EU Investment Firms Directive (IFD) and Investment Firms Regulation (IFR)

March 2021

Overview and Context

The Investment Firms Directive (IFD) and Investment Firms Regulation (IFR) are intended to put in place a new prudential framework for MiFID-authorised investment firms to ensure more proportionate rules and better supervision for all investment firms across capital, liquidity and other risk management requirements. The IFD/IFR will apply to in-scope investment firms from **26 June 2021.**

Consultation on Competent Authority Discretions in IFD and IFR

The Central Bank of Ireland (CBI) has released a Consultation on Competent Authority Discretions in IFD and IFR (January 2021), which sets out its proposed approach and perspectives in relation to a number of provisions within the IFD and IFR, where it, as the competent authority, can or must exercise its discretion.

The CBI's proposed approach to discretions is set out as follows, noting in particular, where the onus is on an investment firm to apply for a particular discretion:

Allowable Discretion	CBI's Proposed Approach
Apply the CRR requirements to Investment Firms dealing on own account or underwriting on a firm commitment basis with consolidated assets equal to or exceeding EUR 5 billion.	CBI will consider on a case-by-case basis
Apply the CRR requirements to Investment Firms with consolidated assets between EUR 5 billion and EUR 15 billion.	CBI will consider on a case-by-case basis
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 to continue to apply the prudential requirements of the CRR.	CBI will consider on a case-by-case basis
Permit an exemption to the IFD/IFR liquidity requirement to hold a minimum of one third of their fixed overhead requirement (FOR) in liquid assets at all times for investment firms on an individual basis where they are part of a banking or investment firm group.	CBI will consider on a case-by-case basis
Permit an exemption to the IFD/IFR Class 3 firms from the requirement to hold at least one third of their FOR in liquid assets.	CBI **will not** exercise this discretion
Permit an exemption to 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.	CBI will consider on a case-by-case basis
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.	CBI **will** exercise this discretion
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.	CBI will consider on a case-by-case basis

Firm classification

It is worth noting that the paper further clarifies that the following firms are out-of-scope of the IFD/IFR regime and will continue to be subject to the prudential requirements set out under the Capital Requirements Regulation and Directive Regime (CRR/CRD IV):

- Large systemically relevant investment firms (with consolidated assets equal to or greater than EUR 30 billion) which engage in "bank-like" activities and services **(Class 1 firms)**.
- Smaller investment firms that engage in bank-like activities and have business models and risk profiles that are similar to those of credit institutions **(Class 1 minus firms)**; and,
- Investment firms that are included in consolidated supervision under CRD that have requested and received permission from the relevant competent authority to continue to apply the CRD regime.

All other Investment firms are in scope of the IFD/IFR and can be classified as follows:

- Small and non-interconnected investment firms **(Class 3 firms)** that do not hold client assets and do not meet specific quantitative thresholds. These firms will be required to hold minimum own funds based on the higher of their Permanent minimum capital requirement (PMR) or their Fixed overhead requirement (FOR); or,
- All other investment firms **(Class 2 firms)** which must hold minimum own funds based on 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.

Timing

The Consultation Paper also notes that, given the entry into force of the IFD/IFR regime, the Central Bank has deemed it necessary to amend Regulation 8 (general reporting requirements for investment firms) and the associated Annex to align reporting requirements with the classification of investment firms under the IFD/IFR.

The CBI has invited all stakeholders to provide comments on the proposals outlined within the consultation paper by email to **invfirmspolicy@centralbank.ie** no later than **26 March 2021.**

Following consideration of feedback received through this consultation process, it is the CBI's intention to publish an 'Implementation of NCA Discretions in IFD/IFR' Regulatory Notice' by **end June 2021.**

How KPMG can help

We have developed a range of tools and methodologies to help you undertake your IFD/IFR assessment and to assist in the integration of the new prudential requirements:

IFD / IFR regulation analysis and K-Factor assessment

- Perform underlying regulatory reviews, including the development of models and analytical tools to quantify the K-factors for investment firms and relevant capital impact;
- Perform sensitivity analysis on key drivers of firm capital requirements and changes in the underlying K-factor calculations;
- Provide assistance to firms in the understanding and integration of the new regulations.

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