Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Deposit Guarantee Scheme Regulations 2015. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

STATUTORY INSTRUMENTS

2015 No. 486

BANKS AND BANKING

The Deposit Guarantee Scheme Regulations 2015

Made - - - - 4th March 2015

Laid before Parliament 5th March 2015
Coming into force in accordance with regulation 1(2) and (3)

The Treasury are designated [F1] for the purposes of section 2(2) of the European Communities Act 1972 [F2] in relation to financial services.

The Treasury, in exercise of the powers conferred by section 2(2) of that Act, make the following Regulations.

F1 S.I. 2012/1759.

F2 1972 c.68. Section 2(2) was amended by section 27 of the Legislative and Regulatory Reform Act 2006 (c.51) and by section 3 of, and the Schedule to, the European Union (Amendment) Act 2008 (c.7). By virtue of the amendment of section 1(2) by section 1 of the European Economic Area Act 1993 (c.51), regulations may be made under s. 2(2) of the European Communities Act 1972 to implement obligations of the United Kingdom created or arising by or under the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 (Cm 2073) and the Protocol adjusting the Agreement signed in Brussels on 17th March 1993 (Cm 2183).

PART 1

Introductory Provisions

Citation and commencement

1.—(1) These Regulations may be cited as the Deposit Guarantee Scheme Regulations 2015.

(2) Subject to paragraph (3), the provisions of these Regulations come into force on 26th March 2015.

(3) Regulations 5 and 7 come into force on 3rd July 2015.

Interpretation

2.—(1) In these Regulations—

"compensation scheme rules" means rules made under section 213 of FSMA [F3];

"the compensation scheme" has the meaning given in section 213(2) of FSMA;

"credit union" means—

(a) a registered society (within the meaning given by section 1 of the Co-operative and Community Benefit Societies Act 2014 [F4]) that is registered as a credit union; or

(b) a society registered under the Credit Unions (Northern Ireland) Order 1985 [F5] or a society registered under the Industrial and Provident Societies Act (Northern Ireland) 1969 [F6] as a credit union;

[[F7]"deposit" means—

(a) a deposit within the meaning of point (3) of Article 2(1) of the deposit guarantee schemes directive (including a share treated as a deposit by virtue of Article 2(3) of the directive); or

(b) a share in a credit union other than—

(i) a deferred share within the meaning given by section 31A of the Credit Unions Act 1979; or

(ii) a deferred share issued by a society registered under the Credit Unions (Northern Ireland) Order 1985 or a society registered under the Industrial and Provident Societies Act (Northern Ireland) 1969 as a credit union.**]**

"deposit guarantee schemes directive" means Directive 2014/49/EU of the European Parliament and of the Council of 16 April 2014 on deposit guarantee schemes (recast), repealing directive 94/19/EC[F8];

[[F9]"eligible deposit" has the meaning given in section 70A(7) of the Banking Act 2009**]**

"FSMA" means the Financial Services and Markets Act 2000 [F10];

"non-UK deposit guarantee scheme" means a deposit guarantee scheme or an institutional protection scheme established in an EEA state other than the United Kingdom which is recognised by that state for the purposes of Article 4(1) of the deposit guarantee schemes directive.

(2) Except as provided by paragraph (1) or article 3—

(a) any expression used in these Regulations which is defined in Article 2 (definitions) of the deposit guarantee schemes directive has the meaning given by that Article;

(b) any other expression used in these Regulations which is defined in section 417 (definitions) of FSMA has the meaning given by that section.

F3 Section 213 of FSMA was amended by the Financial Services Act 2012 (c. 21), **section 38** and Schedule 10. Subsections (10) and (11) of section 213 were substituted for the original subsection (10) by S.I. 2011/1613.

F4 2014 c. 14.

F5 S.I. 1985/1205 (N.I. 12).

F6 1969 c.24 (N.I.).

F7 Words in reg. 2(1) inserted (4.12.2018) by The Deposit Guarantee Scheme and Miscellaneous Provisions (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1285), regs. 1(2), **2(2)(a)**

F8 OJ L173, 12.6.2014, p 149.

F9 Words in reg. 2(1) inserted (4.12.2018) by The Deposit Guarantee Scheme and Miscellaneous Provisions (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1285), regs. 1(2), **2(2)(b)**

F10 2000 c. 8.

Meaning of "compensation scheme member"

3.—(1) In these Regulations "compensation scheme member" means an institution that—

(a) is not a member of a non-UK deposit guarantee scheme; and

(b) falls into one of the categories of institution specified in paragraph (2).

(2) The categories of institution mentioned in paragraph (1)(b) are—

(a) an institution that—

(i) is incorporated in or formed under the law of any part of the United Kingdom;

(ii) is not an insurer; and

(iii) has permission under Part 4A of FSMA to carry on the regulated activity [F11] of accepting deposits;

(b) a building society within the meaning of section 119 of the Building Societies Act 1986 [F12];

(c) a credit union; or

(d) an institution that—

(i) has its head office outside the United Kingdom;

(ii) is not an incoming firm or an insurer; and

(iii) has permission under Part 4A of FSMA to carry on the regulated activity of accepting deposits.

(3) For the purposes of this regulation—

(a) "incoming firm" has the meaning given in section 193(1) (interpretation of Part 13) of FSMA [F13]; and

(b) "insurer" means an institution which is authorised under Part 4A of FSMA to carry on the regulated activity of effecting or carrying out contracts of insurance as principal.

F11 "regulated activity" is defined in section 417 of FSMA.
F12 1986 c. 53.
F13 Section 193(1) was amended by S.I. 2011/1613; S.I. 2013/1773.

PART 2

The compensation scheme

Designation of competent authority and designated authority

4.—(1) For the purposes of the deposit guarantee schemes directive the PRA [F14] is the competent authority [F15] and the designated authority [F16].

(2) In exercising its functions under the deposit guarantee schemes directive as the competent authority and the designated authority the PRA must co-operate with EBA [F17].

F14 "PRA" is defined in section 417 of FSMA.
F15 "competent authority" is defined in point (17) of Article 2(1) of the deposit guarantee schemes directive.
F16 "designated authority" is defined in point (18) of Article 2(1) of the deposit guarantee schemes directive.

F17 "EBA" is defined in section 417 of FSMA.

Notification to the scheme manager of problems with a compensation scheme member

5. The PRA must notify the scheme manager [F18] in writing as soon as reasonably practicable if the PRA becomes aware that a compensation scheme member has financial difficulties which are likely to require the intervention of the scheme manager under compensation scheme rules in respect of eligible deposits [F19].

F18 "scheme manager" is defined in section 212(1) of FSMA.
F19 "eligible deposits" is defined in point (4) of Article 2(1) of the deposit guarantee schemes directive.

Time limit for determining that a compensation scheme member is unable to repay deposits

6.—(1) If the relevant administrative authority is satisfied that a compensation scheme member has failed to repay a deposit [F20] which is due and payable, the relevant administrative authority must **[**[F21]determine whether in its view the compensation scheme member appears unable for the time being, for reasons which are directly related to its financial circumstances, to repay the deposit and the compensation scheme member has no current prospect of being able to do so.**]**

(2) The determination must be notified in writing to—

(a) the compensation scheme member; and

(b) (i) the scheme manager, or

(ii) if the scheme manager is the relevant administrative authority, the PRA,

as soon as reasonably practicable and in any event before the end of the period of five working days beginning with the day on which the relevant administrative authority becomes satisfied that the compensation scheme member has failed to repay a deposit which is due and payable.

(3) For the purposes of this regulation the "relevant administrative authority"—

(a) is the scheme manager in relation to a compensation scheme member that is a credit union; and

(b) is the PRA in relation to any other compensation scheme member.

F20 "deposit" is defined in point (3) of Article 2(1) of the deposit guarantee schemes directive.
F21 Words in reg. 6(1) substituted (4.12.2018) by The Deposit Guarantee Scheme and Miscellaneous Provisions (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1285), regs. 1(2), **2(3)**

Maximum compensation payable in respect of deposits held with a compensation scheme member

7.—**[**[F22](1)**]** The PRA must make compensation scheme rules which specify the maximum compensation payable in respect of eligible deposits held by a person with a compensation scheme member—

(a) in relation to categories of eligible deposit which fall within Article 6(2) of the deposit guarantee schemes directive; and

(b) in relation to all other categories of eligible deposit.

[[F23](2) Compensation scheme rules made by the PRA in accordance with paragraph (1) are subject to regulation 7A.**]**

F22 Reg. 7(1): reg. 7 renumbered as reg. 7(1) (3.7.2015) by The Deposit Guarantee Scheme (Amendment) Regulations 2015 (S.I. 2015/1456), regs. 1, **2(2)**

F23 Reg. 7(2) inserted (3.7.2015) by The Deposit Guarantee Scheme (Amendment) Regulations 2015 (S.I. 2015/1456), regs. 1, **2(3)**

[F24Transitional maximum compensation level

7A.—(1) For the period from 3rd July 2015 to 31st December 2015, the maximum compensation payable in accordance with PRA compensation scheme rules in respect of eligible deposits held by a relevant person with a compensation scheme member is £85,000 (and no account shall be taken of any lower limit provided for in PRA compensation scheme rules), unless paragraph (2) applies.

(2) This paragraph applies if additional compensation is payable to a relevant person under PRA compensation scheme rules made to give effect to Article 6.2 of the deposit guarantee schemes directive.

(3) After 31st December 2015, the maximum compensation payable in respect of eligible deposits held by a relevant person with a compensation scheme member is the amount provided for by PRA compensation scheme rules.

(4) For the purposes of this regulation, a person is a "relevant person" if deposits held by that person—

(a) were, or would have been, eligible for compensation under the compensation scheme before 3rd July 2015, and

(b) are eligible for compensation under the compensation scheme on 3rd July 2015 and after that date.**]**

F24 Reg. 7A inserted (3.7.2015) by The Deposit Guarantee Scheme (Amendment) Regulations 2015 (S.I. 2015/1456), regs. 1, **2(4)**

Determination by PRA whether contributions may be raised by the scheme manager

8. Before the available financial means [F25] may be used for the purposes specified in Article 11(1) or 11(2) of the deposit guarantee schemes directive the PRA must—

(a) determine for the purposes of the third paragraph of Article 10(4) of the deposit guarantee schemes directive whether the scheme manager may raise contributions under the compensation scheme; and

(b) notify that determination in writing to the scheme manager and the Treasury.

F25 " available financial means" is defined in point (12) of Article 2(1) of the deposit guarantee schemes directive.

Approval of increased levies for the purposes of the compensation scheme

9. If the PRA makes compensation scheme rules in respect of eligible deposits limiting the levy payable by a compensation scheme member in respect of a period specified in those compensation scheme rules, the PRA may on receiving a request in writing from the scheme manager approve a levy on a person that exceeds that limit.