



(INCORPORATED IN SWITZERLAND)

Habib Bank AG Zurich

(Incorporated in Switzerland)

Established 1967

**Explanatory Statement setting out the terms
of the proposed scheme for the transfer of
the banking business of the UK branch of
Habib Bank AG Zurich to Habib AG Zurich UK
plc**

Valid from 16 December 2015

Explanatory Statement setting out the terms of the proposed scheme for the transfer of the banking business of the UK branch of Habib Bank AG Zurich ("HBZ") to Habib AG Zurich UK plc ("Habib UK")

1. Overview

- 1.1 HBZ proposes to transfer all products and services currently provided by the UK branch of HBZ (the "**HBZ Branch**") to personal, business banking customers, and some corporate accounts (the "**Transferring Business**"), to Habib UK (the "**Proposed 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 In order to simplify the regulatory oversight of the Transferring Business, The Financial Conduct Authority ("**FCA**") and Prudential Regulation Authority ("**PRA**") have requested that the Transferring Business be transferred to a UK authorised bank. In compliance with this request, HBZ has set up Habib UK as its subsidiary, which is authorised to accept deposits and to effect and carry out banking business in the UK. This Scheme is required to legally transfer the Transferring Business from HBZ to Habib UK, in a manner compliant with the requirements of FSMA.
- 1.3 The terms of the Proposed Transfer are set out in the banking business transfer scheme document (the "**Scheme Document**") which has been submitted to the High Court of England and Wales (the "**Court**") for approval, pursuant to Part VII of FSMA.
- 1.4 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.
- 1.5 A full list of all products that will transfer, subject to approval, can be found in the Scheme Document. Details of how to obtain copies of the Scheme Document, and other relevant documents, are 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 24 February 2016. 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 FCA and PRA are entitled to appear at the Final Hearing, and HBZ and Habib UK have been liaising closely with the FCA and PRA as part of the Scheme process.
- 2.2 Any person (including any customer or employee of HBZ) 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 is the FCA and the PRA. 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 in any event on or before 9 February 2016 to Project Subsidiary Team at the address provided at the end of this Explanatory Statement.

3. Effective Date of the Scheme

- 3.1 It is intended that the Scheme will become effective in accordance with the order of the Court on such date as HBZ and Habib UK may agree (the "**Effective Date**"). Such date is expected to be 1 April 2016. Unless the Scheme becomes effective by the later of (i) 00:01 of 1 April 2016; or (ii) such other time and/or date as the Court may allow on the application of HBZ and Habib UK, it will lapse.

4. The Transferring Business

- 4.1 HBZ is authorised and regulated by the Swiss Financial Market Supervisory Authority and operates in the UK through the HBZ Branch which is subject to limited regulation in the UK by the FCA and PRA. The principal business activities carried on by the HBZ Branch are in its key product areas of loans, overdrafts, trade finance, deposits, current accounts, foreign exchange and private banking products. Under the Scheme, the business of the HBZ Branch carried on in the UK, to the extent that it consists of the marketing, origination and operation of loans, overdrafts, trade finance, deposits, current accounts, foreign exchange, private banking products and any ancillary activities, and consisting of the "Transferring Assets" and "Transferring Liabilities" but excluding the "Excluded Assets" and "Excluded Liabilities"(each as defined in the Scheme Document) will be transferred to Habib UK.
- 4.2 The Transferring Business includes, in particular:
- 4.2.1 all savings deposits accepted by HBZ in respect of the Transferring Business; and
 - 4.2.2 all loan and mortgage facilities granted by HBZ, together with the benefit of all security granted to HBZ, in each case, in respect of the Transferring Business.

5. Effect of the Transfer

Contracts

- 5.1 Every contract within the Transferring Business (including "Customer Agreements" as defined in the Scheme Document) shall have effect on and from the Effective Date as if the contract had been made with Habib UK instead of HBZ, and in respect of anything falling to be done after the Effective Date, a reference to Habib UK shall be substituted in place of a reference to HBZ (with any reference to HBZ group being construed and taking effect as a reference to Habib UK 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 confer any greater or lesser rights or benefits or impose any greater or lesser obligations on any party to a contract to which HBZ is party when that greater or lesser obligation would not otherwise have been imposed.

Accounts and mortgages

- 5.3 Any account between HBZ and a customer in respect of the Transferring Business shall become an account between Habib UK and that customer and subject to the same terms and conditions.
- 5.4 Similarly, any mortgage loans made to any mortgage customer by HBZ in respect of the Transferring Business shall become loans made between Habib UK and that mortgage customer, and Habib UK will have all rights, powers, remedies and priority in relation to any other lenders to that mortgage customer as HBZ.

Security

- 5.5 Any security in respect of the Transferring Business held by HBZ or by a nominee, agent or trustee for HBZ, as security for the payment or discharge of any liability shall on and from the Transfer be held by Habib UK or as the case may be by a nominee, agent or trustee for Habib UK, and be available to Habib UK as security for the payment or discharge of any such liability.

Instructions and authorities

- 5.6 Any existing direct debit instruction, standing order, direction, mandate, power of attorney, authority, undertaking or consent given to or by HBZ in respect of the Transferring Business, shall have effect on and from the Effective Date as if given to, or as the case may be, by Habib UK.

6. Financial Services Compensation Scheme cover

- 6.1 Customers of the HBZ Branch are covered by the UK Financial Services Compensation Scheme (the "**FSCS**"). The FSCS provides most customers, including private individuals and small businesses (which includes companies, as long as they meet the "small company" criteria set out in the relevant Companies Act) with assurance that up to £85,000 of money deposited with an authorised deposit taker will be protected if the bank becomes unable to repay money deposited with it.
- 6.2 For joint accounts each account holder is treated as having a claim under the FSCS in respect of their share so, for a joint account held by two eligible depositors, the maximum amount that could be claimed under the FSCS would be £85,000 each (making a total of £170,000). The £85,000 limit relates to the combined amount in all the eligible depositor's accounts with the bank, including their share of any joint account, and not to each separate account.
- 6.3 As at 1 January 2016, due to changes in regulation, the maximum amount that could be claimed under the FSCS will be £75,000 each and £150,000 for joint accounts.
- 6.4 Following the implementation of the Scheme, all customers will benefit from the same level of protection as they currently enjoy under the FSCS, albeit the relevant authorised firm will be Habib UK rather than HBZ.

7. Data Protection

- 7.1 As part of the Proposed Transfer, all personal data obtained by HBZ from its customers, contacts and employees in respect of the Transferring Business will be disclosed to Habib UK

who will become the data controller in respect of that data. Habib UK will use this data in order to administer the customer accounts, enquiries and employment relationships that are included in the Transferring Business, and references in any of HBZ's data protection statements or consents should be construed as references to Habib UK.

Subject access requests

- 7.2 Where an individual has made a subject access request (under the Data Protection Act 1998 (the "DPA")) to HBZ in relation to the Transferring Business, which has not been actioned before the Effective Date, Habib UK will be able to treat the request as limited to a request for information held by HBZ before the Effective Date.

8. Continuity of proceedings

- 8.1 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 HBZ in relation to the Transferring Business and/or any Financial Ombudsman Services referrals will be continued by or against Habib UK. Habib UK will also be entitled to all defences, claims, counterclaims and rights of set-off that would have been available to HBZ in any such proceedings.

9. Business which may be transferred after the Effective Date

- 9.1 Any part of the Transferring 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 HBZ but may be transferred to Habib UK subsequently, in accordance with the terms of the Scheme Document.

10. Indemnity

- 10.1 From the Effective Date, Habib UK shall indemnify HBZ and each of its affiliates in respect of any liabilities which would otherwise have transferred to Habib UK under the Proposed Transfer, but which do not transfer for any reason. As from the date upon which such liabilities transfer following the Proposed Transfer, Habib UK shall assume and discharge those liabilities, and indemnify HBZ and each of its affiliates for any failure by Habib UK to discharge such liabilities, and any and all costs incurred by any of them as a result of any failure to discharge such liabilities.

11. Amendments to the Scheme

- 11.1 HBZ and Habib UK can apply jointly at any time before or after the Effective Date to the Court for any amendment, variation, modification or addition to the Scheme provided that, if such application is made after the sanction of the Scheme, the FCA and PRA shall be notified of, and have the right to be heard at, any hearing of the Court at which such application is considered.
- 11.2 At any time after the sanction of the Scheme, in the case of minor amendments, the amendment may be made without the consent of the Court provided that the FCA and PRA has been notified of the proposed amendment and no objection is received by HBZ or Habib UK from the FCA or PRA within 14 days of such notification.

12. Costs

12.1 HBZ and Habib UK will be responsible for all costs of implementing the Scheme and customers will not bear any such costs.

13. Governing law

13.1 The Scheme is governed by English law.

14. Further information

14.1 This Explanatory Statement and the Scheme Document contain important information. Further information, including the Scheme Document, is available on our website at <http://www.habibbank.com/>.

14.2 You can request free copies of any of the relevant documents or ask any further questions you may have by calling us on 020 7452 0205 / 020 7452 0320. Phone lines are open from 0930 to 1630 and we would be pleased to help. Alternatively, you can request free copies of any of the relevant documents or ask further questions by writing to us at Transfer Team, Habib Bank AG Zurich, Habib House, 42 Moorgate, London, United Kingdom, EC2R 6JJ, or by emailing us at habibuk.subsidiary@habibbank.com.

14.3 If you wish to notify us of your intention to object to the Proposed Transfer at the Final Hearing in person or through a legal representative, or do not intend to appear or be represented at the Final Hearing but nonetheless object to the Proposed Transfer, please write to Project Subsidiary Team at Habib Bank AG Zurich, Habib House, 42 Moorgate, London, United Kingdom, EC2R 6JJ, or by emailing us at habibuk.subsidiary@habibbank.com.

This document can be made available in Braille, large print or audio upon request, by contacting us at any of the postal or email addresses set out above, or by telephone.



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