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# GUIDE TO THE EU SUSTAINABLE FINANCE DISCLOSURE REGULATION - REGULATORY TECHNICAL STANDARDS





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# ABBREVIATIONS USED IN THIS GUIDE

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<b>Action Plan</b> .....	The European Commission's Action Plan on Financing Sustainable Growth which was adopted in March 2018.
<b>AIF</b> .....	An alternative investment fund as defined in Article 4(1) (a) of AIFMD.
<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>Article 6 Financial Product</b> .....	A financial product that meets the requirements of Article 6 of SFDR.
<b>Article 8 Financial Product</b> .....	A financial product that meets the requirements of Article 8 of SFDR.
<b>Article 9 Financial Product</b> .....	A financial product that meets the requirements of Article 9 of SFDR.
<b>ESG</b> .....	Environmental, Social and Governance factors.
<b>ESMA</b> .....	The European Securities and Markets Authority.
<b>Environmental Objectives</b> .....	The six environmental objectives as set out in the Taxonomy Regulation, namely: (i) climate change mitigation; (ii) climate change adaptation; (iii) sustainable use and protection of water and marine resources; (iv) transition to a circular economy; (v) pollution prevention and control; and (vi) the protection and restoration of biodiversity and ecosystems.
<b>Financial Market Participant(s) or FMP(s)</b> .....	A financial market participant within the meaning of Article 1(12) of SFDR.
<b>Financial Product(s)</b> .....	A financial product within the meaning of Article 2(12) of SFDR.

**Regulatory Technical Standards or RTS .....**

Commission Delegated Regulation supplementing Regulation (EU) 2019/2088 of the European Parliament and of the Council with regard to regulatory technical standards specifying the details of the content and presentation of the information in relation to the principle of 'do no significant harm', specifying the content, methodologies and presentation of information in relation to sustainability indicators and adverse sustainability impacts, and the content and presentation of the information in relation to the promotion of environmental or social characteristics and sustainable investment objectives in pre-contractual documents, on websites and in periodic reports.

**Sustainable Finance Disclosure Regulation or SFDR.....**

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.

**Taxonomy Regulation.....**

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 ((EU) 2019/2088).

**UCITS.....**

Undertakings for collective investment in transferable securities that are established in accordance with Article 5 of Directive 2009/65/EC.

# 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 implementation of the Regulatory Technical Standards supplementing SFDR, which will apply from **1 January 2023**.

For the purposes of this Guide, the presumption is that all applicable requirements pursuant to SFDR Phase I have been complied with by relevant FMPs and / or Financial Products. Please note for the purposes of this Guide we have not included the requirements relating to investment options pursuant to the RTS.

The aim of this Guide is to provide:

1. A practical summary of the key disclosures required pursuant to the RTS for: (i) FMPs, namely managers of UCITS and AIFs<sup>1</sup>; and (ii) Financial Products<sup>2</sup>; and
2. A sample compliance checklist to assist FMPs with the implementation of the RTS. The checklist covers: (i) the pre-contractual disclosures for Article 8 Financial Products and Article 9 Financial Products; (ii) website disclosures for Article 8 Financial Products and Article 9 Financial Products; (iii) the principle adverse impacts ("PAI") statement; and (iv) the periodic disclosures for Article 8 Financial Products and Article 9 Financial Products.

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<sup>1</sup>The RTS 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 their financial products.

<sup>2</sup>For the purposes of SFDR, "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

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In December 2019, the European Commission announced a European Green Deal, which sets out a road map for making the EU's economy sustainable and carbon-neutral by 2050. It builds on the European Commission's Action Plan on Financing Sustainable Growth (the "**Action Plan**") which was adopted in March 2018.

The Action Plan contemplates a series of legislative measures designed to encourage private capital into the sustainable finance space. The first major milestone of the Action Plan was the coming into force of SFDR on 10 March 2021, followed quickly by the Taxonomy Regulation on 1 January 2022.

As discussed in greater detail in our [Guide to the EU Sustainable Finance Disclosure Regulation \(the "SFDR Phase I Guide"\)](#), SFDR seeks to establish a harmonised approach in respect of sustainability-related disclosures to investors within the European Union's financial services sector based on the type of Financial Products that are being marketed.

It seeks to avoid individual EU Member States ("**Member States**") developing divergent disclosure standards or developing different approaches. The objective of SFDR is to improve the disclosures made available to investors and to ensure investors are offered standard and comparable information, in order to enable them to make informed decisions regarding the sustainability credentials of a Financial Product.

The **Taxonomy Regulation** provides a framework to classify environmentally sustainable economic activities and establishes the conditions to create a unified classification system and sets out the criteria and factors to be taken into account for a product or activity to be deemed "environmentally sustainable".

For further details on what entities and Financial Products fall within scope of SFDR and the Taxonomy Regulation, please see our [SFDR Phase I Guide](#).

# SFDR - THE REGULATORY TECHNICAL STANDARDS

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## General overview of the RTS

The RTS<sup>3</sup> are due to come into force on 1 January 2023. This is the date when the Level 2 requirements under the RTS for SFDR and the Taxonomy Regulation will come into effect and is known as "SFDR Phase II" or "SFDR Level 2". The RTS will together with the SFDR and the Taxonomy Regulation constitute a "single rulebook" for sustainability disclosures for Financial Products operating in or distributed in the European Union.

The RTS set out the granular specifications for the content, methodology and presentation of certain disclosures outlined in SFDR and the Taxonomy Regulation.

They set out detailed disclosure requirements under SFDR and the Taxonomy Regulation and provide additional requirements, which FMPs must adhere to, including website disclosures and mandatory pre-contractual and periodic disclosure templates for Article 8 Financial Products and Article 9 Financial Products. The RTS also provide clarification on the interpretation of certain aspects of SFDR and furthermore, provide additional requirements with respect to the PAI statement.

## What specifically is required under the RTS?

The deliverables for SFDR Level 2 under the RTS can be broken down into four main areas:

1. Mandatory pre-contractual disclosure templates for Article 8 Financial Products and Article 9 Financial Products;
2. Website disclosures for Article 8 Financial Products and Article 9 Financial Products;
3. Mandatory template for the PAI statement; and
4. Mandatory periodic disclosure templates for Article 8 Financial Products and Article 9 Financial Products.

This Guide will look at each of these areas in further detail.

In addition, the RTS provide that the information that is required to be disclosed should be easily accessible, non-discriminatory, prominent, simple, concise, comprehensible, fair, clear and not misleading. FMPs are required to present and lay out the information required by the RTS in a way that is easy to read, use characters of readable size and use a style that facilitates its understanding. FMPs may only adapt the size and font type of characters and colours used in the templates set out in Annexes I to V of the RTS.

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<sup>3</sup> The finalised RTS were adopted by the European Commission on 6 April and are now subject to a three-month scrutiny period by the European Parliament and Council (extendable by another three months at their request).

# PRE-CONTRACTUAL DISCLOSURE REQUIREMENTS

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The RTS prescribe in detail the pre-contractual disclosure requirements that must be complied with for Article 8 Financial Products and Article 9 Financial Products. It is worth noting that the RTS do not require additional pre-contractual disclosure requirements to be complied with for Article 6 Financial Products.

We have set out in detail below a summary of the pre-contractual disclosure requirements that should be complied with under each respective heading of the RTS for: (i) Article 8 Financial Products; and (ii) Article 9 Financial Products.

## Article 8 Financial Products

This section of the Guide sets out the pre-contractual disclosure requirements that should be complied with under each respective heading of the RTS for Article 8 Financial Products.

### Presentation by FMPs of the Pre-Contractual Information to be Disclosed Pursuant to Article 8 of SFDR (Article 14 of the RTS)

For Article 8 Financial Products already in existence, [Annex II](#) will need to be populated in advance of 1 January 2023.

For each Article 8 Financial Product, FMPs shall:

1. Present the information to be disclosed under Article 8 of SFDR in the format set out in [Annex II](#) of the RTS and attach as an annex to the pre-contractual documentation<sup>4</sup>. The mandatory template is in a Q&A format, is very detailed and may take significant time to complete.
2. Include in the main body of the pre-contractual documents a prominent statement that information about the

environmental or social characteristics is available in the annex to those pre-contractual documents.

3. Provide at the beginning of the annex to the pre-contractual documents:
  - a. Whether the Financial Product intends to make any sustainable investments; and
  - b. Whether the Financial Product promotes environmental or social characteristics without having as its objective a sustainable investment.

### Sustainable Investment Information in the Asset Allocation Section for Article 8 Financial Products That Promote Environmental Characteristics (Article 15 of the RTS)

For Article 8 Financial Products that promote environmental characteristics FMPs shall provide in the section "*To what minimum extent are sustainable investments with an environmental objective aligned with the EU Taxonomy?*" in the template set out in [Annex II](#) of the RTS the following:

1. A graphical representation in the form of a pie chart of:
  - a. The degree to which the aggregated investments are investments in environmentally sustainable economic activities<sup>5</sup>; and
  - b. The degree to which the aggregated investments, excluding sovereign exposures, are investments in environmentally sustainable economic activities<sup>6</sup>.
2. A description of the investments underlying the Financial Products that

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<sup>4</sup> The RTS refer to the documents or the information referred to in Article 6(3) of SFDR.

<sup>5</sup> As calculated in accordance with Article 17(1) to (4) of the RTS.

<sup>6</sup> As calculated in accordance with Article 17(1) to (4) of the RTS.

are in environmentally sustainable economic activities, including whether the compliance of those investments with the requirements set out in Article 3 of the Taxonomy Regulation in respect of "*criteria for environmentally sustainable activities*", will be subject to an assurance provided by one or more auditors or a review by one or more third parties and, if so, the name or the names of the auditor or third party;

3. Where the Financial Products invest in economic activities other than environmentally sustainable economic activities, a clear explanation of the reasons for doing so; and
4. Where the Financial Products have sovereign exposures and the FMPs cannot assess the extent to which those exposures contribute to environmentally sustainable economic activities, a narrative explanation of the proportion in total investments of investments that consist of those exposures.

### Sustainable Investment Information in the Asset Allocation Section for Article 8 Financial Products That Promote Social Characteristics (Article 16 of the RTS)

For Article 8 Financial Products that promote environmental or social characteristics and that include a commitment to invest in sustainable investments with a social objective, FMPs shall include in the section "*What is the asset allocation planned for this financial product?*" in the template set out in [Annex II](#) of the RTS the minimum share of those sustainable investments.

### Calculation of the Degree to Which Investments are in Environmentally Sustainable Economic Activities (Article 17 of the RTS)

Article 17 of the RTS "*Calculation of the degree to which investments are in environmentally sustainable economic activities*" requires that the degree to which investments are in environmentally sustainable economic activities shall be calculated in accordance with the formula set out under Article 17 of the RTS.

### Article 9 Financial Products

This section of the Guide sets out the pre-contractual disclosure requirements that should be complied with under each respective heading of the RTS for Article 9 Financial Products.

### Presentation by FMPs of Pre-Contractual Information for Article 9 Financial Products (Article 18 of the RTS)

For Article 9 Financial Products already in existence, [Annex III](#) will need to be populated in advance of 1 January 2023 and attached as an annex to the pre-contractual documentation.

For each Article 9 Financial Product, FMPs shall:

1. Present the information to be disclosed under Article 9 of SFDR in an annex to the pre-contractual documentation in the format of the template set out in [Annex III](#) of the RTS;
2. Include in the main body of the pre-contractual document a **prominent statement** that the information about sustainable investment is available in the annex; and
3. Include at the beginning of the annex to the pre-contractual documentation a statement that the Financial Product has sustainable investment as its objective.

## Sustainable Investment Information for Article 9 Financial Products (Article 19 of the RTS)

For Article 9 Financial Products that invest in an economic activity that contributes to an environmental objective, FMPs shall include in the section "*What is the asset allocation and the minimum share of sustainable investments?*" in the template set out in [Annex III](#) of the RTS all of the following information:

1. A graphical representation in the form of a pie chart:
  - a. The degree to which the aggregated investments are investments in environmentally sustainable economic activities<sup>7</sup>; and
  - b. The degree to which the aggregated investments, excluding sovereign exposures, are investments in environmentally sustainable economic activities<sup>8</sup>.
2. Where the Financial Products invest in economic activities that contribute to an environmental objective and the economic activities are not environmentally sustainable economic activities, a clear explanation of the reasons for doing so; and
3. Where the Financial Products have sovereign exposures and the FMP cannot assess the extent to which those exposures contribute to environmentally sustainable economic activities, a narrative explanation of the proportion in total investments of investments that consist of those exposures.

For Financial Products that invest in an economic activity that contributes to a social objective, FMPs shall include in the section "*What is the asset allocation and the minimum share of sustainable investments?*" in the template set out in [Annex III](#) of the RTS the minimum share of those investments.

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<sup>7</sup>For the purposes of the information required as outlined at paragraph 1(a) above FMPs shall apply the information of Article 15(2) of the RTS as outlined above in the section of this Guide titled "*Sustainable Investment Information in the Asset Allocation Section for Article 8 Financial Products That Promote Environmental Characteristics*".

<sup>8</sup>For the purposes of the information required as outlined at paragraph 1(b) above FMPs shall apply the information of Article 15(3) of the RTS as outlined above in the Section of this Guide titled "*Sustainable Investment Information in the Asset Allocation Section for Article 8 Financial Products That Promote Environmental Characteristics*".

## WEBSITE DISCLOSURES

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The website disclosure requirements stipulated in the RTS apply from 1 January 2023, meaning that all FMPs must be in compliance from that date onwards for Article 8 and 9 Financial Products.

The RTS prescribe how and where website disclosures should be presented and provide mandatory headings for Article 8 Financial Products and Article 9 Financial Products. They also set out the information that should be included under each heading.

Pursuant to Article 2(3) of the RTS, FMPs shall keep the information published on their websites in accordance with the RTS up to date. They shall clearly mention the date of publication of the information and the date of any update. Where that information is presented as a downloadable file, FMPs shall indicate the version history in the file name.

Pursuant to Article 23 of the RTS the information must be published in a separate section of the FMP's website titled "Sustainability-related disclosures" and in the same part of the website as the other information relating to the Financial Products, including marketing communications.

The RTS further require that FMPs clearly identify the Financial Product to which the information in the sustainability-related disclosure section relates and prominently display the environmental or social characteristics or the sustainable investment objective of that Financial Product.

Previous drafts of the RTS had suggested when making public disclosures that: *"financial market participants should comply with national and Union law governing the protection of confidentiality of information, including the protection of undisclosed know-how and business information and the processing of personal data"*. The RTS do not include this provision and FMP's may therefore have to consider the implications of this omission and any updates they may need to make to their website disclosures, to ensure there is public disclosure of requisite information.

We have set out in the table below a summary of the website disclosure requirements pursuant to the RTS for both Article 8 Financial Products and Article 9 Financial Products.

<p><b>Requirements and where they are set out in the RTS</b></p>	<p><b>Website Disclosures - Article 8 Financial Products and Article 9 Financial Products</b></p>
<p><b>List of Sections to be Published on Website (Article 24) and (Article 37)</b></p>	<p><b>Article 8 Financial Products and Article 9 Financial Products</b></p> <p>FMPs shall publish on their websites:</p> <ul style="list-style-type: none"> <li>• The information referred to in Article 10(1); and</li> <li>• In the following sections titled: <ul style="list-style-type: none"> <li>a. 'Summary';</li> <li>b. 'Investment strategy';</li> <li>c. 'Proportion of investments';</li> <li>d. 'Methodologies';</li> <li>e. 'Data sources and processing';</li> <li>f. 'Limitations to methodologies and data';</li> <li>g. 'Due diligence'; and</li> <li>h. 'Engagement policies';</li> </ul> </li> </ul> <p><b>In addition to the above, the following headings must also be included for Article 8 Financial Products:</b></p> <ul style="list-style-type: none"> <li>a. 'No sustainable investment objective';</li> <li>b. 'Environmental or social characteristics of the financial product';</li> <li>c. 'Where an index is designated as a reference benchmark to attain the environmental or social characteristics promoted by the financial product'; 'Designated reference benchmark'; and</li> <li>d. 'Monitoring of environmental or social characteristics'.</li> </ul> <p><b>In addition to the above, the following headings must also be included for Article 9 Financial Products:</b></p> <ul style="list-style-type: none"> <li>a. 'No significant harm to the sustainable investment objective';</li> <li>b. 'Sustainable investment objective of the financial product';</li> <li>c. 'Monitoring of sustainable investment objective'; and</li> <li>d. 'Attainment of the sustainable investment objective'.</li> </ul>

<p><b>Website Section 'Summary' (Article 25) and (Article 38)</b></p>	<p><b>Article 8 Financial Products and Article 9 Financial Products</b></p> <ul style="list-style-type: none"> <li>• The summary of the information referred to under the above headings, shall be published on the FMP's website;</li> <li>• The summary section shall have a maximum length of two sides of A4-sized paper when printed; and</li> <li>• The website section '<i>Summary</i>' shall be provided in the official language of the Home Member State and in an additional language if in another Member State.</li> </ul>
<p><b>Website Section 'Investment strategy' (Article 28) and (Article 41)</b></p>	<p><b>Article 8 Financial Products and Article 9 Financial Products</b></p> <p>FMPs shall describe all of the following:</p> <ul style="list-style-type: none"> <li>• The investment strategy used to meet the environmental or social characteristics promoted by the Article 8 Financial Product or the sustainable investment objective by the Article 9 Financial Product; and</li> <li>• The policy to assess good governance practices of the investee companies, including with respect to sound management structures, employee relations, remuneration of staff and tax compliance.</li> </ul>
<p><b>Website Section 'Proportion of investments' (Article 29)</b></p>	<p><b>Article 8 Financial Products</b></p> <ul style="list-style-type: none"> <li>• FMPs shall insert the information referred to in Article 14 of the RTS with respect to the presentation by FMPs of the pre-contractual information to be disclosed for Article 8 Financial Products (outlined above in this Guide) and shall distinguish between direct exposures in investee entities and all other types of exposures to those entities.</li> </ul>
<p><b>Website Section 'Proportion of investments' (Article 42)</b></p>	<p><b>Article 9 Financial Products</b></p> <ul style="list-style-type: none"> <li>• FMPs shall insert the information referred to in the section "<i>What is the asset allocation and the minimum share of sustainable investments?</i>" in the template set out in <a href="#">Annex III</a> of the RTS and shall distinguish between direct exposures in investee entities and all other types of exposures to those entities.</li> </ul>
<p><b>Website Section 'Methodologies for environmental or social characteristics' (Article 31)</b></p>	<p><b>Article 8 Financial Products</b></p> <ul style="list-style-type: none"> <li>• FMPs shall describe the methodologies to measure how the social or environmental characteristics promoted by the Article 8 Financial Product are met.</li> </ul>

<p><b>Website Section 'Methodologies' (Article 44)</b></p>	<p><b>Article 9 Financial Products</b></p> <ul style="list-style-type: none"> <li>FMPs shall describe the methodologies used to measure the attainment of the sustainable investment objective and how the sustainability indicators to measure the attainment of that sustainable investment objective are used.</li> </ul>
<p><b>Website Section 'Data sources and processing' (Article 32) and (Article 45)</b></p>	<p><b>Article 8 Financial Products and Article 9 Financial Products</b></p> <ul style="list-style-type: none"> <li>FMPs shall describe all of the following: <ul style="list-style-type: none"> <li>The data sources used to attain each of the environmental or social characteristics promoted by the Article 8 Financial Product or the sustainable investment objective of the Article 9 Financial Product;</li> <li>The measures taken to ensure data quality;</li> <li>How data are processed; and</li> <li>The proportion of data that are estimated.</li> </ul> </li> </ul>
<p><b>Website Section 'Limitations to methodologies and data' (Article 33) and (Article 46)</b></p>	<p><b>Articles 8 Financial Products and Article 9 Financial Products</b></p> <ul style="list-style-type: none"> <li>FMPs shall describe any limitations to the methodologies and to the data sources.</li> <li><b>In addition to the above, the following shall also apply to Article 8 Financial Products</b> <ul style="list-style-type: none"> <li>FMPs shall describe how such limitations do not affect how the environmental or social characteristics promoted by the Article 8 Financial Product are met.</li> </ul> </li> <li><b>In addition to the above, the following shall also apply to Article 9 Financial Products</b> <ul style="list-style-type: none"> <li>FMPs shall describe why such limitations do not affect the attainment of the sustainable investment objective.</li> </ul> </li> </ul>
<p><b>Website Section 'Due diligence' (Article 34) and (Article 47)</b></p>	<p><b>Article 8 Financial Products and Article 9 Financial Products</b></p> <ul style="list-style-type: none"> <li>FMPs shall describe the due diligence carried out on the underlying assets of the Article 8 Financial Product or Article 9 Financial Product (as applicable), including the internal and external controls on that due diligence.</li> </ul>

<p><b>Website Section 'Engagement policies' (Article 35) and (Article 48)</b></p>	<p><b>Article 8 Financial Products and Article 9 Financial Products</b></p> <ul style="list-style-type: none"> <li>FMPs shall describe the engagement policies implemented where engagement is part of the environmental or social investment strategy in the case of Article 8 Financial Products or where engagement is part of the sustainable investment objective in the case of Article 9 Financial Products, including any management procedures applicable to sustainability-related controversies in investee companies.</li> </ul>
<p><b>Website Section 'No sustainable investment objective' (Article 26)</b></p>	<p><b>Article 8 Financial Products</b></p> <ul style="list-style-type: none"> <li>FMPs shall insert the following statement: "<i>This financial product promotes environmental or social characteristics, but does not have as its objective sustainable investment.</i>"</li> <li>Where the Article 8 Financial Product commits to making one or more sustainable investments, FMPs shall explain how the sustainable investment does not significantly harm any of the sustainable investment objectives, including all of the following: <ul style="list-style-type: none"> <li>How the indicators for adverse impacts in Table 1 of <a href="#">Annex I</a> of the RTS, and any relevant indicators in Tables 2 and 3 of <a href="#">Annex I</a> of the RTS, are taken into account;</li> <li>Information on Article 24(c) above, "<i>environmental or social characteristics of the financial product</i>"; and</li> <li>Whether the sustainable investment is aligned with the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights, including the principles and rights set out in the eight fundamental conventions identified in the Declaration of the International Labour Organisation on Fundamental Principles and Rights at Work and the International Bill of Human Rights.</li> </ul> </li> </ul>
<p><b>Website Section 'No significant harm to the sustainable investment objective' (Article 39)</b></p>	<p><b>Article 9 Financial Products</b></p> <ul style="list-style-type: none"> <li>FMPs shall explain whether and why the investments of the Article 9 Financial Product do not significantly harm any of the sustainable investment objectives, and provide all of the following information: <ul style="list-style-type: none"> <li>How the indicators for adverse impacts in Table 1 of <a href="#">Annex I</a> of the RTS, and any relevant indicators in <a href="#">Tables 2 and 3 of Annex I</a> of the RTS are taken into account; and</li> <li>Whether the sustainable investment is aligned with the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights, including the principles and rights set out in the eight fundamental conventions identified in the Declaration of the International Labour Organisation on Fundamental Principles and Rights at Work and the International Bill of Human Rights.</li> </ul> </li> </ul>

<p><b>Website Section 'Environmental or social characteristics of the financial product' (Article 27)</b></p>	<p><b>Article 8 Financial Products</b></p> <ul style="list-style-type: none"> <li>FMPs shall describe the environmental or social characteristics that the Article 8 Financial Product promotes.</li> </ul>
<p><b>Website Section 'Sustainable investment objective of the financial product' (Article 40)</b></p>	<p><b>Article 9 Financial Products</b></p> <ul style="list-style-type: none"> <li>FMPs shall describe the sustainable investment objective of the Article 9 Financial Product.</li> </ul>
<p><b>Website Section 'Monitoring of environmental or social characteristics' (Article 30)</b></p>	<p><b>Article 8 Financial Products</b></p> <ul style="list-style-type: none"> <li>FMPs shall describe how the environmental or social characteristics promoted by the Article 8 Financial Product and the sustainability indicators used to measure the attainment of each of those environmental or social characteristics promoted by the Article 8 Financial Product are monitored throughout its lifecycle and the related internal or external control mechanisms.</li> </ul>
<p><b>Website Section 'Monitoring of the sustainable investment objective' (Article 43)</b></p>	<p><b>Article 9 Financial Products</b></p> <ul style="list-style-type: none"> <li>FMPs shall describe how the sustainable investment objective and the sustainability indicators used to measure the attainment of the sustainable investment objective are monitored throughout the lifecycle of the Article 9 Financial Product and the related internal or external control mechanisms.</li> </ul>
<p><b>Website Section 'Designated reference benchmark' (Article 36)</b></p>	<p><b>Article 8 Financial Products</b></p> <ul style="list-style-type: none"> <li>FMPs shall describe whether an index has been designated as a reference benchmark to meet the environmental or social characteristics promoted by the Article 8 Financial Product, and how that index is aligned with the environmental or social characteristics promoted by the Article 8 Financial Product, including the input data, the methodologies used to select those data, the rebalancing methodologies and how the index is calculated; and</li> <li>Where part or all of the information referred to above is published on the website of the administrator of the reference benchmark, a hyperlink shall be provided to that information.</li> </ul>

<p><b>Website Section 'Attainment of the sustainable investment objective' (Article 49)</b></p>	<p><b>Article 9 Financial Products</b></p> <ul style="list-style-type: none"> <li>• FMPs shall describe all of the following: <ul style="list-style-type: none"> <li>a. For Article 9 Financial Products for which an index has been designated as a reference benchmark, how that index is aligned with the sustainable investment objective of the Article 9 Financial Product, including the input data, the methodologies used to select those data, the rebalancing methodologies and how the index is calculated; and</li> <li>b. For Article 9 Financial Products that have a reduction in carbon emissions as their objective, a statement that the reference benchmark qualifies as an EU Climate Transition Benchmark or an EU Paris-aligned Benchmark.<sup>9</sup></li> </ul> </li> <li>• By way of derogation from point (a), where the information referred to in that point is published on the website of the administrator of the reference benchmark, a hyperlink shall be provided to that information;</li> <li>• By way of derogation from point (b), where no EU Climate Transition Benchmark or EU Paris-aligned Benchmark<sup>10</sup> is available, this section of the website shall mention that fact and explain how the continued effort of attaining the objective of reducing carbon emissions is ensured in view of achieving the objectives of the Paris Agreement; and</li> <li>• FMPs shall explain the extent to which the Article 9 Financial Product complies with the methodological requirements.<sup>11</sup></li> </ul>
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<sup>9</sup> As defined in Article 3, points (23a) and (23b), of Regulation (EU) 2016/1011, and a hyperlink to where the methodology used for the calculation of those benchmarks can be found.

<sup>10</sup> As defined in Article 3, points (23a) and (23b), of Regulation (EU) 2016/1011.

<sup>11</sup> As set out in Commission Delegated Regulation (EU) 2020/1818 of 17 July 2020 supplementing Regulation (EU) 2016/1011.



## PRINCIPAL ADVERSE IMPACTS

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Chapter II of the RTS sets out in detail the content methodologies and presentation that FMPs should comply with under Article 4 of SFDR in respect of whether they consider PAI of their investment decisions on sustainability factors<sup>12</sup> at entity level.

Our SFDR Phase I Guide sets out in detail who the PAI apply to and who cannot opt out of the PAI requirement at entity level. In respect of whether an FMP is able to opt out of the consideration of PAI at entity level but nevertheless consider PAI at product level under Article 7 of SFDR, the European Commission has confirmed<sup>13</sup> that PAI can be considered at the financial product level even if not being considered at the entity level.

An FMP that considers the PAI of its investment decisions must disclose the appropriate information from the date it starts considering these impacts.

The RTS for entity-level PAI reporting provide a specification for the content, methodology and presentation of the information required by Article 4 of the SFDR and includes a mandatory reporting template to use for the PAI statement.

The additional detail specified by the entity-level PAI statement must be complied with from 1 January 2023. The first disclosure under the RTS, from 1 January 2023, should contain information on the following sections: "Summary", "Description of policies to assess principal adverse sustainability impacts", any "Engagement policies" and "References to international standards".

The first information relating to a reference period, i.e. the indicators, should be made in a statement to be published by 30 June 2023 in respect of a reference period corresponding to the 2022 calendar year.

The RTS do not set out any specific requirements with respect to PAI consideration at Financial Product level. However, pursuant to Article 7 of SFDR, for each Financial Product the pre-contractual documents shall contain the following disclosures by 30 December 2022:

- A clear and reasoned explanation of whether and, if so, how a Financial Product considers PAI on sustainability factors; and
- A statement that information on PAI on sustainability factors is available in the annual reports.

For Article 8 Financial Products and Article 9 Financial Products, these disclosures will be covered in the mandatory pre-contractual disclosure templates.

For Article 6 Financial Products, their pre-contractual disclosures will need to be updated by 30 December 2022 if the required disclosures outlined above are not already contained therein.

We have set out in detail below a summary of the requirements that should be complied with under each of the respective headings pursuant to the RTS with respect to the transparency of adverse impacts on sustainability factors.

Section 1 of Chapter II of the RTS sets out the requirements for the statement by FMPs where they do consider PAI of investment decisions on sustainability factors while section 3 Chapter II of the RTS sets out the requirements for the statement by FMPs where they do not consider adverse impacts of investment decisions on sustainability factors, as outlined in further detail below.

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<sup>12</sup>As defined under Article 2(24) of SFDR as environmental, social and employee matters, respect for human rights, anti-corruption and anti-bribery matters.

<sup>13</sup>Confirmed in the European Commission's responses to the ESAs' queries on the interpretation of the Sustainable Finance Disclosure Regulation and the Taxonomy Regulation as published in May 2022.

## FMPs That Do Consider PAI

### Statement by FMPs That They Do Consider PAI of their Investment Decisions on Sustainability Factors (Article 4 of the RTS)

1. By 30 June each year, FMPs that consider PAI of investment decisions on sustainability factors pursuant to Article 4(1)(a) of SFDR are required to publish on their website in a separate section titled "*Statement on principal adverse impacts of investment decisions on sustainability factors*", the information referred to under Article 4 of SFDR. That information shall cover the period of 1 January until 31 December of the preceding year, and shall be published in the section titled "*Sustainability-related disclosures*".
2. FMPs shall publish the statement referred to in paragraph 1 in the format of the template set out in [Table 1 of Annex I](#) of the RTS.
3. By way of derogation from paragraph 1 above, for FMPs that publish the PAI statement for the first time, the information shall cover the period from the date on which the PAI on sustainability factors were first considered until 31 December of that year. Those FMPs shall publish the information by 30 June of the following year.

### Summary section (Article 5 of the RTS)

In the summary section in [Table 1 of Annex I](#), FMPs shall include all of the following:

1. The name of the FMP to which the adverse sustainability impacts statement relates;
2. The fact that PAI on sustainability factors are considered;
3. The reference period of the statement; and
4. A summary of the PAI.

The summary shall be provided in one of the official languages of the home Member State. If the Financial Product of the FMP is made available in another Member State, the summary shall also be provided in one of the

official languages of that host Member State. The summary section shall be of a maximum length of two sides of A4-sized paper when printed.

### Description of the PAI of Investment Decisions on Sustainability Factors (Article 6 of the RTS)

1. In the section "*Description of the principal adverse impacts on sustainability factors*" in [Table 1 of Annex I](#) of the RTS, FMPs shall complete all the fields that relate to the indicators related to PAI of their investment decisions on sustainability factors, and they shall add all of the following:
  - a. Information on one or more additional climate and other environment-related indicators, as set out in [Table 2 of Annex I](#) of the RTS;
  - b. Information on one or more additional indicators for social and employee matters, respect for human rights, anti-corruption and anti-bribery matters, as set out in [Table 3 of Annex I](#) of the RTS; and
  - c. Information on any other indicators used to identify and assess additional PAI on a sustainability factor.
2. In the section "*Description of the principal adverse impacts on sustainability factors*" in [Table 1 of Annex I](#) of the RTS, FMPs shall describe the actions taken during the period from 1 January to 31 December of the preceding year and actions planned or targets set for the subsequent period from 1 January to 31 December to avoid or reduce the PAI identified.
3. FMPs shall include in the columns "Impact" in the section "*Description of the principal adverse impacts on sustainability factors*" in [Table 1 of Annex I](#) a figure on impact as the average of impacts on 31 March, 30 June, 30 September and 31 December of each period from 1 January to 31 December.

### Description of Policies to Identify and Prioritise PAI of Investment Decisions on Sustainability Factors (Article 7 of the RTS)

1. Pursuant to Article 7 of the RTS in the section "*Description of policies to identify and prioritise principal adverse impacts on sustainability factors*" in [Table 1 of Annex I](#) of the RTS, FMPs shall describe their policies to identify and prioritise PAI on sustainability factors and how those policies are kept up to date and applied, including all of the following:
  - a. The date on which the governing body of the FMP approved those policies;
  - b. How the responsibility for the implementation of those policies within organisational strategies and procedures is allocated;
  - c. The methodologies to select the indicators, and to identify and assess the PAI, and in particular an explanation of how those methodologies take into account the probability of occurrence and the severity of those PAI, including their potentially irremediable character;
  - d. Any associated margin of error within the methodologies referred to in point (c) above, with an explanation of that margin; and
  - e. The data sources used.
2. Where information relating to any of the indicators used is not readily available FMPs shall include in the section "*Description of policies to identify and prioritise principal adverse impacts on sustainability factors*" in [Table 1 of Annex I](#) of the RTS details of the best efforts used to obtain the information either directly from investee companies, or by carrying out additional research, cooperating with third party data providers or external experts or making reasonable assumptions.

### Engagement Policies Section (Article 8 of the RTS)

1. In the section "*Engagement policies*" in [Table 1 of Annex I](#) of the RTS, FMPs shall provide all of the following information:
  - a. Where applicable, brief summaries of the engagement policies<sup>14</sup>; and
  - b. Brief summaries of any other engagement policies to reduce PAI.
2. The brief summaries shall describe all of the following:
  - a. The indicators for adverse impacts considered in the engagement policies; and
  - b. How those engagement policies will be adapted where there is no reduction of the PAI over more than one period reported on.

### References to international Standards Section (Article 9 of the RTS)

1. In the section "*References to international standards*" in [Table 1 of Annex I](#) of the RTS, FMPs shall describe whether and to what extent they adhere to responsible business conduct codes and internationally recognised standards for due diligence and reporting and, where relevant, the degree of their alignment with the objectives of the Paris Agreement.
2. The description referred to in paragraph 1 shall contain information about all of the following:
  - a. The indicators used to consider the PAI on sustainability factors that measure the adherence or alignment;
  - b. The methodology and data used to measure the adherence or alignment, including a description of the scope of coverage, data sources, and how the methodology used forecasts the PAI of investee companies;

<sup>14</sup>As referred to in Article 3g of Directive 2007/36/EC of the European Parliament and of the Council.

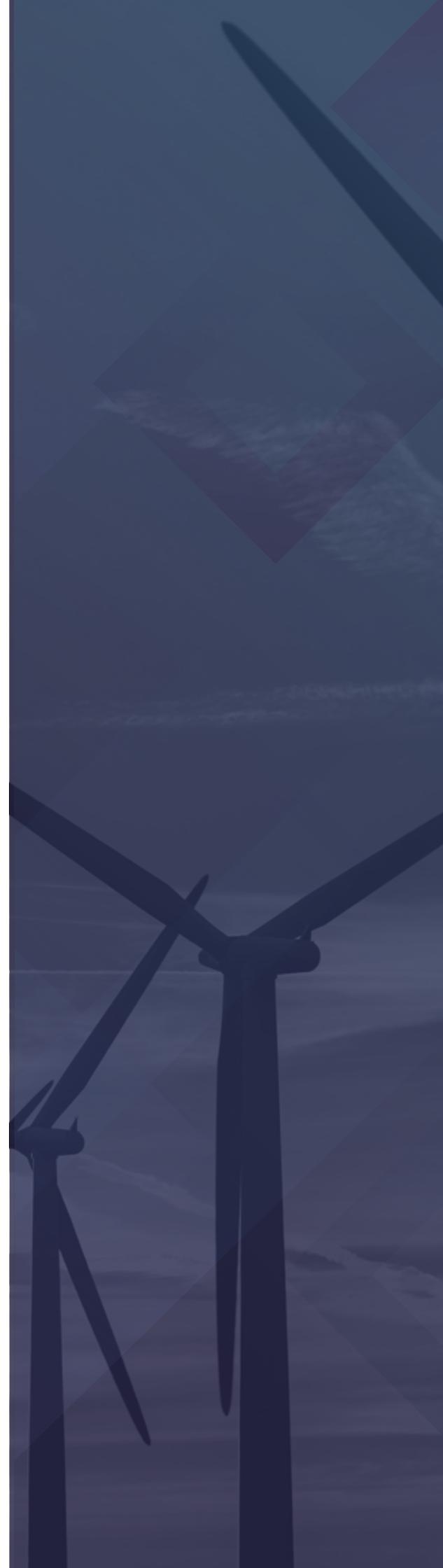
- c. Whether a forward-looking climate scenario is used, and, if so, the name and provider of that scenario and when it was designed; and
- d. Where no forward-looking climate scenario is used, an explanation of why the FMP does consider forward-looking climate scenarios to be irrelevant.

### **Historical Comparison (Article 10 of the RTS)**

FMPs that have described the adverse impacts on sustainability factors for a period preceding the period for which information is to be disclosed shall provide in the section "*Description of principal adverse impacts on sustainability factors*" in [Table 1 of Annex I](#) of the RTS a historical comparison of the period reported on with the previous period reported on and, subsequently, with every previous period reported on up to the last five previous periods.

### **FMPs That Do Not Consider PAI (Article 12 of the RTS)**

1. FMPs that do not consider adverse impacts of their investment decisions on sustainability factors (pursuant to Article 4(1)(b) of SFDR), are required to publish the information referred to in Article 4 of SFDR in a separate section of their website titled "*No consideration of adverse impacts of investment decisions on sustainability factors*".
2. The statement shall contain all of the following:
  - a. A prominent statement that the FMP does not consider any adverse impacts of its investment decisions on sustainability factors;
  - b. The reasons why the FMP does not consider any adverse impacts of its investment decisions on sustainability factors and, where relevant, information on whether the FMP intends to consider such adverse impacts by reference to the indicators listed in [Table 1 of Annex I](#) of the RTS, and if so, when.



# PERIODIC DISCLOSURE REQUIREMENTS

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In relation to the mandatory periodic disclosure templates for Article 8 Financial Products and Article 9 Financial Products contained in [Annex IV](#) and [Annex V](#) of the RTS respectively, these will need to be completed for any financial reports produced after 1 January 2023 irrespective of the financial period they cover.

The templates must be annexed to the periodic report which, for UCITS and AIFs will be their annual accounts.

When completing the mandatory periodic report templates they should be looked at side by side with the pre-contractual disclosure templates as effectively they are ex ante and ex post disclosures of the same detailed information. In ESMA's Supervisory Briefing on sustainability risks and disclosures in the area of investment management published on 31 May 2022, ESMA provides a non-exhaustive list of examples of cases where regulatory action to combat greenwashing may need to be taken and one of the examples given is where the periodic disclosure of an Article 8 or 9 Financial Product does not match (or fulfil) the characteristics or objectives shown in the fund documentation. This brings a level of accountability to the disclosures being made on a pre-contractual basis.

We have set out below a summary of the periodic disclosure requirements under each respective heading of the RTS for: (i) Article 8 Financial Products; (ii) Article 9 Financial Products; and (iii) the requirements that apply to both Article 8 Financial Products and Article 9 Financial Products..

## Article 8 Financial Products

This section of the Guide sets out the periodic disclosure requirements for Article 8 Financial Products.

### Presentation and Content Requirements for Periodic Reports for Article 8 Financial Products (Article 50 of the RTS)

For each Article 8 Financial Product, FMPs shall:

Present the information to be disclosed under Article 11(1) of SFDR in respect of the transparency of the promotion of environmental or social characteristics and of sustainable investments in periodic reports, in an annex to the annual report<sup>15</sup> in the form of the template set out in [Annex IV](#) of the RTS; and

1. Include in the main body of the annual report a prominent statement that information on the environmental or social characteristics is available in that annex.
2. Include in the main body of the annual report a **prominent statement** that information on the environmental or social characteristics is available in that annex.

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<sup>15</sup>The information referred to in Article 11(1) shall be disclosed in accordance with Article 11(2) of SFDR, however for the purposes of this Guide we have referred to the "annual report".

## Attainment of the Environmental or Social Characteristics Promoted by the Article 8 Financial Product (Article 51 of the RTS)

In the section "*To what extent were the environmental and/or social characteristics promoted by this financial product met?*" in the template set out in [Annex IV](#) of the RTS, FMPs shall provide all of the following information:

1. The extent to which the environmental or social characteristics promoted by the Financial Product were met during the period covered by the periodic report, including the performance of the sustainability indicators used to measure how each of those environmental or social characteristics are met and which derivatives, if any, have been used to meet those environmental or social characteristics;
2. For the Financial Products that promote environmental characteristics an identification of the Environmental Objectives to which the sustainable investment underlying the Financial Product contributed;
3. Where the FMP has provided at least one previous periodic report, historical comparison between the period covered by the periodic report and periods covered by previous periodic reports;
4. For Financial Products that included a commitment to make sustainable investments, an explanation of how those investments have contributed to the sustainable investment objectives and have not harmed significantly any of those objectives during the period covered by the periodic report including all of the following:
  - a. How the indicators for adverse impacts in [Table 1 of Annex I](#) of the RTS, and any relevant indicators in [Tables 2 and 3 of Annex I](#) of the RTS, were taken into account; and
  - b. Whether the sustainable investment was aligned with the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights, including the principles and rights set out in the eight

fundamental conventions identified in the Declaration of the International Labour Organisation on Fundamental Principles and Rights at Work and the International Bill of Human Rights.

5. Information on PAI on sustainability factors as referred to in the section "*Does this financial product consider principal adverse impacts on sustainability factors?*" in the template set out in [Annex II](#) of the RTS.

## Asset Allocation by Article 8 Financial Products (Article 53 of the RTS)

In the section "*What was the asset allocation?*" in the template set out in [Annex IV](#) of the RTS, FMPs shall provide a description of the investments of the Financial Product, including all of the following:

1. The proportions of the investments of the Financial Product that attained the promoted environmental or social characteristics during the period covered by the periodic report; and
2. The purpose of the remainder of the investments during the period covered by the periodic report, including a description of any minimum environmental or social safeguards and whether those investments are used for hedging, relate to cash held as ancillary liquidity or are investments for which there is insufficient data.

## Proportion of Investments in Different Economic Sectors and Sub-Sectors (Article 54 of the RTS)

In the section "*In which economic sectors were the investments made?*" in the template set out in [Annex IV](#) of the RTS, FMPs shall provide information on the proportion of investments during the period covered by the periodic report in different sectors and sub-sectors,

including sectors and sub-sectors of the economy that derive revenues from exploration, mining, extraction, production, processing, storage, refining or distribution, including transportation, storage and trade, of fossil fuels<sup>16</sup>.

### **Information on Investments in Environmentally Sustainable Economic Activities for Financial Products That Promote Environmental Characteristics (Article 55 of the RTS)**

Where the Financial Product included a commitment to make investments in economic activities that contribute to an Environmental Objective the section "*What was the proportion of sustainability-related investments?*" in the template set out in [Annex IV](#) of the RTS shall contain:

1. A breakdown of the proportion of the investments per each of the environmental objectives to which those investments contributed; and
2. A description of the investments in environmentally sustainable economic activities during the period covered by the periodic report, including all the information set out in Article 55(2) of the RTS which includes graphical representations in the form of a bar chart and breakdowns of the proportions of investments, during the period<sup>17</sup>.

### **Information for Financial Products That Promote Social Characteristics (Article 56 of the RTS)**

For Financial Products that promote environmental or social characteristics that included a commitment to invest in sustainable investments with a social objective, the section

"*What was the proportion of sustainability-related investments?*" in the template set out in [Annex IV](#) of the RTS shall contain the share of those sustainable investments.

### **Sustainable Performance of the Index Designated as a Benchmark for Environmental or Social Characteristics (Article 57 of the RTS)**

In the section "*How did this financial product perform compared to the designated reference benchmark?*" in the template set out in [Annex IV](#) of the RTS, FMPs shall, for Financial Products that promote environmental or social characteristics, provide the following information:

1. An explanation of how the index designated as a reference benchmark differs from a relevant broad market index, including the performance, during the period covered by the periodic report, of the sustainability indicators deemed relevant by the FMP to determine the alignment of the index with the environmental or social characteristics promoted by the Financial Product and the ESG factors referred to in the benchmark statement published by the benchmark administrator<sup>18</sup>;
2. A comparison between the performance of the Financial Product and the indicators measuring the sustainability factors of the index referred to in point 1 above during the period covered by the periodic report; and
3. A comparison between the performance of the Financial Product and a relevant broad market index during the period covered by the periodic report.

The comparisons referred to in paragraphs 2 and 3 above shall be presented, where relevant, either in the form of a table or in the form of a graphical representation.

<sup>16</sup> As defined in Article 2, point (62), of Regulation (EU) 2018/1999 of the European Parliament and of the Council.

<sup>17</sup> Article 55(1)(b) of the RTS prescribes in further detail additional information that should form part of this description.

<sup>18</sup> In accordance with Article 27(1) of Regulation (EU) 2016/1011.

# PERIODIC DISCLOSURE REQUIREMENTS

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## Article 9 Financial Products

This section of the Guide sets out the periodic disclosure requirements for Article 9 Financial Products.

### Presentation and Content Requirements for Periodic Reports for Article 9 Financial Products (Article 58 of the RTS)

For each Article 9 Financial Product, FMPs shall:

1. Present the information referred to in Article 11(1) of SFDR in respect of the transparency of sustainable investments in periodic reports in an annex to the annual report<sup>19</sup> in the form of the template set out in [Annex V](#) of the RTS; and
2. Include in the main body of the annual report a **prominent statement** that information on the sustainable investment is available in that annex.

### Attainment of the Sustainable Investment Objective of the Article 9 Financial Product (Article 59 of the RTS)

In the section "*To what extent was the sustainable investment objective of this financial product met?*" in the template set out in [Annex V](#) of the RTS, FMPs shall provide all of the following information:

1. The extent to which the sustainable investment objective was attained during the period covered by the periodic report, including the performance of:
  - a. The sustainability indicators referred to in the subsection "*What sustainability indicators are used to measure the attainment of the sustainable investment objective of this financial product?*" of the section "*What is the sustainable investment objective of this financial product?*" in the template set out in [Annex III](#) of the RTS; and
  - a. Any derivatives referred to in the subsection "*How does the use of derivatives attain the sustainable investment objective?*" of the section "*What is the asset allocation and the minimum share of sustainable investments?*" in the template set out in [Annex III](#) of the RTS used to attain the sustainable investment objective;
2. For Financial Products that invest in an economic activity that contributes to an Environmental Objective an identification of the Environmental Objectives to which the sustainable investment underlying the Financial Product contributed;
3. For Financial Products that have a **reduction in carbon emissions** as their objective information on how the objective of a reduction in carbon emissions was aligned with the Paris Agreement, containing a description of the contribution of the Financial Product during the period covered by the periodic report to achieve the objectives of the Paris Agreement, including in respect of an EU Climate Transition Benchmark or EU Paris-aligned Benchmark, the ESG factors and criteria considered by the benchmark administrator<sup>20</sup>;

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<sup>19</sup>The information referred to in Article 11(1) shall be disclosed in accordance with Article 11(2) of SFDR, however for the purposes of this Guide we have referred to the "annual report".

<sup>20</sup>In accordance with Delegated Regulation (EU) 2020/1818.

4. Where the FMPs have provided at least one previous periodic report in accordance with this section for the Financial Product, a historical comparison between the current period covered by the periodic report and previous periods;
5. An explanation of how the sustainable investments have contributed to a sustainable investment objective and have not harmed significantly any of the sustainable investment objectives during the period covered by the periodic report, including the following:
  - a. How the indicators for adverse impacts in Table 1 of [Annex I](#) of the RTS, and any relevant indicators in Tables 2 and 3 of [Annex I](#) of the RTS, were taken into account; and
  - b. Whether the sustainable investment was aligned with the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights, including the principles and rights set out in the eight fundamental conventions identified in the Declaration of the International Labour Organisation on Fundamental Principles and Rights at Work and the International Bill of Human Rights;
6. Information on PAI on sustainability factors as referred to in in the section "*Does this financial product consider principal adverse impacts on sustainability factors?*" in the template set out in [Annex III](#) of the RTS.

### Proportion of Sustainability-Related Investments for Article 9 Financial Products (Article 61 of the RTS)

In the section "*What was the proportion of sustainability-related investments?*" in the template set out in [Annex V](#) of the RTS, FMPs shall provide the following information:

1. The proportions of the investments of the Financial Product that contributed to the sustainable investment objective;
2. The purpose of the remainder of the investments during the period covered by the periodic report, including a description of any minimum environmental or social safeguards and whether those investments are used for hedging or relate to cash held as ancillary liquidity; and
3. The proportion of investments during the period covered by the periodic report in different sectors and sub-sectors.

## Information on Sustainable Investments for Article 9 Financial Products (Article 62 of the RTS)

For Financial Products that invest in an economic activity that contributes to an environmental objective the section "*What was the proportion of sustainability-related investments?*" in the template set out in [Annex V](#) of the RTS shall contain the following information:

1. A breakdown of the proportion of the investments per each of the environmental objectives to which those investments contributed;
2. A description of the sustainable investments in environmentally sustainable economic activities during the period covered by the periodic report, including all the information set out in Article 62 (2) of the RTS and graphical representation in the form of a bar chart and a breakdown of the proportions of investments, during the period covered by the periodic report;
3. Where the FMP could not assess the extent to which sovereign exposures contributed to environmentally sustainable economic activities during the period covered by the periodic report, a narrative explanation of the reasons and the size of those exposures in total investments; and
4. For Financial Products having sustainable investments with a social objective, the section "*What was the share of socially sustainable investments during the period covered by the periodic report?*" in the template set out in [Annex V](#) of the RTS shall also contain the share of those sustainable investments.

## Sustainable Performance of the Index Designated as a Benchmark for the Sustainable Objective (Article 63 of the RTS)

In the section "*How did this financial product perform compared to the reference sustainable benchmark?*" in the template set out in [Annex V](#) of the RTS, FMPs shall, for Article 9 Financial Products and for which an index has been designated as a reference benchmark, provide the following information:

1. An explanation of how the index designated as a reference benchmark differs from a relevant broad market index, including at least the performance during the period covered by the periodic report of the sustainability indicators deemed relevant by the FMP to determine the alignment of the index with the sustainable investment objective, including the ESG factors referred to in the benchmark statement published by the benchmark administrator<sup>21</sup> ; and
2. Comparisons between the performance of the Financial Product and a relevant broad market index during the period covered by the periodic report as further specified in detail in Article 63 of the RTS, which shall be made either in the form of a table or in the form of a graphical representation.

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<sup>21</sup> In accordance with Article 27(2a) of Regulation (EU) 2016/1011.

# PERIODIC DISCLOSURE REQUIREMENTS

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## For Article 8 Financial Products and Article 9 Financial Products

This section of the Guide sets out the periodic disclosure requirements that apply to both Article 8 Financial Products and Article 9 Financial Products.

### Top Investments for Article 8 Financial Products (Article 52 of the RTS) and Article 9 Financial Products (Article 60 of the RTS)

In the section "*What were the top investments of this financial product?*" in the template set out in [Annex IV](#) of the RTS for Article 8 Financial Products or [Annex V](#) of the RTS in respect of Article 9 Financial Products, FMPs shall list, in descending order of size, the fifteen investments constituting the largest proportion of investments of the Financial Product during the period covered by the periodic report, including the sectors and countries in which those investments were made.

Where the number of investments constituting 50% of the investments of the Financial Product during the period covered by the periodic report is less than fifteen, the section shall contain a list of those investments, in descending order of size, including the sectors and countries in which those investments were made.

## Historical Comparisons for Periodic Reports for Both Article 8 Financial Products and Article 9 Financial Products (Article 64 of the RTS)

1. FMPs shall in the historical comparisons contained within the periodic reports compare the period covered by the periodic report with periods covered by previous periodic reports and, subsequently, with every previous period covered by a periodic report up to at least the last five previous periods.
2. For the purposes of the historical comparisons<sup>22</sup> FMPs shall report on the performance of the sustainability indicators consistently over time, as prescribed by the RTS in further detail.

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<sup>22</sup> For historical comparisons referred to in Article 51(c) and 59(d) of the RTS.

# COMPLIANCE CHECKLIST FOR SFDR PHASE II

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For the purposes of this checklist, the presumption is that all applicable requirements pursuant to SFDR Phase I have been complied with by relevant FMPs and / or Financial Products.

## For FMPs Considering PAI at Entity Level

### Internal

- Review [Annex I](#) of the RTS and put in place processes for how and where data will be gathered for the quantitative data required for completion of the PAI statement.

### Website

- The PAI statement must be published in the format set out in [Annex I](#) of the RTS on the FMPs website under the section entitled "Statement on principal adverse impacts of investment decisions on sustainability factors".
- The following sections as set out under [Annex I](#) of the RTS must be completed by 1 January 2023:
  - Summary;
  - Description of policies to assess PAI;
  - Engagement policies; and
  - References to international standards.
- The first information relating to a reference period (i.e. the indicators) should be made in a statement to be published by 30 June 2023 in respect of a reference period corresponding to the 2022 calendar year.

## For FMPs Not Considering PAI at Entity Level

### Website

- The information required to be disclosed under Article 4 of SFDR should be published on the FMPs website under a separate section entitled "**No consideration of adverse impacts of investment decisions on sustainability factors**" by 1 January 2023.
- The statement shall contain all of the following:
  - The FMP does not consider any adverse impacts of its investment decisions on sustainability factors; and
  - Reasons why the FMP does not consider any adverse impacts of its investment decisions on sustainability factors and, where relevant, information on whether the FMP intends to consider such adverse impacts by reference to the indicators listed in [Table 1 of Annex I](#) of the RTS, and if so, when.

## For FMPs Considering PAI at Product Level

### 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 Disclosures

- Where PAI is being considered by the FMP at entity level, while the RTS do not provide specific details on this point, pursuant to Article 7 of SFDR for each Financial Product the pre-contractual documents shall contain the following disclosures by the 30 December 2022:
  - A clear and reasoned explanation of whether and, if so, how a Financial Product considers PAI on sustainability factors; and
  - A statement that information on PAI on sustainability factors is available in the annual reports.
- For Article 8 Financial Products and Article 9 Financial Products, these disclosures will be covered in the mandatory pre-contractual disclosure templates.
- For Article 6 Financial Products, their pre-contractual disclosures will need to be updated by 30 December 2022 if the required disclosures outlined above are not already contained therein.

## Article 8 Financial Products

### Internal

- Review [Annex II](#) of the RTS (the mandatory pre-contractual disclosure template) and [Annex IV](#) of the RTS (mandatory periodic report disclosure template) in order to: (i) familiarise with the questions that will be required to be completed; and (ii) put in place processes and procedures for gathering data required to complete such annexes.

### Website Disclosures

- For each Article 8 Financial Product the website disclosures must be updated in advance of 1 January 2023 in order to comply with the additional detail required under the RTS. Further detail on the information to be included for the website disclosures is set out under the section of the Guide entitled "Website Disclosures".

### Pre-Contractual Disclosures

- The mandatory pre-contractual disclosure templates for Article 8 Financial Products contained in [Annex II](#) of the RTS have to be populated for 1 January 2023 and annexed to the Article 8 Financial Product's pre-contractual documentation.
- Include in the main body of the pre-contractual documents a prominent statement that information about the environmental or social characteristics is available in the annex to those pre-contractual documents

### Periodic Report Disclosures

- The mandatory periodic disclosure templates for Article 8 Financial Products contained in [Annex IV](#) of the RTS will need to be completed for any financial reports produced after 1 January 2023 irrespective of the financial period they are covering.
- The template must be annexed to the periodic report, which for UCITS and AIFs will be their annual accounts.

## Article 9 Financial Products

### Internal

- Review [Annex III](#) of the RTS (the mandatory pre-contractual disclosure template) and [Annex V](#) (mandatory periodic report disclosure template) in order to: (i) familiarise with the questions that will be required to be completed; (ii) and put in place processes and procedures for gathering data required to complete such annexes.

### Website

- For each Article 9 Financial Product the website disclosures must be updated in advance of 1 January 2023 in order to comply with the additional detail required under the RTS. Further detail on the information to be included for the website disclosures is set out under the section of the Guide entitled "Website Disclosures".

### Pre-Contractual Disclosures

- The mandatory pre-contractual disclosure templates for Article 9 Financial Products contained in [Annex III](#) of the RTS have to be populated for 1 January 2023 and annexed to the Article 9 Financial Product's pre-contractual documentation.
- Include in the main body of the pre-contractual document a prominent statement that the information about the sustainable investment is available in the annex.

### Periodic Report Disclosures

- The mandatory periodic disclosure templates for Article 9 Financial Products contained in [Annex V](#) of the RTS will need to be completed for any financial reports produced after 1 January 2023 irrespective of the financial period there are covering.
- The template must be annexed to the periodic report, which for UCITS and AIFs will be their annual accounts.



# CONTACTS

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