

Final Report

Review of the technical standards under Article 34 of MiFID II



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1 Executive Summary

Reasons for publication

Article 34 of MiFID II¹ requires ESMA to develop draft regulatory (RTS) and implementing technical standards (ITS) to (i) specify the information to be notified by, inter alia, investment firms wishing to provide cross-border services without the establishment of a branch and (ii) establish standard forms, templates and procedures for the transmission of information in this respect.

ESMA delivered its Final Report on 29 June 2015². Following endorsement and publication in the Official Journal of the EU, Commission Delegated Regulation (EU) 2017/1018³ (the 'existing RTS') and Commission Implementing Regulation (EU) 2017/2382⁴ (the 'existing ITS') applied from 3 January 2018.

ESMA has worked on ensuring the consistent application of MiFID II and the existing RTS and ITS. The practical implementation of the freedom to provide services under Article 34 of MiFID II (FPS) showed some shortcomings and highlighted instances where improvements could usefully be made to the existing RTS and ITS to better help home national competent authorities (NCAs) to fulfil their supervisory objectives.

On 17 November 2022, ESMA published a Consultation Paper (CP) to seek stakeholders' views on ESMA's proposals for the review of the existing RTS and ITS. The consultation period closed on 17 February 2023. ESMA received 4 responses. The answers received are available on ESMA's website.

ESMA also sought the advice of the ESMA Securities and Markets Stakeholder Group's (SMSG) established under Regulation (EU) No 1095/2010.

Contents

This Final Report contains draft technical standards (i) specifying the information to be notified by, inter alia, investment firms wishing to provide cross-border services without the establishment of a branch and (ii) establishing standard forms, templates and procedures for the transmission of information in this respect.

Section 2 below explains the background and legal basis to our proposal for the draft technical standards. Section 3 summarises the feedback received to the consultation and explains how ESMA has taken this feedback into account.

Annex I sets out the cost-benefit analysis related to the draft ITS and RTS. Annex II contains the legislative mandates to develop the draft RTS and ITS. Annex III contains the full text of the draft RTS. Annex IV contains the full text of the draft ITS.

Next Steps

The draft technical standards are submitted to the European Commission for adoption, in accordance with Articles 10 and 15 of Regulation (EU) 1095/2010.

¹ Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ L 173, 12.6.2014, p. 349).

² ESMA/2015/1006.

³ Commission Delegated Regulation (EU) 2017/1018 of 29 June 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council on markets in financial instruments with regard to regulatory technical standards specifying information to be notified by investment firms, market operators and credit institutions (OJ L 155, 17.6.2017, p. 1).

⁴ Commission Implementing Regulation (EU) 2017/2382 of 14 December 2017 laying down implementing technical standards with regard to standard forms, templates and procedures for the transmission of information in accordance with Directive 2014/65/EU of the European Parliament and of the Council (OJ L 340, 20.12.2017, p. 6).

2 Background and legal basis

Article 34(8) and (9) of MiFID II

8. ESMA shall develop draft regulatory technical standards to specify the information to be notified in accordance with paragraphs 2, 4, 5 and 7.

ESMA shall submit those draft regulatory technical standards to the Commission by 3 July 2015.

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.

9. ESMA shall develop draft implementing technical standards to establish standard forms, templates and procedures for the transmission of information in accordance with paragraphs 3, 4, 5 and 7.

ESMA shall submit those draft implementing technical standards to the Commission by 31 December 2016.

Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1095/2010

1. MiFID II and its delegated and implementing measures were adopted to offer a higher level of protection to investors and ensure the uniform application of the requirements in the European Union (EU). In this context, MiFID II recognises the importance of allowing the provision of investment services across the EU through the FPS regime. This is a key element of the single market of financial services as it fosters competition and expands the offer available to clients who can choose among a broader number of investment firms and investment opportunities.
2. Article 34 of MiFID II provides a mandate for ESMA to draft RTS and ITS to (i) specify the information to be notified by investment firms wishing to provide cross-border services without the establishment of a branch and (ii) establish standard forms, templates and procedures for the transmission of information in this respect. In 2015, ESMA fulfilled its mandate and submitted those drafts to the Commission⁵.

⁵ ESMA/2015/1006.

3. In monitoring the provision of investment services across the EU to retail clients, ESMA and NCAs have noted the continued increase in cross-border activities provided under the MiFID II FPS regime. This increase results from several factors, including the development of the single market and the digitalisation of financial services, which further facilitates investment firms to provide services across borders. The pandemic has also created conditions that contributed to an increase in retail investors' exposure to securities markets, including cross border.
4. The increase in cross-border services has clear benefits for consumers and investment firms, as it fosters competition, expands the offer available to consumers and the market for investment firms. This is a welcome development, consistent with the objective to develop the single market for financial services in the EU. At the same time, these developments clearly require NCAs to increase their focus on the supervision of cross-border activities and on cooperation. A development of cross-border activities which is not accompanied by increased supervisory focus risks undermining investors' trust and backfiring on the achievement of the single market.
5. Effective supervision by NCAs of entities providing investment services on a cross-border basis is therefore of key importance to ensure that clients, especially retail, are given the adequate level of protection regardless of the Member State of origin of the entities offering these services.
6. Under MiFID II, the FPS in the EU (without establishment in host Member States) rests on the supervision of the home NCA and on the cooperation between home and host NCAs.⁶ Any investment firm wishing to provide services or activities within the territory of a Member State other than its home Member State for the first time, or which wishes to change the range of services or activities so provided, shall notify its home NCA of its intention to do so through an investment services and activities passport notification (as defined in Article 2(a) of the existing RTS).
7. The information the home NCA receives through the investment services and activities passport notification may thus play a key role in raising the NCA's scrutiny on an investment firm's cross-border activities or plans of cross-border activities.
8. The CP introduced a number of changes to the existing RTS and ITS by adding the following items to the information that investment firms are required to provide at the passporting stage:
 - the marketing means the investment firm will use in host Member States;

⁶ The direct intervention of host NCAs is a last resort tool, through the possibility to adopt precautionary measures under Article 86 of MiFID II.

- the language(s) for which the investment firm has the necessary arrangements to deal with complaints from clients from each of the host Member States in which it provides services;
 - in which Member States the investment firm will actively use its passport as well as the categories of clients targeted;
 - the investment firm's internal organisation in relation to the cross-border activities of the investment firm.
9. We set out below the feedback received from stakeholders.

3 Feedback statement

10. Out of the four responses received, three were supportive of the changes made to the existing RTS and ITS. ESMA welcomes the support and the recognition that, in order to ensure the protection of market participants and maintain the confidence in the financial markets, it is of key importance to ensure that NCAs are efficient in their supervision of cross-border activities.
11. The fourth answer received opposed the amendments made to the existing RTS and ITS, on the basis that, in the opinion of the respondent, this was *“a first step to undermine the EU passporting process and to remove the distinction between freedom to provide services (which is mainly governed by the home NCA) and the freedom of establishment (which is governed by requirements of the host NCA)”*.
12. ESMA takes note of this position but would like to specify that the review of the existing RTS and ITS is in no way an attempt to undermine or call into question the FPS regime and the allocation of responsibilities between home and host NCAs. To the contrary, the changes to the existing RTS and ITS aim at bolstering the FPS regime, which is a key element of the single market of financial services. Indeed, by ensuring that NCAs are able to effectively supervise cross-border activities, ESMA aims to ensure the smooth functioning of the single market and that the allocation of supervisory responsibilities under the FPS regime is not questioned.
13. The changes to the existing RTS and ITS only aim at making sure that the home NCA gets, at the passporting stage, necessary information to better decide on the allocation of its supervisory resources and focus. Given that the passporting notifications are also provided to host NCAs, this information will also help host NCAs know which investment firms are actively targeting clients in their jurisdiction and how. However, the review of the existing RTS and ITS does not, in any way, alter the allocation of supervisory responsibilities between home and host NCAs.

14. Thus, the FPS regime in the EU will continue to rest on the supervision of the home NCA (primarily) and on the cooperation between home and host NCAs. Precautionary measures by the host NCA (under Article 86 of MiFID II) remain a last resort tool.

Host Member States where the investment firm will actively target clients

15. To allow for the home NCA to appropriately supervise investment firms' cross-border activities, it is key for the home NCA to be aware of the actual cross-border activities carried out by the investment firms it supervises.
16. Newly added point (c) of Article 3(1) of the draft RTS and Part 3 of Annex I of the draft ITS require investment firms to specify whether they will actively target clients (whatever the means of marketing and reaching out to prospective clients) in the relevant host Member State.

Q1: Do you believe that newly added point (c) of Article 3(1) of the draft RTS and Part 3 of Annex I of the draft ITS are missing any information?

17. None of the responses received mentioned any information missing from point (c) of Article 3(1) of the draft RTS and Part 3 of Annex I of the draft ITS.
18. One respondent welcomed the distinction between i) the situation where investment firms actively target clients (in which case, they have to notify their home NCA by filling in Part 3 of Annex I of the draft ITS) and ii) the situation where investment firms request a passport on a precautionary basis only. However, the respondent asked that the expression "*actively target clients*" be defined to avoid uncertainty for investment firms as to whether they are actively targeting clients in a specific jurisdiction.
19. Investment firms would be considered as actively targeting clients in a jurisdiction in circumstances where they are engaging with clients, potential clients and/or new audiences to raise awareness of specific investment products, services or activities, or to raise awareness of the investment firm's or group's brand in general, whatever the means of engagement. The draft RTS and ITS have been amended accordingly to provide guidance. If in doubt, it would be preferable for the investment firm to tick the box of the relevant Member State. This is because this information requirement does not trigger any additional obligation for the investment firm but allows the supervising NCA to finetune its monitoring and supervision.
20. In addition, one respondent deemed that newly required information in point (c) of Article 3(1) of the draft RTS and Part 3 of Annex I of the draft ITS was unnecessarily adding bureaucratic burden for supervised entities and NCAs, with no added value, because of the uncertainties surrounding the date an investment firm goes live in a specific jurisdiction. In case ESMA would not consider deleting the newly required information,

the respondent asked that Part 3 of Annex I of the draft ITS makes clear that only an intended date should be indicated (as specified in point (c) of Article 3(1) of the draft RTS).

21. ESMA would like to remind investment firms that Article 34(3) of MiFID II provides that “the competent authority of the home Member State shall, within one month of receiving the information, forward it to the competent authority of the host Member State designated as contact point in accordance with Article 79(1), The investment firm may then start to provide the investment services and activities concerned in the host Member State”. Therefore, ESMA deems that the maximum period needed for a passport notification to be effective and acted upon is not so long as to render planning of the go-live date difficult to schedule.
22. In addition, point (c) of Article 3(1) of the draft RTS provides that the investment firm should indicate “*the date the investment firm intends to start actively targeting clients in the relevant host Member States*”. Part 3 of Annex I of the draft ITS should indeed be read in conjunction with point (c) of Article 3(1) of the draft RTS and, as such, the investment firm should be able (subject to Article 34(3) of MiFID II) to start actively targeting clients in the relevant jurisdiction(s) shortly after (but not before) the date indicated in Part 3 of Annex I of the ITS.
23. To clarify, Part 3 has been amended so that the investment firm should indicate the intended date it will start actively targeting clients.
24. In addition, in the draft ITS in the CP, investment firms had to fill in, in each passporting notification, an overview of all the EU jurisdictions where they would be actively targeting clients. The home NCA would have had to forward any update to the overview (Part 3 of Annex I of the draft ITS) to the NCAs of all host Member States where the investment firm has passported. To ease the administrative burden in the relationship between home and host NCAs, Part 3 of Annex I of the draft ITS has been further amended so that the investment firm should now indicate whether it will actively target clients in the jurisdiction relevant to the passporting notification only; as a result no overview table will be circulated to each host NCAs and this will not require updates by home NCAs when the same firm target new host jurisdictions.

Q2: Do you agree that investment firms should notify their home NCA in case of any change to the list of host Member States where they actively target retail clients and/or professional clients under Annex II of MiFID II?

25. Three (out of four) respondents agreed with the proposal to require investment firms to notify their home NCA in case of any change to the list of host Member States where they actively target clients.

26. One respondent disagreed, for the following reasons:
- such notification requirement in case an investment firm starts to actively target clients in new EU markets would be expected to be part of the reporting requirements of the home NCA rather than the ESMA notification requirements for passporting; and
 - this additional reporting requirement (i) is an unnecessary burden on top of the existing annual information request of the home NCAs, (ii) misplaced as part of this regulation and (iii) increases the burden upon both the supervisory authorities and the investment firms to keep track of reporting and notification requirements.
27. ESMA would like to remind investment firms that passporting notifications should be sent to the home NCA, not ESMA. As the home NCA is in charge of the supervision of an investment firm's cross-border activities, it is essential that such NCA is informed, on an ex-ante basis, of the intention of investment firms subject to supervision to start actively targeting clients in new markets.
28. In addition, ESMA has indeed been promoting convergence with respect to the collection of data relating to cross-border activities (as data availability is a necessary pre-condition for effective supervision).⁷ However, reporting requirements relating to cross-border activities of investment firms to the home NCA must be differentiated from the ex-ante notification requirement introduced by the review of the existing RTS and ITS. There may be an appreciable time lag between the moment an investment firm starts actively targeting clients and the moment the home NCA learns about it if the home NCA is only relying on ex-post reporting requirements.
29. As the information required under point (c) of Article 3(1) of the draft RTS and Part 3 of Annex I of the draft ITS is crucial to a home NCA's planning of its supervisory focus on cross-border activities and/or a specific investment firm (as it may be a sign that an investment firm is changing its profile to a more EU-wide business model), investment firms should notify their home NCA of any changes to Part 3 of Annex I of the draft ITS.
30. However, as described in paragraph 24 above, Part 3 of Annex I of the draft ITS now requires that the investment firm indicates whether it will actively target clients in the jurisdiction relevant to the passporting notification only.

⁷ In recent years, ESMA has facilitated a common approach to data collection on the provision of cross-border services to retail clients in the EEA. On this basis, a coordinated data collection exercise took place in 2020 and 2021, with voluntary participation by NCAs. This exercise has improved NCAs' and ESMA's awareness of the actual provision of cross-border activities to retail clients. It has been decided to roll out this data collection exercise on an annual basis going forward.

Marketing means used by the investment firm to actively target clients in host Member States

31. Some NCAs reported instances of investment firms providing services in their jurisdiction on a cross-border basis through the use of aggressive marketing means.
32. To allow home NCAs to supervise the marketing activities of investment firms that target clients in other Member States, it is crucial that home NCAs get information on the means of marketing that the investment firm will use to target clients in such jurisdiction(s).
33. Newly added point (d) of Article 3(1) of the draft RTS and Part 4 of Annex I of the draft ITS require investment firms to specify which marketing means they intend to use in the host Member State(s) where they are actively targeting clients, as well as the following details:
 - in relation to social media campaigns, which social media platform(s) and/or network(s) the investment firm will use;
 - in relation to mobile apps, whether the investment firm will use a dedicated mobile app;
 - in relation to calls, whether the investment firm will use a call centre, tied agents or whether calls will be placed by employees of the investment firm;
 - in relation to dedicated websites, the domain names of such websites;
 - what language(s) the investment firm will use to actively target clients in host Member States.

Q3: Do you believe that newly added point (d) of Article 3(1) of the draft RTS and Part 4 of Annex I of the draft ITS are missing any information?

34. Of the four respondents, three had no objection to the list of information added in point (d) of Article 3(1) of the draft RTS and Part 4 of Annex I of the draft ITS and answered that no information was missing.
35. One of them, however, was of the view that the information requested in relation to marketing means should remain general and not go into the details of the technical means and channels used for marketing purposes, as these may often change.
36. The fourth respondent called for information on marketing means to be deleted from point (d) of Article 3(1) of the draft RTS and Part 4 of Annex I of the draft ITS, for the following reasons:

- this is in contradiction with the principle set out in Article 34 of MiFID II whereby, in respect of the matters covered by this Directive, Member States shall not impose any additional requirements on investment firms or credit institutions passporting their investment services and activities under the FPS regime;
 - such information would not be valuable for the NCA, nor practical, to be provided at the passporting notification stage as it changes over time; and
 - the level of detail requested is not proportional to the benefits this information may bring to improving the supervision of cross-border activities.
37. For investor protection purposes, it is essential that NCAs know the means whereby an investment firm is reaching out to clients or potential clients. Indeed, as noted by one of the respondents, some investment firms have been or may be using aggressive marketing means. Also, with the development of digitalisation, marketing has become more difficult to monitor as it has taken many new forms and has become more personalised, therefore potentially reaching clients throughout the day and in many ways. Therefore, having such information at the passporting stage will give supervising NCAs information on the marketing means used by the investment firm to reach out to clients and whether this would need further focus/monitoring.
38. This information may change over time but, at the passporting stage, this information would nonetheless give the supervising NCA indications as to the methods used by the investment firm for marketing purposes and whether they may be indicative of any risks for the protection of investors and thus call for closer monitoring and supervision.
39. Regarding a potential breach of the principle of Article 34 of MiFID II that Member States shall not impose any additional requirements on investment firms or credit institutions passporting their investment services and activities under the FPS regime, ESMA regards this information as very basic to calibrate supervision and readily available to investment firms. In addition, this information is also required from investment firms at the authorisation stage. ESMA thus considers that the above-mentioned principle is not breached.
40. However, ESMA took into account the comments made on the proportionality and level of details of the information requested on marketing means. Therefore, the requested information has been simplified and requests of information about more technical details have been deleted.

Complaints

41. Newly added point (e) of Article 3(1) of the draft RTS and Part 5 of Annex I of the draft ITS require investment firms to indicate the language(s) for which the investment firm

has the necessary arrangements to deal with complaints from clients from the host Member State.

42. In order to understand the complexity of the investment firm's cross-border activities, it is crucial for the home NCA to understand in which language(s) the investment firm is communicating with prospective clients when targeting them and when clients need to submit a complaint to the investment firm, as well as whether there exists any discrepancy between the two.

Q4: Do you believe that newly added point (e) of Article 3(1) of the draft RTS and Part 5 of Annex I of the draft ITS are missing any information?

43. Three respondents were of the view that no elements were missing from point (e) of Article 3(1) of the draft RTS and Part 5 of Annex I of the draft ITS. However, one respondent requested that ESMA delete newly added point (e) of Article 3(1) of the draft RTS and Part 5 of Annex I of the draft ITS on the basis that this would be part of the checks carried out by the internal control functions of the investment firms, external audit and ongoing supervision by the supervising NCA.
44. However, experience has shown that this information may not be part of general reporting requirements or collected as part of the ongoing supervision by NCAs. Yet, ESMA is of the view that it is beneficial for supervising NCAs to know, at the passporting stage, in which language the investment firm is marketing to clients in host Member States and whether this matches (or not) the language(s) for which it has the necessary arrangements to deal with complaints from clients.
45. In addition, a number of respondents asked ESMA to address for which languages investment firms should have necessary arrangements to deal with complaints from clients from the host Member State. ESMA's mandate solely relates to the information to be notified in the passporting notification and so ESMA, by amending the information requested in the passporting notification, is not imposing any requirement in this respect.

Q5: Do you believe that newly added point (f) of Article 3(1) of the draft RTS and Part 6 of Annex I of the draft ITS are missing any information?

46. No respondent indicated that any information was missing under point (f) of Article 3(1) of the RTS and Part 6 of Annex I of the ITS. One respondent requested that this point be deleted as, according to them, such information would be very extensive and have the effect of aligning information requirements for cross-border activities with those for setting up a branch in a host Member State.
47. ESMA would like to clarify that the information requested in point (f) of Article 3(1) of the draft RTS and Part 6 of Annex I of the draft ITS in no way tries to replicate information

requirements requested when setting up a branch in a host Member State. Indeed, Part 6 only requires investment firms to describe i) the main functional and legal reporting lines relating to their cross-border activities, ii) the main arrangements put in place to ensure that internal control functions are able to control cross-border activities and iii) the procedure for complaints resulting from cross-border activities.

48. In order to make this clear, ESMA clarified that the information requested under point (f) of Article 3 of the draft RTS and Part 6 of Annex I of the draft ITS should be a summary. This means that the description provided should be brief and give a concise overview of the main points related to the internal organisation in relation to the cross-border activities of the investment firm, thereby allowing the NCA to get a broad understanding of how the cross-border activities of the investment firm integrate in the overall business operationally, legally and from an internal control point of view.
49. ESMA would also like to clarify that the term “complaint” used in the draft RTS and draft ITS is not limited to cases coming before the courts and alternative dispute resolution but instead refers to any statement of dissatisfaction addressed to the investment firm by a natural or legal person relating to the provision of an investment service or activity or an ancillary service under MiFID II, as defined in the joint ESMA-European Banking Authority Guidelines on complaints handling for the securities and banking sectors.⁸

Q6: Do you agree that investment firms should notify their home NCA in case of any change to the internal organisation of the investment firm in relation to cross-border activities?

50. Two respondents agreed. One noted that such information was not requested in the first place (please see paragraph 46 and 47 above) and thus also disagreed with the requirement to update such information. One respondent also requested ESMA to clarify that the information required under point (f) of Article 3 of the draft RTS and Part 6 of Annex I of the draft ITS did not have to be provided by the investment firm where such information was already submitted to the NCA.
51. From experience, such information is rarely submitted to the NCA as part of the authorisation process. Whilst Article 6 of Commission Delegated Regulation (EU) 2017/1943⁹ requires that investment firms provide general information on their organisational structure and internal control systems, the draft RTS and draft ITS require

⁸ Available [here](#).

⁹ Commission Delegated Regulation (EU) 2017/1943 of 14 July 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to regulatory technical standards on information and requirements for the authorisation of investment firms.

cross-border specific information, as a summary, and thus do not cover the same type of information.

Q7: Do you believe that any other information should be requested within the scope of the draft RTS/ITS?

52. All respondents provided a negative answer to this question.

Q8: Do you have any comments on the changes made to Article 4 of the draft RTS and Annex III of the draft ITS?

53. Three respondents did not provide any comment. The fourth respondent requested that all newly required information be deleted. They thus also requested that no changes be made to Article 4 of the draft RTS.

Q9: Do you have any other comment or input on the draft RTS and/or draft ITS?

54. One respondent did not answer Q9. One respondent asked that the information required under the draft RTS and draft ITS not be too detailed as the burden imposed on investment firms would not be offset by the value added to the supervision of cross-border activities. The respondent also insisted on the provision of a definition for the term “actively targeting clients”. Please refer to paragraphs 40 and 19 for ESMA’s response to these two points.

55. Finally, one respondent advocated for entities subject to similar regimes but not authorised under MiFID II, to also benefit from the FPS regime, as exist for investment firms under Article 34 of MiFID II.

Q10. What level of resources (financial and other) would be required to implement and comply with the amendments made to the draft RTS and draft ITS? When answering this question, please also provide information about the size, internal organisation and the nature, scale and complexity of the activities of your institution, where relevant.

56. Two respondents did not provide any answer to Q10. One respondent answered that the cost would likely be reasonable except for the handling of complaints and mediations and provided that the host NCA does not charge a regulatory cost.

57. Regarding information requirements relating to complaints in the draft RTS and draft ITS, as this only relates to languages for which investment firms have necessary arrangements to deal with complaints from clients from the host Member State, ESMA understand that this will not be burdensome for investment firms to fill in such information. Regarding any fee charged by host NCAs when an investment firm uses the FPS under

MiFID II, the new information requirements of the draft RTS and draft ITS do not touch on that aspect.

58. Lastly, the fourth respondent estimated that the new information requirements would require at least 1 to 2 additional full-time equivalents ('FTEs') per host Member State making it to a grand total of 30 additional FTEs necessary for a medium-sized investment firm passporting its services in all Member States of the EU. This would translate to a total additional cost of 3 million EUR per year. According to the respondent, additional cost would also be incurred through implementation cost, training cost, internal and external audit costs, as well as counsel costs. Thus, according to this respondent, the costs incurred by investment firms due to the new information requirements would be completely disproportionate to the value added by the new information requirements to the supervision of cross-border activities.
59. However, ESMA disagrees with the above estimates. Even if taking the highest estimate of the costs incurred by investment firms when implementing the new information requirements, ESMA's estimates fall below those of the respective respondent. More details are provided in the cost-benefit analysis in Annex I.

4 Annexes

4.1 Annex I

Cost-benefit analysis

1. The FPS regime is a key element of the single market of financial services as it fosters competition and expands the offer available to consumers who can choose among a broader number of financial institutions and investment opportunities.
2. In monitoring the provision of investment services across the EU to retail clients, ESMA and NCAs have noted the continued increase in cross-border activities provided under the MiFID II FPS regime. The increase in cross-border services has clear benefits for consumers and investment firms, as it fosters competition, expands the offer available to consumers and the market for investment firms.
3. At the same time, these developments clearly require NCAs to increase their focus on the supervision of cross-border activities and on cooperation. A development of cross-border activities which is not accompanied by increased supervisory focus risks undermining investors' trust and backfiring on the achievement of the single market.
4. Effective supervision by NCAs of entities providing investment services on a cross-border basis is therefore of key importance to ensure that clients, especially retail clients, are given an adequate level of protection regardless of the jurisdiction of origin of the entities offering these services.
5. The information provided by an investment firm at the passporting stage may play a key role in raising the NCA's scrutiny of the investment firm's cross-border activities or plans of cross-border activities.
6. The purpose of the amendments to the list of information to be provided by investment firms at the passporting stage and to the list of notification of changes that are required afterwards in case of a change to the information initially notified aim at improving the range of information that home and host NCAs receive under Article 34 of MiFID II, thus improving their awareness and supervision of investment firms' cross-border activities.
7. Based on its initial cost-benefit analysis and the responses to the CP, ESMA is trying to achieve a balance between i) acceptable additional cost for investment firms passporting their services and NCAs and ii) the benefits brought about by the new information requirements.

Benefits

8. The main benefits linked to the review of the existing RTS and ITS are the following:
- better awareness of an investment firm's cross-border activities across the EU and which categories of clients such investment firm is targeting;
 - better awareness of an investment firm's organisational set-up and arrangements (including regarding complaints handling) to provide services on a cross-border basis;
 - better awareness of an investment firm's ways of marketing its investment services and activities in host Member States;
 - consequently, improved supervision by the home NCA of the cross-border services provided and activities performed by the investment firms it supervises and better investor protection;
 - host NCAs are also kept informed of incoming cross-border activities in their jurisdictions and are therefore able to also better monitor potential investor protection issues.

Costs

9. With reference to the costs, ESMA considers that investment firms intending to provide investment services and activities on a cross-border basis will incur slightly higher costs in i) gathering the necessary information at the passporting stage as well as in ii) keeping track of the changes that may affect the information provided at the passporting stage for any future notification of changes.
10. However, ESMA believes that it is in the interest of the investment firm itself as well as its clients that the investment firm keeps track of such information as, ultimately, this should result in better supervision of cross-border activities and better investor protection.
11. Similarly, home and host NCAS will incur higher costs caused by the collection and processing of the additional information that investment firms have to provide. However, ESMA is of the view that the higher costs incurred will be reasonable and wholly compensated by the benefits brought on by bolstered supervision and, ultimately, better investor protection, made possible due to the changes made.
12. ESMA, however, took into account the comments made by some of the respondents regarding proportionality. As a result, i) the information requested regarding marketing

means was simplified and ii) ESMA clarified that the information requested in relation to investment firms' internal organisation in relation to cross-border activities should be high level.

13. On this basis, ESMA believes that the proposed options in this area provide the most cost-efficient solution to achieving the general objectives of the changes made to the existing RTS and ITS. This is especially true as the amendments made to the technical standards will only apply to new passporting notifications and new notifications of changes and investment firms will thus not be required to resubmit all passporting notifications previously submitted.

Conclusions

In light of what has been illustrated above, ESMA believes that the overall costs associated with the implementation of the changes to the existing RTS and ITS will be fully compensated by the benefits from a strengthened supervision of cross-border activities. These benefits will interest all the market participants contributing to the consolidation of the fundamental trust in the financial markets.

4.2 Annex II

Legislative mandate to develop implementing technical standards

Article 34(8) of MiFID II

ESMA shall develop draft regulatory technical standards to specify the information to be notified in accordance with paragraphs 2, 4, 5 and 7.

Article 34(9) of MiFID II

ESMA shall develop draft implementing technical standards to establish standard forms, templates and procedures for the transmission of information in accordance with paragraphs 3, 4, 5 and 7.

4.3 Annex III: Draft RTS

COMMISSION DELEGATED REGULATION (EU) .../...

of [•]

amending Commission Delegated Regulation (EU) 2017/1018 of 29 June 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council on markets in financial instruments with regard to regulatory technical standards specifying information to be notified by investment firms, market operators and credit institutions

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU¹⁰, and in particular the third subparagraph of Article 34(8) thereof,

Whereas:

- (1) Commission Delegated Regulation (EU) 2017/1018 of 29 June 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council on markets in financial instruments with regard to regulatory technical standards specifying information to be notified by investment firms, market operators and credit institutions¹¹ specifies the information that investment firms, market operators, and, where required by Directive 2014/65/EU, credit institutions should notify to the competent authorities of their home Member State when they wish to provide investment services or perform investment activities as well as ancillary services in another Member State, in order to establish uniform information requirements and to benefit from the possibility to provide such cross-border services throughout the Union.

¹⁰ OJ L 173, 12.6.2014, p. 349.

¹¹ OJ L 155, 17.6.2017, p. 1.

- (2) Since the adoption of Commission Delegated Regulation (EU) 2017/1018, cross-border services have increased due in part to market conditions resulting from the COVID-19 pandemic and the trend towards the digitalisation of financial services. The increased volume of cross-border services has given competent authorities additional experience of the supervision of those services as well as the cooperation between home and host authorities.
- (3) In view of this experience, to ensure that the home national competent authority receives adequate information on the cross-border plans of an investment firm, it is necessary to further specify certain particulars of the information referred to in Article 34(2) of Directive 2014/65/EU and of the changes to those particulars that must be notified in accordance with Article 34(4) thereof.
- (4) In particular, home national competent authorities should receive information on the Member States where an investment firm is actively targeting clients, how it is targeting clients and how the investment firm is organised to carry out its cross-border activities.
- (5) In accordance with Article 34(5) of Directive 2014/65/EU, credit institutions wishing to provide investment services or activities as well as ancillary services on a cross-border basis through tied agents established in their home Member States should notify the home national competent authorities with the identity of the tied agent as well as the investment services or activities, ancillary services and financial instruments to be provided by the latter. Other information required to be notified by investment firms wishing to provide investment services and activities on a cross-border basis are not required from credit institutions. The further information required from investment firms will therefore not affect credit institutions.
- (6) Commission Delegated Regulation (EU) 2017/1018 should therefore be amended accordingly.
- (7) This Regulation is based on the draft regulatory technical standards submitted to the Commission by the European Securities and Markets Authority (ESMA).
- (8) ESMA has conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the advice of the ESMA Securities and Markets Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1095/2010¹²,

¹² Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84).

HAS ADOPTED THIS REGULATION:

Article 1

Amendments to Commission Delegated Regulation (EU) 2017/1018

Commission Delegated Regulation (EU) 2017/1018 is amended as follows:

(1) in Article 3, paragraph (1) is replaced by the following:

‘1. Investment firms shall ensure that the investment services and activities passport notification submitted pursuant to Article 34(2) of Directive 2014/65/EU includes the following information:

- (a) the name, address and contact details of the investment firm along with the name of a specified contact person at the investment firm;
- (b) a programme of operations which includes the following items:
 - (i) details of the particular investment services, activities and ancillary services to be provided in the host Member State and the financial instruments to be used;
 - (ii) confirmation as to whether the investment firm wishes to use tied agents, established in its home Member State, to provide services or promote investment and/or ancillary services in the host Member State and, if so the name, address, contact details of such tied agents and the investment services or activities, ancillary services and financial instruments to be provided by the latter;
- (c) whether the investment firm will be actively targeting clients in the host Member State, the date the investment firm intends to do so and whether the targeted clients are retail clients or professional clients;
- (d) details of the marketing means the investment firm will use in the host Member State;
- (e) details of the languages for which the investment firm has the necessary arrangements to deal with complaints from clients from the host Member State;
- (f) a summary of the internal organisation in relation to the cross-border activities of the investment firm, including:

- (i) the main functional and legal reporting lines relating to the cross-border activities of the investment firm;
- (ii) the main arrangements put in place by the investment firm to ensure that the internal control functions have the capacity to control the cross-border activities, including those provided in a language other than English or the official languages of the home Member State;
- (iii) the procedure for cross-border clients to submit and for the investment firm to deal with complaints resulting from the cross-border activities of the investment firm.

For the purpose of this Article, ‘actively targeting clients’ means any circumstances where the investment firm engages with clients or potential clients to raise awareness of specific investment products, services or activities, or to raise awareness of the investment firm’s brand in general, or the brand of any member of its group that carries out investment services or activities, whatever the means of engagement.’

(2) Article 4 is replaced by the following:

‘Article 4

Information to be notified concerning the change of investment services and activities particulars

1. Investment firms shall ensure that a notification to communicate a change in particulars, pursuant to Article 34(4) of Directive 2014/65/EU, includes details of any change to the information previously notified in accordance with points (a), (b), (c) and (f) of Article 3(1).
2. Credit institutions referred to in Article 1(2)(a) shall ensure that a notification to communicate a change in particulars, pursuant to Article 34(4) of Directive 2014/65/EU, includes details of any change to the information previously notified in accordance with this Regulation.’

Article 2

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, [...]

[For the Commission

The President]

[On behalf of the President]

4.4 Annex IV: Draft ITS

COMMISSION IMPLEMENTING REGULATION (EU) .../...

of [•]

amending Commission Implementing Regulation (EU) 2017/2382 of 14 December 2017 laying down implementing technical standards with regard to standard forms, templates and procedures for the transmission of information in accordance with Directive 2014/65/EU of the European Parliament and of the Council

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU¹³, and in particular the third subparagraph of Article 34(9) thereof,

Whereas:

- (1) Commission Implementing Regulation (EU) 2017/2382 of 14 December 2017 laying down implementing technical standards with regard to standard forms, templates and procedures for the transmission of information in accordance with Directive 2014/65/EU of the European Parliament and of the Council¹⁴ provides for the common standard forms, procedures and templates for the submission of information required when investment firms, market operators, and, where required by Directive 2014/65/EU, credit institutions wish to provide investment services and perform activities in another Member State under the freedom to provide services.
- (2) Since the adoption of Commission Delegated Regulation (EU) 2017/1018, cross-border services have increased due in part to market conditions resulting from the COVID-19

¹³ OJ L 173, 12.6.2014, p. 349.

¹⁴ OJ L 340, 20.12.2017, p. 6.

pandemic and the trend towards the digitalisation of financial services. The increased volume of cross-border services has given competent authorities additional experience of the supervision of those services as well as the cooperation between home and host authorities.

- (3) In view of this experience, to ensure that the home national competent authority receives adequate information on the cross-border plans of an investment firm, Commission Delegated Regulation (EU) .../... amended Commission Delegated Regulation (EU) 2017/1018. Commission Implementing Regulation (EU) 2017/2382 should also be amended to ensure coherence. In particular, it is appropriate to update the common standard forms, procedures and templates for the submission of information required when investment firms wish to provide investment services and perform activities in another Member State under the freedom to provide services.
- (4) This Regulation is based on the draft implementing technical standards submitted to the Commission by the European Securities and Markets Authority (ESMA).
- (5) ESMA has conducted open public consultations on the draft implementing technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the advice of the ESMA Securities and Markets Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1095/2010¹⁵,

¹⁵ Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84).

HAS ADOPTED THIS REGULATION:

Article 1

Amendments to Commission Implementing Regulation (EU) 2017/2382

Commission Implementing Regulation (EU) 2017/2382 is amended as follows:

1. in Article 6, paragraph 1 is replaced by the following:

‘1. In the event of a change in any of the particulars of Parts 1 to 3 and Part 6 of an investment services and activities passport notification, the investment firm or credit institution referred to in Article 1(2)(a) shall submit a notification to the competent authority of the home Member State using the form set out in Annex I.’;
2. Annex I of Commission Implementing Regulation (EU) 2017/2382 is replaced with Annex I of this Regulation;
3. Annex III of Commission Implementing Regulation (EU) 2017/2382 is replaced with Annex II of this Regulation.

Article 2

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*. This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, [...]

[For the Commission

The President]

[On behalf of the President]

ANNEX I

ANNEX I

**Form for the investment services and activities passport notification and the change of
investment services and activities particulars notification per Member State ⁽¹⁶⁾**

Articles 3 and 6 of Commission Implementing Regulation (EU) 2017/2382

Reference number:

Date:

Part 1 – Contact information

Type of notification: Investment services and activities passport notification / change of investment services and activities particulars notification

Member State in which the investment firm/credit institution intends to operate

Name of investment firm/credit institution:

Trading name(s):

Address:

Telephone number:

Email:

Name of the contact person at the investment firm/credit institution:

Home Member State:

Authorisation status: Authorised by [Home Member State Competent Authority]

Authorisation date:

Part 2 – Programme of operations

Intended investment services, activities and ancillary services for which the passport notification is sought (*)

¹⁶ For the purposes of a change of investment services and activities particulars notification please complete only the parts of the form which are relevant to the notified changes. If the intention is to make changes to the investment services, activities, ancillary services or financial instruments, please list all the investment services, activities, ancillary services or financial instruments the firm will provide.

		Investment services and activities									Ancillary services						
		A1	A2	A3	A4	A5	A6	A7	A8	A9	B1	B2	B3	B4	B5	B6	B7
Financial instruments	C1	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	C2	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	C3	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	C4	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	C5	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	C6	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	C7	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	C8	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	C9	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	C10	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	C11	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

(*) Please place an (x) in the appropriate boxes.

Details of tied agent located in the Home Member State (*)

Name of the tied agent	Address	Telephone	Email	Contact	Promotion of investment and/or ancillary services (**)
					<input type="checkbox"/>
					<input type="checkbox"/>
					<input type="checkbox"/>

(*) Please provide separate matrices with the intended investment services for each tied agent the investment firm intends to use.

(**) Please place an (x) in the appropriate boxes.

Intended investment services to be provided by the tied agent (*)()**

		Investment services and activities									Ancillary services						
		A1	A2	A3	A4	A5	A6	A7	A8	A9	B1	B2	B3	B4	B5	B6	B7
Financial instruments	C1	<input type="checkbox"/>				<input type="checkbox"/>		<input type="checkbox"/>									
	C2	<input type="checkbox"/>				<input type="checkbox"/>		<input type="checkbox"/>									
	C3	<input type="checkbox"/>				<input type="checkbox"/>		<input type="checkbox"/>									
	C4	<input type="checkbox"/>				<input type="checkbox"/>		<input type="checkbox"/>									
	C5	<input type="checkbox"/>				<input type="checkbox"/>		<input type="checkbox"/>									
	C6	<input type="checkbox"/>				<input type="checkbox"/>		<input type="checkbox"/>									
	C7	<input type="checkbox"/>				<input type="checkbox"/>		<input type="checkbox"/>									
	C8	<input type="checkbox"/>				<input type="checkbox"/>		<input type="checkbox"/>									
	C9	<input type="checkbox"/>				<input type="checkbox"/>		<input type="checkbox"/>									
	C10	<input type="checkbox"/>				<input type="checkbox"/>		<input type="checkbox"/>									
	C11	<input type="checkbox"/>				<input type="checkbox"/>		<input type="checkbox"/>									

(*) Please place an (x) in the appropriate box(es). If you intend to make changes to the investment services, activities or financial instruments provided by the tied agent, please list all investment services, activities or financial instruments the tied agent will provide.

(**) Please do not fill in this table if the tied agent does not intend to provide any investment services or activities but only, for example, intends to provide promotional activities.

Part 3 – Whether the investment firm will be actively targeting clients in the host Member State

Will the investment firm be actively targeting clients (*)	From (intended date):	Whether the investment firm will be actively targeting retail clients (**)	Whether the investment firm will be actively targeting professional clients
Yes <input type="checkbox"/> No <input type="checkbox"/>	dd/mm/yyyy	<input type="checkbox"/>	<input type="checkbox"/>
(*) Please place an (x) in the appropriate boxes. Only place an (x) in the boxes relating to the Member States where the firm will be actively targeting clients as referred to in Article 3(1) of Commission Delegated Regulation (EU) 2017/1018 of 29 June 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council on markets in financial instruments with regard to regulatory technical standards specifying information to be notified by investment firms, market operators and credit institutions ¹⁷ . Any other Member State where the firm intends to start its activities at a later stage shall be notified by means of a change to the initial notification.			
(**) Please place an (x) in the appropriate box(es) if the firm intends to actively target the relevant category of clients in the Member State.			

¹⁷ OJ L 155, 17.6.2017, p. 1.

Part 4 – Marketing means of the investment firm in the host Member State (*)

Means of marketing for the purposes of actively targeting clients	<input type="checkbox"/> Social media campaign (**)	<i>(please specify on which social media platform(s) and/or network(s), including the number of influencers used by the firm, if any)</i>
	<input type="checkbox"/> Mobile app	<i>(please specify which app)</i>
	<input type="checkbox"/> Roadshows	
	<input type="checkbox"/> Post	
	<input type="checkbox"/> Calls	<i>(please specify whether you will be using a call centre, tied agents or whether calls will be placed by employees of the firm)</i>
	<input type="checkbox"/> Dedicated website	<i>(please specify the domain names)</i>
	<input type="checkbox"/> Dedicated marketing material	
	<input type="checkbox"/> Webinars	
	<input type="checkbox"/> Educational material	
<input type="checkbox"/> Others	<i>(please specify)</i>	
Languages used for marketing purposes	<input type="checkbox"/> English <input type="checkbox"/> Official language(s) of the home Member State <input type="checkbox"/> Official language(s) of the host Member State <input type="checkbox"/> Others: _____	
(*) Please place an (x) in the appropriate boxes. This includes any marketing means used by tied agents on behalf of the firm.		
(**) Social media campaigns are online marketing campaigns whereby a firm is creating and publishing online content, engaging with clients and potential clients. They may be conducted on one or more social media channels at the same time to increase awareness of specific products or firms. Social media channels are all		

online platforms, networks or websites allowing users and creators to reach out and/or interact with each other, such as social networks, blogs and vlogs, media sharing sites, content communities, discussion forums and bookmarking networks.

Part 5 – Complaints

Language(s) for which the investment firm has the necessary arrangements to deal with complaints from clients from the host Member State	<input type="checkbox"/> English <input type="checkbox"/> Official language(s) of the home Member State <input type="checkbox"/> Official language(s) of the host Member State <input type="checkbox"/> Others: _____
--	--

Part 6 – Summary of the internal organisation in relation to the cross-border activities of the investment firm

<p>Please provide a summary explanation of: (*)</p> <p>(1) The main functional and legal reporting lines relating to the cross-border activities of the investment firm.</p> <p>(2) The main arrangements which have been put in place to ensure that the internal control functions have the capacity to control the cross-border activities (including those provided in a language other than English or the official language(s) of the home Member State).</p> <p>(3) The procedure for cross-border clients to submit and for the firm to deal with complaints resulting from the cross-border activities of the investment firm.</p>
<p>(*) The summary description shall provide a concise overview of the main points related to (1), (2) and (3) above. The summary description shall provide a broad understanding of how the cross-border activities of the firm integrate in the overall business operationally, legally and from an internal control point of view.</p>

ANNEX II

ANNEX III

Form for the communication of a change in the particulars of an investment services and activities passport notification or in a notification for the provision of arrangements to facilitate access to an MTF or OTF by the competent authority of the home Member State to the competent authority of the host Member State

Articles 7 and 8 of Commission Implementing Regulation (EU) 2017/2382

Reference number:

Date:

Communication in accordance with Article 34(4) or Article 34(7) of Directive 2014/65/EU ⁽¹⁾

FROM:

Member State:

Competent authority of the home Member State:

Address:

Designated contact point:

Telephone number:

Email:

TO:

Member State:

Competent authority of the host Member State:

Address:

Designated contact point:

Telephone number:

Email:

In accordance with Article 34(4) of the Directive 2014/65/EU, we wish to inform you that **[name of firm]**, an investment firm/credit institution/ market operator authorised/supervised by [name of the competent authority of the home Member State], has:

- (a) amended the investment services and activities/ancillary services/financial instruments that it intends to carry on in your territory on a cross-border basis
- (b) changed its name from [previous name] to [new name] with effect from [date of change]
- (c) moved to the following address with effect from [date of change]: [new address]
- (d) changed its other contact information with effect from [date of change] to the following: [add any changes made to the contact information of Part 1 in Annex I]
- (e) engaged an additional registered tied agent in [name of the home Member State] to provide its investment services and activities in your territory on a cross-border basis
- (f) amended the list of Member States where the firm is actively targeting clients and/or the type of clients in such Member States
- (g) changed its internal organisation in relation to the provision of cross-border activities
- (h) amended the arrangements provided in [name of the host Member State] in order to facilitate the access to and trading of the [name of the MTF or OTF]
- (i) ceased to provide investment services and/or perform investment activities due to the withdrawal/cancellation of its authorisation with effect [date of withdrawal/cancellation];
- (j) decided to cease providing investment services and/or perform investment activities with effect [date of withdrawal of passporting notification].

Please find attached a copy of the change of [investment services and activities particulars notification/particulars for the provision of arrangements to facilitate access to an MTF or OTF notification] with the relevant changes. If you have any queries, please do not hesitate to contact us.

Yours sincerely,

[signature]

(1) Please amend as appropriate in accordance with the changes to be notified.