

# EBA and ESMA publish provisional list of instruments and funds for the smallest investment firms under the Investment Firms Regulation

The latter include only non-legal persons or joint-stock companies, or those which meet the conditions for qualifying as small and non-interconnected investment firms as defined in the Investment Firm Regulation (IFR). The list is provisional and intended to provide guidance to investment firms and competent authorities ahead of the application of the IFR requirements, as of 26 June 2021.

This provisional list is based on the information received from National Competent Authorities (NCAs) across the EU, and includes instruments and funds that NCAs may permit to use as own funds in addition to the instruments included in the Common Equity Tier 1 (CET1) list published by the EBA in accordance with the Capital Requirements Regulation (CRR). Therefore, instruments and funds of investment firms will be allocated either to this new list or the existing CET1 list, depending on their nature.

The EBA, together with ESMA, will assess the terms and conditions of all instruments and funds included in this provisional list against regulatory provisions at a later stage, and subsequently, will update, maintain and publish the list on a regular basis.

## **Legal basis and background**

The EBA has established this list according to Article 9(4) of the Regulation (EU) 2019/2033, which mandates the Authority, together with ESMA, to establish, maintain and publish a list of all the forms of instruments or funds in each Member State that qualify as own funds for investment firms which are not legal persons or joint-stock companies or which meet the conditions for qualifying as small and non-interconnected investment firms set out in Article 12(1) of Regulation.

Regulation (EU) 2019/2033 (IFR) was published in the Official Journal on 5 December 2019 and, together with the Directive (EU) 2019/2034 (IFD), represent the new prudential framework for investment firms authorised under the Markets in Financial Instruments Directive (MIFID).