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STATUTORY INSTRUMENTS

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**2018 No. 546**

**The Insurance Distribution (Regulated Activities  
and Miscellaneous Amendments) Order 2018**

**PART 3**

**Amendments to the Act**

**EEA Passport Rights**

17.—(1) Schedule 3 (EEA passport rights) is amended as follows.

(2) In paragraph 1(e) (the single market directives)(1), for “the insurance mediation directive” substitute “the insurance distribution directive”.

(3) For paragraph 4A (the insurance mediation directive)(2) and the heading before it, substitute—

“The insurance distribution directive

**4A.** “The insurance distribution directive” means Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution (recast)(3) as amended by Directive (EU) 2018/411 of the European Parliament and of the Council of 14 March 2018(4).”.

(4) In paragraph 5 (EEA firm), for sub-paragraph (e)(5), substitute—

“(e) an insurance intermediary (as defined in Article 2.1(3) of the insurance distribution directive), an ancillary insurance intermediary (as defined in Article 2.1(4) of that directive) or a reinsurance intermediary (as defined in Article 2.1(5) of that directive), which is registered with its home state regulator under Article 3 of that directive;”.

(5) In paragraph 6(a) (EEA authorisation)(6), for “insurance mediation directive” substitute “insurance distribution directive”.

(6) In paragraph 7A(a) (EEA right)(7), for “insurance mediation directive” substitute “insurance distribution directive”.

(7) In paragraph 10A(a) (UK firm)(8), for “insurance mediation directive” substitute “insurance distribution directive”.

(8) In paragraph 13 (establishment)—

(a) in sub-paragraph (1)(9), in the words before sub-paragraph (a), after “(d)” insert “, (e)”;

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(1) Paragraph 1(e) was inserted by [S.I. 2003/1473](#).

(2) Paragraph 4A was inserted by [S.I. 2003/1473](#).

(3) O.J. 2.2.2016 L 26/19.

(4) O.J. 19.3.2018 L 76/28.

(5) Sub-paragraph (e) was inserted by [S.I. 2003/1473](#).

(6) Paragraph 6 was substituted by [S.I. 2003/1473](#) and amended by [S.I. 2012/1906](#).

(7) Paragraph 7A was inserted by [S.I. 2003/1473](#). There are amendments but none are relevant.

(8) Paragraph 10A was inserted by [S.I. 2003/1473](#). There are amendments but none are relevant.

(9) Sub-paragraph (1) was amended by [S.I. 2003/1473](#), [S.I. 2003/2066](#), [S.I. 2013/1773](#), and [S.I. 2015/910](#).

- (b) after sub-paragraph (1)(c) insert—
- “(ca) in the case of a firm falling within paragraph 5(e), the firm has been informed of the applicable provisions or one month has elapsed beginning with the date on which the appropriate UK regulator received the consent notice”;
- (c) omit sub-paragraph (1A)(**10**);
- (d) in sub-paragraph (2)(b)(**11**), after “5(a)” insert “, (e)”.
- (e) after sub-paragraph (3B)(**12**) insert—
- “(3C) If the appropriate UK regulator has received a consent notice in respect of a firm that falls within paragraph 5(e), it must—
- (a) acknowledge receipt, and
- (b) notify the firm’s home state regulator of the applicable provisions (if any),
- before the end of one month beginning with the day on which the appropriate UK regulator received the consent notice.”.
- (9) In paragraph 14 (services)—
- (a) in sub-paragraph (1)(d)(**13**), for “5(e) or (i)” substitute “5(i)”; and
- (b) after sub-paragraph (3), insert—
- “(3AZA) If the appropriate UK regulator has received a relevant notice in respect of a firm that falls within paragraph 5(e), it must—
- (a) acknowledge receipt, and
- (b) notify the firm’s home state regulator of the applicable provisions (if any).”.
- (10) In paragraph 19 (establishment)—
- (a) in sub-paragraph (5)(a)(**14**), omit “the insurance mediation directive or”;
- (b) after sub-paragraph (5)(a), insert—
- “(aa) if the EEA right in question derives from the insurance distribution directive, that either—
- (i) the host state regulator has notified the appropriate UK regulator of the applicable provisions; or
- (ii) one month has elapsed beginning with the date on which the appropriate UK regulator gave the consent notice;”;
- (c) omit sub-paragraph (5A)(**15**);
- (d) in sub-paragraph (7A)(**16**)—
- (i) in paragraph (a), for “insurance mediation directive”, substitute “insurance distribution directive”;
- (ii) in the wording after paragraph (c), after “consent notice” insert “unless it has reason to doubt the adequacy of the firm’s resources or its administrative structure”; and

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(10) Sub-paragraph (1A) was inserted by [S.I. 2013/1472](#).

(11) Sub-paragraph (2)(b) was amended by [S.I. 2007/126](#) and [S.I. 2015/910](#).

(12) Sub-paragraph (3B) was inserted by [S.I. 2015/910](#).

(13) Sub-paragraph (1)(d) was inserted by [S.I. 2003/1473](#) and amended by [S.I. 2015/910](#) and paragraph 3 of Schedule 4 to the Financial Services Act 2012.

(14) Sub-paragraph (5) was substituted by [S.I. 2003/1472](#) and amended by [S.I. 2015/910](#).

(15) Sub-paragraph (5A) was inserted by [S.I. 2003/1473](#).

(16) Sub-paragraph (7A) was inserted by [S.I. 2003/1473](#) and amended by paragraph 10 of Schedule 4 to the Financial Services Act 2012.

- (e) in sub-paragraph (9)(17), after “Solvency 2 Directive”, insert “, or the insurance distribution directive.”;
  - (f) in sub-paragraph (11), at the beginning insert “Except where paragraph (11ZA) applies.”;
  - (g) after sub-paragraph (11) insert—
    - “(11ZA) If the firm’s EEA right derives from the insurance distribution directive, where the appropriate UK regulator has given a consent notice and the host state regulator has acknowledged receipt of that notice, the appropriate UK regulator must give written notice to the firm concerned that the host state regulator has received the consent notice.”;
  - (h) in sub-paragraph (12A)(18), after paragraph (a) insert—
    - “(aa) if the firm’s EEA right derives from the insurance distribution directive, one month beginning with the date on which the appropriate UK regulator received the notice of intention.”;
- (11) In paragraph 20(3B) (services)(19)—
- (a) in the words before paragraph (a), for the words from “insurance” to “territory” substitute “insurance distribution directive”;
  - (b) at the end of sub-paragraph (a), insert “and”;
  - (c) for paragraph (b), substitute—
    - “(b) when the host state regulator has acknowledged receipt of that copy, the appropriate UK regulator must—
      - (i) give written notice to the firm concerned that the host state regulator has received the notice of intention, and that the firm may begin providing the services to which the notice of intention relates, and
      - (ii) notify the firm concerned of the applicable provisions (if any).”;
  - (d) omit sub-paragraph (c) and the “and” immediately preceding it.
- (12) After paragraph 20(4I)(b) (services)(20), insert—
- “(c) “applicable provisions” means the host state rules with which the firm is required to comply when providing services in the EEA State concerned;
  - (d) “host state rules” means rules—
    - (i) made in accordance with the insurance distribution directive; and
    - (ii) which are the responsibility of the EEA State concerned (both as to implementation and as to supervision and compliance) in accordance with that directive.”.
- (13) In paragraph 25 (information to be included in the public record)(21), for “insurance mediation directive” substitute “insurance distribution directive”.

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(17) Sub-paragraph (9) was amended by [S.I. 2015/575](#).

(18) Sub-paragraph (12A) was inserted by [S.I. 2003/2066](#) and amended by paragraph 10 of Schedule 4 to the Financial Services Act 2012.

(19) Sub-paragraph (3B) was inserted by [S.I. 2003/1473](#) and amended by paragraph 11 of Schedule 4 to the Financial Services Act 2012.

(20) Sub-paragraph (4I) was inserted by [S.I. 2015/575](#).

(21) Paragraph 25 was inserted by [S.I. 2003/1473](#) and amended by paragraph 18 of Schedule 4 to the Financial Services Act 2012 and [S.I. 2015/910](#).