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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 III

EXERCISE OF PASSPORT RIGHTS BY UK FIRMS^{F1}

Textual Amendments

- F1** Sch. 3 para. 25 and preceding cross-heading inserted (14.1.2005) by [The Insurance Mediation Directive \(Miscellaneous Amendments\) Regulations 2003](#) ([S.I. 2003/1473](#)), **reg. 7**

Establishment

- 19 (1) [^{F1}Subject to sub-paragraph (5A),] a UK firm may not exercise an EEA right to establish a branch unless three conditions are satisfied.
- (2) The first is that the firm has given the Authority, in the specified way, notice of its intention to establish a branch (“a notice of intention”) which—
- (a) identifies the activities which it seeks to carry on through the branch; and
 - (b) includes such other information as may be specified.
- (3) The activities identified in a notice of intention may include activities which are not regulated activities.
- (4) The second is that the Authority has given notice in specified terms (“a consent notice”) to the host state regulator.
- [^{F2}(5) The third is—

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- (a) if the EEA right in question derives from the insurance mediation directive, that one month has elapsed beginning with the date on which the firm received notice, in accordance with sub-paragraph (11), that the Authority has given a consent notice;
- (b) in any other case, that either—
 - (i) the host state regulator has notified the firm (or, where the EEA right in question derives from any of the insurance directives, the Authority) of the applicable provisions; or
 - (ii) two months have elapsed beginning with the date on which the Authority gave the consent notice.]

[^{F3}(5A) If—

- (a) the EEA right in question derives from the insurance mediation directive, and
- (b) the EEA State in which the firm intends to establish a branch has not notified the Commission, in accordance with Article 6(2) of that directive, of its wish to be informed of the intention of any UK firm to establish a branch in its territory,

the second and third conditions do not apply (and so the firm may establish the branch to which its notice of intention relates as soon as the first condition is satisfied).]

- (6) If the firm's EEA right derives from [^{F4}the banking consolidation directive, the investment services directive or the UCITS directive] and the first condition is satisfied, the Authority must give a consent notice to the host state regulator unless it has reason to doubt the adequacy of the firm's resources or its administrative structure.
- (7) If the firm's EEA right derives from any of the insurance directives and the first condition is satisfied, the Authority must give a consent notice unless it has reason—
 - (a) to doubt the adequacy of the firm's resources or its administrative structure, or
 - (b) to question the reputation, qualifications or experience of the directors or managers of the firm or the person proposed as the branch's authorised agent for the purposes of those directives,

in relation to the business to be conducted through the proposed branch.

[^{F5}(7A) If—

- (a) the firm's EEA right derives from the insurance mediation directive,
- (b) the first condition is satisfied, and
- (c) the second condition applies,

the Authority must give a consent notice, and must do so within one month beginning with the date on which it received the firm's notice of intention.]

- (8) If the Authority proposes to refuse to give a consent notice it must give the firm concerned a warning notice.
- (9) If the firm's EEA right derives from any of the insurance directives and the host state regulator has notified it of the applicable provisions, the Authority must inform the firm of those provisions.
- (10) Rules may specify the procedure to be followed by the Authority in exercising its functions under this paragraph.

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- (11) If the Authority gives a consent notice it must give written notice that it has done so to the firm concerned.
- (12) If the Authority decides to refuse to give a consent notice—
- (a) it must, [^{F6}within the relevant period], give the person who gave that notice a decision notice to that effect; and
 - (b) that person may refer the matter to the Tribunal.
- [^{F7}(12A) In sub-paragraph (12), “the relevant period” means—
- (a) if the firm’s EEA right derives from the UCITS directive, two months beginning with the date on which the Authority received the notice of intention;
 - (b) in any other case, three months beginning with that date.]
- (13) In this paragraph, “applicable provisions” means the host state rules with which the firm will be required to comply when conducting business through the proposed branch in the EEA State concerned.
- (14) In sub-paragraph (13), “host state rules” means rules—
- (a) made in accordance with the relevant single market directive; and
 - (b) which are the responsibility of the EEA State concerned (both as to implementation and as to supervision of compliance) in accordance with that directive.
- (15) “Specified” means specified in rules.

Textual Amendments

- F1** Words in Sch. 3 para. 19(1) inserted (14.1.2005) by [The Insurance Mediation Directive \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/1473\)](#), **reg. 5(2)**
- F2** Sch. 3 para. 19(5) substituted (14.1.2005) by [The Insurance Mediation Directive \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/1473\)](#), **reg. 5(3)**
- F3** Sch. 3 para. 19(5A) inserted (14.1.2005) by [The Insurance Mediation Directive \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/1473\)](#), **reg. 5(4)**
- F4** Words in Sch. 3 para. 19(6) substituted (13.2.2004) by [The Collective Investment Schemes \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/2066\)](#), **reg 4(1)(a)(i)**
- F5** Sch. 3 para. 19(7A) inserted (14.1.2005) by [The Insurance Mediation Directive \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/1473\)](#), **reg. 5(5)**
- F6** Words in Sch. 3 para. 19(12)(a) substituted (13.2.2004) by [The Collective Investment Schemes \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/2066\)](#), **reg 4(1)(a)(ii)**
- F7** Sch. 3 para. 19(12A) inserted (13.2.2004) by [The Collective Investment Schemes \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/2066\)](#), **reg 4(1)(a)(iii)**

Modifications etc. (not altering text)

- C1** Sch. 3 Pt. III para. 19 applied (1.12.2001) by [S.I. 2001/3592](#), **arts. 1(2)**, 104(3)(a) (with [art. 23\(2\)](#))
Sch. 3 Pt. III para. 19 modified (1.12.2001) by [S.I. 2001/2636](#), **arts. 1(2)(b)**, 77(1)-(3)(7); [S.I. 2001/3538](#), **art. 2(1)**
- C2** Sch. 3 Pt. III para. 19(2)(4)(6)(7) extended (1.12.2001) by [S.I. 2001/3592](#), **arts. 1(2)**, 100 (with [art. 23\(2\)](#))

Commencement Information

- I1** Sch. 3 Pt. III para. 19 wholly in force at 1.12.2001; Sch. 3 Pt. III para. 19 not in force at Royal Assent see s. 431(2); Sch. 3 Pt. III para. 19 in force for certain purposes at 25.2.2001 by [S.I. 2001/516](#), **art. 2(b)**

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(c), Sch. Pts. 2, 3; Sch. 3 Pt. III para. 19 in force for specified purposes at 18.6.2001 by S.I. 2001/1820, art. 2, **Sch.**; Sch. 3 Pt. III para. 19 in force for specified purposes at 3.9.2001 by S.I. 2001/2632, art. 2(2), **Sch. Pt. 2**; Sch. 3 Pt. III para. 19 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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