

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

**CAPITAL REQUIREMENTS**

TITLE II

**K-FACTOR REQUIREMENT**

*CHAPTER 2*

***RtC K#factors***

*Article 16*

**RtC K#factor requirement**

The RtC K#factor requirement is determined by the following formula:

$K\#AUM + K\#CMH + K\#ASA + K\#COH$

where:

K#AUM is equal to AUM measured in accordance with Article 17, multiplied by the corresponding coefficient in Article 15(2);

K#CMH is equal to CMH measured in accordance with Article 18, multiplied by the corresponding coefficient in Article 15(2);

K#ASA is equal to ASA measured in accordance with Article 19, multiplied by the corresponding coefficient in Article 15(2);

K#COH is equal to COH measured in accordance with Article 20, multiplied by the corresponding coefficient in Article 15(2).

*Article 17*

**Measuring AUM for the purpose of calculating K#AUM**

1 For the purpose of calculating K#AUM, AUM shall be the rolling average of the value of the total monthly assets under management, measured on the last business day of each of the previous 15 months converted into the entities' functional currency at that time, excluding the three most recent monthly values.

AUM shall be the arithmetic mean of the remaining 12 monthly values.

K#AUM shall be calculated on the first business day of each month.

2 Where the investment firm has formally delegated the management of assets to another financial entity, those assets shall be included in the total amount of AUM measured in accordance with paragraph 1.

Where another financial entity has formally delegated the management of assets to the investment firm, those assets shall be excluded from the total amount of assets under management measured in accordance with paragraph 1.

Where an investment firm has been managing assets for less than 15 months, or where it has done so for a longer period as a small and non#interconnected investment firm and now exceeds the threshold for AUM, it shall use historical data for AUM for the period specified under paragraph 1 as soon as such data becomes available to calculate K#AUM. The competent authority may replace missing historical data points by regulatory determinations based on the business projections of the investment firm submitted in accordance with Article 7 of Directive 2014/65/EU.

#### *Article 18*

##### **Measuring CMH for the purpose of calculating K#CMH**

1 For the purpose of calculating K#CMH, CMH shall be the rolling average of the value of total daily client money held, measured at the end of each business day for the previous nine months, excluding the three most recent months.

CMH shall be the arithmetic mean of the daily values from the remaining six months.

K#CMH shall be calculated on the first business day of each month.

2 Where an investment firm has been holding client money for less than nine months, it shall use historical data for CMH for the period specified under paragraph 1 as soon as such data becomes available to calculate K#CMH.

The competent authority may replace missing historical data points by regulatory determinations based on the business projections of the investment firm submitted in accordance with Article 7 of Directive 2014/65/EU.

#### *Article 19*

##### **Measuring ASA for the purpose of calculating K#ASA**

1 For the purpose of calculating K#ASA, ASA shall be the rolling average of the value of the total daily assets safeguarded and administered, measured at the end of each business day for the previous nine months, excluding the three most recent months.

ASA shall be the arithmetic mean of the daily values from the remaining six months.

K#ASA shall be calculated on the first business day of each month.

2 Where an investment firm has formally delegated the tasks of safeguarding and administration of assets to another financial entity, or where another financial entity has formally delegated such tasks to the investment firm, those assets shall be included in the total amount of ASA which is measured in accordance with paragraph 1.

3 Where an investment firm has been safeguarding and administering assets for less than six months, it shall use historical data for ASA for the period specified under paragraph 1 as soon as such data becomes available to calculate K#ASA. The competent authority may replace missing historical data points by regulatory determinations based on the business projections of the investment firm submitted in accordance with Article 7 of Directive 2014/65/EU.

#### *Article 20*

### **Measuring COH for the purpose of calculating K#COH**

1 For the purpose of calculating K#COH, COH shall be the rolling average of the value of the total daily client orders handled, measured throughout each business day over the previous six months, excluding the three most recent months.

COH shall be the arithmetic mean of the daily values from the remaining three months.

K#COH shall be calculated on the first business day of each month.

2 COH shall be measured as the sum of the absolute value of buys and the absolute value of sells for both cash trades and derivatives in accordance with the following:

- a for cash trades, the value is the amount paid or received on each trade;
- b for derivatives, the value of the trade is the notional amount of the contract.

The notional amount of interest rate derivatives shall be adjusted for the time to maturity (in years) of those contracts. The notional amount shall be multiplied by the duration set out in the following formula:

$$\text{Duration} = \text{time to maturity (in years)} / 10$$

Without prejudice to the fifth subparagraph, COH shall include transactions executed by investment firms providing portfolio management services on behalf of investment funds.

COH shall include transactions which arise from investment advice in respect of which an investment firm does not calculate K#AUM.

COH shall exclude transactions handled by the investment firm that arise from the servicing of a client's investment portfolio where the investment firm already calculates K#AUM in respect of that client's investments or where that activity relates to the delegation of management of assets to the investment firm not contributing to the AUM of that investment firm by virtue of Article 17(2).

COH shall exclude transactions executed by the investment firm in its own name either for itself or on behalf of a client.

Investment firms may exclude from the measurement of COH any orders which have not been executed, where such non#execution is due to the timely cancellation of the order by the client.

3 Where an investment firm has been handling client orders for less than six months, or has done so for a longer period as a small and non#interconnected investment firm, it shall use historical data for COH for the period specified under paragraph 1 as soon as such data becomes available to calculate K#COH. The competent authority may replace missing historical data points by regulatory determinations based on the business projections of the investment firm submitted in accordance with Article 7 of Directive 2014/65/EU.