

Overview of joint ESAs' report - Voluntary disclosure of principal adverse impact under the SFDR

Full report [here](#)

Article 18 of the Sustainable Finance Disclosure Regulation (SFDR) requires the ESAs to submit a report to the EC by 10 September 2022 (and every year thereafter) taking stock of the extent of voluntary disclosures under Article 4(1a) SFDR, and on best practices, and make recommendations towards voluntary reporting standards.

The ESAs gathered feedback on the current state of entity level voluntary disclosures via the launch of a survey of its members, the National Competent Authorities (NCAs). The survey has not covered Article 7 disclosures (Principal Adverse Impact (PAI) consideration at product level) as it is expected that Financial Market Participants (FMPs) will start applying those by 30 December 2022.

Background

- From 10 March 2021, Article 4(1)(a) SFDR mandates disclosure, on a comply or explain basis, of the PAIs that investment decisions have on sustainability factors on the website of FMPs. The disclosure should take the form of a statement on due diligence policies with respect to the adverse impacts of investment decisions on environmental and social sustainability factors. Article 4(1)(b) requires that, where an FMP does not consider adverse impacts of investment decisions on sustainability factors, it must publish and maintain on its website clear reasons for why it does not do so, and where relevant, information as to whether and when it intends to do so.
- Under Article 4(3)-(4) SFDR, from 30 June 2021, FMPs with over 500 employees during the financial year must publish and maintain on their websites a statement on their due diligence policies with respect to the PAIs of investment decisions on sustainability factors.
- As there is currently no evidence on the application of the Regulatory Technical Standards (RTS) since the application date is 1 January 2023, the ESAs will not be recommending voluntary disclosure presentation or any different methodology than the one provided in the Delegated Regulation.

Lessons learnt from voluntary disclosures

- The extent of compliance with voluntary disclosures varies significantly across jurisdictions and FMPs under the SFDR scope
- The overall level of compliance with the details required for explaining why FMPs do not consider PAI under Article 4(1)(b) appears to be low. FMPs largely fail to provide clear reasons for why they do not do so, with insufficient information as to whether and when they intend to consider such adverse impacts. Some NCAs have noted that they will follow up individually with supervised entities to inquire the reason for non-compliance, others admitted that ensuring compliance with this obligation was not among their priorities.
- Overall low level of disclosure of the degree of alignment with the objective of the Paris agreement. When disclosure of alignment is made, it is often vague and lacking details.

Some best practices

- Making disclosures prominent on websites (as opposed to footnotes or hidden links)
- Improving the overall visibility of the disclosures
- Allowing them to be quickly found through a web search
- Having a title with the wording closely aligned with SFDR

Detailed examples are given in section 3 of the report.

As the detailed RTS are not yet applicable and given the still emerging NCAs' supervisory practices on voluntary disclosures by FMPs, the indications of good examples of best practices and recommendations included in the report must be considered preliminary at this stage and will be complemented further in subsequent reports.



Recommendations

To the European Commission

The ESAs do not make recommendations with regards the SFDR requirements to the Commission at this stage, as practices of FMPs are expected to become more easily comparable with the application of the Delegated Regulation.

To the NCAs

The ESAs have some recommendations to NCAs to ensure an appropriate supervision of FMPs' practices:

1. Continuous market observation to identify FMPs that are not compliant with the voluntary disclosures and ensure compliance with Article 4 (1) (a) and (b) SFDR. SFDR level 1 entered into force in March 2021, FMPs should comply with the disclosures or ensure that reasons for not doing so are outlined, including, where relevant, information as to whether and when they plan to consider adverse impacts. NCAs must ensure compliance with such obligations.
2. Greater sample size and more details in reporting figures
3. Regular own market surveys/questionnaire
4. Offsite inspections: include the follow up to the survey in the annual supervisory plan and identify regulatory breaches from FMPs which will be object of offsite inspections during the course of the year
5. Use of IT tools: website supervision is a newer field which may require more systematic verification of compliance with the mandatory disclosures
6. Additional instruction to supervised entities regarding technical aspects of websites disclosures