



BANK OF ENGLAND
PRUDENTIAL REGULATION
AUTHORITY

Consultation Paper | CP20/14

Depositor protection

October 2014

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Contents

1	Overview	5
2	Implementing the recast Deposit Guarantee Schemes Directive	10
3	Single customer view changes	15
4	Continuity of access	18
5	Economic analysis	20
Appendices		25

1 Overview

1.1 This consultation paper (CP) sets out proposed changes to the Prudential Regulation Authority's (PRA's) rules in order to implement the recast Deposit Guarantee Schemes Directive (recast DGSD).⁽¹⁾ It also proposes new rules intended to ensure that depositors protected by the Financial Services Compensation Scheme (FSCS) can have continuity of access to their accounts during resolution, as well as changes to the existing single customer view (SCV) rules on firms. This package of measures supports orderly resolution and timely payouts of FSCS-covered deposits to depositors.

1.2 This CP is one of four papers published by the PRA on 6 October 2014 as part of the PRA's wider resolution and resilience agenda. The proposed rules and ideas contained in these publications and on which the PRA is seeking feedback contribute to this agenda in a number of ways. Enhanced protection for depositors and insurance policyholders and better access to protected deposits (see this CP and CP21/14) in the event of the failure of a firm will reduce disruption to the economy.⁽²⁾ This is supported by the proposals (see Discussion Paper 1/14) to ensure operational continuity in resolution for banks, building societies and investment firms regulated by the PRA.⁽³⁾ The discussion paper's proposals will help ensure that firms of all sizes make the appropriate changes so that services needed for sufficient continuity of deposit-taking and for other functions critical to the economy operate effectively through a resolution. Finally, the PRA is consulting (see CP19/14) on its first package of proposals to implement ring-fencing requirements of core UK financial services and activities, as required under the Financial Services and Markets Act 2000 (as amended by the Financial Services (Banking Reform) Act 2013).⁽⁴⁾ The implementation of ring-fencing through the proposals described in CP19/14 will also contribute to ensuring the continuity of deposit-related services in the United Kingdom.

1.3 The concept of operational continuity mentioned above focuses on the arrangements that need to be made to ensure continuity of the critical shared services needed to facilitate a firm's recovery actions, resolution, or post-resolution restructuring. This is different from the concept of continuity of access which focuses on continuity from the customers' (in particular, depositors') point of view and is discussed in detail in this CP, related draft supervisory statement and draft rules.

1.4 These measures advance the PRA's general objective of promoting the safety and soundness of firms by reducing the adverse effect that the failure of firms could be expected to

have on the stability of the UK financial system. Proposals to enhance insurance compensation also advance the PRA's objective of contributing to the securing of an appropriate degree of protection for those who are, or may become, policyholders.

1.5 This CP also forms part of a series of consultations aimed at reshaping the PRA Handbook material, inherited from the Financial Services Authority (FSA), to create a clear and concise PRA Rulebook. These changes follow the commitment made in the PRA's Approach Documents to publish a Rulebook containing only PRA rules.⁽⁵⁾ The PRA has assessed existing PRA Handbook material in the Compensation sourcebook (COMP) and Chapter 6 of the FEES sourcebook (FEES 6) as to whether it is clear, remains necessary, and is aligned with the PRA's approach. The PRA proposes to delete all rules in COMP that relate to deposit protection and replace these with proposed PRA Rulebook Depositor Protection rules. Equally, the PRA proposes to delete rules in FEES 6 relating to funding and replace them with proposed PRA Rulebook Depositor Protection rules.

1.6 Rules that the PRA proposes to retain are placed in Rulebook Parts, which follow the new structure and style of the PRA Rulebook. Guidance that the PRA judges necessary to support firms or the FSCS in making judgements and to clarify the PRA's approach is expressed in supervisory statements and statements of policy for the FSCS. The PRA is proposing separate Rulebook Parts for compensation rules in respect of deposits, insurance and dormant accounts. The PRA's proposed rules for insurance compensation are covered in CP21/14, published alongside this CP.

1.7 This CP proposes:

- a new Rulebook Part for Depositor Protection, Management Expenses Levy Limit and Base Costs and Management Expenses in respect of Relevant Schemes;

(1) 2014/49/EU; <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32014L0049>.

(2) *PRA Consultation Paper CP21/14*, 'Policyholder protection', October 2014; www.bankofengland.co.uk/pr/Pages/publications/cp/2014/cp2114.aspx.

(3) *PRA Discussion Paper DP1/14*, 'Ensuring operational continuity in resolution', October 2014; www.bankofengland.co.uk/pr/Pages/publications/cp/2014/dp114.aspx.

(4) *PRA Consultation Paper CP19/14*, 'The implementation of ring-fencing: consultation on legal structure, governance and the continuity of services and facilities'; www.bankofengland.co.uk/pr/Pages/publications/cp/2014/cp1914.aspx.

(5) *The PRA's approach to banking supervision*, June 2014; www.bankofengland.co.uk/publications/Documents/praapproach/bankingappr1406.pdf; *The PRA's approach to insurance supervision*, June 2014; www.bankofengland.co.uk/publications/Documents/praapproach/insuranceappr1406.pdf.

- two new supervisory statements; and
- a new statement of policy for the FSCS.

1.8 This CP is relevant to UK banks, building societies and credit unions, as well as to overseas firms with a PRA deposit-taking permission and UK branches of European Economic Area (EEA) credit institutions. It is also relevant to the FSCS, as the administrator of the United Kingdom's Deposit Guarantee Scheme (DGS), and depositors, as beneficiaries of deposit protection. The proposed rules set out in both the Management Expenses Levy Limit and Base Costs Part and Management Expenses in respect of Relevant Schemes Part also apply to PRA-authorised insurers and the Society of Lloyd's.

Background

1.9 The proposals in this CP aim to ensure that there is an effective compensation scheme for deposits that supports financial stability in the United Kingdom. These proposals aim to facilitate effective and prompt payment of compensation, to improve depositor confidence and thus minimise the likelihood of a run on a deposit-taker. They also seek to support resolution strategies while minimising, to the extent feasible, any negative impact of the scheme due to its cost or impact on incentives. The proposed measures interrelate: for example, single customer view requirements support both continuity of access and DGSD proposals.

The DGSD

1.10 In June 2014, the recast DGSD was finalised and published in the Official Journal of the EU. It introduces harmonised funding requirements (including risk-based levies), protection for certain types of temporary high balances, a reduction in payout deadlines, harmonisation of eligibility categories (including an extension of scope to cover deposits by most companies regardless of size) and new disclosure requirements. As the DGSD is a largely maximum harmonising directive, the areas where the PRA has policy discretion are limited and largely operational. The PRA proposes to continue to use the SCV rules to operationalise faster payout and related requirements of the recast DGSD. The recast DGSD must be implemented into the national law of Member States by July 2015, but there is scope to delay implementation in respect of certain requirements.

1.11 Until the EEA Joint Committee amends the EEA Agreement with a view to permitting simultaneous application of the recast DGSD in the EEA States, the recast DGSD only applies within the EU.⁽¹⁾ The PRA is keeping this issue under review and will consider the appropriate scope of implementation in light of progress with the amendment of the EEA Agreement, and any view of the European Commission on the matter.

1.12 Subject to that, the PRA currently proposes to make rules on the assumption that the EEA Joint Committee will incorporate the recast DGSD into the EEA Agreement. In the instance that the recast DGSD is not incorporated into the EEA Agreement, consideration will need to be given as to how best to give effect to the EEA Agreement insofar as it contains rules preserving the rights and liabilities of EEA States under the 1994 Directive.

Single customer view

1.13 The PRA proposes a number of changes to its rules on creating a single customer view that determine how firms should submit information to the FSCS on eligible deposits to enable fast payout. Since 2010, the SCV rules have been used to operationalise faster payout and to help ensure that the FSCS could pay out the majority of eligible deposits within a target of seven calendar days. The PRA proposes some changes to the SCV rules as a result of DGSD changes (for example, what types of accounts are excluded from the SCV file). In addition, the PRA proposes new or amended rules to reflect the lessons learned over the last four years and to support measures being proposed to ensure continuity of access to deposits in resolution.

Continuity of access

1.14 The PRA proposes rules that are intended to ensure that depositors can have continued access to FSCS-covered deposits in resolution by facilitating a transfer of such deposits to another financial institution. This CP sets out the operational changes necessary to facilitate a transfer of FSCS-covered deposit accounts. Such transfers may take place as part of a resolution of a deposit-taker under the powers contained in the special resolution regime.

Other EU initiatives

1.15 In June 2014, the EU Bank Recovery and Resolution Directive (BRRD) was finalised and published in the Official Journal of the EU, creating a harmonised framework across Europe for dealing with bank recovery and resolution.⁽²⁾ On 24 July 2014, the PRA published a CP on implementing the BRRD.⁽³⁾

1.16 The combined effect of the recast DGSD and BRRD is that DGS funds are liable to contribute where the resolution authorities take resolution action in respect of a credit institution and provided that that action ensures that depositors continue to have access to their deposits. If a bail-in tool is used, the DGS is liable for the amount of covered deposits which would have been written down. If any other

(1) EEA States include all 28 Member States plus Iceland, Liechtenstein and Norway.

(2) Directive 2014/59/EU, *Bank Recovery and Resolution Directive: Establishing a framework for the recovery and resolution of credit institutions and investment firms*; http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L_2014_173_R_0008&from=EN.

(3) *PRA Consultation Paper CP13/14*, 'Implementing the Bank Recovery and Resolution Directive', July 2014; www.bankofengland.co.uk/pr/pa/Pages/publications/cp/2014/cp1314.aspx.

resolution tool is used, the DGS is liable for the amount the covered deposits would have suffered had they suffered losses in proportion to losses of other creditors. This does not apply to credit unions as they are not within scope of the BRRD.

Statutory obligations

1.17 In discharging its general functions of making rules, and determining the general policy and principles by reference to which it performs particular functions, the PRA must, so far as reasonably possible, act in a way that advances its general objective to promote the safety and soundness of the firms it regulates. This package of proposals directly advances the PRA's general objective by seeking to minimise the adverse effect that the failure of a PRA firm could be expected to have on the stability of the UK financial system. It may also support the safety and soundness of firms by enhancing depositor confidence and thus reducing the risk of disorderly runs on deposit-takers.

1.18 In making its rules and establishing its practices and procedures, the PRA must have regard to the Regulatory Principles as set out in FSMA. In addition, when consulting on draft rules, the PRA is required to consider the impact on mutuals and equality and diversity.

Impact on mutuals

1.19 The proposals will affect mutuals as they are within scope of the proposed new rules. The only exception is that credit unions are not subject to the proposed continuity of access rules. The PRA does not expect the impact on mutuals to be significantly different from the impact on other firms.

Tables B–E in Chapter 5 illustrate that the cost to mutuals of implementing changes arising from the proposals are in line with costs to banks of a comparable size.

1.20 Under the proposed PRA rules, it will no longer be possible to opt out from preparing an electronic SCV. For the majority of firms that had previously opted out from preparing an electronic SCV (primarily credit unions), there should be a very small incremental cost associated with preparing an electronic SCV. This will also bring all credit unions into line with those credit unions that already comply with electronic requirements. Consistent with the recast DGSD, credit unions' own funds placed with other deposit-takers will lose FSCS protection. This loss of protection may mean that their deposits are not returned in full in the event that another deposit-taker fails. Credit unions' own depositors will remain protected by the FSCS.

1.21 One possible comparative beneficial impact on mutuals might lie in the extension of the scope of deposit protection to include the deposits of large companies. Mutuals may be less likely than large banks to hold deposits from large corporates. Therefore, their proportional share of the total FSCS

compensation costs levy (which is based on a firm's share of total industry protected deposits) may decrease accordingly.

Impact on competition

1.22 The proposed rules aim to facilitate the orderly exit of failing institutions while maintaining an appropriate degree of access to deposits. As stated in the joint Bank of England and Financial Services Authority barriers to entry review in March 2013, orderly exit is a key requirement for attracting new entrants, and thus facilitates effective competition.⁽¹⁾

1.23 Deposit-takers would incur a one-off and an on-going cost for implementing the proposed rules. The main costs arise from changes in the IT systems of the deposit-takers due to the SCV and continuity of access rules. Possible costs for changes in IT systems will be higher for incumbent firms than new entrants as it is more costly to adapt or replace legacy systems.⁽²⁾ Larger firms are also expected to benefit from economies of scale. The PRA does not view these changes as a barrier to entry for new entrants.

Equality and diversity

1.24 The PRA may not act in an unlawfully discriminatory manner. It is also required, under the Equality Act 2010, to have due regard to the need to eliminate discrimination and to promote equality of opportunity in carrying out its policies, services and functions. To meet this requirement, the PRA has performed an assessment of the equality and diversity implications of any new policy proposals considered. In general, the PRA finds that the issues addressed in this CP do not give rise to equality and diversity implications.

Economic impact

1.25 The PRA is required to perform a cost benefit analysis of the impact of its policy proposals. This analysis is focused on discretionary policy decisions proposed by the PRA to implement the recast DGSD requirements, SCV requirements and to introduce additional continuity of access requirements. As the DGSD is being recast, existing PRA rules already cover many of the directive provisions.

1.26 The PRA estimates that the direct one-off compliance costs to the industry would be up to £390 million. This represents less than 1% of affected firms' operating costs. The majority of the overall cost stems from proposed continuity of access provisions (65%). The remaining 35% is split broadly equally between DGSD and SCV proposals. Ongoing costs would be up to £50 million per annum. Half of the ongoing costs relate to DGSD changes. The remaining 50% is split

(1) A review of requirements for firms entering into or expanding in the banking sector, March 2013; www.bankofengland.co.uk/publications/Documents/joint/barriers.pdf.
(2) A recent study from the Competition and Markets Authority highlighted that the IT systems offer a competitive advantage rather than a barrier to entry to new entrants, as new entrants can buy a complete new IT system that complies with the rules while incumbent firms have to update their existing legacy systems (https://assets.digital.cabinet-office.gov.uk/media/53c834c640f0b610aa000009/140717_-_PCA_Review_Full_Report.pdf).

between continuity of access and SCV proposals at 30% and 20% respectively. Between 60%–80% of these one-off costs will fall on the biggest banks. On a per account basis, smaller institutions will face higher costs (see **Table E**). These estimates are based on responses to a firm survey conducted by the PRA earlier this year. A total of 25 firms responded to the survey, and the estimated costs should be viewed in light of the limitations intrinsic to a small sample.

1.27 The incremental cost to the PRA from the proposals is expected to be minimal.

1.28 The FSCS is expected to incur a one-off administration cost of £1.5 million and an ongoing annual cost of £40,000 due to changes required by the DGSD and the proposed changes to the SCV. These costs will be passed on to firms via the management expenses levy. The PRA expects that the proposed continuity of access provisions will lead to minimal additional costs for the FSCS.

1.29 The proposals address certain shortcomings in the design and operation of the deposit protection framework and are expected to yield incremental benefits by helping to improve the effectiveness of the Deposit Guarantee Scheme (the FSCS) and improving firms' resolvability. This will help to improve depositor confidence and hence contribute towards the safety and soundness of firms. In addition, through supporting orderly resolution, the proposals further minimise the adverse effect that the failure of a PRA firm could be expected to have on the stability of the UK financial system.

1.30 A more detailed analysis of the costs and benefits of the proposals is included in Chapter 5 of this CP.

Responses and next steps

1.31 This consultation closes on 6 January 2015. The PRA welcomes views on its proposed approach for implementation of the DGSD and other changes to the PRA rules for depositor protection. Respondents are requested to structure their responses by chapter.

1.32 The PRA will publish a statement of policy with a summary of the feedback, final rules, supervisory statements and statements of policy for the FSCS in 2015 H1.

1.33 The PRA will publish a further consultation paper (CP2) on compensation arrangements for dormant account fund operators and consequential changes needed to PRA rules as a result of the rules being proposed in this consultation. CP2 will also set out the PRA's proposals in relation to the treatment of existing COMP rule waivers and modifications granted to firms in accordance with section 138A of FSMA. The PRA intends to publish CP2 before it publishes the policy statement (including final rules, supervisory statement and FSCS statement of policy) for this CP.

Transition to proposed new rules

1.34 The PRA intends that all rules proposed in this CP (with the exception of Rules 11.4–13.3) would come into force on 3 July 2015 in line with the transposition deadline for the recast DGSD. The PRA intends that proposed Rules 11.4–13.3 on the single customer view and continuity of access will come into force 18 months after the policy statement for this CP is published. This means that firms would be required to comply with the requirement to mark eligible deposits (under proposed Rule 11.1), as well as the requirement to mark beneficiary accounts which contain eligible deposits (under proposed Rule 11.2) and the requirement to mark accounts held by preferred creditors (under proposed Rule 11.3) from 3 July 2015 but would not be required to comply with other proposed new single customer view rules and continuity of access rules from 3 July 2015.

1.35 The PRA proposes that, in the period from 3 July 2015 until the proposed Rules 11.4–13.4 come into force, firms would have to comply with an amended interim version of COMP 17.

1.36 The PRA intends to consult on a proposed interim version of COMP 17 in CP2. However, the PRA currently expects that the interim version of COMP 17 will be substantially similar to COMP 17, but with some amendments to ensure that the wording of COMP 17 works together with the proposed new rules and that the requirements of the recast DGSD are transposed. The key proposed changes to COMP 17 are likely to be:

- (a) **Scope of the SCV file:** firms will need to produce an SCV file in relation to eligible deposits as defined in the recast DGSD (ie including wholesale deposits as well as retail deposits).
- (b) **Scope of SCV systems:** firms' SCV systems will also need to reflect the change in the definition of eligibility under the recast DGSD (eg the firm's SCV system will need to be capable of automatically identifying the amount of compensation payable to each depositor with eligible deposits).
- (c) **Account flagging:** the requirement in COMP 17.2.1R for firms to be able to identify accounts held by eligible claimants will be removed from 3 July 2015 and replaced with new proposed Rules 11.1, 11.2 and 11.3 (which implement the recast DGSD and make changes as a result of BRRD).

1.37 As mentioned above, the detailed interim rules will be consulted on in CP2.

1.38 This approach will mean that firms which are currently required to comply with COMP 17 should only be required to

make minimal amendments to their systems and processes in order to ensure compliance with the recast DGSD, and will then have a longer period to make the amendments necessary for compliance with the new rules.

Transition to proposed new rules for wholesale-only deposit-takers

1.39 'Wholesale-only' deposit-takers refers to deposit-takers that only accept deposits from depositors that are currently excluded from FSCS cover under existing PRA rules, but which will accept eligible deposits under the recast DGSD as a result of changes to eligibility. For example, this would include firms that currently only accept deposits from large companies that are excluded from FSCS protection under existing PRA rules but would not be excluded under PRA rules being proposed in this CP.

1.40 Wholesale-only deposit-takers will be subject to recast DGSD requirements (see Chapter 2 Section B). This means that wholesale-only deposit-takers will need to comply with recast DGSD requirements by 3 July 2015 in line with the transposition deadline. As a result, the PRA intends to require wholesale-only deposit-takers to comply with all proposed new rules (with the exception of Rules 11.4–13.3), including the rules requiring firms to mark eligible deposits (Rules 11.1 and 11.2).

1.41 Wholesale-only deposit-takers will be required to comply with the rules on SCV systems and continuity of access requirements (Rules 11.4–13.3) once these come into force 18 months after the policy statement for this CP is published. However, in the period from 3 July 2015 until Rules 11.4–13.3 come into force, the PRA does not intend to require wholesale-only deposit-takers to comply with the proposed interim version of COMP 17 described in paragraph 1.36 above. The proposed interim version of COMP 17 will only apply to firms which are currently required to comply with COMP 17.

1.42 The PRA considers that this approach will still enable the FSCS to pay compensation to depositors with eligible deposits, as even though wholesale-only deposit-takers will not be required to produce a single customer view, they will still be required to mark eligible deposits in accordance with Rule 11.1, enabling the FSCS to make an assessment regarding the amount of compensation payable.

2 Implementing the recast Deposit Guarantee Schemes Directive

Implementation approach

2.1 This chapter sets out the proposed PRA rules for the implementation of the recast DGSD. Member States are required to bring into force by 3 July 2015 the laws, regulations and administrative provisions necessary to comply with the recast DGSD. As transposition in the United Kingdom will be achieved by a combination of HM Treasury legislation and rules made by the PRA, draft rules included in this consultation may be subject to change.

2.2 The DGSD is largely a maximum harmonising directive designed to bring a more consistent approach to Deposit Guarantee Schemes (DGSs) across the EEA.⁽¹⁾ Given this, the areas where the PRA has policy discretion are limited and largely operational.

2.3 This chapter covers the PRA's approach to implementing:

- (a) the funding requirements of the recast DGSD;
- (b) changes in eligibility for deposit protection;
- (c) protection for temporary high balances;
- (d) new disclosure requirements for firms;
- (e) repayment periods; and
- (f) host DGS payments on behalf of the home DGS.

2.4 Appendix 1 also sets out a summary of other, less substantive, recast DGSD requirements that the PRA proposes to reflect in rules. This includes, for example, rules relating to information exchange between home and host DGSs.

A. The funding requirements of the recast DGSD

The current FSCS funding model

2.5 The current FSCS funding model is funded by *ex-post* levies imposed by the FSCS on the industry. Levies are allocated according to a firm's share of total industry deposits and are not risk-based.⁽²⁾ There is a cap, currently set at £1.5 billion, on the amount of levies that the FSCS can impose on deposit-takers in respect of deposits each year. The FSCS also has the option of borrowing from a commercial loans facility or from the National Loans Fund.

(1) *Ex-ante* funding requirements

2.6 The recast DGSD requires the DGS to be *ex-ante* funded, and requires an *ex-ante* fund of at least 0.8% of the amount of

covered deposits of its members to be built up. Member States may seek Commission agreement to a lower fund size of at least 0.5%.⁽³⁾ However, the recast DGSD allows Member States to fulfil the requirement to establish an *ex-ante* fund through existing mandatory contributions from the banking sector (such as the UK bank levy).⁽⁴⁾ In HM Treasury's consultation *A bank levy banding approach* published on 27 March 2014, the Government confirmed its intention to make use of this option and use the existing bank levy in Schedule 19 of the Finance Act 2011 to meet the *ex-ante* funding requirements in the DGSD.⁽⁵⁾

Proposals

2.7 The PRA proposes rules, in line with Article 10(4) of the recast DGSD, under which the PRA will first determine whether the FSCS is able to raise contributions from DGS members at the point when they are needed. The PRA proposes to make that determination on a case-by-case basis at the time of each call on DGS funds. If the PRA determines that firms cannot be levied immediately, it can allow the FSCS to access funds raised via the bank levy. Firms would then be levied at a later date to repay levy funds used. This approach would allow the PRA to determine how much the industry can afford at the time of each call on DGS funds. In making this determination, the PRA expects to take into account the likely impact on financial stability of raising levies from the industry, the potential impact on competition and the level of contributions required. The PRA's approach as explained above is reflected in the proposed rules and further explanation is set out in the proposed statement of policy (see Appendix 3).

2.8 Any amounts accessed from the bank levy must be replenished via FSCS levies on DGS members in subsequent years in line with Article 10(4) of the recast DGSD. The PRA

(1) As referred to in paragraph 1.11, until the EEA Joint Committee amends the EEA Agreement, with a view to permitting simultaneous application of the DGSD in the EEA States, the recast DGSD only applies within the EU.

(2) Risk-based levies require the size of the levy to reflect the likelihood of the firm giving rise to a call on the Deposit Guarantee Scheme.

(3) Under Article 10(6), Member States may apply for a lower target level (of no lower than 0.5% of covered deposits) if a number of conditions are met. These include that the banking sector in which credit institutions affiliated to the DGS operate is highly concentrated with a large quantity of assets held by a small number of credit institutions or banking groups, subject to supervision on a consolidated basis, which, given their size, are likely in case of failure to be subject to resolution proceedings.

(4) This is similar to the 'carve out' in the BRRD for resolution funds (target size 1% covered deposits). Member States may not 'double count' mandatory contributions for both purposes.

(5) *A bank levy banding approach*, March 2014; <https://www.gov.uk/government/consultations/a-bank-levy-banding-approach>.

has discretion over the amount levied on the industry per year, subject to certain recast DGSD conditions.⁽¹⁾

(2) Risk-based levies

2.9 The recast DGSD requires contributions made under the DGSD funding requirements to be based on the degree of risk incurred by the firm. The European Banking Authority (EBA) is developing guidelines to specify methods for calculating risk-based levies. At the time of publication, the EBA's timetable to consult on the guidelines has yet to be finalised. The PRA expects that it will publish a further consultation paper on risk-based levies following finalisation of the EBA guidelines.

2.10 Legacy costs incurred by the FSCS in paying compensation in respect of deposits prior to the date on which the PRA proposes these rules come into force would also be risk-based under the PRA's proposed rules although the PRA acknowledges that there are arguments both for and against here. The PRA considers that treating legacy costs as subject to risk-based levies in common with other FSCS levies would be the simplest approach (running two methods for calculating levies could be costly and complex for the FSCS). However, the PRA recognises that there is an argument in favour of not making legacy costs, which relate to repayments of costs that arose previously, subject to new funding metrics. The PRA also proposes that we should continue to exclude Northern Irish credit unions from levies raised to impose legacy costs. This is the PRA's strong policy preference as Northern Ireland credit unions were informed that they would be excluded from these costs when they first came under FSA regulation.

B. Changes in eligibility for deposit protection

Recast DGSD requirements

2.11 Under the recast DGSD, eligibility for deposit protection has been harmonised and most depositors, including companies that are not financial institutions, will be eligible.⁽²⁾ This differs from the current PRA rules, where the broad position is that only retail deposits and the deposits of small corporates are eligible for deposit protection by the FSCS.⁽³⁾ The recast DGSD also requires deposit-takers to mark eligible deposits in a way that allows immediate identification of them. Key changes to eligibility reflected in the PRA's proposed rules are set out below.

(i) Extension of scope to large companies Proposals

2.12 As a result of the extension of scope of deposit protection referred to above, the PRA proposes that deposit-takers should update their SCV systems to reflect these changes. Unless specifically excluded from protection, this means, as with all other eligible deposits, marking

deposits placed by all companies as eligible and including them in the SCV as appropriate.

2.13 This extension in scope also means that 'wholesale-only' deposit-takers (ie those accepting deposits only from large companies and other depositors that were previously excluded) will now hold FSCS-eligible deposits and therefore need to meet recast DGSD requirements. These include:

- (i) a requirement that credit institutions mark eligible deposits in a way that allows them to be immediately identifiable as eligible;
- (ii) new disclosure requirements; and
- (iii) funding requirements.

2.14 Under the recast DGSD, eligible depositors with wholesale-only deposit-takers must receive compensation within 20 working days (reducing in stages to 7 working days by 1 January 2024 — see paragraphs 2.30–2.32 below). In the United Kingdom, this compensation requirement, together with requirement (i) above is met through the SCV. The PRA proposes that wholesale-only deposit-takers should establish and maintain SCV systems in order to meet recast DGSD requirements as well as comply with the relevant obligations of DGS membership, including in relation to funding. Depending on each deposit-taker, this may mean introducing or amending IT solutions and supporting processes in order to store data and facilitate retrieval of data.

(ii) FSCS protection for credit unions' own deposits Proposal

2.15 Currently, credit unions are eligible depositors under PRA rules. This means that where they have deposited funds with another deposit-taker, they can claim compensation of up to £85,000 from the FSCS in the event that the deposit-taker fails. Consistent with the recast DGSD, the PRA's proposed rules set out that funds deposited by credit unions for their own account with another deposit-taker are no longer eligible for FSCS protection. This does not affect the eligibility of a credit union's own depositors, who will remain covered by the FSCS in accordance with proposed PRA rules.

(1) The recast DGSD requires that, where two thirds of the fund is used, it must be repaid within six years. The terms of the borrowing, such as the interest rate, are set by HM Treasury.

(2) Exclusions from eligibility will broadly include deposits made by credit institutions, financial institutions, investment firms, insurers, collective investment undertakings, pension and retirement funds and public authorities, as well as deposits arising out of transactions where there has been a criminal conviction for money laundering, deposits whose holder has not been identified and deposits that qualify as own funds. Member States are given the option to cover the trustees of smaller pension schemes.

(3) A small company must meet at least two of the following criteria: (i) turnover: not more than £6.5 million; (ii) balance sheet total: not more than £3.26 million; and (iii) number of employees: not more than 50.

C. Protection for temporary high balances

Recast DGSD requirement

2.16 Article 6 of the recast DGSD requires that temporary DGS coverage is provided for at least three months and no longer than twelve months for certain deposits. These are categorised as temporary high balances (THBs) and include:

- (i) deposits resulting from real estate transactions for private residential purposes;
- (ii) deposits that serve social purposes defined in national law and are linked to particular life events of a depositor such as marriage, divorce, retirement, dismissal, redundancy, invalidity or death; and
- (iii) deposits that serve purposes defined in national law and are based on the payment of insurance benefits or compensation for criminal injuries or wrongful conviction.

2.17 This coverage would be available where a depositor has more than £85,000 deposited with a deposit-taker, and all or part of the deposit in excess of £85,000 is a THB.

Proposals

Temporary high balance (THB) categories

2.18 The PRA's proposed rules set out the categories of deposits that the PRA expects would benefit from this additional protection (see Appendix 2). Further detail is set out in the statement of policy (see Appendix 3).

Protection limit

2.19 The PRA considers that providing a relatively high level of temporary protection to all individuals with deposits that qualify supports depositor confidence, and can thereby contribute to the safety and soundness of firms. However, in the interests of proportionality, there should be a maximum limit per THB. Accordingly, the PRA's proposed rules set a limit of £1 million on this additional protection but with an exception for deposits relating to personal injury compensation, where the PRA proposes that protection should be unlimited given the nature of the claims. A £1 million limit would cover approximately 99% of house sales (the most common THB category) in England and Wales and 92% in London.⁽¹⁾ The PRA proposes applying this limit on a 'per event per deposit-taker' basis, so that a depositor may claim compensation up to the £1 million limit in relation to each event that has occurred which gives rise to a THB.

Time limit

2.20 The PRA's proposed rules set out a time limit of six months for this additional protection, beginning on the date on which the deposit was first transferred into the depositor's account or the date on which it became legally transferable to the depositor (whichever is later). The PRA considers that this period of coverage strikes the right balance

between giving depositors sufficient time to split their deposits between institutions and the increased costs to levy payers.

Operational approach

2.21 The PRA proposes that deposit-takers should not be required to mark and verify THBs prior to default. Although depositors would receive their THB payment faster under an approach in which such balances were verified prior to a failure, the PRA considers that this would impose an onerous requirement on firms. The PRA is of the view that this would not be proportionate to the benefits of repaying these balances within the faster payout deadline. Even in a system where balances were verified in advance, a procedure would still be needed after the default had taken place to allow customers to claim THB protection where they had failed to register their THB with their deposit-taker in advance. Instead, the PRA proposes that depositors with THBs should have to provide proof of the THB to the FSCS if their bank defaults. The FSCS would use the SCV file to identify individuals with balances in excess of the compensation limit and inform them that they may be entitled to additional cover. The FSCS would provide the depositor with information on what constitutes a THB and the level of evidence required to verify the balance. These depositors would receive £85,000 within the faster payout deadline.

Payment

2.22 See Section E below on repayment periods.

Bank account turnover

2.23 Payments flowing into and out of an account may make it difficult to determine what portion of a depositor's money retains THB protection since the date that the THB was paid in. The PRA's proposed rules set out that depositors are eligible for THB protection during the coverage period to the value of the original THB amount, regardless of the pattern of subsequent payments into and out of the account.

2.24 The PRA's proposed rules set out that if the THB is transferred to another deposit-taker, the corresponding THB cover would also transfer, although the coverage period will not begin again. Due to the wide variety of relevant factors in establishing whether the transferred amount is linked to the original THB, the PRA proposes that the FSCS is given discretion to determine this. The PRA's proposed DGS statement of policy sets out a number of considerations to which the PRA expects that the FSCS should have regard when making this determination (see Appendix 3).

(1) Based on 2013 property data from the Land Registry.

D. New disclosure requirements for firms

(1) Prescribed information about compensation arrangements

Recast DGSD requirement

2.25 Article 16 of the recast DGSD sets out new disclosure requirements intended to help with awareness of deposit guarantee arrangements, including use of a prescribed template of information (the 'information sheet'). The information must be provided to the depositor before entering into a contract on deposit-taking and at least annually thereafter. In the former case, receipt must be acknowledged. Firms must also provide confirmation on account statements that deposits are eligible and inform depositors (and potential depositors) of the exclusions to eligibility.

Proposals

2.26 The PRA proposes to reflect in rules the recast DGSD requirements set out in paragraph 2.25 above. Rules requiring disclosure of the recast DGSD information sheet will replace the current disclosure requirements in COMP 16.3, in relation to prescribed disclosure information about compensation arrangements that firms must include on account statements. The PRA proposes that firms also include their own contact details within the information sheet.

2.27 The PRA proposes that FSCS posters and stickers, which deposit-takers are required to prominently display in their branches and on their websites (current rules are in COMP 16.4), should be amended to reflect the THB coverage as follows: 'Your eligible deposits with [insert name of firm] are protected up to a total of £85,000 by the Financial Services Compensation Scheme, the UK's deposit protection scheme. Any deposits you hold above the £85,000 limit are unlikely to be covered. Please ask/click here [delete as appropriate] for further information or visit www.fscs.org.uk.'

(2) Disclosure and other requirements relating to mergers or conversions

Recast DGSD requirement

2.28 Article 16 of the recast DGSD sets out disclosure requirements for firms in the event of planned mergers or conversions of subsidiaries into branches or if the firm withdraws or is excluded from the FSCS (although the advance disclosure requirements can be shortened by the PRA on grounds of commercial secrecy or financial stability). The DGSD also provides that depositors must be given a three-month period following notification of the merger or conversion to give them the opportunity to withdraw or transfer deposits, without incurring any penalty (for example, early repayment contractual penalties), insofar as they exceed the coverage level at the time of the operation.

Proposals

2.29 The PRA proposes that the amount that can be withdrawn or transferred without penalty should be restricted to the covered amount the depositor held before the transfer or merger to enable firms to manage the risk of outflow of funds that may arise.

E. Repayment periods

Recast DGSD requirement

2.30 The payout deadline is to be reduced from 20 working days to 7 working days. The transitional period for Member States to reach this target ends on 31 December 2023. This brings DGSD requirements close to the target set in the United Kingdom since 2010 of compensating the majority of eligible depositors within seven calendar days of a default.

2.31 Article 8 of the recast DGSD permits certain categories of deposits to be excluded from the repayment deadline set out above. These are similar to those in current PRA rules and include:

- (i) deposits held in beneficiary, trust or client accounts;
- (ii) where it is uncertain whether a person is entitled to receive repayment;
- (iii) where the deposit is subject to legal dispute;
- (iv) where the deposit is subject to restrictive measures imposed by national governments or international bodies;
- (v) dormant accounts;
- (vi) where the amount to be repaid is part of a THB; and
- (vii) where the amount to be repaid is to be paid out by the DGS of the host Member State (see Section F below).

2.32 The recast DGSD states that deposits held in beneficiary, trust or client accounts must be repaid within three months.

Proposals

2.33 The PRA's proposed rules set out, in line with recast DGSD requirements, a staged reduction of the payout deadline from 20 working days to 7 working days by 1 January 2024. During this period, if a seven working day payout cannot be achieved, an emergency payment to cover cost of living must be made by the FSCS within five working days of a request, in line with recast DGSD requirements. More information regarding this provision is set out in the statement of policy in Appendix 3.

2.34 Consistent with the recast DGSD, the PRA's proposed rules exclude the categories of deposits set out in paragraph 2.31 from the faster payout requirements and require that deposits held in beneficiary accounts must be repaid within three months. The PRA's proposed rules also provide that THBs must be repaid within three months, other than in exceptional circumstances (for example, if the FSCS does not receive promptly verifiable proof from depositors with regards to THBs). The PRA's proposed statement of policy (see Appendix 3) sets out that the FSCS should aim to repay all remaining deposit categories set out in paragraph 2.31 within three months (in line with the DGSD requirement for beneficiary accounts), where possible. For example, this may not be possible where the deposit remains under legal dispute or under restrictive measures imposed by governments. Further information can be found in paragraph 3.12 in Chapter 3.

F. Host DGS payment on behalf of the home DGS

Recast DGSD requirement

2.35 The recast DGSD provides that depositors with branches set up by credit institutions in another Member State shall be repaid by a DGS in the host Member State on behalf of the

DGS in the home Member State.⁽¹⁾ The host DGS must make repayments in accordance with the instructions of the home DGS and shall not bear any liability with regard to acts done in accordance with the instructions given by the home DGS. The home DGS is required to provide the host DGS with necessary funding prior to payout and shall compensate the host DGS for costs incurred. Communication with depositors is the responsibility of the host DGS on behalf of the home DGS. The host DGS is also entitled to receive correspondence on behalf of the home DGS.

Proposals

2.36 The PRA proposes to reflect these arrangements in PRA rules. PRA rules and FSMA already provide for the possibility of the FSCS paying compensation on behalf of another DGS, although it is not currently a requirement in PRA rules for the home DGS to provide funding upfront. See also Chapter 3 on SCV rules to support this.

(1) For example, a depositor with a French branch of a UK deposit-taker will be repaid by the French DGS (although the payout would be funded by the FSCS). Conversely, a UK branch of a French deposit-taker will be repaid by the FSCS, although payout would be funded by the French DGS.

3 Single customer view changes

3.1 This chapter sets out proposed changes to the single customer view (SCV) rules which are presented in Appendix 2. The PRA currently requires deposit-takers to be able to produce a single, consistent view of each depositor's funds. This view is critical to the fast payout of depositors, minimising the adverse effect of firm failure on the stability of the UK financial system and helping to meet the repayment deadlines imposed by the DGSD.

Proposals

Opt-out limit

3.2 Currently, firms with fewer than 5,000 FSCS-eligible accounts are able to opt out of electronic SCV requirements. The PRA's proposed rules remove this opt-out. The proposed change would mean that all firms, regardless of the number of FSCS-eligible accounts held, would have to submit the same SCV report and would go through a verification process with the FSCS upon authorisation or after a material change to the firm's SCV system. All firms would have to submit the SCV file in an electronic form. This will help the PRA to verify more easily the information that has been provided by firms.

3.3 To support credit unions in these and other proposed changes, the FSCS intends to hold a one day workshop for credit unions before July 2015.

Changes in reporting

3.4 The PRA's proposed rules set out revised requirements on firms in relation to the SCV reporting regime (ie the regime under which firms report to the PRA on their compliance with the SCV rules). Firms are currently required to submit a separate implementation report and SCV report to the PRA. The PRA proposes that firms should submit a single SCV report covering the information previously contained in these separate reports. This report would be submitted annually and within three months of a material change to a firm's SCV system.

3.5 The PRA proposes to require additional areas of information to be included in the new SCV report. These changes will help supervisors to scrutinise whether firms are complying with these rules and help the FSCS to understand how the firm has produced its SCV file. These additional areas comprise information on:

- (i) dependencies, for example, reliance on a parent firm or third party (where relevant);
- (ii) procedures and controls to protect SCV files, for example, information on how the SCV file is stored securely and what procedures firms have in place to handle key person dependency;
- (iii) testing the process of producing the SCV and exclusion files, including consideration of how the files are produced in a stressed scenario, the frequency of testing and how reconciliation to the firm's core systems is carried out;
- (iv) treatment of legally dormant accounts (under the Dormant Banks and Building Societies Accounts Act 2008 these are accounts where there have been no transactions for fifteen years) to understand whether firms have transferred the balance of these accounts to a reclaim fund for dormant accounts; and
- (v) the process of creating the exclusion file.

In-flight transactions

3.6 The PRA's proposed rules will clarify the approach that firms should take when adding in-flight payments to the account balance stated in the SCV and exclusion file. The PRA's aim is to standardise how these payments should be treated to ensure a consistent approach and provide clarity for depositors, the FSCS and any insolvency practitioner (IP) around compensation due and the treatment of payments. The PRA's proposed rules set out the requirements in relation to in-flight transactions at a high level to encompass the differing types of engagement between deposit-takers and payment systems.

3.7 The PRA's proposed approach is based on identifying the amount of deposits that a depositor holds at a fixed point in time on the compensation date (ie the date on which deposits are determined to be unavailable deposits in accordance with PRA rules). All payments already reflected on the depositor's account at the fixed point in time form part of the SCV and compensation amount. This should mean that the amount the SCV states as the compensation balance at that point is the amount that the depositor receives in compensation (subject to temporary high balances or balances in the exclusions file). Future adjustments to the account balance

stated in the SCV to reflect in-flight payments are not expected to occur.

3.8 The PRA understands that payments that are not reflected on the depositor's account at the compensation date would continue to be processed as normal, if the accounts are transferred to another financial institution under continuity of access proposals. In-flight payments that are not reflected on the transferred account until after the point of resolution would be treated as new payments settled by the acquiring bank. The PRA understands payments not reflected on the account at the compensation date would be returned unapplied for all accounts in the event of a payout, and for non-transferred accounts in a transfer (via continuity of access).

3.9 The proposed supervisory statement (Appendix 3) provides more detail about how the PRA would expect the rule to be applied.

Speed of producing file

3.10 Currently, firms have 72 hours to produce the SCV file. The PRA's proposed rules require that firms should produce SCV files within 24 hours both for verification purposes and in the event of a default. The proposed approach to in-flight transactions set out above should aid firms in reducing the time it takes to produce the SCV file. Reducing the time to identify covered balances in eligible accounts will enhance depositor protection in resolution and support continuity of access proposals.

3.11 In the future, as firms continue to update the capabilities of their IT systems, the PRA would expect firms to identify options to reduce further the time taken to produce SCV files.

Standardised file format

3.12 The PRA's proposed rules and supervisory statement standardise the requirements for fields and format of the SCV file. This greater clarity will deliver consistency across the industry and ensure that key information for payout is included. These changes will also ensure that the SCV files are compatible with the FSCS's systems, reducing the need for manual processing by the FSCS and facilitating faster payout.

Exclusions definition

3.13 The recast DGSD introduces new categories of accounts where repayment may be deferred beyond the standard payout deadline. Further information can be found in Section E in Chapter 2. The PRA proposes to give effect to these changes through rules that require firms to exclude the following categories of eligible deposits from the SCV file:

- (i) where the depositor is not absolutely entitled to the sums held in an account;

- (ii) where it is an account for which the firm has received formal notice of a legal dispute or competing claims to the proceeds of the account;
- (iii) deposits subject to restrictive measures imposed by national governments or international bodies. This is a broader category than under current rules which only cover accounts which appear on the 'Consolidated list of financial sanctions targets in the United Kingdom' that is maintained by HM Treasury; and
- (iv) dormant accounts according to the definition in the Dormant Banks and Building Societies Accounts Act 2008.

3.14 Accounts containing eligible deposits within these categories should be included in the exclusions file.

Exclusions file format

3.15 The PRA's proposed new rules set out how firms should submit information about eligible deposits in accounts that are not included in the SCV file. This is referred to as the 'exclusions file'. The proposed file structure is similar to the SCV structure, but includes some changes to the fields for beneficiary accounts given the nature of these accounts. The 'single customer view record number' as set out in proposed Rule 11.17 field 1 should apply across both files.

3.16 The exclusions file should be delivered alongside the SCV file for both verification and resolution purposes. These new requirements will enable the FSCS to pay out the excluded accounts, where appropriate, in line with DGSD requirements.

Bank Recovery and Resolution Directive

3.17 The BRRD requires Member States to ensure that their national law governing normal insolvency proceedings gives a higher priority ranking to certain types of deposits than the ranking provided for the claims of ordinary unsecured, non-preferred creditors.⁽¹⁾ The PRA proposes a new rule that will ensure that natural persons and micro, small and medium-sized enterprises are marked on firms' systems. This will support the use of resolution powers under the BRRD.

3.18 Credit unions are not within the scope of the resolution powers in the BRRD and therefore the PRA does not propose to extend this rule to credit unions.

Keys and codes and flags

3.19 Current SCV rules set out that firms should explain how any keys or codes are used internally by the firm. The PRA proposes new marks for firms to introduce alongside their

(1) The Bank Recovery and Resolution Directive requires a hierarchy for depositor protection. The hierarchy will 'super prefer' EEA covered deposits to all other unsecured liabilities. Next in the hierarchy will be: (1) the part of eligible deposits from natural persons, and micro, small and medium-sized enterprises which exceeds the coverage level; and (2) deposits that would be eligible from the same category (natural persons etc) but were made through branches outside the EEA. These two categories will be preferred to all other unsecured liabilities.

current keys and codes to help the PRA and the FSCS understand how accounts should be treated.

3.20 As mentioned in paragraph 3.17 above, the PRA's proposed rules require firms to mark accounts belonging to natural persons and micro, small and medium-sized enterprises so that the PRA can identify these accounts for BRRD purposes.⁽¹⁾ This information should also be included in the SCV file for any relevant FSCS-eligible accounts. This will enable the PRA to identify preferred accounts using the SCV file.

3.21 The PRA's proposed rules require firms to mark accounts that have had no activity initiated by the customer for between two and fifteen years. This will enable the FSCS to defer payout on these accounts if needed without excluding these accounts from the SCV file which would mean more manual processing. This should be included in a separate field in the SCV file.

New fields

3.22 The PRA proposes introducing new fields in the SCV file to support payout and transfer of accounts. These fields will provide additional information to help implement the recast DGSD and will support faster payout and continuity of access proposals. This includes a proposed requirement for firms to include in the SCV file Bank Identifier Code (BIC) numbers (where available to the firm), International Bank Account Numbers (IBAN) and the country in which the account is located, to ensure that the FSCS is able to identify where host DGSs should be paying out on their behalf. The PRA proposes that firms only supply this information where it is collected already. The new fields are outlined in Appendix 2.

Joint accounts

3.23 The PRA's proposed rules clarify that firms should split joint accounts down to the nearest penny when working out compensation amounts. Joint accounts should be split in accordance with the terms of the account or 50:50, where the terms of the account do not specify the split.

Verification

3.24 The current PRA rules set out requirements for verification of the SCV file within three months of authorisation or three months after a material change. Currently, the PRA's rules require firms to submit a sample of the SCV file for verification. The PRA proposes to amend the rules to require firms to submit a full file for both the SCV and exclusion file for the purpose of verification. For some firms, this is easier to provide than a representative sample of the SCV file. This change also supports the FSCS in its work verifying SCV files. This is relevant for the new proposed Rule 11.7.

3.25 The PRA, supported by the FSCS, has also established a business as usual process for reviewing firms' SCV files on a regular basis, separate from the current verification rules. The PRA proposes to formalise this process in rules to ensure firms are clear about what is expected from their participation in the verification process. The rule clarifies that firms should submit their SCV file to the PRA or the FSCS on request.

3.26 The PRA proposes that verification of the DGSD and SCV changes is staggered over several years to manage the quantity of firms to be verified. This process will be integrated as part of the PRA's business as usual verification work supported by the FSCS to ensure that there is no duplication of effort.

3.27 As mentioned in paragraph 3.2 above, the PRA is proposing to remove the electronic opt-out from SCV requirements (previously only available for firms with fewer than 5,000 eligible accounts). The PRA proposes that for firms that previously did not comply with the electronic SCV requirements, verification will be carried out on a risk-adjusted basis to be decided by the PRA. For example, the PRA may wish to focus on those firms with close to 5,000 accounts. This will ensure that verification is proportionate. For firms which already comply with the electronic requirements, verification will be carried out on the same basis as currently.

(1) Micro, small and medium-sized enterprises as defined with regard to the annual turnover criterion referred to in Article 2(1) of the Annex to Commission Recommendation 2004/461/EC.

4 Continuity of access

4.1 This chapter sets out new systems requirements for firms which are designed to make it easier for FSCS-covered deposits to be transferred in a resolution. By facilitating this, the requirements are intended to ensure that continued access for depositors to FSCS-covered deposits remains a feasible option in the event of the failure of a firm. This fits into the PRA's wider work to improve resolvability of financial institutions. More generally, enhancing resolvability of firms supports the PRA's delivery of the objective of promoting the safety and soundness of firms. The proposals also support the Bank of England's objectives for executing an orderly resolution under the special resolution regime.

4.2 New rules are proposed to implement these provisions. These rules are explained below and set out in Appendix 2. There is also a supervisory statement to support these rules set out in Appendix 3.

Overview of purpose

4.3 The FSCS seeks to pay out compensation to (the majority of) depositors within seven calendar days of the failure of a firm. However, in some circumstances it is preferable for eligible depositors to have continued access to their deposit accounts. The Banking Act 2009 provides powers under the bank insolvency procedure/building society insolvency procedure (BIP/BSIP) for eligible deposits to be transferred by the insolvency practitioner (IP) upon insolvency. The Banking Act 2009 also sets out the circumstances in which the Bank of England as resolution authority may use stabilisation powers to transfer deposits to a private sector purchaser or bridge bank wholly-owned by the Bank of England, if the failing firm meets the conditions for use of those tools.

4.4 The PRA's proposed rules set out systems requirements that will facilitate continued access to accounts for depositors, including the ability to make payments, where accounts are transferred from a failed bank to another financial institution. FSCS payout remains an important option for returning compensated balances in the event of a failure.

Context

4.5 This section explains what the rules seek to achieve and how the new systems requirements will be used in order to help firms understand the context and design of the proposed rules. The rules provide one piece of how the mechanism for the deposit book transfer of FSCS-covered deposits is intended to work. This process will take place in accordance with relevant legislation and the precise approach used may vary according to the circumstances of the individual firm.

4.6 The PRA's proposed rules seek to ensure continuity of access to FSCS-covered deposits. This is in line with the protection provided under FSCS payout. It is possible that deposits that are not covered by the FSCS may not be transferred and would be dealt with as normal in the insolvency or administration of the failed bank. Accounts that are included in the exclusions file and temporary high balances may not be transferred and instead would be paid out, as relevant, by the FSCS. This is due to the additional complexities in working out whether such accounts are eligible for transfer.

4.7 The transfer of accounts in a resolution is likely to involve a legal transfer of deposit liabilities to another financial institution. Eligible accounts are likely to continue to operate on the failed bank's systems for a period of time through a transitional services arrangement (TSA) between the IP or resolution authority and the acquiring bank. The TSA should remain in place until all transferred accounts have been migrated across to the acquiring bank's systems. The acquiring bank would have full regulatory responsibility for the newly transferred accounts from the point of transfer as the legal owner and liability holder.

4.8 While the SCV file is produced and the covered and uncovered balances are being separated, there may be a short period of disruption. The proposed requirements are designed to minimise the length of time and the impact of that disruption for depositors in resolution. However, there may be some restrictions to depositors' access to certain payment systems channels, including limits applied to ATM withdrawals or card payments. Payment instructions associated with transferred accounts should be maintained so that payments may continue to be made.

Proposals

4.9 For the transfer of an FSCS-covered deposit to be successful at the point of resolution, whether via the BIP or use of stabilisation powers, firms will need to make changes to their systems and processes. The treatment of in-flight transactions is already separately covered in Chapter 3 under the SCV proposals. The proposed rules are presented in Appendix 2.

Identifying and freezing accounts

4.10 To comply with the DGSD requirement and under Rule 11.1 firms must mark FSCS-eligible deposits in a way that allows immediate identification of them. The proposed rules require firms to create systems that will allow accounts which do not contain eligible deposits to be frozen at the point of resolution (ie all unmarked deposits) while leaving marked deposits accessible. The PRA also requires these systems to be capable of freezing accounts in the exclusions file at the point of resolution.

Separating covered and uncovered balances

4.11 The PRA's proposed rules set out how firms should create their systems to separate FSCS-covered and uncovered balances, including what should happen if a depositor has multiple accounts. Firms should use the information in the SCV file to assess a depositor's covered and uncovered balances. Where balances within an account exceed the coverage limit, in a resolution scenario the uncovered balance should be transferred into a separate account. The PRA is proposing to allow firms to decide how this should be done, ie whether there should be one large suspense account or multiple 'shadow accounts'. In either case, firms should ensure that they have sufficient record-keeping systems and controls to track deposits back to the original account and depositor, and provide each depositor's final balance at the point of resolution. This will enable the IP to ensure that uncovered balances are treated appropriately.

4.12 Rule 11.15 sets out a hierarchy for treatment where a depositor has covered and uncovered balances (over the covered limit which is currently £85,000) distributed across multiple accounts. This hierarchy prioritises accounts which are needed for day to day economic activity over fixed term deposits. This means, where the aggregate balance exceeds the covered limit, fixed term deposits are the first to be reduced by transfer to the separate account and transactional account deposits are the last to be reduced.

Deposit-taker verification and reporting

4.13 The PRA's proposed rules set out that all firms must submit a self-certification report that describes how they comply with the rules set out in Appendix 2. If firms have appointed an internal or external auditor to assure themselves of compliance, the PRA would also expect any auditor's report to be included as part of the self-certification process.

4.14 The PRA will develop a more intensive assessment process that will work alongside self-certification in order to verify the system changes made by firms and to assess their capacity to execute an FSCS-covered deposit book transfer in the event of a resolution.

Scope of firms

4.15 The PRA's proposed rules on continuity of access would apply to all firms except for credit unions (which do not fall within the scope of the Banking Act 2009).

4.16 The PRA would consider waivers in accordance with section 138a of FSMA if compliance with the full regime would be unduly burdensome or it does not meet the purpose for which the rules are made, and the direction would not adversely affect the advancement of any of the PRA's objectives.

5 Economic analysis

5.1 FSMA requires the PRA to perform a cost benefit analysis (CBA) of the impact of its policy proposals. In particular, it requires the PRA to publish estimates of the costs and the benefits, unless these cannot reasonably be estimated or it is not reasonably practicable to produce an estimate.

5.2 In this CBA, the PRA provides an estimate of the costs and a qualitative analysis of the benefits, as it was not reasonably practicable to quantify benefits, arising from:

- (i) implementing the recast DGSD provisions in the United Kingdom by means of the proposed PRA rules set out in this CP;
- (ii) the PRA's proposed rules on changes to SCV requirements; and
- (iii) the PRA's proposed rules on continuity of access requirements.

Affected firms and markets

5.3 The proposals apply to the deposit-taking sector. An estimated 749 firms will be affected in the United Kingdom, including 166 banks (approximately 46 of which are wholesale-only), 45 building societies and 538 credit unions. The proposed rules on continuity of access do not apply to credit unions. There are 120 UK branches operating in the EEA outside the United Kingdom that will also be affected.

5.4 The proposed rules set out in both the Management Expenses Levy Limit and Base Costs Part and Management Expenses in respect of Relevant Schemes Part also apply to insurers (and where applicable, the Society of Lloyd's) that participate in the FSCS.

Methodology

5.5 To estimate the costs to the industry of the recast DGSD, SCV and continuity of access proposals, the PRA conducted a survey in March 2014 which asked firms to estimate the expected costs they would incur from a range of proposals. The PRA surveyed 63 firms (21 banks, 13 building societies, 19 credit unions and 10 wholesale-only banks) and received 25 responses (eight banks, eight building societies, four credit unions and five wholesale-only banks). This sample of 25 firms was used to estimate the sector wide costs.⁽¹⁾

Table A summarises the total assets, protected deposits and number of deposit accounts held at the firms that were surveyed.

Table A Summary of assets, protected deposits and number of accounts of firms surveyed

£ millions	Total assets	Protected deposits	Number of accounts
Big banks	>200,000	>50,000	>10,000
Challenger banks	5,000–25,000	1,500–50,000	60–2,000
Small banks	<5,000	<1,500	<2,000
Large building societies	1,000–200,000	1,000–120,000	200–25,000
Small building societies	<1,000	<1,000	<100
Credit unions	<100	<100	<50

Direct costs to the PRA

5.6 Direct costs to the PRA arising from the proposals are expected to be minimal.

Direct costs to the FSCS

5.7 The direct costs to the FSCS can be grouped into (i) operational costs of implementing changes required by the proposals; and (ii) potential increased claim handling costs (such as staff costs and other costs from processing claims). Costs under (ii) will only arise in the event of a firm failure. Costs incurred in both categories will be passed on to firms via FSCS levies.

(i) Operational implementation costs

5.8 The FSCS estimates that it will incur the following costs from the proposals in this CP:

- (i) a one-off cost of implementing the recast DGSD of approximately £1 million, and annual ongoing costs of about £10,000; and

(1) To account for the fact that certain proposals considered in the survey are not proposed in this CP, the 'total estimate' of costs excludes proposals which are no longer valid, and sums the remaining costs. Where firms are allowed discretion between two options, for example in choosing between the use of shadow accounts and single suspense accounts, an average cost of the options has been taken. Data entered erroneously, for example, when a firm responds to a proposal that is not applicable to them, have been ignored. Likewise, efforts have been made to account for anomalous data, though this has not always been possible to identify given the small number of responses.

- (ii) a one-off cost of implementing SCV-related changes of approximately £450,000, and an estimated annual cost of about £28,000, mostly driven by changes to IT systems.

5.9 The one-off costs correspond to a percentage budget increase for the FSCS of approximately 3%, assuming all changes are implemented in one year.⁽¹⁾ Costs arise mainly from changes to IT systems required to verify claims relating to THBs.

(ii) Claim handling costs

5.10 The FSCS also expects to incur additional administrative costs in handling claims. The most significant cost is expected to arise from the verification of THBs. The FSCS estimates that the claims handling cost would be approximately £430 per THB claim.

Compensation costs

5.11 Overall, the proposals to broaden the scope of FSCS protection, required by the DGSD, increase the potential compensation costs that could be paid following a failure. However, the actual size of future FSCS levies arising from compensation costs depends on three factors: (i) the probability of an event leading to compensation, ie the frequency of failure; (ii) the total contingent liability in failure, which is increasing as a consequence of broader protection (for example, to cover large corporate deposits and THBs); and (iii) the likely degree of recoveries available to the FSCS, which will depend on the creditor hierarchy, and will increase as a consequence of the introduction of depositor preference.⁽²⁾ The proposed rules will not affect the degree of recoveries.

5.12 Improvements to depositor protection may contribute to a reduction in the risk of contagion, and therefore could marginally reduce the likelihood of firm failure. However, overall, the PRA does not expect the proposals in this CP to affect the likelihood of firm failure materially. There have been various other regulatory initiatives (for example, revised capital and liquidity requirements) aimed at reducing the probability of firms' failure.

5.13 The PRA estimates the scale of protected large corporate deposits at approximately one tenth of currently protected deposits. The extent of the increase in compensation arising from THB protection is difficult to estimate as data availability is poor and may vary noticeably over time. The largest potential cost may arise from deposits resulting from private real estate transactions. There will also be a comparatively small reduction in the potential liability of the FSCS as the recast DGSD requires that credit unions' own deposits are not included in FSCS protection.

5.14 The distribution of levies, ie the costs to an individual firm, will depend on the risk-based levy methodology which will be determined through guidelines currently being developed by the EBA, as referred to in paragraph 2.9, and that firm's protected deposits under the new eligibility conditions. For example, all else being equal, the PRA would expect the proportion that retail-deposit focused institutions, such as credit unions and building societies, contribute towards the overall FSCS levy to decrease as they would hold a smaller percentage of overall eligible deposits given the extension of protection to large companies' deposits.

5.15 Wholesale-only deposit-takers will, for the first time, be required to pay FSCS levies for the purposes of DGS funding. As before, future levies depend on EBA guidelines, which are not yet known. Using the current method of calculating levies as a proxy (ie where levies are apportioned according to the amount of protected deposits held by each firm), it is estimated that FSCS levies for the sample of wholesale-only deposit-takers that responded to the survey (around 11% of total wholesale-only deposit-takers operating in the United Kingdom) would not be significant.

Direct costs to firms

5.16 The direct incremental costs to firms arising from the recast DGSD, SCV and continuity of access proposals are set out below. It is important to emphasise that, as the cost estimates set out in this section are based on best efforts responses from 25 firms, the estimates should be viewed in the light of the limitations inherent in using a small sample. In many cases, firms did not answer all questions, and provided only partial responses. This means in some areas there may be limited data on costs. The PRA also expects that total costs provided by firms may be overestimates as firms were asked to estimate a range of proposals. Therefore the overall estimated costs may not take account of economies made by implementing multiple changes at once. The incremental costs per firm depend on the size of the firm, the systems it has in place and the extent of systems changes needed to meet the proposed rules, and as a result vary widely. The PRA therefore decided to present costs per account as the PRA believes this is a more informative cost measure.

(1) The total operational and investment budget for the FSCS is expected to be £59.6 million for the year 2014–15 (which does not make provision for these changes). (Source: www.fscs.org.uk/uploaded_files/Publications/fscs_plan_and_budget_2014-15_final.pdf. This excludes interest on loans from big failures.)

(2) Depositor preference makes deposits that are protected under the FSCS preferential debts in the insolvency hierarchy if a bank enters insolvency. This means that the FSCS can recover more of the sum it pays out to depositors from the bank's assets than it could previously.

Recast DGSD

5.17 Firms will incur operational costs due to changes in eligibility (for example, systems changes to ensure that all companies irrespective of size are, unless specifically excluded from protection, flagged as eligible depositors and their deposits included in the SCV file) and new disclosure requirements (for example, systems changes to replace current disclosure wording with that prescribed by the recast DGSD, and staff costs of ensuring that depositors acknowledge receipt of this information). As the PRA proposes that the FSCS will verify THBs after default, there are no direct costs to firms from THB verification.

5.18 The costs arising from these changes differ by type of firm. In particular, wholesale-only deposit-takers are currently not in scope of certain existing requirements such as disclosure, in contrast to other deposit-takers. The estimated costs are set out in **Table B** below.⁽¹⁾

Table B Total cost per account and total cost to industry arising from changes required as a result of the recast DGSD

Firm category	One-off costs		Annual costs	
	Total per category (£ millions)	Per account (£)	Total per category (£ millions)	Per account (£)
Large banks	25–30	0.1–0.2	15–20	Up to 0.1
Challenger banks	5–10	0.5–1.5	0.2–0.5	Up to 0.1
Small banks	0.5–1.5	0.1–0.5	Up to 0.1	Up to 0.01
Large building societies	2–10	0.1–0.5	Up to 0.5	Up to 0.01
Small building societies	0.5–3	0.5–1.5	Up to 0.1	Up to 0.05
Credit unions	2.5–3	2.5–2.5	0.2–1.0	0.2–0.5
Wholesale-only deposit-takers	2–3	50–800	0.5–1.0	10–390
Sector wide	35–60	0.1–2.5 ^(a)	20–25	0.01–0.5

(a) Total per account figure disregards per account figure for wholesale-only deposit-takers.

5.19 The PRA estimates a sector-wide one-off cost of the proposed changes under the recast DGSD between £35–£60 million and an annual ongoing cost of £20–£25 million. None of the specific policy measures stood out as contributing a greater proportion to the overall costs. Higher costs per account arise for the challenger banks, small building societies and credit unions than for the large banks and building societies. This reflects that some proportion of costs are fixed, and that larger deposit-takers benefit from economies of scale.

5.20 Wholesale-only firms do not currently come within scope of SCV and other requirements (that deposit-takers with currently eligible depositors must comply with already), and thus face a higher absolute increase. The overall costs are estimated at a one-off amount of £2 million–£3 million and an annual ongoing cost of £0.5 million–£1 million. The higher costs per account reflect the fact that these firms generally have few deposit accounts. These are largely driven by fixed

costs of establishing SCV systems. The cost of identifying and tagging accounts was estimated at £50–£250 one-off and £25–£35 annual ongoing costs per account.

SCV

5.21 The PRA estimates a sector-wide one-off cost of the proposed changes to the SCV between £40 million–£70 million and an annual ongoing cost of £5 million–£10 million. The PRA expects the majority of the costs to fall on the large institutions (**Table C**). The estimates are subject to caveats as outlined in paragraph 5.16.

5.22 The wide range stems from differences in scale and systems currently in use in different types of institutions. Higher costs per account arise for the challenger banks, small building societies and credit unions compared with the large banks and building societies. Again, this reflects the fact that a proportion of costs are fixed and larger deposit-takers benefit from economies of scale.

5.23 Economies of scale are particularly visible in the wholesale-only category where, due to low numbers of accounts, this market segment will face one-off costs of £15 million–£20 million, and annual ongoing costs of £1.5 million–£3 million.

5.24 For credit unions, the costs are potentially higher due to the fact they are generally small institutions with low numbers of staff available to make these changes.

Table C Average cost of proposed SCV changes (per category of firm and per account) for different categories of firms

Firm category	One-off costs		Annual costs	
	Total per category (£ millions)	Per account (£)	Total per category (£ millions)	Per account (£)
Large banks	20–25	Up to 0.1	5–6	Up to 0.05
Challenger banks	1–10	0.2–1.5	Up to 0.5	Up to 0.05
Small banks	0.5–3	0.1–0.5	Up to 0.5	Up to 0.05
Large building societies	1–4	Up to 0.1	Up to 0.5	Up to 0.05
Small building societies	0.5–3	0.2–1.5	Up to 0.1	Up to 0.05
Credit unions	1–4	0.5–3.5	Up to 0.5	0.1–0.5
Wholesale-only deposit-takers	15–20	70–2,400	1.5–3.0	50–740
Sector wide	40–70	0.05–3.5 ^(a)	5–10	0.01–0.5

(a) Total per account figure disregards per account figure for wholesale-only deposit-takers.

(1) These include costs from changing SCV systems to take into account changes to SCV excluded categories to align with recast DGSD categories excluded from the seven day payout target. SCV excluded categories include beneficiary accounts, accounts where there is uncertainty over whether a person is legally entitled to the deposit, accounts subject to restrictive measures imposed by national law, and accounts where there have been no transactions within the last 24 months. Costs to replace SCV keys and codes with standardised eligibility flags were also included.

Continuity of access

5.25 The PRA estimates a sector wide one-off cost from the proposed continuity of access rules of £155 million–£250 million and an ongoing cost of £10 million–£15 million. The PRA expects the vast majority of the costs to fall on the large institutions (Table D). The estimates are subject to caveats as per paragraph 5.16.

5.26 Similar to proposed SCV changes, the wide range stems from differences in scale and systems currently in use in different types of institutions. Available data show that costs per account will vary depending on the institutions' systems, and, to a lesser extent, their size.

5.27 As with recast DGSD and SCV requirements, proposed continuity of access provisions will cost wholesale-only firms significantly more on a per account basis. The PRA estimates that this market segment will face a one-off cost of between £10 million–£15 million and an annual ongoing cost between £0.5 million–£1 million.

Table D Average cost of proposed continuity of access changes (per category of firm and per account) for different categories of firms

Firm category	One-off costs		Annual costs	
	Total per category (£ millions)	Per account (£)	Total per category (£ millions)	Per account (£)
Large banks	135–165	0.5–1.0	5–10	Up to 0.05
Challenger banks	2–5	0.5–1.0	Up to 0.2	Up to 0.05
Small banks	1–1.5	0.2–0.3	Up to 0.3	Up to 0.05
Large building societies	5–60	0.2–2.0	0.5–4	Up to 0.15
Small building societies	0.5–2.5	0.5–1.5	Up to 0.5	Up to 0.5
Credit unions	n.a.	n.a.	n.a.	n.a.
Wholesale-only deposit-takers	10–15	100–4,000	0.5–1	20–620
Sector wide	155–250	0.2–2.0 ^(a)	10–15	0.01–0.3

(a) Total per account figure disregards per account figure for wholesale-only deposit-takers.

Summary

5.28 Table E sets out the sector-wide costs arising from the recast DGSD, SCV and continuity of access proposals. The PRA estimates that the direct, one-off compliance costs to the industry would be £250 million–£390 million and that ongoing costs would be £35 million–£50 million. This represents between 0.4% and 0.6% of total operating costs for the industry as a whole. This also represents between 0.4% and 0.6% of total operating costs for the wholesale sector as a whole. The majority of the overall cost stems from proposed continuity of access provisions. Between 60%–80% of total costs will fall on the largest banks. On a per account basis, smaller institutions will face higher costs (Table E).

Table E Estimated total industry costs of DGSD, SCV and continuity of access proposals

Firm category	One-off costs		Annual costs	
	Total per category (£ millions)	Per account (£)	Total per category (£ millions)	Per account (£)
Large banks	200–240	1–1.5	30–35	0.1–0.15
Challenger banks	10–20	1–3.5	Up to 0.5	Up to 0.1
Small banks	3–5	0.5–1.0	0.3–0.5	Up to 0.1
Large building societies	5–70	0.1–2	0.1–5	Up to 0.1
Small building societies	1–5	1–3.5	0.2–0.5	0.1–0.3
Credit unions	5–10	3–5	Up to 0.3	0.2–0.3
Wholesale-only deposit-takers	25–35	600–5,500	3–5	80–1,200
Sector wide	250–390	0.1–6 ^(a)	35–50	0.1–0.3

(a) Total per account figure disregards per account figure for wholesale-only deposit-takers.

Impact on mutuals

5.29 The proposals will affect mutuals as they are within scope of new requirements. The only exception is that credit unions are not subject to proposed continuity of access rules. The PRA does not expect the impact on mutuals to be significantly different from the impact on other firms. Tables B–E illustrate that the cost to mutuals of implementing changes arising from the proposals are in line with costs to banks of a comparable size.

5.30 Under the proposed PRA rules, it will no longer be possible to opt out from preparing an electronic SCV. For the majority of firms that had previously opted out from preparing an electronic SCV (primarily credit unions) there should be a very small incremental cost associated with preparing an electronic SCV. This will also bring all credit unions into line with those credit unions that already comply with electronic requirements. Consistent with the recast DGSD, credit unions' own funds placed with other deposit-takers will also lose FSCS protection. This loss of protection may mean that their deposits are not returned in full in the event that another deposit-taker fails. Credit unions' own depositors will remain protected by the FSCS.

5.31 One possible comparative beneficial impact on mutuals might lie in the extension of the scope of deposit protection to include the deposits of large companies. Mutuals may be less likely than large banks to hold deposits by large companies. Therefore, their proportional share of the total FSCS compensation costs levy (which is based on a firm's share of total industry protected deposits) may decrease accordingly.

Impact on competition

5.32 The proposed rules aim to facilitate the orderly exit of failing institutions while maintaining an appropriate degree of access to deposits. As stated in the joint Bank of England and FSA barriers to entry review in March 2013, orderly exit is a key requirement for attracting new entrants, and thus facilitate effective competition.⁽¹⁾

(1) A review of requirements for firms entering into or expanding in the banking sector, March 2013; www.bankofengland.co.uk/publications/Documents/joint/barriers.pdf.

5.33 Deposit-takers would incur a one-off and an on-going cost for implementing the proposed rules. The main costs arise from changes in the IT systems of the deposit-takers due to the SCV and continuity of access rules. Possible costs for changes in IT systems will be higher for incumbent firms than new entrants as it is more costly to adapt or replace legacy systems.⁽¹⁾ Larger firms are also expected to benefit from economies of scale. The PRA does not view these changes as a barrier to entry for new entrants.

Indirect impact on industry

5.34 Depending on their characteristics, firms may be able to 'pass through' some or all of the additional costs, both in the form of implementing the new requirements as well as potential increased FSCS levies following the failure of a deposit-taker, to their customers. The extent of cost pass-through depends on the intensity of competition, the predictability of costs and the extent to which product demand responds to a change in prices. Some firms may be more able than others to pass through costs.

Benefits of the proposals

5.35 The baseline for the cost benefit analysis is the current regime. The United Kingdom has already introduced many of the provisions required in the recast DGSD. The proposals address certain shortcomings in the design and operation of the deposit protection framework and are expected to yield incremental benefits by helping to improve the effectiveness of the Deposit Guarantee Scheme and improving firms' resolvability. This could help to improve depositor confidence and hence may contribute towards the safety and soundness of firms. In addition, through supporting orderly resolution, the proposals further minimise the adverse effect that the failure of a PRA firm could be expected to have on the stability of the UK financial system.

5.36 Continuity of access will also benefit consumers as it will minimise any disruption in access to their accounts due to a firm failure.

(1) A recent study from the Competition and Markets Authority highlighted that the IT systems offer a competitive advantage rather than a barrier to entry to new entrants, as new entrants can buy a complete new IT system that comply with the rules while incumbent firms have to update their existing legacy (https://assets.digital.cabinet-office.gov.uk/media/53c834c640f0b610aa000009/140717_-_PCA_Review_Full_Report.pdf).

Appendices

-
- | | |
|---|--|
| 1 | Summary of less substantive recast DGSD requirements |
|---|--|
-
- | | |
|---|-------------|
| 2 | Draft rules |
|---|-------------|
-
- | | |
|---|---|
| 3 | Draft supervisory statements and FSCS statement of policy |
|---|---|

Summary of less substantive recast DGSD requirements

Recast DGSD requirement

De minimis payments (Article 8(9))

The DGSD is ambiguous, and the suggestion that no repayment *shall* be made where there has been no transaction relating to the deposit within the last 24 months and the value of the deposit is lower than the administrative costs incurred by DGS that would arise from such repayment must be read in context. The PRA considers the better view is that small payments may continue to be made.

Top up of EEA firms

Currently the PRA's rules permit EEA firms to 'top up' into the FSCS to gain extra protection which is provided by the FSCS but not provided by their home state DGS.

Information exchange between home and host Member States' DGS (Article 14(4–6))

Under the recast DGSD the FSCS will be required to:

- (i) share certain information with the DGSs of other Member States. This includes information the DGS uses to perform tests of their systems and the information that the DGS receives from their members necessary to prepare a repayment of depositors (including marked identification of eligible deposits);
- (ii) have co-operation agreements with other Member States' DGSs (or where appropriate the designated authorities shall have these agreements in place). These must be submitted to the PRA for submission to the EBA; and
- (iii) have appropriate procedures in place to enable the DGS to share information and communicate effectively with other DGSs, their affiliated credit institutions and the relevant competent authorities within their own jurisdictions and with other agencies on a cross-border basis, where appropriate.

When a credit institution transfers to another DGS (Article 14(3))

(i) Transfer of contributions

If a credit institution ceases to be a member of a DGS and joins another DGS, the contributions paid during the twelve months preceding the end of the membership, with the exception of the extraordinary contributions under Article 10(7), shall be transferred to the other DGS. This shall not apply if a credit institution has been excluded from a DGS pursuant to Article 4(4).

If some of the activities of a credit institution are transferred to another Member State and thus become subject to another DGS, the contributions of that credit institution paid during the twelve months preceding the transfer, with the exception of the extraordinary contributions in accordance with Article 10(7), shall be transferred to the other DGS in proportion to the amount of covered deposits transferred.

(ii) Notice of intention to transfer

Under the DGSD if a credit institution intends to transfer from one DGS to another in accordance with the Directive, it shall give at least six months' notice of its intention to do so. During that period, the credit institution shall remain under the obligation to contribute to its original DGS both in terms of *ex-ante* (if relevant) and *ex-post* financing.

PRA proposal

The PRA proposes to give the FSCS discretion to continue to pay these small amounts if it chooses to (for example, where it may not be appropriate to not pay, such as in the case of child accounts or where the obligation to go through each account to make this determination would be onerous on the FSCS).

The PRA proposes to remove the possibility of top up of EEA firms for deposit protection (as eligibility has been harmonised under the recast DGSD resulting in little scope for top up).

The PRA proposes to reflect the requirements in PRA rules to ensure that the FSCS complies with the new obligations (noting that the information-sharing gateway under FSMA allows for exchange of confidential information when this is done pursuant to an EU obligation).

On (ii), the FSCS is working with European Forum of Deposit Insurers members on a Memorandum of Understanding outlining the areas that will need to be covered in any legal agreement regarding a home/host payout. More information with regards to the PRA's expectations in respect of the co-operation agreements is set out in the statement of policy (see Appendix 3).

The PRA proposes new rules to comply with applicable recast DGSD requirements.

***PRA RULEBOOK: CRR FIRMS, NON CRR FIRMS AND NON AUTHORISED PERSONS:
DEPOSITOR PROTECTION INSTRUMENT [YEAR]***

Powers exercised

- A. The Prudential Regulation Authority ("PRA") makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 ("the Act"):
- (1) section 137G (The PRA's general rules);
 - (2) section 137T (General supplementary powers);
 - (3) section 213 (The compensation scheme);
 - (4) section 214 (General);
 - (5) section 215 (Rights of the scheme on insolvency); and
 - (6) section 218A (Regulators power to require information).
- B. The rule-making powers referred to above are specified for the purpose of section 138G(2) (Rule-making instrument) of the Act.

Pre-conditions to making

- C. In accordance with section 138J of the Act (Consultation by the PRA), the PRA consulted the Financial Conduct Authority. After consulting, the PRA published a draft of proposed rules and had regard to representations made.

PRA Rulebook CRR Firms, Non CRR Firms and Non Authorised Persons: Depositor Protection Instrument [YEAR]

- D. The PRA makes the rules in Annex A to this instrument.

Commencement

- E. This instrument comes into force on [DATE].

Citation

- F. This instrument may be cited as the PRA Rulebook: CRR Firms, Non CRR Firms and Non Authorised Persons: Depositor Protection Instrument [YEAR].

By order of the Board of the Prudential Regulation Authority
[DATE]

Annex A

In this Annex, the text is all new and is not underlined.

Part

DEPOSITOR PROTECTION

Chapter content

1. APPLICATION AND DEFINITIONS
2. ELIGIBILITY
3. CIRCUMSTANCES IN WHICH THE FSCS PAYS COMPENSATION IN RESPECT OF ELIGIBLE DEPOSITS
4. LIMITS ON COMPENSATION PAYABLE
5. CALCULATING COMPENSATION
6. PAYING COMPENSATION
7. FORM AND METHOD OF COMPENSATION
8. CURRENCY OF COMPENSATION
9. TIME LIMITS
10. TEMPORARY HIGH BALANCES
11. CORE SYSTEMS AND INFORMATION REQUIREMENTS
12. SINGLE CUSTOMER VIEW AND EXCLUSIONS FILE REPORTING
13. CONTINUITY OF ACCESS REPORTING
14. FIRMS' DISCLOSURE OBLIGATIONS - INFORMATION SHEET
15. FIRMS' DISCLOSURE OBLIGATIONS - STATEMENTS OF ACCOUNT
16. FIRMS' DISCLOSURE OBLIGATIONS - EXCLUSIONS FROM DEPOSIT GUARANTEE SCHEME PROTECTION
17. REFERENCES TO THE DEPOSIT GUARANTEE SCHEME IN ADVERTISING
18. DISCLOSURE OF TRANSFER OF DEPOSITS
19. DISCLOSURE OF WITHDRAWAL OR EXCLUSION FROM THE DEPOSIT GUARANTEE SCHEME
20. METHOD OF COMMUNICATION
21. NOTIFICATION REQUIREMENTS ON TRANSFER TO A NON-UK SCHEME
22. DEPOSIT COMPENSATION INFORMATION - BRANCHES AND WEBSITES
23. DUTIES OF THE FSCS
24. CLAIMS AGAINST THE FSCS AND CHALLENGING FSCS DECISIONS
25. CONFIDENTIALITY, INFORMATION SHARING AND CO-OPERATION
26. PAYMENTS IN RESPECT OF UK BRANCHES OF INCOMING FIRMS
27. SUBROGATION
28. DUTIES ON FSCS TO PURSUE RECOVERIES
29. RECOVERIES OF ELIGIBLE DEPOSITS - RETURN OF SURPLUS TO COMPENSATION RECIPIENT

- 30. FUNDING - AVAILABLE FINANCIAL MEANS
- 31. FUNDING - USE OF EXISTING MANDATORY CONTRIBUTIONS
- 32. FUNDING - FSCS'S POWER TO LEVY AND LIMITS ON LEVIES
- 33. FUNDING - DGS COMPENSATION COSTS LEVY
- 34. FUNDING - DGS MANAGEMENT EXPENSES LEVY
- 35. FUNDING - LEGACY COSTS LEVY
- 36. FUNDING - MANAGEMENT OF FUNDS LEVIED
- 37. FUNDING - ADJUSTMENTS TO LEVY SHARES
- 38. FUNDING - BUSINESS ACQUISITIONS FROM DGS MEMBERS
- 39. FUNDING - BUSINESS ACQUISITIONS FROM NON-DGS MEMBERS
- 40. FUNDING - MANAGEMENT EXPENSES
- 41. FUNDING - DGS COMPENSATION COSTS
- 42. FUNDING - CLASS A TARIFF BASE CALCULATION
- 43. FUNDING - REPORTING REQUIREMENTS
- 44. FUNDING - OBLIGATION TO PAY
- 45. FUNDING - OVERPAYMENTS AND DEFERRAL OF PAYMENTS
- 46. FUNDING - PAYMENT OF LEVIES
- 47. FUNDING - TRANSFER OF LEVIES

ANNEX 1 – INFORMATION SHEET (CHAPTER 14)

ANNEX 2 – CONTENT OF COMPENSATION STICKERS AND POSTERS (CHAPTER 22)

Links

1 APPLICATION AND DEFINITIONS

1.1 Unless otherwise stated, this Part applies to:

- (1) the *FSCS*;
- (2) *UK banks*;
- (3) *credit unions*;
- (4) *Northern Ireland credit unions*;
- (5) *building societies*; and
- (6) an *overseas firm* that:
 - (a) is not an *incoming firm*; and
 - (b) has a *Part 4A permission* that includes *accepting deposits*.

1.2 Chapter 22 also applies to a *UK branch* of an *incoming firm* that is a *credit institution*.

1.3 This Part applies also to a *firm* which used to have a *Part 4A permission to accept deposits* but which has ceased to have a *Part 4A permission* to accept new *deposits*, or which is subject to a requirement not to accept new *deposits*, and which is not a member of a *non-UK scheme*.

1.4 In this Part, the following definitions shall apply:

available financial means

means cash, *deposits* and *low-risk assets* which can be liquidated within a period not exceeding seven *business days*.

[Note: Art. 2(1)(12) of the DGSD]

base costs levy

means a levy, forming part of the *management expenses levy*, to meet the *base costs* in the financial year of the *compensation scheme* to which the levy relates.

class

means one of the classes to which the *FSCS* allocates levies in accordance with the rules of the *compensation scheme*.

class A

means the *class* which consists of *DGS members*.

class A tariff base

has the meaning given in 42.1.

claim

means a valid claim made in respect of a civil liability owed by a *DGS member* to the claimant.

compensation date

means the date on which a determination is made by the *PRA* or a judicial authority that *deposits* held by a *DGS member* are *unavailable deposits* such that the *DGS member* is in default.

compensation recipient

means the *person* to whom the *FSCS* is required to pay compensation, as set out in Chapter 5.

compensation scheme

means the Financial Services Compensation Scheme established under section 213 of *FSMA*.

continuity of access system

means a firm's system for satisfying 11.13 – 11.14.

covered deposit

means the part of an *eligible deposit* that does not exceed the coverage levels set out in Chapter 4.

[Note: Art. 2(1)(5) of the *DGSD*]

deferred share

in relation to a *credit union*, means any share of a class defined as a deferred share by section 31A of the Credit Unions Act 1979.

deposit

means:

- (1) a credit balance which results from funds left in an account or from temporary situations deriving from normal banking transactions and which a *credit institution* is required to repay under the legal and contractual conditions applicable, including a fixed-term deposit and a savings deposit, but excluding a credit balance where:
 - (a) its existence can only be proven by a financial instrument as defined in *MiFID*, unless it is a savings product which is evidenced by a certificate of deposit made out to a named person and which exists in a Member State on 2 July 2014;
 - (b) its principal is not repayable at par; or
 - (c) its principal is only repayable at par under a particular guarantee or agreement provided by the *credit institution* or a third party.
- (2) a share in a *building society*, excluding a deferred share.
- (3) a share in a *credit union*, excluding a deferred share.

- (4) a share in a *Northern Ireland credit union*.

[Note: Art. 2(1)3) of the DGSD]

deposit guarantee scheme

means the *compensation scheme* for compensating persons in respect of *deposits*.

depositor

means the holder or, in the case of a *joint account*, each of the holders, of a *deposit*.

[Note: Art. 2(1)(6) of the DGSD]

DGS base costs levy

means a *base costs levy* imposed by the *FSCS* on *DGS members*.

DGS compensation costs

means the costs incurred:

- (1) in paying compensation under the *deposit guarantee scheme*; or
- (2) under section 214B or section 214D of *FSMA*; or
- (3) by virtue of section 61 of the Banking Act 2009;

(including the costs of paying interest, principal and other costs of borrowing to pay such costs).

DGS compensation costs levy

means a levy imposed by the *FSCS* on *DGS members* to meet *DGS compensation costs*.

DGS levy

means a *DGS compensation costs levy*, a *DGS management expenses levy* or a *legacy costs levy*.

DGS management expenses levy

means a levy imposed by the *FSCS* on *DGS members* to meet *management expenses* and which is made up of one or more of a *DGS base costs levy* and a *DGS specific costs levy*.

DGS member

means:

- (1) a *UK bank*;
- (2) a *building society*;
- (3) a *credit union*;
- (4) a *Northern Ireland credit union*; or

- (5) an overseas firm that is not an incoming firm and has a Part 4A permission that includes accepting deposits; and

which is not a member of a non-UK scheme.

DGS specific costs

means management expenses attributable to the deposit guarantee scheme other than base costs, which the FSCS has incurred or expects to incur.

DGS specific costs levy

means a levy, forming part of the DGS management expenses levy, to meet the DGS specific costs in the financial year of the deposit guarantee scheme to which the levy relates.

DGSD

means Directive 2014/49/EU of the European Parliament and of the Council of 16 April 2014 on deposit guarantee schemes (recast).

dormant account

has the meaning given in section 10 of the Dormant Bank and Building Society Accounts Act 2008.

EEA right

means the entitlement of a person to establish a branch or provide services in an EEA State other than that in which they have their relevant office in accordance with the Treaty as applied in the European Economic Area; and subject to the conditions of the CRR and CRD.

eligible deposit

has the meaning given in Chapter 2.

exclusions file

means a single, consistent view of a depositor's aggregate eligible deposits with a firm which contains the information set out in 11.17, limited to accounts which:

- (1) hold any funds to which the depositor is not absolutely entitled; or
- (2) are not active.

European Economic Area

means the area established by the EEA agreement.

home state scheme

means a scheme or arrangement (including the deposit guarantee scheme) for the payment of compensation in respect of eligible deposits, which was established in the EEA State which is, with regard to a particular institution, the home Member state.

host state scheme

means a scheme or arrangement (including the *deposit guarantee scheme*) for the payment of compensation in respect of *eligible deposits*, which was established in the EEA State which is, with regard to a particular *institution*, the *host Member state*.

in default

describes the status of a *firm* following a determination that its *deposits* are *unavailable deposits*.

joint account

means an account opened in the name of two or more persons or over which two or more persons have rights that are exercised by means of the signature of one or more of those persons.

[Note: Art. 2(1)(7) of the DGSD]

legacy costs

means the costs incurred prior to 3 July 2015 by the *FSCS*:

- (1) in paying compensation; or
- (2) under section 214B or section 214D of *FSMA*; or
- (3) by virtue of section 61 of the Banking Act 2009;

(including the costs of paying interest, principal and other costs of borrowing to pay such costs).

legacy costs levy

means a levy imposed by the *FSCS* to meet *legacy costs*.

low-risk assets

means items falling into the first or second category of Table 1 of Article 336 of the *CRR*.

[Note: Art. 2(1)(14) of the DGSD]

management expenses

has the meaning given in section 223(3) of *FSMA*.

mandatory contributions

means the mandatory contributions described in Article 10(4) of the *DGSD* and includes the bank levy.

micro, small and medium-sized enterprises

means micro, small and medium-sized enterprises as defined with regard to the annual turnover criterion referred to in Article 2(1) of the Annex to Commission Recommendation 2003/361/EC.

money laundering

has the meaning given in Article 1(2) of the *money laundering directive*.

money laundering directive

means Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing.

money-purchase benefits

in relation to a member of a *personal pension scheme* or an *occupational pension scheme* or the widow or widower or surviving civil partner of a member of such a scheme, means benefits the rate or amount of which is calculated by reference to a payment or payments made by the member or by any other *person* in respect of the member and which are not average salary benefits.

non-UK scheme

means a scheme established pursuant to the *DGSD* in an *EEA State* other than the *UK*.

Northern Ireland credit union

means a *firm* which is either 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.

not active

an account is not active if it:

- (1) is a *dormant account*; or
- (2) is an account for which the *firm* has received formal notice of a legal dispute or competing claims to the proceeds of the account; or
- (3) is an account owned or controlled by a person whose name appears on the "Consolidated list of financial sanctions targets in the United Kingdom" that is maintained by HM Treasury or which is otherwise subject to restrictive measures imposed by national governments or international bodies.

occupational pension scheme

has the meaning given in article 3(1) of the *Regulated Activities Order*.

personal pension scheme

has the meaning given in article 3(1) of the *Regulated Activities Order*.

single customer view

means a single, consistent view of *depositors'* aggregate *eligible deposits* with a *firm* which contains the information set out in 11.17, but excludes from view those accounts included in the *exclusions file*.

SCV report

means a report from a *firm's* board of directors confirming that the *firm's* SCV system satisfies the SCV requirements.

SCV requirements

means the requirements on *firms* set out in Chapter 11.

SCV system

means a *firm's* system for satisfying the SCV requirements.

small self-administered scheme

means an *occupational pension scheme* of a kind described in article 4(4) and 4(5) of the Financial Services and Markets Act 2000 (Carrying on Regulated Activities by Way of Business) Order 2001 (SI 2001/1177).

stakeholder pension scheme

has the meaning given in article 3(1) of the *Regulated Activities Order*.

statement of business

means the statement of business required under 43.2.

target level

means the amount of *available financial means* which the *deposit guarantee scheme* is required to reach, which is 0.8% of the amount of *covered deposits* (excluding *temporary high balances*) of *DGS members*.

temporary high balance

means, in relation to a *depositor* who is an individual, that part of an *eligible deposit* in excess of £85,000 which meets the additional criteria set out in 10.2.

[Note: Art. 6(2) of the DGSD]

transferable eligible deposit

means the portion of an *eligible deposit* up to and including £85,000 identified in accordance with 11.15.

unavailable deposit

means a *deposit* that is due and payable but has not been paid by a *DGS member* under the applicable legal or contractual conditions where either:

- (1) the *PRA*, or in the case of a *credit union* or a *Northern Ireland credit union* the *FSCS*, has determined that in its view the *DGS member* appears to be unable for the time being, for reasons which are directly related to its financial circumstances, to repay the *deposit* and has no current prospect of being able to do so; or
- (2) a judicial authority has made a ruling for reasons which are directly related to the *DGS member's* financial circumstances and the ruling has had the effect of suspending the rights of *depositors* to make claims against it.

[Note: Art. 2(1)(8) of the DGSD]

- 1.5 Unless otherwise defined, any italicised expression used in this Part and in the *CRR* has the same meaning as in the *CRR*.

2 ELIGIBILITY

- 2.1 This Chapter applies only to the *FSCS*.
- 2.2 The provisions in this rule determine whether a *deposit* is an *eligible deposit*:
- (1) A *deposit* is an *eligible deposit* only if it is held by:
 - (a) a *UK* establishment of a *DGS member*; or
 - (b) a *branch* of a *DGS member* established in another *EEA state* under an *EEA Right*.
 - (2) A *deposit* is, subject to the other rules in this Chapter, an *eligible deposit* if it is held by a *firm* which:
 - (a) had a *Part 4A permission* to accept such *deposits* at the time the *deposit* was accepted but no longer has permission to accept *eligible deposits*, or is subject to a requirement preventing it from doing so; and
 - (b) is not now a member of a *non-UK scheme*.
 - (3) A *deposit* is held by a *UK* establishment or a *branch* if it is assigned by the *firm* to an account of that *UK establishment* or that *branch*.
 - (4) The following are not *eligible deposits*:
 - (a) a *deposit* made by another *credit institution* on its own behalf or for its own account;
 - (b) *own funds*;
 - (c) a *deposit* arising out of a transaction in connection with which there has been a criminal conviction for *money laundering*;
 - (d) a *deposit* by a *financial institution*;
 - (e) a *deposit* by an *investment firm*;
 - (f) a *deposit* the holder and any beneficial owner (as defined in regulation 6 of the Money Laundering Regulations 2007) of which has not, at the *compensation date* had their identity verified in accordance with regulation 9 of the Money Laundering Regulations 2007 (or equivalent *EEA* requirements);
 - (g) a *deposit* by an *insurance undertaking* or a *reinsurance undertaking*;
 - (h) a *deposit* by a collective investment undertaking;

- (i) a *deposit* by a pension or retirement fund (but excluding *deposits* by *personal pension schemes*, *stakeholder pension schemes* and *occupational pension schemes* of *micro, small or medium-sized enterprises*);
- (j) a *deposit* by a *public sector entity*;
- (k) a debt security issued by the *DGS member* and any liabilities arising out of own acceptances and promissory notes.

[Note: Art. 4(3), 4(6), 5(1), 5(2)(a) and 14(1) of the DGSD]

3 CIRCUMSTANCES IN WHICH FSCS PAYS COMPENSATION IN RESPECT OF ELIGIBLE DEPOSITS

- 3.1 This Chapter applies only to the *FSCS*.
- 3.2 The *FSCS* must pay compensation in accordance with this Part in respect of an *eligible deposit* if it is satisfied that the *eligible deposit* is a *deposit* with either:
 - (1) a *DGS member* which is *in default*; or
 - (2) a *firm* which is *in default* and which:
 - (a) had a *Part 4A permission* to accept such *deposits* at the time the *deposit* was accepted but no longer has permission to accept *eligible deposits*, or is subject to a requirement preventing it from doing so; and
 - (b) is not a member of a *non-UK scheme*.

4 LIMITS ON COMPENSATION PAYABLE

- 4.1 This Chapter applies only to the *FSCS*.
- 4.2 The maximum compensation sum payable for the aggregate *eligible deposits* of each *depositor* is £85,000, save that additional compensation may be payable in cases to which 4.3 applies.

[Note: Art. 6(1) of the DGSD]

- 4.3 The maximum compensation sum payable for a *temporary high balance* is £1,000,000, save that no limit shall apply to the compensation payable for a *temporary high balance* arising from a payment in connection with personal injury or incapacity.

[Note: Art. 6(2) of the DGSD]

5 CALCULATING COMPENSATION

- 5.1 Compensation shall be calculated by reference to *eligible deposits* held on the *compensation date*.

[Note: Art. 7(4) of the DGSD]

- 5.2 The limit referred to in 4.2 applies to the aggregate *eligible deposits* placed by a *depositor* with the same *credit institution*, irrespective of the number of accounts, the currency, or the location within the *EEA*.

[Note: Art. 7(1) of the DGSD]

- 5.3 The share of each *depositor* of a *joint account* shall be considered separately in calculating the limits provided for in 4.2 and 4.3, except where 5.4 applies. In the absence of contrary provision, the *joint account* shall be divided equally among the *depositors* to the nearest penny.

[Note: Art. 7(2) of the DGSD]

- 5.4 Deposits in an account to which two or more persons are entitled as members of a business partnership, association or grouping of a similar nature, without legal personality, must be aggregated and treated as if made by a single *depositor* for the purpose of calculating the limits provided for in 4.2 and 4.3.

[Note: Art. 7(2) of the DGSD]

- 5.5 Where several *persons* are jointly absolutely entitled to a beneficial interest in a *deposit*, the share of each, under the arrangements subject to which the *deposit* is managed, shall be considered separately in calculating the amount payable to each of them.

[Note: Art. 7(3) of the DGSD]

- 5.6 Where several *persons* are jointly absolutely entitled to a beneficial interest in a *deposit*, and some of them are *persons* whose own *deposits* would not be *eligible deposits*, the *FSCS* must adjust the amount of the overall *deposit* to eliminate the part of it which, in the *FSCS*'s view, relates to those beneficiaries' interest in the overall *deposit*.
- 5.7 Liabilities of the *depositor* against the *DGS member* shall not be taken into account when calculating the compensation sum.

[Note: Art. 7(4) of the DGSD]

- 5.8 Except where the compensation sum arises from a *temporary high balance*, the *FSCS* shall reimburse interest owed on *eligible deposits* which had accrued, but has not been credited, at the *compensation date*. The limits referred to in 4.2 and 4.3 shall not be exceeded.

[Note: Art. 7(7) of the DGSD]

6 PAYING COMPENSATION

- 6.1 This Chapter applies to the *FSCS*.
- 6.2 The *FSCS* must pay any compensation to the *depositor*, with the following exceptions:
- (1) where the *depositor* directs that any compensation be paid to another *person*, the *FSCS* may pay the compensation as directed by the *depositor*;
 - (2) where the *depositor* is not absolutely entitled to the *eligible deposit*:

- (a) if another *person* is absolutely entitled to the *eligible deposit*, that *person* is the *person* entitled to compensation in respect of the *deposit*, and accordingly the *FSCS* must pay any compensation to the *person* who is absolutely entitled to the *eligible deposit*, provided that the *person* has been identified or is identifiable before the *compensation date*; and
- (b) if no *person* is absolutely entitled to the *eligible deposit*, the *FSCS* must pay any compensation in accordance with such of 6.3, 6.4, 6.5 and 6.6 as applies.

[Note: Art. 7(3) of the DGSD]

6.3 If a *person* is:

- (1) a trustee (other than a bare trustee); or
- (2) the operator of, or the *person* carrying on the *regulated activity* of winding up, a *stakeholder pension scheme* (which is not an *occupational pension scheme*) or *personal pension scheme*,

the *FSCS* must treat their entitlement to compensation in this capacity as separate from their entitlement to compensation in any other capacity, as if the two entitlements were held by different *persons*.

6.4 If a *deposit* is held:

- (1) for the trustees of a *small self-administered scheme*, an *occupational pension scheme* of *micro, small or medium sized enterprise*, or the trustee or operator of, or the *person* carrying on the *regulated activity* of winding up, a *stakeholder pension scheme* (which is not an *occupational pension scheme*) or *personal pension scheme*, or
- (2) for one or more members of a pension scheme (or, where relevant, the beneficiary of any member) whose benefits are *money-purchase benefits*;

the *FSCS* must treat the member or members (or, where relevant, the beneficiary of any member) separately as *persons* entitled to receive compensation.

6.5 If any group of *persons* are:

- (1) co-trustees (other than bare co-trustees); or
- (2) *operators* of, or *persons* carrying on the *regulated activity* of winding up, a *stakeholder pension scheme* (which is not an *occupational pension scheme*) or a *personal pension scheme*,

(or any combination thereof), the *FSCS* must treat them as a single and continuing *person* distinct from the *persons* who may from time to time be the trustees, or the *operators* or *persons* winding up the relevant pension scheme.

6.6 Where the same *person* is:

- (1) trustee for different trusts or for different *stakeholder pension schemes* (which are not *occupational pension schemes*) or *personal pension schemes*; or
- (2) the *operator* of, or the *person* carrying on the *regulated activity* of winding up, different *stakeholder pension schemes* (which are not *occupational pension schemes*) or *personal pension schemes*,

the *FSCS* shall treat that *person's* entitlement to compensation in respect of each of these trusts or schemes as if they were entitlements of a different *person*.

6.7 Where any of the provisions of 6.3, 6.5 or 6.6 apply, the *FSCS* must try to ensure that any amount paid to:

- (1) the trustee; or
- (2) the *operator* of, or the *person* carrying on the *regulated activity* of winding up, a *stakeholder pension scheme* (which is not an *occupational pension scheme*) or *personal pension scheme*

is, in each case:

- (3) for the benefit of members or beneficiaries whose own *deposits* would be *eligible deposits*; and
- (4) no more than the amount of the loss suffered by those members or beneficiaries.

6.8 Where a *person* holds a *deposit* as the personal representative of another or on behalf of another, the *FSCS* must treat the personal representative or the person acting on behalf of another in respect of that *deposit* as if they were standing in the shoes of that other *person*.

6.9 In applying this Chapter to *deposits* held with a *branch* outside the *UK* of a *DGS member*, the *FSCS* must interpret references to:

- (1) persons entitled as personal representatives, trustees, bare trustees, *operators* of *pension schemes* or *persons* carrying on the *regulated activity* of winding up *pension schemes*; or
- (2) *persons* having a joint account or joint interest in a *deposit* or carrying on business in partnership,

as references to *persons* entitled, under the law of the relevant country or territory, in a capacity appearing to the *FSCS* to correspond as nearly as may be to that capacity.

7 FORM AND METHOD OF COMPENSATION

7.1 The *FSCS* may pay compensation in any form and by any method (or any combination of them) that it determines is appropriate including, without limitation:

- (1) by paying the compensation (on such terms as the *FSCS* considers appropriate) to a *DGS member* or an *incoming firm* which agrees to become liable to the *compensation recipient* in a like sum;
- (2) by paying compensation directly into an existing deposit account of (or for the benefit of) the *compensation recipient*, with a *DGS member* or an *incoming firm* (but before doing so the *FSCS* must take such steps as it considers appropriate to verify the existence of such an account and to give notice to the *depositor* of its intention to exercise this power);
- (3) where two or more *persons* are jointly absolutely entitled to a *deposit*, by accepting communications from and/or paying compensation to any one of those *persons* where

this is in accordance with the terms and conditions for communications and withdrawals of the *eligible deposit*.

8 CURRENCY OF COMPENSATION

- 8.1 The *FSCS* must make compensation payments in respect of *eligible deposits* in pounds sterling. Where the account in which the *eligible deposit* was held was maintained in a different currency, the *FSCS* must use the exchange rate applying on the *compensation date*.

[Note: Art. 6(4) of the *DGSD*]

9 TIME LIMITS

- 9.1 The *FSCS* must pay compensation in respect of *eligible deposits* within the applicable time period and as soon as reasonably practicable after:

- (1) it is satisfied that the conditions in 3.2 have been met; and
- (2) it has calculated the amount of compensation due to the *compensation recipient*.

- 9.2 The applicable time period referred to in 9.1 is the period starting on the day following the *compensation date* and ending:

- (1) until 31 December 2018: twenty *business days* later;
- (2) from 1 January 2019 until 31 December 2020: fifteen *business days* later;
- (3) from 1 January 2021 until 31 December 2023: ten *business days* later;
- (4) from 1 January 2024: seven *business days* later;

unless 6.2(2) applies, or the *FSCS* reasonably believes that it may, in which case it ends three months later.

[Note: Art. 8(1), (2) and (3) of the *DGSD*]

- 9.3 From 1 June 2016 until 31 December 2023, in cases to which 9.2 applies, where the *FSCS* cannot pay compensation within seven *business days* from the *compensation date*, it shall ensure that a *depositor* has access to an appropriate amount of their *covered deposits* to cover the cost of living, within five *business days* of a request from the *depositor*.

[Note: Art. 8(4) of the *DGSD*]

- 9.4 The *FSCS* may defer the payment of compensation beyond the time period set out in 9.2 where:

- (1) it is uncertain whether a *person* is entitled to receive compensation
- (2) the *deposit* is subject to a legal dispute;
- (3) the *deposit* is subject to restrictive measures imposed by national governments or international bodies;

- (4) there has been no transaction on the account within the last 24 months;
- (5) the amount to be repaid is deemed to be part of a *temporary high balance*, in which case 10.8 applies;
- (6) the amount to be repaid is to be paid out by the *host state scheme*; or
- (7) the *depositor* or the *compensation recipient* has been charged with an offence arising out of or in relation to *money laundering*.

[Note: Art. 8(5) and (8) of the DGSD]

9.5 The FSCS may decide not to pay compensation where there has been no transaction on the account in which the *deposit* is held within the 24 months prior to the *compensation date* and the amount of the *deposit* is lower than the administrative costs that would be incurred by the FSCS in making paying compensation.

[Note: Art. 8(9) of the DGSD]

10 TEMPORARY HIGH BALANCES

- 10.1 This Chapter applies only to the FSCS.
- 10.2 In order to qualify as a *temporary high balance*, a part of an *eligible deposit* in excess of £85,000 must meet the following additional criteria:
 - (1) it comprises:
 - (a) monies deposited in preparation for the purchase of a private residential property (or an interest in a private residential property) by the *depositor*;
 - (b) monies which represent the proceeds of sale of a private residential property (or an interest in a private residential property) of the *depositor*; or
 - (c) proceeds of an equity release by the *depositor* in a private residential property;
 - (2) it comprises sums paid to the *depositor* in respect of:
 - (a) benefits payable under an insurance policy;
 - (b) a claim for compensation for personal (including criminal) injury;
 - (c) State benefits paid in respect of a disability or incapacity;
 - (d) a claim for compensation for wrongful conviction;
 - (e) a claim for compensation for unfair dismissal;
 - (f) their redundancy (whether voluntary or compulsory);
 - (g) their marriage or civil partnership;
 - (h) their divorce or dissolution of their civil partnership; or
 - (i) benefits payable on retirement.

- (3) it comprises sums paid to the *depositor* in respect of:
 - (a) benefits payable on death;
 - (b) a claim for compensation in respect of a person's death; or
 - (c) a legacy or other distribution from the estate of a deceased person.
 - (4) it is held in an account on behalf of the personal representatives of a deceased person for the purpose of realising and administering the deceased's estate.
 - (5) it otherwise serves a social purpose provided for in the law of a part of the *United Kingdom*, which is linked to the marriage, civil partnership, divorce, dissolution of civil partnership, retirement, incapacity or death of an individual.
- 10.3 Following the *compensation date*, the *FSCS* must review the *single customer view* of each *depositor* with the *DGS member* and provide written notice to an individual with aggregate *eligible deposits* in excess of £85,000 of the following:
- (1) that the *depositor* may be entitled to additional compensation if all or part of the *eligible deposit* in excess of £85,000 qualifies as a *temporary high balance*;
 - (2) that in order to claim such additional compensation, the *depositor* must provide the *FSCS* with a written application and evidence supporting the *depositor's claim* that all or part of the *eligible deposit* in excess of £85,000 qualifies as a *temporary high balance*;
 - (3) that the *depositor* may make more than one *claim* for a *temporary high balance* if there are multiple events giving rise to a *temporary high balance*; and
 - (4) the date by which such written application and supporting evidence should be submitted to the *FSCS*.
- 10.4 The *FSCS* must pay compensation to a *depositor* in respect of a *temporary high balance* in accordance with 4.3 if it is satisfied that there is a sufficient link between an event giving rise to a *temporary high balance* and the part of the *eligible deposit* in excess of £85,000, taking into account the following considerations:
- (1) the written application and evidence provided by the *depositor* under 10.3; and
 - (2) any other information that the *FSCS* considers relevant.
- 10.5 The *FSCS* must pay compensation to a *depositor* in accordance with 4.3 in respect of each *temporary high balance* that the *depositor* has with any one *DGS member*.
- 10.6 The *FSCS* may pay compensation in respect of a *temporary high balance* to a *person* who makes a *claim* on behalf of another *person* if the *FSCS* is satisfied that the *person* on whose behalf the *claim* is made would have been paid compensation by the *FSCS* in respect of that *temporary high balance* had the person been able to make the *claim* themselves, or to pursue their application for compensation further.
- 10.7 The protection for *temporary high balances* under 4.3 shall run for a period of six months from the later of:
- (1) the first date on which a *temporary high balance* is credited to a depositor's account, or to a client account on a person's behalf; and

- (2) the first date on which the *temporary high balance* becomes legally transferable to the depositor.

[Note: Art. 6(2) of the DGSD]

- 10.8 The *FSCS* must, within three months of the *compensation date*, pay to the *depositor* a sum representing the amount due to the *depositor* in respect of the *temporary high balance* unless one or more of 10.9 to 10.11 applies.

[Note: Art. 8(5)(d) of the DGSD]

- 10.9 The *FSCS* may defer payment in respect of a *temporary high balance* for a period in excess of the period specified in 10.8 where:

- (1) the *depositor* provides the written application and evidence referred to in 10.3 to the *FSCS* more than two *months* following the date of the written notice from the *FSCS* under 10.3; or

- (2) one or more of the circumstances set out in 9.4(1) – (4), (5) and (6) arise.

- 10.10 If the *FSCS* considers that the written application and evidence provided by a *depositor* under 10.3 does not demonstrate a sufficient link between an event giving rise to a *temporary high balance* and the *eligible deposit* in excess of £85,000, the *FSCS* must write promptly to that *depositor* to:

- (1) request any additional information that the *FSCS* considers necessary to determine the *claim* (within such time as the *FSCS* may specify); or
- (2) confirm that the *FSCS* has determined that the deposit is not a *temporary high balance*, setting out the reasons for its determination and a summary of any right to request a review of the determination.

- 10.11 If the written application or evidence provided by the depositor under 10.3 contains any material inaccuracy or omission, the *FSCS* may reject the *claim* for compensation unless this is considered by the *FSCS* to be wholly unintentional. The *FSCS* must give written reasons for rejecting the *claim* together with a summary of any right to appeal the decision to reject the application.

- 10.12 Where all or part of a *temporary high balance* is transferred to another *DGS member* after the start of the coverage period referred to in 10.7, the *FSCS* must pay compensation if it considers that the transferred deposit is sufficiently linked to the *temporary high balance*. The transfer shall not affect the coverage period referred to in 10.7.

11 CORE SYSTEMS AND INFORMATION REQUIREMENTS

- 11.1 A *firm* must mark *eligible deposits* in a way that allows for the immediate identification of such *deposits*.

[Note: Art. 5(4) of the DGSD]

- 11.2 A *firm* must mark accounts (including client accounts and trust accounts) which are held on behalf of beneficiaries and which contain or may contain *eligible deposits* in a way that allows immediate identification of such accounts.

[Note: Art. 5(4) and 7(3) of the DGSD]

11.3 A *firm* (other than a *credit union* or *Northern Ireland credit union*) must mark accounts which hold:

- (1) *eligible deposits* from natural persons and *micro, small and medium-sized enterprises*; and
- (2) *deposits* that would be *eligible deposits* from natural persons or *micro, small and medium-sized enterprises* if the *deposit* had not been made through a *branch* of the *firm* located outside the EEA

in a way that allows for the immediate identification of such accounts.

11.4 The information required by 11.1, 11.2 and 11.3 must be electronically stored.

11.5 A *firm* (other than a *credit union* or *Northern Ireland credit union*) must, at least annually, take reasonable steps to confirm that a customer which it has classified as a *micro, small or medium-sized enterprise* continues to be a *micro, small or medium-sized enterprise*.

11.6 A *firm* must prepare and provide to the FSCS a *single customer view* and *exclusions file* for each *depositor* with an *eligible deposit* within 24 hours of the relevant *deposits* becoming *unavailable deposits*.

11.7 A *firm* must provide a *single customer view* and *exclusions file* for each *depositor* with an *eligible deposit* to the PRA or FSCS within 24 hours of a request by the PRA or FSCS. If a *depositor* does not have any accounts or balances which are required to be included within the *exclusions file*, the *firm* should provide confirmation of this to the FSCS.

[Note: Art. 4(8), 7(6) and 8(6) of the DGSD]

11.8 A *firm* must provide the information required by 11.6 and 11.7 by secure electronic transmission and in a format which is readily transferable to and compatible with the FSCS's system.

11.9 A *firm* must provide the FSCS with its *single customer view* and *exclusions file* within:

- (1) three *months* of receiving a *Part 4A permission to accept deposits*; and
- (2) three *months* of a material change in the *firm's SCV system*.

11.10 The FSCS must advise the PRA whether the information provided by a *firm's SCV system* is capable of being submitted to the FSCS and whether it is compatible with the FSCS's systems, within six *months* of receiving the information required by 11.9.

11.11 A *firm* must ensure that its *SCV system*:

- (1) automatically identifies the amount of *covered deposits* payable to each *depositor*; and
- (2) includes a facility which identifies any portion of an *eligible deposit* that is over £85,000.

11.12 A *firm* (other than a *credit union* or *Northern Ireland credit union*) must ensure that its *SCV system*:

- (1) automatically identifies the *transferable eligible deposit* for each *depositor*, including the account or accounts in which the *transferable eligible deposit* is held; and
- (2) automatically identifies any account held by a *depositor* which contains both the *transferable eligible deposit* (or a portion of the *transferable eligible deposit*) and also other *deposits* of the *depositor* which do not form part of the *transferable eligible deposit*.

11.13 A *firm* (other than a *credit union* or *Northern Ireland credit union*) must have systems in place which enable it to transfer any *deposits* of a *depositor* which do not form part of the *transferable eligible deposit*, and which are held in an account which also contains the *transferable eligible deposit* (or a portion of the *transferable eligible deposit*), into a separate account from the account holding the *transferable eligible deposit*.

11.14 A *firm* (other than a *credit union* or *Northern Ireland credit union*) must have systems in place which enables it to freeze any account which is not marked in accordance with 11.1 and any account which is included in the *exclusions file*.

11.15 For the purposes of 11.12, a *firm* must identify the *transferable eligible deposit* for each *depositor* by applying the amount of the maximum payment for an *eligible deposit* to the accounts included in the *single customer view* in accordance with the hierarchy set out in the table below:

1.	Instant Access Accounts (including current accounts)
2.	ISAs
3.	Notice accounts
4.	Fixed term deposits with a term of less than one year
5.	Fixed term deposits with a term of one year or more but less than two years
6.	Fixed term deposits with a term of two years or more but less than four years
7.	Fixed term deposits with a term of four years or more

11.16 A *firm* must take reasonable steps to ensure the accuracy of the data it holds in order to satisfy the requirements of this Chapter.

11.17 A *firm* must ensure that each *single customer view* and *exclusions file* contains all the information set out in the table below.

	Field identifier	Field descriptor	Notes
	Customer details		
1.	<i>Single customer view</i> record number	Unique customer identifier.	Maximum number of characters in field: 100
2.	Title	Title [if applicable and where held by the <i>firm</i>].	Maximum number of characters in field: 20
3.	Customer 1 st forename	1 st forename [if applicable].	Maximum number of characters in field: 50
4.	Customer 2 nd forename	2 nd forename [if applicable and where held by the <i>firm</i>].	Maximum number of characters in field: 50
5.	Customer 3 rd forename	3 rd forename [if applicable and where held by the <i>firm</i>].	Maximum number of characters in field: 50
6.	Customer Surname [or company name or name of account holder]	Surname [or company name or name of account holder].	Maximum number of characters in field: 100
7.	Previous Name	Any former name of the account holder [where held by the <i>firm</i>].	Maximum number of characters in field: 200

8.	National Insurance number	National Insurance number, where held by the <i>firm</i> .	Maximum number of characters in field: 9
9.	Passport number	Passport number, where held by the <i>firm</i>	Maximum number of characters in field: 200
10.	Other national identity	Identify what type of national identity is being provided	Maximum number of characters in field: 50
11.	Other national identity number	National identity number, where held by the <i>firm</i>	Maximum number of characters in field: 50
12.	Company number	Company registration number or other business registration number [if applicable].	Maximum number of characters in field: 50
13.	Customer date of birth	Date of birth [if applicable].	DDMMYYYY Maximum number of characters in field: 8
Contact details			
14.	<i>Single customer view</i> record number	Unique customer identifier.	Maximum number of characters in field: 200
15.	Address line 1	Mandatory.	Maximum number of characters in field: 100
16.	Address line 2	Mandatory.	Maximum number of characters in field: 100
17.	Address line 3	As required.	Maximum number of characters in field: 100
18.	Address line 4	As required.	Maximum number of characters in field: 100
19.	Address line 5	As required.	Maximum number of characters in field: 100
20.	Address line 6	As required.	Maximum number of characters in field: 100
21.	Postcode	Postcode [mandatory except where not used by a country].	Maximum number of characters in field: 30
22.	Country	Country [for countries outside the <i>UK</i>].	Maximum number of characters in field: 30
23.	Email address	Email address [where held by the <i>firm</i>].	Maximum number of characters in field: 50
24.	Daytime phone number or main phone number	Phone number 1 [where held by the <i>firm</i>].	Numeric Maximum number of characters in field: 40
25.	Evening phone number	Phone number 2 [where held by the <i>firm</i>].	Numeric Maximum number of characters in field: 40
26.	Mobile phone number	Phone number 3 [where held by the <i>firm</i>].	Numeric Maximum number of characters in field: 30
Details of account(s)			
27.	<i>Single customer view</i> record number	Unique customer identifier.	Maximum number of characters in field: 200
28.	Account title	Surname, first name, any other initials or middle name identifier or company name or name of account holder.	Maximum number of characters in field: 50
29.	Account number	Unique number for this account.	Maximum number of characters in field: 35
30.	BIC	Business Identifier Code for the customer [if applicable and	ISO 9362 or alternative code if ISO 9362 is

		where held by the <i>firm</i>].	unavailable Maximum number of characters in field: 11
31.	IBAN	International Bank Account Number.	ISO 13616 or alternative code if ISO 13616 is unavailable Maximum number of characters in field: 34
32.	Sort code	Where relevant.	Numeric Maximum number of characters in field: 6
33.	Product type	<i>Firms</i> must allocate products to one of the following categories: • instant Access Accounts (including current accounts); • ISAs; • notice accounts; • fixed term <i>deposits</i> with a term of less than one year; • fixed term <i>deposits</i> with a term of one year or more but less than two years; • fixed term <i>deposits</i> with a term of two years or more but less than four years; • fixed term <i>deposits</i> with a term of four years or more.	Values: • IAA • ISA • NA • FD1 • FD2 • FD4 • FP4P Maximum number of characters in field: 4
34.	Product name	The name of the product held.	Maximum number of characters in field: 50
35.	Account holder indicator	This field applies to joint or multiple accounts. It must identify how many account holders there are in relation to the account.	If the account has one account holder, the "Account Holder Indicator = 001". If the account has two owners, the "Account Holder Indicator = 002" for both account holders. Maximum number of characters in field: 3
36.	Account status code	Active accounts only to be included This field should set out any flags that the <i>firm</i> has against an account, including (but not limited to): • whether the <i>depositor</i> has any special communication requirements (e.g., Braille)	Maximum number of characters in field: 50

37.	If the file is an <i>exclusions file</i> , an indication of why the account falls within the <i>exclusions file</i>	Identify all of the following which apply: a) The <i>depositor</i> is not absolutely entitled to the sums held in the account; b) The account is a <i>dormant account</i> ; c) The account is an account for which the <i>firm</i> has received formal notice of a legal dispute or competing claims to the proceeds of the account; d) The account appears on the "Consolidated list of financial sanctions targets in the United Kingdom" that is maintained by HM Treasury or is otherwise subject to restrictive measures imposed by national governments or international bodies.	Values: a) BEN b) LEGDOR c) LEGDIS d) HMTS Maximum number of characters in field: 6
38.	If the file is a <i>single customer view</i> , has there been any transaction relating to the <i>deposit</i> within the 24 months prior to production of the <i>single customer view</i> ?		Values: Yes / No Maximum number of characters in field: 3
39.	If the account is held in a branch outside the United Kingdom, please state in which jurisdiction the account is held.		ISO 3166-1 Alpha-3 or alternative code if ISO 3166-1 is unavailable Maximum number of characters in field: 3
40.	Is the account marked under 11.3(1)?		Value: Yes / No Maximum number of characters in field: 3
41.	Structured deposit accounts	State whether or not the account is a structured deposit account where the account balance is calculated in accordance with 11.19.	Value: Yes / No Maximum number of characters in field: 3
42.	Account balance in sterling	Account balance including any interest, at end of business on: - the date on which the <i>deposit</i> becomes an <i>unavailable deposit</i>; - or - the date of request	Do not include any non-numeric symbols such as commas, currency symbols (e.g., £). All balances must be rounded up to two decimal places.

Appendix 2

		from <i>FSCS</i> or <i>PRA</i> as applicable.	Maximum number of characters in field: 15
43.	Currency of account	Currency in which the account is held.	ISO 4217 or alternative code if ISO 4217 is unavailable Maximum number of characters in field: 3
44.	Account balance in original currency	The original balance in the original currency before conversion to sterling [if applicable].	Do not include any non-numeric symbols such as commas, currency symbols (e.g., £). All balances must be rounded up to two decimal places. Maximum number of characters in field: 15
45.	Exchange rate used	The exchange rate used to calculate the sterling balance.	Do not include any non-numeric symbols such as commas, currency symbols (e.g., £). All balances must be rounded up to nine decimal places. Maximum number of characters in field: 29
46.	Account balance in original currency before interest accrued applied		Do not include any non-numeric symbols such as commas, currency symbols (e.g., £). All balances must be rounded up to two decimal places. Maximum number of characters in field: 15
47.	Amount of <i>transferable eligible deposit</i> in each account		Do not include any non-numeric symbols such as commas, currency symbols (e.g., £). All balances must be rounded up to two decimal places. Maximum number of characters in field: 15
	Aggregate balance		
48.	<i>Single customer view</i> record number	Unique customer identifier.	Maximum number of characters in field: 200
49.	Aggregate balance	At end of business on:	Do not include any non-

	in sterling across all accounts	- the <i>deposit</i> becomes an <i>unavailable deposit</i>; or - the date of request from <i>FSCS</i> or <i>PRA</i> as applicable.	numeric symbols such as commas, currency symbols (e.g., £). All balances must be rounded up to two decimal places. Maximum number of characters in field: 15
50.	Compensatable amount	The amount to be compensated subject to the limit check that must be performed by the <i>firm</i> pursuant to 11.11(2) (this could be lower than the aggregate balance across all accounts if this exceeds £85,000). For beneficiary accounts, it may not be possible to calculate this amount and this field may be left blank.	Do not include any non-numeric symbols such as commas, currency symbols (e.g., £). All balances must be rounded up to two decimal places. Maximum number of characters in field: 15

- 11.18 Where a firm prepares both a *single customer view* and an *exclusions file* for a *depositor*, the “unique customer identifier” on both the *single customer view* and the *exclusions file* must be identical.
- 11.19 Where the account is a structured deposit account where the return cannot be calculated until the maturity date because the return is based on growth of an index as determined at a future date, the figure in the account balance field (Field 42) must be the total of the principal, any attributable contractual minimum return and any interest accrued prior to the product start date.
- 11.20 Where a *depositor* holds more than one account, the section of the *single customer view* and *exclusions file* which sets out “Details of account(s)” must be completed for each account held.
- 11.21 The amount inserted into each *single customer view* and *exclusions file* as the account balance (Field 42) and aggregate balance across all accounts (Field 49) must be the total of principal plus any interest or premium attributable up to the *compensation date* (or the date on which the *PRA* or *FSCS* requests the *firm* to provide the *single customer view* and *exclusions file* in accordance with 11.7).
- 11.22 A *firm* must ensure that the amount inserted into each *single customer view* and *exclusions file* as the account balance (Field 42) includes any payment made to the *depositor* for which value has been credited to the *depositor's* account regardless of whether the *firm* has received the value itself. A *firm* must ensure that the amount inserted into each *single customer view* and *exclusions file* as the account balance (Field 42) excludes any payment sent by the *depositor* which has been debited from the *depositor's* account regardless of whether the *firm* has sent value itself.
- 11.23 At the end of the file containing the *single customer view* and *exclusions file* for all *depositors*, the *firm* must include a file footer indicating that the file is complete. The file footer must contain the figure “9” repeated 20 times. The file footer must appear at the end

of the complete file containing the *single customer view* or *exclusions file* for all *depositors* after the last record.

12 SINGLE CUSTOMER VIEW AND EXCLUSIONS FILE REPORTING

- 12.1 This Chapter does not apply to the *FSCS*.
- 12.2 A *firm* must provide the *PRA* with an *SCV report* :
- (1) within three *months* of receiving a *Part 4A permission to accept deposits*;
 - (2) within three *months* of a material change in the *firm's SCV system*;
 - (3) annually (no later than each anniversary of [DATE] or the date of receiving a *Part 4A permission to accept deposits*, whichever is later).
- 12.3 A *firm* must provide an *SCV report* to the *PRA* or *FSCS* (as specified by the *PRA*) promptly upon request by the *PRA*.
- 12.4 A description of a *firm's SCV system* and how it has been implemented must include an explanation of any code or keys used internally by the *firm* so that the *FSCS* can easily identify:
- (1) *eligible deposits* and accounts which are held on behalf of beneficiaries and which contain or may contain *eligible deposits*; and
 - (2) the accounts referred to in 11.3.
- 12.5 A *firm's SCV report* must contain:
- (1) a description of:
 - (a) the *firm's SCV system* and how it has been implemented;
 - (b) how the *firm* proposes to transfer to the *FSCS* a *single customer view* for each *depositor* with *eligible deposits* including specifying the transfer method and format;
 - (c) the testing undertaken with respect to the robustness of the *firm's SCV system* (including information on preparation of the *single customer view* in stressed scenarios, frequency of testing and reconciliation with core systems);
 - (d) the number of *single customer views* and *exclusions files* in the *firm's SCV system*;
 - (e) the *firm's* plan for the ongoing maintenance of the *firm's SCV system*;
 - (f) how the *firm's governing body* will ensure that they remain satisfied that the *firm's SCV system* continues to satisfy the *SCV requirements*;
 - (g) how the facility required by 11.11(2) is applied;

- (h) any other factors relevant to the design of the *firm's SCV system* or to an assessment of whether the *firm's SCV system* satisfies the *PRA's SCV requirements*;
 - (i) any dependencies in creating the *single customer view* and *exclusions file* (such as reliance on group systems);
 - (j) treatment of accounts which are *dormant accounts*;
 - (k) how the *exclusions file* is created; and
 - (l) a description of the procedures and controls that a *firm* has in place regarding the production of the *single customer view* and *exclusions file* (such as secure storage and an indication of how key person dependencies are managed).
- (2) a statement signed on behalf of the *firm's governing body* confirming that the *firm's SCV system* satisfies the *SCV requirements*;
 - (3) the date when the *firm's SCV system* last produced a *single customer view* and *exclusions file* for each *depositor*;
 - (4) a statement of whether the *firm's SCV report* has been reviewed by external auditors, and if so a statement of the findings of that review; and
 - (5) a statement of whether there has been a material change to the *firm's SCV system* since the date of the *firm's previous SCV report*.

13 CONTINUITY OF ACCESS REPORTING

13.1 This Chapter does not apply to the *FSCS*.

13.2 A *firm* must provide the *PRA* with a report on its *continuity of access systems*:

- (1) within three *months* of receiving a *Part 4A permission* to accept deposits;
- (2) within three *months* of a material change in the *firm's continuity of access systems*;
- (3) annually (no later than the anniversary of [DATE] or the date of receiving a *Part 4A permission* to accept deposits, whichever is later).

13.3 The report that a *firm* provides under 13.2 must contain:

- (1) a description of:
 - (a) the *firm's continuity of access systems* and how those systems have been implemented;
 - (b) the testing undertaken with respect to the *continuity of access systems*;
 - (c) the *firm's* plan for the ongoing maintenance of the *continuity of access systems*;

- (d) how the *firm's governing body* will ensure that they remain satisfied that the *continuity of access systems* continue to satisfy the requirements of 11.13 – 11.14;
 - (e) any other factors relevant to the design of the *continuity of access systems* or to an assessment of whether those systems satisfy the requirements of 11.13 – 11.14;
 - (f) any dependencies in operating the *continuity of access systems* (such as reliance on group systems);
- (2) a statement signed on behalf of the *firm's governing body* confirming that the *firm's continuity of access systems* satisfy the requirements of 11.13 – 11.14;
 - (3) a statement of whether the *firm's continuity of access systems* have been reviewed by internal or external auditors, and, if so, a statement of the findings of that review; and
 - (4) a statement of whether there has been a material change to the *firm's continuity of access systems* since the date of the firm's previous report.

14 FIRMS' DISCLOSURE OBLIGATIONS – INFORMATION SHEET

14.1 This Chapter does not apply to the *FSCS*.

14.2 A *firm* must:

- (1) prepare an 'information sheet', containing the categories of information set out in the template in Annex 1 to this Part.
- (2) ensure that the information sheet is kept up-to-date;
- (3) provide the information sheet to, and obtain an acknowledgement of receipt from, each intending *depositor*, before entering into a contract with the intending *depositor*.

[Note: Art. 16(1), (2) and (4) of the *DGSD*]

14.3 Where the *depositor* holds *eligible deposits* through a *UK* establishment, the information sheet must be in English, or, if different, in the language that was agreed between the *depositor* and the *firm* when the account was opened. A *firm* which accepts *eligible deposits* through a branch established in another *EEA* State may provide the Information Sheet in the official language of that *EEA* State.

[Note: Art. 16(4) of the *DGSD*]

15 FIRMS' DISCLOSURE OBLIGATIONS - STATEMENTS OF ACCOUNT

15.1 A *firm* must:

- (1) confirm that *deposits* are *eligible deposits* on a *depositor's* statements of account;
- (2) include the information sheet in a *depositor's* statement of account and must in any event provide the information sheet to the *depositor* at least annually;

- (3) include the following information in a *depositor's* statement of account:

For further information about the compensation provided by the FSCS, refer to the FSCS website at www.FSCS.org.uk

[Note: Art. 16(3) of the DGSD]

16 FIRMS' DISCLOSURE OBLIGATIONS - EXCLUSIONS FROM DEPOSIT GUARANTEE SCHEME PROTECTION

- 16.1 A *firm* must inform existing and intending *depositors* of the applicable exclusions from *deposit guarantee scheme* protection.

[Note: Art. 16(1) of the DGSD]

17 REFERENCES TO THE DEPOSIT GUARANTEE SCHEME IN ADVERTISING

- 17.1 A *firm* must not, in advertising materials, provide any further information about the *deposit guarantee scheme* beyond referring to the fact that the product advertised is or is not covered by the *deposit guarantee scheme*, and to any further factual information required by law including by this Part.

[Note: Art. 16(5) of the DGSD]

18 DISCLOSURE OF TRANSFER OF DEPOSITS

- 18.1 In the case of a merger, conversion of *subsidiaries* into *branches*, transfer or similar operations, a *firm* must:
- (1) inform *depositors* at least one month before the operation takes legal effect, save where the *PRA* allows a shorter deadline on grounds of commercial secrecy or financial stability; and
 - (2) give *depositors* at least three months, from the date on which the notification in (1) was sent, to withdraw without penalty or transfer to another *institution* such part of their aggregate *eligible deposits*, together with any accrued interest and other benefits, as exceed the maximum compensation sum payable in 4.2 after the transaction takes effect, up to the amount of coverage that the *depositor* had before the operation.

[Note: Art. 16(6) of the DGSD]

19 DISCLOSURE OF WITHDRAWAL OR EXCLUSION FROM THE DEPOSIT GUARANTEE SCHEME

- 19.1 A *firm* must inform *depositors* within one month if it withdraws from or is excluded from the *deposit guarantee scheme* or any *non-UK scheme*.

[Note: Art. 16(7) of the DGSD]

20 METHOD OF COMMUNICATION

20.1 A *firm* may discharge all its information-providing obligations in this Part:

- (1) to *depositors* who use internet banking facilities, by way of electronic communications, but it must provide the information on paper if so requested by the *depositor*;
- (2) to *depositors* who receive only paper statements, in writing in paper form; and
- (3) to *depositors* who neither receive paper statements nor use internet banking, in a way that brings it to the attention of the *depositor*.

[Note: Art. 16(8) of the *DGSD*]

21 NOTIFICATION REQUIREMENTS ON TRANSFER TO A NON-UK SCHEME

21.1 A *firm* which is a *DGS member* may transfer to become a member of a *non-UK scheme*, and cease to be a *DGS member*, by giving at least six months' notice to the *FSCS* of its intention to make such a transfer. During the six month period, the *firm* shall remain a *DGS member*.

[Note: Art. 14(4) of the *DGSD*]

22 DEPOSIT COMPENSATION INFORMATION - BRANCHES AND WEBSITES

22.1 This Chapter does not apply to the *FSCS*,

22.2 In this Chapter, references to "compensation sticker" and "compensation poster" are references to the sticker and poster set out in Annex 2 to this Part.

22.3 In this Chapter, references to "compensation leaflet" are:

- (1) in the case of a *DGS member*, references to the *FSCS*'s standard leaflet with respect to its protection of *deposits*; and
- (2) in the case of an *incoming firm* that it is a *credit institution*, references to a leaflet with respect to the protection of *deposits* by the compensation scheme of its *home Member state* where such a leaflet is provided electronically and in English by the *home state scheme* or, where a leaflet is not available, a link to the *home state scheme's* website.

22.4 A *firm* that *accepts deposits* under a single brand or trading name must prominently display the compensation sticker and compensation poster in each *branch* in the following ways:

- (1) displaying the compensation sticker or compensation poster in the *branch* window; and
- (2) displaying:

- (a) the compensation sticker at each cashier window or desk; and
 - (b) the compensation poster inside the *branch*.
- 22.5 A *firm* that *accepts deposits* under multiple brands or trading names must prominently display the compensation sticker and compensation poster in each *branch* in the following ways:
 - (1) displaying the compensation poster in the *branch* window; and
 - (2) displaying:
 - (a) the compensation sticker at each cashier window or desk; and
 - (b) the compensation poster inside the *branch*.
- 22.6 Where the physical design of the *branch* means that it is not possible to comply with any of the requirements of 22.4 and 22.5, a *firm* must display the compensation sticker or the compensation poster in an alternative place in the *branch* that has equal prominence.
- 22.7 A *firm* that *accepts deposits* under a single brand or trading name must, in a way that best brings the information to depositors' attention:
 - (1) display prominently (in electronic form) the compensation sticker; and
 - (2) provide from the compensation sticker an electronic link to the compensation leaflet.
- 22.8 A *firm* that *accepts deposits* under multiple brands or trading names must, in a way that best brings the information to *depositors'* attention:
 - (1) display prominently (in electronic form) the compensation poster; and
 - (2) provide from the compensation poster an electronic link to the compensation leaflet.
- 22.9 A *firm* must immediately provide the compensation leaflet to any *person* that requests further information about deposit protection.
- 22.10 A *DGS member* that accepts *eligible deposits* through a *branch* or *branches* established in other *EEA States* may provide the information required by this section in the official language(s) of the *EEA State* (which may be either the compensation sticker, compensation poster or compensation leaflet in that language or the *firm's* own translation of that compensation sticker, compensation poster or compensation leaflet).

23 DUTIES OF THE FSCS

- 23.1 This Chapter applies to the *FSCS*.
- 23.2 The *FSCS* must administer the *deposit guarantee scheme*:
 - (1) in accordance with the rules in this Part and any other rules prescribed by law;
 - (2) in a manner that is procedurally fair; and
 - (3) in accordance with the *European Convention on Human Rights*.
- 23.3 The *FSCS* must publish for *depositors* on its website all necessary information:

- (1) on the operation of the *deposit guarantee scheme*; and
- (2) on the process, eligibility and conditions for payment of compensation.

[Note: Art. 16(3) of the DGSD]

- 23.4 The FSCS may agree to pay the reasonable costs of a *depositor* bringing or continuing insolvency proceedings against a *DGS member* in respect of *eligible deposits* (whenever instituted), if the FSCS is satisfied that those proceedings would help it to discharge its functions under this Part.
- 23.5 The FSCS must have regard to the need to use its resources in an efficient and economic way in carrying out its functions under this Part.
- 23.6 The FSCS must perform stress tests of its systems relating to the payment of compensation in respect of *eligible deposits* at least once every three years and more frequently where the FSCS considers it necessary, with the first such stress test taking place by 3 July 2017.

[Note: Art. 4(10) of the DGSD]

- 23.7 The FSCS shall use the information necessary to perform stress tests of its systems relating to the payment of compensation in respect of *eligible deposits* only for the performance of those tests and shall keep such information no longer than is necessary for that purpose.

[Note: Art. 4(11) of the DGSD]

- 23.8 The FSCS must take appropriate steps to ensure that *depositors* are informed of the process for receiving compensation as soon as a possible after the *compensation date*.
- 23.9 The FSCS must inform the PRA immediately if it becomes aware of any instance of a *firm* not complying with its obligations as set out in this Part.

[Note: Art. 4(4) of the DGSD]

- 23.10 The FSCS must correspond with a *depositor* in any one of:
- (1) English; or
 - (2) any other official Union language that is used by the *firm* which holds the *eligible deposit* when communicating with that *depositor*.

[Note: Art. 8(7) of the DGSD]

- 23.11 The FSCS must have in place sound and transparent governance practices.

[Note: Art. 4(12) of the DGSD]

24 CLAIMS AGAINST THE FSCS AND CHALLENGING FSCS DECISIONS

- 24.1 The FSCS must ensure that a *person* who would be, or considers that they would be, affected by an FSCS decision in relation to compensation, has an opportunity to make representations in respect of that potential decision before it is finalised.

- 24.2 The *FSCS* may provide that *depositors* may only submit claims for compensation in respect of *deposits* within a specified period of time (not less than three months) from the expiry of the applicable time period for payment of compensation as specified in 9.2 and 9.4.
- 24.3 The *FSCS* must, if requested by the *depositor* and subject to other applicable laws, give reasons to the *depositor* for any decision not to pay compensation in relation to some or all of their *deposits*.
- 24.4 The procedure established by the *FSCS* under this Chapter must satisfy the minimum requirements of procedural fairness and comply with *the European Convention on Human Rights* for the handling of any complaints of maladministration relating to any aspect of the operation of the *deposit guarantee scheme*.

[Note: Art. 9(1) and (3) of the DGSD]

25 CONFIDENTIALITY, INFORMATION SHARING AND CO-OPERATION

- 25.1 The *FSCS* must ensure the confidentiality and the protection of the data pertaining to *depositors'* accounts. The processing of such data must be carried out in accordance with the Data Protection Act 1998.

[Note: Art. 4(9) of the DGSD]

- 25.2 The *FSCS* must exchange with *host state schemes* (in relation to a *firm*), information:
- (1) relating to its compliance with this Part;
 - (2) necessary to prepare for a repayment of *depositors*, including markings made under Chapter 11;
 - (3) communicated to the *FSCS* by the *PRA* that the *PRA* has detected problems with a *DGS member* that are likely to give rise to the intervention of a deposit guarantee scheme.

[Note: Art. 14(4) of the DGSD]

- 25.3 The *FSCS* must have appropriate procedures in place to enable it to share information and communicate effectively with *non-UK schemes*, the members of such schemes, and bodies outside the *UK*. The *FSCS* shall inform the *PRA* of any cooperation agreement it enters into with a *non-UK scheme*.

[Note: Art. 14(6) of the DGSD]

- 25.4 In order to facilitate effective co-operation, the *FSCS* shall have written co-operation agreements in place with *non-UK schemes*. Such agreements shall take account of 25.1.

[Note: Art. 14(5) of the DGSD]

26 PAYMENTS IN RESPECT OF UK BRANCHES OF INCOMING FIRMS

- 26.1 The *FSCS* must pay compensation to a *depositor* in respect of *deposits* held with a *branch* in the *UK* of a *credit institution* established in another *EEA State*, if:

- (1) the *depositor's deposits* are *eligible* according to Article 5 of the *DGSD*;
- (2) the *depositor's deposits* have been determined as unavailable in accordance with the law of that *EEA State*;
- (3) the *FSCS* has received funds from the *home state scheme* in respect of the amount of any compensation due to the *depositor*; and
- (4) the *home state scheme* has instructed *FSCS* to pay some or all of those funds to the *depositor*.

[Note: Art. 14(2) of the *DGSD*]

26.2 The amount of compensation which the *FSCS* must pay to a *depositor* to whom 26.1 applies shall be determined in the currency in which the *home state scheme* specifies that repayment should be made.

[Note: Art. 14(2) of the *DGSD*]

26.3 The *FSCS* must inform the *depositors* concerned that the relevant *credit institution* is *in default* and of their right to compensation on behalf of the *home state scheme*. The *FSCS* may receive correspondence from those depositors on behalf of the *home state scheme*.

[Note: Art. 14(2) of the *DGSD*]

27 SUBROGATION

27.1 This Chapter applies to the *FSCS*.

27.2 The *FSCS* may determine that the payment of compensation by the *FSCS* shall have all or any of the following effects:

- (1) the *FSCS* shall immediately and automatically be subrogated, subject to such conditions as the *FSCS* determines are appropriate, to all or any part (as determined by the *FSCS*) of the rights and claims in the *UK* and elsewhere of the *compensation recipient* against the *DGS member* and/or any third party (whether such rights are legal, equitable or of any other nature whatsoever and in whatever capacity the *DGS member* or third party is acting) in respect of or arising out of the *compensation recipient's deposits* being *unavailable*;
- (2) the *FSCS* may claim and take legal or any other proceedings or steps in the United Kingdom or elsewhere to enforce such rights in its own name or in the name of, and on behalf of, the *compensation recipient* or in both names against the *relevant credit institution* and/or any third party;
- (3) the subrogated rights and claims conferred on the *FSCS* shall be rights of recovery and claims against the *relevant credit institution* and/or any third party which are equivalent (including as to amount and priority and whether or not the *relevant credit institution* is insolvent) to and not exceed the rights and claims that the *compensation recipient* would have had; and/or
- (4) such rights and/or obligations (as determined by the *FSCS*) as between the *firm* and the *compensation recipient* arising out of the *compensation recipient's deposit* being *unavailable*, shall be transferred to, and subsist between, another *firm* and the

compensation recipient provided that the *firm* has consented (but the transferred rights and/or obligations shall be treated as existing between the *firm* and the *FSCS* to the extent of any subrogation, transfer or assignment for the purposes of (1) to (3) and 27.3).

[Note: Art. 9(2) of the DGSD]

27.3

- (1) The *FSCS* may determine that, if it is necessary or desirable in conjunction with the exercise of the *FSCS*'s powers under 27.2, that the *compensation recipient* shall be treated as having irrevocably and unconditionally appointed the chairman of the *FSCS* for the time being to be their attorney and agent and on their behalf and in their name or otherwise to do such things and execute such deeds and documents as may be required under such laws of the *UK*, another *EEA State* or any other state or law-country to create or give effect to such assignment or transfer or otherwise give full effect to those powers.
- (2) The execution of any deed or document under (1) shall be as effective as if made in writing by the compensation recipient or by his agent lawfully authorised in writing or by will.

27.4

- (1) The powers conferred on the *FSCS* in 27.2 and 27.3 to make a determination must be exercised in writing.
- (2) An instrument by which the *FSCS* makes a determination must specify the provision under which it is made, the date and the time from which it takes effect and the *credit institutions* and the *eligible deposits* or classes of *eligible deposit* in respect of which it applies.
- (3) The *FSCS* must take appropriate steps to publish the determination as soon as possible after it is made. Such publication must be accompanied by a statement explaining the effect of 28.2.
- (4) Failure to comply with any requirement under this rule does not affect the validity of the determination.
- (5) A determination by the *FSCS* under 27.2 may be amended, remade or revoked at any time and subject to the same conditions.

27.5

- (1) The production of a copy of the determination purporting to be made by the *FSCS* under this Chapter:
 - (a) on which is endorsed a certificate, signed by a member of the *FSCS*'s staff authorised by it for that purpose; and
 - (b) which contains the required statements;
 is evidence (or in Scotland sufficient evidence) of the facts stated in the certificate.
- (2) The required statements are:

- (a) that the determination was made by the *FSCS*; and
 - (b) that the copy is a true copy of the determination.
- (3) A certificate purporting to be signed as mentioned in (1) is to be taken to have been properly signed unless the contrary is shown.
- (4) A *person* who wishes in any legal proceedings to rely on a determination may require the *FSCS* to endorse a copy of the determination with a certificate of the kind mentioned in (1).

28 DUTIES ON FSCS TO PURSUE RECOVERIES

- 28.1 If the *FSCS* takes a transfer of rights from the *compensation recipient* or is otherwise subrogated to the rights of the *compensation recipient*, it must pursue all and only such recoveries as it considers are likely to be both reasonably possible and cost effective to pursue.
- 28.2 If the *FSCS* decides not to pursue such recoveries and a *compensation recipient* wishes to pursue those recoveries and so requests in writing, the *FSCS* must comply with that request and assign the rights back to the *compensation recipient*.

29 RECOVERIES OF ELIGIBLE DEPOSITS: RETURN OF SURPLUS TO COMPENSATION RECIPIENT

- 29.1 If the *FSCS*, in relation to a *claim* for *eligible deposits*, makes recoveries from the *credit institution* or any third party in respect of that *eligible deposit* the *FSCS* must:
- (1) retain from those recoveries a sum equal to the "FSCS retention sum"; and
 - (2) as soon as reasonably possible after it makes the recoveries, pay to the *compensation recipient* (or, if not the *depositor*, as directed by the *depositor*), a sum equal to the "top up payment".
- 29.2 The *FSCS* must calculate the "FSCS retention sum" and the "top up payment" as follows:
- (1) calculate the "recovery ratio", being the ratio of:
 - (a) the amount recovered by the *FSCS* through rights assigned or transferred or otherwise subrogated (less any deduction from that amount the *FSCS* may make to cover part or all of its reasonable costs of recovery and distribution); to
 - (b) the *compensation recipient's claim* for *eligible deposits* against the *credit institution* less any liability of a *home state scheme*;
 - (2) subtract the sum paid by the *FSCS* as compensation and any amount paid or payable by a *home state scheme* to the *compensation recipient* from the total value of the *compensation recipient's overall claim* for *eligible deposits*, to give the "compensation shortfall";

- (3) apply the recovery ratio to the sum paid by the *FSCS* as compensation to the *compensation recipient*, to give the "FSCS retention sum"; and
- (4) apply the recovery ratio to the compensation shortfall, to give the "top up payment".

30 FUNDING - AVAILABLE FINANCIAL MEANS

- 30.1 This Chapter applies only to the *FSCS*.
- 30.2 The *FSCS* must have in place adequate systems to determine the potential liabilities of the *deposit guarantee scheme* and ensure that the *available financial means* of the *deposit guarantee scheme* are proportionate to those liabilities.

[Note: Art. 10(1)(first paragraph) of the DGSD]

- 30.3 The *FSCS* must primarily use the *available financial means* of the *deposit guarantee scheme* to repay *depositors* pursuant to the *deposit guarantee scheme*.

[Note: Art. 11(1) of the DGSD]

31 FUNDING - USE OF EXISTING MANDATORY CONTRIBUTIONS

- 31.1 This Chapter applies only to the *FSCS*.
- 31.2
 - (1) This Chapter only applies to the extent that the *PRA* makes a rule confirming that it considers that the *deposit guarantee scheme* is unable to raise extraordinary contributions from *DGS members*.
 - (2) The *FSCS* may borrow an amount equal to the amount of such *mandatory contributions* as is required to meet the liabilities of the *deposit guarantee scheme*.
 - (3) This rule only applies in respect of borrowing amounts which a *Member State* must make immediately available in accordance with Article 10(4) of the *DGSD*.

[Note: Art. 10(4) (third paragraph) of the DGSD]

- 31.3 The *FSCS* must impose a *DGS compensation costs levy* on *DGS members* sufficient to repay any amounts equal to *mandatory contributions* borrowed in accordance with Article 10 (4) of the *DGSD* within a reasonable time and in accordance with repayment deadlines under the applicable loan agreement and 33.3.

[Note: Art. 10(4) (third paragraph) and Article 10(2) (second paragraph) of the DGSD]

32 FUNDING - FSCS'S POWER TO LEVY AND LIMITS ON LEVIES

- 32.1 This Chapter applies only to the *FSCS*.
- 32.2 The *FSCS* may, at any time, impose on *DGS members* a:
 - (1) *DGS compensation costs levy*;

- (2) *DGS management expenses levy*; or
 - (3) *legacy costs levy*.
- 32.3 The maximum aggregate amount of *DGS compensation costs*, *legacy costs* and *DGS specific costs* for which the *FSCS* can levy *class A* in any one financial year of the *deposit guarantee scheme* is limited to [£1, 500,000,000].
- 32.4 The maximum amount of *DGS compensation costs* for which the *FSCS* can levy *DGS members* per calendar year must not exceed 0.5% of total *covered deposits* (excluding *temporary high balances*) of all *DGS members*. The *FSCS* may in exceptional circumstances and with the prior consent of the *PRA* impose higher levies.

[Note: Art. 10(8) of the DGSD]

33 FUNDING - DGS COMPENSATION COSTS LEVY

- 33.1 This Chapter applies only to the *FSCS*.
- 33.2 The *FSCS* must raise *available financial means* by imposing a *DGS compensation costs levy* on *DGS members* at least once in each financial year for expenditure incurred or expected in the period of 12 months following 1 July in that year.

[Note: Art. 10(1)(second paragraph) of the DGSD]

33.3

(1) If, after the *available financial means* of the *deposit guarantee scheme* have reached the *target level* for the first time, the *available financial means* have been reduced to less than two-thirds of the *target level*, the *FSCS* must impose regular *DGS compensation cost levies* on *DGS members* at a level allowing the *target level* to be reached again within six years.

(2) The regular levies imposed under (1) shall take due account of the phase of the business cycle and the impact that procyclical contributions may have when setting annual contributions.

[Note: Art. 10(2) (third and fourth paragraphs) of the DGSD]

- 33.4 *DGS compensation cost levies* imposed on *DGS members* to raise the *available financial means* of the *deposit guarantee scheme* must be based on the amount of *covered deposits* (excluding *temporary high balances*) and the degree of risk incurred by the respective *DGS member*.

[Note: Art. 13(1) of the DGSD]

- 33.5 The *FSCS* may decide that a *DGS member* must pay a minimum contribution under a *DGS compensation costs levy*, irrespective of the amount of its *covered deposits*.

[Note: Art. 13(1) (fifth paragraph) of the DGSD]

- 33.6 The *FSCS* may only impose a *DGS compensation costs levy* on *DGS members* if the *FSCS* has reasonable grounds for believing that the funds available to it to meet relevant expenses are, or will be, insufficient, taking into account expenditure already incurred,

actual and expected recoveries and the level of the *FSCS's* expected expenditure in respect of *DGS compensation costs* in the 12 months immediately following the levy.

- 33.7 The *FSCS* may include in a *DGS compensation costs levy* the costs of compensation paid by the *FSCS* in error, provided that the payout was not made in bad faith.

34 FUNDING - DGS MANAGEMENT EXPENSES LEVY

- 34.1 This Chapter applies only to the *FSCS*.
- 34.2 The *FSCS* may only impose a *DGS management expenses levy* on *DGS members* if it has reasonable grounds for believing that the funds available to it to meet relevant expenses are, or will be, insufficient, taking into account expenditure already incurred, actual and expected recoveries and the level of the *FSCS's* expected expenditure in respect of those expenses in the financial year of the *deposit guarantee scheme* in relation to which the levy is imposed.
- 34.3 The *FSCS* must apply any amount collected from a *DGS management expenses levy* to the payment of *management expenses* and, as such, must not treat such funds as available financial means of the *deposit guarantee scheme*.

35 FUNDING - LEGACY COSTS LEVY

- 35.1 This Chapter applies only to the *FSCS*.
- 35.2 The *FSCS* must not impose a *legacy costs levy* on *Northern Ireland credit unions* in respect of *legacy costs* incurred before 31 March 2012.
- 35.3 The *FSCS* must apply any amount collected from a *legacy costs levy* to the payment of *legacy costs* and, as such, must not treat such funds as *available financial means* of the *deposit guarantee scheme*.
- 35.4 The *FSCS* must allocate any *legacy costs levy* to *DGS members* subject to the levy limit for *class A* under 32.3.
- 35.5 The *FSCS* must calculate each *DGS member's* share of a *legacy costs levy* by:
- (1) identifying the *legacy costs* allocated to *class A*;
 - (2) calculating the *DGS member's class A tariff base* as a proportion of the total *class A tariff base* of all *DGS members*, using the *statement of business* most recently supplied;
 - (3) applying the proportion calculated in (2) to the figure in (1).
- 35.6 *Legacy cost levies* must be based on the amount of *covered deposits* (excluding *temporary high balances*) and the degree of risk of the respective *DGS member*.
- 35.7 A *firm* which becomes a *DGS member* part way through a financial year of the *deposit guarantee scheme* will not be liable to pay a share of a *legacy costs levy* made in that year.

- 35.8 40.5 applies to the calculation of a *DGS member's legacy costs levy* and its *class A tariff base* as it applies to the calculation of its *DGS specific costs levy*.

36 FUNDING - MANAGEMENT OF FUNDS LEVIED

- 36.1 This Chapter applies only to the *FSCS*.
- 36.2 If the *FSCS* invests any *available financial means* of the *deposit guarantee scheme*, it must invest it in a low-risk and sufficiently diversified manner.

[Note: Art. 10(7) of the *DGSD*]

- 36.3 The *FSCS* must hold any amount collected from a *DGS specific costs levy*, *DGS compensation costs levy* or *legacy costs levy* to the credit of *class A*.
- 36.4 Interest earned by the *FSCS* in the management of funds held to the credit of *class A* must be credited to that *class*, and must be set off against the *DGS management expenses*, *DGS compensation costs* and *legacy costs* allocated to that *class*.
- 36.5 The *FSCS* must keep accounts which include:
- (1) the funds held to the credit of *class A*; and
 - (2) the liabilities of *class A*.

37 FUNDING - ADJUSTMENTS TO LEVY SHARES

- 37.1 This Chapter applies only to the *FSCS*.
- 37.2 If a *DGS member's* share of a *DGS levy* or an additional administrative fee or interest under 44.3 would be so small that, in the opinion of the *FSCS*, the costs of collection would be disproportionate to the amount payable, the *FSCS* may treat the *firm* as if its share of the levy or additional administrative fee amounted to zero.
- 37.3 The calculation of *DGS levies* must take into account previous levies, where funds raised in anticipation of meeting liabilities prove either more or less than the amount actually required.
- 37.4 The *FSCS* may adjust the calculation of a *DGS member's* share of any *DGS levy* to take proper account of:
- (1) any excess, not already taken into account, between previous levies of that type imposed in relation to previous periods and the relevant costs actually incurred in that period; or
 - (2) amounts that the *FSCS* has not been able to recover from *DGS members* as a result of 32.3 or 32.4; or
 - (3) amounts that the *FSCS* has not been able to recover from *DGS members* after having taken reasonable steps; or
 - (4) payments deferred under 45.2, the calculation of levies after an acquisition of deposit business under Chapter 38 or Chapter 39, calculations under 40.6; or

- (5) anything else that the *FSCS* believes on reasonable grounds should be taken into account.

37.5 The *FSCS* must not adjust the calculation of a *DGS member's* share of any *DGS levy* under 37.4 on the grounds that it would be inequitable for that *firm* to pay that share or part of it or on the grounds that it would be inequitable for the *FSCS* to retain that share or part of it. Any such claim should be dealt with under Chapter 45.

38 FUNDING - BUSINESS ACQUISITIONS FROM DGS MEMBERS

38.1 This Chapter applies only to the *FSCS*.

38.2 If:

- (1) a *DGS member* (A) assumes a liability to repay *deposits* held by another *DGS member* (B);
- (2) B is no longer liable to pay a *DGS levy* to the *FSCS*; and
- (3) the assumption of liability takes place after the date to which, or as of which, A's most recent *statement of business* is drawn up,

the *FSCS* must require A to pay an additional amount equal to the levy that would have been payable by B in relation to the relevant business and *class A* if the acquisition had not taken place and B had remained liable to pay *DGS levies*. The amount is based on the B's most recent *statement of business*.

38.3 This Chapter only applies with respect to those financial years of the *FSCS* for which A's levies are calculated on the basis of a *statement of business* drawn up to a date, or as of a date, before the assumption of liability took place.

39 FUNDING - BUSINESS ACQUISITIONS FROM NON-DGS MEMBERS

39.1 This Chapter applies only to the *FSCS*.

39.2 If a *DGS member* (A) assumes a liability to repay *deposits* held by a non-*DGS member* (B) and the assumption of liability takes place after the date to which, or as of which, A's most recent *statement of business* is drawn up, the *FSCS* must not require A to pay an additional amount as a result of that acquisition.

39.3 This Chapter only applies with respect to those financial years of the *FSCS* for which A's levies are calculated on the basis of a *statement of business* drawn up to a date, or as of a date, before the assumption of liability took place.

40 FUNDING - MANAGEMENT EXPENSES

40.1 A *DGS member's* share of a *DGS management expenses levy* consists of one or more of:
(1) a share of a *DGS base costs levy* and (2) a share of a *DGS specific costs levy*.

40.2 The *FSCS* must ensure that each *DGS member's* share of a *DGS management expenses levy* separately identifies the *firm's* share of the *DGS base costs levy* and *DGS specific costs levy*.

- 40.3 The *FSCS* must allocate any *DGS specific costs levy* to *class A* up to the levy limit for *class A* under 32.3.
- 40.4 The *FSCS* must calculate a *DGS member's* share of a *DGS specific costs levy* by:
- (1) identifying *DGS specific costs* which the *FSCS* has incurred, or expects to incur, in the relevant financial year of the *deposit guarantee scheme* allocated to *class A*, but not yet levied;
 - (2) calculating the *DGS member's class A* tariff base as a proportion of the total *class A* tariff base, using the *statement of business* most recently supplied; and
 - (3) applying the proportion calculated in (2) to the figure in (1).
- 40.5 The *FSCS* must not require a *firm* (A) which becomes a *DGS member* part way through a financial year of the *deposit guarantee scheme* to pay a share of a *DGS specific costs levy* until the financial year of the *FSCS* following the *FSCS* financial year in which A became a *DGS member*, at which time A's share of a *DGS specific costs levy* must be calculated under 40.6.
- 40.6
- (1) Unless otherwise provided in (2), A's *class A tariff base* is calculated, where necessary, using a projected valuation of the business to which the tariff relates.
 - (2)
 - (a) If A's *class A tariff base* is calculated using data from a period that begins on or after it became a *DGS member*, that data must be used to calculate A's *class A tariff base*
 - (b) If A's *class A tariff base* satisfies the following conditions, it must be calculated under (c)
 - (i) A became a *DGS member* between 1 April and 31 December inclusive; and
 - (ii) A's *class A tariff base*, but for this rule, is calculated by reference to the financial year ended in the calendar year ending 31 December or the twelve *months* ending 31 December before the *FSCS* financial year.
 - (c) If A satisfies the conditions in (b) it must calculate its *class A tariff base* as follows:
 - (i) it must use actual data in relation to the business to which the tariff relates rather than projected valuations;
 - (ii) the tariff is calculated by reference to the period beginning on the date it became a *DGS member* and ending on the 31 December before the start of the *FSCS* financial year; and
 - (iii) the figures are annualised by increasing them by the same proportion as the period of 12 *months* bears to the period starting from when the *DGS member* became a *DGS member* to the 31 December, as the case may be.

- (d) Where A is required to use the method in (c) it must notify the *FSCS* of its intention to do so by the date specified in 43.2.
- (e) Where A is required to use actual data under this rule, Chapter 42 is disapplied, to the extent it is incompatible, in relation to the calculation of that *DGS member's* valuation date in its second financial year.

41 FUNDING - DGS COMPENSATION COSTS

- 41.1 This Chapter applies only to the *FSCS*.
- 41.2 The *FSCS* must allocate any *DGS compensation costs levy* to *DGS members* in accordance with the amount of *DGS compensation costs* arising from, or expected to arise from claims in respect of *covered deposits* up to the levy limit of *class A* under 32.3.
- 41.3 The *FSCS* must calculate each *DGS member's* share of a *DGS compensation costs levy* by:
 - (1) identifying the *DGS compensation costs* allocated to *class A*;
 - (2) calculating, in relation to *class A*, the *DGS member's* tariff base as a proportion of the total tariff base of all *DGS members* in *class A*, using the *statement of business* most recently supplied;
 - (3) applying the proportion calculated in (2) to the figure in (1).
- 41.4 When calculating a *DGS member's* share of a *DGS compensation costs levy* or *DGS specific costs levy* allocated to *class A*, the *FSCS* must use the *class A tariff base*.
- 41.5 A *firm* which becomes a *DGS member* part way through a financial year of the *deposit guarantee scheme* will not be liable to pay a share of a *DGS compensation costs levy* made in that year.
- 41.6 40.5 applies to the calculation of a *DGS member's DGS compensation costs levy* and its tariff base as it applies to the calculation of its *specific costs levy*.

42 FUNDING - CLASS A TARIFF BASE CALCULATION

- 42.1 The *Class A tariff base* is *covered deposits* (excluding *temporary high balances*) as at 31 December except that, where the *covered deposit* is a *dormant account*, the applicable tariff base is *dormant account* multiplied by 0.2 as at 31 December.
- 42.2 The *class A tariff base* calculation must be made on the basis of the information that the *firm* would have to include in its *single customer views*. The information must be of the extent and standard required if the *firm* was preparing the *single customer view* in accordance with the *SCV requirements* as at the valuation date for the tariff base.
- 42.3 A *firm* must also include in its *class A tariff base* calculation the total balance of any *deposits* in any:
 - (1) *not active* account; or
 - (2) account which holds funds to which the account holder is not absolutely entitled.

43 FUNDING - REPORTING REQUIREMENTS

- 43.1 This Chapter does not apply to the *FSCS*.
- 43.2 A *firm* must provide the *FSCS* by end of February each year (or, if it has become a *DGS member* part way through the financial year, by the date requested by the *PRA*) with a statement of the total amount of business (measured in accordance with the *class A tariff base*) which it conducted, in respect of the most recent valuation period ending before the relevant year in relation to *class A*.
- The relevant year means the year in which the month of February (referred to above) falls.
- The valuation period will be 31 December.
- 43.3 A new *DGS member* must calculate its *class A tariff base* in accordance with 40.6.
- 43.4 If a *firm* does not submit a complete *statement of business* by the date on which it is due in accordance with 43.2 and any prescribed submission procedures:
- (1) the *firm* must pay an administrative fee of £250 (but not if it is already subject to an administrative fee by the *PRA* for the same financial year); and
 - (2) the *DGS compensation costs levy* and any *DGS specific costs levy* will be calculated using (where relevant) the valuation or valuations of business applicable to the previous period, multiplied by the factor of 1.10 (or, if it has become a *DGS member* part way through a financial year, on the basis of the information provided to the *PRA* for the purposes of FEES 4.4.2 R or on any other reasonable basis, making such adjustments as seem appropriate in subsequent levies once the true figures are known.

44 FUNDING - OBLIGATION TO PAY

- 44.1 This Chapter does not apply to the *FSCS*.
- 44.2 A *firm* must pay to the *FSCS* its share of each:
- (1) *DGS management expenses levy*; and
 - (2) *DGS compensation costs levy* and *legacy costs levy* allocated to *class A*.
- 44.3 If a *firm* does not pay the total amount of its share of a *DGS levy*, before the end of the date on which it is due, it must pay an additional amount as follows:
- (1) if the *DGS levy* was not paid in full before the end of the due date, an administrative fee of £250; and
 - (2) interest on any unpaid part of the *DGS levy* or administrative fee at the rate of 5% per annum above the Official Bank Rate from time to time in force, accruing on a daily basis from the date on which the amount concerned became due.

45 FUNDING - OVERPAYMENTS AND DEFERRAL OF PAYMENTS

- 45.1 The *FSCS* may reduce, remit or refund any overpaid amounts paid by a *DGS member* in respect of a particular period, due to a mistake of law or fact by the *DGS member* provided that the claim is made by the *DGS member* not more than two years after the beginning of the period to which the overpayment relates.
- 45.2 The *PRA* may defer, in whole or in part, a *DGS member's* obligation to pay a *DGS compensation costs levy* or a *legacy costs levy* if the *PRA* considers that such contributions would jeopardise the liquidity or solvency of the *firm*. Such deferral shall not be granted for a longer period than six months but may be renewed upon request of the *firm*.
- 45.3 Any contributions deferred pursuant to 45.2 shall be paid when the payment no longer jeopardises the liquidity and solvency of the *firm*.

[Note: Art. 10(8) of the *DGSD*]

46 FUNDING - PAYMENT OF LEVIES

- 46.1 This Chapter does not apply to the *FSCS*.
- 46.2 A *firm* must pay its share of a *DGS levy* in one payment.
- 46.3 A *firm's* share of a *DGS levy* is due on, and payable within, 30 days of the date when the invoice is issued.
- 46.4 A *firm* must pay its share of a *DGS levy* by either direct debit, credit transfer (e.g. BACS or CHAPS), cheque, Maestro, Visa Debit or by credit card (Visa/Mastercard/American Express only).
- 46.5 If a *firm* ceases to be a *DGS member* part way through a financial year of the *deposit guarantee scheme*:
- (1) it will remain liable for any unpaid levies which the *FSCS* has already made on the *firm*; and
 - (2) the *FSCS* may make one or more levies upon it (which may be before or after the *firm* has ceased to be a *DGS member* but must be before it ceases to be a *firm*) for the costs which it would have been liable to pay had the *FSCS* made a levy on all *DGS members* in the financial year it ceased to be a *DGS member*.

47 FUNDING - TRANSFER OF LEVIES

- 47.1 This Chapter applies only to the *FSCS*.
- 47.2 If a *firm* ceases to be a *DGS member* and joins a *non-UK scheme*, the *FSCS* must transfer the contributions paid by that *firm* to the *available financial means* of the *deposit guarantee scheme* during the 12 months preceding the end of the membership to the relevant *non-UK scheme*.

- 47.3 47.2 does not apply if the *firm* has been excluded from the *deposit guarantee scheme* pursuant to Article 4(5) of the *DGSD*.
- 47.4 If some of the activities of a *DGS member* are transferred to another *Member State* and become subject to a *non-UK scheme*, the contributions paid by that *firm* during the 12 months preceding the transfer shall be transferred to the relevant *non-UK scheme* in proportion to the amount of *covered deposits* transferred.

[Note: Art. 14(3) of the *DGSD*]

ANNEX 1

INFORMATION SHEET (CHAPTER 14)

Basic information about the protection of deposit

Deposits in [insert name of firm] are protected by: the Financial Services Compensation Scheme ("FSCS")¹

Limit of protection: £85,000 per depositor per credit institution²

[where applicable] The following trademarks are part of your credit institution:

[insert all trademarks which operate under the same licence]

If you have more deposits at the same credit institution: All your deposits at the same credit institution are "aggregated" and the total is subject to the limit of £85,000.²

If you have a joint account with other person(s): The limit of £85,000 applies to each depositor separately.³

Reimbursement period in case of credit institution's failure: 20 working days⁴

Currency of reimbursement: Pound sterling (GBP, £)

To contact [insert name of firm] for enquiries relating to your account: [insert name of firm and contact details]

To contact the FSCS for further information on compensation: Financial Services Compensation Scheme
10th Floor Beaufort House
15 St Botolph Street
London
EC3A 7QU

Tel: 0800 678 1100 or 020 7741 4100

Email: ICT@fscs.org.uk

More information: <http://www.fscs.org.uk>

Acknowledgement of receipt by the depositor:

¹Scheme responsible for the protection of your deposit

Your deposit is covered by a statutory Deposit Guarantee Scheme. If insolvency of your bank, building society or credit union (your "credit institution") should occur, your deposits would be repaid up to £85,000 by the Deposit Guarantee Scheme.

²General limit of protection

If a deposit is unavailable because a credit institution is unable to meet its financial obligations, depositors are repaid by a Deposit Guarantee Scheme. This repayment covers at maximum £85,000 per credit institution. This means that all deposits at the same credit institution are added up in order

to determine the coverage level. If, for instance a depositor holds a savings account with £80,000 and a current account with £20,000, he or she will only be repaid £85,000.

[only where applicable] This method will also be applied if a credit institution operates under different trademarks. [insert name of *firm*] also trades under [insert all other trademarks of the same *firm*]. This means that all deposits with one or more of these trademarks are in total covered up to £85,000.

³Limit of protection for joint accounts

In case of joint accounts, the limit of £85,000 applies to each depositor.

However, deposits in an account to which two or more persons are entitled as members of a business partnership, association or grouping of a similar nature, without legal personality, are aggregated and treated as if made by a single depositor for the purpose of calculating the limit of £85,000.

In some cases deposits which are categorised as “temporary high balances” are protected above £85,000 for six months after the amount has been credited or from the moment when such deposits become legally transferable. These are deposits arising from one of the following events:

- (a) real estate transactions relating to the depositor’s private residential property;
- (b) a death or the depositor’s marriage, divorce, retirement, dismissal, redundancy or invalidity;
- (c) the payment to the depositor of insurance benefits or compensation for criminal injuries or wrongful conviction.

More information can be obtained under <http://www.fscs.org.uk>

⁴Reimbursement

The responsible Deposit Guarantee Scheme is the Financial Services Compensation Scheme, 10th Floor Beaufort House, 15 St Botolph Street, London, EC3A 7QU, Tel: 0800 678 1100 or 020 7741 4100, Email: ICT@fscs.org.uk. It will repay your deposits (up to £85,000) within 20 working days until 31 December 2018; within 15 working days from 1 January 2018 until 31 December 2020; within 10 working days from 1 January 2021 to 31 December 2023; and within 7 working days from 31 December 2023 onwards, save where specific exceptions apply.

Where the FSCS cannot make the repayable amount available within 7 working days, it will ensure that you have access an appropriate amount of your protected deposit to cover the cost of living within 5 working days of a request. Again, there are specific exceptions to this obligation.

If you have not been repaid within these deadlines, you should contact the Deposit Guarantee Scheme since the time to claim reimbursement may be barred after a certain time limit. Further information can be obtained under <http://www.fscs.org.uk>.

Other important information

In general, all retail depositors and businesses are covered by Deposit Guarantee Schemes. Exceptions for certain deposits are stated on the website of the responsible Deposit Guarantee Scheme. Your credit institution will also inform you of any exclusions from coverage which may apply. If deposits are covered, the credit institution shall also confirm this on the statement of account.

ANNEX 2

CONTENT OF COMPENSATION STICKER AND POSTER (CHAPTER 22)

1	The compensation stickers must contain the following statements only:
	<i>UK banks</i> <i>building societies</i> <i>credit unions</i> <i>Northern Ireland credit unions</i> An overseas firm that: (a) is not an <i>incoming firm</i>; and (b) has a <i>Part 4A permission</i> that includes <i>accepting deposits</i>
(1)	"Your eligible deposits with [insert name of firm] are protected up to a total of £85,000 by the Financial Services Compensation Scheme, the UK's deposit protection scheme. Any deposits you hold above the £85,000 limit are unlikely to be covered. Please ask/click here [delete as appropriate] for further information or visit www.fscs.org.uk." As an alternative, for <i>credit unions</i> or <i>Northern Ireland credit unions</i> that <i>accept deposits</i> under a single brand or trading name: "Your eligible deposits are protected up to a total of £85,000 by the Financial Services Compensation Scheme, the UK's deposit protection scheme. Any deposits you hold above the £85,000 limit are unlikely to be covered. Please ask/click here [delete as appropriate] for further information or visit www.fscs.org.uk."
	Incoming firm that is a <i>credit institution</i>
(2)	"Your eligible deposits with [insert name of firm] are protected up to a total of 100,000 euro by [insert name of compensation scheme] the [insert home state of compensation scheme] deposit protection scheme and are not protected by the UK Financial Services Compensation Scheme. Any deposits you hold above the 100,000 euro limit are unlikely to be covered. Please ask/click here [delete as appropriate] for further information or visit [insert website address of scheme]."
2	The compensation posters must contain the following statements only:
	<i>UK banks</i> <i>building societies</i>

credit unions Northern Ireland credit unions An overseas firm that: (a) is not an <i>incoming firm</i>; and (b) has a Part 4A permission that includes accepting deposits	
(1)	<i>Firms that accept deposits under a single brand or trading name</i> "Your eligible deposits with [insert name of firm] are protected up to a total of £85,000 by the Financial Services Compensation Scheme, the UK's deposit protection scheme. Any deposits you hold above the £85,000 limit are unlikely to be covered. Please ask/click here [delete as appropriate] for further information or visit www.fscs.org.uk" As an alternative, for <i>credit unions</i> or <i>Northern Ireland credit unions</i> that <i>accept deposits</i> under a single brand or trading name: "Your eligible deposits are protected up to a total of £85,000 by the Financial Services Compensation Scheme, the UK's deposit protection scheme. Any deposits you hold above the £85,000 limit are unlikely to be covered. Please ask/click here [delete as appropriate] for further information or visit www.fscs.org.uk"
(2)	<i>Firms that accept deposits under multiple brands or trading names</i> "Your eligible deposits with [insert name of firm] are protected up to a total of £85,000 by the Financial Services Compensation Scheme, the UK's deposit protection scheme. This limit is applied to the total of any deposits you have with the following: [insert names of brands as appropriate]. Any total deposits you hold above the £85,000 limit between these brands are unlikely to be covered. Please ask/click here [delete as appropriate] for further information or visit www.fscs.org.uk"
Incoming firm that is a credit institution	
(3)	<i>Incoming firm that is a credit institution and accepts deposits under a single brand or trading name</i> "Your eligible deposits with [insert name of firm] are protected up to a total of 100,000 euro by [insert name of compensation scheme] the [insert home state of compensation scheme] deposit protection scheme and are not protected by the UK Financial Services Compensation Scheme. Any deposits you hold above the 100,000 euro limit are unlikely to be covered. Please ask/click here [delete as appropriate] for further information or visit [insert website address of scheme]."
(4)	<i>Incoming firm that accepts deposits under multiple brands or trading names</i>

	"Your eligible deposits with [insert name of firm] are protected up to a total of 100,000 euro by [insert name of compensation scheme] the [insert home state of compensation scheme] deposit protection scheme and are not protected by the UK Financial Services Compensation Scheme. This limit is applied to the total of any deposits you have with the following: [insert names of brands as appropriate]. Any total deposits above the 100,000 euro limit are unlikely to be covered. Please ask/click here [delete as appropriate] for further information or visit [insert website address of scheme]."
3	Each of the statements in 1 and 2 must appear as written with the first and second statements on separate lines. The second statement must appear in smaller font.

**PRA RULEBOOK: NON AUTHORISED PERSONS: FSCS MANAGEMENT EXPENSES LEVY
LIMIT AND BASE COSTS INSTRUMENT [YEAR]**

Powers exercised

- A. The Prudential Regulation Authority ("PRA") makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 ("the Act"):
- (1) section 213 (The compensation scheme); and
 - (2) section 223 (Management expenses).
- B. The rule-making powers referred to above are specified for the purpose of section 138G(2) (Rule-making instrument) of the Act.

Pre-conditions to making

- C. In accordance with section 138J of the Act (Consultation by the PRA), the PRA consulted the Financial Conduct Authority. After consulting, the PRA published a draft of proposed rules and had regard to representations made.

PRA Rulebook: Non Authorised Persons: FSCS Management Expenses Levy Limit and Base Costs Instrument [Year]

- D. The PRA makes the rules in Annex A to this instrument.

Commencement

- E. This instrument comes into force on [DATE].

Citation

- F. This instrument may be cited as the PRA Rulebook: Non Authorised Persons: FSCS Management Expenses Levy Limit and Base Costs Instrument [Year].

By order of the Board of the Prudential Regulation Authority
[DATE]

Annex A

In this Annex, the text is all new and is not underlined.

Part

FSCS MANAGEMENT EXPENSES LEVY LIMIT AND BASE COSTS

Chapter content

- 1. APPLICATION AND DEFINITIONS**
- 2. LIMIT ON MANAGEMENT EXPENSES LEVIES**
- 3. BASE COSTS**

Links

1 APPLICATION AND DEFINITIONS

1.1 This Part applies to the *FSCS*.

1.2 In this Part, the following definitions shall apply:

base costs

means *management expenses* which are not attributable to any particular *class*.

base costs levy

means a levy, forming part of the *management expenses levy*, to meet the *base costs* in the financial year of the *compensation scheme* to which the levy relates.

class

means one of the classes to which *FSCS* allocates levies in accordance with the rules of the *compensation scheme*.

deposit guarantee scheme

means the *compensation scheme* for compensating persons in respect of *deposits*.

dormant account

has the meaning given in section 10 of the Dormant Bank and Building Society Accounts Act 2008.

dormant account fund operator

means a person with a *Part 4A permission* for operating a *dormant account fund*.

dormant account scheme

means the *compensation scheme* for compensating persons in respect of *dormant accounts* held by a *dormant account fund operator*.

FCA compensation scheme rules

means the rules of the *compensation scheme* that are *FCA* rules.

FCA Handbook

means the *FCA's Handbook* of rules and guidance.

management expenses

has the meaning given in section 223(3) of *FSMA*.

management expenses levy

means a levy imposed by the *FSCS* to meet *management expenses*.

operating a dormant account fund

means any of the *regulated activities* specified in:

- (1) article 63N(1)(a) of the *Regulated Activities Order* (meeting of repayment claims); or
- (2) article 63N(1)(b) of the *Regulated Activities Order* (managing dormant account funds (including the investment of such funds)).

participant firm

has the meaning given in FEES 1 in the *PRA Handbook* and FEES 1 in the *FCA Handbook*.

PRA class

means a *class* to which the *FSCS* allocates levies in accordance with *PRA* rules.

regulatory costs

means the periodic fees payable to the *PRA* or *FCA* by a *participant firm* (and where applicable, the *Society*) in accordance with FEES 4 in the *PRA Handbook* and FEES 4 in the *FCA Handbook*.

2 LIMIT ON MANAGEMENT EXPENSES LEVIES

- 2.1 The total of all *management expenses levies* attributable to the period [1 April 2015 to 31 March 2016] of the *deposit guarantee scheme*, the *dormant account scheme* or the *policyholder protection scheme* may not exceed [£80,000,000] less whatever *management expenses levies* the *FSCS* has imposed in accordance with *FCA compensation scheme rules* attributable to the period [1 April 2015 to 31 March 2016].

3 BASE COSTS

- 3.1 The *FSCS* must calculate a share of a *base costs levy* for a *firm*, a *dormant account fund operator* and, where applicable, the *Society* by:
 - (1) identifying the *base costs* which the *FSCS* has incurred, or expects to incur, in the relevant financial year of the *compensation scheme* but has not yet levied and allocating 50% of those *base costs* as the sum to be levied on participants in *PRA classes*;
 - (2) calculating the amount of the *regulatory costs* of the *firm* or *dormant fund operator* (or, where applicable, the *Society*) as a proportion of the total *regulatory costs* of all *participant firms* (and, where applicable, the *Society*) for the relevant financial year; and
 - (3) applying the proportion calculated in (2), if any to the sum in (1).

PRA RULEBOOK: CRR FIRMS, NON CRR FIRMS, SOLVENCY II FIRMS, NON SOLVENCY II FIRMS AND NON AUTHORISED PERSONS: MANAGEMENT EXPENSES IN RESPECT OF RELEVANT SCHEMES INSTRUMENT [YEAR]

Powers exercised

- A. The Prudential Regulation Authority ("PRA") makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 ("the Act"):
- (1) section 224F (Rules about relevant schemes); and
 - (2) section 213 (The compensation scheme).
- B. The rule-making powers referred to above are specified for the purpose of section 138G(2) (Rule-making instrument) of the Act.

Pre-conditions to making

- C. In accordance with section 138J of the Act (Consultation by the PRA), the PRA consulted the Financial Conduct Authority. After consulting, the PRA published a draft of proposed rules and had regard to representations made.

PRA Rulebook: CRR Firms, Non CRR Firms, Solvency II Firms, Non Solvency II Firms and Non Authorised Persons: Management Expenses in respect of Relevant Schemes Instrument [YEAR]

- D. The PRA makes the rules in Annex A to this instrument.

Commencement

- E. This instrument comes into force on [DATE].

Citation

- F. This instrument may be cited as the PRA Rulebook: CRR Firms, Non CRR Firms, Solvency II Firms, Non Solvency II Firms and Non Authorised Persons: Management Expenses in respect of Relevant Schemes Instrument [Year].

By order of the Board of the Prudential Regulation Authority
[DATE]

Annex A

In this Annex, the text is all new and is not underlined.

Part

MANAGEMENT EXPENSES IN RESPECT OF RELEVANT SCHEMES

Chapter content

- 1. APPLICATION AND DEFINITIONS**
- 2. MANAGEMENT EXPENSES IN RESPECT OF RELEVANT SCHEMES LEVY**
- 3. OBLIGATION TO PAY**
- 4. PAYMENTS**

Links

1 APPLICATION AND DEFINITIONS

1.1 Unless otherwise stated, this Part applies to:

- (1) the *FSCS*;
- (2) a *firm*;
- (3) a *dormant account fund operator*; and
- (3) the *Society*.

1.2 In this Part, the following definitions shall apply:

dormant account fund operator

means a person with a *Part 4A permission* for operating a *dormant account fund*.

MERS levy

means a levy imposed by the *FSCS* on a *firm*, a *dormant account fund operator* or, where applicable, the *Society*, to meet *relevant expenses* incurred by the *FSCS* in connection with acting on behalf of the *manager of the relevant scheme* in accordance with Part 15A of *FSMA*.

manager of the relevant scheme

has the meaning given in section 224B(3) of *FSMA*.

operating a dormant account fund

means any of the *regulated activities* specified in:

- (1) article 63N(1)(a) of the *Regulated Activities Order* (meeting of repayment claims); or
- (2) article 63N(1)(b) of the *Regulated Activities Order* (managing dormant account funds (including the investment of such funds)).

relevant expenses

means management expenses as defined in section 224(7) of *FSMA*.

relevant scheme

means a scheme or arrangement (other than the *Financial Services Compensation Scheme*) for the payment of compensation (in certain cases) to customers (including customers outside the *United Kingdom*) in respect of *deposits* or under contracts of insurance or in respect of similar financial services.

2 MANAGEMENT EXPENSES IN RESPECT OF RELEVANT SCHEMES LEVY

2.1 This Chapter applies only to the *FSCS*.

2.2 The *FSCS* may at any time impose a *MERS levy* on a *firm*, a *dormant account fund operator* or, where applicable, the *Society* provided that the *FSCS* has reasonable grounds for

believing that the funds available to it to meet *relevant expenses* are, or will be insufficient, taking into account *relevant expenses* already incurred or expected to be incurred in the 12 months immediately following the date of the levy.

- 2.3 The FSCS can impose a *MERS levy* only if the FSCS has tried its best and has failed to obtain reimbursement of those expenses from the *manager of the relevant scheme*.
- 2.4 The FSCS must calculate a share of a *management expenses in respect of relevant schemes levy* for a *firm*, a *dormant account fund operator* or, where applicable, the *Society*, on a reasonable basis.

3 OBLIGATION TO PAY

- 3.1 A *firm* or a *dormant account fund operator* (and, where applicable, the *Society*) must pay to the FSCS its share of each *MERS levy*.

4 PAYMENTS

- 4.2 A *firm* or a *dormant account provider* (and, where applicable, the *Society*) must pay its share of a *MERS levy* in one payment.
- 46.3 A share of a *MERS levy* is due on, and payable within, 30 days of the date when the invoice is issued.
- 46.4 A *firm* or a *dormant account fund operator* (and, where applicable, the *Society*) must pay its share of a *MERS levy* by either direct debit, credit transfer (e.g. BACS or CHAPS), cheque, Maestro, Visa Debit or by credit card (Visa/Mastercard/American Express only).
- 4.2 The FSCS may reduce, remit or refund any overpaid amounts paid in respect of a *MERS levy* in respect of a particular period, due to a mistake of law or fact by a *firm*, a *dormant account fund operator* or, where applicable, the *Society*, provided that the claim is made by the *firm*, *dormant account provider* or, where applicable, the *Society* not more than two years after the beginning of the period to which the overpayment relates.
- 4.5 If a *firm* or a *dormant account fund operator* (and, where applicable, the *Society*), does not pay the total amount of its share of a *MERS levy*, before the end of the date on which it is due, it must pay an additional amount as follows:
 - (1) if the *MERS levy* was not paid in full before the end of the due date, an administrative fee of £250; and
 - (2) interest on any unpaid part of the *MERS levy* or administrative fee at the rate of 5% per annum above the Official Bank Rate from time to time in force, accruing on a daily basis from the date on which the amount concerned became due.

Supervisory statement — Disclosure of information about the relevant Deposit Guarantee Scheme

1. This supervisory statement (SS) sets out the Prudential Regulation Authority's (PRA's) expectations of how firms will disclose information about the relevant deposit guarantee scheme (DGS).

2. This SS is intended to be read together with the rules contained in Chapters 14, 15, 16, 20 and 22 of the Depositor Protection Part of the Rulebook. This SS is relevant to deposit-takers (hereafter, 'firms') to which these rules apply.

3. By setting out the PRA's expectations with regards to the disclosure of compensation information to depositors, this SS helps to enhance depositor confidence and should therefore contribute towards the safety and soundness of firms.

Compensation information on account statements

4. Rules relating to the 'information sheet' that must be provided to depositors are set out in Depositor Protection Chapter 14.

5. For the purposes of Depositor Protection 20.1(3), if the information is communicated by letter or leaflet sent through the post, email or a pop-up box on the firm's internet website, then the PRA will consider it to have been communicated in a way that brings the information to the attention of the recipient.

6. Depositor Protection 14.2(3) states that a firm must obtain an acknowledgement of receipt of the information sheet from each potential depositor before entering into a contract. In order to meet this requirement, firms should obtain the customer's signature on the information sheet before an account is opened.

7. Where the account is opened online, the depositor should be provided with the information sheet and required to confirm that they have read and understood the information. In this scenario, an electronic signature or 'tick box' is sufficient to meet the requirement in Depositor Protection 14.2(3) to obtain acknowledgement of receipt of the information sheet.

8. Depositor Protection 16.1 requires that firms must inform depositors of the exclusions from deposit guarantee scheme protection. The PRA considers that firms can fulfil this requirement by including this information:

- prominently on their website; or
- in the information sheet.

9. The PRA expects a firm to consider its obligations under the Credit Institutions (Protection of Depositors) Regulations 1995.

Compensation information: branches and websites

10. If the information required to be disclosed under Depositor Protection 22.7 and 22.8 is displayed prominently on the front page of the firm's website or mobile application or a pop-up box upon logging on to the website or mobile application, the PRA considers that the requirement to communicate in a way that best brings the information to depositors' attention will have been satisfied.

11. The PRA considers that a DGS member will comply with Depositor Protection 22.4, 22.5, 22.6, 22.7 and 22.8, if it displays the relevant compensation sticker and/or compensation poster produced by the Financial Services Compensation Scheme in accordance with the requirements of those rules.

Supervisory statement — Single customer view, in-flight transactions and continuity of access

Introduction

1. This supervisory statement (SS) clarifies the Prudential Regulation Authority's (PRA) expectations on how firms should comply with Depositor Protection Chapters 11, 12 and 13. This SS is relevant to all UK and non-EEA firms that accept deposits (including EEA branches of UK firms).⁽¹⁾ This SS is intended to be read together with the rules. By clarifying the PRA's expectations, this statement supports the PRA's objective to promote safety and soundness through allowing orderly resolution of firms. This SS sets out expectations on firms in relation to:

- single customer view (SCV);
- in-flight transactions; and
- continuity of access.

Single customer view

Keys and codes

2. Rule 12.4 sets out that firms must provide information on any keys or codes used by the firm internally. These keys and codes can provide useful information for the Financial Services Compensation Scheme (FSCS) on how different accounts should be treated, including whether there is any reason why the account cannot go straight through to payout. For example, this could be the case if a depositor needs a letter in a different format or if post sent to the depositor's house was returned because the depositor was no longer at that address. The PRA expects firms to consider the purpose for which the FSCS will use this information and consider what information the FSCS may find useful.

Definition of material change

3. Rule 12.2(2) sets out what firms must do after a material change in its SCV system. The PRA considers that a material change would include any change that would have a material impact on the firm's SCV system. For example, there is likely to be a material change in a firm's SCV system upon a merger or upon the acquisition of a deposit book, or the introduction of a new IT system that relates to the firm's SCV system.

4. A similar interpretation applies in relation to Rule 13.2(2), where a material change in a firm's continuity of access systems includes any change that would have a material impact on the firm's continuity of access systems.

SCV file format

5. Where firms do not hold the data required to be included in the SCV and exclusions file, corresponding fields in the SCV and exclusion files should remain empty. Even if these fields are empty, the PRA expects these fields to remain in the SCV file and the exclusions file, so that the files are always the same length. Fields should always appear in the same order set out in Rule 11.17.

6. Rule 11.8 states that firms must submit their information in a format which is readily compatible with the FSCS's system. There are three formats that are considered compatible:

- Format one: a firm should send through the information in four files. File one should contain 'Customer details', file two should contain 'Contact details', file three should contain 'Details of account(s)' and file four should contain 'Aggregate balance details'.
- Format two: a firm should send through the information in two files. One file containing 'Customer details', 'Contact details' and 'Aggregate balance details' and one file containing the 'Details of account(s)'.
- Format three: a firm should send through one file which contains 'Customer details', 'Contact details', 'Aggregate balance details' and 'Details of account(s)'.

7. Firms should use one of these three formats for both the SCV and exclusion file. They do not have to use the same format for each.

8. For all of these formats a 'single line format' should be used. This means that customer information should all be kept on the same line. Where depositors have more than one account, this information can be on separate lines.

9. Where there is more than one file each depositor should be linked with a unique identifier (the single customer view record number).

10. For file types which do not automatically separate fields a '|' should be used as delimiter. For example, this would apply to .txt files.

11. File names should follow the format FRNxxx-YYYYMMDDHHMMSSSCVFormatW.xxx for a SCV file or FRNxxx-YYYYMMDDHHMMSSSEXCFFormatW.xxx for an exclusion file. Firms should insert their FRN number and the date and time that the SCV file was created. 'FormatW'

(1) The Depositor Protection Part applies to all UK and non-EEA firms that accept deposits (including EEA branches of UK firms). However, a firm which does not conduct business that could give rise to a claim for a protected deposit by an eligible claimant and has no reasonable likelihood of doing so may be eligible to apply for a waiver from Depositor Protection Chapters 11, 12 and 13.

should be replaced with information about what is contained within the file according to the following:

- For format one, this should be four files called 'Customerdetails', 'Contactdetails', 'Detailsofaccount' and 'Aggregatebalancedetails'.
- For format two, this should be called 'Detailsofaccount' and 'Customerandaccountinformation'.
- For format three, this should be called 'Full'.

12. Where Rule 11.17 does not specify a numeric form, firms can submit in an alphanumeric or numeric form. Alphanumeric in this context can include other symbols such as punctuation marks and mathematical symbols.

Secure electronic submission

13. Rule 11.8 sets out that the SCV and exclusions field should be sent by secure electronic transmission. This can be a password protected email or another electronic format which ensures the security of the information.

Name

14. When completing the SCV or exclusions file, firms should consider the forename and surname fields as mandatory for natural persons. For companies, only the surname field is mandatory.

National ID

15. Where firms hold identification numbers for depositors on file they should include this in the SCV or exclusion file under field 11 in Rule 11.17. Where a firm holds identification numbers other than the National Insurance number or passport number of the depositor, the firm should explain what type of identification number it holds and provide the unique number. Examples of national ID include a photocard national identity card or a driving licence.

Country where account is domiciled

16. Field 39 in the SCV or exclusions file requires firms to provide information on the location of the branch where the account is held. This may be different to the country where the depositor has their address. For example, a firm with EEA branches may indicate that an account is held with a branch in Spain. A firm with only UK branches should indicate that the deposits are held in the United Kingdom.

Format of exclusion file

17. For inactive accounts or beneficiary accounts, the PRA expects firms to use the same format as the SCV file structure and provide the same information as required for the SCV file.

18. For beneficiary accounts, the PRA expects firms to supply details of the contact for the client/trust account, rather than the underlying beneficiary.

Dormant accounts

19. Dormant accounts that meet the definition in the Dormant Banks & Building Societies Accounts Act 2008 should be placed in the exclusions file. The PRA would expect all such accounts, even if not transferred to a dormant account provider, to be excluded.

Calculating interest

20. Rule 5.8 sets out the requirements for calculating interest. The PRA expects firms to apply the interest accrued to date regardless of the date that it is usually credited to balances in the SCV and exclusion file.

Calculating the return on certain structured deposits

21. In the case of structured deposits firms may not be able to accurately predict the return because the calculation of the return is based on the growth of an index as at the maturity date of the structured deposit. If that is the case, firms should flag this type of product in the SCV file and only add interest accrued prior to the product start date and any minimum return to the account balance in the SCV file.

In-flight transactions

22. This section of the SS provides more information on the PRA's expectations concerning the treatment of in-flight transactions covered under Rule 11.22. For in-flight transactions the PRA understands that each firm's approach may differ depending on the timing of end of day processes, speed to produce the SCV file and the type of access to each payment system. Therefore this SS sets out the PRA's expectations in general terms. It does not provide detail or prescribe the settlement processes between banks (between settlement banks or between settlement banks and their agency/customer banks). Settlement bank and agency/customer bank in this context can refer to all deposit-takers, including building societies and credit unions.

23. Firms should consider the information in this section alongside their own processes and relationships with the financial market infrastructures (FMIs) or settlement banks. This will help ensure consistency across the industry in a transfer of deposit book or an FSCS payout.

24. The PRA would expect the same process to apply for payments both where the failed firm is a direct member of a payment scheme and an indirect member of a payment system, where possible.

What are in-flight transactions?

25. The PRA considers an in-flight payment to be a payment where not all the underlying cash movements comprising the complete transaction are complete.

26. In-flight payments may be incoming payments to depositors' accounts for which the firm has not yet received value but which are reflected on the depositor's balance, and/or outgoing payments which have been reflected on the depositor's account but for which the firm may not yet have made a corresponding outgoing payment. There may also be in-flight payments that have neither settled (or, in the case of an indirect member, been received by the depositors' firm) nor been reflected on depositors' accounts.

27. In-flight transactions may arise where there is deferred net settlement. There may also be in-flight transactions arising where indirect members of payment schemes do not have a real-time flow of settled funds from their settlement bank.

28. At the point of resolution or insolvency there are likely to be a number of payments still moving through payment systems that have either not yet settled at bank level or been credited or debited into depositors' accounts. Rule 11.22 sets out how these in-flight payments must be treated in the SCV file. This rule is intended to ensure that the balance a depositor can see at the end of the business day matches the balance in the SCV file as far as is possible. In-flight transactions will be dealt with by the insolvency practitioner or administrator after a resolution. However, it is important that firms understand how to treat in-flight transactions in the SCV file to ensure a consistent approach. There will need to be a process of reconciliation between the insolvency practitioner or administrator, the FSCS and any acquiring firm (as relevant).

How settlement banks should respond

29. Settlement banks should have processes in place to support the transfer of some or all of its customer bank's deposit book, as appropriate. This could include the provision of continued access to their services. Settlement banks will also be expected to comply with previously published guidance.⁽¹⁾

Principles

30. All payments for which funds have been received by the depositor's firm intraday should be reflected on the depositor's accounts and therefore in the account balance field in the SCV or exclusions file by close of business.

31. Some payments may be reflected on depositors' accounts before they have been settled between firms due to timings in payment systems or internal processes. Some timing differences will be intraday and some may go across multiple days. Where these payments have already been credited or

debited to a depositor's account, even if interbank settlement has not yet completed the value should be included as part of a depositor's compensatable balance. For example, if a depositor has made a debit card payment which has reduced the amount of their available balance, this payment should be excluded from the compensatable amount in the SCV file.

32. For payments that have not been reflected on accounts and where the depositor does not continue to have access to their account it is possible that these payments will need to settle and then be returned as unapplied payments. Firms should consider if this impacts on their processes.

33. Rule 11.22 states that payments debited from a depositor's account should be excluded from the SCV and exclusions file regardless of whether the firm has sent the value itself. However, where possible, payments debited that have not yet been entered into the payment system should be reapplied to a depositor's account. For example, amounts debited may have been credited to a suspense account. This will then form part of a depositor's compensation balance in the SCV or exclusions file.

34. The PRA recognises that there will be a small number of payments that are not known about at the point of resolution but where the depositor has already committed to making that payment by taking goods or services in exchange. Any irrevocable debits (for example, overseas debit card transactions) that have not been reflected on the SCV file may need to go through a process of reconciliation with the insolvency practitioner or administrator, the FSCS and any acquiring firm (as relevant).

SCV file timing

35. When creating their SCV systems, firms should work on the basis that the point in time on which they should base their account snapshot for the purpose of in-flight payments will be the effective date of the relevant insolvency order issued by the court or the relevant transfer instrument issued by the Bank of England.

Continuity of access

36. This chapter of the supervisory statement sets out additional details on how a deposit book transfer in resolution might work to set the PRA's expectations in context and provide more information for firms as to how systems changes may be used. The PRA would expect the rules in Depositor Protection Part, Chapters 11 and 13 to be read alongside this SS.

(1) *PRA Supervisory Statement LSS12/13*, 'Settlement bank exposures to customer banks: management of the risks', April 2013; www.bankofengland.co.uk/publications/Documents/other/prapolicy/2013/settlementbankexposureslss12-13.pdf.

37. The PRA's rules in Chapter 11 set out systems requirements that will facilitate continued access to accounts for depositors, including the ability to make payments, where accounts are transferred from a failed firm to another financial institution.

38. It is possible that deposits that are not covered by the FSCS may not be transferred and would be dealt with as claims in the insolvency or administration of the failed firm. Accounts that are included in the exclusions file and temporary high balances may not be transferred and instead may be paid out, as relevant, by the FSCS.

Account separation

39. Rules 11.12 and 11.13 requires firms to create and maintain systems that can separate uncovered from covered balances and place the uncovered balances into a separate suspense or shadow account at the point of resolution. This will make it easier for the covered deposits remaining in the account to be transferred to an acquiring institution, thereby providing depositors with continued access to their accounts.

40. To provide sufficient continuity of access for depositors, it is desirable that this is completed as quickly as possible.

41. Firms can choose to either set up a single suspense account or individual shadow accounts for each account. Firms can choose whether they would want to create the separate accounts ahead of resolution or demonstrate that they have designed a system with the capability to create these features at the point of resolution. If firms decide that they wish to create shadow accounts ahead of resolution, the PRA expects firms to demonstrate good control processes and to provide appropriate assurance to manage any risks.

42. The PRA expects that firms should have sufficient record keeping procedures to enable all deposit values to be reconciled effectively back to the original account and depositor.

43. The PRA expects firms to use the SCV information as the means to establish a depositor's covered and uncovered balance.

Account details in transfer

44. Wherever possible, to support continuity of payments, the PRA expects account details (such as the sort-code, account number and debit card details) to remain unchanged at the point of resolution for an account that is transferred.

Hierarchy of accounts

45. Rule 11.15 requires firms to apply a hierarchy to eligible accounts where the depositor has multiple eligible accounts and their aggregate balance is over the covered limit. Firms should ensure that all products are categorised according to the categories in Rule 11.15 to ensure the hierarchy is adhered to. To ensure continuity is maintained for accounts with the most regular transactions, the PRA expects the balance in transactional accounts to be the last to be reduced while the balance in fixed term deposits with a term of four years or more should be the first balance to be reduced.

46. If a depositor holds several accounts within a category in the hierarchy, the PRA would expect all accounts within that category to be reduced *pari passu*.

Joint accounts

47. Rule 5.3 sets out the treatment of joint accounts generally. In a covered deposit transfer the PRA expects the hierarchy set out in Rule 11.15 to apply in the same way to joint accounts. For example, if someone had a joint transactional account, this would be the last to be reduced.

48. If a depositor holds a joint account and a single account within a category in the hierarchy, the PRA would expect accounts within that category to be reduced *pari passu*.

Statement of Policy: the Prudential Regulation Authority's expectations of the FSCS in respect of the Deposit Guarantee Scheme

1 Introduction

1.1 This statement of policy is addressed to the Financial Services Compensation Scheme Limited (FSCS) in respect of its role as scheme manager of the deposit guarantee scheme. This statement may also be of interest to firms and depositors.

1.2 The purpose of this statement is to set out the expectations of the Prudential Regulation Authority (PRA) on the FSCS with regards to:

- (a) the duties of the FSCS;
- (b) the FSCS's role in assessing and paying compensation in respect of deposits;
- (c) the FSCS's role in assessing and paying temporary high balance (THB) claims; and
- (d) the FSCS's role in the funding of the Deposit Guarantee Scheme (DGS).

1.3 By providing further information to the FSCS with regards to its duties and role in paying and funding compensation in respect of deposits, this statement should help to ensure an effective deposit guarantee scheme and thus contribute towards the safety and soundness of deposit-takers.

1.4 This statement of policy is intended to be read together with the rules specific to deposits as set out in the Depositor Protection Part, which applies to the FSCS, and firms that are DGS members. The funding section is also intended to be read with the Management Expenses Levy Limit and Base Costs Part and the Management Expenses in respect of Relevant Schemes Part which also apply to PRA-authorised insurers and the Society of Lloyd's.

2 Background

2.1 The FSCS exercises the functions that are conferred on the scheme manager by Part XV of the Financial Services and Markets Act 2000 (FSMA).

2.2 The PRA is required, under section 213 of FSMA and SI 2013/598, to make rules establishing a scheme for compensating persons in cases where firms are unable or, likely to be unable, to satisfy claims for deposits.

2.3 In addition to PRA rules, other aspects of the operation of the FSCS are dealt with through the powers of the FSCS under company law (such as the power to borrow, to take on

premises, etc) and through rules made by the Financial Conduct Authority (FCA).

2.4 In addition, FSMA confers certain powers upon the FSCS, such as a power under section 219 (Scheme Manager's powers to require information) to require persons to provide information.

3 Duties of the FSCS

3.1 Chapter 23 sets out duties of the FSCS in respect of the DGS.

Co-operation with other Member States' DGS

3.2 Depositor Protection 25.4 sets out that the FSCS must have co-operation agreements with other Member States' DGS. A template for such co-operation agreements should be reviewed by the PRA. Any material changes to the template should also be submitted to the PRA for review.

Language of correspondence with depositors

3.3 Depositor Protection 23.10 sets out the languages in which the FSCS may correspond with depositors. The FSCS may also communicate in Welsh where this is agreed with the depositor, in addition to English.

4 Paying compensation

Trustees, beneficial interests, operators of pension schemes and persons winding up pension schemes

4.1 Depositor Protection 6.2(2)(a) sets out that where the depositor is not absolutely entitled to the eligible deposit, the FSCS must pay compensation to the person absolutely entitled. The PRA therefore considers that if a depositor is a bare trustee or nominee company for one or more beneficiaries, the FSCS should treat the beneficiary or beneficiaries as being the parties entitled to receive compensation, not the depositor. Similarly, where a person A is entitled (whether as trustee or otherwise) to a deposit made out of a client's or other similar account containing money to which one or more persons are entitled, the FSCS should treat each of those other persons, and not A, as entitled to the part of the deposit that corresponds to the proportion of the money in the account to which the other person is entitled.

4.2 Depositor Protection 6.4 clarifies that certain types of pension, including the occupational pension schemes of micro, small and medium sized enterprises, and money purchase schemes, are to be compensated on the basis that each member has a separate entitlement to compensation. The occupational pension schemes of large companies are not eligible deposits under the Deposit Guarantee Scheme Directive (DGSD), and cannot therefore attract FSCS protection.

Paying compensation

4.3 Depositor Protection Chapter 6 (paying compensation) allows the FSCS to pay compensation to a person other than the depositor in certain circumstances. The PRA considers examples of the circumstances covered by these rules to be:

- (a) when personal representatives are entitled to receive compensation on behalf of the deceased;
- (b) when trustees are entitled to receive compensation on behalf of beneficiaries (for further provisions relating trustees entitlement to compensation, see Depositor Protection 6.3 to 6.6);
- (c) when the donee of an enduring power of attorney or a lasting power of attorney is entitled to receive compensation on behalf of the donor of the power;
- (d) when the Court of Protection is entitled to receive compensation on behalf of a person incapable by reason of mental disorder of managing and administering his property and affairs; and
- (e) when a depositor dies before receiving compensation.

Paying compensation to agents

4.4 If a depositor is an agent for one or more principals, the PRA expects that, under Depositor Protection 6.2(2)(a), the FSCS must treat the principal or principals as being the party entitled to receive compensation, not the depositor.

Obligation to pay compensation

4.5 The obligation to compensate arises when deposits with a DGS member are determined to be unavailable deposits in accordance with PRA rules. The PRA would make such a determination as soon as possible after being satisfied that either of the conditions under the 'unavailable deposit' determination (as defined in Depositor Protection Chapter 1) has been met.

Recoveries

4.6 Depositor Protection Chapters 28 and 29 set out how the FSCS must act in relation to recoveries made from the DGS member or third party in respect of eligible deposits. PRA rules provide that the FSCS must retain from those recoveries the 'FSCS retention sum', and, as soon as reasonably possible after it makes recoveries, pay to the depositor (or as directed by the depositor) a 'top up payment'.

4.7 Depositor Protection 29.2 sets out how the FSCS must calculate the FSCS retention sum and top up payment. The following example illustrates how the rules would apply.

4.8 *Example:* if the depositor held overall eligible deposits of £120,000, and the FSCS paid compensation of £85,000 and

subrogated the depositor's rights in relation to that claim, and made recoveries through those rights of the sum of £96,000 (after the costs of recovery and of distribution), then:

- (a) the recovery ratio would be 80% ($£96,000 \div £120,000$);
- (b) the compensation shortfall would be £35,000 ($£120,000 - £85,000$);
- (c) the FSCS retention sum would be £68,000 ($80\% \times £85,000$);
- (d) the top up payment would be £28,000 (80% of £35,000);
- (e) the total payment to the depositor would be £113,000 (£85,000 of compensation plus £28,000 of top up payment); and
- (f) the total outlay by the FSCS, net of the FSCS retention sum, would be £17,000 ($20\% \times £85,000$).

4.9 In the example above, the amount recovered exceeds the amount of compensation. However, Depositor Protection 29.2 also applies where the amount recovered is less than the amount of compensation. Therefore, for example, if the depositor's eligible deposits were £120,000, and the FSCS paid compensation of £85,000 and took assignment of all the depositor's rights in relation to that claim, and made recoveries through those rights in the sum of £24,000 (after the costs of recovery and of distribution), then:

- (a) the recovery ratio would be 20% ($£24,000 \div £120,000$);
- (b) the compensation shortfall would be £35,000 ($£120,000 - £85,000$);
- (c) the FSCS retention sum would be £17,000 ($20\% \times £85,000$);
- (d) the top up payment would be £7,000 (20% of £35,000);
- (e) the total payment to the depositor would be £92,000 (£85,000 of compensation plus £7,000 of top up payment); and
- (f) the total outlay by the FSCS, net of the FSCS retention sum, would be £68,000 ($80\% \times £85,000$).

Interim compensation payments

4.10 Depositor Protection 9.3 sets out that, from 1 June 2016, if the FSCS cannot make compensation available within seven working days from the date on which deposits are determined to be unavailable, the FSCS must ensure that the depositor has access to an appropriate amount of their covered deposits to cover the cost of living within five working days of a request.

Where reasonably practicable, the PRA expects the FSCS to inform depositors (that do not fall under any of the categories of depositors excluded from the seven working day repayment obligation under Depositor Protection 9.4) if the FSCS considers they are unlikely to make compensation available within seven working days from the date on which deposits are determined to be unavailable and that depositors may request an interim compensation payment.

4.11 In such circumstances, when the FSCS is required to make a payment to cover the cost of living in accordance with Depositor Protection 9.3, the PRA expects the FSCS to have regard to the following considerations when determining the appropriate amount to pay the depositor:

- (a) the amount of time before the FSCS is able to pay the depositor the full amount;
- (b) the total aggregated deposits held by the depositor; and
- (c) whether the aggregated deposits include deposits held in the depositor's primary current account (if known).

4.12 In general the PRA expects that interim payments should equal at least 75% of the balance up to a maximum of £5,000.

Timing for compensation

4.13 Depositor Protection 9.4 sets out the circumstances in which the FSCS may defer payment of compensation beyond the time period set out in Depositor Protection 9.2, consistent with the recast DGSD. The PRA expects that the FSCS should aim to pay out these deposits within three months where possible. The PRA recognises that circumstances where it may not be possible for FSCS to payout within this timeframe may include:

- (a) where the deposit remains subject to legal dispute after three months;
- (b) where the deposit remains subject to restrictive measures imposed by national governments or international bodies; and
- (c) where there remains uncertainty as to whether a person is entitled to receive compensation, despite investigation by the FSCS.

Calculation of the compensation sum

4.14 Depositor Protection Chapter 5 sets out how the FSCS should calculate a compensation sum. In calculating the depositor's overall compensation, the FSCS may rely, to the extent that it is relevant, on any determination by:

- (a) a court of competent jurisdiction;
- (b) a trustee in bankruptcy;
- (c) a liquidator; and
- (d) any other recognised insolvency practitioner.

5 Compensation for temporary high balances

5.1 Chapter 10 sets out the PRA rules applicable to the protection of certain deposits categorised as 'temporary high balances' (THBs).

Application

5.2 The PRA considers that the THB protection limit in Depositor Protection 4.3 applies to each depositor on a 'per event per authorised entity' basis and is intended to apply to natural persons only and not all eligible depositors. As a result, if a person has eligible deposits in excess of £85,000 as a result of more than one of the life events set out in Depositor Protection 10.2, that person may make a claim for compensation in respect of both of those events and the limit in Depositor Protection 4.3 would apply separately to each event. For example, if a depositor had a deposit of £750,000 from an inheritance and a deposit of £750,000 from a house sale, then they would be able to claim up to £750,000 in each case.

5.3 Where a depositor has spread the THB across more than one deposit-taker, then they would be able to make a separate claim for each deposit-taker that defaults. However, the depositor would still need to demonstrate a sufficient link between the amount in their account at the point of default and the THB event. The depositor should never be able to claim more than the value of the original THB amount.

5.4 Depositors in a joint account will each benefit from THB coverage separately, although they will only benefit from this if they are able to demonstrate that the THB arises from a relevant life event and provide verification. Each joint account holder will also only be able to claim for the proportion of the THB deposit to which they are entitled (in accordance with the terms of the account or 50:50, where the terms of the account do not specify the split).

5.5 Under Depositor Protection 10.7, the protection for THBs runs for a period of six months from the later of the first date on which a THB is credited to a depositor's account (or to a client account on a person's behalf) or the first date on which the THB becomes legally transferable to the depositor. The PRA considers that a deposit becomes legally transferable to a person at the point in time when that person becomes entitled to receive the money. This is likely to include the date of grant of probate, the date of completion of a residential property sale or the date on which a judgement is made awarding damages.

What types of THB deposits are protected?

5.6 Depositor Protection 10.2 sets out the list of categories of eligible deposits that may benefit from THB protection. There is further detail below on the PRA's expectations in relation to these categories:

(1) Deposits relating to a depositor's private residential property (Depositor Protection 10.2(1))

5.7 The protection under Depositor Protection 10.2(1) should enable a person to claim THB protection in relation to amounts deposited in their own account or in a solicitor's client account on their behalf.

5.8 Depositor Protection 10.2 (1) refers to deposits in this category as including monies deposited in preparation for the purchase of a private residential property by the depositor. The PRA considers this category to cover deposits made in preparation for the purchase of a specific residential property (ie the property is identifiable) and should not cover general savings for a property.

5.9 The PRA does not consider that proceeds from buy-to-let property sales should benefit from THB protection.

(2) Deposits that fall under Depositor Protection 10.2(2)

5.10 The PRA considers that the following deposit types would benefit from THB protection:

- (a) sums paid in respect of benefits payable under an insurance policy. These may include proceeds of pure protection contracts as well as sums paid in respect of lump sums payable under an endowment or life insurance policy;
- (b) a claim for compensation for personal (including criminal) injury. This may include personal injury compensation payments or damages for incapacity or invalidity (made in court (by Her Majesty's Courts and Tribunal Services or by an equivalent EEA court) or out of court, or from a statutory body);
- (c) State benefits paid in respect of a disability or incapacity. This may include backdated payment for care, disability living allowance, severe disablement allowance, vaccine damage payment;
- (d) a claim for wrongful conviction. This may include compensation for wrongful conviction resulting from decisions made by Her Majesty's Courts and Tribunal Services or by an equivalent EEA court;
- (e) sums paid in respect of a divorce or dissolution of a civil partnership. These may include divorce settlement lump sums (including out of court settlements) or lump sum settlements resulting from civil partnership dissolution; and
- (f) sums paid in respect of sums payable on retirement. These may include lump sums payable under pension schemes.

(3) Deposits that fall under Depositor Protection 10.2(3)

5.11 The PRA considers that sums paid to a depositor in respect of benefits payable on death may include death in service payments paid under occupational pension schemes or otherwise.

The FSCS's role in verifying THBs

5.12 Following the default of a firm (ie a determination has been made that deposits are unavailable), the PRA expects that the FSCS will review the SCV file of the firm and write to depositors with aggregated deposits at the firm in excess of £85,000 to inform them that they may be entitled to additional compensation if they hold any deposits that qualify as temporary high balances and can provide evidence verifying this.

5.13 The PRA expects the FSCS to provide information to the depositor on what constitutes sufficiently robust evidence and refer the depositor to where they may find further information, including information on any prescribed format for the evidence, the address to which the evidence should be submitted, any relevant timeframes for submission and an overview of the process the FSCS will follow in assessing the evidence. The PRA expects that the FSCS may ask to review evidence including (but not limited to) the following: a property sale receipt or agreement; a court judgement; a will; a letter from an insurer regarding an insurance payout; a letter from a lawyer, conveyancer, mortgage provider, former employer or pension trustees; court orders; social security statements; probate/letters of administration; death/marriage certificate; land register records and HMRC records. This list is not exhaustive.

5.14 The PRA expects the FSCS to assess the validity of a THB claim in accordance with PRA rules and to determine if a sufficient link has been established between an eligible deposit and the relevant THB category on the basis of the nature of and quality of evidence provided by the depositor.

5.15 The PRA expects the FSCS to determine (i) that the evidence provided by the depositor is sufficiently robust; and (ii) that the deposits fall under one of the THB categories.

5.16 The PRA acknowledges that because depositors may have payments flowing in and out of their accounts, it may be difficult to establish what portion of their money has retained THB protection since the THB was paid in. The PRA considers that, once the THB has been credited to a depositor's account, the depositor will benefit from the extra THB protection for the coverage period to the value of the original THB credit, no matter what pattern of payment follows.

5.17 If a THB is transferred to another DGS member, then the PRA considers that the THB cover would be retained (although

the coverage period will not begin again, ie the depositor will not be able to receive consecutive periods of cover for the same THB). Where there are a number of payments flowing in and out of accounts, it may be difficult to establish whether a THB has been transferred and the PRA expects that the FSCS, in determining if a sufficient link has been established between an eligible deposit and a THB category, should have regard to a number of considerations including:

- (a) the written evidence provided by the depositor;
- (b) the value of the amount or amounts transferred and whether they constitute a *de minimis* proportion of the original THB;
- (c) the length of time that has elapsed between the life event specified and the date on which the relevant sum was credited to an individual depositor's account; and
- (d) any other relevant factors.

5.18 By way of illustration, the examples below set out where the PRA expects that a depositor would be eligible for THB protection and where protection would not apply.

5.19 *Examples:* in the examples below it is assumed that a depositor's £100,000 inheritance is credited to bank A.

- (a) If the depositor then transfers £50,000 to bank B, the PRA considers that the depositor should be able to claim up to £50,000 from the FSCS for each amount (in addition to the standard £85,000 compensation per bank) should both banks fail within six months from the date at which the £100,000 was credited to bank A.
- (b) If the depositor withdraws £100,000 from bank A, and A fails within six months of the date at which the original £100,000 was credited to A, and the depositor has aggregate deposits of £100,000, then the PRA expects that the depositor should be able to claim £15,000 THB compensation.
- (c) If the depositor transfers £50,000 to bank B, giving the depositor a balance with bank B in excess of £85,000, and bank B fails one month after the amount was credited to B but seven months after the original amount was credited to A, then the PRA considers that THB protection should not apply.
- (d) If the depositor withdrew £100,000 from bank A, but there was no corresponding transfer to bank B, should bank B fail and the depositor had an aggregate balance of £185,000 at bank B (and there had been no payments in during the coverage period), the PRA considers that the depositor should not be able to claim £100,000 THB protection from bank B.

Limits in compensation payable

5.20 Depositor Protection 4.3 sets out that, for THB claims for sums paid in respect of personal injury or incapacity claims, there is no limit to the compensation payable for THBs. The PRA expects that deposits falling under this category would include sums paid in respect of:

- (a) claims for compensation for personal (including criminal) injury under Depositor Protection 10.2(2)(b) which may include personal injury compensation payments or damages for incapacity or invalidity (made in court (by Her Majesty's Courts and Tribunal Services or by an equivalent EEA court) or out of court, or from a statutory body); and
- (b) State benefits paid in respect of a disability or incapacity under Depositor Protection 10.2(2)(c) which may include backdated payment for care, disability living allowance, severe disablement allowance and vaccine damage payment.

Payment of compensation for THBs

5.21 Depositor Protection 10.8 sets out the timeframe for the FSCS to pay compensation.

5.22 In accordance with Depositor Protection 10.6, the FSCS may pay compensation in respect of a temporary high balance to a person who makes a claim on behalf of another person in certain circumstances. Examples of circumstances in which the FSCS may decide to pay compensation in respect of a THB to a person who makes a claim on behalf of another person include:

- (a) where a personal representative makes a claim on behalf of the deceased;
- (b) where a solicitor makes a claim on behalf of clients who are entitled to money in the solicitor's client account;
- (c) where trustees make a claim on behalf of beneficiaries;
- (d) where the donee of an enduring power of attorney or a lasting power of attorney makes a claim on behalf of the donor of the power;
- (e) where the Court of Protection makes a claim on behalf of a person incapable by reason of mental disorder of managing and administering his property and affairs; and
- (f) where an eligible claimant makes a claim for compensation but dies before his claim is determined.

5.23. In accordance with Depositor Protection 10.9, the FSCS may defer payment in respect of a temporary high balance in the circumstances set out in Depositor Protection 10.9. If the FSCS wishes to defer payment in other circumstances, it

should apply to the PRA and the PRA will consider whether or not to permit deferral.

6 Funding of the FSCS

Legislation around funding

6.1 Section 213(3)(b) of FSMA requires the PRA to make rules to enable the FSCS to impose levies on firms in order to meet its expenses under the deposit guarantee scheme. These expenses include in particular expenses incurred, or expected to be incurred, in paying compensation, borrowing or insuring risks.

6.2 Section 224F of FSMA enables the PRA to make rules to enable the FSCS to impose levies on PRA firms in order to meet its management expenses incurred if, under Part 15A of FSMA, it is required by HM Treasury to act in relation to relevant schemes.

6.3 Section 223 of FSMA prevents the FSCS from recovering, through a levy, any management expenses attributable to a particular period in excess of the limit set in the PRA and the FCA rules as applicable to that period.

FSCS access to mandatory contributions

6.4 In accordance with Article 10(4) of the recast DGSD, Depositor Protection 31.2 states that the FSCS may borrow an amount equal to the amount of such mandatory contributions as is required to meet the liabilities of the deposit guarantee scheme. That rule is subject to the PRA making a further rule confirming that it considers that the DGS is unable to raise extraordinary contributions from its members. This rule only applies in respect of borrowing amounts which a Member State must make immediately available to a DGS in accordance with Article 10(4) of the DGSD. In the event that the FSCS needs to borrow such amounts, the PRA would make a rule allowing it if, in accordance with Article 10(4) of the recast DGSD, the PRA determines that the FSCS is unable to raise levies from DGS members to meet the liabilities of the DGS. The PRA will make that determination on a case-by-case basis, at the time of each call on deposit guarantee scheme funds. In making this determination, the PRA expects to take into account a range of factors including the likely impact on financial stability of raising levies from, as well as the amount of levies needed to be raised.

6.5 Depositor Protection 33.3(2) also sets out the DGSD requirement that regular levies imposed under Depositor Protection 33.3(1) shall take due account of the phase of the business cycle and the impact that procyclical contributions may have when setting annual contributions. In order to meet this requirement, the PRA expects the FSCS to consult the PRA before setting the timing and size of levy amounts raised.

Levying timings

6.6 The FSCS may impose three types of levy on DGS members: a DGS management expenses levy (consisting of a DGS base costs levy and a specific costs levy); a DGS compensation costs levy; and a DGS management expenses in respect of relevant schemes levy. The FSCS has discretion as to the amount and timing of the levies imposed.

6.7 Under Depositor Protection 33.2, the FSCS must levy DGS members at least once in each financial year (and in respect of DGS compensation costs, for expenditure expected in the period of twelve months following 1 July in that year). However, if the DGS compensation costs or DGS specific costs incurred, or expected to be incurred, exceed the amounts held, or reasonably expected to be held, to meet those costs, the FSCS may, at any time during the financial year, do one or more of the following:

- (a) impose an interim DGS compensation costs levy or DGS management expenses levy; or
- (b) utilise other sources of funding such as commercial borrowing or other borrowing including from the National Loans Fund; or
- (c) utilise money collected from DGS members as set out in, and subject to Depositor Protection Chapter 32.

6.8 The PRA expects that the FSCS should generally impose a levy rather than borrow or utilise funds as described in (c) above, unless the latter options appear to it to be preferable in the specific circumstances prevailing at the relevant times; for example, to address short-term liquidity issues, or in order to deal with a significant failure without having to wait for a levy to be imposed or collected.

DGS management expenses levy

6.9 The PRA's rules on the Management Expenses Levy and Management Expenses in respect of Relevant Schemes are set out in the Management Expenses Levy Limit and Base Costs Rulebook Part and Management Expenses in respect of Relevant Schemes Rulebook Part.

6.10 A DGS management expenses levy may consist of two elements. The first is a DGS base costs levy, for the base costs of running the FSCS in a financial year, ie DGS share of costs which are not attributable to any specific class. Included in this category are items such as the salary of the members of the board of the FSCS, the costs of the premises which the FSCS occupies, and its audit fees. The amount that each participant firm pays towards a DGS base costs levy is calculated by reference to the regulatory costs paid by the firm as a proportion of total regulatory costs of all participant firms. All DGS members are liable to contribute towards a DGS base costs levy.

6.11 The second element of a management expenses levy is a DGS specific costs levy for the 'specific costs' of running the deposit guarantee scheme in a financial year. These costs are attributable to class A, and include the salary costs of certain staff of the FSCS and claims handling and legal and other professional fees. Another example is IT costs attributable to a specific class such as SCV data systems. It also may include the cost of any insurance cover that the FSCS secures against the risk of the FSCS paying out compensation above a given level in class A (but below the levy limit for class A for the year). The specific costs are attributed to the class which is responsible for those costs. When the FSCS imposes a DGS specific costs levy, the levy is allocated to class A up to the relevant levy limits. The FSCS may include in a DGS specific costs levy the DGS specific costs that the FSCS expects to incur (including in respect of defaults not yet determined at the date of the levy) during the financial year of the deposit guarantee scheme. The amount that each DGS member pays towards the DGS specific costs levy is calculated by reference to the amount of business conducted by the firm in class A. There is a 'class A tariff base' for this purpose, set out in Depositor Protection Chapter 42.

6.12 The PRA and the FCA typically consult on the limit on the FSCS's management expenses attributable to the forthcoming financial year of the FSCS in January each year.

Fees refund

6.13 Depositor Protection Chapter 37 sets out when the FSCS may adjust the calculation of a DGS member's share of any levy. Depositor Protection 37.5 sets out that the FSCS may

not adjust the calculation of a DGS member's levy under Depositor Protection 37.4 on the grounds that it would be inequitable for that firm to pay that share or part of it (or on the grounds that it would be inequitable for the FSCS to retain that share or part of it). The reason for this rule is that any such claim should be dealt with under Depositor Protection Chapter 45.

Recovery of fees

6.14 Paragraphs 23(8) and 27 of Schedule 1ZA and paragraphs 31(7) and 35 of Schedule 12B of FSMA permit the PRA to recover fees, and section 213(6) permits the FSCS to recover shares of the FSCS levy payable, as a debt owed to the PRA and FSCS respectively, and the PRA and FSCS, as relevant, will consider taking action for recovery (including interest) through the civil courts.

6.15 The PRA may also take regulatory action in relation to the non-payment of a share of a DGS levy, after reference of the matter to the PRA by the FSCS. What action (if any) is taken by the PRA will be decided upon in the light of the particular circumstances of the case.

Remission of fees and levies

6.16 Depositor Protection Chapter 45 sets out the circumstances in which the PRA or the FSCS may reduce or remit FSCS levies. A poor estimate or forecast by a DGS member, when providing information relevant to the class A tariff base, is unlikely, of itself, to fall within Depositor Protection 45.1. By contrast, a mistake of fact or law by a fee or levy payer may give rise to such a claim.