

**IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS
OF ENGLAND AND WALES
INSOLVENCY AND COMPANIES COURT (ChD)**

CR-2023-002513

**IN THE MATTER OF RBC INVESTOR SERVICES TRUST
(ACTING THROUGH ITS UK BRANCH)**

and

**IN THE MATTER OF CACEIS BANK
(ACTING THROUGH ITS UK BRANCH)**

and

**IN THE MATTER OF PART VII OF
THE FINANCIAL SERVICES AND MARKETS ACT 2000**

BANKING BUSINESS TRANSFER SCHEME

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1. BACKGROUND

- 1.1 RBC Investor Services Trust (the **Transferor**), a corporation incorporated under the laws of Ontario, carries on in the United Kingdom (the **UK**) and elsewhere, including through its UK branch, the business of banking (including the acceptance of deposits), the provision of financial services and other related activities.
- 1.2 CACEIS Bank (the **Transferee**), a company incorporated under the laws of France, carries on in the UK and elsewhere, including through its UK branch, the business of banking (including the acceptance of deposits) the provision of financial services and other related activities.
- 1.3 The Transferor is an authorised person in the UK, within the meaning of the Financial Services and Markets Act 2000 (the **Act**), and has permission to accept deposits pursuant to Part 4A of the Act.
- 1.4 The Transferee is an authorised person in the UK, within the meaning of the Act, and has permission to accept deposits pursuant to Part 4A of the Act.
- 1.5 The Transferor and the Transferee have agreed that the Transferor will transfer to the Transferee the Transferring Business (as more particularly defined below), and that the Transferring Business will vest in the Transferee accordingly.
- 1.6 It is expedient that the transfer of the Transferring Business be effected economically and without interference or interruption to the services provided to any Customer (as more particularly defined below).
- 1.7 The objects of this Scheme can most conveniently be attained with the sanction of the Court under section 111(1) of the Act.

2. INTERPRETATION

- 2.1 In this Scheme, unless the subject or context otherwise requires, the following words and phrases have the following meanings:

Act has the meaning given to it in paragraph 1.3;

All Monies Rights means rights providing for a charge, debenture, mortgage, standard security or any other rights in security given in relation to an agreement to secure, in addition, obligations arising under other agreements;

Asset means any asset or other right of every description (whether present or future, actual or contingent), including, without prejudice to the generality of the foregoing:

- (a) the Business Records;
- (b) the Assets under Custody forming part of the Transferring Business;
- (c) the goodwill of the Transferor that is attributable to the Transferring Business; and
- (d) the benefit (subject to the burden arising after the Relevant Date) of any Customer Contracts relating to the Transferring Business;

Assets under Custody means all securities and cash held on behalf of Customers by the Transferor acting through its UK branch, in its capacity as custodian under the terms of a Transferring Customer

Contract (either directly or by any sub-custodian, central securities depository or other third party appointed by the Transferor to hold custody assets for it in connection with a Transferring Customer Contract), save for the Assets that are held on behalf of a Transferring Customer by Roy Nominees (as an appointed sub-custodian or nominee of the Transferor, in its capacity as custodian);

Business Records means:

- (a) the Transferring Customer Contracts; and
- (b) the Transferring Customer files comprising information relating to the Assets under Custody, and related Customer Accounts, of the Transferring Customers as at the Relevant Date,

but excluding the Excluded Business Records;

Consenting Customer has the meaning given to it in paragraph 5.19;

Consolidation Rights means all rights providing for security given in connection with:

- (a) any Existing Transferee Agreement not to be released, or discharged, until obligations have been satisfied in connection with any Transferring Customer Contract; or
- (b) any Transferring Customer Contract not to be released, or discharged, until obligations have been satisfied in connection with any: (i) Existing Transferee Agreement; or (ii) any New Transferee Agreement, unless expressly stated contrary in the New Transferee Agreement;

Contract means any agreement, deed, scheme, transaction, obligation, arrangement, warranty or understanding (whether unilateral or bilateral, whether conditional or unconditional, whether in writing or otherwise and whether or not governed by English law), and including any powers of attorney granted by any Customer in relation to any Contract, but excluding any Contract of Employment;

Contract of Employment means any employment contract between any UK Employee and the Transferor;

Court means the High Court of England and Wales;

Cross Default Rights means any rights providing for, or which (if exercised) might result in, the acceleration or alteration of payment obligations or other obligations under a Transferring Customer Contract as a result of a default under another Contract;

Custody Agreements means any Contracts for the provision of custody and safekeeping services (including the provision of Customer Securities Accounts and Customer Cash Accounts), including any account control agreements ;

Customer means any customer, client or counterparty of the Transferor (acting through its UK branch) for the provision of middle office or custody and safekeeping services as at the end of June 2023 or any new customer of the Transferring Business agreed between the Transferor and the Transferee on or before the Relevant Date;

Customer Accounts means Customer Cash Accounts and/or Customer Securities Accounts, as the case may be;

Customer Cash Accounts means all cash accounts in respect of the Transferring Deposits that are attributable to the Transferring Business opened by the Transferor for the Transferring Customers;

Customer Contracts means any Custody Agreements or any other Contracts for, or in connection with, the provision of middle office services (including trade order management services, corporate action management services, IBOR services and EMIR trade reporting services), entered into by the Transferor (acting through its UK branch) with Customers;

Customer Securities Accounts means all securities accounts that are attributable to the Transferring Business opened by the Transferor for Transferring Customers;

Data means data or information, whether in electronic or hard copy form;

Data Protection Laws means any law, enactment, regulation or order concerning the processing of data relating to living persons including:

- (a) EU Data Protection Laws;
- (b) the UK GDPR;
- (c) the UK Data Protection Act 2018;

in each case, to the extent applicable to the activities or obligations under or pursuant to this Scheme.

Data Subject Access Request means a request made by a Customer (i) to exercise his or her right to access and receive copy of his or her personal data, and other supplementary information under Data Protection Laws; and (ii) in respect of Transferring Personal Data;

Deposit means all cash deposited with the Transferor acting through its UK branch, in its capacity as banker under a Custody Agreement and owing to a Transferring Customer;

Document means anything in which information of any description is recorded (whether in physical, electronic or any other form);

Effective Date means the Phase 1 Transfer Date, the Phase 2 Transfer Date or the Phase 3 Transfer Date (as applicable) or, in each case, such other date (or, in respect of different parts of the Transferring Business, dates) prior to the Longstop Date as is agreed between the Transferor and the Transferee in writing and notified to relevant Customers not later than 10 Business Days prior to such date;

Encumbrance means any security, claim, equitable right, power of sale, retention of title, or other third party right or security interest of any kind, or an agreement, arrangement or obligation to create any of the foregoing;

Entire Agreement Clause means a clause contained in a Transferring Customer Contract, Existing Transferee Agreement or New Transferee Agreement which provides that the agreement represents the entire agreement between the parties in relation to all or some of the services of the type that are the subject matter of the agreement or that are referred to in the agreement, or otherwise states that the relevant Transferring Customer Contract, Existing Transferee Agreement or New Transferee Agreement (as applicable) will apply to all services provided by the Transferor or Transferee as appropriate;

EU Data Protection Laws means any laws, enactment, regulation, or order transposing, implementing, adopting, supplementing or derogating from, the EU GDPR and the EU Directive 2002/58/EC in each European Union member state;

EU GDPR means the General Data Protection Regulation 2016/679;

Excluded Business means:

- (a) the Excluded Fund Order Execution Business;
- (b) the Excluded Fund Accounting and Performance Measurement Business;
- (c) the Excluded FX Business;
- (d) the Excluded Securities Lending Business;
- (e) the Excluded Sub-Custody Agreements;
- (f) the Excluded Business Records;
- (g) any interest in, or liabilities of, Roy Nominees, the business carried on by Roy Nominees or any Assets held by Roy Nominees;
- (h) the Euroclear accounts held by the Transferor under account reference numbers ECLR/47970 and ECLR/47971 and any assets held therein;
- (i) any Third-Party Contractor Agreement;
- (j) the Contracts of Employment (which shall transfer to the Transferee by operation of law);
- (k) the Customer Securities Accounts and Customer Cash Accounts (but not the liability to repay Transferring Deposits to Customers);
- (l) all duties, obligations and liabilities arising from or associated with the Transferring Customer Contracts to the extent arising prior to the Relevant Date, excluding all Liabilities to repay Transferring Deposits; and
- (m) all other assets and liabilities of the Transferor not forming part of the Transferring Business;

Excluded Business Records means:

- (a) the Statutory Records;
- (b) the VAT Records;
- (c) all books and records of the Transferor that relate to the Transferring Business other than the Business Records, including:
 - (i) archived administrative and operational files, including emails and other electronic communications;
 - (ii) all books and records relating to the preparation for and negotiation of this Scheme; and
- (d) all books and records of the Transferor that do not relate to the Transferring Business;

Excluded Fund Accounting and Performance Measurement Business means any Contracts entered into between the Transferor (or any of its affiliates) and any Customers for the provision of fund accounting and performance measurement services, or any liabilities in respect thereof;

Excluded Fund Order Execution Business means any Contracts entered into between the Transferor (or any of its affiliates) and any Customers for the provision of fund order execution products or services, or any liabilities in respect thereof;

Excluded FX Business means any Contracts entered into between the Transferor (or any of its affiliates) and any Customers for the provision of foreign exchange products or services, or any liabilities in respect thereof;

Excluded Securities Lending Business means any Contracts entered into between the Transferor (or any of its affiliates) and any Customers for the provision of securities lending products or services, or any liabilities in respect thereof;

Excluded Sub-Custody Agreements means any agreement for the provision of sub-custody services entered into between the Transferor, acting through its UK branch, and third parties providing those sub-custody services, or any liabilities in respect thereof;

Existing Transferee Agreement means any Contract to the extent entered into between the Transferee and any of its customers, clients or counterparties (including a Customer) to the extent in force immediately prior to the Effective Date or the Subsequent Transfer Date (as the case may be), excluding the Transferring Customer Contracts;

FCA means the UK Financial Conduct Authority or any successor authority of the FCA;

Freezing Order means any order of any court of any jurisdiction imposing any restrictions or conditions (including on the use of, payment from, disposition of, dealing with, or diminution of) on Assets under Custody comprised in the Transferring Business, including freezing orders or Mareva injunctions, and orders pursuant to the Proceeds of Crime Act 2002 or its predecessors;

Frozen Account means any Customer Account in which Frozen Assets are held;

Frozen Asset means any Assets under Custody held for Customers which form part of the Transferring Business which are affected by a Freezing Order;

Insolvency Proceedings means any petition or application for the appointment of an insolvency practitioner, including, but not limited to, a liquidator, provisional liquidator, administrator, administrative receiver or supervisor of a company voluntary arrangement or any analogous arrangement or procedure in any jurisdiction;

Liabilities or **Liability** means any duty or any obligation of any description, whether present or future, actual, contingent or prospective, and includes deposits;

Longstop Date means 30 June 2024 or such later date as may be agreed in writing between the Transferor and the Transferee, with the Court's consent;

Marketing Preference means (i) any consent within the meaning of Data Protection Laws given by a Transferring Customer to the Transferor in relation to the Transferring Business for use of that Transferring Customer's Transferring Personal Data to market directly to that Transferring Customer by any means, or (ii) an indication (by act or omission as appropriate) by that Transferring Customer that such consent is withheld;

New Transferee Agreement means any Contract to the extent entered into between the Transferee acting through its UK Branch and any of its customers, clients or counterparties (including a Customer) to the extent in force on or after the Effective Date or the Subsequent Transfer Date (as the case may be), excluding the Transferring Customer Contracts;

Order means an order of the Court under section 111(1) of the Act sanctioning the transfer of the Transferring Business to the Transferee and any order (including any subsequent order) in relation to this Scheme made by the Court pursuant to section 112 of the Act;

Personal Data has the meaning given in the Data Protection Laws;

Phase 1 Transfer Date means, in respect of those Customers notified by the Transferor in writing on or prior to 13 October 2023 that their Customer Contracts, Assets under Custody will transfer to the Transferee on such date, 9 December 2023;

Phase 2 Transfer Date means, in respect of those Customers notified by the Transferor in writing on or prior to 13 October 2023 that their Customer Contracts, Assets under Custody will transfer to the Transferee on such date, 20 January 2024;

Phase 3 Transfer Date means, in respect of those Customers notified by the Transferor in writing on or prior to 13 October 2023 that their Customer Contracts, Assets under Custody will transfer to the Transferee on such date, 10 February 2024;

PRA means the UK Prudential Regulation Authority or any successor authority of the PRA;

RBC Group means Royal Bank of Canada and its subsidiaries;

Relevant Date means, in respect of:

- (a) a Transferring Asset or a Transferring Liability, the applicable Effective Date; and
- (b) a Residual Asset or a Residual Liability, the applicable Subsequent Transfer Date;

Residual Asset means any present or future Asset of the Transferor to be transferred pursuant to this Scheme, but whose transfer to and vesting in the Transferee does not take place on the Effective Date, including any Asset:

- (a) that is governed by the laws of any country or territory outside the UK, and where certain steps for securing its effective transfer or waiving any default arising on the transfer under this Scheme need to be taken after the Effective Date;
- (b) that is the subject of Insolvency Proceedings and where certain steps for securing its effective transfer under this Scheme need to be taken after the Effective Date;
- (c) that is settled in a Customer Account following the Effective Date as a result of a trade which was initiated by the Transferor prior to the Effective Date;
- (d) in relation to which the Transferee and the Transferor mutually agree that the Asset should not be transferred on the Effective Date; or
- (e) in relation to which there has been a delay in the transfer for any other reason;

Residual Liability means any present or future Liability of the Transferor to be transferred pursuant to this Scheme, but whose transfer to the Transferee does not take place on the Effective Date, including any Liability:

- (a) that is governed by the laws of any country or territory outside the UK, and where certain steps for securing its effective transfer need to be taken after the Effective Date;
- (b) in respect of a Frozen Account to which paragraph 3.4 applies;

- (c) in relation to which the Transferee and Transferor mutually agree that the Liability should not be transferred on the Effective Date; or
- (d) in relation to which there has been a delay in the transfer for any reason;

Retained EU law means "retained EU law" in the United Kingdom as defined in the European Union (Withdrawal) Act 2018;

Roy Nominees means Roy Nominees Limited, a company incorporated in England and Wales with company number 00285269 whose registered office is at 100 Bishopsgate, London, United Kingdom, EC2N 4AA;

Sanctioned Assets means those Assets under Custody held in accounts of Customers that form part of the Transferring Business that it would be unlawful under Sanctions to transfer to the Transferee pursuant to this Scheme;

Sanctions means the economic, financial and trade embargoes and sanctions laws, regulations, rules and/or restrictive measures administered, enacted or enforced by the Office of Foreign Assets Control of the U.S. Department of the Treasury, the United States Department of State, any other U.S. government entity, the United Nations Security Council, any United Nations Security Council Sanctions Committee, the European Union, any Member State of the European Union, the United Kingdom and/or any other government, public or regulatory authority or body (including HM Treasury);

Scheme means this Scheme in its original form or with or subject to any modification, addition or condition which may be approved by the Court in accordance with paragraph 7;

Statutory Records means all books, files, Documents, correspondence, papers and other records as are required, by any applicable legal or regulatory requirement or corporate governance requirement (whether or not having the force of law), to be kept by the Transferor and retained in their possession, but excluding the VAT Records;

Subsequent Transfer Date means, in relation to any Residual Asset or Residual Liability, the date after the Effective Date on which such Residual Asset or Residual Liability is transferred to the Transferee being:

- (a) in respect of any Residual Asset or Residual Liability that is not transferred on the Effective Date because of the operation of paragraph 3.4, 3.8 and 3.9, the date on which all relevant transfer and transfer perfection steps have been concluded, unless otherwise determined by the Transferor and the Transferee; and
- (b) in all other cases, the date determined by the Transferor and the Transferee;

Third-Party Contractor Agreement means any agreement entered into by the Transferor (acting through its UK branch) and a third-party contractor that remains in effect as of the Relevant Date;

Transferee has the meaning given to it in paragraph 1.2;

Transferee's Group means the Transferee and its subsidiaries from time to time;

Transferor has the meaning given to it in paragraph 1.1;

Transferring Assets means the Transferring Business Assets other than the Residual Assets (unless and until they transfer on a Subsequent Transfer Date);

Transferring Business means all Transferring Business Assets and all Transferring Business Liabilities;

Transferring Business Assets means:

- (a) all claims, rights and benefits (subject to the burden as specified in the definition of Transferring Business Liabilities) arising from or associated with Transferring Customer Contracts;
- (b) a cash amount equal to all Transferring Deposits denominated in the currencies it is held by the Transferor;
- (c) all Business Records,

but excluding any Assets comprised within the Excluded Business;

Transferring Business Liabilities means all duties, obligations and liabilities arising from or associated with the Transferring Customer Contracts arising in respect of the period from but not prior to the Relevant Date, including all Liabilities to repay Transferring Deposits, but excluding any Liabilities comprised within the Excluded Business;

Transferring Customer means each Customer of the Transferring Business which has entered into a Transferring Customer Contract;

Transferring Customer Contract means each Customer Contract which remains in effect at the Relevant Date;

Transferring Deposits means all Deposits held by the Transferor as at the Relevant Date;

Transferring Liabilities means the Transferring Business Liabilities other than the Residual Liabilities (unless and until they transfer on a Subsequent Transfer Date);

Transferring Personal Data means Personal Data which is comprised in the Transferring Business in respect of which the Transferor was the data controller immediately before the Relevant Date;

UK has the meaning given to it in paragraph 1.1;

UK Employees means the individuals employed by the Transferor who are wholly or mainly assigned to the Transferring Business and **UK Employee** means any one of those individuals;

UK GDPR means the EU GDPR as it forms part of Retained EU law under the European Union (Withdrawal) Act 2018 (as amended from time to time);

VAT Records means all records that are referred to in section 49(1)(b) VATA and which at the Effective Date are kept by the Transferor in relation to the Transferring Business; and

VATA means the Value Added Tax Act 1994.

2.2 Any reference in this Scheme to the Contracts, Assets or Liabilities of the Transferor is a reference to Contracts, Assets or Liabilities to which the Transferor is entitled or subject (whether legally, beneficially (including as beneficiary under a trust) or in any fiduciary capacity):

- (a) wherever they are situated or arise;
- (b) whether or not they are capable of being transferred or assigned by the Transferor;

- (c) whether or not they are expressed to be binding on the successors or assignees of the Transferor; and
 - (d) whether the Transferor is entitled or subject to them under the law of any part of the UK or under the law of any other country or territory.
- 2.3 Where any activity, Asset, Liability or Contract may be taken to fall within one or more than one of the items of business included within the definition of Transferring Business and/or one or more of the matters excluded by the definition of Excluded Business, it shall be regarded as falling within that item with which it is most closely connected, and therefore transferred or excluded accordingly.
- 2.4 In this Scheme:
- (a) a person includes any individual firm, company, corporation, body corporate, government, state or agency of a state, local or municipal authority or government body or any joint venture, partnership or unincorporated association (whether or not having separate legal personality);
 - (b) for the purposes of determining whether a customer is a Customer, the signatories to a joint-named account shall be treated as a single customer that is separate and distinct from the status of any of those joint signatories as a customer:
 - (i) in his/her capacity as a sole signatory in relation to a sole named account; or
 - (ii) in his/her capacity as a joint signatory to any joint-named account with other customers;
 - (c) a company includes any company, corporation or any body corporate whenever and however incorporated or established;
 - (d) the words "holding company", "subsidiary" and "subsidiary undertaking" shall have the same meanings in this Scheme as their respective definitions in the Companies Act 2006; and
 - (e) reference to beneficial title includes an interest as beneficiary under a trust.
- 2.5 References to a Customer shall be to that Customer in its capacity as a Customer of the Transferring Business and not in any other capacity.
- 2.6 References to any agreement, instrument or deed shall be to such agreement, instrument or deed as amended, varied, modified, supplemented, extended, novated, renewed or replaced from time to time.
- 2.7 References to liabilities, rights, assets and property of the Transferor in respect of a Customer shall include liabilities, rights, assets and property whether or not governed by the law of England and Wales, Northern Ireland or Scotland and whether or not situated in England and Wales, Northern Ireland or Scotland.
- 2.8 References to one gender include all genders and references to the singular include the plural and vice versa.
- 2.9 Any reference to this Scheme shall include any Schedule to it and references to paragraphs and Schedules are to paragraphs of, and Schedules to, this Scheme.
- 2.10 All references to time in this Scheme are to London time.

- 2.11 References to any English, Northern Irish or Scottish legal term shall, in respect of any jurisdiction other than England, Northern Ireland or Scotland (as applicable), be construed as references to the term or concept which most nearly corresponds to it in that jurisdiction.
- 2.12 The words "including", "include", "in particular" and words of similar effect shall not be deemed to limit the general effect of the words that precede them.
- 2.13 All headings and titles are inserted for convenience only. They are to be ignored in the interpretation of this Scheme.

3. TRANSFER OF THE TRANSFERRING BUSINESS

3.1 Transfer of the Transferring Business

On, and with effect from, the Relevant Date, that part of the undertaking of the Transferor comprised within the Transferring Business shall by the Order, and, without any further act or instrument, be transferred to and shall vest in or (as the case may be) shall become Assets and Liabilities of the Transferee with the intent that the Transferee shall succeed to the Transferring Business as if in all respects the Transferee were the same person in law as the Transferor.

3.2 Transfer of the Transferring Business Assets and the Transferring Liabilities

On, and with effect from, the Effective Date, in accordance with the terms of this Scheme:

- (a) the Transferring Business Assets shall, by this Scheme and, without any further act or instrument, be transferred to, and the legal and beneficial title in respect of such Transferring Business Assets (to the extent such title is held by the Transferor) shall vest in, the Transferee; and
- (b) the Transferring Liabilities shall, by this Scheme and, without any further act or instrument, be transferred to, and shall become Liabilities of, the Transferee and shall cease to be Liabilities of the Transferor.

3.3 Transfer of Residual Assets and Residual Liabilities

On, and with effect from, each Subsequent Transfer Date, in accordance with the terms of this Scheme:

- (a) each Residual Asset to which such Subsequent Transfer Date applies shall, by this Scheme and, without any further act or instrument, be transferred to, and the legal and beneficial title (where such beneficial title has not previously transferred pursuant to the creation of the trust described in paragraph 4 or pursuant to any other agreement or arrangement between the Transferor and the Transferee) in respect of such Residual Asset (to the extent such title is held by the Transferor) shall vest in, the Transferee; and
- (b) each Residual Liability to which such Subsequent Transfer Date applies shall, by this Scheme and, without any further act or instrument, be transferred to, and shall become a Liability of, the Transferee and shall cease to be a Liability of the Transferor.

Where, due to the operation of this paragraph 3.3, any Asset under Custody that relates to a Custody Agreement forming part of the Transferring Business remains with the Transferor as a Residual Asset, the relevant Custody Agreement shall be replicated as between the Transferor and the Customer on the same terms pending the Subsequent Transfer Date.

3.4 Transfer of Foreign Contracts, Assets and Liabilities

Where any Contract, Asset or Liability forming part of the Transferring Business is governed by the law of any country or territory outside the UK, or where any Deposit or Asset is a Frozen Asset by virtue of an order of any court outside the UK, is a Sanctioned Asset, or is otherwise a Residual Asset or Residual Liability and does not transfer on an Effective Date:

- (a) the Transferor shall, if the Transferee so requires, use reasonable endeavours to take all necessary steps for securing the effective transfer thereof to the Transferee; and
- (b) pending such transfer, the Transferor shall hold any such Contract or Asset on trust for the Transferee, in accordance with the provisions of this Scheme relating to Residual Assets.

Of the Transferring Business Assets, each of the Transferring Customer Agreements are governed by English Law.

3.5 Excluded Business

The Scheme shall not operate to transfer or have the effect of transferring, or be construed to operate to transfer or have the effect of transferring, to the Transferee any of the Excluded Business.

3.6 Transfer of Assets under Custody

- (a) All:
 - (i) Assets under Custody and related Customer Contracts (except for Residual Assets), with effect on the applicable Effective Date;
 - (ii) Residual Assets and related Customer Contracts, if any, with effect on the Relevant Date;

shall transfer to and be deposited in accounts between the Transferee (including a nominee or any sub-custodian, central securities depository or other third party appointed by it) and the Customer subject to the same conditions and incidents as applied thereto immediately prior to the Relevant Date. Nothing herein shall affect any right of the Transferee or the Customer after the Relevant Date to vary the conditions or incidents subject to which any such account is kept.

- (b) Where, due to the operation of paragraph 3.4, a Transferring Business Asset or a Transferring Business Liability that relates to a Customer Account remains with the Transferor, until the Subsequent Transfer Date in respect of that Transferring Business Asset or Transferring Business Liability, the Transferee (with the assistance of the Transferor, if necessary) shall have the same rights (including the right of set-off) and powers as it would have had if that Transferring Business Asset or Transferring Business Liability had fully transferred to the Transferee on such Effective Date.

3.7 Capacity of Transferor

The transfer of the Transferring Business to the Transferee shall have effect whether or not the Transferor would, apart from the terms of this Scheme, have capacity to effect the same and notwithstanding any provision to the contrary in any contract, court order, trust or other arrangement with any person or comply with any contractual pre-condition to such transfer and such transfer shall be deemed to take effect on the basis that there is no requirement to obtain the consent of any person and there is no contravention, Liability or interference with any interest, right or requirement, and on the basis that it does not give rise to any right to terminate, modify, acquire or claim an interest or right, or to treat an interest or right as terminated or modified.

3.8 Frozen Assets

In accordance with paragraph 3.4, in relation to any Frozen Assets and any other associated Residual Liabilities subject to a Freezing Order that is transferred to, and vested in, the Transferee (including a nominee or any sub-custodian, central securities depository or other third party appointed by it) by virtue of the Order or Scheme, the Transferee shall, on and from the Relevant Date, be entitled to the same rights and priorities and be subject to the same obligations and incidents pursuant to the Freezing Order to which the Transferor would itself have been entitled and subject if it had continued to hold the relevant Frozen Assets.

3.9 Sanctioned Assets

Each Sanctioned Asset, and any other associated Residual Liabilities subject to Sanctions that relate to a Customer who has a beneficial interest in a Sanctioned Asset, shall not transfer to the Transferee unless and until the Transferor or the Transferee (as applicable) has been granted any relevant licences or consents required to make such transfer in accordance with applicable law, or the relevant restrictions preventing such transfer cease to apply, and the trust and indemnity provisions set out in paragraph 4 and the other provisions of this Scheme that relate to the Transferring Business shall not apply to any such Sanctioned Asset or associated Residual Liabilities pending that transfer as if those Sanctioned Assets and associated Residual Liabilities were Excluded Business. Upon the grant of any such relevant licence or consent, or the relevant restrictions preventing such transfer ceasing to apply, unless the Transferor and the Transferee otherwise agree, such Sanctioned Asset or associated Residual Liabilities shall transfer to the Transferee (or its nominee) in accordance with paragraphs 3.3 and/or 3.6 (as applicable).

4. TRANSFEROR AS TRUSTEE FOR THE TRANSFEREE

- 4.1 The Transferor shall, from the Effective Date, hold any Residual Asset (and, from the Relevant Date, any other Residual Asset that has not transferred to, and vested in, the Transferee on such Relevant Date and any prior Relevant Dates) together with any proceeds of sale or income or other right accrued or return arising in respect thereof, on trust for the Transferee absolutely, except to the extent that: (i) the entry into, or creation of such an arrangement would itself be outside the jurisdiction of the Court; or (ii) the entry into, or creation of, such an arrangement would require a consent or waiver which has not been obtained.
- 4.2 The interests and entitlements of the Transferee under the trust created under paragraph 4.1 shall be vested and indefeasible, such that the Transferee is absolutely entitled to the Assets comprised in the trust and to the income thereon as it arises.
- 4.3 The Transferor shall be subject to exclusive directions from the Transferee in respect of any Residual Asset from the Effective Date until it is transferred to or otherwise vested in the Transferee or is disposed of (whereupon the Transferor shall account to the Transferee for the proceeds of the sale thereof), and the Transferee shall have the authority to act as the attorney of the Transferor in respect of such Residual Asset for all such purposes.
- 4.4 In the event of any payment being made to, property being received by, right being conferred upon, or benefit accruing to, the Transferor on or after the Effective Date in respect of the Transferring Business, the Transferor shall, hold such sums, property or right on trust and as soon as is reasonably practicable after its receipt, pay over the full amount of such payment or (to the extent to which it is able to do so) transfer such property or right to, or in accordance with the directions of, the Transferee.

5. SUPPLEMENTARY PROVISIONS

5.1 Without prejudice to the generality of the provisions of paragraph 3 of this Scheme, the provisions of this paragraph 5 shall have effect in relation to the transfer of the Transferring Business hereby contemplated.

5.2 Evidence of transfer

The production of a copy of the Order duly certified by the Court with any modifications or additions made under paragraph 7 shall, for all purposes, be evidence of the transfer to, and vesting in the Transferee of, the Transferring Business in accordance with the Order and the provisions of this Scheme.

5.3 Transferring Customer Contracts

Every existing Transferring Customer Contract shall be construed and have effect on and from the Relevant Date:

- (a) as if the Transferee is a party thereto instead of the Transferor (such that the Transferring Customer Contract shall continue in force as between the Transferee and the other party thereto on the terms which applied to that Transferring Customer Contract prior to the Relevant Date, but without prejudice to any right which the Transferee may have subsequently to vary or terminate such Transferring Customer Contract, whether under the terms thereof or at law);
- (b) so that each of the Transferee, the relevant Customer who is the counterparty, or a third party with rights, in respect of a Transferring Customer Contract, shall, from the Relevant Date, become entitled to the same rights under, or pursuant to, that Transferring Customer Contract as were available to, or against, the Transferor, the Customer or such third party under that Transferring Customer Contract immediately prior to the Relevant Date;
- (c) nothing shall affect or prejudice such rights that were available to the Transferor, the Customer or such third party against each other which arose prior to the Relevant Date;
- (d) as if for any reference (however worded and whether express or implied) to the Transferor there were substituted a reference to the Transferee; and
- (e) as if any reference (however worded and whether express or implied) to any one or more of the directors, officers or representatives of the Transferor were a reference:
 - (i) in relation to anything done prior to the Relevant Date, to the directors, officers or representatives of the Transferor; or
 - (ii) in relation to anything to be done on or after the Relevant Date, to the directors, officers or representatives of the Transferee.

5.4 Terms and conditions determined by the Transferor

For the purpose of construing and giving effect to any Transferring Customer Contract which forms a part of the Transferring Business (and to the extent that it relates to the Transferring Business) and which:

- (a) has effect or continues to have effect on, or on and after, the Relevant Date; and

- (b) makes reference to a rate, charge, tariff or scale of fees or to terms or conditions published, determined, ascertained, varied or amended from time to time by the Transferor,

the Transferee shall (on and after the Relevant Date (but subject to paragraph 5.21(e)) and without affecting the application of those provisions prior to that date) have the same rights under that Transferring Customer Contract as the Transferor had to publish, determine, ascertain, vary or amend rates, charges, tariffs, scales of fees, terms or conditions, and any such rates, charges, tariffs, scales of fees, terms or conditions published, determined, ascertained, varied or amended by the Transferee after the Relevant Date shall apply in place of those which could have been published, determined, ascertained, varied or amended by the Transferor.

For a period of three months following the applicable Effective Date, the Transferee has agreed not to exercise such rights in order to vary the rates, charges, tariffs or scales of fees applicable to the Transferring Customers at such Effective Date.

5.5 Assets under Custody

Any Transferring Customer Contract or Asset under Custody (including: (a) any legal or beneficial title arising pursuant to any trust; and (b) any rights or Liabilities pursuant to any Custody Agreements) transferred to and vested in the Transferee (or its nominee) by virtue of the Order and which was held by the Transferor (or its nominee), whether alone or jointly with others, as a trustee, custodian or similar fiduciary capacity immediately before the Relevant Date shall, on and with effect from the Relevant Date, be held by the Transferee (either directly or its sub-custodians, central securities depositaries or other third parties appointed by the Transferor to hold custody assets for it in connection with Transferring Customer Contracts) as custodian and subject to the rights, powers and duties previously applicable to the relevant trust, custodian or other fiduciary arrangement in question. Without prejudice to foregoing, the Transferor and Transferee shall co-operate to transfer all Assets under Custody which are held by the Transferor (either directly or its sub-custodians, central securities depositaries or other third parties appointed by the Transferor to hold custody assets for it in connection with Transferring Customer Contracts), whether alone or jointly with others, as a trustee, custodian or similar fiduciary capacity immediately before the Relevant Date, to the Transferee (or as it may direct to its sub-custodians, central securities depositaries or other third parties appointed by the Transferee to hold custody assets for it in connection with Transferring Customer Contracts) as custodian and subject to the rights, powers and duties previously applicable to the relevant trust, custodian or other fiduciary arrangement in question and the Transferor shall instruct its sub-custodians, central securities depositaries or other third parties appointed by the Transferor to hold custody assets for it in connection with Transferring Customer Contracts to effect the transfer of all Assets under Custody to the Transferee (or as it may direct to its or its sub-custodians, central securities depositaries or other third parties appointed by the Transferee).

Where, in connection with this paragraph 5.5, any Asset under Custody that relates to a Custody Agreement forming part of the Transferring Business remains with the Transferor (or its sub-custodians, central securities depositaries or other third parties appointed by the Transferor to hold custody assets for it in connection with Transferring Customer Contracts) following the relevant Effective Date, such Custody Agreement shall be replicated as between the Transferor and the Customer on the same terms pending the date on which the relevant Assets under Custody are transferred to the Transferee (or as it may direct to its sub-custodians, central securities depositaries or other third parties appointed by the Transferee to hold custody assets for it in connection with Transferring Customer Contracts).

In respect of the Assets held in Roy Nominees (which form part of the Excluded Business), where such Assets are held on behalf of a Transferring Customer in connection with a Custody Agreement, such Custody Agreement shall be replicated as between the Transferor and the Customer on the same terms pending the date on which this replicated custody agreement is terminated by either party.

5.6 Legal title to Assets and Contracts

Legal title to any Asset under Custody and Contract or property held by the Transferor as trustee and as part of the Transferring Business shall, with effect from the Relevant Date, be vested in the Transferee upon and subject to the same trusts.

5.7 Payment of sums attributable to the Transferring Business

All sums attributable to the Transferring Business shall, on and after the Relevant Date, be payable to, and by, the Transferee in the same capacity as such sums would have been payable to, and by, the Transferor (in the absence of the Scheme).

5.8 Ascertaining, perfecting or enforcing Contracts, Assets or Liabilities

Subject to the other provisions of this Scheme and in particular without prejudice to the exclusion of the Excluded Business from the transfer effected by this Scheme, where by virtue of the Order any Contract, Asset or Liability of the Transferor becomes a Contract, Asset or Liability of the Transferee, the Transferee and all other persons shall, on and from the Relevant Date, have the same rights, powers and remedies (and in particular the benefit of notices served and the same rights and powers as to taking or resisting legal proceedings or making or resisting applications to any authority) for ascertaining, perfecting or enforcing that Contract, Asset or Liability as if it had at all times been a Contract, Asset or Liability of the Transferee.

5.9 Set-off

- (a) The Transferee shall not be entitled on, and with effect from, the Relevant Date to apply any rights of set-off, which might otherwise be exercisable by the Transferee by virtue of this Scheme, to reduce or discharge any liability arising from time to time:
- (i) under any Transferring Customer Contract using credit balances held pursuant to an Existing Transferee Agreement; or
 - (ii) under any Existing Transferee Agreement using credit balances held pursuant to any Transferring Customer Contract.
- (b) The restrictions set out in paragraph (a) shall cease to apply in relation to credit balances held pursuant to any Existing Transferee Agreement or Transferring Customer Contract on the date that falls three months after the Relevant Date.

5.10 All monies rights

The Transferee shall not be entitled on, and with effect from, the Relevant Date to apply any All Monies Rights, which might otherwise be exercisable by the Transferee by virtue of this Scheme:

- (a) under any Existing Transferee Agreement to secure any liability arising from time to time under any Transferring Customer Contract; or
- (b) under any Transferring Customer Contract to secure any liability arising from time to time under:
 - (i) any Existing Transferee Agreement; or
 - (ii) any New Transferee Agreement, unless expressly stated to the contrary in the New Transferee Agreement.

5.11 Cross default rights

The Transferee shall not be entitled on, and with effect from, the Relevant Date to apply any Cross Default Rights, which might otherwise be exercisable by the Transferee by virtue of this Scheme, to accelerate or alter any rights or obligations:

- (a) under any Existing Transferee Agreement as a result of the breach of any Transferring Customer Contract, unless the Transferor would have been entitled to accelerate or alter any rights or obligations under any such agreement as a result of a breach of any Transferring Customer Contract prior to the Relevant Date; or
- (b) under any Transferring Customer Contract as a result of the breach of any Existing Transferee Agreement, unless the Transferor would have been entitled to accelerate or alter any rights or obligations under any such agreement as a result of the breach of any Existing Transferee Agreement prior to the Relevant Date.

5.12 Consolidation rights

The Transferee shall not be entitled on, and with effect from, the Relevant Date to apply any Consolidation Rights, which might otherwise be exercisable by the Transferee by virtue of this Scheme, to prevent the release of security given in connection with:

- (a) any Existing Transferee Agreement until any obligations have been satisfied under any Transferring Customer Contract; or
- (b) any Transferring Customer Contract until any obligations have been satisfied under any Existing Transferee Agreement.

5.13 Other rights of the Transferor

The Transferee shall not be entitled on, and with effect from, the Relevant Date to apply any other right, benefit, interest, discretion, authority or power which might otherwise be exercisable by the Transferee by virtue of this Scheme under or in relation to:

- (a) any Existing Transferee Agreement to terminate, reduce, suspend, delay, alter, discharge, or otherwise secure any liability arising from time to time under any Transferring Customer Contract; or
- (b) any Transferring Customer Contract to terminate, reduce, suspend, alter, discharge or otherwise secure any liability arising from time to time under any Existing Transferee Agreement.

5.14 Entire Agreement Clauses

- (a) Where a Transferring Customer Contract contains an Entire Agreement Clause, on and with effect from the Relevant Date, the relevant clause shall be read and construed as if it referred only to the products or services comprised in the Transferring Business and shall not apply to, and the Transferring Customer Contract shall not supersede, any Existing Transferee Agreement.
- (b) Where an Existing Transferee Agreement contains an Entire Agreement Clause, on and with effect from the Relevant Date, the relevant clause shall be read and construed as if it referred only to products or services of the Transferee not comprised in the Transferring Business and shall not apply to, and the Existing Transferee Agreement shall not supersede, any Transferring Customer Contracts .

- (c) Where a New Transferee Agreement contains an Entire Agreement Clause, the relevant clause shall, unless expressly stated to the contrary, be read and construed as if it referred only to products or services of the Transferee that are not comprised in the Transferring Business and shall not apply to, and the New Transferee Agreement shall not supersede, any Transferring Customer Contracts .

5.15 Savings to rights

- (a) The provisions of paragraphs 5.9 to 5.14 (inclusive) shall not diminish any right, benefit, interest, discretion, authority or power which:
- (i) immediately prior to the Relevant Date, the Transferee or its counterparty has in respect of agreements entered into by the Transferor, including any rights of the Transferee to use credit balances on accounts held with the Transferee to pay debts owed to the Transferor, any rights of the Transferor to use credit balances on accounts held with the Transferor to pay debts owed to the Transferee or any Cross-Default Rights;
 - (ii) immediately prior to the Relevant Date, the Transferor or its counterparty has in respect of Existing Transferee Agreements, including any Cross-Default Rights; or
 - (iii) the Transferee, Transferor or a Customer may acquire other than as a result of the Scheme, including as a result of the variation on or after the Relevant Date of a Transferring Customer Contract, Existing Transferee Agreement or New Transferee Agreement, provided that such variation without the express consent of the relevant Customer is not used to limit or adversely affect the mitigations referred to in paragraphs 5.9 to 5.14 (inclusive).

5.16 Mandates

- (a) Any existing instruction, order, direction, mandate, power of attorney, authority or consent given to or by the Transferor relating to any part of the Transferring Business shall have effect on and from the Relevant Date as if given to, or, as the case may be, by the Transferee provided that each such instruction, order, direction, mandate, power of attorney, authority or consent shall also continue and remain in force and existence for the benefit of the Transferor to the extent necessary in order to allow it to fulfil any outstanding obligations and exercise any outstanding rights in respect of any other business, relationship, arrangement or Contract with such Customer.
- (b) Any negotiable instrument, cheque, warrant, draft, letter of credit or order for payment of money, relating to any part of the Transferring Business, drawn on or by, or given to, or accepted or endorsed by, the Transferor, or payable at any place of business of the Transferor, whether so drawn, given, accepted, endorsed or payable before, on or after the Relevant Date, shall have the same effect on and from that date:
- (i) as if it had been drawn on or by, or given to, or accepted or endorsed by, the Transferee; and
 - (ii) if relevant, as if the place of business at which it is payable were a place of business of the Transferee.

5.17 Books and records

- (a) The custody of any Business Records held by the Transferor relating to any part of the Transferring Business, as bailee or custodian or under any similar arrangement shall pass to the Transferee on the Relevant Date, and the rights and obligations of the Transferor under any Contract of bailment, custody or similar arrangement relating to any such Document or Business Record, goods or thing shall on that day become rights and obligations of the Transferee as bailee, custodian or otherwise pursuant to the relevant arrangements in question.

- (b) All Business Records which would, before the Relevant Date, have been evidence in respect of any matter for or against the Transferor at the Relevant Date and which relate to the Transferring Business shall be admissible in evidence in respect of the same matter for or against the Transferee after the Relevant Date.
- (c) On, and with effect from, the Relevant Date, the Bankers' Books Evidence Act 1879 shall apply to any books of the Transferor transferred to, and vested in, the Transferee by virtue of this Scheme, and to entries made in those books before the Relevant Date, as if such books were the books of the Transferee.
- (d) For the purposes of section 4 of the Bankers' Books Evidence Act 1879, books so transferred to, and vested in, the Transferee shall be deemed to have been the ordinary books of the Transferee at the time of the making of any entry therein which purports to have been made before the Relevant Date, and any such entry shall be deemed to have been made in the usual and ordinary course of business.
- (e) In paragraphs 5.17(b) to 5.17(d) "books" shall be construed in accordance with section 9(2) of the Bankers' Books Evidence Act 1879 to the extent such books are Business Records and "documents" has the same meaning as in section 13 of the Civil Evidence Act 1995.

5.18 Confidentiality and data protection

- (a) On, and with effect from, the Relevant Date the Transferee shall be subject to the same duties of confidentiality and privacy (whether pursuant to statute, Contract or common law) as to those which the Transferor was subject, immediately prior to the Relevant Date, in relation to any Transferring Customer.
- (b) On, and with effect from, the Relevant Date, and as between the Transferor and the Transferee in respect of the Transferring Personal Data:
 - (i) the Transferee shall succeed to all rights, Liabilities and obligations of the Transferor, to the extent such rights, Liabilities and obligations arise from the Relevant Date;
 - (ii) the Transferee shall become the data controller of any Transferring Personal Data in place of the Transferor;
 - (iii) any information made available to, or consent obtained or request or other notice received from, a data subject by or on behalf of the Transferor shall be deemed to have been made available to, obtained by or received by the Transferee; and
 - (iv) any reference to the Transferor in any such information, consent, request or other notice shall be deemed to include a reference to the Transferee (or to any member of the Transferee's Group, as the case may be).
- (c) Where a Transferring Customer has made a Data Subject Access Request to the Transferor before the Relevant Date and the Transferor has not responded in accordance with the Data Protection Laws before the Relevant Date, the Transferee may respond to the request, in accordance with the Data Protection Laws, including by providing copies of the Transferring Personal Data held by the Transferor immediately before the Relevant Date.
- (d) Where a Transferring Customer has made a Data Subject Access Request to the Transferee before the Relevant Date and the Transferee has not responded in accordance with the Data Protection Laws before the Relevant Date, the Transferee may exclude Transferring Personal Data transferred as a consequence of the Scheme from its response thereafter.

- (e) Nothing in paragraphs 5.18(a) to 5.18(c) (inclusive) shall be deemed to transfer any right to process Transferring Personal Data or to send any direct marketing communication to the extent it would be unlawful under, or inconsistent with, the Data Protection Laws.

5.19 Consent to sharing Data

To the extent that a Transferring Customer is, following the Effective Date, still a Customer of the Transferor (each such Customer being a **Consenting Customer**), the Transferor is deemed to have a valid legal basis to share Data with the Transferee (and in respect of Transferring Personal Data, a legal basis under Data Protection Laws to share Transferring Personal Data) in respect of that Customer with each other, provided, however, that nothing in this paragraph shall be deemed to permit the sharing of Data other than where it is reasonably necessary to effect the transfer and continuation of the Transferring Business or to the extent it is unlawful under, or inconsistent with, Data Protection Laws.

5.20 Marketing preferences

- (a) Where, prior to the Effective Date, a Transferring Customer has provided Marketing Preferences for the same data processing carried out for marketing purposes to each of the Transferor and the Transferee, the Transferee's record of the Transferring Customer's Marketing Preference shall be deemed to apply on and with effect from the Effective Date whether or not it is the same as any Marketing Preference given by the Transferring Customer to the Transferor.
- (b) Subject to paragraph (a) above, on, and with effect from, the Effective Date:
 - (i) the Transferee shall have the benefit of the Marketing Preferences of Transferring Customers (other than to the extent unlawful under, or inconsistent with, Data Protection Laws); and
 - (ii) the Transferor shall cease to have the benefit of the relevant Marketing Preferences.

5.21 References

- (a) Any Document, notice or demand addressed on or before or after the Relevant Date to or by the Transferor in respect of the Transferring Business shall, on and from the Relevant Date, be deemed to have been addressed to or by the Transferee as relevant.
- (b) Subject to paragraph 5.21(e), on, and with effect from, the Relevant Date, any references in respect of the Transferring Business or any part of it, whether in an agreement to which the Transferor is a party or not or elsewhere (including references in any document which creates rights or obligations of any sort), to:
 - (i) the Transferor or 'IS Trust, UK branch' shall be construed as, and take effect as, a reference to the Transferee or 'CACEIS Bank, UK branch' (as applicable);
 - (ii) directors, officers, representatives or employees or to any director, officer, representative or employee of the UK branch of the Transferor or the Transferor (as applicable), shall be construed as and take effect as a reference to the directors, officers, representatives or employees of the London branch of the Transferee or the Transferee (as applicable), or to such director, officer, representative or employee of the Transferee as the Transferee may nominate for that purpose;
 - (iii) a rate, charge, tariff or scale of fees or to terms or conditions published, determined, ascertained, varied or amended from time to time by the Transferor shall afford to the Transferee the same right under such Contract, other Document or instrument as the

Transferor had to publish, determine, ascertain, vary or amend such rates, charges, tariffs, scales of fees, terms or conditions published, determined or ascertained; and

- (iv) the sort code and account numbers allocated by Transferor to each of the Customer Accounts shall be construed as and take effect as references to the sort code and account numbers allocated by the Transferee for each of the Customer Accounts following the Relevant Date.
- (c) Without prejudice to the generality of paragraph 5.21(b), on, and with effect from, a Relevant Date:
- (i) any offer or invitation to treat or pre-contractual information relating to a Customer made or given to or by the Transferor shall be construed and have effect as an offer or invitation to treat made or given to or by the Transferee or pre-contractual information in respect of the Transferee;
 - (ii) if a person executes an agreement, undertaking, other document as a result of any offer or invitation to treat referred to in paragraph 5.21(c)(i) which would, when completed, on its face be an agreement with or undertaking or document in favour of the Transferor, such agreement, undertaking or other document shall operate as if it were with or in favour of the Transferee;
 - (iii) paragraph 5.21(b) shall apply in respect of any references to directors, officers, representatives or employees or to any director, officer, representative or employee of the UK branch of the Transferor, or the Transferor (as applicable), in or relating to such offer, invitation to treat, agreement, undertaking or other document and any further document relating thereto (including in insurance policies); and
 - (iv) any Contract entered into between the Transferee and a third party shall not be found to be unenforceable as a result of any pre-contractual information and/or other Documents having been issued in the name of the Transferor.
- (d) Where there is a reference in a Contract or Document, whether or not it is a Transferring Customer Contract or a Contract with the Transferor, to a subsidiary, subsidiary undertaking, affiliate, affiliate undertaking, group, holding company or similar in respect of the RBC Group or any member of the RBC Group and such reference would, but for this paragraph, be prohibited or unlawful, that Contract or Document shall be amended to the formulation that most closely reflects the current wording while achieving compliance with the relevant law.
- (e) With effect from the Effective Date and notwithstanding that the relevant Contract might be held by the Transferor pursuant to paragraph 4 pending transfer, any references in respect of the Transferring Business or any part of it to any rate, charge, tariff or scale of fees or terms or conditions published by the Transferor from time to time, shall be construed as and take effect as a reference to the corresponding rate, charge, tariff or scale of fees or to terms or conditions published by the Transferee from time to time.

5.22 Right to withdraw or transfer deposits

In accordance with PRA guidance on depositor protection in respect of the Financial Services Compensation Scheme, all Transferring Customers are able to withdraw or transfer any deposits held with the Transferor, (irrespective of whether they are also an existing customer of the Transferee), without incurring any penalty.

6. CONSEQUENCES OF VESTING

- 6.1 The transfer and vesting of any Contract, Assets or Liability by virtue of the Order or the Scheme shall not:

- (a) cause any Contract or other thing, or any term of any of them, to be invalid, non-binding, unenforceable, discharged or cancellable; or
- (b) require further registration or amendment of existing registration in respect of any security or other instrument registered in the UK; or
- (c) constitute a breach of, or default under, or require compliance with any notice or consent provision or require any obligation to be performed sooner or later than would have otherwise been the case under, any Contract or instrument to which the Transferee or the Transferor is a party or is bound; or
- (d) allow any person to terminate, default or cross-default any Contract, whether an agreement to which the Transferor or Transferee is a party or not, when that party would not otherwise have been able to terminate, default or cross-default it, or to treat any interest or right under that Contract as terminated, defaulted, cross-defaulted or modified; or
- (e) entitle any party to any Contract to which the Transferee or the Transferor is a party to vary the terms of that Contract when that party would not otherwise have been able to vary those terms or confer a right or benefit on that party which that party would not otherwise have had; or
- (f) entitle the Transferor or the Transferee to terminate, default, cross-default, reduce, suspend, delay, alter, discharge or otherwise secure any Contract or Liability where the Transferor or Transferee would not otherwise have been able to do so; or
- (g) affect the enforceability, priority or ranking of any security; or
- (h) require or deem any representation or warranty to be made or repeated; or
- (i) enable any person to bring a claim, whether in contract, tort, equity or otherwise; or
- (j) cause the imposition of any greater or lesser obligation on any party to any Contract to which the Transferor or the Transferee is a party when that greater or lesser obligation would not otherwise have been imposed; or
- (k) constitute a breach of, or default under, any court order by any court of any jurisdiction, including so as to render the Transferor in contempt of court.

6.2 Residual Assets and Residual Liabilities shall, as from their respective Subsequent Transfer Dates, be respectively vested in and owed by the Transferee in all respects on the same terms as if the relevant Assets or Liabilities had been transferred by virtue of the Order on the Effective Date.

6.3 If and to the extent that any provision of paragraph 6.1 is not recognised by law in the relevant jurisdiction, the Transferor and the Transferee shall waive any right to terminate any Contract or Liability triggered by the transfer of such Contract to which they are a party or in respect of any Liability owed to them, under this Scheme.

7. MODIFICATIONS OR ADDITIONS

7.1 The Transferor and the Transferee may consent jointly for and on behalf of themselves and all other persons concerned to make any modification of or addition to this Scheme which, prior to its sanction of this Scheme, the Court may approve or impose.

7.2 In relation to any modification or addition to this Scheme which may be proposed to be made after its sanction by the Court, the Transferor and the Transferee shall respectively be at liberty to apply to the Court for consent to amend its terms, provided that in any case the PRA and the FCA have been given at least 21 days' notice of, and has the right to be heard at, any hearing of the Court at which such application is considered. If such consent is granted, Transferor and the Transferee may amend the terms of this Scheme in accordance with such consent.

8. EFFECTIVE TIME

The transfer of the relevant part of the Transferring Business, other than any Residual Assets or Residual Liabilities, shall become effective at 00:01 on each Effective Date.

9. GOVERNING LAW

This Scheme shall be governed by and construed in accordance with English law.

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