



ADVISORY
Industry Information

IRELAND UPDATE: Updates on SFDR Level 2

October 2022

On 4 October 2022, the Central Bank of Ireland (the “Central Bank”) published a notice of intention available [here](#) with process clarifications for UCITS and AIFs pre-contractual documentation updates ahead of the implementation of the SFDR Level 2¹ requirements applying from 1 January 2023 (the “SFDR Level 2 Deadline”).

The intention to make available a fast-track filing process for prospectus updates had been flagged in advance by the Central Bank to industry.

The notice advises that there will be a streamlined filing process for documentation updates that relate only to the following:

- » SFDR Level 2 requirements;
- » amendments made to the investment policies and strategies to allow consistency with the disclosures included in the annex. This includes amendment to disclosures made to comply with SFDR Level 1 and/or the Taxonomy Regulation requirements which now require amendment for consistency with SFDR Level 2 disclosures;
- » product level principal adverse impacts disclosures required under Article 7(1)(a) for Article 6 funds; and
- » amendments made to the prospectus/supplement to reflect the requirements of European Commission Q&As on SFDR, ESMA supervisory briefing on sustainability risks and disclosures in the area of investment management, amendments to reflect other clarifications published by the European Supervisory Authorities (“ESAs”) or the Central Bank in relation to the SFDR Level 2 requirements.

An attestation provided by the Responsible Person² shall certify that the amendments made are in accordance with the foregoing. The attestation along with the relevant revised final dated documents (prospectus/supplement) are required to be submitted to the dedicated mailbox SFDR@centralbank.ie

Where the SFDR related updates also involve reclassification of the fund, submissions may be made via the streamlined process, however, a rationale for the reclassification must be included.

Any other changes must comply with the usual Central Bank review process for the relevant fund and where applicable should be submitted to allow sufficient time for consideration.

Filings must be made no later than **1 December 2022** to ensure compliance (noting of the Central Bank) by the SFDR Level 2 Deadline. This filing deadline applies to all UCITS, RIAIFs and QIAIFs. Notwithstanding that 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 selected applicants on a bilateral basis where queries arise in respect of the applications that fall within the sample.

¹ 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 (the “SFDR”) and the Commission Delegated Regulation of 6 April 2022 Supplementing Regulation (EU) 2019/2088 (the “SFDR Level 2”).

² 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 Internally Managed AIF, or in the case of an AIF with a non-EU AIFM the Responsible Person is the fund itself.



The Central Bank's clarifications comes as regulators and industry prepare for the introduction of the SFDR Level 2.

The ESAs have recently published a [joint final report](#) on the draft regulatory technical standards (RTS) on information to be provided in pre-contractual documents, on websites, and in periodic reports about the exposure of financial products to investments in fossil gas and nuclear energy activities following their inclusion in the EU taxonomy. The ESAs propose to add in the RTS specific disclosures to ensure that investments in taxonomy-aligned activities provide for full transparency about investments in fossil gas and nuclear energy activities, in particular on the proportion those investments represent within all investments and in environmentally sustainable economic activities. The ESAs suggest adding a "yes/no question" to the SFDR Level 2 disclosure templates for financial products, so as to identify whether they intend to invest in gas and nuclear. If the answer to that question is "yes", a "graphical representation of the proportion of investments in such activities would be required".

The ESAs have also proposed some minor technical corrections to the RTS to correct inconsistencies observed after its publication. The ESAs confirm in an accompanying [press release](#) that the disclosures in the proposed RTS are in line with the Complementary Climate Delegated Act³.

Industry is also awaiting the outcome of the ESA's [further queries](#) to the European Commission of 9 September 2022 relating to the interpretation of SFDR.

We are watching these developments closely and will publish further advisories as the process develops.

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³ Commission Delegated Regulation (EU) 2022/1214

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