
STATUTORY INSTRUMENTS

1995 No. 3275

The Investment Services Regulations 1995

PART II

RECOGNITION IN UK OF EUROPEAN INVESTMENT FIRMS

Effect of recognition

Authorisations and licences not required

- 5.—(1) Subject to paragraph (2) below, nothing in the following enactments, namely—
- (a) sections 3 and 4 of the Financial Services Act (restrictions on carrying on investment business); and
 - (b) sections 21, 39(1) and 147(1) of the Consumer Credit Act (Consumer Credit Act businesses needing a licence),

shall prevent a European investment firm from providing in the United Kingdom any listed service which it is authorised to provide in its home State.

(2) In relation to a European investment firm in respect of which a prohibition under these Regulations is in force—

- (a) paragraph (1)(a) above shall not apply if the prohibition is under regulation 9 below; and
- (b) paragraph (1)(b) above shall not apply if the prohibition is under regulation 15 below.

Procedural requirements for carrying on listed services

6.—(1) A European investment firm (other than a credit institution authorised in its home State to provide one or more core investment services) shall not—

- (a) provide in the United Kingdom by the provision of services any listed service; or
- (b) establish a branch in the United Kingdom for the purpose of providing such a service,

unless the requirements of paragraph 1 of Schedule 3 to these Regulations have been complied with in relation to its provision of the service or, as the case may be, its establishment of the branch.

(2) A European investment firm (other than a credit institution authorised in its home State to provide one or more core investment services) which does not have a branch in the United Kingdom shall not change the requisite details of its activities in the United Kingdom unless the requirements of paragraph 4 of Schedule 3 to these regulations have been complied with in relation to its making of the change.

(3) A European investment firm (other than a credit institution authorised in its home member state to provide one or more core investment services) shall not change the requisite details of a branch established by it in the United Kingdom unless the requirements of paragraph 5 of Schedule 3 to these Regulations have been complied with in relation to its making of the change.

(4) An investment firm which contravenes paragraph (1), (2) or (3) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale; but such a contravention shall not invalidate any transaction.

(5) In proceedings brought against an investment firm for an offence under paragraph (4) above it shall be a defence for the investment firm to show that it took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

(6) Proceedings in respect of an offence under any provision of this regulation shall not be instituted—

- (a) in England and Wales, except by the Board or by or with the consent of the Secretary of State or the Director of Public Prosecutions; or
- (b) in Northern Ireland, except by the Board or by or with the consent of the Secretary of State or the Director of Public Prosecutions for Northern Ireland.