
TO : Cyprus Investment Firms ('CIFs')
FROM : Cyprus Securities and Exchange Commission
DATE : 2 February 2021
CIRCULAR No : C426
SUBJECT : Updates for the new prudential framework of Investment Firms (IFD/IFR)

With the entry into force of the Investment Firms Regulation (EU) 2019/2033 (['IFR'](#)) and Investment Firms Directive (EU) 2019/2034 (['IFD'](#)) on **26th June 2021**, all Cyprus Investment Firms ('CIFs') authorised under the Investment Services and Activities and Regulated Markets Law of 2017 will be subject to a new prudential regime, different and independent from the Regulation EU No. 575/2013 (CRR) and Directive DI144-2014-14 which are applicable today.

The Cyprus Securities and Exchange Commission (the 'CySEC') wishes with this Circular to provide the CIFs with the following updates¹:

A. European Banking Authority ('EBA') published seven final draft technical standards regarding IFD/IFR

1. On 16th December 2020, the EBA published a package of seven (7) final **draft Regulatory Technical Standards (RTS)** related to the implementation of IFR and IFD which have been submitted to the European Commission.

These final draft RTS, which are part of the phase 1 mandates of the [EBA roadmap on investment firms](#), will ensure a proportionate implementation of the new prudential framework for investment firms taking into account the different activities, sizes and complexity of investments firms.

The technical standards included in this package set out the main aspects of the new prudential regime in relation to the calculation of the regulatory capital requirements. They provide further technical clarifications on the methodologies to be applied by all types of investment firms, including investment advisors, portfolio managers, execution brokers and firms trading on own account.

¹ CySEC has already issued [Circular 355](#) and a [Practical Guide](#) regarding IFR/IFD.

2. Specifically, the final draft RTS published are the following:
- i. Draft RTS on the information to be provided for the authorisation of investment firms as credit institutions (Article 8a(6) point (a) of the Directive 2013/36/EU)
 - ii. Draft RTS to specify the calculation of the fixed overheads requirement and to specify the notion of a material change (Article 13(4) of the IFR)
 - iii. Draft RTS to specify the methods for measuring the K-factors (Article 15(5) point (a) of the IFR)
 - iv. Draft RTS to specify the notion of segregated accounts (Article 15(5) point (b) of the IFR)
 - v. Draft RTS to specify adjustments to the K-DTF coefficients (Article 15(5) point (c) of the IFR)
 - vi. Draft RTS to specify the calculation of the amount of the total margin for the calculation of K-CMG (Article 23(3) of the IFR)
 - vii. Draft RTS on the criteria for subjecting certain investment firms to the CRR (Article 5(6) of the IFD)

All of the above RTS can be found [here](#).

3. Note that additional final draft RTS are expected to be issued by the EBA early this year in regards to the IFR/IFD. **Thus, all CIFs are urged to subscribe to CySEC's RSS Feeds so as to be notified at all times for any further updates that may be published via our website.** For more information in regards to the status of these RTS, CIFs may refer to the EBA's website.

B. Reporting and disclosure requirements under IFR/IFD

On 4th June 2020, the EBA issued its [draft Implementing Technical Standards \(ITS\) on reporting requirements for investment firms under Article 54\(3\) of IFR and on disclosures requirements under Article 49\(2\) of IFR](#).

Along with the ITS, EBA introduced a set of **templates and instructions** for class 2 investment firms (Annexes I and II of the Draft ITS) and a set of templates and instructions for class 3 firms (Annexes III and IV of the Draft ITS), where the supervisory reporting framework incorporates different and tailored reporting templates with different frequencies.

In addition to the above, one template has been included to define the size and level of activity thresholds that will trigger the reporting requirements into one or the other classification of investment firms (class 2 and class 3).

The templates mentioned above can be found [here](#).

The EBA will issue the final version of this ITS, along with the final templates, within the upcoming weeks. We expect that no major changes will be made in comparison to the draft ones mentioned above. Upon issuance of the final version, CySEC will adopt and enhance the templates so as to publish the new forms that the CIFs will use for the calculation of their capital adequacy requirements based on IFD/IFR.

C. Launch of Consultation Papers and Public hearing by the EBA

4. On 17th December 2020, the EBA launched a public consultation on its new guidelines on remuneration policies and internal governance policies of Investment Firms, which will come into force on 26th June 2021 under IFD/IFR.
5. The public consultation launched by EBA includes two (2) different Consultation Papers ('CP'), as follows:
 - i. [Consultation paper on draft Guidelines on sound remuneration policies for Investment Firms under Directive \(EU\) 2019/2034 \(EBA/CP/2020/26\)](#)

This guidance specifies the remuneration provisions that Class 2 investment firms should comply with, taking into account the proportionality principle. Sound remuneration policies ensure an alignment of the variable remuneration of identified staff with the risk profile of the investment firm and the assets it manages, and they must be gender neutral. While the remuneration framework for investment firms is largely aligned to the one for credit institutions, some differences exist.

These Guidelines specify those provisions, including the application of waivers to the requirement to pay out a part of the variable remuneration of identified staff under deferral arrangements and in instruments and the setting of a ratio between variable and fixed remuneration.

The draft Guidelines apply at both individual and consolidated level.

- ii. [Consultation paper on draft Guidelines on internal governance for Investment Firms under Directive \(EU\) 2019/2034 \(EBA/CP/2020/27\)](#)

The new guidelines specify the governance provisions that Class 2 investment firms should comply with, taking into account the proportionality principle. This governance framework aims at ensuring that investment firms have a clear organizational structure, effectively manage their risks and have adequate internal control mechanisms in place.

In line with the proportionality principle and to take account of the specificities of investment firms, the consultation paper specifies a number of governance provisions laid down in the IFD, including the tasks, responsibilities of the management body as well as the organisation of investment firms. The aim of these provisions is to ensure the sound management of risks across all lines of defence as well as the adoption of transparent structures to allow the supervision of all investment firms' activities.

In addition, the consultation paper provides details on the establishment of a risk culture, a code of conduct and the management of conflicts of interest, also in relation to related

parties' transactions to ensure that firms have appropriate decision management and oversight processes for such transactions.

To ensure that investment firms groups take a holistic approach to their risk management, the draft Guidelines apply at both individual and consolidated level.

6. The CIFs are invited to send their comments on the above EBA consultation papers by clicking on the '*send your comments*' button which can be found on the following links:

EBA/CP/2020/26:

<https://www.eba.europa.eu/calendar/consultation-guidelines-remuneration-policies-investment-firms>

EBA/CP/2020/27:

<https://www.eba.europa.eu/calendar/consultation-guidelines-internal-governance-investment-firms>

The **deadline** for the submission of comments **directly to EBA is on 17th March, 2021.**

7. The EBA will also hold a public hearing in regards to the above consultation papers, which will take place via conference call on **17th February, 2021 from 14:00 to 16:00 (Paris time)**. The deadline for registration expires on 15th February 2021, at 16:00 (Paris time).

D. Next actions

8. Taking all of the above into consideration, CIFs are urged to study the IFR/IFD carefully, along with the final draft RTS issued, so as to:
- i. Identify the class they will be categorized at from 26th June 2021,
 - ii. Familiarise themselves with the new templates and the way their new capital requirement will be calculated,
 - iii. Identify the data needed to be collected and reported, especially in regards to the calculation of K-Factors,
 - iv. Review their internal records and systems and make the necessary changes to ensure that the required data for the K-Factors (i.e. assets under management, daily trading flow, clients' orders held, etc) will be available to calculate their new capital requirements. This information should be readily available at all times.

Finally, CIFs should make their own assessment on the impact that the IFR and IFD will have on their own funds, concentration risk, liquidity risk, disclosure, reporting, remuneration requirements and take the necessary early actions to ensure compliance by the date of entry into force i.e. on 26th June 2021.

Yours sincerely

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