

## Update on French rules applicable to French branches of EEA investment firms

French branches of EEA investment firms are subject to a number of French corporate and regulatory requirements. Such requirements do not only apply at the time of the passporting procedure but they also relate to the day-to-day activities of the branch. The *Autorité de Contrôle Prudentiel* (the French regulator – the **ACP**) has recently required that the French branches fulfill most of their reporting obligations by means of a specific software application connected to the IT systems of the ACP. Accordingly, this has compelled the French branches to adapt their information systems.

This newsletter outlines the corporate and regulatory requirements that apply to French branches and focuses more particularly on their reporting requirements.

### 1. BRIEF OVERVIEW OF CORPORATE REQUIREMENTS

Under French corporate law, companies incorporated outside France that wish to set up a branch in France must file:

- i. copies of the company's by-laws (translated into French) with the relevant Commercial Court's Registry ("*greffe du tribunal de commerce*"); and
- ii. a request for registration with the Registry for Trade and Companies ("*Registre du Commerce et des Sociétés*") providing corporate information regarding the branch (the corporate name, the legal form, etc.).

French corporate law also provides for specific requirements regarding the information to be provided on commercial documents issued by the branch and for the annual accounts reporting requirements.

### 2. OVERVIEW OF REGULATORY REQUIREMENTS

The establishment of a French branch under the European passport is fairly straightforward. A European Economic Area (**EEA**) investment firm must file a request with its home State regulator which, in turn, will liaise with and transmit such request to the host State regulator.

In line with MiFID requirements, French law provides that the regulation and supervision of the branch of an EEA investment firm is shared between home and host state regulators. As a general rule, organisational matters are reserved for the home regulator. Compliance with conduct of business rules, broadly understood, is assessed and supervised by the authorities of the host Member State.

In addition to French rules on good conduct, French branches of an EEA investment firm that provide investment services on the French territory are also subject to a number of other French mandatory requirements. In particular, these relate to the record keeping, financial solicitation, anti-money laundering and market abuse. Finally, French branches are also subject to the French balance of payments reporting requirements.

Amongst the reporting requirements that apply to French branches of EEA investment firms, French anti-money laundering (**AML**) regulation provides for some of the strongest reporting requirements.

French branches must:

- i. notify certain transactions to *Traitement du Renseignement et Actions contre les Circuits Financiers Clandestins* (**TRACFIN** – a division of the French Ministry of Economy and Finance in charge of anti-money laundering);
- ii. identify customers or parties to a transaction;
- iii. be vigilant in respect of certain transactions;
- iv. implement internal procedures and systems designed to detect certain suspicious transactions (in particular the appointment of a person responsible for declarations to TRACFIN); and
- v. to keep records of transaction documents.

Furthermore, French regulation provides that French branches of EEA investment firms shall provide the French regulator with annual AML information by completing specific questionnaires and issue an annual report regarding their anti-money laundering internal controls.

As a practical matter, the aforementioned requirements should be set out in the compliance manual provided to, and read by, the employees of the investment firm incorporated in the home State and the employees of its branch. It is common practice to include a separate section on the French requirements applicable to the French branch in the compliance manual.

Please kindly let us know if you wish to receive our next newsletters.

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