

Joint ESAs consultation paper on ESG disclosures

Public Hearing on ESG disclosures - 2 July 2020



JOINT COMMITTEE OF THE EUROPEAN
SUPERVISORY AUTHORITIES

Outline of CP and context of hearing

Gráinne McEvoy, Central Bank of Ireland, Chair of the Joint Committee Sub-Committee on Consumer Protection and Financial Innovation

- ❑ On 23 April 2020 the ESAs published a [consultation paper](#) presenting draft RTS under seven disclosure regulation empowerments, with a deadline for response of 1 September 2020.
- ❑ **Proportionality** of the requirements embedded in the scope of Level 1. E.g. principal adverse impact reporting is compulsory only for large financial market participants.
- ❑ ESAs are aware of data availability limitations and needed **consistency** between different EU policy initiatives under development at the same time.
- ❑ The areas covered by the consultation paper can be broadly divided into **two themes**, which is also how today's Public Hearing is structured:
 1. Morning session will cover principal adverse impact reporting at entity level; and
 2. Afternoon session will cover pre-contractual, website and periodic product disclosures.

Practical information

Joint Committee of the European Supervisory Authorities

- ❑ **Comments and Questions** – use Q&A tool to ask written questions from presenters during the sessions today. The comments and questions will be moderated and broadcast as they are being addressed.
- ❑ After this morning session ends at 12:30, please leave this broadcast. In the afternoon, please join the afternoon broadcast separately – **we are starting at 13:30.**
- ❑ Thank you for joining today – we look forward to a lively set of questions and debate.

Principal adverse impact disclosure at entity level: format of disclosures

Patrik Karlsson – ESMA

- ❑ The principal adverse impacts that investment decisions have on sustainability factors should be disclosed in a **statement on due diligence** on the website of the entity.
- ❑ The statement should show how investments adversely impact indicators in relation to: (1) climate and the environment; and (2) social and employee matters, respect for human rights, anti-corruption and anti-bribery matters.
- ❑ The ESAs have proposed a harmonised reporting template in Table I of Annex I to the draft RTS.
- ❑ Articles 4-10 of the draft RTS are intended for FMPs who take principal adverse impacts of investment decisions into account: the statements must include a **summary**, be published by 30 June and include a **historical comparison** up to ten years.
- ❑ Article 11 is intended for FMPs who do not take into account principal adverse impacts of investment decisions: details of statement to make on website.
- ❑ Articles 12-13 are for **financial advisers**: if they take principal adverse impacts into account they must disclose process and if they do not they must make a statement.

Principal adverse impact disclosure: adverse impact indicators

Patrik Karlsson – ESMA

- ❑ The consultation paper proposes 32 indicators that would always lead to principal adverse impacts and would therefore always be disclosed. These **indicators are “mandatory”**. These are sub-divided into:
 - 16 environment and climate related indicators (divided into greenhouse gas emissions, energy performance, biodiversity, water, and waste); and
 - 16 indicators relating to social and employee matters, respect for human rights, anti-corruption and anti-bribery matters.
- ❑ The consultation paper also proposed additional, **“opt-in”**, indicators, from which financial market participants must choose at least one environmental and one social indicator to include in their statement.
 - The consultation paper has eleven environmental and seven social indicators to be included on this “opt-in” basis.
- ❑ Financial market participants are allowed to include additional indicators for principal adverse impact not listed in the Annex.

Product disclosures: pre-contractual disclosures

Ursula Bordas – EIOPA

- ❑ The aim is to prevent greenwashing by reducing information asymmetry.
- ❑ Product disclosures should be consumer-friendly - the ESAs are **conducting consumer testing on templates** currently under development.
- ❑ Harmonised rules to be suitable for the **diverse existing sectoral documents** as listed in Article 6(3) of the Disclosure Regulation.
- ❑ The consultation paper sets out the elements that should be included in this disclosure.
 1. The sustainable characteristics or sustainable investment objective of the product;
 2. How the product does not significantly harm sustainable investment objectives;
 3. A description of the investment strategy;
 4. A list of the sustainability indicators used;
 5. Whether derivatives are used to attain the characteristics or objective;
 6. A reference to a website for more disclosure; and
 7. Information for products designating an index as a reference benchmark on how the product is aligned with the benchmark and how the benchmark differs from a broad market index.
 8. For a financial product referred to in Article 9(3) of Regulation (EU) 2019/2088, 'Objective of a reduction in carbon emissions'.

Product disclosures: periodic disclosures

Ursula Bordas – EIOPA

- ❑ Requirements are intended to show the **track record** of the product in terms of how successful it is in attaining its sustainable characteristics or objectives.
- ❑ The disclosure has to take place through existing periodic disclosure sectoral disclosure documents as listed in Article 11(2) of the Disclosure Regulation.
- ❑ The consultation paper requires the following items to be disclosed:
 1. How the sustainable characteristics or objectives have been met;
 2. How the product did not harm significantly sustainable objectives;
 3. The top 25 holdings of the product;
 4. For products designating an index as a reference benchmark, the sustainable performance of that index;
 5. Proportion of sustainable investments; and
 6. Actions taken to attain the sustainable characteristics and objectives.

Product disclosures: websites

Slavka Eley – EBA

- ❑ The draft RTS for product website disclosure set out the details of the content and presentation of the information to be publicly disclosed on the website by financial market participants for Article 8 (promotion of environmental or social characteristics) and Article 9 (sustainable investment objectives) SFDR financial products.
- ❑ The draft RTS (Chapter IV, Articles 33-35 of the RTS):
 - set out **where** and **how** the financial market participant must **publish the information on the website**;
 - include a **list of items** to be included in the disclosure, focusing on the methodology employed, the data sources used, and any screening criteria employed; and
 - include requirements for products making sustainable investments regarding how the product complies with the “**do not significantly harm**” **principle** from Article 2(17) SFDR in relation to the principal adverse impact indicators in Annex I of the draft RTS.

Product disclosures: websites

Slavka Eley – EBA

- ❑ The consultation paper sets out **detailed provisions** for product manufacturers of sustainable products to disclose on their website how the products meet their characteristics or objectives.
- ❑ The disclosure is placed in a section titled ‘Sustainability related disclosures’ in the same part of the website as the other information relating to the financial product, including marketing communications (Article 33).
- ❑ The disclosure has to start with a short (two-pages) summary, containing the information referred to in Article 34 (Article 8 SFRD products) and Article 35 (Article 9 SFRD products) of the draft RTS, and in the order of the different sections.
- ❑ The disclosure items should include many of the same disclosure items that are included in the pre-contractual disclosures, but in more detailed form.
- ❑ Website disclosure also includes requirements to disclose details on the methodology and data sources used and any limitations to the methodology or data sources.

Product disclosures: Do not significantly harm (DNSH) principle

Patrik Karlsson – ESMA

- ❑ Regulation (EU) 2020/852 (Taxonomy Regulation) added **seven new empowerments** to SFDR for the ESAs to draft RTS.
- ❑ One RTS on harmonisation of content and presentation of **DNSH disclosures** made by products making sustainable investments (as defined in Article 2(17) SFDR) is due to be delivered by 30 December 2020.
- ❑ ESAs have included preliminary provisions in Recital (33), Articles 16(2), 25, 34(3), 35(3), 38 and 45 in the draft RTS.
- ❑ Proposals consist of **two tests** for DNSH disclosures:
 1. Show how all 50 adverse impact indicators in Annex I have been taken into account in own assessment of no significant harm to social or environmental objectives.
 2. Show any investments that were excluded as a result of own assessment of significant harm to environmental or social objectives.