

# Regulatory Newsletter Solutional

DEVELOPMENTS IN ASSET MANAGEMENT LAWS AND REGULATION | Q3 2021

## Introduction

This quarterly newsletter presents the technical and regulatory developments that are related to financial and regulatory reporting relevant to investment firms.

## In this issue

- Sustainability reporting
- AFM Study
- MMFR resubmitted



**Solutional**  
Value through expertise

Regulatory Newsletter | Q3-2021

## General

### Sector letter AFM

On 26 July 2021 the Dutch Authority for the Financial Markets (AFM) published a letter to the sector in which it urges asset managers to manage the risks of outsourcing activities.

Although the AFM sees improvement, there are still points of concern that could endanger the stability and continuity of the sector.

Asset managers have to comply to the outsourcing rules of MiFID II, the AIFM Directive and/or the UCITS Directive. Research by the AFM shows that the measures taken by asset managers in this area need improvement. The AFM identifies a decrease in the number of companies without an outsourcing policy, but the implementation of the measures is lagging.

The AFM expects the sector to investigate and improve. The AFM also announced that it will conduct further investigations with individual parties in the asset management.

On 30 September 2021 the AFM announced a further deep dive at a number of asset managers related to the obligation to report incidents.

## IFRS

### Exposure Draft: ‘Subsidiaries without Public Accountability: Disclosures’

For consolidation purposes, a subsidiary applies the recognition and measurement requirements in the IFRS Standards when reporting to a parent that applies IFRS. The IASB received feedback that some of these subsidiaries prefer to prepare their financial statements according to the IFRS Standards, but with reduced disclosure requirements.

The IASB held a research project on this item and decided to present an exposure draft. In July 2021 the IASB published the Exposure Draft ‘Subsidiaries without Public Accountability: Disclosures’ with their proposal for a new IFRS Standard. The draft Standard would permit a subsidiary to apply reduced disclosure

requirements when applying IFRS Standards in its financial statements provided that:

- the subsidiary does not have public accountability; and
- its ultimate or any intermediate parent produces consolidated financial statements available for public use that comply with IFRS Standards.

The Exposure Draft proposes a new IFRS Standard that would:

- be optional for a subsidiary that is eligible to apply it;
- set out disclosure requirements for a subsidiary that elects to apply the Standard; and
- specify the disclosure requirements in other IFRS Standards that do not apply and are replaced if a subsidiary elects to apply the draft Standard.

### Sustainability reporting

The IFRS Foundation Trustees published a consultation paper in September 2020 to determine the need for global sustainability standards and whether the IFRS Foundation should play a role in developing such standards. The feedback received confirmed the need and support for the foundation to play a role in the development of such standards. The Trustees have since the start of 2021 worked towards the potential creation of a new standard-setting board within the existing governance structure of the IFRS Foundation, International Sustainability Standards Board (ISSB).

The Trustees published an exposure draft in April 2021 proposing the creation of the ISSB with the possibility for comments until 29 July 2021. The Trustees considered the feedback in September and will undertake their final consideration in October 2021 ahead of the COP26, UN climate change conference, in November 2021.



## EU endorsements

During the third quarter of 2021, the EU endorsed the amendments to IFRS 16 Leases: Covid-19-Related Rent Concessions beyond 30 June 2021 (issued on 31 March 2021) with EU effective date 1 April 2021. Refer to our Q2-2021 newsletter for the endorsed amendment to IFRS 16.

## Dutch GAAP

The Dutch Accounting Standards Board (DASB) / Raad voor de Jaarverslaggeving (RJ) provided feedback on 15 July 2021 on the Exposure Draft “Proposed Targeted Amendments to the IFRS Foundation Constitution to Accommodate an International Sustainability Standards Board to Set IFRS Sustainability Standards”.

The DASB is in favor of global sustainability reporting standards and welcomes the incorporation of an International Sustainability Standards Board (ISSB) in the governance structure of the IFRS Foundation.

There were no relevant updates during the third quarter of 2021 in the guidelines for annual reporting of the RJ.

## AIFMD Annex IV

No relevant updates during the third quarter of 2021.

There are no updates on the review of the AIFMD by the European Commission. The first draft of the revised AIFM Directive is expected in Q4 this year.

## UCITS

No relevant reporting updates during the third quarter of 2021.

## Statistical Reporting

The templates for using the MESREP Excel submission facility have been updated. The

taxonomy and the data to be entered themselves have not changed. The adjustments concern improvements in the user-friendliness of form TOC and in calculation rules for the overview form T11.01.

## SOLVENCY II (TPT/QRT)

No relevant reporting updates during the third quarter of 2021.

## FTK

On 30 September 2021, DNB published the updated FTK taxonomy 2.4.0. Version 2.3.0 of the taxonomy will be replaced by version 2.4.0. The 2.4.0 taxonomy will be applicable from 1 January 2022.

## MMFR

In September 2021, the AFM sent a letter to managers of Money Market Funds announcing that the MMF reports for Dutch funds will have to be submitted through the AFM portal as of Q3-2021. Since the first report in Q3-2020, the MMF reports have been submitted through a secured email facility of the AFM as the required infrastructure was not in place yet. As a result, the AFM therefore did not yet review the submitted reports.

Additionally, the AFM requested the asset managers to resubmit all their previously delivered reports for 2020 and 2021 through the AFM portal



## EMIR

On 13 July 2021, the European Securities and Markets Authority (ESMA) launched a public consultation on its draft Guidelines for derivatives reporting under EMIR.

The Consultation Paper includes draft guidelines on a wide range of topics related to reporting, data quality and data access under EMIR Refit.

The proposed Guidelines, together with the validation rules, complement the revised draft EMIR technical standards on reporting by counterparties, data quality and data access.

The closing date for responses was 30 September 2021. ESMA will publish their final report in Q4 2021 or Q1 2022.

## MIFID

On 24 September 2021, the ESMA launched a consultation on proposals for improvements to the MiFID II framework on best execution reports.

ESMA's proposals include technical changes to:

- the reporting obligations for execution venues:
  - aimed at simplifying the reporting requirements by reducing the granularity and volume of data to be reported; and
  - moving to a set of seven indicators aimed at disclosing meaningful information to help firms to assess venues' execution quality; and
- the reporting requirements for firms: focusing mainly on clarifying the requirements for firms that transmit client orders or decisions to deal to third parties for execution.

In addition, it proposes amendments to the relevant provisions of the MiFID II legislative framework to enable these technical changes to come into effect in the future.

Stakeholders can provide their response until 23 December 2021.

## PRIIPS

No relevant reporting updates during the third quarter of 2021.

## IFR/IFD

In our Q2-2021 newsletter we mentioned that the national implementation of the Investment Fund Directive (IFD) in Dutch laws and regulations will be completed later than 26 June 2021.

The DNB clarified in a news item published on 20 July 2021, that they assume that the IFD Implementation Act came into effect before the reporting deadline of the quarterly reports for the third quarter of 2021. DNB therefore expects that the new reporting templates will be used by managers of investment institutions and UCITS (and investment firms) for the reports on the third quarter.

## SFDR

### Postponing the RTS

The European Commission announced that the application of the Sustainable Finance Disclosure Regulatory Technical Standards (SFDR RTS) on 1 January 2022 is not feasible. The Commission intends to postpone this by six months until 1 July 2022.

### Exploratory study by the AFM

The AFM conducted an exploratory study into the application of the SFDR rules among 100 managers of 1,250 Dutch funds and published the results on 14 September 2021. The study focused on the pre-contractual disclosures in the prospectus.

Key points from this study:

- According to the manager, 57% of the managed funds do not have sustainable characteristics.



- 35% of the funds were qualified by the managers as 'having sustainable characteristics' and 8% as funds 'pursuing sustainable investments'. The AFM doubts this qualification based on a sample of these funds.
- Based on the reviewed prospectus of the funds categorized as sustainable by the managers, the AFM has determined that the information provided about the way in which sustainability risks are integrated in the investment policy is general and often not specific to the fund.

The AFM understands that due to the lack of final Regulatory Technical Standards some requirements are still unclear. The AFM therefore understands that there is still room for improvement and has therefore decided, for the time being, only to provide generic feedback.

However, the AFM does expect managers to use the insights gained from research in their further implementation of the SFDR and associated technical standards.

The AFM will continue to monitor compliance with the SFDR requirements and the implementation of the RTS. The AFM will also take into account the extent to which the findings of the exploratory study have been taken up by the fund managers.



## Disclaimer

Every effort is made to provide accurate and complete information in publications by Solutional. However, Solutional cannot guarantee that there will be no errors. Solutional makes no claims, promises or guarantees about the accuracy, completeness, or adequacy of the contents of newsletters and expressly disclaims liability for errors and omissions in the contents of any publication.

Neither Solutional, nor its employees make any warranty, expressed or implied or statutory, including but not limited to the warranties of noninfringement of third party rights, title, and the warranties of merchantability and fitness for a particular purpose with respect to content available from newsletters. Neither does Solutional assume any legal liability for any direct, indirect or any other loss or damage of any kind for the accuracy, completeness, or usefulness of any information, product, or process disclosed herein, and do not represent that use of such information, product, or process would not infringe on privately owned rights.



**Solutional**  
Value through expertise

Regulatory Newsletter | Q3-2021