
STATUTORY INSTRUMENTS

1995 No. 3275

The Investment Services Regulations 1995

PART IV

RECOGNITION IN OTHER EEA STATES OF UK INVESTMENT FIRMS

Preliminary

UK investment firms

18.—(1) An investment firm is a UK investment firm for the purposes of these Regulations if it is incorporated in or formed under the law of any part of the United Kingdom or, being an individual, has his head office in the United Kingdom.

(2) A UK investment firm is a UK authorised investment firm for the purposes of these Regulations if it is for the time being an authorised person under the Financial Services Act(1) or is for the time being an exempted person under that Act by virtue of being included in the list maintained by the Bank for the purposes of section 43.

Authorised services

19. For the purposes of these Regulations a UK authorised investment firm is authorised to provide in the United Kingdom any listed service which it is lawful for it to carry on in the United Kingdom.

Procedural requirements

Procedural requirements for carrying on certain listed services

20.—(1) Subject to paragraph (2) below, a UK authorised investment firm other than a UK authorised institution shall not—

- (a) provide in another EEA State by the provision of services any listed service which it is authorised to carry on in the United Kingdom; or
- (b) establish a branch in another EEA State for the purpose of providing such a service,

unless the requirements of paragraph 1 of Schedule 6 to these Regulations have been complied with in relation to its provision of the service or, as the case may be, its establishment of the branch.

(2) Paragraph (1) above shall not require a UK subsidiary which, immediately before the commencement date, complies with the requirements of paragraph 1 of Schedule 6 to the Banking Coordination (Second Council Directive) Regulations 1992(2) to give further notice of any matter of which it has given notice under that Schedule.

(1) 1986 c. 60.

(2) S.I. 1992/3218.

(3) A UK authorised investment firm (other than a UK authorised institution) shall not change the requisite details it has given of the services it provides in another EEA State in which it has no branch unless the requirements of paragraph 5 of Schedule 6 to these Regulations have been complied with in relation to its making of the change.

(4) A UK authorised investment firm (other than a UK authorised institution) shall not change the requisite details of a branch established by it in another EEA State unless the requirements of paragraph 6 of Schedule 6 to these Regulations have been complied with in relation to its making of the change.

(5) In paragraphs (3) and (4) above “requisite details” in relation to a UK authorised investment firm which, immediately before the commencement date, is a UK subsidiary shall include any details it has furnished pursuant to the provisions of the Banking Coordination (Second Council Directive) Regulations 1992 with respect to any listed service it provides by the provision of services or with respect to any branch it has established in another EEA State from which it provides any listed service.

(6) An investment firm which contravenes paragraph (1), (3) or (4) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(7) In proceedings brought against an investment firm for an offence under paragraph (6) above it shall be a defence for the firm to show that it took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

(8) Proceedings in respect of an offence under any provision of this regulation shall not be instituted—

- (a) in England and Wales, except by the Board or by or with the consent of the Secretary of State or the Director of Public Prosecutions; or
- (b) in Northern Ireland, except by the Board or by or with the consent of the Director of Public Prosecutions for Northern Ireland.

(9) Schedule 6 to these Regulations (which contains requirements to be complied with by or in relation to UK authorised investment firms) shall have effect.