

CRD IV Investment Firms: Off-Site Compliance Work

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Defining the term '*Consolidated Groups*'

A Consolidated Group shall exist where a group of entities is subject to Part One, Title II, Chapter 2 of the CRR.

For further Guidance on determining consolidation status, Licence Holders should refer to Regulation 3 of the Banking Act and the Investment Services Act (Supervisory Consolidation Regulations), 2014

SLC 7.64 – Annual Consolidation Group Assessment

The Licence Holder shall, by not later than the end of one month from its Accounting Reference Date, assess whether it forms part of a Consolidated Group, as defined in the Glossary, and provide the MFSA with an explanation to this effect.'

SLC 7.65 – Auditors' Confirmation

The Licence Holder's auditor shall, in its annual report made in terms of SLC 7.57, provide the MFSA with a confirmation as to whether:

- a. The Licence Holder forms part of a Consolidated Group as defined in the Glossary; and
- b. The Consolidated Group satisfies the Capital Resources Requirement on a **consolidated basis**.

Regulatory Disclosures (SLC 7.78 to 7.83 of Part BI)

Licence Holders are required to publicly disclose all the information stipulated in Appendix 4 to Part BI of the Rules.

For the purpose of complying with the Pillar 3 regulatory requirements, Licence Holders shall make refer to [i] articles 431 to 455 and 492 of the CRR [ii] the relevant Technical Standards on regulatory disclosure issued by the European Commissions from time to time and [iii] the Guidelines which the EBA may issue on this matter.

Implementing technical standards with regard to disclosure of own funds requirements (Commission Implementing Regulation (EU) No 1423/2013 of 20 Dec 2013)

Guidelines on materiality, proprietary and confidentiality and on disclosure frequency (EBA/CP/2014/09)

To note: prior to the implementation of CRD IV, Licence Holders which determined that the regulatory disclosures are not material, or are of a proprietary or confidential nature, state that fact in the annual report and do not disclose. With effect from 1 January 2014 this does no longer apply !!

Part Eight of the CRR allows institutions to omit one or more of the required disclosures ('disclosure waivers') if information provided by such disclosures is not regarded as material or would be regarded as proprietary or confidential. Some of the required disclosures, such as those on **own funds** or **remuneration** cannot be omitted due to concerns related to their materiality, proprietary nature or confidentiality.

Licence Holders are recommended to make use of the Guidelines on materiality, proprietary and confidentiality and on disclosure frequency (EBA/CP/2014/09) issued by EBA in preparation of the upcoming annual regulatory disclosures.

Implementing technical standards with regard to disclosure of own funds requirements (Commission Implementing Regulation (EU) No 1423/2013 of 20 Dec 2013)

In order to increase transparency the Regulation provides a set of templates to facilitate cross-jurisdictional comparisons:

- i. The Balance Sheet Reconciliation Methodology (Annex I);
- ii. Capital instruments' main features template (Annex II);
- iii. Own funds disclosure template (Annex IV);

Fixed Overheads Requirement

EBA FINAL draft Regulatory Technical Standards on Own Funds Requirements for Investment Firms based on Fixed Overheads (EBA/RTS/2014/01)

To note: The basis of the calculation of the fixed overhead requirement has changed from using current data reported in the same return to using the most recent past audited data!!

Thank you for your attention !!

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