

ANNEX II**OPTIONS AND DISCRETIONS****List of templates**

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PART 1										
Options and discretions set out in Directive (EU) 2019/2034, Regulation (EU) 2019/2033										
	Directive (EU) 2019/2034	Regulation (EU) 2019/2033	Addressee	Denomination	Description of the option or discretion	Exercised (Y/N/NA) ⁽¹⁾	National text ⁽²⁾	Reference(s) ⁽³⁾	Available in EN (Y/N)	Details / Comments
010	Date of the last update of information in this template							(31/12/2022)		
020	5(1)		Competent authority	Application of CRD requirements	Competent authorities may decide to apply Regulation (EU) No 575/2013 to an investment firm that carries out activities specified in points 3 and 6 in Section A of Annex I of Directive 2014/65/EU where the total value of the consolidated assets of the investment firm is equal to or exceeds EUR 5 000 000 000 where conditions of Article 5(1) of Directive (EU) 2019/2034 apply.	Y	Having consulted CONSOB, the Bank of Italy may resolve, on the basis of the criteria set out in the regulation adopted in accordance with Article 6, paragraph 1, letter a), of the Consolidated Law on Finance (CLF) on the application to the SIMs of the provisions of Regulation (EU) no. 575/2013 and the national implementing provisions of Titles VII and VIII of Directive 2013/36/EU, in accordance with the provisions of Article 1, paragraph 2, letter c), of Regulation (EU) no. 2019/2033.	Article 7-undecies (4) CLF	Y (available in English on the Consob website)	The provision of Article 5(1) of the IFD (as referred to in Article 1(2)(c) of the IFR) was implemented by the provision of Article 7(4) of the Consolidated Law on Finance and then by the Bank of Italy's Regulation on SIMs (see Regulation on the supervision of SIMs (Introductory Part, Title I, Ch. 2, Sec. II, par. 2). This is a case-by-case discretion.
030	24(2)		Competent authority	Internal capital and liquid assets	Competent authorities may request small and non-interconnected investment firms to apply requirements for internal capital and liquid assets as provided for in Article 24 of Directive (EU) 2019/2034.	NA				see 'Regulation on supervision of investment firms' (Part One, Tit. II, Ch. 1, Sec. I, para. 4)
040	36(2)		Competent authority	Supervisory review and evaluation	Competent authorities shall decide on a case-by-case basis whether and in which form the review and evaluation is to be carried out for small and non-interconnected investment firms.	NA				see 'Regulation on supervision of investment firms' (Part One, Tit. II, Ch. 1, Sec. I, para. 4)
050	40(7)		Competent authority	Additional own funds requirement	Competent authorities may impose on a case-by-case basis an additional own funds requirements referred to in Article 40 of Directive (EU) 2019/2034 on small and non-interconnected investment firms.	N				see 'Regulation on supervision of investment firms' (Part One, Tit. II, Ch. 1, Sec. III, para. 4)
060	41(1)		Competent authority	Additional own funds requirement	Competent authorities may request investment firms which are not small and non-interconnected investment firms to have a level of own funds which would cover the potential impact of cyclical economic fluctuations.	Y	The provisions of Chapter 1 (Prudential Control Process) apply: - to class 2 investment firms. The Bank of Italy by special measures (so-called capital decision) may impose under Art. 7, para. 2, TUF: - the holding of capital resources in excess of the minimum regulatory level to cover risks not sufficiently covered, or other than those covered by regulatory requirements	Regulation on supervision of investment firms' (Part One, Tit. II, Ch. 1, Sec. III, para. 4)		
070	42(1)		Competent authority	Liquidity requirements	Competent authorities shall impose specific liquidity requirements referred to in point (k) of Article 39(2) of Directive (EU) 2019/2034 for investment firms for which liquidity requirements apply as referred to in Article 42(1) of Directive (EU) 2019/2034.	NA	The Bank of Italy by special measures (so-called capital decision) may impose under Art. 7, para. 2, TUF: - specific liquidity requirements. The provisions of Section (Liquidity) apply: - on an individual basis; - to class 2 and class 3 investment firms, when not exempted under Introductory Part, Tit. I, Ch. 2, Sec. I, para. 4.			see 'Regulation on supervision of investment firms' (Part One, Tit. II, Ch. 1, Sec. III, para. 4, and Part Two, Tit. I, Ch. 2, Sec. VI, para. 2)
080	46(6)		Competent authority	Exemption from group supervisor criteria	Competent authorities may designate a supervisor on a consolidated basis other than the one referred to in Article 46(6) of Directive (EU) 2019/2034.	Y	Banca d'Italia is the group supervisor when one of the following conditions is met: [...] pursuant to Article 4, co. 9, TUF, Banca d'Italia has agreed with the competent authority of another EU Member State to be designated as the group supervisor by way of derogation from the criteria set out in Article 46 paras. 3, 4 and 5, IFD.	Regulation on supervision of investment firms' (Part One, Tit. I, Ch. 2, Sec. III)		This is a case-by-case discretion.
090		1(2)(c)	Competent authority	Application of Capital Requirements Regulation (Regulation (EU) No 575/2013) requirements	Competent authority may decide to apply Regulation (EU) No 575/2013 requirements for investment firms which carry out activities specified in points 3 and 6 in Section A of Annex I of Directive 2014/65/EU and for which the value of total consolidated assets of the investment firm or group of investment firms is equal to or exceeds EUR 15 000 000 000 in accordance with Article 1(2) of Regulation (EU) 2019/2033.	NA	See 020	See 020	See 020	See 020
100		1(5)	Competent authority	Application of Regulation (EU) No 575/2013 requirements	Competent authorities may allow Regulation (EU) No 575/2013 requirements to be applied to investment firms which carry out activities specified in points 3 and 6 in Section A of Annex I of Directive 2014/65/EU and if the investment firm is a subsidiary of a credit institution or financial holding company or a mixed financial holding company in accordance with Article 1(5) of Regulation (EU) 2019/2033.	N				This is a case-by-case discretion. As of the date of this document, it has not been exercised yet.
110		6(1)	Competent authority	Application of requirements on an individual basis	Competent authorities may exempt an investment firm from the application of Article 5 of Regulation (EU) 2019/2033 in respect of parts 2, 3, 4, 6 and 7, where all conditions of Article 6(1) are fulfilled.	Y	"Authorization for some class 3 SIM to be exempted from the application on an individual basis of Parts two, three, four, six and seven of IFR (art. 6, para. 1: deadline 90 days)" "To those class 3 SIMs which have been authorised pursuant to article 6, para. 1, IFR, Part II, Title I, Chapters 1 and 2, Section I, III, IV, V of this Regulation do not apply on an individual basis"	See Regulation on the supervision of SIMs (Introductory Part, Title I, Ch. 2, Sec. IV as to administrative proceedings and Introductory Part, Title I, Ch. 2, Sec. I, par. 4 as to the exemptions pursuant to articles 6 and 7 IFR).		This is a case-by-case discretion.
120		6(2)	Competent authority	Application of requirements on an individual basis	Competent authorities may exempt an investment firm from the application of Article 5 of Regulation (EU) 2019/2033 in respect of part 6, where all conditions of Article 6(2) are fulfilled.	Y	"Authorization for some class 3 SIM to be exempted from the application on an individual basis of Part six of IFR (art. 6, para. 2: deadline 90 days)"	See Regulation on the supervision of SIMs (Introductory Part, Title I, Ch. 2, Sec. IV as to administrative proceedings)		This is a case-by-case discretion.
130		6(3)	Competent authority	Application of requirements on an individual basis	Competent authorities may exempt an investment firm from the application of Article 5 of the Regulation (EU) 2019/2033 in respect of part 5 where all conditions of Article 6(3) are fulfilled.	Y	"Authorization for some class 3 SIM to be exempted from the application on an individual basis of Part five of IFR (art. 6, para. 3: deadline 90 days)"	See Regulation on the supervision of SIMs (Introductory Part, Title I, Ch. 2, Sec. IV as to administrative proceedings)		This is a case-by-case discretion.

	Directive (EU) 2019/2034	Regulation (EU) 2019/2033	Addressee	Denomination	Description of the option or discretion	Exercised (Y/N/NA) ⁽¹⁾	National text ⁽²⁾	Reference(s) ⁽³⁾	Available in EN (Y/N)	Details / Comments
140		7(4)	Competent authority	Application of requirements on a consolidated basis	Competent authorities may exempt the parent undertaking from requirements to comply with the obligation laid down in part 5 on the basis of their consolidated situation.	Y	"Authorization for some class 3 SIM to be exempted from the application on a consolidated basis of Part five of IFR (art. 7, para. 4: deadline 90 days)". "To the EU parent undertaking listed in the register under Article 11 of the CLF, which has been authorised pursuant to Article 7, para. 4 IFR, Part II, Title I, Ch. 2, Paragraph VI, of this Regulation does not apply on a consolidated basis.	See Regulation on the supervision of SIMs (Introductory Part, Title I, Ch. 2, Sec. IV as to administrative proceedings and Introductory Part, Title I, Ch. 2, Sec. I, para. 4 as to the exemptions pursuant to article 7 IFR).		This is a case-by-case discretion.
150		8(1)	Competent authority	Application of requirements on a consolidated basis	Competent authorities may allow the application of Article 8 of Regulation (EU) 2019/2033 where group structures are sufficiently simple, there are no significant risks to clients or to the market from the investment firm group as a whole that would otherwise require supervision on a consolidated basis.	Y	"Authorization for the application of the group capital test (art. 8 IFR; deadline 90 days)" "Groups of investment firms may be exempted from the application on a consolidated basis of general prudential requirements provided that the conditions set out under Article 8 IFR are met. In those cases: - investment firms belonging to the group are subject to prudential supervision on an individual basis with respect to both corporate governance prudential requirements and prudential requirements under IFR; - the EU parent undertaking is subject to an alternative capital requirement at group level, as an alternative to the requirement set out under Article 7 IFR".	Regulation on supervision of investment firms' (Part One, Tit. I, Ch. 2, Sec. I para. 4 as to administrative proceedings and Part One, Tit. I, Ch. 2, Sec. VIII as to group capital tests)		This is a case-by-case discretion.
160		8(4)	Competent authority	Application of requirements on a consolidated basis	Competent authorities may allow a parent to hold a lower amount of own funds than the amount calculated under Article 8(3) of Regulation (EU) 2019/2033, provided that this amount is not lower than the sum of the own funds requirements imposed on an individual basis on its subsidiary investment firms, financial institutions, ancillary services undertakings and tied agents, and the total amount of any contingent liabilities in favour of those entities.	Y	"The EU parent undertaking listed in the Article 11 CLF register, can apply for the authorization to apply one of the two alternative methods for the calculation of the capital requirement at group level pursuant to paragraphs 3 or 4 of Art. 8 IFR. The application shall include the information which are necessary to prove the compliance with the requirements under paragraphs 1 and 5 of the same Article. The following are attached to the application: a. an updated business plan depicting the role played by the individual components of the group, with particular reference to foreign financial subsidiaries, if any; b. the projection on a three-year basis of the group's own funds with attached forecasts of the	Regulation on supervision of investment firms' (Part One, Tit. I, Ch. 2, Sec. VIII, par. 2)		This is a case-by-case discretion.
170		9(4)	Competent authority	Own funds	Competent authorities may allow for investment firms which are small and non-interconnected or not legal persons or joint-stock companies to use further instruments or funds as equivalent to own funds instruments	N				
180		10(2)	Competent authority	Qualifying holdings of own funds	Competent authorities may prohibit an investment firm from having qualifying holdings as referred to in Article 10(1) of Regulation (EU) 2019/2033, where the amount of those holdings exceeds the percentages of own funds laid down in that paragraph.	Y	The Bank of Italy may, pursuant to Article 10(2), IFR, prohibit the purchase or holding of qualified holdings beyond the limits provided for in paragraph 1 of the same article when, taking into account of the current or prospective technical, organizational, financial or asset situation of the SIM, as well as the geographical location of the investees and the activities carried out by the same, the transaction: - poses obstacles to the effective exercise of supervisory functions; or - conflicts with the sound and prudent management of the SIM.	Regulation on supervision of investment firms' (Part Two, Tit. I, Ch. 2, Sec. II, para. 5)		This is a case-by-case discretion.
190		11(3)	Competent authority	Own funds	Competent authorities may require an investment firm to be subject to different own funds requirements than the ones referred to in Article 11 of the Regulation (EU) 2019/2033	N				This is a case-by-case discretion. As of the date of this document, it has not been exercised yet.
200		13(2)	Competent authority	Own funds. Fixed overheads requirement	Competent authorities may adjust the amount of fixed overheads requirement as referred in Article 13(1) of Regulation (EU) 2019/2033 when it considers that there has been a material change in the activities of an investment firm.	Y	"imposition of a specific requirement regarding fixed overhead costs in cases where there has been a substantial change in the activities of a SIM (Art. 13(2), IFR; deadline: 90 days)"	Regulation on supervision of investment firms' (Part Two, Tit. I, Ch. 2, Sec. III, para. 3)		This is a case-by-case discretion.
210		15(4)	Competent authority	Own funds	Competent authorities may adjust the corresponding amount of a relevant K-factor when they consider that there has been a material change in the business activity of the investment firm.	N				This is a case-by-case discretion. As of the date of this document, it has not been exercised yet.
220		17(2)	Competent authority	K-factors. K-AUM (assets under management)	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.	N				This is a case-by-case discretion. As of the date of this document, it has not been exercised yet.
230		18(2)	Competent authority	K-factors. K-CMH (client money held)	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.	N				
240		19(3)	Competent authority	K-factors. K-ASA (assets safeguarded and administered)	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.	N				
250		20(3)	Competent authority	K-factors. K-COH (client orders handled)	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.	N				
260		30(1)	Competent authority	K-factors. K-TCO	Competent authorities may change the volatility adjustment for certain types of commodities for which there are different levels of volatility in prices.	N				This is a case-by-case discretion. As of the date of this document, it has not been exercised yet.
270		33(4)	Competent authority	K-factors. K-DTF (daily trading flow)	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.	N				
280		38(2)	Competent authority	Concentration risk	Competent authorities may grant the investment firm a limited period to comply with the limit regarding to concentration risk and exposure value excess referred in Article 37 of Regulation (EU) 2019/2033.	N				This is a case-by-case discretion. As of the date of this document, it has not been exercised yet.
290		41(2)	Competent authority	Concentration risk	Competent authorities may fully or partially exempt exposures referred to in Article 41(2) of Regulation (EU) 2019/2033 from the application of Article 37 of Regulation (EU) 2019/2033.	N				This is a case-by-case discretion. As of the date of this document, it has not been exercised yet.
300		43(1)	Competent authority	Liquidity requirements	Competent authorities may exempt small and non-interconnected investment firms from application of liquidity requirements set out in Article 43(1) of Regulation (EU) 2019/2033.	Y	Authorization for class 3 SIMs to be exempted from application of liquidity requirements (Art. 43(1) IFR; deadline 90 days).	Regulation on supervision of investment firms' (Part Two, Tit. I, Ch. 2, Sec. VI para. 3)		This is a case-by-case discretion.

PART 2									
Number of investment firms using transitional provisions set out in Directive (EU) 2019/2034 and Regulation (EU) 2019/2033									
	Directive (EU) 2019/2034	Regulation (EU) 2019/2033	Addressee	Scope	Denomination	Description of the option or discretion	Year	Exercised (Y/N/NA) ⁽¹⁾	Number of investment firms applying the transitional provision
<i>Date of the last update of information in this template</i>							(31/12/2022)		
010		Article 57(3)	Investment firms	Own funds	Application of lower own funds requirements	Investment firms referred to in Article 57(3) of Regulation (EU) 2019/2033 may apply lower own funds requirements for a period of 5 years from 26 June 2021.	2022	NA	0
020		Article 57(4)	Investment firms	Own funds	Application of lower own funds requirements	Investment firms referred to in Article 57(4) of Regulation (EU) 2019/2033 may apply lower own funds requirements for a period of 5 years from 26 June 2021.	2022	NA	5
030		Article 57(6)	Investment firms dealing on own accounts	Own funds	Application of lower own funds requirements	Investment firms which deal on own account and which are referred to in Article 57(6) of Regulation (EU) 2019/2033 may limit their own funds requirements for a period of 5 years from 26 June 2021 to at least EUR 250 000, subject to an annual increase of at least EUR 100 000 during a 5-year period.	2022	NA	0

(1) "Y" (Yes) indicates that the competent authority or Member State empowered to exercise the relevant option or discretion has exercised it.

Annex II

PART 3 Variable elements of remuneration (Article 32 of Directive (EU) 2019/2034)									
	Directive (EU) 2019/2034	Addressee	Provisions	Information to disclose	Exercised (Y/N/NA)	References	Available in EN (Y/N)	Details / Comments	
010	Date of the last update of information in this template			(31/12/2022)					
020	Article 30(2)	Member States	Member states shall describe how they ensure that investment firms set the appropriate ratios between the variable and the fixed component of the total remuneration.	NA	NA	Bank of Italy Regulation 5.12.2019 (Annex 5, par. 8.1)	N	This is not an option/discretion to be exercised. Bank of Italy Regulation 5.12.2019 (Annex 5, par. 8.1) provides for ratios between the variable and fixed components of the total remuneration to be appropriately set in the investment firm's remuneration policy (https://www.bancaditalia.it/compiti/vigilanza/normativa/archivio-norme/regolamenti/20191205/Regolamento-BI-TUF-testo-integrale.pdf).	
030	Article 32(3)	Member States or Competent Authorities	Description of any restriction on the types and designs or prohibitions of instruments that can be used for the purposes of awarding variable remuneration.	NA	N		N		
040	Article 32(5)	Member States	Thresholds other than those referred to in Article 32(4) that competent authority has increased for certain investment firms.	NA	N		N		
050	Article 32(6)	Member States	Thresholds other than those referred to in Article 32(4) that competent authority has decreased for certain investment firms.	NA	N		N		

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060	Article 32(7)	Member States	Description of market specificities or nature of the responsibilities and job profile of staff members who are entitled to annual variable remuneration whose annual variable remuneration does not exceed EUR 50 000 and does not represent more than one fourth of that individual's total annual remuneration but but the individual has not been subject to the exemption set out in Article 32(4).	NA	N		N	
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