

# **FINANCIAL SERVICES AND MARKETS ACT 2000**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### ***Schedule 12: Transfer Schemes: Certificates***

822. The Schedule sets out the details of the certificates which the court must be satisfied, under section 111(2)(a), have been obtained.
823. Part I deals with insurance business transfers. The certificate requirements are all necessary to implement the insurance directives. For all insurance business transfers, a solvency margin certificate is required under paragraph 2. This certifies that the transferee has the necessary margin of solvency (defined in sub-paragraph 2(4)). It must be issued by the home State regulator in the case of an EEA firm under Schedule 3, the Swiss supervisory authorities in the case of a Swiss insurance company, and the Authority in all other cases.
824. If the transfer concerns a UK authorised person authorised under the insurance directives and the business to be transferred is conducted from a branch in another member State, a certificate is needed under paragraph 3 to the effect that the host State regulator has been duly notified and has responded (or the 3 month period allowed for response under the directives has elapsed).
825. If the transfer is of business which relates to the effecting and carrying out of long-term insurance (other than reinsurance policies) involving policyholders from other member States, and it involves a UK authorised person authorised under the First Life Directive, then a certificate is needed under paragraph 4 to the effect that the relevant authorities for those other member States have been duly notified and have consented (or the 3 month period allowed for response under the directives has elapsed).
826. If the transfer concerns a UK authorised person authorised under the First Non-Life Directive, and the business to be transferred is business which relates to the effecting and carrying out of contracts of general insurance which includes policies (other than reinsurance policies) concerning risks arising in other member States, a certificate is needed under paragraph 5 to the effect that the relevant authorities for those other member States have been duly notified and have consented (or the 3 month period allowed for response under the directives has elapsed).
827. Part II deals with banking business transfers. All such transfers require a financial resources certificate under paragraph 8. This certifies that the transferee has or will have adequate financial resources. It must be issued by the “relevant authority”. In a case where the transferee is a person authorised under Part IV or Schedule 4, this is the Authority. Where the transferee is an EEA firm under Schedule 3 it is the home State regulator. Where the transferee is neither, it is the relevant authority in the place in which the transferee has its head office.

*These notes refer to the Financial Services and Markets Act  
2000 (c.8) which received Royal Assent on 14 June 2000*

828. If either the transferor or transferee is an EEA firm under Schedule 3, a certificate is also required under paragraph 9 to the effect that the home State regulator has been duly notified and has responded (or the 3 month period allowed for response under that paragraph has elapsed).