



Regulatory Newsflash

EBA recommends that only investment firms identified as O-SIIs be subject to full CRD IV/CRR

The EBA [published](#) a first set of recommendations in response to the European Commission's call for technical advice on the prudential requirements applicable to investment firms. According to the EBA's opinion, **only investment firms that are currently identified as O-SIIs should remain subject to the full CRD/CRR regime**. At the moment, there is a total of nine O-SII investment firms in the EU. The EBA also suggested that it was too early to consider any changes to the prudential treatment of these investment firms before there was more clarity on the planned CRR review.

Background

Following the EBA's initial report on the review of prudential requirements for investment firms (published in December 2015), in June this year the Commission asked the EBA to set out the criteria for identifying systemic and bank-like firms ('Class 1 firms') that should be subject to the full CRD/CRR

regime and the rules which should apply to them (incl. a rationale for any modifications to existing derogations or calibrations for any new derogations).

Key points made in the EBA's opinion

1. Investment firms for which the CRD and CRR provide an appropriate prudential framework

- The full CRD and CRR regime should apply to investment firms identified as G-SII or O-SII in accordance with the current regulatory framework (i.e. technical standards for the identification of G-SIIs and guidelines for the identification of O-SIIs).
- Nine investment firms in the EU are currently classified as O-SIIs and none as G-SII. These would be the ones that would fall under the full CRD/CRR. Consolidated subsidiaries of banking groups that currently fall under CRR at the consolidated level would continue to do so.
- However, the EBA also noted that as the prudential regime for investment firms is still under development, it is premature to conclude that the OSII guidelines perfectly fit the purpose of the identification of systemic and bank-like investment firms. Therefore, the suitability of the OSII guidelines for this purpose should be revised after the new prudential framework for investment firms is completed.

2. Rules that should apply to systemic and bank-like investment firms

- The limited scope of the firms identified as O-SIIs makes it difficult to draw conclusions on whether certain specific elements of the CRD and CRR deliver an acceptable treatment.
- The EBA review is based on the current framework, which is likely to change as a result of the ongoing CRR review, especially in the area of counterparty credit risk and market risk. Should this review embed a higher degree of proportionality, the changes of the CRR in these areas should also consider the role of Class 1 investment firms.
- Therefore, the EBA recommended postponing any specific regulatory change related to this category of investment firms and starting the review of specific provisions once the CRR review has reached a more advanced stage.

Implications for firms and next steps

- Limiting CRD/CRR application to firms caught under the G-SII/O-SII definition means a significant change for the industry. This may lead to many firms getting out of the current CRD/CRR framework, including

remuneration rules. However, it is still unclear what the new regime will look like for these firms.

- The majority of investment firms will need to wait for the remainder of the EBA's advice on the substantive content and calibration of the regimes proposed for non-systemic, less complex and small firms ('Class 2 and 3 firms'). It will be interesting to see how this new framework will address specific risks arising from investment firms' activities, including specifically credit, market, operational and liquidity risks along with those related to holding client money and securities. Remuneration and governance aspects of the new regimes will also be clarified. This part of the EBA's advice should be provided by 30 June 2017.
- NB: The EBA's opinions are not binding for the Commission and it may adopt a different decision or request further evidence.

Contact

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