**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-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**

|  |  |
| --- | --- |
| Name of the company / organisation | Insurance Europe and CFO Forum |
| Activity | Insurance and Pension |
| Are you representing an association? |  |
| Country/Region | Europe |

**General comments**

Insurance Europe appreciates the possibility to provide comments on the ESAs’ proposed amendments to the Sustainable Finance Disclosures Regulation (SFDR) regulatory technical standards (RTS). Insurers also welcome the intention of the ESAs to address technical issues that have emerged since the SFDR was introduced, on top of the review of Principle Adverse Impact (PAI) indicators and inclusion of decarbonisation targets as per the mandate theyreceived from the EC.

In that respect, the insurance industry would like to highlight the following key elements which must be considered:

* It is **vital that PAI indicators are consistent and aligned with disclosure requirements under the EU Sustainability Reporting Standards (ESRS)** to ensure the ability of financial market participants (FMPs) to perform their PAI statement disclosures.
  + Insurance Europe welcomes the extension of the materiality assessment to all disclosure requirements and datapoints as introduced by the EC in the (draft) Delegated Act (DA) on ESRS Set 1 to ensure proportionality in reporting requirements and the relevance of reported information. However, it is **crucial that the EC and the ESAs clarify how FMPs should report on their SFDR PAI indicators when investees assess SFDR datapoints to be immaterial** for their own reporting. In such cases, insurers argue that corporates should be required to disclose a “qualified zero” which can then be used by FMPs in their SFDR PAI reporting. Alternatively, FMPs should be allowed to treat the lack of data (ie, SFDR datapoints not reported because they are assessed as immaterial) as a “qualified 0” and not be required to seek data in another manner. In any case, only the presumably most material data points across companies from the ESRS should represent PAI indicators under the SFDR.
  + In general, **the timeline for any new SFDR requirements must take into account the CSRD application timeline**. Any further requirements in the SFDR should only be decided on once the final DA to the ESRS has been adopted. Adding extra mandatory (and potentially also optional) indicators further stresses the data collection challenge, especially until data is available from the investee companies under the CSRD and ideally via a supporting and accessible data source like the European Single Access Point (ESAP) (even though the lack of data and information will persist for non-CSRD companies, leaving FMPs with challenges collecting the information required). The landscape of data providers is already moving to an oligopolistic market and additional data points will lead to an additional offering of these providers, probably at higher licence costs. To ease this, the timing of the different regulatory requirements (SFDR, EU Taxonomy and CSRD) should be aligned and coherent. If this is the case, additional reporting requirements should lead to lower additional market data licence and data onboarding costs.
* **There is no need to rush to make changes to the RTS, which will be outdated once the EC puts forward its proposals to modify the SFDR in the course of 2024**. The assessment of whether changes and new disclosures should be introduced in the RTS should be done on the basis of the finalised review of the SFDR. The SFDR is a part of a larger set of regulatory initiatives (including the CSRD, the Taxonomy Regulation, the upcoming Corporate Sustainability Due Diligence Directive (CSDDD) and the ESAP) which are interconnected, but the infrastructure between these different sets of regulation is still not in place. Therefore, adding further requirements at this time seem premature. Instead, **a consolidation exercise of the data infrastructure between the different sets of regulation** should take place to ensure that the regulation already in force works as intended, fulfills its purpose and creates value. Stability is necessary to address the current confusion and ensure the credibility of the regulation.
* In March 2023, President von der Leyen announced that the Commission will put forward concrete proposals by autumn 2023 to reduce the reporting burden by 25%. Against that background, the ESAs should carefully consider whether to waive the introduction of any additional obligatory social PAIs. Reporting requirements from the SFDR already constitute a significant burden on FMPs. **Adding new SFDR KPIs further increases the complexity of templates and comes with additional costs** for the FMPs providing and collecting this information. For new proposed KPIs, even if data is available in the provider market, coverage might still be limited and FMPs would need to collect or estimate them via best effort. Hence, the meaningfulness of additional KPIs might be limited despite the aim of improving transparency on sustainability aspects. If data is not available at investee company level for investments in target funds, it might be necessary to collect this data via industry templates (eg, the EET). This exchange format is already very comprehensive in order to meet the different regulatory and industry reporting needs and first versions with data content only just started to be exchanged. If new KPIs are introduced, it is crucial that companies get enough time to put systems and processes in place. Indeed, as this often requires IT projects, special attention should be given to adequate transition time.
* **Further clarification and guidance on the interpretation and application of SFDR-related definitions and requirements** (eg, the definition of sustainable investment) **is important** to support consistent and comparable disclosures for consumers and avoid legal and reputational risks for preparers, in particular in the context of competing definitions under the various pieces of the EU Sustainable Finance regulatory framework. However, the timing of the provision of such guidance must be carefully considered to avoid market disruption. In particular, the significant ongoing industry efforts to implement SFDR requirements including all recent amendments (eg, additional disclosures on exposures to gas and nuclear-related activities) should be acknowledged. In any case, editable versions of the template in all languages should be made available in due time before the entry into force of the new requirements to allow for sufficient time for FMPs to adapt their documentation and processes.
* If the proposed amendments are adopted, it must be made clear which Q&As are affected and the updated and **consolidated Q&As should be published together with the new RTS**, as this would be an important tool to support FMPs’ implementation. The ESAs and the EC should follow up with further guidance for FMPs and for consumers and investee companies. This could be done, for instance, by taking inspiration from the educational videos on the draft ESRS that EFRAG has made publicly available on its website.
* **Changes aiming at the improved simplicity, readability and usability of the SFDR templates are welcome**, sincethe current length and complexity create confusion for consumers. The proposed dashboard and the use of hyperlinks are steps in the right direction, but **further substantial simplification is needed**. In any case, it is necessary to conduct extensive consumer-testing in all markets to ensure that the proposals improve consumers’ understanding and match their information needs. **Any changes to the RTS must be thoroughly tested both on FMPs and on users**. In a correct process, the consumer testing should have been done before the public hearing in order to ensure transparency and ensure that the results are taken into consideration in the process of making the proposed amendments. It is crucial that the SFDR reporting is usable for the retail customers for whom it is intended. Insurance Europe therefore stresses the need for a focus on ensuring the usability and quality of the reporting of existing requirements, rather than on expanding the disclosure requirements.
* With the anticipated changes, it becomes even more **important to ensure that the SFDR does not create an uneven playing field**. Inconsistencies may also arise from the obligations of national regulators, whose interpretation is more strict or differs from the EU rules (eg, inconsistency on interpreting Certificates as financial products). There are also inconsistencies in requirements and timelines on the side of the insurer and the asset manager. Specifically, the asset managers are not required to provide standalone SFDR templates, while insurers are required to provide exactly the specific template disclosures to clients for their unit-linked products. Furthermore, asset managers are not necessarily required to provide SFDR templates and periodic reporting in the language of the country of distribution. This can lead to comprehension problems for customers. The timeline challenge arises when, for instance, insurers are required to provide periodic reporting at a date when such reporting is not released by asset managers or is not signed off by the regulator.

**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>

In March 2023 President von der Leyen announced that, by autumn, the Commission will put forward concrete proposals to simplify reporting requirements and to reduce them by 25%. Given this announcement, the ESAs should carefully consider whether to waive the introduction of any additional obligatory social PAIs.

In any case, it is of the utmost importance that the disclosure requirements under the EU Sustainability Reporting Standards (ESRS) of the Corporate Sustainability Reporting Directive (CSRD) and the SFDR Delegated Regulation remain as consistent as possible. Investors need the CSRD reported ESG data from their investees to comply with their SFDR requirements, and in particular PAI indicators. However, they face considerable data gaps as CSRD reports will only be published from 2025, following a phased approach. Where investees assess SFDR datapoints to be immaterial for their own reporting, in line with the EC’s extension of materiality assessment to all datapoints under the ESRS, the EC should clarify that those corporates should disclose a "qualified zero" which can be used by FMPs in their SFDR PAI reporting. Alternatively, the ESAs should clarify that FMPs can use a “qualified zero” and consider it actual data (and not estimates) for investees that are subject to CSRD-reporting but have not disclosed the information needed for PAI reporting following their materiality assessment.

Given the above, insurers welcome the fact that the ESAs used the (draft) disclosure requirements under the CSRD as a basis for defining new social PAI indicators. Specifically, FMPs should not be required to report on additional disclosures before the investee companies are required to report this information.Nevertheless, the lack of data and information from non-CSRD companies will persist, hence leaving FMPs with challenges collecting the needed information.

Beyond the transparency exercise, the indicators should also help entities to identify the adverse impact of their investment decisions and ultimately help them steer their investment portfolios. To this extent, and as PAI indicators are sector-agnostic, indicators that may significantly differ according to economic sectors should not be retained as aggregation may result in figures that will be hard to interpret/understand and ultimately that will not help financial actors in making investment decisions.

With regards to the newly proposed mandatory social indicators, we would like to highlight the following points:

* The indicator on the amount of accumulated earnings in non-cooperative tax jurisdictions is not properly speaking related to sustainability as such information is disclosed in companies financial statements, as mentioned by the ESAs. In fact, this indicator is not required in the ESRS. In addition, from an operational point of view, the information demanded is not always present in the consolidated financial statements and thus not easily accessible. For these reasons, **we suggest not to retain this indicator as a new mandatory social PAI**;
* The indicator on the interference with the formation of trade unions or election worker representative is already implicitly included in PAI 10 and not completely aligned with the information to be disclosed under the ESRS. ESRS S1-8 only cite formation of trade unions as an example of policy that might be in place and thus disclosed. We thus fear that data may not be readily available to financial entities. However, we fully embrace the fact that this indicator is a key social matter that should be disclosed, but controversy indicators such as this one are meant to be avoided and “interference” remains unclear (eg. no time restriction).
* The indicator on the share of employees earning less than the adequate wage is challenging as the definitions may vary in the CSRD reporting of investees. Several notions regarding wages co-exist, such as “adequate wage”, “minimum wage” or “living wage”. We would **welcome further clarifications from the ESAs** in order to avoid reporting discrepancies and to foster comparability among financial market participants.

Finally, the insurance sector **supports the inclusion of the new social indicator on the exposure to companies involved in the cultivation and production of tobacco**, which is an issue that needs to be addressed in order to properly steer investment portfolio.

<ESMA\_QUESTION\_SFDR\_1>

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

<ESMA\_QUESTION\_SFDR\_2>

In March 2023 President von der Leyen announced that, by autumn, the Commission will put forward concrete proposals to simplify reporting requirements and to reduce them by 25 percent. Given this announcement, the ESAs should carefully consider whether to waive the introduction of any additional obligatory social PAIs.

Given the current data gap, significant effort is required from financial market participants to obtain consistent and reliable information from their investees to be included in their PAI statement for each mandatory indicator. To limit such reporting burden, at minimum, information required under SFDR should be aligned with information that will be provided under the ESRS. As mentioned in Q1, this is not the case for the proposed indicator on the interference in the formation of trade unions or election worker representatives. To avoid data gaps, this indicator should therefore be adapted eg. to match with the information required under ESRS S1-8 on the coverage of collective bargaining agreements and social dialogue for an undertaking’s workforce, or to be be based on screening of incidents under ESRS S1-17. In addition, as CSRD reporting will only gain maturity over time, we caution against adding too many new manadatory indicators as information is likely to remain fragmentary during the first years of CSRD implementation.

In general, It should be noted that the changes to the PAI indicators will impact the DNSH test for Sustainable Investments which could affect the commitment – and then also the sustainability preferences for products already sold with a higher commitment.

<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>

Insurance Europe welcomes the fact that all new opt-in indicators have been defined based on the (draft) ESRS to allow investors easier access to such information to be reported in their PAI statements.

* With regards the opt-in indicator on insufficient employment of persons with disabilities, we would like to highlight the fact that the metric to be disclosed (average share of persons with disabilities among the workforce of investee companies) is not fit to measure the “insufficient” feature of the indicator. In fact, PAI indicators are supposed to tend towards zero, but with such metric, the higher the number, the more positive the impact. In addition, the determination of a disability threshold is not relevant as some countries already impose legal thresholds on this matter. Such indicator would then trigger questions about the aggregation level (group vs. country level) as countries have specific employment quotas for employees with a disability. Therefore, we would recommend not to include employees with disability and non-employee workers as interpretation and assessment are too difficult.
* The proposed indicators non-guaranteed-hour employees, temporary contract and non-employee workers are only in scope of ESRS S1 and therefore, only applicable for own operations and not downstream value chain (investee companies). Datapoints would be available, but scope and definition of “excessive use” is not clear (eg. the definition of “insufficient”).

<ESMA\_QUESTION\_SFDR\_3>

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

<ESMA\_QUESTION\_SFDR\_4>

No. Non-financial companies could have to disclose all PAI indicators (ie. not only the mandatory ones) to satisfy all the information demand of Financial Market Participants (FMPs). When extending the list of indicators, this significant effort for preparers should be acknowledged. Furthermore, the public availability of and access to reliable data should also be taken into account, in particular regarding data needed from investees not subject to CSRD, as the requirement to directly obtain the information from investee companies is inefficient and the alternative to carry out additional efforts might create dependencies on third-party data providers. In any case, including additional indicators would not be consistent with the announcement of President von der Leyen to reduce the reporting burden by 25%.

Finally, we would like to draw the ESAs’ attention on the fact that social matters are subject to sectoral and geographical specifities. We acknowledge the fact that the European Commission mandated the ESAs to adjust and develop social PAIs, but the interpretation of social indicators may significantly differ according to the country or the economic sector, and thus create discrepancies in reportings between stakeholders.

<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>

Insurers support the replacement of the UN Global Compact Principles by the UN Guiding Principles on Business and Human Rights and the Declaration of the International Labour Organisation on Fundamental Principles and Rights at Work and the International Bill of Human Rights in order to foster consistency and alignment where with the EU Taxonomy criteria on minimum safeguards, and with the social ESRS of the CSRD.

<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>

Insurers do not support the application of a PAI indicator related to social matters to the entity in charge of the management of the real estate assets the FMP invested in, as the data would prove difficult to collect especially when there is different property managers. Generally, it is too early to assess how social KPIs can be applied to the level of real estate assets, except affordable housing.

Nevertheless, if the ESAs were to think of a relevant social PAI indicator for real estate assets, we would encourage the use of the existing, such as the French ISR Label and its social mandatory indicators linked to real estate assets regarding accessibility or health and comfort of occupants.

Alternatively, such indicators could be added to those set out in Table III of Annex I (on an opt-in basis) so that FMPs can select them based on the availability of data and on the relevance of such investments in their portfolio.

<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>

Yes, insurers support greater consistency and alignment where possible between the SFDR PAI indicators and the EU Taxonomy criteria, and therefore in this case the harmonisation of the EPC evaluation according to SFDR PAIs and the EU Taxonomy..

<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>

The "current value of investments" is still not clear. It should be clarified whether it refers to current market value, current book value or other accounting value (in particular for fixed income investments), as it has been clarified for enterprise value.

The interaction between both definitions could be challenging, as the current value of investment is directly linked to changes in rates, making it difficult to measure progress over time. In order to ensure transparency and foster comprehensiveness of PAI indicators, we suggest this mathematical bias being clearly explained in the “Explanation” column.

Another challenge is the potential mismatch between the numerator and denominator in case FMPs do not regularly update the EVIC values and do not use nominal values for their debt exposure. To avoid this mismatch, the calculation of PAI metrics could be based on the investor allocation approach to recalculate the EVIC quarterly with the share prices at quarter ends so that the denominator (market cap in EVIC) is aligned with the nominator (public equity investment in investee companies). As the EVIC is based on the book value of total debt insurers likewise use the nominal value of their fixed income investments in investee companies for the investor allocation approach PAI metrics. If FMPs do not use the nominal exposure in debt investments, they could in the present market environment understate their potential adverse impact.

It should also be noted that the calculation of the current value of the investment as a valuation of the individual investment price valued at the end of the financial year multiplied by the quantity of investments eliminates the risk of over/underestimation of the PAI relating to the market performance of the investment during the reference period, but the use of the market values ​​of the investments would have several advantages:

* It allows to adopt a single methodology for different asset classes and categories of exposures.
* It reduces the possibility of significant differences between the values ​​of the PAI indicators calculated during the reference period for monitoring and management purposes (which would form the basis for any commitment/disinvestment activities) and those published in the PAI Statement.

It should also be considered that:

* the fact that the tax year of the companies may be different from the end of the reporting period of the PAI declaration implies that the risk of over/underestimation of the indicators for these companies cannot be completely eliminated.
* the choice of this approach does not represent an a priori advantage or disadvantage for market participants (it depends on the market performance of the investee company), and the over/underestimation effect is still mitigated at portfolio level.

<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>

Insurers welcome the efforts made by the ESAs to extend and clarify the formulae suggested to calculate PAI indicators. Nevertheless, we would like to highlight the following points:

* In all formulae, the denominator should only consider the investments in the assets covered by the PAI indicator, in order to avoid any risk of dilution of PAI or possible greenwashing;
* With regards the formula related to the “rate of recordable work-related injuries”, the company’s €M revenue as the denominator is not relevant as the work-related injuries do not depend on revenue. It may be more relevant to put the total employees number as denominator.
* It would be beneficial if the regulator could further specify how “violations” should be interpreted and if there is a decay on controversies in past reporting periods – this is relevant for PAI 10 and PAI 16. Specifically for PAI 16 “Number of investee countries subject to social violations, as referred to in international treaties and conventions, United Nations principles and, where applicable, national law” there is no consistency in the market or data provided by data vendors. This makes comparability impossible.
* PAI 11 “Share of investments in investee companies without policies to monitor compliance with or with grievance/ complaints handling mechanisms to address violations of the OECD Guidelines for Multinational Enterprises, the UN Guiding Principles, including the principles and rights set out in the eight fundamental conventions identified in the ILO Declaration and the International Bill of Human Rights” still mixes “and” / “or” in the name and description, likewise the wording still leaves a lot of room for interpretation, which leads to incomparable disclosures across FMPs.
* PAI 12 was previously defined as “Average unadjusted gender pay gap of investee companies”, which is now changed to “Average gender pay gap between female and male employees of investee companies”. It would be beneficial to keep the “unadjusted” specification in to ensure comparability and clarity.
* PAI 12 (Gender Pay Gap) and 13 (Management and supervisory bodies gender diversity) should be made gender neutral in a way that 0 is always positive and 100 is always negative.

In general, insurers support the ESAs’ efforts to unify the PAI calculation with unique formulae. It must be however note that, with the first PAI reporting in June 2023, a historical comparison of KPIs will be started. Therefore, stability in the definition is necessary to ensure consistency and comparability, and avoid confusing consumers.

<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>

Yes, FMPs are facing a significant reporting exercise in accordance to a framework that shows many inconsistencies and unclarities. Therefore, it is also quite early to assess the difficulties the calculations cause.

We would also like to draw the ESAs’ attention on the fact that some indicators could prove difficult to collect, as data is not always available from investee companies. To overcome this issue, consistency between SFDR and CSRD is essential and SFDR disclosures need to be timed in accordance with the reporting of non-financial companies (from 2025 onwards) in order to avoid any data gaps.

In addition, further clarifications should be provided to encourage a harmonised implementation of indicators and thus foster comparability. In particular:

* With regards sectoral indicators (ie. PAI 4 on exposures to companies active in the fossil fuel sector), the formula should be amended so that the current value of investment is weighted by the relevant revenue of the investee companies. For instance, if only 10% of the revenue of a company is associated with fossil fuel activities, the value of the investment should be weighted accordingly. Providing the full exposure may provide contradictory results as the same company can be active in the fossil fuel sector but also have sustanainable energy activities compatible with the European taxonomy.
* The value chain to be considered with regards PAI 4 and PAI 15 (exposures to controversial weapons) should be clarified. Indeed it is unclear if companies not directly active but present in the value chain of fossil companies (ie. suppliers) should also be taken into account. The same applies to controversial weapons.
* Regarding PAI 20 (Investee countries subject to social violations), it would be useful for financial market participants to have the list of countries that violate the UN guiding principles available. Moreover, the PAI should require to disclose the share of investments rather than the number of countries subject to social violations, in order to provide more consistency to the indicator and ultimately improve comparability. For full clarity on the indicator formulas, Annex I should also include both formulas needed to calculate the metrics underpinning the " Hazardous waste and radioactive waste ratio” indicator (PAI 9), and the formulas for the remaining indicators contained in Table III.
* An energy performance certificate (EPC) translation table should be included as EPCs are based on a largely European framework and the A+B thresholds set in order to identify energy efficient buildings vary across EU countries. A table that compares the different EPCs across EU that meet the energy efficiency standards would be helpful. In a second step, it would be helpful to compare other global standards whenever available in the US and Asia in order for FMPs to be able to push for energy efficiency across the global real estate portfolio.

Finally, insurers would propose changing the attribution factor from GDP to PPP-adjusted GDP for PAI reporting of the Sovereign carbon footprint to be reflected in the update of the SFDR Delegated Regulation (Regulatory Technical Standards Annex I - formula for “GHG intensity of sovereigns”):

* Various industry initiatives (PCAF, ASCOR) as well as the EU Regulator have published methodologies to calculate financed emissions of a Sovereign issuer. PCAF and ASCOR methodologies are fully aligned and are seen as best practice, thereby developing quickly into industry standard. ASCOR was established with the UN-convened Net Zero Asset Owner Alliance and other (institutional) investor groups (like IIGCC). Therefore, the methodology recommended by ASCOR is supported and will be adopted by a large number of asset owners. The methodology prescribed by the EU Regulator deviates from the methodology proposed by PCAF and ASCOR with respect to the so-called attribution factor. While all FMPs based in the EU have to report their Sovereign carbon footprint according to EU Regulation (SFDR), the attribution factor proposed by PCAF/ASCOR makes more sense from an economic perspective and ensures a fairer treatment in particular of countries of the global south. Therefore, the vast majority of EU asset owners will use PCAF/ASCOR methodology for internal steering purposes and EU SFDR methodology for PAI-Reporting. This inconsistency causes additional complexity and misalignment between PAI reporting, sustainability reporting and internal steering.

To calculate the share of emissions financed by a financial institution, it is required to define the total value of the respective borrower. The share of emissions financed can then be calculated by dividing the exposure of the financial institution to the borrower by the total value of the borrower. The key question is how to define the total value of a Sovereign issuer (ie. what is the equivalent to the EVIC of a listed company). Both, PCAF/ASCOR and the EU Regulator use the value of a country’s output measured by GDP as a proxy for the country’s total value. However, the key difference is that PCAF/ASCOR adjust GDP by the Purchasing Power Parity (PPP) factor which leads to a fairer reflection of a country’s actual economy size.

<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>

The disclosure of the share of data coming directly from investee companies could support consumers’ understanding that the responsibility for the accuracy of ESG data cannot be put solely on financial market participants. Nevertheless, it should be noted that one of the most used practice among markets is to rely on third party providers for the collection of the data. As outlined in Question II.1 in the November 2022 ESAs Q&As, the disclosure should also include such proportion (ie. the proportion of investments for which the financial market participant has relied on data obtained by carrying out additional research, cooperating with third party data providers or external experts or making reasonable assumptions). Disclosing only the share of “information directly from investee companies” could be misleading for a non-professional investor who, reading a particularly low value, could consider the information reported by the participant to be scanty. Flexibility for FMP to disclose such information should be allowed.

On a general note, it would be beneficial, if the regulator could provide the necessary data infrastructure for companies to upload and verify their data. Present scenario aggravates dependencies on data providers and high concentration of market powers in the data vendor sphere. A public database would lead to transparency and comparability of reports, as well as ease reporting burden for smaller FMPs.

In any case, the concept of "information directly from investee companies" should be clarified. Examples:

* if a FMP relies on disclosures from a company to evaluate (through internal methodology) if the company's activities are in violation of international principles such as Global Compact, does this constitute use of "information directly from investee companies"?
* If the third party data provider collected the data directly from the company (eg. website), ie. did not estimate it, does this constitute use of "information directly from investee companies"?

It should also be noted that the lack of publicly available and reliable data require significant efforts from financial market participants to provide for the PAI information, in particular until the CSRD comes into application, as the requirement to directly obtain all the information from all investee companies is highly inefficient and its alternative aggravates dependencies on third party data providers and high concentration of market powers in the data vendor sphere. Therefore, it would be beneficial, if the regulator could provide the necessary data infrastructure for companies to upload and verify their data. A public database would lead to transparency and comparability of reports, as well as ease reporting burden for smaller FMPs.

In addition, the key information that should be disclosed is the coverage rate. Indeed, even though this coverage rate should progressively increase to reach ultimately 100%, the operational reality today is very different and disclosing the coverage rate is key to foster transparency and ensure a better understanding of the PAI by consumers and users of the declaration.

Finally in line with the EC’s extension of materiality assessment to all datapoints under ESRS, investees may assess SFDR datapoint to be immaterial for their own reporting and thus not publish the data. In such case, ESAs should clarify how FMPs can deal with this issue. ESAs could for instance :

* + While adding the coverage ratio to PAI indicators, clarify that if the information on PAI indicators is not available for companies subject to CSRD, such companies can be excluded from the denominator of the coverage ratio (solution 1)
  + clarify that FMPs can use a “qualified zero” and consider it actual data (and not estimates) for investees that are subject to CSRD-reporting but have not disclosed the information needed for PAI reporting (solution 2)
  + clarify that companies for which the data is not available can be considered as “neutral” with regards PAI (solution 3)

<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>

Firstly, as regards the treatment of ‘all investments’,

* One approach would be to focus the calculation of PAIs on the relevant category of exposures (investee companies or sovereign and supranationals or real estate). This has been clarified for the numerator, and this would allow for a consistent scope of assets between numerator and denominator, thereby providing transparency to explain changes of value and trend of the PAI from year to year. For consumers/users to have a better understanding of the composition of investment portfolios, a section could be added in the annex 1 related to PAI indicators on the composition of the portfolio in which FMPs would disclose the proportion of each asset class ( X% corporate, Y% real estate, Z% sovereign, A% derivatives etc.).
* Another approach would be for the interpretation of ‘all investments’ to be as close as possible (and ideally aligned) across regulatory disclosures, and in particular the SFDR and the EU Taxonomy, with clearer guidance for the inclusion of cash, cash equivalents and derivatives. To allow for comparability across financial products with different split in PAI categories, the entire product would need to be included in the denominator.

With regards to the perimeter of all investments for insurers, we recommend including only direct investments, unit-linked contracts, capital stocks as well as the cash assets related to the investment activity. Other assets related to operational activities (such as VAT, reinsurance, cedants etc.) should be excluded because they do not constitute investments. This perimeter would help achieve coherence and accuracy of PAI indicators, as they will be less diluted compared to the definition currently proposed in the consultation paper, and ensure consistency with the perimeter retained for Taxonomy KPIs.

Furthermore, while the new formulae clarify that only investee companies should be considered in the numerator, clarifications are needed regarding what is to be included in the denominator in cases where ESG data is not available (ie. should insurers only include in the denominator investments where ESG data is available or is it acceptable to rely on estimated data for PAI calculation). Besides, issues with data availability will persist as all issuers are not (yet) covered by ESG data reporting requirements under the CSRD.

Finally, real estate investments should be added in the definition of “all investments” as they are missing in the definition for insurers. Real estate investments are an important asset class for insurers, and there is no reason to exclude them from the calculations. Moreover, without adding these investments, e.g. in the calculation of exposure to fossil fuels through real estate assets, they would have to be included in the numerator (i.e. “current value of investment in real estate assets involved in the extraction, storage, transport or manufacture of fossil fuels”), but not in the denominator (i.e. “current value of all investments”). The proposed definition in Annex I para (4i.) should be amended as follows: “for financial market participants referred to in Article 2(1)(a) of Regulation (EU) 2019/2088, the following balance sheet items: holdings in related undertakings, including **property (item R0080),** participations (item R0090), equities (item R0100), bonds (item R0130), collective investment undertakings (item R0180), derivatives (item R0190), , other investments (item  R0210), assets held for index-linked and unit-linked contracts (item R0220), loans and mortgages (item R0230), and cash and cash equivalents (item R0410), as defined in Annex I to Commission Implementing Regulation (EU) 2015/2452”

<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>

Insurers agree with this proposal that allows alignement with the materiality assessment of the value chain information demanded by the ESRS of CSRD.

Nevertheless, it should be noted that including this information could complexify the comparison of values disclosed by different FMPs as the availability of such information for each individual investee company would depend on:

* whether the investee company is subject to CSRD
* whether the value chain assessment is relevant for the investee company and its activity.

In addition, there might be cases in which including value chain information for all indicators, even when reported, would lead to misleading / not comparable information. For instance as regards gender pay gap, company disclosures usually do not refer to the entire operations, but mostly are sourced from the regulatory disclosure requirements in the UK and hence only refer to a fraction of the company’s operations in the UK. The message to the client is consequently misleading when FMPs are communicating an “average unadjusted gender pay gap” for their portfolio.

<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>

The inclusion of derivatives in the scope of the indicators would not add significant value to customers. In addition, it would be inconsistent with taxonomy-related disclosures at entity level (for which it is required to exclude derivatives from the numerator of KPIs of financial undertakings). In any case, before introducing derivatives in the PAI reporting, a thorough analysis of this subject is required. For example, derivatives that do not have investee companies, sovereign and supranational issuers as underlying assets (for example derivatives on indices or commodities) should be excluded.

Further, although we recognise that institutional investors would in principle be able to use derivatives to "artificially" reduce PAIs, the use of derivates for insurance and pension companies is limited to mostly interest rates derivatives and broad stock index derivatives so the problem is in our view immaterial. Also, there is no ownership of the underlying asset, hence no influence. If particular FMPs use derivatives on single stock, then a requirement could be relevant, but only in those cases, thereby introducing a materiality assessment.

We urge that the European supervisory authorities prepare more thorough analyses of the scope of the problem, impact analyses and significance for sustainability and greenwashing, before introducing new regulations in the area.

<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>

We would like to stress the need for more thorough analyses of the scope of the problem, impact analyses and significance for sustainability and greenwashing, before introducing new regulations in the area.

As a general remark, the question should rather be how to expand the scope of the Taxonomy and SFDR Article 2(17) on sustainable investments beyond corporates, real estate and sovereigns. We should be able to define sustainable investment opportunities in project finance, private assets, government related assets etc. Already now, many expand the current regulatory scope to include such assets, but a central framework encompassing both listed and unlisted assets with guidance would be helpful.

Furthermore, the specific consideration of derivatives might not significantly help investors to gain more transparency about ESG aspects of the financial product. The influence on the sustainable investment aspects of derivatives by the investment decision process of the FMPs seems to be only limited. Moreover, respective standards or labels on respective ESG characteristics of derivatives would need to be established and collected. If underlying baskets of derivatives refer to indices, the reference to EU Climate Transition or Paris-Aligned Benchmarks might help, but calculations which make the look-through on underlying baskets necessary would significantly increase data and calculation complexity as well as costs. Additional market data licence costs might be required to cover the look-through and ESG data on all underlyings (eg. for larger baskets). Moreover, KPI calculation itself will be more burdensome for derivatives and will challenge the operational processes of FMPs.

In addition, it is important to consider that futures do not trigger real-world cash flows, ie. they are marked-to-market and do not trigger investments in the underlying. Since most of the hedging in mutual funds is Futures-based, they should explicitly be excluded from the scope.

With regards to netting it would be helpful to get a clarification on whether issuer level or portfolio level is considered here. Furthermore, we have the following additional remarks regarding netting:

* Zero lower bound: netting longs and shorts but with a zero lower bound leads to a different treatment of longs and shorts in the case of negative net exposure and a uniform treatment otherwise.
* The investment decision is usually a choice between (i) the physical investment, (ii) entering the long side of a derivatives contract or (iii) entering the short side of a derivatives contract. Any outcome of this decision should adequately be reflected in the sustainability characteristics of the portfolio. Both the positive impact (sustainable investment/Taxonomy share) and the negative impact (PAI) should be affected by the decision in the same logic. To ensure consistency, we would recommend a uniform treatment of long and short legs and also a uniform treatment between sustainable investment/Taxonomy share and PAIs.

<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>

Yes. An overarching framework would generate transparency and comparability, thus also limiting the greenwashing risk. Currently, the taxonomy-alignment of sovereign debt can not be assessed due to a lack of methodology. The development of a comprehensive methodology is key.

<ESMA\_QUESTION\_SFDR\_16>

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

<ESMA\_QUESTION\_SFDR\_17>

Currently, the lack of clarity and inconsistency in the EU Sustainable Finance regulatory framework, in particular as regards to the multiplication of (competing) definitions of sustainable investment (including eg. in the SFDR, the EU Taxonomy, the IDD, ESMA guidelines on funds’ names, etc.) is creating diverging interpretations and confusion for consumers and investors. As regards DNSH, the analysis of challenges and limited comparability identified in the ESAs’ reasoning is highly relevant. This reasoning also applies to the assessment of an investment's positive contribution.

In that context, the insurance industry welcomes further clarification and guidance on the application of DNSH-related requirements to support consistent and comparable disclosures for users and avoid legal and reputational risks for preparers. In that context, insurers already strongly appreciate the clarification provided by the EU Commission in its Commission Notice of 13 June that “investments in ‘environmentally sustainable economic activities’ within the meaning of the EU Taxonomy can be qualified as a ‘sustainable investment’ within the meaning of the SFDR“. Additional guidance would also be needed on how DNSH and good governance practice are screened to avoid incomparability and greenwashing risks, as well as clarifications on the definition and calculation of “sustainable investment” in line with the EU Taxonomy which only considers sustainable activities as sustainable investment shares (eg. if a company has 20% of sustainable revenues or turnover, only 20% can be defined as sustainable investment share, not the whole exposure to the company).

Nevertheless, the timing of the provision of such guidance (including eg. threshold values) must be carefully considered to avoid market disruption and given the lack of data. In particular, the significant ongoing industry efforts to implement SFDR requirements including all recent amendments (eg. additional disclosures on exposures to gas and nuclear-related activities) should be acknowledged. In addition, while greater alignment could be of benefit, the current lack of quality data must also be taken into consideration.

It should also be noted that while PAI indicators relate to the entity level, SFDR disclosures are product specific. An alignment should not reduce the ability of FMPs to focus on ESG factors that they find important.

Finally, the approach to DNSH should take into account the following aspects:

* the need for methodological guidelines from the European regulator to ensure consistency at European level;
* the definition of a methodology with "dynamic" thresholds that enable financial products to make sustainable investments in a wide range of environmental or social objectives, in order to maintain adequate levels of investment stability and diversification. Conversely, the definition of "static" thresholds could excessively restrict the universe of investable assets, undermining compliance with the parameters of stability and diversification and, consequently, the profitability of the products themselves. In this regard, for example, the use of quantitative thresholds that allow the monitoring of the trend of the values of the PAI indicators could be preferred, rather than relying on predetermined and fixed values of the PAI indicators.

<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>

The proposed approach to disclose quantitative thresholds related to the PAI indicators to determine that the sustainable investments do not significantly harm any environmental or social objectives would only add complexity (and thereby confusion for users and investors) and would not be helpful and provide much added value as financial market participants would keep full discretion on the methodology used. The essential requirement would be to transparently disclose the sustainable investments and DNSH approach taken (ie. including data sources and methodologies).

In addition, sector-agnostic thresholds may not be relevant as two different economic sectors or companies in different countries may have be in very different situations and thus require different thresholds. Thresholds would only make sense at sectoral level and geographical level. If they are introduced, in order to reduce complexity and confusion, guidance on how to set tolerance levels and how to interpret them is essential. PAIs that capture performance (eg. GHG emissions) might vary substantially depending on the geographical and sectoral exposure, size of the companies and on factors that render comparability complex. Ultimately, it can, if misinterpreted, penalise financial product with a more thorough sustainability approach than others that, at a first glance, might look as performing better.

<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>

Insurers welcome the clarification provided by the EU Commission in its Commission Notice on the interpretation and implementation of certain legal provision of the EU taxonomy regulation and links to SFDR (12/06.2023), which clearly states that “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.” To this extent, we believe that this is no further an issue.

<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>

Insurers would support addressing the DNSH-related issues in the SFDR level 1 review of the EC with the aim of achieving a convergence and alignment of the definitions in SFDR and EU Taxonomy. Ideally, and in line with the objective of the EU Taxonomy to provide for a common understanding in the EU of what can be considered as sustainable, there should be a shift to a single taxonomy-based system for DNSH to increase consistency of the EU Sustainable Finance framework (in particular between the SFDR and the EU Taxonomy) and thereby reduce the current confusion and uncertainties regarding the definition of what is considered to be sustainable. With this approach, as the notion of sustainable investments is only applicable to single economic activities, only the proportion of the investment related to the sustainable activity of a company should be retained. With this approach, the Taxonomy DNSH should form the basis of environmental DNSH assessments, and the technical screening criteria of the taxonomy could be used to form the basis of the sustainable contribution to an environmental objective.

Nevertheless, the current "parallel existence" of two sustainability/DNSH concepts is problematic but, in the absence of a social and governance taxonomy, inevitable. In addition, while the environmental taxonomy is, to some extent, built on science, social and governance taxonomies, if introduced, would be much more norm-based taxonomies. Hence it would not be clear that all FMPs would accept such taxonomies. In order to make taxonomy-compliant investments also SFDR-sustainable, clear guidelines should therefore be available in a timely manner as to which social DNSH criteria exist. These could complement a safe harbour for environmental DNSH to create legal certainty and should also be based on the social PAI indicators. The adjustment of PAI indicators 10 and 11 to the taxonomy minimum protection is therefore clearly to be welcomed, and it would also be conceivable to extend the taxonomy minimum protection to Level 1 based on the social PAI indicators. In addition, the PSF could create appropriate Level 3 specifications or develop a combined Level 2 proposal for minimum social protections.

<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>

The approach to DNSH should take into account the definition of a methodology with "dynamic" thresholds that enable financial products to make sustainable investments in a wide range of environmental or social objectives, in order to maintain adequate levels of investment stability and diversification. Conversely, the definition of "static" thresholds could excessively restrict the universe of investable assets, undermining compliance with the parameters of stability and diversification and, consequently, the profitability of the products themselves. In this regard, for example, the use of quantitative thresholds that allow the monitoring of the trend of the values of the PAI indicators could be preferred, rather than relying on predetermined and fixed values of the PAI indicators

<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>

European insurers support the fact that disclosures on decarbonisation targets would only apply to products for which it is indicated that they contain such targets, in order to limit reporting burdens and limit information overload for consumers.

Nevertheless, the current information on GHG emission reduction targets which must be published in accordance with the Disclosure Regulation is very complex and technical. In practice, it is primarily aimed at professional investors. It would prove to be difficult to understand for retail investors or ordinary pension fund members, who want insight into the sustainability of their pension savings. In particular the table on GHG emissions reduction target could be very difficult to understand and imply a very complex work by the FMP and it is not followed by any useful benefit for the customer. We would therefore encourage that, with the revision of the Disclosure Regulation, user tests be made of the various customer-facing documents, and that the experience gained from this be used to make the comprehensive reporting more understandable for ordinary customers.

In any case, the following elements must be noted:

* Decarbonisation targets are typically entity-level commitments (eg. via Net-Zero Alliances). Such entity-level commitments would therefore need to be reconciled with product-level decarbonisation targets. In that perspective, there might be a lack of available data at product level (ie. low level of investments with decarbonisation targets for insurers to fulfil their reporting obligations).
* Targets are a very useful information but there should be a possibility to disclose these targets on asset class level, both long-term and mid-term. For example, the net-zero target 2050 is a long-term target usually communicated on entity level. This target is achieved by setting intermediary targets on asset class and sector level. The disclosure of these targets on entity level would be helpful for transparency reasons but these targets are steered on asset class level with the ultimate objective to cover the full portfolio with decarbonisation targets to meet the net-zero commitment.
* To limit added complexity and length of the already very extensive disclosure templates, insurers do not support the disclosure of intermediate targets. If such targets are maintained, they should only be part of the periodifc templates.
* Data and methodologies are not yet available for all asset classes. This challenge relates to, on one hand, the CSRD timeline and, on the other hand, the specificities of general account products (eg. GHG emissions of sovereigns)
* The NZAOA, via its Target Setting Protocol, is setting standards and using common methodologies to set science-based targets. These criteria and methodologies should thus be used as guidance.

<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 benchmark reference link is preferable to a specific disclosure. If a product follows a benchmark then it should disclose which benchmark it is. Every other product with decarbonisation as its objective should disclose the targets set on entity level and based on which target setting framework.

On the overall, a simplification of disclosure related to GHG emissions reduction should be followed in order to avoid consumers’ misunderstanding between different financial products.

<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>

While it is important that FMPs provide for products investing in sustainable entities, investors’ high demand in sustainable investment opportunities also include investment products which would support a company’s transition to more environmentally friendly activities thereby including reduced GHG emissions (ie. upon the condition that such company presents a robust transition plan with GHG emissions reduction targets).

Asset owners could also pursue an approach based on a mix of different reduction measures, going beyond divestment/reallocation and/or transition financing. Target reduction measures are taken at entity level and steered via different asset classes. Breaking these down on a product level adds too much complexity and in any case linking these target achievements to individual products could be misleading. For instance, engagement activities are steered on group level. If an engagement is successful, this is most likely reflected in the company’s ESG performance. Stating that a particular product has led to an improvement of the performance would not be true. The same applies for targets: if a decarbonization of X% is achieved on subportfolio level, the direct link is difficult to be established on product level.

Nevertheless, the proposed distinction could work as a transition tool by bringing transprency and clarity to investors on the manner the financial product allows for a reduction of GHG emissions, and could help avoiding reputational risks for investors investing in companies in the process of transitioning (ie. on a path to reduce its GHG emissions following pre-set targets).

<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>

Having a disclosure on the degree of Paris-alignement of Article 9 products could be relevant, but unclarities remain as to the details and level of granularity of the assessment in accordance with IPCC scenarios. Indeed, further questions prevail, eg. whether such an assessment would serve as an extra layer of verification of targets, and whether other forms of verification should be included (such as SBTi, AOA, Race to Zero).

<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>

This is not possible for all products and comparability will be limited as approaches to set targets differ. Thus, the target could only be disclosed where applicable and possible.

An overarching long-term target is made for all products but, due to the lack of methodology and data availability, it cannot be broken down to all asset classes as of now so it is only a best effort. As a result, at the moment, the target should be calculated on the relevant portion of the financial product and such portion should be clearly explained. Having targets based on all investments may only dilute the targets and complexify the understanding of the figures, especially for IBIPs.

<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>

Insurers fully support the ESAs willingness to ensure alignment between SFDR and CSRD that explicitly refers to the GHG protocol standard. However, taking also into account that the regulatory process of the CSRD framework is not concluded, new innovative quantitative methodologies should be encouraged and, while the GHG Protocol Standard is the most commonly used methodology for financed GHG emissions, it should not be the only standard to be referenced for the disclosure of those emissions reduction targets as new methodologies could be developed in the future. Moreover, this approach would be aligned with the ESRS which only states that the PCAF “shall be considered”.

<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, as companies will report separately on their gross GHG emissions, GHG removals and use of carbon credits under their CSRD reporting requirements, the same approach should be taken for disclosures under the SFDR in the sake of consistency and full transparency on GHG emissions reductions operated by the investee company. Insurers encourage the ESA to give more guidance on the details of reporting.

<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>

Product targets are primarily focused on customer needs and interests which are not the same as the entity-level targets. Moreover, both targets could vary over time. Therefore, such consistency could not adequately represent the reasons beyond investment choices (in both cases, product and entity) and, most importantly, products and entity-level targets could be confused by retail investors.

In addition, such disclosures would add more complexity. In particular for entities that offer both unit-linked and general account based products, there might be different strategies underlying each product, depending on the underlying investment options. It should be welcomed if FMPs offer more products with more ambitious targets than their overarching targets on entity level. For general account based products, targets are in most if not all cases on entity level. These are the same targets that are also communicated on product level. Transition plans and climate change mitigation measures are also taken on entity level, e.g. when joining initiatives like AOA.

In the case of multi-option products (MOPs), where clients can choose out of a multitude of differently focused funds, the requirement to assess alignment to the FMP’s targets might be misleading, giving that the fund template refers to the fund issuer as the “FMP” and not the product provider of the MOP itself.

Based on the above elements, insurers would recommend not introducing such disclosures. In case of introduction of such comparison, the ESAs should at least take into account that providing disclosures regarding the consistency between the product targets and the FMP entity-level targets and transition plan for climate change mitigation should be at the discretion of the FMP, not mandatory.

<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>

Insurance Europe strongly welcomes changes aiming at improved simplicity, readability and usability of the templates. Any change should however be thoroughly tested with end consumers before being made. The following points should be taken into account:

* Today, the table in place with the two schemes (art. 8 and 9 side by side) could mislead consumers, in particular on art. 8 products. The proposed dashboard would provide consumers with a straight-forward highlight of the key characteristics of the product. It can also become a useful instrument to favour the matching between consumers sustainability preferences expressed during the adequacy/suitability test and the product features. However, careful consideration must be given to the fact that it does not become an extra layer of reporting/information. In order to avoid duplications, all the information disclosed in the dashboard should be removed/reduced from the main body of the template (ie. promotion of environmental and social characteristics is going to be described both in the dashboard and in the first question). Any salient features, the different shades of green, that are not represented by the sections with icons, can be reflected in the textual part.
* We also appreciate the effort to simplify the wording (including eg. the definitions in the left-hand margin are made shorter).
* The addition of icons is appreciated as it helps consumers navigating the documents. Consumers can find the key information in the dashboard and more detailed information in the subsequent sections of the document where the same icon is used.
* The two versions of icons (green/grey) improve understanding. It must however remain possible for templates to be printed in black and white. To address this, some icons present a strikethrough, but not all of them (ie. not for the icon for PAI consideration). Therefore, we would recommend the permanent use of strikethrough icons.
* The inclusion of the box dedicated to target decarbonisation would not penalise the comprehension by consumers as long as it can be removed if not applicable.
* The box “percentage of minimum sustainable investments” related to the template for pre-contractual disclosure for article 9 financial products could be misleading for clients. Having to disclose a “minimum” share of sustainable investment could be interpreted as if article 9 products were not to be 100% invested in sustainable activities. This could create a confusion with article 8 products, as no clear distinction at first glance could be made if both products were to disclose the same percentage of sustainable investments. Instead, the box could be replaced by a summary of the criteria applied by the FMP for sustainable investment.
* In the previous template of annex III, FMPs were required to disclose the minimum share of sustainable investments with (i) an environmental and/or (ii) social objective. These would make a total of 100% sustainable investments. Insurance Europe recommends reintroducing this “sub-category” to clarify the distinction between sustainable investments made in article 9 products and those made in article 8 products.

In any case, further simplifications of the templates and consumer testing would be needed as it will remain challenging for consumers to access, understand and interpret information.

<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>

Insurance Europe welcomes the effort to make the language of the templates more comprehensible for retail investors. The objective should be to make the templates more likely to be noticed, read, and understood by customers. However, we are concerned that despite the proposed changes, the templates will still be ignored by most retail investors due to their excessive length and detail. In our view, it is essential that the content of the templates is significantly reduced.

We agree with the assessment in the Consultation Paper and in EIOPA’s Progress Report on Greenwashing that the vast majority of consumers will not look further than the dashboard. The remaining, detailed information is in fact relevant only for more professional investors. Therefore the ESA’s approach regarding the dashboard and the use of hyperlinks points into the right direction but should be pursued further as templates remain too complicated and lenghty.

We furthermore welcome the simplification of the sustainable investment and taxonomy's definitions (with the removal of regulatory references). However, the sustainable investment concept remains complex for people to understand. For instance, the phrase "This product has some sustainability characteristics, but does not have sustainable investment as its objective" could be rephrased to "This product has some sustainability characteristics." In general, definition and classification of sustainable investment remain unclear, especially with regard to article 8. Furthermore, templates are primarily targeting direct investment, but it is unclear how to apply them for indirect investments.

Also, in order to improve the readability and simplify the usability of precontractual templates, the first graph on the share of EU Taxonomy investments including sovereign bonds should be removed: the EU Taxonomy only applies to corporate activities and thus a minimum commitment can only be taken on those activities. The information on sovereign bonds does not seem relevant for precontractual information and is operationally burdensome. Nevetheless, the two information (including and excluding sovereign bonds) may be relevant in periodic disclosures.

<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>

See comments on question 31.

In relation to the PAI statement template (Annex I), the summary section of the header states the following: “The present statement is the consolidated statement on principal adverse impacts on sustainability factors of [*name of the financial market participant*] [*where applicable, insert “and its subsidiaries, namely [list the subsidiaries included*]”]. However, there is no reference to subsidiaries in the RTS. Therefore, it should be clarified whether subsidiaries ***must*** be included in the statement or if they ***can*** be included if the FMP desires to do so.

In any case, it is necessary to conduct extensive consumer-testing in all markets, to ensure that the proposals improve consumers' understanding and match their information needs. Full transparency on how the consumer testing is conducted must be provided. The consumer-testing should replicate a real-life situation where consumers are confronted with the entire document, and not just with parts of the documents. For example, the consumer-testing previously performed on the SFDR templates was not satisfactory: it was conducted only in NL (through the Consumer Panel of the Authority for the Financial Markets), and PL (Warsaw School of Economics). The sample was not representative of the variety of EU consumers and markets, especially in terms of education. Moreover, only part of the revised templates were tested in isolation.

<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>

While the dashboard which only provides an insight to the proportion of sustainable and taxonomy-aligned investment, the investment tree provides in a customer-frendly way more detailed information on the different investment categories (eg. characteristics applying to entire product, whereas sustainable investments are only a fraction thereof) and how these are interlinked (e.g. taxonomy-aligned investments as subset of sustainable investments). Consumers value such information and therefore the investment tree should remain part of the annex .

<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>

Improved consistency, readability and simplicity are necessary for consumers given the current complexity and length of the templates. The adoption of colours would not bring significant advantages for the comparison of products.

In addition, it is important that the design of the templates also allows for their use as black and white printouts. Many customers use black and white printouts even if the documents have been provided to them electronically in colour. The icons and graphs should, therefore, remain legible and meaningful when printed in black and white. Moreover, insurers are required by sector specific legislation to provide much of their customer information on paper. Colour printouts are not only more costly but also have a worse environmental impact than black and white copies. Furthermore, colours in the charts are very difficult to distinguish, especially in smaller graphical representations unless colours with high contrasts are used.

Therefore, we would rather recommend the permanent use of icons with a strikethrough as it is already proposed for the commitment to making sustainable / EU Taxonomy investments.

It should also be noted that editable versions of the template in all languages should be made available in due time before the entry into force of the new requirements to ensure consistency between FMPs.

<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>

Improved readability and simplicity are necessary for consumers given the current complexity and length of the templates. Therefore, Insurance Europe agrees to allow the possibility (ie. as an option, not mandatory) to use a layered approach where the consumer can click on the main questions (ie. those accompanied by an icon) to open the associated section. However, in some member states, it is required that the reporting must be available in writing for the consumer, and for pension providers there is a requirement to place periodic reporting in the annual report. Requirements for displaying information electronically should replace - not supplement - the existing requirements.

Insurers also support ESAs intention to conduct a thorough consumer testing on this proposal.

<ESMA\_QUESTION\_SFDR\_35>

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

<ESMA\_QUESTION\_SFDR\_36>

Insurance Europe appreciates the consideration given by the ESAs to situations of unavailability of the relevant data needed to determine the alignment of certain economic activities with the technical screening criteria established under the Taxonomy Regulation (eg. cases in which undertakings are not falling under the scope of the EU Taxonomy reporting requirements). In such cases, it is crucial to allow financial market participants to rely on estimates, when necessary and whether it is on entity or product level. In that case, insurers agree that transparency on the methodology should accompany such disclosure.

As regards the proposed criteria, further clarity should be provided as to the definition of required key environmental metrics and how those can be used to determine substantial contribution in order to ensure consistency, comparability and avoid reputational risk for preparers.

<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>

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<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>

First, the definition of “sustainable investments” in SFDR Art 2(17) should be clarified. Only after that, rules on the calculation of the proportion of sustainable investments of financial products are useful as clarity and thus legal certainty on this matter are important for both product providers and investors.

In that perspective, insurers support a proportional approach regarding the calculation of sustainable investments of financial products. The notion of sustainable investments is only applicable to single economic activities. To this extent, only the proportion of the investment related to the sustainable activity of a company should be retained.

<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>

Yes, Insurance Europe strongly agrees.

The current approach to the obligations for periodic reporting is inconsistent, operationally difficult to implement and will lead to customer receiving unnecessary volumes of information, often in print due to the national approach for the implementation of Solvency II in many member states. Cross-referencing would be beneficial to address information overload.

More in details:

* SFDR periodic disclosures can be very long: for example, for MOPs, there might be a need to provide over 60 pages to clients on top of the Solvency II periodic disclosures. Since the RTS clearly provide for a possibility to use hyperlinks to address the excessive amount of information in MOPs pre-contractual disclosures, we welcome the proposal to allow the use of hyperlinks also for periodic disclosures to help both clients and providers to manage the number of documents. In principle, the European legislator recognises in Article 20(5) of the RTS that a reference can be an adequate means of submitting information. Allowing the use of hyperlinks is crucial for the following reasons:
  + level playing field with other providers: based on the sectorial legislation, insurers are required to deliver the information to clients annually, while UCITS and IORP providers are only required to hand over annual information to consumers on demand. The delivery of numerous pages of periodic disclosures every year creates an additional burden and cost for insurers, who should at least be allowed to use hyperlinks to existing sources of information.
  + It seems disproportionate (and not environmental-friendly) for insurers to send a remarkable volume of paper to clients. We understand this is linked to national approaches with the implementation of Solvency II. As a result, we fear complaints or a negative perception of the European legislation on the part of the customers if such a high number of pages of information would have to be submitted on paper every year for sustainable products. Even in a fully digital environment, we do not appreciate the advantage for the client of not using hyperlinks to navigate the information.

Furthermore, we fully support the possibility of using hyperlinks in periodic disclosures, but it should be possible to include a single link to the website page that includes all the relevant annexes. Indeed, providing a link for each annex does not seem operationally feasible and will also be clearer for the customer who is likely to receive the periodic information on a paper format. Annexes would be clearly identified on the website to make sure that customers can easily access the information.

In addition, while we agree that it should be as easy as possible for consumers to access the information on the investment options and therefore that hyperlinks should not redirect to the asset manager website main page, it is in many cases not feasible to provide a link which leads directly and exclusively to the relevant SFDR information. The reason for this is that under the current RTS, UCITS management companies and AIFM are not required to publish the information under Articles 8, 9 and 11 SFDR as stand-alone documents. In many cases, the SFDR information would therefore have to be extracted manually from the relevant prospectuses, which is is extremely costly hut has a low added value for clients who can easily identify the annexes in the prospectus pdf . This would have to be done not only once but regularly to take account of updates. As a result, we would ask the ESA to use their mandate under Article 10 (2) SFDR to specify the the presentation requirements referred to in the second subparagraph of Article 10 (1) SFDR in order to ensure that the SFDR information of the underlying investment options are available as separate electronic documents. Alternatively, it should be possible to point to the asset managers

<ESMA\_QUESTION\_SFDR\_39>

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

<ESMA\_QUESTION\_SFDR\_40>

Insurers agree with the fact that website disclosures should include a list of the investment options that qualify the financial product as a financial product referred to in SFDR Article 8(1) or 9(1), (2) and (3). The list should be accompanied by the hyperlink to the precontractual annexes.

However, we disagree with the proposal to include a general summary of the financial product with underlying investment options (article 49d). This information would not be relevant at product-level, as a client can choose the options he wishes to invest in. A summary could be more useful and consistent at the investment options-level, but precontractual annexes already provide synthetic and clear information. Adding summaries will only increase burden for financial market participants without added value for consumers. Indeed it is unlikely that consumers will scroll the entire list of options article 8 /9 (as those can be several hundreds) looking for information.

More importantly, it is the role of financial intermediaries to assess the sustainability preferences of their clients (ie. IDD) and then propose the relevant product with the appropriate mix of investments options corresponding to those preferences. This requirement will be complemented by the introduction of compulsory training on sustainable finance and sustainable products for financial intermediaries.

<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>

Insurers generally support the proposal which should apply to investment options for which issuers are subject to SFDR regulation but should not apply to other financial instruments mentioned in the Annex III of MiFID

<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>

There is no need to modify the format or the level of standardisation of pre-contractual disclosures to make them machine readable. The impact of these changes on the template and therefore on consumers’ understanding of the documents is not clear, while duplicating manufacturers’ requirements by asking them to provide equivalent figures in a different format would not simplify the already burdensome pre-contractual requirements. This would lead to increased costs for insurers (and ultimately for consumers) without any improved benefit for consumers. Providing, collecting and keeping updated machine-readable information at product level is even more demanding than providing data at entity level, as thousands of pre-contractual documents are produced and subject to review and revisions, while reporting is developed once a year by each entity. The SFDR templates are already published on insurance companies’ websites as PDF files. In some countries, National Competent Authorities are accepting receiving the templates in PDF format to comply with certain pre-notification requirements (eg. for the PRIIPs KID).

<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>

It is too early to give an assessment on impact and costs at this point in time as the full reporting requirements have only started in January 2023.

Insurers are increasingly alarmed that there appears to be very little awareness by policymakers of the need for new regulation to be implemented by the undertakings concerned. This tendency has become particularly evident in the development of the SFDR, eg. the changes made to the SFDR templates in February 2023 with an implementation period of only three days.

In our view, it is part of the tasks of the ESAs, being nearest to the realities of the industry, to raise the awareness of policymakers, especially the EU Commission, of the fact that the implementation of new rules requires time and effort on the part of FMPs. This awareness should include the following elements:

* Requirements at Levels 1 to 3 should be properly drafted and reflected before they are put into action. Unclear or incorrect references and inconsistencies with other legislation (eg. SFDR / Taxonomy) result in legal uncertainties, divergent implementation and, eventually, in the need for correction. While we appreciate the ESAs’ efforts to provide clarity via Q&As, it is troubling that, since 2021, numerous sets of Q&A by the ESAs and the EU Commission have been necessary for this purpose. It should be borne in mind that each time the requirements are clarified or modified, FMP have to adapt and readapt their processes and disclosures. This also increases the costs of products to the detriment of customers.
* New rules should be applied only once Levels 2 and (as far as possible) 3 are finalised. Otherwise, FMPs have to undergo the implementation process two or three times for the same legislative act. This could ultimately negatively impact the credibility of the regulation and financial products.
* If changes to requirements are necessary, they should, as far as possible, be bundled and put into action with one common application date. It is significantly easier for FMPs to make less frequent yet larger adjustments to their disclosures than to implement a constant stream of modifications. Longer periods without changes to the requirements would also help consumers understanding by allowing for comparisons of disclosures over time.
* Where new legislation is introduced or changes are made to existing rules, a realistic implementation period needs to be provided. For changes such as the ones proposed by the ESAs in its current Consultation Paper, FMPs would need 9 months from the publication of the final rules in the Official Journal. The ESAs should include a proposal to this effect in the draft RTS in order to underline its importance vis-à-vis the EU Commission.

In view of the above comments, the ESAs should reconsider whether the envisaged changes are necessary at this point in time. In line with SFDR Article 19, the EU Commission is currently evaluating possible changes to the SFDR at Level 1. A legislative proposal for such changes could be forthcoming as soon as 2024 and therefore any changes to the RTS would risk being outdated as soon as they are implemented by FMPs. To avoid such redundant implementation efforts, we suggest using the insights gained in the course of this consultation and the consumer testing to continue the work on the evaluation and improvement of the SFDR at Level 1 and preparing any subsequent changes to the RTS.

<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-2)