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| 23 April 2020 |

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| Response form for the Joint Consultation Paper concerning ESG disclosures |
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| Date: 23 April 2020  ESMA 34-45-904 |

Responding to this paper

The European Supervisory Authorities (ESAs) invite comments on all matters in this consultation paper on ESG disclosures under Regulation (EU) 2019/2088 on sustainability-related disclosures in the financial sector (hereinafter “SFDR”) and in particular on the specific questions summarised in Section 3 of the consultation paper under “Questions to stakeholders”.

Comments are most helpful if they:

1. contain a clear rationale; and
2. describe any alternatives the ESAs should consider.

When describing alternative approaches the ESAs encourage stakeholders to consider how the approach would achieve the aims of SFDR.

Instructions

In order to facilitate analysis of responses to the Consultation Paper, respondents are requested to follow the below steps when preparing and submitting their response:

1. Insert your responses to the questions in the Consultation Paper in the present response form.
2. Please do not remove tags of the type <ESA\_QUESTION\_ESG\_1>. Your response to each question has to be framed by the two tags corresponding to the question.
3. If you do not wish to respond to a given question, please do not delete it but simply leave the text “TYPE YOUR TEXT HERE” between the tags.
4. When you have drafted your response, name your response form according to the following convention: ESA\_ESG\_nameofrespondent\_RESPONSEFORM. For example, for a respondent named ABCD, the response form would be entitled ESA\_ESG\_ABCD\_RESPONSEFORM.
5. The consultation paper is available on the websites of the three ESAs and the Joint Committee. Comments on this consultation paper can be sent using the response form, via the [ESMA website](https://www.esma.europa.eu/press-news/consultations) under the heading ‘Your input - Consultations’ by 1 September 2020.
6. Contributions not provided in the template for comments, or after the deadline will not be processed.

Publication of responses

All contributions received will be published following the close of the consultation, unless you request otherwise in the respective field in the template for comments. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure. A confidential response may be requested from us in accordance with ESAs rules on public access to documents. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by ESAs Board of Appeal and the European Ombudsman.

Data protection

The protection of individuals with regard to the processing of personal data by the ESAs is based on Regulation (EU) 2018/1725[[1]](#footnote-2). Further information on data protection can be found under the [Legal notice](http://www.eba.europa.eu/legal-notice) section of the EBA website and under the [Legal notice](https://eiopa.europa.eu/Pages/Links/Legal-notice.aspx) section of the EIOPA website and under the [Legal notice](https://www.esma.europa.eu/legal-notice) section of the ESMA website.

# General information about respondent

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| --- | --- |
| Name of the company / organisation | Assuralia |
| Activity | Insurance and Pension |
| Are you representing an association? |  |
| Country/Region | Belgium |

# Introduction

Please make your introductory comments below, if any:

<ESA\_COMMENT\_ESG\_1>

Belgian insurance companies actively support the European Green Deal and Europe’s objective to promote investments into sustainable projects and activities. Assuralia supports the efforts of European co-legislators towards financing a more sustainable economy and welcomes the recent regulation on disclosures relating to sustainable investments and sustainability risks.

Assuralia welcomes increased transparency in sustainable investments and sustainability risks, provided disclosures are balanced and help consumers make informed financial decisions aligned with their objectives.

However, expertise work on sustainable finance challenges is often highly technical and requires time and expertise to master. Therefore, key regulatory changes should be properly assessed to avoid undesired negative consequences of well-intentioned measures. In order to be fully compliant with the disclosures regulation, we need more time to understand and implement it. We need more clarity and strong definitions of the core element of the green transition, such the DNSH principle. We need to secure a level playing field and a real shared vision of what the green future has to be.

The March 2021 timing of the entry into force of the SFDR seems to be particularly ambitious, taking into account the availability of data and the time required for Belgian insurers and regulators to update and approve all documents and websites

Moreover, the data availability is a well-known problem, especially in the early stages, when companies and data providers are not yet able to provide sufficiently detailed and standardized ESG information to financial market participants. This lack of data can seriously hinder the calculation, usefulness and comparability of the figures. Indicators that cannot be calculated consistently and are not based on common methodologies will not provide an accurate picture and may, in some cases, be misleading.

The Belgian insurance sector firmly supports a step by step approach because the key to a successful green transition is to keep the measures comprehensible for all stakeholders. For the economy and society to properly act, a clear long-term pathway towards a green economy should be clearly identifiable and quantifiable. This also holds true for insurance companies which need to be able to properly assess the risks and return of investments and insurance cover provided to support the transition to a green economy. We should avoid creating an overload of information that won’t be useful for customers. Starting with a short list of qualitative, comparable and comprehensible E, S and G indicators could benefit the SFDR’s objective more than a very long list of indicators, for which quality cannot always be proved.

These principles should be reflected in the sustainable finance regulation’s agenda and implementation timeline. More broadly, it is essential to ensure that there is consistency across related policy developments, including the EU taxonomy, the Non-Financial Reporting Directive (NFRD) review, and amendments to the Solvency II and Insurance Distribution Directive (IDD) delegated acts with respect to sustainability preferences.

Assuralia also wanted to share the following remarks, as presented by our European federation, Insurance Europe:

With respect to entity- level disclosures, we have the following remarks:

Clarity of definitions: The ESAs should elaborate on the concept of adverse impact before proposing mandatory indicators. The proposed approach focuses on the actions of underlying investee companies rather than the actions of the financial market participants. To ensure a technically feasible approach, the ESAs should test proposed requirements on existing financial portfolios and products before finalising the RTS. Materiality: As not all investments are relevant with regard to adverse impacts, principal adverse impact (PAI) disclosures should better consider materiality based on severity and likelihood of the impacts, which is strongly dependent on entity-specific portfolios. The assumption that the proposed 32 mandatory indicators always lead to PAI is unjustified and represents a substantial burden, without justified benefits for information users.

Scope: In view of the broad diversification and wide range of asset classes within an insurer's portfolio, it is necessary to clarify which asset classes should be considered to identify and report on the PAI and how. Information and data: All disclosures should be technically feasible and adequately consider existing issues with ESG data quality and availability. To avoid that market participants are pressured to disclose information and indicators not sufficiently reliable, reasonable efforts should be sufficient. ESAs should consider a phased-in approach until the necessary ESG data is made available at the level of investee companies (as part of their NFRD reporting obligations) in a comparable, reliable and public format, possibly via a centralised EU data register.

Proportionality: The development of the RTS needs to consider insurers’ different size, nature and scale of their activities. Requirements should also differentiate between financial market participants and financial advisers. Administrative burden for financial players and disadvantages to investors need to be fully assessed to ensure requirements are proportional and feasible.

Overload and comprehensibility of information: Disclosures are beneficial for users of information provided they do not result in information overload and are comprehensible. The RTS heavily rely on the end investors’ capacity to process the information. Users of information already face a large number of disclosures, not only related to investments. Therefore, disclosures should remain balanced and need-based.

Timing: The ESAs should assess and report to the co-legislators on the implementation challenges and related timing implications in their proposal, eg the Regulation is very likely to become applicable before the related, final Level 2 measures are even adopted.

With respect to product-level disclosures, the industry has the following remarks:

Mandatory Templates: There is a risk that the RTS become too prescriptive and result in overly complex consumer information. The use of mandatory pre-contractual and periodic templates in particular should be avoided to allow for a degree of flexibility in implementation at national level and across various product types. The RTS should focus only on what information needs to be disclosed rather than being too prescriptive on the form of these disclosures in order to avoid a repeat of the problems we are seeing now with PRIIPs.

Definition of sustainability-related products: The distinction between “sustainable investment products” and “products that promote environmental or social characteristics” needs to be clarified. More guidance in the RTS is needed to determine when a product will qualify for either product category and to facilitate compliance by insurers. In the absence of a clear distinction, it is difficult to assess which information is necessary to well capture and distinguish the features of the two categories.

Multi-option products (MOPs): The insurance industry has some concerns regarding the lack of clarity of the application of these rules to MOPs. It should be clarified that where a MOP qualifies under Article 8 or 9 of the Regulation, Articles 14-21 and 23-31 of the RTS do not apply, and MOPs manufacturers would only need to comply with Article 22 and 32 of the RTS. It would also be helpful for the RTS to explicitly state that this means no information on the product wrapper would need to be disclosed.

<ESA\_COMMENT\_ESG\_1>

* : Do you agree with the approach proposed in Chapter II and Annex I – where the indicators in Table 1 always lead to principal adverse impacts irrespective of the value of the metrics, requiring consistent disclosure, and the indicators in Table 2 and 3 are subject to an “opt-in” regime for disclosure??

<ESA\_QUESTION\_ESG\_1>

* The issue of ESG data availability cannot be ignored. The KPIs can become mandatory only when it is demonstrated that the related data from investee companies is readily available.
* The number of indicators must be limited. The most relevant and reliable ones must be kept. Assuralia would suggest organizing a client study (at European level) on the understanding and usefulness of each indicator to only keep the most relevant ones for the final client.
* the approach taken in the draft RTS and in the proposed level of standardisation is premature and requires a detail of disclosures that is not consistent with current working methods nor available market information

<ESA\_QUESTION\_ESG\_1>

* : Does the approach laid out in Chapter II and Annex I, take sufficiently into account the size, nature, and scale of financial market participants activities and the type of products they make available?

<ESA\_QUESTION\_ESG\_2>

- the development of the RTS does not sufficiently consider insurers’ different size, nature and scale of activities, not it does take into account the required proportionality approach prescribed in Level 1. <ESA\_QUESTION\_ESG\_2>

* : If you do not agree with the approach in Chapter II and Annex I, is there another way to ensure sufficiently comparable disclosure against key indicators?

<ESA\_QUESTION\_ESG\_3>

* For financial market participants to disclose detailed PAI indicators, ESG data necessary for compliance with the SFDR should be publicly available by investee companies that are required to report under the renewed NFRD. This would be a proportional and efficient solution to achieve efficient and comparable disclosures.
* The purchase of ESG data from rating agencies and active data collection by financial market participants are inefficient given the nature of financial market participant investments and do not address the issue of availability and comparability of ESG data.
* It is key that proposed disclosures do not become a de facto requirement forcing market participants to rely on third party providers of ESG data and research to obtain necessary ESG data.
* Required information should be available in a standardised and electronic format supplied by the investee companies to a central, publicly accessible, free of charge EU data register.
* It is necessary to clarify what is expected for the Explanation column at the product level

<ESA\_QUESTION\_ESG\_3>

* : Do you have any views on the reporting template provided in Table 1 of Annex I?

<ESA\_QUESTION\_ESG\_4>

* The adverse impacts as defined in Table 1 should remain voluntary for a transitional period, until non-financial reporting standards are sufficiently defined (in view of the review of the NFRD) to allow financial market participants to have access to ESG data necessary for compliance with the RTS.
* The adverse impact as mentioned should be clearly defined in order to remain comparable for the client

<ESA\_QUESTION\_ESG\_4>

* : Do you agree with the indicators? Would you recommend any other indicators? Do you see merit in including forward-looking indicators such as emission reduction pathways, or scope 4 emissions (saving other companies´ GHG emissions)?

<ESA\_QUESTION\_ESG\_5>

* While the sector agrees on the importance of transparency, the concept of adverse impact is risk-based and does not correspond to a sustainability assessment.
* The Regulation and ongoing policy developments do not appear to imply such characterisation and they distinguish adverse impacts, sustainability risks and the degree of sustainability assessment.
* Certain key areas of adverse impacts, notwithstanding their importance, should not be necessarily classified as “principal” without prior assessment
* Pending a clarification of the meaning of adverse impacts in different areas, it is not completely clear under which assumptions some of the proposed indicators capture *adverse* impacts.
* As indicated in the answer to question 1, the list of indicators in Table 1 is too extensive and too detailed. This is in contradiction with the Level 1 Regulation which is asking a disclosure of “principal” adverse impact

<ESA\_QUESTION\_ESG\_5>

* : In addition to the proposed indicators on carbon emissions in Annex I, do you see merit in also requesting a) a relative measure of carbon emissions relative to the EU 2030 climate and energy framework target and b) a relative measure of carbon emissions relative to the prevailing carbon price?

<ESA\_QUESTION\_ESG\_6>

* Producing and disclosing proposed indicators is challenging without non-financial reporting standards in place.
* It should be further investigated in the context of the NFRD review, the empowerments under Articles 8 and 25 of the draft taxonomy Regulation.

<ESA\_QUESTION\_ESG\_6>

* : The ESAs saw merit in requiring measurement of both (1) the share of the investments in companies without a particular issue required by the indicator and (2) the share of all companies in the investments without that issue. Do you have any feedback on this proposal?

<ESA\_QUESTION\_ESG\_7>

* For the moment, the insurers do not have such data and will not be able to disclose this information
* Most of the suggested indicators have to be reported on (1) the share of the investments and (2) the share of all companies in the investments. The second category is not meaningful and increase the information, already complex and numerous, provided to customers.
* Better to report each indicator only based on the first category (based on the value of the investments and not on the number of companies). While it may make sense to measure the share of investments in companies without a particular issue, the industry insists that the proposed indicators should be used as guidance and remain subject to an opt-in regime.
* When calculating the share of investments, it must be clear what this indicator is aiming at measuring. Insurers usually have a very diversified investment portfolio including all sorts of assets (government bonds, unlisted equity, bonds, loans, infrastructure, etc). This makes the calculations less straightforward compared to an equity portfolio of listed companies (see response to question 1).
* Non-financial reporting standards are key to be able to precisely measure such share of investments, especially considering the different types of investment instruments used in financial markets.
* We support the idea that a finalised taxonomy and available ESG data at the level of investee companies would be necessary for a consistent and robust assessment.

<ESA\_QUESTION\_ESG\_7>

* : **Would you see merit in including more advanced indicators or metrics to allow financial market participants to capture activities by investee companies to reduce GHG emissions? If yes, how would such advanced metrics capture adverse impacts?**

<ESA\_QUESTION\_ESG\_8>

* A finalised taxonomy and available ESG data at the level of investee companies would be necessary for a consistent and robust assessment of activities by investee companies to reduce GHG emissions.
* Regulatory requirements related to such classification should therefore remain voluntary until all aspects of the taxonomy are sufficiently developed, especially those related on enabling and transitional activities.
* This will ensure that financial market participants deliver a realistic picture and avoid penalising unfairly some economic activities.
* It has to be proportionate and easy to understand for the consumer.
* Such information can be reported on a qualitative manner, and would be more relevant for ESG Characteristics or Sustainable products. As qualitative indicators cannot be aggregated, it is important that those indicators will only be included in the summary of the sustainable / ESG characteristics products

<ESA\_QUESTION\_ESG\_8>

* : Do you agree with the goal of trying to deliver indicators for social and employee matters, respect for human rights, anti-corruption and anti-bribery matters at the same time as the environmental indicators?

<ESA\_QUESTION\_ESG\_9>

* In addition, we should take into consideration indicators that are truly principal, based on a materiality assessment run by the financial market participant.
* The ESAs should to evaluate and prioritise the qualitative aspects of those indicators.
* it would be helpful to first focus efforts on how to better collect theses KPI

<ESA\_QUESTION\_ESG\_9>

* : Do you agree with the proposal that financial market participants should provide a historical comparison of principal adverse impact disclosures up to ten years? If not, what timespan would you suggest?

<ESA\_QUESTION\_ESG\_10>

* The insurers currently do not have the indicators to do so
* A period of up to ten years is too long for a historical comparison. A considerably shorter period would be better suited for data stability and it would be less burdensome for financial market participants.
* The duration of the historical comparison considers a **5-year horizon**. This will help comparison in terms of data stability. In addition, this will make the requirement less burdensome in terms of records of information, without affecting the quality of information provided to information users.
* Given the evolution of methodologies and indicators, there should be an exemption for the 5-year period of historical comparison when methodologies to obtain the indicators has changed and data is not comparable anymore (eg change of data providers).

<ESA\_QUESTION\_ESG\_10>

* : Are there any ways to discourage potential “window dressing” techniques in the principal adverse impact reporting? Should the ESAs consider harmonising the methodology and timing of reporting across the reference period, e.g. on what dates the composition of investments must be taken into account? If not, what alternative would you suggest to curtail window dressing techniques?

<ESA\_QUESTION\_ESG\_11>

- Non-financial reporting standards will be key for reliable disclosures

-More granular requirements and harmonisation of methodologies will be a suitable solution to these issues. While guidance on disclosures is useful, financial market players should retain sufficient flexibility in implementation of the Regulation and be able to adopt the methodologies most suited to their specificities and risk profiles.

-In addition, it is key to note that there should be a separation of financial reporting requirements and ESG reporting to avoid operational overload and allow flexibility in terms of internal processes and reporting timetables. Finally, more frequent reporting from financial market participants should be optional*.* <ESA\_QUESTION\_ESG\_11>

* : Do you agree with the approach to have mandatory (1) pre-contractual and (2) periodic templates for financial products?

<ESA\_QUESTION\_ESG\_12>

* This level of prescriptiveness is unprecedented and inappropriate for interim and periodic reports.
* The SFDR requires that disclosures of information for insurance products are done according to Article 185(2) of the Solvency II Directive and Article 29(1) of IDD. These disclosures allow for a degree of flexibility and are mostly detailed at national level.
* Inflexible requirements under SFDR are not compatible with the general rules of IDD or Solvency II and should not be introduced through these RTS. The following would, for example, be more appropriate for customer disclosures:
* National disclosure format resulting from Solvency II and the minimum harmonisation approach taken in IDD.
* Link to the available information in the PRIIPs KID “Other information” section – note that the KID “What is the product?” section already provides for the possibility to indicate whether a product has sustainability objectives.
* Accordingly, no new specific pre-contractual information template should be introduced, unless its use is optional. Insurers could add those information’s on existing documents, in order to avoid information overload and to many paper information’s.
* In addition, we encourage the ESAs to better consider consumer benefits of proposed disclosures. Financial illiteracy, complexity and information overload are three well-known obstacles for good consumer disclosure. Consequently, it is very important that the ESAs take due account about the needs and limitations of consumers. The insurance sector therefore encourages the ESAs to carry out consumer tests to collect insights about the needs of consumers before finalizing its proposal.

<ESA\_QUESTION\_ESG\_12>

* : If the ESAs develop such pre-contractual and periodic templates, what elements should the ESAs include and how should they be formatted?

<ESA\_QUESTION\_ESG\_13>

* Mandatory templates should not be introduced for SFDR disclosures. In case optional templates are developed, they should include the minimum data fields to be included, the order in which information should appear, and potentially key definition. This would ensure a degree of comparability between products while respecting the minimum harmonisation principle of IDD and respecting national specificities in IDD implementation.
* It is also crucial that any templates provided is digital friendly and do not follow the restrictive approach used in PRIIPs. A degree of flexibility allows financial market participants to tailor disclosed information to the type of product offered. This would allow manufacturers to provide appropriate information to customers and adapt information to be suited to the full range of products in scope.
* In this respect, the use of references and links to pre-existing and available information, if already reported elsewhere, is welcome and should be encouraged.

<ESA\_QUESTION\_ESG\_13>

* : If you do not agree with harmonised reporting templates for financial products, please suggest what other approach you would propose that would ensure comparability between products.

<ESA\_QUESTION\_ESG\_14>

* Rather than producing templates, the RTS should specify only what information needs to be disclosed without specifying the format of these disclosures
* The insurers would therefore favour a form of a guidance rather than a binding obligation, allowing for flexibility with no constraints of languages or number of pages. It is of utmost importance to keep information for consumers simple, understandable and comparable

<ESA\_QUESTION\_ESG\_14>

* : Do you agree with the balance of information between pre-contractual and website information requirements? Apart from the items listed under Questions 25 and 26, is there anything you would add or subtract from these proposals?

<ESA\_QUESTION\_ESG\_15>

* We support the effort to keep the pre-contractual information as short and concise as this is possible against the background of the level 1 text. It is an undisputed fact that the provision of too much information makes it less likely that the customer will take note of the information at all. This holds true for information provided on a durable medium as well as on websites. Excessively detailed information requirements should therefore be avoided.
* While it is needed to provide the client in the precontractual information the following required minimum information there should be a certain focus on not providing an extensive amount of information which could possibly lead to less comprehensibility.

(a) the manner in which sustainability risks are integrated into their investment decisions; and

(b) the results of the assessment of the likely impacts of sustainability risks on the returns of the financial products they make available.

🡪 Where financial market participants deem sustainability risks not to be relevant, the descriptions referred to in the first subparagraph shall include a clear and concise explanation of the reasons therefor.

* This said, complex information is generally more accessible on a website, where technical features (such as layers and menus) make it easier to navigate. In order to avoid duplication of information, a single disclosure requirement should be created where possible, containing only the information that is absolutely necessary.
* The requirement to use the language of the home Member State of the financial market participant and a ‘language customary in the sphere of international finance’ should be replaced. In addition to being unclear it is also at odds with existing EU legislation and national rules requiring customer information to be provided in the language in which the product is marketed (see e. g. Article 185 (6) Solvency II, Article 23 (1) (c) IDD). Existing rules on the language in which product information is provided should be relied upon instead. Each member state has its own specificities and it should be respected in order to maintain coherence. In Belgium, we have 3 national languages.

<ESA\_QUESTION\_ESG\_15>

* : Do you think the differences between Article 8 and Article 9 products are sufficiently well captured by the proposed provisions? If not, please suggest how the disclosures could be further distinguished.

<ESA\_QUESTION\_ESG\_16>

* The distinction between “sustainable investment products” and “products that promote environmental or social characteristics” is not clear. More guidance in Level 2 is needed to determine when a product will qualify for either product category and facilitate compliance from insurers.
* Unless more guidance is given, national supervision might end up having substantially different interpretations.
* In the absence of such clear definition, it is also difficult to assess which information is necessary to well capture and distinguish the features of the two categories. While the industry understands that the RTS are subject to the definition of sustainable investments provided in Article 2(17) of the Regulation, a better qualification is needed for products that promote environmental or social characteristics

<ESA\_QUESTION\_ESG\_16>

* : Do the graphical and narrative descriptions of investment proportions capture indirect investments sufficiently?

<ESA\_QUESTION\_ESG\_17>

* The RTS are not sufficiently clear with respect to the graphical representation and to the narrative.
* We do not understand the rationale for the requirement to distinguish between direct and indirect holdings, and wonders what the added value would be for customers
* Bearing in mind the broad spectrum of derivatives, it is difficult to give a comprehensible graphical and narrative description of investment proportions including indirect investments.
* At least further guidance would be needed on how indirect investments should be considered.

<ESA\_QUESTION\_ESG\_17>

* : The draft RTS require in Article 15(2) that for Article 8 products graphical representations illustrate the proportion of investments screened against the environmental or social characteristics of the financial product. However, as characteristics can widely vary from product to product do you think using the same graphical representation for very different types of products could be misleading to end-investors? If yes, how should such graphic representation be adapted?

<ESA\_QUESTION\_ESG\_18>

* The requirement in the graphical representation to differentiate between sustainable investments and investments contributing to the attainment of the characteristics of the product is confusing and it implies that a product under Article 8 could still have environmental or social objectives. More clarity is needed.
* In addition, we observes that the same graphical representation for very different types of products will end up misleading end-investors, as it does not consider the constraints and the allocation of different products types
* Furthermore, the presentation of the same information in a graphical way, and as a narrative, leads to duplications which should be avoided in the interest of the investor.

<ESA\_QUESTION\_ESG\_18>

* : Do you agree with always disclosing exposure to solid fossil-fuel sectors? Are there other sectors that should be captured in such a way, such as nuclear energy?

<ESA\_QUESTION\_ESG\_19>

* The industry suggests that sectorial disclosures are developed in line with the taxonomy regulation and based on the classification at activity level as provided by investee companies.

<ESA\_QUESTION\_ESG\_19>

* : Do the product disclosure rules take sufficient account of the differences between products, such as multi-option products or portfolio management products?

<ESA\_QUESTION\_ESG\_20>

* We understand that a MOP qualifies under Article 8 of the Regulation where one or more of the underlying investment options promote environmental or social characteristics or have sustainable objectives.
* As such, we appreciates that only those sustainability-related options have to comply with Article 22 of the RTS. As regards the requirement under Article 22(b), it is important to clarify that merely a reference to the information provided by the underlying investment options is sufficient (and not the information itself)
* It has to be noted that disclosures that relate to the overall composition of the product are not applicable to products with a large number of underlying options.

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<ESA\_QUESTION\_ESG\_20>

* : While Article 8 SFDR suggests investee companies should have “good governance practices”, Article 2(17) SFDR includes specific details for good governance practices for sustainable investment investee companies including “sound management structures, employee relations, remuneration of staff and tax compliance”. Should the requirements in the RTS for good governance practices for Article 8 products also capture these elements, bearing in mind Article 8 products may not be undertaking sustainable investments?

<ESA\_QUESTION\_ESG\_21>

* Is it appropriate for the specific details included in Article 2(17) to be applied to Article 8 products through the RTS?
* Good governance practices are analysed in various ways by financial market participants in a manner that is appropriate to the varying nature of investee companies.
* We note that the list in Article 2(17) SFDR is not exhaustive and that the list forms only part of the broader definition of a ‘sustainable investment’. Applying only part of this definition to Article 8 products is potentially confusing.
* There is a need for clear and uniform criteria’s.

<ESA\_QUESTION\_ESG\_21>

* : What are your views on the preliminary proposals on “do not significantly harm” principle disclosures in line with the new empowerment under the taxonomy regulation, which can be found in Recital (33), Articles 16(2), 25, 34(3), 35(3), 38 and 45 in the draft RTS?

<ESA\_QUESTION\_ESG\_22>

* On one hand, the “do not significantly harm” principle of the taxonomy appears to be a narrow concept related specifically to thresholds on the sustainability assessment of economic activities while on the other hand, the adverse impact appears to be a risk-based concept related to how investment affect sustainability factors
* Nevertheless, we believe that the current drafting should clarify these concepts and provide guidance on the difference between principal adverse impact and the concept of “do not significantly harm” where alignment is not possible.
* There is a strong need for legal security.

<ESA\_QUESTION\_ESG\_22>

* : Do you see merit in the ESAs defining widely used ESG investment strategies (such as best-in-class, best-in-universe, exclusions, etc.) and giving financial market participants an opportunity to disclose the use of such strategies, where relevant? If yes, how would you define such widely used strategies?

<ESA\_QUESTION\_ESG\_23>

* We do not believe that there would be added value in defining such strategies further, as they can already be defined in pre-contractual information under investment strategies, where additional information can be referenced.

<ESA\_QUESTION\_ESG\_23>

* : Do you agree with the approach on the disclosure of financial products’ top investments in periodic disclosures as currently set out in Articles 39 and 46 of the draft RTS?

<ESA\_QUESTION\_ESG\_24>

* We note that this information is available if the delay of publication is aligned with annual reporting of funds, and that this information should often be provided by the investment firms.
* While the industry supports transparency, it notes that the chosen approach cannot be excessively burdensome, and it needs to balance adequate value for customers and burden for financial market participants.
* The ESAs should also elaborate how to disclose information about sector and location with respect to financial instruments such as equity, bonds, covered bonds, derivatives, etc.

<ESA\_QUESTION\_ESG\_24>

* : For each of the following four elements, please indicate whether you believe it is better to include the item in the pre-contractual or the website disclosures for financial products? Please explain your reasoning.

1. an indication of any commitment of a minimum reduction rate of the investments (sometimes referred to as the "investable universe") considered prior to the application of the investment strategy - in the draft RTS below it is in the pre-contractual disclosure Articles 17(b) and 26(b);
2. a short description of the policy to assess good governance practices of the investee companies - in the draft RTS below it is in pre-contractual disclosure Articles 17(c) and 26(c);
3. a description of the limitations to (1) methodologies and (2) data sources and how such limitations do not affect the attainment of any environmental or social characteristics or sustainable investment objective of the financial product - in the draft RTS below it is in the website disclosure under Article 34(1)(k) and Article 35(1)(k); and
4. a reference to whether data sources are external or internal and in what proportions - not currently reflected in the draft RTS but could complement the pre-contractual disclosures under Article 17.

<ESA\_QUESTION\_ESG\_25>

* We do not see the rationale for including the first element (a) (as detailed in Article 17(b) and 26(b)) in the disclosures. In practice, defining the investment universe is part of the investment strategy and is not something identifiable “prior to the application of the investment strategy”.
* Rather than requiring this information to be provided via a sperate ‘short description’ of the existing policies or requiring the policies to be reproduced for the purposes of the Regulation, links in the website disclosures should be sufficient.
* The policies are already readable and are intended to be used by investors and so we see no need for them to be shortened or summarised under this Regulation.
* Website seems to be a good channel to share all information’s needed, it’s also an accessible tool to everyone, existing customers and future ones.

<ESA\_QUESTION\_ESG\_25>

* : Is it better to include a separate section on information on how the use of derivatives meets each of the environmental or social characteristics or sustainable investment objectives promoted by the financial product, as in the below draft RTS under Article 19 and article 28, or would it be better to integrate this section with the graphical and narrative explanation of the investment proportions under Article 15(2) and 24(2)?

<ESA\_QUESTION\_ESG\_26>

* Not clear for us what’s the added value on a separate section on derivatives. Regarding the numerous information to disclose, a focus on derivatives is not necessary and seems excessive and complex for end-investors.
* The use of derivatives should be covered in the financial market participant’s investment and risk policy instead.
* Therefore, a separate section would be superfluous and, with regard to the insurance sector, the usage of derivatives is already covered under the prudent person principle (article 132 (4) of the Solvency II Directive dictates that the use of derivative instruments shall be possible only insofar as they contribute to a reduction of risks or facilitate efficient portfolio management).

<ESA\_QUESTION\_ESG\_26>

* : Do you have any views regarding the preliminary impact assessments? Can you provide more granular examples of costs associated with the policy options?

<ESA\_QUESTION\_ESG\_27>

* The implementation costs of such a sophisticated disclosure system are much higher than estimated in the preliminary impact assessment. References to potential implementation costs date from 2018 and therefore could not take into account the requirements of this draft RTS and the numerous indicators. This holds true for market participants, financial advisers and insurance distributors.
* The impact assessments produced by the ESAs do not give due consideration to the range of different financial market participants and financial advisers to which these requirements will apply.
* We would like to highlight that many of the costs related to compliance with SFDR are fixed and unrelated to the size of the financial market participant or adviser. This necessarily means the relative compliance cost for smaller intermediaries will be higher.

<ESA\_QUESTION\_ESG\_27>

1. Regulation (EU) 2018/1725 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC, OJ L 295, 21.11.2018, p. 39. [↑](#footnote-ref-2)