Changes to legislation: *There are outstanding changes not yet made to Commission Delegated Regulation (EU) No 1151/2014. 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 2014 No. 1151 may be subject to amendment by EU Exit Instruments made by both the Prudential Regulation Authority and 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. 4. 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) No 1151/2014 of 4 June 2014 supplementing Directive 2013/36/EU of the European Parliament and of the Council with regard to regulatory technical standards on the information to be notified when exercising the right of establishment and the freedom to provide services (Text with EEA relevance)

COMMISSION DELEGATED REGULATION (EU) No 1151/2014

of 4 June 2014

supplementing Directive 2013/36/EU of the European Parliament and of the Council with regard to regulatory technical standards on the information to be notified when exercising the right of establishment and the freedom to provide services

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC[(1)], and in particular Article 35(5), Article 36(5) and Article 39(4) thereof,

Whereas:

(1) The information in notifications provided by credit institutions should be detailed enough so that the competent authorities of the Member State in which they have been authorised should be able to assess whether the administrative structure and the financial situation of those credit institutions are adequate to carry out the activities envisaged in the territory of another Member State in which they wish to operate, while preparing the competent authorities of the host Member State for the supervision of those credit institutions.

(2) For the purposes of making a clear distinction between the initial notifications, the notifications resulting from changes in the particulars of the initial notifications and those related to a planned termination of a branch's operation, it is necessary to define some technical terms used.

(3) To keep the amount of information to be notified within reasonable limits, only information that is relevant for assessing an initial notification should be transmitted to competent authorities. An initial notification should include details for identifying the branch and credit institution wishing to establish this branch as well as details for examining the branch's programme of operations envisaged by the credit institution. These details should include financial forecasts for the next three years in order for the competent authorities to ensure that the activities of the branch will not undermine the soundness of the financial situation of the credit institution in the future. These details

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should also include information on the levels and scope of protection offered to the branch's customers.

(4) When credit institutions intend to carry out one or more of the investment services and activities defined in point 2 of Article 4(1) of Directive 2004/39/EC of the European Parliament and of the Council[(2)] in another Member State, specific information relating to the structural organisation of the branch should be notified to the competent authorities of the home Member State. This information should give details on the internal arrangements to ensure compliance with the requirements laid down in that Directive so that the competent authorities should be able to assess the adequacy of the structural organisation of the branch for the investment services and activities envisaged.

(5) The competent authorities of home and host Member States need to receive updated information in the case of changes to the particulars of a branch passport notification, including the termination of the branch, in order to be in a position to make an informed decision within their powers and respective responsibilities.

(6) This Regulation should also address notification by credit institutions in relation to the carrying out of activities in a host Member State by way of the provision of cross-border services. Given the nature of cross-border services, competent authorities of host Member States are often confronted with a lack of information regarding operations being conducted in their jurisdictions, and therefore it is essential to specify in detail what information needs to be notified.

(7) The provisions in this Regulation are closely linked, since they deal with notifications related to the exercise of the right of establishment and the freedom to provide services. 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, including investors that are non-Union residents, it is desirable to include certain regulatory technical standards required by Directive 2013/36/EU in a single Regulation.

(8) The provisions in this Regulation should be read along with the provisions in Commission Implementing Regulation (EU) No 926/2014[(3)].

(9) This Regulation is based on the draft regulatory technical standards submitted by the European Supervisory Authority (European Banking Authority) (EBA) to the Commission.

(10) EBA 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 opinion of the Banking Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council[(4)],

HAS ADOPTED THIS REGULATION:

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Article 1

Subject matter

This Regulation specifies the information to be notified when exercising the right of establishment and the freedom to provide services in accordance with Article 35(5), Article 36(5) and Article 39(4) of Directive 2013/36/EU.

Article 2

Definitions

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

(1) 'branch passport notification' means a notification made in accordance with Article 35(1) of Directive 2013/36/EU by a credit institution wishing to establish a branch within the territory of another Member State to the competent authorities of its home Member State;

(2) 'change in branch particulars notification' means a notification made in accordance with Article 36(3) of Directive 2013/36/EU by a credit institution to the competent authorities of the home and host Member States of a change in the particulars communicated pursuant to Article 35(2)(b), (c) or (d) of that Directive;

(3) 'services passport notification' means a notification made in accordance with Article 39(1) of Directive 2013/36/EU by a credit institution wishing to exercise the freedom to provide services by carrying out its activities within the territory of another Member State for the first time to the competent authorities of its home Member State.

Article 3

Branch passport notification

1 The information to be notified in a branch passport notification shall include the following:

- a name and address of the credit institution and name and intended principal place of business of the branch;
- b programme of operations as specified in paragraph 2.

2 The programme of operations referred to in paragraph 1(b) shall comprise the following information:

- a types of business envisaged, comprising the following information:
  - (i) the main objectives and business strategy of the branch and an explanation of how the branch will contribute to the strategy of the institution and, where applicable, of its group;
  - (ii) a list of the activities in Annex I to Directive 2013/36/EU that the credit institution intends to carry out in the host Member State;
  - (iii) an indication of the activities that will constitute the core business in the host Member State, including the intended start date for each core activity;

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(iv) a description of the target customers and counterparties;

b structural organisation of the branch, comprising the following information:

(i) a description of the organisational structure of the branch, including functional and legal reporting lines and the position and role of the branch within the corporate structure of the institution and, where applicable, of its group;

(ii) a description of the governance arrangements and internal control mechanisms of the branch, including the following information:

— risk management procedures of the branch and details of liquidity risk management of the institution, and where applicable, of its group,

— any limits that apply to the activities of the branch, in particular to its lending activities,

— details of the internal audit arrangements of the branch, including details of the person responsible for these arrangements and, where applicable, details of the external auditor,

— anti-money laundering arrangements of the branch, including details of the person appointed to ensure compliance with these arrangements,

— controls over outsourcing and other arrangements with third parties in connection with the activities carried out in the branch that are covered by the institution's authorisation;

(iii) where the branch is expected to carry out one or more of the investment services and activities defined in point 2 of Article 4(1) of Directive 2004/39/EC, a description of the following arrangements:

— the arrangements for safeguarding client money and assets;

— the arrangements for compliance with the obligations laid down in Articles 19, 21, 22, 25, 27 and 28 of Directive 2004/39/EC and measures adopted pursuant thereto by the relevant competent authorities of the host Member State;

— the internal code of conduct including controls over personal account dealing;

— the details of the person responsible for dealing with complaints in relation to the investment services and activities of the branch;

— the details of the person appointed to ensure compliance with the arrangements of the branch relating to investment services and activities;

c the details of professional experience of the persons responsible for the management of the branch;

d other information, comprising the following:

(i) a financial plan containing forecasts for balance sheet and profit and loss account covering a period of three years;

(ii) the name and contact details of the Union deposit guarantee and investor protection schemes of which the institution is a member and which cover the activities and services of the branch, together with the maximum coverage of the investor protection scheme;

(iii) details of the branch's IT arrangements.