COMMISSION IMPLEMENTING REGULATION (EU) 2022/193

of 17 November 2021

amending the implementing technical standards laid down in Implementing Regulation (EU) No 926/2014 laying down standard forms, templates and procedures as regards the information to be notified when exercising the right of establishment and the freedom to provide services

(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 Directive 2006/48/EC and Directive 2006/49/EC (¹), and in particular Article 35(6), Article 36(6) and Article 39(5) thereof,

Whereas:

- (1) Commission Implementing Regulation (EU) No 926/2014 (²) sets out the standard forms, templates and procedures for notifications for the exercise of the right of establishment and the freedom to provide services by credit institutions.
- (2) Commission Delegated Regulation (EU) 2022/192 (³) has introduced new information requirements into Commission Delegated Regulation (EU) No 1151/2014 (⁴). Those new information requirements should be reflected in Implementing Regulation (EU) No 926/2014, and the standard forms and templates laid down in the Annexes to that Implementing Regulation should be updated accordingly. Furthermore, certain legal references in Implementing Regulation (EU) No 926/2014 should be updated in order to ensure legal certainty.
- (3) It is necessary to enhance the clarity of the branch passport communication. It should therefore be specified that the latest available information on own funds is requested both at the credit institution individual and consolidated reporting level, where applicable and where information at consolidated level is available to the competent authority of the home Member State.
- (4) It is important to ensure the safety of deposits and to enhance factual certainty and reliability of the financial information provided by the credit institution. It is therefore necessary that the credit institution notifies its competent authority about the planned termination of a branch. That notification should set out the measures that have been undertaken, or that are being undertaken, to ensure that the branch will no longer hold deposits or other repayable funds from the public after the termination of operation of that branch.
- (5) Implementing Regulation (EU) No 926/2014 should therefore be amended accordingly.
- (6) This Regulation is based on the draft implementing technical standards submitted to the Commission by the European Banking Authority (EBA).

⁽¹⁾ OJ L 176 27.6.2013, p. 338.

⁽²⁾ 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 (OJ L 254, 28.8.2014, p. 2).

⁽³⁾ Commission Delegated Regulation (EU) 2022/192 of 20 October 2021 amending the regulatory technical standards laid down in Commission Delegated Regulation (EU) No 1151/2014 as regards the information to be notified when exercising the right of establishment and the freedom to provide services (See page 1 of this Official Journal).

^(*) Commission Delegated Regulation (EU) No 1151/2014 of 4 June 2014 supplementing Directive 2013/36/EU of the European Parliament and of the Council with regard to regulatory technical standards on the information to be notified when exercising the right of establishment and the freedom to provide services (OJ L 309, 30.10.2014, p. 1).

(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 (3),

HAS ADOPTED THIS REGULATION:

Article 1

Amendment to Implementing Regulation (EU) No 926/2014

Implementing Regulation (EU) No 926/2014 is amended as follows:

- (1) in Article 6, paragraph 1 is replaced by the following:
 - '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. Such latest available information on own funds of the credit institution submitting the passport notification shall be notified at both the individual and consolidated level, where applicable and available to the competent authority of the home Member State.';
- (2) in Article 8, paragraph 2 is replaced by the following:
 - '2. Credit institutions shall use the form laid down in Annex IV to notify a change which concerns a planned termination of the operation of the branch. Where the branch of a credit institution takes or took deposits and other repayable funds, the credit institution concerned shall also submit a statement listing the measures that have been or that are being undertaken to ensure that the credit institution will no longer hold deposits or other repayable funds from the public through the branch after the termination of the operation of that branch.';
- (3) Annexes I to VI are replaced by the text in the Annex to this Regulation.

Article 2

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, 17 November 2021.

For the Commission
The President
Ursula VON DER LEYEN

⁽⁵⁾ 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).

ANNEX

'ANNEX I

Form for the submission of a branch passport notification or a change in a branch particulars notification

Where credit institutions notify changes in branch particular notifications to competent authorities of home and host Member States, credit institutions shall only complete the parts of the form which contain information that has changed.

1. **Contact information**

Type of notification	☐ Initial branch passport notification		
	☐ Notification of change in branch particulars notification		
Host Member State in which the branch is to be established:	[to be completed by the credit institution]		
Name and national reference code of the credit institution as available in the credit institution register maintained by the European Banking Authority (EBA):	[to be completed by the credit institution]		
LEI of the credit institution:	[to be completed by the credit institution]		
Address of the credit institution in the host Member State from which documents may be obtained:	[to be completed by the credit institution]		
Intended principal place of business of the branch in the host Member State:	[to be completed by the credit institution]		
Date on which the branch intends to commence its activities:	[to be completed by the credit institution]		
Name of contact person at the branch:	[to be completed by the credit institution]		
Telephone number:	[to be completed by the credit institution]		
Email:	[to be completed by the credit institution]		

2. **Programme of operations**

- 2.1. Types of business envisaged
- 2.1.1. Description of the main objectives and business strategy of the branch and an explanation of how the branch will contribute to the strategy of the institution and, where applicable, of its group

[to be completed by the credit institution]	

2.1.2. Description of the target customers and counterparties

[to be completed by the credit institution]	

2.1.3. List of the activities referred to in Annex I to Directive 2013/36/EU that the credit institution intends to carry out in the host Member State with the indication of the activities that will constitute the core business in the host Member State, including the intended start date for each activity (as accurate as possible).

No.	Activity	Activities that the credit institution intends to start carrying out (fill in with 'S')/or to cease carrying out (fill in with 'C')	Activities that will constitute the core business	Intended start or cease date for each activity
1.	Taking deposits and other repayable funds			
2.	Lending including, inter alia: consumer credit, credit agreements relating to immovable property, factoring, with or without recourse, financing of commercial transactions (including forfeiting)			
3.	Financial leasing			
4.	Payment services as defined in Article 4, point (3) of Directive (EU) 2015/2366 of the European Parliament and of the Council (1)			
4a.	Services enabling cash to be placed on a payment account and all the operations required for operating a payment account			
4b.	Services enabling cash withdrawals from a payment account and all the operations required for operating a payment account			
4c.	Execution of payment transactions, including transfers of funds on a payment account with the user's payment service provider or with another payment service provider: — execution of direct debits, including one- off direct debits — execution of payment transactions through a payment card or a similar device — execution of credit transfers, including standing orders			
4d. *	Execution of payment transactions where the funds are covered by a credit line for a payment service user: — execution of direct debits, including one- off direct debits			

	evecution of narmont transactions		
	execution of payment transactions through a payment card or a similar device		
	execution of credit transfers, including standing orders		
4e. **	Issuing of payment instruments Acquiring of payment transactions		
4f.	Money remittance		
4g.	Payment initiation services		
4h.	Account information services		
5.	Issuing and administering other means of payment (e.g. travellers' cheques and bankers' drafts) insofar as such activity is not covered by point 4.		
6.	Guarantees and commitments		
7.	Trading for own account or for account of customers in any of the following:		
7a.	Money market instruments (e.g. cheques, bills, certificates of deposits)		
7b.	— Foreign exchange		
7c.	— Financial futures and options		
7d.	Exchange and interest-rate instruments		
7e.	— Transferable securities		
8.	Participation in securities issues and the provision of services related to such issues		
9.	Advice to undertakings on capital structure, industrial strategy, and related questions and advice as well as services relating to mergers and the purchase of undertakings		
10.	Money broking		
11.	Portfolio management and advice		
12.	Safekeeping and administration of securities		
13.	Credit reference services		
14.	Safe custody services		
15.	Issuing electronic money		

- (¹) Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market (OJ L 337, 23.12.2015, p. 35).
- * Does the activity referred to in point 4d include the granting of credits in accordance with Article 18(4) of Directive (EU) 2015/2366?

 \square yes \square no

** Does the activity referred to in point 4e include the granting of credit in accordance with Article 18(4) of Directive (EU) 2015/2366?

□ yes □ no

2.1.4. List of the services and activities that the credit institution intends to carry out in the host Member State, and which are provided for in Sections A and B of Annex I to Directive 2014/65/EU of the European Parliament and of the Council (¹), when referring to the financial instruments provided for in Section C of Annex I of that Directive

Financial instruments		Investment services and activities						Ancillary services								
	A 1	A 2	A 3	A 4	A 5	A 6	A 7	A 8	A9	B 1	B 2	В 3	B 4	B 5	В 6	В 7
C1																
C2																
C3																
C4																
C5																
C6																
C7																
C8																
C9																
C10																
C11																

Note 1:

Row and column headings are references to the relevant section and item numbers in Annex I to Directive 2014/65/EU (e.g. A1 refers to point 1 of Section A of Annex I)

- 2.2. Structural organisation of the branch
- 2.2.1. Description of the organisational structure of the branch, including functional and legal reporting lines and the position and role of the branch within the corporate structure of the institution and, where applicable, of its group

[to be completed by the credit institution]

The description can be supported by relevant documents, such as an organisational chart

⁽¹) 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).

- 2.2.2. Description of the governance arrangements and internal control mechanisms of the branch, including the following information:
- 2.2.2.1. Risk management procedures of the branch and details of liquidity risk management of the institution, and where applicable, of its group

[to be completed by the credit institution]

2.2.2.2. Any limits that apply to the activities of the branch, in particular to its lending activities

[to be completed by the credit institution]

2.2.2.3. Details of the internal audit arrangements of the branch, including details of the person responsible for these arrangements and, where applicable, details of the external auditor

[to be completed by the credit institution]

2.2.2.4. Anti-money laundering arrangements of the branch including details of the person appointed to ensure compliance with these arrangements

[to be completed by the credit institution]

2.2.2.5. Controls over outsourcing and other arrangements with third parties in connection with the activities carried out in the branch that are covered by the institution's authorisation

[to be completed by the credit institution]

- 2.2.3. Where the branch is expected to carry out one or more of the investment services and activities defined in Article 4(1), point (2), of Directive 2014/65/EU, a description of the following arrangements:
- 2.2.3.1. Arrangements for safeguarding client money and assets

[to be completed by the credit institution]

2.2.3.2. Arrangements for compliance with the obligations laid down in Articles 24, 25, 27 and 28 of Directive 2014/65/EU and measures adopted pursuant thereto by the relevant competent authorities of the host Member State

[to be completed by the credit institution]

2.2.3.3. Internal code of conduct including controls over personal account dealing

[to be completed by the credit institution]

2.2.3.4. Details of the person responsible for dealing with complaints in relation to the investment services and activities of the branch

[to be completed by the credit institution]

2.2.3.5. Details of the person appointed to ensure compliance with the arrangements of the branch relating to investment services and activities

[to be completed by the credit institution]

2.2.4. Details of professional experience of the persons responsible for the management of the branch

[to be completed by the credit institution]

- 2.3. Other information
- 2.3.1. Financial plan containing forecasts for balance sheet and profit and loss account, covering a period of three years comprising the underlying assumptions

[to be completed by the credit institution]

This information can be provided as an attachment to the notification

2.3.2. Name and contact details of the Union deposit guarantee and investor protection schemes in the Member State of which the institution is a member and which cover the activities and services of the branch, together with the maximum coverage of the investor protection scheme

[to be completed by the credit institution]

2.3.3. Details of the branch's IT arrangements

[to be completed by the credit institution]

ANNEX II

Form for the communication of branch passport notification

Competent authorities of the home Member State:	
Name of the relevant department:	
General email address of the relevant department (if any):	
Name of the contact person:	
Telephone number:	
Email:	
Address of the competent authorities of the host Member State:	
	[Date]
	Ref:

Communication of branch passport notification

[The communication shall contain the following information:

- name and national reference code of the credit institution as available in the credit institution register maintained by the EBA;
- LEI of the credit institution;
- competent authorities responsible for the authorisation and supervision of the credit institution;
- statement on the credit institution's intention to carry out activities in the territory of the host Member State, including the date of receipt of the branch passport notification containing information that is assessed to be complete and correct:
- name and contact details of the persons responsible for the management of the branch;
- name and contact details of the Union deposit guarantee and investor protection schemes of which the institution is a member and which cover the activities and services of the branch.]

[Contact details]

ANNEX III

Form for the communication of the amount and composition of own funds and own funds requirements

Amount and composition of own funds at the individual level and consolidated level (where applicable 1. and available)

Credit institution's nam	ıe:						
Reference date (Individual level): Reference date (Consolidated level – where applicable and available):							
Item	Individual level	Consolidated level (where applicable and available)					
All references are to the provisions of Regulation (EU) No 575/2013 of the European Parliament and of the Council (¹)	Amount (in million EUR)	Amount (in million EUR)					
Own funds Articles 4(1), point (118), and Article 72	[data as reported in row 010 in Template 1 of Annex I to Commission Implementing Regulation (EU) No 680/2014 (²)]	[data as reported in row 010 in Template 1 of Annex I to Implementing Regulation (EU) No 680/2014]					
Tier 1 capital Article 25	[data as reported in row 015 in Template 1 of Annex I to Implementing Regulation (EU) No 680/2014]	[data as reported in row 015 in Template 1 of Annex I to Implementing Regulation (EU) No 680/2014]					
Common Equity Tier 1 capital Article 50	[data as reported in row 020 in Template 1 of Annex I to Implementing Regulation (EU) No 680/2014]	[data as reported in row 020 in Template 1 of Annex I to Implementing Regulation (EU) No 680/2014]					
Additional Tier 1 capital Article 61	[data as reported in row 530 in Template 1 of Annex I to Implementing Regulation (EU) No 680/2014]	[data as reported in row 530 in Template 1 of Annex I to Implementing Regulation (EU) No 680/2014]					
Tier 2 capital Article 71	[data as reported in row 750 in Template 1 of Annex I to Implementing Regulation (EU) No 680/2014]	[data as reported in row 750 in Template 1 of Annex I to Implementing Regulation (EU) No 680/2014]					

⁽¹) Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit

institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013, p. 1). Commission Implementing Regulation (EU) No 680/2014 of 16 April 2014 laying down implementing technical standards with regard to supervisory reporting of institutions according to Regulation (EU) No 575/2013 of the European Parliament and of the Council (OJ L 191, 28.6.2014, p. 1).

2. Own fund requirements

Credit institution's nam	ne:						
Reference date (Individ	ual level):						
Reference date (Consolidated level – where applicable and available):							
Item	Individual level	Consolidated level (where applicable and available)					
All references are to the provisions of Regulation (EU) No 575/2013	Amount	Amount					
(EO) NO 3/3/2013	(in million EUR)	(in million EUR)					
Total risk exposure amount	[data as reported in row 010 in Template 2 of Annex I to Implementing Regulation (EU) No 680/2014]	[data as reported in row 010 in Template 2 of Annex I to Implementing Regulation (EU) No 680/2014]					
Article 92(3) and Articles 95, 96 and 98							
Risk weighted exposure amounts for credit, counterparty credit and dilution risks and free deliveries	[data as reported in row 040 in Template 2 of Annex I to Implementing Regulation (EU) No 680/2014]	[data as reported in row 040 in Template 2 of Annex I to Implementing Regulation (EU) No 680/2014]					
Article 92(3), points (a) and (f)							
Total risk exposure amount for settlement/delivery	[data as reported in row 490 in Template 2 of Annex I to Implementing Regulation (EU) No 680/2014]	[data as reported in row 490 in Template 2 of Annex I to Implementing Regulation (EU) No 680/2014]					
Article 92(3), point (c) (ii), and Article 92(4), point (b)							
Total risk exposure amount for position, foreign exchange and commodities risks	[data as reported in row 520 in Template 2 of Annex I to Implementing Regulation (EU) No 680/2014]	[data as reported in row 520 in Template 2 of Annex I to Implementing Regulation (EU) No 680/2014]					
Article 92(3), points (b) (i), (c)(i) and (c)(iii), and Article 92(4), point (b)							



Total risk exposure amount for operational risk	[data as reported in row 590 in Template 2 of Annex I to Implementing Regulation (EU) No 680/2014]	[data as reported in row 590 in Template 2 of Annex I to Implementing Regulation (EU) No 680/2014]
Article 92(3), point (e), and Article 92(4), point (b)		
Additional risk exposure amount due to fixed overheads	[data as reported in row 630 in Template 2 of Annex I to Implementing Regulation (EU) No 680/2014]	[data as reported in row 630 in Template 2 of Annex I to Implementing Regulation (EU) No 680/2014]
Article 95(2), Article 96(2), Article 97 and Article 98(1), point (a)		
Total risk exposure amount for credit valuation adjustment	[data as reported in row 640 in Template 2 of Annex I to Implementing Regulation (EU) No 680/2014]	[data as reported in row 640 in Template 2 of Annex I to Implementing Regulation (EU) No 680/2014]
Article 92(3), point (d)		
Total risk exposure amount related to large exposures in the trading book	[data as reported in row 680 in Template 2 of Annex I to Implementing Regulation (EU) No 680/2014]	[data as reported in row 680 in Template 2 of Annex I to Implementing Regulation (EU) No 680/2014]
Article 92(3), point (b) (ii), and Articles 395 to 401		
Other risk exposure amounts	[data as reported in row 690 in Template 2 of Annex I to Implementing Regulation (EU) No 680/2014]	[data as reported in row 690 in Template 2 of Annex I to Implementing Regulation (EU) No 680/2014]
Articles 3, 458, 459 and 500 and risk exposure amounts which cannot be assigned to one of the other items of this table		

ANNEX IV

Form for the notification of a change which concerns a planned termination of the operation of a branch

Name of the contact person at the credit institution or branch:

Email:

Telephone number:

Address of the competent authorities of the home Member State:

Address of the competent authorities of the host Member State:

[Date]

[Ref:]

Submission of a change which concerns a planned termination of the operation of a branch

[The notification shall contain the following information:

- name and national reference code of the credit institution as available in the credit institution register maintained by the EBA;
- LEI of the credit institution;
- name of the branch in the territory of the host Member State;
- competent authorities responsible for the authorisation and supervision of the credit institution;
- statement on the credit institution's intention to terminate the operation of the branch in the territory of the host Member State and the date by which the termination will be effective;
- name and contact details of the persons who will be responsible for the process of terminating the operation of the branch;
- estimated schedule for the planned termination;
- information on the process of terminating the business relations with branch customers.]
- where the branch provides activity N. 1 (Taking deposits and other repayable funds) under section 2.1.3 of Annex I, statement by the credit institution indicating the measures that have been or are being undertaken to ensure that the branch will no longer hold deposits or other repayable funds from the public through the branch after the termination of the operation of that branch.

[Contact details]

ANNEX V

Form for the submission of services passport notification

1. **Contact information**

Type of notification	Services passport notification
Host Member State in which the credit institution intends to carry out its activities:	
Name and national reference code of the credit institution as available in the credit institution register maintained by the EBA:	
LEI of the credit institution:	
Address of the head office of the credit institution:	
Name of contact person at the credit institution:	
Telephone number:	
Email:	

2. List of the activities referred to in Annex I to Directive 2013/36/EU that the credit institution will carry out in the host Member State with the indication of the activities that will constitute the core business of the credit institution in the host Member State, including the intended commencement date for each activity (as accurate as possible)

No.	Activity	Activities that the credit institution intends to carry out (fill in with "X")	Activities that will constitute the core business	Intended start date for each activity
1.	Taking deposits and other repayable funds			
2.	Lending including, inter alia: consumer credit, credit agreements relating to immovable property, factoring, with or without recourse, financing of commercial transactions (including forfeiting)			
3.	Financial leasing			
4.	Payment services as defined in Article 4, point (3) of Directive (EU) 2015/2366 of the European Parliament and of the Council (1)			
4 a	Services enabling cash to be placed on a payment account and all the operations required for operating a payment account			
4b	Services enabling cash withdrawals from a payment account and all the operations required for operating a payment account			

4c	Execution of payment transactions, including transfers of		
	funds on a payment account with the user's payment service provider or with another payment service provider: — execution of direct debits, including one- off direct deb-		
	 its execution of payment transactions through a payment card or a similar device 		
	execution of credit transfers, including standing orders		
4d *	Execution of payment transactions where the funds are covered by a credit line for a payment service user: — execution of direct debits, including one- off direct debits		
	 execution of payment transactions through a payment card or a similar device execution of credit transfers, including standing orders 		
4e **	— Issuing of payment instruments— Acquiring of payment transactions		
<u>4f</u>	Money remittance		
<u>4g</u>	Payment initiation services		
4h	Account information services		
5.	Issuing and administering other means of payment (e.g. travellers' cheques and bankers' drafts) insofar as such activity is not covered by point 4		
6.	Guarantees and commitments		
7.	Trading for own account or for account of customers in any of the following:		
7a	 money market instruments (e.g. cheques, bills, certificates of deposits) 		
7b	— foreign exchange		
7c	— financial futures and options		
7d	 exchange and interest-rate instruments 		
7e	— transferable securities		
8.	Participation in securities issues and the provision of services related to such issues		
9.	Advice to undertakings on capital structure, industrial strategy, and related questions and advice as well as services relating to mergers and the purchase of undertakings		
10.	Money broking		
11.	Portfolio management and advice		
12.	Safekeeping and administration of securities		

13.	Credit reference services		
14.	Safe custody services		
15.	Issuing electronic money		

⁽¹) Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market (OJ L 337, 23.12.2015, p. 35).

- * Does the activity referred to in point 4d include the granting of credit in accordance with Article 18(4) of Directive (EU) 2015/2366?

 □ yes □ no
- ** Does the activity referred to in point 4e include the granting of credit in accordance with Article 18(4) of Directive (EU) 2015/2366?

 □ yes □ no
- 3. List of the services and activities that the credit institution intends to carry out in the host Member State, and which are provided for in Sections A and B of Annex I to Directive 2014/65/EU, when referring to the financial instruments provided for in Section C of that Annex

Financial instruments		Inv	vestmei	nt servi	ces and	l activii	ties			Ancillary services						
	A 1	A 2	A 3	A 4	A 5	A 6	A 7	A 8	A9	B 1	B 2	В 3	B 4	B 5	В 6	В 7
C1																
C2																
C3																
C4																
C5																
C6																
C7																
C8																
C9																
C10																
C11																

Note 1:

Row and column headings are references to the relevant section and item numbers in Annex I to Directive 2014/65/EU (e.g. A1 refers to point 1 of Section A of Annex I)

ANNEX VI

Form for the communication of services passport notification

Competent authorities of the home Member State:
Name of the relevant department:
General email address of the relevant department (if any):
Name of the contact person:

Telephone number:

Email:

Address of the competent authorities of the host Member State:

[Date]

Ref:

Communication of services passport notification

[The communication shall contain the following information:

- name and national reference code of the credit institution available in the credit institution register maintained by the EBA;
- LEI of the credit institution;
- competent authorities responsible for the authorisation and supervision of the credit institution;
- statement on the credit institution's intention to carry out activities in the territory of the host Member State in the exercise of the freedom to provide services.]

[Contact details]'