

MEMO# 33089

February 4, 2021

EU ESG: European Supervisory Authorities Publish Draft Regulatory Technical Standards (RTS) for the Sustainable Finance Disclosure Regulation (SFDR)

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February 4, 2021 TO: ICI Global Members

ESG Task Force

EU ESG Disclosure Regulation Working Group

ICI Global Regulated Funds Committee SUBJECTS: ESG RE: EU ESG: European Supervisory Authorities Publish Draft Regulatory Technical Standards (RTS) for the Sustainable Finance Disclosure Regulation (SFDR)

We wanted to alert you that the European Supervisory Authorities (ESAs) have published the draft regulatory technical standards (RTS) for the Sustainable Finance Disclosure Regulation (SFDR).[\[1\]](#) The ESAs submitted the draft RTS to the European Commission earlier today. Please note that the RTS are not yet final (see below discussion of next steps).

We will follow up with a more detailed summary but wanted to provide a few top-level highlights as follows:

- **RTS compliance date.** The ESAs propose that the RTS, which include the details for Article 8 and 9 product-level disclosure, as well as the entity-level principal adverse impact (PAI) disclosure, should start applying from January 2022.
- **ESAs to issue supervisory statement.** Given the delay in finalization of the RTS, the ESAs plan to publish a supervisory statement (ahead of the 10 March 2021 compliance date for the level 1 requirements) to ensure consistent application and supervision across Member States.
- **SFDR Article 4 “adverse impact” indicators.**
 - **Reduced list of indicators.** The new list is in Annex I, beginning on p. 52. The draft RTS now require 14 mandatory indicators for investments in companies (Table 1), as well as one indicator from the list of optional environmental indicators (Table 2) and one from the list of optional social indicators (Table 3).

The RTS provide separate indicators applicable to investments in sovereigns and real estate assets (see p. 64).

- **Timing of reference period reporting.** The RTS establish a framework of reporting on principal adverse impacts by 30 June each year with a reference period of the previous calendar year. The ESAs propose that the RTS apply from 1 January 2022, which would mean that the additional detail specified in the RTS must be reported in accordance with the RTS from that date. However, a financial market participant would not have to publish information relating to a reference period until the second publication of a principal adverse sustainability impacts statement in accordance with the RTS. This means that the earliest disclosure relating to a reference period would not be made until 2023 (with respect to a 2022 reference period).
- **Calculation methodology.** The ESAs propose an end of year calculation based on the average of at least four quarter-end calculations.
- **Article 8 and 9 product-level disclosure (i.e., ESG fund disclosure).**
 - **Templates.** The draft RTS require the use of mandatory templates for pre-contractual and periodic disclosure, beginning in Annex II on p. 82.
 - **Disclosure located in an annex.** The draft RTS requires Article 8 and 9 product-level disclosure to be located in an annex to the respective sectoral pre-contractual and periodic documentation.
 - **Timing of periodic reports.** “Periodic reports referred to in Article 11(2) of the SFDR must comply with the requirements laid down in that Article from 1 January 2022. This means that financial market participants must draw up in 2022 respective periodic reports referred to in Article 11(2) in compliance with the SFDR.”

Next steps. Now that the ESAs have prepared the final draft and submitted it to the Commission, the Commission can either oppose or amend the RTS (and return to the ESAs for redrafting) or adopt the RTS as submitted within three months of receiving it.

The current expectation is that the Commission will look to adopt the RTS towards the end of March or early April, when the RTS are expected to be published as a part of a package of level 2 measures—including the Taxonomy Delegated Acts (DAs) on climate change mitigation and adaptation and the amendments to DAs under UCITS/ AIFMD/MiFID II.^[2]

Member States and the Parliament will then have a scrutiny period of up to three months to accept or reject the entirety of the RTS text.

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endnotes

^[1] The ‘Joint RTS on ESG disclosure standards for financial market participants’ are available at <https://www.esa.europa.eu/regulation-and-policy/transparency-and-pillar-3/joint-rts-esg-disc>

[losure-standards-financial-market-participants](#).

[2] For more details, see ICI memorandum no. 33083, *available at* <https://www.iciglobal.org/iciglobal/pubs/memos/ci.memo33083.global>.

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