

ANNEX II

OPTIONS AND DISCRETIONS	
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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						2022-06-30			
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.	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 tolvmånadersperioden, 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 utsläppsrättshandlar	Lag (2014:968) om särskild tillsyn över kreditinstitut och värdepappersbolag - Chapter 1 section 3 a.	N	Finansinspektionen has the power to decide on a case-by-case basis to apply Regulation (EU) No 575/2013 to an investment firm, in accordance with the provisions referenced here.
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-sammanlänkat 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 has the power to decide, on a case-by-case basis, to apply requirements for internal capital and liquid assets as provided for in Article 24 of Directive (EU) 2019/2034 to a small and non-interconnected investment firm, in accordance with the provisions referenced here.
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 are instructed to follow the provisions set out in article 36 of Directive (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 has the power to decide, on a case-by-case basis, to apply additional requirements for internal capital
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 has the power to decide, on a case-by-case basis, to require investment firms which are not
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 shall, on a case-by-case basis, impose specific liquidity requirements on investment firms
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 can enter into an agreement with other affected competent authorities giving
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	A decision is issued under the provisions implementing article 5(1) of Directive (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 decion 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 decion 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 värdepappersbolagsf örordningens 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	Finansinspektionen has the power to create regulations in order to exerce the relevant discretion but has chosen not to do so. See 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 värdepappersbolagsf örordningen undanta exponeringar mot sitt moderföretag, andra dotterföretag till moderföretaget eller sina egna dotterföretag, i den utsträckning dessa företag står under 1. gruppbaserad tillsyn enligt artikel 7 i värdepappersbolagsf örordningen eller enligt tillsynsförordningen, 2. tillsyn för kontroll av att de uppfyller villkoren i gruppkapitaltestet enligt artikel 8 i värdepappersbolagsf	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 ceratian circumstaces, 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.

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.

Annex II

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).

Annex II

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. Beslutspromemorior: Ändrade föreskrifter om kapitaltäckning och ersättningssystem för värdepappersbolag (FI dnr 20-14833).
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(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.