**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 | DI Confederation of Danish Industry |
| Activity | Non-financial counterparty |
| Are you representing an association? |  |
| Country/Region | Denmark |

**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>

Whilst supporting to review of the coverage of PAI-indicators to ensure their relevance, DI is concerned about the fact that data to support some indicators are not part of ESRS-reporting regime or other required reporting regimes. Furthermore, unless the principle of materiality introduced by the EU-Commission is respected, the additional indicators would either force even more mandatory disclosures for the more than 50.000 reporting entities or would require that the materiality approach is respected and thus the information value of an issue not being material is respected and included in the calculation.

The consultation paper does not address the negative consequences of incorporating non-material information in the corporate reporting, making it very difficult for the users to identify the material issues in the reporting.

DI has noticed that there are areas where PAI-indicators apparently can operate with “thresholds” as for instance the indicator “amount of accumulated earnings in non-cooperative tax jurisdictions” is based on the threshold included in the underlying Directive 2013/34/EU. A similar approach could be used in a number of the other PAI-inicators (especially the mandatory indicators) to at least exclude mandatory reporting on clearly immaterial data – also from the underlying reporting intities.

DI can not support the specific indicator “Interference in the formation of trade unions or election of worker representatives” as the underlying datapoint is not currently required under the ESRS-reporting. DI also finds that the datapoint is at the wrong level as it asks for specific aspects of commitments at a level of granularity that is not always relevant and material. We believe this indicator is already covered by an overarching indicator. This is also in accordance with the fact that most entities will have overarching commitments that include these aspects without having to single them out individually. We therefore believe this indivator should be deleted.

Furthermore, the indicator “share of employees earning less than the adequate wage” should include some sort of materiality-concept as it is currently in the ESRS’s – also in the original EFRAG proposal.

<ESMA\_QUESTION\_SFDR\_1>

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

<ESMA\_QUESTION\_SFDR\_2>

TYPE YOUR TEXT HERE

<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>

We have significant concerns with the wording and intention of a number of the opt-in social indicators.

First of all we need to reiterate the fact, that these indicators should respect the materiality principle and if introduced, guidance on materiality could be included to support this, but we do not support further extensions of mandatory reporting requirements without other PAI-incators are removed.

On the following three indicators “Excessive use of non-guaranteed-hour/temporary contract/non-employee …”, we note that there is no guidance (or legal basis) defining what is excessive. In a number of sectors and jurisdictions these practices may be perfectly acceptable – depending on scale, social security systems etc. As an consolidated number on portfolio level, th indicator is meaningsless as a few investee companies will drown numerically in the reporting. Hence, the word “excessive” can’t be used unless there is a meaningful definition to measure against. Furthermore, these are clearly indicators where materiality is relevant as the word excessive clearly indicate that non-excessive use is not an issue and may actually support the economy and be beneficial for society at large. We believe the idicators should be removed or at the very least the text of the indicator should be neutral and not use the word “excessive”.

The indicator “insufficient employment of persons with disabilities within the workforce” is also highly challenging. While we support the efforts to enure that people with disabilities are being an integrated part of the workforce, the notion of “insufficient” indicate a certain threshold. We need to point out that the data supporting this PAI-indicator is highly challenging due to the difficulties in actually obtaining robust data in this area. This is due to issues with the underlying definitions, issues around data collection and GDPR and issues around whether particular disabilities are actually relevant for a specific job function. Hence, a number of people may formally qualify as disabled, but are in reality not considered disabled as they function normally in their jobs and do not feel like disabled.

Furthermore, we find the two indicators on “Lack of grievance/complaints handling mechanisms for [affected communities]/[consumers/end-users]” to be highly problematic. First of all without respecting the concept of materiality, these will force reporting under the two value chain standards - standards that are considered highly unlikely to be relevant for all entities. Secondly, the definition of “lack of”, which we also find in other current indicators, are extremely difficult to asses and report on. If an undertaking does not report due to materiality, then this is not the same as not having in this case any mechanisms. They may for instance not be targetted specifically towards consumers or affected communities, but may cover more broadly. We recommend the removal of these two indicators as well as the reassessment of other “lack of” indicators.

<ESMA\_QUESTION\_SFDR\_3>

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

<ESMA\_QUESTION\_SFDR\_4>

Please refer to the response to Q3

<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>

We support alignment of principles and definitions to those used be the ESRS-standards and those identified in the CSRD. We have not been able to go through the defnitions in detail, but we will encourage the ESAs to cross-check the definitions with the defnintions of the ESRS’s (and the underlying alignment with the IFRS S1 and S2 standards as well as GRI where relevant) in order to ensure that data from activities outside EU are aligned as well with the underlying principles.

<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>

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<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>

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<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>

TYPE YOUR TEXT HERE

<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 would like to remind the ESAs of the fact that the investee companies have not yet started the reporting under the ESRS. Therefore, the ESAs should revisit the consultation once reporting under the ESRS have started and include (and specifically target) the investee companies in order to gain their insights into the actual challenges of reporting.

DI believes that the formulae and underlying definitions of input data should be reconcidered in terms of how to include and embrace the materiality approach introducd in the ESRS as we believe there in a number of instances is significant information value in the reporting undertakings (investee’s company) not reporting due to materiality. On portfolio level we also find it difficult to understand that issues not material at investee level can become material on portfolio level, and we strongly encourage the ESA to demonstrate this with the formulae included.

Furthermoe, it is not always fully consistent when the current value of the investment is weighed both against the investee company’s enterprise value and the current value of all investments and when it is only weighed against the current value of all investments. We note that with the first option, issues not material for the investee company at the aggregated level should become even more distant.

<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>

We would like to remind the ESAs of the fact that the investee companies have not yet started the reporting under the ESRS. Therefore, the ESAs should revisit the consultation once reporting under the ESRS have started and include (and specifically target) the investee companies in order to gain their insights into the actual challenges of reporting.

At the current stage, we would like to point out that indicator 11 does not seem to include the fact that actions may have been taken (for instance because it was covered and identified in the undetakings control mechanisms or grievance/complaint handling mechanisms). Reporting undertakings that have actively devoted ressources into detecting violations and taking action are negatively impacted by this indicator compared to an entity that are not actively working wth this and therefore does not identify the violations in the first place. Therefore, we suggest to modify the indicator to account for the fact that actions may already have been taken in order to support transparency and provide incentives to take action.

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFDR\_10>

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

<ESMA\_QUESTION\_SFDR\_11>

The requirement will indirectly force reporting requirements for investee companies further below the coverage of the CSRD, adding significant costs and challenges for the companies. These companies are already significantly challenged due the value chain reporting requirements under the ESRS and should not – indirectly – also be required to report all the in the EFRAG draft mandatory elements of the ESRS reporing requirements. This will completely undermine the political intetions as well as the principles in the upcoming voluntary SME-standards expected by EFRAG.

Therefore, even though we understand the intention, we would argue against the explicit requirement and encourage the ESAs to find other ways that does not push the requirements further down.

Allready today, we understand there is a strong pressure on FMPs to require information on the PAI-indicators, benchmark data and pillar 3 reporting requirements directly from companies outside the scope of ESRS, Benchmark data and Pillar 3 reporting. If this is the case, then every PAI indicator will not only impact the 50.000 entitites, but will impact millions of undertakings even if the data is not material for these entities. Appropriate guidance to avoid this is important and it should be underlined that a different approach outside the ESRS-coverage is expected from the legislator and the enforcers. At the very least we would expect the same principle as included in the ESRSs where requests are only to material elements – where material – and no full data-requests on all in the value-chain.

If not, then this needs to be added to the impact assessment and appropriately reflected.

<ESMA\_QUESTION\_SFDR\_11>

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

<ESMA\_QUESTION\_SFDR\_12>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFDR\_12>

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

<ESMA\_QUESTION\_SFDR\_13>

Yes, we agree

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFDR\_16>

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

<ESMA\_QUESTION\_SFDR\_17>

DI generally agrees with the analysis that demonstrate the clash between the to types of disclosures – the taxonomy being activity based and the ESRS-reporting being entity based. We agree that a level 1 reform may be needed, but we find that this reform needs to respect the purpose of the ESRS-reporting and the materiality approach embedded herein.

Furthermore, the analysis also demonstrate that one should be carefull with having too many PAI-indicators and we suggests to have a very critical assessment of the indicators in total and consider whether there are indicators that essentially covers the same and could thus be removed and/or combined.

<ESMA\_QUESTION\_SFDR\_17>

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

<ESMA\_QUESTION\_SFDR\_18>

Yes, we support the disclosure of the thresholds.

<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>

TYPE YOUR TEXT HERE

<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>

DI finds the topic to be very important and supports further considerations of the DNSH-concepts. However, we would like to point out the impact the discussions will have on the investee companies and thus would like to point out that the investee companies should be specifically targeted in a consultation approach on these matters. Furthermore, an overarching DNSH-concept needs to be addressed at political level as this can have significant impact on European economy, especially if not aligned appropriately with other policy measures.

Until alignment on the DNSH-criteria have been performed, we would note that overarching DNSH should not impact the DNSH-criteria set in the taxonomy and thus FMPs should not include eligible and aligned turnover, capex and opex in any overarching DNSH-criteria as these criteria are set at the level of a delegated act.

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

DI supports the linkages to the CSRD in order to ensure consistency.

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFDR\_31>

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

<ESMA\_QUESTION\_SFDR\_32>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFDR\_32>

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

<ESMA\_QUESTION\_SFDR\_33>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFDR\_33>

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

<ESMA\_QUESTION\_SFDR\_34>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFDR\_34>

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

<ESMA\_QUESTION\_SFDR\_35>

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<ESMA\_QUESTION\_SFDR\_35>

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

<ESMA\_QUESTION\_SFDR\_36>

The criteria and potential guidance for the use of estimates are important elements and should also be considered as one of the tools to ensure consistency between the PAI-indicators and the taxonomy reporting on the one side and the materiality approach and the ESRS reporting on the other side. The two types of reporting have different purposes, but should also support each other in terms of infrastructure.

This is especially important regarding the PAI-indicators, Benchmark data and Pillar 3 reporting. Not only will appropriate guidance ensure the above consistency, but the current approach may also force FMPs to require data from all the undertakings not covered by the ESRS today. If this is the case, then every PAI indicator will not only impact the 50.000 entitites, but will impact millions of undertakings even if the data is not material for these entities. Appropriate guidance to avoid this is important and it should be underlined that a different approach outside the ESRS-coverage is expected from the legislator and the enforcers.

If not, then this needs to be added to the impact assessment.

<ESMA\_QUESTION\_SFDR\_36>

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

<ESMA\_QUESTION\_SFDR\_37>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFDR\_37>

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

<ESMA\_QUESTION\_SFDR\_38>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFDR\_39>

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

<ESMA\_QUESTION\_SFDR\_40>

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<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>

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<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>

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<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>

DI have read the Joint Consultation Paper, including the preliminary impact assessment, with high interest. DI is fundamentally concerned about the limited emphasis and focus on the impact the PAI-indicators have on the reporting obligations and infrastructure for non-financial entities. The consultation document is only focusing on the financial side of the disclosures while mostly disregarding the consequences for non-financial undertakings, including the consequences on their reporting. The recent proposals issued from the European Commission on the draft delegated acts implementing the European Sustainability Reporting Standards have decided on an approach based on materiality. From our point of view, this approach strengthens the reporting by ensuring that focus is on the relevant and material issues, founded on the double materiality approach. For a number of years, financial reporting have been cluttered with immaterial information until the IASB started their “cutting clutter” project. Europe have been and should be ambitious in terms of sustainability, but we should also learn from the experiences of financial reporting. Having a sustainability report cluttered by non-material information reduce the overall value of the reporting, draws focus away from material issues and consume human resources that could have been put to better use by actually addressing the material issues.

Hence, while modification on a number of indicators to ensure that the underlying reporting is based on ESRS reporting standards, the consequences and ipact on a broader scale is not addressed.

We acknowledge that the mandate for the review of the SFDR Delegated Regulation have been issued before the publication of the latest delegated acts, but we strongly advise the ESAs to reconsider the approach to the PAI indicators and to include and build on the materiality approach now proposed in the ESRS standards. This include first and foremost to acknowledge the information value included in the fact that something is considered “non material” and thus not reported on. If an undertaking provides no reporting in the ESRS on a specific disclosure requirement this equals as a qualified zero or a non-existence. The Financial Market Participants (FMP’s) should therefore base their reporting according to SFDR, CRR/CRD Pillar 3 etc. on the information being a qualified zero/neutral non-detrimental value.

Furthermore, if reporting is anyhow requested from all the more than 50.000 non-financial undertakings (and potentially their value chains), then we believe the costs should be acknowledged by the ESAs in their calculations of the administrative costs as well as the impact on the information value of the ESRS-reporting

DI would like to suggest an alternative approach to be embedded in the PAI-indicator universe, building on some fundamental principles in order to ensure the infrastructure and to limit the overall costs

1. The indicators should be based on EU regulatory disclosures for EU corporates either through ESRS or another regulatory framework, respecting the concepts of materiality included in those frameworks
2. (FMP’s should be able to base their reporting requirement directly on the reporting issued by the reporting undertakings without impacting the reporting.
3. In those limited situations where mandatory PAI-indicators or other similar mandatory indicators cannot be based on the data provided from the ESRS-reporting using materiality, then those specific datapoints – and those points only – should be required to be provided in a separate reporting table entitled “Non-material datapoints” and should not require any further information requirements. The calculation formulae and the impact of non-material information on the indicator should be factored in.
4. Any proposals impacting non-financial undertakings directly on their reporting should be subject to a targeted consultation reaching out to those stakeholders as they are not expected to follow consultations from the ESAs as they are normally directed at financial institutions.

DI believe that this approach will ensure both the relevant information while at the same time supporting and strengthening the ESRS-reporting by putting the appropriate emphasis on materiality, similar to the long standing tradition in the financial reporting.

Furthermore, we are concerned about the fact that FMPs are also encouraged to require data from all their engagement, extending the reporting requirement fully beyond the CSRD-coverage and will include millions of undertakings. This also needs to be included in the impact assesment.

<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)