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EBA FINAL draft Regulatory Technical Standards

on the framework for cooperation and exchange of information between competent authorities for passport notifications under Directive (EU) 2015/2366

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Abbreviations

CP	Consultation Paper
EBA	European Banking Authority
LEI	Legal Entity Identifier
PSD	Payment Services Directive
RTS	Regulatory Technical Standards

1. Executive Summary

The revised Payment Services Directive (Directive (EU) 2015/2366, or PSD2), which entered into force on 12 January 2016 and which will apply from 13 January 2018, aims to enhance cooperation between competent authorities where an authorised payment institution would like to provide payment services in a Member State other than its home Member State. To that end, Article 28(5) PSD2 conferred a mandate on the EBA to develop draft regulatory technical standards (RTS), specifying the method, means and details of the cross-border cooperation between competent authorities in the context of passport notifications of payment institutions.

In order to deliver this mandate, the EBA sought early input from its national member authorities, the EBA's Banking Stakeholder Group and several European trade associations, to help the EBA to understand the issues they were facing with these passport notifications in respect of the issues they have experienced with regard to passporting under the existing Payment Services Directive (Directive 2007/64/EC, or PSD1). Having analysed this input, the EBA published a Consultation Paper (CP) in December 2015, with draft RTS on the framework for cooperation and exchange of information between competent authorities for passport notifications.

The EBA received seven responses to the CP, all of which supported the objectives of the RTS as well as the provisions proposed therein. However, several respondents raised concerns related to specific aspects of the RTS, which led to the EBA reconsidering particular aspects of its approach and which resulted in several provisions being amended or clarified.

In order to address the view of some respondents that greater clarity would be helpful with regard to the information that is to be provided in the templates when a payment institution or e-money institution is using an agent and when an e-money institution is using a distributor, the RTS now provide separate templates for agents and distributors. An additional Article (Article 1 Scope) was added to refer to the new annex for distributors. However, given the legal remit of the RTS, they are unable to address the related concern raised by some respondents as to whether or not a passporting activity via an agent or a distributor relates to an establishment. Against this background, Annexes III and IV have been amended to reflect all possible situations in relation to the nature of the application (right of establishment or freedom to provide services), as assessed by the home Member State authority. In addition, in order to increase the transparency of the passporting process and allow the competent authorities of host Member States to perform their respective assessments in accordance with Directive (EU) 2015/2366, in cases where, pursuant to the assessment of the home Member State authority, the use of agents or distributors in the host Member State does not give rise to an establishment, additional information should be provided to the host Member State authority regarding the circumstances taken into account by the home Member State authority in its assessment.

Other respondents questioned whether the transmission of passport notifications by post, rather than electronic means, would make communication unnecessarily complicated. The EBA

understands the concern but also recognises that a degree of flexibility is needed in relation to the transmission of documents. The EBA has therefore retained this option, but clarified Article 3 to emphasise that electronic communication is preferred.

In order to enhance the transparency of the process, the EBA has also amended Articles 7, 11 and 15 so that payment institutions are to be informed when the notification is transmitted from the competent authority in the home Member State to the authority in the host Member State. Finally, the EBA has included a new field in the templates defined in Annexes II, III, IV, V and VI to the final draft RTS, which is to include the Legal Entity Identifier (LEI) as an identification number where available, and has deleted information contained in Annexes II, III, and IV to the draft RTS under consultation in relation to governance arrangements and internal control mechanisms, outsourcing and the agent structural organisation as detailed in section 4.2.

2. Background and rationale

2.1 Background

1. On 12 January 2016, Directive (EU) 2015/2366 on payment services in the internal market, (PSD2) entered into force in the European Union, and it will apply from 13 January 2018. PSD2 aims to enhance cooperation between competent authorities, with regard to both the information exchanged and the coherent application and interpretation of this Directive, where an authorised payment institution would like to provide payment services in a Member State other than its home Member State, in exercise of the right of establishment or the freedom to provide services (passporting), including through the internet.
2. To that end, Article 28(5) confers a mandate on the EBA to develop draft regulatory technical standards (RTS), specifying the method, means and details of the cross-border cooperation between competent authorities in the context of passport notifications of payment institutions.
3. Prior to starting to develop the substance of the RTS, the EBA sought input from market participants and other entities that are involved in the exchange of passport notifications under PSD1. The aim was to understand the issues that they were facing with these passport notifications, to identify the reasons for these issues and to identify what, if any, regulatory requirements could be developed to address them in future notification requirements under PSD2 and the EBA's RTS.
4. To that end, the EBA approached national authorities; members of the EBA's Banking Stakeholder Group; and several European trade associations whose members operate in the payment services market (the European Payment Institution Federation, the Electronic Money Association and the European Banking Federation). The responses confirmed the need for a common standardised procedure, in order to reduce inefficiencies, misunderstandings, delays, non-transparency and regulatory arbitrage.
5. On 11 December 2015, the EBA published a Consultation Paper (CP) on draft RTS on the framework for cooperation and exchange of information between competent authorities for passport notifications, under PSD2¹.
6. The consultation period closed on 11 March 2016. The EBA received seven responses to the CP. All respondents gave permission for the EBA to publish them on the EBA website.

¹ <http://www.eba.europa.eu/regulation-and-policy/consumer-protection-and-financial-innovation/regulatory-technical-standards-on-passporting-under-psd2>

2.2 Rationale

7. The EBA has assessed all of the responses and has arrived at the main conclusions that are set out in this chapter. Additional details are provided in the feedback table in section 4.2.
8. Several respondents expressed concerns that the level of detail of the information that the draft RTS propose be exchanged between the home and host authorities, and the timelines defined to exchange this information, would delay the overall process to be completed before payment institutions are able to start their activities on a cross-border basis.
9. The EBA acknowledges this concern but clarifies that the information to be provided by a payment institution wishing to provide payment services on a cross-border basis, as well as the maximum timelines for exchange of information between the competent authorities of the home and host Member States, are not set by the EBA but defined in Article 28 of PSD2 itself. Changes to the provisions of a Directive are not within the remit of the EBA as a regulatory authority but are the prerogative of the EU Commission, Council and Parliament as co-legislators. However, the EBA deleted some information contained in Annexes II, III, and IV in relation to governance arrangements and internal control mechanisms, outsourcing and the agent structural organisation as detailed in section 4.2.
10. Other respondents commented that PSD2 provides for two types of passporting to be undertaken - freedom to offer services and right of establishment - and suggested that the process of passport notification be aligned with these two alternatives, and that information requirements in relation to agents or distributors be set out in separate templates in the RTS. In the view of the respondents, this would allow recognition of the fact that a physical presence in the form of an agent or distributor does not always give rise to establishment.
11. The EBA acknowledges this concern, too, but underlines that the scope of the RTS as worded in Article 28(5) does not include the question of whether a passporting activity undertaken by a payment institution or e-money institution conducted in a host Member State via an agent or distributor relates to an establishment. However, the EBA concurs with the view of the respondents that greater clarity would be helpful on the information that is to be provided in the templates when a payment institution/e-money institution is using an agent and when an e-money institution is using a distributor. The EBA has therefore made a change to the version that was proposed in the CP, by splitting the common template for agents and distributors in Annex III to the CP into two separate annexes, one for the use of agents and one for the use of distributors. In addition, two additional fields were introduced in these two annexes: to specify the host Member State in which services are to be provided, in order to clarify without ambiguity which host Member State is to receive the notification and to specify the assessment of the home Member State authority regarding the nature of the application (right of establishment or freedom to provide services), and, in cases where pursuant to the assessment of the home Member State authority the use of agents or distributors in the host Member State does not give rise to an establishment, a description of the circumstances taken into account by the home Member State authority in its assessment. A new Article 1 related to the scope of the RTS was ultimately introduced in the final draft RTS to refer to the new annex for distributors.

12. Several respondents also suggested defining English as the common language for exchange of information between competent authorities, in order to facilitate the exchange of information and reduce the administrative burden. The EBA considered this suggestion but has to acknowledge that some competent authorities currently exchange information in a common language other than English, which in turn avoids the need for a translation of the information provided by the payment institution to its home competent authority. Consequently, the option currently offered in the RTS of exchanging information in any Union language that is accepted by the competent authorities of both the home and the host Member States reduces the administrative burden for payment institutions where the payment institution is passporting in a host Member State that accepts the same language as the home Member State. Against this background, the EBA has concluded that the use of English as a common language should not be a requirement.
13. In order to limit any potential delay in the processing of passport notifications, several respondents suggested imposing the transmission of information by electronic means as the standard communication channel between competent authorities, because, in their view, transmission by post would make communication unnecessarily complicated. The EBA concurs with the view of the respondents but also recognises that a degree of flexibility is needed in relation to the transmission of sensitive documents by post to ensure that the confidentiality risks are addressed. Against this background, the EBA amended Article 3 to emphasise that electronic communication is preferred.
14. Furthermore, several respondents expressed concerns about Article 4 of the final draft RTS, which foresees that the competent authority of the home Member State shall treat the one-month period and the three-month period as having commenced on the date of receipt of a passport notification containing information that is assessed to be complete and correct. In the view of these respondents, this could allow competent authorities to intentionally delay the overall passport notification process, by prolonging passport notification processing through immaterial information requests.
15. By way of response, the EBA would first like to point out that home competent authorities dedicate sufficient resources to the fulfilment of their duties and do not have any interest in intentionally delaying the notification process. Rather, the evidence that the EBA has collected on passporting under the current PSD1 framework appears to indicate that delays in passporting tend to occur when the information provided by the payment institution in its initial submission is incomplete or inaccurate. The EBA is therefore of the view that the check performed by the home competent authorities to ensure that the information provided by the payment institution is complete and accurate limits the risk of further delay when the information is subsequently assessed by the host competent authorities. This would also limit the risk of the passport request being rejected at the end of the maximum three month period.
16. Furthermore, Article 4(3) of the final draft RTS foresees that, where the information provided in the notification is found to be incomplete or incorrect, the competent authority of the home Member State shall inform the payment institution without delay, indicating in which respect the

information has been found to be incomplete or incorrect. The EBA has therefore not amended Article 4(3) of the final draft RTS.

17. However, in order to enhance the transparency of the process, the EBA has amended Articles 7, 11 and 15 so that payment institutions are to be informed when the notification is transmitted from the competent authorities of the home Member State to the competent authorities of the host Member State.

18. Several respondents raised concerns with regard to the need to inform the competent authorities of the host Member State of the date from which the payment institution commences its activities through a branch via the specific template specified in Annex V, when such information could easily be included in the notification form laid out in Annex II. By way of response, the EBA would like to point out that the date from which the payment institution commences its activities through a branch is defined in Article 28(3) of PSD2, which foresees that:

- a. Within 3 months of receipt of the information referred to in paragraph 1 the competent authorities of the home Member State shall communicate their decision to the competent authorities of the host Member State and to the payment institution.*
- b. Upon entry in the register referred to in Article 14, the agent or branch may commence its activities in the relevant host Member State.*
- c. The payment institution shall notify to the competent authorities of the home Member State the date from which it commences its activities through the agent or branch in the relevant host Member State. The competent authorities of the home Member State shall inform the competent authorities of the host Member State accordingly.*

19. The EBA acknowledges that the intended start date of the branch, agent and distributor activities contained in the initial notification may cause confusion about when the payment institution can actually start its cross-border activities. The EBA has therefore decided to delete this particular information requirement.

20. One respondent suggested that the format of the relevant unique identification number used in the notification exchanges for legal persons could be improved by requiring the use of the Legal Entity Identifier (LEI) consistently by all Member States. The EBA recognises that the use of the Legal Entity Identifier supports the harmonisation of unique identification numbers for legal persons within the EU. However, the EBA also acknowledges that not all entities subject to these RTS currently possess an LEI because they are not required to do so.

21. Given the costs involved in obtaining an LEI, the EBA is of the view that passporting entities should not be required to obtain an LEI for passporting purposes. However, passporting entities already in possession of an LEI should be able to be identified via their LEI. The EBA has therefore included a new field in the templates defined in Annexes II, III, IV, V and VI to the final draft RTS to include the LEI when available.

3. EBA FINAL draft Regulatory Technical Standards on the framework for cooperation and exchange of information between competent authorities for passport notifications under PSD2

COMMISSION DELEGATED REGULATION (EU) .../..**of XXX****supplementing Directive (EU) 2015/2366 of the European Parliament and of the Council with regard to regulatory technical standards for the cooperation and exchange of information between competent authorities relating to the exercise of the right of establishment and the freedom to provide services of payment institutions**

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC², and in particular Article 28(5) thereof,

Whereas:

- (1) In order to enhance cooperation between competent authorities and ensure a consistent and efficient notification process for payment institutions intending to exercise the right of establishment and the freedom to provide services on a cross-border basis, it is necessary to specify the framework for cooperation, and for the exchange of information, between competent authorities of the home and of the host Member States, specifying the method, means and details of cooperation and, in particular, the scope and treatment of information to be submitted, including common terminology and standard notification templates.
- (2) For the purposes of having a common terminology and standard notification templates, it is necessary to define some technical terms in order to make a clear distinction between branch applications, services applications and agent applications with regard to payment institutions wishing to carry out their activities in another Member State.
- (3) The establishment of standard procedures covering the language and means of communication of passport notifications between 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.
- (4) Competent authorities in home Member States should be required to assess the accuracy and completeness of the information submitted by payment institutions intending to provide services in another Member State to ensure the quality of the passport notifications. To this end, competent authorities in home Member States should inform payment institutions of the particular aspects in which passport applications are deemed to be incomplete or incorrect to facilitate the process of

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OJ L 337, 23.12.2015, p. 35.

identification, communication and submission of the missing or incorrect elements. Further, the assessment of completeness and accuracy should ensure an efficient notification process by clearly determining the one-month period and the three-month period referred to, respectively, in the first subparagraph of Article 28(2) and in the first subparagraph, of Article 28(3) of Directive (EU) 2015/2366 as having commenced on the date of receipt of a passport application containing information that is assessed as complete and correct by the home competent authorities.

- (5) Where a procedure for settlement of disagreements between competent authorities of different Member States has been initiated, in accordance with Article 19 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council³, competent authorities of the home Member State should inform the payment institution that a decision concerning the passport application is deferred pending resolution under that provision.
- (6) To ensure an efficient and smooth notification process, allowing competent authorities of home and host Member States to perform their respective assessments in accordance with Directive (EU) 2015/2366, the information to be shared between competent authorities in relation to a passport application should be clearly defined for branch passport applications, agent passport applications and services passport applications, respectively. It is also appropriate to provide standard templates for the transmission of such information. Where available, those templates should also include the Legal Entity Identifier for legal entities.
- (7) To facilitate the identification of payment institutions operating cross-border in different Member States, it is appropriate to determine the format of the relevant unique identification number used in each Member State to identify payment institutions, their branches or agents engaged by payment institutions to provide payment services in the host Member State.
- (8) Where a payment institution carrying out its activities in another Member State changes the information communicated in the initial application, competent authorities of the home Member State should transmit only the information which is affected by the changes in accordance with Article 28(4) of Directive (EU) 2015/2366 to the competent authorities of the host Member State.
- (9) In accordance with point (a) of Article 6(1) of Directive 2009/110/EC of the European Parliament and of the Council⁴, electronic money institutions, in addition to issuing electronic money, are entitled to the provision of payment services. Further, in accordance with Article 3(1) of that Directive, the procedures for passport notification of payment institutions, including the provisions of this Regulation, apply *mutatis mutandis* to electronic money institutions. Article 3(4) of Directive 2009/110/EC also establishes that the provisions for passport notifications of payment institutions, including the provisions of this Regulation, apply *mutatis mutandis* to electronic money institutions distributing electronic money in another Member State through natural or legal persons which act on their behalf. Article 3(5) of Directive

³ 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 Directive 2009/110/EC of the European Parliament and of the Council of 16 September 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions amending Directives 2005/60/EC and 2006/48/EC and repealing Directive 2000/46/EC (OJ L 267, 10.10.2009, p. 7).

2009/110/EC, as amended, provides that electronic money institutions shall not issue electronic money through agents, while they are allowed to provide payment services through agents subject to the conditions laid down in Article 19 of Directive (EU) 2015/2366. Notifications between competent authorities should therefore be facilitated with regard to the information relating to a passport application from an electronic money institution intending to exercise the right of establishment or the freedom to provide services, including by engaging an agent for the provision of payment services or by distributing and redeeming electronic money through distributors which act on their behalf in another Member State, in accordance with the applicable framework of the activities that electronic money institutions are entitled to perform.

- (10) This Regulation is based on the draft regulatory technical standards submitted by the European Banking Authority (EBA) to the Commission.
- (11) The EBA has conducted open public consultations on the draft regulatory 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,

HAS ADOPTED THIS REGULATION:

CHAPTER 1

GENERAL PROVISIONS

Article 1

Scope

1. This Regulation establishes rules on the cooperation and exchange of information between competent authorities of home and host Member States regarding notifications for the exercise of the right of establishment, the freedom to provide services and the use of agents by payment institutions, in accordance with Article 28 of Directive 2015/2366.
2. This Regulation applies *mutatis mutandis* to notifications between competent authorities of home and host Member States for:
 - (a) the exercise of the right of establishment, the freedom to provide services and the use of agents by electronic money institutions, in accordance with Article 3(1) and (5) of Directive 2009/110/EC and Article 111 of Directive 2015/2366;
 - (b) the use of distributors by electronic money institutions, in accordance with Article 3(4) of Directive 2009/110/EC and Article 111 of Directive 2015/2366;
3. The scope and treatment of information exchanged between competent authorities under the framework for cooperation defined in this Regulation does not entail any consequence on the competence of the home and host authorities as defined under Directive (EU) 2015/2366.

Article 2

Definitions

For the purposes of this Regulation, the following definitions shall apply:

- (1) ‘passport application’ means a branch passport application, a services passport application or an agent passport application;
- (2) ‘branch passport application’ means an application made in accordance with Article 28(1) of Directive (EU) 2015/2366 by an authorised payment institution wishing to establish a branch in another Member State;
- (3) ‘services passport application’ means an application made in accordance with Article 28(1) of Directive (EU) 2015/2366 by an authorised payment institution seeking to provide services in another Member State;
- (4) ‘agent passport application’ means an application made in accordance with Article 28(1) of Directive (EU) 2015/2366 by an authorised payment institution seeking to provide payment services in another Member State by engaging an agent as referred to in Article 19(1) of that Directive;

Article 3
General requirements

1. Notifications to be submitted pursuant to Article 1(1) shall be transmitted by means of the templates set out in Annexes II, III, V and VI to this Regulation.
2. Notifications to be submitted pursuant to point (a) of Article 1(2) shall be transmitted by means of the templates set out in Annexes II, III, V and VI to this Regulation.
3. Notifications to be submitted pursuant to point (b) of Article 1(2) shall be transmitted by means of the templates set out in Annex IV and VI to this Regulation.
4. The templates referred to in paragraphs 1 to 3, and the information contained therein, shall comply with the following requirements:
 - (a) they shall be in writing and in a language accepted by the competent authorities of both the home and the host Member States;
 - (b) they shall be transmitted by electronic means where these are accepted by the competent authorities of the host Member State where the payment institution intends to provide payment services, followed by an electronic confirmation of receipt by such competent authorities, or by post with acknowledgement of receipt.
5. Each competent authority shall make the following information available to the other competent authorities:
 - (a) the languages accepted, in accordance with of point (a) of paragraph 4;
 - (b) the e-mail address to which information and templates are to be transmitted where submitted by electronic means or the address to which information and templates are to be sent where submitted by post.

Article 4
Assessment of completeness and accuracy

1. On receipt of a passport application by a payment institution, the competent authorities of the home Member State shall assess the completeness and accuracy of the information provided pursuant to Article 28(1) of Directive (EU) 2015/2366.

2. The time periods referred to in the first subparagraph of Article 28(2) and the first subparagraph of Article 28(3) of Directive (EU) 2015/2366 shall be considered as having commenced on the date of receipt of a complete and accurate passport application.
3. Where the information provided in the application is assessed to be incomplete or incorrect pursuant to paragraph 1, the competent authority of the home Member State shall inform the payment institution without delay, indicating in which respect the information is considered to be incomplete or incorrect.

Article 5

Settlement of disagreements between competent authorities

Where a procedure for settlement of disagreements between competent authorities of different Member States has been initiated in accordance with Article 27 of Directive (EU) 2015/2366 in relation to a passport application from a payment institution pursuant to Article 28 of that Directive, the competent authorities of the home Member State shall inform the payment institution of the deferral of a decision on the application pending resolution under Article 19 of Regulation (EU) No 1093/2010.

CHAPTER 2

BRANCH PASSPORT APPLICATION

Article 6

Information to be transmitted

1. For the purposes of the first subparagraph of Article 28(2) of Directive (EU) 2015/2366, where a branch passport application is submitted by a payment institution, the competent authorities of the home Member State shall communicate the following information to the competent authorities of the host Member State:
 - (a) the date of receipt of the passport application from the payment institution containing information that is assessed to be complete and correct in accordance with Article 4;
 - (b) the Member State in which the payment institution intends to operate;
 - (c) the type of the passport application;
 - (d) the nature of the passport application the name, the address and, where applicable, the authorisation number and the unique identification number of the payment institution in the home Member State in accordance with the formats set out in Annex I;
 - (e) where available, the Legal Entity Identifier of the payment institution;
 - (f) the identity and contact details of a contact person at the payment institution submitting the branch notification;
 - (g) the address of the branch to be established in the host Member State;
 - (h) the identity and contact details of the persons responsible for the management of the branch to be established in the host Member State;

- (i) the payment services to be provided in the host Member State;
 - (j) the organisational structure of the branch to be established in the host Member State;
 - (k) a business plan, including a forecast budget calculation for the first three financial years, which demonstrates that the branch is able to employ the appropriate and proportionate systems, resources and procedures to operate soundly in the host Member State;
 - (l) a description of the branch's governance arrangements and internal control mechanisms, including administrative procedures and risk management procedures, which demonstrates that these governance arrangements, control mechanisms and procedures are proportionate, appropriate, sound and adequate with regard to the payment service business in the host Member State and comply with requirements on money laundering and terrorist financing under Directive (EU) 2015/849 of the European Parliament and of the Council⁵.
2. Where a payment institution has informed the competent authorities in the home Member State of its intention to outsource operational functions of payment services to other entities in the host Member State, the competent authorities of the home Member State shall inform the competent authorities of the host Member State accordingly.

Article 7

Transmission of the information for a branch passport application

1. The competent authorities of the home Member State shall transmit the information referred to in Article 6 to the competent authorities of the host Member State by means of the template set out in Annex II, and inform the payment institution that they have transmitted the information.
2. Where there are multiple notifications to communicate, competent authorities may communicate aggregated information but shall do by using the fields set out in Annex II.

Article 8

Communication of information regarding changes to a branch passport application

1. Where, in accordance with Article 28(4) of Directive (EU) 2015/2366, a payment institution notifies the competent authorities of the home Member State of any relevant change to a previous branch passport application, the competent authorities of the home Member State shall communicate those relevant changes to the competent authorities of the host Member State.
2. For the purposes of paragraph 1, the competent authorities of the home Member State shall transmit the relevant changes to the competent authorities of the host Member State by compiling only those parts of the template set out in Annex II to this Regulation that are affected by the changes.

⁵ Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (OJ L 141, 5.6.2015, p. 73).

Article 9

Information on the start of activities of the branch

For the purposes of the third subparagraph of Article 28(3) of Directive (EU) 2015/2366, the competent authorities of the home Member State shall communicate the date from which a payment institution commences its activities in a host Member State to the competent authorities of that host Member State without undue delay, by means of the template laid down in Annex VI to this Regulation.

CHAPTER 3

AGENT PASSPORT APPLICATION

Article 10

Information to be transmitted

1. For the purposes of the first subparagraph of Article 28(2) of Directive (EU) 2015/2366, where an agent passport application is submitted by a payment institution, the competent authorities of the home Member State shall communicate the following information to the competent authorities of the host Member State:
 - (a) the date of receipt of the passport application from the payment institution containing information that is assessed to be complete and correct in accordance with Article 4;
 - (b) the Member State in which the payment institution intends to operate by engaging an agent;
 - (c) the type of the passport application;
 - (d) the nature of the passport application and, where the use of the agent in the host Member State does not give rise to an establishment, a description of the circumstances taken into account by the competent authority in the home Member State in its assessment;
 - (e) the name, the address and, where applicable, the authorisation number and the unique identification number of the payment institution in the home Member State in accordance with the formats set out in Annex I;
 - (f) the Legal Entity Identifier of the payment institution;
 - (g) the identity and contact details of a contact person within the payment institution submitting the agent passport notification;
 - (h) the identity and contact details of the agent engaged by the payment institution;
 - (i) the unique identification number of the agent in the Member State where it is located, where applicable, in accordance with the formats provided in Annex I;
 - (j) where applicable, the identity and contact details of the persons responsible for the central contact point, where this has been appointed in accordance with Article 29(4) of Directive (EU) 2015/2366;
 - (k) the payment services to be provided in the host Member State by engaging the agent;

- (l) a description of the internal control mechanisms that will be applied by the agent in order to comply with requirements on anti-money laundering and terrorist financing under Directive (EU) 2015/849;
 - (m) the identity and contact details of directors and persons responsible for the management of the agent to be used in the provision of payment services and, for agents other than payment service providers, evidence that they are fit and proper persons.
2. Where a payment institution has informed competent authorities in the home Member State of its intention to outsource operational functions of payment services to other entities in the host Member State, the competent authorities of the home Member State shall inform the competent authorities of the host Member State accordingly.

Article 11

Transmission of the information for an agent passport application

1. The competent authorities of the home Member State shall transmit the information referred to in Article 10 to the competent authorities of the host Member State by means of the template set out in Annex III, and inform the payment institution that they have transmitted the information.
2. Where there are multiple notifications to communicate, competent authorities may communicate aggregated information but shall do so by using the fields set out in Annex III.

Article 12

Communication of changes to an agent passport application

1. Where, in accordance with Article 28(4) of Directive (EU) 2015/2366, a payment institution notifies the competent authorities of the home Member State of any relevant change to a previous agent passport application, the competent authorities of the home Member State shall communicate those relevant changes to the competent authorities of the host Member State.
2. For the purposes of paragraph 1, the competent authorities of the home Member State shall transmit the relevant changes to the competent authorities of the host Member State by compiling only those parts of the template set out in Annex III that are affected by the changes.

Article 13

Information on the start of the activities of the agent

For the purposes of the third subparagraph of Article 28(3) of Directive (EU) 2015/2366, the competent authorities of the home Member State shall communicate the date from which a payment institution commences its activities through an agent in a host Member State to the competent authorities of that host Member State without undue delay, by means of the template laid down in Annex VI to this Regulation.

CHAPTER 4

SERVICES PASSPORT APPLICATION

Article 14

Information to be transmitted

1. For the purposes of the first subparagraph of Article 28(2) of Directive (EU) 2015/2366, where a services passport application is submitted by a payment institution, the competent authorities of the home Member State shall communicate the following information to the competent authorities of the host Member State:
 - (a) the date of receipt of the passport application from the payment institution containing information that is assessed to be complete and correct in accordance with Article 4;
 - (b) the Member State in which the payment institution intends to provide services;
 - (c) the type of the passport notification;
 - (d) the name, the address and where applicable, the authorisation number and the unique identification number of the payment institution in the home Member State in accordance with the formats set out in Annex I
 - (e) the Legal Entity Identifier of the payment institution;
 - (f) the identity and contact details of a contact person within the payment institution submitting the services passport application;
 - (g) the intended date of start of the provision of services in the host Member State;
 - (h) the payment service(s) to be provided in the host Member State.
2. Where a payment institution has informed the competent authorities in the home Member State of its intention to outsource operational functions of payment services to other entities in the host Member State, the competent authorities of the home Member State shall inform the competent authorities of the host Member State accordingly.

Article 15

Transmission of information for a services passport application

1. The competent authorities of the home Member State shall transmit the information referred to in Article 14 to the competent authorities of the host Member State by means of the template set out in Annex V, and inform the payment institution that they have transmitted the information.
2. Where there are multiple notifications to communicate, competent authorities may communicate aggregated information but shall do so by using the fields set out in Annex V.

Article 16

Communication of changes to a services passport application

1. Where, in accordance with Article 28(4) of Directive (EU) 2015/2366, a payment institution notifies the competent authorities of the home Member State of any relevant change to a previous services passport application, the competent authorities

of the home Member State shall communicate those relevant changes to the competent authorities of the host Member State.

2. For the purposes of paragraph 1, the competent authorities of the home Member State shall transmit the relevant changes to the competent authorities of the host Member State by compiling only those parts of the template set out in Annex V that are affected by the changes.

CHAPTER 5

FINAL PROVISIONS

Article 17

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,

For the Commission
The President

Annex I: Format of the relevant unique identification number in each Member State

Member State	Legal person		Natural person	
	ID number type	ID number format	ID number type	ID number format
Austria	If registered: Firmenbuchnummer (https://www.justiz.gv.at/web2013/html/default/8ab4a8a422985de30122a90fc2ca620b.de.html)	Maximum: six digits plus one check letter	If not registered: Umsatzsteuer-Identifikations-Nummer (UID-Nummer) (https://www.bmf.gv.at/steuern/selbststaendige-unternehmer/umsatzsteuer/UID-und-ZM.html)	-
Belgium	KBO/BCE number (KBO=KruispuntBank van Ondernemingen; BCE=Banque-Carrefour des Entreprises) http://economie.fgov.be/nl/ondernemingen/KBO/#.VlBmZpYcTcu	0 + VAT number (OXXX.XXX.XXX)	KBO/BCE number (KBO, KruispuntBank van Ondernemingen; BCE, Banque-Carrefour des Entreprises) http://economie.fgov.be/nl/ondernemingen/KBO/#.VlBmZpYcTcu	10 digits (0 + 9 digit-VAT number)
Bulgaria	Unified Identification Code” as regulated by Art. 23, para. 1 of the Bulgarian Commercial Register Act	9 digits	Unified Identification Code” as regulated by Art. 23, para. 1 of the Bulgarian Commercial Register Act	9 digits
Croatia	OIB (fiscal number; Osobni identifikacijski broj – Personal Identification Number)	11 digits (10 random digits + 1 check digit)	OIB (fiscal number; Osobni identifikacijski broj - - Personal Identification Number)	11 digits (10 random digits + 1 check digit)
Cyprus	Tax Identification Number (TIN) https://ec.europa.eu/taxation_customs/tin/tinByCountry.html	8 digits and 1 letter (e.g: 99999999L)	Tax Identification Code (TIC) https://ec.europa.eu/taxation_customs/tin/tinByCountry.html	8 digits and 1 letter (the first digit is always zero)
Czech	Personal identification number	8 digits (e.g.: 12345678)	Personal identification number	8 digits (e.g. 12345678)

Republic	(Identifikační číslo osoby (IČO))		(Identifikační číslo osoby (IČO))	
Denmark	Company registration number (CVR number)	8-digit number (e.g. 12345678)	Personal registration number (CPR number)	10 digit number in the format "123456-7890"
Estonia	Company registry code, accessible at the Company Commercial Registry website. https://ariregister.rik.ee/index?lang=eng	8-digit number	Personal identification code (ID code)	Personal identification code (ID code)
Finland	Local business ID (https://www.ytj.fi/en/index/businessid.html) or international VAT number	Local business ID: 7 digits, a dash and a control mark, e.g. 1234567-8 VAT number: 8 digits - e.g. FI12345678	-	-
France	SIREN	9 digits	SIREN	9 digits
Germany	If registered: Handelsregisternummer (HReg-Nr.) (Commercial Register-number; https://www.handelsregister.de/rp_web/mask.do), incl. place of registration HRA; HRB; GnR; PR;VR	HRA xxxx HRB xxxx GnR xxxx PR xxxxx VR xxxx Choose the applicable format, depending on the (legal) person type, followed by a number with different length	If not registered: Umsatzsteuer-Identifikationsnummer (USt-IdNr.) (http://www.bzst.de/DE/Steuern_International/USt_Identifikationsnummer/Merkblaetter/Aufbau_USt_IdNr.html?nn=19560) (VAT-number)	DExxxxxxxxx followed by a 9 digit number
Greece	Tax Identification Number (TIN - ΑΦΜ) https://ec.europa.eu/taxation_customs/tin/pdf/en/TIN_country_sheet_EL_en.pdf	9 digits	Tax Identification Number (TIN – ΑΦΜ) https://ec.europa.eu/taxation_customs/tin/pdf/en/TIN_country_sheet_EL_en.pdf	9 digits
Hungary	Company registration number	Numbers (##-##-#####)	Register number of private entrepreneurs Company registration number for sole proprietorships	Numbers (#####); Numbers (##-##-#####)
Iceland	-	-	-	-
Ireland	Company registration number https://www.cro.ie/	6 digits	-	-

Italy	Registration number	5 digits	Fiscal code, available on the website of the OAM (Organismo per la Gestione degli Elenchi degli Agenti in Attivita' Finanziaria e dei Mediatori Creditizi): https://www.organismo-am.it/elenco-agenti-servizi-di-pagamento	Alphanumeric code of 16 characters ('SP' followed by digits)
Latvia	Tax registration number (http://www.csb.gov.lv/en/node/29890)	11 digits	Personal ID number (XXXXXX-XXXXX), or if person is a tax payer - individual entrepreneur, tax registration number (http://www.csb.gov.lv/en/node/29890)	Tax registration number: 11 digits
Liechtenstein	If available, the Legal Entity Identifier of the entity, or if not available: Commercial register number (Handelsregister-Nummer)	Prefix FL + 11 digits (FL-XXXX.XXX.XXX-X).	Personenidentifikationsnummer (Personal Identification Number)	Maximum 12 digits.
Lithuania	Company code from the Register of Legal Entities managed by the Centre of Registers of the Republic of Lithuania (http://www.registrucentras.lt/jar/p_en/)	9 digits (used to be 7 until 2004)	Taxpayer's code – Name and Surname (the taxpayer's code is identical to personal code; however, for data protection reasons, it is not normally disclosed)	Name and Surname (letters)
Luxembourg	Company registration number	The letter B followed by 6 digits (e.g. B 123456)	Social security number	13 digits (first 8 digits are the person's date of birth: YYYYMMDD)
Malta	Company registration number: http://rocsupport.mfsa.com.mt/pages/default.aspx	The letter C followed by 5 digits – e.g. C 28938	Identity Card number OR Passport number: http://www.consilium.europa.eu/prado/en/prado-documents/mlt/all/index.html	6 digits and a capital letter - Example: 034976M OR 6 digits – e.g. 728349
Netherlands	Chamber of Commerce (KvK) number	8 digits	Chamber of Commerce (KvK) number	8 digits
Norway	Business Register Number (Organisation number)	9 digits (for example 981 276 957)	National identity number/D-number	11 digits (first 6 digits are the person's date

				of birth. DD.MM.YY.)
Poland	Polish NIP (numer identyfikacji podatkowej)		Polish NIP (numer identyfikacji podatkowej)	
Portugal	Número de Identificação de Pessoa Coletiva (NIPC)	9 digits	Número de Identificação Fiscal (NIF)	9 digits
Romania	-	-	-	-
Slovak Republic	Identifikačné číslo organizácie / Company Registration Number (IČO)	8 digits IČO – 00 000 000	Company Registration Number (IČO) is assigned to legal persons and entrepreneurs http://slovak.statistics.sk/wps/portal/ext/Databases/register_organizacii!/ut/p/b1/jY7RCOlwGEafKpFPqdsuV-BcLGnJlu0mLCKEpl1E0dtn0m3Wd_fBOXCQRzXyXXNvz82t7bvm8v4-2zu9ZvM5FsCwo6DyyiTGrrA06QDsBmAhRZFQDcC0TEGJwm64IQQE-c-HLxPwy18i3x5C9DiGCKKE4pRzChnLOYEbZEffWGMqbRzIF2cgyJYQmktQE4_wFT_CEWElkUftugabP2s1OwFKhgzhg!!/dl4/d5/L2dBISevZ0FBI_S9nQSEh/	8 digits IČO – 00 000 000
Slovenia	Identification (registration) number assigned by the Agency of the Republic of Slovenia for Public Legal Records and Related Services (www.ajpes.si)	10 digits	Identification (registration) number assigned by the Agency of the Republic of Slovenia for Public Legal Records and Related Services (www.ajpes.si)	10 digits
Spain	LEI code In absence: NIF (‘Número de Identificación Fiscal’) a.k.a tax	It is composed of 20 characters as follows: Characters 1-4: A 4-character prefix allocated uniquely to each LOU (Local Operating Unit). Characters 5-6: 2 reserved characters set to zero. Characters 7-18: Entity-specific part of the code generated and assigned by LOUs according to transparent, sound and robust allocation policies.	NIF (‘Número de Identificación Fiscal’), or tax identification number. For Non-Resident Spanish Individuals, for Spanish Individuals under 14 and for Non-Resident Foreign Individuals doing transactions with tax transcendence:	It is composed of 9 characters: 8 digits and a final letter as check code at the end. It is composed of a letter (“L” for Spanish Non-Residents, “K” for



	<p>identification number.</p> <p>-----</p> <p>Further information about the structure of the tax ID number is available at the following links:</p> <p>NIF (Legal Entities): http://www.agenciatributaria.es/AEAT.internet/Inicio_es_ES/La_Agencia_Tributaria/Campanas/Censos__NIF_y_domicilio_fiscal/Empresas_y_profesionales__Declaracion_censal__Modelos_036_y_037/Informacion/NIF_de_personas_juridicas_y_entidades.shtml</p>	<p>Characters 19-20: Two check digits as described in the ISO 17442 standard.</p> <p>It is composed of 9 characters as follows:</p> <p>a) A letter providing information on its legal form:</p> <ul style="list-style-type: none"> A. Corporations. B. Limited liability companies. C. General partnerships D. Limited partnerships E. Co-ownerships and inheritances in abeyance F. Cooperatives G. Associations H. Homeowners communities J. Civil corporations N. Foreign entities P. Local government Q. Public organisms R. Religious congregations and institutions S. Central government and autonomous regions bodies U. Joint ventures with legal personality V. Others not defined in the preceding list W. Permanent establishments settled by non-resident entities <p>b) A random number of 7 digits.</p> <p>c) A letter or a number, depending</p>	<p>For Foreign Individuals: NIE ('Número de Identidad de Extranjero').</p> <p>-----</p> <p>Further information about the structure of the tax ID number is available at the following links:</p> <p>NIF (Individuals) and NIE: http://www.agenciatributaria.es/AEAT.internet/Inicio_es_ES/La_Agencia_Tributaria/Campanas/Censos__NIF_y_domicilio_fiscal/Ciudadanos/Informacion/NIF_de_personas_fisicas.shtml</p>	<p>under 14 and "M" for Non-Resident Foreigners), 7 alphanumeric characters and a letter (check control).</p> <p>It is composed of 9 characters: an initial letter, "X", followed by 7 digits, and a final letter as check code. Having exhausted the numerical capacity of the letter "X", the sequence will be continued in alphabetical order (first with "Y" and then "Z").</p>
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		on legal form (check code).		
Sweden	Registration number (www.bolagsverket.se)	NNNNNN-XXXX	Social Security Number	YYMMDD-XXXX
United Kingdom	Tax Identification Number (TIN) https://ec.europa.eu/taxation_customs/tin/pdf/en/TIN_-_country_sheet_UK_en.pdf		Tax Identification Number (TIN) https://ec.europa.eu/taxation_customs/tin/pdf/en/TIN_-_country_sheet_UK_en.pdf	

Annex II: Notification template for the exchange of information in relation to branch passport applications by payment institutions and e-money institutions

1)	Home Member State	
2)	Name of the competent authorities of the home Member State	
3)	Date of receipt by the competent authority of the home Member State of the application from the payment institution/e-money institution	DD/MM/YY
4)	Member State where the branch is to be established	
5)	Type of application	<input type="checkbox"/> First application <input type="checkbox"/> Change to previous application <input type="checkbox"/> End of business activity/cessation
6)	Type of Institution	<input type="checkbox"/> Payment Institution <input type="checkbox"/> E-Money Institution
7)	Name of the payment institution/e-money institution	
8)	Head office address of the payment institution/e-money institution	
9)	Unique identification number of the payment institution/e-money institution in the format of the home Member State specified in Annex I (where applicable)	
10)	Legal Entity Identifier (LEI) of the payment institution/e-money institution (where available)	
11)	Home Member State authorisation number of the payment institution/e-money institution (where applicable)	
12)	Contact person within the payment institution /e-money institution	
13)	Email of the contact person within the payment institution/e-money institution	

14)	Telephone number of the contact person within the payment institution/e-money institution	
15)	Branch address	
16)	Identity of persons responsible for the management of the branch	
17)	Email of the persons responsible for the management of the branch	
18)	Telephone number of the persons responsible for the management of the branch	
19)	Payment services to be provided	<ol style="list-style-type: none"> 1. <input type="checkbox"/> Services enabling cash to be placed on a payment account as well as all the operations required for operating a payment account 2. <input type="checkbox"/> Services enabling cash withdrawals from a payment account as well as all the operations required for operating a payment account 3. Execution of payment transactions, including transfers of funds on a payment account with the user`s payment provider or with another payment service provider: <ol style="list-style-type: none"> a) execution of direct debits, including one-off direct debits <input type="checkbox"/> b) execution of payment transactions through a payment card or a similar device <input type="checkbox"/> c) execution of credit transfers, including standing orders <input type="checkbox"/> 4. Execution of payment transactions where the funds are covered by a credit line for a payment service user: <ol style="list-style-type: none"> a) execution of direct debits, including one-off direct debits <input type="checkbox"/> b) execution of payment transactions through a payment card or a similar device <input type="checkbox"/> c) execution of credit transfers,

		<p>including standing orders <input type="checkbox"/></p> <p>Including granting of credit in accordance with Article 18(4) of Directive (EU) 2015/2366: <input type="checkbox"/> yes <input type="checkbox"/> no</p> <p>5. <input type="checkbox"/> Issuing of payment instruments</p> <p><input type="checkbox"/> Acquiring of payment transactions</p> <p>Including granting of credit in accordance with Article 18(4) of Directive (EU) 2015/2366: <input type="checkbox"/> yes <input type="checkbox"/> no</p> <p>6. <input type="checkbox"/> Money remittance</p> <p>7. <input type="checkbox"/> Payment initiation services</p> <p>8. <input type="checkbox"/> Account information services</p>
20)	Electronic money services to be provided (applicable only to e-money institutions)	<input type="checkbox"/> Issuing of electronic money <input type="checkbox"/> Distribution and/or Redemption of electronic money
21)	Description of the organisational structure of the branch	
22)	<p>Business plan, which demonstrates that the branch is able to employ the appropriate and proportionate systems, resources and procedures to operate soundly in the host Member State, comprising:</p> <p>a. 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;</p> <p>b. a forecast budget calculation for the first three complete financial years.</p>	
23)	<p>Governance arrangements and internal control mechanisms, comprising the following items:</p> <p>a. description of the governance 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;</p> <p>b. description of internal control mechanisms of the branch, including</p>	

	<p>the following items:</p> <ul style="list-style-type: none"> i. internal risk control procedures of the branch, the link with the internal risk control procedure of the payment institution/e-money institution, and where applicable, of its group; ii. details of the internal audit arrangements of the branch; iii. details of the anti-money laundering procedures to be adopted by the branch in the host Member State, under Directive (EU) 2015/849. 	
24)	<p>In case of outsourcing of operational functions of payment/e-money services:</p> <ul style="list-style-type: none"> a. Name and address of the entity to which operational functions are to be outsourced; b. Contact details (email and telephone number) of a contact person belonging to the entity to which operational functions are to be outsourced; c. Type and exhaustive description of the operational functions outsourced. 	

Annex III: Notification template for the exchange of information in relation to passport applications by payment institutions and e-money institutions using agents

1)	Home Member State	
2)	Host Member State in which payment services are to be provided	
3)	Name of the competent authority of the home Member State	
4)	Date of receipt by the competent authority of the home Member State of the application from the payment institution/e-money institution	DD/MM/YY
5)	Type of application	<input type="checkbox"/> First application <input type="checkbox"/> Change to previous application <input type="checkbox"/> Additional agents <input type="checkbox"/> Agent deactivation
6)	Nature of the application (assessment of the competent authority of the home Member State)	<input type="checkbox"/> Right of establishment <input type="checkbox"/> Freedom to provide services, based on the following circumstances:
7)	Type of Institution	<input type="checkbox"/> Payment Institution <input type="checkbox"/> E-Money Institution
8)	Name of the payment institution/e-money institution	
9)	Head office address of the payment / e-money institution	
10)	Unique identification number of the payment institution/e-money institution in the format of the home Member State specified in Annex I (where applicable)	

11)	Legal Entity Identifier (LEI) of the payment institution/e-money institution (where available).	
12)	Home Member State authorisation number of the payment institution/e-money institution (where applicable)	
13)	Contact person with the payment institution/e-money institution	
14)	Email of the contact person within the payment institution/e-money institution	
15)	Telephone number of the contact person within the payment institution/e-money institution	
16)	<p>Agent details:</p> <p>a. If legal person:</p> <ul style="list-style-type: none"> i. Name ii. Registered Address(es) iii. Unique identification number in the format of the Member State where the agent is located specified in Annex I (where applicable) iv. Legal Entity Identifier (LEI) of the agent (where available). v. Telephone number vi. Email vii. Name, place and date of birth of legal representatives <p>b. If natural person:</p> <ul style="list-style-type: none"> i. Name, date and place of birth ii. Registered Business address(es) iii. Unique identification number in the format of the Member State where the agent is located specified in Annex I (where applicable) iv. Telephone number v. Email 	
17)	If under the right of establishment, central	

	<p>contact point, if already appointed and/or required by the host authorities in accordance with Article 29(4) of Directive (EU) 2015/2366:</p> <p>a. Name of representative</p> <p>b. Address</p> <p>c. Telephone number</p> <p>d. Email</p>	
18)	<p>Payment services to be provided by the agent</p>	<p>1. <input type="checkbox"/> Services enabling cash to be placed on a payment account as well as all the operations required for operating a payment account</p> <p>2. <input type="checkbox"/> Services enabling cash withdrawals from a payment account as well as all the operations required for operating a payment account</p> <p>3. Execution of payment transactions, including transfers of funds on a payment account with the user's payment provider or with another payment service provider:</p> <p>a) execution of direct debits, including one-off direct debits <input type="checkbox"/></p> <p>b) execution of payment transactions through a payment card or a similar device <input type="checkbox"/></p> <p>c) execution of credit transfers, including standing orders <input type="checkbox"/></p> <p>4. Execution of payment transactions where the funds are covered by a credit line for a payment service user:</p> <p>a) execution of direct debits, including one-off direct debits <input type="checkbox"/></p> <p>b) execution of payment transactions through a payment card or a similar device <input type="checkbox"/></p> <p>c) execution of credit transfers, including standing orders <input type="checkbox"/></p> <p>Including granting of credit in accordance with Article 18(4) of Directive (EU) 2015/2366: <input type="checkbox"/> yes <input type="checkbox"/> no</p>

		<p>5. <input type="checkbox"/> Issuing of payment instruments <input type="checkbox"/> acquiring of payment transactions</p> <p>Including granting of credit in accordance with Article 18(4) of Directive (EU) 2015/2366: <input type="checkbox"/> yes <input type="checkbox"/> no</p> <p>6. <input type="checkbox"/> Money remittance</p> <p>7. <input type="checkbox"/> Payment initiation services</p> <p>8. <input type="checkbox"/> Account information services</p>
19)	Description of the internal control mechanisms that will be used by the payment institution/e-money institution/agent in order to comply with the obligations in relation to money laundering and terrorist financing under Directive (EU) 2015/849.	
20)	Identity and contact details of directors and persons responsible for the management of the agent to be used	
21)	For agents other than payment service providers, criteria considered to ensure that directors and persons responsible for the management of the agent to be used in the provision of payment services are fit and proper persons.	<p>a. <input type="checkbox"/> Evidence gathered by the Payment Institution attesting that directors and persons responsible for the management of the agent to be used in the provision of payment services are fit and proper persons.</p> <p>b. <input type="checkbox"/> Actions taken by the home competent authority pursuant to Article 19(3) of Directive (EU) 2015/2366 to verify the information provided by the payment institution.</p>
22)	<p>In case of outsourcing of operational functions of payment services:</p> <p>a. Name and address of the entity to which operational functions are to be outsourced</p> <p>b. Contact details (email and telephone number) of a contact person belonging to the entity to which operational functions are to be outsourced</p> <p>c. Type and exhaustive description of the operational functions outsourced</p>	

Annex IV: Notification template for the exchange of information in relation to passport applications by e-money institutions using distributors

1)	Home Member State	
2)	Host Member State in which e-money services are to be provided	
3)	Name of the competent authority of the home Member State	
4)	Date of receipt by the competent authority of the home Member State of the application from the e-money institution	DD/MM/YY
5)	Type of application	<input type="checkbox"/> First application <input type="checkbox"/> Change to previous application <input type="checkbox"/> Additional distributors <input type="checkbox"/> Distributor deactivation
6)	Nature of application (assessment of the competent authority of the home Member State)	<input type="checkbox"/> Right of establishment <input type="checkbox"/> Freedom to provide services, based on the following circumstances:
7)	Name of the e-money institution	
8)	Head office address of the e-money institution	
9)	Unique identification number of the e-money institution in the format of the home Member State specified in Annex I (where applicable)	
10)	Legal Entity Identifier (LEI) of the e-money institution (where available).	
11)	Home Member State authorisation number of the e-money institution (where applicable)	

12)	Contact person with the e-money institution	
13)	Email of the contact person within the e-money institution	
14)	Telephone number of the contact person within e-money institution	
15)	<p>Distributor details:</p> <p>a. If legal person:</p> <ul style="list-style-type: none"> i. Name ii. Registered Address(es) iii. Unique identification number in the format of the Member State where the distributor is located specified in Annex I (where applicable) iv. Legal Entity Identifier (LEI) of the distributor (where available). v. Telephone number vi. Email vii. Name, place and date of birth of legal representatives <p>b. If natural person:</p> <ul style="list-style-type: none"> i. Name, date and place of birth ii. Registered Business address(es) iii. Unique identification number in the format of the Member State where the distributor is located specified in Annex I (where applicable) iv. Telephone number v. Email 	
16)	Electronic money services to be provided by the distributor	<input type="checkbox"/> Distribution <input type="checkbox"/> Redemption of electronic money
17)	Description of the internal control mechanisms that will be used by the e-money institution/distributor in order to comply with the obligations in relation to money laundering and terrorist financing under Directive (EU) 2015/849.	

18)	<p>In case of outsourcing of operational functions of e-money services:</p> <ul style="list-style-type: none">a. Name and address of the entity to which operational functions are to be outsourcedb. Contact details (email and telephone number) of a contact person belonging to the entity to which operational functions are to be outsourcedc. Type and exhaustive description of the operational functions outsourced	
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Annex V: Notification template for the exchange of information in relation to freedom to provide services applications with no agent or distributor

1)	Home Member State	
2)	Name of the competent authority of the home Member State	
3)	Date of receipt by the competent authority of the home Member State of the application from the payment institution/e-money institution	DD/MM/YY
4)	Member State where services are to be provided	
5)	Type of notification	<input type="checkbox"/> First notification <input type="checkbox"/> Change to previous notification <input type="checkbox"/> End of business activity/cessation
6)	Type of Institution	<input type="checkbox"/> Payment Institution <input type="checkbox"/> E-Money Institution
7)	Name of the payment institution/e-money institution	
8)	Head office address of the payment institution/e-money institution	
9)	Unique identification number of the payment institution /e-money institution in the home Member State (where applicable)	
10)	Legal Entity Identifier (LEI) of the payment institution/e-money institution (where available).	
11)	Home Member State authorisation number of the payment institution/e-money institution (where applicable)	
12)	Contact person within the payment institution/e-money institution	
13)	Email of the contact person within the payment institution/e-money institution	
14)	Telephone number of the contact person	

	within the payment institution/e-money institution	
15)	The intended date of start from which payment/e-money services will be provided (cannot precede the communication of the decision of the competent authority of the home Member State, as foreseen by Article 28 (3) of Directive (EU) 2015/2366)	DD/MM/YYYY
16)	Payment services to be provided	<ol style="list-style-type: none"> 1. <input type="checkbox"/> Services enabling cash to be placed on a payment account as well as all the operations required for operating a payment account 2. <input type="checkbox"/> Services enabling cash withdrawals from a payment account as well as all the operations required for operating a payment account 3. Execution of payment transactions, including transfers of funds on a payment account with the user's payment provider or with another payment service provider: <ol style="list-style-type: none"> a) execution of direct debits, including one-off direct debits <input type="checkbox"/> b) execution of payment transactions through a payment card or a similar device <input type="checkbox"/> c) execution of credit transfers, including standing orders <input type="checkbox"/> 4. Execution of payment transactions where the funds are covered by a credit line for a payment service user: <ol style="list-style-type: none"> a) execution of direct debits, including one-off direct debits <input type="checkbox"/> b) execution of payment transactions through a payment card or a similar device <input type="checkbox"/> c) execution of credit transfers, including standing orders <input type="checkbox"/> <p>Including granting of credit in accordance with Article 18(4) of Directive (EU) 2015/2366: <input type="checkbox"/> yes <input type="checkbox"/> no</p> 5. <input type="checkbox"/> Issuing of payment instruments

		<input type="checkbox"/> Acquiring of payment transactions Including granting of credit in accordance with Article 18(4) of Directive (EU) 2015/2366: <input type="checkbox"/> yes <input type="checkbox"/> no 6. <input type="checkbox"/> Money remittance 7. <input type="checkbox"/> Payment initiation services 8. <input type="checkbox"/> Account information services
17)	E-money services to be provided (applicable only to e-money institutions)	<input type="checkbox"/> Issuing of electronic money <input type="checkbox"/> Distribution and/or Redemption of electronic money
18)	In case of outsourcing of operational functions of payment/emoney services: a. Name and address of the entity to which operational functions are to be outsourced b. Contact details (email and telephone number) of a contact person belonging to the entity to which operational functions are to be outsourced c. Type and exhaustive description of the operational functions outsourced	

Annex VI: Notification template for the exchange of information in relation to start of branch/agent/distributor passport activities by payment institutions and e-money institutions

Start of activities		
1)	Home Member State	
2)	Name of the competent authority of the home Member State	
3)	Date of initial application according to Annex II or III or IV.	
4)	Member State where the branch/agent/distributor is to start activities	
5)	Type of Institution	<input type="checkbox"/> Payment Institution <input type="checkbox"/> E-Money Institution
6)	Name of the payment institution/e-money institution	
7)	Head office address of the payment institution/e-money institution	
8)	Unique identification number of the payment institution/e-money institution in the format of the home Member State specified in Annex I (where applicable)	
9)	Legal Entity Identifier (LEI) of the payment institution/e-money institution (where available).	
10)	Home Member State authorisation number of the payment institution/e-money institution (where applicable)	
11)	Type of passporting	<input type="checkbox"/> Branch <input type="checkbox"/> Agent <input type="checkbox"/> Distributor
12)	For Agent/Distributor,	a. If legal person: i. Name ii. Unique identification number in the

		<p>format of the Member State where the agent/distributor is located specified in Annex I (where applicable)</p> <p>iii. Legal Entity Identifier (LEI) of the agent/distributor (where available).</p> <p>iv. Telephone number</p> <p>b. If natural person:</p> <p>i. Name, date and place of birth</p> <p>ii. Unique identification number in the format of the Member State where the agent/distributor is located specified in Annex I (where applicable)</p>
13)	For agent and branches, date of entry in the register of the competent authorities of the Home Member State	DD/MM/YYYY
14)	Start date of branch/agent/distributor activities (for agents and branches, the date cannot precede the date of entry of the agent/branch into the register of the home Member State, as foreseen by Article 28(3) of Directive (EU) 2015/2366)	DD/MM/YYYY

4. Accompanying documents

4.1 Cost- Benefit Analysis / Impact Assessment

Article 10(1) of the EBA Regulation provides that when any regulatory technical standards developed by the EBA are submitted to the Commission for adoption, they should be accompanied by an analysis of ‘the potential related costs and benefits’. This analysis should provide an overview of the findings regarding the problem to be dealt with, the solutions proposed and the potential impact of these options.

A. Problem identification

The internal market for payment services in the EU is incomplete and suffers from a number of specific failures. Lack of competition in the payment services market and existing barriers to the freedom of establishment and the provision of services across borders prevent consumers and businesses from fully reaping the potential benefits of the internal market⁶.

Efficient passporting regimes are commonly considered a useful instrument to facilitate the cross-border provision of financial services⁷. For a passporting regime to be effective and efficient, standards for the cooperation between competent authorities of different Member States and the content and procedures for notifications and the exchange of information are necessary. Without such standards, the passporting regime would be inefficient and risk not to effectively achieve the objective of facilitating cross-border provision of payment services in the EU.

The EU passporting regime stipulated by PSD2 is intended to address these potential risks by providing technical standards on the information to be notified by payment institutions and electronic money institutions wishing to passport and by requesting the EBA to develop draft RTS specifying the framework for cooperation, and for the exchange of information, between competent authorities of the home and of the host Member State.

In order to fulfil its mandate in a comprehensive manner, the EBA sent separate questionnaires to Member States, its Banking Stakeholder Group, and representatives of several European trade associations⁸. The aim of the questionnaires was for market participants and national competent

⁶ European Commission: Report on the application of the payment services directive on the internal market and on cross-border payments in the Community (2013)

⁷ See also EBA: Guidelines on passport notifications for mortgage credit intermediaries (2014); EBA: Regulatory and Implementing Technical Standards on passport notifications (2013); EBA: Regulatory and Implementing Technical Standards on collaboration concerning supervision between competent authorities of home and host Member States in relation to sharing of information (2013); ESMA: MiFID II/MiFIR draft technical standards on authorisation, passporting, registration of third country firms and cooperation between competent authorities (2015)

⁸ The European Payment Institution Federation, the Electronic Money Association, the European Banking Federation and the European Association of Cooperative banks.

authorities (NCAs) to convey to the EBA any issues they have experienced with regard to passporting under PSD1 and which the EBA should ideally address through its passporting mandates under PSD2.

The issues identified broadly related to frictions in the relationships between home and host NCAs, lack of harmonisation of EU legislation and its interpretation across Member States and deficiencies in national supervision and oversight practices.

B. Policy objectives

To achieve an efficient passporting regime, the EBA took into account that the general objective of the draft RTS is to achieve supervisory convergence, by creating a level playing field, preventing regulatory arbitrage opportunities, and providing legal clarity⁹. These standards aim to improve the functioning of the internal market for payment services and foster competition and cross-border provision of payment services in the EU¹⁰. This should increase the efficiency of the European financial system and benefit consumers of financial services. More specifically, these standards are designed to establish an effective regime of passport notifications for providers of payment services, as well as electronic money, to operate in various EU Member States. Provisions included in the draft RTS shall clearly specify the information that needs to be notified and, by doing so, reduce the burden of compliance for payment institutions and electronic money institutions and contribute to the efficient and effective cooperation (including the implementation of efficient procedures for the exchange of information) between the competent authorities in the home and host Member States.

C. Baseline scenario and options considered

The baseline scenario is that the EBA sets clear standards on passport notifications for payment institutions and electronic money institutions through the development of the draft RTS and standardised notification templates. The draft RTS represent common standards agreed on by Member States and are based on notification requirements developed by the EBA for other EU directives.

They also take account of the practical experience gained by national authorities in implementing PSD1 and the Electronic Money Directive, as well as feedback received from market participants on their experiences of complying with those passport notifications.

In developing these standards, a technical specification was considered, regarding the specification of the services provided in the passport notifications of branches, agents and payment institutions

⁹ [EBA: 2016-2018 multi-annual work programme](#), EBA: Annual report 2015 (forthcoming) and [EBA: Consumer trends report \(2015\)](#).

¹⁰ European Commission: Green paper on the way towards an integrated European market for card, internet and mobile payments (2012) and European Commission: Green paper on retail financial services (2015).

To require the specification of the services provided (Option 1.1)

To abstain from requiring a specification of services provided (Option 1.2)

D. Cost-Benefit Analysis and preferred options¹¹

The notification requirements contained in these RTS are generally expected to generate incremental benefits rather than incremental costs. The envisaged incremental benefits are expected to accrue partly to competent authorities due to greater administrative efficiencies.

Payment institutions, in turn, will benefit as competent authorities will be able to assess passport applications more quickly, with payment institutions thus being able to provide payment services more quickly to the benefit of their customers. On the other hand, the incremental costs are expected to affect competent authorities and payment institutions equally, while no incremental costs are expected to arise for any other stakeholders.

Regarding the passport notifications of agents, branches or payment institutions, refraining from specifying the services provided could result in excessive lists of possible services, out of which only a few would actually be provided in the host Member States following the notification by the home Member State. This preventive over-notification of possible services would pose a burden to the efficient and effective assessment of passport notifications by NCAs. It would leave NCAs unclear about the specific services that are actually going to be provided and would require excessive time to assess the notifications, leading to unnecessary delays for notifying branches, agents and payment institutions. Like the EBA requirements on passport notifications for credit institutions under the Capital Requirements Directive IV and for mortgage credit intermediaries under the Mortgage Credit Directive, these guidelines consequently require the specification of the services provided by payment service providers (Option 1.1). Following this approach strengthens the consistency of the EU financial regulatory and supervisory framework, to the benefit of financial institutions, consumers and competent authorities.

¹¹ See also European Commission: Impact assessment accompanying proposal for payment services directive and interchange fees regulation (2013); London economics et al: Study on the impact of the payment services directive on the internal market and on cross-border payments in the Community (2011)

4.2 Feedback on the public consultation

The EBA publicly consulted on the draft proposal contained in this paper. The consultation period lasted for three months and ended on 11 March 2016. Seven responses were received, all of which were published on the EBA website.

This paper presents a summary of the key points and other comments that arose from the consultation, the analysis and discussion triggered by these comments, and the actions taken to address them if deemed necessary.

In some cases, several industry respondents made similar comments or the same respondent repeated its comments in response to more than one question. In such cases, the comments and the EBA's analysis of the comments are included in the section of the chapter where the EBA considers them most appropriate.

Changes to the draft RTS have been incorporated as a result of the responses received during the public consultation, as described in detail below.

Summary of key issues and the EBA's feedback

As already stated in section 2.2 'Rationale' above, the EBA has decided to make changes to the draft RTS to reflect some of the concerns raised by respondents. In the feedback table that follows, the EBA has summarised the comments received and explains which responses have and have not led to changes, and the reasons for this.



Summary of responses to the consultation and the EBA's analysis

Comments (article numbers as in the CP)	Summary of responses received	EBA analysis	Amendments to the proposals
General comments			
Scope of the draft RTS	<p>One respondent emphasized that the EBA should generally ensure that companies in a host-country should not have more rights than in the home-country.</p> <p>Another respondent underlined that the principle of home Member State supervision should under no circumstances be subject to further restrictions based on the draft RTS on passport notifications. Having read the consultation document, the respondent had the impression that Member States will move away from a “notification only” process to a clear authorization / approval process when it comes to notifying cross-border services into other Member States.</p>	<p>EBA underlines that the draft regulatory technical standards specify, as mandated by Article 28(5) of PSD2, the framework for cooperation and exchange of information between competent authorities of the home and of the host in relation to the notification of payment institutions operating on a cross-border basis.</p> <p>Consequently, the draft RTS has no impact on the allocation of the responsibilities for the home and of the host competent authorities that are defined in PSD2.</p>	None.
Update of information	One respondent expressed concerns that the level of detail requested in the Annexes may be acceptable for a first time notification, but would be too demanding for a simple change to the initial data submitted!	The EBA considers that this concern is addressed by Articles 8, 12 and 16 of the final draft RTS, which specify that in case of changes to a passport notification, the competent authorities of the home Member State shall send to the competent authorities of the host Member State only the information that is affected by the changes.	None.
Payment institution register	In relation to the transparency of payment institutions operating in the EU, one respondent suggested that :	EBA underlines that the registration of payment institutions in the public register of the home	None.



Comments (article numbers as in the CP)	Summary of responses received	EBA analysis	Amendments to the proposals
	<p>d) competent authorities of each Member State should publish on their websites the list of each Payment Institution operating in their country, specifying the passporting status: branch, agent network or under the freedom to provide services.</p> <p>e) the EBA register should receive up to date information from each EU competent authorities who should match at least the information above mentioned and also take into account the outflows when a branch is closed, an agent terminated and a service stopped.</p> <p>The respondent indicated that this comment could be further developed when EBA will develop the separate mandate under the PSD2 related to the draft ITS for the EBA register.</p>	<p>Member State is defined in Article 14 PSD2.</p> <p>EBA also confirms that these comments relate to the mandate conferred on EBA by Article 15.4 of PSD2.</p> <p>Consequently, EBA invites the respondent to reconsider whether these comments will remain valid in the light of the future CP on the draft RTS and ITS on the EBA register and, if so, to re-submit this concern as a response to the CP, at that point in time.</p>	
Regulation applicable in the host Member State	One respondent suggested that Host State competent authorities should provide reference to applicable main regulations and reporting requirements for Payment Institutions using their passporting rights in the Host Country.	<p>EBA considers the suggestion of the respondent as outside the mandate conferred on EBA by Article 28(5) PSD2, which requires the EBA to specify information between competent authorities of the home and of the host in relation to the notification of payment institutions operating on a cross-border basis.</p> <p>However, the EBA will further investigate whether transparency of the requirements applicable in the host Member State can be increased via other means.</p>	None.



Comments (article numbers as in the CP)	Summary of responses received	EBA analysis	Amendments to the proposals
General timelines for processing passport notification	<p>Several respondents expressed a concern that the new requirements and procedures in relation to passporting will increase the total time needed for a payment institution to start its activities on a cross border basis.</p> <p>In that respect, one respondent suggested more flexibility for what he referred to as “properly organised” payment institutions, for example by providing such payment institutions the opportunity to commence business on an earlier milestone.</p> <p>Another respondent suggested that EBA sets different timelines for processing a passport notification of a branch, an agent or services, so as to be consistent with the different levels of complexity of the related information to be provided and to be assessed. In particular, the respondent suggested that initial passport notification processing should require more time than subsequent notification of certain minor changes or when the notification purpose is just adding a new agent without other changes.</p> <p>The same respondent also questioned the reasoning behind extending the timeframe applicable to the registration of the agent of a Payment Institution to a maximum of three months when this is typically done today within 30 days. In particular, in the respondent’s view, the adding of agents should not require a full review of the kind that was performed for the first -ime notification of the applicant and should be processed in a maximum period of one month</p>	<p>EBA takes note of the comments but highlights that the timeline cross-referenced in the draft RTS are the timelines defined in Articles 28(2)(1) and 28(3)(1) of the PSD2, not in the RTS that the EBA has been mandated to develop.</p> <p>The EBA cannot amend timelines that are set out in Directives. However, the EBA draws the respondent’s attention to the fact that PSD2 sets these as maximum timelines.</p>	None.



Comments (article numbers as in the CP)	Summary of responses received	EBA analysis	Amendments to the proposals
Nature of the application	<p>One respondent underlined that the scope of the RTS excludes the question of whether a passporting activity undertaken by a payment institution or e-money institution relates to a services passport when conducted in a host member state or whether the nature of the activity gives rise to an establishment.</p> <p>In his view, the RTS shall therefore avoid incorporating interpretations of establishment into the notification processes, or into template pro forma such as the reference made in paragraph 8 of section 2.2 of the draft RTS.</p>	<p>The EBA acknowledges the concern raised by the respondent but underlines that the scope of the RTS as worded in Art 28(5) does not mandate the EBA to address the question whether a passporting activity undertaken by a payment institution or e-money institution conducted in a host member state via an agent or distributor relates to an establishment. However, the EBA concurs with the view of the respondent that greater clarity would be helpful on the information that is to be provided when the payment institution or e-money institution is using an agent and when the e-money institution is using a distributor in the templates. The EBA has therefore made a change compared to the version that was proposed in the Consultation Paper, by splitting the common template for agents and distributors in annex III of the CP into two separate annexes, one dedicated to the use of agents and one dedicated to the use of distributors. In addition, two additional fields were introduced in these two annexes to specify the Host Member State in which services are to be provided, in order to clarify without ambiguity which host Member State is to receive the notification, as well as the assessment of the home member state authority regarding the nature of the application (right of establishment or freedom to provide services) and, in cases where according to the assessment of the home member authority the use of agents or distributors in the host member state does not give rise to an establishment, a description of the circumstances taken into account</p>	<p>Annex III split into two annexes, and two fields added to specify the Host Member State in which services are to be provided and the assessment of the home member state authority regarding the nature of the application (right of establishment or freedom to provide services), as well as, in cases where according to the assessment of the home member authority the use of agents or distributors in the host member state does not give rise to an establishment, a description of the circumstances taken into account by the home member state authority in its assessment.</p>



Comments (article numbers as in the CP)	Summary of responses received	EBA analysis	Amendments to the proposals
		by the home member state authority in its assessment. A new Article 1 was ultimately introduced in the final draft RTS so as to refer to the new annex for distributors.	
Grandfathering current passports	of One respondent asked to clarify the status of existing providers currently offering passported services within the EU so as to receive comfort that existing passported services can continue without renewed notification and that only additional information will have to be submitted when there is a change in circumstances, or where additional passport notifications are made.	EBA highlights that transitional provisions for payment institutions that have taken up activities in accordance with the national law transposing Directive 2007/64/EC by 13 January 2018 are defined in Article 109 PSD2 and therefore does not need to be further specified in the draft RTS.	None.
Responses to questions in Consultation Paper EBA/CP/2015/25			
Question 1” Do you agree with the draft RTS on passport notifications under the PSD2?			
General structure of templates	<p>One respondent commented that PSD2 provides for two types of passporting to be undertaken (freedom to offer services and right of establishment) and suggested that the process of passport notification be aligned between these two alternatives, with information requirements in relation to agents or distributors set out as appendices to the notification forms. In the view of the respondent, such an approach would acknowledge the respondent’s observation that physical presence in the form of an agent or distributor does not always give rise to establishment.</p> <p>Against this background, the same respondent then suggested distinguishing services and establishment passport notifications, and providing, in an additional section or appendix, further information required for an agent or for a distributor where this relates to e-money</p>	See answer provided by the EBA to the comment on “Nature of the application” above.	Annex III split into two annexes, and two fields added to specify the Host Member State in which services are to be provided and the assessment of the home member state authority regarding the nature of the application (right of establishment or freedom to provide services) as well as, in cases where according to the assessment of the



Comments (article numbers as in the CP)	Summary of responses received	EBA analysis	Amendments to the proposals
	<p>institutions. In his view, agent related data requests are better set out separately from those in relation to a distributor.</p> <p>Against this background, the respondent suggested for the RTS to include three forms:</p> <ul style="list-style-type: none"> (a) one for establishment notification, (b) one for services notification, and (c) a third for outsourcing notification <p>In the view of the respondent, this should include two appendices for each of the passporting forms, one for distributors and one for agents.</p>		<p>home member authority the use of agents or distributors in the host member state does not give rise to an establishment, a description of the circumstances taken into account by the home member state authority in its assessment.</p>
<p>General level of information requested for passporting</p>	<p>One respondent expressed concern that the level of information requested in branch and agent passport notifications are similar to the one to be provided for a payment institution license. The same respondent was of the view that the information in relation to outsourcing of operational activities to an entity in the host member state is not relevant for the passport notification process.</p>	<p>EBA underlines that the information to be provided by a payment institution wishing to provide payment services on a cross border basis to the competent authorities of its home Member State is defined in Article 28 PSD2.</p> <p>In relation to outsourcing in particular, Article 28 provides that, where the payment institution intends to outsource operational functions of payment services to other entities in the host Member State, it shall inform the competent authorities of its home Member State accordingly.</p> <p>However, the EBA partially concurred with the view of the respondent and agreed deleting part of the information related to outsourcing contained in fields 24 d) and e) of annex II, 23 d) and e) of annex III and field 16 d) and e) of annex IV.</p>	<p>Deletion of part of the information related to outsourcing contained in annexes II, III, IV under consultation.</p>



Comments (article numbers as in the CP)	Summary of responses received	EBA analysis	Amendments to the proposals
		<p>The EBA ultimately underlines that the communication of this information to the host does not affect the competence of the home and host authorities as defined under PSD2.</p>	
Article 1	<p>One respondent proposed to clarify the term “distributor” in the draft RTS and suggested the following wording: “a natural or legal person selling and/or redeeming electronic money issued by an electronic money issuer under a commercial agreement. The activity of distribution does not give rise to a payment service”.</p>	<p>EBA considers this suggestion as being outside the mandate conferred on the EBA in PSD2.</p>	None.
Article 2	<p>Four respondents suggested defining English as the common language to exchange information between competent authorities in order to facilitate the exchange of information and reduce the administrative burden. In addition, one respondent found it challenging that within the notification procedures under the PSD1 framework, he did face challenges to find competent translators for the languages accepted by some Member States who were not in a position to easily proof-read or amend such documents on short notice, creating potential barriers for passporting.</p>	<p>EBA considered the suggestion but arrived at the view that some competent authorities currently exchange information in a common language other than English, as a result of which a translation into English of the information provided by the payment institution to its home competent authorities is not required. Consequently, the option offered to exchange information in any Union language accepted by both the competent authorities of the home and host Member States reduces the administrative burden for payment institutions in the case they are passporting into a host Member State that accepts the same language as the home Member State. The EBA has therefore not amended the RTS.</p>	None.
Article 2	<p>Three respondents suggested that the RTS should require the transmission of information by electronic means,</p>	<p>EBA concurs with the view of the respondents in support of the use of electronic means of</p>	Article 3 amended.



Comments (article numbers as in the CP)	Summary of responses received	EBA analysis	Amendments to the proposals
	<p>followed by an electronic confirmation of receipt by the competent authorities, as the standard communication channel. In the view of the respondent, transmission by post would render the communication unnecessarily complicated.</p>	<p>communication for efficiency reasons. However, the EBA also recognises that a degree of flexibility is needed for the transmission of sensitive and/or confidential documents by post. Against this background, the EBA concluded that electronic communication shall not be the only means of communication but amended Article 3 to clarify that it is the preferential means.</p>	
<p>Article 3</p>	<p>Several respondents expressed the concern that Article 3 of the draft RTS could allow competent authorities to intentionally delay the overall passport notification process.</p> <p>In their views, this might be the case where competent authorities interpret Article 3 such that the one-month and the three-month period only starts when they assess the completeness and accuracy of the information provided in the application of the payment institution.</p> <p>In order to avoid intentional delay, one of the respondent suggested to insert “materially” in Article 3 so that Paragraph 3 would read: “Where the information provided in the notification is assessed to be <u>materially</u> incomplete or incorrect...”. In the view of the respondent, this amendment would prevent competent authorities from circumventing any statutory timelines by prolonging passport notification processing through immaterial information requests.</p>	<p>The EBA underlines that home competent authorities devote the resources necessary for them to fulfil their duties and have no interest in, or derive any benefit from, intentionally delaying the notification process.</p> <p>Instead, the experience of competent authorities under the current PSD1 framework suggests that delays in passporting occur primarily as a result of the information provided by the payment institution being incomplete or inaccurate.</p> <p>Against this background, the EBA considers the check that the home authority carries out regarding the completeness and accuracy of the information provided by the payment institution as key to limiting the risk of further delays, and/or possible eventual rejection, when the information is subsequently assessed by the host competent authorities.</p> <p>In addition, Article 4(3) of the final draft RTS foresees that, where the information provided in the notification is assessed as being incomplete or</p>	<p>Articles 7, 11 and 15 have been amended so that the payment institution is informed when the notification is transmitted to the competent authorities of the host Member State.</p>



Comments (article numbers as in the CP)	Summary of responses received	EBA analysis	Amendments to the proposals
		<p>incorrect, the competent authority of the home Member State shall inform without delay the payment institution, indicating in which respect the information has been assessed As being incomplete or incorrect.</p> <p>Against this background, the EBA did not amend article 4 of the final draft RTS. However, in order to enhance the transparency of the process, the EBA amended Articles 7, 11 and 15 of the final draft RTS so that payment institutions are to be informed when the notification is transmitted from the competent authority in the home Member States to the host Member State.</p>	
Article 4	One respondent suggested specifying in the draft RTS clear timelines & procedures if a disagreement occurs between the respective authorities in the Home and the Host Member States.	EBA underlines that the rules surrounding time limits for the settlement of disagreements between competent authorities in cross-border situations is defined in Article 19 of the EBA Regulation (EU 1093/2010). Article 19 foresees that the EBA shall set a time limit for conciliation between the competent authorities taking into account any relevant time periods specified in the acts referred to in Article 1(2) of the EBA regulation and the complexity and urgency of the matter. Consequently, the EBA sees neither need nor scope to specify timelines in this RTS.	None.
Article 5	In relation to Article 5(1), one respondent was of the view that, in many cases, the level of detail requested in Annex II was too granular and would create unnecessary hurdles, especially when applied to “small scale” or “very limited	EBA underlines that Article 28 PSD2 sets out the information to be provided to the authority in the home Member State by a payment institution wishing to provide payment services for the first	None.



Comments (article numbers as in the CP)	Summary of responses received	EBA analysis	Amendments to the proposals
	<p>scope” branch office organizations.</p> <p>The respondent suggested that the RTS should instead require the same set of mandatory information as per a services passport notification as defined under Article 13 of the draft RTS, and should be expanded by further key details of the branch office. In particular, the respondent considered the requirement for a budget planning under Article 5(1)(k) as too demanding for small scale / dependant branches, since small branches are typically simply remunerated on the commonly adopted Cost-Plus Method (OECD model), with figures audited at headquarters in the home Member State.</p> <p>Another respondent suggested clarifying the scope of outsourced functions of payment services that the payment institution should notify to the home competent authorities under Articles 5(2), 9(2) and 13(2)</p>	<p>time in a Member State other than its home Member State, in the exercise of the right of establishment or the freedom to provide services. The EBA is not in a position to amend provisions set out in the Directive itself.</p> <p>EBA underlines that the draft RTSs only refer to the framework for cooperation and exchange of information between competent authorities of the home and of the host. They do therefore not specify the information to be exchanged between the payment institution and the home competent authorities in relation to passport notification.</p> <p>Against this background, the EBA cannot address the suggestion of the respondent but hereby clarifies that the information exchanged between competent authorities of the home and host will be identical to the information provided by the payment institution under Article 28 PSD2.</p>	None.
Article 7	<p>In relation to article 7 of the draft RTS, one respondent suggested clarifying what would constitute a “relevant change”, and recommended to limit notifications of</p>	<p>The EBA cannot address the suggestion of the respondent under the mandate conferred on the EBA but hereby clarifies that the information</p>	None.



Comments (article numbers as in the CP)	Summary of responses received	EBA analysis	Amendments to the proposals
	relevant changes to a strict minimum.	exchanged between competent authorities of the home and host Member State is based on the information provided by the payment institution under article 28(4) PSD2.	
Article 8	One respondent did not agree with the need to inform the competent authorities of the host Member State of the date from which the payment institution commences its activities through a branch via the specific template specified in Annex V, when such information is/could easily be included in the notification form that is submitted initially, and as laid out in Annex II.	<p>The EBA highlights that the date from which the payment institution commences its activities through a branch is defined, not in the EBA's RTS, but in Article 28(3) PSD2, which provides the following [emphasis added]:</p> <p><i>“Within 3 months of receipt of the information referred to in paragraph 1, the competent authorities of the home Member State shall communicate their decision to the competent authorities of the host Member State and to the payment institution.</i></p> <p><i>Upon entry in the register referred to in Article 14, the agent or branch may commence its activities in the relevant host Member State.</i></p> <p><i><u>The payment institution shall notify to the competent authorities of the home Member State the date from which it commences its activities through the agent or branch in the relevant host Member State. The competent authorities of the home Member State shall inform the competent authorities of the host Member State accordingly.”</u></i></p> <p>However, the EBA understands that the intended date of the start of the agent activities contained in the initial notification may cause confusion about when the payment institution can actually start its</p>	Article 6 and corresponding Annex of the final draft RTS have been amended to delete the intended start date.



Comments (article numbers as in the CP)	Summary of responses received	EBA analysis	Amendments to the proposals
		activities on a cross-border. The EBA has therefore concluded that it should delete this information accordingly.	
Article 11	<p>One respondent expressed concerns about the level of detail requested on the agents to be appointed, especially in combination with the need to file for updates of relevant changes in third parties.</p> <p>In connection with the details laid out in Article 9 and Annex III, the same respondent questioned whether the communication of changes to an agent’s internal organization or setup should not rather be in the responsibility of the agent itself, especially in case authorities aim for timely notification of any such changes.</p>	EBA underlines that the scope of the draft RTS only refers to the framework for cooperation and exchange of information between competent authorities of the home and of the host. This scope does therefore not mandate the EBA to specify in the RTS the information to be exchanged between the payment institution and the home competent authorities in relation to passport notification.	None.
Article 12	<p>One respondent commented that the information on the start of the activities of the agent will be useful when linked to the first-time passport notification and that it should be clarified that the date communicated by the payment institution in this case constitutes the date when the activity will be authorized to start. In that case, the payment institution should not have to wait for further instruction from either the Home or the Host competent authorities to start its activities.</p> <p>For subsequent passport notification, the same respondent suggested that the start of the activity in that case will match the date when the agent will appear on the register of the Home competent authority.</p>	<p>As explained above for the case of a passport notification of a branch, the EBA highlights that the date from which the payment institution commences its activities through an agent is defined in Article 28(3) of PSD2, which provides that [emphasis added]:</p> <p><i>“Within 3 months of receipt of the information referred to in paragraph 1 the competent authorities of the home Member State shall communicate their decision to the competent authorities of the host Member State and to the payment institution.</i></p> <p><i>Upon entry in the register referred to in Article 14, the agent or branch may commence its activities in the relevant host Member State.</i></p>	Article 9 and the corresponding Annex of the final draft RTS have been amended to delete the intended start date.



Comments (article numbers as in the CP)	Summary of responses received	EBA analysis	Amendments to the proposals
		<p><u>The payment institution shall notify to the competent authorities of the home Member State the date from which it commences its activities through the agent or branch in the relevant host Member State. The competent authorities of the home Member State shall inform the competent authorities of the host Member State accordingly.”</u></p> <p>However, the EBA understands that the intended date of the start of the agent activities contained in the initial notification may cause confusion about when the payment institution can actually start its activities on a cross-border and decided to delete this information accordingly.</p>	
Question 2 Do you agree with the format of the relevant unique identification number in each Member State set out in Annex I?			
Annex I	One respondent suggested that the format of the relevant unique identification number for legal persons could be improved by requiring the use of the Legal Entity Identifier (LEI) consistently by all Member States. The same respondent indicated only one Member State, Spain, has indicated the use of the LEI for this identifier, while the EBA has been supportive of the LEI and its use its related benefits by requiring LEIs to be used in supervisory reporting of credit institutions under the Capital Requirements Directive and Regulation (CRDIV/R).	<p>The EBA recognises that the use of the Legal Entity Identifier (L.E.I) would support the harmonisation of unique identification numbers for legal persons within the E.U.</p> <p>However, the EBA acknowledges that not all entities subject to these RTS currently possess an LEI, as they are not required to do so.</p> <p>Considering the costs involved to obtain such LEI, the EBA concludes that passporting entities should not be required to obtain a LEI for passporting. However, passporting entities already in possession of a LEI should be able to be identified via their LEI. The EBA has therefore included a new field in the templates defined in Annexes II, III, IV, V and VI of the final</p>	Annexes II, III, IV, V and VI of the final draft RTS to include the LEI ,when available



Comments (article numbers as in the CP)	Summary of responses received	EBA analysis	Amendments to the proposals
draft RTS to include the LEI, when available.			
Question 3: Do you agree with the draft notification form for branch passporting set out in Annex II?			
Field 17	One respondent identified an inconsistency between field 17 in ANNEX II, which refers to “the contact person within the branch”, while fields 15 and 16 refer to identity and e-mail of the “person responsible for the branch”.	The EBA agrees with the comment of the respondent and amended field 17 accordingly.	Field 17 has been amended to “Telephone number of person responsible for the management of the branch”
Field 18	One respondent commented that in relation to the intended start date of branch activities, the branch will only be in a position to commence activities upon approval from the competent authority, which is why this information would not add any value. Instead, so the respondent continued, the date of commencement of branch activities should be the date of entry of the agent into the Home State competent authority register/website.	<p>As explained above, the EBA agrees with the comment of the respondent and highlights that the date from which the payment institution can commence its activities through a branch is defined in Article 28(3) of PSD2, which provides the following:</p> <p><i>“Within 3 months of receipt of the information referred to in paragraph 1 the competent authorities of the home Member State shall communicate their decision to the competent authorities of the host Member State and to the payment institution.</i></p> <p><i>Upon entry in the register referred to in Article 14, the agent or branch may commence its activities in the relevant host Member State.</i></p> <p><i>The payment institution shall notify to the competent authorities of the home Member State the date from which it commences its activities through the agent or branch in the relevant host Member State. The competent authorities of the home Member State</i></p>	The final draft RTS has been amended to delete the intended start date.



Comments (article numbers as in the CP)	Summary of responses received	EBA analysis	Amendments to the proposals
		<p><i>shall inform the competent authorities of the host Member State accordingly.”</i></p> <p>However, the EBA understands that the intended date of the start of the agent activities contained in the initial notification may cause confusion about when the payment institution can actually start its activities on a cross-border and decided to delete this information accordingly.</p>	
Field 22	<p>One respondent asked to clarify that field 22 in ANNEX II in relation to business plan does not have to be answered elaborately for small scale / limited scope organizations or in very early stages prior to branch setup.</p> <p>Another respondent considered that the level of information regarding employees, business plan, branch activities, target customer, 3Y budget forecast was too granular.</p>	<p>The EBA partially concurred with the views of the respondents and agreed deleting part of the information related to the business plan contained in fields 22 b), c) and d) of annex II.</p> <p>However, as explained above for Article 5 of the draft RTS, the EBA underlines that the information to be provided to the competent authority in the home Member State by a payment institution wishing to provide payment services for the first time in a Member State other than its home Member State, in the exercise of the right of establishment or the freedom to provide services, is defined in article 28 of PSD2. The EBA is not in a position to change provisions set out in a Directive.</p>	<p>Deletion of part of the information related to the business plan contained in b, c and d of field 22 of annex II.</p>
Field 23	<p>Two respondents expressed concerns that the level of detail requested in field 23 would be too demanding, in particular for small scale / limited scope branches composed for example of only a single employee for training or implementation purposes only.</p> <p>One of these two respondents also disagreed with the</p>	<p>The EBA partially concurred with the views of the respondents and agreed deleting part of the information related to the governance arrangements and internal control mechanisms contained in fields 23 b ii), iv) and v).</p> <p>EBA however considers the remaining information as</p>	<p>Field 23 has been amended to delete part of the information contained in fields 23 b) ii), iv) and v).</p>



Comments (article numbers as in the CP)	Summary of responses received	EBA analysis	Amendments to the proposals
	<p>proposed requirement to disclose any information on the branch's accounting procedure as this would not create any value for host Member State authorities.</p>	<p>necessary to be exchanged between home and host authorities. The amount of information to be exchanged will be assessed by the home competent authority according to the scale and scope of the branch.</p>	
<p>Field 24</p>	<p>Two respondents considered that the information requirements related to outsourcing activities in the host Member State were too granular and questioned the need to provide any information on this issue, given the fact this issue falls under the responsibility of the Home member state and has no relation to the passporting process itself.</p>	<p>The EBA underlines that the information to be provided to the competent authorities of the home Member State by a payment institution wishing to provide payment services on a cross border basis is defined in Article 28 PSD2. The EBA is not in a position to change the provisions of a Directive.</p> <p>In relation to outsourcing in particular, Article 28 requires that, where the payment institution intends to outsource operational functions of payment services to other entities in the host Member State, it shall inform the competent authorities of its home Member State accordingly.</p> <p>However, the EBA partially concurred with the view of the respondent and agreed deleting part of the information related to outsourcing contained in fields 24 d) and e) of annex II, 23 d) and e) of annex III and field 16 d) and e) of annex IV.</p> <p>The EBA ultimately underlines that the communication of this information to the authority in the host Member State should not be read as implying a change of the competences of the home and host authorities as defined under PSD2.</p>	<p>Deletion of part of the information related to outsourcing contained in annexes II, III, IV under consultation.</p>



Comments (article numbers as in the CP)	Summary of responses received	EBA analysis	Amendments to the proposals
	By contrast, another respondent suggested to include a notification template of outsourced services without any passporting.	<p>The EBA underlines that the draft regulatory technical standards only refer to the framework for cooperation and exchange of information between competent authorities of the home and of the host and do not specify the information to be exchanged between the payment institution and the home competent authorities in relation to passport notification.</p> <p>Against this background, the EBA is not in a position to address the comment.</p>	None.
Question 4: Do you agree with the draft notification form for agent/distributor passporting set out in Annex III?			
General remark on notification updates	One respondent commented that Annex III contains a lot of repetitive information, in particular items 20, 22, and 23, of each notification and therefore suggested to review and adapt the required information, especially in the case of additional notifications, to have a separate form for additional notifications or to allow batch updates on a monthly basis for example.	The EBA considers that this concern is addressed by Article 12 of the final draft RTS, which specifies that, in case of changes to a passport notification, the competent authorities of the home Member State shall send to the competent authorities of the host Member State only the information that is affected by the changes.	None
Field 15	One respondent commented that information in fields 15(a) and (b) (iii) requires the identification of each individual in a distributing entity. However, the respondent underlined that distribution agreements are often made with chains of stores, which sometimes are part of a single group but can often be franchisees or alliances. Where distributors are subject to a common group or set of network obligations, the respondent believes that it should suffice for the notification to be	<p>The EBA underlines that agents and distributors are required to be identified according to the legal entity used respectively as an agent or a distributor.</p> <p>Against this background, if a chain of stores is used but each store is an individual legal entity, each store should be identified as an agent or distributor separately, using the unique identifier included in Annex 1.</p> <p>If a chain of stores is used but each store is not a</p>	None.



Comments (article numbers as in the CP)	Summary of responses received	EBA analysis	Amendments to the proposals
	<p>made at the group level. Where individual contracts are made, or where distributors are not part of a network subject to common obligations, then individual notification would be appropriate.</p> <p>One respondent considered that information requested under field 15(a)(vi) in relation to the name, date and place of birth of the legal representative of a distributor is disproportionate, as distributors are not regulated themselves, and acts as an outsourced sales provider for the e-money institution.</p>	<p>separate legal entity, the legal entity responsible for the chain of stores should be identified as an agent or distributor, again using the unique identifier included in Annex 1.</p> <p>The EBA considers this information to be part of the identity of directors and persons responsible for the management of the agent to be used in the provision of payment services, as provided in Article 19(1) PSD2.</p>	None.
Field 17	One respondent commented that, in relation to the intended date of start of agents activities, the agent will only be in a position to commence activities upon approval from the competent authority, so this information does not add any value. Instead, so the respondent continued, the date of commencement of agent activities should be the date of entry of the agent into the Home State competent authority register/website.	<p>As explained above, the EBA agrees with the comment of the respondent and highlights that the date from which the payment institution can commence its activities through an agent is defined in Article 28(3) PSD2 which provides the following :</p> <p><i>“Within 3 months of receipt of the information referred to in paragraph 1 the competent authorities of the home Member State shall communicate their decision to the competent authorities of the host Member State and to the payment institution.</i></p> <p><i>Upon entry in the register referred to in Article 14, the agent or branch may commence its activities in the relevant host Member State.</i></p> <p><i>The payment institution shall notify to the competent authorities of the home Member State the date from which it commences its activities through the agent or branch in the relevant host Member State. The competent authorities of the home Member State</i></p>	The final draft RTS has been amended to delete the intended start date.



Comments (article numbers as in the CP)	Summary of responses received	EBA analysis	Amendments to the proposals
		<p><i>shall inform the competent authorities of the host Member State accordingly.”</i></p> <p>However, the EBA understands that the intended date of the start of the agent activities contained in the initial notification may cause confusion about when the payment institution can actually start its activities on a cross-border. The EBA therefore concluded that it should delete this information accordingly.</p>	
Field 20	Two respondents considered information on the internal control of an agent/distributor set out at field 20, such as its structure, number of employees, organizational charts or legal reporting lines, to be disproportionate especially if agents and distributors are not obliged entities under anti-money laundering (AML) regulation, particularly if changes to such information were to be required.	<p>The EBA partially concurred with the view of the respondents and agreed deleting information contained in field 20 related to the agent/distributor structural organisation.</p> <p>The EBA however underlines that agents and distributors might be obliged entities according to AML regulation in the host Member State.</p> <p>The EBA agrees with the comment of the respondents that, in case the distributor/agent is not an obliged entity under the host AML regulation, information contained in field 20 should cover information about the payment institution or the electronic money issuer. The EBA therefore amended the field accordingly.</p>	Field 20 of Annex III of the draft RTS under consultation has been amended to delete part of the information on the internal control of an agent/distributor.
Field 22	One respondent suggested clarifying what form the “evidence” of fit and proper shall take.	The EBA considers the suggestion of the respondent outside the mandate conferred on EBA in Article 28(5) PSD2, which requires the EBA to specify information between competent authorities of the	None.



Comments (article numbers as in the CP)	Summary of responses received	EBA analysis	Amendments to the proposals
	<p>Another respondent commented that the level of information and details requested in field 22 (b) to demonstrate that agent directors are fit & proper, may lead to the situation that only regulated entities will be allowed to become agent.</p>	<p>home and the host in relation to the notification of payment institutions operating on a cross-border basis.</p> <p>The EBA underlines that the information to be provided to the competent authorities of the home Member State by a payment institution wishing to provide payment services on a cross border basis is defined in Article 28 of PSD2, which provides that, where the payment institution intends to make use of an agent, the information referred to in Article 19(1) needs to be provided.</p> <p>Article 19(1)(c) in particular foresees that, for agents other than payment service providers, the payment institution shall provide evidence that they are fit and proper persons.</p> <p>Against this background, EBA considers this information as necessary to be exchanged between the home and host competent authorities under the passport notification. EBA underlines that, for a natural person, the information requested under field 22 applies to the agent itself.</p>	None.
Field 23	<p>Three respondents commented that the scope of information communicated in Annex III should be consistent with the relative roles of home and host member state supervisors, in particular in relation to outsourcing. Against this background, the respondent suggested that the information to be provided in field 23 (c), (d) and (e) of Annex III should be made conditional on</p>	<p>As explained above, the EBA underlines that the information to be provided to the competent authorities of the home Member State by a payment institution wishing to provide payment services on a cross border basis is defined in Article 28 PSD2.</p> <p>In relation to outsourcing, Article 28 in particular provides that, where the payment institution intends</p>	None.



Comments (article numbers as in the CP)	Summary of responses received	EBA analysis	Amendments to the proposals
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the outsourced services being related directly to the branch and not to outsourced services related to the operation of the payment institution itself, as this is under the competence of the home Member State.

to outsource operational functions of payment services to other entities in the host Member State, it shall inform the competent authorities of its home Member State accordingly. Against this background, the EBA considers this information as necessary for the exchange between the home and host competent authorities under the passport notification.

However, the EBA underlines that the communication of this information to the host does not imply any consequence for the competence of the home and host authorities as defined under PSD2.

Question 5: Do you agree with the draft notification form for the passporting of services set out in Annex IV?

Field 16	<p>Two respondents commented that the scope of information communicated in Annex IV must be consistent with the relative roles of home and host member state supervisors, in particular in relation to outsourcing. Against this background, the respondents suggested that the information to be provided in field 16 of Annex IV should be made conditional on the outsourced services being related directly to the branch and not to outsourced services related to the operation of the payment institution itself which is under the competence of the home Member State.</p>	<p>In relation to outsourcing, Article 28 in particular provides that, where the payment institution intends to outsource operational functions of payment services to other entities in the host Member State, it shall inform the competent authorities of its home Member State accordingly. Against this background, the EBA considers this information as necessary for the exchange between the home and host competent authorities under the passport notification.</p> <p>However, the EBA underlines that the communication of this information to the host should not be read as implying a change to the competences of the home and host authorities as</p>	None.
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Comments (article numbers as in the CP)	Summary of responses received	EBA analysis	Amendments to the proposals
defined under PSD2.			
Question 6: Do you agree with the draft notification form for the start of branch/agent/distributor passporting activities as set out in Annex V			
Fields 12 & 13	<p>Two respondents did not see the need for using a separate form as per Annex V in order to inform of the start of activities.</p> <p>For one respondent, this information is already available and could easily be included in any first time notification form submitted, as laid out in Annex II, II and IV respectively.</p> <p>For the other respondent, the need for this form is unclear; as the payment institution would only permit the commencement of an agent’s activities once it has received competent authority approval. In his view, this whole form and process adds significant additional operational process with no understandable benefit. He commented that this seems to fulfil the requirement of Article 28(3)(3) PSD2, but this could easily be fulfilled by the assumption that an agent has “commenced” activities by being registered with the Home State competent authority.</p>	<p>As explained above, the EBA highlights that the date from which the payment institution can commence its activities through an agent is defined in Article 28(3) PSD2 which provides that :</p> <p><i>“Within 3 months of receipt of the information referred to in paragraph 1 the competent authorities of the home Member State shall communicate their decision to the competent authorities of the host Member State and to the payment institution.</i></p> <p><i>Upon entry in the register referred to in Article 14, the agent or branch may commence its activities in the relevant host Member State.</i></p> <p><i>The payment institution shall notify to the competent authorities of the home Member State the date from which it commences its activities through the agent or branch in the relevant host Member State. The competent authorities of the home Member State shall inform the competent authorities of the host Member State accordingly.”</i></p> <p>However, the EBA understands that the intended date of start of the agent activities contained in the initial notification may cause confusion about when the payment institution can actually start its activities on a cross-border and decided to delete this information accordingly.</p>	<p>Annexes II, III and IV of the final draft RTS have been amended to delete the intended start date.</p>

