

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 1

Principles of prudential supervision

Section 1

Competences and duties of home and host Member States

Article 13

Cooperation between competent authorities of different Member States

1 Competent authorities of different Member States shall cooperate closely for the purposes of their duties pursuant to this Directive and to Regulation (EU) 2019/2033, in particular by exchanging information about investment firms without delay, including the following:

- a information about the management and ownership structure of the investment firm;
- b information about compliance with own funds requirements by the investment firm;
- c information about compliance with the concentration risk requirements and liquidity requirements of the investment firm;
- d information about the administrative and accounting procedures and internal control mechanisms of the investment firm;
- e any other relevant factors that may influence the risk posed by the investment firm.

2 The competent authorities of the home Member State shall immediately provide the competent authorities of the host Member State with any information and findings about any potential problems and risks posed by an investment firm to the protection of clients or the stability of the financial system in the host Member State which they have identified when supervising the activities of an investment firm.

3 The competent authorities of the home Member State shall act upon information provided by the competent authorities of the host Member State by taking all measures necessary to avert or remedy potential problems and risks as referred to in paragraph 2. Upon request, the competent authorities of the home Member State shall explain in detail to the competent authorities of the host Member State how they have taken into account the information and findings provided by the competent authorities of the host Member State.

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4 Where, following the communication of the information and findings referred to in paragraph 2, the competent authorities of the host Member State consider that the competent authorities of the home Member State have not taken the necessary measures referred to in paragraph 3, the competent authorities of the host Member State may, after having informed the competent authorities of the home Member State, EBA and ESMA, take appropriate measures to protect clients to whom services are provided or to protect the stability of the financial system.

The competent authorities may refer to EBA cases in which a request for collaboration, in particular a request to exchange information, has been rejected or has not been acted upon within a reasonable time. With regard to such cases, EBA may, without prejudice to Article 258 TFEU, act in accordance with the powers conferred on it under Article 19 of Regulation (EU) No 1093/2010. EBA may also assist the competent authorities in reaching an agreement on the exchange of information under this Article on its own initiative in accordance with the second subparagraph of Article 19(1) of that Regulation.

5 Competent authorities of the home Member State that disagree with the measures of the competent authorities of the host Member State may refer the matter to EBA, which shall act in accordance with the procedure laid down in Article 19 of Regulation (EU) No 1093/2010. Where EBA acts in accordance with that Article, it shall adopt its decision within one month.

6 For the purpose of assessing the condition in point (c) of the first subparagraph of Article 23(1) of Regulation (EU) 2019/2033, the competent authority of an investment firm's home Member State may request the competent authority of a clearing member's home Member State to provide information relating to the margin model and parameters used for the calculation of the margin requirement of the relevant investment firm.

7 EBA, in consultation with ESMA, shall develop draft regulatory technical standards to specify requirements for the type and nature of the information referred to in paragraphs 1 and 2 of this Article.

Power is delegated to the Commission to supplement this Directive 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.

8 EBA, in consultation with ESMA, shall develop draft implementing technical standards to establish standard forms, templates and procedures for the information sharing requirements for the purpose of facilitating the supervision of investment firms.

Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1093/2010.

9 EBA shall submit the draft technical standards referred to in paragraphs 7 and 8 to the Commission by 26 June 2021.