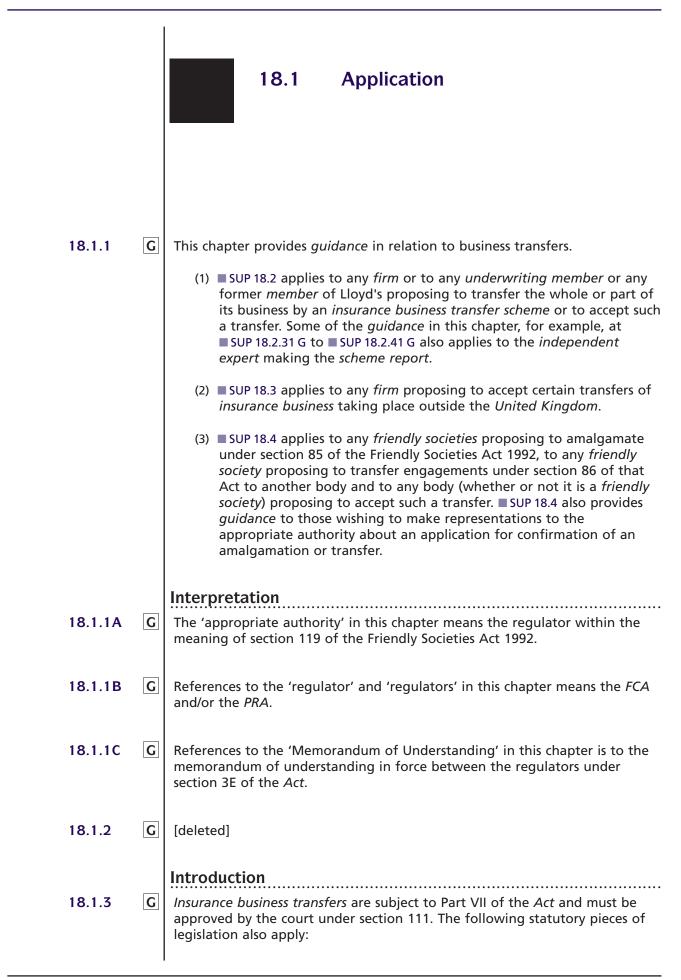
Supervision

Chapter 18

Transfers of business

SUP 18 : Transfers of business



- The Financial Services and Markets Act 2000 (Control of Business Transfers) (Requirements on Applicants) Regulations 2001 (SI 2001/ 3625), as amended by the Financial Services and Markets Act 2000 (Control of Business Transfers)(Requirements on Applicants) (Amendment) Regulations 2008 (SI 2008/1467) and the Financial Services and Markets Act 2000 (Amendments to Part 7) Regulations 2008 (SI 2008/1468);
- (2) the Financial Services and Markets Act 2000 (Control of Transfers of Business Done at Lloyd's) Order 2001(SI 2001/3626), as amended by The Financial Services and Markets Act 2000 (Control of Transfers of Business Done at Lloyd's) (Amendment) Order (2008/1725); and
- (3) the Reinsurance Directive Regulations 2007 (SI 2007/3253) and the Financial Services and Markets Act 2000 (Reinsurance Directive) Regulations 2007 (SI 2007/3255),

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.

- **18.1.4 G** An *insurance business transfer scheme* is defined in section 105 of the *Act* and the definition has been extended to transfers from *underwriting members* and former *members* of Lloyd's.
 - (1) [deleted]
 - (a) [deleted]
 - (b) [deleted]
 - (c) [deleted]
 - (2) [deleted]

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.

- **18.1.5 G** The regulators are likely to consider a novation or a number of novations as amounting toan *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.
- **18.1.6** Under section 112 of the *Act*, 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.

18

18.1.7	Amalgamations of <i>friendly societies</i> and transfers of engagements from <i>friendly societies</i> to other bodies (whether or not <i>friendly societies</i>) are governed by part VIII of the Friendly Societies Act 1992 and Schedule 15 to that Act applies.
18.1.8	Legislation in respect of other transactions, for example, cross-border mergers, does not negate the requirements under Part VII of the <i>Act</i> . It is for the <i>firms</i> participating in such transactions to determine whether or not the proposed transfer gives rise to an <i>insurance business transfer</i> . The regulators expect <i>firms</i> proposing such transactions to discuss the proposal with them as soon as practicable.