



EUROPEAN COMMISSION

DIRECTORATE-GENERAL FOR FINANCIAL STABILITY, FINANCIAL SERVICES AND CAPITAL
MARKETS UNION

The Director-General

Brussels
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Mr Gabriel Bernardino
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Subject: Application of Regulation (EU) 2019/2088 on the sustainability-related disclosures in the financial services sector

Dear Mr Bernardino, Mr Campa and Mr Maijoor,

I am writing to you regarding the application of Regulation (EU) 2019/2088 on the sustainability related disclosures in the financial services sector and related technical standards.

Given the scale and challenge of the risks posed by climate change and the degradation of the environment and other sustainability matters, strong action and increased effort from all actors, including the financial services sector, are urgently required. In order to mobilise the necessary financial capital, it is vital that it is made easier for investors to identify the adverse impacts of their investments on sustainability factors. It is also essential that the credibility of sustainable investments and general awareness of sustainability risks be improved. Regulation (EU) 2019/2088 is a crucial element in achieving these objectives.

The co-legislators agreed in March 2019 on an ambitious timeframe for the Regulation, requiring the joint development by EIOPA, ESMA and EBA of most of the draft regulatory technical standards by 30 December 2020 and the application of the Regulation's provisions from 10 March 2021.

It was clear from the outset that this would be a very challenging deadline, given the time needed for the adoption of the rules, scrutiny in accordance with the EIOPA, ESMA and EBA Regulations and subsequent publication in the Official Journal.

The unprecedented economic and market stress caused by the Covid-19 crisis has necessitated an extension of the deadline for the public consultation on the draft regulatory technical standards. While the delay is unfortunate, it is justified by the need to guarantee sufficient stakeholder involvement in the process given the current difficult circumstances. This extension will allow stakeholders the time needed to properly address the complex issues contained in the joint consultation paper. At the same time, this delay in the consultation process will not detract from the importance of the Regulation in making the European economy future-proof.

With regard to the regulatory technical standards themselves, they will specify the detailed requirements on the content and presentation of disclosed information and transparency, regarding potential adverse impacts at entity level, the relevant mandate, in addition to the content and presentation of the disclosed information and foresee standards on the underpinning methodologies. The standards will facilitate further standardisation and convergence across the financial sector and will bring further accountability, discipline and efficiency to financial markets, comparability for end-investors, as well as improved data and information for supervisors.

However, in terms of substance, the application of the Regulation is not conditional on the formal adoption and entry into force or application of the regulatory technical standards as it lays down at Level 1 general principles of sustainability-related disclosures in three distinct areas.

With regard to the integration of sustainability risks in the investment decision-making process, financial market participants must, in accordance with the applicable sectoral legislation, already consider sustainability risks in their internal processes.

The Regulation requires transparency in this respect, with no further details necessary in the regulatory technical standards. As regards financial products that qualify under Articles 8 and 9 of the Regulation, in accordance with applicable sectoral legislation, product manufacturers must already describe in the product documentation how the levels of sustainability are achieved. This means that the manufacturers must comply with the disclosure principles set out in Articles 8 and 9 of the Regulation.

In relation to transparency of adverse sustainability impacts, numerous financial market participants currently comply with the non-financial reporting requirements under Directive 2013/34/EU or adhere to international standards and might consider using that information. Even without the full regulatory technical standards, there are no impediments to financial market participants and financial advisers complying with the Level 1 requirements laid down in the Regulation.

Therefore, all application dates are being maintained as laid down by the Regulation with effect from 2021 so financial market participants and financial advisers subject to the Regulation will need to comply with its high level and principle based requirements from that time. In order to provide financial market participants and financial advisers adequate time for implementation, the regulatory technical standards will become applicable at a later stage. This will also allow national competent authorities, as designated in accordance with the sectoral legislation referred to in Article 6(3) of the Regulation, and in accordance with Directive 2013/36/EU, to prepare for the orderly and effective supervision of compliance by financial market participants and financial advisers with the requirements of the framework.

The Commission is ready to coordinate with the ESAs and national competent authorities on this approach and a number of trade associations in the financial services sector have indicated that they have initiated targeted actions to assist their membership with implementation.

I look forward to continuing to work with you on this important issue.

Yours sincerely,

(e-signed)

John BERRIGAN

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