

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 (Text with EEA relevance)

TITLE IV

PRUDENTIAL SUPERVISION

CHAPTER 2

Review process

Section 3

Supervisory review and evaluation process

Article 37

Ongoing review of the permission to use internal models

1 Member States shall ensure that competent authorities review on a regular basis, and at least every three years, investment firms' compliance with the requirements for the permission to use internal models as referred to in Article 22 of Regulation (EU) 2019/2033. Competent authorities shall in particular have regard to changes in an investment firm's business and to the implementation of those internal models to new products, and review and assess whether the investment firm uses well-developed and up-to-date techniques and practices for those internal models. Competent authorities shall ensure that material deficiencies identified in the coverage of risk by an investment firm's internal models are rectified, or take steps to mitigate their consequences, including by imposing capital additions or higher multiplication factors.

2 Where, for internal risk-to-market models, numerous overshootings as referred to in Article 366 of Regulation (EU) No 575/2013 indicate that the internal models are not or are no longer accurate, competent authorities shall revoke the permission to use the internal models or impose appropriate measures to ensure that the internal models are improved promptly within a set timeframe.

3 Where an investment firm that has been granted permission to use internal models no longer meets the requirements for applying those internal models, competent authorities shall require the investment firm either to demonstrate that the effect of non-compliance is immaterial or to present a plan and a deadline to comply with those requirements. Competent authorities shall require improvements to the presented plan where that plan is unlikely to result in full compliance or where the deadline is inappropriate.

Where it is unlikely that the investment firm will comply by the prescribed deadline or has not satisfactorily demonstrated that the effect of non-compliance is immaterial, Member States shall ensure that competent authorities revoke the permission to use

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internal models or limit it to compliant areas or to those areas where compliance can be achieved by an appropriate deadline.

4 EBA shall analyse internal models across investment firms and shall analyse how investment firms using internal models treat similar risks or exposures. It shall inform ESMA thereof.

In order to promote consistent, efficient and effective supervisory practices, EBA shall, on the basis of that analysis and in accordance with Article 16 of Regulation (EU) No 1093/2010, develop guidelines with benchmarks on how investment firms are to use internal models and how those internal models are to be applied to similar risks or exposures.

Member States shall encourage competent authorities to take into account that analysis and those guidelines for the review referred to in paragraph 1.