

MEMO# 33139

March 1, 2021

EU ESG: European Supervisory Authorities Publish Joint Supervisory Statement on SFDR

[33139]

March 1, 2021 TO: ICI Global Members

ESG Task Force

EU ESG Disclosure Regulation Working Group

ICI Global Regulated Funds Committee SUBJECTS: ESG

International/Global

MiFID, EMIR, AIFMD, UCITS V RE: EU ESG: European Supervisory Authorities Publish Joint Supervisory Statement on SFDR

We wanted to alert you that the European Supervisory Authorities (ESAs) have published a joint supervisory statement^[1] on the application of the EU Sustainable Finance Disclosure Regulation (SFDR).

Below are a few highlights:

- **Confirmation of timing of a number of SFDR measures.**
 - **The SFDR regulatory technical standards (RTS) should apply as of 1 January 2022** – the ESAs recommend the draft RTS^[2] be used as a reference when applying the provisions of the SFDR in the interim period between the level 1 compliance date (10 March 2021) and the application of the RTS at a later date. The European Commission has not yet finalized the new 1 January 2022 compliance date for the RTS, but the ESAs make clear that's what they think the date should be.
 - **Periodic reporting for SFDR Article 8 and 9 products** – the ESAs state that if financial markets participants have less than six months to prepare the information required with the final RTS (e.g., they are adopted after June 2021), then the Commission should specify that the RTS should apply to periodic reports with reference periods from 1 January 2022, to allow enough time to gather the necessary information. Any periodic reporting before this date should apply the high-level and principle-based requirements in the level 1 legislative text.
 - **Detailed indicators on principal adverse impacts should be disclosed from 2023** – with 2022 as the reference period.

- **Summary table outlining the SFDR and Taxonomy disclosure obligations.** This table is helpful in showing where the Taxonomy's product-level disclosure requirements fit into the SFDR disclosure framework.
- **Upcoming consultation on Taxonomy disclosure for ESG funds (SFDR Articles 8 and 9)** – the ESAs will publish in March a consultation paper on taxonomy-related product disclosures under the Taxonomy Regulation which amends the empowerments in SFDR Articles 8(4), 9(6) and 11(5).

We're still waiting for the Commission to publish a reply to the ESAs' letter^[3] on further questions around the application of the SFDR ahead of the 10 March 2021 compliance date, including questions over the definition of Article 8 and 9 products and the application of the 500-employee threshold to parent undertakings of a large group.

Next steps. As a reminder, the Commission is expected to adopt the draft RTS on 21 April, as part of a package of level 2 measures (including the Taxonomy Delegated Acts (DAs) on climate change mitigation and adaptation, and the changes to DAs under the UCITS, AIFMD, MiFID II, IDD, and Solvency II frameworks).

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endnotes

[1] See ESAs Issue Recommendations on the Application of the Regulation on Sustainability-Related Disclosures (25 February 2021), *available at* <https://www.esma.europa.eu/press-news/esma-news/esas-issue-recommendations-application-regulation-sustainability-related>.

[2] See The Three European Supervisory Authorities Publish Final Report and Draft RTS on Disclosures Under SFDR (4 February 2021), *available at* <https://www.esma.europa.eu/press-news/esma-news/three-european-supervisory-authorities-publish-final-report-and-draft-rts>.

[3] See Letter to EU Commission on Priority Issues Relating to SFDR Application (7 January 2021), *available at* <https://www.esma.europa.eu/document/letter-eu-commission-priority-issues-relating-sfdr-application>.