

EBA/GL/2015/19

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19.10. 2015

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## Guidelines

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# on passport notifications for credit intermediaries under the Mortgage Credit Directive

# 1. Compliance and reporting obligations

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## Status of these guidelines

1. This document contains guidelines issued pursuant to Article 16 of Regulation (EU) No 1093/2010<sup>1</sup>. In accordance with Article 16(3) of Regulation (EU) No 1093/2010, competent authorities and financial institutions must make every effort to comply with the guidelines.
2. Guidelines set the EBA view of appropriate supervisory practices within the European System of Financial Supervision or of how Union law should be applied in a particular area. Competent authorities as defined in Article 4(2) of Regulation (EU) No 1093/2010 to whom guidelines apply should comply by incorporating them into their practices as appropriate (e.g. by amending their legal framework or their supervisory processes), including where guidelines are directed primarily at institutions.

## Reporting requirements

3. According to Article 16(3) of Regulation (EU) No 1093/2010, competent authorities must notify the EBA as to whether they comply or intend to comply with these guidelines, or otherwise with reasons for non-compliance, by 21.12.2015. In the absence of any notification by this deadline, competent authorities will be considered by the EBA to be non-compliant. Notifications should be sent by submitting the form available on the EBA website to [compliance@eba.europa.eu](mailto:compliance@eba.europa.eu) with the reference 'EBA/GL/2015/19'. Notifications should be submitted by persons with appropriate authority to report compliance on behalf of their competent authorities. Any change in the status of compliance must also be reported to EBA.
4. Notifications will be published on the EBA website, in line with Article 16(3).

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<sup>1</sup> 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).

## 2. Subject matter, scope and definitions

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### Subject matter

5. These guidelines deal with the requirement for competent authorities of the home Member States to notify the competent authorities of host Member States in relation to credit intermediaries intending to carry out business in another Member State ('passport notification') as laid down in Article 32 of Directive 2014/17/EU. These guidelines also specify requirements to update the public register for credit intermediaries related to the passport notification.

### Scope of application

6. These guidelines apply to passport notifications in relation to the exercise of the freedom of establishment and to provide services by credit intermediaries as referred to in subparagraph (2) of Article 32(3) of Directive 2014/17/EU<sup>2</sup>, and do not extend to the method and means of supervision of credit intermediaries operating on a cross-border basis.

### Addressees

#### Addressees of these Guidelines

7. The guidelines are addressed to competent authorities as defined in Article 4(2) of Regulation (EU) No 1093/2010 (EBA authority) which are also competent authorities as defined in point (22) of Article 4 of Directive 2014/17/EU. They apply to the extent that those authorities have been designated as competent for ensuring the application and enforcement of those provisions of Directive 2014/17/EU to which these guidelines relate.

#### Addressees of information requirements

8. Irrespective of whether or not an EBA authority is addressed under paragraph 7, where a Member State has designated more than one authority in accordance with Article 5 of Directive 2014/17/EU and one of them is not an EBA authority, the EBA authority designated under that article should, without prejudice to national arrangements adopted under Article 5(3) of Directive 2014/17/EU:
  - a) inform without delay the other designated authority of these guidelines and their date of application;

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<sup>2</sup> Directive 2014/17/EU of the European Parliament and of the Council of 4 February 2014 on credit agreements for consumers relating to residential immovable property and amending Directives 2008/48/EC and 2013/36/EU and Regulation (EU) No 1093/2010 (OJ L 60, 28.02.2014, p. 34).

- b) ask that authority in writing to consider applying the guidelines;
- c) ask that authority in writing to inform either the EBA or the EBA authority within two months of the notification under subparagraph (a) whether it applies or intends to apply these guidelines; and
- d) where applicable, forward without delay to the EBA the information received under subparagraph (c).

## Definitions

- 9. Unless otherwise specified, terms used and defined in Directive 2014/17/EU have the same meaning in the guidelines.

# 3. Implementation

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## Date of application

- 10. These guidelines apply from 21 March 2016, except that the information requirements referred to in paragraph 8 apply from [publication date in the official languages + 1 day].

## 4. Guidelines on passport notifications

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### 1. Exercise of the freedom to provide services

1.1 In relation to the provision of services the passport notification referred to in subparagraph (2) of Article 32(3) of Directive 2014/17/EU should have the following content:

- a. the host Member State in which the credit intermediary intends to carry out its activities;
- b. the name, head office address and registration number of the credit intermediary;
- c. the web address of the online register of the home competent authority where details about the intermediary may be found;
- d. the name of the current competent authority in the home Member State;
- e. to the extent available in the register of the home competent authority, the services which the credit intermediary intends to provide in the host Member State;
- f. where applicable, the name and registration number of the creditor(s) to which the credit intermediary is tied or on whose behalf he is exclusively acting and, in such cases, confirmation that the creditor(s) take full and unconditional responsibility for the credit intermediary's activities;
- g. date of birth in case of natural person; and
- h. the date of notification by the home competent authority to the credit intermediary.

### 2. Exercise of the freedom of establishment

2.1 In relation to the establishment of a branch the passport notification referred to in subparagraph (2) of Article 32(3) of Directive 2014/17/EU should have the following content:

- a. the host Member State in which the credit intermediary intends to establish a branch;
- b. the name, head office address and registration number of the credit intermediary;
- c. the web address of the online register of the home competent authority where details about the intermediary may be found;
- d. the name of the current competent authority in the home Member State;

- e. the address of the proposed branch to the extent available at the time of notification;
- f. the name(s) of those responsible for the management of the proposed branch to the extent available at the time of notification;
- g. to the extent available in the register of the home competent authority, the services which the credit intermediary intends to provide in the host Member State;
- h. date of birth in case of natural person;
- i. where applicable, the name and registration number of the creditor(s) to which the credit intermediary is tied or on whose behalf he is exclusively acting and, in such cases, confirmation that the creditor(s) take full and unconditional responsibility for the credit intermediary's activities; and
- j. the date of notification by the home competent authority to the credit intermediary.

### 3. Transmission of the notification

3.1 The required information should be communicated by the competent authority of the home Member State to the competent authority of the host Member State(s) using the notification templates set out in Annexes 1 and 2, as appropriate. Where there are multiple notifications to communicate, competent authorities may alternatively communicate aggregated information but should do so using the headings set out in Annexes 1 and 2. If relevant competent authorities agree to do so, they may communicate multiple notifications in electronic format.

3.2 Competent authorities should provide the required information in writing in a language accepted by the competent authority in the host Member State.

3.3 Competent authorities should transmit the required information by electronic means where possible and acceptable to the relevant competent authorities. Where this is not possible or acceptable post should be used. Where post is used, the notification should be sent by the home competent authority, allowing sufficient time for the notification to reach the host competent authority within the one-month time frame specified in Article 32(3) of Directive 2014/17/EU (i.e. one month from the date of notification by the credit intermediary to the home competent authority).

3.4 Competent authorities should make the following information in relation to passport notifications publicly available:

- a. the languages accepted by competent authorities;
- b. the address to which passport notifications are to be sent if submitted by post; and

- c. any electronic means by which passport notifications may be submitted and any relevant contact details.

## 4. Registration

- 4.1 The competent authority of the home Member State should update its public register with the necessary information, as set out in Article 29 of Directive 2014/17/EU, in a timely manner.
- 4.2 In addition, the competent authority of the host Member State should make available on its public register within one month the information contained in the notification from the home Member State including the name, head office address and contact details of the credit intermediary.

## 5. Notification of changes to the information in the initial notification

- 5.1 The competent authority of the home Member State should notify the cessation or modification of passported activities or of 'static data' (e.g. change of name or address) or information which was unavailable at the time of the initial notification (Guideline 2.1 (e) and (f)) to the host competent authority as soon as possible and at the latest within one calendar month, by any appropriate means.

## Annex 1 – Notification form for exercising the freedom to provide services

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1	Date of transmission of this notification from the home to the host competent authority	DD/MM/YYYYY
2	Host Member State	
3	Type of notification	<input type="checkbox"/> First notification <input type="checkbox"/> Change to previous notification
4	Name of credit intermediary	
5	Date of birth in case of natural person	DD/MM/YYYYY
6	Home State registration number	
7	Head office address	
8	Email	
9	Telephone number	
10	Fax number	
11	Name of home competent authority	
12	Home Member State	
13	Web address of the online register	
14	To the extent available, services to be provided by the credit intermediary in the host Member State	<input type="checkbox"/> offers/presents credit agreements <input type="checkbox"/> assists in preparatory/pre-contractual administration work <input type="checkbox"/> concludes credit agreements <input type="checkbox"/> provides advisory services

15	Tied credit intermediary	<input type="checkbox"/> Yes <input type="checkbox"/> No
16	<p>In the case of a tied credit intermediary:</p> <p>a) Name and registration number of the creditor(s) or groups to which the intermediary is tied in the host Member State</p> <p>b) Whether the credit intermediary is exclusively tied to only one creditor</p> <p>c) Confirmation that the creditor(s) take full and unconditional responsibility for the credit intermediation activities</p>	<p>a) .....</p> <p>b) .....</p> <p>c) .....</p>

## Annex 2 – Notification form for exercising the freedom of establishment

1	Date of transmission of this notification from the home to the host competent authority	DD/MM/YYYY
2	Host Member State	
3	Type of notification	<input type="checkbox"/> First notification <input type="checkbox"/> Change to previous notification
4	Name of credit intermediary	
5	Date of birth in case of natural person	DD/MM/YYYY
6	Home State registration number	
7	Head office address	
8	Email	
9	Telephone number	
10	Fax number	
11	Name of home competent authority	
12	Home Member State	
13	Web address of the online register	
14	Branch details (to the extent available at the time of notification) <ul style="list-style-type: none"> <li>• Address</li> <li>• Telephone number</li> <li>• Email</li> <li>• Fax number</li> </ul>	
15	Name(s) and date(s) of birth of natural person(s) responsible for the management of the branch (to the extent available at the time of notification)	

16	To the extent available, services to be provided by the credit intermediary in the host Member State	<input type="checkbox"/> offers/presents credit agreements <input type="checkbox"/> assists in preparatory/pre-contractual administration work <input type="checkbox"/> concludes credit agreements <input type="checkbox"/> provides advisory services
17	Tied credit intermediary	<input type="checkbox"/> Yes <input type="checkbox"/> No
18	<p>In the case of a tied credit intermediary:</p> <p>a) Name and registration number of the creditor(s) or groups to which the intermediary is tied in the host Member State</p> <p>b) Whether the credit intermediary is exclusively tied to only one creditor</p> <p>c) Confirmation that the creditor(s) take full and unconditional responsibility for the credit intermediation activities</p>	<p>a) .....</p> <p>b) .....</p> <p>c) .....</p>