**Reply form**

**on the Joint Consultation Paper on the review of SFDR Delegated Regulation regarding PAI and financial product disclosures**

 12 April 2023ESMA34-45-1218

**Responding to this paper**

The ESAs invite comments on all matters in the Joint Consultation Paper and in particular on the specific questions in this reply form. Comments are most helpful if they:

* respond to the question stated;
* indicate the specific question to which the comment relates;
* contain a clear rationale; and
* describe any alternatives the ESAs should consider.

ESMA will consider all comments received by **4 July 2023.**

**Instructions**

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

* Insert your responses to the questions in the Joint Consultation Paper in this reply form.
* Please do not remove tags of the type <ESMA\_QUESTION\_SFDR\_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 responses, save the reply form according to the following convention: ESMA\_CP SFDR Review\_nameofrespondent.

For example, for a respondent named ABCD, the reply form would be saved with the following name: ESMA\_CP SFDR Review\_ABCD.

* Upload the Word reply form containing your responses to ESMA’s website (**pdf documents will not be considered except for annexes**). All contributions should be submitted online at [www.esma.europa.eu](http://www.esma.europa.eu) under the heading ‘Your input - Consultations’.

**Publication of responses**

All contributions received will be published following the close of the consultation, unless you request otherwise. Please clearly and prominently indicate in your submission any part you do not wish to be publicly disclosed. 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 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 ESMA’s 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-1). 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**

|  |  |
| --- | --- |
| Name of the company / organisation | European Federation for Transport and Environment |
| Activity | Audit/Legal/Individual |
| Are you representing an association? |[ ]
| Country/Region | Belgium |

**Questions**

1. : Do you agree with the newly proposed mandatory social indicators in Annex I, Table I (amount of accumulated earnings in non-cooperative tax jurisdictions for undertakings whose turnover exceeds € 750 million, exposure to companies involved in the cultivation and production of tobacco, interference with the formation of trade unions or election worker representatives, share of employees earning less than the adequate wage)?

<ESMA\_QUESTION\_SFDR\_1>

T&E welcomes the introduction of new social indicators to reinforce the existing ones and is in favour of the inclusion of at least the newly proposed mandatory indicators. This is particularly important to ensure consistency with the social indicators proposed under the Corporate Sustainability Reporting Directive.

<ESMA\_QUESTION\_SFDR\_1>

1. : Would you recommend any other mandatory social indicator or adjust any of the ones proposed?

<ESMA\_QUESTION\_SFDR\_2>

Yes. T&E suggests to make some of the proposed opt-in indicators mandatory, these being:

1. Excessive use of non-employee workers in investee companies
2. Excessive use of non-guaranteed hour contracts in investee companies
3. Excessive use of temporary contract employees in investee companies.

We deem them particularly relevant for two main reasons. Firstly because of their importance in defining the own workforce of the investee companies. Secondly, in relation to the vulnerability of the categories of workers taken into consideration by these performance indicators. We also recommend defining what *“excessive”* means or eventually reformulate the requirement in order to make it more understandable and applicable.

<ESMA\_QUESTION\_SFDR\_2>

1. : Do you agree with the newly proposed opt-in social indicators in Annex I, Table III (excessive use of non-guaranteed-hour employees in investee companies, excessive use of temporary contract employees in investee companies, excessive use of non-employee workers in investee companies, insufficient employment of persons with disabilities in the workforce, lack of grievance/complaints handling mechanism for stakeholders materially affected by the operations of investee companies, lack of grievance/complaints handling mechanism for consumers/ end-users of the investee companies)?

<ESMA\_QUESTION\_SFDR\_3>

For coherence with Question 2, T&E recommends making the first three newly proposed opt-in indicators mandatory.

In addition, with regards to *“Lack of grievance/complaints handling mechanism for communities affected by the operations of the investee companies”* and *“Lack of grievance/complaints handling mechanism for consumers/end-users of the investee company”* we recommend removing them, because as they are formulated they do not provide any meaningful information, but rather incentivise a tick-the-box exercise.

<ESMA\_QUESTION\_SFDR\_3>

1. : Would you recommend any other social indicator or adjust any of the ones proposed?

<ESMA\_QUESTION\_SFDR\_4>

T&E recommends the addition of a company-wide diversity indicator on “*% of women in management positions”*, with a specific sub-indicator aligned to the current existing mandatory KPI and the reporting requirements defined in Article 7 of the Directive on Gender Balance on Corporate Boards (Directive 2022/2381).

<ESMA\_QUESTION\_SFDR\_4>

1. : Do you agree with the changes proposed to the existing mandatory and opt-in social indicators in Annex I, Table I and III (i.e. replacing the UN Global Compact Principles with the UN Guiding Principles and ILO Declaration on Fundamental Principles and Rights at Work)? Do you have any additional suggestions for changes to other indicators not considered by the ESAs?

<ESMA\_QUESTION\_SFDR\_5>

Overall T&E agrees with replacing the UN Global Compact Principles with the UN Guiding Principles and ILO Declaration on Fundamental Principles and Rights at Work, for two main reasons:

1. Because they are more ambitious in regards to their content

2. Because they are more consistent with the Minimum safeguards from Art 18 of the EU Taxonomy Regulation.

However, we recommend to ensure full consistency with the Minimum safeguards under Art 18 of the EU Taxonomy Regulation. Hence social indicators in Annex I should refer to “the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights, including the principles and rights set out in the eight fundamental conventions identified in the Declaration of the International Labour Organisation on Fundamental Principles and Rights at Work and the International Bill of Human Rights”.

<ESMA\_QUESTION\_SFDR\_5>

1. : For real estate assets, do you consider relevant to apply any PAI indicator related to social matters to the entity in charge of the management of the real estate assets the FMP invested in?

<ESMA\_QUESTION\_SFDR\_6>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFDR\_6>

1. : For real estate assets, do you see any merit in adjusting the definition of PAI indicator 22 of Table 1 in order to align it with the EU Taxonomy criteria applicable to the DNSH of the climate change mitigation objective under the climate change adaptation objective?

<ESMA\_QUESTION\_SFDR\_7>

We agree that it makes sense to align PAI indicator 22 to the EU Taxonomy definition to integrate evolving thinking and improve consistency between the two frameworks. Pending revision of the Energy Performance of Buildings Directive (EPBD), attention needs to be paid to the different policy objective of the EPBD and the Taxonomy Regulation: the EPBD aims to provide guidance about energy efficiency at national or regional level, whereas the Taxonomy should use a harmonised European definition. Unless the outcome of the EPBD legislative negotiations is to harmonise Energy Performance Certificates (EPC) scales, these will continue to differ between member states and this would require a “translation” to be useful for both Taxonomy and SFDR disclosures.

<ESMA\_QUESTION\_SFDR\_7>

1. : Do you see any challenges in the interaction between the definition ‘enterprise value’ and ‘current value of investment’ for the calculation of the PAI indicators?

<ESMA\_QUESTION\_SFDR\_8>

Yes, there can be challenges in the interaction between the definitions of “enterprise value” and “current value of investments” when calculating PAI indicators. The potential challenges are:

1.Consistency of definitions;

2. Availability and accuracy of data;

3.Methodological differences;

4.Subjectivity and assumptions.

<ESMA\_QUESTION\_SFDR\_8>

1. : Do you have any comments or proposed adjustments to the new formulae suggested in Annex I?

<ESMA\_QUESTION\_SFDR\_9>

Yes, T&E welcomes the proposed adjustments to the new formulae suggested in Annex I.

However, and particularly to access information related to the alignment with the Paris Agreement, we recommend adding specifications on the share of investments in companies active in the following sectors:

1. Fossil fuels
2. Coal sector
3. Oil sector
4. Gas sector

This is particularly relevant to understand companies’ exposure because for the different fossil fuels there are different scenarios related to their phase-out.

<ESMA\_QUESTION\_SFDR\_9>

1. : Do you have any comments on the further clarifications or technical changes to the current list of indicators? Did you encounter any issues in the calculation of the adverse impact for any of the other existing indicators in Annex I?

<ESMA\_QUESTION\_SFDR\_10>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFDR\_10>

1. : Do you agree with the proposal to require the disclosure of the share of information for the PAI indicators for which the financial market participant relies on information directly from investee companies?

<ESMA\_QUESTION\_SFDR\_11>

Yes, we agree that this share should be disclosed. It is an important indicator of data quality, as accurate SFDR disclosure requires access to the underlying data from reporting companies instead of relying on external data. While market pressure should over time encourage corporates to report non-mandatory data points, the move away from certain forms of mandatory reporting under the CSRD/ESRS, the introduction of phase-in clauses for companies of a certain size, and the introduction of total reliance on materiality assessment are all slowing down the improvement of data availability for financial market players (FMPs) that have to report under SFDR. Ultimately, this hampers the transformative nature of the SFDR.

We are particularly concerned about the proposal from the European Commission whereby all ESRS standards would be entirely subject to companies' materiality assessment under the CSRD. This assessment would only be subject to “limited assurance” and not even explicitly disclosed if a company decides that an indicator is not material.

<ESMA\_QUESTION\_SFDR\_11>

1. : What is your view on the approach taken in this consultation paper to define ‘all investments’? What are the advantages and drawbacks you identify? Would a change in the approach adopted for the treatment of ‘all investments’ be necessary in your view?

<ESMA\_QUESTION\_SFDR\_12>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFDR\_12>

1. : Do you agree with the ESAs’ proposal to only require the inclusion of information on investee companies’ value chains in the PAI calculations where the investee company reports them? If not, what would you propose as an alternative?

<ESMA\_QUESTION\_SFDR\_13>

T&E thinks that this proposal could allow omission of relevant information, just because investors could not adequately access information disclosed by companies. As an alternative solution to remedy the absence of relevant information, T&E suggests the use of estimates and proxies for a limited period of time (defined in the standard) until the information is made available or the use of external data providers or bilateral engagement with investee companies.

<ESMA\_QUESTION\_SFDR\_13>

1. : Do you agree with the proposed treatment of derivatives in the PAI indicators or would you suggest any other method?

<ESMA\_QUESTION\_SFDR\_14>

While we appreciate that the proposed treatment aligns to Undertakings for the Collective Investment in Transferable Securities (UCITS) and Alternative Investment Funds (AIFs) practise to prevent greenwashing scenarios where long net exposures to PAIs are created through derivatives, we are concerned about the other greenwashing scenario, where derivatives are used to reduce the PAI numerator.

In a PAI/DNSH context, a financially material PAI that is covered by a derivative to fully or partially cancel out the financial exposure and therefore the financial materiality, is still a PAI caused by the investment and also a reputational risk for the FMP.

As an example, a claim that a product has a “net zero” GHG impact could be perceived as greenwashing if this claim is based on offsetting through derivatives, particularly considering that SFDR is a consumer-facing framework. FMPs not concerned about greenwashing could even deliberately use derivatives just to “hide” PAIs.

<ESMA\_QUESTION\_SFDR\_14>

1. : What are your views with regard to the treatment of derivatives in general (Taxonomy-alignment, share of sustainable investments and PAI calculations)? Should the netting provision of Article 17(1)(g) be applied to sustainable investment calculations?

<ESMA\_QUESTION\_SFDR\_15>

See Question 14 above. We disagree with the current answer to ESA Q&A I.3. Derivatives should never be used to reduce exposures to PAIs, for the simple reason that SFDR is a consumer protection framework to prevent greenwashing. The consumer deserves to know that a financial product is investing in a company that causes PAIs, even if the (financial) impact of these investments is netted out.

<ESMA\_QUESTION\_SFDR\_15>

1. : Do you see the need to extend the scope of the provisions of point g of paragraph 1 of Article 17 of the SFDR Delegated Regulation to asset classes other than equity and sovereign exposures?

<ESMA\_QUESTION\_SFDR\_16>

The objective behind an extension would be to consider sustainability risks that are adequately considered across various asset classes, by promoting a comprehensive approach to sustainable investing. However, the status quo of point g of paragraph 17 provisions to equity and sovereign exposures poses several challenges especially related to comparability and transparency. The existing bottlenecks for asset managers are to define relevant indicators, timeframes and boundaries. Deciding which sustainability factors to prioritise and how to quantify their impacts poses challenges, especially while dealing with diverse asset classes.

Therefore, T&E recommends focusing on impact related metrics as it would help us to reduce the negative impacts in the longer term. Thus the scope of the provision of point g of paragraph 1 of article 17 should be expanded to other asset classes.

<ESMA\_QUESTION\_SFDR\_16>

1. : Do you agree with the ESAs’ assessment of the DNSH framework under SFDR?

<ESMA\_QUESTION\_SFDR\_17>

Yes, we agree. Changes to SFDR Level 1 are ultimately required to correctly synchronise the two pieces of legislation. While the development of SFDR PAI indicators has been quicker than the development of the EU Taxonomy, it is the Taxonomy that is more detailed and was designed as the enabling regulation of sustainability in EU legislation.

Consistency between SFDR and Taxonomy is essential and synchronisation should be continuous, as more and more (DNSH) criteria become available in the Taxonomy. A full fix requires Level 1 changes to SFDR and this should be part of the legislative review process for the SFDR as well as the ESA input into that process.

Beyond the DNSH/PAI nexus, we consider it important to proceed to changes at SFDR level, in order to clarify the definition of sustainable investment. For instance, Article 2 (17) does not even refer to the EU Taxonomy as far as environmental issues are concerned. An explicit reference to the EU Taxonomy regulation should be added, covering economic activities for which taxonomy criteria have been developed.

<ESMA\_QUESTION\_SFDR\_17>

1. : With regard to the DNSH disclosures in the SFDR Delegated Regulation, do you consider it relevant to make disclosures about the quantitative thresholds FMPs use to take into account the PAI indicators for DNSH purposes mandatory? Please explain your reasoning.

<ESMA\_QUESTION\_SFDR\_18>

Yes, we agree. The assessment of whether PAIs are material (or “principal”) remains subjective and disclosing the quantitative thresholds would help investors of SFDR products to better understand what an FMP considers “principal”. It would also give a better horizontal understanding of how the individual PAIs impact the SFDR classification on the market, i.e. which ones are material in determining whether products classify for Article 8 and 9.

However, the more fundamental long-term solution to this problem is for the Commission to define minimum criteria for the assessment of PAI materiality, as well as for contribution and good governance.

Looking at the broader picture, changes at SFDR Level 1 are also necessary in order to provide clarity on Articles 6, 8 and 9. Several options may be considered, for example mirroring the approach of the Financial Conduct Authority in the UK defining sustainable focus, improvers and impact. In any case, it is urgent to establish minimum criteria for financial products to guarantee minimum sustainability performance and avoid self-labelling in an un-harmonized manner.

<ESMA\_QUESTION\_SFDR\_18>

1. : Do you support the introduction of an optional “safe harbour” for environmental DNSH for taxonomy-aligned activities? Please explain your reasoning.

<ESMA\_QUESTION\_SFDR\_19>

Yes, T&E agrees with this option for environmental do not significant harm (DNSH) and the selected activities aligned with the EU Taxonomy criteria. T&E supports the principle of having only one DNSH definition applicable to both regulations, thus ensuring a certain level of coherence between the two.

However, we believe that this issue must be addressed through a proper amendment of the Level 1 legislative text (see Question 17). This solution would only work for economic activities included in the EU Taxonomy regulation, so a solution with a wider scope of activities should be found. In fact, these safe harbour provisions are intended to provide clarity and legal certainty to market participants regarding the application of the DNSH criteria to certain types of activities.

<ESMA\_QUESTION\_SFDR\_19>

1. : Do you agree with the longer term view of the ESAs that if two parallel concepts of sustainability are retained that the Taxonomy TSCs should form the basis of DNSH assessments? Please explain your reasoning.

<ESMA\_QUESTION\_SFDR\_20>

Yes (see questions 17 and 19). T&E strongly believes that a systematic reference to the EU Taxonomy DNSH criteria should be done under the SFDR, for environmental activities and any other future activities covered by the Taxonomy. This would further ensure coherence, consistency and interoperability of these two key sustainable finance frameworks.

<ESMA\_QUESTION\_SFDR\_20>

1. : Are there other options for the SFDR Delegated Regulation DNSH disclosures to reduce the risk of greenwashing and increase comparability?

<ESMA\_QUESTION\_SFDR\_21>

We recommend the ESAs to urge the Commission to accelerate the adoption of Delegated Acts to further complete the Taxonomy, and if need be to introduce further iterations (partial updates) to bring new activities in the Taxonomy as soon as possible.

<ESMA\_QUESTION\_SFDR\_21>

1. : Do you agree that the proposed disclosures strike the right balance between the need for clear, reliable, decision-useful information for investors and the need to keep requirements feasible and proportional for FMPs? Please explain your answers.

<ESMA\_QUESTION\_SFDR\_22>

The purpose of the SFDR is to create clarity for investors and by definition this requires an effort by sell-side FMPs. The specific requirements to disclose GHG emissions reduction targets should build on information that is increasingly requested from FMPs already in another legislative or reporting context, in particular the need to develop and disclose transition plans. Provided indicators are properly synchronised, we do not think that GHG-related disclosure requirements in particular are burdensome for FMPs.

<ESMA\_QUESTION\_SFDR\_22>

1. : Do you agree with the proposed approach of providing a hyperlink to the benchmark disclosures for products having GHG emissions reduction as their investment objective under Article 9(3) SFDR or would you prefer specific disclosures for such financial products? Do you believe the introduction of GHG emissions reduction target disclosures could lead to confusion between Article 9(3) and other Article 9 and 8 financial products? Please explain your answer.

<ESMA\_QUESTION\_SFDR\_23>

The provision of a hyperlink to the benchmark disclosures for such financial products could provide potential investors with easy access to critical information about the fund's sustainability performance.

However, it would not be sufficient, as the hyperlink approach risks not providing sufficient explanation about the benchmarks, potentially leading to misinterpretation of the data. Therefore, we favour specific disclosures under Article 9(3) SFDR with detailed information about the fund's sustainability objectives, strategies and performance, including data on the fund's GHG emissions, its strategies for reducing emissions, and its progress towards its sustainability objectives. To minimise potential confusion, it would be beneficial to establish clear and standardised reporting requirements for GHG emissions reduction target disclosures, with standardised metrics for measuring emissions reductions, as well as guidelines for how to report this information.

<ESMA\_QUESTION\_SFDR\_23>

1. : The ESAs have introduced a distinction between a product-level commitment to achieve a reduction in financed emissions (through a strategy that possibly relies only on divestments and reallocations) and a commitment to achieve a reduction in investees’ emissions (through investment in companies that has adopted and duly executes a convincing transition plan or through active ownership). Do you find this distinction useful for investors and actionable for FMPs? Please explain your answer.

<ESMA\_QUESTION\_SFDR\_24>

Yes, it is important that product-level disclosures clearly indicate how a reduction in financed emissions is to be achieved. A fund that aims to use divestment and reallocation to reduce financed emissions will appeal to different investors than one that commits to actually reduce investee company emissions. Not properly disclosing the strategy applied could lead to misinterpretations or even greenwashing, particularly for retail investors who seek additionality in terms of contributing to the fight against climate change, and might be disappointed at a product that simply divests the assets on a secondary market to avoid PAIs/DNSH conditions.

<ESMA\_QUESTION\_SFDR\_24>

1. : Do you find it useful to have a disclosure on the degree of Paris-Alignment of the Article 9 product’s target(s)? Do you think that existing methodologies can provide sufficiently robust assessments of that aspect? If yes, please specify which methodology (or methodologies) would be relevant for that purpose and what are their most critical features? Please explain your answer.

<ESMA\_QUESTION\_SFDR\_25>

Yes, we think this is useful for investors. Unfortunately, many investment products will not be fully aligned to achieving the commitments in the Paris agreement, and we therefore agree that the ESAs should provide a harmonised methodology for communicating this alignment in a consumer-friendly way. In our view, the Paris Agreement Capital Transition Assessment (PACTA) methodology is best suited for this task as it clearly communicates to which climate scenario the investment is closest aligned.

<ESMA\_QUESTION\_SFDR\_25>

1. : Do you agree with the proposed approach to require that the target is calculated for all investments of the financial product? Please explain your answer.

<ESMA\_QUESTION\_SFDR\_26>

Yes, this is a condition to achieve comparable metrics. As outlined in our response to Question 11 above, it is therefore also essential to disclose any “missing data” due to corporate materiality assessments under the CSRD.

<ESMA\_QUESTION\_SFDR\_26>

1. : Do you agree with the proposed approach to require that, at product level, Financed GHG emissions reduction targets be set and disclosed based on the GHG accounting and reporting standard to be referenced in the forthcoming Delegated Act (DA) of the CSRD? Should the Global GHG Accounting and Reporting Standard for the Financial Industry developed by PCAF be required as the only standard to be used for the disclosures, or should any other standard be considered? Please justify your answer and provide the name of alternative standards you would suggest, if any.

<ESMA\_QUESTION\_SFDR\_27>

We disagree with the proposal to use PCAF as it is incompatible with the SFDR’s Article 4 which requires disclosure of “*the degree of … alignment with the objectives of the Paris Agreement*”. A more detailed explanation is provided below.

In our view, the SFDR Level 1 drafting should be construed as a reference to alignment with a 1.5 degrees scenario. An implied temperate rating providing a number of degrees Celsius is the appropriate disclosure here, e.g. based on the methodology developed by WWF and CDP for the Science Based Targets initiative (SBTi).

Please find below further detail on why PCAF does not meet the requirements of SFDR’s Article 4:

Firstly, SFDR’s Article 4 requires disclosure of “the degree of alignment with the objectives of the Paris Agreement”, which implies alignment with a 1.5 degrees scenario. However, PCAF's methodologies focus on measuring and disclosing GHG emissions associated with financial institutions' loans and investments, but do not directly address the degree of alignment with the 1.5 degrees scenario.

Secondly, PCAF's methodologies, while providing a harmonised approach to assess and disclose GHG emissions, do not translate these emissions into an implied temperature rating. This means that they do not provide a clear, intuitive metric that represents the global temperature rise that would occur if all financial institutions were to follow a similar emissions pathway, which is a key requirement for alignment with the 1.5 degrees scenario.

Finally, while PCAF enables financial institutions to set science-based targets (SBTs) using the sectoral decarbonization approach developed by the SBTi, it does not provide a clear pathway for these institutions to achieve a climate-neutral world by mid-century, which is a key objective of the Paris Agreement. Therefore, while PCAF provides valuable tools for financial institutions to measure and disclose their financed emissions, it may not fully meet the requirements of SFDR’s Article 4 or the objectives of the Paris Agreement.

<ESMA\_QUESTION\_SFDR\_27>

1. : Do you agree with the approach taken to removals and the use of carbon credits and the alignment the ESAs have sought to achieve with the EFRAG Draft ESRS E1? Please explain your answer.

<ESMA\_QUESTION\_SFDR\_28>

Yes. Reporting carbon credits, removals and avoided emissions separately from GHG emissions reduction targets is crucial to ensure transparency and adequate measurement of the company’s sustainability efforts.

In fact, carbon credits and removals represent external activities that companies undertake to compensate for their carbon emissions. By reporting them separately, companies can provide a clear distinction between direct emissions reductions achieved through internal initiatives and the mitigation efforts carried out through external means.

In addition, this differentiation allows stakeholders to better understand a company’s overall carbon management strategy and the true progress towards the reduction of its own emissions.

We deem of utmost importance that companies prioritise internal emissions reduction efforts over external mechanisms. We therefore support the ESAs choice of alignment.

<ESMA\_QUESTION\_SFDR\_28>

1. : Do you find it useful to ask for disclosures regarding the consistency between the product targets and the financial market participants entity-level targets and transition plan for climate change mitigation? What could be the benefits of and challenges to making such disclosures available? Please explain you answer.

<ESMA\_QUESTION\_SFDR\_29>

Yes. ESRS would help to establish a link between entity level targets and their transition plans. Improved consistency between the two is crucial to allow investors to assess whether FMPs are genuinely committed to climate change mitigation across their product portfolio, or are simply offering climate-friendly products to meet growing demand.

<ESMA\_QUESTION\_SFDR\_29>

1. : What are your views on the inclusion of a dashboard at the top of Annexes II-V of the SFDR Delegated Regulation as summary of the key information to complement the more detailed information in the pre-contractual and periodic disclosures? Does it serve the purpose of helping consumers and less experienced retail investors understand the essential information in a simpler and more visual way?

<ESMA\_QUESTION\_SFDR\_30>

Yes. Other consumer-facing and consumer-tested tools such as the Synthetic Risk Indicator for investment products and the Energy Efficiency Label for consumer electronics show the potential of simple indicators, not only to help consumers make better choices but also steer them towards more sustainable consumption and investment patterns. However, key information disclosure provisions including on sustainability matters remain scattered across legislation and inconsistent between investment products, and we encourage the ESAs to suggest that co-legislators use the current revision of the packaged retail and insurance-based investment products (PRIIPs) regulation to ensure consistent disclosure of SFDR-related sustainability information in investment products.

<ESMA\_QUESTION\_SFDR\_30>

1. : Do you agree that the current version of the templates capture all the information needed for retail investors to understand the characteristics of the products? Do you have views on how to further simplify the language in the dashboard, or other sections of the templates, to make it more understandable to retail investors?

<ESMA\_QUESTION\_SFDR\_31>

The templates are very complete already but could be further improved by explicitly listing any sectorial exclusions applied by a product. This avoids consumers having to consult separate investment policies of the issuer to understand exclusion policies.

<ESMA\_QUESTION\_SFDR\_31>

1. : Do you have any suggestion on how to further simplify or enhance the legibility of the current templates?

<ESMA\_QUESTION\_SFDR\_32>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFDR\_32>

1. : Is the investment tree in the asset allocation section necessary if the dashboard shows the proportion of sustainable and taxonomy-aligned investments?

<ESMA\_QUESTION\_SFDR\_33>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFDR\_33>

1. : Do you agree with this approach of ensuring consistency in the use of colours in Annex II to V in the templates?

<ESMA\_QUESTION\_SFDR\_34>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFDR\_34>

1. : Do you agree with the approach to allow to display the pre-contractual and periodic disclosures in an extendable manner electronically?

<ESMA\_QUESTION\_SFDR\_35>

We think this issue and the related consumer testing should be considered more broadly, including through the revision of the PRIIPs Regulation recently presented by the European Commission as part of the Retail Investment Package.

In view of the requirement in SFDR’s Article 2(1) defining general principles for the presentation of information, the ESAs should ensure that pre-contractual “digital disclosures” are not misused to hide “negative” information on essential product features or consumer warnings. Consumer legislation such as PRIIPs is extremely prescriptive at Level 1 (as regards content of disclosures, headlines, fonts, colours, warning labels etc) to ensure that essential information is seen by the consumer, and not hidden on screen 46 or under five hyperlinks. The ESAs should consider taking a more holistic approach to digital disclosures and align the SFDR disclosures to digital disclosures for other investment products.

<ESMA\_QUESTION\_SFDR\_35>

1. : Do you have any feedback with regard to the potential criteria for estimates?

<ESMA\_QUESTION\_SFDR\_36>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFDR\_36>

1. : Do you perceive the need for a more specific definition of the concept of “key environmental metrics” to prevent greenwashing? If so, how could those metrics be defined?

<ESMA\_QUESTION\_SFDR\_37>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFDR\_37>

1. : Do you see the need to set out specific rules on the calculation of the proportion of sustainable investments of financial products? Please elaborate.

<ESMA\_QUESTION\_SFDR\_38>

Some asset classes cannot be measured in terms of sustainability, e.g. cash holdings or currency derivatives. Some of these are even de facto mandatory to ensure consumer protection in EU fund legislation, such as liquidity provisions in UCITS.

The ESAs should clarify or create explicit disclosure requirements for such asset classes, both to cater for investors who seek additionality (for whom instruments such as cash are not contributing to their sustainability impact objective) as well as for investors who are mainly interested in avoiding negative impacts (for whom neutral investments are irrelevant). As regards derivative positions and PAIs, please see our answer to Question 14.

<ESMA\_QUESTION\_SFDR\_38>

1. : Do you agree that cross-referencing in periodic disclosures of financial products with investment options would be beneficial to address information overload?

<ESMA\_QUESTION\_SFDR\_39>

While it is laudable to address information overload, periodic disclosures should be readable on a stand-alone basis, in one single document that can be consulted both on-screen as well as in printed format. We therefore do not support cross-referencing.

More generally, the issue of dealing with information overload for both periodic as well as pre-contractual disclosures is broader than sustainability-related disclosures and should be considered in a holistic way, as part of the legislative proposals presented as part of the European Commission’s Retail Investment Strategy.

<ESMA\_QUESTION\_SFDR\_39>

1. : Do you agree with the proposed website disclosures for financial products with investment options?

<ESMA\_QUESTION\_SFDR\_40>

We agree that any product which has at least one option that qualifies as a sustainable product, is a sustainable product itself as regards the SFDR disclosure provisions. We agree with the ESAs that any other decision would allow for greenwashing, the prevention of which is a core objective of the SFDR and of the overall Sustainable Finance architecture at EU level.

<ESMA\_QUESTION\_SFDR\_40>

1. : What are your views on the proposal to require that any investment option with sustainability-related features that qualifies the financial product with investment options as a financial product that promotes environmental and/or social characteristics or as a financial product that has sustainable investment as its objective, should disclose the financial product templates, with the exception of those investment options that are financial instruments according to Annex I of Directive 2014/65/EU and are not units in collective investment undertakings? Should those investment options be covered in some other way?

<ESMA\_QUESTION\_SFDR\_41>

We agree. SFDR should apply to products “manufactured” by FMPs, not to simple financial instruments as defined in Annex I MiFID (with the exception of UCITS funds, as proposed).

<ESMA\_QUESTION\_SFDR\_41>

1. : What are the criteria the ESAs should consider when defining which information should be disclosed in a machine-readable format? Do you have any views at this stage as to which machine-readable format should be used? What challenges do you anticipate preparing and/or consuming such information in a machine-readable format?

<ESMA\_QUESTION\_SFDR\_42>

We support alignment to the technical standards defined in the European Single Access Point (ESAP). The ESAs should ensure that information is accessible in a machine-readable format but can also be easily consulted by humans. Well-defined machine-readable information, which strengthens comparability and facilitates scrutinising, is essential to ensure that tools can be developed to help consumers identify sustainable products, including Article 8 and 9 SFDR products.

<ESMA\_QUESTION\_SFDR\_42>

1. : Do you have any views on the preliminary impact assessments? Can you provide estimates of costs associated with each of the policy options?

<ESMA\_QUESTION\_SFDR\_43>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFDR\_43>

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-1)