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SCHEDULES

SCHEDULE 12

TRANSFER SCHEMES: CERTIFICATES

PART I

INSURANCE BUSINESS TRANSFER SCHEMES

Modifications etc. (not altering text)

C1 Sch. 12 Pt. I (paras. 1-6) applied (1.12.2001) by [S.I. 2001/3626](#), [arts. 1, 3\(c\)](#)

[^{F1} For the purposes of section 111(2) the appropriate certificate, in relation to an insurance business transfer scheme, is a certificate under paragraph 2.]

Textual Amendments

F1 Sch. 12 para. 1 substituted (31.12.2020) by [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), [regs. 1\(3\), 105](#) (with transitional provisions in [S.I. 2019/710](#), [regs. 1\(4\), 36](#), [Sch. para. 3](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

Modifications etc. (not altering text)

C2 Sch. 12 para. 1 modified (31.12.2020) by [The Financial Services \(Miscellaneous\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/710\)](#), [reg. 1\(3\)](#), [Sch. para. 4, 5, 7\(2\)](#) (as amended by [S.I. 2020/1301](#), [regs. 1, 3](#), [Sch. para. 43\(m\)\(iv\)](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

Certificates as to margin of solvency

- 2 (1) A certificate under this paragraph is to be given—
- (a) by the relevant authority; or
 - (b) in a case in which there is no relevant authority, by the [^{F2}appropriate regulator].
- (2) A certificate given under sub-paragraph (1)(a) is one certifying that, taking the proposed transfer into account—
- (a) the transferee possesses, or will possess before the scheme takes effect, the necessary margin of solvency; or
 - (b) there is no necessary margin of solvency applicable to the transferee.
- (3) A certificate under sub-paragraph (1)(b) is one certifying that the [^{F3}appropriate regulator] has received from the authority which it considers to be the authority responsible for supervising persons who effect or carry out contracts of insurance in

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the place to which the business is to be transferred [^{F4}certification] that, taking the proposed transfer into account—

- (a) the transferee possesses or will possess before the scheme takes effect the margin of solvency required under the law applicable in that place; or
- (b) there is no such margin of solvency applicable to the transferee .

(4) “Necessary margin of solvency” means the margin of solvency required in relation to the transferee, taking the proposed transfer into account, under the law which it is the responsibility of the relevant authority to apply.

(5) “Margin of solvency” means the excess of the value of the assets of the transferee over the amount of its liabilities.

(6) “Relevant authority” means—

^{F5}(a)

^{F6}(aa)

(b) if the transferee is a Swiss general insurer, the authority responsible in Switzerland for supervising persons who effect or carry out contracts of insurance;

(c) if the transferee is an authorised person not falling within [^{F7}paragraph ^{F8}...] (b) [^{F9}—

(i) the PRA, if the transferee is a PRA-authorised person with a Part 4A permission ^{F10}...;

(ii) the FCA, if the transferee is a person with a Part 4A permission ^{F11}... but is not a PRA-authorised person.]

(7) In sub-paragraph (6), any reference to a transferee of a particular description includes a reference to a transferee who will be of that description if the proposed scheme takes effect.

^{F12}(7A)

(8) “Swiss general insurer” means a body—

- (a) whose head office is in Switzerland;
- (b) which has permission to carry on regulated activities consisting of the effecting and carrying out of contracts of general insurance; and
- (c) whose permission is not restricted to the effecting or carrying out of contracts of reinsurance.

^{F13}(9)

Textual Amendments

F2 Words in Sch. 12 para. 2(1)(b) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 6 para. 11\(2\)\(a\)](#) (with [Sch. 20](#)); [S.I. 2013/423, art. 3, Sch.](#)

F3 Words in Sch. 12 para. 2(3) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 6 para. 11\(2\)\(b\)](#) (with [Sch. 20](#)); [S.I. 2013/423, art. 3, Sch.](#)

F4 Word in Sch. 12 para. 2(3) inserted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 6 para. 11\(3\)](#) (with [Sch. 20](#)); [S.I. 2013/423, art. 3, Sch.](#)

F5 Sch. 12 para. 2(6)(a) omitted (31.12.2020) by virtue of [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\), regs. 1\(3\), 106\(3\)\(a\)](#) (with transitional provisions in [S.I. 2019/710, regs. 1\(4\), 36, Sch. para. 3](#)); [2020 c. 1, Sch. 5 para. 1\(1\)](#)

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- F6** Sch. 12 para. 2(6)(aa) omitted (31.12.2020) by virtue of [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **106(3)(a)** (with transitional provisions in [S.I. 2019/710](#), regs. 1(4), 36, Sch. para. 3); 2020 c. 1, Sch. 5 para. 1(1)
- F7** Words in Sch. 12 para. 2(6)(c) substituted (10.12.2007) by [The Reinsurance Directive Regulations 2007 \(S.I. 2007/3253\)](#), reg. 2(1), **Sch. 1 para. 2(5)(e)(iii)**
- F8** Words in Sch. 12 para. 2(6)(c) omitted (31.12.2020) by virtue of [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **106(3)(b)** (with transitional provisions in [S.I. 2019/710](#), regs. 1(4), 36, Sch. para. 3); 2020 c. 1, Sch. 5 para. 1(1)
- F9** Sch. 12 para. 2(6)(c)(i)(ii) substituted for words (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 6 para. 11(4)** (with Sch. 20); [S.I. 2013/423](#), art. 3, Sch.
- F10** Words in Sch. 12 para. 2(6)(c)(i) omitted (31.12.2020) by virtue of [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **106(3)(c)** (with transitional provisions in [S.I. 2019/710](#), regs. 1(4), 36, Sch. para. 3); 2020 c. 1, Sch. 5 para. 1(1)
- F11** Words in Sch. 12 para. 2(6)(c)(ii) omitted (31.12.2020) by virtue of [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **106(3)(c)** (with transitional provisions in [S.I. 2019/710](#), regs. 1(4), 36, Sch. para. 3); 2020 c. 1, Sch. 5 para. 1(1)
- F12** Sch. 12 para. 2(7A) omitted (31.12.2020) by virtue of [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **106(4)** (with transitional provisions in [S.I. 2019/710](#), regs. 1(4), 36, Sch. para. 3); 2020 c. 1, Sch. 5 para. 1(1)
- F13** Sch. 12 para. 2(9) omitted (31.12.2020) by virtue of [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **106(4)** (with transitional provisions in [S.I. 2019/710](#), regs. 1(4), 36, Sch. para. 3); 2020 c. 1, Sch. 5 para. 1(1)

Modifications etc. (not altering text)

- C3** Sch. 12 paras. 2, 3 applied (with modifications) by [S.I. 2001/3626](#), art. 5(2A) (as inserted (1.9.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) \(No. 3\) Order 2013 \(S.I. 2013/1765\)](#), arts. 1, **5(4)(c)**)
- C4** Sch. 12 para. 2 modified (31.12.2020) by [The Financial Services \(Miscellaneous\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/710\)](#), reg. 1(3), Sch. para. 4, 5, **7(3)** (as amended by [S.I. 2020/1301](#), regs. 1, 3, **Sch. para. 43(m)(v)(vii)**); 2020 c. 1, **Sch. 5 para. 1(1)**

Certificates as to ^{F14}consultation]

Textual Amendments

- F14** Word in Sch. 12 para. 3 heading substituted (1.1.2016) by [The Solvency 2 Regulations 2015 \(S.I. 2015/575\)](#), reg. 1(2), **Sch. 1 para. 18(4)**

^{F15}3

Textual Amendments

- F15** Sch. 12 paras. 3-6 omitted (31.12.2020) by virtue of [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **107** (with transitional provisions in [S.I. 2019/710](#), regs. 1(4), 36, Sch. paras. 3, 4, 5, 7(4)); 2020 c. 1, Sch. 5 para. 1(1)

Certificates as to consent

^{F15}3A.

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Textual Amendments

F15 Sch. 12 paras. 3-6 omitted (31.12.2020) by virtue of [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **107** (with transitional provisions in S.I. 2019/710, regs. 1(4), 36, Sch. paras. 3, 4, 5, 7(4)); 2020 c. 1, Sch. 5 para. 1(1)

Certificates as to long-term business

F15₄

Textual Amendments

F15 Sch. 12 paras. 3-6 omitted (31.12.2020) by virtue of [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **107** (with transitional provisions in S.I. 2019/710, regs. 1(4), 36, Sch. paras. 3, 4, 5, 7(4)); 2020 c. 1, Sch. 5 para. 1(1)

Certificates as to general business

F15₅

Textual Amendments

F15 Sch. 12 paras. 3-6 omitted (31.12.2020) by virtue of [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **107** (with transitional provisions in S.I. 2019/710, regs. 1(4), 36, Sch. paras. 3, 4, 5, 7(4)); 2020 c. 1, Sch. 5 para. 1(1)

Certificates as to legality and as to consent

F15_{5A}

Textual Amendments

F15 Sch. 12 paras. 3-6 omitted (31.12.2020) by virtue of [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **107** (with transitional provisions in S.I. 2019/710, regs. 1(4), 36, Sch. paras. 3, 4, 5, 7(4)); 2020 c. 1, Sch. 5 para. 1(1)

Interpretation of Part I

F15₆

Textual Amendments

F15 Sch. 12 paras. 3-6 omitted (31.12.2020) by virtue of [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **107** (with transitional provisions in S.I. 2019/710, regs. 1(4), 36, Sch. paras. 3, 4, 5, 7(4)); 2020 c. 1, Sch. 5 para. 1(1)

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