

## SCHEDULE 7

Regulation 16

### Consequential amendments

#### Financial Services and Markets Act 2000

- 1.—(1) The Financial Services and Markets Act 2000 <sup>M1</sup> is amended as follows.
- (2) In section 404B (complaints to the ombudsman scheme) <sup>M2</sup>—
- (a) after subsection (1) insert—
- “(1A) Subsection (1) does not apply if the consumer and the relevant firm agree that it should not apply.”;
- (b) after subsection (2) insert—
- “(2A) The way in which a complaint mentioned in subsection (2) is to be determined by the ombudsman is to be as mentioned in subsection (4).
- (2B) Subsection (2A) does not apply if the consumer and the relevant firm agree that it should not apply.”; and
- (c) for subsection (3) substitute—
- “(3) In the following provisions of this section “relevant complaint” means—
- (a) a complaint mentioned in subsection (1) other than one in relation to which subsection (1A) applies, or
- (b) a complaint mentioned in subsection (2) other than one in relation to which subsection (2B) applies.”.
- (3) In Schedule 17 (the ombudsman scheme) <sup>M3</sup>—
- (a) in paragraph 1 after “In this Schedule—” insert—
- ““ADR Directive” means Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013 on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC<sup>M4</sup>;
- “ADR entity” means any entity which is listed by a member State in accordance with Article 20(2) of the ADR Directive;”;
- (b) in paragraph 2—
- (i) renumber the existing paragraph as sub-paragraph (1); and
- (ii) at the end of sub-paragraph (1) insert—
- “(2) The FCA must exercise any function falling within sub-paragraph (3) in a way which is consistent with enabling the scheme operator, at all times, to qualify as an ADR entity and to meet the quality requirements in Chapter II of the ADR Directive.
- (3) The following functions of the FCA fall within this sub-paragraph—
- (a) making rules for the purposes of section 226;
- (b) approving rules made for the purposes of section 227;
- (c) specifying an amount under section 229(4);
- (d) approving rules made under section 230;
- (e) taking steps under sub-paragraph (1);
- (f) appointing or removing members of the board under paragraph 3(2);
- (g) taking steps under paragraph 3A(1);

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- (h) making rules under paragraph 7(3);
  - (i) making rules under paragraph 13;
  - (j) consenting to scheme rules under paragraph 14(7), other than rules relating to fees;
  - (k) approving the fixing, variation, addition or removal of standard terms under paragraph 18, other than terms relating to the making of payments to the scheme operator; and
  - (l) approving arrangements under paragraph 19(3).”;
- (c) in the heading immediately preceding paragraph 13, omit “procedural”;
- (d) in paragraph 13, in sub-paragraph (1)—
- (i) after “unless” insert “ — (a) ”, and
  - (ii) at the end of paragraph (a) insert  
“, or
- (b) in the case of a complaint other than a relevant complaint within the meaning of section 404B, the respondent agrees that the complaint should be entertained despite the complainant having referred it under the ombudsman scheme after the applicable time limit has expired.”; and
- (e) in paragraph 14 after sub-paragraph (3) insert—
- “(3A) The scheme operator must exercise the function of making scheme rules in a way which is consistent with enabling the scheme operator to qualify as an ADR entity and to meet the quality requirements in Chapter II of the ADR Directive.”.

#### **Marginal Citations**

**M1** 2000 c. 8.

**M2** Sections 404-404G were substituted for the original section 404 by the Financial Services Act 2012, section 14(1).

**M3** Schedule 17 was amended by the Financial Services Act 2012, section 39 and Schedule 11, paragraphs 13-30; the Consumer Credit Act 2006, sections 59(2), 61(10) and Schedule 2; the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No. 2) Order 2013, [S.I. 2013/1881](#); the Electronic Money Regulations 2011, [S.I. 2011/99](#); the Payment Services Regulations 2009, [S.I. 2009/209](#); the Crime and County Courts Act 2013, section 17 and Schedule 9; the Tribunals, Courts and Enforcement Act 2007, section 62(3) and Schedule 13.

**M4** OJ No L 164, 18.6.2013, p63.

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