

*Status: Point in time view as at 07/03/2016.*

*Changes to legislation: Financial Services Act 2012, SCHEDULE 6 is up to date with all changes known to be in force on or before 02 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)*

## SCHEDULES

### SCHEDULE 6

Section 22

#### CONTROL OF BUSINESS TRANSFERS

1 Part 7 of FSMA 2000 is amended as follows.

#### Commencement Information

**11** Sch. 6 para. 1 in force at 1.4.2013 by S.I. 2013/423, art. 3, Sch.

2 Before section 104 insert—

#### Meaning of “the appropriate regulator”

“103A(1) In this Part “the appropriate regulator” means—

- (a) in relation to a scheme in respect of which the authorised person concerned is a PRA-authorised person, the PRA;
- (b) in any other case, the FCA.

(2) In this Part, “the authorised person concerned”—

- (a) in the case of an insurance business transfer scheme, is to be read in accordance with section 105(2);
- (b) in the case of a banking business transfer scheme, is to be read in accordance with section 106(2);
- (c) in the case of a reclaim fund business transfer scheme, means the reclaim fund to whose business the scheme relates.”

#### Commencement Information

**12** Sch. 6 para. 2 in force at 1.4.2013 by S.I. 2013/423, art. 3, Sch.

3 (1) Section 109 (scheme reports) is amended as follows.

(2) For “Authority”, in each place, substitute “ appropriate regulator ”.

(3) After subsection (3) insert—

“(4) Where the appropriate regulator is the PRA, it must consult the FCA before—

- (a) nominating or approving a person under subsection (2)(b), or
- (b) approving a form under subsection (3).

(5) Subsection (6) applies where the appropriate regulator is the FCA and either—

- (a) the transferee is a PRA-authorised person, or

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- (b) the authorised person concerned or the transferee has as a member of its immediate group a PRA-authorised person.
- (6) The FCA must consult the PRA before—
  - (a) nominating or approving a person under subsection (2)(b), or
  - (b) approving a form under subsection (3).”

**Commencement Information**

**I3** Sch. 6 para. 3 in force at 1.4.2013 by S.I. 2013/423, art. 3, Sch.

- 4 (1) Section 110 (right to participate in proceedings) is amended as follows.
  - (2) The existing provision becomes subsection (1).
  - (3) For paragraph (a) of that subsection substitute—
    - “(a) the FCA,
    - (aa) in the case of a scheme falling within subsection (2), the PRA, and”.
  - (4) After that subsection insert—
    - “(2) A scheme falls within this subsection if—
      - (a) the authorised person concerned or the transferee is a PRA-authorised person, or
      - (b) the authorised person concerned or the transferee has as a member of its immediate group a PRA-authorised person.”

**Commencement Information**

**I4** Sch. 6 para. 4 in force at 1.4.2013 by S.I. 2013/423, art. 3, Sch.

- 5 In section 112 (effect of order sanctioning business transfer scheme), in subsections (10) and (11), for “Authority” substitute “appropriate regulator”.

**Commencement Information**

**I5** Sch. 6 para. 5 in force at 1.4.2013 by S.I. 2013/423, art. 3, Sch.

- 6 After section 112 insert—
  - “**112ZA Duty of regulator to provide copy of order**
  - (1) Where the PRA receives under section 112(10) a copy of an order it must, without delay, give a copy of it to the FCA.
  - (2) Where the FCA receives under section 112(10) a copy of an order it must, without delay, give a copy of it to the PRA if the order relates to a scheme in respect of which—
    - (a) the transferee is a PRA-authorised person, or
    - (b) the authorised person concerned or the transferee has as a member of its immediate group a PRA-authorised person.”

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**Commencement Information**

**I6** Sch. 6 para. 6 in force at 1.4.2013 by S.I. 2013/423, art. 3, Sch.

- 7 (1) Section 113 (appointment of actuary) is amended as follows.
- (2) In subsection (2)—
- (a) for “the Authority”, in the first place, substitute “ either regulator ”, and
  - (b) for “Authority”, in the second place, substitute “ regulator which made the application ”.
- (3) After that subsection insert—
- “(3) An application under subsection (2) may be made by the PRA only if—
- (a) the authorised person concerned or the transferee is a PRA-authorised person, or
  - (b) the authorised person concerned or the transferee has as a member of its immediate group a PRA-authorised person.”

**Commencement Information**

**I7** Sch. 6 para. 7 in force at 1.4.2013 by S.I. 2013/423, art. 3, Sch.

- 8 In section 115 (certificates for purposes of insurance business transfers overseas), for “Authority” substitute “ appropriate regulator ”.

**Commencement Information**

**I8** Sch. 6 para. 8 in force at 1.4.2013 by S.I. 2013/423, art. 3, Sch.

- 9 Schedule 12 to FSMA (transfer schemes: certificates) is amended as follows.

**Commencement Information**

**I9** Sch. 6 para. 9 in force at 1.4.2013 by S.I. 2013/423, art. 3, Sch.

- 10 In paragraph 1, for “the Authority”, in each place, substitute “ the appropriate regulator ”.

**Commencement Information**

**I10** Sch. 6 para. 10 in force at 1.4.2013 by S.I. 2013/423, art. 3, Sch.

- 11 (1) Paragraph 2 is amended as follows.
- (2) In the following places, for “Authority” substitute “ appropriate regulator ”
- (a) sub-paragraph (1)(b);
  - (b) in the first place in sub-paragraph (3).
- (3) In sub-paragraph (3), after “transferred” insert “ certification ”.
- (4) In sub-paragraph (6)(c), for “, the Authority” substitute “—

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- (i) the PRA, if the transferee is a PRA-authorized person with a Part 4A permission or with permission under Schedule 4;
- (ii) the FCA, if the transferee is a person with a Part 4A permission or with permission under Schedule 4 but is not a PRA-authorized person.”

**Commencement Information**

**I11** Sch. 6 para. 11 in force at 1.4.2013 by S.I. 2013/423, art. 3, Sch.

- 12 In paragraph 3, for “Authority” substitute “ appropriate regulator ”.

**Commencement Information**

**I12** Sch. 6 para. 12 in force at 1.4.2013 by S.I. 2013/423, art. 3, Sch.

- 13 In paragraph 4, for “Authority”, in the first place, substitute “ appropriate regulator ”.

**Commencement Information**

**I13** Sch. 6 para. 13 in force at 1.4.2013 by S.I. 2013/423, art. 3, Sch.

- 14 In paragraph 5, for “Authority”, in the first place, substitute “ appropriate regulator ”.

**Commencement Information**

**I14** Sch. 6 para. 14 in force at 1.4.2013 by S.I. 2013/423, art. 3, Sch.

- 15 In paragraph 5A, for “the Authority” substitute “ the appropriate regulator ”.

**Commencement Information**

**I15** Sch. 6 para. 15 in force at 1.4.2013 by S.I. 2013/423, art. 3, Sch.

- 16 In paragraph 8(2)—
- (a) for paragraph (a) substitute—
    - “(a) if the transferee is a PRA-authorized person with a Part 4A permission or with permission under Schedule 4, the PRA;
    - (aa) if the transferee is a person with Part 4A permission or with permission under Schedule 4 but is not a PRA-authorized person, the FCA;”, and
  - (b) in paragraph (c), after “(a)” insert “ , (aa) ”.

**Commencement Information**

**I16** Sch. 6 para. 16 in force at 1.4.2013 by S.I. 2013/423, art. 3, Sch.

- 17 In paragraph 9, for “Authority” substitute “ appropriate regulator ”.

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**Commencement Information**

**I17** Sch. 6 para. 17 in force at 1.4.2013 by S.I. 2013/423, art. 3, Sch.

- 18 (1) Paragraph 9A is amended as follows.
- (2) The existing provision becomes sub-paragraph (1).
- (3) In that sub-paragraph, for “Authority” substitute “ relevant regulator ”.
- (4) After that sub-paragraph insert—
- “(2) In this paragraph the “relevant regulator” means—
- (a) if the transferee is a PRA-authorised person, the PRA;
- (b) in any other case, the FCA.”

**Commencement Information**

**I18** Sch. 6 para. 18 in force at 1.4.2013 by S.I. 2013/423, art. 3, Sch.

- 19 (1) Paragraph 10 is amended as follows.
- (2) In sub-paragraph (2), for “Authority” substitute “ FCA or the PRA ”.
- (3) In sub-paragraph (5), for “Authority” substitute “ regulator which supervises the transferee's margin of solvency ”.
- (4) In sub-paragraph (6), for “Authority” substitute “ FCA or the PRA ”.

**Commencement Information**

**I19** Sch. 6 para. 19 in force at 1.4.2013 by S.I. 2013/423, art. 3, Sch.

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