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STATUTORY INSTRUMENTS

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**2013 No. 439**

**FINANCIAL SERVICES AND MARKETS**

**The Financial Services and Markets Act 2000 (EEA  
Passport Rights) (Amendment) Regulations 2013**

*Made* - - - - 27th February 2013  
*Laid before Parliament* 1st March 2013  
*Coming into force* - - 1st April 2013

The Treasury make the following Regulations in exercise of the powers conferred by paragraphs 13(1C) and 17(za) of Schedule 3, and paragraph 3A of Schedule 4, to the Financial Services and Markets Act 2000(1).

**Citation and commencement**

1. These Regulations may be cited as the Financial Services and Markets Act 2000 (EEA Passport Rights) (Amendment) Regulations 2013 and come into force on 1st April 2013.

**Amendments to the Financial Services and Markets Act 2000 (EEA Passport Rights) Regulations**

2.—(1) The Financial Services and Markets Act 2000 (EEA Passport Rights) Regulations 2001(2) are amended as follows.

(2) After regulation 2 (establishment of a branch: contents of consent notice), insert—

**“Prescribed cases: establishment**

2A.—(1) The case in paragraph (2) is prescribed for the purposes of paragraph 13(1C) of Schedule 3 to the Act (establishment).

(2) The case is the receipt by the FCA of a consent notice in respect of an investment firm to which the obligation in Article 9 of Directive 2006/49/EC of the European Parliament and of

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(1) 2000 c.8 (“FSMA 2000”). Paragraph 13(1C) of Schedule 3 was inserted by the Financial Services Act 2012 (c.21) (“the 2012 Act”), Schedule 4, Part 1, paragraph 2; paragraph 17(za) of Schedule 3 was inserted by the 2012 Act, Schedule 4, Part 1, paragraph 7; and paragraph 3A of Schedule 4 was inserted by the 2012 Act, Schedule 4, Part 2, paragraph 24. Paragraphs 13(1C) refers to “prescribed cases”; section 417 of FSMA 2000 defines “prescribed” as meaning prescribed in regulations made by the Treasury; section 428 of FSMA 2000 provides that a power to make regulations under that Act is exercisable by statutory instrument.

(2) S.I. 2001/2511. There are amending instruments but none is relevant.

the Council on the capital adequacy of investment firms and credit institutions<sup>(3)</sup> (investment firms which are required to have initial capital of EUR 730,000) applies, where the investment firm intends to provide services or activities in the United Kingdom which consist of or include dealing on its own account.”.

(3) After regulation 3 (provision of services: contents of regulator’s notice), insert—

**“Notice of qualification for authorisation**

**3A.** The appropriate UK regulator<sup>(4)</sup> must notify the other regulator when an EEA firm qualifies for authorisation where—

- (a) the PRA is the appropriate regulator;
- (b) the FCA is the appropriate regulator and the EEA firm intends to carry on a PRA-regulated activity in the United Kingdom.”.

(4) After regulation 19, insert—

**“PART 3A  
TREATY FIRMS**

**Notice of qualification for authorisation**

**19A.** The appropriate UK regulator<sup>(5)</sup> must notify the other regulator when a Treaty firm qualifies for authorisation where—

- (a) the PRA is the appropriate regulator;
- (b) the FCA is the appropriate regulator and the EEA firm intends to carry on a PRA-regulated activity in the United Kingdom.”.

27th February 2013

*Desmond Swayne*  
*David Evennett*  
Two of the Lords Commissioners of Her  
Majesty’s Treasury

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(3) OJ L 177, 30.6.2006, p.201.

(4) Paragraph 13(4) of Schedule 3, as amended by the 2012 Act, Schedule 4, Part 1, paragraph 2, defines “the appropriate UK regulator” as whichever of the FCA and the PRA is the competent authority for the purposes of the relevant single market directive.

(5) Paragraph 3(2A) of Schedule 4, as amended by the 2012 Act, Schedule 4, Part 2, paragraph 23, defines “the appropriate UK regulator” as the PRA, where any of the activities to which a notification under paragraph 3(2) relates is a PRA-regulated activity, and the FCA in any other case.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Financial Services and Markets Act 2000 (EEA Passport Rights) Regulations 2001.

Regulation 2 prescribes the cases in which the Financial Conduct Authority must give the Prudential Regulation Authority copies of notices relating to the exercise of rights by EEA firms under single market directives to establish a branch in the United Kingdom, and requires the Financial Conduct Authority and the Prudential Regulation Authority to notify each other when an EEA firm or a non-UK firm exercising other Treaty rights qualifies for authorisation under the Financial Services and Markets Act 2000.

A full impact assessment of the effect that these Regulations will have on the costs of business and the voluntary sector is available from, Her Majesty's Treasury, 1 Horse Guards Road, London SW1A 2HQ or on <http://www.hm-treasury.gov.uk/> and is published alongside the Regulations on <http://www.legislation.gov.uk/>.