
STATUTORY INSTRUMENTS

2017 No. 1212

The Risk Transformation Regulations 2017

PART 4

Protected Cell Companies

CHAPTER 9

Shares and shareholders

SECTION 1

Shares

Types of shares

91.—(1) A protected cell company may issue voting shares on behalf of the core of the protected cell company.

(2) A protected cell company may issue non-voting shares on behalf of a part of the protected cell company.

(3) A protected cell company may issue more than one class of shares on behalf of a part of the protected cell company.

(4) A protected cell company may not issue shares other than in the ways described in paragraphs (1) to (3).

Nature of shares

92.—(1) Only a share issued on behalf of the core of a protected cell company is to be treated as a share in the protected cell company.

(2) A share issued on behalf of a cell of a protected cell company is to be treated as a share in that cell.

(3) A share is personal property (or, in Scotland, moveable property) and is not in the nature of real estate (or heritage).

Rights attaching to shares

93.—(1) The rights which attach to voting shares or a class of voting shares issued on behalf of the core are—

- (a) the right, in accordance with the instrument of incorporation, to participate in or receive profits or income which are payable by the protected cell company on behalf of the core;
- (b) the right, in accordance with the instrument of incorporation, to vote on a written resolution of shareholders (or shareholders of that class) or at any general meeting (or any relevant class meeting); and

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- (c) such other rights as may be provided for, in relation to voting shares (or voting shares of that class), in the protected cell company's instrument of incorporation.
- (2) The rights which attach to a non-voting share or a class of non-voting shares issued on behalf of a part of the protected cell company are—
 - (a) the right, in accordance with the instrument of incorporation, to participate in or receive profits or income which are payable by the protected cell company on behalf of that part; and
 - (b) such other rights as may be provided for, in relation to non-voting shares (or non-voting shares of that class), in the protected cell company's instrument of incorporation.
- (3) A share issued on behalf of a part of a protected cell company may not confer any rights in relation to another part of the protected cell company or the property held by the protected cell company on behalf of that other part.

Changes to rights attaching to shares

94. A right attaching to a share may only be varied with the consent of the person holding the share.

Amendments to the instrument of incorporation

95.—(1) A protected cell company may only amend its instrument of incorporation if the proposed amendment is approved—

- (a) by written resolution of the persons holding voting shares issued on behalf of the core of the protected cell company; or
- (b) by a resolution passed in a general meeting by a simple majority of the total voting rights of those shareholders who are entitled to vote on the resolution at the meeting.

(2) But paragraph (1) does not prevent the protected cell company's instrument of incorporation requiring a higher majority or unanimity.

Prohibition on bearer shares

96.—(1) A protected cell company may not issue a bearer share.

(2) A bearer share is a share evidenced by a share certificate, or by any other documentary evidence of title for which provision is made in the protected cell company's instrument of incorporation, which indicates—

- (a) that the holder of the document is entitled to the shares specified in it; and
- (b) that no entry will be made on the register of shareholders identifying the holder of those shares.

Compensation

97. A person is not debarred from obtaining damages or other compensation from a protected cell company by reason only of holding or having held shares issued on behalf of a part of the protected cell company.

Restraint and ratification by shareholders

98.—(1) A person holding voting shares issued on behalf of the core of a protected cell company may bring proceedings to restrain the protected cell company from doing an act which would, but for regulation 81(1), be beyond the protected cell company's capacity.

(2) But no proceedings may be brought under paragraph (1) in respect of an act to be done in fulfilment of a legal obligation arising from a previous act of the protected cell company.

(3) The following action by the directors of a protected cell company may only be ratified by a resolution of persons holding voting shares issued on behalf of the core of the protected cell company—

- (a) action which would, but for regulation 81(1), be beyond the protected cell company's capacity;
- (b) action which is within the protected cell company's capacity but is beyond the powers of the directors to bind the protected cell company or authorise others to do so.

(4) A resolution ratifying such action does not affect any liability incurred by the directors or any other person, and relief from any such liability requires agreement by a separate resolution of the persons holding voting shares issued on behalf of the core of the protected cell company.

Contravention of regulation 91(4) or 93(3)

99.—(1) A provision, whether contained in the instrument of incorporation, a contract or otherwise, is void to the extent that it is inconsistent with regulation 91(4) or 93(3).

(2) An application of assets, or agreement to apply assets, in contravention of regulation 93(3) is void.

SECTION 2

Issue, allotment and alteration of share capital

Nominal value

100.—(1) A share issued on behalf of a part of a protected cell company must have a fixed nominal value.

(2) An allotment of a share that does not have a fixed nominal value is void.

(3) Shares issued on behalf of a part of a protected cell company may be denominated in any currency and different classes of shares may be denominated in different currencies.

Numbering of shares

101.—(1) Each share issued on behalf of a part of protected cell company must be distinguished by its appropriate number, except in the following circumstances.

(2) A share issued on behalf of a part of a protected cell company need not have a distinguishing number provided—

- (a) all the shares issued on behalf of that part are fully paid up and rank *pari passu* for all purposes; or
- (b) all the shares issued on behalf of that part and belonging to the same class as that share are fully paid up and rank *pari passu* for all purposes.

Power of directors to allot shares

102.—(1) The directors of a protected cell company may exercise any power of the protected cell company to—

- (a) allot shares issued on behalf of a part of the protected cell company; or
- (b) grant rights to subscribe for or to convert any security issued into such shares.

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(2) Paragraph (1) applies except to the extent that the protected cell company's instrument of incorporation provides otherwise.

(3) A share may not be allotted at a discount to its nominal value.

(4) If a share issued on behalf of a part of a protected cell company is allotted in contravention of paragraph (3), the allottee is liable to pay to the protected cell company on behalf of that part an amount equal to the amount of the discount.

Sub-division or consolidation of shares

103.—(1) A protected cell company may—

- (a) sub-divide all or any of the shares issued on behalf of a part of the protected cell company into shares of a smaller nominal amount than the existing shares issued on behalf of that part; or
- (b) consolidate and divide all or any of the shares issued on behalf of a part of the protected cell company into shares of a larger nominal amount than the existing shares issued on behalf of that part.

(2) In any sub-division, or consolidation and division, of shares, the proportion between the amount paid and the amount (if any) unpaid on each resulting share must be the same as it was in the case of the share from which that share is derived.

(3) A protected cell company may only exercise a power under paragraph (1) if—

- (a) the protected cell company's instrument of incorporation does not contain provision prohibiting the sub-division, or consolidation and division; and
- (b) the persons holding the shares affected by the sub-division, or consolidation and division, consent.

Redenomination of shares

104.—(1) In this regulation, “redenomination” means converting shares from having a fixed nominal value in one currency to having a fixed nominal value in another currency.

(2) A protected cell company may redenominate the shares, or any class of shares, issued on behalf of a part of the protected cell company.

(3) Before carrying out such a redenomination, the protected cell company must—

- (a) notify all of the persons holding the shares, or class of shares, issued on behalf of that part of the proposed redenomination; and
- (b) obtain their consent to the redenomination.

(4) The conversion must be made at an appropriate spot rate of exchange specified in the notification.

(5) The rate must be either—

- (a) a rate prevailing on a day specified in the notification; or
- (b) a rate determined by taking the arithmetic mean of the rates prevailing on each consecutive day of a period specified in the notification.

(6) The day or period specified for the purposes of paragraph (5) must be within the period of 28 days ending on the day on which consent is given (or the last such day if consent is given by different persons on different days).

(7) The notification may make the proposed redenomination subject to conditions which must be met before the redenomination takes effect.

(8) Redenomination in accordance with this regulation takes effect—

(a) on the day on which consent is given (or the last such day if consent is given by different persons on different days); or

(b) on such later date as may be determined in accordance with the notification.

(9) But consent to a notification is deemed to be withdrawn if the redenomination to which it relates has not taken effect by the end of the period of 28 days beginning on the day on which consent is given (or the last such day if consent is given by different persons on different days).

(10) A protected cell company's instrument of incorporation may prohibit or restrict the power conferred by this regulation.

Redenomination: supplementary

105.—(1) Where a share is redenominated, the new nominal value of that share is equal to—

$$\frac{rA}{N}$$

where—

“r” is the appropriate spot rate of exchange for converting the old nominal value to the new nominal value;

“A” is the sum total of the old nominal values of all the shares subject to redenomination;

“N” is the total number of shares being redenominated.

(2) A redenomination of shares does not affect—

(a) the rights and obligations of persons holding shares under the protected cell company's instrument of incorporation, including in particular—

(i) the entitlement to dividends (including the entitlement to dividends in a particular currency);

(ii) voting rights;

(iii) any liability in respect of amounts unpaid on shares; or

(b) any restrictions affecting such persons under the instrument of incorporation.

(3) For this purpose, the protected cell company's instrument of incorporation is deemed to include the terms on which the shares were allotted or held.

(4) Subject to paragraph (2), references to the old nominal value of the shares in any agreement, statement, deed, instrument or document, are (unless the context otherwise requires) to be read after the resolution takes effect as references to the new nominal value of the shares.

Acquisition and redemption of shares issued by a cell

106.—(1) Where a protected cell company issues a share on behalf of a cell, the protected cell company may not acquire or redeem the share on behalf of the core or any other cell.

(2) Where a cell is not a member of a group of cells, a share issued by the protected cell company on behalf of the cell may only be acquired or redeemed by the protected cell company on behalf of the cell if the following conditions are satisfied—

(a) the acquisition or redemption is funded by assets held by the protected cell company on behalf of the cell; and

(b) where the protected cell company has a liability to an undertaking arising under a contract made between the undertaking and the protected cell company acting on behalf of the cell,

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the undertaking has consented to the acquisition or redemption (whether in the contract or otherwise).

(3) Where a cell (“the relevant cell”) is a member of a group of cells, a share issued by the protected cell company on behalf of the relevant cell may only be acquired or redeemed by the protected cell company on behalf of the relevant cell if the following conditions are satisfied —

- (a) the acquisition or redemption is funded by assets held by the protected cell company on behalf of the relevant cell;
- (b) the protected cell company will, immediately after the acquisition or redemption, hold sufficient assets on behalf of the relevant cell to enable the protected cell company to give effect to any enforceable arrangements made between the relevant cell and any other cell; and
- (c) where the protected cell company has a liability to an undertaking arising under a contract made between the undertaking and the protected cell company acting on behalf of a cell in that group of cells, the undertaking has consented to the acquisition or redemption (whether in the contract or otherwise).

(4) The protected cell company may redeem or acquire a share for less than the share's nominal value.

(5) Where a protected cell company acquires or redeems a share issued on behalf of a cell, the protected cell company must cancel that share.

Acquisition and redemption of shares issued by the core

107.—(1) Where a protected cell company issues a share on behalf of the core, the protected cell company—

- (a) may not acquire or redeem the share on behalf of a cell; and
- (b) may only acquire or redeem the share on behalf of the core if—
 - (i) the protected cell company has no cells; and
 - (ii) immediately after the acquisition or redemption, there is at least one voting share issued by the protected cell company on behalf of the core.

(2) But paragraph (1)(b)(ii) does not apply if the FCA has decided to strike the protected cell company off its register under regulation 180.

(3) Where a protected cell company acquires or redeems a share issued on behalf of the core, the protected cell company must cancel that share.

Consequences of unlawful acquisition or redemption

108.—(1) This regulation applies to an acquisition or redemption of a share issued on behalf of a part of a protected cell company which—

- (a) is funded by the protected cell company from assets held on behalf of a part (“part A”) of the protected cell company (which may either be the part on behalf of which the share was issued or another part); and
- (b) is in contravention of regulation 106 or 107.

(2) If at the time of the acquisition or redemption the person holding the share knew or had reasonable grounds for believing that it was acquired or redeemed in contravention of regulation 106 or 107, the person is liable—

- (a) to repay the amount for which the share was acquired or redeemed; or

- (b) in the case of an acquisition or redemption made otherwise than in cash, to pay the protected cell company a sum equal to the value of assets provided by the protected cell company for the acquisition or redemption at that time.
- (3) This regulation is without prejudice to any obligation imposed apart from this regulation on a person to repay an amount to the protected cell company in respect of an acquisition or redemption which was made unlawfully.
- (4) A payment made to a protected cell company in accordance with paragraph (2) must be held by the protected cell company on behalf of part A.
- (5) Where a person satisfies in full an obligation to make a payment to the protected cell company under paragraph (2) then—
 - (a) any cancellation of the share under regulation 106(5) or 107(3) is deemed to have no effect; and
 - (b) the person is deemed to hold the share which was acquired or redeemed as if no acquisition or redemption took place.

Penalty for contravention of this Section

- 109.**—(1) If a protected cell company contravenes any of the provisions of this Section it commits an offence.
- (2) A person guilty of an offence under paragraph (1) is liable—
 - (a) on conviction on indictment, to a fine;
 - (b) on summary conviction—
 - (i) in England and Wales, to a fine;
 - (ii) in Scotland or Northern Ireland, to a fine not exceeding the statutory maximum.

SECTION 3

Share certificates

Share certificates

- 110.**—(1) A protected cell company must prepare share certificates in accordance with this regulation except where—
 - (a) the protected cell company's instrument of incorporation states that share certificates will not be issued and contains provisions as to other procedures for evidencing a person's entitlement to shares; or
 - (b) a person has indicated to the protected cell company in writing that the person does not wish to receive a share certificate.
- (2) A protected cell company must prepare share certificates in respect of—
 - (a) any new shares issued on behalf of the core or a cell;
 - (b) shares transferred by a transferor to the transferee;
 - (c) shares retained by a person transferring part of a shareholding to a transferee;
 - (d) shares for which a certificate has already been issued but where it appears to the protected cell company that the share certificate needs to be replaced as a result of it having been lost, stolen, destroyed or having become damaged or worn out.

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(3) A protected cell company must ensure that share certificates prepared in accordance with paragraph (1) are ready for delivery before the end of a period of 2 months beginning with the following day—

- (a) in a case falling within sub-paragraph (a) of paragraph (2), the day on which the shares were issued;
- (b) in a case falling within sub-paragraph (b) or (c) of paragraph (2), the day on which the transfer documents (within the meaning given by regulation 120) are received by the protected cell company;
- (c) in a case falling within (d) of paragraph (2), the day on which it first appears to the protected cell company that the share certificate needs to be replaced.

(4) Certificates need to be prepared in the circumstances referred to in sub-paragraphs (c) and (d) of paragraph (2) only if the protected cell company has received—

- (a) a request for a new certificate;
- (b) the old certificate (if there is one);
- (c) such indemnity as the protected cell company may require; and
- (d) such reasonable sum as the protected cell company may require in respect of the expenses incurred by it in complying with the request.

Contents of share certificate

111.—(1) Each share certificate prepared by a protected cell company must state—

- (a) whether the shares are issued on behalf of the core or a cell of the protected cell company;
- (b) if the shares are issued on behalf of a cell, the name or number of the cell;
- (c) whether the shares are voting shares or non-voting shares;
- (d) the number of shares to which title is evidenced by the share certificate;
- (e) where the share belongs to a particular class of shares, the class of shares to which title is evidenced by the share certificate;
- (f) any restrictions on the transferability of the shares; and
- (g) the name of the holder.

(2) Where, in respect of any class of shares, the rights that attach to shares of that class are expressed in two denominations, the reference in sub-paragraph (d) of paragraph (1) to the number of shares is a reference to—

$$N + \frac{n}{p}$$

where—

N is the relevant number of the larger denomination shares of the class in question;

n is the relevant number of the smaller denomination shares of the class in question;

p is the number of smaller denomination shares of the class in question that are equivalent to one larger denomination share of that class.

Evidence of title

112. A share certificate specifying any shares held by a person is, unless the contrary is shown, sufficient evidence of that person's title to the shares provided the share certificate is—

- (a) issued under the common seal of the protected cell company;
- (b) in England and Wales, and Northern Ireland, authenticated in accordance with regulation 66; or
- (c) in Scotland, subscribed by the protected cell company in accordance with the Requirements of Writing (Scotland) Act 1995 ^{F1}.

F1 1995 c. 7.

SECTION 4

Register of shareholders

The register of shareholders

113.—(1) A protected cell company must keep a register of persons who hold shares issued by the protected cell company.

(2) The register of shareholders is, unless the contrary is shown, evidence of any matter which is recorded in the register in accordance with this Part.

(3) A protected cell company must exercise all due diligence and take all reasonable steps to ensure that the information contained in the register is complete and up to date.

Contents of the register

114.—(1) The register must be divided into separate parts for shares issued on behalf of the core and each of the cells of the protected cell company.

(2) A protected cell company must enter into the appropriate part of the register the names of all the persons holding shares issued on behalf of the core and each of the cells of the protected cell company.

(3) Against each entry of a person's name into a part of the register, the protected cell company must indicate—

- (a) the person's address;
- (b) the date the entry was made in the register; and
- (c) in relation to the part of the register in question, a statement of the aggregate number of shares held by that person, distinguishing the share by its number (if it has one) and, if the share belongs to a particular class of shares, by its class.

(4) Where the aggregate number of shares includes shares to which there are attached rights expressed in two denominations, the aggregate number of shares is to be taken to be—

$$N + \frac{n}{p}$$

where—

N is the relevant number of larger denomination shares of that class;

n is the relevant number of smaller domination shares of that class; and

p is the number of smaller denomination shares of that class that are equivalent to one larger denomination share of that class.

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(5) Where all the shares issued on behalf of the core of a protected cell company are held by one person, then—

- (a) that fact must be recorded in the register; and
- (b) the FCA must be notified of that fact.

(6) In the case of a protected cell company registered in England and Wales, or Northern Ireland, notice given to the protected cell company of any trust of shares (whether express, implied or constructive) is not to be recorded on the register.

Location

115. The register of shareholders of a protected cell company must be kept available for inspection at its registered office or an alternative inspection location notified to the FCA in accordance with regulation 67.

Index

116.—(1) A protected cell company must keep an index of the names of the persons holding shares issued by the protected cell company.

(2) The index must contain cross-references to all of the entries of that person's name in the register.

(3) The index must be kept at the same place as the register.

(4) Where a protected cell company amends the register, the index must be updated before the end of a period of 14 days beginning with the day the register is amended.

Inspection

117.—(1) The register of shareholders and the index must be open to the inspection of any person holding a share issued by a protected cell company.

(2) A protected cell company must, on the request of a person holding a share issued by the protected cell company, send the shareholder a copy of all of the entries in the register which relate to that shareholder.

(3) If the copy can be sent electronically, the copy must be sent free of charge.

(4) If an inspection required under this regulation is refused, or a copy so requested is not sent, the High Court or, in Scotland, the Court of Session may by order compel an immediate inspection of the register and index, or direct that the copy requested by the shareholder be sent.

Power of court to rectify the register

118.—(1) An application to the High Court or, in Scotland, the Court of Session may be made under this regulation if—

- (a) the name of a person is, without sufficient cause, entered into or omitted from a part of the register of shareholders;
- (b) default is made as to the details contained in any entry on the register in respect of a person's holding of shares; or
- (c) default is made or unnecessary delay takes place in amending the register so as to reflect the fact that a person has ceased to be a shareholder.

(2) An application may be made by the protected cell company, a shareholder or by the person aggrieved.

(3) On such an application, the court may—

- (a) refuse the application;
- (b) order rectification of the register; or
- (c) decide any question necessary or expedient to be decided for rectification of the register of shareholders including, in particular, any question relating to the right of a person who is a party to the application to have the person's name entered in or omitted from the register.

SECTION 5

Share transfers

General

119.—(1) Shares issued by a protected cell company are transferable in accordance with the protected cell company's instrument of incorporation.

(2) Where a person holding shares issued by a protected cell company transfers those shares to another person (the “transferee”), legal title to those shares only passes to the transferee when the transferee is registered as the owner of those shares by the protected cell company.

(3) The instrument of incorporation of a protected cell company may contain provision as to share transfers in respect of any matter for which provision is not made by this Part.

Meaning of “transfer documents”

120.—(1) In this Section, “transfer documents” means—

- (a) one or more of the documents falling within Category 1;
- (b) one or more of the documents falling within Category 2; and
- (c) such other evidence (if any) as the protected cell company may require to prove—
 - (i) the right of the transferor to transfer the shares in question; or
 - (ii) the eligibility of the transferee to acquire the shares in question.

(2) The following documents fall within Category 1—

- (a) a stock transfer form within the meaning of the Stock Transfer Act 1963 ^{F2} or the Stock Transfer Act (Northern Ireland) 1963 ^{F3} which complies with the requirements of the relevant Act as to the execution and contents of a stock transfer;
- (b) an order made by the court under regulation 175 (application for court order sanctioning transfer scheme) or 177 (effect of court order sanctioning transfer scheme) for the transfer of shares;
- (c) any other instrument of transfer as is authorised by, and completed and executed in accordance with, any requirement in the protected cell company's instrument of incorporation;

(3) The following documents fall within Category 2—

- (a) a share certificate relating to the shares in question;
- (b) if the shares in question fall within sub-paragraph (a) or (b) of regulation 110(1), such evidence of title to those shares as is required by the protected cell company's instrument of incorporation.

F2 1963 c. 18.

F3 1963 c. 24 (N.I.).

Transfers

121.—(1) A protected cell company may not register a transfer of shares unless—

- (a) the transfer documents relating to the transfer have been delivered to the protected cell company; or
- (b) title to the shares has been transmitted by operation of law.

(2) Where transfer documents relating to a share transfer are delivered to a protected cell company, the protected cell company must amend the register of shareholders and index accordingly.

(3) But a protected cell company may refuse to register a transfer of shares where—

- (a) a person holding shares issued on behalf of a part of the protected cell company is required to hold less or more than a specified number of shares issued on behalf of that part and the transfer would result in the transferor or transferee breaching that requirement;
- (b) the transfer would contravene a provision of the protected cell company's instrument of incorporation or a provision of law (including any law that is for the time being in force in a country or territory outside of the United Kingdom); or
- (c) the transferee fails to provide the protected cell company with such evidence as the protected cell company may reasonably require to satisfy the protected cell company that the transferee is a qualified investor within the meaning given by regulation 10.

(4) A protected cell company—

- (a) may only refuse to register a transfer pursuant to sub-paragraph (a) or (b) of paragraph (3) during the period of 21 days commencing with the date the transfer documents are delivered to the protected cell company; and
- (b) must give the transferee written notice of a refusal to register a transfer of shares, unless the giving of such a notice would contravene a provision of law (including any law that is for the time being in force in a country or territory outside of the United Kingdom).

(5) A transfer of shares by the personal representative of a deceased person is valid as if the personal representative had been the holder of the deceased person's shares at the time of the execution of the instrument of transfer.

Certification of transfer

122.—(1) Where, in respect of a transfer of shares, a protected cell company certifies that it has received the transfer documents, that certification is to be taken as a representation by the protected cell company to any person acting in reliance on the certification that there has been produced to the protected cell company sufficient evidence to show that the transferor has title to the shares in the absence of proof to the contrary.

(2) A certification is made by a protected cell company if the instrument of transfer—

- (a) bears the words “certificate lodged” or words to the like effect; and
- (b) is signed by a person acting under authority (whether express or implied) given by the protected cell company to issue and sign such certificates.

(3) But a certificate is not to be taken as a representation that the transferor has any title to the shares in question.

(4) Where a person acts in reliance on a false certification by a protected cell company which is made negligently or fraudulently, the protected cell company is liable to pay that person out of assets held by the protected cell company on behalf of the core any damages that the person has sustained.

Joint shareholdings

123. On the death of any one of the joint holders of a share, the survivors are to be the only persons recognised by the protected cell company as having any title to or any interest in those shares.

SECTION 6

Distributions

Meaning of “distribution”

124. In regulations 125 and 126, “distribution” means every description of a distribution of an asset to a shareholder, except for the redemption or acquisition of shares held by that shareholder in accordance with regulation 106 or 107.

Distributions to holders of shares in a cell

125.—(1) This regulation applies where a protected cell company makes a distribution to a person holding a share issued by the protected cell company on behalf of a cell.

(2) Where the cell is not a member of a group of cells, the protected cell company may only make the distribution if the following conditions are satisfied—

- (a) the distribution is made from assets held by the protected cell company on behalf of the cell; and
- (b) where the protected cell company has a liability to an undertaking arising under a contract made between the undertaking and the protected cell company acting on behalf of the cell, the undertaking has consented to the distribution (whether in the contract or otherwise).

(3) Where the cell (“the relevant cell”) is a member of a group of cells, the protected cell company may only make the distribution if the following conditions are satisfied—

- (a) the distribution is made from assets held by the protected cell company on behalf of the relevant cell;
- (b) the protected cell company will, immediately after the distribution, hold sufficient assets on behalf of the relevant cell to enable the protected cell company to give effect to any enforceable arrangements made between the relevant cell and any other cell; and
- (c) where the protected cell company has a liability to an undertaking arising under a contract made between the undertaking and the protected cell company acting on behalf of a cell in that group of cells, the undertaking has consented to the distribution (whether in the contract or otherwise).

Distributions to holders of shares in the core

126.—(1) This regulation applies where a protected cell company makes a distribution to a person holding a share issued by the protected cell company on behalf of the core.

(2) The distribution may only be made if the protected cell company has no cells.

(3) The distribution must be made from assets held by the protected cell company on behalf of the core.

Persons holding investments in different parts of the protected cell company

127.—(1) This regulation applies where—

- (a) a person (“P”) holds investments issued on behalf of number of different parts of a protected cell company;

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- (b) those investments include shares issued on behalf of a part of the protected cell company; and
 - (c) the protected cell company makes a distribution to P in P's capacity as the holder of shares issued on behalf of that part of the protected cell company.
- (2) Regulations 125 and 126 apply to the distribution as if the only investment held by P were the shares issued on behalf of that part of the protected cell company.

Consequences of unlawful distribution

128.—(1) This regulation applies to a distribution, or a part of a distribution, which is made by a protected cell company—

- (a) from assets held on behalf of a part (“part A”) of the protected cell company;
 - (b) to a person holding a share issued by the protected cell company on behalf of a part of a protected cell company (either part A or another part); and
 - (c) in contravention of regulation 125 or 126.
- (2) If at the time of the distribution the person knows or has reasonable grounds for believing that it is made in contravention of regulation 125 or 126, the person is liable—
- (a) to repay the distribution (or that part of it, as the case may be) to the protected cell company; or
 - (b) in the case of a distribution made otherwise than in cash, to pay the protected cell company a sum equal to the value of the distribution (or part of it) at that time.
- (3) This regulation is without prejudice to any obligation imposed apart from this regulation on a person to repay a distribution which was made unlawfully to that person.
- (4) A payment made to a protected cell company in accordance with paragraph (2) must be held by the protected cell company on behalf of part A.

SECTION 7

Annual General Meetings

Requirement to hold an annual general meeting

129.—(1) A protected cell company must hold annual general meetings in accordance with this regulation unless the protected cell company elects to dispense with annual general meetings in accordance with regulation 130.

(2) A protected cell company must hold its first annual general meeting before the end of a period of 18 months beginning with the date it is first authorised to carry out the activity specified in article 13A (transformer vehicles: insurance risk transformation) of the Regulated Activities Order.

(3) A protected cell company must hold an annual general meeting in each calendar year after the year in which it holds its first annual general meeting, provided no more than 15 months elapse between the date of one annual general meeting and the date of the next annual general meeting.

Election to dispense with annual general meetings

130.—(1) The directors of a protected cell company may elect to dispense with the holding of annual general meetings by giving 60 days' written notice to all persons holding shares issued on behalf of the core of the protected cell company.

(2) Where the directors of a protected cell company elect to dispense with annual general meetings, they may terminate that election by giving written notice to all persons holding shares issued on behalf of the core of the protected cell company.

(3) An election has effect for the year in which it is made and all subsequent years, but does not affect any liability already incurred by reason of default in holding an annual general meeting.

(4) Where an election is terminated—

- (a) the protected cell company must hold an annual general meeting within a period of 12 months beginning with the date on which the notice of termination is given; and
- (b) paragraph (3) of regulation 129 applies with the reference to “first annual general meeting” being treated as a reference to the annual general meeting held in accordance with subparagraph (a) of this paragraph.

SECTION 8

Miscellaneous

Holding companies and subsidiaries: prohibition on shareholdings

131.—(1) A protected cell company may not hold shares in a company which is the protected cell company's holding company (within the meaning given by section 1159 of the Companies Act 2006).

(2) An allotment or transfer of shares issued on behalf of the core or a cell of a protected cell company to a subsidiary (within the meaning given by section 1159 of the Companies Act 2006) of a protected cell company is void.

Contracts between the protected cell company and shareholders

132. A contract between a protected cell company and a person must be in writing or recorded in the minutes of the protected cell company where—

- (a) that person holds all the shares issued on behalf of the core of the protected cell company; and
- (b) the contract does not relate to the current business of the protected cell company or was concluded under unusual conditions.

Information on capital subscribed

133.—(1) If the protected cell company's instrument of incorporation specifies an amount of authorised capital in relation to any part of the protected cell company, the protected cell company must notify the FCA of the amount of capital subscribed in relation to that part, unless an increase in the capital subscribed necessitates an amendment to the instrument of incorporation.

(2) The information referred to in paragraph (1) must be provided at least once a year.

Changes to legislation:

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Changes and effects yet to be applied to :

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