



Legal Update

Report on principle adverse impacts disclosure under SFDR.

On 28 September 2023, the Joint Committee of the three European Supervisory Authorities (EBA, EIOPA and ESMA- the “ESAs”) published their second annual Report on the extent of voluntary disclosure of principal adverse impacts under Article 18 of the Sustainable Finance Disclosures Regulation (“SFDR”).

Background

Application of the SFDR commenced on 10 March 2021 and sets out the sustainability disclosure requirements for Financial Market Participants (“FMPs”). On 6 April 2022 the EC adopted the SFDR Regulation which specifies technical standards that FMPs should use when disclosing sustainability related information. Article 4(1)(a) SFDR provides for disclosure on the FMP’s website of the principal adverse impacts (“PAI”) of its investment decisions on sustainability factors and a statement on its due diligence policy with respect to those impacts. The first such report’s delivered on 28 July 2022 found that the extent of the take up of the voluntary disclosures of the PAI varied significantly across jurisdictions and FMP’s making it difficult to identify trends. As a result, in the 2022 Report the ESAs only provided some initial recommendations to the EC and a preliminary overview of good and bad practices for the PAI disclosures.

Current Approach

For the 2023 Report the ESAs have taken a similar approach to the one adopted for the 2022 Report and launched a survey of the NCA’s through the Joint Committee and the relevant Standing Committees of the ESAs. The purpose of the survey

was to gather feedback on the current state of entity level voluntary PAI disclosures under SFDR. Section 2 of this report includes the background and rationale of this exercise and the lessons learned from the second year of implementation of the voluntary disclosure regime.

Main Findings

The results of the survey show an overall improvement in compliance with the voluntary disclosure regime. The ESAs consider that an area that requires improvement is the explanations of non-consideration of PAIs, as such explanations are often not fully complete or satisfactorily detailed. An area that will require further analysis is the voluntary disclosure of PAI consideration of relevant financial products -where the level of detail from such disclosures is limited.

Next Steps

In future this report will also include information regarding the PAI disclosure template and disclosure of engagement policies. These only started being used from 30 June 2023. Future iterations of this report will assist in illustrating compliance trends relating to the SFDR.

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