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

Version available on website from 1 March 2022 to 3 May 2022

Unedited text included on Central Bank website from 3 May 2022

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This document sets out unedited text previously published on the Central Bank of Ireland website, that has since been superseded.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

Introduction

Recognising the challenges faced by firms and market participants as a result of the COVID-19 pandemic, in April 2020, the Central Bank communicated that it would allow a level of flexibility for regulated firms in certain specified areas.
The Central Bank has determined that certain measures previously communicated in respect of Securities Markets, Investment Management, Investment Firms and Fund Service Providers, and which have since expired on their terms, will not be extended. This includes announcements made by the European Supervisory Authorities (ESAs) that are no longer relevant or in application.
Further details of the Central Bank's current expectations are set out below. View details of Central Bank's previous expectations for reference purposes only (in respect of the period from 16 June 2020 to 5 November 2020), (in respect of the period from 5 November 2020 to 2 February 2021) and (in respect of the period from 2 February 2021 to 1 March 2022)

Pillar 3 Disclosures

MiFID investment firms with the exception of Class 3 MiFID investment firms that do not issue additional Tier 1 instruments 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, relevant MiFID investment firms should take into account the extraordinary measures that competent authorities, central banks, national governments, and other EU bodies have taken to address the adverse systemic economic impact of the outbreak.

Pillar 2 Guidance

Prior to the application of IFD/IFR on 26 June 2021 the Central Bank has applied Pillar 2 Guidance on a case by case basis to MiFID investment firms subject to CRR/CRD IV based on an identified supervisory requirement for the particular firms. The Central Bank has separately communicated that it will allow credit institutions to operate temporarily below the level of capital defined by Pillar 2 Guidance. View details of the guidance. However, having regard to the difference in business models, the Central Bank expects MiFID investment firms subject to hold capital in accordance with any Pillar 2 Guidance communicated to the particular firm by the Central Bank at this time.

Additional Data Requests

Reliable supervisory reporting is crucial in times when the financial system faces many challenges caused by the COVID-19 outbreak. To monitor the effects of COVID-19 on the financial sector, the Central Bank has required additional targeted information to be submitted by investment firms, market operators, investment funds and fund service providers during this period. We may need to do so in the future, depending on the evolution of the pandemic, although we aim to be measured and pragmatic in terms of the type and frequency of requests. We expect investment firms, market operators, 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, Fund Service Providers and Market Operators

In April 2020, the Central Bank applied a level of supervisory flexibility in relation to the deadlines for remedial actions/measures to ensure investment firms, fund service providers and market operators could take the actions and steps needed to cope with significantly changed operational demands, to remain resilient, and to continue to serve their customers and the economy.
Individual firms could engage directly with their supervisor where they had difficulties in relation to meeting specific risk mitigation programme (RMP) submission dates. Supervisors assessed the circumstances and determined on a case-by-case basis whether a postponement of such measures would be necessary in order to achieve the objectives stated above.
Given that firms have shown operational resilience, the Central Bank now expects firms to meet specific RMP submission dates. Should firms identify concerns in meeting these timelines they should engage in a timely manner with their usual supervisors.

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, 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 pandemic.

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, taking into account evolving COVID-19 related government guidelines and restrictions and any mitigating actions which have been taken.

Expectations in respect of the European Single Electronic Format (ESEF) Regulation

Under the EU Transparency Directive[1] and ESEF Regulation, annual financial reports of issuers which have securities listed on an EU regulated market must be published in accordance with the requirements of the European Single Electronic Format (ESEF) for financial years beginning on or after 1 January 2020. The ESEF requirements are designed to ensure that annual reporting takes place in a single, structured, electronic format so that the financial statements are machine-readable.

Recognising the challenges faced by issuers as a result of the COVID-19 pandemic, political agreement was reached by the co-legislators permitting Member States to delay ESEF obligations by 1-year thus allowing issuers to apply the ESEF reporting requirements from financial years beginning on or after 1 January 2021 and not 1 January 2020, as set out in the original legislation. This postponement is included in the EU's Capital Markets Recovery Package introduced to alleviate the negative effects of the COVID-19 pandemic.

The Department of Finance has advised that it has notified the European Commission that Ireland will opt for the one-year postponement. In light of this, the Central Bank wishes to clarify its expectations in relation to the ESEF Regulation taking into account the one-year postponement[2].

The Central Bank of Ireland will continue to accept annual financial reports from Irish issuers subject to the Transparency (Directive 2004/109/EC) Regulations 2007 (S.I. No. 277 of 2007) and ESEF Regulation in PDF format for financial years beginning between 1 January 2020 and 31 December 2020. Similarly, in examining the compliance of those financial reports from such issuers with the relevant financial reporting framework, the Irish Auditing and Accounting Supervisory Authority (IAASA) has indicated it will also accept financial statements in PDF format.

Issuers who wish to publish their annual financial reports in accordance with the ESEF Regulation in 2021 (for financial years beginning between 1 January 2020 and 31 December 2020) will still be able to proceed. Where an issuer chooses to publish their annual financial reports in ESEF in 2021, all relevant requirements of the Transparency Regulations and the ESEF Regulation will need to be complied with.

Further updates

The Central Bank will continue to review its approach to supervisory flexibility for investment firms, fund service providers and market operators throughout the duration of the COVID-19 pandemic and may provide further updates as required.

1. Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004 on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market and amending Directive 2001/34/EC
2. Article 4(7) of the Transparency Directive will be amended in order to grant Member States the option to allow their issuers to apply the ESEF requirements starting from 1 January 2022, provided that they notify the European Commission of their duly motivated intention to do so. This amendment will most likely not enter into force before March 2021. Considering that the ESEF requirements have started applying on 1 January 2021, Member States will be exceptionally allowed to opt for the ESEF postponement based on the above-mentioned political agreement.

See also:

- COVID-19 Information Hub

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