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# Practical Aspects of Part VII Transfers

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# Agenda

- Background to Part VII transfers
  - The Independent Expert
  - Matters to be considered by the Independent Expert
  - Case study
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# What is a Part VII transfer?

- Complete transfer of business from one insurer to another
- Generic name is “insurance business transfer”
- These are effected under Part VII of the Financial Services & Markets Act 2000 in the UK
  - Hence often referred to as “Part VII transfers”
- Bring finality to the original insurer
- Do not require agreement of policyholders or a voting process
  - Policyholders are entitled to be heard by the Court, as is the FSA
  - Independent Expert is required to provide an opinion on the likely effects of the proposed transfer on policyholders
- Approximately 15 non-life Part VII transfers are effected each year

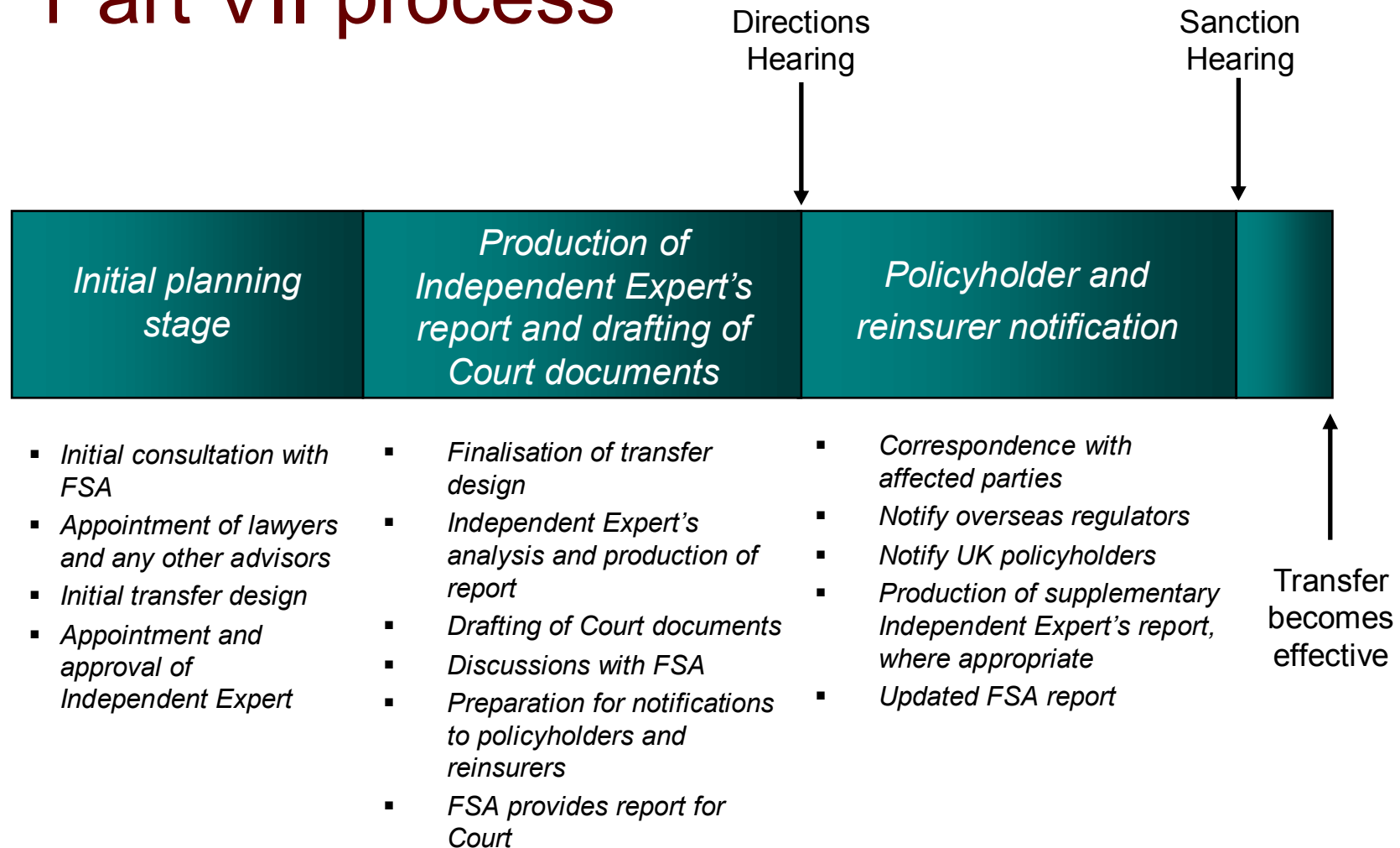
# Scope of Part VII transfers

- Can be effected :
  - For insurance and reinsurance business
  - For business written at Lloyd's or to transfer business into Lloyd's
  - In respect of actual claims, future potential claims on expired policies, future potential claims on unexpired policies and future business to be written before the effective date of the transfer
  - Between unconnected companies or companies within the same group
  - Within the UK, to the UK from another country or from the UK to another country

# Reasons for effecting a transfer

- Achieving finality
- Cost savings & capital releases
- In connection with mergers & acquisitions
- In advance of a scheme of arrangement
- Restructuring overseas businesses

# Part VII process



# Appointment of the Independent Expert

- An Independent Expert (“IE”) needs to be appointed for all insurance business transfers in the UK
- Role is typically fulfilled by an actuary, but doesn’t have to be
- Role of the Independent Expert is to opine on the likely effects of the transfer on policyholders
- IE needs to be approved by the FSA, key aspects to this being
  - Whether he/she has the appropriate skills / experience
  - Independence from the transfer (no personal interest in whether the proposed transfer goes ahead)
- Reasonable for IE to access specialist advice on some aspects of the transfer
- Appointment is a personal one
- IE’s duty is to the Court

# Role of the Independent Expert

- IE needs to consider and opine on the likely effect of the transfer on the different groups of policyholders who may be affected
    - typically three affected groups
    - but can be fewer or more than three
  - IE also potentially needs to consider other affected parties
    - such as other insurers or the FSCS
  - Needs to consider the effect of the transfer on
    - the security of the policyholders' rights; and
    - the levels of service provided to policyholders
  - Consideration compares
    - pre-transfer position assuming the transfer doesn't go ahead; and
    - post-transfer position
  - Can rely on the work of others and access specialist advice, where appropriate
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# Independent Expert's report

- Output of IE's work is a report covering, among other things, his/her opinion on the likely effects of the transfer
- Report is provided to the Court to assist in their decision as to whether to sanction the transfer
- Report is also made publicly available – in particular to the FSA and policyholders
- Summary of the IE report is also typically sent to policyholders as part of the notification of transfer
- Supplementary reports are often produced
- Attendance at final Court hearing

# Actuarial considerations (1)

- The capital “strength” pre and post transfer
  - Probability of insolvency?
  - Ratio of actual net assets to ICA?
  - Ratio of actual net assets to SMSM or ECR or QIS4?
  - Other measures of capital “strength”?
- Impact of reserve adequacy
- Legal disputes affecting claims (e.g. WTC)
- Anticipated reinsurance recoveries and impact if they become non-recoverable (for whatever reason)

# Actuarial considerations (2)

- Rating awarded by rating agency
- Levels of parent company support / intra-group or inter-company guarantees
- Future plans of the company – normal business plans or plans for a sale / scheme of arrangement / further transfer
- Claims handling procedures, staffing and service levels
- IT systems and support (where relevant to policyholders)
- Any changes in capital structure (such as levels of debt compared to equity)

# Further considerations

- Key consideration is comparison of pre-transfer position (assuming the transfer doesn't go ahead) and post-transfer position
- Issues of most importance will vary depending on the precise circumstances of the companies involved and the actual transfer scheme
- IE also needs to consider the wording for their opinion, such as :
  - not materially adversely affected
  - not adversely affected
  - unlikely to have a material adverse impact
- And whether the opinion should apply to groups of policyholders or individual policyholders, for example :
  - **no groups** of policyholders are adversely affected
  - **none** of the policyholders are adversely affected
- Relevant guidance also needs to be considered :
  - FSA – SUP 18
  - CPR 35 (updated recently)
  - Board for Actuarial Standards – GN12 (to be replaced by TAS R) and GN50
  - PCS and IAN on “The Actuary as an Expert Witness”

# Case study

- Portfolio of APH business being transferred from a very secure UK composite insurer, which continues to write new business
  - Receiving company is a less secure non-UK run-off vehicle
  - You have been asked to be the Independent Expert for the proposed transfer
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- What do you need to do before accepting the assignment?
  - What areas do you need to investigate / consider in order to reach your opinion?
  - What particular issues are likely to arise in this case?
  - What other aspects are important when undertaking the Independent Expert role?

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