
STATUTORY INSTRUMENTS

2001 No. 2967

The Financial Services and Markets Act 2000
(Transitional Provisions, Repeals and Savings)
(Financial Services Compensation Scheme) Order 2001

PART 4

GENERAL PROVISIONS

Interpretation

15. In this Part—

“Board” means the Policyholders Protection Board or the Deposit Protection Board;

“residual assets and liabilities” means any property, rights or liabilities retained by a Board in compliance with article 20(5).

Continuity of measures etc

16.—(1) Measures taken, arrangements made, terms and conditions imposed, indemnities given and all other things done before commencement by a former manager in the exercise of functions, powers or duties conferred on the former manager by a former scheme continue to have effect.

(2) The scheme manager has all the functions, powers and duties of a former manager in relation to the measures and other things referred to in paragraph (1).

Levies

17.—(1) The reference to the expenses of the scheme manager in section 213(3)(b) of the Act is to be taken as including a reference to expenses (including administrative expenses) incurred by the scheme manager in—

- (a) receiving, assessing and determining transitional applications;
- (b) making payments in respect of article 9 defaults by virtue of this Order;
- (c) receiving, assessing and determining claims made pursuant to rules made under article 12(3); or
- (d) doing anything incidental to the performance of those functions.

(2) No provision of an investment business compensation scheme has effect after commencement to the extent that it imposes a levy or equivalent kind of charge on any person.

Information

18.—(1) Any information held by a former manager in connection with the operation of a former scheme may be disclosed by that person to the scheme manager.

(2) Any such disclosure is not to be treated as a contravention of any restriction on disclosure of the information (imposed by statute or otherwise) to which the former manager is subject; but thereafter the scheme manager is to be treated as subject to any such restriction as would have applied to the former manager (subject to any exceptions which would have so applied).

Annual report, statutory immunity and expenses

19. References to the scheme manager's functions in each of the following provisions of the Act is to be taken to include functions exercisable by, or deemed to have been exercised by, the scheme manager by virtue of this Order—

- (a) section 218 (annual report);
- (b) section 222 (statutory immunity);
- (c) section 223 (management expenses).

Final reports and statements of account of existing Boards

20.—(1) As soon as practicable after commencement, and in any case no later than 1st March 2002, a Board must prepare and publish—

- (a) a report on the performance of its functions during the relevant period; and
- (b) an audited statement of accounts for the relevant period, showing the state of affairs and income and expenditure of the Board during that period.

(2) The statements of accounts referred to in paragraph (1) must be audited by auditors appointed by the Board.

(3) A person must not be appointed as auditor for the purposes of paragraph (2) unless he is eligible for appointment as a company auditor under section 25 of the Companies Act 1989(1).

(4) In this article, "relevant period" means—

- (a) in relation to the Policyholders Protection Board, the period from 1st April 2001 until commencement;
- (b) in relation to the Deposit Protection Board, the period from the end of its last financial year (as determined by the Board in accordance with paragraph 5(1) of Schedule 4 to the Banking Act) until commencement.

(5) At commencement, a board must retain such property, rights and liabilities as it considers necessary to perform its functions under this article.

Transfer of property, rights and liabilities

21. At commencement any property, rights and liabilities of a Board (other than residual assets and liabilities) vest in the scheme manager.

Residual assets and liabilities

22.—(1) On the day on which section 416(3)(b) of the Act comes into force, any residual assets and liabilities of the Policyholders Protection Board vest in the scheme manager.

(2) On the day on which section 416(3)(c) of the Act comes into force any residual assets and liabilities of the Deposit Protection Board vest in the scheme manager.

Record keeping and reporting requirements relating to pre-commencement acts

23. The Authority may make rules applying to authorised persons with respect to the keeping of records and the making of reports in relation to transitional applications and article 9 defaults in respect of which payments are made, after commencement.

Revocations

24. Subject to the savings made by articles 9 and 11 and Part 2 of Schedule 1, the provisions of secondary legislation set out in Schedule 2 are revoked.