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The impact of Brexit on Part VII transfers

Simon Sheaf
Kirit Plaha

Grant Thornton UK LLP

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Agenda

- Overview of Part VII transfers
- Why has Brexit increased the number of Part VII transfers
- Brexit - key issues
- Q&A



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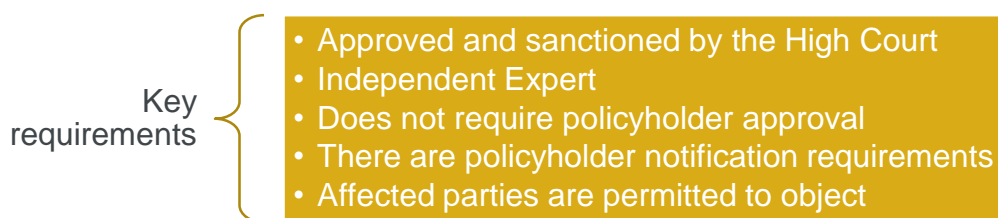
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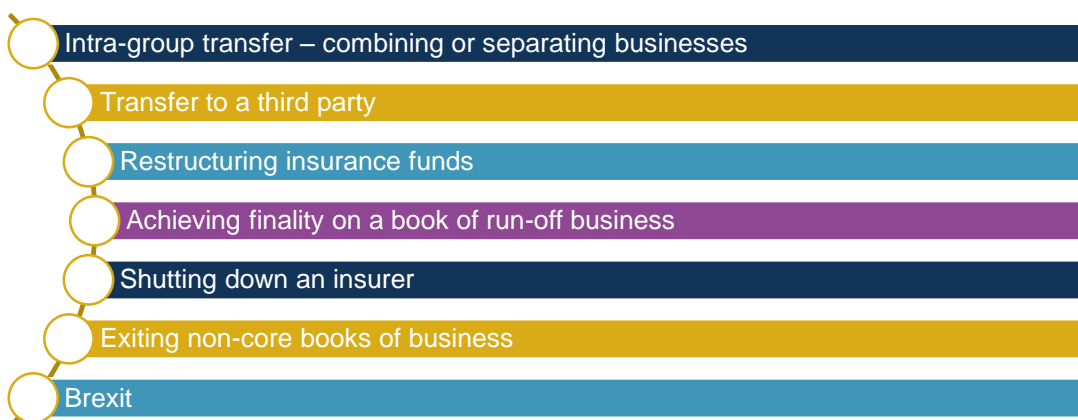
Overview of Part VII transfers

The legal transfer of some or all of the policies from one company to another

Governed by Part VII of the Financial Services and Markets Act 2000 (FSMA), supplemented by SUP 18 of the FSA handbook



Uses of Part VII transfers



Role of the Independent Expert

- Requires approval from the PRA
- Independent Expert must opine on whether any group of policyholders will be materially adversely affected
 - Policyholders remaining in the transferor
 - Policyholders transferring to the transferee
 - Policyholders pre-existing in the transferee
- Three reports are produced
 - Main report
 - Summary report
 - Supplementary report



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Financial considerations

- Capital requirements and solvency position
- Reserves
- Liquidity position
- Protection – guarantees, reinsurance
- Investment strategy
- Implication of the transfer on ongoing expenses
- Implications under insolvency
- Compensation schemes
- Pension arrangements
- Tax implications



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Non-financial considerations

- Claims handling
- Policy servicing
- Impact of changes in regulatory jurisdiction
- Complaints
- Governance and management framework
- Policyholder notifications
- Reinsurer notifications

Role of the PRA/FCA

- Approval of the Independent Expert proposed by the transferor and transferee
- Opine on any waivers from the requirement to notify policyholders
- Review Scheme documents against PRA/FCA principles
 - Key concern for the FCA will be the fair treatment of policyholders
 - Key concern for the PRA will be solvency
- Review and challenge of the Independent Expert's reports
 - Heavily involved in discussions throughout the process
 - Gain comfort on the conclusions
- Submit a report to the Court

Why has Brexit increased the number of Part VII transfers?

The problem

- UK insurers writing business in the EEA on a Freedom of Services basis
- UK insurers with branches in the EEA set up on a Freedom of Establishment basis
- EEA insurers writing business in the UK on a Freedom of Services basis
- EEA insurers with UK branches set up on Freedom of Establishment basis

The solution

- UK insurers:
 - transferring EEA business to pre-existing EEA entity
 - establishing EEA entity and transferring EEA business into it
- EEA insurers:
 - transferring UK business into pre-existing UK entity
 - establishing UK entity and transferring business into it

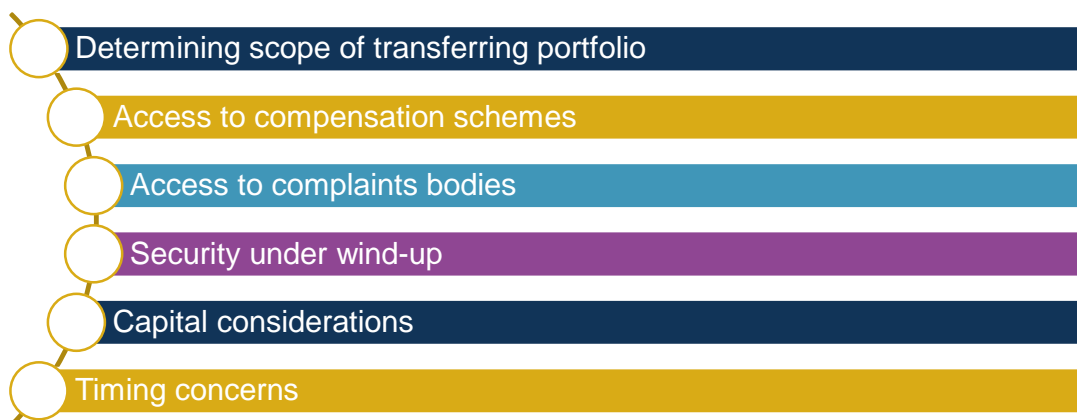


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Brexit - Key issues

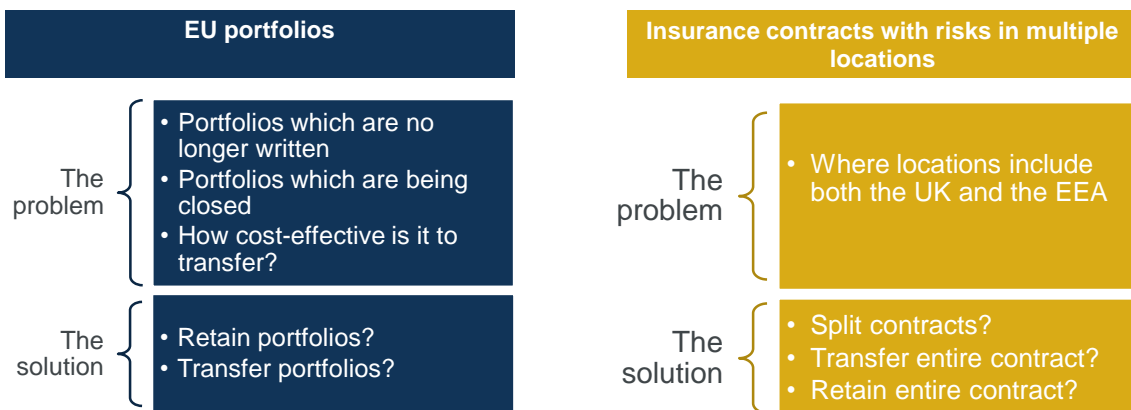


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Determining scope of transferring portfolio



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Access to compensation schemes

Pre-transfer

- Some or all policyholders may have access to the Financial Services Compensation Scheme (FSCS)
- There is a set of criteria for eligible claimants

Post-transfer

- Policyholders transferring will lose access to the FSCS

Key considerations:

- Current access to the FSCS
- Insurer is adequately capitalised
- Insurer has additional protection in place, eg parental guarantees
- Compensation schemes that will be available to policyholders post-transfer

The only way to retain access to the FSCS is to not transfer the policyholders. However, if you choose this option, you may not be able to service policies once the UK leaves the EU.



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Access to complaints bodies

Pre-transfer

- Complaints can be made to The Financial Ombudsman Service (FOS) in the UK
- Policyholders of a branch can also complain to a local Ombudsman, if available
- Eligible claimants for FOS include consumers, micro-enterprises, charities and trustees

Post-transfer

- Policyholders will not be able to make complaints to FOS, with the exception of policyholders of a UK branch
- Most EEA countries have local Ombudsman service

Key considerations:

- Number of complaints received in prior years
- Complaints services available in location of transferee and any of its branches
- Comparison of eligibility criteria to UK FOS



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Security under wind-up

The problem

- Many insurers are transferring policyholders to another entity and reinsuring this business, in part or fully, back to the transferor
- As a result, policyholders move from being classed as direct policyholders of the transferor pre-transfer to inwards reinsurance policyholders of the transferor post-transfer
- Under UK regulations, the reinsured entity will rank below any direct policyholders in the event of insolvency
- Therefore the transferring policyholders are in a worse position in the event of insolvency than was the case pre-transfer

The solution

- A provision can be made to ensure that the outcome under insolvency is the same as if the reinsured entity ranked equally to direct policyholders



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Other issues

- Capital considerations
 - Model change process may be required
 - New model approval application with EU regulator
 - Additional documentation and model validation
- Timing concerns
 - Brexit has resulted in more Part VII transfers than usual and so it may take more time:
 - For regulators to review the reports
 - To get a Court date
 - Need to consider if there is now enough time to do a Part VII before Brexit
 - Transition period could be critical



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Conclusions

- There are a number of key issues arising as a result of Brexit that require further consideration
 - Solutions to these issues are dependent on the final Brexit arrangements
- Brexit has resulted in an increase in the number of transfers; however some insurers are awaiting further information on passporting arrangements
 - We expect there to be another peak of Part VII transfers in 2018 and 2019



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Questions



Comments

Contact details



Simon Sheaf FIA

Head of General Insurance Actuarial and Risk

E: simon.h.sheaf@uk.gt.com

T: +44 (0)20 7728 3280



Kirit Plaha

Manager Actuarial and Risk

E: gurkirit.k.plaha@uk.gt.com

T: +44 (0)20 7865 2749