

SCHEDULE 1

Amendments to primary legislation

PART 1

Amendments to FSMA

18.—(1) Schedule 12 (transfer schemes: certificates) is amended as follows.

(2) In paragraph 1—

(a) after sub-paragraph (1)(b) insert—

“(ba) if sub-paragraph (2A) applies, a certificate under paragraph 3A.”;

(b) in sub-paragraph (2) for “Article 4 of the life assurance consolidation directive or Article 6 of the first non-life insurance directive” substitute “Article 14 of the Solvency 2 Directive”;

(c) after sub-paragraph (2) insert—

“(2A) This sub-paragraph applies if—

(a) the transferor concerned is a UK authorised person which has received authorisation under Article 14 of the Solvency 2 Directive from the appropriate regulator; and

(b) as regards any policy which is included in the proposed transfer and which evidences a contract of insurance (other than reinsurance), the contract was concluded in an EEA State other than the United Kingdom.”;

(d) in sub-paragraph (3)(a) for “Article 4 or Article 51 of the life assurance consolidation directive” substitute “Article 162 of the Solvency 2 Directive”;

(e) in sub-paragraph (4)(a) for “Article 6 or Article 23 of the first non-life insurance directive” substitute “Article 162 of the Solvency 2 Directive”;

(f) in sub-paragraph (5), for paragraphs (a) and (b) substitute—

“(a) the transferor concerned has received authorisation under Article 162 of the Solvency 2 Directive from the appropriate regulator; and

(b) the proposed transfer is to a branch or agency, in an EEA State other than the United Kingdom, authorised under that Article.”.

(3) In paragraph 2—

(a) for sub-paragraph (6)(aa) substitute—

“(aa) if the transferee is a non-EEA branch, the supervisory authority of the EEA State in which the transferee is situated or, where appropriate, the supervisory authority of an EEA State which supervises the state of solvency of the entire business of the transferee's agencies and branches within the EEA in accordance with Article 167 of the Solvency 2 Directive;”;

(b) for sub-paragraph (7A), substitute—

“(7A) “Supervisory authority” has the same meaning as in the Solvency 2 Directive.”;

(c) for sub-paragraph (9), substitute—

“(9) “Non-EEA branch” means a branch or agency which has received authorisation under Article 162 of the Solvency 2 Directive.”.

(4) In the heading to paragraph 3, for “consent” substitute “consultation”.

Changes to legislation: The Solvency 2 Regulations 2015, Paragraph 18 is up to date with all changes known to be in force on or before 28 September 2023. 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) View outstanding changes

(5) After paragraph 3 insert—

“Certificates as to consent

3A. A certificate under this paragraph is one given by the appropriate regulator and certifying that in respect of each contract concluded in an EEA State other than the United Kingdom the authority responsible for supervising persons who effect or carry out contracts of insurance in the EEA State in which that contract was concluded has been notified of the proposed scheme and that—

- (a) the authority has consented to the proposed scheme; or
- (b) the authority has not responded but the period of three months beginning with the notification has elapsed.”.

(6) For paragraph 5A(4) substitute—

“(4) “Relevant authority” means the supervisory authority (within the meaning of the Solvency 2 Directive) of the EEA State in which the transferee is set up.”.

(7) In paragraph 10—

(a) for sub-paragraph (3) substitute—

“(3) The transferor is a company authorised in an EEA State other than the United Kingdom under Article 162 of the Solvency 2 Directive and the transferee is a UK authorised person which has received authorisation under Article 14 of the Solvency 2 Directive.”;

(b) for sub-paragraph (4) substitute—

“(4) The transferor is a Swiss general insurer and the transferee is a UK authorised person which has received authorisation under Article 14 of the Solvency 2 Directive.”.

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Changes and effects yet to be applied to :

- Regulations revoked by [2023 c. 29 Sch. 1 Pt. 2](#)