Changes to legislation: *There are outstanding changes not yet made to Commission Delegated Regulation (EU) 2017/1018. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)EUR 2017 No. 1018 may be subject to amendment by EU Exit Instruments made by the Financial Conduct Authority under powers set out in The Financial Regulators' Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018 (S.I. 2018/1115), regs. 2, 3, Sch. Pt. 1. These amendments are not currently available on legislation.gov.uk. Details of relevant amending instruments can be found on their website/s. (See end of Document for details) View outstanding changes*

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)

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/EU[(1)], and in particular the third subparagraph of Articles 34(8) and the third subparagraph of Article 35(11) thereof,

Whereas:

(1) It is important to specify 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 services throughout the Union.

(2) The scope and the content of information to be communicated to the home competent authority by investment firms, credit institutions or market operators wishing to provide investment services or activates as well as ancillary activities or arrangements to facilitate access and trading vary according to the purpose and the form of the passport rights. For reasons of clarity it is therefore appropriate to define different types of passport notification for the purposes of this Regulation.

(3) For the same reasons, it is also important to clarify the information that investment firms or market operators, operating a multilateral trading facility ('MTF'), or organised trading facility ('OTF'), should submit when they wish to facilitate, within the territory of another Member State, access to and trading on those systems by remote users, members or participants established in that other Member State.

(4) Competent authorities of home and host Member States should receive updated information in case of any change in the particulars of a passport notification, including

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any withdrawal or cancellation of the authorisation to provide investment services and activities. That information should ensure those competent authorities are able to make an informed decision that is consistent with their powers and responsibilities.

(5) Changes to the name, address and contact details of investment firms in the home Member State are to be considered relevant and should therefore be notified as a change of branch particulars notification or as a change of tied agent particulars notification.

(6) It is important for competent authorities of the home and host Member State to cooperate in addressing the threat of money laundering. This Regulation, and in particular the communication of the investment firm's programme of operations, should facilitate the assessment and supervision by the competent authority of the host Member State of the adequacy of the systems and controls to prevent money laundering and terrorist financing of a branch established in its territory, including the skill, knowledge and good character of its money laundering reporting officer.

(7) The provisions in this Regulation are closely linked, since they deal with notifications related to the exercise of the freedom to provide investment services and activities and the exercise of the right of establishment that apply to investment firms, market operators and, where foreseen, credit institutions. To ensure coherence between those provisions, which should enter into force at the same time, and to facilitate a comprehensive view and compact access to them by persons subject to those obligations, it is desirable to include all regulatory technical standards for notification of information required by Title II, Chapter III of Directive 2014/65/EU in a single Regulation.

(8) For reasons of consistency and in order to ensure the smooth functioning of the financial markets, it is necessary that the provisions laid down in this Regulation and the related national provisions transposing Directive 2014/65/EU apply from the same date.

(9) This Regulation is based on the draft regulatory technical standards submitted by ESMA to the Commission.

(10) In accordance with Article 10 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council[(2)], the European Securities and Markets Authority (ESMA) has conducted open public consultations on such draft regulatory technical standards, analysed the potential related costs and benefits and requested the opinion of the Securities and Markets Stakeholder Group established in accordance with Article 37 of that Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

Scope

1 This Regulation shall apply to investment firms and market operators operating a multilateral trading facility ('MTF') or an organised trading facility ('OTF').

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2 This Regulation shall also apply to credit institutions, authorised under Directive 2013/36/EU of the European Parliament and of the Council[(3)], which provide one or more investment services or perform investment activities, and wish to use tied agents under the following rights:

a the right of freedom to provide investment services and activities in accordance with Article 34(5) of Directive 2014/65/EU;

b the right of establishment in accordance with Article 35(7) of Directive 2014/65/EU.

Article 2

Definitions

For the purposes of this Regulation, the following definitions shall apply:

(a) 'investment services and activities passport notification' means a notification made in accordance with Article 34(2) of Directive 2014/65/EU, or in accordance with Article 34(5) of Directive 2014/65/EU;

(b) 'branch passport notification' or 'tied agent passport notification' means a notification made in accordance with Article 35(2) of Directive 2014/65/EU, or in accordance with Article 35(7) of Directive 2014/65/EU;

(c) 'notification for the provision of arrangements to facilitate access to an MTF or an OTF' means a notification made in accordance with Article 34(7) of Directive 2014/65/EU.

(d) 'passport notification' means an investment services and activities passport notification, a branch passport notification, tied agent passport notification, or a notification for the provision of arrangements to facilitate access to an MTF or an OTF.

Article 3

Information to be notified for the purposes of the investment services and activities passport notification

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; and

(ii) confirmation as to whether the investment firm wishes to use tied agents, established in its home Member State, to provide 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.

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2 Credit institutions referred to in Article 1(2)(a) submitting an investment services and activities passport notification in accordance with Article 34(5) of Directive 2014/65/EU shall ensure that such notification contains the information set out in points (a) and (b)(ii) of paragraph 1.

Article 4

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

Investment firms and such credit institutions as are 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 any of the information contained in the initial investment services and activities passport notification.

Article 5

Information to be notified concerning arrangements to facilitate access to an MTF or OTF

Investment firms and market operators submitting notifications regarding arrangements to facilitate access to an MTF or OTF pursuant to Article 34(7) of Directive 2014/65/EU shall ensure such notification includes the following information:

(a) the name, address and contact details of the investment firm or the market operator, along with the name of a specified contact person at the investment firm or the market operator;

(b) **[**[X1]a short description of the arrangements and the date from which those arrangements will be provided in the host Member State;**]**

(c) a short description of the business model of the MTF or the OTF, including the type of the financial instruments traded, the type of participants, and the marketing approach of the MTF or OTF to target remote users, members or participants.

Editorial Information

X1 Substituted by Corrigendum to 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 (Official Journal of the European Union L 155 of 17 June 2017).

Article 6

Information to be notified in a branch passport notification or a tied agent passport notification

1 Investment firms and such credit institutions as are referred to in Article 1(2)(b) shall ensure that a branch passport notification or a tied agent passport notification submitted pursuant