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# Financial Services and Markets Act 2000

## 2000 CHAPTER 8

### PART VII

#### CONTROL OF BUSINESS TRANSFERS

##### *Business transfers outside the United Kingdom*

#### **115 Certificates for purposes of insurance business transfers overseas.**

Part III of Schedule 12 makes provision about certificates which the [<sup>F1</sup>appropriate regulator] may issue in relation to insurance business transfers taking place outside the United Kingdom.

#### **Textual Amendments**

**F1** Words in s. 115 substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 6 para. 8](#) (with [Sch. 20](#)); [S.I. 2013/423, art. 3, Sch.](#)

#### **116 Effect of insurance business transfers authorised in other EEA States.**

- (1) This section applies if, as a result of an authorised transfer, an EEA firm falling within paragraph 5(d) [<sup>F2</sup>or (da)] of Schedule 3 transfers to another body all its rights and obligations under any UK policies.
- [<sup>F3</sup>(2) This section also applies if, as a result of an authorised transfer, any of the following transfers to another body all its rights and obligations under any UK policies—
  - [<sup>F4</sup>(a) an undertaking authorised in an EEA State other than the United Kingdom under Article 162 of the Solvency 2 Directive;
  - (b) an undertaking whose head office is not in an EEA State and which is authorised under the law of an EEA State other than the United Kingdom to carry out reinsurance activities in its territory (as mentioned in Article 174 of the Solvency 2 Directive).]

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<sup>F5</sup>(c) .....]

(3) If appropriate notice of the execution of an instrument giving effect to the transfer is published, the instrument has the effect in law—

- (a) of transferring to the transferee all the transferor’s rights and obligations under the UK policies to which the instrument applies, and
- (b) if the instrument so provides, of securing the continuation by or against the transferee of any legal proceedings by or against the transferor which relate to those rights and obligations.

(4) No agreement or consent is required before subsection (3) has the effects mentioned.

[<sup>F6</sup>(5) “Authorised transfer” means—

- (a) in subsection (1), a transfer authorised by the supervisory authorities of the home State of the EEA firm in accordance with Article 39 of the Solvency 2 Directive;
- (b) in subsection (2), a transfer authorised in an EEA State other than the United Kingdom in accordance with—
  - (i) Article 164 of the Solvency 2 Directive; or
  - (ii) the provisions in the law of that EEA State which provide for the authorisation of transfers of all or part of a portfolio of contracts of an undertaking authorised to carry out reinsurance activities in its territory (as mentioned in Article 174 of the Solvency 2 Directive).

(6) “UK policy”, in relation to an authorised transfer, means a policy evidencing a contract of insurance or reinsurance to which the applicable law is the law of a part of the United Kingdom.]

(7) “Appropriate notice” means—

- (a) if the UK policy evidences a contract of insurance in relation to which an EEA State other than the United Kingdom is the State of the commitment, notice given in accordance with the law of that State;
- (b) if the UK policy evidences a contract of insurance where the risk is situated in an EEA State other than the United Kingdom, notice given in accordance with the law of that EEA State;
- (c) in any other case, notice given in accordance with the applicable law.

[<sup>F7</sup>(7A) In this section the “home State” is the EEA State which is the “home Member State” for the purposes of the Solvency 2 Directive (which is to be determined in accordance with Article 13(8) of that directive).]

(8) Paragraph 6 of Schedule 12 applies for the purposes of this section as it applies for the purposes of that Schedule.

#### Textual Amendments

- F2** Words in s. 116(1) inserted (10.12.2007) by [The Reinsurance Directive Regulations 2007 \(S.I. 2007/3253\)](#), reg. 2(1), [Sch. 1 para. 2\(4\)\(a\)](#)
- F3** S. 116(2) substituted (10.12.2007) by [The Reinsurance Directive Regulations 2007 \(S.I. 2007/3253\)](#), reg. 2(1), [Sch. 1 para. 2\(4\)\(b\)](#)
- F4** S. 116(2)(a)(b) substituted (1.1.2016) by [The Solvency 2 Regulations 2015 \(S.I. 2015/575\)](#), reg. 1(2), [Sch. 1 para. 6\(2\)\(a\)](#)

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- F5** S. 116(2)(c) omitted (1.1.2016) by virtue of [The Solvency 2 Regulations 2015 \(S.I. 2015/575\)](#), reg. 1(2), [Sch. 1 para. 6\(2\)\(b\)](#)
- F6** S. 116(5)(6) substituted (1.1.2016) by [The Solvency 2 Regulations 2015 \(S.I. 2015/575\)](#), reg. 1(2), [Sch. 1 para. 6\(3\)](#)
- F7** S. 116(7A) inserted (1.1.2016) by [The Solvency 2 Regulations 2015 \(S.I. 2015/575\)](#), reg. 1(2), [Sch. 1 para. 6\(4\)](#)

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