



Luxembourg Newsflash - 12 December 2019

## Regulation on sustainability-related disclosures in the financial services sector published!

In response to growing concerns over climate change, and as part of broader efforts to connect finance with the specific needs of the European and global economy for the benefit of the planet and our society, the European Union has been examining how to integrate sustainability considerations into its financial policy framework in order to mobilise finance for sustainable growth.

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### The action plan

In March 2018, the European Commission published an action plan on sustainable finance (the "Action Plan") specifically aiming to:

- reorient capital flows towards sustainable investment in order to achieve sustainable and inclusive growth;
- manage financial risks stemming from climate change, resource depletion, environmental degradation and social issues; and
- foster transparency and long-termism in financial and economic activity.

The publication of the Regulation (EU) 2019/2088 of the European Parliament and of the Council on sustainability-related disclosures in the financial services sector (the "Regulation") on 9 December 2019 marks a new milestone in the European Union's journey towards a more sustainable financial sector and is a major step in the Action Plan.

### The Regulation – initial impact analysis

The much awaited Regulation applies to **all financial market participants**, including in particular AIFMs, UCITS management companies, and investment firms, but also applies to financial advisers, and foresees new, mandatory transparency requirements both at entity/asset manager level and at product level.

The new transparency requirements include disclosures on:

- the integration of sustainability risks in the investment decisions-making process or the investment advice process,
- the consideration of principal adverse impacts of an investment decision on sustainability factors, and
- information on how remuneration policies are consistent with the integration of sustainability risks.

At product level, financial market participants will be expected to describe:

- the manner in which sustainability risks are integrated into their investment decisions,
- the likely impacts of sustainability risks on the returns of the financial products made available, and
- how the financial products made available consider principal adverse impacts on sustainability factors.

Additional disclosure requirements are foreseen for financial products that promote, among other characteristics, environmental or social characteristics, or a combination of those characteristics, and for financial products that have sustainable investment as their objective.

### Documentation

From new ESG policies to be published on the website to pre-contractual documents, marketing communication, financial product prospectuses, and annual reports, many documents are impacted by the disclosure obligations and, going forward, will need to include information on sustainability issues.

### Timing

This Regulation shall only apply from 10th March 2021, with product rules to be implemented by 30th December 2022. However, **the CSSF, mindful of greenwashing risks, is already challenging asset managers** launching funds with sustainable investment or ESG strategies to provide evidence of what has been done. Investors, on their side, are becoming more and more conscious of sustainability issues and are also putting increasing pressure on financial market participants to act.

To help financial market participants, the ESAs shall, through the Joint Committee, develop draft regulatory technical standards to specify the details of the presentation and content of the information to be disclosed by 30th December 2020. The European Commission will be responsible for supplementing the Regulation with these regulatory technical standards.

### Other aspects

Regulation (EU) 2019/2089 of the European Parliament and of the Council of 27 November 2019 amending Regulation (EU) 2016/1011 as regards EU Climate Transition Benchmarks, EU Paris-aligned Benchmarks and sustainability-related disclosures for benchmarks has also been published on 9th December 2019 and is part of the Action Plan. The Action Plan, setting out a new regulatory framework for the financial sector, also notably includes: the work around a unified classification system on what can be considered an environmentally sustainable economic activity (the taxonomy) and the technical advice sought by the European Commission from ESMA and EIOPA to potentially amend the likes of UCITS, AIFMD, MiFID, IDD, and Solvency Directives.

### How can we help?

The Arendt Sustainability Team, combining legal, regulatory, tax and advisory experts, provides you a complete support on your sustainability journey, from the definition and the implementation of your sustainability strategy to the drafting of your ESG documentation supporting such strategy.

Arendt is also committed to raise the awareness of the financial sector community in Luxembourg and has developed the training "The ABC of ESG for fund managers" to this end that will be offered via Arendt Institute on 16 January 2020.

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