Draft Regulations laid before Parliament under section 11(11) of the Civil Liability Act 2018 and section 429(2) of the Financial Services and Markets Act 2000 for approval by a resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2020 No.

FINANCIAL SERVICES AND MARKETS

The Civil Liability (Information Requirements) and Risk Transformation (Amendment) Regulations 2020

Made - - - - ***

Coming into force in accordance with regulation 1

The Treasury make the following Regulations in exercise of the powers conferred by sections 11 and 12(4) of the Civil Liability Act 2018(**a**) and sections 284A and 428 of the Financial Services and Markets Act 2000(**b**).

In accordance with section 11 of the Civil Liability Act 2018 and section 429(2) of the Financial Services and Markets Act 2000, a draft of these Regulations was laid before Parliament and approved by a resolution of each House of Parliament.

PART 1

General provision

Citation and commencement

1.—(1) These Regulations may be cited as the Civil Liability (Information Requirements) and Risk Transformation (Amendment) Regulations 2020.

(2) Part 1 and Part 3 come into force on the day after the day on which these Regulations are made.

(3) Part 2 comes into force on 1st April 2020.

(**a**) 2018 c. 29.

(**b**) 2000 c. 8. Section 284A was inserted by section 31 of the Bank of England and Financial Services Act 2016 (c. 14) and was amended by S.I. 2019/407. Section 429(2) was amended by paragraph 12 of Schedule 15 to the Companies Act 2006 (c. 46), section 178 of the Banking Act 2009 (c. 1), paragraph 33 of Schedule 2 to the Financial Services Act 2010 (c. 28), section 136(3) of the Financial Services (Banking Reform) Act 2013 (c. 33), paragraph 12 of Schedule 3 to the Pensions Schemes Act 2015 (c. 8), and paragraph 20 of Schedule 3 to the Financial Services Act 2012 (c. 12). There are other amendments to section 429 but none are relevant here.

PART 2

Information requirements relating to section 11 of the Civil Liability Act 2018

Interpretation

2. In this Part—

"the Act" means the Civil Liability Act 2018;

"private motor insurance policy" means a relevant third party personal injury policy of insurance which is a policy of insurance against losses arising from the death of, or bodily injury to, any person, or damage to property that is supplied to, or acquired by, the user of a privately owned motor vehicle which—

(a) restricts the insurance of the person insured by the policy to use of the vehicle for specified purposes (in particular, social, domestic and pleasure purposes) of a non-commercial character; or

(b) which excludes—

(i) use of the vehicle for hire or reward;

(ii) business or commercial use of the vehicle; or

(iii) use of the vehicle for specified purposes of a business or commercial character.

Insurers to whom Part 2 of these Regulations applies

3.—(1) Part 2 of these Regulations applies to relevant insurers.

(2) A "relevant insurer" is an insurer who—

(a) has effected or carried out contracts of insurance in England and Wales for a period including at least one report year; and

(b) has issued 100,000 or more private motor insurance policies where the period of cover for those policies began in a single report year.

(3) A relevant insurer must provide the information in regulations 4 to 6 to the FCA relating to—

(a) the report period; or

(b) if the relevant insurer is not authorised to effect or carry out contracts of insurance under the Financial Services and Markets Act 2000 for every year of the report period, then each report year in the report period for which the relevant insurer is so authorised.

(4) An insurer who becomes a relevant insurer must notify the FCA without delay that it is within scope of these Regulations.

(5) A relevant insurer who is unable to provide the information in regulations 4 to 6 for one or more report years must give written reasons to the FCA no later than 1st October 2023, explaining why it could not provide that information for the report year concerned.

Audited information to be provided to the FCA

4.—(1) For each report year, the information provided to the FCA must include audited figures for—

(a) the total gross amount, including reinsurance recoveries and legal costs, of the ultimate value of claims paid for all claims which have been finally settled in that report year by a relevant insurer under its private motor insurance policies in respect of personal injuries sustained by third parties, where the amount of damages for the injury is governed by the law of England and Wales;

(b) the mean of the amounts in sub-paragraph (a) per policy paid by a relevant insurer during the report year under those policies in respect of injuries falling within sub-paragraph (a);

(c) separate totals for the amounts in sub-paragraphs (a) and (b) for claims where the amount of the award paid by a relevant insurer under each policy was—

(i) £100,000 or less;

(ii) over £100,000;

(d) the total gross value of the premium earned by the relevant insurer for private motor insurance policies where the period of cover began in the report year; and

(e) the mean of the gross value of the premium per policy earned by the relevant insurer in respect of the policies in sub-paragraph (d).

(2) Where a relevant insurer provides any of the information in paragraph (1), it must be accompanied by—

(a) a statement from a qualified auditor verifying that the information has been audited; and

(b) details of the qualified auditor who has audited the information for each report year to which the information under paragraph (1) relates.

Counterfactual information to be provided to the FCA

5.—(1) For each report year, the information provided to the FCA must include, as if the Act had not been enacted—

(a) the total gross amount, including reinsurance recoveries and legal costs, of the ultimate value of claims that the relevant insurer might reasonably have been expected to pay for all claims which have been finally settled in that report year under its private motor insurance policies in respect of personal injuries sustained by third parties where the amount of the damages for the injury is governed by the law of England and Wales;

(b) the mean of the expected amounts in sub-paragraph (a) per policy in respect of the injuries falling within sub-paragraph (a);

(c) separate totals for the amounts in sub-paragraphs (a) and (b) for claims where the amount of the award a relevant insurer might reasonably have been expected to pay under each policy was—

(i) £100,000 or less; and

(ii) over £100,000;

(d) the expected gross value of the premium which might reasonably have been earned by the relevant insurer for private motor insurance policies where the period of cover began in the report year; and

(e) the expected mean of the premium per policy which might reasonably have been earned by the relevant insurer in respect of the policies in sub-paragraph (d).

(2) The information provided in paragraph (1) must be calculated using the same methodology as that used for obtaining the information in regulation 4.

(3) Where any of the information in paragraph (1) relates to the personal injury discount rate provision in Part 2 of the Act, for the purposes of this regulation the underlying assumption must be that the discount rate which would apply had the Act not been enacted is the discount rate set by regulation 2 of the Damages (Personal Injury) Order 2017(**a**).

(4) The information in paragraph (1) must be accompanied by—

(a) a statement from a qualified auditor providing an assurance that the requirements in paragraphs (2) and (3) have been taken into account in calculating that information; and

(b) details of the qualified auditor who provided the assurance for each reporting year to which the information under paragraph (1) relates.

(**a**) S.I. 2017/206.

Additional information which may be taken into account

6.—(1) A relevant insurer must provide a description of benefits, other than a reduction in premium price, which, due to savings resulting from the Act, have been passed on during the report period to individuals purchasing private motor insurance policies.

(2) A relevant insurer may provide any other information which is, in the relevant insurer's reasonable opinion, relevant to the aim of assessing whether benefits from such savings made from the reforms under the Act have been passed on to individuals purchasing private motor insurance policies during the report period.

(3) The information in paragraph (2) may include information about—

(a) trends in the motor insurance market;

(b) third party costs such as reinsurance or intermediary costs;

(c) pricing or reserving actions taken in response to events which may have affected the price of premiums offered to purchasers of private motor insurance policies where those events occurred during the report period or the two years immediately preceding the report period; and

(d) wider economic factors.

Provision of information

7.—(1) The information provided under this Part must be clear, concise and made in such form as the FCA may direct.

(2) The information provided under regulations 4 to 6 must be adjusted for inflation in accordance with the relevant measure of inflation for each report year.

(3) In this regulation "relevant measure of inflation" means the average of the consumer prices index figures over that report year.

(4) The information required under this Part must be provided to the FCA as a single return no later than 1st October 2023.

PART 3

Amendment of the Risk Transformation Regulations 2017

8.—(1) The Risk Transformation Regulations 2017(**a**) are amended as follows.

(2) In regulation 158—

(a) for paragraph (3), substitute—

"(3) An offer is not to be regarded as an offer to the public if—

(a) it is an offer made solely to qualified investors; and

(b) it can properly be regarded, in all the circumstances, as not being calculated to result, directly or indirectly, in securities issued by the protected cell company becoming available to persons who are not qualified investors.

(3A) In this regulation, "qualified investor" has the meaning given in regulation 10.";

(b) omit paragraphs (4) and (5).

Name
Name
Date Two of the Lords Commissioners of Her Majesty's Treasury

(**a**) S.I. 2017/1212.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations set out the information requirements placed on insurers under section 11 of the Civil Liability Act 2018 (c. 29) and make an amendment to the regulation of insurance-linked securities under the Risk Transformation Regulations 2017 (S.I. 2017/1212).

Part 2 of these Regulations sets out the scope of the requirement in section 11 of the Civil Liability Act 2018 and prescribes the information that motor insurers are required to provide to the Financial Conduct Authority (FCA) under that Act. It also sets out the timing for provision of this information to the FCA.

In addition, Part 3 of these Regulations makes an amendment under section 284A of the Financial Services and Markets Act 2000 (c. 8) to ensure that the prohibitions set out in regulations 157 and 158 of the Risk Transformation Regulations 2017 do not apply to qualified investors.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

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