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STATUTORY INSTRUMENTS

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**2017 No. 1212**

**The Risk Transformation Regulations 2017**

**PART 4**

**Protected Cell Companies**

**CHAPTER 14**

**Accounts, reports, audit and auditors**

**Application of Companies Act regime**

**163.**—(1) The Companies Act regime applies to protected cell companies as it applies to companies which—

- (a) are incorporated under the Companies Act 2006; and
- (b) are private companies limited by shares (within the meaning given by sections 3 and 4 of that Act).

(2) In their application to protected cell companies, the provisions of the Companies Act regime apply with the following modifications—

- (a) references to the registrar are to be treated as references to the FCA;
- (b) references to the registered number of a company which is a protected cell company are to be treated as references to the number given to the protected cell company by the FCA under regulation 31(1);
- (c) references to the articles or constitution of a company which is a protected cell company are to be treated as references to the protected cell company's instrument of incorporation;
- (d) references to the members of a company which is a protected cell company are to be treated as references to the protected cell company's shareholders, except in the following sections of the Companies Act 2006 where they are to be treated as references to the persons holding shares issued by the protected cell company on behalf of the core—
  - (i) section 485(4) (appointment of auditors of private company: general);
  - (ii) section 488(1) (prevention by members of deemed re-appointment of auditor);
  - (iii) section 492(1) (fixing of auditor's remuneration);
  - (iv) section 502 (auditor's rights in relation to resolutions and meetings);
  - (v) section 510(1) (resolution removing auditor from office);
  - (vi) section 511 (special notice required for resolution removing auditor from office);
  - (vii) section 515 (failure to re-appoint auditor: special notice required for resolution at general meeting)(1);
  - (viii) section 518 (rights of resigning auditor)(2);

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(1) Section 515 has been amended by section 18 of and schedule 5 to the Deregulation Act 2015 (c. 20) and S.I. 2016/649.

(2) Section 518 has been amended by section 18 of and schedule 5 to the Deregulation Act 2015.

- (ix) section 536 (authorisation of agreement by members of the company);
- (e) references to an ordinary resolution of the members of a protected cell company are to be treated as references to a resolution of the persons holding shares issued by the protected cell company on behalf of the core which has been approved by a simple majority of the total voting rights of those shareholders who would be entitled to vote on the resolution;
- (f) references to the winding up of a company which is a protected cell company are to be treated as references to the winding up of any part of the protected cell company;
- (g) the modifications specified in the second column of Table 5 in relation to the provisions of the Companies Act 2006 specified in the first column of Table 5.

**Table 5**

<i>Provision</i>	<i>Modification</i>
Section 388 (where and for how long records to be kept)	In subsection (1)(a), treat the reference to the registered office as including a reference to an alternative inspection location notified to the FCA in accordance with regulation 67.
Section 414C (contents of strategic report)(3)	In subsection (1), treat the reference to section 172 of the Companies Act 2006 as a reference to that section as applied by regulation 83(1).
Section 502 (auditor's rights in relation to resolutions and meetings)	In subsection (1), treat the reference to Chapter 2 of Part 13 of the Companies Act 2006 as a reference to Chapter 10 of Part 4 of these Regulations.
Section 518 (rights of resigning auditor)(4)	Where a protected cell company sends a notice or statement in accordance with this section, it must send a copy of that notice or statement to the persons holding shares or debentures issued by the protected cell company on behalf of a cell.  Where such a person receives a copy of a notice of a general meeting, that person may attend (but not vote) at the general meeting.
Section 536 (authorisation of agreement by members of the company)	In subsection (2), treat the references to a resolution as references to a resolution of the persons holding shares issued by the protected cell company on behalf of the core.

(3) Section 414C was inserted by [S.I. 2013/1970](#).

(4) Section 518 has been amended by section 18 of and schedule 5 to the Deregulation Act 2015.