
STATUTORY INSTRUMENTS

2012 No. 2017

**The Financial Services and Markets Act
2000 (Gibraltar) (Amendment) Order 2012**

Amendment of the Financial Services and Markets Act 2000 (Gibraltar) Order 2001

2.—(1) The Financial Services and Markets Act 2000 (Gibraltar) Order 2001⁽¹⁾ is amended as follows.

(2) In article 2—

(a) after paragraph (3B)⁽²⁾, insert—

“(3C) A Gibraltar-based firm falling within paragraph 5(f) of Schedule 3 is to be treated as having an entitlement, corresponding to its EEA right deriving from the UCITS directive, to establish a branch or provide services in the United Kingdom.”;

(b) in paragraph (4)—

(i) for “and (3B)” substitute “, (3B) and (3C)”;

(ii) for “and (e)” substitute “, (e) and (f)”;

(c) in paragraph (5)—

(i) for “or (3B)” on each occasion it occurs substitute “, (3B) or (3C)”;

(ii) for the first “and”, substitute “, ”;

(iii) after “the Financial Services and Markets Act 2000 (Compensation Scheme: Electing Participants) Regulations 2001” insert “, and Part 4 of the Undertakings for Collective Investment in Transferable Securities Regulations 2011”;

(d) in paragraph (7)—

(i) omit “For the avoidance of doubt,”;

(ii) for “or (3B)” substitute “, (3B) or (3C)”;

(iii) omit from “; but section 199(7)” to the end;

(e) after paragraph (7), insert—

“(8) For the purposes of paragraph (7)—

(a) sections 194A(7) and 199(7) have effect as if “, ESMA and the Commission” were omitted;

(b) sections 195A(11) and 199(10) are disapplied.”.

(3) After article 3, insert—

“Collective investment schemes constituted under Gibraltar law

3A. Section 264 of the Act applies in relation to a collective investment scheme which is constituted in Gibraltar as it applies in relation to a collective investment scheme constituted

(1) [S.I. 2001/3084](#), amended by [S.I. 2005/1](#), [2006/1805](#), [2007/3254](#); there are other amending instruments but none is relevant.

(2) Paragraph (3B) of article 2 was inserted by [S.I. 2007/3254](#).

in another EEA State, and references in that section to the home state regulator shall include the authority responsible for such regulation in Gibraltar.”.

(4) In article 4—

(a) for paragraph (1) substitute—

“(1) Schedule 3 applies in relation to—

(a) the establishment by a UK firm of a branch in Gibraltar, or the provision by a UK firm of services in Gibraltar, or

(b) the marketing in Gibraltar by a UK firm of units of a UCITS (as defined in Article 1.2 of the UCITS directive) established in the UK,

as follows.”;

(b) in paragraph (2), for “or” substitute “;” and after “services” insert “or market the units referred to in paragraph (1)(b)”.