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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:

* 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:

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 | Fédération Bancaire Française (FBF) |
| Activity | Banking sector |
| Are you representing an association? |  |
| Country/Region | France |

# Introduction

Please make your introductory comments below, if any:

<ESA\_COMMENT\_ESG\_1>

The French Banking Federation (FBF) 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. We are in favor of increased transparency in sustainable investments and sustainability risks, provided disclosures are balanced and help consumers make informed financial decisions aligned with their objectives.

Constant discussions, exchange of information and proactive decisions have been taken in order to ensure swift compliance to guarantee that our members apply the key regulations on Sustainable Finance put forward by the European Regulators.

However, FBF fears that this ambitious regulation does not sufficiently take into account the need of consistency with regard to timelines and content with other regulation (namely NFRD), while the political agreement has carefully considered this issue by submitting the product reporting to a phase-in approach. Through the creation of an “aggregated products reporting”, the draft RTS seems to put at question the phase-in approach. FBF cannot support the proposed elements of the draft RTS supporting the Regulation as they will lead to a miscount of adverse impacts, create confusion and perverse incentives and will be counterproductive with the aims of the regulation and the broader sustainable finance growth EU strategy. The indicators proposed are not coherent with the broader package of EU disclosure requirements. We also believe, as a first step, that disclosure should be mandatory for a limited number of relevant indicators (ten indicators for instance).

The path to make the Action plan on Sustainable Finance a practicable reality and to be able to finance the Green Deal is forcing answers that are not always aligned to the practical reality both in data production and material outcome. That because the majority of non-financial companies are not capable yet to provide sound reliable sets of data by themselves. Instead, they need to buy their own data and related services to correctly respond to the need of the future tables for disclosure of the impacts, whatever they will look like.

We envisage the complexity of this consultation through a few headlines further explained:

1. Complexity of the EU Sustainable Regulation and timeline overlap ;
2. Information overload and data issues;
3. Cost increase;
4. Unlevel playing field;
5. Need for proportionality;
6. Legal uncertainty and need for clarification

**Attention should be raised on potential side effects of a “comply or explain”/opt-in approach for any financial entity not covered by the scope of the SFDR but that are counterparties of entities subject to the SFDR (it is for example the case of the Corporate and Investment banks (CIBs) on the producers’ side).** When they manufacture a product, CIBs do not know which indicators will be chosen by the distributor (subject to the SFDR) that will buy their products. CIBs will therefore have to analyze and provide information to their counterparties on all indicators (both mandatory and optional) to allow distributors to select the indicators they wish to provide in their reporting. This potential side effect will in fine prevent investors from having qualitative data to do their principal adverse impact (“PAI”) assessment at entity level.

**I – GENERAL REMARKS**

1. **Complexity of the matter and practical concerns**

The Commission’s EU Sustainable Finance Action Plan was published in 2018. With the level 1 text published only in December 2019, and the level 2 text not ready in draft before the end of this year, we believe that the regulatory texts are:

* Very complex in general;
* Unclear and multi-interpretable (a lot of examples to follow);
* Not easy to fully grasp, especially in conjunction with existing legislation and legislation that is under review (i.e. Disclosure Regulation, Taxonomy Regulation, Low Benchmark Carbon Regulation, NFRD, MiFID2, IDD, Solvency II, AIFMD, UCITS);

Our understanding is that the draft RTS, particularly Annex 1 – Table 1, **go beyond the provisions of the level 1 text**. According to Art 4, **financial market participants are only requested to provide qualitative information on the points covered in this article**.

Indeed, Table 1 requires reporting collective data and metrics at entity level. If disclosure is not provided per product, the efficacy of the effect of table 1 for the final user/client risks to be compromised while representing a collective set of data that might not be of direct interest of the fund’s client.

Regarding indicators at entity / counterparty level, we favor an approach of qualitative indicators (at least till the investee companies apply the revised NFRD) and very few mandatory relevant quantitative indicators on a best effort basis where the following criteria are taken into account:

* Availability and maturity of data;
* Availability of a standardised methodology applied to companies;
* Availability of a methodology to aggregate performance – and in their absence, disclosures breakdown by asset class (debt/equity);
* Meaningfulness of the indicator for end investors;
* Demonstrated relationship between indicator at firm-level and real world impact. We would suggest the ESAs to conduct a customer testing.

A phase-in approach should also be allowed when necessary for practical reasons.

We consider that the following non-quantifiable disclosures would be much more valuable

* Climate and ESG strategy at firm level (including Paris Agreement alignment);
* ESG Due diligence processes – identified cases and remediation actions.

1. **Complexity of EU Sustainable Regulation and challenging timelines**

It is imperative to ensure consistency and coordination, both in terms of sequencing and indicators, between the different pieces of Sustainable Regulation (the reviewed NFRD, the Sustainable Finance Disclosure Regulation, the Benchmark Regulation and the Taxonomy Regulation) both in term of calendar and disclosure content.

* **Sustainable Finance Disclosure Regulation**

Under the SFDR, financial market participants (‘FMP’s’) must comply with additional disclosure requirements from 10 March 2021. The draft RTS that are required to assist FMP’s in complying with these disclosure requirements do not have to be submitted to the Commission until 30 December 2020, which already potentially leaves financial market participants with little time to implement any changes to their systems and procedures that are necessary in order to provide the applicable information.

This means that, again, FMP’s may have only a short time between finalization of the RTS and the entry into force of the new disclosure obligation within which to implement any necessary changes to their compliance systems. They will need to carefully assess the systems and procedures that have been put in place for the 10 March 2021 deadline in relation to the initial SFDR requirements to check whether they are still compliant with the changes introduced as a result of the Taxonomy Regulation (‘Taxonomy’) and the NFRD coming into force only a few months later.

**We also would like to raise also our concerns related to the unworkable and incomplete underlying methodologies embedded in the proposed RTS. How to aggregate or count exposure to investee companies through different financial instruments; and how to aggregate performance of the same indicator when calculated differently by companies?**

The current proposal does not clarify or provide any guidance on these operational questions. ESAs should explain how investors should aggregate performance at indicator-level, and provide evidence that it can be done, in the following cases:

1. When expose to one company through different financial instruments – equity + debt + derivatives;
2. Between companies that calculate differently the same indicator;
3. Between companies for which the indicator is calculated for different proportion of their activities; and,
4. Between companies of different sectors when that is material to the understanding of performance.
5. The issue of ‘double counting’ has to be addressed more succinctly. For instance an utility provider’s scope 1 is the scope 2 of many other firms and, consequently, some investors’ portfolio carbon footprint might be overstated.

* **Taxonomy Regulation:**

The entry into force of the Delegated Act of the EU Taxonomy Regulation on environmental sustainability mitigation and adaptation is by 1 January 2022, and for the other environmental objectives is 1 January 2023. It is not clear how the Taxonomy Regulation will articulate and be streamlined with some parts of the SFDR (for example. regarding certain disclaimers, or methods to define the greenness of an economic activity under article 9). We would like to highlight the useless overburden related to the risk of twice operational implementation in case of inconsistent regulations.

Furthermore, we would like to see clarifications on the overlap between the Taxonomy’s and the SFDR’s Do No Significant Harm (DNSH) criteria. **The criteria are included in both regulation but differ in scope which means no alignment**.

The DNSH seem to **always** apply when a firm is in SFDR scope. The definition of **“sustainable investment”** **introduces a new DNSH principle** that is broader than the one in the EU Taxonomy. It goes beyond the Taxonomy’s six environmental objectives since the firm has to describe the DNSH criteria for E, S and G. **We believe that the definition on a second DNSH principle under SFDR brings additional complexity to a global legislative framework that is already very difficult to understand. Those definitions are misleading to define a second DNSH principle under SFRD whereas the existing EU taxonomy, that will be regularly enriched in the future (with social objectives for instance), seems to be an appropriate tool for the objectives pursued.**

For clarity sake, we would like to remind ESAs and the EC that the use of the Taxonomy should remain restricted to disclosure and “labelling” purposes only, and should not be extended to risk management purposes of banking corporate portfolios. Our comments above are strictly limited to the SFRD scope, hence investors / investment advice providers disclosure requirements.

* **Non-Financial Reporting Directive**

**We see as imperative to ensure consistency and coordination with the different pieces of rules on sustainability-related disclosures (the reviewed NFRD, the SFDR, the Benchmark Regulation and the Taxonomy Regulation). In particular, the corporate disclosures in terms of indicators under the revised NFRD should align to what should be required for disclosure from asset managers / Institutional investors on financial products and investment providers**.

In order for investment firms to make a disclosure that has any relevance or significance, they need to base their assessment on data. Data is simply lacking. The Non-Financial Reporting Directive (**NFRD**) is still under revision. Adoption is announced by the EC by Q1 2021 and **potential application date by 2022-2023, which is much later than the application date of the SFDR**.

In addition to calendar concerns, the **scope of the NFRD is too limited** for asset and portfolio managers to disclose anything about most companies with any certainty. As long as companies are not subject to disclosure requirements, it will remain impossible for FMP’s to disclose sustainability performance, with any relevance. With current timelines, FMP’s under the SFDR will have to disclose information that has to come from investee companies, but that is not available yet, or that is highly doubtful or not comparable. **In the most favorable scenario, in 2022 investee companies might report over data stemming from 2021.** NFRD already aims to provide data for investment decisions but both the SFDR and the Taxonomy can only fully meet its’ objectives if relevant non-financial information is available from investee companies.

* **Upcoming regulation on ESG rating agencies**

The new EU Sustainable Finance Strategy consultation hints at further requirements for ESG rating agencies, as they question the current comparability, quality and reliability of ESG data from sustainability providers/rating agencies. As most investment firms use these agencies, they should be made aware of upcoming changes when they implement the SFDR.

1. **Information overload and data issues**

We believe that both policy makers and supervisors expect too much from disclosing additional, more detailed information to retail clients. **As no consumer test has been rolled out, we have no insights in how consumers will respond to the disclosures and thus, how effective disclosing additional detailed information actually is**. As we have learned from MiFID 2 (that will be revised and was recently under consultation, with proposed changes to reduce the sheer amount of information to retail clients), most clients feel overwhelmed by the amount of detailed information they receive, which they can hardly process. We therefore believe that, although useful for some clients, most clients will not directly see the benefits of these new requirements, whilst costs have increased.

For banks that are both Financial Market Participants (FMPs) as well as Financial Advisors (FAs), the requirements how to position the information on websites entail the risk of information overload while at the same time both entity levels need to ensure the comprehensibility of the disclosure for the consumer.

It seems to us that putting the accent on how investors conduct due diligence, the extent of such due diligence, and more importantly how they are addressed and on encouraging remediation processes and concrete action, is more valuable than encouraging a focus on calculating, estimating and reporting “meaningless quantified information” that might lead to divestment or penalisation of those companies that are not transparent, which will seriously penalise smaller companies and emerging markets’ actors.

It should also be reminded that the data may not be available. Even where the data is available, it may not be as detailed as requested by EU Regulation. The quality and reliability of the non-financial information vary depending on the provider or company. At present, credit institutions would totally depend on a restricted number of info providers, of which, the 3 largest in size are all characterized by being controlled by US capital. The present inability of the market to provide accurate and reliable numbers on a plethora of indicators suggests that market participants will likely be encouraged to not consider adverse impacts of investment decisions on sustainability factors, according to SFDR article 4(1b), or not report on too many of those indicators as expressed by RTS art 7.2.

Also, data needs to be material. Some indicators and metrics may not be relevant for all sectors (ex: deforestation metrics for IT companies or brownfield real estate).

From an asset management perspective, the investable landscape covers all available securities. European FMP’s make use of a wide array of securities with good reasons, for example for diversification and hedging purposes (and subsequently, their duty of care). Not investing in stocks or funds that are not subject to the EU’s sustainable finance legislation, in the short-term, is not a possibility.

Issuers located outside the EU are not in scope of the NFRD and won’t be subject to the new transparency requirements. Moreover, EU FMPs will be therefore liable of assumptions and estimations they make of the investee company. It is not desirable that FMP’s are liable for own estimates of companies that don’t disclose any information, or for estimates carried out by third party ESG rating agencies. **Those estimates and assumptions could be misleading for the end-customer. Instead of using those estimates, FMPs could as an alternative approach, publish a disclaimer explaining why the information/the indicator is not disclosed or why it covers only a part of investee companies and which steps are being implemented to correct this situation.**

The options might eventually be two at this point: 1) the ESAs shall provide a clear methodology to apply to all non-European issuers, 2) a newly constituted European rating agency, under the Commission, shall provide a detailed rating to all the investee companies worldwide (a way to do it has already been explored by the CDP, when they apply the worst rationales - concurring to the final score - to the issuers that do not disclose about those KPIs).

1. **If costs will increase, return for retail investors will decrease**

The implementation of these new requirements will prove to be burdensome and costly for both banks and customers (i.e. review of client profiles, updated systems policies, additional reporting, expanded staff competence and, in combination with MiFID 2 amendments new questionnaires). This effect is likely to be more visible if a proportionality approach is not applied.

These costs are likely to be incurred by the end investor. The unclear and continuously changing legislation on the topic of ESG leads to implementation by banks that must be redone over and over (as the legislation is continuously changing) and therefore could drive overall costs for investors to a higher level.

Implementing the ESG requirements as proposed will require an impactful change in the product offering and review process, as well as the client intake and review of existing clients (for example, through periodic reporting). All products on offer have to be assessed on ESG criteria and the onboarding of new clients and the review of existing clients has to be adapted (re. proposed changes in MiFID). Therefore, the level of necessary (financial) resources will be substantial. The related costs will be duplicated when this entire process has to be followed again after the taxonomy has been determined and enters into force. A true principles-based ESG framework rather than a de facto rule-based framework will be an important factor herein. Since at the end of the day, our (retail) clients will have to pay for these additional costs, it may even turn out that especially for smaller investors it is no longer cost efficient (taking into account the possible return after deduction of the total costs) to continue their investment services.

We would like to highlight that, according to ESMA, costs are the most significant detriment on retail investors’ return. Thus, banks have to offer cost efficient products. With the new requirements, offering cost efficient products could prove to be more and more difficult, as the costs for ESG data might rise significantly. Furthermore, we would like to highlight that FMP’s will further have to rely on third-party data providers (that, according to the European Commission, might use non comparable, reliable and qualitative data), something the European Commission portrays as a possible (concentration) risk. The European Commission is therefore investigating whether it may be useful to ensure open and centralized access not only to company reporting under the NFRD, but also to relevant company information on other available ESG metrics and data points. To this end, a common database would ease transparency and comparability, while avoiding duplication of data collection efforts.

1. **Unlevel playing field**

**Due to the integrated nature of the financial system, the first financial market participant able to provide the market an outline of the PAI assessment on each indicators will get a considerable competitive advantage**: indeed, we are currently seeing an emergence in questions relating to our ability to provide the PAI assessment reporting in the Requests for Proposals from some of our corporate clients. However, the current approach proposed by the ESAs being data and resources consuming, big players are benefitting from a formidable competitive advantage due to their economies of scale and their economic firepower, including bargaining power vis-à-vis ESG data providers.

**Second, due to the significant reporting costs the implementation of the draft RTS would entail, the European Regulation is implicitly pushing smaller players to either stay below the 500-employees threshold or relocate their activities outside the EU.** Indeed, financial institutions located outside the EU but marketing products within the EU (example of an US asset manager marketing a fund registered in the EU) will not be subject to the entity level reporting, unlike European players. Such an unlevel playing field raises a significant risk for the production and distribution of investment products in the EU.

On another note, our understanding is that under the on-shoring process the Level 2 of SFDR will not apply to UK firms when it comes into force. The UK will introduce its own measures. Due to the very onerous nature of the Level 2 obligations, the UK may offer a more customer-friendly regime.  This means that the UK legal framework will diverge seriously from the EU rules on sustainable finance.

1. **Proportionality**

We believe that proportionality is essential for smaller market participants to be able to implement the disclosure requirements. Although the SFDR text mentions proportionality, we would like to highlight again that for smaller market participants (and especially, those that just exceed the 500-employee limit) it might be very costly to implement all the necessary requirements. It should be reminded that even small counterparties (less than 500 employees) would be asked by their counterparties to disclose the information required by SFRD when they wish to sell their products within a life insurance or a management mandate. Supervisors should be made aware of this in an early stage (before the evaluation of the SFDR application by 30 December 2022).

SFDR states that management mandates and dedicated funds are considered to be financial products and are required to comply with the same transparency and website disclosure requirements. This raises many questions about volume of information to be published. To reduce FMPs’ burden, disclosure for those types of financial products could be limited to disclosures on model portfolios.

We also consider that some requirements will not bring any meaningful information to the market and will unduly over burdens the operational processes. For the following requirements, some proportionality should be found:

* Adverse impact disclosures should NOT relate to the entire reference period (average positions …..) BUT only to the portfolio as it stands at the end of the relevant reference period
* All short-term holdings should be excluded.

1. **Legal uncertainty and need for clarification**

In the background analysis to the Draft RTS the ESA’s note that they are aware of various “challenges” and difficulties both for themselves when drafting the RTS as for the FMP’s / FA’s that need to work with these RTS’s, i.e. mentioned are:

* Data constraints;
* Financial products investing in equities / debt instruments issued by companies that carry out a variety of activities, some taxonomy-eligible and others not;
* The relation between the concepts DNSH and PAI in the future;
* The absence of explanation and minimum standards regarding impact investment strategies;
* The proportion of investments in the financial product funding taxonomy eligible activities should be disclosed by the investee companies.

When data is not directly available from issuers, instead of using those estimates, FMPs could as an alternative approach, publish a disclaimer explaining why the information/the indicator or why it covers only a part of investee companies is not disclosed and which steps are being implemented to correct this situation.

We share the concerns regarding to most of the mentioned difficulties. We would however expect to see some form of solving these difficulties, rather than passing them on to the FMP’s and FA’s, resulting in amongst others legal uncertainty.

We also believe that there is a **need for further clarification** on some SFDR concepts:

* Need for a clear definition of entity vs product disclosure in the data collecting tables (Q2);
* Need for clarity on how to deal with different types of products under art. 8 and art. 9.

<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>

No, we don’t agree with the approach proposed:

* It is not checked whether an indicator is “material” for a sector or company. For example, it is asked whether a company has a Deforestation Policy (indicator 11). Companies for which this is not relevant will not have such a policy. According to Table 1, this in turn, can be qualified as a principal adverse impact.
* Numbers are not always comparable;
* In order to promote the transition, investments must also be made in “polluting” sectors that then reduce their emissions over time (compare Benchmark Regulation). This transition element is not reflected in this number.
* The numbers themselves have little meaning for the (retail) customer. This will have to be placed in context.

As already mentioned in our executive summary, there is a clear lack of data availability. Hence, we favor an approach of qualitative indicators (at least till the investee companies apply the revised NFRD) and very few mandatory relevant quantitative indicators on a best effort basis where the following criteria are taken into account:

* Availability and maturity of data;
* Availability of a standardised methodology applied to companies;
* Availability of a methodology to aggregate performance – and in their absence, disclosures breakdown by asset class (debt/equity);
* Meaningfulness of the indicator for end investors;
* Demonstrated relationship between indicator at firm-level and real world impact. We would suggest the ESAs to conduct a customer testing.

When data is not directly available from issuers, instead of using those estimates, FMPs could as an alternative approach, publish a disclaimer explaining why the information/the indicator or why it covers only a part of investee companies is not disclosed and which steps are being implemented to correct this situation.

A phase-in approach should also be allowed when necessary for practical reasons (until the revised NFRD is applicable for instance).

Finally, the current approach proposed by the ESAs set 50 indicators which are composed of 73 metrics (including 47 mandatory). If doubling the metrics for some indicators might have an interest from an ESG research perspective, we believe that in our case, **it is favorable to only have metrics that are weighted against the share of the investments.**

***Opt-in regime***

We do not see how an opt-in regime could be useful for end-investors. First of all, the underlying methodologies of the table fields are non-identical and therefore hardly comparable. Second, with the opt-in possibility firms are required to minimally add one indicator from table 2 and one indicator from table 3. This means, that in reality most firms will not disclose the same indicators from table 2 and 3 as they have a choice of freedom. This means the aggregate for an investor is hardly comparable (note: if the same key indicators are disclosed, their underlying methodologies are still possibly non-identical and therefore non-comparable). **The phasing-in of several key indicators from table 1 seems more feasible.**

<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>

We believe that proportionality is essential for smaller market participants to be able to implement the disclosure requirements. Although the SFDR text mentions proportionality, we would like to highlight again that for smaller market participants (and especially, those that just exceed the 500-employee limit) it might be very costly to implement all the necessary requirements. It should be reminded that even small counterparties (less than 500 employees) would be asked by their counterparties to disclose the information required by SFRD when they wish to sell their products within a life insurance or a management mandate.

<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>

SFDR encourages the use of data providers and estimates in cases where the data is not directly available from issuers. Those estimates and assumptions could be misleading for the end-customer. Instead of using those estimates, FMPs could as an alternative approach, publish a disclaimer explaining why the information/the indicator or why it covers only a part of investee companies is not disclosed and which steps are being implemented to correct this situation.

SFDR also states that management mandates and dedicated funds are considered to be financial products and are required to comply with the same transparency and website disclosure requirements. This raises many questions about volume of information to be published. To reduce FMPs’ burden, disclosure for those types of financial products could be limited to a portion of the portfolio and not to the entire investment universe.

<ESA\_QUESTION\_ESG\_3>

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

<ESA\_QUESTION\_ESG\_4>

***Non-alignment level 1 with level 2***

The SFDR requires FMP’s to disclose 1) a statement on due diligence policies and 2) actions. Table I, on the other hand, is mostly about indicators. An indicator is not a statement on due diligence policies and in our opinion also not a good representation of a policy. We believe this set of indicators does not fit well with the mandate the ESA’s have been provided with by the level 1 text.

***Decrease the number of key indicators***

First of all, in the same spirit of what FBF proposed for the revised NFRD, we believe disclosure should take place on a product by product basis, and to a lesser degree on entity level. If disclosure on entity level has to take place, we believe Table 1 should be drastically minimised, and Table 2 and 3 should be deleted (see opt-in paragraph in our answer to question 1). Better is to assess the most viable and important indicators, where the data challenge is of least concern. With the current proposal, Table 1 contains too many indicators. The focus should be on a few indicators that are meaningful to end-investors. More information is, in this case, not always better. It should be about understandable information. Furthermore, we believe the ESA’s should test with (retail) clients what information adds value for them. As mentioned before, more detailed information can be provided in disclosure on product-level.

It seems appropriate to propose a phased introduction of only 5-10 (to be selected) indicators to be reported in the first step (regarding consistency principle). These indicators should be of general relevance and already have good data coverage.

***Taxonomy alignment***

Elements of the taxonomy that have already been developed (i.e. climate change mitigation and adaptation) will be integrated into law by December 2020, becoming effective a year later. As other environmental objectives are still under development, we do not expect these taxonomy objectives to become effective before 2023. The current taxonomy does not yet cover social activities. Given the current context, we believe that the development of the social taxonomy not only is important but it should be brought forward. It is important to note that the Taxonomy Regulation contains provisions for Minimum Safeguards. The minimum safeguards in the taxonomy were designed to ensure that Taxonomy activities do not harm social objectives – in essence, a form of DNSH to social aspects (plus a range of governance issues). These build from several frameworks including the RBC guidelines referenced in the Disclosure Regulation concept of Principal Adverse Impact. The inclusion of the OECD MNEs Guidelines and the UN GPs as a framework to define minimum safeguards effectively ensures high and ample social standards. The OECD MNEs are the only government-backed and the most comprehensive instrument covering all major social and governance risks. Therefore those financial products that are taxonomy aligned by default have no exposure to adverse impacts – social and environmental.

***Proportionality***

Policy option 1.3 (detailed rules on *all* adverse impacts) would require very granular, detailed information that is mostly not available, or meaningful yet (see table below). The ESA’s also believe that this is the most resource intensive and expensive option for FMP’s. This very strict and granular approach leaves little room to the initial proposed proportionality in the level 1 text. We believe that proportionality is essential in order for smaller market participants to be able to implement the disclosure requirements. Although the SFDR text mentions proportionality, we would like to highlight again that for smaller market participants (and especially, those that just exceed the 500 employee limit) it might be very costly to implement all the necessary requirements.

Furthermore, the quality and availability of data will become more important with this regulation. Parties with a large budget can invest more in data providers, and can therefore provide more reliable data. Smaller parties must make choices for the amount of data and the reliability of the data. This may be at the expense of reliability, and thus at the expense of the comparability of data between FMP’s. We don’t believe this is desirable. We are in favour of the EU providing a database of all the data for all companies that we need to report on if this data is to be released. In this way, all asset managers have the same data and the reports are more comparable. Recently the EBF, together with five other financial industry associations, was calling for the European Commission to establish a common ESG data register in the European Union to enhance the availability of relevant and reliable ESG data, facilitate disclosure and scale-up sustainable funding.

***Pertinence of the data***

Table 1 does not take into account “pertinence” of an indicator for a company or sector. Please find in table 2, below, a more elaborate answer per principal adverse sustainability indicator, and the subsequent metric the ESA’s propose.

**Table 2.**

|  |  |  |  |
| --- | --- | --- | --- |
|  |  | **Adverse sustainability indicator** | **Comments** |
| **Environmental** | **Greenhouse gas emissions** | 1. Carbon emissions (broken down by scope 1, 2 and 3 carbon emissions - including agriculture, forestry and other land use (AFOLU) emissions - and in total) | Data for scope 3 is not available now. Current methodologies can lead to double counting. When the methodology is refined and data is available this can be included in the future. Meanwhile, Scope 3 could be envisaged with a selection of relevant sectors (Energy/Power, Oil & Gas, Shipping, Automotive, Construction…) and a phase in approach by sectors (starting with energy/power for instance) and as far as methodologies are developed. Scope 1 and 2 are not always available, even scope 2 will lead to double counting. Furthermore we do see from year to year big differences in reported emissions from companies. |
| 2. Carbon footprint |  |
| 3. Weighted average carbon intensity | We believe that this indicator does not bring additional information since we already have the “carbon footprint” indicators. Therefore, we believe that this indicator should be deleted. |
| 4. Solid fossil fuel sector exposure | Exposure to coal at a first stage until a detailed definition of “solid fossil fuel” is defined at European level. |
| **Energy performance** | 5. Total energy consumption from non-renewable sources and share of non-renewable energy consumption | Data is not available. For 5-8 we would rather see indicators for % portfolio invested in sustainable energy with a 'visible trend'. |
| 6. Breakdown of energy consumption by type of non-renewable sources of energy | Data is not available. Doubts if companies themselves have insights in this breakdown |
| 7. Energy consumption intensity | Non-availability of data. Data availability depends on the sectors' materiality of the issue and the national legislations (available in France for companies with >500 employees). Only a small selection of companies provides the GHG data to CDP. But that does not mean that energy consumption is available. Furthermore against what should it be weighted? |
| 8. Energy consumption intensity per sector | Not covered by most data rating agencies. We recommend to ask for the energy mix of our portfolios – overall - , which will provide a very good picture of where investors’ investments in the energy sector look like rather than on the energy consumption description of all investees which is:  a) extremely cumbersome and today impossible  b) less meaningful as the key lies in the energy markets. |
| **Biodiversity** | 9. Biodiversity and ecosystem preservation practices | As there is no data, the share of all investments in investee companies that do not assess, monitor or control the pressures corresponding to the indirect and direct drivers of biodiversity and ecosystems changes, is 100%. For both 9 and 10, ESAs could ask what % in high risk companies that have policies in the field of soil degradation, deforestation (% certified forest products), sustainable palm oil (% certified palm oil) and perhaps also a % portfolio that invests in non-organic pesticides. |
| 10. Natural species and protected areas | Hardly any company will provide this information. Reliability is very questionable as well. So FMP's will have to make use of third parties who are going to investigate this and estimate it. Most of these companies are not listed. So data raters have to dig into the supply chain and then come up with unreliable, non-comparable figures. |
| 11. Deforestation | We suggest to change it to number of companies or % of investments that commit/have a policy on No deforestation, No peat, No Exploitation (NDPE) out of total number (or investments) that could be associated to the risk of deforestation (limiting it to a number of relevant economic activities).  11 is a typical example of pertinence vs. sector. Most companies do not have a deforestation policy. As for many companies that is not relevant (e.g. Software technology company). So once you are solely invested in IT companies you score 100%. |
| **Water** | 12. Water emissions | We do not understand what water emissions means: please clarify |
| 13. Exposure to areas of high water stress | A handful of companies have provided this data to CDP. Most data providers do not even provide assumptions or estimations. |
| 14. Untreated discharged waste water | Non availability of data. |
| **Waste** | 15. Hazardous waste ratio | Are companies under NFRD obliged to provide this data? We don't believe so. Relying on estimates has many limitations. Possibly better to focus on i.e. landfill waste and exposure to materials on the UN POP list (instead of hazardous waste ratio). |
| 16. Non-recycled waste ratio | Non availability of data. |
| **Socia**l | **Social and employee matters** | 17. Implementation of fundamental ILO Conventions | Not available in most cases. If available, what does this data reflect? Are the companies with policies either good or bad? Or did the company just not have the resources to make it available to the public? Pertinence issue is relevant for 17, 21 and 22. |
| 18. Gender pay gap | Non availability of data. Such calculation is not possible because:   * Only very few companies disclose gender gap – namely companies from the UK and France where it is compulsory (other countries address the issue but no annual. It should be first, at the very least, be compulsory across the EU and one unified methodology provided. * But also what is consider as “pay”, as “employee” and how the employee’s pay is calculated varies from company to company, and within the few jurisdictions where it is mandatory. * Further, regulations varied in what “gender pay gap is and what is required to publish” e.g. in the UK companies with over 250 employees are required to publish any differences in salaries and bonuses between men and women within their organizations using 6 key figures including average gender pay gap as a mean average and as a median average, the same applies for bonuses but those are to be reported separately; French regulation provides a specific methodology for calculating the gender pay index using five indicators, each indicator is assigned a maximum score (being 100 the maximum score).   Therefore, we will be adding apples to pears, and the total sum will be meaningless Data is not available therefore we propose to exclude/delete this indicator. |
| 19. Excessive CEO pay ratio | Data availability depends on the size of the company |
| 20. Board gender diversity | Is available (except for small companies), although not by all data providers. |
| 21. Insufficient whistle blower protection | Is available (except for small companies), although not by all data providers. Pertinence issue is relevant for 17, 21 and 22. |
| 22. Investment in investee companies without workplace accident prevention policies | Is available, although not by all data providers. Pertinence issue is relevant for 17, 21 and 22. |
| **Human Rights** | 23. Human rights policy | Is mostly only available for companies where human rights issues are an issue (i.e. material). So only high-risk sectors and/or companies are relevant to be disclosed. |
| 24. Due diligence | Data is not available therefore we propose to exclude/delete this indicator |
| 25. Processes and measures for preventing trafficking in human beings | Data is not available therefore we propose to exclude/delete this indicator |
| 26. Operations and suppliers at significant risk of incidents of child labour | Non availability of data. Furthermore, questions around the definition of the ESA's: what 'operations and suppliers' are to be included? |
| 27. Operations and suppliers at significant risk of incidents of forced or compulsory labour | Non availability of data. |
| 28. Number and nature of identified cases of severe human rights issues and incidents | Data is somewhat available, but in most cases unreliable. |
| 29. Exposure to controversial weapons (land mines and cluster bombs) | Data is available, but significant differences are observed between interpretations of data providers |
| **Anti-corruption and anti-bribery** | 30. Anti-corruption and anti-bribery policies | Pertinence issue, this is only relevant for high-level risk companies/sectors. |
| 31. Cases of insufficient action taken to address breaches of standards of anti-corruption and anti-bribery | Data is not available therefore we propose to exclude/delete this indicator |
| 32. Number of convictions and amount of fines for violation of anti-corruption and anti-bribery laws | Not readily available by at least one data provider. Furthermore, we question what time period should be used? I.e. the past year. If so, if you have to report a positive number here you just have bad luck.  Relevant for "number of convictions" but partially relevant for "amount of fines": Depending on the jurisdictions, the amount of the fine will vary: might not be extremely relevant  Clarifications needed regarding the reference period for the "number of convictions": data providers usually assess the severity of the controversy and decide whether it will be taken into consideration during 1, 3 or 5 years.  The "amount of fines" should be calculated on the basis of 1 year. |
| Table 2 and Table 3: we don't believe an opt-in policy is a good solution. Phasing in other indicators compulsory in a later stage is a better alternative. |  |

<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>

TYPE YOUR TEXT HERE

<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>

No. There are three main reasons for that.

Although some FMP’s might see merit in a relative measure of carbon emissions relative to the EU 2030 climate and energy framework, we believe it is – given the objections to Annex I at this point in time – there is no need to ask for relative measures of carbon emissions relative to the EU 2030 framework as there is already an indicator that properly captures the EU’s net zero target and the science-based target of 50% reduction by 2030: the EU Taxonomy. We recommend therefore not to create further confusion and to use the taxonomy as the reference for economic activities to align with EU environmental objectives as the Taxonomy Regulation states.

Today’s EU 2030 targets are not in line with Europe’s net zero target by 2050.

Furthermore, today’s EU carbon prices are too low to be meaningful and do not capture real market failure.

<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>

We agree with the underlying spirit. However, the calculation for all investee companies or all investments is materially impossible.

As already explained in Q1, the current approach proposed by the ESAs set 50 indicators which are composed of 73 metrics (including 47 mandatory). If doubling the metrics for some indicators might have an interest from an ESG research perspective, we believe that in our case, **it is favorable to only have metrics that are weighted against the share of the investments.** Such an approach will have the following benefits:

1. It will limit the number of information communicated to stakeholders and limit the risks of confusion among end investors
2. Having metrics weighted against the share of the investments are more relevant for investors
3. Plus it avoids any issues with double counting that may arise from metrics that are based on the share of all companies in the investments: for example, if an asset manager markets 2 funds that both invest in Volkswagen, how does it aggregate the data and how does it explain the methodological choice to the stakeholders?

**We would hence advise the ESAs to delete all metrics that are not weighted by the investments, and amend the metrics that were not doubled and were not weighted by the investments** (for ex: PAI 20 on Board gender diversity).

<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>

TYPE YOUR TEXT HERE

<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>

Although we believe it is important to report on S and G matters, the data is not available and/or reliable to impose the reporting of mandatory indicators on the subject.

We do believe that we should focus our attention on the most appropriate and available environmental indicators. As regard to S and G matters we should analyze due diligences until data is sufficiently available and reliable.

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

We agree with disclosing exposure to coal.

We believe it is also premature to capture other sectors such as nuclear energy.

There is also much debate on nuclear energy, even within the EU there is no clear answer if this is or is not sustainable. Therefore, we don’t think at this point in time FMP’s should report on this separately.

In any case it is important to bear in mind that:

* SFDR is related to “sustainable investment”, and, therefore to “an investment in an economic activity that contributes to an environmental objective, (…) or an investment in an economic activity that contributes to a social objective, (…) or an investment in human capital or economically or socially disadvantaged communities, provided that such investments do not significantly harm any of those objectives and that the investee companies follow good governance practices, in particular with respect to sound management structures, employee relations, remuneration of staff and tax compliance”;
* Article 8 refers to products promoting “environmental or social characteristics, or a combination of those characteristics”. A product could be defined ESG (and then subject to SFDR) even if it pursues only social objectives. We don’t understand the reason to make an environmental indicator (exposure to solid fossil-fuel sectors) mandatory for any ESG product, even for those potentially pursuing only “S” (social) and/or “G” (governance) objectives.

<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>

No, they do not. The product disclosure rules do not take into consideration the difference between products. Much more clarity is required on this.

The SFDR should be adjusted to the type of product, for example different disclosures for different products like funds-of-funds, multi-assets funds, government bond funds.

We believe the specificities of portfolio management products are not sufficiently taken into account and that clarification is needed in the final RTS on the topic:

* **It is necessary to take into account the specific characteristics of portfolio management which is considered as a “financial product” under the SFDR, but which is *de facto* an investment service provided to several individual investors**. Indeed, those products take the form of a contract signed between a financial institution and a client (the investor), in which a discretionary portfolio management mandate is given to the financial institution by the investor. Such a contract takes into account the specific investment preferences and objectives of the investor, as well as his risk profile and his financial knowledge: depending on the investor’s profile built up from those information, the financial institution will be able to select an adequate portfolio that has been determined in advance according to different profiles (those are called “model portfolios”). It is worth noting that because portfolio management contracts are signed on a discretionary basis, the investor cannot change portfolios whenever he wants to (in case of unexpected losses for example): the only way to change his investments would be to change his investor profile. This is the reason why in practice, the investments made on behalf of the investors correspond exactly to the model portfolios pre-established by the financial institutions. In case where financial institutions notice the underlying investments no longer fit the initial investor profile (due to market volatility for example), they are required to use action plan to remediate the issue.
* **Due to these specificities, we have identified several issues in the implementation of precontractual and website product disclosures in the case of portfolio management products**:
  + First, a lot of financial institutions active in portfolio management as defined under SFDR will be positioned at the end of the reporting data chain since they are dependent on data communicated by other financial institutions (producter).
  + **Second, disclosing information on contracts that have been established between the financial institution and an individual client raises issues in terms of privacy and data protection**: if one can question the meaningfulness of such information for the public, we can especially question the difficulties arising from GDPR rules as such disclosures would contain personal data.

Furthermore, underlying instruments consist both from direct investments (stocks and bonds) and from funds. How will banks/FMPs have to combine the information?

* For a mandate there is also no look-through approach and capturing the necessary information from asset managers for each fund of the mandate could be extremely burdensome and costly with no commensurate benefit for end clients. Banks/FMPs would have to present this information at aggregate level. But:

Each fund manager can select a different indicator for from Annex I table 2 & 3

Each fund manager can use a different data provider (comparability?)

How can banks collect the data from the different websites?

Fund managers have the same timelines as banks. That means there is no time left for banks to analyse this issue and to implement a methodology, liaise with providers and set up data flows and new processes.

* Stocks, bonds and structured products are also a critical component of a lot of portfolios; they cannot be considered as financial products and therefore not qualify as either an art. 8 or art. 9 product. If a wealth management portfolio is subject to SFDR requirements, FMP’s need information on the underlying stocks. These stocks in turn, are not financial products and thus do not fall under the SFDR. This leaves FMP’s rather in the dark on the ESG characteristics of the underlying securities.

In order to avoid those issues but still provide relevant data to the public on the portfolio management products marketed, **we would recommend the ESAs to make clear that the product disclosure requirements would be done on the basis of a model portfolio for the specific case of portfolio management**: this approach is currently used in pre-contractual disclosure under other European Regulations like MiFID. It should of course be disclosed to the clients that the documentation is based on a model.

**Basing the disclosure on a model portfolio has several benefits**:

* First, as explained above, model portfolios are designed in a precise manner so that it can best target the preferences, profile and investment objectives of the investors: due to the adequation between the individual management contract and the model portfolios, the information provided will be accurate and not misleading.
* Second, it will avoid any privacy issues that might arise as explained above.

Last point, in relation with Multi-option products (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\_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>

TYPE YOUR TEXT HERE

<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>

FBF considers that it would be better to include a separate section on information on the use of derivatives. Derivatives which are used to protect investments by hedging currency or interest rate risks, would not be categorised as neither sustainable nor unsustainable investments. Therefore, their inclusion in the graphical and narrative explanations of the sustainable investment objective of the financial product could mislead end investors.

<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)