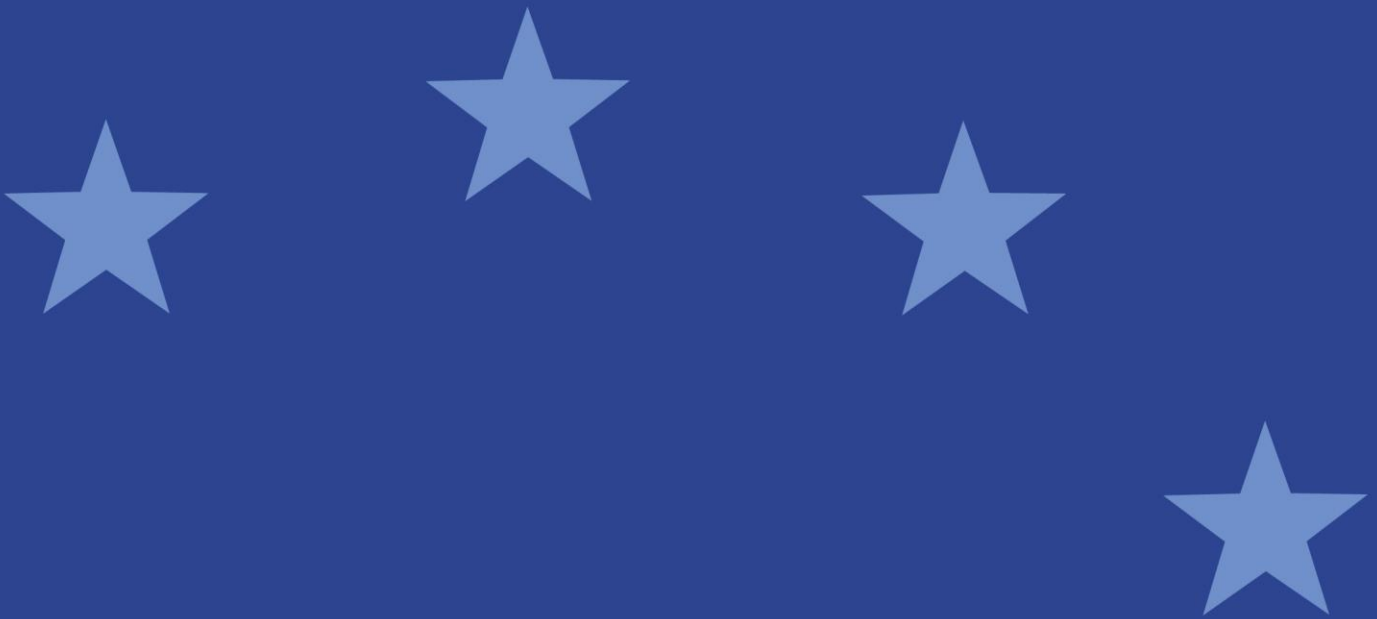


Response form for the Joint Consultation Paper concerning Taxonomy-related sustainability disclo- sures





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	Standard Life Aberdeen
Activity	Investment Services
Are you representing an association?	<input type="checkbox"/>
Country/Region	UK

Introduction

Please make your introductory comments below, if any:

<ESA_COMMENT_ESG_1>

Standard Life Aberdeen is a leading asset management company, formed in 2017 through the merger of Aberdeen Asset Management and Standard Life Investments. We currently manage £534.6bn (€525bn) of assets (as at 31 December 2020). We operate ethically, encouraging good practices among companies we invest in and providing support and expertise for the long-term benefit of the communities in which we operate.

We welcome the opportunity to provide comments on the proposed regulatory technical standards (RTS) supplementing the Taxonomy Regulation. In our response below, we highlight our main views which in short include:

- **Approach to Taxonomy disclosure:** We fully agree with the ESA’s proposed approach to integrate the detailed Taxonomy product disclosure requirements into the regulatory technical standards (RTS) of the Sustainability-related Disclosure Regulation (SFDR). We are, however, concerned over the timeline for finalising the rules and the expected application date for firms to comply in the market.
- **Calculation of Taxonomy alignment:** We note for awareness that the use of “market value” could introduce a certain degree of subjectivity into the calculations.
- **Assets that cannot yet be assessed against the Taxonomy:** We encourage the European Commission, the Platform for Sustainable Finance and/or the ESAs to further explore how the Taxonomy methodology could be applied to sovereign exposures, and whether it can be applied to derivatives. We suggest these assets are not included in the Taxonomy calculations but this should be clearly explained to the investor.
- **Compliance statement:** We urge to refrain from requiring an external assessment of the statement to avoid time delays for making the disclosure.
- **Graphical representation/pie chart:** We understand the ESAs’ intention to use a pie chart only for Taxonomy alignment but would encourage the ESAs to think how other sustainable investments (that have been assessed for their significant harm on other sustainability objectives in line with the SFDR) will not be discriminated by excluding them from the pie chart. We consider this could be done by a dotted line in the pie chart with an explanation that no Taxonomy for those sustainable investments is yet available.

- **Principle adverse impact (PAI) at product level:** We would appreciate clarity on how to manage the different timings of PAI considerations at product level. Notably, in our understanding an Article 8/9 fund could state in the prospectus that the fund considers PAI at fund level as of 1 January 2022 (if this is confirmed as the application date of the RTS) but only disclose more detailed information on PAI consideration as of 30 December 2022 in line with Article 7 of the SFDR.
- **Single template:** We support the use of a single template but would appreciate more clarity in the final RTS/templates that Article 8/9 products that do not commit to making environmentally sustainable investments do not have to complete the Taxonomy-related sections of the templates and will remove those sections from their templates.
- **Mock-up templates:** We would find it very useful if the ESAs could provide completed mock-up templates.

<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 fully agree with the ESAs' proposed approach to integrate the detailed Taxonomy product disclosure requirements into the regulatory technical standards (RTS) supplementing the Sustainability-related Disclosure Regulation (SFDR).

We are concerned, however, over the timeline of implementation given that amending the SFDR RTS will push back further the finalisation of the SFDR RTS. We took note of ESMA's Supervisory Statement issued on 25 February 2021 in which ESMA encouraged industry "to use the interim period from 10 March 2021 until 1 January 2022 to prepare for the application of the RTS". By amending the draft SFDR RTS by means of the Taxonomy RTS industry continues to operate under a certain degree of uncertainty. The start of the periodic reporting requirements is an area that concerns us in particular and has yet to be clarified.

<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 would like to comment on the proposed calculation for determining the Taxonomy alignment of underlying investments of a financial product as set out in Article 16b(1). We believe that the requirement to use the "market value" for the calculations could introduce a certain degree of subjectivity and create challenges for making comparisons between financial products. It is not clear how, for instance, a fund manager should determine what the "market value" of the investee company's, for instance, 10% Taxonomy aligned revenue is. The same concern applies to subparagraphs (a) to (d). We do not have a proposal how to address this but we wanted to note this concern for awareness.

<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>

Given the lack of data availability, we do not believe that at this point in time OpEx could be used as a standard metric for assessing the Taxonomy alignment of a fund's underlying investments. Revenue based and CapEx data are in our view most relevant to provide the state of play and forward looking view on an investee company, and given current data availability, we expect to rely initially on revenue data. We agree though that it is useful to have OpEx included in the RTS as one possible approach market participants can choose to use in future.

<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>

Assessing the positive contribution to sustainability factors or the Taxonomy alignment of derivatives is particularly challenging and there is no agreement or reasonable approach on how this could be done. The majority of derivatives do not deliver a specific ESG outcome and derivatives do not generally contribute to the capital of a company (which could then use it to develop its net zero strategy, for instance), or provide the holder of the derivative any possibility to engage through stewardship with the company. We encourage the European Commission, its Platform for Sustainable Finance and/or the ESAs to explore this area further and, if viable, help define a standard classification to which derivatives can be classified for ESG purposes and the methodology to include derivatives in a KPI measure.

<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>

There can be ambiguities with regards to specific instruments, for instance, at the very subordinated end of the market with preference shares and deeply subordinated debt that turns into equity if the issuer's balance sheet becomes stressed. To avoid any misunderstandings, we suggest that financial market participants explain what they count towards equity/debt where there are any ambiguities.

<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 do not believe that at this point Taxonomy non-eligible sovereign exposures should be included in the scope as there is no clarity on how the Taxonomy alignment of these can be determined. We encourage the European Commission, its Platform for Sustainable Finance and/or the ESAs to explore this area further and help define a methodology for including sovereign exposures into these assessments.

In order to provide investors with full transparency with regards to the Taxonomy alignment of their fund, we suggest that financial market participants disclose, alongside the calculation described in Article 16b (1), the assets (derivatives, Taxonomy non-eligible sovereign exposures) and their share of the fund's total assets that have not been included in the calculation because these assets cannot (yet) be assessed against the Taxonomy.

<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>

If a compliance statement is introduced, we urge that no external assessment will be required. An external assessment would create unnecessary costs a fund or mandate and would risk delaying the disclosure to clients and end investors. Using reputable data sources, and disclosing these, should suffice to provide reassurance of the adequacy of the disclosures.

<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>

With regards to the graphical representation/pie chart in the disclosure templates, we understand the ESAs' intention to only show the Taxonomy alignment of a financial product with the Taxonomy offering a standardised and legally sound methodology to determine whether an economic activity is environmentally sustainable. We feel, however, that this could discriminate against products that have sustainable investments and that have stood the test of 'do no significant harm' (DNSH) in line with the SFDR.

We would therefore suggest that where a product has dual objectives or social/environmental objectives where the underlying economic activities cannot yet be assessed against the Taxonomy, those investments can also be shown in the pie chart, possibly by way of dotted lines with the explanation that no Taxonomy is yet available for those but that they have been assessed in line with the SFDR. The graphical representation/pie chart would then include the proportions of:

- Taxonomy aligned investments calculated in accordance with Article 16b;
- Investments that pursue other sustainable objectives (see Article 2 (17) of the SFDR) that have been assessed for any significant harm to other sustainability objectives;
- Remainder of investments which includes non sustainable / non taxonomy aligned investments.

The rules/templates should also leave some flexibility allowing financial market participants to make additional disclosure such as differentiating between the investments in enabling and transitional activities, where this is of interest to the client.

<ESA_QUESTION_ESG_8>

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

<ESA_QUESTION_ESG_9>

We would like to highlight a couple of omissions/errors in the draft RTS, notably:

- Article 61a(2)(b)(ii) of the draft Taxonomy RTS refers to points (i) and (ii) of Article 16a(1)(c) – we note that Article 16a(1)(c) does not exist.
- Article 67a(2)(b)(ii) of the draft Taxonomy RTS refers to Article 23a(1)(c) – we note that Article 23a(1)(c) does not exist.

With regards to principle adverse impact considerations by Article 8/9 funds, we would appreciate clarity on how to manage the different timings of PAI considerations at product level. Notably, in our understanding an Article 8/9 fund could state in the prospectus that the fund considers PAI at fund level as of 1 January 2022 (if this is confirmed as the application date of the RTS) but only disclose more detailed information on PAI consideration as of 30 December 2022 in line with Article 7 of the SFDR.

<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 prefer a single template as this would be the clearest way of providing sustainability-related information to the market. We would appreciate if the final templates would make it clearer that Article 8/9 products that do not include environmentally sustainable investments in their portfolio do not have to complete the Taxonomy-related sections of the templates and will remove the Taxonomy sections from their templates.

<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>

As mentioned in the answer to Q10 we would appreciate more clarity in the final RTS/templates that only Art 5/6 (Taxonomy Regulation) products have to use the Taxonomy sections of the templates and all other Article 8/9 products will remove those sections from their templates.

We also note that a financial product can have dual, i.e., social and environmental, objectives. Where this is the case, we expect to use the Taxonomy, and the respective DNSH assessment, to report the Taxonomy alignment of the underlying investments that substantially contribute to environmental objectives in addition to the SFDR assessment for the product's 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>

We have no comments on impact assessment but we would find it very useful if the ESAs could provide completed mock-up templates so that financial market participants get a better understanding of the ESMA's expectations for completing these templates.

For purely practical reasons, we would also appreciate if the ESAs could publish the draft (and final) templates in a separate word document to allow easier access and facilitate the review of the templates.

<ESA_QUESTION_ESG_12>