



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](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<sup>1</sup>. 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.

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<sup>1</sup> 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	ESBG
Activity	Banking sector
Are you representing an association?	<input checked="" type="checkbox"/>
Country/Region	Belgium

First of all, ESBG welcomes the opportunity to comment on the ESA joint consultation paper on the review of SFDR Delegated Regulation regarding PAI and financial product disclosures, even if it is questionable whether fundamental changes regarding the PAI disclosure requirements and the templates are needed at this point in time.

**Defining a sustainable investment** should be a priority and the prerequisite to all regulations concerning ESG products. It would enable:

- product comparability;
- legal protection against greenwashing risk.

This notion should integrate transition which should first be clearly defined and then modelled.

As for **the timing** to add new requirements, ESBG believes it to be unsatisfactory and premature:

- the SFDR framework is not stabilized;
- the problem of data availability and reliability has not been solved – the CSRD is still not implemented.
- it will require costly developments (IT, training, customer information) that will have to be reviewed.

**From a general perspective, ESBG would like to highlight that implementing changes comes at a high economic expense, which requires a considerable investment of resources as well as costly IT adaptations.**

On a more general note, we kindly ask to consider very carefully any future changes to:

- avoid adding an extra layer of complexity to the current framework;
- avoid making it even more difficult to implement for financial market participants and;
- avoid causing fatigue to customers with new information/requirements in a short period of time.

## 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>

Overall, ESG believes that **the inclusion of new mandatory social indicators might not currently be the main priority given the lack of data and common measurement methodology**. More clarity is needed regarding the definition and metrics of the proposed mandatory social indicators: “interference with the formation of trade unions or election worker representatives” and “share of employees earning less than the adequate wage”. Regarding the second indicator, to ensure consistency and comparability, the concept of “adequate salary” should be the one determined by the applicable rules of the jurisdiction where the investment activity takes place, taking into account the actual cost of living. Additionally, information from the calculation of “adequate wage” taken from the European Sustainability Reporting Standards (ESRS) and its proposed benchmarks might not be reliable enough and easily accessible, specially outside the EU. Therefore, we believe this indicator should not be mandatory.

Nevertheless, ESG welcomes the fact that the ESAs want to establish a link with the KPIs to be reported in accordance with the Corporate Sustainability Reporting Directive (CSRD) and the draft ESRS. The FMPs ability to assess the proposed additional PAI indicators is largely dependent upon disclosure of the relevant KPIs by investee companies and will hopefully increase when CSRD will fully enter into force. Therefore, ESG is deeply concerned that according to the current proposals of the EU Commission on the Level 2 measures for sustainability reporting under the CSRD, companies no longer have to disclose their ESG data comprehensively. Companies can classify the sustainability impacts to be identified with the help of mandatory PAI indicators as non-material on the basis of their own business model, whereas FMPs must always take these into account in their investment decisions under Art. 4 SFDR. This means that FMPs cannot, as expected, make comprehensive use of the ESG company data to be disclosed under the CSRD.

Apart from that, it is clear that the process in terms of non-financial disclosures by companies will take some years in order to take effect. At the current stage, we cannot assess whether and to what extent it will improve the current situation in terms of corporate data. A huge data gap will anyway remain regarding investments outside the EU that represent a large proportion of the FMPs assets. It is essential to ensure that the relevant data is available, once new PAIs are introduced. We therefore suggest aligning the date of entry into force of the revised SFDR Delegated Regulation with the full application of the substantive CSRD rules/ESRS. Moreover, there should not be a divergence in the assessment of materiality between the SFDR and the CSRD. This would help to restore coherence of the EU sustainable finance rules.

More specifically, ESG disagrees with the following indicators:

- Tax. Due to complexity in corporate structure, it would be difficult to map and ascertain entities including subsidiaries, financial vehicles with 1) turnover > 750 million. 2) parent taxation practice. The implementation cost of the indicator is too high that makes it unworthy to do it. Should tax avoidance become an issue of concern, investors would have engaged with relevant companies any way. Also, when it comes to the amount of accumulated earnings in non-cooperative tax jurisdictions, we will probably even more lack data since this indicator is not included in the ESRS.
- Tobacco. The boundary of regulatory intervention in the social space should be drawn. If tobacco is considered as PAI, how about alcohol and violent video games? If tobacco producers are considered having adverse impacts, how about distributors and retailers? There is no ultimate answer to those questions, since it should be left to the market.
- Trade unions. Trade unionisation practices and perception vary across different countries and cultures. For instance, different approaches exist between Europe and the US, rarely in the US are workers unionized. Such an indicator would disadvantage certain markets. Furthermore, these indicators do not qualify the name of “principal adverse impacts” as they do not have adverse impacts according to the context. This indicator might be hard to measure. Which KPI could be relevant? It might end up being a subjective assessment and add complexity for a limited result, so it should not be a priority. ]

<ESMA\_QUESTION\_SFDR\_1>

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

<ESMA\_QUESTION\_SFDR\_2>

[ Overall, ESG believes that the existing PAIs already cover quite a wide range of issues. Adding more PAIs could result in an information overload. The necessary data collection poses a huge challenge especially for small and middle-sized market participants in both operational and financial terms. The previous PAI identification via ESG data vendors has shown that it is a long process until the collection of data and the mapping of the legally defined PAIs is possible. Moreover, with regard to non-financial reporting, only parts of the investment universe are covered.

Keeping the list of mandatory (social) indicators to a small set of KPIs would also be highly beneficial for the general understanding by distributors and end-investors. The concept of PAI is still new not only to most market participants and financial advisers, but especially to retail investors. Adding more PAI indicators will very likely overstrain investors who are anyway struggling to relate PAI entity-level disclosures, e.g. by a portfolio manager, to their individual portfolio/wealth management.

However, even if ESG is against the inclusion of any new mandatory social indicators, we would like to be proactive. Hence, as a basis for further reflection, instead of the indicators “share of employees earning less than the adequate wage” and “interference with the formation of trade unions or election worker representatives”, we nonetheless believe other potential social indicators to consider would

instead rather be the following within the Table 3 of ANNEX I of the Commission Delegated Regulation (EU) 2022/1288 of 6 April 2022 supplementing Regulation (EU) 2019/2088 of the European Parliament and of the Council:

- “Social and employee matters, 2. Rate of accidents”
- “Anti-corruption and anti-bribery, 17. Number of convictions and amount of fines for violation of anti-corruption and anti-bribery laws”. ]

<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>

]ESBG would like to share **some concerns regarding these newly proposed opt-in social indicators**. Indeed, PAI indicators make sense when they are reported, understandable and used by intended users.

Therefore, in order to reduce complexity and additional efforts for FMPs **only social indicators that are of general importance for all assets and sectors and with satisfactory data coverage should be included in the final opt-in list**. Therefore, please find some suggested adjustments to the proposed indicators:

- Regarding the first three indicators: “excessive use of non-guaranteed-hour employees in investee companies”; “excessive use of temporary contract employees in investee companies” and “excessive use of non-employee workers in investee companies”: we believe the concepts of “excessive use” and “non-employee workers” are not specific enough. Moreover, the notion of excessive use can be subjective depending on the situation.
- Regarding the indicator of “Insufficient employment of persons with disabilities within the workforce” we believe that the concept of “insufficient employment” is not specific enough. The lack of more concrete metrics and definitions could create consistency problems and comparability difficulties. ]

<ESMA\_QUESTION\_SFDR\_3>

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

<ESMA\_QUESTION\_SFDR\_4>

[ **ESBG would not recommend any other social indicator.** Regarding any proposed adjustments, please see our answers to questions 1, 2 and 3. As a general remark, we would like to highlight that implementing changes comes at a high economic expense, which requires a considerable investment of resources as well as costly IT adaptations. ESGB believes it is important to avoid adding an extra layer of complexity to the current framework and also avoid causing fatigue to customers with new information/requirements in a short period of time. ]

<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>

ESBG believes that **the current regime/framework is working well.** The proposed changes could create comparability problems between different exercises, as indicators would be based on different data. Overall, ESGB believes that it is of paramount importance to ensure stability and consistency between different years.

It should be noted that, replacing this indicator could lead to confusion and uncertainty among investors, which could have a negative impact on the demand for sustainable financial instruments. Furthermore, a corresponding exchange would lead to partly extensive contractual adjustments, which would require intensive interaction with the customer. Furthermore, we fear that clients would be flooded with even more data that would not bring any added value.

<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>

[ **ESBG believes it would not be necessary to apply existing and proposed PAI indicators** related to social matters to the entity in charge of the management of the real estate assets the FMP invested



in. However, should those indicators be finally included anyway, ESG would recommend strongly that they should not be mandatory, hence falling within the opt-in options. Otherwise, it would be a huge challenge especially with regards to the control process of the PAI, since the asset manager PAIs could no longer be changed by activities in the real estate fund.

Regarding the proposed inclusion of new mandatory social indicators, ESG would like to stress the following remarks:

- Earnings in noncooperative tax jurisdictions: This would be an indicator where the asset manager could have influence in the product design, and which could be applied to large real estate investors.
- Exposure to companies involved in the cultivation and production of tobacco: This indicator would not be relevant for real estate funds.
- Interference in the formation of trade unions or election of worker representatives: The asset manager would have no knowledge about that in the real estate sector respectively in the supply chain, nor could this data be readily obtained, as companies in the supply are not obliged to report the data (due to the size and nature of their operations and have no disclosure requirements).
- Share of employees earning less than the adequate wage: Obtaining data on this indicator would also be problematic regarding the supply chain.

The PAI calculation may also be problematic if real estate funds are mixed through joint ventures or asset managers and financial advisory mandates. It would then be unclear how the PAIs of the asset manager are to be calculated and reported. Instead of applying the existing and/or new social PAI indicators one to one to real estate asset managing companies **we would rather propose social PAI indicators that are related to real estates**. This would do justice to the specifics of the products at issue. For example: Share of space rented to social or non-profit institutions or needy tenants, share of buildings that are fully inclusive (100% usable by persons with disabilities), share of socially subsidized housing. ]

<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>

[ In ESG's views, adjusting the definition of PAI indicator 22 of Table 1 has both advantages and disadvantages.

Advantages:

·Harmonising the definition with the Taxonomy Regulation would improve the comprehensibility of the subject and simplify parallel strategies (PAI product and taxonomy proportion).

·Improving a building from D to C in order to improve the PAI quota brings more than improving a building from C to B.

Disadvantages:

·The market for A-C real estates is broader so that there would be less investment pressure for really efficient buildings (A and B buildings).

·The demand for improvement becomes lower, so we are afraid that less will be invested as well.

Furthermore, it must be stated that data availability is already not a given. When establishing new reporting obligations, it is essential to ensure that the data is available. ]

<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>

[ESBG sees indeed some challenges in this regard. The main challenge in the calculation of the PAI indicators are (i) the coverage ratio and (ii) the fact that the Enterprise Value Including Cash (“EVIC”) value is not always available on the same date or regarding all companies. When it comes to reporting, this lack of consistency causes additional difficulties.

The connection between the market value of investments and the enterprise value of the investment companies, as introduced by the Q&A published on 17 November 2022 under the reference JC 2022 82 (the “Q&A”) is very problematic as regards to its inner logic.

The calculation requires that the market value is calculated by weighing the average number of shares during the timeframe analysed with the valuation of the investment at the date of the fiscal year end of the investment company. This is problematic due to the following reasons:

- The fiscal year end is not necessarily available for all investments, for which data for the PAI indicators is available. This means that either for such an investment an arbitrary fiscal year end must be considered (which would contradict the requirement laid out by the Q&A, or that such an investment cannot be included in the calculation. The latter one can not be in the interest of the regulator, since it artificially reduces the coverage of PAI-indicators.
- If a FMP invests in funds, the PAI calculation must consider those investments as well. However, even though reliable data for the PAI indicators for funds is available, the weighting with the valuation at fiscal year end of a fund constituent cannot be carried out, since this fiscal year end is not known. This means that unless the FMP has a full “see-through” to the constituents of a fund, the financial market participant must use the funds valuation for calculating the PAI-indicator. Since a fiscal year end for the funds constituents is not available,

an arbitrary fiscal year end of e.g. 31st December of the analysed year must be used. Since funds might make up a large proportion of an investment of FMPs, this means that a (potentially large) proportion of investments cannot be included in the PAI calculation but only by using the market valuation at an arbitrary date.

- Most importantly, however, the introduction of the valuation of an investment at its fiscal year end implies that the calculation is differing greatly from common valuation of shares, bonds, funds etc. Assets are valued with their valuation at the time when they are analysed. A priori expectation for valuations of assets in the PAI aggregation is that their valuation is considered at 31st March, 30th June, 30th September and 31st September (if the calculation is carried out on a quarterly basis). With the introduction of the fiscal year end valuation as laid down the ESA Q&Ai, however, artificial valuations are created, which can differ greatly from the average market valuation of FMP investments and thus hinder understanding of the PAI statement.

To reduce the bias in the PAI impact calculation, we recommend for transparency and consistency purposes, to adopt an approach that relies on a quarterly estimation of the enterprise value based on market prices to calculate the detention percentage. ]

<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>

[ESBG welcomes that the ESAs already adjusted some formulae in Annex I of SFDR Delegated Regulation, especially the formulae for calculating the current PAI Indicators 3 and 15 (GHG intensity of investee companies and GHG intensity of investee countries). Furthermore, the introduction of formulae for each PAI indicator is very much appreciated, since it could help to prevent misunderstandings.

Nevertheless, we would like to suggest the following amendments:

“exposure to companies active in the coal sector”: coal sector is not clearly defined. Is it related to thermal and/or metallurgical coal, coal power plants, trading, transportation, or mining? A revenue threshold should be defined. ESBG believes it is unfair to treat companies with 1% and 100% exposure with the same footing.

‘companies active in the fossil fuel sector’: A revenue threshold should be defined. It is unfair to treat companies with 1% and 100% exposure to that sector with the same footing.

‘energy consumption intensity per high impact climate sector’: In formula 7 for ‘energy consumption intensity per high impact climate sector’ it is proposed that a company’s energy consumption intensity shall be weighted by the company’s revenue that falls into the NACE-sector [A-H, L]. However, this data is not readily available. Companies are attributed to a specific NACE-sector as a whole. Thus, the

introduction of this requirement would imply further complications to an already very complicated calculation. We would propose to account for the NACE-sectors in the definition of ‘all investments’ (see also our response to question 12). This way an artificial reduction of PAI 6 is avoided without introducing further burdens on FMPs.

Gender pay gap: In the formula 13, *Gender Pay Gap* is floored at 0. However, to address the gender gap, companies where females are paid more than male should be encouraged. It should allow for negative values, in the case when women are paid more. The definition of the calculation of the gender pay gap is a maximization formula. However, since the payment for male and female employees of an investment company is taken as a whole (lower script for the payments of male and female employees), the maximization does not appear necessary.

‘amount of accumulated earnings in non-cooperative tax jurisdictions: the EU revised list of non-cooperative jurisdictions for tax purpose is a dynamic list with changing member jurisdictions. It should be specified the time point at which the list should be used in calculation.

adequate wage: It should be left to the labour market to determine wage and employment. One would not be better off if unemployed compared to earning at least some wage. There is no definite threshold of adequate wage, which is different according to individual situation.

Formula 21 for ‘investee countries subject to social violations’ is defined to be interpreted as a percentage value, same as with other “share of investments...” formulae. However, the new PAI-indicator 20 “Investee countries subject to social violations” is defined as “Number of investee countries subject to social violations,...” which contradicts formula 21. The formula for the PAI indicator and the PAI indicators description should be aligned.

In any case new formulae should not increase the complexity of calculating PAI indicators. ]

<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>

[We would like to point out that there were **numerous challenges when generating the first PAI aggregation, most notably the following:**

- The introduction of the counter-intuitive connection of an investment valuation at its fiscal year end with Q&A jc\_2022\_62\_jc\_sfdr\_Q&A\_DeIVO.pdf implied large efforts to change the calculation. It would be appreciated, if such changes are proposed with an amendment of the delegation regulation, as is done with this consultation (see Q8).

- The calculation of the “Carbon footprint” is contrary to the common calculation of the carbon footprint in the market. In the current formula for the carbon footprint it is required, that ‘all investments’ are considered as ‘million Euros’. This implies, that the denominator of the formula becomes artificially small compared to the nominator (where the current value of investment in company is considered) and thus means an artificially high carbon footprint. We appreciate that this has been corrected with formula 2 in this consultation.

- Some of the PAI indicators (such as PAI 8, 9 12 and 13 of the current RTS have a very small coverage of ESG-data. We therefore welcome that the proposed new PAI indicators are based on the ESRS, which should reduce this problem for future calculations.

We would also like to emphasise that **the main issues FMPs are facing are related to access to data and more specifically, reliable data**. As investments are done at the global level, data reliability and data access problems are more acute outside the EU, where terminology and indicators are not consistent, equivalent, or adapted to local realities. We consider that applying the same criteria everywhere (more specially, outside the EU) is not realistic.

As it is quite difficult to access reliable data, ESG is therefore against extra reporting obligations. This is why, ESG believes that, in order to provide a clear understanding when calculating the adverse impacts, FMPs could distinguish between three situations of SFDR PAI of their investees being not reported:

- Not reported because not material;
- Not reported because the value is zero;
- Not reported because data is unfeasible to obtain without undue costs;

We have identified another issue regarding the calculation of adverse impacts derived from the **PAI indicators** interpretation of some data providers. A lack of common standards or global certifications regarding the data to calculate some indicators might cause data providers to assess different conclusions about the same given situation, and thus causing additional complexity. Therefore, the number of PAI indicators should not be widened or extended, neither now nor in the future.

ESBG would also like to share some comments on the following points:

- **Non-coverage:** The suggested formula does not address the issue of non-full coverage of data. It should be explicit in the treatment of non-covered data, for example by dividing the coverage in the end and defining coverage as having all data points available.
- **Size vs share of investments:** a number of indicators are shown as share of investments in certain activities with adverse impacts. However, the PAI should be differentiated with the size of investments. One small asset manager vs a large asset manager have different impacts *ceteris paribus*. ]

<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>

Practice has shown that FMPs barely obtain data directly from the investee companies. For portfolio management purposes, it is barely possible to obtain the data directly from the investee companies. Small and middle-sized FMPs in particular rely on ESG data vendors, as they do not have the capacity to approach the investing companies directly. **Apart from that this disclosure would not be helpful.** We doubt the added value of disclosing information on the PAI indicators for which the FMP relies on information directly from investee companies a statement without further explanations for the end investors. Any clarifications in terms of information for the PAI indicators for which the FMP relies on information directly from investee companies will very likely not be taken into account unless investors are familiar with the general concept. In our opinion, this does not add much value either; a general reference to estimates is sufficient.

Therefore, ESBG believes that **such level of disclosure granularity is not necessary**, as it would constitute an additional administrative burden with limited added value. That would add huge implementation costs to existing disclosure duties, be it to data providers which we rely on or asset managers.

<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>

[We believe the proposed approach to define “all investments” would be positive as indicators would be focused on their relevant impact. According to the new proposal, “all Investments” could be defined as investments in the particular type of investment (i.e., investee companies, sovereigns and supranationals, or real estate assets) be understood as causing the adverse impact. Information on PAI then relates only to the individual investment values of the investment type relevant for the respective PAI. Focusing PAI calculations on relevant risk categories would have the advantage of focusing each indicator on the asset types for which it is relevant. This approach could lead to more clarity. Nonetheless, the proposal could create comparability problems between different exercises, as indicators would be based on different data.

The second (new) approach would be better if the amount of investments in the respective asset type are provided. First, it provides useful information to asset manager in order to mitigate their PAI.

Second, this way, audience will not only know the relative value (the PAI), but also can calculate the absolute impacts by multiplying investments by the PAI. So that they are misled in thinking high PAI is bad, because one may have a high PAI but a small adverse impact due to small amount of investments in that asset class. For instance, one manager may have high relative water emission/Million investment, but investment in that asset class may be negligible.

The first approach would be easy to calculate and reflects the asset allocation decisions of financial participants as a whole, e. g 20% in sovereign, 80% in companies vs. 50% in sovereign and 50% in companies.

Apart from that, it is questionable which effects those changes would have for the PAI-Statement and the section “historical comparison” (Annex I, Table 1). The results of the comparison would not be meaningful since they would be based on different PAI calculation methods. We would be grateful if the ESAs could clarify this aspect in the Final Report.

Finally, ESG believes that for real estate, it would be relevant to include only real estate investments in the denominator. In general, the notion of “all investments” offers a simplicity advantage whereas the basing approach brings more relevance and therefore should only be applied to specific sectors. ]

<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>

[ ESG understands the fact that the ESAs would like to align the value chain consideration in the SFDR with the ESRS and the CSRD. Nonetheless, not all companies are obliged to voluntarily report their value chain impacts. **This could lead to a non-level playing field or regulatory arbitrage as unintended consequences.** For instance, to reduce the PAI, investors may be misled to prefer those companies without reporting, rather than those report and mitigate value chain impacts.

From our point of view only if the investee company reports in accordance with CSRD and the data disclosed is publicly available, FMPs should be required to include information on investee companies’ value chains in the PAI calculations, although significance behind this disclosure is questionable. If the investee companies do not report in accordance with CSRD or another standard of sustainability reporting, e.g. GRI, the financial market participants shall not be obliged to procure the information about their value chain by other means, e.g. via third-party providers.

ESBG would also like to stress that if banks have to provide this information before the CSRD comes into application, this information will likely be inaccurate. Therefore, ESG assesses that it would be better to wait until more clarity is given in this regard (basically until we have a clear vision of what the CSRD will require when it comes to value chains) in order to ensure consistency. ]

<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>

[TYPE YOUR TEXT HERE ]

<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>

[For consistency purposes, ESG believes that the treatment of netting and derivatives should be consistent throughout the calculations. Since derivatives are not converted to underlying assets unless exercised, it is recommended to remove it from all nominators while keep it in the denominators. Netting should be made. ]

<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>

Yes. Netting should be applied to all assets that can be shorted.

<ESMA\_QUESTION\_SFDR\_16>

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

<ESMA\_QUESTION\_SFDR\_17>



[ TYPE YOUR TEXT HERE ]

<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>

[ESBG would like to insist that **disclosures about thresholds (with quantitative and qualitative criteria) should not be mandatory in general**. More granular information is not required, as mentioned in the reply to question 10, access to reliable data might be challenging. The requirements for financial market participants should be flexible and feasible to ensure that companies supporting the transition, and thus promoting a significant impact towards sustainable goals and the increase of sustainable targets, are properly considered.

Nonetheless, ESGB sees some merit in this approach since when **thresholds are realistic, they can be useful to prevent greenwashing** in order to increase comparability. A one-by-one approach could be adopted here. On the other hand, ESGB believes also that the current SFDR framework leaves flexibility for potential other ways of “taking into account”. It should also be possible to use qualitative assessments to determine DNSH on PAI indicators, especially when thresholds are not suitable to assess the significance of an adverse impact. For example, the metric for the biodiversity PAI indicator measures whether a company has harmful activities in biodiversity-sensitive areas, but harmful does not have to be significantly harmful. This requires assessing the extent of the harm, for example based on environmental impact assessment reports. ]

<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 proposed optional “safe harbour” for environmental DNSH” for investments in certain categories of economic activities considered as environmentally sustainable under Article 3 of the Taxonomy Regulation could be a positive initiative towards the alignment of both regulatory initiatives, as long as its configuration does not imply additional implementation complexities. ESGB believes that **the status quo of the DNSH framework under SFDR should be preserved**, as additional changes in a Regulation that became applicable on 1 January 2023 could be counterproductive.

<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>

[As mentioned by the ESAs in the consultation paper, to avoid inconsistencies between the two parallel concepts of sustainability, **ESBG believes there should be a consistent definition of DNSH in SFDR regarding environmental harm and the Taxonomy Regulation.** PAI indicators would be more measurable, the discretion for FMPs would be reduced and there would be a single definition of DNSH within the EU sustainable finance framework. ESBG also believes that the Level 1 review of SFDR would be a good opportunity to resolve this. DNSH under Taxonomy TSCs is complex enough and it is not practical to perform such tests on a broader basis. Furthermore, DNSH under Taxonomy TSCs is solely environmentally focused whereas SFDR DNSH consider social aspects as well.

However, we would like to insist on the fact that any reform should be carefully considered and designed to simplify the framework. ]

<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 believe **there should be more clarity regarding the concept of “sustainable investment” to reduce the risk of greenwashing and increase comparability,** benefiting not only the financial sector but also customers and supervisors. An example is that the clarification by ESMA last summer led many FMPs to downgrade Article 9 funds to Article 8 funds in the second part of the year, while waiting for further guidance on classification and how to interpret the definition of a "sustainable investment" provided by the SFDR.

DNSH can be already reflected in the disclosed PAIs per product level. Since sustainable investments are arbitrary concepts with a lot of discretion from FMPs, it is difficult to compare.

Additional specific definition and clarifications, as well as consistency between other EU regulation (such the ESRS reporting indicators under the CSRD) will potentially contribute to a common framework for “sustainable investments” and the slow Article 8 and Article 9 product development activity amid greenwashing accusations. ]

<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>

[ESBG would like to stress that, for investors, it is better not to be overloaded with information. The new proposals for disclosures of GHG emission reduction targets in the ESG templates are too extensive and detailed. They could impede the goal of clear and succinct information of investors. The number of PAIs should be reduced to a minimum including only those relevant to issues that are urgent to be addressed, i.e. climate change, inequality. For instance, water emissions and wastes are not of much concern in developed countries, whereas in developing countries, the disclosure is rather low. Reporting cost and disclosing costs from non-financial undertakings and FMPs should be considered against the user benefits. It should be asked whether retail investors need those information or not in their investment decisions. ]

<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>

[We agree with the proposed approach to provide a hyperlink to the benchmark disclosures for products having GHG emissions reduction as their investment objective under Article 9(3) SFDR. ]

<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>

[The proposed distinction between a product-level commitment to achieve a reduction in financed emissions and a commitment to achieve a reduction in investees' emissions would be useful for investors to show also transformation possibilities. However, the three strategies usually work in tandem. ]

<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>

[Having a disclosure on the degree of Paris Alignment of the Article 9 products' target(s) is - in principle - not bad and may prevent greenwashing. But the added value of information for the average investor is questionable and the implementation is again associated with a great deal of technical effort. ]

<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>

[Yes, ESG believes it could be useful in order to prevent greenwashing. ]

<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>

[ESBG agrees. EFRAG has built on these pre-existing standardisation efforts for the development of its draft ESRS. Under the draft ESRS E1, which covers climate-related disclosure requirements, financial institutions are required to consider the use of the PCAF's Standard for their financed emissions. Requiring the use of the PCAF's Standard for the measure of financial product-level baseline financed GHG emissions, when setting and disclosing targets, would support consistency in the way targets are set and progress is measured. PCAF's Standard covers all seven GHG included in national inventories under the United Nations Framework Convention for Climate Change (UNFCCC). In line with the GHG Protocol, PCAF's Standard requires the inclusion of investee companies' scope 1 and scope 2 emissions and is set to require the inclusion of scope 3 emissions for all sectors over time (following a phased-in approach). ]

<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>

[ESBG believes that consistency with the forthcoming Delegated Regulation of the CSRD would be beneficial with regard to GHG removals and storage, and the use of carbon credits. Based on the latest EFRAG drafts, under the CSRD, companies would be required to report separately on their gross GHG emissions, on GHG removals and on their use of carbon credits. ]

<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>

ESBG welcomes the objective of harmonizing target-setting standards. We would like to point out that, for the investor, product-related disclosure adds the most value; at the entity level, the information value is regularly rather low for the investor. In addition we are concerned that too strict

requirements for *ex ante* quantitative targets might deter FMPs from offering products aiming at reducing GHG emissions for reasons of potential legal liability or greenwashing claims.

<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 believe it is of utmost importance to help consumers and retail investors better understand information. In this regard, we agree with the proposed changes, as they provide greater clarity, which could increase the legibility of the information.

Hence, ESGB welcomes the inclusion of a dashboard at the beginning of the ESG annexes. It is supposed to show at a glance all key ESG characteristics of Article 8 and Article 9 products.

The information in the dashboard should clearly encompass all ESG product features that are relevant in terms of sustainability preferences of investors at the point of sale according to the Article 2 No. 7 MiFID II Delegated Regulation. Therefore, we welcome adding an indication in terms of PAI consideration at the product level. From an investor point of view, we would prefer a “tick the box” indication in the dashboard – rather than using icons in grey or green indicating the “sustainability” of a financial product. Apart from that, the proposed (dual) colouring would add another layer of complexity for implementation.

However, we see no added value in the field with 250-character limit, for instance for Art. 8 SFDR products, to [include the environmental and/or social characteristic(s) promoted by the product and the [X]% of the product's investments that promote those characteristics – 250 character limit with spaces] , whereas the 1st section of the template below (without any limit) is answering such question (more clearly): “What are the environmental and/or social characteristics of this product”. To avoid redundancy and duplications it should be sufficient to indicate in the dashboard, that the product promotes environmental and/or social characteristics and to indicate the minimum proportion of sustainable investments. For products indicating that they consider PAI, further information should be provided in the annex. The relevant section should be renamed in “Does this product consider principal adverse impacts on sustainability factors.

Nonetheless, we would like to highlight that implementing changes in the templates comes at a high economic expense, which requires a considerable investment of resources as well as costly IT adaptations.

We kindly ask to consider very carefully any future changes in the templates to:

- (i) avoid adding an extra layer of complexity to the current framework;
- (ii) avoid making it even more difficult to implement for financial market participants and; avoid causing fatigue to customers with new information/requirements in a short period of time. ]

<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>

[ESBG understands that the ESAs intend to simplify the language in the templates. In some cases questions were rephrased (e.g. currently “What are the binding elements of this investment strategy used to select the investments to attain each of the environmental or social characteristics promoted by the financial product?” – new wording “What commitments are made in the investment strategy regarding the environmental or social characteristics of the product?”). However, it is not quite clear whether this should just enhance comprehensibility for retail investors, or whether the content of these questions – and therefore the answers as well – should be changed. This needs to be clarified. In terms of the dashboard, we refer to our answer to Q30.

In any event, retail investors need to understand information easily. Therefore, ESGB believes that the proposed language simplification is reasonable overall, with the caveats mentioned in the previous question and provided the colour-approach for information provided electronically.

In this regard, it could be useful that the ESAs continue to update the consolidated questions and answers (Q&A) on the SFDR (Regulation (EU) 2019/2088) and the SFDR Delegated Regulation (Commission Delegated Regulation (EU) 2022/1288) only if there is an appetite to do so from the financial sector. ]

<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>

[ESBG believes the proposed simplification is adequate to enhance the legibility of the templates. Nevertheless, the following recommendations can be formulated:

- In Annex II, we suggest deleting the obligation to indicate the reasons in case the product does not consider the most significant negative impacts of its investments on the environment and society (principal adverse impacts).
- A number index to the questions would be very useful, so that they can be referenced easily.
- Group quantitative and qualitative questions. For a question with a mix of quantitative figure and narratives, visualize the number, while limiting the length of narrative.
- The questions “What sustainability indicators are used...” and “What are the binding elements of the investment strategy...” included in both templates (in Annex II and III) tend to be answered in a very similar manner, since any relevant sustainability indicators must be directly linked to the binding elements of the investment strategy. Also, for products considering PAIs as a binding element, there is currently an artificial distinction between PAI consideration and other investment criteria that also hampers comprehensibility for investors. ]

<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>

[The investment tree in the asset allocation section would not be necessary if the dashboard shows the proportion of sustainable and taxonomy-aligned investments. Also, the investment tree seems to isolate the categories while in reality the boxes can be overlapping, e.g. one sustainable investment can be both environmentally and socially. The ‘asset allocation’ is generally understood as the balance between different asset types (shares, bonds, real estate, liquidity etc.). Using the term ‘asset allocation’ has caused confusions among investors. A reversion would therefore be deemed beneficial for customers. ]

<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>

[We support the proposed colour-approach for information provided electronically. Nonetheless, **we are in favour of a neutral colour-approach** for the information given in paper. The exception of the green colour for the investments made by the products implies considerable economic costs but also an impact to the environment in case the information is given on paper.

If the approach of ensuring consistency in the use of Colours in Annex II to V is to be implemented or maintained, from a practical point of view there should be more guidance, e.g. a certain colour code should be provided for the prescribed icons. We also strongly advocate for the publication of **editable**



**templates** in Word format for all EU languages. Such editable templates should include the standardised icons as prescribed in the annexes for copyright-free use by FMPs. In addition, the standardised icons should be provided separately in high resolution for the use in other layout/typesetting programmes. ]

<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>

[ It depends. We agree with the proposed approach to allow to display the pre-contractual and periodic disclosures in an extendable manner electronically.

All in all, the template should be shorter, the number of questions should be reduced, while presenting visually e.g by using charts and figures and less texts. Moreover, this proposal (“to allow to display the pre-contractual and periodic disclosures in an extendable manner electronically”) should only be an option, but not an obligation. ]

<ESMA\_QUESTION\_SFDR\_35>

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

<ESMA\_QUESTION\_SFDR\_36>

[ On the one hand, defining what could be accepted as “estimates” is important to operate with minimum criteria to prevent greenwashing and to avoid inconsistencies. On the other hand, there should not be extensive obligations for FMPs or “examinations” with regards to the sources of the estimates. The ESAs should be aware of the fact that most FMPs use information provided by a third party/ESG data vendor and they rely on that information. FMPs should not be obliged in such cases to ensure that information is the investee company’s reporting. Alternatively, the ESG data vendor should be obligated to make this transparent.

Not using estimates would largely reduce the usability of Taxonomy to channel capital to green investments around the world, because mandatory Taxonomy-related disclosure only applies to companies in EU, as a result, for non-EU companies, estimation is the only way to understand their eligibility and alignment. If no estimation is allowed, then essentially only EU companies are in scope of FMPs’ disclosure.

In assessing DNSH and minimum safeguards, the proposal focuses on forward-looking policies of investee companies. It also states that “FMPs should not consider negative or controversial media

reaction with regard to compliance with Minimum Safeguards.” However, companies do not necessarily act in the way they commit, therefore using controversies in media is a helpful to assess and monitor companies’ actions and consequences. Therefore, both company policies and media reports can be used in the process. ]

<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>

[ No. ESG believes that the current definition covers quite well. ]

<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>

[ **There should be more clarity regarding the concept of “sustainable investment” to reduce the risk of greenwashing and increase comparability**, benefiting not only the financial sector but also customers and supervisors. If more clarity were to be provided, we believe it would be convenient to set out specific rules on the calculation of the proportion of sustainable investments of financial products to prevent greenwashing and to ensure financial market participants use comparable information.

How the proportions in "(environmentally) sustainable investments" should be calculated in a financial product is currently not regulated. However, already today proportions of such investments, also in the sense of minimum commitments, have to be published and are part of the query of sustainability preferences according to MiFID II/IDD. Only a common understanding in the calculation of such proportions will ensure comparability of financial products.

There are different types of calculation approaches that ESG could suggest, such as:

- "activity based": only the revenues (or opex or capex) of a company from sustainable activities are calculated as sustainable investments (analogous to EU taxonomy);
- "pass-fail activity based": 100% of an investment is calculated as "sustainable investment", if only a certain threshold of the turnover is derived from sustainable activities or is linked to sustainability

targets (in the second variant, there are considerable differences depending on where the relevant threshold is set, usually between 20% and 50%).

- "entity based": 100% of an investment is calculated as sustainable investment, if the investment object as a whole has concrete, measurable sustainability goals that are underpinned by an implementation strategy (e.g. SDGs/SDG sub-targets), in particular if an entity pursues a certified climate target.

The calculation of sustainable investments should be aligned with that of Taxonomy aligned investments in order to strengthen comparability of financial products. ]

<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>

[ Yes, we believe that cross-referencing in periodic disclosures of financial products with investment options would be beneficial to address information overload. ]

<ESMA\_QUESTION\_SFDR\_39>

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

<ESMA\_QUESTION\_SFDR\_40>

[ We agree with the proposed clarifications for the website disclosures for financial products with investment options. ]

<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>

[ ESBG disagrees with this proposal because of the information overload it will generate. Costs outweigh benefits to retail investors. Website disclosure and cross referencing are sufficient in our view. ]

<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>

[ There is no requirement to submit the information pursuant to Article 3(1), Article 3(2), Article 4(1), Article 4(3), Article 4(5), Article 5(1) and Article 10(1) SFDR to a collection body/NCA or register. It is sufficient to publish it on the website of the respective FMP or financial advisor. According to the draft ESAP Regulation this data shall also be reported to ESAP via the collection points in a specific format, so that new and additional reporting lines are created here. According to the proposed Article 18a (1) (b) SFDR, the abovementioned information shall be accompanied by metadata as well (e.g. all the names of the entity submitting the information, the legal entity identifier of the financial market participants or financial advisers, where relevant, the size of the financial market participants or financial advisers, the type of information, as classified pursuant to Article 7(4) of the draft ESAP Regulation. It is already becoming apparent that FMP will have to incur additional efforts and costs for the provision of this information. We therefore advocate, that in the development of the technical implementation standards, care must be taken to ensure that the additional efforts are as low as possible. Therefore, it should be refrained from having to keep the information in a machine-readable format. Especially for retail customers who are to be informed about this, this does not bring any added value. ]

<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>

[ ESBG would like to stress that the pros and cons do not consider the significant costs in implementing additional disclosure requirements including updating existing templates, addition of new PAIs, adding section for carbon reduction targets, efforts in gathering, validating and calculating data, as well as technical feasibility in machine reading formats and extendable paragraphs.

The first PAI statement under the RTS is to be published by June 2023. The considerable changes to the RTS would result in very high cost in disclosure on FMPs, while the benefit of making retail investors is largely contested. Data burden does not alleviate much with only EU requiring companies to report. Furthermore, we need to understand if retail investors really need over 20 mandatory PAIs to make their investment decisions and inform about sustainability.

To avoid legal uncertainties the planned SFDR evaluation at Level 1 should necessarily be aligned and coordinated with the current review of the SFDR RTS. A situation where FMPs have to implement changes according to the RTS based on this Consultation, although more fundamental changes at Level 1 – and subsequently Level 2 – are forthcoming shortly afterwards, should definitely be avoided. When amending the RTS, it would be desirable to think about easing the burden on FMPs. Portfolio management is classified as an investment service under MiFID II and as a financial product under the SFDR. Pre-contractual information and regular reportings have to be provided to individual clients for each individual portfolio management service. Hundreds and more contractual documents and regular reportings have to be prepared. Again, this results in huge IT costs and burdens that FMPs have already incurred. Changing the templates in the way proposed would not only negate this effort, but even generate such an effort.

Market surveys could be done among investors to find out what their feedbacks are during the first year of implementation. ]

<ESMA\_QUESTION\_SFDR\_43>