



Council of the
European Union

Brussels, 17 December 2018
(OR. en)

**Interinstitutional File:
2018/0179 (COD)**

**15584/18
ADD 1**

**EF 334
ECOFIN 1215
CODEC 2348
ENV 904
SUSTDEV 26**

NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee

No. Cion doc.: COM(2018) 354 final

Subject: Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND
OF THE COUNCIL on disclosures relating to sustainable investments and
sustainability risks and amending Directive (EU) 2016/2341
- Mandate for negotiations with the European Parliament

Delegations will find attached the Presidency compromise text on the above proposal.

Changes in red correspond to modifications made to the text in light of the Working Party of
12 December.

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

**on disclosures relating to sustainable investments and sustainability risks ~~and amending~~
Directive (EU) 2016/2341**

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Central Bank¹,

Having regard to the opinion of the European Economic and Social Committee²,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (0) On 25 September 2015, the UN General Assembly adopted a new global sustainable development framework: the 2030 Agenda for Sustainable Development³, having at its core the Sustainable Development Goals (SDGs). The Commission's Communication of 2016 on the next steps for a sustainable European future⁴ links the SDGs to the Union policy framework to ensure that all Union actions and policy initiatives, within the Union and globally, take the SDGs on board at the outset. The European Council conclusions of 20 June 2017⁵ confirmed the commitment of the Union and the Member States to the implementation of the 2030 Agenda in a full, coherent, comprehensive, integrated and effective manner and in close cooperation with partners and other stakeholders.

¹ OJ C , , p. .

² OJ C , , p. .

³ Transforming our World: The 2030 Agenda for Sustainable Development (UN 2015).

⁴ COM(2016) 739 final.

⁵ CO EUR 17, CONCL. 5.

- (1) The transition to a low-carbon, more sustainable, resource-efficient and circular economy in line with the SDGs is key to ensuring long-term competitiveness of the economy of the Union. The Paris Climate Agreement (COP21) which was ratified by the Union on 5 October 2016⁶ and entered into force on 4 November 2016, seeks to strengthen the response to climate change, among other means, by making finance flows consistent with a pathway towards low greenhouse gas emissions and climate-resilient development.
- (2) A common objective of Directive 2009/65/EC of the European Parliament and of the Council⁷, Directive 2009/138/EC of the European Parliament and of the Council⁸, Directive 2011/61/EU of the European Parliament and of the Council⁹, Directive 2013/36/EU of the European Parliament and of the Council,¹⁰ Directive 2014/65/EU of the European Parliament and of the Council¹¹, Directive (EU) 2016/97 of the European Parliament and of the Council¹², Directive (EU) 2016/2341 of the European Parliament and of the Council¹³, Regulation (EU) No 345/2013 of the European Parliament and of the Council¹⁴ and Regulation (EU) No 346/2013 of the European Parliament and of the Council¹⁵ is to facilitate the uptake ~~ing-up~~ and pursuit of the activities of undertakings for collective investment in transferable securities (UCITS), credit institutions, alternative investment fund managers (AIFMs) which manage and/or market alternative investment funds, including European long-term investment funds in accordance with Regulation (EU) 2015/760 of the European Parliament and

⁶ Council Decision (EU) 2016/1841 of 5 October 2016 on the conclusion, on behalf of the European Union, of the Paris Agreement adopted under the United Nations Framework Convention on Climate Change (OJ L 282, 19.10.2016, p. 1).

⁷ Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (OJ L 302, 17.11.2009, p. 32).

⁸ Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (OJ L 335, 17.12.2009, p. 1).

⁹ Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers (OJ L 174, 1.7.2011, p. 1).

¹⁰ Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338).

¹¹ Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ L 173, 12.6.2014, p. 349).

¹² Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution (OJ L 26, 2.2.2016, p. 19).

¹³ Directive (EU) 2016/2341 of the European Parliament and of the Council of 14 December 2016 on the activities and supervision of institutions for occupational retirement provision (IORPs) (OJ L 354, 23.12.2016, p. 37).

¹⁴ Regulation (EU) No 345/2013 of the European Parliament and of the Council of 17 April 2013 on European venture capital funds (OJ L 115, 25.4.2013, p. 1).

¹⁵ Regulation (EU) No 346/2013 of the European Parliament and of the Council of 17 April 2013 on European social entrepreneurship funds (OJ L 115, 25.4.2013, p. 18).

of the Council¹⁶, insurance undertakings, investment firms, insurance intermediaries, institutions for occupational retirement provision (IORPs), managers of qualifying venture capital funds (EuVECA managers), and managers of qualifying social entrepreneurship funds (EuSEF managers). Those Directives and Regulations ensure more uniform protection of end-investors and make it easier for them to benefit from a wide range of financial products and services (~~financial offerings products~~), and at the same time provide for rules that enable investors to make informed investment decisions. While those ~~objectives goals~~ have been largely achieved, disclosures to end-investors on the integration of sustainability risks and sustainable investment ~~objectives goals~~ in investment decision-making by UCITS management companies, AIFMs, insurance undertakings which make available insurance-based investment products (IBIPs) to retail as well as professional investors, credit institutions which provide portfolio management, and investment firms which provide portfolio management, IORPs, pension providers, EuVECA managers and EuSEF managers (financial market participants) and disclosures to end-investors on the integration of sustainability risks in advisory processes by insurance intermediaries and insurance undertakings which provide insurance advice with regard to insurance-based investment products for IBIPs to retail as well as professional investors, for example in the form of group life assurance policies, and credit institutions which provide investment advice, AIFMs which provide investment advice, UCITS management companies which provide investment advice and investment firms which provide investment advice with the exception of insurance intermediaries and investment firms that are enterprises irrespective of their legal form, including natural persons or self-employed persons, which employ fewer than three persons (financial advisors) are insufficiently developed because such disclosures are not yet subject to harmonised requirements. The exemption for financial advisors which employ fewer than three persons from this Regulation should be without prejudice to the application of Directive 2014/65/EU and Directive (EU) 2016/97, in particular the rules on investment and insurance advice. This means that while such advisors are not obliged to provide information in accordance with this Regulation, they shall in their advisory processes consider and factor in the sustainability risks.

- (3) In the absence of harmonised Union rules on sustainability-related disclosures to end-investors, it is likely that diverging measures will continue to be adopted at national level and different approaches in different financial services sectors might persist. Such divergent measures and approaches would continue to cause significant distortions of competition resulting from significant differences in disclosure standards. In addition, a parallel development of market-based practices, based on commercially-driven priorities that produce divergent results currently causes further market fragmentation and might even further exacerbate inefficiencies in the functioning of the internal market in the future. Divergent disclosure standards and market-based practices make it very difficult to compare between different financial ~~offerings products and services~~ and create an uneven playing field between these ~~offerings products and services~~ and between distribution channels, and erect additional barriers to the internal market. Such divergences can also be confusing for end-investors and can distort their investment decisions. In ensuring compliance with the Paris Climate Agreement, Member States are likely to adopt divergent national measures which could create obstacles to the smooth functioning of the internal

¹⁶ Regulation (EU) 2015/760 of the European Parliament and of the Council of 29 April 2015 on European long-term investment funds (OJ L 123, 19.5.2015, p.98).

market and be detrimental to financial market participants and financial advisors. In addition, the lack of harmonised rules relating to transparency makes it difficult for end-investors to effectively compare different financial **offerings products** and services in different Member States as to their environmental, social and governance risks and sustainable investment **objectives targets**. It is therefore necessary to address existing to the functioning of the internal market and to prevent likely future obstacles.

- (3a) This Regulation aims to reduce information asymmetries in principal-agent relationships with regard to the integration of sustainability risks and with regard to the promotion of environmental or social characteristics as well as sustainable investments by means of pre-contractual and ongoing disclosures to end-investors, acting as principals, by financial market participants or financial advisors, acting as agents on behalf of principals.
- (3b) This Regulation lays down disclosure requirements supplementing the rules enshrined in Directive 2009/65/EC, Directive 2009/138/EC, Directive 2011/61/EU, Directive 2014/65/EU, Directive (EU) 2016/97, Directive (EU) 2016/2341, Regulation (EU) No 345/2013 and Regulation (EU) No 346/2013 and national law governing personal and individual pension products. To ensure orderly and effective supervision of compliance with the requirements of this Regulation, Member States should rely on already designated competent authorities under the above mentioned rules. Where the above mentioned rules are not directly adapted by this Regulation Member States should designate the competent authorities in this respect, responsible for that supervision. In many cases, competent authorities are already designated to supervise other obligations of financial market participants and financial advisors under the above mentioned rules.
- (3c) This Regulation maintains the requirements on financial market participants and financial advisors of acting in the best interest of end-investors, including but not limited to, conducting adequate due diligence prior to making the investment, as provided for enshrined in Directive 2009/65/EC, Directive 2009/138/EC, Directive 2011/61/EU, Directive 2013/36/EU, Directive 2014/65/EU, Directive (EU) 2016/97, Directive (EU) 2016/2341, Regulation (EU) No 345/2013 and Regulation (EU) No 346/2013 and national law governing personal and individual pension products. In order to comply with their duties under those rules, financial market participants and financial advisors should integrate in their processes, including in their due diligence processes, and assess on a continuous basis, ~~not only~~ all relevant financial risks ~~but also~~ all-including relevant sustainability risks that may have a **relevant-material negative** impact on the financial return of an investment and advice respectively. In consequence, under this Regulation financial market participants and financial advisors should specify in their policies how they integrate those risks and publish those policies.
- (3d) That is why this Regulation lays down the obligation on the financial market participants and financial advisors which provide investment advice or insurance advice with regard to IBIPs respectively, regardless the design of the financial **offerings products** and the target market, to publish written policies on the integration of sustainability risks and ensure the transparency of the integration of sustainability risks.
- (3e) A sustainability risk should mean an uncertain environmental, social or governance event or condition that, if it occurs, could cause a **material negative-relevant** impact on the value of the investment, as specified in sectoral legislation, in particular in Directive 2009/65/EC, Directive 2009/138/EC, Directive 2011/61/EU, Directive 2013/36/EU,

Directive 2014/65/EU, Directive (EU) 2016/97, Directive (EU) 2016/2341, or delegated acts and regulatory technical standards adopted in accordance with them.

- (3f) **This Regulation is without prejudice to the rules on the risk integration under Directive 2009/65/EC, Directive 2009/138/EC, Directive 2011/61/EU, Directive 2013/36/EU, Directive 2014/65/EU, Directive (EU) 2016/97, Directive (EU) 2016/2341, Regulation (EU) No 345/2013 and Regulation (EU) No 346/2013 and national law governing personal and individual pension products, including but not limited to the relevant applicable proportionality criteria such as size, internal organisation and the nature, scope and complexity of activities in question. This Regulation seeks to achieve more transparency on how financial market participants and financial advisors should disclose how integrate sustainability risks are integrated into their investment decision, investment or insurance advice. Where the sustainability risks assessment leads to the conclusion that there are no sustainability risks deemed to be relevant for the financial offering-product, the reasons should be explained. Where the assessment leads to the conclusion that these risks are relevant, the extent to which sustainability risks may impact the performance of the financial offering product should be disclosed either in qualitative or quantitative terms. The sustainability risks assessments and related pre-contractual disclosures by financial market participants should feed into pre-contractual disclosures by financial advisors. Financial advisors should disclose how they take sustainability risks into account in the selection process of the financial product that is presented to the investors regardless of the sustainability preferences of the investors, prior to providing the advice. This should be without prejudice to the application of Directive 2014/65/EU and Directive (EU) 2016/97, in particular the obligations on financial market participants and financial advisors as regards product governance, assessment of suitability and appropriateness, or demands-and-needs test.**
- (4) To ensure a coherent application of this Regulation and that the disclosure obligations laid down in this Regulation are clearly and consistently applied by financial market participants, it is necessary to lay down a harmonised definition of ‘sustainable investments’, including investments in economic activities that contribute to environmental or social objectives as well their combination, provided that the invested companies follow good governance practices and the precautionary principle of "do no significant harm" is ensured, i.e. that neither the environmental nor the social objective is not significantly harmed.
- (4a) Sustainable offerings products with various degrees of ambition have been developed so far. Therefore, it is necessary to distinguish, for the purposes of pre-contractual disclosures and disclosures by means of periodical reports, between the requirements for financial offerings products which present, among other characteristics, environmental or social characteristics, or a combination thereof (i.e. financial products that aim to incorporate environmental, social and governance characteristics), on the one hand, and on the other hand, financial offerings products which target have as an objective a positive impact for the environment and society, on the other hand. As a consequence, as regards the financial offerings products with environmental or social characteristics, financial market participants should disclose whether and how the designated index, sustainability index or mainstream index, is aligned with those characteristics and where no benchmark is used, information on how the sustainability characteristics of the financial offerings

products are met. As regards financial offerings products which target have as objective a positive impact for the environment and society, financial market participants should disclose which sustainable benchmark they use to measure the sustainable performance and where no benchmark is used, explain how the sustainable target objective is met. The disclosures by means of periodical reports should be carried out annually.

- (5) This Regulation is without prejudice to maintains the sectorial rules on remuneration or assessment of the performance of staff of financial market participants and financial advisors under Directive 2009/65/EC, Directive 2009/138/EC, Directive 2011/61/EU, Directive 2013/36/EU, Directive 2014/65/EU, Directive (EU) 2016/97, Directive (EU) 2016/2341, Regulation (EU) No 345/2013 and Regulation (EU) No 346/2013, implementing acts and national law governing personal and individual pension products, including but not limited to the relevant applicable proportionality criteria such as size, internal organisation and the nature, scope and complexity of activities in question. It is however appropriate to achieve more transparency, in qualitative or quantitative terms, on the remuneration policies of financial market participants and financial advisors, with respect to their investment or insurance advice, that promote sound and effective risk management with respect to sustainability risks whereas the structure of remuneration does not encourage excessive risk-taking with respect to sustainability risks and is linked to risk-adjusted performance. Remuneration policies of financial market participants and financial advisors should be consistent with the integration of sustainability risks and, where relevant, sustainable investment targets and should be designed to contribute to long-term sustainable growth. ~~Pre-contractual disclosures should therefore include information on how the remuneration policies of those entities, in qualitative or quantitative terms, are consistent with the integration of sustainability risks and are in line, where relevant, with the sustainable investment targets of the financial products and services that the financial market participants make available or financial advisors advise on. Where credit institutions provide investment advice, investment firms provide investment advice and insurance undertakings provide insurance advice with regard to IBIPs, they should also be subject to disclosures with respect to that advice.~~
- (6) Since sustainability benchmarks serve as standard points of reference against which sustainable investments are measured, end-investors should be informed by means of pre-contractual disclosures about the appropriateness of the designated index, namely the alignment of that index with the sustainable investment target objective. Financial offerings products which present, among other characteristics, environmental or social characteristics might also choose a sustainable or mainstream index as a reference benchmark. Financial market participants should also therefore disclose either the reasons explanations as to why for different weighting the designated index compared to differs from a broad market index, where financial offerings products pursue sustainable investment objectives, or information on whether and how the index is aligned with environmental or social characteristics, for financial offerings products which present promote environmental or social characteristics. To further foster transparency, financial market participants should also indicate where the methodology used for the calculation of the designated index and the broad market index is to be found, so that end-investors have the necessary information on the methodologies to understand how the underlying assets of the indexes were selected and weighted, which assets were excluded and for what reason, how sustainability-

related impacts of the underlying assets were measured, or which data sources were used. Such disclosures should allow for effective comparison and contribute to develop a correct perception of sustainably ~~friendly~~ investments. Where no index has been designated as a reference benchmark financial market participants should explain how the sustainable investment ~~target~~ objective is reached.

- (7) Where the objective of a financial ~~offering product~~ or service is ~~targets~~ a reduction in carbon emissions, pre-contractual disclosures should include the targeted low carbon emission exposure. In situations where no Union harmonised carbon benchmark is available, the disclosures should include a detailed explanation of how the continued adherence to that objective ~~target~~ is ensured.
- (8) To enhance transparency and inform end-investors, access to information on how sustainability risks are integrated by financial market participants in the investment decision making processes and by financial advisors in advisory processes, should be regulated by requiring those entities to maintain that information on their websites.
- (9) The current disclosure requirements set out ~~in~~ by Union legislation do not provide that all the information necessary to properly inform end-investors about the sustainability-related impact of their investments must be disclosed. Therefore, it is appropriate to set out more specific disclosure requirements with regard to sustainable investments. For instance, the overall sustainability-related impact of financial ~~offerings products~~ should be reported regularly by means of indicators relevant for the chosen sustainable investment objective ~~target~~. Where an appropriate index has been designated as reference benchmark that information should also be provided for the designated index and to a broad market index to allow for comparison. ~~Information on the constituents of the designated index and of the broad market index along with their weightings should also be disclosed, to provide further information on how the sustainable investments targets are achieved.~~ Where EuSEF managers make available information on the positive social impact ~~targeted~~ by a given fund has as the objective, the overall social outcome achieved and the related methods used in accordance with Regulation (EU) No 346/2013, they may, where appropriate, use this information for the purposes of the disclosures under this Regulation.
- (10) Directive 2013/34/EU of the European Parliament and of the Council¹⁷ imposes transparency obligations as regards social, environmental and corporate governance aspects in non-financial reporting. The required form and presentation established by those Directives is not, however, suitable for direct use by financial market participants and financial advisors when dealing with end-investors. The financial market participants and financial advisors should have the option to use information in management reports and non-financial statements in accordance with Directive 2013/34/EU for the purposes of this Regulation, where appropriate.
- (11) To ensure the reliability of information published on financial market participants' and financial advisors' websites, that information should be kept up-to-date, and any review or change should be clearly explained.

¹⁷ Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19).

(11a) Even though this Regulation does not cover national social security schemes covered by Regulations (EC) No 883/2004 and (EC) No 987/2009, in view of the fact that Member States increasingly open up parts of the management of compulsory pension schemes within their social security systems to financial market participants or other entities of private law, and that they are exposed to sustainability risks as well as that they might promote environmental or social characteristics or pursue sustainable investments like financial market participants and other financial products, in order to mitigate information asymmetries in such principal-agent relationships, Member States should be allowed to apply this Regulation.

- (12) ~~In order to specify how IORPs make investment decisions and assess risks in order to take into account environmental, social and governance risks, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in Directive (EU) 2016/2341. Governance and risk management rules already apply to the investment decisions and the risks assessments in order to ensure continuity and regularity in the performance of IORPs activities. The investment decisions and the assessment of relevant risks, including environmental, social and governance risks, should be made in such a manner as to ensure compliance with the interests of members and beneficiaries. The activities and underlying processes of IORPs should ensure that the aim of the delegated acts is achieved. The delegated acts should ensure consistency, where relevant, with delegated acts adopted under Directive 2009/65/EC, Directive 2009/138/EC and Directive 2011/61/EU. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law Making of 13 April 2016. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council should receive all documents at the same time as Member States' experts, and their experts should systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.~~
- (13) (12) In accordance with Directive (EU) 2016/2341, IORPs should ensure governance and risk-management rules already apply to their investment decisions and the risks assessments in order to ensure continuity and regularity. The investment decisions and the assessment of relevant risks, including environmental, social and governance risks, should be made in such a manner as to ensure compliance with the interests of members and beneficiaries of IORPs. The European Insurance and Occupational Pensions Authority ('EIOPA') should develop guidelines specifying how investment decisions and risks assessment by IORPs take into account environmental, social and governance risks under Directive (EU) 2016/2341.
- (14) ~~(13) The European Banking Authority ('EBA'), European Insurance and Occupational Pensions Authority ('EIOPA') and the European Securities and Markets Authority ('ESMA') (collectively known as the 'ESAs') established by Regulation (EU) No 1093/2010 of the European Parliament and of the Council,¹⁸ Regulation (EU) No~~

¹⁸ Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking

1094/2010 of the European Parliament and of the Council¹⁹ and Regulation (EU) No 1095/2010 of the European Parliament and of the Council²⁰ respectively should, through the Joint Committee, develop regulatory technical standards further specifying the details of the presentation and content of the information with regard to the promotion of environmental or social characteristics and ~~on~~ sustainability investment objectives ~~targets~~ to be disclosed in pre-contractual documents, periodical reports and websites of financial market participants in accordance with Articles 10 to 14 of Regulation No 1093/2010, Regulation No 1094/2010 and of Regulation (EU) No 1095/2010. The Commission should be empowered to adopt those regulatory technical standards.

- (15) (14) The Commission should be empowered to adopt implementing technical standards developed by the ESAs through the Joint Committee, by means of implementing acts pursuant to Article 291 TFEU and in accordance with Article 15 of Regulation (EU) No 1093/2010, Article 15 of Regulation (EU) No 1094/2010 and Article 15 of Regulation (EU) No 1095/2010, to establish the standard presentation of the promotion of environmental or social characteristics and sustainable investments in marketing communication.
- (16) (15) Since periodical reports in principle summarize business results for complete calendar years, the application of ~~the provisions of~~ transparency requirements in periodical reports should be deferred to [PO: Please insert 1st January of the year following the date referred to in the second subparagraph of Article 12].
- (17) (16) The disclosure rules contained in this Regulation should supplement, and should apply in addition to, the provisions of Directive 2009/65/EC, Directive 2009/138/EC, Directive 2011/61/EU, Directive (EU) 2016/2341 of the European Parliament and of the Council,²¹ Regulation (EU) No 345/2013 and Regulation (EU) No 346/2013.
- (18) (17) This Regulation respects fundamental rights and observes the principles recognised in particular by the Charter of the Fundamental Rights of the European Union.
- (19) (18) Since the objectives of this Regulation, namely to strengthen protection for end-investors and improve disclosures to them, including in cases of cross-border purchases for end-investors, cannot be sufficiently achieved by the Member States but can be better achieved at Union level because of the need to lay down uniform disclosure requirements at Union level the Union may adopt measures, in accordance

Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12).

¹⁹ Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC (OJ L 331, 15.12.2010, p. 48).

²⁰ Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84).

²¹ Directive (EU) 2016/2341 of the European Parliament and of the Council of 14 December 2016 on the activities and supervision of institutions for occupational retirement provision (IORPs) (OJ L 354, 23.12.2016, p. 37).

with principle of subsidiarity as set out in Article 5 of the Treaty on the European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives,

HAVE ADOPTED THIS REGULATION:

Article 1

Subject matter

This Regulation lays down harmonised rules on the transparency to be applied by financial market participants and financial advisors, ~~insurance intermediaries which provide insurance advice with regard to IBIPs, and insurance undertakings which provide insurance advice with regard to IBIPs, credit institutions which provide investment advice and investment firms which provide investment advice~~ on the integration of sustainability risks in the investment decision-making process or the advisory process and the transparency of financial **offerings products** that have as their ~~targets~~ objectives sustainable investments, including the reduction in carbon emissions.

Article 2

Definitions

For the purposes of this Regulation the following definitions shall apply:

- (a) ‘financial market participant’ means any of the following:
 - (i) an insurance undertaking which makes available an IBIP, an AIFM, an investment firm which provides portfolio management, an IORP or a ~~provider~~ manufacturer of a pension product;
 - (ii) a manager of a qualifying venture capital fund registered in accordance with Article 14 of Regulation (EU) No 345/2013;
 - (iii) a manager of a qualifying social entrepreneurship fund registered in accordance with Article 15 of Regulation (EU) No 346/2013;
 - (iv) a UCITS management company;
 - (v) a credit institution which provides portfolio management;
- (b) ‘insurance undertaking’ means an insurance undertaking authorised in accordance with Article 18 of Directive 2009/138/EC;
- (c) ‘IBIP’ means ~~either of the following:~~

- (i) ~~an insurance-based investment product as defined in Article 4(2) of Regulation (EU) No 1286/2014 the European Parliament and of the Council²² Article 2(1)(17) of Directive (EU) 2016/97;~~
- (ii) ~~an insurance product, made available to a professional investor, which offers a maturity or surrender value and where that maturity or surrender value is wholly or partially exposed, directly or indirectly, to market fluctuations;~~
- (d) ‘AIFM’ means an AIFM as defined in Article 4(1)(b) of Directive 2011/61/EU;
- (e) ‘investment firm’ means an investment firm as defined in Article 4(1)(1) of Directive 2014/65/EU;
- (f) ‘portfolio management’ means portfolio management as defined in Article 4(1)(8) of Directive 2014/65/EU;
- (g) ‘IORP’ means an institution for occupational retirement provision authorised or registered in accordance with Article 9 of Directive (EU) 2016/2341 unless a Member State has chosen to apply Article 5 of that Directive or an IORP operates pension schemes which together have less than 15 members in total;
- (h) ‘pension product’ means either of the following:
 - (i) a pension product referred to in Article 2(2)(e) of Regulation (EU) No 1286/2014;
 - (ii) an individual pension product referred to in Article 2(2)(g) of Regulation (EU) No 1286/2014;
- (i) ‘UCITS management company’ means a management company as defined in Article 2(1)(b) of Directive 2009/65/EC or an investment company ~~referred to in Article 1(2) thereof authorised in accordance with Directive 2009/65/EC which has not designated a management company authorised under that Directive for its management;~~
- (ia) ‘credit institution’ means a credit institution as defined in point (1) of Article 4(1) of Regulation (EU) No 575/2013 of the European Parliament and of the Council;
- (ib) ‘financial advisor’ means an insurance intermediary which provides insurance advice with regard to IBIPs, an insurance undertaking which provides insurance advice with regard to IBIPs, a credit institution which provides investment advice, ~~and~~ an investment firm which provides investment advice, **AIFM which provides investment advice in accordance with Article 6(4)(b)(i) of Directive 2011/61/EU and UCITS management company which provides investment advice in accordance with Article 6(3)(b)(i) of Directive 2009/65/EC;**
- (j) ‘financial **product**² **offering**’ means **a portfolio managed in** a portfolio management, an AIF, an IBIP, a pension product, a pension scheme or a UCITS;
- (k) ‘AIF’ means an AIF as defined in Article 4(1)(a) of Directive 2011/61/EU;

²² ~~Regulation (EU) No 1286/2014 of the European Parliament and of the Council of 26 November 2014 on key information documents for packaged retail and insurance-based investment products (PRIIPs) (OJ L 352, 9.12.2014, p. 1).~~

- (l) ‘pension scheme’ means a pension scheme as defined in Article 6(2) of Directive (EU) 2016/2341;
- (m) ‘UCITS’ means an undertaking for collective investment in transferable securities authorised in accordance with Article 5 of Directive 2009/65/EC;
- (n) ‘investment advice’ means an investment advice as defined in Article 4(1)(4) of Directive 2014/65/EU;
- (o) ‘sustainable investments’ mean any of the following or a combination of any of the following:

- (i) ~~investments in an economic activity that contributes to an environmental objective, such as including as measured by key resource efficiency indicators on use such as use of energy, use of renewable energy, use of raw materials, production of waste, emissions, CO₂ greenhouse gas emissions, use of water, use of land, and impact on biodiversity, the circular economy, including an environmentally sustainable investment as defined in Article 2 of [PO: Please insert reference to Regulation on the establishment of a framework to facilitate sustainable investment];~~

- (ii) ~~investments in an economic activity that contributes to a social objective, and in particular an investment that contributes to tackling inequality, an investment fostering social cohesion, social integration and labour relations, or an investment in human capital or economically or socially disadvantaged communities;~~

- (iii) ~~investments in companies following good governance practices, and in particular companies with sound management structures, employee relations, remuneration of relevant staff and tax compliance~~

provided the investments do not **significantly** harm each other any of those objectives and the invested companies follow good governance practices, in particular sound management structures, employee relations, remuneration of relevant staff and tax compliance;

- (p) ‘retail investor’ means an investor who is not a professional investor;
- (q) ‘professional investor’ means a client who meets the criteria laid down in Annex II to Directive 2014/65/EU;
- (r) ‘insurance intermediary’ means an insurance intermediary as defined in Article 2(1)(3) of Directive (EU) 2016/97;
- (s) ‘insurance advice’ means an advice as defined in Article 2(1)(15) of Directive (EU) 2016/97;
- (t) ~~‘competent authorities’ means the national authorities designated by a Member State to supervise the requirements this Regulation places on financial market participants, insurance intermediaries which provide insurance advice with regard to IBIPs, insurance undertakings which provide insurance advice with regard to IBIPs, credit institutions which provide investment advice and investment firms which provide investment advice~~

‘sustainability risk’ means an **uncertain** environmental, social or governance event or condition that, if it occurs, could cause a **material negative relevant** impact on the value of the investment;

- (u) **'ELTIF' means a European long-term investment fund authorised in accordance with Article 6 of Regulation (EU) 2015/760.**

Article 3

Transparency of the sustainability risk policies

1. Financial market participants shall publish **information on their written** policies on the integration of sustainability risks in the investment decision-making process on their websites.
2. ~~Insurance intermediaries which provide insurance advice with regard to IBIPs, insurance undertakings which provide insurance advice with regard to IBIPs, credit institutions which provide investment advice and investment firms which provide investment advice~~**Financial advisors** shall publish **information on their written** policies on the integration of sustainability risks in investment advice or insurance advice on their websites.

Article 3a

Transparency of remuneration policies in relation to the integration of sustainability risks

1. Financial market participants **and financial advisors** shall include in the remuneration policies information on how the remuneration policies are consistent with the integration of sustainability risks and publish that information on their websites.
2. **The disclosures referred to in paragraph 1 shall be included in remuneration policies that financial market participants and financial advisors shall establish and maintain in accordance with sectoral legislation, in particular Directive 2009/65/EC, Directive 2009/138/EC, Directive 2011/61/EU, Directive 2013/36/EU, Directive 2014/65/EU, Directive (EU) 2016/97, Directive (EU) 2016/2341.**

~~**Financial advisors shall include in the remuneration policies information on how the remuneration policies are consistent with the integration of sustainability risks and publish that information on their websites.**~~

Article 4

Transparency of the integration of sustainability risks

1. Financial market participants shall include descriptions of the following in pre-contractual disclosures:
 - (a) how sustainability risks are integrated into their investment decisions, and
 - (b) the result of the assessment of the likely impacts of sustainability risks on the returns of the financial **offerings products.**

Where sustainability risks are deemed not to be relevant, the descriptions referred to in point (a) and (b) shall include a clear and concise explanation of why they are not relevant.

~~(a) the procedures and conditions applied for integrating sustainability risks in investment decisions;~~

~~(b) the extent to which the returns of the financial products made available are expected to be impacted by sustainability risks; the extent to which sustainability risks are expected to have a relevant impact on the returns of the financial products made available;~~

~~(c) how the remuneration policies of financial market participants are consistent with the integration of sustainability risks and are in line, where relevant, with the sustainable investment target of the financial product.~~

2. ~~Financial advisors Insurance intermediaries which provide insurance advice with regard to IBIPs, insurance undertakings which provide insurance advice with regard to IBIPs, credit institutions which provide investment advice and investment firms which provide investment advice~~ shall include descriptions of the following in pre-contractual disclosures:

(a) how sustainability risks are integrated into their investment or insurance advice, and,

(b) the result of the assessment of the likely impacts of sustainability risks on the returns of the financial offerings-products.

~~(c) where sustainability risks are deemed not to be relevant, the descriptions referred to in point (a) and (b) shall include a clear and concise explanation of why they are not relevant.the procedures and conditions applied for integrating sustainability risks in investment advice or insurance advice;~~

~~(b) the extent to which the returns of the financial products made available are expected to be impacted by sustainability risks; the extent to which sustainability risks are expected to have a relevant impact on the returns of the financial products made available;~~

~~(c) how the remuneration policies of credit institutions which provide investment advice, investment firms which provide investment advice and insurance intermediaries which provide insurance advice with regard to IBIPs and insurance undertakings which provide insurance advice with regard to IBIPs are consistent with the integration of sustainability risks and are in line, where relevant, with the sustainable investments target of the financial product advised on.~~

3. The disclosures referred to in paragraph 1 and paragraph 2 shall be made in the following manner:

(a) for AIFMs, in the disclosures to investors referred to in Article 23(1) of Directive 2011/61/EU;

(b) for insurance undertakings, in the provision of information referred to in Article 185(2) of Directive 2009/138/EC or, where relevant, in accordance with Article 29(1) of Directive (EU) 2016/97;

(c) for IORPs, in the provision of information referred to in Article 41 of Directive (EU) 2016/2341;

- (d) for managers of qualifying venture capital funds, in the provision of information referred to in Article 13(1) of Regulation (EU) No 345/2013;
- (e) for managers of qualifying social entrepreneurship funds, in the provision of information referred to in Article 14(1) of Regulation (EU) No 346/2013;
- (f) for ~~manufacturers~~ providers of pension products, in writing in good time before a retail investor is bound by a contract relating to a pension product;
- (g) for UCITS management companies, in the prospectus referred to in Article 69 of Directive 2009/65/EC;
- (h) for investment firms which provide portfolio management or provide investment advice, in accordance with Article 24(4) of Directive 2014/65/EU;
- ~~(ha) for credit institutions which provide portfolio management or provide investment advice, in accordance with Article 24(4) of Directive 2014/65/EU;~~
- (i) for insurance intermediaries which provide insurance advice with regard to IBIPs, **for insurance intermediaries which provide insurance advice with regard to pension products exposed to market fluctuations, and for insurance undertakings which provide insurance advice with regard to IBIPs, in accordance with Article 29(1) of Directive (EU) 2016/97;**
- (j) **for AIFMs of ELTIFs, in the prospectus referred to in Article 23 of Regulation (EU) 2015/760.**

Article 4a

Transparency of the promotion of environmental or social characteristics in pre-contractual disclosures

1. ~~0.~~ **Where a financial offering product presents, among other characteristics, the promotion of environmental or social characteristics, or a combination thereof, provided the invested in addition to investments in companies following good governance practices, the information to be disclosed pursuant to Article 4(1) and (3) shall include be accompanied by the following:**
 - (a) information on how those characteristics are met;
 - (b) if an index has been designated as a reference benchmark, information on whether and how this index is aligned consistent with those characteristics.
2. **Financial market participants shall include in the information to be disclosed pursuant to Article 4(1) and (3) an indication of where the methodology used for the calculation of the indexes referred to in paragraph 1 of this Article is to be found.**
3. **The European Banking Authority (EBA), European Insurance and Occupational Pensions Authority (EIOPA) and the European Securities and Markets Authority (ESMA) shall, through the Joint Committee of the European Supervisory Authorities ('Joint Committee')**

develop draft regulatory technical standards further specifying the details of the presentation and content of the information to be disclosed pursuant to this Article.

When developing the draft regulatory technical standards EBA, EIOPA and ESMA shall take into account the various types of financial **offerings-products**, their characteristics referred to in paragraph 1 and differences thereof and the aim of accurate, fair, clear, not misleading, simple and concise disclosures.

EBA, EIOPA and ESMA shall submit those draft regulatory technical standards to the Commission by [PO: Please insert date 12 months after the date of entry into force].

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010, of Regulation (EU) No 1094/2010 and of Regulation (EU) No 1095/2010.

Article 5

Transparency of sustainable investments ~~sustainable investments~~ in pre-contractual disclosures

~~0 Where a financial product presents, among other characteristics, the promotion of environmental or social characteristics, or a combination thereof, in addition to investments in companies following good governance practices, the information to be disclosed pursuant to Article 4(1) shall be accompanied by the following:~~

~~(a) information on how those characteristics are met;~~

~~(b) if an index has been designated as a reference benchmark, information on whether and how this index is aligned with those characteristics.~~

1. ~~Where a financial **offering product** has as its target objective~~ Where a financial product has as its target sustainable investments or investments with similar characteristics and an index has been designated as a reference benchmark, the information to be disclosed pursuant to Article 4(1) and (3) shall be accompanied by the following:
 - (a) information on how the designated index is aligned with that ~~target objective~~;
 - (b) an explanation as to why and how the designated index aligned with that objective target differs from a broad market index ~~the weighting and constituents of the designated index aligned with that target differ from a broad market index.~~
2. Where a financial **offering product** has as its objective target sustainable investments ~~or investments with similar characteristics~~ and no index has been designated as a reference benchmark, the information referred to in Article 4(1) and (3) shall include an explanation on how that objective target is reached.
3. Where a financial **offering product** has as its objective target the reduction in carbon emissions, the information to be disclosed pursuant to Article 4(1) and (3) shall include the objective of targeted low carbon emission exposure.

By way of derogation from paragraph 2, where no [~~EU low carbon benchmark~~] or [*positive carbon impact benchmark*] in accordance with Regulation (EU) 2016/1011 is available, the

information referred to in Article 4 shall include a detailed explanation of how the continued effort of reaching the objective target of reducing carbon emissions is ensured.

4. Financial market participants shall include in the information to be disclosed pursuant to Article 4(1) and (3) an indication of where the methodology used for the calculation of the indexes referred to in paragraph 1 of this Article and benchmarks referred to in the second subparagraph of paragraph 3 of this Article are to be found.
5. ~~The European Banking Authority (EBA), European Insurance and Occupational Pensions Authority (EIOPA) and the European Securities and Markets Authority (ESMA)~~ shall, through the Joint Committee of the European Supervisory Authorities ('Joint Committee') develop draft regulatory technical standards further specifying the details of the presentation and content of the information to be disclosed pursuant to this Article.

When developing the draft regulatory technical standards EBA, EIOPA and ESMA shall take into account the various types of financial **offering product**, their objectives characteristics and targets referred to in paragraphs 0, 1, 2 and 3 and differences thereof and the aim of accurate, fair, clear, not misleading, simple and concise disclosures.

EBA, EIOPA and ESMA shall submit those draft regulatory technical standards to the Commission by [*PO: Please insert date ~~18~~ 12 months after the date of entry into force*].

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010, of Regulation (EU) No 1094/2010 and of Regulation (EU) No 1095/2010.

Article 6

Transparency of the promotion of environmental or social characteristics and of sustainable investments of sustainable investments on websites

1. Financial market participants shall publish and maintain on their websites, for each financial **offering product** referred to in paragraph 1 of Article 4a and paragraphs (0), (1), (2) and (3) of Article 5, the following:
 - (a) a description of the environmental or social characteristics or the sustainable investment objective target;
 - (b) information on the methodologies used to assess, measure and monitor the environmental or social characteristics or the impact of the sustainable investments selected for the financial product, including its data sources, screening criteria for the underlying assets and the relevant sustainability indicators used to measure the environmental or social characteristics or the overall sustainable impact of the financial product;
 - (c) the information referred to in Article 4a and Article 5;
 - (d) the information referred to in Article 7.

The information to be disclosed pursuant to the first subparagraph shall be published in a clear way and in a prominent area of the website.

2. ~~IORPs shall publish and maintain the information referred to in points (a) to (d) of the first subparagraph of in accordance with point (f) of Article 36(2) of Directive (EU) 2016/2341.~~EBA, EIOPA and ESMA shall, through the Joint Committee, develop draft regulatory technical standards further specifying the details of the presentation and content of information referred to in point (a) and (b) of paragraph 1.

When developing the draft regulatory technical standards EBA, EIOPA and ESMA shall take into account the various types of financial **offerings products**, their characteristics and objectives referred to in paragraph 1 and differences thereof and the aim of accurate, fair, clear, not misleading, simple and concise disclosures.

EBA, EIOPA and ESMA shall submit those draft regulatory technical standards to the Commission by [*PO: Please insert date +8 12 months after the date of entry into force*].

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010, of Regulation (EU) No 1094/2010 and of Regulation (EU) No 1095/2010.

Article 7

Transparency of the promotion of environmental or social characteristics and of sustainable investments of sustainable investments in periodical reports

1. Where financial market participants make available a financial **offering product** referred to in paragraph 1 of Article 4a and paragraphs (0), (1), (2) and (3) of Article 5, they shall include a description of the following in periodical reports:
- (a) for a financial **offering product** referred to in paragraph 1 of Article 4a paragraph (0) of Article 5, the degree of achievement of environmental or social characteristics;
 - (b) for a financial **offering product** referred to in paragraphs (1), (2) and (3) of Article 5,
 - i. the overall sustainability-related impact by the financial **offering product** by means of relevant sustainability indicators;
 - ii. where an index has been designated as a reference benchmark, a comparison between the overall impact of the financial **offering product** with the designated index and a broad market index in terms of weighting, constituents and through sustainability indicators.
2. The disclosures referred to in paragraph 1 shall be made in the following manner:
- (a) for AIFMs, in the annual report referred to in Article 22 of Directive 2011/61/EU;
 - (b) for insurance undertakings, annually and in accordance with the conditions laid down in Article 185(6) of Directive 2009/138/EC;

- (c) for IORPs, in the ~~annual report referred to in Article 29 pension benefit statement referred to in Article 38~~ of Directive (EU) 2016/2341 ~~and in the provision of information referred to in Article 43 of Directive (EU) 2016/2341~~;
 - (d) for managers of qualifying venture capital funds, in the annual report referred to in Article 12 of Regulation (EU) No 345/2013;
 - (e) for managers of qualifying social entrepreneurship funds, in the annual report referred to in Article 13 of Regulation (EU) No 346/2013;
 - (f) for ~~manufacturers~~ providers of pension products, in writing in ~~at least~~ annual reports or in reports in accordance with national law;
 - (g) for UCITS management companies ~~or UCITS investment companies~~, in the ~~half-yearly and~~ annual reports referred to in Article 69 of Directive 2009/65/EC;
 - (h) for investment firms which provide portfolio management, annually in the periodical reports referred to in Article 25(6) of Directive 2014/65/EU;
 - (i) for credit institutions which provide portfolio management, annually in the periodic reports referred to in Article 25(6) of Directive 2014/65/EU.
3. For the purposes of paragraph 1, financial market participants may use the information in management reports in accordance with Article 19 or the information in non-financial statements in accordance with Article 19a of Directive 2013/34/EU where appropriate.
4. EBA, EIOPA and ESMA shall, through the Joint Committee, develop draft regulatory technical standards further specifying the details of the content and presentation of information referred to in paragraph 1.

When developing the draft regulatory technical standards EBA, EIOPA and ESMA shall take into account the various types of financial **offerings products**, their characteristics and objectives referred to in paragraph 1 and differences thereof and the aim of accurate, fair, clear, not misleading, simple and concise disclosures.

EBA, EIOPA and ESMA shall submit those draft regulatory technical standards to the Commission by [*PO: Please insert date ~~18~~ 12 months after the date of entry into force*].

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010, of Regulation (EU) No 1094/2010 and of Regulation (EU) No 1095/2010.

Article 8

Review of disclosures

1. Financial market participants shall ensure that any information published in accordance with Article 3 ~~or~~ and if applicable Article 6 is kept up-to-date. Where a financial market participant amends such information, a clear explanation of that change shall be published on the same website.

2. Paragraph 1 shall apply *mutatis mutandis* to financial advisors ~~insurance intermediaries which provide insurance advice with regard to IBIPs, insurance undertakings which provide insurance advice with regard to IBIPs, credit institutions which provide investment advice and investment firms which provide investment advice with regard to any information published in accordance with Article 3.~~

Article 9

Marketing communications

1. Without prejudice to stricter sectoral legislation, in particular Directive 2009/65/EC, Directive 2014/65/EU, Directive (EU) 2016/97 of the European Parliament and of the Council and Regulation (EU) No 1286/2014, financial market participants ~~, insurance intermediaries which provide insurance advice with regard to IBIPs, insurance undertakings which provide insurance advice with regard to IBIPs, credit institutions which provide investment advice and investment firms which provide investment advice~~ and financial advisors shall ensure that their marketing communications do not contradict the information disclosed pursuant to this Regulation.
2. EBA, EIOPA and ESMA may develop, through the Joint Committee, draft implementing technical standards to determine the standard presentation of information on the promotion of environmental or social characteristics and sustainable investments.

Power is conferred on the Commission to adopt the implementing technical standards in accordance with Article 15 of Regulation (EU) No 1093/2010, of Regulation (EU) No 1094/2010 and of Regulation (EU) No 1095/2010.

Article 9bis9a

Competent authorities

1. Each Member State shall ensure that competent authorities designated in accordance with **sectoral legislation rules, in particular those** referred to in points (a) to (j) of Article 4(3) **and Directive 2013/36/EU**, also ensure supervision of compliance with requirements placed by Articles 3, 3a, 4, 6, 8 and 9 of this Regulation on financial market participants and financial advisors. The ~~competent authorities shall, in accordance with national law, shall have all supervisory and investigatory powers that are necessary for the exercise of their functions under this Regulation.~~
2. For the purposes of the application of this Regulation the competent authorities shall cooperate with each other and, without undue delay, provide each other with such information as is relevant for the purposes of carrying out their duties under this Regulation and of making use of their powers.

Article 9b

Flexibility clause Transparency by IORPs and insurance intermediaries

1. IORPs shall publish and maintain the information referred to in Article 3, Article 3a, Article 4 and points (a) to (d) of the first subparagraph of Article 6(1) in accordance with point (f) of Article 36(2) of Directive (EU) 2016/2341.
2. Insurance intermediaries shall communicate the information referred to in Article 3, Article 3a, Article 4 and points (a) to (d) of the first subparagraph of Article 6(1) in accordance with Article 23 of Directive (EU) 2016/97.

Article 9c

Exemptions Pension products covered by Regulations (EC) No 883/2004 and (EC) No 987/2009

1. Member States may decide ~~not~~ to apply this Regulation to manufacturers of pension products operating national social security schemes which are covered by Regulations (EC) No 883/2004 and (EC) No 987/2009 of the European Parliament and of the Council. **In such cases, manufacturers of pension products referred to in Article 2(a) shall include manufacturers of pension products operating national social security schemes and pension products referred to in Article 2(h). Pension products referred to in Article 2(h) shall then also include pension products referred to in the first sentence, with the exception of Articles 3, 3a and 4 which shall apply from [PO: Please insert 36 months following the date of publication in the Official Journal of the European Union].**
2. By ~~[PO: Please insert 12 months following the date of publication in the Official Journal of the European Union]~~ Member States shall notify the Commission, EBA, EIOPA and ESMA of the decisions referred to in **the first sub**paragraph 1.

Article 9d

Exemptions

1. **This Regulation shall not apply to ~~Where~~ insurance intermediaries which provide insurance advice with regard to IBIPs and investment firms which provide investment advice that are ~~natural persons~~enterprises irrespective of their legal form, including natural persons or self-employed persons, that employ fewer than three persons.**
2. **Member States may decide to apply this Regulation to insurance intermediaries which provide insurance advice with regard to IBIPs and investment firms which provide investment advice referred to in paragraph 1.**
3. **Member States shall notify the Commission, EBA, EIOPA and ESMA of the decisions referred to in paragraph 2.**

Article 10

Amendments to Directive (EU) 2016/2341

Directive (EU) 2016/2341 is amended as follows:

(2) — In Article 19, the following paragraph 9 is added:

~~‘9. The Commission is empowered to adopt, by means of delegated acts in accordance with Article 60a, measures ensuring that:~~

- ~~(a) the ‘prudent person’ rule with respect to the consideration of environmental, social and governance risks is taken into account;~~
- ~~(b) environmental, social and governance factors in internal investment decisions and risk management processes are included.~~

~~Those delegated acts shall take into account the size, nature, scale and complexity of the activities of the IORPs and of the risks inherent to these activities and ensure consistency with Article 14 of Directive 2009/65/EC, Article 132 of Directive 2009/138/EC and Article 12 of Directive 2011/61/EU.’;~~

(3) — the following Article 60a is inserted:

‘Article 60a

Exercise of the delegation

~~1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.~~

~~2. The power to adopt delegated acts referred to in Article 19(9) shall be conferred on the Commission for an indeterminate period of time from the date of entry into force of this Regulation.~~

~~3. The delegation of powers referred to in Article 19(9) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.~~

~~4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.~~

~~5. A delegated act adopted pursuant to Article 19(9) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of three months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by three months at the initiative of the European Parliament or the Council.~~

Article ~~11~~10

Evaluation

By [*PO: Please insert date ~~60~~ 36 months after the date of entry into force*], the Commission shall conduct an evaluation of the application of this Regulation.

~~**In the evaluation, the Commission shall take due account of the market developments. As regards pension products referred to in point (i) of Article 2(h) manufacturers of pension products operating national social security schemes, the Commission shall assess the appropriateness of maintaining the regime in Article 9e(1) and the feasibility of tailoring it further, bearing in mind specificities of these kinds of financial offerings.**~~

Article ~~12~~11

Entry into force and application

This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

It shall apply from [*PO: Please insert ~~12~~ 18 months following the date of publication in the Official Journal of the European Union*].

However, Article 4a (3), Article 5(5), Article 6(2), Article 7(4), and Article 9(2) ~~and Article 10~~ shall apply from [*PO: Please insert the date of entry into force*] and Article 7(1) to (3) shall apply from [*PO: Please insert January 1 of the year following the date referred to in the second subparagraph*].

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament

For the Council
The President The President

