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Luxembourg Newsflash - 30 July 2021

Questions and answers clarifying the Sustainable Finance Disclosure Regulation

On 26 July 2021, the EU Commission published a Q&A on the SFDR

Among others, the following points were addressed:

1. The definition of 'financial market participant' outlined in the regulation includes both EU AIFMs and non-EU AIFMs.
2. Registered AIFMs must also fulfil the requirements laid down in the SFDR.
3. The 500-employee criterion includes employees of a parent undertaking and of subsidiary undertakings regardless of whether they are established inside or outside the European Union.
4. In addition to 'sustainable investments', Article 9 products may also include investments for specific purposes such as hedging or liquidity, which must meet minimum environmental or social safeguards.
5. A financial product that promotes environmental, social or sustainability requirements or restrictions laid down in law, including international conventions or voluntary codes, in its investment policy is subject to Article 8. Additionally, financial products having an environmental objective but not meeting the DNSH principle should also qualify as Article 8 products.

Furthermore, the promotion of ESG characteristics does not refer solely to pre-contractual disclosures, but also to a broad range of documents including marketing communications, advertisements, use of product names or designations, and factsheets.

Background

This Q&A was published in response to questions asked by the European Supervisory Authorities (ESMA, EIOPIA and EBA). It provides clarity for financial market participants in response to a broad range of questions relating to the disclosure requirements specified in the Sustainable Finance Disclosure Regulation 2019/2088.

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