

MEMO# 32493

May 28, 2020

EU ESG: Consolidated Summary of Recent Policy Developments and Ongoing Advocacy Work

[32493]

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TO:

ICI Global Members
ESG Task Force
Global Advocacy Coordination Advisory Committee
ICI Global Regulated Funds Committee

SUBJECTS:

Compliance
Disclosure
Distribution
International/Global
Investment Advisers
MiFID, EMIR, AIFMD, UCITS V

RE:

EU ESG: Consolidated Summary of Recent Policy Developments and Ongoing Advocacy Work

The below memorandum provides a high-level, consolidated summary of the status of several key pieces of ESG-related legislation and regulation that will impact asset managers and regulated funds in the European Union. The summary also provides links to more detailed information, including consultations to which we are responding.

For a consolidated timeline that includes compliance dates, please see ICI memorandum no. 32491, available at

<https://www.iciglobal.org/iciglobal/pubs/memos/ci.memo32491.global>.

EU legislators finalized two pieces of legislation in late 2019 and early 2020—the Disclosure

Regulation and Taxonomy Regulation—that impose a host of new ESG-related disclosure and other requirements on, among others, asset managers and financial products, including funds and separately managed accounts. The Disclosure Regulation requires UCITS management companies and alternative investment fund managers (AIFMs) (and other financial market participants) to make various ESG-related disclosures at the manager level and at the financial product level on managers’ websites and in fund prospectuses and annual reports. The Taxonomy Regulation also includes mandatory financial product disclosure requirements that will have a significant impact on regulated funds. Please see ICI memorandum no. 32229, available at <https://www.iciglobal.org/iciglobal/pubs/memos/ci.memo32229.global>, for a summary of these new legislative requirements, including compliance dates.

The EU intends these disclosure requirements to interact with other pieces of legislation, including forthcoming amendments to the UCITS Directive and the Alternative Investment Fund Managers Directive (AIFMD). Although these amendments have not yet been adopted, they are expected to introduce substantive new legal obligations that will require asset managers to consider ESG risks in the investment process and also take into account the impacts of portfolio companies on environmental and social sustainability. We expect the European Commission to publish draft amendments soon. Please see Section I.B of ICI memorandum no. 32229, available at <https://www.iciglobal.org/iciglobal/pubs/memos/ci.memo32229.global>, for further discussion on how these amendments are expected to link to the Disclosure Regulation’s new requirements.

The European Securities and Markets Authority (ESMA) and the other European Supervisory Authorities (ESAs) are currently developing draft regulatory technical standards for the Disclosure and Taxonomy Regulation. The ESAs launched a consultation in late April, due 1 September, and we have formed a working group to respond to the consultation. We are particularly concerned about draft provisions that would require asset managers to disclose aggregate information on the “adverse sustainability impact” of portfolio investments, including metrics such as carbon footprint, water emissions, and gender pay gap. The implementation timeline for these new disclosure requirements is expected to be challenging, with the first compliance date in March 2021. Please see ICI memorandum no. 32441, available at <https://www.iciglobal.org/iciglobal/pubs/memos/ci.memo32441.global>, for a detailed summary of the consultation.

The EU’s focus on ESG disclosure extends to corporate issuers as well. In February, the Commission launched a consultation on ESG-related disclosure for corporate issuers as part of its review of the Non-Financial Reporting Directive (NFRD). The consultation deadline is 11 June, and we are focusing our response on the need to align corporate issuer disclosure requirements with the new disclosures that asset managers will be required to provide about investee companies. Please see ICI memorandum no. 32305, available at <https://www.iciglobal.org/iciglobal/pubs/memos/ci.memo32305.global>, for a detailed summary of the consultation.

The Commission is looking forward to the next phase of its sustainable finance strategy and issued a consultation in April, with a deadline of 15 July. The consultation includes questions on labels for sustainable investment products and expanding asset managers’ fiduciary duty to require consideration of sustainability impact. We have formed a working group to respond to the consultation and expect our response to focus on the questions related to asset management, including concerns around the sequencing of various initiatives. Please see ICI memorandum no. 32378, available at

<https://www.iciglobal.org/iciglobal/pubs/memos/ci.memo32378.global>, for a detailed summary of the consultation.

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