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.

...  

2  Notices of Intention to Establish a Branch or Use a Tied Agent

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). The firm must also submit the form set out in Annex VII of Commission Implementing Regulation (EU) notifying the PRA if it intends to use a tied agent in the same territory as 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 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).

...  

4  Notices of Intention to Provide Cross Border Services

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).

(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).

(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).
5

NOTICE OF CHANGE OF DETAILS TO A BRANCH OR TIED AGENT

...(54)

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).../....

...(6)

NOTICE OF CHANGE OF DETAILS TO CROSS BORDER SERVICES

...(62)

(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 .../....
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.

...  

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.