Draft Order laid before Parliament under section 429(1) of the Financial Services and Markets Act 2000, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2013 No. *

FINANCIAL SERVICES AND MARKETS

The Financial Services and Markets Act 2000 (Financial Services Compensation Scheme) Order 2013

Made - - - -	***
Coming into force - -	*1st April 2013*

In accordance with section 429(1) of the Financial Services and Markets Act 2000(**a**), a draft of this Order has been laid before Parliament and approved by a resolution of each House;

The Treasury make the following Order, in exercise of the powers conferred by sections 213(1A) and 428(3) of the Financial Services and Markets Act 2000(**b**):

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Financial Services and Markets Act 2000 (Financial Services Compensation Scheme) Order 2013 and comes into force on 1st April 2013.

(2) In this Order—

"the Act" means the Financial Services and Markets Act 2000;

"the Regulated Activities Order" means the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001(**c**); and

"successors" has the meaning given in section 213(1)(b) of the Act.

PRA rule making

2.—(1) The PRA may make rules under section 213(1) of the Act establishing a scheme for compensating persons in cases where relevant persons or successors are unable, or likely to be unable, to satisfy the following claims against them—

(a) claims for a deposit within the meaning of article 5 of the Regulated Activities Order including—

(i) a deposit that would otherwise be excluded by article 6 of that Order; and

(ii) a repayment claim as defined in section 5 of the Dormant Bank and Building Society Accounts Act 2008(**d**);

(**a**) 2000 c.8, section 429 was amended by section 49 of the Financial Services Act 2012 (2012 c. 21.).
(**b**) Section 213 was amended by paragraph 3 of Schedule 10 to the Financial Services Act 2012.
(**c**) S.I. 2001/544; relevant amending instruments are S.I. 2002/682, S.I. 2002/1310, S.I. 2002/1776, S.I. 2011/1043.
(**d**) 2008 c.31.

(b) claims under a contract of insurance;

(c) claims in respect of the activity of managing the underwriting capacity of a Lloyd's syndicate as a managing agent at Lloyd's as specified in article 57 of the Regulated Activities Order; and

(d) claims in respect of the activity of arranging, by the society incorporated by Lloyd's Act 1871 by the name of Lloyd's, of deals in contracts of insurance written at Lloyd's as specified in article 58 of the Regulated Activities Order.

FCA rule making

3. The FCA may make rules under section 213(1) of the Act establishing a scheme for compensating persons in cases where relevant persons or successors are unable, or likely to be unable, to satisfy claims against them except those claims set out in article 2.

Name
Name
Two of the Lords Commissioners of Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Order)

The Financial Conduct Authority (the FCA) and the Prudential Regulation Authority (the PRA) are both responsible for making rules for the Financial Services Compensation Scheme to enable it to compensate persons in circumstances where relevant persons (as defined in s. 213(9) of the Financial Services and Markets Act 2000 (the Act)) are unable, or likely to be unable, to satisfy claims against them; or, in cases where persons (successors, as defined in section 213(1)(b) of the Act) have assumed responsibility for acts or omissions of relevant persons, those successors are unable, or likely to be unable, to satisfy claims based on those acts or omissions (s.213(1) of the Act).

This Order specifies what the PRA may make rules for, and what the FCA may make rules for.

Article 2 enables the PRA to make rules to compensate persons in cases where relevant persons or successors are unable, or likely to be unable, to satisfy claims against them:

(a) for a deposit within the meaning of article 5 of the Regulated Activities Order including:

  (i) a deposit that would otherwise be excluded by article 6 of that Order; and

  (ii) a repayment claim as defined in section 5 of the Dormant Bank and Building Society Accounts Act 2008;

(b) under a contract of insurance;

(c) in respect of the activity of managing the underwriting capacity of a Lloyd's syndicate as a managing agent at Lloyd's; or

(d) in respect of the activity of arranging by Lloyd's deals in contracts of insurance written at Lloyd's.

Article 3 enables the FCA to make rules to compensate persons in cases where relevant persons or successors are unable, or likely to be unable, to satisfy claims against them except those claims referred to in article 2.

Although the PRA and the FCA are required to make rules to establish a scheme for compensating persons where relevant persons or successors are unable, or likely to be unable to satisfy claims against them, neither the PRA nor the FCA is obliged by this Order to make rules for all the types of claim set out in Articles 2 and 3.

A full impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from, Her Majesty's Treasury, 1 Horse Guards Road, London SW1A 2HQ or on www.hm-treasury.go.uk and is published alongside the Order on www.legislation.gov.uk.

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