Status: *Point in time view as at 27/07/2012.*
Changes to legislation: *Financial Services and Markets Act 2000, SCHEDULE 3 is up to date with all changes known to be in force on or before 19 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

Sections 31(1)(b) and 37.

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 I

DEFINED TERMS

The single market directives

1 "The single market directives" means—

[[F1](a) the banking consolidation directive;**]**

(c) the insurance directives; [F2]. . .

[[F3](ca) the reinsurance directive;**]**

(d) the **[**[F4]markets in financial instruments directive**][**[F5]; [F6]. . .

(e) the insurance mediation directive**][**[F7]; and

(f) the UCITS directive.**]**

Textual Amendments

F1 Sch. 3 para. 1(a) substituted (22.11.2000) for Sch. 3 para. 1(a)(b) by S.I. 2000/2952, **reg. 8(5)(a)**

F2 Word in Sch. 3 para. 1(c) omitted (14.1.2005) by virtue of The Insurance Mediation Directive (Miscellaneous Amendments) Regulations 2003 (S.I. 2004/1473), **reg. 2(2)(a)(i)**

F3 Sch. 3 para. 1(ca) inserted (10.12.2007) by The Reinsurance Directive Regulations 2007 (S.I. 2007/3253), reg. 2(1), **Sch. 1 para. 6(a)**

F4 Words in Sch. 3 para. 1(d) 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. 2**

F5 Sch. 3 para. 1(e) and preceding word inserted (14.1.2005) by The Insurance Mediation Directive (Miscellaneous Amendments) Regulations 2003 (S.I. 2004/1473), **reg. 2(2)(a)(ii)**

F6 Word in Sch. 3 para. 1(d) omitted (13.2.2004) by virtue of The Collective Investment Schemes (Miscellaneous Amendments) Regulations 2003 (S.I. 2003/2066), **reg. 2(2)(a)(i)**

F7 Sch. 3 para. 1(f) and preceding word inserted (13.2.2004) after Sch. 3 para. 1(e) by The Collective Investment Schemes (Miscellaneous Amendments) Regulations 2003 (S.I. 2003/2066), **reg. 2(2)(a)(i)**

Commencement Information

I1 Sch. 3 Pt. I para. 1 wholly in force at 1.12.2001; Sch. 3 Pt. I para. 1 not in force at Royal Assent see s. 431(2); Sch. 3 Pt. I para. 1 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. I para. 1 in force for specified purposes at 18.6.2001 by S.I. 2001/1820, art. 2, **Sch.**; Sch. 3 Pt. I para. 1 in force in so far as not already in force at 1.12.2001 by S.I. 2001/3538, **art. 2(1)**

The banking co-ordination directives

[[F8] 2 ”The banking consolidation directive” means Directive 2006/48/ EC of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions **[**[F9] as last amended **[**[F10] on 24th November 2010 by Directives 2010/76/ EU and 2010/78/ EU**]** of the European Parliament and of the Council **]** . **]**

Textual Amendments

F8 Sch. 3 para. 2 substituted (1.1.2007) by The Capital Requirements Regulations 2006 (S.I. 2006/3221), reg. 29(1), **Sch. 3 para. 2(2)**

F9 Words in Sch. 3 para. 2 inserted (31.12.2010) by The Capital Requirements (Amendment) Regulations 2010 (S.I. 2010/2628), reg. 14, **Sch. 1 para. 2**

F10 Words in Sch. 3 para. 2 substituted (16.4.2012) by The Capital Requirements (Amendment) Regulations 2012 (S.I. 2012/917), reg. 1, **Sch. 1 para. 2**

Modifications etc. (not altering text)

C2 Sch. 3 para. 2 modified (9.2.2011 for certain purposes, otherwise 30.4.2011) by The Electronic Money Regulations 2011 (S.I. 2011/99), regs. 1(2)(a)(xiii)(b), **78** (with art. 3)

Commencement Information

I2 Sch. 3 Pt. I para. 2 wholly in force at 1.12.2001; Sch. 3 Pt. I para. 2 not in force at Royal Assent see s. 431(2); Sch. 3 Pt. I para. 2 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. I para. 2 in force for specified purposes at 18.6.2001 by S.I. 2001/1820, art. 2, **Sch.**; Sch. 3 Pt. I para. 2 in force in so far as not already in force at 1.12.2001 by S.I. 2001/3538, **art. 2(1)**

The insurance directives

3 (1) “The insurance directives” means the first, second and third non-life insurance directives and the **[**[F11]life assurance consolidation directive**]**.

(2) “First non-life insurance directive” means the Council Directive of 24 July 1973 on the co-ordination of laws, regulations and administrative provisions relating to the taking up and pursuit of the business of direct insurance other than life assurance (No.73/239/EEC).

(3) “Second non-life insurance directive” means the Council Directive of 22 June 1988 on the co-ordination of laws, etc, and laying down provisions to facilitate the effective exercise of freedom to provide services and amending Directive 73/239/EEC (No. 88/357/EEC).

Status: *Point in time view as at 27/07/2012.*
Changes to legislation: *Financial Services and Markets Act 2000, SCHEDULE 3 is up to date with all changes known to be in force on or before 19 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)*

(4) "Third non-life insurance directive" means the Council Directive of 18 June 1992 on the co-ordination of laws, etc, and amending Directives 73/239/EEC and 88/357/EEC (No. 92/49/EEC).

[F12(8) " Life assurance consolidation directive " means Directive 2002/83/EC of the European Parliament and of the Council of 5th November 2002 concerning life assurance.]

Textual Amendments

F11 Words in Sch. 3 para. 3(1) substituted (11.1.2005) by The Life Assurance Consolidation Directive (Consequential Amendments) Regulations 2004 (S.I. 2004/3379), **reg. 6(6)(a)(i)**

F12 Sch. 3 para. 3(8) substituted (11.1.2005) for Sch. 3 para. 3(5)(6)(7) by The Life Assurance Consolidation Directive (Consequential Amendments) Regulations 2004 (S.I. 2004/3379), **reg. 6(6)(a)(ii)**

Commencement Information

I3 Sch. 3 Pt. I para. 3 wholly in force at 1.12.2001; Sch. 3 Pt. I para. 3 not in force at Royal Assent see s. 431(2); Sch. 3 Pt. I para. 3 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. I para. 3 in force for specified purposes at 18.6.2001 by S.I. 2001/1820, art. 2, **Sch.**; Sch. 3 Pt. I para. 3 in force in so far as not already in force at 1.12.2001 by S.I. 2001/3538, **art. 2(1)**

[F13 The reinsurance directive

Textual Amendments

F13 Sch. 3 para. 3A and cross-heading inserted (10.12.2007) by The Reinsurance Directive Regulations 2007 (S.I. 2007/3253), reg. 2(1), **Sch. 1 para. 6(b)**

3A " The reinsurance directive " means Directive 2005/68/EC of the European Parliament and of the Council of 16 November 2005 on reinsurance and amending Council Directives 73/239/EEC , 92/49/EEC as well as Directives 98/78/EC and 2002/83/EC .]

The investment services directive

4 F14 . . . . . .

Textual Amendments

F14 Sch. 3 para. 4 repealed (1.4.2007 for certain purposes and 1.11.2007 otherwise) 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. 3**

Status: *Point in time view as at 27/07/2012.*
Changes to legislation: *Financial Services and Markets Act 2000, SCHEDULE 3 is up to date with all changes known to be in force on or before 19 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)*

[F15 The insurance mediation directive

Textual Amendments

F15 Sch. 3 para. 4A and cross-heading inserted (14.1.2005) by The Insurance Mediation Directive (Miscellaneous Amendments) Regulations 2003 (S.I. 2003/1473), **reg. 2(b)**

4A " The insurance mediation directive " means the European Parliament and Council Directive of 9th December 2002 on insurance mediation (No.2002/92/EC). **]**

[F16 The UCITS directive

Textual Amendments

F16 Sch. 3 para. 4B and cross-heading inserted (13.2.2004) by The Collective Investment Schemes (Miscellaneous Amendments) Regulations 2003 (S.I. 2003/2066), **reg. 2(2)(b)**

[F17 4B " The UCITS directive " means the Directive of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (No 2009/65/EC). **]]**

Textual Amendments

F17 Sch. 3 para. 4B substituted (1.7.2011) by The Undertakings for Collective Investment in Transferable Securities Regulations 2011 (S.I. 2011/1613), **reg. 2(33)(a)**

[F18 The markets in financial instruments directive

Textual Amendments

F18 Sch. 3 para. 4C and preceding cross-heading inserted (6.12.2006) by The Financial Services and Markets Act 2000 (Markets in Financial Instruments) (Modification of Powers) Regulations 2006 (S.I. 2006/2975), **reg. 13**

4C ”The markets in financial instruments directive” means Directive 2004/39/ EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments. **]**

The emission allowance auctioning regulation

[F19 4D. “The emission allowance auctioning regulation” means Commission Regulation (EU) No 1031/2010 of 12 November 2010 on the timing, administration and other aspects of auctioning of greenhouse gas emission allowances pursuant to Directive 2003/87/ EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community. **]**

Status: *Point in time view as at 27/07/2012.*
Changes to legislation: *Financial Services and Markets Act 2000, SCHEDULE 3 is up to date with all changes known to be in force on or before 19 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)*

Textual Amendments

F19 Sch. 3 para. 4D inserted (20.7.2012) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2012 (S.I. 2012/1906), arts. 1, **4(2)**

EEA firm

5 "EEA firm" means any of the following if it does not have its **[**[F20]relevant office**]** in the United Kingdom—

(a) an investment firm (as defined in **[**[F21]Article 4.1.1 of the markets in financial instruments directive**]**) which is authorised (within the meaning of **[**[F22]Article 5**]**) by its home state regulator;

[[F23](b) a credit institution (as defined in Article 4.1 of the banking consolidation directive) which is authorised (within the meaning of Article 4.2) by its home state regulator,

(c) a financial institution (as defined in Article 4.5 of the banking consolidation directive) which is a subsidiary of the kind mentioned in Article 24 and which fulfils the conditions in that Article;**]**

(d) an undertaking pursuing the activity of direct insurance (within the meaning of **[**[F24]Article 2 of the life assurance consolidation directive or Article 1 of the first non-life insurance directive**]**) which has received authorisation under **[**[F25]Article 4 of the life assurance consolidation directive or Article 6 of the first non-life insurance directive**]** from its home state regulator.**[**[F26]; [F27]. . .

[[F28](da) an undertaking pursuing the activity of reinsurance (within the meaning of Article 2.1(a) of the reinsurance directive) which has received authorisation under (or is deemed to be authorised in accordance with) Article 3 of the reinsurance directive from its home state regulator;**]**

(e) an insurance intermediary (as defined in Article 2.5 of the insurance mediation directive), or a reinsurance intermediary (as defined in Article 2.6) which is registered with its home state regulator under Article 3; **]**[F29] ...

[[F30](f) a management company (as defined in paragraph 11B) which is authorised (within the meaning of Article 6 of the UCITS directive) by its home state regulator. **][**[F31]; or

(g) a person who has received authorisation under Article 18.2 of the emission allowance auctioning regulation.**]**

Textual Amendments

F20 Words in Sch. 3 para. 5 substituted (14.1.2005) by The Insurance Mediation Directive (Miscellaneous Amendments) Regulations 2003 (S.I. 2003/1473). {reg. 2(c)(i)}

F21 Words in Sch. 3 para. 5(a) 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. 4(a)**

F22 Words in Sch. 3 para. 5(a) 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. 4(b)**

F23 Sch. 3 para. 5(b)(c) substituted (1.1.2007) by The Capital Requirements Regulations 2006 (S.I. 2006/3221), reg. 29(1), **Sch. 3 para. 2(3)**

Status: *Point in time view as at 27/07/2012.*
Changes to legislation: *Financial Services and Markets Act 2000, SCHEDULE 3 is up to date with all changes known to be in force on or before 19 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)*

F24 Words in Sch. 3 para. 5(d) substituted (11.1.2005) by The Life Assurance Consolidation Directive (Consequential Amendments) Regulations 2004 (S.I. 2004/3379), **reg. 6(6)(b)(i)**

F25 Words in Sch. 3 para. 5(d) substituted (11.1.2005) by The Life Assurance Consolidation Directive (Consequential Amendments) Regulations 2004 (S.I. 2004/3379), **reg. 6(6)(b)(ii)**

F26 Sch. 3 para. 5(e) and preceding word inserted (14.1.2005) by The Insurance Mediation Directive (Miscellaneous Amendments) Regulations 2003 (S.I. 2003/1473), **reg. 2(c)(iii)**

F27 Word in Sch. 3 para. 5(d) omitted (13.2.2004) by virtue of The Collective Investment Schemes (Miscellaneous Amendments) Regulations 2003 (S.I. 2003/2066), **reg. 2(2)(c)(i)**

F28 Sch. 3 para. 5(da) inserted (10.12.2007) by The Reinsurance Directive Regulations 2007 (S.I. 2007/3253), reg. 2(1), **Sch. 1 para. 6(c)**

F29 Word in Sch. 3 para. 5(e) omitted (20.7.2012) by virtue of The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2012 (S.I. 2012/1906), arts. 1, **4(3)(a)**

F30 Sch. 3 para. 5(f) substituted (1.7.2011) by The Undertakings for Collective Investment in Transferable Securities Regulations 2011 (S.I. 2011/1613), **reg. 2(33)(b)**

F31 Sch. 3 para. 5(g) and preceding word inserted (20.7.2012) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2012 (S.I. 2012/1906), arts. 1, **4(3)(b)**

Commencement Information

I4 Sch. 3 Pt. I para. 5 wholly in force at 1.12.2001; Sch. 3 Pt. I para. 5 not in force at Royal Assent see s. 431(2); Sch. 3 Pt. I para. 5 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. I para. 5 in force for specified purposes at 18.6.2001 by S.I. 2001/1820, **art. 2 Sch.**; Sch. 3 Pt. I para. 5 in force in so far as not already in force at 1.12.2001 by S.I. 2001/3538, **art. 2(1)**

[F32 5A In paragraph 5, " relevant office " means—

(a) in relation to a firm falling within sub-paragraph (e) of that paragraph which has a registered office, its registered office;

(b) in relation to any other firm, its head office.]

Textual Amendments

F32 Sch. 3 para. 5A inserted (14.1.2005) by The Insurance Mediation Directive (Miscellaneous Amendments) Regulations 2003 (S.I. 2003/1473), **reg. 2(2)(d)**

EEA authorisation

[F33 6 " EEA authorisation " means—

(a) in relation to an EEA firm falling within paragraph 5(e), registration with its home state regulator under Article 3 of the insurance mediation directive;

(b) in relation to any other EEA firm, authorisation granted to an EEA firm by its home state regulator for the purpose of the relevant single market directive [F34 or, as the case may be, the emission allowance auctioning regulation].]

Textual Amendments

F33 Sch. 3 para. 6 substituted (14.1.2005) by The Insurance Mediation Directive (Miscellaneous Amendments) Regulations 2003 (S.I. 2003/1473), **reg. 2(2)(e)**

F34 Words in Sch. 3 para. 6(b) inserted (20.7.2012) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2012 (S.I. 2012/1906), arts. 1, **4(4)**

Status: *Point in time view as at 27/07/2012.*
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Commencement Information

I5 Sch. 3 Pt. I para. 6 wholly in force at 1.12.2001; Sch. 3 Pt. I para. 6 not in force at Royal Assent see s. 431(2); Sch. 3 Pt. I para. 6 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. I para. 6 in force for specified purposes at 18.6.2001 by S.I. 2001/1820, art. 2, **Sch.**; Sch. 3 Pt. I para. 6 in force in so far as not already in force at 1.12.2001 by S.I. 2001/3538, **art. 2(1)**

EEA right

7 "EEA right" means the entitlement of a person to establish a branch, or provide services, in an EEA State other than that in which he has his **[**[F35]relevant office**]**—

(a) in accordance with the Treaty as applied in the EEA; and

(b) subject to the conditions of the relevant single market directive **[**[F36]or, as the case may be, the emission allowance auctioning regulation**]**.

Textual Amendments

F35 Words in Sch. 3 para. 7 substituted (14.1.2005) by The Insurance Mediation Directive (Miscellaneous Amendments) Regulations 2003 (S.I. 2003/1473), **reg. 2(2)(f)**

F36 Words in Sch. 3 para. 7(b) inserted (20.7.2012) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2012 (S.I. 2012/1906), arts. 1, **4(4)**

Commencement Information

I6 Sch. 3 Pt. I para. 7 wholly in force at 1.12.2001; Sch. 3 Pt. I para. 7 not in force at Royal Assent see s. 431(2); Sch. 3 Pt. I para. 7 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. I para. 7 in force for specified purposes at 18.6.2001 by S.I. 2001/1820, art. 2, **Sch.**; Sch. 3 Pt. I para. 7 in force in so far as not already in force at 1.12.2001 by S.I. 2001/3538, **art. 2(1)**

[[F37]7A In paragraph 7, " relevant office " means—

(a) in relation to a person who has a registered office and whose entitlement is subject to the conditions of the insurance mediation directive, his registered office;

(b) in relation to any other person, his head office.**]**

Textual Amendments

F37 Sch. 3 para. 7A inserted (14.1.2005) by The Insurance Mediation Directive (Miscellaneous Amendments) Regulations 2003 (S.I. 2003/1473), **reg. 2(2)(g)**

EEA State

[[F38]8 " EEA State " has the meaning given by Schedule 1 to the Interpretation Act 1978. **]**

Textual Amendments

F38 Sch. 3 para. 8 substituted (13.2.2007) by The Financial Services (EEA State) Regulations 2007 (S.I. 2007/108), **reg. 2**

Status: *Point in time view as at 27/07/2012.*
Changes to legislation: *Financial Services and Markets Act 2000, SCHEDULE 3 is up to date with all changes known to be in force on or before 19 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)*

Commencement Information

I7 Sch. 3 Pt. I para. 8 wholly in force at 1.12.2001; Sch. 3 Pt. I para. 8 not in force at Royal Assent see s. 431(2); Sch. 3 Pt. I para. 8 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. I para. 8 in force for specified purposes at 18.6.2001 by S.I. 2001/1820, art. 2, **Sch.**; Sch. 3 Pt. I para. 8 in force in so far as not already in force at 1.12.2001 by S.I. 2001/3538, **art. 2(1)**

Home state regulator

9 "Home state regulator" means the competent authority (within the meaning of the relevant single market directive **[**[F39]or, as the case may be, the emission allowance auctioning regulation**]**) of an EEA State (other than the United Kingdom) in relation to the EEA firm concerned.

Textual Amendments

F39 Words in Sch. 3 para. 9 inserted (20.7.2012) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2012 (S.I. 2012/1906), arts. 1, **4(4)**

Commencement Information

I8 Sch. 3 Pt. I para. 9 wholly in force at 1.12.2001; Sch. 3 Pt. I para. 9 not in force at Royal Assent see s. 431(2); Sch. 3 Pt. I para. 9 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. I para. 9 in force for specified purposes at 18.6.2001 by S.I. 2001/1820, art. 2, **Sch.**; Sch. 3 Pt. I para. 9 in force in so far as not already in force at 1.12.2001 by S.I. 2001/3538, **art. 2(1)**

UK firm

10 "UK firm" means a person whose **[**[F40]relevant office**]** is in the UK and who has an EEA right to carry on activity in an EEA State other than the United Kingdom.

Textual Amendments

F40 Words in Sch. 3 para. 10 substituted (14.1.2005) by The Insurance Mediation Directive (Miscellaneous Amendments) Regulations 2003 (S.I. 2003/1473), **reg. 2(2)(h)**

Commencement Information

I9 Sch. 3 Pt. I para. 10 wholly in force at 1.12.2001; Sch. 3 Pt. I para. 10 not in force at Royal Assent see s. 431(2); Sch. 3 Pt. I para. 10 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. I para. 10 in force for specified purposes at 18.6.2001 by S.I. 2001/1820, **art. 2 Sch.**; Sch. 3 para. 10 in force in so far as not already in force at 1.12.2001 by S.I. 2001/3538, **art. 2(1)**

[[F41]**[**

[F41]10A In paragraph 10, " relevant office " means—

(a) in relation to a firm whose EEA right derives from the insurance mediation directive and which has a registered office, its registered office;

(b) in relation to any other firm, its head office.**]]**

Textual Amendments

F41 Sch. 3 para. 10A inserted (14.1.2005) by The Insurance Mediation Directive (Miscellaneous Amendments) Regulations 2003 (S.I. 2003/1473), **reg. 2(2)(i)**

Status: *Point in time view as at 27/07/2012.*
Changes to legislation: *Financial Services and Markets Act 2000, SCHEDULE 3 is up to date with all changes known to be in force on or before 19 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)*

[F42 UK investment firm

Textual Amendments

F42 Sch. 3 para. 10B 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. 5**

10B ”UK investment firm” means a UK firm—

(a) which is an investment firm, and

(b) whose EEA right derives from the markets in financial instruments directive.**]**

Host state regulator

11 “Host state regulator” means the competent authority (within the meaning of the relevant single market directive **[**F43or, as the case may be, the emission allowance auctioning regulation**]**) of an EEA State (other than the United Kingdom) in relation to a UK firm’s exercise of EEA rights there.

Textual Amendments

F43 Words in Sch. 3 para. 11 inserted (20.7.2012) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2012 (S.I. 2012/1906), arts. 1, **4(4)**

Commencement Information

I10 Sch. 3 Pt. I para. 11 wholly in force at 1.12.2001; Sch. 3 Pt. I para. 11 not in force at Royal Assent see s. 431(2); Sch. 3 Pt. I para. 11 in force for certain purposes (25.2.2001) by S.I. 2001/516, **art. 2 Sch. Pts. 2**, 3; Sch. 3 Pt. I para. 11 in force for specified purposes (18.6.2001) by S.I. 2001/1820, **art. 2 Sch.**; Sch. 3 Pt. I para. 11 in force in so far as not already in force at 1.12.2001 by S.I. 2001/3538, **art. 2(1)**

[F44 Tied agent

Textual Amendments

F44 Sch. 3 para. 11A 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. 6**

11A ”Tied agent” has the meaning given in Article 4.1.25 of the markets in financial instruments directive.

Management company

[F45**[**F45 11B “ Management company ” has the meaning given in Article 2.1(b) of the UCITS directive. **]**

Status: *Point in time view as at 27/07/2012.*
Changes to legislation: *Financial Services and Markets Act 2000, SCHEDULE 3 is up to date with all changes known to be in force on or before 19 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)*

Textual Amendments

F45 Sch. 3 paras. 11B, 11C inserted (1.7.2011) by The Undertakings for Collective Investment in Transferable Securities Regulations 2011 (S.I. 2011/1613), **reg. 2(33)(c)**

UCITS

11C " UCITS**]** " has the meaning given in Article 1.2 of the UCITS directive. **]**

Textual Amendments

F45 Sch. 3 paras. 11B, 11C inserted (1.7.2011) by The Undertakings for Collective Investment in Transferable Securities Regulations 2011 (S.I. 2011/1613), **reg. 2(33)(c)**

PART II

EXERCISE OF PASSPORT RIGHTS BY EEA FIRMS

Firms qualifying for authorisation

12 (1) Once an EEA firm which is seeking to establish a branch in the United Kingdom in exercise of an EEA right satisfies the establishment conditions, it qualifies for authorisation.

(2) Once an EEA firm which is seeking to provide services in the United Kingdom in exercise of an EEA right satisfies the service conditions, it qualifies for authorisation.

[[F46](3) If an EEA firm falling within paragraph 5(a) is seeking to use a tied agent established in 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 the United Kingdom.

(4) But if—

(a) an EEA firm already qualifies for authorisation by virtue of sub-paragraph (1); and

(b) the EEA right which it is exercising derives from the markets in financial instruments directive,

sub-paragraph (3) does not require the firm to satisfy the establishment conditions in respect of its use of the tied agent in question.**]**

[[F47](5) An EEA firm which falls within paragraph 5(da) which establishes a branch in the United Kingdom, or provides services in the United Kingdom, in exercise of an EEA right qualifies for authorisation.

(6) Sub-paragraphs (1) and (2) do not apply to an EEA firm falling within paragraph 5(da). **]**

[[F48](7) Sub-paragraph (2) does not apply to an EEA firm which falls within paragraph 5(a), (b) or (g), and only provides services in the exercise of its right under Article 18 of the emission allowance auctioning regulation.

(8) An EEA firm which falls within paragraph 5(g) qualifies for authorisation.

Status: *Point in time view as at 27/07/2012.*
Changes to legislation: *Financial Services and Markets Act 2000, SCHEDULE 3 is up to date with all changes known to be in force on or before 19 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)*

(9) An EEA firm which falls within paragraph 5(a) or (b) but does not qualify for authorisation under sub-paragraph (1) or (2) qualifies for authorisation under this sub-paragraph if it—

(a) has received authorisation from its home state regulator under Article 18.3 of the emission allowance auctioning regulation; and

(b) is seeking to provide services or establish a branch in the United Kingdom in the exercise of the EEA right arising under that provision.**]**

Textual Amendments

F46 Sch. 3 para. 12(3)(4) 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. 7**

F47 Sch. 3 para. 12(5)(6) inserted (10.12.2007) by The Reinsurance Directive Regulations 2007 (S.I. 2007/3253), reg. 2(1), **Sch. 1 para. 6(d)**

F48 Sch. 3 para. 12(7)-(9) inserted (20.7.2012) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2012 (S.I. 2012/1906), arts. 1, **4(5)**

Commencement Information

I11 Sch. 3 Pt. II para. 12 wholly in force at 1.12.2001; Sch. 3 Pt. II para. 12 not in force at Royal Assent see s. 431(2); Sch. 3 Pt. II para. 12 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. II para. 12 in force for specified purposes at 18.6.2001 by S.I. 2001/1820, art. 2, **Sch.**; Sch. 3 Pt. II para. 12 in force in so far as not already in force at 1.12.2001 by S.I. 2001/3538, **art. 2(1)**

Establishment

13 (1) **[**[F49]If the firm falls within paragraph 5(a), (b), **[**[F50](c), (d) or (f)**],]** the establishment conditions are that—

(a) the Authority has received notice ("a consent notice") from the firm's home state regulator that it has given the firm consent to establish a branch in the United Kingdom;

(b) the consent notice—

(i) is given in accordance with the relevant single market directive;

(ii) identifies the activities to which consent relates; and

(iii) includes such other information as may be prescribed; [F51]. . .

[[F52](ba) in the case of a firm falling within paragraph 5(a), the Authority has given the firm notice for the purposes of this paragraph or two months have elapsed beginning with the date when the home state regulator gave the consent notice; and**]**

(c) **[**[F53]in the case of a firm falling within paragraph 5(b), (c), (d) or (f),**]** the firm has been informed of the applicable provisions or two months have elapsed beginning with the date when the Authority received the consent notice.

[[F54](1A) If the firm falls within paragraph 5(e), the establishment conditions are that—

(a) the firm has given its home state regulator notice of its intention to establish a branch in the United Kingdom;

(b) the Authority has received notice ("a regulator's notice") from the firm's home state regulator that the firm intends to establish a branch in the United Kingdom;

Status: *Point in time view as at 27/07/2012.*
Changes to legislation: *Financial Services and Markets Act 2000, SCHEDULE 3 is up to date with all changes known to be in force on or before 19 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)*

(c) the firm's home state regulator has informed the firm that the regulator's notice has been sent to the Authority; and

(d) one month has elapsed beginning with the date on which the firm's home state regulator informed the firm that the regulator's notice has been sent to the Authority.**]**

(2) If the Authority has received a consent notice, it must—

(a) prepare for the firm's supervision;

(b) **[**[F55]except if the firm falls within paragraph 5(a),**]** notify the firm of the applicable provisions (if any); and

(c) if the firm falls within paragraph 5(d), notify its home state regulator of the applicable provisions (if any).

(3) A notice under sub-paragraph (2)(b) or (c) must be given before the end of the period of two months beginning with the day on which the Authority received the consent notice.

(4) For the purposes of this paragraph—

"applicable provisions" means the host state rules with which the firm is required to comply when carrying on a permitted activity through a branch in the United Kingdom;

"host state rules" means rules—

(a) made in accordance with the relevant single market directive **[**[F56]or for the purposes of the emission allowance auctioning regulation**]**; and

(b) which are the responsibility of the United Kingdom (both as to implementation and as to supervision of compliance) in accordance with that directive **[**[F57]or for the purposes of that regulation**]**; and

"permitted activity" means an activity identified in the consent notice **[**[F58]or regulator's notice, as the case may be**]**.

Textual Amendments

F49 Words in Sch. 3 para. 13(1) inserted (14.1.2005) by The Insurance Mediation Directive (Miscellaneous Amendments) Regulations 2003 (S.I. 2003/1473), **reg. 3(2)**

F50 Words in Sch. 3 para. 13(1) substituted (13.2.2004) by The Collective Investment Schemes (Miscellaneous Amendments) Regulations 2003 (S.I. 2003/2066), **reg. 3(1)(a)**

F51 Word in Sch. 3 para. 13(1)(b) omitted (1.4.2007 for certain purposes, otherwise 1.11.2007) by virtue of 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. 8(a)(i)** (with reg. 6)

F52 Sch. 3 para. 13(1)(ba) 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. 8(a)(ii)** (with reg. 6)

F53 Words in Sch. 3 para. 13(1)(c) 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. 8(a)(iii)** (with reg. 6)

F54 Sch. 3 para. 13(1A) inserted (14.1.2005) by The Insurance Mediation Directive (Miscellaneous Amendments) Regulations 2003 (S.I. 2003/1473), **reg. 3(3)**

F55 Words in Sch. 3 para. 13(2)(b) 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. 8(b)** (with reg. 6)

Status: *Point in time view as at 27/07/2012.*
Changes to legislation: *Financial Services and Markets Act 2000, SCHEDULE 3 is up to date with all changes known to be in force on or before 19 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)*

F56 Words in Sch. 3 para. 13(4) inserted (20.7.2012) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2012 (S.I. 2012/1906), arts. 1, **4(6)(a)**

F57 Words in Sch. 3 para. 13(4) inserted (20.7.2012) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2012 (S.I. 2012/1906), arts. 1, **4(6)(b)**

F58 Sch. 3 para. 13(4): words in definition of "permitted activity" inserted (14.1.2005) by The Insurance Mediation Directive (Miscellaneous Amendments) Regulations 2003 (S.I. 2003/1473), **reg. 3(4)**

Modifications etc. (not altering text)

C3 Sch. 3 para. 13 extended (1.12.2001) by S.I. 2001/3592, **arts. 1(2)**, 96 (with art. 23(2))

Commencement Information

I12 Sch. 3 Pt. II para. 13 wholly in force at 1.12.2001; Sch. 3 Pt. II para. 13 not in force at Royal Assent see s. 431(2); Sch. 3 Pt. II para. 13 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. II para. 13 in force for specified purposes at 18.6.2001 by S.I. 2001/1820, art. 2, **Sch.**; Sch. 3 Pt. II para. 13 in force in so far as not already in force at 1.12.2001 by S.I. 2001/3538, **art. 2(1)**

Services

14 (1) The service conditions are that—

(a) the firm has given its home state regulator notice of its intention to provide services in the United Kingdom ("a notice of intention");

(b) if the firm falls within **[**[F59]paragraph 5(a), **[**[F60](d), (e) or (f)**]]**, the Authority has received notice ("a regulator's notice") from the firm's home state regulator containing such information as may be prescribed; [F61]. . .

[[F62](ba) if the firm falls within paragraph 5(b) and is seeking to provide services in exercise of the right under Article 31.5 of the markets in financial instruments directive, the Authority has received notice ("a regulator's notice") from the firm's home state regulator stating that the firm intends to exercise that right in the United Kingdom;**]**

(c) if the firm falls within **[**[F63]paragraph 5(d) or (e)**]**, its home state regulator has informed it that the regulator's notice has been sent to the Authority.**[**[F64]; and

(d) if the firm falls within paragraph 5(e), one month has elapsed beginning with the date on which the firm's home state regulator informed the firm that the regulator's notice has been sent to the Authority.**]**

(2) If the Authority has received a regulator's notice or, where none is required by sub-paragraph (1), has been informed of the firm's intention to provide services in the United Kingdom, it must **[**[F65], unless the firm falls within paragraph 5(e),**]**—

(a) prepare for the firm's supervision; and

(b) notify the firm of the applicable provisions (if any).

[[F66](2A) Sub-paragraph (2)(b) does not apply in the case of a firm falling within paragraph 5(a).**]**

(3) A notice under sub-paragraph (2)(b) must be given before the end of the period of two months beginning on the day on which the Authority received the regulator's notice, or was informed of the firm's intention.

(4) For the purposes of this paragraph—

"applicable provisions" means the host state rules with which the firm is required to comply when carrying on a permitted activity by providing services in the United Kingdom;

"host state rules" means rules—

(a) made in accordance with the relevant single market directive **[**[F67]or for the purposes of the emission allowance auctioning regulation**]**; and

(b) which are the responsibility of the United Kingdom (both as to implementation and as to supervision of compliance) in accordance with that directive **[**[F68]or for the purposes of that regulation**]**; and

"permitted activity" means an activity identified in—

(a) the regulator's notice; or

(b) where none is required by sub-paragraph (1), the notice of intention.

Textual Amendments

F59 Words in Sch. 3 para. 14(1)(b) substituted (14.1.2005) by The Insurance Mediation Directive (Miscellaneous Amendments) Regulations 2003 (S.I. 2003/1473), **reg. 4(2)(a)**

F60 Words in Sch. 3 para. 14(1)(b) substituted (13.2.2004) by The Collective Investment Schemes (Miscellaneous Amendments) Regulations 2003 (S.I. 2003/2066), **reg. 3(1)(b)**

F61 Word in Sch. 3 para. 14(1)(b) omitted (14.1.2005) by virtue of The Insurance Mediation Directive (Miscellaneous Amendments) Regulations 2003 (S.I. 2003/1473), **reg. 4(2)(b)**

F62 Sch. 3 para. 14(1)(ba) 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. 9(a)**

F63 Words in Sch. 3 para. 14(1)(c) substituted (14.1.2005) by The Insurance Mediation Directive (Miscellaneous Amendments) Regulations 2003 (S.I. 2003/1473), **reg. 4(2)(c)**

F64 Sch. 3 para. 14(1)(d) and preceding word inserted (14.1.2005) by The Insurance Mediation Directive (Miscellaneous Amendments) Regulations 2003 (S.I. 2003/1473), **reg. 4(2)(d)**

F65 Words in Sch. 3 para. 14(2) inserted (14.1.2005) by The Insurance Mediation Directive (Miscellaneous Amendments) Regulations 2003 (S.I. 2003/1473), **reg. 4(3)**

F66 Sch. 3 para. 14(2A) 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. 9(b)**

F67 Words in Sch. 3 para. 14(4) inserted (20.7.2012) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2012 (S.I. 2012/1906), arts. 1, **4(7)(a)**

F68 Words in Sch. 3 para. 14(4) inserted (20.7.2012) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2012 (S.I. 2012/1906), arts. 1, **4(7)(b)**

Modifications etc. (not altering text)

C4 Sch. 3 para. 14(1) extended (1.12.2001) by S.I. 2001/3592, **arts. 1(2)**, 97 (with art. 23(2))

Commencement Information

I13 Sch. 3 Pt. II para. 14 wholly in force at 1.12.2001; Sch. 3 Pt. II para. 14 not in force at Royal Assent see s. 431(2); Sch. 3 Pt. II para. 14 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. II para. 14 in force for specified purposes at 18.6.2001 by S.I. 2001/1820, art. 2, **Sch.**; Sch. 3 Pt. II para. 14 in force in so far as not already in force at 1.12.2001 by S.I. 2001/3538, **art. 2(1)**

Status: *Point in time view as at 27/07/2012.*
Changes to legislation: *Financial Services and Markets Act 2000, SCHEDULE 3 is up to date with all changes known to be in force on or before 19 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)*

Grant of permission

15 (1) On qualifying for authorisation as a result of **[**[F69]paragraph 12(1), (2) or (3)**]**, a firm has, in respect of each permitted activity which is a regulated activity, permission to carry it on through its United Kingdom branch (if it satisfies the establishment conditions) or by providing services in the United Kingdom (if it satisfies the service conditions).

[[F70](1A) Sub-paragraph (1) is to be read subject to **[**[F71]paragraphs 15A(3) and 15ZA(1)**].]**

(2) The permission is to be treated as being on terms equivalent to those appearing from the consent notice, regulator's notice or notice of intention.

(3) Sections **[**[F72]21 and 39(1)**]** of the [M1]Consumer Credit Act 1974 (business requiring a licence under that Act) do not apply in relation to the carrying on of a permitted activity which is Consumer Credit Act business by a firm which qualifies for authorisation as a result of paragraph 12, unless **[**[F73]the Office of Fair Trading**]** has exercised the power conferred on **[**[F74]it**]** by section 203 in relation to the firm.

(4) "Consumer Credit Act business" has the same meaning as in section 203.

[[F75](5) A firm which qualifies for authorisation as a result of paragraph 12(5) has, in respect of each permitted activity which is a regulated activity, permission to carry it on through its United Kingdom branch or by providing services in the United Kingdom.

(6) The permission is to be treated as being on terms equivalent to those appearing in the authorisation granted to the firm under Article 3 of the reinsurance directive by its home state regulator ("its home authorisation").

(7) For the purposes of sub-paragraph (5), " permitted activity " means an activity which the firm is permitted to carry on under its home authorisation. **]**

Textual Amendments

F69 Words in Sch. 3 para. 15(1) substituted (10.12.2007) by The Reinsurance Directive Regulations 2007 (S.I. 2007/3253), reg. 2(1), **Sch. 1 para. 6(e)(i)**

F70 Sch. 3 para. 15(1A) inserted (13.2.2004) by The Collective Investment Schemes (Miscellaneous Amendments) Regulations 2003 (S.I. 2003/2066), **reg 3(1)(c)**

F71 Words in Sch. 3 para. 15(1A) substituted (20.7.2012) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2012 (S.I. 2012/1906), arts. 1, **4(8)**

F72 Words in Sch. 3 para. 15(3) substituted (6.4.2008) by Consumer Credit Act 2006 (c. 14), **ss. 33(9)**, 71(2); S.I. 2007/3300, **art. 3(2)**, Sch. 2

F73 Words in Sch. 3 para. 15(3) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), ss. 278(1), 279, **Sch. 25 para. 40(19)(a)**; S.I. 2003/766, **art. 2**, Sch. (with art. 3)

F74 Word in Sch. 3 para. 15(3) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), ss. 278(1), 279, **Sch. 25 para. 40(19)(a)**; S.I. 2003/766, **art. 2**, Sch. (with art. 3)

F75 Sch. 3 para. 15(5)-(7) inserted (10.12.2007) by The Reinsurance Directive Regulations 2007 (S.I. 2007/3253), reg. 2(1), **Sch. 1 para. 6(e)(ii)**

Commencement Information

I14 Sch. 3 Pt. II para. 15 wholly in force at 1.12.2001; Sch. 3 Pt. II para. 15 not in force at Royal Assent see s. 431(2); Sch. 3 Pt. II para. 15 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. II para. 15 in force for specified purposes at 18.6.2001 by S.I. 2001/1820, art. 2, **Sch.**; Sch. 3 Pt. II para. 15 in force in so far as not already in force at 1.12.2001 by S.I. 2001/3538, **art. 2(1)**

Status: *Point in time view as at 27/07/2012.*
Changes to legislation: *Financial Services and Markets Act 2000, SCHEDULE 3 is up to date with all changes known to be in force on or before 19 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)*

Marginal Citations

M1 1974 c. 39.

Grant of permission: bidding for emission allowances

[F76 15ZA (1) A firm that qualifies for authorisation as a result of paragraph 12(1) or (2) has permission to receive, transmit or submit a bid on behalf of its clients in the exercise of its rights under Article 18.3 of the emission allowance auctioning regulation if it has received authorisation under that provision from its home state regulator.

(2) Permission under sub-paragraph (1) is to be treated as being on terms equivalent to those appearing in the authorisation granted to the firm pursuant to Article 18.3 of the emission allowance auctioning regulation.

(3) A firm which qualifies for authorisation as a result of paragraph 12(9) has permission to receive, transmit and submit a bid on behalf of its clients in the exercise of its rights under Article 18.3 of the emission allowance auctioning regulation.

(4) A firm which qualifies for authorisation as a result of paragraph 12(8) has permission to receive, transmit and submit a bid on its own account or on behalf of clients of its main business under Article 18.2 of the emission allowance auctioning regulation.

(5) The permissions referred to in sub-paragraphs (3) and (4) are to be treated as being on terms equivalent to those appearing in the authorisation granted to the firm pursuant to Article 18.2 or 18.3 of the emission allowance auctioning regulation.]

Textual Amendments

F76 Sch. 3 para. 15ZA inserted (20.7.2012) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2012 (S.I. 2012/1906), arts. 1, **4(9)**

[F77 Power to restrict permission of management companies

Textual Amendments

F77 Sch. 3 para. 15A and cross-heading inserted (13.2.2004) by The Collective Investment Schemes (Miscellaneous Amendments) Regulations 2003 (S.I. 2003/2066), **reg. 3(1)(d)**

Application for approval to manage UCITS

[F78 15A (1) An EEA firm falling within paragraph 5(f) which wishes to manage a UKUCITS must apply to the Authority in the specified form for approval to manage that UCITS.

(2) Where the EEA firm satisfies the conditions in paragraph 13 (establishment conditions) or paragraph 14 (service conditions), the Authority may only refuse the application if it determines that one of the grounds set out in sub-paragraph (3) applies.

(3) The grounds referred to in sub-paragraph (2) are—

(a) that the EEA firm does not comply with the UCITS home state rules;

Status: *Point in time view as at 27/07/2012.*
Changes to legislation: *Financial Services and Markets Act 2000, SCHEDULE 3 is up to date with all changes known to be in force on or before 19 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)*

(b) that the firm is not authorised by its home state regulator to manage the type of collective investment scheme for which authorisation is requested; or

(c) that the firm has not provided the documentation required under Article 20(1) of the UCITS directive.

(4) The Authority must give a notice to the EEA firm, the firm's home state regulator and the Commission of the Authority's determination under sub-paragraph (2).

(5) Before giving a notice under sub-paragraph (4), the Authority must consult the home state regulator of the firm.

(6) A notice given by the Authority under sub-paragraph (4) must—

(a) give the Authority's reasons for considering that one of the grounds set out in sub-paragraph (3) is satisfied; and

(b) specify a reasonable period (which may not be less than 28 days) within which any person to whom it is given may make representations to the Authority.

(7) In this paragraph—

" specified " means specified—

(a) in rules made by the Authority to implement the UCITS directive, or

(b) in any directly applicable Community regulation or decision made under the UCITS directive;

" UCITS home state rules " means requirements which are imposed by or under this Act so far as relating to matters falling within Article 19(3) and (4) of the UCITS directive. **]**

Textual Amendments

F78 Sch. 3 paras. 15A-15C substituted for Sch. 3 para. 15A (1.7.2011) by The Undertakings for Collective Investment in Transferable Securities Regulations 2011 (S.I. 2011/1613), **reg. 2(33)(d)**

Representations and references to the Tribunal

[
F79**[**
F79 15B

(1) Within a reasonable time after the end of the period for making representations, the Authority must decide, in the light of any representations made to it during that period by a person to whom notice has been given under paragraph 15A(4), whether to withdraw the notice.

(2) If the Authority decides not to withdraw its notice, it must—

(a) give a decision notice to each person to whom the notice under paragraph 15A(4) was given, and

(b) inform the firm's home state regulator and the Commission that authorisation has been refused, and of the grounds for the refusal.

(3) The management company to whom the decision notice is given may refer the matter to the Tribunal.**]**

Status: *Point in time view as at 27/07/2012.*
Changes to legislation: *Financial Services and Markets Act 2000, SCHEDULE 3 is up to date with all changes known to be in force on or before 19 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)*

Textual Amendments

F79 Sch. 3 paras. 15A-15C substituted for Sch. 3 para. 15A (1.7.2011) by The Undertakings for Collective Investment in Transferable Securities Regulations 2011 (S.I. 2011/1613), **reg. 2(33)(d)**

Information to home state regulator

15C (1) Where an EEA firm falling within paragraph 5(f) has applied to manage a UCITS established in the United Kingdom, the Authority must without delay inform the home state regulator of that firm of any problem of which they are aware that may materially affect the ability of the firm—

(a) to perform its duties properly, or

(b) to comply with the home state rules.

(2) In sub-paragraph (1), " home state rules " means rules—

(a) made by the EEA State concerned in accordance with the UCITS directive; and

(b) which are the responsibility of that EEA State (both as to implementation and as to supervision of compliance) in accordance with that directive.**]]**

Textual Amendments

F79 Sch. 3 paras. 15A-15C substituted for Sch. 3 para. 15A (1.7.2011) by The Undertakings for Collective Investment in Transferable Securities Regulations 2011 (S.I. 2011/1613), **reg. 2(33)(d)**

Effect of carrying on regulated activity when not qualified for authorisation

16 (1) This paragraph applies to an EEA firm which is not qualified for authorisation under paragraph 12.

(2) Section 26 does not apply to an agreement entered into by the firm.

(3) Section 27 does not apply to an agreement in relation to which the firm is a third party for the purposes of that section.

(4) Section 29 does not apply to an agreement in relation to which the firm is the deposit-taker.

Commencement Information

I15 Sch. 3 Pt. II para. 16 wholly in force at 1.12.2001; Sch. 3 Pt. II para. 16 not in force at Royal Assent see s. 431(2); Sch. 3 Pt. II para. 16 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. II para. 16 in force for specified purposes at 18.6.2001 by S.I. 2001/1820, art. 2, **Sch.**; Sch. 3 Pt. II para. 16 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 EEA firms

17 Regulations may—

Status: *Point in time view as at 27/07/2012.*
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(a) modify any provision of this Act which is an applicable provision (within the meaning of paragraph 13 or 14) in its application to an EEA firm qualifying for authorisation;

(b) make provision as to any change (or proposed change) of a prescribed kind relating to an EEA firm or to an activity that it carries on in the United Kingdom and as to the procedure to be followed in relation to such cases;

(c) provide that the Authority may treat an EEA firm's notification that it is to cease to carry on regulated activity in the United Kingdom as a request for cancellation of its qualification for authorisation under this Schedule.

Commencement Information

I16 Sch. 3 Pt. II para. 17 wholly in force at 1.12.2001; Sch. 3 Pt. II para. 17 not in force at Royal Assent see s. 431(2); Sch. 3 Pt. II para. 17 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. II para. 17 in force for specified purposes at 18.6.2001 by S.I. 2001/1820, art. 2, **Sch.**; Sch. 3 Pt. II para. 17 in force in so far as not already in force at 1.12.2001 by S.I. 2001/3538, **art. 2(1)**

Giving up right to authorisation

18 Regulations may provide that in prescribed circumstances an EEA firm falling within paragraph 5(c) may, on following the prescribed procedure—

(a) have its qualification for authorisation under this Schedule cancelled; and

(b) seek to become an authorised person by applying for a Part IV permission.

Commencement Information

I17 Sch. 3 Pt. II para. 18 wholly in force at 1.12.2001; Sch. 3 Pt. II para. 18 not in force at Royal Assent see s. 431(2); Sch. 3 Pt. II para. 18 in force for specified purposes at 25.2.2001 by S.I. 2001/516, art. 2(b)(c), Sch. Pts. 2, **3**; Sch. 3 Pt. I para. 18 in force for specified purposes at 18.6.2001 by S.I. 2001/1820, **art. 2 Sch.**; Sch. 3 Pt. II para. 18 in force in so far as not already in force at 1.12.2001 by S.I. 2001/3538, **art. 2(1)**

PART III

EXERCISE OF PASSPORT RIGHTS BY UK FIRMS

Establishment

19 (1) **[**[F80]Subject to **[**[F81]sub-paragraphs (5ZA) **[**[F82], (5ZB)**]** 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) **[**[F83]Subject to sub-paragraph (5B), the**]** activities identified in a notice of intention may include activities which are not regulated activities.

[[F84](4) The second is that—

Status: *Point in time view as at 27/07/2012.*
Changes to legislation: *Financial Services and Markets Act 2000, SCHEDULE 3 is up to date with all changes known to be in force on or before 19 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)*

(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. **]**

[[F85](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.**]**

[[F86](5ZA) This paragraph does not apply to a UK firm having an EEA right which is subject to the conditions of the reinsurance directive. **]**

[[F87](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.**]**

[[F88](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).**]**

[[F89](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 **[**[F90]the banking consolidation directive, [F91]**[**[F92]. . . 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

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it has reason to doubt the adequacy of the firm's resources or its administrative structure.

[[F93](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,

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

[[F94](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.**]**

[[F95](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, **[**[F96]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.

[[F97](12ZA) If the firm's EEA right derives from the UCITS directive, the Authority must inform **[**[F98]ESMA and **]** the Commission if it decides to refuse to give a consent notice, giving the reasons for that refusal. **]**

Status: *Point in time view as at 27/07/2012.*
Changes to legislation: *Financial Services and Markets Act 2000, SCHEDULE 3 is up to date with all changes known to be in force on or before 19 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)*

[[F99](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.

Textual Amendments

F80 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)**

F81 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)**

F82 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)**

F83 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)**

F84 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)**

F85 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)**

F86 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)**

F87 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)**

F88 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)**

F89 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)**

F90 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)**

F91 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)**

F92 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)

F93 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)**

Status: *Point in time view as at 27/07/2012.*
Changes to legislation: *Financial Services and Markets Act 2000, SCHEDULE 3 is up to date with all changes known to be in force on or before 19 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)*

F94 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)**

F95 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)

F96 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)**

F97 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)**

F98 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)**

F99 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)

C5 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)**

C6 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

I18 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) **[**[F100]Subject to **[**[F101]sub-paragraphs (4D) and (4E)**]**, **]** 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) **[**[F102]Subject to sub-paragraph (2A), the**]** activities identified in a notice of intention may include activities which are not regulated activities.

[[F103](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 **[**[F104]the banking consolidation directive, **[**[F105]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 **[**[F106]with such other information as may be specified**]**.

Status: *Point in time view as at 27/07/2012.*
Changes to legislation: *Financial Services and Markets Act 2000, SCHEDULE 3 is up to date with all changes known to be in force on or before 19 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)*

[[F107](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). **]**

[[F108](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.**]**

[[F109](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.**]**

[[F110](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 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) **[**[F111]or gives a consent notice**]**, it must give written notice to the firm concerned.

[[F112](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 **[**[F113] or from the markets in financial instruments directive **][**[F114] 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,
[F115](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.**]**

Status: *Point in time view as at 27/07/2012.*
Changes to legislation: *Financial Services and Markets Act 2000, SCHEDULE 3 is up to date with all changes known to be in force on or before 19 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)*

[F116(4D) This paragraph does not apply to a UK firm having an EEA right which is subject to the conditions of the reinsurance directive.]

[F117(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.]

F118(5) . . . . . .

(6) "Specified" means specified in rules.

Textual Amendments

F100 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)**

F101 Words in Sch. 3 para. 20(1) substituted (20.7.2012) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2012 (S.I. 2012/1906), arts. 1, **4(11)(a)**

F102 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)**

F103 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)**

F104 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)**

F105 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)**

F106 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)**

F107 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)**

F108 Sch. 3 Pt. III para. 20(3A) inserted (30.4.2001) by S.I. 2001/1376, **regs. 1**, 2(2)

F109 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)**

F110 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)**

F111 Words in Sch. 3 Pt. III para. 20(4) inserted (30.4.2001) by S.I. 2001/1376, **regs. 1**, 2(3)

F112 Sch. 3 Pt. III para. 20(4A)-(4C) inserted (30.4.2001) by S.I. 2001/1376, **regs. 1**, 2(4)

F113 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)**

F114 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)**

F115 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)**

F116 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)**

F117 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)**

F118 Sch. 3 Pt. III para. 20(5) omitted (30.4.2001) by virtue of S.I. 2001/1376, **regs. 1**, 2(5)

Status: *Point in time view as at 27/07/2012.*
Changes to legislation: *Financial Services and Markets Act 2000, SCHEDULE 3 is up to date with all changes known to be in force on or before 19 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)*

Modifications etc. (not altering text)

C7 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)**

C8 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

I19 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

[F119[F119 20ZA (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

F119 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)**

[F120 Tied agents

Textual Amendments

F120 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.

Status: *Point in time view as at 27/07/2012.*
Changes to legislation: *Financial Services and Markets Act 2000, SCHEDULE 3 is up to date with all changes known to be in force on or before 19 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)*

Notice of intention to market

[F121[F121 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 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.

(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;

" specified " means specified in rules.]]]

Textual Amendments

F121 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) [F122 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.

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(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

F122 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

I20 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)—

(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

I21 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) **[**[F123]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 **[**[F124]the Office of Fair Trading**]** has informed the Authority that—

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(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 **[**[F125](a) to (e) of section 25(2A)**]** of the [M2]Consumer Credit Act 1974.

[[F126](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

F123 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

F124 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)

F125 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

F126 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

Commencement Information

I22 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

M2 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 **[**[F127]**[**[F128]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—

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(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

F127 Words in Sch. 3 Pt. III para. 24(1)(b) substituted (22.11.2000) by S.I. 2000/2952, **reg. 8(5)(f)**

F128 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

I23 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)**

[F129 Information to be included in the public record

Textual Amendments

F129 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

(b) is providing services.

UK management companies: delegation of functions

[F130[F130 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 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 EEAUCITS without delay.]

Textual Amendments

F130 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

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any UCITS managed by that management company before taking a decision to withdraw the authorisation of the management company under section 33.

Textual Amendments

F130 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

F130 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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