BANK OF ENGLAND
PRUDENTIAL REGULATION AUTHORITY

Publication

Statement of Policy

The PRA's approach to insurance business transfers

January 2022

(Updating April 2015)

BANK OF ENGLAND
PRUDENTIAL REGULATION
AUTHORITY

Statement of Policy

The PRA's approach to insurance business transfers

Prudential Regulation Authority | 20 Moorgate | London EC2R 6DA

Contents

1 Introduction

1.1 The purpose of this statement of policy is to set out the approach and expectations of the Prudential Regulation Authority (PRA) in relation to transfers of insurance business under Part VII of the Financial Services and Markets Act 2000 (FSMA), insurance business transfers from Switzerland, and friendly society transfer of engagements and amalgamations. It is relevant to insurance firms and friendly societies authorised by the PRA.

1.2 While this statement sets out the PRA's expectations in relation to insurance business transfers, the PRA will consult with the Financial Conduct Authority (FCA) in advance of making certain decisions in respect of a transfer and will seek to avoid introducing, inadvertently, incompatible requirements.[1] The FCA has also set out its own approach to and expectations in respect of insurance business transfers in SUP 18 of the FCA Handbook and FCA Final Guidance (FG) 18/4: The FCA's approach to the review of Part VII insurance business transfers.[2]

1.3 Chapter 2 is aimed at any firm, or one or more underwriting members of the Society of Lloyd's, or one or more persons who have ceased to be such a member, proposing to make an application to transfer the whole or part of its business by an insurance business transfer scheme under section 107 of the FSMA or to accept such a transfer. Chapter 2 is also aimed at the independent expert approved by the PRA to make the scheme report under section 109 of FSMA.

1.4 Chapter 3 is aimed at any firm proposing to accept transfers of insurance business from Switzerland.

1.5 Chapter 4 is aimed at any friendly societies proposing to amalgamate under section 85 of the Friendly Societies Act 1992, to any friendly society proposing to transfer engagements under section 86 of that Act to another person or body of persons and to any person or body of persons (whether or not a friendly society) proposing to accept such a transfer.

1.6 Chapter 2 should be read in conjunction with Part VII of FSMA, all relevant secondary legislation[3] and the high level expectations outlined in 'The Prudential Regulation Authority's approach to insurance supervision'.[4] Chapter 3 should be read in conjunction with the Friendly Societies Act 1992 and *'The Prudential Regulation Authority's approach to insurance supervision'.* [5]

1.7 In this statement, reference to 'the regulators' means the PRA and the Financial Conduct Authority (FCA).

---

1 See July 2019: https://www.bankofengland.co.uk/-/media/boe/files/memoranda-of-understanding/fca-and-bank-prudential-july-2019.pdf.

2 https://www.fca.org.uk/publications/finalised-guidance/fg18-04-review-part-vii-insurance-business-transfers.

3 Including but not limited to, the Financial Services and Markets Act 2000 (Control of Business Transfers) (Requirements on Applications) Regulations 2001 (SI2001/3625), the Financial Services and Markets Act 2000 (Control of Transfers of Business Done at Lloyd's) Order 2001 (SI 2001/3626), the amendments to FSMA made by the Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019 (SI 2019/632) and, if relevant, the transitional provision in the Financial Services (Miscellaneous)(Amendment) (EU Exit) Regulations 2019 (SI 2019/710).

4 The Prudential Regulation Authority's approach to insurance supervision, October 2018: https://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/approach/insurance-approach-2018.pdf.

5 *Ibid*, footnote 3.

2 Transfers of insurance business under Part VII of the Financial Services and Markets Act 2000

Introduction to insurance business transfers

2.1 Insurance business transfers that are subject to Part VII of FSMA[6] must be approved by the court under section 111 of FSMA. The following pieces of statutory legislation also apply:

(1) The Financial Services and Markets Act 2000 (Control of Business Transfers) (Requirements on Applicants) Regulations 2001 (SI 2001/3625) (the Business Transfers Regulations).

(2) The Financial Services and Markets Act 2000 (Control of Transfers of Business Done at Lloyd's) Order 2001(SI 2001/3626) (the Lloyd's Order).

These regulations set out minimum requirements for publicising schemes, notifying certain interested parties directly (subject to the discretion of the court), and giving information to anyone who requests it.

2.2 An insurance business transfer scheme is defined in section 105 of FSMA and the definition includes transfers from underwriting members and former members of Lloyd's. The business transferred may include liabilities and potential liabilities on expired policies, liabilities on current policies and liabilities on contracts to be written in the period until the transfer takes effect. The parties to schemes approved under foreign legislation or involving novations of reinsurance or a captive insurer can apply to the court for an order sanctioning the scheme.

2.3 The PRA is likely to consider a novation or a number of novations as amounting to an insurance business transfer only if their number or value were such that the novation was to be regarded as a transfer of part of the business. A novation is an agreement between the policyholder and two insurers whereby a contract with one insurer is replaced by a contract with the other. If an insurer agrees to meet the liabilities (this may include undertaking the administration of the policies) of another insurer by means of a reinsurance contract, including Lloyd's reinsurance to close, this would not constitute an insurance business transfer because the contractual liability remains with the original insurer; nor would an arrangement whereby an insurer offers to renew the policies of another insurer on their expiry date.

2.4 Under section 112 of FSMA, the court has wide discretion to transfer property and liabilities to the transferee and to make orders in relation to incidental, consequential and supplementary matters.

2.5 Amalgamations of friendly societies and transfers of engagements from friendly societies to other bodies (whether or not friendly societies) are governed by Part VIII of the Friendly Societies Act 1992 and Schedule 15 to that Act applies.

2.6 Legislation in respect of other transactions, does not negate the requirements under Part VII of FSMA. It is for the firms participating in such transactions to determine whether or not the proposed transfer gives rise to an insurance business transfer.

---

6 As amended by the Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019 (SI 2019/632)

The regulators

2.7 Part VII of FSMA prescribes certain statutory functions in relation to insurance business transfer schemes for both the PRA and the FCA. In accordance with FSMA, the PRA and the FCA maintain a Memorandum of Understanding,[7] which describes each regulator's role in relation to the exercise of its functions under FSMA relating to matters of common regulatory interest and how each regulator intends to ensure the co-ordinated exercise of such functions.[8] Under the Memorandum of Understanding, the PRA will lead the process for insurance business transfers and will be responsible for specific regulatory functions connected with Part VII applications, including the provision of certificates under section 111 of FSMA.

2.8 By virtue of section 110 of FSMA, both the PRA and the FCA are entitled to be heard in the proceedings. The Memorandum of Understanding[9] confirms that both the PRA and the FCA may provide the court with oral or written representations setting out their views on the proposed transfer scheme, for example, by way of a report to the court. The PRA's usual practice is to prepare reports for the court.

2.9 As set out in the Memorandum of Understanding, before nominating or approving an independent expert under section 109(2)(b) of FSMA or approving the form of a scheme report under section 109(3) the PRA will first consult the FCA. Further, the PRA will consult appropriately with the FCA before approving the notices required under the Business Transfers Regulations.

2.10 Transfers may have both positive and negative effects on individual policyholders. A procedural concern for the PRA will be to satisfy itself that each policyholder has adequate information and reasonable time within which to determine whether or not they are adversely affected and, if adversely affected, whether to make representations to the court. When reaching its view, the PRA will act in a way it considers most appropriate to advancing its own statutory objectives and will consult with the FCA.

The PRA's role in transfers of insurance business under Part VII of FSMA

2.10A The PRA has specific regulatory functions connected with insurance business transfer schemes required by FSMA. This role includes approving the independent expert and the form of the scheme report (these functions are described in further detail below). The PRA also assesses insurance business transfer schemes against its statutory objectives. The PRA's approach to assessing schemes is outlined in 2.55-2.73.

Initial steps

2.11 The PRA will consult with the FCA both at the outset and throughout the insurance business transfer process.

2.12 When an insurance business transfer scheme is being considered, the scheme promoter(s) should approach the regulators, and any relevant overseas regulators at an early stage, in order to enable the relevant regulators to consider the issues that are likely to arise, and to enable a practical timetable for the scheme to be established.

---

7 https://www.bankofengland.co.uk/-/media/boe/files/memoranda-of-understanding/fca-and-bank-prudential-july-2019.pdf

8 However, note that to the extent that a proposed transfer relates to with-profits policies, the roles and responsibilities set out in the With-Profits, Memorandum of Understanding between the PRA and FCA will also apply: https://www.bankofengland.co.uk/-/media/boe/files/memoranda-of-understanding/fca-and-pra-supervision-of-with-profits-policies.pdf.

9 https://www.bankofengland.co.uk/-/media/boe/files/memoranda-of-understanding/fca-and-bank-prudential-july-2019.pdf.

2.13 The initial documentary information on the scheme should be provided to the regulators, and should include its broad outline and its purpose. The initial documentary information provided by the promoter(s) should outline the type and size of transferring business, the proposed transferor(s) and transferee(s), the proposed timelines, the purpose of the transfer, details of any related transactions or wider restructuring plans, and any other relevant information regarding the proposed scheme. The PRA may indicate to the promoter(s) how closely it wishes to monitor the progress of the scheme, including the extent to which it wishes to see draft documentation.

2.13A Where a scheme involves a book of non-life insurance business in run-off, with gross technical provisions of more than £100 million,[10] and where the scheme will increase the transferee's technical provisions by more than 10%, the PRA intends to exercise its powers under s166 of FSMA in order to assess the operational readiness of the transferee to accept the scheme in most cases, except where it is able to satisfy itself by other means such as a recent s166 assessment in the same area or an equivalent assessment by an independent body or regulator. This assessment would be commissioned prior to the nomination of the independent expert.

2.14 The promoters should ensure that any relevant fees for both the PRA and FCA are paid directly to the FCA before any application will be considered.

2.15 Where a transfer involves a significant restructuring the PRA may levy a Special Project Fee for restructuring in accordance with the PRA Rulebook.

Independent expert

Qualifications

2.16 Under section 109(2) of FSMA a scheme report may only be made by a person:

(1) appearing to the PRA to have the skills necessary to enable them to make a proper report; and

(2) nominated or approved for the purpose by the PRA.

2.17 The regulators expect the independent expert making the scheme report to be a neutral person, who:

(1) is independent, that is, any direct or indirect interest or connection they have or have had in either the transferor or transferee should not be such as to prejudice their status in the eyes of the court;

(1A) works for an employer that is independent, that is, any direct or indirect interest or connections they have in either the transferor(s) or transferee(s) should not be such as to prejudice the independent expert's status in the eyes of the court;

(2) has relevant knowledge, both practical and theoretical, and experience of the types of insurance business transacted by the transferor and transferee; and

(2A) has the appropriate time and capacity to undertake the work required to make the scheme report to a standard which allows it to be approved by the PRA having consulted with the FCA.

10 If the parties have differing valuations of the technical provisions being transferred, the higher valuation will be used in determining whether the threshold is triggered.

The principles[11] set out in PRA Supervisory Statement SS7/14 also apply to the independent expert.

2.18 For a transfer of long-term insurance business the independent expert should be an actuary familiar with the role and responsibilities of the actuarial function holder. If the relevant insurance business includes with-profits insurance business, the independent expert should be familiar with the role and responsibilities of a with-profits actuary.

2.19 For a transfer of general insurance business the independent expert should normally be competent at assessing technical provisions and the uncertainties and volatility of the liabilities they represent (such as an actuary). Exceptionally, where issues other than the ability of the transferee to meet the liabilities to be transferred are much more significant in assessing the likely effects of the scheme, this criterion might not be applied. In this case the independent expert would be expected to take advice from an appropriately qualified practitioner about the adequacy of the financial resources of the transferee.

2.20 The independent expert would not normally be expected to be knowledgeable about:

(1) general insurance business if the business being transferred is long-term insurance business only; or

(2) about long-term insurance business if the business being transferred is general insurance business only.

However, where either the transferor or transferee is a composite, they should understand the relevance of the general insurance business to the security of the long-term insurance business policyholders, and vice versa, and may need to seek independent specialist advice. It may also be appropriate for the independent expert to seek independent specialist advice where a scheme contains specialist or niche lines of business (and where they have done so, indicate the extent of the reliance on that advice).

Appointment

2.21 The PRA may only nominate or approve an appointment after consultation with the FCA.

2.22 The suitability of a person to act as an independent expert depends on the nature of the scheme and the firms concerned. On the basis of the initial documentary information supplied by the scheme promoter(s) (and any other knowledge it has of the circumstances and the firms), the regulators will consider what skills are needed to make a proper report on the scheme and what criteria should therefore be applied to the choice of independent expert.

2.23 Under section 107(2) of FSMA, the application to the court may be made by the transferor, the transferee or both. When reasonably practical, the intended applicant should choose their nominee for independent expert, in the light of any criteria advised by the PRA. The intended applicant(s) should then advise the PRA of their choice, unless the PRA wishes them to defer nomination or to make its own nomination. The notification should be accompanied by reasons why the party considers the nominee to be a suitable person to act as independent expert. Relevant details provided should include information about the nominee's experience and qualifications; the proposed terms and conditions of the nominee's appointment, including any remuneration arrangements; any current or previous professional or commercial arrangements with the

11 SS7/14, 'Reports by skilled persons', June 2014: https://www.bankofengland.co.uk/prudential-regulation/publication/2014/reports-by-skilled-persons-ss.

transferor, transferee or their associated companies, including the remuneration (direct or indirect) for those arrangements with the nominee and/or with any professional firm or company in which the nominee has or has had any interest; and information regarding their time and capacity to undertake the work.

2.24 The PRA may wish to have preliminary discussions with the nominee about the transfer before the PRA determines if they are suitably qualified to address issues arising from the transfer. The PRA, in consultation with the FCA, will consider the suitability of the nominee and will inform the firm that nominated them whether they have been approved. Since the nature of the scheme is a factor in determining the suitability of the nominee, the PRA cannot approve a nominee before the broad outlines of the scheme have been determined.

2.25 The PRA may itself nominate the independent expert (following consultation with the FCA), either where it indicates that a nomination is not required by the parties, or where it does not approve the parties' own nomination. In either case, the PRA will inform the promoters of its nominee.

2.26 The PRA expects firms to co-operate fully with the independent expert and provide them with access to all relevant information and appropriate staff, in a timely manner.

2.26A The role of the independent expert is ongoing, and continues until the scheme has become effective or until the point the independent expert informs the regulators that they formally withdraw from the appointment. Therefore, the independent expert should continue to assess their independence throughout the Part VII process and promptly notify the regulators where they perceive there has been a change.

Scheme report

2.27 Under section 109 of FSMA, a scheme report must accompany an application to the court to approve an insurance business transfer scheme. This report must be made in a form approved by the PRA (following consultation with the FCA).

2.27A The PRA's assessment of whether to approve the form of the scheme report considers if the report is in an appropriate form to be submitted to the court to assist its assessment of the scheme. The PRA expects to take into consideration whether the report:

(1) covers in sufficient detail all the issues that appear to the PRA to be relevant; and

(2) incorporates appropriate reasoning.

2.27B The PRA would generally expect a scheme report to contain at least the information specified in 2.30 and 2.32–2.33 below before it would be able to consider approving the form of the report.

2.28 When the PRA has approved the form of a scheme report, the scheme promoter(s) may expect to receive written confirmation to that effect.

2.29 There may be matters relating to the scheme or the parties to the transfer that the regulators wish to draw to the attention of the independent expert. The regulators may also wish the report to address particular issues. The independent expert would therefore be expected to contact the regulators at an early stage to establish whether there are such matters or issues. The independent expert should form their own opinion on such issues, which may differ from the opinion of the regulators.

2.30 The scheme report should comply with the applicable rules on expert evidence and should as a minimum contain the following information:

(1) who appointed the independent expert and who is bearing the costs of that appointment;

(2) confirmation that the independent expert has been approved or nominated by the PRA;

(3) a statement of the independent expert's professional qualifications and (where appropriate) descriptions of the experience that makes them appropriate for the role;

(4) whether the independent expert, or their employer, has, or has had, direct or indirect interest in any of the parties which might be thought to influence their independence, and details of any such interest;

(5) the scope of the report;

(6) the purpose of the scheme;

(7) a summary of the terms of the scheme in so far as they are relevant to the report;

(8) what documents, reports and other material information the independent expert has considered in preparing the report, whether they have identified any material issues with the information provided and whether any information that they requested has not been provided;

(8A) any firm-specific information the independent expert considers should be included, where the applicant(s) consider it inappropriate to disclose such information, then the independent expert should explain this and the reasons why disclosure has not been possible;

(9) the extent to which the independent expert has relied on:

(a) information provided by others; and

(b) the judgement of others;

(10) the people the independent expert has relied on and why, in their opinion, such reliance is reasonable;

(11) their opinion of the likely effects of the scheme on policyholders (this term is defined to include persons with certain rights and contingent rights under the policies), distinguishing between:

(a) transferring policyholders;

(b) policyholders of the transferor whose contracts will not be transferred;

(c) policyholders of the transferee; and

(d) any other relevant policyholder groupings within the above that the independent expert has identified.

(12) their opinion on the likely effects of the scheme on any reinsurer of a transferor, whose contracts of reinsurance are to be transferred by the scheme;

(12A) their definition of 'material adverse' effect;

(13) what matters (if any) that the independent expert has not taken into account or evaluated in the report that might, in their opinion, be relevant to policyholders' consideration of the scheme;

(14) for each opinion and conclusion that the independent expert expresses in the report, an outline of their reasons; and

(15) an outline of permutations if a scheme has concurrent or linked schemes, and analysis of the likely effects of the permutations on policyholders.

2.31 The purpose of the scheme report is to inform the court and the independent expert, therefore, has a duty to the court. However reliance will also be placed on it by policyholders, reinsurers, and others affected by the scheme and by the regulators. The amount of detail that it is appropriate to include will depend on the complexity of the scheme, the materiality of the details themselves and the circumstances.

2.31A The independent expert is ultimately responsible and accountable for the opinions and conclusions expressed in the scheme report, including where reliance has been placed on others. Therefore where the independent expert has placed reliance on others, they must be clear why they are content to do so.

2.32 The summary of the terms of the scheme should include:

(1) a description of any reinsurance arrangements that it is proposed should pass to the transferee under the scheme; and

(2) a description of any guarantees or additional reinsurance that will cover the transferred business or the business of the transferor that will not be transferred.

2.33 The independent expert's opinion of the likely effects of the scheme should be assessed at both firm and policyholder level[12] and should:

(1) include a comparison of the likely effects if it is or is not implemented;

(2) state whether the firm(s) considered alternative arrangements and, if so, what were the arrangements and why were they not proceeded with;

(2A) analyse and conclude on how groups of policyholders are affected differently by the scheme, and whether such effects are material in the independent expert's opinion. Where the independent expert considers such effects to be material, they should explain how this affects their overall opinion;

(3) include the independent expert's views on:

12 Independent experts when forming their assessment of the effects of a scheme at the policyholder level should have regard to whether the scheme may give rise to different prudential impacts for different types of policyholders for example unit-linked policyholders and with-profit policyholders.

(a) the likely effect of the scheme at firm and policyholder level on the ongoing security of policyholders' contractual rights, including an assessment of the stress and scenario testing carried out by the firm(s) and of the potentially available management actions that have been considered by the board of the firm(s) and the likelihood and potential effects of the insolvency of the transferor(s) and transferee(s). The independent expert should also consider whether it is necessary to conduct their own stress and scenario testing or to request the firm(s) to conduct further stress and scenario testing ;

(aa) the transferor's and transferee's respective abilities to measure, monitor, and manage risk and to conduct their business prudently. This includes their ability to take corrective action in the even there is a material deterioration of their balance sheets;

(aaa) the likely effects of the scheme, in relation to the likelihood of future claims being paid, with consideration of not only the regulatory capital regime, but also any other risks not falling within the regime. This would include those likely to emerge after the first year or that are not fully captured by the regulatory capital requirements;

(aaaa) whether the transferee'(s') existing (or proposed, where applicable) capital model would remain appropriate following the scheme;

(b) the likely effects of the scheme on matters such as investment management, capital management, new business strategy, claims reserving, administration, claims handling, expense levels and valuation bases for both transferor(s) and transferee(s) in relation to:

(i) the security of policyholders' contractual rights,

(ii) levels of service provided to policyholders,

(iii) for long-term insurance business, the reasonable expectations of policyholders;

(c) the likely cost and tax effects of the scheme, in relation to how they may affect the security of policyholders' contractual rights, or for long-term insurance business, their reasonable expectations; and

(d) the likely effects at firm and policyholder level due to any change in risk profiles and/or exposures resulting from the scheme or related transactions.

2.34 The independent expert is not expected to comment on the likely effects on new policyholders, that is those whose contracts are entered into after the effective date of the transfer.

2.35 For any mutual company involved in the scheme, the report should:

(1) describe the effect of the scheme on the proprietary rights of members of the company, including the significance of any loss or dilution of the rights of those members to secure or prevent further changes which could affect their entitlements as policyholders;

(2) state whether, and to what extent, members will receive compensation under the scheme for any diminution of proprietary rights; and

(3) comment on the appropriateness of any compensation, paying particular attention to any differences in treatment between members with voting rights and those without.

2.36 For a scheme involving long-term insurance business, the report should:

(1) describe the effect of the scheme on the nature and value of any rights of policyholders to participate in profits;

(2) if any such rights will be diluted by the scheme, describe how any compensation offered to policyholders as a group (such as the injection of funds, allocation of shares, or cash payments) compares with the value of that dilution, and whether the extent and method of its proposed division is equitable as between different classes and generations of policyholders;

(3) describe the likely effect of the scheme on the approach used to determine:

(a) the amounts of any non-guaranteed benefits such as bonuses and surrender values; and

(b) the levels of any discretionary charges;

(4) describe what safeguards are provided by the scheme against a subsequent change of approach to these matters (in 2.36(1)–(3)) that could act to the detriment of existing policyholders of either firm;

(5) include the independent expert's overall assessment of the likely effects of the scheme on the reasonable expectations of long-term insurance business policyholders;

(6) state whether the independent expert is satisfied that for each firm, the scheme is equitable to all classes and generations of its policyholders; and

(7) state whether, in the independent expert's opinion, for each relevant firm the scheme has sufficient safeguards (such as principles of financial management or certification by a with-profits actuary or actuarial function holder) to ensure that the scheme operates as presented.

2.37 Where the transfer forms part of a wider chain of events or corporate restructuring, it may not be appropriate to consider the transfer in isolation and the independent expert should seek sufficient explanations on corporate plans to enable them to understand the wider picture. Likewise, the independent expert will also need information on the operational plans of the transferee and, if only part of the business of the transferor is transferred, of the transferor. These will need to have sufficient detail to allow them to understand in broad terms how the business will be run. The PRA expects the independent expert to comment on how any such plans (including other insurance business transfers involving the parties to the scheme) would impact the likely effects of the scheme at firm and policyholder level.

2.38 A transfer may provide for benefits to be reduced for some or all of the policies being transferred. This might happen if the transferor is in financial difficulties. If there is such a proposal, the independent expert should report on what reductions they consider ought to be made, unless:

(1) the information required is not available and will not become available in time for their report, for instance it might depend on future events; or

(2) they are unable to report on this aspect in the time available.

Under such circumstances, the transfer might be urgent and it might be appropriate for the reduction in benefits to take place after the event, by means of an order under section 112 of FSMA. The PRA considers any such reductions having regard to its statutory objectives. Section 113 of FSMA allows the court, on the application of the PRA, to appoint an independent actuary to report on any such post-transfer reduction in benefits.

2.39 The PRA expects the independent expert to provide a supplementary report for the final court hearing. Any supplementary reports will form part of the scheme report required to be produced under section 109 of FSMA and must also comply with 2.30-2.37.

2.40 The purpose of the supplementary report is for the independent expert to provide an update on any relevant new information or events that have occurred since the date of the scheme report and to provide an opinion on whether they have affected the transfer. Matters that should be considered include, but are not limited to:

(1) the most recent audited and unaudited available financial information in respect of the transferor and transferee, which the PRA would expect to have been internally validated;

(2) any recent economic, financial or regulatory developments; and

(3) any representations made by policyholders or affected persons that raise issues not previously considered in the scheme report.

2.40A In circumstances where there has been a duration between the directions hearing and the final court hearing of six months or more, it may be appropriate for the independent expert to produce an updated scheme report rather than a supplementary report. The PRA would assess this report as set out in 2.27A.

Consultation with foreign regulators

2.41 [Deleted]

2.42 [Deleted]

2.43

(1) If the transferee is a Swiss general insurance company, it will be necessary for the PRA to obtain from the Swiss Financial Market Supervisory Authority (FINMA) or any successor Swiss regulatory body confirmation that the firm meets Switzerland's solvency margin requirements after the transfer.

(1A) If the scheme will result in the business being carried on from an establishment of the transferee in Gibraltar, it will be necessary for the PRA to obtain from the Gibraltar Financial Services Commission (or any successor regulator) confirmation that it meets Gibraltar's solvency margin requirements.

(2) [Deleted]

(3) [Deleted]

2.44 [Deleted]

2.45 [Deleted]

2.46 [Deleted]

2.47 [Deleted]

2.48 [Deleted]

Notice provisions

2.49 Under the Business Transfers Regulations, unless the court directs otherwise, notice of the application must be sent to all policyholders of the parties and reinsurers (or a person acting on its behalf) any of whose contracts of reinsurance are proposed to be transferred as part of the insurance business transfer scheme. It may also be appropriate to give notice to others affected, for example, to anyone with an interest in the policies being transferred who has notified the transferor of their interest. This notice, along with other communications and advertising by or and on behalf of the firm(s), should provide details of how and when any representations by affected parties should be made in order to be considered by the court.

2.50 The Business Transfers Regulations require that notice of the application must be published in:

(1) the London, Edinburgh, and Belfast *Gazettes*; and

(2) unless the court directs otherwise, in accordance with requirements in those regulations.

The PRA may consider wider publication appropriate in some circumstances.

2.51 The Business Transfer Regulations require that the PRA approve in advance the notices sent to policyholders and published in the press.

2.52 Where a transfer involves underwriting members of Lloyd's as transferor or transferee, any notice requirements of the Society will also apply.

2.53 The PRA is entitled to be heard by the court on any application for a transfer. A consideration for the PRA in determining whether to oppose a transfer would be its view on whether adequate steps had been taken to tell policyholders and, as appropriate, other affected persons, about the transfer and whether they had adequate information and time to consider it. The PRA expects policyholders to be notified as soon as possible after the directions hearing and would not normally consider adequate a period of less than six weeks between sending notices to policyholders and the date of the court hearing. Therefore it would be sensible, before requesting from the court a waiver of the publication requirements or the requirement to send statements direct to policyholders, to consult the PRA and FCA on its views about what waivers might be appropriate and what substitute arrangements might be made. The PRA and FCA will take into account the practicality and costs of sending notices to policyholders (especially for firms in financial difficulty), the likely benefits for policyholders of receiving notices and the efficacy of other arrangements proposed for informing policyholders (including additional advertising or, where appropriate, electronic communication).

2.54 [Deleted]

Statement to policyholders

2.55 It would normally be appropriate to include with the notice referred to in 2.49 above a statement setting out the terms of the scheme and containing a summary of the scheme report. Ideally every recipient should understand in broad terms from the summary how the scheme is likely to affect them. This objective will be most nearly achieved if the summary is clear and concise while containing sufficient detail for the purpose. A lengthy summary or one that was hard to understand would not be appropriate. The Business Transfers Regulations require the scheme report, the notice and the statement to be made available to anyone requesting them. The internet can be used for this purpose if it is suitable for the person making the request.

2.56 Where the transferee is a friendly society, the notice should include information about the meeting at which a special resolution in accordance with paragraph 7 of Schedule 12 to the Friendly Societies Act 1992 is to be voted on, including the date of the meeting, how notice of the meeting is to be given to members and the terms of the special resolution. After the meeting the friendly society should inform the PRA whether the special resolution has been passed. The court will also need to be informed, so one way of informing the PRA may be to include it in the affidavit to the court.

2.57 The PRA should be given the opportunity to comment on the statement referred to in 2.55 above before it is sent, unless the PRA informs the promoters in writing that this is not necessary.

Assessment of scheme and the PRA's report(s) to the court

2.58 The assessment of the scheme is a continuing process, starting when the scheme promoters first approach the regulators about a proposed scheme. Among the considerations that the PRA may consider when reviewing the scheme are:

(1) the potential risk posed by the transfer to its statutory objectives;

(2) the purpose of the scheme;

(3) how the security of policyholders' (who include persons with certain rights and contingent rights under the policies) contractual rights appears to be affected;

(3A) where the transferee is a firm in run-off, that the transferee has considered, and is able to demonstrate to the PRA that it has considered, the total uncertainty and risk over the time horizon of the runoff of a firm's obligations to its policyholders, including obligations relating to business agreed to be assumed following the relevant reference date ('the ultimate time horizon').[13] The analysis should include the business being transferred.

(4) how the scheme compares with possible alternatives, particularly those that do not require approval (whether by the court or the PRA);

(5) [Deleted]

(6) the compensation offered to policyholders for any loss of rights;

(7) how any reinsurer of a transferor, whose contracts of reinsurance are to be transferred by the scheme may be affected;

13 In line with PRA Supervisory Statement 26/15 'Solvency II: ORSA and the ultimate time horizon – non-life firms', January 2016, para 1.5: https://www.bankofengland.co.uk/prudential-regulation/publication/2015/solvency2-orsa-and-the-ultimate-time-horizon-non-life-firms-ss.

(8) how for other persons (besides policyholders and reinsurers) who have an interest in policies, their rights and the security of those rights appear to be affected;

(9) the opportunity given to policyholders and other persons affected by the scheme to consider the scheme, that is whether they have been properly notified, whether they have had adequate information and whether they have had adequate time to consider that information;

(10)the opinion of the independent expert;

(11) for a transfer that involves underwriting members of the Society of Lloyd's, or persons who have ceased to be such a member, as transferor or transferee, the effect on the Society;

(12) the views of other regulatory bodies consulted in connection with the proposed transfer; and

(13) any views expressed by policyholders, reinsurers or any other affected parties.

2.59 The scheme report will be an important factor in the view the PRA forms on a scheme. The court will place considerable reliance on the opinions of the independent expert and the reasons for them. However the PRA will form its own view taking into account other relevant information and having regard to its statutory objectives.

2.60 The PRA may exercise its other powers under FSMA, if it considers this a more effective method of advancing its statutory objectives.

2.61 The PRA is not required under its statutory objectives to object to a scheme merely because another scheme might have been in the better interests of policyholders, if the scheme itself is not adverse to their interests. There may be circumstances where the PRA might require a firm to consider or to implement an alternative scheme.

2.62 Where a transfer involves underwriting members of the Society of Lloyd's, or persons who have ceased to be such a member, as transferor or transferee, the PRA will consult the Society. Where the business of a syndicate is being transferred, the transfer involves all members or former members participating in the relevant syndicate years.

2.63 The Business Transfer Regulations require that copies of the application to the court, the scheme report and the statement for policyholders referred to in 2.55 above are also given to the regulators.

2.64 The provision of reports from the PRA to assist the court is standard practice. A first report will be provided to the court in advance of the directions hearing and a second report will be provided to the court in advance of the final hearing. Where additional information needs to be given to the court by the PRA, this will be provided using the most appropriate format for the circumstances in each case, and may include the provision of one or more additional reports to the court.

2.65 In order to enable the PRA to assess the scheme and to facilitate the process, the parties to the proposed scheme will need to ensure timely provision of all relevant information to the PRA for its consideration of that scheme.

2.66 To enable the PRA to assess the scheme and facilitate the provision to the court of a first report in advance of a directions hearing, near final versions of relevant documents will need to be made

available to the PRA as soon as practicable. Scheme promoters should be aware that the PRA expects near- final documents to be provided to it a minimum of six weeks before the scheme promoters submit documents to court ahead of the date set for the scheduled court hearing, except in exceptional circumstances, and where the PRA has agreed to this beforehand in writing. Where there is a failure to meet the PRA's expectations, the PRA will be less likely to be in a position to complete its assessment in advance of the hearing, which may result in the court hearing having to be postponed. Final versions of any such documents should be provided as soon as they are available.

2.67 Relevant documents in 2.66 will include:

(1) the scheme report;

(2) if the business to be transferred includes long-term insurance business, copies of reports on the transfer by the actuarial function holder and (if the insurance business includes with-profits business) the with-profits actuary of both firms;

(3) draft notices under article 3 of the Business Transfers Regulations;

(4) where a proposed transfer involves an underwriting member or former underwriting member of the Society as transferor or transferee, a copy of the resolution or certificate required by article 4 of Lloyd's Order 2001 (SI 2001/3626);

(5) any witness statements or other evidence that the parties to the proposed transfer intend to submit to the court for the directions hearing; and

(6) the draft order.

2.68 Matters included at 2.67 (5) above should include sufficient information to enable:

(1) [Deleted]

(2) the PRA (in consultation with the FCA) to decide whether to approve the notices at 2.67(3) above; and

(3) the regulators to form an opinion on any matters arising in connection with press advertising and notifications, including in relation to any waivers the parties to the proposed transfer intend to seek from the court under article 4 of the Business Transfers Regulations.

2.69 A copy of any order made at the directions hearing should be provided by the applicant(s) to the PRA as soon as it is available.

2.70 To enable the PRA to assess the scheme and to facilitate the provision to the court of any supplementary report(s) in advance of the final hearing, near-final versions of relevant documents will need to be made available to the PRA as soon as practicable. Scheme promoters should be aware that the PRA expects such documents to be provided to it a minimum of six weeks ahead of the date set for the scheduled court hearing If this timeline is not met, the PRA will be less likely to be in a position to complete its assessment in advance of the hearing scheduled hearing date and the hearing may have to be postponed. Final versions of any such documents should be provided as soon as they are available. Where there are policyholder representations or other material issues

that arise following the publication of the supplementary report, the PRA would expect updated versions or addendums to the supplementary report closer to the scheduled hearing date.

2.71 The relevant documents referred to in 2.70 will usually include:

(1) any witness statements or other evidence that the parties to the proposed transfer intend to submit to the court for the final hearing;

(2) the notice or notices published and sent in accordance with the order of the court at 2.69 above;

(3) proof of publication of the notice or notices at (2);

(4) any supplementary report(s) of the independent expert;

(5) any objections or other representations received from policyholders and/or other affected persons together with any responses to any such objections or representations; and

(6) the draft final order.

2.72 Where the PRA has made a report it will give a copy of its report to the court and will give a copy of its report as filed with the court to each of the parties to the proposed transfer as soon as practicable after such filing.

2.73 The parties to the proposed transfer should give a copy of any report at 2.72 to the independent expert.

2.74 The parties to the proposed transfer should, in each case, consider whether it would facilitate the effective running of the process to give copies to any other person, including any person who alleges that they would be adversely affected by the carrying out of the scheme and intends to be heard in accordance with section 110 of FSMA. Where any such provision is to be made, any necessary consents should first be obtained in respect of confidential information.

2.75 The court is likely to want to know the opinion of the PRA. The PRA will decide in each case, taking all relevant matters into account, the most effective method to make known to the court its opinion.

2.76 Where the PRA has indicated to the parties to the proposed transfer that it intends to appear at any hearing before the court in relation to a proposed scheme under Part VII of FSMA, electronic copies of documents filed with the court and the court bundle should be provided to it as soon as practicable.

Post-transfer advertising

2.77 [Deleted]

2.78 [Deleted]

2.79 [Deleted]

3 Insurance business transfers from Switzerland

Introduction

3.1 Under section 115 of FSMA, the PRA has the power to give a certificate confirming that a firm possesses the necessary margin of solvency, to facilitate an insurance business transfer to the firm under Swiss legislation from a Swiss general insurance company. This chapter provides guidance on how the PRA would exercise this power and on related matters.

PRA response to proposal

3.2 Unless otherwise expressly stated by the PRA, all the procedural aspects for dealing with insurance business transfers from Switzerland should be discussed by firms with the PRA in the first instance.

3.3 The PRA is required to co-operate with FINMA. If it has serious concerns about the proposed transferee, the PRA would inform FINMA within three months of the original request from it.

3.4 The PRA will request any relevant information from FINMA that would assist in determining whether the transfer is likely to have a material effect on the transferee.

3.5 If the effect of the transfer is not likely to be material and the PRA does not have serious concerns about the transferee, the PRA can reply favourably.

3.6 If the effect of the transfer may be material, the PRA will need to consider whether to request a scheme of operations or other information from the proposed transferee to assist in determining whether the likely effect of the transfer is such that the PRA should have serious concerns.

3.7 If the effect of the transfer may have a material adverse effect on the transferee or the security of policyholders, the PRA will consider whether it is appropriate to exercise its powers under FSMA to achieve its statutory objectives.

3.8 If the transfer involves a transfer of business from a branch established in the United Kingdom, the PRA will consider whether the notification of UK policyholders and advertising of the transfer in the United Kingdom is appropriate.

4 Friendly society transfers and amalgamations

Introduction

4.1 It is for the committee of management of a friendly society to decide whether to recommend an amalgamation or a transfer of engagements to the society's members. This chapter provides some details of the procedures to be followed and the information to be provided to a friendly society's members so that they are appropriately informed before they exercise their right to vote on the proposals.

General considerations

4.2 [Deleted]

4.2A Firms should first discuss with the PRA the procedural aspects for dealing with friendly society transfers and amalgamations. Friendly society transfers are governed by the Friendly Societies Act 1992. While there are parallels with the process for insurance business transfers under Part VII of FSMA, the PRA is the 'appropriate authority' under the Friendly Societies Act 1992 for confirming friendly society transfers from PRA authorised persons. The Friendly Societies Act 1992 governs transfers of engagements where the transferor is a friendly society and the transferee falls within the categories of person listed in section 86(1) of Friendly Societies Act 1992. The Friendly Societies Act 1992 does not govern insurance business transfers where the transferor is not a friendly society. Such transfers fall within Part VII of FSMA, including where the transferee is a friendly society.

4.2B Under the Friendly Societies Act 1992, the PRA is required to consult with the FCA prior to confirming a transfer.

4.3 Friendly societies are encouraged to discuss a proposed transfer or amalgamation with the regulators at an early stage to help ensure that a workable timetable is developed. This is particularly important for an amalgamation where additional procedures are required such as that described in 4.9.

4.4 The regulators will want to be satisfied that after an amalgamation or a transfer the business will be prudently managed and continue to comply with all applicable requirements.

4.5 For a transfer to another friendly society, if the conditions of 87(1) and 87(2) of the Friendly Societies Act 1992 are met, a report is required from the appropriate actuary of the transferee to confirm that it will meet the necessary margin of solvency. Where the conditions of 87(1) and 87(3) are met, the PRA may require a report from the appropriate actuary of the transferee to confirm that it will have an excess of assets over liabilities.

4.6 For a transfer of long-term insurance business, the PRA may, under section 88 of the Friendly Societies Act 1992, require a report from an independent actuary on the terms of the proposed transfer and on their opinion of the likely effects of the transfer on long-term policyholder members of either the transferor or (if it is a friendly society) the transferee. In addition, the PRA may request that the independent actuary considers the likely effects on any other policyholders or members impacted by the transfer. The PRA will take into account the scale and complexity of the transfer in its decision whether to require such a report. A summary is included in the statement sent to members and the full report is required to be made available to anyone on payment of a reasonable fee. The general principles in 2.30–2.37 of Chapter 2 apply to the independent actuary's report.

4.6A Where the reports detailed in paragraphs 4.5 and 4.6 are required, the PRA may request in certain instances that supplementary reports are produced, for example where there have been

material financial or other developments subsequent to the members' vote and prior to the confirmation hearing. In such instances, the PRA will consider the specific procedural implications of requesting a supplementary report on a case-by-case basis. For example, where the conclusions in the supplementary reports differ from those in the first reports the PRA notes this may necessitate further communications with affected members eligible to vote and/or additional advertising. Depending on the materiality of the conclusions reached, it may also lead to the requirement for a further member vote.

4.7 Under the Friendly Societies Act 1992 the PRA is required to confirm a proposed transfer of engagements. It will do so only where it is satisfied that the transfer is in the interests of the members of each friendly society participating in the transfer. The PRA will therefore ask that the participating societies' actuaries confirm that the transfer is in the interests of the members.

4.8 Under the Friendly Societies Act 1992, members will normally have the opportunity to vote on a proposed transfer or amalgamation (save for the exceptions set out in 4.12 and 4.13). A friendly society has to ensure that, before casting their votes, its members are clearly and fully informed of the terms on which the amalgamation or transfer of engagements is to take place and that they have all the information needed to understand how their interests will be affected. If the society's rules permit, delegates can vote except on an 'affected members' resolution' under section 86. The PRA may not confirm an amalgamation or a transfer if it considers that information material to the members' decision was not made available to all the members eligible to vote.

4.9 Amendments to a friendly society's registered rules may be necessary to permit a transfer to it. The FCA will need to be consulted in the usual way about registration of the appropriate rules. Similarly for an amalgamation, each of the amalgamating societies has to approve the memorandum and rules of the new society and the requirements of Schedule 3 to the Friendly Societies Act 1992 have to be met. It will be necessary to allow adequate time for these processes.

4.10 For an amalgamation the successor society, and for a transfer the transferee, may need to apply for permission, or to vary its permission, under Part 4A of FSMA. The regulators will need sufficient time before a transfer is confirmed to consider whether any necessary permission or variation should be given.

4.11 It is likely that the information sent to members with voting rights will include a statement explaining the reasons for the amalgamation or transfer and the choice of partner. Although this is not a statutory statement and not subject to the PRA's approval, the PRA's views on the content of the statement will be a factor that it will take into account before considering whether to confirm the amalgamation or transfer. A friendly society will therefore find it helpful to consult the PRA about the content of such a statement.

Exercise of discretion by the PRA

4.12 The PRA has discretion under section 86(3)(b) of the Friendly Societies Act 1992 to allow a transferee society to resolve to undertake to fulfil the engagements of a transferor society by resolution of the committee of management, rather than by special resolution. Among the issues that the PRA would wish to be satisfied on before exercising this discretion, are that the transfer will be in the interests of the members of both societies and that the transfer will not mean a change of policy by the transferee society. The PRA is unlikely to exercise this discretion unless the transferee is significantly larger than the business to be transferred.

4.13 The PRA has discretion under section 89 of the Friendly Societies Act 1992 to modify some of the requirements for a transfer of engagements from a friendly society, on the application of a

specified number of its members, if it is satisfied that it is expedient to do so in the interests of its members or potential members.

Schedule 15 statement to members

4.14 Schedule 15 to the Friendly Societies Act 1992 requires a statement to be sent to every member of a friendly society entitled to vote on a transfer or amalgamation. Among other matters this statement has to cover the financial position of the friendly society and every other participant in the transfer or amalgamation. The members should be provided with sufficient financial information about the respective financial positions of the participants to gain an understanding of the relative financial strengths and key features of the participants. The statement has to include a summary of any actuary's report under section 88, though the PRA may direct that the summary is to be provided separately if inclusion appears impractical.

4.15 The financial information provided under 4.14 would normally contain comparative statements of balance sheets at the same date, and include main investments, reserves, regulatory capital requirements, capital coverage and funds or technical provisions, with details of the number of members of each participant as at the balance sheet date and the premium income of the relevant fund of each participant during the financial year to which the balance sheet relates. 4.16 to 4.17~~9~~ below give further details of the financial information to be included.

4.16 If the information relates to a position some time in the past, the information should state that there has been no significant change or include a clear description of the changes. Differences in accounting policies and reporting requirements could lead to the loss of some comparability between participants. Such differences and their estimated financial effects (if any) should be explained.

4.17 The information should state whether any of the participants has any significant future capital commitments. The PRA will require it to state that the transfer of engagements or amalgamation will not conflict with any contractual commitment by a society, any subsidiary or any body jointly controlled by it and others.

4.18 [Deleted]

4.19 The PRA may require confirmation from the auditors of either friendly society involved in the transfer or amalgamation about the reasonableness of any part of the information in the statement. For instance such confirmation would normally be required if the financial information relates to a date more than six months previously.

4.20 The statement is required to include particulars of:

(1) any interest of the members of the committee of management in the amalgamation or transfer; and

(2) any compensation or other consideration proposed to be paid to committee members or other officers of the society and to the officers of every other society or person participating in the amalgamation or transfer.

Under section 92 of the Friendly Societies Act 1992, any compensation must be approved by a special resolution, separate from any resolution approving other terms of the amalgamation or transfer. This enables members to vote on this as a separate issue.

4.21 Under schedule 15 to the Friendly Societies Act 1992, the PRA may require the statement to include any other matter. Under this provision, inclusion of the terms on which the amalgamation or the transfer of engagements is to be made will usually be required.

4.22 The statement should be approved by the PRA, after consulting with the FCA, prior to being shared with members, and the statement should be clearly separate from other information sent to members. If it is not in a self-contained document, the approved element should appear in a separate section. The PRA must approve the statement, but the society is responsible for the accuracy of the financial data; therefore, this clarification should be clearly set out in the statement.

4.22A The Friendly Societies Act 1992 prescribes that the statement should be provided to members a minimum of 14 days prior to the vote (or such longer period as required by the rules of the societies that have members who are eligible to vote on the transfer). In order to ensure members have sufficient time to consider the information, the PRA would expect this period to be longer in some circumstances, for example where a society has a very large membership or where a transfer is particularly complex.

4.23 [Deleted]

Confirmation procedures and criteria

4.24 Under the Friendly Societies Act 1992:

(1) when the members of a transferor society have approved the transfer of its engagements by passing a special resolution and the transferee has approved the transfer (by passing a resolution where the transferee is a friendly society); or

(2) when two or more societies have approved a proposed amalgamation by passing a special resolution;

it, or they jointly, must then obtain confirmation by the PRA of the transfer. Notice of the application will need to be published in one or more of the London, Edinburgh or Belfast *Gazettes* and other newspapers as directed by the PRA. This notice should include information as to how members can make representations. If the PRA confirms a transfer, then the FCA will register the society's instrument of transfer after receiving an application on the appropriate form by the transferor society and the transferee. If the PRA confirms an amalgamation, the FCA will register the successor society. For transfers, all the property, rights and liabilities pass on the transfer date specified by the PRA on the registration certificate provided by the FCA. For amalgamations, all the property, rights, and liabilities pass on the date specified on the certificate of incorporation provided by the FCA.

4.25 [Deleted]

4.26 The criteria that the PRA must use in determining whether to confirm a proposed amalgamation or transfer is set out in Schedule 15 to the Friendly Societies Act 1992. These criteria include that:

(1) confirmation must not be given if the PRA considers that:

(a) there is a substantial risk that the successor society or transferee will be lawfully unable to carry out the engagements to be transferred to it. For the purposes of this

condition, the PRA may have regard to the requirements of any country outside of the UK which appear to be relevant;

(b) information material to the members' decision about the amalgamation or transfer was not made available to all the members eligible to vote;

(c) the vote on any resolution approving the amalgamation or transfer does not represent the views of the members eligible to vote; or

(d) some relevant requirement of the Friendly Societies Act 1992 or the rules of any of the participating societies was not fulfilled (but it can modify some requirements and direct that certain failures may be disregarded, see 4.13 above and 4.28 below);

(2) the PRA must be satisfied that:

(a) the transferee or successor society will have any permissions necessary under Part 4A of FSMA;

(b) for a transfer, it is in the interests of the members of each friendly society participating in it; and

(c) [Deleted]

(d) for transfers which fall within scope of paragraph 15 of Schedule 15 to the FS Act, that every policy included in the transfer evidences a contract which was entered into before the date of the application; and

(3) for a transfer, the transferee possesses the necessary margin of solvency after taking the proposed transfer into account or, where it is not required to maintain a necessary margin of solvency, possesses an excess of assets over liabilities (If the transferee is a Swiss general insurance company, then confirmation will be needed from FINMA that it meets Switzerland's solvency margin requirements).

4.26A The PRA would expect that an application is accompanied by an explanation of how the various confirmation criteria and relevant requirements under the Friendly Societies Act 1992 have been met.

4.27 If authorisation or a Part 4A permission is needed, the PRA will need to consider the application for authorisation or permission in the usual way. If the authorisation or permission is refused, confirmation cannot be given even if all the other criteria are met.

4.28 The PRA may (as an alternative to refusing confirmation) direct the society to remedy certain procedural defects in a proposed transfer or amalgamation, and after they have been remedied confirm the application. If it appears to the PRA that failure to meet a 'relevant requirement' of the Friendly Societies Act 1992 or the rules of the friendly society is not material to the members' decision, then it may direct that this failure is to be disregarded.

Confirmation procedures: representations

4.29 Any interested party has the right to make representations to the PRA about an application for confirmation of a transfer or amalgamation. This includes any person (whether a member of the friendly society or not) who claims that they would be adversely affected by the amalgamation or

transfer. The person making the representations should state clearly why they claim to be an interested party and the ground to which the representations are directed.

4.30 Written representations, or written notice of a person's intention to make oral representations, or both, are required to reach the PRA by the date published in the relevant *Gazettes* and other newspapers. Those giving notice of intent to make oral representations are advised to state the nature and general grounds of the oral representations they intend to make. Persons who make written representations but subsequently decide also to make oral representations are required, nevertheless, to give notice of that intention, in writing, to the PRA by the same date.

4.31 The PRA will send copies of all written representations to the society, and will give them an opportunity to comment on the representations. The PRA also expects the society to respond directly in writing in advance of the hearing to those that have made representations. The PRA ~~it~~ may consider the written representations and the society's response to them, before the date set for any pre-confirmation hearing to hear oral representations. A synopsis of the written representations (probably in the form of a summary of each of the points made and the numbers of persons making each point) and the society's responses will be made available to those participating in any pre-confirmation hearing. This is intended to inform those making oral representations of the points already being considered by the PRA. In addition to written representations sent to the PRA, it is likely that members will also raise concerns with the society directly. The regulators would expect the society to share summaries of these member communications and its assessment of the issues raised.

4.32 The regulators expect that any documents referred to in the society's comments will be made available by the society for inspection at its registered office, its website and, if reasonably possible, at the venue of the hearing on the date of the hearing. However if a society applies to put documents which it considers to be sensitive to the regulator(s) in confidence, the regulators will balance any disadvantage this might cause interested parties in making representations against the commercial damage that publication of the documents might cause, and may permit the documents or sensitive parts of them not to be available for inspection.

Pre-confirmation hearing

4.33 Interested parties may be represented and may make collective representations. Such arrangements should be notified to the PRA in advance to enable it to make appropriate arrangements.

4.34 The hearing will be at a time and place that will be notified to the participants and will be conducted by the PRA's representatives. The hearing may last longer than one day and may be adjourned. The PRA will try to tell participants when they may expect to make their representations and when the society may be expected to respond.

4.35 The PRA expects that any pre-confirmation hearings will be held in public though this is not required. At the start, members of the general public and the press will be asked to wait outside while participants are asked if any of them has good reason to object to the admission of the general public or the press. Unless an objection by a participant is upheld by the PRA's representatives, the press and the general public will then be admitted, within the limits of the space available. The PRA's representatives may decide that parts of the hearing will be in private if that appears to them to be necessary.

4.36 The procedure will be informal. All participants will be expected to speak concisely and avoid repetition. The PRA will, as far as practicable, help those who are not professionally represented. Those taking the hearing may question the participants. The sequence of events will normally be:

(1) any preliminary matters (such as the admission of the public or other procedural questions) will be dealt with;

(2) the chair of the hearing will introduce the proceedings;

(3) the society representatives will be invited to speak on the application, including a description of the events at the meeting at which the resolution to amalgamate or transfer was put to the members, a statement of the voting on the resolution, and any other matters that they wish to introduce at that stage;

(4) the other participants will be invited to speak to their representations. The PRA expects to call them in order of a list arranged, as far as possible, by subject matter;

(5) the society representatives will be invited to reply to, or comment on, the points made by the other participants; and

(6) the other participants will be invited to comment on the society's replies.

4.37 The procedure in 4.36 above may be varied according to the circumstances at the hearing, and is intended only as a guide. The hearing may be adjourned if the PRA's representatives consider it necessary in order to enable facts to be checked or additional information to be obtained.

4.38 The PRA will not decide whether to confirm the transfer or amalgamation at the hearing. A copy of its written decision, including its findings on the points made in representations, will be sent to the society and to those making representations. It will also be available to any other person on request and may be published.

Appendix 1: Statement of Policy updates

This annex details changes to this Statement of Policy following its initial publication in April 2015.

2022

12 January 2022

This SoP was updated on Wednesday 12 January 2022 following the publication of Policy Statement (PS) 1/22 'Insurance Business Transfers'.[14] It was updated to:

- remove references to the PRA's consultation with European Economic Area (EEA) regulators, and transfers from the EEA into the UK, to align with amended legislation;
- provide additional guidance to firms, independent experts, and other interested parties on the PRA's specific role and approach to insurance business transfers;
- provide guidance on the PRA's approach to transferees in run-off; and
- provide additional guidance on the PRA's approach to friendly society transfers.

The policy is effective from Wednesday 12 January 2022.

[14] January 2022: CP16/21 | PS1/22 – Insurance business transfers.