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Central Bank of Ireland Confirms SFDR Level 2 Fast Track Conditions

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On 4 October 2022, the Central Bank of Ireland (“**Central Bank**”) published formal confirmation of the fast track process for filings to implement the Level 2 requirements under the Sustainable Finance Disclosure Regulation (“**SFDR**”). Under the SFDR Level 2 requirements, funds within the scope of Article 8 and Article 9 of the SFDR must complete pre-contractual disclosure templates, which will be provided to investors together with the fund prospectus / supplement, and the form of which is prescribed in annexes to the delegated act adopted under the SFDR.¹ These templates must be completed and made available to investors from 1 January 2023.

The publication of the confirmation from the Central Bank follows a meeting between the Central Bank and representatives of the Irish Funds ESG Policy, Legal and Regulatory Working Group (including Tara Doyle, Head of our Asset Management and Investment Funds Department) last month to discuss the Irish Funds submission to the Central Bank requesting a fast-track for the implementation of the SFDR Level 2 requirements.

At that meeting, the Central Bank confirmed its intention to apply a stream-lined review process to SFDR Level 2 filings. The Central Bank also confirmed that it intended to apply similar conditions to the Level 2 fast-track as applied to the previous fast-tracks for SFDR Level 1 and Taxonomy Level 1. The deadline for filings using this process will be 1 December 2022.

The Central Bank has now published a **document** setting out the final conditions applicable to the fast-track, which takes into account the various requests made by industry representatives at the September meeting.

We have summarised in the table below the relevant conditions applicable to the filing process.

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|----------|--|
| 1 | Responsibility rests with the relevant manager to ensure compliance with the applicable requirements. |
| 2 | The streamlined regime should not be seen as providing scope for a lesser quality of disclosures than would otherwise be produced. |
| 3 | Noting / confirmation of receipt will issue following the submission of each update. |

¹ [Commission Delegated Regulation \(EU\) 2022/1288 with regard to regulatory technical standards under the SFDR and the Taxonomy Regulation](#)

4 Spot Checks

The Central Bank intends to undertake a review of a sample of the submission received and will engage with selected applicants on a bilateral basis where queries arise. The Central Bank may require revisions of documentation to be made at a later date, notwithstanding the noting / confirmation of receipt has issued.

5 Form of Attestation

The Responsible Person (UCITS management company / UCITS self-managed investment company / AIFM / internally managed AIF / AIF itself where the AIF has a non-EU AIFM) must certify that the amendments made are in accordance with:

- the SFDR Level 2 requirements:
- amendments made to the investment policies and strategies to allow consistency with the disclosures set out in the templates prescribed in the annexes to the SFDR Level 2 measures. This includes amendments to disclosures made to comply with SFDR Level 1 and / or the EU Taxonomy Regulation requirements which now require amendment for consistency with SFDR Level 2 disclosures;
- product level principal adverse impact (“PAI”) disclosures required under Article 7(1)(a) SFDR for Article 6 SFDR funds; and / or
- amendments made to the prospectus / supplement to reflect the requirements of the European Commission Q&A on SFDR,² the ESMA Supervisory Briefing on Sustainability Risks and Disclosures in the Area of Investment Management,³ amendments to reflect other clarifications published by the European Supervisory Authorities (“ESAs”) or the Central Bank in relation to SFDR Level 2 requirements.

The confirmation should make it clear that the revised documents do not contain any other amendments to the pre-contractual documentation.

- 6 The fast-track deadline will apply to all UCITS, RIAIFs and QIAIFs. At the September meeting, the Central Bank explained that the rationale for the 1 December 2022 deadline is to accommodate the large volume of filings the Central Bank expects to receive from industry. Documents filed on 1 December 2022 will be noted and dated on that date.

7 Name Changes

Where an SFDR related change of name is required, the submission should be made via the Central Bank’s Portal in the usual manner. The Central Bank will apply a version of the streamlined process in such cases, provided the submission includes the necessary attestation.

8 Reclassifications

Where the SFDR updates involves a reclassification of a fund, the submission may be made using the streamlined process. However, a rationale for the reclassification should be included in the cover letter accompanying the filing.

2. [European Commission Q&As](#)

3. [European Securities and Markets Authority Supervisory Briefing](#)

The confirmation from the Central Bank of the streamlined filing process is a welcome development and the clarification that changes for consistency between the annexes and the existing offering documents and changes to reflect recently issued regulatory guidance can be made through the fast track is helpful. The document published by the Central Bank does not refer to a start date for filings, although it is expected that a similar approach will be adopted as applied with respect to the SFDR Level 1 filings at the end of 2021, when filings could be made from the date of formal confirmation of the process by the Central Bank.

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 update.

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.



Tara Doyle

Partner

T +353 1 232 2221

E tara.doyle@matheson.com



Michael Jackson

Managing Partner

T +353 1 232 2000

E michael.jackson@matheson.com



Dualta Counihan

Partner

T +353 1 232 2451

E dualta.counihan@matheson.com



Shay Lydon

Partner

T +353 1 232 2735

E shay.lydon@matheson.com



Philip Lovegrove

Partner

T +353 1 232 2538

E philip.lovegrove@matheson.com



Liam Collins

Partner

T +353 1 232 2195

E liam.collins@matheson.com



Elizabeth Grace

Partner

T +353 1 232 2104

E elizabeth.grace@matheson.com



Oisín McClenaghan

Partner

T +353 1 232 2227

E oisín.mcclenaghan@matheson.com



Michelle Ridge

Partner

T +353 1 232 2758

E michelle.ridge@matheson.com



Barry O'Connor

Partner

T +353 1 232 2488

E barry.oconnor@matheson.com



Donal O'Byrne

Partner

T +353 1 232 2057

E donal.o'byrne@matheson.com



Catriona Cole

Partner

T +353 1 232 2458

E catriona.cole@matheson.com



Anthony Gaskin

Partner

T +353 1 232 3043

E anthony.gaskin@matheson.com



Brónagh Maher

Professional Support Lawyer

T +353 1 232 3757

E bronagh.maher@matheson.com

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DUBLIN

70 Sir John Rogerson’s Quay,
Dublin 2
Ireland

T: +353 1 232 2000
E: dublin@matheson.com

CORK

Penrose One,
Renrose Dock,
Cork, T23KW81

T: +353 21 465 8200
E: cork@matheson.com

LONDON

7th Floor, Octagon Point,
5 Cheapside,
London EC2V 6AA,
UK

T: +44 20 7614 5670
E: london@matheson.com

NEW YORK

200 Park Avenue
New York, NY 10166
United States

T: +1 646 354 6582
E: newyork@matheson.com

PALO ALTO

530 Lytton Avenue
Palo Alto, CA 94301
United States

T: +1 650 617 3351
E: paloalto@matheson.com

SAN FRANCISCO

156 2nd Street
San Francisco CA 94105
United States

T: +1 650 617 3351
E: sf@matheson.com