

COMMISSION IMPLEMENTING REGULATION (EU) 2023/1119**of 12 January 2023****laying down implementing technical standards for the application of Directive (EU) 2019/2034 of the European Parliament and of the Council with regard to standard forms, templates and procedures for the information sharing between the competent authorities of home and host Member States****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Directive (EU) 2019/2034 of the European Parliament and of the Council of 27 November 2019 on the prudential supervision of investment firms and amending Directives 2002/87/EC, 2009/65/EC, 2011/61/EU, 2013/36/EU, 2014/59/EU and 2014/65/EU ⁽¹⁾, and in particular Article 13(8), second subparagraph, thereof,

Whereas:

- (1) An efficient and timely cooperation between competent authorities of home and host Member States requires, within the respective supervisory competences of those authorities, an adequate two-way information exchange. To support this objective, standard forms, templates and operating procedures, including timelines, should be established for the exchange of information. As the information exchanged should be timely and up-to-date, competent authorities should strive to exchange information as early as practicable, without undue delay, ahead of the expiry of any maximum remittance deadline.
- (2) To ensure an efficient transmission of information to the relevant contact persons within the competent authorities as well as the confidentiality of the information, the competent authorities should establish, share and regularly update lists of contact persons.
- (3) In order to ensure the effectiveness of the supervision of investment firms on a cross-border basis, an adequate protection of clients and markets as well as prompt corrective actions, competent authorities of home and host Member States should inform each other without undue delay about any potential situation affecting the financial stability or the functioning of a branch and provide all essential and relevant information regarding that situation.
- (4) Requirements on the type and nature of the information to be exchanged by competent authorities of home and host Member States are set out in Commission Delegated Regulation (EU) 2023/1117 ⁽²⁾. The establishment of standard forms, templates and procedures for such information sharing requirements should therefore follow the scope and approach set out by that Delegated Regulation and take account of the standard forms, templates and procedures that are already implemented through other mechanisms such as those set out in accordance with Articles 34 and 35 of Directive 2014/65/EU of the European Parliament and of the Council ⁽³⁾, thereby avoiding duplication.
- (5) The framework set out in the Delegated Regulation (EU) 2023/1117 specifies requirements for the type and nature of the information to be exchanged by competent authorities. While the latter provides the key elements that should be subject to an exchange of information between competent authorities, it does not aim to restrict the scope of such exchange of information in the context of promoting a broad cooperation between competent authorities on a cross-border basis.

⁽¹⁾ OJ L 314, 5.12.2019, p. 64.

⁽²⁾ Commission Delegated Regulation (EU) 2023/1117 of 12 January 2023 supplementing Directive (EU) 2019/2034 of the European Parliament and of the Council with regard to regulatory technical standards specifying requirements for the type and nature of the information to be exchanged by competent authorities of home and host Member States (see page 10 of this Official Journal).

⁽³⁾ 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 (OJ L 173, 12.6.2014, p. 349).

- (6) This Regulation is based on the draft implementing technical standards submitted to the Commission by the European Banking Authority (EBA) in consultation with the European Securities Markets Authority (ESMA).
- (7) The EBA has conducted open public consultations on the draft implementing technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the advice 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:

Article 1

Frequency of information exchange

1. The information referred to in Article 2 of Delegated Regulation (EU) 2023/1117 shall be made available and updated at least on an annual basis. The updated information shall be provided by the competent authorities of the home Member State to the competent authorities of the host Member State no later than 30 April of each year or, without undue delay, following a material change.
2. The information regarding any situation of non-compliance with requirements, as specified in Articles 3 to 6 and Article 8 of Delegated Regulation (EU) 2023/1117 and the application of supervisory measures or other administrative sanctions or administrative measures referred to in Article 9 of Delegated Regulation (EU) 2023/1117 shall be provided without undue delay and no later than 14 calendar days after the determination by the competent authorities of the non-compliance situation, or the application of the supervisory or other administrative measure, or the application of an administrative sanction.
3. The information referred to in Articles 3 to 7 of Delegated Regulation (EU) 2023/1117 shall be made available and updated at least on an annual basis. The updated information shall be provided by the competent authorities of the home Member State to the competent authorities of the host Member State no later than 30 April of each year, based on the accounting close as of 31 December or, without undue delay, following a material change.
4. By way of derogation from paragraph 3, in a calendar year, where the competent authorities of the home Member State complete the supervisory review and evaluation for investment firms performed in accordance with Article 36 of Directive (EU) 2019/2034, information specified in paragraph 3 shall be provided no later than 1 month following the completion of the report.

Article 2

Operational procedures for the transmission of information

1. The competent authorities of the home Member State shall maintain and share with the competent authorities of the host Member State an up-to-date contact list regarding each investment firm containing the relevant contact persons and contact information, including emergency contacts, for the exchange of information between the competent authorities of the home and host Member States.
2. The competent authorities of host Member States shall inform the competent authorities of the home Member State of their contact persons and contact information and of any changes without undue delay. The competent authorities of the home Member State and host Member States shall review and update the contact list at least annually.
3. The competent authorities of the home Member State and the competent authorities of the host Member States shall exchange information in written or electronic form and shall address the information to the relevant contact persons identified in the contact list referred to in paragraph 1 unless specified otherwise by a competent authority requesting information.

⁽⁴⁾ Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12).

4. Where information is exchanged in electronic form, secure channels of communication shall be used unless, and without prejudice of the application of Article 15 of Directive (EU) 2019/2034 and of rules on processing of personal data, the competent authorities providing and receiving information agree, where appropriate, to use unsecured channels of communication.

5. Depending on the urgency of a specific situation, where competent authorities have identified findings about any potential problems and risks posed by an investment firm to the protection of clients or the stability of the financial system in the host Member State or cases of non-compliance, the following information may be first provided orally before being confirmed in written or electronic form:

- (a) information regarding non-compliance with requirements referred to in Article 8 of Delegated Regulation (EU) 2023/1117;
- (b) information regarding the application of supervisory or other administrative measures;
- (c) information regarding the imposition of administrative sanctions.

6. Upon receiving information, competent authorities shall confirm receipt of it. Where information has been provided in electronic form using a secure channel of communication, the confirmation of receipt shall be provided using the same channel. Confirmation of receipt shall not be required for information which has been provided orally or using a secure channel of communication which enables the sender to receive confirmation that the receiver has received the information.

7. Where a college of supervisors has been established in accordance with Article 48(1) of Directive (EU) 2019/2034 and the competent authorities of the home Member State and competent authorities of the host Member States take part in the college as members or other participants in accordance with Commission Delegated Regulation (EU) 2023/1118 ⁽⁵⁾, paragraphs 1 to 6 of this Article shall not apply. In such cases, the information shall be exchanged in accordance with Article 48(6) of Directive (EU) 2019/2034.

Article 3

Standard forms to be used for information exchange regarding investment firms operating through a branch

1. Information referred to in Articles 2 to 4 and Article 7 of Delegated Regulation (EU) 2023/1117 shall be exchanged using the template and form set out in the Annex.
2. Information and findings about any potential problems and risks posed by the branch or its activities in the host Member State having significant impact on the protection of clients or the stability of the financial system in the host Member State shall be provided by the competent authorities of the host Member State in the form deemed appropriate by those authorities.
3. Information referred to in Article 8 of Delegated Regulation (EU) 2023/1117 and information regarding the application of supervisory or other administrative measures or administrative sanctions as referred to in Article 1(2) of this Regulation shall be provided in the form deemed appropriate by the competent authority that provides the information.

Article 4

Information requests regarding cross-border service providers

1. The competent authorities of a host Member State, in which an investment firm carries out its activities under the freedom to provide services, which request the competent authorities of the home Member State to provide the information regarding those services as laid down in Delegated Regulation (EU) 2023/1117 shall:
 - (a) provide the request for information in written or electronic form to the relevant contact person identified in the contact list referred to in Article 2(1);

⁽⁵⁾ Commission Delegated Regulation (EU) 2023/1118 of 12 January 2023 supplementing Directive (EU) 2019/2034 of the European Parliament and of the Council with regard to regulatory technical standards specifying the conditions under which colleges of supervisors exercise their tasks (see page 17 of this Official Journal).

(b) indicate a reasonable time by which the response is expected to be available.

2. The competent authorities of the home Member State receiving a request referred to in paragraph 1 shall provide the information without undue delay and shall make every effort to respond by the time indicated in the request. If those competent authorities are unable to reply by the time indicated in the request, they shall inform the requesting competent authorities without undue delay of the time by which they will provide the information.

Article 5

Ad-hoc requests for information

1. Any other ad hoc request for information that is not specified under Delegated Regulation (EU) 2023/1117 shall be transmitted in written or electronic form to the relevant contact persons identified in the contact list referred to in Article 2(1) of this Regulation.

2. Competent authorities making a request referred to in paragraph 1 shall explain how the information is likely to facilitate the supervision or monitoring of an investment firm or the protection of the stability of the financial system.

3. The competent authorities requesting the information shall indicate a reasonable time by which the response is expected to be available, taking into account the nature and urgency of the request and the information requested.

4. Competent authorities receiving a request referred to in paragraph 1 shall provide the information without undue delay and shall make every effort to respond by the time indicated in the request. If those competent authorities are unable to reply by the time indicated in the request, they shall inform the requesting competent authorities without undue delay of the time by which they will provide the information.

5. If the requested information is not available, the competent authorities receiving a request referred to in paragraph 1 shall inform the competent authorities making the request accordingly.

Article 6

Entry into force

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

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 12 January 2023.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX

Template for the exchange of information regarding investment firms to be provided by the competent authorities of the home Member State to competent authorities of a host Member State supervising a branch:

Competent Authority:	<i>Free text</i>
Investment firm name:	<i>Free text</i>
Reference date (DD/MM/YYYY)	<i>Reference date for the information.</i>
Submission date (DD/MM/YYYY):	<i>Date when the information is being provided to the competent authorities of host Member State.</i>
Information provided on consolidated basis (Yes/No)	<i>Please indicate 'Yes' if information in this template is provided on a consolidated basis and not at the level of the investment firm group.</i>
Contact person at the competent authorities of the home Member State	<i>Name and contact details of a person providing information for any possible follow-up questions</i>
Statement on the compliance of the investment firm with the own funds requirements laid down in Article 11 of Regulation (EU) 2019/2033, taking into account the transitional arrangements laid down in Article 57 of that Regulation	<i>Legal reference: Article 3(1) of Delegated Regulation (EU) 2023/1117. Free text answering the question on the reporting date. Should there be no changes compared to the previous reporting period, competent authorities may refer to already provided information or update accordingly.</i>
Statement on the compliance of the investment firm with any additional own funds requirements imposed in accordance with Article 39(2), point (a), of Directive (EU) 2019/2034	<i>Please note that issues of non-compliance with minimum regulatory requirements and any supervisory measures taken by the competent authorities to address them shall be reported outside this template in regular exchange of information and in accordance with Article 1(2).</i>
Statement on the compliance of the investment firm with any guidance on additional own funds imposed in accordance with Article 41 of Directive (EU) 2019/2034	
The value of the own funds requirements laid down in Article 11 of Regulation (EU) 2019/2033	<i>Legal reference: Article 3(2) of Delegated Regulation (EU) 2023/1117. Value from supervisory reporting. Should there be no changes compared to the previous reporting period, competent authorities may refer to already provided information or update accordingly.</i>
Statement whether the value provided in the previous line was set on the basis of Article 11(1), point (a), (b) or (c) of Regulation (EU) 2019/2033	<i>Legal reference: Article 3(2) of Delegated Regulation (EU) 2023/1117 Free text providing the basis for the calculation of own funds requirements. Should there be no changes compared to the previous reporting period, competent authorities may refer to already provided information or update accordingly.</i>
The value of any additional own funds requirements imposed in accordance with Article 39(2), point (a), of Directive (EU) 2019/2034, and the grounds for imposition	<i>Legal reference: Article 3(2) of Delegated Regulation (EU) 2023/1117. Value from supervisory reporting. Free text providing the grounds for the imposition of additional own funds requirements. Should there be no changes compared to the previous reporting period, competent authorities may refer to already provided information or update accordingly.</i>

<p>The value of any guidance on additional own funds imposed in accordance with Article 41 of Directive (EU) 2019/2034.</p>	<p><i>Legal reference: Article 3(2) of Delegated Regulation (EU) 2023/1117.</i></p> <p><i>Value from supervisory reporting.</i></p> <p><i>Free text providing the grounds for the imposition of additional own funds guidance.</i></p> <p><i>Should there be no changes compared to the previous reporting period, competent authorities may refer to already provided information or update accordingly.</i></p>
<p>Statement on the compliance of the investment firm with the concentration risk requirements laid down in Part Four of Regulation (EU) 2019/2033</p>	<p><i>Legal reference: Article 4(1) of Delegated Regulation (EU) 2023/1117.</i></p> <p><i>Free text answering the question on the reporting date.</i></p> <p><i>Should there be no changes compared to the previous reporting period, competent authorities may refer to already provided information or update accordingly.</i></p> <p><i>Please note that issues of non-compliance with minimum regulatory requirements and any supervisory measures taken by the competent authorities to address them shall be reported outside this template in regular exchange of information and in accordance with Article 1(3) of this Regulation.</i></p>
<p>Statement on the compliance of the investment firm with the liquidity requirements laid down in Part Five of Regulation (EU) 2019/2033, taking into account the transitional arrangements laid down in Article 57(1) of that Regulation</p>	<p><i>Legal reference: Article 4(3) of Delegated Regulation (EU) 2023/1117.</i></p> <p><i>Free text answering the question on the reporting date.</i></p> <p><i>Should there be no changes compared to the previous reporting period, competent authorities may refer to already provided information or update accordingly.</i></p> <p><i>Please note that issues of non-compliance with minimum regulatory requirements and any supervisory measures taken by the competent authorities to address them shall be reported outside this template in regular exchange of information and in accordance with Article 1(3) of this Regulation.</i></p>
<p>Summary of the overall assessment of the competent authorities of the home Member State of an investment firm's liquidity risk profile and risk management</p>	<p><i>Legal reference: Article 4(5) of Delegated Regulation (EU) 2023/1117.</i></p> <p><i>Free text answering the question on the reporting date.</i></p> <p><i>Should there be no changes compared to the previous reporting period, competent authorities may refer to already provided information or update accordingly.</i></p>
<p>Summary assessment of any material risks as revealed by the supervisory review and evaluation carried out in accordance with Article 36 of Directive (EU) 2019/2034 or through any other supervisory activity carried out by the competent authorities of the home Member State</p>	<p><i>Legal reference: Article 7(1) of Delegated Regulation (EU) 2023/1117.</i></p> <p><i>Free text answering the question on the reporting date.</i></p> <p><i>Should there be no changes compared to the previous reporting period, competent authorities may refer to already provided information or update accordingly.</i></p>

Additional information to be exchanged concerning the management and ownership of the investment firm and preparations for emergency situations

Legal reference: Article 2(1) and Article 10 of Delegated Regulation (EU) 2023/1117.

1. Current organisational structure (organigram) of the investment firm including its business lines and its relationship to entities within the group

2. Emergency contact details of persons within the competent authorities who are responsible for handling emergency situations and communication procedures that shall apply in emergency situations

Should there be no changes compared to the previous reporting period, competent authorities may refer to already provided information or update accordingly.

Additional information to be provided by the competent authorities of the home Member State supervising investment firms that are not identified as small and non-interconnected investment firms in accordance with Article 12 of Regulation (EU) 2019/2033

Legal reference: Article 2(2) of Delegated Regulation (EU) 2023/1117.

1. Structure of the management body and senior management, including the allocation of responsibility for the oversight of a branch
2. List of shareholders and members with qualifying holdings

Should there be no changes compared to the previous reporting period, competent authorities may refer to already provided information or update according
