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COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	11 March 2022
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union

No. Cion doc.:	C(2022) 1413 final
Subject:	Commission Delegated Regulation (EU) .../... of 11.3.2022 supplementing Regulation (EU) 2019/2033 of the European Parliament and of the Council with regard to regulatory technical standards for public disclosure of investment policy by investment firms

Delegations will find attached document C(2022) 1413 final.

Encl.: C(2022) 1413 final



Brussels, 11.3.2022
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COMMISSION DELEGATED REGULATION (EU) .../...

of 11.3.2022

**supplementing Regulation (EU) 2019/2033 of the European Parliament and of the
Council with regard to regulatory technical standards for public disclosure of
investment policy by investment firms**

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Article 52(3) of Regulation (EU) 2019/2033 ('the Regulation, 'IFR') empowers the Commission to adopt, following submission of draft regulatory technical standards by the European Banking Authority (EBA) in consultation with the European Securities and Markets Authority (ESMA), and in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010, delegated acts specifying uniform disclosure formats and associated instructions for the requirements on investment policy by investment firms referred to in Article 52(1) of the IFR.

In accordance with Article 10(1) of Regulation (EU) No 1093/2010 establishing the EBA, the Commission shall decide within three months of receipt of the draft standards whether to endorse the drafts submitted. The Commission may also endorse the draft standards in part only, or with amendments, where the Union's interests so require, having regard to the specific procedure laid down in those Articles.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

In accordance with the third subparagraph of Article 10(1) of Regulation (EU) No 1093/2010, the EBA has carried out a public consultation on the draft technical standards submitted to the Commission in accordance with Article 52(3) of the Regulation. A consultation paper was published on the EBA internet site on 31 March 2021, and the consultation closed on 1 July 2021. Moreover, the EBA consulted the European Securities and Markets Authority (ESMA) and requested the Banking Stakeholder Group set up in accordance with Article 37 of Regulation (EU) No 1093/2010 to provide advice on them. Together with the draft technical standards, the EBA has submitted an explanation on how the outcome of these consultations has been taken into account in the development of the final draft technical standards submitted to the Commission.

Together with the draft technical standards, and in accordance with the third subparagraph of Article 10(1) of Regulation (EU) No 1093/2010, the EBA has submitted its Impact Assessment, including its analysis of the costs and benefits, related to the draft technical standards submitted to the Commission. This analysis is available at <https://www.eba.europa.eu/regulation-and-policy/transparency-and-pillar-3/regulatory-technical-standards-disclosure-investment-policy-investment-firms#pane-new-7bdd87fb-e02f-492a-99d6-129449e3cf9d>, 14 to 17 pages of the Final Report of the draft technical standards.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

The provisions of this delegated act specify uniform disclosure formats and associated instructions for the requirements on investment policy by investment firms referred to in Article 52(1) of the IFR. The disclosure required includes information on the proportion of voting rights attached to the shares held directly or indirectly by the investment firms, information on their voting behaviour, an explanation of votes and the ratio of proposals put forward and approved, information on the use of proxy advisor firms and information on their voting guidelines.

Commission Delegated Regulation (EU) .../...

of 11.3.2022

supplementing Regulation (EU) 2019/2033 of the European Parliament and of the Council with regard to regulatory technical standards for public disclosure of investment policy by investment firms

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to (EU) 2019/2033 of the European Parliament and of the Council of 27 November 2019 on the prudential requirements of investment firms and amending Regulations (EU) No 1093/2010, (EU) No 575/2013, (EU) No 600/2014 and (EU) No 806/2014¹, and in particular Article 52(3) thereof,

Whereas:

- (1) Regulation (EU) 2019/2033 of the European Parliament and of the Council requires investment firms other than small and non-interconnected investment firms to publicly disclose information on their investment policy, in order to provide transparency to their investors and the wider market participants on their influence over the companies in which they hold directly or indirectly shares to which voting rights are attached and on how they vote. The disclosure required includes information on the proportion of voting rights attached to the shares held directly or indirectly by the investment firms, information on their voting behaviour, an explanation of votes and the ratio of proposals put forward and approved, information on the use of proxy advisor firms and information on their voting guidelines.
- (2) This Regulation, as mandated in Article 52(3) of Regulation (EU) 2019/2033 of the European Parliament and of the Council, aims at specifying templates for the required disclosure, in response to the need for consistent and comparable public information on the public policy of investment firms.
- (3) While proportionate, the provisions of this Regulation aim at ensuring that the templates and tables used by investment firms for investment policy disclosures convey sufficiently comprehensive and comparable information on their voting behaviour and how it influences their investee companies.

¹ OJ L 314, 5.12.2019, p. 1.

- (4) More specifically, this Regulation introduces a quantitative disclosure template on the proportion of voting rights attached to shares held by the investment firms directly, and indirectly by their subsidiaries, or associates in accordance with Article 2, (13) of Directive 2013/34/EU, or any other undertakings with whom the investment firm is linked in accordance with Article 3(1)(4) of Directive (EU) 2019/2034, including shares under investment firms' management on behalf of clients, unless voting rights are retained by shareholders by virtue of a contractual arrangement prohibiting the investment firm to vote on their behalf. This Regulation also defines tables and templates for the description of the voting behaviour of the investment firm, and of the proportion of general meeting resolutions that the firm has approved or opposed, by topic, and including information on the departments or roles involved in deciding the voting position, the validation process and material changes in the rate of resolutions approved. In addition, it includes qualitative tables for the description of the use of proxy advisor firms and the links with those firms. Finally, it includes instructions on the information that investment firms must disclose regarding their voting guidelines.
- (5) This Regulation is based on the draft regulatory technical standards submitted by the European Supervisory Authority (European Banking Authority) (EBA) to the Commission.
- (6) EBA has conducted an open public consultation on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the opinion of the Banking Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010,

HAS ADOPTED THIS REGULATION:

Article 1

Disclosure principles

Information to be disclosed in accordance with this Regulation shall be subject to the following principles:

- (a) Disclosures shall be subject to the same level of internal verification as that applicable to the management report included in the investment firm's financial report.
- (b) Disclosures shall be clear. They shall be presented in a form that is understandable to users of information and communicated through an accessible medium. Important messages shall be highlighted and easy to find. Complex issues shall be explained in simple language. Related information shall be presented together.
- (c) Disclosures shall be meaningful and consistent over time to enable users of information to compare information across disclosure periods.
- (d) Quantitative disclosures shall be accompanied by qualitative explanations and any other supplementary information that may be necessary in order for the users of that information to understand them, noting in particular any

significant change in any given disclosure compared to the information contained in the previous disclosures.

Article 2

General specifications

1. Where disclosing information in accordance with this Regulation, investment firms shall ensure that numeric values are submitted as facts. Quantitative data disclosed as a percentage shall be expressed per unit with a minimum precision equivalent to two decimal places.
2. Where disclosing information in accordance with this Regulation, investment firms shall ensure that the data are associated with the following information:
 - (a) disclosure reference date and reference period;
 - (b) name and identifier of the disclosing investment firm (a Legal Entity Identifier (LEI) where available);
 - (c) where relevant, accounting standard; and
 - (d) where relevant, scope of consolidation.

Article 3

Disclosure of proportion of voting rights

Investment firms shall disclose the information referred to in Article 52(1), point (a) of Regulation (EU) 2019/2033 by using template IF IP1 of Annex I to this Regulation and by following the instructions set out in Annex II to this Regulation.

Article 4

Disclosure of voting behaviour

Investment firms shall disclose the information referred to in Article 52(1), point (b) of Regulation (EU) 2019/2033 as follows:

- (a) the information on the voting behaviour by using table IF IP2.01 and template IF IP2.02 of Annex I to this Regulation and by following the instructions set out in Annex II to this Regulation;
- (b) the information on the explanation of the votes by using table IF IP2.03 and template IF IP2.04 of Annex I to this Regulation and by following the instructions set out in Annex II to this Regulation;
- (c) the information on the ratio of proposals which the investment firm has approved by using template IF IP2.05 of Annex I to this Regulation and by following the instructions set out in Annex II to this Regulation.

Article 5

Disclosure of explanation of the use of proxy advisor firms

Investment firms shall disclose the information referred to in Article 52(1), point (c) of Regulation (EU) 2019/2033 as follows:

- (a) the information on the list of proxy advisor firms used by the investment firm by using table IF IP3.01 of Annex I to this Regulation and by following the instructions set out in Annex II to this Regulation;
- (b) the information on the links with proxy advisor firms by using table IF IP3.02 of Annex I to this Regulation and by following the instructions set out in Annex II to this Regulation.

Article 6

Disclosure of voting guidelines

Investment firms shall disclose the information referred to in Article 52(1), point (d) of Regulation (EU) 2019/2033 by using template IF IP4 of Annex I to this Regulation and by following the instructions set out in Annex II to this Regulation.

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 11.3.2022

For the Commission
The President
Ursula VON DER LEYEN