

11 May 2022

Update to Clarification Note addressed to MiFID II Investment Firms Operating on a Freedom of Services (FoS) Cross-Border Basis on Conduct-Related Disclosures in the MiFID Firms Quarterly Reporting and Other Important Regulatory Clarifications

Reference is made to the Circular issued on 5 April 2022 providing clarity on MiFID II Investment Firms operating on a Freedom of Services cross-border basis on conduct related disclosures in the MiFID Firms Quarterly Reporting and other important regulatory clarifications.

The MFSA would like to inform Investment Firms that for the purposes of compiling the 'Cross-border activity' tab (previously named as 'Passporting' tab) and the third country clients' information within the 'Additional details' tab in the MFSA MiFID Firms Quarterly Reporting, they are guided to consider the habitual residence of the client, based on the information collected in their client-onboarding process as part of the Know-Your Customer assessment. This clarification is harmonised in line with ESMA's interpretation which can be found in Section 17 of ESMA's Questions and Answers document on *MiFID II and MiFIR investor protection and intermediaries topics*.

Furthermore, the MFSA has included information on its notification procedure for Investment Firms to follow when notifying the MFSA on their cross-border passporting activities in terms of Article 34 of MiFID II.

Investment Firms may refer to the following [link](#) for more information on the updates made to the original Circular.

In case of any queries, please do not hesitate to contact us on: financialpromotion@mfsa.mt.