

Regulatory News Alert

Sustainable finance: CSSF implements SFDR fast-track procedure

17 December 2020

Context and objectives

On 16 December 2020, the Commission de Surveillance du Secteur Financier (CSSF) published a [communication](#) on the regulatory requirements and fast-track procedure regarding Regulation (EU) 2019/2088 on the sustainability-related disclosures in the financial services sector (SFDR).

As mentioned in the previous CSSF communication on 6 November 2020, all SFDR application dates remain unchanged; therefore, **investment fund managers (IFMs) will need to comply** with the SFDR's high-level principle-based requirements **by 10 March 2021**.

SFDR fast-track procedure

The CSSF has implemented a fast-track procedure specifically for the SFDR to **facilitate the submission of the prospectus/issuing document updates** to the CSSF.

- Updates must be limited to **reflect the changes required under the SFDR**.
 - If the modifications to the investment policy and restrictions are material, the fast-track procedure cannot be used.
 - Alternative Investment Fund Managers (AIFMs) will be able to update the prospectus/issuing documents of AIFs under the form of Specialized Investment Funds (SIFs) and Part II Undertakings for Collective Investment (UCIs).
- To benefit from this fast-track procedure, each updated prospectus/issuing document that requires a **visa stamp** will have to be accompanied by a **confirmation letter**.

Confirmation letter for CSSF visa stamping

With this confirmation letter, IFMs shall provide a **conformity confirmation** of the prospectus/issuing document update and an upgrade of IFM policies/processes with the SFDR. Among others, in this letter they must confirm that:

- **Only changes** in direct relation to the SFDR's entry into force **have been inserted** into this prospectus/issuing document submitted for a visa stamp to the CSSF.
- The fund's/sub-fund's **investment objectives and policy have been/not been changed**.
- Disclosures have been made in consideration of **SFDR requirements**.
- Disclosures are **accurate, fair, clear, not misleading, simple and concise**.
- The changes are **compliant and entirely in line with the investor information** that the fund must publish in accordance with the SFDR.

- Information related to **adverse sustainability impacts** has been (or will be) **published** at the latest on **10 March 2021**, or **30 June 2021** on a website.
- The **remuneration policy** has been (or will be) **updated, and published** on a website at the latest by **10 March 2021**.
- The **investment decision process has been reviewed**.
- The risk management process (**RMP**) has been (or will be) **updated** at the latest by **10 March 2021**.

Next steps

By **28 February 2021** at the very latest:

- UCITS management companies will have to **assess their situation** regarding the new disclosure obligations and, for **each Luxembourg UCITS** managed by them, **submit an updated UCITS prospectus to the CSSF** (including all the requested disclosures).
- IFMs shall submit to the CSSF an **updated prospectus/issuing document** version for a visa stamp **together with the confirmation letter**.
- This information must also be made available to **AIF investors**.

Upon **satisfactory** acceptance by the CSSF, the prospectus/issuing document will be **visa stamped and returned** through the e-file/Sofie channel.

Unsatisfactory filing will result in the CSSF issuing a **notice** requesting the filing of a **new revised prospectus/issuing document version**.

What does this mean for my institution?

Incorporating multiple aspects of the SFDR, this communication plays a central role in the way financial market participants should prepare to overcome climate change hurdles and integrate sustainability.

The SFDR is the first of a series of upcoming ESG regulations to come into force within a short time frame, which does not leave concerned institutions much time to comply. It is part of a larger regulatory context to build and finance a low carbon economy, which includes:

- The Taxonomy Regulation (Regulation EU 2020/852) to define a common sustainability narrative for investors;
- The integration of sustainability preferences into the Markets in Financial Instruments Directive (MiFID, Directive 2014/65/EU); and
- The revision of the EU Non-Financial Reporting Directive (NFRD, Directive 2014/95/EU).

To adapt to the upcoming ESG regulatory changes, concerned institutions will have to undertake an assessment of their organization, identify potential gaps, propose a review of current processes, and prepare to change or modify their business processes, governance and products if needed.

How can Deloitte help you?

To help you understand **how you are impacted by the SFDR** and how to implement the new regulatory requirements, Deloitte has defined a set of frameworks and market practices to accelerate your SFDR journey, both at the entity and product level. Deloitte's teams are committed to supporting you in the **definition of your sustainability risk policy** and identification of principal adverse sustainability impacts, as well as updating your precontractual documents and website disclosures.

We can also support you with the new CSSF fast-track self-certification process for product disclosures.

- **If you are starting your SFDR journey:** we can create a customized action plan and support your SFDR implementation through action-oriented workshops to meet the March deadline.



- **If you are already advanced in your SFDR regulatory journey:** we can share market practices, challenge your positioning compared to your peers, and get you ready for the self-certification of your fund's prospectus and the fast-track procedure with the CSSF.

Finally, with our Regulatory Watch Kaleidoscope service, Deloitte can also help you stay ahead of the regulatory curve to better manage and plan upcoming regulations.

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