

Finansinspektionen's Regulatory Code

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

FFFS 2024:26

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decided on 18 December 2024.

Finansinspektionen prescribes pursuant to section 18, points 2 and 16 of the Swedish UCITS Ordinance (2013:588) in respect of Finansinspektionen's regulations (FFFS 2013:9) regarding Swedish UCITS

in part that Chapter 7, section 2 shall be repealed, and
in part that Chapter 1, sections 1 and 9; Chapter 2, sections 11 and 12; Chapter 7, section 19; Chapter 8a, section 5; and Chapter 31, section 48a shall have the following wording.,

Chapter 1

Section 1 These regulations apply to Swedish management companies. The provisions in these regulations that apply to the operations of foreign management companies and foreign UCITS in Sweden are specifically stated. Depositaries shall follow Chapter 26, section 1, where applicable.

The provisions set out in Chapter 10 do not apply to serious ICT-related incidents subject to Article 19 of the DORA Regulation. The provisions set out in Chapter 14 do not apply to outsourcing agreements subject to Chapter V of the DORA Regulation.

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 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 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. *DORA Regulation*: Regulation (EU) 2022/2554 of the European Parliament and of the Council of 14 December 2022 on digital operational resilience for the financial sector and amending Regulations (EC) No 1060/2009, (EU) No 648/2012, (EU) No 600/2014, (EU) No 909/2014 and (EU) 2016/101.

9. *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.

10. *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.

11. *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.

12. *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.

13. *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.

14. *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.

15. *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.

16. *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.

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

18. *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.

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

20. *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.

21. *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.

22. *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.

23. *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.

24. *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.

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

26. *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.

27. *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.

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

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

30. *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.

31. *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.

32. *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.

33. *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.

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

35. *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.

36. *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.

37. *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.

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

39. *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.

40. *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.

41. *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 2

Section 11 Where a Swedish management company delegates or has delegated the management of a Swedish UCITS or the performance of related administrative tasks to a third party, the company shall state in its business plan to whom the operations are or have been delegated and the scope of the delegation.

In its business plan, the company shall also account for

1. the service provider's expertise and skills with reference to the delegation agreement,

2. the service provider's other significant operations, and

3. such circumstances as may give rise to a conflict between the interests of the service provider and the interests of the principal or unit holders.

The company shall also account for how it will ensure that the requirements set out in Chapter 14 or Chapter V of the DORA Regulation are met.

The company shall append to the business plan the delegation agreements it has entered into or intends to enter into.

Section 12 The business plan shall contain information regarding the manner in which IT activities will be organised. A general description shall be provided regarding the existing systems as well as their functions and areas of use.

A Swedish management company shall also ensure that it specifies the measures it will take with respect to information security and physical security. It shall specify in particular which measures the company must take to comply with the provisions set out in the DORA Regulation that are not mentioned in section 11, third paragraph. The company, in this context, shall account for the confidentiality protection functions used in order to prevent unauthorised persons from obtaining access to classified information. The company shall also provide information on whether it shares office space and technical equipment with others and, when applicable, how it intends to manage confidentiality issues related to this.

Chapter 7

Section 19 A Swedish management company shall have electronic systems to document all portfolio transactions and orders for subscriptions to and redemption of investment fund units in order to ensure compliance with the requirements set out in sections 20–23.

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 35a–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 31

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 35,
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.

These regulations shall enter into force on 17 January 2025.

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