



Passporting of investment services into the United Kingdom

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Purpose

- Brief description of background to passporting
- Outline the current position and changes expected in the near future
- Outline the requirements for firms passporting into the UK
- The passporting process

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What is passporting ?

- 'Passporting' is the term used to describe the process that a firm follows in order to provide services in another EU or EEA jurisdiction either on a cross-border basis or on an establishment basis.
- Governed by EU Directive (ISD)

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Current position

- Passport rights for investment services have been in place since July 2003.
- This arrangement did not include the UK as not a separate member state and therefore not governed by EU Directives.
- 20 December 2005 Gibraltar Government and UK Government announced that had concluded agreement for investment services passporting – this would be depend on certain legislation being in place.

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Current position (cont....)

- Legislative changes included –
 - Amendments to the Financial Services Ordinance 1989
 - Amendments to the Financial Services Ordinance 1998
 - Amendments to the Advertising Regulations
 - Revision to the Conduct of Business Regulations
 - Changes to the legislative regime specific to Collective Investment Schemes (CIS) and CIS service providers.

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What changes are specifically relevant to passporting into the UK ?

1. Inclusion in the Financial Services Ordinance 1998 of a new section (27A) which states that –

The Minister may, by regulation, make specific provisions requiring authorised Gibraltar investment firms –

- (a) which provide investment services into the United Kingdom on a passporting, cross-border basis, to make, in all their written and visual advertisements and client agreements (for the United Kingdom), such statements as the Minister may prescribe;
- (b) which provide investment services (listed in Schedule 1) in the United Kingdom through a branch established in the United Kingdom, to participate in any investor compensation scheme established in the United Kingdom, on such terms as the Minister may prescribe.

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What changes are specifically relevant to passporting into the UK ? (cont...)

2. Publication of Financial Services (Conduct of Business in the United Kingdom) Regulations
- a) Firms are required to include in all written and visual client agreements and adverts (for the UK), and in a prominent place, the following statement -

"[Name of Company] is authorised to conduct investment services business, and regulated, by the Gibraltar Financial Services Commission. [Name of Company] is covered by the Gibraltar Investor Compensation Scheme which meets EU requirements.

In relation to investment business, the maximum level of compensation is the lesser of the value of 90% of eligible investments or the sterling equivalent of 20,000 euros. Further information about compensation arrangements is available from the Gibraltar Investor Compensation Scheme.

This level is lower than that available under the United Kingdom Compensation Scheme, which exceeds EU requirements, and the details of which are available from the United Kingdom Financial Services Compensation Scheme."

⁷ This applies to all investment firms passporting into the UK.



What changes are specifically relevant to passporting into the UK ? (cont...)

In addition-

- b) Investment firms that are establishing a branch in the UK are also required to "top up" into the UK Financial Services Compensation Scheme.

These firms will have to contribute levies towards the UK scheme in order to provide, to the clients of that branch in the UK, compensation at the level required under the UK scheme by a combination of the benefits provided to investors by that scheme and the Gibraltar Investor Compensation Scheme in aggregate.

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How does the passporting process work?

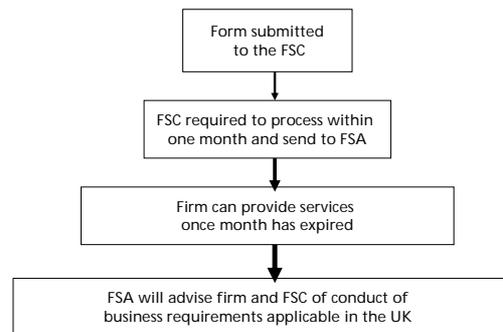
- Firms need to submit the relevant notification form i.e.
 - ISD1A if to provide cross-border services, or;
 - ISD2A if to establish a branch (note - different forms apply if a bank).
- These forms are available on the FSC's website under investment services – returns/forms.
- Guidance on how to complete the forms is also available on the website.

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How does the passporting process work? (cont...)

Cross border service notification

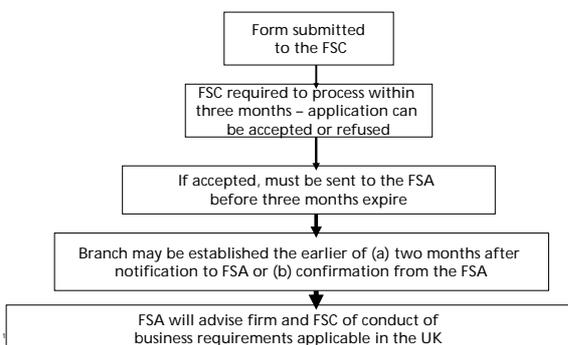


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How does the passporting process work? (cont...)

Establishment of a branch notification



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What next ?

- Gibraltar legislation is now in place.
- Currently awaiting changes to the UK legislation to allow passporting into the UK to commence – 'Gibraltar Order'.
- Only **once** the relevant 'Gibraltar Order' has been drafted, approved by the UK's House of Commons and has been issued and published will firms be able to passport into the UK.

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