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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

^{F1}Meaning of “the appropriate UK regulator”

Textual Amendments

- F1** 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) [^{F2}Subject to [^{F3}sub-paragraphs (5ZA) [^{F4}, (5ZB)]^{F5}, (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 [^{F6}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.

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(3) [^{F7}Subject to sub-paragraph (5B), the] activities identified in a notice of intention may include activities which are not regulated activities.

[^{F8}(4) The second is that—

- (a) the [^{F6}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 [^{F6}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.]

[^{F9}(5) The third is—

- (a) if the EEA right in question derives from the insurance mediation directive [^{F10}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 [^{F6}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 [^{F11}the Solvency 2 Directive], the [^{F6}appropriate UK regulator]) of the applicable provisions; or
 - (ii) two months have elapsed beginning with the date on which the [^{F6}appropriate UK regulator] gave the consent notice.]

[^{F12}(5ZA) This paragraph does not apply to [^{F13}a UK firm which falls within the second sub-paragraph of Article 2(1) of the Solvency 2 Directive].]

[^{F14}(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.]

[^{F15}(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).]

[^{F16}(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.

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(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 [F17the [F18capital requirements directive], F19[F20. . . or, in the case of a credit institution authorised under the [F18capital requirements directive], the markets in financial instruments directive]] and the first condition is satisfied, the [F6appropriate 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.

[F21(6A) If the firm’s EEA right derives from the UCITS directive and the first condition is satisfied, the [F6appropriate 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 [F22the Solvency 2 Directive] and the first condition is satisfied, the [F6appropriate 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 [F23that directive],

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

[F24(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 [F6appropriate 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.]

[F25(7B) If the firm is a UK investment firm and the first condition is satisfied, the [F6appropriate 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 [F6appropriate UK regulator] has reason to doubt the adequacy of the firm’s resources or its administrative structure.]

[F26(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—

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- (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 ^{F27}Article 6.1 of] the alternative investment fund managers directive, and
 - (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.]
- ^{F28}(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.]
- ^{F29}(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-authorised person.]
- (8) If the ^{F6}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 ^{F30}the Solvency 2 Directive] and the host state regulator has notified it of the applicable provisions, the ^{F6}appropriate UK regulator] must inform the firm of those provisions.
- (10) Rules may specify the procedure to be followed by the ^{F6}appropriate UK regulator] in exercising its functions under this paragraph.
- (11) If the ^{F6}appropriate UK regulator] gives a consent notice it must give written notice that it has done so to the firm concerned.
- ^{F31}(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 ^{F6}appropriate UK regulator] decides to refuse to give a consent notice—
 - (a) it must, ^{F32}within the relevant period], give the person who gave that notice a decision notice to that effect; ^{F33}...
 - ^{F34}(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.
- ^{F35}(12ZA) If the firm's EEA right derives from the UCITS directive, the ^{F6}appropriate UK regulator] must inform ^{F36}ESMA and] the Commission if it decides to refuse to give a consent notice, giving the reasons for that refusal.]
- ^{F37}(12A) In sub-paragraph (12), “the relevant period” means—

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- (a) if the firm's EEA right derives from the UCITS directive [^{F38}or the alternative investment fund managers directive], two months beginning with the date on which the [^{F6}appropriate UK regulator] 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.

Textual Amendments

- F2** 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\(2\)](#)
- F3** 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\(f\)](#)
- F4** 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\(10\)\(a\)](#)
- F5** 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\(11\)\(a\)](#)
- F6** 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.](#)
- F7** 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\(a\)](#)
- F8** 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\(33\)\(e\)](#)
- F9** Sch. 3 para. 19(5) substituted (14.1.2005) by [The Insurance Mediation Directive \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/1473\)](#), [reg. 5\(3\)](#)
- F10** 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](#))
- F11** 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\(7\)\(a\)](#)
- F12** 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\(g\)](#)
- F13** 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\(7\)\(b\)](#)
- F14** 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\(10\)\(b\)](#)
- F15** Sch. 3 para. 19(5A) inserted (14.1.2005) by [The Insurance Mediation Directive \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/1473\)](#), [reg. 5\(4\)](#)
- F16** 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\(b\)](#)

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- F17** 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\(1\)\(a\)\(i\)](#)
- F18** 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\(6\)](#)
- F19** 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\(33\)\(f\)](#)
- F20** 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](#))
- F21** 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\(33\)\(g\)](#)
- F22** 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\(7\)\(a\)](#)
- F23** 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\(7\)\(c\)](#)
- F24** Sch. 3 para. 19(7A) inserted (14.1.2005) by [The Insurance Mediation Directive \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/1473\)](#), [reg. 5\(5\)](#)
- F25** 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](#))
- F26** 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\(11\)\(b\)](#)
- F27** 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\(5\)\(e\)](#)
- F28** 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](#))
- F29** 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.](#)
- F30** 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\(7\)\(a\)](#)
- F31** 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](#))
- F32** 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\(1\)\(a\)\(ii\)](#)
- F33** 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\(7\)\(a\)](#)
- F34** 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\(7\)\(b\)](#)
- F35** 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\(33\)\(h\)](#)
- F36** 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\(15\)](#)
- F37** Sch. 3 para. 19(12A) inserted (13.2.2004) by [The Collective Investment Schemes \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/2066\)](#), [reg 4\(1\)\(a\)\(iii\)](#)
- F38** 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)

- 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\(2\)](#))

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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

II 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) [^{F39}Subject to [^{F40}sub-paragraphs (4D) to [^{F41}(4I)]], a UK firm may not exercise an EEA right to provide services unless the firm has given the [^{F42}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) [^{F43}Subject to sub-paragraph (2A), the] activities identified in a notice of intention may include activities which are not regulated activities.
- [^{F44}(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 [^{F45}the [^{F46}capital requirements directive], [^{F47}markets in financial instruments directive][^{F48}, the mortgages directive] or the UCITS directive], the [^{F42}appropriate UK regulator] must, within one month of receiving a notice of intention, send a copy of it to the host state regulator [^{F49}with such other information as may be specified].
- [^{F50}(3ZA) If the firm’s EEA right derives from the UCITS directive, the [^{F42}appropriate UK regulator] must provide information about the compensation scheme with the information provided to the host state regulator under sub-paragraph (3).]
- [^{F51}(3A) If the firm’s EEA right derives from [^{F52}the Solvency 2 Directive], the [^{F42}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.]
- [^{F53}(3AA) Where the PRA is the appropriate UK regulator, it must consult the FCA before deciding whether to give a consent notice.

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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-authorised person.]
- [^{F54}(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 [^{F42}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 [^{F42}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.]
- [^{F55}(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 [^{F42}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.]
- [^{F56}(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 [^{F57}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 [^{F42}appropriate UK regulator] sends the copy under sub-paragraph (3) [^{F58}or gives a consent notice], it must give written notice to the firm concerned.
- [^{F59}(4A) If the firm is given notice under sub-paragraph (3A)(b) [^{F60}or (3D)(b)], it may refer the matter to the Tribunal.

Status: Point in time view as at 21/03/2016.

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 12 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)

- (4B) If the firm's EEA right derives from [^{F61}the Solvency 2 Directive][^{F62}or from [^{F63}the alternative investment fund managers directive,] the markets in financial instruments directive][^{F64}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,
^{F65}(4BA) the [^{F42}appropriate UK regulator] 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.]
- [If the firm's EEA right derives from the mortgages directive it must not provide the
^{F66}(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 [^{F42}appropriate UK regulator] under this paragraph.]
- [^{F67}(4D) This paragraph does not apply to [^{F68}a UK firm which falls within the second sub-paragraph of Article 2(1) of the Solvency 2 Directive].]
- [^{F69}(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.]
- [^{F70}(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.]

[^{F71}(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.]

^{F72}(5)

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

Textual Amendments

- F39** 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)**
- F40** 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)**
- F41** 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)**
- F42** 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.
- F43** 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)**
- F44** 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)**
- F45** 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)**
- F46** 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)**
- F47** 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)**
- F48** 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)
- F49** 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)**
- F50** 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)**
- F51** Sch. 3 Pt. III para. 20(3A) inserted (30.4.2001) by S.I. 2001/1376, **regs. 1, 2(2)**
- F52** 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)**
- F53** 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.
- F54** 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)**
- F55** 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)**
- F56** 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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- F57** 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\(5\)\(f\)](#)
- F58** Words in Sch. 3 Pt. III para. 20(4) inserted (30.4.2001) by [S.I. 2001/1376](#), [regs. 1, 2\(3\)](#)
- F59** Sch. 3 Pt. III para. 20(4A)-(4C) inserted (30.4.2001) by [S.I. 2001/1376](#), [regs. 1, 2\(4\)](#)
- F60** 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\(12\)\(c\)](#)
- F61** 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\(8\)\(b\)](#)
- F62** 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\(d\)](#)
- F63** 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\(12\)\(d\)](#)
- F64** 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\(33\)\(k\)](#)
- F65** 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\(e\)](#)
- F66** 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)
- F67** 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\(i\)](#)
- F68** 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\(8\)\(c\)](#)
- F69** 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\(11\)\(b\)](#)
- F70** 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\(12\)\(e\)](#)
- F71** 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\(8\)\(d\)](#)
- F72** 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

- [^{F73}20~~ZA~~] The [^{F74}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.

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- (2) The [^{F74}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
- ^{F75}(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—
- ^{F76}(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

- F73** 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\(33\)\(l\)](#)
- F74** 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.](#)
- F75** 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\(9\)](#)
- F76** [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)

*[^{F77}Tied agents***Textual Amendments**

- F77** 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

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- (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 [F79] a UCITS]

- [F78]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 [F80]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 [F80]appropriate UK regulator] must ensure that the information referred to in sub-paragraph (1) may be transmitted to it electronically.
- (3) The [F80]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 [F80]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 [F80]appropriate UK regulator] must ensure that the host state regulator has electronic access to the information and documents referred to in sub-paragraph (3).
- (5) The [F80]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

- F78** 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\(33\)\(m\)](#)
- F79** 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\(13\)](#)
- F80** 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.](#)

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^{F81}Notice of intention to market an AIF

Textual Amendments

F81 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 [^{F82}a UKAIF or EEAAIF][^{F82}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
 - [if the AIF is a third country AIF or a third country feeder AIF—
- ^{F83}(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.

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- (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;
 - [^{F84}“relevant third country” means—
 - (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;
 - [^{F84}“third country AIF” has the meaning given in regulation 2 of the Alternative Investment Fund Managers Regulations 2013;
 - [^{F84}“third country feeder AIF” has the meaning given in regulation 2 of the Alternative Investment Fund Managers Regulations 2013;]
 - [^{F84}“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

- F82** 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\(5\)\(g\)\(i\)](#)
- F83** 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\(5\)\(g\)\(ii\)](#)

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- F84** 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) [^{F85}sub-paragraph (1), (3B)(c) [^{F86}, (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

- F85** 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)**
- F86** 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

- 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 [^{F87}the consent of the FCA or the PRA] to a change (or proposed change)—

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- (a) consent may be refused only on prescribed grounds; and
- (b) if ^{F88}the FCA or the PRA] decides to refuse consent, the firm concerned may refer the matter to the Tribunal.

Textual Amendments

F87

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.](#)

F88

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

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\(1\)](#)

^{F89}23

Textual Amendments

F89

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 ^{F90}Part 4A permission] in relation to the business which it is carrying on; and

(b) is exercising the right conferred by ^{F91}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, ^{F92}either regulator] may impose any requirement in relation to the firm which it could impose if—
- (a) the firm had a ^{F93}Part 4A permission] in relation to the business which it is carrying on; and

(b) ^{F94}that regulator] was entitled to exercise its power under that Part to vary that permission.

Textual Amendments

F90

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.](#)

F91

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)**

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- F92** 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.
- F93** 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.
- F94** 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

- I5** 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)

F⁹⁵ Arrangements between FCA and PRA

Textual Amendments

- F95** 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.]

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[^{F96}Information to be included in the public record

Textual Amendments

- F96** 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 [^{F97}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 [^{F98}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

- F97** 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.](#)
- F98** 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

- [^{F99}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 [^{F100}appropriate UK regulator] that it has delegated one or more of its functions to a third party, the [^{F100}appropriate UK regulator] must transmit that information to the home state regulator of the EEAUCITS without delay.

Textual Amendments

- F99** 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\(33\)\(n\)](#)
- F100** 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 [^{F101}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.

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Textual Amendments

- F99** 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\(33\)\(n\)](#)
- F101** 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 [^{F102}appropriate UK regulator] regarding the documents referred to in Article 20.1 of the UCITS directive, and
 - (b) ask the [^{F102}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 [^{F102}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.]

Textual Amendments

- F99** 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\(33\)\(n\)](#)
- F102** 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.

[^{F103}Full-scope UKAIFMs: notification of breach by host state regulator

Textual Amendments

- F103** 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 21/03/2016.

Changes to legislation:

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