Finance Watch response to the public consultation on the Proposal for a Regulation on disclosure relating to sustainable investments and sustainability risks and amending Directive (EU) 2016/2341

Brussels, 3rd August 2018

Finance Watch is an independent non-profit Members' association set up in 2011 to act as a public interest counterweight to the powerful financial lobby. Our mission is to strengthen the voice of society in the reform of financial regulation by conducting advocacy and presenting public interest arguments to lawmakers and citizens. Our Members are civil society organisations and expert individuals, supported by a full-time secretariat.

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We agree to the publication of this response.

Finance Watch welcomes the EC proposal for a Regulation on disclosure relating to sustainable investments and sustainability risks and amending Directive (EU) 2016/2341.

Climate change is the greatest threat to the global financial stability, given its double nature as idiosyncratic and systematic risk. We therefore welcome the European Commission initiative to improve the transparency on the ways financial market participants integrate sustainability risk into the investment decision making process and investment advice.

Nevertheless, we note the following:

1. The proposal does not include a definition of *"sustainability risk"*. The articles 4(1)(b) and 4(2)(b) implicitly provide a narrow interpretation of sustainability risk, but a clear definition of sustainability risk under article 2 is necessary to provide legal certainty on the objective of the proposal, which should not be limited to the financial risk.

2. On the other hand, the definition of sustainable investment is too broad and should be reviewed, given that the article 2 (o) (iii) implies that to be considered sustainable it is sufficient for an investment to be made in companies following good governance practice. It should be made clear that an investment cannot be considered as sustainable only because it is done in companies following good governance practice. Any sustainable investment should target at least one environment or social goal.

3. Moreover, it should be explicitly stated that financial actors must have policies in place to integrate sustainability risk and must disclose those policies in line with articles 3, 4 and 5. In other words, having in place policies for integrating sustainability risk is a pre-condition for the companies for being able to comply with the disclosure requirements, indicated in articles 4(1) and 4(2). Put otherwise, it needs to be made explicit that financial actors which do not have in place policies to integrate sustainability risk cannot be in compliance with the articles 4(1) and 4(2).

With regard to specific comments on the proposal:

1. Article 4 should explicitly state that it covers all the financial products, independently of whether they target a specific sustainability goal.

2. In art. 4(2), the word "*extent*" should be replaced with "*analysis showing the extent*", because it is important that financial market participants conduct a thorough analysis before concluding on the extent to which the sustainability risks are expected to have an impact on the returns of the financial products.

3. EBA, EIOPA and ESMA should develop draft regulatory standards for the purpose of art 4 and not only for the purpose of the article 5 as indicated in the article 5(5).