

Finansinspektionen's Regulations

Publisher: Gent Jansson, Finansinspektionen, Box 6750, 113 85 Stockholm.
Ordering address: Thomson Fakta AB, Box 6430, 113 82 Stockholm. Tel. +46 8-587 671 00, Fax +46 8-587 671 71.
Subscribe also by e-mail at www.fi.se.
ISSN 1102-7460

FFFS 2005:14

published on
21 September 2005

Regulations

regarding amendments to Finansinspektionen's [the Swedish Financial Supervisory Authority] Regulations (FFFS 2004:2) governing investment funds;

decided on 12 September 2005.

Pursuant to section 1 of the Investment Funds Ordinance (2004:75) regarding Finansinspektionen's Regulations (FFFS 2004:2) governing investment funds, Finansinspektionen hereby prescribes

that Chapter 13, section 4, second paragraph, Chapter 16, sections 2 and 4, second paragraph and line D45 in Appendix 11 shall be repealed;

and that Chapter 8, section 6, Chapter 10, section 6, Chapter 11 sections 8–10, Chapter 13, sections 2, 4–6, 8, Chapter 14, section 1, Chapter 16, section 4 and Appendices 4, 11, 13 and 14 shall be worded as follows.

Chapter 8

§ 6 Complaints shall be handled objectively, correctly, efficiently and attentively. Complaints shall be answered in writing upon request by the customer.

Chapter 10

§ 6 Where the terms and conditions entail that the insurance, as a general rule, only indemnifies losses which are notified to the insurer while the insurance is in force, the terms and conditions of the insurance may deviate from the provision in section 5, subsection 1. The aforesaid may only take place where the insurance is combined with subsequent cover entailing that the insurance also covers losses which are both notified to the insurer within two years of the expiry of the insurance and which are not covered by any other insurance.

Chapter 11

§ 8 The fund rules shall specifically state whether the investment fund may use the following types of assets. It shall also be stated whether the investment fund does not have such a possibility.

1. Unlisted transferable securities and unlisted money market instruments.
2. Derivative instruments and, in such case, it shall be stated specifically whether derivative instruments may be used in order to increase the efficiency of management or as part of the fund's investment focus.
3. Such derivative instruments as referred to in Chapter 5, section 12, second paragraph of the Investment Funds Act (SFS 2004:46) (so-called OTC derivatives).

The fund rules shall also state whether the investment fund's investment focus includes the use of the following assets or strategies.

1. Such bonds and other instruments of indebtedness as stated in Chapter 5, section 8 of the Investment Funds Act (SFS 2004:46), with an indication of the issuers or underwriters who have issued or underwritten instruments of indebtedness in which the fund intends to invest more than 35 per cent of the fund's assets.
2. Units in other UCITS, foreign collective investment undertakings and special funds, to the extent the fund invests to a significant extent in such financial instruments (so-called funds of funds).
3. Such derivative instruments as referred to in Chapter 6, section 2, second paragraph of the Investment Funds Act (SFS 2004:46) (so-called commodities derivatives).
4. Where the fund has a specific investment focus based on a stock index or bond index (so-called index fund) and intends to follow such an index, such index and the market on which it is used shall be described.

§ 9 The fund rules shall state the principles on which calculation of the value of the fund and the units in the fund is based. Where the investment fund's assets may be invested in unlisted transferable securities and unlisted money market instruments, it shall be stated specifically how such assets are to be evaluated, with information regarding the applicable valuation principles.

Where a special fund's assets are not valued daily, the fund rules shall state when an indicative unit value will be published.

§ 10 The fund rules shall also state the extent to which the fund is open for the sale and redemption of units and also when and where the sale and redemption price for the units are published.

The fund rules shall state the principles used in conjunction with determination of the fund's sale and redemption prices. It shall be stated specifically that sale or redemption shall take place at a price which is not known to the unit holder at the time of the request regarding sale or redemption.

The fund rules shall also state whether it is possible to close the fund for subscription for new units. Where the investment fund can be closed, the fund rules must state the objective conditions under which such a measure is possible.

Chapter 13

§ 2 The simplified prospectus shall provide a brief presentation of the fund and the company that conducts fund operations. The presentation shall contain the following information:

1. when the fund was formed;
2. the registered office of the company and where the company has been granted authorisation to conduct fund operations;
3. whether the company manages another party's financial instruments;
4. the fund's account operator; and
5. the fund's auditors.

§ 4 The simplified prospectus shall provide information regarding the fund's investment strategy. Such information shall comprise the following:

1. a description of the goal sought by the fund through its investments;
2. information regarding any guarantees issued by third parties in order to protect unit holders against losses as well as any limitations set forth in such guarantees;
3. whether the fund has a goal to imitate one or more comparison indices and, where a specific strategy is used to achieve the goal, sufficient information shall be provided in order for the unit holders to be able to identify the index or indices in question and understand the degree or extent to which the fund may deviate from the index;
4. whether the fund's management model is based on any comparison value other than as stated in subsection 3 and whether any specific strategy is used to achieve this goal;
5. the assets in which the fund may invest;
6. whether the fund intends to invest in a specific geographical area, a particular industry or suchlike;
7. whether the fund's management strategy entails a high turnover of the fund assets;
8. where the fund invests in bonds, information shall be provided whether such are corporate bonds or government bonds, their duration and credit rating; and
9. where the fund trades in derivative instruments, information shall be provided whether such takes place in order to increase the efficiency of management or whether the fund may invest in the instruments.

§ 5 The simplified prospectus shall contain information regarding the fund's risk profile. The following information shall be provided:

1. information that the investment may both increase and decrease in value and that a unit holder may get back a smaller amount than the capital invested;
2. brief and easily comprehensible information regarding the specific risks associated with the fund's investment strategy, including an appropriate prioritisation between different types of risk; and
3. a reference to the full prospectus for a more detailed description of the risks associated with the fund as a consequence of the investment focus.

The risks which may arise pursuant to the first paragraph, subsection 2 may, for example, be:

- the risk that the entire market for a type of asset will decline and that the price and value of the asset will thereby be affected (market risk);
- the risk that an issuer or counterparty will suspend payments (credit risk);
- the risk that a position cannot be settled in due time at a reasonable price (liquidity risk);
- the risk that the value of an investment may be affected by changed exchange rates (rate risk or currency risk);
- risks associated with concentrations of assets or markets.

§ 6 Historic yield shall be reported in the form of a bar chart demonstrating the fund's yield over the past ten calendar years or, where the fund has been in existence for a shorter period of time, as many years as are available.

The yield shall be reported less deductions for taxes and fees with the exception of fees associated with sale and redemption. A clear explanation thereof shall be provided. In addition, information shall be provided whether fees are incurred in connection with sale and redemption.

Where a fund is managed in accordance with a comparison index (so-called benchmark) or where the management fee includes a performance-based payment based on a comparison object, information regarding the fund's historic yield shall be compared with the comparison object. The comparison may take place through the comparison object's yield being displayed in the same bar chart as the fund's yield. Presentation may also take place separately.

The simplified prospectus shall state that historic yield is no guarantee of future yield.

The simplified prospectus shall contain a calculation of the fund's average annual yield for at least a period of three, five and ten years. Where a comparison object (benchmark) is used in conjunction with the management of the fund or where the management fees include a performance-based payment which is based on a comparison object, information regarding the fund's average annual yield shall be compared with the average annual yield of the comparison object.

§ 8 The simplified prospectus shall contain information regarding the costs that affect unit holders. The following shall be stated:

1. information regarding TER (Total Expense Ratio) i.e. total costs in relation to average fund assets, with the exception of newly-formed funds in respect of which TER cannot yet be calculated;
2. information regarding costs that are not included in TER but which are incurred by the fund;
3. a description of sale and redemption fees as well as all other costs paid directly by the unit holder; and
4. a reference to any fee allocation agreements.

In order further to elucidate the importance of transaction costs, information shall be provided regarding the rate of turnover in the fund.

Chapter 14

§ 1 The full prospectus shall contain the information set forth in Chapter 4, sections 15–16 and Chapter 5, section 18 of the Investment Funds Act (SFS 2004:46) with the clarifications set forth in sections 2–5 of this Chapter.

Chapter 16

§ 4 At the end of each year, a company which conducts fund operations shall append a list of any changes that have been made in the business plan during the preceding calendar year. The company may submit an updated business plan where more appropriate in light of the extent of the changes.

Appendix 4

Establishment of branches or provision of services through cross-border operations in another country

Swedish management companies that intend to establish a branch within the EEA should answer all of the questions below. Where a Swedish management company intends to offer and provide services, without establishing a branch, through so-

called cross-border operations, questions 1, 2, 6 and, where appropriate, 7 and 9, shall be answered.

This notification will be sent by Finansinspektionen to the relevant supervisory authority in the country in which the operations are conducted.

Appendix 11

Quarterly reports, fund companies

Managed fund assets

D39 Managed fund's total fund value
D40 Euro rate (SEK, 2 decimal points)
D41 Euro 250 million (SEK '000)
D42 Managed fund's total fund value > Euro 250 million
D43 Capital requirement 0.02 % of the managed fund's total fund value > Euro 250 million
D44 Total own funds in accordance with the above
D45 Guarantees
D46 Total own funds including guarantees, max. Euro 10 million

Appendix 13

Quarterly reports for investment funds

Shares on exchanges and authorised marketplaces

E43 Foreign undertakings
E44 - EMU
E45 - Rest of the EU
E46 - Other foreign countries
E47 Total shares

E52 Foreign undertakings
E53 - EMU
E54 - Rest of the EU
E55 - Other foreign countries
E56 Total shares

E59 Funds registered abroad
E60 - EMU
E61 - Rest of the EU
E62 - Other foreign countries
E63 Total units in other funds

Appendix 14

Instructions to the form: Quarterly report for investment funds

Fund units, etc.

A8 Total number of fund units

The total number of outstanding fund units includes registered fund units as well as units which are held through fund unit certificates.

A9 Distributed dividends

Distributed dividends shall be stated in SEK thousand.

A10 Dividend date

Here shall be stated the date for distribution of dividends, irrespective of whether a cash dividend is distributed or the dividend is reinvested in new units.

These regulations shall enter into force on 1 January 2006.

INGRID BONDE

Joakim Schaaf