

Status: Point in time view as at 31/12/2020.

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SCHEDULES

SCHEDULE 12

Sections 111(2) and 115.

TRANSFER SCHEMES: CERTIFICATES

PART I

INSURANCE BUSINESS TRANSFER SCHEMES

Modifications etc. (not altering text)

C1 Sch. 12 Pt. I (paras. 1-6) applied (1.12.2001) by [S.I. 2001/3626](#), [arts. 1, 3\(c\)](#)

[^{F1} For the purposes of section 111(2) the appropriate certificate, in relation to an insurance business transfer scheme, is a certificate under paragraph 2.]

Textual Amendments

F1 Sch. 12 para. 1 substituted (31.12.2020) by [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), [regs. 1\(3\), 105](#) (with transitional provisions in [S.I. 2019/710](#), [regs. 1\(4\), 36](#), [Sch. para. 3](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

Modifications etc. (not altering text)

C2 Sch. 12 para. 1 modified (31.12.2020) by [The Financial Services \(Miscellaneous\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/710\)](#), [reg. 1\(3\)](#), [Sch. para. 4, 5, 7\(2\)](#) (as amended by [S.I. 2020/1301](#), [regs. 1, 3](#), [Sch. para. 43\(m\)\(iv\)](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

Certificates as to margin of solvency

- 2 (1) A certificate under this paragraph is to be given—
- by the relevant authority; or
 - in a case in which there is no relevant authority, by the [^{F2}appropriate regulator].
- (2) A certificate given under sub-paragraph (1)(a) is one certifying that, taking the proposed transfer into account—
- the transferee possesses, or will possess before the scheme takes effect, the necessary margin of solvency; or
 - there is no necessary margin of solvency applicable to the transferee.
- (3) A certificate under sub-paragraph (1)(b) is one certifying that the [^{F3}appropriate regulator] has received from the authority which it considers to be the authority responsible for supervising persons who effect or carry out contracts of insurance in

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the place to which the business is to be transferred [^{F4}certification] that, taking the proposed transfer into account—

- (a) the transferee possesses or will possess before the scheme takes effect the margin of solvency required under the law applicable in that place; or
- (b) there is no such margin of solvency applicable to the transferee .

(4) “Necessary margin of solvency” means the margin of solvency required in relation to the transferee, taking the proposed transfer into account, under the law which it is the responsibility of the relevant authority to apply.

(5) “Margin of solvency” means the excess of the value of the assets of the transferee over the amount of its liabilities.

(6) “Relevant authority” means—

^{F5}(a)

^{F6}(aa)

(b) if the transferee is a Swiss general insurer, the authority responsible in Switzerland for supervising persons who effect or carry out contracts of insurance;

(c) if the transferee is an authorised person not falling within [^{F7}paragraph ^{F8}...] (b) [^{F9}—

(i) the PRA, if the transferee is a PRA-authorised person with a Part 4A permission ^{F10}...;

(ii) the FCA, if the transferee is a person with a Part 4A permission ^{F11}... but is not a PRA-authorised person.]

(7) In sub-paragraph (6), any reference to a transferee of a particular description includes a reference to a transferee who will be of that description if the proposed scheme takes effect.

^{F12}(7A)

(8) “Swiss general insurer” means a body—

- (a) whose head office is in Switzerland;
- (b) which has permission to carry on regulated activities consisting of the effecting and carrying out of contracts of general insurance; and
- (c) whose permission is not restricted to the effecting or carrying out of contracts of reinsurance.

^{F13}(9)

Textual Amendments

F2 Words in Sch. 12 para. 2(1)(b) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 6 para. 11\(2\)\(a\)](#) (with [Sch. 20](#)); [S.I. 2013/423, art. 3, Sch.](#)

F3 Words in Sch. 12 para. 2(3) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 6 para. 11\(2\)\(b\)](#) (with [Sch. 20](#)); [S.I. 2013/423, art. 3, Sch.](#)

F4 Word in Sch. 12 para. 2(3) inserted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 6 para. 11\(3\)](#) (with [Sch. 20](#)); [S.I. 2013/423, art. 3, Sch.](#)

F5 Sch. 12 para. 2(6)(a) omitted (31.12.2020) by virtue of [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\), regs. 1\(3\), 106\(3\)\(a\)](#) (with transitional provisions in [S.I. 2019/710, regs. 1\(4\), 36, Sch. para. 3](#)); [2020 c. 1, Sch. 5 para. 1\(1\)](#)

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- F6** Sch. 12 para. 2(6)(aa) omitted (31.12.2020) by virtue of [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **106(3)(a)** (with transitional provisions in [S.I. 2019/710](#), regs. 1(4), 36, Sch. para. 3); 2020 c. 1, Sch. 5 para. 1(1)
- F7** Words in Sch. 12 para. 2(6)(c) substituted (10.12.2007) by [The Reinsurance Directive Regulations 2007 \(S.I. 2007/3253\)](#), reg. 2(1), **Sch. 1 para. 2(5)(e)(iii)**
- F8** Words in Sch. 12 para. 2(6)(c) omitted (31.12.2020) by virtue of [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **106(3)(b)** (with transitional provisions in [S.I. 2019/710](#), regs. 1(4), 36, Sch. para. 3); 2020 c. 1, Sch. 5 para. 1(1)
- F9** Sch. 12 para. 2(6)(c)(i)(ii) substituted for words (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 6 para. 11(4)** (with Sch. 20); [S.I. 2013/423](#), art. 3, Sch.
- F10** Words in Sch. 12 para. 2(6)(c)(i) omitted (31.12.2020) by virtue of [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **106(3)(c)** (with transitional provisions in [S.I. 2019/710](#), regs. 1(4), 36, Sch. para. 3); 2020 c. 1, Sch. 5 para. 1(1)
- F11** Words in Sch. 12 para. 2(6)(c)(ii) omitted (31.12.2020) by virtue of [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **106(3)(c)** (with transitional provisions in [S.I. 2019/710](#), regs. 1(4), 36, Sch. para. 3); 2020 c. 1, Sch. 5 para. 1(1)
- F12** Sch. 12 para. 2(7A) omitted (31.12.2020) by virtue of [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **106(4)** (with transitional provisions in [S.I. 2019/710](#), regs. 1(4), 36, Sch. para. 3); 2020 c. 1, Sch. 5 para. 1(1)
- F13** Sch. 12 para. 2(9) omitted (31.12.2020) by virtue of [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **106(4)** (with transitional provisions in [S.I. 2019/710](#), regs. 1(4), 36, Sch. para. 3); 2020 c. 1, Sch. 5 para. 1(1)

Modifications etc. (not altering text)

- C3** Sch. 12 paras. 2, 3 applied (with modifications) by [S.I. 2001/3626](#), art. 5(2A) (as inserted (1.9.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) \(No. 3\) Order 2013 \(S.I. 2013/1765\)](#), arts. 1, **5(4)(c)**)
- C4** Sch. 12 para. 2 modified (31.12.2020) by [The Financial Services \(Miscellaneous\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/710\)](#), reg. 1(3), Sch. para. 4, 5, **7(3)** (as amended by [S.I. 2020/1301](#), regs. 1, 3, **Sch. para. 43(m)(v)(vii)**); 2020 c. 1, **Sch. 5 para. 1(1)**

Certificates as to ^{F14}consultation]

Textual Amendments

- F14** Word in Sch. 12 para. 3 heading substituted (1.1.2016) by [The Solvency 2 Regulations 2015 \(S.I. 2015/575\)](#), reg. 1(2), **Sch. 1 para. 18(4)**

^{F15}3

Textual Amendments

- F15** Sch. 12 paras. 3-6 omitted (31.12.2020) by virtue of [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **107** (with transitional provisions in [S.I. 2019/710](#), regs. 1(4), 36, Sch. paras. 3, 4, 5, 7(4)); 2020 c. 1, Sch. 5 para. 1(1)

Certificates as to consent

^{F15}3A.

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Textual Amendments

F15 Sch. 12 paras. 3-6 omitted (31.12.2020) by virtue of [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **107** (with transitional provisions in S.I. 2019/710, regs. 1(4), 36, Sch. paras. 3, 4, 5, 7(4)); 2020 c. 1, Sch. 5 para. 1(1)

Certificates as to long-term business

F15₄

Textual Amendments

F15 Sch. 12 paras. 3-6 omitted (31.12.2020) by virtue of [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **107** (with transitional provisions in S.I. 2019/710, regs. 1(4), 36, Sch. paras. 3, 4, 5, 7(4)); 2020 c. 1, Sch. 5 para. 1(1)

Certificates as to general business

F15₅

Textual Amendments

F15 Sch. 12 paras. 3-6 omitted (31.12.2020) by virtue of [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **107** (with transitional provisions in S.I. 2019/710, regs. 1(4), 36, Sch. paras. 3, 4, 5, 7(4)); 2020 c. 1, Sch. 5 para. 1(1)

Certificates as to legality and as to consent

F15_{5A}

Textual Amendments

F15 Sch. 12 paras. 3-6 omitted (31.12.2020) by virtue of [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **107** (with transitional provisions in S.I. 2019/710, regs. 1(4), 36, Sch. paras. 3, 4, 5, 7(4)); 2020 c. 1, Sch. 5 para. 1(1)

Interpretation of Part I

F15₆

Textual Amendments

F15 Sch. 12 paras. 3-6 omitted (31.12.2020) by virtue of [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **107** (with transitional provisions in S.I. 2019/710, regs. 1(4), 36, Sch. paras. 3, 4, 5, 7(4)); 2020 c. 1, Sch. 5 para. 1(1)

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PART II

BANKING BUSINESS TRANSFER SCHEMES

[^{F167} For the purposes of section 111(2) the appropriate certificate, in relation to a banking business transfer scheme, is a certificate under paragraph 8.]

Textual Amendments

F16 Sch. 12 para. 7 substituted (31.12.2020) by [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **108**; 2020 c. 1, Sch. 5 para. 1(1)

Certificates as to financial resources

- 8 (1) A certificate under this paragraph is one given by the relevant authority and certifying that, taking the proposed transfer into account, the transferee possesses, or will possess before the scheme takes effect, adequate financial resources.
- (2) “Relevant authority” means—
- [^{F17}(a) if the transferee is a PRA-authorized person with a Part 4A permission ^{F18}..., the PRA;
 - (aa) if the transferee is a person with Part 4A permission ^{F19}... but is not a PRA-authorized person, the FCA;]
 - ^{F20}(b)
 - (c) if the transferee does not fall within paragraph [^{F21}(a) or (aa)], the authority responsible for the supervision of the transferee’s business in the place in which the transferee has its head office.
- (3) In sub-paragraph (2), any reference to a transferee of a particular description of person includes a reference to a transferee who will be of that description if the proposed banking business transfer scheme takes effect.

Textual Amendments

- F17** Sch. 12 para. 8(2)(a)(aa) substituted for Sch. 12 para. 8(2)(a) (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 6 para. 16(a)** (with Sch. 20); S.I. 2013/423, art. 3, Sch.
- F18** Words in Sch. 12 para. 8(2)(a) omitted (31.12.2020) by virtue of [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **109(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F19** Words in Sch. 12 para. 8(2)(aa) omitted (31.12.2020) by virtue of [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **109(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F20** Sch. 12 para. 8(2)(b) omitted (31.12.2020) by virtue of [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **109(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F21** Words in Sch. 12 para. 8(2)(c) substituted (31.12.2020) by [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **109(c)**; 2020 c. 1, Sch. 5 para. 1(1)

Certificates as to consent of home state regulator

^{F22}9

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Textual Amendments

- F22** Sch. 12 para. 9 omitted (31.12.2020) by virtue of [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **110**; 2020 c. 1, Sch. 5 para. 1(1)

[^{F23}PART 2A

RECLAIM FUND BUSINESS TRANSFER SCHEMES

Textual Amendments

- F23** Sch. 12 Pt. 2A inserted (12.3.2009) by [Dormant Bank and Building Society Accounts Act 2008 \(c. 31\)](#), ss. 15, 31(1)(2), **Sch. 2 para. 5**; S.I. 2009/490, **art. 2** (with art. 3)

Certificate as to financial resources

9A [For the purposes of section 111(2) the appropriate certificate, in relation to a reclaim ^{F24}(1)] fund business transfer scheme, is a certificate given by the [^{F25}relevant regulator] certifying that, taking the proposed transfer into account, the transferee possesses, or will possess before the scheme takes effect, adequate financial resources.

[In this paragraph the “relevant regulator” means—

- ^{F26}(2) (a) if the transferee is a PRA-authorized person, the PRA;
(b) in any other case, the FCA.]]

Textual Amendments

- F24** Sch. 12 para. 9A renumbered as Sch. 12 para. 9A(1) (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 6 para. 18(2)** (with Sch. 20); S.I. 2013/423, art. 3, Sch.
F25 Words in Sch. 12 para. 9A(1) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 6 para. 18(3)** (with Sch. 20); S.I. 2013/423, art. 3, Sch.
F26 Sch. 12 para. 9A(2) inserted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 6 para. 18(4)** (with Sch. 20); S.I. 2013/423, art. 3, Sch.

[^{F27}PART 2B

RING-FENCING TRANSFER SCHEMES

Textual Amendments

- F27** Sch. 12 Pt. 2B inserted (1.3.2014) by [Financial Services \(Banking Reform\) Act 2013 \(c. 33\)](#), s. 148(5), **Sch. 1 para. 13**; S.I. 2014/377, art. 2(1)(a), Sch. Pt. 1

Appropriate certificates

[^{F28}9B For the purposes of section 111(2) the appropriate certificates, in relation to a ring-fencing transfer scheme, are—

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- (a) a certificate given by the PRA certifying its approval of the application, and
- (b) a certificate under paragraph 9C.]

Textual Amendments

F28 Sch. 12 para. 9B substituted (31.12.2020) by [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **111**; 2020 c. 1, Sch. 5 para. 1(1)

Certificate as to financial resources

- 9C (1) A certificate under this paragraph is one given by the relevant authority and certifying that, taking the proposed transfer into account, the transferee possesses, or will possess before the scheme takes effect, adequate financial resources.
- (2) “Relevant authority” means—
- (a) if the transferee is a PRA-authorized person with a Part 4A permission ^{F29} ..., the PRA;
 - ^{F30}(b)
 - (c) if the transferee does not fall within paragraph (a) ^{F31} ... but is subject to regulation in a country or territory outside the United Kingdom, the authority responsible for the supervision of the transferee's business in the place in which the transferee has its head office;
 - (d) in any other case, the FCA.
- (3) In sub-paragraph (2), any reference to a transferee of a particular description includes a reference to a transferee who will be of that description if the proposed ring-fencing transfer scheme takes effect.]

Textual Amendments

- F29** Words in Sch. 12 para. 9C(2)(a) omitted (31.12.2020) by virtue of [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **112(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F30** Sch. 12 para. 9C(2)(b) omitted (31.12.2020) by virtue of [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **112(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F31** Words in Sch. 12 para. 9C(2)(c) omitted (31.12.2020) by virtue of [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **112(c)**; 2020 c. 1, Sch. 5 para. 1(1)

Certificate as to consent of home state regulator

^{F32}9D

Textual Amendments

F32 Sch. 12 para. 9D omitted (31.12.2020) by virtue of [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **113**; 2020 c. 1, Sch. 5 para. 1(1)

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PART III

INSURANCE BUSINESS TRANSFERS EFFECTED OUTSIDE THE UNITED KINGDOM

- 10 (1) This paragraph applies to a proposal to execute under provisions corresponding to Part VII in a country or territory other than the United Kingdom an instrument transferring all the rights and obligations of the transferor under general or long-term insurance policies, or under such descriptions of such policies as may be specified in the instrument, to the transferee if [^{F33}the condition in sub-paragraph (4)] is met in relation to it.
- ^{F34}(2)
- ^{F35}(3)
- [^{F36}(4) The transferor is a Swiss general insurer and the transferee is [^{F37}a UK authorised person as defined in section 105(8)].]
- (5) In relation to a proposed transfer to which this paragraph applies, the [^{F38}regulator which supervises the transferee's margin of solvency] may, if it is satisfied that the transferee possesses the necessary margin of solvency, issue a certificate to that effect.
- (6) “Necessary margin of solvency” means the margin of solvency which the transferee, taking the proposed transfer into account, is required by the [^{F39}FCA or the PRA] to maintain.
- (7) “Swiss general insurer” has the same meaning as in paragraph 2.
- (8) “General policy” means a policy evidencing a contract which, if it had been effected by the transferee, would have constituted the carrying on of a regulated activity consisting of the effecting of contracts of general insurance.
- (9) “Long-term policy” means a policy evidencing a contract which, if it had been effected by the transferee, would have constituted the carrying on of a regulated activity consisting of the effecting of contracts of long-term insurance.

Textual Amendments

- F33** Words in Sch. 12 para. 10(1) substituted (31.12.2020) by The Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/632), regs. 1(3), **114(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F34** Sch. 12 para. 10(2) omitted (31.12.2020) by virtue of The Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/632), regs. 1(3), **114(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F35** Sch. 12 para. 10(3) omitted (31.12.2020) by virtue of The Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/632), regs. 1(3), **114(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F36** Sch. 12 para. 10(4) substituted (1.1.2016) by The Solvency 2 Regulations 2015 (S.I. 2015/575), reg. 1(2), **Sch. 1 para. 18(7)(b)**
- F37** Words in Sch. 12 para. 10(4) substituted (31.12.2020) by The Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/632), regs. 1(3), **114(c)**; 2020 c. 1, Sch. 5 para. 1(1)
- F38** Words in Sch. 12 para. 10(5) substituted (1.4.2013) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 6 para. 19(3)** (with Sch. 20); S.I. 2013/423, art. 3, Sch.
- F39** Words in Sch. 12 para. 10(6) substituted (1.4.2013) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 6 para. 19(4)** (with Sch. 20); S.I. 2013/423, art. 3, Sch.

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