FONDS DE COMPENSATION

TENDERING PROCEDURE AND GUIDELINES

Important information:

Proposals must be drafted in English (preference), German or French.

Proposals must be signed and submitted by electronic means via the Luxembourg Portal for Public Procurement Contracts (*Portail des marchés publics*) (the Portal). The Portal can be accessed using following web link (French and German only):

www.pmp.lu

Deadline for electronic proposal remittance: 31 January 2024 at 4:00 p.m. CET.

General information on Luxembourg public procurement policies is available on *www.marches-publics.lu* (French only).

Disclaimer:

The Public Procurement Directorate (*Direction des Marchés publics*) within the Public Works Department (*Département des Travaux public*) of the Ministry of Mobility and Public Works (*Ministère de la Mobilité et des Travaux publics*) is responsible for public procurement legislation and its implementation in practice, including online public procurement procedures. The use of the Portal, which was developed by the Department of Public Works with the assistance of the Government IT Centre (*Centre des technologies de l'information de l'Etat* (CTIE)), is mandatory for this purpose.

The Department of Public Works has taken responsibility for creating a structure that can be requested by all contracting authorities to enable them to carry out their procurement electronically.

This structure is embodied in the Public Procurement Portal Coordination Unit (*Service coordinateur du Portail des marches publics*). The main tasks of the coordinating service are:

- manage users and their access rights on the Portal;
- monitor the publication of notices initiated by the various contracting authorities registered on the Portal;
- update the content of the information part of the Portal;
- assisting users with the functionality of the Portal;
- provide training for contracting authorities;
- operate the Portal;
- manage the maintenance of the Portal;
- manage developments through the implementation of new functionalities;
- cooperate at European level on procurement by electronic means.

In this context, tendering companies are fully responsible of the registration and authentication process with regard to the Portal as well as the modalities in relation to the electronic submission and electronic signature of proposals. Thus, FDC cannot be held liable for any delay in the electronic upload and/or signing process, submitting and/or electronic signature issues or other technical or operational issues linked to the use of the Portal. FDC strongly advises any tenderer to familiarise well in advance with the Portal as well as the signing and submitting process and to avoid last-minute proposal uploads.

FDC will not accept any proposals submitted after the deadline or with a non-digitally signed or with an invalid/non-certified digital signature.

In this context, a handbook from the Portal is included within the tender documents. Further information can also be gathered by accessing following websites:

https://marches.public.lu/fr/procedures/dematerialisation.html
https://marches.public.lu/fr/procedures/dematerialisation/authentification-signature.html
https://pmp.b2g.etat.lu/?page=entreprise.EntrepriseHome

Contents:

1	Preamble	4
1.1	Presentation of Fonds de compensation	4
1.2	FDC contact details	5
2	Purpose and characteristics of the tender	6
2.1	Purpose	6
2.2	Type of procedure	8
2.3	Subscriptions/Redemptions	8
2.4	Asset allocation between the different asset managers	8
2.5	Stand-by mandates	8
2.6	Term of the mandates	9
2.7	Delegation of the mandate	9
2.8	Minimum requirements and appropriate approval	9
3	Selection of tenderers	11
3.1	Main stages of the tendering procedure	11
3.2	Selection criteria	11
3.3	Procedure for obtaining the tender documents	12
3.4	Deadline and procedure for the proposal remittance	13
3.4.1	Support elements of the proposals	13
3.4.2	Content of the proposal	13
3.5	Language of the proposal	14
3.6	Important notices	14
3.7	Clarification questions	15
3.8	Alternative proposals	16
3.9	Clarification hearings with the best classified tenderers	16
3.10	Period of validity of the proposals	16
3.11	Awarding of the contract	16
4	Additional information	18
4.1	Applicable law	18
4.2	Tender fees	18
4.3	Confidentiality	18
5	List of Appendices	20

1 Preamble

1.1 Presentation of Fonds de compensation

Fonds de compensation (the FDC) was created with the purpose of letting the reserve of the Luxembourgish general pension insurance scheme benefit from financial markets movements by investing this reserve on the financial markets through a diversified portfolio subject to strict risk and return criteria.

To this end, FDC was created by the amended law of 6 May 2004 concerning the administration of the assets of the general pension insurance scheme. This law entrusted FDC with the management of the above mentioned reserve, in particular through the intermediary of one or more collective investment schemes. The aforementioned law was amended by the law of 13 May 2008 concerning the introduction of a unified statute for the different private sector employees.

FDC, as a public institution, is subject to the supervision of the Minister of Social Security exercised through the General Inspectorate of Social Security (*Inspection générale de la sécurité sociale*).

The Board of Directors that manages FDC is composed of twelve members. An Investment Committee of six members, including three external experts, assists the Board of Directors. The main task of this committee is to prepare the investment decisions for the Board of Directors.

In July 2007, FDC created a collective investment scheme in the form of a unit trust (mutual fund), in accordance with the amended law of 13 February 2007 concerning specialised investment funds and with the status of a public limited company. This body, entitled *Fonds de Compensation de la Sécurité Sociale, SICAV-FIS* (the SICAV), became FDC's investment vehicle and is subject to the supervision of the Luxembourgish financial regulatory authority *Commission de surveillance du secteur financier* (the CSSF). From August 2007 onwards, the reserve entrusted to FDC has been gradually invested into the SICAV.

As of 31 October 2023, the SICAV incorporated 25 sub-funds with a total value of approximately 22.6 billion euros. Statutory texts as well as any appendices in relation to FDC and its SICAV can be found by accessing FDC's website *https://www.fdc.lu*.

The portfolio management mandates will be assigned in accordance with the Law of 8 April 2018 regarding public tenders and the Grand Ducal Regulation of 8 April 2018 implementing the aforementioned law. All legislative texts in relation to public tenders can be found by accessing following website: *https://marches.public.lu/fr/legislation.html*.

The legislative texts in relation to FDC and the SICAV can be found on the legal portal of the Government of the Grand Duchy of Luxembourg by accessing the website *https://www.legilux.public.lu* or by accessing FDC's website *https://www.fdc.lu*.

1.2 FDC contact details

Physical address:	Fonds de compensation 34-40, avenue de la Porte-Neuve, 1st floor L-2227 Luxembourg
Telephone:	+352 26 20 34 83
Fax:	+352 46 25 66
Email:	fondsdecompensation@fdc.lu
Website:	*https://www.fdc.lu*

2 Purpose and characteristics of the tender

2.1 Purpose

The purpose of this tender is the provision of portfolio management services within category 6 "Financial services" of the common procurement vocabulary (CPV).

More precisely, it relates to the awarding of **one (1) mandate** on behalf of FDC's SICAV. The tender is corresponding to a specific asset class and management type.

Reference of the mandate	Management type of the mandate	Indicative volume of the mandate
Global Sustainable Infrastructure - unlisted	Active	1 mandate in respect of an indicative amount of assets of EUR 500 million

Important notices:

- The full characteristics of the mandate are set out in the draft issue document (the Issue Document) of FDC's SICAV referenced as Appendix 7 within the tender documents.
- Stand-by mandate: FDC might assign one stand-by mandate. The definition and characteristics of a stand-by mandate are given under section 2.5 of the present tendering procedure and guidelines (the Guidelines).
- In a general way and if a tenderer is able to offer several strategies, **only one strategy should be proposed**, this being the most appropriate strategy with regard to the mandate's specifications and investment policy.
- **FDC is looking for an active mandate outperforming the benchmark associated to the given mandate. In addition, the objective of the mandate is to make investments primarily in clean energy and related sectors, as well as investments in other sectors determined to be sustainable and environmentally friendly.** Regardless the investment strategy offered, the proposal must always comply with the investment guidelines as stated in the Issue Document as well as with the terms and conditions of the investment management agreement (the Agreement) being part of the consultation documents as Appendices 6 and 7 (e.g. performance target, allowed investment universe, leverage and concentration limits, etc.).

- Below is a summary of the key specifications. Detailed specifications can be found in the Issue Document. In case of discrepancies between the specifications shown below and the Issue Document, the Issue Document always prevails.

	Global Sustainable Infrastructure - unlisted
Mandate type:	Mandate in relation to the launch of a new sub-fund.
Benchmark:	Euro Short Term Rate 3 Months Compounded + 200 basis points p.a.
Bloomberg Benchmark ticker:	XESTR3M
Objective:	Building a diversified, unlisted infrastructure portfolio through fund investments that outperforms the benchmark. In addition, the portfolio should have a clear sustainability focus, i.e. make investments primarily in clean energy and related sectors, as well as complementary investments in other sectors determined to be sustainable and environmentally friendly.
Engagement:	Engagement including social and environmental topics at company level is requested by FDC.
Indicative volume:	EUR 500 million.
Investment style:	Active management.
Structure:	Management of a segregated account with fund investments.
Applicable supplement within the Issue Document:	Please carefully read Supplement 26.1.
Investment universe:	Unlisted infrastructure funds which meet the specified investment guidelines. Please refer to the Issue Document and particularly to Supplement 26.1 for further details.
Maximum counterparty/ issuer exposure:	Maximum exposure of 12.5% at single fund level and 20% at single portfolio manager level. Please refer to the Issue Document and particularly Supplement 26.1 for further details.
Fund types:	Investments in open-ended and closed-ended funds (via primary or secondary transactions). Please refer to the Issue Document and particularly to Supplement 26.1 for further details.
Leverage:	Leverage ratio at fund level of maximum 80% and leverage ratio at sub-fund level of maximum 60%. Please refer to the Issue Document and particularly to Supplement 26.1 for further details.
Regional and sectoral allocation:	Exposure at sub-fund level to Europe of minimum 50% and exposure at sub-fund level to clean energy and related sectors of minimum 50%. Please refer to the Issue Document and particularly to Supplement 26.1 for further details.
Derivatives:	Restricted use. Please refer to the Issue Document and particularly to Supplement 26.1 for further details.
Depository/ Central Administration:	Citibank Europe plc, Luxembourg Branch.

2.2 Type of procedure

Within the meaning of the Law of 8 April 2018 regarding public tenders, the procedure of the present tender is qualified as a "European open procedure". An open procedure is a procedure in which any interested economic operator may present a proposal.

Tenderers who do not have the desired profile and do not fulfil the minimum requirements for participation shall be immediately excluded from the tender.

There shall not be any negotiation with tenderers at any stage in the procedure.

2.3 Subscriptions/Redemptions

FDC, acting through the SICAV, may adjust the amount of assets allocated to its asset managers by way of subscriptions or redemptions. These subscriptions or redemptions therefore imply an increase or decrease in the assets allocated for management.

This is the reason why the allocated amount shown in the table above is indicative and constitutes only a reasonable estimation based on (i) a probable amount of assets available at the time of the initial subscription and (ii) their breakdown between the different sub-funds of the SICAV as foreseen at the time of drafting the Guidelines.

2.4 Asset allocation between the different asset managers

FDC, acting through the SICAV, solely decides on the asset allocation between the different sub-funds. It is hereby specified that each mandate shall correspond to an Agreement relative to one sub-fund of the SICAV.

As the case may be and in the interest of the SICAV, FDC may decide to reduce the assets invested in a sub-fund.

It is hereby specified that throughout the term of a mandate, FDC may launch new public tenders similar to the present one.

2.5 Stand-by mandates

Stand-by mandates are mandates that the SICAV reserves the right to activate when needed. As the case may be, these mandates might not be subject to any asset contribution during the term of the stand-by mandates.

Should a stand-by mandate be activated, initial subscription and further asset allocations or reductions will be done under the same conditions as set out in sections 2.3 and 2.4 of the Guidelines.

Stand-by mandates are indeed equal and subject to the same specifications as the other mandates. Stand-by managers receive no compensation as long as the respective stand-by mandate has not been activated.

Tenderers agree to the fact that, based on the ranking of the proposals received, they may be awarded a stand-by mandate.

2.6 Term of the mandates

According to applicable law at the time of publication of the contract notice related to the present tender and the drafting of the Guidelines, the term of a mandate or stand-by mandate is in principle set at three (3) consecutive years with effect from the signature of the Agreement with the possibility of renewal from year to year except in the case of early termination. **The duration of a mandate or stand-by mandate may not exceed ten (10) years**. Each of the parties may terminate the Agreement by means of three months' notice by registered letter with acknowledgement of receipt.

2.7 Delegation of the mandate

Delegation of the mandate to one or more entity(ies) within the same group, including entities outside the European Union (the EU), is possible under the condition that the tenderer (i.e. the contracting party) fulfils the minimum requirements and holds the appropriate approval as mentioned under section 2.8 of the Guidelines. Details relating to the delegation will be specified in the Agreement.

2.8 Minimum requirements and appropriate approval

Following minimum requirements (without prejudice to the other selection criteria set out in the tender documents) must be fulfilled:

- The tenderer (contracting entity) must be established in a member state of the EU, in a member state of the European Free Trade Association (the EFTA) or in the United Kingdom (the UK).
- The tenderer (contracting entity) must be approved as asset manager in the EU, in a member state of the EFTA or the UK.
- The tenderer (contracting entity) must be submitted to a regulatory authority supervision equivalent to the CSSF.
- The tenderer (contracting entity) must provide evidence, at least at group level, of authorisation as third-party asset manager for at least five (5) years.

- Minimum assets under management for institutional clients[1] at group level of EUR ten (10) billion at proposal remittance and minimum assets under management for institutional clients at group level of EUR three (3) billion in unlisted infrastructure at proposal remittance.

The companies that will be awarded with a mandate will have to provide evidence of their approval covering portfolio management services on behalf of third parties in the Grand Duchy of Luxembourg on the date of signature of the Agreement at the latest. In this respect, two situations may arise: (i) the tenderer has its registered office in the Grand Duchy of Luxembourg or (ii) the tenderer is established in a member state of the EU, in a member state of the EFTA or the UK.

(i) Tenderers whose registered office is in the Grand Duchy of Luxembourg

These companies must provide documentary evidence of their approval covering portfolio management services on behalf of third parties. **A supporting document certifying that the tendering company is actually approved must be produced within a deadline of fifteen (15) calendar days as from the date of notification of the contract awarding decision**.

Tenderers who fail to produce such a supporting document within the required deadline shall be rejected and the contract shall be automatically awarded to the next tenderer as per the ranking classification, the latter being bound to produce the aforementioned document under the same terms and conditions.

(ii) Tenderers who are established in a member state of the EU, in a member state of the EFTA or in the UK

These companies must be approved for the activity covering portfolio management services on behalf of third parties in their country of origin. **A supporting document certifying that the tendering company is actually approved for portfolio management services on behalf of third parties in its country of origin must be produced within a deadline of fifteen (15) calendar days as from the date of notification of the contract awarding decision**. Moreover, to carry out their activity in the Grand Duchy of Luxembourg, these companies must be authorised to operate on the territory of Luxembourg by way of freedom to provide services.

Tenderers who fail to produce such a supporting document within the required deadline or who are not authorised to operate on the territory of Luxembourg shall be rejected and the contract shall be automatically awarded to the next tenderer as per the ranking classification, the latter being bound to produce the aforementioned document under the same terms and conditions and to proof evidence of the relevant authorisation.

Important notice:

FDC would like to stress that the provision of regulated services in Luxembourg without a proper authorisation is not authorised and reminds that it is the full responsibility of a tendering company to ensure that it has taken the necessary steps and submitted the necessary application(s) to be able to provide services in Luxembourg and conclude contracts in Luxembourg.

[1] Institutional clients: pension funds, insurance firms, treasury departments, central banks, supranational entities, etc. Distributors of financial products for private clients and managers of individual life insurance contracts are excluded.

3 Selection of tenderers

3.1 Main stages of the tendering procedure

The main steps of the tendering procedure are as follows:

a) 1 December 2023 onwards: publication of the contract notice at the Portal, in the Official Journal of the European Union (OJEU), in the Luxembourg press and on-line publishing on FDC's website *www.fdc.lu* and tender documents available for download on the Portal.

b) 1 December 2023 to 31 December 2023 until 4:00 p.m. CET: request to obtain the "Questionnaire and Performance file" (Appendix 1 within the tender documents) and the "Investment Management Agreement" (Appendix 6 within the tender documents) using the "Model request to obtain the tender documents" (Appendix 8 within the downloadable tender documents on the Portal).

c) 31 January 2024 until 4:00 p.m. CET: deadline for submitting duly signed proposals by electronic means via the Portal.

d) 1 February 2024 to 28 March 2024: examination and evaluation of submitted proposals.

e) 29 March 2024: dispatch of invitations to the best classified tenderers for a clarification hearing[2] at FDC's registered office or at the tenderer's registered office.

f) 17 April 2024 to 18 April 2024: clarification hearings with the best classified tenderers at the tenderer's registered office (or, as the case might be, at FDC's registered office).

g) 2 May 2024: dispatch of the tender result notifications with clear indication, where applicable, of the reasons why a proposal has been rejected.

h) 13 May 2024 onwards: signature of the Agreement with the awarded tenderer.

3.2 Selection criteria

The selection will be based on qualitative and quantitative criteria of which the tenderers bear witness by responding to a questionnaire.

Proposals will be evaluated and classified based on following criteria:

a) Tenderers experience and expertise of the staff dedicated to the management of the given mandate: weighting of 20%.

b) Investment process: weighting of 60%:

- implemented resources
- consistency and clarity of the investment process with a focus on clean energy
- risk management
- compliance monitoring

[2] The hearings are only for clarification purposes. The clarifications hearings cannot lead to a better score of the respective tenderer.

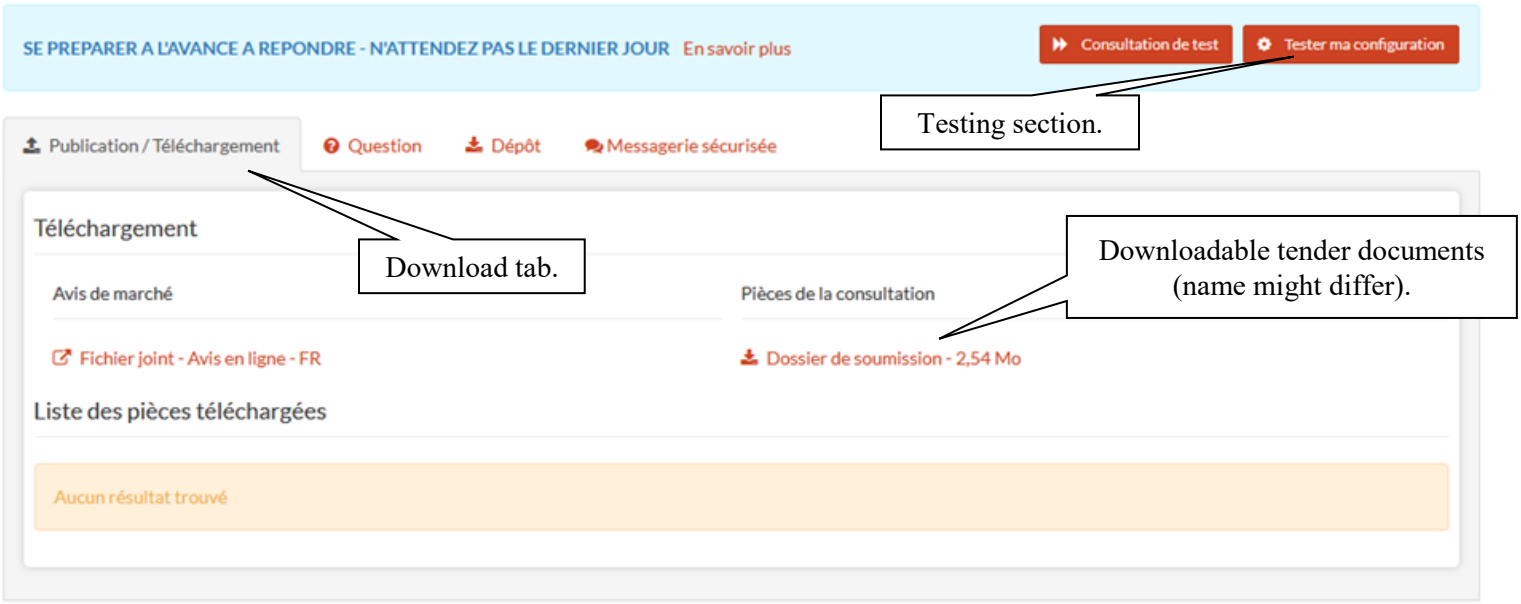
- reporting
- operational process
- performance

c) Total management fees: weighting of 20%.

3.3 Procedure for obtaining the tender documents

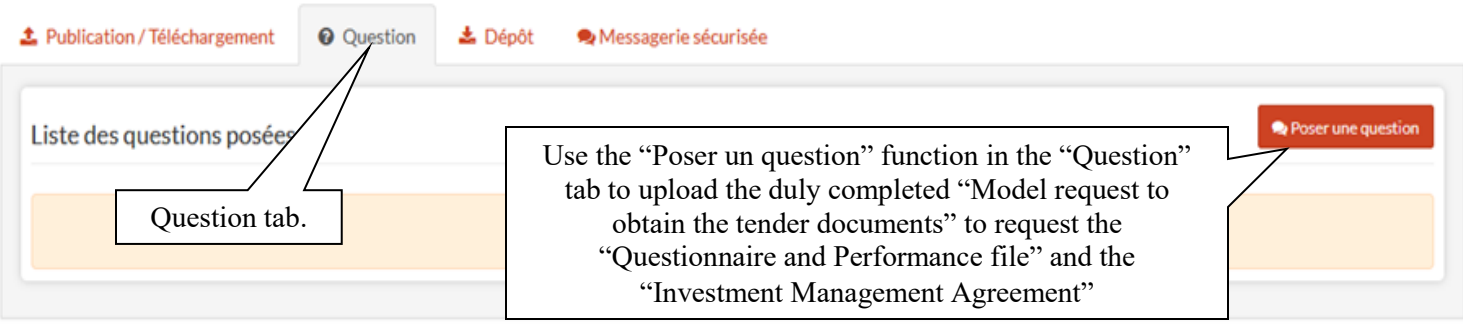
Firstly, the tender documents should be downloaded. The tender documents are available for download on the Portal in the "Publication/Téléchargement" tab, except the "Questionnaire and Performance file" (Appendix 1 within the tender documents) as well as the "Investment Management Agreement" (Appendix 6 within the tender documents). How to access a tender via the Portal or how to download tender documents on the Portal is described in detail in the Portal's handbook (tenderers should note that the download section of the Portal also offers access to a test section, FDC encourages tenderers to make use of this testing section).

Download section of the tender documents on the Portal



Once the tender documents downloaded, the "Questionnaire and Performance file" and the "Investment Management Agreement" should be requested while using the "Model request to obtain the tender documents" (Appendix 8 of the downloaded tender documents). In order to protect the confidentiality of the information made available in the "Questionnaire and Performance file" and the "Investment Management Agreement", these documents need to be requested separately via the Portal. In order to do so, tenderers should go to tab "Question" and use the "Poser une question" button while uploading the duly completed "Model request to obtain the tender documents".

Question section on the Portal



Tenderers will receive the requested documents within two (2) working days following their request.

The above mentioned tender documents can be requested until **31 December 2023 at 4:00 p.m. CET** at the latest.

3.4 Deadline and procedure for the proposal remittance

The duly signed proposals must be remitted by electronic means via the Portal by **31 January 2024 at 4:00 p.m. CET** at the latest.

Proposals that are uploaded after this deadline will not be considered. In this context, the date/time stamp of the Portal will serve as proof. The remittance of a paper version is not authorised (any received paper version will thus be rejected without any examination and evaluation)**.**

If several proposals have been submitted by a tenderer, only the most recent submission will be taken into consideration.

3.4.1 Support elements of the proposals

All documents stated under section 3.4.2 of the Guidelines have to be submitted by electronic means via the Portal.

3.4.2 Content of the proposal

The proposal must contain following documents:

a) **The duly completed and digitally signed Word Questionnaire as well as the duly completed Excel Performance file referenced as Appendix 1 within the tender documents**. The Questionnaire and Performance file should also bear the header of the tenderer.

   Proposals with a missing signature or with an invalid signature will be rejected.

b) **The duly completed and digitally signed undertaking declaration** referenced as Appendix 2 within the tender documents.

   An authorised person must sign the undertaking agreement. The undertaking agreement commits the tenderer to the terms and conditions of this tender and all supporting document and their appendices.

c) **An official document (less than three (3) months old) certifying the registration of the tenderer in the trade register or with the competent public authority that records commercial companies.**

   It is up to the tenderer to provide documentary evidence of its registration under the conditions provided by the legislation of the state in which it is established.

d) **The duly completed and digitally signed declaration swearing that the tenderer is not prohibited from participating in public tenders** referenced as Appendix 3 within the tender documents.

e) **The duly completed and digitally signed declaration swearing that the tenderer has fulfilled the tax and social obligations of its country** referenced as Appendix 4 within the tender documents.

f) **The duly completed and digitally signed declaration swearing that the tenderer holds the appropriate approvals referred to in section 2.8 of the Guidelines** referenced as Appendix 5 within the tender documents.

3.5 Language of the proposal

All the documents set out in section 3.4.2 of the Guidelines must be drafted in either English, French or German.

FDC will not accept a proposal that is not completed in one of the languages indicated above.

Any other document should also be drafted in one of the above mentioned languages or, if this is not the case, be accompanied by a certified true translation.

3.6 Important notices

The signature of the Agreement will take place after the awarding of the contract. **It is reminded that the Agreement**, referenced as Appendix 6 within the tender documents, **is an integral part of the present tender and is therefore not subject to any modifications** (except those for compulsory regulations or those to the appendices for operational reasons).

In accordance with section 2.8 of the Guidelines, **a supporting document related to the approval covering portfolio management services on behalf of third parties**, such as also requested in Appendix B of the Agreement, **must be produced within fifteen (15) calendar days as from the tender results notification**. Tenderers who fail to produce such a supporting document within the required deadline shall be rejected and the contract shall automatically be awarded to the next tenderer as per the ranking classification.

Tenderers whose registered office is not in Luxembourg must be authorised to operate on the territory of Luxembourg by way of freedom to provide services. Tenderers who are not authorised to operate on the territory of Luxembourg shall be rejected and the contract shall be automatically awarded to the next tenderer as per the ranking classification, the latter being bound to proof evidence of the relevant authorisation.

Tenderers' answers will be considered as definitive in accordance with the public tender regulations and will not give subject to any subsequent negotiation.

The investment management fees indication will be considered as definitive and will not give subject to any subsequent negotiation.

The accumulation of mandates (active or indexed) within a same asset class[3] is not possible. The accumulation of active mandates in different asset classes is only possible if the accumulated assets under management do not exceed 10% of the total net assets of the SICAV. The accumulation of indexed mandates respectively the accumulation of indexed and active mandates in different asset classes is only possible if the accumulated assets under management do not exceed 20% of the total net assets of the SICAV. For information, the SICAV's total net assets amounted to approximately EUR 22.6 billion as of 31 October 2023.

The above mentioned limit applies to every separate legal entity of a group. This being said, **a tendering company managing already one (or more) mandate(s) for the SICAV will not be awarded with the contract if the accumulated assets under management will exceed the given limit.**

3.7 Clarification questions

Clarification questions must be addressed to FDC via a secure message using the "Question" tab on the Portal (cf. section 3.3 of the Guidelines). Such questions can be introduced until **16 January 2024 at 4:00 p.m. CET**. Questions introduced after this deadline will not be answered by FDC.

Questions must be written in English, French or German and may only be used to obtain clarification about the terms and the purpose of this tender and its appendices. They must be written

[3] FDC's investment strategy consists of following asset classes: global equities, global equities Paris aligned, emerging markets equities, global small cap equities, global sustainable impact equities, EUR denominated bonds, EUR denominated green bonds, global bonds, global bonds Paris aligned, emerging markets bonds, EUR denominated liquidities, global real estate and global sustainable infrastructure.

in a non-personalised manner and may not under any circumstances contain information on the proposal a tenderer intends to make.

Technical or operational questions (settlement, cut-off times, account opening, etc.) will be clarified after the awarding of the contract, together with the SICAV's depository and central administration.

Questions related to the registration process, access management or handling of the Portal will not be answered by FDC. Such questions must be addressed to the Portal's contact details or Helpdesk.

3.8 Alternative proposals

No alternative proposals shall be considered.

3.9 Clarification hearings with the best classified tenderers

FDC proceeds to clarification hearings with the best classified tenderers. These hearings are for clarification purposes only and cannot lead to a better score of the respective tenderer(s). In this context, FDC will send to the concerned tenderers an invitation with an agenda setting out the sequence of the hearing session. All invited tenderers will receive the same agenda. **The hearings should take place with the senior managers involved in the day-to-day operation and management of the offered strategy and the presence of the lead portfolio manager for the clarification hearings is compulsory.**

Please note that these clarification hearings might be held either at the tenderer's registered office or at FDC's registered office at the dates indicated in section 3.1 of the Guidelines.

Tenderers not invited for a hearing should refrain from contacting FDC at that moment of the tender process and wait for the notification of the awarding decision as foreseen in section 3.11 of the Guidelines.

3.10 Period of validity of the proposals

Proposals are valid for a period of five (5) months with effect from the closing day of the proposal remittance being **31 January 2024**.

3.11 Awarding of the contract

The awarding of the contract shall be pronounced by FDC's Board of Directors.

The awarding term should normally not exceed two (2) months from the opening of the proposals. Nevertheless, with regard to the scope and complexity of the current tender, FDC refers to article

49 (2) of the Grand Ducal Regulation from 8 April 2018 determining the modalities of the Law from 8 April 2018 regarding public tenders. The given article provides that the awarding term can be longer without exceeding five (5) months.

Thus, the notification of the awarding decision will be communicated on **2 May 2024** by FDC. Similarly, tenderers whose proposal has been rejected will also be informed. Such notification will **clearly indicate the reasons why a proposal has been rejected**.

In the event that FDC would find a divergence between the information provided by the tenderer and the reality of the situation, it may withdraw the awarding decision without this resulting in any entitlement to a compensation of any kind whatsoever. In this case the contract shall be assigned to the next tenderer as per the ranking classification.

4 Additional information

4.1 Applicable law

Luxembourg law is applicable to this tender.

4.2 Tender fees

FDC informs tenderers that it is not liable for any direct or indirect costs relating to the preparation, presentation or explanation of the proposals.

Tenderers shall bear all costs and expenses arising from this tender.

4.3 Confidentiality

a) Tenderers are hereby informed that FDC will collect and process data on their behalf, their partners, employees and staff as it is deemed necessary for monitoring the tender process, the evaluation of the proposals and the awarding of the contract. The data shall not be communicated to any third party, without prejudice to the provisions set out in below section 4.3 b) of the Guidelines, and shall be retained for the period provided by law. The persons concerned shall have the right to access and amend their data by contacting FDC.

b) Tenderers are hereby informed that FDC has entrusted independent consultants established in Switzerland with the task of assisting in the conception and realisation of this tender. As a result, any information submitted by tenderers during the process may be transmitted to these independent consultants.

c) FDC and all its officials and service providers are required not to divulge any information in the context of this tender which is not already lawfully in their possession and which would be covered by or could adversely affect professional secrecy.

d) The processing[4] by FDC of personal data[5] communicated by the tenderers relating to this tender is regulated by national and European legislation respectively, from May 25, 2018 onwards, by the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data and repealing Directive 95/46/EC (the GDPR regulation).

   In compliance with legal and contractual obligations binding FDC, communicated personal data may be transferred to a processor and/or subcontractor. In particular and on the basis of an

[4, 5] As defined in article 4 of the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data.

existing consultancy contract, personal data may be transferred to FDC's independent consultants established in Switzerland.

Tenderers are hereby informed that a transfer of personal data to a third country may take place where the European Commission has decided that the third country in question ensures an adequate level of protection. Such a transfer does not require any specific authorization.

The personal data are retained by FDC in compliance with the technical and organizational security measures necessary to avoid any personal data breach[6].

The holder of personal data is entitled to ask the rectification and the erasure of its data within the limits set down by the GDPR regulation applicable from May 25, 2018 onwards.

Any breach of personal data will, from May 25, 2018 onwards, be notified by FDC to the competent supervisory authority as soon as possible and, if possible, seventy-two (72) hours at the latest after becoming aware of the breach.

[6] As defined in article 4 of the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data.

5 List of Appendices

Appendix 1:	Questionnaire and Performance file
Appendix 2:	Mandatory model of the undertaking declaration
Appendix 3:	Mandatory model of the declaration on honour on the absence of a prohibition on participating in public tenders
Appendix 4:	Mandatory model of the declaration on honour for tax and employer obligations
Appendix 5:	Mandatory model of the declaration on honour regarding the approval
Appendix 6:	Investment Management Agreement (confidential draft version)
Appendix 7:	Issue Document (confidential draft version)
Appendix 8:	Model request to obtain the tender documents