# Prudential supervision of investment firms

2017/0358(COD) - 05/12/2019 - Final act

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

LEGISLATIVE ACT: Directive (EU) 2019/2034 of the European Parliament and of the Council on the prudential supervision of investment firms and amending Directives 2002/87/EC, 2009/65/EC, 2011/61/EU, 2013/36/EU, 2014/59/EU and 2014/65/EU.

CONTENT: the Directive 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.

***Prudential supervisory measures***

The Directive lays down prudential requirements and supervisory measures adapted to the risk profile and business model of investment firms while safeguarding financial stability. To this end, it lays down rules on

- the initial capital of investment firms;

- supervisory powers and tools for the prudential supervision of investment firms by competent authorities;

- the prudential supervision of investment firms by competent authorities in a manner that is consistent with the rules set out in Regulation (EU) 2019/2033;

- publication requirements for competent authorities in the field of prudential regulation and supervision of investment firms.

***An effective and proportionate prudential framework***

Investment firms shall be subject to the same key measures, in particular as regards capital holdings, reporting, corporate governance and remuneration, but the requirements they shall be required to apply will vary according to their size, nature and complexity:

- investment firms that provide bank-like services, such as proprietary trading, and whose consolidated assets exceed 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-type 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.

Competent authorities shall ensure that investment firms have strategies and processes in place to assess and maintain the adequacy of their internal capital. They shall require non-interconnected small investment firms to apply similar requirements where appropriate.

***Internal Governance***

Investment firms shall have robust governance arrangements, including all of the following:

- a clear organisational structure with welldefined, transparent and consistent lines of responsibility;

- effective processes to identify, manage, monitor and report the risks that investment firms are or might be exposed to, or the risks that they pose or might pose to others;

- adequate internal control mechanisms, including sound administration and accounting procedures;

- remuneration policies and practices that are consistent with and promote sound and effective risk management. The principle of equal pay for men and women workers for equal work or work of equal value shall be applied consistently by investment firms.

***Environmental, social and governance (ESG) objectives***

The European Banking Authority (EBA) shall prepare a report on the introduction of technical criteria related to exposures to activities closely linked to environmental, social and governance (ESG) objectives for the supervisory review and evaluation process of risks, with a view to assessing the possible sources and effects of these risks on investment firms.

No later than 26 June 2024, the Commission shall submit a report to the European Parliament and the Council, accompanied where appropriate by a legislative proposal taking into account the EBA report, on whether ESG risks should be taken into account for the internal governance of an investment firm.

***Third countries***

The Commission shall submit recommendations to the Council for the negotiation of agreements between the Union and third countries for the practical exercise of supervision of compliance with the group capital test for investment firms, the parent undertakings of which are established in third countries, and for investment firms operating in third countries the parent undertakings of which are established in the Union.

In addition, Member States and the EBA shall conclude cooperation agreements with third countries for the purpose of carrying out their supervisory tasks.

ENTRY INTO FORCE: 25.12.2019.

TRANSPOSITION AND APPLICATION: from 26.6.2021.