BF BETTER FINANCE

The European Federation of Investors and Financial Services Users
Fédération Européenne des Épargnants et Usagers des Services Financiers

BETTER FINANCE'S FEEDBACK ON THE EUROPEAN COMMISSION PROPOSAL FOR A REGULATION ON DISCLOSURES RELATING TO SUSTAINABLE INVESTMENTS AND SUSTAINABILITY RISKS AND AMENDING DIRECTIVE (EU) 2016/2341 COM (2018)354 Final

***BETTER FINANCE**, the European Federation of Investors and Financial Services Users, is the dedicated representative of financial services users at European level. It counts about fifty national and international members and sub-member organizations in turn comprising about 4.5 million individual members. Our organization acts as an independent financial expertise centre to the direct benefit of the European financial services users (shareholders, other investors, savers, pension fund participants, life insurance policy holders, borrowers, etc.) and other stakeholders of the European financial services who are independent from the financial industry. As such its activities are supported by the European Union since 2012.*

***BETTER FINANCE** is the most involved European end user and civil society organisation in the EU Authorities' financial advisory groups, with experts participating in the Securities & Markets, the Banking, the Occupational Pensions and Insurance and Reinsurance Stakeholder Groups of the European Supervisory Authorities; as well as in the European Commission's Financial Services User Group (FSUG), and in the European Financial Reporting advisory Group (EFRAG). Its national members also participate in national financial regulators and supervisors bodies when possible.*

For further details please see our website: http://betterfinance.eu/

I. BETTER FINANCE'S FEEDBACK

BETTER FINANCE welcomes this opportunity to comment on the European Commission's regulation proposal on disclosure relating to sustainable investment and sustainability risks (amending Directive (EU) 2016/2341).

EU citizens as savers and individual investors are the main provider of long term funding to the EU economy and are mostly by nature long term oriented, as their needs are often long-term ones: pension, home purchase, children education, etc. Therefore, they are concerned with the impact of the investment of their savings on sustainability.

BETTER FINANCE is a strong advocate of sustainability, but sustainable finance will only be achieved:

- firstly, by Public Authorities identifying precisely the beneficiaries of what the economists call the "negative externalities" of human activities and businesses on the ecosystem, and then adequately taxing these negative externalities for the beneficiaries to pay the right price of hurting the environment. That is by far most powerful and effective. The carbon tax is a good step in this direction.

The European Federation of Investors and Financial Services Users
44, Rue d'Arenberg, 1000 Brussels - Belgium
Tel. (+32) 02 514 37 77 - Fax. (+32) 02 514 36 66
E-mail: info@betterfinance.eu

- secondly, by improving corporate governance and ensuring the long-term engagement of shareholders and investors by addressing the "agency ownership" issues and removing the barriers to share voting by the ultimate and economic owner.
- and only thirdly by aligning the interests of investment intermediaries (asset managers, pension funds, financial and insurance distributors and advisors) to the time horizon and interests of the end investors (mostly the citizens as long term and pension savers).

We welcome the Commission initiative to improve the transparency on the integration of ESG criteria and disclosure on how institutional investors and asset managers integrate sustainability risks in the investments decision-making and advisory process. The proposal introduces disclosure requirements for financial market participants (publication on their websites, in pre-contractual documents and in regular reports) to show how they integrate sustainability risks in the investments decision-making and advisory process.

However, we would like to raise the following points:

1. **<u>Timeline of the EU Taxonomy, timeline of the proposed regulation, adoption of the RTS and delegated acts</u>**

BETTER FINANCE supports this initiative to improve transparency of financial market participants regarding the integration of ESG consideration in investment decision-making process and advisory process.

However, we have several concerns regarding the consistency between this proposal and the regulation proposal for an EU taxonomy and the timeline of implementation of this proposal.

Firstly, the proposal provides in article 12 that the Regulation will be applied one year and 20 days after the entry into force. Article 5(6) specifies that the ESAs (joint committee) will draft the regulatory technical standards that should be adopted by the Commission within 18 months after the entry into force of the regulation. We ask the commission to specify the timeline provided in article 12 as the current drafting seems to imply that the regulation would apply during a period of 6 months without delegated acts.

Secondly, we believe that the Commission should specify more clearly the link between the adoption of an EU taxonomy and the implementation of the said proposal.

As raised at several occasions by BETTER FINANCE, a clear and compulsory taxonomy should be adopted before requesting institutional investors and assets managers to disclose how they integrate sustainable risks in investment decision-making process or advisory process. However, adopting such a taxonomy will take time: the EU taxonomy should first be tested before becoming an obligation applicable on disclosure for instance.

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Moreover, we believe that the European Commission should adopt a holistic approach, i.e. that the three components (ESG) should be defined at the same time in the EU taxonomy. The said regulation and the Commission's proposal for an EU taxonomy seem to be inconsistent: the proposal on ESG disclosure refers to social and governance criteria (articles 2(o) and 10) when the regulation for an EU taxonomy only tackles environmentally sustainable economic activities. We also believe that this approach is dangerous. Firstly, this sequencing approach will lead to an unbalanced capital allocation and secondly the absence of clear EU taxonomy for social and governance criteria may lead to the development of multiple definitions which will mislead the retail consumer.

2. Definitions of "sustainable risk" and "sustainable investment"

Article 4 (article 4(1)(a) and (b) and 4(2)(a), (b) and (c)) provides that financial market participants must include the descriptions of the way they integrate sustainable risks. We welcome this article but we regret that the Commission did not define the term "*sustainable risk*" in article 2 of the proposed regulation.

For more legal certainty and clarity, this term should be defined. We believe that it would not be appropriate to leave the definition of sustainable risk to the market.

The definition of "*sustainable investment*" in article 2(o)(iii) should be detailed as the current wording "*companies following good governance practices*" is too vague.

3. The multiplication of delegated acts

The proposed regulation mentions the future adoption by the European Commission of several delegated acts and Regulatory Technical Status (RTS). The adoption of specific rules at level two is in the interest of the clarity of the level one text. However, delegated acts and RTS (based on expert groups such as the TEG on sustainable finance) should not be a way of avoiding the consultation of stakeholders and particularly representatives of consumers.

4. Impact of sustainability approach on returns

Article 4(1)(b) provides that financial market participants shall include a description of *"the extent to which sustainability risks are expected to have a relevant impact on the returns of the financial products made available"*.

We agree with that proposal but we ask the Commission to detail this element of the disclosure. This information must be based on concrete material and must not become a marketing tool to attract retail investors. We have to bear in mind that the numerous studies on the trade-off

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between returns and contribution to the environmental transition did not bring any concrete conclusions on the impact of sustainability approach on returns.

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