|  |
| --- |
| 23 April 2020 |

|  |
| --- |
| Response form for the Joint Consultation Paper concerning ESG disclosures |
|   |

|  |
| --- |
| Date: 23 April 2020ESMA 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

|  |  |
| --- | --- |
| Name of the company / organisation | Bloomberg L.P.  |
| Activity | Other Financial service providers |
| Are you representing an association? |[ ]
| Country/Region | Europe |

# Introduction

Please make your introductory comments below, if any:

<ESA\_COMMENT\_ESG\_1>

Bloomberg L.P. welcomes the opportunity to provide views to the European Supervisory Authorities (ESAs) on proposed guidelines for the Sustainable Finance Disclosure Regulation (SFDR). We see it as a key part of the EU's Sustainable Finance Action Plan, which we fully support.

Bloomberg collects ‘company reported’ data from around 11,700 international companies representing over 84% of global market cap. Bloomberg L.P. covers more than 1,300 Environmental, Social and Governance data points alongside an additional 200 third party data sources, such as CDP questionnaires and other providers like MSCI, ISS, Sustainalytics and RobeccoSAM.

Bloomberg has mapped our data to the requirements laid out under Annex I of the consultation document and our recommendations are based on this work. Bloomberg L.P. will endeavour to collect further ‘company reported’ data required by financial market participants to fulfil the obligations under this regulation and we intend to fully support the execution of this regulation for Financial Market Participants.

Our comments are intended to highlight where there may be operational or data-led challenges with some of the proposals and recommendations. We also propose ways that data can be used to satisfy the objectives of the Sustainable Finance Disclosure Regulation.

* Bloomberg is fully supportive of a set of ‘principle adverse indicators’ being used in annual reporting at an Entity or Manager level, in order to encourage greater disclosure of important environmental and social data attributes over time and encourage the right conversations between an investment firm and the corporates they invest in.
* But such indicators may not be applicable to all industries and sectors so we believe that the recommended data attributes suggested in Annex I should be updated to a smaller set of attributes with a common objective to encourage mindful investment behaviours and encourage corporate disclosure.
* Bloomberg also recommends clarifying the alignment between the disclosure requirements under the Taxonomy Regulation and under the SFDR: article 6 of the Taxonomy Regulation states that entities in scope under article 8.1 of SFDR are required to disclose the percentage of their funds aligned with the Taxonomy, or state that they don’t take sustainability into account in their investment process. Bloomberg thinks it is important to ensure alignment between the disclosure requirements from SFDR and the Taxonomy Regulation. Otherwise the compulsory EU disclosures will add further expenses in particular for small and medium sized asset managers, and may incentivise sub-standard or non-disclosure.
* Bloomberg recommends a review of the treatment of non-reporting companies as there might be a disclosure bias. Some data points would treat non-reporting favourably, whilst others would treat it less favourably. The ideal reporting model should encourage disclosure, thus treating non-disclosure less favourably and making sure that the data tells a reliable and accurate story related to sustainable adverse impacts.
* Bloomberg L.P. recommends that key data sets align with the TCFD framework, such as climate-related implications within governance, strategy, risk management, and metrics and targets. The TCFD’s 11 recommended disclosures provide a useful and already widely accepted framework for climate-related financial disclosures. Investee disclosure on climate risks and how they are monitoring and mitigating those risks would be a key component of demonstrating long termism in investment practices. The TCFD recommendations encompass many of the metrics on climate-related impacts outlined in Appendix I.
* Bloomberg would be supportive of harmonising the timeline around impact reporting. Data available for reporting is typically annual and reported with a lag to the existing financial reporting model. Bloomberg observes CSR and ESG reporting can occur 6 to 9 months after the company’s annual accounts, which means that the reference period should ideally be year n-1 relative to the reporting date. Bloomberg also believes that the current timeline proposed by ESMA needs further clarity for Financial Market Participants.

<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>

Bloomberg L.P. is fully supportive of a set of ‘principle adverse indicators’ being used in annual reporting at an Entity or Manager level, as requested under Chapter II. We believe this will encourage greater disclosure of important environmental and social data attributes over time and encourage the right conversations between an investment firm and the corporates they invest in.

We believe that the recommended data attributes suggested in Annex I should be updated to a smaller set of attributes with a common objective to encourage mindful investment behaviours and improve corporate disclosure. With this recommendation in mind, Bloomberg L.P. has observed the following data discrepancies with the current recommendations.

Bloomberg L.P. would like to note that some data sets required by SFDR are subjective and thus difficult to collect at scale, without applying judgement. Additionally, there is disclosure bias with certain policies and controversies. For example:

* Item 23: Share of investments in entities without a human rights policy. Bloomberg L.P. treats non-disclosers as non-compliant. So if you invested in 100 companies and only 5 disclose that they have a human rights policy, then you would claim that 95% of your investments are without a disclosed human rights policy. This does not mean that 95% of your investments are in violation of human rights. This indicates a disclosure bias.
* Item 24: Requests further clarity on the share of investee companies without a due diligence process to identify, prevent, mitigate and address adverse human rights impacts. Bloomberg L.P. would see this as included in item 23, where we collect data that indicates that the corporate Human Rights Policy encompasses any initiatives to ensure the protection of the rights of all people it engages with. There is an opportunity to supplement this with information such as UNGC signatory lists or the Equator Principle signatory lists, but neither would fully satisfy the terms of item 24.
* More meaningful data would be whether a company is in violation, such as that requested in data point 28: Number and nature of identified cases of severe human rights issues and incidents. However, treatment of non-reporters would be favourable. Again, this indicates a disclosure bias.

Bloomberg L.P. recommend a **review of the treatment of non-reporting companies**. Some data points would treat non-reporting favourably, whilst others would treat it less favourably. The ideal reporting model should encourage disclosure, thus treating non-disclosure less favourably and making sure that the data tells a reliable and accurate story related to sustainable adverse impacts. For example:

* Item 5 under Social: 1. Number of incidents of discrimination reported in investee companies. Companies may not disclose incidents of discrimination, if they are protected by non-disclosure agreements. In the case of discrimination, a poorly performing company may not disclose this information, where as a well governed and transparent company would disclose this information. The data point alone, when aggregated across all investments within a reference period, could be misleading. Additionally, further clarification would be needed on which violations constitute an incident. Options available include; company reporting of incidents via the company’s internal reporting channels, claims made that have been verified by the company or claims that were addressed.
* Data points where non-disclosure would be treated negatively: Item 9. Biodiversity and ecosystem preservation, item 11. Deforestation policy, item 17. ILO conventions, item 20. Board Gender Diversity, item 21. Whistle-blower policy, item 22. Workplace accident prevention, item 23. Human rights policy, item 25. Human trafficking policy, item 26. Child labour policy, item 27. Forced labour policy, item 30. Anti-corruption policies.
* Data points where non-disclosure would be treated positively: item 10. Where companies are operating in areas that affect conservation, item 12. Water emissions, item 13. Exposure to high water stress, item 14. Volume of untreated discharge waste water, item 15. Hazardous waste, item 16. Non-recycled waste, item 28. Human rights incidents, item 29. Exposure to controversial weapons, items 31 and 32 related to anti-bribery and corruption breaches.

Regarding carbon foot printing metrics, Bloomberg L.P. has a few observations:

1. The use of Enterprise Value as a denominator should be calculated in line with the updated benchmark reporting requirements and in line with the new EU labelled climate transition and Paris aligned benchmarks. Based on the current proposal, BMR includes cash but PAI excludes cash.
2. In practice, rare exceptions can occur in which firms report ‘cash equivalents’ but the financial market does not consider these truly as equivalent to cash and hence discounts their value, potentially leading to negative enterprise values. Thus Bloomberg L.P. would recommend including cash and cash equivalents in the Enterprise Value denominator.
3. An increasing average enterprise value of the investment held during the reference period can lead to an overall GHG intensity reduction where no actual GHG emissions reductions took place. Hence, we recommend adjusting for inflation in enterprise values for more accurate reporting.
4. Reporting of Scope 3 emissions is inconsistent and incomplete therefore company reported data can be incomparable. Financial Market Participants will therefore need to rely on Scope 3 estimates or proxies. Corporate Scope 3 emissions are significantly harder to estimate then Scope 1 or even Scope 2, whereby upstream Scope 3 emissions are even harder to estimate than downstream Scope 3 emissions in certain sectors. Applying a similar opt-in model over 2-4 years as recommended by the TEG under the Benchmark reporting requirements would be advisable here.
5. As mentioned in later questions Bloomberg L.P. believes decarbonised trending is more indicative of good investment practice than carbon footprinting alone.

<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>

Bloomberg L.P. would like to note that the principle adverse indicators suggested in Annex I may not be applicable to all industries and sectors. We therefore recommend that either a common, smaller set of data points are mandatory with sector specific attributes added as required or that the treatment of ‘not applicable’ data sets is provided in the RTS.

For example, some industries and sectors may not find that questions related to the treatment of hazardous waste, deforestation policies or water use are applicable to them. Leveraging a materiality framework may be more prudent to highlight where certain sectors have environmental exposure and lead to more meaningful results.

There are three main ways in which an investor can meaningfully contribute to sustainable outcomes:

1. Capital allocation
2. Corporate engagement
3. Voting/Ownership rights

Given the primary data sets recommended within PAI are carbon footprinting, we feel this would suggest that FMPs who are actively involved in reducing the emissions profile of their investee companies would be incentivised to divest (option 1) and not to work with the company to decarbonise (option 2 and 3).

<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>

As mentioned in response to Questions 1 and 2, we are concerned that the proposed framework could provide a misleading account of investee behaviour or incentivise investors to act outside of the Regulations’ primary aims. Bloomberg L.P. are also concerned that the proposed framework does not draw upon the recommendations from the Technical Expert Group regarding the EU Taxonomy. We would therefore ask that the ESAs and Commission develop and publish a clear overview of how this Regulation, the Taxonomy regulation and future amendments such as those proposed to the Non-Financial Reporting Directive will work in complement to one another.

The data suggested in Annex I should ensure that non-disclosure is discouraged. The absence of data should indicate that a company is not performing in line with key environmental and social objectives under the Sustainable Finance Action Plan.

Bloomberg L.P. would recommend that the principle adverse impacts aligns with the data requirement under the Taxonomy Regulation related to minimum social safeguards. Data sets that would create overlap between the regimes includes:

* Fair remuneration policy
* Human rights policy
* Policies against child labour
* Equal opportunity policies
* Health and Safety policy
* UNGC signatories
* Anti-Bribery Ethics Policy
* Social supply chain management

Further environmental data, that would limit subjectivity and is easily available, includes the existence of:

* Biodiversity policy
* Percentage of land restored, as a portion of land disturbed
* Companies with emissions reduction targets

Bloomberg L.P. would also recommend data sets, ideally backed by reliable public inventories alongside corporate self-disclosure. These would include:

* Reporting on environmental fines; number and amount
* Health and safety fines with additional data such as safety incidents & fatalities.
* For certain sectors (e.g. oil and gas), data related to spills, as well as applicable water and waste management practices

Bloomberg L.P. recommends that key data sets align with the TCFD framework, such as climate-related implications within governance, strategy, risk management, and metrics and targets. The TCFD’s 11 recommended disclosures provide a useful and already widely accepted framework for climate-related financial disclosures. Investee disclosure on climate risks and how they are monitoring and mitigating those risks would be a key component of demonstrating long termism in investment practices. The TCFD recommendations encompass many of the metrics on climate-related impacts outlined in Appendix I.

Our recommendations include data points related to:

* Scope 1, 2, and 3 GHG emissions and future targets
* Metrics related to waste and water, and other TCFD illustrative metrics overlapping with those outlined in Appendix I as appropriate
* What proportion of the underlying investment has made a disclosure consistent with the TCFD’s recommendations in their annual accounts
* Where climate related risks have been identified; probability and severity of the risk
* How climate related risks are being addressed

<ESA\_QUESTION\_ESG\_3>

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

<ESA\_QUESTION\_ESG\_4>

Nothing of note.

<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>

In order to create harmony between the reporting regimes, Bloomberg L.P. would recommend, in line with the PRI member’s recommendations, that a disclosure should contain:

**Article 18 RTS**

* + A list of sustainability indicators
	+ Narrative explaining the extent to which the EU Taxonomy was used in determining the sustainability of the investments;
	+ Proportion of the fund that is “environmentally sustainable” in accordance with the EU Taxonomy;
	+ Which of the six environmental objectives the fund contributes to;
	+ Proportion of “enabling” and “transition” investments within the fund.

Within the TEG recommendations is a ‘potentially aligned’ statement that an investor can make where they do not have all the information available to fully validate alignment.

Bloomberg L.P. recommends more specific data sets under the ILO Conventions (item 17), breaking these out into:

* Fair remuneration policy
* Human rights policy
* Policies against child labour
* Equal opportunity policies
* Health & Safety policy
* Social supply chain management

To make for more transparent reporting.

Regarding supply chain, Bloomberg L.P. would recommend a disclosure aligned with:

1. Does the company have a sustainable supply chain policy?
2. What proportion of suppliers are critical to the process?
3. Within the last year, what proportion of those critical were audited

Data can be broken into:

* Sustainable Supplier Guidelines: Indicates whether a supplier's guidelines, that encompass all Environmental, Social and Governance (ESG) areas, are publicly disclosed.
* Environmental Supply Chain Management: Indicates whether the company has implemented any initiatives to reduce the environmental footprint of its supply chain. Environmental footprint reductions could be achieved by reducing waste, by reducing resource use, by reducing GHG or air emissions, by mandatory environmental management systems etc. in the supply chain.
* Social Supply Chain Management: Indicates whether the company has implemented any initiatives to reduce the social risks in its supply chain. Social risks might include poor working conditions, occupational health and safety, the use of child or forced labour, lack of a living, fair or minimum wage etc.
* Number of suppliers audited within the fiscal year to indicate how many and/or which percentage of the suppliers have been audited according to the Environmental or Social criteria given.

<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>

Bloomberg L.P. believes that forward looking metrics related to company self-disclosed emissions reduction targets would be valuable. With consistent guidance on corporate reporting against EU 2030/2050 climate and energy targets, which would complement the Taxonomy Regulation. We would also suggest to include an indicator attesting whether the company is a signatory of the Science Based Targets initiative (SBTi), to see alignment of those targets with the Paris Agreement.

It would be more beneficial to use the company reported targets and analyse performance year on year rather than relying a third party solution, which may be based on linear or regression models to forecast emissions. More consistent reporting of carbon emissions and allowances within the EU ETS regime would be welcome, as investment firms seek to assess the substantial contribution a company is making towards climate change mitigation.

<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>

Bloomberg L.P. agrees with breaking out data by the share of companies invested in, and the share of capital those companies hold. Bloomberg L.P. believes that some clarity is required on how to calculate the proportion of these values in terms of activity over the reference period.

<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>

Bloomberg L.P. recommends keeping the initial recommendations clear, concise and easy for asset managers to execute. Keeping the data required limited to that provided by corporates in their public disclosure, should allow for wider adoption. Improving scope 1, 2 and 3 disclosure would be a recommended pathway. Bloomberg L.P. see ~70% of international companies do not disclose this baseline data in publicly available filings.

Bloomberg L.P. believes that more sophisticated data sets will incur cost to the smaller asset management community, who may lack internal resources to compute the data and need to purchase data or third-party models in order to comply with the regulation.

**Where** information is not readily available**,** Article 7 suggestsinvestors should only resort to using data providers if their best efforts to get data directly from the company have failed. If the RTS chooses PAI attributes where data is not readily available from disclosing corporates, then modelled data will play an important role. Clear guidelines on acceptable practices for data modelling or assumptions will be welcome to ensure any third party models are compliant with the ESA’s recommendations.

<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>

Yes, Bloomberg L.P. agrees with this approach.

<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>

Yes, Bloomberg L.P. agrees with providing trending data. As mentioned earlier demonstrating a positive trend in relation to both the adverse indicators and greater disclosure should correlate. European climate or ESG marketed products are investing in higher emitting companies in order to encourage decarbonising practices and investment through stewardship. Data trends, aligned to the net zero ambition, are important to measure transition and to identify opportunities for the asset management community.

<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>

Bloomberg L.P. believes that the current timeline needs further clarity for Financial Market Participants. Bloomberg L.P. would be supportive of harmonising the timeline. Data available for reporting is typically annual and reported with a lag compared to the existing financial reporting model. Bloomberg L.P. observes CSR and ESG reporting can occur approximately 6 to 9 months after the company’s annual accounts, which means that the reference period should ideally be year n-1 relative to the reporting date.

On periodic disclosures, it’s not explicitly clear whether the periodic disclosures obligation applies to either: (i) the first reporting period which starts after 1 January 2022, (ii) the first reporting period which finishes after 1 January 2022, or (iii) the first report due to be published after 1 January 2022, which could be in respect of a reporting period which had finished prior to 1 January 2022.

Our current understanding is that option (ii) is correct, and you are looking to identify the first reporting period which finishes after 1 January 2022. So for example, if you have an alternative fund with a 31 December financial year end, the first in-scope reporting period would be that ending on 31 December 2022, and the first report containing the ESG disclosures would be due six months later (per AIFMD) i.e. by 30 June 2023.

<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>

Bloomberg L.P. agrees with pre-contractual and periodic reporting templates, so long as they are complementary to the Taxonomy Regulation requirements.

The Taxonomy will provide a single Union-wide definition of “environmentally sustainable economic activities”. Funds covered under Article 8 and Article 9 SFDR will be required to disclose against the EU Taxonomy.

Under the proposed regime, an individual Article 8 fund with an environmental focus would be required to comply with two distinct sets of disclosure requirements which address the same fundamental concepts. Bloomberg L.P. therefore suggests further harmony between the two regimes. End investors seeking to understand the impact of their products should not be presented with two different frameworks to understand the impact of their investment.

<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>

No further comments.

<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>

Covered previously.

<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>

No further comments.

<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>

Bloomberg L.P. believes that Article 8 and 9 funds require further clarity. Bloomberg L.P. believes that the proportion of an investment product following sustainable objectives would be recommended.

<ESA\_QUESTION\_ESG\_16>

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

<ESA\_QUESTION\_ESG\_17>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

There are two ways to assess fossil fuel exposure, first through segment revenue in fossil fuel sectors and second is through the energy mix of the organisation. Bloomberg L.P. captures segmentation data, mapping ~60,000 companies to ~2,000 industry sectors and sub-sectors. For solid fossil fuels, Bloomberg L.P. has oil and gas industry data broken into 84 sub-sectors; which can allow our clients flexibility in what to exclude under the title "solid fossil fuels". Further clarity on what involvement in fossil fuels means in the context of the regulation would be welcome to allow for more precise mapping of data.

Bloomberg L.P. also captures the energy use: Total mass amount of coal, natural gas or oil used as fuel by the company during the reporting period.

The term “fossil fuels” is understood to refer to all hydrocarbon-based fuel sources including oil and natural gas. The current proposal suggests only solid fossil fuels should apply.

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

“Do No Significant Harm” in the context of the Taxonomy Regulation is intended as a holistic view on an investment. If you are pursing one environmental objective, your investment must not be harming any other environmental objective. Thus the assessment is made at an activity level. For example, the manufacturer of an electric vehicle can claim taxonomy alignment for the share of revenue made from the sale of this electric vehicle type. To demonstrate no significant harm, there is also a requirement that those electric vehicles are:

1. Within acceptable particulate matter thresholds related to tyre abrasion & brake friction

2. Within acceptable noise pollution levels

3. Compliant with acceptable waste generation during maintenance and end of life of the vehicles with specific focus on raw material recovery from batteries

4. Understand the extent of recycling to reduce consumption of raw materials

5. Emissions levels are in line with directives on clean road transport

6. Tyres are within EU standards

If you were to test the vehicle manufacture (at an entity level) for these tests, then they may fail due to the diesel/petrol vehicles in their fleet.

Therefore, any ‘significant harm’ data sets reviewed out of context could be misleading. Thus Bloomberg L.P. recommends that significant harm data sets at an entity level should be limited and provided in the knowledge that they will be excluded from sustainable investments; such as fossil fuels, controversial weapons, etc.

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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.
* 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);
* 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);
* 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
* 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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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)