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| **CNMV** | Institutions Authorisation and Registration Department |
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**FOR THE AUTHORISATION OF BRANCHES OF THIRD-COUNTRY FIRMS IN SPAIN**

**MANUAL**

Mr/Ms. ……………………………………, holder of Tax Id. Number (NIF)/passport no./resident card no./Tax Id. Code (CIF) ………………………….., *in the name and on behalf of* (Firm name) ……………………………, with Tax Id. Code /identity no. ………………………, with registered office at ………………………, in the capacity of …………………, HEREBY DECLARES:

* that his/her powers of attorney are sufficient and are not subject to conditions or limitations;

* that in the event of a significant modification of the conditions set out in this Manual, of the conditions for the authorisation or supervision of (Firm name) by its competent national authority(ies), or in the event of non-compliance with the provisions of the regulations applicable to branches in third countries, in particular *Articles 171* and *173* of the *TRLMV (Recast Text of the Spanish Securities Market Act)*[[1]](#footnote-1) and its implementing regulations, and *Article 29 bis(1)*, *29 (ter)1* and *29 quater* of the *Spanish RD on IFs*[[2]](#footnote-2), it will inform the CNMV in writing of these modifications.

## Firm's identification data

* Name of the Investment Firm (hereinafter, the firm): ………………………………………
* Legal form: ………………………………………….
* Registered office: ………………………………………….
* Members of the managing body:

|  |  |
| --- | --- |
| First name and surnames/firm name (\*) | **Position** |
|  |  |
|  |  |
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(\*) in the case of Legal Persons, include: Represented by ……………………………………….

* Indicate those members of the firm who have a stake in its share capital that represents more than 5%, by completing the following table:

|  |  |  |  |
| --- | --- | --- | --- |
| First Name and Surnames  (Firm Name, if any) | Tax Id. Number /Tax Id. Code | %  of share capital | %  Voting rights |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
| Total |  |  |

* For each member listed in the table above considered a legal person, indicate the stake in its share capital that directly or indirectly represent more than 5%, by completing the following table:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| *Corporate name of the firm's member:* | | | | |
| List of shareholders of the firm's member holding a direct or indirect stake in it of more than 5%: | | | | |
| First Name and Surnames  (corporate name, where relevant) | Tax Id. Number /Tax Id. Code | % of Direct Shareholding | Indirect shareholding | |
| Through | % Shareholding(\*) |
|  |  |  |  |  |
|  |  |  |  |  |
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**(\*)** The percentage of indirect shareholding in the firm's member shall be indicated.

* Organisational chart of the group:

|  |
| --- |
|  |

* List of entities in the group of the firm subject to authorisation or supervision on an individual or consolidated basis by another financial sector supervisory body in their home state:

|  |  |  |
| --- | --- | --- |
| Entity´s corporate name | Home state | Supervisory authority |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |

## Authorisation and supervision in the third country

The provision of the services for which (Firm name) requests authorisation is subject to authorisation and supervision in (insert country) and (Firm name) has the appropriate authorisation, which has been granted by the competent authority, as described below, in accordance with the recommendations of the Financial Action Task Force in the context of anti-money laundering and combating the financing of terrorism:

* Name and main details of the authority responsible for authorisation and supervision in the third country …………………….…… (*where responsibility for authorisation and/or supervision is exercised by more than one authority, details of the respective areas of competence shall be provided*).
* Other relevant information regarding its authorisation and/or supervision: date of authorisation, scope of authorisation (services and activities authorised, instruments on which the investment services or activities will be provided, registration data, as well as any other data that may be of interest):
* The opening of the Branch in Spain is subject to authorisation by *(name of* the *competent authority(ies*) as the competent authority(ies) of *(Firm name*):

NO

YES   Detail[[3]](#footnote-3)

|  |
| --- |
| * *(Firm name) has obtained on XX/XX/XXXX the corresponding authorisation from its competent authority for the opening of the Branch in Spain.* * *(Firm name) has not yet obtained the corresponding authorisation from its competent authority for the opening of the Branch in Spain, but has presented the application on XX/XX/XXXX /will submit the application in due course.* |

## Activity to be carried on in Spain by the Branch

*(Firm name*) intends to provide the investment services *and activities* *and the ancillary services*, indicated in the list of activities attached to this Manual in Spain, through its branch in Spain, located in *(Domicile of the Branch*), whose main characteristics are described in sections 3.1, 3.2 and 3.3.[[4]](#footnote-4):

## Investment services

#### 3.1.1. Reception and transmission of orders (RTO)

* Does the Branch plan to provide the service of receiving and transmitting client orders?

NO

YES  **** Describe the main characteristics that such service[[5]](#footnote-5) will have:

|  |
| --- |
|  |

#### Execution of orders (EXE)

* Does the Branch plan to provide the service of order execution on behalf of clients?

NO

YES  **** Describe the main characteristics that such service[[6]](#footnote-6) will have:

|  |
| --- |
|  |

* Does the Branch intend to acquire the status of member/participant/user of any trading venue (regulated market (RM), multilateral trading facilities (MTFs) or organised trading facilities (OTFs))?

NO

YES  **** State the RM/MTF/OTF and the type of member/participant/user:

|  |
| --- |
|  |

#### Portfolio management

* Does the Branch plan to provide the service of portfolio management?

NO

YES  **** Describe the main characteristics that such service[[7]](#footnote-7) will have:

|  |
| --- |
|  |

* Do you plan to manage the portfolio of firms belonging to your group?

NO

YES  **** Detail:

|  |
| --- |
|  |

* Do you plan to manage the portfolio of pension funds, venture capital institutions, CISs, hedge funds and/or CISs of hedge funds?

NO

YES

* Do you plan to provide the discretionary portfolio management service in an automated manner, through digital asset management platforms based on algorithms ("*robo-advisor*") or by means of automated trading systems (ATSs) that create orders that are automatically sent to the relevant trading venue?

NO

YES  **** Detail:

|  |
| --- |
|  |

#### Placement

* Does the Branch plan to provide the service of placing financial instruments?

NO

YES  **** Describe the main characteristics that such a service will have:

|  |
| --- |
|  |

#### Investment advice

* Does the Branch plan to provide the service of investment advice to clients?

NO

YES  **** Describe the main characteristics that such service[[8]](#footnote-8) will have:

|  |
| --- |
|  |

#### Other investment services

* Does the Branch plan to provide other investment services?

NO

YES  **** Describe the main characteristics that such a service will have:

|  |
| --- |
|  |

### Ancillary services

#### Safekeeping and administration of financial instruments for the account of clients

* Does the Branch plan to provide safekeeping and administration of financial instruments services for the account of clients?

NO

YES  **** Describe the main characteristics that such a service will have:

|  |
| --- |
|  |

#### Advice to companies on capital structure and related issues

* Does the Branch plan to provide advisory services to companies on capital structure, industrial strategy and related matters and advice and services relating to mergers and acquisitions of companies?

NO

YES

#### Investment research and financial analysis

* Does the Branch plan to provide the service of investment research and financial analysis or other forms of general recommendations relating to transactions in financial instruments?

NO

YES

#### Other ancillary services

* Does the Branch plan to provide other ancillary services?

NO

YES  **** Detail:

|  |
| --- |
|  |

### 3.3. Financial instruments

In the tables below, specify the main characteristics (e.g. type of instrument – bonds, equities, etc.-, whether it is traded on a domestic or foreign trading venue - on which venue - or is OTC, in the case of derivatives, type of underlying, etc.) of the financial instruments on which the Branch will operate:

* Transferable securities, understanding as such any ownership right, whatever it may be called, which, due to its own legal configuration and rules on transfer, is susceptible to generalised and impersonal traffic in a financial market, with the exception of instruments of payment.

NO

YES **** Detail:

|  |
| --- |
|  |

* Money-market instruments, meaning categories of instruments normally dealt in on the money market, such as treasury bills and commercial paper, excluding instruments of payment.

NO

YES

* Shares in collective investment institutions, as well as in venture capital undertakings and closed-ended collective investment institutions.

NO

YES  Detail:

|  |
| --- |
|  |

* Options, futures, swaps, forward rate agreements and any other derivative contracts relating to securities, currencies, interest rates or yields, emission allowances or other derivative instruments, financial indices or financial measures that can be settled by physical delivery or cash.

NO

YES  **** Detail:

|  |
| --- |
|  |

* Options, futures, swaps, forward contracts and other derivative contracts relating to commodities that must be settled in cash or that can be settled in cash at the option of one of the parties for reasons other than breach or another event leading to termination of the contract.

NO

YES  **** Detail:

|  |
| --- |
|  |

* Options, futures, swaps and other derivative contracts relating to commodities that can be settled by physical delivery, provided that they are traded on a regulated market or multilateral trading facility (MTF) or organised trading facility (OTF), except for wholesale energy products as defined under Article 2(4) of Regulation (EU) No. 1227/2011, which are traded on an OTF and must be settled by physical delivery.

NO

YES   Detail:

|  |
| --- |
|  |

* Contracts for options, futures, swaps, forward agreements and other derivative contracts related to commodities that can be settled by physical delivery not mentioned in the previous paragraph and not intended for commercial purposes, which have the characteristics of other derivative financial instruments.

NO

YES **** Detail:

|  |
| --- |
|  |

* Derivative instruments for the transfer of credit risk.

NO

YES **** Detail:

|  |
| --- |
|  |

* Financial contracts for differences.

NO

YES **** Detail:

|  |
| --- |
|  |

* Options, futures, swaps, forward agreements and other derivative contracts relating to climatic variables, transportation costs or rates of inflation or other official economic statistics, that must be settled in cash or can be settled in cash at the option of one of the parties for reasons other than breach or another event leading to termination of the contract, as well as any other derivative contract relating to assets, rights, obligations, indices and measures not mentioned in the Annex to the TRLMV, which have the characteristics of other derivative financial instruments, taking into account, *inter alia*, whether they are traded on a regulated market, OTF or MTF.

NO

YES **** Detail:

|  |
| --- |
|  |

* Emission allowances consisting of units recognised for the purposes of compliance with the requirements of Directive 2003/87/EC of the European Parliament and of the Council, of 13 October 2003, establishing a greenhouse gas emission allowance trading scheme within the EU and amending Council Directive 96/61/EC.

NO

YES **** Detail:

|  |
| --- |
|  |

## Funding available to the Branch

The branch will have available funds amounting to …………………………. euros[[9]](#footnote-9), held by the firm in Spain, permanently and for an indefinite term.

## Membership of an investor-compensation scheme

* (Firm name) is part of (Name of investor-compensation scheme), an investor-compensation scheme authorised or recognised under Directive 97/9/EC.

YES ****Provide other relevant information on the investor-compensation scheme: (e.g. implications for the activity of the Branch in Spain, clients and maximum amount covered): ………………………….

No  ****In compliance with the provisions of *Article 3(3) of Spanish RD 948/2001*, the commitment of the Branch to join the Spanish Investment Guarantee Fund is provided, according to the model included as *Annex I* to this Manual.

## List of those responsible for management of the Branch in Spain. Eligibility requirements.

* List the persons who will effectively determine the orientation of the business in Spain and will be directly responsible for management of the Branch.

|  |  |  |  |
| --- | --- | --- | --- |
| **First name and surnames** | **QI** | **CR** | **CV** |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |

Each of the persons listed in the table above must provide:

* Their questionnaire on integrity and good governance (QI) according to the standard form prepared by the CNMV (See *Annex II* to this Manual).
* A current certificate of their criminal record (CR) issued by the Spanish Ministry of Justice and/or by the equivalent Body of the home countries where the candidate has engaged in his/her professional activity over the past 10 years.

In the case of EU citizens with a nationality other than Spanish, the Spanish Central Register of Convicted Persons of the Ministry of Justice shall request from the central authority of the State of nationality of the person who makes the request, information regarding such criminal history, in order to be included in the certificate provided.

* A photocopy of their current national identity card, passport or resident card.
* Their curriculum vitae or academic and professional record (CV), in which they must provide the following information to demonstrate that they meet the requirements as regards knowledge, skills and experience:
  + Academic background (qualifications and other relevant training) of the candidate. In the case of a university degree, it will be indicated whether the degree corresponds to a Bachelor's or a Master's degree (university degrees lasting five years or more will be considered to have the status of a Master's). Other specialised courses taken by the candidate shall also be stated.
  + Employment history. The current and previous positions held must be indicated, specifying full names and the nature and activity of all entities for which the person has worked (naming the supervisory body in the case of a financial institution), the countries in which the person has worked and the nature and duration of the duties performed, in particular in relation to any activities within the scope of the position for which the person is applying (financial and/or management experience); for positions held over the last ten years, the description of these activities must specify any delegated powers and competences in the internal decision-making process, as well as the areas of operations under their control.
* The CV must be submitted in accordance with the Europass CV model or similar (<http://europass.cedefop.europa.eu>; [www.coe.int/portfolio](http://www.coe.int/portfolio)).
* Both the CV and the CH must be dated and electronically signed by the person they refer to.
* Indicate the name of the unit or body of the firm that will be in charge of applying the internal procedure that the firm will have established, regarding the selection and ongoing evaluation of the managers of the Spanish Branch: …………………………….…………………...………
* The following document is also attached:

|  |  |
| --- | --- |
| Evaluation of the candidates proposed for the competition of the requirements of good repute, honesty and integrity, knowledge, skills and experience and good governance (see *Annex III* to this Manual). |  |

## Organisational structure of the Branch

* The Branch shall comply with the obligations set forth in *Article 28 ter(4)* and *29 quater(2)* of the *Spanish RD on IFs*.

YES

* The Branch shall have adequate and sufficient policies and procedures in place to ensure that the Branch, its managers, employees and, as the case may be, related agents, comply with legal obligations, as well as the relevant rules applicable to the personal transactions of such persons.

YES

* The firm shall adopt, implement and maintain effective administrative and organisational measures and a conflict of interest management policy, which shall be set out in writing, and which shall be effective and appropriate to its organisation, in order to prevent conflicts of interest from adversely affecting the interests of its clients.

YES

## Registered office [and](http://www.boe.es/buscar/act.php?id=BOE-A-2015-4607) technical means

### Registered office or headquarters or main office

|  |
| --- |
| Calle, Avda.:  Town/City and Province:  Square footage of the premises:  Tenancy regime:  Owned by:  Lease:  Will you share premises with other entities?  NO  Yes …  Web domain(s): ……………………………………………...………  Person(s), department or area in charge of verifying that the Branch and its group entities, if any, have put in place the necessary measures (separate areas, information barriers, etc.) to prevent the flow of inside information, as well as to verify that there is an adequate segregation of functions between the different areas of activity: …………………………….…………………...……… |

### Technical resources

* The firm shall have adequate systems and procedures in place to safeguard the security, integrity and confidentiality of the information.

YES

* Computer applications: control and security mechanisms in the computer field.
  + Person(s), department or area in charge of verifying the adequacy of the computers and computer applications and their proper functioning, and of guaranteeing the security, confidentiality, reliability and capacity of the service provided by electronic means: ………………………………
  + Do you plan to establish a system of personal passwords to access the different levels of computer applications to ensure their security?

NO

YES

## Planned organisational chart

* The Branch shall maintain an appropriate and proportionate organisational structure in place in accordance with the nature, scale and complexity of the services that it provides. To this end, it shall have staff with the qualifications and experience required to provide the investment and ancillary services set out in its programme of activities, and shall undertake to keep an orderly and proper record of its activity and internal organisation, ensuring that the competent persons fulfil their various duties.

YES

* The Branch will have an organisational structure with clearly defined, transparent and coherent lines of responsibility, appropriate and proportionate to the planned activities.

YES

* Detail the planned organisational chart:

|  |
| --- |
|  |

* Specify the total number of people who will work at the Branch: ....................
* Name the person responsible for reporting to the firm on the activity of the Branch, and briefly explain the procedure for reporting to the headquarters: ....................

## Functions by department or area

* Taking into account each of the investment and ancillary services, and the ancillary activities indicated in the planned programme of activities, and based on the structure described in the above Organisational Chart, complete[[10]](#footnote-10):

|  |  |  |  |
| --- | --- | --- | --- |
| Investment/ancillary service/ancillary activity | Departments or Areas that provide it (front office) | Departments or Areas that perform middle office functions | Departments or Areas that perform administrative and accounting functions associated with client transactions (back office) |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |

* Name the persons or departments or areas that will be responsible for carrying out the control functions (compliance, risk management and internal audit):

|  |  |
| --- | --- |
| First name and surnames/firm name (\*) | Control function to be performed |
|  |  |
|  |  |
|  |  |

(\*) If any of the functions are to be delegated to third parties, reference will be made to the fact that this is reported in the "Delegation of functions" section of this Manual. If those responsible for the control functions are yet to be hired, this shall be indicated, stating the professional profile required.

* Indicate which person(s) or department or area will perform the following functions; if not known, indicate the professional profile required:

|  |
| --- |
| The head of the customer service department and, where appropriate, the Client Ombudsman:  Internal control body responsible for implementing procedures for the prevention of money laundering and of the financing of terrorism:  Representative before the Executive Service of the Commission for the Prevention of Money Laundering and Monetary Offences (SEPBLAC), who will be responsible for compliance with the reporting obligations established in *Spanish Law 10/2010*:  Person(s), department or area responsible for verifying that the Branch has the applicable records:  Person(s), department or area that will be responsible for ensuring that the Branch:   * + Establishes, implements and maintains appropriate decision-making procedures and an organisational structure that, in a clear and documented manner, determines lines of accountability and assigns functions and responsibilities:      * + Ensures that its relevant persons (as defined in *Article 2(1)* of *Delegated Regulation (EU) 2017/565*) are aware of the procedures to be followed for the proper discharge of their responsibilities:      * + Establishes, applies and maintains adequate internal control mechanisms designed to ensure compliance with decisions and procedures at all levels of the Branch:      * + Has personnel with the ability, knowledge and experience necessary to fulfil the responsibilities assigned to them:      * + Establishes, implements and maintains an effective internal system of accountability and communication of information at all relevant levels of the Branch:      * + Maintains adequate and orderly records of its activity and internal organisation:      * + Ensures that the performance of multiple functions at the Branch by the relevant persons does not and cannot prevent those persons from exercising a particular function in an appropriate manner and with honesty and professionalism:      * + Establishes effective mechanisms to enable its employees, internally through a specific, independent and autonomous channel *(Article 197 of the TRLMV*), to report potential or actual infringements of the provisions of *Regulation (EU) 600/2014* and of the national provisions adopted pursuant to *Directive 2014/65/EU*: |

* Will the Branch be subject to transaction reporting obligations (*Article 26 of Regulation (EU) 600/2014 and Delegated Regulation (EU) 2017/590*)?

No

Yes  **** Indicate:

|  |
| --- |
| 1. Investment services involved (RTO, execution, own account and portfolio management):      1. Types of financial instruments involved (financial instruments admitted to trading, traded on a trading venue or for which admission to trading has been requested, financial instruments where the underlying is a financial instrument, an index or a basket composed of financial instruments traded on a trading venue):      1. Systems or means through which the Branch will report transactions:  * Those of the trading venue in whose   facility the transaction takes place   * An ARM registered with the CNMV * Proprietary arrangements  ****Name the person(s), department or area of the Branch responsible for ensuring that the Branch has in place adequate procedures and systems to comply with its transaction reporting obligations, and for ensuring that the Branch will be fully responsible for the completeness, accuracy and timeliness of the notifications of transactions sent to the CNMV:      1. In the event that the Branch reports transactions through a trading venue or through an ARM, name the person(s), department or area of the Branch responsible for ensuring that the Branch will take reasonable steps to verify that the transaction notifications submitted on its behalf are complete, accurate and timely: |

* Will the IF be required to establish appropriate mechanisms, procedures and systems to prevent, detect and report abusive practices or suspicious orders or transactions (STOR) ([*Delegated Regulation (EU) 2016/957,*](http://www.boe.es/diario_boe/txt.php?id=DOUE-L-2016-81086) *of 9 March 2016*)?

No

Yes  ** I**ndicate:

|  |  |
| --- | --- |
| 1. Investment services involved (RTO, Execution, own account, portfolio management, MTF or OTF management):      1. Briefly describe the main features of the mechanisms, procedures and systems to be put in place by the Branch for reporting orders and transactions that could constitute insider trading, market manipulation or attempts to trade on the basis of inside information or to manipulate the market under *Regulation (EU) 596/2014*:  |  | | --- | |  |  1. Name the person(s), department or area of the Branch responsible for ensuring that the Branch has put adequate procedures and systems in place to meet its obligations on this matter: |

## Specific organisational requirements for certain activities

1. Does the Branch plan to carry out *algorithmic trading* in the provision of services or carrying out of activities (*Articles 48 of Spanish Royal Decree Law 21/2017, 195 of the TRLMV and 33 of the Spanish RD on IFs, as well as* *Delegated Regulation (EU) 2017/589*)?

No

Yes  ****Detail as follows:

|  |  |
| --- | --- |
| 1. The activities and financial instruments involved in the Branch's algorithmic trading:      1. The applicant for authorisation of the Branch undertakes to ensure that, once the Branch is registered in the administrative register of the CNMV, it will send a notification regarding this activity to the CNMV and to the competent authorities of the trading venues where it carries out algorithmic trading (as a member/participant/user), using the procedure enabled for this purpose at the CNMV’s virtual office:   Yes   1. Name the person(s), department or area of the Branch responsible for verifying that the Branch:  |  | | --- | | 1. Shall have in place effective systems and risk controls suitable to the business it operates to ensure that its trading systems are resilient and have sufficient capacity, are subject to appropriate trading thresholds and limits and prevent the sending of erroneous orders or the systems otherwise functioning in a way that may create or contribute to a disorderly market:      1. Shall implement effective systems and risk controls to ensure that trading systems cannot be used for any purpose in breach of *Regulation (EU) 596/2014* or the rules of the trading venue to which it is connected:      1. Shall put in place effective business continuity arrangements to deal with any failure of its trading systems and shall ensure that its systems are fully tested and properly monitored to ensure that they meet the requirements set out in the previous two questions:      1. Shall provide its algorithmic trading systems with a kill functionality that shall enable the Branch to immediately cancel, as an emergency measure, any or all unexecuted orders that it has submitted on any or all of the trading venues with which it is connected:      1. Shall arrange for records to be kept in relation to the matters referred to in the above questions and shall ensure that these records are sufficient to enable the CNMV to monitor compliance with the applicable legal requirements: |  1. Does the Branch plan to employ high-frequency algorithmic trading techniques?   No  Yes  ****Indicate the person(s), department or area of the Branch responsible for verifying that the Branch will keep, according to the content and format provided in *Delegated Regulation (EU) 2017/589*, accurate and time-sequenced records with the detail of all the orders submitted, including cancelled orders, executed orders and quotes in trading venues (during the period of time established in *Delegated Regulation (EU) 2017/589*), making such information available to the CNMV if so requested: |

1. Does the Branch intend when using algorithmic trading to implement a *market-making strategy* (*Articles 48 of Spanish Royal Decree-Law 21/2017 and 195 bis of the TRLMV* and *Delegated Regulation (EU) 2017/578*)?

No

Yes  ****Indicate the person(s), department or area of the Branch responsible for verifying that the Branch:

|  |
| --- |
| 1. Shall carry out these market-making activities on a ongoing basis for a specified proportion of the trading hours of the trading venue, except in exceptional circumstances, so as to provide liquidity on a regular and predictable basis to the trading venue:      1. Shall sign, if it is obliged to do so under the circumstances described in *Delegated Regulation (EU) 2017/578*, a binding written agreement with the trading venue where at least the obligations of the Branch are specified, in accordance with the content provided in *Delegated Regulation (EU) 2017/578*:      1. Shall have effective systems and controls in place to ensure that its obligations under the agreement referred to in the previous point are met at all times: |

1. Does the Branch plan to provide its clients with *direct electronic access to* any trading venue of which it is a member/participant/user (*Articles 48 of Spanish Royal Decree Law 21/2017, 196 of the TRLMV and 34 of the Spanish RD on IFs and Delegated Regulation (EU) 2017/589*)?

No

Yes  ****Provide the following information:

|  |  |
| --- | --- |
| 1. Indicate the person(s), department or area of the Branch responsible for verifying that the Branch:  |  | | --- | | 1. Shall have effective systems and controls in place to ensure that: (i) there is an appropriate assessment and review of the suitability of clients using the service; (ii) those clients are prevented from exceeding appropriate pre-set trading and credit thresholds; (iii) the trading by clients using the service is adequately monitored; (iv) there are appropriate risk controls in place to prevent trading that may create risks to the firm itself, or that could create or lead to anomalies in trading conditions or contravene *Regulation 596/2014/EU* or the rules of the trading venue:      1. Shall be responsible for ensuring that clients using that service comply with the requirements of *TRLMV*, its implementing provisions and the rules of the trading venue:      1. Shall monitor the transactions to detect breaches of these rules or anomalies in trading conditions or conduct that may involve market abuse and which must be notified to the CNMV:      1. Shall ensure that a binding written agreement is concluded between the Branch and the client concerning the fundamental rights and obligations arising from the provision of the service and that, in the context of the agreement, the Branch retains responsibility in accordance with *TRLMV*  and its implementing provisions: |  1. The applicant for authorisation of the Branch undertakes to ensure that, once the Branch is registered in the administrative register of the CNMV, it will send a notification regarding this activity to the CNMV and to the competent authorities of the Member State where the trading venues are established and for which the Branch provides direct electronic access to its clients, using the procedure enabled for this purpose at the CNMV’s virtual office:   Yes |

1. Does the Branch plan to provide the investment advisory service *independently*?

No

Yes  **** Indicate the person(s), department or area of the Branch responsible for:

|  |
| --- |
| * 1. Verifying that the Branch will define and apply a selection process to assess and compare a sufficient range of financial instruments available in the market, in accordance with *Article 220 ter (1)(a) of the TRLMV* and that such process will include the elements described in Article *53(1) of Delegated Regulation (EU) 2017/565*:      * 1. Ensuring that the Branch meets the requirements set out in Article *53(2) of Delegated Regulation (EU) 2017/565* when it provides investment advice on an independent basis and focuses on certain categories or a certain range of financial instruments:      * 1. Verifying, in the event that the Branch provides both independent and non-independent investment advice, that the Branch has established appropriate organisational and control requirements to ensure that both types of advisory services and advisors are clearly separated from each other and that clients cannot be confused as to the type of advice that they receive, and obtain the type of advice that is appropriate to them, and that the Branch does not permit the same natural person to provide both independent and non-independent advice: |

1. Briefly describe the experience and specific qualifications of the staff engaged in the provision of investment services for *portfolio management* and *investment advice* and, if they are to perform activities related to financial derivative instruments or unlisted securities of the other staff engaged in these activities.

Not applicable

Provide the following information

|  |
| --- |
| First name and surnames/category:  Knowledge and experience/profile: |

## Maintenance of client funds and financial instruments

This question is only applicable to those Branches that intend to provide the ancillary service of safekeeping and administration of financial instruments and/or that intend, in the provision of services, to hold client funds (on a temporary and transitory basis).

* + 1. Considering what is stated in the previous paragraph, does this section 7.5. apply to the Branch?

No

Yes  ****Detail as follows:

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| 1. Indicate the person(s), department or area of the Branch who will be responsible for preparing, supervising and forwarding to the clients of the Branch (including, if applicable, those considered as eligible counterparties - see *Article 61* *of Delegated Regulation (EU) 2017/565*) or potential clients the information related to the safeguarding of client financial instruments or client funds, specified in *Article 49(2) to (7)* of *Delegated Regulation (EU) 2017/565*, as well as, where appropriate, to each client for whom they hold financial instruments or funds, a statement in a durable medium of those financial instruments or funds, in the terms laid down in *Article 63 of Delegated Regulation (EU) 2017/565*:      1. Name(\*) the person in the Branch who, in compliance with the provisions of *Article 46 of the Spanish RD on IFs*, will be designated as the sole responsible person in the firm for the issues related to the Branch's compliance with the obligations provided for in the *TRLMV* and the *Spanish RD on IFs*, regarding the safeguarding of clients' financial instruments and funds, also indicating whether the designated responsible person will be dedicated only to that task, or if he/she will be able to perform his/her functions effectively while attending to other responsibilities:     (\*) If, at the time of submission of the application, the person is yet to be hired, indicate this and specify the professional profile required and whether it is planned that this person will carry out more functions at the Branch:  Professional profile:  Other functions at the Branch:  No  Yes  ****Detail:   1. In relation to the *financial instruments that the Branch is going to maintain on behalf of its clients*:   No activity planned  Yes  ****Detail:   |  |  | | --- | --- | | 1. Does the Branch intend to deposit financial instruments held by it on behalf of its clients into an account or accounts opened with a third party (acting with all due skill, care and diligence in the selection, appointment and periodic review of the third party and of the arrangements for the holding and safekeeping of such financial instruments)?   No  Yes  ****Provide the name of the custodian(s) (including information as to whether such custodian(s) is located in a jurisdiction where the safekeeping of financial instruments for the account of another person is subject to specific regulation and supervision as is the custodian that carries out such activity or whether the jurisdiction where the custodian is located does not regulate and supervise such activity and the persons who perform it, in which case, you must provide evidence of compliance with the conditions set out in *Article 42(2)(a) and (b) of the Spanish RD on Ifs*) and describe the main features of the agreements that it intends to sign, in particular those relating to taking appropriate measures to safeguard the property rights of its clients, especially in the event of insolvency, and to prevent the use of its clients' financial instruments for its own account, except where the clients have given their express consent:   |  | | --- | |  |  1. The applicant for authorisation of the Branch undertakes to ensure that the Branch (*Article 41(a), (c), (d), (1)* *and (e) of the Spanish RD on IFs*): (i) keeps appropriate records and accounts which enable it, at any time and without delay, to distinguish the assets held for a client from the assets held for any other client and from its own assets; (ii) takes the necessary measures to ensure that the financial instruments of clients deposited with a third party are distinguished from the financial instruments belonging to the Branch and from the financial instruments belonging to that third party, by means of accounts with a different name in the accounts of the third party, or other equivalent measures which achieve the same level of protection; (iii) regularly reconciles its internal accounts and records with those of the third parties holding those assets; (iv) establishes adequate organisational arrangements to minimise the risk of loss or diminution of client assets, or rights related to those assets, as a result of misuse of assets, fraud, poor administration, inadequate record- keeping or negligence: 2. Does the Branch intend to enter into arrangements for securities financing transactions in respect of financial instruments which it will hold on behalf of a client in an omnibus account held by a third party, or does it intend to otherwise use, for its own account or on the account of any other person, the financial instruments held in such an account?   No  Yes  ****The applicant for authorisation of the Branch undertakes to comply with the provisions of *Article 44 of the Spanish RD on IFs*: |  1. In relation to the *client funds* that the Branch will maintain:   No activity planned  Yes  ****Detail:   |  |  |  | | --- | --- | --- | | 1. Provide information, in accordance with *Article 43(1) of the Spanish RD on IFs*, on the types of entities (a) a central bank; b) a credit institution authorised in the Member States of the European Union; c) a bank authorised in a third State; d) an authorised money market fund) in which it intends to open accounts in which to place client funds:      1. Where the Branch intends to deposit client funds with a credit institution authorised in another Member State of the European Union, with a bank authorised in a third country or with an authorised money market fund, the applicant for authorisation of the Branch undertakes to ensure that the Branch will act with all due skill, care and diligence in the selection, designation and periodic review of the credit institution, bank or money market fund in which the funds are to be placed, as well as the mechanisms for holding such funds, considering the need for diversification of such funds as part of their due diligence obligation (*Article 43(2) of the Spanish RD on Ifs*):   Not applicable (no placement of funds in such entities)  Yes  ****Detail:   |  | | --- | | Will the credit institution, bank or money market fund in which the Branch plans to deposit client funds belong to the group to which the Branch belongs?  No  Yes  ****The applicant for the Branch's authorisation undertakes to make sure that the Branch will take the necessary measures to ensure that the amount of client funds deposited with such group entity or any combination of such entities does not exceed 20% of the total of such funds, unless it can demonstrate that such requirement is not proportionate (*Article 43(4) of the Spanish RD on IFs*): |  1. The applicant for the authorisation of the Branch undertakes to make sure that the Branch will take the necessary steps to ensure that client funds to be deposited with a central bank, a credit institution or an authorised bank in a third country or a qualified money market fund are held in an account or accounts identified separately from those in which the funds belonging to the Branch are held (*Article 41(d)(2) of the Spanish RD on IFs*): 2. Briefly describe the measures that the Branch intends to take to safeguard the rights of clients and prevent the use of client funds for its own account:  |  | | --- | |  | | |

## Delegation of functions

### Delegation of internal control functions

* Indicate the internal control functions you plan to delegate.

| **Function to be delegated**  (mark with an X if yes) | **Delegate** | |
| --- | --- | --- |
| **Tax Id Code/Number** | **Firm Name/First Name and Surnames** |
| **Internal audit** |  |  |
| **Compliance** |  |  |
| **Risk management** |  |  |

### Other delegations

* Do you plan to delegate any other activities or services in addition to the above?

NO

YES **** Briefly describe them by stating the functions, activities or services to be performed and the entities to which they will be delegated:

|  |
| --- |
|  |

* Will any of the above delegates belong to the group to which the Branch, as the case may be, will be part?

NO

YES **** Indicate which ones:

|  |
| --- |
|  |

* Indicate the person or department in your organisational chart that will be responsible for overseeing the delegated functions or services:

## Security mechanisms and contingency plans

* The Branch will adopt adequate measures to guarantee, in the event of incidents, continuity and regularity in the provision of its services, having in place, in particular, mechanisms to control and safeguard its computer systems and contingency plans in the event of damages or disasters.

YES □

* Briefly describe any plans for physical safeguards, filing and access to documentation, indicating, if appropriate, whether there will be any backup custody files located outside the Branch:

|  |
| --- |
|  |

* Will there be a contingency plan in place to ensure continuity and regularity of service provision in the event of damages or disasters?

NO

YES **** Briefly describe:

|  |
| --- |
|  |

* Indicate the frequency of information backup:
* Does the Branch intend to carry out algorithmic trading, high frequency algorithmic trading or provide direct electronic access (DEA) *(Delegated Regulation (EU) 2017/589*)?

No

Yes   Provide the following details:

|  |
| --- |
| 1. Name the person(s), department or area responsible for verifying that the Branch has addressed all risks that may affect the basic elements of the algorithmic trading systems, including those related to the hardware and software and related lines of communication used by the Branch to carry out its trading activities: 2. Name the person(s), department or area in charge of verifying that the Branch carries out, on an annual basis, a self-assessment and validation process (which shall include the review, assessment and validation of the parameters included in *Article 9(1) of Delegated Regulation (EU) 2017/589*, as well as the analysis of the compliance with the criteria established in Annex I of the aforementioned Delegated Regulation) and that, based on such process, the Branch issues a validation report: 3. Name the person(s), department or area responsible for verifying that the Branch will employ a sufficient number of persons with the necessary qualifications to manage its trading algorithms and algorithmic trading systems and with sufficient technical knowledge in the areas described in *Article 3(1)* *of Delegated Regulation (EU) 2017/589*: 4. In relation to the outsourcing or contracting of software or hardware that the Branch intends to use in its algorithmic trading activities, name the person(s), department or area in charge of verifying that the Branch will remain fully responsible for the fulfilment of all obligations incumbent upon it and will have sufficient knowledge and the necessary documentation to ensure effective compliance with the obligations provided for in *Delegated Regulation (EU) 2017/589*: |

## Other information of interest on the organisational structure not covered in the previous sections

Other information:

|  |
| --- |
|  |

## Business plan

### Turnover: income and expenditure

* Describe the expected turnover for the first three years of activity of the Branch, indicating the exact scope of investment services and activities, and ancillary services to be provided, the instruments and the group of clients to be targeted by each activity. You must also make an estimate of the fee income for each service indicated in your programme of activities. If no income is expected from any service, this must be specified.

|  |
| --- |
|  |

* State the total amount of expenditure planned for the first three years of activity, providing a breakdown of the main items (salaries, rent, subcontracted services, external professional services, brokers, etc.)

|  |
| --- |
|  |

### Tied agents

* Do you plan to hire tied agents?

NO

YES  **** Detail, if known:

|  |  |  |
| --- | --- | --- |
| First name and surnames or firm name | Scope of activity | Geographical area of activity |
|  |  |  |
|  |  |  |
|  |  |  |

## Code of conduct

### Internal Code of Conduct

* Given the planned activity of the Branch, should it adopt an Internal Code of Conduct (*Article 142 of the Regulation implementing Spanish Law 35/2003*, of 4 November, on collective investment schemes, approved by the sole article of Spanish Royal Decree 1082/2012, of 13 July)?

NO

YES  **** Attached is the Internal Code of Conduct (ICC)

|  |  |
| --- | --- |
| Individual |  |
| Group |  |
| FOGAIN model (\*) |  |

*(\*)* In this case, you must only submit a written statement to the CNMV certifying your intention to adhere to the standard form.

### Client protection regulations

|  |  |
| --- | --- |
| The *Order ECO/734/2004*, which gives effect to Act 44/2002, establishes the need to deal with the complaints and claims of clients, for which purpose the firms must have a customer service department or service and Client Protection Regulations.   * Applicants undertake to enclose, at the time of submitting their application for registration of the Branch in the administrative register of the CNMV, the Client Protection Regulations. |  |

### Information on costs and expenses

|  |  |
| --- | --- |
| The *Spanish RD on IFs* requires firms to comply with the reporting obligations on costs and associated charges listed in *Article 50 of Delegated Regulation (EU) 2017/565* and its *Annex II*.   * The firm undertakes to ensure that (Branch Name) will comply with the obligations on costs and associated charges set out in *Article 65 of the Spanish RD on IFs*. |  |

### Disclosure of information to clients

### Department or area in charge of preparing and supervising information and classifying clients

* In accordance with your list of activities, indicate which department(s) or area(s), from those listed in the Branch's organisational chart, are going to prepare the information for clients, including potential clients:

|  |
| --- |
|  |

* Person or department in charge of supervising the adequacy of the information indicated in the previous section and its disclosure to clients:

|  |
| --- |
|  |

* Person or department in charge of supervising the classification of clients in accordance with the internal policies and procedures that the Branch has established for this purpose:

|  |
| --- |
|  |

* Other requirements for disclosure of information to clients:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| * 1. In accordance with *Articles 3 and 46(3) of Delegated Regulation (EU) 2017/565*, specify the means that the Branch will use to provide its clients with the information indicated in the previous section:   Durable medium  Detail:  (*Article 4(1) (62)* of *Directive 2014/65/EU*)  Website  (if it does not constitute a durable medium)  Detail:   * 1. If the Branch plans to operate through tied agents, explain the flow of information to clients that will be followed:   No intention of operating through tied agents  Provide the following information   |  | | --- | |  |  * 1. Does the Branch intend to provide the service of investment advise?   No  Yes  Detail as follows:   |  | | --- | | 1. Person(s), department or area of the Branch that will be responsible for preparing/reviewing/sending to the clients of the Branch information regarding the investment advisory service (including whether such advice will be considered independent or not and why, as well as the types and nature of the restrictions that apply to each service), in accordance with *Articles 52 and 53(3) of Delegated Regulation (EU) 2017/565*: |  * 1. Does the Branch intend to provide the portfolio management service?   No  Yes  Provide the following information:   |  | | --- | | 1. Person(s), department or area of the Branch that will be responsible for preparing/reviewing/sending to its clients the periodic statement in a durable medium of the portfolio management activities carried out on behalf of the client, in the event that another person does not provide such statement, under the terms and conditions provided for in *Articles 60 and 62 of Delegated Regulation (EU) 2017/565*: |  * 1. Does the Branch intend to execute client orders not related to portfolio management?   No  Yes  Detail as follows:   |  | | --- | | 1. Person(s), department or area of the Branch that will be responsible for preparing/reviewing/remitting to its clients, on a durable medium, the essential information concerning the execution of orders, under the terms and conditions provided for in *Articles 59, 61 and 62 of the Delegated Regulation (EU) 2017/565*: | |

### Inducements

|  |  |  |  |
| --- | --- | --- | --- |
| 1. Does the Branch envisage paying or being paid fees or commissions, or providing or receiving any non-monetary benefits in connection with the provision of an investment or ancillary service, to or by a third party other than the client or the person acting on behalf of the client?   No  Yes  ****Detail the investment and ancillary services involved:   |  | | --- | |  |  1. Indicate the person(s), department or area of the Branch that will be responsible for ensuring that the inducements to be paid or received by the Branch will at all times comply with the terms and conditions set forth in *Article 220 quinquies of the TRLMV* and with the requirements laid down in *Article 62(2) to (5) of the Spanish RD on IFs*:      1. Does the Branch plan to provide the investment advice service on an independent basis or the portfolio management service (*Article 220 ter and quater of the TRLMV and Article 63 of the Spanish RD on IFs*)?   No  Yes ****Provide the following information:   |  | | --- | | 1. Person(s), department or area of the Branch responsible for reviewing that the Branch has established and applies a policy ensuring that any fees, commissions or monetary benefits paid or provided by any third parties or persons acting on behalf of third parties in connection with the provision of independent investment advice and the portfolio management service are allocated and transferred to each relevant client:      1. Person(s), department or area of the Branch responsible for informing clients of fees, commissions or monetary benefits transferred to them (e.g. through the periodic information statements that they are required to provide):      1. Person(s), department or area of the Branch in charge of verifying that the Branch does not accept non-monetary benefits that cannot be considered minor in accordance with the provisions of *Article 63(3) of the Spanish RD on IFs*: |  1. Does the Branch plan to receive research from third parties in accordance with the provisions of *Article 64 of the Spanish RD on IFs*?   No  Yes  ****Provide the following information:   |  | | --- | | 1. List the investment and ancillary services involved:      1. Person(s), department or area of the Branch in charge of verifying that such research provided by third parties cannot be considered as an inducement as it is received in exchange for any of the elements detailed in *Article 64(1) of the Spanish RD on IFs*:      1. Person(s), department or area of the Branch in charge of complying with the Branch's reporting obligations to clients and to the CNMV, established in *sections 2* (applicable if the Branch manages a research payment account) and *3* (referring to any operational mechanism related to the collection of the research charge applied to clients, when this is not charged separately, but together with a transaction commission) *of Article 64 of the Spanish RD on IFs*: | |

### Policies and systems

* Indicate which person(s) or department or area will be responsible for approving, implementing and monitoring the policies/systems laid down in *Section 3 of Chapter II and Sections 1, 3, 5 and 6 of Chapter III* *of Delegated Regulation (EU) 2017/565*, related to: (i) the *categorisation of clients* (*Articles 203 to 207 of the TRLMV* and *58 to 60 of the Spanish RD on IFs)*; (ii) the *assessment of the suitability and/or appropriateness* of *clients* (*Articles 212 to 217 of the TRLMV and 80 to 81 of the Spanish RD on IFs*); (iii) *management of conflicts of interest* (*Articles 208 bis* of the *TRLMV and 61 of the Spanish RD on IFs*); (iv) *best execution* - *Articles 21 to 224 of the TRLMV and 79 of the Spanish RD on IFs* - (including best execution criteria, the Branch's duty to act in the best interests of its clients when providing portfolio management and reception and transmission of orders services, as well as the execution policy); (v) *processing of client orders - Article 211(1)(b) of the TRLMV* - (including the establishment of general principles, the system, if any, of aggregation and allocation of orders, rules relating to the prompt, fair and expeditious execution of client orders and the publication of unexecuted client orders at limited prices in the case of shares traded on a trading venue):

| Policy/System | It applies to the Branch | | Person(s) or department or area that will be in charge of: | | |
| --- | --- | --- | --- | --- | --- |
| No | Yes | Approving the policy/system | Implementing the policy/system | Monitoring the policy/system |
| Client categorisation |  |  |  |  |  |
| Client suitability assessment |  |  |  |  |  |
| Client appropriateness assessment |  |  |  |  |  |
| Management of conflicts of interest |  |  |  |  |  |
| Best execution |  |  |  |  |  |
| Client order handling |  |  |  |  |  |

### Marketing[[11]](#footnote-11)

### Marketing channels

* Indicate the marketing channels that the Branch plans to use:

|  |  |  |  |
| --- | --- | --- | --- |
|  |  |  | YES NO |
|  | In person |  |  |
|  | Telephone |  |  |
|  | Internet (email; App; website) |  |  |
|  | Other(\*) |  |  |

(\*) If so, which ones?

|  |
| --- |
|  |

### Client identification

* In the event that it is planned to receive orders by remote means (telephone, internet, etc.) briefly describe, for each reception channel, the procedures and systems used to ensure client identification:

|  |
| --- |
|  |

### Prior information for clients

* In the event that it is planned to receive orders by remote means (telephone, internet, etc.), briefly describe the procedures and systems used to ensure the effective delivery, or making available to clients, of the legally required information prior to the provision of the service in question:

|  |
| --- |
|  |

### Knowledge of investment products and training plan for sales staff

* Indicate the department or area responsible for checking that the persons in charge of marketing the investment products are aware of the characteristics and risks inherent in them and that the transmission of information to clients is correct:

* Indicate any training plans envisaged:

|  |
| --- |
|  |

### Conflicts of interest and product governance

* Taking into account the requirements established in *Articles 182(1), 208 bis of the TRLMV and 61 of the Spanish RD on IFs*, and the list of activities that the Branch intends to carry on, provide information on the measures that the Branch will adopt to identify, prevent and manage conflicts of interest that may arise in the provision of investment and auxiliary services:

|  |
| --- |
|  |

* Considering the requirements laid down in *Articles 193(2)(c) and (d), 208 ter* and *66 to 76 bis of the Spanish RD on IFs,* provide information on the measures and procedures that the Branch intends to implement in the area of product governance:

|  |
| --- |
|  |

## Other information of interest

|  |
| --- |
|  |

## Prevention of money laundering and terrorist financing

|  |
| --- |
| * Attached is a Manual describing the structure and operation of the control and communication body and the internal control procedures to prevent and deter transactions related to money laundering and terrorist financing, which will be sent by the CNMV to the SEPBLAC: * Indicate the person and contact details of such person from whom, where appropriate, the SEPBLAC can directly request any additional information that it requires:   First name and surnames:  Postal address:    Contact telephone number:  Email: |

## Identity of the person liable for the CNMV fee

* Name the persons liable for the CNMV fee (as established in Article 40 of [Spanish Law 16/2014](https://www.boe.es/buscar/act.php?id=BOE-A-2014-9895)):

1. Data to be provided if the person liable for the CNMV fee is a legal person:

Firm name:

Tax Id Code:

Postal address:

Contact telephone number:

Email:

Contact details of the natural person representing the legal person liable for the CNMV fee, for the purposes of the CNMV managing the settlement of the corresponding fee:

First name and surnames:

Tax Id Number:

Contact telephone number:

Email:

1. Data to be provided if the person liable for the CNMV fee is a natural person:

First name and surnames:

Tax Id Number:

Postal address:

Contact telephone number:

Email:

* If the applicant or applicants for the authorisation are non-residents (Article 6 of Spanish Law 16/2014), name, in each case, the persons or entities designated by each as their representative in Spain for the payment of fees to the CNMV:

|  |
| --- |
| Representative in Spain of the following applicant:  First name and surnames/firm name:  Tax Id. Number/passport no./resident card no./Tax Id. Code:  Postal address:    Contact telephone number:  Email:  If the designated representative in Spain is, in turn, a legal person, please provide below the contact details of the natural person who represents it, for the purposes of the CNMV managing the settlement of the corresponding fee:  First name and surnames:  Tax Id Number:  Contact telephone number:  Email: |

OR INVESTMENT SERVICES AND ACTIVITIES, AUXILIARY SERVICES, FINANCIAL INSTRUMENTS

***UNDERTAKING TO JOIN THE INVESTMENT GUARANTEE FUND***

I hereby undertake to take the necessary steps for ....................................................... to join the Investment Guarantee Fund (\*), once the authorisation for incorporation has been obtained, and in any case, prior to registration in the CNMV Investment Firm Register, in accordance with the provisions of [Title VI of the TRLMV](http://www.boe.es/aeboe/consultas/bases_datos/act.php?id=BOE-A-1988-18764) and [Spanish RD 948/2001](http://www.cnmv.es/DocPortal/legislacion/realdecre/RDL948_2001.pdf).

In .........................., on ...... .................... 20...

Signed: ..................................................

Questionnaire on integrity and good Governance

**1. COMMENTS**

**Purpose**

Collect data in relation to the requirements of:

* *Integrity* and *good governance* of senior managers in charge of branches of third-country investment firms (IFs).

**Who must fill in the questionnaire and in what procedures**

In *applications for authorisation of branches of third-country IFs*, it must be completed by:

* The Persons who will effectively determine the orientation of the business in Spain and will be directly responsible for management of Branches of third-country IFs.

In *procedures subsequent to the registration of branches of third-country IFs in the CNMV Register*, it must be completed by the persons under assessment in the event of:

* Appointments of new managers of branches of third-country IFs.

**Instructions for completion**

* A) The relevant reply must be indicated with an “X” and all the pages of the questionnaire, as well as those attached to it, must be submitted duly signed.
* B) Except for those that refer to circumstances that can only affect natural persons, the questions must be answered taking into account both the individual activity -business or professional- of whoever taking the questionnaire, and that carried out in the discharge of the duties of management offices at legal persons

Management offices shall be taken to mean those corresponding to directors or members of collective management bodies, general managers or persons holding similar positions, the latter being those persons who carry out senior management functions reporting directly to the management bodies or to their executive committees or managing directors.

Thus, for example, in relation to question 9, it must be taken into account whether insolvency proceedings have been pursued either against the person completing the questionnaire as an individual trader or professional, or against legal persons in which he/she has held a management office, as defined.

* C) In the case of affirmative answers, the information relating to the object of the question must be set out on a separate sheet. In particular, in the case of convictions for offences or misdemeanours or of penalties for the commission of administrative infringements (10, 11 and 12), the following must be indicated:

- The wilful or reckless nature of the offence, misdemeanour or administrative infringement.

- Whether or not the conviction or penalty may or may not be appealed.

- The seriousness of the conviction or penalty imposed.

- The classification as an offence or infringement of the facts which gave rise to the conviction or penalty, especially in the case of property-related offences, money laundering, offences against the public interest and against the Treasury and the Social Security system, or which involve infringement of the rules regulating the conduct of banking, insurance or securities market activity, or in relation to money laundering or consumer protection.

- Whether the acts which gave rise to the conviction or penalty were performed for one’s own benefit or to the detriment of the interests of third parties the administration or management of whose business affairs has been entrusted to you and, where relevant, the relevance of the acts for which the conviction or penalty was imposed in relation to the functions which have been assigned or are going to be assigned to the office in question at the institution.

- The time barring of criminal offences or administrative infringements or the possible extinguishment of liability.

- The existence of mitigating or aggravating circumstances (inter alia, the recurrence of convictions or penalties for offences, misdemeanours or infringements).

* D) The information obtained by means of this questionnaire will be used solely in the procedure pursued for the assessment of suitability for the office for which the person concerned has been designated.
* E) In cases in which professional or business activities have been carried out on an individual basis or management positions have been held outside Spain, the questions shall be understood to refer both to the activity carried out in Spain and to the legal circumstances of the interested party in the corresponding country similar to those that he/she has in Spain, which are the object of the questionnaire.

**2. IDENTIFICATION**

***DATA OF THE IF BRANCH IN THE THIRD COUNTRY WHICH GIVES RISE TO THE ASSESSMENT OBLIGATION***

Firm name of the BRANCH:

CNMV registration number (if any):

***DATA OF NATURAL PERSON (HEAD OF IF BRANCH IN THIRD COUNTRY)***

First name and surnames:

Tax Id. Number/passport no./resident card no.:

Nationality:

Date of birth:

Address:

Telephone No.:

Email:

**3. QUESTIONS**

**3.1. PERSON BOUND**

1. Indicate the position you have been appointed to in the Branch:

**3.2. INTEGRITY**

1. Have you engaged or do you currently engage, on a habitual basis, in professional or business activities outside Spain?

YES  NO

If so, specify in which countries:

1. Have you previously had relations, in the course of your professional activity, with national or foreign regulatory and supervisory authorities, other than the CNMV?

YES  NO

If so, specify which authorities:

1. Have you been refused registration, authorisation, membership or a license to conduct a trade or business or to engage in a profession?

YES  NO

If so, please indicate the reasons and the authorities:

1. Once granted, has the registration, authorisation, membership or license to conduct a trade or business or to engage in a profession been withdrawn, revoked or terminated?

YES  NO

If so, please indicate the reasons and the authorities:

1. Has your person been expelled by a regulatory or governmental body or a professional body or association?

YES  NO

If so, please indicate the reasons and the authorities:

1. Have you been dismissed or removed from administrative and/or management or similar posts previously held?

YES  NO

If so, identify the companies from which you were dismissed or removed and the reasons for the dismissal or removal offered by them:

1. Have you held posts of responsibility in credit institutions or in investment firms which have undergone a recovery or resolution process?

YES  NO

If so, name the entities:

1. Have any judicial insolvency proceedings been pursued or are such proceedings being currently pursued in relation to you?

YES  NO

If so, provide the essential data of the proceedings. In addition, if the pursuit of such proceedings already ended, indicate whether you were disqualified in accordance with Spanish Insolvency Act 22/2003, of 9 July, without the disqualification period established in the judgment assessing the insolvency having expired, or whether you were declared an undischarged bankrupt and insolvent in insolvency proceedings prior to the entry into force of the aforementioned Act:

1. Have you been convicted of offences or misdemeanours?

YES  NO

If so, please provide the information referred to in section 1C) of this questionnaire:

1. Has any penalty been imposed on you for the commission of administrative infringements of the rules regulating the conduct of banking, insurance or securities market activity, or in relation to money laundering or consumer protection?

YES  NO

If so, please provide the information referred to in section 1C) of this questionnaire:

1. Has any relevant penalty been imposed on you for administrative infringements other than those mentioned in the previous question?

YES  NO

If so, please provide the information referred to in section 1C) of this questionnaire:

1. Has an intervention or substitution measure been applied to you under the provisions regulating the financial system and the institutions which operate within it?

YES  NO

If so, please provide the essential data relating to the proceedings:

1. Are you disqualified or involved in a disqualification procedure, in Spain or abroad, from holding public office or administrative or management posts in financial institutions or other kind of companies?

YES  NO

If so, provide the essential data of the procedure:

1. Have you been sued or have you been the subject of enforcement in any judicial declaratory or enforcement proceedings on grounds of breach of contractual obligations or non-payment of debts?

YES  NO

If so, provide the essential data relating to the proceedings:

1. Do you have a criminal record, either in Spain or abroad?

YES  NO

If so, indicate the offence or offences which have caused it:

1. Are you the subject of criminal or administrative proceedings or investigations concerning facts relating to property-related offences, money laundering, offences against the public interest and against the Treasury and the Social Security system, or for infringement of the rules regulating the conduct of banking, insurance or securities market activity, or in relation to money laundering or consumer protection?

YES  NO

If so, indicate the type of facts investigated, the stage of the proceedings, the procedural situation of the person concerned, the offence, the misdemeanour or the administrative infringement of which you are accused (indicating the seriousness thereof), the sentences or penalties provided and the mitigating or aggravating circumstances, if any, which are envisaged:

**3.3. GOOD GOVERNANCE**

1. Are there circumstances or situations which may give rise to potential conflicts of interest with the institution, which may pose an impediment or difficulty in engaging in good governance at the institution, arising from:

* The offices held in the past or at present in the same institution or in other public or private organisations?

YES  NO

If so, describe in detail the aforementioned circumstances or situations:

* Your relations (professional or business or, where relevant, personal) with the institution itself, its parent or subsidiaries or with the members of their respective management bodies, and with the shareholders that control it?

YES  NO

If so, describe in detail the aforementioned circumstances or situations:

1. Are you in a position to devote sufficient time to duly carry out the functions involved in the office?

YES

**I HEREBY DECLARE, UNDER MY OWN RESPONSIBILITY, that the statements made in answering this questionnaire are true, and I authorise the Spanish National Securities Market Commission to consult public files in order to demonstrate this.**

**In .............................., on** ..................................... **20**........**.**

***Signed:*** *..................................................*

***ASSESSMENT BY THE THIRD-COUNTRY IF OF THE SUITABILITY OF THE PROPOSED CANDIDATE FOR THE POSITION OF MANAGER OF THE SPANISH BRANCH***

Mr/Ms .........................................................................................................., in the name and on behalf of *(Name of the third-country IF)*, in the capacity of applicant for authorisation to open a Branch in Spain, hereby **declares** that:

 **1)** In accordance with the obligation provided for in *Article* *29 ter (1)(c) of Spanish Royal Decree 217/2008*, of 15 February (*Spanish RD on IFs*), **he/she has considered that[[12]](#footnote-12)**......................................., **has complied**, in relation to the position of **[[13]](#footnote-13)** ......................................, which he/she is going to discharge at *(Firm name of the Spanish branch of the third-country IF)*, **with the requirements** laid down in *Article 29 bis (1)(d) of the RD on IFs*, regarding:

**Good repute, honesty and integrity**

**Sufficient knowledge, skills and experience**

**Capacity to engage in good governance**

in accordance with the definitions of: (i) good repute, honesty and integrity; (ii) knowledge, skills and experience; and (iii) capacity to engage in good governance as established in *Articles 20, 20 bis and 21 of the Spanish RD on IFs*.

 **2)** The candidate assessed has responded affirmatively to some of the issues in questions 4 to 7 and 9 to 17 of his/her Questionnaire on Integrity and Good Governance:

NO

YES  ****In this case, details of the analysis performed in this respect by the units or bodies of *(Name of the third-country IF)* responsible for applying the internal procedure relating to the selection and ongoing assessment of the suitability of the managers of the Branch in Spain, as well as the reasons which lead to the final conclusion that the candidate assessed complies with the requirements of good repute, honesty and integrity in the terms established in the securities market regulations, must be attached on a separate sheet.

In .............................., on ..................................... 20.........

Signed: ......................................................................

***ASSESSMENT BY THE THIRD-COUNTRY IF OF COMPLIANCE WITH REQUIREMENTS OF KNOWLEDGE AND COMPETENCES FOR RELEVANT STAFF1 OF THE SPANISH BRANCH WHO PROVIDE ADVICE OR INFORMATION TO CLIENTS.***

Mr/Ms .........................................................................................................., in the name and on behalf of *(Name of the third-country IF)*, in the capacity of applicant for authorisation to open a Branch in Spain, in accordance with the obligation laid down in *Article* *25(1) of Directive 2014/65/EU of the European Parliament and of the Council, of 15 May 2014, on markets in financial instruments and amending Directives 2002/92/EC and 2011/61/EU*, hereby**declares** that:

 **1)** The applicant has verified that **2**......................................, in relation to the position of**3**......................................, which he/she is going to discharge at *(Firm name of the Spanish branch of the third-country IF)*, **meets** **the knowledge and competence requirements necessary** for the performance of his/her duties, in accordance with the criteria and terms established in *Technical Guide 4/2017 of CNMV for the assessment of knowledge and competence of the staff providing information and advice*,taking into account the scope and extent of the services to be provided by the Branch, as well as the complexity of the financial instruments on which the proposed candidate will provide information or advice. In particular, the applicant has verified that the training meets the requirements set out in sections:

*Five* (knowledge and competence criteria for *staff who provide information* on investment products, investment services or ancillary services):

YES

*Six* (knowledge and competence criteria for *staff who provide investment advice*):

Not applicable

YES

of said *Technical Guide* and that it meets the minimum period of experience laid down in number 33 thereof.

YES

 **2)** The applicant has verified that**2** ...................................., in relation to the position of**3**......................................, which he/she is going to discharge at the Branch, **does NOT meet the knowledge and competence requirements necessary** for the performance of his/her duties, in accordance with the criteria and terms established in *Technical Guide 4/2017 of CNMV for the assessment of knowledge and competence of the staff providing information and advice*,taking into account the scope and extent of the services to be provided by the Branch, as well as the complexity of the financial instruments on which the proposed candidate will provide information or advice.

It is planned that**2** ......................................., in accordance with section 14 of *Technical Guide 4/2017 of the CNMV*, will provide services under the supervision of an employee who meets the requirements established in section 16 of *Technical Guide 4/2017 of the CNMV* for a maximum period of … years (as per section 34 of the Technical Guide).

YES

 **3)** *(Firm name of the Spanish branch of the third-country IF)* **shall ensure** that the candidate **knows, understands and implements the firm's internal policies and procedures** aimed at ensuring compliance with applicable legal and regulatory requirements and rules of conduct.

YES

 **4)** With respect to the **key staff of the Branch yet to be recruited** *(Firm name of the Spanish branch of the third-country IF)* **shall ensure** that they **possess the necessary knowledge and competence** to meet the legal and regulatory requirements and rules of conduct applicable.

YES

 **5)** The Branch’s compliance department shall take into account the content of *Technical Guide 4/2017 of the CNMV* when evaluating and reviewing the firm's compliance with its duty to ensure that the key staff have the appropriate knowledge and skills and are aware of the firm's internal policies and procedures aimed at guaranteeing compliance with applicable securities market regulations.

YES

In .............................., on ..................................... 20........

Signed: ......................................................................

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**1** Relevant staff of the Branch is understood to be the staff of the firm (including its tied agents) that provide information or advice to clients or potential clients, also considering those staff who provide service to clients with discretionary portfolio management contracts as staff giving advice. Persons responsible for management of the Branch must also be considered to be relevant staff if they are expected to provide information or advice to clients or potential clients

**2** Identify the candidate assessed.

**3** Specify the position and functions or responsibilities that the proposed candidate will assume in relation to the provision of investment advisory services or the provision of information about financial instruments, investment services or ancillary services to clients on behalf of the Spanish branch of the third-country IF.

1. Recast Text of the Spanish Securities Market Act, approved by Spanish Royal Legislative Decree 4/2015, of 23 October. [↑](#footnote-ref-1)
2. Spanish Royal Decree 217/2008, of 15 February, on the legal regime for investment firms and other firms that provide investment services, and partially amending the Regulation of Spanish Law 35/2003, of 4 November, on Collective Investment Schemes, approved by Spanish Royal Decree 1309/2005, of 4 November. [↑](#footnote-ref-2)
3. If authorisation by the competent authority is required, it must be indicated whether or not such authorisation has already been obtained. [↑](#footnote-ref-3)
4. In the case of firms that already have a Branch in Spain, they must also inform of the activity they are already carrying on. [↑](#footnote-ref-4)
5. If the Branch plans to carry on the activity of marketing Collective Investment Schemes (CISs), indicate the type of CIS to be marketed. A description must be given of whether the CISs are Spanish or foreign, whether they are registered for marketing in the CNMV Register, the management company, the form of marketing, and whether global accounts are to be used in the marketing of CISs (in the latter case indicating the identity of the holder of the global accounts). It must also be indicated whether or not the service will involve bringing together two or more investors, thereby bringing about a transaction between those investors; whether transactions will be concluded over-the-counter or at a trading venue, or whether the service will be provided differently according to the type of financial instrument or type of client. [↑](#footnote-ref-5)
6. Including the types of financial instruments and clients, links with other services, method of execution of transactions, indicating the trading venues where they will be executed, if known, and whether the Branch, the firm or another firm belonging to its group will be members, participants or users of such trading venues. [↑](#footnote-ref-6)
7. Indicating the types of financial instruments and clients involved, and whether the firm will have any type of interest or relationship with the financial instruments in which the assets of the managed portfolios are materialised. [↑](#footnote-ref-7)
8. Indicating whether such service will be considered as independent/non-independent or both, whether the use of automated systems, through digital platforms (robo advisors), is planned, and the types of financial instruments and clients involved. [↑](#footnote-ref-8)
9. The amount of the funds available to the branch must not be less than that laid down in Spanish regulations (*Article 15(1) of the Spanish RD on IFs*) depending on the services for which the third-country firm requests authorization. [↑](#footnote-ref-9)
10. If the Branch of the third-country firm is already established in Spain, include a description of the current situation and proposed changes. [↑](#footnote-ref-10)
11. In compliance with the provisions of *Article 220 sexies of the TRLMV*, the assessment by the applicant of compliance by the key staff of the Branch, who provide advice or information to clients, with the knowledge and skill requirements necessary for the performance of their duties, in accordance with the criteria and terms established in *Technical Guide 4/2017 of the CNMV*, must be attached, in accordance with the standard model available as *Annex IV* to this Manual. [↑](#footnote-ref-11)
12. Identify the candidate assessed. [↑](#footnote-ref-12)
13. Specify the position that the candidate will hold at the Branch. [↑](#footnote-ref-13)