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Supervisory Statement on the Application of the EU Sustainable Finance Disclosure Regulation and the EU Taxonomy Regulation



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On March 25, 2022, the three European supervisory authorities – the European Banking Authority, the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority (collectively the “ESAs”) – published an [updated joint statement](#) on the application of [Regulation \(EU\) 2019/2088](#) on sustainability-related disclosures in the financial services sector (“SFDR”). This updated statement replaces the prior joint statement released in February 2021 in relation to the SFDR, and provides new guidance on the application of [Regulation \(EU\) 2020/852](#) on the establishment of a framework to facilitate sustainable investment (the “Taxonomy Regulation”).

This statement provides further guidance to firms on SFDR compliance in the absence of finalised detailed disclosure requirements under EU secondary legislation (known as Regulatory Technical Standards, or “RTS”). Although the entity and product disclosure level requirements in SFDR have been applicable since March 10, 2021, the RTS have been repeatedly delayed, and the date set for their entry into force is now January 1, 2023. Similarly, the sustainability disclosures required under the Taxonomy Regulation will apply from January 1, 2022 for climate change objectives, but the RTS under the Taxonomy Regulation will not apply until January 1, 2023, in tandem with the RTS under the SFDR.

The Statement is intended to alleviate the risk of inconsistent application and national supervision of the SFDR and the Taxonomy Regulation disclosures during this interim period until 2023. The key guidance in the statement includes:

- a timeline setting out the application dates and summary guidance for each element of the SFDR and Taxonomy Regulation regime;
- draft versions of the RTS to be used as a reference for applying the disclosure obligations set in SFDR and the Taxonomy Regulation. It is important to note, however, that these measures may be subject to further change. The ESAs

recommend that national authorities should encourage market participants to “use the interim period until 1 January 2023 to prepare for the application of the RTS”;

- clarification that any financial product that falls within the detailed disclosure obligations in the Taxonomy Regulation should include an “explicit quantification” of the extent to which the product can be considered taxonomy-aligned by using a “numeric disclosure as a percentage of the extent to which investments underlying the financial product are taxonomy-aligned”; and
 - estimates should not be used when calculating taxonomy-alignment of in-scope financial products under the Taxonomy Regulation. However, the ESAs suggest that “where information [on sustainability] is not readily available from public disclosures by investee companies, financial market participants may rely on equivalent information on taxonomy alignment obtained directly from the investee companies or from third party providers.”
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