EVERSHEDS SUTHERLAND

International Funds Net

Country updates

September 2022

Europe

European Union

European Securities and Markets Authority issues update on European Sustainability Reporting Standards

The European Securities and Markets Authority ("**ESMA**") published the annual update of its Reporting Manual on the European Single Electronic Format ("**ESEF**"). One main update relates to the new guidance in relation to the ESEF regulatory technical standards ("**RTS**") requirement to mark up the notes to the international financial reporting standards consolidated financial statement following the block-tagging approach.

A section was introduced to the manual providing guidance to market participants on ESMA's expectations on how to perform such block-tagging. It must be noted that the ESEF RTS requirement is applicable to the 2022 financial year.

Some pertinent changes include:

1) the introduction of a section on ESMA's expectations when issuers publish annual financial reports in other formats than the ESEF and further guidance when publishing annual financial reports in several languages; and

2) the introduction of technical guidance such as ESMA's expectation to tag dashes or empty fields in figures even if they are not considered numbers.

ESMA expects issuers to follow the guidance provided in the manual when preparing their 2022 annual financial reports and software firms when developing software used for the preparation of annual financial reports in Inline XBRL.

ESMA updates Q&A Document on Practical Questions on Transparency

On 5 September 2022, ESMA has updated its Q&A document on practical questions regarding transparency under the Markets in Financial Instruments Directive and the Markets in Financial Instruments Regulation.

The updated document makes it clear that transfers of financial instruments between a branch and its parent company or between two branches of the same legal entity are not subject to the transparency or transaction reporting requirements given that they do not induce change of the ownership of the financial instrument.

ESMA updated this document to promote uniform supervisory approaches and practices in the application of the Markets in Financial Instruments Directive and the Markets in Financial Instruments Regulation with regards to transparency topics.

Information kindly provided by Mamo TCV Advocates in Malta.

Belgium

Law implementing the EU Directive 2019/2034 on the prudential supervision of investment firms is adopted

In 2019, the EU adopted a new regime for the prudential regulation of investment firms: the Investment Firm Directive ((EU) 2019/2034) ("**IFD**") and the Investment Firm Regulation ((EU) 2019/2033) ("**IFR**").

The IFD was implemented in Belgium by the law dated 20 July 2022, which amends the law dated 25 October 2016 on access to the activity of investment service provider and on the legal status and supervision of portfolio management and investment advice. The new law was published in the Belgian Gazette of 5 September 2022 and entered into force on 15 September 2022. The new IFD/IFR framework results in a new classification of investment firms whereby small and non-interconnected firms will benefit from less regulation while systemic investment firms will be subject to stricter regulation.

Information kindly provided by Janson in Belgium.

Bosnia & Herzegovina

Two relevant rulebooks adopted in the Federation of Bosnia & Herzegovina

The following two rulebooks have been adopted in the Federation of Bosnia & Herzegovina:

- Rulebook on the Structure and Content of the Report of the Investment Fund, the Management Company and the Depository Bank of the Investment Fund ("Official Gazette of FBH", No. 66/2022), which establishes the structure and content, deadlines and method of reporting on the operations of investment funds, management companies and

depository banks, as well as the mandatory content of the report on the audit of the financial statements of investment funds and investment fund management companies. This Rulebook will apply from 1 January 2023, i.e. for the preparation and submission of reports for 2022.

- Rulebook on the Requirements for Performing the Audit of Financial Statements of Investment Funds and Fund Management Companies ("Official Gazette of FBH", No. 66/2022), which prescribes in detail the conditions that must be met by auditing companies that provide auditing services for financial statements for investment funds and investment fund management companies. Such audit firms must be included in the List of Audit Firms for Auditing Financial Statements of Investment Funds and Fund Management Companies established by the Securities Commission of the Federation of Bosnia and Herzegovina ("the **Commission**"), which list is published on the Commission's website.

Information kindly provided by Karanovic & Partners in Bosnia & Herzegovina.

Croatia

Amendments to Croatian rulebooks on alternative investment funds

On 8 September 2022, changes were made to the following rulebooks accompanying the Croatian Act on alternative investment funds ("**AIFs**"):

- *Rulebook on Issuing of Permits for AIFMs*
- *Rulebook on Conducting of Depository services for AIFs*
  - amendments that prescribe additional requirements for an investment company or a subsidiary of an investment company conducting depository services for AIFs (the new requirements are determined very generally, e.g. requirement to have the necessary infrastructure for the storage of the AIF's assets, necessary knowledge and experience, etc.); and
  - certain rephrasing and changes to the procedure for AIFMs and depository for situations (bankruptcy, liquidation of the depository etc.) when the mandatory change of a depository of the AIF is required.
- An entirely new rulebook also entered into force on the same date, the *Rulebook on the Acquisition and Increase of a Qualified Share in Small and Medium-sized AIFMs*, which regulates:
  - criteria for assessing conditions for holders of qualified shares in small and medium-sized AIFM;
  - criteria for evaluating the intended acquisition or increase of a qualified share in AIFM;
  - the joint action of the acquirer of a qualified share in AIFM;
  - documentation that the AIFM is obliged to submit with the notification of the acquisition or increase of a qualified share; and
  - documentation that the AIFM is obliged to submit with the notice of dismissal or reduction of the qualified share by natural and legal persons holding the qualified share.

Information kindly provided by Šavorić & Partners in Croatia.

Czech Republic

Czech National Bank issued updated opinion regarding cross-border marketing of UCITS

On 9 September 2022, the Czech National Bank issued an updated opinion regarding the cross-border marketing of UCITS.

The update takes into account the recent amendment of the Czech Investment Companies and Investment Funds Act, which responds to the amendment of the UCITS Directive and came into effect on 29 May 2022.

The main changes concern:

- the former contact point (which is now not required and communication via the internet is sufficient);
- reporting changes in the notification;
- the introduction of fees associated with the listing of a foreign fund; and
- explicit regulation of de-notification.

Information kindly provided by our Eversheds Sutherland Czech Republic office.

Italy

CONSOB adopts Resolution no. 22437 providing further detail on local facilities' obligations

CONSOB has concluded the consultation procedure regarding the amendments to the Regulation no. 11971 ("**Issuers Regulation**"), in order to implement the European legislation on cross-border distribution of collective investment undertakings , provided for in the so-called CBDF Package (Regulation (EU) 2019/1156 and Directive (EU) 2019/1160) and the new pre-contractual disclosure obligations envisaged for managers by the SFDR and Taxonomy Regulations.

As a result of the consultation procedure, CONSOB adopted the Resolution no. 22437 of 6 September 2022 (currently being published in the Official Gazette) within which changes have been made to the Issuers Regulation. The Regulation will come into effect 20 days after the publication in the Official Gazette.

The most significant amendments are the following:

1) Local facilities

The new regime relating to local facilities (the structures available to retail investors in Italy in connection with the marketing in Italy of units/shares of EU UCITS) identifies, in detail, the tasks to be performed by local facilities for investors, which are:

- execute the subscription, re-purchase and redemption orders and deal with the payments in favour of investors;
- provide to investors information on how to request the services in the above bullet point and on payment methods in connection with the execution of repurchase / redemption orders;
- streamline the management of information and the access to procedures and mechanisms for the complaints procedure;
- make available to investors:
  - **i)** up to date offering documentation,
  - **ii)** annual and semi-annual reports,
  - **iii)** the Fund rules and/or the Articles of Associations of the relevant UCI; and
  - **iv)** the information regarding the issuance/sale price and of the re-purchase/ redemption price of the units/shares of UCI.
- provide to investors on a durable medium information about the tasks carried out by the local facilities; and
- act as point of contact for any possible communication to CONSOB and Bank of Italy.

Such tasks may be also performed through electronic channels and by one or more third persons (acting together with the investment manager) whose designation has to be documented by a written agreement.

2) Updating procedure

The new regime provides that at least one month before the implementation of the relevant amendments, investment managers offering their products in Italy must notify CONSOB of changes to the information contained in the notification letter or of the offering in Italy of new shares/unit classes of a UCITS or its sub-funds of the UCITS already marketed in Italy.

3) Marketing Communications

The rules on marketing communications applicable in the context of an offer to the public relating to collective investment undertakings, have been modified to take into account the fact that CONSOB no longer has the regulatory power to govern how the advertising material has to be

made with reference to an offer to the public of open-ended UCITS units or shares. In this regard, the regulatory regime provided for by the CBDF Regulation as well as the Guidelines on marketing communications under the Regulation on cross-border distribution of funds (ESMA34- 45-1244) have to be followed.

Information kindly provided by our Eversheds Sutherland Italy office.

Malta

Malta Financial Services Authority launches Corporate Governance Code for all its authorised entities

In August 2022, the Malta Financial Services Authority ("**MFSA**") has launched a Corporate Governance Code (the "**Code**") for all its authorised entities (other than listed entities or those falling within the parameters of the Capital Market Rules). The Code lists guiding principles intended to enhance the legal, institutional and regulatory framework for good governance in the Maltese financial services sector.

The Code's application is on a best effort basis adopted to ensure a proportionate approach. Entities are expected to adhere to the Code in a manner that is commensurate with the nature, size and complexity of the entity concerned, and this is without prejudice to regulatory requirements. Proportionality is a self-made test although the Code provides guidance on the basis of which an entity is to arrive to a decision. The ultimate responsibility is in the hands of the board of directors since it is responsible for overall governance of the entity.

The Code addresses four main pillars aimed at establishing an effective board, setting up internal controls, encouraging stakeholder engagement and addressing a corporate culture, CSR and ESG. It sets out main principles complemented by supporting provisions.

Information kindly provided by Conti Legal in Malta.

MFSA requires market participants to complete form on benchmark exposure

Regulation (EU) 2016/1011 ("**BMR**") came into force in June 2016 and applied from 1 January 2018. The purpose behind the BMR is to improve governance and controls over the benchmark process. The BMR sets out requirements in relation to benchmark administrators, contributors of input data to a benchmark, and users of benchmarks.

The BMR distinguishes between different types of benchmarks, such as critical benchmarks, significant benchmarks, commodity benchmarks, regulated data benchmarks, interest rate benchmarks, and non-significant benchmarks. The BMR sets out the requirements that are applicable to each type of benchmark and highlights whether a particular benchmark is exempted from a particular provision.

The MFSA aims to constantly assess the use of benchmarks within the local industry. Consequently, the MFSA requires all market participants, except for insurance intermediaries, to complete and return a form setting out details of their exposure to the critical benchmarks and any other benchmark currently in use as at 31 August 2022.

The MFSA requires that this form be submitted via email to benchmarks@mfsa.mt by not later than 14 October 2022. This form is to be submitted only by entities making use of benchmarks as at 31 August 2022. Those entities which do not provide feedback by 14 October 2022 will be considered as non-users of benchmarks for regulatory purposes. The above applies to all MFSA license holders, on a cross-sectorial basis.

MFSA issues circular regarding the submission of a statement of source of wealth and source of funds

On 12 August 2022, the MFSA published a circular informing the industry of a form for the submission of a statement of source of wealth and source of funds, published on the same date. This form shall be duly filled in by persons wishing to obtain authorisation from the MFSA to carry out financial services activities. The MFSA issued this form to standardise the quantity and quality of the information provided in this regard.

The submission of the statement in the format as set out by the MFSA is mandatory. This form shall be submitted as part of and, when required, with the relevant personal questionnaire documents. The submission of this self-declaration form replaces the previously required audited statement of wealth.

Information kindly provided by Mamo TCV Advocates in Malta.

Sweden

Upcoming transition from UCITS KIID to PRIIPs KID and division of Swedish UCITS

The Swedish Department of Finance published a memorandum with proposed legislative changes back in May this year (the "**Memorandum**") that are proposed to enter into force on 1 January 2023. The changes are proposed primarily as a result of the changes to the UCITS directive and the PRIIP regulation which, *inter alia*, means that, under the current timeline, UCITS made available to retail investors within the EU shall be able to provide a PRIIPs KID as of 1 January 2023.

The proposed changes mean that a PRIIPs KID should generally be considered to meet the requirements for a UCITS KIID or an AIF KIID, as applicable, if it is drawn up, provided, amended, and translated in accordance with the PRIIP regulation. Regarding special funds that are marketed to professional investors in Sweden, it is proposed that they can produce either a KIID that meets the existing requirements for a KIID or a PRIIP KID. However, the proposed legislative changes are still in the referral phase, i.e., not in final form.

The Memorandum also contains proposals that are aimed at increasing the flexibility when dividing funds. It is proposed that the Swedish Financial Supervisory Authority (the "**SFSA**") may decide that a division of a UCITS or a special fund may be carried out earlier than the current statutory time frame (that is, three (3) months from the date of the SFSA's decision, at the earliest).

SFSA maintains focus on sustainability

New amendments and regulations on sustainability

During the summer of 2022 new sustainability rules came into force on the financial market through both delegated EU regulations and through changes of the SFSA's regulations. The SFSA has, *inter alia*, amended certain regulations meaning that as of 1 August 2022 fund companies and management companies must integrate and take into account sustainability risks and consider the negative consequences that investment decisions may have on sustainability factors. Further, the SFSA has amended its regulations regarding sustainability factors and sustainability-related objectives within product governance requirements which apply to securities institutions and certain activities that fund companies and AIF managers operate. These changes are set to apply from 22 November 2022.

Funds with sustainable investment as an objective

The SFSA has carried out an in-depth analysis of how managers of Swedish-registered Article 9 funds, i.e., funds that have sustainable investment as an objective, meet the requirements for providing sustainability-related information to investors. The background to the analysis is the SFDR/disclosure regulation that applies as of 10 March 2021, as well as the fact that reviewing and preventing greenwashing in the financial sector is one of the SFSA's high priority areas of 2022.

The SFSA's analysis indicates that there is room for improvement of the information that is provided to investors and the SFSA expects relevant actors on the market to review and take these conclusions into consideration in their implementation of current and future applicable regulations. The SFSA will continuously review and analyse what information is provided to investors and work towards improvements, e.g., by contacting fund managers when necessary.

Information kindly provided by our Eversheds Sutherland Sweden office.

Switzerland

Transition period for switching from KIIDs to PRIIPs-KIDs ends on 31 December 2022

From 1 January 2023, all EU PRIIPs-KIDs that exist for a (sub-)fund registered in Switzerland will need to be filed including a Swiss supplement (in the same pdf) with the FINMA initially and at the occasion of every update.

With the introduction of new Swiss Financial Services Act ("**FinSA**") the requirements regarding the necessary key (investor) information document for foreign funds approved in Switzerland for offering to non-qualified investors were amended. The new requirements are subject to a transition period. While the FinSA became effective on 1 January 2020, said transition period was extended in line with the extension of the deadline in the European Union to use the PRIIPs-KID instead of the UCITS-KIID and will end on 31 December 2022.

Based on the new Swiss legislation, as from 1 January 2023 foreign funds approved in Switzerland for offering to non-qualified investors must use either a Swiss Key Information Document or a EU PRIIPs-KID.

Annex 10 to the Swiss Financial Services Ordinance with the "list" of documents pursuant to foreign legislation which are equivalent to the (Swiss) key information document contains only one entry (EU PRIIPs-KID).

As the detailed requirements for the Swiss Key Information Document in certain respects are not very clear and as the Asset Management Association Switzerland has decided not to provide a template Swiss Key Information Document (following disagreement among members on the level of detail to be provided in such document) most market participants (including many Swiss domiciled funds) are expected to use the EU PRIIPs-KID instead of the Swiss Key Information Document.

The FINMA-filing requirements applicable for EU PRIIPs-KIDs including the Swiss supplement (in the same pdf) are the same as currently for the Swiss-ised UCITS-KIIDs (i.e. each EU PRIIPs-KID in existence for a (sub-) fund will need to be added the Swiss supplement and will need to be filed via the FINMA's EHP-platform initially and each time it is updated. An existing EU PRIIPs-KID will need to be added the Swiss supplement and be filed with FINMA even if the share-class it covers is not marketed in Switzerland.

Information kindly provided by Naegeli & Partners in Switzerland.

UK overseas territories

Bermuda

Bermuda Monetary Authority publishes new Guidance, Statement of Principles and Code for investment business providers

On 1 July 2022 the Bermuda Monetary Authority (the "**BMA**") published Guidance for Prospective Applicants, a new Statement of Principles and a new Code of General Business Conduct and Practice (the "**Code**"), applicable to investment business providers.

These Guidance for Prospective Applicants has been issued by the BMA to provide information for prospective applicants regarding the statutory provisions of the Investment Business Act 2003 and the supervisory processes which the BMA will apply.

The Statement of Principles provides guidance on the BMA's approach to interpreting the minimum criteria, exercising its powers to grant, revoke or restrict a licence or registration, exercising its power to obtain information, reports and to require production of documents, and exercising other enforcement powers.

The Code (which is to be read in conjunction with the Statement of Principles, the Enforcement Guide (Statement of Principles and Guidance on the Exercise of Enforcement Powers) and the Guidance Notes on Outsourcing) provides guidance as to the duties, requirements, procedures, standards and sound principles to be observed by persons carrying on investment business. Failure to comply with the provisions in the Code will be taken into account by the BMA in determining whether an investment provider is meeting its obligation to conduct its business in a prudent manner.

Information kindly provided by Carey Olsen in Bermuda.

Guernsey

Regulatory fees consultation for 2023

The Commission is consulting on proposals for an increase in regulatory fees and administrative penalties which are to apply from 1 January 2023. The proposals would directly affect all existing licensees, registered entities, and authorised entities, as well as any applicants for licensing or registration.

Information kindly provided by Mourant in Guernsey.

Americas

Canada

Investment Canada Act amendments come into force

On 2 August 2022, amendments to the Investment Canada Act came into force, permitting voluntary filings to be made under the national security provisions of the Investment Canada Act, among other amendments.

This change may be of interest in connection with investments in Canada by non-Canadian investors as it creates a mechanism allowing investors to seek regulatory certainty in this regard by submitting a voluntary filing under the legislation.

Canadian Securities Administrators announces new pre-registration requirement for crypto trading platforms

On 15 August 2022, the Canadian Securities Administrators ("**CSA**") announced a new requirement applicable to crypto trading platforms ("**CTPs**") operating and seeking registration in Canada. Each of these CTPs will be required to provide a pre-registration undertaking to its principal regulator in order to continue operations while its registration application is being reviewed. The pre-registration undertakings will impose certain terms and conditions on the CTPs largely consistent with the requirements currently applicable to registered platforms. The pre-registration undertakings are available on the CSA's website.

Investment Industry Regulatory Organization of Canada releases new guidance notice on short selling

On 17 August 2022, the Investment Industry Regulatory Organization of Canada ("**IIROC**") published Notice 22-0130: Guidance on Participant Obligations to Have Reasonable Expectation to Settle any Trade Resulting from the Entry of a Short Sale Order (the "**Guidance**"). The Guidance provides additional clarity with respect to the requirement under the Universal Market Integrity Rules ("**UMIR**") that a registered investment dealer who is a member of IIROC (a "**Participant**") have a reasonable expectation that sufficient securities will be available to cover the settlement of a short sale trade prior to entering a short sale order.

Summary of the Notice

Under section 2.2(2) of UMIR, a Participant shall not enter an order or execute a trade, including a short sale order, if the Participant knows or ought reasonably to know that the trade would create or could reasonably be expected to create:

a) a false or misleading appearance of trading activity in or interest in the purchase or sale of the security; or

b) an artificial ask price, bid price or sale price for the security or a related security.

One of the activities that constitutes a violation of section 2.2(2) of UMIR is entering into an order for the sale of a security, without, at the time of entering the order (which includes short sale orders), having the "reasonable expectation" of settling any trade that would result from the execution of the order.

The Guidance indicates that to meet this "reasonable expectation" standard, a Participant needs "reasonable certainty" that it can access sufficient securities to settle any resulting trade by the settlement date. The Guidance further clarifies that "[i]f the Participant knows or ought reasonably to know that sufficient securities will not be available and accessible to deliver on settlement date, the order is not permitted to be entered.".

Moreover, the Guidance provides that a Participant may not be able to demonstrate a reasonable expectation where:

a) the person on behalf of whom the short sale order is entered has previously executed trades where securities were not available to deliver on the settlement date; or

b) the securities in question are difficult to borrow.

Furthermore, a Participant cannot have a reasonable expectation where the Participant expects to receive the securities after the settlement date. Additionally, a Participant is not considered to own and have sufficient securities available where the securities are subject to statutory resale restrictions or the issuance date of the security is after the settlement date of the short sale order.

Impact of the Notice

As IIROC has not defined the meaning of "reasonable expectation" in UMIR, the Guidance provides some clarification. IIROC's predecessor has previously stated that the "reasonable expectation" standard "*merely* requires that the vendor not make a sale *knowing* that the securities cannot be borrowed and that the vendor take 'reasonable steps' to attempt to borrow the securities to make delivery on closing" [emphasis added]. The Guidance imposes a higher standard, requiring that the vendor have "reasonable certainty" that it can access sufficient securities to settle the trade, and that a vendor must not enter a short sale order if it "knows or *ought reasonably to know*" that sufficient securities will not be available for settlement.

Information kindly provided by McMillan in Canada.

Asia Pacific

Cambodia

Cambodia implements pension fund scheme

Following the enactment of the Law on Social Security on 2 November 2019 and issuance of Sub-Decree 32 on the Social Security Scheme for Pension Fund for Persons under the Scope of the Labour Law dated 4 March 2021 ("**Sub-Decree 32**"), the Royal Government of Cambodia and the Ministry of Labour and Vocational Training promulgated and issued the following regulations to further detail the formalities and procedures for the pension scheme:

1) Sub-Decree 144 on Determination of the Contributable Wage dated 19 August 2021 ("**Sub-Decree 144**");

2) Inter-ministerial Prakas 165 on the Implementation of the Social Security Scheme for Pensions for Persons under the Provisions of the Labour Law dated 28 June 2022 ("**Joint Prakas 165**");

3) Prakas 168 on the Procedures for Registration of Enterprises, Establishment, Employees and the Payment of Contributions for Persons under the Provisions of the Labour Law in the National Social Security Fund ("**NSSF**") dated 5 July 2022 ("**Prakas 168**");

4) Prakas 169 on the Implementation of Social Security Scheme on Pension for Persons Defined by the Provisions of the Labour Law dated 28 June 2022 ("**Prakas 169**"); and

5) Prakas 170 on the Commencement Date of Contribution Payments for the Social Security Scheme for Pensions under Compulsory and Voluntary Contribution Schemes dated 5 July 2022 ("**Prakas 170**").

Sub-Decree 144 sets out the contributable wage for the pension scheme ranging from 400,000 riels (approximately USD 100) to 1,200,000 riels (approximately USD 300). This range may be changed at the initiative of the Board of Council of the NSSF. Based on Sub-Decree 32, once registered, an enterprise must pay a monthly contribution for the compulsory pension scheme equivalent, for the first 5 years, to 4% of an employee's contributable wage with 2% to be paid by the employee and 2% to be paid by the employer, (ranging from USD 4 to USD 12 per month per employee), which will be implemented from 1 October 2022 onwards. The contribution rate will be increased after 5 years.

In supplementing Sub-Decree 32, Prakas 168 provides detail on the formalities and procedures for registering enterprises and employees with the NSSF and making contributions for the pension scheme. Upon registration, enterprises that are currently operating but are yet to register with the NSSF must do so within 30 days. The enterprises that are established after the effective date of this Prakas (being 5 July 2022) must register with the NSSF within 30 days upon opening of the enterprise. Enterprises that have already registered with the NSSF for occupational risk and health care schemes are not required to re-register with the NSSF. All enterprises registered with the NSSF must register their employees with the NSSF within 3 calendar days of the commencement of employment, except for the employees who already have an NSSF membership card.

With respect to contributions, the monthly contribution for the pension scheme must be made together with contributions for the occupational risk and health care schemes. Further, under Prakas 168, if an employee is 60 as of 1 July 2022, the employee is not required to comply with the compulsory pension scheme. They can, however, make contribution payments to the NSSF under the voluntary pension scheme by submitting a request within 12 months from the effective date of Prakas 168 (being 5 July 2022).

In terms of implementation, while Joint Prakas 165 prescribes the implementation date of the pension scheme from 1 July 2022 onwards, Prakas 170 sets the commencement date of the compulsory pension contribution as 1 October 2022. In essence, employers are obliged to start remitting their contributions and those of their employees to the NSSF by the 15th of the following month (i.e. November 2022) and submitting a monthly report on the number of employees to the NSSF before the 20th of the same month.

Further, Prakas 169 clarifies formalities and procedures for funerary grants, which are one of the four benefits under the pension scheme. Particularly, the funerary grant is set at five (5) months of the pensioner's most recent pension fund payment or, at a minimum, two (2) million riels. The beneficiaries of funerary grants must complete and submit all required documents to the NSSF to receive the grant. The

beneficiaries must notify the death of pensioner within two weeks and complete the form to demand the grant within three (3) months after the death of the pensioner.

Information kindly provided by DFDL in Cambodia.

Taiwan

Financial Supervisory Commission clarifies items to comply with for non-bond type SIT Funds to invest in total loss-absorbing capacity bonds

On 15 August 2022, the Financial Supervisory Authority ("**FSC**") issued a ruling (Ref. No. Jin-Kuan-Chen-Tou-Tz-11103823133) to clarify the following items:

1) Where an established non-bond type securities investment trust fund ("**SIT Funds**") plans to invest in total loss-absorbing capacity ("**TLAC**") bonds, the securities investment trust enterprises ("**SITEs**") shall amend the trust deed, prospectus and internal control system accordingly. Where the product position, basic investment guideline and strategy are not changed, the SITE may amend the trust deed without a need to be approved at the beneficiaries' meeting, provided that a legal opinion issued by a Taiwan lawyer to confirm that the amendment does not have significant impact on rights / benefits of beneficiaries will be required for the application with the FSC. Furthermore, an announcement made thirty days before the enforcement date of the revised trust deed along with notices to beneficiaries will be required.

2) For the established non-bond type SIT funds which have invested in TLAC bonds before the announcement of the ruling, the trust deed, prospectus and internal control system shall also be amended as well, provided that the amendment to the trust deed can be filed with the FSC when there are other amendments.

Information kindly provided Lexcel Partners in Taiwan.

Your contacts

Please note that this update on recent legal developments is not designed to provide legal advice and it is advisable to consult with local legal counsel before any actual undertakings.

For more information on these updates or about FundsNet, our specialist solution for global AIFs and UCITS distribution activities, please contact:

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