

SCHEDULES

SCHEDULE 4

REGULATION OF CLAIMS MANAGEMENT SERVICES: TRANSFER SCHEMES

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;
 - (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;

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- (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.