



Datum
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Prudential regime for investment firms - EBA level 2 consultations

The Austrian Professional Association of Financial Service Provider as legal representative of Austrian investment firms and financial advisors, appreciates the possibility to comment on the above-cited proposal and would like to submit the following position:

Draft RTS for Own Funds Requirements for Investment Firms based on Fixed Overheads

We propose to add the following item for deduction in Art. 1 (6) (f): “fees to national types of tied agents”.

Aside from tied agents, investment firms cooperate with different types of agents for distribution purposes on a national level. In Austria, this other form of agent is called “*Wertpapiervermittler*” and is comparable to a national form of a tied agent, which has very similar rights and obligations (except passporting). Thus, fees to both types of agents shall not be treated differently to ensure a level playing field between investment firms.

In Art. 1 (5), the wide term “third parties” already ensures the inclusion of fixed expenses incurred by *Wertpapiervermittler* on behalf of investment firms.

Draft RTS specifying the methods for measuring the K-factors referred to in Article 15 of that Regulation

Art. 2 (2) contradicts the initial intention to avoid double counting (as it is mentioned on page 16, recital 50). The said assets are already covered by the own funds requirements of the investment firm providing portfolio management directly to the client. However, the investment firm providing investment advice offer the service to another investment firm

which already covered the risk in its own fund requirement. Furthermore, the advisor - opposed to the investment firm that provides the delegated portfolio management - does not have any decision-making power over the said assets.

Therefore, Article 2 (2) RTS specifying K-factors shall be deleted.

With regard to the K-COH, using the current market price is inaccurate and may cause considerable deviations in the own funds and liquidity requirements.

Therefore, we strongly advise to consider alternatives.

We remain at your disposal should you need further information.

Thank you for your time and your attention.

Kind regards,

Professional Association of Financial Service Provider