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ESAs Publish Questions on SFDR and EU Taxonomy Regulation Interpretation

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On Monday, May 16, 2022, the European Securities and Markets Authority published a document (dated May 13, 2022) from the Joint Committee of the European Supervisory Authorities ("ESAs") setting out further questions for the European Commission on the interpretation of the Sustainable Finance Disclosure Regulation ((EU) 2019/2088) ("SFDR") and Taxonomy Regulation ((EU) 2020/852) ("TR"). The ESAs published an updated supervisory statement on the application of the SFDR on March 24, 2022, which was covered in more detail in a previous article published in *Cabinet News and Views*.

The European Commission has yet to respond to the questions, but they give an indication of the issues that market participants and financial advisers are currently facing when interpreting the legislation.

The 10 questions primarily focus on the following topics:

- Question 1: Principal adverse impact ("PAI") disclosures and if a market participant is able to not consider adverse impacts of investment decisions at entity level yet still consider PAI under SFDR Article 7 for some of the financial products it manages, and whether they can disclose this under SFDR Article 4(1)(b).

- Questions 2-5: Financial advisers and their recommendations of financial products.

- Questions 6-7: Transparency of the integration of sustainability risks and rules for financial products that are no longer available.

- Questions 8-9: Good governance practices including for financial products solely investing in government issued bonds.

- Question 10: Scope of TR Articles 5 ("Transparency of environmentally sustainable investments in pre-contractual disclosures and in periodic reports") and 6 ("Transparency of financial products that promote environmental characteristics in pre-contractual disclosures and in periodic reports").