STATUTORY INSTRUMENTS

2017 No. 1212

FINANCIAL SERVICES AND MARKETS

The Risk Transformation Regulations 2017

Made - - - - 5th December 2017

Coming into force in accordance with regulation 1(2)

The Treasury are a government department designated(**1**) for the purposes of section 2(2) of the European Communities Act 1972(**2**) in relation to financial services.

In the opinion of the Treasury, one of the effects of these Regulations is that an activity which is not a regulated activity, within the meaning of the Financial Services and Markets Act 2000(**3**), will become a regulated activity.

In the opinion of the Treasury, one of the effects of these Regulations is that an activity will become a PRA-regulated activity within the meaning of the Financial Services and Markets Act 2000(**4**).

A draft of these Regulations has been laid before and approved by a resolution of each House of Parliament in accordance with paragraph 2 of Schedule 2 to the European Communities Act 1972(**5**) and sections 22B and 429(1) and (2) of, and paragraph 26(2) of Schedule 2 to, the Financial Services and Markets Act 2000(**6**).

The Treasury, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(**7**) and sections 22(1) and (5), 22A, 55C, 284A, 426 and 428(3) of, and paragraph 25 of Schedule 2 to, the Financial Services and Markets Act 2000(**8**), make the following Regulations:

(**1**) S.I. 2012/1759.

(**2**) 1972 c. 68. Section 2(2) was amended by section 27 of the Legislative and Regulatory Reform Act 2006 (c. 51) and by section 3 of, and the Schedule to, the European Union (Amendment) Act 2008 (c. 7). By virtue of the amendment to section 1(2) made by section 1 of the European Economic Area Act 1993 (c. 51), regulations may be made under section 2(2) to implement obligations of the United Kingdom created by or arising under the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 (Cm 2073, OJ No L1, 3.11.1994, p.3) and the Protocol adjusting that Agreement signed at Brussels on 17th March 1993 (Cm 2183, OJ No L1, 3.1.1994, p.572).

(**3**) 2000 c.8. "Regulated activity" is defined in section 22 of the Act, which has been amended by section 7(1) of the Financial Services Act 2012 (c.21).

(**4**) "PRA-regulated activity" is defined in section 22A of the Financial Services and Markets Act 2000, which was inserted by section 9 of the Financial Services Act 2012.

(**5**) Paragraph 2 has been amended by section 27(2)(a) of the Legislative and Regulatory Reform Act 2006.

(**6**) Section 55C was inserted by section 11(2) of the Financial Services Act 2012 (c.21). Section 284A was inserted by sections 31(1) and (2) of the Bank of England and Financial Services Act 2016 (c.14).

(**7**) Section 2(2) has been amended by section 27(2)(a) of the Legislative and Regulatory Reform Act 2006 and section 3(3) of, and the Schedule to, the European Union (Amendment) Act 2008.

(**8**) Paragraph 25 of Schedule 2 was amended by sections 8(1) and (2) of the Financial Services Act 2012.

PART 1

General

Citation and commencement

1.—(1) These Regulations may be cited as the Risk Transformation Regulations 2017.

(2) These Regulations come into force 3 days after the day on which they are made.

Interpretation: general

2.—(1) In these Regulations—

"alternative inspection location" means any place at which a protected cell company keeps the documents and records relating to the protected cell company, other than the protected cell company's registered office;

"appropriate registrar" means—

(a) the registrar of companies for England and Wales if a protected cell company's instrument of incorporation states that its registered office is situated in England and Wales (or Wales);

(b) the registrar of companies for Scotland if a protected cell company's instrument of incorporation states that its registered office is situated in Scotland;

(c) the registrar of companies for Northern Ireland if a protected cell company's instrument of incorporation states that its registered office is situated in Northern Ireland;

"asset" includes any interest in an asset, any right over an asset or any property;

"cell" has the meaning given in regulation 43;

"contractual arrangement" has the same meaning as in the Implementing Technical Standard;

"core" has the meaning given in regulation 42;

"counsel" means a person who is—

(a) a barrister within the meaning given in section 207 of the Legal Services Act 2007(**9**);

(b) a practising member of the faculty of advocates in Scotland; or

(c) a barrister who has been called to the bar in Northern Ireland and who holds a current practising certificate;

"creditor" incudes a contingent or prospective creditor;

"debenture" includes debenture stock, bonds and any other securities;

"FSMA" means the Financial Services and Markets Act 2000;

"general meeting" means a meeting of the persons holding voting shares issued on behalf of the core of the protected cell company;

"Implementing Technical Standard" means Commission Implementing Regulation (EU) 2015/462 of 19th March 2015 laying down implementing technical standards with regard to the procedures for supervisory approval to establish special purpose vehicles, for the cooperation and exchange of information between supervisory authorities regarding special purpose vehicles as well as to set out formats and templates for information to be reported by special purpose vehicles in accordance with Directive 2009/138/EC of the European Parliament and of the Council(**10**);

(**9**) 2007 c. 29. There are amendments to section 207 which are not relevant to these Regulations.
(**10**) OJ no L76, 20.3.2015, p.23.

"insolvency legislation" means—

(a) the Insolvency Act 1986(**11**);

(b) the Insolvency (Northern Ireland) Order 1989(**12**);

(c) Part 24 of FSMA (insolvency);

(d) the Insolvency Act 2000(**13**);

(e) the Insolvency (Northern Ireland) Order 2002(**14**);

(f) the Bankruptcy (Scotland) Act 2016(**15**); and

(g) all subordinate legislation made under the legislation mentioned in sub-paragraphs (a) to (f);

"liability" includes a contingent or prospective liability;

"non-voting share" means a share which is not a voting share;

"officer" includes a director or manager;

"property" includes an interest in property or a right over property;

"the Regulated Activities Order" means the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001(**16**);

"share" means a share in the share capital of a protected cell company or a part of a protected cell company;

"share certificate" means documentary evidence of title to a share;

"solicitor" means a person who is—

(a) a solicitor within the meaning given by section 207 of the Legal Services Act 2007;

(b) enrolled on the roll of solicitors kept under section 7 of the Solicitors (Scotland) Act 1980(**17**); or

(c) a solicitor within the meaning given by Article 3(2) of the Solicitors (Northern Ireland) Order 1976(**18**);

"voting share" means a share which confers the right to vote on a written resolution of the protected cell company or at a meeting of shareholders;

"working day" has the meaning given in section 1173(1) of the Companies Act 2006(**19**).

(2) In these Regulations—

(a) a reference to a part of a protected cell company is a reference to the core or a cell of the protected cell company (see regulations 42 and 43);

(b) a reference to enforceable arrangements between cells is a reference to arrangements between cells which—

(i) have been made in accordance with regulations 68 and 69; and

(ii) have not been cancelled in accordance with regulation 70; and

(c) shares are of one class if the rights attached to them are in all respects uniform.

(**11**) 1986 c. 45.
(**12**) S.I. 1989/2405 (N.I. 19).
(**13**) 2000 c. 39.
(**14**) S.I. 2002/3152 (N.I. 6).
(**15**) 2016 asp 21.
(**16**) S.I. 2001/544.
(**17**) 1980 c. 46.
(**18**) S.I. 1979/582 (N.I.12); the definition of "solicitor" has been amended by the Constitutional Reform Act 2005 (c. 4) and by S.I. 2009/1604.
(**19**) 2006 c. 46. There are amendments to section 1173(1), but none are relevant to the definition of "working day".

(3) Where these Regulations refer to the Welsh equivalent of a word or expression, the Welsh equivalent of that word or expression is set out in Table 6 in Schedule 1.

Meaning of "group of cells"

3.—(1) In these Regulations, a "group of cells" is a group of two or more cells in which each cell is linked to every other cell in the group.

(2) For the purposes of this regulation, two cells ("cell A" and "cell B") are linked if the protected cell company has made enforceable arrangements between—

(a) cell A and cell B; or

(b) cell A and another cell which is linked to cell B.

PART 2

Authorisation and supervision of insurance risk transformation

Amendment of FSMA

4.—(1) FSMA is amended as follows.

(2) In Schedule 6 (threshold conditions)(**20**)—

(a) in Part 1D (Part 4A permission: conditions for which the PRA is responsible in relation to insurers etc), in paragraph 4A (introduction), after sub-paragraph (4), insert—

"(5) If the person concerned ("C") carries on, or is seeking to carry on, regulated activities which consist of or include a PRA-regulated activity relating to an assumption of risk falling within article 13A of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001, the threshold conditions which are relevant to the discharge by the PRA of its functions in relation to C are the conditions set out in paragraphs 4B to 4F, subject to sub-paragraph (6).

(6) Paragraphs 4B to 4F have effect in relation to persons of the kind specified by sub-paragraph (5) as if—

(a) the persons are special purpose vehicles within the meaning given by Article 13(26) of the Solvency 2 Directive(**21**);

(b) the persons are not reinsurance undertakings within the meaning given by Article 13(4) of the Solvency 2 Directive;

(c) references to contracts of insurance are references to contracts for the assumption of risk; and

(d) references to C's policyholders are references to undertakings from whom C assumes a risk.";

(b) in Part 1E (Part 4A permission: conditions for which the PRA is responsible in relation to other PRA-authorised persons), in paragraph 5A (introduction)—

(i) at the end of sub-paragraph (b), omit "or";

(ii) at the end of sub-paragraph (c), insert "or"; and

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

(**20**) Parts 1D and 1E of Schedule 6 were inserted by S.I. 2013/555.

(**21**) "Solvency 2 Directive" is defined by section 425 of, and paragraph 3 of Schedule 3 to, FSMA. It refers to Directive 2009/138/EC on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II).

"(d) an assumption of risk falling within article 13A of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001,".

Amendment of the Regulated Activities Order

5.—(1) The Regulated Activities Order is amended as follows.

(2) After article 12A (information society services and managers of UCITS and AIFs)(**22**) insert—

"**Transformer vehicles: insurance risk transformation**

12B. A transformer vehicle(**23**) does not carry on an activity of a kind specified by article 10 by assuming a risk from an undertaking, provided the assumption of the risk is a specified kind of activity falling within article 13A (transformer vehicles: insurance risk transformation)."(**24**).

(3) After article 13 (application of sections 327 and 332 of FSMA) insert—

"CHAPTER 3A

Insurance risk transformation

Transformer vehicles: insurance risk transformation

13A. It is a specified kind of activity for a transformer vehicle to assume a risk from an undertaking where—

(a) the undertaking assumes a risk under a contract of insurance ("the underlying risk"); and

(b) the assumption of risk by the transformer vehicle has the legal or economic effect of transferring some or all of the underlying risk to the transformer vehicle.".

(4) After article 19 (risk-management)(**25**) insert—

"**Transformer vehicles: insurance risk transformation**

19A. A transformer vehicle does not carry on an activity of a kind specified by article 14 by assuming a risk from an undertaking, provided the assumption of the risk is a specified kind of activity falling within article 13A (transformer vehicles: insurance risk transformation).".

Amendment of the Financial Services and Markets Act 2000 (PRA-regulated Activities) Order 2013

6. In the Financial Services and Markets Act 2000 (PRA-regulated Activities) Order 2013(**26**) in article 2 (regulated activities which are PRA-regulated activities), after paragraph (c) insert—

"(ca) the activity carried out by a transformer vehicle when it assumes a risk from an undertaking, as specified by article 13A of the Regulated Activities Order;".

(**22**) Article 21A was inserted by S.I. 2002/1776.
(**23**) "Transformer vehicle" is defined in section 284A(1) of FSMA.
(**24**) A transformer vehicle carrying on the activity specified in article 13A of the Regulated Activities Order is not a reinsurance undertaking for the purposes of the Solvency 2 Directive and does not require authorisation in accordance with Article 14 of that Directive.
(**25**) Article 19 was amended by S.I. 2006/3384.
(**26**) S.I. 2013/556. Article 2 has been amended by S.I. 2013/1773, S.I. 2014/2879, S.I. 2014/3329, S.I. 2014/3348, S.I. 2015/1882, S.I. 2016/680, S.I. 2016/715, S.I. 2016/936 and S.I. 2016/1023,

Limitation on transformer vehicles' activities

7.—(1) When the PRA gives permission under Part 4A of FSMA for a transformer vehicle to carry on regulated activities, the PRA must exercise its discretion under section 55F(4)(a) of FSMA to incorporate in the description of those regulated activities a limitation on the scope of the regulated activities which the transformer vehicle may carry on.

(2) The limitation on the scope of the regulated activities referred to in paragraph (1) must be determined by reference to some or all of the activities described in the application for Part 4A permission made by or on behalf of the transformer vehicle.

(3) Where—

(a) the PRA proposes to exercise its discretion under section 55F(4)(a) of FSMA pursuant to the duty imposed on the PRA by paragraph (1); and

(b) the person applying for Part 4A permission consents to the proposed exercise of that discretion,

the PRA need not give a warning notice relating to the proposed exercise of that discretion pursuant to section 55X(1)(a) of FSMA.

(4) Where—

(a) the PRA decides to exercise its discretion under section 55F(4)(a) of FSMA pursuant to the duty imposed on the PRA by paragraph (1); and

(b) the person applying for Part 4A permission consents to the exercise of that discretion,

the PRA need not give a decision notice relating to the exercise of that discretion pursuant to section 55X(4)(a) of FSMA.

(5) After the PRA has given permission under Part 4A of FSMA for a transformer vehicle to carry on regulated activities, the PRA may exercise its discretion under section 55I(1)(c) or 55J(3)(a) of FSMA to vary the limitation referred to in paragraph (1), provided the PRA maintains a limitation on the scope of the regulated activities which the transformer vehicle may carry on.

(6) A variation to the limitation referred to in paragraph (5) must ensure that the limitation is determined by reference to some or all of the activities which the transformer vehicle carries on or proposes to carry on.

Disapplication of Part 12 of FSMA

8. Part 12 of FSMA (control over authorised persons)(**27**) does not apply in relation to a person who decides to acquire or increase control, or reduce or cease control, over a transformer vehicle carrying on the activity specified in article 13A of the Regulated Activities Order.

Transformer vehicles which are not Solvency 2 special purpose vehicles

9.—(1) In this regulation—

(a) "non-Solvency 2 transformer vehicle" means a transformer vehicle which is authorised under Part 4A of FSMA in relation to the activity specified in article 13A of the Regulated Activities Order, but which is not a special purpose vehicle; and

(b) "special purpose vehicle" has the meaning given by Article 13(26) of the Solvency 2 Directive.

(**27**) Part 12 has been amended by S.I. 2009/534, S.I. 2011/1613, sections 6 and 26 of the Financial Services Act 2012, S.I. 2013/3115, S.I. 2014/3329, S.I. 2015/575, S.I. 2015/1755, section 16 of and schedule 2 to Bank of England and Financial Services Act 2016 and S.I. 2016/1239.

(2) The PRA must make rules under Part 9A of FSMA (rules and guidance)(**28**) which impose requirements on non-Solvency 2 transformer vehicles which are equivalent to the requirements imposed by directly applicable regulations made under paragraphs (2) and (2a) of Article 211 of the Solvency 2 Directive(**29**) on special purpose vehicles authorised for the purposes of that Article.

PART 3

Offers of investments by transformer vehicles

Meaning of "qualified investor"

10.—(1) In this Part, "qualified investor", in relation to an offer of investments, means a person—

(a) described in points (1) to (4) of Section I of Annex II to MIFID 2 (professional clients for the purposes of MIFID 2);

(b) recognised by an EEA State as an eligible counterparty for the purposes of Article 30 of MIFID 2 (transactions executed with eligible counterparties); or

(c) in respect of whom the conditions mentioned in paragraph (2) are satisfied.

(2) The conditions referred to in paragraph (1)(c) are satisfied in respect of a person ("the proposed investor") where—

(a) the proposed investor confirms in writing to the person making the offer ("the offeror") that the proposed investor is to be treated as a qualified investor for the purposes of this Part;

(b) the offeror carries out an assessment of the proposed investor's expertise, experience and knowledge;

(c) the offeror concludes from the assessment referred to in sub-paragraph (b) that—

(i) the proposed investor is capable of making an informed decision to acquire the investments; and

(ii) the proposed investor understands the risks involved in acquiring the investments;

(d) the offeror's conclusion referred to in sub-paragraph (c) is reasonable; and

(e) the proposed investor provides sufficient evidence to the offeror that the proposed investor satisfies at least two of the following criteria—

(i) the proposed investor has entered into or arranged at least 40 transactions in the reinsurance markets in the period of one year ending on the date on which confirmation is given under sub-paragraph (a);

(ii) the proposed investor has a portfolio of cash deposits and other financial instruments, the value of which exceeded £425,000 at any time in the period of two weeks ending on the date on which confirmation is given under sub-paragraph (a);

(iii) the proposed investor has worked for at least one year in a professional capacity in the financial sector and the proposed investor's role required knowledge of the reinsurance markets.

(3) Before 3rd January 2018, the reference in paragraph (1)(b) to Article 30 of MIFID 2 is to be treated as a reference to Article 24 of MIFID 1 (transactions executed with eligible counterparties).

(4) In this regulation—

(**28**) Part 9A was inserted by section 24 of the Financial Services Act 2012. There are amendments to Part 9A which are not relevant to these Regulations.

(**29**) Article 211 has been amended by Directive 2014/51/EU (OJ no L153, 22.5.2014, p. 1).

(a) "financial instrument" means a financial instrument listed in Section C of Annex I to MIFID 2 (financial instruments);

(b) "financial sector" has the same meaning as in Part 1 of Section II of Annex II to MIFID 2;

(c) "MIFID 1" means Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments(**30**);

(d) "MIFID 2" means Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments(**31**); and

(e) "reinsurance markets" includes the markets in insurance linked securities.

Investments to be offered only to qualified investors

11.—(1) A transformer vehicle must not offer to any person who is not a qualified investor an investment issued by the transformer vehicle.

(2) A transformer vehicle must take such steps as are reasonable in the circumstances to prevent an investment issued by the transformer vehicle to a qualified investor from being offered subsequently to a person who is not a qualified investor.

(3) A contravention of paragraph (1) or (2) is actionable, at the suit of a person who suffers loss as a result of the contravention, subject to the defences and other incidents applying to actions for breach of statutory duty.

PART 4

Protected Cell Companies

CHAPTER 1

Overview

Overview

12.—(1) This Part enables the creation of a type of body corporate called a protected cell company.

(2) A protected cell company is a transformer vehicle which is intended to be used as a multi-arrangement special purpose vehicle (within the meaning given by Article 2 of the Implementing Technical Standard).

(3) As a result, the protected cell company may only be used to carry out the activities mentioned in regulation 57.

(4) A protected cell company is comprised of different parts, namely the core and the cells created by the protected cell company after its registration and authorisation.

(5) The core administers the protected cell company.

(6) The cells are used for assuming risk from undertakings, issuing investments to investors to fund the protected cell company's exposure to that risk, holding the proceeds of sale of those investments and, where permitted by the protected cell company's instrument of incorporation, entering into arrangements between cells.

(7) The core and the cells do not have legal personality distinct from the protected cell company, but are nevertheless segregated from each other in accordance with the provisions of this Part.

(**30**) OJ no L145, 30.4.2004, p.1. There are amendments to the directive which are not relevant to these Regulations.
(**31**) OJ no L173, 12.6.2014, p. 349. There are amendments to the directive which are not relevant to these Regulations.

(8) Protected cell companies are governed by the provisions of this Part rather than the Companies Act 2006, but Part 41 (business names)(**32**) of that Act applies to protected cell companies and these Regulations apply certain other provisions of that Act to protected cell companies with modifications.

CHAPTER 2

Registration

SECTION 1

Obtaining registration

Method of forming a protected cell company

13. A protected cell company is formed under this Part by a person—

(a) applying to the PRA for registration of a protected cell company in accordance with regulation 14; and

(b) complying with the requirements for registration set out in regulation 21.

Application to register a protected cell company

14.—(1) An application to register a protected cell company may only be made to the PRA.

(2) The application must state—

(a) that the applicant wishes to form a protected cell company;

(b) the name of the proposed protected cell company;

(c) the address of the proposed protected cell company's registered office;

(d) the names of the proposed directors of the protected cell company;

(e) for each proposed director, the particulars set out in regulation 18; and

(f) the names of the persons who are, on registration, to hold voting shares in the core of the protected cell company.

(3) The application must contain or be accompanied by—

(a) an application made in accordance with regulation 15 (application for permission to carry out a regulated activity);

(b) the proposed instrument of incorporation;

(c) a statement signed by each person who is to become a director of the protected cell company that the person consents to being a director; and

(d) a statement signed by each person who will, on registration, hold voting shares in the core of the protected cell company that the person consents to holding those shares.

(4) When the PRA receives an application under paragraph (1), the PRA must forward the application, and any documents received in accordance with paragraph (3), to the FCA without delay.

(5) At any time after receiving an application and before determining it, the FCA may require the applicant to provide such additional information as it may reasonably require.

(6) Any information to be provided to the FCA under paragraph (5) must be set out in such form and verified in such manner as the FCA may reasonably direct.

(**32**) Part 41 has been amended by S.I. 2009/2958 and S.I. 2009/3182.

Application for permission to carry out a regulated activity

15.—(1) A person applying to register a protected cell company must make an application under section 55A (application for permission) of FSMA(**33**) for permission for the proposed protected cell company to carry out a regulated activity.

(2) That regulated activity must be, or include, the activity specified in article 13A (transformer vehicles: insurance risk transformation) of the Regulated Activities Order.

(3) Where an application is made in accordance with paragraphs (1) and (2)—

(a) the application is to be treated for the purposes of FSMA as an application made by the applicant on behalf of the proposed protected cell company;

(b) the PRA must decide whether it will, if the proposed protected cell company is registered by the FCA (see regulation 21), give the proposed protected cell company permission under section 55F (giving permission: the PRA) of FSMA(**34**);

(c) the FCA may only register the proposed protected cell company if the PRA has decided that it will, if the proposed protected cell company is registered by the FCA, give the proposed protected cell company permission under section 55F of FSMA to carry out a regulated activity which is, or includes, the activity specified in Article 13A of the Regulated Activities Order (see regulation 21); and

(d) if the FCA registers the proposed protected cell company, the PRA must, without delay, give the protected cell company permission under section 55F of FSMA in accordance with its decision.

(4) The provisions of FSMA apply to such an application, but the provisions specified in the first column of Table 1(**35**) apply with the modifications specified in the second column of Table 1(**36**).

Table 1

Provision of FSMA	*Modification*
Section 55A (application for permission)	For subsections (1) and (2) substitute— "(1) An application for permission to carry on one or more regulated activities may be made to the appropriate regulator on behalf of a proposed protected cell company by a person applying to register the protected cell company under Part 4 of the Risk Transformation Regulations 2017. (2) The "appropriate regulator", in relation to such an application, means the PRA." Ignore subsection (3).
Section 55B (the threshold conditions)	In subsection (3), treat the references to giving permission, imposing a requirement or giving consent as including references to making a decision to do any of those things on the registration of the proposed protected cell company.
Section 55F (giving permission: the PRA)	In subsection (2), treat the reference to "the applicant" as a reference to "the protected cell company".

(**33**) Section 55A was inserted by section 11 of the Financial Services Act 2012.
(**34**) Section 55F was inserted by section 11 of the Financial Services Act 2012.
(**35**) All the provisions specified in the first column of Table 1, with the exception of section 390, were inserted into FSMA by section 11 of the Financial Services Act 2012. There are amendments to those provisions which are not relevant to these Regulations.
(**36**) Note also the effect of regulation 7 on the PRA's discretion under section 55F(4)(a) of FSMA.

Provision of FSMA	*Modification*
	The PRA may not give permission under subsection (2) until the FCA has registered the protected cell company.
Section 55L (imposition of requirements by FCA)	For subsection (1) substitute— "(1) Where a person has applied, on behalf of a proposed protected cell company, to the PRA for a Part 4A permission, the FCA may, on the registration of the protected cell company, impose on the protected cell company such requirements, taking effect on or after the giving of permission, as the FCA considers appropriate."
Section 55M (imposition of requirements by PRA)	For subsection (1) substitute— "(1) Where a person has applied, on behalf of a proposed protected cell company, for a Part 4A permission, the PRA may, on the registration of the protected cell company, impose on the protected cell company such requirements, taking effect on or after the giving of permission, as the PRA considers appropriate."
Section 55R (persons connected with an applicant)	In subsection (1), treat the reference to the "applicant" as a reference to the proposed protected cell company.
Section 55U (applications under this Part)	For subsection (1)(a) substitute— "(a) contain a statement by the applicant of the regulated activity or regulated activities for which permission is sought on behalf of the proposed protected cell company, and"
Section 55V (determination of applications)	Treat references to the determination of an application as references to the decision made by the PRA as to what action the PRA will take under section 55F of FSMA if the FCA registers the proposed protected cell company. After subsection (4) insert— "(4A) Subsection (4B) applies where the PRA decides that it will, if the FCA decides to register the proposed protected cell company, give the proposed protected cell company permission under section 55F to carry out a regulated activity which is, or regulated activities which include, the activity specified in Article 13A of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001. (4B) The PRA must give the applicant written notice stating the activities which the proposed protected cell company will be given permission under section 55F to carry out if the FCA decides to register the proposed protected cell company. (4C) Where the PRA gives written notice under subsection (4B), a copy must be sent to the FCA without delay."
Section 55X (determination of applications: warning notices and decision notices)	In subsection (1), in paragraphs (a) and (b), after "Part 4A permission" insert "if the protected cell company is registered by the FCA,". The FCA or PRA need not give a warning notice under subsection (1) in the circumstances specified in paragraph (a),

Provision of FSMA	*Modification*
	(b) or (e) of that subsection if the applicant has consented to the proposed exercise of power referred to in that paragraph. The PRA must give a copy of any warning notice given under subsection (1) to the FCA without delay. In subsection (2), ignore the reference to subsection (3). Ignore subsection (3). In subsection (4), in paragraphs (a) and (b), after "Part 4A permission" insert "if the protected cell company is registered by the FCA,". The FCA or PRA need not give a decision notice under subsection (4) in the circumstances specified in paragraph (a), (b) or (e) of that subsection if the applicant has consented to the exercise of power referred to in that paragraph. Where the applicant consents to an exercise of power referred to in paragraph (a) or (b), the PRA must notify the FCA without delay.
Section 55Z3 (right to refer matters to the tribunal)	In subsection (1), treat the reference to the determination of an application as a reference to the decision made by the PRA as to what action the PRA will take under section 55F of FSMA if the FCA registers the proposed protected cell company. In subsection (2), treat the reference to the exercise of an own-initiative requirement power as a decision to exercise that power if the proposed protected cell company is registered.
Section 390 (final notices)(**37**)	Where the PRA gives a final notice under this section, the PRA must send a copy of the final notice to the FCA without delay.

Applications for approval of persons

16.—(1) Where a person makes an application to the PRA in accordance with paragraphs (1) and (2) of regulation 15, the person may also make an application under section 59 (approval for particular arrangements) of FSMA(**38**).

(2) The application is to be treated for the purposes of FSMA as an application made by the applicant on behalf of the proposed protected cell company.

(3) The provisions of FSMA apply to such an application, but the provisions specified in the first column of Table 2(**39**) apply with the modifications specified in the second column of Table 2.

(**37**) Section 390 has been amended by section 37 of and Schedule 9 to the Financial Services Act 2012 and S.I. 2010/22.

(**38**) Section 59 has been amended by sections 14 and 15 of and Schedule 5 to the Financial Services Act 2012, S.I. 2012/1906, sections 18 and 35 of and Schedule 3 to the Financial Services (Banking Reform) Act 2013, S.I. 2013/1773, and section 21 of and Schedule 4 to the Bank of England and Financial Services Act 2016.

(**39**) Sections 60, 61 and 62 have been amended by sections 14 and 15 of and Schedules 4 and 5 to the Financial Services Act 2012, sections 20 to 23 of and schedule 4 to the Financial Services (Banking Reform) Act 2013, and section 21 of and Schedule 4 to the Bank of England and Financial Services Act 2016. Section 62A was inserted by section 24 of the Financial Services (Banking Reform) Act 2013 and amended by sections 21 and 23 of and Schedule 4 to the Bank of England and Financial Services Act 2016.

Table 2

Provision of FSMA	*Modification*
Section 60 (applications for approval)	In subsection (1), treat the reference to the authorised person concerned as a reference to the applicant on behalf of the proposed protected cell company. In the rest of the section, treat the references to the authorised person concerned as including references to the proposed protected cell company.
Section 60A (vetting of candidate)	On the coming into force of paragraph 5 of Schedule 4 to the Bank of England and Financial Services Act 2016(**40**), references to an authorised person are to be treated as references to the applicant on behalf of the proposed protected cell company.
Section 61 (determination of applications)	In subsection (5), ignore paragraph (b).
Section 62 (applications for approval: procedure and right to refer to Tribunal)	Subsection (2) does not apply where the regulator to which an application is made proposes to grant the application subject to conditions or for a limited period, and the applicant and the person in respect of whom the application has been made have consented to those conditions or that limited period. Subsection (3) does not apply where the regulator to which an application is made decides to grant the application subject to conditions or for a limited period, and the applicant and the person in respect of whom the application has been made have consented to those conditions or that limited period. In subsection (5), ignore paragraph (c).
Section 62A (changes in responsibilities of senior managers)	An application made by the applicant on behalf of the proposed protected cell company is to be treated, for the purposes of subsection (1)(a), as an application made by the proposed protected cell company.
Section 63 (withdrawal of approvals)	On the coming into force of paragraph 8 of Schedule 4 to the Bank of England and Financial Services Act 2016, an application made by the applicant on behalf of the proposed protected cell company is to be treated, for the purposes of subsection (2A), as an application made by the proposed protected cell company.
Section 390 (final notices)	Where the PRA gives a final notice under this section, the PRA must send a copy of the final notice to the FCA without delay.

The name of a protected cell company

17.—(1) A protected cell company's name must include one of the following expressions (or their Welsh equivalents)—

"protected cell company";

(**40**) 2016 c. 24.

"PCC Limited";

"PCC Ltd".

(2) No protected cell company may have a name that—

(a) is undesirable or misleading;

(b) includes any of the following words or expressions (or, where applicable, their Welsh equivalents)—

(i) "unlimited" or "public limited company";

(ii) "insurance", "insurer", "insured", "reinsurance", "reinsurer", "reinsured";

(iii) European Economic Interest Grouping or any equivalent set out in Schedule 3 to the European Economic Interest Grouping Regulations 1989;

(c) includes an abbreviation of any of the words or expressions referred to in sub-paragraph (b);

(d) is the same as the name of any other protected cell company registered by the FCA;

(e) is the same as the name of any other protected cell company which was registered by the FCA and then dissolved; or

(f) is the same as the name of any other company appearing on the appropriate registrar's index of company names.

(3) The following are to be disregarded for the purposes of determining whether one name is the same as another name—

(a) the definite article, where it is the first word of the name;

(b) the following words and expressions (or, where applicable, their Welsh equivalents) where they appear at the end of the name—

"company";

"and company";

"company limited";

"limited";

"unlimited";

"public limited company";

"protected cell company";

"PCC Limited";

"PCC Ltd";

"European Economic Interest Grouping" or any equivalent set out in Schedule 3 to the European Economic Interest Grouping Regulations 1989;

(c) abbreviations of the words and expressions referred to in sub-paragraph (b) where they appear at the end of the name; and

(d) type and case of letters, accents, spaces between letters and punctuation marks.

(4) For the purposes of determining whether one name is the same as another name, "and" and "&" are to be taken to be the same.

Particulars of directors

18.—(1) The particulars which must be provided in relation to a director are—

(a) in the case of an individual, the individual's—

(i) name;

(ii) former name (if any);

(iii) usual residential address;

(iv) nationality;

(v) date of birth;

(b) in the case of a body corporate, the body corporate's—

(i) corporate or firm name;

(ii) registered or principal office;

(c) whether the director or proposed director has authority to act on behalf of the protected cell company alone or jointly with another director or proposed director; and

(d) if the director or proposed director only has authority to act jointly with another director or proposed director, the name of the other director or proposed director.

(2) In paragraph (1)(a)—

(a) a reference to an individual's name means the person's forename and surname, except that in the case of a peer or an individual usually known by a British title, the title may be stated instead of or in addition to the individual's forename and surname;

(b) the reference to an individual's former name does not include—

(i) in the case of a peer or an individual usually known by a British title, the name by which the individual was known before the adoption of or succession to the title;

(ii) a name which the individual changed or ceased to use before the individual attained the age of 18 years;

(iii) a name which the individual changed or ceased to use before a period of 20 years ending on the date the application to register a protected cell company is made to the PRA;

(iv) in the case of a married person, the name by which the person was known before marriage.

Instrument of incorporation: requirements

19.—(1) The instrument of incorporation of a protected cell company must include—

(a) the statements set out in paragraph (3); and

(b) provision as to the matters mentioned in paragraph (4).

(2) The instrument of incorporation must not include—

(a) anything that conflicts with a statement required by paragraph (1)(a); or

(b) a statement to the effect that the protected cell company is a public company.

(3) The statements required by paragraph (1)(a) are that—

(a) the company is a protected cell company registered by the Financial Conduct Authority under the Risk Transformation Regulations 2017;

(b) the registered office of the protected cell company is situated in England and Wales (or Wales), Scotland or Northern Ireland (as the case may be);

(c) the objects of the protected cell company are the activities specified in regulation 57;

(d) the protected cell company is comprised of a core and the cells created by the protected cell company after its registration and authorisation;

(e) the core administers the protected cell company and the cells are used to assume risk from undertakings, issue investments to investors to fund the protected cell company's exposure to that risk, hold the proceeds of sale of those investments and, where permitted by the instrument of incorporation, enter into arrangements between cells (see regulation 68);

(f) the cells are segregated from each other and from the core;

(g) the assets held on behalf of a cell are treated as if they belong exclusively to that cell and shall not be used to discharge liabilities incurred on behalf of or attributable to the core or any other cell, and shall not be available for any such purpose;

(h) the protected cell company may issue non-voting and voting shares on behalf of the core;

(i) the protected cell company may issue non-voting shares on behalf of a cell, but not voting shares;

(j) the liability of a person holding a share issued by the protected cell company is limited to the amount (if any) unpaid on the share.

(4) The matters referred to in paragraph (1)(b) are—

(a) the name of the protected cell company;

(b) the address of the protected cell company's registered office;

(c) the procedure for creating and dissolving a cell;

(d) when the creation of a new cell takes effect;

(e) the way in which cells in the protected cell company are to be named or numbered;

(f) whether the protected cell company may make arrangements between cells and, if so, whether they may be amended or cancelled (see regulation 70);

(g) the rights attaching to shares issued on behalf of the core and the cells;

(h) the maximum and minimum sizes of the voting share capital in the core;

(i) the classes of shares which may be issued on behalf of the core and the cells;

(j) if the protected cell company is to have a company seal, the form, custody and use of the seal;

(k) the procedure for the appointment and removal of a director of the protected cell company (for which provision is not made in this Part); and

(l) the currency in which the accounts of the protected cell company must be prepared.

(5) The way in which the cells of a protected cell company are given a name or number in accordance with the instrument of incorporation must not result in a cell having a name or number which would contravene the requirements of regulation 17(2) if it were the name of the protected cell company.

Instrument of incorporation: model articles

20. A protected cell company's instrument of incorporation may apply (with or without modification) all or any part of the model articles set out in the Companies (Model Articles) Regulations 2008(**41**), except to the extent that it would contravene a requirement of this Part.

Requirements for registration

21.—(1) The FCA must register a protected cell company where all of the following conditions are satisfied—

(a) the application for registration satisfies the requirements of regulation 14;

(**41**) S.I. 2008/3229, as amended by section 3 of the Mental Health (Discrimination) Act 2013 (c. 8).

(b) the registered office of the protected cell company is situated in the United Kingdom;

(c) the name of the protected cell company is not prohibited by regulation 17;

(d) the protected cell company's instrument of incorporation satisfies the requirements of regulation 19;

(e) the protected cell company will have at least one director;

(f) there is at least one person who will, on registration, hold voting shares in the core of the protected cell company;

(g) the PRA has notified the FCA that the PRA will, if the FCA registers the proposed protected cell company, give the protected cell company permission under section 55F of FSMA to carry out the regulated activity referred to in Article 13A of the Regulated Activities Order; and

(h) if a warning notice has been served by a regulator on the applicant under paragraph (a), (b) or (e) of section 55X(1) of FSMA, then one of the following conditions is satisfied—

(i) the applicant has consented to the proposed action to which the warning notice relates;

(ii) where the regulator is the FCA, the FCA has decided not to exercise the power referred to in paragraph (e) of section 55X(1) of FSMA; or

(iii) in any other case, the regulator has served a final notice on the applicant which relates to—

(aa) the proposed action to which the warning notice relates; or

(bb) action which the regulator has decided to take instead of, or in addition to, that proposed action.

(2) For the purposes of determining whether the protected cell company's instrument of incorporation satisfies the requirements of regulation 19, the FCA may rely on a statement signed by the solicitor or counsel for the applicant confirming that the instrument of incorporation satisfies the requirements of regulation 19.

Representations against refusal of registration

22.—(1) If the FCA proposes to refuse an application made under regulation 14 to register a protected cell company, it must give the applicant a warning notice.

(2) If the FCA decides to refuse the application—

(a) the FCA must give the applicant a decision notice; and

(b) the applicant may refer the matter to the Tribunal.

(3) Paragraphs (1) and (2) do not apply where the PRA has decided not to give the protected cell company permission to carry out the activity specified in Article 13A of the Regulated Activity Order.

Registration and certificates of incorporation

23.—(1) If the FCA determines that the requirements of regulation 21 as to registration are satisfied, the FCA must register the documents delivered to it.

(2) On registration, the FCA must issue a certificate that the protected cell company is incorporated.

(3) The certificate must state—

(a) the name of the protected cell company;

(b) the registered number of the protected cell company;

(c) the date of incorporation;

(d) that the protected cell company is a protected cell company incorporated under the Risk Transformation Regulations 2017; and

(e) whether the registered office is situated in England and Wales (or Wales), Scotland or Northern Ireland.

(4) The certificate must not state that the protected cell company is a public company.

(5) The certificate must be signed on behalf of the FCA or authenticated by the FCA's company seal.

(6) The certificate is conclusive evidence that the requirements of regulation 21 as to registration are satisfied.

(7) The FCA may issue duplicate certificates at any time after registration.

(8) Where the FCA registers a protected cell company, the FCA must notify the PRA without delay.

Registration: notification to appropriate registrar

24. When the FCA registers a protected cell company under regulation 23, the FCA must notify the appropriate registrar of the name of the protected cell company.

Effect of registration

25.—(1) The registration of a protected cell company has the following effects from the date of incorporation.

(2) The following persons are a body corporate by the name stated in the certificate of incorporation—

(a) the persons named in the application for registration as the persons who will, on registration, hold voting shares in the core of the protected cell company; and

(b) such other persons as may from time to time hold shares issued on behalf of the core of the protected cell company.

(3) That body corporate is capable of exercising all the functions of an incorporated company.

(4) The registered office of the protected cell company is as stated in the application for registration.

(5) The persons named as proposed directors in the application for registration are appointed to that office.

(6) The persons named in the application for registration as the persons who will, on registration, hold voting shares in the core of the protected cell company become the holders of those shares.

(7) The shares referred to in paragraph (6) are deemed to be have been issued by the protected cell company on behalf of the core.

(8) The provisions of the protected cell company's instrument of incorporation are binding on the following persons to the same extent as if there were covenants between them—

(a) the protected cell company;

(b) each person holding shares issued by the protected cell company on behalf of any part of the protected cell company.

(9) All the persons mentioned in paragraph (8) (but no others) are to be taken to have notice of the provisions of the protected cell company's instrument of incorporation.

SECTION 2

Amendments to registration

Changes to name and registered office

26. A protected cell company may change its name or the address of its registered office by amending the relevant part of its instrument of incorporation.

FCA's approval for amendments to instrument of incorporation

27.—(1) A protected cell company must give written notice to the FCA of a proposed amendment to the protected cell company's instrument of incorporation.

(2) Notice under paragraph (1) must be accompanied by—

(a) the proposed amendment; and

(b) a draft of the protected cell company's instrument of incorporation as amended by the proposed amendment.

(3) The FCA must approve the proposed amendment unless the proposed amendment would affect the protected cell company's compliance with the requirements of regulations 17 and 19.

(4) For the purposes of determining whether the proposed amendment will affect the protected cell company's compliance with the requirements of regulation 19, the FCA may rely on a statement signed by the solicitor or counsel for the protected cell company confirming that the proposed amendment does not affect the protected cell company's compliance with regulation 19.

(5) Effect must not be given to any proposed amendment to the protected cell company's instrument of incorporation unless—

(a) the FCA has given its approval to the proposal by notice in writing; or

(b) the FCA has failed to give the protected cell company a warning notice within a period of six weeks beginning with the date on which written notice referred to in paragraph (1) was given to the FCA.

Procedure when refusing approval of proposed amendment

28.—(1) If the FCA proposes to refuse approval, it must give the protected cell company a warning notice.

(2) To be valid, the warning notice must be received by the protected cell company within a period of six weeks beginning with the date on which written notice was given to the FCA in accordance with regulation 27(1).

(3) If the FCA decides to refuse approval—

(a) the FCA must give the protected cell company a decision notice; and

(b) the protected cell company may refer the matter to the Tribunal.

Notification of appropriate registrar

29. If an amendment to a protected cell company's instrument of incorporation results in a change to the protected cell company's name, the FCA must notify the appropriate registrar of the change.

SECTION 3

The register

Register of protected cell companies

30. The FCA must maintain a register of protected cell companies.

Registered numbers

31.—(1) The FCA must allocate to every protected cell company a number, which is to be known as the protected cell company's registered number.

(2) Protected cell companies' registered numbers must be in such form as the FCA may determine from time to time, and may consist of one or more sequences of numbers or letters.

(3) The FCA may, upon adopting a new form of registered number, make such changes to existing registered numbers as appear to it to be necessary.

(4) A change to a protected cell company's registered number has effect from the date on which the protected cell company is notified by the FCA of the change.

Information on register

32.—(1) The following information must be recorded on the register in relation to every protected cell company—

(a) the protected cell company's name;

(b) any names by which the protected cell company was previously known;

(c) the protected cell company's registered number;

(d) the date of the protected cell company's registration;

(e) the address of the protected cell company's registered office;

(f) if an alternative inspection location has been notified to the FCA in accordance with regulation 67, the alternative inspection location;

(g) the protected cell company's instrument of incorporation as at the date of incorporation;

(h) any amendments to the protected cell company's instrument of incorporation which have been approved by the FCA under regulation 27;

(i) the protected cell company's instrument of incorporation, as amended by any amendments approved by the FCA under regulation 27;

(j) the names or numbers of all the cells which have been created by the protected cell company;

(k) in respect of each cell, the time and date when the cell was created;

(l) if a cell has been dissolved, the time and date when the cell was dissolved;

(m) copies of any written resolutions of the directors of the protected cell company provided in accordance with regulation 69(2)(c) (creation of arrangements between cells: procedure) or regulation 70(4)(b) (arrangements between cells: amendment and cancellation);

(n) the names of the directors of the protected cell company;

(o) the date on which each director was appointed;

(p) the particulars of each director, with the exception, in the case of a director who is an individual, of the director's usual residential address and date of birth;

(q) whether each director has or had the authority to act alone or jointly with another director, and if the director may or could only act jointly with another director, the name of that other director;

(r) if a director was removed from office, the date on which the director was removed;

(s) the information provided by the protected cell company in accordance with regulation 114(5)(b) (single members);

(t) the information provided by the protected cell company in accordance with regulation 133 (information on capital subscribed);

(u) all documents required to be delivered to the FCA for registration under Part 25 (company charges) of the Companies Act 2006, as applied by regulation 155 (registration of charges);

(v) all documents required to be delivered to the FCA under the following provisions of the Companies Act 2006, as applied by regulation 163 (application of Companies Act regime) —

(i) section 394A(2)(e) (individual accounts: exemption for dormant subsidiaries)(**42**);

(ii) section 441 (annual accounts and reports)(**43**);

(iii) section 448A(2)(e) (dormant subsidiaries exempt from obligation to file accounts)(**44**);

(iv) section 479A(2)(e) (subsidiary companies: conditions for exemption from audit)(**45**);

(w) anything that must be given to the FCA under Part 15 (accounts and reports) of the Companies Act 2006, as applied by regulation 163, other than a document referred to in sub-paragraph (v);

(x) any application registered under regulation 174 (fast track transfers);

(y) any order made under regulation 175 or 177 (transfers sanctioned by court order);

(z) anything that must be registered as a result of a court order made under regulation 41;

(aa) a copy of any winding-up order made in respect of any part of the protected cell company;

(bb) a notice of the appointment of liquidators in respect of any part of a protected cell company;

(cc) an order for the dissolution of a part of the protected cell company on its winding up;

(dd) a return by a liquidator of the final meeting of part of a protected cell company on its winding up;

(ee) anything which must be given to the FCA in accordance with a requirement imposed by the insolvency legislation (as applied by regulations 166 and 167), other than the documents referred to in sub-paragraphs (aa) to (dd);

(ff) whether the protected cell company has been dissolved and, if so, the date of dissolution; and

(gg) any notice given to the FCA in accordance with section 1013(6) of the Companies Act 2006 (crown disclaimer of property vesting as *bona vacantia*) as applied by regulation 180(10) (dissolution of a protected cell company).

(2) For the purposes of paragraph (1), the FCA may rely on information provided by the protected cell company.

(**42**) Section 394A(2)(e) was inserted by S.I. 2012/2301.
(**43**) Section 441 was amended by S.I. 2008/393 and S.I. 2012/2301.
(**44**) Section 448(2)(e) was inserted by S.I. 2012/2301.
(**45**) Section 479A(2)(e) was inserted by S.I. 2012/2301.

Directors: residential addresses and dates of birth

33.—(1) This regulation applies where a director is an individual.

(2) Where the FCA is notified that a document, other than a document setting out the particulars of a director, includes a statement of the director's usual residential address or date of birth, the FCA must redact that statement from the document where the document is to be included on the register.

(3) Notification under paragraph (2) must state where in the document the statement is to be found.

(4) But the FCA is not required to search any document other than the director's particulars for a statement of the director's usual residential address or date of birth and, in the absence of notification in accordance with paragraphs (2) and (3), the FCA may include such a document on the register notwithstanding the fact that it includes such a statement.

Delivery of documents to the FCA

34. Where these Regulations require a person to deliver a document to the FCA to be recorded on the register, the person—

(a) may deliver the document by electronic means; and

(b) subject to paragraph (a), must deliver the document in such form as the FCA may from time to time require.

Keeping of records by the FCA

35.—(1) The FCA must keep the register in electronic form.

(2) The FCA must put in place procedures to ensure that any change to the information referred to in regulation 32(1) is normally recorded on the register within a period of 21 days beginning with the day when the FCA receives notice of the change.

(3) But paragraph (2) does not apply to the protected cell company's annual accounts.

(4) The originals of documents delivered in hard copy form to the FCA to be recorded on the register must be kept for a period of three years beginning with the date they are received by the FCA, after which they may be destroyed provided the information contained in them has been recorded on the register.

(5) The FCA is under no obligation to keep documents delivered in electronic form, provided the information contained in them has been recorded on the register.

(6) Where a protected cell company has been dissolved, the FCA may, at any time after a period of six years beginning with the date of dissolution, direct that any records in its custody relating to the protected cell company be removed to the Public Records Office.

(7) Where records are removed to the Public Records Office in accordance with a direction under paragraph (6), the records in respect of which the direction is given must be disposed of in accordance with the enactments relating to that Office and the rules made under them.

(8) Paragraphs (6) and (7) do not extend to Scotland.

Publication of register

36.—(1) The FCA must publish the information contained in the register on its website, with the exception of the information referred to in sub-paragraphs (m), (s), (u), (w), (x), (y), (z) and (ee) of regulation 32(1).

(2) Where information published in accordance with paragraph (1) has a chronological order, the FCA must ensure that it can be accessed in chronological order.

Inspection of records kept by the FCA

37.—(1) The FCA must on request provide a copy of the whole or part of a document or particular recorded on the register.

(2) The request may be made in hard copy form or by electronic means.

(3) The FCA must comply with a request made to have the document or particular provided in hard copy form or by electronic means.

(4) The FCA may satisfy the obligation to provide a document or particular by electronic means in response to a request made by electronic means by ensuring that—

(a) the document or particular may be downloaded from its website; and

(b) the person making the request is sent a message referring the person to its website.

(5) Where the FCA provides a hard copy of a document or particular, it must be certified as a "true copy" unless the person requesting it dispenses with certification.

(6) Where the FCA provides an electronic copy of a document or particular, it must not be certified as a "true copy" unless the applicant requests certification.

(7) Where the FCA certifies an electronic copy as a "true copy", it must do so with an advanced electronic signature falling within the meaning given by Article 2(2) of Directive 1999/93/EC of the European Parliament and of the Council on a Community framework for electronic signatures(**46**).

(8) The FCA may charge a fee for the provision of any document or particular recorded on its register provided the fee does not exceed the administrative cost of providing it.

(9) Where the information available on the FCA's website is illegible or unavailable, a person may inspect any copies of documents retained by the FCA in which the information is recorded.

(10) No process for compelling the production of a document kept by the FCA under these regulations is to issue from any court except with permission of the court.

(11) Where the FCA provides a certified copy of a document recorded on the register, the certified copy is deemed to be an accurate record of the contents of the original document and is in all legal proceedings admissible—

(a) as evidence of equal validity to the original document; and

(b) as evidence (in Scotland, sufficient evidence) of any fact stated in the original document of which direct oral evidence would be admissible.

Provision of information for publication on European e-Justice portal

38.—(1) The FCA must provide the information required by Article 17 of Directive (EU) 2017/1132 of the European Parliament and of the Council of 14 June 2017 relating to certain aspects of company law(**47**) for publication on the European e-Justice portal in accordance with the portal's rules and technical requirements.

(2) In this regulation, the "European e-Justice portal" means the single European electronic access point for legal information, judicial and administrative institutions, registers, databases and other services referred to in that directive.

Documents relating to Welsh protected cell companies

39.—(1) This regulation applies to any document which is delivered to the FCA under these Regulations and relates to a protected cell company or proposed protected cell company whose instrument of incorporation states that the registered office is situated in Wales.

(**46**) O.J. no L169, 30.06.2017, p.46.
(**47**) OJ No L169, 30.6.2017, p.46.

(2) A document may be in Welsh, but must be accompanied by a certified English translation of the document unless it is in a form prescribed in Welsh (or partly in Welsh and partly in English) by virtue of section 26 (powers to prescribe Welsh forms) of the Welsh Language Act 1993(**48**).

(3) Where a document is properly delivered to the FCA in Welsh without a certified English translation—

(a) the FCA must obtain such a translation if the document is to be available for public inspection; and

(b) the translation is to be treated as if delivered to the FCA in accordance with the same provision as the original.

(4) Where a document has been delivered to the FCA in English, the protected cell company may also deliver a certified translation of the document into Welsh.

FCA's notice to resolve inconsistency on the register

40.—(1) Where it appears to the FCA that the information contained in a document delivered to the FCA is inconsistent with other information on the register, the FCA may give notice to the protected cell company to which the document relates—

(a) stating in what respects the information contained in it appears to be inconsistent with other information on the register; and

(b) requiring the protected cell company to resolve the inconsistency.

(2) The notice must—

(a) state the date on which it is issued; and

(b) require the delivery to the FCA, within a period of 14 days beginning with that date, of such replacement or additional documents as may be required to resolve the inconsistency.

Rectification of the register under court order

41.—(1) The FCA must remove from the register any material—

(a) that derives from anything that the court has declared to be invalid or ineffective, or to have been done without the authority of the protected cell company; or

(b) that the court declares to be factually inaccurate, or to be derived from something that is factually inaccurate, or forged,

and that the court directs should be removed from the register.

(2) The court order must specify what is to be removed from the register and indicate where it is on the register.

(3) The court must not make an order for the removal of anything the registration of which has the legal consequences specified in paragraph (4) unless satisfied—

(a) that the presence of the material on the register has caused, or may cause, damage to the protected cell company; and

(b) that the protected cell company's interest in removing the material outweighs any interest of other persons in the material continuing to appear on the register.

(4) The legal consequences mentioned in paragraph (3) are legal consequences for the protected cell company as regards—

(a) its formation;

(b) an amendment to its instrument of incorporation;

(**48**) 1993 c. 38.

(c) the creation or dissolution of a cell;

(d) its dissolution.

(5) Where a court makes an order for removal under paragraph (3), the court may make such consequential orders as appear just with respect to the legal effect (if any) to be accorded to the material by virtue of its having appeared on the register.

(6) The court's powers also include a power to order that any of the following be included on the register—

(a) a copy of the order;

(b) a note of such matters as may be determined by the court.

(7) In this regulation, "court" means the High Court or, in Scotland, the Court of Session.

CHAPTER 3

Structure of a protected cell company

The core

42.—(1) A protected cell company must have a core.

(2) The core—

(a) is part of the protected cell company; and

(b) does not have legal personality distinct from the protected cell company.

(3) The purpose of the core is to administer the protected cell company.

(4) For that purpose, the protected cell company may, on behalf of the core, carry out such functions as are conferred on the core by the protected cell company's instrument of incorporation.

(5) The instrument of incorporation may, amongst other things, enable the protected cell company to do the following things on behalf of the core—

(a) hold property;

(b) lease premises;

(c) enter into contracts, including contracts of employment and contracts for the provision of services;

(d) issue voting and non-voting shares;

(e) borrow money;

(f) incur liabilities.

(6) But a protected cell company may not assume a risk from an undertaking on behalf of the core.

The cells

43.—(1) The protected cell company may have one or more cells.

(2) A cell—

(a) is part of the protected cell company; and

(b) does not have legal personality distinct from the protected cell company.

(3) The purpose of the cells is to—

(a) assume risk from undertakings;

(b) issue investments to investors to fund the protected cell company's exposure to the risks it has assumed;

(c) hold the proceeds of the sale of those investments;

(d) where permitted by the protected cell company's instrument of incorporation, enter into arrangements between cells (see regulations 68 to 74); and

(e) carry out any other functions conferred on the cells by the protected cell company's instrument of incorporation.

(4) A protected cell company may carry out the activity referred to in paragraph (3)(c) by using a trustee or nominee.

(5) Where a protected cell company uses a cell which is not a member of a group of cells to assume risk from an undertaking under a contractual arrangement, the protected cell company may not, during the time it is exposed to that risk, use that cell to assume risk from another undertaking or under a separate contractual arrangement.

(6) Where a protected cell company uses one or more cells which are members of a group of cells to assume risk from an undertaking under a contractual arrangement, the protected cell company—

(a) may not, during the time it is exposed to that risk, use any cell in that group of cells to assume risk from another undertaking or under a separate contractual arrangement;

(b) may use different cells in the group to carry out different activities (for example one cell may be used to assume risk and another cell may be used to issue investments to investors).

(7) A protected cell company may use different cells in a group of cells to assume risk under successive separate contractual arrangements.

Assets, liabilities and obligations

44.—(1) Assets which are held by a protected cell company must be held on behalf of a part of the protected cell company.

(2) Liabilities or obligations incurred by a protected cell company must be incurred on behalf of a part of the protected cell company.

Liabilities and obligations which are not incurred on behalf of a part

45. A liability or obligation of the protected cell company which is not incurred by the protected cell company on behalf of a part of the protected cell company is to be treated as being attributable to the part of the protected cell company to which the liability or obligation is most closely related.

Records and accounts of assets, liabilities and obligations

46.—(1) A protected cell company must at all times keep records and accounts which distinguish—

(a) the assets held on behalf of each part of the protected cell company from the assets held on behalf of the other parts of the protected cell company; and

(b) the liabilities and obligations which are incurred on behalf of, or which are attributable to, each part of the protected cell company from the liabilities and obligations which are incurred on behalf of, or which are attributable to, the other parts of the protected cell company.

(2) A protected cell company must ensure that the records and accounts kept by the protected cell company in accordance with paragraph (1) are accurate at all times.

Assets to be held in accordance with records and accounts

47.—(1) A protected cell company must at all times hold its assets in accordance with the protected cell company's records and accounts kept in accordance with regulation 46.

(2) Where a protected cell company holds an asset on behalf of a part ("part A") of the protected cell company which is recorded in the records and accounts as an asset held on behalf of another part ("part B") of the protected cell company—

(a) the protected cell company must move the asset from part A to part B; and

(b) part A holds the asset on trust for the benefit of part B until the movement takes effect.

(3) For the purposes of the trust referred to in paragraph (2), parts A and B are to be treated as if they are distinct legal persons.

Segregation within a protected cell company

48.—(1) The assets held by a protected cell company on behalf of a part of the protected cell company may not be used to discharge—

(a) a liability or obligation incurred on behalf of, or attributable to, another part of the protected cell company; or

(b) a claim brought in respect of another part of the protected cell company.

(2) A liability or obligation incurred on behalf of, or attributable to, a part of a protected cell company is to be discharged solely out of the assets held by the protected cell company on behalf of that part.

(3) A claim which a person has against a protected cell company in respect of a part of the protected cell company may not be set off or netted against a claim which the protected cell company has against that person in respect of another part of the protected cell company.

(4) A provision, whether contained in the instrument of incorporation, a contract or otherwise, is void to the extent that it is inconsistent with paragraphs (1) to (3).

(5) An application of assets, or agreement to apply assets, in contravention of paragraphs (1) to (3) is void.

(6) Notwithstanding the fact that the parts of a protected cell company are not legal persons distinct from the protected cell company—

(a) the assets held by the protected cell company on behalf of a part of the protected cell company are to be treated as assets belonging exclusively to that part of the protected cell company;

(b) a liability or obligation incurred by the protected cell company on behalf of, or which is attributable to, a part of the protected cell company is to be treated as a liability or obligation of that part of the protected cell company;

(c) a creditor of a protected cell company is to be treated as a creditor of that part of the protected cell company which is treated as being indebted to the creditor by virtue of sub-paragraph (b);

(d) the property held by a protected cell company on behalf of a part of the protected cell company may be subject to orders of the court as if the part were a distinct legal person; and

(e) a protected cell company may sue or be sued in respect of a part of the protected cell company.

Third parties circumventing segregation

49. Where—

(a) a person has a claim against a protected cell company;

(b) the claim relates to a part of the protected cell company ("part A");

(c) the person obtains property from the protected cell company in full or partial satisfaction of the claim; and

(d) the property was held by the protected cell company on behalf of a part of the protected cell company other than part A ("part B"),

then the person holds the property on trust for the benefit of part B.

Set-off: modification of insolvency legislation

50.—(1) This regulation applies where—

(a) a protected cell company has a liability ("liability A") to a person which was incurred on behalf of, or which is attributable to, a part of the protected cell company; and

(b) that person has a liability ("liability B") to the protected cell company in respect of a different part of the protected cell company.

(2) Nothing in the insolvency legislation enables the netting or setting off against each other of liability A and liability B.

CHAPTER 4

Movements of assets, liabilities and obligations within a protected cell company

Meaning of "records and accounts"

51. In this Chapter, "records and accounts" of a protected cell company means the records and accounts of the protected cell company kept by the protected cell company in accordance with regulation 46.

Movement of assets between cells

52.—(1) Where an asset is recorded in the records and accounts of a protected cell company as an asset held by the protected cell company on behalf of a cell, the protected cell company may only amend its records and accounts so as to reallocate that asset to another cell where—

(a) the amendment is made pursuant to enforceable arrangements made between the cells (see regulations 68 and 69);

(b) the records and accounts mistakenly allocate the asset to the incorrect cell and the amendment corrects that mistake; or

(c) the amendment is made pursuant to an order of the court.

(2) An amendment made in contravention of paragraph (1) has no effect.

Movement of assets from a cell to core

53.—(1) Where an asset is recorded in the records and accounts of a protected cell company as an asset held by the protected cell company on behalf of a cell, the protected cell company may only amend its records and accounts so as to reallocate that asset to the core where—

(a) the amendment is made pursuant to a contract which the protected cell company has entered into on behalf of the cell and the core;

(b) the records and accounts mistakenly allocate the asset to the cell and the amendment corrects that mistake;

(c) the asset is deemed to be moved to the core by virtue of regulation 179(1)(c) (dissolution of a cell: effect on property and liabilities);

(d) the following conditions are satisfied—

(i) the protected cell company previously assumed a risk or a succession of risks from an undertaking, or risks from a succession of undertakings, on behalf of the cell or, if the cell is a member of a group of cells, on behalf of any of the cells in that group of cells;

(ii) the protected cell company no longer has any liability to that undertaking or those undertakings on behalf of the cell or, if the cell is a member of a group of cells, on behalf of any of the cells in that group; and

(iii) all the investors holding investments issued on behalf of the cell have been paid in full; or

(e) the amendment is made pursuant to an order of the court.

(2) An amendment made in contravention of paragraph (1) has no effect.

Movement of liabilities and obligations

54.—(1) Where a liability or obligation is recorded in the records and accounts of a protected cell company as a liability or obligation incurred on behalf of, or attributable to, a part of the protected cell company, the protected cell company may only amend its records and accounts so as to reallocate that liability or obligation to another part of the protected cell company—

(a) with the consent of the person to whom the liability or obligation is owed;

(b) where the records and accounts mistakenly allocate the liability or obligation to the incorrect part of the protected cell company and the amendment corrects that mistake; or

(c) pursuant to an order of the court.

(2) An amendment made in contravention of paragraph (1) has no effect.

Procedure for moving an asset, liability or obligation

55.—(1) Any amendment to the protected cell company's records and accounts made in accordance with regulation 52, 53 or 54 must be approved by a written resolution of the directors of the protected cell company.

(2) A copy of the written resolution referred to in paragraph (1) must be kept with the records and accounts of the protected cell company at its registered office or at an alternative inspection location notified to the FCA in accordance with regulation 67.

Reallocations pursuant to mistakes in the records and accounts

56.—(1) This regulation applies where a protected cell company proposes to amend its records and accounts in accordance with regulation 52(1)(b), 53(1)(b) or 54(1)(b) so as to reallocate an asset, liability or obligation from one part of the protected cell company to another part of the protected cell company.

(2) The protected cell company must give written notice of the proposed amendment to the following persons before the beginning of a period of 10 working days ending on the day the amendment is made—

(a) the FCA;

(b) the PRA;

(c) any undertaking from whom the protected cell company has assumed a risk on behalf of a relevant part;

(d) any person to whom the protected cell company has a liability or obligation which has been incurred by the protected cell company on behalf of a relevant part or, so far as the protected cell company is aware, is attributable to a relevant part;

(e) any person holding an investment issued by the protected cell company on behalf of a relevant part.

(3) In paragraph (2), a "relevant part" is a part of the protected cell company referred to in paragraph (1) or, where such a part is a cell, any other cell which has entered into enforceable arrangements with that cell.

(4) The protected cell company may apply to court for an order abridging the time period of 10 working days referred to in paragraph (2) or dispensing with the requirement to notify some or all of the persons mentioned in that paragraph.

(5) On an application made pursuant to paragraph (4), the court may make any order it sees fit.

(6) A person may apply to court for an order—

(a) restraining the protected cell company from making the amendment referred to in paragraph (1); or

(b) if the amendment has already taken place, declaring the amendment to have no effect.

(7) On an application made pursuant to paragraph (6), the court may—

(a) make an order referred to in paragraph (6); or

(b) make any other order the court sees fit (including an order as to the amendment of the protected cell company's records and accounts).

(8) In this regulation, "court" means the High Court or, in Scotland, the Court of Session.

CHAPTER 5

Operation of a protected cell company

Objects of a protected cell company

57.—(1) The objects of a protected cell company are the carrying on of—

(a) the activity referred to in section 284A(2)(a) (transformer vehicles) of FSMA to the extent that the activity is a specified kind of activity falling within Article 13A of the Regulated Activities Order;

(b) the activities referred to in section 284A(2)(b) of FSMA; and

(c) any activity which is incidental to, consequential on, or supplemental to, any of the activities mentioned in sub-paragraphs (a) or (b).

(2) A protected cell company may not carry out any other kind of activity.

Offence of carrying on other activities

58.—(1) A protected cell company that contravenes the prohibition in regulation 57(2) is guilty of an offence and liable—

(a) on summary conviction, to imprisonment for a term not exceeding six months or—

(i) in England and Wales, a fine, or both;

(ii) in Scotland or Northern Ireland, a fine not exceeding the statutory maximum, or both;

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both.

(2) In proceedings for an offence under paragraph (1), it is a defence for the accused to show that it took all reasonable precautions and exercised all due diligence to avoid committing the offence.

Creation of a cell

59.—(1) The time and date on which a cell is created by the protected cell company is to be determined in accordance with the provisions of the protected cell company's instrument of incorporation.

(2) A protected cell company must notify the FCA when it creates a cell.

(3) The notification must state—

(a) the name or number of the cell; and

(b) the time and date when the cell was created.

(4) A protected cell company may not create a cell if the core of the protected cell company is in administration or liquidation (see regulation 167).

(5) This regulation does not apply when a cell is deemed to have been created as a result of a Case 1 transfer scheme (within the meaning given by regulation 170).

Assumption of risk: notification to PRA

60.—(1) Where a protected cell company assumes a risk from an undertaking, the protected cell company must notify the PRA.

(2) The notification must be sent to the PRA within a period of 5 working days beginning with the day the protected cell company assumed the risk.

(3) Rules made under section 137G (the PRA's general rules) of FSMA(**49**) may specify—

(a) the form in which such a notification is to be made;

(b) the information to be included with such a notification; and

(c) the form in which any such information is to be provided.

Company seal: England and Wales, and Northern Ireland

61.—(1) A protected cell company may have a common seal.

(2) A protected cell company which has a common seal must have its name engraved in legible characters on the seal.

(3) This regulation does not form part of the law of Scotland.

Contracts: England and Wales, and Northern Ireland

62.—(1) The following provisions have effect under the law of England and Wales, or Northern Ireland, with respect to contracts made by a protected cell company.

(2) A contract may be made—

(a) by a protected cell company by writing under its common seal; or

(b) on behalf of a protected cell company by any person acting under its authority (whether express or implied).

(**49**) Section 137G was inserted by section 24 of the Financial Services Act 2012.

(3) Any formalities required by law in the case of a contract made by an individual also apply to a contract made by or on behalf of a protected cell company.

Execution of documents: England and Wales, and Northern Ireland

63.—(1) The following provisions have effect under the law of England and Wales, or Northern Ireland, with respect to the execution of a document by a protected cell company.

(2) Where a protected cell company has a common seal, the protected cell company may execute a document by affixing its common seal to the document.

(3) A document that is signed by at least one director and expressed (in whatever form of words) to be executed by the protected cell company has the same effect as if executed under the common seal of the protected cell company.

(4) A document executed by a protected cell company which makes it clear on its face that it is intended by the person or persons making it to be a deed—

(a) has effect, on delivery, as a deed; and

(b) is to be presumed, unless the contrary intention is proved, to be delivered upon its being executed.

(5) In favour of a purchaser—

(a) a document is deemed to be executed by the protected cell company if it purports to be signed by at least one director or, in the case of a director which is a body corporate, it purports to be executed by that director;

(b) if the document makes it clear on its face that it is intended by the person making it to be a deed, the document is deemed to have been delivered upon its being executed.

(6) In paragraph (5), "purchaser" means a purchaser in good faith for valuable consideration and includes—

(a) an undertaking from whom the protected cell company has assumed a risk on behalf of a cell; and

(b) a person to whom the protected cell company has issued an investment on behalf of a cell.

Execution of documents: Scotland

64.—(1) The following provisions form part of the law of Scotland only.

(2) Notwithstanding the provisions of any enactment, a protected cell company need not have a company seal.

(3) For the purposes of any enactment—

(a) providing for a document to be executed by a protected cell company by affixing its common seal; or

(b) referring (in whatever terms) to a document so executed,

a document signed, subscribed or, in the case of an electronic document, authenticated by or on behalf of the protected cell company in accordance with the provisions of the Requirements of Writing (Scotland) Act 1995(**50**) has effect as if so executed.

(**50**) 1995 c. 7.

Execution of deeds by attorney: England and Wales, and Northern Ireland

65.—(1) Under the law of England and Wales, or Northern Ireland, a protected cell company may, by an instrument executed as a deed, empower any person, either generally or in respect of specific matters, as its attorney to execute deeds on its behalf.

(2) A deed executed by such an attorney on behalf of the protected cell company has effect as if the deed were executed by the protected cell company.

Official seal for share certificates

66.—(1) This regulation applies where a protected cell company has a common seal.

(2) The protected cell company may have, for use for sealing shares issued by the protected cell company and for sealing documents creating or evidencing such shares, an official seal with a facsimile of its official seal with the addition on its face of the word "securities".

(3) Such an official seal has the same effect as the company's common seal when affixed to a document.

Alternative inspection location

67.—(1) A protected cell company may have an alternative inspection location.

(2) A protected cell company's alternative inspection location must be located in the same part of the United Kingdom as the protected cell company's registered office.

(3) Where a protected cell company decides to have an alternative inspection location, the protected cell company must notify the FCA.

(4) The notification referred to in paragraph (3) must state the address of the alternative inspection location.

(5) Where a protected cell company has notified the FCA of an alternative inspection location under paragraph (3), the protected cell company must notify the FCA of any change of address of its alternative inspection location.

(6) If a protected cell company—

(a) has notified the FCA of an alternative inspection location under paragraph (3);

(b) but subsequently decides to keep the documents and records relating to the protected cell company at its registered office,

the protected cell company must notify the FCA.

CHAPTER 6

Arrangements and contracts between cells

Creation of arrangements between cells

68.—(1) Where a protected cell company enters into a contract with an undertaking to assume a risk on behalf of a cell ("cell A"), the protected cell company may make arrangements between cell A and another cell of the protected cell company ("cell B") to discharge some or all of any actual liability arising out of the assumption of risk under that contract.

(2) The protected cell company may only make those arrangements during the period—

(a) beginning when the protected cell company enters into the contract; and

(b) ending when it is no longer possible for the undertaking to make a claim under the contract or, if the undertaking has made a claim under the contract, to revise the amount payable in respect of the claim under the terms of the contract.

(3) The arrangements may only enable the protected cell company to discharge some or all of the actual liability referred to in paragraph (1) by—

(a) moving assets held by the protected cell company on behalf of cell A to cell B before the actual liability arises; and

(b) if the actual liability arises, moving assets held by the protected cell company on behalf of cell B to cell A in order to discharge some or all of that actual liability.

(4) The arrangements must include full details of—

(a) the circumstances in which assets may be moved between the cells;

(b) the timing of any movement of assets when those circumstances arise; and

(c) the amount of assets to be moved or the method by which that amount is to be determined.

(5) In this regulation, "actual liability" means a liability which is not a contingent liability.

Creation of arrangements between cells: procedure

69.—(1) The protected cell company may only make arrangements between cells in accordance with regulation 68 if the following conditions are satisfied—

(a) the protected cell company's instrument of incorporation must permit the protected cell company to make the arrangements;

(b) the arrangements must be approved by a written resolution of the directors of the protected cell company before they are made;

(c) the written resolution must set out the matters referred to in paragraph (4) of regulation 68;

(d) the following persons must have given their prior written consent to the arrangements—

(i) the undertaking from whom the protected cell company assumed the risk to which the arrangements relate; and

(ii) all persons holding investments issued by the protected cell company on behalf of either cell.

(2) Where a protected cell company makes the arrangements, the protected cell company must—

(a) notify the PRA before the end of a period of 5 working days beginning with the day the arrangements are made;

(b) keep the written resolution of the directors approving the arrangements with the records of the protected cell company at its registered office or at any alternative inspection location notified to the FCA in accordance with regulation 67;

(c) send a copy of the written resolution of the directors approving the arrangements to the FCA; and

(d) notify any person to whom the protected cell company proposes to issue or allot an investment on behalf of either cell after the arrangements have been made that the cells are party to arrangements of the kind referred to in regulation 68(1).

(3) Rules made under section 137G (the PRA's general rules) of FSMA may specify—

(a) the form in which a notification under paragraph (2)(a) is to be made;

(b) the information to be included with such a notification; and

(c) the form in which any such information is to be provided.

Arrangements between cells: amendment and cancellation

70.—(1) Where a protected cell company makes arrangements between cells in accordance with regulations 68 and 69, the protected cell company may amend or cancel those arrangements—

(a) in accordance with the terms of those arrangements; or

(b) provided the conditions mentioned in paragraph (2) are satisfied.

(2) The conditions referred to in paragraph (1)(b) are that—

(a) the protected cell company's instrument of incorporation must permit the protected cell company to amend or cancel the arrangements;

(b) the amendment or cancellation must be approved by a written resolution of the directors of the protected cell company before they are amended or cancelled;

(c) in the case of an amendment—

(i) the written resolution of the directors must set out the matters referred to in paragraph (4) of regulation 68 in relation to the amended arrangements; and

(ii) the amended arrangements must continue to comply with the requirements of paragraph (4) of regulation 68; and

(d) the following persons must have given their prior written consent to the amendment or cancellation—

(i) the undertaking from whom the protected cell company assumed the risk to which the arrangements relate; and

(ii) all persons holding investments issued by the protected cell company on behalf of either cell.

(3) Where a protected cell company amends or cancels the arrangements, the protected cell company must notify the PRA before the end of a period of 5 working days beginning with the day the arrangements are amended or cancelled.

(4) Where a protected cell company amends or cancels the arrangements other than in accordance with the terms of those arrangements, the protected cell company must—

(a) keep the written resolution of the directors approving the amendment or cancellation with the records of the protected cell company at its registered office or at an alternative inspection location notified to the FCA in accordance with regulation 67; and

(b) send a copy of the written resolution of the directors approving the amendment or cancellation to the FCA.

(5) Rules made under section 137G of FSMA may specify—

(a) the form in which a notification under paragraph (3) is to be made;

(b) the information to be included with such a notification; and

(c) the form in which any such information is to be provided.

(6) Regulation 69(2)(d) ceases to apply to arrangements which have been cancelled in accordance with this regulation.

Arrangements between cells: enforcement

71.—(1) This regulation applies where a protected cell company makes enforceable arrangements between cells.

(2) The following persons may bring proceedings against the protected cell company for an order requiring the protected cell company to give effect to the arrangements—

(a) the undertaking from whom the protected cell company assumed the risk to which the arrangements relate; and

(b) any person holding investments issued by the protected cell company on behalf of either cell.

(3) The protected cell company may apply to court for directions as to what the protected cell company must do or refrain from doing in order to give effect to the arrangements.

(4) Where a person brings proceedings referred to in paragraph (2) or the protected cell company makes an application referred to in paragraph (3), the court may make any such order as the court sees fit (including an order for service of the application on any person who appears to the court to have an interest in the matter).

(5) In this regulation, "court" means the High Court or, in Scotland, the Court of Session.

Arrangements between cells: records and accounts

72.—(1) Where a protected cell company makes enforceable arrangements between cells, the protected cell company must record the arrangements in the records and accounts kept by the protected cell company in accordance with regulation 46.

(2) For the purposes of recording the arrangements in the protected cell company's accounts, the records in the accounts must be made as if—

(a) the cells have distinct legal personality; and

(b) the arrangements take effect by virtue of a contract agreed between the cells.

(3) But where a protected cell company—

(a) prepares accounts in accordance with Part 15 (accounts and reports) of the Companies Act 2006, as applied by regulation 163; and

(b) those accounts do not distinguish between the assets, liabilities, profits or losses of the different parts of the protected cell company,

then the arrangements may be disregarded except to the extent necessary to give a true and fair view of the assets, liabilities, profits and losses of the protected cell company.

Inspection of directors' resolutions

73.—(1) An undertaking from whom a protected cell company has assumed a risk on behalf of a cell, or a person to whom a protected cell company has issued an investment on behalf of a cell, may—

(a) inspect any written resolution of the directors of the protected cell company relating to arrangements made between that cell and another cell, or amending or cancelling any such arrangements; and

(b) require a copy of any such written resolution on payment of a fee (which may not exceed the administrative cost to the protected cell company of providing the copy).

Contracts between parts of a protected cell company

74.—(1) Where a protected cell company enters into a contract which purports to create rights and obligations between two or more cells, or two or more cells of a protected cell company purport to enter into a contract creating rights and obligations between the cells, the rights and obligations between the cells—

(a) take effect as arrangements made between the cells, provided the requirements of—

(i) regulations 68 and 69; or

(ii) where applicable, regulation 70,

are satisfied; and

(b) have no other effect as between the cells.

(2) Where a protected cell company enters into a contract which purports to create rights and obligations between the core and a cell, or the core and a cell of a protected cell company purport to enter into a contract creating rights and obligations between the core and the cell, the rights and obligations between the core and the cell have no effect as between the core and the cell.

(3) This regulation does not prevent a protected cell company from entering into a contract with a person on behalf of two or more parts of the protected cell company.

CHAPTER 7

Dealings with third parties

Change of name

75. Where a protected cell company changes its name—

(a) the change does not affect any rights or obligations of the protected cell company or render defective any legal proceedings by or against it; and

(b) any legal proceedings that might have been commenced or continued against the protected cell company by its former name may be commenced or continued against it by its new name.

Change of address of registered office

76.—(1) Where a protected cell company changes the address of its registered office—

(a) the change takes effect when the FCA registers the new address; and

(b) until the end of a period of 14 days beginning with the date on which the new address is registered, a person may validly serve any document on the protected cell company at the address previously registered.

(2) Where an enactment makes provision for service of a document on a previous registered office of a protected cell company, any reference in that enactment to section 87(2) (change of address of registered office) of the Companies Act 2006(**51**) is to be treated as a reference to paragraph (1).

Name and other particulars to appear in correspondence

77.—(1) A protected cell company must ensure that the particulars specified in paragraph (3) are disclosed in all letters and e-mails sent, and in all other documents issued, by or on behalf of the protected cell company.

(2) If a protected cell company has a website, the protected cell company must also ensure that the particulars specified in paragraph (3) are disclosed on the website.

(3) The particulars mentioned in paragraphs (1) and (2) are—

(a) the protected cell company's name;

(b) the protected cell company's registered number;

(c) the protected cell company's registered office;

(d) the fact that the protected cell company is a protected cell company registered by the FCA under the Risk Transformation Regulations 2017; and

(e) the fact that the assets, liabilities and obligations of the core and cells of the protected cell company are segregated in accordance with the Risk Transformation Regulations 2017.

(4) The particulars must be disclosed in characters that can be read with the naked eye.

(**51**) 2006 c. 46.

Contracts

78.—(1) Where a protected cell company enters into a contract with a person, the protected cell company must ensure that the contract states clearly and unambiguously—

(a) whether the protected cell company enters into the contract on behalf of the core or a cell; and

(b) where the protected cell company enters into the contract on behalf of a cell, the cell's name or number.

(2) Where a protected cell company enters into a contract with a person on behalf of two or more parts of the protected cell company, the protected cell company must ensure that the contract states clearly and unambiguously which rights and obligations of the protected cell company relate to each part.

(3) The protected cell company must also ensure that every contract into which it enters contains a statement that a liability incurred by the protected cell company on behalf of the core or a cell of that protected cell company is to be discharged solely out of assets held by the protected cell company on behalf of the core or the cell (as the case may be).

Terms implied into contracts

79.—(1) This regulation applies where—

(a) a protected cell company enters into a contract with a person; and

(b) the person may assert a right under the contract against the protected cell company in respect of a part of the protected cell company ("part A").

(2) The following terms are implied into the contract—

(a) the person may only assert that right in respect of part A;

(b) the person waives any right that the person may have to make a claim which—

(i) arises under the law of a country or territory other than the United Kingdom; and

(ii) entitles the person to assert that right in respect of any part of the protected cell company other than part A;

(c) if the person obtains property from the protected cell company by asserting that right in respect of a part of the protected cell company other than part A, then the person—

(i) will transfer the property to the protected cell company to hold on behalf of that other part without delay; and

(ii) holds the property on trust for the benefit of that other part until the transfer takes effect.

(3) A provision, whether contained in the instrument of incorporation, a contract or otherwise, is void to the extent that it purports to waive or limit the effect of the implied terms referred to in paragraph (2).

Reliance on the register

80.—(1) A protected cell company may only rely against another person ("P") on an event which must be notified to the FCA to be recorded on the register where—

(a) the event has been recorded on the register published by the FCA on its website; or

(b) the protected cell company shows that P knew of the event at the material time.

(2) If the material time falls—

(a) on or before the 15th day after the date that the event was recorded in the register published by the FCA on its website; or

(b) where the 15th day was not a working day, on or before the next day that was,

then the protected cell company is not entitled to rely on the happening of the event as against P if P shows that P was unavoidably prevented from knowing of the event at that time.

Capacity of protected cell company

81.—(1) The validity of an act done by a protected cell company cannot be called into question on the ground of lack of capacity by reason of anything in the enactments and documents specified in paragraph (7) (the "governing documents").

(2) A party to a transaction with a protected cell company is not bound to enquire—

(a) as to whether the transaction is permitted by the governing documents; or

(b) as to any limitation on the powers of the directors deriving from the governing documents.

(3) But sub-paragraph (b) of paragraph (2) does not apply if the party is not dealing in good faith.

(4) In favour of a person dealing in good faith, the following powers are deemed to have been exercised free of any limitation in the governing documents—

(a) the powers of the directors to bind the protected cell company or authorise others to do so; and

(b) the power of the protected cell company in a general meeting to bind the protected cell company or authorise others to do so.

(5) For the purposes of this regulation—

(a) a person deals with a protected cell company if the person is a party to a transaction or other act to which the protected cell company is a party;

(b) a person acts in good faith unless—

(i) the person has actual knowledge that the protected cell company did not have the power to do the relevant act; or

(ii) the person deliberately fails to make enquiries in circumstances where a reasonable and honest person would have done so; and

(c) a person is presumed to have acted in good faith unless the contrary is proved.

(6) This regulation does not affect—

(a) the right of a person holding a share issued on behalf of the core of the protected cell company to bring proceedings to restrain the protected cell company from doing an act which would be beyond the protected cell company's capacity (see regulation 98(1));

(b) the duty on the directors to observe any limitation on their powers; or

(c) any liability incurred by the directors or any other person by reason of the directors exceeding their powers.

(7) In this regulation, the "governing documents" are—

(a) these Regulations;

(b) Commission Delegated Regulation (EU) 2015/35 of 10th October 2014 supplementing Directive 2009/138/EC of the European Parliament and of the Council on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II)(**52**);

(c) the Implementing Technical Standard;

(**52**) OJ no L335, 17.12.2014, p.1.

(d) rules made under FSMA;

(e) the protected cell company's instrument of incorporation;

(f) written resolutions of the persons holding voting shares issued on behalf of the core of the protected cell company; and

(g) resolutions passed in general meeting.

CHAPTER 8

Directors

Requirement for a director

82. A protected cell company must have at least one director.

Directors' duties

83.—(1) The provisions of the Companies Act 2006 specified in the first column of Table 3 apply to the directors of a protected cell company as they apply to the directors of a company incorporated under the Companies Act 2006 with any modification specified in the second column of Table 3.

Table 3

Provision of Companies Act 2006	*Modification*
Sections 170(**53**) and 171	
Section 172	In subsection (1)(f), the reference to members is to be treated as a reference to shareholders, and the need to act fairly as between shareholders of the protected cell company is to be assessed for each part of the protected cell company separately.
Sections 173 to 179, and 182 to 187	

(2) The directors of a protected cell company also owe a duty to the protected cell company to—

(a) ensure that the protected cell company complies with the provisions of this Part; and

(b) act in accordance with any enforceable arrangements made between the cells of the protected cell company.

(3) A director ("D") does not breach a duty imposed on D by paragraph (2) if D—

(a) acts in good faith; and

(b) exercises reasonable care, skill and diligence,

in the discharge of that duty.

(4) Paragraph (3)(b) is to be construed in accordance with section 174(2) (duty to exercise reasonable care, skill and diligence) of the Companies Act 2006.

Offence of failing to comply with certain duties

84.—(1) A director of a protected cell company commits an offence if the director fails to ensure that the protected cell company complies with the requirements of—

(**53**) Section 170 was amended by section 89 of the Small Business, Enterprise and Employment Act 2015 (c. 26).

(a) regulation 46(1) (company records of segregation);

(b) regulation 77 (name and other particulars to appear on correspondence); or

(c) regulation 78 (contracts).

(2) A director of a protected cell company commits an offence if the director knowingly or recklessly causes records kept by the protected cell company in accordance with regulation 46(1) to be inaccurate at any time.

(3) In proceedings for an offence under paragraph (1), it is a defence for the accused to show that the accused took all reasonable precautions and exercised all due diligence to avoid committing the offence.

(4) A person guilty of an offence under paragraph (1) or (2) is liable—

(a) on conviction on indictment, to a fine; or

(b) on summary conviction—

(i) in England and Wales, to a fine;

(ii) in Scotland or Northern Ireland, to a fine not exceeding the statutory maximum.

Directors' powers

85.—(1) The directors have such powers as—

(a) are necessary to fulfil their duties; or

(b) are conferred upon them by the protected cell company's instrument of incorporation.

(2) Those powers extend to each part of the protected cell company, except to the extent that the instrument of incorporation provides otherwise.

Appointment

86.—(1) If the protected cell company holds annual general meetings, an appointment of a director of a protected cell company must be made—

(a) by the protected cell company in an annual general meeting; or

(b) by the directors to fill any vacancy until the next annual general meeting.

(2) If a protected cell company does not hold annual general meetings, the director (if there is only one director) or directors (if there is more than one director) of the protected cell company may appoint a person as a director.

(3) An act of a director is valid notwithstanding any defect which may be discovered in the director's appointment after the date of the director's appointment.

Removal

87.—(1) The directors of a protected cell company must convene a general meeting without delay if—

(a) one or more persons holding shares issued on behalf of the core of the protected cell company gives notice to the protected cell company that a meeting must be held;

(b) the notice is signed by the person or persons giving notice;

(c) the person or persons giving notice hold at least 10% of the paid-up voting shares issued on behalf of the core of the protected cell company; and

(d) the notice states that the object of the meeting is to consider the removal of a director.

(2) A protected cell company may remove a director of the protected cell company by—

(a) a written resolution of the persons holding voting shares issued on behalf of the core of the protected cell company; or

(b) a resolution passed in a general meeting by a simple majority of the total voting rights of those shareholders who are entitled to vote on the resolution at the meeting.

(3) This regulation does not—

(a) deprive a person of compensation or damages payable in respect of the termination of the person's appointment as a director; or

(b) exclude any power to remove a person as a director which exists apart from this regulation.

Notification to the FCA

88.—(1) The protected cell company must notify the FCA if a director is appointed or removed.

(2) Where a director is appointed, the notification must be accompanied by the particulars referred to in regulation 18 for the director.

(3) A protected cell company must notify the FCA of any change to the particulars of any current director of the protected cell company.

Invalidity of certain transactions involving directors

89.—(1) This regulation applies where—

(a) a protected cell company enters into a transaction;

(b) the parties to the transaction include a director of the protected cell company or an associate of such a director; and

(c) the directors of the protected cell company (whether or not acting as a board) exceed their powers under the protected cell company's instrument of incorporation in connection with the transaction.

(2) The transaction referred to in paragraph (1)(a) is voidable at the instance of the protected cell company.

(3) Whether or not the transaction is avoided, the director or associate referred to in paragraph (1)(b) and any other director who authorised the transaction is liable—

(a) to account to the protected cell company for any gain which the director or associate made, directly or indirectly, from the transaction; and

(b) to indemnify the protected cell company for any loss or damage resulting from the transaction.

(4) The transaction ceases to be voidable if—

(a) restitution of the money or other asset which was the subject matter of the transaction is no longer possible;

(b) the protected cell company is indemnified for any loss or damage resulting from the transaction;

(c) avoidance would affect rights acquired by a person acting in good faith, for value and without actual notice of the fact that the directors exceeded their powers; or

(d) the transaction is ratified by a resolution of the persons holding voting shares issued on behalf of the core of the protected cell company.

(5) An associate of a director is not liable under paragraph (3) if the associate did not know at the time that the protected cell company entered into the transaction that the directors had exceeded their powers.

(6) This regulation does not affect—

(a) the operation of any other enactment or rule of law by virtue of which the transaction may be called into question or any liability to the protected cell company which may arise; or

(b) the operation of regulation 81(4) in relation to any party to the transaction who is not a director or associate falling within paragraph (3).

(7) Where a transaction is—

(a) voidable by virtue of this regulation; and

(b) valid by virtue of regulation 81(4) in relation to a party to a transaction who is not a director or associate falling within paragraph (3),

the court may make an order affirming, severing or setting aside the transaction on such terms as are just.

(8) For the purposes of this regulation, a person ("P") is an associate of a director ("D") in the following cases—

(a) if D is an individual, then P is—

(i) D's spouse, civil partner, child or stepchild;

(ii) D's employee; or

(iii) D's partner in a partnership;

(b) if D is a body corporate, then P is—

(i) a director of D;

(ii) a subsidiary undertaking of D;

(iii) a director of a subsidiary undertaking of D;

(c) P is a body corporate of which D is also a director.

(9) In this regulation, "subsidiary undertaking" has the meaning given by section 1162 of the Companies Act 2006.

Inspection of directors' service contracts

90.—(1) Where a protected cell company enters into a written contract of service with a director, the protected cell company must keep a copy of that contract and any variation to that contract.

(2) Where a protected cell company enters into an oral contract of service with a director, the protected cell company must keep a written memorandum setting out the terms of the contract and any variation to those terms.

(3) All copies and memoranda kept by a protected cell company in accordance with paragraph (1) or (2) must be kept at the same place, which must be either the protected cell company's registered office or any alternative inspection location notified to the FCA under regulation 67.

(4) Every copy and memorandum kept in accordance with paragraph (1) or (2) must be open to inspection by a person holding shares issued on behalf of the core of the protected cell company.

(5) If any such inspection is refused, the court may by order compel an immediate inspection of the copy or memorandum concerned.

(6) Every copy and memorandum kept in accordance with paragraph (1) or (2) must—

(a) be made available for inspection by the protected cell company at the protected cell company's annual general meeting; or

(b) if the protected cell company does not hold annual general meetings, be sent on request to any person holding shares issued on behalf of the core of the protected cell company before the end of a period of 10 days beginning with the day on which the request is received.

CHAPTER 9

Shares and shareholders

SECTION 1

Shares

Types of shares

91.—(1) A protected cell company may issue voting shares on behalf of the core of the protected cell company.

(2) A protected cell company may issue non-voting shares on behalf of a part of the protected cell company.

(3) A protected cell company may issue more than one class of shares on behalf of a part of the protected cell company.

(4) A protected cell company may not issue shares other than in the ways described in paragraphs (1) to (3).

Nature of shares

92.—(1) Only a share issued on behalf of the core of a protected cell company is to be treated as a share in the protected cell company.

(2) A share issued on behalf of a cell of a protected cell company is to be treated as a share in that cell.

(3) A share is personal property (or, in Scotland, moveable property) and is not in the nature of real estate (or heritage).

Rights attaching to shares

93.—(1) The rights which attach to voting shares or a class of voting shares issued on behalf of the core are—

(a) the right, in accordance with the instrument of incorporation, to participate in or receive profits or income which are payable by the protected cell company on behalf of the core;

(b) the right, in accordance with the instrument of incorporation, to vote on a written resolution of shareholders (or shareholders of that class) or at any general meeting (or any relevant class meeting); and

(c) such other rights as may be provided for, in relation to voting shares (or voting shares of that class), in the protected cell company's instrument of incorporation.

(2) The rights which attach to a non-voting share or a class of non-voting shares issued on behalf of a part of the protected cell company are—

(a) the right, in accordance with the instrument of incorporation, to participate in or receive profits or income which are payable by the protected cell company on behalf of that part; and

(b) such other rights as may be provided for, in relation to non-voting shares (or non-voting shares of that class), in the protected cell company's instrument of incorporation.

(3) A share issued on behalf of a part of a protected cell company may not confer any rights in relation to another part of the protected cell company or the property held by the protected cell company on behalf of that other part.

Changes to rights attaching to shares

94. A right attaching to a share may only be varied with the consent of the person holding the share.

Amendments to the instrument of incorporation

95.—(1) A protected cell company may only amend its instrument of incorporation if the proposed amendment is approved—

(a) by written resolution of the persons holding voting shares issued on behalf of the core of the protected cell company; or

(b) by a resolution passed in a general meeting by a simple majority of the total voting rights of those shareholders who are entitled to vote on the resolution at the meeting.

(2) But paragraph (1) does not prevent the protected cell company's instrument of incorporation requiring a higher majority or unanimity.

Prohibition on bearer shares

96.—(1) A protected cell company may not issue a bearer share.

(2) A bearer share is a share evidenced by a share certificate, or by any other documentary evidence of title for which provision is made in the protected cell company's instrument of incorporation, which indicates—

(a) that the holder of the document is entitled to the shares specified in it; and

(b) that no entry will be made on the register of shareholders identifying the holder of those shares.

Compensation

97. A person is not debarred from obtaining damages or other compensation from a protected cell company by reason only of holding or having held shares issued on behalf of a part of the protected cell company.

Restraint and ratification by shareholders

98.—(1) A person holding voting shares issued on behalf of the core of a protected cell company may bring proceedings to restrain the protected cell company from doing an act which would, but for regulation 81(1), be beyond the protected cell company's capacity.

(2) But no proceedings may be brought under paragraph (1) in respect of an act to be done in fulfilment of a legal obligation arising from a previous act of the protected cell company.

(3) The following action by the directors of a protected cell company may only be ratified by a resolution of persons holding voting shares issued on behalf of the core of the protected cell company—

(a) action which would, but for regulation 81(1), be beyond the protected cell company's capacity;

(b) action which is within the protected cell company's capacity but is beyond the powers of the directors to bind the protected cell company or authorise others to do so.

(4) A resolution ratifying such action does not affect any liability incurred by the directors or any other person, and relief from any such liability requires agreement by a separate resolution of the persons holding voting shares issued on behalf of the core of the protected cell company.

Contravention of regulation 91(4) or 93(3)

99.—(1) A provision, whether contained in the instrument of incorporation, a contract or otherwise, is void to the extent that it is inconsistent with regulation 91(4) or 93(3).

(2) An application of assets, or agreement to apply assets, in contravention of regulation 93(3) is void.

SECTION 2

Issue, allotment and alteration of share capital

Nominal value

100.—(1) A share issued on behalf of a part of a protected cell company must have a fixed nominal value.

(2) An allotment of a share that does not have a fixed nominal value is void.

(3) Shares issued on behalf of a part of a protected cell company may be denominated in any currency and different classes of shares may be denominated in different currencies.

Numbering of shares

101.—(1) Each share issued on behalf of a part of protected cell company must be distinguished by its appropriate number, except in the following circumstances.

(2) A share issued on behalf of a part of a protected cell company need not have a distinguishing number provided—

(a) all the shares issued on behalf of that part are fully paid up and rank *pari passu* for all purposes; or

(b) all the shares issued on behalf of that part and belonging to the same class as that share are fully paid up and rank *pari passu* for all purposes.

Power of directors to allot shares

102.—(1) The directors of a protected cell company may exercise any power of the protected cell company to—

(a) allot shares issued on behalf of a part of the protected cell company; or

(b) grant rights to subscribe for or to convert any security issued into such shares.

(2) Paragraph (1) applies except to the extent that the protected cell company's instrument of incorporation provides otherwise.

(3) A share may not be allotted at a discount to its nominal value.

(4) If a share issued on behalf of a part of a protected cell company is allotted in contravention of paragraph (3), the allottee is liable to pay to the protected cell company on behalf of that part an amount equal to the amount of the discount.

Sub-division or consolidation of shares

103.—(1) A protected cell company may—

(a) sub-divide all or any of the shares issued on behalf of a part of the protected cell company into shares of a smaller nominal amount than the existing shares issued on behalf of that part; or

(b) consolidate and divide all or any of the shares issued on behalf of a part of the protected cell company into shares of a larger nominal amount than the existing shares issued on behalf of that part.

(2) In any sub-division, or consolidation and division, of shares, the proportion between the amount paid and the amount (if any) unpaid on each resulting share must be the same as it was in the case of the share from which that share is derived.

(3) A protected cell company may only exercise a power under paragraph (1) if—

(a) the protected cell company's instrument of incorporation does not contain provision prohibiting the sub-division, or consolidation and division; and

(b) the persons holding the shares affected by the sub-division, or consolidation and division, consent.

Redenomination of shares

104.—(1) In this regulation, "redenomination" means converting shares from having a fixed nominal value in one currency to having a fixed nominal value in another currency.

(2) A protected cell company may redenominate the shares, or any class of shares, issued on behalf of a part of the protected cell company.

(3) Before carrying out such a redenomination, the protected cell company must—

(a) notify all of the persons holding the shares, or class of shares, issued on behalf of that part of the proposed redenomination; and

(b) obtain their consent to the redenomination.

(4) The conversion must be made at an appropriate spot rate of exchange specified in the notification.

(5) The rate must be either—

(a) a rate prevailing on a day specified in the notification; or

(b) a rate determined by taking the arithmetic mean of the rates prevailing on each consecutive day of a period specified in the notification.

(6) The day or period specified for the purposes of paragraph (5) must be within the period of 28 days ending on the day on which consent is given (or the last such day if consent is given by different persons on different days).

(7) The notification may make the proposed redenomination subject to conditions which must be met before the redenomination takes effect.

(8) Redenomination in accordance with this regulation takes effect—

(a) on the day on which consent is given (or the last such day if consent is given by different persons on different days); or

(b) on such later date as may be determined in accordance with the notification.

(9) But consent to a notification is deemed to be withdrawn if the redenomination to which it relates has not taken effect by the end of the period of 28 days beginning on the day on which consent is given (or the last such day if consent is given by different persons on different days).

(10) A protected cell company's instrument of incorporation may prohibit or restrict the power conferred by this regulation.

Redenomination: supplementary

105.—(1) Where a share is redenominated, the new nominal value of that share is equal to—

$$\frac{rA}{N}$$

where—

"r" is the appropriate spot rate of exchange for converting the old nominal value to the new nominal value;

"A" is the sum total of the old nominal values of all the shares subject to redenomination;

"N" is the total number of shares being redenominated.

(2) A redenomination of shares does not affect—

(a) the rights and obligations of persons holding shares under the protected cell company's instrument of incorporation, including in particular—

(i) the entitlement to dividends (including the entitlement to dividends in a particular currency);

(ii) voting rights;

(iii) any liability in respect of amounts unpaid on shares; or

(b) any restrictions affecting such persons under the instrument of incorporation.

(3) For this purpose, the protected cell company's instrument of incorporation is deemed to include the terms on which the shares were allotted or held.

(4) Subject to paragraph (2), references to the old nominal value of the shares in any agreement, statement, deed, instrument or document, are (unless the context otherwise requires) to be read after the resolution takes effect as references to the new nominal value of the shares.

Acquisition and redemption of shares issued by a cell

106.—(1) Where a protected cell company issues a share on behalf of a cell, the protected cell company may not acquire or redeem the share on behalf of the core or any other cell.

(2) Where a cell is not a member of a group of cells, a share issued by the protected cell company on behalf of the cell may only be acquired or redeemed by the protected cell company on behalf of the cell if the following conditions are satisfied—

(a) the acquisition or redemption is funded by assets held by the protected cell company on behalf of the cell; and

(b) where the protected cell company has a liability to an undertaking arising under a contract made between the undertaking and the protected cell company acting on behalf of the cell, the undertaking has consented to the acquisition or redemption (whether in the contract or otherwise).

(3) Where a cell ("the relevant cell") is a member of a group of cells, a share issued by the protected cell company on behalf of the relevant cell may only be acquired or redeemed by the protected cell company on behalf of the relevant cell if the following conditions are satisfied —

(a) the acquisition or redemption is funded by assets held by the protected cell company on behalf of the relevant cell;

(b) the protected cell company will, immediately after the acquisition or redemption, hold sufficient assets on behalf of the relevant cell to enable the protected cell company to give effect to any enforceable arrangements made between the relevant cell and any other cell; and

(c) where the protected cell company has a liability to an undertaking arising under a contract made between the undertaking and the protected cell company acting on behalf of a cell in

that group of cells, the undertaking has consented to the acquisition or redemption (whether in the contract or otherwise).

(4) The protected cell company may redeem or acquire a share for less than the share's nominal value.

(5) Where a protected cell company acquires or redeems a share issued on behalf of a cell, the protected cell company must cancel that share.

Acquisition and redemption of shares issued by the core

107.—(1) Where a protected cell company issues a share on behalf of the core, the protected cell company—

(a) may not acquire or redeem the share on behalf of a cell; and

(b) may only acquire or redeem the share on behalf of the core if—

(i) the protected cell company has no cells; and

(ii) immediately after the acquisition or redemption, there is at least one voting share issued by the protected cell company on behalf of the core.

(2) But paragraph (1)(b)(ii) does not apply if the FCA has decided to strike the protected cell company off its register under regulation 180.

(3) Where a protected cell company acquires or redeems a share issued on behalf of the core, the protected cell company must cancel that share.

Consequences of unlawful acquisition or redemption

108.—(1) This regulation applies to an acquisition or redemption of a share issued on behalf of a part of a protected cell company which—

(a) is funded by the protected cell company from assets held on behalf of a part ("part A") of the protected cell company (which may either be the part on behalf of which the share was issued or another part); and

(b) is in contravention of regulation 106 or 107.

(2) If at the time of the acquisition or redemption the person holding the share knew or had reasonable grounds for believing that it was acquired or redeemed in contravention of regulation 106 or 107, the person is liable—

(a) to repay the amount for which the share was acquired or redeemed; or

(b) in the case of an acquisition or redemption made otherwise than in cash, to pay the protected cell company a sum equal to the value of assets provided by the protected cell company for the acquisition or redemption at that time.

(3) This regulation is without prejudice to any obligation imposed apart from this regulation on a person to repay an amount to the protected cell company in respect of an acquisition or redemption which was made unlawfully.

(4) A payment made to a protected cell company in accordance with paragraph (2) must be held by the protected cell company on behalf of part A.

(5) Where a person satisfies in full an obligation to make a payment to the protected cell company under paragraph (2) then—

(a) any cancellation of the share under regulation 106(5) or 107(3) is deemed to have no effect; and

(b) the person is deemed to hold the share which was acquired or redeemed as if no acquisition or redemption took place.

Penalty for contravention of this Section

109.—(1) If a protected cell company contravenes any of the provisions of this Section it commits an offence.

(2) A person guilty of an offence under paragraph (1) is liable—

(a) on conviction on indictment, to a fine;

(b) on summary conviction—

(i) in England and Wales, to a fine;

(ii) in Scotland or Northern Ireland, to a fine not exceeding the statutory maximum.

SECTION 3

Share certificates

Share certificates

110.—(1) A protected cell company must prepare share certificates in accordance with this regulation except where—

(a) the protected cell company's instrument of incorporation states that share certificates will not be issued and contains provisions as to other procedures for evidencing a person's entitlement to shares; or

(b) a person has indicated to the protected cell company in writing that the person does not wish to receive a share certificate.

(2) A protected cell company must prepare share certificates in respect of—

(a) any new shares issued on behalf of the core or a cell;

(b) shares transferred by a transferor to the transferee;

(c) shares retained by a person transferring part of a shareholding to a transferee;

(d) shares for which a certificate has already been issued but where it appears to the protected cell company that the share certificate needs to be replaced as a result of it having been lost, stolen, destroyed or having become damaged or worn out.

(3) A protected cell company must ensure that share certificates prepared in accordance with paragraph (1) are ready for delivery before the end of a period of 2 months beginning with the following day—

(a) in a case falling within sub-paragraph (a) of paragraph (2), the day on which the shares were issued;

(b) in a case falling within sub-paragraph (b) or (c) of paragraph (2), the day on which the transfer documents (within the meaning given by regulation 120) are received by the protected cell company;

(c) in a case falling within (d) of paragraph (2), the day on which it first appears to the protected cell company that the share certificate needs to be replaced.

(4) Certificates need to be prepared in the circumstances referred to in sub-paragraphs (c) and (d) of paragraph (2) only if the protected cell company has received—

(a) a request for a new certificate;

(b) the old certificate (if there is one);

(c) such indemnity as the protected cell company may require; and

(d) such reasonable sum as the protected cell company may require in respect of the expenses incurred by it in complying with the request.

Contents of share certificate

111.—(1) Each share certificate prepared by a protected cell company must state—

(a) whether the shares are issued on behalf of the core or a cell of the protected cell company;

(b) if the shares are issued on behalf of a cell, the name or number of the cell;

(c) whether the shares are voting shares or non-voting shares;

(d) the number of shares to which title is evidenced by the share certificate;

(e) where the share belongs to a particular class of shares, the class of shares to which title is evidenced by the share certificate;

(f) any restrictions on the transferability of the shares; and

(g) the name of the holder.

(2) Where, in respect of any class of shares, the rights that attach to shares of that class are expressed in two denominations, the reference in sub-paragraph (d) of paragraph (1) to the number of shares is a reference to—

$$N + \frac{n}{p}$$

where—

N is the relevant number of the larger denomination shares of the class in question;

n is the relevant number of the smaller denomination shares of the class in question;

p is the number of smaller denomination shares of the class in question that are equivalent to one larger denomination share of that class.

Evidence of title

112. A share certificate specifying any shares held by a person is, unless the contrary is shown, sufficient evidence of that person's title to the shares provided the share certificate is—

(a) issued under the common seal of the protected cell company;

(b) in England and Wales, and Northern Ireland, authenticated in accordance with regulation 66; or

(c) in Scotland, subscribed by the protected cell company in accordance with the Requirements of Writing (Scotland) Act 1995(**54**).

SECTION 4

Register of shareholders

The register of shareholders

113.—(1) A protected cell company must keep a register of persons who hold shares issued by the protected cell company.

(2) The register of shareholders is, unless the contrary is shown, evidence of any matter which is recorded in the register in accordance with this Part.

(**54**) 1995 c. 7.

(3) A protected cell company must exercise all due diligence and take all reasonable steps to ensure that the information contained in the register is complete and up to date.

Contents of the register

114.—(1) The register must be divided into separate parts for shares issued on behalf of the core and each of the cells of the protected cell company.

(2) A protected cell company must enter into the appropriate part of the register the names of all the persons holding shares issued on behalf of the core and each of the cells of the protected cell company.

(3) Against each entry of a person's name into a part of the register, the protected cell company must indicate—

(a) the person's address;

(b) the date the entry was made in the register; and

(c) in relation to the part of the register in question, a statement of the aggregate number of shares held by that person, distinguishing the share by its number (if it has one) and, if the share belongs to a particular class of shares, by its class.

(4) Where the aggregate number of shares includes shares to which there are attached rights expressed in two denominations, the aggregate number of shares is to be taken to be—

$$N + \frac{n}{p}$$

where—

N is the relevant number of larger denomination shares of that class;

n is the relevant number of smaller domination shares of that class; and

p is the number of smaller denomination shares of that class that are equivalent to one larger denomination share of that class.

(5) Where all the shares issued on behalf of the core of a protected cell company are held by one person, then—

(a) that fact must be recorded in the register; and

(b) the FCA must be notified of that fact.

(6) In the case of a protected cell company registered in England and Wales, or Northern Ireland, notice given to the protected cell company of any trust of shares (whether express, implied or constructive) is not to be recorded on the register.

Location

115. The register of shareholders of a protected cell company must be kept available for inspection at its registered office or an alternative inspection location notified to the FCA in accordance with regulation 67.

Index

116.—(1) A protected cell company must keep an index of the names of the persons holding shares issued by the protected cell company.

(2) The index must contain cross-references to all of the entries of that person's name in the register.

(3) The index must be kept at the same place as the register.

(4) Where a protected cell company amends the register, the index must be updated before the end of a period of 14 days beginning with the day the register is amended.

Inspection

117.—(1) The register of shareholders and the index must be open to the inspection of any person holding a share issued by a protected cell company.

(2) A protected cell company must, on the request of a person holding a share issued by the protected cell company, send the shareholder a copy of all of the entries in the register which relate to that shareholder.

(3) If the copy can be sent electronically, the copy must be sent free of charge.

(4) If an inspection required under this regulation is refused, or a copy so requested is not sent, the High Court or, in Scotland, the Court of Session may by order compel an immediate inspection of the register and index, or direct that the copy requested by the shareholder be sent.

Power of court to rectify the register

118.—(1) An application to the High Court or, in Scotland, the Court of Session may be made under this regulation if—

(a) the name of a person is, without sufficient cause, entered into or omitted from a part of the register of shareholders;

(b) default is made as to the details contained in any entry on the register in respect of a person's holding of shares; or

(c) default is made or unnecessary delay takes place in amending the register so as to reflect the fact that a person has ceased to be a shareholder.

(2) An application may be made by the protected cell company, a shareholder or by the person aggrieved.

(3) On such an application, the court may—

(a) refuse the application;

(b) order rectification of the register; or

(c) decide any question necessary or expedient to be decided for rectification of the register of shareholders including, in particular, any question relating to the right of a person who is a party to the application to have the person's name entered in or omitted from the register.

SECTION 5

Share transfers

General

119.—(1) Shares issued by a protected cell company are transferable in accordance with the protected cell company's instrument of incorporation.

(2) Where a person holding shares issued by a protected cell company transfers those shares to another person (the "transferee"), legal title to those shares only passes to the transferee when the transferee is registered as the owner of those shares by the protected cell company.

(3) The instrument of incorporation of a protected cell company may contain provision as to share transfers in respect of any matter for which provision is not made by this Part.

Meaning of "transfer documents"

120.—(1) In this Section, "transfer documents" means—

(a) one or more of the documents falling within Category 1;

(b) one or more of the documents falling within Category 2; and

(c) such other evidence (if any) as the protected cell company may require to prove—

(i) the right of the transferor to transfer the shares in question; or

(ii) the eligibility of the transferee to acquire the shares in question.

(2) The following documents fall within Category 1—

(a) a stock transfer form within the meaning of the Stock Transfer Act 1963(**77**) or the Stock Transfer Act (Northern Ireland) 1963(**78**) which complies with the requirements of the relevant Act as to the execution and contents of a stock transfer;

(b) an order made by the court under regulation 175 (application for court order sanctioning transfer scheme) or 177 (effect of court order sanctioning transfer scheme) for the transfer of shares;

(c) any other instrument of transfer as is authorised by, and completed and executed in accordance with, any requirement in the protected cell company's instrument of incorporation;

(3) The following documents fall within Category 2—

(a) a share certificate relating to the shares in question;

(b) if the shares in question fall within sub-paragraph (a) or (b) of regulation 110(1), such evidence of title to those shares as is required by the protected cell company's instrument of incorporation.

Transfers

121.—(1) A protected cell company may not register a transfer of shares unless—

(a) the transfer documents relating to the transfer have been delivered to the protected cell company; or

(b) title to the shares has been transmitted by operation of law.

(2) Where transfer documents relating to a share transfer are delivered to a protected cell company, the protected cell company must amend the register of shareholders and index accordingly.

(3) But a protected cell company may refuse to register a transfer of shares where—

(a) a person holding shares issued on behalf of a part of the protected cell company is required to hold less or more than a specified number of shares issued on behalf of that part and the transfer would result in the transferor or transferee breaching that requirement;

(b) the transfer would contravene a provision of the protected cell company's instrument of incorporation or a provision of law (including any law that is for the time being in force in a country or territory outside of the United Kingdom); or

(c) the transferee fails to provide the protected cell company with such evidence as the protected cell company may reasonably require to satisfy the protected cell company that the transferee is a qualified investor within the meaning given by regulation 10.

(4) A protected cell company—

(77) 1963 c. 18.
(78) 1963 c. 24 (N.I.).

(a) may only refuse to register a transfer pursuant to sub-paragraph (a) or (b) of paragraph (3) during the period of 21 days commencing with the date the transfer documents are delivered to the protected cell company; and

(b) must give the transferee written notice of a refusal to register a transfer of shares, unless the giving of such a notice would contravene a provision of law (including any law that is for the time being in force in a country or territory outside of the United Kingdom).

(5) A transfer of shares by the personal representative of a deceased person is valid as if the personal representative had been the holder of the deceased person's shares at the time of the execution of the instrument of transfer.

Certification of transfer

122.—(1) Where, in respect of a transfer of shares, a protected cell company certifies that it has received the transfer documents, that certification is to be taken as a representation by the protected cell company to any person acting in reliance on the certification that there has been produced to the protected cell company sufficient evidence to show that the transferor has title to the shares in the absence of proof to the contrary.

(2) A certification is made by a protected cell company if the instrument of transfer—

(a) bears the words " certificate lodged" or words to the like effect; and

(b) is signed by a person acting under authority (whether express or implied) given by the protected cell company to issue and sign such certificates.

(3) But a certificate is not to be taken as a representation that the transferor has any title to the shares in question.

(4) Where a person acts in reliance on a false certification by a protected cell company which is made negligently or fraudulently, the protected cell company is liable to pay that person out of assets held by the protected cell company on behalf of the core any damages that the person has sustained.

Joint shareholdings

123. On the death of any one of the joint holders of a share, the survivors are to be the only persons recognised by the protected cell company as having any title to or any interest in those shares.

SECTION 6

Distributions

Meaning of "distribution"

124. In regulations 125 and 126, "distribution" means every description of a distribution of an asset to a shareholder, except for the redemption or acquisition of shares held by that shareholder in accordance with regulation 106 or 107.

Distributions to holders of shares in a cell

125.—(1) This regulation applies where a protected cell company makes a distribution to a person holding a share issued by the protected cell company on behalf of a cell.

(2) Where the cell is not a member of a group of cells, the protected cell company may only make the distribution if the following conditions are satisfied—

(a) the distribution is made from assets held by the protected cell company on behalf of the cell; and

(b) where the protected cell company has a liability to an undertaking arising under a contract made between the undertaking and the protected cell company acting on behalf of the cell, the undertaking has consented to the distribution (whether in the contract or otherwise).

(3) Where the cell ("the relevant cell") is a member of a group of cells, the protected cell company may only make the distribution if the following conditions are satisfied—

(a) the distribution is made from assets held by the protected cell company on behalf of the relevant cell;

(b) the protected cell company will, immediately after the distribution, hold sufficient assets on behalf of the relevant cell to enable the protected cell company to give effect to any enforceable arrangements made between the relevant cell and any other cell; and

(c) where the protected cell company has a liability to an undertaking arising under a contract made between the undertaking and the protected cell company acting on behalf of a cell in that group of cells, the undertaking has consented to the distribution (whether in the contract or otherwise).

Distributions to holders of shares in the core

126.—(1) This regulation applies where a protected cell company makes a distribution to a person holding a share issued by the protected cell company on behalf of the core.

(2) The distribution may only be made if the protected cell company has no cells.

(3) The distribution must be made from assets held by the protected cell company on behalf of the core.

Persons holding investments in different parts of the protected cell company

127.—(1) This regulation applies where—

(a) a person ("P") holds investments issued on behalf of number of different parts of a protected cell company;

(b) those investments include shares issued on behalf of a part of the protected cell company; and

(c) the protected cell company makes a distribution to P in P's capacity as the holder of shares issued on behalf of that part of the protected cell company.

(2) Regulations 125 and 126 apply to the distribution as if the only investment held by P were the shares issued on behalf of that part of the protected cell company.

Consequences of unlawful distribution

128.—(1) This regulation applies to a distribution, or a part of a distribution, which is made by a protected cell company—

(a) from assets held on behalf of a part ("part A") of the protected cell company;

(b) to a person holding a share issued by the protected cell company on behalf of a part of a protected cell company (either part A or another part); and

(c) in contravention of regulation 125 or 126.

(2) If at the time of the distribution the person knows or has reasonable grounds for believing that it is made in contravention of regulation 125 or 126, the person is liable—

(a) to repay the distribution (or that part of it, as the case may be) to the protected cell company; or

(b) in the case of a distribution made otherwise than in cash, to pay the protected cell company a sum equal to the value of the distribution (or part of it) at that time.

(3) This regulation is without prejudice to any obligation imposed apart from this regulation on a person to repay a distribution which was made unlawfully to that person.

(4) A payment made to a protected cell company in accordance with paragraph (2) must be held by the protected cell company on behalf of part A.

SECTION 7

Annual General Meetings

Requirement to hold an annual general meeting

129.—(1) A protected cell company must hold annual general meetings in accordance with this regulation unless the protected cell company elects to dispense with annual general meetings in accordance with regulation 130.

(2) A protected cell company must hold its first annual general meeting before the end of a period of 18 months beginning with the date it is first authorised to carry out the activity specified in article 13A (transformer vehicles: insurance risk transformation) of the Regulated Activities Order.

(3) A protected cell company must hold an annual general meeting in each calendar year after the year in which it holds its first annual general meeting, provided no more than 15 months elapse between the date of one annual general meeting and the date of the next annual general meeting.

Election to dispense with annual general meetings

130.—(1) The directors of a protected cell company may elect to dispense with the holding of annual general meetings by giving 60 days' written notice to all persons holding shares issued on behalf of the core of the protected cell company.

(2) Where the directors of a protected cell company elect to dispense with annual general meetings, they may terminate that election by giving written notice to all persons holding shares issued on behalf of the core of the protected cell company.

(3) An election has effect for the year in which it is made and all subsequent years, but does not affect any liability already incurred by reason of default in holding an annual general meeting.

(4) Where an election is terminated—

(a) the protected cell company must hold an annual general meeting within a period of 12 months beginning with the date on which the notice of termination is given; and

(b) paragraph (3) of regulation 129 applies with the reference to "first annual general meeting" being treated as a reference to the annual general meeting held in accordance with sub-paragraph (a) of this paragraph.

SECTION 8

Miscellaneous

Holding companies and subsidiaries: prohibition on shareholdings

131.—(1) A protected cell company may not hold shares in a company which is the protected cell company's holding company (within the meaning given by section 1159 of the Companies Act 2006).

(2) An allotment or transfer of shares issued on behalf of the core or a cell of a protected cell company to a subsidiary (within the meaning given by section 1159 of the Companies Act 2006) of a protected cell company is void.

Contracts between the protected cell company and shareholders

132. A contract between a protected cell company and a person must be in writing or recorded in the minutes of the protected cell company where—

(a) that person holds all the shares issued on behalf of the core of the protected cell company; and

(b) the contract does not relate to the current business of the protected cell company or was concluded under unusual conditions.

Information on capital subscribed

133.—(1) If the protected cell company's instrument of incorporation specifies an amount of authorised capital in relation to any part of the protected cell company, the protected cell company must notify the FCA of the amount of capital subscribed in relation to that part, unless an increase in the capital subscribed necessitates an amendment to the instrument of incorporation.

(2) The information referred to in paragraph (1) must be provided at least once a year.

CHAPTER 10

Shareholder resolutions

Application

134. The provisions of this Chapter apply—

(a) to the persons holding voting shares issued on behalf of the core of the protected cell company; and

(b) with any necessary modifications, to the persons holding a class of such shares.

Resolutions

135.—(1) A resolution of the persons holding voting shares issued on behalf of the core of a protected cell company must be passed—

(a) as a written resolution in accordance with regulation 137 (written resolutions); or

(b) at a general meeting (see regulations 138 to 144).

(2) For the purposes of this Chapter—

(a) a resolution may be properly moved at a meeting unless—

(i) it would, if passed, be ineffective (whether by reason of inconsistency with an enactment, the protected cell company's instrument of incorporation or otherwise);

(ii) it is defamatory of any person; or

(iii) it is frivolous or vexatious;

(b) a resolution, notice or any other document may be sent in hard copy form or electronic form;

(c) where a resolution must be sent to more than one person, the same copy may be sent to some or all of those persons in turn; and

(d) where a request or a document which is sent to a protected cell company must be authenticated, the request or document must be authenticated in accordance with section 1146 (requirement of authentication) of the Companies Act 2006 (which applies for these purposes with the reference to a company's articles in subsection (4) being treated as a reference to the protected cell company's instrument of incorporation).

Shareholders acting informally (the *Duomatic* principle)

136.—(1) Any enactment or rule of law relating to a matter specified in paragraph (3) applies to voting shares issued on behalf of the core of the protected cell company as it applies to shares issued by a company registered under the Companies Act 2006.

(2) Nothing in this Chapter affects an enactment or rule of law relating to a matter specified in paragraph (3).

(3) The matters mentioned in paragraphs (1) and (2) are—

(a) things done by the shareholders otherwise than by passing a resolution;

(b) circumstances in which a shareholders' resolution is or is not treated as having been passed;

(c) cases in which a person is precluded from alleging that a shareholders' resolution has not been duly passed.

Written resolutions

137.—(1) The following persons may propose a written resolution—

(a) the directors of the protected cell company;

(b) a person holding voting shares issued on behalf of the core of the protected cell company.

(2) A written resolution must state a period of time, beginning with the circulation date, after which it will lapse.

(3) Where the directors propose a written resolution, the protected cell company must send the resolution to all of the shareholders eligible to vote on it.

(4) Where a shareholder proposes a written resolution, the protected cell company must send the resolution to all the shareholders eligible to vote on it, provided that—

(a) the written resolution may properly be moved at a meeting of shareholders; and

(b) the protected cell company has received requests to do so from persons representing not less than 5% of the total voting rights of those shareholders who are eligible to vote on the written resolution.

(5) The requests referred to in paragraph (4)(b) must identify the resolution and must be authenticated by the person or persons making it.

(6) The person proposing the written resolution may also require the protected cell company to circulate with the written resolution a statement of not more than 1,000 words on the subject matter of the resolution.

(7) A person is deemed to have agreed to a written resolution where the protected cell company receives an authenticated document—

(a) identifying the resolution to which it relates; and

(b) indicating the person's agreement to the resolution.

(8) Agreement to a written resolution may not be revoked.

(9) A written resolution must be passed—

(a) by a simple majority of the total voting rights of those shareholders who would be entitled to vote on the resolution on the date it is sent or submitted to the shareholders (or if copies are sent or submitted on different days, on the first of those days); and

(b) before the resolution lapses.

(10) But paragraph (9)(a) does not prevent the protected cell company's instrument of incorporation requiring a higher majority or unanimity.

Calling a shareholders' meeting

138.—(1) The directors of a protected cell company may call a general meeting.

(2) The persons holding voting shares issued on behalf of the core of a protected cell company may require the directors to call a general meeting.

(3) The directors are required to call a general meeting once the protected cell company has received requests to do so from persons representing at least 5% of the voting shares issued on behalf of the core of the protected cell company.

(4) A request—

(a) must state the general nature of the business to be dealt with at the meeting; and

(b) may include the text of a resolution that may properly be moved and is intended to be moved at the meeting.

(5) A request must be authenticated by the person or persons making it.

Directors' duty to call meetings required by members

139.—(1) Directors required under regulation 138(3) to call a general meeting must—

(a) call the meeting before the end of a period of 21 days beginning with the date on which they become subject to the requirement; and

(b) hold the meeting before the end of a period of 28 days beginning with the date of the notice convening the meeting.

(2) If the requests received by the protected cell company identify a resolution to be moved at the meeting, notice of the meeting must include notice of the resolution.

(3) The business that may be dealt with at the meeting includes a resolution of which notice is given in accordance with this regulation.

Notice required of meeting

140.—(1) A general meeting must be called by notice of at least 14 days.

(2) Paragraph (1) does not apply where—

(a) the protected cell company's instrument of incorporation requires a longer period; or

(b) the meeting is an adjourned meeting.

(3) Notice must be sent to—

(a) every shareholder who is entitled to vote at the meeting;

(b) any person who is entitled to a voting share in consequence of the death or bankruptcy of the person holding the voting share, provided the protected cell company has been notified of such an entitlement; and

(c) every director.

(4) In sub-paragraph (b) of paragraph (3), the reference to bankruptcy includes—

(a) the sequestration of the estate of a person; or

(b) a person's estate being the subject of a protected trust deed (within the meaning of the Bankruptcy (Scotland) Act 2016).

(5) Paragraph (3) has effect subject to—

(a) any enactment; or

(b) any provision of the protected cell company's instrument of incorporation.

(6) The notice must state—

(a) the time and date of the meeting;

(b) the place of the meeting; and

(c) the general nature of the business to be dealt with at the meeting.

Accidental failure to give notice of resolution or meeting

141.—(1) Where a protected cell company gives notice of a general meeting or a resolution to be moved at a general meeting, an accidental failure to give notice to a person is to be disregarded for the purposes of determining whether notice of the meeting or resolution (as the case may be) is duly given.

(2) Paragraph (1) has effect subject to any provision of the protected cell company's instrument of incorporation.

Procedure at general meetings

142.—(1) A person holding voting shares issued on behalf of the core of a protected cell company may be elected to chair a general meeting by a resolution passed by the persons holding voting shares, subject to any provision of the protected cell company's instrument of incorporation.

(2) On a vote on a resolution at a meeting on a show of hands, a declaration by the person chairing the meeting that the resolution—

(a) has or has not passed; or

(b) has passed with a particular majority,

is conclusive evidence of that fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

(3) An entry in respect of such a declaration in minutes of the meeting recorded in accordance with regulation 145 is also conclusive evidence of that fact without such proof.

(4) Where a resolution is passed at an adjourned meeting of shareholders, the resolution is for all purposes to be treated as having been passed on the date on which it was in fact passed, and is not to be deemed passed on any earlier date.

Representation of corporations

143.—(1) If a corporation holds voting shares issued on behalf of the core of a protected cell company, the corporation may authorise a person to act as its representative at any meeting of shareholders.

(2) The representative is entitled to exercise (on behalf of the corporation) the same powers as the corporation could exercise if it were an individual holding those voting shares.

Proxies

144.—(1) A person holding voting shares issued on behalf of the core of a protected cell company is entitled to appoint a proxy to exercise all or any of the person's rights to attend, speak at, chair and vote at a general meeting.

(2) But a proxy must vote in accordance with any instructions given by the person appointing the proxy.

(3) Termination of a person's authority to act as a proxy does not affect—

(a) the validity of anything the proxy does as chair of the meeting;

(b) a vote given by the proxy,

unless the protected cell company receives notice of termination before the commencement of the meeting.

(4) Paragraph (3) has effect subject to any provision of the protected cell company's instrument of incorporation which requires notice of termination to be received by the protected cell company at a time which is earlier than the commencement of the meeting.

(5) But a provision of the protected cell company's instrument of incorporation is void insofar as it requires the appointment of a proxy or the termination of such an appointment to be notified to the protected cell company earlier than 48 hours before the time for holding the meeting or adjourned meeting.

(6) In calculating the period of 48 hours mentioned in paragraph (5), no account is to be taken of any part of a day that is not a working day.

Records of meetings

145.—(1) A protected cell company must keep records comprising—

(a) copies of all resolutions passed at general meetings (including meetings of a sole shareholder); and

(b) minutes of all proceedings at such meetings.

(2) The records must be kept for at least ten years from the date of the resolution or meeting (as the case may be).

(3) Where there is a record of a written resolution, the requirements of this Chapter as to the passing of the resolution are deemed to be complied with unless the contrary is proved.

(4) The minutes of proceedings at a meeting, if purporting to be signed by the chair of the meeting or the chair of the next meeting, are evidence (in Scotland, sufficient evidence) of the proceedings at the meeting.

(5) Where there is a record of proceedings at a meeting, then, until the contrary is proved—

(a) the meeting is deemed duly held and convened;

(b) all proceedings at the meeting are deemed to have duly taken place; and

(c) all appointments at the meeting are deemed valid.

Inspection of records

146.—(1) The records referred to in regulation 145 must be kept available for inspection at the protected cell company's registered office or an alternative inspection location notified to the FCA in accordance with regulation 67.

(2) A person holding voting shares issued on behalf of the core of the protected cell company may—

(a) inspect the records without charge; and

(b) require a copy of any of the records on payment of a fee (which may not exceed the administrative cost to the protected cell company of providing the copy).

CHAPTER 11

Debentures (debt securities)

Debentures

147. A protected cell company may only issue debentures on behalf of a part of the protected cell company.

Transfers by a cell to a debenture holder

148.—(1) This regulation applies where a protected cell company transfers an asset held by the protected cell company to the holder of a debenture issued on behalf of a cell in full or partial satisfaction of any indebtedness arising under or acknowledged by the debenture.

(2) Where the cell is not a member of a group of cells, the protected cell company may only transfer the asset if the following conditions are satisfied—

(a) the asset is held by the protected cell company on behalf of the cell; and

(b) where the protected cell company has a liability to an undertaking arising under a contract made between the undertaking and the protected cell company acting on behalf of the cell, the undertaking has consented to the transfer (whether in the contract or otherwise).

(3) Where the cell ("the relevant cell") is a member of a group of cells, the protected cell company may only transfer the asset if the following conditions are satisfied—

(a) the asset is held by the protected cell company on behalf of the relevant cell;

(b) the protected cell company will, immediately after the transfer, hold sufficient assets on behalf of the relevant cell to enable the protected cell company to give effect to any enforceable arrangements made between the relevant cell and any other cell; and

(c) where the protected cell company has a liability to an undertaking arising under a contract made between the undertaking and the protected cell company acting on behalf of a cell in that group of cells, the undertaking has consented to the transfer (whether in the contract or otherwise).

Consequences of unlawful transfer

149.—(1) This regulation applies to a transfer, or a part of a transfer, which is made by a protected cell company—

(a) from assets held on behalf of a part ("part A") of the protected cell company;

(b) to a person holding a debenture issued by the protected cell company on behalf of a part of a protected cell company (either part A or another part); and

(c) in contravention of regulation 148.

(2) If at the time of the transfer the person knows or has reasonable grounds for believing that it is made in contravention of regulation 148, the person is liable—

(a) to repay the amount transferred (or that part of it, as the case may be) to the protected cell company; or

(b) in the case of a transfer made otherwise than in cash, to pay the protected cell company a sum equal to the value of the transfer (or part of it) at that time.

(3) This regulation is without prejudice to any obligation imposed apart from this regulation on a person to repay a transfer which was made unlawfully to that person.

(4) A payment made to a protected cell company in accordance with paragraph (2) must be held by the protected cell company on behalf of part A.

Perpetual debentures

150. A condition contained in debentures, or in a deed for securing debentures, is not invalid by reason only that the debentures are made redeemable only—

(a) on the happening of a contingency (however remote); or

(b) on the expiration of a period (however long),

any rule of equity notwithstanding.

Enforcement of contract to subscribe for debentures

151. A contract with a protected cell company to take up and pay for debentures may be enforced by an order for specific performance.

Debentures to bearer (Scotland)

152. Notwithstanding anything in the statute of the Scots Parliament of 1696, chapter 25, debentures to bearer issued in Scotland are valid and binding according to their terms.

Liability of trustees of debentures

153.—(1) A provision contained in—

(a) a trust deed for securing an issue of debentures by a protected cell company; or

(b) any contract with the holders of debentures issued by a protected cell company, secured by a trust deed,

is void insofar as it would have the effect of exempting a trustee ("T") of the deed from, or indemnifying T against, liability for breach of trust where T fails to show the degree of care and diligence required of T as trustee, having regard to the provisions of the trust deed conferring on T any powers, authorities or discretions.

(2) Paragraph (1) does not invalidate—

(a) a release otherwise validly given in respect of anything done or omitted to be done by T before the giving of the release;

(b) any provision enabling such a release to be given—

(i) on being agreed to by a majority of not less than 75% in value of the debenture holders present and voting in person or, where proxies are permitted, by proxy at a meeting summoned for the purpose; and

(ii) either with respect to specific acts or omissions or on the trustee dying or ceasing to act.

CHAPTER 12

Security interests

Creation of security interests

154.—(1) A protected cell company may only create or assert a security interest over assets held by the protected cell company on behalf of a part of the protected cell company if the security interest does not secure a liability or obligation which is incurred on behalf of, or which is attributable to, another part of the protected cell company.

(2) A protected cell company may only create or assert a security interest over the undertaking of part of the protected cell company if the security interest does not secure a liability or obligation which is incurred on behalf of, or which is attributable to, another part of the protected cell company.

(3) A security interest is void if it contravenes the requirements of paragraph (1) or (2).

(4) In this regulation, "security interest" means—

(a) a lien, pledge, charge or mortgage; or

(b) a standard security, assignation in security or any other right in security constituted under the law of Scotland, including any heritable security.

Registration of charges

155.—(1) Part 25 (company charges) of the Companies Act 2006(**79**) applies in relation to a charge created by a protected cell company as it applies in relation to a charge created by a company registered under that Act(**80**).

(2) In their application in relation to charges created by a protected cell company, the provisions of Part 25 of the Companies Act 2006 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 in accordance with regulation 31(1);

(c) the modifications specified in the second column of Table 4 in relation to the sections of the Companies Act 2006 specified in the first column of Table 4.

Table 4

Sections of Companies Act 2006	*Modifications*
Section 859D (particulars to be delivered to registrar)	In subsection (2)(b), treat the reference to the property and undertaking of the company as a reference to the property held by the protected cell company on behalf of the part of the protected cell company to which the charge relates and the undertaking of that part.
Section 859F (extension of period allowed for delivery)	In subsection (2)(a)(ii), treat the reference to the creditors or shareholders of the company as a reference to the persons who are creditors or shareholders in respect of the part of the protected cell company to which the charge relates.

(**79**) Part 25 was amended by S.I. 2013/600.

(**80**) Note that Part 25 of the Companies Act 2006 does not apply to certain charges over financial collateral. See regulation 4(4) of the Financial Collateral Arrangements (No 2) Regulations 2003.

Sections of Companies Act 2006	*Modifications*
Section 859H (consequence of failure to deliver charges)	In paragraphs (a) and (b) of subsection (3), treat the references to the company as references to the part of the protected cell company to which the charge relates. In paragraph (c) of subsection (3), treat the reference to a creditor of the company as a reference to a person who is a creditor in respect of the part of the protected cell company to which the charge relates.
Section 859K (registration of enforcement of security)	Ignore this section.
Section 859M (rectification of register)	In subsection (2)(a)(ii), treat the reference to the creditors or shareholders of the company as a reference to the persons who are creditors or shareholders in respect of the part of the protected cell company to which the charge relates.
Section 859P (companies to keep copies of instruments creating and amending charges)	Ignore subsection (5).
Section 859Q (instruments creating charges to be available for inspection)	In subsection (2)(b), treat the reference to a place specified in regulations under section 1136 of the Companies Act 2006 as a reference to an alternative inspection location notified to the FCA in accordance with regulation 67. In subsection (4)(a), treat the reference to any creditor or member of the company as a reference to any person who is a creditor or shareholder in respect of the part of the protected cell company to which the charge relates.
Section 893 (power to make provision for effect of registration in special register)	Ignore this section.
Section 894 (general power to make amendments to this Part)	Ignore this section.

(3) In this regulation, "charge" has the meaning given by section 859A(7) of the Companies Act 2006.

CHAPTER 13

Public offers of securities

Meaning of "securities"

156. In this Chapter, "securities" means shares or debentures.

Prohibition on offering securities to the public

157.—(1) A protected cell company must not—

(a) offer to the public any securities issued on behalf of any part of the protected cell company; or

(b) allot or agree to allot any securities issued on behalf of any part of the protected cell company with a view to their being offered to the public.

(2) Unless the contrary is proved, an allotment or agreement to allot securities is presumed to be made with a view to their being offered to the public if an offer of the securities (or any of them) to the public is made—

(a) within a period of six months beginning with the date of the allotment or agreement to allot; or

(b) before the receipt by the protected cell company of the whole of the consideration to be received by it in respect of the securities.

Meaning of "offer to the public"

158.—(1) This regulation explains what is meant in regulation 157 by an offer of securities to the public.

(2) An offer to the public includes an offer to any section of the public, however selected.

(3) An offer is not to be regarded as an offer to the public if it can properly be regarded, in all the circumstances, as—

(a) not being calculated to result, directly or indirectly, in securities issued by the protected cell company becoming available to persons other than those receiving the offer; or

(b) otherwise being a private concern of the person receiving it and the person making it.

(4) An offer is to be regarded (unless the contrary is proved) as being a private concern of the person receiving it and the person making it if it is made to a person already connected with the protected cell company and, where it is made on terms allowing that person to renounce the person's rights, the rights may only be renounced in favour of another person already connected with the protected cell company.

(5) For the purposes of this regulation, "person already connected with the protected cell company" means—

(a) a person holding securities issued on behalf of the part of the protected cell company to which the offer relates; or

(b) a trustee (acting in the capacity as trustee) of a trust of which the principal beneficiary is a person within sub-paragraph (a).

Restraining order

159.—(1) The High Court or, in Scotland, the Court of Session may make an order under this regulation if it appears to the court on an application under this regulation that a protected cell company is proposing to act in contravention of regulation 157.

(2) An order under this regulation is an order restraining the protected cell company from contravening that regulation.

(3) An application for an order under this regulation may be made by—

(a) the FCA;

(b) a person holding securities issued by the protected cell company; or

(c) a creditor of the protected cell company.

Remedial orders

160.—(1) A "remedial order" is an order for the purpose of putting a person affected by anything done in contravention of regulation 157 in the position the person would have been in if it had not been done.

(2) The High Court or, in Scotland, the Court of Session may make a remedial order under this regulation if it appears to the court on an application under this regulation that a protected cell company has acted in contravention of regulation 157.

(3) The following provisions are without prejudice to the generality of the power to make a remedial order.

(4) Where a protected cell company has—

(a) allotted securities pursuant to an offer to the public; or

(b) allotted or agreed to allot securities with a view to their being offered to the public,

a remedial order may require any person knowingly concerned in the contravention of regulation 157 to offer to purchase any of those securities at such price and on such other terms as the court thinks fit.

(5) A remedial order may be made—

(a) against any person knowingly concerned in the contravention, whether or not the person is an officer of the protected cell company;

(b) notwithstanding anything in the protected cell company's instrument of incorporation (which includes, for this purpose, the terms on which any securities are allotted or held);

(c) whether or not the holder of the securities subject to the order is the person to whom the protected cell company allotted or agreed to allot them.

(6) Where a remedial order is made in respect of a part of a protected cell company, the court may provide for the reduction of that part's capital accordingly.

Validity of allotment etc not affected

161. Nothing in this Chapter affects the validity of any allotment or sale of securities or of any agreement to allot or sell securities.

CHAPTER 14

Accounts, reports, audit and auditors

Meaning of "Companies Act regime"

162. In this Chapter, "Companies Act regime" means Parts 15 (accounts and reports) and 16 (audit) of the Companies Act 2006 and all subordinate legislation made under those Parts.

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)(**81**);

(viii) section 518 (rights of resigning auditor)(**82**);

(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

Provision	*Modification*
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)(**83**)	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)(**84**)	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.

(**81**) Section 515 has been amended by section 18 of and schedule 5 to the Deregulation Act 2015 (c. 20) and S.I. 2016/649.
(**82**) Section 518 has been amended by section 18 of and schedule 5 to the Deregulation Act 2015.
(**83**) Section 414C was inserted by S.I. 2013/1970.
(**84**) Section 518 has been amended by section 18 of and schedule 5 to the Deregulation Act 2015.

Provision	*Modification*
	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.

Relationship with regulation 46

164. Any accounts or records which a protected cell company is required to keep in accordance with the Companies Act regime, as applied by regulation 163, are in addition to the accounts and records that the protected cell company must keep in accordance with regulation 46 (records and accounts of assets, liabilities and obligations).

Application of Part 42 (statutory auditors) of the Companies Act 2006

165. For the purposes of section 1210(1)(a) (meaning of "statutory auditor" etc) of the Companies Act 2006, a person appointed as an auditor of a protected cell company under Part 16 of the Companies Act 2006, as applied by regulation 163, is to be treated as an auditor appointed under Part 16 of that Act.

CHAPTER 15

Insolvency

Insolvency of a cell

166.—(1) A cell of a protected cell company may be—

(a) put into administration as if it were a company under Schedule B1 (administration) to the Insolvency Act 1986(**85**) or Schedule B1 (administration) to the Insolvency (Northern Ireland) Order 1989(**86**); or

(b) wound up as if it were an unregistered company under Part 5 (winding up of unregistered companies) of the Insolvency Act 1986 or Part 6 (winding up of unregistered companies) of the Insolvency (Northern Ireland) Order 1989.

(2) For these purposes, the insolvency legislation applies in relation to the cell with the modifications set out in Schedule 2.

(3) Where a written demand is served on a cell by a creditor in accordance with section 222(1)(a) (inability to pay debts: unpaid creditor of £750 or more) of the Insolvency Act 1986 or Article 186(1)(a) (inability to pay debts: unpaid creditor of £750 or more) of the Insolvency (Northern Ireland) Order 1989, the cell may apply to the High Court (or in Scotland the Court of Session) for an injunction restraining (or in Scotland an interdict prohibiting) the creditor from presenting or giving notice of a winding-up petition as if the cell has distinct legal personality.

(4) The entry of a cell of a protected cell company into administration or liquidation does not affect the power of the protected cell company or the directors of the protected cell company to act in relation to the core or the cells.

(**85**) Schedule B1 was inserted by section 248 of and schedule 16 to the Enterprise Act 2002 (ch. 40).
(**86**) Schedule B1 was inserted by Article 3 of, and Schedule 1 to, S.I. 2005/1455 (N.I. 10).

(5) But the protected cell company and the directors of the protected cell company may not exercise a management power in relation to a cell in administration or liquidation without the consent of the administrator or liquidator of the cell.

(6) For the purposes of paragraph (5)—

(a) "management power" means a power which could be exercised so as to interfere with the exercise of the powers of the administrator or liquidator;

(b) it is immaterial whether the power is conferred on the protected cell company or the directors by an enactment or an instrument; and

(c) consent may be general or specific.

Insolvency of the core

167.—(1) The core of a protected cell company may be—

(a) put into administration as if it were a company under Schedule B1 (administration) to the Insolvency Act 1986 or Schedule B1 (administration) to the Insolvency (Northern Ireland) Order 1989; or

(b) wound up as if it were an unregistered company under Part 5 (winding up of unregistered companies) of the Insolvency Act 1986 or Part 6 (winding up of unregistered companies) of the Insolvency (Northern Ireland) Order 1989.

(2) For these purposes, the insolvency legislation applies in relation to the core with the modifications set out in Schedule 3.

(3) Where a written demand is served on the core by a creditor in accordance with section 222(1)(a) (inability to pay debts: unpaid creditor of £750 or more) of the Insolvency Act 1986 or Article 186(1)(a) (inability to pay debts: unpaid creditor of £750 or more) of the Insolvency (Northern Ireland) Order 1989, the core may apply to the High Court (or in Scotland the Court of Session) for an injunction restraining (or in Scotland an interdict prohibiting) the creditor from presenting or giving notice of a winding-up petition as if the core has distinct legal personality.

(4) The entry of the core of a protected cell company into administration or liquidation does not affect the powers of the protected cell company or the directors of the protected cell company to act in relation to the core or the cells.

(5) But the protected cell company and the directors of the protected cell company may not exercise a management power in relation to—

(a) the core of the protected cell company; or

(b) any cell of the protected cell company which is not in administration or liquidation,

without the consent of the administrator or liquidator of the core.

(6) For the purposes of paragraph (5)—

(a) "management power" means a power which could be exercised so as to interfere with the exercise of the powers of the administrator or liquidator;

(b) it is immaterial whether the power is conferred on the protected cell company or the directors by an enactment or an instrument; and

(c) consent may be general or specific.

Concurrent insolvency

168. Where two or more parts of a protected cell company are in administration or liquidation concurrently by virtue of regulation 166 or 167, then—

(a) the insolvency legislation (as applied by regulations 166(2) or 167(2)) applies in relation to each part separately; and

(b) the administrators or liquidators (as the case may be) of those parts must cooperate fully with each other in the discharge of their functions.

Disapplication of other insolvency proceedings

169.—(1) Except to the extent provided for in this Chapter—

(a) a protected cell company may not propose a voluntary arrangement;

(b) neither a protected cell company nor a part of a protected cell company may be placed into administration;

(c) a receiver (including an administrative receiver) may not be appointed in respect of any property held by the protected cell company;

(d) a protected cell company may not pass a resolution for the winding up of the protected cell company or any part of the protected cell company;

(e) a winding-up order may not be made against the protected cell company or any part of the protected cell company;

(f) the estate of a protected cell company or any part of a protected cell company may not be sequestrated under section 6 of the Bankruptcy (Scotland) Act 2016;

(g) neither the protected cell company nor a part of the protected cell company may be subject to any other process under the insolvency legislation which applies to a person who is insolvent or who is likely to become insolvent(**87**).

(2) The reference in paragraph (1)(d) to winding up includes a reference to a members' voluntary winding up under Chapter 3 of Part 4 of the Insolvency Act 1986 or Chapter 3 of Part 5 of the Insolvency (Northern Ireland) Order 1989.

CHAPTER 16

Mergers and Divisions

Meaning of "transfer scheme", "transferor" and "transferee"

170.—(1) A scheme is a transfer scheme for the purposes of this Chapter if it falls within Case 1, 2 or 3.

(2) Case 1 is that the scheme results in the transfer of one or more cells from one protected cell company to another protected cell company.

(3) Case 2 is that the scheme results in the transfer of the following from a protected cell company to another person—

(a) all of the assets held by the protected cell company on behalf of a cell;

(b) all of the liabilities incurred by the protected cell company on behalf of that cell;

(c) all of the liabilities of the protected cell company which are attributable to the cell; and

(d) all of the investments issued by the protected cell company on behalf of that cell;

and the scheme is not a Case 1 transfer scheme.

(4) Case 3 is that the scheme results in the transfer of—

(**87**) Note that a protected cell company is not an "insurer" for the purposes of Part 24 of FSMA because it does not carry on the activity specified in Article 10 of the Regulated Activities Order. See the Financial Services and Markets Act 2000 (Insolvency) (Definition of "Insurer") Order 2001 (S.I. 2001/2634 amended by S.I. 2002/1242).

(a) some or all of the assets of a person to a protected cell company, to be held by the protected cell company on behalf of a cell;

(b) some or all of the liabilities of a person to the protected cell company, to be treated as liabilities incurred by the protected cell company on behalf of that cell; and

(c) some or all of the investments issued by that person to the protected cell company, to be treated as investments issued by the protected cell company on behalf of that cell,

and the scheme is not a Case 1 transfer scheme.

(5) In this Chapter—

"the transferor" is the person transferring the cell, assets, liabilities or investments (as the case may be); and

"the transferee" is the person to whom the cell, assets, liabilities or investments (as the case may be) are transferred.

Meaning of "reference date"

171. In this Chapter, the "reference date" means the date chosen by a person in accordance with paragraph (2) of regulation 173.

Meaning of "affected parties"

172.—(1) In this Chapter, "affected parties" means—

(a) in a Case 1 transfer scheme—

(i) the FCA;

(ii) the PRA;

(iii) an undertaking from whom the transferor has assumed a risk on behalf of a relevant cell;

(iv) all investors holding investments issued by the transferor on behalf of a relevant cell;

(v) any other person to whom the transferor has incurred a liability on behalf of a relevant cell; and

(vi) so far as the transferor is aware, any other person to whom the transferor has incurred a liability which is attributable to a relevant cell;

(b) in a Case 2 transfer scheme—

(i) the FCA;

(ii) the PRA;

(iii) an undertaking from whom the transferor has assumed a risk on behalf of a relevant cell;

(iv) all investors holding investments issued by the transferor on behalf of a relevant cell;

(v) any other person to whom the transferor has incurred a liability on behalf of a relevant cell;

(vi) so far as the transferor is aware, any other person to whom the transferor has incurred a liability which is attributable to a relevant cell; and

(vii) any person to whom the transferee has a liability or to whom the transferee has issued an investment;

(c) in a Case 3 transfer scheme—

(i) the FCA;

(ii) the PRA;

(iii) any person to whom the transferor has a liability, or to whom the transferor has issued an investment, which is to be transferred to the transferee as a result of the transfer scheme;

(iv) any undertaking from whom the transferee has assumed a risk on behalf of a relevant cell;

(v) all investors holding investments issued by the transferee on behalf of a relevant cell;

(vi) any other person to whom the transferee has incurred a liability on behalf of a relevant cell; and

(vii) so far as the transferee is aware, any other person to whom the transferee has incurred a liability which is attributable to a relevant cell.

(2) In this regulation, a "relevant cell" is the cell to which the transfer scheme relates and any other cell which has entered into enforceable arrangements with that cell.

Requirements on applicants

173.—(1) A person must comply with the following requirements before making an application under regulation 174 (fast track transfers) or regulation 175 (transfers sanctioned by court order).

(2) The person who proposes to make the application must decide on a date (by virtue of regulation 171, this date is known as the "reference date").

(3) Within a period of 10 working days beginning with the reference date, a notice stating that the person proposes to make the application must be—

(a) published—

(i) in the London, Edinburgh and Belfast Gazettes;

(ii) in two national newspapers in the United Kingdom; and

(iii) in a national newspaper in each of the countries or territories in which a person who was an affected party on the reference date is located; and

(b) sent to all the persons who were affected parties on the reference date.

(4) The applicant must provide the following documents free of charge and without delay to the FCA, the PRA and any other person who requests them—

(a) a statement setting out the terms of the proposed transfer scheme; and

(b) a copy of the proposed application.

Application for fast track transfer

174.—(1) An application may be made to the FCA for a fast track transfer where—

(a) the transfer scheme falls entirely within Case 1 or entirely within Case 2;

(b) in the case of a transfer scheme falling within Case 2—

(i) the transferee is a private company limited by shares and registered under the Companies Act 2006; and

(ii) the directors of the transferee are permitted by the transferee's articles of association to do all the things necessary for the transferee to enter into and complete the transfer scheme;

(c) the applicant has complied with the requirements of regulation 173;

(d) all the affected parties have given their written consent to the transfer scheme;

(e) the transferee has permission under Part 4A of FSMA(**88**) to carry out the activity specified in article 13A of the Regulated Activities Order; and

(f) the application is made before the end of a period of 30 working days beginning with the reference date.

(2) The application may be made by—

(a) the transferor;

(b) the transferee;

(c) if the core of the transferor is in administration or liquidation, the administrator or liquidator of the core; or

(d) any combination of the above persons.

(3) An application must be accompanied by—

(a) a statement made by or on behalf of the transferor and transferee consenting to the transfer;

(b) a statement made by the solicitor or counsel for the applicant verifying that the requirements of paragraph (1) are satisfied in relation to the transfer scheme; and

(c) a statement made by the solicitor or counsel for the applicant setting out the changes which will need to be made to the information contained on the FCA's register as a result of the transfer scheme or, if no such changes are required, stating that fact.

(4) Where the FCA considers that the application complies with the requirements of this regulation, the FCA must—

(a) register the application; and

(b) notify the applicant and the PRA accordingly.

(5) For the purposes of deciding whether the application complies with the requirements of this regulation, the FCA may rely on the statement made by the solicitor or counsel for the applicant in accordance with paragraph (3)(b).

(6) The notification under paragraph (4)(b) must state the time and date when the application was registered.

(7) When the applicant receives notification under paragraph (4)(b), the applicant must do the following without delay—

(a) inform the transferor (except where applicant is the transferor);

(b) inform the transferee (except where the applicant is the transferee);

(c) publish a notice confirming that the transfer scheme has taken effect in—

(i) the London, Edinburgh and Belfast Gazettes;

(ii) two national newspapers in the United Kingdom; and

(iii) a national newspaper in each of the countries or territories in which a person who was an affected party on the reference date is located; and

(d) send a notice confirming that the transfer scheme has taken effect to—

(i) all the persons who were affected parties on the reference date; and

(ii) if the applicant is aware that any other person has become an affected party since the reference date, that other person.

(8) The notice referred to in sub-paragraphs (c) and (d) of paragraph (7) must state the time and date when the transfer scheme was registered.

(**88**) Part 4A was inserted by section 11 of the Financial Services Act 2012.

Application for court order sanctioning transfer scheme

175.—(1) An application may be made to the court for an order sanctioning a transfer scheme.

(2) An application may be made by—

(a) the transferor;

(b) the transferee;

(c) where the transferor is a protected cell company and the core of the protected cell company is in administration or liquidation, the administrator or liquidator; or

(d) any combination of the above persons.

(3) "Court" means—

(a) the High Court; or

(b) in Scotland, the Court of Session.

(4) The following are entitled to be heard on an application—

(a) the FCA;

(b) the PRA; and

(c) any person who alleges that they would be adversely affected by the transfer scheme.

(5) The court may make an order sanctioning a transfer scheme provided it is appropriate to sanction the scheme in all the circumstances of the case.

(6) The court may not determine an application—

(a) where the applicant has failed to comply with the requirements in paragraphs (3) and (4) of regulation 173; and

(b) until after the end of a period of 15 working days beginning with the day the FCA and PRA were given the documents mentioned in paragraph (4) of regulation 173 (or if the FCA and PRA were given the documents on different dates, the later of the two dates).

(7) But the court may waive the requirements of the following provisions in such circumstances and subject to such conditions as the court considers appropriate—

(a) sub-paragraphs (ii) and (iii) of regulation 173(3)(a); and

(b) paragraph (4) of regulation 173 in relation to any person other than the FCA and the PRA.

Effect of fast track transfer

176.—(1) A transfer scheme falling within regulation 174 takes effect on its registration by the FCA in accordance with paragraph (4)(a) of that regulation.

(2) Where the transfer scheme falls within Case 1, the following occur as a result of registration—

(a) the cell ceases to be a part of the transferor (and in relation to the transferor is deemed to be dissolved);

(b) the cell becomes a part of the transferee (and in relation to the transferee is deemed to be created);

(c) all of the assets held by the transferor on behalf of the cell are vested in the transferee and are deemed to be held by the transferee on behalf of the cell;

(d) all of the liabilities or obligations incurred by the transferor on behalf of the cell become liabilities or obligations of the transferee and are deemed to be liabilities or obligations incurred by the transferee on behalf of the cell;

(e) all of the liabilities or obligations of the transferor which are attributable to the cell become liabilities or obligations of the transferee and are deemed to be liabilities or obligations attributable to the cell;

(f) where the transferor has, on behalf of the cell, entered into a contract with the transferee then, to the extent that the transferor was acting on behalf of the cell, regulation 74 applies to the contract after the transfer with the following modifications—

(i) the contract is to be treated as if it were made between the cell and the part of the transferee on whose behalf the transferee was acting when it entered into the contract; and

(ii) for the purposes of determining whether the requirements of regulation 69 or, where applicable, regulation 70 are satisfied in relation to the contract, the contract is to be treated as if it were made on the registration of the transfer scheme by the FCA;

(g) where the transferor has, on behalf of the cell, entered into a contract with a person who is not the transferee then, to the extent that the transferor was acting on behalf of the cell, the contract is deemed to be novated to the transferee so that references to the transferor in the contract are (unless the context otherwise requires) read after the transfer as references to the transferee;

(h) where the cell has entered into enforceable arrangements with another cell of the transferor, then—

(i) where both cells are being transferred to the transferee at the same time, the enforceable arrangements take effect after the transfer as enforceable arrangements made between those cells by the transferee in accordance with these Regulations;

(ii) in all other cases, the arrangements take effect after the transfer as if the terms of the arrangements are set out in a contract made between—

(aa) the protected cell company on behalf of the other cell; and

(bb) the transferee on behalf of the cell being transferred;

(i) all of the investments issued by the transferor on behalf of the cell are deemed to be investments issued by the transferee on behalf of the cell;

(j) where the investments concerned are shares, they are deemed to have been issued and allotted by the transferee in accordance with the requirements of this Part;

(k) things done by the transferor on behalf of the cell are deemed to have been done by the transferee on behalf of the cell; and

(l) things done to the transferor in respect of the cell are deemed to have been done to the transferee in respect of the cell.

(3) Where the transfer scheme falls within Case 2, then the following occur as a result of registration—

(a) all of the assets held by the transferor on behalf of the cell are vested in the transferee;

(b) all of the liabilities or obligations incurred by the transferor on behalf of the cell become liabilities or obligations of the transferee;

(c) all of the liabilities or obligations of the transferor which are attributable to the cell become liabilities or obligations of the transferee;

(d) where the transferor has entered into a contract with the transferee on behalf of the cell then, to the extent that the transferor was acting on behalf of the cell, the terms of the contract cease to have effect after the transfer;

(e) where the transferor has, on behalf of the cell, entered into a contract with a person who is not the transferee then, to the extent that the transferor was acting on behalf of the cell,

the contract is deemed to be novated to the transferee so that references to the transferor in the contract are (unless the context otherwise requires) read after the transfer as references to the transferee;

(f) where the cell has entered into enforceable arrangements with another cell of the transferor, those arrangements take effect after the transfer as if the terms of the arrangements are set out in a contract made between the protected cell company on behalf of the other cell and the transferee;

(g) all of the investments issued by the transferor on behalf of the cell are deemed to be investments issued by the transferee;

(h) things done by the transferor on behalf of the cell are deemed to have been done by the transferee;

(i) things done to the transferor in respect of the cell are deemed to have been done to the transferee; and

(j) the cell is deemed to be dissolved.

(4) Where the investments referred to in paragraph (3)(g) are shares, then Chapter 3 (allotment of equity securities: existing shareholders' right of pre-emption) and Chapter 5 (payment for shares) of Part 17 (a company's share capital) of the Companies Act 2006 do not apply to the transferee in relation to the transfer of the shares.

(5) Where property or a liability transferred in accordance with this regulation is governed by the law of any country or territory outside the United Kingdom, then the transferor must, if the transferee so requires, take all necessary steps for securing that the transfer is fully effective under the law of that country or territory.

(6) Registration of a transfer scheme in accordance with regulation 174 is to be treated as an instrument of transfer for the purposes of any enactment requiring the delivery of an instrument of transfer for the registration of property.

Effect of court order sanctioning transfer scheme

177.—(1) If the court makes an order under regulation 175, it may by that or any subsequent order make such provision (if any) as it thinks fit—

(a) for the transfer to the transferee of a cell forming part of the transferor;

(b) for the transfer to the transferee of any property, liabilities or obligations of the transferor;

(c) for the allotment or appropriation by the transferee of any shares or debentures issued by the transferor;

(d) for the continuation by or against the transferee of any pending legal proceedings by or against the transferor;

(e) for dealing with the interests of any person who, within such time and in such manner as the court may direct, objects to the transfer scheme;

(f) for bringing the order to the attention of any person;

(g) with respect to such incidental, consequential and supplementary matters as are, in its opinion, necessary to secure that the transfer scheme is fully and effectively carried out.

(2) Where the court makes an order under paragraph (1) in respect of a protected cell company, the order may specify the part of the protected cell company to which the order relates.

(3) An order under paragraph (1) may—

(a) transfer property or liabilities whether or not the transferor otherwise has the capacity to effect the transfer in question;

(b) make provision in relation to property which is held by the transferor as trustee;

(c) make provision in relation to enforceable arrangements between cells;

(d) make provision as to prospective or contingent rights or liabilities of the transferor, including provision as to the construction of instruments under which such rights or liabilities arise.

(4) Paragraph (3)(a) is to be taken to include the power to make the following provision in an order—

(a) for the transfer of property or liabilities which would not otherwise be capable of being transferred or assigned;

(b) if the terms on which the transferor is entitled to property or is subject to liabilities include provision that has any of the effects specified in paragraph (5), for the transfer to take effect as if there were no such provision.

(5) The effects mentioned in paragraph (4)(b) are that a transfer of the property or liability in question—

(a) requires a person's consent or concurrence; or

(b) contravenes or interferes with an interest or right, or otherwise incurs a liability.

(6) Nothing in paragraph (4) is to be read as limiting the scope of paragraph (3).

(7) If an order under paragraph (1) transfers a cell from the transferor to transferee, then the order has the effect specified in paragraph (2) of regulation 176, except to the extent that the order provides otherwise.

(8) If an order under paragraph (1) makes provision for the transfer of property, liabilities or obligations, then the following occur as a result of the order—

(a) the property is transferred to and vests in the transferee specified in the order; and

(b) the liabilities or obligations are transferred to and become liabilities or obligations of the transferee specified in the order.

(9) But if any property or liability included in an order under paragraph (1) is governed by the law of any country or territory outside the United Kingdom, the order may require the transferor, if the transferee so requires, to take all necessary steps for securing that the transfer is fully effective under the law of that country or territory.

(10) Property transferred as a result of an order under paragraph (1) may, if the court so directs, vest free from any charge (or, in Scotland, security over property) which is (as a result of the transfer scheme) to cease to have effect.

(11) An order under paragraph (1) which makes provision for the transfer of property is to be treated as an instrument of transfer for the purposes of any enactment requiring the delivery of an instrument of transfer for the registration of property.

(12) The transferee must provide the FCA and PRA with two office copies of an order made under regulation 175 or 177 before the end of a period of 10 working days beginning with the making of the order, or such longer period as the FCA or PRA (as the case may be) directs.

CHAPTER 17

Dissolution

Dissolution of a cell: procedure

178.—(1) A protected cell company's instrument of incorporation may contain provision for the dissolution of a cell, but that provision is subject to this regulation.

(2) A protected cell company must notify the following people (the "interested persons") if it intends to dissolve a cell—

(a) any undertaking from whom the protected cell company has assumed a risk on behalf of a relevant cell;

(b) any investor who holds an investment issued on behalf of a relevant cell;

(c) any other creditor of the protected cell company in respect of a relevant cell;

(d) the FCA; and

(e) the PRA.

(3) In paragraph (2), a "relevant cell" is—

(a) the cell which the protected cell company intends to dissolve; and

(b) any other cell which has entered into enforceable arrangements with that cell.

(4) But paragraph (2) does not apply where a cell is deemed to be dissolved as a consequence of a Case 1 transfer scheme or Case 2 transfer scheme (within the meaning given by regulation 170).

(5) The notification referred to in paragraph (2) must—

(a) be in writing;

(b) identify the cell which the protected cell company intends to dissolve;

(c) state the date on which the notification is sent; and

(d) state that if the recipient intends to object to the dissolution of the cell, then any objections must be received by the protected cell company within a period of two months beginning with the date when the notification was sent.

(6) The cell may only be dissolved in the following cases—

(a) none of the interested persons object within the period referred to in paragraph (5)(d);

(b) one or more of the interested persons objects within the period referred to in paragraph (5)(d) and those objections are subsequently withdrawn;

(c) one or more of the interested persons objects within the period referred to in paragraph (5)(d) and—

(i) the FCA or PRA is not one of the interested persons who objects; and

(ii) the person or persons objecting have not commenced court proceedings against the protected cell company in respect of the cell, or put the cell into administration or liquidation, within the relevant period;

(d) the cell is deemed to be dissolved by virtue of—

(i) regulation 176(2)(a) or 176(3)(j); or

(ii) an order of the court made under regulation 175 or 177;

(e) the cell is put into administration and the cell is deemed to be dissolved at the end of administration (see paragraph 84 of Schedule B1 to the Insolvency Act 1986 and paragraph 85 of Schedule B1 to the Insolvency (Northern Ireland) Order 1989, as applied by regulation 166);

(f) the cell is put into liquidation and the cell is dissolved after winding up (see sections 202 to 205 of the Insolvency Act 1986(**89**) and Articles 167 to 169 of the Insolvency (Northern Ireland) Order 1989, as applied by regulation 166);

(g) the court directs that the cell is to be dissolved.

(7) In paragraph (6)(c), the "relevant period"—

(**89**) Sections 202, 204 and 205 were amended by section 126 of and Schedule 9 to the Small Business, Enterprise and Employment Act 2015 (c. 26). Section 204 was also amended by SSI 2016/141.

(a) begins with the date when notification is sent in accordance with paragraph (2) or, if notifications are sent on more than one date, the date when the last such notification is sent; and

(b) lasts for a period of 12 months or, if court proceedings are brought against the protected cell company in respect of the cell or an application is made to court for the administration or winding up of the cell, such other period as may be specified by the court.

(8) For the purposes of paragraph (7)(b), the court may specify another period after the expiry of the 12 month period referred to in that paragraph, provided the cell has not been dissolved when the court specifies that period.

(9) When a protected cell company dissolves a cell, it must notify the interested persons.

(10) The notification referred to in paragraph (9) must—

(a) be in writing;

(b) identify the cell which has been dissolved; and

(c) state the time and date when it was dissolved.

Dissolution of a cell: effect on property and liabilities

179.—(1) Where a cell of a protected cell company is dissolved in accordance with regulation 178—

(a) the protected cell company is released from all outstanding liabilities and obligations which were incurred on behalf of the cell or which are attributable to the cell;

(b) any enforceable arrangements made between the cell and any other cell are deemed to be cancelled; and

(c) any property of the protected cell company which is held on behalf of the cell is deemed to be moved to the core.

(2) A resolution of the protected cell company for the dissolution of a cell is to be treated as an instrument of transfer for the purposes of any enactment requiring the delivery of an instrument of transfer for the registration of property.

(3) Paragraph (1) is subject to regulations 181 to 185 (which are concerned with restoration).

Dissolution of a protected cell company

180.—(1) A protected cell company may be dissolved in the following cases—

(a) the protected cell company makes an application to the FCA for its dissolution;

(b) the core of the protected cell company is put into administration and the protected cell company is dissolved at the end of administration (see paragraph 84 of Schedule B1 to the Insolvency Act 1986 and paragraph 85 of Schedule B1 to the Insolvency (Northern Ireland) Order 1989, as applied by regulation 167);

(c) the core of the protected cell company is put into liquidation and the protected cell company is dissolved after winding up (see sections 202 to 205 of the Insolvency Act 1986 and Articles 167 to 169 of the Insolvency (Northern Ireland) Order 1989 as applied by regulation 167).

(2) But a protected cell company may only be dissolved if the protected cell company has no cells.

(3) Where a protected cell company applies to the FCA for its dissolution, the application must contain, or be accompanied by, a statement made by the directors of the protected cell company, or by a majority of them, that the protected cell company has no cells.

(4) Where the FCA receives an application made under paragraph (1)(a) which contains, or is accompanied by, the statement referred to in paragraph (3), the FCA must publish a notice in the London, Edinburgh and Belfast Gazettes—

(a) identifying the protected cell company;

(b) stating that the FCA has received an application from the protected cell company for its dissolution; and

(c) inviting any person to show cause as to why the protected cell company should not be dissolved.

(5) On the expiry of a period of three months beginning with the date that the notice referred to in paragraph (4) was published in the London, Edinburgh and Belfast Gazettes, or the last such date if the notices are published on different dates, the FCA may—

(a) notify the protected cell company that it intends to strike the protected cell company off the register;

(b) record on its register of protected cell companies that the protected cell company is struck off the register; and

(c) publish notice to that effect in the London, Edinburgh and Belfast Gazettes.

(6) If the FCA is aware that the protected cell company intends to acquire or redeem shares issued on behalf of the core, the FCA may postpone publication of the notices referred to in paragraph (5)(c) for such period as appears to the FCA to be reasonable.

(7) On the publication of the notices referred to in paragraph (5)(c), or the last such notice if the notices are published on different dates, the protected cell company is dissolved.

(8) However—

(a) the liability (if any) of every director of the protected cell company continues and may be enforced as if the protected cell company had not been dissolved; and

(b) nothing in this regulation affects the power of the court to wind up the core or a cell of the protected cell company which has been struck off the register.

(9) All property and rights whatsoever vested in or held on trust for the protected cell company immediately before its dissolution (including leasehold property, but not including property held on trust for another person) are deemed to be *bona vacantia*.

(10) Sections 1012 to 1023 of the Companies Act 2006 (property of dissolved company)(**90**) apply to all such property and rights as they apply to the property and rights of a company incorporated under the Companies Act 2006, with the following modifications—

(a) references to the restoration of the company are to be treated as references to the restoration of the protected cell company; and

(b) references to the registrar are to be treated as references to the FCA.

Restoration: applications to court

181.—(1) Where a cell of a protected cell company has been dissolved, an application may be made to the court to restore the cell.

(2) Where a protected cell company has been dissolved, an application may be made to the court to restore the protected cell company to the register.

(3) Where an application is made to restore a cell of a protected cell company and the protected cell company has been dissolved, then the application must be accompanied by an application to restore the protected cell company to the register.

(**90**) Section 1022 was amended by section 119 or and Schedule 5 to the Land Registration etc (Scotland) Act 2012 (2012 asp 5).

(4) In this regulation, "court" means the High Court or, in Scotland, the Court of Session.

Restoration: who may apply

182.—(1) An application under regulation 181(1) may be made by—

(a) any person who would have been entitled to receive notice of the cell's dissolution under regulation 178(2);

(b) the protected cell company;

(c) a director of the protected cell company;

(d) a former administrator or liquidator of the cell; or

(e) any other person appearing to have an interest in the matter.

(2) An application under regulation 181(2) may be made by—

(a) a person who is entitled to make an application under regulation 181(1) for the restoration of a cell which formed part of the protected cell company;

(b) a former director of the protected cell company;

(c) a person who would, but for the dissolution of the protected cell company, have been—

(i) a creditor of the protected cell company; or

(ii) in a contractual relationship with the protected cell company;

(d) a person with a potential legal claim against the protected cell company;

(e) a person having an interest in land or other property—

(i) in which the protected cell company had a superior or derivative interest;

(ii) that was subject to rights vested in the protected cell company; or

(iii) that received the benefit of obligations owed by the protected cell company;

(f) a person who held shares issued on behalf of the core of the protected cell company immediately prior to the dissolution of the protected cell company;

(g) a former administrator or liquidator of the core of the protected cell company;

(h) the FCA;

(i) the PRA; or

(j) any other person appearing to have an interest in the matter.

Restoration: when an application may be made

183. An application to restore a cell or a protected cell company must be made within a period of six years beginning with the date when the cell or protected cell company (as the case may be) was dissolved.

Decision on application for restoration

184.—(1) On an application under regulation 181(1), the court may order the restoration of a cell if—

(a) the requirements of regulation 178 were not complied with in relation to the dissolution of the cell; or

(b) the court considers it just to do so.

(2) On an application under regulation 181(2), the court may order the restoration of a protected cell company if—

(a) the requirements of regulation 180 were not complied with in relation to the dissolution of the protected cell company; or

(b) the court considers it just to do so.

(3) If the court orders the restoration of the cell or the protected cell company, the restoration takes effect on a copy of the court's order being delivered to the FCA.

(4) Where a protected cell company is restored to the register, the FCA must publish notice of the restoration of the protected cell company in the London, Edinburgh and Belfast Gazettes.

(5) The notices must state—

(a) the name of the protected cell company;

(b) the protected cell company's registered number; and

(c) the date on which restoration took effect.

Effect of court order for restoration

185.—(1) The general effect of an order restoring a cell or a protected cell company is that the cell or protected cell company (as the case may be) is deemed to have continued in existence as if it had not been dissolved.

(2) The court may give directions and make such provision as seems just for placing the cell or protected cell company and all other persons in the same position (as nearly as may be) as if the cell or protected cell company had not been dissolved.

(3) In particular, the court may give directions as to—

(a) the delivery of documents to the FCA or PRA;

(b) payment of the FCA's or PRA's costs in relation to the proceedings for restoration;

(c) where property or a right previously vested in or held on trust for the protected cell company has vested as *bona vacantia*, the payment of the costs (in Scotland, the expenses) of the Crown representative—

(i) in dealing with the property during the period of dissolution; or

(ii) in connection with the proceedings on the application.

(4) In this regulation, the "Crown representative" means—

(a) in relation to property vested in the Duchy of Lancaster, the Solicitor to that Duchy;

(b) in relation to property vested in the Duke of Cornwall, the Solicitor to the Duchy of Cornwall;

(c) in relation to property in Scotland, the Queen's and Lord Treasurer's Remembrancer;

(d) in relation to other property, the Treasury Solicitor.

(5) Section 1034 of the Companies Act 2006 (effect of restoration where property has vested as *bona vacantia*) applies on the restoration of a protected cell company as it applies on the restoration of a company incorporated under the Companies Act 2006, but with the reference to section 1012 in subsection (1) being treated as a reference to regulation 180(9).

CHAPTER 18

Offences

Offences by a body corporate

186. Section 400 of FSMA (offences by bodies corporate etc)(**91**) applies to an offence under these Regulations as it applies to an offence under FSMA.

Jurisdiction and procedure in respect of offences

187. Section 403 of FSMA (jurisdiction and procedure in respect of offences)(**92**) applies to an offence under these Regulations as it applies to an offence under FSMA.

CHAPTER 19

Miscellaneous

Time period for giving notice to FCA

188.—(1) Where a provision of this Part requires a protected cell company to give notice of an event to the FCA, the notice must be given to the FCA within a period of 10 working days beginning with the day the event occurred.

(2) Paragraph (1) does not apply where a provision of this Part specifies a different period.

Imposition of further requirements by the FCA or PRA

189. Nothing in this Part is to be taken as preventing or restricting the FCA or PRA from imposing further requirements on a protected cell company in accordance with the powers conferred on the FCA or PRA by or under FSMA.

Consequential amendments to legislation

190. Schedule 4 has effect.

Transitional provision: existing companies registered under the Companies Act 2006

191. The amendment made to paragraph (3) of Schedule 2 to the Company, Limited Liability Partnership and Business (Names and Trading Disclosures) Regulations 2015(**93**) by paragraph 7 of Part 2 of Schedule 4 to these Regulations does not apply in relation to a company which was registered under the Companies Act 2006 before the coming into force of these Regulations.

David Evennett
Mark Spencer
Two of the Lords Commissioners of Her Majesty's Treasury

5th December 2017

(**91**) Section 400 was amended by section 37 of and Schedule 9 to the Financial Services Act 2012.
(**92**) Section 400 was amended by section 37 of and Schedule 9 to the Financial Services Act 2012.
(**93**) S.I. 2015/17.

SCHEDULE 1 Regulation 2(3)

Welsh equivalents of English words and expressions

Table 6

Welsh equivalents of English words and expressions

English	*Welsh*
and company	a'r cwmni / a chwmni / a'I gwmni
company	cwmni
company limited	cwmni cyfyngedig
insurance	yswiriant
insured	wedi'i yswirio
insurer	yswiriwr
limited	cyfyngedig
PCC	CUG
PCC Limited	CUG Cyfyngedig
PCC Ltd	CUG Cyf
protected cell company	cwmni unedau gwarchodedig
public limited company	cwmni cyfyngedig cyhoeddus
reinsurance	ailyswiriant
reinsured	wedi'i ailyswirio
reinsurer	ailyswiriwr
unlimited	anghyfyngedig

SCHEDULE 2 Regulation 166

Administration and liquidation of cells: modification of insolvency legislation

Duties and powers confined to the cell

1.—(1) The appointment of a relevant office holder in respect of a cell, and the powers and duties of the relevant office holder, are confined to—

(a) the cell;

(b) the business and affairs of the cell; and

(c) the property held by the protected cell company on behalf of the cell.

(2) In sub-paragraph (1), a "relevant office holder" means—

(a) an administrator;

(b) a liquidator;

(c) a provisional liquidator; or

(d) a special manager.

General application of the insolvency legislation

2. The insolvency legislation applies to a cell as if—

(a) the cell is a body corporate with distinct legal personality;

(b) the cell was incorporated on its creation;

(c) the cell is registered in the part of the United Kingdom in which the protected cell company has its registered office;

(d) the registered office of the cell is the registered office of the protected cell company;

(e) the registered name of the cell is the name or number of the cell followed by "of" and the name of the protected cell company;

(f) the registrar of companies is the FCA;

(g) a person who is or was a director, shadow director, officer, employee or agent of the protected cell company is or was a director, shadow director, officer, employee or agent of the cell (as the case may be);

(h) shares issued by the protected cell company on behalf of the cell are shares issued by the cell;

(i) the cell's property, assets, liabilities, debts and creditors are determined in accordance with regulation 48(6);

(j) arrangements made between the cell and another cell in accordance with regulations 68 and 69 are contracts entered into between the cell and the protected cell company acting on behalf of that other cell;

(k) things done by the protected cell company on behalf of the cell are things done by the cell;

(l) things done to the protected cell company in respect of the cell are things done to the cell;

(m) judgments or orders made against the protected cell company in respect of the cell are judgments or orders made against the cell;

(n) the books, papers, records, registers and other documents of the protected cell company are, insofar as they relate to the cell, books, papers, records, registers and documents of the cell; and

(o) an associate of the protected cell company (within the meaning given by section 435 of the Insolvency Act 1986(**55**) or Article 4 of the Insolvency (Northern Ireland) Order 1989) is an associate of the cell.

Jurisdiction within the United Kingdom

3.—(1) This paragraph specifies which court in the United Kingdom has jurisdiction in relation to the administration or winding up of a cell of a protected cell company.

(2) Her Majesty's High Court of Justice in England has jurisdiction where the registered office of a protected cell company is located in England and Wales (or Wales).

(3) The Court of Session has jurisdiction where the registered office of a protected cell company is located in Scotland.

(**55**) Section 435 was amended by section 261 and Schedule 27 to the Civil Partnership Act 2004 (c. 33), S.I. 2005/3129, S.I. 2009/1941 and S.I. 2016/1034.

(4) Her Majesty's High Court of Justice in Northern Ireland has jurisdiction where the registered office of a protected cell company is located in Northern Ireland.

Restrictions on applying for winding up

4. A person holding an investment issued on behalf of any cell of a protected cell company may not apply for—

(a) the winding up of a cell; or

(b) the appointment of a provisional liquidator in respect of a cell.

Appointment of administrator

5.—(1) Only the court may appoint an administrator of a cell.

(2) Where a person makes an application to court for the administration of a cell, the person must file with the court notice of the existence of any insolvency proceedings in relation to the protected cell company or the cell anywhere in the world as soon as the person becomes aware of them.

(3) The duty imposed by sub-paragraph (2) ceases on the making of an administration order.

Giving of notice

6. In the insolvency legislation—

(a) a requirement that a company give notice of, or file, something is to be treated as a requirement that the protected cell company give notice of, or file, that thing on behalf of the cell; and

(b) any requirement to give notice of something on the company's website is to be ignored.

Part 24 of FSMA: references to "regulated activities" and "PRA-authorised person"

7. If the protected cell company has (or had) permission to carry on a regulated activity under Part 4A (permission to carry on regulated activities) of FSMA, then Part 24 (insolvency) of FSMA applies to the cell as if the cell has (or had) that permission.

Further modifications to specific provisions of the Insolvency Act 1986 and the Insolvency (Northern Ireland) Order 1989

8.—(1) The provisions of the Insolvency Act 1986 specified in the first column of Table 7 and the provisions of the Insolvency (Northern Ireland) Order 1989 specified in the second column of Table 7 apply to a cell with the modifications specified in the fourth column of Table 7.

Table 7

Insolvency Act 1986	*Insolvency (Northern Ireland) Order 1989*	*Subject Matter*	*Modification*
Section 76(**56**)	Article 63	Liability of past directors and shareholders	These provisions apply where a protected cell company has made a payment ("the relevant payment" for the purposes of these provisions) to redeem or acquire shares issued on behalf

(**56**) Section 76 has been amended by S.I. 2009/1941 and S.I. 2011/1265.

Insolvency Act 1986	*Insolvency (Northern Ireland) Order 1989*	*Subject Matter*	*Modification*
			of the cell in breach of the requirements of regulation 106. The reference to the directors who signed the statement made in accordance with section 714(1) to (3) of the Companies Act 2006 for the purposes of the redemption or purchase is to be treated as a reference to the directors who authorised the redemption or purchase.
Section 103	Article 89	Cesser of directors' powers	Ignore these provisions.
Section 124(**57**)	Article 104(**58**)	Application for winding up	An administrator of the cell, or an administrator or liquidator of the core, may also present a petition for the winding up of a cell.
Section 216	Article 180	Restriction on re-use of names	Ignore these provisions.
Section 221(**59**)	Article 185	Winding up of unregistered companies	Where an administrator or liquidator of the core of the protected cell company applies for the winding up of a cell, the cell may be wound up if the court is satisfied that the application is made in the discharge of the duty imposed on the administrator or liquidator by paragraph 2(2)(c) of Schedule 3 to these Regulations in relation to the cell.
Section 222	Article 186	Inability to pay debts: unpaid creditor for £750 or more	The written demand must be served on the cell by leaving it at the protected cell company's registered office or in such manner as the court may approve or direct.
Section 223	Article 187	Inability to pay debts: debt remaining unsatisfied after action brought	Ignore these provisions.
Paragraph 61 of Schedule B1	Paragraph 62 of Schedule B1	Administrator's general powers (removal and appointment of directors)	Ignore these paragraphs.

(**57**) Section 124 has been amended by section 62 of the Criminal Justice Act 1988 (c. 33), section 60 of the Companies Act 1989 (c. 40), S.I. 2002/1240, section 1 of and Schedule 1 to the Insolvency Act 2000, section 109 of the Courts Act 2003 (c. 39), section 50 of the Companies (Audit, Investigations and Community Enterprise) Act 2004 (c. 45), S.I. 2006/2078, S.I. 2009/1941, S.I. 2013/496 and S.I. 2017/702.
(**58**) Article 104 has been amended by S.I. 2006/2078 and S.I. 2009/1941.
(**59**) Section 221 has been amended by S.I. 2002/1240 and S.I. 2009/1941.

Insolvency Act 1986	*Insolvency (Northern Ireland) Order 1989*	*Subject Matter*	*Modification*
Paragraph 69 of Schedule B1	Paragraph 70 of Schedule B1	Administrator as agent	An administrator of a cell acts as agent for the protected cell company (on behalf of the cell).
Paragraph 83 of Schedule B1(**60**)	Paragraph 84 of Schedule B1	Moving from administration to liquidation	Ignore these paragraphs.

Further modification to subordinate legislation

9. The provisions of any subordinate legislation made under the Insolvency Act 1986 or the Insolvency (Northern Ireland) Order 1989(**61**) apply to the cell with any necessary modifications.

SCHEDULE 3 Regulation 167

Administration and liquidation of the core: modification of insolvency legislation

Meaning of "relevant office holder"

1. In this Schedule, "relevant office holder" means—

(a) an administrator;

(b) a liquidator;

(c) a provisional liquidator; or

(d) a special manager.

Duties and powers of a relevant office holder appointed in respect of the core

2.—(1) The appointment of a relevant office holder in respect of the core, and the powers and duties of the relevant office holder, are confined to—

(a) the core;

(b) the business and affairs of the core; and

(c) the property held by the protected cell company on behalf of the core,

except to the extent that sub-paragraphs (2) to (8) provide otherwise.

(2) An administrator or liquidator appointed in respect of the core of a protected cell company has the following duties in relation to a cell of the protected cell company which is not in administration or liquidation—

(a) a duty to ensure the protected cell company dissolves the cell in accordance with regulation 178;

(**60**) Paragraph 83 has been amended by sections 126 and 128 of and Schedule 9 to the Small Business, Enterprise and Employment Act 2015.

(**61**) The key subordinate legislation made under these powers is the Insolvency (England and Wales) Rules 2016, the Insolvency (Scotland) Rules 1986 and the Insolvency (Northern Ireland) Rules 1991. The Insolvency (Scotland) Rules 1986 and the Insolvency Rules (Northern Ireland) 1991 are in the process of being updated and revised.

(b) if the administrator or liquidator considers that there is no realistic prospect of being able to carry out the duty referred to in sub-paragraph (a) in respect of the cell, a duty to enter into a transfer scheme in respect of the cell, or the assets and liabilities held by the protected cell company on behalf of the cell and the investments issued on the cell's behalf; or

(c) if the administrator or liquidator considers that there is no realistic prospect of being able to carry out the duties referred to in sub-paragraphs (a) and (b) in respect of the cell, a duty to apply to the court for a winding-up order in respect of the cell.

(3) But sub-paragraph (2) does not apply where—

(a) the core of a protected cell company is in administration;

(b) an objective of the administration is to rescue the core as a going concern; and

(c) the administrator thinks that it is reasonably practicable to achieve that objective.

(4) An administrator or liquidator appointed in respect of the core of a protected cell company may exercise the powers mentioned in sub-paragraph (5)—

(a) in relation to a cell of the protected cell company which is not in administration or liquidation; or

(b) in relation to a cell of the protected cell company which is in administration or liquidation provided the administrator or liquidator of the cell consents to the exercise of the power.

(5) The powers referred to in sub-paragraph (4) are—

(a) a power to fulfil a requirement imposed on the protected cell company by an enactment;

(b) a power to fulfil an obligation incurred by the protected cell company on behalf of a cell or which is attributable to a cell;

(c) a power to enter into a transfer scheme in respect of a cell, or the assets and liabilities held by the protected cell company on behalf of the cell and the investments issued on the cell's behalf;

(d) a power to apply to court for a winding-up order in respect of a cell;

(e) a power to dissolve a cell in accordance with regulation 178;

(f) a power to do anything necessary or expedient to comply with a duty imposed on the administrator or liquidator by sub-paragraph (2).

(6) Where a protected cell company has no cells, an administrator or liquidator of the core also has the power to dissolve the protected cell company in accordance with regulation 180.

(7) Where this paragraph imposes a duty, or confers a power, on an administrator or liquidator, that duty or power is to be treated as if it were imposed or conferred on the administrator or liquidator by—

(a) the Insolvency Act 1986 where the protected cell company has its registered office in England and Wales (or Wales) or Scotland;

(b) the Insolvency (Northern Ireland) Order 1989 where the protected cell company has its registered office in Northern Ireland.

(8) In this paragraph, "transfer scheme" means a transfer scheme within the meaning given by regulation 170.

General application of the insolvency legislation

3. The insolvency legislation applies to the core as if—

(a) the core is a body corporate with distinct legal personality;

(b) the core was incorporated when the protected cell company was incorporated;

(c) the core is registered in the part of the United Kingdom in which the protected cell company has its registered office;

(d) the registered office of the cell is the registered office of the protected cell company;

(e) the registered name of the core is "the core of" followed by the name of the protected cell company;

(f) the registrar of companies is the FCA;

(g) a person who is or was a director, shadow director, officer, employee or agent of the protected cell company is or was a director, shadow director, officer, employee or agent of the core (as the case may be);

(h) shares issued by the protected cell company on behalf of the core are shares issued by the core;

(i) the core's property, assets, liabilities, debts and creditors are determined in accordance with regulation 48(6);

(j) things done by the protected cell company on behalf of the core are things done by the core;

(k) things done to the protected cell company in respect of the core are things done to the core;

(l) judgments or orders made against the protected cell company in respect of the core are judgments or orders made against the core;

(m) the books, papers, records, registers and other documents of the protected cell company are, insofar as they relate to the core, books, papers, records, registers and documents of the core; and

(n) an associate of the protected cell company (within the meaning given by section 435 of the Insolvency Act 1986 or Article 4 of the Insolvency (Northern Ireland) Order 1989) is an associate of the core.

Jurisdiction within the United Kingdom

4.—(1) This paragraph specifies which court in the United Kingdom has jurisdiction in relation to the administration or winding up of the core of a protected cell company.

(2) Her Majesty's High Court of Justice in England has jurisdiction where the registered office of a protected cell company is located in England and Wales (or Wales).

(3) The Court of Session has jurisdiction where the registered office of a protected cell company is located in Scotland.

(4) Her Majesty's High Court of Justice in Northern Ireland has jurisdiction where the registered office of a protected cell company is located in Northern Ireland.

Restriction on applying for winding up

5. A person holding an investment issued on behalf of a cell of a protected cell company may not apply for—

(a) the winding up of the core; or

(b) the appointment of a provisional liquidator in respect of the core.

Appointment of administrator

6.—(1) Only the court may appoint an administrator of the core.

(2) Where a person makes an application to court for the administration of the core, the person must file with the court notice of the existence of any insolvency proceedings in relation to the

protected cell company or the core anywhere in the world as soon as the person becomes aware of them.

(3) The duty imposed by sub-paragraph (2) ceases on the making of an administration order.

Giving notice

7. In the insolvency legislation, a requirement that a company give notice of, or file, something is to be treated as a requirement that the protected cell company give notice of, or file, that thing on behalf of the core.

Dissolution

8. References in the insolvency legislation to the dissolution of the company are to be treated as references to dissolution of the protected cell company, but a protected cell company may only be dissolved where the protected cell company has no cells.

Part 24 of FSMA: references to "regulated activities" and "PRA-authorised person"

9. If the protected cell company has (or had) permission to carry on a regulated activity under Part 4A (permission to carry on regulated activities) of FSMA, then Part 24 (insolvency) of FSMA applies to the core as if the core has (or had) that permission.

Further modification to specific provisions of the Insolvency Act 1986 and the Insolvency (Northern Ireland) Order 1989

10.—(1) The provisions of the Insolvency Act 1986 specified in the first column of Table 8 and the provisions of the Insolvency (Northern Ireland) Order 1989 specified in the second column of Table 8 apply to the core with the modifications specified in the fourth column of Table 8.

Table 8

Insolvency Act 1986	*Insolvency (Northern Ireland) Order 1989*	*Subject Matter*	*Modification*
Section 76	Article 63	Liability of past directors and shareholders	These provisions apply where a protected cell company has made a payment ("the relevant payment" for the purposes of these provisions) to redeem or acquire shares issued on behalf of the core in breach of the requirements of regulation 107. The reference to the directors who signed the statement made in accordance with section 714(1) to (3) of the Companies Act 2006 for the purposes of the redemption or purchase is to be treated as a reference to the directors who authorised the redemption or purchase.
Section 103	Article 89	Cesser of directors' powers	Ignore these provisions.

Insolvency Act 1986	*Insolvency (Northern Ireland) Order 1989*	*Subject Matter*	*Modification*
Section 124	Article 104	Application for winding up	An administrator of the core may also present a petition for the winding up of the core.
Section 216	Article 180	Restriction on re-use of names	Treat references to the name of the liquidating company as references to the name of the protected cell company.
Section 222	Article 186	Inability to pay debts: unpaid creditor for £750 or more	The written demand must be served on the core by leaving it at the protected cell company's registered office or in such manner as the court may approve or direct.
Section 223	Article 187	Inability to pay debts: debt remaining unsatisfied after action brought	Ignore these provisions.
Paragraph 45 of Schedule B1(**62**)	Paragraph 46 of Schedule B1	Publicity	These paragraphs apply to all business documents issued by or on behalf of the protected cell company and all of the protected cell company's websites.
Paragraph 61 of Schedule B1	Paragraph 62 of Schedule B1	Administrator's general powers (removal and appointment of directors)	Ignore these paragraphs.
Paragraph 69 of Schedule B1	Paragraph 70 of Schedule B1	Administrator as agent	An administrator of the core acts as agent for the protected cell company (on behalf of the core).
Paragraph 74 of Schedule B1(**63**)	Paragraph 75 of Schedule B1	Challenge to administrator's conduct	These paragraphs apply to a person who is a creditor or shareholder in respect of the core of the protected cell company or any cell of the protected cell company to which the administrator's powers extend.
Paragraph 75 of Schedule B1	Paragraph 76 of Schedule B1	Misfeasance	In sub-paragraphs (2) to (5), references to the company are to be treated as including, where appropriate, references to a cell of the protected cell company.
Paragraph 83 of Schedule B1	Paragraph 84 of Schedule B1	Moving from administration to liquidation	Ignore these paragraphs.

(**62**) Paragraph 45 was inserted by S.I. 2008/1897.
(**63**) Paragraph 74 was amended by S.I. 2007/2974, S.I. 2008/948 and section 126 of and Schedule 9 to the Small Business, Enterprise and Employment Act 2015.

Insolvency Act 1986	*Insolvency (Northern Ireland) Order 1989*	*Subject Matter*	*Modification*
Paragraph 84 of Schedule B1(**64**)	Paragraph 85 of Schedule B1	Moving from administration to dissolution	The notice given under sub-paragraph (1) must also state that the protected cell company has no cells.

Further modifications to subordinate legislation

11.—(1) The provisions of any subordinate legislation made under the Insolvency Act 1986 or the Insolvency (Northern Ireland) Order 1989 apply to the core with the following modifications.

(2) Any provision of subordinate legislation prescribing the circumstances in which a person may act in the ways specified in section 216(3) of the Insolvency Act 1986(**65**) or Article 180(3) of the Insolvency (Northern Ireland) Order 1989(**66**) where the whole or substantially the whole of the business of a company is acquired from that company is to be ignored.

(3) The provisions of the subordinate legislation apply with any other necessary modifications.

SCHEDULE 4 Regulation 190

Consequential amendments to legislation

PART 1

Consequential amendments to primary legislation

Stock Transfer Act 1963

1. In the Stock Transfer Act 1963(**67**), in section 1 (simplified transfer of securities), in subsection (4), after paragraph (f), insert—

"(g) shares issued by a protected cell company within the meaning of Part 4 of the Risk Transformation Regulations 2017.".

Stock Transfer Act (Northern Ireland) 1963

2. In the Stock Transfer Act (Northern Ireland) 1963(**68**), in section 1 (simplified transfer of securities), in subsection (4), after paragraph (f), insert—

"(g) shares issued by a protected cell company within the meaning of Part 4 of the Risk Transformation Regulations 2017.".

(**64**) Paragraph 84 was amended by section 126 of and Schedule 9 to the Small Business, Enterprise and Employment Act 2015.
(**65**) See rules 22.4 and 22.5 of the Insolvency (England and Wales) Rules 2016 and rule 4.80 of the Insolvency (Scotland) Rules 1986.
(**66**) See rule 4.238 of the Insolvency Rules (Northern Ireland) 1991.
(**67**) 1963 c. 18.
(**68**) 1963 c. 24 (N.I.).

Company Directors Disqualification Act 1986

3. In the Company Directors Disqualification Act 1986(**69**), after section 22G (application of Act to further education bodies)(**70**), insert—

"**Application of Act to protected cell companies**

22H.—(1) In this section—

(a) "protected cell company" means a protected cell company incorporated under Part 4 of the Risk Transformation Regulations 2017 which has its registered office in England and Wales (or Wales) or Scotland; and

(b) a reference to a part of a protected cell company is a reference to the core or a cell of the protected cell company (see regulations 42 and 43 of the Risk Transformation Regulations 2017).

(2) This Act applies to protected cell companies as it applies to companies.

(3) Accordingly, in this Act, references to a company are to be read as including references to a protected cell company.

(4) As they apply in relation to protected cell companies, the provisions of this Act have effect with the following modifications—

(a) references to the administration, insolvency, liquidation or winding up of a company are to be read as references to the administration, insolvency, liquidation or winding up of a part of a protected cell company;

(b) references to striking off are to be read as including references to dissolution;

(c) references to a director of a company which is or has been insolvent are to be read as references to the director of a protected cell company, a part of which is or has been insolvent;

(d) references to a director of a company which is being or has been wound up are to be read as references to the director of a protected cell company, a part of which is being or has been wound up;

(e) references to the court with jurisdiction to wind up a company are to be read as references to the court with jurisdiction to wind up the parts of a protected cell company;

(f) references to the companies legislation are to be read as references to Part 4 of, and Schedules 1 to 3 to, the Risk Transformation Regulations 2017;

(g) references to the Insolvency Act 1986 are to be read as references to that Act as applied by Part 4 of, and Schedules 1 to 3 to, the Risk Transformation Regulations 2017;

(h) references to section 452 and 456(**71**) of the Companies Act 2006 are to be read as references to those sections as applied by regulation 163 of the Risk Transformation Regulations 2017;

(i) references to the registrar of companies are to be read as references to the Financial Conduct Authority; and

(j) references to an overseas company include references to a protected cell company incorporated under the Risk Transformation Regulations 2017 which has its registered office in Northern Ireland.

(**69**) 1986 c. 46.
(**70**) Section 22G was inserted by section 39 of the Technical and Further Education Act 2017 (c.19).
(**71**) Section 456 has been amended by S.I. 2013/1970.

(5) Where two or more parts of a protected cell company are or have been insolvent, then sections 6 to 7A and 8ZA to 8ZC apply in relation to each part separately.

(6) A contribution to the assets of a protected cell company given in accordance with a compensation order under section 15A(1) or a compensation undertaking under section 15A(2) is to be held by the protected cell company on behalf of the part of the protected cell company specified in the order or undertaking.".

Companies Act 2006

4. In the Companies Act 2006—

(a) in section 1040 (companies authorised to register under the Companies Act 2006), in subsection (1), in paragraph (b), after sub-paragraph (iii), insert—

"other than a company registered under Part 4 of the Risk Transformation Regulations 2017.";

(b) in section 1043 (unregistered companies), in subsection (1), after paragraph (d), insert—

"(e) protected cell companies registered under Part 4 of the Risk Transformation Regulations 2017.";

(c) in section 1099 (the registrar's index of company names)(**72**), in subsection (3), after paragraph (e), insert—

"(f) protected cell companies registered under Part 4 of the Risk Transformation Regulations 2017.".

PART 2

Consequential amendments to secondary legislation

The Company Directors Disqualification (Northern Ireland) Order 2002

5. In the Company Directors Disqualification (Northern Ireland) Order 2002(**73**), after Article 25B (application of Order to credit unions)(**74**), insert—

"**Application of Order to protected cell companies**

25C.—(1) In this Article—

(a) "protected cell company" means a protected cell company incorporated under Part 4 of the Risk Transformation Regulations 2017 which has its registered office in Northern Ireland; and

(b) a reference to a part of a protected cell company is a reference to the core or a cell of the protected cell company (see regulations 42 and 43 of the Risk Transformation Regulations 2017).

(2) This Order applies to protected cell companies as it applies to companies.

(3) Accordingly, in this Order, references to a company are to be read as including references to a protected cell company.

(**72**) Section 1099 has been amended by section 151 of and Schedule 4 to the Co-operative and Community Benefit Societies Act 2014 (c.14).
(**73**) S.I. 2002/3150 (N.I. 4).
(**74**) Article 25B was inserted by section 7 of the Credit Unions and Co-operative and Communities Benefit Socities Act (Northern Ireland) 2016 (2016 c. 16 (N.I.)).

(4) As they apply in relation to protected cell companies, the provisions of this Order have effect with the following modifications—

(a) references to the administration, insolvency, liquidation or winding up of a company are to be read as references to the administration, insolvency, liquidation or winding up of a part of a protected cell company;

(b) references to striking off are to be read as including references to dissolution;

(c) references to a director of a company which is or has been insolvent are to be read as references to the director of a protected cell company, a part of which is or has been insolvent;

(d) references to a director of a company which is being or has been wound up are to be read as references to the director of a protected cell company, a part of which is being or has been wound up;

(e) references to the companies legislation are to be read as references to Part 4 of, and Schedules 1 to 3 to, the Risk Transformation Regulations 2017;

(f) references to the Insolvency (Northern Ireland) Order 1989 are to be read as references to that Order as applied by Part 4 of, and Schedules 1 to 3 to, the Risk Transformation Regulations 2017;

(g) references to sections 452 and 456 of the Companies Act 2006 are to be read as references to those sections as applied by regulation 163 of the Risk Transformation Regulations 2017;

(h) references to the registrar of companies are to be read as references to the Financial Conduct Authority; and

(i) references to an overseas company include references to a protected cell company incorporated under the Risk Transformation Regulations 2017 which has its registered office in England and Wales (or Wales) or Scotland.

(5) Where two or more parts of a protected cell company are or have been insolvent, then Articles 9 to 10A and 11A to 11C apply in relation to each part separately.

(6) A contribution to the assets of a protected cell company given in accordance with a compensation order under Article 19A(1) or a compensation undertaking under Article 19A(2) is to be held by the protected cell company on behalf of the part of the protected cell company specified in the order or undertaking.”.

Unregistered Companies Regulations 2009

6. In the Unregistered Companies Regulations 2009(**75**), in regulation 2 (interpretation), in sub-paragraph (a)—

(a) at the end of sub-paragraph (iii), delete “or”;

(b) at the end of sub-paragraph (iv), insert “or”;

(c) after sub-paragraph (iv), insert—

“(v) a protected cell company registered under Part 4 of the Risk Transformation Regulations 2017.”

(**75**) S.I. 2009/2436.

Company, Limited Liability Partnership and Business (Names and Trading Disclosures) Regulations 2015

7. In the Company, Limited Liability Partnership and Business (Names and Trading Disclosures) Regulations 2015(**76**)—

(a) in regulation 16 ("limited" and permitted alternatives), in paragraph (1)—

(i) at the end of sub-paragraph (d), delete "or";

(ii) at the end of sub-paragraph (e), insert "or";

(iii) after sub-paragraph (e), insert—

"(f) a company registered under Part 4 of the Risk Transformation Regulations 2017 with that name.";

(b) in Schedule 2 (specified words, expressions and abbreviations), in paragraph 3, after sub-paragraph (w), insert—

"(wa) "PROTECTED CELL COMPANY" or (with or without full stops) the abbreviations "PCC LIMITED" and "PCC LTD";

(wb) "CWMNI UNEDAU GWARCHODEDIG" or (with or without full stops) the abbreviations "CUG CYFYNGEDIG" and "CUG CYF";".

EXPLANATORY NOTE

(This note is not part of these Regulations)

These Regulations make provision for transformer vehicles, within the meaning given by section 284A of the Financial Services and Markets Act 2001 (c. 8; section 284A was inserted by section 31 of the Bank of England and Financial Services Act 2016 (c. 14)). They are to be read with the Risk Transformation (Tax) Regulations 2017. Collectively, these Regulations facilitate and regulate the issue of insurance linked securities in the United Kingdom.

Prior to making these Regulations, the Treasury consulted on 1st March 2016 and 23rd November 2016. These consultations explain the background to these regulations, in particular how the issue of insurance linked securities operates. They can be found at:

https://www.gov.uk/government/consultations/insurance-linked-securities-consultation

https://www.gov.uk/government/consultations/regulations-implementing-a-new-regulatory-and-tax-framework-for-insurance-linked-securities

Part 2 of the Regulations makes provision for the authorisation and supervision of transformer vehicles which assume certain risks from insurance or reinsurance companies. A new regulated activity is introduced into the Financial Services and Markets Act 2000 (Regulated Activities) Order 2011 (S.I. 2001/544), which has the effect of bringing transformer vehicles carrying on that activity within the scope of regulation under the Financial Services and Markets Act 2000. An amendment to the Financial Services and Markets Act 2000 (PRA-regulated Activities) Order 2013 (S.I. 2013/556) means that this activity is a PRA regulated activity for the purposes of the Financial Services and Markets Act 2000.

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(76) S.I. 2015/17.

Part 3 of these Regulations restricts the type of investors to whom transformer vehicles may issue investments.

Part 4 of these Regulations enables the creation of a new type of body corporate, called a "protected cell company", for transformer vehicles. Protected cell companies are comprised internally of different parts which, whilst being part of a single legal entity, are segregated from each other. This enables the protected cell company to ring-fence different contractual arrangements, so that the liabilities of the protected cell company arising in respect of a contractual arrangement are only payable out of assets held by the protected cell company in respect of that arrangement.

A full impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from HM Treasury, 1 Horse Guards Road, London SW1A 2HQ.