

2007 No. 3255

FINANCIAL SERVICES AND MARKETS

The Financial Services and Markets Act 2000 (Reinsurance Directive) Regulations 2007

<i>Made</i>	- - - -	<i>19th November 2007</i>
<i>Laid before Parliament</i>		<i>19th November 2007</i>
<i>Coming into force</i>	- -	<i>10th December 2007</i>

The Treasury, in exercise of the powers conferred on them by sections 108, 183(2), 188(2), 349(1)(b), 349(2), 349(3), 417(1) and 428(3) of the Financial Services and Markets Act 2000(a), make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Financial Services and Markets Act 2000 (Reinsurance Directive) Regulations 2007 and come into force on 10th December 2007.

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

2.—(1) The Financial Services and Markets Act 2000 (Control of Business Transfers) (Requirements on Applicants) Regulations 2001(b) are amended as follows.

(2) In regulation 3(2)—

- (a) at the end of sub-paragraph (a)(ii) omit “and”;
- (b) in sub-paragraph (a)(iii) after “any policy” insert “(other than a policy which evidences a contract of reinsurance)”;
- (c) after sub-paragraph (a)(iii) insert—

“(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; and”.

(3) In regulation 4(1) after “paragraph (2)” insert “or (3)”.

(4) In regulation 4(2) for “and (iii)” substitute “, (iii) and (iv)”.

(5) After regulation 4(2) insert—

(a) 2000 c.8.
(b) S.I. 2001/3625.

“(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.”.

Amendments to the Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001

3.—(1) The Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001(a) are amended as follows.

(2) In regulation 2 in the definition of “directive restrictions” after “third non-life insurance directive,” insert “articles 24 to 30 of the reinsurance directive,”.

(3) In regulation 9(2)—

(a) at the end of sub-paragraph (d) omit “or”;

(b) at the end of sub-paragraph (e) insert—

“, or

(f) article 26 of the reinsurance directive”.

(4) In regulation 9(3)(b)—

(a) at the end of paragraph (iii) omit “or”;

(b) at the end of paragraph (iv) insert—

“, or

(v) article 16 of the reinsurance directive”.

Amendments to the Financial Services and Markets Act 2000 (Consultation with Competent Authorities) Regulations 2001

4.—(1) The Financial Services and Markets Act 2000 (Consultation with Competent Authorities) Regulations 2001(b) are amended as follows.

(2) In regulation 2 after the definition of “EEA parent financial holding company” insert—

““EEA reinsurance undertaking” means an EEA firm falling within paragraph 5(da) of Schedule 3 to the Act;”.

(3) In regulation 5(4)—

(a) at the end of sub-paragraph (c)(iii) omit “or”;

(b) after sub-paragraph (c)(iii) insert—

“(iiia) an EEA reinsurance undertaking; or”;

(c) in sub-paragraph (c)(iv) for “or (iii)” substitute “, (iii) or (iiia)”.

Frank Roy
Alan Campbell

19th November 2007

Two of the Lords Commissioners of Her Majesty’s Treasury

(a) S.I. 2001/2188, as amended by S.I. 2004/1273, 2004/3379, 2006/3221 and 2006/3413; there are other amending instruments but none is relevant.

(b) S.I. 2001/2509, as amended by S.I. 2001/2509, 2003/2066 and 2004/1862; there are other amending instruments but none is relevant.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement in part the provisions of Directive 2005/68/EC of the European Parliament and of the Council of 16 November 2005 on reinsurance (OJ No L 323, 9.12.2005, p 1) (“the Reinsurance Directive”). The rest of the implementation is achieved through existing provisions of the Financial Services and Markets Act 2000 (c.8) (“FSMA”) and its accompanying secondary legislation, and the amendments made by the Reinsurance Directive Regulations 2007 (S.I. 2007/3253) and the Financial Services and Markets Act 2000 (Reinsurance Directive) Order 2007 (S.I. 2007/3254) and through rules made by the Financial Services Authority under powers available to them under FSMA.

Regulation 2 amends the Financial Services and Markets Act 2000 (Control of Business Transfers) (Requirements on Applicants) Regulations 2001, (S.I. 2001/3625) so that a proposed transfer by a reinsurance undertaking must be publicised and notified to policyholders. Those requirements may be waived by the court in appropriate circumstances and where the applicant demonstrates that he has notified all policyholders of reinsurance contracts must be waived.

Regulation 3 makes consequential amendments to the Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001, (S.I. 2001/2188) to add references to the relevant provisions of the Reinsurance Directive.

Regulation 4 makes consequential amendments to the Financial Services and Markets Act 2000 (Consultation with Competent Authorities) Regulations 2001, (S.I. 2001/2509) adding references to EEA reinsurance undertakings.

A transposition note has been prepared which sets out how the main elements of the Reinsurance Directive will be transposed into UK law. A Regulatory Impact Assessment of the effect of this instrument on the costs of business has been prepared. Both may be obtained from the Financial Stability and Risk Team, HM Treasury, 1 Horse Guards Road, London SW1A 2HQ. They are also available on HM Treasury’s website (www.hm-treasury.gov.uk). Copies of both documents have been placed in the libraries of both Houses of Parliament.

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