
STATUTORY INSTRUMENTS

2001 No. 3592

The Financial Services and Markets Act 2000 (Transitional Provisions) (Partly Completed Procedures) Order 2001

PART VIII

PARTLY COMPLETED EXERCISE OF EEA RIGHTS

CHAPTER 1

EEA FIRMS

EEA firms seeking to establish a branch

- 96.**—(1) This article applies in relation to an EEA firm which at commencement—
- (a) is seeking to establish a branch as mentioned in paragraph 12(1) of Schedule 3; and
 - (b) has not satisfied the establishment conditions in paragraph 13 of Schedule 3.
- (2) Subject to paragraph (4), if, before commencement a notice in accordance with—
- (a) paragraph 3 of Schedule 2 to the 2BCD Regulations; or
 - (b) paragraph 3 of Schedule 3 to the ISD Regulations,

was received as respects the firm for the purposes of paragraph 1(2)(b) of Schedule 2 to the 2BCD Regulations or paragraph 1(2)(b) of Schedule 3 to the ISD Regulations, the notice is to be treated as the consent notice required by paragraph 13(1)(a) of Schedule 3 and as satisfying the requirements of paragraph 13(1)(b) of that Schedule.

(3) If, before commencement a notice and certificate as mentioned in paragraph 1(2)(a) of Schedule 2F to the Insurance Companies Act were received as respects the firm, the notice and certificate are to be treated as the consent notice required by paragraph 13(1)(a) of Schedule 3 and as satisfying the requirements of paragraph 13(1)(b) of that Schedule.

(4) This article does not apply in respect of an EEA firm which is taken to have complied with the requirements of Schedule 2 to the 2BCD Regulations only by virtue of having complied with the corresponding requirements under the law of Gibraltar (within the meaning of regulation 2C(2) of the 2BCD Regulations(1)).

EEA firms seeking to provide services

- 97.**—(1) This article applies in relation to an EEA firm which at commencement—
- (a) is seeking to provide services as mentioned in paragraph 12(2) of Schedule 3; and
 - (b) has not satisfied the service conditions in paragraph 14 of Schedule 3.

(1) Reg. 2C was inserted by S.I.1999/2094, reg. 2(1), (3). The status of an EEA firm which has complied with corresponding requirements within the meaning of that regulation is provided for in the Financial Services and Markets Act 2000 (Gibraltar) Order 2001 (S.I. 2001/3084).

(2) If before commencement a notice in accordance with paragraph 2 of Schedule 3 to the ISD Regulations was given by the firm for the purposes of paragraph 1(1)(a) of that Schedule, the notice is to be treated as the notice of intention required by paragraph 14(1)(a) of Schedule 3.

(3) If before commencement a notice and certificate as mentioned in paragraph 8(2)(a) of Schedule 2F to the Insurance Companies Act were received as respects the firm, the notice and certificate are to be treated as the regulator's notice required by paragraph 14(1)(b) of Schedule 3.

EC companies seeking to carry on reinsurance business

98.—(1) This article applies in relation to an EC company (within the meaning of the Insurance Companies Act) which at commencement—

- (a) is seeking to carry on reinsurance business through a branch in the United Kingdom; and
- (b) neither has permission to carry on that activity by virtue of Schedule 4 nor has a Part IV permission to carry it on.

(2) If before commencement the company had, in accordance with paragraph 4(2)(a)(i) of Schedule 2F to the Insurance Companies Act, served a notice of its intention to carry on reinsurance business, the notice is to be treated as an application for permission made under section 40.

(3) Article 9 applies in relation to an application treated under this article as an application under section 40 or 44 as it applies to an application so treated pursuant to a provision in Part II.

Authority's duties as respects incoming firms

99. Where—

- (a) under article 96 or 97 a notice is treated as the consent notice required by paragraph 13(1) of Schedule 3 or the regulator's notice required by paragraph 14(1)(b) of that Schedule; and
- (b) the Authority has before commencement taken action in respect of that notice corresponding to any of the action required by paragraph 13(2) or 14(2) of that Schedule,

the Authority need only take such action (if any) under paragraph 13(2) or 14(2) of that Schedule as, having regard to the action taken before commencement, it considers necessary.

CHAPTER II

UK FIRMS

Establishment of a branch by UK firm

100.—(1) This article applies to a UK firm within the meaning of Schedule 3.

(2) But this article does not apply where the conditions in paragraph 19(2) to (5) of that Schedule are by virtue of article 77 of the Authorised Persons Order treated as satisfied.

(3) If, before commencement—

- (a) a notice in accordance with paragraph 2 of Schedule 6 to the 2BCD Regulations or ISD Regulations was given by the firm for the purposes of paragraph 1(2)(a) of that Schedule; or
- (b) a notice was given by the firm in accordance with paragraph 1(2)(a) of Schedule 2G(2) to the Insurance Companies Act or paragraph 1(2)(a) of Schedule 13B(3) to the Friendly Societies Act,

(2) Schedule 2G was inserted by the 3ID Regulations and has been amended by S.I. 1997/2781.

(3) Schedule 13B was inserted by S.I. 1994/1984 and has been amended by S.I. 1997/2489.

and the case does not fall within paragraph (4), the notice is to be treated as the notice of intention required by paragraph 19(2) of Schedule 3 (and hence as satisfying the first condition for the purposes of paragraph 19(6) and (7)) and, if it was not given to the Authority as required by paragraph 1(2), as having been so given.

(4) The case falls within this paragraph if in response to the notice a notice of refusal was given to the firm under—

- (a) paragraph 4(6) of Schedule 6 to the 2BCD or ISD Regulations; or
- (b) paragraph 1(5) of Schedule 2G to the Insurance Companies Act or of Schedule 13B to the Friendly Societies Act,

and the refusal was not at commencement capable of being reversed on an appeal, a reference to a tribunal or a review as mentioned in paragraph 4(6) of Schedule 6 to the 2BCD or ISD Regulations.

(5) If, before commencement—

- (a) a notice as mentioned in paragraph 3(1) or (2) of Schedule 6 to the 2BCD Regulations was given as respects the firm under paragraph 1(2)(b) of that Schedule;
- (b) a notice as mentioned in paragraph 3 of Schedule 6 to the ISD Regulations was given as respects the firm under paragraph 1(2)(b) of that Schedule; or
- (c) a notice and certificate were given as respects the firm under paragraph 1(2)(b) of Schedule 2G to the Insurance Companies Act or paragraph 1(2)(b) of Schedule 13B to the Friendly Societies Act,

the notice is (or the notice and certificate are) to be treated as the consent notice required by paragraph 19(4) of Schedule 3 and, if given otherwise than by the Authority, as having been given by the Authority.

Provision of services by UK firm

101.—(1) This article applies to a UK firm within the meaning of Schedule 3.

(2) But this article does not apply where—

- (a) the condition in paragraph 20(1) of Schedule 3 is by virtue of article 77(4) of the Authorised Persons Order treated as satisfied; or
- (b) by virtue of article 77(6) of the Authorised Persons Order, the consent notice is deemed to have been given by the Authority under paragraph 20(3A)(a) of Schedule 3 and the notice required by paragraph 20(4B) of that Schedule is deemed to have been received by the firm.

(3) If, before commencement a notice was given by the firm under—

- (a) paragraph 5(2)(a) of Schedule 2G to the Insurance Companies Act; or
- (b) paragraph 5(2)(a) of Schedule 13B to the Friendly Societies Act,

and the case does not fall within paragraph (4), the notice is to be treated as the notice of intention required by paragraph 20(1) of Schedule 3 and, if it was not given to the Authority as required by paragraph 20(1), as having been so given.

(4) The case falls within this paragraph if in response to the notice a notice of refusal was given to the firm under paragraph 5(6) of Schedule 2G to the Insurance Companies Act or paragraph 5(6) of Schedule 13B to the Friendly Societies Act.

(5) If before commencement a notice and certificate were given as respects the firm under paragraph 5(2)(b) of Schedule 2G to the Insurance Companies Act or paragraph 5(2)(b) of Schedule 13B to the Friendly Societies Act, the notice and certificate are to be treated as the consent notice required by paragraph 20(3A)(a) of Schedule 3 and, if given otherwise than by the Authority, as having been given by the Authority.

Status: *This is the original version (as it was originally made).*
