

# POSITION PAPER



## **ESBG response to the Commission consultation on the implementation of the of SFDR.**

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Note: the ranking will be the following when needed: I agree 1= not at all, 2= to a limited extent, 3= to some extent, 4= to a large extent, 5= to a very large extent

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## Section I: Current requirements of the SFDR

*Question 1.1 : The SFDR seeks to strengthen transparency through sustainability-related disclosures in the financial services sector to support the EU's shift to a sustainable, climate neutral economy. In your view, is this broad objective of the regulation still relevant?*

1	2	3	4	5	Don't know
			X		

*Question 1. 2: Do you think the SFDR disclosure framework is effective in achieving the following specific objectives (included in its [Explanatory Memorandum](#) and mentioned in its recitals)?*

	1	2	3	4	5	Don't know
Increasing transparency towards end investors with regard to the integration of sustainability risks			X			
Increasing transparency towards end investors with regard to the consideration of adverse sustainability impacts			X			
Strengthening protection of end investors and making it easier for them to benefit from and compare among a wide range of financial products and services, including those with sustainability claims			X			
Channelling capital towards investments considered sustainable, including transitional investments ('investments considered sustainable' should be understood in a broad sense, not limited to the definition of sustainable investment set out in Article 2(17) of SFDR)		X				
Ensuring that ESG considerations are integrated into the investment and advisory process in a consistent manner across the different financial services sectors			X			
Ensuring that remuneration policies of financial market participants and financial advisors are consistent with the integration of sustainability risks and, where relevant, sustainable investment targets and designed to contribute to long-term sustainable growth			X			

*Question 1.3: Do you agree that opting for a disclosure framework at EU level was more effective and efficient in seeking to achieve the objectives mentioned in Question 1.2 than if national measures had been taken at Member State level?*



1	2	3	4	5	Don't know
			X		

*Question 1.4: Do you agree with the following statement?*

	1	2	3	4	5	Don't know
The costs of disclosure under the SFDR framework are proportionate to the benefits it generates (informing end investors, channelling capital towards sustainable investments)	X					

*Question 1.5: To what extent do you agree with the following statements?*

	1	2	3	4	5	Don't know
The SFDR has raised awareness in the financial services sector of the potential negative impacts that investment decisions can have on the environment and/or people				X		
Financial market participants have changed the way they make investment decisions and design products since they have been required to disclose sustainability risks and adverse impacts at entity and product level under the SFDR.			X			
The SFDR has had indirect positive effects by increasing pressure on investee companies to act in a more sustainable manner			X			

*Question 1.6: To what extent do you agree or disagree with the following statements?*

	1	2	3	4	5	Don't know
Some disclosures required by the SFDR are not sufficiently useful to investors					X	
Some legal requirements and concepts in the SFDR, such as 'sustainable investment', are not sufficiently clear					X	
The SFDR is not used as a disclosure framework as intended, but as a labelling and marketing tool (in particular Articles 8 and 9)				X		



Data gaps make it challenging for market participants to disclose fully in line with the legal requirements under the SFDR			X			
Re-use of data for disclosures is hampered by a lack of a common machine-readable format that presents data in a way that makes it easy to extract					X	
There are other deficiencies with the SFDR rules (please specify in text box following question 1.7)					X	

*Question 1.7: To what extent do you agree or disagree with the following statements?*

	1	2	3	4	5	Don't know
The issues raised in question 1.6 create legal uncertainty for financial market participants and financial advisers				X		
The issues raised in question 1.6 create reputational risks for financial market participants and financial advisers					X	
The issues raised in question 1.6 do not allow distributors to have a sufficient or robust enough knowledge of the sustainability profile of the products they distribute				X		
The issues raised in question 1.6 create a risk of greenwashing and mis-selling				X		
The issues raised in question 1.6 prevent capital from being allocated to sustainable investments as effectively as it could be				X		
The current framework does not effectively capture investments in transition assets				X		
The current framework does not effectively support a robust enough use of shareholder engagement as a means to support the transition				X		
Others						

Additional comments

First of all, ESGB supports the objective of the SFDR which is to provide comprehensive and comprehensible information on sustainability-related issues to retail investors and, thus, to enable them to reliably base their investment decisions on sustainability considerations.

Nonetheless, ESGB would like to stress that following up on SFDR requirements is very resource intensive, affecting internal priorities and causing lack of resources for other engagement work. Data providers have heavy influence on the interpretation of key concepts and definitions. This situation can lead to a subjective analysis with high costs of data that our members are required to buy and report.



Also, we believe that the definition of sustainable investments in accordance with Art. 2 No. 17 SFDR should be specified in order to better mitigate greenwashing risks when determining the investment proportion in accordance with Delegated Regulation 2017/565 Art. 2 No. 7b).

Indeed, for the average investor, it is hardly possible or understandable to deduce the fulfillment of the MiFID II or IDD sustainability preferences from the pre-contractual information according to SFDR. In ESG opinion, the pre-contractual information according to SFDR should clearly and in detail indicate the fulfillment of the MiFID II or IDD sustainability preferences by a product.

Finally, ESG wishes to highlight that the notion of transition is not sufficiently reflected in the regulation. Indeed, we believe that the current approach is too binary (for example sustainable vs non-sustainable investment).

*There are several disclosures concerning PAIs in the SFDR. As a general rule, the SFDR requires financial market participants who consider PAIs to disclose them at entity level on their website. It also includes a mandatory requirement for financial market participants to provide such disclosures when they have more than 500 employees (Article 4). The Delegated Regulation<sup>3</sup> of the SFDR includes a list of these PAI indicators. These entity level PAI indicators are divided into three tables in the Delegated Regulation. Indicators listed in table 1 are mandatory for all participants, and indicators in tables 2 and 3 are subject to a materiality assessment by the financial market participant (at least one indicator from table 2 and one from table 3 must be included in every PAI statement).*

*Second, the SFDR requires financial market participants who consider PAIs at entity level to indicate in the pre-contractual documentation whether their financial products consider PAIs (Article 7) and to report the impacts in the corresponding periodic disclosures (Article 11). When reporting these impacts, financial market participants may rely on the PAI indicators defined at entity level in the Delegated Regulation.*

*Finally, in accordance with the empowerment given in Article 2a of SFDR, the Delegated Regulation requires that the do no significant harm (DNSH) assessment of the sustainable investment definition is carried out by taking into account the PAI indicators defined at entity level in Annex I of the Delegated Regulation.*

Question 1.8: To what extent do you agree with the following statements about entity level disclosures?

	1	2	3	4	5	Don't know
I find it appropriate that certain indicators are always considered material (i.e. "principal") to the financial market participant for its entity level disclosures, while having other indicators subject to a materiality assessment by the financial market participant (approach taken in Annex I of the SFDR Delegated Regulation)				X		
I would find it appropriate that all indicators are always considered material (i.e. "principal") to the financial market participant for its entity level disclosures.	X					



I would find it appropriate that all indicators are always subject to a materiality assessment by the financial market participant for its entity level disclosures.			X			
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Question 1.8.1: When following the approach described in the first statement of question 1.8 above, do you agree that the areas covered by the current indicators listed in table 1 of the Delegated Regulation are the right ones to be considered material in all cases?

1	2	3	4	5	Don't know
	X				

Question 1.9: To what extent do you agree with the following statements about product level disclosures?

	1	2	3	4	5	Don't know
The requirement to 'take account of' PAI indicators listed in Annex I of the Delegated Regulation for the DNSH assessment, does not create methodological challenges.		X				
In the context of product disclosures for the do no significant harm (DNSH) assessment, it is clear how materiality of principal adverse impact (PAI) indicators listed in Annex I of the Delegated Regulation should be applied		X				
The possibility to consider the PAI indicators listed in Annex I of the Delegated Regulation for product level disclosures of Article 7 do not create methodological challenges.		X				
It is clear how the disclosure requirements of Article 7 as regards principal adverse impacts interact with the requirement to disclose information according to Article 8 when the product promotes environmental and/or social characteristics and with the requirement to disclose information according to Article 9 when the product has sustainable investment as its objective.		X				

Additional comments

First, ESGB would like to recall that every sector and every company within a sector have different business processes and may operate in different regions. This makes a company-specific risk analysis and determination of the PAI necessary.



Regarding product disclosures for the **do no significant harm (DNSH)** assessment:  
**There is no clear definition of the notion of 'take PAI indicators into account' in DNSH principles hence leaving room for heterogeneous DNSH methodologies and preventing comparability between financial products and financial market participants.** End investors could benefit greatly from more specific disclosure guidance.

Regarding **Article 7 SFDR**:

We believe that the interaction of Article 4 and Article 7 SFDR raises a lot of questions. With regard to disclosure in the precontractual information of a financial product, Art. 7 (1) lit. a SFDR only stipulates that financial market participants must indicate whether and, if so, how PAI are taken into account in a financial product. Within the SFDR, in contrast to the transparency regarding the consideration of PAI at company level in Art. 4 SFDR, no RTS have been implemented for the content and presentation of PAI consideration at product level. The PAI indicators, as provided in Annex I Table 1 to 3 DelVO SFDR for the consideration of PAI at company level, are therefore not directly or mandatorily applied to the product level. The disclosure of information on the consideration of the most important adverse impacts on sustainability factors according to Art. 7 (1) SFDR in pre-contractual information should not be sufficient in itself to have to categorize a financial product as an Art. 8 product. Otherwise, this would have the consequence that financial market participants who are obliged to publish a PAI-Statement at entity-level according to Art. 4 (1) lit. a) in conjunction with Art. 4 (3) or para. 4 SFDR would not be able to launch "conventional" products. In our view, the mere management of the main adverse impacts on sustainability factors identified at entity level in accordance with Art. 4 (1) a) SFDR cannot lead to the consideration of PAI being (automatically) part of a binding ESG investment strategy at product level. Such an automatism does not seem to be mandatory, neither according to the wording nor the purpose of the SFDR - provision of information to end investors as a basis for their investment decisions - and its systematic. Only the consideration of PAI as a mandatory component of the investment strategy (in the sense of individual "PAI measures" tailored to or coordinated with the investment policy of the asset management) can therefore be a criterion for a financial product to fall within the scope of Art. 8 SFDR.

Questions 1.10, 1.10.1 and 1.11 are intended for financial market participants and financial advisors subject to the SFDR.

Question 1.10: Could you provide estimates of the one-off and recurring annual costs associated with complying with the SFDR disclosure requirements (EUR)? Please split these estimates between internal costs incurred by the financial market participant and any external services contracted to assist in complying with the requirements (services from third-party data providers, advisory services ...). If such a breakdown is not possible, please provide the total figures

EUR	Estimated one off costs	Estimated recurring annual costs	Don't know
Internal costs			
Thereof personnel costs		75 FTE's	
Thereof IT costs			
External costs			
Thereof data providers		Varies between 50,000 euros and 900,000 depending on ESG members	



Thereof advisory services		600,000 euros	
Total costs of SFDR disclosure requirements			

Question 1.10.1: Could you split the total costs between product level and entity level Disclosures?

%	Product disclosures level	Entity-level disclosures	Don't know
Estimated percentage of costs			

If you wish to provide more details:

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. We ask to consider very carefully any future changes 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 or financial advisors and;
- (iii) avoid causing fatigue to customers with new information/requirements in a short period of time.

Question 1.11: In order to have a better understanding of internal costs, could you provide an estimate of how many full-time-equivalents (FTEs - FTEs - 1 FTE corresponds to 1 employee working full-time the whole year) are involved in preparing SFDR disclosures?

75 FTE's

Could you provide a split between:

%	Retrieving the data	Analysing the data	Reporting SFDR disclosures	Other	Don't know
Estimated percentage	20%	30%	20%	30%	

Question, 1.12: Are you facing difficulties in obtaining good-quality data?

<b>Yes</b>	No	Don't know
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Question 1.12.1 : If so, do you struggle to find information about the following elements?

	1	2	3	4	5	Don't know
The entity level principal adverse impacts				X		
The proportion of taxonomy-aligned investments (product level)				X		



The contribution to an environmental or social objective, element of the definition of 'sustainable investment' (product level)				X		
The product's principal adverse impacts, including when assessed in the context of the 'do no significant harm' test which requires the consideration of PAI entity level indicators listed in Annex I of the Delegated Regulation and is an element of the definition of 'sustainable investment' (product level)			X			
The good governance practices of investee companies (product level)			X			
Other				reported data on investee companies or investment funds portfolio		

*Question 1.12.2: Is the SFDR sufficiently flexible to allow for the use of estimates?*

1	2	3	4	5	Don't know
	X				

*Question 1.12.3: Is it clear what kind of estimates are allowed by the SFDR?*

1	2	3	4	5	Don't know
	X				

*Question 1.12.4: If you use estimates, what kind of estimates do you use to fill the data gap?*

	Entity level PAI	Taxonomy aligned investments (product level)	Sustainable investments (product level)	Other
The entity level principal adverse impacts	X	X	X	
The proportion of taxonomy-aligned investments (product level)			X	



The contribution to an environmental or social objective, element of the definition of 'sustainable investment' (product level)			X	
The product's principal adverse impacts, including when assessed in the context of the 'do no significant harm' test which requires the consideration of PAI entity level indicators listed in Annex I of the Delegated Regulation and is an element of the definition of 'sustainable investment' (product level)				

Question 1.12.5: Do you engage with investee companies to encourage reporting of the missing data?

1	2	3	4	5	Don't know
			X		

Additional comments

<p>Disclosure requirements for financial market participants under SFDR have to be based on EU regulatory disclosures for EU corporates either through ESRS or another regulatory framework. ESRS should provide financial market participants with the necessary information that is not readily available through other regulations. All PAIs should have their fully consistent equivalent in the ESRS. Those PAIs that are not included in the ESRS should alternatively be of mandatory nature under another disclosure regulation. <b>Financial market participants should be able to easily access the information needed in the right format for all EU large companies.</b></p> <p>There should be more guidance on estimates. This should include specific recommendations for each PAI indicator – including how to estimate or potential proxies for non-CSRD undertakings and guidance on the establishment of tolerance levels.</p> <p>Some of ESG members also stress that portfolios are too large to engage with every company, so it is more of a question for data providers etc. There are engagements and discussions with companies, where sustainability data are requested, but not necessarily specifically for SFDR.</p>
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Question 1.13: Have you increased your offer of financial products that make sustainability claims since the disclosure requirements of Articles 8 and 9 of the SFDR began to apply (i.e. since 2021, have you been offering more products that you categorise as Articles 8 and 9 than those you offered before the regulation was in place and for which you also claimed a certain sustainability performance)?

1	2	3	4	5	Don't know



			X		
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Question 1. 13.2: If you have increased your offering of financial products making sustainability claims, in your view, has any of the following factors influenced this increase?

	1	2	3	4	5	Don't know
SFDR requirements				X		
Retail investor interest		X				
Professional investor interest		X				
Market competitiveness			X			
Other factors				X		

If other, please specify:

Another factor is the strategic vision/position of the group. Moreover, the legal requirement to ask clients whether they have sustainability preferences according to Article 2 No. 7 Delegated Regulation (EU) 2017/565 have basically lead to an increase of products with sustainable features. But there is still a lack of financial instruments within the meaning of Article 2 No. 7 lit. a) Delegated Regulation (EU) 2017/565 or financial instruments within the meaning of Article 2 No. 7 lit. b) Delegated Regulation (EU) 2017/565 with a higher proportion of sustainable investments. Other relevant product groups (such as shares, corporate bonds) cannot be recommended to clients with sustainability preferences at present in many cases because the issuers of these financial instruments do not (have to) provide target market information on the sustainability factors of their products. Nevertheless, we must concede that the requirements have not lived up to the regulatory expectations and objectives of facilitating investments in sustainable finance. Our findings indicate that investors are completely overchallenged by the regulatory concept of sustainability preferences laid down in MiFID II Delegated Regulation. Even investors who take interest in sustainability matters in their daily life are unable to cope with notions of Taxonomy-aligned investments, sustainable investments under SFDR or consideration of PAIs.



## Section II: Interaction with other sustainable finance legislation

The SFDR interacts with other parts of the EU's sustainable finance framework. Questions in this section will therefore seek respondents' views about the current interactions, as well as potential inconsistencies or misalignments that might exist between the SFDR and other sustainable finance legislation. There is a need to assess the potential implications for other sustainable finance legal acts if the SFDR legal framework was changed in the future. Questions as regards these potential implications are included in section 4 of this questionnaire, when consulting on the potential establishment of a categorisation system for products, and they do not prejudice future positions that might be taken by the Commission.

The SFDR mainly interacts with the following legislation and their related delegated and implementing acts:

- the Taxonomy Regulation
- the Benchmarks Regulation
- the Corporate Sustainability Reporting Directive (CSRD)
- the Markets in Financial Instruments Directive (MiFID 2) and the Insurance Distribution Directive (IDD)
- the Regulation on Packaged Retail Investment and Insurance Products (PRIIPs)

Question 2.1 : The [Commission recently adopted a FAQ](#) clarifying that investments in Taxonomy-aligned 'environmentally sustainable' economic activities can automatically qualify as 'sustainable investments' in those activities under the SFDR. To what extent do you agree that this FAQ offers sufficient clarity to market participants on how to treat Taxonomy-aligned investment in the SFDR product level disclosures?

1	2	3	4	5	Don't know
			X		

Question 2.2: To what extent do you agree or disagree with the following statements?

	1	2	3	4	5	Don't know
<a href="#">The questions &amp; answers</a> published by the Commission in April 2023 specifying that the SFDR deems products passively tracking CTB and PAB to be making 'sustainable investments' as defined in the SFDR provide sufficient clarity to market participants				X		
The approach to DNSH and good governance in the SFDR is consistent with the environmental, social and governance exclusions under the PAB/CTB		X				
The ESG information provided by benchmark administrators is sufficient and is		X				



aligned with the information required by the SFDR for products tracking or referencing these benchmarks						
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*Question 2.3: To what extent do you agree or disagree with the following statements?*

	1	2	3	4	5	Don't know
The SFDR disclosures are consistent with the CSRD requirements, in particular with the European Sustainability Reporting Standards		X				
There is room to streamline the entity level disclosure requirements of the SFDR and the CSRD					X	

*Question 2.4: To what extent do you agree that the product disclosures required in the SFDR and its Delegated Regulation (e.g. the proportion of sustainable investments or taxonomy aligned investments, or information about principal adverse impacts) are sufficiently useful and comparable to allow distributors to determine whether a product can fit investors' sustainability preferences under MiFID2 and the IDD?*

1	2	3	4	5	Don't know
	X				

*Question 2.5: MIFID and IDD require financial advisors to take into account sustainability preferences of clients when providing certain services to them. Do you believe that, on top of this behavioural obligation, the following disclosure requirements for financial advisors of the SFDR are useful?*

	1	2	3	4	5	Don't know
Article 3, entity level disclosures about the integration of sustainability risks policies in investment or insurance advice		X				
Article 4, entity level disclosures about consideration of principal adverse impacts		X				
Article 5, entity level disclosures about remuneration policies in relation to the integration of sustainability risks		X				



Article 6, product level pre-contractual disclosures about the integration of sustainability risks in investment or insurance advice		X				
Article 12, requirement to keep information disclosed according to Articles 3 and 5 up to date			X			

Question 2.6: Have the requirements on distributors to consider sustainability preferences of clients impacted the quality and consistency of disclosures made under SFDR?

Yes:

No:

Don't know:

Question 2.6.1: If so, how?

There is a lot of information available currently in the market. Nonetheless, in ESG members' experience, **retail clients struggle to understand it**. While advising clients, investment firms place a particular emphasis on ensuring that the investment's sustainability features are credible, traceable and transparent. We recognise the effort made to correlate reporting requirements between different regulations. However, these efforts are however impacted by the fact that **many EU initiatives utilise different definitions of sustainability (Taxonomy, SFDR, MiFID II) and that their respective regulatory frameworks are only connected in an insufficient manner**. This can result in inconsistencies, double reporting, legal uncertainties, low acceptance rates and even accusations of greenwashing, which may in turn potentially lead to civil ramifications. Some examples of this duplicity are shown below:

Regarding the CSRD:

- On 31 July 2023 the European Commission adopted the European Sustainability Reporting Standards (ESRS) which are applicable to all companies subject to CSRD.
- Finally, the Commission adopted ESRS 1 and ESRS 2 as mandatory standards, while the remaining standards are subject to sustainability assessment on a case-by-case basis. In addition, explanations of whether an aspect is not considered material are also voluntary. This has implications for the financial sector and investors, as investors will not be able to access certain information, such as climate-related data, if the company in question considers it to be non-material.
- A cross-reference would be necessary in the framework of the CSRD disclosure of financial market participants, to the extent that they already provide such information under SFDR at the entity level.

Regarding MiFID and IDD:

- As regards the interaction of SFDR with MiFID II/IDD, it is worth reiterating the problems arising from the lack of alignment of the information provided under SFDR and that required from investors under MiFID II/IDD (which, moreover, is overly complex for retail investors). The confusion for retail investors may be further exacerbated by the proposed amendment of PRIIPs in the context of the European Retail Investment Strategy (RIS).



- Given that MiFID II and IDD already impose an obligation on financial advisors to take into account clients' sustainability preferences, some of our members believe that the disclosure at both entity and product level required under Articles 3, 4, 5, 6 and 12 of the SFDR is no longer useful and should be reconsidered.

Regarding the EU Taxonomy: In relation to environmental taxonomy, Article 2(17) SFDR, which defines what constitutes a sustainable investment, can be confusing. An alignment between taxonomy and SFDR allows for clarification of what can be considered as a "sustainable investment", since, at present, the Regulation does not include a detailed definition of what is to be considered as such, nor binding thresholds or uniform methods for calculating the proportion of sustainable investment. However, this is an additional complexity given that the taxonomy is a very demanding framework, as well as a "living" framework, open to new activities and to continuous revision of its technical selection criteria. The need for flexibility will therefore need to be borne in mind.

Therefore, ESBG believes that a **harmonisation of the existing regulatory sustainability definitions** would be in the best interest of customers, investment firms, as well as those entities developing financial products. **Consistent regulatory frameworks for financial products with sustainability features are the key requirement to enable the credible, transparent and legally reliable integration of sustainability into financial products and investment advice.**

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### Section III: Potential changes to disclosure requirements for financial markets participants

The SFDR contains entity level disclosure requirements for financial market participants and financial advisers. They shall disclose on their website their policies on the integration of sustainability risks in their investment decision-making process or their investment or insurance advice (Article 3). In addition, they shall disclose whether, and if so, how, they consider the principal adverse impacts of their investment decisions on sustainability factors. For financial market participants with 500 or more employees, the disclosure of a due diligence statement, including information of adverse impacts, is mandatory (Article 4). In addition, financial market participants and financial advisers shall disclose how their remuneration policies are consistent with the integration of sustainability risks (Article 5).

Question 3.1.1: Are these disclosures useful?

	1	2	3	4	5	Don't know
Article 3			X			
Article 4			X			
Article 5			X			

Please elaborate:

As a preliminary remark, ESBG would like to insist on the fact that **the SFDR Level 1 review should notably focus on enhancing legal clarity for key definitions, such as sustainable investments** (including its components contributions, DNSH, and good governance).

That being said, ESBG members are divided regarding the inclusion of entity level disclosure requirements. We believe it is useful to have access to comparable information in the area of transparency for sustainability preferences. In this regard, some ESBG members believe that entity level disclosure requirements could be a positive tool to avoid potential greenwashing effects. Nonetheless, **there is still room for improvement**, as some of the entity level requirements disclosures under SFDR might not be relevant for investors when it comes to the cost-efficiency of processing such information. It would be necessary to find an appropriate balance between comparability and flexibility of the information to be reported to ensure that such information makes sense to the investor receiving it and, in particular, to retail investors.

On the negative side, from a practical perspective, financial illiteracy, complexity and information overload are well-known obstacles for good consumer disclosure. The mass of information requirements for financial market participants and financial advisers under the SFDR and their complexity do not take account of the needs and limitations of consumers.



Samples in the market have shown that PAI statements of financial market participants at entity level have about 40 pages. It is essential to evaluate whether retail investors genuinely need this information to make well-informed investment decisions. Thus, emphasis should be placed on investor-centric disclosures of relevant information on ESG features.

Other ESG members point out that Articles 3, 4 and 5 SFDR are already covered by CSRD reporting requirements and that another option could be to delete them in the SFDR. Regarding Article 4, one could consider whether the reporting obligations should be broken down from the company level to the product level, as this is expedient for the addressees (end customers, institutional customers) and is currently already being demanded by market participants via the EET. PAI reporting at the company level is very abstract and not meaningful for the recipients, so we believe it is unnecessary.

The requirements of Article 4 SFDR can overburden even large financial market participants. Administrative burdens need to be fully assessed to ensure feasibility and proportionality. Whilst we understand the importance of ensuring there is transparency in relation to how PAIs are considered in the investment process, we do not believe their disclosures at an entity level are useful. Consumers invest in products. As such, this is where the disclosure of relevant PAIs will have the most impact and will be more decision-useful.

One may stress that adding more disclosures or PAI may not contribute to simplification efforts or provide tangible benefits to the end investor. As such, additional requirements would not only create an unnecessary burden with limited added value but might also confuse end investors who are already grappling with information overload and constantly changing disclosures.

*Question 3.1.2: Among the specific entity level principal adverse impact indicators required by the Delegated Regulation of the SFDR adopted pursuant to Article 4 (tables 1, 2 and 3 of Annex I), which indicators do you find the most (and least) useful?*

First of all, ESG advocates for the SFDR Level 2 review, which still runs parallel to this consultation, to **prioritize the alignment of PAIs between SFDR and the delegated acts of the Corporate Sustainability Reporting Directive (CSRD)/European Sustainable Reporting Standards (ESRS)**. The Level 2 review should be consistent with the upcoming SFDR review.

If the EU Commission concludes that changes to the SFDR Level 1 are necessary, the current Level 2 review should rather focus on providing additional clarity and simplicity which must ultimately benefit end investors in their understanding of financial products. However, it is crucial to ensure that any proposed amendments to Level 2 measures should be able to withstand any future review of the SFDR Level 1 framework.

It is highly preferable to **reduce the current number of mandatory PAI indicators to a small set of generally relevant PAI that are less prone to misinterpretations by investors**. This would be highly beneficial for the general understanding by distributors and end-investors. We therefore urge for a shift towards **prioritizing relevance and simplification**. This is especially crucial given the **current limitations in data quality**, which first and foremost necessitates improvements in data coverage to ensure more reliable results. It is imperative for investors not to receive an excessive amount of information. We, therefore, recommend minimizing the number of PAIs, focusing on only the most relevant ones.

To name a few indicators more precisely (this is a not exhaustive list):



**Most useful:** Exposure to companies active in the fossil fuel sector; GHG intensity of investee companies and Carbon footprint; (i.e. Annex 1, Table 1, PAI 1-6.); PAI 10 (Violations of UN GC Principles) and PAI 13.

**Least useful:** water; waste and biodiversity; the PAI for the unadjusted gender-specific earnings gap (PAI 12), Annex 1, Table 1, low data coverage as well as PAI 4, PAI 5, PAI 16 (no clear definition)

*Question 3.1.3: In this context, is the SFDR the right place to include entity level disclosures?*

1	2	3	4	5	Don't know
					X

*Question 3.1.4: To what extent is there room for streamlining sustainability-related entity level requirements across different pieces of legislation?*

1	2	3	4	5	Don't know
				X	

ESBG considers it necessary to **simplify entity disclosure requirements**, addressing the most urgent and relevant issues. Retail customers find it difficult to understand all the information available in the market due to the complexity of the disclosures. .

Another issue that we consider relevant to highlight is **the challenge for firms to access reliable data, especially outside the EU**, as well as the **methodological problems faced by firms in relation to the PAI indicators for the principle of no significant harm to the environment (DNSH), due to lack of data and the use of estimates**.

It is also necessary to reflect on the requirements for the consideration of PIAs and, in particular, on what this information provides when provided at entity level, as it can be very difficult to understand for retail clients and contradictory to the information provided at product level, which is (a priori) the most relevant for the investor.

Since Art. 3, 4 and 5 are already covered by CSRD reporting requirements one option could also be to delete them in the SFDR.

The SFDR includes product level disclosure requirements (Articles 6, 7, 8, 9, 10 and 11) that mainly concern risk and adverse impact related information, as well as information about the sustainability performance of a given financial product. The regulation determines which information should be included in precontractual and periodic documentation and on websites.

*Question 3.2.1: Standardised product disclosures - Should the EU impose uniform disclosure requirements **for all** financial products offered in the EU, regardless of their sustainability-related claims or any other consideration?*



1	2	3	4	5	Don't know
					X

Question 3.2.1. a): If the EU was to impose uniform disclosure requirements for all financial products offered in the EU, should disclosures on a limited number of principal adverse impact indicators be required for all financial products offered in the EU? Please, specify which ones:

ESBG is divided regarding this question. On the one hand, one can see merit in this approach. That being said, it would depend on the specificities and features of each product. Disclosures' criteria should be harmonised at the EU level but disclosures should be based on the relevance and features of each product.

On the other hand, one may fear that the same disclosure requirements for all financial products on sustainability features **would increase complexity and information overload for consumers**. It is very important that the EU Commission takes due account about the needs and limitations of investors/consumers. We underline our support to enhance comparability for end investors and the specificities and features of each product. At the same time, disclosures should provide investors with meaningful and reliable information, backed by solid data, and preserve ease of access to such information. Thereby, it is of utmost importance that any possible amendments are carefully calibrated and compatible with the end investors' needs while being both proportionate and feasible for financial market participants to produce. Only in case of investment firms that offer products with sustainability features, there seems to be a regulatory expectation that the product provider / financial market participants will also account for PAI in the due diligence process. This understanding has been confirmed by the MiFID II Delegates Regulation and IDD relating to the definition of sustainability preferences which effectively require PAI consideration in Article 8 products.

Furthermore, the introduction of sustainability-related disclosure requirements for explicitly non-sustainable products could deter (private) investors who consciously distance themselves from sustainable products. Sustainability information on non-sustainable products leads to more confusion than enlightenment and information overload. This requirement would lead to high expenses and costs for financial market participants without any return.

In any event, ESBG would like to insist on the need for more **proportionality**.

Question 3.2.1 b): Please see a list of examples of disclosures that could also be required about **all** financial products for transparency purposes. In your view, should these disclosures be mandatory, and/or should any other information be required about **all** financial products for transparency purposes?

	1	2	3	4	5	Don't know
Taxonomy related disclosures						X
Engagement strategy						X



Exclusions						X
Info about how ESG related information is used in the investment process						X
Other information						X

Additional comments

ESBG is also divided regarding this question. Should some disclosures become mandatory for all financial products, the ones suggested above seem quite general. It means that there are lots of uncertainties when it comes to the practical consequences of making these disclosures mandatory at present. Given these uncertainties, even though ESBG is in favour of a better harmonization and consistency between sustainable finance regulations, whether this option is desirable remains to be seen.

We also question the need for transparency about the applicability of ESG-criteria for products that have not made any promises to take ESG-criteria into account. It is not necessary to have to make a negative declaration. This would lead to undesirable distortions of competition. We therefore consider mandatory disclosure of ESG-indicators in accordance with section 3.2.1 b) to be inappropriate and unnecessary.

Question 3.2.2: Standardised product disclosures - Would uniform disclosure requirements for **some** financial products be a more appropriate approach, regardless of their sustainability-related claims (e.g. products whose assets under management, or equivalent, would exceed a certain threshold to be defined, products intended solely for retail investors...)? Please note that next question 3.2.3 asks specifically about the need for disclosures in cases of products making sustainability claims.

1	2	3	4	5	Don't know
					X

Question 3.2.2 a): If the EU was to impose uniform disclosure requirements for some financial products, what would be the criterion/criteria that would trigger the reporting obligations?

There should only be requirements to inform about sustainable features when the financial product has a binding ESG investment strategy or targets investors with sustainable preferences.

Question 3.2.2. b): If the EU was to impose uniform disclosure requirements for some financial products, should a limited number of principal adverse impact indicators be required?

1	2	3	4	5	Don't know
			X		

Question 3.2.2. c): Please see a list of examples of disclosures that could also be required about the group of financial products that would be subject to standardised disclosure



obligations for transparency purposes (in line with your answer to Q 3.2.2 above). In your view, should these disclosures be mandatory, and/or should any other information be required about that group of financial products?

	1	2	3	4	5	Don't know
Taxonomy related disclosures						x
Engagement strategy						x
Exclusions						x
Info about how ESG related information is used in the investment process						x
Other information						x

Question 3.2.3: If requirements were imposed as per question 3.2.1 and/or 3.2.2, should there be some additional disclosure requirements when a product makes a sustainability claim?

1	2	3	4	5	Don't know
	x				

Question 3.2.4: In general, is it appropriate to have product related information spread across these three places, i.e. in precontractual disclosures, in periodic documentation and on websites?

1	2	3	4	5	Don't know
		x			

Question 3.2.5: More specifically, is the current breakdown of information between precontractual, periodic documentation and website disclosures appropriate and user friendly?

1	2	3	4	5	Don't know
	x				

Additional comments



We consider it **necessary to simplify the information requirements**, addressing the most urgent and relevant aspects. Retail customers find it difficult to understand all the information available in the market given the complexity of the disclosures. In addition, the SFDR RTS requires a different set of information for website disclosures (Article 10 SFDR) than for the prospectus/ ESG templates. At least harmonization should be sought here. In the best-case scenario, the prospectus/ ESG templates should be sufficient as a short and simple document.

It is very complicated for clients to find all the relevant information. Templates require a lot of support text and do not help to navigate the reader to look for core information and then read detail as needed.

*Question 3.2.6: To what extent do you agree with the following statements?*

	1	2	3	4	5	Don't know
It is useful that product disclosures under SFDR are publicly available (e.g. because they have the potential to bring wider societal benefits)			X			
Confidentiality aspects need to be taken into account when specifying the information that should be made available to the public under the SFDR				X		
Sustainability information about financial products should be made available to potential investors, investors or the public according to rules in sectoral legislation (e.g.: UCITS, AIFM, IORPs directives); the SFDR should not impose rules in this regard					X	

*Please, explain your reply:*

In order to provide information which is fair, clear and not misleading to retail investors, SFDR should, where appropriate, allow for different approaches taken between different types of products. This is especially relevant for individual portfolios. The classification of managed portfolios as financial products under Article 2 (12)(a) SFDR poses challenges to financial market participants that offer portfolio management services. For individual portfolios managed in accordance with the needs and preferences of individual investors with the professional status, standardised disclosures developed for retail clients are widely inappropriate. Therefore, disclosures should further differentiate depending on the investor type. In addition, website disclosures for individually managed portfolios are not useful for the public. Due to confidentiality considerations, it should be sufficient, that the required product sustainability information reaches the respective client or potential client (which it does by providing pre-contractual information and periodic reports to the individual, respective client).

To avoid a duplication of information at product level, the requirements laid down in Article 10 (1) lit. c and d SFDR could be deleted.



Question 3.2.7: To what extent do you agree with the following statements?

	1	2	3	4	5	Don't know
The same sustainability disclosure topics and the exact same level of granularity of sustainability information (i.e. same number of datapoints) should be required in all types of precontractual documentation to allow for comparability		X				
The same sustainability disclosure topics should be required in all types of precontractual documentation to allow for comparability						X

Additional comments

To avoid distortions of competition, one might think that the pre-contractual documents of all financial products falling in the scope of the SFDR should be subject to the same disclosure requirements for consistency purposes. On the other hand, we are against the exact same level of granularity of sustainability information (i.e. same number of datapoints) in all types of precontractual documentation in order to avoid information overload.

The PRIIPs KIID should be streamlined with the information on sustainable preferences according to MiFID II, since this is a document for retail investors. It should not only refer to the SFDR or link to the SFDR pre-contractual template, since the PRIIP regulation has a wider scope (not only SFDR products).

Overall, it would be interesting for comparability purposes as long as differences between products are taken into account.

Question 3.2.8: Do you believe that sustainability related disclosure requirements at product level should be independent from any entity level disclosure requirements, (i.e. product disclosures should not be conditional on entity disclosures, and vice-versa)?

**Yes:** Mutual "infection" of statements at the company or product level should be avoided. The statements in the legal documents are relevant for the customer. Furthermore, regardless of the strategic orientation at the company level, it should be possible to be a provider of a wide range of products with different "orientations" or investment strategies.

No:

Don't know:

Question 3.2.9: Do you think that some product-level disclosures should be expressed on a scale (e.g. if the disclosure results for similar products were put on a scale, in which decile would the product fall)?

**Yes:**

No:

Don't know:



**Question 3.2.9.1: If so, how should those scales be established and which information should be expressed on a scale?**

We are in favor of an ESG scale with the following preconditions:

- is designed to be applicable to products falling under the scope of PRIIP regulation and is applicable to investment product for retail customers ;
- should be further specified and elaborated at level 2 as regards detailed features, e.g. investment proportions to be dynamically adjusted;
- is not a label and not meant to replace labels;
- aims to promote transparency for retail investors and should therefore be designed as transparent and comprehensible as possible;
- should be continuously adjusted to on-going Sustainable Finance regulation;
- Allocation to a category should be aligned to MiFID II / IDD requirements for sustainability preferences (Article 2 no. 7a-c of Delegated Regulation (EU) 2017/565).

**Question 3.2.10: If you are a professional investor, where do you obtain the sustainability information you find relevant?**

	1	2	3	4	5	Don't know
From direct enquiries to market participants					X	
Via SFDR disclosures provided by market participants	X					

**Question 3.2.11: If you are a professional investor, do you find the SFDR requirements have improved the quality of information and transparency provided by financial market participants about the sustainability features of the products they offer?**

1	2	3	4	5	Don't know
		X			

**Question 3.2.12: To what extent do you agree or disagree with the following statements?**

	1	2	3	4	5	Don't know



Article 2(2) of the SFDR Delegated Regulation already requires financial market participants to make disclosures under the SFDR in a searchable electronic format, unless otherwise required by sectoral legislation. This is sufficient to ensure accessibility and usability of the disclosed information.				X		
It would be useful for all product information disclosed under the SFDR to be machine-readable, searchable and ready for digital use. It would be useful for some of the product information disclosed under the SFDR to be machine-readable and ready for digital use.				X		
It would be useful to prescribe a specific machine-readable format for all (or some parts) of the reporting under the SFDR (e.g. iXBRL).				X		
It would be useful to make all product information disclosed under the SFDR available in the upcoming European Single Access Point as soon as possible.				X		
Entity and product disclosures on websites should be interactive and offer a layered approach enabling investors to access additional information easily on demand.						X
It would be useful that a potential regulatory attempt to digitalise sustainability disclosures by financial market participants building on the European ESG Template (EET) which has been developed by the financial industry to facilitate the exchange of data between financial market participants and stakeholders regarding sustainability disclosures.		X				

Question 3.2.13: Do you think the costs of introducing a machine-readable format for the disclosed information would be proportionate to the benefits it would entail?



1	2	3	4	5	Don't know
		X			

Question 3.2.14: To what extent do you agree with the following statement? "When determining what disclosures should be required at product level it should be taken into account: ..."

	1	2	3	4	5	Don't know
Whether some of the underlying investments are outside the EU				X		
Whether some of the underlying investments are in an emerging economy				X		
Whether some of the underlying investments are in SMEs				X		
Whether the underlying investments are in certain economic activities or in companies active in certain sectors				X		
Other considerations as regards the type of product or underlying investments				X		

Please explain

**Lack of data availability** in countries or sectors that do not have comparable EU data standards and/or are not subject to EU regulation must be adequately taken into account. In addition, asset classes other than stocks should receive appropriate attention. Previous definitions, such as taxonomy, are aimed at company valuations. It should be noted that balanced, fixed-income and alternative funds also play a major role, as they continue to face the challenges of the disclosure regulation.



## Section IV: potential establishment of a categorisation system for financial products

The fact that Articles 8 and 9 of the SFDR are being used as de facto product labels, together with the proliferation of national ESG/sustainability labels, suggests that there is a market demand for such tools in order to communicate the ESG/sustainability performance of financial products. However, there are persistent concerns that the current market use of the SFDR as a labelling scheme might lead to risks of greenwashing (the Commission services seek respondents' views on this in section 1). This is partly because the existing concepts and definitions in the regulation were not conceived for that purpose. Instead, the intention behind them was to encompass as wide a range of products as possible, so that any sustainability claims had to be substantiated. In addition, a proliferation of national labels risks fragmenting the European market and thereby undermining the development of the [capital markets union](#).

*Question 4.1.1: To what extent do you agree with the following statements?*

	1	2	3	4	5	Don't know
Sustainability product categories regulated at EU level would facilitate retail investor understanding of products' sustainability-related strategies and objectives				X		
Sustainability product categories regulated at EU level would facilitate professional investor understanding of products' sustainability-related strategies and objectives				X		
Sustainability product categories regulated at EU level are necessary to combat greenwashing				X		
Sustainability product categories regulated at EU level are necessary to avoid fragmenting the capital markets union.					X	
Sustainability product categories regulated at EU level are necessary to have efficient distribution systems based on investors' sustainability preferences.				X		
There is no need for product categories. Pure disclosure requirements of sustainability information are sufficient.	X					



Question 4.1.2: If a categorisation system was established, how do you think categories should be designed?

	1	2	3	4	5	Don't know
<b>Approach 1:</b> Splitting categories in a different way than according to existing concepts used in Articles 8 and 9, for example, focusing on the type of investment strategy of the product (promise of positive contribution to certain sustainability objectives, transition, etc.) based on criteria that do not necessarily relate to those existing concepts.						X
<b>Approach 2:</b> Converting Articles 8 and 9 into formal product categories, and clarifying and adding criteria to underpin the existing concepts of environmental/social characteristics, sustainable investment, do no significant harm, etc.						X

Please, explain your answers:

ESBG is divided on that question given that we see merits and shortcomings for both approaches. Whatever approach the Commission decides to implement eventually, ESBG would like to stress that the following remarks should be taken into account:

ESBG comments regarding approach 1:

The purpose of SFDR was not to create a categorisation of products. However, the definition in Articles 8 and 9 has been used as a labelling system in practice. **It is necessary to create a framework that is understandable by all investors**, differentiating between the information needs of institutional and retail investors. The development of a categorisation system needs to be further refined by adding a broader classification system with clear minimum criteria.

There is a strong need to avoid fragmentation in product categorisation. Developments are currently underway in several jurisdictions, for example in the United States and the United Kingdom. Even within the European Union itself, there are initiatives by some Member States to pursue a separate classification system for financial products, so that possible alignments should be explored to **avoid fragmentation of the market** and further confusion in marketing that would generate distrust on the part of investors in the schemes.

We believe that it could be useful for investors to be aware of the different strategies used by financial products. Alignment with taxonomy corresponds to an ESG alignment strategy, which could be differentiated from other strategies, such as cases where certain activities are excluded.

Nonetheless, ESBG also sees some shortcomings in approach 1, notably when it comes to focusing on the type of ESG investment strategy of the product. Regulatory definitions of investment strategies, which are basically market-driven solutions, even if declared



indicative, entail the risk of being considered set in stone. Consequently, focusing on the current investment strategy would make it difficult to advance this strategy in line with the state-of-the-art methodologies developed in the market. Moreover, a regulatory list of broadly recognised ESG investment strategies could prevent new innovative approaches to ESG investing being developed and generally limit innovation in this currently very dynamic market segment. It is important to encourage **flexibility** as regards the choice of appropriate ESG investment strategies, but also possible combinations of different approaches/strategies that are often considered complementary for the attainment of environmental and/or social characteristics or sustainable investments.

ESBG comments regarding approach 2:

An obvious advantage of a common EU framework on formal product categories with clear standards, as suggested by approach 2, would be that it could end the fragmentation, and yield the potential of sustainable finance especially in the retail market. The understanding of products that are allowed to be offered as sustainable must be as clear as possible and consistent alongside all relevant pieces of EU law. At the moment we have the situation whereby a product is issued in full conformity with Article 8 SFDR and hence entitled to be marketed as promoting environmental and/or social characteristics, but it cannot be offered to clients with sustainability preferences according to MiFID II/IDD. We strongly believe that **the respective approaches and definitions of SFDR and MiFID II/IDD should be harmonized**. MiFID II/IDD features several categories for sustainability characteristics apart from Articles 8 and 9 SFDR, which offer substantial assistance to retail investors, and which could be built upon further:

- "taxonomy-aligned investment" based on the Taxonomy Regulation,
- "sustainable investment" in accordance with Article 2 (17) SFDR",
- "The principle adverse impacts on sustainability factors as set out in Annex 1 of the RTS to the SFDR."

This concept is already known to market participants, and can be used to describe a vast variety of different investment strategies. Many technical and legal questions have already been addressed by the ESAs.

When reviewing the SFDR, the EU Commission should also **clarify the methodology of calculating sustainable investments** when it comes to the concept of minimum proportion. There are diverging approaches to determining and calculating sustainable investments currently present in the market. This is in our view a concerning situation and clarifications by the EU Commission would be most welcomed.

**It is also of utmost importance to ensure that the criteria to underpin the existing concepts do not introduce totally new approaches or amend the understanding of provisions that apply to all SFDR products.** In order to avoid distortions of competition to the detriment of the industry, it is essential that the new criteria do not apply on a silo basis to all financial products. For example, the application of exclusions entails many challenges outside direct investments in shares and bonds or when investing in transformation product. We therefore reject the idea of introducing mandatory minimum exclusions for financial products with sustainable/social objectives. The current SFDR framework does not limit ESG investment approaches and treats exclusion criteria as valid E/S characteristics. If done wisely, product categorization can lead to a better understanding of products by investors.

**If a categorisation system was established according to approach 1 of question 4.1.2**



Question 4.1.3: To what extent do you agree that, under approach 1, if a sustainability disclosure framework is maintained in parallel to a categorisation system, the current distinction between Articles 8 and 9 should disappear from that disclosure framework?

1	2	3	4	5	Don't know
		X			

Question 4.1.4: To what extent would you find the following categories of sustainability products useful?

	1	2	3	4	5	Don't know
A - Products investing in assets that specifically strive to offer targeted, measurable solutions to sustainability related problems that affect people and/or the planet, e.g. investments in firms generating and distributing renewable energy, or in companies building social housing or regenerating urban areas.						X
B - Products aiming to meet credible sustainability standards or adhering to a specific sustainability-related theme, e.g. investments in companies with evidence of solid waste and water management, or strong representation of women in decision-making.						X
C - Products that exclude activities and/or investees involved in activities with negative effects on people and/or the planet						X
D - Products with a transition focus aiming to bring measurable improvements to the sustainability profile of the assets they invest in, e.g. investments in economic activities becoming taxonomy-aligned or in transitional economic activities that are taxonomy aligned, investments in companies, economic activities or portfolios with credible targets and/or plans to decarbonise, improve workers' rights, reduce environmental impacts.						X



Other					X	
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Do you think there are other possible categories?

ESBG would like to stress that these replies are applicable provided that the proposed approach intends to simplify the current system but does not add additional layers of complexity.

We believe that it will be useful for investors to be aware of the different strategies used by financial products. Alignment with taxonomy corresponds to an ESG alignment strategy, which should be differentiated from other strategies, such as cases where certain activities are excluded. The development of this categorization system requires greater precision, adding a broader classification system, with clear minimum criteria.

The creation of a category specifically for real estate funds could be an option, as long as it takes into account the current standard of taxonomy-compliant investments in the real estate sector as well as the relevant PAI indicators.

Question 4.1.5: To what extent do you think it is useful to distinguish between sustainability product category A and B described above?

Rank between 1 to 5: ESBG suggestion = 4

Question 4.1.6: Do you see merits in distinguishing between products with a social and environmental focus?

1	2	3	4	5	Don't know
	X				

Question 4.1.7: How many sustainability product categories in total do you think there should be?

1	2	3	4	5	More than 5	Don't know
			X			

Question 4.1.8: Do you think product categories should be mutually exclusive, i.e. financial market participants should choose only one category to which the product belongs to in cases where the product meets the criteria of several categories (independently from subsequent potential verification or supervision of the claim)?

Yes:



**No:**

There is another possible approach (please elaborate):

Don't know:

Question 4.1.9: If a categorisation system was established that builds on new criteria and not on the existing concepts embedded in Articles 8 and 9, is there is a need for measures to support the transition to this new regime?

1	2	3	4	5	Don't know
				X	

Additional comments

ESBG believes that a cost-benefit analysis and consumer testing should be carried out, taking into account the advantages and disadvantages of any new implementation or development, as this may generate greater uncertainty in the market and confusion for investors. We would like to highlight that the implementation of changes has a **high economic cost**, requiring considerable investment of resources as well as costly IT adaptations.

There could be a **transitional period** of at least 18 months to align all existing financial products with the new criteria. The products would need to align their binding ESG commitments in their investment strategy with the new criteria to be yet agreed by the EU Commission. With regard to fund, depending on the relevant fund structure, there might be required shareholders' agreement or prior information of shareholders via a durable medium as well as authorisation by the competent NCA and potentially approvals by other regulators due to distribution inside (for AIFs) or outside the EU. The new requirements, when adopted, should only come into application for newly launched products in the first place and should become relevant for existing Article 8/9 products only in case of changes to the E/S characteristics or the investment strategy that would require a renewal of authorisation by the competent NCA. Such a **phasing-in solution** for existing products would allow for an orderly introduction of the new requirements and provide management companies and investment firms with sufficient time for reviewing their existing product ranges.

Question 4.1.10: What should be the minimum criteria to be met in order for a financial product to fall under the different product categories? Could these minimum criteria consist of:

For product of category A of question 4.1.4

	1	2	3	4	5	Don't know
Taxonomy alignment			X			
Engagement strategies		X				
Exclusions			X			



Pre-defined, measurable, positive environmental, social or governance-related outcome			X			
Other						

*Please, specify:*

The reply to the taxonomy question should be assessed provided the taxonomy regime is finalised at the EU level and applicable.

*For product category B of question 4.1.4:*

	1	2	3	4	5	Don't know
Taxonomy alignment			X			
Engagement strategies		X				
Exclusions			X			
Pre-defined, measurable, positive environmental, social or governance-related outcome			X			
Other						X

*Please, specify:*

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*For product category C of question 4.1.4*

	1	2	3	4	5	Don't know
Taxonomy alignment		X				
Engagement strategies		X				
Exclusions			X			
Pre-defined, measurable, positive environmental, social or governance-related outcome		X				



Other	X					

*Please, specify:*

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*For product category D of question 4.1.4:*

	1	2	3	4	5	Don't know
Taxonomy alignment		X				
Engagement strategies				X		
Exclusions			X			
Pre-defined, measurable, positive environmental, social or governance-related outcome				X		
Other						

*Please, specify:*

Regarding "Pre-defined, measurable, positive environmental, social or governance-related outcome", ESBG fears that there might be a potential lack of measurability regarding the transition.
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*Question 4.1.11: Should criteria focus to any extent on the processes implemented by the product manufacturer to demonstrate how sustainability considerations can constrain investment choices (for instance, a minimum year-on-year improvement of chosen key performance indicators (KPIs), or a minimum exclusion rate of the investable universe)?*

	1	2	3	4	5	Don't know
Category A of question 4.1.4	X					
Category B of question 4.1.4	X					
Category C of question 4.1.4	X					
Category D of question 4.1.4	X					



Question 4.1.11 a): If so, what process criteria would you deem most relevant to demonstrate the stringency of the strategy implemented?

**Any disclosures in this regard should be voluntary and not create additional and unnecessary complexity to retail clients.** If the financial product is managed according to certain ESG-indicators in accordance with the product promise, these management mechanisms (e.g. management according to KPIs) should be explained in abstract terms in the pre-contractual document and the result of the management, i.e. the achievement of objectives, should be reported in the product's annual report.

**If a categorisation system was established according to approach 2 of question 4.1.2**

Question 4.1.12: If a categorisation system was established based on existing Articles 8 and 9, are the following concepts of the SFDR fit for that purpose?

	1	2	3	4	5	Don't know
The current concept of 'environmental and/or social characteristics'			X			
The current concept of 'sustainable investment'			X			
The current element of 'contribution to an environmental or social objective' of the sustainable investment concept			X			
The current element 'do no significant harm' of the sustainable investment concept, and its link with the entity level principal adverse impact indicators listed in tables 1, 2 and 3 of Annex I of the Delegated Regulation			X			
The current element of 'investee companies' good governance practices' of the sustainable investment concept			X			

Question 4.1.12 a): If you consider that the elements listed in question 4.1.12 are not fit for purpose, how would you further specify the different elements of the 'sustainable investment' concept, what should be the minimum criteria required for each of them?



contribution to an environmental or social objective', element of the sustainable investment concept	
'do no significant harm', element of the sustainable investment concept	The inherent inconsistencies between the two parallel concepts of sustainability (SFDR – investment level and Taxonomy – activity level) should be addressed in combination with further development of the EU Taxonomy. A more complete Taxonomy that covers more activities could help resolve issues within SFDR. 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.
'investee companies' good governance practices', element of the sustainable investment concept	It should be based on market-specific conditions.

Question 4.1.12 b): Should the good governance concept be adapted to include investments in government bonds?

Yes

**No:**

Don't know:

Question 4.1.12 c): Should the good governance concept be adapted to include investments in real estate investments?

Yes (what minimum criteria should be required then?):

**No:**

Don't know:

Question 4.1.13: How would you further specify what promotion of 'environmental/social characteristics' means, what should be the minimum criteria required for such characteristics and what should be the trigger for a product to be considered as promoting those characteristics?

Promotion should be understood as a contractual commitment to sustainability characteristics relating to the financial products specific investment strategy - irrespective of factors that influence the investment policy of the financial product via characteristics of the company's investment processes; it is assumed that the marketing of the product is in line with the contractual characteristics of the product's investment strategy. With
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regard to the criterion itself, the motivation for consideration should be based on a reduction of negative sustainability factors and/or a contribution to the achievement of at least one specific environmental and/or social objective.

Question 4.1.14: Do you think that a minimum proportion of investments in taxonomy aligned activities shall be required as a criterion to:

	Yes	No	Don't know
...fall under the potential new product category of Article 8?		X	
...fall under the potential new product category of Article 9?		X	

*If yes, what should be the minimum proportion for article 8 and/or for article 9:*

Question 4.1.15: Apart from the need to promote environmental/social characteristics and to invest in companies that follow good governance practices for Article 8 products and the need to have sustainable investments as an objective for Article 9 products, should any other criterion be considered for a product to fall under one of the categories?

To ensure coherence with sustainability preferences, qualitative and/or quantitative consideration of PAIs could also be a criterion.

Question 4.2.1: In addition to these criteria, and to other possible cross-cutting/horizontal disclosure requirements on financial products, should there be some additional disclosure requirements when a product falls within a specific sustainability product category? This question presents clear links with question 3.2.3 in section 3.

	1	2	3	4	5	Don't know
Taxonomy alignment				X		
Engagement strategies				X		
Exclusions				X		



Information about how the criteria required to fall within a specific sustainability product category have been met			X			
Other information	X					

Question 4.2.2: If a product categorisation system was set up, what governance system should be created?

	1	2	3	4	5	Don't know
Third-party verification of categories should be mandatory (i.e. assurance engagements to verify the alignment of candidate products with a sustainability product category and assurance engagements to monitor on-going compliance with the product category criteria)		X				
Market participants should be able to use this categorisation system based on a self-declaration by the product manufacturer supervised by national competent authorities				X		
Other						

Please, explain:

ESBG believes that a third-party control regime, even though it may reduce reputational risks, would very likely cause unnecessary and unreasonable costs and efforts. There is already a functioning supervisory authority that approves products before they are issued (e.g. funds). In our opinion, that should be sufficient. If the requirements for products are formulated clearly enough, financial market participants can classify them and the NCAs can check them as part of the approval or notification process.

Question 4.2.3: If a categorisation system was established, to what extent do you agree with the following statement? "When determining the criteria for product categories it should be taken into account: ..."

	1	2	3	4	5	Don't know
Whether the product is a wrapper offering choices between underlying investment options like a Multi-Option Product				X		



Whether the underlying investments are outside the EU				X		
Whether the underlying investments are in an emerging economy				X		
Whether the underlying investments are in SMEs				X		
Whether the underlying investments are in certain economic activities				X		
Other considerations				X		

Additional comments

Lack of data availability in countries or sectors that do not have comparable data standards analogous to the EU and/or are not subject to EU regulation must be adequately taken into account, as well as when certain categories of companies (such as SMEs) or economic activities are excluded from the scope of regulation. FMTs in the EU cannot make disclosures if the necessary data is not available on the market or if the companies in the real economy are not obliged to collect and publish this data.

Question 4.3.1: The objective of the PRIIPs KID is to provide short and simple information to retail investors. Do you think that if a product categorisation system was established under the SFDR, the category that a particular product falls in should be included in the PRIIPs KID?

**Yes** = CECA + AT + FN

**No** = DSGV = *The inclusion of sustainability information in the PRIIP KID is currently being discussed as part of the EU Retail Investment Strategy. Information on the SFDR product category in the PRIIPs KID would have no added value for the retail client. From the point of the distributors who provide investment advice on financial instruments on a large scale, it is imperative that the presentation on sustainability in product descriptions such as the KID is aligned with MiFID II/IDD. Advisors are obliged to discuss the legally prescribed sustainability features with the client and to clarify whether and which of the product types provided for in the MiFID II Regulation the client desires in order to be able to recommend a suitable product on that basis. Any proposal on information about ESG aspects in the PRIIP KID should address precisely these aspects by building on and reflecting the requirements of MiFID II/IDD. In this way, a client will find the sustainability-related aspects that the advisor discusses with him (in implementation of the legal requirements!) in the advisory meeting also reflected in the supplementary product information.*

Don't know

Question 4.3.2: If new ESG Benchmarks were developed at EU level (in addition to the existing Paris-aligned benchmarks (PAB) and climate transition benchmarks (CTB)), how should their criteria interact with a new product categorisation system?



	1	2	3	4	5	Don't know
The criteria set for the ESG benchmarks and the criteria defined for sustainability product categories should be closely aligned					X	
Other (please explain if so)						

Question 4.3.3: Do you think that products passively tracking a PAB or a CTB should automatically be deemed to satisfy the criteria of a future sustainability product category?

**Yes**

No

Don't know

Question 4.3.4: To what extent do you agree that, if a categorisation system is established, sustainability preferences under MiFID 2/IDD should refer to those possible sustainability product categories?

1	2	3	4	5	Don't know
				X	

Question 4.4.1: Do you agree that the SFDR is the appropriate legal instrument to deal with the accuracy and fairness of marketing communications and the use of sustainability related names for financial products?

Yes

**No**

Don't know

Question 4.4.2: To what extent do you agree with the following statements?

	1	2	3	4	5	Don't know
The introduction of product categories should be accompanied by specific rules on how market participants must label and communicate on their products				X		
The use of terms such as 'sustainable', 'ESG', 'SDG', 'green', 'responsible', 'net zero' should be prohibited for products that do not fall under at least one of the product categories defined above, as appropriate.				X		



Certain terms should be linked to a specific product category and should be reserved for the respective category.		X				
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Question 4.4.3: Would naming and marketing communication rules be sufficient to avoid misleading communications from products that do not fall under a product sustainability category?

1	2	3	4	5	Don't know
			X		

Please explain your replies to questions 4.4.1, 4.4.2 and 4.4.3:

<p>Rules on naming, including ESG or sustainability-related terms, would go beyond the current SFDR requirements. If additional rules and criteria are indeed needed, it should be up to the co-legislators' discretion. <b>It is of utmost importance in this respect that there is more clarity on the definition of "sustainable investment" and to resolve interoperability issues between the SFDR, MiFID/IDD, and other regulatory developments.</b> Any approach to use sustainability related names for financial products should be consistent with the elements of MiFID II sustainability preferences.</p> <p>4.4.1 Marketing regulation should generally be reflected in MiFID and not in the SFDR.</p> <p>4.4.2 The proposed regulatory impulses for certain terms are not sufficiently clearly defined to be able to derive specific requirements from them. In particular, the above-mentioned possibility (section 4.1.8) that a product may fall under different categories cannot be mapped. Marketing regulation should generally be mapped in MiFID and not in the SFDR.</p> <p>4.4.3 This type of regulation is already sufficiently detailed and far-reaching. Further regulation is not necessary.</p>
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### **About ESBG (European Savings and Retail Banking Group)**

The European Savings and Retail Banking Group (ESBG) represents the locally focused European banking sector, helping savings and retail banks in 21 European countries strengthen their unique approach that focuses on providing service to local communities and boosting SMEs. An advocate for a proportionate approach to banking rules, ESBG unites at EU level some 885 banks, which together employ 656,000 people driven to innovate at 48,900 outlets. ESBG members have total assets of €5.3 trillion, provide €1 trillion in corporate loans, including to SMEs, and serve 150 million Europeans seeking retail banking services. ESBG members commit to further unleash the promise of sustainable, responsible 21st century banking. Learn more at [www.wsbi-esbg.org](http://www.wsbi-esbg.org).



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