Chapter 14

Incoming EEA firms changing details, and cancelling qualification for authorisation
14.1 Application and purpose

Application

This chapter applies to an incoming EEA firm which has established a branch in, or is providing cross border services into, the United Kingdom under one of the Single Market Directives or the auction regulation and, therefore, qualifies for authorisation under Schedule 3 to the Act. The chapter does not apply to an EEA firm that is a Solvency II firm or to Gibraltar firms treated as such Solvency II firms. Solvency II firms and such Gibraltar firms should consult the relevant parts of the PRA Rulebook and the PRA website at: http://www.bankofengland.co.uk/pra/Pages/authorisations/passporting/notifying.aspx as the PRA is the appropriate UK regulator.

14.1.1A The guidance in ■ SUP 14.2 and ■ SUP 14.3 covers the EEA Passport Rights Regulations. It is not, however, relevant to an EEA firm exercising an EEA right under the auction regulation, except for ■ SUP 14.2.14 R which applies a separate notification requirement. Additionally, where an EEA firm is carrying on MiFID business bidding, that firm is exercising an EEA right under MiFID and so this chapter applies to that activity because it is MiFID business.

14.1.2 ■ SUP 14.6 (Cancelling qualification for authorisation), which sets out how to cancel qualification for authorisation under the Act, also applies to:

(1) an incoming Treaty firm that qualifies for authorisation under Schedule 4 to the Act; and

(2) a UCITS qualifier that is an authorised person under Schedule 5 to the Act; a UCITS qualifier should, however, refer to ■ COLLG 3.1.11 G for full details of applicable rules and guidance.

14.1.3 (1) Under the Gibraltar Order made under section 409 of the Act, a Gibraltar firm is treated as an EEA firm under Schedule 3 to the Act if it is:

(a) [deleted]

(aa) [deleted]

(b) authorised in Gibraltar under the CRD; or;

(c) authorised in Gibraltar under the IDD; or

(d) authorised in Gibraltar under MiFID; or

(e) authorised in Gibraltar under the UCITS Directive; or

(f) authorised in Gibraltar under AIFMD.
(g) authorised in Gibraltar under the MCD

(1A) Similarly, an EEA firm which:

(a) has satisfied the Gibraltar establishment conditions and has established a branch in the UK; or

(b) has satisfied the Gibraltar service conditions and is providing cross border services into the UK;

is treated as having satisfied the establishment conditions or service conditions (as appropriate) under Schedule 3 to the Act.

(2) Credit institutions, insurance intermediaries, investment firms, management companies, AIFMs and MCD credit intermediaries are allowed to passport their services into the United Kingdom if they comply with the relevant notification procedures. So, any references in SUP 14 to EEA State or EEA right include references to Gibraltar and the entitlement under the Gibraltar Order where appropriate.

Purpose

This chapter gives guidance on the Act and the EEA Passport Rights Regulations made under the Act, for an incoming EEA firm which has established a branch in, or is providing cross border services into, the United Kingdom and wishes to change the details of the branch or cross border services.

[Note: An EEA bank is required to comply with the requirements set out in the directly applicable regulations adopted under Articles 35, 36 and 39 CRD.]

This chapter also explains how an incoming EEA firm, an incoming Treaty firm or a UCITS qualifier may cancel its qualification for authorisation under the Act.

This chapter does not, however, give guidance on the procedures for the establishment of a branch in, or the providing of cross border services into, the United Kingdom for the first time. So, an incoming EEA firm that wishes to change or supplement the nature of its operations in the United Kingdom from the providing of cross border services to the establishment of a branch (or vice versa) should refer to SUP 13A (Qualifying for authorisation under the Act).

In addition, the chapter does not give guidance on the procedures for making an application for top-up permission, to carry on regulated activities in the United Kingdom which are outside the scope of the Single Market Directives and for which the firm cannot exercise Treaty rights. Incoming EEA firms seeking a top-up permission should refer to SUP 13A.

The FCA and PRA will share with each other relevant information received, as necessary, in order to perform their respective functions.