



JOINT COMMITTEE OF THE EUROPEAN
SUPERVISORY AUTHORITIES

Reply form

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

12 April 2023
ESMA34-45-1218

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 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) 2018/1725¹. 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	France Invest
Activity	Investment Services
Are you representing an association?	<input checked="" type="checkbox"/>
Country/Region	France

Questions

Q1 : 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>

To start, with regard to these four proposals for new compulsory social PAI indicators, we would like to know why the ESAs selected these four indicators. How was the selection made? Was there a materiality analysis? Taken together and included in the current list of mandatory PAI social indicators, these indicators do not create a coherent whole. Also, some of the proposed indicators are not designed with the specificities of PE/VC in mind and may turn out to be practically impossible.

To this, we understand that the final version of the ESRS would no longer require large companies to disclose the information required by financial players as part of PAI SFDR reporting. Most datapoints that investors must disclose under SFDR and the PAI list would now be subject to a materiality assessment under CSRD. The exception to this are the following indicators, which all corporates reporting under CSRD would have to report because they are part of the mandatory ESRS 2 under CSRD:

- ESRS 2 GOV-1 Board's gender diversity paragraph 21 (d) -> corresponding to the Indicator PAI n.13 of Table #1 of Annex 1
- ESRS 2 SBM-1 Involvement in activities related to fossil fuel activities paragraph 40 (d) -> corresponding to the Indicator PAI n. 4 Table #1 of Annex 1
- ESRS 2 SBM-1 Involvement in activities related to controversial weapons paragraph 40 (d) iii-> corresponding to the Indicator PAI n. 14 Table #1 of Annex 1

- ESRS 2 GOV-4 Statement on due diligence paragraph 30 -> corresponding to the Indicator PAI n. 10 Table #3 of Annex 1
- ESRS 2 SBM-1 Involvement in activities related to chemical production paragraph 40 (d) ii -> corresponding to the Indicator PAI n. 9 Table #2 of Annex 1

This means that only 3 mandatory PAI indicators would be disclosed by the large companies under CSRD. From our perspective, this raises questions over the availability of the necessary data from investee companies. The ESA's proposal needs to be revised in light of the EU Commission draft delegated regulation on sustainability reporting standards.

Regarding amount of accumulated earnings in noncooperative tax jurisdictions

It is stated that this new PAI has no connection with CSRD/ESRS. Requiring financial players to collect data that will not be disclosed by companies under CSRD should be avoided.

We would like to draw your attention that the European Union's revised list of non-cooperative jurisdictions for tax purposes is updated at least annually. Last update was in February 2023. The fact that jurisdictions can move in and out of this list will not facilitate data consolidation for financial players.

It should be noted that this type of PAI indicator would seem to be more relevant for mid/large-cap companies and not for small-cap/unlisted companies. Consequently, it would not be relevant for companies in which private equity funds invest.

Moreover, the issue of profits accumulated in non-cooperative tax jurisdictions is more a matter of good governance than social. For all these reasons, we suggest to withdraw this PAI proposal.

Regarding exposure to companies involved in the cultivation and production of tobacco

In its current wording, this indicator refers more to exclusion. Moreover, the link between tobacco production and cultivation and the social indicator is not obvious. There is no reason to treat tobacco differently from other economic activities having similarly negative impacts on human health.

Regarding interference in the formation of trade unions or election of worker representatives

Private equity players are already asking to investee companies to materialize commitments to non-interference in the creation of trade unions and in the elections of workers' representatives via company codes of ethics.

In the case of companies below the CSRD thresholds, i.e. most of the companies supported by private equity players, the compliance of this PAI indicator should result in new questions upstream of the investment (during ESG due diligence process).

We would like to draw your attention to the fact that in many countries, including France, the freedom to form trade unions is a fundamental right. As a result, this right will not necessarily be embodied in the company's code of ethics. We suggest that companies based within the European

Union could de facto be considered to be in compliance with the non-interference in the creation of trade unions (fast track).

Regarding share of employees earning less than the adequate wage

We understand that an adequate wage can refer both to values used at international level, such as 60% of the gross median wage and 50% of the gross average wage, and/or to indicative reference values used at national level.

If an investment fund invests in a company located in country X and with several subsidiaries in different European and non-European countries, obtaining and consolidating data from the various subsidiaries in each country would be a colossal task in terms of data collection, requiring many dedicated resources. As it stands, collecting data from small and medium-sized companies to calculate the proportion of employees earning less than the adequate wage is not appropriate.

As proposed and presented in the document, this indicator would mix data from companies located in countries with and without adequate wage mechanisms. We suggest to not add this indicator or to restrict it to companies subject to CSRD/ESRS.]

<ESMA_QUESTION_SFDR_1>

Q2 : Would you recommend any other mandatory social indicator or adjust any of the ones proposed?

<ESMA_QUESTION_SFDR_2>

[We have no comments.]

<ESMA_QUESTION_SFDR_2>

Q3 : 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>

[Regarding excessive use of non guaranteed-hour employees in investee companies

We understand that the lack of guaranteed working hours refers to the notion of a 0-hour employment contract. Analyzing the excessive use of employees without guaranteed working hours in target companies would require experts in the social legislation in force in each country where

investment target companies are located. However, in the OECD countries, it seems to us that the use of 0-hour work contracts is not very widespread.

The indicator refers to "excessive" use, which is subjective. The description of this indicator no longer mentions "excessive". The reference to "excessive" could be removed, as the calculation of this indicator makes no reference to it.

Regarding excessive use of temporary contract employees in investee companies

As regulations currently stand, SFDR does not set thresholds for calculating PAI indicators. These thresholds are left to the discretion of financial players as part of their definition and methodological approach to sustainable investment. Here again, reference is made to "excessive" use. However, by their nature, some business sectors and/or types of companies rely more frequently on employees on temporary contracts. Hence, indicating a high average share of recourse to employees on temporary contracts is not de facto a bad thing.

Regarding insufficient employment of persons with disabilities within the workforce

Here again, the indicator does not refer to a benchmark. Against which benchmark should we compare? Is it in relation to the parent company's obligations? In relation to national obligations?

The employment of disabled people within companies is governed by various national regulations. In France, all companies with 20 or more employees are required to employ 6% of their total workforce with disabilities. |

<ESMA_QUESTION_SFDR_3>

Q4 : Would you recommend any other social indicator or adjust any of the ones proposed?

<ESMA_QUESTION_SFDR_4>

| We have no comments. |

<ESMA_QUESTION_SFDR_4>

Q5 : 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>

| It is proposed that PAI n°10 and n°11 be amended to refer to the principles and rights set out in the 8 fundamental conventions of the ILO and the International Bill of Human Rights. This explicitly refers to article 18 of the Taxonomy Regulation and the minimum guarantees to be implemented by companies. We are neutral on that development. |

<ESMA_QUESTION_SFDR_5>

Q6 : 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>

| We have no comments. |

<ESMA_QUESTION_SFDR_6>

Q7 : 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 have no comments. |

<ESMA_QUESTION_SFDR_7>

Q8 : 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>

| ESA Q&A (Q1 III) of November 2023 states :

The basis used to calculate the “current value of all investments” in the PAI indicators applicable to investments in investee companies should be consistent with the definition of the “investee company’s enterprise value” as defined in point (4) of Annex I of the Delegated Regulation, whereby ‘enterprise value’ means the sum, at fiscal year-end, of the market capitalisation of ordinary shares, the market capitalisation of preferred shares, and the book value of total debt and non-controlling interests, without the deduction of cash or cash equivalents.

| The distinction between this two concepts could be maintained. |

<ESMA_QUESTION_SFDR_8>

Q9 : Do you have any comments or proposed adjustments to the new formulae suggested in Annex I?

<ESMA_QUESTION_SFDR_9>

| We have no comments. |

<ESMA_QUESTION_SFDR_9>

Q10 : 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>

| We would like to remind you that private equity players invest in unlisted start-ups, SMEs and ETIs.

Calculating PAI indicators requires access to ESG data from companies. To this end, ESG questionnaires are sent to companies at the end of each year. On average, these questionnaires include around a hundred indicators to be completed by the companies concerned. This is a major process, requiring many discussions, education and support to help investee companies understand what is required of them in order to collect the relevant data. Without mentioning the work required to control this ESG data.

Based on company's size, sector of activity and geography, many PAI indicators are not relevant for unlisted companies. |

<ESMA_QUESTION_SFDR_10>

Q11 : 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>

| TYPE YOUR TEXT HERE |

<ESMA_QUESTION_SFDR_11>

Q12 : 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>

The current "all investments" calculation approach is subject to biases and can lead to "misleading" results for users.

We welcome the new approach of considering "all investments" as investments in a particular type of entity that is the source of the negative impact.

However, implementing such an approach would require modifications to the PAI indicator reporting table. Indeed, in the second example proposed with the approach targeting entity/asset type exposures, the 100% reported by FMP n°1 for PAI n°20 may appear misleading. To remedy this, the PAI indicator reporting table in Appendix 1 could be modified to show the percentage of the portfolio represented by asset type (sovereign, corporate invested).

The definition of "all investments" raises another issue, i.e. the question of the indicator's coverage rate. What about a portfolio with only 75% of the companies in the portfolio for which data would be available to calculate the PAI? Should the remaining 25% be excluded from the denominator in this case?

Financial players often do not have access to all the data needed to calculate PAI indicators. While more companies will be subject to CSRD transparency requirements, for financial players investing in companies below the CSRD thresholds, the challenge of data access will remain. While financial players may be able to use estimates, this is not a solution for calculating all PAI indicators. Today, only the comments column can be used by players to explain and detail the coverage rate.

<ESMA_QUESTION_SFDR_12>

Q13 : 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>

Yes, we agree. However, the option for investors to use estimates to measure the PAI indicators of companies in the value chain could be introduced.

<ESMA_QUESTION_SFDR_13>

Q14 : Do you agree with the proposed treatment of derivatives in the PAI indicators or would you suggest any other method?

<ESMA_QUESTION_SFDR_14>

[TYPE YOUR TEXT HERE]

<ESMA_QUESTION_SFDR_14>

Q15 : 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>

[TYPE YOUR TEXT HERE]

<ESMA_QUESTION_SFDR_15>

Q16 : 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>

[TYPE YOUR TEXT HERE]

<ESMA_QUESTION_SFDR_16>

Q17 : Do you agree with the ESAs' assessment of the DNSH framework under SFDR?

<ESMA_QUESTION_SFDR_17>

[The 3 SFDR elements of sustainable investment are :

- a positive contribution to an E/S objective,
- no significant harm to E/S objectives,

- compliance with the principle of good governance by investee companies.

Despite the difficulties associated with the current DNSH SFDR test, we believe that maintaining the status quo (1st proposal) would be preferable for the time being. In fact, we do not think that the proposed changes are appropriate for the following reasons.

Regarding the second proposal and introduction of quantitative thresholds for PAI indicators in the DNSH SFDR test

In practice, notably in the case of investments in young companies (innovative startups, etc.), many PAI indicators are not appropriate (GHG emissions, compliance with the UN Global Compact, composition of governance bodies, etc.).

It should be left to the discretion of financial players whether or not to set quantitative thresholds for certain types of indicators. For some indicators, particularly when the companies in the portfolio are widely diversified (different stages of maturity, business sectors, etc.), it is not appropriate, or even practically feasible, to set thresholds.

What happens if a quantitative threshold is exceeded? Would the company have to be divested? What would be a "good" or "adequate" threshold?

Setting quantitative thresholds for PAI indicators requires access to all the necessary information from investee companies. For unlisted companies, given the nature of this type of business (startups, SMEs, etc.), it is very difficult to obtain extra-financial data, either in the pre-investment phase or afterwards (even if annual ESG reporting is introduced). In addition, if a financial actor sets threshold, it will disclose his process in the product-level disclosures and not in public statement on the website.

For all these reasons, setting thresholds does not seem an appropriate solution.

Regarding the creation of an optional safe harbour.

We understand that this presumption/exemption would mean that certain business activities aligned with the Taxonomy would not have to pass the DNSH SFDR test. This safe harbour would apply only to the part of the company's economic activities aligned with the Taxonomy. As this safe harbour is optional, financial players could decide to apply the general DNSH SFDR approach to all the company's activities.

A company can have one of its economic activities aligned with X% of its turnover (as well as its Capex and Opex) to the Taxonomy. In this case, the question is what percentage of turnover, Capex or Opex aligned with the Taxonomy would "validate" the fact of not carrying out DNSH SFDR?

Should a minimum threshold of alignment with the Taxonomy be included in this safe harbour? While this proposal may seem interesting for certain financial players, in particular those whose sustainable investments would be 100% aligned with the Taxonomy, a lower threshold would probably enable wider use of this safe harbour. As it stands, there is a risk that this safe harbour will

be used little or not at all, given that companies with 100% Taxonomy-aligned turnover and a single economic activity aligned at 100% are rare. |

It seems that this safe harbour has been introduced in the Commission Notice published on 13 June 2023 :

Therefore, such investments in Taxonomy-aligned ‘environmentally sustainable’ economic activities can be automatically qualified as ‘sustainable investments’ in the context of the product level disclosure requirements under the SFDR. This means that investments in specific economic activities can be considered to be sustainable investments.

However, if a financial market participant (FMP) invests in an undertaking with some degree of taxonomy-alignment through a funding instrument that does not specify the use of proceeds, such as a general equity or debt, the FMP would still need to check additional elements under the SFDR in order to consider the whole investment in that undertaking as sustainable investment. This means that the FMP would still need to: (i) check whether the rest of the economic activities of the undertaking comply with the environmental elements of the SFDR DNSH principle; and (ii) assess whether she/he considers the contribution to the environmental objective sufficient. |

<ESMA_QUESTION_SFDR_17>

Q18 : 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>

|TYPE YOUR TEXT HERE |

<ESMA_QUESTION_SFDR_18>

Q19 : 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>

<ESMA_QUESTION_SFDR_19>

Q20 : 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>

The two concepts of sustainability must remain distinct. There is no link in regulation between the DNSH test under SFDR and the DNSH test under EU Taxonomy and both are deemed to be separate categories.

<ESMA_QUESTION_SFDR_20>

Q21 : Are there other options for the SFDR Delegated Regulation DNSH disclosures to reduce the risk of greenwashing and increase comparability?

<ESMA_QUESTION_SFDR_21>

Leaving room for financial market participants to define their own sustainable investing strategies is not a “defect” of SFDR causing greenwashing, but inherent to the freedom of investing granted to financial market participants. Sustainable investments are not an asset class, they are an investment strategy.

<ESMA_QUESTION_SFDR_21>

Q22 : 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 first question in this proposed new section is a closed question. If the 8 or 9 SFDR product indicates that it has no GHG emissions reduction target, the different transparency questions in this section will not be required. In this regard, the additional burden for products without a decarbonization target is minimal.

However, in the case of an 8 or 9 SFDR product with a decarbonization target relating to a restricted part of its investments [less than X% of its investments], the additional transparency requirements could be heavy, particularly with regard to the definition of intermediate GHG emission reduction targets. In this case, the granularity of the proposed new disclosure obligations moves the goalposts too far and too fast for most financial market participants in respect of the implementation of their climate-related commitments. Many financial market participants who have made commitments to emission reduction targets have not yet had a real opportunity to stress test the systems, policies and procedures which they have implemented or are implementing for the collection and reporting of GHG emissions, with most financial market participants not yet even having had the opportunity to report under the Regulatory Technical Standards.

Many financial market participants would face significant obstacles in obtaining the data required to meet the proposed new disclosure standards on GHG emissions reduction targets. Data collection also presents significant challenges when underlying investee companies and/or the relevant parties are in emerging markets or at an early growth stage. More stringent disclosure requirements at this stage risk placing undue burden on these companies.

<ESMA_QUESTION_SFDR_22>

Q23 : 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>

Private equity players can design art 9(3) SFDR products with the aim of reducing GHG emissions. These products aim to reduce the GHG emissions of unlisted companies in the portfolio. However, these products will not be art. 9(3) SFDR products that passively track a PAB or CTB benchmark index. This is because these benchmarks cannot be tracked by private equity funds. Consequently, we have no particular opinion on providing a hyperlink.

The proposal of adding a section dedicated to the decarbonization targets of products 8, 9 and 9(3) SFDR is interesting. It is part of the overall framework for monitoring the commitments of financial players to reducing GHG emissions, and for monitoring financing related to decarbonization.

However, the introduction of this section should not be intended to mislead investors, notably unsophisticated investors, on these technical issues and on the objectives pursued by the financial product.

While an Article 8 SFDR product may promote the reduction of GHG emissions as one of its environmental characteristics, this type of product should not be confused with an Article 9(3) SFDR product with a GHG reduction target in line with the Paris Agreement. This point was reiterated by the European Commission in its Q&A of April 2023.

We understand that in the case of an 8 SFDR product with a GHG emissions reduction target, this product should, after ticking "yes", provide a narrative explanation of how he (c) *engages with investee companies to contribute to their GHG emissions reduction. Indicate which is the share of the investments of the financial product covered by the GHG emission reduction target and when the target is achieved only by a share of investments, indicate the target of that share of investments.*

In the case of an article 8 SFDR product that ticks "yes" to the box "does this product have a GHG emissions reduction target?", it would be appropriate to avoid such a product from introducing a risk

of greenwashing for investors. This could be achieved by adding a sentence/disclaimer to the effect that "This product is not an article 9(3) SFDR product".

To avoid any ambiguity, another possibility would be to add a specific sub-section for 9(3) SFDR products.

Any further additions should be balanced against the overall balance of the template (i.e. not to burden product templates with irrelevant sub-questions, etc.).

Note that the addition of this section and its final form should be consistent with the proposal to modify the PRIIPs KID and the proposal to add a section entitled "How environmentally sustainable is this product?" to the KID. |

<ESMA_QUESTION_SFDR_23>

Q24 : 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>

|The ESAs propose that in the case of a product with a GHG emissions reduction target, a narrative explanation should be provided to explain how the target will be achieved, indicating whether the product :

- a. divests from investments with particular GHG emissions levels and invests instead in companies with lower GHG emissions;
- b. invests in companies that are expected to deliver GHG emissions reductions over the duration of the investment;
- c. engages with investee companies to contribute to their GHG emissions reduction. Indicate which is the share of the investments of the financial product covered by the GHG emission reduction target and when the target is achieved only by a share of investments, indicate the target of that share of investments.

This distinction may be useful in identifying the type of actions and commitments undertaken by the financial product to achieve the decarbonization target set. However, given the technical nature of the subject and the scientific nature of a GHG reduction target, explanations could be of a highly specialized. |

<ESMA_QUESTION_SFDR_24>

Q25 : 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>

This could be relevant for article 9(3) SFDR products with a GHG emissions reduction target in line with the Paris Agreement.

However, the addition of such a disclosure should not be applicable/mandatory to article 9 SFDR products that do not have a GHG emissions reduction objective. The degree of alignment with the Paris Agreement objective is not relevant for article 9 SFDR products with a sustainable investment objective linked to biodiversity, protection of seabeds and aquatic resources, waste recycling, or with a social sustainable investment objective linked to education, job creation in disadvantaged areas, etc.

In a February 2023 France Invest survey dedicated to article 9 SFDR products in private equity, it emerged that 9 SFDR products were mainly thematic products: climate (energy transition, renewable energies etc.), sustainable infrastructure (City of the Future, water management, new modes of urban mobility etc.), sustainable consumption and circular economy, healthcare, food, education, agriculture, blue economy etc....

Today, the possibility of leaving the choice of methodology to the actors must be preserved. We remind you that SBTi has recently launched a consultation regarding the evolution of its methodology. According to SBTi consultation document, “net-zero targets are formulated by evaluating portfolios to identify:

- what activities should not be financed e.g. new fossil fuel assets;
- what activities should be financed and promoted e.g. climate solutions such as renewable electricity generation and carbon removal;
- what activities should be financed under certain conditions (e.g., entities and activities who need finance to transition and have signaled their intention to decarbonize)”.
|

<ESMA_QUESTION_SFDR_25>

Q26 : 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. However, the definition of all investments in the context of calculating the financial product's GHG emissions reduction target should be consistent with the definition of all investments in the context of calculating the PAI indicators and recalled in SFDR's consolidated Q&A as follows:

Asset managers: For AIFM, managers of venture capital funds, managers of social entrepreneurship funds, management companies of UCITS, "all investments" should be considered the same as that Section 1.2 of Annex III of Regulation (EU) 2021/2178, i.e. all Assets under Management resulting from both collective and individual portfolio management activities;

<ESMA_QUESTION_SFDR_26>

Q27 : 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>

Private equity players are increasingly required to set scientific objectives/targets for reducing GHG emissions, in order to achieve the goal of zero net emissions by 2050. To this end, the use of SBTi for PE is growing. However, the use of SBTi methodology is a lengthy 5-stage process requiring substantial resources, time and in-house teams... which is not within the reach of all players [photo type member France Invest, the median is: 10 employees, 18 participations, 3 funds under management, €200M under management].

PCAF enables financed GHG emissions to be measured and reported. Using PCAF to measure financed GHG emissions makes it possible to define scientifically validated GHG reduction targets, as SBTi points out: « *PCAF Integration and Guidance. In collaboration with PCAF, the SBTi is developing guidance for financial institutions on using financed emissions assessments to set science-based targets. This includes recommendations on how PCAF can be used as a screening tool to identify areas of most material emissions and guidance for financial institutions on the most appropriate SBTi target setting method (SDA, Portfolio Coverage, or Temperature Rating) based on PCAF results* ».

In this context, the Global GHG Accounting and Reporting Standard for the Financial Industry developed by PCAF could be one (but not the only one) standard to be used for the disclosures of Financed GHG emissions reduction targets.

|

<ESMA_QUESTION_SFDR_27>

Q28 : 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 ERSR E1? Please explain your answer.

<ESMA_QUESTION_SFDR_28>

| We understand that this question primarily concerns financial players subject today to NFRD and tomorrow to CSRD reporting (notably banks and insurance companies). |

<ESMA_QUESTION_SFDR_28>

Q29 : 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>

| Financial market participants are in the very early stages of implementing emission reduction targets both at the product and the entity level. There remain a number of financial market participants who continue to set product-level targets but do not have the systems and processes in place to embed these targets in the context of a firm-wide strategy. Equally, other financial market participants have sought to develop firm-wide strategies but face challenges setting these on a product level |

<ESMA_QUESTION_SFDR_29>

Q30 : 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>

The successive changes made to the SFDR templates do not allow financial players and investors to get used to a stable format. Furthermore, the fact that the latest versions of the templates are not available in Word format does not make the work of financial players any easier. However, the proposal to have a dashboard at the beginning of the template, enabling investors to see at a glance the main features of the financial product, is a step in the right direction.

The proposal as it stands calls for several comments on our part:

- If a product does not commit to a minimum percentage of sustainable investments and/or a minimum percentage of alignment with the Taxonomy, what happens to the icons on the right-hand side "q%" and "r%"? Would they be removed?
- If a product were to commit to 10% taxonomy alignment or 100%, the same green dot would be inserted in front of the heading. This system does not allow for any nuance/grading of the product's commitment;
- As the proposal stands, if a product were to commit to a sustainable investment percentage of X%, have no Taxonomy-aligned investments, take into account IAPs and have a decarbonization target, this would mean that green, grey, green and grey tags would be applied. Wouldn't it be possible to retain a green dot only when the product commits to one of the 4 items?
- Another option that could make the dashboard more design/user friendly would be either :
 - o Remove the sub-boxes in the dashboard box,
 - o Modify the dashboard by displaying the following for the 4 items: a "tag/dot" column, a "brief narrative explanation" column and a "percentage" column. |

<ESMA_QUESTION_SFDR_30>

Q31 : 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>

We believe that the current version of the SFDR templates already provides a great deal of information to enable investors, both retail and professional, to understand the characteristics of

the financial product. The successive changes made to SFDR templates do not allow financial players and investors to get used to a stable format.

In addition, when it comes to information that is useful and necessary for retail investors to fully understand the characteristics of financial products, it is important that the information that will appear in the new PRIIPs DIC is consistent with the information on the SFDR product template dashboard (identical information, identical wording, same definitions, etc.).

<ESMA_QUESTION_SFDR_31>

Q32 : Do you have any suggestion on how to further simplify or enhance the legibility of the current templates?

<ESMA_QUESTION_SFDR_32>

No. Successive changes to SFDR templates do not allow financial players and investors to get used to a stable format.

<ESMA_QUESTION_SFDR_32>

Q33 : 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>

Yes, as long as the asset allocation tree has existed, financial players have been able to use it to explain the characteristics of the financial product to investors, in particular the "other" box for article 8 products and the "non-sustainable" box for article 9 products.

We would therefore like to see this asset allocation tree retained in the templates.

<ESMA_QUESTION_SFDR_33>

Q34 : 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>

Standardization of pictograms and graphics can be useful, especially when comparing products.

However, it should be possible to adjust the color of other information in the templates, such as narrative information.

<ESMA_QUESTION_SFDR_34>

Q35 : 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>

In our view, electronic delivery of pre-contractual and periodic information should be an option rather than an obligation.

In fact, not all asset management companies are equipped internally to carry out extensive IT developments.

In addition, given the transparency requirements for SFDR 8 and 9 product information websites, the question of restricting access to this information to investors in these products has been raised on several occasions.

In France, for SFDR 8 and 9 funds with an informed public/professional investors, the AMF has indicated to market participants that access to information to be published by these funds under article 10 SFDR may be restricted (notably for reasons of confidentiality). This restriction may take the form of a link to an interface where investors can log in with a password to access information about the fund. This facility should be clearly indicated in the SFDR regulations and/or in the amendment to the SFDR RTS. |

<ESMA_QUESTION_SFDR_35>

Q36 : Do you have any feedback with regard to the potential criteria for estimates?

<ESMA_QUESTION_SFDR_36>

As mentioned in the consultation paper, the use of estimates in the case of companies not subject to Taxonomy article 8 reporting, which is the case for the unlisted start-ups, SMEs and ETIs supported by France Invest members, is essential for private equity players.

Collecting ESG data from unlisted portfolio companies is a complex process. It involves sending an ESG questionnaire to investee companies with an average of one hundred indicators, numerous exchanges with the person dedicated within the company to ensuring the completeness of the ESG data, the analysis of these data, quality control of the data received, etc...

Given the complexity of this data gathering process and the specific characteristics of unlisted companies, the use of estimates is an essential tool. |

<ESMA_QUESTION_SFDR_36>

Q37 : 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>

|The concept of "key environmental metrics" is new. Assuming that a key environmental metric is reported at company level (and not activity level), we understand that this metric could be used to estimate compliance with Taxonomy-compliant economic activities.

Further clarification of the concept of "key environmental metrics" could limit the use of estimates. |

<ESMA_QUESTION_SFDR_37>

Q38 : 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>

|In our view, no specific rules should be added to the calculation of the proportion of sustainable investment in financial products.

Indeed, in its latest Q&A, the European Commission indicated that it was up to players to be transparent about the methodology used to assess sustainable investments. The Commission pointed out that the SFDR Regulation does not lay down any minimum requirements and/or thresholds for qualifying the three pillars of sustainable investment. This freedom for players to develop their own sustainable investment methodology should be retained.

In France, with regard to the sustainable investment methodology, the AMF has indicated that this methodology should specify the minimum thresholds set by SGPs (% of minimum turnover contributing to an SDG, % Taxonomy, etc.) to determine the contribution of sustainable investment to the product's objective. Does the purpose of question 38 correspond to the description of these thresholds? Or is it a proposal to impose a method of calculation for sustainable investment?

When describing their sustainable investment methodology, are investment firms obliged to set thresholds, or can they rely on other elements? In our opinion, it would be inappropriate to make the sustainable investment calculation method subject of specific rules.

In addition, with regard to the specific features of closed-end funds and the application of certain rules relating to sustainable investment, the AMF has taken a number of positions to provide greater flexibility in the implementation of SFDR obligations.

In the case of a product's sustainable investment commitment percentage, the AMF has informed French actors that the sustainable investment commitment made by closed-end funds will be considered applicable only :

- from a date specified in the fund's legal documentation that is consistent with the time required to raise capital and build up the fund's portfolio (30 months corresponding to 2 financial years)
- until the start of the divestment phase (from the 6th financial year for French closed-end funds). As a result, the fund will no longer have to comply with the percentage of sustainable investment indicated in the pre-contractual documentation, in order to be able to proceed with the final stages of the fund's life and sell assets in the best interests of investors.
- this information must be clearly indicated in the pre-contractual documentation.

This position deserves to be taken up at European level, to provide greater clarity for all players in the industry. This position is also shared by the Luxembourg supervisor. |

<ESMA_QUESTION_SFDR_38>

Q39 : 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>

|TYPE YOUR TEXT HERE |

<ESMA_QUESTION_SFDR_39>

Q40 : Do you agree with the proposed website disclosures for financial products with investment options?

<ESMA_QUESTION_SFDR_40>

|TYPE YOUR TEXT HERE |

<ESMA_QUESTION_SFDR_40>

Q41 : 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>

[TYPE YOUR TEXT HERE]

<ESMA_QUESTION_SFDR_41>

Q42 : 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>

[TYPE YOUR TEXT HERE]

<ESMA_QUESTION_SFDR_42>

Q43 : 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>