
DRAFT STATUTORY INSTRUMENTS

2017 No.

The Risk Transformation Regulations 2017

PART 4

Protected Cell Companies

CHAPTER 2

Registration

SECTION 1

Obtaining registration

Application for permission to carry out a regulated activity

15.—(1) A person applying to register a protected cell company must make an application under section 55A (application for permission) of FSMA(1) for permission for the proposed protected cell company to carry out a regulated activity.

(2) That regulated activity must be, or include, the activity specified in article 13A (transformer vehicles: insurance risk transformation) of the Regulated Activities Order.

(3) Where an application is made in accordance with paragraphs (1) and (2)—

- (a) the application is to be treated for the purposes of FSMA as an application made by the applicant on behalf of the proposed protected cell company;
- (b) the PRA must decide whether it will, if the proposed protected cell company is registered by the FCA (see regulation 21), give the proposed protected cell company permission under section 55F (giving permission: the PRA) of FSMA(2);
- (c) the FCA may only register the proposed protected cell company if the PRA has decided that it will, if the proposed protected cell company is registered by the FCA, give the proposed protected cell company permission under section 55F of FSMA to carry out a regulated activity which is, or includes, the activity specified in Article 13A of the Regulated Activities Order (see regulation 21); and
- (d) if the FCA registers the proposed protected cell company, the PRA must, without delay, give the protected cell company permission under section 55F of FSMA in accordance with its decision.

(4) The provisions of FSMA apply to such an application, but the provisions specified in the first column of Table 1(3) apply with the modifications specified in the second column of Table 1(4).

(1) Section 55A was inserted by section 11 of the Financial Services Act 2012.

(2) Section 55F was inserted by section 11 of the Financial Services Act 2012.

(3) All the provisions specified in the first column of Table 1, with the exception of section 390, were inserted into FSMA by section 11 of the Financial Services Act 2012. There are amendments to those provisions which are not relevant to these Regulations.

(4) Note also the effect of regulation 7 on the PRA's discretion under section 55F(4)(a) of FSMA.

Table 1

<i>Provision of FSMA</i>	<i>Modification</i>
Section 55A (application for permission)	For subsections (1) and (2) substitute— “(1) An application for permission to carry on one or more regulated activities may be made to the appropriate regulator on behalf of a proposed protected cell company by a person applying to register the protected cell company under Part 4 of the Risk Transformation Regulations 2017. (2) The “appropriate regulator”, in relation to such an application, means the PRA.” Ignore subsection (3).
Section 55B (the threshold conditions)	In subsection (3), treat the references to giving permission, imposing a requirement or giving consent as including references to making a decision to do any of those things on the registration of the proposed protected cell company.
Section 55F (giving permission: the PRA)	In subsection (2), treat the reference to “the applicant” as a reference to “the protected cell company”. The PRA may not give permission under subsection (2) until the FCA has registered the protected cell company.
Section 55L (imposition of requirements by FCA)	For subsection (1) substitute— “(1) Where a person has applied, on behalf of a proposed protected cell company, to the PRA for a Part 4A permission, the FCA may, on the registration of the protected cell company, impose on the protected cell company such requirements, taking effect on or after the giving of permission, as the FCA considers appropriate.”
Section 55M (imposition of requirements by PRA)	For subsection (1) substitute— “(1) Where a person has applied, on behalf of a proposed protected cell company, for a Part 4A permission, the PRA may, on the registration of the protected cell company, impose on the protected cell company such requirements, taking effect on or after the giving of permission, as the PRA considers appropriate.”
Section 55R (persons connected with an applicant)	In subsection (1), treat the reference to the “applicant” as a reference to the proposed protected cell company.
Section 55U (applications under this Part)	For subsection (1)(a) substitute— “(a) contain a statement by the applicant of the regulated activity or regulated activities for which permission is sought on behalf of the proposed protected cell company, and”
Section 55V (determination of applications)	Treat references to the determination of an application as references to the decision made by the PRA as to what action the PRA will take under section 55F of FSMA if the FCA registers the proposed protected cell company. After subsection (4) insert—

<i>Provision of FSMA</i>	<i>Modification</i>
	<p>“(4A) Subsection (4B) applies where the PRA decides that it will, if the FCA decides to register the proposed protected cell company, give the proposed protected cell company permission under section 55F to carry out a regulated activity which is, or regulated activities which include, the activity specified in Article 13A of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001.</p> <p>(4B) The PRA must give the applicant written notice stating the activities which the proposed protected cell company will be given permission under section 55F to carry out if the FCA decides to register the proposed protected cell company.</p> <p>(4C) Where the PRA gives written notice under subsection (4B), a copy must be sent to the FCA without delay.”</p>
Section 55X (determination of applications: warning notices and decision notices)	<p>In subsection (1), in paragraphs (a) and (b), after “Part 4A permission” insert “if the protected cell company is registered by the FCA,”.</p> <p>The FCA or PRA need not give a warning notice under subsection (1) in the circumstances specified in paragraph (a), (b) or (e) of that subsection if the applicant has consented to the proposed exercise of power referred to in that paragraph.</p> <p>The PRA must give a copy of any warning notice given under subsection (1) to the FCA without delay.</p> <p>In subsection (2), ignore the reference to subsection (3).</p> <p>Ignore subsection (3).</p> <p>In subsection (4), in paragraphs (a) and (b), after “Part 4A permission” insert “if the protected cell company is registered by the FCA,”.</p> <p>The FCA or PRA need not give a decision notice under subsection (4) in the circumstances specified in paragraph (a), (b) or (e) of that subsection if the applicant has consented to the exercise of power referred to in that paragraph. Where the applicant consents to an exercise of power referred to in paragraph (a) or (b), the PRA must notify the FCA without delay.</p>
Section 55Z3 (right to refer matters to the tribunal)	<p>In subsection (1), treat the reference to the determination of an application as a reference to the decision made by the PRA as to what action the PRA will take under section 55F of FSMA if the FCA registers the proposed protected cell company.</p> <p>In subsection (2), treat the reference to the exercise of an own-initiative requirement power as a decision to exercise that power if the proposed protected cell company is registered.</p>
Section 390 (final notices)(5)	<p>Where the PRA gives a final notice under this section, the PRA must send a copy of the final notice to the FCA without delay.</p>

(5) Section 390 has been amended by section 37 of and Schedule 9 to the Financial Services Act 2012 and [S.I. 2010/22](#).

Draft Legislation: This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument: The Risk Transformation Regulations 2017 No. 1212
