

Status: Point in time view as at 01/07/2011.

Changes to legislation: Financial Services and Markets Act 2000, Part III is up to date with all changes known to be in force on or before 22 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

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 III

EXERCISE OF PASSPORT RIGHTS BY UK FIRMS

Establishment

- 19 (1) [^{F1}Subject to [^{F2}sub-paragraphs (5ZA) and (5A)],] 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 Authority, 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) [^{F3}Subject to sub-paragraph (5B), the] activities identified in a notice of intention may include activities which are not regulated activities.
- [^{F4}(4) The second is that—
- (a) the Authority 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 Authority 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.]

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[^{F5}(5) The third is—

- (a) if the EEA right in question derives from the insurance mediation directive, that one month has elapsed beginning with the date on which the firm received notice, in accordance with sub-paragraph (11), that the Authority 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 any of the insurance directives, the Authority) of the applicable provisions; or
 - (ii) two months have elapsed beginning with the date on which the Authority gave the consent notice.]

[^{F6}(5ZA) This paragraph does not apply to a UK firm having an EEA right which is subject to the conditions of the reinsurance directive.]

[^{F7}(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).]

[^{F8}(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 [^{F9}the banking consolidation directive, [^{F10F11} . . . or, in the case of a credit institution authorised under the banking consolidation directive, the markets in financial instruments directive]] and the first condition is satisfied, the Authority 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.

[^{F12}(6A) If the firm's EEA right derives from the UCITS directive and the first condition is satisfied, the Authority 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 any of the insurance directives and the first condition is satisfied, the Authority 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 those directives,

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

[^{F13}(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 Authority 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.]

[^{F14}(7B) If the firm is a UK investment firm and the first condition is satisfied, the Authority 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 Authority has reason to doubt the adequacy of the firm’s resources or its administrative structure.]

- (8) If the Authority 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 any of the insurance directives and the host state regulator has notified it of the applicable provisions, the Authority must inform the firm of those provisions.
- (10) Rules may specify the procedure to be followed by the Authority in exercising its functions under this paragraph.
- (11) If the Authority gives a consent notice it must give written notice that it has done so to the firm concerned.
- (12) If the Authority decides to refuse to give a consent notice—
 - (a) it must, [^{F15}within the relevant period], give the person who gave that notice a decision notice to that effect; and
 - (b) that person may refer the matter to the Tribunal.

[^{F16}(12ZA) If the firm’s EEA right derives from the UCITS directive, the Authority must inform the Commission if it decides to refuse to give a consent notice, giving the reasons for that refusal.]

[^{F17}(12A) In sub-paragraph (12), “the relevant period” means—

- (a) if the firm’s EEA right derives from the UCITS directive, two months beginning with the date on which the Authority received the notice of intention;
- (b) in any other case, three months beginning with that date.]

(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.

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Textual Amendments

- F1** 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)**
- F2** 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)**
- F3** 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)**
- F4** 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)**
- F5** 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)**
- F6** 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)**
- F7** 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)**
- F8** 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)**
- F9** 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)**
- F10** 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)
- F11** 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)**
- F12** 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)**
- F13** 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)**
- F14** 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)
- F15** 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)**
- F16** 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)**
- F17** 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)**

Modifications etc. (not altering text)

- C1** 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)**
- C2** 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))

Commencement Information

- I1** 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.**

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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) [^{F18}Subject to sub-paragraph (4D),] a UK firm may not exercise an EEA right to provide services unless the firm has given the Authority, 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) [^{F19}Subject to sub-paragraph (2A), the] activities identified in a notice of intention may include activities which are not regulated activities.
- [^{F20}(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 [^{F21}the banking consolidation directive, [^{F22}markets in financial instruments directive] or the UCITS directive], the Authority must, within one month of receiving a notice of intention, send a copy of it to the host state regulator [^{F23}with such other information as may be specified].
- [^{F24}(3ZA) If the firm's EEA right derives from the UCITS directive, the Authority must provide information about the compensation scheme with the information provided to the host state regulator under sub-paragraph (3).]
- [^{F25}(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
 - (ii) its reasons for that refusal.]
- [^{F26}(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 Authority must, within one month of receiving the notice of intention, send a copy of it to the host state regulator;
 - (b) the Authority, 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.]

[^{F27}(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 Authority

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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.]

(4) When the Authority sends the copy under sub-paragraph (3) [^{F28}or gives a consent notice], it must give written notice to the firm concerned.

[^{F29}(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 [^{F30}or from the markets in financial instruments directive][^{F31}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, ^{F32}(4BA) the Authority must comply as soon as reasonably practicable with a request for information under the second sub-paragraph of Article 31.6 of that directive from the host state regulator.]

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

[^{F33}(4D) This paragraph does not apply to a UK firm having an EEA right which is subject to the conditions of the reinsurance directive.]

^{F34}(5)

(6) “Specified” means specified in rules.

Textual Amendments

- F18** 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)**
- F19** 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)**
- F20** 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)**
- F21** 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)**
- F22** 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)**
- F23** 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)**
- F24** 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)**
- F25** Sch. 3 Pt. III para. 20(3A) inserted (30.4.2001) by [S.I. 2001/1376](#), **regs. 1, 2(2)**

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- F26** Sch. 3 para. 20(3B) inserted (14.1.2005) by [The Insurance Mediation Directive \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/1473\)](#), [reg. 6\(1\)](#)
- F27** 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\(33\)\(j\)](#)
- F28** Words in Sch. 3 Pt. III para. 20(4) inserted (30.4.2001) by [S.I. 2001/1376](#), [regs. 1, 2\(3\)](#)
- F29** Sch. 3 Pt. III para. 20(4A)-(4C) inserted (30.4.2001) by [S.I. 2001/1376](#), [regs. 1, 2\(4\)](#)
- F30** 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\(d\)](#)
- F31** 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\(33\)\(k\)](#)
- F32** 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\(e\)](#)
- F33** 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\(i\)](#)
- F34** 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)

- C3** 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\(1\)](#)
- C4** 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

- I2** 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\(1\)](#)

Information for host state regulator

[^{F35}(1) The Authority 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 Authority must inform the host state regulator whenever there is a change in the confirmation or other information referred to in sub-paragraph (1).]

Textual Amendments

- F35** 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\(33\)\(l\)](#)

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^{F36}Tied agents

Textual Amendments

F36 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 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, 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 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.

Notice of intention to market

- ^{F37} [(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 Authority, 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.
- ^{F37} 20B (2) The Authority must ensure that the information referred to in sub-paragraph (1) may be transmitted to it electronically.
- (3) The Authority must verify whether the information submitted with the notice of intention is complete and, within 10 days of the date on which the Authority 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 Authority must ensure that the host state regulator has electronic access to the information and documents referred to in sub-paragraph (3).
- (5) The Authority 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;

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“specified” means specified in rules.]]]

Textual Amendments

F37 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)**

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) [^{F38}sub-paragraph (1), (3B)(c) or (4B)] 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

F38 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)**

Commencement Information

I3 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 the Authority’s consent to a change (or proposed change)—

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- (a) consent may be refused only on prescribed grounds; and
- (b) if the Authority decides to refuse consent, the firm concerned may refer the matter to the Tribunal.

Commencement Information

I4 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\(1\)](#)

- 23 (1) [^{F39}Sub-paragraphs (2) and (2A) apply] if a UK firm—
- (a) has a Part IV permission; and
 - (b) is exercising an EEA right to carry on any Consumer Credit Act business in an EEA State other than the United Kingdom.
- (2) The Authority may exercise its power under section 45 in respect of the firm if [^{F40}the Office of Fair Trading] has informed the Authority that—
- (a) the firm,
 - (b) any of the firm’s employees, agents or associates (whether past or present), or
 - (c) if the firm is a body corporate, a controller of the firm or an associate of such a controller,
- has done any of the things specified in paragraphs [^{F41}(a) to (e) of section 25(2A)] of the ^{M1}Consumer Credit Act 1974.
- [^{F42}(2A) The Authority may also exercise its power under section 45 in respect of the firm if the Office of Fair Trading has informed the Authority that it has concerns about any of the following—
- (a) the firm's skills, knowledge and experience in relation to Consumer Credit Act businesses;
 - (b) such skills, knowledge and experience of other persons who are participating in any Consumer Credit Act business being carried on by the firm;
 - (c) practices and procedures that the firm is implementing in connection with any such business.]
- (3) “Associate”, “Consumer Credit Act business” and “controller” have the same meaning as in section 203.

Textual Amendments

- F39** Words in Sch. 3 para. 23(1) substituted (6.4.2008) by [Consumer Credit Act 2006 \(c. 14\)](#), [ss. 33\(10\)](#), [71\(2\)](#); [S.I. 2007/3300](#), [art. 3\(2\)](#), [Sch. 2](#)
- F40** Words in Sch. 3 para. 23(2) substituted (1.4.2003) by [Enterprise Act 2002 \(c. 40\)](#), [ss. 278\(1\)](#), [279](#), [Sch. 25 para. 40\(19\)\(b\)](#); [S.I. 2003/766](#), [art. 2](#), [Sch. \(with art. 3\)](#)
- F41** Words in Sch. 3 para. 23(2) substituted (6.4.2008) by [Consumer Credit Act 2006 \(c. 14\)](#), [ss. 33\(11\)](#), [71\(2\)](#); [S.I. 2007/3300](#), [art. 3\(2\)](#), [Sch. 2](#)
- F42** Sch. 3 para. 23(2A) inserted (6.4.2008) by [Consumer Credit Act 2006 \(c. 14\)](#), [ss. 33\(12\)](#), [71\(2\)](#); [S.I. 2007/3300](#), [art. 3\(2\)](#), [Sch. 2](#)

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Commencement Information

- I5** Sch. 3 Pt. III para. 23 wholly in force at 1.12.2001; Sch. 3 Pt. III para. 23 not in force at Royal Assent see s. 431(2); Sch. 3 Pt. III para. 23 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. 23 in force for specified purposes at 18.6.2001 by [S.I. 2001/1820](#), [art. 2, Sch.](#); Sch. 3 Pt. III para. 23 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538](#), [art. 2\(1\)](#)

Marginal Citations

- M1** 1974 c. 39.

- 24 (1) Sub-paragraph (2) applies if a UK firm—
- (a) is not required to have a Part IV permission in relation to the business which it is carrying on; and
 - (b) is exercising the right conferred by [^{F43}[^{F44}Article 24] of the banking consolidation 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, the Authority may impose any requirement in relation to the firm which it could impose if—
- (a) the firm had a Part IV permission in relation to the business which it is carrying on; and
 - (b) the Authority was entitled to exercise its power under that Part to vary that permission.

Textual Amendments

- F43** Words in Sch. 3 Pt. III para. 24(1)(b) substituted (22.11.2000) by [S.I. 2000/2952](#), [reg. 8\(5\)\(f\)](#)
- F44** Words in Sch. 3 para. 24(1)(b) substituted (1.1.2007) by [The Capital Requirements Regulations 2006](#) ([S.I. 2006/3221](#)), [reg. 29\(1\)](#), [Sch. 3 para. 2\(4\)](#)

Commencement Information

- I6** 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\(1\)](#)

[^{F45}Information to be included in the public record

Textual Amendments

- F45** 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 Authority 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 information as to each EEA State in which the UK firm, in accordance with such a right—
- (a) has established a branch; or

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(b) is providing services.

UK management companies: delegation of functions

[^{F46}
F46] Where a UK firm which is a management company and is providing services in the exercise of an EEA right to an EEA UCITS informs the Authority that it has delegated one or more of its functions to a third party, the Authority must transmit that information to the home state regulator of the EEA UCITS without delay.]

Textual Amendments

F46 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)**

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 Authority 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

F46 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)**

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 Authority regarding the documents referred to in Article 20.1 of the UCITS directive, and
- (b) ask the Authority 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 Authority 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.]]

Textual Amendments

F46 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)**

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