



STATUTORY INSTRUMENTS.

S.I. No. 442 of 2022

EUROPEAN UNION (UNDERTAKINGS FOR COLLECTIVE
INVESTMENT IN TRANSFERABLE SECURITIES) (AMENDMENT)
(NO.2) REGULATIONS 2022

EUROPEAN UNION (UNDERTAKINGS FOR COLLECTIVE
INVESTMENT IN TRANSFERABLE SECURITIES) (AMENDMENT)
(NO.2) REGULATIONS 2022

I, PASCHAL DONOHOE, Minister for Finance, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972), and for the purpose of giving further effect to Commission Directive 2010/43/EU of 1 July 2010¹, as amended by Commission Delegated Directive (EU) 2021/1270 of 21 April 2021², hereby make the following regulations:

Citation and Commencement

1. (1) These Regulations may be cited as the European Union (Undertakings for Collective Investment in Transferable Securities) (Amendment) (No.2) Regulations 2022.

(2) These Regulations come into operation on 12 September 2022.

Definition

2. In these Regulations, “Principal Regulations” means the European Communities (Undertakings for Collective Investment in Transferable Securities) Regulations 2011 (S.I. No. 352 of 2011).

Amendment of Regulation 3 of Principal Regulations

3. Regulation 3 of the Principal Regulations is amended, in paragraph (1), by the insertion of the following definitions:

“‘sustainability risk’ means sustainability risk as defined in Article 2(22) of Regulation (EU) 2019/2088 of the European Parliament and of the Council of 27 November 2019³;

‘sustainability factors’ means sustainability factors as defined in Article 2(24) of Regulation (EU) 2019/2088 of the European Parliament and of the Council of 27 November 2019⁴;.”

Obligation for investment companies to integrate sustainability risks in management of UCITS

4. The Principal Regulations are amended by the insertion of the following Regulation after Regulation 45:

¹ OJ No. L 176, 10.07.2010, p. 42.

² OJ No. L 277, 02.08.2021, p. 141.

³ OJ No. L 317, 09.12.2019, p. 1.

⁴ OJ No. L 317, 09.12.2019, p. 1.

“45A. An investment company shall integrate sustainability risks in the management of UCITS, taking into account the nature, scale and complexity of the business of the investment company.”.

Amendment of Schedule 4 of Principal Regulations

5. Schedule 4 of the Principal Regulations is amended by the insertion of the following paragraph after paragraph 2:

“2A. Management companies shall take into account sustainability risks when complying with the requirements laid down in paragraph 1.”.

Amendments of Schedule 5 of Principal Regulations

6. Schedule 5 of the Principal Regulations is amended -

- (a) by the insertion of the following paragraphs after paragraph 8:
- “8A. Management companies shall take into account sustainability risks when complying with the requirements set out in paragraphs 5 to 8.

8B. Where a management company or, where applicable, an investment company considers the principal adverse impacts of investment decisions on sustainability factors, in accordance with Article 4(1)(a) of Regulation (EU) 2019/2088 of the European Parliament and of the Council of 27 November 2019⁵ or in accordance with Article 4(3) or (4) of that Regulation, the management company or investment company, as the case may be, shall take into account such principal adverse impacts in complying with paragraphs 5 to 8.”,

- (b) by the insertion of the following paragraph after paragraph 33:

“33A. For the purposes laid down in paragraphs 30 to 32, management companies shall retain the necessary resources and expertise for the effective integration of sustainability risks.”,

- (c) in paragraph 40 -
 - (i) in subparagraph (f), by the substitution of “UCITS, and” for “UCITS.”, and
 - (ii) by the insertion of the following subparagraph after subparagraph (f):

“(g) is responsible for the integration of sustainability risks in the activities referred to in subparagraphs (a) to (f).”, and
- (d) by the insertion of the following paragraph after paragraph 66:

“66A. Where a management company is identifying the types of conflicts of interest the existence of which may damage the

⁵ OJ No. L 317, 09.12.2019, p. 1.

interests of a UCITS, the management company shall include those types of conflicts of interest that may arise as a result of the integration of sustainability risks in its processes, systems and internal controls.”.

Amendment of Schedule 9 of Principal Regulations

7. Schedule 9 of the Principal Regulations is amended, in paragraph 1, by the substitution of the following subparagraph for subparagraph (b):

- “(b) The risk management policy shall comprise such procedures as are necessary to enable the management company to assess for each UCITS it manages the exposure of that UCITS to market, liquidity, sustainability and counterparty risks, and the exposure of the UCITS to all other risks, including operational risks, which may be material for each UCITS it manages.”.



GIVEN under my Official Seal,
6 September, 2022.

PASCHAL DONOHOE,
Minister for Finance.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ó
FOILSEACHÁIN RIALTAIS,
BÓTHAR BHAILE UÍ BHEOLÁIN,
CILL MHAIGHNEANN,
BAILE ÁTHA CLIATH 8,
D08 XAO6

Tel: 046 942 3100
r-phost: publications@opw.ie

DUBLIN
PUBLISHED BY THE STATIONERY OFFICE
To be purchased from
GOVERNMENT PUBLICATIONS,
MOUNTSHANNON ROAD,
KILMAINHAM, DUBLIN 8,
D08 XAO6

Tel: 046 942 3100
E-mail: publications@opw.ie

€ 3.00

ISBN 978-1-3993-1846-4



9 781399 318464