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| Response form for the Joint Consultation Paper concerning sustainable disclosures for STS securitisations |
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Date: 6 May 2022

ESMA82-402-859

**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 the content, methodologies and presentation of information in respect of the sustainability indicators in relation to adverse impacts on the climate and other environmental, social and governance-related adverse impacts pursuant to Articles 22(6) and 26d(6) of the Regulation (EU) 2017/2402 (hereafter the Securitisation Regulation) and in particular on the specific questions summarised in Section 5 of the consultation paper under “List of stakeholder questions”.

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\_STS\_SUST\_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\_STS\_SUST\_nameofrespondent\_RESPONSEFORM. For example, for a respondent named ABCD, the response form would be entitled ESA\_STS\_SUST\_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](https://www.esma.europa.eu/press-news/consultations) under the heading ‘Your input - Consultations’ by **2 July 2022**.
* Contributions not provided in the template for comments, or after the deadline will not be processed.

**Publication of responses**

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

**Data protection**

The protection of individuals with regard to the processing of personal data by the ESAs is based on Regulation (EU) 2018/1725[[1]](#footnote-2). Further information on data protection can be found under the [Legal notice](http://www.eba.europa.eu/legal-notice) section of the EBA website and under the [Legal notice](https://eiopa.europa.eu/Pages/Links/Legal-notice.aspx) section of the EIOPA website and under the [Legal notice](https://www.esma.europa.eu/legal-notice) section of the ESMA website.

**General information about respondent**

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| --- | --- |
| Name of the company / organisation | Gesamtverband der Deutschen Versicherungswirtschaft e.V. (GDV) |
| Activity | Insurance and Pension |
| Are you representing an association? |[x]
| Country/Region | Germany |

**Introduction**

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

<ESA\_COMMENT\_STS\_SUST\_1>

We are pleased to participate in the consultation and would like to contribute to successful and practicable securitisations-related sustainability disclosure rules in practice through our comments.

We welcome that the securitisations-related sustainability disclosures will be achieved by use of a “Principal adverse impact statement” presented in the template set out in the Annex of the draft RTS, which is closely aligned with the template developed for the draft SFDR RTS.

In order to keep the effort for the reporting companies as low as possible and to enable a uniform digital evaluation of the sustainability information for investors, we see this approach very positively.

The EU Commission wants to significantly advance the European securitisation market and reduce barriers to investment in securitisation. This aspect should be taken into account in principle when designing the RTS.

<ESA\_COMMENT\_STS\_SUST\_1>

1. **: Do you agree that it is preferable to make disclosures available in a stand-alone document based on the SFDR template and consider any potential related adjustments to ESMA’s disclosure RTS at a later stage?**

<ESA\_QUESTION\_STS\_SUST\_1>

We support the approach to start with the SFDR template and to consider the adjustments to the ESMA disclosure at a later stage.

Also, from an investor perspective we welcome the publication of PAIs via a securitization repository (SR).

<ESA\_QUESTION\_STS\_SUST\_1>

1. **: Do you agree that originators should disclose information in the principal adverse sustainability impacts statement, about whether and, if so, how principal adverse impacts on sustainability factors are taken into account in the originator’s credit granting criteria? Do you agree that the disclosed information should rely on and cross-reference existing disclosures?**

<ESA\_QUESTION\_STS\_SUST\_2>

We agree that originators should disclose information in the principal adverse sustainability impacts statement, how principal adverse impacts on sustainability factors are taken into account in the originator’s credit granting criteria.

In that regard we believe that a description of the originator’s policies on the assessment process to identify and prioritise PAIs on sustainability factors in relation to its credit granting is sufficient und would support 15 a) in the Joint Consultation Paper

<ESA\_QUESTION\_STS\_SUST\_2>

1. **: Do you agree that originators should disclose information about whether, and if so how, PAI indicators on sustainability factors are considered in the selection of underlying exposures to be added/repurchased to/from the pool at the time of marketing or during the lifetime of the securitisation? Do you agree with the level of information required?**

<ESA\_QUESTION\_STS\_SUST\_3>

Basically, it should be emphasised that information about how PAI indicators on sustainability factors are considered in the selection of underlying exposures to be added/repurchased to/from the pool at the time of marketing or during the lifetime of the securitizationis very important for sustainable investors.

If the originator's procedures and credit granting criteria (as provided by the originator under question Q2) apply for the initial selection of the pool and replenishment of the pool then additional disclosures are not needed.

Referring to the considerations 17 a – d we would like to note the following.

1. “a description of any thresholds applicable to the composition of the pool of underlying exposures in the securitisation relating to the PAIs on sustainability factors of the assets financed by the underlying exposures in the pool;” **Comment:** From an investor's point of view, this approach would be good.
2. “a description of any tests, events and triggers in the securitisation relating to the PAIs on sustainability factors of the assets financed by the underlying exposures;” **Comment:** Would theoretically be OK, but we doubt that PAIs would be applied in tests, events and triggers within the liability structure.
3. “clear references to the relevant pages and sections in the final offering document or the prospectus and the closing transaction documents where these thresholds, tests, events or triggers are described in detail” **Comment:** We don’t think that a reference to the pages in preliminary or final prospectus is necessary. The disclosure should only contain the name of the test and an investor then can search the name in prospectus. As mentioned above to c) we doubt that PAIs would be applied in tests, events and triggers within the liability structure.
4. “where information relating to any of the indicators used is not readily available, details of the best efforts used to obtain the information from the obligors, external experts or by making reasonable assumptions.” **Comment:** If the information is not available, it cannot be reported. In principle, reasonable assumptions can provide investors with indications, but it is important that these are also robust in order to avoid the danger of greenwashing. Under no circumstances should investors be obliged to make robust assumptions instead of the originator. If the information is not available a negative certificate might also be possible.

<ESA\_QUESTION\_STS\_SUST\_3>

1. **: Do you agree with the approach taken in the draft RTS which aims for full consistency with the draft SFDR RTS?**

<ESA\_QUESTION\_STS\_SUST\_4>

We support this approach. Even though some data may not yet be available to the originators, it is better to start the process as soon as possible and to use the existing draft SFDR RTS.

Additional positive aspects would be that the effort for the originators with uniform sustainability disclosure RTS would presumably be less and investors could better evaluate the data in an automated way.

<ESA\_QUESTION\_STS\_SUST\_4>

1. **: Do you agree with the inclusion of the new mandatory non-green asset ratio indicator for all asset classes covered by the RTS?**

<ESA\_QUESTION\_STS\_SUST\_5>

There should be no obligation to disclose a non-green asset ratio indicator for securitisations, but only on a voluntary basis. When considering the introduction of a non-green asset ratio indicator, competitive disadvantages compared to comparable asset classes should be avoided in any case.

In addition, it should be taken into account that not all originators are credit institutions as some may be non-bank lenders. If these non-bank lenders are required to calculate a GAR ratio on the company level then they should have the possibility to disclose this information voluntarily. But if a non-bank lender is not required to calculate a GAR then it is not clear why it should be done so for securitisation.

In principle we only agree to disclosure of GAR ratios on the securitization transaction level on a voluntary basis to the extent that comparable asset classes like covered bonds will also report GAR ratios. If it is not envisaged that covered bonds (or similar asset classes) report on GAR ratios on the cover pool basis then we would not like to put ABS transaction at disadvantage versus covered bonds.

<ESA\_QUESTION\_STS\_SUST\_5>

1. **: Do you agree with the proposed PAI indicators for residential real estate?**

<ESA\_QUESTION\_STS\_SUST\_6>

With regard to the important aspect, that the RTS should be as identical as possible, we agree with the proposed PAI indicators for residential real estate. However, we would like to point out that the data mentioned may not (yet) be available to the originators.

<ESA\_QUESTION\_STS\_SUST\_6>

1. **: Do you propose to add any additional specific indicators for this asset class?**

<ESA\_QUESTION\_STS\_SUST\_7>

The German insurers currently does not see the need to add any additional specific indicators for this asset class. In this context, we would like to emphasise that the disclosure framework should be flexible enough to be expanded by additional PAI data fields or PAI key performance indicators if needed and identified. In the same sense the disclosure framework should be flexible enough to remove PAI data fields if they turn out to be not available and thus the field itself is useless.

<ESA\_QUESTION\_STS\_SUST\_7>

1. **: Do you agree with aligning the PAI indicators for motor vehicles with the screening criteria for motor vehicles established in the Taxonomy Regulation?**

<ESA\_QUESTION\_STS\_SUST\_8>

From an Investor perspective we doubt that all information listed in this paragraph may be available for originators, for example the PAI mentioned under “Social and employee matters”. An alignment of the PAI indicators for motor vehicles with the screening criteria for motor vehicles established in the Taxonomy Regulation should not result in a competitive disadvantage for securitisations but should take place simultaneously and for all comparable asset classes.

<ESA\_QUESTION\_STS\_SUST\_8>

1. **: Do you agree with expanding the indicators to potentially cover these additional aspects at a later stage?**

<ESA\_QUESTION\_STS\_SUST\_9>

Generally speaking it would be appreciated if these aspects are considered at a later stage, however the feedback of the originators is important here as they know best which data is available or could become available.

<ESA\_QUESTION\_STS\_SUST\_9>

1. **: Do you agree with applying the mandatory indicators for social and employee, respect for human rights, anti-corruption and anti-bribery matters to the manufacturer of the vehicle?**

<ESA\_QUESTION\_STS\_SUST\_10>

We do not support the idea of applying the mandatory indicators for social and employee, respect for human rights, anti-corruption and anti-bribery matters to the manufacturer of the vehicle for the following reason. The consumer / buyer of a car decides about the manufacturer and the car model she or he wants to buy. The positive or negative PAIs that are associated with a car manufacturer and their car model is or should be measured and disclosed on the level of the car manufacturer itself. Furthermore, it must be taken into account that in most cases the originator is not associated to the manufacturer of the vehicle and is therefore not in the position to report on this topic.

<ESA\_QUESTION\_STS\_SUST\_10>

1. **: Do you propose to add any additional specific indicators for this asset class?**

<ESA\_QUESTION\_STS\_SUST\_11>

At the current stage we would not recommend an extension of any additional specific indicators for this asset class. In this context, we would like to emphasise that the disclosure framework should be flexible enough to be expanded by additional PAI data fields if needed and identified. In the same sense the disclosure framework should be flexible enough to remove PAI data fields if they turn out to be not available and thus the field useless.

<ESA\_QUESTION\_STS\_SUST\_11>

1. **: Would you agree with using the SFDR real estate PAI indicators for commercial real estate securitisation?**

<ESA\_QUESTION\_STS\_SUST\_12>

 In principle, we consider an alignment of the **SFDR real estate PAI indicators** indicators and the PAI **indicators for commercial real estate** securitisations to be sensible.

<ESA\_QUESTION\_STS\_SUST\_12>

1. **: Would you consider it useful to provide originators of securitisations consisting of corporate debt including trade receivables a template to disclose standardised information on principal adverse impacts on sustainability factors?**

<ESA\_QUESTION\_STS\_SUST\_13>

We support the idea to provide originators of securitisations consisting of corporate debt a template to disclose standardised information on principal adverse impacts on sustainability factors.

However, we would like to comment on the trade receivables mentioned that in this case the additional data collection and reporting burden may be just too high as trade receivables with short maturities may be a low margin product where the extra cost of collecting the data is not justified. The EU Commission wants to significantly advance the European securitisation market and reduce barriers to investment in securitisation. Therefore, the RTS should be designed in a practice-oriented manner.

<ESA\_QUESTION\_STS\_SUST\_13>

1. **: Would you agree with applying the draft SFDR RTS PAI indicators to exposures to corporates?**

<ESA\_QUESTION\_STS\_SUST\_14>

We agree with applying the draft SFDR RTS PAI indicators to exposures to corporates. If the PAI data is available for corporates that are required to report on their relevant PAIs as per SFDR then this PAI information should be aggregated on portfolio level and be made available to investors in transactions that mainly securitise corporate credit risk. As already mentioned in question 14, we would propose an exception on trade receivables for the known reasons.

<ESA\_QUESTION\_STS\_SUST\_14>

1. **: Would you agree with applying the proposed application of the same draft SFDR RTS PAIs focusing on the seller in the case of securitisation consisting of trade receivables?**

<ESA\_QUESTION\_STS\_SUST\_15>

 No comment, but we refer to our concerns regarding trade receivablesin question 14 and 15.

<ESA\_QUESTION\_STS\_SUST\_15>

1. **: Would you agree with adopting the proposed proportionate approach to SME loan?**

<ESA\_QUESTION\_STS\_SUST\_16>

Yes, we would agree with adopting the proposed proportionate approach to SME loan. If the PAI data is available for corporates that are required to report on their relevant PAIs as per SFDR then this PAI information should be aggregated on portfolio level and be made available to investors in transaction than mainly securitise corporate credit risk.

<ESA\_QUESTION\_STS\_SUST\_16>

1. **: Would you propose to add any additional specific indicators for these three types of securitisation?**

<ESA\_QUESTION\_STS\_SUST\_17>

At the current stage we would not agree toadd any additional specific indicators for these three types of securitisation. As already mentioned in question 8 we would like to emphasise in this context that the disclosure framework should be flexible enough to be expanded by additional PAI data fields or PAI key performance indicators if needed and identified. In the same sense the disclosure framework should be flexible enough to remove PAI data fields if they turn out to be not available and thus the field itself is useless.

<ESA\_QUESTION\_STS\_SUST\_17>

1. **: Would you agree that there are no appropriate PAI indicators for securitisations backed by consumer loans or by credit card debt? If not, which PAI indicators would you propose for these loan types?**

<ESA\_QUESTION\_STS\_SUST\_18>

We share the view that there are no suitable PAI indicators for securitisations backed by consumer loans or by credit card debt.

Typically consumer debt is a general purpose loan and the consumer / borrower is free to choose the use for the loan and e.g. may use the loan proceeds to purchase products or engage in activities with a negative environmental and/or social impact. However the originator has no impact and cannot control how the consumer spends the loan proceeds.

A typical social factor like extending loans to underserved borrowers may be associated with higher credit risk. And sometimes not granting a loan to a borrower can be associated with a positive social impact as this borrower may be protected from over indebtedness.

It is very difficult to think of social PAI for consumer debt, we note that ICMA Pre-Issuance Checklist for Social Bonds mentions several factors that are not applicable to Consumer ABS.

<ESA\_QUESTION\_STS\_SUST\_18>

1. **: Do you consider that it would be useful to develop standardised PAI indicators on sustainability factors for other types of securitisation?**

<ESA\_QUESTION\_STS\_SUST\_19>

We support the idea to develop standardised PAI indicators on sustainability factors for other types of securitisation.

There should generally be the possibility for atypical securitisations that do not fall under the typical categories of auto, consumer, residential, etc. to report PAI. In this context, it would make sense, if appropriate, to introduce a broad category called "other securitisation ". This category could include, for example, securitisation of loans backed by solar panels.

<ESA\_QUESTION\_STS\_SUST\_19>

1. Regulation (EU) 2018/1725 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC, OJ L 295, 21.11.2018, p. 39. [↑](#footnote-ref-2)