

TRAINING & DEVELOPMENT PROGRAMME

# Knowledge Network

Webinar Series

## The Green Shoots of Sustainability

Tuesday, 23 March 2021 | 8.30 am to 9.30 am



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# The Green Shoots of Sustainability

Tuesday, 23 March 2021

Imelda Higgins, Senior Associate and Martin O'Neill, Senior Associate



## Global Sustainability Measures

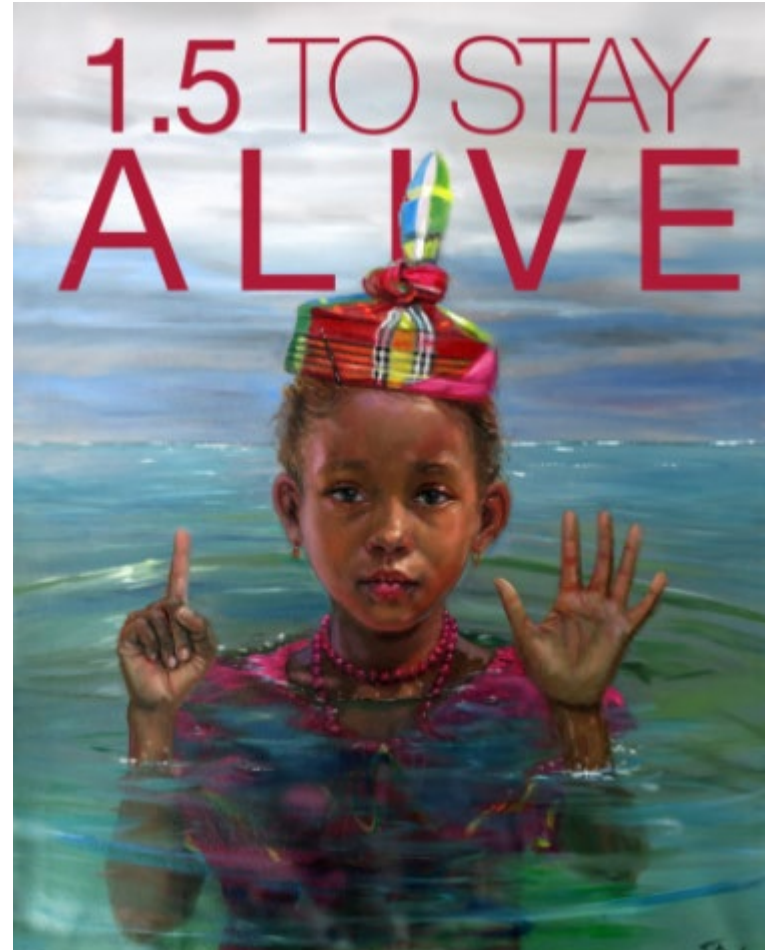
- UN 2030 Agenda for Sustainable Development
  - The 17 [Sustainable Development Goals](#) are a universal call to action to end poverty, protect the planet and improve the lives and prospects of everyone, everywhere.





# Global Sustainability Measures

- The Paris Agreement on Climate Change –
- Aims to
  - strengthen the global response to the threat of climate change by
    - keeping a global temperature rise this century below 2 degrees Celsius above pre-industrial levels and
    - pursuing efforts to limit the temperature increase even further to 1.5 degrees Celsius.



# EU Commitments

- The EU's initially committed to reduce greenhouse gas emissions by at least 40% by 2030 compared to 1990.
- Europe has to close a yearly investment gap of almost **EUR 180 billion** to achieve its 2030 goals



# EU Commitments

- 2016 – Commission Communication “Capital Markets Union - Accelerating Reform”
  - Reforms for sustainable finance necessary to ensure financial system can finance growth in a sustainable manner over the long term



# Three Definitions of Sustainable Finance

Integrating environmental, social and governance (ESG) factors in financial decisions



Finance fostering sustainable economic, social and environmental development

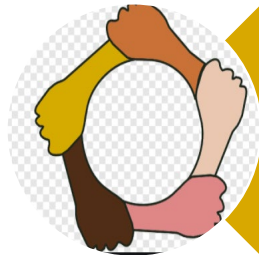


A stable financial system that tackles long-term education, economic, social, environment issues, including sustainable employment, retirement financing, technological innovation, infrastructure construction and climate change mitigation

# What is ESG?



Environmental - climate change mitigation and adaptation, as well as the environment more broadly, such as the preservation of biodiversity, pollution prevention and circular economy



Social - issues of inequality, inclusiveness, labour relations, investment in human capital and communities, as well as human rights issues



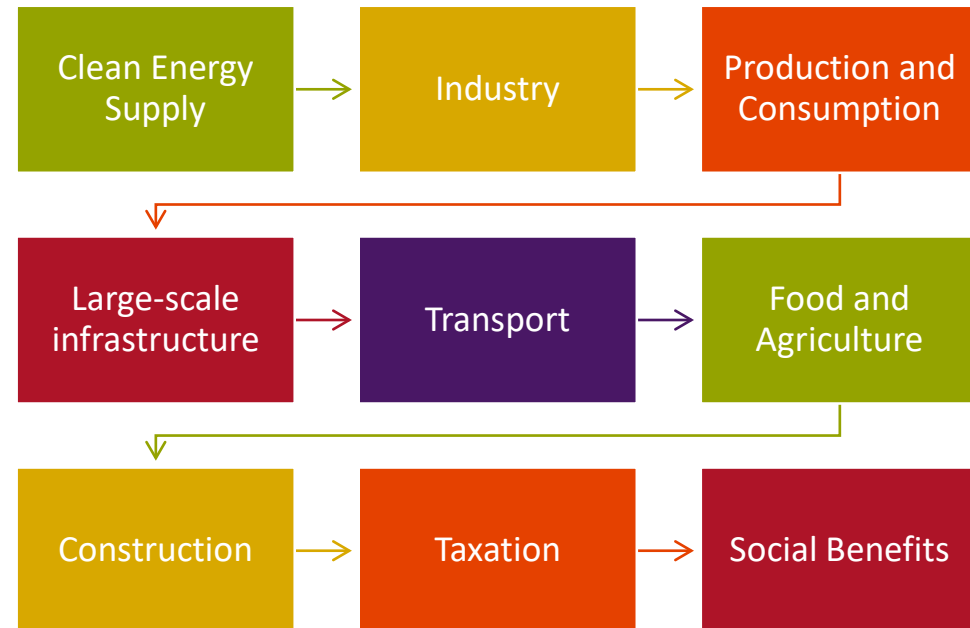
Governance - includes management structures, employee relations and executive remuneration (plays a fundamental role in ensuring the inclusion of social and environmental considerations in the decision-making process)



# EU sustainable Finance – Key Developments

- European Green Deal (2019)
  - a policy agenda and roadmap for making the EU's economy sustainable
  - its delivery requires EU to restructure policies across several areas
  - sets out schedule of delivery commitments

## Impacted Policies



# EU Sustainable Finance - Key Developments



## Commission Communication – Action Plan – Financing Sustainable Growth (2018)

- **reorient capital flows** towards sustainable investment to achieve sustainable and inclusive growth
- **manage financial risks** stemming from climate change, resource depletion, environmental degradation and social issues and
- foster **transparency and long-termism** in financial and economic activity.



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# EU Action Plan – Legislation

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The Low Carbon Benchmarks Regulation

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The Sustainable Finance Disclosure Regulation (SFDR)

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The Taxonomy Regulation

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Draft delegated legislation to integrate sustainability risks and factors into UCITS/AIFMD/MIFID frameworks

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Capital Requirements and Investment Firms Legislative Framework (CRDII/CRDV/IFR/IFD)

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Updating of corporate non-financial reporting under a review of the Non-Financial Reporting Directive

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Proposed legislation on European Single Access Point

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Proposed legislation on sustainable corporate governance

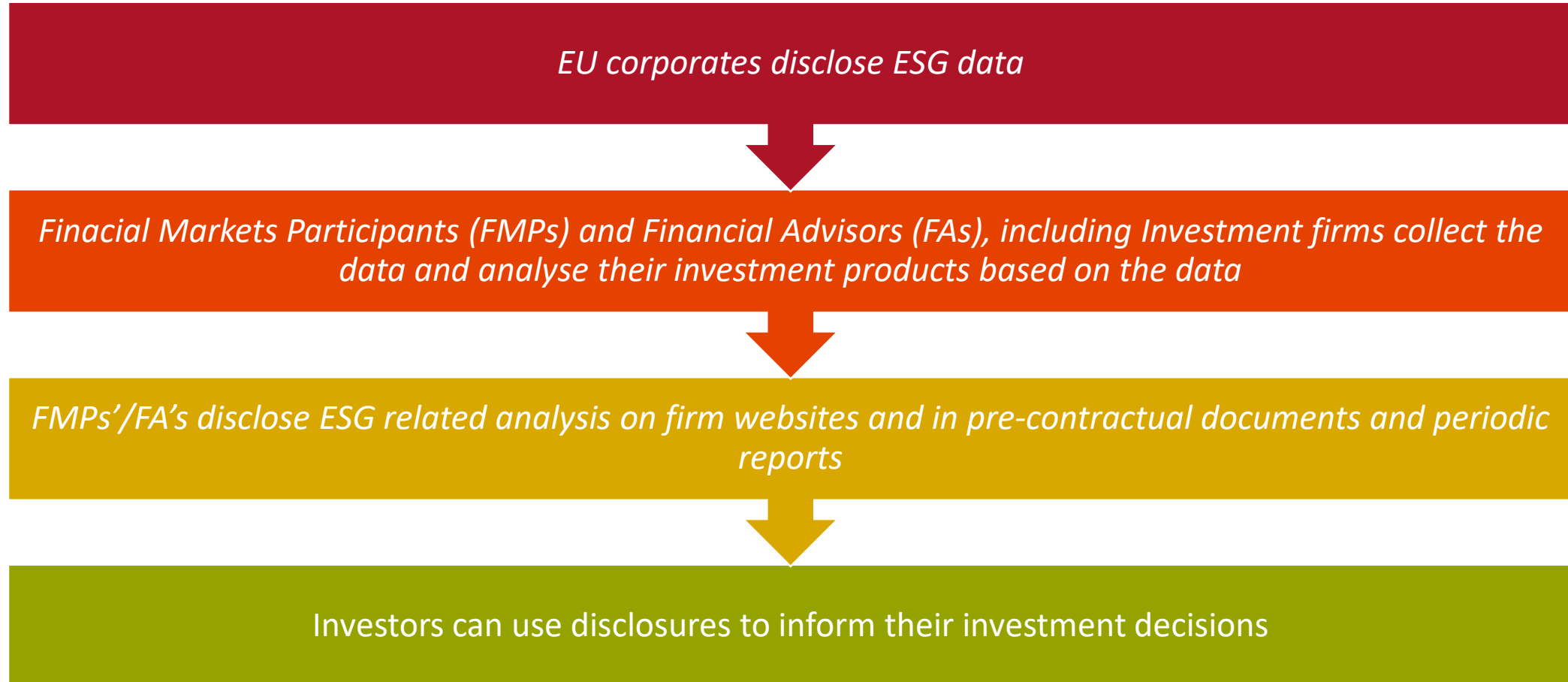
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The development of a green bond standard

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The development of an EU Ecolabel for financial products

# Key Objectives Increased Transparency



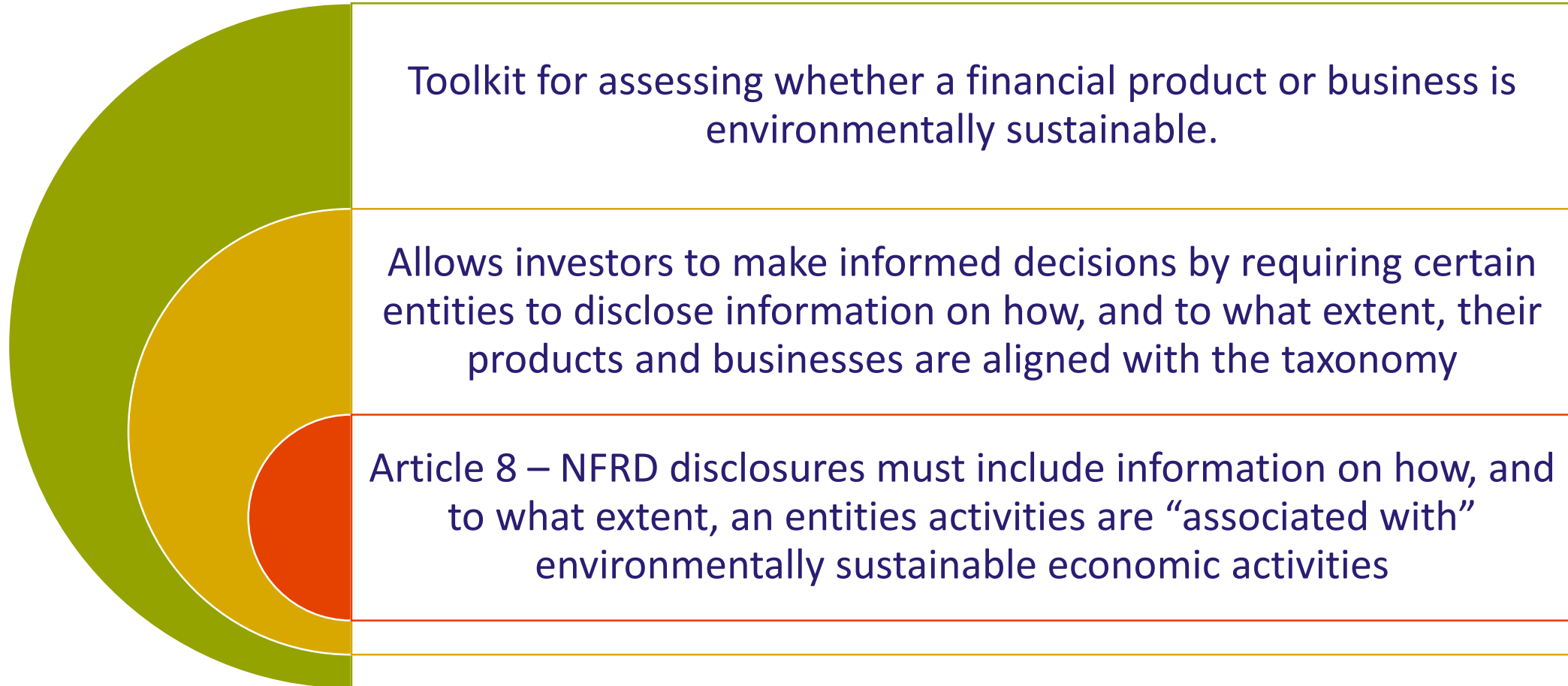
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## Corporate Disclosures - Non Financial Reporting Directive 2014/95 (NFRD)

- Large listed companies, banks and insurance companies with more than 500 employees are required to publish non financial disclosure statements on the policies they implement in relation to:
  - environmental protection
  - social responsibility and treatment of employees
  - respect for human rights
  - anti-corruption and bribery
  - diversity on company boards (in terms of age, gender, educational and professional background)
- European Commission Guidelines (Non-binding)
  - Guidelines to help companies disclose environmental and social information (2017)
  - Guidelines on reporting climate-related information (2019)



# Corporate Disclosures - Taxonomy Regulation

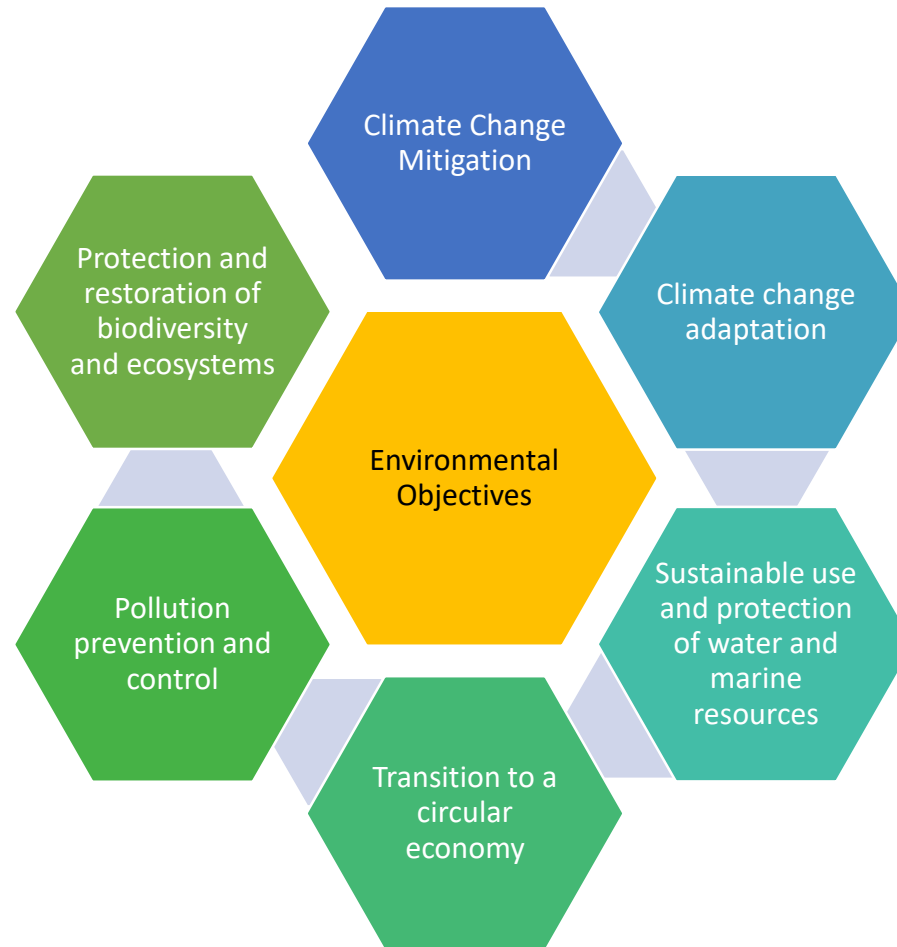


# Corporate Disclosures - Taxonomy Regulation

An economic activity is environmentally sustainable if:

<p>It makes a “substantial contribution” to one of the six specified environmental objectives</p>	<p>Does “no significant harm” to any of those six environmental objectives (ie avoids adverse environmental impacts)</p>	<p>Avoids violating minimum “social safeguards” (ie avoids adverse social impacts)</p>	<p>Complies with “technical screening criteria” (set out in delegated legislation)</p>
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# Corporate Disclosures - Taxonomy Regulation



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# Corporate Disclosures - Taxonomy Regulation

- Article 8 – an NFDR firm must disclose 3 Key Performance Indicators (KPIs)
  - the proportion of its turnover derived from products or services associated with environmentally sustainable economic activities
  - the proportion of its capital expenditure related to assets or processes associated with environmentally sustainable economic activities
  - the proportion of its operating expenditure related to assets or processes associated with environmentally sustainable economic activities
- ESMA – Final Report on Advice under Article 8 (1 March) – sets out how each KPI should be calculated

# Corporate Disclosures - Upcoming Changes - NFRD

## Proposal to amend NFRD expected in Q1 2021 to:

- ensure that investors have access to adequate non-financial information from companies so they can take account of sustainability-related risks, opportunities and impacts in their investment decisions
- ensure that civil society organisations, trade unions and others have access to adequate non-financial information from companies to be able to hold them to account for their impacts on society and the environment; and
- reduce the unnecessary burden on business relating to non-financial reporting.



# Corporate Disclosures - Upcoming changes – European Single Access Point (ESAP)

- ESAP for information publicly disclosed by companies (including sustainable finance information) to:
  - improve access to company data
  - contribute to the harmonisation and standardization of disclosure formats making information easier to find, compare, and analyse
  - enable big data and services based on artificial intelligence and machine learning through the increased availability and use of machine-readable data
- Consultation closed 15 January 2021 – Legislative proposal Q3 2021

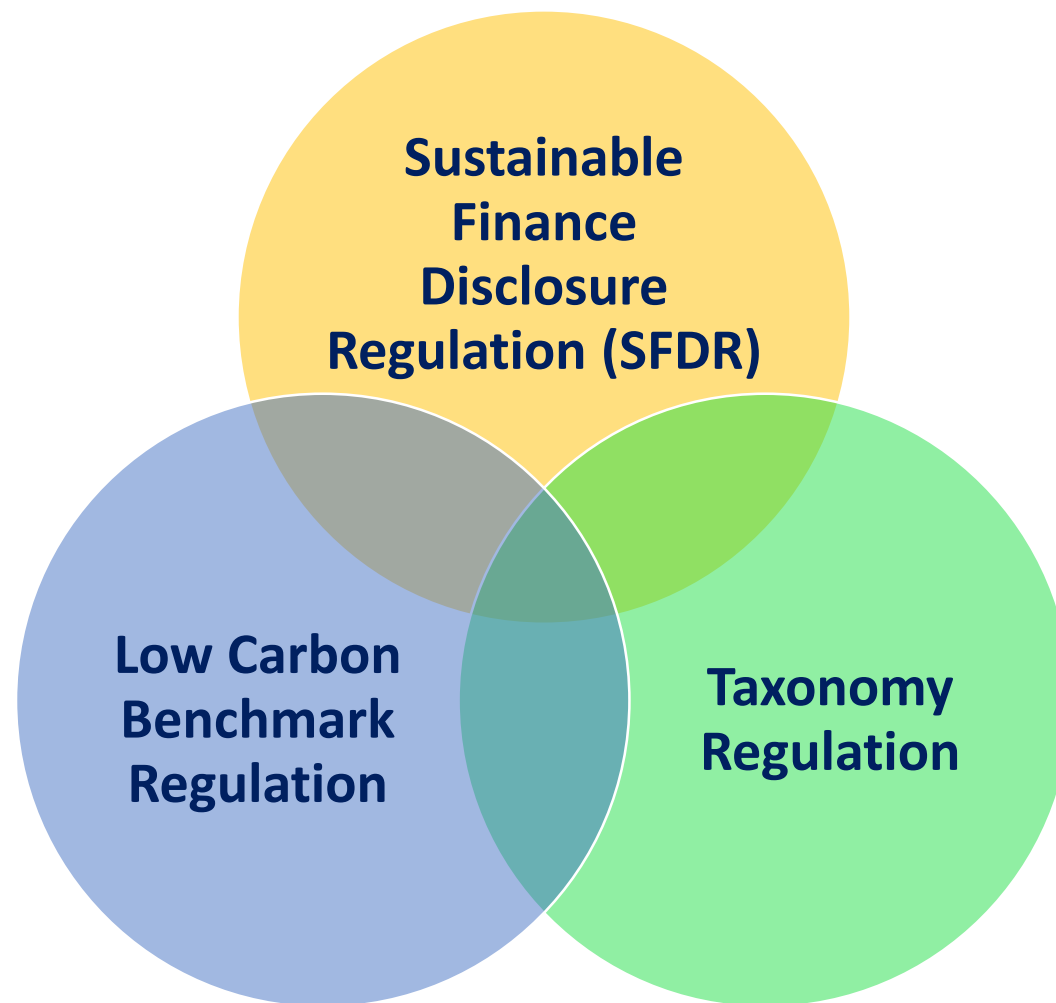


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## Corporate Disclosures - Upcoming Changes – Sustainable Corporate Governance

- Consultation on Sustainable Corporate Governance (26 October 2020) (proposal expected shortly)
  - Clarifying directors duties
    - Should directors be required to identify relevant stakeholders and implement procedures to address adverse environmental, human rights and social impacts on stakeholders?
  - Strengthening enforcement of directors' duty to act in company's long-term interests
  - Aligning directors' remuneration with a long-term approach
    - including compulsory sustainability metrics for remuneration and requiring the inclusion of carbon emission reductions in the factors affecting variable remuneration
  - Mandatory requirements for companies to carry out due diligence throughout the supply chain
  - Enhancing sustainability expertise on the board

## FMPs/FAs Disclosures – Overview



# The SFDR

## Seeks to ensure that FMPs and FAs

- Systematically consider and integrate sustainability risks and consider adverse sustainability impacts in their processes; and
- Provide investors with sustainability-related information on financial products

# SFDR – FMPs and FAs

## FMPs

*Insurance undertaking which makes available an insurance-based investment product (IBIP)*

*Investment firm which provides portfolio management*

*Institution for occupational retirement provision (IORP)*

*Manufacturer of a pension product*

*AIFM/UCITS Management Company*

*PEPP provider*

*Credit institution which provides portfolio management*

## FAs

*Insurance intermediary/undertaking which provides insurance advice with regard to IBIPs*

*Credit institution which provides investment advice*

*Investment firm which provides investment advice*

*AIFM/UCITS Management Company which provides investment advice*



# SFDR: Sustainability Disclosures

- The integration of **sustainability risks** in their investment decisions
  - “Sustainability risk” means an ESG event or condition that, if it occurs, could cause an actual or a potential material negative impact on the value of the investment
- The principal adverse impacts of investment decisions on **sustainability factors**;
  - Sustainability factors” mean environmental, social and employee matters, respect for human rights, anticorruption and anti-bribery matters

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# SFDR Types of Disclosures

- Where
  - Website Disclosures
  - Disclosures in Pre-contractual Documentation
  - Periodic Disclosures
- What
  - Entity level disclosures
  - Product level disclosures
    - Light green products
    - Dark green products

# SFDR – Financial Products



# SFDR – Time Line

10 March 2021 – website and pre-contractual disclosures

30 June 2021 – due diligence policies of principal adverse impacts of investment decisions on sustainability factors – (500 employees)

30 December 2022 – principal adverse impact at product level

1 January 2022 – disclosures in periodic reports/RTS?



Taxonomy Regulation contains additional disclosure obligations for FMP/FAs regarding SFDR financial products



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# The Low Carbon Benchmark Regulation

- Introduces two new benchmark classifications—
  - EU Climate Transition Benchmark (CTB)
  - Paris-Aligned Benchmark (PAB)
- Administrators of CTM/PAB must publish methodology used to calculate benchmarks
- Certain benchmark administrators must publish information on alignment with target of reducing carbon emissions/Paris Agreement objectives
- Most Benchmark Administrators must make certain ESG related disclosures in benchmark statement
- Providers of significant benchmarks must endeavour to provide a CTB/PAB

# Legislative Proposals

AIFMD: draft delegated regulation, to amend the AIFMD Delegated Regulation 231/2013

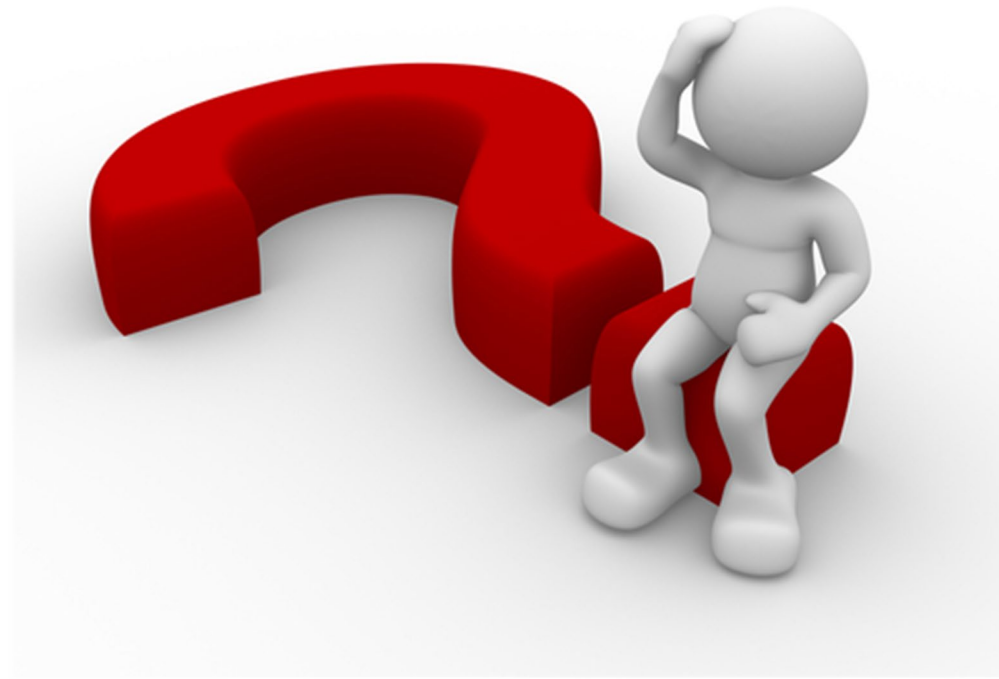
UCITS: draft delegated directive, to amend the UCITS Commission Directive 2010/43

MiFID2: draft delegated regulation, to amend the MiFID Commission Delegated Regulation 2017/565

MiFID2: draft delegated directive, to amend the MiFID Commission Delegated Directive 2017/593

# Industry Initiatives and Practice

- How to finance sustainably?
- Greenwashing
- Green-vs-green?



# (Some) Industry Initiatives

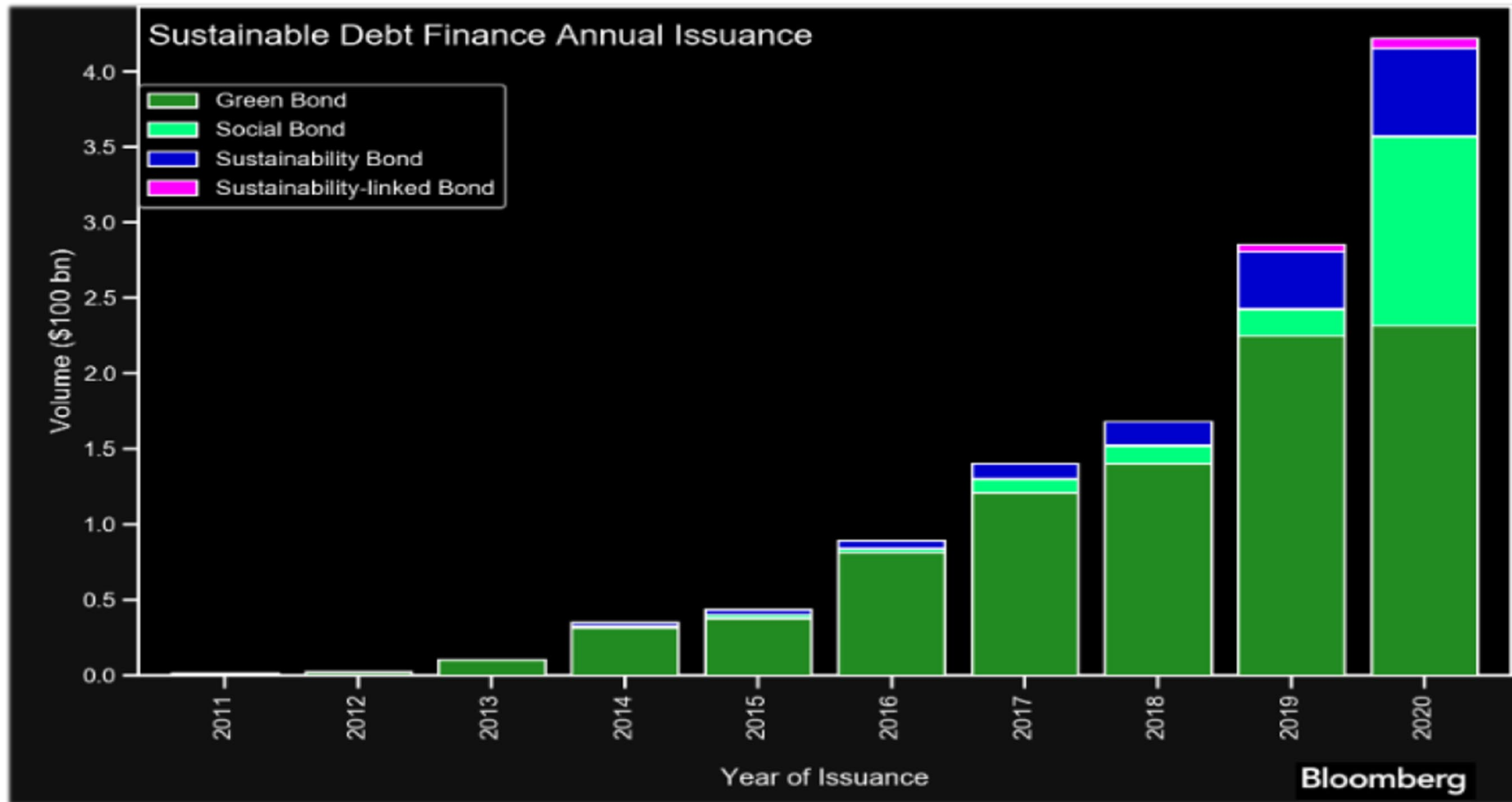


- Equator Principles (2003)
- ICMA Bond Principles (2018)
- LMA/APLMA/LSTA Loan Principles (2018)
- UNEP FI Responsible Banking Principles (2019)
- Task Force on Climate related Financial Disclosures (2015)
- Task Force on Nature related Financial Disclosures (2020)
- AFME roadmap 'Governance, conduct and compliance in the transition to sustainable finance' (2020)





# Bond Markets



# Bond Markets (ICMA)

## Green Bond Principles (GBP)



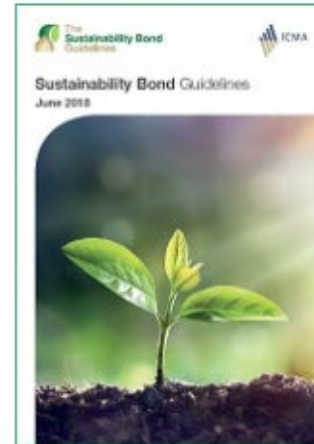
[View on webpage](#)  
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## Social Bond Principles (SBP)



[View on webpage](#)  
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## Sustainability Bond Guidelines (SBG)



[View on webpage](#)  
[Download](#)

## Sustainability-Linked Bond Principles (SLBP)



[View on webpage](#)  
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# Bond Markets (ICMA)

## Green Bond Principles

- *Use of Proceeds*
- Process for Project Evaluation and Selection
- Management of Proceeds
- Reporting
- (External Reviews)

# Bond Markets (ICMA)

## Sustainability-linked Bond Principles

- Selection of Key Performance Indicators (KPIs)
- Calibration of Sustainability Performance Targets (SPTs)
- Bond characteristics
- Reporting
- Verification

# EU Institutions and ICMA Principles



“The EUR 17 billion social bond issuance is the very first social bond issued by the European Commission...Earlier this month, the European Commission established a Social Bond Framework aligned with the **International Capital Market Association's Social Bond Principles.**”

“... the EU expects to use guidelines from the **International Capital Markets Association**...when sales begin next year, said a senior European Commission official, who asked not to be identified because the information isn't public”.

Source: Bloomberg on 6 Nov 2020



EUROPEAN CENTRAL BANK

The European Central Bank (ECB) has decided that bonds with coupon structures linked to certain sustainability performance targets will become eligible as collateral for Eurosystem credit operations and also for Eurosystem outright purchases for monetary policy purposes, provided they comply with all other eligibility criteria.

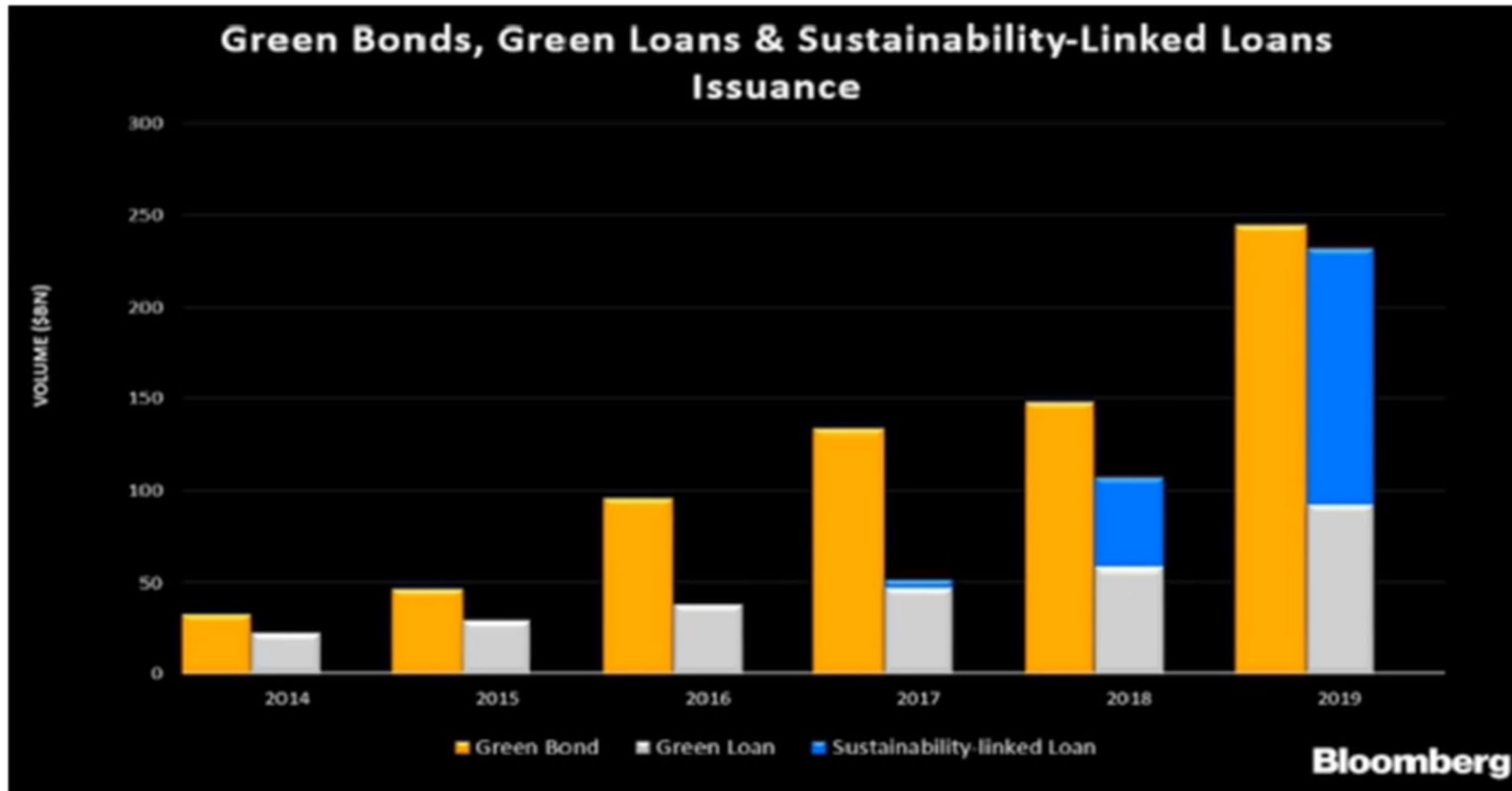


European Stability Mechanism

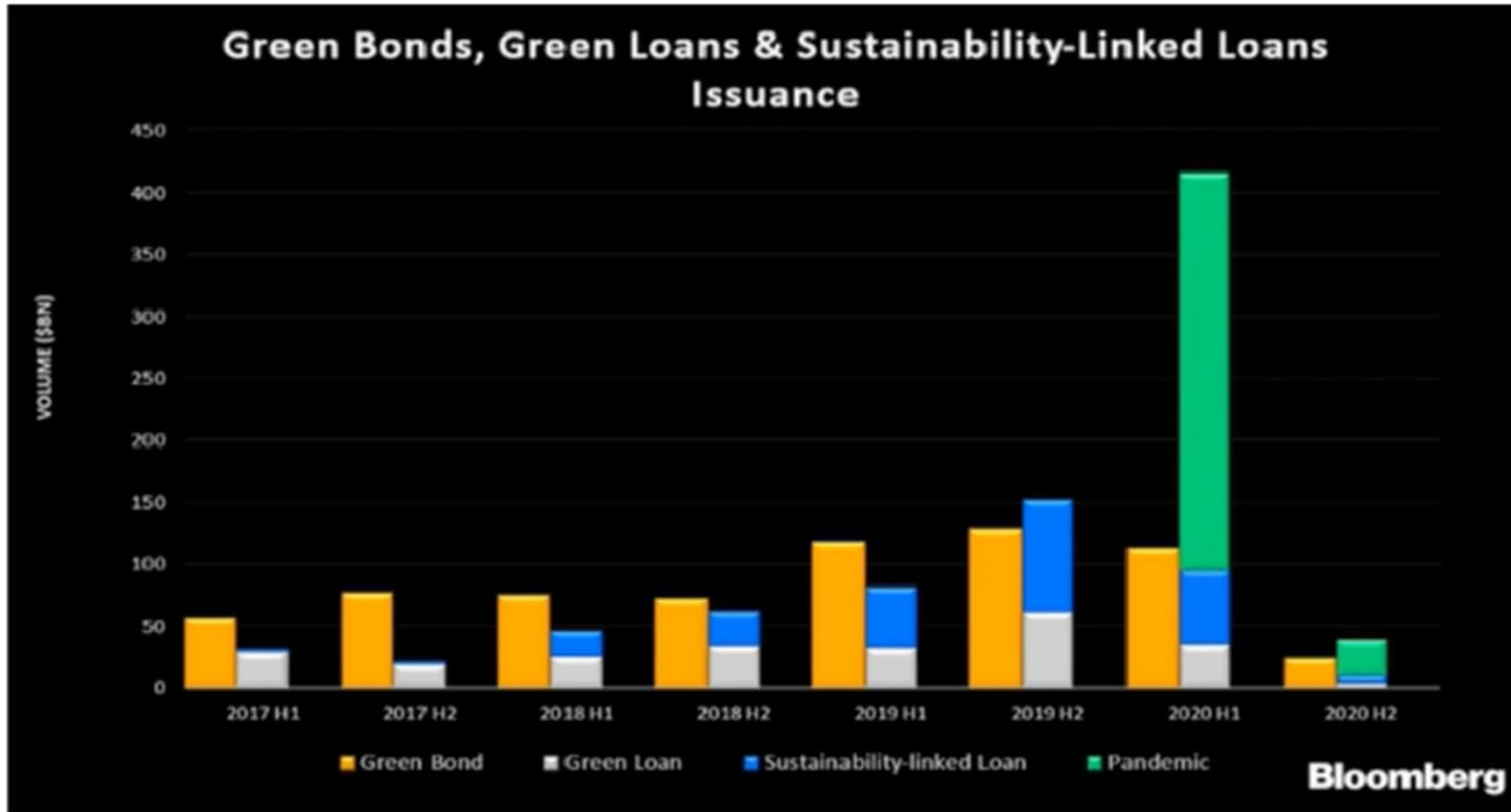
“...The ESM developed a Social Bond Framework built around the four core components of the **ICMA Social Bond Principles**...With this approach, the ESM strives to make full use of Social Bonds as an innovative debt instrument allowing the investor community to allocate their funds to the social needs of euro area member states hit by the pandemic crisis”.

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# Loan Markets



# Loan Markets



# Loan Principles (LMA, LSTA, APLMA)

## Green Loan Principles

- Use of proceeds
- Process for Project Evaluation and Selection
- Management of Proceeds
- Reporting

## Sustainability-linked Loan Principles

- Target Setting and Measuring
- Relationship to Borrower's overall Sustainability Strategy
- Reporting
- Review



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# Green / SLLP Loan Agreements - Drafting

- No *pro forma* approach
- Some considerations:
  - Purpose / use of proceeds provisions
  - Information undertakings
  - Rep accuracy of information
  - “Green” / “Sustainability” breach
  - Margin ratchet?
  - Event of default?

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# Thank you!



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## Questions?



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