



A Greener Scheme? A Pensions Guide to Sustainable Finance Level 1 Disclosures

July 2021

The EU Sustainable Finance Disclosures Regulation (2019/2088) (**SFDR**) introduces new transparency rules for financial service providers, including banks, insurers, asset managers and pension schemes.

SFDR aims to provide investors (prospective members, members, and beneficiaries in the case of pension schemes) with information on how financial service providers:

- take into account non-financial sustainability risks when making investment decisions;
- whether and how they assess the impact of their investments on environmental and social matters; and
- if they offer financial products that have a sustainability strategy or objective, how they plan to achieve that objective.

Most of the disclosure requirements under SFDR are effective since 10 March 2021. Those remaining, are applicable from 1 January 2022. In addition, SFDR will soon be supported by Level 2 technical compliance standards (**Level 2**). Level 2, currently in draft form awaiting finalisation by the Commission, is scheduled to come into effect on 1 January 2022 and, once applicable, will strictly prescribe the form of compliance by in-scope financial service providers with SFDR.

While the focus of this briefing is on SFDR and how it impacts pension schemes, our [Asset Management & Investment Funds](#) and [Insurance & Reinsurance](#) teams have published a number of guides for other financial service providers on both SFDR and the draft Level 2 standards - see [here](#), [here](#) and [here](#).

SFDR & IORP II

SFDR is a cross-industry, directly-effective EU regulation which applies industry-specific requirements by cross-referring to applicable underlying governing regimes. In the case of those in the pensions industry, SFDR cross-refers to the IORP II Directive. Unfortunately, at the time SFDR came into effect in March, Ireland had yet to transpose the IORP II Directive which frustrated the interpretation of SFDR's application to those operating in the Irish pensions industry. However, following the transposition of IORP II in April 2021 (see our briefing [here](#)), it is now clear that trustees must factor SFDR compliance into their regulatory/IORP II compliance planning.

TRANSLATING SFDR (LEVEL 1) FOR PENSIONS

SFDR requirements related to financial service providers and products will apply to Irish pension schemes. As a result, trustees must comply with the disclosure requirements which apply under SFDR to providers and, where applicable, those which apply to certain types of financial products.

Pension trustees must provide sustainability-related disclosures to members on their (or their delegate investment manager's) investment decision-making procedures. They must also, on a comply-or-explain basis, provide information on investments that could have a negative impact on environmental and/or social issues.

In this briefing, we focus on the SFDR disclosures a pension scheme, as an in-scope financial service provider, needs to make in respect of its investment activities and the steps trustees may take to ensure compliance.

SUSTAINABILITY RISK AND SUSTAINABILITY IMPACT

SFDR requires transparency on how investment risks arising from environmental, social and governance or ESG issues (**Sustainability Risks**) could negatively impact a scheme's investment returns. This is not completely new territory for pension trustees as ESG requirements are woven into the requirements of IORP II. For example: ESG factors (as they relate to investment decisions) must be part of a scheme's general system of governance and the own risk assessment must assess new environmental and social risks.

As well as assessing and disclosing any Sustainability Risk, SFDR also introduces an obligation, on a comply-or-explain basis, for an outward-looking assessment of the possible negative impact of investment decisions on ESG factors (**Sustainability Impacts**) e.g. investments in entities whose underlying activities contribute to climate change or human rights issues. Under SFDR, the negative external impacts of investments on ESG issues are referred to as 'principal adverse sustainability impacts' or PAIs.

Key SFDR (Level 1) compliance considerations for pension trustees are summarised below.



SFDR (pension schemes' service providers obligations)		Compliance
<p>1. Sustainability Risk Policies</p> <p>Pension trustees will need to prepare a Sustainability Risk policy setting out how Sustainability Risks are assessed as part of the investment decision-making process for the scheme. Information on this policy must be published on the scheme's website. The policy must be kept up to date.</p>	<p>Requirements applicable from 10 March 2021.</p>	
<p>2. Principal adverse sustainability impacts</p> <p>Pension trustees must, on a comply-or-explain basis, provide information to prospective members, members, and beneficiaries on the principal adverse sustainability impacts of the scheme's investments, including details of the due diligence policies in place to identify those impacts, a description of any impacts identified and strategies for engaging with underlying investee companies to mitigate any identified impacts. This information must be published on the scheme's website and must be kept up to date.</p> <p>Pension trustees who elect to explain non-compliance with the requirement to provide principal adverse sustainability impact information must publish on the scheme's website clear reasons for this decision and whether and when they intend to comply with the requirement.</p>	<p>Information to be published on the scheme's website. While there is yet no specific regulatory guidance for trustees, the natural home for such information would be the scheme's published statement of investment policy principles (SIPP).</p>	
<p>3. Remuneration Policy</p> <p>Pension trustees will need to provide information to prospective members, members, and beneficiaries on how the scheme's remuneration policy is consistent with the integration of Sustainability Risks.</p>	<p>IORP II requires this policy to be in place by 31 December 2021.</p>	
<p>4. Information for prospective members</p> <p>Pension trustees will need to provide information to prospective members on:</p> <ul style="list-style-type: none"> the manner in which Sustainability Risks are integrated into their investment decisions; the results of the assessment of the likely impacts of Sustainability Risks on the scheme's investment returns (if deemed not to be relevant, a clear and concise explanation of the reasons for this); and if electing to explain non-compliance with the requirement to assess the principal adverse sustainability impact of investment decisions (see 2. above), confirmation of this decision and the reasons for it. 	<p>To be provided along with the information required for prospective members under IORP II.¹</p>	

¹Irish disclosure regulations governing what information must be provided to prospective members (and when it must be provided) were not amended when IORP II was transposed. This may be addressed in future IORP II related amendments to Irish disclosure regulations

NEXT STEPS

The next SFDR compliance deadline is scheduled for 1 January 2022. From this date, it is expected that financial service providers, including pension schemes, in scope of the Level 2 standards will be subject to a prescriptive and detailed set of sustainability-related disclosure standards which build on the SFDR disclosure rules discussed in this briefing. Trustees should factor SFDR requirements into their current IORP II compliance preparations and begin scoping the Level 2 standards well in advance of 1 January 2022.



CONTACT

If you would like any advice on any of these issues, please contact [Ian Devlin](#) or your usual William Fry contact. Our partners, associates and support teams are available as usual to support you.



Ian Devlin
PARTNER
Head of Pensions Group
+353 1 639 5064
ian.devlin@williamfry.com



Lorena Dunne
PARTNER
Asset Manager and Investment Funds
+44 20 79610896
lorena.dunne@williamfry.com



Ciara McLoughlin
SENIOR ASSOCIATE
Pensions Group
+353 1 489 6611
ciara.mcloughlin@williamfry.com



Jane Barrett
ASSOCIATE
Pensions Group
+353 1 489 6684
jane.barrett@williamfry.com

WILLIAM FRY

DUBLIN | CORK | LONDON | NEW YORK | SAN FRANCISCO | SILICON VALLEY

T: +353 1 639 5000 | E: info@williamfry.com

williamfry.com