

SCHEDULES

SCHEDULE 6

Section 22

CONTROL OF BUSINESS TRANSFERS

1 Part 7 of FSMA 2000 is amended as follows.

2 Before section 104 insert—

“103A Meaning of “the appropriate regulator”

(1) In this Part “the appropriate regulator” means—

- (a) in relation to a scheme in respect of which the authorised person concerned is a PRA-authorised person, the PRA;
- (b) in any other case, the FCA.

(2) In this Part, “the authorised person concerned”—

- (a) in the case of an insurance business transfer scheme, is to be read in accordance with section 105(2);
- (b) in the case of a banking business transfer scheme, is to be read in accordance with section 106(2);
- (c) in the case of a reclaim fund business transfer scheme, means the reclaim fund to whose business the scheme relates.”

3 (1) Section 109 (scheme reports) is amended as follows.

(2) For “Authority”, in each place, substitute “appropriate regulator”.

(3) After subsection (3) insert—

“(4) Where the appropriate regulator is the PRA, it must consult the FCA before—

- (a) nominating or approving a person under subsection (2)(b), or
- (b) approving a form under subsection (3).

(5) Subsection (6) applies where the appropriate regulator is the FCA and either—

- (a) the transferee is a PRA-authorised person, or
- (b) the authorised person concerned or the transferee has as a member of its immediate group a PRA-authorised person.

(6) The FCA must consult the PRA before—

- (a) nominating or approving a person under subsection (2)(b), or
- (b) approving a form under subsection (3).”

4 (1) Section 110 (right to participate in proceedings) is amended as follows.

(2) The existing provision becomes subsection (1).

(3) For paragraph (a) of that subsection substitute—

Status: This is the original version (as it was originally enacted).

- “(a) the FCA,
- (aa) in the case of a scheme falling within subsection (2), the PRA, and”.

(4) After that subsection insert—

- “(2) A scheme falls within this subsection if—
- (a) the authorised person concerned or the transferee is a PRA-
authorised person, or
 - (b) the authorised person concerned or the transferee has as a member
of its immediate group a PRA-
authorised person.”

5 In section 112 (effect of order sanctioning business transfer scheme), in subsections
(10) and (11), for “Authority” substitute “appropriate regulator”.

6 After section 112 insert—

“112ZA Duty of regulator to provide copy of order

- (1) Where the PRA receives under section 112(10) a copy of an order it must,
without delay, give a copy of it to the FCA.
- (2) Where the FCA receives under section 112(10) a copy of an order it must,
without delay, give a copy of it to the PRA if the order relates to a scheme
in respect of which—
 - (a) the transferee is a PRA-
authorised person, or
 - (b) the authorised person concerned or the transferee has as a member
of its immediate group a PRA-
authorised person.”

7 (1) Section 113 (appointment of actuary) is amended as follows.

(2) In subsection (2)—

- (a) for “the Authority”, in the first place, substitute “either regulator”, and
- (b) for “Authority”, in the second place, substitute “regulator which made the
application”.

(3) After that subsection insert—

- “(3) An application under subsection (2) may be made by the PRA only if—
- (a) the authorised person concerned or the transferee is a PRA-
authorised person, or
 - (b) the authorised person concerned or the transferee has as a member
of its immediate group a PRA-
authorised person.”

8 In section 115 (certificates for purposes of insurance business transfers overseas),
for “Authority” substitute “appropriate regulator”.

9 Schedule 12 to FSMA (transfer schemes: certificates) is amended as follows.

10 In paragraph 1, for “the Authority”, in each place, substitute “the appropriate
regulator”.

11 (1) Paragraph 2 is amended as follows.

- (2) In the following places, for “Authority” substitute “appropriate regulator”—
- (a) sub-paragraph (1)(b);
 - (b) in the first place in sub-paragraph (3).

Status: This is the original version (as it was originally enacted).

- (3) In sub-paragraph (3), after “transferred” insert “certification”.
- (4) In sub-paragraph (6)(c), for “, the Authority” substitute “—
- (i) the PRA, if the transferee is a PRA-authorized person with a Part 4A permission or with permission under Schedule 4;
 - (ii) the FCA, if the transferee is a person with a Part 4A permission or with permission under Schedule 4 but is not a PRA-authorized person.”
- 12 In paragraph 3, for “Authority” substitute “appropriate regulator”.
- 13 In paragraph 4, for “Authority”, in the first place, substitute “appropriate regulator”.
- 14 In paragraph 5, for “Authority”, in the first place, substitute “appropriate regulator”.
- 15 In paragraph 5A, for “the Authority” substitute “the appropriate regulator”.
- 16 In paragraph 8(2)—
- (a) for paragraph (a) substitute—
 - “(a) if the transferee is a PRA-authorized person with a Part 4A permission or with permission under Schedule 4, the PRA;
 - (aa) if the transferee is a person with Part 4A permission or with permission under Schedule 4 but is not a PRA-authorized person, the FCA;”, and
 - (b) in paragraph (c), after “(a)” insert “, (aa)”.
- 17 In paragraph 9, for “Authority” substitute “appropriate regulator”.
- 18 (1) Paragraph 9A is amended as follows.
- (2) The existing provision becomes sub-paragraph (1).
 - (3) In that sub-paragraph, for “Authority” substitute “relevant regulator”.
 - (4) After that sub-paragraph insert—
 - “(2) In this paragraph the “relevant regulator” means—
 - (a) if the transferee is a PRA-authorized person, the PRA;
 - (b) in any other case, the FCA.”
- 19 (1) Paragraph 10 is amended as follows.
- (2) In sub-paragraph (2), for “Authority” substitute “FCA or the PRA”.
 - (3) In sub-paragraph (5), for “Authority” substitute “regulator which supervises the transferee's margin of solvency”.
 - (4) In sub-paragraph (6), for “Authority” substitute “FCA or the PRA”.