
STATUTORY INSTRUMENTS

2017 No. 1212

The Risk Transformation Regulations 2017

PART 4

Protected Cell Companies

CHAPTER 7

Dealings with third parties

Change of name

75. Where a protected cell company changes its name—

- (a) the change does not affect any rights or obligations of the protected cell company or render defective any legal proceedings by or against it; and
- (b) any legal proceedings that might have been commenced or continued against the protected cell company by its former name may be commenced or continued against it by its new name.

Change of address of registered office

76.—(1) Where a protected cell company changes the address of its registered office—

- (a) the change takes effect when the FCA registers the new address; and
- (b) until the end of a period of 14 days beginning with the date on which the new address is registered, a person may validly serve any document on the protected cell company at the address previously registered.

(2) Where an enactment makes provision for service of a document on a previous registered office of a protected cell company, any reference in that enactment to section 87(2) (change of address of registered office) of the Companies Act 2006^{M1} is to be treated as a reference to paragraph (1).

Marginal Citations

M1 2006 c. 46.

Name and other particulars to appear in correspondence

77.—(1) A protected cell company must ensure that the particulars specified in paragraph (3) are disclosed in all letters and e-mails sent, and in all other documents issued, by or on behalf of the protected cell company.

(2) If a protected cell company has a website, the protected cell company must also ensure that the particulars specified in paragraph (3) are disclosed on the website.

(3) The particulars mentioned in paragraphs (1) and (2) are—

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- (a) the protected cell company's name;
 - (b) the protected cell company's registered number;
 - (c) the protected cell company's registered office;
 - (d) the fact that the protected cell company is a protected cell company registered by the FCA under the Risk Transformation Regulations 2017; and
 - (e) the fact that the assets, liabilities and obligations of the core and cells of the protected cell company are segregated in accordance with the Risk Transformation Regulations 2017.
- (4) The particulars must be disclosed in characters that can be read with the naked eye.

Contracts

78.—(1) Where a protected cell company enters into a contract with a person, the protected cell company must ensure that the contract states clearly and unambiguously—

- (a) whether the protected cell company enters into the contract on behalf of the core or a cell; and
- (b) where the protected cell company enters into the contract on behalf of a cell, the cell's name or number.

(2) Where a protected cell company enters into a contract with a person on behalf of two or more parts of the protected cell company, the protected cell company must ensure that the contract states clearly and unambiguously which rights and obligations of the protected cell company relate to each part.

(3) The protected cell company must also ensure that every contract into which it enters contains a statement that a liability incurred by the protected cell company on behalf of the core or a cell of that protected cell company is to be discharged solely out of assets held by the protected cell company on behalf of the core or the cell (as the case may be).

Terms implied into contracts

79.—(1) This regulation applies where—

- (a) a protected cell company enters into a contract with a person; and
- (b) the person may assert a right under the contract against the protected cell company in respect of a part of the protected cell company (“part A”).

(2) The following terms are implied into the contract—

- (a) the person may only assert that right in respect of part A;
- (b) the person waives any right that the person may have to make a claim which—
 - (i) arises under the law of a country or territory other than the United Kingdom; and
 - (ii) entitles the person to assert that right in respect of any part of the protected cell company other than part A;
- (c) if the person obtains property from the protected cell company by asserting that right in respect of a part of the protected cell company other than part A, then the person—
 - (i) will transfer the property to the protected cell company to hold on behalf of that other part without delay; and
 - (ii) holds the property on trust for the benefit of that other part until the transfer takes effect.

(3) A provision, whether contained in the instrument of incorporation, a contract or otherwise, is void to the extent that it purports to waive or limit the effect of the implied terms referred to in paragraph (2).

Reliance on the register

80.—(1) A protected cell company may only rely against another person (“P”) on an event which must be notified to the FCA to be recorded on the register where—

- (a) the event has been recorded on the register published by the FCA on its website; or
- (b) the protected cell company shows that P knew of the event at the material time.

(2) If the material time falls—

- (a) on or before the 15th day after the date that the event was recorded in the register published by the FCA on its website; or
- (b) where the 15th day was not a working day, on or before the next day that was,

then the protected cell company is not entitled to rely on the happening of the event as against P if P shows that P was unavoidably prevented from knowing of the event at that time.

Capacity of protected cell company

81.—(1) The validity of an act done by a protected cell company cannot be called into question on the ground of lack of capacity by reason of anything in the enactments and documents specified in paragraph (7) (the “governing documents”).

(2) A party to a transaction with a protected cell company is not bound to enquire—

- (a) as to whether the transaction is permitted by the governing documents; or
- (b) as to any limitation on the powers of the directors deriving from the governing documents.

(3) But sub-paragraph (b) of paragraph (2) does not apply if the party is not dealing in good faith.

(4) In favour of a person dealing in good faith, the following powers are deemed to have been exercised free of any limitation in the governing documents—

- (a) the powers of the directors to bind the protected cell company or authorise others to do so; and
- (b) the power of the protected cell company in a general meeting to bind the protected cell company or authorise others to do so.

(5) For the purposes of this regulation—

- (a) a person deals with a protected cell company if the person is a party to a transaction or other act to which the protected cell company is a party;
- (b) a person acts in good faith unless—
 - (i) the person has actual knowledge that the protected cell company did not have the power to do the relevant act; or
 - (ii) the person deliberately fails to make enquiries in circumstances where a reasonable and honest person would have done so; and

(c) a person is presumed to have acted in good faith unless the contrary is proved.

(6) This regulation does not affect—

- (a) the right of a person holding a share issued on behalf of the core of the protected cell company to bring proceedings to restrain the protected cell company from doing an act which would be beyond the protected cell company's capacity (see regulation 98(1));
- (b) the duty on the directors to observe any limitation on their powers; or

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- (c) any liability incurred by the directors or any other person by reason of the directors exceeding their powers.
- (7) In this regulation, the “governing documents” are—
 - (a) these Regulations;
 - (b) Commission Delegated Regulation (EU) 2015/35 of 10th October 2014 supplementing Directive [2009/138/EC](#) of the European Parliament and of the Council on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) ^{M2};
 - (c) the Implementing Technical Standard;
 - (d) rules made under FSMA;
 - (e) the protected cell company's instrument of incorporation;
 - (f) written resolutions of the persons holding voting shares issued on behalf of the core of the protected cell company; and
 - (g) resolutions passed in general meeting.

Marginal Citations

M2 OJ no L335, 17.12.2014, p.1.

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Changes and effects yet to be applied to :

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