Disclosures relating to sustainable investments and sustainability risks

2018/0179(COD) - 24/05/2018 - Legislative proposal

PURPOSE: to strengthen the protection for end-investors and improve the disclosure of information on sustainable investments to them.

PROPOSED ACT: Council Directive.

ROLE OF THE EUROPEAN PARLIAMENT: the Council adopts the act after consulting the European Parliament but without being obliged to follow its opinion.

BACKGROUND: in the absence of harmonised Union rules on sustainability-related disclosures to end-investors, it is likely that diverging measures will continue to be adopted at national level and different approaches in different financial services sectors might persist.

In ensuring compliance with the Paris Climate Agreement, Member States are likely to adopt divergent national measures which could create obstacles to the smooth functioning of the internal market and be detrimental to financial market participants and financial advisors.

This proposal is part of a wider Commission initiative on sustainable development. It aims to bring institutional investors (management companies of undertakings for collective investment in transferable securities (UCITS), alternative investment fund managers (FIA), insurance companies, institutions for occupational retirement provision (IORP), European venture capital fund managers (EuVECA), European social entrepreneurship fund managers (EuSEF) and investment firms) to integrate environmental, social and governance (ESG) criteria into their internal processes and to inform their clients.

The proposal is presented in parallel with a proposal to help investors compare the carbon footprint of investments.

This should ensure that financial market participants undertakings for collective investment in transferable securities (UCITS) management companies, alternative investment fund managers (AIFMs), insurance undertakings, institutions for occupational retirement provision (IORPs), European venture capital fund (EuVECA) managers, European social entrepreneurship funds (EuSEF) managers and investment firms - that receive a mandate from their clients or beneficiaries to take investment decisions on their behalf would integrate environmental, social and governance (ESG) considerations into their internal processes and inform their clients in this respect.

The proposal is presented in parallel with a proposal to help investors compare the carbon footprint of investments.

IMPACT ASSESSMENT: a clear and coherent approach on integration of ESG risks would have the following economic impacts: end-investors will have more information on how financial market participants and financial advisors integrate ESG risks in their investment decision-making or advisory processes. ESG risks would be more systematically taken into account in financial modelling, leading to an optimal risk-return trade-off at least in the long-term, thereby fostering market efficiency. This will encourage financial market participants and financial advisors to be innovative in investment strategies or in their recommendations.

CONTENT: the proposed Regulation establishes harmonised rules on transparency to be applied by financial market participants, by insurance intermediaries providing advice on insurance-based investment products and by financial advisers in relation to:

- the integration of sustainability risks in their investment decision-making processes or, where relevant, advisory processes;
- transparency as regards financial products which target sustainable investments, including reduction in carbon emissions.

The term sustainable investments covers: (i) investments in an economic activity that contributes to an environmental objective; (ii) investments in an economic activity that contributes to a social objective, and in particular an investment that contributes to tackling inequality, an investment fostering social cohesion, social integration and labour relations, or an investment in human capital or economically or socially disadvantaged communities; (iii) investments in companies following good governance practices, and in particular companies with sound management structures, employee relations, remuneration of relevant staff and tax compliance.

Specifically, the proposal:

- requires financial market participants to publish written policies on the integration of sustainability risks in investment decision making process;
- obliges financial market participants to publish them on their websites and maintain the policies up-to-date. This obligation also extends to financial advisors.
- obliges financial market participants and financial advisors market financial products or services claim that such products or services pursue sustainable investment objectives, obliging them to disclose information on the contribution of the investment decisions to the sustainable investment objectives (ex-post disclosure in regular reporting);
- provides that financial market participants and financial advisors must ensure that marketing communications do not contradict the information disclosed pursuant to this Regulation.

This proposal amends Directive (EU) 2016/2341. It empowerments the Commission to adopt delegated acts specifying the prudent person rule with respect to the consideration of ESG risks and the inclusion of ESG factors in internal investment decisions and risk management processes.