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EU Sustainable Finance Strategy:

Are you ready for 2022?

Overview of major EU level sustainability-related obligations for the financial services industry in 2022



Taxonomy-related disclosures

Fund managers, asset managers, banks, insurers, pension funds and investment firms (“FMPs”) subject to the [Sustainable Finance Disclosure Regulation](#) (“SFDR”) will have to make certain disclosures on the first two [Taxonomy Regulation](#) (“TR”) objectives (climate change mitigation and climate change adaptation, established in accordance with the technical screening criteria in the [Taxonomy Climate Delegated Act](#)).

What must FMPs do?

- By 01.01.2022, FMPs must update **pre-contractual documents** for all financial products subject to SFDR (“Products”) based on Art. 5 and 6 TR (notably disclosure of Taxonomy alignment for Art. 8/Art. 9 SFDR Products).
- All **periodic reports** for Products published in 2022 must include the same Taxonomy-related disclosures (in addition to specific disclosures required under SFDR for Art. 8/Art. 9 SFDR Products).

The respective regulatory technical standards (“SFDR RTS”) (currently available as [draft](#)) will only apply from 01.01.2023. FMPs subject to the *Non-Financial Reporting Directive* will need to make further Taxonomy-related disclosures in their 2022 non-financial reporting (see [Taxonomy Article 8 Delegated Act](#)).



Principal adverse impacts

SFDR introduced a *comply or explain* mechanism (mandatory for big groups) for the disclosure of principal adverse impacts on sustainability factors (“PAI”) at entity level (FMPs and financial advisers providing insurance/investment advice) and Product level. The [draft SFDR RTS](#) require detailed disclosures on pre-defined PAI indicators at entity level. FMPs must also use these PAI indicators in the context of the *do no significant harm* (“DNSH”) test for sustainable investments inside Art. 8/Art. 9 SFDR Products.

What must FMPs do?

- **PAI reference period reporting at entity level:** On 31.03., 30.06., 30.09. and 31.12.2022, compliant FMPs must collect PAI indicator data for their first report to be published on their website by 30.06.2023.
- **PAI disclosure at Product level:** By 30.12.2022, a compliant FMP must disclose on PAI consideration for all its Products in pre-contractual document/periodic report (optional use of SFDR RTS PAI indicators).
- **PAI for sustainable investments of Art. 8/Art. 9 SFDR Products:** Under [draft SFDR RTS](#), pre-contractual documents/periodic reports must indicate how PAI are taken into account for the DNSH test.



Customer sustainability preferences in suitability assessments

From 02.08.2022, sustainability preferences will be added to existing suitability assessment for advice on insurance-based investment products (“IBIPs”) under [IDD](#) and investment advice/portfolio management under [MiFID II](#). Three product categories are eligible for customers with sustainability preferences: IBIPs/financial instruments (i) with minimum proportion of Taxonomy-aligned investments, (ii) with minimum proportion of sustainable investments under SFDR or (iii) IBIPs/financial instruments that consider PAI.

What must insurance distributors and MiFID firms do?

- **Classification of products** (ranking of financial instruments, eg by proportion of sustainable investments, categories of PAI, qualitative/quantitative PAI indicators) and alignment with target market concept (see below).
- **Updating suitability assessment documentation** (eg sustainability preferences customer questionnaire, standardisation of assessment reporting).
- **Training** of distribution networks and alignment of distribution processes.



Integration of sustainability into product governance

[Insurance intermediaries/insurance companies](#) (from 02.08.2022) and [MiFID firms](#) (from 22.11.2022) will have to consider sustainability factors and sustainability-related objectives in the product oversight and governance process for insurance products/financial instruments.

What must insurance intermediaries/insurance companies and MiFID firms do?

- Sustainability factors must be considered in the **product approval process** of each insurance product/financial instrument and in the **other product governance and oversight arrangements** for each insurance product/financial instrument that is intended to be distributed to customers/clients with sustainability related needs, characteristics and objectives.
- The **potential target market** must be identified for each insurance product/financial instrument and it must be specified to which group of customers/clients with sustainability related objectives the insurance product/financial instrument is supposed to be distributed.



Integration of sustainability into entity-level governance

[UCITS management companies](#) (from 01.08.2022), [AIFMs](#) (from 01.08.2022), [insurance and reinsurance companies](#) (from 02.08.2022) and [MiFID firms](#) (from 02.08.2022) will have to assess sustainability risks (and impacts on sustainability factors if applicable) and integrate them in their processes, systems and internal controls.

What must UCITS management companies, AIFMs, insurance and reinsurance companies and MiFID firms do?

- Updating **risk management policies** to reflect sustainability risks.
- Amend investment **due diligence policies** for UCITS and AIFs to take into account sustainability risks (and PAI, in case of compliant FMPs/financial advisers) and retaining necessary resources/expertise for effective integration of sustainability risks.
- Integration of sustainability factors and sustainability preferences into **MiFID firms’ policies**.
- Adjusting **insurance/reinsurance functions** to reflect sustainability risks (i.a. risk management and actuarial function) and integration of sustainability risks in the prudent person principle (as well as impacts on sustainability factors).

HSF's bespoke sustainability-related advice



How can HSF support?



Reviewing and verifying compliance of sustainability-related policies, processes, internal controls, reporting lines and overall governance



Drafting sustainability-related disclosures and policies, negotiation and drafting of sustainability-related agreements and cooperation; assistance on product categorization under SFDR



Interpreting sustainability-related regulatory provisions and providing advice on legal and implementation questions



Organising customised workshops/training in the context of sustainability-related projects and general educational sessions



Supporting the creation of new products, implementation of strategies and optimisation of procedures adapted to ESG developments and trends, with a focus on realizing synergies and simplification



Optimising repapering processes and workflows through HSF's Alternative Legal Services (ALT) which combines legal expertise, process efficiency and cutting-edge technologies to the highest quality yet with lower, simple pricing structures

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