

Supervisory Reporting: clarifications for investment firms in CSSF Circular 15/606

Regulatory news alert

Draft Law 6660 the purpose of which is, among others, to implement within Luxembourg law Directive 2013/36/EU (hereinafter "CRD IV") will introduce a sub-category of investment firms in the Law of 5 April 1993 on the financial sector ("LFS"), the "investment firm CRR", which will fall within the scope of Regulation (EU) No 575/2013 ("CRR"), ITS on Supervisory Reporting and will be required to comply with, among others, the new requirements of the CRD IV for supervision on a consolidated basis, governance and remuneration policy.

Investment firms CRR

The following criteria are to be used to determine whether an **investment firm falls within the scope of the CRR or not**:

Out of scope

- | | | |
|-----------|---|---|
| If | authorised only for the following investment services and activities (point 1, 2, 4 and 5 of Section A in Appendix II of the LFS) | <ol style="list-style-type: none">1. Reception and transmission of orders in relation to one or more financial instruments2. Execution of orders on behalf of clients4. Portfolio management5. Investment advice |
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and

- | | | |
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| If | not authorised for the following ancillary service (point 1 of Section C in Appendix II of the LFS, "ancillary service 1") | <ol style="list-style-type: none">1. Safekeeping and administration of financial instruments for the account of clients, including custodianship and related services such as cash/collateral management |
|-----------|--|--|

In scope

If	authorised for the ancillary service 1	1. Safekeeping and administration of financial instruments for the account of clients, including custodianship and related services such as cash/collateral management
or		
If	authorised for one or more of the following investment services and activities (point 3, 6, 7 and 8 of Section A in Appendix II of the LFS)	<ul style="list-style-type: none">3. Dealing on own account6. Underwriting of financial instruments and/or placing of financial instruments on a firm commitment basis7. Placing of financial instruments without a firm commitment basis8. Operation of Multilateral Trading Facilities (MTF)

"Holding" of assets belonging to clients

The CSSF draws also attention to the concept of "holding" of assets belonging to clients and to the need to maintain or obtain an authorisation as a service provider of ancillary service 1.

Each investment firm which holds assets belonging to its clients, in accordance with the definition of CSSF Circular 15/606, must have an authorisation as a provider of ancillary service 1 and will therefore always be considered as investment firm CRR.

As an example, investment firms which open accounts in their own name with a third party on behalf of their clients (whether collective ("omnibus accounts") or individual accounts) are considered as holding of assets belonging to clients.

CSSF Circular 15/606 should be read along with CSSF Circular 13/575 on Supervisory reporting requirements applicable to investment firms as from 2014.

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