
TO : Cyprus Investment Firms

FROM : Cyprus Securities and Exchange Commission

DATE : 22 August 2017

CIRCULAR NO. : C233

SUBJECT : MiFID II Main changes in relation to passporting issues and new notification forms

A. INTRODUCTION

1. The Cyprus Securities and Exchange Commission ('CySEC') wishes with this Circular to inform the Cyprus Investments Firms ('CIFs') on their obligations provided in Articles 35 and 36 of the [Investment Services and Activities and Regulated Markets Law L. 87\(I\)/2017](#) (the 'Law'), transposing the Directive 2014/65/EU of the European Parliament and of the Council on markets in financial instruments ('MiFID II') that will enter into force on 3 January 2018, in relation to Passporting Issues and the establishment of a branch.
2. The abovementioned obligations are further elaborated in the following delegated and implementing acts in relation to the passport notification process:
 - i. [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](#), and
 - ii. Commission Implementing Regulation laying down implementing technical standards with regard to standard forms, templates and procedures for the transmission of information in accordance with Directive 2014/65/EU. This can be found in [ESMA's Final Report MiFID II/MiFIR draft Technical Standards on authorisation, passporting, registration of third country firms and cooperation between competent authorities](#) (see ITS 4).

3. MIFID II passporting regime will apply to a broader range of activities, services and financial instruments than the current MIFID passporting regime because of the increases in scope in MIFID II of services/activities and financial instruments. This Circular is important to all CIFs that:

- Want to operate an Organised Trading Facility
- Perform services in relation to the new financial instrument emission allowances
- Fall within the revised exemptions under MiFID II and the Law (see part 5 of the Appendix of the [Announcement](#) issued on April 11, 2017),
- Will need to be authorized to deal on own account, as a result of the scope of that being extended to include matched principal trading,
- Are currently passporting services in relation to derivatives of emission allowances and their passport does not include the financial instruments of number 4 Part III, First Appendix of the Law.

B. KEY PROVISIONS OF THE LEGISLATIVE FRAMEWORK

4. One of the main changes in relation to cross border services passports is that investment firms will be required to submit one passport notification for each member state in which they intend to provide cross-border services.
5. The new legislative framework introduces revised forms for the notifications relating to the freedom to provide services in another member state, the establishment of a branch, as well as the appointment of a tied agent in member states.
6. Moreover, new notification forms are introduced, in relation to the provision of arrangements to facilitate access to an MTF or OTF and the termination of the operation of a branch or cessation of the use of a tied agent established in another EEA state or in the Republic.
7. For more information on the above and the main changes relating to the passport notification process please see the [Announcement on MiFID II Main changes in relation to passporting issues and new notification forms](#), issued on August 11, 2017.

C. ACTIONS REQUIRED BY REGULATED ENTITIES

8. CySEC notes that:

(a) All CIFs should consider whether their existing Passport licenses/ authorisations required to be amended under the scope of Law 87 (I)/2017 and submit the new Passport notifications **until 29 September 2017** using the new forms available on CySEC's website. The same applies to existing CIFs who wish to amend their existing passport, effective as of 3 January 2018. The relevant forms are:

- i. [Notification of intention to freely provide/perform services/activities in another member state \(EEA\) \(Form 87-00-04\)](#),

- ii. [Notification for the provision of arrangements to facilitate access to an MTF or OTF \(Form 87-00-05\)](#),
- iii. [Notification of intention to establish a branch in another EEA state \(Form 87-00-06\)](#),
- iv. [Notification of intention to use a tied agent established in another EEA state and change of tied agent particulars \(Form 87-00-07\)](#),
- v. [Notification of the termination of the operation of a branch or cessation of the use of a tied agent established in another EEA state or in the Republic \(Form 87-00-08\)](#).

(b) CIFs that intent to establish a branch or appoint a tied agent are urged to submit the relevant notifications (Forms 87-00-06 and 87-00-07) as of **3 November 2017**.

(c) Please note that the requirement in point (a) above applies only to amended passports that will be applicable as of 3 January 2018. All other passporting notifications made until **8 December 2017** shall be submitted as usual using the existing Forms. From **11 December 2017** all notifications shall be submitted using the new forms listed above.

All Forms are available on CySEC website (www.cysec.gov.cy) and are subject to revision or changes.

Sincerely

Demetra Kalogerou
Chairman of Cyprus Securities and Exchange Commission

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