
STATUTORY INSTRUMENTS

1995 No. 3275

The Investment Services Regulations 1995

PART V

AMENDMENTS OF FINANCIAL SERVICES ACT

Authorisation by membership of recognised self-regulating organisations

21.—(1) Section 7 of the Financial Services Act (authorisation by membership of recognised self-regulating organisation) shall have effect as if it included provision that a person who—

- (a) is a European investment firm or quasi-European investment firm; and
- (b) is a member of a recognised self-regulating organisation,

is not, by virtue of its membership of that organisation, an authorised person as respects any home-regulated investment business.

(2) Paragraph 1 of Schedule 2 to that Act⁽¹⁾ (requirements for recognition of self-regulating organisations) shall have effect as if it included provision that the rules and practices of the organisation must be such as to secure—

- (a) that the requirements of paragraph (3) below are met with respect to each member which is a UK investment firm and is not a UK authorised institution; and
- (b) that a UK investment firm (other than a UK authorised institution) is admitted to membership only if the requirements of paragraph (4) below are met with respect to the firm.

(3) The requirements of this paragraph are that—

- (a) the head office of the firm, and, if the firm has a registered office, its registered office, must be situated in the United Kingdom;
- (b) in the case of a firm which is neither a body corporate nor a partnership constituted under the law of Scotland, the firm must carry on business in the United Kingdom;
- (c) the firm must have adequate capital to meet the requirements of any rules applicable to it requiring the maintenance of financial resources; and
- (d) except in the case of a firm which is subject to rules of the organisation making provision with respect to the matters dealt with in section 48(2)(1) of the Financial Services Act (protection of investors on death etc. of natural person), its business is effectively directed by two or more persons.

(4) The requirements of this paragraph are that—

- (a) the firm has submitted to the organisation concerned a programme of operations containing at least the following information—
 - (i) a description of the listed services that the firm proposes to provide; and
 - (ii) a description of the firm's structure; and

(1) Schedule 2 has been amended by sections 203, 204 and 206 of, and Schedule 23 to, the Companies Act 1989 (c. 40).

(b) in a case in which the firm is—

(i) a subsidiary undertaking;

(ii) a subsidiary undertaking of the parent undertaking; or

(iii) controlled by the 50 per cent. controller,

of an investment firm or credit institution which is for the time being authorised to act as such a firm or institution by the relevant supervisory authority in another EEA State, the organisation concerned has consulted that authority.

(5) Paragraph 2 of Schedule 2 to the Financial Services Act shall have effect as if it included provision that the rules and practices of the organisation relating to the admission of members must be such as to secure that each applicant for membership that is a UK investment firm is informed of the organisation's decision on the application not later than six months after the date on which the application was received.