

# INVESTOR BRIEFING

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## EU REGULATION ON SUSTAINABILITY-RELATED DISCLOSURES IN THE FINANCIAL SERVICES SECTOR

Updated in April 2021

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## THE PRINCIPLES FOR RESPONSIBLE INVESTMENT

The Principles for Responsible Investment (PRI) is the world's leading initiative on responsible investment. The PRI is now a not-for-profit company with over 3,500 signatories (pension funds, insurers, investment managers and service providers) to the PRI's six principles with approximately US \$100 trillion in assets under management.

The PRI supports its international network of signatories in implementing the Principles. As long-term investors acting in the best interests of their beneficiaries and clients, our signatories work to understand the contribution that environmental, social and governance (ESG) factors make to investment performance, the role that investment plays in broader financial markets and the impact that those investments have on the environment and society as a whole.

The PRI works to achieve this sustainable global financial system by encouraging adoption of the Principles and collaboration on their implementation; by fostering good governance, integrity and accountability; and by addressing obstacles to a sustainable financial system that lie within market practices, structures and regulation.

## ABOUT THIS BRIEFING

This briefing note is updated on a regular basis, please check [PRI investor briefings page](#) for the most recent version. This version incorporates the draft SFDR RTS, published 2 February 2021.

The European Supervisory Authorities (ESAs) are consulting on proposed Regulatory Technical Standards (RTS) on content and presentation of disclosures pursuant to Article 8(4), 9(6) and 11(5) Sustainable Finance Disclosure Regulation (SFDR). The [consultation](#) is open for comments until 12 May 2021. The proposed RTS have not been incorporated in this briefing.

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# AT A GLANCE

## WHY THE SFDR MATTERS

The SFDR will create and clarify disclosure requirements for sustainability risks in the financial services sector. This is crucial to combat ambiguity around investor duties which the PRI has shown, through its work with the [Fiduciary Duty in the 21st Century Programme](#) and the [High-Level Expert Group on sustainable finance](#), to be a key barrier to systematic ESG integration by investors.

The regulation also encourages investors to identify, assess and mitigate the potential adverse impacts of their investment on society and the environment. This is consistent with the direction of the broader sustainable finance agenda, as investors increasingly work to understand outcome focused investments.

## HOW THE SFDR RELATES TO THE PRI

### Reporting under the SFDR directly links to the Principles for Responsible Investment.

Specifically:

- Principle 1: We will incorporate ESG issues into investment analysis and decision-making processes.

The SFDR will help the market develop more products and a more transparent offering. This encourages consideration of sustainability risks and ESG incorporation into investment decisions.

- Principle 3: We will seek appropriate disclosure on ESG issues by the entities in which we invest.

The SFDR will lead to further engagement with investees to provide the relevant ESG metrics and data needed to account for investment practice and its evolution over time.

- Principle 6: We will each report on our activities and progress towards implementing the Principles.

The SFDR is a disclosure framework covering sustainability risks and considerations. Signatories also meet Principle 6 by reporting on their responsible investment annually through the *PRI Reporting and Assessment Framework*. The PRI framework has some similarities with the SFDR reporting framework. For example, both the SFDR and PRI R&A framework require FMPs to disclose policies on integrating sustainability risks/ incorporating ESG and on identification and prioritisation of PAIs or responsible investment outcomes.

**However, there are also differences.** For example, under the SFDR, disclosures around the consideration of sustainability outcomes is at product level whereas under the PRI reporting framework it is at entity level. The SFDR requires disclosure against at least 16 indicators whereas (excluding climate change indicators) the PRI asks more open-ended and broader questions about responsible investment overall.

PRI signatories should consider their reporting obligations under SFDR, noting that commitments to invest responsibly or to incorporate ESG factors into investment practices may have created SFDR related reporting obligations.

## KEY FEATURES OF THE SFDR

The regulation [\(EU\) 2019/2088](#) on Sustainable Finance Disclosure Regulation (SFDR) introduces new requirements and clarifies the sustainability-related disclosure obligations in the financial services sector. Disclosure requirements are set out at entity and product level. The new requirements distinguish between financial products which have sustainable investment as their objective, those which promote environmental and/or social objectives and all other products. The regulation applies to financial market participants from 10 March 2021.

## REGULATORY TECHNICAL STANDARDS

In application of the SFDR, the European Supervisory Authorities (ESAs) have developed draft [Regulatory Technical Standards](#) (RTS). These detail the content and the presentation of required disclosures, which depend on the type of financial product and their claims about sustainability.

The RTS provide clarifications on the:

- details of the presentation and content of the information, in relation to the principle of “do not significantly harm” (DNSH);
- adverse impact of investment decisions on sustainability factors, in relation to climate and other environment-related impacts, and with regards to social and employee matters, respect for human rights, anti-corruption and anti-bribery matters. For financial market participants with investments in investee companies, this involves disclosing against at least 16 adverse sustainability indicators (10 climate/environmental and 6 social/governance) (Article 6, draft RTS).
- required pre-contractual information at product level;
- required information on an entity’s website;
- required information in periodic reports.

In preparation of the RTS, the ESAs issued a [consultation paper](#) setting out the proposed RTS in April 2020 which was open for comments until 1 September 2020<sup>1</sup>. The final draft RTS was released in February 2021 and must be endorsed by the European Commission (EC) by April 2021 (3 months adoption period), followed by another three-month scrutiny period for Parliament and Council. The application of the RTS will be delayed to a later date according to the [EC letter to the ESAs](#). The ESAs have proposed to make the RTS applicable from 1 January 2022.

## WHO IS AFFECTED?

The regulation applies to financial institutions, defined as:

- Insurance undertakings making available Insurance-Based Investment Products (IBIPs);
- Institutions for Occupational Retirement Provision (IORPs);
- Manufacturers of pension products;
- Pan-European Personal Pension Product (PEPP) providers;

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<sup>1</sup> See PRI’s [response](#). We strongly believe the RTS should build from existing good practice in the investment industry.

- Alternative Investment Fund Managers (AIFMs);
- Undertakings for Collective Investment in Transferable Securities (UCITS) management companies; and
- Investment firms or credit institutions providing portfolio management and investment advice.

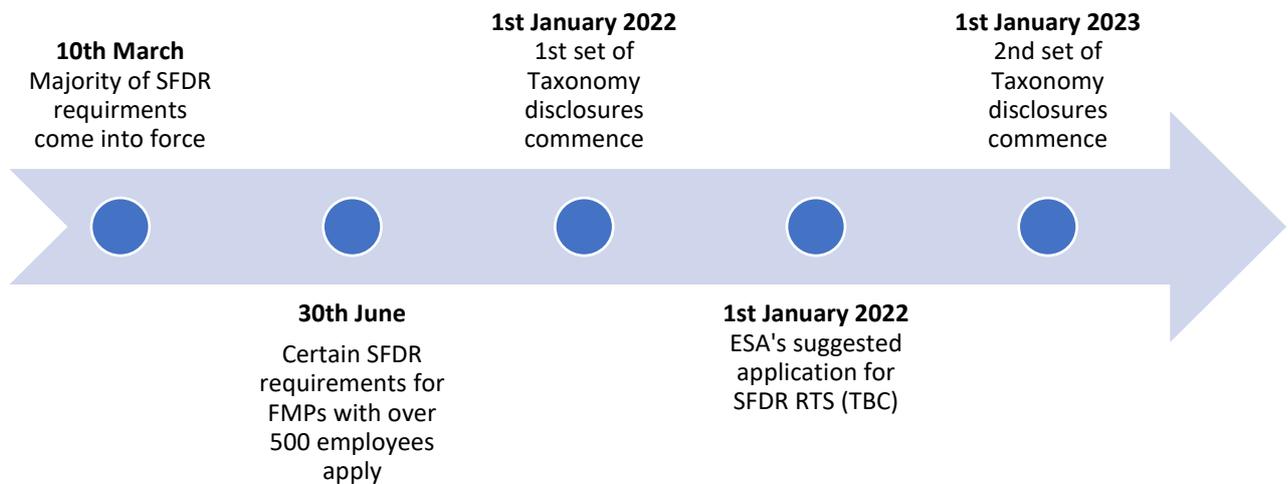
Non-EU financial market participants managing EU domiciled funds or marketing non-EU domiciled funds into the European Union may also be impacted by requirements under the SFDR.

## LINK TO TAXONOMY REGULATION

The regulation [\(EU\) 2020/852](#) on the establishment of a framework to facilitate sustainable investment (Taxonomy Regulation) is an amendment to the SFDR. The final text was published in the Official Journal of the European Union on 18 June 2020. The Taxonomy Regulation and the Sustainability Disclosures Regulation both apply to the same categories of funds and are designed to be complementary disclosure frameworks. In this briefing, key requirements of the Taxonomy Regulation are also identified. For more details on the Taxonomy, please see [PRI's briefing note](#).

## APPLICATION TIMELINE OF EU SUSTAINABLE DISCLOSURE OBLIGATIONS

Figure 1. Application timeline of EU sustainable disclosures regulation



## OVERVIEW OF DISCLOSURE REQUIREMENTS

The table below provides an overview of all disclosure requirements for both Financial Market Participants (FMPs) and Financial Advisors (FA), falling under the scope of SFDR, at both entity and product levels.

**Table 1: Overview of all disclosure requirements under the SFDR regulation**

	Financial Market Participants (FMPs)	Financial Advisors (FAs)
Entity level	Policies on the integration of sustainability risks	Policies on the integration of sustainability risks
	A (principal) adverse sustainability impacts statement	A (principal) adverse sustainability impacts statement
	Remuneration policies	Remuneration policies
Product level	How sustainability risks are integrated	How sustainability risks are integrated
	How and to what extent the Taxonomy regulation has been used	How and to what extent the Taxonomy regulation has been used
	Whether and how a financial product considers principal adverse impacts on sustainability factors – “Article 7 products”	n/a
	Pre-contractual, website, periodic and Taxonomy-related disclosures for products which promote environmental and/or social characteristics – “Article 8 products”	n/a
	Pre-contractual, website, periodic and Taxonomy-related disclosures for products which have sustainable investment as their objective – “Article 9 products”	n/a

Table 2 describes disclosure requirements for FMPs who wish to market their products as Sustainable. The SFDR regulation distinguishes two types of products:

- Products that promote social and environmental characteristics (Article 8, SFDR)
- Products that pursue sustainable investment objective (Article 9, SFDR)

**Table 2: Detailed overview of disclosure requirements for FMPs marketing Article 8 and/or 9 products under the SFDR regulation**

Article 8 products	Article 9 products
Characteristics of the product	Characteristics of the product
Website disclosures	Website disclosures
Periodic disclosures	Periodic disclosures
Use of the Taxonomy, the environmental objective(s) to which the fund contributes and the proportion of the underlying fund that is Taxonomy-aligned.	Use of the Taxonomy, the environmental objective(s) to which the fund contributes and the proportion of the underlying fund that is Taxonomy-aligned.
Explain how the sustainable investment DNSH any of the sustainable investment objectives the financial product may have.	<p>If using an index as reference benchmark,</p> <ul style="list-style-type: none"> <li>■ how the index is aligned with the objective;</li> <li>■ why/how this differs from a broad market index; and</li> <li>■ source of methodology.</li> </ul> <p>If not using an index as reference benchmark, how the objective is to be attained.</p>
Accompanying disclosure statement	If the objective is a carbon emissions reduction, the alignment with the Paris Agreement targets and source of methodology.

# DISCLOSURE REQUIREMENTS IN DETAIL

## ENTITY LEVEL DISCLOSURE REQUIREMENTS

The following statements have to be published by FMPs and FAs on their websites:

- Policies on the integration of sustainability risks in their decision-making or in their investment or insurance advice (Article 3, SFDR);
- A principal adverse sustainability impacts statement (Article 4, SFDR) for FMPs;
- An adverse sustainability impacts statement (Article 10, draft RTS) for FAs;
- Remuneration policies (Article 5, SFDR).

## POLICIES ON THE INTEGRATION OF SUSTAINABILITY RISKS IN THEIR DECISION-MAKING OR IN THEIR INVESTMENT OR INSURANCE ADVICE (ARTICLE 3, SFDR)

FMPs shall publish on their websites information about their policies on the integration of sustainability risks in their investment decision-making process.

FAs shall publish on their websites information about their policies on the integration of sustainability risks in their investment advice or insurance advice.

## PRINCIPAL ADVERSE SUSTAINABILITY IMPACTS STATEMENT (ARTICLE 4, SFDR) – FOR FINANCIAL MARKET PARTICIPANTS

### Consideration of sustainability impacts

For FMPs who do consider the principle adverse impacts of their investment decisions, the principal adverse sustainability impacts statement must:

- Be located in the same part of the website as the section referred to in Article 31 (Website sustainability-related product disclosure section) (Article 4(1) draft RTS);
- Have maximum length of two sides of A4-sized paper when printed and in one of the official languages of the home Member State of the FMP as well as in an additional language customary in the sphere of international finance (Article 5 draft RTS);
- Follow the formatting and specific indicator requirements set out in Table 1 of Annex I, p.59ff. (Article 4, draft RTS). See Box 1.

Note: for FMPs with fewer than 500 employees this reporting applies on a [comply-or-explain basis](#).

### No consideration of sustainability adverse impacts

FMPs that do not consider the principal adverse impacts of their investment decisions on sustainability factors (Article 4(1) b, SFDR), shall publish the information referred to in Article 11 draft RTS (“No consideration of sustainability adverse impacts”). Namely, a prominent statement that the FMP does not consider the adverse impacts of its investment decisions on sustainability factors, clear reasons why it does not do so and, if so, when it intends to consider those adverse impacts by reference to at least the indicators in Table 1 of Annex I (Article 11, RTS). See Box 1.

### **Box 1: What a Principal adverse sustainability impacts statement must contain**

The following sections detail the disclosures required in Annex 1, table 1 of the draft RTS.

#### **Description of principal adverse sustainability impacts**

This shall include (Article 6, draft RTS):

- a description, for the reference period\*, of adverse impacts of investment decisions of the FMP on sustainability factors that qualify as principal; including
  - all the indicators related to principal adverse impacts on sustainability factors as set out in Table 1 of Annex 1;
  - at least one additional indicator related to principal adverse impacts on a climate or other environment related sustainability factor that qualifies as principal as set out in Table 2 of Annex I;
  - at least one additional indicator related to principal adverse impacts on a social, employee, human rights, anti-corruption or anti-bribery sustainability factor that qualifies as principal as set out in Table 3 of Annex I;
  - any other indicators used to identify and assess additional principal adverse impacts on a sustainability factor.
- a description of the actions taken during the reference period\* and actions planned or targets set by the FMP for the next reference period to avoid or reduce the principal adverse impacts identified.
- an historical comparison of the current reference period\* with the previous reference period provided in accordance with those paragraphs. FMPs shall continue to include further historical comparisons within that statement for at least five previous reference periods.

\* For an explanation of reference periods, see the disclosure timeline and reference periods in principal adverse impacts statements section below.

#### **Description of policies to identify and prioritise principal adverse sustainability impacts**

The description shall include at least the following (Article 7, draft RTS):

- the date of approval of the policies by the governing body of the FMP;
- the allocation of responsibility for the implementation of the policies within organisational strategies and procedures;
- a description of the methodologies to select the indicators referred to in points (b) to (d) of Article 6(1), to identify and assess the principal adverse impacts referred to in points (a) to (d) thereof and, in particular, how those methodologies take into account the probability of occurrence and severity of adverse impacts, including their potentially irremediable character;
- an explanation of any associated margin of error within those methodologies and a description of the data sources used.

## **BOX 1: What a Principal adverse sustainability impacts statement must contain (continued)**

### **Engagement policies**

FMPs shall publish on their websites brief summaries of engagement policies in accordance with Article 3g of [Directive 2007/36/EC](#) (Shareholder Rights Directive), Article 4 (2c), SFDR.

NB: Article 3g refers to the [Directive 2017/828](#) (Shareholder Rights Directive II).

The draft RTS suggest this shall also include:

- a description of the indicators for adverse impacts considered in those policies and how those policies adapt where there is no reduction of the principal adverse impacts over more than one reference period as well as (Article 8(2), draft RTS);
- a brief summary of any other engagement policies relating to reducing principal adverse impacts. (Article 8(1)b, draft RTS).

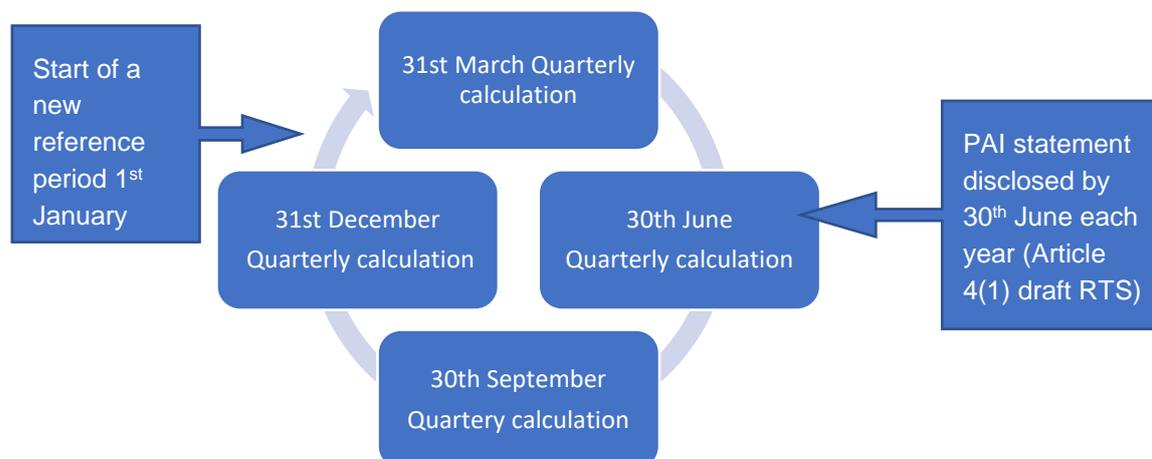
### **References to international standards**

This section shall contain a description of the adherence of the FMP 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 (Article 9, draft RTS). The description shall contain:

- the adverse impact indicators used in the assessment of principal adverse sustainability impacts (referred to in the description of principal adverse sustainability impacts (Article 6, draft RTS)) to measure that adherence or alignment;
- the methodology and data used to measure that adherence or alignment, including a description of the scope of coverage, data sources and how the methodology forecasts the future performance of investee companies;
- where a forward-looking climate scenario is used, an identification of that scenario, including the name and provider of the scenario and when it was designed; and
- where a forward-looking climate scenario is not used, an explanation of why forward-looking climate scenarios are not considered to be relevant by the FMP.

## Disclosure timeline and reference periods in principal adverse impacts statements

**Figure 2. Quarterly calculation for Principal Adverse Impact statement with period of 1<sup>st</sup> January to 31<sup>st</sup> December**



FMPs must disclose their principal adverse sustainability impacts statements by **30 June each year** (Article 4(1), draft RTS). As stated in section 1 of box 1, *Description of principal adverse sustainability impacts*, disclosures are required over a reference period (Article 6, draft RTS). This is defined as the period from 1 January to 31 December of the preceding year (Article 1(2), draft RTS).

For the description of adverse impacts, and description of actions taken, the assessment shall be based on the average of at least four calculations made by the FMP on 31 March, 30 June, 30 September and 31 December during the reference period. Therefore, if the RTS do apply from 1st January 2022, the earliest information relating to a reference period to be disclosed in accordance with the RTS would be made in June 2023 in respect of a reference period relating to 2022.

Where the FMP has provided a description of adverse impacts on sustainability factors for a previous reference period, the statement shall contain a historical comparison of the current reference period with the previous reference period and shall continue to include further historical comparisons within that statement for at least five previous reference periods.

## **ADVERSE SUSTAINABILITY IMPACTS STATEMENT (ARTICLE 10, DRAFT RTS) – FOR FINANCIAL ADVISERS**

### **Consideration of adverse sustainability impacts**

FAs shall publish and maintain on their websites their considerations of principle adverse impacts on sustainability factors (Article 4(5), SFDR). The statement shall include:

- how the information referred to in this Regulation published by FMPs is used;
- whether the FA ranks and selects financial products based on at least the indicators in Table 1 of Annex I and, where applicable, a description of the ranking and selection methodology used; and
- any criteria or thresholds used to select financial products and advise on them based on those impacts.

### **No consideration of sustainability adverse impacts**

FAs that do not consider the principal adverse impacts of their investment decisions on sustainability factors (Article 4(5) b, SFDR), shall publish the information referred to in Article 12 draft RTS (“No consideration of sustainability adverse impacts”). Namely, a prominent statement that the FA does not consider the adverse impacts of its investment decisions on sustainability factors, clear reasons why is does not do so and whether and, if so, when it intends to consider those adverse impacts by reference to at least the indicators in Table 1 of Annex I (Article 12, RTS).

## **REMUNERATION POLICIES (ARTICLE 5, SFDR)**

FMPs and FAs shall include in their remuneration policies how these are consistent with the integration of sustainability risks (Article 5, Disclosure Regulation).

There is no further explanation on this in the draft RTS.

## PRODUCT-LEVEL DISCLOSURE REQUIREMENTS

### ALL PRODUCTS

#### FMPs must disclose:

- How sustainability risks are integrated into investment decisions, their likely impact on the return of the financial product (comply or explain) (Article 6, SFDR); and
- By 30 December 2022, whether and how a financial product considers principal adverse impacts on sustainability factors (Article 7, SFDR).

FMPs who don't market products which promote environmental and/or social objectives, or which have a sustainable investment objective, must accompany the above disclosures with a disclaimer stating, *'the investments underlying this financial product do not take into account the EU criteria for environmentally sustainable investments.'* (Article 7, Taxonomy Regulation).

#### FAs must disclose:

- How sustainability risks are integrated into their investment or insurance advice and their likely impact on the return of the financial product (comply or explain) (Article 6, SFDR).

If the financial product does not promote environmental and/or social objectives, or does not have a sustainable investment objective, FAs must accompany this disclosure with a disclaimer stating, *'the investments underlying this financial product do not take into account the EU criteria for environmentally sustainable investments.'* (Article 7, Taxonomy Regulation).

## FINANCIAL PRODUCTS PROMOTING ENVIRONMENTAL AND/OR SOCIAL OBJECTIVES (“ARTICLE 8 PRODUCTS”)

### Pre-contractual disclosures for Article 8 products

FMPs marketing products which promote environmental and/or social objectives must provide a description of these objectives; details of how they are met; information on the reference index and the methodology used if a benchmark has been used (Article 8, SFDR).

This information should be disclosed in an annex to the document referred to in Article 6(3) of the SFDR (depending on type of institution) in accordance with the template set out in **Annex II** of the draft RTS (Article 13(1) draft RTS). The annex should start with a statement which states (Article 13(2), draft RTS):

- whether the financial product intends to make any sustainable investments;
- that the financial product promotes environmental or social characteristics, but does not have as its objective a sustainable investment; and
- whether an index has been designated as a reference benchmark for the purpose of attaining environmental or social characteristics promoted by the financial product.

The annex must also present information in the following order and sections set out in Box 2 (Article 13(3), draft RTS).

#### **BOX 2: Pre-contractual disclosures for FMPs marketing Article 8 products under Annex II of the draft RTS**

Annex II provides a template on the pre-contractual disclosure for FMPs marketing financial products referred to in Article 8, SFDR.

##### **What environmental and/or social characteristics are promoted by this financial product?**

This section shall contain a description of the environmental or social characteristics promoted by the financial product and a list of the sustainability indicators used to measure the attainment of each of the environmental or social characteristics promoted by the financial product (Article 14, draft RTS).

##### **What investment strategy does this financial product follow?**

This section shall contain the following information (Article 15, draft RTS):

- a description of the type of investment strategy used to attain the environmental or social characteristics promoted by the financial product, the binding elements of that strategy to select the investments to attain each of those characteristics and how the strategy is implemented in the investment process on a continuous basis;
- where there is a commitment by the FMP to reduce by a minimum rate the scope of investments considered prior to the application of the strategy referred to in point (a), an indication of that rate; and
- a short description of the policy used to assess good governance practices of the investee companies and a reference to the website containing further details on the investment strategy referred to in Article 32(d) draft RTS (website product disclosure).

## **BOX 2: Pre-contractual disclosures for FMPs marketing Article 8 products under Annex II of the draft RTS (continued)**

### **What is the asset allocation planned for this financial product?**

This section shall contain (Article 16, draft RTS):

- a narrative explanation of the investments of the financial product, including:
  - the minimum proportion of the investments of the financial product used to attain the environmental or social characteristics promoted by the financial product in accordance with the binding element of the investment strategy; and
  - the purpose of the remaining proportion of the investments of the financial product, including a description of any minimum environmental or social safeguards.
- where the financial product uses derivatives within the meaning of Article 2(1)(29) of Regulation (EU) 600/2014 to attain the environmental or social characteristics promoted by the financial product, a description of how the use of those derivatives attains those characteristics; and
- where the financial product commits to making one or more sustainable investments, a description of how the sustainable investments contribute to a sustainable investment objective and do not significantly harm any of the sustainable investment objectives, including an explanation of:
  - how the indicators for adverse impacts in Table 1 of Annex I and any relevant indicators in Tables 2 and 3 of Annex I, are taken into account; and
  - 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.

### **Does this financial product take into account principal adverse impacts on sustainability factors?**

This section shall explain whether the financial product promotes environmental or social characteristics by considering principal adverse impacts on sustainability factors as referred to in Article 7(1)(a) of the SFDR (Article 17, draft RTS).

### **Can I find more product specific information online?**

This section shall contain the following statement: “More product-specific information can be found on the website”. The statement shall also contain a hyperlink to the website with the information referred to in Article 45 (Article 32, draft RTS). See the website disclosures for Article 8 section in this briefing.

### **Is a specific index designated as a reference benchmark to determine whether this financial product is aligned with the environmental and/or social characteristics that it promotes?**

This section only applies where an index is designated as a reference benchmark for the purpose of attaining the environmental or social characteristics promoted by the financial product. It must contain (Article 19, draft RTS):

- an explanation of how the reference benchmark is continuously aligned with each of the environmental or social characteristics promoted by the financial product and with the investment strategy;
- an explanation how the designated index differs from a relevant broad market index; and
- an indication of where the methodology used for the calculation of the designated index can be found.

### Website disclosures for Article 8 products

FMPs shall publish the information on their websites in accordance with Article 10, SFDR (Article 31, draft RTS) and Article 32, draft RTS as set out in Table 3.

This should be found in a separate section titled, 'Sustainability-related disclosures', in the same part of the website as the other information relating to the financial product, including marketing communications. FMPs shall clearly identify the financial product to which the information in this section relates and prominently display the environmental or social characteristics of that financial product (Article 31, draft RTS).

**Table 3: Website product disclosure for FMPs marketing products which promote environmental and/or social objectives under Article 8, SFDR (according to Article 31, draft RTS)**

Section	Reference draft RTS
Summary	Article 33
No sustainable investment objective	Article 34
Environmental or social characteristics of the financial product	Article 35
Investment strategy	Article 36
Proportion of investments	Article 37
Monitoring of environmental or social characteristics	Article 38
Methodologies	Article 39
Data sources and processing	Article 40
Limitations to methodologies and data	Article 41
Due diligence	Article 42
Engagement policies	Article 43
Designated reference benchmark (where an index is designated as a reference benchmark for the purpose of attaining the environmental or social characteristics promoted by the financial product)	Article 44

### Periodic reports for Article 8 products

FMPs shall include a description of the promotion of environmental and/or social objectives according to Article 11, SFDR in the following sections (Article 58, draft RTS) set out in Table 4.

**Table 4: Periodic disclosure requirements for FMPs marketing products which promote environmental and/or social objectives under Article 8, SFDR**

Questions to respond to in periodic disclosure	Reference draft RTS
To what extent were the environmental and/or social characteristics promoted by this financial product met?	Article 59 in conjunction with Article 71
What were the top investments of this financial product?	Article 60
What was the proportion of sustainability-related investments?	Article 61
What actions have been taken to meet the environmental and/or social characteristics during the reference period?	Article 62
For a financial product that designated an index as a reference benchmark to attain the environmental or social characteristics promoted by the financial product, how did this financial product perform compared to the designated reference benchmark?	Article 63

### Taxonomy-related disclosures for Article 8 products

FMPs marketing products which promote environmental and/or social objectives under Article 8, SFDR must disclose how and to what extent the **EU Taxonomy** has been used in determining the sustainability of the underlying investments, the environmental objective(s) to which the fund contributes and the proportion of the underlying fund that is Taxonomy-aligned, expressed as a percentage (Article 5, Taxonomy regulation).

Such FMPs must also accompany pre-contractual and periodic disclosures with the following statement: ‘The “do no significant harm” principle applies only to those investments underlying the financial product that take into account the EU criteria for environmentally sustainable economic activities. The investments underlying the remaining portion of this financial product do not take into account the EU criteria for environmentally sustainable economic activities.’ (Article 6, Taxonomy Regulation).

## FINANCIAL PRODUCTS WITH A SUSTAINABLE INVESTMENT<sup>2</sup> OBJECTIVE (“ARTICLE 9 PRODUCTS”)

### Pre-contractual disclosures for Article 9 products

FMPs marketing products with a sustainable investment objective must (Article 9, SFDR):

- if they have an index which has been designated as a reference benchmark, disclose information on how the designated index is aligned with that objective and explain as to why and how the designated index aligned with that objective differs from a broad market index;
- if they have no designated index, explain how that objective is to be attained;
- if they have a reduction in carbon emissions as their objective, disclose the objective of low carbon emission exposure in view of achieving the long-term global warming objectives of the Paris Agreement; and
- indicate where the methodology used for the calculation of the indices and/or the benchmarks are to be found.

This information should be disclosed in an annex to the document referred to in Article 6(3) of the SFDR (depending on type of institution) in accordance with the template set out in **Annex III** of the draft RTS (Article 20(1) draft RTS). The annex should start with a statement which states whether the financial product has a sustainable investment objective and whether an index has been designated as a reference benchmark or a reference benchmark has been designated in accordance with Article 9(3) of that Regulation (carbon emissions reduction) (Article 20(2) draft RTS).

The annex must also present information in the following order and sections set out in Box 3 (Article 20(3), draft RTS).

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<sup>2</sup> ‘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 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 (Article 2(17), SFDR).

### **BOX 3: Pre-contractual disclosures for FMPs marketing Article 9 products under Annex III of the draft RTS**

Annex III provides a template on the pre-contractual disclosure for FMPs marketing financial products referred to in Article 9, SFDR.

#### **What is the sustainable investment objective of this financial product?**

This section shall contain a description of the sustainable investment objective of the financial product and a list of the sustainability indicators used to measure the attainment of the sustainable investment objective (Article 21, draft RTS).

#### **What investment strategy does this financial product follow?**

This section shall contain the following information (Article 22, draft RTS):

- a description of the type of investment strategy used to attain the sustainable investment objective of the financial product, the binding elements of that strategy to select the investments to attain that objective and how the strategy is implemented in the investment process on a continuous basis; and
- a short description of the policy used to assess good governance practices of the investee companies and a reference to the website containing further details on the investment strategy referred to in Article 45(d) draft RTS (website product disclosure).

#### **What is the asset allocation planned for this financial product?**

This section shall contain (Article 23, draft RTS):

- a narrative explanation of the investments of the financial product, including:
  - the minimum proportion of the investments of the financial product used to attain the sustainable investment objective in accordance with the binding element of the investment strategy; and
  - the purpose of the remaining proportion of the investments of the financial product, including a description of any minimum environmental or social safeguards, how their proportion and use does not affect the delivery of the sustainable investment objective on a continuous basis and whether those investments are used for hedging, relate to cash held as ancillary liquidity or are investments for which there is insufficient data.
- where the financial product uses derivatives within the meaning of Article 2(1)(29) of Regulation (EU) 600/2014 to attain the sustainable investment objective of the financial product, a description of how the use of those derivatives attains that sustainable investment objective; and
- a description of the contribution, and no significant harm, of sustainable investments to the sustainable investment objectives, containing an explanation of how the investments of the financial product contribute to a sustainable investment objective and do not significantly harm any of the sustainable investment objectives, including an explanation of:
  - how the indicators for adverse impacts in Table 1 of Annex I and any relevant indicators in Tables 2 and 3 of Annex I, are taken into account; and
  - 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.

### **BOX 3: Pre-contractual disclosures for FMPs marketing Article 9 products under Annex III of the draft RTS (continued)**

#### **Does this financial product take into account principal adverse impacts on sustainability factors?**

This section shall explain that the financial product contributes to a sustainable investment objective by considering principal adverse impacts on sustainability factors as referred to in Article 7(1)(a) of the SFDR (Article 24, draft RTS).

#### **Can I find more product specific information online?**

This section shall contain the following statement: “More product-specific information can be found on the website”. The statement shall also contain a hyperlink to the website with the information referred to in Article 45 (Article 25, draft RTS). See the website disclosures for Article 9 section in this briefing.

#### **Is a specific index designated as a reference benchmark to meet the sustainable investment objective?**

This section only applies to financial products with an index as reference benchmark. It must contain (Article 26, draft RTS):

- an explanation of how the taking into account of sustainability factors within the methodology of the reference benchmark is continuously aligned with the sustainable investment objective of the financial product;
- an explanation of how the alignment of the investment strategy referred to in Article 22 with the methodology of the index is ensured on a continuous basis;
- an explanation as to why and how the designated index differs from a relevant broad market index; and
- an indication of where the methodology used for the calculation of the designated index can be found.

#### **Does the financial product have the objective of a reduction in carbon emissions?**

This only applies to financial products where the objective is a carbon emissions reduction. It must contain (Article 27, draft RTS):

- an explanation that the reference benchmark qualifies as an EU Climate Transition Benchmark or an EU Paris-aligned Benchmark under Chapter 3a of Title III of Regulation (EU) 2016/1011 and an indication of where the methodology used for the calculation of that benchmark can be found.
- Where no EU Climate Transition Benchmark or EU Paris-aligned Benchmark in accordance with Regulation (EU) 2016/1011 is available, it is required to disclose that fact and how the continued effort of attaining the objective of reducing carbon emissions is ensured in view of achieving the objectives of the Paris Agreement. The FMP shall explain the extent to which the financial product complies with the methodological requirements set out in Commission Delegated Regulation (EU) 2020/1818.

- For a financial product with an index as a reference benchmark, pre-contractual disclosures must also include information on how the index is aligned with the objective; an explanation of why and how this differs from a broad market index (Article 9 (1), SFDR); and the source of methodology (Article 9 (4), SFDR).
- For a financial product where the objective is a carbon emissions reduction, pre-contractual disclosures must also include information on the alignment with the Paris Agreement targets shall be disclosed (Article 9 (3), SFDR); source of methodology (Article 9 (4), SFDR).
- For a financial product without an index as reference benchmark, pre-contractual disclosures must include information on how the objective is to be attained must be explained (Article 9 (2), SFDR).

### Website disclosures for Article 9 products

FMPs shall publish the information on their websites in accordance with Article 10, SFDR (Article 31, draft RTS) and Article 45, draft RTS as set out in Table 5.

This should be found in a separate section titled, 'Sustainability-related disclosures', in the same part of the website as the other information relating to the financial product, including marketing communications. FMPs shall clearly identify the financial product to which the information in this section relates and prominently display the sustainable investment objective of that financial product (Article 31, draft RTS).

**Table 5: Website product disclosure for FMPs marketing products with a sustainable investment objective under Article 9, SFDR**

Section	Reference draft RTS	Further reference
Summary	Article 46	
No significant harm to the sustainable investment objective	Article 47	Taxonomy Regulation, Article 18
Sustainable investment objective of the financial product	Article 48	
Investment strategy	Article 49	
Proportion of investment	Article 50	
Monitoring of sustainable investment objective	Article 51	
Methodologies	Article 52	
Data sources and processing	Article 53	
Limitations to methodologies and data	Article 54	
Due diligence	Article 55	
Engagement policies	Article 56	
Attainment of the sustainable investment objective	Article 57	

### Periodic reports for Article 9 products

FMPs shall include a description on the promotion of environmental and/or social objectives according to Article 11, SFDR in the following sections (Article 64, draft RTS) set out in Table 6.

**Table 6: Periodic disclosure requirements for FMPs marketing products with a sustainable investment objective under Article 9, SFDR**

Questions to respond to in periodic disclosure	More information
To what extent was the sustainable investment objective of this financial product met?	Article 65, draft RTS in conjunction with Article 71, draft RTS
What were the top investments of this financial product?	Article 66, draft RTS
What was the proportion of sustainability-related investments?	Article 67, draft RTS
What actions were taken to attain the sustainable investment objective during the reference period?	Article 68, draft RTS
for a financial product referred to in Article 9(1) of Regulation (EU) 2019/2088, 'How did this financial product perform compared to the reference sustainable benchmark?	Article 69, draft RTS
for a financial product referred to in Article 9(3) of Regulation (EU) 2019/2088, 'How was the objective of a reduction in carbon emissions aligned with the Paris Agreement?	Article 70, draft RTS.

### Taxonomy-related disclosures for Article 9 products

FMPs marketing products with a sustainable investment objective under Article 9, SFDR, must disclose how and to what extent the **EU Taxonomy** has been used in determining the sustainability of the underlying investments, the environmental objective(s) to which the fund contributes and the proportion of the underlying fund that is Taxonomy-aligned, expressed as a percentage (Article 5, Taxonomy regulation).

## FURTHER DOCUMENTS / GUIDANCE

- [Regulation \(EU\) 2019/2088](#) of the European Parliament and of the Council of 27 November 2019 on sustainability - related disclosures in the financial services sector
- [ESA letter on priority issues relating to SFDR application \(7 Jan 2021\)](#)
- [ESAs final draft RTS \(2 Feb 2021\)](#)
- [Joint ESA Supervisory Statement on the SFDR \(25 Feb 2021\)](#)