

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

26 June 2018
The Honourable Mr Justice Nugee



IN THE MATTER OF

THE BANK OF NEW YORK MELLON SA/NV

-and-

IN THE MATTER OF

THE BANK OF NEW YORK MELLON

-and-

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



ORDER

UPON application by the claim form presented to this Court in the above matter on 21st March 2018 (the "**Claim Form**") by the Applicants;

- (1) The Bank of New York Mellon SA/NV, a public limited company incorporated in Belgium on 30 September 2008 under Belgian Law, registered in the Register of Legal Entities of Brussels under number 0806.743.159, acting through its London Branch, which is registered at Companies House with UK establishment number BR014361 and

has the PRA/FCA reference number 506491 and whose registered office is at 160 Queen Victoria Street, London EC4V 4LA (the "**Transferor**"); and

- (2) The Bank of New York Mellon, state-chartered bank organised by a Special Act of the New York State Legislature, Chapter 616 of the Laws of 1871, acting through its London Branch, which is registered at Companies House with UK establishment number BR000818 and has the PRA/FCA reference number 122467 and whose registered office is at One Canada Square, London E145AL (the "**Transferee**"),

(together, the "**Applicants**")

for, *inter alia*, the Court's sanction of a scheme (the "**Scheme**") pursuant to Part VII of the Financial Services and Markets Act 2000 ("**FSMA**") for the transfer to the Transferee of the Transferring Business (as defined in the Scheme) effected and/or carried out by the Transferor;

UPON HEARING Martin Moore QC, Counsel for the Applicants;

AND UPON READING the Claim Form and the evidence;

AND UPON the Court being satisfied that the appropriate certificates have been obtained as referred to in section 111 of FSMA;

AND UPON the Court approving the amendments to the Scheme shown in exhibit "LL15" to the second witness statement of Lawrence Langenhan;

AND UPON the Court approving the attachment of the Summary of the Scheme set out in Schedule 2 hereto, such Summary providing a synopsis of the main features of the Scheme, which is not to be relied upon in place of the Scheme itself;

AND IT APPEARING that a copy of the application and the statement referred to in Regulation 5(4) of the Financial Services and Markets Act 2000 (Control of Business Transfers) (Requirements on Applicants) Regulations 2001 (SI 2001/3625) as amended have been given free of charge to the PRA and FCA pursuant to Regulation 5(5) of the Regulations and that a period of more than twenty-one days has elapsed since the PRA and FCA were given the aforementioned documents;

THIS COURT HEREBY SANCTIONS, pursuant to section 111 of FSMA, the Scheme attached as Schedule 1 hereto;

AND IT IS ORDERED THAT all the terms of the Scheme shall as and from the dates and times therein provided take effect under section 112 of FSMA without further act or instrument as if each were separately set out in this Order. Without prejudice to the generality of the foregoing (1) the transfers of the Transferring Business provided for by paragraphs 2 and 3 of the Scheme and the transfers of property and liabilities (as defined by ss 112(12), (13) of FSMA respectively) provided for thereby take effect pursuant to s112(1)(a) of FSMA and vest or transfer as provided for by s.112(3) of FSMA as a result of this Order, (2) the provisions in paragraph 2.8 relating to the conduct of proceedings takes effect pursuant to s112(1)(c) of FSMA and (3) the provisions of paragraphs 4 and 5 and all other paragraphs of the Scheme, not already mentioned, take effect pursuant to s112(1)(d).

AND IT IS ORDERED that:

1. the production of a copy of this Order and a copy of a certificate by a director or the company secretary for the time being of the Transferee that the Scheme has taken effect shall, for all purposes, be evidence of the transfer to, and vesting in the Transferee of the Transferring Business, Transferring Assets and Transferring Liabilities in accordance with this Order and the Scheme;
2. in accordance with section 112(10) of FSMA, the Transferee shall within 10 days from the date of this Order, or such longer period as the PRA shall allow, deposit two office copies of this Order with the PRA; and
3. there shall be liberty to apply for such orders as may be expedient or necessary for the purposes set out in section 112 of FSMA and generally.

SCHEDULE 1

Scheme Document

**IN THE MATTER OF
THE BANK OF NEW YORK MELLON SA/NV**

AND

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

SCHEME

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1. INTRODUCTION

1.1 Interpretation

The definitions and other provisions relating to interpretation set out in Schedule 1 apply throughout the Scheme, including the schedules.

1.2 Parties to the Scheme

Transferor

1.2.1 The Bank of New York Mellon SA/NV is a public limited liability company incorporated in Belgium on 30 September 2008 under Belgian Law, registered in the Register of Legal Entities of Brussels under number 0806.743.159 (the "**Transferor**"). The Transferor is authorised and regulated as a significant credit institution by the European Central Bank ("**ECB**") and the National Bank of Belgium ("**NBB**") under the Single Supervisory Mechanism and by the Belgian Financial Services and Markets Authority. The Transferor carries on business in the United Kingdom through its London branch ("**BNYM SA/NV London**"), which is registered at Companies House with UK establishment number BR014361 and has the PRA/FCA reference number 506491.

1.2.2 BNYM SA/NV London has a passport from Belgium under the Banking Consolidation Directive for the acceptance of deposits and other repayable funds from the public, lending including consumer credit, mortgage credit, factoring and financing of commercial transactions, trading for own account or for account of customers (money market instruments (including for example cheques, bills and CDs), foreign exchange, financial futures and options, exchange and interest instruments and transferrable securities), money broking, portfolio management and advice and safekeeping and administration of securities.

1.2.3 The Transferor carries out investment services, including asset servicing, corporate trust, global markets, global collateral services, depository receipt services and broker dealer services. In addition to BNYM SA/NV London, the Transferor has branches in Amsterdam, Luxembourg, Frankfurt, Paris, Dublin and Milan and also conducts business on a freedom of services basis in Austria, Cyprus, Denmark, Finland, France, Greece, Iceland, Ireland, Italy, Norway, Portugal, Spain and Sweden.

Transferee

1.2.4 The Bank of New York Mellon is a New York state-chartered bank organised by a Special Act of the New York State Legislature, Chapter 616 of the Laws of 1871 (the "**Transferee**"). The Transferee is subject to regulation and supervision of the New York State Department of Financial Services. In addition, the Transferee is a member of the Federal Reserve System and subject to regulation and supervision of the Board of Governors of the Federal Reserve System in the United States. The Transferee carries on business in the United Kingdom through its London branch ("**BNYM London**"), which is

registered at Companies House with UK establishment number BR000818 and has the PRA/FCA reference number 122467.

- 1.2.5 BNYM London has permission under Part 4A of FSMA for accepting deposits, advising on investments (except on pension transfers and pension opt outs), advising on P2P agreements, arranging (bringing about) deals in investments, arranging safeguarding and administration of assets, causing dematerialised instructions to be sent, dealing in investments as agents, dealing in investments as principal, making arrangements with a view to transactions in investments, managing investments, safeguarding and administration of assets (without arranging) and sending dematerialised instructions. The Transferee therefore has the required permissions to carry on the Transferring Business following its transfer under the Scheme.
- 1.2.6 The Transferee is a direct wholly owned subsidiary of The Bank of New York Mellon Corporation and the Transferor is a direct subsidiary of the Transferee with all but one of the shares in the capital of the Transferor held by the Transferee.

1.3 Transferring Business

- 1.3.1 The Transferring Business comprises only part of the business of the Transferor and is currently carried on through BNYM SA/NV London. The Transferring Business comprises certain contracts across the Transferor's asset servicing, alternative investment service and corporate trust lines of business, and includes the accepting of deposits.
- 1.3.2 It is proposed that the Transferring Business be transferred to the Transferee, which will carry on the Transferring Business as a going concern from BNYM London, in accordance with this Scheme, and that an Order be sought for the sanction of this Scheme.

2. TRANSFER OF THE BUSINESS

2.1 Transfer of Business

- 2.1.1 The Transferring Business shall by the Order and without any further act or instrument be transferred to and be vested in the Transferee as a going concern in accordance with, and subject to the terms of, this Scheme.
- 2.1.2 The Transferor shall by 15 Business Days' prior written notice notify each Transferring Client of their Effective Date which shall be no earlier than the date of the Order and no later than the Longstop Date and this Scheme shall take effect in respect of such Transferring Client on that Effective Date.
- 2.1.3 If, for any reason, any part of the Transferring Business has not been transferred to the Transferee by 23.59 on the Longstop Date such Transferring Business shall be transferred from the Transferor to the Transferee at 23.59 on the Longstop Date.
- 2.1.4 On and with effect from the relevant Effective Date, or where applicable the Longstop Date, and in accordance with the terms of this Scheme the

Transferring Business shall by this Scheme, and without further act or instrument, be transferred from the Transferor to the Transferee.

2.2 Transfer of Assets

- 2.2.1 On and with effect from the relevant Effective Date or the Longstop Date, as applicable, the Transferring Assets which are attributable to the Transferring Client to which such Relevant Date applies shall, by the Order and without any further act or instrument, be transferred to and be vested in the Transferee subject to all Encumbrances (if any) affecting such Transferring Assets.
- 2.2.2 On and with effect from each Subsequent Transfer Date each Residual Asset to which a Subsequent Transfer Date applies and all rights, benefits and powers, together with all obligations and liabilities relating to such Residual Asset shall, without any further act or instrument, but by virtue of the Order and to the extent not previously transferred, be transferred to, and vest in, the Transferee subject to all Encumbrances (if any) whereupon it shall constitute a Transferring Asset under this Scheme and the terms of this Scheme shall apply to such Transferring Asset such that references to the relevant Effective Date or Longstop Date if relevant in this Scheme shall be read as the relevant Subsequent Transfer Date instead, as the context may require.
- 2.2.3 On and with effect from each Relevant Date all Transferring Client Accounts which are attributable to the Transferring Client(s) to which such Relevant Date applies shall become accounts between the Transferee and the relevant Transferring Client and each such account shall be deemed for all purposes to be a single continuing account, provided that nothing herein shall affect: (i) any right of the Transferee or the Transferring Client after the Relevant Date to vary the terms or conditions subject to which any such account is kept; or (ii) any variation of the terms or conditions subject to which such account is kept pursuant to the terms of this Scheme.
- 2.2.4 The Transferor and the Transferee shall, as and when necessary or appropriate, execute and deliver all documents and perform all such other acts as may be reasonably required to effect or perfect the transfer to, and vesting in, the Transferee of any Residual Asset in accordance with the terms of this Scheme, including without limitation, obtaining any required consent or waiver.
- 2.2.5 The Transferee shall accept without investigation, requisition, or objection, such title as the Transferor shall have at each Relevant Date to the Transferring Assets and the Transferring Business then transferred and, at each Subsequent Transfer Date, to the Residual Assets then transferred.
- 2.2.6 Without prejudice to paragraph 6.2.1(b), the Transferor and the Transferee shall, as and when appropriate, execute all documents and perform all things as may be required to effect or perfect the transfer to, and vesting in, the Transferee of any Transferring Asset on the Relevant Date in accordance with the terms of this Scheme (including any necessary steps where Transferring Assets are in the form of securities or investments held by a third party for the account of, or to the order of, the Transferor in its capacity as custodian or monies owed by a third party to the Transferor in that capacity).

2.3 Transfer of Transferring Client Agreements

- 2.3.1 On and with effect from each Relevant Date, the Transferee shall, by the Order and without any further act or instrument, be entitled to all the rights, benefits and powers, and be subject to all the obligations and liabilities of the Transferor whatsoever subsisting on the Relevant Date under or by virtue of the Transferring Client Agreement attributable to the relevant Transferring Client to which such Relevant Date applies and all such rights, benefits and powers shall be vested in the Transferee.
- 2.3.2 Every person who immediately prior to each Relevant Date is a holder of or party to a Transferring Client Agreement attributable to the relevant Transferring Client to which such Relevant Date applies shall, from and after the Relevant Date, in substitution for any liability or obligation owed thereunder to the Transferor, be under the same liability or obligation to the Transferee and shall become entitled, to the exclusion of any rights which he may have had against the Transferor under the relevant Transferring Client Agreement transferred on such Relevant Date, to the same rights against the Transferee as were available to him against the Transferor under such Transferring Client Agreement.
- 2.3.3 On and after each Relevant Date all amounts attributable or referable to the Transferring Client Agreement attributable to the relevant Transferring Client to which such Relevant Date applies shall be payable to the Transferee and shall be receivable and received by the Transferee (in relation to any Residual Asset, as agent for the Transferor) and every person who is a holder of or party to any of the Transferring Client Agreements transferred on such Relevant Date shall be liable to the Transferee for any outstanding, further or additional sums attributable or referable to such Transferring Client Agreements as and when the same become due and payable.
- 2.3.4 The Transferee shall be entitled to any and all defences, claims, counterclaims and rights of set-off under or in respect of the Transferring Client Agreements which would have been available to the Transferor.
- 2.3.5 All references in any Transferring Client Agreement to the Transferor, the board of directors or management committee of the Transferor, or any other officers, employees or agents of the Transferor shall from and after the Relevant Date in respect of the Transferring Client to which such Transferring Client Agreement is attributable be read as references to the Transferee, the board of directors or management committee of the Transferee, or any other officers, employees or agents of the Transferee or, where appropriate, agents of the Transferee to which the administration carried on by the Transferee has been delegated. In particular, but without limitation, all rights and/or duties exercisable or expressed to be exercisable or responsibilities to be performed by the Transferor, the board of directors or management committee of the Transferor, or any other officers, employees or agents of the Transferor in relation to any of the Transferring Client Agreements shall, from and after the Relevant Date in respect of the Transferring Client to which such Transferring Client Agreement is attributable, be exercisable or required to be performed by

the Transferee, the board of directors or management committee of the Transferee or any other officers, employees or agents of the Transferee.

2.4 Residual Assets

- 2.4.1 Any Residual Asset shall on and from each relevant Effective Date or, if relevant, the Longstop Date remain with the Transferor until the relevant Subsequent Transfer Date.
- 2.4.2 The Transferor shall transfer to the Transferee, or as the Transferee reasonably directs (to the extent that it is able to do so), such proportion as may be agreed between the Transferor and the Transferee of any payment or any assets which the Transferor may receive on or after the relevant Effective Date or, where relevant, the Longstop Date in respect of any Residual Asset as soon as reasonably practicable after such receipt.

2.5 Transfer of Liabilities

- 2.5.1 On and with effect from each Relevant Date, the Transferring Liabilities attributable to a Transferring Client to which such Relevant Date applies shall, by the Order and without any further act or instrument, be transferred to and become liabilities of the Transferee and shall cease to be liabilities of the Transferor.
- 2.5.2 On and from each Relevant Date, until the relevant liability is transferred to or becomes a liability of the Transferee, the Transferee shall discharge on the Transferor's behalf or, failing that, indemnify the Transferor against all Transferring Liabilities and Residual Liabilities of the Transferor attributable to a Transferring Client to which such Relevant Date applies which are not, or are not capable of being, transferred by the Order or a vesting order pursuant to section 112(1)(a) of FSMA (whether made before, on or after the Relevant Date).
- 2.5.3 On and with effect from each Subsequent Transfer Date each Residual Liability to which such Subsequent Transfer Date applies shall, by the Order and without any subsequent act or instrument, be transferred to and become a liability of the Transferee and shall cease to be a liability of the Transferor.

2.6 Guarantees

All references in any guarantee, letter of credit or similar security, which covers all or part of the Transferring Business, to a Transferor defaulting in the payment of sums due and payable in respect of any Transferring Client Agreement or any other liability of the Transferring Business, shall be read and construed as references to such a default before the Relevant Date in respect of the Transferring Client to which such part of the Transferring Business applies by the Transferor and after such Relevant Date by the Transferee in respect of such Transferring Client Agreement or such liability and the obligations of the respective guarantor or provider of security under such guarantee, letter of credit or security shall continue in full force and effect.

2.7 Mandates and other instructions

- 2.7.1 Any mandate or other instruction in force on the Relevant Date that applies to a Transferring Client to which such mandate or other instruction is attributable (including, without limitation, any instruction given to a bank by its client in the form of a direct debit or standing order) and providing for the payment of any sum under or in respect of any of the Transferring Client Agreements shall, on and from such Relevant Date, take effect as if it had provided for and authorised such payment to the Transferee.
- 2.7.2 Any mandate, direction or other instruction in force on the Relevant Date that applies to a Transferring Client to which such mandate or other instruction is attributable as to the manner of payment of any benefit, tax or other amount by the Transferor or receipt or delivery of any property shall, on and from such Relevant Date, continue in force as an effective authority to the Transferee.

2.8 Continuity of Proceedings

- 2.8.1 On and with effect from each Relevant Date, any judicial, quasi-judicial, arbitration proceedings or any complaint or claim to any ombudsman or other proceedings for the resolution of a dispute or claim which are pending by or against the Transferor in connection with such part of the Transferring Business which is attributable to a Transferring Client to which such Relevant Date applies shall be continued by or against the Transferee and the Transferee shall be entitled to all defences, claims, counterclaims and rights of set-off that would have been available to the Transferor in relation to any such proceedings.
- 2.8.2 On and with effect from any Subsequent Transfer Date, any judicial, quasi-judicial, arbitration proceedings or any complaint or claim to any ombudsman or other proceedings for the resolution of a dispute or claim which are pending by or against the Transferor in connection with any Transferring Asset which is a Residual Asset to which such Subsequent Transfer Date applies shall be continued by or against the Transferee and the Transferee shall be entitled to all defences, claims, counterclaims and rights of set-off that would have been available to the Transferor in relation to any such proceedings.
- 2.8.3 In any event, the Transferee in its absolute discretion, may determine to discontinue after each Relevant Date any such proceedings which have been brought by the Transferor.

2.9 Indemnities in favour of the Transferor

- 2.9.1 The Transferee shall discharge on behalf of the Transferor or, failing that, indemnify the Transferor from and after each Relevant Date against:
 - (a) all Transferring Liabilities and Residual Liabilities attributable to a Transferring Client to which such Relevant Date applies whether the same shall arise prior to or following such Relevant Date; and

- (b) save as otherwise provided in this Scheme or the agreements referred to herein any other cost, claim, loss, damages, liability or expense incurred in connection with any proceedings brought against the Transferor and which are attributable to a Transferring Client to which such Relevant Date applies after such Relevant Date.

3. **SPECIFIC EFFECT ON TRANSFERRING CLIENT AGREEMENTS**

3.1 **Payment of interest or other sums**

On and with effect from each Relevant Date and subject to the other terms of this Scheme, in relation to each Transferring Client Agreement attributable to a Transferring Client to which such Relevant Date applies under which interest or other sums attributable or referable thereto continue to be payable:

- 3.1.1 the Transferee or the person from whom any further or additional interest or other sums are due and payable on or following such Relevant Date shall account to the relevant persons or the Transferee (as the context requires) for such interest or other sums; and
- 3.1.2 the Transferor shall account to the Transferee for any further or additional interest or other sums attributable or referable to the period following such Relevant Date, to the extent that the same are received by the Transferor.

3.2 **Encumbrances**

On and with effect from each Relevant Date and subject to the terms of this Scheme:

- 3.2.1 any Encumbrance attributable to a Transferring Asset or Transferring Liability attributable to a Transferring Client to which such Relevant Date applies and which is held by, or vested in, the Transferor or a nominee of or trustee for the Transferor (each a "**Transferor Entity**") (whether for the Transferor alone or for the Transferor and other persons), or to which a Transferor Entity is subject, immediately prior to such Relevant Date, shall be held by, vested in, or enforceable against, the Transferee or, as applicable, that nominee, agent or trustee for the Transferee (each a "**Transferee Entity**") as if the Transferee Entity had always held, or had the benefit of, such Encumbrance;
- 3.2.2 any Encumbrance referred to in sub-paragraph 3.2.1 above shall be available to, and enforceable by, or against, as the case may be, the Transferee Entity, with respect to any Transferring Liabilities (including any principal, interest, fees, charges or other sums) to which the Encumbrance relates and which (i) have been incurred or which have arisen prior to such Relevant Date; and (ii) are incurred or which arise on or after such Relevant Date; and
- 3.2.3 in relation to any Encumbrance referred to in sub-paragraph 3.2.1 above and any Transferring Liabilities thereby secured, the Transferee Entity shall, on and from such Relevant Date, be entitled to the same rights, ranking and priorities and be subject to the same obligations and incidents as those to which the Transferor Entity was entitled and to which it was subject immediately prior to such Relevant Date and, without prejudice to the

generality of the foregoing, all waivers, amendments, conditions, consents, deeds of substitution, deeds of release, ranking agreements and priority agreements attributable to any such Encumbrances shall be enforceable by and binding upon the Transferee Entity on and after such Relevant Date, to the same extent to which the same would have been enforceable by and binding upon the Transferor Entity prior to such Relevant Date.

- 3.3 This paragraph 3 shall be without prejudice to the general application of the provisions of this Scheme to Transferring Assets which are not Transferring Client Agreements or Encumbrances.

4. REFERENCES

- 4.1 On and with effect from each Relevant Date, any references in respect of such part of the Transferring Business attributable to a Transferring Client to which such Relevant Date applies or any part of it, whether in an agreement to which the Transferor is a party or not or elsewhere (including references in insurance policies for any purpose or interests noted on such policies) to:

4.1.1 the Transferor or "as applicable acting through BNYM SA/NV London" (including references to it as "Custodian" and/or "Account Bank" shall be construed as, and take effect as, a reference to the Transferee or as applicable acting through BNYM London;

4.1.2 directors, officers, representatives or employees or to any director, officer, representative or employee of the Transferor shall be construed as and take effect as a reference to the directors, officers, representatives or employees of the Transferee or to such director, officer, representative or employee of the Transferee as the Transferee may nominate for that purpose;

4.1.3 the cash and custody account numbers allocated by the Transferor to each of the Transferring Client Accounts shall be construed as and take effect as reference to the cash and custody account numbers allocated by the Transferee for each of the Transferring Client Accounts following the Effective Date.

5. AMENDMENTS TO TERMS AND CONDITIONS OF TRANSFERRING CLIENT AGREEMENTS

5.1 Location of Transferor

On and with effect from each Relevant Date, where the terms and conditions of a Transferring Client Agreement refer to:

5.1.1 the Transferor's main establishment, registered office, main office, registered place of business or similar being located at its registered office in Brussels, Belgium, such references shall be replaced by references to the Transferee's main establishment, registered office, main office, registered place of business or similar being located at its registered office in New York, United States of America; and

5.1.2 the Transferor being a corporation duly organised and validly existing under the laws of Belgium, such references shall be replaced by references to the

Transferee being a corporation duly organised and validly existing under the laws of New York, United States of America.

5.2 Anti-money laundering rules

Where the terms and conditions of a Transferring Client Agreement refer to the Transferor's duty to comply with all applicable anti-money laundering laws and regulations of Belgium or require the Transferor to perform sufficient due diligence to meet all relevant anti-money laundering laws of Belgium, all such references shall, on and with effect from each Relevant Date, be deleted and such references shall where necessary, be replaced by references to the applicable anti-money laundering laws and regulations of the United Kingdom.

5.3 Client Money Rules

On and with effect from each Relevant Date, Transferring Client Agreements will be regulated by the FCA's Client Assets Sourcebook ("CASS") and Transferring Client Agreements shall be amended to reflect the fact that the Transferee will:

- 5.3.1 hold money for Transferring Clients as banker and not as trustee money under the FCA's client money rules; and
- 5.3.2 notify Transferring Clients of any circumstances where the Transferee may hold cash as client money,

and all references to the Transferor holding cash as banker under the applicable Belgian regulations shall be deleted.

5.4 Transferring Client Applicable Rules

On and with effect from each Relevant Date, Transferring Client Agreements will be amended to reflect that:

- 5.4.1 the Belgian Fungible Securities Rules will no longer apply and references to the Belgian Fungible Securities Rules shall be deleted and any terms and conditions stating that underlying clients of the Transferring Clients may have claims against the Transferor in relation to the assets as provided under the Belgian Fungible Securities Rules shall be deleted; and
- 5.4.2 the Belgian Royal Decree of 3 June 2007, being the main Belgian legislation implementing MiFID I, or other relevant Belgian law, regulation or rule in respect of treating a Transferring Client as a professional client will no longer apply and all such references shall be deleted and replaced by reference to the FCA's rules and the FCA's Conduct of Business Sourcebook.

5.5 Compensation Arrangements

On and with effect from each Relevant Date, Transferring Client Agreements will be amended to delete references to the Belgian deposit and investor protection scheme via the Protection Fund for Deposits and Financial Instruments (for financial instruments) and the Guarantee Fund (for deposits) which will be replaced by the UK's Financial Services Compensation Scheme.

5.6 Disclosure and notifications in relation to Customer Securities and Cash

On and with effect from each Relevant Date, Transferring Client Agreements will be amended to include terms and conditions to reflect the following regulatory requirements (under CASS, MiFID II and other legal and regulatory requirements that will apply to the Transferee in respect of the Transferring Business) that the Transferee will be required:

- 5.6.1 to notify a Transferring Client of how securities held by the Transferee are to be segregated by the Transferee;
- 5.6.2 to make disclosures relating to (i) securities or cash being placed by the Transferee with a third party; (ii) the Transferee's responsibility under the applicable national law for any acts or omissions of the third party; and (iii) the consequences for the Transferring Client in the event of a third party's insolvency;
- 5.6.3 to notify a Transferring Client that a sub-custodian or depository may have a security interest or a lien over, or a right of set-off in relation to the Transferring Client's securities or other entitlements held at a sub-custodian or depository;
- 5.6.4 to disclose that the Transferring Client's securities may be held in an omnibus securities account, that the settlement of securities trades will be operated within an omnibus structure, a description of the operation of the omnibus account structure and the consequences of its use;
- 5.6.5 to notify a Transferring Client of the process and details of how the legal title to the Transferring Client's securities may be registered;
- 5.6.6 to notify a Transferring Client that accounts held outside of the European Economic Area may be subject to the law of a jurisdiction other than that of a European Economic Area Member State and therefore, rights may differ accordingly; and
- 5.6.7 to provide a Transferring Client statements and specify the frequency and information to be contained in any such statement.

5.7 Disclosures as a London branch of a New York institution

On and with effect from each Relevant Date, Transferring Client Agreements will be amended to reflect that the Transferee is a New York state-chartered bank organised by a Special Act of the New York State Legislature and that the following terms and conditions shall be included in the Transferring Client Agreements:

- 5.7.1 requiring the Transferee to provide Transferring Clients with disclosures to meet the requirements of the Shareholders Communications Act of 1985; and
- 5.7.2 providing to Transferring Clients, the following supervisory and regulatory information about BNYM London, "The Bank of New York Mellon is supervised and regulated by the New York State Department of Financial Services and the Federal Reserve and authorised by the Prudential Regulation

Authority. The Bank of New York Mellon, London Branch is subject to regulation by the Financial Conduct Authority and limited regulation by the Prudential Regulation Authority. Details about the extent of our regulation by the Prudential Regulation Authority are available from us on request".

- 5.8 The variations to the terms and conditions of the Transferring Client Agreements referred to in paragraphs 5.1 to 5.7 above shall be made pursuant to the Scheme and not under and notwithstanding any right or purported right within such terms and conditions or any other related plans, rules or scheme to make such variations. No right of cancellation on transfer shall arise which could otherwise arise as a result of any variation pursuant to any right or purported right within such terms and conditions or any related plans, rules or scheme. Neither the Transferee nor the Transferor nor any director, officer, actuary, employee or other person for on behalf of the Transferor or the Transferee shall be obliged to issue a certificate, endorsement, notice, determination or any other document in relation to such variations, notwithstanding any purported obligation in the terms and conditions of the Transferring Client Agreements or any other related plans, rules or schemes to do so.

6. MISCELLANEOUS PROVISIONS

6.1 Effective Date

6.1.1 Subject to paragraph 6.1.2, this Scheme shall become operative in respect of a Transferring Client at 00.01 London time on the Relevant Date or such other time and date as may be specified in the Order and unless this Scheme shall have become operative in respect of any Transferring Client on or before 00.01 London time on 31 December 2018 or such later date as the Court may allow upon the application of the Transferor and the Transferee, this Scheme shall lapse.

6.1.2 Notwithstanding paragraph 6.1.1, this Scheme shall not become operative in respect of a Transferring Client on the relevant Effective Date unless:

- (a) in the event that the Court imposes any modification of or addition to this Scheme or any further condition or provision affecting the same, the Transferor and the Transferee consent to such modification, addition or condition; and
- (b) the requisite approvals from each of the Board of Governors of the Federal Reserve system in the United States, the NBB and the ECB have been received.

6.2 Effect of Scheme

6.2.1 Unless and to the extent otherwise provided in the Order, the transfer and vesting of any rights, benefits, liabilities and obligations under or in connection with any Transferring Client Agreement, Transferring Asset, Residual Asset, Transferring Liability or Residual Liability pursuant to this shall take effect and shall be valid and binding on all parties having any interest in the same notwithstanding any provision to the contrary in any agreement or arrangement with any person, including any restriction on

transferring, assigning or otherwise dealing with the same and whether or not the Transferor would, apart from the terms of this Scheme, have the capacity to effect the same and in particular shall not:

- (a) invalidate or discharge any contract, security or other thing; or
- (b) require any further registration notification or perfection step, which would not have been necessary had the transfer envisaged pursuant to the Scheme not taken place, in respect of any security or charge whether granted by the Transferor or any person (including any third party) (which includes any security interest including floating charges, security assignments, or other security interests); or
- (c) constitute a breach of, or default under, or require any obligation to be performed sooner or later than would otherwise be the case under any instrument or contract or arrangement to which the Transferor is a party or is bound; or
- (d) entitle any party to a contract or arrangement to which the Transferor is a party to terminate such contract or arrangement when, in the absence of this transfer, that party would not otherwise be entitled to terminate it; or
- (e) save as provided elsewhere in this Scheme, confer any greater or lesser rights or benefits, or impose any greater or lesser obligations, under a contract on any party to such contract to which the Transferor is a party where such greater or lesser rights, benefits or obligations would not otherwise have been conferred or imposed.

6.3 Data Protection

6.3.1 In this paragraph 6.3, terms not otherwise defined in this Scheme shall be construed in accordance with the definitions in the GDPR.

6.3.2 On and with effect from each Relevant Date and as between the Transferor and the Transferee, in respect of all personal data comprised in the Transferring Business in respect of which the Transferor was a controller or processor immediately before each Relevant Date:

- (a) the Transferee shall become a controller or processor (as the case may be) in place of the Transferor (unless the Transferor was a processor on behalf of the Transferee as controller, in which case the Transferor will cease to be a processor and the Transferee will remain as controller);
- (b) any information made available to, or consent obtained from, any data subject by or on behalf of the Transferor will be deemed to have been made available to or obtained from the data subject by the Transferee; and
- (c) any reference to the Transferor in any such information or consent will be deemed to include a reference to the Transferee and any reference to

the Transferor Group will be deemed to include a reference to the Transferee Group.

- 6.3.3 On and with effect from each Relevant Date, the records relating to that part of the Transferring Business attributable to a Transferring Client to which such Relevant Date applies, which may include personal data, shall be transferred to the Transferee and may be used by such Transferee (including any agent or contractor of the Transferee) to the same extent that such records were used by the relevant Transferor and its agents or contractors prior to each Relevant Date for all purposes in connection with the Transferring Business including, in particular, administration thereof and all matters relevant or incidental thereto. The processing of personal data pursuant to this paragraph 6.3 does not require the consent of the individual clients.
- 6.3.4 To the extent that an authority has been given to the Transferor in connection with the Transferring Business by the relevant Transferring Client thereof or by any other relevant person, whether pursuant to the GDPR or otherwise, such authority shall, on or after the Relevant Date that applies to such Transferring Client, be deemed to have been given to the Transferee.

6.4 Costs and Expenses

All costs and expenses relating to the preparation of the Scheme and application for the sanction of the Scheme, including the costs of counsel and complying with the Directions Order, shall be borne by the Transferee.

6.5 Modifications or Additions

- 6.5.1 The Transferee and the Transferor may consent for and on behalf of themselves, and may consent on behalf of all other persons concerned (other than the PRA or the FCA), to any amendment, modification or addition to this Scheme or to any further condition or provision affecting the Scheme which the Court may approve or impose prior to the sanction of this Scheme.
- 6.5.2 At any time after the sanction of this Scheme, in the case of any minor or technical amendment to the terms of this Scheme, or any amendment to correct any manifest error in its terms, the amendment may be made without the consent of the Court provided that the PRA and FCA shall have been notified of the proposed amendment and no objection is received by the Transferor or the Transferee from the PRA or FCA within 14 days of such notification.
- 6.5.3 At any time after sanction of this Scheme, the Transferee may vary the terms of this Scheme with the consent of the Court, including, without limitation, if at any time, the provisions of this Scheme, in the opinion of the Transferee, prove to be impossible, impracticable or inequitable to implement, provided that in any such case:
 - (a) the PRA and the FCA shall be notified of and have the right to be heard at any hearing of the Court at which such application is considered; and

- (b) to the extent any such variation affects any right, obligation or interest of the Transferor, the Transferor has consented thereto.

If such consent is granted, the Transferee may amend the terms of this Scheme in accordance with such consent.

6.6 Contracts (Rights of Third Parties) Act 1999

A person who is not party to the Scheme may not enforce any term of the Scheme pursuant to the Contracts (Rights of Third Parties) Act 1999.

6.7 Successors and Assigns

This Scheme will bind and enure to the benefit of the successors and assigns of each of the Transferee and the Transferor.

6.8 Governing Law

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

Dated this 26 day of June 2018.

SCHEDULE 1 INTERPRETATION

1. In this Scheme, unless inconsistent with the subject or context, the following expressions bear the meanings respectively set opposite them:

"Alternative Investment Services Business"

the business of providing:

- a) custody services (including the holding and safekeeping and administration of collateral, cash or other form of security) for those clients whose custody agreements are listed in Part A of Schedule 2 (by contract identification number) of the Scheme, pursuant to such custody agreements;
- b) other services related to or ancillary to the provision of such custody services to such clients,

in each case such services are provided in the capacity of BNYM's alternative investment services business which involves the provision of a full range of solutions for alternative investment managers (including real estate and private equity investment managers), including prime custody, fund accounting, client and regulatory reporting services and among other services, supporting exchange traded funds and unit investment trusts, providing fund administration, custody, basket creation and dissemination (i.e. facilitating the buying or selling of a group, or "basket", of securities simultaneously), authorized participant interaction (i.e. interaction with those approved institutions, known as authorized participants, who facilitate trades in exchange-traded funds (ETFs)) and order processing.

"Asset Servicing Business" the business of providing:

- a) custody services (including the holding and safekeeping and administration of collateral, cash or other form of security) for those clients whose custody agreements are listed in Part B of Schedule 2 (by contract identification number), pursuant to such custody agreements; and
- b) other services related to or ancillary to the provision of such custody services to such clients,

in each case such services are provided in the capacity of BNYM's asset servicing business which involves the provision of asset servicing solutions that include global custody, foreign exchange, global fund services, investment manager outsourcing, performance and risk

analytics and broker-dealer services (but excludes BNYM's alternative investment services business).

"Belgian Fungible Securities Rules"

- a) with respect to Belgian public debt securities, the Law of January 2, 1991 on the Market of Public Debt Securities and the Instruments of Monetary Policy, Articles 3 to 12;
- b) with respect to Treasury Paper issued by companies established in Belgium and Deposit Certificates issued by banks established in Belgium, the Law of July 22, 1991 on Treasury Paper and Deposit Certificates, Article 7, Paragraph 1;
- c) with respect to dematerialised shares or bonds issued by Belgian limited liability companies, the Belgian Companies Code, Articles 460 and 468 to 475; and
- d) with respect to all other negotiable financial instruments, Belgian as well as foreign, listed in article 2, 1° of the Law of 2 August 2002 on the supervision of the financial sector and on financial services, the Belgian Royal Decree 62.;

"BNYM London"

has the meaning given to it in paragraph 1.2.4;

"BNYM SA/NV London"

has the meaning given to it in paragraph 1.2.1;

"CASS"

has the meaning given to it in paragraph 5.3;

"Corporate Trust Business"

the business of providing:

- a) custody services (including the holding and safekeeping and administration of collateral, cash or other form of security) for those clients whose account numbers are listed in Part C of Schedule 2 pursuant to such custody agreements;
- b) account bank services (including maintaining various accounts including project and cash accounts, reserve and expense accounts) for those clients whose account numbers are listed in Part C of Schedule 2 pursuant to such account bank agreements; and
- c) other services related to or ancillary to the provision of such custody or account bank services (as applicable) to such clients,

in each case such services are provided in the capacity of

	BNYM's corporate trust business which involves the provision of issuer and related investor services, including trustee, paying agency, fiduciary, escrow, and other financial services.
"Court"	the High Court of Justice in England and Wales;
"ECB"	has the meaning given to it in paragraph 1.2.1;
"Effective Date"	in respect of a Transferring Client, the date on or after the date of the Order and before the Longstop Date which is notified to the Transferring Client as the date on which the Scheme is to become effective in respect of that particular Transferring Client;
"Encumbrance"	any charge, mortgage, pledge, security assignment, lien, option, restriction, right of first refusal, right of pre-emption, third party right or interest, any other encumbrance or security interest of any kind and any other type of preferential arrangement (including, without limitation, title transfer and retention agreements) having a similar effect;
"Excluded Tax Liabilities"	all liabilities to or in respect of taxation, duties and other imports which are attributable to the Transferring Business incurred prior to the Effective Date;
"FCA"	the Financial Conduct Authority of the United Kingdom or such other authority as shall from time to time carry out the functions carried out by it in the United Kingdom as at the date of this Scheme;
"Financial Services Compensation Scheme"	the Financial Services Compensation Scheme established under section 213 of FSMA;
"FSMA"	the Financial Services and Markets Act 2000;
"GDPR"	Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), taken together with (once it takes effect) the UK law which at the date of this Scheme exists as a bill under consideration by the UK Parliament and known as the "Data Protection Bill";
"Goodwill"	the goodwill of the relevant Transferring Business and the right for the Transferee to represent itself as operating the relevant Transferring Business in

	succession to the Transferor;
"Guarantee Fund"	the guarantee fund for financial services established by article 3 of the Royal Decree of 14 November 2008 executing anti-crisis measures of the law of 22 February 1998 fixing the organic status of the National Bank of Belgium in relation to the establishment of the guarantee fund for financial services;
"Longstop Date"	31 March 2019;
"MiFID I"	Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments;
"MiFID II"	Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments;
"NBB"	has the meaning given to it in paragraph 1.2.1;
"Order"	an order made by the Court pursuant to section 111(1) of FSMA sanctioning this Scheme and any order (including any subsequent order, which is ancillary thereto) in relation to this Scheme made by the Court pursuant to section 112 of FSMA;
"PRA "	the UK Prudential Regulation Authority or any UK successor regulator of insurance companies;
"Protection Fund for Deposits and Financial Instruments"	means the fund established for the protection of financial instruments established by the Law of 17 December 1998 establishing a protection fund for deposits and financial instruments and reorganising deposits and financial instruments protections schemes;
"Relevant Date"	in respect of: <ul style="list-style-type: none"> a) a Transferring Asset or Transferring Liability, the Effective Date or, if a Transferring Client has not been notified of an Effective Date in accordance with the terms of this Scheme, the Longstop Date; and b) a Residual Asset or Residual Liability, the applicable Subsequent Transfer Date;
"Residual Asset"	(1) any asset of the Transferor to be transferred to the Transferee pursuant to the Scheme as a Transferring Asset and any agreement relating to any such asset the transfer of which to the Transferee as at the relevant Effective Date, either:

- a) requires the consent of any person (other than the Transferee or the Court); or
- b) requires the waiver by any person of any right to acquire, to offer or be offered the right to acquire or to procure the acquisition by some other person of all or any part of such assets, in each case being a right which directly or indirectly arises or is exercisable as a consequence of such transfer being proposed or taking effect; or
- c) would result in a third party having a right to terminate an agreement with the Transferor or to claim compensation in damages or otherwise; and

in each case in respect of which the Court either (i) does not have jurisdiction to transfer pursuant to section 112 of FSMA; or (ii) which (despite having such jurisdiction) it determines, notwithstanding section 112 and 112A of FSMA, not to so transfer but in any case only to the extent of that part of the Transferor's interest in such assets in respect of which the transfer requires such consent and/or waiver or would result in such a right;

- (2) any other interest of the Transferor in any asset or agreement relating thereto, the transfer of which the Transferor and Transferee agree prior to the Effective Date is to be delayed;
- (3) any interest of the Transferor in any other assets which the Transferor and the Transferee agree prior to the Effective Date is more conveniently to be transferred pursuant to the Scheme in conjunction with such asset referred to in paragraphs (1) or (2) of this definition; and
- (4) any proceeds of sale or income or other accrual or return, earned on or received from time to time after the Effective Date in respect of any assets referred to in paragraphs (1), (2) or (3) of this definition;

"Residual Liability"

in relation to the Transferor, any Transferring Liabilities whatsoever of the Transferor:

- (1) that are attributable to or connected with a Residual Asset and arise at any time before the Subsequent Transfer Date applicable to that Residual Asset; or

- (2) the transfer of which to the Transferee requires, as at the Effective Date, the consent of any person (other than the Transferee or the Court) and in respect of which the Court declined to order the transfer pursuant to s112(2) of FSMA pending any impediment to its transfer being removed or overcome, or for any other reason;

"Scheme"

this Scheme in its original form or with, or subject to, any modification or addition thereto;

"Subsequent Transfer Date"

in relation to any Residual Asset or Residual Liability the date, following the relevant Effective Date or if relevant, the Longstop Date, on which such Residual Asset or Residual Liability is transferred to the Transferee, such date to be determined by:

- (a) in the case of any Residual Asset falling within paragraph (1) of the definition thereof, and of any Residual Liability which is attributable to or connected with that Residual Asset or which falls within paragraph (2) of the definition of Residual Liability, the date on which the requisite consent, or where applicable, the requisite waiver or requisite steps to enable the same to be transferred to the Transferee upon the terms of the Scheme is:
 - (i) obtained or
 - (ii) no longer required; or
 - (iii) dispensed with by the Court;
- (b) in the case of any Residual Asset falling within paragraph (2) of the definition thereof and of any Residual Liability which is attributable to or connected with that Residual Asset, the date agreed prior to the Relevant Date in writing by the Transferor and Transferee;
- (c) in the case of any Residual Asset falling within paragraph (3) of the definition thereof and of any Residual Liability which is attributable to or connected with that Residual Asset, the Subsequent Transfer Date applicable to the assets in conjunction with which it was determined to be a Residual Asset or Residual Liability; and
- (d) in the case of any Residual Asset falling within paragraph (4) of the definition thereof, the date

on which such Residual Asset is received or earned by the Transferor;

"Transferee"	has the meaning given to it in paragraph 1.2.4;
"Transferee Entity"	has the meaning given to it in paragraph 3.2.1;
"Transferee Group"	the Transferee and any undertaking which is, at the relevant time a subsidiary undertaking or parent undertaking of the Transferee or a subsidiary undertaking of a parent undertaking of the Transferee;
"Transferor"	has the meaning given to it in paragraph 1.2.1;
"Transferor Entity"	has the meaning given to it in paragraph 3.2.1;
"Transferor Group"	the Transferor and any undertaking which is, at the relevant time a subsidiary undertaking or parent undertaking of the Transferor or a subsidiary undertaking of a parent undertaking of the Transferor;
"Transferring Alternative Investment Services Assets"	<p>all assets and property of the Transferor comprised in or relating to the Alternative Investment Services Business including (without limitation):</p> <ul style="list-style-type: none">a) all rights, benefits and powers of the Transferor under or by virtue of the Transferring Alternative Investment Services Client Agreements;b) all rights and claims (present or future, actual or contingent) of the Transferor against any third party in relation to the Alternative Investment Services Business or arising as a result of the Transferor having carried on the Alternative Investment Services Business; andc) Goodwill, <p>except in relation to the Residual Assets until the Subsequent Transfer Date (if any);</p>
"Transferring Alternative Investment Services Client Accounts"	in respect of any Transferring Alternative Investment Services Client, all accounts (including securities and cash accounts) held by the Transferor on behalf of that Transferring Alternative Investment Services Client which are attributable to the relevant Transferring Alternative Investment Services Client Agreement;
"Transferring Alternative Investment Services"	those clients whose global custody agreements are listed in Part A of Schedule 2 (by contract identification

Clients"	number);
"Transferring Alternative Investment Services Client Agreements"	<p>a) those global custody agreements, the identification numbers of which are listed in Part A of Schedule 2; and</p> <p>b) all other contracts, commitments, engagements, undertakings, arrangements, mandates and agreements entered into (or purported to be entered into) made by or on behalf of the Transferor with any Transferring Alternative Investment Services Client which are attributable to the Alternative Investment Services Business;</p>
"Transferring Alternative Investment Liabilities"	<p>all obligations and liabilities of the Transferor comprised in or relating to the Alternative Investment Services Business (but excluding the Excluded Tax Liabilities) including (without limitation):</p> <p>a) all obligations, liabilities and commitments of the Transferor under or by virtue of the Transferring Alternative Investment Services Client Agreements;</p> <p>b) all liabilities (present or future, actual or contingent) of the Transferor in relation to any third party in relation to the Alternative Investment Services Business or arising as a result of the Transferor having carried on the Alternative Investment Services Business,</p> <p>except in relation to the Residual Assets until the Subsequent Transfer Date (if any);</p>
"Transferring Assets"	the Transferring Alternative Investment Services Assets, the Transferring Asset Servicing Assets and the Transferring Corporate Trust Assets;
"Transferring Asset Servicing Assets"	<p>all assets and property of the Transferor comprised in or relating to the Asset Servicing Business including (without limitation):</p> <p>a) all rights, benefits and powers of the Transferor under or by virtue of the Transferring Asset Servicing Client Agreements;</p> <p>b) all rights and claims (present or future, actual or contingent) of the Transferor against any third party in relation to the Asset Servicing Business or arising as a result of the Transferor having carried on the Asset Servicing Business;</p>

	<p>c) Goodwill,</p> <p>except in relation to the Residual Assets until the Subsequent Transfer Date (if any);</p>
"Transferring Asset Servicing Client Accounts"	<p>in respect of any Transferring Asset Servicing Client, all accounts (including securities and cash accounts) held by the Transferor on behalf of that Transferring Asset Servicing Client which are attributable to the relevant Asset Servicing Client Agreement;</p>
"Transferring Asset Servicing Clients"	<p>those clients whose global custody agreements are listed in Part B of Schedule 2 (by contract identification number);</p>
"Transferring Asset Servicing Client Agreements"	<p>a) those global custody agreements, the identification numbers of which are listed in Part B of Schedule 2; and</p> <p>b) all other contracts, commitments, engagements, undertakings, arrangements, mandates and agreements entered into (or purported to be entered into) made by or on behalf of the Transferor with any Transferring Asset Servicing Client which are attributable to the Asset Servicing Business;</p>
"Transferring Asset Servicing Liabilities"	<p>all obligations and liabilities of the Transferor comprised in or relating to the Asset Servicing Business (but excluding the Excluded Tax Liabilities) including (without limitation):</p> <p>a) all obligations, liabilities and commitments of the Transferor under or by virtue of the Transferring Asset Servicing Client Agreements;</p> <p>b) all liabilities (present or future, actual or contingent) of the Transferor in relation to any third party in relation to the Asset Servicing Business or arising as a result of the Transferor having carried on the Asset Servicing Business,</p> <p>except in relation to the Residual Assets until the Subsequent Transfer Date (if any);</p>
"Transferring Business"	<p>shall mean the Alternative Investment Services Business, the Asset Servicing Business and the Corporate Trust Business;</p>
"Transferring Client"	<p>the Transferring Alternative Investment Services Client Accounts, the Transferring Asset Servicing Client</p>

Accounts"	Accounts and the Transferring Corporate Trust Client Accounts;
"Transferring Client Agreements"	the Transferring Alternative Investment Services Client Agreements, the Transferring Asset Servicing Client Agreements and the Transferring Corporate Trust Client Agreements;
"Transferring Clients"	the Transferring Alternative Investment Services Clients, the Transferring Asset Servicing Clients and the Transferring Corporate Trust Clients;
"Transferring Corporate Trust Assets"	<p>all assets and property of the Transferor comprised in or relating to the Corporate Trust Business including (without limitation):</p> <ul style="list-style-type: none"> a) all rights, benefits and powers of the Transferor under or by virtue of the Transferring Corporate Trust Client Agreements; b) all rights and claims (present or future, actual or contingent) of the Transferor against any third party in relation to the Corporate Trust Business or arising as a result of the Transferor having carried on the Corporate Trust Business; and c) Goodwill, <p>except in relation to the Residual Assets until the Subsequent Transfer Date (if any);</p>
"Transferring Corporate Trust Client Accounts"	in respect of any Transferring Corporate Trust Client, all accounts (including securities and cash accounts) held by the Transferor on behalf of that Transferring Corporate Trust Client which are attributable to the relevant Transferring Corporate Trust Client Agreement;
"Transferring Corporate Trust Clients"	those clients whose account numbers are listed in Part C of Schedule 2;
"Transferring Corporate Trust Client Agreements"	<ul style="list-style-type: none"> a) those custody agreements and account bank agreements which are attributable to the Transferring Corporate Trust Clients; and b) all other contracts, commitments, engagements, undertakings, arrangements, mandates and agreements entered into (or purported to be entered into) made by or on behalf of the Transferor with any Transferring Corporate Trust Client which are attributable to the Corporate Trust Business;

"Transferring Corporate Trust Liabilities"	<p>all obligations and liabilities of the Transferor comprised in or relating to the Corporate Trust Business (but excluding the Excluded Tax Liabilities) including (without limitation):</p> <ul style="list-style-type: none"> a) all obligations, liabilities and commitments of the Transferor under or by virtue of the Transferring Corporate Trust Client Agreements; b) all liabilities (present or future, actual or contingent) of the Transferor in relation to any third party in relation to the Corporate Trust Business or arising as a result of the Transferor having carried on the Corporate Trust Business, <p>except in relation to the Residual Assets until the Subsequent Transfer Date (if any);</p>
"Transferring Liabilities"	<p>means the Transferring Alternative Investment Liabilities, the Transferring Asset Servicing Liabilities and the Transferring Corporate Trust Liabilities;</p>
"UK"	<p>the United Kingdom of Great Britain and Northern Ireland.</p>

2. In this Scheme:
 - 2.1 **"property"** and **"asset"** include (without limitation) property, assets, rights (including, without limitation, contingent rights as to the repayment of tax) and powers of every description (whether present or future, actual or contingent) and includes property held on trust and securities, benefits, powers of any description and any interest whatsoever in any of the foregoing;
 - 2.2 **"liabilities"** includes (without limitation) duties and obligations of every description (whether present or future, actual or contingent);
 - 2.3 **"transfer"** includes (as the context may require) "assign", "assignment" and "assignment", "dispose", "disposal", "novate", "novation", "convey" and "conveyance";
 - 2.4 any reference to the singular shall include a reference to the plural and vice versa and any reference to the masculine shall include a reference to the feminine;
 - 2.5 any reference in this Scheme to an enactment, a statutory provision or any subordinate legislation shall be deemed to include a reference to that enactment, statutory provision or subordinate legislation as amended, replaced or re-enacted from time to time and to any instrument or order made from time to time under such enactment, statutory provision or subordinate legislation;

- 2.6 expressions used in this Scheme which have meanings under FSMA shall bear those meanings unless otherwise expressly defined herein;
- 2.7 any reference to this Scheme shall include the Schedules to it and (unless inconsistent with the subject or context) references in this Scheme to paragraphs, parts or Schedules are to paragraphs of, parts of or the Schedules to this Scheme; and
- 2.8 any reference to writing shall include any mode of reproducing words in a legible and non-transitory form.

**SCHEDULE 2
TRANSFERRING CLIENTS**

**PART A
ALTERNATIVE INVESTMENT SERVICES**

Contract Identification Number	LOB
1001442	AIS
1004826	AIS
1004827	AIS
1004829	AIS
1004830	AIS
1004831	AIS
1004835	AIS
1004891	AIS
1004897	AIS
1004902	AIS
1004916	AIS
1005020	AIS
1005021	AIS
1005022	AIS
1005646	AIS
1005650	AIS
1005869	AIS
1005886	AIS
1005887	AIS
1005892	AIS
1005951	AIS
1005953	AIS
1006108	AIS
1006135	AIS
1006611	AIS
1006699	AIS
1006785	AIS
1006846	AIS

**PART B
ASSET SERVICING**

Contract Identification Number	LOB
1000161	AS
1000228	AS
1000409	AS
1000587	AS
1000592	AS
1000669	AS
1000676	AS
1000683	AS
1000685	AS
1000726	AS
1000754	AS
1000789	AS
1000803	AS
1000805	AS
1000806	AS
1000807	AS
1000816	AS
1000830	AS
1000832	AS
1000835	AS
1000836	AS
1000841	AS
1000855	AS
1000856	AS
1000858	AS
1000876	AS
1000976	AS
1000994	AS
1001003	AS
1001004	AS
1001012	AS
1001016	AS
1001017	AS
1001050	AS
1001066	AS
1001071	AS
1001083	AS
1001104	AS
1001105	AS
1001133	AS

1001145	AS
1001149	AS
1001168	AS
1001172	AS
1001191	AS
1001268	AS
1001276	AS
1001281	AS
1001290	AS
1001292	AS
1001314	AS
1001316	AS
1001317	AS
1001318	AS
1001394	AS
1001395	AS
1001399	AS
1001413	AS
1001418	AS
1001424	AS
1001429	AS
1001430	AS
1001431	AS
1001432	AS
1001433	AS
1001435	AS
1001436	AS
1001444	AS
1001485	AS
1001502	AS
1001508	AS
1001580	AS
1001581	AS
1001598	AS
1001599	AS
1001600	AS
1001623	AS
1001625	AS
1001626	AS
1001638	AS
1001699	AS
1001702	AS
1001704	AS
1001705	AS

1001710	AS
1001908	AS
1001986	AS
1002144	AS
1002524	AS
1002553	AS
1002560	AS
1002607	AS
1002622	AS
1002628	AS
1002633	AS
1002643	AS
1002674	AS
1002757	AS
1002815	AS
1002901	AS
1002904	AS
1002982	AS
1002983	AS
1003095	AS
1003096	AS
1003097	AS
1003099	AS
1003104	AS
1003105	AS
1003106	AS
1003108	AS
1003110	AS
1003146	AS
1003147	AS
1003148	AS
1003149	AS
1003150	AS
1003151	AS
1003156	AS
1003191	AS
1003192	AS
1003193	AS
1003194	AS
1003195	AS
1003196	AS
1003199	AS
1003230	AS
1003231	AS

1003232	AS
1003234	AS
1003237	AS
1003238	AS
1003242	AS
1003249	AS
1003251	AS
1003252	AS
1003253	AS
1003255	AS
1003256	AS
1003258	AS
1003259	AS
1003260	AS
1003263	AS
1003365	AS
1003366	AS
1003367	AS
1003368	AS
1003369	AS
1003371	AS
1003400	AS
1003418	AS
1003424	AS
1003519	AS
1003665	AS
1003702	AS
1003726	AS
1003880	AS
1003886	AS
1001010	AS
1001302	AS
1001303	AS
1001441	AS
1001484	AS
1001618	AS

**PART C
CORPORATE TRUST**

Account Number	LOB
2451	CT
3046	CT
3076	CT
4060	CT
6049	CT
6527	CT
6546	CT
6595	CT
6668	CT
6734	CT
6754	CT
7316	CT
7430	CT
8959	CT
9335	CT
11577	CT
12201	CT
13169	CT
13176	CT
13181	CT
13183	CT
13187	CT
13189	CT
13190	CT

13191	CT
13194	CT
13195	CT
13196	CT
13197	CT
13200	CT
13201	CT
13202	CT
13378	CT
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SCHEDULE 2

Scheme Summary

Transfer of part of the Banking Business of The Bank of New York Mellon SA/NV to The Bank of New York Mellon

Scheme Summary

1. INTRODUCTION

- 1.1 The Bank of New York Mellon SA/NV (the "**Transferor**") has agreed to transfer certain parts of its alternative investment, asset servicing and corporate trust business (including the accepting of deposits) (the "**Transferring Business**") to the Bank of New York Mellon (the "**Transferee**") (the "**Transfer**"). The Transferring Business is currently run by the London Branch of the Transferor. It is proposed that the Transferring Business be transferred to the Transferee which will carry on the Transferring Business from its London branch.
- 1.2 The Transfer will be effected by way of a scheme under Part VII of the UK Financial Services and Markets Act 2000 ("**FSMA**") (the "**Scheme**"). This document provides a summary of the terms of the Scheme as required by Regulation 5(4) of the Financial Services and Markets Act 2000 (Control of Business Transfers) (Requirements on Applicants) Regulations 2001. The information in this document is only a summary of the Transfer and the Scheme.

2. EFFECT OF THE SCHEME

Transfer of the Business

- 2.1 Each of the clients that will transfer as part of the Transferring Business (each a "**Transferring Client**") will no longer be a client of the London branch of the Transferor and will become a client of the London branch of the Transferee and their relevant agreements with the London branch of the Transferor in respect of the Transferring Business ("**Transferring Client Agreements**") will transfer to the London branch of the Transferee as of, for a Transferring Asset or Transferring Liability, the Effective Date notified individually during the Transfer Period to each Transferring Client or if a Transferring Client has not been notified of an Effective Date in accordance with the terms of the Scheme, the Longstop Date and for a Residual Asset or a Residual Liability, the applicable Subsequent Transfer Date (the "**Relevant Date**"). At each Relevant Date all the relevant rights and obligations of the Transferor in relation to the relevant tranche of the Transferring Business will automatically transfer to the Transferee. This means that the Transferee will be responsible for any obligations that were previously obligations of the Transferor from the Relevant Date in relation to that tranche of the Transferring Business.

References and Terms and Conditions of Transferring Agreements

- 2.2 It is also necessary to change the terms and conditions of the agreements relating to the Transferring Business in order to reflect the fact that Transferring Clients will no longer be clients of the Transferor and will become clients of the Transferee as of the Relevant Date. These changes are set out at a high level below and set out in greater detail in the Scheme.

- 2.3 References in the terms and conditions of the agreements relating to the relevant tranche of the Transferring Business to the Transferor, its location, directors, officers, representatives or employees will, from the Relevant Date, take effect as if they were references to the Transferee, its location, directors, officers, representatives or employees.
- 2.4 On and with effect from each Relevant Date, Transferring Client Agreements will be amended to reflect that:
- 2.4.1 the Belgian Fungible Securities Rules will no longer apply and references to the Belgian Fungible Securities Rules shall be deleted and any terms and conditions stating that underlying clients of the Transferring Clients may have claims against the Transferor in relation to the assets as provided under the Belgian Fungible Securities Rules shall be deleted; and
- 2.4.2 the Belgian Royal Decree of 3 June 2007, being the main Belgian legislation implementing Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments, or other relevant Belgian law, regulation or rule in respect of treating a Transferring Client as a professional client will no longer apply and all such references shall be deleted and replaced by reference to the Financial Conduct Authority's (the "FCA") rules and the FCA's Conduct of Business Sourcebook.
- 2.5 On and with effect from each Relevant Date, Transferring Client Agreements will be amended to delete references to the Belgian deposit and investor protection scheme via the Protection Fund for Deposits and Financial Instruments (for financial instruments) and the Guarantee Fund (for deposits) which will be replaced by the UK's Financial Services Compensation Scheme.

Mandates and Other Instructions

- 2.6 Any mandate or other instruction, for example an instruction to a bank in the form of a direct debit, which is in force on the Relevant Date in respect of the relevant tranche of the Transferring Business and provides for payment to be made to the Transferor will, from the Relevant Date, take effect as if it provided for payment to be made to the Transferee.
- 2.7 Any mandate or other instruction which is in force on the Relevant Date in respect of the relevant tranche of the Transferring Business and which relates to the manner of payment of any amount by the Transferor will, from the Relevant Date, continue in force as an effective authority to the Transferee.

Continuity of Proceedings

- 2.8 Any proceedings brought by or against the Transferor in connection with the relevant tranche of the Transferring Business will, from the Relevant Date, be continued with effect by or against the Transferee. Any defences, claims, counter-claims or rights of set-off that would have been available to the Transferor may be raised in such proceedings in favour of or against the Transferee.

- 2.9 From and after the Transfer, all liabilities (present or future, actual or contingent) of the Transferor in relation to the Transferring Business, or which arise as a result of the Transferor carrying out the Transferring Business, shall transfer to the Transferee.

Effect of the Scheme

- 2.10 The Transfer shall take effect and shall be valid and binding on all parties having any interest in the same notwithstanding any provision to the contrary in any agreement or arrangement with any person, including any restriction on transferring, assigning or otherwise dealing with the same and whether or not the Transferor would, apart from the terms of this Scheme, have the capacity to effect the same and in particular shall not:
- 2.10.1 invalidate or discharge any contract, security or other thing; or
 - 2.10.2 require any further registration notification or perfection step, which would not have been necessary had the transfer envisaged pursuant to the Scheme not taken place, in respect of any security or charge whether granted by the Transferor or any person (including any third party) (which includes any security interest including floating charges, security assignments, or other security interests; or
 - 2.10.3 constitute a breach of, or default under, or require any obligation to be performed sooner or later than would otherwise be the case under any instrument or contract or arrangement to which the Transferor is a party or is bound; or
 - 2.10.4 entitle any party to a contract or arrangement to which the Transferor is a party to terminate such contract or arrangement; or
 - 2.10.5 confer any greater or lesser rights or benefits, or impose any greater or lesser obligations, under a contract to which the Transferor is party.

Data Protection

- 2.11 On each Relevant Date the records relating to the relevant tranche of the Transferring Business, which may include personal data, will transfer to the Transferee.
- 2.12 From the Relevant Date, the Transferor will cease to be a controller or processor (as relevant) in respect of all personal data relating to the relevant tranche of the Transferring Business and the Transferee will become a controller or processor (as relevant) instead.

3. COSTS AND EXPENSES

All costs and expenses related to the preparation of the Scheme and the related High Court of Justice of England and Wales ("**Court**") process will be borne by the Transferee and not by Transferring Clients.

4. **AMENDMENTS TO THE SCHEME**

- 4.1 The Court may amend the Scheme before approving it. Any such amendment must be agreed to by both the Transferor and the Transferee.
- 4.2 After the Court has approved the Scheme minor or technical amendments to the terms of the Scheme, or any amendment to correct any manifest error in its terms, may be made without the consent of the Court provided that the Prudential Regulation Authority ("**PRA**") and FCA shall have been notified of the proposed amendment and no objection is received by the Transferor or the Transferee from the PRA or FCA within 14 days of such notification.
- 4.3 After the Court has approved the Scheme the Transferee can make changes to the Scheme with the consent of the Court, the FCA and the PRA. If the proposed changes to the Scheme affects the rights, obligations or interests of the Transferor then the Transferor must also consent before the change can be made.

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

No. CR-2018-000104

IN THE MATTER OF

THE BANK OF NEW YORK MELLON
SA/NV

-and-

IN THE MATTER OF

THE BANK OF NEW YORK MELLON

-and-

IN THE MATTER OF PART VII OF

THE FINANCIAL SERVICES AND
MARKETS ACT 2000

ORDER

CLIFFORD CHANCE LLP

Solicitors for the Applicants

10 Upper Bank Street

London, E14 5JJ

Tel: 020 7006 1000

Fax: 020 7006 5555

70-40644845