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STATUTORY INSTRUMENTS

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**2001 No. 3625**

**FINANCIAL SERVICES AND MARKETS**

The Financial Services and Markets Act  
2000 (Control of Business Transfers)  
(Requirements on Applicants) Regulations 2001

<i>Made</i>	- - - -	<i>7th November 2001</i>
<i>Laid before Parliament</i>		<i>8th November 2001</i>
<i>Coming into force</i>	- -	<i>1st December 2001</i>

The Treasury, in exercise of the powers conferred on them by sections 108, 417(1)(1), 428(3) of, and paragraph 6(2) of Schedule 12 to, the Financial Services and Markets Act 2000(2), hereby make the following Regulations:

**Modifications etc. (not altering text)**

- C1 Regulations applied (1.12.2001) by [The Financial Services and Markets Act 2000 \(Control of Transfers of Business Done at Lloyd's\) Order 2001 \(S.I. 2001/3626\)](#), arts. 1, **3-5**

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Financial Services and Markets Act 2000 (Control of Business Transfers) (Requirements on Applicants) Regulations 2001 and come into force on 1st December 2001.

(2) In these Regulations—

“the Act” means the Financial Services and Markets Act 2000;

“the parties” means the authorised person concerned and the transferee (within the meaning of section 105(2) or, as the case may be, section 106(2) of the Act);

[<sup>F1</sup>“reclaim fund business transfer scheme” has the meaning given by section 106A(1) of the Act;]

“the report” means the scheme report mentioned in section 109(1) of the Act;

“State of the commitment” has the meaning given by paragraph 6(1) of Schedule 12 to the Act;

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(1) See the definition of “prescribed” in section 417(1).

(2) 2000 c. 8.

*Status: Point in time view as at 13/07/2009.*

*Changes to legislation: There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Control of Business Transfers) (Requirements on Applicants) Regulations 2001. (See end of Document for details)*

“State in which the risk is situated” has the meaning given by paragraph 6(3) of Schedule 12 to the Act;

“a summary of the report” means a summary of the report sufficient to indicate the opinion of the person making the report of the likely effects of the insurance business transfer scheme on the policyholders of the parties.

#### Textual Amendments

**F1** Words in [reg. 1\(2\)](#) inserted (13.7.2009) by [The Financial Services and Markets Act 2000 \(Control of Business Transfers\) \(Requirements on Applicants\) \(Amendment\) Regulations 2009 \(S.I. 2009/1390\)](#), regs. 1, [2\(a\)](#)

#### Commencement Information

**I1** Reg. 1 in force at 1.12.2001, see [reg. 1\(1\)](#)

### Meaning of “commitment”

2. There is prescribed for the purposes of paragraph 6(2) of Schedule 12 to the Act any contract of insurance of a kind referred to in [<sup>F2</sup>Article 2 of the life assurance consolidation directive].

#### Textual Amendments

**F2** Words in [reg. 2](#) substituted (11.1.2005) by [The Life Assurance Consolidation Directive \(Consequential Amendments\) Regulations 2004 \(S.I. 2004/3379\)](#), regs. 1, [20](#)

#### Commencement Information

**I2** Reg. 2 in force at 1.12.2001, see [reg. 1\(1\)](#)

### Transfer of an insurance business

3.—(1) An applicant under section 107 of the Act for an order sanctioning an insurance business transfer scheme (“the scheme”) must comply with the following requirements.

(2) A notice stating that the application has been made must be—

(a) published—

- (i) in the London, Edinburgh and Belfast Gazettes;
- (ii) in two national newspapers in the United Kingdom; <sup>F3</sup>...

(iii) where, as regards any policy [<sup>F4</sup>(other than a policy which evidences a contract of reinsurance)] included in the proposed transfer, an EEA State other than the United Kingdom is the State of the commitment or the State in which the risk is situated, in two national newspapers in that EEA State; and

[<sup>F5</sup>(iv) where, as regards any policy included in the proposed transfer which evidences a contract of reinsurance, an EEA State other than the United Kingdom is the State in which the establishment of the policyholder to which the policy relates is situated at the date when the contract was entered into, in one business newspaper which is published or circulated in that EEA State; <sup>F6</sup>...]

(b) sent to every policyholder of the parties [<sup>F7</sup>; and

(c) sent—

- (i) to every reinsurer of the authorised person concerned (within the meaning of section 105(2) of the Act) any of whose contracts of reinsurance (in whole or part) are to be transferred by the scheme; or
  - (ii) in a case where such a contract has been placed with or through a person authorised to act on behalf of the reinsurer, then to that person; or
  - (iii) in a case where such a contract has been placed with more than one reinsurer, then to the person or persons authorised to act on behalf of those reinsurers or groups of reinsurers.]
- (3) The notices mentioned in paragraph (2) must—
- (a) be approved by the Authority prior to publication (or, as the case may be, being sent); and
  - (b) contain the address from which the documents mentioned in paragraph (4) may be obtained.
- (4) A copy of the report and a statement setting out the terms of the scheme and containing a summary of the report must be given free of charge to any person who requests them.
- (5) A copy of the application, the report and the statement mentioned in paragraph (4) must be given free of charge to the Authority.
- (6) In the case of any such scheme as is mentioned in section 105(5) of the Act, copies of the documents listed in paragraph 6(1) of Schedule 15B to the Companies Act 1985(3) or in paragraph 6(1) of Schedule 15B to the Companies (Northern Ireland) Order 1986(4) (application of provisions about compromises and arrangements to mergers and divisions of public companies) must be given to the Authority by the beginning of the period referred to in paragraph 3(e) of that Schedule.

#### Textual Amendments

- F3** Word in reg. 3(2)(a)(ii) omitted (10.12.2007) by virtue of [The Financial Services and Markets Act 2000 \(Reinsurance Directive\) Regulations 2007 \(S.I. 2007/3255\)](#), regs. 1, **2(2)(a)**
- F4** Words in reg. 3(2)(a)(iii) inserted (10.12.2007) by [The Financial Services and Markets Act 2000 \(Reinsurance Directive\) Regulations 2007 \(S.I. 2007/3255\)](#), regs. 1, **2(2)(b)**
- F5** Reg. 3(2)(a)(iv) inserted (10.12.2007) by [The Financial Services and Markets Act 2000 \(Reinsurance Directive\) Regulations 2007 \(S.I. 2007/3255\)](#), regs. 1, **2(2)(c)**
- F6** Word in reg. 3(2)(a)(iv) omitted (30.6.2008) by virtue of [The Financial Services and Markets Act 2000 \(Control of Business Transfers\)\(Requirements on Applicants\)\(Amendment\) Regulations 2008 \(S.I. 2008/1467\)](#), regs. 1, **2(a)**
- F7** Reg. 3(2)(c) and word added (30.6.2008) by [The Financial Services and Markets Act 2000 \(Control of Business Transfers\)\(Requirements on Applicants\)\(Amendment\) Regulations 2008 \(S.I. 2008/1467\)](#), regs. 1, **2(b)**

#### Commencement Information

- I3** Reg. 3 in force at 1.12.2001, see [reg. 1\(1\)](#)

- 4.—(1) Subject to paragraph (2) [<sup>F8</sup>or (3)], the court may not determine an application under section 107 for an order sanctioning an insurance business transfer scheme—
- (a) where the applicant has failed to comply with the requirements in regulation 3(2), (3) or (6); and

(3) [1985 c. 6](#). Schedule 15B was inserted by [S.I. 1987/1991](#) and amended by the Companies Act 1989 (c. 40), Schedule 10, para. 22.

(4) [S.I. 1986/1032 \(N.I. 6\)](#). Schedule 15B was inserted by [S.R. 1987/442](#), reg. 3(c) and renumbered by the Companies (No.2) (Northern Ireland) Order 1990 (N.I. 10), article 49(2).

*Status: Point in time view as at 13/07/2009.*

*Changes to legislation: There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Control of Business Transfers) (Requirements on Applicants) Regulations 2001. (See end of Document for details)*

(b) until a period of not less than twenty-one days has elapsed since the Authority was given the documents mentioned in regulation 3(5).

(2) The requirements in regulation 3(2)(a)(ii) [<sup>F9</sup>, (iii) and (iv)] [<sup>F10</sup>, (b) and (c)] may be waived by the court in such circumstances and subject to such conditions as the court considers appropriate.

[<sup>F11</sup>(3) The requirement in regulation 3(2)(a)(iv) must be waived where an applicant demonstrates that he has notified all policyholders of contracts of reinsurance.]

#### Textual Amendments

- F8** Words in reg. 4(1) inserted (10.12.2007) by [The Financial Services and Markets Act 2000 \(Reinsurance Directive\) Regulations 2007 \(S.I. 2007/3255\)](#), regs. 1, **2(3)**
- F9** Words in reg. 4(2) substituted (10.12.2007) by [The Financial Services and Markets Act 2000 \(Reinsurance Directive\) Regulations 2007 \(S.I. 2007/3255\)](#), regs. 1, **2(4)**
- F10** Words in reg. 4(2) substituted (30.6.2008) by [The Financial Services and Markets Act 2000 \(Control of Business Transfers\)\(Requirements on Applicants\)\(Amendment\) Regulations 2008 \(S.I. 2008/1467\)](#), regs. 1, **2(c)**
- F11** Reg. 4(3) inserted (10.12.2007) by [The Financial Services and Markets Act 2000 \(Reinsurance Directive\) Regulations 2007 \(S.I. 2007/3255\)](#), regs. 1, **2(5)**

#### Commencement Information

- I4** Reg. 4 in force at 1.12.2001, see [reg. 1\(1\)](#)

#### [<sup>F12</sup>Transfer of a banking business or a reclaim fund business]

5.—(1) An applicant under section 107 of the Act for an order sanctioning a banking business transfer scheme [<sup>F13</sup>or reclaim fund business transfer scheme] (“the scheme”) must comply with the following requirements.

(2) A notice stating that the application has been made must be published—

- (a) in the London, Edinburgh and Belfast Gazettes; and
- (b) in two national newspapers in the United Kingdom.

(3) The notice mentioned in paragraph (2) must—

- (a) be approved by the Authority prior to its publication; and
- (b) contain the address from which the statement mentioned in paragraph (4) may be obtained.

(4) A statement setting out the terms of the scheme must be given free of charge to any person who requests it.

(5) Copies of the application and the statement mentioned in paragraph (4) must be given free of charge to the Authority.

#### Textual Amendments

- F12** [Reg. 5 heading](#) substituted (13.7.2009) by [The Financial Services and Markets Act 2000 \(Control of Business Transfers\) \(Requirements on Applicants\) \(Amendment\) Regulations 2009 \(S.I. 2009/1390\)](#), regs. 1, **2(b)**
- F13** Words in [reg. 5\(1\)](#) inserted (13.7.2009) by [The Financial Services and Markets Act 2000 \(Control of Business Transfers\) \(Requirements on Applicants\) \(Amendment\) Regulations 2009 \(S.I. 2009/1390\)](#), regs. 1, **2(c)**

**Commencement Information**

**I5** Reg. 5 in force at 1.12.2001, see [reg. 1\(1\)](#)

**6.—(1)** Subject to paragraph (2), the court may not determine an application under section 107 for an order sanctioning a banking business transfer scheme [<sup>F14</sup>or reclaim fund business transfer scheme]—

- (a) where the applicant has failed to comply with the requirements in regulation 5(2) or (3); and
- (b) until a period of not less than twenty-one days has elapsed since the Authority was given the documents mentioned in regulation 5(5).

(2) The requirement in regulation 5(2)(b) may be waived by the court in such circumstances and subject to such conditions as the court considers appropriate.

**Textual Amendments**

**F14** Words in reg. 6(1) inserted (13.7.2009) by [The Financial Services and Markets Act 2000 \(Control of Business Transfers\) \(Requirements on Applicants\) \(Amendment\) Regulations 2009 \(S.I. 2009/1390\)](#), regs. 1, [2\(d\)](#)

**Commencement Information**

**I6** Reg. 6 in force at 1.12.2001, see [reg. 1\(1\)](#)

7th November 2001

*Tony McNulty*  
*Nick Ainger*  
Two of the Lords Commissioners of Her  
Majesty's Treasury

**Status:** Point in time view as at 13/07/2009.

**Changes to legislation:** There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Control of Business Transfers) (Requirements on Applicants) Regulations 2001. (See end of Document for details)

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

These Regulations impose certain procedural requirements on applicants for a court order sanctioning an insurance, or banking, business transfer scheme under Part VII of the Financial Services and Markets Act 2000.

Regulation 3 requires a person seeking the court's approval of an insurance business transfer scheme to publicise in various newspapers the fact that an application has been made and to inform policyholders. It also requires various documents to be sent to the Financial Services Authority ("the Authority") and to those who request them.

Under regulation 4, the court may not sanction an insurance business transfer where the applicant has not complied with certain requirements in regulation 3 or until the Authority has been in receipt of the application and report for at least 21 days. The court may waive some of the requirements where it considers it appropriate in the circumstances.

Regulations 5 and 6 make similar provision in relation to banking business transfer schemes.

**Status:**

Point in time view as at 13/07/2009.

**Changes to legislation:**

There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Control of Business Transfers) (Requirements on Applicants) Regulations 2001.