

YOUR TRUSTED ESG PARTNER

The EU sustainable finance framework



The EU sustainable finance framework

| Taxonomy regulation

| Sustainable finance disclosure regulation

| Benchmark regulation

| ESG integration into UCITS & AIFMD frameworks

| ESG integration into MiFID II

| Corporate sustainability reporting directive

| EU Green Bond Standard

| Greenwashing risks

| Corporate Governance

| ESG credit ratings

Introduction

The industry across the EU is witnessing the introduction of a rapidly increasing volume of regulation, with the ultimate collective aim being to shift capital towards more sustainable investments. Each piece of legislation and proposal is designed to promote the transition to a climate-neutral, climate-resilient, resource-efficient and fair economy, but legislation is only one piece of the puzzle with investor demand and public pressure more generally also playing an important role in the transition process.

Opportunities and challenges posed by the rise of Environmental, Social and Governance (“ESG”) considerations and sustainable finance in Europe are having a significant impact on driving asset managers to consider and disclose ESG considerations for Irish domiciled investment funds. The Sustainable Finance Disclosure Regulation (“SFDR”) and the Taxonomy Regulation are two of the key building blocks of the EU’s sustainable finance framework (the “SFF”) as they establish disclosure requirements and a classification system, which is aimed at providing guidance and information to investors when determining whether a particular financial product should be treated as sustainable. There are also a variety of other initiatives aimed at complementing these regulations such as the introduction of two new benchmark classifications, namely, EU Climate Transition Benchmarks and EU Paris-aligned Benchmarks, proposals for an EU Financial Products Ecolabel and to establish an EU Green Bond Standard, as well as the recent Corporate Sustainability Reporting Directive (“CSRD”) and on due diligence requirements.

Walkers ESG expertise

We have extensive experience advising asset management and investment firms on the implementation of ESG requirements under SFDR, the Taxonomy Regulation and more recently the implementation of the regulatory technical standards (“RTS”) under SFDR (“SFDR Level 2”). Our analysis has involved advising asset managers (including those who manage a number of ESG focused multi-manager funds and/or fund of funds) in relation to the completion of prescribed annexes required for the pre-contractual and annual financial statement disclosures for those products falling within the scope of Article 8 and 9 of SFDR. We have advised on specific elements of the ESG strategies of the relevant investment firm/asset manager, delegate investment managers and underlying fund managers to seek to ensure that those strategies cohesively align with the prescriptive pre-contractual and website disclosure requirements of SFDR Level 2. Such advice also takes into consideration the ever-evolving guidance emanating from the European Commission (the “Commission”), European Supervisory Authorities, ESMA, the Central Bank of Ireland (the “Central Bank”) and other relevant guidance. To keep up with the speed of developments and provide the very latest advice with respect to product classifications and associated investment due diligence/metrics to avail of those classifications we have devised a detailed regulatory and legal tracker of SFF developments. In order to complete the pre-contractual disclosures, we consider your proposals regarding investment in “sustainable investments” or “promotion of ESG characteristics” in light of the available legislative requirements and associated guidance, as well as consideration of the principal adverse indicators provided

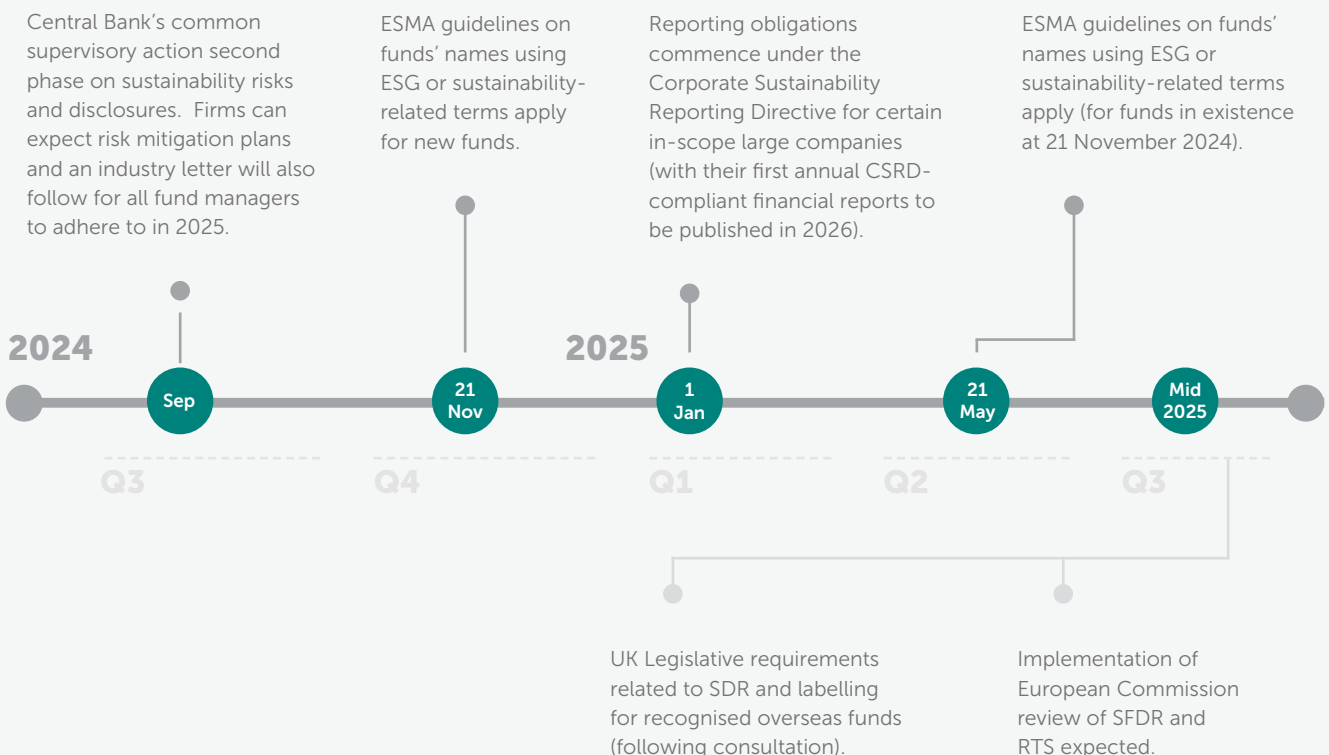


for in Annex 1 of SFDR Level 2 at entity/product level. We are advising a number of asset managers seeking to transition to be compliant with Article 8 of SFDR involving consideration of credit, derivative and social strategies, proprietary screening, benchmarks and engagement/stewardship policies (in addition to environmental strategies)

In addition to the product orientated ESG work, we advise asset management and investment firms, more broadly in relation to their obligations under sustainability related amendments to the AIFMD, UCITS and MIFID II frameworks and the findings set out by the Central Bank in its industry letters relating to its supervisory expectations of regulated firms regarding climate and other ESG issues. The implementation of these new ESG requirements, measures to meet investor expectations in investor facing disclosures and mitigating greenwashing risks is a key supervisory and investor-driven focus. With the onset of regulatory sanctions in the US, the themed inspections in Europe and the potential for private investor litigation, our advice on ESG disclosures and implementation is paramount to protecting and maximising the growth of your ESG business.

Mindful of the focus of European supervisory authorities, national regulators and investors alike on greenwashing, downgrades of funds to the “light green” in accordance with Article 8 of SFDR were seen across Europe. In Ireland the Central Bank is increasing its scrutiny of how investment funds and their management companies are complying with the evolving nature of their disclosure, reporting and governance obligations under the sustainable finance framework. Our participation in relevant industry committees ensures we have the latest industry positions. We are advising our fund clients in relation to these Central Bank expectations regarding the implementation of the SFF. At entity level we have put in place action plans for Irish management companies with respect to the integration of sustainability factors and sustainability risks across their organisational structures and advising in relation to updates to ESG/SFDR policies and processes, risk management framework, business plans, investment due diligence procedures, conflicts of interest and other relevant policies and procedures. We have also advised Irish investment firms in relation to updates to MIFID II with respect to the integration of sustainability related organisational amendments as well as those amendments associated with sustainability related objectives of identified target markets.

ESG for investment funds 2024/2025:





SFDR classifications

From an EU perspective, those funds promoting environmental or social characteristics which may partially make sustainable investments or that have sustainable investment as their objective are categorised as either falling within the scope of Article 8 or Article 9 of SFDR, respectively, with investors seeking to make sustainable investments increasingly only willing to invest in funds that fall within either of these categories.

<p>Article 6 (non-ESG)</p>	<p>This is the default product category for funds that do not hold themselves out as ESG products and do not meet the conditions under Articles 8 and 9. .</p> <p>Non-ESG financial products must meet a minimum requirement relating to the integration of sustainability risks under Article 6. This applies on a comply or explain basis.</p>	<p>Fund Negative statement in pre-contractual documents and financial reports.</p>
<p>Article 8</p>	<p>Funds falling in scope of Article 8 of the SFDR are products that promote, among other characteristics, environmental or social characteristics, or a combination of those characteristics</p>	<p>Entity Publish website information Art. 10 and RTS</p> <p>Fund Update pre-contractual disclosure Art.8 and RTS Update financial reports disclosure Art. 11 and RTS</p>
<p>Article 9</p>	<p>Funds falling in scope of Article 9 of the SFDR are products that pursue 'sustainable investment' as their investment objective or which have reduction in carbon emissions as their objective.</p> <p>Sustainable investment is defined as an investment in an economic activity that contributes to an environmental and/or social objective provided that such investments do not significantly harm any of those objectives and that the investee companies follow good governance practice</p> <p>Managers categorising their funds as either Article 8 or Article 9 will be subject to enhanced disclosure requirements to increase transparency and inform end investors about the sustainability-related performance of those funds relative to the environmental/ social characteristics promoted or the sustainability objectives pursued.</p>	<p>Entity Publish wesite information Art. 10 and RTS</p> <p>Fund Update pre-contractual disclosure Art.9 and RTS Update financial reports disclosure Art. 11 and RTS</p>
<p>Article 8 & Article 9</p>	<p>Integration of sustainability risks in the investment process. This applies on a comply or explain basis</p>	<p>Entity Implement a policy on sustainability risk integration Publish details on a website Art. 3(1) Update remuneration policy and publish information on website Art.5</p> <p>Fund Update pre-contractual disclosure Art. (6(1)(a) and disclosure of the likely impact on returns Art. (6(1)(b)</p>
	<p>Consideration of the adverse impacts of investment decisions on sustainability factors.</p>	<p>Entity Implement a due diligence policy Publish details of the policy Art. 4(1) and 4(2) and RTS Publish full PAI statement on a website (applies from 30 June 2023) Art. 4</p> <p>Fund Update pre-contractual disclosure Art. 7</p>



Article 8 and 9 Funds Operating in EU

By the end of Q2 2024 almost 50% of funds offered in the EU were classified as Article 8 & 9 with combined assets accounting for 61% of EU fund assets and with Article 8 & 9 funds accounting for over half of fund launches in the quarter.¹ The landscape of Article 8 and Article 9 funds continues to evolve amid persistent greenwashing concerns and regulatory uncertainty and the imminent application of ESMA guidelines on fund names using ESG or sustainability related terms and recent ESMA Q&As may result in further reclassifications.

¹Based on SFDR data collected from prospectuses on 97.6% of funds available for sale in the EU, excluding money market funds, funds of funds, and feeder funds.

Advisory series

We regularly publish advisories on regulatory and legal updates including on ESG. [See our latest insights here](#) and our recent ESG newsletters below:

- [Asset Management & Investment Funds ESG Newsletter \(February 2024 - June 2024\)](#)
- [Asset Management & Investment Funds ESG Newsletter \(November 2023 - January 2024\)](#)
- [Asset Management & Investment Funds ESG Newsletter \(September - October 2023\)](#)





Further information

We are seeing an increase in the number of asset managers considering how to integrate ESG criteria in the investment strategies they employ for funds under management. Walkers has extensive experience advising on the impact that sustainable financing initiatives will have on such asset managers and investment funds.

Should you wish to discuss our capacity to assist with the implications of the EU Sustainable Finance Framework on your business please speak to your usual contact in Walkers or connect with any of the contacts listed below.



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