
STATUTORY INSTRUMENTS

2017 No.

FINANCIAL SERVICES AND MARKETS

**The Insurance Distribution (Regulated Activities and
Miscellaneous Amendments) Order 2017**

<i>Made</i>	- - - -	***
<i>Laid before Parliament</i>		***
<i>Coming into force</i>	- -	***

The Treasury are a government department designated^(a) for the purposes of section 2(2) of the European Communities Act 1972^(b) in relation to financial services.

The Treasury make this Order in exercise of the powers conferred on them by section 2(2) of the European Communities Act 1972 and sections 22(1) and (5), 409(1), 426 and 428(3) of, and paragraph 25 of Schedule 2 to, the Financial Service and Markets Act 2000^(c).

PART 1

General

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Insurance Distribution (Regulated Activities and Miscellaneous Amendments) Order 2017 and comes into force on [x].

(2) In this Order—

“the Act” means the Financial Services and Markets Act 2000;

“the principal Order” means the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001^(d).

^(a) S.I. 2012/1759.

^(b) 1972 c. 68. Section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c. 51) and the European Union (Amendment) Act 2008 (c. 7), Schedule Part 1.

^(c) Paragraph 25 of Schedule 2 was amended by the Financial Services Act 2012 (c. 21).

^(d) S.I. 2001/544.

PART 2

Amendments to the principal Order

Amendments to the principal Order

2. This Part amends the principal Order.

Specified activities: general

3.—(1) In article 4 (specified activities: general)—

(a) for paragraph (4A) substitute—

“(4A) Where a person, other than an ancillary insurance intermediary carrying out insurance distribution activities falling within Article 1.3 of the insurance distribution directive (the text of which is set out in Part 1 of Schedule 4)—

(a) for remuneration, takes up or pursues insurance distribution, or reinsurance distribution, in relation to a risk or commitment located in an EEA State; and

(b) in doing so would be treated as carrying on an activity of a specified kind by a provision of this Part but for an exclusion in any of articles 30, 66, 67 and 72AA,

that exclusion is to be disregarded (and accordingly that person is to be treated as carrying on an activity of the kind specified by the provision in question).”

(b) for paragraph (5) substitute—

“(5) In this article—

“ancillary insurance intermediary” has the meaning given by Article 2.1(4) of the insurance distribution directive, the text of which is set out in Part 2 of Schedule 4;

“insurance distribution” has the meaning given by Articles 2.1(1) and 2.2, of the insurance distribution directive, the text of which are set out in Parts 2 and 3 of Schedule 4, respectively; and

“reinsurance distribution” has the meaning given by Articles 2.1(2) and 2.2, of the insurance distribution directive, the text of which are set out in Parts 2 and 3 of Schedule 4, respectively.”

Activities: arranging deals in investments – exclusions

4. In article 33 (introducing), at the end of paragraph (d), insert “(unless those arrangements constitute the provision of information which meets the requirements of article 33B (provision of information – contracts of insurance))”.

5. After article 33A (introducing to authorised persons etc.) insert—

“Provision of information – contracts of insurance

33B.—(1) There is excluded from article 25(1) and (2) (arranging deals in investments) the making of arrangements for, or with a view to, a transaction for the sale or purchase of a contract of insurance, or an investment of the kind specified by article 89 so far as is relevant to such a contract, where that activity meets the conditions specified in paragraphs (2) and (3).

(2) The conditions specified in this paragraph are that the activity—

(a) consists of the provision of information about a potential policyholder, to a relevant insurer or an insurance intermediary, or

(b) consists of the provision of information to a potential policyholder about—

(i) a contract of insurance, or investment of the kind specified in article 89 so far as is relevant to such a contract, or

(ii) a relevant insurer or insurance intermediary.

(3) The condition specified in this paragraph is that the provider of the information does not take any step other than the provision of information to assist in the conclusion of a contract of insurance.

(4) In this article—

“insurance distribution activity” has the meaning given in article 92 (interpretation of Part 5);

“insurance intermediary” means—

- (a) a person who has Part 4A permission to carry on insurance distribution activity;
- (b) an EEA firm falling within paragraph 5(e) of Schedule 3 to the Act; and
- (c) a recorded insurance intermediary within the meaning of article 93(4) (duty to maintain a record of unauthorised persons carrying on insurance distribution activities);

“relevant insurer” has the meaning given in article 39B(2) (claims management on behalf of an insurer etc.).”.

Activities carried on by a provider of relevant goods or services – exclusions

6. In article 72B(1) (activities carried on by a provider of relevant goods or services)—

- (a) in the definition of “connected contract of insurance”—
 - (i) omit paragraph (b);
 - (ii) for paragraph (c), substitute—
 - “(c) has a premium of —
 - (i) 600 euro or less (calculated on a pro rata annual basis), or
 - (ii) where the insurance is complementary to a service being provided by the provider and the duration of that service is equal to or less than three months, 200 euro or less,
 - or equivalent amounts of sterling or another currency;”;
 - (iii) at the end of paragraph (d)(i), omit “or”;
 - (iv) after paragraph (d)(i), insert—
 - “(ia) the non-use of services supplied by the provider; or”;
 - (v) at the end of paragraph (e), add “and”;
 - (vi) omit paragraph (g) and the “and” immediately preceding it;
- (b) in the definition of “provider”, for “non-motor goods”, substitute “non-motor goods or services”.

Unauthorised persons carrying on insurance distribution activities

7.—(1) Part 5 (unauthorised persons carrying on insurance mediation activities) of the principal Order is amended as follows.

(2) In the heading, for “Mediation”, substitute “Distribution”.

(3) In article 92 (interpretation), in the definition of “insurance mediation activity”, for “mediation”, substitute “distribution”.

(4) In article 93 (duty to maintain a record of persons carrying on insurance mediation activities)—

- (a) for “mediation”, in each place it occurs, substitute “distribution” (including in the heading); and
- (b) after paragraph (3), insert—

“(3A) An application for inclusion in the record made of a person who falls within paragraph (2) or (3) must be determined by the FCA before the end of the period of 3 months beginning with the date on which it received the completed application.

(3B) For the purposes of paragraph (3A), an application includes a notification by a designated professional body in accordance with article 94.”.

(5) In article 94 (members of designated professional bodies) for “mediation”, in each place it occurs, substitute “distribution”.

(6) In article 95 (exclusion from record where not fit and proper to carry on insurance mediation activities), in the heading, and in paragraph (1), for “mediation”, substitute “distribution”.

(7) In article 96 (exclusion from the record where FCA has exercised its powers under Part XX of the Act), in paragraphs (2) and (3), for “mediation”, substitute “distribution”.

Relevant text of the insurance distribution directive

8. For Schedule 4, substitute—

“SCHEDULE 4

Relevant Text of the Insurance Distribution Directive

Article 4

PART 1

Article 1.3

“This Directive shall not apply to ancillary insurance intermediaries carrying out insurance distribution activities where all the following conditions are met—

- (a) the insurance is complementary to the good or service supplied by the provider, where such insurance covers—
 - (i) the risk of breakdown, loss of, or damage to, the good or the non-use of service supplied by the provider; or
 - (ii) damage to, or loss of, baggage and other risks linked to travel booked with that provider;
- (b) the amount of the premium paid for the insurance product does not exceed EUR 600 calculated on a *pro rata* annual basis;
- (c) by way of derogation from point (b), where the insurance is complementary to a service referred to in point (a) and the duration of that service is equal to, or less than, three months, the amount of the premium paid per person does not exceed EUR 200.”

PART 2

Article 2.1(1)

“For the purposes of this Directive “insurance distribution” means the activities of advising on, proposing, or carrying out other work preparatory to the conclusion of contracts of insurance, of concluding such contracts, or of assisting in the administration and performance of such contracts, in particular in the event of a claim, including the provision of information concerning one or more insurance contracts in accordance with criteria selected by customers through a website or other media and the compilation of an insurance product ranking list, including price and product comparison, or a discount on the price of

an insurance contract, when the customer is able to directly or indirectly conclude an insurance contract using a website or other media.”

Article 2.1(2)

“For the purposes of this Directive “reinsurance distribution” means the activities of advising on, proposing, or carrying out other work preparatory to the conclusion of contracts of reinsurance, of concluding such contracts, or of assisting in the administration and performance of such contracts, in particular in the event of a claim, including when carried out by a reinsurance undertaking without the intervention of a reinsurance intermediary.”

Article 2.1(4)

““ancillary insurance intermediary” means any natural or legal person, other than a credit institution or an investment firm as defined in points (1) and (2) of Article 4(1) of Regulation (EU) No 575/2013 of the European Parliament and of the Council, who, for remuneration, takes up or pursues the activity of insurance distribution on an ancillary basis, provided that all the following conditions are met—

- (a) the principal professional activity of that natural or legal person is other than insurance distribution;
- (b) the natural or legal person only distributes certain insurance products that are complementary to a good or service;
- (c) the insurance products concerned do not cover life assurance or liability risks, unless that cover complements the good or service which the intermediary provides as its principal professional activity.”

PART 3

Article 2.2

“For the purposes of points (1) and (2) of paragraph 1, the following shall not be considered to constitute insurance distribution or reinsurance distribution—

- (a) the provision of information on an incidental basis in the context of another professional activity where—
 - (i) the provider does not take any additional steps to assist in concluding or performing an insurance contract;
 - (ii) the purpose of that activity is not to assist the customer in concluding or performing a reinsurance contract;
- (b) the management of claims of an insurance undertaking or of a reinsurance undertaking on a professional basis, and loss adjusting and expert appraisal of claims;
- (c) the mere provision of data and information on potential policyholders to insurance intermediaries, reinsurance intermediaries, insurance undertakings or reinsurance undertakings where the provider does not take any additional steps to assist in the conclusion of an insurance or reinsurance contract;
- (d) the mere provision of information about insurance or reinsurance products, an insurance intermediary, a reinsurance intermediary, an insurance undertaking or a reinsurance undertaking to potential policyholders where the provider does not take any additional steps to assist in the conclusion of an insurance or reinsurance contract.””

PART 3

Amendments to the Act

Amendments to the Act

9. This Part amends the Act.

Applications under Part 4A

10.—(1) In section 55R (persons connected with an applicant), in subsection (2)(a), after “insurance”, insert “, ancillary insurance”.

(2) In section 55V (determination of applications), after subsection (8), insert—

“(9) In the case of an application which—

- (a) is for a Part 4A permission or a variation of a Part 4A permission, and
 - (b) relates only to the undertaking of insurance distribution activity,
- subsection (1) has effect as if the reference to “6 months” were to “3 months”.

(10) In this section, “insurance distribution activity” means any of the following activities—

- (a) dealing in rights under a contract of insurance as agent;
- (b) arranging deals in rights under a contract of insurance;
- (c) assisting in the administration and performance of a contract of insurance;
- (d) advising on buying or selling rights under a contract of insurance;
- (e) agreeing to do any of the activities specified in paragraphs (a) to (d).

(11) Subsection (10) must be read with—

- (a) section 22,
- (b) any relevant order under that section, and
- (c) Schedule 2.”.

Financial promotion rules

11. In section 137R (financial promotion rules), in subsection (5)(b)—

- (a) at the end of sub-paragraph (iii), omit “or”; and
- (b) after sub-paragraph (iv) insert—

“or,

- (v) Article 17 of the insurance distribution directive.”.

Incoming firms: appropriate regulator primarily responsible for securing compliance

12. After section 194C (contravention by relevant EEA firm with UK branch of requirement in mortgages directive: appropriate regulator primarily responsible for securing compliance), insert—

“Contravention by relevant EEA firm of requirement in insurance distribution directive: appropriate regulator primarily responsible for securing compliance

194D.—(1) This section applies if—

- (a) a relevant EEA firm has a branch in the United Kingdom; and

- (b) the appropriate regulator ascertains that the firm has contravened, or is contravening, a requirement to which Article 8.1 of the insurance distribution directive applies.

(2) The appropriate regulator may exercise its powers of intervention in respect of the relevant EEA firm.

(3) Subsection (2) applies whether or not the appropriate regulator's power of intervention is also exercisable as a result of section 194, 195 or 195C.

(4) If the appropriate regulator exercises its power in respect of the relevant EEA firm by virtue of subsection (2), it must notify the home state regulator, the Commission and EIOPA without undue delay of—

- (a) the fact that the appropriate regulator has exercised that power in respect of that firm;
- (b) any requirements it has imposed on the firm in exercise of the power; and
- (c) the reasons for the exercise of that power.

(5) In this section—

“appropriate regulator” means—

- (a) where the relevant EEA firm is a PRA-authorized person, the FCA or the PRA;
- (b) in any other case, the FCA;

“relevant EEA firm” means an EEA firm falling within paragraph 5(e) of Schedule 3 which is exercising in the United Kingdom an EEA right deriving from the insurance distribution directive.”

Division of competence between home and host state regulators

13. After section 195B (contravention by relevant EEA firm of requirement in mortgages directive: home state regulator primarily responsible for securing compliance), insert—

“Contravention by relevant EEA firm of requirement in insurance distribution directive: home state regulator primarily responsible for securing compliance

195C.—(1) This section applies if the appropriate regulator has reason to believe that a relevant EEA firm has contravened, or is contravening, a requirement to which Article 5.1 or 8.2 of the insurance distribution directive applies, unless that firm is the subject of an agreement under section 203A (in which case, the provisions in that agreement apply).

(2) The appropriate regulator must notify the relevant EEA firm's home state regulator of the situation mentioned in subsection (1).

(3) The notice under subsection (2) must—

- (a) request that the home state regulator take all appropriate measures for the purpose of ensuring that the relevant EEA firm puts an end to the contravention;
- (b) state that the appropriate regulator's power of intervention is likely to become exercisable in relation to the relevant EEA firm if it continues the contravention; and
- (c) indicate any requirements that the appropriate regulator proposes to impose on the relevant EEA firm in exercise of its power of intervention in the event of the power becoming exercisable.

(4) The appropriate regulator may exercise its power of intervention in respect of the relevant EEA firm if—

- (a) a reasonable period of time has elapsed since the giving of the notice under subsection (3), and
- (b) conditions A to C are satisfied.

(5) Condition A is that—

- (i) the home state regulator of the relevant EEA firm has failed or refused to take measures for the purpose mentioned in subsection (3)(a), or
- (ii) any measures taken by the home state regulator have proved inadequate for that purpose.

(6) Condition B is that the relevant EEA firm is acting in a manner which is clearly prejudicial to the interests of consumers in the United Kingdom or to the orderly functioning of the markets.

(7) Condition C is that the appropriate regulator has informed the home state regulator of the relevant EEA firm of its intention to exercise its powers of intervention in respect of the firm.

(8) Subsection (4) applies whether or not the appropriate regulator's power of intervention is also exercisable as a result of section 194, 194D or 195.

(9) If circumstances exist which enable the appropriate regulator to exercise its power of intervention under subsection (4), the appropriate regulator may refer the matter to EIOPA and request its assistance in accordance with Article 19 of Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority).

(10) If the appropriate regulator exercises its power of intervention in respect of the relevant EEA firm by virtue of subsection (4), it must notify the home state regulator, the Commission and EIOPA, without undue delay of—

- (a) the fact that the appropriate regulator has exercised that power in respect of that firm;
- (b) any requirements it has imposed on the firm in exercise of the power; and
- (c) the reasons for the exercise of that power.

(11) Subsection (2) is not to be regarded as requiring the PRA to notify the home state regulator in relation to the situation mentioned in subsection (1) in a case where the PRA is satisfied that the FCA is required to act, and is acting, or has acted, under subsection (2) in relation to that situation.

(12) In this section—

“appropriate regulator” means—

- (a) where the relevant EEA firm is a PRA-authorized person, the FCA or, subject to subsection (11), the PRA;
- (b) in any other case, the FCA;

“relevant EEA firm” means an EEA firm falling within paragraph 5(e) of Schedule 3 which is exercising in the United Kingdom an EEA right deriving from the insurance distribution directive.”

Agreements between regulators to exercise enhanced supervision

14. After Part 13 (incoming firms: intervention by FCA or PRA) insert—

“PART 13A

Enhanced supervision of firms exercising rights under the Insurance Distribution Directive

Insurance distribution directive: enhanced supervision of EEA firms by UK regulators

203A.—(1) The appropriate regulator may agree with a relevant EEA firm’s home state regulator that the appropriate regulator may exercise relevant functions in relation to the firm.

(2) The appropriate regulator must notify the firm and EIOPA of the agreement without delay.

(3) Subsection (2) does not require the PRA to notify the firm and EIOPA where the PRA is satisfied that the FCA is required to do so, or has done so, or will do so.

(4) An agreement under subsection (1)—

- (a) must specify which relevant functions the appropriate regulator may exercise in relation to the firm;
- (b) may specify which relevant functions may be exercised by the appropriate regulator in collaboration with the home state regulator.

(5) The appropriate regulator may exercise relevant functions in relation to the firm in accordance with the agreement, as if the firm were a UK firm.

(6) In this section—

“appropriate regulator” means—

- (a) where the relevant EEA firm is a PRA-authorized person, the FCA or, subject to subsection (3), the PRA;
- (b) in any other case, the FCA;

“relevant functions” means any functions that may be exercised by the appropriate regulator in relation to a UK firm, that exist to implement, or enable to be implemented, obligations in Chapters IV to VI of the insurance distribution directive (or any functions that exist to deal with matters arising out of, or related to, any such obligations);

“primary place of business”, in relation to a firm, means the location from where the main business of the firm is managed;

“relevant EEA firm” means an EEA firm falling within paragraph 5(e) of Schedule 3 which is exercising in the United Kingdom an EEA right deriving from the insurance distribution directive and whose primary place of business is the UK; and

“UK firm” has the meaning given in paragraph 10 of Schedule 3.

Insurance distribution directive: enhanced supervision of UK firms by an EEA regulator

203B.—(1) This section applies where—

- (a) a UK firm is exercising a right derived from the insurance distribution directive in an EEA State other than the UK, and
- (b) that EEA State is the firm’s primary place of business.

(2) The appropriate regulator may agree with the host state regulator for that EEA State that the host state regulator may exercise relevant functions in relation to the UK firm.

(3) In this section—

“appropriate regulator” means—

- (a) where the relevant UK firm is a PRA-authorized person, the FCA or the PRA;

(b) in any other case, the FCA;

“relevant functions” means any functions that may be exercised by the host state regulator in relation to a firm for whom that regulator is its home state regulator, that exist to implement, or enable to be implemented, obligations in Chapters IV to VI of the insurance distribution directive (or any functions that exist to deal with matters arising out of, or related to, any such obligations);

“host state regulator” has the meaning given in paragraph 11 of Schedule 3;

“primary place of business”, in relation to a firm, means the location from where the main business of the firm is managed;

“UK firm” means a UK firm, as defined in paragraph 10 of Schedule 3.

Modification or waiver of rules where firm subject to enhanced supervision

203C.—(1) Where a firm is subject to an agreement under section 203A or 203B, the appropriate regulator may direct that all or any of its rules—

(a) do not apply to that firm, or

(b) apply to that firm with such modifications as may be specified in the direction.

(2) The appropriate regulator may not give a direction unless it is satisfied that—

(a) compliance by the firm with the rules, or with the rules as unmodified, would not give effect to the agreement under section 203A or 203B (as the case may be), and

(b) the direction would not adversely affect the advancement of any of the appropriate regulator’s objectives.

(3) In subsection (2)(b) “objectives”, in relation to the FCA, means operational objectives.

(4) The appropriate regulator may—

(a) revoke a direction, or

(b) vary it on the application, or with the consent, of the firm to which it relates.

(5) In this section, “appropriate regulator” means—

(a) where the firm is a PRA-authorized person, the FCA or the PRA;

(b) in any other case, the FCA.

Publication of directions under section 203C

203D.—(1) Subject to subsection (2), a direction under section 203C must be published by the appropriate regulator in the way appearing to the appropriate regulator to be the best calculated for bringing it to the attention of—

(a) persons likely to be affected, and

(b) persons who are, in the opinion of the appropriate regulator, likely to be subject to a similar direction.

(2) Subsection (1) does not apply if the appropriate regulator is satisfied that it is inappropriate or unnecessary to publish the direction.

(3) In deciding whether to publish the direction, the appropriate regulator must consider whether publication—

(a) would be detrimental to the stability of the UK financial system,

(b) would prejudice, to an unreasonable degree, the commercial interests of the person concerned, or

(c) would be contrary to an international obligation of the United Kingdom.

(4) In this section “appropriate regulator” means—

(a) where the firm is a PRA-authorized person, the FCA or the PRA;

- (b) in any other case, the FCA.”

Publication

15. After section 391C, insert—

“Publication: special provisions relating to the insurance distribution directive

391D.—(1) This section applies where a supervisory notice, decision notice or final notice relates to the imposition of a sanction or measure to which Article 32 of the insurance distribution directive applies.

(2) Where a regulator publishes information under section 391(4) or (5) about a matter to which a decision notice or supervisory notice relates and the person to whom the notice is given refers the matter to the Tribunal, the regulator must, without undue delay, publish on its official website information about the status of the appeal and its outcome.

(3) Subject to subsection (4), where the regulator gives a final notice, it must, without undue delay, publish on its official website information on the type and nature of the breach and the identity of the person on whom the sanction or measure is imposed.

(4) The regulator may publish the information anonymously, defer publication of the information or withhold some, or all, of the information where—

- (a) following an obligatory prior assessment, the regulator considers that publication of the identity of the person, or any personal data, would be disproportionate; or
- (b) the regulator considers that publication would jeopardise the stability of financial markets or an ongoing investigation.

(5) The regulator must—

- (a) inform EIOPA of all sanctions or measures imposed to which Article 32 of the insurance distribution directive applies (whether or not information about such matters is published) and all appeals against such a sanction or measure and the outcome of any appeals, without delay; and
- (b) provide EIOPA annually with aggregate information about all such sanctions or measures imposed.

(6) In this section “supervisory notice” has the same meaning as in section 395.”.

EEA Passport Rights

16.—(1) Schedule 3 (EEA Passport Rights) is amended as follows.

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

(3) For paragraph 4A, 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).”

(4) In paragraph 5 (EEA firm), for sub-paragraph (e), 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), for “insurance mediation directive” substitute “insurance distribution directive”.

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

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

(8) After paragraph 13(1A)(b) (establishment), insert—

“(ba) the regulator’s notice contains such other information as may be prescribed;”.

(9) In paragraph 13(2) (establishment), after paragraph (3B) insert—

“(3C) If the appropriate UK regulator has received a regulator’s 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 the period of one month beginning with the day on which the appropriate UK regulator received the regulator’s notice.”.

(10) In paragraph 14 (services)—

(a) in sub-paragraph (1)(d), 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).”.

(11) In paragraph 19 (establishment)—

(a) in sub-paragraph (5)(a), 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);

(d) in sub-paragraph (7A)—

(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

(e) in sub-paragraph (9), after “Solvency 2 Directive”, insert “; or the insurance distribution directive,”;

(f) in sub-paragraph (12A), 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;”.

(12) In paragraph 20(3B) (services)—

(a) in the words before paragraph (a)—

(i) for “insurance mediation directive”, substitute “insurance distribution directive”; and

(ii) omit the words after “directive” (in the first place it occurs);

(b) at the end of sub-paragraph (a), insert “and”;

- (c) for paragraph (b), substitute—
 - “(b) the appropriate UK regulator, when it sends the copy in accordance with sub-paragraph (a), must—
 - (i) give written notice to the firm concerned that it has done so 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);
- (e) after paragraph 20(4I)(b) (services), 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, for “insurance mediation directive” substitute “insurance distribution directive”.

Miscellaneous

17.—(1) In section 328 (directions in relation to the general prohibition), in subsection (6)(b), for “insurance mediation directive”, substitute “insurance distribution directive”.

(2) In section 417(1) (definitions) after the definition of “EBA” insert—

““EIOPA” means the European Insurance and Occupational Pensions Authority established by Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority);”

(3) In section 425 (expressions relating to authorisation elsewhere in the single market), in subsection (1)(a), for “insurance mediation directive”, substitute “insurance distribution directive”.

(4) In paragraph 2B of Schedule 6 (threshold conditions: location of offices), in sub-paragraphs (4) and (5) for “mediation” substitute “distribution”.

PART 4

Amendments to Instruments Made Under the Act

Amendment to the Financial Services and Markets Act 2000 (Carrying on Regulated Activities by Way of Business) Order 2001

18. In the Financial Services and Markets Act 2000 (Carrying on Regulated Activities by Way of Business) Order 2001(a), in article 3 (investment business), in paragraphs (4) and (5) for “mediation” substitute “distribution”.

Amendment to the Financial Services and Markets Act 2000 (Compensation Scheme: Electing Participants) Regulations 2001

19. In the Financial Services and Markets Act 2000 (Compensation Scheme: Electing Participants) Regulations 2001(a), in regulation 1(2) (interpretation), for the definition of “insurance intermediary”, substitute—

(a) S.I. 2001/1177

““insurance intermediary” means 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 the insurance distribution directive) or a reinsurance intermediary (as defined in Article 2.1(5) of the insurance distribution directive);”.

Amendment to the Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001

20. In the Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001**(b)**, in regulation 2 (interpretation), in the definition of “single market restrictions”, for “article 9 of the insurance mediation directive”, substitute “article 13 of the insurance distribution directive”.

Amendment to the Financial Services and Markets Act 2000 (EEA Passport Rights) Regulations 2001

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

(2) In regulation 2 (establishment of a branch: contents of consent notice)—

(a) in paragraph (1)—

- (i) for “paragraph 13(1)(b)(iii)” substitute “paragraphs 13(1)(b)(iii) and 13(1A)(b)”; and
- (ii) after “paragraph 13(1)(a) of Schedule 3” insert “or to be included in a regulator’s notice given to the appropriate UK regulator pursuant to paragraph 13(1A)(b) of Schedule 3 (as the case may be); and

(b) after paragraph (8), insert—

“(9) In the case of an insurance intermediary, the prescribed information is—

- (a) a statement that the firm is an insurance intermediary;
- (b) the requisite details of the branch, including the name, address, and where applicable, the registration number of the firm;
- (c) category of intermediary and if applicable, the name of any insurance or reinsurance undertaking represented; and
- (d) if applicable, the relevant classes of insurance.”

(3) In regulation 3 (provision of services: contents of regulator’s notice), for paragraph (4) substitute—

“(4) In the case of an insurance intermediary, the prescribed information is—

- (a) a statement that the firm is an insurance intermediary;
- (b) the firm’s name, address and where applicable, its registration number;
- (c) category of intermediary and if applicable, the name of any insurance or reinsurance undertaking represented;
- (d) the Member State or Member States in which the intermediary intends to operate; and
- (e) particulars of the services to be carried on including, if applicable, the relevant classes of insurance.”

(4) After regulation 17B (UK firm exercising an EEA right under the mortgages directive: changes to branch details or services), insert—

(a) S.I. 2001/1783
(b) S.I. 2001/2188
(c) S.I. 2001/2511.

“UK firm exercising an EEA right under the insurance distribution directive: changes to branch details or services

17C.—(1) A UK firm which has exercised an EEA right deriving from the insurance distribution directive to establish a branch or provide services must not make any material change to the requisite details of the branch or to the services to be provided in exercise of that EEA right unless the requirements of paragraph (2) have been complied with.

(2) The requirements are that—

- (a) the UK firm has given a notice to the appropriate UK regulator stating the details of the proposed change, and
- (b) the period of one month beginning with the date on which the UK firm gave the notice has elapsed.

(3) The appropriate UK regulator must, as soon as reasonably practicable, and in any event within a period of one month beginning with the date on which the notice under paragraph (2)(a) was received, inform the host state regulator of the proposed change.

(4) Paragraph (1) does not apply to a change occasioned by circumstances beyond the UK firm’s control.”

Amendment to the Financial Services and Markets Act 2000 (Gibraltar) Order 2001

22. In the Financial Services and Markets Act 2000 (Gibraltar) Order 2001(a), in article 2(3A), for “mediation” substitute “distribution”.

PART 5

Amendments to other Acts

Amendments to the Terrorism Act 2000

23. In Schedule 3A of the Terrorism Act 2000(b)—

- (a) in paragraph 1(1)(f) (business in the regulated sector), for “Article 2(5) of the Insurance Mediation Directive, other than a tied insurance intermediary as mentioned in Article 2(7) of that Directive” substitute “Article 2.1(3), and an ancillary insurance intermediary as defined in Article 2.1(4), of the Insurance Distribution Directive”; and
- (b) in paragraph 3(1) (interpretation)—
 - (i) omit the definition of “Insurance Mediation Directive”; and
 - (ii) after the definition of “Emission Allowance Auctioning Regulation” insert—

““Insurance Distribution Directive” means Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution (recast);”.

Amendments to the Proceeds of Crime Act 2002

24. In Schedule 9 of the Proceeds of Crime Act 2002(c)—

- (a) in paragraph 1(1)(f) (business in the regulated sector) for “Article 2(5) of the Insurance Mediation Directive, other than a tied insurance intermediary as mentioned in Article 2(7) of that Directive” substitute “Article 2.1(3), and an ancillary insurance intermediary as defined in Article 2.1(4), of the Insurance Distribution Directive”; and
- (b) in paragraph 3(1) (interpretation)—

(a) S.I. 2001/3084.
(b) 2000 c.11.
(c) 2002 c.29.

- (i) omit the definition of “Insurance Mediation Directive”; and
- (ii) after the definition of “Emission Allowance Auctioning Regulation” insert—
““Insurance Distribution Directive” means Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution (recast);”.

EXPLANATORY NOTE

(This note is not part of the Order)

[xxx]