Investment Firm Regulation and Directive (IFR/IFD)

CH &Co.

2017
Commission launched legislative proposal for a new IFR/IFD

16 April 2019
European Parliament approved IFR/ IFD texts

5 December 2019
IFD and IFR published in the Official Journal

25 December 2019
IFD and IFR entry into force

4 June 2020
EBA implementation roadmap and first consultation papers published

16 December 2020
EBA publication of final draft Regulatory Technical Standards (RTS)

26 June 2021
IFD transposed in the national laws
IFR applicable in all Member States
5-year phase-in period

26 December 2022
ESG risk disclosure also applicable

What is at stake with the Investment Firm Regulation and Directive?

The Investment Firm Regulation and Directive shape the new prudential regime that will be applicable to all investment firms authorized in the EU from June 2021. They were published in the Official Journal on 5 December 2019.

The purpose is to recalibrate the prudential and supervisory requirements previously set by the Capital Requirements Regulation and Directive (CRR/CRD) and to extend it to a new set of actors.

What is in scope of the Investment Firm Regulation and Directive?

All investment firms as defined under MiFID II are concerned, meaning:

- Credit institutions i.e. Corporate & Investment banks, Private and retail banks
- Brokers
- Portfolio managers except pure collection of portfolio manager

What will the regulation consist in?

Investments firms in scope will be segregated into three different classes based on their activities, systemic importance, size and interconnectedness.

Objective is to add proportionality and correlation between the level of risk of investment firms and the level of capital required.

Class 1	Class 2	Class 3
• Systemic investment firms • Investment firms exposed to the same risk as credit institutions	• Large and interconnected investment firms outside of investment Class 1	• Small and non-interconnected firms
CRD / CRR	IFR / IFR tailored to risk profile	

Title: Investment Firms segregation entailing different requirements

Major transformations to be noted will be on:

- Calculation of regulatory capital requirements (K-factors introducing proportionality in the capital required)
- Remuneration rules
- Internal governance
- Disclosure and reporting

Penalties for non-compliance with the IFR/IRD

As per Directive (EU) 2019/2034 art. 18, authorities can charge following administrative fines in case of non-fulfillment of the requirements:

- In the case of a legal person: up to 10% of the annual turnover or up to twice the amount of the profits gained or losses avoided due to the breach where those profits or losses can be determined
- In the case of a natural person: administrative fines up to EUR 5,000,000 maximum

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How investment firms will be impacted by the new IFR/IFD?

Investment firms will be impacted in two ways with the introduction of the new Investment Firm Regulation and Directive:

- First, IFR/IFD is directly reforming Basel Pillar for Class 2 & 3 firms. Basel pillars correspond to: Pillar 1:Minimum Capital Requirement, Pillar 2: Supervisory Review and Pillar 3: Market Discipline
- Second, IFR/IFD will reinforce the controls introduced by three regulations: MIFID, MIFIR, CRD 5

		Class 1	Class 2	Class 3
Prudential Requirements	Pillar 1	CRR regulation	Initial capital requirement: €75K, €150K or €750K depending on firm activities	Initial capital requirement: €75K, €150K or €750K depending on firm activities
Prudential Requirements	Pillar 2	CRR Regulation	Liquidity: > 1month of fixed overheads in liquid assets Risk-based capital: the higher of the (K-factors)[1] and fixed overhead requirement	Liquidity: > 1month of fixed overheads in liquid assets (incl. fees and trades receivable within 30 days) Risk-based capital: equal to fixed overhead requirement
Prudential Requirements	Pillar 3	CRR Regulation	Reporting: annual reporting regarding capital, funds, liquidity and concentration risk Disclosure: Firm will fall under new disclosure duty	Reporting: annual reporting regarding capital, funds, liquidity and concentration risk Disclosure: no disclosure duty
Cross Regulatory Impacts	MIFID	Third-country firms with systemic importance could be required by the European Commission to comply with post-trade transparency, transaction reporting and share and derivatives trading obligations		
Cross Regulatory Impacts	MIFIR	MIFIR Rick-size regime applicable to trading venues will be extended to systematic internaliser for equities and other equivalent instruments		
Cross Regulatory Impacts	CRD5	Third-country groups including two or more European entities will be required to hold their investment firms under a single intermediate parent undertaking		

How the IFR/IFD is reforming the minimum capital requirement calculation?

- The new Investment Firm Regulation and Directive introduce a new risk-based capital approach based on 9 K-factors grouped under 3 categories (risk-to-client, risk-to-market and risk-to-firm)
- The objective of this new approach is to adapt the capital requirements to the size of the firm by introducing more proportionality in calculation
- However, class 2 firms will need to adapt to this new regime by collecting, enriching and distributing additional data

How CH&Co. can help

1 Regulatory Audit

- Audit of investment firm situation and classification in the context of the new IFR/IFD
- Regulation impact analysis on the investment firm

Extensive knowledge of regulatory environment thanks to our in-house regulatory watchtower

2 Program Design & Implementation

- Design and implement the most suitable (reactive yet strategic) governance and organization
- Program dynamization by solidifying firm strategic vision through our expertise

Extensive experience in designing, implementing and managing large regulatory program

3 Risk & Data Strategy

- Optimization of the prudential requirements under CRR AND IFR/IFD
- Design of a fit for purpose data strategy to support new regulatory needs (from data identification to data enrichment and visualization)

Extensive experience in risk optimization (incl. Basel III prudential requirements) and data management

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