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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 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

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

# Introduction

Please make your introductory comments below, if any:

<ESA\_COMMENT\_ESG\_1>

Financial Planning Standards Board Ltd.’s (FPSB) European affiliate organizations (collectively, FPSB Europe) are pleased to provide comments on the European Supervisory Authorities’ (ESAs) Joint Consultation Paper concerning ESG Disclosures.

FPSB Europe consists of eight nonprofit professional financial planning bodies, including:

1. Österreichischer Verband Financial Planners (Austria)
2. Association Francaise des Conseils en Gestion de Patrimoine Certifies (France)
3. Financial Planning Standards Board Deutschland (Germany)
4. Financial Planning Standards Board Ireland
5. Federatie Financieel Planners (The Netherlands)
6. Swiss Financial Planners Organization (Switzerland)
7. Finansal Planlama Derneği (Turkey)
8. Chartered Institute for Securities & Investment (United Kingdom)

Established in 2004, FPSB’s mission is to benefit the public by establishing, upholding and promoting worldwide professional standards in financial planning. FPSB, together with its global network of professional financial planning bodies – represented in Europe by the organizations above – develops, promotes and enforces internationally consistent, locally relevant standards so that:

* The public can identify competent, ethical financial planners who have committed to placing their clients’ interests first;
* Practitioners can distinguish themselves as competent, ethical financial planning professionals; and
* Consumers, regulators and other key stakeholders can have confidence in both financial planning professionals and the financial planning profession, and recognize the value that financial planning offers to individuals and society.

As of 31 December 2019, there were close to 190,000 CFP professionals in 26 countries and territories worldwide, with over 8,200 CERTIFIED FINANCIAL PLANNER professionals practising in Austria, France, Germany, Ireland, the Netherlands, Switzerland and the United Kingdom.

FPSB Europe’s responses to the ESAs’ questions are through the rubric of financial planning – a client-centric, process-driven professional practice that can help (re)build trust and restore the public’s confidence in the marketplace and financial intermediaries. We have therefore applied the following principles in our response:

1. Retail investors accessing ESG products have a right to straightforward, easy to understand and consistent disclosure that will allow them to make informed decisions about which financial products are right for them and fulfil their needs, both in terms of investment goals and sustainability outcomes.
2. Disclosures provided by financial market participants on ESG products are straightforward, easy to understand and consistent, and provided in a manner that facilitates financial advisers meeting their regulatory obligations to integrate clients’ ESG preferences into suitability assessments and investment recommendations.
3. A commitment to ethics and to placing the clients’ interests first is embraced by product providers and financial advisers creating and presenting ESG product disclosures.

If you have any questions or would like additional information, please feel free to contact me at dkop@fpsb.or or nmaye@fpsb.org. We appreciate the opportunity to participate in the comment process.

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<ESA\_QUESTION\_ESG\_3>

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

<ESA\_QUESTION\_ESG\_4>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

FPSB Europe supports the use of pre-contractual and periodic template disclosure documents for ESG products that are straightforward, easy to understand and consistent among types or across classes of ESG products, which will support retail investors to make informed decisions about which financial products are right for them and fulfil their needs, both in terms of investment goals and sustainability outcomes.

FPSB Europe further suggests that such disclosure templates allow the Financial Market Participant, or Financial Adviser, to add additional information to enhance retail investors ability to make an informed decision about the ESG product.

<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>

In line with FPSB Europe’s response in question 12, the templates should be provided in an editable format to allow parties to enhance the type and level of disclosure provided, as appropriate. In addition to the items listed in Article 14 and 23 of the RTS, FPSB Europe proposes adding the following elements to disclosure documents:

1. An indication of what factor(s) was most heavily weighted in the sustainability indicators used
2. An explanation of why the higher/lower weighting was applied to the various indicators
3. A performance comparison amongst peers (with the appropriate disclosure regarding reliance on past performance)
4. An explanation of the highest risk factor in the investment, that could affect performance or the attainment of sustainability objectives, and whether the investment has had issues with this factor in the past
5. An explanation of the due diligence conducted by the product provider with regard to the presentation and promotion of the ESG product

<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>

FPSB Europe agrees with the balance of information, and also recommends that the following:

1. The information contained in the (pre-contractual and regular reporting) templates and on the provider’s website should be straightforward, easy to understand and consistent among types or across classes of ESG products, to support retail investors to make informed decisions about which financial products are right for them and fulfil their needs, both in terms of investment goals and sustainability outcomes.
2. Neither option should be used as a mechanism for ‘hidden disclosure” (i.e., important information on risks, impacts, etc. hidden in dense, small font text)
3. While language provided on a website might provide a high-level summary of information contained in the precontractual disclosure, or elsewhere on the website, no information provided in the context of disclosure should be written in "marketing language” – whether at a summary level or in-depth, all disclosure language should be consistent across all printed and online forms
4. To support the regulatory requirement that financial advisers raise the issue and integrate clients’ ESG preferences into suitability assessments and investment recommendations, disclosure documents should be drafted in a way that allows financial advisers to use them to guide and coach clients in making an informed decision, about which financial products are right for them and fulfil their needs, both in terms of investment goals and sustainability outcomes.
5. ESG product disclosures should provide adequate disclosure with regard to how the the Environmental, Social and Governance element weightings relate and interact to describe the product.

<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>

FPSB Europe recommends that the financial services ecosystem with an interest in ESG investing (Consumer Groups, Financial Market participants, Financial Advisers, Professional Bodies/Associations and Regulators) collaborate on the development of a clear and consistent taxonomy for ESG activities, indicators and products so that retail investors and other market participants can have a shared understanding of which investments meet ESG requirements, and how.

<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>

FPSB Europe believes that the graphical representation will be generally sufficient for comprehension by financial advisers and retail investors, but could be supported by additional indicators that describe how the various elements combined to generate the final product descriptor, the factor that most influenced the indicator, and the biggest risk to the investment product achieving its environmental and/or social impact.

<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>

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<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>

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<ESA\_QUESTION\_ESG\_20>

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

<ESA\_QUESTION\_ESG\_21>

FPSB Europe supports that the RTS should capture good governance practices when the product is undertaking sustainable investments. More broadly, FPSB Europe supports the notion that the European Supervisory Authorities promote that ESG providers and market participants advising retail investors on ESG products embrace a culture of ethics and of client first principles, so that ESG products are not only fit for purpose, but ultimately designed with the benefit of the end investor in mind.

<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>

FPSB Europe believes that in the absence of a framework, which we recommend is developed in consultation with the investment ecosystem (Consumer Groups, Financial Market participants, Financial Advisers, Professional Bodies/Associations and Regulators), the “do not significantly harm” principle disclosures may not be comparable amongst different products and investments. We recommend that these disclosures are closely monitored and the framework developed sooner rather than later. Moreover, FPSB Europe supports the notion that the European Supervisory Authorities promote a governance approach that is stronger than “do no harm” – one that embraces a culture of ethics and of client first principles, so that ESG products are not only fit for purpose, but ultimately designed with the benefit of the end investor in mind

<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>

Yes. FPSB Europe believes that ESG investment strategies should be defined and disclosed. We believe that the different strategies will most likely deliver different results at different times, so it is important that market participants disclose these strategies. These strategies could be defined as part of the new ESG taxonomy to be developed by the financial services ecosystem with an interest in ESG investing (Consumer Groups, Financial Market participants, Financial Advisers, Professional Bodies/Associations and Regulators). See our answer to Q.16 above.

<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>

FPSB Europe agrees with the disclosure of the top investments in ESG products in periodic disclosures. This will allow for the transparency of the holdings and for financial advisers and/or retail investors to independently verify the information, should they so require

<ESA\_QUESTION\_ESG\_24>

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

<ESA\_QUESTION\_ESG\_25>

FPSB Europe aggress with the position of all four elements. We would however like to refer to our reply in Question 15, which outline some principles we believe should also be applied.

<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)