
STATUTORY INSTRUMENTS

2001 No. 3084

**The Financial Services and Markets
Act 2000 (Gibraltar) Order 2001**

Exercise of deemed passport rights by Gibraltar-based firms

2.—(1) Schedule 3(1) applies in relation to a Gibraltar-based firm as follows.

(2) A Gibraltar-based firm falling within paragraph 5(b) or (c) of Schedule 3 is to be treated as having an entitlement, corresponding to its EEA right deriving from the banking consolidation directive so far as relating (only) to activities falling within items 1 to 6 in Annex 1 to that directive, to establish a branch or provide services in the United Kingdom.

(3) A Gibraltar-based firm falling within paragraph 5(d) of Schedule 3 is to be treated as having an entitlement, corresponding to its EEA right deriving from any of the insurance directives, to establish a branch or provide services in the United Kingdom.

(4) For the purposes of paragraphs (2) and (3), references in paragraph 5(b) and (d) of Schedule 3 to the home state regulator are to be treated as references to the competent authority (within the meaning of the relevant single market directive) in Gibraltar in relation to the Gibraltar-based firm concerned.

(5) In relation to such a Gibraltar-based firm as is mentioned in paragraph (2) or (3), references in Schedule 3, the Passport Rights Regulations and the Financial Services and Markets Act 2000 (Compensation Scheme: Electing Participants) Regulations 2001(2) to—

- (a) “an EEA State” are to be treated as references to Gibraltar;
- (b) “an EEA right” are to be treated as references to the entitlement mentioned in paragraph (2) or (3);
- (c) rights deriving from a single market directive are to be treated as references to that entitlement, so far as corresponding to those rights; and
- (d) “EEA activities” are to be treated as references to the activities which the firm is seeking to carry on in exercise of that entitlement.

(6) Paragraph 16 of Schedule 3 does not apply to Gibraltar-based firms.

(7) For the avoidance of doubt, a Gibraltar-based firm which is exercising, or has exercised, the entitlement mentioned in paragraph (2) or (3) is to be taken to be an “incoming firm” for the purposes of Part XIII of the Act (incoming firms: intervention by the Authority); but section 199(7) of the Act has effect, in relation to such a Gibraltar-based firm, as if the words “and the Commission” were omitted.

(1) Schedule 3 was amended by S.I.2000/2952, regulation 8, and by S.I. 2001/1376.
(2) S.I. 2001/1783.