Implementing Article 4(4)-4a(1) of the Fifth Motor Insurance Directive

A consultation

March 2007

HM TREASURY

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ISBN 978-1-84532-253-3

PU223

Contents

1 INTRODUCTION

1.1 This consultation document seeks views on the Government's intended approach to implementation of one part of the EU's Fifth Motor Insurance Directive (**5th MID**)[1].

1.2 The 5th MID was adopted by the Council of the European Union and the European Parliament on 11 May 2005 and came into force on 11 June 2005. Member States have until 11 June 2007 to implement its provisions. The Directive's principal objectives are to:

- update and improve the protection of victims of motor vehicle accidents provided by compulsory insurance;
- fill gaps and clarify a number of provisions in earlier Directives in the interests of consistency of interpretation amongst the EU Member States; and
- provide solutions to issues that have arisen over time in order to create a more efficient single market in motor insurance.

1.3 Responsibility for implementation of the majority of the 5th MID's provisions in the UK has fallen to the Department for Transport (DfT), who are consulting on the implementation of these provisions separately.

1.4 However, implementation of Article 4(4)-4a(1) of the 5th MID[2] will require amendments to the Financial Services and Markets Act 2000 (FSMA) and the FSMA (Law Applicable to Contracts of Insurance) Regulations 2001 and so responsibility for this provision has fallen to HM Treasury. Broadly, Article 4(4)-4a(1) provides, in circumstances where a vehicle is dispatched from one EEA State[3] to another, a 30-day derogation from the general rule[4], reflected in the UK by a statutory instrument under FSMA[5], that motor insurance cover can only be provided by an insurer authorised to write business in the EEA State in which the vehicle is registered (either because that State is its home state or because it has a passport to cover risks situated there through a branch or on a cross-border basis). This provision is intended to make it easier for consumers to purchase insurance where a vehicle is being imported from one EEA State to another.

1.5 HM Treasury are now seeking views on the appropriateness and extent of this measure. In particular, HM Treasury would welcome evidence on the costs and benefits of its approach to implementation to inform a final Regulatory Impact Assessment (RIA). HM Treasury are not aware of any alternative approaches to implementation of this measure but would welcome any suggestions in this regard.

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[1] Directive 2005/14/EC of the European Parliament and of the Council of 11 May 2005 (OJ L 149, 11.6.2005, p. 14).

[2] Strictly speaking, Article 4a(1) of Council Directive 1990/232/EEC of 14th May 1990 (OJ No L 129, 19.5.1990, p. 33), the Third Motor Insurance Directive, as inserted by Article 4(4) of the 5th MID.

[3] Article 4a(1) refers only to Member States, i.e. EU States, but the EEA Agreement of 7th March 1993 extends its application to all EEA States i.e. the 27 EU Member States and Norway, Iceland and Liechtenstein.

[4] See second indented paragraph of Article 2(d) of Second Council Directive 88/357/EEC of 22 June 1988 on direct insurance (OJ No L 172, 04.07.1988, p. 1).

[5] See regulations 2(2)(b) and 4 of the FSMA 2000 (Law Applicable to Contracts of Insurance) Regulations 2001 (SI 2001/2635).

1.6 Draft legislation is provided alongside this document in Annex B. This consultation will run for 12 weeks from 1 March 2007 to 24 May 2007. Following this consultation, the Government will announce its chosen approach alongside a summary of the consultation responses and final legislation.

2 Responding to the consultation

How to respond

2.1 The Government welcomes the views of all stakeholders on issues raised in this document. The consultation period begins with the publication of this document and will run for 12 weeks. Please ensure that responses to this consultation reach us by 24 May 2007. We cannot guarantee to consider responses received after this date. Responses should be sent to:

Eve Engledow
Financial Stability and Risk Team
HM Treasury
1 Horse Guards Road
London SW1A 2HQ
Fax: 020 7451 7524
Email: eve.engledow@hm-treasury.x.gsi.gov.uk

2.2 Enquiries relating to this consultation can be made to:

Richard Wronka
Financial Stability and Risk Team
Tel: 020 7270 5389
Email: richard.wronka@hm-treasury.x.gsi.gov.uk

2.3 This document can be found on HM Treasury's website www.hm-treasury.gov.uk.

2.4 When responding, please state whether you are responding on behalf of an individual or representing the views of an organisation. If responding on behalf of a larger organisation, please make it clear who the organisation represents and, where applicable, how the views of members were assembled.

Confidentiality

2.5 All written responses will be made public on HM Treasury's website unless the author specifically requests otherwise in writing.

2.6 Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act (DPA) and the Environmental Information Regulations 2004). If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality will be maintained in all circumstances.

2.7 An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on HM Treasury. HM Treasury will process your personal data in accordance with the DPA, and in the majority of circumstances, this will mean that your personal data will not be disclosed to third parties.

2.8 Subject to paragraphs 2.5, 2.6 and 2.7 if you wish part (but not all) of your response to remain confidential, please supply two versions – one for publication on the website with the confidential information deleted, and another confidential version for use by HM Treasury.

PARTIAL REGULATORY IMPACT ASSESSMENT

2.9 The partial Regulatory Impact Assessment (RIA) follows this document and should be read in conjunction with it. The Government welcomes views on the partial RIA.

FREEDOM OF INFORMATION CONTACT

2.10 Any Freedom of Information Act queries should be directed to:

Correspondence and Enquiry Unit
Freedom of Information Section
HM Treasury
1 Horse Guards Road
London
SW1A 2HQ
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Email: public.enquiries@hm-treasury.x.gsi.gov.uk

HOW THIS CONSULTATION IS BEING CONDUCTED

2.11 This consultation is being conducted in line with the Code of Practice on Consultation. The criteria are listed below (a full version can be found at www.cabinet-office.gov.uk/regulation/consultation/code.htm). The six consultation criteria are:

1. Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy.
2. Be clear about who may be affected, what questions are being asked, and the timescale for responses.
3. Ensure your consultation is clear, concise and widely accessible.
4. Give feedback regarding the responses received and how the consultation process influenced policy.
5. Monitor your department's effectiveness at consultation, including through the use of a designated consultation co-ordinator.
6. Ensure your consultation follows Better Regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.

2.12 If you have concerns as to how this consultation is being conducted, please contact:

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3 Implementing Article 4(4)-4a(1) of the Fifth Motor Insurance Directive

Motor insurance

3.1 Motor insurance[1] protects motorists against liability in the event of accidents they may cause. It can also provide cover for the motorist's own vehicle. The most basic form of insurance cover available in the market is 'third party' cover, which protects the policyholder only against liability arising from an injury to a third party (such as a pedestrian, a passenger or the driver of another vehicle) or damage to a third party's property, but does not provide any cover for the individual's own vehicle or property. 'Third party, fire and theft' and 'comprehensive' policies are also generally available, offering protection for a variety of risks including theft and fire damage, and accidental damage caused by the policyholder, as well as liability towards third parties.

3.2 The Road Traffic Act 1988 requires all motorists to be insured against their liability for injuries to others and for damage to other people's property resulting from use of a vehicle on a road or other public place. It is an offence for an individual to drive his or her vehicle, or to allow others to drive the vehicle, without insurance.

3.3 According to the Association of British Insurers' (ABI) statistics of March 2006, there were around 380 insurance companies authorised to write motor insurance in the UK during 2004. However, the ABI estimate that in practice there were probably around 60 companies, plus 6 Lloyd's syndicates, actively transacting motor insurance business. The ABI estimate that in 2004 the total value of the motor insurance market in the UK was £12.6 billion (by gross earned premiums) and that the total cost of claims amounted to £8.3 billion. Total insurance exposure was spread between around 21.4 million private vehicles and 4.8 million commercial or fleet vehicles.

The EU's motor insurance directives

3.4 The EU's motor insurance Directives date back to 1972 and the First Motor Insurance Directive, which made third-party liability insurance compulsory throughout the then European Economic Community. The Second Motor Insurance Directive laid down minimum amounts for this cover and extended the requirement for compulsory insurance to cover both damage to property and personal injury. The Third Motor Insurance Directive extended the third-party liability insurance requirement to traffic accidents occurring in the victim's State of residence and caused by vehicles registered in another EEA State. The Fourth Motor Insurance Directive filled a gap regarding the settlement of claims when the accident had taken place outside the EEA State of residence of the injured party.

3.5 The 5th MID now seeks to address a number of issues that have arisen over time, fill a number of gaps missed by the first four Motor Insurance Directives and also to update and improve protection for victims of motor accidents.

3.6 In particular, the 5th MID addresses a number of individual issues including:

- the use of temporary registration plates and vehicles without a registration plate;
- enforcement checks on insurance;

[1] Source: Association of British Insurers

- exemptions from the obligation to insure certain vehicles;
- a review of the minimum amounts of compulsory third party liability cover;
- the regime for service (claims) representatives;
- cover for passengers who knew that the driver was under the influence of alcohol;
- cover for pedestrians and cyclists;
- temporary stays in other Member States;
- insurance cover for imported vehicles;
- the accident statement provided by the insurer;
- excesses under a motor insurance policy;
- extending to all accidents the mechanism in the 4th Motor Insurance Directive for claims settlement;
- removing Member States' option to limit compensation where accidents are caused by unidentified vehicles.

3.7 The responsibility for the implementation of the majority of these provisions has fallen to the Department for Transport (DfT). However implementation of Article 4(4)-4a(1) of the 5th MID will require amendments to the Financial Services and Markets Act 2000 (FSMA) and the FSMA (Law Applicable to Contracts of Insurance) Regulations 2001 and so responsibility for implementation of this part of Article 4(4) has fallen to HM Treasury.

INSURANCE COVER FOR IMPORTED VEHICLES

3.8 Article 4(4)-4a(1) of the 5th MID provides, in circumstances where a vehicle is dispatched from one EEA State to another, a 30-day derogation from the general rule[2], reflected in the UK by a statutory instrument under FSMA[3], that motor insurance cover can only be provided by an insurer authorised to write business in the EEA State in which the vehicle is registered (either because that State is its home state or because it has a passport to cover risks situated there through a branch or on a cross-border basis). The derogation is compulsory, so that it will no longer be possible for insurers authorised to write business in the EEA State of origin of the vehicle to provide cover for that period unless they have a passport to operate in the EEA State of destination.

3.9 To understand the practical implications of this provision, it is helpful to set out an example of the circumstances in which it would commonly apply. An individual residing in the UK might wish to apply to register in the UK an imported vehicle previously registered in another EEA State. This vehicle may be a second-hand vehicle purchased in another EEA State by the applicant or by a dealer, or a vehicle bought new in another EEA State.

3.10 At present, for the journey to the UK, the vehicle has to be covered by an insurance policy issued by a company authorised to operate in the EEA State of origin.

[2] See second indented paragraph of Article 2(d) of Second Council Directive 88/357/EEC of 22 June 1988 on direct insurance (OJ No L 172, 04.07.1988, p. 1).

[3] See regulations 2(2)(b) and 4 of the FSMA 2000 (Law Applicable to Contracts of Insurance) Regulations 2001 (SI 2001/2635).

Such short-term insurance is normally more expensive pro rata than insurance for a normal full term and the Government is aware of concerns that is often difficult to find any insurer ready to provide such short-term cover. When the vehicle reaches the UK, it then needs to be covered by insurance until its new registration is completed. The vehicle insurance purchased in the exporting EEA State does not typically provide cover for this period and it might be difficult to find alternative insurance in the UK.

3.11 Article 4(4)-4a(1) of the 5th MID would make it easier for individuals to obtain insurance cover for imported vehicles by temporarily switching the EEA State in which the risk is situated (the 'State of the risk') from the State of origin of the vehicle to the State of destination. This would give the buyer time to register the vehicle in the UK. This change should also be beneficial for UK insurers by allowing them to insure a vehicle being imported into the UK without having to 'passport'[4] into the EEA State from which the vehicle is being imported (and also by removing the requirement to enter into the exporting State's guarantee fund and motor insurance bureau).

3.12 The Government's proposed approach to achieving implementation in this way is to amend Schedule 12 to FSMA and the Financial Services and Markets Act 2000 (Law Applicable to Contracts of Insurance) Regulations 2001 (S.I. 2001/2635). The Government would welcome comments on its proposed draft Statutory Instrument at Annex B and, in particular, views on whether it would achieve the policy objective outlined above.

3.13 Schedule 12 to FSMA sets out conditions for the appropriateness of the certificates required by the courts in relation to an insurance business transfer scheme. An insurance business transfer scheme is a legal process under Part VII of FSMA by which, following the sanction by the courts, an insurance company can transfer its obligations under insurance (or reinsurance) policies to another insurer.

3.14 The Financial Services and Markets Act 2000 (Law Applicable to Contracts of Insurance) Regulations 2001 specify the law that applies to contracts of insurance, in particular general insurances such as motor insurance, and hence the regulatory regime with which any insurer offering such contracts must comply.

3.15 This option for implementation is not intended to go any further than required by the 5th MID.

3.16 The change to the definition of the State of the risk will require that, as a consequential change, the Financial Services Authority amend its definition of the State of the risk in its Handbook Glossary. The FSA has consulted on such an amendment in its October 2006 *Quarterly Consultation (No. 10)* (available from the FSA website at: http://www.fsa.gov.uk/Pages/Library/Policy/CP/2006/06_18.shtml) and will agree the amendment in due course.

[4] In practice, passporting may be costly for a UK authorised firm as the host EEA State may impose certain regulatory restrictions that go beyond the FSA's requirements in the UK.

Question 1

Do you have any views on the Government's proposed approach to the implementation of Article 4(4)-4a(1) of the 5th MID in the UK?

Question 2

Do you have any comments on the proposed draft Statutory Instrument at Annex B?

Question 3

Do you have any comments on the partial Regulatory Impact Assessment (RIA) in Chapter 4?

4 Partial Regulatory Impact Assessment

TITLE OF PROPOSAL

4.1 Implementing Article 4(4)-4a(1) of the EU's Fifth Motor Insurance Directive (**5th MID**).

PURPOSE AND INTENDED EFFECT

Rationale for Government intervention

4.2 The UK is required to implement the 5th MID by 11 June 2007. Responsibility for implementation of the majority of the provisions of the Directive has fallen to the Department for Transport (DfT). However, implementation of Article 4(4)-4a(1) of the 5th MID[1] will require amendments to the Financial Services and Markets Act 2000 (FSMA) and the FSMA (Law Applicable to Contracts of Insurance) Regulations 2001 and has therefore fallen to HM Treasury.

Objective

4.3 This Article provides, in circumstances where a vehicle is dispatched from one EEA State[2] to another, a 30-day derogation from the general rule[3] that motor insurance cover can only be provided by an insurer authorised to write business in the EEA State in which the vehicle is registered (either because that State is its home State or because it has a passport to cover risks situated there through a branch or on a cross-border basis). This means that it will be easier for individuals to obtain insurance cover for imported vehicles by switching the EEA State in which the risk is situated (the 'State of the risk') from the State of origin of the vehicle to the State of destination.

CONSULTATION

4.4 This partial RIA should be read in conjunction with the consultation at chapters 1 to 3 of this document. This consultation is concerned with implementing Article 4(4)-4a(1) of the 5th MID in the UK. It will run for 12 weeks from 1 March to 24 May 2007.

4.5 This partial Regulatory Impact Assessment (**RIA**) sets out the options and considers the qualitative, and where possible, quantitative costs and benefits. Risks, unintended consequences and any compliance and enforcement issues have also been incorporated as costs and benefits. Competition issues and the impact on small firms have also been considered.

4.6 When formally responding to this partial RIA, HM Treasury are seeking comments on the cost-benefit analysis, likely risks and unintended consequences of this proposal, including supporting evidence. If you feel that there are alternative options for implementation please suggest these. The feedback to this partial RIA will provide valuable information which will feed into the final RIA following this consultation. The consultation document and partial RIA should be read together.

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[1] Strictly speaking, Article 4a(1) of Council Directive 1990/232/EEC of 14th May 1990 (OJ No L 129, 19.5.1990, p. 33), the Third Motor Insurance Directive, as inserted by Article 4(4) of the Fifth Motor Insurance Directive.

[2] Article 4a(1) refers only to Member States, i.e. EU States, but the EEA Agreement of 7th March 1993 extends its application to all EEA States i.e. the 27 EU Member States and Norway, Iceland and Liechtenstein.

[3] See second indented paragraph of Article 2(d) of Second Council Directive 88/357/EEC of 22 June 1988 on direct insurance (OJ No L 172, 04.07.1988, p. 1).

OPTIONS

Do nothing

4.7 As with all proposals for legislation, HM Treasury have considered the option of making no changes.

4.8 The UK Government has no discretion to avoid implementation of EU Directives. The Commission would be able to begin infraction proceedings. The Government would also potentially be open to claims for damages. The Government also believes that Article 4(4)-4a(1) of the 5th MID will benefit UK consumers and insurers.

HM Treasury's SI

4.9 HM Treasury are therefore proposing to implement Article 4(4)-4a(1) of the 5th MID in line with the draft Statutory Instrument (SI) included at Annex B.

4.10 The Government's proposed approach to implementation is to amend paragraph 6 of Schedule 12 (transfer schemes: interpretation) to FSMA and Regulation 2 (interpretation) of the Financial Services and Markets Act 2000 (Law Applicable to Contracts of Insurance) Regulations 2001[4], so that where insurance relates to a vehicle dispatched from one EEA State to another, for the 30 day period following the delivery of the vehicle only, the insurance risk is situated in the EEA State which the vehicle is being delivered to. This will give the buyer time to register the vehicle in the UK.

4.11 Schedule 12 to FSMA sets out conditions for the appropriateness of the certificates required by the courts in relation to an insurance business transfer scheme. An insurance business transfer scheme is a legal process under Part VII of FSMA by which, following the sanction by the courts, an insurance company can transfer its obligations under insurance or (reinsurance) policies to another insurer.

4.12 The Financial Services and Markets Act 2000 (Law Applicable to Contracts of Insurance) Regulations 2001 specify the law that applies to contracts of insurance, in particular general insurances such as motor insurance, and hence the regulatory regime with which any insurer offering such contracts must comply.

4.13 This option for implementation is not intended to go any further than required by the 5th MID.

COSTS AND BENEFITS

Groups affected

4.14 The following main groups have been identified as potentially being affected by these proposals:

- individuals, companies, or specialist dealers importing vehicles into the UK from another EEA State;
- motor insurers;
- insurance brokers.

4.15 According to the Association of British Insurers' statistics of March 2006, there were around 380 insurance companies authorised to write motor insurance in the UK during 2004. However, the ABI estimate that in practice there were probably around 60 companies, plus 6 Lloyd's syndicates, actively transacting motor insurance business.

Benefits

4.16 The Government believes that implementing Article 4(4)-4a(1) of the 5th MID

[4] S.I. 2001/2635.

will make it easier for individuals and companies in the UK to import vehicles from other EEA States. The Government is aware of concerns that individuals or companies wishing to purchase new or second-hand vehicles in one EEA State and dispatch them into another EEA State often experience difficulty in finding insurance cover. During the journey, and until its final registration in the EEA State of destination, the vehicle has to be covered by an insurance policy issued by an insurer authorised to operate in the State of origin of the vehicle (either because that State is its home state or because it has a passport to cover risks situated there through a branch or on a cross-border basis). Such short term insurance is harder to obtain and is normally more expensive pro rata than insurance for a full normal term. Following implementation of this part of Article 4(4) of the 5th MID, individuals or companies will be able to purchase motor insurance from a UK-authorised insurer to cover the whole process of importing into the UK a vehicle from another EEA State.

4.17 The Government also believes that this change should be beneficial for UK insurers by allowing them to insure a vehicle being imported into the UK without having to 'passport' into the EEA State from which the vehicle is being imported (and also by removing the requirement to enter into the exporting State's guarantee fund and motor insurance bureau). The Government understands that at present few UK motor insurers use a passport to write business in other EEA States, and this measure will therefore allow for a potential growth in the business of motor insurers by allowing them to cater for this market.

4.18 The Government would welcome any information or data that would assist in explicitly quantifying the benefits arising from this implementation approach.

Costs

4.19 The Government believes that there will be minimal costs arising from the implementation of Article 4(4)-4a(1) of the 5th MID. There may be a cost arising from UK insurers no longer being able to offer motor insurance to cover vehicles that are being exported out of the UK into another EEA State (unless they have a passport to cover risks situated there). However, the Government does not believe that this cost would be significant.

4.20 The FSA have estimated in their Quarterly Consultation (No. 10) that they do not expect this change to result in any incremental costs to the FSA[5].

4.21 The Government would welcome any information or data that would assist in explicitly quantifying the costs arising from this implementation approach.

Question 1

Do you agree with the analysis of costs and benefits for the different options relating to these two measures, as well as the impact on competition and small firms?

Question 2

Are there any alternative ways of implementing Article 4(4)-4a(1) of the 5th MID that should be considered?

[5] This consultation paper is available from the FSA website: http://www.fsa.gov.uk/Pages/Library/Policy/CP/2006/06_18.shtml

SMALL FIRMS IMPACT TEST

4.22 These proposals are unlikely to have a disproportionate impact on small firms.

COMPETITION ASSESSMENT

4.23 These proposals should make it easier for individuals and companies to import vehicles from other EEA States, hence impacting positively on competition in the UK's domestic motor vehicle market.

ENFORCEMENT, SANCTIONS AND MONITORING

4.24 The FSA is already responsible for enforcing the regulation of UK-authorised firms carrying out insurance contracts of the type allowed for through the implementation of Article 4(4)-4a(1) of the 5th MID.

HOW TO RESPOND

4.25 The Government welcomes the views of all stakeholders on issues raised in this document. The consultation period begins with the publication of this document and will run for 12 weeks. Please ensure that responses to this consultation reach us by 24 May 2007. We cannot guarantee to consider responses received after this date. Responses should be sent to:

Eve Engledow
Financial Stability and Risk Team
HM Treasury
1 Horse Guards Road
London SW1A 2HQ
Fax: 020 7451 7524
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4.32 Subject to paragraphs 4.29, 4.30 and 4.31 if you wish part (but not all) of your response to remain confidential, please supply two versions – one for publication on the website with the confidential information deleted, and another confidential version for use by HM Treasury.

FREEDOM OF INFORMATION CONTACT

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Fax: 020 7270 4681
Email: public.enquiries@hm-treasury.x.gsi.gov.uk

CONSULTATION DOCUMENT

4.34 The consultation document is published with this document and should be read in conjunction with it. A copy of the consultation document can be found on HM Treasury's website (www.hm-treasury.gov.uk).

HOW THIS CONSULTATION IS BEING CONDUCTED

4.35 This consultation is being conducted in line with the Code of Practice on Consultation. The criteria are listed below (a full version can be found at www.cabinet-office.gov.uk/regulation/consultation/code.htm). The six consultation criteria are:

1. Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy.

2. Be clear about who may be affected, what questions are being asked, and the timescale for responses.

3. Ensure your consultation is clear, concise and widely accessible.

4. Give feedback regarding the responses received and how the consultation process influenced policy.

5. Monitor your department's effectiveness at consultation, including through the use of a designated consultation co-ordinator.

6. Ensure your consultation follows Better Regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.

4.36 If you have concerns as to how this consultation is being conducted, please contact:

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A Consultation list

Association of British Insurers

Automobile Association (the AA)

British International Brokers Association

British Independent Motor Trade Association

Department for Transport

The Driver and Vehicle Licensing Agency (DVLA)

Financial Services Authority

The Financial Services Consumer Panel

Institute of Independent Brokers

The RAC

Society of Motor Manufacturers and Traders

Which?

This consultation list shows the main stakeholders that HM Treasury have identified to send the consultation to directly. However, HM Treasury would welcome views from any individual or organisation with an interest in the issues raised in this consultation.

B DRAFT STATUTORY INSTRUMENT: IMPLEMENTING ARTICLE 4(4)-4A(1) OF THE 5TH MID

STATUTORY INSTRUMENTS

2007 No.

FINANCIAL SERVICES AND MARKETS

The Financial Services and Markets Act 2000 (Motor Insurance) Regulations 2007

Made - - - -	*2007*
Laid before Parliament	*2007*
Coming into force - -	*2007*

The Treasury make the following Regulations in exercise of the powers conferred on them by sections 117, 417(1)([1]), 424(3) and 428(3) of the Financial Services and Markets Act 2000([2]):

Citation and commencement

1. These Regulations may be cited as the Financial Services and Markets Act 2000 (Motor Insurance) Regulations 2007 and come into force on [ ] 2007.

Amendment of the Financial Services and Markets Act 2000

2.—(1) The Financial Services and Markets Act 2000 is amended as follows.

(2) At the end of paragraph 6 of Schedule 12 (transfer schemes: interpretation), add—

"(4) If the insurance relates to a vehicle dispatched from one EEA State to another, in respect of the period of 30 days beginning with the day on which the purchaser accepts delivery a reference to the EEA State in which a risk is situated is a reference to the State of destination (and not, as provided by sub-paragraph (3)(b), to the State of registration).".

Amendment of the Financial Services and Markets Act 2000 (Law Applicable to Contracts of Insurance) Regulations 2001

3.—(1) The Financial Services and Markets Act 2000 (Law Applicable to Contracts of Insurance) Regulations 2001([3]) are amended as follows.

(2) After paragraph (2) of regulation 2 (interpretation), insert—

([1]) See the definition of "prescribed".

([2]) 2000 c. 8.

([3]) S.I. 2001/2635.

"(2A) If the contract of insurance relates to a vehicle dispatched from one EEA State to another, in respect of the period of 30 days beginning with the day on which the purchaser accepts delivery a reference to the EEA State in which a risk is situated is a reference to the State of destination (and not, as provided by paragraph (2)(b), to the State of registration).".

Name

Name

Two of the Lords Commissioners of Her Majesty's Treasury

Date

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Financial Services and Markets Act 2000 (c. 8) (the "Act") and the Financial Services and Markets Act 2000 (Law Applicable to Contracts of Insurance) Regulations 2001 (SI 2001/2635) (the "2001 Regulations") to change the meaning of "EEA State in which a risk is situated" in certain circumstances in the context of vehicle insurance.

The Regulations implement Article 4a(1) of Council Directive 1990/232/EEC of 14th May 1990 on the approximation of the laws of the Member States relating to insurance against civil liability in respect of the use of motor vehicles (OJ No L 129, 19.5.1990, p. 33) (the "Third Motor Insurance Directive") which was inserted into the Directive by Article 4(4) of Directive 2005/14/EC of 11th May 2005 of the European Parliament and of the Council (OJ No L149, 11.6.2005, p. 14).

Regulation 2 inserts a new sub-paragraph into paragraph 6 of Schedule 12 to the Act to provide for circumstances in which, for the purposes of insurance business transfer schemes where the insurance relates to a vehicle of any type, a reference to the EEA State in which a risk is situated is a reference to the EEA State of destination of the vehicle on, and for a period following, acceptance of delivery by the purchaser.

Regulation 3 inserts a new paragraph into regulation 2 of the 2001 Regulations which specify the law that applies to contracts of insurance, the effecting or carrying out of which constitutes a regulated activity within the meaning of the Act. The paragraph inserted provides for circumstances in which where the risk is covered by a contract of insurance and the insurance relates to a vehicle of any type, a reference to the EEA State in which a risk is situated is a reference to the EEA State of destination of the vehicle on, and for a period following, acceptance of delivery by the purchaser.

As these Regulations implement, in part, the Third Motor Insurance Directive, as amended by the Fifth Motor Insurance Directive, a Transposition Note has been prepared setting out how the Government will transpose into UK law the main elements of this Directive. The Transposition Note is available in both Houses of Parliament. Copies are also available from the following address / website: [ ]

ISBN 978-1-84532-253-3