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STATUTORY INSTRUMENTS

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**2001 No. 2636**

The Financial Services and Markets Act 2000 (Transitional Provisions) (Authorised Persons etc.) Order 2001

PART II

AUTHORISATION AND PERMISSION FOR PERSONS AUTHORISED ETC. UNDER OLD LAW

CHAPTER II

authorisation and permission under schedule 3

*EEA firms with “passports” under the 2BCD or ISD Regulations*

**EEA firms with “passports” under the 2BCD or ISD Regulations**

**25.**—(1) This article applies to an EEA firm which immediately before commencement was—

- (a) a European institution within the meaning of the 2BCD Regulations; or
- (b) a European investment firm within the meaning of the ISD Regulations.

(2) Subject to paragraph (3)—

- (a) if the requirements of paragraph 1 of Schedule 2 to the 2BCD Regulations or paragraph 1 of Schedule 3 to the ISD Regulations (whichever is applicable) have been complied with in relation to the firm’s establishment of a branch, then the firm is to be treated as satisfying the establishment conditions in paragraph 13 of Schedule 3;
- (b) if those requirements have been complied with in relation to the firm’s provision of a service, then the firm is to be treated as satisfying the service conditions in paragraph 14 of Schedule 3,

and, accordingly, is to be treated as qualifying for authorisation under Schedule 3 as a result of paragraph 12 of that Schedule (and as being an “incoming firm” for the purposes of Part XIII of the Act).

(3) Where the EEA firm is taken to have complied with the requirements of paragraph 1 of Schedule 2 to the 2BCD Regulations only by virtue of having complied with the corresponding requirements under the law of Gibraltar (within the meaning of regulation 2C(2) of the 2BCD Regulations<sup>(1)</sup>), paragraph (2) applies to the firm only if it is, at commencement, carrying on a regulated activity in the United Kingdom.

(4) In relation to an EEA firm which was, immediately before commencement, a European institution within the meaning of the 2BCD Regulations, each activity which it was—

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(1) Reg. 2C was inserted by S.I.1999/2094, reg. 2(1), (3).

(a) by reason of regulation 5(1) of the 2BCD Regulations or regulation 5(1) of the ISD Regulations, able to carry on in the United Kingdom without contravening any relevant regulator enactment; and

(b) able to carry on there without contravening regulation 6 of the 2BCD Regulations,

is a permitted activity for the purposes of paragraph 15 of Schedule 3 as it applies to the firm.

(5) In relation to an EEA firm which was, immediately before commencement, a European investment firm but not a European authorised institution, each activity which immediately before commencement the firm was—

(a) by reason or regulation 5(1) of the ISD Regulations, able to carry on in the United Kingdom without contravening any relevant regulatory enactment; and

(b) able to carry on there without contravening regulation 6 of the ISD Regulations,

is a permitted activity for the purposes of paragraph 15 of Schedule 3 as it applies to the firm.

(6) For the purposes of paragraphs (4) and (5) each of the following is a relevant regulatory enactment—

- (a) section 3 of the Banking Act;
- (b) section 3 of the Financial Services Act;
- (c) section 2(1) of the Insurance Companies Act; and
- (d) sections 21 and 39(1) of the Consumer Credit Act 1974(2) (including as applied by section 147(1) of that Act).

(7) For the purposes of paragraph 15 of Schedule 3 as it applies to the firm, each activity which would fall within paragraph (4) or (5) but for a prohibition under regulation 9, 15 or 18 of the 2BCD Regulations or a prohibition under regulation 9 or 15 of the ISD Regulations is also a permitted activity.

(8) The references in paragraph 15(2) of Schedule 3 to the consent notice, the notice of intention and the regulator’s notice are to be read, in relation to the firm, as references to—

- (a) the corresponding notices under Schedule 2 to the 2BCD Regulations or (as the case may be) Schedule 3 to the ISD Regulations; and
- (b) any later notices under paragraph 4 of Schedule 2 to the 2BCD Regulations or paragraph 4 or 5 of Schedule 3 to the ISD Regulations (change of activities etc.) that are relevant.

*EEA firms with “passports” under the Insurance Companies Act*

**EC companies carrying on direct insurance through UK branch**

**26.**—(1) This article applies to an EEA firm which was, immediately before commencement—

- (a) an EC company within the meaning of the Insurance Companies Act; and
- (b) by reason of compliance with the requirements of paragraph 1 of Schedule 2F to that Act, able to carry on direct insurance business through a branch in the United Kingdom without contravening section 2(1) of that Act.

(2) The firm is to be treated as satisfying the establishment conditions in paragraph 13 of Schedule 3 and, accordingly, is to be treated—

- (a) as qualifying for authorisation under Schedule 3 as a result of paragraph 12 of that Schedule; and
- (b) as being an “incoming firm” for the purposes of Part XIII of the Act.

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(2) 1974 c. 39.

(3) For the purposes of paragraph 15(1) of Schedule 3 as it applies to the firm, each activity which immediately before commencement the firm was—

(a) by reason of compliance with the requirements of paragraph 1 of Schedule 2F to the Insurance Companies Act, able to carry on through a branch in the United Kingdom without contravening that paragraph, and

(b) able so to carry on without contravening paragraph 2 of that Schedule,

is a permitted activity.

(4) The reference in paragraph 15(2) of Schedule 3 to the consent notice is to be read, in relation to the firm, as a reference to—

(a) the notice and certificate under paragraph 1(2)(a) of Schedule 2F to the Insurance Companies Act; and

(b) any later notices under paragraph 2 of that Schedule that are relevant.

### **EC companies providing insurance in UK**

**27.**—(1) This article applies to an EEA firm which was, immediately before commencement—

(a) an EC company within the meaning of the Insurance Companies Act; and

(b) by reason of compliance with the requirements of paragraph 8 of Schedule 2F to that Act able to provide insurance in the United Kingdom (within the meaning given by paragraph 26(2)(a) of that Schedule) without contravening that paragraph.

(2) The firm is to be treated as satisfying the service conditions in paragraph 14 of Schedule 3 and, accordingly, is to be treated—

(a) as qualifying for authorisation under Schedule 3 as a result of paragraph 12 of that Schedule; and

(b) as being an “incoming firm” for the purposes of Part XIII of the Act.

(3) For the purposes of paragraph 15(1) of Schedule 3 as it applies to the firm, each activity which immediately before commencement the firm was—

(a) by reason of compliance with the requirements of paragraph 8 of Schedule 2F to the Insurance Companies Act, able to carry on without contravening that paragraph; and

(b) able to carry on without contravening paragraph 9 or 11 of that Schedule,

is a permitted activity.

(4) The reference in paragraph 15(2) of Schedule 3 to the regulator’s notice is to be read, in relation to the firm, as a reference to—

(a) the notice and certificate under paragraph 8(2)(a) of Schedule 2F to the Insurance Companies Act; and

(b) any later notices under paragraph 9 of that Schedule that are relevant.