

# Finansinspektionen's Regulatory Code

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## Regulations amending Finansinspektionen's regulations (FFFS 2013:9) regarding Swedish UCITS;

**FFFS 2023:10**

Published on  
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decided 20 June 2023.

Finansinspektionen prescribes pursuant to section 18, points 18, 21, 22 and 24 of the Swedish UCITS Ordinance (2013:588) relating to Finansinspektionen's regulations (FFFS 2013:9) regarding Swedish UCITS

*in part* that Chapter 1, sections 2, 3, 5, 6 and 9, Chapter 8a, section 5, Chapter 29, section 17, and Chapter 31, sections 34, 48a and 56 shall have the following wording,

*in part* that three new sections, Chapter 7, section 8a, Chapter 23, section 12a and Chapter 31, section 48b, and immediately preceding Chapter 7, section 8a and Chapter 31, section 48b, new headings shall be inserted with the following wording.

### Chapter 1

**Section 2** A foreign management company authorised to manage a Swedish UCITS pursuant to Chapter 1, section 6b of the Swedish UCITS Act (2004:46), where the operations are conducted from a branch in Sweden pursuant to Chapter 1, section 6, first paragraph, point 1 of the Swedish UCITS Act, shall apply the provisions set out below, where applicable, to the operations related to the fund:

- Chapter 1, Contents and scope of the regulations, section 9,
- Chapter 3, Procedures subject to a notification obligation and notifications, sections 2–5,
- Chapter 4, Wording of documents when applying for authorisation for a cross-border merger,
- Chapter 7, Organisational requirements, section 1, first paragraph, points 4, 7 and 9 and the second and fourth paragraphs, and section 8a,
- Chapter 14, Delegation agreements (outsourcing), section 2, second paragraph, point 5 and the fourth and fifth paragraphs,
- Chapter 16, Rules of Conduct,
- Chapter 17, Order confirmation for subscription and redemption of units in Swedish UCITS,
- Chapter 18, Best possible result for the execution of portfolio transactions,

- Chapter 19, Best possible result for the placement of an order,
- Chapter 20, Handling portfolio transactions and orders,
- Chapter 21, Incentives,
- Chapter 23, The content of the fund rules,
- Chapter 24, Eligible assets,
- Chapter 25, Trading in derivative instruments and the use of other techniques and instruments, sections 1–22,
- Chapter 26, Feeder and master funds, sections 2–5,
- Chapter 27, Information to unit holders following mergers,
- Chapter 28, Method for the provision of some fund information,
- Chapter 29, Prospectus,
- Chapter 30, Provision of key investor information documents and prospectuses, sections 1 and 2,
- Chapter 31, Annual reports and half-yearly reports for Swedish UCITS,
- Chapter 32 Information which foreign UCITS and foreign management companies provide in Sweden, sections 1, 7 and 8, and
- Chapter 33, Information and reporting requirements, sections 7–12, 14 and 15.

For operations other than those referred to in the first paragraph that are conducted in the manner set out in Chapter 1, section 6, first paragraph, point 1 of the Swedish UCITS Act, the following provisions shall apply where applicable:

- Chapter 1, Contents and scope of the regulations, section 9,
- Chapter 7, Organisational requirements, section 1, first paragraph, points 4, 7 and 9 and the second and fourth paragraphs,
- Chapter 14, Delegation agreements (outsourcing), section 2, second paragraph, point 5 and the fourth and fifth paragraphs,
- Chapter 16, Rules of Conduct,
- Chapter 17, Order confirmation for subscription and redemption of units in Swedish UCITS,
- Chapter 18, Best possible result for the execution of portfolio transactions,
- Chapter 19, Best possible result for the placement of an order,
- Chapter 20, Handling of portfolio transactions and orders, and
- Chapter 21, Incentives.

**Section 3** A foreign management company authorised to manage a Swedish UCITS pursuant to Chapter 1, section 6b of the Swedish UCITS Act (2004:46), where the operations are conducted from the foreign management company's home state in accordance with Chapter 1, section 6, first paragraph, point 2 of the Swedish UCITS Act shall apply the provisions set out below, where applicable, to the operations related to the fund:

- Chapter 1, Contents and scope of the regulations, section 9,
- Chapter 3, Procedures subject to a notification obligation and notifications, sections 2–5,
- Chapter 4, Wording of documents when applying for authorisation for a cross-border merger,
- Chapter 7, Organisational requirements, section 8a,
- Chapter 23, The content of the fund rules,
- Chapter 24, Eligible assets,
- Chapter 25, Trading in derivative instruments and the use of other techniques and instruments, sections 1–22,
- Chapter 26, Feeder and master funds, sections 2–5,
- Chapter 27, Information to unit holders following mergers,
- Chapter 28, Method for the provision of some fund information,
- Chapter 29, Prospectus,
- Chapter 30, Provision of key investor information documents and prospectuses, sections 1 and 2,
- Chapter 31, Annual reports and half-yearly reports,
- Chapter 32 Information which foreign UCITS and foreign management companies provide in Sweden, sections 1, 7 and 8, and
- Chapter 33, Information and reporting requirements, sections 7–12, 14 and 15.

**Section 5** A Swedish management company conducting such operations as those set out in Chapter 2, section 12, second paragraph of the Swedish UCITS Act (2004:46) shall apply all of the provisions in these regulations, where applicable, to its operations, with the exception of the following:

- Chapter 3, Procedures subject to a notification obligation and notifications, sections 2–5,
- Chapter 4, Wording of documents when applying for authorisation for a cross-border merger,
- Chapter 7, Organisational requirements, section 1, first paragraph, points 4, 7 and 9 and the second and fourth paragraphs, and section 8a,

- Chapter 14, Delegation agreements, section 2, second paragraph, point 5,
- Chapter 16, Rules of Conduct,
- Chapter 17, Order confirmation for subscription and redemption of units in Swedish UCITS,
- Chapter 18, Best possible result for the execution of portfolio transactions,
- Chapter 19, Best possible result for the placement of an order,
- Chapter 20, Handling portfolio transactions and orders,
- Chapter 21, Incentives,
- Chapter 23, The content of the fund rules,
- Chapter 24, Eligible assets,
- Chapter 25, Trading in derivative instruments and the use of other techniques and instruments, sections 1–22,
- Chapter 26, Feeder and master funds, sections 2–5,
- Chapter 27, Information to unit holders following mergers,
- Chapter 28, Method for the provision of some fund information,
- Chapter 29, Prospectus,
- Chapter 30, Provision of key investor information documents and prospectuses, sections 1 and 2,
- Chapter 31, Annual reports and half-yearly reports, and
- Chapter 33, Information and reporting requirements, sections 7–12, 14 and 15.

For operations other than those referred to in the first paragraph that are conducted by a branch pursuant to Chapter 2, section 12, first paragraph of the Swedish UCITS Act, all provisions in these regulations shall apply, where applicable, to these operations, with the exception of the following:

- Chapter 7, Organisational requirements, section 1, first paragraph, points 4, 7 and 9 and the second and fourth paragraphs,
- Chapter 14, Delegation agreements, section 2, second paragraph, point 5,
- Chapter 16, Rules of Conduct,
- Chapter 17, Order confirmation for subscription and redemption of units in Swedish UCITS,
- Chapter 18, Best possible result for the execution of portfolio transactions,
- Chapter 19, Best possible result for the placement of an order,

- Chapter 20, Handling of portfolio transactions and orders, and
- Chapter 21, Incentives.

**Section 6** A Swedish management company conducting such operations as those set out in Chapter 2, section 15, second paragraph of the Swedish UCITS Act (2004:46) shall apply all of the provisions in these regulations, where applicable, to its operations, with the exception of the following:

- Chapter 3, Procedures subject to a notification obligation and notifications, sections 2–5,
- Chapter 4, Wording of documents when applying for authorisation for a cross-border merger,
- Chapter 7, Organisational requirements, section 8a,
- Chapter 23, The content of the fund rules,
- Chapter 24, Eligible assets,
- Chapter 25, Trading in derivative instruments and the use of other techniques and instruments, sections 1–22,
- Chapter 26, Feeder and master funds, sections 2–5,
- Chapter 27, Information to unit holders following mergers,
- Chapter 28, Method for the provision of some fund information,
- Chapter 29, Prospectus,
- Chapter 30, Provision of key investor information documents and prospectuses, sections 1 and 2,
- Chapter 31, Annual reports and half-yearly reports, and
- Chapter 33, Information and reporting requirements, sections 7–12, 14 and 15.

**Section 9** Unless otherwise stated, the terms and expressions used in these regulations have the same meaning and scope as in the Swedish UCITS Act (2004:46).

In addition, the following terms and expressions are defined as:

1. *Absolute Value at Risk*: Value at Risk expressed as a maximum percentage of a Swedish UCITS' value.
2. *AIF manager*: the same as in Chapter 1, section 3 of the Alternative Investment Fund Managers Act (2013:561).
3. *General investment policy*: The same as objectives and investment policy pursuant to Article 7 of Commission Regulation (EU) No 583/2010 of 1 July 2010 implementing Directive 2009/65/EC of the European Parliament and of the Council as regards key investor information and conditions to be met when providing key

investor information or the prospectus in a durable medium other than paper or by means of a website.

4. *Alternative investment fund*: the same as in Chapter 1, section 2 of the Alternative Investment Fund Managers Act.

5. *Employees in strategic management positions*: Employees other than senior management who have management roles and are responsible for the day-to-day activities of the Swedish fund management company, for example employees responsible for portfolio management, personnel, administration or marketing.

6. *The delegated regulation for MiFID 2*: Commission Delegated Regulation (EU) 2017/565 of 25 April 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive.

7. *Discretionary pension benefit*: A pension benefit that a Swedish management company grants an employee on an individual basis as part of that employee's variable remuneration package. This does not include accrued benefits earned by employees under the terms of the Swedish management company's pension scheme.

8. *Personal transactions*: trade in a financial instrument which is conducted by a relevant person or on behalf of a relevant person if at least one of the following criteria is met:

a) The relevant person is acting outside of the scope of the activities he or she carries out in his/her capacity as a relevant person.

b) The transaction is carried out on behalf of any of the following persons:

– the relevant person,

– another person with whom the relevant person has a close relationship or close links,

– a person with whom the relevant person has such links that the relevant person has a direct or indirect material interest in the outcome of the transaction, other than a fee or commission for the execution of the transaction.

9. *Remuneration*: All remuneration and benefits from the Swedish management company to an employee. Remuneration and benefits from the Swedish management company refer, for instance, to cash salary and other cash remuneration, remuneration in the form of shares or participations in a Swedish UCITS, or an instrument that attains a corresponding community of interest as units in a Swedish UCITS, pension provisions, severance payments or company cars.

10. *Remuneration policy*: The grounds and principles on which remuneration shall be based, applied and monitored, as well as on which a Swedish management company shall define which employees can impact the company's risk level and that of each managed Swedish UCITS.

11. *Unit holder*: a natural or legal person or a Swedish UCITS, an alternative investment fund, a foreign UCITS or the equivalent holding one or more units in a Swedish UCITS or a foreign UCITS.

12. *Trading venue*: a regulated market, a trading facility, a systematic internaliser in accordance with Chapter 1, section 4b of the Securities Market Act (2007:528), a market maker within the EEA or another person providing liquidity within the EEA or an equivalent entity to any of the above outside of the EEA.

13. *Sustainability factors*: the same as sustainability factors pursuant to Article 2(24) of Regulation (EU) 2019/2088 of the European Parliament and of the Council of 27 November 2019 on sustainability-related disclosures in the financial services sector.

14. *Sustainability risk*: the same as sustainability risk pursuant to Article 2(22) of Regulation (EU) 2019/2088 of the European Parliament and of the Council.

15. *Internal rules*: policy and governance documents, guidelines, instructions or other written documents adopted by the board of directors or the managing director and through which the operations are controlled.

16. *Investors*: every unit holder or presumptive unit holder.

17. *Swing factor*: the factor a Swedish management company uses to adjust the pricing of a UCITS in accordance with Chapter 4, section 10b of the Swedish UCITS Act.

18. *Control function*: a Swedish management company's function(s) for risk management, compliance and internal audit or the equivalent.

19. *Client*: a natural or legal person or a Swedish UCITS, an alternative investment fund, a foreign UCITS or the equivalent that provides fund-related operations, discretionary portfolio management or such services as those referred to in Chapter 7, section 1, first paragraph of the Swedish UCITS Act via a Swedish management company.

20. *Liquidity risk*: the risk that a position in a Swedish UCITS cannot be sold, redeemed or terminated at limited cost within a reasonable period of time and, therefore, that the fund cannot observe Chapter 4, section 13, first paragraph, first sentence of the Swedish UCITS Act at all times.

21. *Market risk*: the risk of loss in a Swedish UCITS due to changes in the market value of positions held by the fund as a result of altered market variables, such as interest rates, foreign exchange rates, share and commodity prices or an issuer's creditworthiness.

22. *Counterparty risk*: the risk of loss in Swedish UCITS due to the counterparty in a transaction not fulfilling its obligations before the transaction is settled.

23. *Operational risk*: the risk of loss in a Swedish UCITS due to insufficient internal procedures with regard to personnel and systems in the Swedish management company or external factors, legal and documentation-related risks, and risks resulting from trading, settlement and valuation procedures.

24. *OTC derivatives*: such derivative instruments as referred to in Chapter 5, section 12, second paragraph of the Swedish UCITS Act.

25. *Person with whom a relevant person has a close relationship*:

a) the spouse or co-habitee of the relevant person,

- b) minor children under the charge of the relevant person, and
- c) other parties closely related to the relevant person that have shared a household with this person for at least one year at the time of the transaction in question.

26. *Investment strategies*: the general basis for the strategic investment of assets and the investment techniques required to ensure that the general investment policy for each Swedish UCITS is implemented properly and effectively.

27. *Portfolio transaction*: a transaction on behalf of a Swedish UCITS carried out by a Swedish management company as a part of its fund operations.

28. *Relative Value at Risk*: a Swedish UCITS' Value at Risk divided by Value at Risk for the fund's reference portfolio.

29. *Relevant person*:

a) a member of the board of directors, a partner, the managing director, or another manager of the Swedish management company,

b) an employee of the company and any other natural person who performs services for the Swedish management company, is under the control of the company, or is involved in conducting fund operations on behalf of the company, and

c) a natural person, who, within the framework of a delegation agreement, conducts part of the fund operations on behalf of the Swedish management company.

30. *Risk limit system*: a documented system of appropriate internal investment limits for a Swedish UCITS that is designed to manage all of the fund's material risks and ensure that the management of the fund occurs in compliance with the law, other regulations and the fund's rules.

31. *Risk-takers*: an employee belonging to a category of staff whose professional activities can have a material impact on the risk profile of a Swedish management company or a managed Swedish UCITS. This normally applies to employees who can enter into agreements or take positions on behalf of the Swedish management company or a managed Swedish UCITS or that in any other way could impact the Swedish management company or the managed Swedish UCITS' risk.

32. *Variable remuneration*: remuneration, the amount or size of which is not determined in advance. Variable remuneration does not include commission-based salary not linked to future risk assumptions that may alter a Swedish management company's or a Swedish UCITS' income statement or balance sheet.

33. *Synthetic risk and reward indicator*: the same as the synthetic indicator pursuant to Article 8 of Commission Regulation (EU) No. 583/2010.

34. *Specially regulated staff*: senior management as well as employees in the following categories of staff and who have not been exempted pursuant to Chapter 8a, section 5:

- a) employees in strategic management positions,
- b) employees responsible for control functions,
- c) risk takers, and

d) employees whose total remuneration is equal to or exceeds the total remuneration to any of the members of senior management.

35. *Capital Requirements Regulation*: Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and amending Regulation (EU) No 648/2012.

36. *Threshold*: the net flow into or out of a UCITS for which a Swedish management company applies an adjusted fund unit value in accordance with Chapter 4, section 10b of the Swedish UCITS Act.

37. *Value at Risk*: a measure of the highest expected loss at a given confidence interval during a certain period characterised by normal market conditions.

38. *Durable medium*: any means which

a) enables the client to store information addressed personally to the client in a way accessible for future reference and during a period of time adequate for the purposes of the information, and

b) allows unchanged reproduction of the information stored.

39. *Senior management*: the managing director, the deputy managing director, and other members of a Swedish management company's governing body or a similar body that reports directly to the board of directors or the managing director.

40. *Investment Firms Regulation*: Regulation (EU) 2019/2033 of the European Parliament and of the Council of 27 November 2019 on the prudential requirements of investment firms and amending Regulations (EU) No 1093/2010, (EU) No 575/2013, (EU) No 600/2014 and (EU) No 806/2014.

## Chapter 7

### Adjusted fund unit value

**Section 8a** A Swedish management company applying an adjusted fund unit value in accordance with Chapter 4, section 10b of the Swedish UCITS Act (2004:46) in a UCITS that the company manages shall maintain appropriate procedures for ensuring correct and uniform application.

As a minimum, the procedures shall state

1. according to which methods the company calculates and applies the threshold and swing factor,
2. how the company organises and performs its application of the adjusted fund unit value,
3. which function(s) in the company are responsible for the work, and
4. how the company follows up, evaluates and documents its application of the adjusted fund unit value.

The company shall specify its procedures in its internal rules for fund accounting or in corresponding written documents that are adopted by the board of directors.

## Chapter 8a

**Section 5** A Swedish management company shall analyse the risks associated with its remuneration policy and remuneration structure. Based on this analysis, the Swedish management company shall identify specially regulated staff at the company. The company shall document and specifically motivate if employees in any of the categories of staff set out in Chapter 1, section 9, second paragraph, points 34a–d are not considered to exercise a material impact on the Swedish UCITS' risk level and therefore shall not be classified as belonging to the company's specially regulated staff.

## Chapter 23

**Section 12a** A Swedish management company applying an adjusted fund unit value in accordance with Chapter 4, section 10b of the Swedish UCITS Act (2004:46) in the UCITS shall ensure that the fund rules include a clear description of how the adjusted fund unit value is calculated and applied. The description shall include the method for how the Swedish management company establishes the threshold and the swing factor as well as the highest possible swing factor the company may apply in the fund.

## Chapter 29

**Section 17** The prospectus shall contain the following information:

1. information, stated as a percentage of the value of the fund units, regarding the maximum fee which the Swedish management company managing the Swedish UCITS may charge upon sale or redemption of fund units;
2. information, stated as a percentage of the value of the fund units, regarding the applicable fee which the Swedish management company managing the Swedish UCITS may charge upon sale or redemption of fund units;
3. information, stated as an annual percentage of the fund's value, regarding the maximum fixed fee with which the Swedish management company managing the Swedish UCITS may debit the fund in order to cover management costs, including costs for safekeeping, supervision and auditors;
4. information, stated as an annual percentage of the Swedish UCITS's value, regarding the current fee with which the Swedish management company that manages the fund debits the fund in order to cover the costs stated in point 3,
5. where the Swedish management company charges a performance-based management fee to the value of the Swedish UCITS, the prospectus shall always contain a readily understandable and clear example calculation showing the effects of the fee model. The calculation shall be accompanied by explicit information explaining how the fee model works and describing any effects which the fee model may entail.
6. where the Swedish management company applies an adjusted fund unit value in accordance with Chapter 4, section 10b of the Swedish UCITS Act (2004:46) in the

UCITS, the company shall, in its prospectus, clearly describe what the adjusted fund unit value means and how it is used as well as provide information on the highest possible swing factor that can be used in the fund. The description shall also describe the impact that applying the adjusted fund unit value has on the fund part value and the unit owners. The description shall also contain a readily understandable and clear example calculation showing the effects of applying an adjusted fund unit value.

Information pursuant to the first paragraph, points 2 and 4–6 may be provided in an appendix to the prospectus.

## Chapter 31

**Section 34** In addition to the requirements set out in the other provisions in this chapter, a Swedish management company shall ensure that the annual report contains the disclosures set out in sections 35–48b.

**Section 48a** The annual report shall contain disclosures about

1. the number of employees that received payment of fixed or variable remuneration during the financial year,
2. the total remuneration amount paid to specially regulated staff during the financial year, broken down into the categories of employees set out in Chapter 1, section 9, second paragraph, point 34.
3. how remuneration and benefits to employees has been calculated, and
4. the result of the reviews referred to in Chapter 8a, section 16 and any deviations from the remuneration policy that occurred.

### Adjusted fund unit value

**Section 48b** A Swedish management company that applies an adjusted fund unit value in accordance with Chapter 4, section 10b of the Swedish UCITS Act (2004:46) in the UCITS shall ensure that the annual report contains

- a description of the method the company applied, and
- information regarding the adjustment factor the company applied during the period in question.

**Section 56** When preparing a half-yearly report, a Swedish management company shall apply sections 2, 3, 6–11 and 13, first paragraph, sections 14–17, 27–32, 48b and 49.

When applying section 15, the information pursuant to section 11 shall refer to the closing balance for the previous financial year.

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These regulations shall enter into force on 01 July 2023.

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