



Banc Ceannais na hÉireann
Central Bank of Ireland

Eurosystem

Process clarifications for UCITS and AIFs pre-contractual documentation updates in relation to the Commission Delegated Regulation (EU) 2023/363

February 2023

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Please note, this document is in a new format however, the content remains the same

Context

Implementation of the Commission Delegated Regulation (EU) 2023/363¹ amending and correcting the regulatory technical standards laid down in Commission Delegated Regulation (EU) 2022/1288 as regards the content and presentation of information in relation to disclosures in pre-contractual documents and periodic reports for financial products investing in environmentally sustainable economic activities. Process clarifications with respect to UCITS and AIFs pre-contractual document (prospectus/supplement) updates.

Introduction

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 the SFDR Level 2 requirements applied from 1 January 2023. The Commission Delegated Regulation (EU) 2023/363 amending and correcting the regulatory technical standards laid down in Commission Delegated Regulation (EU) 2022/1288 was published on 17 February 2023 and comes into force on 20 February 2023. This will result in updates to pre-contractual documentation for UCITS, RIAIFs and QIAIFs.

Central Bank approach

To facilitate orderly implementation of these requirements, the Central Bank has established a streamlined filing process for pre-contractual document updates based on the revised

¹ Commission Delegated Regulation (EU) 2023/363 of 31 October 2022 amending and correcting the regulatory technical standards laid down in Commission Delegated Regulation (EU) 2022/1288 as regards the content and presentation of information in relation to disclosures in pre-contractual documents and periodic reports for financial products investing in environmentally sustainable economic activities.

requirements referenced above, 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 requirements.

Importantly, the streamlined 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 incorporate these changes in the proposed review of a sample of the submissions received in respect of the recent SFDR Level 2 updates 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?

Alongside the updated documentation, a Responsible Person shall certify that the amendments made are in accordance with:

- The Commission Delegated Regulation (EU) 2023/363;
- SFDR Level 1, SFDR Level 2 and/or the Taxonomy Regulation; and
- Any amendments made to the investment policy / strategy are only to allow consistency with the disclosure changes referenced above.

This confirmation should make it clear that the revised document does not contain any other amendments to the pre-contractual documentation. This attestation along with the relevant revised final dated documents (prospectus/supplement) for UCITS and AIFs are required to be submitted to the dedicated mailbox SFDR@centralbank.ie as soon as possible. Documents should be dated the date they are submitted.

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

Yes. 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.

Q. When must filings be made to ensure compliance with the Delegated Regulation amending the regulatory technical standards once published?

Filings should be submitted as soon as possible and at the earliest available opportunity. The Central Bank will keep the submission of the revised documents under review and the streamline process will be time limited.

Q. Is it possible to make other changes to the prospectus as part of the streamlined process?

The streamlined process is only available for updates related to Commission Delegated Regulation (EU) 2023/363, other SFDR level 1 or 2 requirements, updates to ensure consistency with the disclosures included in the annex laid down in the Commission Delegated Regulation (EU) 2022/1288, or other SFDR related updates that arise due to clarifications from European Commission, ESAs or Central Bank. 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 would like to make a filing under the streamlined process but the SFDR related updates also involves a change of name. How should I submit this?

Where an SFDR related change of name is required, the submission should be made via the Portal in the usual manner. The Central Bank will apply a version of the streamlined process in such cases, provided the submission includes the attestation referenced above. Please note that the ability to note such submissions may be impacted by high volumes and therefore the noting letter may not issue on the date the submission is received, however, it is our intention that this will issue at the earliest opportunity and will be dated as at the date that documents were submitted.

Q. I would like to make a filing under the streamlined process but the updates also involves reclassification of the fund under SFDR. How should I submit this?

These submissions should be made through the normal post authorisation review process and cannot be made via the streamlined process.

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

No. Where a new fund/sub-fund application has been made with the Central Bank then the disclosures made in relation to SFDR requirements will be reviewed as part of the normal

review process. Any fund which is not authorised prior to 20 February 2023 will need to comply with the Commission Delegated Regulation (EU) 2023/363.

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T: +353 (0)1 224 5800
E: publications@centralbank.ie
www.centralbank.ie



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