

The EU Sustainable Finance Disclosure Regulation (SFDR) is live – what can we expect?

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The EU Sustainable Finance Disclosure Regulation (SFDR) has now come into force and the financial market is getting to grips with its implications for the asset management industry.

Ahead of its introduction, Ogier hosted a webinar, *The EU Sustainable Finance Disclosure Regulation (SFDR) – what to expect?*, to explain the regulation's key requirements, how asset managers are adapting to those requirements and what implementation looks like in practice.

Speakers included partner Anne-Gaëlle Delabye and senior associate Rebecca Macé-Balebs, both based in Luxembourg, as well as partner and head of ESG (Legal) Kate Hodson and director and head of ESG and Impact Services Leonie Kelly.

Set out below are some of the topics discussed in the webinar. For the full webinar recording and slides please get in touch with the Ogier Global ESG team.

What is the purpose of SFDR?

The EU's Sustainable Finance Disclosure Regulation, or SFDR, is one of a package of regulatory measures brought in by the EU to create a harmonised ESG framework for the European financial services industry, and is part of the EU's 2030 Agenda for Sustainable Development.

"To be clear, this is not just about climate change but is focused on a much broader topic of sustainability," said head of ESG (Legal) Kate Hodson. "In short, we are talking about an environmental, social or governance event or condition that, if it occurs, could cause a negative material impact on the value of the investment."

SFDR can be summarised as follows: the regulation is intended to contribute to the higher goal of transitioning the EU to a low-carbon, more sustainable economy in line with the sustainable development goals. SFDR, in particular, is designed to increase transparency in how

sustainability risks and opportunities are integrated into the investment decisions and recommendations of financial market players, as well as to have consideration given to the possible adverse sustainability impacts of investments. Its design recognises the fact that this is an area that is not sufficiently developed or harmonised.

Head of ESG and Impact Services Leonie Kelly said "It's important to note the EU regulation uses the term 'sustainable finance' rather than 'ESG' and does not purely focus on 'environmental risk' or 'climate-related risk', like we have seen in other jurisdictions - in recent regulation across Asia, for example. As such, the SFDR should not be simply be considered a series of green measures, but also a wider consideration of sustainability in governance and risk management, with an overall focus on increased transparency."

Who does SFDR apply to?

It applies to EU financial market participants (FMPs) and financial advisors. FMPs are defined as professional players in the financial market, like pension funds, asset managers (including AIFMs and UCITS management companies), insurance companies, banks, venture capital funds, credit institutions offering portfolio management or financial advisors.

Will the EU SFDR apply to non-EU based managers that market their funds in the EU?

It applies directly to managers who market funds into the EU under national private placement rules.

It applies indirectly to managers providing portfolio management and/or investment advice services to EU firms that are subject to the rules.

When will SFDR come into effect?

Level 1 SFDR came into effect on March 10 2021. Level 2 Regulatory Technical Standards (RTS) will begin to apply from Jan 1 2022 on a phased basis.

How does SFDR work in practice and what are the implications for managers?

"SFDR sets out rules on transparency and requires FMPs to disclose how they consider sustainability risks in their investment processes and products and how they deal with principal adverse impacts of their investment decisions on sustainability factors, " said senior associate Rebecca Macé-Balebs

"To be clear, such rules will apply at two levels: at the level of the firms themselves and at the level of the products they manage, market and/or advise."

Diving into what SFDR means for funds and asset managers in practice, partner Anne-Gaelle Delabre explained how she has worked alongside clients to prepare for its implementation.

"We have first started above the chain by informing clients on the meaning of the regulation, deadlines to consider; categorisation of products.

"Once the road map was clear, we had to distinguish the process for clients managing their funds internally and clients appointing third party UCITS management companies/AIFMs. In the first case, we have been involved in the detailed discussion on the scoping and gap analysis. In the second case, we have informed the clients of the need to liaise quickly with their UCITS management company/AIFM, which often leads this part of the process. In both scenarios, we have been involved in part or in all aspects of the implementation of this SFDR analysis.

"We have seen in this context that having a cross-jurisdictional ESG task force with team members working on various aspects of ESG has proven very helpful."

What are the challenges of the regulation?

There are many challenges to be considered, depending on the point of view (legal and compliance, portfolio managers, marketing teams, for example). From a legal perspective, the most obvious is the broad range of this regulation.

"While it has the merit to set the same set of rules in terms of sustainability disclosures, it encompasses a very broad range of market players and products. Definitions are thus broad, quite simplistic and not always easy to put in place," said Anne-Gaelle.

Another challenge relates to the availability of data, the diversity of data and lack of comparability between different methodologies and standards.

The costs of compliance, which are rather unpredictable today, are another main challenge.

What are the opportunities offered by SFDR?

This regulation has the merit to bring sustainable finance in the spotlight and to give it the importance that it deserves. In hindsight, other EU regulations have stressed the market and yet are now regarded as game changers, such as AIFMD and PRIIPs. SFDR has the potential to follow suit and be instrumental in supporting a transition towards a sustainable economy.

For those who were not able to join, the recording is available [here](#).

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Meet the Author



[Anne-Gaëlle Delabye](#)

Partner

[Luxembourg Legal Services](#)

E: anne-gaelle.delabye@ogier.com

T: [+352 2712 2039](tel:+35227122039)

Key Contacts



[Kate Hodson 律師 · 顧問](#)

Partner and Head of ESG (Legal) 顧問

[Hong Kong](#)

E: kate.hodson@ogier.com

T: [+852 3656 6049](tel:+85236566049)



Leonie Kelly

Head of Sustainable Investment Consulting

Hong Kong

E: leonie.kelly@ogier.com

T: +852 3656 6169

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