

# New investment firm legislation post-Brexit

## Sweden adopt legislation allowing cross-border investment services under MiFID II from UK investment firms after Brexit.

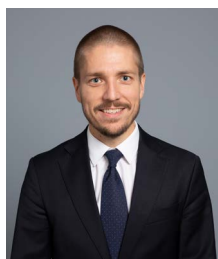
Taking a hard Brexit into consideration and UK investment firms losing their passporting rights under the EU regime, the Swedish Parliament has adopted legislation which allows UK investment firms to continue providing EU passported services from the date of Brexit until the end of the year 2021.

The legislative framework on passporting services for investment firms are found in Chapter 2, Section 1 and Chapter 4, Section 1 of the Swedish Securities Market Act (*Sw. lag (2007:528) om värdepappersmarknaden*). These provisions have their basis in article 34 and 35 of the Markets in Financial Instruments Directive (2014/65/EU, the “**MiFID II**”) concerning the right for investment firms domiciled outside Sweden but within the European Economic Area (the “**EEA**”) to operate in Sweden, based on a firm’s authorisation in its home jurisdiction. Article 39 in MiFID II, which is implemented in Chapter 4, Section 4 of the Swedish Securities Market Act, also regulates the right for third country investment firms outside of the EEA to operate in Sweden by establishing a branch in Sweden. Further, articles 46 and 47 of the Markets in Financial Instruments Regulation ((EU) No 600/2014, the “**MiFIR**”) gives power to the European Commission to adopt decisions concerning third countries, enabling investment firms domiciled in such countries to provide services to professional clients and eligible counterparties within the EU without having to establish a branch.

After Brexit the UK will become a third country under MiFID II and MiFIR which will affect UK investment firms operating in Sweden. In the Government bill presented on 7 February 2019, the Swedish Government refers to problems post-Brexit concerning OTC derivatives agreements concluded pre-Brexit to be considered as new agreements, which may trigger an obligation to apply for a new authorisation that will have negative impact for Swedish customers having UK counterparties for its OTC derivatives agreements. For this reason, the Swedish Government bill presents an exemption in the new Section 10 in Chapter 4 of the Swedish Securities Market Act which allows UK investment firms that are operating, as per 29 March 2019, with an EU passport in Sweden to continue providing their services until the end of the year 2021.

The Government bill was adopted in the Swedish Parliament on 13 March 2019 and will enter into force on 29 March 2019. Any new services that UK investment firms provide will though have to be approved by a separate authorisation.

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