#### Consolidated Comments of Global Witness,

#### Danish Institute for Human Rights

#### Business and Human Rights Resource Centre

#### In consultation with the Responsible Business Conduct Centre of the OECD Secretariat

#### 01.09.2020

#### COMMISSION DELEGATED REGULATION (EU) No …/..

#### of XXX

#### supplementing Regulation (EU) 2019/2088 of the European Parliament and of the Council on sustainability-related disclosures in the financial services sector with regard to the content, methodologies and presentation of information in relation to sustainability indicators and the promotion of environmental or social characteristics and sustainable investment objectives in pre-contractual documents, websites and periodic reports

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2019/2088 of the European Parliament and of the Council on sustainability-related disclosures in the financial services sector [5], and in particular Article 2a, Article 4(6) and (7), Article 8(3), Article 9(5), Article 10(2) and Article 11(4) thereof,

Whereas:

1. Regulation (EU) 2019/2088 establishes harmonised rules for the disclosure of sustainability-related risks by financial market participants and financial advisers. The content, methodologies and presentation of entity level principal adverse impacts are laid down in this Regulation. The content and presentation of financial products’ pre- contractual, website and periodic disclosure are also laid down in this Regulation.
2. In order to ensure sufficient comparability of entity level principal adverse impact disclosures, the information should be disclosed annually in relation to common reference points in the form laid down in Annex I of this Regulation. The statement should be updated each year to show progress made towards reducing the principal adverse impacts of investment decisions on environmental and societal factors.
3. For the purposes of the assessment of principal adverse impacts by financial market participants, an investment in an investee company or an entity includes direct holdings of capital instruments issued by those entities and any other exposure to those entities through derivatives or otherwise.
4. Union objectives of the European Green deal, in particular carbon neutrality, increasing the share of renewable energy and energy efficiency and the protection of biodiversity, mean that it is essential that any adverse impacts in these areas are identified as principal adverse impacts. Equally, adverse impacts relating to core principles of the Union, in particular certain social and employee matters, respect for human rights, anti-corruption and anti-bribery matters should be identified as principal adverse impacts. The 2011 Communication on Corporate Social Responsibility of the Commission recalls the importance of working towards the

5 OJ L 317, 9.12.2019, p. 1-16.

implementation of internationally recognised standards on responsible business conduct and due diligence, and in particular the UN Guiding Principles on Business and Human Rights and the OECD Guidelines on Multinational Enterprises because of their contribution to Union objectives in relation to specific human rights issues, as well as ILO core labour standards, including freedom from child labour and forced labour, non-discrimination, freedom of association and the right to collective bargaining.

1. These internationally recognised standards on responsible business conduct and due diligence, as referenced in Article 4(2)(d) of Regulation (EU) 2019/2088, set out important guidance for financial market participants on developing due diligence policies and carrying out due diligence to identify and address adverse impacts of investment decisions on sustainability factors. The due diligence referenced in Article 4 of Regulation (EU) 2019/2088 involves steps to identify and assess adverse impacts of investment decisions, and then to prevent and mitigate those adverse impacts. This is different from the type of due diligence financial market participants undertake to look at sustainability risks – i.e. risks to their own financial returns. The internationally recognised standards on responsible business conduct and due diligence referenced in Article 4(2)(d) of Regulation (EU) 2019/2088 further clarify that adverse impacts include both potential and actual adverse impacts and that a business entity can cause, contribute to and be directly linked to those impacts.
2. It is appropriate to standardise indicators for common adverse impacts to provide a uniform reference point for those impacts. Annex I Table I identifies a set of mandatory indicators related to select principal adverse impacts and Table 2 sets out a wider set of additional indicators selected through the financial market participant’s due diligence process. Some of the indicators are proxy or indirect indicators of impact. These indicators serve as an important but not exclusive component of reporting on principle adverse impacts, as financial market participants must report on any adverse impacts on a sustainability factor that qualifies as principle, including, but not limited to those in Tables 1 and 2.  It is through the due diligence processes set out in Article 7 that those principal adverse impacts (potential and actual) are identified, assessed and prioritised by financial market participants. The reporting should include information about the principal adverse impacts, any relevant contextual information and why they were prioritised so that the information is understandable to prospective investors. In this respect, standards such as the Global Reporting Initiative have been developed for companies (that include financial market participants and financial advisers) to report on their policies and due diligence processes for responsible business conduct and the outcomes of those processes and thus provide relevant guidance.
3. Where financial market participants have extensive portfolios or are assessing a wide range of companies for investment and must prioritise their identification and assessment of adverse impacts it is key that financial market participants focus on areas / investment companies for investment based on the severity (including their scope, scale and potential irremediable character), and probability of occurrence of adverse impacts on sustainability factors. Scope concerns the reach of the effects of the potential or actual impact, for example the number of individuals that could be affected or the extent of environmental damage such as the volume of water polluted or melting glaciers that could lead to floods, loss of water power capacity, decrease of revenues from tourism and agriculture and thus higher unemployment and non-performing loans. Scale refers to the gravity or seriousness of the potential or actual impact. Irremediability refers to whether the potential or actual impact can be reversed and the persons and/or environment can be restored to a situation equivalent to the situation before the adverse impact. Probability of occurrence refers to the likelihood of adverse impacts to materialise. In the case of impacts on human rights, if prioritisation is necessary, then severity is more important than probability of occurrence in considering prioritisation. The concepts of principal adverse impacts, probability of occurrence and due diligence all reinforce that the key point of these measures is for financial market participants to identify, assess and respond (through actions with investee companies) to potential adverse impacts before they have occurred and before they mature into actual adverse impacts. Where adverse impacts cannot be prevented or avoided, then measures to mitigate and remediate should be taken.
4. Financial market participants may identify principal adverse impacts on sustainability factors through various means, as part of their due diligence processes. For example, they may employ external market research providers, internal financial analysts and specialists in the area of sustainable investments, undertake specifically commissioned studies, use publicly available information or shared information from peer networks or collaborative initiatives. Financial market participants may also engage directly with the management and affected stakeholders (and their representatives) of investee companies, including workers, trade union**s,** communities, indigenous peoples, human rights defenders, civil society organisations, women’s organisations, to better understand the risk of adverse impacts on sustainability factors. The SFDR is intended to drive transparency in sustainability reporting from investee companies through to financial market participants and financial advisers and thus Annex I requires public disclosure of relevant information by investee companies.
5. Financial advisers are being provided with information on principal adverse sustainability impacts by financial market participants. Information provided by financial advisers on whether and how they take into account adverse sustainability impacts within their investment or insurance advice should clearly spell out how the information provided by financial market participants is processed and integrated in their investment or insurance advice. In particular, should the financial adviser rely on adverse sustainability impacts criteria for integration of financial products or financial market participants within the advisory portfolio, such criteria should be stated.
6. The disclosure requirements in this Regulation are designed to impose fundamental regulatory requirements which are appropriate for all financial market participants and were regarded as necessary to meet the objective of Regulation (EU) 2019/2088. Depending on their size and nature, a significant number of financial market participants fall under the scope of Regulation (EU) 2019/2088. Financial market

participants exceeding the number of 500 employees on their own balance sheet or, where they are parent undertakings, on their group balance sheet are subject to the disclosure obligations on principal adverse impacts at entity level set out in this Regulation. Financial market participants below the threshold of 500 employees should at least explain where they do not consider adverse impacts of investments decisions on sustainability factors the reasons to not consider them. Similarly, financial advisers that consider principal adverse impacts on sustainability factors in their advice are subject to the disclosure obligations set out in this Regulation.

1. Financial market participants should present the pre-contractual and periodic information in the manner set out in the relevant sectoral legislation. In addition to these sectoral requirements, for the purposes of the disclosures, it is necessary to specify further principles for the presentation of information.
2. The assessment of principal adverse impacts included in this Regulation relates only to the activities of the financial market participants and financial advisers within the scope of Regulation (EU) 2019/2088 but applies to investments both inside and outside the EU that fall within that scope.
3. With respect to the content of the periodic disclosure obligations under Article 11 of Regulation (EU) 2019/2088, financial market participants should disclose a minimum set of standardised and comparable relevant quantitative and qualitative indicators to show how their product meets its characteristics or objectives. These indicators should be relevant to the design and investment strategy of the financial product as described in the financial product’s pre-contractual information.
4. To ensure that end-investors have access to reliable data that can be used and analysed in a timely and efficient matter, certain disclosed information, such as the international securities identification numbers (ISINs) identifying the securities, and the legal entity identifiers (LEIs) identifying the entities, should be mentioned where available. Disclosed information should remain publicly available for at least 10 years after its publication, to ensure that their period of public availability is aligned with those of annual and half-yearly financial reports under Directive 2004/109/EC and of prospectuses under Regulation (EU) 2017/1129.
5. Bearing in mind the limitations of current carbon foot printing metrics, where financial market participants make reference to the degree of their alignment with the objectives of the Paris Agreement under Article 4(2)(d) of Regulation (EU) 2019/2088, this disclosure should be carried out on the basis of forward looking climate scenarios, for example as outlined in the Financial Stability Board Task Force on Climate-related Financial Disclosure’s Technical Supplement on The Use of Scenario Analysis in Disclosure of Climate-related Risks and Opportunities6.
6. Action by financial market participants in relation to principal adverse sustainability impacts according to Article 4(2(b) of Regulation 2019/2088 and Article 7 of this Regulation may include but are not limited to setting clear expectations in their policies (including investment policies and policies to identify and seek to prevent and/or mitigate principal adverse impacts), exercising voting rights as a shareholder, sending letters to or attending meetings with the management of investee companies concerning the investee companies’ management of principal adverse impacts setting up documented and time-bound engagement in actions or shareholder dialogue with specific sustainability objectives that address the principal adverse impacts, planning escalation measures in case those objectives are not achieved, including reductions of investments or exclusion decisions.
7. [https://www.fsb-tcfd.org/publications/final-technical-supplement/](about:blank)
8. In their website product disclosure, financial market participants should disclose additional details regarding the product’s investment strategy while ensuring that such information is consistent with the pre-contractual information.
9. Financial market participants should include on their website a clear, succinct and understandable summary of the information provided as part of the periodic reporting. When doing so, financial market participants should comply at all time with national and Union law governing the protection of confidentiality of information, including the protection of undisclosed know-how and business information and the processing of personal data.
10. Financial products with various degrees of ambition with regard to the taking into consideration of sustainability factors are being developed. Among such financial products, a difference is to be made between financial products offered to end- investors as specifically targeting sustainable investments, and all other financial products which claim to take into account sustainability factors in investment decisions. Financial products promoting environmental or social characteristics can cover various investment approaches and strategies, from best-in-class to specific sectoral exclusions. The disclosures required from financial market participants making available such financial products should attempt to reflect such diversity and to cover the widest possible range of approaches.
11. Financial market participants that market financial products promoting environmental or social characteristics, or a combination of those characteristics, should make disclosures on those characteristics without misleading end-investors. This implies that financial market participants should not disclose excessively on sustainability, including through product categorisation, if that is not commensurate with the way in which sustainability is given effect in their investment policy. Therefore, disclosure of criteria for the selection of underlying assets should be limited to those criteria that financial market participants actually bind themselves with as part of their investment decision- making process. As a consequence, financial market participants should not mislead investors by disclosing selection criteria which they may disapply or override at their discretion.
12. Financial products with environmental or social characteristics can invest in a wide range of underlying assets, whether such assets qualify as sustainable investments, or contribute to the specific environmental or social characteristics promoted by the product. Underlying investments can also consist of assets that are not relevant to the environmental or social characteristics promoted by the product, such as hedging instruments, unscreened investments for diversification purposes or investments for which data is lacking, or money market instruments. Financial market participants marketing such products should be fully transparent as regards the allocation of the underlying investments to those categories of investments.
13. Financial products with environmental or social characteristics should be considered to be promoting, among other characteristics, environmental or social characteristics, or a combination thereof, when information provided to clients, in marketing communications or in mandatory investor disclosures or as part of a process of automatic enrolment in an IORP, references sustainability factors that are taken in consideration when allocating the capital invested of the product.
14. As regards investments that do not qualify as sustainable or as contributing to the environmental or social characteristics promoted by the financial product, financial market participants may decide to apply some baseline environmental or social safeguards. If that is the case, financial market participants should explain those safeguards.
15. Where products under Article 8 of Regulation (EU) 2019/2088 pursue environmental or social investment strategies, financial market participants should be transparent about the strategy and clearly indicate it to allow easy identification by end-investors.
16. In particular, considering that many financial products currently rely on exclusion strategies based on environmental or social criteria, end-investors should be provided with the necessary information to assess the materiality of such criteria on investment decisions, and the impact of that strategy on the composition of resulting portfolio. Current market practice demonstrate that some exclusion strategies are showcased as material, while actually consisting in exclusions based on criteria that lead to the exclusion of a limited number of investments or are based on exclusions required by law. Consequently, disclosing on any commitment with regard to a minimum reduction of the set of potential investments as a result of the application of the exclusion strategy is necessary in order to give end-investors better visibility over the materiality of the offered strategy.
17. Regulation (EU) 2019/2088 aims to reduce information asymmetries in principal‐agent relationships with regard to the promotion of environmental or social characteristics and sustainable investment objectives by requiring financial market participants to make pre‐contractual and website disclosures to end investors when they act as agents of those end investors. In order for such measure to be fully effective, it is expected that financial market participants monitor, throughout a financial product’s lifecycle how the financial product complies with the disclosed environmental or social characteristics, or sustainable investment objective. Consequently, financial market participants should mention, as part of their website disclosures, the control mechanisms, internal or external, put in place to monitor such compliance on a continuous basis.
18. Regulation (EU) 2019/2088 specifies that assessment of good governance practices forms an integral part of financial products falling under Article 8 or Article 9 of that Regulation and should be considered as a prerequisite for promoting environmental or social characteristics, or for pursuing a sustainable investment objective. Therefore, financial products with environmental or social characteristics or with a sustainable investment objective should also include information on the financial market participant’s policy to assess good governance practices of investee companies.
19. Regulation (EU) 2088/2019 recognises that financial products that promote environmental or social characteristics, or a combination of those characteristics, may set up investment portfolios that match an index. In such cases, financial products should make available information on whether and if so how that index is consistent with the characteristics or their combinations.
20. Regulation (EU) 2088/2019 also recognises that financial products that have sustainable investments as their objective might be setting up portfolios that match a sustainability-related index in order to deliver such an objective. In such cases, the information on how the designated sustainability-related index is aligned with the objective of sustainable investments and the explanation of the reasons and content

of differences between the designated sustainability-related index and a broad market index should be made available. Such financial products should clearly demonstrate that the design of the designated index is appropriate to deliver the stated sustainable investment objective, and that the financial product’s strategy ensures that the financial product is continuously aligned with that index. This is also why, for such financial products, core methodological disclosures should be made at index level. Conversely, where a financial product does not resort to an index to ensure the delivery of the sustainable investment objective, disclosures should explain the strategy developed by the financial market participant to attain such objective.

1. Financial products should not pursue low-carbon investment objectives without using new Union climate-related benchmarks. If such benchmarks are not available, financial market participants should demonstrate how the financial product complies with the relevant standards applicable to EU Paris-aligned benchmarks or EU Climate Transition benchmarks as set out in the Regulation (EU) 2019/2089.
2. Financial market participants can resort to various investment methods to justify the attainment of the environmental or social characteristics, or the delivery of the sustainable investment objective of the financial product. Financial market participants can directly invest in securities issued by investee companies, or resort to other methods such as investment via funds of funds or exposure via the use of derivatives. Financial market participants should be transparent as to the share of their investments that will be carried out via direct holdings, and that carried out via alternative methods. In particular, financial market participants should explain how the use of derivatives is compatible with the environmental or social characteristics being promoted, or with the sustainable investment objective pursued.
3. In order to ensure clarity to end-investors, pre-contractual information relating to financial products under Article 8 of Regulation (EU) 2019/2088 should make clear, by way of a statement, that such products do not have sustainable investment as an objective. For the same purpose, and in order to ensure a level-playing field with products under Article 9 of Regulation (EU) 2019/2088, pre-contractual, website and periodic information relating to products under Article 8 of Regulation (EU) 2019/2088 should also mention the proportions that such investments are planned to take – or actually taking – within the related investment portfolio.
4. As regards financial products under Article 9 of Regulation (EU) 2019/2088, considering that sustainable investments form the investment objective of such products, financial market participants should disclose how the share of investments that do not qualify as sustainable investments does not jeopardise the achievement of the sustainable investment objective.
5. Regulation (EU) 2019/2088 requires that investments need to comply with the ‘do not significantly harm’ principle in order to qualify as sustainable investment. This principle is particularly important for financial products under Article 9 of Regulation (EU) 2019/2088, as it is a necessary criterion to justify that an investment contributes to the delivery of the sustainable investment objective. However, this principle is also relevant to financial products under Article 8 of Regulation (EU) 2019/2088, as disclosures relating to the proportion of sustainable investments comprised in such products is also expected. As a result, financial market participants making available both types of financial products should provide information relating to the ‘do not significantly harm’ principle. It is also necessary to specify that this principle, as regards harms to environmental objectives, is closely linked to the criteria to be developed in the context

of the Regulation on the establishment of a framework to facilitate sustainable investment in order to assess the ‘do not significantly harm’ criterion in that Regulation. Nonetheless, in the absence of a yet fully functional framework to define environmentally sustainable investment, financial market participants should be transparent with regard to the criteria used, including any potential thresholds set, in order to assess that the investments qualifying as sustainable do not significantly harm environmental nor social objectives.

1. The scope of application of the Regulation (EU) 2019/2088 includes financial products, especially insurance-based investment products that can offer a range of investment underlying options to end-investors. Some of these investment options may qualify that financial product as a financial product referred to in Article 8(1) of Regulation (EU) 2019/2088. In that case, end-investors should be provided with the summary list of those investment options and the information provided by those investment options in accordance with this Regulation with clear indications to which investment options the information relates.
2. For a financial product offering a range of investment options to qualify as a financial product referred to in Article 9(1), (2) or (3) of Regulation (EU) 2019/2088, all its investment options should qualify as financial products. In that case, end-investors should be provided with the summary list of those investment options and the information provided by those investment options in accordance with this Regulation with clear indications to which investment options the information relates.
3. The disclosures applicable to insurance-based investment products offering a range of investment options and qualifying as a financial product may be lengthy. According to the demands and needs of the end-investors and, as the case may be, the result of their appropriateness or suitability assessments performed in accordance with Article 30 (1) and (2) of Directive (EU) 2016/97 on insurance distribution7, insurance distributors should draw the attention of the end-investors to the disclosures related to the investment options that the end-investors actually consider investing in in accordance with Article 29(1) of that Directive.
4. Financial market participants should use website disclosures to disclose on specific items, to expand on topics disclosed in a concise way in pre-contractual documents, and to provide further information they deem relevant which will help end-investors better understand the investment strategies offered. Before a contract is closed, financial market participants should inform end-investors about the fact that more product-specific, detailed information can be found on the website and provide them with a link to that information.
5. In order to ensure consistency between pre-contractual disclosures and periodic disclosures, financial market participants should report on the specific sustainability indicators mentioned as part of the pre-contractual information used to measure the attainment of the environmental or social characteristics, or the delivery of the sustainable investment objective. Should a financial market participant choose to report, as part of the required periodic disclosure, on new sustainability indicators, the financial market participant should explain those choices and provide a historic comparison of the performance for those new indicators in subsequent reports.
6. Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution

(recast) (OJ L 26 2.2.2016 p.19)

1. Financial market participants making available financial products resorting to a reference benchmark to justify the attainment of environmental or social characteristics, or the delivery of the sustainable investment objective, should be transparent on how the financial product delivers a sustainable performance that is as close as possible to that of the designated reference benchmark. As a result, and in order to foster consistency with ESG disclosures required at benchmark level as set out in Regulation (EU) 2019/20898, financial market participants should include, as part of the periodic reporting disclosures, a comparison between the performance of the financial product with that of the designated reference benchmark, for all sustainability indicators deemed relevant to justify that the designated benchmark is aligned with the financial product’s characteristics or sustainable investment objective. This comparison should also allow end-investors to clearly identify the sustainable performance of the financial product compared to that of a mainstream product: this is why the comparison mentioned above should also include a comparison with the sustainable performance of a broad market index.
2. The provisions of this Regulation should be considered as a whole, since they deal with the information that must be provided by financial market participants and financial advisers in relation to sustainability-related disclosures in the financial services sector required under Regulation (EU) 2019/2088. To ensure coherence between those provisions, which should enter into force at the same time, and to facilitate a comprehensive view by those persons of their obligations under that Regulation, it is efficient to include the regulatory technical standards in a single Regulation.
3. This Regulation is based on the draft regulatory technical standards submitted to the Commission by the European Banking Authority, the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority (European Supervisory Authorities).
4. The European Supervisory Authorities have consulted the European Environment Agency, the Joint Research Center of the European Commission and conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the opinion of the Banking Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council ([1]), the Insurance and Reinsurance Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1094/2010 of the European Parliament and of the Council ([2]), and the Securities and Markets Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council ([3]).
5. Regulation (EU) 2019/2089 of The European Parliament and of the Council of 27 November 2019 amending Regulation (EU) 2016/1011 as regards EU Climate Transition Benchmarks, EU Paris-aligned Benchmarks and sustainability-related disclosures for benchmarks (OJ L 317, 9.12.2019, p.17)
6. Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12).
7. Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC (OJ L 331, 15.12.2010, p. 48).
8. Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and

repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84).

1. For reasons of consistency and in order to ensure the smooth functioning of the financial services sector, it is necessary that this Regulation and the provisions laid down in Regulation (EU) 2019/2088 apply from the same date,

HAS ADOPTED THIS REGULATION:

*CHAPTER I*

#### DEFINITIONS AND GENERAL PROVISIONS

*Article 1*

#### Definitions

For the purposes of this Regulation, the following definitions apply:

1. ‘fossil fuel sectors’ means investment related to production, processing, distribution, storage or combustion of solid fossil fuels, with the exception of investment related to clean vehicles9 as defined in Article 4 of Directive 2009/33/EC of the European Parliament and of the Council10; and
2. ‘reference period’ means, for the purposes of Articles 5 to 10, the period from 1 January to 31 December of the preceding year and, for the purposes of Articles 36 to 52, the period covered by the periodic report referred to in Article 11(2) of Regulation (EU) 2019/2088.
3. “principal adverse impacts” means those potential and actual adverse impacts on sustainability factors that a financial market participant identifies through its due diligence processes as the most severe based on their scale, scope and irremediability.
4. “due diligence” means the processes and methodologies to identify, assess and prevent, mitigate and account for how actual and potential adverse impacts are addressed as outlined by international standards on responsible business conduct.

*Article 2*

#### General principles for the presentation of information

1. Financial market participants shall provide the informationreferred to in this Regulation in a manner that is easily accessible, non-discriminatory, free of charge, simple, concise, comprehensible, fair, clear and not misleading. The information shall be presented and laid out in a way that is easy to read, using characters of readable size, and shall be written in a style that facilitates its understanding.
2. Financial market participants shall provide the information referred to in this Regulation in searchable electronic format.
3. Financial market participants shall keep the information published on their websites in accordance with this Regulation up to date. They shall include the date of publication of the information and clearly identify any updated text with the date of the update.
4. Financial market participants shall provide, where available, legal entity identifiers (LEIs) and international securities identification numbers (ISINs) when referring to entities or financial products in the information provided in accordance with this Regulation.

*Article 3*

#### Reference benchmarks with basket indexes

1. Proposal for a Regulation on the European Regional Development Fund and on the Cohesion Fund (COM(2018)372)
2. Directive 2009/33/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of clean and

energy-efficient road transport vehicles (OJ L 120, 15.5.2009, p. 5).

Where an index designated as a reference benchmark is made up of a basket of indexes, financial market participants shall provide the information relating to that index in respect of the basket and each index.

*CHAPTER II*

#### TRANSPARENCY OF ADVERSE SUSTAINABILITY IMPACTS

*(Paragraphs (1), (3), (4) and (5) of Article 4 of Regulation (EU) 2019/2088)*

*Article 4*

#### Financial market participant adverse sustainability impacts statement

1. From the date on which principal adverse impacts of investment decisions on sustainability factors are first considered and thereafter by 30 June each year, financial market participants shall publish the information referred to in paragraphs 1(a), 3 and 4 of Article 4 of Regulation (EU) 2019/2088, this Article and Articles 5 to 12 of this Regulation on their websites in a separate section titled, ‘Adverse sustainability impacts statement’ located in the same part of the website as the section referred to in Article 33 of this Regulation.
2. The adverse sustainability impacts statement shall be published in the format set out in Table 1 of Annex I. It shall be in the order and made up of the following sections titled:
   1. ‘Summary’;
   2. ‘Description of principal adverse sustainability impacts’;
   3. ‘Description of policies to identify and prioritise principal adverse sustainability impacts’;
   4. ‘Description of actions to address principal adverse sustainability impacts’;
   5. ‘Engagement policies’;
   6. ‘References to international standards’; and
   7. Adverse sustainability indicators.
3. By way of derogation to paragraph 1, for a financial market participant that first considers the principal adverse impacts of its investment decisions on sustainability factors in a given year:
   1. until 30 June of the following year, that financial market participant shall publish the information referred to in this Article and Articles 6 to 11 except for the information that relates to a reference period; and
   2. from 30 June of the following year, the first reference period shall be the period in the preceding year beginning on the date on which principal adverse impacts were first considered and ending on 31 December.

*Article 5*

#### Summary

1. The section referred to in point (a) of Article 4(2) shall contain the following information:
   1. the name of the financial market participant to which the adverse sustainability impacts statement relates;
   2. the fact that principal adverse impacts on sustainability factors are considered;
   3. the reference period of the statement; and
   4. a summary of the principal adverse impacts statement of a maximum length of two sides of A4-sized paper when printed.
2. The summary shall be provided in, as a minimum, at least one of the official languages of the home Member State of the financial market participant and, if different, in a language customary in the sphere of international finance.

*Article 6*

#### Description of principal adverse sustainability impacts

1. The section referred to in point (b) of Article 4(2) shall contain a description, for the reference period, of adverse impacts of investment decisions of the financial market participant on sustainability factors that qualify as principal identified and assessed through due diligence processes as set out in Article 7 of this Regulation. The description shall provide information about the adverse impact and why it was prioritised that is supported by but is not limited to information derived from at least the following:
   1. the indicators related to principal adverse impacts on sustainability factors as set out in Table 1 of Annex I;
   2. at least one additional indicator related to principal adverse impacts on a climate or other environment- related sustainability factor that qualifies as principal as set out in Table 2 of Annex I identified and prioritised through the due diligence process;
   3. at least one additional indicator related to principal adverse impact on a social, employee, human rights, anti-corruption or anti-bribery sustainability factor that qualifies as principal as set out in Table 3 of Annex I identified and prioritised through the due diligence process; and
   4. other indicators or methodologies used to identify and assess additional principal adverse impacts on a sustainability factor.
2. Where the financial market participant has provided a description of adverse impacts on sustainability factors for at least one previous reference period in accordance with paragraph 1, the statement shall contain a historical comparison of the current reference period with the previous reference periods covering at least the shortest of the following periods:
   1. the previous ten years;
   2. from the date on which the financial market participant first considered principal adverse impacts of its investment decisions on sustainability factors; or
   3. from 10 March 2021.

*Article 7*

#### Description of policies to identify and prioritise principal adverse sustainability impacts

1. The section referred to in point (c) of Article 4(2) shall contain a description of the due diligence policies of the financial market participant on the assessment process to identify and prioritise principal adverse impacts on sustainability factors, of the indicators used and of how those policies are maintained and applied, including at least the following:
   1. the date of approval of the policies by the governing body of the financial market participant;
   2. the allocation of responsibility for the implementation of the policies within organisational strategies and procedures, including responsibilities for ensuring coherence with these policies across the entity, including portfolio management, engagement and marketing so that the financial market participant’s other actions do not undermine or contradict its approach to principle adverse impacts;
   3. a description of the methodologies to identify, assess and prevent or mitigate each principal adverse impact and, in particular, how those methodologies take into account the probability of occurrence and severity of adverse impacts, including their potentially irremediable character as a basis for prioritisation of identification and then action to prevent or mitigate principal adverse impacts where necessary;
   4. an explanation of any associated margin of error within those methodologies; and
   5. a description of the data sources used, including whether any of the sources include information discussed with affected stakeholders.
2. Where information relating to any of the indicators used is not readily available, the section referred to in point (c) of Article 4(2) shall also contain details of:
   1. the best efforts used to obtain the information directly from investee companies; and
   2. where, despite best efforts, the information cannot be obtained directly from investee companies, the best efforts used to assess the adverse impacts, including a description of any reasonable assumptions used, additional research carried out, cooperation with third party data providers, use of external experts or engagement with relevant stakeholders or civil society representatives.

*Article 8*

#### Description of actions and engagement policies to address principal adverse sustainability impacts

The section referred to in point (d) of Article 4(2) shall contain the following information:

1. a description of the actions taken during the reference period and planned by the financial market participant for the next reference period to prevent or mitigate the principal adverse impacts identified, together with timelines and benchmarks for improvement; and
2. an explanation of the reduction in principal adverse impacts achieved by the actions taken during the reference period.

*Article 9*

#### Engagement policies

The section referred to in point (e) of Article 4(2) shall contain, where applicable, the brief summaries of engagement policies in accordance with Article 3g of Directive 2007/36/EC of the European Parliament and of the Council11, any other relevant engagement policies and an explanation of the reduction in principal adverse impacts achieved of the actions taken during the reference period.

*Article 10*

#### References to international standards

The section referred to in point (f) of Article 4(2) shall contain a description of the alignment or commitment of the financial market participant’s policies and processes to responsible business conduct codes and internationally recognised standards for due diligence and reporting, including due diligence guidance for responsible business conduct as referred to in Recital 4 , and, where relevant, the Paris Agreement

1. Directive 2007/36/EC of the European Parliament and of the Council of 11 July 2007 on the exercise of certain rights

of shareholders in listed companies (OJ L 184, 14.7.2007, p. 17)

The description shall specify:

a.  whether the financial market participant has committed to responsible business conduct codes and internationally recognised standards for due diligence and reporting and the objectives of the Paris Agreement in its policy;

b. whether and how the financial market participant has sought to align its due diligence processes with the relevant international standards;

c. whether and how the financial market participant has sought to align its public reporting with relevant international the standards; and

d. the degree of alignment with the objectives of the Paris Agreement, including at least its forward-looking climate scenarios.

*Article 11*

#### Financial market participant statement of no consideration of adverse impacts on sustainability factors

Financial market participants shall publish the information referred to in Article 4(1)(b) of Regulation (EU) 2019/2088 on their websites in a separate section titled, ‘No consideration of sustainability adverse impacts’. That section shall start with a prominent statement that the financial market participant does not consider the adverse impacts of its investment decisions on sustainability factors. The clear reasons for why the financial market participant does not do so shall include, where relevant, information on whether and, if so, when it intends to consider those adverse impacts by reference to at least the principal adverse impacts referred to in Table 1 of Annex I.

*Article 12*

#### Financial adviser adverse sustainability impacts statement

Financial advisers shall publish the information referred to in Article 4(5)(a) of Regulation (EU) 2019/2088 on their websites in a separate section titled, ‘Adverse sustainability impacts statement’. The statement shall contain details on the process to select the financial products they advise on, including the following:

* 1. how the information published by financial market participants in accordance with this Regulation is used;
  2. whether the financial adviser ranks and selects financial products based on the principal adverse impacts referred to in Table 1 of Annex I at a minimum, and, if so, a description of the ranking and selection methodology used; and
  3. any criteria or thresholds used to select financial products and advise on them based on those impacts.

*Article 13*

#### Financial adviser statement of no consideration of adverse impacts on sustainability factors

Financial advisers shall publish the information referred to in Article 4(5)(b) of Regulation (EU) 2019/2088 on their websites in a separate section titled, ‘No consideration of sustainability adverse impacts’. That section shall start with a prominent statement that the financial adviser does not consider the adverse impacts of investment decisions on sustainability factors in their investment advice or insurance advice. The clear reasons for why the financial adviser does not do so shall include, where relevant, information on whether and, if so, when it intends to consider such adverse impacts by reference to at least the principal adverse impacts referred to in Table 1 of Annex I.

*CHAPTER III*

#### PRE-CONTRACTUAL PRODUCT DISCLOSURE

*Section 1*

##### Pre-contractual information for financial products referred to in Article 8(1) of Regulation (EU) 2019/2088

*(Article 8(1) and (2) of Regulation (EU) 2019/2088)*

*Article 14*

#### Presentation of pre-contractual information for financial products referred to in Article 8(1) of Regulation (EU) 2019/2088

Financial market participants shall present the information disclosed in accordance with Article 8(1) and (2) of Regulation (EU) 2019/2088, this Article and Articles 15 to 21 of this Regulation in accordance with the template set out in Annex II. The information shall be presented in summary format in the order and made up of the following sections titled:

1. ‘Environmental or social characteristics promoted by the financial product’;
2. ‘No sustainable investment objective’;
3. ‘Investment strategy’;
4. ‘Sustainability indicators’;
5. ‘Use of derivatives’;
6. ‘Website reference’; and
7. if an index has been designated for the financial product as a reference benchmark,

‘Reference benchmark’.

*Article 15*

#### Environmental or social characteristics promoted by the financial product

1. The section referred to in point (a) of Article 14 shall contain the following information:
   1. a description of the environmental or social characteristics promoted by the financial product;
   2. a narrative and graphical representation of the investments of the financial product; and
   3. a reference to the webpage where the information referred to in Article 4 is published.
2. For the purposes of point (b) of paragraph 1:
   1. the graphical representation shall illustrate the planned proportions of:
      1. the total investments that are sustainable investments and, where relevant, the subdivision of those sustainable investments between environmental or social objectives;
      2. the total investments other than those in point (i) that contribute to the attainment of the environmental or social characteristics promoted by the financial product and, where relevant, the subdivision of those investments between environmental or social characteristics; and
      3. the remainder of the investments.
   2. the narrative explanation shall explain:
      1. the planned proportions in point (a); distinguishing between direct holdings in investee companies and all other types of exposures to those companies;
      2. the purpose of the planned remainder of the investments, including a description of any potential minimum environmental or social safeguards and whether those investments are used for hedging, relate to money market instruments or are investments for which there is insufficient data; and
      3. the planned proportion of investments in different sectors and sub-sectors, including the fossil fuel sectors.

*Article 16*

#### No sustainable investment objective

1. The section referred to in point (b) of Article 14 shall contain the following statement: “This product does not have as its objective sustainable investment.”
2. Where a financial product invests in a sustainable investment, the section shall also contain an explanation of how the sustainable investment does not significantly harm the sustainable investment objectives, including:
   1. how the indicators related to adverse impacts in Annex I at a minimum are taken into account; and
   2. how investments that significantly harm the sustainable investment objectives are excluded.

*Article 17*

#### Investment strategy

The section referred to in point (c) of Article 14 shall contain the following information:

1. a description of the type of investment strategy used to attain the environmental or social characteristics promoted by the financial product, the binding elements of that strategy to select the investments to attain each of those characteristics and how the strategy is implemented in the investment process on a continuous basis;
2. where there is a commitment by the financial market participant to reduce by a minimum rate the scope of investments considered prior to the application of the strategy referred to in point (a), an indication of that rate;
3. a short description of the policy to assess good governance practices of the investee companies and a reference to the website containing the information referred to in Article 34(e)(ii).

*Article 18*

#### Sustainability indicators

The section referred to in point (d) of Article 14 shall contain a list of the sustainability indicators used to measure the attainment of each of the environmental or social characteristics promoted by the financial product.

*Article 19*

#### Use of derivatives

The section referred to in point (e) of Article 14 shall contain information on how the use of derivatives within the meaning of Article 2(1)(29) of Regulation (EU) No 600/2014 of the European Parliament and of the Council 12 meets each of the environmental or social characteristics promoted by the financial product.

*Article 20*

#### Website reference

The section referred to in point (f) of Article 14 shall contain the following statement: “More product-specific information can be found on the website”. The statement shall also contain a reference to the website containing the information referred to in Article 34.

*Article 21*

#### Reference benchmark

1. The section referred to in point (g) of Article 14 shall contain the following information:
   1. an explanation of how the reference benchmark is continuously aligned with each of the environmental or social characteristics promoted by the financial product and with the investment strategy; and
   2. where an index is designated as a reference benchmark that is consistent with each of the environmental or social characteristics promoted by the financial product, an explanation of how the designated index differs from a broad market index.
2. By way of derogation from paragraph 1(a), if the methodology of the reference benchmark is not aligned with an environmental or social characteristic promoted by the financial product, the section shall contain a prominent statement that the reference benchmark is not consistent with the environmental or social characteristics promoted by the financial product.

*Article 22*

#### Financial products referred to in Article 8(1) of Regulation (EU) 2019/2088 with underlying investment options

By way of derogation from Articles 14 to 21, where a financial product offers the investor, among other investment options, investment options that qualify that financial product as a financial product referred to in Article 8(1) of Regulation (EU) 2019/2088, the information to be disclosed in accordance with Article 8(1) and (2) of that Regulation shall include:

* 1. the summary list of those investment options; and

1. Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial

instruments and amending Regulation (EU) No 648/2012 (OJ L 173, 12.6.2014, p. 84).

* 1. the information provided by those investment options in accordance with Article 8(1) and (2) or Article 9(1) to (4) of Regulation (EU) 2019/2088 with clear indications to which investment options the information relates.

The summary list shall make a clear distinction among those investment options that qualify as financial products referred to in Article 9(1), (2) and (3) of Regulation (EU) 2019/2088 and those investment options that qualify as financial products referred to in Article 8(1) of that Regulation.

The summary list shall include for each of those investment option cross-references to the disclosures required by the sectoral legislation referred to in Article 6(3) of that Regulation.

*Section II*

##### Pre-contractual information for financial products referred to in Article 9(1), (2) and (3) of Regulation (EU) 2019/2088

*(Article 9(1) to (4) of Regulation (EU) 2019/2088)*

*Article 23*

#### Presentation of pre-contractual information for financial products referred to in Article 9(1), (2) and (3) of Regulation (EU) 2019/2088

Financial market participants shall present the information disclosed in accordance with Article 9(1) to (4) of Regulation (EU) 2019/2088, this Article and Articles 24 to 31 of this Regulation in accordance with the template set out in Annex III. The information shall be presented in summary format in the order and made up of the following sections titled:

1. ‘Sustainable investment objective of the financial product’;
2. ‘No significant harm to the sustainable investment objectives’;
3. ‘Investment strategy’;
4. ‘Sustainability indicators’;
5. ‘Use of derivatives’;
6. ‘Website reference’;
7. for a financial product referred to in Article 9(1) of Regulation (EU) 2019/2088, ‘Sustainable investment objective attainment with a designated index’; and
8. for a financial product referred to in Article 9(3) of Regulation (EU) 2019/2088, ‘Objective of a reduction in carbon emissions’.

*Article 24*

#### Sustainable investment objective of the financial product

1. The section referred to in point (a) of Article 23 shall contain the following information:
   1. a description of the sustainable investment objective of the financial product;
   2. a narrative explanation and a graphical representation of the investments of the financial product; and
   3. a reference to the hyperlink of the webpage where the information referred to in Article 4 is published.
2. For the purposes of point (b) of paragraph 1:
   1. the graphical representation shall illustrate the planned proportion of the total investments that are sustainable investments and, where relevant, the subdivision of those sustainable investments between environmental or social objectives;
   2. the narrative explanation shall explain:
      1. the planned proportion in point (a) distinguishing between direct holdings in investee companies and all other types of exposures to those companies;
      2. the purpose of the planned remainder of the investments, including a description of any minimum environmental or social safeguards, how their proportion and use does not affect the delivery of the sustainable investment objective on a continuous basis and whether those investments are used for hedging, relate to money market instruments or are investments for which there is insufficient data; and
      3. the proportion of investments in different sectors and sub-sectors, including the fossil fuel sectors.

*Article 25*

#### No significant harm to the sustainable investment objectives

The section referred to in point (b) of Article 23 shall contain an explanation of how the investments of the financial product do not significantly harm the sustainable investment objectives, including:

1. how the indicators related to adverse impacts in Annex I at a minimum are taken into account as part of the implementation of the entity’s due diligence policies; and
2. how investments that significantly harm the sustainable investment objectives are excluded.

*Article 26*

#### Investment strategy

The section referred to in point (c) of Article 23 shall contain the following information:

1. a description of the type of investment strategy used to attain the sustainable investment objective of the financial product, the binding elements of that strategy to select the investments to attain that objective and how the strategy is implemented in the investment process on a continuous basis;
2. where there is a commitment by the financial market participant to reduce by a minimum rate the scope of investments considered prior to the application of the strategy referred to in point (a), an indication of that rate;
3. a short description of the policy used to assess good governance practices of the investee companies and a reference to the website containing the information referred to in Article 35(e)(ii);

*Article 27*

#### Sustainability indicators

The section referred to in point (d) of Article 23 shall contain a list of the sustainability indicators used to measure the attainment of the sustainable investment objective.

*Article 28*

#### Use of derivatives

The section referred to in point (e) of Article 23 shall contain information on how the use of derivatives within the meaning of Article 2(1)(29) of Regulation (EU) No 600/2014 of the European Parliament and of the Council13 attains the sustainable investment objective.

*Article 29*

#### Website reference

The section referred to in point (f) of Article 23 shall contain the following statement: “More product-specific information can be found on the website”. The statement shall also contain a reference to the website containing the information referred to in Article 35.

*Article 30*

#### Sustainable investment objective attainment with a designated index

For a financial product referred to in Article 9(1) of Regulation (EU) 2019/2088, the section referred to in point (g) of Article 23 shall contain:

1. an explanation of how the taking into account of sustainability factors within the methodology of the reference benchmark is continuously aligned with the sustainable investment objective of the financial product;
2. an explanation as to why and how the designated index differs from a broad market index; and
3. an explanation of how the alignment of the investment strategy referred to in Article 26 with the methodology of the index is ensured on a continuous basis.

*Article 31*

#### Objective of a reduction in carbon emissions

1. For a financial product referred to in Article 9(3) of Regulation (EU) 2019/2088, the section referred to in point (h) of Article 23 shall contain an explanation that the reference benchmark qualifies as an EU Climate Transition Benchmark or an EU Paris-aligned Benchmark under Chapter 3a of Title III of Regulation (EU) 2016/1011 of the European Parliament and of the Council14.
2. By way of derogation from paragraph 1, where no EU Climate Transition Benchmark or EU Paris-aligned Benchmark in accordance with Regulation (EU) 2016/1011 is available,
3. Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012 (OJ L 173, 12.6.2014, p. 84).
4. Regulation (EU) 2016/1011 of the European Parliament and of the Council on on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds and amending

Directives 2008/48/EC and 2014/17/EU and Regulation (EU) No 596/2014 (OJ L 171, 29.6.2016, p.1)

the section referred to in point (h) of Article 23 shall explain that fact and how the continued effort of attaining the objective of reducing carbon emissions is ensured in view of achieving the long-term global warming targets of the Paris Climate Agreement. In particular, the financial market participant shall explain how the financial product complies with the methodological requirements set out in Articles 19a, 19b and 19c of Regulation (EU) 2016/1011.

*Article 32*

#### Financial products referred to in Article 9(1) to (3) of Regulation (EU) 2019/2088 with underlying investment options

By way of derogation from Articles 23 to 31, where a financial product offers the investor a range of investment options that qualify that financial product as a financial product referred to in Article 9(1), (2) or (3) of Regulation (EU) 2019/2088, the information to be disclosed in accordance with Article 9(1) to (4) of that Regulation shall include:

* 1. the summary list of those investment options; and
  2. the information provided by those investment options in accordance with Article 9(1) to (4) of Regulation (EU) 2019/2088 with clear indications to which investment options the information relates.

The summary list shall include for each of those investment options cross-references to the disclosures required by the sectoral legislation referred to in Article 6(3) of that Regulation.

*CHAPTER IV*

#### WEBSITE PRODUCT DISCLOSURE

*(Article 10(1) of Regulation (EU) 2019/2088)*

*Article 33*

#### Sustainability-related product disclosure section

Financial market participants shall publish the information on their websites in accordance with Article 10(1) of Regulation (EU) 2019/2088 and this Chapter in a section titled ‘Sustainability- related disclosures’ in the same part of the website as the other information relating to the financial product, including marketing communications. They shall clearly identify the financial product to which the information in the sustainability-related disclosure section relates and prominently display the environmental or social characteristics or the sustainable investment objective of that financial product.

*Article 34*

#### Website product disclosure for financial products referred to in Article 8(1) of Regulation (EU) 2019/2088

1. Financial market participants shall publish the information referred to in Article 10(1) of Regulation (EU) 2019/2088 and this Article for each financial product referred to in Article 8(1) of Regulation (EU) 2019/2088. They shall publish that information in the order and made up of the following sections titled:
   1. ‘Summary’, which shall contain a summary of the information referred to in this Article that relates to the financial product of a maximum length of two sides of A4-sized paper when printed;
   2. ‘Environmental or social characteristics of the financial product’, which shall contain the

information referred to in Article 10(1)(a) of Regulation (EU) 2019/2088;

* 1. ‘Proportion of investments’ which shall contain the information referred to in Article

15(1)(b);

* 1. ‘No sustainable investment objective’, which shall contain the information referred to in

paragraph 4;

* 1. ‘Investment strategy’, which shall contain a description of the investment strategy referred to in Article 17 and a description of the policy to assess good governance practices of the investee companies referred to in Article 17(c).
  2. ‘Monitoring of environmental or social characteristics’, which shall contain a description of how the environmental or social characteristics referred to in Article 15(1)(a) and the sustainability indicators referred to in Article 18 are monitored throughout the lifecycle of the financial product and the related internal or external control mechanisms;
  3. ‘Methodologies’, which shall contain a description of the methodologies to measure the attainment of the social or environmental characteristics promoted by the financial product using the sustainability indicators referred to in Article 18 and 37(2);
  4. ‘Due diligence’, which shall contain a description of due diligence carried out on the underlying assets of the financial product, including the internal and external controls on that due diligence, bearing in mind the definition of due diligence set out in Article 7 of this Regulation;
  5. ‘Engagement policies’, which shall contain a description of the engagement policies implemented if engagement is part of the environmental or social investment strategy, including any management procedures applicable to sustainability-related controversies in investee companies;
  6. ‘Data sources and processing’, which shall contain a description of:
     1. the data sources used to attain each of the environmental or social characteristics promoted by the financial product;
     2. the measures taken to ensure data quality;
     3. how data is processed;
     4. the proportion that is estimated;
  7. ‘Limitations to methodologies and data’, which shall contain a description of any limitations to the methodologies referred to in point (g) and the data sources referred to in point (j) as well as how such limitations do not affect the attainment of the environmental or social characteristics promoted by the financial product, including the actions taken to address such limitations; and
  8. for financial products with an index designated as a reference benchmark, ‘Designated reference benchmark’, which shall contain the information referred to in paragraph 4.

1. The summary referred to in point (a) of paragraph 1 shall be provided in at least one of the official languages of the home Member State and, if different, in a language customary in the sphere of international finance.
2. The section referred to in point (d) of paragraph 1 shall contain the following statement: “This product does not have as its objective sustainable investment.” Where a financial product invests in a sustainable investment, the section shall also contain an explanation of how the sustainable investment does not significantly harm the sustainable investment objectives, including:
   1. how the indicators for adverse impacts in Annex I at a minimum are taken into account; and
   2. how investments that significantly harm the sustainable investment objectives are excluded.
3. The section referred to in point (h) of paragraph 1 shall contain a description of the index designated as a reference benchmark, including the input data, the methodologies used to select that data, the rebalancing methodologies, the underlying components, how the index is calculated and the effect of leverage within the index. In case part or all of that information is published on the website of the administrator of the reference benchmark, a hyperlink may be provided to that information.

*Article 35*

#### Website product disclosure for financial products referred to in Article 9(1), (2) and (3) of Regulation (EU) 2019/2088

1. Financial market participants shall publish the information referred to in Article 10(1) of Regulation (EU) 2019/2088 and this Article for each financial product referred to in Article 9(1),

(2) and (3) of Regulation (EU) 2019/2088. They shall publish that information in the order and made up of the following sections titled:

1. ‘Summary’, which shall contain a summary of the information referred to in this Article that relates to the financial product of a maximum length of two sides of A4-sized paper when printed;
2. ‘Sustainable investment objective of the financial product’, which shall contain the information referred to in Article 10(1)(a) of Regulation (EU) 2019/2088;
3. ‘Proportion of investments’ which shall contain the information referred to in Article

24(1)(b);

1. ‘No significant harm to the sustainable investment objective’, which shall contain the information referred to in paragraph 3;
2. ‘Investment strategy’, which shall contain a description of the investment strategy referred to in Article 26 and a description of the policy to assess good governance practices of the investee companies referred to in Article 26(c), in particular with respect to sound management structures, employee relations, remuneration of staff and tax compliance;
3. ‘Monitoring of sustainable investment objective’, which shall contain a description of how the sustainable investment objective referred to in Article 24(1)(a) and the sustainability indicators referred to in Article 27 and 37(2) are monitored throughout the lifecycle of the financial product and the related internal or external control mechanisms;
4. ‘Methodologies’, which shall contain a description of the methodologies to measure the attainment of the sustainable investment objective using the sustainability indicators referred to in Article 27 and 37(2);
5. ‘Due diligence’, which shall contain a description of due diligence carried out on the underlying assets of the financial product, including the internal and external controls on that due diligence, bearing in mind the definition of due diligence set out in Article 7 of this Regulation;
6. ‘Engagement policies’, which shall contain a description of the engagement policies implemented if engagement is part of the environmental or social investment strategy, including any management procedures applicable to sustainability-related controversies in investee companies;
7. ‘Data sources and processing’, which shall contain a description of:
   1. the data sources used to attain each sustainable investment objectives of the financial product;
   2. the measures taken to ensure data quality;
   3. how data is processed;
   4. the proportion that is estimated;
8. ‘Limitations to methodologies and data’, which shall contain a description of any limitations to the methodologies referred to in point (g) and the data sources referred to in point (j) as well as how such limitations do not affect the attainment of the sustainable investment objective, including the actions taken to address such limitations; and
9. ‘Attainment of the sustainable investment objective’, which shall contain the information

referred to in paragraph 4.

1. The summary referred to in point (a) of paragraph 1 shall be provided in at least one of the official languages of the home Member State and, if different, in a language customary in the sphere of international finance.
2. The section referred to in point (d) of paragraph 1 shall contain an explanation of how the investments of the financial product do not significantly harm the sustainable investment objectives, including:
   1. how the indicators for adverse impacts in Annex I at a minimum are taken into account; and
   2. how investments that significantly harm the sustainable investment objectives are excluded.
3. The section referred to in point (l) of paragraph 1 shall contain a description of:
   1. for a financial product referred to in Article 9(1), the index designated as a reference benchmark, including the input data, the methodologies used to select that data, the rebalancing methodologies, the underlying components, how the index is calculated and the effect of leverage within the index; and
   2. for a financial product referred to in Article 9(3), a statement that the reference benchmark qualifies as an EU Climate Transition Benchmark or an EU Paris-aligned Benchmark under Chapter 3a of Title III of Regulation (EU) 2016/1011 of the European Parliament and of the Council15.
4. Regulation (EU) 2016/1011 of the European Parliament and of the Council on on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds and amending

Directives 2008/48/EC and 2014/17/EU and Regulation (EU) No 596/2014 (OJ L 171, 29.6.2016, p.1)

1. By way of derogation from point (a) of paragraph 4, in case part or all of the information referred to in that point is published on the website of the administrator of the reference benchmark, a hyperlink may be provided to that information.
2. By way of derogation from point (b) of paragraph 4, where no EU Climate Transition Benchmark or EU Paris-aligned Benchmark in accordance with Regulation (EU) 2016/1011 is available, the section referred to in point (l) of paragraph 1 shall explain that fact and how the continued effort of attaining the objective of reducing carbon emissions is ensured in view of achieving the long-term global warming targets of the Paris Climate Agreement. In particular, the financial market participant shall explain how the financial product complies with the methodological requirements set out in Articles 19a, 19b and 19c of Regulation (EU) 2016/1011.

*CHAPTER V*

#### PRODUCT DISCLOSURE IN PERIODIC REPORTS

*(Article 11(1) of Regulation (EU) 2019/2088)*

*Section 1*

##### Periodic reports for financial products referred to in Article 8(1) of Regulation (EU) 2019/2088

*Article 36*

#### Presentation requirements for periodic reports for financial products referred to in Article 8(1) of Regulation (EU) 2019/2088

Financial market participants shall present the information referred to in Article 11(1) of Regulation (EU) 2019/2088, this Article and Articles 37 to 42 of this Regulation in accordance with the templates set out in Annex IV of this Regulation. The information shall be in the order and made up of the following sections titled:

* 1. ‘Attainment of the environmental or social characteristics promoted by the financial product’;
  2. ‘No significant harm of sustainable investment objectives’;
  3. ‘Top investments of the financial product’;
  4. for a financial product with an index designated as a reference benchmark that is not aligned with an environmental or social characteristic promoted by the financial product, ‘Sustainable performance of the index designated as a benchmark’;
  5. ‘Proportion of sustainability-related investments’; and
  6. ‘Actions taken to attain environmental or social characteristics’.

*Article 37*

#### Attainment of the environmental or social characteristics promoted by the financial product

1. The section referred to in point (a) of Article 36 shall contain the following:
   1. a description of the extent to which the environmental or social characteristics promoted by the financial product were attained during the reference period, including the performance of the sustainability indicators used;
   2. where the financial market participant has provided at least one previous periodic report in accordance with this Article for the financial product, a historical comparison between the reference period and previous reference periods.
2. In respect of any additional sustainability indicator excluded from the pre-contractual information provided in accordance with Article 18 or in a previous periodic report provided in accordance with this Article, the section shall also include an explanation and justification of the use of that indicator, including how it is consistent with the environmental or social characteristic promoted by the financial product.

*Article 38*

#### No significant harm to sustainable investment objectives

For a financial product with a sustainable investment, the section referred to in point (b) of Article 36 shall contain an explanation of how that sustainable investment has not harmed significantly the sustainable investment objectives during the reference period, including:

* 1. how the indicators related to adverse impacts in Annex I at a minimum were taken into account as part of the implementation of the entity’s due diligence policies;
  2. whether any investments were excluded due to their significant harm to the sustainable investment objectives.

*Article 39*

#### Top investments of the financial product

1. The section referred to in point (c) of Article 36 shall contain a list, in descending order of size, of the 25 investments constituting on average the greatest proportion of investments of the financial product during the reference period, including the sector and location of those investments.
2. By way of derogation from paragraph 1, where the number of investments constituting on average 50 percent of the investments of the financial product during the reference period is less than 25, a list of those investments, in descending order of size, including the sector and location of those investments.

*Article 40*

#### Sustainable performance of the index designated as a benchmark

1. The section referred to in point (d) of Article 36 shall include:
   1. an explanation of how the index designated as a reference benchmark differs from a broad market index, including at least the performance during the reference period of the sustainability indicators deemed relevant by the financial market participant to determine the alignment of the index with the sustainable investment objective and the sustainability factors referred to in the benchmark statement of the benchmark administrator in accordance with Article 27(2a) of Regulation (EU) 2016/1011;
   2. a comparison of the performance during the reference period of the financial product with regard to the indicators measuring the sustainability factors of the index referred to in point (a); and
   3. a comparison of the performance during the reference period of the financial product with regard to a relevant broad market index.
2. The comparisons referred to in points (b) and (c) shall be presented in the form of a table or graphical representation.

*Article 41*

#### Proportion of sustainability-related investments

The section referred to in point (e) of Article 36 shall contain the following:

* 1. a graphical representation that illustrates the proportions during the reference period of:
     1. the total investments that are sustainable investments and, where relevant, the subdivision of those sustainable investments between environmental or social objectives;
     2. the total investments other than those in point (i) that contribute to the attainment of the environmental or social characteristics promoted by the financial product and, where relevant, the subdivision of those investments between environmental or social characteristics; and
     3. the remainder of the investments; and
  2. a narrative explanation that explains:
     1. the proportions in point (a) distinguishing between direct holdings in investee companies and all other types of exposures to those companies;
     2. the purpose of the remainder of the investments during the reference period, including a description of any potential minimum environmental or social safeguards and whether those investments are used for hedging, relate to money market instruments or are investments for which there is insufficient data; and
     3. the proportion of investments during the reference period in different sectors and sub-sectors, including the fossil fuel sectors.

*Article 42*

#### Actions taken to attain environmental or social characteristics

The section referred to in point (f) of Article 36 shall contain the actions taken within the reference period to attain the environmental or social characteristics promoted by the financial product, including shareholder engagement as defined in Article 3g of Directive 2007/36/EC and any other relevant shareholder engagement.

*Section 2*

##### Periodic reports for financial products referred to in Article 9(1), (2) and (3) of Regulation (EU) 2019/2088

*Article 43*

#### Presentation requirements for periodic reports for financial products referred to Article 9(1), (2) and (3) of Regulation (EU) 2019/2088

Financial market participants shall present the information referred to in Article 11(1) of Regulation (EU) 2019/2088, this Article and Articles 43 to 51 of this Regulation in accordance with the templates set out in Annex V of this Regulation. The information shall be in the order and made up of the following sections titled:

1. ‘Attainment of the sustainable investment objective of the financial product’;
2. ‘No significant harm of sustainable investment objectives’;
3. ‘Top investments of the financial product’;
4. for a financial product referred to in Article 9(1) of Regulation (EU) 2019/2088,

‘Sustainable performance of the index designated as a benchmark’;

1. for a financial product referred to in Article 9(3) of Regulation (EU) 2019/2088, ‘Objective

of a reduction in carbon emissions’;

1. ‘Proportion of sustainability-related investments’; and
2. ‘Actions taken to attain the sustainable investment objective’.

*Article 44*

#### Attainment of the sustainable investment objective of the financial product

1. The section referred to in point (a) of Article 43 shall contain the following:
   1. a description of the extent to which the sustainable investment objective was attained during the reference period, including the performance of the sustainability indicators used; and
   2. where the financial market participant has provided at least one previous periodic report in accordance with this Article for the financial product, a historical comparison between the current reference period and previous reference periods.
2. In respect of any additional sustainability indicator excluded from the pre-contractual information provided in accordance with Article 27 or in a previous periodic report provided in accordance with this Article, the section shall also include an explanation and justification of the use of that indicator, including how it is consistent with the sustainable investment objective.

*Article 45*

#### No significant harm to sustainable investment objectives

The section referred to in point (h) of Article 43 shall contain an explanation of how the investments of the financial product have not significantly harmed the sustainable investment objectives during the reference period, including

* 1. how the indicators related to adverse impacts in Annex I at a minimum were taken into account as part of the implementation of the entity’s due diligence policies; and
  2. whether any investments were excluded due to their significant harm to the sustainable investment objectives.

*Article 46*

#### Top investments of the financial product

1. The section referred to in point (b) of Article 43 shall contain a list, in descending order of size, of the 25 investments constituting on average the greatest proportion of investments of the financial product during the reference period, including the sector and location of those investments.
2. By way of derogation from paragraph 1, where the number of investments constituting on average 50 percent of the investments of the financial product during the reference period is less than 25, a list of those investments, in descending order of size, including the sector and location of those investments.

*Article 47*

#### Sustainable performance of the index designated as a benchmark

1. For financial products referred to in Article 9(1) of Regulation (EU) 2019/2088, the section referred to in point (c) of Article 43 shall contain the following:
   1. an explanation of how the index designated as a reference benchmark differs from a broad market index, including at least the performance during the reference period of the sustainability indicators deemed relevant by the financial market participant to determine the alignment of the index with the sustainable investment objective, including the ESG factors referred to in the benchmark statement of the benchmark administrator in accordance with Article 27(2a) of Regulation (EU) 2016/1011;
   2. a comparison of the performance during the reference period of the financial product with regard to the indicators measuring the sustainability factors of the index referred to in point (a); and
   3. a comparison of the performance during the reference period of the financial product with regard to a relevant broad market index.
2. The comparisons referred to in point (b) and (c) shall be made in the form of a table or graphical representation.
3. By way of derogation from point (a) of paragraph 1, if the number of investments constituting on average 50 percent of the investments of the index during the reference period is less than 25, the section referred to in point (c) of Article 43 shall contain a list of those investments, in descending order of size, including the sector and location of those investments.

*Article 48*

#### Objective of a reduction in carbon emissions

For a financial product referred to in Article 9(3) of Regulation (EU) 2019/2088, the section referred to in point (e) of Article 43 shall contain a description of the contribution of the financial product during the reference period to achieving the long-term global warming objectives of the Paris Agreement, including in respect of an EU Climate Transition Benchmark or EU Paris-aligned Benchmark, the ESG factors and criteria considered by the benchmark administrator in accordance with Articles 19a to 19d and Article 27(2a) of Regulation (EU) 2016/1011.

*Article 49*

#### Proportion of sustainability-related investments

The section referred to in point (f) of Article 43 shall contain the following:

1. a graphical representation that illustrates the proportions during the reference period of the total investments that are sustainable investments and, where relevant, the subdivision of those sustainable investments with environmental or social objectives;
2. a narrative explanation that explains:
   1. the proportions in point (a) distinguishing between direct holdings in investee companies and all other types of exposures to those companies; and
   2. the purpose of the remainder of the investments during the reference period, including a description of any minimum environmental or social safeguards and whether those investments are used for hedging, relate to money market instruments or are investments for which there is insufficient data; and
   3. the proportion of investments during the reference period in different sectors and sub-sectors, including the fossil fuel sectors.

*Article 50*

#### Actions taken to attain the sustainable investment objective

The section referred to in point (g) of Article 43 shall contain the actions taken within the reference period to attain the sustainable investment objective of the financial product, including shareholder engagement as defined in Article 3g of Directive 2007/36/EC and any other relevant shareholder engagement.

*Section 3*

##### Historical comparisons for periodic reports

*Article 51*

#### Historical comparisons for periodic reports

1. The historical comparisons referred to in Articles 37(1)(b) and 44(1)(b) shall compare the current reference period with previous reference periods that cover at least the shortest of the following:
   1. the previous ten years;
   2. from the date on which the financial market participant first considered the sustainability indicator reported on; or
   3. from 1 January 2022.
2. For the purposes of paragraph 1, financial market participants shall report on the performance of the sustainability indicators consistently over time, including the following information:
   1. annual average performance figures net of fees, including an identification of the charges and fees included or excluded from the calculation of performance figures;
   2. where quantitative disclosures are made, figures with a relative measure such as impact per euro invested;
   3. whether each indicator is subject to an assurance provided by an auditor or a review by a third party; and
   4. the proportion of underlying assets of the financial product referred to in Articles 41(b)(ii) and 49(b)(ii).

*Article 52*

#### Financial products with underlying investment options

By way of derogation from Articles 36 to 51, financial products that offer the investor investment options referred to in Articles 22 and 32 of this Regulation shall include in the disclosures in accordance with Article 11(1) of Regulation (EU) 2019/2088:

1. summary of information provided in accordance with Article 11(1) of Regulation (EU) 2019/2088 by selected investment options that qualify as financial products referred to in Article 8(1) and Article 9(1), (2) and (3) of that Regulation; and
2. information provided by those investment options in accordance with Article 11(1) of Regulation (EU) 2019/2088 with clear indications to which investment options the information relates.

*CHAPTER VI*

#### FINAL PROVISIONS

*Article 53*

#### Transitional provision

In respect of a financial market participant that first considered the principal adverse impacts of its investment decisions before 1 March 2021, from that date until 30 June 2022, by way of derogation from Article 4(1), that financial market participant shall publish the information in Articles 5 to 10 except for the information that relates to a reference period.

*Article 54*

#### Entry into force and application

1. This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.
2. This Regulation shall apply from 10 March 2021.
3. By way of derogation from paragraph 2 of this Article, Articles 36 to 52 shall apply from 1 January 2022.