the person (or persons) affected by the modification.
 - (2) A modification takes effect from such date as the Secretary of State may specify (which may be the date when the original scheme came into effect).

Supplementary

- 4
- A scheme may—
- (a) contain incidental, supplementary and consequential provisions;
 - (b) make transitory or transitional provision or savings;
 - (c) make different provision for different purposes;
 - (d) make provision subject to exceptions.

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SCHEDULE 3

Section 25

MINOR AND CONSEQUENTIAL AMENDMENTS RELATING TO PART 1

VALID FROM 01/10/2018

Public Records Act 1958 (c. 51)

- 1 In Schedule 1 to the Public Records Act 1958 (definition of public records), in paragraph 3, in Part 2 of the Table, at the appropriate place insert— “ The single financial guidance body. ”

VALID FROM 01/10/2018

Parliamentary Commissioner Act 1967 (c. 13)

- 2 In Schedule 2 to the Parliamentary Commissioner Act 1967 (departments etc subject to investigation), at the appropriate place insert— “ The single financial guidance body. ”

VALID FROM 01/10/2018

House of Commons Disqualification Act 1975 (c. 24)

- 3 In Part 2 of Schedule 1 to the House of Commons Disqualification Act 1975 (bodies of which all members are disqualified), at the appropriate place insert— “ The single financial guidance body. ”

VALID FROM 01/10/2018

Northern Ireland Assembly Disqualification Act 1975 (c. 25)

- 4 In Part 2 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (bodies of which all members are disqualified), at the appropriate place insert— “ The single financial guidance body. ”

Financial Services and Markets Act 2000 (c. 8)

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

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- 6 In section 1A(6) (functions of the FCA), after paragraph (c) insert—
 “(cza) the Financial Guidance and Claims Act 2018,”.

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VALID FROM 01/01/2019

7 In section 1B (FCA's general duties), omit subsection (7A).

VALID FROM 06/04/2021

8 In section 1C (the consumer protection objective), in subsection (2), omit paragraph (g).

VALID FROM 01/01/2019

9 In section 1M (FCA's general duty to consult), omit the words “and its duties under section 333O”.

VALID FROM 01/01/2019

10 In section 1S (reviews), in subsection (3) omit the words “or its duties under section 333O(1) and (2)(a)”.

VALID FROM 01/10/2018

11 In section 3R (arrangements for provision of services), in subsection (4), for paragraph (a) substitute—
“(a) the single financial guidance body (see Part 1 of the Financial Guidance and Claims Act 2018),”.

VALID FROM 06/04/2021

12 Omit section 3S (the consumer financial education body).

13 In section 138F (notification of rules), in subsection (2) (exceptions to notification)

- (a) after “, 137FBA” insert “, 137SA ”;
- (b) before “, 137SA” (inserted by paragraph (a)), insert “, 137FC ”;
- (c) after “, 137SA” insert “, 137SB ”;
- (d) omit “, 333Q, 333R”.

Commencement Information

II Sch. 3 para. 13 partly in force; Sch. 3 para. 13(a) in force at Royal Assent, see s. 37(1)(e)(ii)

14 (1) Section 138I (consultation on rules by FCA) is amended as follows.

(2) In subsection (6) (exception to requirement to carry out cost benefit analysis)—

- (a) after paragraph (ab) insert—

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- “(ad) section 137SA;”;
 - (b) before paragraph (ad) (inserted by paragraph (a)), insert—
 - “(ac) section 137FC;”;
 - (c) after paragraph (ad) insert—
 - “(ae) section 137SB;”;
 - (d) omit paragraphs (ca), (cb) and (e).
- (3) In subsection (10) (exception to requirement to consult PRA before making rules)—
- (a) after “137FBA” insert “, 137SA ”;
 - (b) before “, 137SA” (inserted by paragraph (a)), insert “, 137FC ”;
 - (c) after “, 137SA” insert “, 137SB ”;
 - (d) omit “, 333Q, 333R”.

Commencement Information

I2 Sch. 3 para. 14 partly in force; Sch. 3 para. 14(1)(2)(a)(3)(a) in force at Royal Assent, see s. 37(1)(e)(iii)

VALID FROM 06/04/2021

- 15 In section 138J (consultation on rules by PRA), in subsection (6), omit paragraph (e).

VALID FROM 01/01/2019

- 16 In section 139A (power of FCA to give guidance), omit subsection (1A).

VALID FROM 01/01/2019

- 17 In section 140A (competition scrutiny: interpretation), in subsection (1), in paragraph (a) of the definition of “regulating provisions”—
- (a) in sub-paragraph (ii), omit “or 333P(9)”;
 - (b) omit sub-paragraphs (v) and (vi).

VALID FROM 01/01/2019

- 18 In section 168 (appointment of persons to carry out investigations), in subsection (2)(a), omit “or 333G”.

VALID FROM 01/01/2019

- 19 Omit Part 20A (sections 333A to 333R; pensions guidance).

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20 In section 429 (Parliamentary control of statutory instruments), in subsection (2), omit “, 333C, 333R”.

21 (1) Schedule 1ZA (the Financial Conduct Authority) is amended as follows.

(2) In paragraph 8 (arrangements for discharging functions)—

(a) in sub-paragraph (3)—

(i) in paragraph (c)(i), for “, 312J or 333K” substitute “ or 312J ”;

(ii) omit paragraph (e);

(b) after sub-paragraph (3), insert—

“(3A) In exercising its functions under sections 9(2) and 10 of the Financial Guidance and Claims Act 2018 (approving and reviewing standards set by single financial guidance body), the FCA must act through its governing body.”;

(c) in sub-paragraph (4), omit “or 333P(9)”.

(3) In paragraph 11 (annual report), in sub-paragraph (1)—

(a) omit paragraph (hb);

(b) omit the “and” at the end of paragraph (i), and after that paragraph insert—

“(ia) how, in its opinion, it has complied with its duties under sections 9(2) and 10 of the Financial Guidance and Claims Act 2018, and”.

(4) In paragraph 21 (financial penalty scheme), in sub-paragraph (2)—

(a) at the end of paragraph (c) insert “ and ”;

(b) omit paragraph (e) (and the word “and” immediately preceding it).

(5) In paragraph 23 (fees)—

(a) in sub-paragraph (1)—

(i) after “sections” insert “ 137SA, ”;

(ii) after “137SA” insert “ , 137SB ”;

(iii) omit “, 333Q, 333R”;

(b) in sub-paragraph (2ZA)—

(i) omit paragraph (a) (and the word “and” immediately following it);

(ii) in paragraph (b), for “sections 333R and 333T” substitute “ section 333T ”;

(iii) after paragraph (b), insert “, and

(c) its functions under section 137SA.”;

(iv) in paragraph (c) (inserted by sub-paragraph (iii)), for “section 137SA” substitute “ sections 137SA and 137SB ”.

Commencement Information

I3 Sch. 3 para. 21 partly in force; Sch. 3 para. 21(1)(5)(a)(i)(b)(iii) in force at Royal Assent, see s. 37(1)(e)(iv)

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VALID FROM 06/04/2021

22 Omit Schedule 1A (further provision about the consumer financial education body).

VALID FROM 01/10/2018

Freedom of Information Act 2000 (c. 36)

23 In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (public authorities: general), at the appropriate place insert—

“The single financial guidance body.”

VALID FROM 01/10/2018

Equality Act 2010 (c. 15)

24 In Part 1 of Schedule 19 to the Equality Act 2010 (public authorities: general), under the heading “Industry, business, finance etc”, at the appropriate place insert—

“The single financial guidance body.”

VALID FROM 06/04/2021

Financial Services Act 2010 (c. 28)

25 The Financial Services Act 2010 is amended as follows.

26 In section 2 (enhancing public understanding of financial matters etc), omit subsections (1) and (6).

27 Omit Schedule 1 (further provision about the consumer financial education body).

VALID FROM 01/10/2018

Financial Services Act 2012 (c. 21)

28 The Financial Services Act 2012 is amended as follows.

VALID FROM 06/04/2021

29 Omit section 45 and Schedule 15 (the consumer financial education body).

30 In section 85 (relevant functions in relation to complaints scheme)—

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- (a) in subsection (2)(a), after “legislative functions” insert “ and its standards review functions”;
- (b) in subsection (4)—
 - (i) in paragraph (c)(i), for “, 312J or 333K” substitute “ or 312J”;
 - (ii) in paragraph (e), omit “or 333P(9)”;
 - (iii) omit paragraph (f).
- (c) After subsection (4) insert—
 - “(4A) For the purposes of subsection (2)(a), the FCA's standards review functions are the FCA's functions under sections 9(2) and 10 of the Financial Guidance and Claims Act 2018 (approving and reviewing standards set by single financial guidance body).”

VALID FROM 01/01/2019

Pension Schemes Act 2015 (c. 8)

- 31 In Schedule 3 to the Pension Schemes Act 2015 (pensions guidance), omit paragraphs 2 to 5, 8(b), 9 to 11, 13 to 15 and 17.

VALID FROM 01/01/2019

Bank of England and Financial Services Act 2016 (c. 14)

- 32 In the Bank of England and Financial Services Act 2016, omit section 32 (amendments to section 333A of FSMA; pensions guidance).

VALID FROM 06/10/2018

SCHEDULE 4

Section 27

REGULATION OF CLAIMS MANAGEMENT SERVICES: TRANSFER SCHEMES

PART 1

APPLICATION AND INTERPRETATION

- 1 This Schedule applies if the Treasury make an order under section 22(1B) of the Financial Services and Markets Act 2000 which has the effect that an activity—
 - (a) becomes a regulated activity for the purposes of that Act, and
 - (b) ceases to be a regulated service under Part 2 of the Compensation Act 2006 (see section 4(2)(e) of that Act).
- 2 In this Schedule—

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“the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act);

“the FCA” means the Financial Conduct Authority;

“the FOS” means the body corporate which administers the ombudsman scheme provided for in Part 16 of the Financial Services and Markets Act 2000 (see section 225 of that Act);

“the OLC” means the Office for Legal Complaints established by section 114 of the Legal Services Act 2007;

“the Regulator” means the person designated under section 5(1) of the Compensation Act 2006 or, if no person is so designated, the Secretary of State.

PART 2

TRANSFER OF PROPERTY AND STAFF FROM THE REGULATOR TO THE FCA

Power of Secretary of State to make transfer schemes

3 The Secretary of State may, with the consent of the FCA, make one or more schemes for the transfer of property, rights and liabilities of the Regulator to the FCA.

Transfer of property, rights and liabilities

4 The following provisions of this Part of this Schedule apply in relation to schemes under paragraph 3 (“transfer schemes”).

5 The property, rights and liabilities which are the subject of a transfer scheme are transferred in accordance with the provisions of the scheme on such day as the scheme may specify.

6 The property, rights and liabilities that may be the subject of a transfer scheme include—

- (a) any that would not otherwise be capable of being transferred or assigned,
- (b) rights and liabilities under a contract of employment, and
- (c) amounts in respect of fees paid under the Compensation (Claims Management Services) Regulations 2006 (S.I. 2006/3322).

7 For the purpose of paragraph 6(b)—

- (a) an individual who holds employment in the civil service of the State is to be treated as employed by virtue of a contract of employment, and
- (b) the terms on which the individual holds that employment are to be regarded as constituting the terms of that contract.

Contents of a transfer scheme

8 (1) A transfer scheme may—

- (a) provide for anything done before the transfer by or in relation to the Regulator in connection with any property, rights or liabilities transferred by the scheme to be treated as having been done by or in relation to the FCA;

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- (b) contain provision for the payment by the FCA of compensation to the Regulator for costs incurred (before or after the transfer) in connection with the transfer or the exercise of functions in relation to the regulation of claims management services;
 - (c) contain provision for the payment of compensation by the FCA to any person whose interests are adversely affected by the transfer scheme;
 - (d) make provision that is the same as or similar to provision made by the Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246), if those Regulations do not apply to the transfer.
- (2) An obligation of the FCA to make a compensation payment or to meet a liability transferred under provision in a transfer scheme is to be treated for the purposes of paragraph 23 of Schedule 1ZA to the Financial Services and Markets Act 2000 (fees) as a qualifying function conferred on the FCA under that Act.

Supplementary

- 9 A transfer scheme may—
- (a) contain supplementary, incidental and consequential provision;
 - (b) make transitory or transitional provision or savings;
 - (c) make different provision for different purposes;
 - (d) make provision subject to exceptions.

Modification of a transfer scheme

- 10 Subject to paragraph 11, the Secretary of State may, with the consent of the FCA, modify a transfer scheme.
- 11 A modification relating to a transfer that has taken effect may be made only with the agreement of the person (or persons) affected by the modification.
- 12 A modification takes effect from such date as the Secretary of State may specify, and that date may be the date when the original scheme came into effect.

PART 3

TRANSFER OF PROPERTY AND STAFF FROM THE OLC TO THE FOS

Power of OLC to make transfer schemes

- 13 The OLC may make one or more schemes for the transfer of property, rights and liabilities of the OLC to the FOS.
- 14 A scheme made under paragraph 13 is not to be capable of coming into force unless it is approved by the Treasury and the Lord Chancellor.
- 15 The OLC may not submit a scheme to the Treasury or the Lord Chancellor for approval under paragraph 14 without the consent of the FOS and the FCA.

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Power of Lord Chancellor to make transfer schemes

- 16 Paragraph 17 applies if the OLC fails to make a scheme under paragraph 13 in circumstances where the Lord Chancellor considers that it is necessary for such a scheme to be made.
- 17 The Lord Chancellor may, with the approval of the Treasury, the OLC, the FOS and the FCA, make a scheme for the transfer of property, rights and liabilities of the OLC to the FOS.

Provision of information and assistance by OLC

- 18 The OLC must provide the Treasury and the Lord Chancellor with all such information and other assistance as either of them may reasonably require for the purposes of, or otherwise in connection with, the exercise of their powers under this Part of this Schedule.
- 19 Paragraph 18 is subject to any express restriction on disclosure imposed by the data protection legislation (ignoring any restriction which allows disclosure if authorised by an enactment).

Transfer of property, rights and liabilities

- 20 The following provisions of this Part of this Schedule apply in relation to schemes under paragraph 13 or 17 (“transfer schemes”).
- 21 The property, rights and liabilities which are the subject of a transfer scheme are transferred in accordance with the provisions of the scheme on such day as the scheme may specify.
- 22 The property, rights and liabilities that may be the subject of a transfer scheme include—
- (a) any that would not otherwise be capable of being transferred or assigned, and
 - (b) rights and liabilities under a contract of employment.

Contents of a transfer scheme

- 23 (1) A transfer scheme may—
- (a) provide for anything done before the transfer by or in relation to the OLC in connection with any property, rights or liabilities transferred by the scheme to be treated as having been done by or in relation to the FOS;
 - (b) contain provision for the payment by the FOS of compensation to the OLC or the Regulator for costs incurred (before or after the transfer) in connection with the transfer or the exercise of functions in relation to claims management services;
 - (c) contain provision for the payment of compensation by the FOS to any person whose interests are adversely affected by the transfer scheme;
 - (d) make provision that is the same as or similar to provision made by the Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246), if those Regulations do not apply to the transfer.
- (2) An obligation of the FOS to make a compensation payment or to meet a liability transferred under provision in a transfer scheme is to be treated for the purposes of

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section 234 of the Financial Services and Markets Act 2000 (industry funding) as a cost of its operation in relation to the compulsory jurisdiction.

Supplementary

- 24 A transfer scheme may—
- (a) contain supplementary, incidental and consequential provision;
 - (b) make transitory or transitional provision or savings;
 - (c) make different provision for different purposes;
 - (d) make provision subject to exceptions.

Modification of a transfer scheme

- 25 Subject to paragraphs 26 to 28, the OLC may modify a transfer scheme.
- 26 A modification relating to a transfer that has taken effect may be made only with the agreement of the person (or persons) affected by the modification.
- 27 A modification is not to be capable of coming into effect unless it is approved by the Treasury and the Lord Chancellor.
- 28 The OLC may not submit a scheme to the Treasury or the Lord Chancellor for approval under paragraph 27 without the consent of the FOS and the FCA.
- 29 A modification takes effect from such date as the OLC may specify, and that date may be the date when the original scheme came into effect.

SCHEDULE 5

Section 27

REGULATION OF CLAIMS MANAGEMENT SERVICES: TRANSITIONAL PROVISION

FCA information gathering powers

- 1 Part 11 of the Financial Services and Markets Act 2000 (information gathering and investigations) has effect as if—
- (a) to the extent that they relate to a notice or authorisation of the FCA, the references in section 165(1), (3) and (7)(a) to an authorised person include a reference to a person falling within paragraph 2,
 - (b) the reference in section 165(4)(a) to the exercise by either regulator of functions conferred on it under the Financial Services and Markets Act 2000 includes a reference to the steps taken, or to be taken, by the FCA in preparation for the conferral of functions on it by virtue of the making of an order under section 22(1B) of that Act (“a regulated claims management activity order”), and
 - (c) the reference in section 166(2)(a) to an authorised person includes a reference to a person falling within paragraph 3.
- 2 A person falls within this paragraph if the person—
- (a) is or at any time was authorised under section 5(1)(a) of the Compensation Act 2006 (provision of regulated claims management services), or

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- (b) is, or at any time was, providing services in Scotland which the person would be, or would have been, prohibited from providing in England and Wales by section 4(1) of the Compensation Act 2006 unless authorised under section 5(1)(a) of that Act.

- 3 A person falls within this paragraph if the person—
- (a) is authorised under section 5(1)(a) of the Compensation Act 2006 (provision of regulated claims management services), or
- (b) is providing services in Scotland which the person would be prohibited from providing in England and Wales by section 4(1) of the Compensation Act 2006 unless authorised under section 5(1)(a) of that Act.

FCA preparatory steps

- 4 The FCA may, before the making of a regulated claims management activity order, take such steps as the FCA considers necessary or expedient in preparation for the conferral of functions on it as a result of the making of the order.

Consultation requirements

- 5 Paragraphs 6 and 7 apply in connection with the making or issuing of any rules or other instrument or document relating to an activity—
- (a) of a kind specified in a regulated claims management activity order, or
- (b) of a kind specified in an order under section 21(10B) of the Financial Services and Markets Act 2000.
- 6 Any requirement imposed on the FCA—
- (a) to publish a draft of the rules or other instrument or document and invite representations about it, or
- (b) to consult particular persons,
- may be satisfied by things done by the FCA before the coming into effect of the order or the passing of this Act.
- 7 Section 138I of the Financial Services and Markets Act 2000 (consultation by the FCA) does not apply in relation to rules which make provision similar to any provision in or made under Part 2 of the Compensation Act 2006.

Designation of Regulator's rules

- 8 After the making of a regulated claims management activity order, rules which—
- (a) were made by the Regulator by virtue of provision in or under Part 2 of the Compensation Act 2006, and
- (b) are designated by the FCA,
- are to be treated as having been made by the FCA by virtue of comparable provision in the Financial Services and Markets Act 2000.
- 9 The rules may be modified by the FCA.

Provision of information by Regulator and OLC

- 10 The Regulator may disclose to the FCA or the FOS any information which the Regulator considers that it is necessary or expedient to disclose to the FCA or, as the case may be, the FOS so that the FCA or the FOS can take steps in preparation

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for the conferral of functions on it as a result of the making of a regulated claims management activity order.

11 Section 244 of the Enterprise Act 2002 (considerations relevant to disclosure of information) does not apply in relation to a disclosure under paragraph 10.

12 The OLC may disclose to the FOS or the FCA any information which the OLC considers that it is necessary or expedient to disclose to the FOS or, as the case may be, the FCA so that the FOS or the FCA can take steps in preparation for the conferral of functions on it as a result of the making of a regulated claims management activity order.

Complaints handling

13 Where a regulated claims management activity order is made which requires the OLC to continue to deal with complaints made to it on or before a date or event identified in the order—

- (a) the FCA is to reimburse the OLC for the cost it incurs in doing so, and
- (b) this reimbursement obligation is to be treated for the purposes of paragraph 23 of Schedule 1ZA to the Financial Services and Markets Act 2000 (fees) as a qualifying function conferred on the FCA under that Act.

Interpretation

14 In this Schedule—

“the FCA” means the Financial Conduct Authority;

“the FOS” means the body corporate which administers the ombudsman scheme provided for in Part 16 of the Financial Services and Markets Act 2000 (see section 225 of that Act);

“the OLC” means the Office for Legal Complaints established by section 114 of the Legal Services Act 2007;

“the Regulator” means the person designated under section 5(1) of the Compensation Act 2006 or, if no person is so designated, the Secretary of State;

“regulated claims management activity order” has the meaning given in paragraph 1(b).

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