

PRA RULEBOOK: MIFID II PASSPORTING AMENDMENT INSTRUMENT 2017

Powers exercised

- A. The Prudential Regulation Authority (“PRA”) makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 137G (The PRA’s general rules); and
 - (2) section 137T (General supplementary powers).
- B. The rule-making powers referred to above are specified for the purpose of section 138G(2) (Rule-making instrument) of the Act.

Pre-conditions to making

- C. In accordance with section 138J of the Act (Consultation by the PRA), the PRA consulted the Financial Conduct Authority. After consulting, the PRA published a draft of proposed rules and had regard to representations made.

PRA Rulebook: MIFID II Passporting Amendment Instrument 2017

- D. The PRA makes the rules in the Annexes to this instrument.

Commencement

- E. PRA Rulebook: Passporting Instrument 2016 as made by order of the Board of the Prudential Regulation Authority on 24 October 2016 (PRA 2016/42) comes into force on 3 January 2018.
- F. Annex A to this instrument comes into force on 3 January 2018 immediately after PRA Rulebook: Passporting Instrument 2016 comes into force.
- G. Annex B to this instrument comes into force on 23 February 2018.

Citation

- H. This instrument may be cited as the PRA Rulebook: MIFID II Passporting Amendment Instrument 2017.

By order of the Prudential Regulation Committee

20 December 2017

Annex A

Amendments to the Passporting Part

(as amended by PRA Rulebook: Passporting Instrument 2016)

In this Annex new text is underlined and deleted text is struck through.

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2 NOTICE OF INTENTION TO ESTABLISH A BRANCH OR USE A TIED AGENT

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2.4 This rule applies to a *UK firm* in relation to its *EEA rights* derived from *MiFID II*.

(1) A *UK designated investment firm* wishing to establish a *branch* within the territory of another *EEA State* must comply with the information requirements set out in Article 6 of Commission Delegated Regulation (EU) ~~.../.../2017/1018~~ and notify the *PRA* of its intention by ~~submitting the form set out in Annex VI of Commission Implementing Regulation (EU) .../.../...~~ submitting the form set out in Annex VI of Commission Delegated Regulation (EU) .../.../2017/1018. The *firm* must also ~~submit the form set out in Annex VII of Commission Implementing Regulation (EU) .../.../...~~ notify the PRA if it intends to use a *tied agent* in the same territory as the ~~the~~ *branch*.

(2) A *UK firm* wishing to use a *tied agent* established in another *EEA State* in which it has not established a *branch* must comply with the information requirements set out in Article 6 of Commission Delegated Regulation (EU) ~~.../.../2017/1018~~ and notify the *PRA* of its intention by ~~submitting the form set out in Annex VII of Commission Implementing Regulation (EU) .../.../...~~ submitting the form set out in Annex VII of Commission Delegated Regulation (EU) .../.../2017/1018.

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4 NOTICE OF INTENTION TO PROVIDE CROSS BORDER SERVICES

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4.3 This rule applies to a *UK firm* in relation to its *EEA rights* derived from *MiFID II*.

(1) A *UK designated investment firm* intending to provide *cross border services* within the territory of another *EEA State* for the first time must comply with the information requirements set out in Article 3 (1) of Commission Delegated Regulation (EU) ~~.../.../2017/1018~~ and notify the *PRA* of its intention by ~~submitting the form set out in Annex I of Commission Implementing Regulation (EU) .../.../...~~ submitting the form set out in Annex I of Commission Delegated Regulation (EU) .../.../2017/1018.

(2) A *credit institution* intending to provide *cross border services* within the territory of another *EEA State* through *tied agents* must comply with the information requirements set out in Article 3 (2) of Commission Delegated Regulation (EU) ~~.../.../2017/1018~~ and notify the *PRA* of its intention by ~~submitting the form set out in Annex I of Commission Implementing Regulation (EU) .../.../...~~ submitting the form set out in Annex I of Commission Delegated Regulation (EU) .../.../2017/1018.

(3) A *UK firm* operating an *MTF* or *OTF* that intends to provide appropriate arrangements to facilitate access to and trading on those systems by remote users, members or participants in another *EEA State* must comply with the information requirements set out in Article 5 of Commission Delegated Regulation (EU) ~~.../.../2017/1018~~ and notify the *PRA* of its intention by ~~submitting the form set out in Annex IV of Commission Implementing Regulation (EU) .../.../...~~ submitting the form set out in Annex IV of Commission Delegated Regulation (EU) .../.../2017/1018.

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5 NOTICE OF CHANGE OF DETAILS TO A BRANCH OR TIED AGENT

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5.4 This rule applies to a *UK firm* in relation to its *EEA rights* under *MiFID II*.

(1) A *UK designated investment firm* that has established a *branch* in another *EEA State* must comply with the information requirements set out in Article 7(1) of Commission Delegated Regulation (EU) ~~.../...2017/1018~~ and notify the *PRA* of a change to the *branch* by ~~submitting the form in Annex VI of Commission Implementing Regulation (EU) .../...~~ except where the change relates to a planned termination of the operation of the *branch*.

(2) A *UK firm* that uses a *tied agent* established in another *EEA State* must comply with the information requirements set out in Article 7(1) of Commission Delegated Regulation (EU) ~~.../...2017/1018~~ and notify the *PRA* of a change to the particulars of the tied agent by ~~submitting the form in Annex VII of Commission Implementing Regulation (EU) .../...~~ except where the change relates to the cessation of the use of a *tied agent*.

(3) A *UK designated investment firm* that plans to terminate the operation of a *branch* or that plans the cessation of the use of a *tied agent*, and a *credit institution* that plans the cessation of the use of a *tied agent*, must comply with the information requirements set out in Article 7(2) of Commission Delegated Regulation (EU) ~~.../...2017/1018~~ and notify the *PRA* by ~~submitting the form in Annex X of Commission Implementing Regulation (EU) .../...~~

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6 NOTICE OF CHANGE OF DETAILS TO CROSS BORDER SERVICES

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6.2 (1) A *UK designated investment firm* providing *cross border services* under *MiFID II* and a *credit institution* providing *cross border services* under *MiFID II* through a *tied agent* and wishing to change the range of services provided or activities performed within the territory of another *EEA State* must comply with the information requirements in Commission Delegated Regulation ~~.../...2017/1018~~ and notify the *PRA* by ~~submitting the form in Annex I of Commission Implementing Regulation .../...~~

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Annex B

Amendments to the Passporting Part

(as amended by PRA Rulebook: Passporting Instrument 2016)

In this Annex new text is underlined and deleted text is struck through.

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10 FORMS

10.1 The Branch Notification Form can be found ~~here~~ [here](#).

10.2 The Cross Border Services Notification Form can be found ~~here~~ [here](#).