

Directive 2006/49/EC of the European Parliament and of the Council of 14 June 2006 on the capital adequacy of investment firms and credit institutions (recast) (repealed)

CHAPTER V

Section 1

Provisions against risks

Article 20

1 Subject to paragraphs 2, 3 and 4 of this Article, and Article 34 of this Directive, the requirements in Article 75 of Directive 2006/48/EC shall apply to investment firms.

2 By way of derogation from paragraph 1, competent authorities may allow investment firms that are not authorised to provide the investment services listed in points 3 and 6 of Section A of Annex I to Directive 2004/39/EC to provide own funds which are always more than or equal to the higher of the following:

- a the sum of the capital requirements contained in points (a) to (c) of Article 75 of Directive 2006/48/EC; and
- b the amount laid down in Article 21 of this Directive.

3 By way of derogation from paragraph 1, competent authorities may allow investment firms which hold initial capital as set out in Article 9, but which fall within the following categories, to provide own funds which are always more than or equal to the sum of the capital requirements calculated in accordance with the requirements contained in points (a) to (c) of Article 75 of Directive 2006/48/EC and the amount laid down in Article 21 of this Directive:

- a investment firms that deal on own account only for the purpose of fulfilling or executing a client order or for the purpose of gaining entrance to a clearing and settlement system or a recognised exchange when acting in an agency capacity or executing a client order; and
- b) investment firms:
 - (i) that do not hold client money or securities;
 - (ii) that undertake only dealing on own account;
 - (iii) that have no external customers;
 - (iv) the execution and settlement of whose transactions takes place under the responsibility of a clearing institution and are guaranteed by that clearing institution.

4 Investment firms referred to in paragraphs 2 and 3 shall remain subject to all other provisions regarding operational risk set out in Annex V of Directive 2006/48/EC.

5 Article 21 shall apply only to investment firms to which paragraphs (2) or (3) or Article 46 apply and in the manner specified therein.