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STATUTORY INSTRUMENTS

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**2008 No. 1469**

**FINANCIAL SERVICES AND MARKETS**

The Financial Services and Markets Act 2000  
(Amendment of section 323) Regulations 2008

<i>Made</i>	- - - -	<i>9th June 2008</i>
<i>Laid before Parliament</i>		<i>9th June 2008</i>
<i>Coming into force</i>	- -	<i>30th June 2008</i>

The Treasury are a government department designated<sup>(1)</sup> for the purposes of section 2(2) of the European Communities Act 1972<sup>(2)</sup> in relation to transfers of insurance contracts other than contracts of life assurance from one insurance undertaking to another and matters relating to the transfer of contracts of life assurance from one insurance undertaking to another and to anything supplemental or incidental to those matters.

In exercise of the powers conferred on them by section 2(2) of the European Communities Act 1972, the Treasury make the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Financial Services and Markets Act 2000 (Amendment of section 323) Regulations 2008 and come into force on 30th June 2008.

**Amendment to section 323**

2. In section 323 of the Financial Services and Markets Act 2000<sup>(3)</sup> (transfer schemes), for the words from “members” (where it first occurs) to the end substitute—

“underwriting members of the Society or by one or more persons who have ceased to be such a member (whether before, on or after 24th December 1996)”.

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(1) S.I. 1997/2781.

(2) 1972 c. 68. The enabling powers of section 2(2) of this Act were extended by virtue of the amendment of section 1(2) by section 1 of the European Economic Area Act 1993 (c.51). Council Directive 73/239/EEC applies in the EEA by virtue of the Annex IX of the EEA Agreement signed at Oporto on 2<sup>nd</sup> May 1992 together with the Protocol adjusting that Agreement signed at Brussels on 17<sup>th</sup> March 1993. Directive 2002/83 of the European Parliament and the Council applies in the EEA by virtue of the EEA Joint Committee Decision No 60/2004 of 26th August 2004 (O.J. L.277, 26.8.2004, p.172).

(3) 2000 c.8.

9th June 2008

*Dave Watts*  
*Frank Roy*  
Two of the Lords Commissioners of Her  
Majesty's Treasury

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend section 323 of the Financial Services and Markets Act 2000 (“the Act”). Section 323 enables the application by order of Part 7 of the Act, which provides for insurance and banking transfer schemes, in relation to the insurance business of underwriting members and former underwriting members of the Society of Lloyd’s.

Section 323 of the Act as it stands prior to this amendment uses the existing definition of former underwriting member set out in section 324 of the Act. That definition does not apply to former underwriting members who ceased to be underwriting members before 24th December 1996. This amendment enables an order under section 323 to apply to all insurance business whenever written in the Lloyd’s Market.

The Regulations are made using the power in section 2(2) of the European Communities Act 1972. This matter arises out of and relates to the European Community obligation on Member States to authorise insurance undertakings, in particular, to transfer all or part of their portfolio of contracts to an accepting office within the Community under Article 12(2) of Council Directive 1992/49/EEC (OJNo. L228 11.8.92, p.1) (known as “the third non-life insurance directive”) and Article 14 of European Parliament and Council Directive 2002/83/EC (OJ No. L345, 19.12.2002, p.1) (known as “the consolidated life insurance directive”).

A full regulatory impact assessment has been produced for this instrument and is available from the Financial Stability and Risk Team, HM Treasury, 1 Horse Guards Road, London SW1A 2HQ. It is also on the HM Treasury web-site at [www.hm-treasury.gov.uk](http://www.hm-treasury.gov.uk).