DUFAS

Response to the European Commission consultation on the ESRS Delegated Regulation

To:	The European Commission
From:	Dutch Fund and Asset Management Association (DUFAS)
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DUFAS position

The Dutch Fund and Asset Management Association (DUFAS) supports the introduction of the European Sustainable Reporting Standards (ESRS). There is an increasing demand from asset managers for ESG data due to the growing sustainable investment activities of asset managers and the requirements for complying with European regulatory frameworks. We welcome the opportunity to respond to the European Commission consultation as we emphasize the importance that the PAI indicators prescribed under SFDR should be mandatory in the ESRS in order for asset managers to fulfill their SFDR reporting obligations.

Include mandatory reporting of PAI indicators

DUFAS and its members support and encourage the explicit requirement in the Corporate Sustainability Reporting Directive (CSRD) that the European sustainability reporting standards (ESRS) should be coherent with other legislation, in particular the Sustainable Finance Disclosure Regulation (SFDR) and the EU Taxonomy. However, we are concerned with the recent changes removing the mandatory disclosure of principal adverse impacts (PAI) indicators.

We believe that the proposed reporting obligations of companies under CSRD and ESRS are not consistent with reporting obligations financial market participants (FMPs) have under SFDR. Therefore, we emphasize the importance that all 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 and – more importantly - contribute to realizing the European Green Deal.

Should PAI indicators remain subject to materiality assessment under ESRS, the treatment of PAI indicators in SFDR should be harmonized with ESRS

The main driver behind the required alignment is availability of data in order to allow meaningful reporting by FMPs for the various stakeholders. In case the European Commission chooses to maintain the materiality principle for companies in relation to reporting on – *inter alia* – the SFDR PAI-related indicators, this option should be also reflected in the requirements applicable to FMPs under SFDR. Concretely, as part of the PAI statement and Do No Significantly Harm (DNSH) test for sustainable investments, FMPs should 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.

Furthermore, in order to facilitate FMPs and in order to provide transparency and consistency for various stakeholders including FMP's companies, in any event, should be required to disclose why a PAI indicator is considered immaterial and periodically reassess the materiality; this requirement will provide transparency to these stakeholders and ensure consistency in reporting

Additional phase-in leads to further delay in necessary data required by investors
FMPs under SFDR must already disclose PAI statements despite challenges in available data and robust estimates. The additional phase-in periods in the ESRS would further exacerbate and extend the current data challenges by several years. Delays in reporting will also affect information on Scope 3 greenhouse gasses emissions, biodiversity and social standards and therefore have a negative impact on realizing our goals under the European Green Deal. If the European Commission decides to maintain the proposed phase-in, it should make sure that this is adequately reflected in the SFDR reporting requirements for FMPs.

Clarity needed regarding ESRS exclusion of assets under portfolio management
CSRD states that it does not apply to financial products mentioned in the SFDR, i.e. AIFs and UCITS. However, it is not clearly stated that assets under portfolio management, a service rather than product, are excluded from CSRD and ESRS disclosures. It would be inconsistent to include assets under portfolio management under CSRD/ESRS reporting, since they are also covered as a financial product by SFDR reporting (like AIF's and UCITS). We therefore believe it should be explicitly stated that these assets are also excluded from reporting under CSRD/ESRS. Should however assets covered by individual portfolio management services remain included under ESRS, a reference to their SFDR disclosures should be considered sufficient.

This is also relevant for greenhouse gas scope 3 reporting which seems to include investee companies for financial institutions by referencing the PCAF Financed Emissions Standard which includes investments; this conflicts with the CSRD exclusion for financial products. Furthermore, the SFDR disclosures already cover entities (e.g. PAI statement) and financial products and individual portfolio management.

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? We would be pleased to hear from you. Please feel welcome to e-mail Randy Pattiselanno, DUFAS manager strategy & regulatory affairs, rp@dufas.nl.