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Luxembourg Newsflash - 10 August 2021

Changes to the CSSF's fund authorisation process

The CSSF continues to optimise its fund authorisation process. To this purpose, it recently published information on certain procedural changes and new requirements. The adapted fund authorisation regime will apply from 16 August 2021.

On 30 July 2021, the CSSF published a press release informing the market of new requirements when submitting applications for new funds and new sub-funds.

These requirements entail a series of changes to the process of submitting an application with the CSSF. This initiative is part of broader measures taken by the CSSF to enhance its processes, with the goal of streamlining authorisation requests and ensuring a smoother application process in the mutual interest of the regulator and market participants.

What has changed?

In summary, the following changes should be noted:

1. **Service agreements.** Service agreements between a fund and a third party will no longer be part of the examination process of the application file. General principles of contractual freedom apply, subject to compliance with the applicable legal, regulatory and administrative rules.

Service agreements will have to be submitted in the final signed version. Signed core agreements must be accompanied by a Contract Conformity Letter.

Although the CSSF will no longer review draft service agreements, it emphasises that the content of such agreements must be consistent with other information available to investors (i.e. prospectus, KIID) and must comply with applicable legal and regulatory requirements.

2. **New application questionnaire.** A new, single questionnaire titled 'Fund Pre-Inception Readiness Review' will be introduced, to be submitted with the application file. It will replace a series of confirmations that are currently requested separately. Through this new questionnaire, investment fund managers (or the funds themselves where there is no external investment fund manager) will need to confirm that all preparatory work and assessments required by regulation have been completed and, where applicable, that the investment fund manager is ready to on-board the new fund or sub-fund(s) after authorisation.

The CSSF has clarified that this questionnaire applies to both Luxembourg-based investment fund managers and non-Luxembourg-based investment fund managers.

The questionnaire constitutes an important change to the application process, as it will facilitate the receipt of several confirmations from investment fund managers.

3. **Additional guidance regarding the submission of documents.** The CSSF has issued additional guidance regarding the submission of documents via email and via eDesk. To further streamline the authorisation process, the CSSF has also published a new form titled 'Attestation of No Change in Supporting Documents'. After being notified by the CSSF that the examination of the application file is complete, it will be necessary to file this new attestation when submitting the final versions of supporting documents. With this attestation, investment fund managers confirm that any documents previously reviewed by the CSSF have not been subject to any subsequent amendments.

What is the timeline?

According to the CSSF's press release, the new fund authorisation regime will apply as from 16 August 2021.

What are the next steps?

To optimise the internal process for the preparation of fund authorisations with the CSSF, we recommend that investment fund managers familiarise themselves with the content of the new questionnaire and the amended application process. Statistics published earlier this year by the CSSF show that careful, thorough preparation of the application file considerably reduces the time needed for the CSSF to review and authorise a request.

For further information, please contact the Fund Formation Partners presented here_

To access the CSSF's press release, [click here_](#)

To access the Contract Conformity Letter, [click here_](#)

To access the questionnaire 'Fund Pre-Inception Readiness Review', [click here_](#)

To access the form 'Attestation of No Change in Supporting Documents', [click here_](#)

To access the CSSF's general requirements with regard to the submission of documents, [click here_](#)



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