

Explanatory Statement setting out the terms of the proposed scheme for the transfer of the banking businesses of Lloyds Bank Private Banking Limited and Scottish Widows Bank plc to Lloyds Bank plc.

1. OVERVIEW

- 1.1 Lloyds Bank Private Banking Limited ("**LBPB**") and Scottish Widows Bank plc ("**SWB**") (together the "**Transferors**") propose to transfer their banking businesses to Lloyds Bank plc (the "**Transferee**" and together with the Transferors, the "**Parties**") (the "**Transfer**") by means of a banking business transfer scheme (the "**Scheme**") under Part VII of the Financial Services and Markets Act 2000 ("**FSMA**").
- 1.2 The terms of the Transfer are set out in the banking business transfer scheme document which has been submitted to the High Court of England and Wales (the "**Court**") for approval under FSMA.
- 1.3 This Explanatory Statement provides details 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.
- 1.4 Further information about the Scheme and the other key Scheme documents can be obtained from www.scottishwidows.co.uk/banktransfer and www.lloydsbank.com/privatebankingtransfer or from the telephone number set out at the end of this Explanatory Statement.

2. PROCESS

- 2.1 To become effective, the Scheme requires the sanction of the Court. It is anticipated that the final Court hearing to sanction the Scheme (the "**Final Hearing**") will be held on 12 September 2017. The Court process has been initiated by an application to the Court (the "**Application**") and involved an initial Court hearing at which the Court made provision for various procedural matters. At the Final Hearing the Court will consider and, if thought fit, sanction the Scheme. The Financial Conduct Authority (the "**FCA**") and Prudential Regulation Authority ("**PRA**") (together the "**Regulators**") are entitled to appear at the Final Hearing and the Transferors and the Transferee have been liaising closely with the Regulators as part of the Scheme process.
- 2.2 Other procedural requirements, which must be met between the date of the Application and the Final Hearing, are as follows:
 - 2.2.1 the Parties must publish a notice stating that the Application has been made. This notice has been approved by the PRA and it is intended that it will be published in the London, Edinburgh and Belfast Gazettes, and in the Times, the Daily Telegraph and the Financial Times.
 - 2.2.2 the Parties must provide the FCA and PRA with copies of the Application and this Explanatory Statement; and
 - 2.2.3 the Transferee must obtain from the PRA a certificate of adequacy of financial resources, and must have the requisite regulatory authorisations to carry on the transferred business.
- 2.3 Any person (including any customer or employee of a Transferor or any customer or employee of the Transferee) who claims that they will be adversely affected by the carrying out of the Scheme is entitled to be heard by the Court or make representations in writing to it, as are the Regulators. Any such person who wishes to attend the Final Hearing or wishes to instruct a barrister or solicitor advocate, at their own cost, to attend the Final

Hearing and make representations on their behalf or who wishes to make a written representation to the Court is requested to give notice in writing of their intentions and their objections, as soon as possible and preferably by close of business on 5 September 2017, to: Herbert Smith Freehills LLP (Reference: 13074/6489), Exchange House, Primrose St, London, EC2A 2EG or by email to BLC@hsf.com.

3. **EFFECTIVE DATE OF THE SCHEME**

It is intended that the Scheme will become effective in accordance with the order of the Court at 00.01 a.m. on 1 October 2017 or on such other time and date as the Transferors and the Transferee may agree (the "**Effective Date**"). Unless the Scheme becomes operative in its entirety on or before 11.59 p.m. on 31 January 2018 or such later date and/or time, if any, as the Court may allow upon the application of the Transferors and the Transferee, it shall lapse.

4. **THE BUSINESS**

The business to be transferred pursuant to the Scheme (the "**Business**") consists of the whole of the businesses of LBPB and SWB carried on as at the Effective Date and includes the LBPB Customer Accounts, the SWB Customer Accounts (as defined in the Scheme), and (i) all activities carried on in connection with or for the purposes of such businesses (ii) all rights, undertakings and assets used in, or relating to, such businesses and (iii) all liabilities of whatever nature relating to such businesses;

5. **EFFECT OF THE TRANSFER CONTRACTS**

5.1 Except as provided in the Scheme, every contract in respect of the Business shall have effect on and from the Effective Date as if the contract had been made with the Transferee instead of the relevant Transferor and in respect of anything falling to be done after the Effective Date, a reference to the Transferee shall be substituted in place of a reference to the relevant Transferor (with any reference to a Transferor group being construed and taking effect as a reference to the Transferee group).

5.2 The Transfer under the Scheme will not:

- 5.2.1 invalidate or discharge any contract (whether with a customer or with a third party);
- 5.2.2 allow any party to a contract to terminate the contract when it would otherwise not have been able to terminate it;
- 5.2.3 entitle any party to any contract to modify the terms of the contract when that party would not otherwise have been able to modify those terms; or
- 5.2.4 except as specifically provided in the Scheme, confer any greater or lesser rights or benefits or impose any greater or lesser obligations on any party to a contract to which a Transferor is party when that greater or lesser obligation would not otherwise have been imposed.

6. **ACCOUNTS AND MORTGAGES**

6.1 Any customer account with a Transferor in respect of the Business shall become an account between the Transferee and that customer and subject to the same terms and conditions.

6.2 Similarly, any mortgage loans made to any mortgage customer by a Transferor in respect of the Business shall become loans made between the Transferee and that mortgage customer, and the Transferee will have all rights, powers, remedies and priority in relation to any other lenders to that mortgage customer as the relevant Transferor.

7. **SECURITY**

Any security in respect of the Business held by a Transferor or by a nominee, agent or trustee for a Transferor, as security for the payment or discharge of any liability shall on and from the date of the transfer be held by the Transferee or as the case may be by a nominee, agent or trustee for the Transferee, and be available to the Transferee as security for the payment or discharge of any such liability.

8. **INSTRUCTIONS AND AUTHORITIES**

Any existing direct debit instruction, standing order, direction, mandate, power of attorney, authority, declaration or consent given to or by a Transferor in respect of the Business shall have effect on and from the Effective Date as if given to, or as the case may be, by the Transferee.

9. **EXERCISE OF CERTAIN CONTRACTUAL RIGHTS BY THE TRANSFEEE**

In certain circumstances, the Scheme imposes specific restrictions on the exercise of contractual rights by the Transferee, if the Transferee becomes entitled to exercise such rights as a result of the transfers made pursuant to the Scheme. These restrictions are described in paragraphs 10 to 14 below.

10. **SET-OFF RIGHTS**

10.1 A set-off right is the right of a bank, in certain circumstances, to use money deposited with it (such as in a current account or savings account) against a debt the same customer has with it (such as a loan or mortgage) that becomes repayable. For example, if a customer had both a savings account and mortgage with a Transferor, and fell behind with the mortgage payments, then money in the savings account could be used to repay the arrears on the mortgage.

10.2 The Scheme will state that after the Transfer, where a customer has (i) in the case of paragraph 10.2.1, a current or savings account with a Transferor and a mortgage or loan with the Transferee; and (ii) in the case of paragraph 10.2.2, a current or savings account with the Transferee and a mortgage or loan with a Transferor, the Transferee will not be able to:

10.2.1 use money deposited in such savings or current accounts transferred to it from the relevant Transferor as part of the Transfer to pay debts on any such existing mortgages or loans with the Transferee; or

10.2.2 use money deposited in such existing savings or current accounts with the Transferee to pay debts on mortgages or loans transferred to it from the relevant Transferor as part of the Transfer.

10.3 The restrictions referred to in paragraph 10.2 will last until the date that is 12 months after the date of the transfer, except in relation to deposits made for a fixed term or which are subject to a promotional rate if the deposit is maintained for a certain period, in which case the restrictions will last until 3 months after the end of that fixed term or the promotional period or, if later, the date that falls 12 months after the date that the relevant accounts are transferred.

11. **CROSS-DEFAULT RIGHTS**

11.1 The effect of a "cross-default" clause is that a customer will be deemed to be in breach of the terms and conditions relating to their account if that customer is also in breach of other terms they have with the bank. This may give rise to a right of early termination or a right to demand early repayment of any sum due to the bank.

11.2 The Scheme will state that, after the Transfer, the Transferee will not be entitled to apply any cross-default rights which might otherwise be exercisable by the Transferee as a result of the Scheme to accelerate or alter any rights or obligations:

11.2.1 under any existing Transferee agreement, as a result of the breach of any customer contract transferred from a Transferor as part of the Transfer; or

11.2.2 under any customer contract transferred from a Transferor as part of the Transfer, as a result of the breach of any existing Transferee agreement.

12. **ALL MONIES RIGHTS**

12.1 An "all monies" clause is one which allows a mortgage or charge to be used as security for all debts owed to a bank, not just the relevant mortgage loan to which the all monies clause specifically relates. The Scheme will state that, after the Transfer, all monies clauses:

12.1.1 in existing Transferee agreements will not apply to debts arising from any customer contracts transferred from a Transferor as part of the Transfer; and

12.1.2 in any customer contracts transferred from a Transferor as part of the Transfer will not apply to existing debts owed under any existing Transferee agreements.

13. **CONSOLIDATION RIGHTS**

13.1 A "consolidation clause" is one which permits a mortgage lender to retain the security that has been granted to it pursuant to the relevant mortgage until all debts owed to the lender have been repaid, even if the mortgage loan has been repaid. The Scheme will state that, after the Transfer, such consolidation rights:

13.1.1 will not apply to prevent the release of the security under existing Transferee agreements until all repayment obligations have been satisfied under any lending transferred from a Transferor as part of the Transfer; or

13.1.2 will not apply to prevent the release of the security under any customer contracts transferred from a Transferor as part of the Transfer until all repayment obligations have been satisfied under any existing lending provided by Transferee.

14. **ENTIRE AGREEMENT CLAUSES**

14.1 Some customer agreements state that they apply to all accounts of a certain type that a customer holds with either a Transferor or the Transferee. The Scheme will provide that, from the date of transfer, those customer agreements will continue to apply to the same accounts as immediately prior to the Transfer so that:

14.1.1 accounts that have transferred to the Transferee from a Transferor will continue to be governed by the relevant Transferor customer agreement;

14.1.2 existing Transferee accounts will continue to be governed by the relevant Transferee customer agreement; and

14.1.3 the terms of new Transferee customer agreements that are entered into on or after the Transfer will only apply to accounts that have transferred to the Transferee from a Transferor if explicitly agreed in such new customer agreement.

15. **FINANCIAL SERVICES COMPENSATION SCHEME COVER**

- 15.1 The Transferors and the Transferee are covered by the Financial Services Compensation Scheme (FSCS), the UK's deposit protection scheme. After the Transfer eligible deposits held with the Transferee will continue to be protected up to a total of £85,000.
- 15.2 The FSCS can pay compensation to depositors if a bank is unable to meet its financial obligations. Eligible deposits are protected up to a total of £85,000. Any deposits customers that hold above the £85,000 limit are not covered above that amount. For joint accounts each account holder is eligible to claim a maximum of £85,000 (making a total of £170,000). The £85,000 limit relates to the combined balances for all eligible deposits with each of the Parties including a share of any joint account and does not relate to each separate account. For more information please refer to the FSCS website at www.fscs.org.uk.
- 15.3 If a customer currently holds a deposit with a Transferor (or both Transferors) and the Transferee, the Transfer may result in that customer holding a total deposit balance with the Transferee above the £85,000 FSCS limit (for joint account holders, above £170,000) (the "**FSCS Limit**"). In these circumstances that customer will have the opportunity until a period ending three months after the date that their deposits are transferred, to make a one-time withdrawal from the balance.
- 15.4 A customer will be able to reduce their total deposit balance (free of any charge, penalty, or loss of interest) from deposits held with either (or both) of the Transferors or the Transferee to the greater of (i) the FSCS Limit; or (ii) an amount which is equal to their deposit balance held with the Transferee immediately prior to the Transfer. This is so that customers' total amount of FSCS protected deposits is not reduced by the Transfer.

16. **DATA PROTECTION**

As part of the Transfer, all personal data obtained by each Transferor from its customers in respect of the Business will be disclosed to the Transferee who will become the data controller in respect of that data. The Transferee will use this data in order to administer the customer accounts that are included in the Business and references in any of the Transferors' data protection statements or consents should be construed as references to the Transferee.

17. **CONTINUITY OF PROCEEDINGS**

Any judicial, quasi-judicial, administrative proceedings or other proceedings for the resolution of a dispute or claim (whether implemented, pending, threatened or otherwise) by or against a Transferor in relation to the Business will be continued by or against the Transferee. The Transferee will also be entitled to all defences, claims, counterclaims and rights of set-off that would have been available to the relevant Transferor in any such proceedings.

18. **BUSINESS WHICH MAY BE TRANSFERRED AFTER THE EFFECTIVE DATE**

Any part of the Business that for any reason is not transferred on the Effective Date (for example, because the Court does not have jurisdiction to order its transfer) will be retained by the relevant Transferor but may be transferred to the Transferee subsequently ("**Residual Assets**" and "**Residual Liabilities**", with such later transfer date being a "**Subsequent Transfer Date**").

19. **INDEMNITY**

- 19.1 The Transferee shall discharge on each Transferor's behalf or, failing that, shall indemnify each Transferor against:
- 19.1.1 charges, liabilities, costs and claims arising in respect of all Transferred Assets and Transferred Liabilities (as defined in the Scheme) and all Residual Assets

and Residual Liabilities which are not, or are not capable of being, transferred by the Scheme until the relevant liability is transferred to or becomes a liability of the Transferee; and

- 19.1.2 any amount paid by each Transferor in respect of any liabilities of the relevant Transferor in respect of the Business that are, whether wholly or in part, the subject of a policy of indemnity insurance or a claim or right of recovery against a third party, but only to the extent that the relevant Transferor, having made a claim under such a policy or against such third party, shall have failed to recover any such amount pursuant to rights it may have under such policy, claim or right of recovery (having used all reasonable endeavours to do so).

20. AMENDMENTS TO THE SCHEME

- 20.1 The Transferors and the Transferee may apply jointly to any modification of or addition to the Scheme or to any further condition or provision affecting the Scheme which, prior to its sanction of the Scheme, the Court may approve or impose.
- 20.2 The Transferee can, at any time after the sanction of the Scheme by the Court, apply to the Court for consent to amend its terms, provided that, in any such case, each of the Regulators shall be notified of, and have the right to be heard at, any hearing of the Court at which such application is considered. If such consent is granted, the Transferee may amend the terms of this Scheme in accordance with such consent.
- 20.3 The consent of the Court shall not be required in relation to minor and/or technical amendments to the terms of this Scheme (including amendments to correct manifest errors) that are agreed by the Transferee and the Transferors provided that each of the Regulators has been notified of the same and has not objected thereto within 10 business days of such notification.

21. COSTS

The Transferors and the Transferee will be responsible for all costs of implementing the Scheme and customers will not bear any such costs.

22. GOVERNING LAW

The Scheme is governed by English law.

23. FURTHER INFORMATION

- 23.1 **This Explanatory Statement and the Scheme document contain important information.** A copy of the Scheme document itself is available from the following websites: www.scottishwidows.co.uk/banktransfer and www.lloydsbank.com/privatebankingtransfer and will be sent free of charge on request from the following telephone numbers:

23.1.1 for SWB customers: 0345 604 2006 (whether calling from the UK or abroad) (lines are open 8am to 6pm (UK time) Monday to Friday, except Wednesday when it's 10am to 6pm); or

23.1.2 for LBPB customers: 0345 603 4125 (whether calling from the UK or abroad) (lines are open 24 hours a day, 7 days a week).

or by writing to Herbert Smith Freehills LLP (Reference: 13074/6489) at the address below:

Herbert Smith Freehills LLP (Reference: 13074/6489)

Exchange House,
Primrose St,
London

EC2A 2EG

- 23.2 If you are in any doubt as to the meaning or import of the contents of this Explanatory Statement or the Scheme document, or if you require further advice, you are recommended to seek your own advice from your solicitor or other professional adviser immediately.
- 23.3 You can get this in Braille, large print or audio by calling us on the numbers above.