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## SCHEDULES

### SCHEDULE 3

#### 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 III

#### EXERCISE OF PASSPORT RIGHTS BY UK FIRMS

##### Services

- 20 (1) [<sup>F1</sup>Subject to [<sup>F2</sup>sub-paragraphs (4D) to (4F)],] a UK firm may not exercise an EEA right to provide services unless the firm has given the [<sup>F3</sup>appropriate UK regulator], 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) [<sup>F4</sup>Subject to sub-paragraph (2A), the] activities identified in a notice of intention may include activities which are not regulated activities.
- [<sup>F5</sup>(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 [<sup>F6</sup>the [<sup>F7</sup>capital requirements directive], [<sup>F8</sup>markets in financial instruments directive][<sup>F9</sup>, the mortgages directive] or the UCITS directive], the [<sup>F3</sup>appropriate UK regulator] must, within one month of receiving a notice of intention, send a copy of it to the host state regulator [<sup>F10</sup>with such other information as may be specified].

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- [<sup>F11</sup>(3ZA) If the firm's EEA right derives from the UCITS directive, the [<sup>F3</sup>appropriate UK regulator] must provide information about the compensation scheme with the information provided to the host state regulator under sub-paragraph (3).]
- [<sup>F12</sup>(3A) If the firm's EEA right derives from any of the insurance directives, the [<sup>F3</sup>appropriate UK regulator] 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.]
- [<sup>F13</sup>(3AA) Where the PRA is the appropriate UK regulator, it must consult the FCA before deciding whether to give a consent notice.
- (3AB) Where the FCA is the appropriate UK regulator, it must consult the PRA before deciding whether to give a consent notice in relation to a UK firm whose immediate group includes a PRA-authorised person.]
- [<sup>F14</sup>(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 [<sup>F3</sup>appropriate UK regulator] must, within one month of receiving the notice of intention, send a copy of it to the host state regulator;
  - (b) the [<sup>F3</sup>appropriate UK regulator], 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.]
- [<sup>F15</sup>(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 [<sup>F3</sup>appropriate UK regulator] 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.]
- [<sup>F16</sup>(3D) If the firm's EEA right derives from the alternative investment fund managers directive, the appropriate UK regulator must—
- (a) if the condition in sub-paragraph (3E) is satisfied—
    - (i) within one month of receiving the firm's notice of intention, send a copy of the firm's notice of intention to the host state regulator;
    - (ii) send with that notice confirmation that the firm has been authorised by it pursuant to [<sup>F17</sup>Article 6.1 of] that directive, with such other information as may be specified; and

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- (iii) immediately notify the firm that it has given the notice and confirmation to the host state regulator; or
  - (b) give the firm written notice of its refusal to send a copy of the notice of intention to the host state regulator and its reasons for that refusal.
- (3E) The condition is that the appropriate UK regulator is satisfied that the firm complies, and will continue to comply, with—
  - (a) the provisions implementing the alternative investment fund managers directive, and
  - (b) any directly applicable EU regulation made under that directive.]
- (4) When the [<sup>F3</sup>appropriate UK regulator] sends the copy under sub-paragraph (3) [<sup>F18</sup>or gives a consent notice], it must give written notice to the firm concerned.
- [<sup>F19</sup>(4A) If the firm is given notice under sub-paragraph (3A)(b) [<sup>F20</sup>or (3D)(b)], it may refer the matter to the Tribunal.
- (4B) If the firm's EEA right derives from any of the insurance directives [<sup>F21</sup>or from [<sup>F22</sup>the alternative investment fund managers directive,] the markets in financial instruments directive][<sup>F23</sup> 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,
- <sup>F24</sup>(4BA) the [<sup>F3</sup>appropriate UK regulator] 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.]
- [ If the firm's EEA right derives from the mortgages directive it must not provide the
- <sup>F25</sup>(4BB) services to which its notice of intention relates until one month, beginning with the date on which it receives the notice under sub-paragraph (4), has elapsed.]
- (4C) Rules may specify the procedure to be followed by the [<sup>F3</sup>appropriate UK regulator] under this paragraph.]
- [<sup>F26</sup>(4D) This paragraph does not apply to a UK firm having an EEA right which is subject to the conditions of the reinsurance directive.]
- [<sup>F27</sup>(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.]
- [<sup>F28</sup>(4F) This paragraph does not apply to—
  - (a) the operator of a UCITS established in the United Kingdom seeking to exercise an EEA right to market the units of that UCITS in the territory of another EEA State; or
  - (b) a UK firm seeking to exercise an EEA right under the alternative investment fund managers directive to market an AIF.]
- <sup>F29</sup>(5) . . . . .
- (6) “Specified” means specified in rules.

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### Textual Amendments

- F1** 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)**
- F2** Words in Sch. 3 para. 20(1) substituted (22.7.2013) by [The Alternative Investment Fund Managers Regulations 2013 \(S.I. 2013/1773\)](#), [reg. 1](#), **Sch. 1 para. 34(12)(a)**
- F3** Words in Sch. 3 para. 20 substituted (27.2.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 4 para. 11(2)** (with [Sch. 20](#)); S.I. 2013/423, arts. 2, 3, [Sch.](#)
- F4** 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)**
- F5** 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)**
- F6** 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)**
- F7** Words in Sch. 3 para. 20(3) substituted (1.1.2014) by [The Capital Requirements Regulations 2013 \(S.I. 2013/3115\)](#), [reg. 1\(2\)](#), **Sch. 2 para. 29(8)**
- F8** 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)**
- F9** Words in Sch. 3 para. 20(3) inserted (20.4.2015 for specified purposes, 21.12.2015 for specified purposes, 21.3.2016 in so far as not already in force) by [The Mortgage Credit Directive Order 2015 \(S.I. 2015/910\)](#), [art. 1\(5\)](#), **Sch. 1 para. 1(10)(i)(i)** (with [Pt. 4](#))
- F10** 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)**
- F11** 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)**
- F12** Sch. 3 Pt. III para. 20(3A) inserted (30.4.2001) by [S.I. 2001/1376](#), **regs. 1, 2(2)**
- F13** Sch. 3 para. 20(3AA)(3AB) inserted (27.2.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 4 para. 11(3)** (with [Sch. 20](#)); S.I. 2013/423, arts. 2, 3, [Sch.](#)
- F14** 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)**
- F15** 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)**
- F16** Sch. 3 para. 20(3D)(3E) inserted (22.7.2013) by [The Alternative Investment Fund Managers Regulations 2013 \(S.I. 2013/1773\)](#), [reg. 1](#), **Sch. 1 para. 34(12)(b)**
- F17** Words in Sch. 3 para. 20(3D)(a)(ii) omitted (coming into force in accordance with [reg. 1\(3\)](#) of the amending S.I.) by [The Alternative Investment Fund Managers \(Amendment\) Regulations 2013 \(S.I. 2013/1797\)](#), [reg. 1\(3\)](#), **Sch. 1 para. 1(5)(f)**
- F18** Words in Sch. 3 Pt. III para. 20(4) inserted (30.4.2001) by [S.I. 2001/1376](#), **regs. 1, 2(3)**
- F19** Sch. 3 Pt. III para. 20(4A)-(4C) inserted (30.4.2001) by [S.I. 2001/1376](#), **regs. 1, 2(4)**
- F20** Words in Sch. 3 para. 20(4A) inserted (22.7.2013) by [The Alternative Investment Fund Managers Regulations 2013 \(S.I. 2013/1773\)](#), [reg. 1](#), **Sch. 1 para. 34(12)(c)**
- F21** 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)**
- F22** Words in Sch. 3 para. 20(4B) inserted (22.7.2013) by [The Alternative Investment Fund Managers Regulations 2013 \(S.I. 2013/1773\)](#), [reg. 1](#), **Sch. 1 para. 34(12)(d)**

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- F23** 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)**
- F24** 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)**
- F25** Sch. 3 para. 20(4BB) inserted (20.4.2015 for specified purposes, 21.12.2015 for specified purposes, 21.3.2016 in so far as not already in force) by The Mortgage Credit Directive Order 2015 (S.I. 2015/910), **art. 1(5), Sch. 1 para. 1(10)(i)(ii)** (with Pt. 4)
- F26** 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)**
- F27** 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)**
- F28** Sch. 3 para. 20(4F) inserted (22.7.2013) by The Alternative Investment Fund Managers Regulations 2013 (S.I. 2013/1773), **reg. 1, Sch. 1 para. 34(12)(e)**
- F29** Sch. 3 Pt. III para. 20(5) omitted (30.4.2001) by virtue of S.I. 2001/1376, **regs. 1, 2(5)**

#### Modifications etc. (not altering text)

- C1** 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)**
- C2** 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

- II** 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

[<sup>F30</sup>20~~ZA~~A] The [<sup>F31</sup>appropriate UK regulator] 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 [<sup>F31</sup>appropriate UK regulator] must inform the host state regulator whenever there is a change in the confirmation or other information referred to in sub-paragraph (1).

[ The appropriate UK regulator must inform the host state regulator whenever it  
<sup>F32</sup>(3) withdraws the authorisation of a credit institution in respect of which a notice under paragraph 19(6) or paragraph 20(3) has been given.]

- [ The appropriate UK regulator must inform the host state regulator whenever it—  
<sup>F33</sup>(4) (a) withdraws the authorisation of a UK firm that exercises an EEA right under the mortgages directive to establish a branch or provide services in an EEA State other than the United Kingdom; or  
(b) varies the Part 4A permission of such a firm, so that the firm no longer has permission to carry on any activity to which the mortgages directive relates.

- (5) The appropriate UK regulator must provide the information referred to in sub-paragraph (4) as soon as possible and, at the latest, within 14 days of—

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- (a) the date of the direction given in accordance with section 33(2) withdrawing the firm's status as an authorised person, or
- (b) the date on which the variation of the Part 4A permission takes effect.]]

#### Textual Amendments

- F30** 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\(33\)\(l\)](#)
- F31** Words in Sch. 3 para. 20ZA substituted (27.2.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 4 para. 12](#) (with [Sch. 20](#)); [S.I. 2013/423](#), arts. 2, 3, [Sch.](#)
- F32** Sch. 3 para. 20ZA(3) inserted (1.1.2014) by [The Capital Requirements Regulations 2013 \(S.I. 2013/3115\)](#), [reg. 1\(2\)](#), [Sch. 2 para. 29\(9\)](#)
- F33** [Sch. 3 para. 20ZA\(4\)\(5\)](#) inserted (20.4.2015 for specified purposes, 21.12.2015 for specified purposes) by [The Mortgage Credit Directive Order 2015 \(S.I. 2015/910\)](#), art. 1(5), [Sch. 1 para. 1\(10\)\(j\)](#) (with [Pt. 4](#))

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