

Markets in Financial Instruments Directive/ Regulation

Markets in Financial Instruments Directive/Regulation

Chapter 36

Commission Implementing Regulation (EU) 2017/1945

001	Preamble
002	Article -2 Definitions
003	Article -1 Interpretation
004	Article 1 Designation of a contact point
005	Article 2 Submission of the application
006	Article 3 Receipt of the application form and acknowledgement of receipt
007	Article 4 Request of additional information
008	Article 5 Notification of changes to the membership of the management body
009	Article 6 Communication of the decision
010	Article 7 Entry into force and application
011	Signature
annex01	ANNEX I Application Form for authorisation as an Investment Firm
annex02	ANNEX II List of members of the management body
annex03	ANNEX III Notification of information on changes to the membership of the management body

Chapter 36

Commission Implementing Regulation (EU) 2017/1945



Preamble

01/01/2021

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 amending Directive 2002/92/EC and Directive 2011/61/EU, and in particular the third subparagraph of Article 7(5) thereof,

Whereas:

(1) It is appropriate to set out common standard forms, templates and procedures to ensure a uniform mechanism by which Member States' competent authorities effectively exercise their powers in respect of the authorisation of firms for the provision of investment services, investment activities and, where relevant, of ancillary services.

(2) To facilitate communication between an applicant seeking authorisation as an investment firm in accordance with Title II of Directive 2014/65/EU and the competent authority, competent authorities should designate a contact point specifically for the purpose of the application process and should publish the information on the contact point on their website.

(3) In order to allow competent authorities to assess whether changes to the management body of the firm may pose a threat to the effective, sound and prudent management of the firm, and to adequately take into consideration the interests of its clients and the integrity of the market, clear time limits should be defined for the submission of information on those changes.

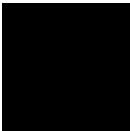
(4) Firms should however be exempted from the requirement to submit information on changes to the management body before that change takes effect where the change is due to factors not within the control of the firm, such as in the case of the death of a management body member. Under those circumstances, firms should be allowed to notify the competent authority within 10 working days after the change.

(5) Directive 95/46/EC of the European Parliament and of the Council applies to the processing of personal data by the Member States in the application of this Regulation.

(6) This Regulation is based on the draft implementing technical standards submitted by the European Securities and Markets Authority (ESMA) to the Commission.

(7) ESMA has conducted open public consultations, 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 Regulation (EU) No 1095/2010 of the European Parliament and of the Council,

HAS ADOPTED THIS REGULATION:



Article -2 Definitions

In this Regulation, ‘IP completion day’ has the meaning given in the European Union (Withdrawal) Act 2020.



Article -1 Interpretation

1. Where a term is defined in Directive 2014/65/EU that term shall apply for the purposes of this Regulation except where (2) applies.
2. Where a term is defined in article 2 of Regulation 600/2014/EU, as amended by the Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018, that definition shall apply for the purposes of this Regulation.
3. References to UK law corresponding to EU legislation include any primary or secondary legislation or regulators' requirements which were relied upon by the United Kingdom immediately before IP completion day to give effect to that EU legislation.



Article 1 Designation of a contact point

Competent authorities shall designate a contact point for handling all information received from applicants seeking authorisation as an investment firm in accordance with the United Kingdom’s legislation corresponding to Title II of Directive 2014/65/EU. The contact details on the designated contact point shall be made public and regularly updated on the competent authorities’ websites.



Article 2 Submission of the application

(1) An applicant seeking authorisation as an investment firm in accordance with the United Kingdom's legislation corresponding to Title II of Directive 2014/65/EU shall submit to the competent authority its application by filling in the template set out in Annex I.

(2) The applicant shall notify the competent authority of the information on all members of its management body by filling in the template set out in Annex II.

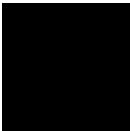


**Article 3 Receipt of the application form
and acknowledgement of receipt**

Within 10 working days from the receipt of the application, the competent authority shall send an acknowledgement of receipt to the applicant, including the contact details of the designated contact point as referred to in Article 1.

Article 4 Request of additional information

Where additional information is required to proceed with the assessment of the application, the competent authority shall send a request to the applicant indicating the information to be provided.



Article 5 Notification of changes to the
membership of the management body

(1) An investment firm shall notify the competent authority of any change to the membership of its management body before such change takes effect.

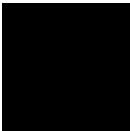
Where, for substantiated reasons, it is not possible to make the notification before that change takes effect, it shall be made within 10 working days after the change.

(2) The investment firm shall provide the information on the change referred to in paragraph 1 in the format set out in Annex III.



Article 6 Communication of the decision

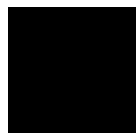
The competent authority shall inform the applicant of its decision to grant or not the authorisation in paper form, by electronic means or both, within the 6-month period referred to in the United Kingdom's legislation corresponding to Article 7(3) of Directive 2014/65/EU.



Article 7 Entry into force and application

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

It shall apply from 3 January 2018.



Signature

01/01/2021

Done at Brussels, 19 June 2017.

01/01/2021

For the Commission

01/01/2021

The President

01/01/2021

Jean-Claude JUNCKER



ANNEX I Application Form for
authorisation as an Investment Firm

Reference number:

Date:

FROM:

Name of the applicant:

Address:

(Contact details of the designated contact person)

Name:

Telephone:

Email:

TO:

Member State:

Competent Authority:

Address:

(Contact details of the designated contact point)

Address:

Telephone:

Email:

Dear [insert appropriate name]

In accordance with Article 2 of the Commission Implementing Regulation (EU) 2017/1945 laying down implementing technical standards with regard to standard forms, templates and procedures for notification or provision of information provided for in Article 7(5) of Directive 2014/65/EU to ensure uniform conditions of application of Article 7(2) of that Directive, kindly find attached the authorisation application.

— Person in charge of preparing the application:

Name:

Status/position:

Telephone:

Fax (if available):

Email:

— Nature of the application (tick the relevant box):

☐ Authorisation

☐ Change to the authorisation already obtained

CONTENT

General information on the applicant firm

.....
[please insert the information referred to under Article 1 of Commission Delegated Regulation (EU) 2017/1943 of the European Parliament and of the Council of 14 July 2016 supplementing Directive 2014/65/EU with regard to regulatory technical standards on information and requirements for the authorisation of investment firms. Please set out that information here or make reference to the relevant annexes containing the information]

Information on the capital

.....
[please insert the information referred to under Article 2 of Delegated Regulation (EU) 2017/1943. Please set out that information here or make reference to the relevant annexes containing the information]

Information on the shareholders

.....
[please insert the information referred to under Article 3 of Delegated Regulation (EU) 2017/1943. Please set out that information here or make reference to the relevant annexes containing the information]

Information on the management body and persons directing the business

.....
[please insert the information referred to under Article 4 of Delegated Regulation (EU) 2017/1943. Please set out that information here or make reference to the relevant annexes containing the information]

Financial information

.....
[please insert the information referred to under Article 5 of Delegated Regulation (EU) 2017/1943. Please set out that information here or make reference to the relevant annexes containing the information]

Information on the organisation

.....
[please insert the information referred to under Article 6 of Delegated Regulation (EU) 2017/1943. Please set out that information here or make reference to the relevant annexes containing the information]



ANNEX II List of members of the
management body

	Reference number:
	Date:
FROM:	
Name of the applicant:	
Address:	
(Contact details of the designated contact person)	
Name:	
Telephone:	
Email:	
TO:	
Competent Authority:	
Address:	
(Contact details of the designated contact point if relevant)	
Address:	
Telephone:	
Email:	
Dear [insert appropriate name]	
In accordance with Article 2 of Commission Implementing Regulation (EU) 2017/1945 of 19 June 2017 laying down implementing technical standards with regard to standard forms, templates and procedures for notification or provision of information provided for in Article 7(5) of Directive 2014/65/EU to ensure uniform conditions of application of Article 9(5) of that Directive, kindly find attached the notification request.	

— Person in charge of preparing the application:

Name:

Status/position:

Telephone:

Fax (if available):

Email:

Date:

Signature:

List of members of the management body

Member 1

Name

Contact details (Telephone, email, address)

Position

Professional experience and other relevant experience

Educational qualification and relevant training

List of executive and non-executive directorships in other entities

.....

Effective date

[Please set out that information here or provide an explanation of how it will be provided, or make reference to the relevant annexes containing the information]

Member n

Name

Contact details (Telephone, email, address)

Position

Professional experience and other relevant experience

Educational qualification and relevant training

List of executive and non-executive directorships in other entities

.....

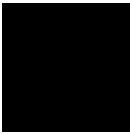
Effective date

[Please set out that information here or provide an explanation of how it will be provided, or make reference to the relevant annexes containing the information]

Please provide:

— Minutes of the general meeting acting the nomination of the new member of the management body

— Minutes of the general meeting of the management body acting the nomination of the new members.



ANNEX III Notification of information
on changes to the membership of the
management body

Reference number:
Date:

FROM:
Name of the applicant:
Address:

(Contact details of the designated contact person)
Name:
Telephone:
Email:

TO:
Competent Authority:
Address:

(Contact details of the designated contact point if relevant)
Address:
Telephone:
Email:

Dear [insert appropriate name]

In accordance with Article 4 of the Commission Implementing Regulation (EU) 2017/1945 of 19 June 2017 laying down implementing technical standards with regard to standard forms, templates and procedures for notification or provision of information provided for in Article 7(5) of Directive 2014/65/EU to ensure uniform conditions of application of Article 9(5) of that Directive, kindly find attached the notification request.

— Person in charge of preparing the application:

Name:

Status/position:

Telephone:

Fax (if available):

Email:

Information on member(s) leaving the management body

Member 1

Name

Contact details (Telephone, email, address)

Position

Effective date of departure from management body

Reasons for the departure from management body

Member 2

Name

Contact details (Telephone, email, address)

Position

Effective date of departure from management body

Reasons for the departure from management body

Member n

Name

Contact details (Telephone, email, address)

Position

Effective date of departure from management body

Reasons for the departure from management body

Information on new member(s) of the management body

Member 1

Name

Contact details (Telephone, email, address)

Position

Professional experience and other relevant experience

Educational qualification and relevant training

List of executive and non-executive directorships in other entities

Effective date

[Please set out that information here or provide an explanation of how it will be provided, or make reference to the relevant annexes containing the information]

Member n

Name

Contact details (Telephone, email, address)

Position

Professional experience and other relevant experience

Educational qualification and relevant training

List of executive and non-executive directorships in other entities

Effective date

[Please set out that information here or provide an explanation of how it will be provided, or make reference to the relevant annexes containing the information]

Complete updated list of members of the management body

Name	Position	Effective date

Please provide:

— Minutes of the general meeting acting the nomination of the new member of the management body.

— Minutes of the general meeting of the management body acting the nomination of the new member.