



PUBLIC STATEMENT ON THE FORTHCOMING APPLICATION OF REGULATION 2019/2088 ON SUSTAINABILITY-RELATED DISCLOSURES IN THE FINANCIAL SERVICES SECTOR

18 February 2021

Regulation (EU) 2019/2088 of the European Parliament and of the Council, of 27 November, on sustainability-related disclosures in the financial services sector (hereinafter, the Regulation) shall apply from 10 March 2021. This Regulation establishes harmonised rules on transparency which shall be applicable to financial market participants. Within the scope of the CNMV, it affects CISMVs, closed-ended CISMVs, firms that provide discretionary portfolio management services and financial advisers (firms that provide investment advisory services).

These rules relate to information on the integration of sustainability risks, transparency of adverse sustainability impacts and sustainability-related information with respect to financial products. The transparency obligations imposed by the Regulation affect the information contained on websites, pre-contractual disclosures (in the case of CISs and venture capital firms, the prospectus) and annual periodic reports.

The transparency obligations are summarised below:

- Information on the policy for integrating sustainability risks in decision-making processes: to be included on websites (Article 3), and in pre-contractual disclosures (Article 6).
- A statement on the policy with regard to adverse impacts of investment decisions or advice on sustainability factors: to be included on websites (Article 4) and in pre-contractual disclosures (Article 7).
- Transparency on websites of remuneration policies in relation to the integration of sustainability risks (Article 5).
- Information where a product promotes environmental or social characteristics (provided that the companies in which the investments are made follow good governance practices): to be included on websites (Article 10), in pre-contractual disclosures (Article 8) and in the corresponding periodic information - in the annual report, in the case of UCITs and AIFs - (Article 11).
- Information where a product has sustainable investment objectives: to be included on websites (Article 10), in pre-contractual disclosures (Article 9) and in the corresponding periodic information - in the annual report in the case of UCITs and AIFs - (Article 11).

The Regulation applies from 10 March 2021, with some exceptions contained in Article 7, and in Article 20 (entry into force and application), which delays the application of the obligation for periodic reports to 1 January 2022.

For the purposes of specifying the details of the presentation and content of the information, Article 4 (Transparency of adverse sustainability impacts on websites), Articles 8 and 9 (pre-contractual disclosures), and Article 10 (information on websites), stipulate that European Supervisory Authorities (ESAs), i.e., ESMA, EBA and EIOPA, shall develop draft regulatory technical standards, which have not been approved as yet.

Despite the absence of these standards and other regulatory developments, the European Commission has clearly stated the obligation of complying, from 10 March, with the obligations related to information on sustainability risk and principal adverse impacts, as well as with the principles set out in Articles 8 and 9, as their application is not subject to prior development of technical standards.

On 4 February, the ESAs published the draft regulatory technical standards and proposed that the application date should be 1 January 2022. They also stated that they plan to issue a public statement before the Regulation application date in order to achieve its effective and consistent application.

Without prejudice to the content of the public statement to be issued by the ESAs, the CNMV encourages firms to use the time left until the technical standards become applicable to prepare themselves adequately. Likewise, during the period of time in which the technical standards are not mandatory under the Regulation, firms may voluntarily use the draft standards submitted by the ESAs to the European Commission as a reference.

In view of the foregoing, firms shall include on their websites and in the corresponding pre-contractual documentation, information about their policies on integrating sustainability risks in their investment decision-making process and on the adverse impacts of their investment decisions on sustainability factors (in the latter case, with regard to pre-contractual disclosures at product level, the date of entry into force will only apply if the adverse impacts are not considered. Otherwise, the obligation shall be delayed until 30 December 2022 at the latest).

Likewise, collective investment schemes and managed portfolios which, in accordance with the provisions of Articles 8 and 9, promote environmental or social characteristics (provided that the companies in which the investments are made follow good governance practices), or have sustainable investment objectives, shall be required to include on their websites and in their contractual documentation the information set out in the Regulation from 10 March 2021.

The CNMV advises reporting entities of the importance of due transparency of sustainability-related disclosures in the financial services sector and of full

compliance with the obligations and principles under the Regulation. Likewise, for its implementation, the CNMV intends to:

- Seek harmonised application at European level, for which purpose it shall follow the guidelines established by the ESAs, in particular by ESMA.
- Disseminate criteria to the sector on the application of the Regulation in the absence of implementing technical standards, through the publication of Q&As on enquiries received and its supervisory experience.
- Apply the principle of proportionality when supervising compliance with the Regulation by reporting entities.
- Bear in mind, both in the registration processes of amendments to prospectuses of collective investment schemes, and in its supervisory activities, the uncertainty related to the date of entry into force of the obligations stipulated in the Regulation.

Simplified procedure for updating investment fund prospectuses

With regard to the updating of investment fund prospectuses for their adaptation to the requirements under Articles 6 and 7 of the Regulation (sustainability risk and adverse impacts), the CNMV has developed a simplified procedure to enable swift incorporation of the information into registered prospectuses, which is available at [this link](#).

Regarding the obligations under Articles 8 and 9 of the Regulation, management companies shall review the prospectuses of funds registered as a Socially Sustainable Investment and shall analyse whether the information contained in the prospectuses complies with the requirements set out in the Regulation. In this regard, and bearing in mind the circumstances indicated above, the CNMV considers that, in general, and without prejudice to the review to be conducted by each management company, the information contained in the prospectuses of these funds, according to the criteria applied for their registration to date, could be sufficient to consider the requirements under the Regulation fulfilled. Nevertheless, management companies may voluntarily adapt the content of the prospectuses of these CISs, pursuant to the regulatory technical standards submitted by the ESAs to the European Commission. Management companies that decide to update these prospectuses shall also follow the procedure detailed in the above-mentioned link.

The CNMV considers that the credibility of sustainable investment information and the awareness of sustainable investments is essential, and therefore, urges the firms concerned to equip themselves with the appropriate resources and procedures for full compliance with the new regulations in this field. Likewise, to facilitate the achievement of the objectives pursued by the Regulation, the CNMV offers its collaboration to the sectors concerned to resolve any doubts that may arise and to coordinate its application.