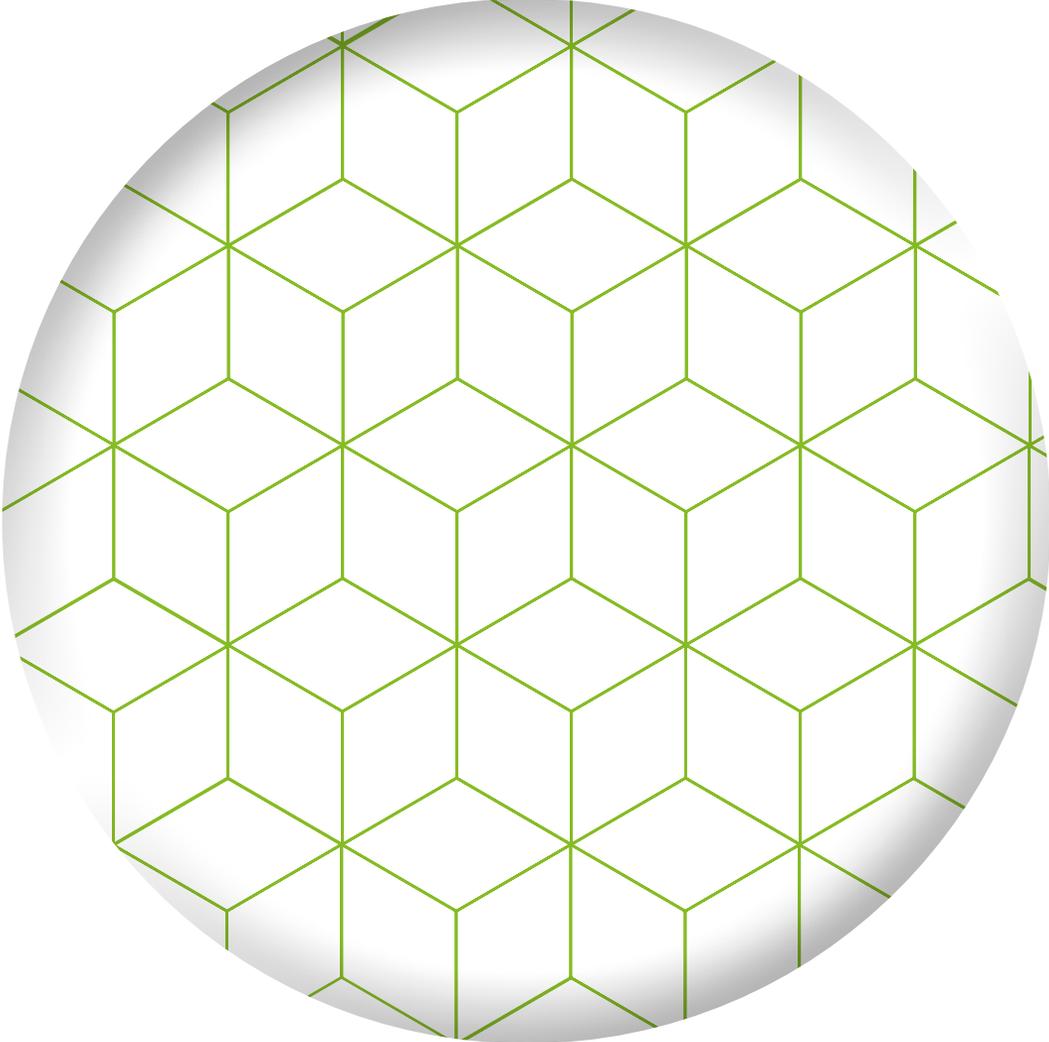


Regulatory update

FEBRUARY 2021



Regulatory Update

February 2021

Sustainable finance major milestone in SFDR: the ESAs published their final report on the future level 2 measures.

On 2 February 2021, the three European Supervisory Authorities (“ESAs”) published the final report on the Regulatory Technical Standards (“RTS”), which supplement Regulation (EU) 2019/2088 (also referred to as the “Sustainable Finance Disclosure Regulation” or “SFDR”). The draft RTS specify the content, methodologies and presentation of information in relation to sustainability indicators and the promotion of environmental or social characteristics and sustainable investment objectives in pre-contractual documents, websites and periodic reports. The draft RTS text and accompanying annexes incorporate the responses to a Consultation Paper published on 23 April 2020.

The objective of the proposed RTS is to strengthen the protection of end-investors by improving Environmental, Social and Governance (“ESG”) disclosures on the principal adverse sustainability impacts (“PASl”) of investment decisions and on the sustainability features of a wide range of financial products. This is expected to guide financial market participants and financial advisers in responding to the increasing investor demand for sustainable products and to reduce the risk of greenwashing.



Adverse sustainability impact reporting at entity level

The draft RTS provide for the disclosure of the principal adverse sustainability impacts (“PASI”) of investment decisions on sustainability factors – including detailed indicators for environmental and social impacts.



Mandatory reporting template

The principal adverse impacts that investment decisions have on sustainability factors should be disclosed on the entity’s website. The draft RTS introduce a mandatory reporting template to use for the statement on the principal adverse impacts of investment decisions on sustainability factors. The disclosures focus on a set of indicators for both:

- climate and environment-related adverse impacts, and
- adverse impacts in the field of social and employee matters, respect for human rights, anti-corruption and anti-bribery matters.



Indicators

The ESAs provide a list of indicators for principal adverse impacts. The principal adverse impacts reporting in the SFDR is based on the principle of proportionality: for companies with fewer than 500 employees, the entity-level principal adverse impact reporting applies on a comply-or-explain basis, whereas for companies with more than 500 employees, the entity-level principal adverse impact reporting will become mandatory as of 30 June 2021.



Pre-contractual, website and periodic product disclosures

The sustainability characteristics or objectives of financial products are to be disclosed in an annex to the respective sectoral pre-contractual and periodic documentation respecting mandatory templates, as well as on providers' websites.



Pre-contractual disclosures of environmental & social characteristics and sustainable finance objective

The draft RTS for pre-contractual disclosures provide the detailed content and presentation of the information to be disclosed at the pre-contractual level in the sectoral documentation. The RTS include an obligation to include details on how a product with environmental/ social characteristics or a sustainable investment objective meets these characteristics or that objective.



Product-level periodic disclosures

The draft RTS specify the extent to which products with environmental and/or social characteristics meet those characteristics by means of relevant indicators, and, for products with sustainable investment objectives, including products whose objective is a reduction in carbon emissions, the overall sustainability-related impact of the product by means of relevant sustainability indicators and, where applicable, by a benchmark comparison.



Product-level website disclosures

The draft RTS for product website disclosures set out the details of the content and the presentation of information to be publicly disclosed on the website by the financial market participant..



What does this mean for my organization?

The European Commission is expected to endorse the RTS within 3 months of their publication.

While financial market participants and financial advisers are required to apply most of the provisions on sustainability-related disclosures laid down in the SFDR from 10 March 2021, the ESAs propose that the draft RTS should only apply as of 1 January 2022.

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. As the ESAs consider the RTS should apply from 1 January 2022, this means that the additional detail specified in the RTS must be reported in accordance with the RTS from that date.

However, where a financial market participant publishes the principal adverse sustainability impacts statement in accordance with the RTS for the first time, the RTS do not require the disclosure of information relating to a previous reference period. This means that the earliest information relating to a reference period to be disclosed in accordance with the RTS would not be made **until 2023 in respect of a reference period relating to 2022.**





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