



The Actuarial Profession

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consultation response

HM Treasury

Consultation on amendments relating to Part 7 of FSMA 2000 (‘Control of Business Transfers’)

http://www.hm-treasury.gov.uk/media/AD6/17/consult_fsma031006.pdf

January 2007

Introduction

This submission from the General Insurance Board of the UK Actuarial Profession is in response to the consultation from HM Treasury on amendments relating to Part 7 of FSMA 2000 ('Control of Business Transfers'). The consultation sought views on proposals to make some clarificatory amendments to Part 7 of the Financial Services and Markets Act 2000 (and related secondary legislation), regarding the control of business transfers. It also sought views on proposals to extend transfer of insurance business provisions to certain former members of the Lloyd's insurance market, who are currently excluded from within their scope.

Full details of the Consultation may be found at the HM Treasury website at:
http://www.hm-treasury.gov.uk/media/AD6/17/consult_fsma031006.pdf

Response of the General Insurance Board of the Actuarial Profession to "Consultation on amendments relating to Part 7 of FSMA 2000 ('Control of Business Transfers')"

We welcome the proposals and believe that they will be very helpful in clearing some of the obstacles that may hinder the smooth implementation of insurance business transfers, whilst not having a detrimental effect on policyholders. In particular:

- We especially welcome the proposal to put beyond doubt that accompanying reinsurance and other contracts may be transferred. We understand that some potential sponsors have been reluctant to go forward with transfer schemes because of the uncertainty surrounding this point.
- The proposal to require the sponsors to notify the transferors' reinsurers is merely an extension of what we have regarded as good practice, and we welcome it. We recognise that the identification of all reinsurers may be difficult, but the use of waivers should reduce this problem.
- We have a little more difficulty with the proposal to allow the Court to overrule a reinsurance clause that would have the effect of invalidating the contract in the event of a transfer (or steps leading to transfer). Whilst we find it hard to imagine a valid reason why a reinsurer should not pay a valid reinsurance claim to the transferee rather than the transferor, we accept that there may be valid reasons and assume that the Court would exercise its powers with discretion. We assume, therefore, that the Treasury has taken appropriate legal advice on this issue.
- The proposal to remove the restrictions on certain former members of Lloyd's to transfer their business appears sensible.