# 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 (Text with EEA relevance)

## 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

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee[(1)],

Acting in accordance with the ordinary legislative procedure[(2)],

Whereas:

(1) On 25 September 2015, the UN General Assembly adopted a new global sustainable development framework: the 2030 Agenda for Sustainable Development (the '2030 Agenda'), which has at its core the Sustainable Development Goals (SDGs). The Commission Communication of 22 November 2016 on the next steps for a sustainable European future links the SDGs to the Union policy framework to ensure that all Union actions and policy initiatives, both within the Union and globally, take the SDGs on board at the outset. In its conclusions of 20 June 2017, the Council confirmed the commitment of the Union and its Member States to the implementation of the 2030 Agenda in a full, coherent, comprehensive, integrated and effective manner, and in close cooperation with partners and other stakeholders.

(2) The transition to a low#carbon, more sustainable, resource#efficient and circular economy in line with the SDGs is key to ensuring long#term competitiveness of the economy of the Union. The Paris Agreement adopted under the United Nations Framework Convention on Climate Change (the 'Paris Agreement'), which was approved by the Union on 5 October 2016[(3)] and which entered into force on 4 November 2016, seeks to strengthen the response to climate change by, inter alia, making finance flows consistent with a pathway towards low greenhouse gas emissions and climate#resilient development.

(3) In order to reach the objectives of the Paris Agreement and significantly reduce the risks and impacts of climate change, the global target is to hold the increase in the global

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average temperature to well below 2 °C above pre#industrial levels and to pursue efforts to limit the temperature increase to 1,5 °C above pre#industrial levels.

(4) Directives 2009/65/EC[(4)], 2009/138/EC[(5)], 2011/61/EU[(6)], 2013/36/EU[(7)], 2014/65/EU[(8)], (EU) 2016/97[(9)], (EU) 2016/2341[(10)] of the European Parliament and of the Council, and Regulations (EU) No 345/2013[(11)], (EU) No 346/2013[(12)], (EU) 2015/760[(13)] and (EU) 2019/1238[(14)] of the European Parliament and of the Council share the common objective of facilitating the uptake and pursuit of the activities of undertakings for collective investment in transferable securities (UCITS), credit institutions, alternative investment fund managers (AIFMs) which manage or market alternative investment funds, including European long#term investment funds (ELTIFs), insurance undertakings, investment firms, insurance intermediaries, institutions for occupational retirement provision (IORPs), managers of qualifying venture capital funds (EuVECA managers), managers of qualifying social entrepreneurship funds (EuSEF managers) and providers of pan#European personal pension products (PEPPs). Those Directives and Regulations ensure the more uniform protection of end investors and make it easier for them to benefit from a wide range of financial products, while at the same time providing rules that enable end investors to make informed investment decisions.

(5) Disclosures to end investors on the integration of sustainability risks, on the consideration of adverse sustainability impacts, on sustainable investment objectives, or on the promotion of environmental or social characteristics, in investment decision# making and in advisory processes, are insufficiently developed because such disclosures are not yet subject to harmonised requirements.

(6) The exemption from this Regulation for financial advisers which employ fewer than three persons should be without prejudice to the application of the provisions of national law transposing Directives 2014/65/EU and (EU) 2016/97, in particular the rules on investment and insurance advice. Therefore, although such advisers are not required to provide information in accordance with this Regulation, they are required to consider and factor in sustainability risks in their advisory processes.

(7) Entities covered by this Regulation, depending on the nature of their activities, should comply with the rules on financial market participants where they manufacture financial products and should comply with the rules on financial advisers where they provide investment advice or insurance advice. Therefore, where such entities carry out activities of both financial market participants and financial advisers concurrently, such entities should be deemed to be financial market participants where they act in the capacity of manufacturers of financial products, including portfolio management, and should be deemed to be financial advisers where they provide investment or insurance advice.

(8) As the Union is increasingly faced with the catastrophic and unpredictable consequences of climate change, resource depletion and other sustainability#related issues, urgent action is needed to mobilise capital not only through public policies but also by the financial services sector. Therefore, financial market participants and financial advisers should be required to disclose specific information regarding their

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approaches to the integration of sustainability risks and the consideration of adverse sustainability impacts.

(9) In the absence of harmonised Union rules on sustainability#related disclosures to end investors, it is likely that diverging measures will continue to be adopted at national level and different approaches in different financial services sectors might persist. Such divergent measures and approaches would continue to cause significant distortions of competition because of significant differences in disclosure standards. In addition, the parallel development of market#based practices that are based on commercially#driven priorities that produce divergent results currently causes further market fragmentation and might even further exacerbate inefficiencies in the functioning of the internal market in the future. Divergent disclosure standards and market#based practices make it very difficult to compare different financial products, create an uneven playing field for such products and for distribution channels, and erect additional barriers within the internal market. Such divergences could also be confusing for end investors and could distort their investment decisions. In ensuring compliance with the Paris Agreement, there is a risk that Member States adopt divergent national measures which could create obstacles to the smooth functioning of the internal market and be detrimental to financial market participants and financial advisers. Furthermore, the lack of harmonised rules relating to transparency makes it difficult for end investors to effectively compare different financial products in different Member States with respect to their environmental, social and governance risks and sustainable investment objectives. It is therefore necessary to address existing obstacles to the functioning of the internal market and to enhance the comparability of financial products in order to avoid likely future obstacles.

(10) This Regulation aims to reduce information asymmetries in principal#agent relationships with regard to the integration of sustainability risks, the consideration of adverse sustainability impacts, the promotion of environmental or social characteristics, and sustainable investment, by requiring financial market participants and financial advisers to make pre#contractual and ongoing disclosures to end investors when they act as agents of those end investors (principals).

(11) This Regulation supplements the disclosure requirements laid down in Directives 2009/65/EC, 2009/138/EC, 2011/61/EU, 2014/65/EU, (EU) 2016/97, (EU) 2016/2341, and Regulations (EU) No 345/2013, (EU) No 346/2013, (EU) 2015/760 and (EU) 2019/1238 as well as in national law governing personal and individual pension products. To ensure the orderly and effective monitoring of compliance with this Regulation, Member States should rely on the competent authorities already designated under those rules.

(12) This Regulation maintains the requirements for financial market participants and financial advisers to act in the best interest of end investors, including but not limited to, the requirement of conducting adequate due diligence prior to making investments, provided for in Directives 2009/65/EC, 2009/138/EC, 2011/61/EU, 2013/36/EU, 2014/65/EU, (EU) 2016/97, (EU) 2016/2341, and Regulations (EU) No 345/2013 and (EU) No 346/2013, as well as in national law governing personal and individual pension

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products. In order to comply with their duties under those rules, financial market participants and financial advisers should integrate in their processes, including in their due diligence processes, and should assess on a continuous basis not only all relevant financial risks but also including all relevant sustainability risks that might have a relevant material negative impact on the financial return of an investment or advice. Therefore, financial market participants and financial advisers should specify in their policies how they integrate those risks and publish those policies.

(13) This Regulation requires financial market participants and financial advisers which provide investment advice or insurance advice with regard to insurance#based investment products (IBIPs), regardless of the design of the financial product and the target market, to publish written policies on the integration of sustainability risks and ensure the transparency of such integration.

(14) A sustainability risk means an environmental, social or governance event or condition that, if it occurs, could cause a negative material impact on the value of the investment, as specified in sectoral legislation, in particular in Directives 2009/65/EC, 2009/138/EC, 2011/61/EU, 2013/36/EU, 2014/65/EU, (EU) 2016/97, (EU) 2016/2341, or delegated acts and regulatory technical standards adopted pursuant to them.

(15) This Regulation should be without prejudice to the rules on the risk integration under Directives 2009/65/EC, 2009/138/EC, 2011/61/EU, 2013/36/EU, (EU) 2016/97, (EU) 2016/2341, and Regulations (EU) No 345/2013 and (EU) No 346/2013 and as well as under national law governing personal and individual pension products, including but not limited to the relevant applicable proportionality criteria such as size, internal organisation and the nature, scope and complexity of the activities in question. This Regulation seeks to achieve more transparency regarding how financial market participants and financial advisers integrate sustainability risks into their investment decisions and investment or insurance advice. Where the sustainability risk assessment leads to the conclusion that there are no sustainability risks deemed to be relevant to the financial product, the reasons therefor should be explained. Where the assessment leads to the conclusion that those risks are relevant, the extent to which those sustainability risks might impact the performance of the financial product should be disclosed either in qualitative or quantitative terms. The sustainability risk assessments and related pre#contractual disclosures by financial market participants should feed into pre#contractual disclosures by financial advisers. Financial advisers should disclose how they take sustainability risks into account in the selection process of the financial product that is presented to the end investors before providing the advice, regardless of the sustainability preferences of the end investors. This should be without prejudice to the application of provisions of national law transposing Directives 2014/65/EU and (EU) 2016/97, in particular the obligations on financial market participants and financial advisers as regards product governance, assessments of suitability and appropriateness, and the demands#and#needs test.

(16) Investment decisions and advice might cause, contribute to or be directly linked to effects on sustainability factors that are negative, material or likely to be material.

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(17) To ensure the coherent and consistent application of this Regulation, it is necessary to lay down a harmonised definition of 'sustainable investment' which provides that the investee companies follow good governance practices and the precautionary principle of 'do no significant harm' is ensured, so that neither the environmental nor the social objective is significantly harmed.

(18) Where financial market participants, taking due account of their size, the nature and scale of their activities and the types of financial products they make available, consider principal adverse impacts, whether material or likely to be material, of investment decisions on sustainability factors, they should integrate in their processes, including in their due diligence processes, the procedures for considering the principal adverse impacts alongside the relevant financial risks and relevant sustainability risks. The information on such procedures might describe how financial market participants discharge their sustainability#related stewardship responsibilities or other shareholder engagements. Financial market participants should include on their websites information on those procedures and descriptions of the principal adverse impacts. In that respect, the Joint Committee of the European Banking Authority established by Regulation (EU) No 1093/2010 of the European Parliament and of the Council[(15)] (EBA), the European Insurance and Occupational Pensions Authority established by Regulation (EU) No 1094/2010 of the European Parliament and of the Council[(16)] (EIOPA) and the European Securities and Markets Authority established by Regulation (EU) No 1095/2010 of the European Parliament and of the Council[(17)] (ESMA) (the 'Joint Committee'), and financial market participants and financial advisers should consider the due diligence guidance for responsible business conduct developed by the Organisation for Economic Co#operation and Development (OECD) and the United Nations#supported Principles for Responsible Investment.

(19) The consideration of sustainability factors in the investment decision#making and advisory processes can realise benefits beyond financial markets. It can increase the resilience of the real economy and the stability of the financial system. In so doing, it can ultimately impact on the risk#return of financial products. It is therefore essential that financial market participants and financial advisers provide the information necessary to enable end investors to make informed investment decisions.

(20) Financial market participants which consider the principal adverse impacts of investment decisions on sustainability factors should disclose in the pre#contractual information for each financial product, concisely in qualitative or quantitative terms, how such impacts are considered as well as a statement that information on the principal adverse impacts on sustainability factors is available in the ongoing reporting. Principal adverse impacts should be understood as those impacts of investment decisions and advice that result in negative effects on sustainability factors.

(21) Sustainable products with various degrees of ambition have been developed to date. Therefore, for the purposes of pre#contractual disclosures and disclosures in periodical reports, it is necessary to distinguish between the requirements for financial products which promote environmental or social characteristics and those for financial products which have as an objective a positive impact on the environment and society.