

# Regulatory Newsletter Solutional

DEVELOPMENTS IN ASSET MANAGEMENT LAWS AND REGULATION | Q1 2023

## Introduction

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

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## General

### AFM Agenda for 2023

On 13 January 2023, the AFM published its supervisory agenda for the year 2023. The agenda describes trends and risks in the financial sector and explains the AFM priorities and activities for the coming year. These priorities come from the updated AFM Strategy 2023-2026. For this newsletter we only focus on the paragraph relevant to the Asset Management industry.

The AFM identified a number of developments that will impact the industry and the way the AFM will supervise the industry, such as new regulations with higher demands on business operations including sustainability and digital resilience. The AFM also foresees consolidation in the sector, increasing investments in illiquid investments, technological developments, cybercrime, and attention to money laundering and terrorist financing. The AFM also points to the pension transition and sustainability transition that both demand a lot from the sector.

The AFM has set a number of priorities for their supervision in 2023:

- 1 Fund managers must have sound operational management in place. For outsourced operations, they need to have grip on the whole chain.
- 2 Monitoring compliance with new sustainability requirements. Conducting research into products that market themselves as 'green' and counter greenwashing.
- 3 Effects of digitization and technology under control, such as cryptocurrencies, digital assets, Artificial Intelligence and cyber security.
- 4 Monitoring that the sector is prepared for new legislations including the 'Digital Operation Resilience Act' (DORA)'.

### DNB publishes supervisory approach for climate and environmental risk management

Financial institutions are required by law to manage material risks, including ESG risks such as climate and environmental risks. Nevertheless, previous research indicates that institutions have embedded these risks in their core processes only to a limited extent.

On 30 March 2023, DNB published [guidance](#) with points of attention and good practices for the management of climate and environmental risks for insurers, pension funds, premium pension institutions, investment firms and institutions and electronic money and payment institutions. With this guidance, DNB is responding to the sector's need to specify what proper management of climate and environmental risks could look like. The guidance provides points of attention for the entire control process of a financial institution..

## IFRS

### Final decisions made on IFRS Sustainability Disclosure Standards

At its February 2023 meeting in Montréal, Canada, the International Sustainability Standards Board (ISSB) agreed that its initial ISSB Standards, S1 and S2, will become effective starting January 2024.

### IASB proposes narrow-scope amendments to classification and measurement requirements for financial instruments

The International Accounting Standards Board (IASB) published an exposure draft on 21 March 2023 proposing narrow-scope amendments to the classification and measurement requirements in IFRS 9 Financial Instruments.

The proposed amendments respond to feedback received from a post-implementation review of the classification and measurement requirements in IFRS 9, which concluded in December 2022.



The exposure draft's proposed amendments include:

- Clarifying that the classification of financial assets with ESG features in loans could affect whether a loan is measured at amortized cost or fair value. To resolve any potential diversity in practice, the proposed amendments clarify how the contractual cash flows on such loans should be assessed. They also look to ensure that investors are provided with useful information about the timing, amount and uncertainty of future cash flows.
- Settlement of liabilities through electronic payment systems: The exposure draft proposes clarifications to how these settlements should be accounted for. The IASB also decided to develop an accounting policy option to allow a company to derecognize a financial liability before it delivers cash on the settlement date when specified criteria are met.

The IASB will consider any comments it receives on the Exposure Draft before 19 July 2023. It will then decide whether to proceed with the proposed amendments

## EU endorsements

There have been no endorsements of new IFRSs by the European Union during the first quarter of 2023.

## Dutch GAAP

**RJ-Uiting 2023-1: Draft Paragraph in Chapter 615 'Investment Entities' on the financial presentation of umbrella funds:** The Council for Annual Reporting (RJ) proposed to clarify in paragraph 718 of chapter 615 'Investment entities' how the financial statements of an umbrella fund (regardless of the legal structure) can be prepared. Umbrella funds are investment entities consisting of multiple sub-funds. These sub-funds often have different investment strategies, assets and liabilities and cost structures. In order to reduce

the diversity as currently seen in practice, the new paragraph 718 proposes two alternative. An umbrella fund should provide insight into the assets, results and cash flows of the individual sub-funds.

- 1 The preferred method, Umbrella funds prepare separate financial statements for both the legal entity of the umbrella fund (i.e. for all sub-funds collectively) as well as for each of the sub-funds individually.
- 2 As an alternative, one financial statement for the umbrella fund and the sub-funds is drawn up together, containing sufficient insight into the individual sub-funds.

The RJ proposes that this draft Guideline is effective for reporting years commencing on or after 1 January 2024. The draft was open for comments until 1 March 2023.

## RJ-Uiting 2023-3: Clarifications on Going Concern reporting

This RJ Statement is relevant for legal entities where there is uncertainty about the going concern assumption. The RJ proposes to:

- harmonize the terminology on uncertainty about the going concern assumption;
- clarify the assessment of whether material uncertainty about going concern exists, as well as to clarify the associated disclosure requirements;
- include a summary schedule of the reporting requirements for each continuity scenario.

No substantive changes are intended with these amendments. The aim is only to promote consistent application of the Guidelines.

The RJ proposes that this draft Guideline is effective for reporting years commencing on or after 1 January 2024. The draft is open for comments until 19 April 2023.



## AIFMD Annex IV

### Updated technical guidance

The ESMA published updated technical guidance for the AIFMD Annex 4 reports. From November 2023 onwards the updated technical guidance (revision 5) will be applicable. The exact date will be published in a later stage by the ESMA. The update consists of a few minor adjustments/clarifications.

Later this year, the trialogue relating to the review of the AIFMD by the European Commission. The new/updated AIFMD is expected at the end of this year, early next year. The new Directive is expected to be applicable from Q4 2025.

## UCITS

No relevant updates during the first quarter of 2023.

## Statistical Reporting

### First MESREP v2.2.0 report

As mentioned in the Regulatory Newsletter Solutional of Q4-2022, the DNB released the updated taxonomy (v2.2.0), for the Macroeconomic Statistics Reporting (MESREP) on 15 December 2022. The Q1-2023 report needs to be submitted in accordance with the v2.20 taxonomy.

## Solvency II (TPT/QRT)

### v2.8.0 QRT Taxonomy

Since Q4-2022, the 2.7.0 taxonomy for QRT is live. The new taxonomy is a small update which is a prelude to the 2.8.0 taxonomy which will be effective from Q4-2023. The 2.8.0 taxonomy will be a more extensive update. More information on this update will follow.

## VAG Reporting

No relevant updates during the first quarter of 2023.

## FTK

The Future Pensions Act ‘Wet Toekomst Pensioen’ (WTP) was adopted by the Dutch House of Representatives on 22 December 2022. This act is now being discussed in the Senate and expected to ultimately pass by 1 July 2023. Due to this new legislation DNB intends to implement changes to the FTK reporting set from 2024 onwards. The changes to the reporting requirements were published in February 2023 for consultation and concern the quarterly FTK investment statements. Adjustments to the annual statements will be determined at a later stage and offered for consultation.

The FTK quarterly reports will be adjusted in line with the WTP. The FTK quarterly reporting will be split into two templates.

- For the Pension funds who will work with the old Pension scheme: The template for the old pension scheme (FTK-Bel) will change slightly. Only one new sheet is added compared to the current 2.4.0 Taxonomy and some minor changes in the existing forms.
- For pension funds who will enter into the new pension scheme according to WTP: A new template is introduced with the distinction between two schemes: ‘Solidaire Pensioenregeling’ (SPR) and ‘Flexibele Premiereregeling’ (FPR). With separate forms for each scheme.

It is also possible for Pension funds to enter partially (or in stages) into the new scheme. These pension funds will need to report both reports, the old and the new FTK reporting sets.



## MMFR

### MMF reform

In its opinion from February 2022, ESMA proposed that the European Commission should consider a number of changes to the MMF Regulation, intended to make MMFs more resilient. These reforms would help to improve the overall stability of financial markets, by reducing the risk of liquidity stress. Alongside key policy measures, such as addressing the threshold effects for CNAV MMFs, and addressing liquidity related issues, ESMA suggested complementary reforms aimed at enhancing MMFs' preparedness for a crisis.

This reform would include enhancements of reporting requirements and the stress testing framework, as well as new disclosure requirements linked to the rating of MMFs. ESMA has also highlighted the importance of having these changes to the MMF Regulation implemented speedily.

As of yet, there is no update or deadline given on the steps following these proposals.

## PRIIPS

No relevant updates during the first quarter of 2023.

## IFR/IFD

### Implementing Technical Standards on Supervisory Reporting

The EBA expects that from June 2023, the proposed changes 'Implementing technical standards on supervisory reporting amendments with regards to COREP, asset encumbrance and G-SIIs' will apply.

This involves changes to reporting on securitizations and capital requirements with regards to the exemption of certain software assets from the deduction from capital.

## SFDR

### New SFDR templates with adjustments for fossil gas and nuclear energy

Based on the amended SFDR RTS, parties are asked to provide additional information about investments in fossil gas and nuclear energy.

The Delegated Regulation entered into force 3 days after its adoption on 17 February 2023. The AFM is aware that such a period is too short for asset managers to comply with the rules. That is why providers of sustainable financial products are given 6 months to implement these amendments. The AFM expects the changes to be implemented as of 1 September 2023.

The amended SFDR RTS describe how to report on possible ecologically sustainable investments in fossil gas and nuclear energy. Providers of sustainable financial products must indicate, for example in a fund's prospectus, and in an annual report whether, and if so, how much they have invested in these categories. This must be done based on the new SFDR reporting templates.



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