

MEMO# 31996

October 4, 2019

Issues List for Discussion on ESG Task Force Call on EU Disclosure Regulation

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October 4, 2019 TO: ESG Task Force

ICI Global Regulated Funds Committee RE: Issues List for Discussion on ESG Task Force Call on EU Disclosure Regulation

Attached is a draft issues list for discussion on our call on Monday, 7 October. The goal is to determine issues that members would like to cover in a short position paper to European Securities and Markets Authority (ESMA) on the work they are doing to develop regulatory technical standards (RTS) for the EU Disclosure Regulation.[\[1\]](#) The attached issues list is a starting point for discussion purposes, and we welcome any additional thoughts or feedback you may have. Please also see our previous summary of the Disclosure Regulation RTS provisions.[\[2\]](#)

A few items of note:

- Although there are significant issues with the timeline for entry into application of the Disclosure Regulation's Level 1 text, this is a Level 1 legislative issue and not something that ESMA can address in its Level 2 RTS. The Commission has already received an industry request asking for a delay of the application of the rules until at least a year after the final standards are published in the Official Journal of the European Union, and we understand that Commission action on this is likely.
- We now understand from ESMA that their thinking on Article 3gamma has evolved beyond consideration of the "sustainability indicators" in the Organisation for Economic Co-operation and Development (OECD) due diligence guidance on responsible business conduct or the EU Technical Expert Group's Final Report on Climate Benchmarks and Benchmarks' ESG Disclosures,[\[3\]](#) so we are not addressing those in the issues list.
- We understand that the Commission is likely to issue a consultation in early November on integrating sustainability risk into delegated acts under the UCITS Directive and AIFMD. This is a much faster timeline than originally planned, and I will discuss further implications on the call.

Looking forward to discussing.

Linda M. French

[Attachment](#)

endnotes

[1] For more details on the EU legislative process, including the differences between Level 1 and Level 2 legislation and between a Regulation and a Directive, please see Clifford Chance's publication, *The EU legislative process explained* (Sept 2016), available at [https://financialmarketstoolkit.cliffordchance.com/content/micro-facm/en/financial-markets-resources/resources-by-type/guides/the-eu-legislative-process-explained--september-2016-/jcr_content/parsys/download/file.res/The%20EU%20legislative%20process%20explained%20\(3\).pdf](https://financialmarketstoolkit.cliffordchance.com/content/micro-facm/en/financial-markets-resources/resources-by-type/guides/the-eu-legislative-process-explained--september-2016-/jcr_content/parsys/download/file.res/The%20EU%20legislative%20process%20explained%20(3).pdf).

[2] See ICI memorandum no. 31987 (30 Sept 2019), available at <https://www.iciglobal.org/iciglobal/pubs/memos/ci.memo31987.global>.

[3] See EU Technical Expert Group, *Final Report on Climate Benchmarks and Benchmarks' ESG Disclosures* (30 Sept 2019), available at https://ec.europa.eu/info/publications/sustainable-finance-teg-climate-benchmarks-and-disclosures_en#next.

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