



Banc Ceannais na hÉireann
Central Bank of Ireland

Eurosystem

Securities Markets, Investment Management, Investment Firms and Fund Service Providers

Central Bank Expectations in light of COVID-19

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Explanatory note: This document sets out unedited text previously published on the Central Bank of Ireland website, that has since been superseded. It is being made available for reference purposes only. Our current expectations in this area are set out on our [website](#).

Securities Markets, Investment Management, Investment Firms and Fund Service Providers – Central Bank Expectations in light of COVID-19

Introduction

Recognising the challenges facing firms and market participants at this time, the Central Bank is:

- Allowing flexibility in respect of the remittance dates of a number of regulatory returns due from investment firms, fund service providers and investment funds over the COVID-19 period
- Clarifying its expectations as regards the deadlines for the submission of assurance reports in respect of investment firms and fund service providers' arrangements for the safeguarding of client assets or investor money
- Clarifying its expectations as regards risk mitigation programme (RMP) implementation dates
- Postponing its regular assessments of the domestic regulatory policy framework in respect of securities markets, investment management activities and investment firms
- Clarifying the application of relevant announcements made by the European Supervisory Authorities (ESAs) to date,

In each case as set out below.

Regulatory Requirements Applicable to Investment Firms and Fund Service Providers

Regulatory Returns remittance dates

The Central Bank will allow flexibility as regards the deadlines for the submission of each of the "Return Types" listed in Table A below for each of the corresponding "Regulated Entity Types" and "Applicable Periods".

Relevant legislative provisions in respect of these Return Types are:

- a. Regulation 8 of the Central Bank (Supervision and Enforcement) Act 2013 (Section 48(1)) (Investment Firms) Regulations 2017 (S.I. 604 of 2017) (the Central Bank Investment Firms Regulations)
- b. Regulation 98(2) to (4) of the Central Bank (Supervision and Enforcement) Act 2013 (Section 48(1)) (Undertakings for Collective Investment in Transferable Securities) Regulations 2019 (the Central Bank UCITS Regulations 2019)

- c. Regulation 117(2) to (4) of the Central Bank UCITS Regulations 2019
- d. Chapter 3, Section (i) of the Central Bank of Ireland AIF Rulebook
- e. Chapter 4, section (ii), paragraph 3 of the Central Bank of Ireland AIF Rulebook
- f. Chapter 5, section (ii), paragraph (f) of the Central Bank of Ireland AIF Rulebook
- g. Commission Implementing Regulation (EU) No 680/2014 of 16 April 2014 laying down implementing technical standards with regard to supervisory reporting of institutions according to Regulation (EU) No 575/2013 of the European Parliament and of the Council.

This is provided that the investment firm or fund service provider (as applicable) submits the relevant regulatory return within the timeframe listed in the “Extension Period” column in Table A below. Firms which are in a position to meet the existing reporting deadlines should do so.

Where reporting dates are not met, automated late filing reminders are usually issued from the Central Bank’s online reporting system (ONR). Such filing reminders will be disabled in respect of the Return Types listed in the Table below during the reporting periods impacted.

All reports and returns not listed in Table A below, or dealt with elsewhere in this communication, should continue to be submitted in a timely manner to the Central Bank in accordance with legislative requirements. Investment firms are also reminded of their continuing obligations to engage with the Central Bank under Regulation 4 of the Central Bank Investment Firms Regulations.

Table A - Investment Firms and Fund Service Providers			
Regulated Entity Type	Return Type	Extension Period	Applicable Period
Annual Audited Accounts			
Investment firms ¹ Fund service providers ²	Annual Audited Accounts Data Entry/ Annual Audited Accounts Upload - Individual and Consolidated (including bank statements submitted with these returns)	2 months	Submissions falling due from April to July 2020 inclusive
Investment firms, Fund service providers	Related Party Annual Accounts Upload	2 months	Submissions falling due from April to July 2020 inclusive

Capital Adequacy Returns			
MiFID investment firms subject to CRR/CRD IV ³	COREP Own Funds Individual and Consolidated	1 month	Reporting dates March to May 2020
MiFID investment firms subject to CRR/CRD IV	Leverage Reporting Individual and Consolidated	1 month	Reporting dates March to May 2020
MiFID investment firms subject to CRR/CRD IV	Asset Encumbrance Individual and Consolidated	1 month	Reporting dates March to May 2020
MiFID investment firms subject to CRR/CRD IV	Large Exposures Individual and Consolidated	1 month	Reporting dates March to May 2020
CRD IV Exempt FOR Firms ⁴	COREP Individual and Consolidated	1 month	Reporting dates March to May 2020
CRD IV Exempt Firm ⁵ IIA non-retail investment business firms ⁶	Capital Adequacy Statement	1 month	Reporting dates March to May 2020
Fund service providers	Minimum Capital Requirement	1 month	Reporting dates March to May 2020
Fund administrators ⁷	Own Funds Requirement	1 month	Reporting dates March to May 2020
Management/Interim Accounts			
Investment firms, Fund service providers	Management/Interim Accounts (all frequencies) - Individual and Consolidated	1 month	Reporting dates March to May 2020

	(including bank statements submitted with these returns)		
Investment firms	Management Accounts Budget vs Actual	1 month	Reporting dates March to May 2020

For the avoidance of doubt, firms may not include unaudited profit as part of their regulatory own funds.

Pillar 3 Disclosures

In line with the [EBA Statement on supervisory reporting and Pillar 3 disclosures in light of COVID-19](#), the Central Bank expects MiFID investment firms that are subject to the Capital Requirements Regulation and Capital Requirements Directive IV to advise of any delay, the reasons for such delay and, to the extent possible, the estimated publication date of their Pillar 3 reports, if they are delayed. In order to address the importance of transparency and the uncertainties on the risks faced by such investment firms, investment firms should assess the need for additional Pillar 3 disclosures on prudential information that may be necessary in order to properly convey the risk profile of the firm in the context of the challenges brought about by the COVID-19 outbreak.

When doing this assessment, investment firms should take into account the extraordinary measures that competent authorities, central banks, national governments, and other EU bodies have announced to address the adverse systemic economic impact of the outbreak.

Client Asset and Investor Money Requirements

The protection of client assets and investor money is a key priority for the Central Bank as it should be in all investment firms and fund service providers (for the purposes of this section, investment firm means an “investment firm” as defined in Regulation 47 (1) of the Central Bank Investment Firms Regulations and fund service provider means a “fund service provider” as defined in Regulation 2(1) of the Central Bank Investment Firms Regulations with permission to hold client assets/investor money) that hold client assets or investor money. It is critical that investment firms and fund service providers maintain effective and robust oversight structures to ensure the protection of client assets and investor money during this period.

The Client Asset Requirements and the Investor Money Requirements as contained in Part 6 and Part 7 respectively of the Central Bank Investment Firms Regulations, set out deadlines for the submission of assurance reports in respect of investment firms and fund service providers’ arrangements for the safeguarding of client assets or investor money.

It is understood that the COVID-19 outbreak may result in challenges for investment firms and fund service providers, and their auditors, in preparing and completing such assurance reports. Such challenges may include practical difficulties, such as seeking relevant information in a timely manner, engaging with relevant personnel and conducting relevant testing.

With that in mind, the Central Bank will allow flexibility for investment firms and fund service providers, in respect of their obligations under Regulation 68(4) and Regulation 83(3) of the Central Bank Investment Firms Regulations, for submissions falling due from April to July 2020 inclusive, where it is not possible to comply with the deadlines set out in those Regulations as a result of COVID-19 related issues. This is provided that the investment firm or fund service provider submits the assurance report in accordance with the Central Bank Investment Firms Regulations within two months from the date on which the reporting obligation falls due.

Should it be necessary for an investment firm or fund service provider to rely on this extension, the investment firm or fund service provider should notify their usual contact on the Client Asset Specialist Team (CAST) or contact the CAST mailbox (CAST@centralbank.ie) in a timely manner, explaining the rationale for relying on the extension and, to the extent possible, the estimated submission date.

Remittance Dates for Financial Statements of Investment Funds

The Central Bank's expectation is that authorised investment funds will file financial statements with the Central Bank within usual time frames. However, where an authorised investment fund is not in a position to meet these deadlines the Central Bank will allow flexibility as regards the deadlines for the submission of each of the "Return Types" listed in Table B below for each of the corresponding "Investment Fund Types" and "Applicable Periods".

Relevant legislative provisions in respect of these Return Types are:

- a. Regulation 88(2) European Communities (Undertakings for Collective Investment in Transferable Securities) Regulations 2011
- b. AIF Rulebook Chapter 1, Section 5, part (i), paragraph 5
- c. AIF Rulebook Chapter 2, Section 5, part (i), paragraph 4 (in respect of RIAIFs).

This is provided that the authorised investment fund (or its management company or AIFM in respect of the investment funds managed by it):

- promptly notifies the Central Bank and informs investors as soon as practicable of the delay, the reasons for such a delay and to the extent possible the estimated publication date (Where it is normal practice to publish financial statements through the medium of a website, notification of delay should also be made through this medium)
- submits the relevant regulatory return within the timeframe listed in the "Extension Period" column in Table B below.

Table B – Investment Funds		
Investment fund type ⁸	Return Type / Applicable Period	Extension Period
	Annual audited financial statements	

<p>UCITS investment fund</p>	<p>referring to a year-end occurring on or after 31 December 2019 but before 1 April 2020 Annual audited financial statements referring to a year-end occurring on or after 1 April 2020 but before 1 May 2020 Semi-annual financial statements referring to a reporting period ending on or after 31 January 2020 but before 1 April 2020</p>	<p>2 months 1 month 1 month</p>
<p>Alternative Investment Funds</p>	<p>Annual audited financial statements referring to a year-end occurring on or after 31 December 2019 but before 1 April 2020 Annual audited financial statements referring to a year-end occurring on or after 1 April 2020 but before 1 May 2020 Semi-annual financial statements referring to a reporting period ending on or after 31 January 2020 but before 1 April 2020</p>	<p>2 months 1 month 1 month</p>

Additional Data Requests

Reliable supervisory reporting is crucial in times when the financial system faces many challenges caused by the COVID-19 outbreak. To examine the effects of COVID-19 on the financial sector, the Central Bank will require additional targeted information to be submitted by investment firms, investment funds and fund service providers during this period. While we aim to be measured and pragmatic with these data requests in terms of the type and frequency of requests, recognising the rapidly evolving nature of the situation we are faced with, we expect investment firms, investment funds and fund service providers to continue to engage constructively with us and respond to such requests in an expedient manner.

Risk Mitigation Programmes (RMPs) for Investment Firms and Fund Service Providers

The Central Bank recognises that COVID-19 requires investment firms and fund service providers to take measures to cope with significantly changed operational demands, to remain resilient, and to continue to serve their customers. The Central Bank expects investment firms and fund service providers in a position to meet the existing RMP implementation dates, to continue to do so. Individual firms can engage directly with their usual supervisors where they have difficulties in relation to meeting specific RMP submission dates including the reasons why. Those supervisors will consider on a case-by-case basis whether the postponement of such measures may be consistent with the objectives set out [here](#).

Fund Service Provider on-site visits to outsourcing service providers / delegates

Recognising the challenges that fund administrators, depositaries and fund management companies ('Fund Service Providers') are currently faced with and the uncertain timeline around a return to full operations including on-site working arrangements, the Central Bank is setting out its expectations as regards due diligence arrangements and periodic on-site visits to outsourcing service providers and delegates.

Fund Service Providers are reminded of the importance of maintaining strong ongoing oversight of any outsourcing / delegation arrangements. As part of their ongoing oversight, Fund Service Providers should take into account the location of the relevant service provider(s) and ensure controls are in place to identify and address the material challenges facing such location(s) during the current COVID-19 crisis.

In addition, it remains a matter for the relevant Fund Service Provider to ensure that they are satisfied with the due diligence arrangements in place pertaining to their delegates. Nevertheless, the Central Bank considers that whilst the relevant COVID-19 related travel restrictions are in place, due diligence monitoring may be carried out remotely using the technology available to, insofar as possible, achieve the same result.

Fund Service Providers should conduct a risk assessment to identify aspects of the outsourcing relationship where appropriate due diligence may be difficult or unfeasible to achieve remotely. Where a risk is identified following this assessment, firms should consider what other steps can be taken to mitigate the risk until an onsite review is completed having regard to the scale and materiality of the outsourced activity. Firms should also put a plan in place to carry out an on-site visit when appropriate taking into account travel and other legal restrictions.

Fund Service Providers should ensure proactive engagement with Central Bank supervisors on these matters. This may include informing supervisors if a delay is likely to persist for an extended period of time beyond the typical process for completing on-site visits, setting out the reasons for the delay, why they believe the delay is reasonable in the circumstances and any mitigating actions which have been taken.

Updates to Central Bank Regulatory Policy Frameworks

The Central Bank undertakes regular assessments of the domestic regulatory policy framework. This covers Central Bank regulations and rules in respect of securities markets, investment management activities and investment firms.

As part of wider efforts to ensure that firms can navigate the current market dynamics, the Central Bank will delay updates to its domestic regulatory policy frameworks in respect of investment firms, fund service providers and investment funds. The Central Bank will also delay the publication of its feedback statement arising from [Consultation Paper 130 \(CP130\)](#), [Treatment, Correction and Redress of Errors in Investment Funds](#). Further updates will be provided on the expected publications in respect of each area in due course.

ESMA Announcements

The Central Bank confirms that it will apply the measures as outlined in recent announcements by ESMA as follows:

- The [statement issued by ESMA on 19 March 2020](#) and revised on 26 March 2020, that it expects National Competent Authorities (NCAs) not to prioritise their supervisory actions towards entities subject to securities financing transactions reporting obligations, which were due to come into application on 13 April 2020, until 13 July 2020.
- The [statement issued by ESMA on 20 March 2020](#) that in circumstances where firms are unable to record voice communications ESMA expects them to consider alternative steps they could take to mitigate the risks related to the lack of recording until recording is resumed.
- The [statement issued by ESMA on 20 March 2020](#) that it expects NCAs not to prioritise their supervisory actions in relation to the new tick-size regime for systematic internalisers until 26 June 2020.
- The [statement issued by ESMA on 27 March 2020](#) encouraging NCAs to apply a risk-based approach in the exercise of supervisory powers in their day-to-day enforcement of applicable

legislation in the area of the Transparency Directive concerning the publication deadline of financial reports. The statement underlines that requirements under the Market Abuse Regulation still apply, and issuers are expected to exercise their best efforts to prepare their financial reports and publish them within the legislative deadline.

Where issuers reasonably anticipate that publication of their financial reports will be delayed beyond the deadline set out in the Transparency (Directive 2004/109/EC) Regulations 2007, they should inform the Central Bank by email to regulateddisclosures@centralbank.ie and, in accordance with the ESMA statement, disclose to the market that publication will be delayed, the reasons for such delay and, to the extent possible, the estimated publication date.

Regulation 40(5) Transparency (Directive 2004/109/EC) Regulations 2007 provides the Central Bank with the power to direct the suspension of, or request the suspension of trading in securities where it has reasonable grounds to suspect an infringement of transparency (regulated markets) law. In the normal course, the Central Bank will prioritise taking supervisory action in exercising its powers under Regulation 40(5) where an issuer fails to meet the deadline for publication of financial reports. The Central Bank will allow flexibility where an issuer fails to meet the deadline for publication of a financial report solely on the basis of disruption arising from COVID-19 related issues, provided an issuer complies with the conditions and deadlines set out in this ESMA statement.

This does not affect any existing supervisory action regarding suspensions for suspected breaches of Regulation 4(2) and/or Regulation 6(2) of the Transparency (Directive 2004/109/EC) Regulations 2007.

- The [statement issued by ESMA on 31 March 2020](#) that execution venues and firms unable to publish execution reports due pursuant to RTS 27 and RTS 28 by 31 March and 30 April 2020 respectively should publish them as soon as reasonably practicable after that date and no later than the next publication deadline for each of them which is 30 June 2020.
- The [statement issued by ESMA on 31 March 2020](#) that the first quarterly reports by money market fund managers under the Money Market Funds Regulation to be submitted to NCAs are now postponed to September 2020.
- The [statement issued by ESMA on 9 April 2020](#) that ESMA expects NCAs to act in accordance with national rules set out in their Member States and when possible during this specific period not to prioritise supervisory actions in respect of the upcoming deadlines set out in the UCITS Directive, the AIFMD, the EuSEF Regulation and the EuVECA Regulation.
- The [statement issued by ESMA on 11 June 2020](#) as regards the matters that it expects NCAs to consider in assessing open access requests from trading venues or central counterparties under Articles 35 and 36 of MiFIR in the context of COVID-19.

EBA Announcements

For MiFID investment firms subject to CRR/CRD IV, the Central Bank confirms that it will apply the measures outlined in the following EBA announcements:

- [Statement on the application of the prudential framework on targeted aspects in the area of market risk in the COVID-19 outbreak](#) issued on 22 April 2020. This statement includes information on recommendations by the EBA to the European Commission to make certain changes to current and impending legislation in light of the Covid-19 situation. These include a change to the core approach for calculating additional valuation adjustments (AVAs) under prudent valuation and postponement of the Fundamental Review of the Trading Book – Standardised Approach (FRTB-SA) reporting requirement under CRR2.
- [EBA statement on additional supervisory measures in the COVID-19 pandemic](#) issued on 22 April 2020. This Statement addresses the supervisory review and evaluation process (SREP), recovery planning, digital operational resilience and the application of the EBA guidelines on payment moratoria to securitisations. Consistent with the Central Bank’s emphasis on resilience planning at this time, investment firms subject to BRRD should review their recovery options and assess their plausibility and can expect supervisory engagement on expectations for the 2020 recovery planning process.

Other ESA Announcements

On 4 May 2020, the European Supervisory Authorities published a [Final Report on the EMIR RTS on various amendments to the bilateral margin requirements in view of the international framework](#), which proposes inter alia a deferral until 1 September 2021 of the implementation of initial margin requirements for covered entities with an aggregate average notional amount of non-centrally cleared derivatives that is above EUR 50 billion and until 1 September 2022 for covered entities with an aggregate average notional amount of non-centrally cleared derivatives that is above EUR 8 billion.

The Central Bank confirms that, in accordance with paragraph 44 of the Final Report, it will apply the EU framework in a risk-based and proportionate manner as regards the relevant deadlines for bilateral margin requirements and the treatment of physically settled FX forward and swap contracts, intragroup contracts, equity option contracts and the implementation of the last phase of the initial margin requirements until the amended RTS enters into force.

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1. For the purposes of this table, “investment firms” are as defined in Regulation 2(1) of the Central Bank Investment Firms Regulations. This includes both MiFID investment firms and investment business firms (including fund administrators), each as defined in Regulation 2(1) of the Central Bank Investment Firms Regulations.
 2. For the purposes of this table, “fund service providers” include (i) management companies authorised pursuant to the European Communities (Undertakings for Collective

Investment in Transferable Securities) Regulations 2011, (ii) alternative investment fund managers and AIF management companies authorised (or registered, where relevant in the case of AIFMs) pursuant to the European Union (Alternative Investment Fund Managers) Regulations 2013 and (iii) depositaries, being those entities that fall within the scope of paragraphs (a)(ii) of the definition of “Fund Service Provider” in Regulation 2(1) of the Central Bank Investment Firms Regulations.

3. MiFID investment firms subject to CRR/CRD IV are those that fall within the definition of “investment firm” in Article 4(1)(2) of Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012.
4. As referred to in Part 6 of the Schedule to the Central Bank Investment Firms Regulations.
5. As referred to in Part 7 of the Schedule to the Central Bank Investment Firms Regulations.
6. As referred to in Part 2 of the Schedule to the Central Bank Investment Firms Regulations.
7. As defined in Regulation 2(1) of the Central Bank Investment Firms Regulations.
8. For the avoidance of doubt this includes both internally and externally managed authorised funds.



T: +353 (0)1 224 6000
E: INVFIRMSpolicy@centralbank.ie
www.centralbank.ie



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