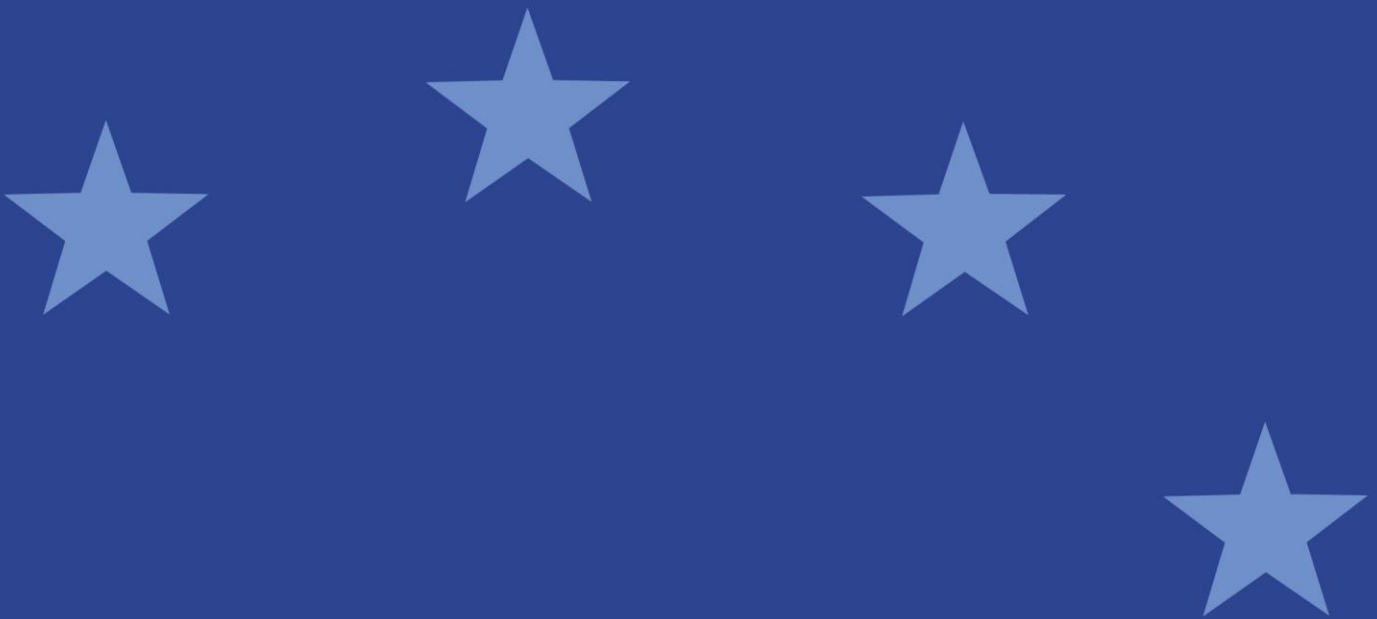


Response form for the Joint Consultation Paper concerning Taxonomy-related sustainability disclo- sures





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) 2018/1725¹. 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	French Banking Federation (FBF)
Activity	Banking sector
Are you representing an association?	<input checked="" type="checkbox"/>
Country/Region	France

Introduction

Please make your introductory comments below, if any:

<ESA_COMMENT_ESG_1>

The French Banking Federation (FBF) represents the interests of the banking industry in France. Its membership is composed of all credit institutions authorised as banks and doing business in France, i.e. more than 390 commercial, cooperative and mutual banks. FBF member banks have more than 38,000 permanent branches in France. They employ 370,000 people in France and around the world, and service 48 million customers.

As a general comment, we believe that language used in the templates should be clarified in order to be easily understandable for investors (“sustainable investment”, “environmentally sustainable economic activities”). Indeed, investors may have difficulties in understanding the subtleties of these concepts.

<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 agree with the ESAs' approach to have one single rulebook instead of drafting a new set of draft RTS. This approach would allow to have a comprehensive and readable set of RTS.

If the RTS were to be published in a two-step approach, as it was the case in the ESAs' consultations (first consultation in September 2020 and amending set publication ongoing), we urge the ESAs to publish the final report on the first part of the RTS promptly so financial institutions can begin their implementation work.

We believe that a 6 months transition period should be allowed to ensure sufficient time to enable prospect repapering. This would also allow to align the calendar with the PRIIPS level 1 entry into force for relevant products.

It should also be reminded that Taxonomy Regulation article 8 applies from 1 January 2022. Financial institution should have a one-year delay between their counterparties' first reporting under the Taxonomy Regulation and the SFDR obligation to report the extent of alignment of the investments with the taxonomy. This delay would allow financial institutions to retrieve the information from their counterparties and reduce the use of proxies.

<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>

For non-financial investee companies, we believe that flexibility in the use of indicators should be allowed (turnover, CapEx or OpEx) as far as it makes sense.

For investee companies, and specifically credit institutions we believe that the more relevant ratio is the green asset ratio on banking book exposures.

Nevertheless, some financial institutions might cover the 3 activities targeted by the ESAs' advices (retail and wholesale banking, asset management, insurance) while being subject to the NFRD, meaning they will have to comply with Article 8 of the Taxonomy Regulation. At consolidated level, such financial institutions will have to report 3 green asset ratios that will be calculated differently and hence cannot be aggregated at consolidated level. The European authorities should clarify which ratio should then be used for these companies.

<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>

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<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 agree that the KPI should be extended derivatives when the ESG investment objective is met synthetically by relying on a derivative (e.g. an equity swap/ total return swap / contract for difference etc.):

- Derivatives that provide the ESG performance to the investor should be included in the KPI.
- Derivatives that include an ESG condition or contribute to ESG objectives could be included on a voluntary basis.

We are of the view that the inclusion of some derivatives in the KPI on a mandatory basis would need to be disclosed following a common methodology.

However when these derivatives are not embedded in an investment product, they should remain excluded as extending the KPI to include all types of derivatives would be misleading for investors. Some derivatives are not intended to pursue an ESG performance. These kind of derivatives should be excluded.

A similar approach should be allowed for structured products using embedded derivatives.

<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>

ABS be taken into account.

Investment in funds should also be taken into account, for example in referring also to “units” and complete “investee companies” with “or entities”.

<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>

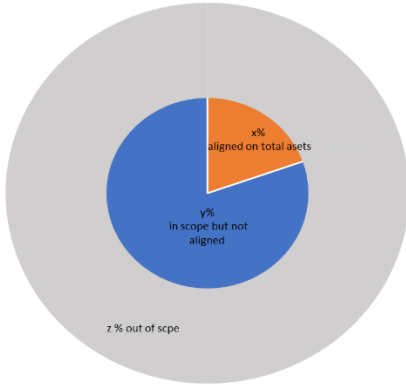
We understand the ESAs position to include all investments in the denominator in order for the client to have a representative and comprehensive view of his financial product.

However, including sovereign bonds and other assets that cannot be assessed for taxonomy alignment (because methodologies don't exist yet) could be misleading for the investor and risks pushing away investors from products that might suit them well.

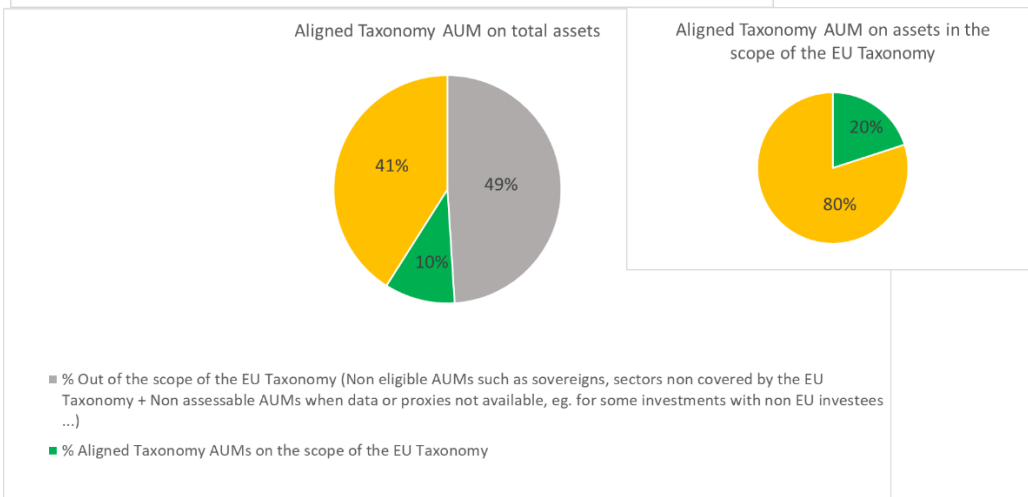
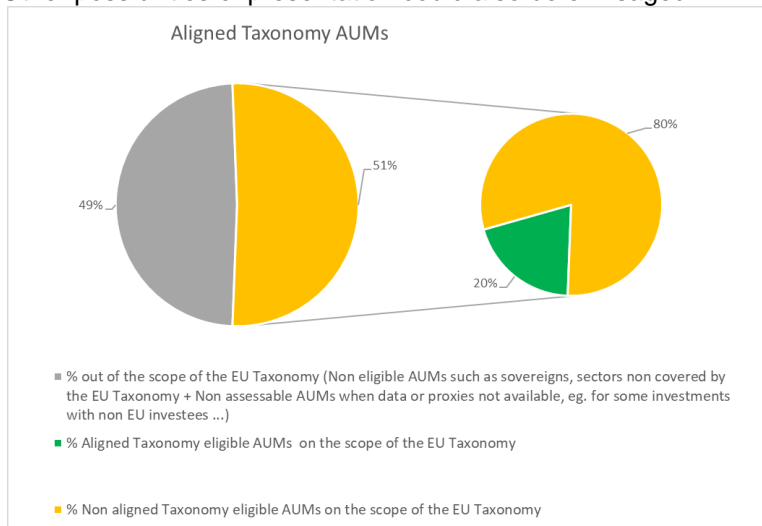
To avoid this confusion, we believe that it should also be required to disclose information with regards the percentage/amount of taxonomy eligible assets.

The pie chart proposed by the ESAs could be improved. We could have a general pie chart representative of all the investments of the financial product inside of which a “smaller pie chart” would only represent taxonomy eligible assets.

EU Taxonomy aligned AUMs on total assets



Other possibilities of presentation could also be envisaged



<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>

In our view, this statement is relevant in case of periodic information but is not adapted for pre-contractual disclosure as this information can be produced only on an ex-post basis. Would this statement be maintained in the pre-contractual documents, it should be referred to “expected minimum share of taxonomy aligned investments” instead of “minimum share”.

It should be reminded that Taxonomy Regulation will be applicable as of January 1st 2022 and financial institutions will not have the relevant information. It would be a risk for financial institution to have such strong commitment in pre-contractual disclosure.

In addition, assessment by third parties should be done at the level of data disclosed by investee companies themselves and not at the level of the statement itself. The processes related to the statement creation and publication would be covered by internal FMP’s risk management framework (including internal control and audit frameworks). This audit requirement is to be considered in the rules of the new CSRD.

<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 are in favor of having similar templates for pre-contractual disclosure and periodic ones.

However, as already mentioned in our response to Q.7, we consider that in case of pre-contractual disclosure, new requirements should be kept aligned with the initial purpose of the SFDR. Our understanding is that financial participants have to provide transparency on all elements identified in the RTS, in a similar way notably to allow comparison between products which are in the same category (i.e. Article 8 and Article 9 products). This does not mean that financial market participants should be asked to commit to achieve minimum level of alignment with taxonomy when making this information available in the pre-contractual documents (as it could be suggested with the use of “minimum share of investments aligned with the EU taxonomy”). This disclosure should be information-oriented and not commitment-oriented. As a consequence, as already mentioned above, we recommend that the template should refer to “expected minimum share” of taxonomy alignment instead of “minimum share”.

Finally, we ask for a periodic disclosure on an annual basis, for portfolio management products.

<ESA_QUESTION_ESG_8>

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

<ESA_QUESTION_ESG_9>

Our main comment, in coherence with our response to the previous questions, is about the graph introduced to represent the minimum share of investments aligned with the EU taxonomy. This graph should be removed as this information is not relevant from an ex-ante perspective. It is much more relevant in the periodic disclosure template as the FMP can use reliable data to disclose this information.

In addition, we are of the opinion that the first section in the template should allow providing more general information on the characteristics of the products by mentioning if the product invests or not in activities / sectors which are in the scope of the taxonomy (i.e. taxonomy-eligible activities/sectors). This can be done by adding a new line or box tick (both for Article 8 and Article 9 products) asking if the investments are taxonomy-eligible or not.

As a result, we would suggest that, in case the answer is no in this new box (i.e. the box has not been ticked), the question on the minimum share of investments aligned with the taxonomy is removed from the template to avoid any confusion for end-investors. Would this question be maintained (with amended wording as suggested previously, i.e. “minimum expected share” instead of “minimum share”), then the financial market participants should be allowed to answer “non-applicable” or “not relevant” to reflect that taxonomy compliance cannot be fulfilled as underlying investments are not covered by the EU taxonomy.

Finally, from a customer perspective, this section should be also be simplified. Please find below a proposal of more readable template:

- Promotes environmental or social characteristics, but does not have as its objective a sustainable investment
- It invests partially in sustainable investments
- In activities out of the scope of the EU Taxonomy
- In activities in the scope of the EU Taxonomy
- In activities aligned with the EU Taxonomy

- Has sustainable investment as its objective. Sustainable investment means an investment in an economic activity that contributes to an environmental or social objective, provided that the investment does not significantly harm any environmental or social objective and that the investee companies follow good governance practices.
- In activities out of the scope of the EU Taxonomy
- In activities in the scope of the EU Taxonomy
- In activities aligned with the EU Taxonomy

<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 support the approach which consists in having similar templates for both Article 8-9 SFDR products and Article 5-6 TR products. This would avoid proliferation of templates that might add operational complexity and create confusion for end-investors.

Our recommendation on this point is the one made in the answer to Q.9, i.e. adding some boxes in the first part of the template to allow this distinction.

We take the opportunity of this question to raise a major challenge relating to the reporting requirement in the pre-contractual documents. As of today, the article 6 of the SFD Regulation states that the information referred to in Articles 6, 8 and 9 shall be disclosed in the prospectus referred to in Article 69 of Directive 2009/65/EC, but does not precise in which manner this information shall be provided. The RTS states that such information shall be presented in an annex of the prospectus, in accordance with the templates set out in Annexes of the RTS, and with a prominent statement in the main body of the prospectus indicated that information related to environmental or social characteristics/sustainable investment is available in that annex.

Due to the level of content of the information requested and the size that may reach each annex per product in a given prospectus (especially in respect of umbrella funds with many sub-funds), we do recom-

mend that the RTS indicates clearly that such information may be put at disposal of the investor in the prospectus thanks to a pdf/website link. This can greatly contribute to making this regulatory document management more efficient, avoid multiplying the sources of information for an investor within a single document and participate widely in greater clarity of the information communicated to the investor.

As a last comment, we are asking for more clarity on the timeline for effective entry into force of these templates, in order to avoid that financial market participants have to duplicate efforts for developing them and making them available to investors.

<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>

We recommend the same approach as the one suggested in response to Q.9 and Q.10. By ticking the relevant box, it should be made clear that investments of this product are not taxonomy-eligible and as a result cannot disclose their alignment with taxonomy. The case of social investments is part of this scenario. As of today, criteria relevant to the social objectives have not been developed yet and it would be a risk for financial institution to communicate on the matter. The Platform on Sustainable Finance is working on the social Taxonomy, we should then wait until the social taxonomy is developed.

<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>

TYPE YOUR TEXT HERE

<ESA_QUESTION_ESG_12>