**Reply form**

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

12 April 2023ESMA34-45-1218

**Responding to this paper**

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

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

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

**Instructions**

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

* Insert your responses to the questions in the Joint Consultation Paper in this reply form.
* Please do not remove tags of the type <ESMA\_QUESTION\_SFDR\_1>. Your response to each question has to be framed by the two tags corresponding to the question.
* If you do not wish to respond to a given question, please do not delete it but simply leave the text “TYPE YOUR TEXT HERE” between the tags.
* When you have drafted your responses, save the reply form according to the following convention: ESMA\_CP SFDR Review\_nameofrespondent.

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

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

**Publication of responses**

All contributions received will be published following the close of the consultation, unless you request otherwise. Please clearly and prominently indicate in your submission any part you do not wish to be publicly disclosed. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure. A confidential response may be requested from us in accordance with ESAs’ rules on access to documents. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by ESMA’s Board of Appeal and the European Ombudsman.

**Data protection**

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

**General information about respondent**

|  |  |
| --- | --- |
| Name of the company / organisation | Association of the Luxembourg Fund Industry |
| Activity | Other Financial service providers |
| Are you representing an association? |  |
| Country/Region | Luxembourg |

**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>

**Introduction**

The Association of the Luxembourg Fund Industry (ALFI) represents the face and voice of the Luxembourg asset management and investment fund community. The Association is committed to the development of the Luxembourg fund industry by striving to create new business opportunities, and through the exchange of information and knowledge.

Created in 1988, the Association today represents over 1,500 Luxembourg domiciled investment funds, asset management companies and a wide range of business that serve the sector. These include depositary banks, fund administrators, transfer agents, distributors, legal firms, consultants, tax advisory firms, auditors and accountants, specialised IT and communication companies. Luxembourg is the largest fund domicile in Europe and a worldwide leader in cross-border distribution of funds. Luxembourg domiciled investment funds are distributed in more than 70 countries around the world.

We thank the ESAs for the opportunity to participate in this consultation on the Review of SFDR Delegated Regulation regarding PAI and financial product disclosures.

**General remarks**

We note the ESAs’ mandate from the European Commission to, amongst other things, extend the list of universal indicators for principal adverse impacts (PAIs) to include additional social indicators (Commission letter dated 11 April 2022). We generally welcome the increased emphasis on social PAIs but would like to share our members’ concerns with you.

First of all, we would like to provide more general observations which are the background for many of ALFI’s answers to the questions of this consultation.

One of the greatest challenges for the industry in terms of compliance with the disclosure rules under SFDR has been and remains the lack of complete and reliable data for the purpose of PAI reporting, amongst others, under CSRD (based on the sustainability standards (ESRS) which are expected to require reporting on PAIs) only commencing as of financial year 2024 (for the limited number of companies already subject to NFRD).

Going forward a main criterion for any addition in the list of PAI indicators should, in our view, be whether this is also captured under the ESRS. Should there be no alignment, receiving reported data from investee companies on most of the PAI indicators remains challenging if not unfeasible in practice. As a consequence, estimates are used which may vary significantly across vendors depending on the chosen approach regarding the assessment and scope of the respective PAI indicator, e.g. different kinds of emissions may fall under water emissions.

It appears that the lack of data, although often highlighted and acknowledged by different stakeholders, is not properly reflected in recent discussions, such as regarding the requirements on minimum sustainable investments.

Regarding the timing for issuing amendments to the SFDR RTS, it should be kept in mind that Commissioner McGuinness announced a broad assessment of SFDR and that ESMA intends to publish guidelines on fund names in due course. These two initiatives are likely to impact sustainable investments and in the same vein the understanding of the DNSH principle as well as PAI considerations. From the open hearing on 23 January in the course of the said fund names consultation, we understand that ESMA is aware of timing concerns regarding the overlap of initiatives and publications. However, the ESAs may want to reconsider whether the outcome, in particular of the SFDR review, should be awaited first before making further changes to SFDR level 2. Establishing new and/or amended requirements at level 2 and level 3 before the SFDR level 1 review has been completed may lead in the worst case to misalignments and further challenges to the interpretation of SFDR which increases legal uncertainty and thereby greenwashing risks as well as to undermining investors' ability to understand and meaningfully compare disclosures.

Furthermore, given the upcoming implementation of CSRD, which may serve as a data basis for PAI indicators, we suggest not providing additions or amendments to the existing PAI indicators until CSRD is fully applicable. We would like to remind the ESAs that the Commission’s mandate expressly stated the following: “*The Commission recognises that developments in a novel and fast evolving area like sustainable finance disclosures will require regular adaptions of the regulatory technical standards to reflect increased demand for high quality sustainability-related information and to further promote supervisory convergence*”. We do not believe that “high quality sustainability-related information” can be ensured until reporting under the CSRD is fully applicable to all companies in scope.

As a final general remark, it should not be underestimated that any changes to mandatory PAI disclosures under level 2 would consequently lead to changes in the application of the DNSH principle under level 1 and as a result to changes in the assessment of sustainable investments overall. This could have far reaching consequences for the investment universe of products designed under the current regime which may need to perform respective amendments. It would also impact their comparability and may lead to confusion on the side of the investor.

**Response to Q1 in particular**

ALFI generally agrees that the proposed mandatory social indicators are likely to be of interest to investors and other stakeholders who are concerned about the social impact of their investments.

However, as discussed above, the current challenges around data should not be underestimated. Going forward, we welcome an alignment of the PAI indicators with the ESRS under CSRD, which EFRAG is developing and which should help to provide more clarity on both the methodology to be used and on displaying the overall impact contained in the PAI assessments provided. To ensure alignment and consistent reporting we would therefore advocate that all existing and any new PAI indicators should in principle only be based on the CSRD sustainability standards (unless they are covered by other mandatory reporting).

As a general consideration, we would like to express the concern that, over the course of the past year and through the introduction of the more detailed sustainability-related disclosure elements, the size of pre-contractual and periodic reporting documents has significantly increased. As an example, we have received the feedback from some of our members that the length of the annual report has doubled, causing technical issues in communicating these documents to investors, e.g. in connection with the electronic messaging limitations. This should be taken into account when discussing additional indicators, whilst also bearing in mind the potential further loss of reader-friendliness of pre-contractual and periodic disclosures that may result from the requirement to disclose yet more information. The SFDR website disclosures could be considered a more appropriate placement of detailed technical information.

<ESMA\_QUESTION\_SFDR\_1>

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

<ESMA\_QUESTION\_SFDR\_2>

Referring to our response under Q1, we are not in favour of adding any other mandatory indicators.

<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>

As these indicators are optional, their effectiveness will depend on their uptake by investors and the broader financial industry. However, we are sceptical as to whether the optional indicators would be widely implemented in the short-term, given the lack of data availability discussed above. In general, as mentioned in our answer to Q1, we propose not to amend or add any new indicators until the data situation has further developed following the full application of the CSRD.

<ESMA\_QUESTION\_SFDR\_3>

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

<ESMA\_QUESTION\_SFDR\_4>

As mentioned in our answers under Q1 and Q3, we recommend to refrain from amending or adding any new indicators until the CSRD is fully applicable and align any new PAI indicators going forward with the CSRD.

<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>

As mentioned in our answers under Q1, Q3, and Q4 we recommend refraining from amending or adding any new indicators until the CSRD is fully applicable and align any new PAI indicators going forward with 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>

We doubt whether such a PAI indicator would be relevant in practice if it was applied to the entity managing the real estate asset as this would not provide any information about the real estate asset itself. We also do not see a legal basis under SFDR for applying PAIs to the entity managing an investment. In order to avoid any confusion, we would prefer not to establish such a PAI indicator.

<ESMA\_QUESTION\_SFDR\_6>

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

<ESMA\_QUESTION\_SFDR\_7>

We do not have any particular comment with regard to this proposal.

<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>

We do not have any particular comment with regard to this proposal.

<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>

We do not have any particular comment with regard to this proposal.

<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>

As mentioned under Q1, we would like to raise the point that due to the lack of reliable data, FMPs need to revert to alternatives, like estimates, which may vary significantly across vendors, e.g. regarding PAIs on scope 3 GHG emissions or water emissions.

<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>

We are in favour of this proposal as this is likely to be of interest to investors.

<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>

We would suggest that both definitions of “all investments” (i.e. value of all investments by the financial market participant; and investments in the particular type of entity or real estate asset) can be used on a case by case basis. We propose that it should depend on which definition is of relevance in view of the portfolio composition and the underlying issuer. As an illustration, if there is a gender pay gap of 20% for 50% of the portfolio and 50% is held in cash, it should not be considered in the same manner as a gender pay gap of 10% against 100% of the portfolio. We would appreciate flexibility with regard to the definition that can be applied.

In case “investments in the particular type of entity or real estate asset” is used instead of “value of all investments by the financial market participant”, it should be clearly mentioned and the proportion of all investments these represent should be disclosed.”

<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>

We understand that this approach aims to provide clarity and ensure consistency with the reporting requirements under the ESRS. However, we would like to emphasize that there is currently no consistent methodology for the inclusion of the investee companies’ value chains in PAI calculation in case this is not reported by the company. Therefore, we would recommend transparency about whether or not the value chain is included in the information received. Due to the lack of consistent methodology and data in this context, we believe that an alternative would need to be thoroughly analysed in terms of the potential value for investors.

<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>

Regarding the proposed treatment of derivatives, we are of the view that it is appropriate to take into account long and short positions through derivatives.

We would also like to highlight the importance of treating the use of derivatives in the PAI indicators consistently when assessing their use as sustainable investments under SFDR as well as taxonomy-aligned investments.

<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>

As mentioned in our answer to Q14, we would like to stress the importance of consistent treatment regarding the use of derivatives in the PAI indicators and their use when assessing sustainable investments under SFDR/taxonomy-aligned investments.

Furthermore, exposure factors for derivatives should be kept in mind depending on the derivative, e.g. the treatment may be different when indices are tracked (which may rather reflect a market exposure). The consideration of derivatives in the PAI indicators may not always be a straight-forward exercise depending on the exposure. Therefore, a certain flexibility should be provided. It should also be noted that for a thorough assessment of the potential treatment of derivatives, a certain level of data quality is needed which is not always a given.

As a general remark, due to the complexity of the topic, we would welcome an industry consultation regarding details of the methodologies that can be applied for the treatment of derivatives under SFDR and the Taxonomy Regulation.

<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>

We do not have any particular comment on this question.

<ESMA\_QUESTION\_SFDR\_16>

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

<ESMA\_QUESTION\_SFDR\_17>

ALFI agrees with the statement that discrepancies exist between the DNSH principle under SFDR which takes into account investment-based, sector agnostic PAI indicators and the DNSH principle under the Taxonomy Regulation which is tailored to specific economic activities. In addition, we agree that some vagueness exists in the SFDR DNSH consideration, under the requirement to “take into account” PAI indicators in the DNSH assessment.

While ALFI agrees that further consistency and clarification would be appreciable in the regulatory requirements with regards to DNSH assessment, ALFI is of the view that such changes should not occur in the current Level 2 RTS discussions before the expected reform of the SFDR level 1 in order to avoid interferences/mis-alignment between level 1 and level 2 requirements going forward. We therefore recommend maintaining the status quo and discussing any amendments to the DNSH principle under SFDR in the upcoming review of the SFDR level 1.

<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>

ALFI refers to the general response given at question 17 above. ALFI supports maintaining the status quo and revisiting this consideration as part of the SFDR level 1 review. We would also like to highlight our view that a mandatory use of thresholds regarding the PAI indicators for DNSH purposes would not be feasible.

Where quantitative thresholds are used by FMPs on PAI indicators, ALFI agrees with the ESA’s concern that additional transparency alone would not necessarily lead to improved comparability between products. The underlying methodology and decision process may vary on a case by case basis depending on the data available and the investment strategy and sector, so that it would not prove practical to draw any general conclusions from the application of thresholds.

As a longer-term consideration however, disclosing how thresholds are used (if they are used on a voluntary basis) could indeed constitute an added value, in particular for the interested and/or more knowledgeable investor. We would suggest for these purposes to focus on improving the readability of the pre-contractual disclosures and to instead add methodological aspects to the art.10 SFDR website disclosures, which constitute a dedicated repository for such technical information on the specific methodology in place. This would help the reader-friendliness of the pre-contractual disclosures while still providing transparency where quantitative thresholds are applied to PAI indicators by the FMP.

<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>

Referring to ALFI’s answer to Q1, Q17 and Q18, we believe the focus should be on improving the readability of disclosures and limiting potential aspects of confusion for the end-investors. With this in mind, ALFI considers introducing an “optional safe harbour for environmental DNSH disclosures for environmental taxonomy-aligned activities” may introduce more complexity in terms of investor understanding of the methodology (different approaches for activity level and investment level). Further complexity would be added in view of the currently still challenging data availability to calculate Taxonomy-alignment. In addition, it should be noted that no social Taxonomy safe harbour would exist which would lead to an unequal treatment of the DNSH assessment for social investments.

Given the above, ALFI proposes to refrain from introducing a “safe harbour” for the environmental DNSH criteria in respect of Taxonomy-aligned activities.

If the ESAs would nonetheless be in favour of introducing such safe harbour, we suggest this be considered under the SFDR level 1 review.

<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>

We generally understand the interest in considering the EU Taxonomy TSC as the basis for DNSH assessments going forward. Nevertheless, as the Taxonomy criteria are linked to economic activities, are much more specific and therefore, more data-intensive which currently conflicts with the limited data availability in practice. Relying on the TSC may also potentially increase concentration risk and accordingly lead to the altering of risk management processes in place. In addition, we believe there is a risk of significantly impacting, i.e. narrowing down, the investment universe for sustainable investments when using the EU Taxonomy TSC, in particular given the limited scope of data availability for Taxonomy-aligned investments.

Furthermore, we would like to highlight that the definition of sustainable investments is not covered by the ESA’s mandate. Particularly, ALFI is concerned that the proposed shift would create a substantial gap between the SFDR level 1 regulation and the SFDR level 2 RTS. As a result, we suggest, if the proposed alignment of the DNSH to the Taxonomy TSC will be further pursued by the ESAs, the SFDR level 1 reform should be a prerequisite to any such change.

<ESMA\_QUESTION\_SFDR\_20>

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

<ESMA\_QUESTION\_SFDR\_21>

We would like to refer to our view as articulated above to address this question under the level 1 review.

In addition, we would like to emphasize that non-compliance with the requirements under SFDR should as such not lead to greenwashing allegations at this point in time. For more details, we would like to refer to the ALFI targeted [response](https://www.alfi.lu/getmedia/e3a05506-bb92-43f5-9a0b-60123c7e70f0/alfi-response_esas_greenwashing_20230110.pdf) on the ESA’s call for evidence on greenwashing.

<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>

Investors indeed need clear and reliable information to be in a position to make an informed investment decision. However, it seems that some of the requirements are becoming more and more challenging in practice (in particular, the DNSH principle for funds committing to make sustainable investments) through the combination of the range of applicable, technical concepts, together with different understandings of the various requirements which may have to be amended based on EU level guidance, such as Q&A or points clarified in the course of consultations. At the same time, it appears that investors would like to be able to understand a fund's sustainability objective, within their own understanding of what "sustainable" means.

Therefore, we suggest that focus remains on the overall sustainability goals of the EU and alignment with the investors’ needs and understanding, starting with the level 1 review based on which more detailed requirements could be developed as the data situation improves, e.g. with the full application of CSRD.

<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>

We do not have any particular comment with regard to this proposal.

<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>

ALFI considers that the distinction between engagement and active ownership and portfolio-level actions is unlikely to be helpful for actively-managed products, which may use both approaches.

<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>

We do not have any particular comment with regard to this proposal.

<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>

We do not have any particular comment with regard to this proposal.

<ESMA\_QUESTION\_SFDR\_26>

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

<ESMA\_QUESTION\_SFDR\_27>

We do not have any particular comment with regard to this proposal.

<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>

We do not have any particular comment with regard to this proposal.

<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>

ALFI would like to point out that there may not always be consistency in every respect between product and entity targets. Therefore, it is important not to request disclosures regarding the consistency between product and entity-level targets on a mandatory basis as this would not properly reflect the reality and in turn may lead to overly complex disclosures without much of an added value for the investor. However, there may be cases in which it is important for market participants to show existing consistency to support the chosen investment approaches towards the investor. Keeping that in mind, a discretionary disclosure would be welcomed by ALFI.

<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>

As a general point, we would like to make clear that any changes to the Annexes II to V templates will necessarily lead to a lack of comparability of the information provided in the periodic reports from one reporting period to the next as a result of the shifting templates, which may undermine the utility of those reports for their recipients and be the source of further confusion. Hence, we are concerned by the further disruption that changes to the templates will cause (following the introduction of the gas and nuclear energy disclosures).

That being said, if it is decided to make additional changes and to include a dashboard at the top of Annexes II-V of the SFDR Delegated Regulation as a summary of the key information to complement the more detailed information in the pre-contractual and periodic disclosure, we would recommend the amendments described below for the sake of clarity and simplification.

In respect of the article 8 template pre-contractual disclosure, we believe indicating in the dashboard the percentage of a product's investments that will attain the environmental and/or social characteristics promoted by the product will not provide useful information to investors, because: (i) there is no standard for the purposes of performing such calculation; and (ii) as there is no clear guidance on the criteria for article 8 products, the provision of a percentage in the dashboard will not allow investors to meaningfully compare products on the basis of the dashboard information, as they would still be required to read the rest of the Annex in order to obtain the necessary context to understand the dashboard disclosure. Therefore, we suggest deleting the indication of the percentage of environmental and/or social characteristics promoted by the product in the dashboard.

We welcome the additional disclosure on the targeted reduction of greenhouse gas emissions, in particular in view of funds disclosing under article 9 (3) SFDR

Regarding the proposed new color-coding of the template with the green and grey symbols, we are of the view that this adds another layer of complexity to the already challenging process for asset managers to work with the templates, as such design elements are not easily incorporated, particularly given the lack of availability of the templates in editable format. Further, as a general comment, the inclusion of symbols and icons in the template increases the time (and therefore cost) of working with and completing a template, but in our view does not add substance or materially supports the reader's understanding of the complex matters disclosed in those templates. We would therefore recommend refraining from introducing this amendment.

Similarly, the box on the consideration of the most significant negative impacts of the product's investments on the environment and society is not particularly helpful without clear and standardised written guidance on how to interpret the term "consideration" and the expectations surrounding article 7 of SFDR.

Finally, the characters limit of 250 in the narrative textbox dedicated to the “environmental and/or social characteristic(s) promoted by the product” may result in over-simplification in order to meet the limit. This may cause further confusion for investors and hinder the comparability of products. We therefore suggest to delete this textbox

*Does it serve the purpose of helping consumers and less experienced retail investors understand the essential information in a simpler and more visual way?*

Noting our comments above, while we welcome the efforts in adopting the dashboard approach with a view of making a summary of the information contained in the templates, we have reservations on whether the dashboard as such will help consumers and, in particular, less experienced retail investors understand essential information in a simpler and more visual way. The main reason for this is that the dashboard includes concepts (such as sustainable investments, etc.) that leave room for interpretation by market participants and the wider public. Please also refer to our answer in Q31.

<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>

As a general comment, ALFI is of the opinion that retail investors are unlikely to recognise or understand the concepts of "sustainable investment" and "EU Taxonomy alignment", as these are used in the context of the SFDR disclosures. In particular, the concept of "sustainable investment" that is used for the purposes of SFDR has been the subject of very detailed commentary through the various Q&As and is likely to be significantly different to the idea that a layman may have in respect of the same term. In addition, the feedback received from the industry is that it has become increasingly challenging in practice to make investments that would be deemed "sustainable investments". Clarification to the meaning of "sustainable investment" under SFDR that reflects the reality of the investment process and the data available, and which aligns more closely with investors' understanding of what this term means should be the priority. ALFI therefore strongly favours that these fundamental aspects are part of the Level 1 review, before revised templates are introduced under Level 2.

Subject to our general comments above, we are of the view that the wording used in the dashboard should be aligned with the MIFID II requirements on sustainability preferences to be assessed by distributors for retail investors and ALFI welcomes the changes to the templates in this respect.

Further, ALFI generally agrees with the proposed EU Taxonomy disclosure in the summary dashboard.

In respect of the principal adverse impact summary of the dashboard, ALFI notes that the proposed wording now refers to consideration of "*the most significant negative impacts of [the product's] investments on the environment and society*". Although we understand that the change has been made in order to improve readability for retail investors, the chosen wording, in particular the use of "*most significant*" appears to imply a different meaning to the requirements set out in Article 7 SFDR. We would suggest to clarify the intended meaning of this proposed wording.

ALFI welcomes the proposal to remove the “allocation tables” and the “other investments” section as it serves the user-friendliness of the document.

<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>

ALFI generally agrees with the proposed EU Taxonomy disclosure in the summary dashboard.

In respect of the principal adverse impact summary of the dashboard, ALFI notes that the proposed wording now refers to consideration of "*the most significant negative impacts of [the product's] investments on the environment and society*". Although we understand that the change has been made in order to improve readability for retail investors, the chosen wording, in particular the use of "*most significant*" appears to imply a different meaning to the requirements set out in Article 7 SFDR. We would suggest to clarify the intended meaning of this proposed wording.

ALFI welcomes the proposal to remove the “allocation tables” and the “other investments” section as it serves the user-friendliness of the document.

We would like to refer to our answers under Q30 and Q31.

<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>

ALFI welcomes the initiative to have the “assets allocation” table deleted from the template in order to render it more user-friendly.

<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>

ALFI is of the view that the approach of ensuring consistency in the use of colours in Annex II to V of the templates is sensible. However, as mentioned in our response to Q30 above, the inclusion of colours when using the templates impairs their usability in practice, without adding substantially to their readability.

<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>

It is not clear how extendable parts of the template could be practically implemented and used. It could lead to challenges on the technical side with regards to the coding of the document in view of the final format being pdf.

<ESMA\_QUESTION\_SFDR\_35>

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

<ESMA\_QUESTION\_SFDR\_36>

We welcome the adoption of guidance on the criteria for determining what can be accepted as estimates to provide information about the degree to which the investments are in environmentally sustainable economic activities. More generally, the consistent adoption of the term "estimate" instead of "equivalent information" within the SFDR framework is also helpful.

<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>

ALFI is of the view that introducing a new term here is not necessary, as the term "key environmental metrics" appears to be simply referring to the requirement to base decisions on underlying data, rather than estimates, which is not introducing a new concept. For simplicity, ALFI would therefore suggest referring to "relevant data" instead of "key environmental metrics". Provided that the general concept is made clear, a dedicated definition should not be required for the purposes of avoiding greenwashing.

<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>

Whilst a one-size-fits all approach is unlikely to be appropriate, we would like to highlight that in practice, the range of approaches that may be taken vary and may produce widely different results, based on the same investment and data set. This may result in confusion for investors as to the meaning of the ultimate percentage disclosed and undermine the stated aim of comparability of disclosures. ALFI therefore re-emphasises the comment above regarding the importance of the Level 1 review under which any clarification as to the meaning of "sustainable investment" under SFDR should take place, so that it reflects the reality of the investment process and the data available, and it aligns more closely with investors' understanding of what this means. It must however be considered that financial market participants have been left to devise their own definitions of what a sustainable investment constitutes and binding definition is likely to cause significant disruption.

<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>

We do not have any particular comment with regard to this proposal.

<ESMA\_QUESTION\_SFDR\_39>

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

<ESMA\_QUESTION\_SFDR\_40>

ALFI welcomes the proposed new rules regarding website disclosures for financial products with investments options. This provides a practical solution, whilst ensuring that appropriate information at the level of the investment options is provided to end-investors.

<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>

Where the investment options are identifiable named products with sustainability related features, ALFI considers that it would be appropriate to require a SFDR annex in respect of such products to ensure comparability across products being offered. However, where the investment options are not identifiable named products, it is unlikely to be possible to prepare a SFDR annex with disclosures that would be specific and therefore meaningful to the potential investor.

<ESMA\_QUESTION\_SFDR\_41>

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

<ESMA\_QUESTION\_SFDR\_42>

We do not have any particular comment with regard to this proposal.

<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>

We do not have any particular comment with regard to this proposal.

<ESMA\_QUESTION\_SFDR\_43>

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