SFDR UPDATED REGULATORY TECHNICAL STANDARDS ON FOSSIL GAS AND NUCLEAR ENERGY ACTIVITIES AND CENTRAL BANK FAST-TRACK

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By: Gayle Bowen, Giovanni Campi

Commission Delegated Regulation (EU) 2023/363 (the Delegated Regulation), which amends and corrects the existing Sustainable Finance Disclosure Regulation (SFDR) regulatory technical standards in relation to the content and presentation of information in pre-contractual documents and periodic reports for financial products under the SFDR, was published in the Official Journal on Friday, 17 February 2023.

The main change resulting from the Delegated Regulation is to introduce prospectus, website, and periodic disclosure requirements for Article 8 and Article 9 funds in respect of fossil gas and nuclear energy related activities to ensure alignment with the EU Taxonomy. The enhanced disclosures are considered necessary to increase transparency in identifying environmentally sustainable fossil gas and nuclear related activities and to foster comparability of disclosures across products.

The Delegated Regulation does not provide for a transition period and entered into force on 20 February. On the same day, the Central Bank of Ireland published Process clarifications for UCITS and AIFs pre-contractual documentation updates in relation to the Commission Delegated Regulation (EU) 2023/363 (the Process Clarification). The Process Clarification confirms that the Central Bank will facilitate a fast-track filing process for the update of pre-contractual disclosure documents pursuant to the Delegated Regulation. With regard to timing, the Process Clarification specifies that fund documentation must be updated “as soon as possible and at the earliest available opportunity” and that the fast-track filing process is time limited. Changes to funds' offering documents are restricted to those in accordance with: the Delegated Regulation; SFDR Level 1, SFDR Level 2, and the Taxonomy Regulation; and amendments to the investment policy or strategy to allow for consistency with the aforementioned disclosure changes. Any required reclassifications pursuant to SFDR will not be permitted via the fast-track filing.

Compliance with the Delegated Regulation is now a matter of priority for financial market participants and funds sponsors. K&L Gates' Asset Management and Investment Funds practice provides a tailored ESG solution to clients, and we encourage you to engage with our team to discuss your international ESG requirements. K&L Gates' public policy practice in Brussels advises international clients on both current and upcoming EU legislation, including advocacy and interaction with the authorities.

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KEY CONTACTS



GAYLE BOWEN
MANAGING PARTNER, DUBLIN OFFICE

DUBLIN
+353.1.486.1733
GAYLE.BOWEN@KLGATES.COM



GIOVANNI CAMPI
SENIOR POLICY DIRECTOR

BRUSSELS
+32.2.336.1910
GIOVANNI.CAMPI@KLGATES.COM

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