

Prudential requirements of investment firms

2017/0359(COD) - 05/12/2019 - Final act

PURPOSE: to establish a proportionate and risk-based European prudential framework for investment firms.

LEGISLATIVE ACT: Regulation (EU) 2019/2033 of the European Parliament and of the Council on the prudential requirements of investment firms and amending Regulations (EU) No 1093/2010, (EU) No 575/2013, (EU) No 600/2014 and (EU) No 806/2014.

CONTENT: the Regulation is part of a package of measures (comprising a Regulation and a [Directive](#)) establishing a new regulatory framework for investment firms.

Investment firms are financial institutions whose main business is to hold and manage securities and derivatives for investment purposes on behalf of their clients. Until now all investment firms have been subject to the same capital, liquidity and risk management rules as banks. However, the Capital Requirements [Regulation](#) and [Directive](#) (CRR/CRD IV) do not take full account of the specificities of investment firms.

Harmonised prudential requirements

The Regulation lays down uniform prudential requirements and supervisory measures adapted to the risk profile and business model of investment firms, while ensuring financial stability. To this end, the Regulation establishes:

- own fund requirements relating to quantifiable, uniform and standardised elements of risk-to-firm, risk-to-client and risk-to-market;
- requirements limiting concentration risk;
- liquidity requirements relating to quantifiable, uniform and standardised elements of liquidity risk;
- public disclosure requirements.

An effective and proportionate prudential framework

The requirements that investment firms shall be required to apply will vary according to their size, nature and complexity:

- investment firms providing bank-type services, such as proprietary trading, with consolidated assets exceeding EUR 15 billion shall automatically fall under CRR/CRD IV;
- however, competent authorities may decide to apply the requirements of the Regulation and the Capital Requirements Directive (CRR/CRD IV) to investment firms which provide bank-like activities and whose total consolidated assets exceed EUR 5 billion, in particular where the size of the firm or its activities is likely to give rise to systemic risk;
- small firms which are not considered systemic shall benefit from a new adapted regime with specific prudential requirements. Non-connected small investment firms are defined as those which (i) do not deal on own account, (ii) do not hold assets or client funds, (iii) have assets under discretionary or non-

discretionary management (advisory services) of less than EUR 1.2 billion, (iv) handle daily client orders of less than EUR 100 million for cash transactions or less than EUR 1 billion for derivatives, (v) have a balance sheet of less than EUR 100 million, including off-balance sheet items, and (vi) have total annual gross revenues from their investment activities of less than EUR 30 million.

Competent authorities may allow banking requirements to continue to apply to certain undertakings on a case-by-case basis in order to avoid disrupting their business model. This option shall be accompanied by a safeguard measure to prevent regulatory arbitrage.

In addition, it provides for a transitional period of 5 years in order to give companies sufficient time to adapt to the new regime.

Remuneration policies

The Regulation requires investment firms to publish a range of information about their remuneration policy and practices, including elements relating to non-discrimination between women and men, for those categories of staff whose professional activities have a significant impact on the risk profile of the investment firm.

Environmental and social risks

The European Banking Authority (EBA), after consulting the European Systemic Risk Board, shall assess whether a specific prudential treatment of assets exposed to activities closely related to environmental or social objectives would be justified from a prudential point of view.

The EBA shall submit a report on its findings to the European Parliament, the Council and the Commission by 26 December 2021 at the latest. On the basis of this report, the Commission shall, if appropriate, present a legislative proposal to the European Parliament and the Council.

Third countries

The Regulation strengthens the equivalence regime that shall apply to third country investment firms. It sets out some of the requirements for them to access the single market and confers additional powers on the Commission. In particular, the Commission shall be responsible for assessing the capital requirements applicable to firms providing bank-like services to ensure that they are equivalent to those applicable in the EU.

ESMA shall temporarily prohibit or restrict the provision of investment services or the exercise of investment activities where the third country firm has failed to comply with any of the prohibitions or restrictions imposed by ESMA or EBA or to cooperate with an investigation or on-site inspection.

ENTRY INTO FORCE: 25.12.2019.

APPLICATION: from 26.6.2021.