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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

[^{F1} Power to restrict permission of management companies]

Textual Amendments

- F1** 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)**

Application for approval to manage UCITS

- ^{F2}15A(1) An EEA firm falling within paragraph 5(f) which wishes to manage a UKUCITS must apply to the [^{F3}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 [^{F3}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—
- that the EEA firm does not comply with the UCITS home state rules;
 - 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

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- (c) that the firm has not provided the documentation required under Article 20(1) of the UCITS directive.
- (4) The [^{F3}appropriate UK regulator] must give a notice to the EEA firm, the firm's home state regulator and the Commission of the [^{F3}appropriate UK regulator's] determination under sub-paragraph (2).
- (5) Before giving a notice under sub-paragraph (4), the [^{F3}appropriate UK regulator] must consult the home state regulator of the firm.
- (6) A notice given by the [^{F3}appropriate UK regulator] under sub-paragraph (4) must—
- give the [^{F3}appropriate UK regulator's] reasons for considering that one of the grounds set out in sub-paragraph (3) is satisfied; and
 - 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 [^{F3}appropriate UK regulator].
- [^{F4}(6A) If—
- the FCA is the appropriate UK regulator, and
 - the firm is, or the firm's immediate group includes, a PRA-authorized person, the FCA must give the PRA a copy of the notice under sub-paragraph (4).]

(7) In this paragraph—

[^{F5}“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—

 - in rules made by the [^{F3}appropriate UK regulator] to implement the UCITS directive, or
 - 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.]

Textual Amendments

- F2** 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)**
- F3** 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.
- F4** 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.
- F5** 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.

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Representations and references to the Tribunal

[^{F6}15B(1) Within a reasonable time after the end of the period for making representations, the [^{F7}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 [^{F7}appropriate UK regulator] decides not to withdraw its notice, it must—
- (a) give a decision notice to each person to whom the notice under paragraph 15A(4) was given, and
 - (b) 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 ^{F8}(4) paragraph 15A.]

Textual Amendments

- F6** 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)**
- F7** 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.
- F8** 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 [^{F9}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—

- (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

- F6** 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)**

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- F9** 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.](#)

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