
STATUTORY INSTRUMENTS

2019 No. 589

**The Financial Services (Gibraltar)
(Amendment) (EU Exit) Regulations 2019**

PART 3

Amendments of Financial Services and Markets Act 2000 (Gibraltar) Order 2001

Modification of Passport Rights Regulations in relation to UK firms

10. After article 4 insert—

“The Passport Rights Regulations: UK firms

5.—(1) The Passport Rights Regulations apply in relation to a UK firm with the following further modifications.

(2) Regulation 1(2) is to be read as if in the definition of “tied agent”, for “Article 4.1.29 of the markets in financial instruments directive” there were substituted “ Article 2(11) of Commission Delegated Regulation (EU) 2017/565 supplementing Directive 2014/65/EU of the European Parliament and of the Council as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive ”.

(3) Regulation 17A is to be read as if—

(a) in paragraph (3)(f) after “directive” there were inserted “ (reading that Article as it would have applied immediately before [FIP completion day] to a UK AIFM exercising an EEA right deriving from that directive) ”; and

(b) in paragraph (10)—

(i) in the definition of “depository” for the words from “has” to the end there were substituted “ means a depository appointed in accordance with provision that implemented Article 21 of the alternative investment fund managers directive ”;

(ii) in the definition of “feeder AIF”, after “directive” there were inserted “ (reading references to an AIF as references to an AIF as defined by regulation 3 of the Alternative Investment Fund Managers Regulations 2013) ”;

(iii) for the definition of “implementing provision” there were substituted—

““implementing provision” means—

(a) a provision made in implementation of the alternative investment fund managers directive,

(b) any EU regulation originally made under that directive which is retained direct EU legislation, and

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- (c) any regulations made by the Treasury, or technical standards made by the FCA, under a power substituted for the power of an EU institution to make EU tertiary legislation under that directive,” and
 - (iv) in the definition of “master AIF”, after “directive” there were inserted “ (reading references to an AIF as references to an AIF as defined by regulation 3 of the Alternative Investment Fund Managers Regulations 2013) ”; and
 - (v) in the definition of “retail investor”, for the words from “has the meaning” to the end there were substituted “ means an investor who is not a professional client for the purposes of the markets in financial instruments regulation ”.
- (4) Regulation 19 is to be read as if—
- (a) in paragraph (2)(a), the words “(within the meaning of Article 13(7) of the Solvency 2 Directive)” were omitted; and
 - (b) after paragraph (2) there were inserted—
 - “(3) In paragraph (2)(a) “reinsurance” has the meaning given in Article 13(7) of the Solvency 2 Directive, but reading—
 - (a) references to an insurance undertaking, a reinsurance undertaking or a third country insurance undertaking in accordance with the definitions section 417(1) of the Act, and
 - (b) the reference to a third country reinsurance undertaking in accordance with regulation 2(1) of the Solvency 2 Regulations 2015^{M1}.”

Textual Amendments

F1 Words in reg. 10 substituted (30.12.2020) by [The Financial Services and Economic and Monetary Policy \(Consequential Amendments\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1301\)](#), regs. 1, 3, [Sch. para. 32\(f\)](#)

Modifications etc. (not altering text)

C1 Pts. 2, 3 applied (31.12.2020) by [The Taxes \(Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/689\)](#), regs. 1, [38](#) (with regs. 39-41); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

Commencement Information

I1 Reg. 10 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(3\)](#)

Marginal Citations

M1 [S.I. 2015/575](#).

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Changes and effects yet to be applied to :

- Regulations revoked by [2023 c. 29 Sch. 1 Pt. 2](#)