



Banc Ceannais na hÉireann
Central Bank of Ireland

Eurosystem

Process clarifications for UCITS and AIFs pre-contractual documentation updates in relation to the **Taxonomy Regulation¹** and **Level 2 measures in relation to the Sustainable Finance Disclosure Regulation²**

November 2021

¹ Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 (the “Taxonomy Regulation”) – associated requirements to be applicable as at 1 January 2022.

² Regulation (EU) 2019/2088 of the European Parliament and of the Council of 27 November 2019 on sustainability-related disclosures in the financial services sector - associated requirements to be applicable as at 1 July 2022.

Implementation of the Taxonomy Regulation and the Level 2 measures in relation to Sustainable Finance Disclosure Regulation (“SFDR”): Process clarifications with respect to UCITS and AIFs pre-contractual document (prospectus/supplement) updates applicable 1 January 2022 (“Taxonomy Regulation Deadline”) and 1 July 2022 (“SFDR RTS Deadline”)

Context

The Taxonomy Regulation requires financial market participants that make available financial products (Article 6, Article 8 and Article 9 of the SFDR) to provide for the transparency of environmentally sustainable investments in pre-contractual disclosures and in periodic reports in relation to the environmental objectives climate change mitigation and climate change adaptation.

The SFDR requires financial market participants and financial advisers, which includes UCITS management companies and Alternative Investment Fund Managers (AIFMs), to make pre-contractual and ongoing disclosures to end investors with regard to the integration of sustainability risks, the consideration of adverse sustainability impacts, the promotion of environmental or social characteristics and sustainable investment.

The SFDR Level 1 requirements came into force on 10 March 2021, whilst Level 2 requirements will apply from 1 July 2022. The Taxonomy Regulation requirements will apply from 1 January 2022. This will result in updates to pre-contractual documentation for UCITS, RIAIFs and QIAIFs (“AIFs”).

Central Bank approach

To facilitate orderly implementation of these requirements, the Central Bank has established a fast-track filing process for pre-contractual document updates based on the Taxonomy Regulation and the SFDR Level 2 text, under which both UCITS management companies and AIFMs (‘Managers’) will be required to certify compliance with the requirements via an attestation.

Overarching expectations

The responsibility rests with the relevant Manager to ensure compliance with the applicable requirements³.

³ <https://www.esma.europa.eu/document/letter-european-commission-esas-application-regulation-eu-20192088-sustainability-related>

Importantly, the fast-track regime should not be seen as providing scope for a lesser quality of disclosures than would otherwise be produced. Please be aware that, whilst a noting / confirmation of receipt will issue following the submission of each update, the Central Bank intends to undertake a review of a sample of the submissions received and will engage with those selected applicants on a bilateral basis where queries arise in respect of the applications that fall within the sample. As such, notwithstanding the noting / confirmation issued, the Central Bank may require revisions to documentation to be made at a later date.

Documentation and timing

Q. What documents need to be filed with the Central Bank for UCITS and AIFs (RIAFs and QIAIFs)?

A Responsible Person⁴ shall certify that the amendments made are in accordance with the Taxonomy Regulation and SFDR RTS and do not contain any other amendments to the pre-contractual documentation. This attestation along with the relevant revised final dated documents (prospectus/supplement) for UCITS, RIAIFs and QIAIFs are required to be submitted to the dedicated mailbox SFDR@centralbank.ie by close of business on the relevant date for automated noting by the Central Bank. Documents should be dated the date they are submitted.

Q. Is there a prescribed format for the email submissions?

Yes.

For individual sub-fund submissions, the subject line in the email must follow the following format: [Article X] [Name of Management Company] [Name of Umbrella Fund/Standalone/Sub-Fund(s)].

Note: The Article is required to easily identify the SFDR classification that applies to the relevant fund.

For multiple sub-fund submissions within the same umbrella, the subject line in the email must follow the following format: [Multiple Articles – if applicable] [Name of Management Company] [Name of Umbrella Fund]. These submissions should also include an excel spreadsheet listing the names of all sub-funds within the submission along with the Article applicable to each.

Q. Is there a prescribed format or form for the attestation?

Yes.

⁴ The Responsible Person of a UCITS is the UCITS management company or the UCITS Self-Managed Investment Company (SMIC); the Responsible Person of an AIF is the AIFM or the AIF SMIC, or in the case of an AIF with a non-EU AIFM the Responsible Person is the fund itself.

In respect of the Taxonomy Regulation, the attestation must state that the revised disclosures contained therein have been made in order to comply with the requirements of the Taxonomy Regulation, that such revised disclosures comply with the Taxonomy Regulation and that no other changes are being made at this time.

In respect of the Level 2 measures in relation to SFDR, the attestation must state that the revised disclosures contained therein have been made in order to comply with the requirements of the Level 2 measures in relation to SFDR, that such revised disclosures comply with the SFDR RTS and that no other changes are being made at this time⁵.

Q. When must filings be made to ensure compliance (noting) by Taxonomy Regulation Deadline?

Filings may be made from the date of publication of this document and must be made no later than 14 December 2021. On an exceptional basis, the Central Bank may permit an extension to the proposed deadline where a reasonable rationale explaining why such an extension is necessary for the specific fund can be provided. Queries in this regard should be directed to aifauthorisations@centralbank.ie

Q. When must filings be made to ensure compliance (noting) by SFDR RTS Deadline?

Filings may be made at any point after 31 March 2022 and must be made no later than 27 May 2022⁶.

Q. Is it possible to make other changes to the prospectus, as well as the Taxonomy Regulation/SFDR Level 2 as part of the fast-track process?

No. The fast-track process is only available for Taxonomy Regulation/SFDR RTS related disclosures. Any other changes must comply with the usual Central Bank review process for the relevant fund and should be submitted to allow sufficient consideration time.

Q. I have made a submission to the Central Bank for the authorisation of a new fund / sub-fund. Can I qualify for the fast-track process?

No. Where a new fund/sub-fund application is currently under review by the Central Bank then the disclosures made in relation to the Taxonomy Regulation and/or SFDR RTS should be included

⁵ Note: The Central Bank will keep this under review and may revise the process in accordance with further developments, if any, in respect of the SFDR RTS.

⁶ Note: The Central Bank may revise these dates depending on developments in respect of the SFDR RTS.

as part of the normal review. The fast-track process is only available for funds that have received approval from the Central Bank.

Q. After 1 January 2022, will the fast-track process be available for Taxonomy Regulation related updates?

No. Where a submission is made with the Central Bank subsequent to the Taxonomy Regulation Deadline then the disclosures will be subject to review by the Central Bank and may be subject to comment.

Q. After 1 July 2022, will the fast-track process be available for SFDR Level 2 related updates?

No. Where a submission is made with the Central Bank subsequent to the SFDR RTS Deadline then the disclosures will be reviewed by the Central Bank and may be subject to comment.

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