

## Regulator Assessment: Qualifying Regulatory Provisions

**Title of proposal:** Guidance on the FCA's approach to the review of insurance business transfers

**Lead regulator:** FCA

**Date of assessment:** September 2016

**Commencement date:** 2017

**Origin:** Domestic

**Does this include implementation of a Cutting Red Tape review?** No

**Which areas of the UK will be affected?** Whole of UK

### Brief outline of proposed new or amended regulatory activity

In response to requests from industry practitioners, we have drafted non-handbook guidance to assist lawyers, actuaries and others in the preparation of Court Documents to support Applications to the High Court to Sanction FSMA Part VII Insurance portfolio transfers.

These documents need approval from the PRA in consultation with the FCA, both of whom are required to submit Reports to the Court. The guidance is intended to assist the practitioners to understand the FCA's requirements for content in the documents that will allow the FCA to satisfy itself that its statutory objectives are being addressed and met.

The intention is that by providing practitioners with the guidance in advance, it will help them produce documents less likely to be the subject of extensive FCA comment and push-back and will also help to ensure that waivers sought will be less likely to result in FCA opposition.

This document is non-mandatory and is intended to indicate to practitioners the areas that the FCA considers important and to provide examples of what we would see as good practice. It has been the subject of a "soft-consultation" with industry volunteers and in general was well received.

We do not envisage that the guidance will result in any additional work for practitioners or firms beyond what we expect of them anyway. It may reduce the amount of revision and explanation that practitioners current are obliged to perform in response to our queries.

## Which type of business will be affected? How many are estimated to be affected?

Insurance and Reinsurance Companies (Life and Non-Life) engaging in portfolio transfers, consulting actuaries, law firms, and other advisors. There are approximately 35-50 such transactions per annum. This is an estimation based on the quality of submissions the FCA has received.

Price base year	Implementation date	Duration of policy (years)	Business Net Present Value	Net cost to business (EANDCB)	BIT score
2016	2017	10	0	0	0

## Please set out the impact to business clearly with a breakdown of costs and benefits

The intention is that by providing practitioners with the guidance in advance, it will help them produce court documents less likely to be the subject of extensive FCA comment and push-back. It should also mean waiver applications are less likely to be rejected. Our expectation is that the overall time taken to complete one of these transactions and the expert advisor costs to firms will be reduced as a result of this guidance. We do not envisage that this Guidance will cause any increase in business costs.

The Guidance has been requested by industry to help them understand the FCA's approach and requirements. It is consistent with, and does not contain any additional requirements to, what we currently communicate directly to an individual firm or practitioner.

Firms will only refer to the non-handbook guidance when they decide to start the process of a portfolio transfer and we expect it will be beneficial to firms to apply the information contained in the publication. There will be no new familiarisation costs to firms as they will read the new guidance instead of our previous material.

Third parties who are advising and assisting firms in the preparation of Court documents may find it useful to familiarise themselves with the new content and update their processes to deliver the efficiency of service expected with the simplification of the process. Any costs associated with this are indirect costs therefore it has been excluded from this assessment.

As a rough ball-park estimate, the Guidance may assist and reduce the compliance costs to business for around 20 transactions per annum (the remainder being transactions where the practitioners already understand our requirements). We are aware that Independent Expert (usually actuaries) fees typically range between £35,000 and £200,000. We assume legal and other costs to be significantly higher than the actuarial fees, particularly when Counsel is instructed to appear at the Hearings. Our comment, push-back and occasional rejection of documents that do not satisfy the FCA's approach and requirements, which should become less frequent by the issuance of the Guidance, currently generate additional work for the practitioners.

As the guidance is designed to simplify the process and assist practitioners and firms to produce documents less likely to be rejected by the FCA it is expected that third parties will be enabled to deliver a more efficient service to their clients. There will be cost savings to firms as a result of the guidance but we do not have data available to quantify these savings.

This document has been subject to a 'soft-consultation' with industry volunteers and in general it was well received. As this is a retrospective impact assessment it is not proportionate to go back to firms and collect data on savings now.

## Please provide any additional information (if required) that may assist the RPC to validate the BIT Score.