
STATUTORY INSTRUMENTS

2001 No. 1376

FINANCIAL SERVICES AND MARKETS

The Financial Services (EEA Passport Rights) Regulations 2001

Made - - - - *4th April 2001*
Laid before Parliament *5th April 2001*
Coming into force - - *30th April 2001*

Whereas the Treasury are a government department designated(1) for the purposes of section 2(2) of the European Communities Act 1972(2) in relation to—

- (i) measures relating to investment firms and to the provision of investment services; and
- (ii) authorisation of the carrying on of insurance business and the regulation of such business and its conduct, and anything incidental or supplemental to those matters;

Now, therefore, the Treasury, in exercise of the powers conferred on them by that section, hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Financial Services (EEA Passport Rights) Regulations 2001 and come into force on 30th April 2001.

Amendment of the Financial Services and Markets Act 2000

2.—(1) Part III of Schedule 3 to the Financial Services and Markets Act 2000(3) is amended as follows.

(2) In paragraph 20, after sub-paragraph (3) insert—

“(3A) If the firm’s EEA right derives from any of the insurance directives, the Authority 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

(1) S.I. 1993/2661 and 1997/2781.

(2) 1972 c. 68. By virtue of the amendment of s. 1(2) made by s. 1 of the European Economic Area Act 1993 (c. 51) regulations may be made under s. 2(2) to implement obligations of the United Kingdom created by or arising under the Agreement on the Economic Area signed at Oporto on 2nd May 1992 (Cm 2073) and the Protocol adjusting the Agreement signed at Brussels on 17th March 1993 (Cm 2183).

(3) 2000 c. 8. Schedule 3 was amended by S.I. 2000/2952 (regulation 8(5)).

(ii) its reasons for that refusal.”.

(3) In sub-paragraph (4) of that paragraph, after “sub-paragraph (3)” insert “or gives a consent notice”.

(4) After that sub-paragraph insert—

“(4A) If the firm is given notice under sub-paragraph (3A)(b), it may refer the matter to the Tribunal.

(4B) If the firm’s EEA right derives from any of the insurance directives, it must not provide the services to which its notice of intention relates until it has received written notice under sub-paragraph (4).

(4C) Rules may specify the procedure to be followed by the Authority under this paragraph.”.

(5) Omit sub-paragraph (5) of that paragraph.

(6) In paragraph 21(1)(b), for “(5)” substitute “(4B)”.

Jim Dowd

David Clelland

Two of the Lords Commissioners of Her
Majesty’s Treasury

4th April 2001

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend Schedule 3 to the Financial Services and Markets Act 2000 (c. 8) (brought partially into force by S.I.2001/516 (C. 21)). Schedule 3 makes provision about the exercise of “passport rights” under the single markets directives relating to financial services—that is, the right of a firm authorised in one EEA State to establish a branch or provide services in another EEA State. These Regulations give effect to provisions of:

Council Directives Nos. 88/357/EEC and 92/49/EEC, on the co-ordination of laws, regulations and administrative provisions relating to the taking up and pursuit of direct insurance other than life assurance; and

Council Directives Nos. 90/619/EEC and 92/96/EEC, on the co-ordination of laws, regulations and administrative provisions relating to the taking up and pursuit of the business of direct life assurance,

relating to the procedure applying to the exercise by UK firms of their passport rights under those directives to provide services in other EEA States.

The Regulations also remove paragraph 20(5) of Schedule 3 which is inconsistent with provisions of Council Directive No. 93/22/EEC on investment services in the securities field, relating to the exercise of passport rights to provide services.