

Status: Point in time view as at 26/11/2015.

Changes to legislation: Financial Services and Markets Act 2000, Cross Heading: Business transfers outside the United Kingdom is up to date with all changes known to be in force on or before 01 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)



Financial Services and Markets Act 2000

2000 CHAPTER 8

PART VII

CONTROL OF BUSINESS TRANSFERS

Business transfers outside the United Kingdom

115 Certificates for purposes of insurance business transfers overseas.

Part III of Schedule 12 makes provision about certificates which the [^{F1}appropriate regulator] may issue in relation to insurance business transfers taking place outside the United Kingdom.

Textual Amendments

F1 Words in s. 115 substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 6 para. 8](#) (with [Sch. 20](#)); [S.I. 2013/423, art. 3, Sch.](#)

116 Effect of insurance business transfers authorised in other EEA States.

- (1) This section applies if, as a result of an authorised transfer, an EEA firm falling within paragraph 5(d) [^{F2}or (da)] of Schedule 3 transfers to another body all its rights and obligations under any UK policies.
- [^{F3}(2) This section also applies if, as a result of an authorised transfer, any of the following transfers to another body all its rights and obligations under any UK policies—
 - (a) an undertaking authorised in an EEA State other than the United Kingdom under Article 51 of the life assurance consolidation directive;
 - (b) an undertaking authorised in an EEA State other than the United Kingdom under Article 23 of the first non-life insurance directive;
 - (c) an undertaking, whose head office is not within the EEA, authorised under the law of an EEA State other than the United Kingdom to carry out reinsurance

Status: Point in time view as at 26/11/2015.

Changes to legislation: Financial Services and Markets Act 2000, Cross Heading: Business transfers outside the United Kingdom is up to date with all changes known to be in force on or before 01 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

activities in its territory (as mentioned in Article 49 of the reinsurance directive).]

- (3) If appropriate notice of the execution of an instrument giving effect to the transfer is published, the instrument has the effect in law—
- (a) of transferring to the transferee all the transferor’s rights and obligations under the UK policies to which the instrument applies, and
 - (b) if the instrument so provides, of securing the continuation by or against the transferee of any legal proceedings by or against the transferor which relate to those rights and obligations.
- (4) No agreement or consent is required before subsection (3) has the effects mentioned.
- (5) “Authorised transfer” means—
- (a) in subsection (1), a transfer authorised in the home State of the EEA firm in accordance with—
 - [^{F4}(i) Article 14 of the life assurance consolidation directive; ^{F5}. . .]
 - (ii) Article 12 of the third non-life directive; [^{F6}or
 - [^{F7}(iii) Article 18 of the reinsurance directive; and]
 - (b) in subsection (2), a transfer authorised in an EEA State other than the United Kingdom in accordance with—
 - [^{F8}(i) Article 53 of the life assurance consolidation directive; ^{F9}. . .]
 - (ii) Article 28a of the first non-life directive [^{F10}or
 - (iii) the provisions in the law of that EEA State which provide for the authorisation of transfers of all or part of a portfolio of contracts of an undertaking authorised to carry out reinsurance activities in its territory (as mentioned in Article 49 of the reinsurance directive).]
- [^{F11}(6) “UK policy” means—
- (a) in the case of an authorised transfer within the meaning of paragraph (a)(i) or (ii) or (b)(i) or (ii) of subsection (5), a policy evidencing a contract of insurance (other than a contract of reinsurance) to which the applicable law is the law of a part of the United Kingdom;
 - (b) in the case of an authorised transfer within the meaning of paragraph (a)(iii) or (b)(iii) of that subsection, a policy evidencing a contract of reinsurance to which the applicable law is the law of a part of the United Kingdom.]
- (7) “Appropriate notice” means—
- (a) if the UK policy evidences a contract of insurance in relation to which an EEA State other than the United Kingdom is the State of the commitment, notice given in accordance with the law of that State;
 - (b) if the UK policy evidences a contract of insurance where the risk is situated in an EEA State other than the United Kingdom, notice given in accordance with the law of that EEA State;
 - (c) in any other case, notice given in accordance with the applicable law.
- (8) Paragraph 6 of Schedule 12 applies for the purposes of this section as it applies for the purposes of that Schedule.

Status: Point in time view as at 26/11/2015.

Changes to legislation: Financial Services and Markets Act 2000, Cross Heading: Business transfers outside the United Kingdom is up to date with all changes known to be in force on or before 01 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

- F2** Words in s. 116(1) inserted (10.12.2007) by [The Reinsurance Directive Regulations 2007 \(S.I. 2007/3253\)](#), [reg. 2\(1\)](#), [Sch. 1 para. 2\(4\)\(a\)](#)
- F3** S. 116(2) substituted (10.12.2007) by [The Reinsurance Directive Regulations 2007 \(S.I. 2007/3253\)](#), [reg. 2\(1\)](#), [Sch. 1 para. 2\(4\)\(b\)](#)
- F4** S. 116(5)(a)(i) substituted (11.1.2005) by [The Life Assurance Consolidation Directive \(Consequential Amendments\) Regulations 2004 \(S.I. 2004/3379\)](#), [reg. 6\(2\)\(b\)](#)
- F5** Word in s. 116(5)(a)(i) omitted (10.12.2007) by virtue of [The Reinsurance Directive Regulations 2007 \(S.I. 2007/3253\)](#), [reg. 2\(1\)](#), [Sch. 1 para. 2\(4\)\(c\)\(i\)](#)
- F6** Word in s. 116(5)(a)(ii) substituted (10.12.2007) by [The Reinsurance Directive Regulations 2007 \(S.I. 2007/3253\)](#), [reg. 2\(1\)](#), [Sch. 1 para. 2\(4\)\(c\)\(ii\)](#)
- F7** S. 116(5)(a)(iii) inserted (10.12.2007) by [The Reinsurance Directive Regulations 2007 \(S.I. 2007/3253\)](#), [reg. 2\(1\)](#), [Sch. 1 para. 2\(4\)\(c\)\(iii\)](#)
- F8** S. 116(5)(b)(i) substituted (11.1.2005) by [The Life Assurance Consolidation Directive \(Consequential Amendments\) Regulations 2004 \(S.I. 2004/3379\)](#), [reg. 6\(2\)\(c\)](#)
- F9** Word in s. 116(5)(b)(i) omitted (10.12.2007) by virtue of [The Reinsurance Directive Regulations 2007 \(S.I. 2007/3253\)](#), [reg. 2\(1\)](#), [Sch. 1 para. 2\(4\)\(c\)\(iv\)](#)
- F10** S. 116(5)(b)(iii) and word inserted (10.12.2007) by [The Reinsurance Directive Regulations 2007 \(S.I. 2007/3253\)](#), [reg. 2\(1\)](#), [Sch. 1 para. 2\(4\)\(c\)\(v\)](#)
- F11** S. 116(6) substituted (10.12.2007) by [The Reinsurance Directive Regulations 2007 \(S.I. 2007/3253\)](#), [reg. 2\(1\)](#), [Sch. 1 para. 2\(4\)\(d\)](#)

Status:

Point in time view as at 26/11/2015.

Changes to legislation:

Financial Services and Markets Act 2000, Cross Heading: Business transfers outside the United Kingdom is up to date with all changes known to be in force on or before 01 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.