**Application Form for authorisation as an Investment Firm MiFID II**

Reference number: …………..

Date: ………………………………

FROM:

Name of the applicant:

Address:

(Contact details of the designated contact person)

Name:

Telephone:

E-mail:

TO:

The Netherlands Authority for the Financial Markets

Attn. Asset Management Division, licensing section

Vijzelgracht 50

1017 HS Amsterdam

In accordance with article 2 of the Commission Implementing Regulation (EU) No 2017/1945 laying down implementing technical standards with regard to standard forms, templates and procedures for notification or provision of information provided for in Article 7(5) of Directive 2014/65/EU to ensure uniform conditions of application of Article 7(2), kindly find attached the authorisation application.

• Person in charge of preparing the application:

Name:

Status/position:

Telephone:

E-mail:

• Nature of the application (tick the relevant box):

* Authorisation
* Change to the authorisation already obtained

**CONTENTS**

General information on the applicant firm

The information referred to in article 1 of Delegated Regulation (DR) 2017/1943 must be attached. Please include reference to the relevant enclosures containing the information in the Annex to this form under item 1.

Information on the capital

The information referred to in article 2 of DR 2017/1943 must be attached. Please include reference to the relevant enclosures containing the information in the Annex to this form under item 2.

Information on the shareholders

The information referred to in article 3 of DR 2017/1943 must be attached. Please include reference to the relevant enclosures containing the information in the Annex to this form under item 3.

Information on the management body and persons directing the business

The information referred to in article 4 of DR 2017/1943 must be attached. Please include reference to the relevant enclosures containing the information in the Annex to this form under item 4.

Financial information

The information referred to in article 5 of DR 2017/1943 must be attached. Please include reference to the relevant enclosures containing the information in the Annex to this form under item 5.

Information on the organisation

The information referred to in article 6 of DR 2017/1943 must be attached. Please include reference to the relevant enclosures containing the information in the Annex to this form under item 6.

**Annex[[1]](#footnote-1) 1 General information concerning the firm (as referred to in article 1 of DR 2017/1943[[2]](#footnote-2))**

|  |  |  |
| --- | --- | --- |
| Name legal entity |  |  |
| Trading name(s) |  |  |
| Legal form |  |  |
| Registered office |  |  |
| Registration number in trade register |  |  |
| LEI code (if available) |  |  |
| Address of head office |  |  |
| Postal code and city of head office |  |  |
| Country |  |  |
| PO box |  |  |
| Postal code of the PO box |  |  |
| Country |  |  |
| Telephone |  |  |
| E-mail address |  |  | |
| Website |  |  |

Please tick the appropriate boxes in the matrix belowto indicate which investment services, investment activities, ancillary services and financial instruments to which the licence application relates.

**Investment services and activities[[3]](#footnote-3)**

|  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | **Receipt and transmission of orders for clients** | **Execution of orders for clients** | **Proprietary trading** | **Portfolio management** | **Investment advice** | **Underwriting and/or placement guarantee** | **Placement without guarantee** | **Operation of an MTF** | **Operation of an OTF** |
| **1. Transferable securities** |  |  |  |  |  |  |  |  |  |
| **2. Money-market instruments** |  |  |  |  |  |  |  |  |  |
| **3. Units of collective investment undertakings** |  |  |  |  |  |  |  |  |  |
| **4. Derivatives (other than commodities) with physical or cash delivery** |  |  |  |  |  |  |  |  |  |
| **5. Commodity derivatives with cash settlement** |  |  |  |  |  |  |  |  |  |
| **6. Commodity derivatives with physical delivery traded on a platform** |  |  |  |  |  |  |  |  |  |
| **7. Commodity derivatives with physical delivery other than 6.** |  |  |  |  |  |  |  |  |  |
| **8. Credit risk derivatives** |  |  |  |  |  |  |  |  |  |
| **9. Contracts for differences** |  |  |  |  |  |  |  |  |  |
| **10. Other derivatives contracts** |  |  |  |  |  |  |  |  |  |
| **11. Emission allowances** |  |  |  |  |  |  |  |  |  |

**Ancillary services[[4]](#footnote-4)**

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
|  | **Safekeeping and administration of financial instruments** | **Provision of loans when providing investment service** | **Advice on capital structure and business strategy** | **Foreign exchange services** | **Research or financial analysis of investments** | **Services relating to underwriting** | **Derivatives services with respect to instruments falling under 5, 6, 7 and 10.** |
| **1. Transferable securities** |  |  |  |  |  |  |  |
| **2. Money-market instruments** |  |  |  |  |  |  |  |
| **3. Units of collective investment undertakings** |  |  |  |  |  |  |  |
| **4. Derivatives (other than commodities) with physical or cash delivery** |  |  |  |  |  |  |  |
| **5. Commodity derivatives with cash settlement** |  |  |  |  |  |  |  |
| **6. Commodity derivatives with physical delivery traded on a platform** |  |  |  |  |  |  |  |
| **7. Commodity derivatives with physical delivery other than 6.** |  |  |  |  |  |  |  |
| **8. Credit risk derivatives** |  |  |  |  |  |  |  |
| **9. Contracts for differences** |  |  |  |  |  |  |  |
| **10. Other derivatives contracts** |  |  |  |  |  |  |  |
| **11. Emission allowances** |  |  |  |  |  |  |  |

Does the firm apply the following work practices:

* Systematic internalisation;
* Offering of direct electronic access;
* The application of a system of high-frequency algorithm trading;
* The operation of an SME growth market

|  |  |  |
| --- | --- | --- |
| Does the firm have other branches in the Netherlands?   * If yes, please indicate alongside the locations at which these branches are or will be operating * No |  |  |
| Does the firm intend to work with tied agents?   * If yes, please give details alongside * No |  |  |

**Annex 2 Information concerning capital (as referred to in article 2 of DR 2017/1943)**

|  |  |  |  |
| --- | --- | --- | --- |
| ***The AFM requests you to indicate where the following information is included.*** |  | ***This information is included in the following enclosure(s) (please state the name(s) of the enclosure(s) and the relevant page numbers below):*** | |
| the use of private financial resources (see article 2(a) DR 2017/1943) |  |  |
| access to capital sources and financial markets (see article 2(b) DR 2017/1943) |  |  |
| information on the use of borrowed funds (see article 2(d) DR 2017/1943) |  |  |
| the means of transferring financial resources to the firm (see article 2(e) DR 2017/1943) |  |  |
| relevant agreements and contracts (see article 2(c) DR 2017/1943) |  | The following agreements and contracts are enclosed (please state the name(s) of the enclosure(s) here): | |

**Annex 3 Information concerning shareholders (as referred to in article 3 of DR 2017/1943)**

|  |  |  |
| --- | --- | --- |
| Have you sent the applications for a declaration of no objection to DNB?   * Yes * No |  |  |
| If not, please indicate which applications have not been sent and the reason. |  |  |

**Annex 4: Information concerning members of the management body (as referred to in article 4 of DR 2017/1943)**

|  |  |  |  |
| --- | --- | --- | --- |
| ***The AFM requests you to indicate where the following information is included.*** |  | ***This information is included in the following enclosure(s) (please state the name(s) of the enclosure(s) and the relevant page numbers below):*** | |
| a description of financial and non-financial interests or relationships of the person and his/her close relatives to members of the management body and key function holders in the same institution, the parent institution and subsidiaries and shareholders (see article 4 (a) (ix) DR 2017/1943) |  |  |
| details of the result of any assessment of the suitability of the members of the management body, performed by the applicant itself (see article 4 (a) (x) DR 2017/1943) |  |  |
| information on the minimum time to be devoted to functions within the firm, as referred to in article 4 (a) (xi) DR 2017/1943  Time to be devoted is defined in particular as the time required by this function when compared to other functions/activities at other companies or organisations. |  |  |
| information on human and financial resources devoted to induction and training (see article 4 (a) (xii) DR 2017/1943) |  |  |
| A list of the staff of the internal management and control bodies (see article 4 (b) DR 2017/1943) |  |  |

**Annex 5 Financial information (as referred to in article 5 of DR 2017/1943)**

|  |  |  |  |
| --- | --- | --- | --- |
| ***The AFM requests you to indicate where the following information is included.*** |  | ***This information is included in the following enclosure(s) (please state the name(s) of the enclosure(s) and the relevant sections or page numbers below):*** | |
| forecast information at an individual and, where applicable, at consolidated group and sub-consolidated levels (see article 5(a) DR 2017/1943) |  |  |
| for companies that are already active, financial statements, at an individual and, where applicable, at consolidated group and sub-consolidated levels for the last three financial periods, approved, where the financial statements are audited, by the external auditor (see article 5(b) DR 2017/1943) |  |  |
| an analysis of the scope of consolidated supervision under Regulation (EU) No 575/2013 (see article 5(c) DR 2017/1943) |  |  |

**Annex 6 Information on the Organisation of the firm (as referred to in article 6 of DR 2017/1943)**

|  |  |  |
| --- | --- | --- |
| ***The AFM requests you to indicate where the following information is included.*** |  | ***This information is included in the following enclosure(s) (please state the name(s) of the enclosure(s) and the relevant sections and page numbers here):*** |
| details of the firm’s auditors (see article 6 (b) DR 2017/1943) |  |  |
| the organisational structure and internal control systems (see article 6(c) DR 2017/1943), consisting of 6(c)(i) to (iv)) |  |  |
| the information relating to the investor compensation scheme (see article 6(d) DR 2017/1943) |  |  |
| a list of outsourced functions, services or activities (see article 6(e) DR 2017/1943) |  |  |
| measures relating to identify and to prevent and manage conflicts of interest and a description of the product governance arrangements (see article 6(f) DR 2017/1943) |  |  |
| a description of the monitoring systems (see article 6(g) DR 2017/1943)  AML/Policy: a description of the way the applicant complies with the Money Laundering and Terrorist Financing (Prevention) Act (Wwft)  Sanction Policy: a description of the way the applicant complies with the Sanctions Act (Sw). |  |  |
| information on the compliance, internal control and risk management systems (see article 6(h) DR 2017/1943) |  |  |
| information on the systems for assessing and managing the risks of money laundering (see article 6(i) DR 2017/1943) |  |  |
| business continuity plans (see article 6(j) DR 2017/1943) |  |  |
| policies relating to record management, record retention and record-keeping (see article 6(k) DR 2017/1943) |  |  |
| *a description of the other relevant processes, procedures and measures (see article 6(h) DR 2017/1943)*  This may for instance concern the following: It may be the case that a standard does not apply, for instance if you are engaged solely in proprietary trading and the standard relates to clients. The standards are described mainly in DR 2017/565[[5]](#footnote-5), but also in other regulations, such as the Wft[[6]](#footnote-6), BGfo[[7]](#footnote-7) and other delegated regulations. The firm must determine what standards apply. Several requirements that occur frequently are included below. This list is not intended to be exhaustive.  Among other things, the description must show that the applicant has implemented all the necessary measures in order to meet the statutory requirements. Among other things, this concerns: |  |  |
| *General organisational requirements and senior management (see articles 21, 25 DR 2017/565)* |  |  |
| *Internal risk functions (see articles 22-24 DR 2017/565)* |  |  |
| *Complaints handling (see article 26 DR 2017/565)* |  |  |
| *Remuneration policy (see article 27 DR 2017/565)* |  |  |
| *Personal transactions (see articles 28, 29 DR 2017/565)* |  |  |
| *Outsourcing (see articles 30-32 DR 2017/565)* |  |  |
| *Conflicts of interest (see article 33-35 DR 2017/565)* |  |  |
| *Client categorisation (see article 45 DR 2017/565)* |  |  |
| *Information to clients (see article 46-49 DR 2017/565)* |  |  |
| *Cost and charges (see article 50 and 51 DR 2017/565)* |  |  |
| *Suitability and appropriateness (see article 54-58 DR 2017/565)* |  |  |
| *Reporting to clients (see article 59-63 DR 2017/565)* |  |  |
| *Best execution (see article 64-66 DR 2017/565)* |  |  |
| *Client order handling (see Articles 67-70 DR 2017/565)* |  |  |
| *Retention of records (see Articles 72-76 DR 2017/565)* |  |  |
| *Segregation of assets (see Section 4:87 and 4:87a Wft in conjunction with article 165-165g BGfo in conjunction with Sections 7:14-7:20 NRGfo[[8]](#footnote-8))* |  |  |
| *Product governance (see articles 32a-c BGfo and 9-10 DR 2017/593)* |  |  |
| *Inducements (see articles 11-13 DR 2017/593)* |  |  |
| *When providing investment advice (see articles 52-53 DR 2017/565)* |  |  |
| *When issuing or placements of financial instruments (see articles 38-43 DR 2017/565)* |  |  |
| *When operating an MTF or OTF (see article 80-83 DR 2017/565)* |  |  |
| *When operating an MTF or OTF (see article 77-79 GV 2017/565)* |  |  |
| Other regulations may also be relevant. Examples: |  |  |
| *Further requirements in relation to algorithmic trading are described (see DR 2017/589)* |  |  |
| *Further requirements in relation to market making are described (see DR 2017/578)* |  |  |
| *Further requirements in relation to transparency are described (see DR 2017/583 and 587)* |  |  |
| *Requirements in relation to the trading obligation are described (see DR 2016/2020)* |  |  |

If you intend to execute transactions yourself, a statutory trade reporting obligation to the AFM applies. The AFM has a system for this purpose, TRS, with specific technical requirements. More information is available on the AFM website [www.afm.nl](http://www.afm.nl).

**Annex 7: Additional rules for applications for a licence to operate an MTF or OTF.**

The (additional) rules for an MTF/OTF have been largely included in Implementing Regulation (EU) 2016/824[[9]](#footnote-9). DR 2017/584 is also very important to an application for an OTF. The manner in which this information is to be provided is prescribed in Implementing Regulation 2016/824. See below for the format. You may provide it in a separate table.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Relevant operator on whose behalf the application is submitted | Relevant Article of Implementing Regulation 2016/824 | Document reference number | Title of the document | Chapter, part or page of the document in which the information is provided or reasons why the information is not provided. |
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**Annex 8: Cross-border services**

|  |  |  |
| --- | --- | --- |
| Do you intend to provide or perform cross-border investment services or activities?   * If so, please answer the questions below * No |  |  |
| Does your investment firm wish to provide investment services or perform investment activities in EEA countries?   * Yes * No   If yes, please add the Cross-Border Services notification form to this licence application (Section 2:129 Wft[[10]](#footnote-10)). |  |  |
| Does your investment firm wish to establish a branch office in an EEA country?   * Yes * No   If so, add the Branch Office notification form to this licence application (see article 2:127 Wft) |  |  |
| Does your investment firm wish to make use of a tied agent in an EEA country?   * Yes * No   If so, add the European Passport with Tied Agent notification form to this licence application (see article 2:129 Wft) |  |  |

**Annex 9. List of members of the management body**

FROM:

Name of the applicant:

Address:

(Contact details of the designated contact person)

Name:

Telephone:

E-mail:

TO:

The Netherlands Authority for the Financial Markets

Attn. Asset Management Division, licensing section

Vijzelgracht 50

1017 HS Amsterdam

Dear Madam/Sir

In accordance with Article 2 of the Commission Implementing Regulation (EU) 2017/1945 laying down implementing technical standards with regard to standard forms, templates and procedures for notification or provision of information provided for in Article 7(5) of Directive 2014/65/EU to ensure uniform conditions of application of Article 9(5), kindly find attached the notification request.

* Person in charge of preparing the application:

Name:

Status/position:

Telephone:

Email

Date:

Signature:

**List[[11]](#footnote-11) of members of the management body**

**Member 1**

Name

Contact details

Position

Professional experience or other relevant experience

Educational qualification and relevant training

List of executive and non executive directorships in other entities

Effective date:

*(Please set out that information here or provide an explanation of how it will be provided, or make reference to relevant annexes containing the information)*

**Member 2**

Name

Contact details

Position

Professional experience or other relevant experience

Educational qualification and relevant training

List of executive and non executive directorships in other entities

Effective date:

*(Please set out that information here or provide an explanation of how it will be provided, or make reference to relevant annexes containing the information)*

**Checklist**

Please tick the appropriate boxes to indicate which documents are enclosed with your licence application.

* The articles of association or the incorporation documents of the firm.
* Copy of the firm’s registration at the Chamber of Commerce.
* Notification form prospective appointment with related enclosures on each person to be assessed.
* Integrity screening form with related enclosures on each person to be assessed.
* “Oath or solemn affirmation” of the persons in charge of day-to-day policy.
* "Suitability matrix" for the investment firm's day-to-day policy makers.
* “Suitability matrix” for the investment firm's supervisors.
* If already in operation, the financial statements audited by an external auditor for the three years prior to submission of the licence application.
* For companies in formation and companies that have been incorporated that are not yet active an opening balance sheet with an audited statement that the prudential requirements are satisfied.
* Forecasts concerning the capital position: minimum equity and solvency (3-year horizon) and other documents as referred to in article 5 (a-c) DR 2017/1943.
* Details of the capital position and figures and of any loans issued to or by the firm.
* Relevant agreements and contracts in relation to the capital raised and in relation to any loans. Details of specific clauses such as subordination clauses.
* List of direct and indirect shareholders, with participation amounts, percentages of shareholdings and types of shares held.
* Organisational diagram for each shareholder forming part of a group. If the group includes firms subject to supervision, please state the relevant supervisory agency.
* If the applicant forms part of a group: an organisational chart of the group with the main activities of each firm within the group, the identification of all regulated entities within the group and the names of the relevant regulatory authorities as well as the relationship between the financial entities of the group and the other non-financial entities of the group.
* If the holder of a qualified participation is not a natural person, the documentation must also concern all members of the management body and the managing director or the sole other person who performs similar tasks.
* A business plan that complies with article 6 (a) DR 2017/1943, including financial forecasts for the next three years.
* A description of the business operations, including the processes and safeguards of these within the firm. It may be the case that a standard does not apply, for instance if the firm is engaged solely in proprietary trading and the standard relates to clients. In this case, the standard can be ignored.
* Cross-border Services notification form.
* Branch Office notification form.
* Tied agent notification form.

The following documents are enclosed in addition to the documents indicated above (please list below):

**Explanation**

It is in the interests of both the applicant and the supervisor that applications are correct and complete. The AFM has accordingly supplemented the application form with several annexes giving further details of the requirements that must in any case be addressed in the case of a licence application. This list is not exhaustive, and since all the requirements have not yet been established it may be subject to change. You should therefore always consult the most recent regulation. You may also engage an adviser with experience of MiFID or other licence applications. This does not release you from your own obligation to be aware of the requirements that applicants must meet. You are responsible for compliance with the legislation and regulation applying to you or your firm.

The guideline for MiFID II licence applications, which provides practical explanations of the process, guidance and reference to the regulations, is also available.

We wish to ask for your attention to the following notes on a number of points.

Explanation of matrices with investment services, investment activities, supplementary services and financial instruments

The matrices contain a summary of the relevant text in Annex I to MiFID II. For the full text, the AFM refers you to [the text of MiFID II, Annex I](http://eur-lex.europa.eu/legal-content/NL/TXT/PDF/?uri=CELEX:32014L0065&from=EN)

Auditor’s statement

An auditor’s statement is requested as evidence that the requirements of Section 3:53 Wft and 3:57 Wft have been met. Under Section 3:53 Wft, every investment firm must have a certain minimum equity. The amounts for the various licence categories are stated in Section 48 Prudential Rules (Financial Supervision Act) Decree (Bpr). In addition, Section 3:57 Wft provides that investment firms must have sufficient solvency. This concerns investment firms within the meaning of the Capital Requirements Regulation (EU) no. 575/2013 and investment firms to which Article 95 paragraph 2 of the Regulation applies, which provide investment services or perform investment activities in the Netherlands. As indicated in Section 59 (3) Bpr, the solvency of an investment firm is sufficient if the available regulatory capital of the firm complies with the applicable capital requirements from part 3 of the Capital Requirements Regulation.

The Audit Firms (Supervision) Act (*Wet toezicht accountantsorganisaties*, or Wta) has been in force since 1 October 2006. Under the Wta, only licensed audit firms may issue an auditor’s statement with regard to the financial statements of investment firms, management companies, depositaries and collective investment schemes. The AFM’s register of audit firms may be consulted to determine whether an audit firm has obtained a licence under the Wta.

Persons to be assessed

There are three functions on the basis of which persons must be assessed. These are persons in charge of day-to-day policy, supervisors and co-policymakers.

The AFM qualifies only natural persons as persons in charge of day-to-day policy, supervisors and co-policymakers. All these roles may be fulfilled via legal entities, in which case the policymakers (natural persons) of the legal entity are considered to be the persons referred to in Sections 4:9 and/or 4:10 Wft. It may be that a legal entity is director of the above-stated legal entity. Ultimately the underlying natural persons must be stated here.

We also wish to draw your attention to the following:

1. In order to submit a licence application, the applicant must use the established licence application form and provide the required enclosures with this form.
2. You must complete and save the application form and the Annex (with appendices). You can then upload this document as an attachment to the Investment Firm Licence Application service. You can also upload the remaining requested enclosures here.
3. A fee is charged by the AFM to the applicant for making the application. An invoice will follow some time after submission of the application.
4. The AFM will only process a licence application if the licence application form is fully completed and legally signed on behalf of the applicant.
5. A completed and signed “Properness Check form”, a “Referees form”, a Notification Form and an “Oath or solemn affirmation” must also be submitted for the persons to be assessed. These documents are available at the same web location as this application form. As regards the day-to-day policymakers and regulatory authorities, a suitability matrix per collective has to be sent in as well. For more information about the suitability assessment and the properness check, see the explanation on the AFM website.
6. The AFM is entitled to request additional information and/or documentation needed for the assessment of the licence application.
7. If circumstances as stated in the licence application form change during the licence application process, the AFM must be informed of this in writing without delay.

If you have any questions when completing this form, please contact the Business Desk, by telephone on 0800-6800680 (available on business days from 10:00 to 17:00 hours) or by e-mail to ondernemersloket@afm.nl.

**Signature**

|  |
| --- |
| The undersigned[[12]](#footnote-12) declare that this application form and the enclosed attachments are truthful and complete.  Place Date  Name of person in charge of day-to-day policy Signature of person in charge of day-to-day policy |

1. It is important that the AFM and DNB have the correct information in order to process the application. Please therefore complete these annexes, which will give you a better idea of the requirements for an application. [↑](#footnote-ref-1)
2. Delegated Regulation of the Commission of 14 July 2016 in addition to Directive 2015/65/EU of the European Parliament and the Council relating to regulatory technical standards with respect to information and requirements for the granting of a licence to investment firms [↑](#footnote-ref-2)
3. We refer to Annex I to Directive 2014/65/EU for a full description of the investment services and activities as well as the financial instruments. [↑](#footnote-ref-3)
4. We refer to Annex I to Directive 2014/65 for a full description of the ancillary services as well as the financial instruments. [↑](#footnote-ref-4)
5. The Delegated Regulation supplementing Directive 2014/65/EU of the European Parliament and the Council in relation to the safeguarding of financial instruments and funds belonging to clients, product governance obligations and the rules applicable to the provision or reception of fees, commissions or any monetary or non-monetary benefits. [↑](#footnote-ref-5)
6. Wft is the Dutch Act on financial supervision. [↑](#footnote-ref-6)
7. BGfo is the Dutch Decree on conduct of business supervision. [↑](#footnote-ref-7)
8. NRGfo refers to the Dutch regulation on business conduct rules for financial enterprises. [↑](#footnote-ref-8)
9. Implementing Regulation EU 2016/824 of the Commission of 25 May 2016 laying down implementing technical standards with regard to the content and format of the description of the functioning of multilateral trading facilities and organised trading facilities and the notification to the European Securities and Markets Authority according to Directive 2014/65/EU of the European Parliament and of the Council on markets in financial instruments. [↑](#footnote-ref-9)
10. The Dutch Financial Supervision Act [↑](#footnote-ref-10)
11. If you have more than 2 members of the management body, you can provide this information in a separate list. [↑](#footnote-ref-11)
12. At least one of the persons in charge of day-to-day policy must sign this application form for a licence to operate an investment firm MiFID II. [↑](#footnote-ref-12)