

Passporting

Notification of intention to provide cross border services in another EEA state



MARKETS IN FINANCIAL INSTRUMENTS DIRECTIVE

Full name of firm[†]

(SUP 13 Annex 2R – Notice under SUP 13.5.2R)

Purpose of this form

You should complete this form if you are a *UK firm* that wishes to exercise a passport right to provide *cross border services* in another *EEA State* or a *Recognised Investment Exchange* that wishes to provide access arrangements in another EEA state under the Markets in Financial Instruments Directive ('MiFID').

You may also use this form if you are a *UK firm* that wishes to notify us (the *FSA*) of changes to the details of its current *cross border services*.

Important information you should read before completing this form

A *UK firm* can only use this form if it is entitled to provide *cross border services* into another *EEA State* subject to the conditions of MiFID (see Schedule 3 of the Financial Services and Markets Act 2000 (FSMA)). By completing this form, you are confirming this is the case. *UK firms* should consult the legislation or take legal advice both in the *UK* and in the relevant *EEA State(s)* if they are in any doubt.

We give guidance on this in Chapter 13 of the Supervision manual (*SUP*). In particular, a *UK firm* that wants to exercise an *EEA right* must have the specific activity included in its Scope of Permission.

Filling in the form

1. If you are using your computer to complete the form, use the TAB key to move from question to question and press SHIFT TAB to move back to the previous question. Once completed, print the relevant sections and sign the declaration in section 4.
2. If you are filling in the form by hand, use black ink, write clearly and, once you have completed the relevant sections, sign the declaration in section 4.
3. If there is not enough space on the form, you may need to use separate sheets of paper. Clearly, mark each separate sheet of paper with the relevant question number.

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Registered as a Limited Company in England and Wales No 1920623. Registered Office as above.

1 Contact details

1.1 Details of the person we will contact about this application

FSA reference number †	
Title †	
Contact name †	
Address Line 1 †	
Address Line 2 †	
Postcode †	
Country †	
Telephone number †	
Fax number †	
Email address †	

† These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

2 Details of the services to be provided

2.1 Please indicate the *EEA State(s)* into which services are to be provided. †

Note to Question 2.1

UK firms have the right to provide *cross border services* to Gibraltar. So, references in this form to an *EEA State* include references to Gibraltar (see the Financial Services and Markets Act (Gibraltar) Order 2001).

Recognised Investment Exchanges completing box 2.1 will be indicating the EEA states in which they intend to provide access arrangements.

States required	
Austria	<input type="checkbox"/>
Belgium	<input type="checkbox"/>
Bulgaria	<input type="checkbox"/>
Cyprus	<input type="checkbox"/>
Czech Republic	<input type="checkbox"/>
Denmark	<input type="checkbox"/>
Estonia	<input type="checkbox"/>
Finland	<input type="checkbox"/>
France	<input type="checkbox"/>
Germany	<input type="checkbox"/>
Gibraltar	<input type="checkbox"/>
Greece	<input type="checkbox"/>
Hungary	<input type="checkbox"/>
Iceland	<input type="checkbox"/>
Ireland	<input type="checkbox"/>
Italy	<input type="checkbox"/>
Latvia	<input type="checkbox"/>
Liechtenstein	<input type="checkbox"/>
Lithuania	<input type="checkbox"/>
Luxembourg	<input type="checkbox"/>
Malta	<input type="checkbox"/>
Netherlands	<input type="checkbox"/>
Norway	<input type="checkbox"/>
Poland	<input type="checkbox"/>
Portugal	<input type="checkbox"/>
Romania	<input type="checkbox"/>
Slovak Republic	<input type="checkbox"/>
Slovenia	<input type="checkbox"/>
Spain	<input type="checkbox"/>
Sweden	<input type="checkbox"/>
All States	<input type="checkbox"/>

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2.2 If the *firm* intends to provide services into more than one *EEA State*, will these services vary for each State? †

Yes ▶

No ▶

2.3 Tell us the proposed date for the business to start. †

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3 Markets in Financial Instruments Directive ('MiFiD')

3.1 Please tick the appropriate boxes to show the *investment services* to be provided, together with the associated instruments (if the answer to question 2.2 as 'Yes', please complete a separate matrix for each *EEA State*). Recognised Investment Exchanges should complete only box 3.2[†]

		EEA State														
		Investment services and activities								Ancillary services						
		1	2	3	4	5	6	7	8	1	2	3	4	5	6	7
Financial Instruments	1	<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"/>
	2	<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"/>
	3	<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"/>
	4	<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"/>
	5	<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"/>
	6	<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"/>
	7	<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"/>
	8	<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"/>
	9	<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"/>
	10	<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"/>

UK firms that intend to use a tied agent to provide cross-border services in the territory of the host state are required to complete 'Annex 1' at the end of this form.

A full description of MiFID service activities and instruments can be found on the next page.

[†] These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

Investment services and activities

- (1) Reception and transmission of orders in relation to one or more financial instruments
- (2) Execution of orders on behalf of clients
- (3) Dealing on own account
- (4) Portfolio management
- (5) Investment advice
- (6) Underwriting of financial instruments and/or placing of financial instruments on a firm commitment basis
- (7) Placing of financial instruments without a firm commitment basis
- (8) Operation of Multilateral Trading Facilities

Ancillary services

- (1) Safekeeping and administration of financial instruments for the account of clients, including custodianship and related services such as cash/collateral management
- (2) Granting credits or loans to an investor to allow him to carry out a transaction in one or more financial instruments, where the firm granting the credit or loan is involved in the transaction
- (3) Advice to undertakings on capital structure, industrial strategy and related matters and advice and services relating to mergers and the purchase of undertakings
- (4) Foreign exchange services where these are connected to the provision of investment services
- (5) Investment research and financial analysis or other forms of general recommendation relating to transactions in financial instruments
- (6) Services related to underwriting
- (7) Investment services and activities as well as ancillary services of the type included under Section A or B of Annex 1 related to the underlying of the derivatives included under Section C – 5, 6, 7 and 10 - where these are connected to the provision of investment or ancillary services

Financial Instruments

- (1) Transferable securities
- (2) Money-market instruments
- (3) Units in collective investment undertakings
- (4) Options, futures, swaps, forward rate agreements and any other derivative contracts relating to securities, currencies, interest rates or yields, or other derivatives instruments, financial indices or financial measures which may be settled physically or in cash
- (5) Options, futures, swaps, forward rate agreements and any other derivative contracts relating to commodities that must be settled in cash or may be settled in cash at the option of one of the parties (otherwise than by reason of a default or other termination event)
- (6) Options, futures, swaps, and any other derivative contract relating to commodities that can be physically settled provided that they are traded on a regulated market and/or an MTF
- (7) Options, futures, swaps, forwards and any other derivative contracts relating to commodities, that can be physically settled not otherwise mentioned in C.6 and not being for commercial purposes, which have the characteristics of other derivative financial instruments, having regard to whether, inter alia, they are cleared and settled through recognised clearing houses or are subject to regular margin calls
- (8) Derivative instruments for the transfer of credit risk
- (9) Financial contracts for differences
- (10) Options, futures, swaps, forward rate agreements and any other derivative contracts relating to climatic variables, freight rates, emission allowances or inflation rates or other official economic statistics that must be settled in cash or may be settled in cash at the option of one of the parties (otherwise than by reason of a default or other termination event), as well as any other derivative contracts relating to assets, rights, obligations, indices and measures not otherwise mentioned in this Section, which have the characteristics of other derivative financial instruments, having regard to whether, inter alia, they are traded on a regulated market or an MTF, are cleared and settled through recognised clearing houses or are subject to regular margin calls

3.2 Please give details of the *firm's* programme of operations, including a description of the particular EEA activities the firm will carry on.[†]

Note to Question

3.2

UK firms should consider the following points when preparing a programme of operations:

- details about the services to be provided into the other *EEA State(s)*, including a description of the way in which the proposed services will be conducted;
- details of any other business (i.e. non-investment business) which is currently being (or will be) provided into the other *EEA State(s)*;
- a description of the type of *client* or counterpart with whom the services will be conducted; and
- details of the systems of internal controls over the services to be provided into the other *EEA State(s)* that will be used by management in the *UK* to monitor such activities.

UK firms requiring specific information about the content and level of detail of information to be provided are encouraged to contact the Passport Notification Unit (contact details are given on page 16).

Recognised Investment Exchanges should state whether they are providing access arrangements in respects of a regulated market or MTF, or both.

Where a Recognised Investment Exchange intends to make access arrangements for different types of market in different EEA States, it should specify which arrangements it intends to make in each of those states.

[†] These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

4 Declaration

Note to Declaration

If you are submitting this notification electronically you do not need to provide a signature here. However, you still need to have the authority to make this notification on behalf of the firm.

It is a criminal offence to knowingly or recklessly give us information that is false or misleading. If necessary, please seek appropriate professional advice before supplying information to us.

There will be a delay in processing the application if any information is inaccurate or incomplete. And failure to notify us immediately of any significant change to the information provided may result in a serious delay in the application process.

- I understand it is a criminal offence knowingly or recklessly to give the FSA information that is false or misleading in a material particular.
- I confirm that the information in this form is accurate and complete to the best of my knowledge and belief.
- I confirm that I am authorised to sign on behalf of the *firm*/Recognised Investment Exchange

Name [†]	
Position [†]	
Signature*	
Date [†]	dd/mm/yy

*

I enclose the following sections (mark the appropriate section)

Section 1 – Contact details (mandatory)	<input type="checkbox"/>
Section 2 – Details of the services (mandatory)	<input type="checkbox"/>
Section 3 – Markets in Financial Instruments Directive	<input type="checkbox"/>
Section 4 – Declaration (mandatory)	<input type="checkbox"/>
Annex 1 – Tied Agent Details	<input type="checkbox"/>

[†] These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

* These questions should only be completed if the form is being submitted in one of the ways set out in SUP 15.7 other than online submission. It should not be completed if the submission of this form is online

ANNEX 1 – Tied Agent Notification Form

This form should be used to notify the FSA when a *UK firm* intends to use a *tied agent* to provide cross-border services in the territory of another *EEA state*.

Tied Agent Details

1 Name of Tied Agent[†]

2 Address of Tied Agent[†]

3 Trading name(s) of Tied Agent, if different to the name given in question 1 above[†]

4 Telephone number of Tied Agent[†]

5 Fax number of Tied agent[†]

6 E-mail address of Tied Agent[†]

7 Website of Tied Agent[†]

8 Legal Status of Tied Agent[†]

<input type="checkbox"/> Private Limited Company	<input type="checkbox"/> Public Limited Company
<input type="checkbox"/> Partnership	<input type="checkbox"/> Limited Partnership
<input type="checkbox"/> Limited Liability	<input type="checkbox"/> Unincorporated Association
<input type="checkbox"/> Sole Trader	<input type="checkbox"/> Other, please specify below

9 Date of commencement of agreement with your firm[†]

[†] These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

Warning

Knowingly or recklessly giving the FSA information, which is false or misleading in a material particular, may be a criminal offence (sections 398 and 400 of the Financial Services and Markets Act 2000). SUP 15.6.4R requires an authorised person to take reasonable steps to ensure the accuracy and completeness of information given to the FSA and to notify the FSA immediately if materially inaccurate information has been provided. Contravention of these requirements may lead to disciplinary sanctions or other enforcement action by the FSA. It should not be assumed that information is known to the FSA merely because it is in the public domain or has previously been disclosed to the FSA or another regulatory body. If you are not sure whether a piece of information is relevant, please include it anyway.

Data Protection

For the purposes of complying with the Data Protection Act, the personal information in this form will be used by the Financial Services Authority to discharge its statutory functions under the Financial Services and Markets Act 2000 and other relevant legislation. It will not be disclosed for any other purposes without the permission of the applicant.

Some questions do not require supporting evidence. However, the records, which demonstrate the applicant firm's compliance with the rules in relation to the questions, must be available to the FSA on request.

Declaration**By submitting this notification**

- **I/we confirm that this information is accurate and complete to the best of my knowledge and belief and that I have taken all reasonable steps to ensure that this is the case.**
- **I am/we are aware that it is a criminal offence knowingly or recklessly to give the FSA information that is false or misleading in a material particular.**
- **I/we will notify the FSA immediately if there is a significant change to the information given in the form. If I/we fail to do so, this may result in a delay in the application process or enforcement action.**

Date[†]

Name of signatory[†]

Position in firm[†]

Individual Registration Number[†]
(if applicable)

[†] These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7