Commission Implementing Regulation (EU) 2021/…

of 6 December 2021

laying down implementing technical standards for the application of Regulation (EU) 2019/2033 of the European Parliament and of the Council with regard to supervisory reporting and disclosures of investment firms

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2019/2033 of the European Parliament and of the Council of 27 November 2019 on the prudential requirements for investment firms and amending Regulations (EU) No 1093/2010, (EU) No 575/2013, (EU) No 600/2014 and (EU) No  806/2014 [[1]](#footnote-1), and in particular Article 49(2) and Article 54(3) thereof,

Whereas:

(1) The reporting requirements for investment firms provided in Article 54 of Regulation (EU) 2019/2033 should be tailored to the business of the investment firms and be proportionate to the scale and complexity of different investment firms. Those requirements should in particular take into account that certain investment firms are to be considered to be small and non-interconnected as per the conditions set out in Article 12 of Regulation (EU) 2019/2033.

(2) According to Article 54(1) of Regulation (EU) 2019/2033, small and non-interconnected investment firms are to report information about the level and composition of their own funds, their own funds requirements, the basis for the calculation of their own funds requirements and the level of activity in respect of the conditions set out in Article 12(1) of Regulation (EU) 2019/2033. Small and non-interconnected firms are thus not required to report the same level of detail of information as other investment firms subject to Regulation (EU) 2019/2033. The reporting templates on K-factor calculation should therefore not be applicable to small and non-interconnected firms. In addition, according to Article 54(2), third subparagraph, of Regulation (EU) 2019/2033, small and non-interconnected firms are exempt from reporting on concentration risk and competent authorities may exempt small and non-interconnected firms from the obligation to report on liquidity requirements.

(3) All investment firms subject to Regulation (EU) 2019/2033 should report their activity profile and size to enable competent authorities to assess whether those investment firms meet the conditions laid down in Article 12 of Regulation (EU) 2019/2033 to be classified as small and non-interconnected investment firms.

(4) In order to provide transparency to their investors and the wider markets, Article 46 of Regulation (EU) 2019/2033 requires investment firms other than small and non-interconnected investment firms to publicly disclose the information specified in Part Six of that Regulation. Small and non-interconnected investment firms are not subject to those disclosure requirements, except where they issue Additional Tier 1 instruments in order to provide transparency to the investors in those instruments.

(5) This Regulation should provide investment firms with templates and tables to convey sufficiently comprehensive and comparable information on the composition and quality of their own funds. More specifically, it is necessary to introduce a quantitative disclosure template on the composition of own funds and a flexible template on the reconciliation of regulatory own funds with the audited financial statements. For the same reason, it is also necessary to lay down a template with information on the most relevant features of own funds instruments issued by the investment firm.

(6) In order to facilitate the implementation of reporting and disclosure requirements, it is necessary to enhance the consistency between reporting and disclosure templates. The template for the disclosure on composition of own funds should therefore be closely aligned with the related reporting template on the level and composition of own funds. For the same reason, the template for the disclosure on full reconciliation of own funds with the audited financial statements should be flexible in that the breakdown of the template should be based on the breakdown of the balance sheet in the investment firm’s audited financial statements. Additionally, the template to disclose information about the main features of regulatory own funds should be a fixed template and its complexity should depend on the complexity of the own funds instruments.

(7) To ensure that compliance costs for investment firms are not unreasonably increased and that data quality is maintained, reporting and disclosure obligations should be aligned in their substance to the maximum extent possible with each other. It is therefore appropriate to set out, in a single Regulation, standards applicable to both reporting and disclosure requirements.

(8) This Regulation is based on the draft implementing technical standards submitted to the Commission by the European Banking Authority (EBA) after having consulted the European Securities and Markets Authority.

(9) The EBA has conducted open public consultations on the draft implementing technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the advice of the Banking Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council [[2]](#footnote-2),

HAS ADOPTED THIS REGULATION:

CHAPTER I

SUPERVISORY REPORTING

Article 1

**Reporting reference dates**

1. The information referred to in Article 54(1) of Regulation shall be reported as this information stands on the following reporting reference dates:

(a) quarterly reporting: 31 March, 30 June, 30 September and 31 December;

(b) annual reporting: 31 December.

2. The reporting reference dates referred to in paragraph 1 may be adjusted where investment firms are permitted by national law to report their financial information based on their accounting year-end which deviates from the calendar year, so that the quarterly reporting of information is performed every three months of the respective accounting year and the annual reporting at the accounting year-end.

Article 2

**Reporting remittance dates**

1. The information referred to in Article 54(1) of Regulation (EU) 2019/2033 shall be submitted by close of business of the following remittance dates:

(a) quarterly reporting: 12 May, 11 August, 11 November and 11 February;

(b) annual reporting: 11 February.

2. Where the reporting remittance day is a public holiday in the Member State of the competent authority to which the report is to be provided, or a Saturday or a Sunday, the reporting remittance day shall be the following working day.

3. Where investment firms report their information using adjusted reporting reference dates based on their accounting year-end as set out in Article 1(2) of this Regulation, the remittance dates may be adjusted accordingly so that the same remittance period from the adjusted reporting reference date is maintained.

4. Investment firms may submit unaudited figures. Where audited figures deviate from submitted unaudited figures, the revised, audited figures shall be submitted without undue delay. For the purposes of this Article, ‘unaudited figures’ shall mean figures that have not received an external auditor’s opinion whereas audited figures are figures audited by an external auditor expressing an audit opinion.

5. Corrections to the submitted reports shall be submitted to the competent authorities without undue delay.

Article 3

**Application of reporting requirements on an individual basis**

In order to comply with the reporting requirements of Article 54 of Regulation (EU) 2019/2033 on an individual basis, investment firms shall report the information specified in Articles 5, 6 and 7 of this Regulation with the frequency specified therein.

Article 4

**Application of reporting requirements on a consolidated basis**

In order to comply with the reporting requirements referred to in Article 54 of Regulation (EU) 2019/2033 on a consolidated basis, investment firms shall report the information specified in Articles 5 and 6 of this Implementing Regulation with the frequency specified therein.

Article 5

**Format and frequency of reporting by investment firms other than small and non-interconnected investment firms**

1. Investment firms other than small and non-interconnected investment firms shall report the information required by paragraphs 1 and 2 of Article 54 of Regulation (EU) 2019/2033 by using the templates laid down in Annex I to this Regulation in accordance with the instructions set out in Annex II to this Regulation with a quarterly frequency.

2. Investment firms other than small and non-interconnected investment firms that determine the RtM K‐factor requirement on the basis of K‐NPR in accordance with Article 21(1) of Regulation (EU) 2019/2033 shall report the information specified in templates C 18.00 to C 24.00 of Annex I to Commission Implementing Regulation (EU) 2021/451 [[3]](#footnote-3) in accordance with the instructions set out in Part 2 of Annex II to that Implementing Regulation with a quarterly frequency.

3. Investment firms other than small and non-interconnected investment firms that make use of the derogation laid down in Article 25(4) of Regulation (EU) 2019/2033 shall report the information specified in template C 34.02 of Annex I to Implementing Regulation (EU) 2021/451 in accordance with the instructions set out in Part 2 of Annex II to that Implementing Regulation with a quarterly frequency.

4. Investment firms other than small and non-interconnected investment firms that make use of the derogation laid down in Article 25(5), second subparagraph, of Regulation (EU) 2019/2033 shall report the information specified in template C 25.00 of Annex I to Implementing Regulation (EU) 2021/451 in accordance with the instructions set out in Part 2 of Annex II to that Implementing Regulation with a quarterly frequency.

Article 6

**Format and frequency of reporting by small and non-interconnected investment firms**

1. Small and non-interconnected investment firms shall report the information specified in the templates of Annex III to this Regulation in accordance with the instructions of Annex IV to this Regulation with an annual frequency. Investment firms that benefit from the exemption referred to in Article 43(1), second subparagraph, of Regulation (EU) 2019/2033shall be exempted from the duty to submit the information specified in template IF 09.01 of Annex III to this Regulation.

Article 7

**Format and frequency of reporting by entities benefitting from the application of Article 8 of Regulation (EU) 2019/2033**

By way of derogation from Article 4 of this Regulation, entities referred to in Article 8(3) of Regulation (EU) 2019/2033 that are benefitting from the application of that Article shall report the information set out in the templates of Annex VIII to this Regulation in accordance with the instructions set out in Annex IX to this Regulation with a quarterly frequency.

Article 8

**Data precision and information associated with submissions**

1. Investment firms shall submit the information referred to in this Regulation in the data exchange formats and representations specified by competent authorities and respecting the data point definition of the data point model and the validation formulae specified in Annex V as well as the following specifications:

(a) information that is not required or not applicable shall not be included in a data submission;

(b) numeric values shall be submitted as facts pursuant to the following conventions:

(i) data points with the data type ‘Monetary’ shall be reported using a minimum precision equivalent to thousands of units;

(ii) data points with the data type ‘Percentage’ shall be expressed as per unit with a minimum precision equivalent to four decimals;

(iii) data points with the data type ‘Integer’ shall be reported using no decimals and a precision equivalent to units.

2. Investment firms shall be identified by their Legal Entity Identifier (LEI). Legal entities and counterparties other than investment firms shall be identified by their LEI, where available.

3. Information submitted by investment firms on the basis of this Regulation shall be accompanied with the following information:

(a) reporting reference date and reference period;

(b) reporting currency;

(c) accounting standard;

(d) Legal Entity Identifier (LEI) of the reporting institution;

(e) scope of consolidation.

CHAPTER II

PUBLIC DISCLOSURE BY INVESTMENT FIRMS

Article 9

**Disclosure principles**

1. Information to be disclosed in accordance with this Regulation shall be subject to the following principles:

(a) disclosures shall be subject to the same level of internal verification as that applicable to the management report included in the investment firm’s financial report;

(b) disclosures shall be clear and shall be presented in a form that is understandable to users of information and communicated through an accessible medium. Important messages shall be highlighted and easy to find. Complex issues shall be explained in simple language. Related information shall be presented together;

(c) disclosures shall be meaningful and consistent over time to enable users of information to compare information across disclosure periods;

(d) quantitative disclosures shall be accompanied by qualitative explanations and any other supplementary information that may be necessary in order for the users of that information to understand them, noting in particular any significant change in any given disclosure compared to the information contained in previous disclosures.

Article 10

**Disclosure of own funds by investment firms**

Investment firms shall make the disclosures on own funds required by Article 49(1) of Regulation (EU) 2019/2033 by using the templates of Annex VI to this Regulation and in accordance with the relevant instructions set out in Annex VII to this Regulation.

Article 11

**General disclosure provisions**

1. Where disclosing the information referred to in Article 10 of this Regulation, investment firms shall ensure that numeric values are submitted as facts in accordance with the following:

(a) quantitative monetary data shall be disclosed using a minimum precision equivalent to thousands of units;

(b) quantitative data disclosed as ‘Percentage’ shall be expressed as per unit with a minimum precision equivalent to four decimals.

2. When disclosing the information referred to in Article 10of this Regulation, investment firms shall ensure that the data are associated with all of the following information:

(a) disclosure reference date and reference period;

(b) disclosure currency;

(c) name and where relevant, the Legal Entity Identifier (LEI) of the disclosing institution;

(d) where relevant, the accounting standard;

(e) where relevant, the scope of consolidation.

CHAPTER III

FINAL PROVISIONS

Article 12

**Entry into force**

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 6 December 2021.

For the Commission

The President

Ursula VON DER LEYEN

1. OJ L 314, 5.12.2019, p. 1. [↑](#footnote-ref-1)
2. Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12). [↑](#footnote-ref-2)
3. Commission Implementing Regulation (EU) 2021/451 of 17 December 2020 laying down implementing technical standards for the application of Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to supervisory reporting of institutions and repealing Implementing Regulation (EU) No 680/2014 (OJ L 97, 19.3.2021, p. 1). [↑](#footnote-ref-3)