

# Consultation Document on Investment Firms' Prudential Consolidation further to the Publication of the Final Guidelines on the Group Capital Test by the European Banking Authority ("EBA")

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## Background

This Consultation Document relates to the application of prudential consolidation under Article 7 of Investment Firms Regulation (EU) 2019/2033 of the European Parliament and of the Council of 27 November 2019 (“IFR”) and in turn the request for derogation for the Group Capital Test under Article 8, further to the Publication of the final [Guidelines](#) on the Group Capital Test by the EBA.

Prior to the application of the Investment Firms Regulation (EU) 2019/2033 of the European Parliament and of the Council of 27 November 2019 (“IFR”) on 26 June 2021, the Authority issued a [Circular](#) dated 08 June 2021 with the related high-level changes to be made to the Investment Services Rules for Investment Services Providers, Part BI applicable to MiFID Firms (“the Rulebook”).

Furthermore, on 17 January 2022 the Authority issued another [Circular](#) requesting all investment firm groups to provide the Authority with an assessment in relation to their consolidated situation for the application of the IFR Article 7 – Prudential Consolidation, and Article 8 – The Group Capital Test via the LH Portal. However, we note that limited feedback was received by the industry.

On 23 April 2024, the Authority issued another [Circular](#) in relation to guidelines on the application of the group test. This was further to the publication of the EBA [Guidelines](#) on 11 April 2024, of which Guidelines are applicable as of 01 January 2025. The Circular is advising the industry to assess the contents of such Guidelines and their possible impact on their operations.

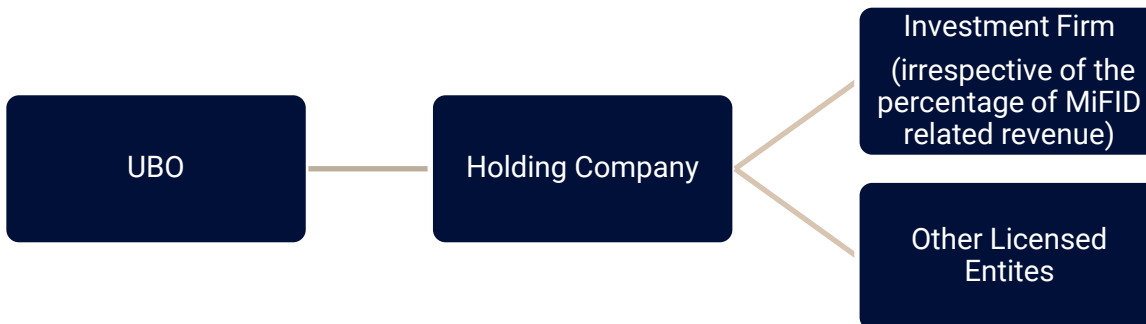
## Clarification and Proposal

An investment firm group means a group of undertakings which consists of a parent undertaking and its subsidiaries or of undertakings which meet the conditions set out in Article 22 of Directive 2013/34/EU of the European Parliament and of the Council, of which at least **one** is an investment firm, and which does not include a credit institution.

In this regard, as defined in the IFR, and further to EBA consideration, structures similar to the below fall in scope of Article 7 of the IFR, thereby prudential consolidation. However, consideration should be made to [Commission Delegation Regulation \(EU\) 2024/1771](#) of 13 March 2024 on supplementing Regulation (EU) 2019/2033 of the European Parliament and of the Council, with regards to regulatory technical standards specifying the details of the scope and methods for prudential consolidation of an investment firm group.



Structure 1



Structure 2

On the basis of the above, the Authority is proposing that all investment firms licensed by the Authority having such structures, and who have not already done so, are to submit the Master Data Collection [excel sheet](#) (as referred to in the above-mentioned [Circular](#)), duly compiled through the LH Portal, using the project named Investment Firms Reporting and save the file using the naming convention: CODE\_DEC2024\_OTHER.zip.

To clarify, further to the issuance of the [Circular](#) dated 17 January 2022, investment firm groups meeting the respective criteria under Article 7 were obliged to submit to the Authority the investment group master data together with the assessment in relation to their consolidated situation. Whilst we note the limited feedback received to date, the Authority has also addressed this matter during supervisory interactions.

Furthermore, Licence Holders subject to Article 7 of the IFR, which further to the assessment of the qualitative and quantitative criteria identified by the EBA in the [Guidelines](#), deem to be in scope of Article 8 of the same Regulation, are to send their request to apply this Article together with this assessment.

Kindly note that such requests would be subject to the Authority’s approval. Consequently, until feedback is provided by the MFSA, such investment firms would need to report under Article 7 – Prudential Consolidation as of 01 January 2025 for the Q1 2025 submission.

As referred to in the Authority’s [Circular](#) dated 12 June 2024, there is an EBA-ESMA discussion paper in relation to the potential review of the Investment Firms Prudential Framework. Any conclusions reached will be taken into consideration.

## Conclusion

The MFSA invites comments on all matters in this Consultation Document. Stakeholders are encouraged to provide clear, detailed feedback, and where relevant, to include drafts of specific suggestions or alternative proposals. The MFSA will consider all comments received by **16 December 2024**. All contributions should be sent via email on [investmentfirms@mfsa.mt](mailto:investmentfirms@mfsa.mt).