

Commission Implementing Regulation (EU) No 926/2014 of 27 August 2014 laying down implementing technical standards with regard to standard forms, templates and procedures for notifications relating to the exercise of the right of establishment and the freedom to provide services according to Directive 2013/36/EU of the European Parliament and of the Council (Text with EEA relevance)

COMMISSION IMPLEMENTING REGULATION (EU) No 926/2014

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(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<sup>(1)</sup>, and in particular Article 35(6), Article 36(6) and Article 39(5) thereof,

Whereas:

- (1) For the purposes of having standard forms, templates and procedures for the notifications to exercise the right of establishment and the freedom to provide services, it is necessary to define some technical terms in order to make a clear distinction between the branch notifications, services notifications, notifications resulting from changes in the particulars of branch notifications and those related to a planned termination of a branch's operation.
- (2) The establishment of standard procedures covering the language and means of communication of passport notifications from credit institutions to competent authorities of home and host Member States facilitates the exercise of the right of establishment and the freedom to provide services and the efficiency of the performance of the respective tasks and responsibilities of the competent authorities of home and host Member States.
- (3) Technical standards should require competent authorities of home Member States to assess the accuracy and completeness of the submitted passport notifications so as to clarify the respective responsibilities of the competent authorities of home and host Member States and ensure the quality of the passport notifications submitted by credit institutions.

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**Changes to legislation:** There are outstanding changes not yet made to Commission Implementing Regulation (EU) No 926/2014. 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. 926 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](http://legislation.gov.uk). Details of relevant amending instruments can be found on their website/s. (See end of Document for details) View outstanding changes

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- (4) Competent authorities of home Member States should indicate to the credit institutions the particular aspects in which passport notifications are assessed to be incomplete or incorrect to facilitate the process of identification, communication and submission of the missing or incorrect elements.
- (5) In order to ensure transparency and timely assessment of submitted passport notifications it is necessary to determine without ambiguity the commencement of the three-month period referred to in Article 35(3) of Directive 2013/36/EU so that the competent authorities of home Member States should make a decision on the adequacy of the administrative structure and the financial situation of the credit institution and communicate the passport notification to the competent authority of host Member States. It is also necessary to determine without ambiguity the commencement of the periods referred to in Article 36(3) and Article 39(2) of Directive 2013/36/EU given to competent authorities of home and host Member States to make their respective decisions and to communicate the relevant information to each other or to credit institutions.
- (6) Acknowledgement of receipt of the transmitted branch passport notifications by competent authorities of host Member States is necessary to clarify the date of receipt of the relevant notification, the time period available to competent authorities of host Member States to be prepared for supervising credit institutions and indicate to them any conditions under which, in the interests of the general good, their activities may have to be carried out and the exact date on which the credit institutions will be in a position to establish their branches and commence their activities in the territory of the host Member State.
- (7) In order to ensure transparency in the conditions under which, in the interest of the general good, activities may have to be carried out in host Member States, competent authorities of host Member States should inform competent authorities of home Member States of those conditions which impose restrictions on the activities carried out by branches of credit institutions in the territory of host Member States.
- (8) The procedures for change in branch particulars notification should also cover the specific case of a planned termination of the operation of the branch as this is considered a major change in branch's operations which needs to be notified to competent authorities of home and host Member States.
- (9) 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, it is desirable to include certain regulatory technical standards required by Directive 2013/36/EU in a single Regulation.
- (10) This Regulation is based on the draft implementing technical standards submitted by the European Supervisory Authority (European Banking Authority) (EBA) to the Commission.

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(11) 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 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<sup>(2)</sup>,

HAS ADOPTED THIS REGULATION:

## CHAPTER I

### GENERAL PROVISIONS

#### Article 1

##### Subject matter

This Regulation lays down the standard forms, templates and procedures for the notifications to exercise the right of establishment and the freedom to provide services pursuant to Article 35(6), Article 36(6) and Article 39(5) 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;
- (4) 'passport notifications' means a branch passport notification, a change in branch particulars notification or a services passport notification.

#### Article 3

##### General requirements for passport notifications

1 Passport notifications submitted under this Regulation shall comply with the following requirements:

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- a they shall be in writing in a language accepted by the competent authorities of the home Member State and in a language accepted by the competent authorities of the host Member State, or in any Union language accepted by both the competent authorities of the home and host Member States;
  - b they shall be transmitted by post, or by electronic means where these are accepted by the relevant competent authorities.
- 2 The competent authorities shall make the following information publicly available:
- a the languages accepted in accordance with paragraph 1(a);
  - b the address to which passport notifications are to be sent where submitted by post;
  - c any electronic means by which passport notifications may be submitted and any relevant contact details.

## CHAPTER II

### PROCEDURES FOR BRANCH PASSPORT NOTIFICATION

#### Article 4

#### Submission of the branch passport notification

Credit institutions shall use the form laid down in Annex I to submit a branch passport notification to the competent authorities of the home Member State.

#### Article 5

#### Assessment of completeness and accuracy of the branch passport notification

- 1 On receipt of a branch passport notification the competent authorities of the home Member State shall assess the completeness and accuracy of the information provided.
- 2 Competent authorities of the home Member State shall treat the three-month period referred to in Article 35(3) of Directive 2013/36/EU as having commenced on the date of receipt of the branch passport notification containing information that is assessed to be complete and correct.
- 3 Where the information provided in the branch passport notification is assessed to be incomplete or incorrect, the competent authorities of the home Member State shall inform the credit institution without delay, indicating in which respect the information is assessed to be incomplete or incorrect.

#### Article 6

#### Communication of the branch passport notification

- 1 The competent authorities of the home Member State shall use the form laid down in Annex II to communicate a branch passport notification to the competent authorities of the host Member State together with a copy of the branch passport notification and with the latest available information on own funds using the form laid down in Annex III.

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2 The competent authorities of the host Member State shall acknowledge receipt of the branch passport notification to the competent authorities of the home Member State without delay, stating the date on which the branch passport notification was received.

3 Following the acknowledgement of receipt from the competent authorities of the host Member State, the competent authorities of the home Member State shall inform the credit institution without delay of the following:

- a the communication of the branch passport notification to the competent authorities of the host Member State;
- b the date of receipt of the branch passport notification by the competent authorities of the host Member State.

#### Article 7

#### Communication of conditions in the interest of the general good

1 The competent authorities of the host Member State shall communicate in writing to the credit institution any conditions referred to in Article 36(1) of Directive 2013/36/EU under which, in the interest of the general good, activities may have to be carried out in the territory of the host Member State.

2 Where the conditions referred to in paragraph 1 impose restrictions on the activities of the branch, the competent authorities of the host Member State shall also communicate those conditions in writing to the competent authorities of the home Member State.

### CHAPTER III

#### PROCEDURES FOR A CHANGE IN BRANCH PARTICULARS NOTIFICATION

#### Article 8

#### Submission of a change in branch particulars notification

1 Credit institutions shall use the form laid down in Annex I to notify a change in branch particulars notification to the competent authorities of the home and host Member States except where the change concerns a planned termination of the operation of the branch.

2 Credit institutions shall use the form laid down in Annex IV to notify a change in branch particulars notification to the competent authorities of the home and host Member States where the change concerns a planned termination of the operation of the branch.

#### Article 9

#### Assessment of completeness and accuracy of the notification

1 On receipt of a change in branch particulars notification the competent authorities of the home Member State shall assess the completeness and accuracy of the information provided.

2 Competent authorities of the home and host Member States shall treat the one-month period referred to in Article 36(3) of Directive 2013/36/EU as having commenced on the date of receipt of the change in branch particulars notification containing information that is assessed to