

MEMO# 32700

August 24, 2020

FOR REVIEW by 28 Aug: ICI Global Draft Response to EU Consultation on Sustainable Finance Disclosure Regulation RTS

[32700]

August 24, 2020 TO: ESG Task Force (Global)
EU ESG Disclosure Regulation Working Group
Global Advocacy Coordination Advisory Committee
ICI Global Regulated Funds Committee RE: FOR REVIEW by 28 Aug: ICI Global Draft Response to EU Consultation on Sustainable Finance Disclosure Regulation RTS

As you know, we have been working closely with the EU ESG Disclosure Regulation Working Group over the last four months to draft a response to the European Supervisory Authorities' (ESAs) consultation^[1] on draft regulatory technical standards (RTS) for the EU's sustainable finance Disclosure Regulation (SFDR). We circulated the first draft to the Working Group only, but wanted to share the attached draft with the larger group to keep you in the loop.

We are asking for any comments back by COB Friday, 28 August, and then we will file our response by the due date of Tuesday, 1 September. Please do not hesitate to reach out with any questions or if there are any items you would like to discuss.

Unfortunately, this consultation was quite lengthy and technical, and our response is also lengthy and technical, so we've provided a brief summary for your reference as follows:

- **Timeline.** As an initial matter, and recognizing this may go beyond the scope of the current consultation, we reiterate our concerns about the extremely compressed implementation timeline and express support for moving the application date to 1 January 2022.
- **Manager-level disclosure (Questions 1-11, 27).** We express deep concern that the proposed entity-level disclosure requirements create an enormous operational challenge, with huge, uncertain costs and intensive use of resources in exchange for very little benefit to end investors. (See particularly Questions 1, 2, and 27.)
 - **Issues with aggregate firm-level disclosure.** We do not believe that the proposed firm-level aggregate quantitative disclosure will provide investors with

- meaningful information about the sustainability impacts of their investments.
- **Data issues.** The focus on aggregate quantitative disclosure also ignores the significant challenges with availability and reliability of sustainability impact data.
 - **Goes beyond level 1, lacks proportionality and coherence.** In our view, the proposed approach goes significantly beyond what is contemplated in the level 1 text, lacks proportionality, and also lacks much-needed coherence with other key pieces of sustainable finance legislation—namely, the Taxonomy Regulation and the Non-Financial Reporting Directive (NFRD).
 - **Recommendation.** We urge the ESAs to take a proportional, measured approach that prioritizes disclosure of four indicators that have more universal relevance across sectors and asset classes and where data is both widely available and reliable. We also encourage the ESAs to use the SFDR's report and evaluation provisions (Arts. 18 and 19) as an opportunity to begin with less prescriptive requirements, erring on the side of optional disclosure rather than mandatory. (See Questions 3 and 5.)
- **Product-level disclosure for ESG funds(Questions 12-26).**
 - **Location of information.** We recommend shifting the proposed balance of information between pre-contractual and website information requirements, and make recommendations on how to limit the pre-contractual information so that it is meaningful to end investors. (See Questions 15 and 25.)
 - **Compliance timeline.** We urge flexibility in the timeline for compliance with the product-level disclosure requirements, given that the product disclosure templates will not be released for consultation until September, the RTS will not be completed until end of January 2021, and the pre-contractual disclosure then will need to go through the approval process at the NCA level. (See Question 12.)
 - **'Sustainable investments' and 'do no significant harm' (DNSH).** In addition to the issues with timing and sequencing, we discuss specific areas where we have particular concerns about the lack of substantive coherency or consistency between the SFDR, Taxonomy, and NFRD, such as the disclosure requirements around 'sustainable investments' and the principle of 'do no significant harm' (DNSH). (See Questions 16, 17, and 22.)

We appreciate all of your feedback and engagement on this very tough consultation. We are optimistic that it is responsive to the issues we've discussed with the ESAs and national competent authorities (NCAs) over the last couple months, and we are hopeful that we'll see an improvement in the workability of the final RTS.

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[Attachment](#)

endnotes

[1] For a detailed summary of the consultation, see ICI Global Memorandum No. 32441, available at https://www.ici.org/my_ici/memorandum/memo32441.

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