

Updates to the application process for accessing BaFin's MVP procedure due to the lifting of the requirement for signatures for securities prospectuses and supplements by Article 6 of the German Act Implementing the Second Payment Services Directive

By virtue of the the entry into force of Article 6 of the German Act Implementing the Second Payment Services Directive (*Gesetz zur Umsetzung der Zweiten Zahlungsdiensterichtlinie – PSD II UmsetzungsG*), the requirement for signatures pursuant to section 5 (3) of the German Securities Prospectus Act (*Wertpapierprospektgesetz – WpPG*) (old version) for securities prospectuses and supplements has been lifted.

Following the lifting of the obligation to provide signatures, strict requirements for the identification of filing parties have to be put in place as part of the specialised procedure "Prospectuses (WpPG/VermAnlG)". High standards of identification are necessary in order to ensure and verify the security of communication as well as the authenticity of the filing party and thus take account of BaFin's function as central evidence repository for securities prospectuses which have been filed.

Due to the lifting of the signature requirement, the procedure for identifying filing parties already provided for as part of the MVP specialised procedure for electronically filing final terms of an offer (submission of notarially (or for proof of rights to representation, also officially) attested documents) is being extended to the identification of filing parties as part of securities prospectus and supplement procedures.

In detail:

If the identity of the filing party is attributable to the issuer themselves (employee of the issuer, so called **Direct notifier**) the following documents must be submitted to BaFin:

- a. **Application for the specialised procedure** with a signature of the contact person attested by a notary.
- b. **Confirmation letter of the issuer** stating that the contact person/persons is/are authorised to file securities prospectuses electronically. The confirmation letter must be signed by persons individually or jointly authorised to represent the issuer. The signatures must be attested by a notary.
- c. **Proof of authorisation to represent** of the letter of confirmation's signatory or signatories in a form with notary or official attestation (e.g. an attested commercial register excerpt of the issuer).

If the identity of the filing party is that of an employee or contact person of a **Third-party notifier** (e.g. a law firm) the following documents must be submitted to BaFin:

- a. **Application for the specialised procedure** with a signature of the contact person attested by a notary.
- b. **The issuer's power of attorney** stating that the contact person/persons of the third party is/are authorised to electronically file securities prospectuses on behalf of the issuer. The power of attorney must be signed by persons individually or jointly authorised to represent the issuer. The signatures must be attested by a notary.
- c. **The Proof of authorisation to represent** of the power of attorney's signatory or signatories in a form with notary or official attestation (e.g. an attested

commercial register excerpt of the issuer).

In case, a person is already registered for the MVP specialised procedure for electronically filing the final terms of the offer, please see the "Information sheet about the MVP Portal prospectus upload procedure" for the granted facilities.

For foreign issuers, corresponding documents must be requested.

Details of the individual requirements can be found in the "Information sheet about the MVP Portal prospectus upload procedure" on the BaFin website (Homepage/Quick links/MVP Portal/Prospectuses), where it is also possible for prospective applicants to register.

For registration with the submission of the aforementioned notarially attested documents, there is a ***transitional period of three months from the promulgation of*** the PSD II UmsetzungsG, ***i.e. until 21 October 2017***.

Until access to the MVP specialised procedure "Prospectuses (WpPG/VermAnlG)" has been applied for and set up in accordance with the aforementioned requirements, it is possible to continue signing and submitting the versions for approval of the securities prospectuses and supplements in paper form instead.

Once the deadline expires, any existing access to the MVP specialised procedure "Prospectuses (WpPG/VermAnlG)" which has been applied for without the certified documents ***will be blocked by BaFin***.