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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 II

### EXERCISE OF PASSPORT RIGHTS BY EEA FIRMS

#### *Firms qualifying for authorisation*

- 12 (1) Once an EEA firm which is seeking to establish a branch in the United Kingdom in exercise of an EEA right satisfies the establishment conditions, it qualifies for authorisation.
- (2) Once an EEA firm which is seeking to provide services in the United Kingdom in exercise of an EEA right satisfies the service conditions, it qualifies for authorisation.
- [<sup>F1</sup>(3) If an EEA firm falling within paragraph 5(a) is seeking to use a tied agent established in the United Kingdom in connection with the exercise of an EEA right deriving from the markets in financial instruments directive, this Part of this Schedule applies as if the firm were seeking to establish a branch in the United Kingdom.
- (4) But if—
- (a) an EEA firm already qualifies for authorisation by virtue of sub-paragraph (1); and
  - (b) the EEA right which it is exercising derives from the markets in financial instruments directive,
- sub-paragraph (3) does not require the firm to satisfy the establishment conditions in respect of its use of the tied agent in question.]
- [<sup>F2</sup>(5) An EEA firm which falls within paragraph 5(da) which establishes a branch in the United Kingdom, or provides services in the United Kingdom, in exercise of an EEA right qualifies for authorisation.

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- (6) Sub-paragraphs (1) and (2) do not apply to an EEA firm falling within paragraph 5(da).]
- [<sup>F3</sup>(7) Sub-paragraph (2) does not apply to an EEA firm which falls within paragraph 5(a), (b) or (g), and only provides services in the exercise of its right under Article 18 of the emission allowance auctioning regulation.
- (8) An EEA firm which falls within paragraph 5(g) qualifies for authorisation.
- (9) An EEA firm which falls within paragraph 5(a) or (b) but does not qualify for authorisation under sub-paragraph (1) or (2) qualifies for authorisation under this sub-paragraph if it—
- (a) has received authorisation from its home state regulator under Article 18.3 of the emission allowance auctioning regulation; and
  - (b) is seeking to provide services or establish a branch in the United Kingdom in the exercise of the EEA right arising under that provision.]

#### Textual Amendments

- F1** Sch. 3 para. 12(3)(4) 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. 7](#)
- F2** Sch. 3 para. 12(5)(6) inserted (10.12.2007) by [The Reinsurance Directive Regulations 2007 \(S.I. 2007/3253\)](#), reg. 2(1), [Sch. 1 para. 6\(d\)](#)
- F3** Sch. 3 para. 12(7)-(9) inserted (20.7.2012) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2012 \(S.I. 2012/1906\)](#), arts. 1, [4\(5\)](#)

#### Commencement Information

- II** Sch. 3 Pt. II para. 12 wholly in force at 1.12.2001; Sch. 3 Pt. II para. 12 not in force at Royal Assent see s. 431(2); Sch. 3 Pt. II para. 12 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. II para. 12 in force for specified purposes at 18.6.2001 by [S.I. 2001/1820](#), art. 2, [Sch.](#); Sch. 3 Pt. II para. 12 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538](#), [art. 2\(1\)](#)

#### Establishment

- 13 (1) [<sup>F4</sup>If the firm falls within paragraph 5(a), (b), [<sup>F5</sup>(c), (d) [<sup>F6</sup>, (f) or (h)]]], the establishment conditions are that—
- (a) the [<sup>F7</sup>appropriate UK regulator] has received notice (“a consent notice”) from the firm’s home state regulator that it has given the firm consent to establish a branch in the United Kingdom;
  - (b) the consent notice—
    - (i) is given in accordance with the relevant single market directive;
    - (ii) identifies the activities to which consent relates; and
    - (iii) includes such other information as may be prescribed; <sup>F8</sup> . . .
  - [<sup>F9</sup>(ba) in the case of a firm falling within paragraph 5(a), the [<sup>F7</sup>appropriate UK regulator] has given the firm notice for the purposes of this paragraph or two months have elapsed beginning with the date when the home state regulator gave the consent notice; <sup>F10</sup> ...]
  - (c) [<sup>F11</sup>in the case of a firm falling within paragraph 5(b), (c), (d) or (f),] the firm has been informed of the applicable provisions or two months have elapsed

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- beginning with the date when the [<sup>F7</sup>appropriate UK regulator] received the consent notice [<sup>F12</sup>; and
- (d) in the case of a firm falling within paragraph 5(h), its home state regulator has informed it that the consent notice has been sent to the appropriate UK regulator].
- [<sup>F13</sup>(1A) If the firm falls within paragraph 5(e), the establishment conditions are that—
- (a) the firm has given its home state regulator notice of its intention to establish a branch in the United Kingdom;
- (b) the [<sup>F14</sup>appropriate UK regulator] has received notice (“a regulator’s notice”) from the firm’s home state regulator that the firm intends to establish a branch in the United Kingdom;
- (c) the firm’s home state regulator has informed the firm that the regulator’s notice has been sent to the [<sup>F14</sup>appropriate UK regulator]; and
- (d) one month has elapsed beginning with the date on which the firm’s home state regulator informed the firm that the regulator’s notice has been sent to the [<sup>F14</sup>appropriate UK regulator].]
- [<sup>F15</sup>(1B) Where the PRA receives a consent notice, it must give a copy to the FCA without delay.
- (1C) Where the FCA receives a consent notice it must in prescribed cases give a copy to the PRA without delay.
- (1D) In a case where the FCA is the appropriate UK regulator, the consent of the PRA is required for any notice by the FCA for the purposes of sub-paragraph (1)(ba) which relates to—
- (a) a PRA-regulated activity,
- (b) a PRA-authorised person, or
- (c) a person whose immediate group includes a PRA-authorised person.
- (1E) If the FCA—
- (a) receives a consent notice, or
- (b) receives under sub-paragraph (1B) a copy of a consent notice,
- it must prepare for the firm's supervision.
- (1F) If the PRA—
- (a) receives a consent notice, or
- (b) receives under sub-paragraph (1C) a copy of a consent notice which identifies PRA-regulated activities or relates to a PRA-authorised person,
- it must prepare for the firm's supervision.]
- (2) If the [<sup>F16</sup>appropriate UK regulator] has received a consent notice, it must—
- <sup>F17</sup>(a) .....
- (b) [<sup>F18</sup>except if the firm falls within paragraph 5(a) [<sup>F19</sup>or (h)],] notify the firm of the applicable provisions (if any); and
- (c) if the firm falls within paragraph 5(d), notify its home state regulator of the applicable provisions (if any).

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- (3) A notice under sub-paragraph (2)(b) or (c) must be given before the end of the period of two months beginning with the day on which the [<sup>F20</sup>appropriate UK regulator] received the consent notice.
- (4) For the purposes of this paragraph—
- “applicable provisions” means the host state rules with which the firm is required to comply when carrying on a permitted activity through a branch in the United Kingdom;
- [<sup>F21</sup>“the appropriate UK regulator” means whichever of the FCA and the PRA is the competent authority for the purposes of the relevant single market directive;]
- “host state rules” means rules—
- (a) made in accordance with the relevant single market directive [<sup>F22</sup>or for the purposes of the emission allowance auctioning regulation]; and
- (b) which are the responsibility of the United Kingdom (both as to implementation and as to supervision of compliance) in accordance with that directive [<sup>F23</sup>or for the purposes of that regulation]; and
- “permitted activity” means an activity identified in the consent notice [<sup>F24</sup>or regulator’s notice, as the case may be].

#### Textual Amendments

- F4** Words in Sch. 3 para. 13(1) inserted (14.1.2005) by [The Insurance Mediation Directive \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/1473\)](#), **reg. 3(2)**
- F5** Words in Sch. 3 para. 13(1) substituted (13.2.2004) by [The Collective Investment Schemes \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/2066\)](#), **reg. 3(1)(a)**
- F6** Words in Sch. 3 para. 13(1) substituted (22.7.2013) by [The Alternative Investment Fund Managers Regulations 2013 \(S.I. 2013/1773\)](#), reg. 1, **Sch. 1 para. 34(9)(a)**
- F7** Words in Sch. 3 para. 13(1) 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. 2(2)** (with Sch. 20); S.I. 2013/423, arts. 2, 3, Sch.
- F8** Word in Sch. 3 para. 13(1)(b) omitted (1.4.2007 for certain purposes, otherwise 1.11.2007) by virtue of [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. 8(a)(i)** (with reg. 6)
- F9** Sch. 3 para. 13(1)(ba) 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. 8(a)(ii)** (with reg. 6)
- F10** Word in Sch. 3 para. 13(1)(ba) omitted (22.7.2013) by virtue of [The Alternative Investment Fund Managers Regulations 2013 \(S.I. 2013/1773\)](#), reg. 1, **Sch. 1 para. 34(9)(b)**
- F11** Words in Sch. 3 para. 13(1)(c) 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. 8(a)(iii)** (with reg. 6)
- F12** Sch. 3 para. 13(1)(d) and word inserted (22.7.2013) by [The Alternative Investment Fund Managers Regulations 2013 \(S.I. 2013/1773\)](#), reg. 1, **Sch. 1 para. 34(9)(c)**
- F13** Sch. 3 para. 13(1A) inserted (14.1.2005) by [The Insurance Mediation Directive \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/1473\)](#), **reg. 3(3)**
- F14** Words in Sch. 3 para. 13(1A) 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. 2(2)** (with Sch. 20); S.I. 2013/423, arts. 2, 3, Sch.

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- F15** Sch. 3 para. 13(1B)-(1F) 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. 2(3)** (with Sch. 20); S.I. 2013/423, arts. 2, 3, Sch.
- F16** Words in Sch. 3 para. 13(2) 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. 2(4)(a)** (with Sch. 20); S.I. 2013/423, arts. 2, 3, Sch.
- F17** Sch. 3 para. 13(2)(a) omitted (27.2.2013 for specified purposes, 1.4.2013 in so far as not already in force) by virtue of [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 4 para. 2(4)(b)** (with Sch. 20); S.I. 2013/423, arts. 2, 3, Sch.
- F18** Words in Sch. 3 para. 13(2)(b) 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. 8(b)** (with reg. 6)
- F19** Words in Sch. 3 para. 13(2)(b) inserted (22.7.2013) by [The Alternative Investment Fund Managers Regulations 2013 \(S.I. 2013/1773\)](#), reg. 1, **Sch. 1 para. 34(9)(d)**
- F20** Words in Sch. 3 para. 13(3) 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. 2(5)** (with Sch. 20); S.I. 2013/423, arts. 2, 3, Sch.
- F21** Words in Sch. 3 para. 13(4) 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. 2(6)** (with Sch. 20); S.I. 2013/423, arts. 2, 3, Sch.
- F22** Words in Sch. 3 para. 13(4) inserted (20.7.2012) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2012 \(S.I. 2012/1906\)](#), arts. 1, **4(6)(a)**
- F23** Words in Sch. 3 para. 13(4) inserted (20.7.2012) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2012 \(S.I. 2012/1906\)](#), arts. 1, **4(6)(b)**
- F24** Sch. 3 para. 13(4): words in definition of "permitted activity" inserted (14.1.2005) by [The Insurance Mediation Directive \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/1473\)](#), **reg. 3(4)**

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

- C1** Sch. 3 para. 13 extended (1.12.2001) by [S.I. 2001/3592](#), **arts. 1(2)**, 96 (with art. 23(2))

#### Commencement Information

- I2** Sch. 3 Pt. II para. 13 wholly in force at 1.12.2001; Sch. 3 Pt. II para. 13 not in force at Royal Assent see s. 431(2); Sch. 3 Pt. II para. 13 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. II para. 13 in force for specified purposes at 18.6.2001 by [S.I. 2001/1820](#), art. 2, [Sch.](#); Sch. 3 Pt. II para. 13 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538](#), **art. 2(1)**

### Services

- 14 (1) The service conditions are that—
- (a) the firm has given its home state regulator notice of its intention to provide services in the United Kingdom (“a notice of intention”);
  - (b) if the firm falls within <sup>F25</sup>paragraph 5(a), <sup>F26</sup>(d), (e) <sup>F27</sup>, (f) or (h)]]], the <sup>F28</sup>appropriate UK regulator] has received notice (“a regulator’s notice”) from the firm’s home state regulator containing such information as may be prescribed; <sup>F29</sup> . . .
  - <sup>F30</sup>(ba) if the firm falls within paragraph 5(b) and is seeking to provide services in exercise of the right under Article 31.5 of the markets in financial instruments directive, the <sup>F28</sup>appropriate UK regulator] has received notice (“a regulator’s notice”) from the firm’s home state regulator stating that the firm intends to exercise that right in the United Kingdom;]

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- (c) if the firm falls within [<sup>F31</sup>paragraph 5(d) [<sup>F32</sup>, (e) or (h)]], its home state regulator has informed it that the regulator’s notice has been sent to the [<sup>F28</sup>appropriate UK regulator][<sup>F33</sup>; and
  - (d) if the firm falls within paragraph 5(e), one month has elapsed beginning with the date on which the firm’s home state regulator informed the firm that the regulator’s notice has been sent to the [<sup>F28</sup>appropriate UK regulator].]
- [<sup>F34</sup>(1A) “Relevant notice” means—
- (a) a regulator's notice, or
  - (b) where none is required by sub-paragraph (1), a notice informing the appropriate UK regulator of the firm's intention to provide services in the United Kingdom.
- (1B) Where the PRA receives a relevant notice, it must give a copy to the FCA without delay.
- (1C) Where the FCA receives a relevant notice, it must in prescribed cases give a copy to the PRA without delay.
- (1D) If the FCA—
- (a) receives a relevant notice, or
  - (b) receives under sub-paragraph (1B) a copy of a relevant notice,
- it must prepare for the firm's supervision.
- (1E) If the PRA—
- (a) receives a relevant notice, or
  - (b) receives under sub-paragraph (1C) a copy of a relevant notice which identifies PRA-regulated activities or relates to a PRA-authorized person,
- it must, unless the firm falls within paragraph 5(e), prepare for the firm's supervision.]
- [<sup>F35</sup>(2) If the appropriate UK regulator has received a relevant notice, it must, unless the firm falls within paragraph 5(a) [<sup>F36</sup>, (e) or (h)], notify the firm of the applicable provisions (if any).]
- [<sup>F37</sup>(2A) . . . . .
- (3) A notice under sub-paragraph [<sup>F38</sup>(2)] must be given before the end of the period of two months beginning on the day on which the [<sup>F39</sup>appropriate UK regulator received the relevant notice].
- [<sup>F40</sup>(3A) In cases where the firm is an EEAAIFM that seeks to market an AIF in exercise of its rights under Article 32[<sup>F41</sup>, 35, 39 or 40] of the alternative investment fund managers directive, the appropriate UK regulator must ensure that the regulator’s notice may be transmitted to it electronically.]
- (4) For the purposes of this paragraph—
- “applicable provisions” means the host state rules with which the firm is required to comply when carrying on a permitted activity by providing services in the United Kingdom;
  - [<sup>F42</sup>“the appropriate UK regulator” means whichever of the FCA and the PRA is the competent authority for the purposes of the relevant single market directive;]
  - “host state rules” means rules—

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- (a) made in accordance with the relevant single market directive [<sup>F43</sup> or for the purposes of the emission allowance auctioning regulation]; and
  - (b) which are the responsibility of the United Kingdom (both as to implementation and as to supervision of compliance) in accordance with that directive [<sup>F44</sup> or for the purposes of that regulation]; and
- “permitted activity” means an activity identified in—
- (a) the regulator’s notice; or
  - (b) where none is required by sub-paragraph (1), the notice of intention.

### Textual Amendments

- F25** Words in Sch. 3 para. 14(1)(b) substituted (14.1.2005) by [The Insurance Mediation Directive \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/1473\)](#), **reg. 4(2)(a)**
- F26** Words in Sch. 3 para. 14(1)(b) substituted (13.2.2004) by [The Collective Investment Schemes \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/2066\)](#), **reg. 3(1)(b)**
- F27** Words in Sch. 3 para. 14(1)(b) substituted (22.7.2013) by [The Alternative Investment Fund Managers Regulations 2013 \(S.I. 2013/1773\)](#), **reg. 1, Sch. 1 para. 34(10)(a)**
- F28** Words in Sch. 3 para. 14(1) 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. 3(2)** (with Sch. 20); S.I. 2013/423, arts. 2, 3, Sch.
- F29** Word in Sch. 3 para. 14(1)(b) omitted (14.1.2005) by virtue of [The Insurance Mediation Directive \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/1473\)](#), **reg. 4(2)(b)**
- F30** Sch. 3 para. 14(1)(ba) 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. 9(a)**
- F31** Words in Sch. 3 para. 14(1)(c) substituted (14.1.2005) by [The Insurance Mediation Directive \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/1473\)](#), **reg. 4(2)(c)**
- F32** Words in Sch. 3 para. 14(1)(c) substituted (22.7.2013) by [The Alternative Investment Fund Managers Regulations 2013 \(S.I. 2013/1773\)](#), **reg. 1, Sch. 1 para. 34(10)(b)**
- F33** Sch. 3 para. 14(1)(d) and preceding word inserted (14.1.2005) by [The Insurance Mediation Directive \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/1473\)](#), **reg. 4(2)(d)**
- F34** Sch. 3 para. 14(1A)-(1E) 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. 3(3)** (with Sch. 20); S.I. 2013/423, arts. 2, 3, Sch.
- F35** Sch. 3 para. 14(2) 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. 3(4)** (with Sch. 20); S.I. 2013/423, arts. 2, 3, Sch.
- F36** Words in Sch. 3 para. 14(2) substituted (22.7.2013) by [The Alternative Investment Fund Managers Regulations 2013 \(S.I. 2013/1773\)](#), **reg. 1, Sch. 1 para. 34(10)(c)**
- F37** Sch. 3 para. 14(2A) omitted (27.2.2013 for specified purposes, 1.4.2013 in so far as not already in force) by virtue of [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 4 para. 3(5)** (with Sch. 20); S.I. 2013/423, arts. 2, 3, Sch.
- F38** Word in Sch. 3 para. 14(3) 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. 3(6)(a)** (with Sch. 20); S.I. 2013/423, arts. 2, 3, Sch.
- F39** Words in Sch. 3 para. 14(3) 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. 3(6)(b)** (with Sch. 20); S.I. 2013/423, arts. 2, 3, Sch.
- F40** Sch. 3 para. 14(3A) inserted (22.7.2013) by [The Alternative Investment Fund Managers Regulations 2013 \(S.I. 2013/1773\)](#), **reg. 1, Sch. 1 para. 34(10)(d)**

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- F41** Words in Sch. 3 para. 14(3A) inserted (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)(d)**
- F42** Words in Sch. 3 para. 14(4) 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. 3(7)** (with Sch. 20); S.I. 2013/423, arts. 2, 3, Sch.
- F43** Words in Sch. 3 para. 14(4) inserted (20.7.2012) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2012 \(S.I. 2012/1906\)](#), arts. 1, **4(7)(a)**
- F44** Words in Sch. 3 para. 14(4) inserted (20.7.2012) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2012 \(S.I. 2012/1906\)](#), arts. 1, **4(7)(b)**

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

- C2** Sch. 3 para. 14(1) extended (1.12.2001) by [S.I. 2001/3592](#), **arts. 1(2)**, 97 (with art. 23(2))

#### Commencement Information

- I3** Sch. 3 Pt. II para. 14 wholly in force at 1.12.2001; Sch. 3 Pt. II para. 14 not in force at Royal Assent see s. 431(2); Sch. 3 Pt. II para. 14 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. II para. 14 in force for specified purposes at 18.6.2001 by [S.I. 2001/1820](#), art. 2, [Sch.](#); Sch. 3 Pt. II para. 14 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538](#), **art. 2(1)**

#### Grant of permission

- 15 (1) On qualifying for authorisation as a result of [<sup>F45</sup>paragraph 12(1), (2) or (3)], a firm has, in respect of each permitted activity which is a regulated activity, permission to carry it on through its United Kingdom branch (if it satisfies the establishment conditions) or by providing services in the United Kingdom (if it satisfies the service conditions).

[<sup>F46</sup>(1A) Sub-paragraph (1) is to be read subject to [<sup>F47</sup>paragraphs 15A(3) and 15ZA(1)].]

- (2) The permission is to be treated as being on terms equivalent to those appearing from the consent notice, regulator’s notice or notice of intention.

<sup>F48</sup>(3) .....

<sup>F48</sup>(4) .....

[<sup>F49</sup>(5) A firm which qualifies for authorisation as a result of paragraph 12(5) has, in respect of each permitted activity which is a regulated activity, permission to carry it on through its United Kingdom branch or by providing services in the United Kingdom.

- (6) The permission is to be treated as being on terms equivalent to those appearing in the authorisation granted to the firm under Article 3 of the reinsurance directive by its home state regulator (“its home authorisation”).

- (7) For the purposes of sub-paragraph (5), “permitted activity” means an activity which the firm is permitted to carry on under its home authorisation.]

#### Textual Amendments

- F45** Words in Sch. 3 para. 15(1) substituted (10.12.2007) by [The Reinsurance Directive Regulations 2007 \(S.I. 2007/3253\)](#), reg. 2(1), **Sch. 1 para. 6(e)(i)**
- F46** Sch. 3 para. 15(1A) inserted (13.2.2004) by [The Collective Investment Schemes \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/2066\)](#), **reg 3(1)(c)**



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- F47** Words in Sch. 3 para. 15(1A) substituted (20.7.2012) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2012 \(S.I. 2012/1906\)](#), arts. 1, **4(8)**
- F48** Sch. 3 para. 15(3)(4) omitted (26.7.2013 for specified purposes) by virtue of [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2013 \(S.I. 2013/1881\)](#), arts. 1(2)(6), **10(18)(a)**
- F49** Sch. 3 para. 15(5)-(7) inserted (10.12.2007) by [The Reinsurance Directive Regulations 2007 \(S.I. 2007/3253\)](#), reg. 2(1), **Sch. 1 para. 6(e)(ii)**

#### Commencement Information

- I4** Sch. 3 Pt. II para. 15 wholly in force at 1.12.2001; Sch. 3 Pt. II para. 15 not in force at Royal Assent see s. 431(2); Sch. 3 Pt. II para. 15 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. II para. 15 in force for specified purposes at 18.6.2001 by [S.I. 2001/1820](#), art. 2, [Sch.](#); Sch. 3 Pt. II para. 15 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538](#), **art. 2(1)**

#### *Grant of permission: bidding for emission allowances*

- [<sup>F50</sup>~~15ZA~~] A firm that qualifies for authorisation as a result of paragraph 12(1) or (2) has permission to receive, transmit or submit a bid on behalf of its clients in the exercise of its rights under Article 18.3 of the emission allowance auctioning regulation if it has received authorisation under that provision from its home state regulator.
- (2) Permission under sub-paragraph (1) is to be treated as being on terms equivalent to those appearing in the authorisation granted to the firm pursuant to Article 18.3 of the emission allowance auctioning regulation.
- (3) A firm which qualifies for authorisation as a result of paragraph 12(9) has permission to receive, transmit and submit a bid on behalf of its clients in the exercise of its rights under Article 18.3 of the emission allowance auctioning regulation.
- (4) A firm which qualifies for authorisation as a result of paragraph 12(8) has permission to receive, transmit and submit a bid on its own account or on behalf of clients of its main business under Article 18.2 of the emission allowance auctioning regulation.
- (5) The permissions referred to in sub-paragraphs (3) and (4) are to be treated as being on terms equivalent to those appearing in the authorisation granted to the firm pursuant to Article 18.2 or 18.3 of the emission allowance auctioning regulation.]

#### Textual Amendments

- F50** Sch. 3 para. 15ZA inserted (20.7.2012) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2012 \(S.I. 2012/1906\)](#), arts. 1, **4(9)**

#### [<sup>F51</sup> *Power to restrict permission of management companies*]

#### Textual Amendments

- F51** Sch. 3 para. 15A and cross-heading inserted (13.2.2004) by [The Collective Investment Schemes \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/2066\)](#), **reg. 3(1)(d)**

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### *Application for approval to manage UCITS*

[<sup>F52</sup>15A(1) An EEA firm falling within paragraph 5(f) which wishes to manage a UKUCITS must apply to the [<sup>F53</sup>appropriate UK regulator] in the specified form for approval to manage that UCITS.

(2) Where the EEA firm satisfies the conditions in paragraph 13 (establishment conditions) or paragraph 14 (service conditions), the [<sup>F53</sup>appropriate UK regulator] may only refuse the application if it determines that one of the grounds set out in sub-paragraph (3) applies.

(3) The grounds referred to in sub-paragraph (2) are—

- (a) that the EEA firm does not comply with the UCITS home state rules;
- (b) that the firm is not authorised by its home state regulator to manage the type of collective investment scheme for which authorisation is requested; or
- (c) that the firm has not provided the documentation required under Article 20(1) of the UCITS directive.

(4) The [<sup>F53</sup>appropriate UK regulator] must give a notice to the EEA firm, the firm's home state regulator and the Commission of the [<sup>F53</sup>appropriate UK regulator's] determination under sub-paragraph (2).

(5) Before giving a notice under sub-paragraph (4), the [<sup>F53</sup>appropriate UK regulator] must consult the home state regulator of the firm.

(6) A notice given by the [<sup>F53</sup>appropriate UK regulator] under sub-paragraph (4) must—

- (a) give the [<sup>F53</sup>appropriate UK regulator's] reasons for considering that one of the grounds set out in sub-paragraph (3) is satisfied; and
- (b) specify a reasonable period (which may not be less than 28 days) within which any person to whom it is given may make representations to the [<sup>F53</sup>appropriate UK regulator].

[<sup>F54</sup>(6A) If—

- (a) the FCA is the appropriate UK regulator, and
- (b) the firm is, or the firm's immediate group includes, a PRA-authorised person, the FCA must give the PRA a copy of the notice under sub-paragraph (4).]

(7) In this paragraph—

[<sup>F55</sup>“the appropriate UK regulator” means whichever of the FCA and the PRA is the competent authority for the purposes of the UCITS directive;]

“specified” means specified—

- (a) in rules made by the [<sup>F53</sup>appropriate UK regulator] to implement the UCITS directive, or
- (b) in any directly applicable Community regulation or decision made under the UCITS directive;

“UCITS home state rules” means requirements which are imposed by or under this Act so far as relating to matters falling within Article 19(3) and (4) of the UCITS directive.]

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#### Textual Amendments

- F52** Sch. 3 paras. 15A-15C substituted for Sch. 3 para. 15A (1.7.2011) by The Undertakings for Collective Investment in [Transferable Securities Regulations 2011 \(S.I. 2011/1613\)](#), [reg. 2\(33\)\(d\)](#)
- F53** Words in Sch. 3 para. 15A 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. 4\(2\)](#) (with [Sch. 20](#)); S.I. 2013/423, arts. 2, 3, [Sch.](#)
- F54** Sch. 3 para. 15A(6A) 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. 4\(3\)](#) (with [Sch. 20](#)); S.I. 2013/423, arts. 2, 3, [Sch.](#)
- F55** Words in Sch. 3 para. 15A(7) 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. 4\(4\)](#) (with [Sch. 20](#)); S.I. 2013/423, arts. 2, 3, [Sch.](#)

#### *Representations and references to the Tribunal*

[<sup>F56</sup>15B]1) Within a reasonable time after the end of the period for making representations, the [<sup>F57</sup>appropriate UK regulator] must decide, in the light of any representations made to it during that period by a person to whom notice has been given under paragraph 15A(4), whether to withdraw the notice.

- (2) If the [<sup>F57</sup>appropriate UK regulator] decides not to withdraw its notice, it must—
- give a decision notice to each person to whom the notice under paragraph 15A(4) was given, and
  - inform the firm's home state regulator and the Commission that authorisation has been refused, and of the grounds for the refusal.
- (3) The management company to whom the decision notice is given may refer the matter to the Tribunal.

[ In this paragraph “the appropriate UK regulator” has the same meaning as in <sup>F58</sup>(4) paragraph 15A.]

#### Textual Amendments

- F56** Sch. 3 paras. 15A-15C substituted for Sch. 3 para. 15A (1.7.2011) by The Undertakings for Collective Investment in [Transferable Securities Regulations 2011 \(S.I. 2011/1613\)](#), [reg. 2\(33\)\(d\)](#)
- F57** Words in Sch. 3 para. 15B 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. 5\(2\)](#) (with [Sch. 20](#)); S.I. 2013/423, arts. 2, 3, [Sch.](#)
- F58** Sch. 3 para. 15B(4) 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. 5\(3\)](#) (with [Sch. 20](#)); S.I. 2013/423, arts. 2, 3, [Sch.](#)

#### *Information to home state regulator*

15C (1) Where an EEA firm falling within paragraph 5(f) has applied to manage a UCITS established in the United Kingdom, the [<sup>F59</sup>appropriate UK regulator, as defined in paragraph 15A(7),] must without delay inform the home state regulator of that firm of any problem of which they are aware that may materially affect the ability of the firm—

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- (a) to perform its duties properly, or
  - (b) to comply with the home state rules.
- (2) In sub-paragraph (1), “home state rules” means rules—
- (a) made by the EEA State concerned in accordance with the UCITS directive; and
  - (b) which are the responsibility of that EEA State (both as to implementation and as to supervision of compliance) in accordance with that directive.]

#### Textual Amendments

- F56** Sch. 3 paras. 15A-15C substituted for Sch. 3 para. 15A (1.7.2011) by The Undertakings for Collective Investment in [Transferable Securities Regulations 2011 \(S.I. 2011/1613\)](#), **reg. 2(33)(d)**
- F59** Words in Sch. 3 para. 15C(1) 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. 6** (with [Sch. 20](#)); [S.I. 2013/423](#), arts. 2, 3, [Sch.](#)

#### *Effect of carrying on regulated activity when not qualified for authorisation*

- 16 (1) This paragraph applies to an EEA firm which is not qualified for authorisation under paragraph 12.
- (2) Section 26 does not apply to an agreement entered into by the firm.
- (3) Section 27 does not apply to an agreement in relation to which the firm is a third party for the purposes of that section.
- (4) Section 29 does not apply to an agreement in relation to which the firm is the deposit-taker.

#### Commencement Information

- I5** Sch. 3 Pt. II para. 16 wholly in force at 1.12.2001; Sch. 3 Pt. II para. 16 not in force at Royal Assent see s. 431(2); Sch. 3 Pt. II para. 16 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. II para. 16 in force for specified purposes at 18.6.2001 by [S.I. 2001/1820](#), **art. 2**, [Sch.](#); Sch. 3 Pt. II para. 16 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538](#), **art. 2(1)**

#### *Continuing regulation of EEA firms*

- 17 Regulations may—
- [<sup>F60</sup>(za) require the FCA and the PRA to notify each other about EEA firms qualifying for authorisation;]
  - (a) modify any provision of this Act which is an applicable provision (within the meaning of paragraph 13 or 14) in its application to an EEA firm qualifying for authorisation;
  - (b) make provision as to any change (or proposed change) of a prescribed kind relating to an EEA firm or to an activity that it carries on in the United Kingdom and as to the procedure to be followed in relation to such cases;
  - (c) provide that [<sup>F61</sup>the FCA or the PRA] may treat an EEA firm’s notification that it is to cease to carry on regulated activity in the United Kingdom as

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a request for cancellation of its qualification for authorisation under this Schedule.

#### Textual Amendments

- F60** Sch. 3 para. 17(za) inserted (24.1.2013 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. 7(a)** (with [Sch. 20](#)); [S.I. 2013/113](#), art. 2(1)(b), [Sch. Pt. 2](#); [S.I. 2013/423](#), art. 3, [Sch.](#)
- F61** Words in Sch. 3 para. 17(c) substituted (24.1.2013 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. 7(b)** (with [Sch. 20](#)); [S.I. 2013/113](#), art. 2(1)(b), [Sch. Pt. 2](#); [S.I. 2013/423](#), art. 3, [Sch.](#)

#### Commencement Information

- I6** Sch. 3 Pt. II para. 17 wholly in force at 1.12.2001; Sch. 3 Pt. II para. 17 not in force at Royal Assent see s. 431(2); Sch. 3 Pt. II para. 17 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. II para. 17 in force for specified purposes at 18.6.2001 by [S.I. 2001/1820](#), art. 2, [Sch.](#); Sch. 3 Pt. II para. 17 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538](#), art. 2(1)

#### *Giving up right to authorisation*

- 18 Regulations may provide that in prescribed circumstances an EEA firm falling within paragraph 5(c) may, on following the prescribed procedure—
- (a) have its qualification for authorisation under this Schedule cancelled; and
  - (b) seek to become an authorised person by applying for a [<sup>F62</sup>Part 4A permission].

#### Textual Amendments

- F62** Words in Sch. 3 para. 18(b) 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. 8** (with [Sch. 20](#)); [S.I. 2013/423](#), arts. 2, 3, [Sch.](#)

#### Commencement Information

- I7** Sch. 3 Pt. II para. 18 wholly in force at 1.12.2001; Sch. 3 Pt. II para. 18 not in force at Royal Assent see s. 431(2); Sch. 3 Pt. II para. 18 in force for specified purposes at 25.2.2001 by [S.I. 2001/516](#), art. 2(b)(c), [Sch. Pts. 2, 3](#); Sch. 3 Pt. I para. 18 in force for specified purposes at 18.6.2001 by [S.I. 2001/1820](#), art. 2 [Sch.](#); Sch. 3 Pt. II para. 18 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538](#), art. 2(1)

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