



Matheson

2022 Horizon Scanning for Fund Managers

January 2022

Fund managers may have been relieved to see out 2021, a year in which all funds had to be classified as Article 6, Article 8 or Article 9 funds under the Sustainable Finance Disclosure Regulation (“**SFDR**”) in advance of the 10 March deadline, prospectus amendments to reflect the Taxonomy Regulation Level 1 requirements had to be filed by year end, action plans to comply with the Central Bank of Ireland (“**Central Bank**”) Dear Chair letter of 20 October 2020 on Fund Management Company Effectiveness (“**CP86**”) had to be put in place, the Central Bank’s Guidance on Performance Fees was published and the Central Bank engaged with managers in relation to the common supervisory action on costs and fees.

Legislative and regulatory change will continue apace in 2022. At a global level, the industry has doubled in size since the 2008 financial crisis, bringing significant benefits to the real economy, while also attracting increasing regulatory focus arising from concerns relating to financial stability. Leverage and liquidity are likely to continue to feature on the regulatory agenda, with the Central Bank’s consultation on property funds representing one step towards increased macro-prudential regulation. Financial stability concerns also led to the publication of the Central Bank’s Guidance on Operational Resilience and Guidance on Outsourcing in late 2021. Compliance with these guidelines will be a significant project for all regulated financial service providers in 2022, together with completing the mandatory disclosure templates for pre-contractual, periodic and principal adverse impact disclosures under the SFDR and the Taxonomy Regulation, engaging with the Central Bank on its planned thematic inspection in relation to SFDR / Taxonomy Regulation compliance, the application of the PRIIPs KID requirements to UCITS and compliance with ESMA and the Central Bank’s guidance on performance fees.

Some key dates for fund managers in 2022 are set out below.



Taxonomy Regulation

The EU Taxonomy Regulation applies with respect to the two climate-related environmental objectives (climate change mitigation and climate change adaptation) from 1 January 2022. The Climate Delegated Act specifying the technical screening criteria for these environmental objectives was published on 9 December 2021 and applies from 1 January 2022.

For more information, see “Investment Funds and Sustainable Finance” [here](#).

SFDR

Article 11(1) to (3) of the SFDR on the transparency of the promotion of environmental or social characteristics (Article 8 funds) and of sustainable investments (Article 9 funds) in periodic reports apply from 1 January 2022.

For more information, see “Article 8 Specific Requirements for Light Green Funds” [here](#) and “Article 9 Specific Requirements for Dark Green Funds” [here](#).

CSDR

Cash penalties for settlement failure and a mandatory buy-in procedure were to be introduced under the Central Securities Depositories Regulation (“**CSDR**”) by 1 February 2022. In September 2021, ESMA called on the Commission to postpone the application date of the buy-in regime and the EU co-legislators have agreed to amend the CSDR. On 17 December 2021, ESMA issued a [statement](#) that, based on the assumption that the decoupling of the application dates of settlement discipline measures will eventually be allowed, ESMA expects national competent authorities (“**NCAs**”) not to prioritise supervisory actions in relation to the application of the CSDR buy-in regime.

For more information, see “Delay of CSDR Mandatory Buy-In Regime” [here](#).

Cross Border Distribution of Funds

ESMA’s [Guidelines](#) on Marketing Communications under the Cross Border Distribution Regulation were published on 2 August 2021 and will apply from 2 February 2022.

18 February
2022

Property Funds

On 25 November 2021, Central Bank published a [consultation paper \(“CP145”\)](#) on macroprudential measures for the property fund sector. The publication of CP145 looks at leverage and liquidity mismatch as potential sources of financial vulnerability that could affect the resilience of this form of financing in future periods of stress. The consultation period will close on **18 February 2022** and the Central Bank will then consider all of the feedback submitted.

For more information, see “Central Bank Consultation on Property Funds” [here](#).

3 March
2022

AIFMD

On 25 November 2021, the European Commission published proposed amendments to the AIFMD. The feedback period ends on 3 March 2022.

For more information, see “European Commission Review of the AIFMD” [here](#).

1 July
2022

PRIIPs

It is proposed that the regulatory technical standards amending the delegated regulation on the presentation, content, review and revision of key information documents will apply from 1 July 2022.

1 August
2022

Sustainable Finance – Amendments to AIFMD and UCITS Directive Level 2

The measures set out in [Commission Delegated Directive \(EU\) 2021/1270](#) amending Directive 2010/43/EU (which supplements the UCITS Directive) and [Commission Delegated Regulation \(EU\) 2021/1255](#) amending Delegated Regulation (EU) 231/2013 (which supplements the AIFMD) as regards the sustainability risks and sustainability factors to be taken into account for UCITS apply from 1 August 2021.

For more information, see the “ESG Related Changes to UCITS Directive and the AIFMD” [here](#).

2 August
2022

Sustainable Finance – MiFID Level 2

[Commission Delegated Regulation \(EU\) 2021/1253](#) amending Delegated Regulation (EU) 2017/565 as regards the integration of sustainability factors, risks and preferences into certain organisational requirements and operating conditions for investment firms applies from 2 August 2022.

2 November
2022

Sustainable Finance – MiFID Level 2

Commission Delegated Directive (EU) 2021/1269 amending Delegated Directive (EU) 2017/593 as regards the integration of sustainability factors into MiFID II product governance obligations must be transposed by member states by 21 August 2022, to apply from 2 November 2022.

30 December
2022

SFDR

SFDR requirements with respect to fund-level principal adverse sustainability impacts apply. Article 7 SFDR provides that, for each fund where the manager considers principal adverse impacts, the fund's pre-contractual disclosures must include a clear and reasoned explanation of whether and, if so, how a fund considers principal adverse impacts on sustainability factors and a statement that information on principal adverse sustainability impacts is available in the periodic reports.

For further information, see "The Principal Adverse Impact Statement" [here](#).

31 December
2022

Performance Fees

Central Bank deadline for multi-manager UCITS and RIAIFs to comply with the ESMA Guidelines on Performance Fees which prevent the payment of performance fees to individual managers if overall the fund has underperformed.

For more information on the ESMA Guidelines, see "ESMA Guidelines on Performance Fees" [here](#).

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