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# GUIDE TO THE EU SUSTAINABLE DISCLOSURE REGULATION





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# ABBREVIATIONS USED IN THIS GUIDE

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<b>AIF</b>	.....	An alternative investment fund as defined in point (a) Article 4(1) of Directive 2011/61/EU
<b>AIFM</b>	.....	A legal person whose regular business is managing one or more AIFs in accordance with article 4(1)(b) of AIFMD
<b>AIFMD</b>	.....	Directive 2011/61/EU as amended
<b>CRR</b>	.....	Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013
<b>Disclosure Regulation</b>	.....	Regulation (EU) 2019/2088 of the European Parliament and the European Council of 27 November 2019 on sustainability related disclosures in the financial services sector <sup>1</sup>
<b>ESG</b>	.....	Environmental, Social and Governance factors
<b>MiFID</b>	.....	Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU
<b>NFRD</b>	.....	Non-Financial Reporting Directive 2014/95/EU of the European Parliament and of the Council of 22 October 2014 amending Directive 2013/34/EU as regards disclosure of non-financial and diversity information by certain large undertakings and groups
<b>Taxonomy Regulation</b>	.....	Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment and amending Regulation 2019/2088 <sup>2</sup>
<b>TEG</b>	.....	Technical Expert Group on Sustainable Finance
<b>UCITS</b>	.....	Undertakings for collective investment in transferable securities that are established in accordance with Article 5 of Directive 2009/65/EC
<b>UCITS Directive</b>	.....	Directive 2009/65/EC as amended

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1 Regulation (EU) 2019/2088 of the European Parliament and the European Council of 27 November 2019 on sustainability related disclosures in the financial services sector. Online at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019R2088&from=EN>.

2 Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment and amending Regulation 2019/2088. Online at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32020R0852&from=EN>

# INTRODUCTION TO THE GUIDE

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**This Guide has been developed by AIMA with the support of the Maples Group and is intended to assist AIMA members in their preparation and implementation of the Disclosure Regulation, which will apply on and from 10 March 2021.**

As discussed in greater detail in this Guide, the Disclosure Regulation is part of a legislative package proposed by the European Commission (“**EC**”) to move sustainable investment objectives to the core of the financial system of the European Union (“**EU**”). The Disclosure Regulation introduces disclosure obligations on financial market participants and financial advisers to integrate ESG factors into their investment and risk management processes. The Disclosure Regulation is aligned with other parts of the legislative package, including the Taxonomy Regulation. Therefore, this Guide also covers certain amendments proposed to the Disclosure Regulation by the Taxonomy Regulation which was published in the Official Journal of the EU on 22 June 2020 and which entered into force on 12 July 2020<sup>3</sup>.

The aim of this Guide is to provide:

1. A practical summary of the key rules regarding sustainable finance disclosures and their relevance to (i) financial advisers and financial market participants, namely managers of UCITS management companies, AIFMs and MiFID investment firms<sup>4</sup> (UCITS management companies, AIFMs and investment firms collectively referred to as “**Investment Managers**”) (Investment Managers would all be ‘financial market participants’ for the purposes of the Disclosure Regulation); and (ii) “**financial products**”<sup>5</sup>; and
2. Sample compliance checklists for Investment Managers to assist with the implementation of the Disclosure Regulation. The checklists cover general processes and scope mapping exercises, as well as a suggested review of contracts and internal policies.

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<sup>3</sup> The Taxonomy Regulation applies to financial market participants making available financial products, companies subject to the Non-Financial Reporting Directive (Directive 2013/34/EU), EU Member States or the EU, however for the purpose of this Guide we have focused on the obligations relating to Investment Managers in so far as they fall within the definition of “**financial market participants**” in the Taxonomy Regulation.

<sup>4</sup> The Disclosure Regulation applies to a wide range of financial market participants, financial advisers and their financial products. However, for the purpose of this Guide we have focused on AIFMs, UCITS managers and MiFID firms and their financial products.

<sup>5</sup> For the purposes of the Disclosure Regulations “financial product” is defined in Article 2 as (a) a portfolio managed in accordance with point (b) of Article 4 (1) of Directive 2011/61/EU, (b) an AIF, (c) an IBIP, (d) a pension product, (e) a pension scheme, (f) a UCITS or (g) a PEPP.

# BACKGROUND: THE ACTION PLAN AND EUROPEAN SUSTAINABLE DEAL

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To understand the Disclosure Regulation fully it is important to put it in the context of the wider plan at EU level.

The EU has taken decisive action to support the transition to a low-carbon, more resource-efficient and sustainable economy. It aims to position the Union at the forefront of global efforts to build a financial system that supports sustainable growth.

With several overlapping and sometimes conflicting global definitions and ideas, one of the first tasks was to define the concept of sustainable finance.

The EC defines sustainable finance as a process that takes due account of environmental and social considerations when making investment decisions. By doing so, the EC hopes the ESG process will lead to increased investment in longer-term and sustainable activities. More specifically:

- "E"nvironmental considerations refer to climate change mitigation and adaptation, as well as the environment more broadly and the related risks (e.g. natural disasters);
- "S"ocial considerations may refer to issues of inequality, inclusiveness, labour relations, investment in human capital and communities;
- "G"overnance of public and private institutions, including management structures, employee relations and executive remuneration, plays a fundamental role in ensuring the inclusion of the social and environmental considerations in the decision-making process.

## Why a Sustainable Action Plan?

A key objective of the EC is to channel private investment as a complement to public money into projects, which will transition the EU to a climate-neutral economy.

To put the scale of the task into context, to achieve the EU's 2030 targets agreed in Paris, including a 40% cut in greenhouse gas emissions, Member States will have to fill an investment gap that was estimated at EUR180 billion per year. The emphasis on was is deliberate – with Member States unfortunately continuing to miss their targets, recovery from COVID-19 and more recent initiatives, including the European Green Deal – the number is growing all the time.

The scale of that investment challenge is beyond the capacity of the public sector alone.

To incentivise, and where necessary, compel Investment Managers to make private capital available – the EC adopted a series of legislative measures in an action plan on sustainable finance (the "Sustainable Action Plan") to raise this capital.

The Sustainable Action Plan sets out a comprehensive strategy to connect finance with sustainability. Its key actions include:

- Establishing a clear and detailed EU classification system – or taxonomy – for sustainable activities. This will create a common language for all actors in the financial system;
- Establishing mandatory disclosures and EU labels for green financial products. This will help investors to easily identify products that comply with green or low-carbon criteria;

- Introducing measures to clarify asset managers' and institutional investors' duties regarding sustainability;
- Strengthening the transparency of financial market participants and companies on their ESG policies; and
- Incorporating climate risks into banks' risk management policies and supporting financial institutions that contribute to fund sustainable projects.

The Sustainable Action Plan also included a number of legislative proposals, one of which resulted in the adoption of the Disclosure Regulation. There are many other legislative proposals in various stages of the EU's legislative process, which will start to become effective from 2020 onwards.

A detailed discussion of each of these initiatives is beyond the scope of this Guide but the table below summarises the key laws:

Disclosure Regulation	Consistent disclosure requirements in relation to sustainability
Taxonomy Regulation	A unified classification system for sustainable activities
Benchmarks Regulation	Standardised sustainability benchmarks for green products
MiFID and IDD	Including sustainability considerations in financial advice
UCITS AND AIFMD	Integrating sustainability risks and factors into UCITS and AIFMD
Corporate non-Financial Disclosure	Strengthening ESG data reporting and accounting rule-making
Green Bonds	A common green bond standard to increase comparability and transparency
EU Ecolabel	Common EU Ecolabel for sustainable products, including financial products
Corporate Governance	Fostering sustainable corporate governance and collecting evidence of undue short-term pressure from capital markets
CRR/Solvency II	Incorporating sustainability into prudential requirements
Credit Ratings	Integrating sustainability in ratings and market research

In addition, these ESG specific laws will have a knock-on impact and in many cases result in amendments to existing requirements for Investment Managers. For example, amendments are proposed to the UCITS, AIFM and MiFID Directives.

Although the Sustainable Action Plan initially focused on sustainability risks, the final EC proposal on sustainability disclosures also covers sustainable investments to limit potential greenwashing or other types of mis-selling.

## A Renewed Sustainable Finance Strategy

The Sustainable Action Plan has already achieved several of its key milestones and, therefore, the EC has decided to build on these early successes by developing a renewed sustainable finance strategy.

This will provide a roadmap with new actions to increase private investment in sustainable projects and activities to support the different actions set out in the European Green Deal and to manage and integrate climate and environmental risks into the EU's financial system.

The initiative will also provide additional enabling frameworks for the European Green Deal Investment Plan. A public consultation was open until 15 July 2020 to allow Investment Managers and other interested parties shape and inform the EC's work.

We anticipate that the Renewed Sustainable Finance Strategy will be published before the end of 2020.

# THE DISCLOSURE REGULATION

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## General overview

The Disclosure Regulation lays down harmonised rules on transparency for financial market participants and financial advisers with regard to the integration of sustainability risks, the consideration of adverse sustainability impacts and the provision of sustainability related information with respect to certain financial products.

Financial products falling within scope of the Disclosure Regulation (including UCITS, AIFs and segregated accounts) marketed in the EU which promotes, among other things, environmental or social characteristics or has sustainable investment as its objective will have to comply with more granular requirements than other types of financial products, the main objective being to mitigate “greenwashing” and ensure that the “green” or “ESG” labelling is not just a marketing exercise but is actually reflected in investment decision-making.

The Disclosure Regulation also seeks to avoid divergent measures across EU Member States and to ensure end-investors are offered standard and comparable information, in order to make an informed decision.

### Which firms are in scope of the Disclosure Regulation?

As noted above, the Disclosure Regulation applies to a wide range of “**financial market participants**” and “**financial advisers**”, and will introduce requirements at firm level and at the level of “**financial products**” as defined in Article 2 of the Disclosure Regulation.

As regards financial market participants, it applies to all AIFMs and UCITS management companies, as well as investment firms providing portfolio management services.

The Disclosure Regulation also applies to “**financial advisers**”, which include persons (including AIFMs, UCITS management companies or investment firms) providing investment advice.

As regards AIFMs, no distinction is made between smaller sub-threshold AIFMs or fully authorised AIFMs. Investment Managers employing more than 500 employees will however be subject to more granular disclosure requirements (see further details below).

### Impact on non-EU Investment Managers?

Owing to the broad drafting of the Disclosure Regulation and the definition of “**AIFM**” in Article 2, non-EU Investment Managers who are classified as AIFMs will fall within scope.

Non-EU AIFMs managing EU AIFs or actively marketing their products via national private placement regimes in the EEA<sup>6</sup> will be required to comply with the Disclosure Regulation. For example, a United States investment adviser managing an Irish AIF or marketing a Cayman AIF into the EEA will be required by the EU local competent authority to comply with specific requirements of the Disclosure Regulation.

It remains to be clarified how information related to the AIFM itself, rather than to the particular financial product which is being managed or distributed, will have to be implemented (see further details below).

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<sup>6</sup> European Economic Area

The Disclosure Regulation introduces a number of transparency requirements based on the type of financial products that are being marketed:

- Disclosure of integration of sustainability risks in the investment-decision process and remuneration policies, both at the level of the Investment Manager, and (where applicable) the financial product. For the financial product level disclosure, there is an option to “**comply or explain**” where sustainability risks are not relevant for the financial product in question.
- Disclosure of principal adverse impacts where the assessment leads to the conclusion that those risks are relevant, such as risks arising from underlying investee companies. The extent to which those sustainability risks might impact the performance of the financial product should be disclosed either in qualitative or quantitative terms. Where the sustainability risk assessment leads to the conclusion that there are no sustainability risks deemed to be relevant to the financial product, the reasons therefore should also be explained. This is a “comply or explain” disclosure which becomes mandatory for firms with more than 500 employees.
- Disclosure of information relating to financial products that are marketed with, among other characteristics, environmental or social characteristics or that are marketed as having sustainable investment as their objective.

Disclosures have to be made on firms’ websites; through investor pre-contractual disclosures (e.g. in a prospectus); and through periodic reporting to investors (e.g. in the annual financial statements). Further details are provided below under the section entitled “What specifically do firms have to disclose?”

### What are the sustainability-related concepts used in the Disclosure Regulation?

As noted above, the Disclosure Regulation includes a number of sustainability-related concepts:

#### Sustainable Investment

- A **“sustainable investment”** means an investment in an economic activity that contributes to an environmental objective, as measured, for example, by key resource efficiency indicators on the use of energy, renewable energy, raw materials, water and land, on the production of waste, and greenhouse gas emissions, or on its impact on biodiversity and the circular economy, or an investment in an economic activity that contributes to a social objective, in particular an investment that contributes to tackling inequality or that fosters social cohesion, social integration and labour relations, or an investment in human capital or economically or socially disadvantaged communities, provided that such investments do not significantly harm (**“DNSH”**) any of those objectives and that the investee companies follow good governance practices, in particular, with respect to sound management structures, employee relations, remuneration of staff and tax compliance.

#### Sustainability Risk

- The Disclosure Regulation defines **“sustainability risk”** as an ESG **“event or condition that, if it occurs, could cause an actual or potential material negative impact on the value of the investment”**. The definition refers to the notion of an actual or potential **“material impact”** on the financial performance of an investment product. It will be down to the Investment Manager to assess those risks which will have a material impact on the value of the investment.

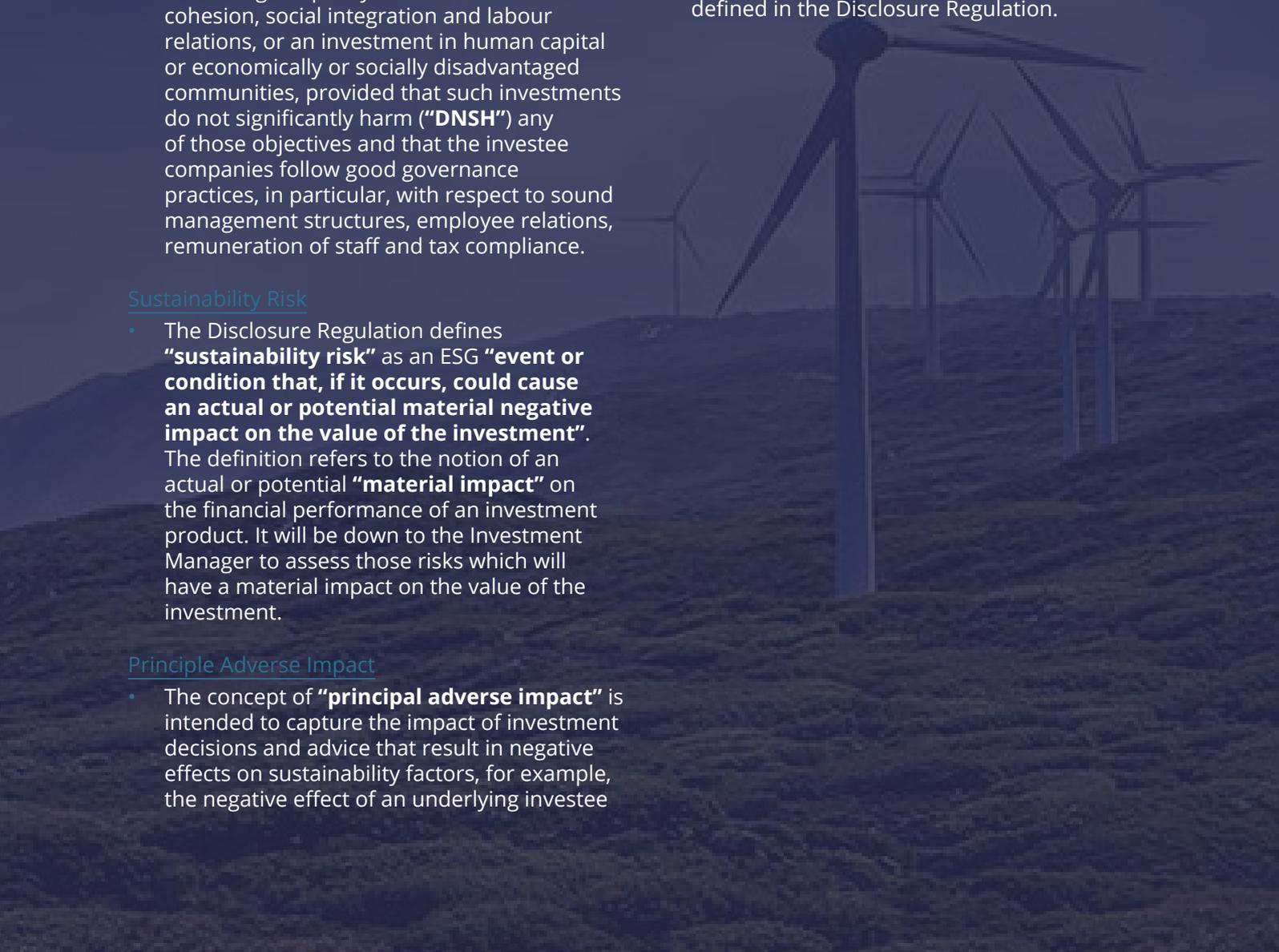
#### Principle Adverse Impact

- The concept of **“principal adverse impact”** is intended to capture the impact of investment decisions and advice that result in negative effects on sustainability factors, for example, the negative effect of an underlying investee

company on sustainability factors. As such, the concept of **“sustainability risk”** applies to the value of the financial product whereas the assessment of a **“principal adverse impact”** applies to the underlying investee company. Secondary legislation which is due to be published towards the end of 2020 will clarify how Investment Managers are expected to measure the principal adverse impacts of their investment decisions. Some indications are provided in the draft secondary legislation discussed further below.

#### Sustainability Factors

- As regards **“sustainability factors”**, these refer to environmental, social and employee matters, respect for human rights, anti-corruption and anti-bribery matters. Financial products can promote **“sustainable characteristics”** or a **“sustainable objective”**, which are concepts that are not defined in the Disclosure Regulation.



# ALIGNMENT WITH THE TAXONOMY REGULATION

As noted above, the Disclosure Regulation is a part of a number of legislative measures set out in the Sustainable Action Plan. In particular, it is aligned with and amended by the Taxonomy Regulation.

The Taxonomy Regulation requires financial markets participants, including Investment Managers, to make certain disclosures, primarily focusing on disclosing the level of alignment with activities that are considered as sustainable by the Taxonomy Regulation.

Pursuant to the Taxonomy Regulation and recommendations from the TEG, the Investment Managers of financial products with sustainable characteristics or objectives will need to:

- Disclose how and to what extent they have used the Taxonomy in determining the sustainability of the underlying investments;
- Disclose to what environmental objective(s) the investments contribute. An **“environmental objective”** is an economic activity defined in the Taxonomy Regulation that contributes to:
  1. Climate change mitigation;
  2. Climate change adaptation;
  3. Sustainable use and protection of water and marine resources;
  4. Transition to a circular economy;
  5. Pollution prevention and control;
  6. The protection and restoration of biodiversity and ecosystems.
- Take into account whether the investment is an **“environmentally sustainable activity”**, i.e. an activity which should: (i) contribute substantially to one of the above objectives; (ii) not significantly harm any of the above objectives; and (iii) be carried out in compliance with international standards such as the Guidelines for Multinational Enterprises and UN Guiding Principles on Business and Human Rights;
- Disclose the proportion of underlying investments that are Taxonomy aligned,

expressed as a percentage of the investment, financial product or portfolio. An Investment Manager which does not market its financial product as **“green”** might also decide to perform this calculation on a voluntary basis and is required to include the following disclaimer: **“the investments underlying this financial product do not take into account the EU criteria for environmentally sustainable investments”** in accordance with the requirements of the Taxonomy Regulation (as set out in further detail below under the section entitled **“What specifically do firms have to disclose?”**). For general disclosures (i.e. not seeking specific accreditation or labelling), there is no **“correct”** percentage or threshold of Taxonomy aligned securities in a financial product, but investors may wish to explain elements of their strategy or approach in the narrative, especially where the percentage is low. The TEG has recommended some examples in their March 2020 report, including:

- Financial products investing in companies whose ESG performance is low but improving over time may wish to describe the methods used to identify and engage companies and the expected time frame for that improvement;
- Where financial products use a different methodology for determining environmental performance, then best practice will be to explain the strategy, its environmental objectives and main

points of variance from the Taxonomy Regulation;

- Investment Managers may also wish to explain how they consider metrics, such as Taxonomy aligned capital expenditure (capex), when evaluating the sustainability of underlying investments and their trajectory towards the criteria;
- Investment Managers who appoint delegate fund managers may wish to disclose details of how they use the Taxonomy when engaging with these external managers.

The TEG recommends that Investment Managers complete calculations separately for each of the environmental objectives for which substantial contribution technical screening criteria have been developed. As noted below, this means differing timetables for climate change mitigation and adaptation versus the remaining four objectives.

The Taxonomy Regulation notes that Investment Managers will need further guidance and detail to implement these environmental measures and make the requisite disclosures. To this end, European Supervisory Authorities (“ESAs”) and European policymakers are currently drafting secondary legislation to further define the various activities that can be considered environmentally sustainable in light of the EU Green Taxonomy.

Draft criteria for activities that contribute to climate change mitigation and climate change adaptation on the EC website<sup>7</sup> provide a sense of the direction of travel. As regards climate change mitigation, criteria have been drafted for eight sectors (agriculture, forestry, manufacturing, energy production<sup>8</sup>, water management<sup>9</sup>, transport, information and communication and finally construction and real estate activities). For climate change adaptation, criteria have been drafted for six sectors (agriculture, forestry and fishing<sup>10</sup>, energy production, water management, information and communication, financial and

insurance activities and finally professional, scientific and technical activities).

Secondary legislation associated with the Taxonomy Regulation is expected to be published on 31 December 2020 for the objectives of “**climate change mitigation**” and “**climate change adaptation**” and on 31 December 2021 for the other objectives. Further detail on the applicable timeline is set out below.

The Taxonomy Regulation also applies to large issuing companies on public markets<sup>11</sup>. It is therefore expected that these companies will disclose the percentage of their activities that match the Taxonomy Regulation as part of their non-financial reporting.

<sup>7</sup> [https://ec.europa.eu/info/sites/info/files/business\\_economy\\_euro/banking\\_and\\_finance/documents/190618-sustainable-finance-teg-report-taxonomy\\_en.pdf](https://ec.europa.eu/info/sites/info/files/business_economy_euro/banking_and_finance/documents/190618-sustainable-finance-teg-report-taxonomy_en.pdf)

<sup>8</sup> Specifically electricity, gas and air conditioning supply.

<sup>9</sup> Specifically water, sewerage, waste and remediation.

<sup>10</sup> Under the Taxonomy Regulation, the TEG has developed technical screening criteria for agriculture and forestry, but not fishing.

<sup>11</sup> Companies in scope of the non-financial reporting directive (2014/95/EU) (“**NFRD**”)

# TIMELINE FOR THE DISCLOSURE REGULATION AND TAXONOMY REGULATION

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**In respect of the Disclosure Regulation and Taxonomy Regulation the timeline for implementation and compliance is a potential point of uncertainty for financial market participants (including Investment Managers).**

As noted above, the Taxonomy Regulation requires the ESAs to develop draft regulatory technical standards (“RTS”) to specify the details of the presentation and content of these additional disclosures.

Under the Disclosure Regulation, financial market participants must comply with the disclosure requirements from 10 March 2021 (save for Articles 11(1) to 11(3) relating to the promotion of environmental or social characteristics and of sustainable investments in periodic reports). However, the RTS do not have to be submitted to the EC until December 2020, which therefore potentially leaves financial market participants with a limited timeframe to implement any changes necessary in order to comply with the new requirements.

Under the Taxonomy Regulation, financial market participants must comply with the obligations relating to Article 5(1) and Article 5(2) in respect of climate change mitigation and climate change adaptation from 31 December 2021 (as outlined below), however the draft RTS do not have to be submitted to the EC until 1 June 2021 and may amend (where relevant) the draft RTS relating to the Disclosure Regulation that were submitted to the EC six months previously (on 30 December 2020).

## Recommendations of the TEG

The TEG recommends that Taxonomy disclosure requirements are tailored to reflect the differences in pre-contractual and periodic reporting.

Pre-contractual disclosures should focus on ex-ante information, including, but not limited to:

- The environmental objectives of the financial product, including any Taxonomy-related targets (e.g. 20% of the financial product invested in companies with >50% Taxonomy-aligned turnover, or with substantial Taxonomy-related capex);
- How the Taxonomy will be used to achieve these objectives (e.g. portfolio construction or as the basis of engagement with companies).
- Periodic reporting should focus on ex-post information, including, but not limited to:
- How the strategies have been implemented in practice; and
- A point-in-time calculation of the Taxonomy percentage.

## Verification and Dealing with Limited Data?

The Disclosure Regulation and Taxonomy Regulation do not yet require that Investment Managers seek external verification or assurance of their disclosures. Rather they envisage that the ESAs and EC shall evaluate voluntary disclosures and the functioning of the regulations in the future in 2022.

In the interim, Investment Managers will need to adhere to their existing obligations for the accuracy and presentation of pre-contractual and periodic reporting under AIFMD, MiFID and the UCITS Directive.

The TEG also acknowledges the hurdles involved in assessing compliance, which will particularly affect EU companies and bond issuers that do not fall under the scope of the NFRD and non-EU companies. The TEG recognises that in certain cases implementation of the Taxonomy will require Investment Managers conduct (or delegate) a five-step check process as provided in the March 2020 reports.

## Secondary Legislation (Regulatory Technical Standards – RTS)

The ESAs have published a joint consultation paper in respect of ESG disclosures (the “**Joint Consultation Paper**”) which sets out the proposed RTS to be incorporated into an EC delegated regulation supplementing the Disclosure Regulation.<sup>12</sup>

As regards the principal sustainable adverse impacts, the Joint Consultation Paper provides a mandatory reporting template to use for the statement on considering such impacts. Mandatory reporting items include a summary, the principal adverse impacts (with a list of a proposed 32 mandatory indicators), policies on the identification of and actions taken in relation to principal adverse impact, notably as regards due diligence processes and engagement policies, as well as historical comparisons.

The Joint Consultation Paper also requires those who decide not to consider principal adverse impacts to add a separate section on their website entitled “No consideration of sustainability adverse impacts”, with a prominent statement from the Investment Manager.

It is worth noting that in respect of the link and the disclosures relating to “**principal adverse impacts**” and “**do not significantly harm**” the ESAs have commented that these should be clarified by the EC as both concepts could involve different uses of the same indicators.

As regards pre-contractual disclosures for products with sustainability characteristics or objectives, the Joint Consultation Paper includes:

- A requirement to use a mandatory reporting template for the presentation of pre-contractual disclosure. In particular, the joint Consultation Paper recommends a mandatory graphical representation of illustrating the planned proportions of investments with environmental or social (“**E**” or “**S**”) characteristics or objective;

- A list of items to be included in the reporting indicating clearly the type of product and how the E or S characteristics or the sustainable investment objective of the product are achieved – this also includes specific descriptions in relation to the use of derivatives;
- Additional items of disclosure where the product designates an index as a reference benchmark; and
- Requirements for products making sustainable investments regarding how the product complies with the “**do not significantly harm**” principle.

As regards periodic disclosures for products with E or S characteristics or a sustainable investment objective, the Joint Consultation Paper includes:

- A mandatory reporting template for the presentation of the periodic disclosure also requesting a graphical presentation of the investments that are sustainable;
- A granular list of items to be included in the reporting, focusing on the success of the product in attaining its E or S characteristics or the sustainable investment objective – the list of items includes a disclosure of the top ten investments, a narrative on the purpose of the investments that are not considered as sustainable and a sector-by-sector breakdown of the investments; and
- Requirements for products making sustainable investments regarding how the product has complied with the “**do not significantly harm**” principle.

<sup>12</sup> <https://www.esma.europa.eu/press-news/esma-news/esas-consult-environmental-social-and-governance-disclosure-rules>

## CURRENT TIMELINE FOR THE KEY DATES AND DEADLINES - SUMMARISED BELOW:

- **30 DECEMBER 2020**  
**ACTION:** Draft RTS to the Disclosure Regulation to be submitted to the EC.
- **31 DECEMBER 2020**  
**ACTION:** Delegated act on the first two climate related objectives of the Taxonomy Regulation namely (i) climate change mitigation; and (ii) climate change adaptation to be adopted by the EC (relating to Article 5(1) and Article 5(2) of the Taxonomy Regulation).
- **10 MARCH 2021**  
**ACTION:** Commencement date of the Disclosure Regulation (save for Articles 11(1) to 11(3)) relating to the promotion of environmental or social characteristics and of sustainable investments in periodic reports.
- **1 JUNE 2021**  
**ACTION:** Draft RTS in respect of environmental objectives under Articles 5(1) and 5(2) of the Taxonomy Regulation to be submitted to the EC relating to (i) climate change mitigation; and (ii) climate change adaptation.
- **31 DECEMBER 2021**  
**ACTION:** Expected commencement date of the Taxonomy Regulation, in respect of Article 5(1) and Article 5(2) relating to (i) establishing technical screening criteria for climate change mitigation and climate change adaptation; and (ii) establishing technical screening criteria, for each relevant environmental objective to determine whether an economic activity in respect of which screening criteria are established pursuant to point (i) is considered to cause significant harm to those objectives.
- **31 DECEMBER 2021**  
**ACTION:** Delegated act on the remaining four environmental objectives of the Taxonomy Regulation in respect of Articles 5(3) to 5(6) relating to (i) sustainable use and protection of water and marine resources; (ii) transition to a circular economy; (iii) pollution prevention and control; and (iv) protection and restoration of biodiversity and ecosystems to be adopted by the EC.
- **1 JANUARY 2022**  
**ACTION:** Commencement date of Articles 11(1) to 11(3) of the Disclosure Regulation.
- **1 JUNE 2022**  
**ACTION:** Draft RTS in respect of environmental objectives under Articles 5(3) to 5(6) in respect of the Taxonomy Regulation to be submitted to the EC relating to (i) sustainable use and protection of water and marine resources; (ii) transition to a circular economy; (iii) pollution prevention and control; and (iv) protection and restoration of biodiversity and ecosystems.
- **31 DECEMBER 2022**  
**ACTION:** Expected commencement date of the Taxonomy Regulation, in respect of Articles 5(3) to 5(6) relating to (i) establishing technical screening criteria for determining under which conditions a specific economic activity is considered to contribute substantially to sustainable use and protection of water and marine resources, transition to a circular economy, pollution prevention and control, and protection and restoration of biodiversity and ecosystems; and (ii) to establish technical screening criteria, for each relevant environmental objective, for determining whether an economic activity in respect of which screening criteria are established pursuant to point (i) is considered to cause significant harm to those objectives.

## WHAT SPECIFICALLY DO FIRMS HAVE TO DISCLOSE?

The main requirements are summarised below:

### DISCLOSURE AT FIRM LEVEL

	SCOPE	CHANNEL OF THE DISCLOSURE	REQUIREMENT
<b>Sustainability risks</b>  at the level of the financial market participant  <b>(Article 3)</b>	All financial market participants - no opt out.	Website (public)	Draft and publish information about policies on the integration of sustainability risks in the investment decision-making process.  This disclosure provision assumes that sustainability risks-related policies have been drafted.
<b>Sustainability Risks</b>  at the level of the financial adviser  <b>(Article 3)</b>	All financial advisers -no opt out.	Website (public)	Draft and publish information about their policies on the integration of sustainability risks in their investment advice or insurance advice.  Sustainability risks-related policy is also required.
<b>Principal adverse sustainability impacts (PASI)</b>  at the level of the financial market participant  <b>(Article 4)</b>	All financial market participants on a <b>“comply or explain”</b> basis.  Financial market participants with more than 500 employees or qualifying parent undertakings are obliged to comply from 30 June 2021.  Those that choose to explain why they don't consider PASI are referred to as <b>“PASI”</b> opt-out firms in this table.	Website (public)	Publish information on due diligence policies looking at PASI, including: <ul style="list-style-type: none"> <li>- Information on the identification and prioritisation of PASI;</li> <li>- Description of the PASI considered and any action planned in relation to it;</li> <li>- Description of engagement policies as established in application of the revised Shareholders Right Directive.<sup>13</sup></li> </ul> Reference to adherence to OECD and UNPRI due diligence standards.  This disclosure provision assumes that such due diligence policies have been drafted.  Financial market participants which are not considering PASI have to publish clear reasons why they are not doing so and, if relevant, whether they intend to consider such adverse impact in the future.

	SCOPE	CHANNEL OF THE DISCLOSURE	REQUIREMENT
<p><b>Principal adverse sustainability impacts (PASI)</b></p> <p>at the level of the financial advisers<sup>14</sup></p> <p><b>(Article 4)</b></p>	<p>All financial advisers on a <b>“comply or explain”</b> basis.</p> <p>Those that choose to explain why they don’t consider PASI are referred to as <b>“PASI”</b> opt-out firms in this table.</p>	Website (public)	<p>Publish information on whether they consider in their investment advice or insurance advice the PASI factors.</p> <p>Financial advisers which are not considering PASI have to publish clear reasons why they are not doing so and, if relevant, whether they intend to consider such adverse impact in the future.</p>
<p><b>Remuneration</b></p> <p><b>(Article 5)</b></p> <p>- at the level of financial market participants and financial advisers</p>	<p>Financial market participants and financial advisers subject to UCITS, AIFMD, MiFID, CRD<sup>15</sup> /CRR, IORPs<sup>16</sup> frameworks.</p> <p>No opt out.</p>	Website (public)	Publication of information on how remuneration policies are consistent with the integration of sustainability risks.
<b>Absence of reference to EU Green Taxonomy</b>	Products that are not being marketed with a sustainable investment objective nor promoting sustainable characteristics.	Investors: Pre-contractual disclosures and periodic reports.	<p>Add the disclaimer in pre-contractual documentation and periodic reports:</p> <p><b>“The investments underlying this financial product do not take into account the EU criteria for environmentally sustainable investments.”</b></p>

13 Directive EU 2017/828

14 Article 4.5 of the Disclosure Regulation sets out less prescriptive obligations for financial advisers.

15 Directive 2013/36 EU of the European Parliament and of the Council.

16 Means an institution for occupational retirement provision authorised or registered in accordance with Article 9 of Directive (EU) 2016/2341 except an institution in respect of which a Member State has chosen to apply Article 5 of that Directive or an institution that operates pension schemes which together have less than 15 members in total;

## DISCLOSURE AT PRODUCT LEVEL

	SCOPE	CHANNEL OF THE DISCLOSURE	REQUIREMENT
<p><b>Sustainability risks</b></p> <p>By financial market participants</p> <p><b>(Article 6)</b></p>	<p>Description of manner which sustainability risk is integrated into investment decision and assessment of likely impact on the returns of the product.</p> <p>OR explanation why sustainability risks are not relevant.</p> <p><b>“Comply or explain”</b> clause.</p>	<p>Investors:</p> <p>Pre-contractual disclosure</p>	<p>For the products for which sustainability risks are relevant:</p> <ul style="list-style-type: none"> <li>- Describe the manner in which sustainability risks are integrated in investment decisions;</li> <li>- Assess and describe the likely impacts of sustainability risks on the returns of financial products; and</li> <li>- For other products: give a clear and concise explanation of the reasons why sustainability risks are not relevant.</li> </ul>
<p><b>Sustainability risks</b></p> <p>By financial advisers</p> <p><b>(Article 6)</b></p>	<p>Description of manner which sustainability risks are integrated into their investment or insurance advice and assessment of likely impact on the returns of the product they advise on</p> <p>OR</p> <p>explanation why sustainability risks are not relevant.</p> <p><b>“Comply or explain”</b> clause.</p>	<p>Investors:</p> <p>Pre-contractual disclosure</p>	<p>For the products for which sustainability risks are relevant:</p> <ul style="list-style-type: none"> <li>- Describe the manner in which sustainability risks are integrated in investment advice;</li> <li>- Assess and describe the likely impacts of sustainability risks on the returns of financial products; and</li> <li>- For other products: Give a clear and concise explanation of the reasons why sustainability risks are not relevant.</li> </ul>

SCOPE	CHANNEL OF THE DISCLOSURE	REQUIREMENT
<p><b>Principal adverse sustainability impact</b></p> <p>By financial market participants</p> <p>(not applicable to financial advisers)</p> <p><b>(Article 7)</b></p>	<p>Where a financial market participant has a sustainability due diligence policy (under Article 4), a description of whether and how a financial product considers PASI.</p> <p>Where a financial market participant does not have a sustainability due diligence policy (under Article 4), a statement that the financial market participant does not consider the adverse impacts of investment decisions on sustainability factors and why.</p> <p><b>“Comply or explain”</b> clause.</p>	<p>Investors:</p> <p>Pre-contractual disclosure and periodic reports</p>
		<p>In pre-contractual disclosures: a clear and reasoned explanation of whether and, if so, how a product considers PASI factors;</p> <p>A statement mentioning that information on PASI will also be available in periodic reports; and</p> <p>For PASI opt-out financial market participants, in pre-contractual disclosure: a statement that the financial market participant is not considering PASI, and the reasons why.</p>

## ENHANCED REQUIREMENTS FOR CERTAIN PRODUCT TYPES

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### Disclosures for products promoting environmental (E) or social (S) characteristics

#### INVESTORS: PRE-CONTRACTUAL DISCLOSURES

#### BY FINANCIAL MARKET PARTICIPANTS /FINANCIAL ADVISERS (ARTICLE 8)

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Information on how those characteristics are met (assuming adherence to good governance practices); and

If an index is used, information on whether the index used is consistent with the characteristics.

If the financial product promotes E characteristics, the information to be disclosed must include:

- The information on the environmental objective(s) to which the underlying investment contributes, as set out in the Taxonomy Regulation (see above for further details).
- A description of how and to what extent the underlying investments are invested in “**environmentally sustainable**” economic activities as set out in the Taxonomy Regulation (see the section entitled Alignment with the Taxonomy Regulation for further details). Such disclosure should specify the share of investments in environmentally sustainable economic activities, including details on the respective proportions of enabling and transition activities, as a percentage of all investments selected for the financial product.

Disclosure should also be accompanied by the following disclaimer statement: “**The “do no significant harm” principle is applied only for the investments underlying the product that take into account the EU criteria for environmentally sustainable investments.**”

*The investments underlying the remaining portion of this financial product do not take into account the EU criteria for environmentally sustainable investments.”*

## WEBSITE (PUBLIC)

### BY FINANCIAL MARKET PARTICIPANTS /FINANCIAL ADVISERS (ARTICLE 10)

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For each financial product:

- A description of E or S characteristics.
- Information on the methodologies used to measure and monitor the E and S characteristics, including data sources, screening criteria and relevant sustainability indicators.
- Information referred to in pre-contractual disclosures and in periodic reports.

The information shall be clear, succinct and understandable to investors, taking into account the sophistication of the investor. It must be published in way that is accurate, fair, clear not misleading, simple, concise and in a prominent and easily accessible area of the website.

## PERIODIC REPORTS

### BY FINANCIAL MARKET PARTICIPANTS /FINANCIAL ADVISERS (ARTICLE 11)

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Information on the extent to which E or S characteristics are met.

If the financial product promotes E characteristics, the information to be disclosed must be similar to the information disclosed in pre-contractual documents, i.e.:

- Information on the environmental objective(s) to which the underlying investment contributes, as set out in the Taxonomy Regulation (see above for further details).
- A description of how and to what extent the underlying investments are invested in **“environmentally sustainable”** economic activities as set out in the Taxonomy Regulation (see the section entitled Alignment with the Taxonomy Regulation for further details). Such disclosure should specify the share of investments in environmentally sustainable economic activities, including details on the respective proportions of enabling and transition activities, as a percentage of all investments selected for the financial product.

The disclaimer statement: **“The “do no significant harm” principle is applied only for the investments underlying the product that take into account the EU criteria for environmentally sustainable investments.**

*The investments underlying the remaining portion of this financial product do not take into account the EU criteria for environmentally sustainable investments.”*

## PRODUCTS WHICH HAVE SUSTAINABLE INVESTMENTS AS THEIR OBJECTIVES

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### INVESTORS: PRE-CONTRACTUAL DISCLOSURES

#### BY FINANCIAL MARKET PARTICIPANTS /FINANCIAL ADVISERS (ARTICLE 9)

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Information on alignment with the designated index and how it differs from a broad market index.

If no index is used: explanation on how the sustainable investment objective is to be attained.

If the financial product invests in an activity that contributes to an environmental objective, the information to be disclosed must include:

- Information on the environmental objective(s) to which the underlying investment contributes, as set out in the Taxonomy Regulation (see the section entitled Alignment with the Taxonomy Regulation for further details).
- A description of how and to what extent the underlying investments are invested in **“environmentally sustainable”** economic activities as set out in the Taxonomy Regulation (see the section entitled Alignment with the Taxonomy Regulation for further details). Such disclosure should specify the share of investments in environmentally sustainable economic activities, including details on the respective proportions of enabling and transition activities, as a percentage of all investments selected for the financial product.

Where a financial product has an objective of reducing carbon emissions, the information disclosed must include the objective of low carbon emission exposure in view of achieving the long-term global warming objectives of the Paris Agreement.<sup>17</sup>

Where no EU Climate Transition Benchmark or EU Paris-aligned Benchmark<sup>18</sup> is available, the information must include a detailed explanation of **“how the continued effort of attaining the objective of reducing carbon emissions is ensured in view of achieving the long-term global warming objectives of the Paris Agreement”**.

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<sup>17</sup> United Nations Framework Convention on Climate Change, which was approved by the European Union on 5 October 2016 and which entered into force on 4 November 2016.

<sup>18</sup> Regulation (EU) 2016/1011 of the European Parliament and of the Council of 8 June 2016 on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds and amending Directives 2008/48/EC and 2014/17/EU and Regulation (EU) No 596/2014 (OJ).

## PERIODIC REPORTS

### BY FINANCIAL MARKET PARTICIPANTS /FINANCIAL ADVISERS

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A description of the overall sustainability-related impact of the product by means of relevant sustainability indicators.

If an index is used, comparison between the overall impact of the financial product with the impact of the index.

If the financial product invests in an activity that contributes to an environmental objective, the information to be disclosed must be similar to the information disclosed in pre-contractual documents:

- Information on the environmental objective(s) to which the underlying investment contributes, as set out in the Taxonomy Regulation (see above for further details).
- A description of how and to what extent the underlying investments are invested in “**environmentally sustainable**” economic activities as set out in the Taxonomy Regulation (see the section entitled Alignment with the Taxonomy Regulation for further details) sustainable economic activities, including details on the respective proportions of enabling and transition activities, as a percentage of all investments selected for the financial product.

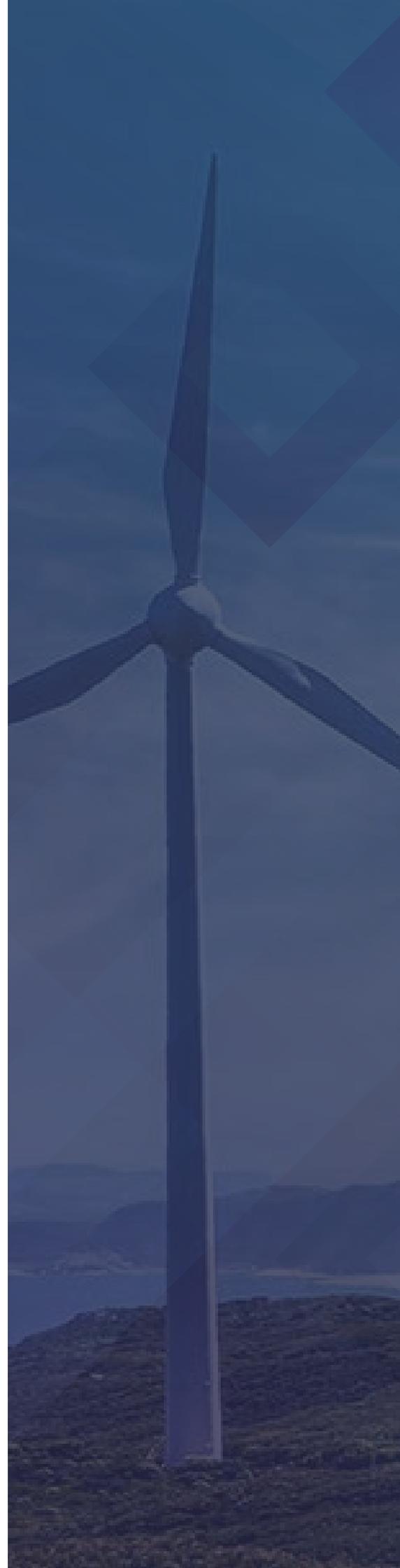
## WEBSITE (PUBLIC)

### BY FINANCIAL MARKET PARTICIPANTS/FINANCIAL ADVISERS

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For each financial product:

- A description of the sustainable investment objective.
- Information on the methodologies used to measure and monitor the E and S characteristics, including data sources, screening criteria and relevant sustainability indicators.
- Information referred to in pre-contractual disclosures and periodic reports.



## DISCLOSURE AND MARKETING COMMUNICATION REQUIREMENTS

	SCOPE	CHANNEL OF THE DISCLOSURE	REQUIREMENT
<b>Review of Disclosures</b> By Investment Managers (Article 12)	Ensure any information published in accordance with Article 3, 5 or 10 (as applicable) of the Disclosure Regulation (outlined above) is kept up to date.	Website (public)	Keep up to date any information published in accordance with transparency of sustainability risk policies, transparency of remuneration policies in relation to the integration of sustainability risks, and transparency of the promotion of E or S characteristics of sustainable investments on websites, including providing a clear explanation for any amendments.
<b>Marketing Communications</b> Investment Managers (Article 13)	Ensure marketing communications do not contradict the information disclosed pursuant to the Disclosure Regulation.	Marketing Communications	All marketing communications must not contradict the information disclosed pursuant to the Disclosure Regulation.  Technical standards may be implemented to determine the standard presentation of information in marketing communications.

## DISCLOSURE AND MARKETING COMMUNICATION REQUIREMENTS

FIRM	PRE-CONTRACTUAL	PERIODIC REPORTING
UCITS management companies	Prospectus (Article 69, UCITS Directive)	Annual report (Article 69, UCITS Directive)
Alternative Investment Fund Managers (AIFMs)	Disclosure to investors (Article 23(1), AIFMD)	Annual report (Article 22, AIFMD)
Investment firms providing portfolio management or investment advice (MiFID II)	Information to clients (Article 24(4) of MiFID II)	Periodic report (Article 25(6) of MiFID II)



# COMPLIANCE CHECKLIST

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## All Investment Managers managing or distributing financial products in the EU<sup>19</sup>

### Internal

- Amend or draft an internal policy describing how sustainability risks are considered in the investment process.
- Amend the internal AIFMD, UCITS or equivalent remuneration policy to ensure consistency with the consideration of sustainability risks.
- Identify products being marketed according to the following criteria:
  - Financial products for which sustainability risks are relevant;
  - Financial products for which sustainability risks are not relevant;
  - Financial products which promote E or S characteristics; and
  - Financial products which promote a sustainable investment objective.

### Website

- Draft and publish a paragraph describing the main features of the sustainability risks policy; alternatively, firms might elect to publish the policy in full.
- Publish the information in the remuneration policy that shows the consistency of the policy with the integration of sustainability risks.

### Pre-contractual documentation

- Check which financial products sustainability risks are relevant for and describe, in pre-contractual documentation, the manner in which these risks are integrated in investment decisions. Add an assessment and description of the likely impacts of sustainability risks on the returns of such financial products.
- For financial products for which sustainability risks are not relevant, give a clear and concise explanation of the reasons why such risks are not relevant.

### Other

- Check whether the consideration of principal adverse impacts is mandatory for your firm (500 employees threshold), or consider whether to opt-out.

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<sup>19</sup> For non-EU investment managers, this shall apply only in respect to funds marketed in the EU.

## Investment managers with 500+ employees or their qualifying parent undertakings (by 30 June 2021) or firms which have chosen not to opt out of principal adverse impact disclosure

### Internal

- Include in due diligence processes items that are related to the assessment of the principal adverse impacts of underlying investee companies, or check existing items that match the regulation requirements.

### Website

- Prepare and publish information on due diligence processes that include considerations relating to principal adverse impacts.

### Pre-contractual documentation (by 30 December 2022)

- For each financial product, describe whether and how the product considers principal adverse impacts on sustainability factors.
- For each financial product, draft a statement that information on principal adverse impacts on sustainability factors is available in the periodic report.

### Other

- Monitor the publication of secondary legislation which will clarify the content and indicators that needs to be taken into account and disclosed at the level of the firm in relation to adverse impacts (by 30 December 2020 for climate and environment-related impacts and by 30 December 2021 for social-related impacts).

## PASI Opt-out firms

### Website

- Draft and publish a paragraph giving clear reasons why the principal adverse impacts of the underlying companies are not being considered in the investment-decision process and state, if relevant, if your firm intends to consider such impacts in the future.

### Pre-contractual disclosure

- For each financial product, draft a statement that the firm is not considering principal adverse impacts and the reasons why.

## Mainstream financial products

### Pre-contractual and periodic report

- Add the disclaimer in pre-contractual document and periodic reports for each product that does not promote E or S characteristics, or sustainable investments: **“The investments underlying this financial product do not take into account the EU criteria for environmentally sustainable investments.”**

## Products with E or S characteristics

### Internal

- For financial products being marketed with E characteristics, check the compliance of the underlying investee companies with the Taxonomy and assess the share of the investments in environmentally sustainable activities (as per the EU taxonomy’s criteria), as a percentage of all investments of the relevant financial product.

### Website

- For each relevant financial product, draft and/or publish:
  - A description of the E or S characteristics;
  - Information on the methodologies used to measure and monitor the E and S characteristics, including data sources, screening criteria and relevant sustainability indicators; and
  - The information published to in pre-contractual disclosures and in periodic reports.

### Investors' pre-contractual disclosures

- For each relevant financial product, draft and publish:
  - Information on how the E and S categories are met; and
  - If an index is used, information on whether the index used is consistent with the characteristics.
- If the financial products promotes environmental characteristics, draft and publish:
  - Information on the environmental objective(s) to which the underlying investment contributes, as set out in the Taxonomy Regulation (see above for further details);
  - A description of how and to what extent the underlying investments are invested in **“environmentally sustainable”** economic activities as set out in the Taxonomy Regulation; and
  - Add also the following disclaimer for each relevant financial product: **“The “do no significant harm” principle is applied only for the investments underlying the product that take into account the EU criteria for environmentally sustainable investments. The investments underlying the remaining portion of this financial product do not take into account the EU criteria for environmentally sustainable investments.”**

### Periodic report (from 1 January 2022)

- For each relevant financial product, draft and publish:
  - Information on the extent to which E or S characteristics are met; and
  - Publish the information mentioned above in respect of pre-contractual disclosures in the periodic reports.

### Other

- Monitor the publication of secondary legislation which will clarify the content and indicators to be taken into account when disclosing information on websites, in pre-contractual disclosures and in periodic reports (by 30 December 2020).
- Monitor the publication of secondary legislation of the EU Green Taxonomy:
  - Publication on 31 December 2020 for the objectives of **“climate change mitigation” and “climate change adaptation”**, entry into application on 31 December 2021; and
  - Publication on 31 December 2021 for the other objectives (sustainable use and protection of water and marine resources; transition to a circular economy; pollution prevention and control; the protection and restoration of biodiversity and ecosystems) and entry into application on 31 December 2022.

## Products with sustainable investment objectives

### Internal

- For financial products being marketed with an environmentally sustainable objective, check the compliance of the underlying investee companies with the EU Green Taxonomy and assess the share of the investments in environmentally sustainable activities (as per the EU Green Taxonomy criteria), as a percentage of all investments of the relevant financial products.

### Website

- For each relevant financial product, draft and/or publish:
  - A description of the sustainable investment objective;
  - Information on the methodologies used to measure and monitor the E and S characteristics, including data sources, screening criteria and relevant sustainability indicators; and
  - Information referred to in pre-contractual disclosures and periodic reports.

**Investors' pre-contractual disclosures**

- For each relevant financial product, draft and publish:
  - Information on alignment with the designated index and how it differs from a broad market index; and
  - If no index is used: an explanation of how the sustainable investment objective is to be attained.
- For each financial product which has a reduction in carbon emissions as its objective, include the objective of low carbon emission exposure in view of achieving Paris Agreement's goal. Where no EU Climate Transition Benchmark or EU Paris-aligned Benchmark is available, include a detailed explanation of how the continued effort of attaining the objective of reducing carbon emissions is ensured in view of the Paris Agreement's goals.
- If the financial products invests in an activity that contributes to an environmental objective, draft and publish:
  - Information on the environmental objective(s) to which the underlying investment contributes, as set out in the Taxonomy Regulation (see above for further details); and
  - A description of how and to what extent the underlying investments are invested in **"environmentally sustainable"** economic activities as set out in the Taxonomy Regulation.

**Periodic report (from 1 January 2022)**

- For each relevant financial product, draft and publish:
  - A description of the overall sustainability-related impact of the product by means of relevant sustainability indicators; or
  - If an index is used, comparison between the overall impact of the financial product with the impact of the index; and
  - Publish again the information referred to above in the periodic reports.

**Other**

- Monitor the publication of secondary legislation which will clarify the content and indicators to be taken into account when disclosing information on websites, in pre-contractual disclosures and in periodic reports (by 30 December 2020).
- Monitor the publication of secondary legislation of the Taxonomy:
  - Publication on 31 December 2020 for the objectives of **"climate change mitigation"** and **"climate change adaptation"**, entry into application on 31 December 2021; and
  - Publication on 31 December 2021 for the other objectives (sustainable use and protection of water and marine resources; transition to a circular economy; pollution prevention and control; the protection and restoration of biodiversity and ecosystems) and entry into application on 31 December 2022.



## Maples Group

Peter Stapleton  
**Head of Funds & Investment Management**  
+353 1 619 2024  
peter.stapleton@maples.com

Eimear O'Dwyer  
**Partner**  
+353 1 619 2065  
eimear.o'dwyer@maples.com

## AIMA

Marie-Adelaide de Nicolay  
**Consultant, Head of Brussels Office**  
+32 2 401 61 46  
madenicolay@aima.org