

5th JRC summer school – SFDR update

13 July 2023

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SFDR and TR disclosures - Introduction

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- **Regulation (EU) 2019/2088** on sustainability-related disclosures in the financial services sector (“**SFDR**”) sets out ESG disclosure requirements for a broad range of financial market participants, financial advisers and financial products supplementing existing rules
- EBA, EIOPA and ESMA (the ESAs) have published three sets of Regulatory Technical Standards (RTS):

4 February 2021 on (1) entity-level disclosure of principal adverse impacts of investment decisions and (2) product-level disclosure on sustainability characteristics and objectives;

22 October 2021 on additional product-level disclosure of Taxonomy-aligned investments (empowered by Taxonomy Regulation); and

30 September 2022 on specific Taxonomy-aligned fossil gas and nuclear energy-related product investments.

Entities, products and services covered by SFDR

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Entities (Financial Market Participants or “FMPs”) covered by the regulation: asset managers (regulated by UCITS, AIFMD, EuVECA, EuSEF), insurance undertakings (Solvency II), occupational (IORPs) and personal pension providers, investment firms and credit institutions providing individual portfolio management (MiFID II and CRR).

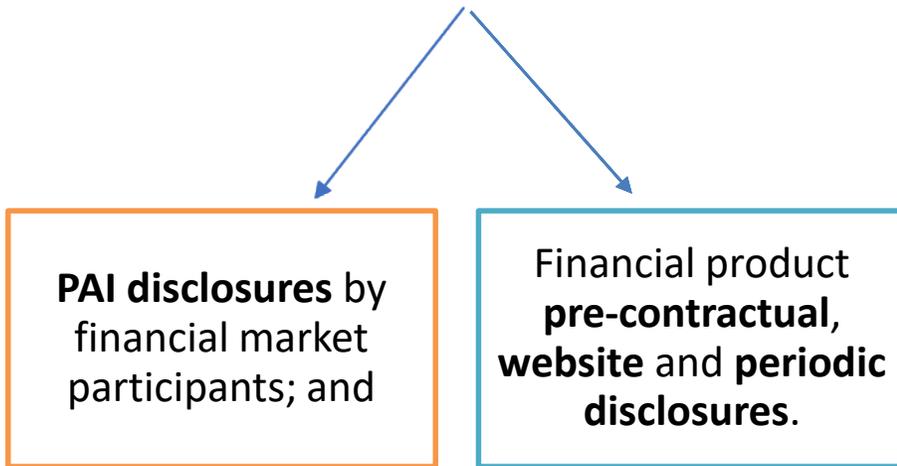
Products (“Financial Products”) covered include a wide range of financial products offered by these entities, including insurance-based investment products made available to investors and individual portfolio management.

Financial advisers and advice covered includes investment and insurance advisers and advice (MiFID II and IDD).

SFDR Delegated Regulation

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Commission Delegated Regulation (EU) 2022/1288 (“**SFDR Delegated Regulation**”) combines the **two RTS** by the ESAs from 2021 and sets out ESG disclosure requirements for:



- The SFDR Delegated Regulation sets out the technically detailed disclosures required by key SFDR Level 1 obligations.
- Published in Official Journal on 25 July 2022, application started 1 January 2023
- Note that SFDR Delegated Regulation does not cover all disclosures in SFDR, e.g:

Article 3 (sustainability risk integration)

Article 5 (remuneration policies in relation to the integration of sustainability risks)

What does SFDR do?

The SFDR aims to:

- Enhance comparability of financial market participants and financial products
- Create level playing field for sustainable products
- Reduce information asymmetries
- Tackle greenwashing



What does SFDR not do?

The SFDR does not:

- Establish criteria for sustainable products
- Create direct behavioural obligations
- Provide “labels” for investors
- Establish an alternative “taxonomy” of sustainability



***exceptions apply**



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In a nutshell

THE SUSTAINABLE FINANCE DISCLOSURE REGULATION (SFDR)

Sets out certain OBLIGATIONS for FINANCIAL PRODUCTS and COMPANIES



but SFDR isn't a LABEL OF APPROVAL IT'S a TRANSPARENCY MEASURE, so INVESTORS ... can KNOW which SUSTAINABILITY MEASURES have been taken



SPECIFIC REQUIREMENTS

Apply for PRODUCTS which promote SUSTAINABLE and SOCIAL characteristics



but these products can VARY WIDELY

SPECIFIC REQUIREMENTS

also APPLY to PRODUCTS which have SUSTAINABLE INVESTMENT as an OBJECTIVE



Which must make ONLY SUSTAINABLE investments

ALL COMPANIES HAVE TO SHOW INVESTORS HOW THEY...



INTEGRATE SUSTAINABILITY RISK MEASURES...

and how they consider the ADVERSE IMPACTS of INVESTMENT DECISIONS



Joint SFDR Consultation Paper – Review of Level 2

On 28 April 2022 Commission mandated ESAs to amend SFDR DR with regard to:

1. Expansion and streamlining of SFDR principal adverse impact (PAI) indicators
2. Financial product disclosure of decarbonisation targets

In addition the ESAs made proposals related to other provisions.

- Consultation paper: **12 April 2023**
- Public hearing: **6 June 2023**
- Deadline for comment: **4 July 2023**
- Final report: **est. end October 2023**
- Application: ?



Sustainable investments – deep dive

Article 2(17) SFDR

- Economic activity that contributes to environmental or social objectives
- DNSH (measured by PAI indicators) to any objectives
- Good governance of investee companies

EU Taxonomy

- Significant contribution
- DNSH
- Minimum Social Safeguards
- Technical screening criteria



Q&As and FAQs

July 2021 Q&A

- Article 9 must make sustainable investments (except for hedging/liquidity)

April 2023 Q&A

- Analysis of investment can be at economic activity or company level

June 2023 FAQ

- “Safe harbour” for taxonomy-aligned economic activities from SFDR
- MSS -> undertaking level, so social DNSH and good governance satisfied
- Still require environmental DNSH check



SFDR sustainable investments – use case

- Social sustainable investments
- PAI indicators for DNSH:
 - Sector-agnostic
 - Investment instrument-agnostic
- PAB/CTB “sustainable investments”



Long term -> social taxonomy: no need for separate SFDR “sustainable investment”?