

EBA/ITS/2021/04

25 June 2021

Final report

Draft implementing technical standards with regard to the format, structure, contents list and annual publication date of the information to be disclosed by competent authorities in accordance with Article 57(4) of Directive (EU) 2019/2034

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1. Executive summary

Directive (EU) 2019/2034¹ (Investment Firms Directive (IFD)) and Regulation (EU) 2019/2033² (Investment Firms Regulation (IFR)) give a significant number of mandates to the EBA covering a broad range of areas related to the prudential treatment of investment firms.

The implementation of the mandates is divided into four phases according to the legal deadline set out in the IFD/IFR. A comprehensive work plan for delivering all mandates is established in a Roadmap on Investment Firms Prudential Package which was published by the EBA on 2 May 2020³.

This Final report presents one set of regulatory products developed under Phase 2 – draft implementing technical standards (ITS) with regard to the requirements for competent authorities to publicly disclose information as set out in Article 57(4) of the IFD.

According to that mandate, the EBA has developed the draft ITS to determine the format, structure, contents list and annual publication date of the information on:

- (a) the texts of laws, regulations, administrative rules and general guidance adopted in their Member State in the field of prudential regulation (Annex I of the draft ITS);
- (b) the manner of exercise of the options and discretions available under the IFD and the IFR (Annex II of the draft ITS);
- (c) the general criteria and methodologies that competent authorities use in the supervisory review and evaluation process (SREP) (Annex III of the draft ITS);
- (d) aggregate statistical data on key aspects of the implementation of the IFD and IFR in each Member State, including the number and nature of supervisory measures taken in accordance with point (a) of Article 39(2) of the IFD, and of administrative sanctions imposed in accordance with Article 18 of the IFD (Annex IV of the draft ITS).

The draft ITS include the requirements for competent authorities to publicly disclose aggregated information on the aforementioned areas and include detailed templates to harmonise the publication of such information. The instructions for filling in the templates are included in each Annex.

The final report explains the policy choices of regulatory requirements for draft ITS and outlines their legislative basis. The EBA is of the view that regulatory requirements ensure a proportionate and technically consistent prudential framework for investment firms.

The last section of this final report details initial cost-benefit and impact assessment analysis concerning the draft ITS in order to gather feedback on possible costs and benefits of the proposals and the relative scale of these costs and benefits for different stakeholders.

¹ [Directive \(EU\) 2019/2034](#)

² [Regulation \(EU\) 2019/2033](#)

³ [EBA Roadmap on Investment firms](#)

2. Background and rationale

1. The IFD and IFR, which were published in the Official Journal of the European Union on 5 December 2019 and entered into force on 26 December 2019, will replace the existing prudential framework for investment firms.
2. Article 57 of the IFD states that competent authorities shall disclose information on the supervisory approach and aggregate statistical data of investment firms. Specifically, Article 57(1) provides that:

‘competent authorities shall make public all of the following information:

 - (a) the texts of laws, regulations, administrative rules and general guidance adopted in their Member State pursuant to this Directive;
 - (b) the manner of exercise of the options and discretions available pursuant to this Directive and to Regulation (EU) 2019/2033;
 - (c) the general criteria and methodologies they use in the supervisory review and evaluation referred to in Article 36 of this Directive;
 - (d) aggregate statistical data on key aspects of the implementation of this Directive and of Regulation (EU) 2019/2033 in their Member State, including the number and nature of supervisory measures taken in accordance with point (a) of Article 39(2) of this Directive and of administrative sanctions imposed in accordance with Article 18 of this Directive.’
3. Moreover, Article 57(2) underlines that ‘the information published in accordance with paragraph 1 shall be sufficiently comprehensive and accurate to enable a meaningful comparison of the application of points (b), (c) and (d) of paragraph 1 by the competent authorities of the different Member States.’ Article 57(3) states ‘The publication of information shall follow a common format and shall be updated regularly. It shall be accessible at a single electronic location.’ Therefore, not only should this information provide disclosure on the supervisory framework applied by each competent authority of the Member States but it should also allow these authorities, the EBA and the general public to compare the approaches between Member States and hence promote convergence of supervisory practices in the EU.
4. The draft ITS and its templates are developed based on the existing applicable Implementing Regulation (EU) No 650/2014⁴ since the mandate under Article 57(4) of the IFD is very similar to the Directive 2013/36/EU (Capital Requirements Directive (CRD)) mandate under Article 143(3).
5. The first article of these draft ITS provides the list of forms to be completed by competent authorities in order to disclose information on the texts of laws, regulations, administrative rules and general guidance adopted in their Member State in the field of prudential regulation. The following two articles concern the templates to be completed by competent authorities to provide

⁴ [ITS on Supervisory Disclosure](#)

information on how they exercise the options and discretions foreseen in the IFD and IFR and on the general criteria and methodologies used for the purpose of the supervisory review and evaluation process for investment firms. Article 4 provides a list of templates to be completed by competent authorities in order to disclose aggregate statistical data on key aspects of the implementation of the prudential framework in each Member State. Article 5 determines the annual publication date of this information and the last article prescribes when the delegated regulation enters into force.

6. The detailed templates listed in the ITS are presented in the Annex with instructions. They cover the following topics:
 - (a) rules and guidance, with specific templates covering the application of the Investment Firm Directive, options and discretions for supervision, remuneration, application of the reporting on financial information (Annex I);
 - (b) options and national discretions (Annex II);
 - (c) supervisory review and evaluation process criteria and methodologies (Annex III);
 - (d) aggregate statistical data on own funds, risk to market supervisory measures and administrative penalties and applied exemptions (Annex IV).
7. Competent authorities shall disclose the information of investment firms on an individual basis.
8. These templates are to be completed by competent authorities with reference date to 31 December each year and published on the following year by 30 June.
9. When publishing this information, competent authorities shall not disclose any supervisory measures directed at specific investment firms, whether taken with respect to a single investment firm or a group of investment firms.

3. Draft ITS on the format, structure, contents list and annual publication date of supervisory information (Article 57(4) of the IFD)

COMMISSION IMPLEMENTING REGULATION (EU) No .../..**of XXX**

[...]

laying down implementing technical standards with regard to the format, structure, contents list and annual publication date of the information to be disclosed by competent authorities in accordance with Directive (EU) 2019/2034 of the European Parliament and of the Council

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,
Having regard to Directive (EU) 2019/2034 of the European Parliament and of the Council of 27 November 2019 on the prudential supervision of investment firms and amending Directives 2002/87/EC, 2009/65/EC, 2011/61/EU, 2013/36/EU, 2014/59/EU and 2014/65/EU, and in particular Article 57 (4) thereof,

Whereas:

- (1) Directive (EU) 2019/2034 requires competent authorities to disclose certain information in order for the internal investment firms' market to operate with increasing effectiveness and for citizens of the Union to have adequate levels of transparency. The information disclosed should be sufficient to enable a meaningful comparison of the approaches adopted by the competent authorities of the different Member States.
- (2) In order to further facilitate this assessment, information from all competent authorities should be published in a common format, updated regularly and made accessible at a single electronic location. While the supervisory disclosure requirements in Title V of Directive (EU) 2019/2034 extend across the field of prudential regulation, as a first step this regulation focuses on the supervisory responsibilities which stem from that Directive and from Regulation (EU) 2019/2033 of the European Parliament and of the Council.
- (3) This Regulation is based on the draft implementing technical standards submitted by the European Supervisory Authority (European Banking Authority (EBA)) to the Commission.
- (4) 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 opinion of the Banking Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010⁵.

⁵ 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).

HAS ADOPTED THIS REGULATION:

Article 1

Laws, regulations, administrative rules and general guidance

Competent authorities shall, pursuant to Article 57(1)(a) of Directive (EU) 2019/2034, publish the information on texts of laws, regulations, administrative rules and general guidance adopted in their Member State in the field of prudential regulation using the applicable forms set out in parts 1 to 4 of Annex I.

Article 2

Options and discretions

Competent authorities shall, pursuant to Article 57(1)(b) of Directive (EU) 2019/2034, publish the information on the manner of exercising the options and discretions available in Directive (EU) 2019/2034 and Regulation (EU) 2019/2033 using the applicable forms set out in parts 1 to 3 of Annex II.

Article 3

General criteria and methodologies for supervisory review and evaluation process

Competent authorities shall, pursuant to Article 57(1)(c) of Directive (EU) 2019/2034, publish information on the general criteria and methodologies they use in the supervisory review and evaluation referred to in Article 36 of that Directive using the form set out in Annex III.

Article 4

Aggregated statistical data

Competent authorities shall, pursuant to Article 57(1)(d) of Directive (EU) 2019/2034, publish the information on aggregated statistical data on key aspects of the implementation of the prudential framework using the forms set out in parts 1 to 4 of Annex IV.

Article 5

Annual publication date

1. Competent authorities shall publish the information listed in Article 57(1) of Directive (EU) 2019/2034 at a single electronic location for the first time by 30 June 2022.
2. Competent authorities shall update the information referred to in point (d) of Article 57(1) of that Directive by 30 June each year based on the supervisory reporting information as at 31 December of the preceding year.
3. Competent authorities shall update the information referred to in points (a) to (c) of Article 57(1) of that Directive regularly, and no later than 30 June of each year, unless there is no change in the information published.

Article 6

Final provisions

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,

For the Commission
The President

For the Commission
On behalf of the President

[Position]

ANNEX I
RULES AND GUIDANCE

List of templates

Part 1 Transposition of Directive (EU) 2019/2034

Part 2 Model approval

Part 3 Specific disclosure requirements applied to investment firms

Part 4 Regulatory reporting

General remarks on filling in templates in Annex I

When publishing information on the general criteria and methodologies, competent authorities shall not disclose any supervisory measures directed at specific investment firms, whether taken with respect to a single investment firm or to a group of investment firms.

PART 1

Transposition of Directive (EU) 2019/2034

	Transposition of provisions of Directive (EU) 2019/2034	Provisions of Directive (EU) 2019/2034	Links to national text ⁽¹⁾	Reference(s) to national provisions ⁽²⁾	Available in EN (Y/N)
010	Date of the last update of information in this template			(dd/mm/yyyy)	
020	I. Subject matter, scope and definitions	Articles 1 to 3			
030	II. Competent authorities	Articles 4 to 8			
040	III Initial capital	Articles 9 to 11			
050	IV. Prudential supervision				
060	CHAPTER 1 - Principles of prudential supervision				
070	Section 1 - Competences and duties of home and host Member States	Articles 12 to 14			
080	Section 2 - Professional secrecy and duty to report	Articles 15 to 17			
090	Section 3 - Sanctions, investigatory powers and right of appeal	Articles 18 to 23			
100	CHAPTER 2 - Review process				
110	Section 1 - Internal capital adequacy assessment process and internal risk	Article 24			
120	Section 2 - Internal governance, transparency, treatment of risks and remuneration	Articles 25 to 35			
130	Section 3 - Supervisory review and evaluation process	Articles 36 to 37			
140	Section 4 - Supervisory measures and powers	Articles 38 to 45			
150	CHAPTER 3 - Supervision of investment firm groups				
160	Section 1 - Supervision of investment firm groups on a consolidated basis and supervision of compliance with the group capital test	Articles 46 to 50			
170	Section 2 - Investment holding companies, mixed financial holding companies and mixed-activity holding companies	Articles 51 to 56			
180	TITLE V - PUBLICATION BY COMPETENT AUTHORITIES	Article 57			
190	TITLE VI - DELEGATED ACTS	Article 58			
200	TITLE VII - AMENDMENTS TO OTHER DIRECTIVES	Articles 59 to 64			
210	TITLE VIII - FINAL PROVISIONS	Articles 65 to 69			

(1) Hyperlink(s) to the website containing the national text transposing the Union provision in question.

(2) Detailed references to the national provisions, such as relevant title, chapter, paragraph etc.

PART 2

Model approval¹

010	Date of the last update of information in this template	<i>(dd/mm/yyyy)</i>
		Description of the approach
020	Supervisory approach for the approval of the use of alternative Internal Model Approach (IMA) to calculate minimum capital requirements for market risk	
030	Minimum documentation to be provided by the investment firm applying for the use of alternative IMA	<i>[free text]</i>
040	Description of the assessment process conducted by the competent authority (use of self-assessment, reliance on external auditors and on-site-inspections) and main criteria of the assessment	<i>[free text]</i>
050	Form of the decisions taken by the competent authority and communication of the decisions to applicants	<i>[free text]</i>

(1) Applicable from 26 June 2026 or the date of application to credit institutions of the requirements as stated in Article 57(1) of Regulation (EU) 2019/2033

PART 3

Specific disclosure requirements applied to investment firms

	Directive (EU) 2019/2034	Provision	Information to be provided by the competent authority	-
010		Date of the last update of information in this template		(dd/mm/yyyy)
020	Article 44(a)	Competent authorities have the power to require investment firms that do not meet the conditions for qualifying as small and non-interconnected investment firms set out in Article 12(1) of Regulation (EU) 2019/2033 and investment firms referred to in Article 46(2) of Regulation (EU) 2019/2033 to publish the information referred to in Article 46 of that regulation more than once a year and to set deadlines for that publication;	Frequency and deadlines for publication applicable to investment firms	[free text]
030	Article 44(b)	Competent authorities may require investment firms that do not meet the conditions for qualifying as small and non-interconnected investment firms set out in Article 12(1) of Regulation (EU) 2019/2033 and investment firms referred to in Article 46(2) of Regulation (EU) 2019/2033 to use specific media and locations, in particular the investment firms' websites, for publications other than the financial statements;	Types of specific media to be used by investment firm	[free text]
040	Article 44(c)	Competent authorities may require parent undertakings to publish annually, either in full or by way of references to equivalent information, a description of their legal structure and governance and organisational structure of the investment firm group in accordance with Article 26(1) of this Directive and with Article 10 of Directive 2014/65/EU.	Legal structure and governance and organisational structure of the parent of the investment firm group	[free text]

PART 4
Regulatory reporting

010	Date of the last update of information in this template	<i>(dd/mm/yyyy)</i>
020	Implementation of the reporting on financial information in accordance with the Commission Implementing Regulation XXXX/2021	
030	Are XBRL standards used for submitting the reporting to the competent authority?	<i>[Yes/No]</i>

ANNEX II

OPTIONS AND DISCRETIONS

List of templates

Part 1 Options and discretions set out in Directive (EU) 2019/2034, Regulation (EU) 2019/2033

Part 2 Number of investment firms using transitional provisions set out in Directive (EU) 2019/2034 and Regulation (EU) 2019/2033

Part 3 Variable elements of remuneration (Article 32 of Directive (EU) 2019/2034)

General remarks on filling in templates in Annex II

When publishing information on the general criteria and methodologies, competent authorities shall not disclose any supervisory measures directed at specific investment firms, whether taken with respect to a single investment firm or to a group of investment firms.

PART 1**Options and discretions set out in Directive (EU) 2019/2034, Regulation (EU) 2019/2033**

	Directive (EU) 2019/2034	Regulation (EU) 2019/2033	Addressee	Denomination	Description of the option or discretion	Exercised (Y/N/NA) ⁽¹⁾	National text ⁽²⁾	Reference(s) ⁽³⁾	Available in EN (Y/N)	Details / Comments
010	Date of the last update of information in this template							(dd/mm/yyyy)		
020	5(1)		Competent authority	Application of CRD requirements	Competent authorities may decide to apply CRR to an investment firm that carries out MiFID 3 and 6 activities where the total value of the consolidated assets of the investment firm is equal to or exceeds EUR 5 billion where conditions of Article 5(1) of the IFD apply.	[Y/N/NA]	Mandatory if Y	Mandatory if Y		
030	24(2)		Competent authority	Internal capital and liquid assets	Competent authorities may request small and non-interconnected investment firms to apply requirements for internal capital and liquid assets as provided for in Article 24 of the IFD	[Y/N/NA]	Mandatory if Y	Mandatory if Y		
040	36(2)		Competent authority	Supervisory review and evaluation	Competent authorities shall decide on a case-by-case basis whether and in which form the review and evaluation is to be carried out for small and non-interconnected investment firms	[Y/N/NA]	Mandatory if Y	Mandatory if Y		
050	40(7)		Competent authority	Additional own funds requirement	Competent authorities may impose on a case-by-case basis an additional own funds requirements referred to in Article 40 on small and non-interconnected investment firms	[Y/N/NA]	Mandatory if Y	Mandatory if Y		
060	41(1)		Competent authority	Additional own funds requirement	Competent authorities may request investment firms which are not small and non-interconnected investment firms to have a level of own funds which would cover the potential impact of cyclical economic fluctuation	[Y/N/NA]	Mandatory if Y	Mandatory if Y		
070	42(1)		Competent authority	Liquidity requirements	Competent authorities shall impose specific liquidity requirements referred to in point (k) of Article 39(2) of the IFD for investment firms for which liquidity requirements apply as referred to in Article 42(1) of the IFD	[Y/N/NA]	Mandatory if Y	Mandatory if Y		
080	46(6)		Competent authority	Exemption from group supervisor criteria	Competent authorities may designate a supervisor on a consolidated basis other than the one referred to in Article 46(6) of the IFD	[Y/N/NA]	Mandatory if Y	Mandatory if Y		
090		1(2) (c)	Competent authority	Application of Capital Requirements Regulation (CRR) requirements	Competent authority may decide to apply CRR requirements for investment firms which carry out MiFID 3 or 6 activities and for which the value of total consolidated assets of the investment firm or group of investment firms is equal to or exceeds EUR 15 billion in accordance with Article 1(2) of the IFR	[Y/N/NA]	Mandatory if Y	Mandatory if Y		

100		1(5)	Competent authority	Application of CRR requirements	Competent authorities may allow CRR requirements to be applied to investment firms which carry out MiFID 3 or 6 activities and if the investment firm is a subsidiary of a credit institution or financial holding company or a mixed financial holding company in accordance with Article 1(5) of the IFR	[Y/N/NA]	Mandatory if Y	Mandatory if Y		
110		6(1)	Competent authority	Application of requirements on an individual basis	Competent authorities may exempt an investment firm from the application of Article 5 of the IFR in respect of parts 2, 3, 4, 6 and 7, where all conditions of Article 6(1) are fulfilled	[Y/N/NA]	Mandatory if Y	Mandatory if Y		
120		6(2)	Competent authority	Application of requirements on an individual basis	Competent authorities may exempt an investment firm from the application of Article 5 of the IFR in respect of part 6, where all conditions of Article 6(2) are fulfilled	[Y/N/NA]	Mandatory if Y	Mandatory if Y		
130		6(3)	Competent authority	Application of requirements on an individual basis	Competent authorities may exempt an investment firm from the application of Article 5 of the IFR in respect of part 5 where all conditions of Article 6(3) are fulfilled	[Y/N/NA]	Mandatory if Y	Mandatory if Y		
140		7(4)	Competent authority	Application of requirements on a consolidated basis	Competent authorities may exempt the parent undertaking from requirements to comply with the obligation laid down in part 5 on the basis of their consolidated situation	[Y/N/NA]	Mandatory if Y	Mandatory if Y		
150		8(1)	Competent authority	Application of requirements on a consolidated basis	Competent authorities may allow the application of Article 8 of the IFR where group structures are sufficiently simple, there are no significant risks to clients or to the market from the investment firm group as a whole that would otherwise require supervision on a consolidated basis.	[Y/N/NA]	Mandatory if Y	Mandatory if Y		
160		8(4)	Competent authority	Application of requirements on a consolidated basis	Competent authorities may allow a parent to hold a lower amount of own funds than the amount calculated under paragraph 3 of Article 8(4) of the IFR, provided that this amount is not lower than the sum of the own funds requirements imposed on an individual basis on its subsidiary investment firms, financial institutions, ancillary services undertakings and tied agents, and the total amount of any contingent liabilities in favour of those entities.	[Y/N/NA]	Mandatory if Y	Mandatory if Y		
170		9(4)	Competent authority	Own funds	Competent authorities may allow for investment firms which are small and non-interconnected or not legal persons or joint-stock companies to use further instruments or funds as equivalent to own funds instruments	[Y/N/NA]	Mandatory if Y	Mandatory if Y		
180		10(2)	Competent authority	Qualifying holdings of own funds	Competent authorities may prohibit an investment firm from having qualifying holdings as referred to in paragraph 1 of Article 10(2) of the IFR, where the amount of those holdings exceeds the percentages of own funds laid down in that paragraph.	[Y/N/NA]	Mandatory if Y	Mandatory if Y		
190		11(3)	Competent authority	Own funds	Competent authorities may require an investment firm to be subject to different own funds requirements than the ones referred to in Article 11 of the IFR	[Y/N/NA]	Mandatory if Y	Mandatory if Y		

200		13(2)	Competent authority	Own funds. Fixed overheads requirement	Competent authority may adjust the amount of fixed overheads requirement as referred in Article 13(1) of the IFD when it considers that there has been a material change in the activities of an investment firm.	[Y/N/NA]	Mandatory if Y	Mandatory if Y		
210		15(4)	Competent authority	Own funds	Competent authorities may adjust corresponding amount of a relevant K-factor when they consider that there has been a material change in the business activity of the investment firm.	[Y/N/NA]	Mandatory if Y	Mandatory if Y		
220		17(2)	Competent authority	K-factors. K-AUM (assets under management)	The competent authority may replace missing historical data points by regulatory determinations based on the business projections of the investment firm submitted in accordance with Article 7 of Directive 2014/65/EU.	[Y/N/NA]	Mandatory if Y	Mandatory if Y		
230		18(2)	Competent authority	K-factors. K-CMH (client money held)	The competent authority may replace missing historical data points by regulatory determinations based on the business projections of the investment firm submitted in accordance with Article 7 of Directive 2014/65/EU.	[Y/N/NA]	Mandatory if Y	Mandatory if Y		
240		19(3)	Competent authority	K-factors. K-ASA (assets safeguarded and administered)	The competent authority may replace missing historical data points by regulatory determinations based on the business projections of the investment firm submitted in accordance with Article 7 of Directive 2014/65/EU.	[Y/N/NA]	Mandatory if Y	Mandatory if Y		
250		20(3)	Competent authority	K-factors. K-COH (client orders handled)	The competent authority may replace missing historical data points by regulatory determinations based on the business projections of the investment firm submitted in accordance with Article 7 of Directive 2014/65/EU.	[Y/N/NA]	Mandatory if Y	Mandatory if Y		
260		30(1)	Competent authority	K-factors. K-TCD	Competent authorities may change the volatility adjustment for certain types of commodities for which there are different levels of volatility in prices.	[Y/N/NA]	Mandatory if Y	Mandatory if Y		
270		33(4)	Competent authority	K-factors. K-DTF (daily trading flow)	The competent authority may replace missing historical data points by regulatory determinations based on the business projections of the investment firm submitted in accordance with Article 7 of Directive 2014/65/EU.	[Y/N/NA]	Mandatory if Y	Mandatory if Y		
280		38(2)	Competent authority	Concentration risk	Competent authorities may grant the investment firm a limited period to comply with the limit regarding to concentration risk and exposure value excess referred in Article 37 of the IFR.	[Y/N/NA]	Mandatory if Y	Mandatory if Y		
290		41(2)	Competent authority	Concentration risk	Competent authorities may fully or partially exempt exposures referred to in Article 41(2) of the IFR from the application of Article 37 of the IFR.	[Y/N/NA]	Mandatory if Y	Mandatory if Y		
300		43(1)	Competent authority	Liquidity requirements	Competent authorities may exempt small and non-interconnected investment firms from application of liquidity requirements set out in Article 43(1) of the IFR.	[Y/N/NA]	Mandatory if Y	Mandatory if Y		

(1) 'Y' (Yes) indicates that the competent authority or Member State empowered to exercise the relevant option or discretion has exercised it.

'N' (No) Indicates that the competent authority or Member State empowered to exercise the relevant option or discretion has not exercised it.

'NA' (Not applicable) indicates that the exercise of the option is not possible or the discretion does not exist.

(2) The text of the provision in the national legislation.

(3) Reference to the national legislation and hyperlink(s) to the website containing the national text transposing the Union provision in question.

PART 2

Number of investment firms using transitional provisions set out in Directive (EU) 2019/2034 and Regulation (EU) 2019/2033

	Directive (EU) 2019/2034	Regulation (EU) 2019/2033	Addressee	Scope	Denomination	Description of the option or discretion	Year	Exercised (Y/N/NA) ⁽¹⁾	Number of investment firms applying the transitional provision
	<i>Date of the last update of information in this template</i>						<i>(dd/mm/yyyy)</i>		
010		Article 57(3)	Investment firms	Own funds	Application of lower own funds requirements	Investment firms referred to in Article 57(3) of the IFR may apply lower own funds requirements for a period of 5 years from 26 June 2021	[Year]	[Y/N/NA]	
020		Article 57(4)	Investment firms	Own funds	Application of lower own funds requirements	Investment firms referred to in Article 57(4) of the IFR may apply lower own funds requirements for a period of 5 years from 26 June 2021	[Year]	[Y/N/NA]	
030		Article 57(6)	Investment firms dealing on own account	Own funds	Application of lower own funds requirements	Investment firms which deal on own account and which are referred to in Article 57(6) of the IFR may limit their own funds requirements for a period of 5 years from 26 June 2021 to at least EUR 250 000, subject to an annual increase of at least EUR 100 000 during a 5-year period.	[Year]	[Y/N/NA]	

(1) 'Y' (Yes) indicates that the competent authority or Member State empowered to exercise the relevant option or discretion has exercised it.

'N' (No) Indicates that the competent authority or Member State empowered to exercise the relevant option or discretion has not exercised it.

'NA' (Not applicable) indicates that the exercise of the option is not possible or the discretion does not exist.

PART 3

Variable elements of remuneration (Article 32 of Directive (EU) 2019/2034)

	Directive (EU) 2019/2034	Addressee	Provisions	Information to disclose	Exercised (Y/N/NA) ⁽¹⁾	References ⁽²⁾	Available in EN (Y/N)	Details / Comments
010	<i>Date of the last update of information in this template</i>			(dd/mm/yyyy)				
020	Article 30(2)	Member States	Member states shall describe how they ensure that investment firms set the appropriate ratios between the variable and the fixed component of the total remuneration.	[Free text/value]	[Y/N/NA]	Mandatory if Y	Mandatory if Y	
030	Article 32(3)	Member States or Competent Authorities	Description of any restriction on the types and designs or prohibitions of instruments that can be used for the purposes of awarding variable remuneration	[Free text/value]	[Y/N/NA]	Mandatory if Y	Mandatory if Y	
040	Article 32(5)	Member States	Thresholds other than those referred to in Article 32(4) that competent authority has increased for certain investment firms	[Value in EUR]	[Y/N/NA]	Mandatory if Y	Mandatory if Y	
050	Article 32(6)	Member States	Thresholds other than those referred to in Article 32(4) that competent authority has decreased for certain investment firms	[Value in EUR]	[Y/N/NA]	Mandatory if Y	Mandatory if Y	
060	Article 32(7)	Member States	Description of market specificities or nature of the responsibilities and job profile of staff members who are entitled to annual variable remuneration whose annual variable remuneration does not exceed EUR 50 000 and does not represent more than one fourth of that individual's total annual remuneration but has not been exempt from the application of Article 32(4)	[Free text/value]	[Y/N/NA]	Mandatory if Y	Mandatory if Y	

(1) 'Y' (Yes) indicates that the competent authority or Member State empowered to exercise the relevant option or discretion has exercised it.

'N' (No) Indicates that the competent authority or Member State empowered to exercise the relevant option or discretion has not exercised it.

'NA' (Not applicable) indicates that the exercise of the option is not possible or the discretion does not exist.

(2) Reference to the national legislation and hyperlink(s) to the website containing the national text transposing the Union provision in question.

ANNEX III

SUPERVISORY REVIEW AND EVALUATION PROCESS (SREP)⁽¹⁾

010	<i>Date of the last update of information in this template</i>		<i>(dd/mm/yyyy)</i>
020	Scope of application of SREP (Articles 36 of IFD)	Description of the competent authority's approach to the scope of application of SREP including: ·what types of investment firms are covered by/excluded from SREP. ·a high-level overview of how the competent authority takes into account the principle of proportionality when considering the scope of SREP and frequency of assessment of various SREP elements ⁽²⁾ .	<i>[free text or reference or hyperlink to such guidance]</i>
030	Assessment of SREP elements (Articles 36 of IFD)	Description of the competent authority's approach to the assessment of individual SREP elements-including: ·a high-level overview of the assessment process and methodologies applied to the assessment of SREP elements, including: (1) business model analysis; (2) assessment of internal governance and investment firm-wide controls; (3) assessment of risks to capital; and (4) assessment of risks to liquidity; ·a high-level overview of how the competent authority takes into account the principle of proportionality when assessing individual SREP elements ⁽³⁾ ..	<i>[free text or reference or hyperlink to such guidance]</i>
040	Review and evaluation of ICAAP and ILAAP (Articles 24 and 36 of IFD)	Description of the competent authority's approach to the review and evaluation of the additional own funds and specific liquidity requirements as part of the SREP, and, in particular, for assessing the reliability of additional own funds and liquidity calculations for the purposes of determining additional own funds and liquidity requirements including ⁽⁴⁾ : ·an overview of the methodology applied by the competent authority to review the internal capital adequacy assessment process (ICAAP) and internal liquidity adequacy assessment process (ILAAP) of investment firms; ·information/reference to the competent authority requirements for submission of ICAAP and ILAAP-related information, in particular covering what information needs to be submitted; ·information on whether an independent review of the ICAAP and ILAAP is required from the investment firms.	<i>[free text or reference or hyperlink to such guidance]</i>
050	Overall SREP assessment and supervisory measures (Articles 38 and 39 of IFD)	Description of the competent authority's approach to the overall SREP assessment (summary) and application of supervisory measures on the basis of the overall SREP assessment ⁽⁵⁾ . Description of how SREP outcomes are linked to the application of early intervention measures according to Article 27 of Directive 2014/59/EU and determination of conditions whether the investment firm can be considered failing or likely to fail according to Article 32 of that Directive ⁽⁶⁾ .	<i>[free text or reference or hyperlink to such guidance]</i>

(1) Competent authorities to disclose the criteria and methodologies used in rows 020 to 040 and in row 050 for the overall assessment, in the form of an explanatory note as per the second column.

(2) The scope of SREP to be considered both at a level of an investment firm and in respect of its own resources. A competent authority shall explain the approach used to classify investment firm into different categories for SREP purposes, describing the use of quantitative and qualitative criteria, and how financial stability or other overall supervisory objectives are affected by such categorisation. A competent authority shall also explain how categorisation is put in practice for the purposes of ensuring at least a minimum engagement in SREP assessments, including the description of the frequencies for the assessment of all SREP elements for different categories of investment firms.

(3) Including working tools e.g. on-site inspections and off-site examinations, qualitative and quantitative criteria, statistical data used in the assessments. Hyperlinks to any guidance on the website to be added.

(4) Competent authorities shall also explain how the assessment of ICAAP and ILAAP is covered by the minimum engagement models applied for proportionality purposes based on SREP categories as well as how proportionality is applied for the purposes of specifying supervisory expectations to ICAAP and ILAAP, and in particular, any guidelines or minimum requirements for the ICAAP and ILAAP the competent authorities have issued.

(5) The approach competent authorities apply to arrive at the overall SREP assessment and its communication to the investment firms. The overall assessment by competent authorities is based on a review of all the elements referred to in row 020 to 040, along with any other relevant information about the investment firm that the competent authority may obtain.

(6) Competent authorities may also disclose the policies that guide their decisions for taking supervisory measures (within the meaning of Article 18 of the IFD) and early intervention measures (within the meaning of Article 27 of the Bank Recovery and Resolution Directive (BRRD)) whenever their assessment of an investment firm identifies weaknesses or inadequacies that call for supervisory intervention. Such disclosures might include the publication of internal guidelines or other documents describing general supervisory practices. However, no disclosure is required regarding decisions on individual investment firms, to respect the confidentiality principle.

Furthermore, competent authorities may provide information regarding the implications if an investment firm violates relevant legal provisions or does not comply with the supervisory or early intervention measures imposed based on the SREP outcomes, e.g. it shall list enforcement procedures that are in place (where applicable).

ANNEX IV
AGGREGATE STATISTICAL DATA
List of templates

Part 1 Individual data per competent authority

Part 2 Data on market risk

Part 3 Data on supervisory measures and administrative penalties

Part 4 Data on exemptions

General remarks on filling in templates in Annex IV

— When publishing information on the general criteria and methodologies, competent authorities shall not disclose any supervisory measures directed at specific investment firms, whether taken with respect to a single investment firm or to a group of investment firms.

— Numerical cells shall include only numbers. There shall be no references to national currencies. The currency used is euros and non-euro area Member States shall convert their national currencies into euros using the ECB exchange rates (at the common reference date, i.e. the last day of the year under review), with one decimal place when disclosing amounts in millions.

— Unit of disclosure shall be in millions of euro for the reported monetary amounts (hereafter – MEUR).

— Percentages shall be disclosed with two decimals.

— If data is not being disclosed, the reason for non-disclosure shall be provided using the EBA nomenclature, i.e. N/A (for not available) or C (for confidential).

— The data shall be disclosed on an aggregated basis without identifying individual investment firms.

— Data shall be compiled only for investment firms subject to IFD. Investment firms which are not subject to the IFD regime are excluded from the data collection exercise.

PART 1

Individual data per Competent Authority (year 20XX)

		Reference to reporting template	Data	
Number and size of investment firms				
010	Number of investment firms		[Value]	
020	Total assets of all investment firms in the Member state (in MEUR) ⁽¹⁾		[Value]	
Number and size of third country investment firms²				
030	From third countries	Number of branches ⁽³⁾	[Value]	
040		Number of subsidiaries ⁽⁴⁾	[Value]	
Own funds composition with respect to own funds requirements			Data, in millions euro	Data, as percentage of total own funds requirements ⁽⁶⁾%
050	Total Common Equity Tier 1 ⁽⁵⁾	IF 01.00 row 0020	[Value]	[Value]
060	Total Additional Tier 1 ⁽⁵⁾	IF 01.00 row 0280	[Value]	[Value]
070	Total Tier 2 capital ⁽⁵⁾	IF 01.00 row 0380	[Value]	[Value]
080	Total own funds ⁽⁶⁾	IF 01.00 row 0010	[Value]	[Value]
Total own funds requirement by type			Data, in millions euro	Data, as percentage of the total own funds requirements ⁽⁶⁾ %
090	Data on own funds requirements	Fixed overheads requirement ⁽⁷⁾	IF 02.01 row 0030	[Value]
100		Permanent minimum capital requirement ⁽⁸⁾	IF 02.01 row 0020	[Value]
110		K-factor requirement ⁽⁹⁾	IF 02.01 row 0040	[Value]
120		of which Risk-to-Client (RtC) ⁽¹⁰⁾	IF 04.00 row 0020	[Value]
130		of which Risk-to-Market (RtM) ⁽¹¹⁾	IF 04.00 row 0090	[Value]
140	of which Risk-to-Firm (RtF) ⁽¹²⁾	IF 04.00 row 0120	[Value]	[Value]

(1) The total assets figure shall be the sum of the asset values of all investment firms in a Member State, calculated based on applicable accounting standards, excluding any asset under management.

(2) EEA countries shall not be included.

(3) Number of branches as defined in point (3) of Article 3(1) of IFR. Any number of places of business set up in the same country by an investment firm with headquarters in a third country should be counted as a single branch.

(4) Number of subsidiaries as defined in point (29) of Article 3(1) of IFR. Any subsidiary of a subsidiary undertaking shall be regarded as a subsidiary of the parent undertaking, which is at the head of those undertakings.

(5) Capital as defined in Article 9 (1) of IFR.

(6) Total own funds requirement as defined in Article 11 of the IFR.

(7) Fixed overheads requirement as defined in point (a) of Article 11(1) of IFR.

(8) Permanent minimum capital requirement as defined in point (b) of Article 11(1) of IFR.

(9) K-factor requirement as defined in point (c) of Article 11(1) of IFR.

(10) Own funds requirements associated with Risk to Client as defined in Article 15(1)(a) of IFR. Indicate total capital ratio in column 'Data, as percentage of the own fund requirements %'.

(11) Own funds requirements associated with Risk to Market as defined in Article 15(1)(b) of IFR

(12) Own funds requirements associated with Risk to Firm as defined in Article 15(1)(c) of IFR.

PART 2

Data on risk to market ⁽¹⁾ (year 20XX)

Risk to market data		Approach	Reference to reporting template	Data	
010	Own funds requirements for risk to market				
020		K-NPR approach	IF 04.00 row 0100	[Value]	
030		of which standardised approach		[Value]	
040		of which the alternative standardised approach		[Value]	
050		of which the alternative internal model approach		[Value]	
060		of which each of K-NPR approach ⁽³⁾		[Value]	
070		K-CMG approach	IF 04.00 row 0110	[Value]	
080		Both K-CMG and K-NPR		[Value]	
090	Breakdown by approach			Data in millions euro	Data as percentage of the total own funds requirements ⁽⁴⁾ %
100		K-NPR approach	IF 04.00 row 0100	[Value]	[Value]
110		of which standardised approach		[Value]	[Value]
120		of which the alternative standardised approach		[Value]	[Value]
130		of which the alternative internal model approach ⁽³⁾		[Value]	[Value]
140		of which each of K-NPR approach ⁽³⁾		[Value]	[Value]
150		K-CMG approach	IF 04.00 row 0110	[Value]	[Value]
160		Both K-CMG and K-NPR		[Value]	[Value]

(1) The template shall include information on all investment firms and not only on those with positions related to K-NPR.

(2) Some investment firm can use more than one approach, therefore the sum of items 020 to 060 may be different from the total number of investment firms calculating the K-NPR.

(3) When investment firms use more than one K-NPR approach: standardised approach, the alternative standardised approach, the alternative internal model approach.

(4) Own funds requirements as referred to in Article 9 of the IFR.

PART 3
Data on supervisory measures and administrative penalties ⁽¹⁾ (year 20XX)

		Supervisory measures	Data
010	Supervisory measures taken in accordance with Article 38 (a)	Total number of supervisory measures taken in accordance with Article 39(2) of Directive (EU) 2019/2034	[Value]
020		to hold own funds in excess of the minimum capital requirements [Article 39(2)(a)]	[Value]
030		to reinforce governance arrangements and internal capital and liquid assets management [Article 39(2)(b)]	[Value]
040		to present a plan to restore compliance with supervisory requirements [Article 39(2)(c)]	[Value]
050		to apply a specific provisioning policy or treatment of assets [Article 39(2)(d)]	[Value]
060		to restrict/limit business or activities [Article 39(2)(e)]	[Value]
070		to reduce the risk inherent in the activities, products and systems, including outsourced activities [Article 39(2)(f)]	[Value]
080		to limit variable remuneration [Article 39(2)(g)]	[Value]
090		to strengthen own funds by using net profits [Article 39(2)(h)]	[Value]
100		to restrict/prohibit distributions or interest payments [Article 39(2)(i)]	[Value]
110		to impose additional or more frequent reporting requirements [Article 39(2)(j)]	[Value]
120		to impose specific liquidity requirements [Article 39(2)(k)]	[Value]
130		to impose additional disclosure requirements [Article 39(2)(l)]	[Value]
140		to reduce risks posed to the security of investment firms' network and information systems [Article 39(2)(m)]	[Value]
150		Number and nature of other supervisory measures taken (not listed in Article 39(2) of Directive (EU) 2019/2034)	[Value]
160	Supervisory measures taken in accordance with Article 38(b) and other provisions of Directive (EU) 2019/2034 or Regulation (EU) 2019/2033	Total number of supervisory measures taken in accordance with Article 39(2) of Directive (EU) 2019/2034	[Value]
170		to hold own funds in excess of the minimum capital requirements [Article 39(2)(a)]	[Value]
180		to reinforce governance arrangements and internal capital and liquid assets management [Article 39(2)(b)]	[Value]
190		to present a plan to restore compliance with supervisory requirements [Article 39(2)(c)]	[Value]
200		to apply a specific provisioning policy or treatment of assets [Article 39(2)(d)]	[Value]
210		to restrict/limit business or activities [Article 39(2)(e)]	[Value]
220		to reduce the risk inherent in the activities, products and systems, including outsourced activities [Article 39(2)(f)]	[Value]
230		to limit variable remuneration [Article 39(2)(g)]	[Value]
240		to strengthen own funds by using net profits [Article 39(2)(h)]	[Value]
250		to restrict/prohibit distributions or interest payments [Article 39(2)(i)]	[Value]
260		to impose additional or more frequent reporting requirements [Article 39(2)(j)]	[Value]
270		to impose specific liquidity requirements [Article 39(2)(k)]	[Value]
280		to impose additional disclosure requirements [Article 39(2)(l)]	[Value]
290		to reduce risks posed to the security of investment firms' network and information systems [Article 39(2)(m)]	[Value]
300		Number and nature of other supervisory measures taken (not listed in Article 39(2) of Directive (EU) 2019/2034)	[Value]

		Administrative penalties ⁽²⁾	Data
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010	Administrative penalties (for other breaches of requirements imposed by Directive (EU) 2019/2034 or Regulation (EU) 2019/2033)	Total number of administrative penalties from Article 18(2) of Directive (EU) 2019/2034 applied:	[Value]
020		public statements identifying the natural/legal person responsible and the nature of the breach [Article 18(2)(a)]	[Value]
030		orders requiring the natural/legal person responsible to cease the conduct and to desist from a repetition of that conduct [Article 18(2)(b)]	[Value]
040		temporary bans against natural person from exercising functions in credit institutions [Article 18(2)(c)]	[Value]
050		administrative pecuniary penalties imposed on legal/natural person [points (d) to (f) of Article 18(2)]	[Value]
060		Number and nature of other administrative penalties applied (not specified in Article 18(2) of Directive (EU) 2019/2034)	[free text]

Competent authorities shall not disclose supervisory actions or decisions directed at specific investment firms. When publishing information on the general criteria and methodologies, competent authorities shall not disclose any supervisory measures directed at specific investment firm whether taken with respect to a single investment firm or to a group of investment firms.

(1) Information shall be reported based on the date of decision. Due to differences in national regulations as well as in supervisory practices and approaches across the competent authorities, the figures provided in this table might not allow for a meaningful comparison between jurisdictions. Any conclusions without carefully considering these differences can be misleading.

(2) The administrative penalties imposed by competent authorities. Competent authorities shall report all administrative penalties against which there is no appeal available in their jurisdiction by the reference date of the disclosure. Competent authorities of Member States where it is permitted to publish administrative penalties subject to an appeal, shall also report those administrative penalties unless the appeal annulling the administrative penalty is issued.

PART 4**Data on exemptions ⁽¹⁾ (year 20XX)**

	Exemption granted to investment firms	Total number of exemptions granted
010	Exemption from the application on an individual basis of prudential requirements set out in Article 5 in respect of parts 2, 3, 4, 6 and 7 of IFR (Article 6(1) (waivers for subsidiaries) ⁽²⁾)	[Value]
020	Exemption from the application on an individual basis of prudential requirements set out in Article 5 in respect of part 6 of IFR (Article 6(2) (waivers for subsidiaries) ⁽²⁾)	[Value]
030	Exemption from the application on an individual basis of prudential requirements set out in Article 5 in respect of part 5 of IFR (Article 6(3) (liquidity waivers for subsidiaries))	[Value]
040	Exemption from the application on a consolidated basis of prudential requirements in respect of part 5 of IFR (Article 7(4) (prudential consolidation))	
050	Total number of permissions granted	[Value]
060	Total amount of consolidated own funds held in the subsidiaries established in third countries (in MEUR)	[Value]
070	Percentage of the total consolidated own funds held in subsidiaries established in third countries (%)	[Value]
080	Percentage of the consolidated own funds requirements allocated to subsidiaries established in third countries (%)	[Value]

(1) Competent authorities shall report information on exemptions practices based on the total number of exemptions by the competent authority, which are still effective or in force. The information to be reported is limited to those entities granted an exemption. Where the information is not available, i.e. not part of the regular reporting, it shall be reported as 'N/A'.

(2) The number of investment firms which have been granted the exemption shall be used as a basis for counting the exemptions.

4. Accompanying documents

4.1 Draft cost-benefit analysis / impact assessment

10. Following Article 15 of Regulation (EU) No 1093/2010 (EBA Regulation), the EBA shall analyse the potential costs and benefits of draft implementing technical standards. The draft ITS developed by the EBA shall therefore be accompanied by an impact assessment (IA) which analyses 'the potential related costs and benefits'.
11. This analysis presents the IA of the main policy options included in this Final report on the draft ITS with regard to the format, structure, contents list and annual publication date of the supervisory information to be disclosed by competent authorities under Article 57(4) of the IFD. The IA is high level and qualitative in nature.

A. Problem identification and background

12. Article 57(1) of the IFD sets out requirements for competent authorities to publicly disclose certain information, namely their texts of laws, regulations, administrative rules and general guidance adopted in their Member State pursuant to the IFD, the manner of exercise of the options and discretions available, general criteria and methodologies they use in the supervisory review and evaluation, and aggregate statistical data on key aspects of the implementation of the IFD and IFR in their Member State. Article 57(4) of the IFD in turn mandates the EBA to develop ITS to determine the format, structure, contents list and annual publication date of this information.
13. So far, the supervisory disclosure templates developed in this regard under the CRD cover both credit institutions and investment firms. They now need to be split because of the introduction of the new prudential regime for investment firms.

B. Policy objectives

14. The proposed draft ITS and disclosure templates presented in this final report reflect the EBA's work on this mandate. In particular, they result in separate, stand-alone set of templates specifically tailored to the dedicated prudential framework for investment firms.

C. Options considered, assessment of the options and the preferred option

15. Section C presents the main policy options discussed and the decisions made during the development of the draft ITS and the templates. Advantages and disadvantages, as well as potential costs and benefits of the policy options and the preferred options resulting from this analysis are assessed below.

16. With a few exceptions, the templates have been designed in line with the templates already in place for the credit institutions. In some instances, information in the templates has been adjusted in order to reflect the specificities of the investment firms' prudential framework. For instance, credit and operational risk have been eliminated from the templates since these risk types are less relevant for the IFR and IFD. These differences are not discussed below since they do not present policy options as such, given that they merely reflect the structure of the new prudential framework for investment firms.

Reporting date

Option 1a: Alignment⁶ with the publication date as already in place under the CRD.

Option 1b: Set the publication date to 30 June of each year.

17. Update of the information set out in Annex IV is required annually, with end-of-year data. The date for update of the information in the analogous templates under the CRD is set to 31 July of each year. This date for updating the information has proven to be inconvenient for competent authorities in the past. Besides, competent authorities get supervisory data, which is used for publication of the information, by 11 February each year in accordance with Article 3 of the Commission implementing regulation mandated in Article 54(3) of the IFR. Developing the draft ITS for investment firms, option 1b is preferable to option 1a and therefore competent authorities should disclose the information by 30 June. Choosing this option implies much better timing for competent authorities and should hence reduce their publication burden.
18. Option 1b has been retained.

Templates on aggregate statistical data

Option 2a: Alignment⁷ with the disclosure templates already in place under the CRD.

Option 2b: Include nominal information alongside percentage figures.

19. The existing disclosure templates related to the credit institutions include information on capital in percentage terms only (e. g. own funds requirements). For these new templates, it has been assessed that option 2b is superior to option 2a and also nominal figures have been included in the templates. The inclusion of the latter allows for a much better comparison across Member States and for its aggregation at the EU level. Whilst additional data points need to be submitted under this option, this is data readily available to competent authorities (they need them to calculate the ratios in any case), and therefore would only imply very marginal additional costs to the authorities. The additional benefit from greater comparability is expected to greatly outweigh these additional costs.

⁶ Except for changes required due to the different nature of investment firms.

⁷ Except for changes required due to the different nature of investment firms.

20. Option 2b has been retained.

D. Conclusion

21. The draft ITS and associated templates developed under IFD Article 57(4) have been drafted with a view to minimising additional costs to competent authorities (changing from the existing templates to the new investment firm focused templates). This has been achieved through maximum alignment with the existing templates for banks, except for changes that were necessary to be made in order to reflect the specific nature of investment firms. Two changes have been introduced on top of this, in order to further facilitate the work of competent authorities and in order to improve the transparency and usability of the information for end users.

4.2 Views of the Banking Stakeholder Group

The EBA Banking Stakeholder Group provided no comment on these draft ITS.

4.3 Feedback on the public consultation

The EBA publicly consulted on the draft proposal contained in this paper.

The consultation period lasted for 3 months and ended on 11 May 2021.

There were no comments received during the public consultation.