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26 October 2022

John Berrigan
Director General
Financial Stability, Financial Services, and the Capital Markets Union
European Commission
Rue de la Loi / Wetstraat 200
1049 Brussels
Belgium

Per email:

Subject: Delay in delivery of mandate to review the principal adverse impact indicators and financial product disclosures in the SFDR Delegated Regulation

Dear Mr Berrigan,

I am writing to you as Chair of the Joint Committee (JC) of the European Supervisory Authorities (ESAs) regarding the mandate the ESAs Chairs received via letter on 28 April 2022 to review the indicators for principal adverse impact (PAI) and the financial product disclosures in Commission Delegated Regulation (EU) 2022/1288 (the "SFDR Delegated Regulation"). The ESAs have been asked to provide their input within 12 months from the receipt of the letter (i.e. by 28 April 2023).

The mandate covers amendments to the existing rules in the SFDR Delegated Regulation and, therefore, the submission of these RTS is not subject to a deadline within the SFDR. In this context, the ESAs understand that the requested delivery date reflects the importance of making improvements to the SFDR framework on a timely basis, as well as existing practices regarding the time needed to conduct a partial review.

However, the ESAs have identified significant challenges to deliver the required input in the time requested. These challenges relate to the substantial number of technical components to the work under this mandate to deliver the desired changes to the SFDR Delegated Regulation and the need to seek input from a range of expert bodies or agencies as stated in the mandate. More specifically:

- a) The ESAs' exchanges with the specialist agencies and bodies has shown the relevance of this cooperation of and drawing on their expertise. However, the large number of expert bodies the ESAs are expected to consult is procedurally similar to having to conduct an additional period of stakeholder consultation¹. Additionally, there is the need to conduct the normal full three month

¹ The ESAs should seek input from the European Environment Agency and the Joint Research Centre of the European Commission, and where appropriate, from decentralized agencies such as the EU Agency for Fundamental Rights, the European Labour Authority,

public consultation with all external stakeholders, given that a shorter period of public consultation is not considered to be justified in this case.

- b) The revision and extension of PAI indicators covering *inter alia* their respective definitions, applicable methodologies, metrics and presentation is a substantial and technically demanding exercise. As part of this, the ESAs consider it important to develop a more objective basis to the Do Not Significantly Harm (DNSH) framework and to significantly expand on the social indicators. Further technical developments are also relevant, for instance to specify the treatment of derivatives and to develop formulae for all PAI indicators. The ESAs can provide more background on the technical aspects of the work, if requested.
- c) As requested in the mandate, the ESAs intend to draw on the discussions relating to the implementation of the current requirements, such as during work on Q&As, to inform their work on the RTS. This analysis shows that substantial issues were not fully or adequately addressed in the original RTS. This includes, for example, the treatment of “equivalent information”.

Furthermore, the ESAs would have liked to dedicate a more intensive focus to this work in the first six months of receiving this mandate, but this was not possible due to the need to urgently deliver the RTS on fossil gas and nuclear energy amendments by 30 September 2022 under the separate SFDR mandate you sent us on 8 April 2022.

Based on these factors, it will not be possible to meet the original deadline of 28 April 2023 as set in your mandate. The ESAs would therefore hereby like to notify you of up to a six month delay for the delivery of this mandate.

If you have any questions, please do not hesitate to contact us.

Yours sincerely,

[signed]

Petra Hielkema
Chair of the ESAs’ Joint Committee

cc.: Irene Tinagli, MEP, Chair of the Committee on Economic and Monetary Affairs, European Parliament
Zbyněk Stanjura, Minister of Finance of Czechia, President of the ECOFIN Council, Council of the European Union

the European Foundation for Living and Working Conditions, the European Agency for Safety and Health at Work, the European Institute for Gender Equality and the European Maritime Safety Agency.