**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 | Irish Funds Industry Association |
| Activity | Other Financial service providers |
| Are you representing an association? |[x]
| Country/Region | Ireland |

**Irish Funds Introduction:**

The Irish Funds Industry Association (Irish Funds) is the representative body for the international investment funds industry in Ireland. Our members include fund managers, fund administrators, transfer agents, depositaries, professional advisory firms, and other specialist firms involved in the international fund services industry in Ireland. By enabling global investment managers to deploy capital around the world for the benefit of internationally based investors, we support saving and investing across economies. Ireland is a leading location in Europe and globally for the domiciling and administration of investment funds. The funds industry employs over 17,000 professionals across Ireland, providing services to 8,701 Irish-regulated investment funds with assets of EUR 3.7 trillion.

*Source: Economic Impact of the Funds & Asset Management Industry on the Irish Economy, Indecon, 2021. 2 Source: Central Bank of Ireland, November 2022.*

**Consultation Introduction:**

We commend the European Supervisory Authorities’ (ESAs) effort to amend the regulatory technical standards[[2]](#footnote-2) supplementing the Sustainable Finance Disclosure Regime (SFDR Delegated Regulation)[[3]](#footnote-3). Irish Funds supports the Commission’s objective to amend SFDR to address specific technical issues that have emerged since SFDR came into force, particularly concerning the Principle Adverse Indicators (PAIs). We also welcome amendments to clarify and simplify the RTS on pre-contractual and periodic report documents and/or on website product disclosures for financial products.

Understanding the ESAs are aiming to address challenges to and gaps in the existing SFDR framework, as well as meet the needs of the consumer in a rapidly changing ESG environment, we believe efforts should be focused on clarifying and harmonizing existing regulatory regimes across the European Union rather than introducing new supplementary requirements such as with the addition of further social PAIs.

Irish Funds welcomes the overarching aim of the proposed amendments to reduce the risk of ‘false certainty’ and potential ‘safeguard washing’, but we believe any amendments must be carefully calibrated to be proportionate and feasible for financial market participants (FMPs). In response to the proposed amendments, we would highlight the following concerns:

1. We question whether this is the appropriate time to introduce additional mandatory social indicators.
	* We note that under the draft delegated acts published for consultation on 9 June 2023[[4]](#footnote-4), the European Commission (Commission) is considering adopting a materiality threshold for the European Sustainability Reporting Standards (ESRS) which could further reduce the availability of data for FMPs calculating PAIs of investments. As such, the proposed approach under consultation could again result in the incoherent sequencing of sustainable finance measures which is acknowledged within the recent progress reports on greenwashing as a possible driver of such practices[[5]](#footnote-5).
	* It is the preference of Irish Funds that there be no additional mandatory social indicators introduced at this time. As an alternative, we would support the introduction of opt-in indicators.
	* FMPs will publish their first PAI statements on 30 June 2023 and will not be in a position to review the process and update based on feedback.
2. Regarding the Do No Significant Harm (DNSH) disclosures in the SFDR Delegated Regulation, we do not believe it is appropriate to require FMPs to make disclosures about the quantitative thresholds used by FMPs in performing DNSH assessments as not all assessments are not quantitative in nature. Alternatively, to support the disclosure framework and to promote comparability, if the ESAs proceed with a threshold requirement, we suggest an alternative ‘comply or explain’ disclosure framework in relation to the DNSH tests. Please see question 18 for further details.
3. On the disclosure requirements, we do not believe the proposed disclosures are feasible and proportional for FMPs. While we support the requirement for FMPs to provide more transparency, such as on the decarbonization targets of their financial products, we do not believe that the proposed disclosures strike the right balance. For instance, we believe this is the case with the approach to methodologies i.e., bottom-up pathway versus top-down pathway (see our response to questions 22 and 27). Still, it is important to note that we support many of the proposed changes to the disclosures including the distinction between a product-level commitment to achieve a reduction in financed emissions (such as through a strategy that possibly relies only on divestments and reallocations) and a commitment to achieve a reduction in investees’ emissions (such as through investment in companies that has adopted and duly executes a convincing transition plan or through active ownership). For more detailed information, see our response to question 24.
4. Next, while the existing versions of the pre-contractual, periodic report, and PAI template annexes capture an abundance of information, we are concerned that the presentation and volume of information could be overwhelming for the investor which could in turn, deter or confuse retail investors. As a result, we propose a series of simplifications including the merging or reformulating of specific questions, the reordering of questions, the addition of external links, and adjustments to the *RTS Table 1*.
5. Irish Funds strongly supports a robust disclosure regime that places the consumer at its centre and believes that any and all proposed amendments should consider the impact on the consumer and consumer trust. We are concerned that the frequency of updates to the disclosure documentation has an impact on consumer trust and confidence. Such degradation in trust and confidence impacts not just sustainable products, but the wider sustainable finance agenda. Irish Funds fully supports the ESAs in their proposal to conduct consumer testing on proposed changes in order to ensure that any further changes made to the disclosure regime ultimately help investors to make more informed investment decisions.
6. Finally, we note that as it stands, there is very little consideration or facilitation for transition funds under SFDR. As there is no question on transition funds in the consultation or in the existing text, we query how the transition strategy is to be accounted for under the amended SFDR. We believe that the concept of transition is crucial and as such, we welcome the Commission’s clarification that a transition plan aimed at mitigating harm to environmental (or social) objectives may not in itself be sufficient to qualify as a sustainable investment. However, we request a confirmation that this permits the inclusion of transition strategies as an Article 9 product, provided the financial market participant can demonstrate that the relevant investments are making an environmental contribution, can meet the DNSH test at the point of acquisition, and where relevant, can demonstrate that the investee company follows good governance practices and provides clear disclosure of its approach.

In closing, we welcome the acknowledgment in recital 13 of the proposed amendments to the SFDR Delegated Regulation that an appropriate transition timeframe must be provided in implementing any proposed changes to SFDR Delegated Regulation in order to *“ensure the smooth functioning of the financial services sector and sustainability disclosures”*. As such, we believe it is important that FMPs are given sufficient time to implement the required amendments. As noted above, we are concerned that constant changes to disclosures undermine consumer confidence in sustainable products and the wider sustainable finance agenda. We recommend that the Regulation applies first in relation to changes affecting pre-contractual and website disclosures and subsequently in relation to changes affecting periodic reporting disclosures. As periodic reporting disclosures are intended to report on the achievement during the reporting period, the gap between implementation dates will be key (e.g., if the Pre-Contractual Disclosures (PCD) reporting obligations begin on 1 January 2025, it is only periodic reports which are published in the calendar year 2026 that must comply with the revised templates).

While the sustainability-related disclosure regime was designed to ensure a harmonised disclosure regime that captures environmental, social, and governance (ESG) considerations in business across Europe, the implementation of the regulation has not been without challenges. The Irish Funds industry has and will continue to put forth its best efforts to align with existing and new requirements despite the challenges.

**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>

We agree with the aim of the newly proposed mandatory social indicators outlined in Annex I, Table I of the consultation paper. However, we question whether now is the right time to introduce additional mandatory social indicators for the reasons outlined below.

PAI coverage across the existing mandatory indicators remains patchy and is likely to continue to be patchy until all the in-scope European Union (EU) investee companies are subject to the obligation to report against the ESRS (once finalised).

We should recognise that as a result of recent Commission draft changes to the ESRS, information on adequate wages, for example, will be subject to companies’ materiality assessments. This would mean that even companies falling under the scope of the Corporate Sustainability Reporting Directive (CSRD) will be able to decide, based on their materiality assessment, whether to disclose the information needed by FMPs to fulfil some of the suggested new PAI disclosure requirements.

Furthermore, those companies which do not fall within the scope of CSRD (including many EU investee companies and non-EU companies) will not be required to report any such information on a periodic basis.  Many of our members are global investors. We are concerned that, if adopted, the new mandatory PAIs will not capture divergences between markets/jurisdictions. Therefore, if introduced on a mandatory basis, we believe there should be additional guidance to assist managers in applying the PAIs to non-EU investee companies or EU investee companies which do not fall within the scope of the CSRD.

FMPs are due to publish entity-level PAI statements for the first time by the end of June 2023. Therefore, we believe it is important to take into account the coverage available within the existing indicators before increasing the number of mandatory indicators is contemplated. We believe that the most pragmatic approach would be to allow the current PAI reporting regime to become established and to address challenges around data availability and quality before introducing new mandatory PAIs.

In its letter to the ESAs dated April 2022, the Commission made clear that part of the ESAs’ mandate in proposing amendments to the SFDR Delegated Regulation was to “streamline and develop the regulatory framework”. Irish Funds believes this should include the review and policy rationale of existing mandatory indicators to ensure they are fit for purpose. We disagree with the default position of increasing the number of mandator PAIs without first reviewing the rationale for the existing PAIs being assessed following the publication of the first PAI statements.

It is the preference of Irish Funds that the mandatory social indicators be delayed until the existing mandatory indicators can be assessed and/or rationalised. If the proposed mandatory social indicators are implemented, we believe they should be clarified (as detailed in response to question 3). With regards to the specific proposed mandatory social indicators in Annex I, Table I, we are concerned with some potential difficulties posed by the implementation as follows:

* Understanding that SFDR is a disclosure regime, in the case of tobacco, we are concerned with whether there would be sufficient data quality to distinguish between “cultivation” and “production”. Also, we would welcome ESAs guidance confirming that those distributing and selling tobacco will not fall within the scope of this indicator.
* Regarding trade unions, trade unionisation practices and requirements vary across different countries. For example, across the European Union, there are vastly divergent approaches, legislation, and culture surrounding unionisation. As a result, we are concerned there will be data challenges internationally as the data availability will come down to voluntary reporting made by the investee company which we understand is likely to be limited in the case of non-EU investee companies. The data availability is determined by what the investee company is both capable and willing to provide.

While our members have identified some MSCI proxies which could be used for these data points, nothing is available that exactly meets the requirements at this time. The biggest challenge with these data points is that they are EU-centric in nature.

* Regarding “adequate wages”, we believe it is likely to be challenging to find a suitable standard or benchmark for “adequate wages” in many jurisdictions that can be used by FMPs to evaluate undertakings worldwide in a meaningful way.
* Additionally, we are concerned with the ambiguity of the terms used to define the measurement of these PAIs. If implemented, there must be greater clarity on terms such as “adequate” which, as a concept is vague and ambiguous, leaving room for fragmentation and lack of comparability amongst FMPs. For example, some could interpret "adequate” to be the minimum wage whereas others could interpret “adequate” to be a living wage or a standard wage. The lack of definition of the term and clarity will make calculating the share of employees earning less than an “adequate” wage extremely complicated, particularly, as index providers do not yet have the relevant datasets.
* Finally, while Irish Funds has identified some MSCI proxies which could be used for the above data points, we understand that there is currently nothing available that exactly meets the requirements necessary to report against the proposed additional mandatory PAI indicators. We are conscious of efforts by certain investee companies to build reporting frameworks to provide PAI reporting and are concerned that the addition of further mandatory indicators at such an early stage of PAI reporting may erode buy-in to PAI reporting, especially among non-EU investee companies who are currently working towards voluntary disclosures.

<ESMA\_QUESTION\_SFDR\_1>

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

<ESMA\_QUESTION\_SFDR\_2>

It is the preference of Irish Funds that there be no mandatory social indicators introduced at this time. We believe if the suggested mandatory social indicators are made opt-in, there would be a sufficient number of FMPs that would adopt them.

<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 agree with the newly proposed opt-in social indicators in Annex I, Table III. With the demand for ESG products increasing, and with the absence of an official social taxonomy, having additional opt-in social indicators may be valuable for an FMP that would like to indicate social considerations to the investor base, particularly those that can access adequate data to report such information. However, we would caution against the opt-in social indicators becoming mandatory indicators without further consultation with the industry.

As with question 1 above, the newly proposed opt-in social indicators in Annex I, Table III must be both clearly defined and clarified. Regarding the use of the term “excessive” (i.e., *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),* we are concerned the term “excessive” is vague and unclear. The ambiguity of the term would permit different interpretations, creating opportunities for abuse depending on the wording. The application of “excessive use” implies there is a “sufficient” level that would vary across industries and regions, making it challenging to implement a single threshold approach. This is particularly a concern when it comes to the “excessive use of temporary contract employees” in investee companies given that this indicator may prove problematic for investee companies with seasonal employment needs and demands.

Similar to the concern with the term “excessive”, the use of “lack of” is non-specific and unclear, creating the risk of diverse interpretations and openings for greenwashing.

<ESMA\_QUESTION\_SFDR\_3>

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

<ESMA\_QUESTION\_SFDR\_4>

Given the challenges in implementing environmental indicators, we are concerned that adding additional new social indicators may exacerbate those challenges (i.e., adequate data coverage).

We believe the focus should be on providing greater clarity on existing mandatory indicators and the successful bedding down of the existing entity-level PAI reporting framework with the existing PAI indicators.

<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 welcome the proposal to ensure consistency with Article 18 of the Taxonomy Regulation by replacing United Nations (UN) Global Compact principles within PAI indicators 10 (Violations of UN Global Compact principles and Organisation for Economic Cooperation and Development [OECD] Guidelines for Multinational Enterprises) and 11 (Lack of processes and compliance mechanisms to monitor compliance with UN Global Compact principles and OECD Guidelines for Multinational Enterprises) in Table 1 of Annex I with the UN Guiding Principles on Business and Human Rights, including the principles and rights set out in the eight fundamental conventions identified in the Declaration of the International Labour Organisation on Fundamental Principles and Rights at Work and the International Bill of Human Rights.

Such consistency and convergence across the sustainable finance legislation will simplify compliance and facilitate regulatory clarity for FMPs and consumers alike.

<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>

As outlined above, we believe the focus should not be on adding more indicators but on the significance, relevance, and simplification of the existing indicators. We believe it would make more sense to refine the existing indicators which are relevant to the sector.

<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>

Irish Funds expects significant practical challenges to arise from adjusting the definition of PAI indicator 22 of Table 1 to align it with the EU Taxonomy criteria applicable to the DNSH of the climate change mitigation objective. We are concerned that currently it is not possible to quantify PAI indicators, and guidance on accepted approximations would be warranted. Furthermore, certain real estate assets are currently not covered by the accepted green building standards, making standardisation of data difficult.

Additionally, we see value in revisiting and/or partially removing the proposed indicators in Table 2 (as detailed below) applicable to an investment in real estate assets, as they are often not available across any data vendor and thus difficult to gather, mine, and reaggregate.

*(20) Waste production in operations*: share of real estate assets not equipped with facilities for waste sorting and not covered by a waste recovery or recycling contract).

*(21) Raw materials consumption for new construction and major renovations*: share of raw building materials (excluding recovered, recycled, and bio-sourced) compared to the total weight of building materials used in new construction and major renovations.

*(22) Land artificialisation*: share of non-vegetated surface area (surfaces that have not been vegetated in the ground, as well as on roofs, terraces, and walls) compared to the total surface area of the plots of all assets.

<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 foresee a significant challenge based on the existing definition of “current value of investment” which only defines the “investment” element, leaving “current value” undefined.  As a result, we are concerned with the use of a market-based value as the “current value”.

However, if the market-based value remains, we suggest using the market value as of the date of quarterly PAI calculations (or other dates as applicable). That said, we note that the use of the market-based value would be in conflict with the clarification in the November 2022 ESAs Q&A[[6]](#footnote-6), which advocates that an investee company should use a price as of the end of the fiscal year to calculate the current value of investment to align with the “enterprise value”, which is a fiscal year-end value.

This approach by the ESAs comes with a challenge in that companies have a range of fiscal year-end dates throughout the calendar year. As a result, the approach suggested by ESAs will result in prices from different companies being calculated at different points in time which reduces comparability between FMPs. Such variation would result in inaccurate data and a lack of clarity.

It is important to highlight that the term “current value of investments” is used in many other calculations which do not involve using “enterprise value” such as “‘GHG intensity of investee companies”. In those cases, it is not reasonable to use the share price as of the fiscal end to calculate the value. Instead, we recommend the use of “market value” or fair value as of the calculation because it is how the investment is shown in the relevant balance sheets according to accounting rules. Furthermore, it is much more practical to use market value as the current value.

In summary, we suggest the simplification of the calculation of the PAI indicators. If there is no simplification or clarification, inaccuracies (arising from exposure to potentially different exchange rate applications, inflating/deflating ownership ratios) will arise.

<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 believe it is useful to include calculation formulas for the individual indicators. Without such formulas, it is plausible there will be vastly different interpretations of the indicators, thus reducing the comparability between FMPs. However, where formulas might materially change the way in which FMPs currently calculate the PAIs of their investments, there must be an appropriate transitional period to allow adequate time to implement required systems changes, sourcing of data, etc.

There are some specific areas regarding the indicators that Irish Funds is concerned with, as outlined below.

* First, regarding the indicator “exposure to companies active in the coal sector”, we believe that the term “coal sector” is not clearly or adequately defined. Our preference is to limit the scope of this PAI to thermal coal given the key role that metallurgical coal will play in the energy transition. Furthermore, Irish Funds would welcome further clarity on what is meant by “active in the coal sector”, again to ensure comparability of information published by FMPs.
* PAIs are to be understood as the impacts of investment decisions that result in negative effects on sustainability factors. However, we question whether the hazardous waste and radioactive waste ratio indicator measures the adverse impact in all circumstances. This indicator assumes that the generation of hazardous and radioactive waste automatically leads to adverse impacts when the indicator should focus on whether the relevant companies producing this waste are disposing of them appropriately without causing environmental harm.
* For the "amount of accumulated earnings in non-cooperative tax jurisdictions" indicator, the EU revised list of non-cooperative jurisdictions for tax purposes is a dynamic list with changing jurisdictions. Therefore, it would be helpful if the proposed revised SFDR Delegated Regulation specified at what time point the list should be used in the calculation of this indicator (for example as of 31 December of the relevant reference period).
* Regarding “board gender diversity”, we are surprised that the formula references a number of “male board members in investee company” as the numerator when the related indicator has been defined as the “ratio of female to male management and supervisory board members investee companies, expressed as a percentage of all board members”. It is our understanding that board gender diversity relates to the ratio of the number of female directors to board size and therefore, we urge the ESAs to be consistent with the industry understanding of this indicator. Also, the inconsistency could further inconsistency in data, where ESG data providers already supply different ratio indicators despite the comparable source number of males and females.
* Regarding “sovereign Greenhouse Gas (GHG) intensity”, reference to the country’s Gross Domestic Product (GDP) should be revised to make clear that this should be the “Purchasing Power Parity (PPP) adjusted GDP” as recommended by Partnership for Carbon Accounting Financials (PCAF). The PPP adjustment of GDP allows for comparing the real sizes of the economies and the output by subtracting the exchange rate effect and mitigates the negative effect for countries where production and emissions are concentrated.

We believe it is also crucial for ESAs to clarify how changes to how certain indicators that have been calculated should be treated. For example, as noted above, the board gender diversity indicator has been defined as the ratio of female to male management and supervisory board members, expressed as a percentage of all board members. The formula provided in the consultation has the number of male board members as the numerator. If the ESAs proceed with the formula, this will mean a change to how the indicator was previously calculated.

Additionally, we request that when the ESAs specify formulae in delegated acts, the calculations should be consistent with how the indicator is described in Table 1. We note inconsistencies such as with PAI 20 (Investee countries subject to social violations) which is described in Table 1 as the “number of investee countries”, but the formula is based on the “value of investment in investee country”. Additionally, the Table 1 description states “subject to social violations” whereas the formula states “under investigation”.

It is our preference that FMPs are not required to restate the prior year’s values but just provide an explanation within the explanation column as part of explaining the movement.

Finally, we acknowledge that any proposal to amend the obligation imposed on FMPs under Article 4 of the SFDR to report on entity-level consideration of PAI is beyond the scope of this consultation as the same would require changes to the SFDR itself. However, based on feedback received from some Irish Funds members, there is a feeling that disclosure of PAIs at an entity level is useful. Consumers invest in products, not entities. As such, this is where the disclosure of relevant PAIs will have the most impact and will be more decision-useful.

<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>

Irish Funds suggests the following clarifications and technical changes to the current list of indicators:

* For the “energy consumption intensity per high impact climate sector” indicator, obtaining the information needed for the nominator and denominator (energy consumption of investee company I belonging to NACE (𝛼) (in GWh), investee company’s €M revenue I belonging to NACE(𝛼)) can be difficult, especially for conglomerates operating in multiple NACE sectors. With such data challenges, Irish Funds calls for clarity on data requirements for identifying the energy consumption and revenue from individual NACE sectors, as well as flexibility until data becomes more available;
* With reference to the “gender pay gap” indicator, the current formula floors the gender pay gap at 0. However, for companies where females are paid higher wages than their male counterparts, there could be value in including negative values;
* For the “amount of accumulated earnings in non-cooperative tax jurisdictions” indicator, the EU revised list of non-cooperative jurisdictions for tax purposes is a dynamic list with changing jurisdictions. Therefore, it should be specified at what time point the list should be used in the calculation.

Having considered the calculation of the adverse impact for the other existing indicators in Annex I, we suggest the following adjustments and/or clarifications:

* There should be a differentiation between the size and the share of the investments. For some indicators, the measurement is based on the share of investments in certain activities with adverse impacts. To ensure clear and transparent calculations, there should be a differentiation between the share and size of investments. A smaller asset manager versus a large asset manager has different impacts;
* Regarding exposure to companies “active in the fossil fuel sector”, we request clarification as to whether or not natural gas is considered part of fossil fuel exposure;
* Finally, to facilitate the transition to a socially and economically sustainable economy, we believe the number of required PAIs should not be increased and should remain focused on key areas of concern. This will not only increase efficiency and reduce the cost for investors as well as FMPs but will also protect against information overload. Additionally, due to data limitations, some far-reaching indicators would be difficult to disclose and report. As for the optional indicator list, it is important the indicators are indicative of relevant concerns; this will allow FMPs to, if they choose, indicate interactions with social and economic factors that could impact investor choice.

<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>

Irish Funds are supportive of public disclosures for retail investors. However, at the current stage of SFDR implementation, Irish Funds does not consider it appropriate to require quantitative disclosure of the share of information obtained directly from investee companies.

Instead, we support the approach outlined in the ESAs' November 2022 Q&A[[7]](#footnote-7) i.e., that "it would be a good practice”, but not obligatory, for FMPs to include, where relevant as part of the disclosures required by Article 7(1)(e) of the SFDR Delegated Regulation and for each PAI considered by the financial market participant:

* The proportion of investments for which the FMP has relied on data obtained directly from investee companies, in order to calculate the corresponding indicator;
* The proportion of investments for which the FMP has relied on data obtained by carrying out additional research, cooperating with third-party data providers or external experts, or making reasonable assumptions, in order to calculate the corresponding indicator;
* These proportions could be expressed as a percentage of the current value of the investments included in the calculation of the indicator.

However, if the proposed introduction of a requirement to disclose the share of information obtained directly from investee companies is to be pursued, we recommend that the requirement take account of the various sources of such information including:

* Information obtained directly from investee companies;
* Third-party data providers which have obtained that information directly from investee companies or from disclosures made by these companies;
* Information obtained from publicly available sources to which investee companies have directly contributed e.g., the proposed European Single Access Point.

In this regard, we ask the ESAs to clarify the meaning of “information directly from investee companies” and whether this would include publicly available data reported by the investee company which is provided by a data provider to the FMP rather than the FMP sourcing directly from the issuer (which we would presume to be the case).

Finally, we do not believe this should be considered until the list of indicators and their calculation methods are finalised.

<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>

Irish Funds is of the view that the approach taken in defining ‘all investments’ can lead to an underestimation of PAIs.

Instead, we propose that the calculation only includes the eligible assets, i.e., such as corporates, sovereigns, and supranational, or real estate assets, rather than all investments (Eligible Assets). Additionally, the “precautionary principle” (erring on the side of the planet when there is a lack of data) should be upheld when calculating PAIs by excluding investments with missing data from the denominator. This ensures a more accurate representation of PAIs (as the values from companies reporting the adverse impacts are magnified) and mitigates the risk of distorted values. Not focusing on the investments which are relevant can understate coverage and understates the value of the PAI. Furthermore, this does not demonstrate an accurate picture of an investor’s investments in investee companies, real estate assets, or sovereigns/supranational as applicable.

To estimate the missing data in the absence of reported information, the estimate assumptions may either bring the application of industry sector averages or apply 0 values. This means that returns can be significantly biased for small/mini/micro corporations or results are diluted. A further distinction is required between “eligible” assets[[8]](#footnote-8) and “covered” assets.
Further, it is unclear how sovereign metrics would be calculated if the current value of investments included all the investments in the fund. We are concerned the results would be skewed and therefore require further clarification.

Overall, we emphasize the need for consistency in the market with regard to calculations.

<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 agree with the ESAs' proposal to only require the inclusion of information on investee companies' value chains in the PAI calculations where these are reported by underlying investee companies.

This approach is appropriate as it takes account of the phased implementation of value chain reporting under CSRD, which provides that, for the first three years following Member States' transposition of CSRD, investee companies may be permitted to explain where not all necessary information regarding the value chain is available and the efforts made to obtain such information along with the reasons why that information could not be obtained and the plans to obtain such information in the future. Limiting the requirement to disclose the PAIs of investee companies' value chains to where the investee company reports such PAIs ensures that FMPs are not subject to a requirement to disclose PAIs without a corresponding requirement on investee companies subject to CSRD to report such PAIs.

In addition, the Commission's version of the ESRS, published for consultation on 9 June 2023[[9]](#footnote-9), amends the draft ESRS to make all standards, disclosure requirements, and data points within each standard subject to a materiality assessment by investee companies with the exception of the disclosure requirements specified in the General disclosure standard. We note this amendment was introduced to reduce the burden on investee companies and ensure the proportionate application of the ESRS and recommend that FMPs are not subject to more onerous reporting rules than those applicable to underlying investee companies.

<ESMA\_QUESTION\_SFDR\_13>

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

<ESMA\_QUESTION\_SFDR\_14>

We agree that certain derivatives should be included in the calculation of PAIs carried out under Article 4 of SFDR (i.e., those which provide a net long exposure to investee companies, sovereigns, and real estate assets and which result in a physical investment in the underlying security by the counterparty). We also agree with the proposal to clarify that derivatives on other assets (i.e., other than corporates, sovereigns, and real estate assets), such as currencies, indices, and interest rates, which are not included as these derivatives could not result in a PAI because they do not result in a physical investment in one of the specified asset classes.

Derivative exposure calculations are different from those which apply for long positions and as a result, the look-through approach should, subject to the exceptions identified above, be applied, and the asset allocation based on the underlying securities.

We agree with the proposed use of the conversion methodologies used under Undertakings for the Collective Investment in Transferable Securities (UCITS) and Alternative Investment Fund Managers Directive (AIFMD) frameworks for including derivatives within the PAI calculations.

In theory, utilising the conversion method from the UCITS or AIFMD calculation would be acceptable for derivative inclusion in the PAIs. However, we recognise the challenge remains that there are different interpretations of UCITS and AIFMD leverage calculations between NCAs; this will require some regulatory clarification on its interpretation.

The following alternatives could also be considered as follows:

* An easy implementation would be the “simple leverage” from IOSCO’s Recommendations on Leverage (from step 1)[[10]](#footnote-10). However, this may over- inflate the numbers and as a result, may require additional disclosures on the use and impact of derivatives on calculations;
* Usage of the delta approach which reflects the economic exposure that the derivative provides to the underlying asset(s) / companies. The delta of the derivative is the equivalent cash amount that would be invested in companies’ debt or equities that would lead to a similar price signal on the referenced asset.

The details of the methodological aspects would need to be discussed and determined in subsequent industry consultations and potentially in the context of the work of the new ad-hoc expert group on derivatives that we expect to be launched by the PSF in the near future.

<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>

In respect of sustainable investments, and as noted by the Commission in its April 2023 Q&A[[11]](#footnote-11), SFDR does not currently prescribe any specific methodology to assess investments' compliance with the definition of sustainable investments under SFDR. We consider that this position should apply equally to direct and indirect investments e.g., through the use of derivatives.

However, we acknowledge the challenges in assessing derivatives against the SFDR definition of sustainable investments. To address these challenges, we recommend that a best practice approach for the assessment of derivatives as sustainable investments be adopted which aligns with the approach for calculating the PAIs of derivatives (i.e., those derivatives which provide a net long exposure to an underlying asset and which result in a physical investment in the underlying security by the counterparty or any other intermediary in the investment chain may be assessed for compliance with the SFDR definition as sustainable investments). This best practice approach could be included in appropriate Level 3 guidance from the ESAs. However, we do not recommend mandating any one approach to the assessment of derivatives as sustainable investments in circumstances where the definition of sustainable investments is not further prescribed as this would likely result in a preference for direct investments and undue prejudice against indirect derivative investments. The challenges experienced in establishing a methodology for assessing the sustainability of derivative investments are themselves a strong indicator that it would be premature to prescriptively mandate any one form of methodology for this asset class.

Furthermore, the netting approach is reflective of the use of shorting in the industry to express negative sentiment. The calculation of the denominator would always include all investments including derivatives and the numerator would be a on net basis. This will materially misrepresent the figures and hence we would expect more guidelines for standard practice across the industry. Also, netting on a name-by-name basis requires further guidelines on how it is applied to related Group entities.

While we acknowledge the efforts to mitigate greenwashing by limiting the inclusion of derivatives in the assessment of sustainable investments, we also note that, unlike the Taxonomy, SFDR does not prescribe the methodology for assessing sustainable investments.  And as such, FMPs should retain the discretion to establish sustainable investment methodologies, including methodologies for the assessment of derivatives as sustainable investments.

<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>

This section is intentionally blank.

<ESMA\_QUESTION\_SFDR\_16>

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

<ESMA\_QUESTION\_SFDR\_17>

Appreciating the ESAs’ position on the assessment of the DNSH framework under DNSH, we still believe it is important to highlight that DNSH and ‘sustainable investment’ go hand in hand for investors who are seeking to compare products. Investors often look to compare the percentage of sustainable investment in any given fund. Therefore, addressing DNSH in isolation does not make sense as it does not enhance comparability. This is especially poignant considering the Commission has allowed for a flexible definition of sustainable investment (per the Commission Q&A[[12]](#footnote-12), April 2023). Furthermore, there are other elements within the definition of sustainable investments (e.g., contribution to an environmental and/or social objective and good governance).

<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>

We do not support the proposal for FMPs to disclose quantitative thresholds across the mandatory indicators as part of DNSH tests. Irish Funds has taken this position because not all assessments are of a quantitative nature.

For the purposes of the DNSH test, some PAIs are evaluated qualitatively at the security level. For instance, PAIs that are expressed as a “share of investments” calculation are generally measured as “yes/no” at the security level, and for some indicators with low data availability, proxies may be used, which also may be measured as “yes/no” at the security level.

While we understand the reasoning behind developing and disclosing quantitative evidence-based thresholds, we believe the disclosure of such thresholds, which will vary both across FMPs and individual PAI indicators, depending on the sector and investment type, is unlikely to improve transparency or increase the comparability of disclosures for investors.

We are concerned that with the introduction of quantitative thresholds disclosure requirements for PAIs would also depart, potentially significantly, from the current standard which allows managers to develop individualised DNSH compliance tests provided such tests satisfy the requirement to “take into account” the PAI indicators. Requiring quantitative thresholds for PAI indicators could limit innovation in this space and prematurely funnel FMPs into one form of DNSH compliance thereby reducing the positive flexibility afforded by the definition of 'sustainable investment' under SFDR. For example, a requirement to set and disclose quantitative thresholds for PAI indicators is likely to limit flexibility with regard to the use of proxies for PAI indicators for which data is limited.

**Suggested alternative proposal:**

In keeping with the disclosure framework, and to promote comparability, if the ESAs proceed with a threshold requirement, we suggest an alternative ‘comply or explain’ disclosure framework in relation to the DNSH tests. In this type of disclosure framework, FMPs would explain if they have not set quantitative thresholds against a particular mandatory PAI indicator, detailing their reasoning for doing so and detailing how that PAI is nevertheless taken into account. If the FMP does not set a quantitative threshold against a particular indicator, the explanation would include how the FMP ensures that the adverse impact does not qualify as significant harm. When a quantitative threshold is set, FMPs should explain the basis of the threshold used. This qualitative data will enhance the disclosures and supplement where there is no quantitative threshold data. We believe this will ensure a more robust and comprehensive disclosure regime.

<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>

In light of the Commission Q&A, Irish Funds supports the introduction of an optional “safe harbour” for environmental DNSH for taxonomy-aligned activities under which FMPs could consider the DNSH test to be satisfied for those environmental PAI indicators complying with the technical screening criteria of the EU taxonomy. This should, depending on the nature of the instrument involved, simplify the assurance process which must be followed by a financial market participant when determining whether or not an investment satisfies the DNSH test set down in Article 2(17) of the SFDR.

We support the approach under which the use of such safe harbour will remain optional for FMPs because such optionality provides individual FMPs with flexibility on how they determine that an investment satisfies the DNSH test set down in Article 2(17) of the SFDR.

We welcome, in particular, the guidance[[13]](#footnote-13) which has been published by the European Commission on 12 June 2023 (subsequent to the publication of the ESA consultation paper) in which the European Commission confirms that *“the social elements of the “do no significant harm” principle are considered to be adhered to at entity level for an undertaking that discloses activities as “environmentally sustainable” under the EU Taxonomy”* and that “*such investments in Taxonomy-aligned “environmentally sustainable” economic activities can be automatically qualified as “sustainable investments” in the context of product level disclosure requirements under the SFDR”.* This guidance will mean that FMPs that invest in “use of proceeds” instruments that fund economic activities which are Taxonomy-aligned are not required to perform a separate DNSH (or good governance) test under the SFDR once they are satisfied that the economic activities funded by such “use of proceeds” instruments are taxonomy-aligned.

Irish Funds suggests that the clarification provided by the European Commission is clearly reflected in the finalised draft of regulatory technical standards and related annexes presented by the ESAs to the European Commission for its consideration.

<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 agree with the longer-term view of the ESAs that if two parallel concepts of sustainability are retained, the Taxonomy Technical Screening Criteria (TSCs) should form the basis of DNSH assessments.

Supporting interoperability and long-term conversion on a common set of fundamental concepts, in alignment with the ESAs’ comments regarding the use of the Taxonomy TSCs as PAI DNSH thresholds, we are concerned with the “pass or fail” thresholds for DNSH. We believe there is a possibility that these thresholds would potentially lead to tests inconsistent with the environmental sustainability criteria set by the EU Taxonomy. Furthermore, using the Taxonomy TSCs as PAI DNSH thresholds as equity-level “pass or fail” thresholds for DNSH runs the risk that assets with activities that are not Taxonomy-aligned (e.g., transitioning assets with credible plans in place to align with net zero) will fail the PAI DNSH test and are therefore not suitable for Art 8 and 9 funds.

However, in the short-term, Irish Funds proposes that it should still be possible for FMPs to have the ability to exercise discretion as to the methodologies used to assess DNSH.

<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>

At this time, we do not believe there are any other viable options for the SFDR Delegated Regulations DNSH disclosures. Due to the evolving nature of regulation in this space, there have been ongoing implementation challenges and difficulty in obtaining data.

<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>

We believe the proposed disclosure requirements could provide more transparency for investors. We fully support the requirement for FMPs to provide more transparency on the decarbonization targets of their financial products. However, we do not believe the proposed disclosures are feasible and proportional for FMPs and thus, the right balance has not been struck. We believe that the proposed disclosures do not host the right balance for the following reasons:

* They are not targeting a full universe of emissions (i.e., only targets a measure of financed GHG emissions);
* The approach to methodologies in relation to target-setting (i.e., bottom-up pathway versus top-down pathway);
* The concept of alignment is still developing.

Please also see question 27 for further details.

<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 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 which tracks a Paris-aligned Benchmarks (PAB) or Climate Transition Benchmarks (CTB) benchmark on the basis that it allows the investor control over the level of information accessed. There is a risk of putting too much information directly in the annexes, making them unwieldy for the investor to read and which could dissuade the investor from the product.

<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>

We welcome the removal of ambiguity and the enhanced clarity of the information to the investor around the product-level decarbonisation target commitments. Nonetheless, we are concerned the proposal could increase complexity with the repetition of information.

Still, we believe these are actionable by the FMPs. However, it is important to highlight that FMPs would like to retain the flexibility to choose to include this information in the section of the relevant annex dealing with “investment strategy or the investment product (where binding commitments are included)” so long as appropriately cross-referenced.

<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>

While Irish Funds generally agree that it is useful to have a disclosure on the degree of Paris-Alignment of the Article 9 product’s target(s), we question the rationale for including the question “Does the greenhouse gas emission reduction target aim to limit global warming to 1.5 C” for the following reasosn:

* The ESAs have indicated in the notes written in red which accompany the lead question of “Does this product have a greenhouse gas emission reduction target”, that an Article 9(3) fund which tracks a PAB or CTB should not answer this sub-question and should simply provide a hyperlink to the information disclosed by the benchmark administrator. Therefore, we are of the view that this question is not relevant to Article 9(3) PAB/CTB tracking funds;
* In the case of Article 9(3) actively managed funds (acknowledged by the Commission in its guidance[[14]](#footnote-14) in April 2023 as permissible), such funds are already required to provide the following information in response to the earlier question of “What is the sustainable investment objective of this product”:

*“Where no EU Climate Transition Benchmark or EU Paris-Aligned Benchmark as qualified in accordance with Regulation (EU) 2016/1011 is available, describe that fact, how the continued effort of attaining the objective of reducing carbon emissions is ensured in view of achieving the objectives of the Paris Agreement and the extent to which the financial product complies with the methodological requirements set out in Commission Delegated Regulation (EU) 2020/1818”.*

It is our view that the additional question of “Does the greenhouse gas emission reduction target aim to limit global warming to 1.5 C” is not helpful and will result in a duplication of information which is likely to confuse investors accordingly. This additional question should not be included in the pre-contractual annex.

* In the case of Article 9(1) funds or Article 9(2) funds that disclose a greenhouse gas emission reduction target, we think it would be helpful that such funds be asked if they have assessed whether such target aims to limit global warming to 1.5 degrees Celsius, and that (i) if such an assessment has not been carried out, that this be explained to investors or (ii),  where the relevant target set by the fund is not aligned with the goals of the PAB/CTB to limit global warming to 1.5 degrees Celsius, this is made clear to investors in order to avoid any confusion with other Article 9 products which aim to limit global warming to 1.5 degrees Celsius.

<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 agree with the proposed approach to require the target be calculated on the basis of all investments in the financial product. We support aligning how the target is calculated with other elements of the technical standards are calculated (e.g., principal adverse impact indicators, sustainability indicators, the proportion of investments in sustainable investments, etc.). However, FMPs should be afforded flexibility to provide further details regarding these targets from an asset class level perspective provided that these details do not undermine the overall target.

<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>

For consistency and harmony, and to discourage divergent approaches, a single consistent standard would be welcomed. Requiring FMPs to use PCAF’s standard will lead to enhanced transparency and comparability. As such, we agree with the proposed approach to require reduction targets to be set and disclosed based on the GHG accounting and reporting standard referenced in the Delegated Acts (DA) of the CSRD that is currently under consultation. However, we do not believe that only targets, as a measure of financed GHG emissions, should be disclosed.

We fully support the requirement for FMPs to provide more transparency on the decarbonisation targets of their financial products. Yet, as a disclosure framework, we do not agree that the ESAs should be mandating a specific approach to climate target-setting given the recognition that climate targets for investments may rely on several approaches. As such, we agree with the proposed approach to require reduction targets to be set and disclosed based on the GHG accounting and reporting standard referenced in the DA of the CSRD that is currently under consultation.

For example, a firm may take a ‘bottom-up’ approach to understand each holding within their portfolios, and as such, their NZAMi portfolio targets are focused on the robust alignment of each investee company with a 1.5C pathway and strategy appropriate to its industry and regions of operation. The concepts of alignment and the pathways themselves are still evolving, but the firm’s methodology and assessments are rooted in the company-level criteria of the [Paris Aligned Investment Initiative Net Zero Investment Framework](https://www.iigcc.org/resource/net-zero-investment-framework-implementation-guide/). As such, while the firm’s research process requires them to monitor emissions performance, they would not consider the setting of a simple top-down portfolio or firmwide emissions pathway as a critical tool to direct their approach.

Therefore, we urge the ESAs not to be too prescriptive in relation to how decarbonisation targets are set recognising the evolving nature of these targets.

<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 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 delegated acts published by the European Commission for consultation on 9 June 2023[[15]](#footnote-15).

We agree that investee companies should focus on emissions reduction primarily as a means of achieving portfolio decarbonisation targets, with carbon credits used for residual emissions only. On this basis, decarbonisation and avoided emissions disclosures should generally be treated separately.

<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>

We do not feel it is useful to ask for disclosures regarding the consistency between the product targets, the FMPs entity-level targets, and the transition plan for climate change mitigation as individual products managed by FMP are designed to meet specific investor demand. Therefore, the creation of a link between the targets of an individual fund and the targets or transition plan of the FMP which manages the relevant fund may generate confusion on the part of the individual investor. Such confusion may result in investors incorrectly assessing the sustainability ambitions of a particular fund in light of the information provided by the FMP on its wider entity-level targets/transition plan. Given that products must be managed in accordance with their stated investment policy and investment strategy, the disclosure of entity-level information alongside product-level information may result in unnecessary confusion on the part of the investor as to the sustainability credentials of the specific product in which they are considering investing.

Furthermore, we question the value-add of these disclosures given that targets set at the entity level will cover not just financed emissions but also emissions from the entity’s operations, which will be different from product-level targets which, by nature, will all be related to financed emissions.

<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>

We support the proposed amendments relating to the ‘dashboard’ to incorporate all the required information to assess whether a product meets investors’ “sustainability preferences” under Markets in Financial Instruments Directive II (MiFID II). We agree that the dashboard can be effective in attracting the attention of the reader to the most vital information and alleviating issues of information overload*.*The proposed dashboard and simplification appear to be fundamentally sensible. This is especially true with the proposed changes, as the most relevant information on sustainability preferences will be readily available and clear from the initial read. However, Irish Funds proposes the following amendments:

* We believe the 250 characters limit (including spaces) for the description of environmental and/or social features, including the indication of the proportion of the financial product’s assets that promote such features, is too short. The qualitative explanation is crucial in clarifying the detailed preferences. If the description is to be included, there should be scope for it to be significantly longer.
* However, even with narrative text, we feel the environmental and/or social characteristics percentages may be lost in the text (irrespective of whether the narrative word count remains at 250 characters or not). Therefore, we would like to request that a percentage “disc” icon is added to the right-hand side so that FMPs could update to highlight the environmental and/or social characteristics percentages ensuring that this information is abundantly clear to the investor.
* We are also concerned with the presentation of icons being dependent on conditions. In practice, the proposed icons would require IT-supported document creation. Also, it must be noted that the icon for greenhouse gas emissions reduction is misleading because the graphic only refers to CO2. We believe this should be changed to ‘CO2 equivalent’ or ‘CO2 eq’.
* The grey factory icon on the dashboard has been used to indicate the product does not consider PAI, however, we believe this icon should have a line through it similar to the grey “book” icon used for Minimum EU Taxonomy Investments” within the dashboard - see below for comparative example. As it currently is, if printed in black and white, the green icon would be indistinguishable from the grey.
* We would question the use of colours in the dashboard as the use of colours (here grey and various shades of green) contradicts the usual approach of the legislator from our point of view. According to other legislation such as Art. 6(5) of Regulation (EU) 1286/2014 on Packaged retail and insurance-based investment products (PRIIPs), the use of colours is only permitted if they do not impair the comprehensibility of the information in case a document is printed or photocopied in black and white. Moreover, even with a colour printout, it is not guaranteed that the different shades of green are still easily recognizable as different computers may interpret colours approximately to the code supplied. Additionally, the use of colours could exclude any potential investors who cannot recognize the shades of green due to red-green colour blindness. It should also be noted that sustainable investments do not necessarily pursue environmental goals and therefore, the use of green tones could result in investors being misled.
* Furthermore, it must be noted that the colour grey would seem to suggest “dark” or “pollution.” Therefore, the dashboards or templates should be kept “neutral in colour” in a sensible way.

As part of the consumer testing, we urge the ESAs to test whether images and/or colours have an impact on consumers’ investment decision-making process. As the inclusion of images and/or colours should be based on evidence that it facilitates consumer understanding.

<ESMA\_QUESTION\_SFDR\_30>

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

<ESMA\_QUESTION\_SFDR\_31>

The templates capture an abundance of information however, the presentation and the volume of information could be overwhelming for the investor and thus, counterproductive for retail investors. Additionally, we note from the  Financial Conduct Authority’s (FCA) 2017 report[[16]](#footnote-16) that only 3%of investors read pre-contractual documentation.

We suggest simplification of information to keep the message to end-investors simple through the following changes:

* *Repetition of questions:* some questions are repeated and could be merged. This would shorten the templates and make them more readable, especially for retail investors. For example: “*How do sustainable investments not cause significant harm to any environmental or social investment objective?*” in annex III and the sub-question “*How have the indicators for adverse impacts on sustainability factors have been taken into account?*” would seem to be an unnecessary duplication of information. Please also see question 32 for further suggestions.
* *Ordering of the questions:* our preference would be to reduce the annexes down to the dashboard only and the rest of the content of the annexes be disclosed in the website disclosures only. This would make the annexes much easier to read and review as they would be shorter and simpler. However, recognizing this would require a significant change to the SFDR itself, and that the ESAs’ overall focus is on adjusting (not overhauling the templates), as an alternative, we suggest that the questions relating to investment strategy be placed further to the top of the templates to be closer to sustainability indicators given the binding elements of the strategy and sustainability indicators are intrinsically linked. Additionally, we believe it would be useful to provide a numbered index for the questions so that they can be easily referenced.
* *Reformulating questions*: for some of the questions, the wording is confusing and difficult to respond to within the requirements. Thus, we suggest a reformulating of such questions. For example, on the question “*How do you measure how each of the environmental or social characteristics are met?”* the phrasing is confusing and should instead read “*How does this product measure how each of the environmental or social characteristics are met?*”. Additionally, the question asking, *“How is it assessed whether the companies which are invested in, follow good governance practices, such as tax compliance or employee matters?”* should be reformulated as this will not, as acknowledged by the European Commission in its guidance, be applicable for bonds (i.e., bonds are not always issued by companies, and are not an investment in companies). Finally, the question *“How did the indicators measuring each of the environmental or social characteristics perform?”* in the periodic reports annex could be confusing as “indicators” are not referred to in the equivalent PCD question*.*
* *External links*: It would be valuable to enable the appropriate use of external links throughout the pre-contractual disclosures to avoid an obligation to update pre-contractual disclosures when changes are made to (for example, to a component of a common exclusion policy implemented by the FMP changes). The ability to include cross-references to external information is currently limited in light of the ESMA Supervisory Briefing from May 2022[[17]](#footnote-17).
* *Investment strategy:* Only the ESG strategy should be described as they are the strategy relevant to the disclosures. While some market participants are also describing the general investment strategy, other FMPs are currently only disclosing the ESG-specific elements of their investment strategy. If it is the case that the ESAs want both the non-ESG and the ESG elements of the investment strategy to be disclosed in this section of the pre-contractual annex (as well as being disclosed in the fund supplement to which the pre-contractual annex is attached), we suggest that guidance is issued by the ESAs to outline their expectations in this regard to ensure a consistency of approach is adopted across all FMPs.
* *Duplication:* We would like to avoid the duplicates we currently have between the Key Investor Documentation (KID) and the Pre-Contractual Template (PCT) on the investment policy, to only include the ESG elements in the PCT and all the rest in the KID and main body of the relevant fund supplement. Please also see responses to questions 24 and 39 where we support moving to information being cross-referenced and aligned with approach taken for PRIIPs etc.
* *Consistency on completion of annexes:* We suggest greater convergence in relation to how templates are completed. For example, some national competent authorities (NCAs) do not permit FMPs to delete sections, but other NCAs’ red italics text requires the deletion of sections that are not applicable. Again, we would suggest that clear guidance on how each section of the template be completed is included in the red completion notes in order to ensure a consistent application across all FMPs when completing the pre-contractual and periodic report annexes.
* *SFDR ART 8 –* The legislation seems to generally assume, that all investments are direct investments, however, there may be a multi-manager / fund of fund structure in place. In these cases, for FMPs offering a portfolio of funds from different fund providers, using different approaches to sustainability, it can be difficult to write a clear and specific text for an Article 8 document in the template of the RTS.

For example, if one fund of fund FMP is excluding companies with more than 5% of revenue in tobacco, another is excluding companies with more than 10% of revenue in tobacco, and a third is not excluding tobacco at all, it is difficult to summarize as environmental or social characteristic promoted by the relevant fund without becoming quite vague.

* *RTS Table 1 –* As it stands, the “actions planned/taken” are challenging to summarize. For example, for the Article 4 PAI reporting, the table leaves about 3 cm of width in a column for “*actions taken, and actions planned, and targets set for the next reference period*”. For an FMP offering a product with a portfolio of funds from different fund providers, using different approaches to sustainability, summarizing actions planned, actions taken, and targets set for a single PAI, is impossible without becoming abstract to a level where almost no information is really given. However, we would also say that there is even an issue for a FMP only investing directly, but still having a diversified portfolio.
* A further problem is that actions will, to a large extent, be taken on an investee company level, not on the PAI level. Thus, if an FMP has a series of meetings with a specific investee company, covering a number of PAIs, this series of meetings should in principle be described for each PAI, each time with a certain angle of that PAI. This adds up to a lot of repetition, which is extra problematic given the extremely limited page space available.

Therefore, Irish Funds believes that additional guidance would be welcomed by FMPs who are investing in products such as multi-manager products or fund-of-funds products where the underlying investments are not necessarily investee companies. Additional space in the RTS template would also be welcomed to allow for greater narrative clarity for the investor.

<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>

To simplify the current templates and enhance legibility, we suggest the following removals:

* Firstly, based on feedback from our members, the use of two Taxonomy graphs within the pre-contractual and periodic report annexes has proven very confusing for retail investors who do not necessarily understand the distinction between the two graphs and the relevance of both to their investment decision-making process.
	+ Therefore, we would strongly recommend that consumer testing is carried out on this section of the template to determine whether the disclosure of two graphs in this section helps investors to understand the sustainability-related aspects of the product or whether the use of two graphs instead serves to alienate and confuse the retail investor. In particular, we would recommend that consumer testing be carried out to establish whether the use of only one graph, which shows the taxonomy alignment of the portfolio taking into account all investments, (therefore retaining the graph and related narratives appearing on the left-hand side in the extract above) and the removal of the other graph and related narratives (appearing on the right-hand side of the extract above) is more appropriate in order to enhance the legibility of the current templates.
	+ If the second graph and related narrative was removed from the annexes, those funds with sovereign exposure could explain to investors how such holding impact the information contained in the pie chart as part of a narrative response to the question “*What is the minimum proportion of EU Taxonomy investments?*”.
* In the periodic templates, we also advocate for the removal of the requirement to calculate Taxonomy-alignment using operational expenditure (OpEx) at product-level to promote greater consistency given no corresponding requirement exists for financial institutions under the delegated acts published under Article 8 of the Taxonomy Regulation;
* We question the requirement for an explanation for the use of capital expenditures (CapEx) and operating expenses (or CAPEX/OPEX) while there is no obligation to explain the use of revenue when calculating the Taxonomy-alignment of a portfolio. We believe it would be best to eliminate the need to provide an explanation for the use of CAPEX/OPEX to measure taxonomy-alignment or to require this even if turnover is selected. Again, it is unclear how helpful this information is to the average investor, and we would suggest that consumer testing be carried out on how useful investors find this information;
* To simplifythe current templates, we suggest removing the requirement to disclose the proportion of investments enabling transitional Taxonomy-aligned activities separately within the pre-contractual template. Based on feedback received from our members, this is quite difficult to estimate on an ex-ante basis and may also cause compliance monitoring difficulties. However, we believe the requirement to disclose in a periodic report should be kept as this information is capable of being provided on an ex-post basis;
* The template pre-contractual annex has the practical inconvenience that it has to both contain legal information and substantive data. This data must be connected to data fields in the EET which requires a template that can handle data and legal information simultaneously. There are both advantages and disadvantages to the Word and Excel format. A possible solution to this problem could be the use of simplified and better tables in the Word version. In addition, we suggest avoiding the use of special icons without a permanent place and data fields that may be crossed off;
* We would highlight the importance of the Word version of the templates being released as soon as finalised legislation has been published. To date. there has been a significant time lag between the publication of the PDF version and the MS Word versions – the industry would prefer to receive the Word versions as a priority once the finalised legal text has been published in the Official Journal;
* We also support the removal of the asset allocation graph. See Question 33 for details.

<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>

We support the deletion of the investment tree/asset allocation chart in the pre-contractual and periodic report templates. The current investment tree creates a misleading impression that the different SFDR ratios are interconnected when, in reality, they are independent of each other. This introduces confusion and misrepresentation. Additionally, the tree structure is being read by some FMPs as suggesting that the denominator of SI is the E/S ratio, as 1-SI represents the remaining E/S that are not SI. However, regulatory requirements consistently state that the proportion of SI, both committed and reported, should be expressed as a proportion of all the fund's assets, directly contradicting the asset allocation tree. This conflicting approach applies to all the indicators within the tree. Therefore, we propose removing the investment tree/asset allocation chart to ensure greater clarity and avoid misleading/confusing investors. Furthermore, we understand that the tree/asset allocation chart is one of the sections of the pre-contractual and periodic reporting templates that are not currently being completed by FMPs consistently.

With the removal of the asset allocation section, we also do not see the need to keep the questions relating to (i) the minimum share of sustainable investments with an environmental objective that does not meet the criteria of the EU Taxonomy and (ii) the minimum share of socially sustainable investments. This information should already be clear within the question relating to the sustainable investment objective of the product and whether the investments have environmental and/or social objectives.

In this regard, we also welcome the removal of the requirement to split sustainable investments between environmental and social objectives. Again, the split between environmental and social objectives is an area wherein we have seen diverging ways of completion arising from the challenges for funds investing in companies (rather than individual activities) that may undertake both environmentally and socially sustainable activities.

Please also see question 30 regarding proposed enhancements to the dashboards.

<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>

Irish Funds questions the value of having colours as it can create unintended confusion – please see our response to question 30 with regard to the use of colours for dashboards and the challenges that persist including ensuring inclusivity for colour-blind investors.

However, should the colours remain, Irish Funds agrees with the suggested approach to ensure consistency. We have already experienced examples of asset managers wanting to include colourful (beyond green and grey) icons etc. which in effect makes the disclosure appear more like a marketing document than regulatory disclosure. Additionally, if there will be a requirement for set colours, we request a colour guide to explain the values associated with each colour. We believe that the use of different colours (even slightly different tones) across the different templates would make comparison challenging.

Finally, we are concerned with the colours being misleading (i.e., a 1% alignment having a green colour will appear the same as a product having a 50% alignment). This is an additional area we would encourage there be consumer testing to understand the impact of the use of colours in the investment decision-making process.

<ESMA\_QUESTION\_SFDR\_34>

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

<ESMA\_QUESTION\_SFDR\_35>

We agree with allowing an electronic version to be used in parallel to a PDF document as an optional offering, but not as a replacement for PDF as we feel the retail market remains most familiar with PDFs type disclosures. Additionally, it is a requirement under SFDR itself to include disclosures in offering documents and pre-contractual disclosures. Please also see question 42 regarding the formation of electronic files and cross-referencing of data to the EET.

<ESMA\_QUESTION\_SFDR\_35>

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

<ESMA\_QUESTION\_SFDR\_36>

In assessing DNSH and minimum safeguards, the proposal focuses on the forward-looking policies of investee companies, and states that *“FMPs should not consider negative or controversial media reactions regarding compliance with Minimum Safeguards*.” However, Irish Funds is of the view that both company policies and/or media reports should be permitted to be used in the estimation process. For example, in the case of emerging markets, which may be behind in terms of policies, media reports are considered helpful in assessing these companies. Additionally, companies do not necessarily act in the way they commit, and controversies in the media can be helpful in assessing and monitoring companies’ actions and consequences.

<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>

Irish Funds does not believe a more specific definition of the concept of “*key environmental metrics*” is necessary to prevent greenwashing. We believe that greenwashing can be prevented though the application of the existing framework (e.g., ESRS, taxonomy alignment, alignment with the environmental and social characteristics, application of PAI disclosures, etc.).

<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>

In its response to the ESAs’ questions[[18]](#footnote-18) on how ‘sustainable investments’ as defined under SFDR should be interpreted, the Commission has decided SFDR does not set out minimum requirements that qualify concepts such as contribution, do no significant harm, or good governance (i.e., the key parameters of a ‘sustainable investment’). FMPs must carry out their own assessment for each investment and disclose their underlying assumptions.

This response from the Commission strengthens the fact that SFDR is a disclosure regime and as such, we believe that prescribing specific rules for calculating the proportion of sustainable investments in financial products is unnecessary. FMPs should have the flexibility to calculate the proportion of sustainable investments within the financial product in the way that best aligns with the assessment they have used to determine whether a holding is a sustainable investment or not. Given the assessment will vary from fund manager to fund manager, it will be very difficult to prescribe a single calculation methodology. However, the key is that FMPs disclose the basis of the calculation methodology.

<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 agree that cross-referencing periodic disclosures of financial products with investment options would be beneficial to address information overload. There is existing precedent across the funds industry, such as the changes to the PRIIPs KID rules, which allowed for cross-referenced information as opposed to including it in the document. We believe that this cross-referencing has worked effectively.

As a result, we suggest bringing the cross-referencing concept to the periodic disclosure as it would be of benefit to the reader of the document.

<ESMA\_QUESTION\_SFDR\_39>

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

<ESMA\_QUESTION\_SFDR\_40>

Irish Funds agrees with the proposed website disclosures for financial products with investment options which will keep the website disclosures aligned with the rules for the pre-contractual and periodic disclosures.

<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>

This question is not directly applicable to the Irish Fund industry therefore we have not considered a detailed response to this question.

<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 believe that when defining which information should be disclosed in a machine-readable format, the ESAs should consider the criterion that is already in place for the broader efforts of both the EET and what data is collected on behalf of the NCAs before requesting further data requirements. Only information not captured by the above should be requested to avoid unnecessary duplication.

In terms of machine-readable formats available, we believe that “.CSV” formats are widely used across the funds industry and should remain in place. However, we understand there is a move towards XBRL tagging of documentation and therefore would recommend that XBRL is supported in an optional capacity.

In terms of challenges in both preparing and consuming the data, we believe this may largely depend on the expected use of this data (i.e., the end consumer of the data file). If the data is expected to enable the re-production of another document downstream, then formatting of carriage returns/bolding/italics/etc. may cause challenges as it moves through the recipient chain.

<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 believe there has been insufficient consideration of the significant costs associated with implementing additional disclosure requirements, such as updating existing templates, adding new PAIs, and incorporating specific disclosure obligations on sections for carbon reduction targets. The efforts involved in gathering, validating, and calculating data, as well as the technical feasibility of machine-readable formats and extendable paragraphs, also contribute to the cost.

Moreover, the first PAI statements under the RTS are yet to be produced (due end of June). Considerable changes to the RTS would result in a very high cost of disclosure for FMPs, which would ultimately impact consumers as those FMPs that cannot support these costs will exit the market.

The benefits of making retail investors aware of this information are largely contested. Per the FCA 2017 Report[[19]](#footnote-19), only 3% of investors read pre-contractual documentation and with only EU companies in-scope for reporting, the data is at best, incomplete. Additionally, it is important to understand whether retail investors need over 20 PAIs to make informed investment decisions. We would suggest consumer testing is undertaken to validate requirements.

Additionally, based on members’ sell-side analysis, approximately 47% of the MSCI ACWI's 2,800 companies (72% of market cap), and approximately 67% of S&P 500 companies (or 83% of market cap) would be covered under CSRD. CSDDD, as proposed, would cover a larger portion of non-EU companies.

Irish Funds suggest that the current templates should remain in place until a cost-benefit analysis survey is conducted among investors to understand their feedback during the first year of implementation versus the cost incurred to date to produce such templates and to make further amendments.

<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)
2. Commission Delegated Regulation (EU) 2022/1288 as amended. [↑](#footnote-ref-2)
3. Regulation (EU) 2019/2088 as amended. [↑](#footnote-ref-3)
4. Accessible from [European sustainability reporting standards – first set (europa.eu)](https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13765-European-sustainability-reporting-standards-first-set_en) [↑](#footnote-ref-4)
5. [ESMA Progress Report on Greenwashing](https://www.esma.europa.eu/sites/default/files/2023-06/ESMA30-1668416927-2498_Progress_Report_ESMA_response_to_COM_RfI_on_greenwashing_risks.pdf), Section 4.4.2, paragarpah 107. [↑](#footnote-ref-5)
6. Questions and answers (Q&A) on the SFDR Delegated Regulation (Commission Delegated Regulation (EU) 2022/1288). [↑](#footnote-ref-6)
7. Questions and answers (Q&A) on the SFDR Delegated Regulation (Commission Delegated Regulation (EU) 2022/1288) [↑](#footnote-ref-7)
8. For the avoidance of doubt, in this context, eligible assets refers to those assets which fall within the relevant category of investment and is unrelated to the concept of “eligibility” under the Taxonomy Regulation. [↑](#footnote-ref-8)
9. Commission Delegated Regulation (EU) 2022/1288 as amended. [↑](#footnote-ref-9)
10. FR18/2019 Recommendations for a Framework Assessing Leverage in Investment Funds [↑](#footnote-ref-10)
11. Consolidated questions and answers (Q&A) on the SFDR (Regulation (EU) 2019/2088) and the SFDR Delegated Regulation (Commission Delegated Regulation (EU) 2022/1288) [↑](#footnote-ref-11)
12. [↑](#footnote-ref-12)
13. COMMISSION NOTICE on the interpretation and implementation of certain legal provisions of the EU Taxonomy Regulation and links to the Sustainable Finance Disclosure Regulation. [↑](#footnote-ref-13)
14. [Answers to questions](https://www.esma.europa.eu/sites/default/files/2023-04/Answers_to_questions_on_the_interpretation_of_Regulation_%28EU%29_20192088.PDF) on the interpretation of Regulation (EU) 2019/2088, submitted by the European Supervisory Authorities on 9 September 2022. [↑](#footnote-ref-14)
15. Accessible from [European sustainability reporting standards – first set (europa.eu)](https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13765-European-sustainability-reporting-standards-first-set_en). [↑](#footnote-ref-15)
16. FCA’s Asset Management Market Study (2017), Chapter 4, page 26 - <https://www.fca.org.uk/publication/market-studies/ms15-2-3.pdf> [↑](#footnote-ref-16)
17. That guidance provides that “*The use of cross-references and hyperlinks should be limited to the ones required by the Section “Where can the methodology used for the calculation of the designated index be found?” and “Where can I find more product specific information online?” in Annexes II and III of the SFDR Delegated Regulation*”; [↑](#footnote-ref-17)
18. Answers to questions on the interpretation of Regulation (EU) 2019/2088, submitted by the European Supervisory Authorities on 9 September 2022. [↑](#footnote-ref-18)
19. FCA’s Asset Management Market Study (2017), Chapter 4, page 26 - <https://www.fca.org.uk/publication/market-studies/ms15-2-3.pdf> [↑](#footnote-ref-19)