

**MEMO# 31696**

April 3, 2019

# EU ESG Disclosure Regulation: Final Text

[31696]

April 3, 2019 TO: ICI Global Members  
Global ESG Task Force  
ICI Global Regulated Funds Committee SUBJECTS: Disclosure  
International/Global RE: EU ESG Disclosure Regulation: Final Text

The European Parliament's ECON committee has finally approved the trilogue agreement on the sustainable finance Disclosure Regulation. EU ambassadors signed off on the text last week. As you may recall, Parliament and the Council came to a political agreement a couple weeks ago following a marathon trilogue meeting, and we have been waiting for the final legal text. The final compromise text has been posted online, [\[1\]](#) and we understand that the official text is likely to be published sometime this fall. Below are a few highlights, and a more detailed summary of the final text is attached.

Overall, we were pleased to see that our key issues were positively resolved in the final text:

- **Scope remains tailored.** Some MEPs had pushed for applying detailed sustainability disclosure requirements to all financial products, and we had advocated strongly for maintaining the more tailored scope of the Commission's original proposal.
- **Definition of "sustainability risk" focuses on risk to returns.** We advocated strongly against including the concept of sustainability impact within the definition of sustainability risk.
- **No substantive due diligence requirement.** Parliament had worked to include a substantive due diligence requirement, and we advocated strongly against including this in the Disclosure Regulation.

We want to flag two other provisions of note:

- **Definition of "sustainable investments"**, in Art. 2(o), as investments in an economic activity that contributes to an environmental or social objective, provided those investments do not "significantly harm" any of those objectives and the investee companies follow good governance practices.
- **Website disclosure of policies around consideration of "adverse sustainability impact" in the investment process (Art. 3gamma).** We understand that this disclosure provision was added as a compromise with MEPs who were looking to impose a substantive due diligence requirement.
  - No definition of adverse sustainability impact.

- **The provision that applies to companies with more than 500 employees is similar to the due diligence disclosure requirement in the Non-Financial Reporting Directive, Art. 19a. We confirmed with French Treasury officials that the Council meant this provision to require disclosure only—it is not intended as a substantive requirement.**
- ESMA, EBA, and EIOPA (European Supervisory Authorities or ESAs) will be developing Regulatory Technical Standards (RTS) on the specifics of the disclosure, including content, methodologies, and presentation of information.
- **ESAs to submit annual report to the Commission on best practices and make recommendations for a voluntary reporting standard.** This is an indication that the focus on sustainability impact reporting will continue to grow.

We will be scheduling another ESG Task Force call soon to discuss next steps, including engagement with ESMA and the Commission. As we have discussed previously, ESMA is submitting technical advice to the Commission by the end of this month on how to amend the UCITS Directive and AIFMD to explicitly require ESG integration.<sup>[2]</sup> There have been a number of developments on the Taxonomy Regulation as well, and we will follow up shortly with more information.

Linda M. French  
Assistant Chief Counsel, ICI Global

## [Attachment](#)

### endnotes

[1] Available at <https://data.consilium.europa.eu/doc/document/ST-7571-2019-ADD-1/en/pdf>.

[2] See ICI Memorandum No. 31623, available at <https://www.iciglobal.org/iciglobal/pubs/memos/ci.memo31623.global>.