

# THE EU

## SUSTAINABLE FINANCE DISCLOSURE REGULATION

### KEY REQUIREMENTS

The EU's Regulation on sustainability-related disclosures in the financial services sector (the SFDR) was published in December 2019 and forms part of the EU's package of measures relating to Environmental, Social and Governance (ESG) issues.

This document summarises the aspects of the SFDR which will be of most relevance to asset management firms. It also summarises those elements of the Framework (or Taxonomy) Regulation which are directly relevant to the SFDR and which directly amend the SFDR.

Although the large majority of the SFDR will not be implemented until March 2021, we strongly recommend that firms prioritise it during 2020 to ensure that they will be ready to comply with its provisions.

Other Simmons & Simmons resources available [here](#) include

- our detailed summary of the [ESAs' Level 2 proposals under the SFDR](#)
- our note summarising [the wider EU ESG initiatives](#)
- our note providing [key details of the Framework Regulation](#)
- our note outlining [the key proposals to amend MiFID2, UCITS and AIFMD](#) in relation to sustainability

Please see also our [Sustainable Financing and ESG Investment microsite](#).

#### Introduction

The SFDR is framed as a series of sustainability-related disclosures which must be made

- in the [documentation for a financial product](#) such as a fund or managed account and
- on an [asset manager's website](#).

Two critical points should be emphasised from the outset.

- many important aspects of the SFDR will apply to **all** asset managers, even those which do not have an express ESG-focus or sustainability-focus (although some aspects of the SFDR will apply only to those financial products which have a specific ESG-focus).
- while the SFDR is framed as setting out rules on disclosures, it effectively requires firms to make strategic business and policy decisions, which the firm must then disclose. In some ways, then, it may be better to think about this as the 'Sustainable Investments' Reg. We believe that firms should focus first on the key strategic decisions that they will need to take, before moving on to consider how and what they disclose.

As a result, we have divided this note into three key themes according to the likely commercial impact of the SFDR, looking in turn at the rules which:

- apply at the level of the asset management firm
- apply to the asset management firm in respect of **any** financial products made available by it, whether or not the product has an express ESG focus, and
- apply to the asset management firm in respect of only those financial products which have an express ESG focus.

A sub-set of the rules in the SFDR applies to [financial advisers](#) and we show which rules are relevant to these in the tables below.

The Framework Regulation, which was [published in the EU Official Journal](#) on 22 June 2020, creates additional disclosures which need to be made for the purposes of the SFDR, and we summarise these where relevant.

Finally, the European Commission has published in June 2020 draft amendments to the MiFID2, AIFMD and UCITS regimes, which focus on the integration of sustainability into existing organisational rules and conduct of business rules under the three regimes (the "**Delegated Acts**"). The SFDR and the

Delegated Acts are mutually reinforcing; for example, SFDR requires disclosure of information about the integration of sustainability, and the Delegated Acts incorporate concepts defined under SFDR.

### Key new rules

The tables on page 4 of this document identify nine key new rules, under these headings:

#### **A. Manager-level obligations**

1. An asset manager must formulate a policy on the integration of sustainability risks in the manager's investment decision-making process.
2. An asset manager must make a business decision to either:
  - (a) implement a due diligence policy with respect to the principal adverse impacts of its investment decisions on sustainability factors, **at the level of the manager as an entity** (a "**sustainability DD policy**") or
  - (b) explain the reasons why it does not consider such adverse impacts. [See item 5, below, for a similar obligation in respect of financial products.]
3. An asset manager must update its existing remuneration policy to include information on how the policy is consistent with the integration of sustainability risks.

#### **B. Obligations applicable to all financial products (whether or not they have an ESG or sustainability focus)**

4. An asset manager must make a business decision for each financial product that it makes available, whether to either:
  - (a) assess the likely impacts of sustainability risks on the returns of each financial product; or
  - (b) explain why it does not consider sustainability risks to be relevant to a particular financial product.
5. Depending on whether it has implemented a sustainability DD policy (**see point 2 above**), an asset manager must either:
  - (a) if it **has** implemented a sustainability DD policy - make a further decision whether and how each financial product considers principal adverse impacts on sustainability factors
  - (b) if it **has not** implemented a sustainability DD policy - explain for each financial product the reasons why it does not consider such adverse impacts.
6. An asset manager must review its marketing documentation generally, to ensure that the marketing documents do not contradict the mandatory disclosures under the SFDR

**[Note that certain of the manager-level information above under heading A would also need to be disclosed for all financial products.]**

#### **C. Obligations which apply only where a financial product has a specific sustainability-focus**

Additional disclosures will be needed where a financial product:

7. promotes environmental or social characteristics;
8. has sustainable investment as its objective; or
9. has a reduction in carbon emissions as its objective.

### Scope – which firms and products does the SFDR cover?

#### **a) Firms**

The SFDR applies to the defined concept of "**financial market participant**", or **FMP**. The definition of FMP includes:

- MiFID firms providing the service of portfolio management
- AIFMs and
- UCITS Managers.

In this note, we refer to such firms as "**asset managers**".

In addition, a sub-set of the rules applies to **financial advisers** (including MiFID firms, AIFMs, and UCITS Managers which provide standalone investment advice). The tables below distinguish which rules apply to financial advisers (in the column marked "Does this apply to FAs?"), by reference to the equivalent rule which applies to asset managers. However, the remainder of this document refers generally only to the broader set of rules which is applicable to asset managers.

The SFDR also has a wider application to other firms operating in the insurance and pensions sector, which is beyond the scope of this note.

## b) Products

The SFDR applies in respect of **financial products** made available by asset managers - these include

- AIFs
- UCITS funds and
- portfolio management services / managed accounts.

### What does sustainability mean for these purposes?

The SFDR introduces three new concepts of “**sustainable investment**”, “**sustainability risk**” and “**sustainability factors**”. These are all defined terms in the SFDR - defined terms are indicated in **bold underlining** in the summary table below.

- “**Sustainable investment**”:  
In summary, this is an investment in an economic activity which:
  - contributes **either** to an environmental objective **or** a social objective
  - does not significantly harm<sup>1</sup> any environmental or social objectives and
  - the investee company follows good governance practices.
- “**Sustainability risk**”:  
This is an environmental, social or governance event or condition which, if it occurs, could cause a material negative impact on the value of an investment.
- “**Sustainability factors**”:  
This means environmental, social and employee matters, respect for human rights, anti-corruption and anti-bribery matters.

In addition, the Framework Regulation introduces a further six specific sub-categories of **environmental objective** which (for SFDR purposes) are understood as a sub-set of the broader environmental objectives noted in SFDR:

- (a) climate change mitigation
- (b) climate change adaptation
- (c) sustainable use and protection of water and marine resources
- (d) transition to a circular economy
- (e) pollution prevention and control and
- (f) protection and restoration of biodiversity and ecosystems

### What disclosures are relevant?

The SFDR requires an asset manager to disclose specified information on its website, in the pre-contractual information for a financial product, and (in some cases) in the periodic information provided to investors. For these purposes:

“**pre-contractual disclosure**” means

- the prospectus for a UCITS fund
- the AIFMD Article 23 disclosures for an AIF (typically in or attached to the prospectus) and
- the MiFID-required regulatory disclosures or T&Cs for a portfolio management or advisory service.

“**periodic disclosure**” means

- the annual report for a UCITS fund
- the annual report for an AIF or
- the periodic reports on a service under MiFID.

The summary tables below confirm the medium of disclosure as applicable.

The exact level of information to be disclosed and how an asset manager must disclose it remains to be finalised through Level 2 technical standards. In April 2020, the European Supervisory Authorities (ESAs) jointly published a **consultation paper** setting out their proposals for a number of these measures, including a draft version of the regulatory technical standards (the “**Draft RTS**”). On 2 February 2021 the ESAs published their final report to the consultation containing Draft RTS. The tables below summarise key provisions of the Draft RTS, and cross refer to the relevant provisions in the Draft RTS,

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<sup>(1)</sup> Article 25 of the Framework Regulation amends the SFDR to include additional detail on what “do not significantly harm” means in practice.

to draw out certain of the key proposals and how that will impact on the headline Level 1 requirements in the SFDR itself. In most cases, the ESAs must submit their advice to the European Commission by the end of December 2020.

### What is the timing requirement?

Most of the obligations in the Level 1 requirements in the SFDR will come into force on **10 March 2021**, although it looks almost certain that the supporting Level 2 measures which were due to come into force then will be delayed, although it is not yet clear to when. This means that firms should use 2020 to update their policies and documentation in anticipation of this. In particular, the ESAs' proposals for Level 2 measures are dramatically more onerous than most had expected and are likely to represent a significant undertaking – consideration now of the challenge that these measures might pose is likely to help firms comply with their obligations in March 2021. The ESAs [final report](#) proposes that stakeholders have until 1 January 2022 to comply with the draft RTS by.

Some obligations come into force at a later date and the tables below provide details of when each rule applies. Amongst others, the environmental disclosures required under the Framework Regulation have a deferred application date of **1 January 2022** (for objectives (a) and (b) relating to climate change) and **1 January 2023** (for the remaining four objectives (c) to (f)).

When working towards the regulatory deadline, as with any change which may impact a mandate and/or disclosure provided in fund documentation, firms will need to consider whether issues of investor consent arise and the extent to which, for example, it is appropriate to give investors (and in some circumstances regulators) advance notice of any changes.

### What is the impact of Brexit on UK firms?

The UK left the EU on 31 January 2020 under a Withdrawal Agreement that provides for a transitional period to 31 December 2020.

Even allowing for an extension, it seems highly unlikely that any of the new rules mentioned above will come into force until the transition period has ended (though any in force during that time would automatically apply to the UK).

Mindful of how important the sustainability initiative is as part of the EU's response to the Paris Climate Agreement and of its own commitment to supporting the growth of the UK's financial services industry, HM Government listed the Framework Regulation, SFDR and the associated Low Carbon Benchmarks Regulation as EU legislation which will be 'onshored'. This means that these regulations would be part of the EU financial services legislation implemented for a period of two years after the UK leaves the EU, in the event of a no-deal Brexit (for example, if the transition period ends on 31 December 2020 with no agreement having been reached on the future trading relationship between the UK and the EU).

The Financial Services (Implementation of Legislation) Bill, which would have implemented the onshoring, automatically fell when Parliament was prorogued ahead of the UK general election in December 2019. While the Queen's Speech to the new Parliament confirmed HM Government's intention to introduce a Financial Services Bill, whether or not this includes a provision for onshoring of the EU's ESG legislation this, will only become clear when the new Bill is put before the House of Commons in due course.

In the meantime, though, on 29 June 2020, HM Government's [Financial Services \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2020](#) was made law, Regulation 22 of which states that the articles of the SFDR requiring Level 2 measures to be developed and adopted "are omitted". The reason for this is to be that, since the delegated legislation containing technical standards has not yet been finalised by the European Commission, the UK does not "have clarity on the final outcome of the file" and so cannot commit itself to aligning its own rules with them. This may well be, of course, merely a negotiating tactic as part of the overall discussions to reach a new trade agreement to govern UK-EU relations beyond the end of 2020.

As a result, unless the transition period is extended beyond the date on which the Level 2 measures made under the SFDR come into force, these will not apply to UK firms. Even so, it remains highly likely that HM Government will introduce domestic measures that align closely with the Level 2 provisions. Any material divergence would not only create dual-compliance requirements for many UK asset managers marketing into Europe but could impede the negotiation of mutual EU-UK "equivalence" determinations.

In terms of UK firms wishing to do business in the EU following Brexit, the UK would, after 31 December 2020, be a third country and firms' ability to manage or market funds, or provide investment services in the remaining EU Member States will depend on any agreement reached between now and then.

## SUMMARY OF THE NEW RULES INTRODUCED BY THE PROPOSED RTS

A. MANAGER-LEVEL OBLIGATIONS							
	What must the asset manager do?	Does this apply to FAs?	What type of disclosure?	What Level 1 Article covers this?	Will there be Level 2 measures?	What's the deadline?	Next steps the firm should take
1	<p><b>New sustainability risk policy</b></p> <p>The asset manager must formulate a policy on the integration of sustainability risks in its investment decision-making process.</p> <p>(Under the draft Delegated Acts, AIFMs and UCITS Mancos will newly be required to take into account sustainability risks when complying with existing requirements on investment due diligence. Similarly, MiFID portfolio managers will newly be required to take into account a client's sustainability preferences when complying with the existing "suitability" obligation.)</p>	Yes	<b>Website</b>	3(1) 3(2)	No	<b>10 March 2021 (but likely to be delayed)</b>	<ul style="list-style-type: none"> <li>• Review whether and to what extent the firm integrates (or will newly integrate) <u>sustainability risks</u> into its investment decision making process.</li> <li>• Make formal decision (Board level?) on this issue.</li> <li>• Update internal investment due diligence and risk management policies.</li> <li>• Make changes to systems and processes necessary to reflect changes in the policies.</li> <li>• Draft required external disclosures –                             <ul style="list-style-type: none"> <li>• for the firm's website and</li> <li>• for each financial product the firm offers.</li> </ul> </li> </ul>
		Yes	<b>Pre-contractual disclosure</b>	6(1)(a) 6(2)(a)	No	<b>10 March 2021 (but likely to be delayed)</b>	
2	<p><b>Business decision (comply or explain) on adverse sustainability impact (entity level – i.e. manager level transparency)</b></p> <p>An asset manager must decide whether to <b>either</b>:</p> <p><b>(a) comply</b> - implement a due diligence policy with respect to the principal adverse impacts of its investment decisions on <u>sustainability factors</u> at manager level (a "<b>sustainability DD policy</b>") – see 2a below; or</p> <p><b>(b) explain</b> - formulate reasons why the asset manager does not consider such adverse impacts – see 2b below.</p> <p>As from 30 June 2021, the "comply or explain" obligation becomes mandatory to comply for FMPs with more than 500 employees (or FMPs which are the parent undertaking of a group with more than 500 employees). In other words, it will then be mandatory for asset managers with more than 500 employees to implement the due diligence policy.</p> <p><b>[See also point 5 below, for the equivalent rule at financial product level.]</b></p>						
2a	<p><b>If complying with (a)</b></p> <p>Publish a statement on the due diligence policy.</p>	Yes	<b>Website</b>	4(1)(a) 4(2)	Yes	<b>10 March 2021<sup>2</sup> (but likely to be delayed)</b>	<ul style="list-style-type: none"> <li>• Review whether and to what extent the firm wishes to implement a sustainability DD policy (or confirm that it will be mandatory to do so based on the 500 employees test).</li> </ul>

<sup>(2)</sup> Note that there is a phased implementation for the Level 2 technical standards. A first set dealing with adverse impacts on climate and other environmental impacts is due by **30 December 2020**. A second set dealing with adverse impacts on social and employee matters, respect for human rights, anti-corruption and anti-bribery is not required until **30 December 2021**. This is after the implementation date for this rule. We assume – although this will need to be confirmed by applicable regulators – that this would in practice mean that the due diligence policy would be required to address only climate and other environmental impacts as at 10 March 2021, with no requirement to address the additional impacts until the remaining Level 2 measures are published.

## A. MANAGER-LEVEL OBLIGATIONS

	What must the asset manager do?	Does this apply to FAs?	What type of disclosure?	What Level 1 Article covers this?	Will there be Level 2 measures?	What's the deadline?	Next steps the firm should take
	<p>This must include information on the identification and prioritisation of adverse impacts, summaries of engagement policies, and adherence to responsible business codes and other internationally recognised standards.</p> <p>The Draft RTS requires the adverse sustainability impacts statement to include detailed disclosures on both <b>qualitative</b> and <b>quantitative</b> grounds. The statement must:</p> <ul style="list-style-type: none"> <li>• be set out in a separate section of the asset manager's website</li> <li>• follow a prescribed format set out in the draft RTS</li> <li>• be in sections named and ordered as follows</li> </ul> <ol style="list-style-type: none"> <li>1. Summary</li> <li>2. Description of principal adverse sustainability impacts</li> <li>3. Description of policies to identify and prioritise principal adverse sustainability impacts</li> <li>4. Description of actions to address principal adverse sustainability impacts</li> <li>5. Engagement policies and</li> <li>6. References to international standards</li> </ol> <p>The quantitative disclosure requires FMPs to disclose against 50 separate granular ESG metrics (32 mandatory, and 18 optional).</p>			4(5)(a)	(Articles 4 to 11 of draft RTS)		<ul style="list-style-type: none"> <li>• Make formal decision (Board level?) on this issue.</li> <li>• If the decision is to comply: <ul style="list-style-type: none"> <li>• draft internal sustainability DD policy</li> <li>• make changes to systems and processes necessary to reflect the policy - including in particular to gather the required ESG data for the quantitative disclosure metrics.</li> </ul> </li> <li>• Draft required external disclosures.</li> <li>• Begin data-gathering exercise for quantitative disclosures, including identification of internal and external data sources.</li> </ul>
2b	<p><b>If explaining non-compliance under (b)</b></p> <p>Publish the reasons for <b>not</b> considering the adverse impact of investment decisions on <b>sustainability factors</b></p> <p>(the explanation should include information on whether and when the firm does intend to consider such impacts)</p> <p>The draft RTS requires the non-compliance explanation to</p> <ul style="list-style-type: none"> <li>• be published in a separate section of the asset manager's website, entitled, 'No consideration of sustainability adverse impacts'</li> <li>• start with a prominent statement that the financial market participant does not consider the adverse impacts of its investment decisions on sustainability factors.</li> </ul>	Yes	<b>Website</b>	4(1)(b) 4(5)(b)	No  (But note Article 11 of the draft RTS covers this)	<b>10 March 2021</b>  <b>(but likely to be delayed)</b>	

## A. MANAGER-LEVEL OBLIGATIONS

	What must the asset manager do?	Does this apply to FAs?	What type of disclosure?	What Level 1 Article covers this?	Will there be Level 2 measures?	What's the deadline?	Next steps the firm should take
3	<p><b>Update remuneration policy</b></p> <p>Update existing remuneration policy to include information on how the policy is consistent with the integration of <u>sustainability risks</u>.</p>	Yes	Website	5(1)	No	<p><b>10 March 2021</b></p> <p><b>(but likely to be delayed)</b></p>	<ul style="list-style-type: none"> <li>Consider to what extent it will update remuneration policy.</li> <li>Draft required updates to policy document.</li> </ul>

## B. OBLIGATIONS RELEVANT FOR ALL FINANCIAL PRODUCTS (EVEN THOSE WITHOUT AN ESG-FOCUS)

	What must the asset manager do?	Does this apply to FAs?	What type of disclosure?	What Level 1 Article covers this?	Will there be Level 2 measures?	What's the deadline?	Next steps the firm should take
4	<p><b>Business decision (comply or explain) on assessing the impact of sustainability risks on returns</b></p> <p>An asset manager must decide, for <i>each</i> financial product that it “makes available”<sup>(3)</sup>, whether to either:</p> <p>(a) <b>comply</b> - assess the likely impacts of <u>sustainability risks</u> on the returns of <i>each</i> financial product – see 4a below; or</p> <p>(b) <b>explain</b> - formulate an explanation for why the asset manager does not consider <u>sustainability risks</u> to be relevant to a particular financial product – see 4b below.</p>						
4a	<p>If complying with (a)</p> <p>Publish the results of the assessment of the likely impact of <u>sustainability risks</u> on the return of the financial product</p> <p>Recital (16) confirms that this can be either qualitative or quantitative disclosure.</p>	Yes	Pre-contractual disclosure	6(1)(b) 6(2)(b)	No	<p><b>10 March 2021</b></p> <p><b>(but likely to be delayed)</b></p>	<ul style="list-style-type: none"> <li>Review, for <i>each</i> financial product, whether the firm will assess the impacts of <u>sustainability risks</u> on the return of that financial product.</li> <li>Make formal decision (Board level? Product committee level?) on this issue.</li> </ul>
4b	<p>If explaining non-compliance under (b)</p> <p>Publish clear and concise reasons why <u>sustainability risks</u> are not relevant for returns of the financial product</p>	No	Pre-contractual disclosure	6(1)(b) 6(2)(b)	No	<p><b>10 March 2021</b></p> <p><b>(but likely to be delayed)</b></p>	<ul style="list-style-type: none"> <li>For any product where the firm <b>is</b> carrying out this assessment establish methodology for performing and publishing the calculation.</li> <li>For any product where the firm <b>is not</b> carrying on the assessment prepare the express negative disclosures</li> </ul>
5	<p><b>Refer to the decision made at item 2 on whether to implement a sustainability DD policy</b></p> <p>(a) if the asset manager <b>has</b> implemented a sustainability DD policy</p> <ul style="list-style-type: none"> <li>it must further decide whether and how <i>each financial product</i> considers principal adverse impacts on <u>sustainability factors</u> at a product level – see 5a below; or</li> </ul>						

<sup>(3)</sup> There is no formal definition in the SFDR as to the meaning of “make available”. Further clarification will be required from applicable regulators, including as to whether it is limited to active marketing by the FMP, or whether it also includes distribution of a FMP’s products through third parties, or products sold exclusively in response to reverse enquiries.

## B. OBLIGATIONS RELEVANT FOR ALL FINANCIAL PRODUCTS (EVEN THOSE WITHOUT AN ESG-FOCUS)

	What must the asset manager do?	Does this apply to FAs?	What type of disclosure?	What Level 1 Article covers this?	Will there be Level 2 measures?	What's the deadline?	Next steps the firm should take
	<p>(b) if the asset manager <b>has not</b> implemented a sustainability DD policy</p> <ul style="list-style-type: none"> <li>it must explain for <b>each financial product</b> the reasons why it does not consider such adverse impacts – see <b>5b</b> below.</li> </ul> <p>In other words, this product-level obligation is conditional on the outcome of the manager-level decision under Article 4 (see row 2 of Table A, above). If the asset manager is implementing a sustainability DD policy, then it must make a further product-by-product decision as to whether and how the firmwide product applies at the level of each separate financial product. This could mean, for example, that some products fully adhere to the firmwide policy, and other products are excluded from requirements under the firmwide policy.</p>						
<b>5a</b>	<p><b>If implementing a sustainability DD policy</b></p> <p>Disclose whether and how <b>each financial product</b> considers the principal adverse impacts on <b>sustainability factors</b>.</p>	No	<b>Pre-contractual disclosure</b>	7(1)(a)	No	<b>30 December 2022</b>	<ul style="list-style-type: none"> <li>Review, for <b>each</b> financial product, whether and how the financial product considers the principal adverse impact on <b>sustainability factors</b>.</li> <li>Make formal decision (Board level? Product committee level?) on this issue.</li> <li>For any product where the firm <b>is considering sustainability factors</b>: prepare relevant disclosures. This may (but need not) adopt the same format for disclosures as Article 4 [see row 2(a) above]</li> <li>For any product where the firm <b>is not considering sustainability factors</b>: prepare the express negative disclosures.</li> </ul>
		No	<b>Periodic disclosure<sup>(4)</sup></b>	7(1)(b)	No <sup>(5)</sup>	<b>30 December 2022</b>	
<b>5b</b>	<p><b>If <u>not</u> implementing a sustainability DD policy</b></p> <p>Disclose for <b>each financial product</b> an express negative statement that the asset manager does not consider adverse impacts, and the reasons for not doing so.</p>	No	<b>Pre-contractual disclosure</b>	7(2)	No	<b>10 March 2021<sup>(6)</sup></b> <b>(but likely to be delayed)</b>	<ul style="list-style-type: none"> <li>Prepare express negative disclosures for each financial product.</li> </ul>
<b>6</b>	<p><b>Review all marketing communications</b></p> <p>The asset manager must review of all its marketing materials for all in-scope products and services, to ensure that those marketing documents <b>do not contradict</b> any information disclosed under the SFDR</p>	Yes	<b>All marketing materials</b>	13(1)	Yes (the draft RTS does not cover this)	<b>10 March 2021 (and ongoing)</b> <b>(but likely to be delayed)</b>	<ul style="list-style-type: none"> <li>Determine which team(s) within the firm will be responsible for this exercise – for example Compliance, IR / Marketing, Product, and/or consider use of external legal counsel for this exercise.</li> <li>Establish a complete list of current and future marketing materials issued by the firm which will be in use as at 10 March</li> </ul>

<sup>(4)</sup> Article 7(1)(b) is in some respects confusingly drafted. It requires that if a FMP considers adverse sustainability impacts, it must include in pre-contractual disclosures [ie the “**article 6(3) disclosures**”] a statement that information on adverse sustainability impacts will be included in the periodic reports for the product [ie the “**article 11(2) disclosures**”]. However, there is no express provision which switches-on an obligation to include such information in the periodic disclosures. We assume that article 7(1)(b) implicitly creates that obligation, although this may be subject to further clarification by applicable regulators.

<sup>(5)</sup> No specific Level 2 measures are set to be published for this rule, but article 7(1) second sub-paragraph cross-refers to the RTS to be published under article 4 - so presumably the intention is that such RTS would also be used for the purposes of the periodic disclosures.

<sup>(6)</sup> Note that article 7(2) disclosure of non-compliance with article 4(1)(b) does **not** benefit from the delayed implementation date under article 7(1).

## B. OBLIGATIONS RELEVANT FOR ALL FINANCIAL PRODUCTS (EVEN THOSE WITHOUT AN ESG-FOCUS)

	What must the asset manager do?	Does this apply to FAs?	What type of disclosure?	What Level 1 Article covers this?	Will there be Level 2 measures?	What's the deadline?	Next steps the firm should take
							2021. This might include, for example, presentations, pitch books, DDQs, teasers, website etc. <ul style="list-style-type: none"> <li>Formulate a project plan for reviewing all such marketing materials and ensuring that any references to ESG or sustainability are consistent with policy decisions made or formal disclosures formulated in accordance with the SFDR.</li> <li>Update marketing materials as necessary, and communicate those updates internally to IR / Marketing teams, and externally to any third party distribution network.</li> </ul>

## C. OBLIGATIONS ONLY RELEVANT FOR FINANCIAL PRODUCTS WITH AN ESG-FOCUS

	What must the asset manager do?	Does this apply to FAs?	What type of disclosure?	What Level 1 Article covers this?	Will there be Level 2 measures?	What's the deadline?	Next steps the firm should take
<p>The SFDR effectively implements a <b>three-tier categorisation</b> of financial products:</p> <ul style="list-style-type: none"> <li><b>Financial products with the objective of sustainable investments (including the specific sub-set of a reduction in carbon emissions as an objective).</b> This is effectively the “top tier”, where the objective of the financial product relates to a sustainability objective or impact. These are known as “Article 9” products. See rows 8 and 9 of the table below.</li> <li><b>Financial products promoting environmental or social characteristics.</b> This is effectively the “middle tier”, where sustainable investment is not the objective of the product, but sustainability remains an important and binding aspect of the investment process. These are known as “Article 8” products. See row 7 of the table below.</li> <li><b>Other financial products, not falling into either of the above two categories.</b> This is effectively the “bottom tier”, where sustainability is not the objective of the product and is not a mandatory part of the investment process (although sustainability may still be part of the investment manager’s processes in a softer way, such as taking account of sustainability risks). The Framework Regulation requires such products to include an express disclaimer, in a prescribed form, to explain that they do not take into account the taxonomy. Beyond that, such “other” products are not subject to any of the additional requirements described below.</li> </ul> <p>Financial market participants should undertake a formal process to review, assess and categorise all their financial products into the Article 9, Article 8 or “other” categories. This should be discussed with product teams / portfolio managers, who may wish to input into the resulting positioning in the market and impact on investment processes.</p>							
7	<b>Financial product promotes environmental or social characteristics</b>  Where a financial product promotes, among other characteristics, environmental or social characteristics (and investments follow good governance practices), the asset manager must disclose certain prescribed information <ul style="list-style-type: none"> <li>on how those characteristics are met and</li> <li>on any index designated as a reference benchmark.</li> </ul>						

## C. OBLIGATIONS ONLY RELEVANT FOR FINANCIAL PRODUCTS WITH AN ESG-FOCUS

	What must the asset manager do?	Does this apply to FAs?	What type of disclosure?	What Level 1 Article covers this?	Will there be Level 2 measures?	What's the deadline?	Next steps the firm should take
	<p>In addition, if the product promotes <b>environmental</b> characteristics, additional disclosures will be required under the Framework Regulation, relating to compliance with the taxonomy and an explanation of the “do no harm” principle.<sup>(7)</sup></p> <p>The relevant disclosures are divided into three separate requirements: (a) website, (b) pre-contractual disclosure, and (c) periodic disclosure.</p>						
7a	<p><b>Website:</b> The draft RTS requires the disclosures to be set out in a section of the asset manager’s website which is</p> <ul style="list-style-type: none"> <li>• entitled ‘Sustainability-related disclosures’ and</li> <li>• in the same part of the website as the other information relating to the financial product, including marketing communications.</li> </ul> <p>The financial product to which the information relates must be clearly identified and the environmental or social characteristics or the sustainable investment objective of that financial product must be prominently displayed.</p> <p>The draft RTS requires the website disclosure to be in sections named and ordered as follows</p> <ul style="list-style-type: none"> <li>• Summary (this must be no longer than two sides of A4 paper)</li> <li>• Environmental or social characteristics of the financial product</li> <li>• Proportion of investments</li> <li>• No sustainable investment objective</li> <li>• Investment strategy</li> <li>• Monitoring of environmental or social characteristics</li> <li>• Methodologies</li> <li>• Due diligence</li> <li>• Engagement policies</li> <li>• Data sources and processing</li> <li>• Limitations to methodologies and data, and</li> <li>• Designated reference benchmark (where relevant).</li> </ul>	No	<b>Website</b>	10(1)	Yes  (Articles 33 and 34 of draft RTS)	<b>10 March 2021</b>  <b>(but likely to be delayed)</b>	<ul style="list-style-type: none"> <li>• Assess whether each financial product is in or out of scope, depending on the investment objectives, investment process, and wider focus of the product.</li> <li>• In addition, assess specifically if the product promotes environmental characteristics (which will then trigger compliance with the Taxonomy).</li> <li>• For any product in scope, implement project to track development of level 2 measures (certain of the disclosure templates were not included in the Draft RTS) and prepare required additional disclosures.</li> <li>• In addition, for any product in scope of the Taxonomy, further workstreams will be required on adherence to the Taxonomy.</li> <li>• For any product out of scope, include either the mandatory express negative disclosure (under the Taxonomy) or consider including a statement that out-of-scope (generally).</li> </ul>
7b	<p><b>Pre-contractual:</b> The draft RTS requires the information to be disclosed to</p>	No	<b>Pre-contractual disclosure</b>	8(1)  8(2)	Yes	<b>10 March 2021</b>	

<sup>(7)</sup> Article 6 and Article 25(2) of the Framework Regulation, which inserts a new Article 8(2a) into the SFDR.

## C. OBLIGATIONS ONLY RELEVANT FOR FINANCIAL PRODUCTS WITH AN ESG-FOCUS

	What must the asset manager do?	Does this apply to FAs?	What type of disclosure?	What Level 1 Article covers this?	Will there be Level 2 measures?	What's the deadline?	Next steps the firm should take
	<ul style="list-style-type: none"> <li>• follow the template to be set out in Annex II [<i>which has not yet been published</i>]</li> <li>• be presented in summary form</li> <li>• be in sections named and ordered as follows                             <ul style="list-style-type: none"> <li>• Environmental or social characteristics promoted by the financial product</li> <li>• No sustainable investment objective</li> <li>• Investment strategy</li> <li>• Sustainability indicators</li> <li>• Use of derivatives</li> <li>• Website reference and</li> <li>• (if an index has been designated for the financial product as a reference benchmark) Reference benchmark.</li> </ul> </li> </ul>				(Articles 14 to 22 of draft RTS)	<b>(but likely to be delayed)</b>	
	<p>For products which <b>promote one of the six identified environmental characteristics</b> under the Framework Regulation, pre-contractual disclosures must include:</p> <ul style="list-style-type: none"> <li>• information on the environmental characteristics which the product promotes and</li> <li>• a description of how and to what extent the underlying investments qualify as “environmentally sustainable” for the purposes of the taxonomy, and also the proportion of investments which are environmentally sustainable.</li> </ul> <p>In addition, the disclosures must also include a prescribed disclaimer</p>	No	<b>Pre-contractual disclosure</b>	8(2a)	Yes (not yet published)	<p><b>1 January 2022</b> (for environmental objectives (a) and (b))</p> <p><b>1 January 2023</b> (for environmental objectives (c) to (f))</p>	
7c	<p><b>Periodic:</b> The draft RTS requires this information to follow the template to be set out in Annex IV [<i>which has not yet been published</i>] and to be in sections named and ordered as follows</p> <ul style="list-style-type: none"> <li>• Attainment of the environmental or social characteristics promoted by the financial product</li> <li>• No significant harm of sustainable investment objectives</li> <li>• Top investments of the financial product</li> <li>• Sustainable performance of the index designated as a benchmark (where the financial product has an index</li> </ul>	No	<b>Periodic disclosure</b>	11(1)(a)	Yes  (Articles 36 to 42, and Article 51, of draft RTS)	<b>1 January 2022</b>	

## C. OBLIGATIONS ONLY RELEVANT FOR FINANCIAL PRODUCTS WITH AN ESG-FOCUS

	What must the asset manager do?	Does this apply to FAs?	What type of disclosure?	What Level 1 Article covers this?	Will there be Level 2 measures?	What's the deadline?	Next steps the firm should take
	designated as a reference benchmark that is not aligned with an environmental or social characteristic promoted by the financial product) <ul style="list-style-type: none"> <li>• Proportion of sustainability-related investments and</li> <li>• Actions taken to attain environmental or social characteristics.</li> </ul>						
	For products which <b>promote one of the six identified environmental characteristics</b> under the Framework Regulation, periodic disclosures must include the same information as specified in row 7(b), above	No	<b>Periodic disclosure</b>	11(1)(d)	Yes (not yet published)	<b>1 January 2022</b> (for environmental objectives (a) and (b))  <b>1 January 2023</b> (for environmental objectives (c) to (f))	
8	<p><b>Financial product with objective of <u>sustainable investments</u></b></p> <p>Where a financial product has <u>sustainable investment</u> as its objective, the asset manager must disclose certain prescribed information depending on whether or not an index has been designated as a reference benchmark.</p> <p>In addition, <u>if</u> the product invests in an economic activity that contributes to an <b>environmental</b> objective, additional disclosures will be required under the Framework Regulation, relating to compliance with the taxonomy.<sup>(8)</sup> For out-of-scope products, an express negative disclosure will be required.<sup>(9)</sup></p> <p>The relevant disclosures are divided into three separate requirements: (a) website, (b) pre-contractual disclosure, and (c) periodic disclosure.</p>						

<sup>(8)</sup> Article 5 and Article 25(3) of the Framework Regulation, which inserts a new Article 9(4a) into the SFDR.

<sup>(9)</sup> Article 7 of the Framework Regulation.

## C. OBLIGATIONS ONLY RELEVANT FOR FINANCIAL PRODUCTS WITH AN ESG-FOCUS

	What must the asset manager do?	Does this apply to FAs?	What type of disclosure?	What Level 1 Article covers this?	Will there be Level 2 measures?	What's the deadline?	Next steps the firm should take
8a	<p><b>Website:</b> The draft RTS requires the information to be set out in a section of the asset manager's website which is</p> <ul style="list-style-type: none"> <li>• entitled 'Sustainability-related disclosures' and</li> <li>• in the same part of the website as the other information relating to the financial product, including marketing communications.</li> </ul> <p>The financial product to which the information relates must be clearly identified and the environmental or social characteristics or the sustainable investment objective of that financial product must be prominently displayed.</p> <p>The draft RTS requires the website disclosure to be in sections named and ordered as follows</p> <ul style="list-style-type: none"> <li>• Summary (this must be no longer than two sides of A4 paper)</li> <li>• Sustainable investment objective of the financial product</li> <li>• Proportion of investments</li> <li>• No significant harm to the sustainable investment objective</li> <li>• Investment strategy</li> <li>• Monitoring of sustainable investment objective</li> <li>• Methodologies</li> <li>• Due diligence</li> <li>• Engagement policies</li> <li>• Data sources and processing</li> <li>• Limitations to methodologies and data and</li> <li>• Attainment of the sustainable investment objective.</li> </ul>	No	<b>Website</b>	10(1)	Yes	<b>10 March 2021 (but likely to be delayed)</b>	<ul style="list-style-type: none"> <li>• Assess whether each financial product is in or out of scope, depending on the investment objectives, investment process and wider focus of the product.</li> <li>• In addition, assess specifically if the product contributes to an environmental objective (which will then trigger compliance with the Taxonomy).</li> <li>• For any product <b>in scope</b>, implement project to track development of level 2 measures (certain of the disclosure templates were not included in the Draft RTS) and prepare required additional disclosures. In addition, for any product in scope of the Taxonomy, further workstreams will be required on adherence to the Taxonomy.</li> <li>• For any product <b>out of scope</b>, include the mandatory express negative disclosure (under the Taxonomy) or consider including a statement that out-of-scope (generally).</li> </ul>
8b	<p><b>Pre-contractual:</b> The draft RTS requires the information to be disclosed to</p> <ul style="list-style-type: none"> <li>• follow the template to be set out in Annex III [<i>which has not yet been published</i>]</li> <li>• be presented in summary form</li> <li>• be in sections named and ordered as follows</li> <li>• Sustainable investment objective of the financial product</li> </ul>	No	<b>Pre-contractual disclosure</b>	9(1) 9(2) 9(4)	Yes  (Articles 23 to 32 of draft RTS)	<b>10 March 2021 (but likely to be delayed)</b>	

## C. OBLIGATIONS ONLY RELEVANT FOR FINANCIAL PRODUCTS WITH AN ESG-FOCUS

	What must the asset manager do?	Does this apply to FAs?	What type of disclosure?	What Level 1 Article covers this?	Will there be Level 2 measures?	What's the deadline?	Next steps the firm should take
	<ul style="list-style-type: none"> <li>• No significant harm to the sustainable investment objectives</li> <li>• Investment strategy</li> <li>• Sustainability indicators</li> <li>• Use of derivatives</li> <li>• Website reference and</li> <li>• Sustainable investment objective attainment with a designated index (where relevant)</li> </ul>						
	<p>For products which contribute to <b>one of the six identified environmental objectives</b> under the Framework Regulation, pre-contractual disclosures must include:</p> <ul style="list-style-type: none"> <li>• information on the environmental objective(s) to which the product contributes and</li> <li>• a description of how and to what extent the underlying investments qualify as "environmentally sustainable" for the purposes of the taxonomy, and also the proportion of investments which are environmentally sustainable.</li> </ul>	No	<b>Pre-contractual disclosure</b>	9(4a)	Yes (not yet published)	<p><b>1 January 2022</b> (for environmental objectives (a) and (b))</p> <p><b>1 January 2023</b> (for environmental objectives (c) to (f))</p>	
8c	<p><b>Periodic:</b> The draft RTS requires this information to follow the template to be set out in Annex V [<i>which has not yet been published</i>] and to be in sections named and ordered as follows</p> <ul style="list-style-type: none"> <li>• Attainment of the sustainable investment objective of the financial product</li> <li>• No significant harm of sustainable investment objectives</li> <li>• Top investments of the financial product</li> <li>• Sustainable performance of the index designated as a benchmark</li> <li>• Proportion of sustainability-related investments and</li> <li>• Actions taken to attain environmental or social characteristics.</li> </ul>	No	<b>Periodic disclosure</b>	11(1)(b)	Yes  (Articles 43 to 51 of draft RTS)	<b>1 January 2022</b>	
	<p>For products which contribute to <b>one of the six identified environmental objectives</b> under the Framework Regulation, periodic disclosures must include the same information as specified in row 8(b), above</p>	No	<b>Periodic disclosure</b>	11(1)(c)	Yes (not yet published)	<b>1 January 2022</b> (for environmental objectives (a) and (b))	

## C. OBLIGATIONS ONLY RELEVANT FOR FINANCIAL PRODUCTS WITH AN ESG-FOCUS

	What must the asset manager do?	Does this apply to FAs?	What type of disclosure?	What Level 1 Article covers this?	Will there be Level 2 measures?	What's the deadline?	Next steps the firm should take
						<b>1 January 2023</b> (for environmental objectives (c) to (f))	
<b>9</b>	<p><b>Financial product with objective of reducing carbon emissions</b></p> <p>Where a financial product has a reduction in carbon emissions as its objective, the asset manager must disclose certain prescribed information in relation to the Paris Agreement.</p> <p>In addition, <b>if</b> the product invests in an economic activity that contributes to an environmental objective, additional disclosures will be required under the Framework Regulation, relating to compliance with the taxonomy.<sup>(10)</sup> For out-of-scope products, an express negative disclosure will be required.<sup>(11)</sup></p> <p>The relevant disclosures are divided into three separate requirements: (a) website, (b) pre-contractual disclosure, and (c) periodic disclosure.</p>						
<b>9a</b>	Where a financial product has a reduction in carbon emissions as its objective, the asset manager must disclose certain prescribed information in relation to the Paris Agreement.	No	<b>Website</b>	10(1)	Yes  (Articles 33 to 35 of draft RTS)	<b>10 March 2021</b>  <b>(but likely to be delayed)</b>	<ul style="list-style-type: none"> <li>• Please refer to row 8, as the same action points would effectively apply here.</li> </ul>
<b>9b</b>	<b>Pre-contractual:</b> Please refer to row 8b, as the disclosure requirements are effectively the same and would apply equally here (with some technical differences to reflect the specific objective of reducing carbon emissions).	No	<b>Pre-contractual disclosure</b>	9(3) 9(4) 9(4a)	Yes  (Articles 23 to 32 of draft RTS)	<b>10 March 2021</b>  <b>(but likely to be delayed)</b>  <b>(and the same deferred dates for Framework Reg disclosures)</b>	
<b>9c</b>	<b>Periodic:</b> Please refer to row 8c, as the disclosure requirements are effectively the same and would apply equally here (with some technical differences to reflect the specific objective of reducing carbon emissions).	No	<b>Periodic disclosure</b>	11(1)(b) 11(1)(c)	Yes  (Articles 43 to 51 of draft RTS)	<b>1 January 2022</b>  <b>(and the same deferred dates for Framework Reg disclosures)</b>	

<sup>(10)</sup> Article 5 and Article 25(3) of the Framework Regulation, which inserts a new Article 9(4a) into the SFDR.

<sup>(11)</sup> Article 7 of the Framework Regulation.

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