

# JEDI Legal Regulation: The European Union

## Legislation or Policy

### EU Article 8

Prohibits the processing of personal data in relation to certain special categories, including data concerning ethnic origin, mainly to prevent discrimination. There are exceptions to this rule that vary in different markets; for example, if a person has given their consent or the data is aggregated.

### Draft Report on Social Taxonomy

In July 2021, the European Commission & the EU Platform on Sustainable Finance published a draft report on extending environmental objectives and considering social taxonomy. The suggested structure of a social taxonomy is both vertical and horizontal. The vertical dimension focuses on products and services for basic human needs and basic infrastructure. The horizontal dimension takes into account impacts on different groups of stakeholders affected by economic activities (workers, consumers and communities).

### EU Green Finance Package, which includes Sustainable Finance Disclosure Regulation 2019/2088 (SFDR)

This seeks to standardise disclosure requirements on how financial market participants (FMPs) and/or financial advisors integrate environmental, social and governance (ESG) factors in their investment decision-making and risk processes.

### Racial Equality Directive (RED)

The RED, adopted in 2000, prohibits discrimination based on racial and ethnic origin in the fields of employment, social protection, including social security and healthcare; social advantages, education and access to and supply of goods available to the public including housing.

## Investor Implications

- Article 8 has prevented the collection of data on ethnic origin, which is only available through proxies such as migration status and language proficiency. This [has been pointed](#) to by many as the culprit for hamstringing anti-discrimination measures.
- According to the Institute for European Environmental Policy, this new taxonomy would create a common language between issuers, investors and policymakers in private finance. By applying reporting requirements to screening criteria, it would encourage transparency and clarity on the sustainability of investments.
- The SFDR rules would imply that:
  - i) broadly firms disclose certain info publicly, provide ESG-related pre-contractual disclosures to investors, FMPs and financial advisers that are required to comply with Article 4 (or that elect to do so), and must consider the principle adverse sustainability impacts (PASI) of their investment decisions on sustainability factors. Also, they need to outline how sustainability risks are integrated into the investment process/policies on investment decision making (Article 3) and how the integration is consistent with remuneration policies (Article 5).

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### European Central Bank (ECB) Consultations

On 15 June 2021, the European Central Bank (ECB) launched a [consultation](#) on revisions to its [guide to fit and proper assessments](#) and a [fit and proper questionnaire](#) for members of the management bodies of significant credit institutions under the Single Supervisory Mechanism (SSM).

## Investor Implications

- The ECB consultations and ensuing regulations are trying to “raise the bar, increase transparency and improve the quality and efficiency of fit and proper assessments and processes”. They also introduce supervisory expectations on climate-related and environmental risks and explain the ECB’s approach to diversity (the ECB has published a [blog post](#) on why it is seeking greater diversity in banks).



### Focus: Germany

German law promotes diversity and inclusion by protecting certain categories against discrimination. According to [Article 3 of the German Constitution](#), no person shall be favoured or disfavoured because of sex, parentage, race, language, homeland and origin, faith, religious or political opinions or disability.

[German Remuneration Transparency Act](#) (Entgelttransparenzgesetz) promotes equal pay for women and men for the same work or work of equal value. According to the Remuneration Transparency Act, each employee is entitled to gain information by the employer in order to verify compliance with the equal pay principle. It has had [mixed results](#).