

# Response form for the Joint Consultation Paper concerning ESG disclosures



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:

- contain a clear rationale; and
- 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:

- Insert your responses to the questions in the Consultation Paper in the present response form.
- 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.
- 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.
- 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.
- 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](#) under the heading ‘Your input - Consultations’ by **1 September 2020**.
- 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<sup>1</sup>. Further information on data protection can be found under the [Legal notice](#) section of the EBA website and under the [Legal notice](#) section of the EIOPA website and under the [Legal notice](#) section of the ESMA website.

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<sup>1</sup> 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.

## General information about respondent

Name of the company / organisation	Legal & General Investment Management
Activity	Asset Management
Are you representing an association?	<input type="checkbox"/>
Country/Region	United Kingdom

### Introduction

**Please make your introductory comments below, if any:**

<ESA\_COMMENT\_ESG\_1>

Legal & General Investment Management (LGIM) is one of the largest international investors globally with over £1.19 trillion of assets under management (as at 31 December 2019). We manage assets for a wide range of global clients, including pension schemes, sovereign wealth funds, fund distributors and retail investors. As a significant investor, there is a responsibility to ensure that global markets operate efficiently and uphold the highest level of corporate governance and sustainability standards to protect the integrity of the market over the long term.

Legal & General Investment Management (LGIM) welcomes the positive direction and significant amount work that the European Commission and European Supervisory Authorities (ESA's) have put in to harmonise non-financial disclosures across the investment chain and across member states. Indeed, LGIM has been actively engaged and following the development of the European Sustainable Finance Action Plan and the new European Green Deal. We were very pleased to see the Commission take active steps to 'green' their recent COVID-10 recovery plan.

Harmonising non-financial disclosures beyond Europe is a key area for all financial market participants and one that we hope we can continue to work with the Commission to achieve. We would encourage the Commission to fully utilise the International Platform to encourage adoption of the same standards beyond the European Union, particularly in Asia. We would recommend that the membership of the Platform includes investors. As noted in our response to the review of the NFRD and revised Sustainable Finance Action Plan, the EC should seek to build-off existing international standards such as SASB, GRI, and TCFD, to ensure disclosures are consistent, comparable and verifiable.

LGIM also welcome the ESA's efforts to improve financial market participants disclosures and appreciate the opportunity to be able to comment on the proposed SFDR RTS. We would like to thank the ESA's for their consideration of our views.

We have several key concerns that we have outlined in our response in more detail, namely: 1) the Principal Adverse Impact Indicators; 2) lack of clarity on alignment, sequencing and timing issues with other EU regulations, i.e. alignment the Taxonomy disclosures which are coming later in 2021; 3) timing in relation to pre-contractual disclosures; 4) clarification on categorising Article 8 & 9 product and the potentially misleading disclaimers; 5) data availability (and alignment with NFRD review); 6) the monitoring and enforcement elements; and 7) harmonisation with other markets.

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We would also note that we have been working with the Investment Association on their Responsible Investment Framework, which helps firms articulate the various ways in which they approach responsible investment. We would encourage the ESA's to review this closely in their revision of the proposed RTS.

<ESA\_COMMENT\_ESG\_1>

**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>

We value the work that has been conducted to develop the proposed Principal Adverse Impact (PAI) indicators proposed in Table 1, 2 and 3, of Annex I. We do, however, wish to highlight to the ESA's that the proposed PAI indicators are very focused on 'impact' rather than 'risk'. The financial market participant must consider, integrate and respond to sustainability risk. Impact indicators may therefore not be truly representing the activities and focus on sustainability issues by the financial market participant. For the sake of comparability, we do not wish to miss the objective, which should be, the transparent disclosure of decision-useful information to end-investors.

We are very supportive of increasing transparency to support end-investors to make informed decisions. In their current format, the proposed indicators could present a misleading and negative view on activities of the financial sector. The presentation of such information provides the end-investor with the view that the financial market participant is the one that is causing harm, and that this information is always harmful regardless of the score, which is frankly not the case.

The scoring system used could also present a misleading picture of the activity of the financial market participants over the longer-term and may not necessarily support end-investors to make informed decision around their specific investment choices. It does not accurately capture the impact of Stewardship activities which the impact can sometimes take several years to come to fruition.

We understand that the participant may respond with a 'zero' if the indicator is not relevant, although with a good rationale why. However, the proposal is developed in a way that any PAI indicator with value of greater than zero will always results in a principal adverse impact. Also, what is unclear is the degree of due diligence required to come to the conclusion that the indicators is irrelevant, although acknowledge there will be some obvious cases.

Although the PAI statement does include some qualitative metrics, e.g. a section for 'engagement policies' & 'Description of actions to address principal adverse sustainability impacts' plus a short summary, it does not sufficiently allow for the description of Stewardship activities (as noted above). Therefore, at present, it presents a misleading picture of the positive work the financial market participant. We would strongly suggest that the ESA's consider bolstering the qualitative sections, so firms can provide an explanation on their assessment of the indicators, thus helping end-investors make informed decisions. It would support meaningful disclosures, allow firms to refer to their underlying strategies and avoid providing misleading information to end-investors.

For Table 2 & 3 of Annex I, the asset manager has must disclose at least one indicator it considers a principle adverse impact. RTS does not specify how to determine (i.e. identify and prioritise) whether an adverse impact qualifies as a “principal”.

The ESA's should consider including flexibility for products where indicators are not material or relevant. It would not be helpful to a financial market participant to have to highlight that no consideration was given to adverse impacts

There needs to be alignment between existing regulations, particularly the EU Taxonomy Regulation and the Non-Financial Reporting Directive (NFRD).

We have serious concerns of the proposed disclaimer for Article 8 funds that states “*this product does not have sustainable investment as its objective*”. End investors may read this to mean that the fund is not ‘sustainable’ in any sense. This is entirely misleading and needs to be reconsidered by the ESA’s (many Article 8 Funds do have a positive effect). Again, this disclaimer is misleading with regard to Stewardship activities.

The ESA’s may wish to consider another possible reaction to such a disclaimer is the risk of a growth in Article 8 Funds with misleading names.

The ESA’s should consider whether the proposed indicators are relevant for all asset classes, and if not, how to present such information which would not have a negative effect on the firm. Perhaps flexibility should be consider here, in sectors such as real estate.

The ESA’s should also note the difficulties in obtaining accurate data as explained in below responses. Alignment and sequencing with the review of the NFRD would be beneficial.

<ESA\_QUESTION\_ESG\_1>

- 2. : 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>

As mentioned in the response to question 1, the approach taken does not sufficiently take into account the scale of the activities of the financial market participant. In fact, it presents a misleading picture of activities and undervalues the positive work being conducted by numerous financial market participants. Again, we point to insufficient disclosure of the broad and long-term Stewardship activities by each participant.

<ESA\_QUESTION\_ESG\_2>

- 3. : 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>

The ESA’s development of a harmonise table is helpful to encourage comparable disclosures on the market. What is clear is that the data at present is not sufficient to have accurate comparability between market participants. It is therefore essential to have an aligned and robust NFRD to support comparability. At present, and as suggested, we are going to have to rely on ‘best estimates’ with little information on the methodologies for estimation. This has the potential to undermine the disclosures, and if this is the proposed route to start there needs to be a greater attention drawn to the participants estimations.

As mentioned above, there should be a greater focus on qualitative disclosures.

<ESA\_QUESTION\_ESG\_3>

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

<ESA\_QUESTION\_ESG\_4>

As mentioned in previous responses, the reporting template misses some key aspects of how financial market participants assess, manage and respond to sustainability risks. Having a template purely focused on impacts is not a true and transparent representation of the activities of the financial market participant. One example we have highlighted already is insufficient attention given to Stewardship activities of the firm and the long-term timeframe/results of these engagements.

Having a selection of mandatory and then self-selected indicators is also unhelpful. If we are really looking to ensure comparability then why not focus just on a key set of mandatory indicators, as the self-selected will differ significantly and therefore provide little value or comparability. As mentioned above, the ESA's should consider including qualitative responses to ensure meaningful disclosures.

It is also unclear how this aligns with the Taxonomy disclosures which will be required on the same funds. Surely it would be worthwhile to build-off the Taxonomy indicators, keeping consistency after which it gradually expands into social etc. as the various Taxonomies acting as the basis. The ESA's should therefore consider the sequencing of such disclosures to ensure harmonisation with the various EU regulations.

In no place have we found a clear explanation as to the monitoring and enforcement aspects of how this will be integrated. There is very little point in conducting this work unless the EC comes out with a strong enforcement element, with central and publicly available information. As this is not going through Delegated Acts then it would be surprising to leave this area of work to national authorities, as we need harmonised measurement. Now is the time to set up enforcement processes.

It is important to consider that data, especially in private market, is inconsistent. Nowhere in the template / statement is a referral to TCFD, or indeed reference to standardisation frameworks like SASB. Surely this a missed opportunity to include a mandatory section with at least a link to TCFD report.

Having said this, providing some sort of comparable and mandatory reporting template is helpful.

<ESA\_QUESTION\_ESG\_4>

**5. : 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>

As outlined, the indicators are not aligned with how financial market participants assess and manage sustainability risks. We are therefore in danger in establishing indicators that do not deliver what the objective of this work is, i.e. to transparently share decision-useful information to the end-investor on how firms actually integrate and manage sustainability risks.

Establishing a set of indicators that are additional to the work of the Taxonomy seems to be duplicative, resource intensive and misleading, especially as the disclosures are relevant to the same funds. It perhaps would have been advisable to start with the Taxonomy indicators first. Having two sets of disclosure indicators on the same funds, both with ultimately similar goals, could be confusing to the end-investor. It is also not clear how these indicators feed in to the EU's strategic goals. Indeed, when referring to international agreements in Article 10,



we need to ensure that there is flexibility for firms to demonstrate their strategy for alignment.

The NFRD needs to be entirely aligned and linked with what indicators are selected to ensure data is consistent and reliable and get real buy-in by the markets. It may have been helpful to wait until there has been agreement on the NFRD, or at least be clear that the EC will develop these together.

Forward-looking transition indicators are essential. For example, firms are looking at net-zero transition pathways. Again, the ESA's should consider this in conjunction with the revision of the NFRD, it it will be reliant on this. If it is mandated here then it must be mandated across the regulatory chain, otherwise data would be insufficient, confusing and unreliable.

The solid fossil fuel indicator needs revising.

<ESA\_QUESTION\_ESG\_5>

- 6. : 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>

We need to ensure consistency with broader EU strategic goals, focusing and pushing for a reduction of total emissions that will enable us to reach the targets set out by the Paris Agreement (and hopefully the EU Climate Law).

As explained, it may not be helpful to develop an additional set of indicators. Building-off the Taxonomy should have been a good starting point. The ESA's should also consider including mandatory TCFD reporting. We need to be careful not to make this too resource intensive with separate measures.

<ESA\_QUESTION\_ESG\_6>

- 7. : 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>

This rather simplistic metric could be misleading. The financial market participant may have a large share of investment in a particular company with an issue, but actively engaging and using the investment as a leverage to change business practices. We want participants to influence and change behaviours. So there would need to be an explanatory notes to accompany it if this was to be explored further.

<ESA\_QUESTION\_ESG\_7>

- 8. : 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>

Indeed it is helpful to understand the full degree of activities that a company - and the financial market participant - is taking to improve their current position. This highlights the issue mentioned earlier, not having sufficient opportunity to explain these activities in a qualitative manner could mislead the end-investor to the true nature of the activities. This is why a focused section on Stewardship would be beneficial. Stewardship is a key part of aligning markets to long term climate goals.

<ESA\_QUESTION\_ESG\_8>

**9. : 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>

The current context has again highlighted the importance of social indicators. Given their importance we would suggest that the ESA's focus on 'social' indicators separately, as it would appear the Commission is also seeking to do so with regard to a social taxonomy. It would also be beneficial for the ESA's to use existing social metrics to achieve this goal, SASB and GRI for example.

Again, it is important to align any social indicators with the review of the NFRD to support consistent and reliable disclosures and not create too much burden.

<ESA\_QUESTION\_ESG\_9>

**10.: 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 historical disclosures of 10 years would alignment with KIID, however, even now data is unreliable and inconsistent. With such poor historical data it will be it very difficult to conduct comparisons, perhaps even misleading. Strengthening data disclosures has been identified by the Commission, it therefore may be beneficial that we start with say 2-3 years. Once data is more consistent and reliably disclosed the EC should look to expanding this to 5 years and then eventually to 10 years.

<ESA\_QUESTION\_ESG\_10>

**11.: 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>

It would not be in the interest of a firm to manipulate data as this would go against their duties to act in the best interests of their clients. However, the ESA's are correct in seeking ways

to reduce the risk of financial market participants manipulating data relating to the PAI's. Harmonisation of dates would be helpful, and if possible the inclusion of annual averages. This would need to be disclosed against comparable historical data to demonstrate an accurate track record and ensure that there is transparency forward-looking data also.

<ESA\_QUESTION\_ESG\_11>

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

<ESA\_QUESTION\_ESG\_12>

We are very supportive of the ESA's goal of enhancing transparency, comparability, and consistency in the market. Mandatory templates do support the ESA's aim, however, we may wish to consider how this can be easily integrated with existing documentation.

Consideration needs to be given for how easily a template can be integrated into existing documentation. It would be helpful if the ESA's could advise on any requirements for where in the documentation this table (or the disclosures more generally) needs to be included. Is the requirement for this to be a table separate to be included in each supplement? The main concern with mandatory templates relates to timelines. In order to have each Prospectus updated and published by 10 March 2021 each Prospectus must be submitted to the regulator a minimum of 2 months prior to this deadline. The advice from the consultation paper will be finalised end of December 2020, if the mandatory template is not produced until then there will not be enough time to implement the Prospectus updates for the regulatory deadline.

Further clarification is also required on where the disclosures are expected to be included in pre-contractual documentation as this will impact the implementation timeframes due to client notification requirements.

<ESA\_QUESTION\_ESG\_12>

**13.: 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>

The ESA's need to consider how such templates either integrate or align with existing fund documentation. It is far more efficient to build-off existing templates. Is it not very clear if the ESA's are suggesting the creation of additional documentation? Conciseness is a key ambition with all the reporting structures being proposed.

The consultation paper includes headings for the required disclosures for Article 8 and 9 funds - we would need to understand what additional details would be included in the template and whether this would only be applicable for Article 8 and 9 funds, or all funds.

As explained, we suggest that the ESA's review the IA's Responsible Investment Framework for further information.

<ESA\_QUESTION\_ESG\_13>

**14.: 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>  
TYPE YOUR TEXT HERE  
<ESA\_QUESTION\_ESG\_14>

**15.: 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>

The ESA's should ensure that pre-contractual information is meaningful, decision-useful and appropriate for end-investors. We are therefore supportive of the approach the ESA's have taken. The inclusion of links to additional information on the website is a useful way to balance and not over burden documentation.

<ESA\_QUESTION\_ESG\_15>

**16.: 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 differences and definitions between Article 8 and Article 9 funds are not sufficient whatsoever, in fact, the proposals are misleading and confusing.

Article 9 funds could be more accurately described as 'impact investing funds' rather than referring to funds that have "*sustainable investment as their objective*". There could be a significant issue in defining Article 9 funds in this way. End-investors will have different levels of understanding on what 'sustainable' means, and unless there is going to be a huge educational element then this is left to interpretation. It could mean that end-investors do not view Article 8 funds as having a positive and sustainable impact, which is not accurate at all.

Article 8 funds apparently can, at a minimum, include funds that have exclusions. This appears to be a very low threshold. If this is the case, then it may almost be helpful to explore different categories of Article 8 funds, given the majority of funds will fall into this area. This categorisation could be broad, but start with 'exclusions' at the lowest level.

There is very little detail or guidance in the consultation paper on how funds can be categorised in practice. The level of detail given so far, Article 8 = funds which 'promote environmental or social characteristics' and invest in entities/issuers which follow 'good governance practices, Article 9 = funds with a sustainable investment objective, suggest that funds with any ESG exclusion or integration could be classified as Article 8 and any fund with a reference to ESG in the objective/policy could be classified as Article 9. We would like to see further clarification from the ESA's.

<ESA\_QUESTION\_ESG\_16>

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

<ESA\_QUESTION\_ESG\_17>

If the ESA's pursue the graphical representation option then we need to ensure that there is simplicity, flexibility, and a very strong education element for the benefit of the end-investor understanding. As the proposal mixes 'sustainable' (as previously explained, ill-defined and misleading) and the Taxonomy, then clarity of understand of what this means is essential.

It may have been more beneficial to start with a graphical representation of the Taxonomy elements, given this piece of work has taken many years to develop and is well thought-out. The ESA's could start with the environmental taxonomy elements and then expand to social areas.

Any graphical representation of the fund should, of course, be closely linked with the objective and the strategy of the fund, so the end-investor is not misled as to the goals.

Also, as noted earlier, a significant risk here is that the inclusion of graphical representation will not be confirmed until December 2020 which will not leave adequate time to implement into Prospectuses. Further clarifications and guidance needs to be published before the December 2020 deadline for any Prospectus disclosures.

<ESA\_QUESTION\_ESG\_17>

**18.: 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 graphical representation aims to provide a helpful and easy-understandable illustration to the end-investor. If a requirement for a graph is to be included, then the ESA's should present a series of options or be flexible on how it can best represent a product. The ESA's should consider simplicity here across the funds otherwise we would result in a greater amount of complex information that is liable to be misunderstood.

There is a timing element here for deadlines to Prospectus updates that the ESA's and the EC need to be aware of. If a graphical representation is required, the guidance/options for how this can be presented need to be produced before the end of December 2020.

<ESA\_QUESTION\_ESG\_18>

**19.: 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 indicator referring to 'solid fossil fuel exposure' is misleading for the end-investor. It should either be broadened to include oil and gas, or a separate indicator be developed.

The current definition does not appear to reflect IPCC's definition. Unless the end investor is familiar with the regulatory definition, they could understand this to mean '*all fossil fuels*'. There is a risk that consumers will not be aware as what funds are invested in.

Disclosures relating to other sectors are surely captured by the forthcoming EU Taxonomy disclosures. It is perhaps helpful to relook at what financial market participants will need to disclose against this SFDR RTS regulation and the EU Taxonomy, given the requirements are on the same funds and will be viewed by an end-investor.

<ESA\_QUESTION\_ESG\_19>

**20.: 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>

No. Clearer distinction in the RTS

<ESA\_QUESTION\_ESG\_20>

**21.: 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>

This again highlights an issue between the definition of what an Article 8 and what an Article 9 fund is, and indeed the inclusion of the word 'sustainable'. There must be further clarity is needed on what constitutes an Article 8 and Article 9 fund.

In any case, this is very much a basic requirement for companies and any rules relating to 'good governance' should be consistent funds.

<ESA\_QUESTION\_ESG\_21>

**22.: 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>

The proposed RTS & Taxonomy Regulation addressing same concepts and requires disclosures on same funds, however, the alignment is yet unclear. the ESA's have not provided sufficient clarity on the alignment between PAI's and for example the '*significant harm*' of Taxonomy.

We understand the 'do no significant harm' requirements only apply to 'sustainable' investments, this was unclear from the RTS.

<ESA\_QUESTION\_ESG\_22>

**23.: 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>

The UK's Investment Association has produced a helpful Responsible Investment Framework that the ESA's should review. It provides an overview of how managers carry out responsible investment (entity and product level) and includes an appendix that includes widely agreed definitions.

<ESA\_QUESTION\_ESG\_23>

**24.: 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>

The ESA's could consider disclosures at a single date (a snapshot if you will) and also any material changes to the top 25 holdings over the course of the year.

<ESA\_QUESTION\_ESG\_24>

**25.: 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.**

- a) 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);
- b) 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);
- c) 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
- d) 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>

Pre-contractual disclosures should be succinct, understandable and meaningful to the end-investors. Referring to the listed points in the question:

- a) The website - plus reference to the website in pre-contractual documentation;
- b) Pre-contractual documentation - a short description in the main body of the Prospectus (i.e. not at each individual fund level)
- c) The website
- d) If this is required, suggest website disclosure to link with point c)

<ESA\_QUESTION\_ESG\_25>

**26.: 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>

TYPE YOUR TEXT HERE

<ESA\_QUESTION\_ESG\_26>

**27.: 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>

TYPE YOUR TEXT HERE

<ESA\_QUESTION\_ESG\_27>