**Annex: Questionnaire to MiFID branches of UK firms providing investment services and activities in Germany (“firm”)**

**FIRM: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**1. Activities of the branch of a UK firm in Germany**

|  |  |
| --- | --- |
| **Question** | **Answer** |
| 1. Name of the branch
 |  |
| 1. Address
 |  |
| 1. Contact person
 |  |
| 1. E-mail
 |  |
| 1. Legal Entity Identifier (LEI) of the firm
 |  |
| 1. BAK-/correspondence No. (if available, see former correspondence with BaFin)
 |  |
| 1. Member State where the branch is located
 | **Germany** |
| 1. Is the branch the only EU27-based branch of the UK firm[[1]](#footnote-1)?
 |  |
| 1. If the answer to Q 8 is No, please indicate in which Member States other branches are located (where available).
 |  |
| 1. Is your firm a credit institution or an investment firm?
 |  |
| 1. Is the branch member of a German Stock Exchange and which?
 |  |
| 1. What services and activities or ancillary services as defined in the Annex I of the MIFID II Directive 2014/65/EU is the branch being notified and actually providing?

. | Please use Table 1 in the Annex of this questionnaire |
| 1. Do you hold clients’ money or assets?
 |  |
| 1. If you replied YES to Q13, please specify, the total amount of clients’ money and assets (in EUR) held by the branch (where available)
 |  |
| 1. Please provide the number of staff/employees (in headcount) of the branch

(all places set up in Germany shall be regarded as a single branch)  |  |
| 1. Please indicate the total revenues of the branch (EUR)
 |  |
| 1. In case you provide portfolio management service, please indicate the asset under management (in EUR)
 |  |
| 1. Please indicate the overall number of clients to whom your branch provides investment services and activities. Please specify the number of retail clients and the number of non-retail clients (professional clients or eligible counterparties)
 |  |

1. **Governance**

|  |  |
| --- | --- |
| **Question** | **Answer** |
| 1. Is your branch run by managers permanently located in the jurisdiction where the branch is established?
 |  |
| 1. Are MiFID-related compliance and risk management functions permanently established in the branch? Please explain.
 |  |
| 1. Has a dedicated team dealing with Brexit-related issues been established in the branch or in your UK headquarter? Please explain
 |  |

1. **Business**

|  |  |
| --- | --- |
| **Question** | **Answer** |
| 1. Do you currently provide cross-border services in Germany according to
 | § 53b KWG [ ] § 26 ZAG [ ] § 39 ZAG [ ]  |

1. **Brexit contingency plans**

|  |  |
| --- | --- |
| **Question** | **Answer** |
| 1. Have you or your UK headquarter prepared contingency plans for your branch in relation to the UK withdrawal from the EU? If no, please explain.
 |  |
| 1. If you replied YES to Q23, please indicate whether you have already started to implement contingency plans? By when do you foresee a full implementation of those plans?
 |  |
| 1. If the answer to the previous Q23 is YES, please indicate what options you are considering for your branch:
	1. Stop operating in the EU27
	2. Relocating activities to another Member State (please indicate which Member State)
	3. Sell the branch
	4. Apply as subsidiary
	5. Keep providing investment services and activities as a branch of another existing firm of the group in the EU 27 or as a branch of a new firm of the group established in another member State.
	6. Merging with other existing EU27 entity/entities (please indicate where the final entity will be located)
	7. Continuing to be a branch under national third country regime
	8. Providing investment services and activities without the establishment of a branch.
	9. Any other option / arrangements
 |  |
| 1. If you replied *a), b) or h)* to the previous Q25, have you assessed how to deal with the contractual relationships relating to the provision of investment services or activities with your existing clients?

Please explain:* 1. The actions you are planning or have taken in view of ceasing your activities (e.g. terminate contracts; transfer the contracts to a third party or, if you do not plan to terminate / transfer contracts, any assessment you made on the validity/continuity of existing contracts, etc.)
	2. Are you planning measures to avoid client detriment when terminating your activity? Please explain.
 |  |
| 1. If you replied *d)* to the previous Q25, have you contacted the relevant authority to discuss your intention to apply for the establishment of a subsidiary?
	1. How long do you think the process will take?
	2. How much do you think it will cost? (EUR)
	3. (if available) What are the main aspects you will need to change or are you planning to change in your structure/organisation in order to become a subsidiary? In particular, please explain the current booking-model, including the portion of trading sent back to the UK and the evolution of this set-up post Brexit. Please specify how the subsidiary will ensure to retain sufficient capabilities to effectively monitor the operations performed in the jurisdiction where it is authorised.
 |  |
| 1. If you replied e*)* to the previous Q25, have you contacted the relevant authority to discuss your intention to apply as a branch?
	1. How long do you think the process to establish a new branch will take?
	2. There will be any changes in your business that could impact current clients?
 |  |
| 1. If you replied g) to Q25, have you contacted the relevant authority to discuss your intention to apply (Y/N)?
	1. How long do you think the process will take?
	2. How much do you think it will cost? (EUR)
	3. (if available) What are the main aspects you will need to change or are you planning to change in your structure/organisation in order to become a third-country branch? In particular, please explain the current booking-model, including the portion of trading sent back to the UK and the evolution of this set-up post Brexit. Please specify how the branch ensures to retain sufficient capabilities to effectively monitor the operations performed by the branch.
 |  |
| 1. If you replied h) to Q25, please explain whether you will use reverse solicitation to provide services directly from the UK.
 |  |
| 1. If you replied i) to Q24, please explain the options you are considering or you have put in place, including how you plan to deal with relationship with your existing clients in the EU27.
 |  |
| 1. Are you planning to change the perimeter of the investment services or activities as a consequence of Brexit?
	1. (if yes) Please explain (what services/activities you are ceasing/starting to provide and why).
	2. Do you expect a change of the size of your balance-sheet as a consequence of Brexit? Please explain (e.g. starting of new activities, change of market size).
 |  |
| 1. Does your business include transfer of data with Third Countries, including UK, after Brexit has taken place? If so, have you made any specific assessment (legal/operational) related to that topic?
 |  |
| 1. Do you outsource important or critical functions related to the provision of investment services or activities by your branch? In which countries?
 |  |
| 1. If you replied YES to Q 34, please name outsourced function and the country to which it is outsourced.
 |   |
| 1. If your activity continues in the EU27, do you expect to maintain current outsourcing arrangements relating to the provision of investment services or activities post-Brexit?
 |  |
| 1. Have you performed an assessment to analyse whether your outsourcing set-up will still be appropriate after Brexit (e.g. appropriate access to systems and controls, appropriate access to outsourced activities by EU NCAs, sufficient in-house capabilities and monitoring)?
 |  |
| 1. Have you prepared contingency plans to ensure that outsourcing to UK service providers (that will become third-country providers) will comply with all the relevant MiFID II requirements? Please explain.
 |  |

1. **Information to clients**

|  |  |
| --- | --- |
| **Question** | **Answer** |
| 1. Have you informed or do you plan to inform your clients about the possible impact of Brexit on their investments and on the contracts relating to the provision of investment services or activities?

If so, please provide details of the information provided or to be provided to clients (please provide any written communication sent to clients). |  |

**Table 1 – list of services and activities and financial instruments[[2]](#footnote-2)**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  |  | Notified(Y/N) | Actually Providing (Y/N) | Number of clients (per type of clients) if available |
| Investment services and activities | Reception and transmission of orders in relation to one or more financial instruments |  |  |  |
|  | Execution of orders on behalf of clients |  |  |  |
|  | Dealing on own account |  |  |  |
|  | Portfolio management |  |  |  |
|  | Investment advice |  |  |  |
|  | Underwriting of financial instruments and/or placing of financial instruments on a firm commitment basis |  |  |  |
|  | Placing of financial instruments without a firm commitment basis |  |  |  |
|  | Operation of an MTF |  |  |  |
|  | Operation of an OTF |  |  |  |
| Ancillary services | Safekeeping and administration of financial instruments for the account of clients, including custodianship and related services such as cash/collateral management and excluding maintaining securities accounts at the top tier level |  |  |  |
|  | Granting credits or loans to an investor to allow him to carry out a transaction in one or more financial instruments, where the firm granting the credit or loan is involved in the transaction |  |  |  |
|  | Advice to undertakings on capital structure, industrial strategy and related matters and advice and services relating to mergers and the purchase of undertakings |  |  |  |
|  | Foreign exchange services where these are connected to the provision of investment services |  |  |  |
|  | Investment research and financial analysis or other forms of general recommendation relating to transactions in financial instruments |  |  |  |
|  | Services related to underwriting |  |  |  |
|  | Investment services and activities as well as ancillary services of the type included under Section A or B of Annex 1 related to the underlying of the derivatives included under points (5), (6), (7) and (10) of Section C where these are connected to the provision of investment or ancillary services |  |  |  |

|  |  |  |
| --- | --- | --- |
|  |  | Provided (Y/N) |
| Financial instruments | Transferable securities |  |
|  | Money-market instruments |  |
|  | Units in collective investment undertakings |  |
|  | Options, futures, swaps, forward rate agreements and any other derivative contracts relating to securities, currencies, interest rates or yields, emission allowances or other derivatives instruments, financial indices or financial measures which may be settled physically or in cash |  |
|  | Options, futures, swaps, forwards and any other derivative contracts relating to commodities that must be settled in cash or may be settled in cash at the option of one of the parties other than by reason of default or other termination event |  |
|  | Options, futures, swaps, and any other derivative contract relating to commodities that can be physically settled provided that they are traded on a regulated market, a MTF, or an OTF, except for wholesale energy products traded on an OTF that must be physically settled |  |
|  | Options, futures, swaps, forwards and any other derivative contracts relating to commodities, that can be physically settled not otherwise mentioned in point 6 of this Section and not being for commercial purposes, which have the characteristics of other derivative financial instruments |  |
|  | Derivative instruments for the transfer of credit risk |  |
|  | Financial contracts for differences |  |
|  | Options, futures, swaps, forward rate agreements and any other derivative contracts relating to climatic variables, freight rates or inflation rates or other official economic statistics that must be settled in cash or may be settled in cash at the option of one of the parties other than by reason of default or other termination event, as well as any other derivative contracts relating to assets, rights, obligations, indices and measures not otherwise mentioned in this Section, which have the characteristics of other derivative financial instruments, having regard to whether, inter alia, they are traded on a regulated market, OTF, or an MTF |  |
|  | Emission allowances consisting of any units recognised for compliance with the requirements of Directive 2003/87/EC (Emissions Trading Scheme) |  |

1. **Contracts to German clients**

|  |  |
| --- | --- |
| **Question** | **Answer** |
| 1. Do you offer contracts to German clients that mature after the 30 March 2019 or mature before 30 March 2019 and are very likely to be affected by events such as
	* + - 1. Roll-over of open positions,
				2. Major amendment of the contract,
				3. Novation,
				4. Netting of positions or
				5. Portfolio compression ?
 |  |

1. **Contractual particularities**

|  |
| --- |
|  |
| 1. If the answer to previous Q40 was YES, please fill in the following table:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | Which kind of contracts do you offer? | No. of customers | No. of contracts offered | Notional amount of contracts offered |
| Non-cleared OTC-derivative contracts | [ ]  |  |  |  |
| Cleared OTC-derivative contracts1. Total:
2. Subject to clearing obligation
3. Subject to voluntary clearing
 | [ ]  |  |  |  |
| Repo Agreements | [ ]  |  |  |  |
| Loan Agreements | [ ]  |  |  |  |
| Deposit Agreements | [ ]  |  |  |  |
| Others | [ ]  |  |  |  |

 |

**Thank you for your cooperation!**

1. When the same legal entity has more than one branch in Germany, the questionnaire should be sent only once. [↑](#footnote-ref-1)
2. As listed in Annex I of the Directive 2014/65/EU of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU [↑](#footnote-ref-2)