



European Securities and  
Markets Authority

# Supervisory briefing

**Sustainability risks and disclosures in the area of investment management**





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## 1 Legal framework

1. Regulation (EU) 2019/2088 on sustainability related disclosures in the financial services sector (SFDR) sets out a broad range of disclosure obligations on financial market participants, financial advisers and financial products.
2. Regulation (EU) 2020/852 on the establishment of a framework to facilitate sustainable investment (TR) adds additional disclosure requirements for those financial products making sustainable investments with environmental objectives.
3. The definition of ‘financial market participants’ set out in Article 2(1) of the SFDR includes UCITS management companies and AIFMs as well as registered managers of EuVECA and EuSEF (hereinafter referred to as “fund managers”). The definition of ‘financial products’ set out in Article 2(12) of the SFDR includes both UCITS and AIFs (hereinafter referred to as “funds”).
4. The ESAs have published draft regulatory technical standards (RTS) under Articles 2a(3), 4(6)-(7), 8(3), 9(5), 10(2) and 11(4) SFDR on 4 February 2021 covering:
  - Adverse impact reporting at entity level: disclosures of principal adverse impacts of investment decisions on sustainability factors – including detailed indicators for environmental and social impacts; and
  - Pre-contractual, website and periodic product disclosures: applicable to products with either environmental or social characteristics or with sustainable investment objectives, including provisions on “do no significantly harm” (DNSH).
5. On 2 August 2021, amendments to the delegated acts under the AIFMD and UCITS Directive regarding the integration of sustainability risks and factors were published in the Official Journal<sup>1,2</sup>.
6. On 22 October 2021 the ESAs published draft RTS under Article 8(4), 9(6) and 11(5) SFDR covering taxonomy-related product disclosures.
7. On 6 April 2022 the European Commission adopted the February and October 2021 RTS as a Delegated Regulation. The European Parliament or the Council

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<sup>1</sup> Commission Delegated Regulation (EU) 2021/1255 of 21 April 2021 amending Delegated Regulation (EU) No 231/2013 as regards the sustainability risks and sustainability factors to be taken into account by Alternative Investment Fund Managers. Commission Delegated Directive (EU) 2021/1270 of 21 April 2021 amending Directive 2010/43/EU as regards the sustainability risks and sustainability factors to be taken into account for Undertakings for Collective Investment in Transferable Securities.

<sup>2</sup> ESMA published technical advice (ESMA34-45-688) to the European Commission for these amendments on 30 April 2019.

have the right to object to the Delegated Regulation within a period of three months from that date.<sup>3</sup>

## 2 Introduction and background

8. One of ESMA's statutory objectives is to enhance supervisory convergence across the internal market, by playing an active role in building a common supervisory culture and promoting common supervisory approaches and practices.
9. Sustainable investment is a fast-growing area of investment management and the subject of ambitious new Union rules on disclosure and sustainability risk integration. ESMA has developed this supervisory briefing to promote convergence on the supervision of sustainability-related disclosures as well as the supervision of how fund managers integrate sustainability risks in their organisational framework and decision-making process. The supervisory briefing aims to provide guidance to NCAs regarding the supervision of sustainability-related disclosures and integration of sustainability risks.
10. The supervisory briefing is issued under Article 29(2) of the ESMA Regulation which enables ESMA to develop new practical instruments and convergence tools such as supervisory briefings. The purpose of these tools is to promote common supervisory approaches and practices. The content of this supervisory briefing is not subject to any 'comply or explain' mechanism for National Competent Authorities (NCA) and is non-binding.
11. The supervisory briefing is designed around a risk-based approach to supervision, meaning that the intensity and frequency of the sustainability related supervision of investment funds are determined based on the assessment of the risks affecting these funds. This refers to the whole set of procedures, processes, mechanisms and practicalities allowing competent authorities to exercise their supervisory powers in a way that is commensurate with the identified risks.
12. Competent authorities are encouraged to be proportionate in their supervision. The extent of information sought, and the frequency and intensity of supervisory engagement should consider elements such as the type of assets the fund manager intends to invest in, the complexity of the investment policy and strategy of the fund and the type of investors in the investment fund. The engagement should also be commensurate with the risks identified.

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<sup>3</sup> The three-month period may also be extended by a further three month-period at the initiative of either the European Parliament or the Council.

13. The content of this briefing is not exhaustive and does not constitute new policy. It has been designed to be used in the way that best fits with supervisors' methodologies, and may be updated to reflect regulatory developments or supervisory experiences.

14. This briefing is developed in relation to the following regulations and documents:

- Regulation (EU) 2019/2088 (SFDR);
- Regulation (EU) 2020/852 (TR);
- Regulation (EU) 2017/1129 (Prospectus Regulation)
- Regulation (EU) 2019/1156 (Cross-border distribution of funds)
- Directive 2011/61/EU – AIFM Directive
- Directive 2009/65/EC – UCITS Directive (as amended)
- Commission Delegated Regulation (EU) 231/2013 (AIFMD) and the Commission Delegated Regulation 2010/43/EU (UCITS) as amended by Commission Delegated Regulation (EU) 2021/1255 and Delegated Directive (EU) 2021/1270
- Commission Delegated Regulation (EU) .../... (SFDR Delegated Regulation)<sup>45</sup>
- Updated Joint ESA Supervisory Statement on the application of the Sustainable Finance Disclosure Regulation (JC 2022 12<sup>6</sup>);
- Guidelines on marketing communications under the Regulation on cross-border distribution of funds (ESMA34-45-1272<sup>7</sup>); and
- Questions related to Regulation (EU) 2019/2088 of the European Parliament and of the Council on 27 November 2019 on sustainability-

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<sup>4</sup> Commission Delegated Regulation (EU) .../... of 6 April 2022 supplementing Regulation (EU) 2019/2088 of the European Parliament and of the Council with regard to regulatory technical standards specifying the details of the content and presentation of the information in relation to the principle of 'do no significant harm', specifying the content, methodologies and presentation of information in relation to sustainability indicators and adverse sustainability impacts, and the content and presentation of the information in relation to the promotion of environmental or social characteristics and sustainable investment objectives in precontractual documents, on websites and in periodic report

<sup>5</sup> Any reference in the document to the checks that NCAs should perform on the compliance with the SFDR Delegated Regulation should be intended to be applicable when such CDR enters into force.

<sup>6</sup> [Updated supervisory statement on the application of the SFDR](#)

<sup>7</sup> [Guidelines on marketing communications](#)



related disclosures in the financial services sector (Sustainable Finance Disclosure Regulation 2019/2088) (Ref. Ares(2021)4556843)<sup>8</sup>

15. ESMA is of the view that alongside the ongoing regulatory convergence promoted by the regulations and documents above, there is a strong need to promote supervisory convergence, in order to minimise the risk of different levels of investor protection depending on where the relevant fund is domiciled or marketed on a cross-border basis.
16. This ESMA supervisory briefing intends to further enhance convergence among NCAs by addressing the potential issues arising from the supervision of sustainability-related disclosures as well as the integration of sustainability risks by fund managers and the design of common supervisory practices. This common approach should serve to increase transparency for investors as well as avoiding the practice of “greenwashing”.
17. Additional national requirements applied by NCAs with regard to the supervision of sustainability-related disclosures or the integration of sustainability risks should not impede the distribution of funds across borders under the relevant legislation.
18. For the purpose of the guidance provided to NCAs in this document, the responsibility and competences for the supervision of fund managers and funds is laid out in Directive 2009/65/EC and Directive 2011/61/EU.

### **3 Guidance for the supervision of fund documentation and marketing material**

19. For the purpose of this document:
  - “fund documentation” is considered to be the prospectus as referred to in Article 69 of the UCITS Directive, the information which is to be disclosed to investors in accordance with Article 23 of the AIFMD, the prospectus under the Prospectus regulation where relevant for closed-ended AIFs, the KIID and/or the KID as well as the fund rules / articles of association in accordance with the national law;
  - “website disclosure” is considered to be the requirements referred to in Article 10 SFDR and Chapter IV of the SFDR Delegated Regulation;
  - “periodic report” is considered to be the annual report of a UCITS or an AIF; and

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<sup>8</sup> [Q&A of the European Commission on SFDR](#)

- “marketing material” is considered to be all marketing communications addressed to investors or potential investors for UCITS and AIFs, as defined in the ESMA Guidelines on marketing communications under the Regulation on cross-border distribution of funds (ESMA34-45-1272).<sup>9</sup>
- 20. The information provided to the investors to evaluate proposed funds must be accurate, fair, clear, not misleading, simple and concise (Article 8(3) and 9(5) SFDR).
- 21. An important aspect of the information provided to investors concerns the proportion of the non-financial characteristics such as the environmental and social characteristics. For example, Recital 11<sup>10</sup> of the SFDR Delegated Regulation, with regards to funds disclosing under Article 8 SFDR, notes that disclosure of criteria for the selection of underlying assets should be limited to those criteria that are binding on the fund manager in the investment decision-making process.
- 22. Recital 16<sup>11</sup> of the SFDR Delegated Regulation warns against the greenwashing risks where funds apply “non-binding” exclusion strategies.
- 23. The supervisory actions described in this document should be performed, as appropriate, at any stage of the life of a fund.

### **3.1 Verification of the compliance of the pre-contractual disclosures**

- 24. The precontractual information for financial products disclosing under Article 8(1) and 9(1)-(3) SFDR (and Article 5 or 6 TR) are to be provided in an annex to (1) the prospectus (for UCITS) and in an annex to (2) the information which is to be disclosed to investors in accordance with Article 23 of AIFMD (for AIFs) in accordance with the templates set out in Annex II and III of the SFDR Delegated Regulation.
- 25. NCAs are invited to create a checklist based on the information to be provided in the pre-contractual templates that will help assessing the compliance of the disclosures of new and existing funds disclosing under Article 8 or 9 SFDR (and Article 5 or 6 TR).
- 26. On the basis of this checklist, the NCAs should verify, at least, that:

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<sup>9</sup> [https://www.esma.europa.eu/sites/default/files/library/esma34-45-1272\\_guidelines\\_on\\_marketing\\_communications.pdf](https://www.esma.europa.eu/sites/default/files/library/esma34-45-1272_guidelines_on_marketing_communications.pdf).

<sup>10</sup> Recital 11: [...] That implies that financial market participants should not disclose on sustainability, including through product categorisation, in a way that does not reflect the way in which the financial product effectively promotes those environmental or social characteristics. Financial market participants should therefore only disclose those criteria for the selection of underlying assets that are binding on the investment decision-making process. [...]

<sup>11</sup> Recital 16: [...] Market practice demonstrates that some exclusion strategies are showcased as effective, while in fact those exclusion strategies actually lead to the exclusion of only a limited number of investments, or are based on exclusions required by law. It is therefore necessary to address concerns about ‘greenwashing’ [...].

- A prominent statement referring to the sustainability information to be found in an annex has been included in the main body of the prospectus referred to in Article 69 of the UCITS Directive (for UCITS) and of the information which is to be disclosed to investors in accordance with Article 23 of AIFMD (for AIFs);
- The pre-contractual templates have been properly completed in all their parts;
- A description of the manner in which sustainability risks are integrated in the investment decisions and the results of the assessment of the impact of these risks on the returns of the fund, is included;
- The environmental and/or social characteristics promoted by funds disclosing under Article 8 SFDR and the sustainable investment objectives pursued by funds disclosing under Article 9 SFDR are clearly stated and sufficiently explained in the annex referred to under the first indent;
- The strategy to attain the objectives is clearly identified in the annex referred to under the first indent and is part of the investment policy;
- If relevant, the Principal Adverse Impact indicators from Table 1 of Annex I of the SFDR Delegated Regulation have been considered for the purpose of the Principal Adverse Impact disclosures referred to in Article 7 SFDR. It is worth noting that NCAs could reasonably expect that products disclosing under Article 9 SFDR would disclose the Principal Adverse Impacts of investment decisions referred to in Article 7 SFDR, even though it is not mandatory, due to the requirements of DNSH disclosures for sustainable investments in the SFDR Delegated Regulation which require the disclosure of how the indicators for adverse impacts in Annex I of the SFDR Delegated Regulation have been taken into account and because Article 9 SFDR products should only make sustainable investments<sup>12</sup>;
- A description of the policy to assess the good governance practices of the investee companies has been provided; and
- The taxonomy alignment disclosures have been included for those funds which are disclosing under Article 5 or 6 TR.

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<sup>12</sup> See European Commission Q&A on SFDR from July 2021 on page 5: "A financial product to which Article 9(1), (2) or (3) of Regulation (EU) 2019/2088 applies may invest in a wide range of underlying assets, provided these underlying assets qualify as 'sustainable investments', as defined in point 17 of Article 2"

### **3.2 Verification of the consistency of information in the fund documentation and marketing material**

27. NCAs should, on a risk-based approach, assess and be satisfied that the sustainability-related disclosures made are consistent across the fund documentation and the marketing material. The accuracy of the information provided in each document should first be reviewed. The content of the marketing material may be then reviewed for consistency with the sustainability-related disclosures in the fund documentation. In assessing this consistency, NCAs should consider addressing the following elements:

- The way the sustainability-related disclosures are presented;
- The fund's name;
- The investment objective and policy; and
- The investment strategy.

#### **Presentation of disclosures:**

28. For the provided information to be disclosed in an accessible way that is clear, succinct, fair and not misleading, the following criteria should be applied:

- Sustainability-related disclosures should not include boilerplate language with complex legal disclaimers, nor technical jargon that might not be understood by the average investor. A warning sign for supervisors should be the repeated use of the same or similar standard text across different funds;
- The use of cross-references and hyperlinks should be limited to the ones required by the Section "Where can the methodology used for the calculation of the designated index be found?" and "Where can I find more product specific information online?" in Annexes II and III of the SFDR Delegated Regulation;
- Sustainability-related disclosures should be made in a manner that ensures that investors are not required to search for the relevant information, or otherwise obscure the disclosures in the volume of general information provided. Any link to other information should be to the exact place where the relevant information may be found. Any hyperlinks should be maintained over time to ensure that investors do not find broken links where information is no longer available; and
- Without giving the impression of a "label" to investors, an indication as to under which Article of SFDR (and if relevant, the TR) the UCITS/AIF

discloses the relevant information should be mentioned in the fund documentation;

### **Principles-based guidance on fund names:**

29. Funds' names should not be misleading, as the disclosure of sustainability characteristics should be commensurate with the effective application of those characteristics to the fund. The use of terms such as "ESG", "green", "sustainable", "social", "ethical", "impact" or any other ESG-related terms should be used only when supported in a material way by evidence of sustainability characteristics, themes or objectives that are reflected fairly and consistently in the fund's investment objectives and policy and its strategy as described in the relevant fund documentation. NCAs may raise questions and challenge the use of such terms in the fund's name if it is perceived as misleading when compared to the actual investment objectives and strategy<sup>13</sup>. For instance, a weak level of application of a fund's sustainable characteristic or objective to its assets may be a risk indicator warranting further investigation and may lead, in case of a fund that does not demonstrate binding sustainability characteristics focused on a specific sustainability theme or pillar, to reject the use of such a specific theme or pillar in its name. In cross-border cases, NCAs should communicate on these issues at an early stage and cooperate effectively to find a common position, in order to avoid situations where national requirements impede the functioning of the EU passports.

30. When assessing fund names, NCAs should first consider the following illustrative principles and develop or supplement them where appropriate:

- While there are no legal grounds under SFDR to prohibit a fund disclosing under Article 8 SFDR which does not include any sustainable investments from using the terms "sustainable" or "sustainability" in its name, it is advisable, in order to avoid confusion with investors, that the use of the term "sustainable" or "sustainability" should be used only by (1) funds disclosing under Article 9 SFDR, (2) funds disclosing under Article 8 SFDR which in part invest in economic activities that contribute to environmental or social objectives and (3) funds disclosing under Article 5 TR;
- The use of the word "impact" or "impact investing" or any other impact-related term should be used only by funds whose investments are made

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<sup>13</sup> While there are no rules specifying minimum quantitative criteria for financial products to disclose sustainability features under SFDR, some Member States have taken the initiative of setting thresholds at national level to ensure that financial products' names with sustainability features are not misleading investors. Furthermore, national labels for sustainable financial products have been developed at national level in many Member States.

with the intention to generate positive, measurable social and environmental impact alongside a financial return; and

- Funds designating an index as a reference benchmark could use any ESG-related terms if the index the fund designates is itself ESG-focused as long as the requirements mentioned below in the last bullet of paragraph 31 are fulfilled.

31. Based on the above, some non-exhaustive examples of acceptable and non-acceptable fund names include the following:

- A “climate impact” fund investing in companies with business in activities focused on enabling the adaptation to, or mitigation of, climate change can refer to the impact in its name;
- A “sustainable water” fund investing in sustainable companies which supply to the value chain of water or which offer products or technologies which are more water efficient than others in their category can refer to this in its name;
- A “sustainable energy” fund having a non-specific investment policy not supported by a strategy aiming to invest in sustainable energy companies engaged in alternative energy and energy technologies should not be allowed to use such specific terms in its name; and
- An index-tracking fund that applies an exclusion policy which only excludes a small number of securities, or where the holdings are not materially different from a similar non-ESG index should not use ESG-related terms in its name.

#### **Sustainable investment policy<sup>14</sup> and objectives:**

32. A sustainable investment policy and/or objectives should be included in the fund documentation and the fund should be managed according to it.
33. The sustainable objectives or characteristics should be clearly identified and expressions such as “*the fund pursues ESG objectives in general*” without any further specification should be avoided. In case of environmental objectives, a way to clearly identify those objectives is if they are referred to in Article 9 TR.
34. The sustainable investment policy and objectives must clearly reflect any claims made in the fund documentation and marketing materials suggesting ESG or sustainability characteristics, themes or outcomes.

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<sup>14</sup> “Sustainable investment policy” in the context of this section of the briefing is not intended to be a direct reference to “sustainable investment” referred to in Article 2(17) SFDR.

### **Investment strategy:**

35. The strategy should be clearly identified in the relevant fund documentation. As reference, NCAs should rely on a non-exhaustive list of sustainability strategies (i.e. best in class, thematic, ESG integration, ESG engagement, impact investing, exclusions). It should also clearly state how the strategy is linked to the formulated sustainable objectives or characteristics and how it helps to achieves this.
36. For a strategy to be clearly identified at least some of the following non-exhaustive key elements should be disclosed:
  - Investment universe (including limits and thresholds);
  - Screening criteria applied;
  - Specific ESG characteristics/themes or non-financial impacts pursued;
  - Use of benchmark/indices and relative expected tracking error (if applicable); or
  - Stewardship approach.

### **3.3 Verification of the compliance with the website disclosures' obligations:**

37. Article 10(1) SFDR stipulates that fund managers shall publish and maintain on their website information relating to funds disclosing under Article 8 and 9 SFDR.
38. Article 23 of the SFDR Delegated Regulation stipulates that fund managers shall publish information on their website in a separate section titled "Sustainability-related disclosures". Fund managers should clearly identify the financial product which the information in the sustainability-related disclosure section relates to and prominently display the environmental or social characteristics or the sustainable investment objective of that fund.
39. To this extent NCAs should verify that:
  - The information is published according to Article 24 of the SFDR Delegated Regulation for funds disclosing under Article 8 SFDR and Article 37 of the SFDR Delegated Regulation for funds disclosing under Article 9 SFDR;
  - The "summary" as defined by Article 24(a) and 37(a) of the SFDR Delegated Regulation is published in one of the official languages as per the requirements of Article 25(2)(a) and 38(2)(a) of the SFDR Delegated

Regulation and in a language customary in the sphere of international finance;

- The requirements of Article 25 to 36 and 39 to 49 of the SFDR Delegated Regulation are complied with by the fund manager.

### **3.4 Verification of the compliance with the periodic disclosures' obligations:**

40. Article 11 SFDR refers to the periodic disclosure obligations and Article 50 and 58 of the SFDR Delegated Regulation refer to the presentation and content requirements for periodic reports for financial products as per article 8(1) and 9(1)-(3) SFDR.

41. This information is to be provided in an annex to the annual report (for UCITS and AIF funds) in accordance with the templates set out in Annex IV and V of the SFDR Delegated Regulation.

42. For this purpose, NCAs could create a checklist based on the information to be provided in periodic reports that will help assessing the compliance of disclosures of funds disclosing under Article 8 or 9 SFDR (and Article 5 or 6 of TR).

43. On the basis of this checklist, NCAs should then ensure, at least, that:

- A prominent statement referring to the information to be found in the annex has been included in the main body of the annual report;
- The periodic report has been properly completed in all its parts<sup>15</sup>, including but not limited to:
  - o To what extent the environmental and/or social characteristics promoted by funds disclosing under Article 8 SFDR and the sustainable investment objectives pursued by funds disclosing under Article 9 SFDR were met (also historically);
  - o The list of the top investments of the fund; and
  - o The proportion of the sustainability-related investments.

### **3.5 Additional supervisory actions**

44. In addition, any further available information (for example, media reports, complaints, whistle-blower notifications etc...) as well as adverse findings

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<sup>15</sup> As set out in Chapter V of the SFDR Delegated Regulation

reported by internal control functions, external auditors or depositaries should be considered on a risk-based approach and could be used by NCAs in their ongoing supervision. Where appropriate, adverse findings should trigger further supervisory investigations including on-site visits.

45. Moreover, performing ad-hoc thematic reviews covering a representative sample of relevant fund managers may further support the supervisory work of NCAs in this area.
46. NCAs should further ensure, through appropriate actions, that all relevant information and data are provided by the UCITS management companies and AIFMs to the appointed depositary to enable it to perform effectively the relevant depositary functions. In particular, depositaries should include all ESG-related investment restrictions in the monitoring of the compliance of the instructions coming from the management company or the investment manager.

#### **Portfolio analysis:**

47. Bearing in mind the risk-based approach to supervision and noting that the responsibility for portfolio analysis lies primarily with the management companies (or AIFMs), NCAs should envisage different types of supervisory actions to ensure that portfolio holdings reflect the name, the investment objective, the strategy and the characteristic displayed in the documentation to investors. For example, following the identification of specific risks, or if the fund claims to invest in sustainable investments, NCAs may directly perform an analysis of the compliance with the requirements for sustainable investments of the portfolio itself and may engage with fund managers by requiring explanations and/or documentation to validate the composition of their portfolio.
48. NCAs may further complement the portfolio analysis by involving the funds' depositaries in the context of their controls on investments restrictions as well as assessing the reporting from management companies, AIFMs, external auditors and internal control functions.

## **4 Integration of sustainability risks by AIFMs and UCITS managers**

49. The Commission Delegated Regulation (EU) 2021/1255 and Delegated Directive (EU) 2021/1270 set out that all authorised fund managers are required from 1 August 2022 to integrate sustainability risks in their portfolio and risk management processes and overall governance structure.
50. These legal obligations will have a broad scope as even fund managers that do not offer sustainable funds will be required to comply with the new rules.

51. While many large fund managers may have already sophisticated tools in place for assessing the impact of sustainability risks in their portfolio and risk management analyses, it can be expected that many smaller and mid-sized fund managers (especially those that do not provide sustainable funds) may struggle to comply with these new rules.
52. It is therefore important to ensure convergent supervisory scrutiny of the effective implementation of sustainability risks by all fund managers across the EU.
53. NCAs should verify compliance of the UCITS management companies and AIFMs with these requirements by checking the description of the manner in which sustainability risks are integrated in their investment decisions in pre-contractual fund disclosures referred to in Article 6 SFDR and ensuring that UCITS management companies and AIFMs perform a review of the relevant internal policies and procedures on a periodic basis.
54. NCAs should verify the compliance of UCITS management companies and AIFMs with the disclosure of sustainability risk integration on websites referred to in Articles 3 SFDR by performing sample checks based on surveys and questionnaires relating to the integration of sustainability risks.
55. The above supervisory controls should involve risk-based desk-based and/or on-site reviews of the adequate implementation and effective application of the relevant policies and procedures by the UCITS management companies and AIFMs relating to the following:
  - Investment due diligence;
  - Risk management;
  - Remuneration;
  - Recruitments and Human Resources (including regular trainings for professional development with respect to sustainability-related matters);
  - Organisational structure and decision-making of the management companies and UCITS/AIFs;
  - Internal reporting and recording keeping;
  - Conflict of interest;
  - Delegation monitoring;
  - Accounting and valuation;

- Costs & fees;
- Reporting to NCAs; and
- Internal control functions and regular controls by senior management.

## 5 Regulatory interventions in case of breaches

56. Article 14 SFDR prescribes that Member States shall ensure that the NCAs designated in accordance with sectoral legislation monitor the compliance of financial market participants and financial advisers with the requirements of SFDR. NCAs shall have all the supervisory and investigative powers that are necessary for the exercise of their functions under SFDR.
57. Taking into account the specificities of each case, administrative measures, including enforcement, may be appropriate to consider in the following (non-exhaustive) examples of cases, in order to combat greenwashing:
- Legally required SFDR disclosures have not been made at all after the application of the new rules;
  - SFDR disclosures are viewed as severely misleading. This is particularly the case when consistency checks would highlight a situation where there is a significant discrepancy between what the fund actually invests in and what has been disclosed to investors in pre-contractual disclosure documentation;
  - Sustainability risks have not been integrated throughout the organisation despite an appropriate period of time after entry into force of the AIFMD and UCITS amendments in this respect;
  - The periodic disclosure of a financial product disclosing under Article 8 or 9 SFDR does not match (or fulfil) the characteristics or objectives shown in the fund documentation; and
  - A financial product disclosing under Article 9 SFDR with a sustainable investment objective shows in periodic disclosure that significant proportions of investments do not comply with the sustainable investment criteria of Article 2(17) SFDR.
58. For the avoidance of doubt, NCAs remain fully responsible for determining which course of actions would be most effective and appropriate to mitigate the supervisory risks and regulatory breaches identified at the individual and collective level, including the administrative measures that may be adopted after further investigations.