

Asset Management & Investment Funds Update

October 2022



SFDR Level 2 Fast-track Process

On 4 October 2022, the Central Bank published guidance on the fast-track process it will operate for noting UCITS and AIF pre-contractual document updates made to comply with SFDR Level 2 rules.

As per our [Level 2 guide for fund managers](#), the filing deadline for noting using the fast-track process is 1 December 2022.

Permitted updates

The following prospectus/supplement updates may be filed for noting by the Central Bank using the fast-track process:

1. amendments made in accordance with SFDR Level 2 requirements;
2. amendments made to the investment policies and strategies to allow consistency with the disclosures included in the Level 2 template annexed to the prospectus/supplement. 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;
3. product-level disclosure of the consideration of principal adverse impacts (**PAIs**) in accordance with Article 7(1)(a) SFDR;
4. 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 ESAs' or the Central Bank in relation to the SFDR Level 2 requirements; and/or
5. reclassifications of funds i.e. to revise the SFDR product-level rules to which a fund is subject.

Attestation

As part of the fast-track filing, the fund manager must confirm that the updated pre-contractual documents filed for noting do not contain any amendments other than those permitted at 1-4 above. The Central Bank has not prescribed any additional requirements for this attestation, save that it must be submitted along with the updated documents for noting to the dedicated mailbox SFDR@centralbank.ie.

Dating documents

Documents filed for fast-track noting should be dated the date of submission, according to the Central Bank's guidance. This is likely problematic for most fund managers as Level 2-required website disclosures may only be published closer to the 1 January 2023 and so links to these disclosures, which are required to be included in the pre-contractual template, may not be operational by the 1 December fast-track filing deadline. This point is expected to be raised via Irish Funds with the Central Bank.

Name changes

SFDR-related name changes should be made in the usual manner however, the Central Bank will apply a version of the fast-track process to these submissions provided the submission includes the above-mentioned attestation.

Post-authorisation and new fund applications

For those funds with post-authorisation applications in train as at the fast-track filing deadline, the Central Bank has confirmed that they may not use the fast-track process and instead must comply with the usual Central Bank review process. This also applies where existing applications are cleared of comment but not yet authorised in advance of the 1 December filing deadline.

New fund/sub-fund applications which have been submitted ahead of the 1 December fast-track filing deadline may not use the fast-track process and SFDR Level 2 disclosures must be filed for review in the normal course.

All applications made post-1 December will be subject to review by the Central Bank in the normal course.

WILLIAM FRY

DUBLIN | CORK | LONDON | NEW YORK | SAN FRANCISCO | SILICON VALLEY

William Fry LLP | T: +353 1 639 5000 | E: info@williamfry.com

williamfry.com

This briefing is provided for information only and does not constitute legal advice

