



Commission de Surveillance
du Secteur Financier

Follow-up on modified
audit opinions issued by
the approved statutory
auditors in the context
of the statutory audit of
annual accounts of UCIs

INFORMATION TO BE
TRANSMITTED SPONTANEOUSLY
BY UCIs TO THE CSSF IN
ACCORDANCE WITH THE
CIRCULAR CSSF 21/790

Follow-up on modified audit opinions issued by the approved statutory auditors in the context of the statutory audit of annual accounts of UCIs

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1. Context

Undertakings for collective investment subject to Part I of the Law of 17 December 2010, as amended, (“UCI Law”)(“UCITS”), undertakings for collective investment subject to Part II of the UCI Law (“UCIs subject to Part II of the UCI Law”), specialised investment funds governed by the Law of 13 February 2007, as amended, (“SIF Law”)(“SIFs”) and investment companies in risk capital governed by the Law of 15 June 2004 (“SICAR Law”) (“SICARs”) are subject, in accordance with Article 154(1) of the UCI Law, Article 55(1) of the SIF Law and Article 27(1) of the SICAR Law, to **a statutory audit of their annual accounts by an approved statutory auditor (*réviseur d’entreprises agréé*, « REA »)**.

The REA’s **report** and, where applicable, its modified audit opinion(s), are set out in full in each annual report.

In this context, section 2.2. of Circular CSSF 21/790 states that, for every audit report drawn up by the REA that includes a **modified audit opinion** at the level of one or more sub-funds of the UCI and/or of the UCI as a whole, the UCI’s *dirigeants* (the “management of the UCI”) must send **a letter to the CSSF**, without having been expressly required to do so by the latter, explaining the **underlying reasons for the modified audit opinion, its impact on the UCI and its investors as well as the corrective measures, including the timeline for their implementation, taken by the management of the UCI**.

A modified audit opinion refers to qualified opinions, adverse opinions and disclaimers of opinion. Emphasis of matter and other matter paragraphs are not concerned by this requirement.

2. Specific information to be transmitted spontaneously by the UCI to the CSSF in accordance with Circular CSSF 21/790

The purpose of this section is to specify, pursuant to Article 147(2) of the UCI Law, Article 45(3) of the SIF Law and Article 32 of the SICAR Law, the specific information that the management of the UCI must transmit spontaneously to the CSSF by way of a letter in accordance with section 2.2 of Circular CSSF 21/790 in case of a modified audit opinion:

1. a detailed explanation of the reasons and circumstances underlying the modified audit opinion or the modified audit opinions (hereafter “modified audit opinion”) including the date of occurrence and period concerned as well as if any the corresponding responsibilities and deficiencies identified at the organizational level of the UCI and/or its service providers;
2. a detailed explanation of the impact of the issues highlighted by the modified audit opinion on the UCI and/or the relevant sub-fund(s) as well as on the investors, including an assessment of the potential impact on the subscriptions, redemptions and/or distributions made during the period concerned;
3. a detailed explanation of the corrective measures and actions taken by the management of the UCI and/or the relevant service providers to resolve the problems and/or deficiencies which led to the issuance of a modified audit opinion and avoid such a situation recurring in the future, including the corresponding implementation schedule and the current status;
4. a detailed explanation of the valuation method applied to the investment(s)/item(s) concerned by the modified audit opinion, including information on the compliance of the method applied with the articles of incorporation/prospectus of the UCI and any possible change compared to previous years;
5. quantitative and qualitative information on the investors of the relevant UCI(s)/sub-fund(s) (including information on the number and type of investors, the country of origin, the level of associated risk, and, in case of one or more intermediaries in the register, information on the final investors/beneficial owners) as at the end of the financial year date including a copy of the register of investors at the end of the financial year;

6. the list, in Excel format, of the subscriptions and redemptions of the UCI/sub-fund(s) concerned during the financial year in question;
7. an organisational chart of the investment(s) concerned by the modified audit opinion, if applicable, (from the direct investment at the level of the UCI to the underlying final investment, including, for each level of holding, information on the name of the investment, the country of origin, the percentage of the holding and any other relevant information);
8. any other relevant information allowing a comprehensive understanding and assessment of the situation and the elements related to the modified audit opinion.

3. Modalities for transmitting the specific information

The information set out in section 2 above must, in accordance with section 2.2. of CSSF circular 21/790, be sent to the CSSF by means of a letter from the management of the UCI to the attention of the CSSF.

The letter must be submitted to the CSSF within one month following the publication of the annual report, knowing that UCITS must publish an annual report, pursuant to Article 150 of the UCI Law, within 4 months after the end of their financial year and that UCIs subject to Part II of the UCI Law, SIFs and SICARs must publish an annual report, pursuant to Article 150 of the UCI Law, Article 52 of the SIF Law and Article 23 of the SICAR Law, within 6 months following the end of their financial year.

The letter, signed by the management of the UCI, must be submitted to the CSSF at the email address: opc_sp_courrier@cssf.lu, and all supporting information and documents must be enclosed.

As for the letter and supporting documentation, each question has to be answered with reference to the numbering in section 2 above. For any supporting documentation provided regarding these questions, the answer has to include a reference to the document concerned and, if possible, a reference to the relevant section of the documentation.



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Should the size of the documents concerning the specific information required in section 2 above and its related documentation exceed e-mail limitations, please use our secure CSSF MFT "DropBox" system to transfer the requested documents. In this case, please send the email addresses of the intermediaries responsible for transmitting the specific information required to opc_sp_courrier@cssf.lu. Once these email addresses have been confirmed, the aforementioned intermediaries will receive an email providing them with a personalised link to access the Dropbox.



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