

Central Bank of Ireland Confirms Fast Track Process for Taxonomy Filings

November 2021

Under the [Taxonomy Regulation](#), funds classified under Article 8 and Article 9 of the Sustainable Finance Disclosure Regulation (“**SFDR**”) are required to include in their pre-contractual disclosures:

- (a) information on the environmental objective(s) under the Taxonomy Regulation to which the underlying investments contribute; and
- (b) how and to what extent the underlying investments are in economic activities that qualify as environmentally sustainable under the Taxonomy Regulation.

Article 6 SFDR funds (funds classified as neither in scope of Article 8 nor Article 9 SFDR) are also required to include in their prospectuses a statement that the underlying investments do not take into account the EU criteria for environmentally sustainable economic activities. These are “Level 1” requirements set out in the Taxonomy Regulation itself and therefore apply from 1 January 2022, irrespective of the delayed application of the more detailed disclosure obligations under the SFDR and the Taxonomy Regulation (the “**Level 2**” requirements).

Industry Engagement with the Central Bank

In May and October 2021, the Irish Funds industry association made submissions to the Central Bank of Ireland (“**Central Bank**”) in relation to SFDR phase 2 implementation and the Taxonomy Regulation requirements effective from 1 January 2022. In its submissions, Irish Funds noted that the data required from underlying companies in order to disclose how and to what extent underlying investments are in Taxonomy-aligned activities will not be available, as even the sub-set of investee companies in scope of the relevant Taxonomy reporting requirements are not required to provide this information until 1 January 2023 at the earliest. Neither the Taxonomy technical screening criteria, designed to assist in determining whether an economic activity qualifies as environmentally sustainable, nor the SFDR Level 2 measures on the content and presentation of the information are in final form. Irish Funds therefore submitted that funds would not be in a position to calculate the extent of their Taxonomy-aligned investments by 1 January 2022 and were consequently considering the inclusion of disclaimers or explanatory disclosures in prospectuses to reflect this.

Irish Funds also noted in its submission to the Central Bank that Article 8 SFDR funds that do not commit to making sustainable investments do not fall within the scope of Article 5, 6 or 7 of the Taxonomy Regulation and therefore are not required to make Taxonomy-related disclosures. These funds may elect, however, to include in their prospectuses a form of disclaimer similar to that mandated for use by Article 6 SFDR funds or an explanation that the fund does not intend to make sustainable investments and is not, therefore required to calculate the extent of Taxonomy-alignment.

Central Bank Fast-Track Process

Following industry engagement with the Central Bank, on 16 November 2021, the Central Bank published a [statement](#) on process clarifications for UCITS and AIFs pre-contractual documentation updates in relation to the Taxonomy Regulation and Level 2 measures in relation to the SFDR.

In its statement, the Central Bank confirmed it has established a fast-track filing process for pre-contractual document updates based on the Taxonomy Regulation and the SFDR Level 2 text, under which both UCITS management companies and AIFMs will be required to certify compliance with the requirements via an attestation. The attestation will confirm that the amendments made are in accordance with the Taxonomy Regulation and do not contain any other amendments to the pre-contractual documentation. The Central Bank has confirmed that responsibility rests with the relevant manager to ensure compliance with the applicable requirements.

The Central Bank will review a sample of the submissions received and will engage with those selected applicants on a bilateral basis where queries arise in respect of the applications that fall within the sample.

The attestation and relevant revised final dated documents should be submitted to the dedicated mailbox SFDR@centralbank.ie by close of business on the relevant date for automated noting. Filings must be made no later than **14 December 2021**. On an exceptional basis, the Central Bank may permit an extension to the proposed deadline where a reasonable rationale explaining why such an extension is necessary for the specific fund can be provided. Queries in this regard should be sent to aifauthorisation@centralbank.ie.

The Central Bank statement advises that SFDR Level 2 filings may be made after 31 March 2022 and no later than 27 May 2022. It is expected that this timeframe will be revisited in light of the further delay to the application of the Level 2 measures, which are now expected to apply from 1 January 2023 and not 1 July 2022, as was anticipated at the time the Central Bank published its statement.

Given their pending consideration by the Commission and ESMA, the Central Bank did not comment in its statement on the disclaimer approach for Article 8 and Article 9 SFDR funds making Taxonomy-related disclosures or on the proposed approach for Article 8 SFDR funds that do not commit to making sustainable investments put forward in the Irish Funds submission.

Please get in touch with your usual Asset Management and Investment Funds Department contact or any of the contacts listed in this publication should you require further information in relation to the material referred to in this briefing note.

Full details of the Asset Management and Investment Funds Department, together with further updates, articles and briefing notes written by members of the Asset Management and Investment Funds team, can be accessed at www.matheson.com.

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