

MEMO# 32734

September 2, 2020

EU ESG: ICI Global Submits Response to EU Consultation on Disclosure Regulation RTS

[32734]

September 2, 2020 TO: ICI Global Members
ESG Task Force (Global)
EU ESG Disclosure Regulation Working Group
Global Advocacy Coordination Advisory Committee
ICI Global Regulated Funds Committee SUBJECTS: Disclosure
Distribution
ESG
International/Global
Investment Advisers
MiFID, EMIR, AIFMD, UCITS V RE: EU ESG: ICI Global Submits Response to EU Consultation on Disclosure Regulation RTS

We are pleased to report we officially submitted the attached response last night to the European Supervisory Authorities' (ESAs) consultation on draft regulatory technical standards (RTS) for the EU sustainable finance Disclosure Regulation (SFDR).[\[1\]](#) As you know, these RTS will require extensive new ESG-related disclosure at both manager-level (for all investments) and product-level (for ESG products).

A huge thank you to the EU ESG Disclosure Regulation Working Group for working with us over the last four months on this unusually complex and technical consultation that will have significant ramifications for the industry. We do expect the ESAs to release another consultation any day now on proposed templates for ESG product disclosure, and we plan to respond. The ESAs anticipate providing the final RTS to the European Commission at the end of January 2021, and the initial compliance date is 10 March 2021.

Below is a brief summary of our response:

- **Timeline.** We reiterate our concerns about the extremely compressed implementation timeline and urge moving the SFDR's 10 March 2021 application date to 1 January 2022.
- **Manager-level disclosure (Questions 1-11, 27).** We express deep concern that the proposed entity-level disclosure requirements will create an enormous operational

challenge, with huge, uncertain costs and intensive use of resources in exchange for (at best) questionable benefit to end investors. (Questions 1, 2, and 27.)

- **Issues with aggregate firm-level disclosure.** We do not believe that the proposed firm-level aggregate quantitative disclosure will provide investors with meaningful information about the sustainability impacts of their investments. We also strongly disagree with the proposed treatment of any positive value of an indicator as representing a 'principal adverse impact.' (Question 1).
- **Lack of flexibility exacerbates data issues.** The proposal's overly strict approach will force managers to obtain and disclose 'bad' data, without providing needed flexibility for managers to navigate issues with data availability, quality, and relevance. (Question 1).
- **Goes beyond level 1, lacks proportionality and coherence.** In our view, the proposed approach goes significantly beyond what is contemplated in the level 1 text, lacks proportionality, and also lacks much-needed coherence with other key pieces of sustainable finance legislation. (Questions 1, 2).
- **Recommendation** (Questions 3, 5). We therefore urge the ESAs to take a proportional, measured approach that focuses on the principles-based elements of SFDR Art. 4 and allows managers to undertake optional disclosure of the Table 1 indicators, with the discretion to disclose information that the manager determines is sufficiently meaningful, available, and reliable for a sector, industry, or investment.
 - If the ESAs determine that some mandatory indicators are necessary, we then recommend that the ESAs prioritise disclosure of an initial subset of four indicators that have broader relevance across sectors and asset classes and where data is both more widely available and reliable.
 - It is essential that managers be able to use 'reasonable efforts' or 'good faith efforts' to obtain data and have flexibility to explain where they have not included data from all investments (e.g., where the data is not available, reliable, or relevant.).
 - We note the SFDR's evaluation provision (Art. 19) provides an opportunity to begin with less prescriptive requirements after which the Commission will assess if and when additional disclosure should become mandatory.
- **Product-level disclosure for ESG funds** (Questions 12-26).
 - **Location of information.** We recommend shifting the proposed balance of information between pre-contractual and website information requirements, and make recommendations on how to limit the pre-contractual information so that it is meaningful to end investors. (Questions 15, 25.)
 - **Compliance timeline.** We urge flexibility in the timeline for compliance with the product-level disclosure requirements, given that the product disclosure templates will not be released for consultation until September, the RTS will not be completed until end of January 2021, and the pre-contractual disclosure then will need to go through the approval process at the NCA level. (Question 12.)
 - **'Sustainable investments' and 'do no significant harm' (DNSH).** In addition to the issues with timing and sequencing, we discuss specific areas where we have particular concerns about the lack of substantive coherency or consistency between the SFDR, Taxonomy, and NFRD, such as the disclosure requirements around 'sustainable investments' and the principle of 'do no significant harm' (DNSH). (Questions 16, 17, and 22.)

We appreciate all of your feedback and engagement on this very tough consultation.

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[Attachment](#)

endnotes

[1] For a summary of the consultation, *please see* ICI Global Memorandum No. 32441, *available at* https://www.ici.org/my_ici/memorandum/memo32441.

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