

*Status: Point in time view as at 31/07/2017.*

**Changes to legislation:** Financial Services and Markets Act 2000, SCHEDULE 3 is up to date with all changes known to be in force on or before 20 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

## SCHEDULES

### SCHEDULE 3

Sections 31(1)(b) and 37.

#### EEA PASSPORT RIGHTS

##### Modifications etc. (not altering text)

- C1** Sch. 3 extended (with modifications) (1.12.2001) by S.I. 2001/2636, **arts. 1(2)(b), 25-27**; S.I. 2001/3538, **art. 2(1)**  
Sch. 3 extended (with modifications) (Gibraltar) (5.10.2001 for specified purposes, 1.12.2001 in so far as not already in force) by S.I. 2001/3084, **arts. 1(1), 2-4** (as amended (16.6.2014) by [The Alternative Investment Fund Managers Order 2014](#) (S.I. 2014/1292), **arts. 1(2), 3** (which amending S.I. is itself amended by S.I. 2014/1313, **arts. 1, 2(a)**); and as amended (31.12.2020) by S.I. 2019/589, **regs. 1(3), 5-9** (with **reg. 12**) (as amended by S.I. 2020/1274, **regs. 1, 2**); S.I. 2001/3538, **art. 2(1)**  
Sch. 3 modified (1.12.2001) by S.I. 2001/3592, **arts. 1(2), 114(3)(b), 128(3)(b)** (with **art. 23(2)**)

#### PART I

##### DEFINED TERMS

###### *The single market directives*

- 1 “The single market directives” means—
- <sup>F1</sup>(a) the [<sup>F2</sup>capital requirements directive];
  - <sup>F3</sup>(c) the Solvency 2 Directive;
  - <sup>F4</sup>(ca) .....
  - (d) the [<sup>F5</sup>markets in financial instruments directive][<sup>F6</sup>; <sup>F7</sup> . . .
  - (e) the insurance mediation directive][<sup>F8</sup>; <sup>F9</sup> . . .
  - (f) the UCITS directive][<sup>F10</sup>; <sup>F11</sup> . . .
  - (g) the alternative investment fund managers directive][<sup>F12</sup>; and
  - (h) the mortgages directive.]

##### Textual Amendments

- F1** Sch. 3 para. 1(a) substituted (22.11.2000) for Sch. 3 para. 1(a)(b) by S.I. 2000/2952, **reg. 8(5)(a)**  
**F2** Words in Sch. 3 para. 1(a) substituted (1.1.2014) by [The Capital Requirements Regulations 2013](#) (S.I. 2013/3115), **reg. 1(2), Sch. 2 para. 29(2)**  
**F3** Sch. 3 para. 1(c) substituted (1.1.2016) by [The Solvency 2 Regulations 2015](#) (S.I. 2015/575), **reg. 1(2), Sch. 1 para. 17(2)(a)**  
**F4** Sch. 3 para. 1(ca) omitted (1.1.2016) by virtue of [The Solvency 2 Regulations 2015](#) (S.I. 2015/575), **reg. 1(2), Sch. 1 para. 17(2)(b)**

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- F5** Words in Sch. 3 para. 1(d) substituted (1.4.2007 for certain purposes, otherwise 1.11.2007) by The Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2007 (S.I. 2007/126), regs. 1(2), 3(4), **Sch. 4 para. 2**
- F6** Sch. 3 para. 1(e) and preceding word inserted (14.1.2005) by The Insurance Mediation Directive (Miscellaneous Amendments) Regulations 2003 (S.I. 2004/1473), **reg. 2(2)(a)(ii)**
- F7** Word in Sch. 3 para. 1(d) omitted (13.2.2004) by virtue of The Collective Investment Schemes (Miscellaneous Amendments) Regulations 2003 (S.I. 2003/2066), **reg. 2(2)(a)(i)**
- F8** Sch. 3 para. 1(f) and preceding word inserted (13.2.2004) after Sch. 3 para. 1(e) by The Collective Investment Schemes (Miscellaneous Amendments) Regulations 2003 (S.I. 2003/2066), **reg. 2(2)(a)(i)**
- F9** Word in Sch. 3 para. 1(e) omitted (22.7.2013) by virtue of The Alternative Investment Fund Managers Regulations 2013 (S.I. 2013/1773), **reg. 1, Sch. 1 para. 34(2)**
- F10** Sch. 3 para. 1(g) and word inserted (22.7.2013) by The Alternative Investment Fund Managers Regulations 2013 (S.I. 2013/1773), **reg. 1, Sch. 1 para. 34(2)**
- F11** Word in Sch. 3 para. 1(f) omitted (20.4.2015 for specified purposes, 21.12.2015 for specified purposes, 21.3.2016 in so far as not already in force) by virtue of The Mortgage Credit Directive Order 2015 (S.I. 2015/910), art. 1(5), **Sch. 1 para. 1(10)(a)(i)** (with Pt. 4)
- F12** Sch. 3 para. 1(h) and word inserted (20.4.2015 for specified purposes, 21.12.2015 for specified purposes, 21.3.2016 in so far as not already in force) by The Mortgage Credit Directive Order 2015 (S.I. 2015/910), art. 1(5), **Sch. 1 para. 1(10)(a)(ii)** (with Pt. 4)

#### Commencement Information

- II** Sch. 3 Pt. I para. 1 wholly in force at 1.12.2001; Sch. 3 Pt. I para. 1 not in force at Royal Assent see s. 431(2); Sch. 3 Pt. I para. 1 in force for certain purposes at 25.2.2001 by S.I. 2001/516, art. 2(b)(c), **Sch. Pts. 2, 3**; Sch. 3 Pt. I para. 1 in force for specified purposes at 18.6.2001 by S.I. 2001/1820, art. 2, **Sch.**; Sch. 3 Pt. I para. 1 in force in so far as not already in force at 1.12.2001 by S.I. 2001/3538, **art. 2(1)**

#### *The banking co-ordination directives*

**F13** 2

#### Textual Amendments

- F13** Sch. 3 para. 2 omitted (1.1.2014) by virtue of The Capital Requirements Regulations 2013 (S.I. 2013/3115), **reg. 1(2), Sch. 2 para. 29(3)**

#### *<sup>F14</sup>The Solvency 2 Directive*

#### Textual Amendments

- F14** Sch. 3 para. 3 and cross-heading substituted (1.1.2016) by The Solvency 2 Regulations 2015 (S.I. 2015/575), **reg. 1(2), Sch. 1 para. 17(3)**

3 “The Solvency 2 Directive” means Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II).]

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*[<sup>F15</sup>The reinsurance directive]*

**Textual Amendments**

**F15** Sch. 3 para. 3A and cross-heading inserted (10.12.2007) by [The Reinsurance Directive Regulations 2007 \(S.I. 2007/3253\)](#), reg. 2(1), **Sch. 1 para. 6(b)**

<sup>F16</sup>3A .....

**Textual Amendments**

**F16** Sch. 3 para. 3A omitted (1.1.2016) by virtue of [The Solvency 2 Regulations 2015 \(S.I. 2015/575\)](#), reg. 1(2), **Sch. 1 para. 17(4)**

*The investment services directive*

4 <sup>F17</sup> .....

**Textual Amendments**

**F17** Sch. 3 para. 4 repealed (1.4.2007 for certain purposes and 1.11.2007 otherwise) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2007 \(S.I. 2007/126\)](#), regs. 1(2), 3(4), **Sch. 4 para. 3**

*[<sup>F18</sup>The insurance mediation directive*

**Textual Amendments**

**F18** Sch. 3 para. 4A and cross-heading inserted (14.1.2005) by [The Insurance Mediation Directive \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/1473\)](#), reg. 2(b)

4A “The insurance mediation directive” means the European Parliament and Council Directive of 9th December 2002 on insurance mediation ( No.2002/92/EC).]

*[<sup>F19</sup>The UCITS directive*

**Textual Amendments**

**F19** Sch. 3 para. 4B and cross-heading inserted (13.2.2004) by [The Collective Investment Schemes \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/2066\)](#), reg. 2(2)(b)

[<sup>F20</sup>4B “The UCITS directive ” means the Directive of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (No 2009/65/EC) [<sup>F21</sup>, as amended by [Directive 2014/91/EU](#) of the European Parliament and of the Council of 23rd July 2014].]

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#### Textual Amendments

- F20** Sch. 3 para. 4B substituted (1.7.2011) by The Undertakings for Collective Investment in [Transferable Securities Regulations 2011 \(S.I. 2011/1613\)](#), **reg. 2(33)(a)**
- F21** Words in Sch. 3 para. 4B inserted (18.3.2016) by [The Undertakings for Collective Investment in Transferable Securities Regulations 2016 \(S.I. 2016/225\)](#), regs. 1, **2(9)**

*[<sup>F22</sup>The markets in financial instruments directive]*

#### Textual Amendments

- F22** Sch. 3 para. 4C and preceding cross-heading inserted (6.12.2006) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) \(Modification of Powers\) Regulations 2006 \(S.I. 2006/2975\)](#), **reg. 13**

[<sup>F23</sup>4C “The markets in financial instruments directive” means [Directive 2014/65/EU](#) of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments.]

#### Textual Amendments

- F23** Sch. 3 para. 4C substituted (29.6.2017 for specified purposes, 3.7.2017 for specified purposes, 31.7.2017 for specified purposes) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2017 \(S.I. 2017/701\)](#), reg. 1(2)(3)(4)(6), **Sch. 2 para. 54(2)** (with reg. 7)

*The emission allowance auctioning regulation*

[<sup>F24</sup>4D. “The emission allowance auctioning regulation” means Commission Regulation (EU) No 1031/2010 of 12 November 2010 on the timing, administration and other aspects of auctioning of greenhouse gas emission allowances pursuant to [Directive 2003/87/EC](#) of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community.]

#### Textual Amendments

- F24** Sch. 3 para. 4D inserted (20.7.2012) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2012 \(S.I. 2012/1906\)](#), arts. 1, **4(2)**

*[<sup>F25</sup>The alternative investment fund managers directive]*

#### Textual Amendments

- F25** Sch. 3 para. 4E and cross-heading inserted (22.7.2013) by [The Alternative Investment Fund Managers Regulations 2013 \(S.I. 2013/1773\)](#), reg. 1, **Sch. 1 para. 34(3)**

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- 4E. “The alternative investment fund managers directive” means Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers.]

*[<sup>F26</sup>The mortgages directive*

#### Textual Amendments

**F26** Sch. 3 para. 4F and cross-heading inserted (20.4.2015 for specified purposes, 21.12.2015 for specified purposes, 21.3.2016 in so far as not already in force) by [The Mortgage Credit Directive Order 2015 \(S.I. 2015/910\)](#), art. 1(5), **Sch. 1 para. 1(10)(b)** (with Pt. 4)

- 4F. “The mortgages directive” means Directive 2014/17/EU of the European Parliament and of the Council of 4th February 2014 on credit agreements for consumers relating to residential immovable property and amending Directives [2008/48/EC](#) and [2013/36/EU](#) and Regulation (EU) No 1093/2010.]

*EEA firm*

- 5 “EEA firm” means any of the following if it does not have its [<sup>F27</sup>relevant office] in the United Kingdom—
- (a) an investment firm (as defined in [<sup>F28</sup>Article 4.1.1 of the markets in financial instruments directive]) which is authorised (within the meaning of [<sup>F29</sup>Article 5]) by its home state regulator;
  - [<sup>F30</sup>(b) a credit institution (as defined in Article 4(1)(1) of the capital requirements regulation) which is authorised (within the meaning of Article 8 of the capital requirements directive) by its home state regulator;]
  - [<sup>F31</sup>(c) a financial institution (as defined in Article 4(1)(26) of the capital requirements regulation) which is a subsidiary of the kind mentioned in Article 34 of the capital requirements directive and which fulfils the conditions of that Article;]
  - [<sup>F32</sup>(d) an undertaking pursuing the activity of direct insurance (within the meaning of Article 2 of the Solvency 2 Directive) which has received authorisation under Article 14 of that directive from its home state regulator;
  - (da) an undertaking pursuing the activity of reinsurance (within the meaning of Article 2 of the Solvency 2 Directive) as a reinsurance undertaking which has received authorisation under Article 14 of that directive from its home state regulator;]
  - (e) an insurance intermediary (as defined in Article 2.5 of the insurance mediation directive), or a reinsurance intermediary (as defined in Article 2.6) which is registered with its home state regulator under Article 3; <sup>F33</sup> ...
  - [<sup>F34</sup>(f) a management company (as defined in paragraph 11B) which is authorised (within the meaning of Article 6 of the UCITS directive) by its home state regulator][<sup>F35</sup>; <sup>F36</sup> ...
  - (g) a person who has received authorisation under Article 18.2 of the emission allowance auctioning regulation][<sup>F37</sup>; <sup>F38</sup> ...

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- (h) an AIFM (as defined in Article 4.1(b) of the alternative investment fund managers directive) which is authorised (in accordance with [F39 Article 6.1 of] that directive) by its home state regulator][F40]; or
- (i) a mortgage intermediary which is admitted (in accordance with Article 29(1) of the mortgages directive) by its home state regulator to carry out all or part of the credit intermediation activities set out in Article 4(5) of that directive or to provide advisory services (as defined in Article 4(21) of that directive).]

### Textual Amendments

- F27** Words in Sch. 3 para. 5 substituted (14.1.2005) by [The Insurance Mediation Directive \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/1473\)](#). {reg. 2(c)(i)}
- F28** Words in Sch. 3 para. 5(a) substituted (1.4.2007 for certain purposes, otherwise 1.11.2007) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2007 \(S.I. 2007/126\)](#), regs. 1(2), 3(4), **Sch. 4 para. 4(a)**
- F29** Words in Sch. 3 para. 5(a) substituted (1.4.2007 for certain purposes, otherwise 1.11.2007) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2007 \(S.I. 2007/126\)](#), regs. 1(2), 3(4), **Sch. 4 para. 4(b)**
- F30** Sch. 3 para. 5(b) substituted (1.1.2014) by [The Capital Requirements Regulations 2013 \(S.I. 2013/3115\)](#), reg. 1(2), **Sch. 2 para. 29(4)**
- F31** Sch. 3 para. 5(c) substituted (1.1.2014) by [The Capital Requirements Regulations 2013 \(S.I. 2013/3115\)](#), reg. 1(2), **Sch. 2 para. 29(5)**
- F32** Sch. 3 para. 5(d)(da) substituted for Sch. 3 para. 5(d)(da) (1.1.2016) by [The Solvency 2 Regulations 2015 \(S.I. 2015/575\)](#), reg. 1(2), **Sch. 1 para. 17(5)**
- F33** Word in Sch. 3 para. 5(e) omitted (20.7.2012) by virtue of [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2012 \(S.I. 2012/1906\)](#), arts. 1, **4(3)(a)**
- F34** Sch. 3 para. 5(f) substituted (1.7.2011) by [The Undertakings for Collective Investment in Transferable Securities Regulations 2011 \(S.I. 2011/1613\)](#), **reg. 2(33)(b)**
- F35** Sch. 3 para. 5(g) and preceding word inserted (20.7.2012) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2012 \(S.I. 2012/1906\)](#), arts. 1, **4(3)(b)**
- F36** Word in Sch. 3 para. 5(f) omitted (22.7.2013) by virtue of [The Alternative Investment Fund Managers Regulations 2013 \(S.I. 2013/1773\)](#), reg. 1, **Sch. 1 para. 34(4)**
- F37** Sch. 3 para. 5(h) and word inserted (22.7.2013) by [The Alternative Investment Fund Managers Regulations 2013 \(S.I. 2013/1773\)](#), reg. 1, **Sch. 1 para. 34(4)**
- F38** Word in Sch. 3 para. 5(g) omitted (20.4.2015 for specified purposes, 21.12.2015 for specified purposes, 21.3.2016 in so far as not already in force) by virtue of [The Mortgage Credit Directive Order 2015 \(S.I. 2015/910\)](#), art. 1(5), **Sch. 1 para. 1(10)(c)(i)** (with Pt. 4)
- F39** Words in Sch. 3 para. 5(h) omitted (coming into force in accordance with reg. 1(3) of the amending S.I.) by [The Alternative Investment Fund Managers \(Amendment\) Regulations 2013 \(S.I. 2013/1797\)](#), reg. 1(3), **Sch. 1 para. 1(5)(a)**
- F40** Sch. 3 para. 5(i) and word inserted (20.4.2015 for specified purposes, 21.12.2015 for specified purposes, 21.3.2016 in so far as not already in force) by [The Mortgage Credit Directive Order 2015 \(S.I. 2015/910\)](#), art. 1(5), **Sch. 1 para. 1(10)(c)(ii)** (with Pt. 4)

### Commencement Information

- I2** Sch. 3 Pt. 1 para. 5 wholly in force at 1.12.2001; Sch. 3 Pt. 1 para. 5 not in force at Royal Assent see s. 431(2); Sch. 3 Pt. 1 para. 5 in force for certain purposes at 25.2.2001 by [S.I. 2001/516](#), art. 2(b)(c), **Sch. Pts. 2, 3**; Sch. 3 Pt. 1 para. 5 in force for specified purposes at 18.6.2001 by [S.I. 2001/1820](#), **art. 2 Sch.**; Sch. 3 Pt. 1 para. 5 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538](#), **art. 2(1)**

[F41]5A In paragraph 5, “relevant office” means—

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- (a) in relation to a firm falling within sub-paragraph (e) [<sup>F42</sup>or (i)] of that paragraph which has a registered office, its registered office;
- [<sup>F43</sup>(aa) in relation to a firm falling within sub-paragraph (h) of that paragraph, its registered office;]
- (b) in relation to any other firm, its head office.]

#### Textual Amendments

- F41** Sch. 3 para. 5A inserted (14.1.2005) by [The Insurance Mediation Directive \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/1473\)](#), [reg. 2\(2\)\(d\)](#)
- F42** Words in [Sch. 3 para. 5A\(a\)](#) inserted (20.4.2015 for specified purposes, 21.12.2015 for specified purposes, 21.3.2016 in so far as not already in force) by [The Mortgage Credit Directive Order 2015 \(S.I. 2015/910\)](#), [art. 1\(5\)](#), [Sch. 1 para. 1\(10\)\(d\)](#) (with Pt. 4)
- F43** Sch. 3 para. 5A(aa) inserted (22.7.2013) by [The Alternative Investment Fund Managers Regulations 2013 \(S.I. 2013/1773\)](#), [reg. 1](#), [Sch. 1 para. 34\(5\)](#)

#### *EEA authorisation*

- [<sup>F44</sup> 6 “EEA authorisation” means—
- (a) in relation to an EEA firm falling within paragraph 5(e), registration with its home state regulator under Article 3 of the insurance mediation directive;
  - (b) in relation to any other EEA firm, authorisation granted to an EEA firm by its home state regulator for the purpose of the relevant single market directive [<sup>F45</sup>or, as the case may be, the emission allowance auctioning regulation].]

#### Textual Amendments

- F44** Sch. 3 para. 6 substituted (14.1.2005) by [The Insurance Mediation Directive \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/1473\)](#), [reg. 2\(2\)\(e\)](#)
- F45** Words in Sch. 3 para. 6(b) inserted (20.7.2012) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2012 \(S.I. 2012/1906\)](#), [arts. 1](#), [4\(4\)](#)

#### Commencement Information

- I3** Sch. 3 Pt. I para. 6 wholly in force at 1.12.2001; Sch. 3 Pt. I para. 6 not in force at Royal Assent see s. 431(2); Sch. 3 Pt. I para. 6 in force for certain purposes at 25.2.2001 by [S.I. 2001/516](#), [art. 2\(b\)\(c\)](#), [Sch. Pts. 2, 3](#); Sch. 3 Pt. I para. 6 in force for specified purposes at 18.6.2001 by [S.I. 2001/1820](#), [art. 2](#), [Sch.](#); Sch. 3 Pt. I para. 6 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538](#), [art. 2\(1\)](#)

#### *EEA right*

- 7 “EEA right” means the entitlement of a person to establish a branch, or provide services, in an EEA State other than that in which he has his [<sup>F46</sup>relevant office]—
- (a) in accordance with the Treaty as applied in the EEA; and
  - (b) subject to the conditions of the relevant single market directive [<sup>F47</sup>or, as the case may be, the emission allowance auctioning regulation].

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### Textual Amendments

- F46** Words in Sch. 3 para. 7 substituted (14.1.2005) by [The Insurance Mediation Directive \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/1473\)](#), **reg. 2(2)(f)**
- F47** Words in Sch. 3 para. 7(b) inserted (20.7.2012) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2012 \(S.I. 2012/1906\)](#), arts. 1, **4(4)**

### Commencement Information

- I4** Sch. 3 Pt. I para. 7 wholly in force at 1.12.2001; Sch. 3 Pt. I para. 7 not in force at Royal Assent see s. 431(2); Sch. 3 Pt. I para. 7 in force for certain purposes at 25.2.2001 by [S.I. 2001/516](#), art. 2(b)(c), [Sch. Pts. 2, 3](#); Sch. 3 Pt. I para. 7 in force for specified purposes at 18.6.2001 by [S.I. 2001/1820](#), art. 2, [Sch.](#); Sch. 3 Pt. I para. 7 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538](#), **art. 2(1)**

- [<sup>F48</sup>7A In paragraph 7, “relevant office” means—
- (a) in relation to a person who has a registered office and whose entitlement is subject to the conditions of the insurance mediation directive [<sup>F49</sup>or the mortgages directive], his registered office;
- [
- <sup>F50</sup>(aa) in relation to a person whose entitlement is subject to the conditions of the
- <sup>F51</sup>(aa) alternative investment fund managers directive—
- (i) if the person’s registered office is in an EEA State, its registered office;
- (ii) if the person’s registered office is not in an EEA State, the registered office or branch of its legal representative (as defined in Article 4(1)(u) of the alternative investment fund managers directive);]
- (b) in relation to any other person, his head office.]

### Textual Amendments

- F48** Sch. 3 para. 7A inserted (14.1.2005) by [The Insurance Mediation Directive \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/1473\)](#), **reg. 2(2)(g)**
- F49** Words in Sch. 3 para. 7A(a) inserted (20.4.2015 for specified purposes, 21.12.2015 for specified purposes, 21.3.2016 in so far as not already in force) by [The Mortgage Credit Directive Order 2015 \(S.I. 2015/910\)](#), art. 1(5), **Sch. 1 para. 1(10)(e)** (with Pt. 4)
- F50** Sch. 3 para. 7A(aa) inserted (22.7.2013) by [The Alternative Investment Fund Managers Regulations 2013 \(S.I. 2013/1773\)](#), reg. 1, **Sch. 1 para. 34(6)**
- F51** Sch. 3 para. 7AA(aa) substituted (coming into force in accordance with reg. 1(3) of the amending S.I.) by [The Alternative Investment Fund Managers \(Amendment\) Regulations 2013 \(S.I. 2013/1797\)](#), reg. 1(3), **Sch. 1 para. 1(5)(b)** (as amended by [S.I. 2019/328](#), regs. 1(3), **20(2)(d)** (as amended by [S.I. 2019/325](#), **reg. 58**))

### EEA State

- [<sup>F52</sup>8 “EEA State ” has the meaning given by Schedule 1 to the Interpretation Act 1978.]

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#### Textual Amendments

**F52** Sch. 3 para. 8 substituted (13.2.2007) by [The Financial Services \(EEA State\) Regulations 2007 \(S.I. 2007/108\)](#), [reg. 2](#)

#### Commencement Information

**I5** Sch. 3 Pt. I para. 8 wholly in force at 1.12.2001; Sch. 3 Pt. I para. 8 not in force at Royal Assent see s. 431(2); Sch. 3 Pt. I para. 8 in force for certain purposes at 25.2.2001 by [S.I. 2001/516](#), [art. 2\(b\)\(c\)](#), [Sch. Pts. 2, 3](#); Sch. 3 Pt. I para. 8 in force for specified purposes at 18.6.2001 by [S.I. 2001/1820](#), [art. 2](#), [Sch.](#); Sch. 3 Pt. I para. 8 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538](#), [art. 2\(1\)](#)

#### *Home state regulator*

- 9 “Home state regulator” means the competent authority (within the meaning of the relevant single market directive [<sup>F53</sup>or, as the case may be, the emission allowance auctioning regulation]) of an EEA State (other than the United Kingdom) in relation to the EEA firm concerned.

#### Textual Amendments

**F53** Words in Sch. 3 para. 9 inserted (20.7.2012) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2012 \(S.I. 2012/1906\)](#), [arts. 1, 4\(4\)](#)

#### Commencement Information

**I6** Sch. 3 Pt. I para. 9 wholly in force at 1.12.2001; Sch. 3 Pt. I para. 9 not in force at Royal Assent see s. 431(2); Sch. 3 Pt. I para. 9 in force for certain purposes at 25.2.2001 by [S.I. 2001/516](#), [art. 2\(b\)\(c\)](#), [Sch. Pts. 2, 3](#); Sch. 3 Pt. I para. 9 in force for specified purposes at 18.6.2001 by [S.I. 2001/1820](#), [art. 2](#), [Sch.](#); Sch. 3 Pt. I para. 9 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538](#), [art. 2\(1\)](#)

#### *UK firm*

- 10 “UK firm” means a person whose [<sup>F54</sup>relevant office] is in the UK and who has an EEA right to carry on activity in an EEA State other than the United Kingdom.

#### Textual Amendments

**F54** Words in Sch. 3 para. 10 substituted (14.1.2005) by [The Insurance Mediation Directive \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/1473\)](#), [reg. 2\(2\)\(h\)](#)

#### Commencement Information

**I7** Sch. 3 Pt. I para. 10 wholly in force at 1.12.2001; Sch. 3 Pt. I para. 10 not in force at Royal Assent see s. 431(2); Sch. 3 Pt. I para. 10 in force for certain purposes at 25.2.2001 by [S.I. 2001/516](#), [art. 2\(b\)\(c\)](#), [Sch. Pts. 2, 3](#); Sch. 3 Pt. I para. 10 in force for specified purposes at 18.6.2001 by [S.I. 2001/1820](#), [art. 2](#), [Sch.](#); Sch. 3 para. 10 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538](#), [art. 2\(1\)](#)

- [<sup>F55</sup>10A In paragraph 10, “relevant office” means—
- (a) in relation to a firm whose EEA right derives from the insurance mediation directive and which has a registered office, its registered office;
  - [ in relation to a firm whose EEA right derives from the alternative investment fund managers directive—

*Status: Point in time view as at 31/07/2017.*

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- <sup>F57</sup>(aa) (i) if the firm’s registered office is in an EEA State, its registered office;
- (ii) if the firm’s registered office is not in an EEA State, the registered office or branch of its legal representative (as defined in Article 4(1)(u) of the alternative investment fund managers directive);]
- (b) in relation to any other firm, its head office.]

#### Textual Amendments

- F55** Sch. 3 para. 10A inserted (14.1.2005) by [The Insurance Mediation Directive \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/1473\)](#), **reg. 2(2)(i)**
- F56** Sch. 3 para. 10A(aa) inserted (22.7.2013) by [The Alternative Investment Fund Managers Regulations 2013 \(S.I. 2013/1773\)](#), **reg. 1, Sch. 1 para. 34(7)**
- F57** Sch. 3 para. 10A(aa) substituted (coming into force in accordance with reg. 1(3) of the amending S.I.) by [The Alternative Investment Fund Managers \(Amendment\) Regulations 2013 \(S.I. 2013/1797\)](#), **reg. 1(3), Sch. 1 para. 1(5)(c)**

#### <sup>F58</sup>UK investment firm

#### Textual Amendments

- F58** Sch. 3 para. 10B inserted (1.4.2007 for certain purposes, otherwise 1.11.2007) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2007 \(S.I. 2007/126\)](#), **regs. 1(2), 3(4), Sch. 4 para. 5**

- 10B “UK investment firm” means a UK firm—
- (a) which is an investment firm, and
- (b) whose EEA right derives from the markets in financial instruments directive.]

#### Host state regulator

- 11 “Host state regulator” means the competent authority (within the meaning of the relevant single market directive [<sup>F59</sup>or, as the case may be, the emission allowance auctioning regulation]) of an EEA State (other than the United Kingdom) in relation to a UK firm’s exercise of EEA rights there.

#### Textual Amendments

- F59** Words in Sch. 3 para. 11 inserted (20.7.2012) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2012 \(S.I. 2012/1906\)](#), **arts. 1, 4(4)**

#### Commencement Information

- I8** Sch. 3 Pt. I para. 11 wholly in force at 1.12.2001; Sch. 3 Pt. I para. 11 not in force at Royal Assent see s. 431(2); Sch. 3 Pt. I para. 11 in force for certain purposes (25.2.2001) by [S.I. 2001/516](#), **art. 2 Sch. Pts. 2, 3**; Sch. 3 Pt. I para. 11 in force for specified purposes (18.6.2001) by [S.I. 2001/1820](#), **art. 2 Sch.**; Sch. 3 Pt. I para. 11 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538](#), **art. 2(1)**

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### *[<sup>F60</sup>Tied agent*

#### **Textual Amendments**

**F60** Sch. 3 para. 11A inserted (1.4.2007 for certain purposes, otherwise 1.11.2007) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2007 \(S.I. 2007/126\)](#), regs. 1(2), 3(4), [Sch. 4 para. 6](#)

11A “Tied agent” has the meaning given in Article [<sup>F61</sup>4.1.29] of the markets in financial instruments directive.]

#### **Textual Amendments**

**F61** Word in [Sch. 3 para. 11A](#) substituted (29.6.2017 for specified purposes, 3.7.2017 for specified purposes, 31.7.2017 for specified purposes) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2017 \(S.I. 2017/701\)](#), reg. 1(2)(3)(4)(6), [Sch. 2 para. 54\(3\)](#) (with reg. 7)

### *[<sup>F62</sup>Management company*

#### **Textual Amendments**

**F62** Sch. 3 paras. 11B, 11C inserted (1.7.2011) by [The Undertakings for Collective Investment in Transferable Securities Regulations 2011 \(S.I. 2011/1613\)](#), [reg. 2\(33\)\(c\)](#)

11B “Management company” has the meaning given in Article 2.1(b) of the UCITS directive.

### *UCITS*

11C “UCITS” has the meaning given in Article 1.2 of the UCITS directive.]

### *[<sup>F63</sup>EEAIFM*

#### **Textual Amendments**

**F63** Sch. 3 para. 11D and cross-heading inserted (22.7.2013) by [The Alternative Investment Fund Managers Regulations 2013 \(S.I. 2013/1773\)](#), [reg. 1](#), [Sch. 1 para. 34\(8\)](#)

11D. “EEAIFM” means an EEA firm falling within paragraph 5(h) which is exercising in the United Kingdom a right deriving from the alternative investment fund managers directive.]

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## PART II

### EXERCISE OF PASSPORT RIGHTS BY EEA FIRMS

#### *Firms qualifying for authorisation*

- 12 (1) Once an EEA firm which is seeking to establish a branch in the United Kingdom in exercise of an EEA right satisfies the establishment conditions, it qualifies for authorisation.
- (2) Once an EEA firm which is seeking to provide services in the United Kingdom in exercise of an EEA right satisfies the service conditions, it qualifies for authorisation.
- [<sup>F64</sup>(3) If an EEA firm falling within paragraph 5(a) [<sup>F65</sup>or (b)] is seeking to use a tied agent established in the United Kingdom in connection with the exercise of an EEA right deriving from the markets in financial instruments directive, this Part of this Schedule applies as if the firm were seeking to establish a branch in the United Kingdom.
- (4) But if—
- (a) an EEA firm already qualifies for authorisation by virtue of sub-paragraph (1); and
  - (b) the EEA right which it is exercising derives from the markets in financial instruments directive,
- sub-paragraph (3) does not require the firm to satisfy the establishment conditions in respect of its use of the tied agent in question.]
- [<sup>F66</sup>(5) An EEA firm which falls within paragraph 5(da) which establishes a branch in the United Kingdom, or provides services in the United Kingdom, in exercise of an EEA right qualifies for authorisation.
- (6) Sub-paragraphs (1) and (2) do not apply to an EEA firm falling within paragraph 5(da).]
- [<sup>F67</sup>(7) Sub-paragraph (2) does not apply to an EEA firm which falls within paragraph 5(a), (b) or (g), and only provides services in the exercise of its right under Article 18 of the emission allowance auctioning regulation.
- (8) An EEA firm which falls within paragraph 5(g) qualifies for authorisation.
- (9) An EEA firm which falls within paragraph 5(a) or (b) but does not qualify for authorisation under sub-paragraph (1) or (2) qualifies for authorisation under this sub-paragraph if it—
- (a) has received authorisation from its home state regulator under Article 18.3 of the emission allowance auctioning regulation; and
  - (b) is seeking to provide services or establish a branch in the United Kingdom in the exercise of the EEA right arising under that provision.]

#### Textual Amendments

**F64** Sch. 3 para. 12(3)(4) inserted (1.4.2007 for certain purposes, otherwise 1.11.2007) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2007 \(S.I. 2007/126\)](#), regs. 1(2), 3(4), [Sch. 4 para. 7](#)

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- F65** Words in Sch. 3 para. 12(3) inserted (29.6.2017 for specified purposes, 3.7.2017 for specified purposes, 31.7.2017 for specified purposes) by The Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2017 (S.I. 2017/701), reg. 1(2)(3)(4)(6), Sch. 2 para. 54(4) (with reg. 7)
- F66** Sch. 3 para. 12(5)(6) inserted (10.12.2007) by The Reinsurance Directive Regulations 2007 (S.I. 2007/3253), reg. 2(1), Sch. 1 para. 6(d)
- F67** Sch. 3 para. 12(7)-(9) inserted (20.7.2012) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2012 (S.I. 2012/1906), arts. 1, 4(5)

#### Commencement Information

- 19** Sch. 3 Pt. II para. 12 wholly in force at 1.12.2001; Sch. 3 Pt. II para. 12 not in force at Royal Assent see s. 431(2); Sch. 3 Pt. II para. 12 in force for certain purposes at 25.2.2001 by S.I. 2001/516, art. 2(b)(c), Sch. Pts. 2, 3; Sch. 3 Pt. II para. 12 in force for specified purposes at 18.6.2001 by S.I. 2001/1820, art. 2, Sch.; Sch. 3 Pt. II para. 12 in force in so far as not already in force at 1.12.2001 by S.I. 2001/3538, art. 2(1)

#### Establishment

- 13 (1) <sup>F68</sup>If the firm falls within paragraph 5(a), (b), <sup>F69</sup>(c), (d) <sup>F70</sup>(f), (h) or (i)], the establishment conditions are that—
- (a) the <sup>F71</sup>appropriate UK regulator] has received notice (“a consent notice”) from the firm’s home state regulator that it has given the firm consent to establish a branch in the United Kingdom;
  - (b) the consent notice—
    - (i) is given in accordance with the relevant single market directive;
    - (ii) identifies the activities to which consent relates; and
    - (iii) includes such other information as may be prescribed; <sup>F72</sup> . . .
  - <sup>F73</sup>(ba) in the case of a firm falling within paragraph 5(a), the <sup>F71</sup>appropriate UK regulator] has given the firm notice for the purposes of this paragraph or two months have elapsed beginning with the date when the home state regulator gave the consent notice; <sup>F74</sup> ...]
  - (c) <sup>F75</sup>in the case of a firm falling within paragraph 5(b), (c), (d) or (f),] the firm has been informed of the applicable provisions or two months have elapsed beginning with the date when the <sup>F71</sup>appropriate UK regulator] received the consent notice <sup>F76</sup>, <sup>F77</sup> ...
  - (d) in the case of a firm falling within paragraph 5(h), its home state regulator has informed it that the consent notice has been sent to the appropriate UK regulator]<sup>F78</sup>; and
  - (e) in the case of a firm falling within paragraph 5(i)—
    - (i) its home state regulator has informed it that the consent notice has been sent to the appropriate UK regulator, and
    - (ii) one month has elapsed beginning with the date on which the firm’s home state regulator informed the firm that the consent notice has been sent to the appropriate UK regulator.]
- <sup>F79</sup>(1A) If the firm falls within paragraph 5(e), the establishment conditions are that—
- (a) the firm has given its home state regulator notice of its intention to establish a branch in the United Kingdom;
  - (b) the <sup>F80</sup>appropriate UK regulator] has received notice (“a regulator’s notice”) from the firm’s home state regulator that the firm intends to establish a branch in the United Kingdom;

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- (c) the firm's home state regulator has informed the firm that the regulator's notice has been sent to the [<sup>F80</sup>appropriate UK regulator]; and
  - (d) one month has elapsed beginning with the date on which the firm's home state regulator informed the firm that the regulator's notice has been sent to the [<sup>F80</sup>appropriate UK regulator].]
- [<sup>F81</sup>(1B) Where the PRA receives a consent notice, it must give a copy to the FCA without delay.
- (1C) Where the FCA receives a consent notice it must in prescribed cases give a copy to the PRA without delay.
- (1D) In a case where the FCA is the appropriate UK regulator, the consent of the PRA is required for any notice by the FCA for the purposes of sub-paragraph (1)(ba) which relates to—
- (a) a PRA-regulated activity,
  - (b) a PRA-authorized person, or
  - (c) a person whose immediate group includes a PRA-authorized person.
- (1E) If the FCA—
- (a) receives a consent notice, or
  - (b) receives under sub-paragraph (1B) a copy of a consent notice,
- it must prepare for the firm's supervision.
- (1F) If the PRA—
- (a) receives a consent notice, or
  - (b) receives under sub-paragraph (1C) a copy of a consent notice which identifies PRA-regulated activities or relates to a PRA-authorized person,
- it must prepare for the firm's supervision.]
- (2) If the [<sup>F82</sup>appropriate UK regulator] has received a consent notice, it must—
- <sup>F83</sup>(a) .....
  - (b) [<sup>F84</sup>except if the firm falls within paragraph 5(a) [<sup>F85</sup>, (h) or (i)],] notify the firm of the applicable provisions (if any); and
  - (c) if the firm falls within paragraph 5(d), notify its home state regulator of the applicable provisions (if any).
- (3) A notice under sub-paragraph (2)(b) or (c) must be given before the end of the period of two months beginning with the day on which the [<sup>F86</sup>appropriate UK regulator] received the consent notice.
- [<sup>F87</sup>(3A) If the appropriate UK regulator has received a consent notice in respect of a firm that falls within paragraph 5(i), it must—
- (a) notify the firm of the applicable provisions (if any); and
  - (b) use the information received from the firm's home state regulator to enter the necessary information into the record maintained by the FCA by virtue of section 347(1).
- (3B) A notice under sub-paragraph (3A)(a) must be given before the end of the period of two months beginning with the day on which the appropriate UK regulator received the consent notice.]

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(4) For the purposes of this paragraph—

“applicable provisions” means the host state rules with which the firm is required to comply when carrying on a permitted activity through a branch in the United Kingdom;

[<sup>F88</sup>“the appropriate UK regulator” means whichever of the FCA and the PRA is the competent authority for the purposes of the relevant single market directive;]

“host state rules” means rules—

- (a) made in accordance with the relevant single market directive [<sup>F89</sup>or for the purposes of the emission allowance auctioning regulation]; and
- (b) which are the responsibility of the United Kingdom (both as to implementation and as to supervision of compliance) in accordance with that directive [<sup>F90</sup>or for the purposes of that regulation]; and

“permitted activity” means an activity identified in the consent notice [<sup>F91</sup>or regulator’s notice, as the case may be].

#### Textual Amendments

- F68** Words in Sch. 3 para. 13(1) inserted (14.1.2005) by [The Insurance Mediation Directive \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/1473\)](#), **reg. 3(2)**
- F69** Words in Sch. 3 para. 13(1) substituted (13.2.2004) by [The Collective Investment Schemes \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/2066\)](#), **reg. 3(1)(a)**
- F70** Words in Sch. 3 para. 13(1) substituted (20.4.2015 for specified purposes, 21.12.2015 for specified purposes, 21.3.2016 in so far as not already in force) by [The Mortgage Credit Directive Order 2015 \(S.I. 2015/910\)](#), art. 1(5), **Sch. 1 para. 1(10)(f)(i)(aa)** (with Pt. 4)
- F71** Words in Sch. 3 para. 13(1) substituted (27.2.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 4 para. 2(2)** (with Sch. 20); S.I. 2013/423, arts. 2, 3, Sch.
- F72** Word in Sch. 3 para. 13(1)(b) omitted (1.4.2007 for certain purposes, otherwise 1.11.2007) by virtue of [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2007 \(S.I. 2007/126\)](#), regs. 1(2), 3(4), **Sch. 4 para. 8(a)(i)** (with reg. 6)
- F73** Sch. 3 para. 13(1)(ba) inserted (1.4.2007 for certain purposes, otherwise 1.11.2007) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2007 \(S.I. 2007/126\)](#), regs. 1(2), 3(4), **Sch. 4 para. 8(a)(ii)** (with reg. 6)
- F74** Word in Sch. 3 para. 13(1)(ba) omitted (22.7.2013) by virtue of [The Alternative Investment Fund Managers Regulations 2013 \(S.I. 2013/1773\)](#), reg. 1, **Sch. 1 para. 34(9)(b)**
- F75** Words in Sch. 3 para. 13(1)(c) inserted (1.4.2007 for certain purposes, otherwise 1.11.2007) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2007 \(S.I. 2007/126\)](#), regs. 1(2), 3(4), **Sch. 4 para. 8(a)(iii)** (with reg. 6)
- F76** Sch. 3 para. 13(1)(d) and word inserted (22.7.2013) by [The Alternative Investment Fund Managers Regulations 2013 \(S.I. 2013/1773\)](#), reg. 1, **Sch. 1 para. 34(9)(c)**
- F77** Word in Sch. 3 para. 13(1)(c) omitted (20.4.2015 for specified purposes, 21.12.2015 for specified purposes, 21.3.2016 in so far as not already in force) by virtue of [The Mortgage Credit Directive Order 2015 \(S.I. 2015/910\)](#), art. 1(5), **Sch. 1 para. 1(10)(f)(i)(bb)** (with Pt. 4)
- F78** Sch. 3 para. 13(1)(e) and word inserted (20.4.2015 for specified purposes, 21.12.2015 for specified purposes, 21.3.2016 in so far as not already in force) by [The Mortgage Credit Directive Order 2015 \(S.I. 2015/910\)](#), art. 1(5), **Sch. 1 para. 1(10)(f)(i)(cc)** (with Pt. 4)
- F79** Sch. 3 para. 13(1A) inserted (14.1.2005) by [The Insurance Mediation Directive \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/1473\)](#), **reg. 3(3)**

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- F80** Words in Sch. 3 para. 13(1A) substituted (27.2.2013 for specified purposes, 1.4.2013 in so far as not already in force) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 4 para. 2(2)** (with Sch. 20); S.I. 2013/423, arts. 2, 3, Sch.
- F81** Sch. 3 para. 13(1B)-(1F) inserted (27.2.2013 for specified purposes, 1.4.2013 in so far as not already in force) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 4 para. 2(3)** (with Sch. 20); S.I. 2013/423, arts. 2, 3, Sch.
- F82** Words in Sch. 3 para. 13(2) substituted (27.2.2013 for specified purposes, 1.4.2013 in so far as not already in force) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 4 para. 2(4)(a)** (with Sch. 20); S.I. 2013/423, arts. 2, 3, Sch.
- F83** Sch. 3 para. 13(2)(a) omitted (27.2.2013 for specified purposes, 1.4.2013 in so far as not already in force) by virtue of Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 4 para. 2(4)(b)** (with Sch. 20); S.I. 2013/423, arts. 2, 3, Sch.
- F84** Words in Sch. 3 para. 13(2)(b) inserted (1.4.2007 for certain purposes, otherwise 1.11.2007) by The Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2007 (S.I. 2007/126), regs. 1(2), 3(4), **Sch. 4 para. 8(b)** (with reg. 6)
- F85** Words in Sch. 3 para. 13(2)(b) substituted (20.4.2015 for specified purposes, 21.12.2015 for specified purposes, 21.3.2016 in so far as not already in force) by The Mortgage Credit Directive Order 2015 (S.I. 2015/910), art. 1(5), **Sch. 1 para. 1(10)(f)(ii)** (with Pt. 4)
- F86** Words in Sch. 3 para. 13(3) substituted (27.2.2013 for specified purposes, 1.4.2013 in so far as not already in force) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 4 para. 2(5)** (with Sch. 20); S.I. 2013/423, arts. 2, 3, Sch.
- F87** Sch. 3 para. 13(3A)(3B) inserted (20.4.2015 for specified purposes, 21.12.2015 for specified purposes, 21.3.2016 in so far as not already in force) by The Mortgage Credit Directive Order 2015 (S.I. 2015/910), art. 1(5), **Sch. 1 para. 1(10)(f)(iii)** (with Pt. 4)
- F88** Words in Sch. 3 para. 13(4) inserted (27.2.2013 for specified purposes, 1.4.2013 in so far as not already in force) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 4 para. 2(6)** (with Sch. 20); S.I. 2013/423, arts. 2, 3, Sch.
- F89** Words in Sch. 3 para. 13(4) inserted (20.7.2012) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2012 (S.I. 2012/1906), arts. 1, **4(6)(a)**
- F90** Words in Sch. 3 para. 13(4) inserted (20.7.2012) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2012 (S.I. 2012/1906), arts. 1, **4(6)(b)**
- F91** Sch. 3 para. 13(4): words in definition of "permitted activity" inserted (14.1.2005) by The Insurance Mediation Directive (Miscellaneous Amendments) Regulations 2003 (S.I. 2003/1473), **reg. 3(4)**

#### Modifications etc. (not altering text)

- C2** Sch. 3 para. 13 extended (1.12.2001) by S.I. 2001/3592, **arts. 1(2)**, 96 (with art. 23(2))

#### Commencement Information

- I10** Sch. 3 Pt. II para. 13 wholly in force at 1.12.2001; Sch. 3 Pt. II para. 13 not in force at Royal Assent see s. 431(2); Sch. 3 Pt. II para. 13 in force for certain purposes at 25.2.2001 by S.I. 2001/516, art. 2(b)(c), Sch. Pts. 2, 3; Sch. 3 Pt. II para. 13 in force for specified purposes at 18.6.2001 by S.I. 2001/1820, art. 2, Sch.; Sch. 3 Pt. II para. 13 in force in so far as not already in force at 1.12.2001 by S.I. 2001/3538, **art. 2(1)**

#### Services

- 14 (1) The service conditions are that—
- (a) the firm has given its home state regulator notice of its intention to provide services in the United Kingdom (“a notice of intention”);
  - (b) if the firm falls within [F92 paragraph 5(a), [F93(d), (e) [F94, (f) [F95, (h) or (i)]]], the [F96 appropriate UK regulator] has received notice (“a regulator’s notice”)

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from the firm's home state regulator containing such information as may be prescribed;<sup>F97</sup> . . .

- [<sup>F98</sup>(ba) if the firm falls within paragraph 5(b) and is seeking to provide services in exercise of the right under Article [<sup>F99</sup>34.6] of the markets in financial instruments directive, the [<sup>F96</sup>appropriate UK regulator] has received notice ("a regulator's notice") from the firm's home state regulator stating that the firm intends to exercise that right in the United Kingdom;]
- (c) if the firm falls within [<sup>F100</sup>paragraph 5(d) [<sup>F101</sup>, (e) [<sup>F102</sup>, (h) or (i)]]], its home state regulator has informed it that the regulator's notice has been sent to the [<sup>F96</sup>appropriate UK regulator][<sup>F103</sup>; and
- (d) if the firm falls within paragraph 5(e) [<sup>F104</sup>or (i)], one month has elapsed beginning with the date on which the firm's home state regulator informed the firm that the regulator's notice has been sent to the [<sup>F96</sup>appropriate UK regulator].]

[<sup>F105</sup>(1A) "Relevant notice" means—

- (a) a regulator's notice, or
- (b) where none is required by sub-paragraph (1), a notice informing the appropriate UK regulator of the firm's intention to provide services in the United Kingdom.

(1B) Where the PRA receives a relevant notice, it must give a copy to the FCA without delay.

(1C) Where the FCA receives a relevant notice, it must in prescribed cases give a copy to the PRA without delay.

(1D) If the FCA—

- (a) receives a relevant notice, or
  - (b) receives under sub-paragraph (1B) a copy of a relevant notice,
- it must prepare for the firm's supervision.

(1E) If the PRA—

- (a) receives a relevant notice, or
  - (b) receives under sub-paragraph (1C) a copy of a relevant notice which identifies PRA-regulated activities or relates to a PRA-authorized person,
- it must, unless the firm falls within paragraph 5(e), prepare for the firm's supervision.]

[<sup>F106</sup>(2) If the appropriate UK regulator has received a relevant notice, it must, unless the firm falls within paragraph 5(a) [<sup>F107</sup>, (e) or (h)], notify the firm of the applicable provisions (if any).]

<sup>F108</sup>(2A) . . . . .

(3) A notice under sub-paragraph [<sup>F109</sup>(2)] must be given before the end of the period of two months beginning on the day on which the [<sup>F110</sup>appropriate UK regulator received the relevant notice].

[<sup>F111</sup>(3ZA) If the appropriate UK regulator has received a relevant notice in respect of a firm that falls within paragraph 5(i), it must use the information received from the firm's home state regulator to enter the necessary information into the record maintained by the FCA by virtue of section 347(1).]

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[<sup>F112</sup>(3A) In cases where the firm is an EEAIFM that seeks to market an AIF in exercise of its rights under Article 32 [<sup>F113</sup>, 35, 39 or 40] of the alternative investment fund managers directive, the appropriate UK regulator must ensure that the regulator’s notice may be transmitted to it electronically.]

(4) For the purposes of this paragraph—

“applicable provisions” means the host state rules with which the firm is required to comply when carrying on a permitted activity by providing services in the United Kingdom;

[<sup>F114</sup>“the appropriate UK regulator” means whichever of the FCA and the PRA is the competent authority for the purposes of the relevant single market directive;]

“host state rules” means rules—

- (a) made in accordance with the relevant single market directive [<sup>F115</sup>or for the purposes of the emission allowance auctioning regulation]; and
- (b) which are the responsibility of the United Kingdom (both as to implementation and as to supervision of compliance) in accordance with that directive [<sup>F116</sup>or for the purposes of that regulation]; and

“permitted activity” means an activity identified in—

- (a) the regulator’s notice; or
- (b) where none is required by sub-paragraph (1), the notice of intention.

#### Textual Amendments

- F92** Words in Sch. 3 para. 14(1)(b) substituted (14.1.2005) by [The Insurance Mediation Directive \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/1473\)](#), **reg. 4(2)(a)**
- F93** Words in Sch. 3 para. 14(1)(b) substituted (13.2.2004) by [The Collective Investment Schemes \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/2066\)](#), **reg. 3(1)(b)**
- F94** Words in Sch. 3 para. 14(1)(b) substituted (22.7.2013) by [The Alternative Investment Fund Managers Regulations 2013 \(S.I. 2013/1773\)](#), **reg. 1, Sch. 1 para. 34(10)(a)**
- F95** Words in Sch. 3 para. 14(1)(b) substituted (20.4.2015 for specified purposes, 21.12.2015 for specified purposes, 21.3.2016 in so far as not already in force) by [The Mortgage Credit Directive Order 2015 \(S.I. 2015/910\)](#), **art. 1(5), Sch. 1 para. 1(10)(g)(i)** (with Pt. 4)
- F96** Words in Sch. 3 para. 14(1) substituted (27.2.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), **s. 122(3), Sch. 4 para. 3(2)** (with Sch. 20); S.I. 2013/423, arts. 2, 3, Sch.
- F97** Word in Sch. 3 para. 14(1)(b) omitted (14.1.2005) by virtue of [The Insurance Mediation Directive \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/1473\)](#), **reg. 4(2)(b)**
- F98** Sch. 3 para. 14(1)(ba) inserted (1.4.2007 for certain purposes, otherwise 1.11.2007) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2007 \(S.I. 2007/126\)](#), **regs. 1(2), 3(4), Sch. 4 para. 9(a)**
- F99** Word in [Sch. 3 para. 14\(1\)\(ba\)](#) substituted (29.6.2017 for specified purposes, 3.7.2017 for specified purposes, 31.7.2017 for specified purposes) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2017 \(S.I. 2017/701\)](#), **reg. 1(2)(3)(4)(6), Sch. 2 para. 54(5)** (with reg. 7)
- F100** Words in Sch. 3 para. 14(1)(c) substituted (14.1.2005) by [The Insurance Mediation Directive \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/1473\)](#), **reg. 4(2)(c)**
- F101** Words in Sch. 3 para. 14(1)(c) substituted (22.7.2013) by [The Alternative Investment Fund Managers Regulations 2013 \(S.I. 2013/1773\)](#), **reg. 1, Sch. 1 para. 34(10)(b)**

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- F102** Words in Sch. 3 para. 14(1)(c) substituted (20.4.2015 for specified purposes, 21.12.2015 for specified purposes, 21.3.2016 in so far as not already in force) by [The Mortgage Credit Directive Order 2015 \(S.I. 2015/910\)](#), art. 1(5), **Sch. 1 para. 1(10)(g)(i)** (with Pt. 4)
- F103** Sch. 3 para. 14(1)(d) and preceding word inserted (14.1.2005) by [The Insurance Mediation Directive \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/1473\)](#), reg. 4(2)(d)
- F104** Words in Sch. 3 para. 14(1)(d) inserted (20.4.2015 for specified purposes, 21.12.2015 for specified purposes, 21.3.2016 in so far as not already in force) by [The Mortgage Credit Directive Order 2015 \(S.I. 2015/910\)](#), art. 1(5), **Sch. 1 para. 1(10)(g)(ii)** (with Pt. 4)
- F105** Sch. 3 para. 14(1A)-(1E) inserted (27.2.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 4 para. 3(3)** (with Sch. 20); S.I. 2013/423, arts. 2, 3, Sch.
- F106** Sch. 3 para. 14(2) substituted (27.2.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 4 para. 3(4)** (with Sch. 20); S.I. 2013/423, arts. 2, 3, Sch.
- F107** Words in Sch. 3 para. 14(2) substituted (22.7.2013) by [The Alternative Investment Fund Managers Regulations 2013 \(S.I. 2013/1773\)](#), reg. 1, **Sch. 1 para. 34(10)(c)**
- F108** Sch. 3 para. 14(2A) omitted (27.2.2013 for specified purposes, 1.4.2013 in so far as not already in force) by virtue of [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 4 para. 3(5)** (with Sch. 20); S.I. 2013/423, arts. 2, 3, Sch.
- F109** Word in Sch. 3 para. 14(3) substituted (27.2.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 4 para. 3(6)(a)** (with Sch. 20); S.I. 2013/423, arts. 2, 3, Sch.
- F110** Words in Sch. 3 para. 14(3) substituted (27.2.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 4 para. 3(6)(b)** (with Sch. 20); S.I. 2013/423, arts. 2, 3, Sch.
- F111** Sch. 3 para. 14(3ZA) inserted (20.4.2015 for specified purposes, 21.12.2015 for specified purposes, 21.3.2016 in so far as not already in force) by [The Mortgage Credit Directive Order 2015 \(S.I. 2015/910\)](#), art. 1(5), **Sch. 1 para. 1(10)(g)(iii)** (with Pt. 4)
- F112** Sch. 3 para. 14(3A) inserted (22.7.2013) by [The Alternative Investment Fund Managers Regulations 2013 \(S.I. 2013/1773\)](#), reg. 1, **Sch. 1 para. 34(10)(d)**
- F113** Words in Sch. 3 para. 14(3A) inserted (coming into force in accordance with reg. 1(3) of the amending S.I.) by [The Alternative Investment Fund Managers \(Amendment\) Regulations 2013 \(S.I. 2013/1797\)](#), reg. 1(3), **Sch. 1 para. 1(5)(d)**
- F114** Words in Sch. 3 para. 14(4) inserted (27.2.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 4 para. 3(7)** (with Sch. 20); S.I. 2013/423, arts. 2, 3, Sch.
- F115** Words in Sch. 3 para. 14(4) inserted (20.7.2012) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2012 \(S.I. 2012/1906\)](#), arts. 1, **4(7)(a)**
- F116** Words in Sch. 3 para. 14(4) inserted (20.7.2012) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2012 \(S.I. 2012/1906\)](#), arts. 1, **4(7)(b)**

#### Modifications etc. (not altering text)

- C3** Sch. 3 para. 14(1) extended (1.12.2001) by [S.I. 2001/3592](#), arts. 1(2), 97 (with art. 23(2))

#### Commencement Information

- I11** Sch. 3 Pt. II para. 14 wholly in force at 1.12.2001; Sch. 3 Pt. II para. 14 not in force at Royal Assent see s. 431(2); Sch. 3 Pt. II para. 14 in force for certain purposes at 25.2.2001 by [S.I. 2001/516](#), art. 2(b)(c), Sch. Pts. 2, 3; Sch. 3 Pt. II para. 14 in force for specified purposes at 18.6.2001 by [S.I. 2001/1820](#), art. 2, Sch.; Sch. 3 Pt. II para. 14 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538](#), art. 2(1)

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### *Grant of permission*

- 15 (1) On qualifying for authorisation as a result of [<sup>F117</sup>paragraph 12(1), (2) or (3)], a firm has, in respect of each permitted activity which is a regulated activity, permission to carry it on through its United Kingdom branch (if it satisfies the establishment conditions) or by providing services in the United Kingdom (if it satisfies the service conditions).
- [<sup>F118</sup>(1A) Sub-paragraph (1) is to be read subject to [<sup>F119</sup>paragraphs 15A(3) and 15ZA(1)].]
- (2) The permission is to be treated as being on terms equivalent to those appearing from the consent notice, regulator’s notice or notice of intention.
- <sup>F120</sup>(3) . . . . .
- <sup>F120</sup>(4) . . . . .
- [<sup>F121</sup>(5) A firm which qualifies for authorisation as a result of paragraph 12(5) has, in respect of each permitted activity which is a regulated activity, permission to carry it on through its United Kingdom branch or by providing services in the United Kingdom.
- [<sup>F122</sup>(6) The permission is to be treated as being on terms equivalent to those appearing in the authorisation granted to the firm under Article 14 of the Solvency 2 Directive by its home state regulator (“its home authorisation”).]
- (7) For the purposes of sub-paragraph (5), “permitted activity” means an activity which the firm is permitted to carry on under its home authorisation.]

#### **Textual Amendments**

- F117** Words in Sch. 3 para. 15(1) substituted (10.12.2007) by [The Reinsurance Directive Regulations 2007 \(S.I. 2007/3253\)](#), reg. 2(1), **Sch. 1 para. 6(e)(i)**
- F118** Sch. 3 para. 15(1A) inserted (13.2.2004) by [The Collective Investment Schemes \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/2066\)](#), **reg 3(1)(c)**
- F119** Words in Sch. 3 para. 15(1A) substituted (20.7.2012) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2012 \(S.I. 2012/1906\)](#), arts. 1, **4(8)**
- F120** Sch. 3 para. 15(3)(4) omitted (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by virtue of [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No. 2\) Order 2013 \(S.I. 2013/1881\)](#), arts. 1(2)(6), **10(18)(a)**
- F121** Sch. 3 para. 15(5)-(7) inserted (10.12.2007) by [The Reinsurance Directive Regulations 2007 \(S.I. 2007/3253\)](#), reg. 2(1), **Sch. 1 para. 6(e)(ii)**
- F122** Sch. 3 para. 15(6) substituted (1.1.2016) by [The Solvency 2 Regulations 2015 \(S.I. 2015/575\)](#), reg. 1(2), **Sch. 1 para. 17(6)**

#### **Commencement Information**

- I12** Sch. 3 Pt. II para. 15 wholly in force at 1.12.2001; Sch. 3 Pt. II para. 15 not in force at Royal Assent see s. 431(2); Sch. 3 Pt. II para. 15 in force for certain purposes at 25.2.2001 by [S.I. 2001/516](#), art. 2(b)(c), **Sch. Pts. 2, 3**; Sch. 3 Pt. II para. 15 in force for specified purposes at 18.6.2001 by [S.I. 2001/1820](#), art. 2, **Sch.**; Sch. 3 Pt. II para. 15 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538](#), **art. 2(1)**

### *Grant of permission: bidding for emission allowances*

- [<sup>F123</sup>15(1A) A firm that qualifies for authorisation as a result of paragraph 12(1) or (2) has permission to receive, transmit or submit a bid on behalf of its clients in the exercise

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of its rights under Article 18.3 of the emission allowance auctioning regulation if it has received authorisation under that provision from its home state regulator.

- (2) Permission under sub-paragraph (1) is to be treated as being on terms equivalent to those appearing in the authorisation granted to the firm pursuant to Article 18.3 of the emission allowance auctioning regulation.
- (3) A firm which qualifies for authorisation as a result of paragraph 12(9) has permission to receive, transmit and submit a bid on behalf of its clients in the exercise of its rights under Article 18.3 of the emission allowance auctioning regulation.
- (4) A firm which qualifies for authorisation as a result of paragraph 12(8) has permission to receive, transmit and submit a bid on its own account or on behalf of clients of its main business under Article 18.2 of the emission allowance auctioning regulation.
- (5) The permissions referred to in sub-paragraphs (3) and (4) are to be treated as being on terms equivalent to those appearing in the authorisation granted to the firm pursuant to Article 18.2 or 18.3 of the emission allowance auctioning regulation.]

#### Textual Amendments

**F123** Sch. 3 para. 15ZA inserted (20.7.2012) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2012 \(S.I. 2012/1906\)](#), arts. 1, **4(9)**

*[<sup>F124</sup> Power to restrict permission of management companies]*

#### Textual Amendments

**F124** Sch. 3 para. 15A and cross-heading inserted (13.2.2004) by [The Collective Investment Schemes \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/2066\)](#), **reg. 3(1)(d)**

#### *Application for approval to manage UCITS*

- [<sup>F125</sup>15A] An EEA firm falling within paragraph 5(f) which wishes to manage a UKUCITS must apply to the [<sup>F126</sup>appropriate UK regulator] in the specified form for approval to manage that UCITS.
- (2) Where the EEA firm satisfies the conditions in paragraph 13 (establishment conditions) or paragraph 14 (service conditions), the [<sup>F126</sup>appropriate UK regulator] may only refuse the application if it determines that one of the grounds set out in sub-paragraph (3) applies.
  - (3) The grounds referred to in sub-paragraph (2) are—
    - (a) that the EEA firm does not comply with the UCITS home state rules;
    - (b) that the firm is not authorised by its home state regulator to manage the type of collective investment scheme for which authorisation is requested; or
    - (c) that the firm has not provided the documentation required under Article 20(1) of the UCITS directive.
  - (4) The [<sup>F126</sup>appropriate UK regulator] must give a notice to the EEA firm, the firm's home state regulator and the Commission of the [<sup>F126</sup>appropriate UK regulator's] determination under sub-paragraph (2).

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- (5) Before giving a notice under sub-paragraph (4), the [<sup>F126</sup>appropriate UK regulator] must consult the home state regulator of the firm.
- (6) A notice given by the [<sup>F126</sup>appropriate UK regulator] under sub-paragraph (4) must—
- (a) give the [<sup>F126</sup>appropriate UK regulator's] reasons for considering that one of the grounds set out in sub-paragraph (3) is satisfied; and
  - (b) specify a reasonable period (which may not be less than 28 days) within which any person to whom it is given may make representations to the [<sup>F126</sup>appropriate UK regulator].
- [<sup>F127</sup>(6A) If—
- (a) the FCA is the appropriate UK regulator, and
  - (b) the firm is, or the firm's immediate group includes, a PRA-authorised person, the FCA must give the PRA a copy of the notice under sub-paragraph (4).]

(7) In this paragraph—

[<sup>F128</sup>“the appropriate UK regulator” means whichever of the FCA and the PRA is the competent authority for the purposes of the UCITS directive;]  
 “specified” means specified—

    - (a) in rules made by the [<sup>F126</sup>appropriate UK regulator] to implement the UCITS directive, or
    - (b) in any directly applicable Community regulation or decision made under the UCITS directive;

“UCITS home state rules” means requirements which are imposed by or under this Act so far as relating to matters falling within Article 19(3) and (4) of the UCITS directive.]

#### Textual Amendments

- F125** Sch. 3 paras. 15A-15C substituted for Sch. 3 para. 15A (1.7.2011) by The Undertakings for Collective Investment in [Transferable Securities Regulations 2011 \(S.I. 2011/1613\)](#), [reg. 2\(33\)\(d\)](#)
- F126** Words in Sch. 3 para. 15A substituted (27.2.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 4 para. 4\(2\)](#) (with [Sch. 20](#)); S.I. 2013/423, arts. 2, 3, Sch.
- F127** Sch. 3 para. 15A(6A) inserted (27.2.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 4 para. 4\(3\)](#) (with [Sch. 20](#)); S.I. 2013/423, arts. 2, 3, Sch.
- F128** Words in Sch. 3 para. 15A(7) inserted (27.2.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 4 para. 4\(4\)](#) (with [Sch. 20](#)); S.I. 2013/423, arts. 2, 3, Sch.

#### Representations and references to the Tribunal

- [<sup>F129</sup>15(1)] Within a reasonable time after the end of the period for making representations, the [<sup>F130</sup>appropriate UK regulator] must decide, in the light of any representations made to it during that period by a person to whom notice has been given under paragraph 15A(4), whether to withdraw the notice.
- (2) If the [<sup>F130</sup>appropriate UK regulator] decides not to withdraw its notice, it must—

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- (a) give a decision notice to each person to whom the notice under paragraph 15A(4) was given, and
  - (b) inform the firm's home state regulator and the Commission that authorisation has been refused, and of the grounds for the refusal.
- (3) The management company to whom the decision notice is given may refer the matter to the Tribunal.

[ In this paragraph “the appropriate UK regulator” has the same meaning as in <sup>F131</sup>(4) paragraph 15A.]

#### Textual Amendments

- F129** Sch. 3 paras. 15A-15C substituted for Sch. 3 para. 15A (1.7.2011) by The Undertakings for Collective Investment in [Transferable Securities Regulations 2011 \(S.I. 2011/1613\)](#), **reg. 2(33)(d)**
- F130** Words in Sch. 3 para. 15B substituted (27.2.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 4 para. 5(2)** (with [Sch. 20](#)); [S.I. 2013/423](#), arts. 2, 3, [Sch.](#)
- F131** Sch. 3 para. 15B(4) inserted (27.2.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 4 para. 5(3)** (with [Sch. 20](#)); [S.I. 2013/423](#), arts. 2, 3, [Sch.](#)

#### Information to home state regulator

- 15C (1) Where an EEA firm falling within paragraph 5(f) has applied to manage a UCITS established in the United Kingdom, the [<sup>F132</sup>appropriate UK regulator, as defined in paragraph 15A(7),] must without delay inform the home state regulator of that firm of any problem of which they are aware that may materially affect the ability of the firm—
- (a) to perform its duties properly, or
  - (b) to comply with the home state rules.
- (2) In sub-paragraph (1), “home state rules” means rules—
- (a) made by the EEA State concerned in accordance with the UCITS directive; and
  - (b) which are the responsibility of that EEA State (both as to implementation and as to supervision of compliance) in accordance with that directive.]

#### Textual Amendments

- F129** Sch. 3 paras. 15A-15C substituted for Sch. 3 para. 15A (1.7.2011) by The Undertakings for Collective Investment in [Transferable Securities Regulations 2011 \(S.I. 2011/1613\)](#), **reg. 2(33)(d)**
- F132** Words in Sch. 3 para. 15C(1) substituted (27.2.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 4 para. 6** (with [Sch. 20](#)); [S.I. 2013/423](#), arts. 2, 3, [Sch.](#)

#### Effect of carrying on regulated activity when not qualified for authorisation

- 16 (1) This paragraph applies to an EEA firm which is not qualified for authorisation under paragraph 12.

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- (2) Section 26 does not apply to an agreement entered into by the firm.
- (3) Section 27 does not apply to an agreement in relation to which the firm is a third party for the purposes of that section.
- (4) Section 29 does not apply to an agreement in relation to which the firm is the deposit-taker.

#### Commencement Information

**I13** Sch. 3 Pt. II para. 16 wholly in force at 1.12.2001; Sch. 3 Pt. II para. 16 not in force at Royal Assent see s. 431(2); Sch. 3 Pt. II para. 16 in force for certain purposes at 25.2.2001 by S.I. 2001/516, art. 2(b)(c), Sch. Pts. 2, 3; Sch. 3 Pt. II para. 16 in force for specified purposes at 18.6.2001 by S.I. 2001/1820, art. 2, Sch.; Sch. 3 Pt. II para. 16 in force in so far as not already in force at 1.12.2001 by S.I. 2001/3538, art. 2(1)

#### Continuing regulation of EEA firms

- 17 Regulations may—
- [<sup>F133</sup>(za) require the FCA and the PRA to notify each other about EEA firms qualifying for authorisation;]
    - (a) modify any provision of this Act which is an applicable provision (within the meaning of paragraph 13 or 14) in its application to an EEA firm qualifying for authorisation;
    - (b) make provision as to any change (or proposed change) of a prescribed kind relating to an EEA firm or to an activity that it carries on in the United Kingdom and as to the procedure to be followed in relation to such cases;
    - (c) provide that [<sup>F134</sup>the FCA or the PRA] may treat an EEA firm's notification that it is to cease to carry on regulated activity in the United Kingdom as a request for cancellation of its qualification for authorisation under this Schedule.

#### Textual Amendments

**F133** Sch. 3 para. 17(za) inserted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by Financial Services Act 2012 (c. 21), s. 122(3), Sch. 4 para. 7(a) (with Sch. 20); S.I. 2013/113, art. 2(1)(b), Sch. Pt. 2; S.I. 2013/423, art. 3, Sch.

**F134** Words in Sch. 3 para. 17(c) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by Financial Services Act 2012 (c. 21), s. 122(3), Sch. 4 para. 7(b) (with Sch. 20); S.I. 2013/113, art. 2(1)(b), Sch. Pt. 2; S.I. 2013/423, art. 3, Sch.

#### Commencement Information

**I14** Sch. 3 Pt. II para. 17 wholly in force at 1.12.2001; Sch. 3 Pt. II para. 17 not in force at Royal Assent see s. 431(2); Sch. 3 Pt. II para. 17 in force for certain purposes at 25.2.2001 by S.I. 2001/516, art. 2(b)(c), Sch. Pts. 2, 3; Sch. 3 Pt. II para. 17 in force for specified purposes at 18.6.2001 by S.I. 2001/1820, art. 2, Sch.; Sch. 3 Pt. II para. 17 in force in so far as not already in force at 1.12.2001 by S.I. 2001/3538, art. 2(1)

#### Giving up right to authorisation

- 18 Regulations may provide that in prescribed circumstances an EEA firm falling within paragraph 5(c) may, on following the prescribed procedure—

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- (a) have its qualification for authorisation under this Schedule cancelled; and
- (b) seek to become an authorised person by applying for a [<sup>F135</sup>Part 4A permission].

#### Textual Amendments

**F135** Words in Sch. 3 para. 18(b) substituted (27.2.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 4 para. 8](#) (with [Sch. 20](#)); [S.I. 2013/423](#), arts. 2, 3, [Sch.](#)

#### Commencement Information

**I15** Sch. 3 Pt. II para. 18 wholly in force at 1.12.2001; Sch. 3 Pt. II para. 18 not in force at Royal Assent see s. 431(2); Sch. 3 Pt. II para. 18 in force for specified purposes at 25.2.2001 by [S.I. 2001/516](#), [art. 2\(b\)](#) (c), [Sch. Pts. 2, 3](#); Sch. 3 Pt. I para. 18 in force for specified purposes at 18.6.2001 by [S.I. 2001/1820](#), [art. 2 Sch.](#); Sch. 3 Pt. II para. 18 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538](#), [art. 2\(1\)](#)

### PART III

#### EXERCISE OF PASSPORT RIGHTS BY UK FIRMS

*[<sup>F136</sup>Meaning of “the appropriate UK regulator”*

#### Textual Amendments

**F136** Sch. 3 para. 18A and cross-heading inserted (27.2.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 4 para. 9](#) (with [Sch. 20](#)); [S.I. 2013/423](#), arts. 2, 3, [Sch.](#)

- 18A In this Part of this Schedule “the appropriate UK regulator” means—
- (a) where the UK firm is a PRA-authorised person, the PRA;
  - (b) in any other case, the FCA.]

#### *Establishment*

- 19 (1) [<sup>F137</sup>Subject to [<sup>F138</sup>sub-paragraphs (5ZA) [<sup>F139</sup>, (5ZB)] [<sup>F140</sup>, (5A) and (7BC)]],] a UK firm may not exercise an EEA right to establish a branch unless three conditions are satisfied.
- (2) The first is that the firm has given the [<sup>F141</sup>appropriate UK regulator], in the specified way, notice of its intention to establish a branch (“a notice of intention”) which—
    - (a) identifies the activities which it seeks to carry on through the branch; and
    - (b) includes such other information as may be specified.
  - (3) [<sup>F142</sup>Subject to sub-paragraph (5B), the] activities identified in a notice of intention may include activities which are not regulated activities.
  - [<sup>F143</sup>(4) The second is that—

*Status: Point in time view as at 31/07/2017.*

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- (a) the [<sup>F141</sup>appropriate UK regulator] has given notice in specified terms (“a consent notice”) to the host state regulator; and
- (b) where the firm is a management company which wishes to pursue the activity of collective portfolio management referred to in Annex II to the UCITS directive, the [<sup>F141</sup>appropriate UK regulator] has provided to the host state regulator—
  - (i) confirmation that the firm has been authorised as a management company pursuant to the provisions of the UCITS directive;
  - (ii) a description of the scope of the management company’s authorisation; and
  - (iii) details of any restriction on the types of UCITS that the management company is authorised to manage.]

[<sup>F144</sup>(5) The third is—

- (a) if the EEA right in question derives from the insurance mediation directive [<sup>F145</sup>or the mortgages directive], that one month has elapsed beginning with the date on which the firm received notice, in accordance with sub-paragraph (11), that the [<sup>F141</sup>appropriate UK regulator] has given a consent notice;
- (b) in any other case, that either—
  - (i) the host state regulator has notified the firm (or, where the EEA right in question derives from [<sup>F146</sup>the Solvency 2 Directive], the [<sup>F141</sup>appropriate UK regulator]) of the applicable provisions; or
  - (ii) two months have elapsed beginning with the date on which the [<sup>F141</sup>appropriate UK regulator] gave the consent notice.]

[<sup>F147</sup>(5ZA) This paragraph does not apply to [<sup>F148</sup>a UK firm which falls within the second sub-paragraph of Article 2(1) of the Solvency 2 Directive].]

[<sup>F149</sup>(5ZB) This paragraph does not apply to a UK firm having an EEA right which is subject to the conditions of the emission allowance auctioning regulation, in respect of its exercise of that EEA right.]

[<sup>F150</sup>(5A) If—

- (a) the EEA right in question derives from the insurance mediation directive, and
- (b) the EEA State in which the firm intends to establish a branch has not notified the Commission, in accordance with Article 6(2) of that directive, of its wish to be informed of the intention of any UK firm to establish a branch in its territory,

the second and third conditions do not apply (and so the firm may establish the branch to which its notice of intention relates as soon as the first condition is satisfied).]

[<sup>F151</sup>(5B) If the firm is a UK investment firm, a notice of intention may not include ancillary services unless such services are to be provided in connection with the carrying on of one or more investment services and activities.

(5C) In sub-paragraph (5B) “ancillary services” has the meaning given in Article 4.1.3 of the markets in financial instruments directive.]

- (6) If the firm’s EEA right derives from [<sup>F152</sup>the [<sup>F153</sup>capital requirements directive],  
<sup>F154</sup>[<sup>F155</sup> . . . or, in the case of a credit institution authorised under the [<sup>F153</sup>capital

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requirements directive], the markets in financial instruments directive]] and the first condition is satisfied, the [<sup>F141</sup>appropriate UK regulator] must give a consent notice to the host state regulator unless it has reason to doubt the adequacy of the firm's resources or its administrative structure.

[<sup>F156</sup>(6A) If the firm's EEA right derives from the UCITS directive and the first condition is satisfied, the [<sup>F141</sup>appropriate UK regulator] must give a consent notice and information about the compensation scheme to the host state regulator unless it has reason to doubt the adequacy of the firm's resources or its administrative structure, and must do so within two months beginning with the date on which it received the firm's notice of intention.]

(7) If the firm's EEA right derives from [<sup>F157</sup>the Solvency 2 Directive] and the first condition is satisfied, the [<sup>F141</sup>appropriate UK regulator] must give a consent notice unless it has reason—

- (a) to doubt the adequacy of the firm's resources or its administrative structure, or
- (b) to question the reputation, qualifications or experience of the directors or managers of the firm or the person proposed as the branch's authorised agent for the purposes of [<sup>F158</sup>that directive],

in relation to the business to be conducted through the proposed branch.

[<sup>F159</sup>(7A) If—

- (a) the firm's EEA right derives from the insurance mediation directive,
- (b) the first condition is satisfied, and
- (c) the second condition applies,

the [<sup>F141</sup>appropriate UK regulator] must give a consent notice, and must do so within one month beginning with the date on which it received the firm's notice of intention.]

[<sup>F160</sup>(7B) If the firm is a UK investment firm and the first condition is satisfied, the [<sup>F141</sup>appropriate UK regulator] must give a consent notice to the host state regulator within three months beginning with the date on which it received the firm's notice of intention unless the [<sup>F141</sup>appropriate UK regulator] has reason to doubt the adequacy of the firm's resources or its administrative structure.]

[<sup>F161</sup>(7BA) Sub-paragraph (7BB) applies where—

- (a) the firm's EEA right derives from the alternative investment fund managers directive,
- (b) the first condition is satisfied, and
- (c) the appropriate UK regulator is satisfied that the firm complies, and will continue to comply, with—
  - (i) the provisions implementing the alternative investment fund managers directive, and
  - (ii) any directly applicable EU regulation made under that directive.

(7BB) The appropriate UK regulator must—

- (a) within two months of receiving the firm's notice of intention, give a consent notice to the host state regulator,
- (b) send with that notice confirmation that the firm has been authorised by it pursuant to [<sup>F162</sup>Article 6.1 of] the alternative investment fund managers directive, and

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- (c) immediately notify the firm that it has given the consent notice to the host state regulator.
- (7BC) If the firm’s EEA right derives from the alternative investment fund managers directive, the third condition does not apply.]
- [<sup>F163</sup>(7BD) If the firm’s EEA right derives from the mortgages directive and the first condition is satisfied, the appropriate UK regulator must give a consent notice to the host state regulator within one month beginning with the date on which it received the firm’s notice of intention.]
- [<sup>F164</sup>(7C) Where the PRA is the appropriate UK regulator, it must consult the FCA before deciding whether to give a consent notice, except where sub-paragraph (7A) applies.
- (7D) Where the FCA is the appropriate UK regulator, it must consult the PRA before deciding whether to give a consent notice in relation to a UK firm whose immediate group includes a PRA-authorized person.]
- (8) If the [<sup>F141</sup>appropriate UK regulator] proposes to refuse to give a consent notice it must give the firm concerned a warning notice.
- (9) If the firm’s EEA right derives from [<sup>F165</sup>the Solvency 2 Directive] and the host state regulator has notified it of the applicable provisions, the [<sup>F141</sup>appropriate UK regulator] must inform the firm of those provisions.
- (10) Rules may specify the procedure to be followed by the [<sup>F141</sup>appropriate UK regulator] in exercising its functions under this paragraph.
- (11) If the [<sup>F141</sup>appropriate UK regulator] gives a consent notice it must give written notice that it has done so to the firm concerned.
- [<sup>F166</sup>(11A) If the firm’s EEA right derives from the mortgages directive, the appropriate UK regulator must give the written notice referred to in sub-paragraph (11) at the same time as it gives the consent notice to the host state regulator in accordance with sub-paragraph (7BD).]
- (12) If the [<sup>F141</sup>appropriate UK regulator] decides to refuse to give a consent notice—
- (a) it must, [<sup>F167</sup>within the relevant period], give the person who gave that notice a decision notice to that effect; <sup>F168</sup> ...
- [<sup>F169</sup>(aa) the appropriate UK regulator must in the case of a credit institution notify EBA and the Commission; and]
- (b) that person may refer the matter to the Tribunal.
- [<sup>F170</sup>(12ZA) If the firm's EEA right derives from the UCITS directive, the [<sup>F141</sup>appropriate UK regulator] must inform [<sup>F171</sup>ESMA and] the Commission if it decides to refuse to give a consent notice, giving the reasons for that refusal.]
- [<sup>F172</sup>(12A) In sub-paragraph (12), “the relevant period” means—
- (a) if the firm’s EEA right derives from the UCITS directive [<sup>F173</sup>or the alternative investment fund managers directive], two months beginning with the date on which the [<sup>F141</sup>appropriate UK regulator] received the notice of intention;
- (b) in any other case, three months beginning with that date.]

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- (13) In this paragraph, “applicable provisions” means the host state rules with which the firm will be required to comply when conducting business through the proposed branch in the EEA State concerned.
- (14) In sub-paragraph (13), “host state rules” means rules—
- (a) made in accordance with the relevant single market directive; and
  - (b) which are the responsibility of the EEA State concerned (both as to implementation and as to supervision of compliance) in accordance with that directive.
- (15) “Specified” means specified in rules.

#### Textual Amendments

- F137** Words in Sch. 3 para. 19(1) inserted (14.1.2005) by [The Insurance Mediation Directive \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/1473\)](#), **reg. 5(2)**
- F138** Words in Sch. 3 para. 19(1) substituted (10.12.2007) by [The Reinsurance Directive Regulations 2007 \(S.I. 2007/3253\)](#), **reg. 2(1)**, **Sch. 1 para. 6(f)**
- F139** Word in Sch. 3 para. 19(1) inserted (20.7.2012) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2012 \(S.I. 2012/1906\)](#), arts. 1, **4(10)(a)**
- F140** Words in Sch. 3 para. 19(1) substituted (22.7.2013) by [The Alternative Investment Fund Managers Regulations 2013 \(S.I. 2013/1773\)](#), **reg. 1**, **Sch. 1 para. 34(11)(a)**
- F141** Words in Sch. 3 para. 19 substituted (27.2.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 4 para. 10(2)** (with Sch. 20); S.I. 2013/423, arts. 2, 3, Sch.
- F142** Words in Sch. 3 para. 19(3) substituted (1.4.2007 for certain purposes, otherwise 1.11.2007) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2007 \(S.I. 2007/126\)](#), regs. 1(2), 3(4), **Sch. 4 para. 10(a)**
- F143** Sch. 3 para. 19(4) substituted (1.7.2011) by [The Undertakings for Collective Investment in Transferable Securities Regulations 2011 \(S.I. 2011/1613\)](#), **reg. 2(33)(e)**
- F144** Sch. 3 para. 19(5) substituted (14.1.2005) by [The Insurance Mediation Directive \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/1473\)](#), **reg. 5(3)**
- F145** Words in Sch. 3 para. 19(5)(a) inserted (20.4.2015 for specified purposes, 21.12.2015 for specified purposes, 21.3.2016 in so far as not already in force) by [The Mortgage Credit Directive Order 2015 \(S.I. 2015/910\)](#), art. 1(5), **Sch. 1 para. 1(10)(h)(i)** (with Pt. 4)
- F146** Words in Sch. 3 para. 19(5)(b)(i) substituted (1.1.2016) by [The Solvency 2 Regulations 2015 \(S.I. 2015/575\)](#), **reg. 1(2)**, **Sch. 1 para. 17(7)(a)**
- F147** Sch. 3 para. 19(5ZA) inserted (10.12.2007) by [The Reinsurance Directive Regulations 2007 \(S.I. 2007/3253\)](#), **reg. 2(1)**, **Sch. 1 para. 6(g)**
- F148** Words in Sch. 3 para. 19(5ZA) substituted (1.1.2016) by [The Solvency 2 Regulations 2015 \(S.I. 2015/575\)](#), **reg. 1(2)**, **Sch. 1 para. 17(7)(b)**
- F149** Sch. 3 para. 19(5ZB) inserted (20.7.2012) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2012 \(S.I. 2012/1906\)](#), arts. 1, **4(10)(b)**
- F150** Sch. 3 para. 19(5A) inserted (14.1.2005) by [The Insurance Mediation Directive \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/1473\)](#), **reg. 5(4)**
- F151** Sch. 3 para. 19(5B)(5C) inserted (1.4.2007 for certain purposes, otherwise 1.11.2007) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2007 \(S.I. 2007/126\)](#), regs. 1(2), 3(4), **Sch. 4 para. 10(b)**
- F152** Words in Sch. 3 para. 19(6) substituted (13.2.2004) by [The Collective Investment Schemes \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/2066\)](#), **reg 4(1)(a)(i)**
- F153** Words in Sch. 3 para. 19(6) substituted (1.1.2014) by [The Capital Requirements Regulations 2013 \(S.I. 2013/3115\)](#), **reg. 1(2)**, **Sch. 2 para. 29(6)**

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- F154** Words in Sch. 3 para. 19(6) omitted (1.7.2011) by virtue of The Undertakings for Collective Investment in Transferable Securities Regulations 2011 (S.I. 2011/1613), **reg. 2(33)(f)**
- F155** Words in Sch. 3 para. 19(6) substituted (1.4.2007 for certain purposes, otherwise 1.11.2007) by The Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2007 (S.I. 2007/126), regs. 1(2), 3(4), **Sch. 4 para. 10(c)** (with reg. 8)
- F156** Sch. 3 para. 19(6A) inserted (1.7.2011) by The Undertakings for Collective Investment in Transferable Securities Regulations 2011 (S.I. 2011/1613), **reg. 2(33)(g)**
- F157** Words in Sch. 3 para. 19(7) substituted (1.1.2016) by The Solvency 2 Regulations 2015 (S.I. 2015/575), reg. 1(2), **Sch. 1 para. 17(7)(a)**
- F158** Words in Sch. 3 para. 19(7)(b) substituted (1.1.2016) by The Solvency 2 Regulations 2015 (S.I. 2015/575), reg. 1(2), **Sch. 1 para. 17(7)(c)**
- F159** Sch. 3 para. 19(7A) inserted (14.1.2005) by The Insurance Mediation Directive (Miscellaneous Amendments) Regulations 2003 (S.I. 2003/1473), **reg. 5(5)**
- F160** Sch. 3 para. 19(7B) inserted (1.4.2007 for certain purposes, otherwise 1.11.2007) by The Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2007 (S.I. 2007/126), regs. 1(2), 3(4), **Sch. 4 para. 10(d)** (with reg. 8)
- F161** Sch. 3 para. 19(7BA)-(7BC) inserted (22.7.2013) by The Alternative Investment Fund Managers Regulations 2013 (S.I. 2013/1773), reg. 1, **Sch. 1 para. 34(11)(b)**
- F162** Words in Sch. 3 para. 19(7BB)(b) omitted (coming into force in accordance with reg. 1(3) of the amending S.I.) by The Alternative Investment Fund Managers (Amendment) Regulations 2013 (S.I. 2013/1797), reg. 1(3), **Sch. 1 para. 1(5)(e)**
- F163** Sch. 3 para. 19(7BD) inserted (20.4.2015 for specified purposes, 21.12.2015 for specified purposes, 21.3.2016 in so far as not already in force) by The Mortgage Credit Directive Order 2015 (S.I. 2015/910), art. 1(5), **Sch. 1 para. 1(10)(h)(ii)** (with Pt. 4)
- F164** Sch. 3 para. 19(7C)(7D) inserted (27.2.2013 for specified purposes, 1.4.2013 in so far as not already in force) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 4 para. 10(3)** (with Sch. 20); S.I. 2013/423, arts. 2, 3, Sch.
- F165** Words in Sch. 3 para. 19(9) substituted (1.1.2016) by The Solvency 2 Regulations 2015 (S.I. 2015/575), reg. 1(2), **Sch. 1 para. 17(7)(a)**
- F166** Sch. 3 para. 19(11A) inserted (20.4.2015 for specified purposes, 21.12.2015 for specified purposes, 21.3.2016 in so far as not already in force) by The Mortgage Credit Directive Order 2015 (S.I. 2015/910), art. 1(5), **Sch. 1 para. 1(10)(h)(iii)** (with Pt. 4)
- F167** Words in Sch. 3 para. 19(12)(a) substituted (13.2.2004) by The Collective Investment Schemes (Miscellaneous Amendments) Regulations 2003 (S.I. 2003/2066), **reg 4(1)(a)(ii)**
- F168** Word in Sch. 3 para. 19(12)(a) omitted (1.1.2014) by virtue of The Capital Requirements Regulations 2013 (S.I. 2013/3115), reg. 1(2), **Sch. 2 para. 29(7)(a)**
- F169** Sch. 3 para. 19(12)(aa) inserted (1.1.2014) by The Capital Requirements Regulations 2013 (S.I. 2013/3115), reg. 1(2), **Sch. 2 para. 29(7)(b)**
- F170** Sch. 3 para. 19(12ZA) inserted after Sch. 3 para. 19(12) (1.7.2011) by The Undertakings for Collective Investment in Transferable Securities Regulations 2011 (S.I. 2011/1613), **reg. 2(33)(h)**
- F171** Words in Sch. 3 para. 19(12ZA) inserted (16.4.2012) by The Financial Services (Omnibus 1 Directive) Regulations 2012 (S.I. 2012/916), regs. 1, **2(15)**
- F172** Sch. 3 para. 19(12A) inserted (13.2.2004) by The Collective Investment Schemes (Miscellaneous Amendments) Regulations 2003 (S.I. 2003/2066), **reg 4(1)(a)(iii)**
- F173** Words in Sch. 3 para. 19(12A)(a) inserted (22.7.2013) by The Alternative Investment Fund Managers Regulations 2013 (S.I. 2013/1773), reg. 1, **Sch. 1 para. 34(11)(c)**

#### Modifications etc. (not altering text)

- C4** Sch. 3 Pt. III para. 19 applied (1.12.2001) by S.I. 2001/3592, **arts. 1(2)**, 104(3)(a) (with art. 23(2))  
Sch. 3 Pt. III para. 19 modified (1.12.2001) by S.I. 2001/2636, **arts. 1(2)(b)**, 77(1)-(3)(7); S.I. 2001/3538, **art. 2(1)**
- C5** Sch. 3 Pt. III para. 19(2)(4)(6)(7) extended (1.12.2001) by S.I. 2001/3592, **arts. 1(2)**, 100 (with art. 23(2))

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### Commencement Information

**I16** Sch. 3 Pt. III para. 19 wholly in force at 1.12.2001; Sch. 3 Pt. III para. 19 not in force at Royal Assent see s. 431(2); Sch. 3 Pt. III para. 19 in force for certain purposes at 25.2.2001 by [S.I. 2001/516, art. 2\(b\) \(c\), Sch. Pts. 2, 3](#); Sch. 3 Pt. III para. 19 in force for specified purposes at 18.6.2001 by [S.I. 2001/1820, art. 2, Sch.](#); Sch. 3 Pt. III para. 19 in force for specified purposes at 3.9.2001 by [S.I. 2001/2632, art. 2\(2\), Sch. Pt. 2](#); Sch. 3 Pt. III para. 19 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538, art. 2\(1\)](#)

### Services

- 20 (1) [<sup>F174</sup>Subject to [<sup>F175</sup>sub-paragraphs (4D) to [<sup>F176</sup>(4I)]]], a UK firm may not exercise an EEA right to provide services unless the firm has given the [<sup>F177</sup>appropriate UK regulator], in the specified way, notice of its intention to provide services (“a notice of intention”) which—
- (a) identifies the activities which it seeks to carry out by way of provision of services; and
  - (b) includes such other information as may be specified.
- (2) [<sup>F178</sup>Subject to sub-paragraph (2A), the] activities identified in a notice of intention may include activities which are not regulated activities.
- [<sup>F179</sup>(2A) If the firm is a UK investment firm, a notice of intention may not include ancillary services unless such services are to be provided in connection with the carrying on of one or more investment services and activities.
- (2B) In sub-paragraph (2A) “ancillary services” has the meaning given in Article 4.1.3 of the markets in financial instruments directive.]
- (3) If the firm’s EEA right derives from [<sup>F180</sup>the [<sup>F181</sup>capital requirements directive], [<sup>F182</sup>markets in financial instruments directive][<sup>F183</sup>, the mortgages directive] or the UCITS directive], the [<sup>F177</sup>appropriate UK regulator] must, within one month of receiving a notice of intention, send a copy of it to the host state regulator [<sup>F184</sup>with such other information as may be specified].
- [<sup>F185</sup>(3ZA) If the firm’s EEA right derives from the UCITS directive, the [<sup>F177</sup>appropriate UK regulator] must provide information about the compensation scheme with the information provided to the host state regulator under sub-paragraph (3).]
- [<sup>F186</sup>(3A) If the firm’s EEA right derives from [<sup>F187</sup>the Solvency 2 Directive], the [<sup>F177</sup>appropriate UK regulator] must, within one month of receiving the notice of intention—
- (a) give notice in specified terms (“a consent notice”) to the host state regulator; or
  - (b) give written notice to the firm of—
    - (i) its refusal to give a consent notice; and
    - (ii) its reasons for that refusal.]
- [<sup>F188</sup>(3AA) Where the PRA is the appropriate UK regulator, it must consult the FCA before deciding whether to give a consent notice.

*Status: Point in time view as at 31/07/2017.*

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- (3AB) Where the FCA is the appropriate UK regulator, it must consult the PRA before deciding whether to give a consent notice in relation to a UK firm whose immediate group includes a PRA-authorized person.]
- [<sup>F189</sup>(3B) If the firm's EEA right derives from the insurance mediation directive and the EEA State in which the firm intends to provide services has notified the Commission, in accordance with Article 6(2) of that directive, of its wish to be informed of the intention of any UK firm to provide services in its territory—
- (a) the [<sup>F177</sup>appropriate UK regulator] must, within one month of receiving the notice of intention, send a copy of it to the host state regulator;
  - (b) the [<sup>F177</sup>appropriate UK regulator], when it sends the copy in accordance with sub-paragraph (a), must give written notice to the firm concerned that it has done so; and
  - (c) the firm concerned must not provide the services to which its notice of intention relates until one month, beginning with the date on which it receives the notice under sub-paragraph (b), has elapsed.]
- [<sup>F190</sup>(3C) If the firm is a management company which wishes to pursue the activity of collective portfolio management referred to in Annex II to the UCITS directive, the [<sup>F177</sup>appropriate UK regulator] must send with the documentation provided to the host state regulator under sub-paragraph (3)—
- (a) confirmation that the firm has been authorised as a management company pursuant to the provisions of the UCITS directive;
  - (b) a description of the scope of the management company's authorisation; and
  - (c) details of any restriction on the types of UCITS that the management company is authorised to manage.]
- [<sup>F191</sup>(3D) If the firm's EEA right derives from the alternative investment fund managers directive, the appropriate UK regulator must—
- (a) if the condition in sub-paragraph (3E) is satisfied—
    - (i) within one month of receiving the firm's notice of intention, send a copy of the firm's notice of intention to the host state regulator;
    - (ii) send with that notice confirmation that the firm has been authorised by it pursuant to [<sup>F192</sup>Article 6.1 of] that directive, with such other information as may be specified; and
    - (iii) immediately notify the firm that it has given the notice and confirmation to the host state regulator; or
  - (b) give the firm written notice of its refusal to send a copy of the notice of intention to the host state regulator and its reasons for that refusal.
- (3E) The condition is that the appropriate UK regulator is satisfied that the firm complies, and will continue to comply, with—
- (a) the provisions implementing the alternative investment fund managers directive, and
  - (b) any directly applicable EU regulation made under that directive.]
- (4) When the [<sup>F177</sup>appropriate UK regulator] sends the copy under sub-paragraph (3) [<sup>F193</sup>or gives a consent notice], it must give written notice to the firm concerned.
- [<sup>F194</sup>(4A) If the firm is given notice under sub-paragraph (3A)(b) [<sup>F195</sup>or (3D)(b)], it may refer the matter to the Tribunal.

*Status: Point in time view as at 31/07/2017.*

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- (4B) If the firm’s EEA right derives from [<sup>F196</sup>the Solvency 2 Directive][<sup>F197</sup> or from [<sup>F198</sup>the alternative investment fund managers directive,] the markets in financial instruments directive][<sup>F199</sup> or the UCITS directive], it must not provide the services to which its notice of intention relates until it has received written notice under sub-paragraph (4).
- [ If the firm's EEA right derives from the markets in financial instruments directive,  
<sup>F200</sup>(4BA) the [<sup>F177</sup>appropriate UK regulator] must comply as soon as reasonably practicable with a request for information under the second sub-paragraph of Article [<sup>F201</sup>34.7] of that directive from the host state regulator.]
- [ If the firm’s EEA right derives from the mortgages directive it must not provide the  
<sup>F202</sup>(4BB) services to which its notice of intention relates until one month, beginning with the date on which it receives the notice under sub-paragraph (4), has elapsed.]
- (4C) Rules may specify the procedure to be followed by the [<sup>F177</sup>appropriate UK regulator] under this paragraph.]
- [<sup>F203</sup>(4D) This paragraph does not apply to [<sup>F204</sup>a UK firm which falls within the second sub-paragraph of Article 2(1) of the Solvency 2 Directive].]
- [<sup>F205</sup>(4E) This paragraph does not apply to a UK firm having an EEA right which is subject to the conditions of the emission allowance auctioning regulation, in respect of its exercise of that EEA right.]
- [<sup>F206</sup>(4F) This paragraph does not apply to—
- (a) the operator of a UCITS established in the United Kingdom seeking to exercise an EEA right to market the units of that UCITS in the territory of another EEA State; or
  - (b) a UK firm seeking to exercise an EEA right under the alternative investment fund managers directive to market an AIF.]

[<sup>F207</sup>(4G) This paragraph does not apply to a UK firm exercising an EEA right to enter into a Community co-insurance contract if it is not the leading insurance undertaking.

(4H) In this paragraph “Community co-insurance contract” means a contract of insurance which—

    - (a) covers one or more risks that are within any of classes 3 to 16 of Annex I of the Solvency 2 Directive;
    - (b) covers a large risk situated within the EEA which is not covered in whole or in part by another contract of insurance;
    - (c) provides that the risk to which it relates is covered by an overall premium and for the same period by two or more insurance undertakings each for its own part as a co-insurer, at least one of which enters into the contract from a head office or branch established in an EEA State other than that of the leading insurance undertaking; and
    - (d) provides that one of the co-insurers is the leading insurance undertaking.

(4I) In this paragraph—

    - (a) “leading insurance undertaking” means the insurance undertaking which under the Community co-insurance contract is specified as such and assumes fully the leader’s role including in particular—
      - (i) being treated as covering the whole risk; and
      - (ii) determining the terms and conditions of insurance and rating;

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- (b) “large risk” has the meaning given in Article 13(27) of the Solvency 2 Directive but as if the risks referred to in point (c) of the first sub-paragraph of Article 13(27) included risks insured by professional associations, joint ventures, or temporary groupings.]

<sup>F208</sup>(5) . . . . .

- (6) “Specified” means specified in rules.

#### Textual Amendments

- F174** Words in Sch. 3 para. 20(1) inserted (10.12.2007) by [The Reinsurance Directive Regulations 2007 \(S.I. 2007/3253\)](#), reg. 2(1), **Sch. 1 para. 6(h)**
- F175** Words in Sch. 3 para. 20(1) substituted (22.7.2013) by [The Alternative Investment Fund Managers Regulations 2013 \(S.I. 2013/1773\)](#), reg. 1, **Sch. 1 para. 34(12)(a)**
- F176** Word in Sch. 3 para. 20(1) substituted (1.1.2016) by [The Solvency 2 Regulations 2015 \(S.I. 2015/575\)](#), reg. 1(2), **Sch. 1 para. 17(8)(a)**
- F177** Words in Sch. 3 para. 20 substituted (27.2.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 4 para. 11(2)** (with Sch. 20); S.I. 2013/423, arts. 2, 3, Sch.
- F178** Words in Sch. 3 para. 20(2) substituted (1.4.2007 for certain purposes, otherwise 1.11.2007) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2007 \(S.I. 2007/126\)](#), regs. 1(2), 3(4), **Sch. 4 para. 11(a)**
- F179** Sch. 3 para. 20(2A)(2B) inserted (1.4.2007 for certain purposes, otherwise 1.11.2007) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2007 \(S.I. 2007/126\)](#), regs. 1(2), 3(4), **Sch. 4 para. 11(b)**
- F180** Words in Sch. 3 para. 20(3) substituted (13.2.2004) by [The Collective Investment Schemes \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/2066\)](#), **reg 4(1)(b)(i)**
- F181** Words in Sch. 3 para. 20(3) substituted (1.1.2014) by [The Capital Requirements Regulations 2013 \(S.I. 2013/3115\)](#), reg. 1(2), **Sch. 2 para. 29(8)**
- F182** Words in Sch. 3 para. 20(3) substituted (1.4.2007 for certain purposes, otherwise 1.11.2007) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2007 \(S.I. 2007/126\)](#), regs. 1(2), 3(4), **Sch. 4 para. 11(c)**
- F183** Words in Sch. 3 para. 20(3) inserted (20.4.2015 for specified purposes, 21.12.2015 for specified purposes, 21.3.2016 in so far as not already in force) by [The Mortgage Credit Directive Order 2015 \(S.I. 2015/910\)](#), art. 1(5), **Sch. 1 para. 1(10)(i)(i)** (with Pt. 4)
- F184** Words in Sch. 3 para. 20(3) inserted (13.2.2004) by [The Collective Investment Schemes \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/2066\)](#), **reg 4(1)(b)(ii)**
- F185** Sch. 3 para. 20(3ZA) inserted after Sch. 3 para. 20(3) (1.7.2011) by [The Undertakings for Collective Investment in Transferable Securities Regulations 2011 \(S.I. 2011/1613\)](#), **reg. 2(33)(i)**
- F186** Sch. 3 Pt. III para. 20(3A) inserted (30.4.2001) by S.I. 2001/1376, **regs. 1, 2(2)**
- F187** Words in Sch. 3 para. 20(3A) substituted (1.1.2016) by [The Solvency 2 Regulations 2015 \(S.I. 2015/575\)](#), reg. 1(2), **Sch. 1 para. 17(8)(b)**
- F188** Sch. 3 para. 20(3AA)(3AB) inserted (27.2.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 4 para. 11(3)** (with Sch. 20); S.I. 2013/423, arts. 2, 3, Sch.
- F189** Sch. 3 para. 20(3B) inserted (14.1.2005) by [The Insurance Mediation Directive \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/1473\)](#), **reg. 6(1)**
- F190** Sch. 3 para. 20(3C) inserted (1.7.2011) by [The Undertakings for Collective Investment in Transferable Securities Regulations 2011 \(S.I. 2011/1613\)](#), **reg. 2(33)(j)**
- F191** Sch. 3 para. 20(3D)(3E) inserted (22.7.2013) by [The Alternative Investment Fund Managers Regulations 2013 \(S.I. 2013/1773\)](#), reg. 1, **Sch. 1 para. 34(12)(b)**

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- F192** Words in Sch. 3 para. 20(3D)(a)(ii) omitted (coming into force in accordance with reg. 1(3) of the amending S.I.) by [The Alternative Investment Fund Managers \(Amendment\) Regulations 2013 \(S.I. 2013/1797\)](#), [reg. 1\(3\)](#), [Sch. 1 para. 1\(5\)\(f\)](#)
- F193** Words in Sch. 3 Pt. III para. 20(4) inserted (30.4.2001) by [S.I. 2001/1376](#), [regs. 1, 2\(3\)](#)
- F194** Sch. 3 Pt. III para. 20(4A)-(4C) inserted (30.4.2001) by [S.I. 2001/1376](#), [regs. 1, 2\(4\)](#)
- F195** Words in Sch. 3 para. 20(4A) inserted (22.7.2013) by [The Alternative Investment Fund Managers Regulations 2013 \(S.I. 2013/1773\)](#), [reg. 1](#), [Sch. 1 para. 34\(12\)\(c\)](#)
- F196** Words in Sch. 3 para. 20(4B) substituted (1.1.2016) by [The Solvency 2 Regulations 2015 \(S.I. 2015/575\)](#), [reg. 1\(2\)](#), [Sch. 1 para. 17\(8\)\(b\)](#)
- F197** Words in Sch. 3 para. 20(4B) inserted (1.4.2007 for certain purposes, otherwise 1.11.2007) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2007 \(S.I. 2007/126\)](#), [regs. 1\(2\), 3\(4\)](#), [Sch. 4 para. 11\(d\)](#)
- F198** Words in Sch. 3 para. 20(4B) inserted (22.7.2013) by [The Alternative Investment Fund Managers Regulations 2013 \(S.I. 2013/1773\)](#), [reg. 1](#), [Sch. 1 para. 34\(12\)\(d\)](#)
- F199** Words in Sch. 3 para. 20(4B) inserted (1.7.2011) by [The Undertakings for Collective Investment in Transferable Securities Regulations 2011 \(S.I. 2011/1613\)](#), [reg. 2\(33\)\(k\)](#)
- F200** Sch. 3 para. 20(4BA) inserted (1.4.2007 for certain purposes, otherwise 1.11.2007) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2007 \(S.I. 2007/126\)](#), [regs. 1\(2\), 3\(4\)](#), [Sch. 4 para. 11\(e\)](#)
- F201** Word in [Sch. 3 para. 20\(4BA\)](#) substituted (29.6.2017 for specified purposes, 3.7.2017 for specified purposes, 31.7.2017 for specified purposes) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2017 \(S.I. 2017/701\)](#), [reg. 1\(2\)\(3\)\(4\)\(6\)](#), [Sch. 2 para. 54\(6\)](#) (with [reg. 7](#))
- F202** Sch. 3 para. 20(4BB) inserted (20.4.2015 for specified purposes, 21.12.2015 for specified purposes, 21.3.2016 in so far as not already in force) by [The Mortgage Credit Directive Order 2015 \(S.I. 2015/910\)](#), [art. 1\(5\)](#), [Sch. 1 para. 1\(10\)\(i\)\(ii\)](#) (with [Pt. 4](#))
- F203** Sch. 3 para. 20(4D) inserted (10.12.2007) by [The Reinsurance Directive Regulations 2007 \(S.I. 2007/3253\)](#), [reg. 2\(1\)](#), [Sch. 1 para. 6\(i\)](#)
- F204** Words in Sch. 3 para. 20(4D) substituted (1.1.2016) by [The Solvency 2 Regulations 2015 \(S.I. 2015/575\)](#), [reg. 1\(2\)](#), [Sch. 1 para. 17\(8\)\(c\)](#)
- F205** Sch. 3 para. 20(4E) inserted (20.7.2012) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2012 \(S.I. 2012/1906\)](#), [arts. 1, 4\(11\)\(b\)](#)
- F206** Sch. 3 para. 20(4F) inserted (22.7.2013) by [The Alternative Investment Fund Managers Regulations 2013 \(S.I. 2013/1773\)](#), [reg. 1](#), [Sch. 1 para. 34\(12\)\(e\)](#)
- F207** Sch. 3 para. 20(4G)-(4I) inserted (1.1.2016) by [The Solvency 2 Regulations 2015 \(S.I. 2015/575\)](#), [reg. 1\(2\)](#), [Sch. 1 para. 17\(8\)\(d\)](#)
- F208** Sch. 3 Pt. III para. 20(5) omitted (30.4.2001) by virtue of [S.I. 2001/1376](#), [regs. 1, 2\(5\)](#)

#### Modifications etc. (not altering text)

- C6** Sch. 3 Pt. III para. 20(1) modified (1.12.2001) by [S.I. 2001/2636](#), [arts. 1\(2\)\(b\), 77\(1\)\(4\)-\(7\)](#); [S.I. 2001/3538](#), [art. 2\(1\)](#)
- C7** Sch. 3 Pt. III para. 20(1)(3A)(a) extended (1.12.2001) by [S.I. 2001/3592](#), [arts. 1\(2\), 101](#) (with [art. 23\(2\)](#))

#### Commencement Information

- I17** Sch. 3 Pt. III para. 20 wholly in force at 1.12.2001; Sch. 3 Pt. III para. 20 not in force at Royal Assent see [s. 431\(2\)](#); Sch. 3 Pt. III para. 20 in force for certain purposes at 25.2.2001 by [S.I. 2001/516](#), [art. 2\(b\)\(c\)](#), [Sch. Pts. 2, 3](#); Sch. 3 Pt. III para. 20 in force for specified purposes at 18.6.2001 by [S.I. 2001/1820](#), [art. 2](#), [Sch.](#); Sch. 3 Pt. III para. 20 in force for specified purposes at 3.9.2001 by [S.I. 2001/2632](#), [art. 2\(2\)](#), [Sch. Pt. 2](#); Sch. 3 Pt. III para. 20 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538](#), [art. 2\(1\)](#)

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### Information for host state regulator

[<sup>F209</sup>20ZA] The [<sup>F210</sup>appropriate UK regulator] must keep a record of the confirmation and other information provided to the host state regulator under paragraph 19(4) or paragraph 20(3C) in relation to a UK firm which is a management company.

(2) The [<sup>F210</sup>appropriate UK regulator] must inform the host state regulator whenever there is a change in the confirmation or other information referred to in subparagraph (1).

[ The appropriate UK regulator must inform the host state regulator whenever it  
<sup>F211</sup>(3) withdraws the authorisation of a credit institution in respect of which a notice under paragraph 19(6) or paragraph 20(3) has been given.]

[ The appropriate UK regulator must inform the host state regulator whenever it—  
<sup>F212</sup>(4) (a) withdraws the authorisation of a UK firm that exercises an EEA right under the mortgages directive to establish a branch or provide services in an EEA State other than the United Kingdom; or  
(b) varies the Part 4A permission of such a firm, so that the firm no longer has permission to carry on any activity to which the mortgages directive relates.

(5) The appropriate UK regulator must provide the information referred to in subparagraph (4) as soon as possible and, at the latest, within 14 days of—  
(a) the date of the direction given in accordance with section 33(2) withdrawing the firm's status as an authorised person, or  
(b) the date on which the variation of the Part 4A permission takes effect.]]

#### Textual Amendments

**F209** Sch. 3 para. 20ZA inserted (1.7.2011) by The Undertakings for Collective Investment in [Transferable Securities Regulations 2011 \(S.I. 2011/1613\)](#), **reg. 2(33)(l)**

**F210** Words in Sch. 3 para. 20ZA substituted (27.2.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 4 para. 12** (with Sch. 20); S.I. 2013/423, arts. 2, 3, Sch.

**F211** Sch. 3 para. 20ZA(3) inserted (1.1.2014) by [The Capital Requirements Regulations 2013 \(S.I. 2013/3115\)](#), reg. 1(2), **Sch. 2 para. 29(9)**

**F212** Sch. 3 para. 20ZA(4)(5) inserted (20.4.2015 for specified purposes, 21.12.2015 for specified purposes, 21.3.2016 in so far as not already in force) by [The Mortgage Credit Directive Order 2015 \(S.I. 2015/910\)](#), art. 1(5), **Sch. 1 para. 1(10)(j)** (with Pt. 4)

### <sup>F213</sup>Tied agents

#### Textual Amendments

**F213** Sch. 3 para. 20A and preceding cross-heading inserted (1.4.2007 for certain purposes, otherwise 1.11.2007) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2007 \(S.I. 2007/126\)](#), regs. 1(2), 3(4), **Sch. 4 para. 12**

20A (1) If a UK investment firm [<sup>F214</sup>or UK credit institution] is seeking to use a tied agent established in an EEA State (other than the United Kingdom) in connection with the exercise of an EEA right deriving from the markets in financial instruments directive,

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this Part of this Schedule applies as if the firm were seeking to establish a branch in that State.

(2) But if—

- (a) a UK investment firm [<sup>F214</sup>or UK credit institution] has already established a branch in an EEA State other than the United Kingdom in accordance with paragraph 19; and
- (b) the EEA right which it is exercising derives from the markets in financial instruments directive,

paragraph 19 does not apply in respect of its use of the tied agent in question.

[ In this paragraph “UK credit institution” means a UK firm—

- <sup>F215</sup>(3) (a) which is a credit institution; and
- (b) whose EEA right derives from the markets in financial instruments directive.]]

#### Textual Amendments

**F214** Words in [Sch. 3 para. 20A](#) inserted (29.6.2017 for specified purposes, 3.7.2017 for specified purposes, 31.7.2017 for specified purposes) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2017 \(S.I. 2017/701\)](#), [reg. 1\(2\)\(3\)\(4\)\(6\)](#), [Sch. 2 para. 54\(7\)\(a\)](#) (with [reg. 7](#))

**F215** [Sch. 3 para. 20A\(3\)](#) inserted (29.6.2017 for specified purposes, 3.7.2017 for specified purposes, 31.7.2017 for specified purposes) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2017 \(S.I. 2017/701\)](#), [reg. 1\(2\)\(3\)\(4\)\(6\)](#), [Sch. 2 para. 54\(7\)\(b\)](#) (with [reg. 7](#))

#### Notice of intention to market [<sup>F217</sup>a UCITS]

<sup>F216</sup>~~20B~~(1) The operator of a UCITS established in the United Kingdom may not exercise an EEA right to market the units of that UCITS in the territory of another EEA State unless the operator has given the [<sup>F218</sup>appropriate UK regulator], in the specified way, notice of its intention to market the units (“notice of intention”) which contains, and is accompanied by, such information as may be specified in rules, or in regulations made by the European Commission under the UCITS directive.

- (2) The [<sup>F218</sup>appropriate UK regulator] must ensure that the information referred to in sub-paragraph (1) may be transmitted to it electronically.
- (3) The [<sup>F218</sup>appropriate UK regulator] must verify whether the information submitted with the notice of intention is complete and, within 10 days of the date on which the [<sup>F218</sup>appropriate UK regulator] received the complete information required, send to the host state regulator—
  - (a) a copy of the notice of intention;
  - (b) the accompanying information; and
  - (c) confirmation that the operator and the UCITS fulfil the conditions imposed by the UCITS directive.
- (4) The [<sup>F218</sup>appropriate UK regulator] must ensure that the host state regulator has electronic access to the information and documents referred to in sub-paragraph (3).

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- (5) The [<sup>F218</sup>appropriate UK regulator] must notify the operator immediately that the information referred to in sub-paragraph (3) has been sent to the competent authorities of the host state regulator.
- (6) The operator may market the units of the UCITS in the territory of the host state regulator from the moment it receives the notification referred to in sub-paragraph (5).
- (7) In this paragraph—  
“operator” has the same meaning as in section 237 of this Act;  
“specified” means specified in rules.]

#### Textual Amendments

- F216** Sch. 3 para. 20B inserted (1.7.2011) by The Undertakings for Collective Investment in [Transferable Securities Regulations 2011 \(S.I. 2011/1613\)](#), [reg. 2\(33\)\(m\)](#)
- F217** Words in Sch. 3 para. 20B heading inserted (22.7.2013) by [The Alternative Investment Fund Managers Regulations 2013 \(S.I. 2013/1773\)](#), [reg. 1](#), [Sch. 1 para. 34\(13\)](#)
- F218** Words in Sch. 3 para. 20B substituted (27.2.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 4 para. 13](#) (with [Sch. 20](#)); [S.I. 2013/423](#), arts. 2, 3, [Sch.](#)

#### <sup>F219</sup>Notice of intention to market an AIF

#### Textual Amendments

- F219** Sch. 3 para. 20C and cross-heading inserted (22.7.2013) by [The Alternative Investment Fund Managers Regulations 2013 \(S.I. 2013/1773\)](#), [reg. 1](#), [Sch. 1 para. 34\(14\)](#)

- 20C. (1) A full-scope UKAIFM may not exercise in the territory of another EEA State an EEA right under the alternative investment fund managers directive to market [<sup>F220</sup>a UKAIF or EEAAIF][<sup>F220</sup>an AIF] managed by it unless two conditions are satisfied.
- (2) The first condition is that the full-scope UKAIFM has given the appropriate UK regulator, in the specified way, notice of its intention to market the AIF (“notice of intention”) which contains, and is accompanied by, such information as may be specified.
- (3) The appropriate UK regulator must ensure that the notice of intention and any accompanying information may be transmitted to it electronically.
- (4) The second condition is that the appropriate UK regulator has sent a copy of the notice of intention to the host state regulator, and has given written notice to the full-scope UKAIFM that it has done so.
- (5) Sub-paragraph (6) applies where—
- (a) the appropriate UK regulator is satisfied that the full-scope UKAIFM complies, and will continue to comply, with—
    - (i) the provisions implementing the alternative investment fund managers directive, and
    - (ii) any directly applicable EU regulation made under that directive, and

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- [ if the AIF is a third country AIF or a third country feeder AIF—
- <sup>F221</sup>(b) (i) appropriate co-operation arrangements are in place between the FCA and the supervisory authorities of the relevant third country in order to ensure an efficient exchange of information that allows the FCA to carry out its duties in accordance with the alternative investment fund managers directive,
- (ii) the relevant third country is not listed as a Non-Cooperative Country and Territory by the Financial Action Task Force,
- (iii) the relevant third country has signed an agreement with the United Kingdom and with each other EEA State in which the units or shares of the AIF are intended to be marketed, and
- (iv) the agreement fully complies with the standards laid down in Article 26 of the Organisation for Economic Co-operation and Development’s Model Tax Convention on Income and on Capital 2010(11) and ensures an effective exchange of information on tax matters, including any multilateral tax agreements.]
- (6) The appropriate UK regulator must send a copy of the notice of intention to the host state regulator within 20 working days of receiving it.
- (7) When sending a copy of the notice of intention to the host state regulator, the appropriate UK regulator must send with the notice confirmation that the full-scope UKAIFM concerned is authorised to manage AIFs with a particular investment strategy, and a statement of that strategy.
- (8) If the notice of intention relates to an EEAAIF, the appropriate UK regulator must, when it sends a copy of the notice to the host state regulator, also inform the competent authority of the EEAAIF that the full-scope UKAIFM may start marketing the AIF in the EEA States covered by the notice.
- (9) The appropriate UK regulator must notify the full-scope UKAIFM immediately that the copy of the notice of intention has been sent to the host state regulator.
- (10) The full-scope UKAIFM may market the AIF in the territory of the host state regulator from the date it receives the notification referred to in sub-paragraph (9).
- (11) If the appropriate UK regulator refuses to send a copy of the notice of intention to the host state regulator—
- (a) the appropriate UK regulator must give the AIFM written notice of its refusal and its reasons for that refusal; and
- (b) the AIFM may refer the matter to the Tribunal.
- (12) In this paragraph—
- “competent authority” has the meaning given in regulation 2 of the Alternative Investment Fund Managers Regulations 2013;
- “EEAAIF” has the meaning given in regulation 2 of the Alternative Investment Fund Managers Regulations 2013;
- “feeder AIF” has the meaning given in Article 4.1(m) of the alternative investment fund managers directive;
- “master AIF” has the meaning given in Article 4.1(y) of that directive;
- <sup>F222</sup>“relevant third country” means—

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- (a) in relation to a third country AIF, the country in which the AIF is authorised or registered or, if the AIF is not authorised or registered, the country in which it has its registered office;
- (b) in relation to a third country feeder AIF, the country in which the master AIF is authorised or registered or, if the master AIF is not authorised or registered, the country in which it has its registered office;]

“specified” means specified in rules;

[<sup>F222</sup>“third country AIF” has the meaning given in regulation 2 of the Alternative Investment Fund Managers Regulations 2013;

[<sup>F222</sup>“third country feeder AIF” has the meaning given in regulation 2 of the Alternative Investment Fund Managers Regulations 2013;]

[<sup>F222</sup>“third country AIFM” has the meaning given in regulation 2 of the Alternative Investment Fund Managers Regulations 2013.”.]

“UKAIF” has the meaning given in regulation 2 of the Alternative Investment Fund Managers Regulations 2013.]]

#### Textual Amendments

- F220** Words in Sch. 3 para. 20C(1) substituted (coming into force in accordance with reg. 1(3) of the amending S.I.) by [The Alternative Investment Fund Managers \(Amendment\) Regulations 2013 \(S.I. 2013/1797\)](#), reg. 1(3), **Sch. 1 para. 1(5)(g)(i)**
- F221** Sch. 3 para. 20C(5)(b) substituted (coming into force in accordance with reg. 1(3) of the amending S.I.) by [The Alternative Investment Fund Managers \(Amendment\) Regulations 2013 \(S.I. 2013/1797\)](#), reg. 1(3), **Sch. 1 para. 1(5)(g)(ii)**
- F222** Words in Sch. 3 para. 20C(12) inserted (coming into force in accordance with reg. 1(3) of the amending S.I.) by [The Alternative Investment Fund Managers \(Amendment\) Regulations 2013 \(S.I. 2013/1797\)](#), reg. 1(3), **Sch. 1 para. 1(5)(g)(iii)**

#### *Offence relating to exercise of passport rights*

- 21 (1) If a UK firm which is not an authorised person contravenes the prohibition imposed by—
- (a) sub-paragraph (1) of paragraph 19, or
  - (b) [<sup>F223</sup>sub-paragraph (1), (3B)(c) [<sup>F224</sup>, (4B) or (4BB)]] of paragraph 20,
- it is guilty of an offence.
- (2) A firm guilty of an offence under sub-paragraph (1) is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum; or
  - (b) on conviction on indictment, to a fine.
- (3) In proceedings for an offence under sub-paragraph (1), it is a defence for the firm to show that it took all reasonable precautions and exercised all due diligence to avoid committing the offence.

#### Textual Amendments

- F223** Words in Sch. 3 para. 21(1)(b) substituted (14.1.2005) by [The Insurance Mediation Directive \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/1473\)](#), **reg. 6(2)**

*Status: Point in time view as at 31/07/2017.*

**Changes to legislation:** Financial Services and Markets Act 2000, SCHEDULE 3 is up to date with all changes known to be in force on or before 20 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

**F224** Words in Sch. 3 para. 21(1)(b) substituted (20.4.2015 for specified purposes, 21.12.2015 for specified purposes, 21.3.2016 in so far as not already in force) by [The Mortgage Credit Directive Order 2015 \(S.I. 2015/910\)](#), art. 1(5), **Sch. 1 para. 1(10)(k)** (with Pt. 4)

#### Commencement Information

**I18** Sch. 3 Pt. III para. 21 wholly in force at 1.12.2001; Sch. 3 Pt. III para. 21 not in force at Royal Assent see s. 431(2); Sch. 3 Pt. III para. 21 in force for certain purposes at 25.2.2001 by [S.I. 2001/516](#), art. 2(b)(c), [Sch. Pts. 2, 3](#); Sch. 3 Pt. III para. 21 in force for specified purposes at 18.6.2001 by [S.I. 2001/1820](#), art. 2, [Sch.](#); Sch. 3 Pt. III para. 21 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538](#), art. 2(1)

#### Continuing regulation of UK firms

- 22 (1) Regulations may make such provision as the Treasury consider appropriate in relation to a UK firm's exercise of EEA rights, and may in particular provide for the application (with or without modification) of any provision of, or made under, this Act in relation to an activity of a UK firm.
- (2) Regulations may—
- (a) make provision as to any change (or proposed change) of a prescribed kind relating to a UK firm or to an activity that it carries on and as to the procedure to be followed in relation to such cases;
  - (b) make provision with respect to the consequences of the firm's failure to comply with a provision of the regulations.
- (3) Where a provision of the kind mentioned in sub-paragraph (2) requires [<sup>F225</sup>the consent of the FCA or the PRA] to a change (or proposed change)—
- (a) consent may be refused only on prescribed grounds; and
  - (b) if [<sup>F226</sup>the FCA or the PRA] decides to refuse consent, the firm concerned may refer the matter to the Tribunal.

#### Textual Amendments

**F225** Words in Sch. 3 para. 22(3) substituted (27.2.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 4 para. 14(a)** (with [Sch. 20](#)); [S.I. 2013/423](#), arts. 2, 3, [Sch.](#)

**F226** Words in Sch. 3 para. 22(3)(b) substituted (27.2.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 4 para. 14(b)** (with [Sch. 20](#)); [S.I. 2013/423](#), arts. 2, 3, [Sch.](#)

#### Commencement Information

**I19** Sch. 3 Pt. III para. 22 wholly in force at 1.12.2001; Sch. 3 Pt. III para. 22 not in force at Royal Assent see s. 431(2); Sch. 3 Pt. III para. 22 in force for certain purposes at 25.2.2001 by [S.I. 2001/516](#), art. 2(b)(c), [Sch. Pts. 2, 3](#); Sch. 3 Pt. III para. 22 in force for specified purposes at 18.6.2001 by [S.I. 2001/1820](#), art. 2, [Sch.](#); Sch. 3 Pt. III para. 22 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538](#), art. 2(1)

*Status: Point in time view as at 31/07/2017.*

*Changes to legislation: Financial Services and Markets Act 2000, SCHEDULE 3 is up to date with all changes known to be in force on or before 20 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

### Textual Amendments

**F227** Sch. 3 para. 23 omitted (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by virtue of [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No. 2\) Order 2013 \(S.I. 2013/1881\)](#), arts. 1(2)(6), **10(18)(b)** (with art. 11(10))

- 24 (1) Sub-paragraph (2) applies if a UK firm—
- (a) is not required to have a [<sup>F228</sup>Part 4A permission] in relation to the business which it is carrying on; and
  - (b) is exercising the right conferred by [<sup>F229</sup>Article 34 of the capital requirements directive] to carry on that business in an EEA State other than the United Kingdom.
- (2) If requested to do so by the host state regulator in the EEA State in which the UK firm's business is being carried on, [<sup>F230</sup>either regulator] may impose any requirement in relation to the firm which it could impose if—
- (a) the firm had a [<sup>F231</sup>Part 4A permission] in relation to the business which it is carrying on; and
  - (b) [<sup>F232</sup>that regulator] was entitled to exercise its power under that Part to vary that permission.

### Textual Amendments

**F228** Words in Sch. 3 para. 24(1)(a) substituted (27.2.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 4 para. 16(2)** (with Sch. 20); S.I. 2013/423, arts. 2, 3, Sch.

**F229** Words in Sch. 3 para. 24(1)(b) substituted (1.1.2014) by [The Capital Requirements Regulations 2013 \(S.I. 2013/3115\)](#), reg. 1(2), **Sch. 2 para. 29(10)**

**F230** Words in Sch. 3 para. 24(2) substituted (27.2.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 4 para. 16(3)(a)** (with Sch. 20); S.I. 2013/423, arts. 2, 3, Sch.

**F231** Words in Sch. 3 para. 24(2)(a) substituted (27.2.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 4 para. 16(3)(b)** (with Sch. 20); S.I. 2013/423, arts. 2, 3, Sch.

**F232** Words in Sch. 3 para. 24(2)(b) substituted (27.2.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 4 para. 16(3)(c)** (with Sch. 20); S.I. 2013/423, arts. 2, 3, Sch.

### Commencement Information

**I20** Sch. 3 Pt. III para. 24 wholly in force at 1.12.2001; Sch. 3 Pt. III para. 24 not in force at Royal Assent see s. 431(2); Sch. 3 Pt. III para. 24 in force for certain purposes at 25.2.2001 by S.I. 2001/516, art. 2(b)(c), Sch. Pts. 2, 3; Sch. 3 Pt. III para. 24 in force for specified purposes at 18.6.2001 by S.I. 2001/1820, art. 2, Sch.; Sch. 3 Pt. III para. 24 in force in so far as not already in force at 1.12.2001 by S.I. 2001/3538, art. 2(1)

*Status: Point in time view as at 31/07/2017.*

*Changes to legislation: Financial Services and Markets Act 2000, SCHEDULE 3 is up to date with all changes known to be in force on or before 20 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

### *[<sup>F233</sup>Arrangements between FCA and PRA*

#### **Textual Amendments**

**F233** Sch. 3 para. 24A and crossheading inserted (24.1.2013 for specified purposes, 27.2.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 4 para. 17](#) (with [Sch. 20](#)); [S.I. 2013/113, art. 2\(1\)\(c\), Sch. Pt. 3](#); [S.I. 2013/423, arts. 2, 3, Sch.](#)

- 24A (1) The regulators may make arrangements about—
- (a) how they will consult each other when required to do so by paragraph 19(7C) or (7D) or 20(3AA) or (3AB) or by regulations under paragraph 22;
  - (b) how each of them will act in response to any advice or representations received from the other.
- (2) The arrangements may require one regulator to obtain the consent of the other in specified circumstances before—
- (a) giving a consent notice under paragraph 19 or 20, or
  - (b) exercising specified functions under regulations under paragraph 22.
- (3) The arrangements must be in writing, and must specify—
- (a) the EEA rights to which they relate, and
  - (b) the date on which they come into force.
- (4) Where arrangements are in force under this paragraph, the regulators must exercise functions in accordance with the arrangements.
- (5) The regulators must publish any arrangements under this paragraph in such manner as they think fit.]

### *[<sup>F234</sup>Information to be included in the public record*

#### **Textual Amendments**

**F234** Sch. 3 para. 25 and preceding cross-heading inserted (14.1.2005) by [The Insurance Mediation Directive \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/1473\), reg. 7](#)

- 25 The [<sup>F235</sup>FCA] must include in the record that it maintains under section 347 in relation to any UK firm whose EEA right derives from the insurance mediation directive [<sup>F236</sup>or the mortgages directive] information as to each EEA State in which the UK firm, in accordance with such a right—
- (a) has established a branch; or
  - (b) is providing services.]

#### **Textual Amendments**

**F235** Word in Sch. 3 para. 25 substituted (27.2.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 4 para. 18](#) (with [Sch. 20](#)); [S.I. 2013/423, arts. 2, 3, Sch.](#)

*Status: Point in time view as at 31/07/2017.*

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**F236** Words in [Sch. 3 para. 25](#) inserted (20.4.2015 for specified purposes, 21.12.2015 for specified purposes, 21.3.2016 in so far as not already in force) by [The Mortgage Credit Directive Order 2015 \(S.I. 2015/910\)](#), art. 1(5), [Sch. 1 para. 1\(10\)\(l\)](#) (with Pt. 4)

#### *UK management companies: delegation of functions*

**[<sup>F237</sup>26** Where a UK firm which is a management company and is providing services in the exercise of an EEA right to an EEAUCITS informs the [<sup>F238</sup>appropriate UK regulator] that it has delegated one or more of its functions to a third party, the [<sup>F238</sup>appropriate UK regulator] must transmit that information to the home state regulator of the EEAUCITS without delay.

#### **Textual Amendments**

**F237** Sch. 3 paras. 26-28 inserted (1.7.2011) by The Undertakings for Collective Investment in [Transferable Securities Regulations 2011 \(S.I. 2011/1613\)](#), [reg. 2\(33\)\(n\)](#)

**F238** Words in Sch. 3 para. 26 substituted (27.2.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 4 para. 19](#) (with [Sch. 20](#)); S.I. 2013/423, arts. 2, 3, Sch.

#### *UK management companies: withdrawal of authorisation*

27 Where a UK firm which is a management company has exercised an EEA right deriving from the UCITS directive to establish a branch or to provide services in another EEA State, the [<sup>F239</sup>appropriate UK regulator] must consult the home state regulator of any UCITS managed by that management company before taking a decision to withdraw the authorisation of the management company under section 33.

#### **Textual Amendments**

**F237** Sch. 3 paras. 26-28 inserted (1.7.2011) by The Undertakings for Collective Investment in [Transferable Securities Regulations 2011 \(S.I. 2011/1613\)](#), [reg. 2\(33\)\(n\)](#)

**F239** Words in Sch. 3 para. 27 substituted (27.2.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 4 para. 20](#) (with [Sch. 20](#)); S.I. 2013/423, arts. 2, 3, Sch.

#### *Management companies: request for information*

28 (1) Where a UK firm has applied to manage a UCITS which is established in another EEA State, the home state regulator of the UCITS may—

- (a) request further information from the [<sup>F240</sup>appropriate UK regulator] regarding the documents referred to in Article 20.1 of the UCITS directive, and
- (b) ask the [<sup>F240</sup>appropriate UK regulator] whether the type of UCITS for which the UK firm has applied to provide its services falls within the scope of the authorisation of the UK firm.

(2) The [<sup>F240</sup>appropriate UK regulator] must respond to a request under sub-paragraph (1) (a) or (b) within 10 working days of the date on which the request was received.]

*Status: Point in time view as at 31/07/2017.*

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#### Textual Amendments

- F237** Sch. 3 paras. 26-28 inserted (1.7.2011) by The Undertakings for Collective Investment in [Transferable Securities Regulations 2011 \(S.I. 2011/1613\)](#), [reg. 2\(33\)\(n\)](#)
- F240** Words in Sch. 3 para. 28 substituted (27.2.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 4 para. 21](#) (with [Sch. 20](#)); S.I. 2013/423, arts. 2, 3, Sch.

*[<sup>F241</sup>Full-scope UKAIFMs: notification of breach by host state regulator*

#### Textual Amendments

- F241** Sch. 3 para. 29 and cross-heading inserted (22.7.2013) by [The Alternative Investment Fund Managers Regulations 2013 \(S.I. 2013/1773\)](#), [reg. 1](#), [Sch. 1 para. 34\(15\)](#)

29. If a host state regulator informs the FCA in accordance with paragraph 5 of Article 45 of the alternative investment fund managers directive that a full-scope UKAIFM has refused to provide the information or to take the steps referred to in that paragraph, the appropriate UK regulator must—
- (a) take steps to ensure that the AIFM provides the information or complies with the rules of which it is in breach;
  - (b) request any necessary information from a supervisory authority in a country that is not an EEA State; and
  - (c) notify the host state regulator of the steps taken under paragraph (a).]

**Status:**

Point in time view as at 31/07/2017.

**Changes to legislation:**

Financial Services and Markets Act 2000, SCHEDULE 3 is up to date with all changes known to be in force on or before 20 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.