

Direction under section 55U and section 60 and related provisions of the Financial Services and Markets Act 2000

1. Purpose

This direction is made under section 55U (Applications under this Part) and section 60 (Applications for approval) of the Financial Services and Markets Act 2000 (FSMA).

The purpose of this Direction is to:

- (a) create the “Long Form A – UK and Overseas Firms (not Incoming EEA) for MiFID authorisation applications”
- (b) amend the Supervision manual to add the “Long Form A – UK and Overseas Firms (not Incoming EEA) for MiFID authorisation applications” and associated notes for completion, and
- (c) specify when the “Long Form A – UK and Overseas Firms (not Incoming EEA) for MiFID authorisation applications and notes are to be used.

This Direction may be amended by the FCA by further direction.

2. Background

The “Long Form A – UK and Overseas Firms (not Incoming EEA) for MiFID authorisation applications” was consulted on in CP16/29¹. Feedback following this consultation was included in Chapter 8 of *Markets in Financial Instruments Directive II Implementation – Consultation Paper IV*² in December 2016.

¹ <https://www.fca.org.uk/sites/default/files/cp16-29.pdf>

² <https://www.fca.org.uk/publication/consultation/cp16-43.pdf>

3. Creation

The “Long Form A – UK and Overseas Firms (not Incoming EEA) for MiFID authorisation applications” has been introduced as a result of relevant MiFID II RTS and ITS³, which will require firms to submit information for the approval of individuals who will be members of the management body or effectively direct the business of MiFID firms. We are allowing firms to use this form when we open the Authorisations gateway on 30 January 2017.

4. Amendment of the Supervision manual

The FCA directs that the Supervision manual (SUP) is amended to add the “Long Form A – UK and Overseas Firms (not Incoming EEA) for MiFID authorisation applications” and MIFID Long Form A: Notes (January 2017).

5. Categories of applications to which this Direction applies

The “Long Form A – UK and Overseas Firms (not Incoming EEA) for MiFID authorisation applications” should be used by all non-MiFID firms applying for permission to carry out activities under MiFID from 30 January 2017 when making applications for approved persons who will be members of the management body or effectively direct the business.

The “Long Form A – UK and Overseas Firms (not Incoming EEA) for MiFID authorisation applications” does not need to be used by existing MiFID firms (including those which already have permission to carry out MIFID activities and want to vary that permission to include MIFID II activities).

6. Future amendments

HM Treasury has not yet amended the Regulated Activities Order (RAO) to include the new MIFID II activities. In view of that, authorisation applications from firms applying to undertake activities brought into the scope of regulation by MiFID II including operating an OTF or carrying out activities in relation to the new proposed investment types of structured deposits, binary bets and emission allowances will be treated as drafts until the Treasury’s proposed changes to the RAO have come into force. In such cases, the “Long Form A –

³ These will be the RTS under Article 7(4) and the ITS under Article 7(5) of MiFID II.

UK and Overseas Firms (not Incoming EEA) for MiFID authorisation applications” (insofar as it relates to persons performing MIFID II activities), together with the rest of the application, will also be treated as drafts until the Treasury’s relevant statutory instruments are finalised. To allow these forms to be treated as final, we will formalise our proposals as part of the MiFID II Policy Statement.

Applications from firms seeking to obtain permission to carry out any of the existing MIFID activities, or to carry out activities in relation to the existing investment types, will continue to be treated as final and so will any accompanying Form As.