European Securities and Markets Authority

ESMA_QA_1311

Submission Date
23/09/2022

Status: Answer Published

Additional Information

Level 1 Regulation
Markets in Financial Instruments Directive II (MiFID II) Directive 2014/65/EU- Secondary Markets

Topic
Ancillary activity

Subject Matter
Calculation of denominator

Question
Should the denominator in the capital employed test under Article 5(4) of CDR 2021/1833 be calculated using consolidated accounts? Should firms use capital on a worldwide basis or just capital employed within the EU?

ESMA Answer

23-09-2022

Original language

[ESMA70-872942901 Commodity derivatives, Ancillary services, Q&A 10]

The CDR 2021/1833 RTS 20 capital employed test should be calculated using consolidated accounts. According to Article *5(4) of* CDR 2021/1833, the capital employed for carrying out the main business of a group shall be the sum of the total assets of the group minus its short-term debt as recorded in the consolidated financial statements of the group at the end of the relevant annual calculation period.

Firms shall use capital employed on a worldwide basis when calculating the capital test.