



JOINT COMMITTEE OF THE EUROPEAN
SUPERVISORY AUTHORITIES

Reply form

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

12 April 2023
ESMA34-45-1218

Responding to this paper

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

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

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

Instructions

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

- Insert your responses to the questions in the Joint Consultation Paper in this reply form.
- Please do not remove tags of the type <ESMA_QUESTION_SFDR_1>. Your response to each question has to be framed by the two tags corresponding to the question.
- If you do not wish to respond to a given question, please do not delete it but simply leave the text “TYPE YOUR TEXT HERE” between the tags.
- When you have drafted your responses, save the reply form according to the following convention: ESMA_CP SFDR Review_nameofrespondent.

For example, for a respondent named ABCD, the reply form would be saved with the following name: ESMA_CP SFDR Review_ABCD.

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

Publication of responses

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

Data protection

The protection of individuals with regard to the processing of personal data by the ESAs is based on Regulation (EU) 2018/1725¹. Further information on data protection can be found under the [Legal notice](#) section of the EBA website and under the [Legal notice](#) section of the EIOPA website and under the [Legal notice](#) section of the ESMA website.

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

General information about respondent

Name of the company / organisation	Dutch Fund and Asset Management Association
Activity	Investment Services
Are you representing an association?	<input checked="" type="checkbox"/>
Country/Region	Netherlands

Questions

Q1 : Do you agree with the newly proposed mandatory social indicators in Annex I, Table I (amount of accumulated earnings in non-cooperative tax jurisdictions for undertakings whose turnover exceeds € 750 million, exposure to companies involved in the cultivation and production of tobacco, interference with the formation of trade unions or election worker representatives, share of employees earning less than the adequate wage)?

<ESMA_QUESTION_SFDR_1>

DUFAS members are supportive of the need for to further integrate social sustainability in the sustainable finance framework, but we strongly urge that any new mandatory PAI indicator must first be widely disclosed by companies both inside and outside of the EU. For PAI indicators where disclosed data is not widely available, we suggest including them as optional social indicators instead. This would allow the market to expand the availability of the necessary data and test the usability of the indicator without imposing practical hurdles due to data limitations.

In addition, the proposed mandatory (social) indicators could already lack corresponding reporting requirements in the CSRD and ESRS. DUFAS members are concerned about the treatment of PAI indicators in the recent European Commission DA on ESRS which considers subjecting the majority of PAI indicators to a company's own internal materiality assessment. This could result in specific PAIs not being reported at all, as it seems to be left to the discretion of the company which PAI indicators are material or not. We emphasize the importance that the PAI indicators prescribed under SFDR should be mandatory in the ESRS in order for FMPs, such as asset managers, to fulfill their SFDR reporting obligations. Should this not be the case, then the ESAs must align the treatment of materiality in SFDR with CSRD. FMPs should, as part of the PAI statement and DNSH test for sustainable investments, as a minimum be allowed to take into account the materiality of PAIs as disclosed by an investee company . In addition, FMPs should also be allowed to do their own materiality assessment of the investee companies.

In other words, we believe that the reporting obligations of companies under CSRD and ESRS should be aligned and correspond with reporting obligations FMPs have under SFDR. Hence, where ESRS will not be amended, and companies maintain to have full discretion about the PAIs they consider to be material or not, we urge to amend SFDR accordingly to ensure full alignment.

Finally, we would like to draw attention to a number of challenges related to the proposed mandatory social indicators, which should be carefully considered as prerequisites before any implementation of the proposed indicators.

PAI 14. Amount of accumulated earnings in non-cooperative tax jurisdictions:

The complexity of corporate structures makes it challenging to map and identify entities, including subsidiaries and financial vehicles, with a turnover greater than 750 million and assess their parent companies' taxation practices. The high implementation cost of this indicator raises concerns about its feasibility and value.

While the introduction of this metric could potentially encourage the provision of such data, it is worth noting that disaggregated tax data may not always be accessible via third-party providers. Moreover, we would also like to note that this PAI is not proposed for disclosure under the Corporate Sustainability Reporting Directive (CSRD) or European Single Access Point (ESAP). The absence of a corresponding reporting requirement will result in a lack of real-life data from investees for financial market participants to report on.

Furthermore, the information regarding (a) the amount of accumulated earnings and (b) the list of non-cooperative tax jurisdictions will be presented in the annual management reports of underlying undertakings. It is important to clarify that this information will remain unchanged or "frozen" as per the management report until the subsequent annual management report is published.

Lastly, it is crucial to understand that residency/earnings from such jurisdictions do not necessarily imply poor governance but rather suggest the potential for it.

PAI 17. Interference in the formation of trade unions or election of worker representatives:

It is important to recognize that the indicator exhibits variations across different countries and cultures. For instance, Europe and the US adopt different approaches, and worker unionization is less prevalent in the US. Consequently, such an indicator would inherently favor or disadvantage certain markets based on their prevailing practices.

Additionally, we have reservations about the significance of the indicator. It is highly improbable for companies to willingly disclose their involvement in such behaviors. As a result, although external data might still exist, it would likely be exceptionally limited and primarily derived from illegal activities, which would already be flagged under the United Nations Global Compact (UNGC).

As it is practically difficult to assess whether companies avoid interfering with union formation in practice at all times, one solution might be to refer to "formal commitment to non-interference in the formation of trade unions or election of worker representatives may not always equate to non-interference". This approach would involve a binary assessment, allowing for a clearer distinction

between companies with and without such policies (true/false approach), potentially increasing the availability of data.

Additionally, an indicator measuring the number of workdays lost to strike actions could be considered as a meaningful indicator with readily available data. This metric could provide valuable insights into labor relations and their impact on corporate operations.

PAI 18. Share of employees of investee companies earning less than the adequate wage

The concept of adequate wages remains insufficiently defined. Determining what qualifies as an "adequate wage" is influenced by numerous factors, including jurisdiction, supply and demand dynamics, and the qualifications and experience of employees. Ultimately, the assessment of an adequate wage is subjective and varies among financial market participants. As a result, measuring the proportion of employees earning less than an adequate wage becomes challenging. This raises the question of who should be responsible for determining and evaluating their adequacy. Rather than relying on financial market participants, we question whether the determination of wages and their judgment should be left to national labor markets or their regulatory frameworks.

In addition, we stress the importance of receiving this data point through the ESRS standards.

Also, it is crucial to establish a calibration and clear definition of "adequate wages" before adopting the corresponding PAI. Specifically, clarifying the relationship between an "adequate" wage and the ESRS-defined living wage would be beneficial. Furthermore, we strongly recommend seeking clarification regarding the definition of "employees" in the formula, particularly whether the definition follows national legislation for EU and non-EU jurisdictions. |

<ESMA_QUESTION_SFDR_1>

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

<ESMA_QUESTION_SFDR_2>

|See answer to Q1 |

<ESMA_QUESTION_SFDR_2>

Q3 : Do you agree with the newly proposed opt-in social indicators in Annex I, Table III (excessive use of non-guaranteed-hour employees in investee companies, excessive use of temporary contract employees in investee companies, excessive use of non-employee workers in investee companies, insufficient employment of persons with disabilities in the workforce, lack of grievance/complaints handling mechanism for stakeholders materially affected

by the operations of investee companies, lack of grievance/complaints handling mechanism for consumers/ end-users of the investee companies)?

<ESMA_QUESTION_SFDR_3>

We support expanding the opt-in social indicators. However, we strongly suggest that indicator names match the proposed metric. For example, the metric ‘average share of non-guaranteed hours employees as share of total employees’ does not provide information on whether this average is excessive or not as would be expected by the indicator name ‘excessive use of non-guaranteed-hour employees in investee companies’. Whether a given value for an investee company is excessive will strongly depend on the country, sector and other contextual factors. Furthermore, a value at portfolio or entity level can mask true cases of excess if the value is dominated by investees where a relatively high percentage should not be considered excessive. Similarly, whether there is insufficient employment of persons with disabilities is not actually shown by the average share of persons with disabilities in the workforce; any threshold for insufficiency will be highly context specific. We would also argue that rather than focus on disabilities, there should be an indicator on lacking an inclusive company culture. |

<ESMA_QUESTION_SFDR_3>

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

<ESMA_QUESTION_SFDR_4>

We strongly advocate for the ESAs to carefully consider the formulation and measurement of any new indicators to ensure their meaningfulness and usefulness in multiple aspects. First and foremost, the indicators should provide valuable insights for decision-making by end investors, enabling them to make informed choices aligned with their sustainability preferences and goals, without overloading them with highly complex and diverse information. With that in mind, it is important to approach any amendments with careful consideration of how the continuous updates to disclosure documentation can affect consumer trust and confidence.

Additionally, the indicators should contribute to enhancing the investment process of financial market participants, facilitating their analysis, risk assessment, and integration of due diligence process in relation to principal adverse impacts into their strategies. Lastly, the indicators should assist investee companies in effectively managing and addressing any adverse impacts they may have, promoting responsible and sustainable practices. In this context, we would like to emphasize once more that FMPs should not be required to disclose information that does not correspond to or is aligned with a reporting requirement in CSRD or the ESRS standards.

By prioritizing these objectives, the development and implementation of new indicators can truly deliver value and drive positive change in the investment landscape. |

<ESMA_QUESTION_SFDR_4>

Q5 : Do you agree with the changes proposed to the existing mandatory and opt-in social indicators in Annex I, Table I and III (i.e. replacing the UN Global Compact Principles with the UN Guiding Principles and ILO Declaration on Fundamental Principles and Rights at Work)? Do you have any additional suggestions for changes to other indicators not considered by the ESAs?

<ESMA_QUESTION_SFDR_5>

DUFAS welcomes harmonization with other legislation in general and is sympathetic to replacing the Un Global Compact principles with the UN Guiding Principles and ILO Declaration on Fundamental Principles and Rights at Work.

However, mandatory PAI indicators should first be widely disclosed by companies both inside and outside of the EU. It will take time for the market and data vendors to provide reliable data. Furthermore, drawing from the experience of UN Global Compact violations, it is evident that the burden of evidence is substantial, and there are discrepancies among third-party data sources in the absence of a global consensus on defining violations. Therefore, we encourage first defining the relevant metrics and criteria for determining violations, then allow sufficient time for data points to become available before amending PAI 10 and 11 with the switch to the UNGP and ILO declaration: for now the ESAs should leave these PAIs as they are. |

<ESMA_QUESTION_SFDR_5>

Q6 : For real estate assets, do you consider relevant to apply any PAI indicator related to social matters to the entity in charge of the management of the real estate assets the FMP invested in?

<ESMA_QUESTION_SFDR_6>

Although we see merit in reporting a social indicator at entity level, it is challenging to compare such a number if it applies to different levels for different FMPs. Take, for instance, the diversity ratio: it could be gauged at the level of the FMPs investment team, the entire FMP, the investment team of an external fund manager, or the entity level of the external manager, among others. We propose that the measurement be conducted at the most granular level, which in this context would be the investment team of the fund, to ensure more consistent and meaningful comparisons. |

<ESMA_QUESTION_SFDR_6>

Q7 : For real estate assets, do you see any merit in adjusting the definition of PAI indicator 22 of Table 1 in order to align it with the EU Taxonomy criteria applicable to the DNSH of the climate change mitigation objective under the climate change adaptation objective?

<ESMA_QUESTION_SFDR_7>

Indicators relying on EU regulations limits their usefulness for investments outside the EU. Incorporating globally recognized science-based methodologies would greatly enhance their applicability to investments on a global scale.

We are in favor of linking the PAI to a metric that is available both inside and outside Europe. This is not the case for EPC labels. Therefore, we suggest making reference to the CRREM pathways as the marker of energy efficient or inefficient real estate. As a side note: with respect to the suggested hurdle of an asset being within the top 30% of the national or regional building stock expressed as operational primary energy demand (PED): this is impossible to determine by investors as there is no database available on country level for all European countries. |

<ESMA_QUESTION_SFDR_7>

Q8 : Do you see any challenges in the interaction between the definition ‘enterprise value’ and ‘current value of investment’ for the calculation of the PAI indicators?

<ESMA_QUESTION_SFDR_8>

Yes, this is one of the critical problems that should be resolved in the RTS. The current definition and guidance is very challenging in practice. It mostly works for equities, but for other asset classes this is not a workable approach due to missing data and leads to strange results since end of year EVIC is used in combination with a quarterly average value of investments. This results in incorrect approximations of exposure to a companies. The exact formulae for calculating the “current value of investment” and “current value of all investments” should be included in the list of formulas in Annex I. |

<ESMA_QUESTION_SFDR_8>

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

<ESMA_QUESTION_SFDR_9>

PAI 13 (gender diversity board) formula does not seem to align with the description in table 1.

PAI 6 (energy consumption intensity per NACE sector) formula is clear, but we would suggest switching from GWh to MWh. GWh results in very low values for the indicator.

PAI 5 (share of non-renewable energy consumption and production) formula is clear. Please note that this is different from how we get this delivered from MSCI currently. Coverage for energy production will be very low for most asset classes (except for Infra). |

<ESMA_QUESTION_SFDR_9>

Q10 : Do you have any comments on the further clarifications or technical changes to the current list of indicators? Did you encounter any issues in the calculation of the adverse impact for any of the other existing indicators in Annex I?

<ESMA_QUESTION_SFDR_10>

First, we urge the ESAs to provide more technical guidance on how to deal with missing data in PAI formulas. Should the European Sustainable Reporting Standards (ESRS) allow most PAI indicators to undergo a materiality assessment, asset managers should be allowed to account for materiality as well. There should be full alignment on materiality considerations.

Second, PAI indicators should be designed to effectively capture and quantify adverse impacts, providing valuable insights for the investment process. This is of paramount importance, as these indicators are instrumental in evaluating whether sustainable investments cause no significant harm. However, it is worth noting that certain metrics may fall short of accurately measuring the actual adverse impacts. Presented below are a few illustrative examples:

PAI 09. Hazardous waste (and radioactive waste ratio): The adverse impact of hazardous waste is not solely determined by its volume, but rather by the extent of inadequate or unregulated disposal into the environment.

PAI 20. Investee countries subject to social violations: Certain metrics may be overly generalized, such as an indicator assessing social violations across countries, which could categorize around 75% of all countries as causing significant harm.

PAI 22. Exposure to energy-inefficient real estate assets: indicators relying on EU regulations limits their usefulness for investments outside the EU. Incorporating globally recognized science-based methodologies would greatly enhance their applicability to investments on a global scale. This is not the case for EPC labels. Therefore, we suggest making reference to the CRREM pathways as the marker of energy efficient or inefficient real estate. As a side note: with respect to the suggested hurdle of an asset being within the top 30% of the national or regional building stock expressed as operational primary energy demand (PED): this is impossible to determine by investors as there is no database available on country level for all European countries.

The current misalignment of timelines between SFDR and CSRD creates a data gap that significantly impacts the accuracy and reliability of the results, even when diligent efforts are made to collect or estimate the data. The use of different frameworks, reporting standards, and methodologies by investee companies makes it challenging to consistently compare and aggregate data. As was shown by the above examples, data availability, and quality can vary greatly across different companies, industries, and regions, introducing potential biases. Assessing and estimating qualitative information, such as company policies, management practices, processes, and compliance

mechanisms, becomes particularly challenging in the absence of reporting obligations. It requires judgment and expertise assessments, which may yield different results from data providers or FMPs. For certain PAIs, the collection of raw data is so limited that assessing or estimating the missing data becomes a significant challenge.

Against this background, we reiterate our strong belief that the application date of the PAI indicators enlisted in the list must align with the date of application of the reporting guidelines outlined in the CSRD and the ESRS standards, ensuring that the inclusion or modification of PAIs does not increase existing data gap issues. |

<ESMA_QUESTION_SFDR_10>

Q11 : Do you agree with the proposal to require the disclosure of the share of information for the PAI indicators for which the financial market participant relies on information directly from investee companies?

<ESMA_QUESTION_SFDR_11>

|It is important to avoid excess burden at the current SFDR implementation stage. Therefore, it would be best to not include the share of information directly from investee companies in the PAI statement.

In a review at a later point in time, we believe that it would be worthwhile to define quality indicators to distinguish between, for example, (1) audited data, (2) company reported data, (3) estimated data based on activity levels, (4) estimated data based on industry or sector averages (5) other more generic estimates. |

<ESMA_QUESTION_SFDR_11>

Q12 : What is your view on the approach taken in this consultation paper to define 'all investments'? What are the advantages and drawbacks you identify? Would a change in the approach adopted for the treatment of 'all investments' be necessary in your view?

<ESMA_QUESTION_SFDR_12>

|The approach of encompassing all investments made by financial market participants has a significant drawback, in our opinion. By including assets in the denominator while excluding them from the numerator, as demonstrated in the ESAs' example, the PAI value is effectively reduced to zero. Similarly, when data is unavailable for certain investments, yet their value is included in the denominator, their PAI values implicitly are reduced to zero.

This approach can lead to an underestimation of PAIs as reported in the PAI statement. Instead, we propose that the category of "all investments" only includes the eligible assets, such as corporates,

sovereigns and supnationals, or real estate assets. Additionally, a precautionary approach (erring on the side of the planet when there is a lack of data) should be adopted to exclude 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.

In other words, we propose only reporting the covered data (reported or reliably estimated). This option disregards missing data (in the numerator) as if they were equal to zero which is a misleading understatement and hinders comparability.

Nonetheless, to ensure that the end investor understands the impact of their investment for each 1 euro invested in a product, it is particularly crucial to additionally disclose the eligibility ratio. This ratio represents the proportion of eligible asset exposure over the Net Asset Value. This is preferred over using Assets under Management, as it may not precisely reflect the volume of investments made by end investors in the financial products. It also facilitates the aggregation of PAIs for their portfolio's direct and indirect eligible investments (including through funds, fund of funds, and other means).

Furthermore, in order to ensure understanding by retail investors, we would like to stress the significance of having a clear and preferably standardized disclosure subscribed by the ESAs. We urge the ESAs to provide more technical guidance on how to deal with missing data in PAI formulas. Should the European Sustainable Reporting Standards (ESRS) allow most PAI indicators to undergo a materiality assessment, asset managers should be allowed to account for materiality as well. There should be full alignment on materiality considerations. |

<ESMA_QUESTION_SFDR_12>

Q13 : Do you agree with the ESAs' proposal to only require the inclusion of information on investee companies' value chains in the PAI calculations where the investee company reports them? If not, what would you propose as an alternative?

<ESMA_QUESTION_SFDR_13>

| Requiring the inclusion of information on investee companies' value chains in PAI calculations poses practical challenges due to a significant lack of data.

Therefore, we propose an interim solution that involves reporting the numbers without the information on investee companies' value chains. However, we suggest that, if the data is available, the information on investee companies' value chains can be optionally included in the PAI calculations.

We would also like to emphasize that a look-through requirement should only be imposed when companies report on their value chains according to the CSRD or the ESRS. However, it should be noted that without reporting under the CSRD/ESRS methodology, the necessary data will never be

‘readily available’. In general, the use of estimations can introduce issues of comparability and precision, and their use should be minimized whenever possible. Consequently, any attempts to obtain such information would be highly time-consuming and likely to yield little success.

Furthermore, investments are inherently international in nature. Imposing the requirement to include information on investee companies' value chains in PAI calculations, only in cases where the investee company reports on them, would create an uneven playing field. This discrepancy would particularly affect EU companies competing with non-EU companies, as the latter would not be obligated to report on PAI calculations within their value chains. Consequently, financial market participants may be incentivized to invest in non-EU companies that are not subject to reporting PAI in their value chains. Additionally, this requirement would pose challenges for EU companies whose value chains involve business activities with entities outside the EU.

DUFAS strongly emphasizes that disclosures for which no data is available should not be introduced or included in the delegated regulation. This is because reporting based on estimations would lack real data, leading to significant variations across data providers and reducing comparability among entities. |

<ESMA_QUESTION_SFDR_13>

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

<ESMA_QUESTION_SFDR_14>

| We agree that guidance for the treatment of derivatives is necessary. There are different views on how this could or should be done, as such we do not have a preference for any specific method. |

<ESMA_QUESTION_SFDR_14>

Q15 : What are your views with regard to the treatment of derivatives in general (Taxonomy-alignment, share of sustainable investments and PAI calculations)? Should the netting provision of Article 17(1)(g) be applied to sustainable investment calculations?

<ESMA_QUESTION_SFDR_15>

| We agree that guidance for the treatment of derivatives is necessary. There are different views on how this could or should be done, as such we do not have a preference for any specific method. |

<ESMA_QUESTION_SFDR_15>

Q16 : Do you see the need to extend the scope of the provisions of point g of paragraph 1 of Article 17 of the SFDR Delegated Regulation to asset classes other than equity and sovereign exposures?

<ESMA_QUESTION_SFDR_16>

|TYPE YOUR TEXT HERE |

<ESMA_QUESTION_SFDR_16>

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

<ESMA_QUESTION_SFDR_17>

|We appreciate the analyses and efforts by the ESAs to address shortcomings in the current SFDR disclosures and share the concern of the ESAs on the discretion and lack of comparability. However, solving the fundamental limitations requires reviewing SFDR at level 1 as initiated by the European Commission. Furthermore, an extending the EU Taxonomy with the Social Taxonomy should help resolve the limited inclusion of social sustainability in the sustainable finance framework. Additional social PAI indicators are only a limited substitution that come with significant data challenges.

We recommend the ESAs to be reserved in implementing interim solutions and extensions to the disclosures to avoid conflicting with the outcomes of the SFDR L1 review and the development of the taxonomy. Instead, we suggest the ESAs to focus on the critical problems that should be resolved in the RTS, such as defining the concept of 'all investments', specifying how to calculate the proportion of sustainable investments, and adjusting existing PAI metrics to effectively capture and quantify adverse impacts.

We would also welcome more guidance on the discretion FMP's have when determining the DNSH using the mandatory PAI indicators in case of missing data or where a mandatory PAI indicator is less suitable for the DNSH test. |

<ESMA_QUESTION_SFDR_17>

Q18 : With regard to the DNSH disclosures in the SFDR Delegated Regulation, do you consider it relevant to make disclosures about the quantitative thresholds FMPs use to take into account the PAI indicators for DNSH purposes mandatory? Please explain your reasoning.

<ESMA_QUESTION_SFDR_18>

|We suggest avoiding additional disclosure requirements. The proposal to publish quantitative PAI threshold used to determine no significant harm could lead to significant administrative burden. As

the ESAs point out in the background analysis, generic thresholds are not always suitable to assess investee companies and projects. In practice, the thresholds and considerations take into account sectorial, geographic and other contextual factors. Both proposed disclosures would further increase the length of resulting in additional costs with limited benefit to end-investors.

Furthermore, the European Commission FAQ of 12 June 2023 suggests that the following approach is sufficient for considering the SFDR social PAI indicators: (1) assessing alignment with the standards for responsible business conduct mentioned in the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights; (2) assessing exposure to the manufacture or selling of controversial weapons. This illustrates that thresholds for the metrics are not necessary needed to assess DNSH. |

<ESMA_QUESTION_SFDR_18>

Q19 : Do you support the introduction of an optional “safe harbour” for environmental DNSH for taxonomy-aligned activities? Please explain your reasoning.

<ESMA_QUESTION_SFDR_19>

|The recent European Commission FAQ of 12 June 2023 has clarified that taxonomy-aligned activities can be automatically qualified as sustainable investments. Therefore, the optional “safe harbour” is not required |

<ESMA_QUESTION_SFDR_19>

Q20 : Do you agree with the longer term view of the ESAs that if two parallel concepts of sustainability are retained that the Taxonomy TSCs should form the basis of DNSH assessments? Please explain your reasoning.

<ESMA_QUESTION_SFDR_20>

|The inherent inconsistencies between the two parallel concepts of sustainability (SFDR – investment level and Taxonomy – activity level) would be best addressed by a Level 1 SFDR reform in combination with a further development of the EU Taxonomy. A more complete Taxonomy that covers social sustainability and more activities could help resolve issues within SFDR. The criteria and included activities should also be based on sound science-based methodologies. Furthermore, as a basis for DNSH assessment, the Taxonomy DNSH criteria should cater to assessing entities. This requires adequate data and thresholds that cover all economic activities. Any criteria and guidance on estimates should also account for markets and assets that are not required to disclose taxonomy-alignment to avoid discouraging investments in, for example, emerging markets and unlisted companies. |

<ESMA_QUESTION_SFDR_20>

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

<ESMA_QUESTION_SFDR_21>

We think these concepts are very difficult to align since Taxonomy is economic activity based and PAI's on entity level. In this light we do not deem it advisable that the DNSH concept of the EU taxonomy is used to assess an entire company.

We would welcome more guidance on the discretion FMP's have when determining the DNSH using the mandatory PAI indicators in case of missing data or where a mandatory PAI indicator is less suitable for the DNSH test.

Other options to reduce greenwashing could be: (i) non-binding PAI benchmarks c.q. thresholds per sector established by the European Commission to establish comparability; (ii) guidance on relevant DNSH indicators per sector and ensuring this is also required of companies disclosing under CSRD; (iii) defining harmful activities and using exclusions to determine DNSH. |

<ESMA_QUESTION_SFDR_21>

Q22 : Do you agree that the proposed disclosures strike the right balance between the need for clear, reliable, decision-useful information for investors and the need to keep requirements feasible and proportional for FMPs? Please explain your answers.

<ESMA_QUESTION_SFDR_22>

We find that the proposed disclosures do not strike the necessary balance. They are excessively detailed and complex, making them challenging for investors to comprehend. In addition, they would further lengthen the already extensive disclosures leading to additional administrative burden.

Targets on GHG emissions can already be included in the existing format as a sustainable investment objective or environmental characteristic. To ensure consistency and comparability, GHG PAI indicators could be prescribed as fixed sustainability indicator when setting such targets. |

<ESMA_QUESTION_SFDR_22>

Q23 : Do you agree with the proposed approach of providing a hyperlink to the benchmark disclosures for products having GHG emissions reduction as their investment objective under Article 9(3) SFDR or would you prefer specific

disclosures for such financial products? Do you believe the introduction of GHG emissions reduction target disclosures could lead to confusion between Article 9(3) and other Article 9 and 8 financial products? Please explain your answer.

<ESMA_QUESTION_SFDR_23>

Currently, the prospectuses are already too long for investors to read. Therefore, we support the approach of providing a hyperlink to the benchmark disclosures for products with GHG emissions reduction as their investment objective under Article 9(3) of the SFDR. This allows us to prevent further lengthening of prospectuses, as introducing hyperlinks can be an effective solution. |

<ESMA_QUESTION_SFDR_23>

Q24 : The ESAs have introduced a distinction between a product-level commitment to achieve a reduction in financed emissions (through a strategy that possibly relies only on divestments and reallocations) and a commitment to achieve a reduction in investees' emissions (through investment in companies that has adopted and duly executes a convincing transition plan or through active ownership). Do you find this distinction useful for investors and actionable for FMPs? Please explain your answer.

<ESMA_QUESTION_SFDR_24>

While we see merits in providing a break down between the impact of portfolio changes and the impact of underlying decarbonization of investee companies, we stress that this kind of attribution analysis is not yet common practice among FMPs. Providing such a break down could be done in qualitative terms where a FMP explains the importance of all factors in decarbonization (divestment, reallocation, engagement, underlying decarbonization rate of companies). However, providing a quantitative analysis would entail considerable effort on the part of the FMP. Additionally, estimating the effects of different decarbonization elements is inherently difficult, particularly in the case of engagement. |

<ESMA_QUESTION_SFDR_24>

Q25 : Do you find it useful to have a disclosure on the degree of Paris-Alignment of the Article 9 product's target(s)? Do you think that existing methodologies can provide sufficiently robust assessments of that aspect? If yes, please specify which methodology (or methodologies) would be relevant for that purpose and what are their most critical features? Please explain your answer.

<ESMA_QUESTION_SFDR_25>

|TYPE YOUR TEXT HERE |

<ESMA_QUESTION_SFDR_25>

Q26 : Do you agree with the proposed approach to require that the target is calculated for all investments of the financial product? Please explain your answer.

<ESMA_QUESTION_SFDR_26>

We disagree as providing a target based on all investments reduces insights for end investors and other stakeholders. FMPs can have different climate targets for different asset classes while still be 1.5 degree aligned. For example, a pension fund sets a target for its equities and corporate bond portfolio of a 50% reduction in CO₂-equivalents between 2020-2030 (the equities and corporate bond investments represent 50% of the portfolio while the other 50% consist of sovereign bonds for which no reduction target has been set). Based on the suggestion approach, the CO₂-reduction target would be -25% for all investments. Such a figure is meaningless as FMPs may choose for a different Paris alignment approach for sovereign bonds than for equities and corporate bonds. Additionally, the -25% figure could erroneously imply that the FMP is not sufficiently reducing CO₂ emissions. As an alternative, we suggest that FMPs explicitly specify the investments to which the reduction or climate targets are applicable. |

<ESMA_QUESTION_SFDR_26>

Q27 : Do you agree with the proposed approach to require that, at product level, Financed GHG emissions reduction targets be set and disclosed based on the GHG accounting and reporting standard to be referenced in the forthcoming Delegated Act (DA) of the CSRD? Should the Global GHG Accounting and Reporting Standard for the Financial Industry developed by PCAF be required as the only standard to be used for the disclosures, or should any other standard be considered? Please justify your answer and provide the name of alternative standards you would suggest, if any.

<ESMA_QUESTION_SFDR_27>

We agree that GHG emissions reduction targets should be set and disclosed on the reporting standards in the forthcoming Delegated act of the CSRD. The reporting standard for financial industry developed by PCAF is, in our view the only standard to be used for these disclosures. |

<ESMA_QUESTION_SFDR_27>

Q28 : Do you agree with the approach taken to removals and the use of carbon credits and the alignment the ESAs have sought to achieve with the EFRAG Draft ESRs E1? Please explain your answer.

<ESMA_QUESTION_SFDR_28>

Yes, we agree that it is crucial for the integrity of the targets that GHG reduction targets should only reflect gross emissions and that the use – by the FMP - of carbon credits, other carbon removal instruments (like sequestration) and avoided emissions should be separately reported. However, we note that it will be very difficult for FMPs to isolate the impact of carbon credits used by investee companies as data vendors do not disclose the impact of these instruments on GHG emissions. Although the CSRD will improve this situation, this will only apply European companies. The same applies to the use of renewable energy certificates (RECS) by investee companies. |

<ESMA_QUESTION_SFDR_28>

Q29 : Do you find it useful to ask for disclosures regarding the consistency between the product targets and the financial market participants entity-level targets and transition plan for climate change mitigation? What could be the benefits of and challenges to making such disclosures available? Please explain your answer.

<ESMA_QUESTION_SFDR_29>

Disclosing the alignment between product targets and the entity-level targets and transition plan for climate change mitigation would not provide any significant additional value as the targets set at 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 will be by nature all related to financed emissions.

What matters is the quality of the transition plan that the company has put in place as well as the progress to date (when available) and/or an explanation for why the targets have not been met with corrective actions planned to meet the targets and other commitments set out in the transition plan. Non-exhaustive examples of steps that we think financial market participants could have regard to in this scenario include the existence of science-based targets, the company's proposed approach for measuring transition and approaches to assess alignment with Net Zero, for example using the Net Zero Investment Framework.

By ensuring that products explicitly disclose their targets and demonstrate progress towards achieving them, a clear and straightforward basis for comparison with entity-level targets is already established as the expectation is that products having GHG emissions reduction targets will be counted as part of the entity's overall financed emissions reduction targets. Introducing additional disclosures in this regard would only serve to compound the complexity of information that retail investors are already grappling with and finding challenging to comprehend. |

<ESMA_QUESTION_SFDR_29>

Q30 : What are your views on the inclusion of a dashboard at the top of Annexes II-V of the SFDR Delegated Regulation as summary of the key information to complement the more detailed information in the pre-contractual and periodic disclosures? Does it serve the purpose of helping consumers and less experienced retail investors understand the essential information in a simpler and more visual way?

<ESMA_QUESTION_SFDR_30>

We are sympathetic to the need to simplify the disclosures to improve their use for investors. However, we emphasize the need for careful consideration of the challenges involved in altering the current Annexes in the prospectus. Such changes necessitate significant labor and substantial modifications to the underlying operating models of FMPs. Therefore, we believe a comprehensive cost-benefit analysis should be conducted before implementing any modifications to the templates. This analysis should prioritize identifying the most advantageous and impactful changes to ensure an optimal balance between costs and benefits. Furthermore, we believe that any revised templates or additional disclosures should be concluded only after the ESAs have conducted consumer testing scenarios involving retail investors.

Subject to the positive results of the cost-benefit analysis and consumer testing, we in principle support the introduction of the dashboard initiative. It has the potential to offer a more transparent and succinct portrayal of the overall share of sustainable investments, thereby taking a significant step towards promoting sustainable investments and enhancing transparency for retail investors. Furthermore, it would serve as an effective summary in assessing the alignment of a product with a client's sustainability preferences. |

<ESMA_QUESTION_SFDR_30>

Q31 : Do you agree that the current version of the templates capture all the information needed for retail investors to understand the characteristics of the products? Do you have views on how to further simplify the language in the dashboard, or other sections of the templates, to make it more understandable to retail investors?

<ESMA_QUESTION_SFDR_31>

As a preliminary remark, as already indicated above, we strongly advocate for a more investor-friendly approach by reducing the number of disclosures and promoting standardization for the remaining ones. It is important to note that these standardizations should be implemented at level 1, as any further standardizations would exceed the mandate of delegated regulation. |

ESMA_QUESTION_SFDR_31>

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

<ESMA_QUESTION_SFDR_32>

[TYPE YOUR TEXT HERE]

<ESMA_QUESTION_SFDR_32>

Q33 : Is the investment tree in the asset allocation section necessary if the dashboard shows the proportion of sustainable and taxonomy-aligned investments?

<ESMA_QUESTION_SFDR_33>

We support the deletion of the asset allocation chart from the pre-contractual template. By removing the asset allocation chart we can ensure greater clarity and avoid misleading/confusing investors. It is essential to prioritize simplicity and ease of understanding for retail investors when designing disclosure 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, following the tree structure suggests 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 the fund's assets, directly contradicting the asset allocation tree. This conflicting approach applies to all the indicators within the tree.

Considering that the template is intended for retail investors, it is crucial to limit the number of indicators they need to comprehend and not overestimate their willingness and ability to perform extensive due diligence on the extra-financial characteristics of investment products.]

<ESMA_QUESTION_SFDR_33>

Q34 : Do you agree with this approach of ensuring consistency in the use of colours in Annex II to V in the templates?

<ESMA_QUESTION_SFDR_34>

[TYPE YOUR TEXT HERE]

<ESMA_QUESTION_SFDR_34>

Q35 : Do you agree with the approach to allow to display the pre-contractual and periodic disclosures in an extendable manner electronically?

<ESMA_QUESTION_SFDR_35>

[TYPE YOUR TEXT HERE]

<ESMA_QUESTION_SFDR_35>

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

<ESMA_QUESTION_SFDR_36>

[DUFAS supports replacing the concept of “equivalent information” with the term “estimates”. Clear guidance is necessary to ensure that (i) assessing taxonomy-alignment is possible for markets and assets that do not fall under CSRD, and (ii) estimating taxonomy-alignment is robust and comparable among market participants.]

<ESMA_QUESTION_SFDR_36>

Q37 : Do you perceive the need for a more specific definition of the concept of “key environmental metrics” to prevent greenwashing? If so, how could those metrics be defined?

<ESMA_QUESTION_SFDR_37>

[TYPE YOUR TEXT HERE]

<ESMA_QUESTION_SFDR_37>

Q38 : Do you see the need to set out specific rules on the calculation of the proportion of sustainable investments of financial products? Please elaborate.

<ESMA_QUESTION_SFDR_38>

[We support the ESAs providing specific rules for calculating the proportion of sustainable investments of a financial product as this would improve comparability.]

<ESMA_QUESTION_SFDR_38>

Q39 : Do you agree that cross-referencing in periodic disclosures of financial products with investment options would be beneficial to address information overload?

<ESMA_QUESTION_SFDR_39>

[TYPE YOUR TEXT HERE]

<ESMA_QUESTION_SFDR_39>

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

<ESMA_QUESTION_SFDR_40>

[TYPE YOUR TEXT HERE]

<ESMA_QUESTION_SFDR_40>

Q41 : What are your views on the proposal to require that any investment option with sustainability-related features that qualifies the financial product with investment options as a financial product that promotes environmental and/or social characteristics or as a financial product that has sustainable investment as its objective, should disclose the financial product templates, with the exception of those investment options that are financial instruments according to Annex I of Directive 2014/65/EU and are not units in collective investment undertakings? Should those investment options be covered in some other way?

<ESMA_QUESTION_SFDR_41>

[TYPE YOUR TEXT HERE]

<ESMA_QUESTION_SFDR_41>

Q42 : What are the criteria the ESAs should consider when defining which information should be disclosed in a machine-readable format? Do you have any views at this stage as to which machine-readable format should be used? What challenges do you anticipate preparing and/or consuming such information in a machine-readable format?

<ESMA_QUESTION_SFDR_42>

[TYPE YOUR TEXT HERE]

<ESMA_QUESTION_SFDR_42>

Q43 : Do you have any views on the preliminary impact assessments? Can you provide estimates of costs associated with each of the policy options?

<ESMA_QUESTION_SFDR_43>

The proposed amendments to the templates and delegated regulation carry significant implications for FMPs. These changes demand extensive modifications to their IT systems, investment products, and operational processes, imposing a substantial implementation burden. We must not underestimate the costs associated with data gathering, validation, and calculation, as well as the technical challenges of adopting machine-readable formats and expandable paragraphs. These tasks cannot be rushed, as they require rigorous testing to ensure accuracy and reliability.

Additionally, it is challenging to quantify the costs related to the loss of consumer confidence in sustainable products due to constant updates and clarifications. To maintain stability and prevent incessant changes, FMPs require a reasonable bedding-in period, avoiding a situation where the goalposts are constantly shifting.

Furthermore, we cannot overlook the downstream impacts of template modifications. Database connectivity adjustments, updates in the EET, changes in advisory processes regulated by MIFID II, and the monitoring of SFDR elements by monitoring teams will all experience significant effects. To mitigate costs, it is crucial to grant FMPs sufficient time for the implementation of these amendments.

Insufficient implementation time will not only result in increased costs but also lead to compromised data quality. Diminished data quality adversely affects investors in several ways, weakening the transparency intended to benefit them. By allowing FMPs a reasonable timeframe for implementing these amendments, investors will ultimately benefit, as the costs incurred by FMPs is reflected in more expensive investment products.

Considering these vital considerations, we strongly advocate for maintaining the current status quo. Additionally, we propose that any revised templates or additional disclosures be finalized only after the ESAs have conducted consumer testing scenarios involving retail investors. This essential exercise will gather valuable feedback during the initial year of implementation and provide insights into whether retail investors truly require more than 20 PAIs to make informed investment decisions.

We urge the ESAs to carefully assess the far-reaching implications of these proposed amendments on financial stability and investor confidence. By supporting a reasonable implementation period and involving retail investors in the decision-making process, we can collectively uphold the integrity of the financial market while prioritizing the best interests of all stakeholders. |

<ESMA_QUESTION_SFDR_43>



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