

## STATUTORY INSTRUMENTS

# 2019 No. 589

## The Financial Services (Gibraltar) (Amendment) (EU Exit) Regulations 2019

### PART 2

#### Amendments of Financial Services and Markets Act 2000

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

**C1** Pts. 2, 3 applied (31.12.2020) by [The Taxes \(Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/689\)](#), regs. 1, 38 (with regs. 39-41); 2020 c. 1, Sch. 5 para. 1(1)

#### Amendments of section 409 of Financial Services and Markets Act 2000

2.—(1) Section 409 of the Financial Services and Markets Act 2000 <sup>M1</sup> (power to apply passporting provisions to Gibraltar) is amended as follows.

(2) In subsection (1)—

- (a) in paragraph (b), for “EEA rights” substitute “ the EEA rights that UK firms had immediately before [<sup>F1</sup>IP completion day]”;
- (b) omit paragraph (c);
- (c) omit paragraph (f).

(3) Omit subsection (4).

(4) In subsection (6), for “and “EEA right have” substitute “means a person whose head office is in the United Kingdom or is otherwise connected with the United Kingdom; and “EEA right” has”.

(5) After subsection (6) insert—

“(7) For the purposes of this section, Schedule 3 and section 264, and regulations made under that Schedule or that section, continue to apply on and after [<sup>F2</sup>IP completion day] as they had effect immediately before [<sup>F2</sup>IP completion day] , but subject to any modifications specified in an order under this section.

(8) In relation to the exercise of Gibraltar-related market access rights and persons exercising those rights, the relevant legislation (as defined in subsections (11) and (12)) continues to apply on or after [<sup>F2</sup>IP completion day] as if it had not been repealed, revoked or amended by regulations under section 8 of the European Union (Withdrawal) Act 2018, but this is subject to—

- (a) subsection (9), and
- (b) any further modifications specified in an order under this section.

(9) The relevant legislation is to be read as if references to a person's rights under any EU legislation were to the person's rights deriving from that legislation.

**Changes to legislation:** The Financial Services (Gibraltar) (Amendment) (EU Exit) Regulations 2019, PART 2 is up to date with all changes known to be in force on or before 24 April 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) View outstanding changes

- (10) “Gibraltar-related market access rights” means
- (a) rights conferred by virtue of subsection (1)(a) or (d), or
  - (b) the rights mentioned in subsection (1)(b).
- (11) “The relevant legislation” means—
- (a) in section 31 (authorised persons), subsection (1)(b);
  - (b) section 34 (EEA firms) <sup>M2</sup>;
  - (c) section 36 (persons authorised as a result of paragraph 1(1) of Schedule 5) <sup>M3</sup>;
  - (d) section 37 (exercise of EEA rights by UK firms);
  - (e) Part 13 (incoming firms: intervention by FCA or PRA) and regulations made under that Part;
  - (f) sections 266 to 269 (which relate to schemes recognised under section 264) <sup>M4</sup>;
  - (g) in Schedule 5 (persons concerned in collective investment schemes), paragraphs 1(1) and (2) and 2(1);
  - (h) the Financial Services and Markets Act 2000 (Compensation Scheme: Electing Participants) Regulations 2001 <sup>M5</sup>;
  - (i) Part 4 (mergers) of the Undertakings for Collective Investment in Transferable Securities Regulations 2011 <sup>M6</sup>;
  - (j) any other provision of primary or subordinate legislation which is repealed, revoked, amended or modified by the EEA Passport Rights (Amendment, etc., and Transitional Provisions) (EU Exit) Regulations 2018 <sup>M7</sup>;
  - (k) any other provision of primary or subordinate legislation which is repealed, revoked, amended or modified on [F<sup>2</sup>IP completion day] by regulations under section 8(1) of the European Union (Withdrawal) Act 2018 and which relates to—
    - (i) authorisation by virtue of Part 2 of Schedule 3 or by virtue of paragraph 1(1) of Schedule 5, or persons authorised by virtue of those provisions,
    - (ii) the exercise by UK firms of EEA rights (as defined in Schedule 3), or
    - (iii) the recognition of collective investment schemes under section 264, or schemes so recognised.
- (12) “The relevant legislation” does not include rules made by the FCA or the PRA.”.

#### Textual Amendments

- F1** Words in reg. 2(2)(a) substituted (30.12.2020) by [The Financial Services and Economic and Monetary Policy \(Consequential Amendments\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1301\)](#), regs. 1, 3, [Sch. para. 32\(a\)\(i\)](#)
- F2** Words in reg. 2(5) substituted (30.12.2020) by [The Financial Services and Economic and Monetary Policy \(Consequential Amendments\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1301\)](#), regs. 1, 3, [Sch. para. 32\(a\)\(ii\)](#)

#### Commencement Information

- II** Reg. 2 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(3\)](#)

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#### **Marginal Citations**

- M1** [2000 c. 8](#). Section 409(1) was amended but none of the amendments is relevant; subsection (4) was amended by [S.I. 2011/1043](#).
- M2** Section 34 was amended by paragraph 27 of Part 3 of Schedule 3 to the [Financial Services Act 2012](#) (c.21).
- M3** Section 36 was amended by paragraph 3 of part 1 of Schedule 18 to the Financial Services Act 2012.
- M4** Section 266 was amended by paragraph 9 of Schedule 18 of the Financial Services Act 2012 and [S.I. 2003/2066](#); section 267 was amended by paragraph 13 of Schedule 18 to that Act; section 268 was amended by paragraph 14 of Schedule 18 to that Act and section 269 was amended by paragraph 15 of Schedule 18 to that Act.
- M5** [S.I. 2001/1783](#).
- M6** [S.I. 2011/1613](#); amended by [S.I. 2012/2015](#), [S.I. 2013/472](#), [S.I. 2013/1388](#), [S.I. 2016/225](#).
- M7** [S.I. 2018/1149](#).

**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- Regulations revoked by [2023 c. 29 Sch. 1 Pt. 2](#)