

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

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Annex II

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 | | | | | | | | | |
| 020 | | | | | | | | 2022-06-30 | | |
| | 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. | N | Finansinspektionen får besluta att tillsynsförordningen ska tillämpas i fråga om ett värdepappersbolag 1. vars konsoliderade tillgångar, beräknade som ett genomsnitt för den senaste sammanhängande tolv månaders perioden, motsvarar minst fem miljarder euro, och 2. som driver verksamhet som omfattar investeringstjänster eller investeringsverksamhet som avses i 2 kap. 1 § 3 eller 6 lagen (2007:528) om värdepappersmarknaden men som inte är råvaruhandlare eller utsläppsrättshandlare | Lag (2014:968) om särskild tillsyn över kreditinstitut och värdepappersbolag - Chapter 1 section 3 a. | N | Finansinspektionen har befogenhet att besluta om ett fall för fall tillämpning av direktivet (EU) 2019/2034 till ett investeringsföretag, i enlighet med bestämmelserna i detta direktiv. |
| 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. | N | För ett litet och icke-sammanslänkat värdepappersbolag gäller inte 4 § första eller tredje stycket, 4 c, 5, 6, 7 eller 8 § eller de särskilda krav på en fristående bedömning av soliditet och likviditet som följer av 3 §. Finansinspektionen får dock besluta att 3 § och 4 § tredje stycket ska tillämpas på ett litet och icke- | Lag (2007:528) om värdepappersmarknaden - Chapter 8 section 1 a paragraph 2 Lag (2007:528) om värdepappersmarknaden | N | Finansinspektionen har befogenhet att besluta om ett fall för fall tillämpning av direktivet (EU) 2019/2034 till ett investeringsföretag, i enlighet med bestämmelserna i detta direktiv. |
| 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. | N | Finansinspektionen ska i sin tillsyn följa de bestämmelser om översyns- och utvärderingsprocess som finns i | Förordning (2014:993) om särskild tillsyn och kapitalbuffertar - Section 9 | N | Finansinspektionen är instruerad att följa bestämmelserna i artikel 36 i direktivet (EU) 2019/2034. |
| 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 | Finansinspektionen ska besluta att ett värdepappersbolag ska uppfylla ett särskilt kapitalbaskrav utöver den kapitalbas som krävs enligt | Lag (2014:968) om särskild tillsyn över kreditinstitut och värdepappersbolag - Chapter 2 a section 1 | N | Finansinspektionen har befogenhet att besluta om ett fall för fall tillämpning av direktivet (EU) 2019/2034 till ett investeringsföretag, i enlighet med bestämmelserna i detta direktiv. |
| 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. | N | Finansinspektionen får besluta att ett värdepappersbolag ska ha en kapitalbasnivå som med tillräcklig marginal överstiger | Lag (2014:968) om särskild tillsyn över kreditinstitut och värdepappersbolag - Chapter 2 a section 3 | N | Finansinspektionen har befogenhet att besluta om ett fall för fall tillämpning av direktivet (EU) 2019/2034 till ett investeringsföretag, i enlighet med bestämmelserna i detta direktiv. |
| 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. | N | Finansinspektionen ska besluta att ett värdepappersbolag ska uppfylla ett särskilt likviditetskrav, om det är nödvändigt | Lag (2014:968) om särskild tillsyn över kreditinstitut och värdepappersbolag - Chapter 2 a section 5 | N | Finansinspektionen ska, på ett fall för fall tillämpning av direktivet (EU) 2019/2034, tillämpa särskilda likviditetskrav på ett investeringsföretag. |
| 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. | N | 2 § När Finansinspektionen ska utöva tillsyn enligt 1 § får inspektionen komma överens med övriga berörda behöriga | Lag (2014:968) om särskild tillsyn över kreditinstitut och värdepappersbolag - Chapter 4 a section 2-4 | N | Finansinspektionen kan ingå ett avtal med andra berörda behöriga myndigheter. |
| 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. | N | Finansinspektionen får besluta att tillsynsförordningen ska tillämpas i fråga om ett värdepappersbolag 1. vars konsoliderade | Lag (2014:968) om särskild tillsyn över kreditinstitut och värdepappersbolag - Chapter 1 section 3 a. | N | En beslut fattas om tillämpning av bestämmelserna i artikel 5(1) i direktivet (EU) 2019/2034. |
| 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 | N/A | N/A | N/A | No national text. Direct application of Regulation (EU) 2019/2033. |
| 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. | N | N/A | N/A | N/A | No national text. Direct application of Regulation (EU) 2019/2033. |
| 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. | N | N/A | N/A | N/A | No national text. Direct application of Regulation (EU) 2019/2033. |
| 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. | N | N/A | N/A | N/A | No national text. Direct application of Regulation (EU) 2019/2033. |
| 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. | N | N/A | N/A | N/A | No national text. Direct application of Regulation (EU) 2019/2033. |
| 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 | N/A | N/A | N/A | No national text. Direct application of Regulation (EU) 2019/2033. |
| 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. | N | N/A | N/A | N/A | No national text. Direct application of Regulation (EU) 2019/2033. |
| 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 | N/A | N/A | N/A | No national text. Direct application of Regulation (EU) 2019/2033. |
| 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. | N/A | N/A | N/A | N/A | N/A |

| | 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 |
|-----|--------------------------|---------------------------|---------------------|--|---|-----------------------------------|---|---|-----------------------|--|
| 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 | Finansinspektionen ska besluta att ett värdepappersbolag ska uppfylla ett särskilt kapitalbaskrav utöver den | Lag (2014:968) om särskild tillsyn över kreditinstitut och värdepappersbolag - Chapter 2a section 1 | N | A decision is issued under the provisions implementing art. 39.2 a of Directive (EU) 2019/2034. |
| 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. | N | N/A | N/A | N/A | No national text. Direct application of Regulation (EU) 2019/2033. |
| 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 | Finansinspektionen ska besluta att ett värdepappersbolag ska uppfylla ett särskilt kapitalbaskrav utöver den | Lag (2014:968) om särskild tillsyn över kreditinstitut och värdepappersbolag - Chapter 2a section 1 | N | A decision is issued under the provisions implementing art. 39.2 a of Directive (EU) 2019/2034. |
| 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 | N/A | N/A | N/A | No national text. Direct application of Regulation (EU) 2019/2033. |
| 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 | N/A | N/A | N/A | No national text. Direct application of Regulation (EU) 2019/2033. |
| 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 | N/A | N/A | N/A | No national text. Direct application of Regulation (EU) 2019/2033. |
| 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 | N/A | N/A | N/A | No national text. Direct application of Regulation (EU) 2019/2033. |
| 260 | | 30(1) | Competent authority | K-factors. K-TCD | Competent authorities may change the volatility adjustment for certain types of commodities for which there are different levels of volatility in prices. | N | Finansinspektionen får meddela föreskrifter som kompletterar värdepappersbolagsförordningens bestämmelser om 1. beräkningen av kapitalbaskraven (artikel 30.1 tredje stycket), och 2. koncentrationsrisker (artikel 41.2). | Förordning (2014:993) om särskild tillsyn och kapitalbuffertar - Section 16 a | N | https://www.fi.se/globalassets/media/dokument/fffs-bilagor/2021/beslutspm-fs-2111-2128.pdf |
| 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 | N/A | N/A | N/A | No national text. Direct application of Regulation (EU) 2019/2033. |
| 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 | N/A | N/A | N/A | No national text. Direct application of Regulation (EU) 2019/2033. |
| 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. | Y | 4 § Ett värdepappersbolag ska när det tillämpar artikel 37 i värdepappersbolagsförordningen undanta exponeringar mot sitt moderföretag, andra dotterföretag till moderföretaget eller sina egna dotterföretag, i den utsträckning dessa företag står under 1. gruppberäknad tillsyn enligt artikel 7 i värdepappersbolagsförordningen eller enligt tillsynsförordningen, 2. tillsyn för kontroll av att de uppfyller villkoren i gruppkapitaltestet enligt artikel 8 i värdepappersbolagsförordningen | Finansinspektionens föreskrifter och allmänna råd (FFFS 2014:12) om tillsynskrav och kapitalbuffertar - Chapter 5 section 4 & 5 | N | Investment firms shall, when applying article 37 of Regulation (EU) 2019/2033 fully exempt exposures incurred by an investment firm to its parent undertaking, to other subsidiaries of that parent undertaking or to its own subsidiaries under certain circumstances, and to covered bonds with 10 % of their value, in accordance with the provisions referred to here. |
| 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. | N | N/A | N/A | N/A | No national text. Direct application of Regulation (EU) 2019/2033. |

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

N' (No) Indicates that the competent authority or Member State empowered to exercise the relevant option or discretion has not exercised it.

NA' (Not applicable) indicates that the exercise of the option is not possible or the discretion does not exist.

(2) The text of the provision in the national legislation.

(3) Reference to the national legislation and hyperlink(s) to the website containing the national text transposing the Union provision in question.

| 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/March/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. | 2021 | Y | 1 | |
| 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. | 2021 | Y | 2 | |
| 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. | [Year] | N | 0 | |

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

N' (No) Indicates that the competent authority or Member State empowered to exercise the relevant option or discretion has not exercised it.

NA' (Not applicable) indicates that the exercise of the option is not possible or the discretion does not exist.

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 | | | | | (30/06/2022) | | |
| 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. | Finansinspektionen has passed regulations with provisions that require investment firms to set appropriate ratios between the variable and the fixed component of the total remuneration in their remuneration policies, by taking certain factors into account. Additionally, Finansinspektionen will be able to review how investment firms fulfill these provisions through its supervisory function and when necessary enforce change. | Y | Finansinspektionens föreskrifter (FFFS 2017:2) om värdepappersrörelse - Chapter 3 a section 4.9 | N | Furthermore, in accordance with preamble 25 of Directive (EU) 2019/2034, Sweden has chosen to implement measures in national law that provide that the variable compensation to an employee whose function or total compensation level entails that he or she has a material impact on an investment firm's risk profile may not exceed the fixed compensation. See Chapter 8 section 8 f Lag (2007:528) om värdepappersmarknaden. |
| 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. | N/A | N | Mandatory if Y | Mandatory if Y | Finansinspektionen has chosen not to exercise the power to adjust thresholds given in chapter 6 section 1.9 förordning (2007:572) om värdepappersmarknaden. |

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|-----|---------------|---------------|---|-----|---|----------------|----------------|--|
| 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. | N/A | N | Mandatory if Y | Mandatory if Y | Finansinspektionen has chosen not to exercise the power to adjust thresholds given in chapter 6 section 1.9 förordning (2007:572) om värdepappersmarknaden. See p. 50. Beslutspromemoria: Ändrade föreskrifter om kapitaltäckning och ersättningssystem för värdepappersbolag (FI dnr 20-14833). |
| 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. | N/A | N | Mandatory if Y | Mandatory if Y | Finansinspektionen has chosen not to exercise the power to adjust thresholds given in chapter 6 section 1.9 förordning (2007:572) om värdepappersmarknaden. See p. 50. Beslutspromemoria: Ändrade föreskrifter om kapitaltäckning och ersättningssystem för värdepappersbolag (FI dnr 20-14833). |

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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). | N/A | N | Mandatory if Y | Mandatory if Y | Finansinspektionen has chosen not to exercise the power to adjust thresholds given in chapter 6 section 1.9 förordning (2007:572) om värdepappersmarknaden. See p. 50-51. Beslutspromemoria: Ändrade föreskrifter om kapitaltäckning och ersättningssystem för värdepappersbolag (FI dnr 20-14833). |
|-----|---------------|---------------|---|-----|---|----------------|----------------|---|

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

N' (No) Indicates that the competent authority or Member State empowered to exercise the relevant option or discretion has not exercised it.

NA' (Not applicable) indicates that the exercise of the option is not possible or the discretion does not exist.

(2) Reference to the national legislation and hyperlink(s) to the website containing the national text transposing the Union provision in question.