# MiFID Suitability Assessment Changes

The IA has proposed the following wording to the European Commission team that is drafting the delegated act on changes to the MiFID Suitability Assessment to take account of clients’ ESG pretences.

Proposed Drafting

Article 1

Delegated Regulation (EU) 2017/565 is amended as follows:

1. In Article 2, the following points are added:

(7) ‘ESG preferences means a client’s or potential client’s choice as to whether and which sustainable investments or financial products promoting environmental or social characteristics should be integrated into his or her investment strategy;

(8) ‘ESG considerations’ means any factor associated with sustainable investments, or financial products promoting environmental or social characteristics, or a combination of those factors;

(9) ‘sustainable investments’ mean an investment as defined in Article 2 (o) of Regulation XXX of the European Parliament and of the Council [the Disclosure Regulation];

(10) ‘financial products promoting environmental or social characteristics’ means financial products referred to in paragraph 1 of Article 4a of Regulation XXX of the European Parliament and of the Council [the Disclosure Regulation].

Rationale:

There are many approaches that financial products can take to be presented on the basis of having environmental or social characteristics. One such approach includes engagement with companies on the basis of a particular environmental or social issue.

Whilst investment firms engaging with companies purely on the basis of ESG issues that are deemed to be material to the long term prosperity of the company is consistent with the approaches captured in Articles 3 and 4 of the Disclosure Regulation, where firms engage with companies on the basis of particular environmental or social issues, this should be captured under “financial products promoting environmental or social characteristics” (Article 4a). For example, a gender diversity fund should engage on issues that are material to the long term prosperity of its portfolio holdings (in accordance with Article 3 and 4), however, it would also engage specifically on diversity issues over and above this (demonstrating it accordance with the kinds of products described in Article 4a).

To ensure such approaches are captured within “ESG preferences”, the RTS that will be written to accompany Article 4a must permit investment approaches (“financial products”) that use engagement on specific environmental or social issues.