

Regulation (EU) 2019/2033 of the European Parliament and of the Council of 27 November 2019 on the prudential requirements of investment firms and amending Regulations (EU) No 1093/2010, (EU) No 575/2013, (EU) No 600/2014 and (EU) No 806/2014 (Text with EEA relevance)

PART THREE **U.K.**

**CAPITAL REQUIREMENTS**

TITLE I **U.K.**

**GENERAL REQUIREMENTS**

*Article 13* **U.K.**

**Fixed overheads requirement**

1 For the purposes of point (a) of Article 11(1), the fixed overheads requirement shall amount to at least one quarter of the fixed overheads of the preceding year. Investment firms shall use figures resulting from the applicable accounting framework.

2 Where the competent authority considers that there has been a material change in the activities of an investment firm, the competent authority may adjust the amount of capital referred to in paragraph 1.

3 Where an investment firm has not been in business for one year from the date on which it started providing investment services or performing investment activities, it shall use, for the purpose of calculation referred to in paragraph 1, the projected fixed overheads included in its projections for the first 12 months' trading, as submitted with its application for authorisation.

4 EBA, in consultation with ESMA, shall develop draft regulatory technical standards to supplement the calculation of the requirement referred to in paragraph 1 which includes at least the following items for deduction:

- a staff bonuses and other remuneration, to the extent that they depend on the net profit of the investment firm in the respective year;
- b employees', directors' and partners' shares in profits;
- c other appropriations of profits and other variable remuneration, to the extent that they are fully discretionary;
- d shared commission and fees payable which are directly related to commission and fees receivable, which are included within total revenue, and where the payment of the commission and fees payable is contingent on the actual receipt of the commission and fees receivable;
- e fees to tied agents;
- f non-recurring expenses from non-ordinary activities.

EBA shall also specify for the purposes of this Article the notion of a material change.

EBA shall submit those draft regulatory technical standards to the Commission by 26 December 2020.

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**Changes to legislation:** This version of this Regulation was derived from EUR-Lex on IP completion day (31 December 2020 11:00 p.m.). It has not been amended by the UK since then. Find out more about legislation originating from the EU as published on [legislation.gov.uk](https://legislation.gov.uk). (See end of Document for details)

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Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.

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