

ESG

Disclosures
Regulation Tracker

simmons-simmons.com

24 May 2019

Background

In May 2018, as part of its [Action Plan on Financing Sustainable Growth](#), (the Action Plan), the European Commission (Commission) adopted a proposal (the Proposal) for a [Regulation on disclosures relating to sustainable investments and sustainability risks](#) (the Disclosures Regulation).

For details regarding two other initiatives under the Action Plan, see our [ESG Framework Regulation Tracker](#) and our [Delegated Regulations Incorporating ESG Preferences into Suitability Assessments Regulatory Tracker](#).

Summary

The Disclosures Regulation would impose transparency and disclosure requirements on

- financial market participants and
- insurance intermediaries providing insurance advice on insurance-based investment products (IBIPs) and financial advisors

concerning the integration of sustainability risks in the investment decision-making process and advisory processes.

The Proposal addresses the concern that disclosures in the above sectors remain unsystematic and inconsistent, making it more difficult for end-investors to make informed investment choices.

The Disclosures Regulation would require firms to:

- publish written policies on the integration of sustainability risks in their investment decision-making process
- make pre-contractual disclosures on how they incorporate sustainability risks in their businesses
- comply with pre-contractual transparency rules on sustainable investments
- publish a description of the sustainable investments target and information on the methodologies used to assess, evaluate and monitor the effectiveness of investments
- describe in periodic reports the specification of the impacts of sustainable investments by means of relevant sustainability indicators and
- ensure that all the information published on their websites is kept up-to-date, including a clear explanation of any amendments to the published information.

The Commission also highlights that the Disclosures Regulation is not intended to regulate market access for the in-scope financial market participants and financial advisors but, rather, to govern the way their activities are carried out.

Where are we in the process?

Following its adoption by the Commission, the Proposal was submitted to the European Parliament (EP) and to the Council of the EU (Council) for each to consider what amendments they would wish to see.

European Parliament:

02 August 2018	The rapporteur of the EP's Economic and Monetary Affairs Committee (ECON) published a draft report on the Commission's Proposal for a Disclosures Regulation.
17 September 2018	Amendments proposed by other members of ECON were published - see here .
05 November 2018	ECON adopted the amendments to the draft report.
09 November 2018	The ECON Final Report was published , setting out the amendments which the Committees had voted to adopt.
14 November 2018	The EP approved the Final Report at a plenary session. The Final Report stands as the EP's starting position for trilogue negotiations.

Council of the EU:

The Council's working group agreed its position on the Commission's Proposal for a Disclosures Regulation, and submitted this to the Committee of Permanent representatives (COREPER) to endorse as the Council's **General Approach**, which stands as the Council's starting position for trilogues.

Trilogues

Following a series of trilogue meetings together with the Commission, the Council and the EP reached political agreement on a Level 1 text on 07 March 2019. On 18 April 2019, the EP adopted the agreed text in plenary.

The Council will endorse the text before it is published in the Official Journal. The Disclosures Regulation will enter into force 20 days after its publication in the Official Journal.

Key stages in development of Level 1 text

European Commission Documents

24 May 2018 **Commission Proposal**

European Parliament Documents

02 August 2018 **ECON Draft Report – Amendments 1-46**

17 September 2018 **ECON Draft Report – Amendments 47-245**

09 November 2018 **ECON Final Report**

14 March 2019 **European Parliament Briefing: “Sustainable finance and disclosures: Bringing clarity to investors”**

18 April 2019 **European Parliament adopts agreed text at plenary session**

Council of the EU Documents

17 December 2018 **Council General Approach**

[elexica.com](#) is the award winning online legal resource of Simmons & Simmons

© Simmons & Simmons LLP 2019. All rights reserved, and all moral rights are asserted and reserved.

This document is for general guidance only. It does not contain definitive advice. SIMMONS & SIMMONS and S&S are registered trade marks of Simmons & Simmons LLP.

Simmons & Simmons is an international legal practice carried on by Simmons & Simmons LLP and its affiliated practices. Accordingly, references to Simmons & Simmons mean Simmons & Simmons LLP and the other partnerships and other entities or practices authorised to use the name “Simmons & Simmons” or one or more of those practices as the context requires. The word “partner” refers to a member of Simmons & Simmons LLP or an employee or consultant with equivalent standing and qualifications or to an individual with equivalent status in one of Simmons & Simmons LLP's affiliated practices. For further information on the international entities and practices, refer to [simmons-simmons.com/legalresp](#)

Simmons & Simmons LLP is a limited liability partnership registered in England & Wales with number OC352713 and with its registered office at CityPoint, One Ropemaker Street, London EC2Y 9SS. It is authorised and regulated by the Solicitors Regulation Authority.

A list of members and other partners together with their professional qualifications is available for inspection at the above address.