

Sustainable Finance update (asset management): Application of SFDR RTS postponed and the European Commission's New Sustainable Finance Strategy

1. Deferred application date of the draft SFDR RTS

In a letter dated 8 July 2021 addressed to the Council and the European Parliament, the European Commission stated that it will defer the application date of the draft regulatory technical standards (RTS) under the SFDR by six months from 1 January 2022 to 1 July 2022. The European Commission cites the length and technical detail of draft RTS, the late submissions to the Commission, and the envisaged amendments (to include the changes required by the Taxonomy Regulation) as the reasons why the European Commission was not in a position to adopt the RTS within the required three-month period and why it therefore deems it necessary, by deferring the RTS application date, to facilitate the smooth implementation of the RTS by product manufacturers (including AIFMs and UCITS management companies), financial advisers and supervisors.

The European Commission indicated that it plans to bundle all draft RTS into one single delegated act and that it would seek to ensure the earliest possible adoption of the rules following the submission by the ESAs of the additional changes to the SFDR RTS required by the Taxonomy Regulation. This decision is likely to be welcomed by the asset management industry as it will provide for more time to prepare for implementation on the basis of (hopefully) finalised RTS.

2. A new phase in the EU's sustainable finance strategy

On 6 July 2021, the European Commission published its new **Strategy for Financing the Transition to a Sustainable Economy (the "New Strategy")**, which seeks to implement the Commission's 2018 action plan for sustainable finance (as part of the European Green Deal), and which builds on its April 2021 package*.

The New Strategy reflects the change of the global context since 2018 and an evolution

of the European Commission's understanding of how to better meet its sustainability goals. It is also meant to support a sustainable recovery from the COVID-19 pandemic. The New Strategy identifies four main policy initiatives where the European Commission believes additional effort is needed to support the transition of the EU financial system towards sustainability: (i) financing the transition to sustainability, (ii) inclusiveness, (iii) resilience and contribution of the financial system to sustainability and (iv) global ambition. The European Commission plans to report on the New Strategy's implementation by the end of 2023.

The European Commission's efforts have so far predominantly been focused on directing investments to economic activities that are already environmentally sustainable and the New Strategy reflects that more needs to be done to support the intermediary steps of the economy towards sustainability. A key aspect of the New Strategy is the plan to systematically integrate both financially material sustainability risks (outside-in) and sustainability impacts (inside-out) in financial decision-making processes (so-called double materiality). This would concern UCITS management companies and AIFMs.

The new strategy includes six specific action plans within the four main policy areas of which the following two may be of particular interest for the asset management industry:

- Proposal for minimum sustainability criteria, or a combination of criteria, for financial products in scope of Article 8 SFDR in order to guarantee minimum sustainability performance of such products. It should be noted that the European Commission does not provide any further details on what these minimum sustainability criteria would consist of nor by when it would seek to implement this.
- Further to the fiduciary duties introduced by the April package, consideration of the merits of further changes to enable financial markets participants and financial advisers to systematically consider the positive and negative sustainability impacts of their advice and investment decisions. This would concern both AIFMs and UCITS management companies and would in essence impose the double materiality requirement on them which is not currently foreseen by SFDR.

The Commission also announced its proposal for a [Regulation on European green bond standard](#) and adopted a delegated act supplementing Article 8 of the EU Taxonomy Regulation.

** The EU Commission's sustainable finance package of 4 April 2021 introduced important elements to the "building blocks" of the EU sustainable strategy: the Taxonomy Climate Delegated Act, the proposal for a new Corporate Sustainability Reporting Directive and the proposed amendments to certain delegated acts regarding sustainability preferences and fiduciary duties.*

For any further information please contact us or visit our website at www.elvingerhoss.lu.

The information contained herein is not intended to be a comprehensive study or to provide legal advice and should not be treated as a substitute for specific legal advice concerning particular situations.

We undertake no responsibility to notify any change in law or practice after the date of this newsletter.

