Status: Point in time view as at 01/07/2011.

Changes to legislation: Financial Services and Markets Act 2000, Cross Heading: Power to restrict permission of management companies is up to date with all changes known to be in force on or before 23 June 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 U.K.

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 II U.K.

EXERCISE OF PASSPORT RIGHTS BY EEA FIRMS

f^{F1} Power to restrict permission of management companies

Textual Amendments

F1 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

- [F215A(1) An EEA firm falling within paragraph 5(f) which wishes to manage a UK UCITS 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;
 - (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.

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- (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

F2 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

- [(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.]

Textual Amendments

F3 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)

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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

F3 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)

Status:

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