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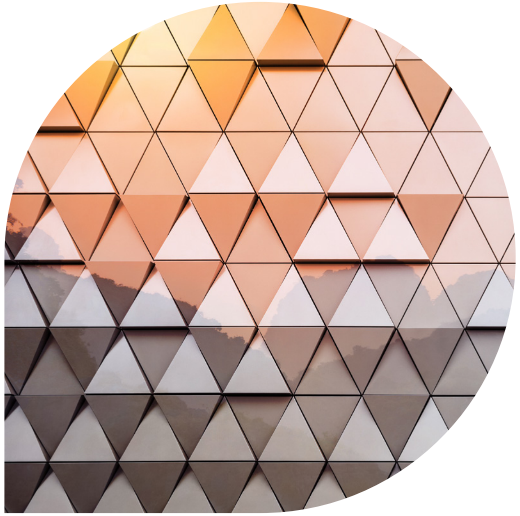
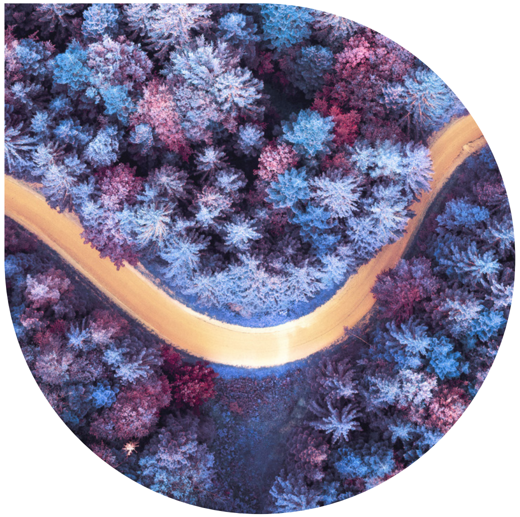



Summary of Current EU & UK
Sustainable Finance Related Measures

Summary of Current EU & UK Sustainable Finance Related Measures

The following information is a status update on the key components of the sustainable finance package at EU and UK level. It details what the resource is, who it impacts and the associated timing.

At the end of this document is a list of all the source materials referred to, with links to them.

This resource is maintained regularly. This version was last updated on 15 June 2021.

Click on an image above to view the related section

1 EU Sustainable Finance Package

Regulation (EU) 2020/852 on the establishment of a framework to facilitate sustainable investment and amending Regulation (EU) 2019/2088 (known as the 'Taxonomy Regulation' or 'SFTR')

What does it do?

> Establishes the criteria for determining whether an economic activity is "environmentally sustainable". An activity is deemed to be "environmentally sustainable" if it contributes substantially to certain environmental objectives specified in the Regulation, does not cause significant harm to others and is subject to minimum social and labour international standards safeguards.

> The Regulation sets out what each of the environmental objectives are at a high level and empowers the European Commission to adopt a Delegated Act in each case establishing technical screening criteria for determining when an activity contributes to the relevant environmental objective. Requires disclosures against the ESG taxonomy by "financial market participants" for ESG investments.

> On 10 June 2020, the European Commission published a set of FAQs regarding the work of the EU Technical Expert Group on Sustainable Finance (TEG) on taxonomy and the EU green bond standard.

> The FAQs cover, amongst other things:

– The legal process and how the taxonomy will be developed.

– Details about whether the Commission will extend the taxonomy to cover social objectives and a "brown" taxonomy. The review clause of the Taxonomy Regulation requires the Commission to publish a report by 31 December 2021 on extending the scope of the Taxonomy to social objectives as well as economic activities that are socially economically harmful ("brown" activities).

– How the platform on sustainable finance will be set up, with a public call for applications launched on 18 June 2020.

– How the taxonomy should be used, including its interaction with the Non-Financial Reporting Directive. Any company – financial or non-financial – that is subject to an obligation to publish non-financial information under the Non-Financial Reporting Directive will be required to disclose how and to what extent its activities are aligned with the EU taxonomy as of 1 January 2022, starting with the climate objectives.

Who does it impact?

> Feeds through to the other proposals and ultimately provides the framework for categorising ESG economic activities so impacts everyone in the sustainable finance/ESG space, including issuers, institutional investors, asset managers, funds etc.

> UK position – a new Green Technical Advisory Group has been announced by Treasury, which will advise the UK Government on how to adapt the EU Taxonomy for UK purposes. Initial recommendations are to be provided to the Government in September 2021.



1 EU Sustainable Finance Package

When does it apply?

> The Regulation was published in the Official Journal of the EU on 22 June 2020 and entered into force on 12 July 2020, although detailed rules on the environmental objectives will be phased in progressively. The EU Taxonomy Climate Delegated Act (which is the technical screening criteria for climate change mitigation and climate change adaptation) will apply from 1 January 2022.

> The technical screening criteria for the four other environmental objectives (sustainable use and protection of water and marine resources; transition to a circular economy; pollution prevention and control; and protection and restoration of biodiversity and ecosystems) will apply from end of 2022. The technical advice on these is being developed by the PSF with a report expected in September 2021. The Commission will then adopt the Delegated Act on these criteria by the end of 2021 to apply by the end of 2022.

> A further delegated act setting out how firms subject to the Corporate Sustainability Reporting Directive (a newly proposed directive which amends NFRD) must publish information on how and to what extent their activities align with the Taxonomy is due for adoption by end June 2021. The Commission has published its roadmap on this, with a link to the draft delegated act.

> Article 8 of the Taxonomy Regulation requires undertakings covered by the Non-Financial Reporting Directive (NFRD) to publish information on how and to what extent their activities are associated with economic activities that qualify as environmentally sustainable under the Taxonomy Regulation. On 1 March 2021 ESAs submitted their advice to the Commission on the content, methodology and presentation of the KPIs for these Article 8 disclosures, and on 7 May 2021, the Commission published its consultation on the proposed Article 8 disclosures. The feedback period has now closed and adoption of the proposed delegated act is expected by end of Q2 2021.

> As well as developing the four remaining sets of technical screening criteria, the development of additional taxonomies is in progress. The PSF is expected to deliver its report to the Commission on a significant harm (brown) taxonomy, a no significant impact taxonomy and an extension of taxonomy to social objectives imminently (expected in May, but delayed by political disagreement over the treatment of nuclear and gas in the Taxonomy Climate Delegated Act). PSF final reports on brown taxonomy expected in Q3 2021 and social taxonomy in Q4 2021.

1 EU Sustainable Finance Package

Regulation (EU) 2019/2088 on Sustainable Finance Disclosures (known as the 'SFDR')

What does it do?

> Requires firms who provide financial products and firms that provide advice on them, to publish

- "sustainability risk policies",
- a statement on due diligence policies (or lack thereof) on the "principal adverse impacts" of investment decisions/investment advice on sustainability factors,
- remuneration policies on the integration of sustainability risks; and
- pre-contractual and website disclosures on incorporation of "sustainability risks" and the ESG features of financial products.

> Where financial products have sustainable investment as their target, additional information has to be provided in pre-contractual disclosures about how that target is reached. Information must also be provided on websites (including on the investments target and information on assessment/evaluation/monitoring methodologies) and periodic reports. The EBA, ESMA and EIOPA are empowered to draft RTS specifying the details of these disclosures. In addition, the consultation paper contains proposals on the 'do not significantly harm' ("**DNSH**") principle under the Taxonomy Regulation.

> The Regulation also amends the IORPs Directive (EU Directive on the activities and supervision of institutions for occupational retirement provision) to ensure IORPs take into account ESG risks in their investment rules.

Who does it impact?

> Providers of financial products are defined as "financial market participants" in the Regulation.

These include:

- insurers;
- AIFMs;
- UCITS management companies;
- MiFID portfolio managers;
- IORPs;
- pension product providers;
- venture capital fund managers; and
- social entrepreneurship fund managers.

> Most of the Regulation also applies to insurance intermediaries providing advice and MiFID investment firms providing investment advice.

When does it apply?

> The Regulation is in force and has generally applied since 10 March 2021 (c. 15 months after publication on the Official Journal in December 2019) except for the requirement for large market participants to make statements on how their due diligence policies take the principle adverse impacts of their investment decisions on sustainability factors into account, the deadline for which is 30 June 2021, and for provisions relating to disclosures in periodic reports, which apply from 1 January 2022.

> Development of the Level 2 RTS is ongoing. See section 2 (on the delegated acts supplementing the sustainable finance package) for the detail on this work.

> UK position - The SFDR has not been onshored in the UK. The FCA is empowered to propose the UK's version of the disclosure regime. How this will evolve remains to be seen; it appears that the approach to Taxonomy is being worked out first, although we do expect FCA to consult on anti-greenwash principles later this year.

1 EU Sustainable Finance Package

Regulation (EU) 2019/2089 on Carbon Benchmarks (known as the 'Low Carbon Benchmarks Regulation' or 'Climate Benchmarks Regulation')

What does it do?

> Amends the Benchmarks Regulation 2016/1011 and introduces the "EU Climate Transition" and "EU Paris-aligned" benchmarks.

> Requires benchmark administrators of benchmarks (or families of benchmarks) which pursue or take into account ESG objectives to (along with other methodology information) (i) publish an explanation of how the key elements of the methodology reflect the ESG factors; and (ii) explain in the benchmark statement how ESG factors are reflected for each benchmark or family of benchmarks.

> Introduces a new Annex III (to be supplemented by a delegated act) which lays down requirements for the methodology for "EU Climate Transition" and "EU Paris-aligned" benchmarks.

> The TEG on Sustainable Finance published an interim report with recommendations related to this measure in 2019. Following analysis of responses received after a call for feedback, the TEG published its final report on EU climate benchmarks and benchmark ESG disclosures on 30 September 2019. On 20 December, the TEG also released a handbook with clarifications to issues raised by stakeholders during a second call for feedback subsequent to the publication of the final report.

Who does it impact?

> Benchmark administrators will be required to make new disclosures.

> Benchmark administrators who produce "EU Climate Transition" and "EU Paris-aligned" benchmarks will need to comply with the new Annex III.

When does it apply?

> The Regulation is in force. Provisions relating to the administration of the new ESG benchmarks apply from 30 April 2020 including specific obligations to be set in delegated acts (see our Client Alert here and information on the delegated acts in section 2) and the requirements on benchmark administrators to make new disclosures.

> On 29 April, ESMA sent a No Action Letter to National Competent Authorities (NCAs) noting that they should not prioritise supervisory or enforcement action against administrators regarding these new ESG requirements under the Benchmarks Regulation until the Delegated Acts are in force – this is now the case as the Delegated Acts have been in force since 23 December 2020.

> Administrators of significant benchmarks "shall endeavour" to provide one or more EU Climate Transition Benchmarks by 1 January 2022.

2 Delegated Acts Supplementing the Sustainable Finance Package

EU Taxonomy Climate Delegated Act to the Taxonomy Regulation

Annex I contains technical screening criteria for climate change mitigation.

Annex II contains technical screening criteria for climate change adaptation.

(Read our client alert for more detail on this)

What does it do?

> It sets out the technical screening criteria (TSC) for the first two environmental objectives: climate change mitigation and climate change adaptation. The purpose of the TSC is to enable investors and businesses to determine whether certain economic activities are environmentally sustainable.

Who does it apply to?

> Same application as the Taxonomy Regulation, described above – applies to financial markets participants (being providers of financial products).

When will it apply?

> The delegated act was formally adopted on 4 June and will be in force from 1 January 2022.

Draft consolidated SFDR RTS

What does it do?

> The RTS provides the detailed Level 2 provisions on the principles set out at Level 1, including detailed requirements on the disclosure templates that must be completed.

Who does it apply to?

> Same application as the Level 1, described above.

When will it apply?

> It is currently provided that the RTS will apply from 1 January 2022.

> However, Commission work on it is ongoing and the possibility of delay is rumoured.

> A draft of the RTS was published on 4 February. On the same day, the ESAs published a statement clarifying how the Level 1 rules will apply in the absence of Level 2 for that interim period – unhelpfully they recommended that firms follow the draft RTS as a guide in the interim.

> On March 15 2021, the ESAs published a consultation paper with an updated version of the draft SFDR RTS (updated from the version included in the previous 4 February SFDR Final Report) – but this time to consolidate Level 2 provisions proposed under the Taxonomy Regulation within SFDR. The consultation paper published sets out the ESAs' detailed Level 2 proposals and templates for embedding that Taxonomy disclosure in the SFDR disclosures / reports for Article 8/9 products. The back end of the consultation paper included a consolidated version of the SFDR RTS with all the changes in one place. The consultation was open until 12 May 2021, and the final report is expected by late June or early July 2021.

2 Delegated Acts Supplementing the Sustainable Finance Package

Delegated Regulations to the Low Carbon Benchmarks Regulation:

Delegated Regulation on minimum standards for EU Climate transition benchmarks and EU Paris-aligned benchmarks (Low Carbon Benchmarks DR)

Delegated Regulation on the minimum content of the explanation of how ESG factors are reflected in the benchmark methodology (ESG Methodology DR)

Delegated Regulation on the explanation in benchmark statements regarding how ESG factors are reflected (Benchmark Statement DR)

What do they do?

> Low Carbon Benchmarks DR: fleshes out the specific, minimum requirements that apply to benchmarks seeking to be classified as EU climate transition and EU Paris-aligned benchmarks.

> ESG Methodology DR: mandates minimum content disclosures for low carbon benchmarks that all benchmark administrators must make.

> Benchmark Statement DR: similar to the ESG Methodology DR, this sets minimum disclosure requirements in relation to how each benchmark considers specific ESG factors.

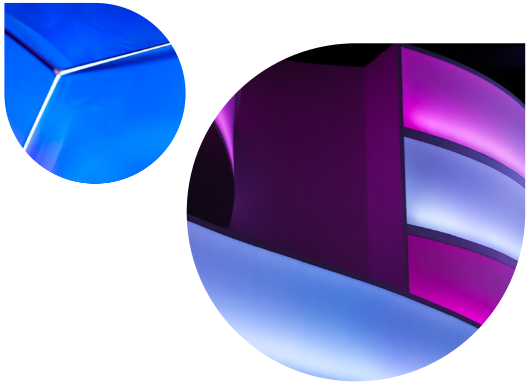
Who do they impact?

> Benchmark administrators.

When will they apply?

> The three delegated regulations were published in the OJ on 3 December and entered into force 20 days later (23 December).

> UK position - they have been onshored in the UK.



3 Other EU ESG Measures including changes to "Level 2" and "Level 3"

Commission Consultation on delegated acts integrating sustainability into UCITS, AIFMD, MiFID II, Solvency II and IDD

What does it do?

> On 21 April 2021, the Commission published the draft texts of six Commission Delegated Regulations and Directives (with two relating to MiFID II) as part of the EU's action plan on sustainable finance. These revised draft texts that had been published on 8 June 2020.

> The draft legislation incorporates sustainability issues and considerations into frameworks for UCITS, AIFMD, MiFID II, Solvency II and the Insurance Distribution Directive (IDD). The draft Delegated Acts are based on ESMA and EIOPA reports on technical advice submitted in April 2019, which concluded that further clarification on the integration of sustainability risks and factors in the existing delegated acts was necessary.

> Read our client note for more detail.

The draft texts are as follows:

> Commission Delegated Directive amending Directive 2010/43/EU as regards the sustainability risks and sustainability factors to be taken into account for UCITS.

> Commission Delegated Regulation amending Delegated Regulation (EU) No 231/2013 as regards sustainability risks and sustainability factors to be taken into account by AIFMs.

> Commission Delegated Regulation amending Delegated Directive (EU) 2017/593 as regards the integration of sustainability factors and preferences into the product governance obligations.

> Commission Delegated Regulation amending Delegated Regulation (EU) 2017/565 as regards the integration of sustainability factors, risks and preferences into certain organisational requirements and operating conditions for investment firms.

> Commission Delegated Regulation amending Delegated Regulation (EU) 2015/35 as regards the integration of sustainability risks in the governance of insurance and reinsurance undertakings.

> Commission Delegated Regulation amending Delegated Regulation (EU) 2017/2358 and Delegated Regulation (EU) 2017/2359 as regards the integration of sustainability factors and preferences into the product oversight and governance requirements for insurance undertakings and insurance distributors and into the rules on conduct of business and investment advice for insurance-based investment products.

Who does it impact?

> Investment firms, asset managers, AIFMs, insurers and insurance intermediaries.

When do they apply?

> Likely from October 2022.

> The draft DAs are subject to a scrutiny period by the Parliament / Council (at least 3 months). If no objections are raised, the rules will be published in the OJEU and enter into force. The delegated acts give 12 months for financial market participants to implement the requirements and so are expected to take effect from October 2022.

3 Other EU ESG Measures including changes to "Level 2" and "Level 3"

ESMA Technical Advice on Credit Rating Agencies Regulation

What does it do?

> Identified as a task for ESMA in the Commission's Action Plan for Sustainable Finance, the technical advice assesses the current practice within the credit rating market concerning sustainability considerations, to ascertain whether credit ratings are effective with respect to sustainability factors.

> Advises that whilst it would not be advisable to amend CRAR to explicitly mandate the consideration of sustainability characteristics in CRA's credit assessments, it could be useful to update CRAR's disclosure provisions to provide a more consistent level of transparency around how CRAs are considering ESG factors in their assessments and ensure that CRAR keeps pace with ESG developments in other areas.

> Suggests assessing whether there are sufficient regulatory safeguards in place for non-credit rating products to support sustainability assessments.

Who does it impact?

> Credit ratings agencies.

When does it apply?

> Not yet clear.

ESMA Guidelines on Disclosure Requirements applicable to Credit Rating Agencies

What does it do?

> A second task set out in the Commission's Action Plan for Sustainable Finance, ESMA includes environmental and sustainability considerations into its Guidelines on Disclosure Requirements. This is to ensure a sufficient level of transparency around the extent to which ESG factors were a driver of the credit rating action.

Who does it impact?

> Credit ratings agencies.

Since when has it applied?

> The Guidelines have been used in supervision since 30 March 2020.

EIOPA Consultation on Opinion on Sustainability within Solvency II

What does it do?

> Provides an opinion on the extent to which rules relating to cash flow projections for the calculation of the best estimate capture sustainability and climate related development.

> Collects good practices concerning investments and asset liability management.

> Considers where the calibration of the standard parameters in the market risk module of the standard formula do not sufficiently account for sustainability factors.

> Considers the extent to which rules relating to internal model design and calibrations account for sustainability factors.

> Will inform the EU Commission's review of Solvency II.

Who does it impact?

> Insurers.

When does it apply?

> No direct impact, feeds through to EU Commission review of Solvency II.

3 Other EU ESG Measures including changes to "Level 2" and "Level 3"

European Commission Consultation on a Renewed Sustainable Finance Strategy

What does it do?

> On 8 April 2020, the European Commission published a consultation on the renewed sustainable finance strategy (see our Client Alert here). The Consultation closed on 15 July. The Commission notes that building on the 2018 Action Plan on financing sustainable growth, the renewed sustainable finance strategy will provide a roadmap with new actions to increase private investment in sustainable projects and activities to support the different actions set out in the European Green Deal and to manage and integrate climate and environmental risks into our financial system. The initiative will also provide additional enabling frameworks for the European Green Deal Investment Plan.

> Publication of the renewed strategy has been delayed and is expected on 6 July 2021.

> This consultation also makes references to past, ongoing and future consultations, such as the public consultation and inception impact assessment on the review of the Non-Financial Reporting Directive, the inception impact assessment on the review of the Solvency II Directive or the future consultation on investment protection. Key issues include:

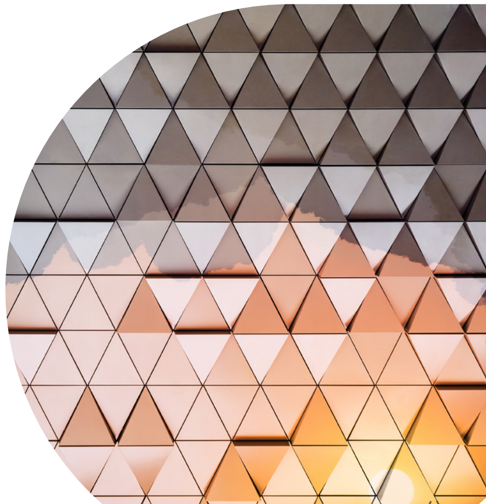
- Company reporting and transparency, accounting standards, and ESG sustainability research and ratings.
- Definitions, standards and labels for sustainable financial assets and financial products, EU Green Bond Standard, and Prospectus and green bonds.
- The development of the ESG benchmark.
- Digital sustainable finance.
- Capital markets infrastructure and the development of a sustainable finance-oriented exchange or trading segments that cater specifically to trading in sustainable finance securities and is better aligned with the needs of issuers.
- Corporate governance, long-termism and investor engagement
- Green securitization.
- Potential public incentives for issuers and lenders to boost the market for sustainable investments.

Who does it impact?

> All citizens, Member States and organisations are invited to contribute to this consultation. The ESAs have welcomed the consultation and in a letter published in July, highlight the following topics they feel are particularly important: (i) access to high-quality, user friendly sustainability data which would support, inter alia, better disclosures, (ii) a robust and proportionate regulatory framework to promote efficient risk management and a long-term perspective in financial decision making, and (iii) that investors and consumers can buy and use sustainable financial products in a safe and transparent way.

When does it apply?

> No direct impact but will feed into sustainable finance considerations.



4 EU Measures Overlapping with ESG Reforms

Shareholder Rights Directive II

What does it do in relation to ESG?

> Overlaps with the ESG Reforms by requiring disclosures on shareholder engagement policies and implementation by institutional investors and asset managers, and disclosures on, *inter alia*, how investment strategies are consistent with the profile and duration of liabilities (particularly long-term liabilities). Also requires certain disclosures by asset managers to institutional investors.

> On the back of SRD II, the UK Stewardship Code is also being revised and now expects signatories to take into account ESG factors in their stewardship approach.

Who does it impact?

> Institutional investors (IORPs and insurers).

> Asset managers (MiFID II portfolio managers, AIFMs, UCITS).

Since when has it applied?

> Some provisions applied since 10 June 2019. The rest (being the more substantive provisions) applied from 3 September 2020 (an industry plea for delay has been rejected by the Commission). The trade associations are now urging for a delay in the applicability of SRD II, including for sanctions, penalties and fines to not apply until 3 September 2021.

Investment Firms Regulation and Investment Firms Directive

What does it do in relation to ESG?

> Requires investment firms falling within certain thresholds to disclose "ESG-related risks", "physical risks" and "transition risks" as will be defined in an EBA report.

> EBA is also empowered by IFR to consider whether a dedicated prudential treatment of ESG assets should be enacted. The EBA will report on how ESG-related risks should be dealt with from a prudential perspective. The deadline for the report is 26 December 2021 (although is expected by the end of June).

Who does it impact?

> Investment firms falling within certain thresholds.

When does it apply?

> It will apply from 26 June 2021. Complex transitional provisions may allow investment firms to phase in certain additional capital requirements over five years (i.e. until mid-2026).

> In the UK, the UK IFPR will be implemented on 1 January 2022. How IFPR will handle ESG risks will be proposed in the FCA's third consultation on IFPR, expected in Q3 2021.

CRR 2 and CRD V

What does it do in relation to ESG?

> Requires in-scope institutions to disclose ESG risks.

> Provides preferential treatment of exposures to corporates specifically set up to fund public infrastructure where the corporate has carried out an assessment of whether the assets being financed contribute to ESG objectives.

> EBA is also empowered by CRR to consider whether a dedicated prudential treatment of ESG assets should be enacted. The deadline for the report is 26 December 2021 (although is expected by the end of June).

Who does it impact?

> Banks.

> Certain large investment firms.

When does it apply?

> CRR 2 generally applies from 28 June 2021.

> In the UK, the implementation of the outstanding elements of CRR2/CRDV has been pushed back to 1 January 2022. However, the UK's implementation of Basel III does not include express provisions on ESG (unlike IFPR).

4 EU Measures Overlapping with ESG Reforms

Proposal for a Corporate Sustainability Reporting Directive ("CSRD")

On 21 April 2021, the European Commission adopted a proposal for a Corporate Sustainability Reporting Directive ("**CSRD**"), which would amend the existing reporting requirements of the Non-Financial Reporting Directive ("**NFRD**").

What does it do?

> Extends the scope of NFRD to all large companies and all companies listed on regulated markets (except listed micro-enterprises).

> Requires the audit (assurance) of reported information.

> Introduces more detailed reporting requirements, and a requirement to report according to mandatory EU sustainability reporting standards.

> Requires companies to digitally 'instead of' the reported information, so it is machine readable and feeds into the European single access point envisaged in the capital markets union action plan.

Who does it impact?

> All "large" EU entities (not just large public interest entities as per NFRD) from 2024; and

> All listed EU companies (except listed micro-enterprises) from 2026 (n.b. CSRD significantly expands the scope of firms subject to the reporting requirement from those covered by NFRD).

When does it apply?

> The next step is for the European Parliament, and the Member States in the Council, to negotiate a final legislative text on the basis of the Commission's proposal. In parallel, EFRAG will start work on a first set of draft sustainability reporting standards. These draft standards could then be ready for consideration by the Commission once the Parliament and Council have agreed a legislative text. EFRAG aims to have the first set of draft standards ready by mid-2022.

> The final timetable will depend on how the Parliament and Council progress in their negotiations. If they reach agreement in the first half of 2022, then the Commission should be able to adopt the first set of reporting standards under the new legislation by the end of 2022. That would mean that companies would apply the standards for the first time to reports published in 2024, covering financial year 2023.

4 EU Measures Overlapping with ESG Reforms

EU Commission Non-Binding Guidelines on Climate-Related Reporting

What do they do?

> These guidelines supplement earlier non-binding guidelines on non-financial reporting adopted by the Commission in 2017 under the Non-Financial Reporting Directive.

> They provide guidance as to what to report under each of the reporting areas identified in the Non-Financial Reporting Directive, with special guidance for banks and insurers and on how the reporting requirements of the Directive can be combined with the recommendations of the TCFD.

Who do they impact?

> Large companies and groups.

When do they apply?

> Although non-binding, companies have been able to use the new guidelines for reports published from 2020 onwards.

TEG Report on climate-related disclosures

What does it do?

> The report published in January 2019 recommends wide-ranging disclosures by companies in relation to climate-related risks and opportunities.

Who does it impact?

> Large companies and groups.

When does it apply?

> No direct application/impact although the Commission took the report into consideration when updating the NFRD on the disclosure of non-financial and diversity information by certain large undertakings and groups.

4 EU Measures Overlapping with ESG Reforms

ECB guide to climate-related and environmental risks

What does it do?

> The guide specifies how ECB Banking Supervision expects banks to consider climate-related and environmental risks in their governance and risk management frameworks and when formulating and implementing their business strategy. It also outlines how the ECB expects banks to become more transparent by enhancing their climate-related and environmental disclosures.

Who does it impact?

> Significant institutions (banks) who are directly supervised by the ECB are expected to have regard to the guide, and from the end of 2020 will be asked to inform the ECB if they diverge from it.

> The guide has been prepared in collaboration with NCAs and is intended to fit within the EU law framework. It is expected that NCAs will (and may already) incorporate similar guidance into their own requirements for "less significant institutions" (i.e. regulated firms who are not subject to direct ECB supervision).

When does it apply?

> The guide was published on 27 November 2020. It contemplates notifications from significant institutions from the end of 2020.

> The ECB has followed-up with banks in two steps:

– In early 2021, it asked significant institutions to conduct a self-assessment in light of the supervisory expectations outlined in the guide and to draw up action plans on that basis. The ECB will then benchmark the banks' self-assessments and plans and challenge them if necessary.

– In 2022 it will conduct a full supervisory review of banks' practices and take follow-up measures where needed.

> Alongside the guide, the ECB also published a report on institutions' climate-related and environmental risk disclosures which concludes that banks need to make significant efforts to better support their disclosure statements with relevant quantitative and qualitative information.

> In the second half of 2021, the ECB intends to identify remaining gaps and discuss them with the banks.

EBA discussion paper on management and supervision of ESG risks by banks and investment firms

What does it do?

> IFR and CRR 2 empower EBA to consider whether a dedicated prudential treatment of ESG assets should be enacted and produce a report on this. The purpose of the discussion paper is to set out preliminary thinking and collect comment from stakeholders in advance of the preparation of the report (expected end of June).

> The outcome of the report to which this discussion paper contributes will be finalised guidelines and standards, expected in 2021 or 2022, and possibly changes to prudential legislation should it be recommended that a standalone prudential regime for ESG assets is beneficial.

Who does it apply to?

> Credit institutions (CRR 2) and large investment firms (IFR).

When will it apply?

> Timing uncertain, and dependent upon outcomes of the report.

5 UK ESG Related Measures

UK Taxonomy?

A new Green Technical Advisory Group has been announced by Treasury, which will advise the UK Government on how to adapt the EU Taxonomy for UK purposes. Initial recommendations are to be provided to the Government in September 2021.

Although timing is still uncertain, end 2022 has been mentioned as a possible date for the UK taxonomy to be finalised.

UK SFDR?

SDFR was not onshored after Brexit. We expect the FCA to consult on the UK framework in sometime in 2021.

This means that UK firms do not need to comply with the EU SFDR – however it is likely that they are indirectly impacted if they have affiliates or clients who are subject to the EU rules and will be directly impacted if they market their funds into Europe under the AIFMD Article 42 regime.

FCA guidance on greenwashing?

We understand that the FCA will publish a consultation on proposed principles about what will constitute greenwashing in Q3/4 2021. We understand that the FCA's November speech, "Building Trust in Sustainable Investments" is informative in headlining the FCA's likely focus. The principles are intended to help fund management firms interpret existing rules requiring that disclosures are "fair, clear and not misleading", including when they wanted to submit new products for regulatory authorisation.

PRA Supervisory Statement (SS3/19) for Banks and Insurers on Managing the Financial Risks from Climate Change

What does it do?

PRA's expectations include:

> banks and insurance firms will embed consideration of climate change risks in their governance arrangements;

> those risks are to be taken into account in existing risk management practice;

> where appropriate firms should use scenario analysis to assess the impact of climate change risks on strategy and risk management; and

> firms will develop an appropriate approach to disclosure of climate-related financial risks.

5 UK ESG Related Measures

Who does it impact?

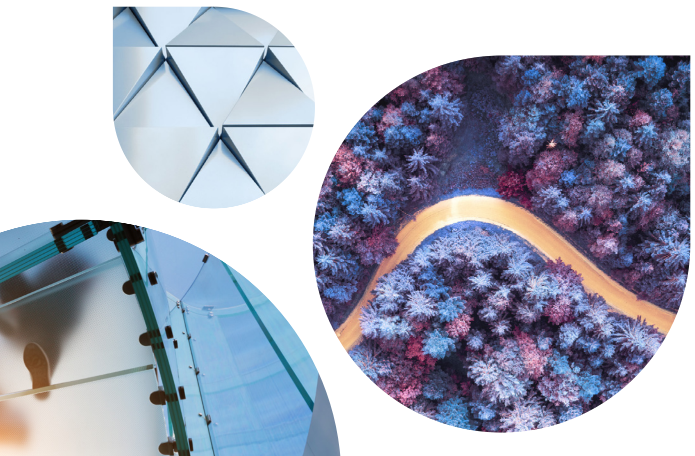
Banks, PRA designated investment firms and insurers.

Since when has it applied?

Firms were required to have initial plans to address the PRA’s expectations by 15 October 2019.

The Bank of England published additional guidance on the Supervisory Statement in July 2020 which provided clarification on timing. Firms are required to fully embed their approaches to managing climate-related financial risks by the end of 2021.

The PRA published a response to feedback from the insurance industry on SS3/19. The PRA states that the methodology and framework are working well, and that it will continue to work with insurance firms to embed PRA expectations in their prudential frameworks. A further report may follow.



FCA Feedback Statement on Climate Change and Green Finance

What does it do?

> Summarises the responses the FCA received from its October 2018 Discussion Paper on Climate Change and Green Finance.

Next steps for the FCA include:

> consulting on new rules to improve climate-related disclosures by certain issuers and clarifying existing obligations. The FCA is expected to publish a consultation paper for asset managers, life insurers and FCA-regulated pension schemes in June 2021, with the final rules expected in Q4 2021;

> finalising rule changes requiring Independent Governance Committees (IGCs) to oversee and report on firms’ ESG and stewardship policies, as well as separate rule changes to facilitate investment in patient capital opportunities;

> publishing a feedback statement in response to a joint discussion paper with the FRC on stewardship setting out actions to address the most significant barriers to effective stewardship;

> challenging firms where the FCA sees potential greenwashing, clarifying its expectations and taking appropriate action to prevent consumers being misled;

> contributing to initiatives such as the Climate Financial Risk Forum (CFRF), the Fair and Effective Markets Review (FEMR) working group, the Government-led cross-regulator taskforce on disclosures and the European Commission’s Sustainable Finance Action Plan (SFAP).

Who does it impact?

> FCA-regulated firms.

When does it apply?

> N/A.

5 UK ESG Related Measures

Climate Financial Risk Forum Guide

What does it do?

> The guide, published on 29 June 2020, provides practical recommendations to firms on disclosure of climate-related financial risks, effective risk management, scenario analysis, and opportunities for innovation. The guide has been written by the industry and does not constitute regulatory guidance. Read our summary note for more information.

> The guide contains the following four industry-produced chapters which contain practical tools, experience, knowledge and case studies for firms to use as they develop their strategies:

- *Risk management:* By appropriately embedding climate-related financial risk into its governance and risk management processes, firms can make informed business decisions and improve their resilience.
- *Scenario analysis:* By appropriately modelling and considering a range of possible scenarios, a firm can better understand and manage future risks today, whilst capturing opportunities to support the transition to a net-zero carbon economy.
- *Disclosures:* By making effective climate-related financial disclosures, a firm can improve transparency thereby helping the market appropriately assess the true future value of assets.
- *Innovation:* By developing novel products, services, policies and approaches, a firm can adapt its business to respond to the potential impacts of climate change, benefit consumers and deliver the change required to meet climate goals.

FCA Policy Statement 20/17: Proposals to enhance climate-related disclosures by UK listed commercial companies with a premium listing and clarification of existing disclosure obligations

What does it do?

> The PS published on 21 December 2020 sets out a new rule to require all UK premium listed companies to "disclose or explain why not" in a manner consistent with the approach set out by the TCFD.

Who does it impact?

> Commercial companies with a UK premium listing.

> FCA will consult on extending this rule to a wider scope of issuers including listed issuers, issuers with securities admitted to trading on a regulated market and other entities in scope of MAR and PR.

From when does it apply?

> The rule applies in relation to accounting periods beginning on or after 1 January 2021. The first annual financial reports subject to the FCA's new rule would then be published in spring 2022.

> The FCA is expected to consult in June 2021 on proposals to extend the scope of listed issuers covered by the Taskforce on Climate-related Financial Disclosures aligned disclosure rule. The final rules are expected to be published in Q4 2021.

Network for Greening the Financial System (NGFS) Guide

What does it do?

> The guide, published on 27 May 2020, sets out recommendations for supervisors to integrate climate-related and environmental risk into their work. Alongside the guide, the NGFS published a status report on financial institutions' experiences from working with green, non-green and brown financial assets and a potential risk differential.

> The NGFS has published two further documents dedicated to climate scenario-analysis. It's Overview of Environmental Risk Analysis by Financial Institutions (10 September 2020) provides examples of how environmental risks are transmitted to financial risks. The accompanying occasional paper contains case studies of ERA methodologies and tools conducted by over 30 organisations.

5 UK ESG Related Measures

The Companies (Miscellaneous Reporting) Regulations 2018

What does it do?

> For financial years beginning on or after 1 January 2019 large companies are required to include a statement in their strategic report explaining how directors have met their duties under section 172 of the Companies Act 2006 to promote the success of the company.

> Section 172 requires directors to have regard, amongst other matters, to the impact of the company's operations on the community and the environment.

Who does it impact?

> Large companies.

Since when has it applied?

> For financial years on or after 1 January 2019.

Revised FRC UK Stewardship Code 2020

What does it do?

> The amendments to the previous Code include expecting signatories to take into account ESG factors when fulfilling their stewardship responsibilities.

Who does it impact?

> Signatories to the UK Stewardship Code (note there is a requirement for regulated firms to "comply or explain" with this).

Since when has it applied?

> 2020 Code takes effect for reporting years beginning on or after 1 January 2020. Applicants seeking to be included in the first list of signatories to the Code must submit their Stewardship Reports by 31 March 2021 (see Feedback Statement for details).

> The deadline to submit the final report to the FRC for asset owners covering the period 1 January 2020 – 31 December 2020 was 30 April 2021.

> The next application deadline is 31 October 2021.

FRC Guidance on Board Effectiveness

What does it do?

> Notes that boards may wish to use a voluntary framework to help identify the ESG factors that are relevant for their business and link them to company strategy.

Who does it impact?

> Companies that comply with the UK Corporate Governance Code.

Since when has does it applied?

> Since July 2018.

5 UK ESG Related Measures

DWP Regulations for Pension Trustees

What does it do?

> Amongst other things, require pension trustees to document how they have considered ESG factors and their policy towards stewardship in their statements of investment principles.

Who does it impact?

> Pension trustees.

From when has it applied?

> From 1 October 2019.

Bank of England discussion paper on its proposals for stress testing the financial stability implications of climate change

What does it do?

> It sets out the objective of the Bank of England's 2021 Climate Biennial Exploratory Scenario (CBES), being to test the resilience of the largest banks and insurers to the physical and transition risks associated with different possible climate scenarios, and the financial system's exposure more broadly to climate-related risk.

Who does it impact?

> The largest banks and insurers – participants in the CBES are listed here.

Timing?

> The CBES was launched on 8 June 2021 and initial submissions are due at the end of September 2021. Results will be published in Q1 2022 (unless there is a second round of testing, in which case results will come out in May 2022).

Climate-related disclosure – Listed issuers

> The FCA is expected to consult in June 2021 on proposals to extend the scope of listed issuers covered by the Taskforce on Climate-related Financial Disclosures aligned disclosure rule. The final rules are expected to be published in Q4 2021.

Reference summary of key sources

EU Sustainable Finance Package – Level 1 legislation

> Regulation (EU) 2020/852 on the establishment of a framework to facilitate sustainable investment and amending Regulation (EU) 2019/2088 (also known as the 'Taxonomy Regulation').

> Regulation (EU) 2019/2088 on Sustainable Finance Disclosures (also known as the 'SFDR').

> Regulation (EU) 2019/2089 on Carbon Benchmarks (known as the 'Low Carbon Benchmarks Regulation' or 'Climate Benchmarks Regulation').

Delegated Acts Supplementing the Sustainable Finance Package

> EU Taxonomy Climate Delegated Act (containing the TSC for climate change mitigation and adaptation).

> Draft consolidated SFDR RTS.

> Delegated Regulations to the Low Carbon Benchmarks Regulation:

- Delegated Regulation on minimum standards for EU Climate transition benchmarks and EU Paris-aligned benchmarks (Low Carbon Benchmarks DR).
- Delegated Regulation on the minimum content of the explanation of how ESG factors are reflected in the benchmark methodology (ESG Methodology DR).
- Delegated Regulation on the explanation in benchmark statements regarding how ESG factors are reflected (Benchmark Statement DR).

Other EU ESG Measures including changes to "Level 2" and "Level 3"

> Consultation on institutional investors' and asset managers' duties regarding sustainability.

> European Commission Consultation on delegated acts integrating sustainability into UCITS, AIFMD, MiFID II, Solvency II and IDD.

- UCITS: Commission Delegated Directive amending Directive 2010/43/EU as regards the sustainability risks and sustainability factors to be taken into account for UCITS.
- AIFMD: Commission Delegated Regulation amending Delegated Regulation (EU) No 231/2013 as regards sustainability risks and sustainability factors to be taken into account by AIFMs.
- MiFID II: Commission Delegated Regulation amending Delegated Directive (EU) 2017/593 as regards the integration of sustainability factors and preferences into the product governance obligations.
- MiFID II: Commission Delegated Regulation amending Delegated Regulation (EU) 2017/565 as regards the integration of sustainability factors, risks and preferences into certain organisational requirements and operating conditions for investment firms.
- Solvency II: Commission Delegated Regulation amending Delegated Regulation (EU) 2015/35 as regards the integration of sustainability risks in the governance of insurance and reinsurance undertakings.
- IDD: Commission Delegated Regulation amending Delegated Regulation (EU) 2017/2358 and Delegated Regulation (EU) 2017/2359 as regards the integration of sustainability factors and preferences into the product oversight and governance requirements for insurance undertakings and insurance distributors and into the rules on conduct of business and investment advice for insurance-based investment products.

> ESMA Technical Advice on Credit Rating Agencies Regulation.

> ESMA Guidelines on Credit Rating Agencies Regulation.

> EIOPA Consultation on Opinion on Sustainability within Solvency II.

> European Commission Consultation on a Renewed Sustainable Finance Strategy.

Reference summary of key sources

EU Measures Overlapping with ESG Reforms

> Shareholder Rights Directive II.

> Investment Firms Regulation and Investment Firms Directive.

> CRR 2 and CRD V.

> Proposal for a Corporate Sustainability Reporting Directive (which will amend the Non-Financial Reporting Directive (2014/95/EU)).

> EU Commission Non-Binding Guidelines on Climate-Related Reporting.

> TEG Report on climate-related disclosures.

> ECB Consultation on a draft guide to climate-related and environmental risks.

> EBA discussion paper on its expectations for the management and supervision of ESG risks by banks and investment firms.

UK ESG Related Measures

> PRA Supervisory Statement for Banks and Insurers on Managing the Financial Risks from Climate Change.

> FCA Feedback Statement on Climate Change and Green Finance.

> Climate Financial Risk Forum Guide.

> FCA Policy Statement 20/17: Proposals to enhance climate-related disclosures by listed issuers and clarification of existing disclosure obligations.

> Network for Greening the Financial System (NGFS) Guide.

> The Companies (Miscellaneous Reporting) Regulations 2018.

> Revised FRC UK Stewardship Code 2020.

> FRC Guidance on Board Effectiveness.

> DWP Regulations for Pension Trustees.

> Bank of England discussion paper on its proposals for stress testing the financial stability implications of climate change.

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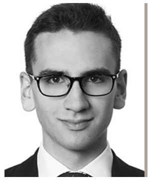

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