

Response to the ESAs consultation on SFDR Delegated Regulation regarding PAI and financial product disclosures

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SFDR has improved transparency and pushed forward discussions on the sustainability of investment strategies and assets. At the same time, the implementation comes with key challenges related to definitions, data availability and administrative burden. We are pleased to see that the ESAs' review on the SFDR Delegated Regulation shows openness to improve the legislation. As the Dutch Fund and Asset Management Association (DUFAS), we welcome the opportunity to respond to the consultation published on 12 April 2023.

Resolve critical level 2 problems but fundamental limitations in SFDR should be addressed through the level 1 review and EU Taxonomy extensions

We appreciate the analyses and efforts by the ESAs to address shortcomings in the current SFDR disclosures. There are 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.

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.

Base mandatory PAI indicators on widely disclosed data

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 indicators that are not yet widely available, we suggest including them as optional social indicators. 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. We also caution that new indicators should be carefully chosen and phrased to ensure their added value for:

- Decision-making by end-investors
- The investment process of financial market participants (FMPs)
- Management of adverse impacts by investee companies.

Refine metrics of existing PAI indicators and provide technical guidance

PAI indicators should measure adverse impacts in a way that adds value to the investment process. This is particularly important as the PAI indicators are also used to assess whether sustainable investments do no significant harm. However, some metrics do not measure the actual adverse impacts. We would also welcome more guidance on the discretion FMPs 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.

Cost and additional reporting burden should not be underestimated

We suggest not to lengthen the already extensive disclosures with additional disclosure requirements. Before proposing such changes, a comprehensive cost-benefit analysis should be conducted before implementing modifications. This analysis should prioritize identifying the most advantageous and impactful changes to ensure an optimal balance between costs and benefits. In our view, many of the additional disclosures such as on GHG emissions reduction targets and quantitative PAI thresholds do not strike the necessary balance. These changes would unnecessarily increase the reporting burden leading to additional costs with limited benefit to end-investors.

Furthermore, we emphasize that any revised templates or additional disclosures should be concluded only after the ESAs have conducted consumer testing scenarios involving retail investors, assuming retail investors in the future when SFDR level 1 is reviewed will still be one of the stakeholders, i.e., addressees of the templates.

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. By supporting a reasonable implementation period, investors will ultimately benefit as the costs incurred by FMPs is reflected in more expensive investment products.

Treatment of materiality for PAI indicators should be aligned between SFDR and CSRD/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.

DUFAS: Dutch Fund and Asset Management Association

Since 2003, DUFAS has been committed to a healthy asset management sector in the Netherlands. DUFAS has more than 50 members: from large asset managers who invest Dutch pension and insurance assets to smaller, specialist asset managers. DUFAS increases awareness of the social relevance of investing, helps to develop sector standards and represents the sector in the implementation of new laws and regulations. In addition, DUFAS is committed to a single European market with equal regulations.

More information

Would you like to respond, or should you have any questions? I would be pleased to hear from you. Please feel welcome to e-mail Randy Pattiselanno, DUFAS manager strategy & regulatory affairs, at rp@dufas.nl.