



CNMV ADOPTS THE EBA GUIDELINES ON THE EXEMPTIONS FROM LIQUIDITY REQUIREMENTS IN ACCORDANCE WITH REGULATION (EU) 2019/2033

29 November 2022

CNMV has notified the European Banking Authority (EBA) that it intends to comply with the "Guidelines on liquidity requirements exemptions under Regulation (EU) 2019/2033", published on 29 July and applicable after 28 November 2022.

Therefore, the CNMV will take these Guidelines into account when authorising requests for exemptions received from investment firms (IFs) seeking to not conform to the general liquidity requirements established.

According to Regulation (EU) 2019/2033 (IFR), IFs must have internal procedures in place to monitor and manage their liquidity requirements. Such procedures aim to help ensure that IFs can operate in an orderly manner over time, without the need to set aside liquidity specifically for periods of stress. At first, all IFs must have complied, in all cases, with at least one third of the fixed overhead requirement in liquid assets, in line with Article 43(1) of the IFR. The rationale behind such liquidity requirements is to ensure that an IF can operate normally and, if necessary, wind-down or restructure its activities in an orderly manner within a specified period.

On 26 June 2021, IFs authorised under Directive 2014/65/EU became subject to a new prudential framework, composed of Directive (EU) 2019/2034 and Regulation (EU) 2019/2033, also known as Investment Firm Directive (IFD) and Investment Firm Regulation (IFR), respectively. With the application of the IFD/IFR, liquidity requirements became mandatory for IFs, unless the competent authority grants an exemption for the smallest IFs.

This is the first time that harmonised liquidity requirements are introduced across the Union for IFs authorised under Directive 2014/65/EU ("MiFID 1"), Directive (EU) 2019/2034 (IFD) and Regulation (EU) 2019/2033 (IFR).

In the second paragraph of Article 43(1), the Regulation states that competent authorities may exempt IFs that meet the conditions from the application of the liquidity requirement for qualifying as small and not-interconnected, as set in Article 12(1), and shall duly inform EBA thereof. Additionally, Article 43(4) orders the EBA to issue guidelines to further specify the criteria to be taken into account by competent authorities when exempting from the liquidity requirement an IF that qualifies as small and not interconnected.

The guidelines detail criteria not included in Regulation (EU) 2019/2033 regarding the exemption from the liquidity requirement for IFs that qualify as small and not-interconnected.

In order to apply the exemption consistently across the European Union, the guidelines provide general guidance for competent authorities on the process of granting an exemption, such as requirements for information submitted by the company, withdrawal of an exemption and a process for compliance with liquidity requirements after the exemption is no longer applied.

The guidelines contain three main elements that address the following:

- A set of investment services and activities provided by IFs eligible for exemption.
- Criteria for exemption.
- Guidance on a process for competent authorities in granting the exemption.

The Guidelines have been issued under Article 16(3) of Regulation No. 1093/2010 of the European Parliament and of the Council, of 24 November 2010, creating a European Supervisory Authority (European Banking Authority), which establishes that competent authorities and financial institutions will do everything possible to adhere to said guidelines.