

Euronext Dublin -
Continuing
Obligations
Requirements for
Open Ended
Funds listed on
the Regulated
Market

DILLON  EUSTACE

DUBLIN CAYMAN ISLANDS NEW YORK TOKYO

Euronext Dublin – Regulated Market – Continuing Obligation Requirements

Introduction

The memorandum summarises the ongoing obligations for funds listed on the Regulated Market (the “RM”) of Euronext Dublin (“Euronext” and previously The Irish Stock Exchange).

Full details of Euronext’s ongoing suitability and reporting requirements are set out in Chapters 1 and 7 of the “Code of Listing requirements and Procedures – Investment Funds” (the “Code”). This memorandum sets out a general summary only of the continuing obligations for your reference. Directors and service providers to listed funds should familiarize themselves with the full requirements of the Code.

Funds listed on Euronext are also subject to the requirements of Market Abuse Regulation (EU 596/2014) (“MAR”) and Directive (2014/57/EU) on criminal sanctions for market abuse (“CSMAD”), which obligations are also summarized in our separate brochure on Market Abuse. Funds listed on the RM may also be subject to other European legislation applicable to issuers with securities admitted to trading on a regulated market in the EU.

These obligations are imposed in order to maintain an orderly and transparent market in the shares or units of listed funds, to ensure the ongoing suitability of the funds for listing, to protect shareholders’ interests and to ensure that all relevant information is disseminated to the market without delay. This memorandum does not summarise the conditions for listing and suitability requirements which are set out fully under Chapter 1 of the Code and which apply for as long as a fund is listed.

Any matter to be announced must, wherever possible, be notified to Euronext or a regulatory information service before 5.30 p.m. (Irish time) on the day the decision is made.

Please consult with any member of the Dillon Eustace listings team if you have any queries in relation to any aspect of these requirements and their application to the activities of a listed fund.

Table of Contents

- A. Reporting Obligations Applicable to All Funds
- B. Reporting Obligations – UCITS only
- C. Reporting Obligations – Irish Regulated Funds (non-UCITS)
- D. Reporting Obligations – non-Irish Funds

Section A and one other section, B, C or D will apply to a fund listed on the RM.

SECTION A - OBLIGATIONS – APPLICABLE TO ALL FUNDS

A listed fund or its Sponsor should notify Euronext in advance in relation to any matter which they are aware which:

- a) is relevant to the continuation of the listing or may materially adversely affect the interests of shareholders as a whole or a significant proportion thereof; or
- b) may lead to a substantial change in the character of nature of the listed fund, including in certain circumstances where a delisting is proposed.

Any such changes will also require prior shareholder approval.

1. Filing of Audited Annual Report


A listed fund must prepare an audited annual report each year which must be sent to shareholders and Euronext as soon as possible after it has been approved and no later than six months after the date to which it is prepared.

Email: FundsIE@euronext.com

Failure to file any report within the stated time limit may result in the Fund's listing being suspended. In extenuating circumstances, Euronext may agree to an extension of the filing deadline. If you require an extension at any time please notify Dillon Eustace as soon as possible. The granting of an extension is at the discretion of Euronext.

The content requirements for the annual reports are set out in sections 7.1 to 7.3 of the Code. Dillon Eustace will be happy to review a draft of the reports for compliance with these requirements.

The annual report must:

-  Be prepared in accordance with the listed fund's national law, and, in all material respects, with Irish or UK GAAP, IAS, US or Canadian GAAP or acceptable equivalent accounting standards;

- ▣ Have been independently audited and reported on, in accordance with International, Irish, UK, US or Canadian or acceptable equivalent auditing standards;
- ▣ If the fund has subsidiary undertakings, include any such subsidiaries at the discretion of the fund, either in single or consolidated form, or both, where one form contains significant additional information not set out in the other;
- ▣ If the listed fund is a sub-fund of an umbrella, comprise the accounts for the listed sub-funds. Where the listed sub-funds are part of an umbrella without segregated liability, the accounts for the umbrella must be filed with Euronext for review; and
- ▣ A listed fund which is a feeder fund must provide the annual accounts for both the feeder fund and the underlying master fund.

2. Notification of NAV

The Net Asset Value (“NAV”) of each listed class, and any material amendment thereto, must be notified to Euronext without delay upon calculation.

With all NAV reporting, please accurately quote the full security name and the relevant SEDOL or ISIN number, as appropriate.

3. Equal treatment of Shareholders

A listed fund must ensure equality of treatment for all shareholders who are in the same position. Where all shareholders in the same class receive equality of treatment, Euronext will be satisfied that this condition has been met.

4. Content and Publication of Circulars to Shareholders

A circular must be drafted for any proposed change requiring shareholder approval. Circulars must be sent to shareholders no later than 10 business days, or such shorter period which the funds constitutive documents may allow, prior to the proposed vote.

Copies of all circulars sent to shareholders (other than those for AGMs at which only ordinary business will be voted) must be published when sent to shareholders. The subsequent outcome of the shareholder vote must also be announced when determined. Please forward drafts of any circulars to Dillon Eustace to ensure that the required disclosures are included.

Any circular relating to a proposal which would require prior Euronext approval must be submitted to Euronext at least 5 business days prior to its circulation for review.

If a circular is issued to shareholders of a particular class of shares, the fund must issue a copy or summary of that circular to shareholders of all other listed classes where the contents of that circular may materially adversely affect the rights of the other listed class.

5. Prior Shareholder Approval

A listed fund must obtain shareholder approval for any proposal:

- a) To issue shares at less than NAV where those shares are not offered first on a pro-rata basis to existing shareholders; or
- b) To change the status of the listed fund to a super sophisticated fund.

6. Reporting Requirements

A listed fund must announce the following without delay:

- a) Any proposed change to the funds capital structure;
- b) Any proposal or development which may vary the class rights attaching to listed shares or any securities into which the listed shares are convertible;
- c) The effect, if any, of the issue of further securities on the terms of the exercise of rights under options, warrants or conversion rights;

- d) Any change of which the listed fund is aware in the holdings of the securities of the listed Fund of the Investment Manager. A listed fund should take steps to inform the Investment Manager of their obligation to disclose such holdings to the fund;
- e) Copies of all circulars sent to shareholders (other than AGM voting on ordinary business); and
- f) The outcome of any shareholder vote when determined.

7. Market Abuse

MAR and CSMAD impose a range of requirements and potential sanctions on listed issuers. These requirements are reviewed in detail in our separate memorandum “Market Abuse Obligations - Investment Funds”.

In summary, MAR imposes obligations relating to:

- a) Immediate publication of inside information;
- b) Prescriptive requirements and obligations for delay in publication of inside information;
- c) Obligations for maintenance of insider lists;
- d) The offense of unlawful dissemination of inside information;
- e) The offense of insider dealing;
- f) Notification of transactions by the Directors of the listed fund and persons closely associated with the Directors within strict timelines to the Central Bank of Ireland and to the market;
- g) Suspicious transaction reporting; and
- h) Market manipulation.

8. Directors Service Contracts

Copies of any Directors’ service contracts must be made available to any shareholder or prospective shareholder from the date of an AGM notice until the time of the meeting.

9. Documents for Inspection

For as long as the fund is listed, copies of the following documents for the Fund must be available to any shareholder or prospective shareholder:

- a) Constitutive documents;
- b) Material contracts;
- c) Directors service contracts;
- d) Audited accounts; and
- e) Listing particulars approved by Euronext.

10. Transfer of Listing

Where a fund is transferring its listing from the regulated market to the Global Exchange Market (“GEM”), or vice versa, prior Euronext approval will be required for the announcement. Where a fund is moving from the regulated market to GEM the announcement must state that GEM is not a “regulated market” as defined under Directive 2014/65/EU on Markets in Financial Instruments.

11. Dividends

Any dividend payment must be in line with the listed funds adopted accounting standards.

SECTION B - REPORTING REQUIREMENTS FOR UCITS

Certain changes in the operation of the fund require notification to the market by way of Euronext announcement. Dillon Eustace will assist in arranging prior Euronext approval or the drafting and release of the appropriate notifications to the market.

The following changes must be notified to the market without delay.

- a) Any change of Directors, Administrator, Investment Manager, Depositary, Prime Broker, Registrar, Transfer Agent, Auditor or Listing Sponsor;
- b) The NAV per share upon calculation, any material amendment to a published NAV and any material change in the frequency of its calculation;
- c) Any change in the financial year end;
- d) Any change in the name of the listed fund, sub-fund, classes or series;
- e) Any material change in the fund's constitutive documents; and
- f) A decision to cancel the listing of a fund, sub-fund, class or series*;

* prior Euronext review is required (save for series delisting).

Content of Annual Report

The annual report and accounts for a UCITS must include the following items (where relevant):

- a) A balance sheet, income statement and explanatory notes; and
- b) Details of any interests in the shares held by Investment Manager of which the fund is aware.

SECTION C - REPORTING REQUIREMENTS – IRISH REGULATED FUNDS OTHER THAN UCITS

Certain changes in the operation of the fund require notification to the market by way of Euronext announcement. Dillon Eustace will assist in arranging prior Euronext approval or the drafting and release of the appropriate notifications to the market.

The following changes must be notified to the market without delay:

- ☐ any change in directors or material change in any directors function;
- ☐ the NAV per share upon calculation, any material amendment thereto and any change in the frequency of its calculation;
- ☐ a change or proposed change in investment, borrowing or leverage restrictions;
- ☐ any material change in the tax status of the Fund;
- ☐ any suspension of redemptions, transfers or calculation of net asset value;
- ☐ any change in Administrator, Investment Manager, Depositary, Prime Broker, Registrar, Transfer Agent, Auditor or Sponsor;
- ☐ any material change in dividend, redemption or valuation policy;
- ☐ any dividend paid, including details of the record date, the period covered, the payment date and the amount of the dividend;
- ☐ notice of any AGM or EGM;
- ☐ any change in the financial year end;
- ☐ any material change to the fees paid by the Fund or material change to its material contracts;
- ☐ any change in the name of the listed fund, sub-fund, class or series; and
- ☐ any change in the interests of a controlling shareholder (such information should be updated at least on a six-monthly basis).

A controlling shareholder is

- ☐ a shareholder who is entitled to exercise, or to control the exercise of 30% or more of the voting rights at a general meeting; or
- ☐ a shareholder who is able to control the appointment of Directors who are able to exercise a majority of votes at board meetings.

Prior Euronext approval is required prior to market notification for the following changes:

- ▣ any matter of which the fund or its Listing Sponsor are aware which is relevant to the continuation of the listing or may materially adversely affect the interests of unitholders as a whole or a significant proportion thereof;
- ▣ a proposed or actual material change in the general character or nature of the operation of the fund;
- ▣ a proposed or actual material change in the investment objective, policies or strategy of the fund;
- ▣ a proposal to terminate, renew or extend the life of the fund (where shareholder approval is not being sought);
- ▣ a material change in the minimum subscription (where the change may affect the suitability of the listed fund for listing under minimum subscription requirements);
- ▣ a related party transaction;
- ▣ a reverse take-over or other substantial transaction;
- ▣ a material amendment to the constitutive documents;
- ▣ a change from open or closed status (except where provided for in the listing particulars); or
- ▣ a decision to cancel the listing of a fund, sub-fund or class.

Prior Shareholder approval is required prior to market notification for the following changes:

- ▣ a reverse transaction;
- ▣ a related party transaction;
- ▣ a change from open to closed ended status (except where provided for in the listing particulars);
- ▣ any matter of which the fund or its Listing Sponsor are aware which is relevant to the continuation of the listing or may materially adversely affect the interests of unitholders as a whole or a significant proportion thereof, where it may materially affect the rights attaching to the listed securities;
- ▣ a proposal to issue shares at less than NAV per share (unless first offered to existing shareholders on a pro-rata basis);

- ▣ a proposal to change the status of the fund to a “super sophisticated fund”; or
- ▣ a proposal which may lead to a substantial change in the nature and substance of the fund, including in certain circumstances a proposal to delist.

Content of Annual Report

The annual report and accounts for an Irish regulated fund must include the following items (where relevant):

- c) A balance sheet, income statement and explanatory notes; and
- d) Details of any interests in the shares held by the Investment Manager of which the fund is aware.

SECTION D: REPORTING REQUIREMENTS FOR FUNDS DOMICILED OUTSIDE OF IRELAND

Certain changes in the operation of the fund require notification to the market by way of Euronext announcement. Dillon Eustace will assist in arranging prior Euronext approval or the drafting and release of the appropriate notifications to the market.

The following changes must be notified to the market without delay.

- ☐ any change in directors or material change in any director's function;
- ☐ the NAV per share upon calculation, any material amendment thereto and any change in the frequency of its calculation;
- ☐ a change or proposed change in investment, borrowing or leverage restrictions;
- ☐ any material change in the tax status of the Fund;
- ☐ any suspension of redemptions, transfers or calculation of net asset value;
- ☐ any change in, Registrar, Transfer Agent, Auditor or Sponsor;
- ☐ any material change in dividend, redemption or valuation policy;
- ☐ any dividend paid including details of the record date, the period covered, the payment date and the amount of the dividend;
- ☐ notice of any AGM or EGM;
- ☐ any change in the financial year end;
- ☐ any material change to the fees paid by the fund or material change to its material contracts;
- ☐ any change in the name of the listed fund, sub-fund, class or series; and
- ☐ any change in the interests of a controlling shareholder (such information should be updated at least on a six-monthly basis).

A controlling shareholder is

- ☐ a shareholder who is entitled to exercise, or to control the exercise of 30% or more of the voting rights at a general meeting; or
- ☐ a shareholder who is able to control the appointment of Directors who are able to exercise a majority of votes at board meetings.

Prior Euronext approval is required prior to market notification for the following changes:

- ▣ any matter of which the fund or its Listing Sponsor are aware which is relevant to the continuation of the listing or may materially adversely affect the interests of unitholders as a whole or a significant proportion thereof;
- ▣ any proposed change in the Administrator, Investment Manager, Depositary, Prime Broker;
- ▣ a variation in class rights;
- ▣ a material change in the general character or nature of the operation of the fund;
- ▣ a material change in the investment objective, policies or strategy of the fund;
- ▣ a proposal to terminate, renew or extend the life of the fund (where shareholder approval is not being sought);
- ▣ a material change in the minimum subscription (where the change may affect the suitability of the listed fund for listing under minimum subscription requirements);
- ▣ a related party transaction;
- ▣ a reverse take-over or other substantial transaction;
- ▣ a material amendment to the constitutive documents;
- ▣ a change from open or closed status (except where provided for in the listing particulars); or
- ▣ a decision to cancel the listing of a fund, sub-fund or class.

Prior Shareholder approval is required prior to market notification for the following changes:

- ▣ a reverse transaction;
- ▣ a related party transaction;
- ▣ a change from open to closed ended status (except where provided for in the listing particulars);
- ▣ any matter of which the fund or its Listing Sponsor are aware which is relevant to the continuation of the listing or may materially adversely affect the interests of unitholders as a whole or a significant proportion thereof, where it may materially affect the rights attaching to the listed securities;
- ▣ a proposal to issue shares at less than NAV per share (unless first offered to existing shareholders on a pro-rata basis);

- ▣ a proposal to change the status of the fund to a “super sophisticated fund”;
- ▣ a proposal which may lead to a substantial change in the nature and substance of the fund, including in certain circumstances a proposal to delist.

Content of Annual Report

The annual report and accounts must include the following items (where relevant):

- a) A report by the Directors or the Investment Manager on the results for the period under review;
- b) A balance sheet, income statement and explanatory notes;
- c) The identity of the directors, specifying which act as independent;
- d) Details of the interests in the shares held by investment manager of which the fund is aware; and
- e) Portfolio analysis – either
 - (i) Disclosing each investment – issuer, market value, percentage of net/gross assets, type of security
 - (ii) Analysing the portfolio – by sector, security type, listed/unlisted, currency, geographical area, etc. and providing the market value and percentage of net/gross assets for each category.

If the value of any securities has been based on the Investment Manager or Directors estimate of fair value this should be stated.

CONTACT US

Our Offices

Dublin

33 Sir John Rogerson's Quay
Dublin 2
Ireland
Tel: +353 1 667 0022
Fax: +353 1 667 0042

Cayman Islands

Landmark Square
West Bay Road, PO Box 775
Grand Cayman KY1-9006
Cayman Islands
Tel: +1 345 949 0022
Fax: +1 345 945 0042

New York

245 Park Avenue
39th Floor
New York, NY 10167
United States
Tel: +1 212 792 4166
Fax: +1 212 792 4167

Tokyo

12th Floor,
Yurakucho Itocia Building
2-7-1 Yurakucho, Chiyoda-ku
Tokyo 100-0006, Japan
Tel: +813 6860 4885
Fax: +813 6860 4501

e-mail: enquiries@dilloneustace.ie
website: www.dilloneustace.ie

Contact Points

For more details on how we can help you, to request copies of most recent newsletters, briefings or articles, or simply to be included on our mailing list going forward, please contact any of the team members below.

Tara O'Callaghan

e-mail: tara.ocallaghan@dilloneustace.ie

Tel : +353 1 673 1831

Fax: + 353 1 667 0042

Helen Daly

e-mail: helen.daly@dilloneustace.ie

Tel : +353 1 673 1830

Fax: + 353 1 667 0042

Fionnan Gannon

Email: fionnan.gannon@dilloneustace.ie

Tel: +353 1 673 1867

Fax: +353 1 677 0042

Aisling Barry

e-mail: aisling.barry@dilloneustace.ie

Tel : +353 1 673 1864

Fax: + 353 1 667 0042

DISCLAIMER:

This document is for information purposes only and does not purport to represent legal advice. If you have any queries or would like further information relating to any of the above matters, please refer to the contacts above or your usual contact in Dillon Eustace.

Copyright Notice:

© 2019 Dillon Eustace. All rights reserved.

DILLON  EUSTACE

DUBLIN CAYMAN ISLANDS NEW YORK TOKYO