

Investment firms: Presidency and Parliament agree on a new regulatory and supervision framework

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The EU will soon have in place a dedicated regulatory framework for investment firms.

The Romanian presidency of the Council and the European Parliament reached today a provisional agreement on a package of measures, composed of a regulation and a directive, setting out new **prudential requirements and supervisory arrangements for investment firms**. The objective of the reform is to adapt the requirements to the firms' risk profiles and business models while preserving financial stability. The deal will now be submitted for endorsement by EU ambassadors.

Investment firms play a crucial role in facilitating savings and investment flows in the EU. If they are to play their full part in the Capital Markets Union, it is essential that the rules that apply to them are tailored to meet their specific business requirements and take into account the risks they take.

Eugen Teodorovici, minister of finance of Romania

There are about 6000 investment firms in the European Economic Area. Most of them are rather small, but a limited number of investment firms hold a significant proportion of all assets and provide a very broad range of services.

Until now, all investment firms have been subject to the same capital, liquidity and risk management rules as banks. The capital requirements regulation and directive (CRR/CRD4) are based on international standards intended for banks. Therefore, they do not fully take into account the specificities of investment firms.

On the basis of the text agreed today, investment firms will be subject to the same key measures, in particular as regards capital holdings, reporting, corporate governance and remuneration, but the **set of requirements they would**

need to apply would be differentiated according to their size, nature and complexity.

The largest firms (“class 1”) would be subject to the full banking prudential regime and would be supervised as credit institutions:

- Investment firms that **provides “bank-like” services**, such as dealing on own account or underwriting financial instruments, **and whose consolidated assets exceed EUR 15 billion** would automatically be subject to CRR/CRD4;
- Investment firms engaged in “bank-like” activities with consolidated assets **between EUR 5 and 15 billion** could be requested to apply CRR/CRD4 by their supervisory authority, in particular if the firm’s size or activities would **involve risks to financial stability**.

Smaller firms that are not considered systemic would enjoy a new bespoke regime with dedicated prudential requirements. These would, in general, be different from those applicable to banks, but competent authorities could allow to continue applying banking requirements to certain firms, on a case by case basis, to avoid disrupting their business models. Such an option will be framed with a safeguard preventing regulatory arbitrage, in particular through the application of lower capital requirements under CRR/CRD4 as compared to IFR in a disproportionate manner. The text also provides for a 5-year transitional period to give companies enough time to adapt to the new regime.

The agreement **further strengthens the equivalence regime that would apply to third country investment firms**. It sets out in greater detail some of the requirements for giving them access to the single market **and grants additional powers to the Commission**. In particular, the Commission is charged with assessing capital requirements applicable to firms providing bank-like services to make sure that those are equivalent to those applicable in the EU. In addition, in case the activities performed by third country firms are likely to be of systemic importance, the new regime allows the Commission to apply some specific operational conditions to an equivalence decision to ensure that ESMA and national competent authorities have the necessary tools to prevent regulatory arbitrage and monitor the activities of third country firms.

Finally, the text agreed by the Presidency and the Parliament complements the existing MIFID2/MIFIR framework by **extending the “tick size” regime to systematic internalisers**, thus enhancing level-playing field between systematic internalisers and trading venues.

Next steps

The political agreement will now be submitted to EU ambassadors for endorsement. It will then undergo a legal linguistic revision. Parliament and Council will be called on to adopt the proposed package of measures at first reading.

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