


	France 	Germany 	Italy 	Netherlands 	Spain 	Portugal 	UK 
1. Cross-border activities that trigger license requirements							
Physical presence of employees (albeit not on a permanent basis)	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Soliciting potential clients	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Actually conducting financial services (e.g. signing contracts, accepting orders, giving advice)	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Providing client relationship services (post conclusion of the relevant contractual agreements)	No*	No*	No ("grey" area)*	Yes	No ("grey" area)*	No ("grey" area)*	Pure client relationship management should not, but arranging the exercise of contractual rights may trigger licence requirement
Advertising of financial services cross-border in public media (including Internet) or through mass mailing	Yes	Yes	Yes	Yes	Yes	Yes	Yes
General branding, image advertising	No**	No**	No**	Yes	Yes	No**	No**
Sponsoring (cultural, athletic, political) events	No***	No***	No***	No***	No***	No***	No***
Accessibility of website from your jurisdiction without an IP-filter	No****	No****	No****	Yes	No****	No****	No****


* Provided that the client has taken the initiative of contacting the institution and no new financial services are rendered and, in the case of Italy, that the relationship services are strictly necessary to perform the agreements in compliance with the principles of reverse solicitation.








** Provided that advertising does not refer to specific services / financial products (no "direct" marketing / only creating of "brand awareness") or, in the case of Spain, the advertising is not related to a public offering of securities or financial instruments/banking products.

*** Provided that no clients are solicited during the event / financial services are rendered or, in the case of Spain, the advertising is not related to a public offering of securities or financial instruments/banking products.








**** Unless due to specific characteristics of the website it constitutes solicitation of clients.


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Has a passive freedom of services exemption ("reverse solicitation") been recognized?	No	Yes, but scope rather limited	Yes, but very limited scope	Yes ("initiative test"), but very limited scope	Yes, but only as one of the criteria to determine whether services are provided in Spain	Yes, but scope rather limited	Yes, although scope is limited and subject to conditions
Requirements of reverse solicitation exemption / comments	Banking license is required insofar as regulated activities are carried out in France. Criteria for determining whether a transaction is carried out in France include, inter alia, place of effective use of funds.	Service must have been requested by a client domiciled in Germany on its own initiative. Client's initiative must be genuine. Exemption only applies if services are provided on a cross-border basis (i.e. not on German territory).	(i) The client's autonomous and unsolicited initiative; (ii) the client travelling to the territory of the credit institution/investment firm; (iii) no activities are carried out by the credit institution/investment firm outside their home country; and (iv) negotiation and execution of agreements governed by local law (not Italian law) in the home country of the credit institution/investment firm.	"Initiative test" only explicitly recognized for investment services. Initiative test cannot be relied upon if there has been preceding marketing activity by the firm targeting the Dutch market.	If provision of service has been initiated by the client, such service may be considered to be provided outside of Spain (i.e. would not trigger Spanish license requirements). However, solicitation test only used by Spanish National Securities Exchange Commission (not by the Bank of Spain).	Exemption not expressly mentioned in Portuguese law. However, no license requirements are triggered with regard to services provided on a cross-border basis by a foreign entity if such service has been requested by a client domiciled in Portugal on its own initiative. The client's initiative must be genuine. Exemption only applies if services are provided on a cross-border basis (i.e. not on Portuguese territory).	An "overseas person" exemption allows the provision of limited cross-border investment services in the UK, provided that (i) service provision follows reverse solicitation from a UK domiciled person (or other legitimate approach) and/or (ii) any dealing arrangements are made, or carried out, through a third party authorised in the UK.
2. Cross-border license							
Is there a special cross-border license available for third country firms?	No	No	Yes	No (but third country investment firm may request a dispensation from certain requirements)	Yes	No	No
Requirements for obtaining license	N/A	N/A	Requirements include, inter alia, (i) the submission of a business plan; (ii) certificate of the home regulator	N/A	Prior authorization must be granted by the Bank of Spain/CNMV, respectively, by indicating which kind	N/A	N/A








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			<p>confirming the financial soundness / suitability of the credit institution/investment firm</p> <p>(iii) equivalence of the third country regime</p> <p>(iv) cooperation agreements between the Italian and the home country authorities;</p> <p>(v) reciprocity conditions in the home and host countries.</p>		<p>of activities will be provided on cross-border basis. The Bank of Spain/CNMV, respectively, will be entitled to request additional information or grant authorization only upon fulfilment of additional requirements.</p>		
3. License for branches							
Are there special licensing requirements for branches?	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Requirements for obtaining license	Comparable to full license	Comparable to full license	Requirements of cross-border license apply; further conditions include (i) payment of an endowment fund of at least €10 million, and (ii) commitment to adhere to a deposit guarantee scheme (with regard to credit institutions).	Requirements (relating to credit institutions) include, inter alia, (i) suitability / integrity of (co) policy makers; (ii) minimum number of persons determining the daily policies of the branch, (iii) controlled and sound business operations; (iv) prudential supervision in the home state; (v) minimum capital, solvability and	For credit institutions, inter alia, the following requirements apply: (i) Minimum share capital of €18 million; (ii) certain limitation regarding the permitted activities / corporate purpose (iii) properness of internal organisation / internal control procedures - compliance with capital requirements that would apply to a Spanish credit institution (this requirement may be	In addition to the information and documentation which is typically provided for the establishment of branches of institutions based in other EU Member States, this authorisation request must be supported by (i) evidence of possibility of the branch ensuring the safety of funds entrusted to it, as well as the sufficiency of technical means and financial resources regarding the type and amount of transactions	Comparable to a full licence.

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				liquidity requirements (requirements comparable to full license).	alleviated if the parent house assumes certain undertakings).	it intends to carry out, (ii) indication of geographical location projected for the branch, (iii) projected accounts for each of the first three years of activity of the branch, and (iv) declaration of commitment to deposit the allocated capital	
Additional Comments (exceptions available etc.)	French Prudential Control and Resolution may grant exceptions relating to certain regulatory requirements (general licensing requirement continue to apply).	The Federal Ministry of Finance may under certain requirements grant exemptions by way of an Ordinance relating to certain regulatory requirements (including licensing requirements). To date, the Federal Ministry of Finance has granted exemptions relating to specific regulatory requirements for branches of credit institutions domiciled in the USA, Japan as well as Australia.*		Third country investment firm may request a dispensation from certain requirements (see above)			Generally possible to obtain authorisation for a third country branch only where it will carry on wholesale (non-retail) activities and is not of systemic importance. Regulatory attitude generally more favourable towards subsidiary models.
4. Exemptions from License Requirements							
Is there a specific exemption available to provide services without a license?	No	Yes	No	Yes	No	No	Yes (the “overseas person” exemption described above)

* However, these exemptions only relate to specific regulatory requirements such as own fund requirements (general licensing requirements continue to apply).

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Does the exemption only apply to financial services provided cross-border or also to services provided while being physically present in the territory?	N/A	Only on a cross-border basis	N/A	Both on a cross-border basis and while being physically present	N/A	N/A	Only on a cross-border basis
Does the exemption relate to the applicability of banking or financial services law (implementing CRD IV, MiFID) in general or to individual requirements (such as licensing, own funds, large exposure, corporate governance requirements) specifically?	N/A	Only individual requirements	N/A	Only individual requirements	N/A	N/A	Both, although any local requirements in the third country will apply.
Does the exemption also apply to the applicability of AML-requirements?	N/A	No	N/A	No	N/A	N/A	Yes, although any local requirements in the third country will apply.
Does the exemption only apply to certain groups of clients (e.g. professional clients, institutional clients) or subject to certain other requirements (e.g. use of local introducing agent)?	N/A	Yes With regard to private clients the transaction must be brokered through a German licensed institution / EEA institution under the European passport. Following initiation of the client, future transactions can generally be conducted directly with the client.	N/A	No, but type of client is relevant. Exemption from license requirements for investment firms established in Australia, USA and Switzerland available (certain ongoing obligations continue to apply). Exemption generally also applies to credit institutions from third countries which only wish to render investment services on a cross-border basis.	N/A	N/A	No, although the scope of the exemption is limited (as described above and is more straightforward to rely upon if the clients are institutional / professional only). Often the exemption effectively relies on the involvement in the transaction of a UK authorised firm.

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5. Booking Centers							
Is it possible to introduce a third country firm/bank as contractual counter-party and booking center via a properly licensed agent in your jurisdiction without triggering license requirements for the booking entity?	No ("grey" area)	No ("grey" area)	No	No	No	No	Yes, in principle, subject to appropriate structuring.
Additional Comments	N/A	As a general rule, introduction of a third country firm as a booking center is only possible upon the client's request and initiative. "Grey" area in particular with regard to existing client relationships.	If the non-EU credit institution/investment firm sets up an Italian distribution network or cooperates with an Italian-based entity to acquire new clients, the activities carried out by the Italian entity on behalf of the foreign entity would be considered performed by the foreign entity. In such a case the latter must be duly authorised to promote and offer banking/investment services in Italy.	If the booking entity is rendering the financial services, license requirements will in principle be triggered.	According to the Spanish Securities Market Act, investment firms need to hold a licence and be registered with the CNMV in order to provide investment services, regardless such services are provided directly by the investment firm or indirectly through a licensed agent.	If the booking entity is rendering the financial services, license requirements will in principle be triggered.	Dependent on contractual arrangements but, in principle, it is possible for a UK authorised firm to enter into riskless principal (back to back) arrangements whereby a third country firm is used as a booking centre. Important to ensure that the third country firm does not hold itself out to the public market in such trades.
6. Sanctions and Enforcement in case of a violation of the cross-border rules							
Criminal offence	Yes, up to 3 years of imprisonment or criminal fine of up to €375,000	Yes, up to 5 years of imprisonment or criminal fine for individuals	Yes, imprisonment or criminal fine	Yes, up to 2 years of imprisonment (4 years in case of repeated offence), community punishment order or fine	No	Yes, up to 5 years of imprisonment (if the violation concerns taking deposits or other repayable funds from the public without due authorisation)	Yes, up to two years of imprisonment and an unlimited fine (plus potential liability for customer redress payments).

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Administrative offence	Yes, inter alia administrative fine of up to €100 million	Yes, inter alia administrative fine of the firm of up to €10 million	Yes, inter alia administrative fine ranging between €5,000 and €5 million	Yes, inter alia administrative fine, in principle up to €5million or 10% of the turnover of the past financial year	Yes, inter alia administrative fines or revocation of license	Yes, inter alia administrative fine ranging between €10,000 and €5,000,000. If the economic gain doubled is more than the maximum amount of the applicable fines referred to above, then the highest value shall prevail.	Yes, inter alia regulatory fines unlimited. Generally calculated by reference to the size of the relevant business and any detriment to customers.
Invalidity of contract	No	Yes, depending on nature of the service / violation of the cross-border rule	Yes	No	No	No	Yes, contracts made through an unauthorised person are unenforceable against the counterparty unless determined otherwise by a court.
Potential civil law damage claims of client	Yes	Yes	Yes	Yes	Yes	Yes	Yes
What is the general attitude of your regulator when it comes to compliance with cross-border licensing requirements?	Neutral	Aggressive (possibly more tolerant with regard to institutional clients)	Rigorous	Aggressive	Rigorous	Aggressive (possibly more tolerant with regard to institutional clients)	Reasonably aggressive.