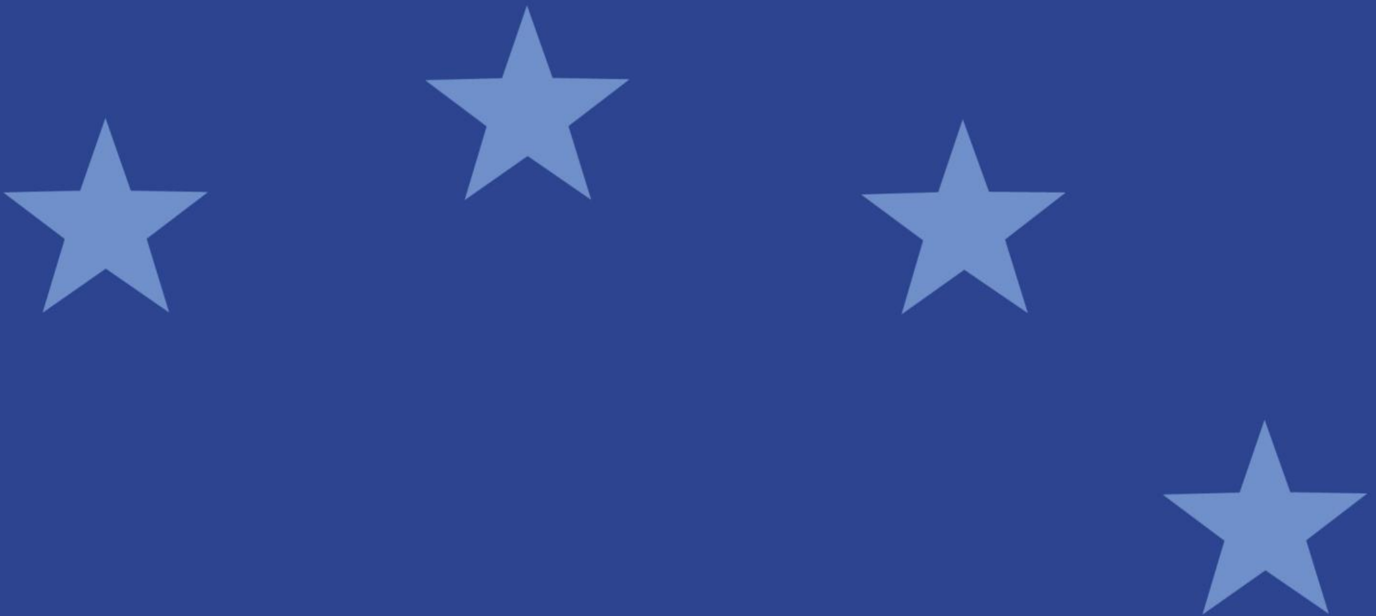
European Securities and Markets Authority | EBA European Banking Authority | EIOPA European Insurance and Occupational Pensions Authority | JOINT COMMITTEE OF THE EUROPEAN SUPERVISORY AUTHORITIES

Response form for the Joint Consultation Paper concerning ESG disclosures



23 April 2020

Date: 23 April 2020
ESMA 34-45-904

JOINT COMMITTEE OF THE EUROPEAN SUPERVISORY AUTHORITIES

Responding to this paper

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

Comments are most helpful if they:

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

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

Instructions

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

- Insert your responses to the questions in the Consultation Paper in the present response form.

- Please do not remove tags of the type <ESA_QUESTION_ESG_1>. Your response to each question has to be framed by the two tags corresponding to the question.

- If you do not wish to respond to a given question, please do not delete it but simply leave the text "TYPE YOUR TEXT HERE" between the tags.

- When you have drafted your response, name your response form according to the following convention: ESA_ESG_nameofrespondent_RESPONSEFORM. For example, for a respondent named ABCD, the response form would be entitled ESA_ESG_ABCD_RESPONSEFORM.

- The consultation paper is available on the websites of the three ESAs and the Joint Committee. Comments on this consultation paper can be sent using the response form, via the ESMA website under the heading 'Your input - Consultations' by **1 September 2020**.

- Contributions not provided in the template for comments, or after the deadline will not be processed.

Publication of responses

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

Data protection

The protection of individuals with regard to the processing of personal data by the ESAs is based on Regulation (EU) 2018/1725[1]. Further information on data protection can be found under the Legal notice section of the EBA website and under the Legal notice section of the EIOPA website and under the Legal notice section of the ESMA website.

[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.

General information about respondent

Name of the company / organisation	WWF European Policy Office
Activity	NGO
Are you representing an association?	☐
Country/Region	Belgium

Introduction

Please make your introductory comments below, if any:

<ESA_COMMENT_ESG_1>

- We are aware that data constraints remain a challenge for Financial Market Participants (FMPs) to comply with their sustainability disclosure obligations. However, the NFRD is being reviewed, which should make corporate reporting far more comparable, reliable, useful, and with high-quality, especially after Vice-President Dombrovskis' announcement on the creation of an EU sustainability standard that should radically streamline corporate ESG data reporting. In addition, the taxonomy disclosure obligations for companies will also empower FMPs and help them with their reporting obligations. Finally, the expected legislation(s) announced by Commissioner Reynders on environmental and human rights due diligence and on directors duties, that will very likely include reporting requirements or clarify them in NFRD, will also provide FMPs with additional critical sustainability information, making their own reporting obligations much easier to deliver.
- Overall we strongly support the ESAs approach to opt for granular and mandatory templates and indicators instead of high-level approaches. We applaud the ESAs approach on having a set of mandatory indicators in Annex I that FMPs and financial advisers should always consider as principal adverse impacts of their investment decisions. It is interesting to see that ESAs also add a complementary set of additional indicators: this two-layer system of mandatory/voluntary disclosures is similar to the 3-level approach recommended by the Technical Expert Group on sustainable finance subgroup on climate-related disclosures.
- However, we made important recommendations to improve this framework and specific indicators, to structure indicators the following way:
    - Indicators on exposure to sectors that likely have adverse impacts (holdings data for 'high-risk sectors', that we define precisely with NACE codes);
    - Sector-specific indicators on adverse impacts: this includes taxonomy-related indicators: we recommend ESAs to work at the same time on the current RTS proposals and those RTS related to the taxonomy disclosure. We also recommend ESAs to merge the Tables 1, 2, 3 but opt for a sector-specific approach, where certain indicators are mandatory for certain sectors but not for all others: this will ensure a more targeted, material and meaningful approach.
    - Forward-looking indicators including targets to reduce adverse impacts. The indictors need to be connected to agreed goals from the Paris climate Agreement, the Convention on Biological Diversity, the SDGs, etc.
- We have a major concern on the definition of fossil fuels, that should not omit oil and gas. Furthermore, we are quite concerned that without specifying the definition of fossil fuel sectors, which is extremely broad and high-level, related disclosure will almost unavoidably by uneven and not comparable. We therefore strongly recommend ESAs to (1) refocus the fossil fuel definition on upstream and midstream coal, oil and gas sectors (not downstream, notably combustion), (2) require in addition systematic disclosure on 'high carbon sectors' (using NACE codes to ensure clarity and comparability of such sector exposure) and (3) require in addition systematic disclosure on economic activities that significantly harm environmental objectives of the EU Taxonomy.
- It is important to align the definition of 'sustainable investments' as defined under Article 2(17) SFDR with the Taxonomy Regulation (notably Article 17), taking advantage of the empowerment in Article 25 of the Taxonomy Regulation.

- WWF is aware of the challenge of providing suggestions for product disclosures. This is why we strongly support the ESAs approach of providing a template to achieve as much comparability as possible.
- We recommend to disclose granular information in both pre-contractual disclosures and websites. But should a choice be required, pre-contractual disclosures should be preferred.
- It is positive that ESAs decided to also include governance elements in the disclosure requirements under the draft RTS – as it is reflected in SFDR that '*investee companies shall follow "good governance practices"'.* However, it would be useful to more clearly distinguish in Annex I between corporate governance indicators and anti-bribery and corruption indicators. These are two very different areas and are not sufficiently distinguished. On the corporate governance indicators, the ESAs could take inspiration from DG Justice's recent report on sustainable corporate governance, that in particular highlights the importance of oversight of and expertise on sustainability matters. These two issues should indeed be addressed in indicators on corporate governance.
- While we understand the proportionality issue, we also believe that disclosure will become less costly if there is a clear set of mandatory indicators in mandatory templates (as the ESAs propose), as it streamlines and simplifies a lot the reporting obligations for FMPs.
- 'Carbon emissions' should be replaced by 'greenhouse gas emissions' in the whole draft: greenhouse gas emissions' is more precise and accurate; carbon emissions can be confusing.
- There is no specific question on Article 9 'Engagement policies', but we would like to raise a concern about it: the link made in this article between the engagement efforts and the reduction in principal adverse impacts is not fully clear. It should be amended the following way to ensure a clear link:
  '(…) and an explanation of the ***specific*** reduction in principal adverse impacts achieved ~~of~~ ***by*** the ***engagement*** actions taken during the reference period'.
- Similarly, there is no specific question on Article 42 'Actions taken to attain environmental or social characteristics' but we recommend an amendment to ensure a proper link between the actions and the outcomes:
  (…) 'including shareholder engagement as defined in Article 3g of Directive 2007/36/EC and any other relevant shareholder engagement***, and the specific results achieved by these actions'***.
  A similar amendment should be done for Article 50 that is also missing the link between actions and outcomes.
- There is a wrongly narrowed scope in Article 51 (2) (d): on 'the proportion of underlying assets of the financial products referred to in Articles 41(b)(ii) and 49(b) (ii)': it should be amended as 'the proportion of underlying assets of the financial products referred to in Articles 41(b) and 49(b)' otherwise it will only focus on the remainder of the investment, which is the least interesting part of it.
- Another critical point is the need to clarify the purpose of Due Diligence under the SFDR: recognising constraints on Level 1 text, we think there is an opportunity to clarify the meaning and purpose of "due diligence" in the Level 2 RTS. "Due diligence" is a common commercial term to describe corporate processes to typically identify risks *to* the business. In the case of due diligence within the meaning of the RTS, this is about due diligence to identify impacts *of* a business – of investors in this case: impacts of the investment on sustainability factors (environment, people and human rights). This is the concept of responsible business conduct due diligence well clarified under the OECD Guidelines and UN Guiding Principles that are referred to in the recitals of SFDR. The Level 1 text touches on this only very briefly. For investors which are still not familiar with these concepts, the Level 2 text should clarify the distinction between the two types of due diligence.

<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>
WWF strongly agrees with the ESAs approach in Chapter II and Annex I of having a mandatory reporting template and a set of mandatory indicators considered to always lead to principal adverse impacts of the investment decisions on sustainability factors, irrespective of the result of the assessment by the financial market participants (FMP). This means that it is not a choice of the financial market participant to decide if the investments lead to principal adverse impacts, which provides far more comparability, standardisation and streamlining to the SFDR disclosure – which are absolutely necessary.

It is also very relevant to opt for an approach with 2 layers: (1) mandatory indicators; (2) recommended indicators (and a third layer exists implicitly as FMPs are always able to use additional voluntary indicators if they wish, for innovation and flexibility purposes).

However we have four concerns on the indicators themselves and where they fit in the Annex 1:

1. Many FMPs are not yet able to perform and disclose a meaningful assessment of their sustainability performance across various environmental, social and governance issues, for various reasons (lack of focus on sustainability issues, lack of sustainability expertise, lack of sustainability data, lack of methodology, etc). This is notably the case for their adverse impacts, i.e. their exposure to the most risky sectors sustainability-wise. **To fix this problem, we strongly recommend by default that FMPs publish their 'raw materials', i.e. their holdings data, allowing to understand their exposure to high-risk sectors.** This should include all companies that have a minimum exposure to these sectors (threshold of 5% annual revenues or more). ESAs should clarify what 'high risks' sectors are, using available information and the NACE codes: we provide a concrete recommendation for that.

2. The differentiation between Table 1 and Tables 2 and 3 is unclear, and some indicators proposed in Tables 2 and 3 should be moved to Table 1. Indeed, some indicators included in Table 2 and 3 are as problematic and relevant from a societal perspective as others indicated in Table 1. In addition, the approach for indicators in Tables 2 and 3 to simply require FMPs to choose at least 1 additional environmental and 1 additional social indicator is unclear as well. If the FMP has a principal adverse impact or several, then it is required to disclose all of it; if it does not, then it is not required to disclose anything. So cherry-picking as currently proposed for indicators in Tables 2 and 3 is not consistent with the concept of principal adverse impact.
To solve these problems, we strongly recommend to merge Tables 1, 2, 3 and create two categories of indicators: those that are mandatory for all sectors, and those that are sector-specific, i.e. their disclosure is mandatory for targeted sectors only (where they are material) but voluntary for the others. This has the benefit of being more targeted, material and meaningful, while finding a good balance with the FMP disclosure burden. Additional voluntary indicators can be recommended, e.g. when an adverse impact does not qualify as principal adverse impact.

3. Some indicators are missing. Notably, the reference to the EU taxonomy is missing, while it is a robust EU framework. **We strongly recommend ESAs to prepare simultaneously the RTS RTS covered by this consultation with the RTS related to the taxonomy disclosure and part of SFDR**, that are specified in the Article 25 of the taxonomy regulation amending the SFRD and updating the RTS requirement or adding new RTS. This is the best way forward to ensure consistency between the SFDR and the taxonomy regulation.

4. Indicators are not connected where relevant to global and EU sustainability objectives, including the Paris climate Agreement and the EU 2050 net zero emission goal, the targets in the EU Biodiversity Strategy 2030, the SDGs, etc. This is quite problematic as disclosure not connecting to these does not help to understand whether the FMP will reduce its adverse impact and align with such sustainability objectives. Such a disclosure is therefore quite incomplete and risks being at least partly useless for stakeholders to assess the sustainability efforts of FMPs. **To solve this problem, we strongly recommend ESAs to select forward-looking indicators enabling stakeholders to understand the connection / alignment between an FMP and global and EU sustainability objectives.**

Please see our response to Question 5 for technical recommendations.

<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>

To enable end investors to make more sustainable investment choices and avoid greenwashing, it is essential that investors can compare positive and negative sustainability impact between products and issuers, even if they belong to different asset classes. The requirement to ensure that end investors can take well informed investment decision choices creates a limit to proportionality,

To have impact and lead to significant positive climate and environmental benefits notably, it is positive that the SFDR requires sustainability disclosure requirements in term of impact to all financial products, not to the tiny 'ESG niche' that makes only around 1% of the market. However, the ones that don't consider adverse impacts on sustainability factors are required to just publish a statement. This is very limited in our view as it still creates a disincentive for sustainable financial products that will be required additional disclosure than business as usual ones. On a positive note, the ESAs have included in the statement the reason why the FMP does not consider sustainability adverse impacts and whether it intends to consider adverse impacts in relation to Table 1 in Annex I. This can be valuable information for end investors in terms of willingness to become more sustainable or not, and of the responsibilities the FMP takes (or not) for their impact on society and environment.

<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>
WWF strongly agrees with the ESAs approach of defining a clear set of mandatory indicators, and agrees with the two-layer approach of mandatory indicators plus voluntary ones, as proposed as well by the Technical Expert Group climate-related disclosures subgroup on levels of disclosures.

However, as mentioned in Question 1, we are concerned with the structure and selection of mandatory indicators and have raised three types of concerns. Please see our response to Question 5 for technical recommendations.

<ESA_QUESTION_ESG_3>

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

<ESA_QUESTION_ESG_4>
WWF believes it is crucial to have a mandatory template in this case, so that comparability is ensured.

However, as explained in Question 1 we have four types of concerns on the indicators themselves and their structure.
Please see our response to Question 5 for technical recommendations.

<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>

We welcome the granular approach from the ESAs, with specific indicators. We recommend ESAs to structure indicators in Annex 1 the following way:

1. Indicators on exposure to sectors that likely have adverse impacts (holdings data for 'high-risk sectors')
2. Sector-specific indicators on adverse impacts
3. Sector specific forward-looking indicators including targets to reduce adverse impacts

1. Indicators on exposure to sectors that very likely have adverse impacts (holdings data for 'high-risk sectors')

We believe that it is fundamental that investors disclose their exposure to 'high-risk sectors in a granular way, i.e. publish their holdings data for the most risky sectors sustainability-wise. This should include all companies that have a minimum exposure to these sectors (>5% annual revenues).

Indeed, our experience of FMP sustainability disclosure is that many are not yet able to perform and disclose a meaningful assessment of their sustainability performance across various environmental, social and governance issues, for various reasons (lack of focus on sustainability issues, lack of expertise, lack of data, lack of methodology, etc). Publishing the 'raw materials', i.e. the holdings data for FMPs, is therefore critical so that relevant stakeholders can have a closer look at FMP's portfolios on sustainability issue(s) they are interested in. ESAs should therefore require FMPs to publish holdings data in the most risky sectors sustainability-wise.

This first type of indicators focuses on the raw data of exposure to certain sectors. They are backward-looking.

Proven feasibility to disclose holdings data:
It should be noted that various European investors, for example in Nordic countries, already publish their entire holdings data, proving the feasibility of disclosing holdings data. In a research published in July 2017 (https://wwfeu.awsassets.panda.org/downloads/23_wwf_asset_owners_summary_lr.pdf), WWF identified 23 asset owners in 5 countries (Denmark, Finland, Netherlands, Norway, Sweden) that make their public equity holdings public on their website (ABP/APG, Alecta, AP Fonden 1, AP Fonden 2, AP Fonden 3, AP fonden 4, AP Fonden 7, ATP, Danica Pension, Elo Mutual Pension Insurance, Government Pension Fund Global (GPFG Norway), Government Pension Fund Norway (GPFN), Ilmarinen, Industriens Pension, Keva, PensionDanmark, PFA Pension, PFZW/PGGM, PKA, Sampension, State Pension, Varma).

Such an approach requires to define 'high-risk sectors':
Some sectors create higher sustainability impacts for the societies and planet than others, and/or bear higher sustainability-related financial risks, largely irrespective of the size of the companies. Chemical companies, even small, can be risky; bakeries, even big, not very much; healthcare is not a problematic

sector climate-wise, contrary to fossil fuels. Similarly, sectors with higher ESG impacts may face higher ESG-related financial risks, although the correlation between impacts and risks is more complex (for example high-carbon sectors all face climate transition risks, but they may or may not face climate physical risks, while some low carbon sectors may face climate physical risks).

There are already several calls for defining such high risk sectors:

- For example, the French Ministry of Environment commissioned AXA and WWF to issue recommendations for consideration at the G7 Environment Ministerial Meeting in May 2019. The resulting report, 'Into the Wild - Integrating nature into investment strategies', issues in particular the following recommendation: "The Task Force should include institutional investors and develop a framework for investors to use in analyzing biodiversity risk and engaging with the businesses in which they invest, especially in the sectors that can be most damaging for biodiversity." [2]. This calls clearly for identifying the high risk sectors for biodiversity, and the same is logically relevant for any other environmental issue.
- Similarly, Accountancy Europe, in its recent report 'From risks to regulation: Re-thinking company categorisation', stated: "It is important to also consider entities on the basis of their environmental and climate impacts. Certain sectors are riskier than others from these perspectives. (…) Sheer quantitative size related factors may be insufficient to provide the full picture of an entity's environmental impacts and risks." [3].
- Another example is the insurance guide published by Principles for Responsible Insurance, UNEP Finance Initiative and WWF in cooperation with UNESCO , using the concept of high risk sectors. It even develops two levels of severity of environmental damage: 'severe risk' sectors and 'high-risk' sectors[4].

List of environment-related high-risk sectors using NACE codes:

The EC Technical Expert Group (TEG)'s report on climate benchmarks provided the sector identification of major climate transition risks in volume, using NACE codes[5]:

A - Agriculture, forestry and fishing;
B - Mining and quarrying;
C – Manufacturing;
D – Electricity, gas, steam and air conditioning supply;
E – Water supply; sewerage, waste management and remediation activities;
F – Construction;
G – Wholesale and retail trade; repair of motor vehicles and motorcycles;
H – Transportation and storage;
L – Real estate activities.

In addition, the TEG taxonomy subgroup focused on the sectors that are the most carbon-intensive in the economy and where they deemed possible to identify low/zero carbon alternatives: the Annex of the TEG 's final report on the taxonomy provides the following list of sectors:

1. Forestry
2. Agriculture
3. Manufacturing
4. Electricity, gas, steam and air conditioning supply
5. Water, sewerage, waste and remediation
6. Transportation and storage

[2] AXA, WWF (2019), Into the Wild - Integrating nature into investment strategies - WWF France and AXA recommendations for the members of the G7 Environment meeting in Metz, 5-6 May 2019, https://www.axa.com/fr/newsroom/actualites/comment-accompagner-la-transition-vers-la-protection-de-la-biodiversite.

[3] Accountancy Europe (March 2020), From risks to regulation: Re-thinking company categorization, https://www.accountancyeurope.eu/publications/from-risks-to-regulation-rethinking-company-categorisation/.

[4] UN Principles for Responsible Insurance, UNEP Finance Initiative and WWF in cooperation with UNESCO (2019), Protecting our World Heritage, insuring a sustainable future, https://www.unepfi.org/psi/wp-content/uploads/2019/10/PSI-WWF-UNESCO-guide.pdf.

[5] https://ec.europa.eu/info/publications/sustainable-finance-teg-climate-benchmarks-and-disclosures_en#next.

7. Buildings.

By default, ESAs can use these TEG lists (both are very similar) to require the publication of holdings data for high-carbon companies. However, we believe that ESAs should develop a more granular list, as the use of a more granular layer of NACE codes shows that not all sub-sectors in the meta-sectors proposed by the TEG are systematically high-carbon, hence a part of the disclosure would not be very material nor very relevant. We therefore provide below a list of sectors that should be considered 'high risk' given their environmental impacts. We welcome a more in-depth multi-stakeholder discussion about where to draw the line in terms of severity, scale and likelihood of the environment-related impact and risks that each sector or sub-sector is facing. If deemed relevant, it is possible to increase granularity by using the next layer of the NACE codes. It should be noted that the list of sectors below covers as well many problematic sectors on social and governance issues (overlaps), although not in an exhaustive way.

To draft this list, WWF used the following sources:
TEG, IPCC, IEA ClimateWatch Platform from the World Resources Institute, European Environment Agency, European Commission, Banque de France-ACPR, DNB, Mercer, Moody's, European Parliamentary Research Service, TCFD, 2° Investing Initiative, Transition Pathway Initiative (by the Grantham Research Institute, London School of Economics, FTSE Russell and in partnership with the UN PRI), Science-Based Target initiative, UN PRI, UNEP Finance Initiative, ShareAction's Asset Owner Disclosure Project, AXA, WWF.

It should be noted that this lists includes the sectors that Banque de France-ACPR selected to assess the share of large French bank's loans exposed to climate transition and physical risks , using NACE Rev 2[6].

Here is the WWF recommended list:

A - Agriculture, forestry and fishing
A.01 - Crop and animal production, hunting and related service activities
A.02 - Forestry and logging
A.03 - Fishing and aquaculture

B - Mining and quarrying
B.05 - Mining of coal and lignite
B.06 - Extraction of crude petroleum and natural gas
B.07 - Mining of metal ores
B.08 - Other mining and quarrying
B.09 - Mining support service activities

C - Manufacturing
C.10 - Manufacture of food products
C.11 - Manufacture of beverages
C.12 - Manufacture of tobacco products
C.13 - Manufacture of textiles
C.14 - Manufacture of wearing apparel
C.15 - Manufacture of leather and related products
C.16 - Manufacture of wood and of products of wood and cork, except furniture; manufacture of articles of straw and plaiting materials
C.17 - Manufacture of paper and paper products
C.19 - Manufacture of coke and refined petroleum products
C.20 - Manufacture of chemicals and chemical products
C.21 - Manufacture of basic pharmaceutical products and pharmaceutical preparations
C.22 - Manufacture of rubber and plastic products
C.23 - Manufacture of other non-metallic mineral products
C.24 - Manufacture of basic metals

[6] Banque de France-ACPR (2017), Evaluation des risques liés au changement climatique pour le secteur bancaire :vers des outils de stress-tests ?, https://acpr.banque-france.fr/sites/default/files/medias/documents/20170314-climat.pdf.

C.25 - Manufacture of fabricated metal products, except machinery and equipment
C.26 - Manufacture of computer, electronic and optical products
C.27 - Manufacture of electrical equipment
C.28 - Manufacture of machinery and equipment n.e.c.
C.29 - Manufacture of motor vehicles, trailers and semi-trailers
C.30 - Manufacture of other transport equipment

D - Electricity, gas, steam and air conditioning supply
D.35 - Electricity, gas, steam and air conditioning supply

E - Water supply; sewerage; waste management and remediation activities
E.36 - Water collection, treatment and supply
E.37 - Sewerage
E.38 - Waste collection, treatment and disposal activities; materials recovery
E.39 – Remediation activities and other waste management services

F - Construction
F.41 - Construction of buildings
F42 - Civil engineering
F.43 - Specialised construction activities

G - Wholesale and retail trade; repair of motor vehicles and motorcycles
G.45 - Wholesale and retail trade and repair of motor vehicles and motorcycles
G.46 - Wholesale trade, except of motor vehicles and motorcycles

H - Transporting and storage
H.49 - Land transport and transport via pipelines
H.50 - Water transport
H.51 - Air transport
H.52 - Warehousing and support activities for transportation

L - Real estate activities
L.68 - Real estate activities

This list should be updated regularly (maximum every three years). In addition, the ESAs, together with the Commission, the forthcoming Platform on sustainable finance and other relevant stakeholders, should help financial institutions to identify the relevant sectors and companies by:

- Urgently, developing corresponding tables between NACE codes and the mainstream industry classifications used in the finance space, typically ICB (Industry Classification Benchmark, led by Dow Jones and FTSE) and GICS (Global Industry Classification Standard, led by MSCI et S&P);
- Over time, harmonising NACE codes and GICS/ICB where relevant and completing NACE codes where relevant.

The TEG provided useful analysis on this issue in its Final taxonomy report (section 3.3.12, Sector classification, page 46).

Finally, it would also be relevant to include company-level information: for example a company in a given sector may not face water-related risks if it is located in a geography with plenty of water, but the same type of economic activity may face acute water-related risks if it is located in a water-stressed geography. Several tools are already available to assess such risks depending on the physical location of corporate assets (e.g. the Water Risk Filter tool developed by WWF or the Aqueduct tool developed by World Resources Institute).

2. Sector-specific indicators on adverse impacts

This second type of indicators focuses on sustainability impacts or policies of investee companies, aggregated at FMP portfolio level. They are backward-looking.

2.1. Integrate taxonomy-related requirements in all RTS to ensure consistency

WWF strongly recommends ESAs to prepare all RTS related to SFDR altogether, to maximise effectiveness and synergies, and minimise the risk of gaps and inconsistencies. This is notably the case with taxonomy-related requirements, as the Taxonomy regulation requires ESAs to develop 3 additional RTS for SFDR related to the taxonomy, for Article 2a (Principle of do no significant harm) and Article 8 and 9 products. The deadline for such RTS (30 December 2020) is the same as the one for the others SFDR RTS, so there is no relevance to treat them in isolation.

Importantly, the concept of "principal adverse impacts" is closely linked to the concept of "significant harm" (Art 17 Taxonomy regulation) and "minimum safeguards"(Art 18 Taxonomy regulation). In addition, there is in the SFDR a new Article 2a on a Principle of do no significant harm, while in the Taxonomy regulation Article 17 defines Significant harm to environmental objectives.

Concretely, the indicators in Annex I need to capture taxonomy-related issues. We recommend to include:
- FMP share of investments that significantly harm environmental objectives, for which environmental objective(s), and clarifying whether the data is estimated by investee companies or by the FMP;

2.2. Improve specific indicators and make their mandatory disclosure sector-specific

As indicated in Question 1, WWF finds the differentiation between Table 1 and Tables 2 and 3 unclear, and some indicators proposed in Tables 2 and 3 should be moved to Table 1. Indeed, some indicators included in Table 2 and 3 are as problematic and relevant from a societal perspective as others indicated in Table 1. In addition, the approach for indicators in Tables 2 and 3 to simply require FMPs to choose at least 1 additional environmental and 1 additional social indicator is unclear as well. If the FMP has a principal adverse impact or several, then it is required to disclose all of it; if it does not, then it is not required to disclose anything. So cherry-picking as currently proposed for indicators in Tables 2 and 3 is not consistent with the concept of principal adverse impact.

To solve these problems, we strongly recommend to merge Tables 1, 2,3 and create two categories of indicators: those that are mandatory for *all* sectors (to be included in a new Table 1), and those that are *sector-specific* (to be included in a new Table 2), i.e. their disclosure is mandatory for targeted sectors only (where they are material) and voluntary for the others:
- The mandatory indicators for all sectors will focus on few issues that are relevant for all sectors (for example on the social and governance areas: workforce composition, wages, gender pay gap);
- The sector-specific indicators will focus on more issues, will be more targeted and specific, to properly cover the adverse impacts of each sector or sub-sector, at the level of granularity that enables the comparison between peer companies. For environmental issues such sector-specific indicators need to be structured consistently with the EU taxonomy (per the six environmental objectives); in addition the taxonomy criteria already provide very important and meaningful environmental indicators at sector and even activity-specific levels, that should be re-used everywhere relevant in Annex I (e.g. CO_2 emissions / kWh for the power sector; tons of CO_2 emissions per ton of steel produced for the steel sector; g CO_2/km for the transport sector; etc.): there is no need nor relevance to duplicate the taxonomy, given the huge amount of expertise and work gathered for setting up all the very relevant activity-specific taxonomy indicators.

This approach has the major double benefit of ensuring more targeted, material and meaningful disclosures, while reducing the disclosure burden. As a result it will enable more robust and gran-

ular comparisons between peer companies of their sustainability performance (as the sector-specific indicators will be more targeted and less general). Additional voluntary indicators can be recommended, e.g. when an adverse impact does not qualify as principal adverse impact.

> Amendment suggestion in Art 6 (1):
>
> 1. The section referred to in point (b) of Article 4(2) shall contain a description of the assessment for the reference period of adverse impacts of investment decisions of the financial market participant on sustainability factors that qualify as principal, including at least the following:
>
> (a) the minimum principal adverse impacts on sustainability factors ***for all sectors*** as set out in Table 1 of Annex I;
> (b) ***the principal adverse impacts on sustainability factors that are sector-specific*** ~~at least one additional principal adverse impact on a climate or other environment-related sustainability factor that qualifies as principal~~ as set out in Table 2 of Annex I;
> ~~(c) at least one additional principal adverse impact on a social, employee, human rights, anti-corruption or anti-bribery sustainability factor that qualifies as principal as set out in Table 3 of Annex I; and~~
> (d) any other adverse impact on a sustainability factor that qualifies as principal.

In addition, the environmental indicators should be structured in an EU taxonomy consistent way (as per the six environmental objectives of the EU taxonomy).

Furthermore, several indicators should be improved or added (at sector-specific level). Regarding environmental indicators, going beyond climate change, we believe the information in Annex I can be better selected using indicators such as:

- Biodiversity: the indicator 'Share of investments in investee companies with operational sites owned, leased, managed in, or adjacent to, protected areas and areas of high biodiversity value outside protected areas' is problematic, as there is a lot of highly valuable biodiversity outside protected areas which is not captured. The TEG recommended to focus "particularly UNESCO World Heritage sites and Key Biodiversity Areas (KBAs)" at least (see the Annex of the TEG final report), which by consistency should be the minimum used by ESAs for the RTS. For KBAs see: https://www.iucn.org/resources/conservation-tools/world-database-of-key-biodiversity-areas. A more comprehensive definition would be the following one: "*All areas with high biodiversity value (like the Key biodiversity Area-KBAs) and areas that are not protected by the national government but by indigenous communities or other groups (defined by the CBD as Other effective conservation measures-OECMs)*".
- In addition, a new element on land conversion should be added: 'Share of investments invested in investee companies whose operations contribute to zero conversion of natural ecosystems for agriculture'.
- To add: Total use of (agricultural) products and commodities linked to systemic problems concerning land use change, and the share that is sustainably sourced;
- To add: Total use of forest risk commodities, and the share that is sustainably sourced;
- To add: Total use of other raw materials per category of raw material where relevant;
- Water: other indicators should be added: 'Water consumption (water withdrawal - water discharge) in water stressed areas broken down by source';
- To add: Share of all investments in investee companies that integrating biodiversity risks into conventional risk management processes;
- To add: Share of all investee companies that assess biodiversity impacts, dependencies and risks and integrate them into the strategies, operations, and processes;
- To add: Share of all investee companies with a net-positive effect on biodiversity
- Water: some quantitative indicators are missing, for example:
    - m^3 of water withdrawals or water consumption generated by investee companies per million EUR;

- m³ of water withdrawals linked to river basins with high water scarcity generated by the investee companies as a % per sector invested in;
- More generally, there are five variables which are front and center for a comprehensive risk exposure of a company at basin and operational levels, five variables are front and center: (Tools to measure this at scale already exist, e.g. WWF Water Risk Filter or WRI Aqueduct):
  - Exposure to water scarcity and drought risk;
  - Exposure to flooding risk;
  - Exposure to water quality risk;
  - Exposure to ecosystem degradation risk;
  - Exposure to regulatory water risk.
- Key driver elements of biodiversity loss are missing: invasive alien species and pollution (e.g. marine litter, plastic pollution, underwater noise, chemical waste, pesticides and others in food production);
- Deforestation: the following should be added: the heading for deforestation should be changed to include "deforestation and forest degradation" as degradation typically is the first stage in the process of deforestation;
- Add deforestation-free supply chains as a sector-specific indicator;
- Clarify whether the mentioned deforestation policies from the investee companies address some measure of control directed at deforestation;
- Add forest landscape restoration as it is a missing indicator; for example, a sector-specific indicator could be "share of investments in entities with measures or activities in forest landscape restoration such as under the Bonn Challenge and New York Declaration on Forests".

Regarding social indicators, it is positive that several are included in Annex I, but they are more limited than the environmental and climate ones. They should be broadened and be made more specific, for example:

- Commitment to and implementation of fundamental ILO Conventions: Share of investments in investee companies that do not publicly disclose a policy commitment that commits the company to respect the human rights of workers (employees and other workers) covered by the ILO Core Labour Standards (set out in the ILO Declaration on Fundamental Principles and Rights at Work);
- Workforce composition:
  - Total number and distribution of workforce by sex, age, country and professional classification;
  - Annual average of indefinite contracts, temporary contracts and part-time contracts by sex, age and professional classification;
- Pay and wages:
  - Ratio of the average salary and remuneration of women to men for each employee/worker category (equal or average jobs in the undertaking), by significant locations of operation;
  - Ratio of average and median wage to the highest remuneration in the FI;
  - Share of the remuneration of executives that is depending on sustainability performance indicators;
  - Average gender pay gap disclosed by investee companies;
  - Share of investee companies that do not publicly disclose a policy commitment that commits the company to pay a living wage, supported by description of the methodology used to determine living wage;
- Human Right Policy:
  - Share of investments in investee companies without a publicly disclosed policy commitment to respect human rights.
- Due Diligence:
  - Share of investments in investee companies without publicly disclosed description of due diligence processes to identify, prevent, mitigate and account for adverse human rights impacts in their own operations;
  - Share of investments in investee companies without publicly disclosed description of due diligence processes to identify, prevent, mitigate and account for adverse human rights impacts in business relationships, including supply chains;

- Share of investments in investee companies that do not disclose their most severe human rights risks (potential impacts) and/or actual impacts across their own operations and in their business relationships, including supply chains;
- Share of investments in investee companies that do not disclose action taken to prevent, mitigate and account for the risks and impacts identified in their own operations;
- Share of investments in investee companies that do not disclose action taken to prevent, mitigate and account for the risks and impacts identified in business relationships, including supply chains.

It is recommended to more clearly distinguish in Annex I between corporate governance indicators and anti-bribery-corruption indicators. Find below some indicator suggestions:

- Anti-corruption and anti-bribery policies:
  - Share of investments in investee companies without publicly disclosed policies on anti-corruption and anti-bribery consistent with the United Nations Convention against Corruption;
  - Share of investments in investee companies without oversight of and compliance programmes to prevent and detect corruption and bribery.
- Insufficient whistleblower protection:
  - Share of investments in investee companies without publicly disclosed whistleblowing policies that guarantee confidentiality, anonymity and protection against retaliation.

There are many other social and governance indicators that could be included, including human rights and corruption ones, very well reflected in the response of Global Witness.

2.3. Include indicators for FMP themselves

Indicators in Annex 1 focus exclusively on investee companies. This is largely relevant for physical, backward-looking indicators as the main adverse impacts of FMPs by far are related to their portfolio, not to their own direct impacts.

However, this is not sufficient for capturing what FMPs are doing themselves to mitigate the adverse impacts of their own portfolio. They should therefore disclose whether they have set up policies to mitigate their adverse impacts.

ESAs should therefore include the following indicators in Annex 1 to disclose whether and how FMPs have

- adjusted their strategic asset allocation;
- adopted sector-specific policies to mitigate adverse impacts (per category of adverse impacts, structured in an EU taxonomy-consistent way for environmental issues: climate change mitigation and adaptation (including energy); water and marine resources; circularity and waste; pollutants; biodiversity and ecosystems (including deforestation);
- identified opportunities and set targets to maximise exposure to climate opportunities;
- have engaged on sustainability issues (which one) with investee companies (which ones); with policy makers; with their asset managers and other service providers (where relevant); with members and beneficiaries (where relevant);
- or plan to do the above in the near future and by when;

3. Sector-specific forward-looking indicators including targets to reduce adverse impacts

This third type of indicators focuses on forward-looking metrics.

The indicators proposed in Annex I do not include forward-looking indicators (or barely). This is a major flaw on two counts:

- It makes it impossible to assess whether the investee companies will reduce their adverse impacts or not in the future, i.e. if they are on a positive or negative pathway regarding their impacts. Analysis has shown that for example past greenhouse emissions are not a good proxy for future greenhouse emissions – as it strongly depends on the company's strategy and choices to reduce its emissions or not.
- It makes it impossible to compare the companies' sustainability performance related to its adverse impacts with already agreed global and EU sustainability goals, for example the Paris climate Agreement, the Convention on Biological Diversity and the SDGs. It is critical that the adverse impact disclosure is put in perspective of the global and EU goals on related sustainability issues, otherwise it is very difficult to assess the relevance of the figures, and the performance of both investee companies and investors to mitigate their adverse impacts. This requires both forward-looking metrics and science-based methodologies.

The TCFD recommendations and the EU Non-financial reporting directive clearly include targets. For WWF, it is absolutely critical that the Annex I includes forward-looking indicators.

3.1. WWF recommendation of forward-looking indicators on climate change for high-carbon sectors:

WWF sees a huge merit in including forward-looking indicators such as emission reduction pathways in Table 1. It is critical to disclose whether investee companies have a business model that is aligned with the goals of the Paris Agreement or are taking the steps to gradually align, as this is THE main information to assess their climate adverse impacts. Relatedly, WWF highlights the requirement in Article 4(2)(d) of the SFDR where financial market participants shall include ' *the degree of their alignment with the objectives of the Paris Agreement*'. The indicators currently proposed in Table 1 do not help at all to provide an assessment of the degree of alignment with the objectives of the Paris Agreement, hence fail to answer the requirement of Art 4(2)(d). WWF recommends to make such forward-looking indicators on climate change mandatory for disclosure on high-carbon sectors (see the definition and list of high-carbon sectors proposed in Question 19), and recommended for other sectors.

The three indicators of carbon emissions, carbon footprint and weighted average carbon intensity proposed in Table 1 are not fit for measuring climate alignment for four complementary reasons:

- They do not provide the information whether the company is gradually aligning or not its business model with 1.5°C climate scenarios. Thus, using carbon footprint metrics does not mean that the approach is science-based: assessing the alignment with the objectives of the Paris Agreement would systematically require an additional methodological step;
- They treat low-carbon (e.g. renewables) and neutral activities (e.g. services and media) equally. As a result, some low-carbon technologies that are critical in all 2°C scenarios (such as the production at scale of electric vehicles or electricity storage) are ignored when focusing on the carbon footprint of portfolios. This is not consistent and potentially counterproductive with the objective of alignment with the Paris Agreement;
- Past GHG emissions are not a good indicator of future emission trends. GHG emission data are backward-looking, and thus will not necessarily lead to select the companies that are transitioning to a low-carbon business model, as this depends largely on their forthcoming investment plans (capex plans) – that are not captured with backward-looking data;
- 'Scope 3' emissions are usually ignored. Most carbon footprint assessments rely on corporate reporting, which usually only covers Scope 1 (direct emissions) and Scope 2 (purchased electricity). This scope is relevant for a few sectors such as power production. But in other sector it misses the bulk of emissions that are related to the use of products and supply chains (Scope 3): scope 1 and 2 roughly capture around 10% of emissions of major sectors like automobiles, energy, industrials, etc.

WWF therefore recommends that these indicators for greenhouse gas emissions are replaced, or at least complemented by ESAs. These indicators should build on forward-looking climate scenario analysis, as recommended by the TCFD. There is growing support for such an approach from central banks/regulators[7] and governments[8]. Forward-looking climate alignment indicators can include:

- **Temperature alignment scoring of the investment portfolio**, which compares the climate trajectory of a portfolio (e.g. the portfolio is on a 4°C trajectory) with a temperature benchmark (e.g. 1.5°C)[9]. When using this indicator and in order to ensure transparency and comparativeness, financial market participants should explain (i) the scopes (1 to 3) of investee companies' emissions covered by the methodology, (ii) how the methodology forecasts the future climate performance of companies, (iii) on which temperature scenario it relies and (iv) how the methodology derives temperature benchmarks.
- **The share of companies in the investment portfolio that have set robust climate science-based targets** (e.g. in line with criteria of the Science-Based Targets initiative);
- **An assessment of exposure to high-carbon sectors in terms of economic activity** (e.g. installed power generation capacity, number of electric vehicles produced, etc.) compared to required economic outputs under a Paris aligned scenario;
- **A description by FMPs of their short, medium and long term climate targets** in relation to the latest recommendations of the United Nations Inter-governmental Panel on Climate Change. This implies the need to achieve net-zero emissions by no later than 2050.

More precisely:
- RTS should require FMPs to disclose which climate scenarios they use, and whether they include a 1.5°C and a 2°C scenario. It is also relevant to ask whether FMPs plan to use the reference climate scenarios developed by the NGFS, published in June 2020[10];
- RTS should require FMPs to disclose the methodology and tool they use for their climate scenario analysis, the asset classes covered, the scope of the portfolio covered (in % of AuM);
- RTS should ask FMPs whether they would be ready to use the set of climate scenarios currently prepared by the NGFS, when it becomes available.

It should be noted that there is a growing number of methodologies and tools available for assessing the temperature alignment scoring of the investment portfolio[11], for example the PACTA tool[12] that EIOPA used for its climate assessment in 2019 as well as the Bank of England, the California Department of Insurance and other financial regulators. PACTA is a Horizon 2020-funded research project that developed a science-based, open-source and free of charge tool that assesses the Paris alignment of a fund, a portfolio, a benchmark or a company, using the IEA well below 2°C scenario (B2DS) and below 2°C scenario (SDS).

We also propose to split Article 10 in two parts for clarity, as the reference to international standards and the degree of climate alignment are too totally different issues content-wise, that were just put together in one single sentence at late stage of compromise amendment discussions in the trialogue.

Amendment suggestion in Art 10: The section referred to in point (f) of Article 4(2) shall contain a description of:

[7] For example: European Systemic Risk Board, Network for Greening the Financial System, Bank of England, Dutch National Bank, Banque de France, EIOPA stress testing initiative, etc.
[8] For example: Article 173 in France, The Swiss and Dutch led initiative 'enhancing transparency and aligning private financial flows with the Paris Agreement', etc.
[9] Temperature alignment tools give an indication of how a portfolio contributes to the ecological and energy transition compared to a climate benchmark, but can also be considered to assess exposure of the portfolio to transition risk (i.e. risks of stranded assets and portfolio losses if the economy ultimately aligns with the climate benchmark).
[10] https://www.ngfs.net/sites/default/files/medias/documents/820184_ngfs_scenarios_final_version_v6.pdf.
[11] Institut Louis Bachelier (2020), The Alignment Cookbook. UNEP-FI and VividEconomics (2019), Changing Course.
[12] https://www.transitionmonitor.com/.

***1. T**he adherence of the financial market participant to responsible business conduct codes and internationally recognised standards for due diligence and reporting and;
***2. W**here relevant, the degree of their alignment with the objectives of the Paris Agreement, including at least **the results of the alignment assessment, the choice of the** forward-looking climate scenario~~s~~**, and the methodology used for the assessment**.

For both paragraphs the description shall specify the adverse indicators used in the assessment of principal adverse sustainability impacts referred to in Article 6 to measure that adherence or alignment.

3.2. WWF recommendation to NOT include Scope 4 emissions (saving other companies´ GHG emissions):

As of today, carbon savings are especially controversial, and WWF is opposed to using such metrics. Indeed using the 'carbon savings' concept for financial products is associated with major methodological issues, that could create additional risks of greenwashing:

The World Resources Institute published recently a report on the issue of avoided emissions[13] and concluded:

- *"Many methodological issues are key to the relevance and credibility of comparative impact estimates. These issues include how to identify which emissions sources should be assessed and how to identify credible reference products against which a company's products can be compared. Claiming positive impacts can introduce additional complexities, such as how to apportion total impact to different value chain actors based on estimated contributions to the company's product ("attribution"); cherry picking products or product applications; and aggregating results for claims at the level of product portfolios."*
- *Considerable variation in practice exists across each of these issues. While most published guidance documents and standards for comparative impacts are based on established life cycle accounting approaches, they provide quite different specifications on many issues. Even greater variation in practices exists amongst individual companies. Little of this variation can clearly be ascribed to product- or sector-specific considerations or other identifiable reasons."*

There are additional concerns about avoided emissions from the Greenhouse Gas Protocol (GHG Protocol). The GHG Protocol[14] is the 20-year global standard maker that establishes comprehensive global standardized frameworks to measure and manage greenhouse gas emissions from private and public sector operations, value chains and mitigation actions. It notably established the famous scopes 1, 2, 3 for GHG reporting, which have become the global reference.

CDP also raises concerns on the use of avoided emissions [15].

The major concerns are mostly due to the need for assumptions regarding baseline scenarios, which can very easily be tampered with (e.g. assume a higher baseline to get more 'avoided emissions'), and thus represent a significant greenwashing risk.

3.3. WWF recommendation of targets to reduce adverse impacts:

[13] WRI (2018), Estimating and reporting the comparative emissions impacts of products
[14] See https://ghgprotocol.org/about-us. The GHG Protocol is a partnership between the World Resources Institute (WRI) and the World Business Council for Sustainable Development (WBCSD) and works with governments, industry associations, NGOs, businesses and other organizations
[15] https://sciencebasedtargets.org/wp-content/uploads/2019/10/Towards-a-science-based-approach-to-climate-neutrality-in-the-corporate-sector-Draft-for-comments.pdf.

WWF sees a huge merit in including forward-looking indicators in Table 1 that are not only climate-specific, and focus on other environmental issues, and social and governance issued as well. Such target disclosure should be mandatory for those sectors where the adverse impact is most important, and recommended for other sectors.

ESAs should include the following indicators in Annex 1:

- Potential investee company's targets (or planned target, by when) to mitigate its adverse impacts (per category of adverse impacts at sector-specific level, structured in an EU taxonomy-consistent way for environmental issues: climate change mitigation and adaptation (including energy); water and marine resources; circularity and waste; pollutants; biodiversity and ecosystems (including deforestation). This should include associated timelines, coverage of the target (full business model or not), and whether such targets are science-based (i.e. in line with global or EU environmental goals);
- In particular, potential investee company's climate target (or planned target, by when) to align its business model with the Paris Agreement's goal of 1.5°c or well below 2°C, the timeline, the climate scenario chosen;
- Potential FMP targets (or planned target, by when), to maximise its positive impacts (per category of positive impacts, structured in an EU taxonomy-consistent way for environmental issues, with associated timelines, and coverage of the target (full business model or not)).

To avoid disclosure that is not material nor meaningful, thus unnecessary, we recommend that that RTS requirements for disclosing potential targets are sector-specific, i.e. climate target disclosure is mandatory only for high-carbon sectors (see the definition and list we recommend in Question 19), or deforestation target disclosure is mandatory only for companies in sectors that are deforestation-relevant (forestry, agriculture, etc).

3.4. Targets should include those from FMP themselves

Indicators in Annex 1 focus exclusively on investee companies. This is largely relevant for physical, backward-looking indicators as the main adverse impacts of FMPs by far are related to their portfolio, not to their own direct impacts.

However, this is not sufficient with forward-looking indicators: in a forward-looking approach it is critical for FMPs themselves to disclose whether they have set themselves target(s) to reduce their adverse impacts and commit to align (or not) with agreed sustainability goals.

ESAs should therefore include the following indicators in Annex 1:

- Potential FMP targets (or planned target, by when) to mitigate its adverse impacts (per category of adverse impacts, structured in an EU taxonomy-consistent way for environmental issues: climate change mitigation and adaptation (including energy); water and marine resources; circularity and waste; pollutants; biodiversity and ecosystems (including deforestation). This should include associated timelines and % of AUM covered and whether such targets are science-based (i.e. in line with global or EU environmental goals);
- In particular, potential FMP climate target (or planned target, by when) to align its portfolio with the Paris Agreement's goal of 1.5°c or well below 2°C, the climate scenario chosen, the asset classes covered, the scope of the portfolio covered (in % of AuM);
- Potential FMP targets (or planned target, by when), to maximise its positive impacts (per category of positive impacts, structured in an EU taxonomy-consistent way for environmental issues, with associated timelines, asset classes covered, scope of the portfolio covered (in % of AuM) or financial volume.

<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>
WWF sees a huge merit in including forward-looking indicators such as emission reduction pathways, in order to assess the degree of alignment with the EU climate and energy targets for 2030 and for 2050.

However, as explained in Question 4, the carbon emission metric is backward looking and is not fit for the above purpose, as it suffers various flaws which are difficult to overcome, despite more than one decade of methodological efforts.

WWF therefore recommends that the carbon emission metric is replaced, or at least complemented by ESAs. Forward-looking climate alignment indicators can include:

- **Temperature alignment scoring of the investment portfolio**, which compares the climate trajectory of a portfolio (e.g. the portfolio is on a 4°C trajectory) with a temperature benchmark (e.g. 1.5°C)[16]. When using this indicator and in order to ensure transparency and comparativeness, financial market participants should explain (i) the scopes (1 to 3) of investee companies' emissions covered by the methodology, (ii) how the methodology forecasts the future climate performance of companies, (iii) on which temperature scenario it relies and (iv) how the methodology derives temperature benchmarks.
- **The share of companies in the investment portfolio that have set robust climate science-based targets** (e.g. in line with criteria of the Science-Based Targets initiative);
- **An assessment of exposure to high-carbon sectors in terms of economic activity** (e.g. installed power generation capacity, number of electric vehicles produced, etc.) compared to required economic outputs under a Paris aligned scenario;
- **A description by FMPs of their short, medium and long term climate targets** in relation to the latest recommendations of the United Nations Inter-governmental Panel on Climate Change. This implies the need to achieve net-zero emissions by no later than 2050.

More precisely:
- RTS should require FMPs to disclose which climate scenarios they use, and whether they include a 1.5°C and a 2°C scenario;
- RTS should require FMPs to disclose the methodology and tool they use for their climate scenario analysis, the asset classes covered, the scope of the portfolio covered (in % of AuM);
- RTS should ask FMPs whether they would be ready to use the set of climate scenarios currently prepared by the NGFS, when it becomes available.

It should be noted that there is a growing number of methodologies and tools available for assessing the temperature alignment scoring of the investment portfolio[17], for example the PACTA tool[18] that EIOPA used for its climate assessment in 2019 as well as the Bank of England, the California Department of Insurance and other financial regulators. PACTA is a Horizon 2020 research project that developed a science-based, open-source and free of charge tool that assesses the Paris alignment of a fund, a portfolio, a benchmark or a company, using the IEA well below 2°C scenario (B2DS) and below 2°C scenario (SDS).

<ESA_QUESTION_ESG_6>

---

[16] Temperature alignment tools give an indication of how a portfolio contributes to the ecological and energy transition compared to a climate benchmark, but can also be considered to assess exposure of the portfolio to transition risk (i.e. risks of stranded assets and portfolio losses if the economy ultimately aligns with the climate benchmark).
[17] Institut Louis Bachelier (2020), The Alignment Cookbook. UNEP-FI and VividEconomics (2019), Changing Course.
[18] https://www.transitionmonitor.com/.

- **: 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>

In the context of transparency on principal adverse impacts, we do not see the added value of disclosure of the second metric (the share of all companies in the investments without that issue). While it could be helpful to better understand the number of investee companies that a fund manager could engage with to remove principal adverse impact, we think that the number of companies as a metric creates opportunities for window-dressing, e.g. by deliberately including small exposures in the fund an FMP could artificially increase the share of companies without the PAI. Weighing the exposures by AuM would address this issue but lead to a duplicate indicator with indicator (1). In any case, the added value of the metric in terms of comparability of different funds is limited in our view.

<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>

WWF strongly recommends to include forward-looking metrics using science-based climate scenario analysis, enabling the assessment of the alignment of an FMP's portfolio with the Paris climate goals.

Please refer to Question 5 for indicator suggestions that we consider more advanced and relevant, to go beyond carbon footprinting and weighted average carbon intensity, that suffer severe flaws.

However, we do not support the inclusion of Scope 4 emissions (saving other companies´ GHG emissions): as of today, carbon savings are especially controversial and associated with major methodological issues. The major concerns are mostly due to the need for assumptions regarding baseline scenarios, which can very easily be tampered with (e.g. assume a higher baseline to get more 'avoided emissions'), and thus represent a significant greenwashing risk.

<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>
WWF strongly agrees with this goal. It is very positive that ESAs wanted to include the social and anti-corruption issues at the same time as the climate and environmental indicators.

It is necessary as it would be highly inefficient to ignore S and G matters now, only to revise the indicators once the taxonomy is extended to these matters, pending which products could be unduly labelled as sustainable (this is a form of greenwashing). This is also in line with current industry practice, in particular in the ESG rating industry, where the whole spectrum of ESG risks and positive/adverse impacts is considered not only the environmental issue in isolation.

However, we believe that social and governance indicators need to be improved and complete. See Question 5 for more details.

<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>
WWF strongly agrees with the proposal to require a historical comparison. The reference period should be as long as possible, but ten years is acceptable.

Given the objective to prevent greenwashing, it is better to err on the side of caution, even if that means certain products are penalized. Type I errors (false positives) are more damaging to the reputation of sustainable products as a whole than Type II errors (false negatives).

A relatively long period is important to assess whether FMPs are improving, how quickly and how ambitiously on sustainability issues (e.g. on mitigating their adverse impacts, or increasing their positive impacts). The WWF experience is that investors are slow to shift, and take many years to put in place meaningful and credible policies on sustainability issues, set targets, disclose results, etc. We therefore would be concerned if the historical period was shorter than ten years.

<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>
Reporting is essentially driven by the reporting frequency and timing of investee companies; FMPs should ensure that such data is interpreted immediately by themselves and their data providers, and not delayed for window dressing purposes. We therefore recommend the ESAs consider harmonising the methodology and timing of reporting across the reference period.

In addition, data/events should be included as soon as they become available and not only periodically integrated, as this introduces a time lag that creates the possibility for window-dressing.

In addition, it is important to link the information reported under SFDR and the EU legislation related to misleading information, to ensure higher scrutiny by FMPs. ESAs have the opportunity to develop an additional ITS related to Art 13 SFDR on developments in marketing communications for the relevant financial products: they should use this opportunity to ensure that marketing is not misleading.

Finally, regulatory oversight of the disclosures under SFDR is fundamental.

<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>

WWF agrees with the ESAs' rationale to provide mandatory template for both pre-contractual and period reporting in order to offer a standardised framework and a level playing field for FMPs and support this approach. It will allow also better comparability of products for investors, which is crucial when trying to make an informed investment decision.

As a counter example, the NFRD currently completely lacks comparability benefits. The Alliance for Corporate Transparency (that WWF is part of) demonstrated in a study that actual company reporting is extremely uneven, making it very difficult to impossible to compare even peer companies.

Without templates, financial market participants will have too much freedom to define their own standard to comply with the disclosure obligations, which will reduce comparability of investment products and fragment the internal market. We note that in the case of PRIIPs, the legislators recognized this risk and included very prescriptive requirements for the reporting format at Level 1; defining harmonized reporting templates at Level 2 is therefore the minimum measure to ensure consistency.

It will be relevant to update the templates regularly (maximum every 3 years) as data collection and gathering is currently evolving very quickly (development of geolocalised spatial finance, use of sector-specific asset-level databases, etc).

<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>
WWF believes these templates should include standardised sections with key indicators (including sector-specific) that can be user-friendly, simple and easy to read, but also that can provide the relevant information that the end-investor is looking for to properly assess the financial product.

We have in addition the following specific recommendations to several articles of the RTS, in order to improve/complete the framework for the pre-contractual and periodic templates:

- Article 15.2 (b) (iii): disclosure on '*the planned proportion of investments in different sectors and sub-sectors'* **should be required not only for the fossil fuel sector (to redefine in a clearer way, see Question 19) but also for:**
  - **All high-carbon sectors**
  - **All activities that significantly harm environmental objectives of the EU taxonomy**

  See question 19 for more details. We make the same recommendation for all similar articles (Art 24, 41, 49).
- Article 16.2 (b) '*how investments that can significantly harm the sustainable investment objectives are excluded'*: problematically this article lacks details compared to Article 15.2 (b) (iii). **It should be completed to ask explicitly exclusions in (1) the fossil fuel sector, (2) high-carbon sectors and (3) activities that significantly harm environmental objectives of the EU taxonomy**. We make the same recommendation for all similar articles (Art 25, 34, 35, 38, 45).
- XXXXX CHECK: ADD OTHER LEGISLATIVE CHANGES IF NEEDED
- The template should require a clear theory of change explaining the objectives, the strategy to achieve them and the metrics to track progress against objectives.
- The templates need to be readable for individuals, but also accessible machine-readable.
- A public database (EU central repository) is critical to gather information and facilitate comparison between various financial products.
- We recommend further research and consumer testing to define more precise templates.

<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>
See Question 12.
<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>
Only harmonised templates disclosing machine-readable information (so that independent aggregators and comparison tools can be set up) allow for sufficient comparability and avoid market fragmentation. It is therefore critical that such mandatory harmonised templates are developed.

In addition, a public database (EU central repository) is critical to gather information and facilitate comparison between various financial products.

To ensure proper comparison at EU level, the pre-contractual information should be at least in English.

We agree with the ESAs approach of requiring the information on the website to be accompanied with a common summary format with a pre-determined maximum length. It is important to avoid creating the possibility for a part of the industry to 'hide' certain negative elements on the website by not covering it in the written summary. So all relevant information should be in the sorter document, with more details on the website. Including some things in the summary and other things on the website should be avoided.

<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>
In our view, the intention of the legislators is to make it clear and explicit to end investors that certain investment products make no effort to promote sustainability, defined as a positive contribution to society with or without an underlying financial interest (This does not mean that such products necessarily harm sustainability). The warning label that these products must apply is intended to nudge end investors towards more sustainable investment choices. This is only possible if a significant number of products carry the warning label, and we support the ESA's suggested drafting that such a statement must be "prominent" and support its ranking/order in the presentation of pre-contractual information.

Many Article 9 products could also be Article 8 products but not the other way around; Article 9 is mostly a subset of Article 8.

<ESA_QUESTION_ESG_16>

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

<ESA_QUESTION_ESG_17>

We support the ESAs approach of graphical descriptions: they allow an end investor to easily quantify the distribution of exposure to different subdivisions of sustainable investments, and compare the distribution with other products. The SFDR aims to improve the transparency of investments, not of sustainability impacts of those investments, so using assets is an appropriate proxy for sustainability. Indirect investments

should be included through a look-through approach, integrating data from underlying funds or other financial instruments. If data is not available for certain underlying assets, this should be indicated explicitly (e.g. using a neutral colour in a pie chart).

Importantly we believe however that the Article 15 (and Article 24 accordingly) needs to be amended to ensure full consistency with EU taxonomy disclosure requirements for FMPs on the proportion of their funds that is taxonomy-eligible, to avoid duplication. The taxonomy information shall include: a narrative explaining the extent to which the EU Taxonomy was used in determining the sustainability of the investments; the proportion of the fund that is "environmentally sustainable investments" in accordance with the EU Taxonomy; the environmental objectives to which the fund contributes; the proportion of "enabling" and "transition" investments within the fund.

Amendment suggestion in Art 15 (2) (a):

(a) the graphical representation shall illustrate the planned proportions of:
(i) the total investments that are sustainable investments***, including the environmentally sustainable economic activities as defined in the regulation (EU) 2020/852*** and, where relevant, the subdivision of those sustainable investments between environmental or social objectives;
(ii) the total investments other than those in point (i) that contribute to the attainment of the environmental or social characteristics promoted by the financial product***, including the environmentally sustainable economic activities as defined in the regulation (EU) 2020/852*** and, where relevant, the subdivision of those investments between environmental or social characteristics; and

Accordingly, a similar amendment should be done in Article 24.

<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>
When making investment decisions, end-investors typically first decide on what asset class to invest in based on certain individual preferences such as liquidity and risk appetite, and then select assets within an asset class to match their individual preferences, including sustainability but also again risk appetite. Some asset classes provide economic substitutes (e.g. life insurance and pension funds), and therefore ensuring both intra- and inter-asset class comparability is important. A harmonized graphic representation as proposed can help achieve this goal.

In the current framing of Level 1, we believe that at least using the same graphical representation will ensure some kind of level playing field and comparability that the end-investor will appreciate.
<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>
WWF recommends the following four complementary elements to the ESAs, to ensure a clear and holistic approach:

1. **We strongly agree to always disclosing exposure to fossil fuel sectors**. However we disagree to only focus on solid fossil fuels (coal), excluding oil and gas with no justification.
We are aware that the fossil fuel sector definition proposed by ESAs in Art 1 (1) comes from the draft regulation for the European Regional Development Fund, part of the EU Budget: while this definition works in that specific EU Budget case, where it is applied at project level for each specific project asking for EU funding (i.e. well identified projects), we are very concerned that it will not work for FMP disclosure, that is extremely broad (a large FMP can have up to 10 000 stock in its equity portfolio).
In addition, our longstanding experience is that when referring to "fossil fuels", end investors understand upstream and midstream coal, oil and gas sectors, but not combustion (downstream): they have in mind companies like oil&gas majors, i.e. Shell, BP, Exxon, Total, etc. Said differently this includes exploration, extraction, processing and refineries, transport, distribution and storage – but not consumption (combustion). This is confirmed when assessing the fossil fuels or climate policies that more and more investors are setting up.
The fossil fuel definition proposed in Article 1 (1) omits exploration and transport (e.g. pipelines), which is quite worrying as this is fully part of the mainstream understanding of what fossil fuel sectors include.
In addition, 'combustion sectors' for fossil fuels are not defined in Article 1 (1), and they are extremely broad: it is likely that around 99% of all economic sectors consume fossil fuels. Should they all be included? Where to draw the line in terms of the highest consuming sectors is not defined: this heavily risks leading to uneven and confusing disclosures from FMPs that would not be comparable.
A definition of upstream, midstream and downstream fossil fuel sectors is provided here: https://energyhq.com/2017/04/upstream-midstream-downstream-whats-the-difference/#:~:text='Upstream'%20is%20about%20extracting%20oil,products%20we%20all%20depend%20on.
WWF assessed coal policies of investors and noticed two majors sources of inconsistencies in their approaches:
   - Some investors define 'coal companies' as coal mining companies exclusively; other add utilities operating coal power plants; and others also add companies transporting coal, companies building coal infrastructure (e.g. port terminal), companies storing coal, companies trading coal, companies specialized in providing financial services for coal, etc.
   - Some investors define 'coal companies' as those depending on coal for more than 50% of their annual revenues, but other put this threshold at 30%, 20%, 15% or 10%.

   Such differences in the definition completely change the exposure results. It should be noted in addition that the oil&gas supply chain is far more complex and longer than the coal supply chain, so the risk of inconsistencies is even higher.
   As a result, the requirement to disclose fossil fuel sector exposure without specifying what these sectors include exactly will almost automatically lead to very uneven definitions and thresholds by FMPs, and thus uneven and incomparable disclosure on their fossil fuel exposure: this must be avoided. Specifying this definition in terms of sectors and threshold is therefore a must to make this disclosure comparable, meaningful and thus of high added value.
   Using NACE codes is therefore necessary to ensure clarity and comparability of such sector exposure. As explained above, we recommend to amend the definition of "fossil fuel sectors" in Art 1 (1) and refocus on the upstream and midstream fossil fuel sectors only, namely:
   B 05 Mining of coal and lignite
   B 06 Extraction of crude petroleum and natural gas
   B 09.1 Support activities for petroleum and natural gas extraction
   C 19 Manufacture of coke and refined petroleum products
   D.35.2 - Manufacture of gas; distribution of gaseous fuels through mains
   H.49.5 - Transport via pipeline (where if concerns oil or gas)
   H.50.2 - Sea and coastal freight water transport (where if concerns coal, oil or gas)
   H.50.4 - Inland freight water transport (where if concerns coal, oil or gas)
   H.52 - Warehousing and support activities for transportation (where if concerns coal, oil or gas).

By refocusing the fossil fuel sector definition in that way, the exclusion of clean vehicles in Art 1 (1) becomes irrelevant so can be deleted.

2. **To complete this fossil fuel sector disclosure, we strongly urge ESAs to also systematically require disclose for all high-carbon sectors**. This will include critical, sometimes controversial sectors that end investors increasingly want to know about, for example aviation, chemicals, cement, steel, etc. Our understanding is that ESAs aimed at covering high carbon sectors when defining 'fossil fuel sectors' in a very broad way in Article 1 (1). However fossil fuels and their key consuming sectors are only one subset of high-carbon sectors: they don't capture emissions from land use change and deforestation (from agriculture and forestry primarily), that represent 20-30% of all emissions globally and are a huge climate challenge. We therefore recommend to add a new Article 1 (2) listing the high-carbon sectors with NACE codes, to require systematic disclosure for high-carbon sectors, in addition of the fossil fuel disclosure requirement that is more specific.
For defining high-carbon sectors in a precise way using NACE codes, please see Question 5 section '*List of environment-related high-risk sectors using NACE codes*', where we define high-risk sectors: we recommend to use the same list and withdraw A.03 - Fishing and aquaculture, that is not very carbon-intensive relatively speaking. It would be relevant to further discuss this list to reach a large consensus on the key high-carbon sectors to focus on immediately.

Amendment suggestion in Art 1 (1) and new Article 1 (1)a:

(1) 'fossil fuel sectors' means investment related to ***exploration,*** production, processing ***and refineries***, ***transport,*** distribution, storage ~~or combustion~~ of ~~solid~~ fossil fuels, ~~with the exception of investment related to clean vehicles as defined in Article 4 of Directive 2009/33/EC of the European Parliament and of the Council~~***, defined by the following divisions and groups in the Annex I of the regulation (EC) 1893/2006: B 05, B 06, B 09.1, C19, D 35.2 and, when it concerns coal, oil or gas, H 49.5, H 50.2, H 50.4, provided the annual revenues of the investee companies from fossil fuel sectors are above 5%,*** ~~and~~

(1)a NEW 'high carbon sectors' means investment that emits the most greenhouse gas emissions, and include fossil fuels sectors as defined in paragraph (1)and the ***following divisions and groups in the Annex I of the regulation (EC) 1893/2006: A.01, A.02, B.07, B.08, B.09, C.10, C.11, C.12, C.13, C.14, C.15, C.16, C.17, C.20, C.21, C.22, C.23, C.24, C.25, C.26, C.27, C.28, C.29, C.30, D.35, E.36, E.37, E.38, E.39, F.41, F42, F.43, G.45, G.46, H.49, H.50, H.51, H.52, L, L.68, provided the annual revenues of the investee companies from high carbon sectors are above 5%.***

3. **To complete high-carbon sector disclosure, we strongly urge ESAs to also systematically require disclosure for all economic activities which are significantly harmful to environmental objectives**. This is extremely important to ensure full consistency and synergy with the Article 17 of the Taxonomy regulation on the economic activities that significantly harm environmental objectives, and with the Art 2a SFDR on the principle of do no significant harm. Without such a disclosure, the do no significant harm approach risks remaining vague, confusing and largely useless: it needs to be turned into a very clear and granular approach. It should be noted that the Taxonomy Regulation will be reviewed in 2021 in order to assess the possibility of developing an unsustainable taxonomy, which will fully align with this requirement in SFDR and should therefore be anticipated in the RTS.

4. **Finally, and importantly, we strongly urge ESAs to clarify HOW the disclosure of the proportion of investments '*in different sectors and sub-sectors'* (Articles 15, 24, 41, 49) should be done exactly by FMPs.** We recommend to clarify that FMPs shall use NACE codes and also clarify the minimum level of granularity of the NACE codes required for such disclosure: using the regulation (EC) 1893/2006 and its Annex I (NACE REV 2), we recommend to disclose at least at the levels of divisions and groups (first and second columns), for example:

A - Agriculture, forestry and fishing:
A01.1 - Growing of non-perennial crops
A01.2 - Growing of perennial crops
A01.3 - Plant propagation
A01.4 - Animal production.
Otherwise, it is extremely likely that various FMPs will use various classifications of sectors and sub-sectors, and various levels of granularity, leading to results that are impossible to compare and thus significantly reducing the value and relevance of this disclosure.

These 4 separate, complementary disclosures should be systematically required.

Amendment suggestion in Art 15.2 (b) (iii):

(iii) the planned proportion of investments in different sectors and sub-sectors, ***using NACE codes at division and group levels as defined in the Annex I of the regulation (EC) 1893/2006***, including the fossil fuel sectors***, the high-carbon sectors, and the economic activities which significantly harm environmental objectives as defined in Article 17 of the regulation (EU) 2020/852***.

Accordingly, a similar amendment should be done in Articles 24, 41, 49.

As regards nuclear energy, there is a sequencing problem as the TEG recommended to not include nuclear in the EU taxonomy but aggressive lobbying from the nuclear industry finally led to follow up technical work by JRC in particular, which WWF believes can only lead to the same conclusion (nuclear is intrinsically unsustainable). As a result, the decision on nuclear will come too late for the RTS.

<ESA_QUESTION_ESG_19>

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

<ESA_QUESTION_ESG_20>

We believe that a full look-through approach is required, as suggested in our answer to question 17, in particular to ensure that portfolio management products such as wrappers are providing the information that is materially relevant for investors, without end-investors having to dig into each underlying product's sustainability performance. As regards multi-option products, PRIIPs provides a template for dealing with disclosure of different options within the fund, by disclosing a shared set of information along with specific transparency for the individual options.

<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>
Yes, the ‘good governance practices’ requirement should apply to all Article 8 products, even if they may not be undertaking sustainable investments.

The reference to good governance practises in Article 8 is simply part of an alternative description of the well-known ESG framework. The wording in Article 8 is not meant to single out G issues, but rather aims to recognize that "sustainable" products either target good EG, SG or ESG investments, but not G impact on a standalone basis. Article 2(17) provides an indicative list of what ESG indicators typically look like, as further detailed in Annex I of the proposed RTS. We support this reasoning.

There are several OECD guidelines on governance that can be very useful for the ESAs for this section.

<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>

Firstly, WWF strongly recommends ESAs to develop a granular approach on the do not significantly harm principle disclosure. Indeed, FMPs can justify that they respect this principle only if they explain precisely what this means for their investment process.

In particular, it is critical that FMPs provide details on how they exclude significantly harmful investments, and which ones exactly. Problematically, there is a lack of granularity in Art 16.2 (b), 25, 34, 38, 45 about '*how investments that can significantly harm the sustainable investment objectives are excluded'*: these article lack details compared to Article 15.2 (b) (iii), 24, 41, 49 that, in particular, requires systematic disclosure on fossil fuel sectors. **Article 16 disclosure on excluded investments should therefore be completed to ask explicitly and systematically about exclusions in:**
- **the fossil fuel sector;**
- **high-carbon sectors;**
- **activities that significantly harm environmental objectives of the EU taxonomy**.

See Question 19 for more details.

Secondly, Principle Adverse Impacts (negative externalities or inside-out materiality) as defined in the SFDR are a much broader concept than Do Not Significant Harm. In the context of the Taxonomy, DNSH indicators are defined as the "negative form" of positive impacts (as targeted by the six Taxonomy objectives). They aim to ensure that an investment that is providing a positive contribution to one of the six objectives does not imply a negative contribution to one of the other objectives. The Do Not Significant Harm in SFDR therefore needs to go further than the minimum safeguards of the Taxonomy regulation.

In some cases the same indicators might be used, e.g. in the field of GHG emissions. In other cases, particularly in the S and G domains where impacts are counted (in discrete events) instead of measured on a linear scale, this is harder to map. An absence of negative events in the S or G domain, e.g. of documented worker or human right abuses, does not imply at all that an investment is making a "good" contribution to such objectives. We support the ESA's proposal to make this difference explicit by including separate provisions for adverse impacts (a) and significant harm (b) in each of the Articles mentioned, but believe more flesh on the bone is needed to define DNSH in the context of the SFDR.

<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>
First, WWF strongly recommends ESAs to ensure that whatever way the ESG investment strategies are defined, all of these strategies remain covered by Article 8 and/or 9 provisions of SFDR to ensure that disclosure remains mandatory in any case. We would be extremely concerned if defining ESG strategies by ESAs would be used by FMPs to adapt their products to avoid a certain definition and claim they are no longer subject to the SFDR disclosure requirements.

Secondly, we do 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. To our knowledge a largely accepted classification of widely used ESG investment strategies is the one defined by Eurosif (http://www.eurosif.org/wp-content/uploads/2018/11/European-SRI-2018-Study.pdf) that structures them in seven categories (1. Best-in-Class, 2. Sustainability Themed, 3. Norms-Based Screening, 4. Engagement and Voting, 5. Exclusions - Divestment, 6. Impact Investing, 7. ESG Integration).

The disclosure related to such definitions would very likely help clarify the difference between the many ESG products and notably the difference between Article 8 and Art 9 products.

There is another approach that consists in defining the way in which investors can contribute to a change in outcomes, or impact, and that can be done through (1) capital allocation, (2) stewardship or (3) dialogue with policymakers. This should likely be integrated by the ESAs.

These disclosures should also provide information about any departures from the “normal” investment strategy depicted in the definition (i.e. any unique characteristics of its own investment strategy).

In addition to definitions, WWF recommends the ESAs to include some guidance on what and how the sustainability investment strategies should look like. This is indeed relevant information regarding the FMP sustainability strategies. An example can be to use the TCFD as a framework where financial market participants would have to *‘describe the actual and potential impacts of climate-related risks and opportunities of the organisation’s businesses, strategy, and financial planning where such information is material’*. It is also very relevant as forward-looking information, that is currently largely missing in the ESAs’ proposal.

<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>

WWF strongly agrees with the approach to disclose the investments constituting on average the greatest proportion of investments of the financial product during the reference period, including the sector and location of those investments.

However, we are concerned that focusing on the top 25 investments may be not enough to provide an adequate, overall picture of the investment, in particular in the case where the portfolio is broad. There is indeed a very broad range of different financial products which this requirement might potentially apply to, and a very broad range in terms of size of FMPs offering these financial products. As a result, in some cases the top 25 investments could potentially cover only a very small proportion of the total investments of the financial product. Where this is the case, then disclosing the top 25 investments may not be sufficient to give an impression of the ‘tilt’ or overall exposure.

We therefore recommend ESAs to focus on the top 50 investments in Articles 39 and 46.

<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.**

8. **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);**
9. **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);**
10. **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**
11. **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>

In general, we recommend that all of the elements listed above are included in both forms of disclosure (pre-contractual and on the website).

If a choice needs to be made, we believe that:

- detailed pre-contractual disclosures which are clearly available (as opposed to more peripheral or less immediately apparent information on websites) are more readily assimilated into decision making and enable potential investors to make better-informed investment decisions; and
- precontractual disclosures being more central to the oversight mandate of financial regulators and more subject to legal safeguards implies that information contained therein is potentially less susceptible to greenwashing.

As a result, in case a choice needs to be made, the preference should be for information to be included in precontractual disclosures.

We therefore agree with ESAs that the investable universe (bullet 1) and the policy to assess governance practices of the investee companies (bullet 2) should be pre-contractual disclosures at least. Both types of information are very product-specific and critical for the investment strategy of the product, and can clearly influence the choice of the end investor. This information should therefore be prominent in the pre-contractual disclosures.

In relation to the limitations to methodologies and data sources (bullet 3) and the reference to whether data sources are external or internal (bullet 4), we urge the ESAs to also include it at least in pre-contractual disclosures. It is important that the disclosure related to methodologies and data sources is clearly subject to legal safeguards and regulatory oversight, as there are various issues and controversies related to methodologies and data sources.

<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>
Derivative products are complicated instruments and WWF therefore strongly agrees to make their associated disclosures separate from disclosures for more standard financial instruments.

In addition it is complex and difficult to assess the impact of derivative products on the real economy, and many end investors are unlikely to have the expertise to adequately understand the structure of derivatives.

Furthermore, synthetic exposures to sustainable investments, including through derivatives, imply a significant greenwashing and reputational risk, as additionality is not guaranteed. When buying sustainable investment products, end investors expect that their money is contributing to the mobilisation of fresh funds, or at least to continued funding for existing sustainable companies and products. Derivatives could also be used to hide certain undesired negative impacts, e.g. by hedging greenhouse gas emission exposures.

<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>
Generally speaking, WWF agrees with the preliminary impact assessments made for the five different topics.

For entity level principal adverse impact reporting (Article 4 SFDR), it describes two policy options regarding the level of disclosure, and we agree with the ESAs that '*Option 2: common minimum obligations on identification and disclosure*' is a balanced approach. For the type of indicators to be used when assessing adverse impacts, which coincides with the TEG's recommendations on climate-related disclosures, we also support the '*Option 2: Mix of mandatory indicators and optional indicators to assess adverse impact'*. As you can see throughout our consultation responses, especially in Question 5, we are however concerned with the selection of indicators for Annex I (mandatory set) and have made concrete recommendations to improve them, merge Tables 1, 2, 3 but adopt a sector-specific approach to select the mandatory indicators to use per sector.

In relation to the impact assessment for pre-contractual product disclosure (Articles 8 and 9 SFDR), ESAs favour '*Option 2: common minimum standards on disclosure'*. As WWF we understand why ESAs chose Option 2, but are also interested in '*Option 3: same format and detailed rules on disclosures'* as the level of granularity would be higher, allowing investors to have the detailed information they are seeking. Despite the challenge related to the different types of products, disclosure is something that should be useful for end-investors and beyond, which is why having at least a common minimum standards would be relevant to ensure some degree of comparability. On the second policy issue, we agree with ESAs that the preferred option is '*Option 3: Mandatory template'*, which offers a standardised framework, allow for full comparability, and may improve end investors' engagement.

The third impact assessment is for website product disclosures (Article 10 SFDR). On the level of disclosure ESAs chose '*Option 2: common standards on website product disclosure'* which we support, as it allows a level of comparability but also can be adapted depending on the specificities of products. On the template ESAs choose '*Option 2: a common summary format with a pre-determined maximum length'*, which we support , in order to avoid flooding the end investor.

The fourth impact assessment is for periodic product disclosure (Article 11 SFDR). The first policy option is on the relevance of prescribing a mandatory template for period product reporting and the ESAs chose a mandatory template: we support it as comparability is needed throughout all types of disclosures. The

second policy option is on granularity of disclosures, and the ESAs choose '*Option 2: common minimum standards on identification and disclosure'*, which WWF supports, in case those standards (in terms of content) are properly selected.

The last impact assessment is done for "do not significantly harm" principle RTS. The first policy option described is the scope of the DNSH assessment, where ESAs opt for '*Option 2: include principal adverse impact indicators in Table 1 of Annex I and environmental objectives'*. WWF disagrees with this approach and recommends to merge Tables 1, 2, 3 (Policy option 3) but recommends in parallel to adopt a sector-specific approach requiring the disclosure using certain indicators only in certain sectors not all, to ensure a more material and meaningful approach (and mitigate the cost and burden for FMPs as well). The second policy option is on the type of DNSH disclosures, where ESAs opt for '*Option 2: details on the assessment made of significant harm of investments including any own thresholds set'*. WWF would rather recommend '*Option 3: details of assessments made against pre-determined thresholds for each indicators'*, which is an approach closer to the one in the Taxonomy Regulation and more consistent with it.

<ESA_QUESTION_ESG_27>