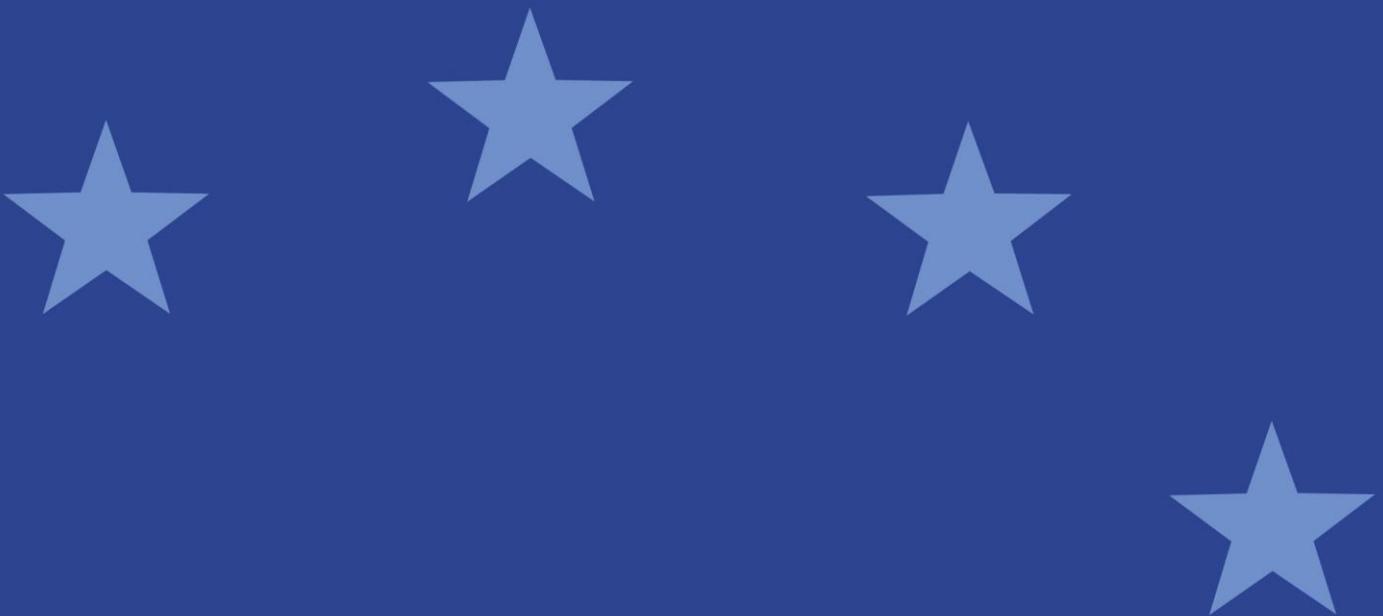


# Response form for the Joint Consultation Paper concerning Taxonomy-related sustainability disclo- sures





## Responding to this paper

The European Supervisory Authorities (ESAs) welcome comments on this consultation paper setting out the proposed Regulatory Technical Standards (hereinafter “RTS”) on content and presentation of disclosures pursuant to Article 8(4), 9(6) and 11(5) of Regulation (EU) 2019/2088 (hereinafter Sustainable Finance Disclosure Regulation “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 12 May 2021.
- Contributions not provided in the template for comments, or after the deadline will not be processed.

## Publication of responses

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

## Data protection

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

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<sup>1</sup> Regulation (EU) 2018/1725 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC, OJ L 295, 21.11.2018, p. 39.

## General information about respondent

Name of the company / organisation	Allianz
Activity	Insurance and Pension
Are you representing an association?	<input type="checkbox"/>
Country/Region	Germany

## Introduction

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

<ESA\_COMMENT\_ESG\_1>

We would first like to take the opportunity to make the following overarching remarks which relate to the proposals more generally:

- We provided very detailed feedback to the ESAs' joint consultation paper setting out the proposed RTS on content, methodologies and presentation of disclosures under the Sustainable Finance Disclosure Regulation (SFDR) as well as to ESMA's and EIOPA's respective consultation papers on their draft advice to the EU COM as to financial undertakings' disclosures under Art. 8 of the Taxonomy Regulation (TR). Many of our views are not repeated herein, if not explicitly requested, to avoid redundancies. Rather, we focus on the concrete proposals presented and the specific questions posed in the consultation document. In particular, based on the ESAs' public hearing, we understand that the Regulatory Technical Standards (RTS) will be amended, but that such amendments will be limited to the Taxonomy-related sustainability disclosures subject to this consultation and not e.g. relate to principle adverse impact (PAI) reporting. However, ultimately, **all of our feedbacks should be considered on a combined basis as together, they comprehensively reflect our overall view.**
- The SFDR comes along with extensive sustainability-related disclosure requirements for financial market participants (FMPs) at different levels and with view to different documents and channels. Reporting the respective sustainability information (SI), e.g. against the comprehensive amount of PAI indicators at entity-level, for a highly diversified portfolio is not only extremely burdensome, but also not in all respects beneficial to the client. Accordingly, there is a **clear need to take due account of proportionality – from a preparer perspective – and obstacles for good communication such as financial illiteracy, complexity and information overload – from a user perspective.** The draft product templates as per the ESAs' final report on the RTS of the SFDR are already very long and complex; the conducted client testing projects have also revealed evidence that corroborates these concerns. Thus, we urge the ESAs to limit their proposals to Taxonomy-related SI that is clearly deemed to add value from a cost-benefit perspective.
- Related to this, given that FMPs make a vast number of investments and, thus, will need respective data on Taxonomy alignment for each individual investment on a regular basis, we deem it as **essential that such information a) be publicly disclosed for a sufficiently large scope (which needs to be ensured via an appropriate extension of the scope as per the NFRD / CSRD) and b) made available in a structured and digital format via ESAP.** In particular, we deem ESAP as absolutely essential to resolve data availability and processing issues in the context of the EU sustainable finance agenda, especially with view to FMPs' extensive disclosure requirements.
- Art. 8 disclosures under the TR from undertakings within the scope of the Non-Financial Reporting Directive (NFRD) / Corporate Sustainability Reporting Directive (CSRD) are key to inform FMPs' reporting required under Art. 5 and 6 of the TR. Accordingly, it is **absolutely essential that the Art. 8 disclosures available to and used by FMPs are clear, consistent and comparable.**
- We deem it as **absolutely essential that any current and upcoming EU sustainability reporting (SR) requirements be streamlined and consistent** a) across all relevant EU legislations (especially the NFRD / CSRD, SFDR and TR), taking into account FMPs' specific reporting requirements, b) within EU legislations across FMPs where relevant (e.g. as to what qualifies as an eligible investment / activity), and c) within EU legislations across different levels where relevant (e.g. computation of Taxonomy align-

ment at entity-level and product-level). In this regard, with view to the consultation at hand, more specifically, all in-scope FMPs should be required to apply the TR in a – in substance – same way, irrespective of their type and of whether they are preparing entity-level or product-level disclosures under the SFDR or Art. 8 disclosures under the TR. This does not only apply to SR, but more generally to all sustainability-related legislations, incl. e.g. the Insurance Distribution Directive (IDD). For example, **a uniform and consistent definition of a “sustainable investment” as well as of different product categories (e.g. as to the share of sustainable investments) should apply.**

- While we understand and support the aim to achieve greater transparency on the degree of sustainability of financial products and to channel investments towards sustainable activities while preventing greenwashing, there is a **clear need to take due account of unintended consequences.** In this respect, we would like to highlight a **particular concern regarding the disclosure requirements under Art. 10 of the SFDR.** In our understanding, the ESAs are of the opinion that even for tailored products (e.g. institutional funds or segregated accounts), publication of the information according to Art. 10 in a password-protected area would not suffice. Though the draft RTS specifically mention national and EU law which protects confidentiality of information, in practice, FMPs especially agree to confidentiality in their agreements with clients. We have particular concerns for such disclosures being public (via the website) and would object based on the following considerations:
  - This would, for example, require the public disclosure of the investment strategy (i.e. environmental and social characteristics and / or sustainable investments) as well as certain information in periodic reports, which, for instance, comprises the top 15 investments of the product, which is very sensitive information. In particular, clients from outside the EU would likely not want information on their tailored product to be publicly available, even if it could be published anonymously. This could lead to a disadvantage for EU FMPs as compared to non-EU providers who would be able to comply with clients’ demands on confidentiality. Further, we believe that this would provide competitors undue access to information, something which, for example, the Shareholder Rights Directive II recognized should be avoided.
  - In order to protect professional investors, regulation usually requires that information regarding products for professional investors should not be available to the wider public. Further, information on tailored products are usually not suited for retail clients and, therefore, even information on restricted websites is currently limited. This also hinders that such disclosure could be considered marketing of a product, e.g. in countries outside the EU.
  - Regulation generally allows for the flexibility to only publish in a protected area. First, the intention of the SFDR was to provide end-investors with easily accessible transparency on their products, as also indicated in the draft RTS as per the ESAs’ final report. Second, publishing on a website does not specifically hinder a publication with access for only these end-investors, namely for whom the website disclosure is tailored to.
  - Further, already the requirement for FMPs to publicly disclose the PAI in all of their portfolios provides transparency with respect to investments with a negative consequence.
  - Accordingly, the disadvantages for a public disclosure for tailored products outweigh any potential benefit for the public to have access to such sensitive information.

Altogether, we believe that **any assessments of Taxonomy alignment need to be based on guidance that is clear and concise, focused on the most relevant information as well as consistently applied across financial products so that similar offerings from different providers, including different types of FMPs, are comparable.** Only a clear, consistent and comparable reporting framework will allow the underlying market participants to make informed investment decisions and ensure a level-playing field for sustainable investments. Undue complexities, unclarity and inconsistencies as well as unintended consequences that put EU FMPs at a disadvantage will severely undermine this objective. Also, reporting on Taxonomy alignment should be anchored as much as possible in existing practices – both regarding financial and sustainability reporting – rather than requiring new and complex frameworks. The focus should be on the end goal, thus requiring only information that is necessary and material rather than overburdening preparers and overloading users without a clear benefit.

<ESA\_COMMENT\_ESG\_1>

**Q1: Do you have any views regarding the ESAs' proposed approach to amend the existing SFDR RTS instead of drafting a new set of draft RTS?**

<ESA\_QUESTION\_ESG\_1>

**We strongly support the idea of a single rulebook for the SFDR and the TR that ultimately covers all environmental objectives** to reduce complexity, avoid overlaps and redundancies, and ensure coherence and consistency of respective requirements, such as related to approaches, definitions, and the use of KPIs. A uniform set of rules may also alleviate data availability and data mining concerns faced by FMPs, as external providers will be better equipped and able to provide services, data, and a common language to end users.

However, the following issues need to be considered in our view:

- The Taxonomy-related product-level disclosure requirements will amend the RTS of the SFDR (which have still not been adopted); accordingly, the **final RTS and respective templates are expected to be published in the Official Journal of the European Union only very late in 2021** – or, potentially, even after the application date of 1 January 2022. As such, we deem the following as essential:
  - The Taxonomy-related RTS should be published in the OJEU as soon as possible and introduce only essential changes to the current RTS of the SFDR as, otherwise, significant double implementation effort would arise.
  - The EU COM should consider appropriate safeguards in case the final RTS are not adopted sufficiently early to enable FMPs to gather the necessary information and adapt their practices to comply with the RTS. In this respect, we suggest to apply a similar approach to that suggested by the ESAs in their European Supervisory Statement. In particular, we fully support the ESAs' recommendation that, in case that the RTS are not adopted sufficiently early, Chapter V of the RTS should only apply to periodic reports with reference periods starting from 1 Jan 2022 while the periodic reports published in 2022 in relation to reference periods starting before 1 Jan 2022 would apply the high-level and principles-based requirements as per Art. 11(1) of the SFDR.
  - The Taxonomy-related RTS should not be amended again with view to the remaining environmental objectives, but be developed / defined in a way to cover all TR's environmental objectives comprehensively and consistently.
- **Data quality and availability are still a significant issue**, especially given the fact that FMPs will need to disclose the SI before their investee companies report Taxonomy-related SI, further complicated by the fact that the technical screening criteria have only very recently been finalized. In this regard, we deem the following as essential:
  - It is key that FMPs are not pressured to disclose information and indicators which are not considered sufficiently reliable. Otherwise, these disclosures may end up having limited benefit to inform users and even be misleading, and can bear reputational and legal risks. Therefore, where relevant, we suggest that respective disclosures shall only be required on a reasonable best efforts basis.
  - As to the lack of data on Taxonomy alignment for eligible investments, both temporarily over the next years (especially the first year) and ultimately (for the non-NFRD / CSRD scope), in our view, it is absolutely critical that it be determined how FMPs should deal with investments for which the relevant Art. 8 disclosures under the TR are not available (e.g. not disclosed by the investee), not publicly available (e.g. only disclosed to the investor) or publicly disclosed on a voluntary basis, yet not externally verified. In particular, while we understand that such investments should not be excluded from the ratio (as the denominator shall consist of total investments), it needs to be clarified whether FMPs should (a) assume that they are not Taxonomy-aligned, (b) compute a proxy based on judgment, if possible, (c) use an external proxy, if possible, or (d) choose from some or all of these (and / or potential further) options. In any case, FMPs should be required to explain their approach in the narrative accompanying their Taxonomy alignment ratio(s). Otherwise, there is a risk of inconsistent results across different FMPs as they may yield different values for the same investment / investee. Also, it is important that the need for FMPs to rely on third-party data and / or to apply judgment does not expose them to unproportionate risks or other disadvantages.
  - Related to this, the EU COM should consider how FMPs should deal with Multi-Option Products (MOPs). In this regard, the following issues need to be considered in our view:

- All FMPs shall apply the RTS as of 1 Jan 2022. However, in the case of MOPs, FMPs need the corresponding information from asset managers to prepare their own disclosures. Based on the ESAs' public hearing, we understand that the ESAs believe that asset managers will be able to provide the relevant information in advance of the effective date as FMPs are already working on the templates. However, there is no evidence that this would in fact be the case at all times. Rather, the fact that no time lag is foreseen imposes significant operational challenges and risks on concerned FMPs and does not seem straightforward. To illustrate this and substantiate our concern, a concrete practical example from Allianz is outlined in what follows:
  - In order to comply with the requirements for periodic reporting under the Taxonomy-related RTS of the SFDR, Allianz needs to collect the European ESG Template for its over 5000 Undertakings for Collective Investment of Transferable Securities (UCITS) from c. 400 asset managers. For about a quarter of these UCITS, Allianz needs to collect the annex templates (as we currently assume that this proportion falls into the categories of an Art. 8 or Art. 9 SFDR product). The complexity is further amplified by the fact that the information would also be required in different languages. We would like to stress that – contrary to what was suggested during the ESAs' public hearing – this is not feasible by means of a manual approach. Rather, such a reporting requirement can only be fulfilled by means of a standardized and automated process.
  - Moreover, the annex templates are not available as stand-alone documents for UCITS, but need to be published as an integral part of the annual reporting (as per Art. 11(2) of the SFDR). Hence, for inclusion in the periodic reporting of MOPs, the annex templates must either be cut out (which is operationally not feasible given the large number of UCITS) or explicitly produced for this purpose. This again requires significant implementation time and incurs high operational costs.
  - To allow for the production of the annex templates in a standardized and automated manner, we deem it as absolutely essential that the respective information be made available by asset managers to other FMPs (e.g. insurance entities) via e.g. the European ESG Template. Since this template is still under development, it is still unclear if it can / will support the exchange of information for the aforementioned purpose. By the time the template is finalized, there will be little to no time left for implementation, data exchange and annex template compilation.
- Moreover, if asset managers only provide the periodic reporting for the financial year 2022 in 2023, the requirement for periodic reporting of MOPs to already provide this information during 2022 cannot be met. Still, we would like to note that, even if using links / cross-referencing was allowed, the implementation effort would be immense.
- Therefore, at best, first reporting on products involving MOPs by concerned FMPs should only take place in 2023 referring to year 2022. If the ESAs / EU COM do not deem this proposal as appropriate, we deem it as absolutely essential for the EU COM to consider appropriate safeguards where FMPs did not receive the information for MOPs (with a reasonable lead time) to be able to incorporate them.
  - Clarification is needed as to how FMPs should deal with time gaps when computing the Taxonomy alignment of their financial products (or under Art. 8 of the TR). In particular, when computing the KPI(s), FMPs will in many cases face a timing issue as, in their position as investors, they need to incorporate their investees' disclosures. As investees will only disclose under Art. 8 of the TR on an annual basis, where periodic templates would, for example, need to be filled on a quarterly basis or to be published before investees publish their Art. 8 data, FMPs will need to rely on existing data which may relate to the previous reporting year. As such, it should be made clear that FMPs are allowed to use the latest available data for Taxonomy alignment, and that in practice this will typically be the undertakings' prior-year disclosures.
  - We assume that – given that the proposals would amend the RTS as per the ESAs' final report – the earliest information relating to a reference period to be disclosed in accordance with the RTS would not be made until 2023 in respect of a reference period relating to 2022.

<ESA\_QUESTION\_ESG\_1>

**Q2: Do you have any views on the KPI for the disclosure of the extent to which investments are aligned with the taxonomy, which is based on the share of the taxonomy-aligned turnover, capital expenditure or operational expenditure of all underlying non-financial investee companies? Do you agree with that the same approach should apply to all investments made by a given financial product?**

<ESA\_QUESTION\_ESG\_2>

We fully agree that FMPs should compile the Taxonomy alignment of financial products based on investee companies' Taxonomy alignment weighted by investment volume. We also **fully agree that – for non-financial undertakings – FMPs should take into account Taxonomy-aligned turnover, CapEx or OpEx**. Accordingly, we believe that no specific approach should be prescribed for all investments, i.e. neither based on one KPI only (e.g. turnover) nor taking all three KPIs into account using weighting.

However, the following issues need to be considered in our view:

- We do **not deem the proposed approach to allow FMPs to choose one of the three KPIs, yet to require them to use this KPI for all investments of a financial product as conceptually straightforward**. A “one-size-fits-all” approach does not account for the fact that turnover vs. expenditures are not equally relevant / suitable a) for all types of investment and all types of economic activities / investees and b) all levels of transition of economic activities / investees, nor equally well available for the non-EU scope. Accordingly, FMPs should be allowed to use the most relevant KPI for each investment and, thus, to choose on an investment-by-investment basis, even within financial products. In our view, FMPs should also be allowed to weight two or three KPIs for an individual investment if deemed suitable (e.g. where an investment has made significant progress on its transition path, but significant expenditures on transition are still needed).
- In case that FMPs would be required to use the same KPI for all investments of a financial product, we would expect that they would mostly use turnover given that data availability is higher (for the non-EU scope) and turnover is easier to understand and compare. However, as capital flows should also be drawn to investments that would support, but have not yet significantly advanced the transition of the economy, **no approach that can be expected to neglect the expenditures-based KPIs should be imposed**. Rather, the ESAs should foster the use of CapEx and OpEx as part of the decision-making process. This would also encourage investors to ask non-EU companies to voluntarily disclose their expenditures' Taxonomy alignment, thus increasing overall transparency.
- In case that, in line with our proposal, FMPs would be allowed to use different KPIs for investments of the same financial product, **they should not be required to aggregate Taxonomy alignment on turnover, CapEx and OpEx into one KPI / graph**. Rather, they should be required to report all three KPIs, namely to show the Taxonomy alignment for the respective portion of total investments that was assessed based on turnover, CapEx and OpEx, respectively. If FMPs shall be required to only disclose one KPI for Taxonomy alignment, we strongly suggest for the ESAs / EU COM to develop operational guidance as to how FMPs should perform the respective aggregation to avoid inconsistencies.
- Although, in our view, no specific approach should be prescribed – neither generally for all investments nor for all investments of the same financial product – **any measures that could increase consistency / comparability at the level of the financial product, of the FMP and across FMPs (both of the same type and of different types) would be highly welcome**. To this end, we suggest for the ESAs / EU COM to develop operational guidance as to the circumstances under which FMPs would be expected to use turnover vs. expenditures, or both (in case that weighting would be allowed as well).
- Also, if FMPs can decide at their full discretion (i.e. on an investment-by-investment basis), **they should be required to specify and disclose their selection process at product-level and adhere to it in a consistent way for all investments and across financial products**. This, together with operational guidance, could also reduce the likelihood of situations in which different FMPs would assess the same investee based on different KPIs. Also, these measures would help users understand when a switch in the relevant KPI for a particular investment would apply (e.g. if, at the beginning, the FMP uses CapEx, but after significant progress in the transition, it uses turnover).
- For **financial investee companies, it is proposed that the value in the numerator should correspond to the share of activities associated with environmentally sustainable activities disclosed**

**by those companies under their Art. 8 disclosures under the TR. This needs to be further specified.** For example, insurers are expected to be required to disclose two KPIs based on EIOPA's final advice to the EU COM (i.e. asset ratio and underwriting ratio).

- Finally, as to additional disclosures and break-downs, we noted that the ESAs propose that a break-down shall be provided for enabling vs. transitional activities in line with the level-1 requirements. While we generally agree, it should be clarified that **the break-down should only be disclosed for the main KPI of overall Taxonomy alignment** and not e.g. to the sub-indicators by environmental objective. Otherwise, reporting could become very complex for preparers and difficult to process for users. In a similar vein, the split should not be required for the previous reference periods. However, for FMPs to be able to report the split, it needs to be ensured that investees also report such information under Art. 8 of the TR.

Related to our above argument on consistency (please refer to our introductory remarks), we would like to note the following:

- The proposal brought forward by the ESAs as well as our proposal to allow for the use of different KPIs across investments are not consistent with ESMA's final advice as to asset managers' Art. 8 KPI: "Nevertheless, a turnover based main disclosure remains the most important element of disclosure and ESMA maintained its advice unchanged on this matter.". It does not seem straightforward why at aggregate FMP level (i.e. as per Art. 8 of the TR), asset managers should be required to use turnover for all investments while, at product-level, they should be allowed to use their own approach or choose a KPI individually for each investment. This would also imply that aggregating all product-level disclosures of the asset manager would not allow for a reconciliation to the asset manager's Art. 8 KPI (unless the asset manager would deem turnover as the most relevant KPI for all of its investments when preparing product-level disclosures). As EIOPA's advice for the asset ratio is comparably vague: "based on the information available regarding 'turnover' as well as taking into consideration, where relevant to depict the characteristics of the asset or financial instrument, the 'CapEx' and 'OpEx' of the investee company", it is not clear whether the proposals would be (fully) consistent for insurers. In any case, we believe that **inconsistencies should be avoided by all means as they would be detrimental for both preparers – e.g. with view to complexity – and users – e.g. with view to comprehensibility. It is absolutely essential that the TR and related RTS be designed in a way to allow and require FMPs to apply it in an – in substance – same way, irrespective of whether they are preparing entity-level or product-level disclosures under the SFDR or Art. 8 disclosures under the TR. The same rationale applies across different types of FMPs; for example, it does not seem straightforward why different FMPs should be subject to different requirements when computing their asset ratios which might – theoretically – be based on the exact same investees, be it at product-level under the SFDR or under Art. 8 of the TR.**
- **Consistency is also of key importance when FMPs need to incorporate the Taxonomy alignment of financial investee companies.** In particular, for example, when asset managers compute Taxonomy alignment under the SFDR or under Art. 8 of the TR, they should consider financial investees in the exact same way across both legislations and as other FMPs disclosing under these legislations. **As for financial undertakings, the investment side reflects the "common ground", we believe that the asset ratio should be taken into account by investors.** However, the fact that the investment side reflects the "common ground", in our view, also makes it even more important that a consistent approach as to the calculation of the asset ratio under Art. 8 of the TR applies across all FMPs. It would not be straightforward if different FMPs would depict different values despite equal investments as a consequence of methodological differences in how the asset ratio is calculated. This would not only impede comparison and interpretation from a user perspective, but could also lead to adverse reputational effects at FMP-level as well as translate into inconsistencies in product-level disclosures under the SFDR (where financial products invest into financial undertakings).

<ESA\_QUESTION\_ESG\_2>

**Q3: Do you have any views on the benefits and drawbacks of including specifically operational expenditure of underlying non-financial investee companies as one of the possible ways to calculate the KPI referred to in question 2?**

<ESA\_QUESTION\_ESG\_3>

In our view and as outlined in our response to Question 2, FMPs should be allowed to choose OpEx on an investment-by-investment basis for investments for which OpEx represents the most suitable KPI, subject to our considerations as to operational guidelines and a potential requirement to disclose the selection process at product-level. Excluding OpEx would also not be in line with Art. 8 of the TR, which, by requiring disclosure on Taxonomy-aligned OpEx by non-financial undertakings, implies that it is a relevant metric for transition finance, which we fully support. However, we deem it as likely that respective data would often not be available outside the EU scope.

<ESA\_QUESTION\_ESG\_3>

**Q4: The proposed KPI includes equity and debt instruments issued by financial and non-financial undertakings and real estate assets, do you agree that this could also be extended to derivatives such as contracts for differences?**

<ESA\_QUESTION\_ESG\_4>

**We do not agree that the scope of the proposed KPI should be extended to derivatives at this stage.** Not only is the computation of the KPI as currently proposed already expected to result in significant one-off and ongoing cost and effort; incorporating derivatives would add further complexity while, in our view, not adding significant value.

From the insurers' perspective, derivatives are mostly only or primarily used for hedging purposes. Therefore, a consideration of those hedging transactions would not add significant value to clients. If the ESAs / EU COM decide to consider derivatives nevertheless, clear guidance as to the respective methodology to assess Taxonomy alignment is needed, which would still need to be developed, e.g. to account for valuation issues, different types of derivatives, different purposes for investing in derivatives, and sectoral and normative exclusions on certain derivatives not under the control of the FMP.

At least with view to short-selling, we further believe that any shorting of positions would not be congruent with the TR's primary objective as short-selling does not generally seem aligned with the objective to incentivize the flow of capital towards (environmentally) sustainable activities. As there is no systematic measure for shorting harmful activities, we believe that any inclusion of instruments for shorting positions would add unnecessary complexity.

<ESA\_QUESTION\_ESG\_4>

**Q5: Is the use of "equities" and "debt instruments" sufficiently clear to capture relevant instruments issued by investee companies? If not, how could that be clarified? Are any specific valuation criteria necessary to ensure that the disclosures are comparable?**

<ESA\_QUESTION\_ESG\_5>

Given the context of the wording, the **use of "equities" and "debt instruments" appears sufficiently clear to capture relevant instruments issued by investee companies.** Regarding the valuation criteria, we would propose to use market value. We suggest for the ESAs / EU COM to develop operational guidance as to how FMPs should perform the respective aggregation to avoid inconsistencies.

<ESA\_QUESTION\_ESG\_5>

**Q6: Do you have any views about including all investments, including sovereign bonds and other assets that cannot be assessed for taxonomy-alignment, of the financial product in the denominator for the KPI?**

<ESA\_QUESTION\_ESG\_6>

In our view, it would be **conceptually more straightforward if Taxonomy alignment was only based on Taxonomy-eligible investments;** i.e. where an investment could – under no circumstances at a particular point in time – be Taxonomy-aligned (e.g. as would be the case for sovereign bonds other than green bonds following ESMA's final advice on Art. 8 disclosures under the TR), it should not need to be considered in the numerator and denominator as it could, by no means, be impacted by the investor. A ratio relative to

total investments would, thus, present a result that is difficult to interpret and, potentially, misleading. In this regard, we would like to note / propose the following:

- An **approach that is based on eligible activities / investments would avoid penalizing FMPs investing in big diversified and international portfolios such as insurers**. Their generally long-term products are financed by their general account which is invested to a great extent in assets that are not covered by the TR yet. Taking total investments into account would most likely often translate into a very low single-digit percentage range as to Taxonomy alignment – both at the entity- and product-level. This poses the risk that such a figure will be difficult to communicate to and hard to interpret by the client.
- **Eligible investments should include in our view equity and corporate bonds, infrastructure, real estate and green sovereign bonds. It should – at first – exclude sovereign bonds other than green bonds** as they are non-eligible under the TR as per the consultation paper (“*there is a current lack of data as well as lack of established methodologies to determine the proportion of taxonomy-aligned activities funded by sovereign bonds, which means that they cannot be considered to contribute positively to the extent of taxonomy-aligned activities for the time being and that this will require further research and the development of appropriate methodologies*”). Therefore, the inclusion of sovereign bonds – before such methodologies are developed – risks unjustifiably putting some products (those investing to a greater extent in sovereigns) at a competitive disadvantage. It is important to note that investments in such assets reflect other characteristics (e.g. other risk levels, namely stable, long-term returns). A guarantee or product which aims to deliver a stable return often has a higher allocation to these types of investments. It would neither be fair nor meaningful to compare such a product with, for example, a specialized and far less diversified equity fund where all assets can be assessed for Taxonomy alignment.
- If the KPI shall nonetheless be based on total investments, i.e. as recommended by EIOPA and ESMA for Art. 8 disclosures under the TR, **an approach that ensures the necessary transparency as to both eligible activities / investments (in relation to total activities / investments) and aligned activities / investments (in relation to eligible activities / investments) should be considered**; thereby, FMPs would still be incentivized to increase eligibility while users would also be informed about Taxonomy alignment in relation to eligible activities / investments (and not only in relation to total activities / investments). This would be in line with ESMA’s final advice on Art. 8 disclosures under the TR, namely that the share of non-eligible assets should also be disclosed.
- Further, we would again like to stress that a **consistent approach across FMPs and across all relevant levels as to what the numerator and denominator shall include is key** (please refer to our introductory remarks). For example, as to Art. 8 disclosures under the TR, EIOPA and ESMA seem to follow different approaches in their financial advices concerning the inclusion of sovereign bonds. Whereas EIOPA states that “until the Taxonomy Regulation covers criteria and methodologies to be applied for exposures to sovereigns (re)insurers may have to apply expert judgement and approximations, which need to be explained in the disclosures”, ESMA does not recommend the inclusion of sovereign bonds (other than green bonds) in the numerator of the asset managers’ KPI at this stage. Ultimately, we deem it as essential that a uniform rationale will apply for those Art. 8 KPIs, which should then apply analogously for FMPs when assessing and reporting Taxonomy alignment at product-level.
- **Clarification is needed as to how investments in investees (likely) not in scope of the NFRD (CSRD) such as non-EU companies or non-listed SMEs shall be treated**. FMPs may be able to collect the relevant information from investees that a) voluntarily disclose information as per Art. 8 of the TR with or without external assurance, b) voluntarily disclose information that would be sufficient for the FMP to evaluate their Taxonomy alignment with or without external assurance, or c) disclose the relevant information to the FMP privately, or from external data providers. Clarification is needed on whether these investments would still qualify as eligible and, if so, under what circumstances they could qualify as Taxonomy-aligned. In line with the above rationale as to consistency, we deem it as essential that a uniform rationale will apply for the Art. 8 disclosures under the TR, which should then apply analogously for FMPs when disclosing Taxonomy alignment at product-level (please refer to our response to Question 1).

<ESA\_QUESTION\_ESG\_6>

**Q7: Do you have any views on the statement of taxonomy compliance of the activities the financial product invests in and whether those statements should be subject to assessment by external or third parties?**

<ESA\_QUESTION\_ESG\_7>

We **generally agree with the proposed statement on taxonomy compliance, but do not consider there to be a need for such a statement to be assessed by an external provider of certification or a third party** for the following reasons:

- This might be confused with a guarantee of better disclosures, which is not necessarily the case, especially as long as this would be limited to an assurance statement. While there generally is legitimate ground for a review by external or third parties, **this seems premature and would likely represent an unnecessary cost barrier** to market sustainable products for small and less-resourceful FMPs.
- Also, given the EU COM's legislative proposal for the CSRD which foresees introducing a limited assurance requirement (which may be extended to a reasonable assurance requirement already after a few years), investee undertakings' Art. 8 disclosures under the TR would be subject to external assurance. As such, **where FMPs would use data published by investee companies in scope of the CSRD, the FMPs' product-level disclosures would indirectly benefit from assurance as well**. Finally, Taxonomy assessments are likely to become part of the investment decision and approval processes over time, which would also likely contribute to quality assurance of such assessments.
- Finally, as per Art. 4 SFDR and Art. 21 TR, the Member States are responsible for appointing a competent authority to monitor compliance with the legal requirements under the SFDR and the TR. In our view, **this activity falls under the scope of tasks of the national supervisor**. At product-level, such as the IDD and the Regulation on KIDs for PRIIPs, the national supervisors have so far always carried out their supervisory duties themselves. The national supervisor also carries out its supervision at entity-level, for example within the framework of SFCR reporting. According to Solvency II, this external supervision is preceded by several internal control and monitoring bodies (risk management, compliance function, internal audit). In our view, an external assessment by external or third party is, therefore, not necessary, and would be unusual at product-level.

We would like to note that German FMPs' respective disclosures will be subject to external assurance given national regulation ("Fondsstandortgesetz"). We would **clearly have preferred a consistent approach at EU level**, i.e. no external assurance given the above outlined reasoning, for the purpose of ensuring a level-playing field.

<ESA\_QUESTION\_ESG\_7>

**Q8 : Do you have any views on the proposed periodic disclosures which mirror the proposals for pre-contractual amendments?**

<ESA\_QUESTION\_ESG\_8>

We **highly welcome the coherence of the proposed approach**. It seems logical to mirror the pre-contractual disclosures as laid down in the proposed RTS for the periodic disclosures, as it is important to ensure coherence with the structure of the RTS of the SFDR. For our concerns in this regard, please refer to our response to Question 9.

<ESA\_QUESTION\_ESG\_8>

**Q9: Do you have any views on the amended pre-contractual and periodic templates?**

<ESA\_QUESTION\_ESG\_9>

Generally, we would like to highlight again that for the templates to in fact be meaningful and useful for clients, we deem it as absolutely **essential a) that the Taxonomy-related SI be kept as simple and concise as possible and b) that requirements be feasible and only relate to information that can considered sufficiently reliable**.

As to the **pre-contractual templates**, the following issues need to be considered in our view:

- FMPs would be required to report the “minimum share” of Taxonomy alignment for their Art. 8 and 9 SFDR products. We would strongly recommend to eliminate this wording / requirement for the following reasons:
  - While, based on the ESAs’ public hearing, we understand that the ESAs suggest to include this requirement to hold FMPs accountable and to require them to actually commit to a minimum share, we would like to note that such a minimum share is not necessarily established (and is not generally required to be established) for many financial products.
  - In addition, respective evaluations of the minimum share are complex and subject to significant levels of uncertainty, among others, because the TR is dynamic and will change in further due course, as well as depend on external factors (such as the length of the process preceding actual investments). In addition, at least upon initial implementation, even for existing financial products, the relevant investee data for the current portfolio is not yet available. However, this data would be needed at the minimum to compute realistic values.
  - Consequently, FMPs would likely report significantly lower values than their actual expectations as to the minimum share, or even zero Taxonomy alignment, to avoid making regular amendments as well as incurring sanctions and legal or reputational risks.
  - Taking these considerations into account, we suggest to replace the question “What is the minimum share of investments aligned with the EU Taxonomy?” by “What is the current minimum share of investments aligned with the EU Taxonomy?”.
  - If the requirement to report a minimum share was still included, this would, in our view, require a) appropriate rules with view to grandfathering to avoid that Taxonomy alignment changes significantly for existing investments, b) clear guidance as to when the minimum share would need to be reached to ensure a level-playing field, and c) a phased-in approach, at least until a reasonable level of clarity on the further development of the TR has been achieved and respective investee information on Taxonomy alignment is regularly reported (i.e. earliest application as of 1 Jan 2023). In addition, in this case, we strongly suggest for the ESAs / EU COM to not require a precise threshold, but to allow for the indication of a range.
- In analogy, we do not consider it adequate for the template to ask “What is the minimum share of sustainable investments that are not aligned with the EU Taxonomy?” and would strongly suggest for the ESAs to reformulate this section in analogy. First, the same rationale as outlined above applies to sustainable investments other than Taxonomy-related investments. Second, **the negative delimitation to the TR does, in our view, not add particular value to the client as no comparable assessment framework exists. Also, accompanied by the crossed-out sign, it may create negative associations** that may, however, in fact result from e.g. the limited scope of the (current) TR or the focus on social rather than environmental objectives. Care should be taken in the templates not to imply that sustainable investments which are not within the scope of the TR (yet) are any less sustainable (this could e.g. be implied by the question “Why does the financial product invest in economic activities that are not environmentally sustainable?”). While additional disclosures (e.g. on investments not focused on “E”) could add value as soon as the TR is expanded and covers sustainability matters more comprehensively and on a larger scale (i.e. not only with view to a “substantial contribution” and not only with view to “E”), it would currently be very hard to compare and interpret as well as add complexity, which should be avoided by all means given that the templates are already very long and complex.

As to the **periodic templates**, the following issues need to be considered in our view:

- In line with our above considerations, the formulation “What was the share of sustainable investments that are not aligned with the EU Taxonomy?”, accompanied by the crossed-out sign, may create negative associations that may, however, in fact result from e.g. the limited scope of the (current) TR or focus on social rather than environmental objectives. **Care should be taken in the templates not to imply that sustainable investments which are not within the scope of the TR (yet) are any less sustainable.**

In addition, as to **both types of templates**, the following issues need to be considered in our view:

- We do **not consider there to be any value added associated with the ESAs’ proposal to require a graphical representation of Taxonomy alignment in the templates.** Based on a previous stakeholder consultation, the ESAs had decided to “remove graphical representation of investment proportions in the pre-contractual and periodic disclosures, due to the lack of comparability between different types of characteristics or objectives” (as per the ESAs’ final report on the RTS of the SFDR, p. 144). Indeed, graphic

representations are easily misinterpreted as they imply a level of comparability which they cannot provide, while distracting clients' attention from the narrative explanations which would, in this context, provide highly relevant background. Also, any graphical representations (graphs or icons) further complicate the technical implementation by FMPs. Finally, the ESAs have not brought forward an analogous proposal for the Art. 8 KPIs under the TR; accordingly, the proposal would add an (additional) inconsistency. It does not seem straightforward why a FMP should disclose Taxonomy alignment graphically at product-level, but not at entity-level in the non-financial statement. We, therefore, strongly suggest for the ESAs / EU COM to abstain from requiring a graphical representation.

- **It should be made clear to the client that the TR is a classification system that a) is developing dynamically, b) at this stage only covers a small portion of economic activities, and c) can (mostly) be applied within the EU only.** It is essential that the client be informed about the fact that the share of Taxonomy-aligned investments, thus, makes up only for a small portion of investments in sustainable economic activities and will grow as the range of Taxonomy-eligible activities expands. Therefore, we suggest adopting the accompanying explanatory text in the templates accordingly.
- If the KPI for Taxonomy alignment shall be based on total investments, in line with our response to Question 6, we deem it **as essential that information be included in the template on the proportion of eligible investments relative to total investments and aligned investments relative to eligible investments as well.** This way, clients will be able to put the information on Taxonomy alignment into the correct context.
- Considering the objective of providing concise and simple information, it is important to allow for the use of links / cross-referencing to more detailed external information where possible. This includes the periodic information on the underlying investment options (Art. 72 and 73 of the draft RTS). In our view, the RTS should permit that for MOPs, the periodic information may be provided in the form of references to the respective sectoral disclosures in the same way that this is possible with regard to the pre-contractual information (please refer to our response to Question 1).

<ESA\_QUESTION\_ESG\_9>

**Q10 : The draft RTS propose unified pre-contractual and periodic templates applicable to all Article 8 and 9 SFDR products (including Article 5 and 6 TR products which are a sub-set of Article 8 and 9 SFDR products). Do you believe it would be preferable to have separate pre-contractual and periodic templates for Article 5-6 TR products, instead of using the same template for all Article 8-9 SFDR products?**

<ESA\_QUESTION\_ESG\_10>

**We fully support the approach of having the same basic templates for all products with add-ons which apply only to products within the scope of Art. 5 and 6 of the TR.** In particular, at best, Taxonomy-related disclosures would be included in the existing templates (applicable to all Art. 8 and 9 SFDR products) by means of only essential changes to the RTS, possibly only in separate sections (via adds-on) to facilitate implementation. This would also be justified under the SFDR, which envisages only two different categories of sustainable products, with Taxonomy-related investments being a classification of environmental investments under EU regulation, but not introducing new product categories. Indeed, Art. 5 TR refers to information requirements for Art. SFDR 9 products and Art. 6 TR refers to information requirements for Art. 8 SFDR products, respectively. Also, in our understanding, based on the ESAs' public hearing, there (currently) is no minimum share of Taxonomy alignment foreseen that a financial product must reach to represent an Art. 8 or 9 SFDR product; as such, the same templates should apply.

Nonetheless, i.e. irrespective of the templates, in this regard, more / clear guidance as to when a product would represent an Art. 8 vs. 9 SFDR product (e.g. minimum share for Art 9 SFDR product or share that would distinguish between both product categories) would be very helpful for FMPs. Unless more guidance is given, FMPs and supervisory bodies might end up having substantially different interpretations. One major example concerns products which combine an investment option chosen by the investor with an investment in the insurer's collective fund (as is the case with unit-linked products which offer a guaranteed maturity value or with unit-linked pension products which include the payment of annuities after maturity). These

products constitute a sizeable part of several markets of insurance-based investment products and pension products.

In any case, care should be taken to avoid unnecessary repetition of similar information as well as inconsistencies.

<ESA\_QUESTION\_ESG\_10>

**Q11 : The draft RTS propose in the amended templates to identify whether products making sustainable investments do so according to the EU taxonomy. While this is done to clearly indicate whether Article 5 and 6 TR products (that make sustainable investments with environmental objectives) use the taxonomy, arguably this would have the effect of requiring Article 8 and 9 SFDR products making sustainable investments with social objectives to indicate that too. Do you agree with this proposal?**

<ESA\_QUESTION\_ESG\_11>

The RTS should specify that for Art. 8 and 9 SFDR products making sustainable investments with **social objectives/ characteristics, there is no obligation to indicate the share of Taxonomy alignment as the TR currently only relates to environmental objectives**. Such obligation should, therefore, only be relevant for products with investments having environmental objectives / characteristics. This would also avoid unnecessarily adding complexity and length to the templates. Respective provisions for social objectives / characteristics could be added at a later stage, in case the TR is expanded to social objectives.

<ESA\_QUESTION\_ESG\_11>

**Q12 : 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\_12>

The **proposed templates risk being too long and complex for clients**. The Taxonomy-related SI risks being overwhelming and disproportionate with respect to other equally relevant information, with the risk that clients will not read / process either of the information. Respective disclosures should, thus, be as concise and focused on the most relevant information as possible. This would also be appropriate taking into account the fact that FMPs will also need to disclose a significant amount of SI at entity-level (especially PAI reporting).

As to the preparer perspective more generally, reporting under the SFDR will already (i.e. irrespective of how the Taxonomy-related RTS will be structured) be very costly for FMPs, among others, given that in their final report on the RTS of the SFDR, the ESAs propose an end-of-year calculation for PAI reporting based on the average of at least four quarter-end calculations. Therefore, it is **essential that the Taxonomy-related RTS be proportionate and usable**.

As to the specific proposals at hand, not only will **significant one-off implementation cost for setting up the IT systems and processes** be incurred. In addition, **high cost and effort would be incurred in the context of the respective assessments (especially taking into account the need for burdensome data collection and application of judgment where regular Art. 8 disclosures under the TR by investee companies are not available), quality assurance and (potentially) audit procedures (where the latter would certainly arise for German FMPs given national regulation) on an ongoing basis**. In our view, it is absolutely critical that this be considered when determining the disclosure requirements, the respective timeline for implementation and the required level of analysis in case of data availability issues, in the context of which we suggest a best efforts approach during a phased-in period. Also, it should be clarified that where the templates refer to "reference periods", this would relate to an end-of-year calculation only (i.e. in contrast to the ESAs' proposal for PAI reporting) as investee companies will only report their Art. 8 disclosures under the TR in the non-financial statement as per the NFRD / CSRD on an annual basis.

Finally, we would like to reiterate that the **currently proposed requirements for MOPs and respective need for data collection and associated reporting** (regarding the annex templates and given the number of UCITS and asset managers) **would come along with significant cost and effort** (please refer to



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our response to Question 1). Given the fact that we would strongly depend on asset managers and their reporting (e.g. in terms of timeline), this is clearly our biggest concern.  
<ESA\_QUESTION\_ESG\_12>