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Disclosure Regulation: The AMF provides a number of key insights on the ongoing consultation of the European Supervisory Authorities

The Disclosure Regulation, published in November 2019, creates new sustainability-related transparency obligations for market participants. The European supervisory authorities launched a consultation on 25 April, until 1 September, on a draft technical regulatory standard to specify these obligations. The AMF explains the key issues at stake in this consultation.

Along with the Taxonomy and Benchmark Regulations, the Disclosure Regulation is the cornerstone of the European Commission's Sustainable Finance Action Plan, one of whose ambitions is to help redirect capital flows towards sustainable activities. It will apply for the most part from 10 March 2021.

The obligations of the regulation: towards greater transparency

The Disclosure Regulation imposes transparency obligations on financial market participants and financial advisers regarding their entities and the products they market or the advice they provide. The Regulation entrusted the European supervisory authorities with the task of submitting to the European Commission six technical regulatory standards - since merged into one - detailing certain technical aspects of the Regulation, in particular:

- transparency on the consideration by market participants of "principal adverse impacts" of their investment decisions on sustainability factors ;
- transparency applicable to financial products that "promote an environmental or social characteristic" or have a "sustainable investment objective".

This draft technical regulatory standard is of particular importance as it is the first step in a European reflection on the subject.

The feedback from market players, associations and NGOs will be analysed with great interest in order to better take into account the potential challenges and difficulties of the framework, while achieving the objectives set by European legislators.

Highlights of the consultation

The AMF intends to provide some of the keys to understanding the context of this consultation and the main issues at stake. The focus points of this consultation are as follows:

- the elements requested from stakeholders on how to take into account the principal adverse impacts on sustainability factors, and in particular the mandatory and optional indicators identified by the draft text;
- for products featuring an environmental or social characteristics, and for those with a sustainable investment objective, the balance between pre-contractual information included in prospectuses and information provided on websites ;
- the possibility of defining several investment strategies commonly used by products that put forward environmental, social and governance (ESG) objectives, and the possibility of referring to these strategies in the framework of pre-contractual transparency;
- the distinction between products featuring environmental or social characteristics (so-called "Article 8" products) and those with a sustainable investment objective (so-called "Article 9" products), and the possibility of better reflecting this distinction through the regulatory requirements imposed on them respectively.

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