

**COMMISSION de SURVEILLANCE  
du SECTEUR FINANCIER**

In case of discrepancies between the French and the English text, the French text shall prevail

Luxembourg, 18 November 2013

To all investment firms

**CIRCULAR CSSF 13/575**

**Re: Supervisory reporting requirements applicable to investment firms as from 2014**

Ladies and Gentlemen,

1. This circular aims to draw the investment firms' attention to the recent developments with respect to the supervisory reporting applicable as from 2014 in the European Union.
2. Pursuant to Regulation (EU) No 575/2013 of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (the “CRR”), the European Banking Authority (EBA) developed draft implementing technical standards<sup>1</sup> specifying uniform formats, frequencies, dates as well as definitions for supervisory reporting purposes.
3. The EBA published the above-mentioned draft *ITS on Supervisory Reporting* under <sup>2</sup>:  
<http://www.eba.europa.eu/regulation-and-policy/supervisory-reporting/implementing-technical-standard-on-supervisory-reporting-corep-corep-large-exposures-and-finrep->
4. In addition to its publication, the EBA submitted the draft *ITS on Supervisory Reporting* to the European Commission for approval. Once adopted by the European Commission, the *ITS on Supervisory Reporting* will be published in the form of a European Regulation directly applicable in all EU Member States. Consequently, the *ITS on Supervisory*

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<sup>1</sup> Hereafter *Implementing Technical Standard (ITS) on Supervisory Reporting*

<sup>2</sup> [www.eba.europa.eu](http://www.eba.europa.eu) > Regulation and policy > Supervisory reporting

*Reporting*, once adopted by the European Commission, will not be transposed into Luxembourg law.

However, the CSSF draws the investment firms' attention to the fact that the *ITS on Supervisory Reporting* as developed by the EBA may potentially be amended by European institutions during the European Commission's adoption process.

5. The *ITS on Supervisory Reporting* will be applicable to all investment firms subject<sup>3</sup> to the CRR as from 1 January 2014.

The subsequent classification of investment firms, according to which this circular and the annexe were drawn up, is provided for information purposes only and is without prejudice to any possible changes which might arise from the works on the transposition of Directive 2013/36/EU of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC.

Thus, investment advisers, brokers in financial instruments, distributors of units/shares in UCIs, authorised or not to accept or make payments<sup>4</sup>, financial intermediation firms, commission agents and private portfolio managers, when they are not authorised to provide ancillary service 1<sup>5</sup> shall be exempt from the scope of the CRR and from the *ITS on Supervisory Reporting* and the following shall apply to them:

- the investment advisers, brokers in financial instruments, distributors of units/shares in UCIs, authorised or not to accept or make payments, (except those which are also authorised to provide investment service 7)<sup>4</sup> and the financial intermediation firms shall be entirely exempt from the supervisory reporting referred to in item 6.;
- the private portfolio managers and commission agents shall also be entirely exempt from the supervisory reporting requirements referred to in item 6. but they shall continue to calculate and report their own funds and the own funds requirements according to the provisions of Circular CSSF 07/290 currently in force.

However, professionals acting for their own account, market makers, underwriters of financial instruments<sup>6</sup> and investment firms operating an MTF in Luxembourg, as well as all the investment firms which are authorised to provide ancillary service 1 are subject to the CRR and the *ITS on Supervisory Reporting*.

The annexe to this circular includes a classification of investment firms according to the investment services<sup>7</sup> they are authorised to provide.

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<sup>3</sup> The scope of the CRR is set by the definition of investment firm in Article 4(1)(2) of the CRR.

<sup>4</sup> The distributors of units/shares in UCIs which are also authorised to provide investment service 7 fall within the scope of the CRR and of the *ITS on Supervisory Reporting*.

<sup>5</sup> Ancillary service 1 referred to in Section C of Annexe II of the law of 5 April 1993 on the financial sector.

<sup>6</sup> Underwriters of financial instruments which are authorised or not to invest on a firm commitment basis.

<sup>7</sup> Investment services and activities referred to in Section A of Annexe II of the law of 5 April 1993 on the financial sector.

6. The draft *ITS on Supervisory Reporting* covers the new "extended COREP"<sup>8</sup> reporting and the new FINREP<sup>9</sup> reporting.

The new "extended COREP" reporting, which shall be established on an individual basis and a consolidated basis (or on a sub-consolidated basis, respectively), consists of the following reporting elements:

- a) Own funds and own funds requirements (Article 99 of the CRR)
- b) Losses stemming from lending collateralised by immovable property (Article 101 of the CRR)
- c) Information on large exposures (Article 394 of the CRR)
- d) Leverage ratio (Article 430 of the CRR)
- e) Liquidity reporting<sup>10</sup> (Article 415 of the CRR)

Within the group of investment firms which are subject to the CRR and the *ITS on Supervisory Reporting*, the CRR laid down exemptions from the reporting requirements under the above items (c), (d) and (e) for certain types of investment firms. Reference shall be made to item (b) of the Annexe to this circular for details on the exemptions applicable on an individual basis.

The current draft *ITS on Supervisory Reporting* will be supplemented during the course of the year to also cover the reporting on "asset encumbrance" and "forbearance and non performing exposures".

7. The new "FINREP reporting" covers the reporting on financial information (Article 99 of the CRR) to be established on a consolidated basis (or on a sub-consolidated basis, respectively). Its application is limited to investment firms which publish their consolidated accounts under IFRS. The reporting on an individual basis of financial information of investment firms which publish their consolidated accounts under IFRS shall continue with the tables currently into force<sup>11</sup>.

The investment firms which publish their individual and/or consolidated accounts under LUXGAAP shall also continue to report financial information<sup>11</sup>, on an individual as well as consolidated basis with the tables currently into force.

8. For the purpose of improving harmonisation at the European level, the EBA also developed technical reporting solutions such as the *data point model* (including also the verification rules). These technical solutions are also available on the EBA's website under<sup>12 13</sup>:

<http://www.eba.europa.eu/regulation-and-policy/supervisory-reporting/implementing->

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<sup>8</sup> COREP stands for Common Reporting

<sup>9</sup> FINREP stands for Financial Reporting

<sup>10</sup> According to Article 6(4) of the CRR, investment firms may be exempted by the CSSF from complying to the requirements laid down in the sixth part ("Liquidity") of the CRR having regard to the nature, scale and complexity of their business.

<sup>11</sup> [www.cssf.lu](http://www.cssf.lu) >Legal reporting >Periodic reporting >PFS >Instructions (except support PFS - Pxxx)

<sup>12</sup> [www.eba.europa.eu](http://www.eba.europa.eu) > Regulation and policy > Supervisory reporting

<sup>13</sup> Annexes XIV and XV of the draft *ITS on Supervisory Reporting*

9. Insofar as investment firms shall comply with the requirements of the CRR, the date of implementation of the new supervisory reporting scheme will be 1 January 2014, except for the new reporting on financial information to be established on a consolidated basis (or on a sub-consolidated basis, respectively). Indeed, the draft *ITS on Supervisory Reporting* provides that, for financial information, the date of application will be 1 July 2014.
10. After the adoption of the *ITS on Supervisory Reporting* by the European Commission, the tables to be submitted will be published on the CSSF website.
11. As regards the tables currently in force which are likely to be replaced for investment firms which will be subject to the CRR and the *ITS on Supervisory Reporting*, the CSSF will set out its view after the final adoption of these implementing technical standards by the European Commission.

COMMISSION de SURVEILLANCE du SECTEUR FINANCIER

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Annexe

## Annexe

### ITS on Supervisory Reporting (“extended COREP”) – information to be provided by investment firms on an individual basis

The subsequent classification of investment firms, according to which this circular and the annexe were drawn up, is provided for information purposes only and is without prejudice to any possible changes which might arise from the works on the transposition of Directive 2013/36/EU of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC.

- a) The investment firms which are only authorised to provide one or several of the investment services 1, 2, 4 and 5 without being authorised to provide ancillary service 1, will not be subject to the CRR and the *ITS on Supervisory Reporting* and the following shall apply to them:
- i. those which are only authorised to provide investment services 1 and/or 5 shall be entirely exempt from the supervisory reporting requirements referred to in item 6. of this circular;
  - ii. those authorised to provide investment services 2 and/or 4 shall also be entirely exempt from the supervisory reporting requirements referred to in item 6. of this circular but they shall continue to calculate and report their own funds and the own funds requirements according to the provisions of Circular CSSF 07/290 currently in force.
- b) The investment firms which are authorised to provide one or several of the investment services 3, 6, 7 and 8 and the investment firms which are authorised to provide ancillary service 1, will be subject to the CRR and the *ITS on Supervisory Reporting*. Among these investment firms, the CRR distinguishes three sub-categories of investment firms which shall provide respective information according to the provisions of the *ITS on Supervisory Reporting* (new reporting "extended COREP"):
- i. those which are not authorised to provide investment services 3 and/or 6 and which are subject to Article 95(1) of the CRR shall report:
    - Own funds and own funds requirements according to Article 92 and the first paragraph of Article 95(2) of the CRR;
    - Losses stemming from lending collateralised by immovable property.
  - ii. those which are authorised to provide investment services 3 and/or 6 and which are subject to Article 96(1) of the CRR shall report:
    - Own funds and own funds requirements according to Articles 92 and 96(2) of the CRR;
    - Losses stemming from lending collateralised by immovable property;
    - Liquidity reporting<sup>10</sup>.

- iii. those which are authorised to provide investment services 3 and/or 6 and which are not subject to Article 96(1) of the CRR shall report:
- Own funds and own funds requirements according to Article 92 of the CRR;
  - Losses stemming from lending collateralised by immovable property;
  - Information on large exposures;
  - Leverage ratio
  - Liquidity reporting<sup>10</sup>.