
STATUTORY INSTRUMENTS

2001 No. 2511

The Financial Services and Markets Act 2000
(EEA Passport Rights) Regulations 2001

PART II

Exercise of Passport Rights by EEA Firms

Contents of consent notice and regulator's notice

Establishment of a branch: contents of consent notice

2.—(1) The following information is prescribed for the purposes of paragraph 13(1)(b)(iii) of Schedule 3 (and is therefore to be included in a consent notice given to the Authority by a firm's home state regulator pursuant to paragraph 13(1)(a) of Schedule 3).

- (2) In the case of an investment firm, the prescribed information is—
- (a) a statement that the firm is an investment firm;
 - (b) the requisite details of the branch; and
 - (c) details of any compensation scheme which is intended to protect the branch's investors.
- (3) In the case of a credit institution, the prescribed information is—
- (a) a statement that the firm is a credit institution;
 - (b) the requisite details of the branch;
 - (c) the amount of the firm's own funds (as defined in Section 1 of Chapter 2 of Title V to the banking consolidation directive); and
 - (d) the solvency ratio of the firm (calculated in accordance with the banking consolidation directive).
- (4) In the case of a financial institution, the prescribed information is—
- (a) a statement that—
 - (i) the firm is a financial institution;
 - (ii) the firm is a subsidiary undertaking of a credit institution which is authorised in the EEA State in question and which holds at least 90 per cent of the voting rights in the firm (and for the purpose of this paragraph any two or more credit institutions which are authorised in that EEA State and hold voting rights in the firm are to be treated as a single credit institution, and as being "parent undertakings" of the firm);
 - (iii) the firm carries on in that EEA State the EEA activities in question;
 - (iv) the memorandum and articles of association, or other constituent instrument, of the firm permit it to carry on those activities;
 - (v) the consolidated supervision of the firm's parent undertaking or, if more than one, any one of them effectively includes supervision of the firm;

- (vi) the firm's parent undertaking has guaranteed or, if more than one, they have jointly and severally guaranteed, the firm's obligations, with the consent of the home state regulator;
 - (vii) the firm's business is being conducted in a prudent manner;
 - (b) the requisite details of the branch;
 - (c) the amount of the firm's own funds (as defined in Section 1 of Chapter 2 of Title V to the banking consolidation directive); and
 - (d) the solvency ratio of the firm's parent undertaking (calculated in accordance with the banking consolidation directive).
- (5) In the case of an insurance firm, the prescribed information is—
- (a) a scheme of operations prepared in accordance with such requirements as may be imposed by the firm's home state regulator, setting out (amongst other things) the types of business to be carried on and the structural organisation of the branch;
 - (b) the name of the firm's authorised agent;
 - (c) the address in the United Kingdom from which information about the business may be obtained, and a statement that this is the address for service on the firm's authorised agent;
 - (d) in the case of a firm which intends to cover relevant motor vehicle risks, a declaration by the firm that it has become a member of the Motor Insurers' Bureau (being a company limited by guarantee and incorporated under the Companies Act 1929(1) on the 14th June 1946); and
 - (e) a statement by the firm's home state regulator attesting that the firm has the minimum margin of solvency calculated in accordance with such of the following as are appropriate—
 - (i) Articles 16 and 17 of the first non-life insurance directive, and
 - (ii) Articles 18, 19 and 20 of the first life insurance directive.

Provision of services: contents of regulator's notice

3.—(1) The following information is prescribed for the purposes of paragraph 14(1)(b) of Schedule 3 (and is therefore to be included in a regulator's notice given to the Authority by a firm's home state regulator pursuant to that paragraph).

- (2) In the case of an investment firm, the prescribed information is—
- (a) a statement that the firm is an investment firm; and
 - (b) particulars of the programme of operations to be carried on in the United Kingdom, including a description of the particular EEA activities to be carried on.
- (3) In the case of an insurance firm, the prescribed information is—
- (a) a statement of the classes of business which the firm is authorised to carry on in accordance with Article 6 of the first non-life insurance directive or Article 6 of the first life insurance directive;
 - (b) the name and address of the firm;
 - (c) the nature of the risks or commitments which the firm proposes to cover in the United Kingdom;
 - (d) in the case of a firm which intends to cover relevant motor vehicle risks—
 - (i) the name and address of the claims representative; and

(1) 1929 c. 23. Repealed by the Companies Act 1948 (c. 38).

- (ii) a declaration by the firm that it has become a member of the Motor Insurers' Bureau;
and
- (e) a statement by the firm's home state regulator attesting that the firm has the minimum margin of solvency calculated in accordance with such of the following as are appropriate—
 - (i) Articles 16 and 17 of the first non-life insurance directive, and
 - (ii) Articles 18, 19 and 20 of the first life insurance directive.