

MEMO# 32603

July 16, 2020

EU ESG: Call with CSSF and Other NCA Developments

[32603]

July 16, 2020 TO: EU ESG Disclosure Regulation Working Group RE: EU ESG: Call with CSSF and Other NCA Developments

We thought it would be helpful to send you a short digest of ESG-related regulatory activity from the various EU national competent authorities (NCAs) and the Financial Conduct Authority (FCA). Please note, in particular, our upcoming call with the Commission de Surveillance du Secteur Financier (CSSF) on Friday and do send us any questions or concerns you'd like us to raise.

CSSF (Luxembourg)

Anna and I are speaking to the Commission de Surveillance du Secteur Financier (CSSF) on Friday (17 July) about the Disclosure Regulation regulatory technical standards (RTS). We're planning to ask them about some of the timing/implementation issues, and we wanted to check in with the group to see if there are any particular questions you'd like us to ask or concerns you'd like us to raise at this juncture. Please let us know by Friday at 7:00 a.m. (ET) / 12:00 p.m. (BST).

CBI (Ireland)

We've reached out to the Central Bank of Ireland (CBI) to discuss the Disclosure Regulation RTS and will keep you posted. Please let us know if you have any particular concerns.

AMF (France)

As we discussed on our last call, the Autorité des Marchés Financiers (AMF) published a document in March that sets forth minimum standards for funds that "emphasize consideration of non-financial criteria" (e.g., ESG, sustainable, green) as a central component of their communications or that include it in the fund's name.[\[1\]](#) The new standards apply to retail ESG/sustainable funds marketed in France. I drafted a summary to send to you, but then the AMF came out with an update (unfortunately only in French!) on 10 July, and I have been trying to puzzle my way through it before sending around a consolidated summary.[\[2\]](#) The update appears to add additional forms that would need to be completed in order to market an ESG/sustainable fund in France. I should be able to circulate a more formal summary by the end of the week. We had heard the AMF might consider modifying the guidance sometime this month, but the publication of the update

does not seem promising.

NL AFM (Netherlands)

On 25 June 2020, the Netherlands Authority for the Financial Markets (AFM) published a position paper on sustainability, including a discussion of its supervisory focus and an implementation timeline of various EU sustainable finance requirements.^[3] The paper is unfortunately only available in Dutch, but please see the footnote for two summaries, with the caveat that I have not been able to read the original text.^[4]

FCA (UK)

We understand that Richard Monks, the Financial Conduct Authority (FCA) director of strategy, made some comments at a virtual event on 1 July on how the FCA is thinking about the EU sustainable finance requirements. He was quoted as saying “We are working closely with the Treasury on how we can match the ambition of the objectives of the EU sustainable-finance action plan. The important immediate area of focus is to match the EU disclosure regulation which is now in place in Europe. We need to understand how to respond to that in the UK.” He did not specify timing, but apparently said the FCA is “working closely with the government on what the UK version of this EU regulation could look like.”

BaFin (Germany)

The Federal Financial Supervisory Authority (BaFin) published a “Guidance Notice on Dealing with Sustainability Risks” in January 2020.^[5] It intends the guidance to serve “as a compendium of non-binding procedures (good practice principles) to be applied, with regards for the principle of proportionality, by supervised entities in the area of sustainability risks to implement the legal requirements for a proper business organisation and an appropriate risk management system.”

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endnotes

[1] See <https://www.amf-france.org/en/news-publications/news-releases/amf-news-releases/sustainable-finance-and-collective-management-amf-publishes-first-policy-investor-information>.

[2] See <https://www.amf-france.org/fr/actualites-publications/actualites/finance-durable-et-gestion-collective-lamf-met-jour-sa-doctrine-concernant-les-placements-collectifs>

[3] See https://www.afm.nl/~/_profmedia/files/onderwerpen/duurzaamheid/position-paper-afm-duurzaamheid.pdf?la=nl-NL.

[4] See <https://www.regulationtomorrow.com/the-netherlands/afm-shares-its-vision-on-sust>

ainability/; see also <https://www.jdsupra.com/legalnews/views-of-the-dutch-afm-on-70277/>.

[5] See https://www.bafin.de/SharedDocs/Downloads/EN/Merkblatt/dl_mb_Nachhaltigkeitsrisiken_en.pdf

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