



Banc Ceannais na hÉireann  
Central Bank of Ireland

Eurosystem

Consultation Paper CP135  
**Consultation on Competent  
Authority Discretions in the  
Investment Firms Directive and the  
Investment Firms Regulation**

January 2021

## Contents

<b>Overview.....</b>	<b>3</b>
<b>Context.....</b>	<b>3</b>
<b>Consultation responses .....</b>	<b>11</b>
<b>Section I: Application of the CRD regime to Investment Firms .....</b>	<b>12</b>
<b>Section III: Assessment of Internal Capital and Liquid Assets .....</b>	<b>16</b>
<b>Section IV: K-Factor Adjustment .....</b>	<b>18</b>
<b>Section V: Amendments to the Central Bank Investment Firms Regulations.....</b>	<b>19</b>

## Overview

1. This consultation paper signals the Central Bank of Ireland's (the Central Bank's) proposed approach and perspectives in relation to provisions contained within the Investment Firms Directive (IFD)<sup>1</sup> and Investment Firms Regulation (IFR),<sup>2</sup> where the competent authority can or must exercise its discretion. This consultation paper thus encompasses competent authority discretions that apply to MiFID investment firms<sup>3</sup> following the entry into force of the IFD/ IFR.

## Context

2. The activities of investment firms are governed at EU-level by the Markets in Financial Instruments Directive (MiFID II). In addition, EU investment firms are subject to distinct rules on how they should account for their risks. These prudential rules aim to ensure that investment firms are managed in an orderly way and in the best interests of their clients and have sufficient resources to remain financially viable and not cause undue economic harm to their customers.
3. The current prudential rules for investment firms are part of the wider EU prudential framework which also applies to credit institutions. Currently, the requirements are set out in Directive 2013/36/EU and Regulation (EU) No 575/2013 on capital requirements for credit institutions and investment firms (also known as "CRD IV/CRR").
4. On 15 December 2015, the European Banking Authority (EBA) published a report on investment firms<sup>4</sup> recommending to provide for a distinction between investment firms for which the CRD IV/CRR regime provides appropriate

---

<sup>1</sup> Directive (EU) 2019/2034 of the European Parliament and of the Council of 27 November 2019 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

<sup>2</sup> Regulation (EU) 2019/2033 of the European Parliament and of the Council of 27 November 2019 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.

<sup>3</sup> For the purposes of this paper, investment firm means an investment firm as defined in point (1) Article 4(1) of Directive 2014/65/EU ("MiFID II").

<sup>4</sup> [EBA-Op-2015-20 Report on Investment Firms](#)

prudential requirements and investment firms for which those requirements are not appropriate. This report also proposed that a specific prudential regime should be designed for the vast majority of investment firms which should be more calibrated to the risks they pose to their customers and to markets with specific considerations for small and non-interconnected firms.

5. In March 2017, the European Commission published an inception impact assessment<sup>5</sup> providing an overview of the shortcomings with the current regulatory framework for investment firms, outlining possible solutions and inviting stakeholders to give their feedback. This assessment found that some investment firms are largely exempt from prudential regulation, some are subject to varying combinations of lighter prudential rules, and others are subject to the full rulebook. The overall conclusion being that, in contrast to credit institutions, the rules for the majority of investment firms are not fit for purpose.
6. In December 2017, the European Commission proposed a review of the prudential rules for investment firms. The aim of this review was to simplify requirements applicable to smaller investment firms, while keeping the largest, systemic investment firms under the same regime as European banks.
7. In April 2019, the European Parliament endorsed the legislation setting out the building blocks of a capital markets union, including revised legislation for investment firms.
8. The IFD and IFR were adopted by the Council of the EU on 23 October 2019 and were published in the Official Journal of the European Union on 5 December 2019 and entered into force on 25 December 2019. The IFD and the IFR are applicable from 26 June 2021. The Central Bank expects all investment firms to have begun considering the impact the IFD and the IFR will have on them and to have commenced preparations to ensure that they can comply with the regime from 26 June 2021.

---

<sup>5</sup> [European Commission Inception impact assessment - Ares\(2017\)1546878](#)

## Key Aims of IFD and IFR

9. The revised legislation for investment firms (IFD/IFR) will ensure more proportionate rules and better supervision for all investment firms across capital, liquidity and other risk management requirements. It should also ensure a level-playing field between large and systemic financial institutions: investment firms that carry out bank-like activities and pose similar risks to credit institutions will be subject to the same rules and supervision as credit institutions. On the other hand, simpler and less risky investment firms will benefit from a fully revised rulebook more tailored to their business models.

10. Therefore, the IFD and IFR will:

- Simplify compliance for Europe's investment firms, supporting them in mediating investment flows between savers and economic actors.
- Help EU supervisors oversee the activities and risks posed by investment firms.

## Application of IFD and IFR

11. The IFD/IFR will apply to investment firms from 26 June 2021 with the exception of:

- Large systemically relevant investment firms (with consolidated assets equal to or greater than EUR 30 billion) which engage in “bank-like” activities and services, (dealing on own account and underwriting on a firm commitment basis<sup>6</sup>) which, due to the similarity in their business model and risk profile, will be reclassified as credit institutions and will be subject to the prudential requirements set out under CRD IV/CRR (**Class 1 firms**).

---

<sup>6</sup> Points (3) and (6) of Section A of Annex 1 of MiFID II.

- Smaller investment firms that engage in bank-like activities that will remain authorised as investment firms under MiFID II but that have business models and risk profiles that are similar to those of credit institutions and therefore may be subject to the prudential requirements under CRD due to their size (consolidated assets equal to or greater than EUR 15 billion) or at the discretion of the competent authority where consolidated assets are equal to or greater than EUR 5 billion (**Class 1 minus firms**) and
- Investment firms that are included in consolidated supervision under CRD that have requested and received permission from the relevant NCA to continue to apply the CRD regime.

12. Investment firms that come under the IFD/IFR regime are authorised under MiFID II and can be classified as:

- Small and non-interconnected investment firms (**Class 3 firms**) that do not hold client assets and do not meet specific quantitative thresholds are required to meet a reduced prudential regime. These firms will be required to hold minimum own funds based on the higher of their Permanent minimum capital requirement (PMR)<sup>7</sup> or their Fixed overhead requirement (FOR); or
- All other investment firms (**Class 2 firms**) which must meet the new prudential regime under IFD/IFR and hold minimum own funds based of the higher of their PMR; FOR; or new “K-factor” own funds requirement - a directly proportional capital requirement based on the specific risks investment firms face and risks they pose to customers and markets.

## Transposition and Implementation

13. The IFD, as an EU Directive, will require transposition at national level and certain competent authority discretions arise therein. The Department of

---

<sup>7</sup> Under the IFD/IFR the PMR is set equal to the Initial Capital Requirement (ICR), effectively setting the ICR as the minimum capital required.

Finance is responsible for arranging transposition of IFD which must be completed by 26 June 2021. The IFR, as an EU Regulation, becomes directly applicable from 26 June 2021<sup>8</sup> and will not necessitate transposition. Nonetheless, a number of competent authority discretions also arise within IFR.

14. Following consideration of feedback received through this consultation process, it is the Central Bank's intention to publish an 'Implementation of NCA Discretions in IFD/IFR' Regulatory Notice'. The Central Bank intends to issue this implementation document by end June 2021. The Central Bank's confirmed approach towards the exercise of competent authority discretions will be set out in this implementation document.

15. Please note that separately, certain parts of CRDIV/CRR are being amended by Directive (EU) 2019/878 (CRDV) and Regulation (EU) 2019/876 (CRR II) which were published in the Official Journal of the EU on 7 June 2019 and entered into force on 27 June 2019. These legislative changes will result in several changes to the national competent authority discretions and options currently set out in the Implementation of Competent Authority Options and Discretions in the European Capital (Capital Requirements) Regulations 2014 and Regulation (EU) No 575/2013 December 2018<sup>9</sup>. These changes will be subject to a separate consultation process during 2021. This consultation process will be relevant to those firms that will/may be considered Class 1 and Class 1 minus. Following consideration of feedback received through that separate consultation process, it is the Central Bank's intention to publish an updated Implementation Regulatory Document for CRDIV/CRR which is currently not expected to be relevant for Class 2 and Class 3 investment firms.

---

<sup>8</sup> With the exception of Points (2) and (3) of IFR Article 63 that apply from 26 March 2020 and point (3) of Article 62 that applies from 25 December 2019.

<sup>9</sup> <https://www.centralbank.ie/docs/default-source/regulation/industry-market-sectors/credit-institutions/regulatory-requirements/implementation-of-competent-authority-discretions-and-options-in-crd-iv-and-crr.pdf?sfvrsn=8>

## Implications of European Supervisory Authority Outputs

16. It should be noted that the implementation of the competent authority discretions identified in this paper will, in many cases, be subject to binding technical standards (BTS) developed by the EBA and the European Securities and Markets Authority (ESMA); which will further specify or calibrate requirements stipulated under IFD and IFR. Upon adoption by the European Commission, BTSs enter into force as legally binding EU regulations. Therefore, investment firms are obliged to adhere to all such regulations.

17. The EBA is also mandated to issue guidelines, in consultation with ESMA, under certain provisions of IFD and IFR. Additionally, the EBA has a Q&A tool on its website to promote consistent application of IFD and IFR<sup>10</sup>.

18. The Central Bank expects investment firms to adhere to EBA and ESMA outputs where these are applicable to them. Accordingly, investment firms should carefully consider regulations and guidance from the EBA and ESMA, issued to date and to monitor any additional regulations and guidance as they emerge.

## The Central Bank's Statutory Powers and Responsibilities

19. In determining its proposed approach towards the exercise of competent authority discretions arising within IFD and IFR, the Central Bank has had due regard to its statutory powers and responsibilities<sup>11</sup>; including its objective to prevent potential serious damage to the financial system in the State, to support the stability of that system and to protect the users of financial services<sup>12</sup>.

## Scope/Structure of this Consultation Paper

20. The manner in which certain key discretions contained in IFD/IFR are exercised impacts the supervisory approach to be applied by the Central Bank and will

---

<sup>10</sup> EBA, Single Rulebook and Q&A <https://eba.europa.eu/single-rule-book-qa>

<sup>11</sup> See, e.g., *Central Bank Acts 1942-2013*; *Central Bank (Supervision and Enforcement) Act 2013* (No 26 of 2013).

<sup>12</sup> *Central Bank Reform Act 2010* (No 23 of 2010).

have a fundamental impact on firms' preparation for the new regime. Therefore the Central Bank recognises the importance of setting out how it intends to exercise the discretions on a timely basis.

21. This consultation document is only concerned with the national discretions that are available to the 'competent authority' (i.e. the Central Bank) in IFD and IFR. For the avoidance of doubt, the Central Bank considers that a discretion typically arises where a provision allows a competent authority to implement or not to implement a particular approach.

22. In considering its position on the IFD and IFR discretions, the Central Bank has been guided by the following general principles:

- To adopt a prudent approach to the steady-state provisions;
- To choose the more risk sensitive option, where one is identified; and
- To be consistent and transparent in the intended approach, and the reasoning behind it.

23. Where relevant the onus is on an investment firm to apply for a particular discretion. Each investment firm should also reapply for the continued application of discretions on a case-by-case basis where the relevant conditions relevant to the exercise of them have changed. Investment firms must apply separately for each of these, which can be achieved by way of itemising each discretion sought on the same application to the Central Bank.

24. Key discretions discussed in this paper relate to the prudential regime that will apply to larger investment firms to ensure such firms are subject to appropriate prudential requirements and to the application of the new liquidity risk requirements and requirements relating to the assessment of internal capital of smaller investment firms. Discretions specifically related to the practical implementation of the new prudential regime for investment firms are also discussed.

25. This consultation paper does not purport to offer an exhaustive account of all provisions under IFD and IFR and should not be interpreted as such. The application of remuneration-related discretions is not included pending feedback from the Department of Finance on the proposed treatment of the Member State discretions in this area.

26. For further information, and avoidance of doubt, investment firms are encouraged to consult the IFD and IFR texts directly, as well as relevant accompanying guidance and/or publications issued by, for instance, the EBA and the European Commission.

27. Sections I to IV present the Central Bank’s proposed approaches towards certain key competent authority discretions in the following areas:

- Section I: Application of the CRD regime to Investment Firms
- Section II: Liquidity Requirements
- Section III: Assessment of Internal Capital and Liquid Assets
- Section IV: K-Factor Adjustment

28. Certain discretions set out in the IFD/IFR mirror or are materially the same as those in the CRDIV/CRR and a consistent or equivalent treatment to that already in place is proposed. These discretions are not discussed in the body of this paper but are included in the list of the competent authority discretions in Appendices 1 and 2.

**Question 1: Do you have any comments on the manner in which the Central Bank’s proposes to exercise the discretions set out in Appendices 1 and 2?**

29. Section V of this paper outlines proposed amendments to the Central Bank Investment Firms Regulations<sup>13</sup> as result of the entry into force of IFD/IFR.

---

<sup>13</sup> S.I. No. 604 of 2017 Central Bank (Supervision and Enforcement) Act 2013 (Section 48(1)) (Investment Firms) Regulations 2017.

## Consultation responses

30. The Central Bank invites all stakeholders to provide comments on the proposals outlined within this consultation paper.

31. Please make your submissions electronically by email to [invfirmpolicy@centralbank.ie](mailto:invfirmpolicy@centralbank.ie).

Responses should be submitted no later than **26 March 2021**.

32. It is the policy of the Central Bank to publish all responses to its consultations. As all responses will be made available on our website, commercially confidential information should not be included in consultation responses. We will send an email acknowledgement to all responses sent by email. If you do not receive an acknowledgement, please contact us on +353 224 6000.

**Markets Policy Division  
Central Bank of Ireland  
14 January 2020**

## Section I: Application of the CRD regime to Investment Firms

### Investment Firms with consolidated assets between EUR 5 billion and EUR 15 billion

33. Under Article 5(1)(a) and (b) of the IFD competent authorities may decide to apply the requirements of the CRR to investment firms dealing on own account or underwriting on a firm commitment basis where the total value of the consolidated assets of the investment firm is equal to or exceeds EUR 5 billion and:

- a) the investment firm's activities are of such a scale that the failure or the distress of the investment firm could lead to systemic risk<sup>14</sup>; or
- b) the investment firm is a clearing member that offers its clearing services to other financial sector entities which are not clearing members themselves.

34. It is the Central Bank's view that where investment firms meet the criteria set out in Article 5(1)(a) and/or (b) of the IFD (as specified by the thresholds set out in Article 1 of the draft regulatory technical standards developed by the EBA in conjunction with ESMA) such investment firms carry out activities on such a scale that the failure or the distress of the investment firm could have a detrimental impact on financial stability which, given its level of interconnectedness with the overall financial system, could lead to systemic risk. Therefore the Central Bank is proposing to exercise this discretion on a case-by-case basis taking into account the criteria set out in Article 5(1)(a) and/or (b) of the IFD and the thresholds set out in the relevant regulatory technical standard.

35. Additionally under Article 5(1)(c) a competent authority may apply the CRR regime to an investment firm with consolidated assets between EUR 5 and EUR 15 billion where it considers it to be justified in light of the size, nature, scale and

---

<sup>14</sup> The draft RTS sets out that the activities of an investment firm are considered to be on such a scale that the failure or distress of the investment firm could lead to systemic risk where the total notional value of non-centrally cleared OTC derivatives exceeds EUR 50 billion; the total value of financial instruments underwriting and/or placing of financial instruments on a firm-commitment basis exceeds EUR 5 billion; the total value of granted credits or loans to investors to allow them to carry out transactions exceeds EUR 5 billion and the total value of debt securities outstanding exceeds EUR 5 billion.

complexity of the investment firm’s activities taking into account the principle of proportionality and (i) the importance of the investment firm for the economy of the Union or the relevant Member State and/or (ii) the significance of the investment firm’s cross border activity and/or (iii) the interconnectedness of the investment firm with the wider financial system.

36. The Central Bank proposes to exercise this competent authority discretion to apply the CRR to other investment firms on a case-by-case basis should it consider this justified in light of the size, nature, scale and complexity of the activities of the investment firm concerned.

Question 2: Do you have any comments on the Central Bank’s proposal to exercise the discretion to apply the requirements of the CRR to investment firms on a case-by-case basis as outlined above?

### Investment firms included in consolidated supervision under CRDIV

37. Under Article 1(5) of the IFR, NCAs may allow an investment firm dealing on own account or underwriting on a firm commitment basis that would otherwise be subject to the IFD/IFR on an individual basis and that is included in the consolidated supervision of a credit institution, a financial holding company or a mixed financial holding company under CRR to continue to apply the prudential requirements of CRR. This is provided it has (i) notified both the supervising NCA and the consolidating supervisor as required and (ii) the NCA is satisfied that the application of the CRD/CRR prudential requirements does not result in a reduction of the own funds of the investment firm or is not undertaken for regulatory arbitrage purposes.

38. The Central Bank is proposing to exercise this discretion on a case-by-case basis where the appropriate notification is received by the Central Bank and the Central Bank is satisfied, based on its assessment of the information received from the firm, that the application of CRDIV/CRR to the investment firm on an individual basis will not result in a reduction in the individual Own Funds requirement for the investment firm, that the risks associated with the

particular business model of the firm are adequately addressed by the CRD/CRR regime and that the application of the CRD/CRR regime is not undertaken for the purpose of regulatory arbitrage.

**Question 3: Do you have any comments on the Central Bank’s proposal to exercise this discretion to allow investment firms included in consolidated supervision under CRR to apply the CRR regime on a case-by-case basis?**

## Section II: Liquidity Requirements

39. Non-systemic investment firms<sup>15</sup> were previously exempt from the liquidity requirements under the CRR. The IFD/IFR regime introduces a minimum liquidity requirement for investment firms whereby firms are required to hold a minimum of one third of their fixed overhead requirement (FOR) in liquid assets at all times. The aim of the liquidity requirement is to ensure that investment firms can function in an orderly manner over time, without the need to set aside liquidity specifically for times of stress.

### Exemption from Individual Liquidity Requirements when subject to Consolidated Supervision

40. Under Article 6(3) of the IFR, competent authorities can exempt investment firms from the application of the liquidity requirements on an individual basis where they are part of a banking or investment firm group subject to consolidated supervision and :

- i. the parent monitors the liquidity position of the group on a consolidated basis;

---

<sup>15</sup> Non-systemic investment firms are currently defined as all investment firms not deemed to be systemic by the Central Bank. The Central Bank has previously indicated that it will deem an investment (MiFID) firm to be systemic if it:

- Is, or will be, identified as a G-SII or an O-SII in accordance with Part 6, Chapter 4 of the CRD Regulations; and/or
- Forms part of a group which is a non-EU G-SII, meaning a global systemically important banking group (G-SIB) that is included in the list of G-SIBs published by the Financial Stability Board, as regularly updated; and/or
- Is, or will be, designated as Higher Impact under the Central Bank’s Probability Risk and Impact System (PRISM); and/or
- Is, or will be, designated as ‘significant’ by the Central Bank in accordance with Regulation 64(5) of the CRD Regulations.

- ii. the parent and the investment firm have entered into contracts that, to the satisfaction of the competent authority, allow for free movement of funds;
- iii. there is no current or foreseen practical impediment to the fulfilment of such contracts and
- iv. the consolidated supervisor agrees.

41. The Central Bank proposes that this discretion is exercised on a case-by-case basis where it is satisfied, based on its assessment of information received from the firm, that all conditions outlined under IFR Article 6(3) are met.

Question 4: Do you have any comments on the Central Bank’s proposal to exempt investment firms subject to consolidated supervision from the application of the liquidity requirements on a case-by-case basis where the Central Bank is satisfied that all relevant conditions have been met?

### Exemption from Liquidity Requirements for Class 3 firms

42. Under IFR Article 43(1) NCAs may exempt Class 3 firms from the requirement to hold at least one third of their FOR in liquid assets.

43. It is important for all investment firms to hold a minimum amount of liquid assets to support their resilience. Taking into account that the IFR introduces additional flexibility regarding what can be considered a liquid asset for Class 3 investment firms<sup>16</sup> the Central Bank does not consider the liquidity requirements set out in Article 43 of the IFR overly burdensome for investment firms. Therefore, the Central Bank is proposing not to exercise this discretion on a general basis.

44. The EBA in consultation with ESMA will issue guidelines specifying the criteria which competent authorities are to take into account when exempting Class 3 investment firms from the liquidity requirement. These guidelines will be taken

---

<sup>16</sup> Class 3 firms may include receivables from trade debtors and fees or commissions receivable in the next 30 days in their liquid assets when they account for up to a third of the minimum liquidity requirement, are not used towards any other liquidity requirement required by the competent authority and a 50% haircut is applied.

into account where the Central Bank exercises this discretion on a case-by-case basis in exceptional circumstances.

Question 5: Do you have any comments on the Central Bank’s proposal, taking into account the guidelines to be issued by the EBA, to only exercise the discretion to exempt Class 3 firms from the requirement to hold one third of their FOR in liquid form on an exceptional basis?

### Exemption from Consolidated Liquidity Requirements

45. Under Article 7(4) of the IFR, NCAs can exempt a Union parent investment firm, a Union parent investment holding company or a Union parent mixed financial holding company from complying with the liquidity requirements on the basis of their consolidation situation taking into account the nature, scale and complexity of the investment firm group.

46. The Central Bank proposes to exercise this discretion on a case-by-case basis taking into account the nature, scale and complexity of the investment firm group provided that all investment firms within the group apply the liquidity requirements on an individual basis.

Question 6: Do you have any comments on the Central Bank’s proposal to exercise this discretion to exempt investment firms from the application of the consolidated liquidity requirements on a case-by-case basis?

## Section III: Assessment of Internal Capital and Liquid Assets

47. Under the IFD/IFR regime Class 2 firms must have processes in place to assess the amount and type of own funds and liquid assets they should hold to cover the type and amount of risk they might pose to others or which they may face themselves. This is known as the internal capital adequacy assessment process and internal risk assessment process and assists an investment firm to identify

the risks of harm to clients and markets and the controls in place to minimise these risks.

***Requirement for Class 3 firm to perform an assessment of internal capital and liquid assets***

48. Under IFD Article 24(2) NCAs can require Class 3 firms to assess and maintain internal capital and liquid assets which are adequate in quantity, quality and distribution to cover the nature and level of risks which they may pose to others and to which the investment firms themselves are or might be exposed on an ongoing basis.

49. The Central Bank considers it good practice to require all investment firms to review their own risks and ensure they have adequate capital and liquidity regardless of their size. Firms that pose less risk and/or have very simple business models can establish less complex review processes but given the diverse scale and range of activities undertaken by investment firms it is important that all investment firms should review and manage the specific risks they pose to others and to which they may be exposed regardless of their size.

50. Therefore, the Central Bank is proposing to exercise this discretion and require all Class 3 investment firms to perform an assessment of internal capital and liquid assets to ensure they have adequate capital to cover the nature and level of risks they may post to others or to which they may be exposed.

Question 7: Do you have any comments on the Central Bank's proposal to require all Class 3 firms to perform an assessment of internal capital and liquid assets?

## Section IV: K-Factor Adjustment

### Adjustment of K-Factors

51. Under the IFD/IFR Class 2 firms are required to calculate their own funds by reference to a set of K-factors which are proxies designed to capture investment firms risk to Clients<sup>17</sup>, risk to Market<sup>18</sup> and risk to Firm<sup>19</sup>. The calculation is based on the rolling average of a volume of activity over the period specified.

52. Under Articles 15, 17, 18, 19, 20 and 33 of the IFD, competent authorities may replace missing historical data points in relation to a specific K-factor component where there is a material change in the business model of the firm and full data to support the calculation of a K-factor own funds requirement is not available.

53. These discretions are technical in nature and allow for the smooth implementation of the IFD/IFR regime. The Central Bank proposes to exercise these discretions on a case-by-case basis where there is a material change to the business model of a Class 2 firm that results in missing data for a particular period. Replacement of missing data points will be based on business projections of the investment firm submitted to support the material change in business activities.

Question 8: Do you have any comments on the Central Bank's proposal to exercise this discretion and to replace missing historical data points based on business projections of an investment firm?

<sup>17</sup> Level of Assets under Management and on-going advice; Assets Safeguarded and Administered and Client Money Held.

<sup>18</sup> Net Position Risk based on the rules for market risk for positions in financial instruments.

<sup>19</sup> Trading counterparty default and concentration risk which constitute a simplified application of the counterparty credit risk and large exposures risk set out in the CRR.

## Section V: Amendments to the Central Bank Investment Firms Regulations<sup>20</sup>

54. Regulation 8 of the Central Bank Investment Firms Regulations sets out general reporting requirements for investment firms<sup>21</sup>. The general reporting requirements applicable to a particular investment firm currently depend on whether the investment firm is subject to the CRD, is authorised for own account trading and/or underwriting on a firm commitment basis and whether it applies Article 96(1) of the CRR.

55. Given the entry into force of the IFD/IFR regime, the Central Bank has deemed it necessary to amend Regulation 8 and the associated Annex to align reporting requirements with the classification of investment firms under the IFD/IFR. Details of these proposed amendments to Regulation 8 of the CBI IFR and the Schedule of Reporting Requirements are set out in Appendix 3<sup>22</sup>.

**Question 9: Do you have any comments on the Central Bank's proposed amendments to the Central Bank Investment Firms Regulations as outlined in Appendix 3 of this consultation paper?**

---

<sup>20</sup> Note this proposal is independent of the proposed amendments to the Central Bank Investment Firms Regulations set out in CP 133 (Consultation on enhancements to the Central Bank Client Asset Requirements, as contained in the Central Bank Investment Firms Regulations)

<sup>21</sup> General Reporting Requirements include inter alia submission of annual accounts, management accounts and the ICCL report which are not included in the reports submitted under the IFD/IFR regime.

<sup>22</sup> Only relevant parts of the Central Bank Investment Firms Regulations have been extracted and included in Appendix 3.

## **Appendix 1 – Key Competent Authority Discretions in IFD**

IFD reference	Text of Article	Area	Proposed Treatment	Comment
<p><b>Article 5 (1)</b>  <b>Discretion of competent authorities to subject certain investment firms to the requirements of Regulation (EU) 575/2013</b></p>	<p>1.Competent authorities may decide to apply the requirements of Regulation (EU) No 575/2013 pursuant to point (c) of the first subparagraph of Article 1(2) of Regulation (EU) 2019/2033 to an investment firm that carries out any of the activities listed in points (3) and (6) of Section A of Annex I to Directive 2014/65/EU, where the total value of the consolidated assets of the investment firm is equal to or exceeds EUR 5 billion, calculated as an average of the previous 12 months, and one or more of the following criteria apply:</p> <p>(a) the investment firm carries out those activities on such a scale that the failure or the distress of the investment firm could lead to systemic risk;</p> <p>(b) the investment firm is a clearing member as defined in point (3) of Article 4(1) of Regulation (EU) 2019/2033;</p> <p>(c) the competent authority considers it to be justified in light of the size, nature, scale and complexity of the activities of the investment firm concerned, taking into account the principle of proportionality and having regard to one or more of the following factors:</p> <p>(i) the importance of the investment firm for the economy of the Union or of the relevant Member State;</p> <p>(ii) the significance of the investment firm’s cross-border activities;</p> <p>(iii) the interconnectedness of the investment firm with the financial system.</p>	<p>Application of CRD to Certain Investment Firms</p>	<p>Maintain discretion to be exercised on a case-by-case basis.</p>	<p>See Section I</p>
<p><b>Article 24 (2)</b>  <b>Internal Capital and Liquid Assets</b></p>	<p>2. The arrangements, strategies and processes referred to in paragraph 1 shall be appropriate and proportionate to the nature, scale and complexity of the activities of the investment firm concerned. They shall be subject to regular internal review.</p> <p>Competent authorities may request investment firms which meet the conditions for qualifying as small and non- interconnected investment firms set out in Article 12(1) of Regulation (EU) 2019/2033 to apply the requirements provided for in this Article to the extent that the competent authorities deem it to be appropriate.</p>	<p>Capital and Liquidity</p>	<p>Exercise discretion and apply generally to all Class 3 firms.</p>	<p>See Section III</p>
<p><b>Article 55 (3)</b>  <b>Assessment of third-country supervision and other supervisory techniques</b></p>	<p>3.The competent authority which would be the group supervisor had the parent undertaking been established in the Union may, in particular, require the establishment of an investment holding company or mixed financial holding company in the Union and apply Article 7 or 8 of Regulation (EU) 2019/2033 to that investment holding company or mixed financial holding company.</p>	<p>Supervision</p>	<p>Maintain discretion to be exercised on a case-by-case basis.</p>	<p>This is similar to Article 127 of CRD IV and will continue to be applied on a case-by-case basis.</p>

## **Appendix 2 – Key Competent Authority Discretions in IFR**

IFR reference	Text of Article	Area	Proposed Treatment	Comment
<p><b>Article 1 (5)</b> <b>Subject matter and scope</b></p>	<p>5. By way of derogation from paragraph 1, competent authorities may allow an investment firm authorised and supervised under Directive 2014/65/EU that carries out any of the activities referred to in points (3) and (6) of Section A of Annex I to Directive 2014/65/EU to apply the requirements of Regulation (EU) No 575/2013 where all of the following conditions are fulfilled:</p> <p>(a) the investment firm is a subsidiary and is included in the supervision on a consolidated basis of a credit institution, a financial holding company or a mixed financial holding company, in accordance with the provisions of Chapter 2 of Title II of Part One of Regulation (EU) No 575/2013;</p> <p>(b) the investment firm notifies the competent authority under this Regulation and the consolidating supervisor, if applicable;</p> <p>(c) the competent authority is satisfied that the application of the own funds requirements of Regulation (EU) No 575/2013 on an individual basis to the investment firm and on a consolidated basis to the group, as applicable, is prudentially sound, does not result in a reduction of the own funds requirements of the investment firm under this Regulation, and is not undertaken for the purposes of regulatory arbitrage.</p> <p>Competent authorities shall inform the investment firm of a decision to allow the application of Regulation (EU) No 575/2013 and Directive 2013/36/EU pursuant to the first subparagraph within two months from the receipt of a notification referred to in point (b) of the first subparagraph of this paragraph, and shall inform EBA thereof. Where a competent authority refuses to allow the application of Regulation (EU) No 575/2013 and Directive 2013/36/EU, it shall provide full reasons. Investment firms referred to in this paragraph shall be supervised for compliance with prudential requirements under Titles VII and VIII of Directive 2013/36/EU, including for the purposes of the determination of the consolidating supervisor where such investment firms belong to an investment firm group as defined</p>	<p>Application of CRR to Certain Investment Firms</p>	<p>Maintain discretion to be exercised on a case-by-case basis following formal request by the relevant investment firm.</p>	<p>See Section I</p>

	<p>in point (25) of Article 4(1) of this Regulation. For the purposes of this paragraph, Article 7 of Regulation (EU) No 575/2013 shall not apply.</p>			
<p><b>Article 6 (1) (2) (3)</b> <b>Exemptions</b></p>	<p>1. Competent authorities may exempt an investment firm from the application of Article 5 in respect of Parts Two, Three, Four, Six and Seven, where all of the following conditions apply: (a) the investment firm meets the conditions for qualifying as a small and non-interconnected investment firm set out in Article 12(1); (b) one of the following conditions is satisfied: (i) the investment firm is a subsidiary and is included in the supervision on a consolidated basis of a credit institution, a financial holding company or a mixed financial holding company, in accordance with the provisions of Chapter 2 of Title II of Part One of Regulation (EU) No 575/2013; (ii) the investment firm is a subsidiary and is included in an investment firm group supervised on a consolidated basis in accordance with Article 7; (c) both the investment firm and its parent undertaking are subject to authorisation and supervision by the same Member State; (d) the authorities competent for the supervision on a consolidated basis in accordance with Regulation (EU) No 575/2013 or in accordance with Article 7 of this Regulation agree to such an exemption; (e) own funds are distributed adequately between the parent undertaking and the investment firm, and all of the following conditions are satisfied: (i) there is no current or foreseen material practical or legal impediment to the prompt transfer of capital or repayment of liabilities by the parent undertaking; (ii) upon prior approval by the competent authority, the parent undertaking declares that it guarantees the commitments entered into by the investment firm or that the risks in the investment firm are of negligible interest; (iii) the risk evaluation, measurement and control procedures of the parent undertaking include the investment firm; and (iv) the parent undertaking holds more than 50 % of the voting rights attached to shares in the capital of the investment firm or has the right to appoint or remove a majority of the members of the investment firm’s management body.</p>	<p>Exemptions</p>	<p>Maintain discretion to be exercised on a case-by-case basis following formal request by the relevant investment firm.</p>	<p>Article 6(1) mirrors Article 7 of the CRR which has been exercised on a case-by-case basis.</p> <p>Article 6(2) is a similar discretion but applies to Insurance groups.</p> <p>Article 6(3) is discussed in Section II of this paper.</p>

	<p>2.Competent authorities may exempt investment firms from the application of Article 5 in respect of Part Six where all of the following conditions apply: (a) the investment firm meets the conditions for qualifying as a small and non-interconnected investment firm set out in Article 12(1);</p> <p>(b) the investment firm is a subsidiary and is included in the supervision on a consolidated basis of an insurance or reinsurance undertaking in accordance with Article 228 of Directive 2009/138/EC;</p> <p>(c) both the investment firm and its parent undertaking are subject to authorisation and supervision by the same Member State;</p> <p>(d) the authorities competent for the supervision on a consolidated basis in accordance with Directive 2009/138/EC agree to such an exemption;</p> <p>(e) own funds are distributed adequately between the parent undertaking and the investment firm and all of the following conditions are satisfied:</p> <p>(i) there is no current or foreseen material practical or legal impediment to the prompt transfer of capital or repayment of liabilities by the parent undertaking;</p> <p>(ii) upon prior approval by the competent authority, the parent undertaking declares that it guarantees the commitments entered into by the investment firm or that the risks in the investment firm are of negligible interest;</p> <p>(iii) the risk evaluation, measurement and control procedures of the parent undertaking include the investment firm; and</p> <p>(iv) the parent undertaking holds more than 50 % of the voting rights attached to shares in the capital of the investment firm or has the right to appoint or remove a majority of the members of the investment firm’s management body.</p> <p>3.Competent authorities may exempt investment firms from the application of Article 5 in respect of Part Five where all of the following conditions are satisfied: (a) the investment firm is included in the supervision on a consolidated basis in accordance with Chapter 2 of Title II of Part One of Regulation (EU) No 575/2013 or is included in an investment firm group for which Article 7(3) of this Regulation</p>			
--	---	--	--	--

	<p>applies and the exemption provided for in Article 7(4) does not apply; (b) the parent undertaking, on a consolidated basis, monitors and has oversight at all times over the liquidity positions of all institutions and investment firms within the group or sub-group that are subject to a waiver and ensures a sufficient level of liquidity for all of those institutions and investment firms; (c) the parent undertaking and the investment firm have entered into contracts that, to the satisfaction of the competent authorities, provide for the free movement of funds between the parent undertaking and the investment firm to enable them to meet their individual obligations and joint obligations as they become due; (d) there is no current or foreseen material, practical or legal impediment to the fulfilment of the contracts referred to in point (c); (e) the authorities competent for the supervision on a consolidated basis in accordance with Regulation (EU) No 575/2013 or in accordance with Article 7 of this Regulation agree to such an exemption</p>			
<p><b>Article 7 (4) Prudential consolidation</b></p>	<p>4. By way of derogation from paragraph 3, competent authorities may exempt the parent undertaking from compliance with that paragraph, taking into account the nature, scale and complexity of the investment firm group.</p>	<p>Liquidity</p>	<p>Maintain discretion to be exercised on a case-by-case basis following formal request by the relevant investment firm.</p>	<p>See Section II</p>
<p><b>Article 8 (1) (4) The group capital test</b></p>	<p>1. By way of derogation from Article 7, competent authorities may allow the application of this Article in the case of group structures which are deemed to be sufficiently simple, provided that there are no significant risks to clients or to market stemming from the investment firm group as a whole that would otherwise require supervision on a consolidated basis. Competent authorities shall notify EBA when they allow the application of this Article.</p> <p>4. Competent authorities may allow a Union parent investment holding company or a Union parent mixed financial holding company and any other parent undertaking that is an investment firm, a financial institution, an ancillary services undertaking or a tied agent in the investment firm group, to hold a lower amount of own funds than the amount calculated under paragraph 3, provided that this amount is no lower than the sum of the own funds requirements</p>	<p>Own Funds</p>	<p>Maintain discretion to be exercised on a case-by-case basis following formal request by the relevant investment firm.</p>	<p>Mirrors Article 15 of the CRR which allowed for the derogation from the application of own funds requirements on a consolidated basis for groups of investment firms.</p> <p>The Central Bank advised in the CRR Implementation Notice of its intention to exercise this discretion on a “case-by-case” basis.</p> <p>IFR 62(7) deletes CRR Article 15</p>

	<p>imposed on an individual basis on its subsidiary investment firms, financial institutions, ancillary services undertakings and tied agents, and the total amount of any contingent liabilities in favour of those entities.</p> <p>For the purposes of this paragraph, the own funds requirements for subsidiary undertakings as referred to in the first subparagraph which are located in third countries shall be notional own funds requirements that ensure a satisfactory level of prudence to cover for the risks arising from those subsidiary undertakings, as approved by the relevant competent authorities.</p>			
<p><b>Article 9 (4)</b> <b>Own funds composition</b></p>	<p>4. For the purpose of applying point (a) of paragraph 1, for investment firms which are not legal persons or joint-stock companies or which meet the conditions for qualifying as small and non-interconnected investment firms set out in Article 12(1) of this Regulation, competent authorities may, after consulting the EBA, permit further instruments or funds to qualify as own funds for those investment firms, provided that those instruments or funds also qualify for treatment under Article 22 of Council Directive 86/635/EEC. On the basis of information received from each competent authority, EBA, together with ESMA, shall establish, maintain and publish a list of all the forms of instruments or funds in each Member State that qualify as such own funds. The list shall be published for the first time by 26 December 2020.</p>	Own Funds	Maintain discretion to be exercised on a case-by-case basis following formal request by the relevant investment firm.	<p>This is similar to the current list of CET1 instruments published by the EBA under Article 26(3) of the CRR which remains relevant for the majority of investment firms.</p> <p>Under this article a new list of instruments will be published by the EBA together with ESMA applicable to a limited number of investment firms that are not legal persons or joint-stock companies.</p> <p>Instruments set out on this new list may be included in the calculation of own funds by such firms.</p> <p>Where an investment firm is seeking to add an instrument to this list it should consult with its supervisor at the earliest possible opportunity.</p>
<p><b>Article 10 (2)</b></p>	<p>2. Competent authorities may prohibit an investment firm from having qualifying holdings as referred to in paragraph 1 where the amount of those holdings exceed the percentages of own funds laid</p>	Large Exposures	Exercise the discretion and do not permit investment firms to have a qualifying	<p>This discretion is materially the same as that contained in the CRR. However, as investment firms are</p>

<p><b>Qualifying holdings outside the financial sector</b></p>	<p>down in that paragraph. Competent authorities shall make public their decision exercising this power without delay.</p>		<p>holding in excess of the relevant threshold.</p>	<p>not subject to credit risk under IFR there is no option to apply the additional risk weighting set out in the CRR.</p> <p>It is considered prudent to require investment firms to limit their exposures outside the financial sector.</p> <p>Competent authorities are required to publish details of their proposed treatment of this discretion and this will be set out in the proposed IFD/IFR implementation notice.</p>
<p><b>Article 13 (2) Fixed overheads requirement</b></p>	<p>2. Where the competent authority considers that there has been a material change in the activities of an investment firm, the competent authority may adjust the amount of capital referred to in paragraph 1.</p>	<p>Own Funds</p>	<p>Maintain discretion to be exercised on a case-by-case basis having due regard to the RTS published under IFD Article 13(4).</p>	<p>Please see draft EBA RTS on the calculation of fixed overheads requirement.</p>
<p><b>Article 15 (4) K-factor requirement and applicable coefficients</b></p>	<p>4. Where competent authorities consider that there has been a material change in the business activities of an investment firm that impacts the amount of a relevant K-factor, they may adjust the corresponding amount in accordance with point (a) of Article 39(2) of Directive (EU) 2019/2034.</p>	<p>K-Factor</p>	<p>Maintain discretion to be exercised on a case-by-case basis having due regard to the RTS published under IFD Article 15(5).</p>	<p>Please see draft EBA RTS specifying the methods for measuring K-Factors, the notion of segregated accounts and adjustments to K-DTF coefficient</p>
<p><b>Article 17 (2) Measuring AUM for the</b></p>	<p>2. Where the investment firm has formally delegated the management of assets to another financial entity, those assets shall be included in the total amount of AUM measured in accordance with paragraph 1.</p>	<p>K Factor</p>	<p>Maintain discretion to be exercised on a case-by-case basis.</p>	

<p><b>purposes of calculating K-AUM</b></p>	<p>Where another financial entity has formally delegated the management of assets to the investment firm, those assets shall be excluded from the total amount of AUM measured in accordance with paragraph 1.</p> <p>Where an investment firm has been managing assets for less than 15 months, or where it has done so for a longer period as a small and non-interconnected investment firm and now exceeds the threshold for AUM, it shall use historical data for AUM for the period specified under paragraph 1 as soon as such data becomes available to calculate K-AUM. The competent authority may replace missing historical data points by regulatory determinations based on the business projections of the investment firm submitted in accordance with Article 7 of Directive 2014/65/EU.</p>			
<p><b>Article 18 (2) Measuring CMH for the purposes of calculating K-CMH</b></p>	<p>2. Where an investment firm has been holding client money for less than nine months, it shall use historical data for CMH for the period specified under paragraph 1 as soon as such data becomes available to calculate K-CMH. The competent authority may replace missing historical data points by regulatory determinations based on the business projections of the investment firm submitted in accordance with Article 7 of Directive 2014/65/EU.</p>	<p>K Factor</p>	<p>Maintain discretion to be exercised on a case-by-case basis.</p>	
<p><b>Article 19 (3) Measuring ASA for the purposes of calculating K-ASA</b></p>	<p>3. Where an investment firm has been safeguarding and administering assets for less than six months, it shall use historical data for ASA for the period specified under paragraph 1 as soon as such data becomes available to calculate K-ASA. The competent authority may replace missing historical data points by regulatory determinations based on the business projections of the investment firm submitted in accordance with Article 7 of Directive 2014/65/EU.</p>	<p>K Factor</p>	<p>Maintain discretion to be exercised on a case-by-case basis.</p>	
<p><b>Article 20 (3) Measuring COH for the purposes of calculating K-COH</b></p>	<p>3. Where an investment firm has been handling client orders for less than six months, or has done so for a longer period as a small and non-interconnected investment firm, it shall use historical data for COH for the period specified under paragraph 1 as soon as such data becomes available to calculate K-COH. The competent authority may replace missing historical data points by regulatory determinations based on the business projections of the investment firm submitted in accordance with Article 7 of Directive 2014/65/EU.</p>	<p>K Factor</p>	<p>Maintain discretion to be exercised on a case-by-case basis.</p>	

<p><b>Article 30 (1 – last sub-paragraph) Collateral</b></p>	<p>1.(...) Competent authorities may change the volatility adjustment for certain types of commodities for which there are different levels of volatility in prices. They shall notify EBA of such decisions together with the reasons for the changes.</p>	<p>K-Factor</p>	<p>Maintain discretion to be exercised on a case-by-case basis.</p>	
<p><b>Article 33 (4) Measuring DTF for the purposes of calculating K-DTF .</b></p>	<p>4.Where an investment firm has had a daily trading flow for less than nine months, it shall use historical data for DTF for the period specified under paragraph 1 as soon as such data becomes available to calculate K-DTF. The competent authority may replace missing historical data points by regulatory determinations based on the business projections of the investment firm submitted in accordance with Article 7 of Directive 2014/65/EU.</p>	<p>K-Factor</p>	<p>Maintain discretion to be exercised on a case-by-case basis.</p>	
<p><b>Article 38 (2) Obligation to notify</b></p>	<p>2.Competent authorities may grant the investment firm a limited period to comply with the limit referred to in Article 37.</p>	<p>Large Exposure</p>	<p>Maintain discretion to be exercised on a case-by-case basis under exceptional circumstances following formal request by the relevant investment firm.</p>	
<p><b>Article 41 (2) Exclusions</b></p>	<p>2.Competent authorities may fully or partially exempt the following exposures from the application of Article 37: (a) covered bonds; (b) exposures incurred by an investment firm to its parent undertaking, to other subsidiaries of that parent undertaking or to its own subsidiaries, insofar as those undertakings are supervised on a consolidated basis in accordance with Article 7 of this Regulation or with Regulation (EU) No 575/2013, are supervised for compliance with the group capital test in accordance with Article 8 of this Regulation, or are supervised in accordance with equivalent standards in force in a third country, and provided that the following conditions are met: (i) there is no current or foreseen material practical or legal impediment to the prompt transfer of capital or repayment of liabilities by the parent undertaking; and</p>	<p>Large Exposure</p>	<p>Maintain discretion to be exercised on a case-by-case basis following formal request by the relevant investment firm.</p>	<p>This discretion is similar to Article 400(2)(a) and (c) of CRR.  The current CRR/CRD Implementation Notice indicates Article 400(2)(c) is exercised on a "prior approval case-by-case" basis for investment firms.</p>

	(ii) the risk evaluation, measurement and control procedures of the parent undertaking include the financial sector entity.			
<b>Article 43 (1) Liquidity requirement</b>	<p>1. Investment firms shall hold an amount of liquid assets equivalent to at least one third of the fixed overhead requirement calculated in accordance with Article 13(1).</p> <p>By way of derogation from the first subparagraph of this paragraph, competent authorities may exempt investment firms that meet the conditions for qualifying as small and non-interconnected investment firms set out in Article 12(1) from the application of the first subparagraph of this paragraph and shall duly inform EBA thereof.</p> <p>For the purposes of the first subparagraph, liquid assets shall be any of the following, without limitation to their composition:</p> <p>(a) the assets referred to in Articles 10 to 13 of Delegated Regulation (EU) 2015/61, subject to the same conditions regarding eligibility criteria and the same applicable haircuts as those laid down in those Articles;</p> <p>(b) the assets referred to in Article 15 of Delegated Regulation (EU) 2015/61, up to an absolute amount of EUR 50 million or the equivalent amount in domestic currency, subject to the same conditions regarding eligibility criteria, with the exception of the EUR 500 million threshold amount referred to in Article 15(1) of that Regulation, and the same applicable haircuts as those laid down in in that Article; (c) financial instruments not covered by points (a) and (b) of this subparagraph, traded on a trading venue for which there is a liquid market as defined in point (17) of Article 2(1) of Regulation (EU) No 600/2014 and in Articles 1 to 5 of Commission Delegated Regulation (EU) 2017/567 (26), subject to a haircut of 55 %; (d) unencumbered short-term deposits at a credit institution.</p>	Liquidity	<p>This discretion will not be exercised on a general basis.</p> <p>Discretion may be exercised on a case-by-case basis under exceptional circumstances giving due regard to the guidelines to be developed by the EBA in consultation with ESMA.</p>	See Section II

## **Appendix 3 – Proposed Amendments to Regulation 8 and Parts 3 – 7 of the Schedule of Reporting Requirements set out in the Central Bank Investment Firms Regulations**

*General reporting requirements for investment firms*

8. (1) In this Regulation “data item” means an account, record, report, return or other information referred to in column 1 of each of the Parts of the Schedule;

(2) A fund administrator shall submit to the Bank all data items specified—

(a) in Part 1 of the Schedule, and

(b) on the Online Reporting System in respect of the fund administrator.

(3) An investment business firm who is not a fund administrator shall submit to the Bank all data items specified—

(a) in Part 2 of the Schedule, and

(b) on the Online Reporting System in respect of the investment business firm.

(4) A MiFID investment firm which [meets the criteria set out in Articles 1\(2\) of Regulation EU 2019/2033 or has been granted a derogation under 1\(5\) of Regulation 2019/2033 \(a Class 1 minus firm\)](#) ~~is subject to the CRD Regulations and is authorised for investment service 3 or investment service 6 and does not apply Article 96(1) of the Capital Requirement Regulation~~ shall submit to the Bank all data items specified—

(a) in Part 3 of the Schedule, and

(b) on the Online Reporting System in respect of the MiFID investment firm.

(5) A MiFID investment firm which [does not meet either the criteria set out in Articles 1\(2\) and the criteria set out in Article 12\(1\) of Regulation EU 2019/2033 and has not been granted a derogation under 1\(5\) of Regulation 2019/2033 \(a Class 2 firm\)](#) ~~is subject to the CRD Regulations and is authorised for investment service 3 or investment service 6 and applies Article 96(1) of the Capital Requirement Regulation~~ shall submit to the Bank all data items specified—

(a) in Part 4 of the Schedule, and

(b) on the Online Reporting System in respect of the MiFID investment firm.

(6) A MiFID investment firm which meets all the conditions set out in Article 12 of Regulation EU 2019/2033 (a Class 3 firm) ~~is subject to the CRD Regulations but not authorised for investment service 3 or investment service 6~~ shall submit to the Bank all data items specified—

(a) in Part 5 of the Schedule, and

(b) on the Online Reporting System in respect of the MiFID investment firm.

~~(7) A MiFID investment firm not subject to the CRD Regulations but authorised for investment service 2 or investment service 4 shall submit to the Bank all data items specified—~~

~~(a) in Part 6 of the Schedule, and~~

~~(b) on the Online Reporting System in respect of the MiFID investment firm.~~

~~(8) A MiFID investment firm not subject to the CRD Regulations and authorised only for investment service 1 or investment service 5, or both, shall submit to the Bank all data items specified—~~

~~(a) in Part 7 of the Schedule, and~~

~~(b) on the Online Reporting System in respect of the MiFID investment firm.~~

Part 3

<p style="text-align: center;"><u>MiFID investment firms which meet the criteria set out in Article 1(2) of Regulation EU 2019/2033</u> or <u>MiFID investment firms which have been granted a derogation under Article 1(5) of Regulation EU 2019/2033 (Class 1 minus firms)</u> <del>MiFID investment firms subject to the CRD Regulations and authorised for Investment Service 3 or Investment Service 6 and not applying Article 96(1) of the Capital Requirement Regulation</del></p>		
Data Item (1)	Reporting Frequency (2)	Reporting Deadline (3)
Annual Audited Accounts (Upload)	Annual	6 months after firm reporting year end
Annual Accounts (Data Entry)	Annual	6 months after firm reporting year end
Related Party Annual Accounts Upload (if required)	Annual	6 months after firm reporting year end
Annual Ownership Confirmation	Annual	6 months after firm reporting year end
<del>Pillar 3 Disclosure Data</del>	<del>Annual</del>	<del>6 months after firm reporting year end</del>
Annual Conduct of Business	Annual	3 months after calendar year end
<del>Investments Product Template</del>	<del>Annual</del>	<del>3 months after calendar year end</del>
Annual PCF Confirmation	Annual	2 months after calendar year end
ICCL Report	Annual	20 working days after calendar year end
ICAAP Questionnaire (if required)	Annual	Initial reporting deadline is 20 working days after calendar quarter in which ICAAP is reviewed by the firm. All subsequent reporting deadlines shall be the anniversary of the initial reporting date.
Management/Interim Accounts (Data Entry)	Quarterly	20 working days after calendar quarter end
Management Accounts Budget vs Actual (if required)	Quarterly	20 working days after calendar quarter end
Monthly Metrics Report	Monthly	20 working days after calendar month end
<b>If Authorised for MiFID Investment Service 4</b>		
Assets Under Management	Quarterly	20 working days after calendar quarter end
<b>If subject to Part 6 of <del>these Regulations the Central Bank (Supervision and Enforcement) Act 2013 (Section 48(1)) (Investment Firms) Regulations 2017</del></b>		
Monthly Client Asset Report	Monthly	20 working days after calendar month end
<b>If subject to consolidated supervision</b>		
Consolidated Annual Accounts (Data Entry)	Annual	6 months after firm reporting year end

Consolidated Management/Interim A/Cs (Data Entry)	Bi-Annual	20 working days after firm reporting year end and 20 working days after firm reporting half year end
---	-----------	--

Part 4

<p><u>MiFID investment firms which do not meet either the criteria set out in Articles 1(2) and the criteria set out in Article 12(1) of Regulation EU 2019/2033 and have not been granted a derogation under 1(5) of Regulation EU 2019/2033</u> (Class 2 firms) <del>MiFID investment firms subject to the CRD Regulations and authorised for Investment Service 3 or Investment Service 6 and applying Article 96(1) of the Capital Requirement</del></p>		
Data Item (1)	Reporting Frequency (2)	Reporting Deadline (3)
Annual Audited Accounts (Upload)	Annual	6 months after firm reporting year end
Annual Accounts (Data Entry)	Annual	6 months after firm reporting year end
Related Party Annual Accounts Upload (if required)	Annual	6 months after firm reporting year end
Annual Ownership Confirmation	Annual	6 months after firm reporting year end
<del>Pillar 3 Disclosure Data</del>	<del>Annual</del>	<del>6 months after firm reporting year end</del>
Annual Conduct of Business	Annual	3 months after calendar year end
<del>Investments Product Template</del>	<del>Annual</del>	<del>3 months after calendar year end</del>
Annual PCF Confirmation	Annual	2 months after calendar year end
ICCL Report	Annual	20 working days after calendar year end
<del>Asset Concentration Disclosure</del>	<del>Annual</del>	<del>20 working days after calendar year end</del>
ICAAP Questionnaire (if required)	Annual	Initial reporting deadline is 20 working days after calendar quarter in which ICAAP is reviewed by the firm. All subsequent reporting deadlines shall be the anniversary of the initial reporting date.
Management/Interim Accounts (Data Entry)	Quarterly	20 working days after calendar quarter end
Management Accounts Budget vs Actual (if required)	Quarterly	20 working days after calendar quarter end
Monthly Metrics Report	Monthly	20 working days after calendar month end
<b>If authorised for MiFID Investment Service 4</b>		
Assets Under Management	Quarterly	20 working days after calendar quarter end
<b>If subject to Part 6 of <del>these Regulations the Central Bank (Supervision and Enforcement) Act 2013 (Section 48(1)) (Investment Firms) Regulations 2018</del></b>		
Monthly Client Asset Report	Monthly	20 working days after calendar month end
<b>If subject to consolidated supervision</b>		
Consolidated Annual Accounts (Data Entry)	Annual	6 months after firm reporting year end

Consolidated Management/Interim A/Cs (Data Entry)	Bi-Annual	20 working days after firm reporting year end and 20 working days after firm reporting half year end
---	-----------	--

Part 5

<u>MiFID investment firms which meet all of the conditions set out in Article 12 (1) of the Regulation EU 2019/2033</u>		
<u>(Class 3 firms)</u>		
<del>MiFID investment firms subject to the CRD Regulations but not authorised for Investment Service 3 or Investment Service 6</del>		
Data Item (1)	Reporting Frequency (2)	Reporting Deadline (3)
Annual Audited Accounts (Upload)	Annual	6 months after firm reporting year end
Annual Accounts (Data Entry)	Annual	6 months after firm reporting year end
Related Party Annual Accounts Upload (if required)	Annual	6 months after firm reporting year end
Annual Ownership Confirmation	Annual	6 months after firm reporting year end
Annual Conduct of Business	Annual	6 months after firm reporting year end
<del>Pillar 3 Disclosure Data</del>	<del>Annual</del>	<del>6 months after firm reporting year end</del>
<del>Investments Product Template</del>	<del>Annual</del>	<del>3 months after calendar year end</del>
Annual PCF Confirmation	Annual	2 months after calendar year end
ICCL Report	Annual	20 working days after calendar year end
ICAAP Questionnaire (if required) <sup>23</sup>	Annual	Initial reporting deadline is 20 working days after calendar quarter in which ICAAP is reviewed by the firm. All subsequent reporting deadlines shall be the anniversary of the initial reporting date.
<del>Asset Concentration Disclosure</del>	<del>Annual</del>	<del>20 working days after calendar year end</del>
Management/Interim Accounts (Data Entry)	Bi-Annual	20 working days after firm reporting year end and, <u>if required</u> , 20 working days after firm reporting half year end
Management Accounts Budget vs Actual (if required)	Bi-Annual	20 working days after firm reporting year end and, <u>if required</u> , 20 working days after firm reporting half year end
Monthly Metrics Report	Monthly	20 working days after calendar month end
<b>If authorised for MiFID Investment Service 4</b>		
Assets Under Management	Quarterly	20 working days after calendar quarter end
<del>If subject to Part 6 of the Central Bank (Supervision and Enforcement) Act 2017 (Section 48(1)) (Investment Firms) Regulations 2018</del>		
<del>Monthly Client Asset Report</del>	<del>Monthly</del>	<del>20 working days after calendar month end</del>
<b>If subject to consolidated supervision</b>		

<sup>23</sup> The requirement for Class 3 firms to submit an ICAAP questionnaire will be finalised following completion of this consultation process.

Consolidated Annual Accounts (Data Entry)	Annual	6 months after firm reporting year end
Consolidated Management/Interim A/Cs (Data Entry)	Bi-Annual	20 working days after firm reporting year end and, <a href="#">if required</a> , 20 working days after firm reporting half year end

Part 6

<b>MiFID investment firms subject to the CRD Regulations but authorised for Investment Service 2 or Investment Service 4 (CRD IV Exempt FOR Firm)</b>		
<b>Data Item (1)</b>	<b>Reporting Frequency (2)</b>	<b>Reporting Deadline (3)</b>
Annual Audited Accounts (Upload)	Annual	6 months after firm reporting year end
Annual Accounts (Data Entry)	Annual	6 months after firm reporting year end
Related Party Annual Accounts Upload (if required)	Annual	6 months after firm reporting year end
Annual Ownership Confirmation	Annual	6 months after firm reporting year end
Annual Conduct of Business	Annual	6 months after firm reporting year end
Annual PCF Confirmation	Annual	2 months after calendar year end
ICCL Report	Annual	20 working days after calendar year end
ICAAP Questionnaire (if required)	Annual	Initial reporting deadline is 20 working days after calendar quarter in which ICAAP is reviewed by the firm. All subsequent reporting deadlines shall be the anniversary of the initial reporting date.
Asset Concentration Disclosure	Annual	20 working days after calendar year end
Management/Interim Accounts (Data Entry)	Bi Annual	20 working days after firm reporting year end and, if required, 20 working days after firm reporting half year end
Management Accounts Budget vs Actual (if required)	Bi Annual	20 working days after firm reporting year end and, if required, 20 working days after firm reporting half year end
COREP III COREP Individual	Quarterly	42 days after calendar quarter end
Monthly Metrics Report	Monthly	20 working days after calendar month end
<b>If authorised for MiFID Investment Service 4</b>		
Assets Under Management	Quarterly	20 working days after calendar quarter end
<b>If subject to consolidated supervision</b>		
Consolidated Annual Accounts (Data Entry)	Annual	6 months after firm reporting year end
Consolidated Management/Interim A/Cs (Data Entry)	Bi Annual	20 working days after firm reporting year end and, if required, 20 working days after firm reporting half year end
COREP III COREP Consolidated	Bi Annual	42 days after calendar year end 42 days after calendar half year end

Part 7

<b>MiFID investment firms not subject to the CRD Regulations and authorised for Investment Service 1 and/or Investment Service 5</b> <b>(CRD IV Exempt Firm)</b>		
<b>Data Item (1)</b>	<b>Reporting Frequency (2)</b>	<b>Reporting Deadline (3)</b>
Annual Audited Accounts (Upload)	Annual	6 months after firm reporting year end
Annual Accounts (Data Entry)	Annual	6 months after firm reporting year end
Related Party Annual Accounts Upload (if required)	Annual	6 months after firm reporting year end
Annual Ownership Confirmation	Annual	6 months after firm reporting year end
Annual Conduct of Business	Annual	6 months after firm reporting year end
Annual PCF Confirmation	Annual	2 months after calendar year end
Asset Concentration Disclosure	Annual	20 working days after calendar year end
ICCL Report	Annual	20 working days after calendar year end
Management/Interim Accounts (Data Entry)	Annual	20 working days after firm reporting year end
Management Accounts Budget vs Actual (if required)	Annual	20 working days after firm reporting year end
Capital Adequacy Statement	Bi Annual	20 working days after firm reporting year end and 20 working days after firms reporting half year end
Monthly Metrics Report	Monthly	20 working days after calendar month end

January 2021

T: +353 (0)1 224 6000  
E: [INVFIRMSpolicy@centralbank.ie](mailto:INVFIRMSpolicy@centralbank.ie)  
[www.centralbank.ie](http://www.centralbank.ie)



Banc Ceannais na hÉireann  
Central Bank of Ireland

---

Eurosystem