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# Final Report on draft Regulatory Technical Standards

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with regard to the content, methodologies and presentation of disclosures pursuant to Article 2a(3), Article 4(6) and (7), Article 8(3), Article 9(5), Article 10(2) and Article 11(4) of Regulation (EU) 2019/2088

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# 1. Executive Summary

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The European Supervisory Authorities (ESAs) have developed through the Joint Committee (JC) draft Regulatory Technical Standards (RTS) with regard to the content, methodologies and presentation of sustainability-related disclosures under empowerment Articles 2a, 4(6) and (7), 8(3), 9(5), 10(2) and 11(4) of Regulation (EU) 2019/2088 (hereinafter Sustainable Finance Disclosure Regulation “SFDR”).

The draft RTS text and accompanying Annexes set out proposal in these areas.

They reflect the responses to a Consultation Paper (JC 2020 16) published on 23 April 2020.

The draft RTS also contain templates for pre-contractual and periodic product disclosures that were subject to an online public survey and to two consumer testing exercises conducted in the Netherlands and Poland.

In line with the empowerment in Article 4(6) SFDR, the ESAs also sought input from the Joint Research Centre of the European Commission and the European Environment Agency as referred to in Article 4(6) SFDR.

The draft RTS relate to several disclosure obligations under the SFDR regarding the publication of:

- The **details of the presentation and content of the information in relation to the principle of ‘do not significantly harm’** as set out in Article 2(17) of the SFDR consistent with the content, methodologies, and presentation of indicators in relation to adverse impacts referred to in Article 4(6) and (7) SFDR (Article 2a SFDR).
- A statement on an entity’s website of describing its due diligence policy in respect of the adverse impact of investment decisions on sustainability factors in relation to **climate and other environment-related impacts** (Article 4(6) SFDR) and **adverse impacts in the field of social and employee matters, respect for human rights, anti-corruption and anti-bribery matters** (Article 4(7) SFDR).
- **Pre-contractual information** on how a product with environmental or social characteristics meet those characteristics and if an index has been designated as a reference benchmark, whether and how that index is consistent with those characteristics (Article 8 SFDR).
- **Pre-contractual information** to show, where a product has sustainable investment objectives and a) has a designated index as a reference benchmark, how that index is aligned with the sustainable investment objective and an explanation as to why and how that designated index aligned with the objective differs from a broad market index (Article 9(1) SFDR); or b) if no index has been designated as a reference benchmark, an explanation on how those objectives are to be attained (Article 9(2) SFDR).
- Information on an entity’s **website** to describe the environmental or social characteristics of financial products or the sustainable investment and the methodologies used (Article 10 SFDR).

- Information in **periodic reports** according to sectoral legislation specifying (a) the extent to which products with environmental and/or social characteristics meet those characteristics, and (b) for products with sustainable investment objectives and products which objective is a reduction in carbon emissions: (i) the overall sustainability-related impact of the product by means of relevant sustainability indicators and (ii) where an index has been designated as a reference benchmark, a comparison between the overall impact of the financial product with the designated index and a broad market index through sustainability indicators (Article 11 SFDR).

The draft RTS text and accompanying Annexes form the core of this Consultation Paper (**Section 3**).

An impact assessment and feedback statement on the consultation paper are also included in (**Section 4**) to highlight possible costs and benefits of the proposals and to summarise the responses received and reaction from ESAs.

Responses by the stakeholder group of ESMA and EIOPA are attached as annexes.

## 2. Background and Rationale

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Following the adoption of the 2015 Paris Agreement on climate change and the United Nations 2030 Agenda for Sustainable Development, the Commission has expressed in the Action Plan “Financing Sustainable Growth” its intention to clarify fiduciary duties and increase transparency in the field of sustainability risks and sustainable investment opportunities with the aim to:

- reorient capital flows towards sustainable investment in order to achieve sustainable and inclusive growth;
- assess and manage relevant financial risks stemming from climate change, resource depletion, environmental degradation and social issues; and
- foster transparency and long-termism in financial and economic activity.

Given the environmental emergency situation, urgent action is needed to mobilise capital not only through public policies but also by means of the financial services sector. In order to adapt to this new environment, financial market participants and financial advisers should be required to disclose specific information on their approaches to the integration of sustainability risks and the consideration of adverse sustainability impacts.

SFDR sets out sustainability disclosure requirements for a broad range of financial market participants, financial advisers and financial products. It was enacted to address the twin objectives of increasing transparency of sustainability-related disclosures and to increase comparability of disclosures for end investors.

The legislation and the ESAs’ RTS aim to reduce information asymmetries in principal-agent relationships with regard to the integration of sustainability risks, the consideration of adverse sustainability impacts and the promotion of environmental or social characteristics as well as sustainable investment by means of pre-contractual and ongoing disclosures to end-investors, acting as principals, by financial market participants or financial advisers, acting as agents on behalf of principals.

The empowerments to the ESAs to deliver RTS in SFDR can be divided into two parts:

- Adverse impact reporting at entity level: disclosures of principal adverse impacts of investment decisions on sustainability factors – including detailed indicators for environmental and social impacts; and
- Pre-contractual, website and periodic product disclosures: applicable to products with either environmental or social characteristics (“light green”) or with sustainable investment objectives (“dark green”), including provisions on “do not significantly harm” (DNSH).

The ESAs launched a consultation paper on 23 April 2020 with draft RTS that the ESAs sought feedback on from stakeholders. The ESAs received 165 responses with over 3000 pages of written material. The responses and the reaction from the ESAs are included in Section 4.2 below. The ESAs also held a public hearing on 2 July 2020 which had over 1225 views and where the ESAs received a further 800 comments and questions.

In order to improve transparency and comparability of product disclosures, the ESAs also resolved to create harmonised templates for pre-contractual and periodic product disclosures. Due to the uncertainty regarding the content of pre-contractual disclosures when the consultation paper was launched, templates were developed under a separate process by the ESAs during summer 2020.

From 21 September to 16 October 2020 the ESAs ran a survey seeking public feedback on draft pre-contractual and periodic product templates. It sought stakeholder feedback on the presentational elements of the templates. Separately, the templates were consumer tested by the AFM in the Netherlands in September and a second consumer testing exercise was conducted in Poland in cooperation with the Warsaw School of Economics in November 2020. The results of the consumer testing are published separately as accompanying documents to this report.

EIOPA's Insurance and Reinsurance Stakeholder Group and Occupational Pensions Stakeholder Group issued a joint response on 7 July. ESMA's Securities and Markets Stakeholder Group (SMSG) response was received on 15 September by the ESAs.

The ESAs have updated the draft RTS for this final report in light of the feedback received from stakeholders.

### ***Entity level principal adverse impact reporting***

The draft RTS for entity level principal adverse impact reporting provide a specification for the content, methodology and presentation of the information required by Article 4(1)-(5) SFDR in respect of the sustainability indicators in relation to (1) adverse impacts on the climate and other environment-related adverse impacts and (2) adverse impacts in the field of social and employee matters, respect for human rights, anti-corruption and anti-bribery matters.

The draft RTS includes a mandatory reporting template, set out in Annex I, to use for the statement on considering principal adverse impacts of investment decisions on sustainability factors. The disclosures are focused on a set of indicators for both climate and environment-related adverse impacts and adverse impacts in the field of social and employee matters, respect for human rights, anti-corruption and anti-bribery matters. These indicators are divided into a core set of universal mandatory indicators that will always lead to principal adverse impacts of investment decisions on sustainability factors, irrespective of the result of the assessment by the financial market participant, and additional opt-in indicators for environmental and social factors, to be used to identify, assess and prioritise additional principal adverse impacts. The ESAs have revised the balance between the two lists of indicators following the consultation paper feedback. There are fewer universal mandatory indicators and more opt-in indicators. Additionally, the ESAs have decided to provide separate indicators for impacts from investments in investee companies, sovereigns (and supranationals) and real estate assets.

The disclosure is not limited to the indicators, as other more narrative elements form an equally important part of the reporting. The disclosure for financial market participants also includes reporting items on a summary, policies on the identification of principal adverse impacts, actions taken and planned to mitigate the principal adverse impacts, adherence to international standards and a historical comparison covering at least five previous reference periods.

Taking into account the feedback from the consultation, the ESAs have also integrated the “actions taken” disclosure into the table with the principal adverse impact indicators, to give greater prominence to the engagement and other actions taken and planned by financial market participants.

While the requirements in the SFDR relating to the entity-level disclosure of principal adverse impacts apply from 10 March 2021, the additional detail specified by the entity-level ‘principal adverse sustainability impacts statement’ set out in the RTS is to be phased in. In particular, the RTS establishes a framework of reporting on principal adverse impacts by 30 June each year with a reference period of the previous calendar year. As the ESAs consider the RTS should apply from 1 January 2022, this means that the additional detail specified in the RTS must be reported in accordance with the RTS from that date. However, where a financial market participant publishes the principal adverse sustainability impacts statement in accordance with the RTS for the first time, the RTS does not require the disclosure of information relating to a previous reference period. This means that the earliest information relating to a reference period to be disclosed in accordance with the RTS would not be made until 2023 in respect of a reference period relating to 2022.

For those financial market participants not considering principal adverse impacts of investment decisions on sustainability factors, the RTS set out the statement and explanation that must be published on those financial market participants’ websites.

Furthermore, financial advisers will be required to disclose in line with their obligations under Article 4(5), both when they consider principal adverse impacts in their advice and when they do not.

### ***Product-level pre-contractual disclosures of environmental or social characteristics and sustainable investment objectives***

The draft RTS for pre-contractual disclosures set out the details of the content and presentation of the information to be disclosed at the pre-contractual level in the sectoral documentation prescribed by Article 6(3) SFDR.

The ESAs identified already in the consultation paper that it would be extremely challenging to prepare a single set of draft RTS at pre-contractual level that can work equally well for the very different types of documents listed under Article 6(3) SFDR. Unfortunately, SFDR does not allow the development of different disclosures for different products listed in Article 2(12) SFDR as it requires the ESAs to design a single set of uniform pre-contractual disclosures for very different types of documents which serve different purposes and apply divergent approaches to pre-contractual disclosure granularity.

On the one hand, for PEPPs, IORPs and all individual pension products, the disclosure in the SFDR must be done in short consumer-facing documents, including a KID in the case of the PEPP. On the other hand, for other financial products such as UCITS funds, the disclosure from the SFDR must be done in longer pre-contractual documentation, such as a fund prospectus. The ESAs strongly believe that this is a sub-optimal situation leaving the disclosures unfit for purpose for both types of documents.

In order to devise a single set of pre-contractual disclosures, the ESAs have opted for a balance between the comprehensibility and comprehensiveness. Feedback from the public survey and consumer testing on the pre-contractual and periodic financial product templates confirmed that the information was too complex for retail investors, but the presentation was too simple for institutional investors. However, the ESAs believe the RTS strike a workable compromise within the very difficult constraints of the SFDR documents listed in Article 6(3). The policy approach chosen for the pre-contractual granularity of information is of minimum standardisation of requirements, which includes mandatory templates while allowing for some tailoring of the approach to specificities of financial products.

Arguably, in order to achieve the cross-sectoral harmonisation objective, the possible level of granularity to be achieved for all products in scope is limited by the key information that can be included in the more concise documents. Shorter pre-contractual disclosures aim at keeping the pre-contractual information as concise as possible to avoid information overload. The pre-contractual document refers to website information for more information, including on methodologies and data sources. Simplicity helps consumers engage. The policy approach chosen for the pre-contractual granularity of information is of minimum standardisation of requirements, which allows for some tailoring of approach to specificities of products.

However, the policy approach also recognises that providing investors with some detail in the pre-contractual disclosures may enable them to make better-informed investment decisions, whereas information on websites might not necessarily raise the same level of attention and therefore risk being neglected by investors. Furthermore, information included in the legal documentation of the product clarify the responsibility of the product manufacturer towards the end-investor. Legal documentation is also a more valuable tool in terms of supervision of whether products are suitable to investors. Therefore, more granular pre-contractual disclosures could better suit the objective of combating greenwashing.

In addition to the mandatory templates in the Annexes, the draft RTS set out a list of items to be included in the reporting indicating clearly the type of product and how the environmental or social characteristic (or combination thereof) or the sustainable investment objective of the product are achieved.

There are also additional items of disclosure where the product designates an index as a reference benchmark and requirements for products making sustainable investments regarding how the product complies with the “do not significantly harm” principle from Article 2(17) SFDR in relation to the principal adverse impact indicators in Annex I of the draft RTS.



With regard specifically to products under Article 9 SFDR, products rely on an index to attain the sustainable investment objective (as specified in Article 9(1) SFDR) are passive products and they must demonstrate that the designated index is aligned with the product's sustainable investment objective. To ensure a level playing field with products with a sustainable investment objective that pursue an active investment strategy (as specified in Article 9(2) SFDR), the draft RTS require the same level of investor information. As a result, products with a sustainable investment objective relying on a passive investment strategy should disclose index-level information for the relevant disclosure requirements.

Compared to the consultation paper, the draft RTS in the final report have added an additional requirement to the DNSH provisions throughout. In addition to disclosing how the financial market participant has taken into account the indicators for adverse impact in Annex I, the DNSH reporting must also show whether the investments are aligned with the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights, including the principles and rights set out in the eight fundamental conventions identified in the Declaration of the International Labour Organisation on Fundamental Principles and Rights at Work and the International Bill of Human Rights. The objective of this provision is to bring the DNSH disclosures under SFDR in line with the minimum safeguards in Article 18 of Regulation (EU) 2020/852 on the establishment of a framework to facilitate sustainable investment (hereinafter "the Taxonomy Regulation").

#### ***Product-level website disclosures***

The draft RTS for product website disclosures set out the details of the content and presentation of information to be publicly disclosed on the website by the financial market participant for products categorised by Article 8 and Article 9 SFDR. The draft RTS set out where and how the financial market participant must publish the information on the website, including the need to publish a two-page summary. The RTS also includes a list of items to be included in the disclosure, focusing on the methodology employed, the data sources used, and any screening criteria employed.

The RTS also includes requirements for products making sustainable investments regarding how the product complies with the "do not significantly harm" principle from Article 2(17) SFDR in relation to the principal adverse impact indicators in Annex I of the draft RTS and the minimum safeguards in Article 18 of the Taxonomy Regulation.

Compared to the version included in the consultation paper, the RTS in the final report have the disclosure items re-ordered to reflect the order of disclosure in the pre-contractual section of the RTS. Also, the disclosure of direct versus indirect investments has been moved from pre-contractual and periodic disclosures to the website disclosures.

#### ***Product-level periodic disclosures***

The draft RTS for periodic product disclosure set out the details of the content and presentation of information to be disclosed for Article 8 and 9 SFDR products in the sectoral documentation prescribed in Article 11(2) SFDR.

Similar to the pre-contractual section, the draft RTS include a requirement to use a mandatory reporting template for the presentation of the periodic disclosure. The RTS set out a granular list of items to be included in the reporting, focusing on the success of the product in attaining its environmental or social characteristic or sustainable investment objective. The disclosures require a historical comparison covering up to five reference periods and also require the disclosure of the top 15 investments made during a particular reference period.

Requirements for products making sustainable investments regarding how the product has successfully complied with the “do not significantly harm” principle from Article 2(17) SFDR in relation to the principal adverse impact indicators in Annex I of the draft RTS and the minimum safeguards in Article 18 of the Taxonomy Regulation are also included.

Periodic reports referred to in Article 11(2) of the SFDR must comply with the requirements laid down in that Article from 1 January 2022. This means that financial market participants must draw up in 2022 respective periodic reports referred to in Article 11(2) in compliance with the SFDR.

### 3. Draft RTS

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**COMMISSION DELEGATED REGULATION (EU) No .../..  
of XXX**

**supplementing Regulation (EU) 2019/2088 of the European Parliament and of the Council on sustainability-related disclosures in the financial services sector with regard to regulatory technical standards specifying the content, methodologies and presentation of information in relation to sustainability indicators and the promotion of environmental or social characteristics and sustainable investment objectives in pre-contractual documents, websites and periodic reports**

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2019/2088 of the European Parliament and of the Council on sustainability-related disclosures in the financial services sector <sup>(1)</sup>, and in particular Article 2a(3), the third subparagraph of Article 4(6), the second subparagraph of Article 4(7), the fourth subparagraph of Article 8(3), the fourth subparagraph of Article 9(5), the fourth subparagraph of Article 10(2) and the fourth subparagraph of Article 11(4) thereof,

Whereas:

- (1) Regulation (EU) 2019/2088 establishes harmonised rules for sustainability-related disclosures by financial market participants and financial advisers. This Regulation lays down the content, methodologies and presentation of entity level principal adverse impacts as well as the content and presentation of financial product level pre-contractual, website and periodic disclosures.
- (2) To ensure that end investors are in a position to take informed decisions to assist the transition to a low carbon, more sustainable, resource efficient and circular economy to achieve the sustainable development goals of the Union, sustainability-related disclosures should be sufficiently clear, concise and prominent. End investors should have access to reliable data that can be used and analysed in a timely and efficient manner. Therefore, certain disclosed information, such as the international securities identification numbers (ISINs) identifying the securities, and the legal entity identifiers (LEIs) identifying the entities, should be mentioned where available.
- (3) The content and presentation of sustainability-related disclosures relating to a complex financial product, such as a financial product that references a basket of indexes, should provide end investors with a comprehensive view of the features of the financial product.

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<sup>1</sup> OJ L 317, 9.12.2019, p. 1.

- (4) To ensure that the assessment of principal adverse impacts of investment decisions on sustainability factors is comprehensive, it is appropriate to include direct and indirect investments of financial market participants in assets such as investee companies, sovereigns, supranational entities and real estate. For the same reason, where the investee company is a holding company, collective investment undertaking or special purpose vehicle, financial market participants that have sufficient information about the adverse impacts of the investment decisions of those companies should look through to the individual underlying investments of those companies and consider the total adverse impacts arising from them. Where they do not have such information, they cannot be considered to take into account the principal adverse impacts of their investment decisions on sustainability factors.
- (5) In the case of investment decisions where an investment exclusively finances a project or type of project, such as an investment in a green bond, social bond or project bond, the assessment of the adverse impacts of the investment decisions should be limited to the adverse impacts of the targeted project or type of project.
- (6) Union objectives of the European Green Deal, in particular carbon neutrality, increasing the share of renewable energy and energy efficiency, the protection of biodiversity and water and the elimination of waste mean that it is essential that any adverse impacts in these areas are always identified as principal adverse impacts. Equally, adverse impacts relating to core principles of the Union, in particular certain social and employee matters, respect for human rights, anti-corruption and anti-bribery matters should be identified as principal adverse impacts. The Communication on a Renewed EU Strategy for Corporate Social Responsibility 2011-14 <sup>(2)</sup> recalls the importance of working towards the implementation of the United Nations Guiding Principles on Business and Human Rights because of their contribution to Union objectives in relation to specific human rights issues, such as child labour and forced prison labour, as well as core labour standards, including gender equality, non-discrimination, freedom of association and the right to collective bargaining.
- (7) Financial markets participants should consider additional indicators for principal adverse impacts, having regard to the common reference indicators set out in this Regulation. In particular, financial market participants should prioritise and identify additional principal adverse impacts by considering the scope, severity, probability of occurrence and potentially irremediable character on sustainability factors. For this purpose, the scope should concern the reach of the effects of the impact, for example the number of individuals that could be affected, such as higher unemployment and non-performing loans, or the extent of environmental damage, such as the volume of water polluted, soil degradation or melting glaciers and reduced amounts of snow that could lead to loss of water power capacity, decreases in revenues from tourism and agriculture or rising sea levels causing floods, coastal erosion and more frequent and intense coastal storms. The probability of occurrence and the potentially irremediable character of the principal adverse impacts on sustainability factors should concern the likelihood of adverse impacts materialising and whether these materialised impacts could lead to irreparable environmental or social harm.
- (8) Financial market participants should identify principal adverse impacts on sustainability factors through all reasonable means available. For example, they may employ external

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<sup>2</sup> COM/2011/0681.

market research providers, internal financial analysts and specialists in the area of sustainable investments, undertake specifically commissioned studies, use publicly available information or shared information from peer networks or collaborative initiatives. Financial market participants may also engage directly with the management of investee companies to better understand the risk of adverse impacts on sustainability factors. Direct engagement may be particularly necessary in situations where there is an insufficient level of data available.

- (9) While financial market participants should report on as many principal adverse impacts as is required based on the materiality of their investments, despite the various means available to obtain information, information is not always readily available for all of the sustainability indicators at this stage. Therefore, for reasons of proportionality, financial market participants should only be required to report on at least one additional principal adverse impact relating to the climate or other environment related sustainability factor and at least one additional principal adverse impact relating to a social, employee, human rights, anti-corruption or anti-bribery sustainability factor.
- (10) It is appropriate to standardise the metrics used to assess certain adverse impacts which are considered to be measurable and important to provide a common reference point for the purposes of identifying which of those impacts are principal and to ensure comparability. To ensure coherence between other sustainability-related disclosures, where relevant, those common reference indicators should be based on similar indicators used in the minimum standards for the EU Climate Transition Benchmarks and EU Paris-aligned Benchmarks supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council of 8 June 2016 on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds and amending Directives 2008/48/EC and 2014/17/EU and Regulation (EU) No 596/2014 <sup>(3)</sup> and the technical screening criteria for determining the conditions under which an economic activity qualifies as contributing substantially to climate change mitigation or climate change adaptation and for determining whether that economic activity causes no significant harm to any of the other environmental objectives supplementing Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 <sup>(4)</sup>.
- (11) The information on principal adverse impacts should relate to common reference periods and be published by a common date to ensure comparability of the information as well as to provide financial market participants with sufficient time to carry out the assessment. Within the reference period, the portfolios of investments of financial market participants may change on a daily basis. Therefore, financial market participants may apply varying levels of due diligence in the calculation of their principal adverse impacts. To ensure that a common and proportionate minimum level of due diligence is maintained, the calculation should be undertaken on at least four specific dates to obtain a representative level of principal adverse impacts for the reference period and that level should be disclosed on an annual basis. Moreover, to ensure adequate disclosure is made in relation to the consideration of principal adverse impacts over time, financial market participants should provide a historical year-by-

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<sup>3</sup> OJ L 171, 29.6.2016, p. 1.

<sup>4</sup> OJ L 198, 22.6.2020, p. 13.

year comparison of their reports prepared in accordance with this Regulation for at least the five previous reference periods.

- (12) To ensure appropriate treatment of a financial market participant that considers principal adverse impacts for the first time in a given calendar year and to ensure end investors receive sufficient information before taking their investment decisions, that financial market participant should disclose information on the actions planned or targets set by the financial market participant for the next reference period to avoid or reduce the principal adverse impacts identified, the policies to identify and prioritise principal adverse impacts on sustainability factors and the international standards to be applied.
- (13) To ensure increased comparability for end investors and interested parties of the principal adverse impact disclosures set out in this Regulation, it is appropriate to require that financial market participants provide a summary of that information in a language customary in the sphere of international finance and in a language of all the Member States where that financial market participant's financial products are marketed.
- (14) Financial advisers receive information on principal adverse sustainability impacts from financial market participants. Information provided by financial advisers on whether and how they take into account adverse sustainability impacts within their investment or insurance advice should clearly describe how the information provided by financial market participants is processed and integrated in their investment or insurance advice. In particular, where financial advisers rely on adverse sustainability impacts criteria to include financial products or financial market participants in their advice, those criteria should be published.
- (15) Bearing in mind the limitations of current carbon footprint metrics, where financial market participants make reference to the degree of alignment of their financial products with the objectives of the Paris Agreement adopted under the United Nations Framework Convention on Climate Change ('the Paris Agreement') within their entity-level disclosure in accordance with Regulation (EU) 2019/2088, the disclosure should be carried out on the basis of forward-looking climate scenarios, for example as outlined in the Financial Stability Board Task Force on Climate-related Financial Disclosure's Technical Supplement on the Use of Scenario Analysis in Disclosure of Climate-related Risks and Opportunities.
- (16) Actions by financial market participants in relation to principal adverse sustainability impacts may include but are not limited to exercising voting rights as a shareholder, sending letters to or attending meetings with the management of investee companies, setting up documented and time-bound engagement in actions or shareholder dialogue with specific sustainability objectives and planning escalation measures in case those objectives are not achieved, including reductions of investments or exclusion decisions.
- (17) Regulation (EU) 2019/2088 requires financial market participants present the pre-contractual and periodic information in the manner set out in the relevant sectoral legislation. In addition to these sectoral requirements, for the purposes of the disclosures required by Regulation (EU) 2019/2088, it is necessary to specify further

requirements for the presentation of information to ensure standardisation and comparability.

- (18) There are a variety of financial products with various degrees of ambition with regard to taking into account sustainability factors. Financial products that promote, among other characteristics, environmental or social characteristics, or a combination of those characteristics (environmental or social characteristics) cover various investment approaches and strategies, from best-in-class to specific sectoral exclusions. The disclosures required from financial market participants making available such financial products should reflect this diversity and cover the widest possible range of approaches. Among financial products, a difference is to be made between financial products that exclusively pursue sustainable investments and all other financial products that promote environmental or social characteristics.
- (19) One of the ways in which financial products can promote environmental or social characteristics is to take into account principal adverse impacts of investment decisions. Financial products that have a sustainable investment objective must also consider adverse impact indicators as part of their disclosures of no significant harm to sustainability objectives. For these reasons, financial products should indicate whether they consider principal adverse impacts of investment decisions on sustainability factors as part of their disclosures in this Regulation.
- (20) Financial market participants that make available financial products that promote environmental or social characteristics should make disclosures on those characteristics without misleading end investors. This implies that financial market participants should not disclose excessively on sustainability, including through product categorisation, where that is not commensurate with the way in which those characteristics are applied to the financial product. Therefore, disclosure of criteria for the selection of underlying assets should be limited to those criteria that are binding on the investment decision-making process. As a consequence, financial market participants should not mislead end investors by disclosing selection criteria which they may disapply or override at their discretion.
- (21) Financial products that promote environmental or social characteristics can invest in a wide range of underlying assets, some of which may not themselves qualify as sustainable investments or contribute to the specific environmental or social characteristics promoted by the financial product. Examples of these investments are hedging instruments, unscreened investments for diversification purposes, investments for which data is lacking or cash held as ancillary liquidity. Financial market participants marketing such financial products should be fully transparent as regards the allocation of the underlying investments to those categories of investments.
- (22) To ensure comparability, where a financial product promotes environmental or social characteristics in a pre-contractual or periodic document, in its product name or in any marketing communication about its investment strategy, financial product standards, labels it adheres to or applicable conditions for automatic enrolment, the financial product should include the pre-contractual and periodic disclosures set out in this Regulation. Also, where the financial product intends to pursue in part sustainable investment, that information should also be included in that information.

- (23) As regards investments that do not qualify as sustainable or as contributing to the environmental or social characteristics promoted by the financial product, financial market participants may decide to apply some baseline environmental or social safeguards such as those referred to in Regulation (EU) 2020/852. Where that is the case, financial market participants should explain those safeguards so that end investors receive accurate information on the entirety of the investments made by the financial product. Furthermore, while products that have sustainable investment as an objective are expected to make only sustainable investments, it is appropriate to require disclosures on the amount and purpose of any remaining investments to demonstrate how those investments do not prevent the financial product from attaining its sustainable investment objective.
- (24) Where financial products that promote environmental or social characteristics pursue environmental or social investment strategies, financial market participants should be transparent about the strategy and clearly indicate it in the pre-contractual information to allow easy identification by end investors.
- (25) In particular, considering that many financial products currently rely on exclusion strategies based on environmental or social criteria, end investors should be provided with the necessary information to assess the materiality of such criteria on investment decisions, and the impact of that strategy on the composition of the resulting portfolio. Current market practice demonstrates that some exclusion strategies are showcased as material, while in fact they actually lead to the exclusion of only a limited number of investments or are based on exclusions required by law. It is necessary to address concerns about 'greenwashing', that is, in particular, the practice of gaining an unfair competitive advantage by recommending a financial product as environmentally friendly or sustainable, when in fact that financial product does not meet basic environmental or other sustainability-related standards. In order to prevent mis-selling and greenwashing, disclosure of any commitment with regard to a minimum reduction of the set of potential investments as a result of the application of the exclusion strategy is necessary to give end investors better visibility over the materiality of the offered strategy.
- (26) Regulation (EU) 2019/2088 aims to reduce information asymmetries in principal-agent relationships with regard to the promotion of environmental or social characteristics and sustainable investment objectives by requiring financial market participants to make pre-contractual and website disclosures to end investors when they act as agents of those end investors. For such a measure to be fully effective, it is expected that financial market participants monitor throughout the lifecycle of a financial product how it complies with the disclosed environmental or social characteristics, or sustainable investment objective. Consequently, financial market participants should explain, as part of their website disclosures, the internal or external control mechanisms put in place to monitor such compliance on a continuous basis.
- (27) Regulation (EU) 2019/2088 specifies that the assessment of good governance practices forms an integral part of financial products that promote environmental or social characteristics, or that have sustainable investment as their objective. Therefore, financial products with environmental or social characteristics or with a sustainable investment objective should also include information on the policy of the financial market participant to assess good governance practices of investee companies.



- (28) Regulation (EU) 2019/2088 recognises that financial products that promote environmental or social characteristics may set up investment portfolios that match an index. In such cases, financial products should make available information on how that index is consistent with each of the environmental or social characteristics of the financial product.
- (29) Regulation (EU) 2019/2088 also recognises that financial products that have sustainable investments as their objective may set up portfolios that are fully aligned with a sustainability-related index to deliver that objective. In such cases, the information on how the designated sustainability-related index is aligned with the objective of sustainable investment and an explanation of the reasons and content of differences between the designated sustainability-related index and a relevant broad market index should be made available. Such financial products should clearly demonstrate that the design of the designated index is appropriate to deliver the stated sustainable investment objective and that the strategy of the financial product ensures that the financial product is continuously aligned with that index. Therefore, core methodological disclosures should be made at index level for such financial products. Conversely, where a financial product does not use an index to ensure the delivery of the sustainable investment objective, the disclosure should explain the strategy developed by the financial market participant to attain that objective.
- (30) Regulation (EU) 2019/2088 requires financial products with the objective of the reduction of carbon emissions to disclose information relating to the new Union climate-related benchmarks. Where those benchmarks are not available, financial market participants should demonstrate how the financial product complies with the relevant standards applicable to EU Paris-aligned benchmarks or EU Climate Transition benchmarks as set out in Regulation (EU) 2016/1011.
- (31) Financial market participants can use various investment methods to justify the attainment of the environmental or social characteristics, or the delivery of the sustainable investment objective, of the financial product. For example, financial market participants can directly invest in securities issued by investee companies or they may make indirect investments such as in funds of funds or derivatives. Financial market participants should be transparent as to the share of their investments that are held directly and the share held indirectly. In particular, financial market participants should explain how the use of derivatives is compatible with the environmental or social characteristics that the financial product promotes or with the objective of sustainable investment.
- (32) In order to ensure clarity to end investors, pre-contractual information relating to financial products that promote environmental or social characteristics should make clear, by way of a statement, that such products do not have sustainable investment as an objective. For the same purpose, and in order to ensure a level-playing field with financial products that have sustainable investment as their objective, pre-contractual, website and periodic information relating to products that promote environmental or social characteristics should also include the proportion of the sustainable investments.
- (33) Regulation (EU) 2019/2088 requires an investment to comply with the 'do not significantly harm' principle to qualify as a sustainable investment. This principle is particularly important for financial products that have sustainable investment as their objective as it is a necessary criterion to justify that an investment delivers the

sustainable investment objective. However, this principle is also relevant to financial products that promote environmental or social characteristics where they make sustainable investments, as disclosures relating to the proportion of sustainable investments should also be made. As a result, financial market participants that make available either a financial product that promotes environmental or social characteristics or a financial product that has sustainable investment as its objective should provide information relating to the 'do not significantly harm' principle. The principle of not doing significant harm to environmental or social objectives is linked to the disclosures of principal adverse impacts of investment decisions on sustainability factors. For this reason, financial product disclosures relating to the 'do not significantly harm' principle should explain how the indicators for adverse impacts have been taken into account. Furthermore, as these disclosures are closely linked to Regulation (EU) 2020/852, it is appropriate to require additional information on the alignment of the investments with the minimum safeguards set out in that Regulation.

- (34) Financial market participants should use website sustainability-related disclosures to expand on topics disclosed in a concise way in pre-contractual documents and to provide further information relevant to end investors to better understand the investment strategies offered. Before a contract is closed, financial market participants should inform end investors about the fact that more product-specific, detailed information can be found on the website and provide them with a hyperlink to that information.
- (35) The website product disclosure should provide additional details regarding the investment strategy of the financial product, such as the policy to assess good governance of investee companies, as well as methodologies to measure the attainment of the environmental or social characteristics or objectives of the financial product, provided that such information is consistent with the pre-contractual information. Moreover, financial market participants should include on their website a clear, succinct and understandable summary of the information provided as part of the periodic reporting. When doing so, financial market participants should comply with national and Union law governing the protection of confidentiality of information, including the protection of undisclosed know-how and business information and the processing of personal data.
- (36) With respect to the content of the periodic disclosure obligations required in accordance with Regulation (EU) 2019/2088, financial market participants should disclose a minimum set of standardised and comparable relevant quantitative and qualitative indicators to show how each financial product meets the environmental or social characteristics that it promotes or the sustainable investment objective. These indicators should be relevant to the design and investment strategy of the financial product as described in the pre-contractual information of the financial product. In particular, to ensure consistency between pre-contractual disclosures and periodic disclosures, financial market participants should report on the specific sustainability indicators mentioned as part of the pre-contractual information used to measure the attainment of the environmental or social characteristics, or the delivery of the sustainable investment objective.
- (37) To ensure a clear overview of the investments of the financial product, financial market participants should provide in the periodic reports referred to in Regulation (EU) 2019/2088 information on the impacts of the top investments of the financial product.

Those top investments should be calculated as the investments accounting for the greatest proportion of investments over the course of the reference period, calculated at appropriate intervals to be representative of that reference period. For this purpose, reporting on the top 15 investments should provide a clear overview, except where less than 15 investments account for half of the investments of the financial product, in which case, the disclosure on the top investments should provide information only on those investments. Moreover, to ensure adequate comparability over time, financial market participants should provide a historical year-by-year comparison of their periodic reports prepared in accordance with this Regulation with previous reference periods, for at least the five previous reference periods.

- (38) Financial market participants making available financial products that use a reference benchmark to attain environmental or social characteristics, or to deliver the sustainable investment objective, should be transparent on how the financial product attains or delivers that characteristic or objective as close as possible to that of the designated reference benchmark. As a result, and to foster consistency with environmental, social and governance (ESG) disclosures required at benchmark level as set out in Regulation (EU) 2016/1011, financial market participants should include, as part of the periodic reporting disclosures, a comparison between the performance of the financial product with that of the designated reference benchmark, for all sustainability indicators relevant to justify that the designated benchmark is aligned with the environmental or social characteristics of the financial product, or its sustainable investment objective. This comparison should also allow end investors to clearly identify the sustainable performance of the financial product compared to that of a mainstream product by including a comparison with the sustainable performance of a relevant broad market index.
- (39) To ensure end investors are able to benefit from the sustainability-related disclosures set out in this Regulation in relation to an offer of a financial product from a financial market participant in another Member State, it is appropriate to require that financial market participants provide a summary of that information in a language customary in the sphere of international finance. Where a financial product is marketed outside of the Member State where the financial market participant is established, a summary of that information should also be provided in one of the official languages of the Member State where the financial product is marketed.
- (40) In view of the need to ensure comparability of the principal adverse impacts statement, the pre-contractual disclosures and the periodic disclosures required by Regulation (EU) 2019/2088, and to ensure that the information is easily comprehensible to end investors, it is appropriate to set out standard templates for the presentation of that information in this Regulation. Furthermore, to ensure the information is easily comprehensible to end investors, the templates should include summary explanations for end investors of key terms which they use.
- (41) Since certain financial products may offer a range of underlying investment options to end investors, such as certain insurance-based investment products and pan-European personal pension products, it is necessary to ensure end investors are informed about a potential sustainability-related performance of such products. Therefore, it is appropriate that this Regulation requires information on the options that promote environmental or social characteristics or have sustainable investment as their objective. The information should make clear that for financial products that promote

environmental or social characteristics, the extent to which that financial product attains those characteristics is subject to the proportion of options selected by the end investor that promote those characteristics and the period of time in which the end investor invests in those options. The information should also make clear that for financial products that have sustainable investment as their objective, all of the underlying investment options must have sustainable investment as their objective.

- (42) For financial products that offer a range of underlying investment options to end investors, where one or more of the underlying investment options qualify as financial products that promote environmental or social characteristics, the information relating to financial products that promote those characteristics should be provided in relation to those options. Where one or more of the underlying investment options of that financial product have sustainable investment as their objective, the information relating to financial products that have sustainable investment as their objective should be provided in relation to those options, except for any of those options that are not financial products within the meaning of Regulation (EU) 2019/2088. For those options, since they are within an overall financial product within the scope of Regulation (EU) 2019/2088 and have sustainable investment as their objective, it is appropriate to require minimum information to be provided on their sustainable investment objective.
- (43) For pre-contractual disclosures relating to financial products that offer a range of underlying investment options, the information requirements should ensure that an appropriate level of information is provided on the financial product overall. End investors should be provided with a summary list of the sustainability-related underlying investment options and a clear indication of where sustainability-related information on them can be found. That list should ensure that the underlying investment options are appropriately categorised.
- (44) Where including the sustainability-related information required by this Regulation directly in the form of annexes of the pre-contractual disclosures referred to in Regulation (EU) 2019/2088 prevents an end investor from receiving a clear and concise disclosure due to a large range of underlying investment options offered by a financial product and a corresponding significant number of annexes of information, it is appropriate to enable that information to be provided through a reference to the location of that information in the annexes of other disclosures made pursuant to the sectoral rules. During the process of an advised sale, namely the process of assessing the demands and needs of the end investor and the suitability of the financial product for the end investor, as well as during the process of a non-advised sale, namely the process of assessing the demands and needs of the end investor and the appropriateness of the product, financial advisers can focus on drawing the attention of the end investor to the disclosures related to the investment options in a multi-option product that the end investor is actually considering investing in. This can be done by providing the relevant information in the form of annexes to the main disclosure document.
- (45) Similarly, for periodic disclosures relating to financial products that offer a range of underlying investment options, since the investment options actually invested in govern the extent to which the financial product attains the environmental or social characteristics that it promotes or its sustainable investment objective, it is appropriate

that the periodic information required by this Regulation only relates to the investment options invested in.

- (46) The provisions of this Regulation should be considered as a whole, since they deal with the information that must be provided by financial market participants and financial advisers in relation to sustainability-related disclosures in the financial services sector required under Regulation (EU) 2019/2088. To ensure coherence between those provisions, which should enter into force at the same time, and to facilitate a comprehensive view by financial market participants and financial advisers of their obligations under that Regulation, it is efficient to include the regulatory technical standards in a single Regulation.
- (47) This Regulation is based on the draft regulatory technical standards submitted to the Commission by the European Banking Authority, the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority (European Supervisory Authorities).
- (48) The European Supervisory Authorities have consulted the European Environment Agency, the Joint Research Centre of the European Commission and conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the opinion of the Banking Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council <sup>(5)</sup>, the Insurance and Reinsurance Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1094/2010 of the European Parliament and of the Council <sup>(6)</sup>, and the Securities and Markets Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council <sup>(7)</sup>.
- (49) In order to provide financial market participants and financial advisers with sufficient time to gather the information necessary and adjust their practices to apply the specific requirements of this Regulation, and in order to provide for the alignment of the application of this Regulation with the application of the amendments in Regulation (EU) 2020/852 to Regulation (EU) 2019/2088 as well as the application of periodic reporting in that Regulation, it is necessary to specify that the provisions of this Regulation apply from 1 January 2022,

HAS ADOPTED THIS REGULATION:

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<sup>5</sup> Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12).

<sup>6</sup> Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC (OJ L 331, 15.12.2010, p. 48).

<sup>7</sup> Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84).

*CHAPTER I*  
**DEFINITIONS AND GENERAL PROVISIONS**

*Article 1*  
**Definitions**

For the purposes of this Regulation, the following definitions apply:

- (1) ‘fossil fuel sectors’ means sectors of the economy which produce, process, store or use fossil fuels as defined in Article 2(62) of Regulation (EU) 2018/1999 of the European Parliament and of the Council <sup>(8)</sup>; and
- (2) ‘reference period’ means, for the purposes of Chapter II, the period from 1 January to 31 December of the preceding year and, for the purposes of Chapter V, the period covered by the periodic report referred to in Article 11(2) of Regulation (EU) 2019/2088.

*Article 2*  
**General principles for the presentation of information**

1. Financial advisers and financial market participants shall provide the information referred to in this Regulation in a manner that is easily accessible, non-discriminatory, free of charge, prominent, simple, concise, comprehensible, fair, clear and not misleading. They shall present and lay out the information in a way that is easy to read, use characters of readable size and use a style that facilitates its understanding.
2. Within the limits of paragraph 1, financial advisers and financial market participants may adapt the font type and size as well as colours of the templates provided in the Annexes.
3. Financial advisers and financial market participants shall provide the information referred to in this Regulation in searchable electronic format, except where the manner referred to in Articles 6(3) and 11(2) of Regulation (EU) 2019/2088 requires the information to be provided on paper.
4. Financial advisers and financial market participants shall keep the information published on their websites in accordance with this Regulation up to date. They shall include the date of publication of the information and clearly identify any updated text with the date of the update. Where that information is presented as a downloadable file, they shall indicate the version history in the file name.
5. Financial advisers and financial market participants shall provide, where available, legal entity identifiers (LEIs) and international securities identification numbers (ISINs) when referring to entities or financial products in the information provided in accordance with this Regulation.

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<sup>8</sup> Regulation (EU) 2018/1999 of the European Parliament and of the Council of 11 December 2018 on the Governance of the Energy Union and Climate Action, amending Regulations (EC) No 663/2009 and (EC) No 715/2009 of the European Parliament and of the Council, Directives 94/22/EC, 98/70/EC, 2009/31/EC, 2009/73/EC, 2010/31/EU, 2012/27/EU and 2013/30/EU of the European Parliament and of the Council, Council Directives 2009/119/EC and (EU) 2015/652 and repealing Regulation (EU) No 525/2013 of the European Parliament and of the Council (OJ L 328, 21.12.2018, p. 1).

### *Article 3*

#### **Reference benchmarks with basket indexes**

Where an index designated as a reference benchmark is made up of a basket of indexes, financial advisers and financial market participants shall provide the information referred to in this Regulation relating to that index in respect of the basket and each index in the basket.

### *CHAPTER II*

#### **TRANSPARENCY OF ADVERSE SUSTAINABILITY IMPACTS**

*(Paragraphs (1), (3), (4) and (5) of Article 4 of Regulation (EU) 2019/2088)*

### *Section 1*

#### ***Financial market participants***

### *Article 4*

#### **Financial market participant principal adverse sustainability impacts statement**

1. By 30 June each year, financial market participants shall publish the information referred to in paragraphs 1(a), 2, 3 and 4 of Article 4 of Regulation (EU) 2019/2088 and this Section on their websites in a separate section titled, 'Principal adverse sustainability impacts statement' located in the same part of the website as the section referred to in Article 31.
2. The adverse sustainability impacts statement shall be published in the format set out in Table 1 of Annex I. It shall be in the order and made up of the following sections titled:
  - (a) 'Summary';
  - (b) 'Description of principal adverse sustainability impacts';
  - (c) 'Description of policies to identify and prioritise principal adverse sustainability impacts';
  - (d) 'Engagement policies'; and
  - (e) 'References to international standards'.
3. By way of derogation from paragraphs 1 and 2:
  - (a) for a financial market participant that publishes on its website a statement on due diligence policies with respect to principal adverse impacts of investment decisions on sustainability factors in accordance with this Section for the first time:
    - (i) in respect of the calendar year in which principal adverse impacts are first considered, that financial market participant shall publish the information referred to in paragraphs 1(a), 2, 3 and 4 of Article 4 of Regulation (EU) 2019/2088 and this Section, with the exception of the information that relates to a reference period, on the date on which those impacts are first considered; and
    - (ii) in respect of the following calendar year, the first reference period shall be the period in the preceding year beginning on the date on which principal adverse impacts were first considered and ending on 31 December of that year; and

- (b) for a financial market participant that does not consider the principal adverse impacts of its investment decisions on sustainability factors, that financial market participant shall publish the information referred to in Article 11.

#### *Article 5*

#### **Summary section**

1. The section referred to in point (a) of Article 4(2) shall contain the following information:
  - (a) the name of the financial market participant to which the adverse sustainability impacts statement relates;
  - (b) the fact that principal adverse impacts on sustainability factors are considered;
  - (c) the reference period of the statement; and
  - (d) a summary of the principal adverse impacts statement of a maximum length of two sides of A4-sized paper when printed.
2. The section shall be provided in at least:
  - (a) one of the official languages of the home Member State of the financial market participant and, where different, in an additional language customary in the sphere of international finance; and
  - (b) where a financial product of the financial market participant is marketed in a host Member State, one of the official languages of that host Member State.

#### *Article 6*

#### **Description of principal adverse sustainability impacts section**

1. The section referred to in point (b) of Article 4(2) shall contain a description for the reference period of adverse impacts of investment decisions of the financial market participant on sustainability factors that qualify as principal, including:
  - (a) the indicators related to principal adverse impacts on sustainability factors as set out in Table 1 of Annex I;
  - (b) at least one additional indicator related to principal adverse impacts on a climate or other environment related sustainability factor that qualifies as principal as set out in Table 2 of Annex I;
  - (c) at least one additional indicator related to principal adverse impacts on a social, employee, human rights, anti-corruption or anti-bribery sustainability factor that qualifies as principal as set out in Table 3 of Annex I; and
  - (d) any other indicators used to identify and assess additional principal adverse impacts on a sustainability factor.



2. The section shall also contain a description of the actions taken during the reference period and actions planned or targets set by the financial market participant for the next reference period to avoid or reduce the principal adverse impacts identified.
3. For the purposes of the description referred to in paragraphs 1 and 2, the assessment shall be based on at least the average of four calculations made by the financial market participant on 31 March, 30 June, 30 September and 31 December during the reference period.
4. Where the financial market participant has provided a description of adverse impacts on sustainability factors for a previous reference period in accordance with paragraphs 1 to 3, the statement shall contain a historical comparison of the current reference period with the previous reference period provided in accordance with those paragraphs and shall continue to include further historical comparisons within that statement for at least five previous reference periods.

#### *Article 7*

#### **Description of policies to identify and prioritise principal adverse sustainability impacts section**

1. The section referred to in point (c) of Article 4(2) shall contain a description of the policies of the financial market participant on the assessment process to identify and prioritise principal adverse impacts on sustainability factors and of how those policies are maintained and applied, including at least the following:
  - (a) the date of approval of the policies by the governing body of the financial market participant;
  - (b) the allocation of responsibility for the implementation of the policies within organisational strategies and procedures;
  - (c) a description of the methodologies to select the indicators referred to in points (b) to (d) of Article 6(1), to identify and assess the principal adverse impacts referred to in points (a) to (d) thereof and, in particular, how those methodologies take into account the probability of occurrence and severity of adverse impacts, including their potentially irremediable character;
  - (d) an explanation of any associated margin of error within those methodologies; and
  - (e) a description of the data sources used.
2. Where information relating to any of the indicators used is not readily available, the section referred to in point (c) of Article 4(2) shall also contain details of the best efforts used to obtain the information either directly from investee companies, or by carrying out additional research, cooperating with third party data providers or external experts or making reasonable assumptions.

#### *Article 8*

#### **Engagement policies section**

1. The section referred to in point (d) of Article 4(2) shall contain:

- (a) where applicable, brief summaries of engagement policies in accordance with Article 3g of Directive 2007/36/EC of the European Parliament and of the Council <sup>(9)</sup>; and
  - (b) brief summaries of any other engagement policies relating to reducing principal adverse impacts.
2. The brief summaries referred to in paragraph 1 shall include a description of the indicators for adverse impacts considered in those policies and how those policies adapt where there is no reduction of the principal adverse impacts over more than one reference period.

#### *Article 9*

#### **References to international standards section**

1. The section referred to in point (e) of Article 4(2) shall contain a description of the adherence of the financial market participant to responsible business conduct codes and internationally recognised standards for due diligence and reporting and, where relevant, the degree of their alignment with the objectives of the Paris Agreement.
2. The description referred to in paragraph 1 shall contain:
  - (a) the adverse impact indicators used in the assessment of principal adverse sustainability impacts referred to in Article 6 to measure that adherence or alignment;
  - (b) the methodology and data used to measure that adherence or alignment, including a description of the scope of coverage, data sources and how the methodology forecasts the future performance of investee companies;
  - (c) where a forward-looking climate scenario is used, an identification of that scenario, including the name and provider of the scenario and when it was designed; and
  - (d) where a forward-looking climate scenario is not used, an explanation of why forward-looking climate scenarios are not considered to be relevant by the financial market participant.

#### *Section 2*

#### **Financial advisers**

#### *Article 10*

#### **Financial adviser adverse sustainability impacts statement**

1. Financial advisers shall publish the information referred to in Article 4(5)(a) of Regulation (EU) 2019/2088 on their websites in a separate section titled, 'Adverse sustainability impacts statement'.
2. The statement referred to in paragraph 1 shall contain details on the process to select the financial products they advise on, including the following:

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<sup>9</sup> Directive 2007/36/EC of the European Parliament and of the Council of 11 July 2007 on the exercise of certain rights of shareholders in listed companies (OJ L 184, 14.7.2007, p. 17).

- (a) how the information referred to in this Regulation published by financial market participants is used;
- (b) whether the financial adviser ranks and selects financial products based on at least the indicators in Table 1 of Annex I and, where applicable, a description of the ranking and selection methodology used; and
- (c) any criteria or thresholds used to select financial products and advise on them based on those impacts.

### *Section 3*

#### ***Financial market participant and financial adviser statement of no consideration of adverse impacts on sustainability factors***

#### *Article 11*

#### **Financial market participant statement of no consideration of adverse impacts on sustainability factors**

1. Financial market participants shall publish the information referred to in Article 4(1)(b) of Regulation (EU) 2019/2088 on their websites in a separate section titled, 'No consideration of sustainability adverse impacts'.
2. The section referred to in paragraph 1 shall include the following:
  - (a) a prominent statement that the financial market participant does not consider the adverse impacts of its investment decisions on sustainability factors; and
  - (b) clear reasons why the financial market participant does not do so with, where relevant, information on whether and, if so, when it intends to consider those adverse impacts by reference to at least the indicators in Table 1 of Annex I.

#### *Article 12*

#### **Financial adviser statement of no consideration of adverse impacts on sustainability factors**

1. Financial advisers shall publish the information referred to in Article 4(5)(b) of Regulation (EU) 2019/2088 on their websites in a separate section titled 'No consideration of sustainability adverse impacts'.
2. The section referred to in paragraph 1 shall include:
  - (a) a prominent statement that the financial adviser does not consider the adverse impacts of investment decisions on sustainability factors in their investment advice or insurance advice; and
  - (b) clear reasons why the financial adviser does not do so with, where relevant, information on whether and, if so, when it intends to consider such adverse impacts by reference to at least the indicators in Table 1 of Annex I.

*CHAPTER III*  
**PRE-CONTRACTUAL PRODUCT DISCLOSURE**

*Section 1*

***Pre-contractual information for financial products referred to in Article 8(1) of Regulation (EU) 2019/2088***

*(Article 8(1) and (2) of Regulation (EU) 2019/2088)*

*Article 13*

**Presentation of pre-contractual information for financial products referred to in Article 8(1) of Regulation (EU) 2019/2088**

1. Financial market participants shall present the information disclosed in accordance with Article 8(1) and (2) of Regulation (EU) 2019/2088 and this Section in an annex to the document referred to in Article 6(3) of Regulation (EU) 2019/2088 in accordance with the template set out in Annex II. They shall include a prominent statement in the main body of the document referred to in Article 6(3) of that Regulation that information related to environmental or social characteristics is available in that annex.
2. Financial market participants shall include a statement at the beginning of the annex referred to in paragraph 1 to explain:
  - (a) whether the financial product intends to make any sustainable investments;
  - (b) that the financial product promotes environmental or social characteristics, but does not have as its objective a sustainable investment; and
  - (c) whether an index has been designated as a reference benchmark for the purpose of attaining environmental or social characteristics promoted by the financial product.
3. Financial market participants shall present the information referred to in paragraph 1 in summary format in the order and made up of the following sections titled:
  - (a) ‘What environmental and/or social characteristics are promoted by this financial product?’;
  - (b) ‘What investment strategy does this financial product follow?’;
  - (c) ‘What is the asset allocation planned for this financial product?’;
  - (d) ‘Does this financial product take into account principal adverse impacts on sustainability factors?’;
  - (e) ‘Can I find more product specific information online?’; and
  - (f) where an index is designated as a reference benchmark for the purpose of attaining the environmental or social characteristics promoted by the financial product, ‘Is a specific index designated as a reference benchmark to determine whether this financial product is aligned with the environmental and/or social characteristics that it promotes?’.

#### *Article 14*

##### **Environmental or social characteristics promoted by the financial product section**

The section referred to in point (a) of Article 13(3) shall contain a description of the environmental or social characteristics promoted by the financial product and a list of the sustainability indicators used to measure the attainment of each of the environmental or social characteristics promoted by the financial product.

#### *Article 15*

##### **Investment strategy for environmental or social characteristics section**

The section referred to in point (b) of Article 13(3) shall contain the following information:

- (a) a description of the type of investment strategy used to attain the environmental or social characteristics promoted by the financial product, the binding elements of that strategy to select the investments to attain each of those characteristics and how the strategy is implemented in the investment process on a continuous basis;
- (b) where there is a commitment by the financial market participant to reduce by a minimum rate the scope of investments considered prior to the application of the strategy referred to in point (a), an indication of that rate; and
- (c) a short description of the policy to assess good governance practices of the investee companies and a reference to the website containing further details on the investment strategy referred to in Article 32(d).

#### *Article 16*

##### **Asset allocation section for environmental or social characteristics financial products**

1. The section referred to in point (c) of Article 13(3) shall contain the following information:
  - (a) a narrative explanation of the investments of the financial product;
  - (b) where the financial product commits to making one or more sustainable investments, a description of how the sustainable investments contribute to a sustainable investment objective and do not significantly harm any of the sustainable investment objectives; and
  - (c) where the financial product uses derivatives within the meaning of Article 2(1)(29) of Regulation (EU) No 600/2014 of the European Parliament and of the Council <sup>(10)</sup> to attain the environmental or social characteristics promoted by the financial product, a description of how the use of those derivatives attains those characteristics.
2. For the purposes of point (a) of paragraph 1 the narrative explanation shall explain:
  - (a) the minimum proportion of the investments of the financial product used to attain the environmental or social characteristics promoted by the financial product in accordance with the binding elements of the investment strategy, including the minimum proportion

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<sup>10</sup> Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012 (OJ L 173, 12.6.2014, p. 84).

of sustainable investments of the financial product where it commits to making sustainable investments; and

- (b) the purpose of the remaining proportion of the investments, including a description of any minimum environmental or social safeguards.
3. For the purposes of point (b) of paragraph 1, the description shall include an explanation of:
- (a) how the indicators for adverse impacts in Table 1 of Annex I and any relevant indicators in Tables 2 and 3 of Annex I, are taken into account; and
  - (b) whether the sustainable investment is aligned with the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights, including the principles and rights set out in the eight fundamental conventions identified in the Declaration of the International Labour Organisation on Fundamental Principles and Rights at Work and the International Bill of Human Rights.

#### *Article 17*

### **Identification of principal adverse impact consideration section for financial products that promote environmental or social characteristics**

The section referred to in point (d) of Article 13(3) shall explain whether the financial product promotes environmental or social characteristics by considering principal adverse impacts on sustainability factors as referred to in Article 7(1)(a) of Regulation (EU) 2019/2088.

#### *Article 18*

### **Website reference section for financial products that promote environmental or social characteristics**

The section referred to in point (e) of Article 13(3) shall contain the following statement: “More product-specific information can be found on the website”. The statement shall also contain a hyperlink to the website with the information referred to in Article 32.

#### *Article 19*

### **Reference benchmark section for financial products that promote environmental or social characteristics**

Where an index is designated as a reference benchmark for the purpose of attaining environmental or social characteristics promoted by the financial product, the statement referred to in point (f) of Article 13(3) shall contain the following information:

- (a) an explanation of how the reference benchmark is continuously aligned with each of the environmental or social characteristics promoted by the financial product and with the investment strategy;
- (b) an explanation of how the designated index differs from a relevant broad market index; and
- (c) an indication of where the methodology used for the calculation of the designated index can be found.

*Section 2*

***Pre-contractual information for financial products referred to in Article 9(1), (2) and (3) of Regulation (EU) 2019/2088***

*(Article 9(1) to (4) of Regulation (EU) 2019/2088)*

*Article 20*

**Presentation of pre-contractual information for financial products referred to in Article 9(1), (2) and (3) of Regulation (EU) 2019/2088**

1. Financial market participants shall present the information disclosed in accordance with Article 9(1) to (4) of Regulation (EU) 2019/2088 and this Section in an annex to the document referred to in Article 6(3) of Regulation (EU) 2019/2088 in accordance with the template set out in Annex III. They shall include a prominent statement in the main body of the document referred to in Article 6(3) of that Regulation that information related to sustainable investment is available in that annex.
2. Financial market participants shall include a statement at the beginning of the annex referred to in paragraph 1 that the financial product has a sustainable investment objective and on whether an index has been designated as a reference benchmark in accordance with Article 9(1) of Regulation (EU) 2019/2088 or a reference benchmark has been designated in accordance with Article 9(3) of that Regulation.
3. Financial market participants shall present the information referred to in paragraph 1 in summary format in the order and made up of the following sections titled:
  - (a) ‘What is the sustainable investment objective of this financial product?’;
  - (b) ‘What investment strategy does this financial product follow?’;
  - (c) ‘What is the asset allocation planned for this financial product?’;
  - (d) ‘Does this financial product take into account principal adverse impacts on sustainability factors?’;
  - (e) ‘Can I find more product specific information online?’;
  - (f) for a financial product referred to in Article 9(1) of Regulation (EU) 2019/2088, ‘Is a specific index designated as a reference benchmark to meet the sustainable investment objective?’; and
  - (g) for a financial product referred to in Article 9(3) of Regulation (EU) 2019/2088, ‘Does the financial product have the objective of a reduction in carbon emissions?’.

*Article 21*

**Sustainable investment objective of the financial product section**

The section referred to in point (a) of Article 20(3) shall contain a description of the sustainable investment objective of the financial product and a list of the sustainability indicators used to measure the attainment of the sustainable investment objective.

*Article 22*

**Investment strategy section for the sustainable objective**

1. The section referred to in point (b) of Article 20(3) shall contain the following information:
  - (a) a description of the type of investment strategy used to attain the sustainable investment objective of the financial product, the binding elements of that strategy to select the investments to attain that objective and how the strategy is implemented in the investment process on a continuous basis; and
  - (b) a short description of the policy used to assess good governance practices of the investee companies and a reference to the website containing further details on the investment strategy referred to in Article 45(d).

*Article 23*

**Asset allocation section for financial products with the objective of sustainable investment**

1. The section referred to in point (c) of Article 20(3) shall contain the following information:
  - (a) a narrative explanation of the investments of the financial product;
  - (b) where the financial product uses derivatives within the meaning of Article 2(1)(29) of Regulation (EU) No 600/2014 to attain the sustainable investment objective of the financial product, a description of how the use of those derivatives attains that sustainable investment objective; and
  - (c) a description of the contribution and no significant harm of sustainable investments to the sustainable investment objectives.
2. For the purposes of point (a) of paragraph 1 the narrative explanation shall explain:
  - (a) the minimum proportion of the investments of the financial product used to attain the sustainable investment objective in accordance with the binding element of the investment strategy; and
  - (b) the purpose of the remaining proportion of the investments of the financial product, including a description of any minimum environmental or social safeguards, how their proportion and use does not affect the delivery of the sustainable investment objective on a continuous basis and whether those investments are used for hedging, relate to cash held as ancillary liquidity or are investments for which there is insufficient data.
3. For the purposes of point (c) of paragraph 1, the description shall contain an explanation of how the investments of the financial product contribute to a sustainable investment objective and do not significantly harm any of the sustainable investment objectives, including an explanation of:
  - (a) how the indicators for adverse impacts in Table 1 of Annex I and any relevant indicators in Tables 2 and 3 of Annex I, are taken into account; and
  - (b) whether the sustainable investment is aligned with the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights, including the



principles and rights set out in the eight fundamental conventions identified in the Declaration of the International Labour Organisation on Fundamental Principles and Rights at Work and the International Bill of Human Rights.

*Article 24*

**Identification of principal adverse impact consideration section for financial products with the objective of sustainable investment**

The section referred to in point (d) of Article 20(3) shall explain that the financial product contributes to a sustainable investment objective by considering principal adverse impacts on sustainability factors as referred to in Article 7(1)(a) of Regulation (EU) 2019/2088.

*Article 25*

**Website reference section for financial products with the objective of sustainable investment**

The section referred to in point (e) of Article 20(3) shall contain the following statement: “More product-specific information can be found on the website”. The statement shall also contain a hyperlink to the website with the information referred to in Article 45.

*Article 26*

**Sustainable investment objective attainment with a designated index section**

For a financial product referred to in Article 9(1) of Regulation (EU) 2019/2088, the section referred to in point (f) of Article 20(3) shall contain:

- (a) an explanation of how the taking into account of sustainability factors within the methodology of the reference benchmark is continuously aligned with the sustainable investment objective of the financial product;
- (b) an explanation of how the alignment of the investment strategy referred to in Article 22 with the methodology of the index is ensured on a continuous basis;
- (c) an explanation as to why and how the designated index differs from a relevant broad market index; and
- (d) an indication of where the methodology used for the calculation of the designated index can be found.

*Article 27*

**Objective of a reduction in carbon emissions section**

1. For a financial product referred to in Article 9(3) of Regulation (EU) 2019/2088, the section referred to in point (g) of Article 20(3) shall contain an explanation that the reference benchmark qualifies as an EU Climate Transition Benchmark or an EU Paris-aligned Benchmark under Chapter 3a of Title III of Regulation (EU) 2016/1011 and an indication of where the methodology used for the calculation of that benchmark can be found.
2. By way of derogation from paragraph 1, where no EU Climate Transition Benchmark or EU Paris-aligned Benchmark in accordance with Regulation (EU) 2016/1011 is available, the section referred to in point (g) of Article 20(3) shall explain that fact and how the continued effort of attaining the objective of reducing carbon emissions is ensured in view of achieving the

objectives of the Paris Agreement. The financial market participant shall explain the extent to which the financial product complies with the methodological requirements set out in Commission Delegated Regulation (EU) 2020/1818 <sup>(11)</sup>.

### *Section 3*

#### ***Pre-contractual information for financial products with investment options***

#### *Article 28*

#### **Financial products with one or more underlying investment options that qualify those financial products as those referred to in Article 8 of Regulation (EU) 2019/2088**

1. By way of derogation from Articles 13 to 19, where a financial product offers investment options to the investor and one or more of those investment options qualify that financial product as a financial product referred to in Article 8 of Regulation (EU) 2019/2088, in accordance with Article 8(1) and (2) of that Regulation, financial market participants shall provide a prominent statement in the main body of the document referred to in Article 6(3) of that Regulation (Article 6(3) document) that:
  - (a) the financial product promotes environmental or social characteristics;
  - (b) the attainment of those characteristics is subject to investing in at least one investment option in the list referred to in point (a) of paragraph 2 and holding at least one of those options during the holding period of the financial product; and
  - (c) further information related to those characteristics is available in the annexes referred to in paragraph 3 or, where relevant, through the references referred to in paragraph 5.
2. The prominent statement referred to in paragraph 1 shall be accompanied by:
  - (a) a list of the investment options referred to in points (a) to (c) of paragraph 3, presented in accordance with the categories referred to in those points; and
  - (b) the proportions of investment options within each of those categories relative to the total number of investment options offered by the financial product.
3. Financial market participants shall also provide the following information in annexes to the Article 6(3) document:
  - (a) for each investment option that qualifies as a financial product referred to in Article 8(1) of Regulation (EU) 2019/2088, the information referred to in Articles 13 to 19;
  - (b) for each investment option that qualifies as a financial product referred to in Article 9(1), (2) or (3) of that Regulation, the information referred to in Articles 20 to 27; and
  - (c) for each investment option that has sustainable investment as its objective and is not a financial product referred to in Article 2(12) of Regulation (EU) 2019/2088, the information on the objective of sustainable investment.

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<sup>11</sup> Commission Delegated Regulation (EU) 2020/1818 of 17 July 2020 supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council as regards minimum standards for EU Climate Transition Benchmarks and EU Paris-aligned Benchmarks (OJ L 406, 3.12.2020, p. 17).

4. Financial market participants shall present the information referred to in point (a) of paragraph 3 in accordance with the template set out in Annex II and the information referred to in point (b) of paragraph 3 in accordance with the template set out in Annex III.
5. By way of derogation from paragraph 3, where a financial product offers a range of investment options to the investor such that the information relating to those investment options cannot be provided in the annexes of the Article 6(3) document in a clear and concise manner due to the number of annexes required, financial market participants may provide the information referred to in paragraph 3 by including in the main body of the Article 6(3) document references to the annexes of the applicable disclosures required by the sectoral acts referred to in Article 6(3) of Regulation (EU) 2019/2088 where that information is contained.

#### *Article 29*

#### **Financial products with all underlying investment options having sustainable investment as their objective**

1. By way of derogation from Articles 20 to 27, where a financial product offers investment options to the investor and all of those investment options have sustainable investment as their objective, in accordance with Article 9(1) to (4) of that Regulation, financial market participants shall provide a prominent statement in the main body of the Article 6(3) document that the financial product has as its objective sustainable investment and that the information related to that objective is available in the annexes referred to in paragraph 3 or, where relevant, through the references referred to in paragraph 5.
2. The prominent statement referred to in paragraph 1 shall be accompanied by:
  - (a) a list of the investment options referred to in points (a) and (b) of paragraph 3, presented in accordance with the categories referred to in those points; and
  - (b) the proportions of investment options within each of those categories relative to the total number of investment options offered by the financial product.
3. Financial market participants shall also provide the following information in annexes to the Article 6(3) document:
  - (a) for each investment option that qualifies as a financial product referred to in Article 9(1), (2) or (3) of that Regulation, the information referred to in Articles 20 to 27; and
  - (b) for each investment option that has sustainable investment as its objective and is not a financial product referred to in Article 2(12) of Regulation (EU) 2019/2088, the information on the objective of sustainable investment.
4. Financial market participants shall present the information referred to in point (a) of paragraph 3 in accordance with the template set out in Annex III.
5. By way of derogation from paragraph 3, where a financial product offers a range of investment options to the investor such that the information relating to those investment options cannot be provided in the annexes of the Article 6(3) document in a clear and concise manner due to the number of annexes required, financial market participants may provide the information referred to in paragraph 3 by including in the main body of the Article 6(3)

document references to the annexes of the applicable disclosures required by the sectoral acts referred to in Article 6(3) of Regulation (EU) 2019/2088 where that information is contained.

#### Article 30

### **Information on the objective of sustainable investment for financial products with options that do not themselves qualify as financial products**

The information on the objective of sustainable investment referred to in Articles 28(3)(c), 29(3)(b), 72(3)(c) and 73(2)(b) shall include:

- (a) a description of the sustainable investment objective;
- (b) a list of the indicators used to measure the attainment of that sustainable investment objective; and
- (c) a description of how the investments do not significantly harm any of the sustainable investment objectives, including:
  - (i) how the indicators for adverse impacts in Table 1 of Annex I and any relevant indicators in Tables 2 and 3 of Annex I, are taken into account; and
  - (ii) whether the sustainable investment is aligned with the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights, including the principles and rights set out in the eight fundamental conventions identified in the Declaration of the International Labour Organisation on Fundamental Principles and Rights at Work and the International Bill of Human Rights.

#### CHAPTER IV

### **WEBSITE PRODUCT DISCLOSURE**

*(Article 10(1) of Regulation (EU) 2019/2088)*

#### Article 31

### **Website sustainability-related product disclosure section**

Financial market participants shall publish the information on their websites in accordance with Article 10(1) of Regulation (EU) 2019/2088 and this Chapter in a separate section titled, 'Sustainability-related disclosures', in the same part of the website as the other information relating to the financial product, including marketing communications. They shall clearly identify the financial product to which the information in the sustainability-related disclosure section relates and prominently display the environmental or social characteristics or the sustainable investment objective of that financial product.

#### Article 32

### **Website product disclosure for financial products referred to in Article 8(1) of Regulation (EU) 2019/2088**

For financial products referred to in Article 8(1) of Regulation (EU) 2019/2088, financial market participants shall publish the information referred to in Article 10(1) of that Regulation and Articles 33 to 44 in the order and made up of the following sections titled:

- (a) 'Summary';
- (b) 'No sustainable investment objective';
- (c) 'Environmental or social characteristics of the financial product';
- (d) 'Investment strategy';
- (e) 'Proportion of investments';
- (f) 'Monitoring of environmental or social characteristics';
- (g) 'Methodologies';
- (h) 'Data sources and processing';
- (i) 'Limitations to methodologies and data';
- (j) 'Due diligence';
- (k) 'Engagement policies'; and
- (l) where an index is designated as a reference benchmark for the purpose of attaining the environmental or social characteristics promoted by the financial product, 'Designated reference benchmark'.

*Article 33*

**Summary website section for products that promote environmental or social characteristics**

1. The section referred to in point (a) of Article 32 shall contain a summary of the information referred to in that Article that relates to the financial product of a maximum length of two sides of A4-sized paper when printed.
2. The section shall be provided in at least:
  - (a) one of the official languages of the home Member State and, where different and where the financial product is marketed in more than one Member State, in an additional language customary in the sphere of international finance; and
  - (b) where the financial product is marketed in a host Member State, one of the official languages of that host Member State.

*Article 34*

**No sustainable investment objective website section**

1. The section referred to in point (b) of Article 32 shall contain the following statement: "This financial product promotes environmental or social characteristics, but does not have as its objective a sustainable investment."

2. Where the financial product commits to making one or more sustainable investments, the section shall also contain an explanation of how the sustainable investment does not significantly harm any of the sustainable investment objectives, including:
  - (a) how the indicators for adverse impacts in Table 1 of Annex I, and any relevant indicators in Tables 2 and 3 of Annex I, are taken into account; and
  - (b) whether the sustainable investment is aligned with the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights, including the principles and rights set out in the eight fundamental conventions identified in the Declaration of the International Labour Organisation on Fundamental Principles and Rights at Work and the International Bill of Human Rights.

*Article 35*

**Environmental or social characteristics of the financial product website section**

The section referred to in point (c) of Article 32 shall contain the information referred to in Article 10(1)(a) of Regulation (EU) 2019/2088.

*Article 36*

**Investment strategy for products that promote environmental or social characteristics website section**

The section referred to in point (d) of Article 32 shall contain:

- (a) a description of the investment strategy referred to in Article 15; and
- (b) a description of the policy to assess good governance practices of the investee companies referred to in Article 15(c), including with respect to sound management structures, employee relations, remuneration of staff and tax compliance.

*Article 37*

**Proportion of investments for products that promote environmental or social characteristics website section**

The section referred to in point (e) of Article 32 shall contain the information referred to in Article 16 and shall distinguish between direct exposures in investee entities and all other types of exposures to those entities.

*Article 38*

**Monitoring of environmental or social characteristics website section**

The section referred to in point (f) of Article 32 shall contain a description of how the environmental or social characteristics and the sustainability indicators referred to in Article 14 are monitored throughout the lifecycle of the financial product and the related internal or external control mechanisms.

*Article 39*

**Methodologies for environmental or social characteristics website section**

The section referred to in point (g) of Article 32 shall contain a description of the methodologies to measure the attainment of the social or environmental characteristics promoted by the financial product using the sustainability indicators referred to in Articles 14.

*Article 40*

**Data sources and processing for environmental or social characteristics website section**

The section referred to in point (h) of Article 32 shall contain a description of:

- (a) the data sources used to attain each of the environmental or social characteristics promoted by the financial product;
- (b) the measures taken to ensure data quality;
- (c) how data is processed; and
- (d) the proportion of data that is estimated.

*Article 41*

**Limitation to methodologies and data for products that promote environmental or social characteristics website section**

The section referred to in point (i) of Article 32 shall contain a description of:

- (a) any limitations to the methodologies referred to in point (g), and the data sources referred to in point (h), of Article 32;
- (b) how such limitations do not affect the attainment of the environmental or social characteristics promoted by the financial product; and
- (c) the actions taken to address such limitations.

*Article 42*

**Due diligence for environmental or social characteristics website section**

The section referred to in point (j) of Article 32 shall contain a description of the due diligence carried out on the underlying assets of the financial product, including the internal and external controls on that due diligence.

*Article 43*

**Engagement policies for environmental or social characteristics website section**

The section referred to in point (k) of Article 32 shall contain a description of the engagement policies implemented where engagement is part of the environmental or social investment strategy, including any management procedures applicable to sustainability-related controversies in investee companies.

*Article 44*

**Designated reference benchmark for products that promote environmental or social characteristics website section**

1. The section referred to in point (l) of Article 32 shall contain a description of how the index designated as a reference benchmark is aligned with the environmental or social characteristics promoted by the financial product, including the input data, the methodologies used to select that data, the rebalancing methodologies and how the index is calculated.
2. Where part or all of the information referred to in paragraph 1 is published on the website of the administrator of the reference benchmark, a hyperlink shall be provided to that information.

*Article 45*

**Website product disclosure for financial products referred to in Article 9(1), (2) and (3) of Regulation (EU) 2019/2088**

For financial products referred to in Article 9(1), (2) or (3) of Regulation (EU) 2019/2088, financial market participants shall publish the information referred to in Article 10(1) of that Regulation and Articles 46 to 57 in the order and made up of the following sections titled:

- (a) 'Summary';
- (b) 'No significant harm to the sustainable investment objective';
- (c) 'Sustainable investment objective of the financial product';
- (d) 'Investment strategy';
- (e) 'Proportion of investments';
- (f) 'Monitoring of sustainable investment objective';
- (g) 'Methodologies';
- (h) 'Data sources and processing';
- (i) 'Limitations to methodologies and data';
- (j) 'Due diligence';
- (k) 'Engagement policies'; and
- (l) 'Attainment of the sustainable investment objective'.

*Article 46*

**Summary website section for financial products with the objective of sustainable investment**

1. The section referred to in point (a) of Article 45 shall contain a summary of the information referred to in that Article that relates to the financial product of a maximum length of two sides of A4-sized paper when printed.



2. The section shall be provided in at least:
- (a) one of the official languages of the home Member State and, where different and where the financial product is marketed in more than one Member State, in an additional language customary in the sphere of international finance; and
  - (b) where the financial product is marketed in a host Member State, one of the official languages of that host Member State.

*Article 47*

**No significant harm to the sustainable investment objective website section**

The section referred to in point (b) of Article 45 shall contain an explanation of how the investments of the financial product do not significantly harm any of the sustainable investment objectives, including:

- (a) how the indicators for adverse impacts in Table 1 of Annex I, and any relevant indicators in Tables 2 and 3 of Annex I, are taken into account; and
- (b) whether the sustainable investment is aligned with the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights, including the principles and rights set out in the eight fundamental conventions identified in the Declaration of the International Labour Organisation on Fundamental Principles and Rights at Work and the International Bill of Human Rights.

*Article 48*

**Sustainable investment objective of the financial product website section**

The section referred to in point (c) of Article 45 shall contain the information referred to in Article 10(1)(a) of Regulation (EU) 2019/2088.

*Article 49*

**Investment strategy for financial products with the objective of sustainable investment website section**

The section referred to in point (d) of Article 45 shall contain:

- (a) a description of the investment strategy referred to in Article 22; and
- (b) a description of the policy to assess good governance practices of the investee companies referred to in Article 22(b), including with respect to sound management structures, employee relations, remuneration of staff and tax compliance.

*Article 50*

**Proportion of investments for financial products with the objective of sustainable investment website section**

The section referred to in point (e) of Article 45 shall contain the information referred to in Article 23 and shall distinguish between direct exposures in investee entities and all other types of exposures to those entities.

*Article 51*

**Monitoring of the sustainable investment objective website section**

The section referred to in point (f) of Article 45 shall contain a description of how the sustainable investment objective and the sustainability indicators referred to in Article 21 are monitored throughout the lifecycle of the financial product and the related internal or external control mechanisms.

*Article 52*

**Methodologies for the sustainable objective website section**

The section referred to in point (g) of Article 45 shall contain a description of the methodologies to measure the attainment of the sustainable investment objective using the sustainability indicators referred to in Articles 21.

*Article 53*

**Data sources and processing for the sustainable objective website section**

The section referred to in point (h) of Article 45 shall contain a description of:

- (a) the data sources used to attain the sustainable investment objective of the financial product;
- (b) the measures taken to ensure data quality;
- (c) how data is processed; and
- (d) the proportion of data that is estimated.

*Article 54*

**Limitation to methodologies and data for the sustainable objective website section**

The section referred to in point (i) of Article 45 shall contain a description of:

- (a) any limitations to the methodologies referred to in point (g), and the data sources referred to in point (h), of Article 45;
- (b) how such limitations do not affect the attainment of the sustainable investment objective; and
- (c) the actions taken to address such limitations.

*Article 55*

**Due diligence for the sustainable objective website section**

The section referred to in point (j) of Article 45 shall contain a description of the due diligence carried out on the underlying assets of the financial product, including the internal and external controls on that due diligence.

*Article 56*

**Engagement policies for the sustainable objective website section**

The section referred to in point (k) of Article 45 shall contain a description of the engagement policies implemented where engagement is part of the sustainable investment objective, including any management procedures applicable to sustainability-related controversies in investee companies.

*Article 57*

**Attainment of the sustainable investment objective website section**

1. The section referred to in point (l) of Article 45 shall contain a description of:
  - (a) for a financial product referred to in Article 9(1) of Regulation (EU) 2019/2088, how the index designated as a reference benchmark is aligned with the sustainable investment objective of the financial product, including the input data, the methodologies used to select that data, the rebalancing methodologies and how the index is calculated; and
  - (b) for a financial product referred to in Article 9(3) of Regulation (EU) 2019/2088, a statement that the reference benchmark qualifies as an EU Climate Transition Benchmark or an EU Paris-aligned Benchmark under Chapter 3a of Title III of Regulation (EU) 2016/1011 and a hyperlink to where the methodology used for the calculation of that benchmark can be found.
2. By way of derogation from point (a) of paragraph 1, where the information referred to in that point is published on the website of the administrator of the reference benchmark, a hyperlink shall be provided to that information.
3. By way of derogation from point (b) of paragraph 1, where no EU Climate Transition Benchmark or EU Paris-aligned Benchmark in accordance with Regulation (EU) 2016/1011 is available, the section referred to in point (l) of Article 45 shall explain that fact and how the continued effort of attaining the objective of reducing carbon emissions is ensured in view of achieving the objectives of the Paris Agreement. The financial market participant shall also explain the extent to which the financial product complies with the methodological requirements set out in Commission Delegated Regulation (EU) 2020/1818.

*CHAPTER V*  
**PRODUCT DISCLOSURE IN PERIODIC REPORTS**  
*(Article 11(1) of Regulation (EU) 2019/2088)*

*Section 1*

***Periodic reports for financial products referred to in Article 8(1) of Regulation (EU) 2019/2088***

*Article 58*

**Presentation and content requirements for periodic reports for financial products referred to in Article 8(1) of Regulation (EU) 2019/2088**

1. For financial products referred to in Article 8(1) of Regulation (EU) 2019/2088, financial market participants shall present the information referred to in Article 11(1) of Regulation (EU) 2019/2088 and this Section in an annex to the document referred to in Article 11(2) of that Regulation in accordance with the template set out in Annex IV. They shall include a prominent statement in the main body of the document referred to in Article 11(2) of that Regulation that information on the environmental or social characteristics is available in that annex.
2. Financial market participants shall present the information referred to in paragraph 1 in the order and made up of the following sections titled:
  - (a) ‘To what extent were the environmental and/or social characteristics promoted by this financial product met?’;
  - (b) ‘What were the top investments of this financial product?’;
  - (c) ‘What was the proportion of sustainability-related investments?’;
  - (d) ‘What actions have been taken to meet the environmental and/or social characteristics during the reference period?’; and
  - (e) for a financial product that designated an index as a reference benchmark to attain the environmental or social characteristics promoted by the financial product, ‘How did this financial product perform compared to the designated reference benchmark?’.

*Article 59*

**Attainment of the environmental or social characteristics promoted by the financial product section**

The section referred to in point (a) of Article 58(2) shall contain the following:

- (a) a description of the extent to which the environmental or social characteristics promoted by the financial product were attained during the reference period, including the performance of the sustainability indicators referred to in Article 14 and any derivatives referred to in Article 16(1)(c) used to attain the environmental or social characteristics;
- (b) where the financial market participant has provided at least one previous periodic report in accordance with this Section for the financial product, a historical comparison between the reference period and previous reference periods.

*Article 60*

**Top investments for products that promote environmental or social characteristics section**

1. The section referred to in point (b) of Article 58(2) shall contain a list, in descending order of size, of the 15 investments constituting the greatest proportion of investments of the financial product during the reference period, including the sector and countries of those investments.
2. By way of derogation from paragraph 1, where the number of investments constituting 50 percent of the investments of the financial product during the reference period is less than 15, the section referred to in point (b) of Article 58(2) shall contain a list of those investments, in descending order of size, including the sector and location of those investments.

*Article 61*

**Proportion of sustainability-related investments section for products that promote environmental or social characteristics**

1. The section referred to in point (c) of Article 58(2) shall contain the following information:
  - (a) a description of the investments of the financial product; and
  - (b) if a financial product included a commitment to make sustainable investments, an explanation of how those sustainable investments have contributed to a sustainable investment objective and not harmed significantly any of the sustainable investment objectives during the reference period, including:
    - (i) how the indicators for adverse impacts in Table 1 of Annex I, and any relevant indicators in Tables 2 and 3 of Annex I, were taken into account; and
    - (ii) whether the sustainable investment was aligned with the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights, including the principles and rights set out in the eight fundamental conventions identified in the Declaration of the International Labour Organisation on Fundamental Principles and Rights at Work and the International Bill of Human Rights.
2. For the purposes of point (a) of paragraph 1 the description shall explain:
  - (a) the proportions of the investments of the financial product;
  - (b) the purpose of the remainder of the investments during the reference period, including a description of any minimum environmental or social safeguards and whether those investments are used for hedging, relate to cash held as ancillary liquidity or are investments for which there is insufficient data; and
  - (c) the proportion of investments during the reference period in different sectors and sub-sectors, including the fossil fuel sectors.

#### *Article 62*

##### **Actions taken to attain environmental or social characteristics section**

The section referred to in point (d) of Article 58(2) shall contain the actions taken within the reference period to attain the environmental or social characteristics promoted by the financial product, including shareholder engagement as defined in Article 3g of Directive 2007/36/EC and any other engagement relating to the environmental or social characteristics promoted by the financial product.

#### *Article 63*

##### **Sustainable performance of the index designated as a benchmark for environmental or social characteristics section**

1. The section referred to in point (e) of Article 58(2) shall include:
  - (a) an explanation of how the index designated as a reference benchmark differs from a relevant broad market index, including at least the performance during the reference period of the sustainability indicators deemed relevant by the financial market participant to determine the alignment of the index with the environmental or social characteristics promoted by the financial product and the ESG factors referred to in the benchmark statement of the benchmark administrator in accordance with Article 27(2a) of Regulation (EU) 2016/1011;
  - (b) a comparison of the performance during the reference period of the financial product with regard to the indicators measuring the sustainability factors of the index referred to in point (a); and
  - (c) a comparison of the performance during the reference period of the financial product with regard to a relevant broad market index.
2. The comparisons referred to in points (b) and (c) shall be presented, where relevant, in the form of a table or graphical representation.

#### *Section 2*

##### ***Periodic reports for financial products referred to in Article 9(1), (2) and (3) of Regulation (EU) 2019/2088***

#### *Article 64*

##### **Presentation and content requirements for periodic reports for financial products referred to Article 9(1), (2) and (3) of Regulation (EU) 2019/2088**

1. For financial products referred to in Article 9(1), (2) and (3) of Regulation (EU) 2019/2088, financial market participants shall present the information referred to in Article 11(1) of that Regulation and this Section in an annex to the document referred to in Article 11(2) of that Regulation in accordance with the templates set out in Annex V. Financial market participants shall include a prominent statement in the main body of the document referred to in Article 11(2) of that Regulation that information on sustainable investment is available in that annex.
2. Financial market participants shall present the information referred to in paragraph 1 in the order and made up of the following sections titled:

- (a) ‘To what extent was the sustainable investment objective of this financial product met?’;
- (b) ‘What were the top investments of this financial product?’;
- (c) ‘What was the proportion of sustainability-related investments?’;
- (d) ‘What actions were taken to attain the sustainable investment objective during the reference period?’;
- (e) for a financial product referred to in Article 9(1) of Regulation (EU) 2019/2088, ‘How did this financial product perform compared to the reference sustainable benchmark?’; and
- (f) for a financial product referred to in Article 9(3) of Regulation (EU) 2019/2088, ‘How was the objective of a reduction in carbon emissions aligned with the Paris Agreement?’.

#### *Article 65*

#### **Attainment of the sustainable investment objective of the financial product section**

The section referred to in point (a) of Article 64(2) shall contain the following:

- (a) a description of the extent to which the sustainable investment objective was attained during the reference period, including the performance of the sustainability indicators referred to in Article 21 and any derivatives referred to in Article 23(1)(b) used to attain the sustainable investment objective; and
- (b) where the financial market participant has provided at least one previous periodic report in accordance with this Section for the financial product, a historical comparison between the current reference period and previous reference periods.

#### *Article 66*

#### **Top investments for financial products that have a sustainable investment objective section**

1. The section referred to in point (b) of Article 64(2) shall contain a list, in descending order of size, of the 15 investments constituting the greatest proportion of investments of the financial product during the reference period, including the sector and countries of those investments.
2. By way of derogation from paragraph 1, where the number of investments constituting 50 percent of the investments of the financial product during the reference period is less than 15, the section referred to in point (b) of Article 64(2) shall contain a list of those investments, in descending order of size, including the sector and countries of those investments.

#### *Article 67*

#### **Proportion of sustainability-related investments for financial products that have a sustainable investment objective section**

1. The section referred to in point (c) of Article 64(2) shall contain the following:
  - (a) a description of the investments of the financial product;

- (b) an explanation of how the sustainable investment of the financial product has contributed to a sustainable investment objective and not harmed significantly any of the sustainable investment objectives during the reference period, including:
    - (i) how the indicators for adverse impacts in Table 1 of Annex I, and any relevant indicators in Tables 2 and 3 of Annex I, were taken into account; and
    - (ii) whether the sustainable investment was aligned with the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights, including the principles and rights set out in the eight fundamental conventions identified in the Declaration of the International Labour Organisation on Fundamental Principles and Rights at Work and the International Bill of Human Rights.
2. For the purposes of point (a) of paragraph 1 the description shall explain:
- (a) the proportions of the investments of the financial product;
  - (b) the purpose of the remainder of the investments during the reference period, including a description of any minimum environmental or social safeguards and whether those investments are used for hedging, relate to cash held as ancillary liquidity or are investments for which there is insufficient data; and
  - (c) the proportion of investments during the reference period in different sectors and sub-sectors.

*Article 68*

**Actions taken to attain the sustainable investment objective section**

The section referred to in point (d) of Article 64(2) shall contain the actions taken within the reference period to attain the sustainable investment objective of the financial product, including shareholder engagement as defined in Article 3g of Directive 2007/36/EC and any other engagement relating to the sustainable investment objective.

*Article 69*

**Sustainable performance of the index designated as a benchmark for the sustainable objective section**

1. For financial products referred to in Article 9(1) of Regulation (EU) 2019/2088, the section referred to in point (e) of Article 64(2) shall contain the following:
  - (a) an explanation of how the index designated as a reference benchmark differs from a relevant broad market index, including at least the performance during the reference period of the sustainability indicators deemed relevant by the financial market participant to determine the alignment of the index with the sustainable investment objective, including the ESG factors referred to in the benchmark statement of the benchmark administrator in accordance with Article 27(2a) of Regulation (EU) 2016/1011;
  - (b) a comparison of the performance during the reference period of the financial product with regard to the indicators measuring the sustainability factors of the index referred to in point (a); and



- (c) a comparison of the performance during the reference period of the financial product with regard to a relevant broad market index.
2. The comparisons referred to in points (b) and (c) of paragraph 1 shall be made, where relevant, in the form of a table or graphical representation.

#### *Article 70*

### **Objective of a reduction in carbon emissions section**

For financial products referred to in Article 9(3) of Regulation (EU) 2019/2088, the section referred to in point (f) of Article 64(2) shall contain a description of the contribution of the financial product during the reference period to achieving the objectives of the Paris Agreement, including in respect of an EU Climate Transition Benchmark or EU Paris-aligned Benchmark, the ESG factors and criteria considered by the benchmark administrator in accordance with Commission Delegated Regulation (EU) 2020/1818.

#### *Section 3*

### ***Historical comparisons for periodic reports and investment options***

#### *Article 71*

### **Historical comparisons for periodic reports**

1. The historical comparisons referred to in Articles 59(b) and 65(b) shall compare the current reference period with the previous reference period provided in accordance with those Articles and shall continue to make such historical comparisons for at least five previous reference periods.
2. For the purposes of paragraph 1, financial market participants shall report on the performance of the sustainability indicators consistently over time, including the following information:
  - (a) where quantitative disclosures are made, figures with a relative measure such as impact per euro invested;
  - (b) which indicators are subject to an assurance provided by an auditor or a review by a third party; and
  - (c) the proportion of underlying assets of the financial product referred to in Articles 61 and 67.

#### *Article 72*

### **Financial products with one or more underlying investment options that qualify those financial products as those referred to in Article 8 of Regulation (EU) 2019/2088**

1. By way of derogation from Articles 58 to 64, where a financial product offers investment options to the investor and one or more of those investment options qualify that financial product as a financial product referred to in Article 8 of Regulation (EU) 2019/2088, in accordance with Article 11(1), financial market participants shall provide a prominent statement in the main body of the document referred to in Article 11(2) of that Regulation (Article 11(2) document) that:

- (a) the financial product promotes environmental or social characteristics;
  - (b) the attainment of those characteristics is subject to investing in at least one investment option referred to in paragraph 2 and holding at least one of those options during the holding period of the financial product; and
  - (c) further information related to those characteristics is available in the annexes referred to in that paragraph.
2. Financial market participants shall also provide the following information in annexes to the Article 11(2) document:
- (a) for each investment option invested in that qualifies as a financial product referred to in Article 8(1) of Regulation (EU) 2019/2088, the information referred to in Articles 58 to 64;
  - (b) for each investment option invested in that qualifies as a financial product referred to in Article 9(1), (2) or (3) of that Regulation, the information referred to in Articles 65 to 70; and
  - (c) for each investment option invested in that has sustainable investment as its objective and is not a financial product referred to in Article 2(12) of Regulation (EU) 2019/2088, the information on the objective of sustainable investment.
3. Financial market participants shall present the information referred to in point (a) of paragraph 2 in accordance with the template set out in Annex IV and the information referred to in point (b) of paragraph 2 in accordance with the template set out in Annex V.

#### *Article 73*

#### **Financial products with all underlying investment options having sustainable investment as their objective**

1. By way of derogation from Articles 65 to 70, where a financial product offers investment options to the investor and all of those investment options have sustainable investment as their objective, in accordance with Article 11(1) of that Regulation, financial market participants shall provide a prominent statement in the main body of the Article 11(2) document that the financial product has as its objective sustainable investment and that the information related to that objective is available in the annexes referred to in paragraph 2.
2. Financial market participants shall also provide the following information in annexes to the Article 11(2) document:
  - (a) for each investment option invested in that qualifies as a financial product referred to in Article 9(1), (2) or (3) of that Regulation, the information referred to in Articles 65 to 70; and
  - (b) for each investment option invested in that has sustainable investment as its objective and is not a financial product referred to in Article 2(12) of Regulation (EU) 2019/2088, the information on the objective of sustainable investment.

3. Financial market participants shall present the information referred to in point (a) of paragraph 2 in accordance with the template set out in Annex V.

*CHAPTER VI*  
**FINAL PROVISION**

*Article 74*  
**Entry into force and application**

1. This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.
2. This Regulation shall apply from 1 January 2022.
3. By way of derogation from paragraph 2, the reporting on Scope 3 GHG emissions in Tables 1 and 2 of Annex I shall apply from 1 January 2023.

## ANNEX I

### Template principal adverse sustainability impacts statement

For the purposes of this Annex, the following definitions shall apply:

- (1) 'scope 1, 2 and 3 GHG emissions' means the scope of greenhouse gas emissions referred to in subpoints (i) to (iii) of point (1)(e) of Annex III of Regulation (EU) 2016/1011;
- (2) 'greenhouse gas (GHG) emissions' means greenhouse gas emissions as defined in point (1) of Article 3 of Regulation (EU) 2018/842 of the European Parliament and of the Council <sup>(12)</sup>;
- (3) 'enterprise value' means the sum, at fiscal year-end, of the market capitalisation of ordinary shares, the market capitalisation of preferred shares, and the book value of total debt and non-controlling interests, without the deduction of cash or cash equivalents;
- (4) 'current value of investment' means the value in EUR of the investment by the financial market participant in the investee company;
- (5) 'current value of all investments' means the value in EUR of all investments by the financial market participant;
- (6) 'GHG emissions' shall be calculated in accordance with the following formula:

$$\sum_n^i \left( \frac{\text{current value of investment}_i}{\text{investee company's enterprise value}_i} \times \text{investee company's Scope}(x) \text{ GHG emissions}_i \right)$$

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<sup>12</sup> Regulation (EU) 2018/842 of the European Parliament and of the Council of 30 May 2018 on binding annual greenhouse gas emission reductions by Member States from 2021 to 2030 contributing to climate action to meet commitments under the Paris Agreement and amending Regulation (EU) No 525/2013 (OJ L 156, 19.6.2018, p. 26).

(7) 'carbon footprint' shall be calculated in accordance with the following formula:

$$\frac{\sum_n^i \left( \frac{\text{current value of investment}_i}{\text{investee company's enterprise value}_i} \times \text{investee company's Scope 1, 2 and 3 GHG emissions}_i \right)}{\text{current value of all investments (€M)}}$$

(8) 'weighted average' means a ratio of the weight of the investment by the financial market participant in an investee company in relation to all investments of the financial market participant;

(9) 'GHG intensity of investee companies' shall be calculated in accordance with the following formula:

$$\sum_n^i \left( \frac{\text{current value of investment}_i}{\text{current value of all investments (€M)}} \times \frac{\text{investee company's Scope 1, 2 and 3 GHG emissions}_i}{\text{investee company's €M revenue}_i} \right)$$

(10) 'GHG intensity of sovereigns' shall be calculated in accordance with the following formula:

$$\sum_n^i \left( \frac{\text{current value of investment}_i}{\text{current value of all investments (€M)}} \times \frac{\text{The country's Scope 1, 2 and 3 GHG emissions}_i}{\text{Gross Domestic Product}_i(\text{€M})} \right)$$

(11) 'companies active in the fossil fuel sector' means (i) companies that derive any revenues from exploration, mining, extraction, distribution or refining of hard coal and lignite; (ii) companies that derive any revenues from the exploration, extraction, distribution (including transportation, storage and trade) or refining of liquid fossil fuels; and (iii) companies that derive any revenues from exploring and extracting fossil gaseous fuels or from their dedicated distribution (including transportation, storage and trade);

- (12) ‘renewable energy sources’ means renewable energy sources as referred to in Article 2(1) of Directive (EU) 2018/2001 of the European Parliament and of the Council <sup>(13)</sup>;
- (13) ‘non-renewable energy sources’ means energy sources other than those referred to in point (12);
- (14) ‘energy consumption intensity’ means the ratio of energy consumption per unit of activity, output or any other metric of the investee company to the total energy consumption of that investee company;
- (15) ‘high impact climate sectors’ means the sectors listed in Sections A to H and Section L of Annex I to Regulation (EC) No 1893/2006 of the European Parliament and of the Council <sup>(14)</sup>;
- (16) ‘protected area’ means an area designated under the European Environment Agency’s Common Database on Designated Areas (CDDA);
- (17) ‘area of high biodiversity value outside protected areas’ means land with high biodiversity value as referred to in Article 7b(3) of Directive 98/70/EC of the European Parliament and of the Council <sup>(15)</sup>;
- (18) ‘emissions to water’ means direct emissions of priority substances as defined in Article 2(30) of Directive 2000/60/EC of the European Parliament and of the Council <sup>(16)</sup> and direct nitrates, direct phosphate emissions, direct pesticides emissions as referred to in that Directive, Council Directive of 12

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<sup>13</sup> Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources (recast) (OJ L 328 21.12.2018, p. 82).

<sup>14</sup> Regulation (EC) No 1893/2006 of the European Parliament and of the Council of 20 December 2006 establishing the statistical classification of economic activities NACE Revision 2 and amending Council Regulation (EEC) No 3037/90 as well as certain EC Regulations on specific statistical domains (OJ L 393, 30.12.2006, p. 1).

<sup>15</sup> Directive 98/70/EC of the European Parliament and of the Council of 13 October 1998 relating to the quality of petrol and diesel fuels and amending Council Directive 93/12/EEC (OJ L 350, 28.12.1998, p. 58).

<sup>16</sup> Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (OJ L 327, 22.12.2000, p. 1).

December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources (91/676/EEC) <sup>(17)</sup>, Council Directive 91/271/EEC of 21 May 1991 concerning urban waste-water treatment <sup>(18)</sup> and Directive 2010/75/EU of the European Parliament and of the Council <sup>(19)</sup>;

- (19) ‘areas of high water stress’ means regions where the percentage of total water withdrawn is high (40-80%) or extremely high (greater than 80%) in the World Resources Institute’s (WRI) Water Risk Atlas tool “Aqueduct”;
- (20) ‘hazardous waste’ means hazardous waste as defined in Article 3(2) of Directive 2008/98/EC of the European Parliament and of the Council <sup>(20)</sup> and radioactive waste;
- (21) ‘non-recycled waste’ means any waste not recycled within the meaning of ‘recycling’ in Article 3(17) of Directive 2008/98/EC;
- (22) ‘activities negatively affecting biodiversity-sensitive areas’ means activities (i) leading to the deterioration of natural habitats and the habitats of species and to disturbance of the species for which the protected area has been designated; and (ii) where conclusions or necessary mitigation measures identified by any of the following assessments have not been implemented accordingly:
  - (a) Directive 2009/147/EC of the European Parliament and of the Council <sup>(21)</sup>;
  - (b) Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora <sup>(22)</sup>;

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<sup>17</sup> OJ L 375, 31.12.1991, p. 1.

<sup>18</sup> OJ L 135, 30.5.1991, p. 40.

<sup>19</sup> Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) (OJ L 334, 17.12.2010, p. 17).

<sup>20</sup> Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312, 22.11.2008, p. 3).

<sup>21</sup> Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (OJ L 20, 26.1.2010, p. 7).

<sup>22</sup> Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ L 206, 22. 7.1992, p. 7).

- (c) an Environmental Impact Assessment (EIA) within the meaning of point (g) of Article 1(2) of Directive 2011/92/EU of the European Parliament and of the Council <sup>(23)</sup>; and
- (d) for activities located in third countries, in accordance with equivalent national provisions or international standards, such as the International Finance Corporation (IFC) Performance Standard 6: Biodiversity Conservation and Sustainable Management of Living Natural Resources;
- (23) ‘biodiversity-sensitive areas’ means Natura 2000 network of protected areas, UNESCO World Heritage sites and Key Biodiversity Areas (‘KBAs’), as well as other protected areas, as referred to in the Annex of Commission Delegated Regulation (EU) .../... of ... supplementing Regulation (EU) 2020/852 of the European Parliament and of the Council by establishing the technical screening criteria for determining the conditions under which an economic activity qualifies as contributing substantially to climate change mitigation or climate change adaptation and for determining whether that economic activity causes no significant harm to any of the other environmental objectives <sup>(24)</sup>;
- (24) ‘threatened species’ means endangered species (flora and fauna) listed in the European Red List or the IUCN Red List, as referred to in Section 7 of Commission Delegated Regulation (EU) .../... [insert the Commission Delegated Regulation referred to in point 23];
- (25) ‘deforestation’ means the human-induced conversion of forested land to non-forested land, which can be permanent, when this change is definitive, or temporary when this change is part of a cycle that includes natural or assisted regeneration, according to the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES) as referred to in paragraph 100 of Decision No 1386/2013/EU of the European Parliament and of the Council <sup>(25)</sup>;
- (26) ‘soil degradation’ means the diminishing capacity of the soil to provide ecosystem goods and services as desired by its stakeholders, according to the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES) as referred to in paragraph 100 of Decision No 1386/2013/EU;

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<sup>23</sup> Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment (OJ L 026, 28.1.2012, p. 1).

<sup>24</sup> [insert OJ reference].

<sup>25</sup> Decision No 1386/2013/EU of the European Parliament and of the Council of 20 November 2013 on a General Union Environment Action Programme to 2020 ‘Living well, within the limits of our planet’ (OJ L 354, 28.12.2013 p. 171).



- (27) ‘UN Global Compact principles’ means Principles 1 to 10 or the ‘Ten Principles’ of the United Nations Global Compact;
- (28) ‘inefficient real estate assets’ means the real estate assets calculated in accordance with the following formula and where ‘nearly zero-energy building (NZEB)’, ‘primary energy demand (PED)’ and ‘energy performance certificate (EPC)’ shall have the meanings given to them in Article 2(2), (5) and (12) respectively of Directive 2010/31/EU of the European Parliament and of the Council <sup>(26)</sup>:

$$\frac{((\textit{Value of real estate assets built before 31/12/2020 with EPC of C or below}) + (\textit{Value of real estate assets built after 31/12/2020 with PED below NZEB in Directive 2010/31/EU}))}{\textit{Value of real estate assets required to abide by EPC and NZEB rules}}$$

- (29) ‘unadjusted gender pay gap’ means the difference between average gross hourly earnings of male paid employees and of female paid employees as a percentage of average gross hourly earnings of male paid employees;
- (30) ‘board’ means the administrative, management or supervisory body of a company;
- (31) ‘human rights policy’ means a policy commitment approved at board level on human rights covering the economic activities of the investee company consistent with UN Guiding Principles on Business and Human Rights;
- (32) ‘whistleblower’ means ‘reporting person’ as defined in Article 5(7) of Directive (EU) 2019/1937 of the European Parliament and of the Council <sup>(27)</sup>;
- (33) ‘inorganic pollutants’ means emissions within or lower than the emission levels associated with the best available techniques (BAT-AEL) ranges set out in the Best Available Techniques Reference Document (BREF) for the Large Volume Inorganic Chemicals- Solids and Others industry;
- (34) ‘air pollutants’ means direct sulphur dioxides (SO<sub>x</sub>/SO<sub>2</sub>) emissions, direct nitrogen oxides (NO<sub>x</sub>/NO<sub>2</sub>) emissions, , direct non-methane volatile organic compounds (NMVOC) emissions and direct particulate matter (PM<sub>2.5</sub>) emissions as defined in points (5) to (8) of Article 3 of, as well as direct ammonia

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<sup>26</sup> Directive 2010/31/EU of the European Parliament and of the Council of 19 May 2010 on the energy performance of buildings (recast) (OJ L 153, 18.6.2010, p. 13).

<sup>27</sup> Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law (OJ L305, 26.11.2019, p. 17).

(NH<sub>3</sub>) and direct total heavy metals (HM) emissions (encompassing cadmium, mercury and lead) as referred to in Directive (EU) 2016/2284 of the European Parliament and of the Council <sup>(28)</sup>; and

(35) ‘ozone depletion substances’ mean substances listed in the Montreal Protocol on Substances that Deplete the Ozone Layer <sup>(29)</sup>.

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<sup>28</sup> Directive (EU) 2016/2284 of the European Parliament and of the Council of 14 December 2016 on the reduction of national emissions of certain atmospheric pollutants, amending Directive 2003/35/EC and repealing Directive 2001/81/EC (OJ L 344, 17.12.2016, p. 1).

<sup>29</sup> OJ L 297, 31.10.1988, p. 21.

*Table 1*  
**Principal adverse sustainability impacts statement**

<p><b>Financial market participant</b> <i>[Name and, where available, LEI]</i></p>
<p><b>Summary</b></p> <p><i>[Name and, where available, LEI]</i> considers principal adverse impacts of its investment decisions on sustainability factors. The present statement is the consolidated principal adverse sustainability impacts statement of <i>[name of the financial market participant]</i> <i>[where applicable, insert “and its subsidiaries, namely [list the subsidiaries included]”]</i>.</p> <p>This principal adverse impacts statement covers the reference period from <i>[insert “1 January” or the date on which principal adverse impacts were first considered]</i> to 31 December <i>[year n]</i>.</p> <p><i>[Summary referred to in Article 5 provided in the languages referred to in paragraph 2 thereof]</i></p>
<p><b>Description of principal adverse sustainability impacts</b></p> <p><i>[Information referred to in Article 6 in the format set out below]</i></p>

Indicators applicable to investments in investee companies					
Adverse sustainability indicator	Metric	Impact [year n]	Impact [year n-1]	Explanation	Actions taken
<b>CLIMATE AND OTHER ENVIRONMENT-RELATED INDICATORS</b>					
Greenhouse gas emissions	1. GHG emissions	Scope 1 GHG emissions			
		Scope 2 GHG emissions			
		From 1 January 2023, Scope 3 GHG emissions			
		Total GHG emissions			
	2. Carbon footprint	Carbon footprint			
	3. GHG intensity of investee companies	GHG intensity of investee companies			
	4. Exposure to companies active in the fossil fuel sector	Share of investments in companies active in the fossil fuel sector			

	5. Share of non-renewable energy consumption and production	Share of non-renewable energy consumption and non-renewable energy production of investee companies from non-renewable energy sources compared to renewable energy sources, expressed as a percentage				
	6. Energy consumption intensity per high impact climate sector	Energy consumption in GWh per million EUR of revenue of investee companies, per high impact climate sector				
Biodiversity	7. Activities negatively affecting biodiversity-sensitive areas	Share of investments in investee companies with sites/operations located in or near to biodiversity-sensitive areas where activities of those investee companies negatively affect those areas				
Water	8. Emissions to water	Tonnes of emissions to water generated by investee companies per million EUR invested, expressed as a weighted average				

Waste	9. Hazardous waste ratio	Tonnes of hazardous waste generated by investee companies per million EUR invested, expressed as a weighted average				
<b>SOCIAL AND EMPLOYEE, RESPECT FOR HUMAN RIGHTS, ANTI-CORRUPTION AND ANTI-BRIBERY MATTERS</b>						
Social and employee matters	10. Violations of UN Global Compact principles and Organisation for Economic Cooperation and Development (OECD) Guidelines for Multinational Enterprises	Share of investments in investee companies that have been involved in violations of the UNGC principles or OECD Guidelines for Multinational Enterprises				
	11. Lack of processes and compliance mechanisms to monitor compliance with UN Global Compact principles and	Share of investments in investee companies without policies to monitor compliance with the UNGC principles or OECD Guidelines for Multinational Enterprises or grievance /complaints handling mechanisms to address violations of the UNGC principles or OECD				

	OECD Guidelines for Multinational Enterprises	Guidelines for Multinational Enterprises				
	12. Unadjusted gender pay gap	Average unadjusted gender pay gap of investee companies				
	13. Board gender diversity	Average ratio of female to male board members in investee companies				
	14. Exposure to controversial weapons (anti-personnel mines, cluster munitions, chemical weapons and biological weapons)	Share of investments in investee companies involved in the manufacture or selling of controversial weapons				

<b>Indicators applicable to investments in sovereigns and supnationals</b>						
<b>Adverse sustainability indicator</b>		<b>Metric</b>	<b>Impact [year n]</b>	<b>Impact [year n-1]</b>	<b>Explanation</b>	<b>Actions taken</b>
Environmental	15. GHG intensity	GHG intensity of investee countries				
Social	16. Investee countries subject to social violations	Number of investee countries subject to social violations (absolute number and relative number divided by all investee countries), as referred to in international treaties and conventions, United Nations principles and, where applicable, national law				
<b>Indicators applicable to investments in real estate assets</b>						



Adverse sustainability indicator		Metric	Impact [year n]	Impact [year n-1]	Explanation	Actions taken
Fossil fuels	17. Exposure to fossil fuels through real estate assets	Share of investments in real estate assets involved in the extraction, storage, transport or manufacture of fossil fuels				
Energy efficiency	18. Exposure to energy-inefficient real estate assets	Share of investments in energy-inefficient real estate assets				
<b>Other indicators for principal adverse impact</b>						
<i>[Information on the principal adverse sustainability impact/s referred to in Article 6(1)(b) in the format in Table 2]</i>						
<i>[Information on the principal adverse sustainability impact/s referred to in Article 6(1)(c) in the format in Table 3]</i>						
<i>[Information on any other adverse sustainability impacts used to identify and assess additional principal adverse impacts on a sustainability factor referred to in Article 6(1)(d)]</i>						

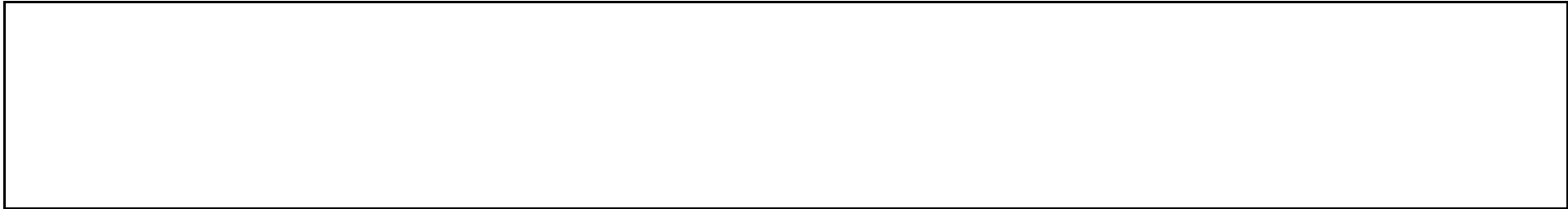
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**Description of policies to identify and prioritise principal adverse sustainability impacts**  
*[Information referred to in Article 7]*

**Engagement policies**  
*[Information referred to in Article 8]*

**References to international standards**  
*[Information referred to in Article 9]*

**Historical comparison**  
*[Information referred to in Article 6(4)]*



*Table 2*  
**Additional climate and other environment-related indicators**

<b>Adverse sustainability impact</b>	<b>Adverse sustainability impact (qualitative or quantitative)</b>	<b>Metric</b>
<b>Indicators applicable to investments in investee companies</b>		
<b>CLIMATE AND OTHER ENVIRONMENT-RELATED INDICATORS</b>		
Emissions	1. Emissions of inorganic pollutants	Tonnes of inorganic pollutants equivalent per million EUR invested, expressed as a weighted average

	2. Emissions of air pollutants	Tonnes of air pollutants equivalent per million EUR invested, expressed as a weighted average
	3. Emissions of ozone depletion substances	Tonnes of ozone depletion substances equivalent per million EUR invested, expressed as a weighted average
	4. Investments in companies without carbon emission reduction initiatives	Share of investments in investee companies without carbon emission reduction initiatives aimed at aligning with the Paris Agreement
Energy performance	5. Breakdown of energy consumption by type of non-renewable sources of energy	Share of energy from non-renewable sources used by investee companies broken down by each non-renewable energy source

Water, waste and material emissions	6. Water usage and recycling	<p>1. Average amount of water consumed and reclaimed by the investee companies (in cubic meters) per million EUR of revenue of investee companies</p> <p>2. Weighted average percentage of water recycled and reused by investee companies</p>
	7. Investments in companies without water management policies	Share of investments in investee companies without water management policies
	8. Exposure to areas of high water stress	Share of investments in investee companies with sites located in areas of high water stress without a water management policy
	9. Investments in companies producing chemicals	Share of investments in investee companies the

		activities of which fall under Division 20.2 of Annex I to Regulation (EC) No 1893/2006
	10. Land degradation, desertification, soil sealing	Share of investments in investee companies the activities of which cause land degradation, desertification or soil sealing
	11. Investments in companies without sustainable land/agriculture practices	Share of investments in investee companies without sustainable land/agriculture practices or policies
	12. Investments in companies without sustainable oceans/seas practices	Share of investments in investee companies without sustainable oceans/seas practices or policies

	<p>13. Non-recycled waste ratio</p>	<p>Tonnes of non-recycled waste generated by investee companies per million EUR invested, expressed as a weighted average</p>
	<p>14. Natural species and protected areas</p>	<p>1.Share of investments in investee companies whose operations affect threatened species</p> <p>2.Share of investments in investee companies without a biodiversity protection policy covering operational sites owned, leased, managed in, or adjacent to, a protected</p>

		area or an area of high biodiversity value outside protected areas
	15. Deforestation	Share of investments in companies without a policy to address deforestation
Green securities	16. Share of securities not certified as green under a future EU legal act setting up an EU Green Bond Standard	Share of securities in investments not certified as green
<b>Indicators applicable to investments in sovereigns and supranationals</b>		
Green securities	17. Share of bonds not certified as green under a future EU act setting up an EU Green Bond Standard	Share of bonds not certified as green
<b>Indicators applicable to investments in real estate assets</b>		
	18. GHG emissions	Scope 1 GHG emissions generated by real estate assets



		Scope 2 GHG emissions generated by real estate assets
		From 1 January 2023, Scope 3 GHG emissions generated by real estate assets
		Total GHG emissions generated by real estate assets
Energy consumption	19. Energy consumption intensity	Energy consumption in GWh of owned real estate assets per square meter
Waste	20. Waste production in operations	Share of real estate assets not equipped with facilities for waste sorting and not covered by a waste recovery or recycling contract
Resource consumption	21. Raw materials consumption for new construction and major renovations	Share of raw building materials (excluding

		recovered, recycled and biosourced) compared to the total weight of building materials used in new construction and major renovations
Biodiversity	22. Land artificialisation	Share of non-vegetated surface area (surfaces that have not been vegetated in ground, as well as on roofs, terraces and walls) compared to the total surface area of the plots of all assets

*Table 3*

**Additional indicators for social and employee, respect for human rights, anti-corruption and anti-bribery matters**

<b>SOCIAL AND EMPLOYEE, RESPECT FOR HUMAN RIGHTS, ANTI-CORRUPTION AND ANTI-BRIBERY MATTERS</b>		
<b>Adverse sustainability impact</b>	<b>Adverse sustainability impact (qualitative or quantitative)</b>	<b>Metric</b>
<b>Indicators applicable to investments in investee companies</b>		

Social and employee matters	1. Investments in companies without workplace accident prevention policies	Share of investments in investee companies without a workplace accident prevention policy
	2. Rate of accidents	Rate of accidents in investee companies expressed as a weighted average
	3. Number of days lost to injuries, accidents, fatalities or illness	Number of workdays lost to injuries, accidents, fatalities or illness of investee companies expressed as a weighted average
	4. Lack of a supplier code of conduct	Share of investments in investee companies without any supplier code of conduct (against unsafe working conditions, precarious work, child labour and forced labour)

	5. Lack of grievance/complaints handling mechanism related to employee matters	Share of investments in investee companies without any grievance/complaints handling mechanism related to employee matters
	6. Insufficient whistleblower protection	Share of investments in entities without policies on the protection of whistleblowers
	7. Incidents of discrimination	1. Number of incidents of discrimination reported in investee companies expressed as a weighted average

		2. Number of incidents of discrimination leading to sanctions in investee companies expressed as a weighted average
	8. Excessive CEO pay ratio	Average ratio within investee companies of the annual total compensation for the highest compensated individual to the median annual total compensation for all employees (excluding the highest-compensated individual)
Human Rights	9. Lack of a human rights policy	Share of investments in entities without a human rights policy
	10. Lack of due diligence	Share of investments in entities without a due diligence process to identify, prevent, mitigate and address adverse human rights impacts

	11. Lack of processes and measures for preventing trafficking in human beings	Share of investments in investee companies without policies against trafficking in human beings
	12. Operations and suppliers at significant risk of incidents of child labour	Share of investments in investee companies exposed to operations and suppliers at significant risk of incidents of child labour exposed to hazardous work in terms of geographic areas or type of operation
	13. Operations and suppliers at significant risk of incidents of forced or compulsory labour	Share of the investments in investee companies exposed to operations and suppliers at significant risk of incidents of forced or compulsory labour in terms in terms of

		geographic areas and/or the type of operation
	14. Number of identified cases of severe human rights issues and incidents	Number of cases of severe human rights issues and incidents connected to investee companies on a weighted average basis
Anti-corruption and anti-bribery	15. Lack of anti-corruption and anti-bribery policies	Share of investments in entities without policies on anti-corruption and anti-bribery consistent with the United Nations Convention against Corruption
	16. Cases of insufficient action taken to address breaches of standards of anti-corruption and anti-bribery	Share of investments in investee companies with identified insufficiencies in actions taken to address breaches in procedures and standards of anti-corruption and anti-bribery

	17. Number of convictions and amount of fines for violation of anti-corruption and anti-bribery laws	Numbers of convictions and amount of fines for violations of anti-corruption and anti-bribery laws by investee companies
<b>Indicators applicable to investments in sovereigns and supranationals</b>		
Social	18. Average income inequality score	The distribution of income and economic inequality among the participants in a particular economy including a quantitative indicator explained in the explanation column
	19. Average freedom of expression score	Measuring the extent to which political and civil society organisations can operate freely including a quantitative indicator explained in the explanation column



Human rights	20. Average human rights performance	Measure of the average human right performance of investee countries using a quantitative indicator explained in the explanation column
Governance	21. Average corruption score	Measure of the perceived level of public sector corruption using a quantitative indicator explained in the explanation column
	22. Non-cooperative tax jurisdictions	Investments in jurisdictions on the EU list of non-cooperative jurisdictions for tax purposes
	23. Average political stability score	Measure of the likelihood that the current regime will be overthrown by the use of force using a quantitative indicator explained in the explanation column

	24. Average rule of law score	Measure of the level of corruption, lack of fundamental rights, and the deficiencies in civil and criminal justice using a quantitative indicator explained in the explanation column
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ANNEX II

Template pre-contractual disclosure for financial products referred to in Article 8(1) of Regulation (EU) 2019/2088

Product name/legal identifier: [complete]

## Environmental and/or social characteristics

This product:    Promotes environmental or social characteristics, but does not have as its objective a sustainable investment

It does not invest in sustainable investments *[tick when relevant]*

It invests partially in sustainable investments *[tick when relevant]*

Has sustainable investment as its objective. Sustainable investment means an investment in an economic activity that contributes to an environmental or social objective, provided that the investment does not significantly harm any environmental or social objective and that the investee companies follow good governance practices.

Has a reference benchmark been designated for the purpose of attaining the environmental or social characteristics promoted by the financial product? *[tick relevant box]*

Yes

No

1



**What environmental and/or social characteristics are promoted by this financial product?**

- **What sustainability indicators are used to measure the attainment of the environmental or social characteristics promoted by this financial product?**

**Sustainability indicators** measure how the environmental or social characteristics promoted by the financial product are attained.

2



## What investment strategy does this financial product follow?

**Investment strategies** guide investment decisions based on factors such as investment objectives and risk tolerance.

- *What are the binding elements of the investment strategy used to select the investments to attain each of the environmental or social characteristics promoted by this financial product?*
- *How is that strategy implemented in the investment process on a continuous basis?*
- *What is the committed minimum rate to reduce the scope of the investments considered prior to the application of that investment strategy? [include question where there is a commitment to reduce the scope of investments by a minimum rate]*
- *What is the policy to assess good governance practices of the investee companies?*
- *Where can I find further details on the investment strategy?*

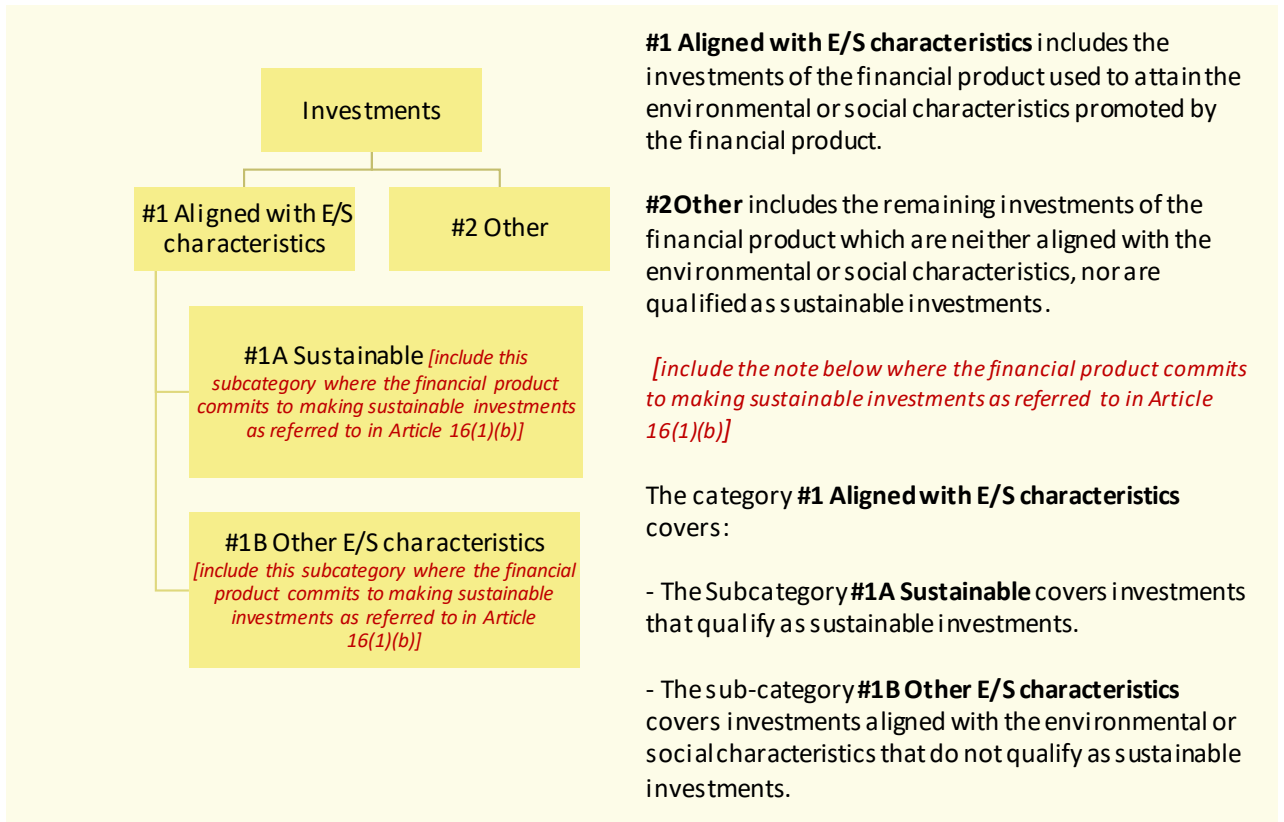
**Good governance** practices include sound management structures, employee relations, remuneration of staff and tax compliance.

3



## What is the asset allocation planned for this financial product?

**Asset allocation** describes the share of investments in specific assets.



● **What investments are included under “#2 Other”, what is their purpose and are there any minimum environmental or social safeguards?**

● **How does the use of derivatives attain the environmental or social characteristics promoted by the financial product?** *[include where derivatives are used to attain the environmental or social characteristics promoted by the financial product]*

● **How will sustainable investments contribute to a sustainable investment objective and not significantly harm any sustainable investment objective?** *[include this question where the financial product commits to making sustainable investments as referred to in Article 16(1)(b)]*

How are indicators for adverse impacts on sustainability factors taken into account?

**Principal adverse impacts** are the most significant negative impact of investment decisions on sustainability factors relating to environmental, social and employee matters, respect for human rights, anti-corruption and anti-bribery matters.

- Are sustainable investments aligned with the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights?

Details:

4



**Does this financial product take into account principal adverse impacts on sustainability factors?**

- Yes
- No

5



**Can I find I find more product specific information online?**

**More product-specific information can be found on the website:** *[insert hyperlink to the website]*

6



**Is a specific index designated as a reference benchmark to determine whether this financial product is aligned with the environmental or social characteristics that it promotes?** *[include this section where an index has been designated as a reference benchmark for the purpose of attaining the environmental or social characteristics promoted by the financial product]*

- **How does the designated index differ from a relevant broad market index?**
- **How is the reference benchmark continuously aligned with each of the environmental or social characteristics promoted by the financial product and with the investment strategy?**

*[include note where an index has been designated as a reference benchmark]*

**Reference benchmarks** are indexes to measure whether financial products attain the environmental or social characteristics that they promote.

ANNEX III

Template pre-contractual disclosure for financial products referred to in Article 9(1), (2) and (3) of Regulation (EU) 2019/2088

Product name/legal identifier: [complete]

## Sustainable investment objective

- This product:    Promotes environmental or social characteristics, but does not have as its objective a sustainable investment
- It does not invest in sustainable investments
- It invests partially in sustainable investments
- Has sustainable investment as its objective. Sustainable investment means an investment in an economic activity that contributes to an environmental or social objective, provided that the investment does not significantly harm any environmental or social objective and that the investee companies follow good governance practices

Has a reference benchmark been designated for the purpose of attaining the sustainable investment objective of the financial product? *[tick relevant box]*

- Yes
- No

1



### What is the sustainable investment objective of this financial product?

- **What sustainability indicators are used to measure the attainment of the sustainable investment objective of this financial product?**

**Sustainability indicators** measure how the environmental or social characteristics promoted by the financial product are attained.

2



## What investment strategy does this financial product follow?

- *What are the binding elements of the investment strategy used to select the investments to attain the sustainable investment objective?*
- *How is that strategy implemented in the investment process on a continuous basis?*
- *What is the policy to assess good governance practices of the investee companies?*
- *Where can I find further details on the investment strategy?*

**Investment strategies** guide investment decisions based on factors such as investment objectives and risk tolerance.

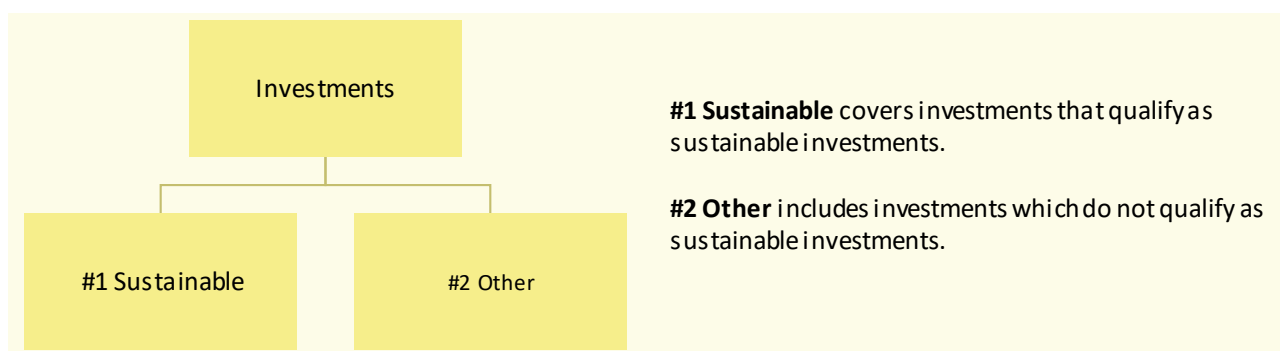
**Good governance** practices include sound management structures, employee relations, remuneration of staff and tax compliance.

3



## What is the asset allocation planned for this financial product?

**Asset allocation** describes the share of investments in specific assets.





- **What investments are included under “#2 Other”, what is their purpose and are there any minimum environmental or social safeguards?**
- **How does the proportion and use of such investments not affect the delivery of the sustainable investment objective?**
- **How does the use of derivatives attain the sustainable investment objective? [include where derivatives are used to attain the sustainable investment objective]**
- **How will sustainable investments contribute to a sustainable investment objective and not significantly harm any sustainable investment objective?**

How are indicators for adverse impacts on sustainability factors taken into account?

Are sustainable investments aligned with the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights?

Details:

**Principal adverse impacts** are the most significant negative impact of investment decisions on sustainability factors relating to environmental, social and employee matters, respect for human rights, anti-corruption and anti-bribery matters.

4



**Does this product take into account principal adverse impacts on sustainability factors?**

Yes

No

5



**Can I find I find more product specific information online?**

More product-specific information can be found on the website: *[insert hyperlink to the website]*



**Is a specific index designated as a reference sustainable benchmark to meet the sustainable investment objective?** *[include section for a financial product referred to in Article 9(1) of Regulation (EU) 2019/2088]*

- **How does the reference benchmark take into account sustainability factors in a way that is continuously aligned with the sustainable investment objective?**
- **How is the alignment of the investment strategy with the methodology of the index ensured on a continuous basis?**
- **Why and how does the designated index differ from a relevant broad market index?**

*[include note for a financial product referred to in Article 9(1) of Regulation (EU) 2019/2088]*

**Reference sustainable benchmarks** are indexes to measure whether the financial product attains the environmental or social characteristics that they promote.



**Does the financial product have the objective of a reduction in carbon emissions?** *[include section for a financial product referred to in Article 9(3) of Regulation (EU) 2019/2088]*

ANNEX IV

Template periodic disclosure for financial products referred to in Article 8(1) of Regulation (EU) 2019/2088

Product name/legal identifier: [complete]

Reporting period: [complete]

## Environmental and/or social characteristics

This product:    Promotes environmental or social characteristics, but does not have as its objective a sustainable investment

It does not invest in sustainable investments *[tick when relevant]*

It invests partially in sustainable investments *[tick when relevant]*

Has sustainable investment as its objective. Sustainable investment means an investment in an economic activity that contributes to an environmental or social objective, provided that the investment does not significantly harm any environmental or social objective and that the investee companies follow good governance practices.

Has a reference benchmark been designated for for the purpose of attaining the environmental or social characteristics promoted by the financial product? *[tick relevant box]*

Yes

No

1



To what extent were the environmental and/or social characteristics promoted by this financial product met?

● *How did the sustainability indicators perform?*

**Sustainability indicators** measure how the environmental or social characteristics promoted by the financial product are attained.

- *...and compared to previous periods?*

REFERENCE PERIOD	[INDICATOR 1]	[INDICATOR 2...]

2



**What were the top investments of this financial product?**

Largest investments	Sector	% Assets	Country

The list includes the investments constituting **the greatest proportion of investments** of the financial product during the reference period which is:  
[complete]

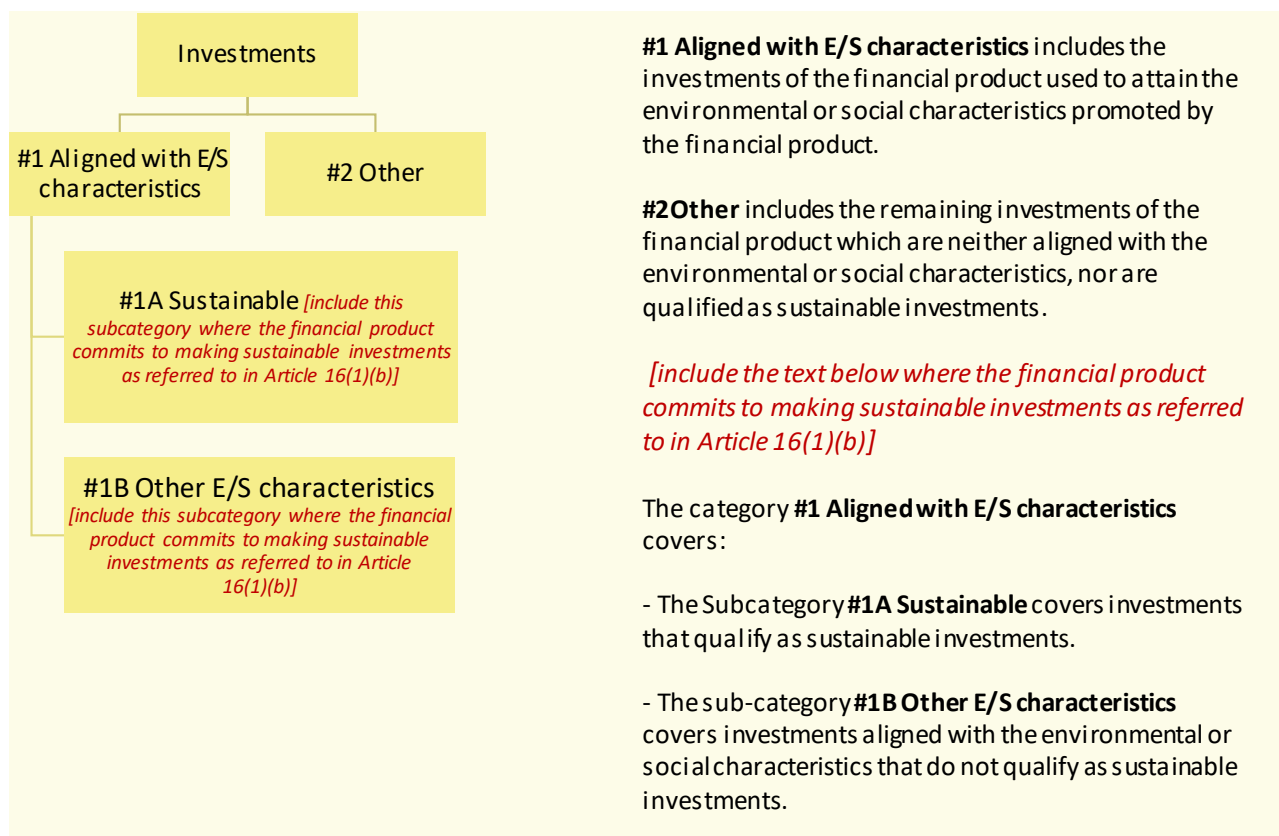
3



**What was the proportion of sustainability-related investments?**

**What was the asset allocation?**

**Asset allocation** describes the share of investments in specific assets.



● **What investments were included under “other”, what was their purpose and were there any minimum environmental or social safeguards?**

● **How did sustainable investments not significantly harm any sustainable investment objectives?**  
*[include question where the product commits to making sustainable investments]*

— How were indicators for adverse impacts taken into account?

**Principal adverse impacts** are the most significant negative impact of investment decisions on sustainability factors relating to environmental, social and employee matters, respect for human rights, anti-corruption and anti-bribery matters.

*Were sustainable investments aligned with the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights?*

*Details:*

- *In which economic sectors were the investments made?*

4



**What actions have been taken to meet the environmental and/or social characteristics during the reference period?**

5



**How did this financial product perform compared to the designated reference benchmark?** *[include section where an index has been designated as a reference benchmark for the purpose of the attainment of the environmental or social characteristics promoted by the financial product]*

- *How does the reference benchmark differ from a broad market index?*

- *How did this financial product perform with regard to the sustainability indicators to determine the alignment of the reference benchmark with the environmental or social characteristics promoted?*

- *How did this financial product perform compared with the reference benchmark?*

- *How did this financial product perform compared with the broad market index?*

*[include note where an index has been designated as a reference benchmark for the purpose of the attainment of the environmental or social characteristics promoted by the financial product]*

**Reference benchmarks** are indexes used to measure whether the financial product attains the environmental or social characteristics that they promote.

ANNEX V

Template periodic report for financial products referred to in Article 9(1), (2) and (3) of Regulation (EU) 2019/2088

Product name/legal identifier: [complete]

Reporting period: [complete]

## Sustainable investment objective

This product:    Promotes environmental or social characteristics, but does not have as its objective a sustainable investment

It does not invest in sustainable investments

It invests partially in sustainable investments

Has sustainable investment as its objective. Sustainable investment means an investment in an economic activity that contributes to an environmental or social objective, provided that the investment does not significantly harm any environmental or social objective and that the investee companies follow good governance practices

Has a reference benchmark been designated for the purpose of attaining the sustainable investment objective of the financial product? *[tick relevant box]*

Yes

No

1



To what extent was the sustainable investment objective of this financial product met?



*How did the sustainability indicators perform?*

**Sustainability indicators** measure how the environmental or social characteristics promoted by the financial product are attained.

- ...and compared to previous periods

REFERENCE PERIOD	[INDICATOR 1]	[INDICATOR 2 ETC]

2



### What were the top investments of this financial product?

Largest investments	Sector	% Assets	Country

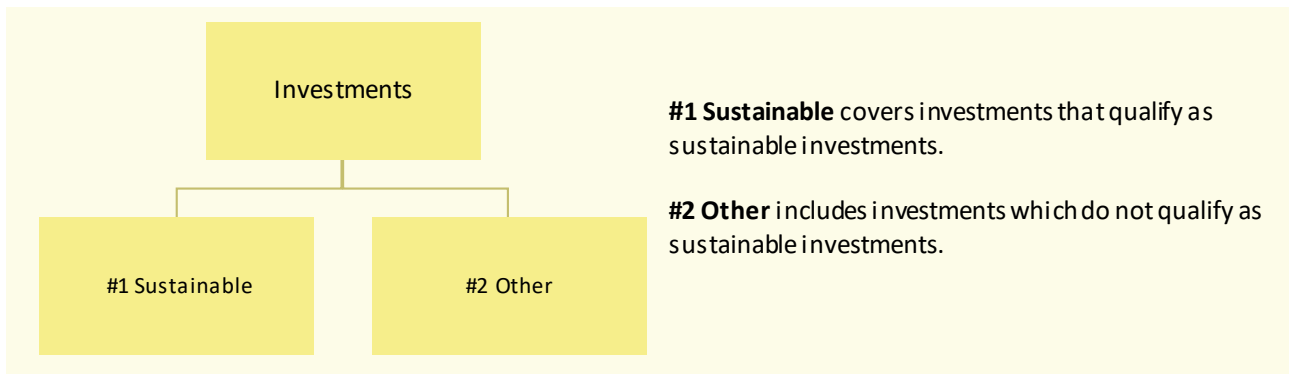
The list includes the investments constituting the **greatest proportion of investments** of the financial product during the reference period, which is: [complete]

3



### What was the proportion of sustainability-related investments?





● **What was the asset allocation?**

**Asset allocation** describes the share of investments in specific assets.

● **What investments were included under “other”, what was their purpose and were there any minimum environmental or social safeguards?**

● **How did sustainable investments contribute to a sustainable objective and not significantly harm any sustainable investment objectives?**

How were indicators for adverse impacts taken into account?

Were sustainable investments aligned with the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights?

Details:

**Principal adverse impacts** are the most significant negative impact of investment decisions on sustainability factors relating to environmental, social and employee matters, respect for human rights, anti-corruption and anti-bribery matters.

● **In which economic sectors were the investments made?**

4



**What actions were taken to attain the sustainable investment objective during the reference period?**

+



**How did this financial product perform compared to the reference sustainable benchmark?** *[include section where an index has been designated as a reference benchmark for the purpose of the attainment of the sustainable investment objective of the financial product]*

- *How does the reference benchmark differ from a broad market index?*
- *How did this financial product perform with regard to the sustainability indicators to determine the alignment of the reference benchmark with the sustainable investment objective?*
- *How did this financial product perform compared with the reference benchmark?*
- *How did this financial product perform compared with the broad market index?*

*[include note where an index has been designated as a reference benchmark for the purpose of the attainment of the sustainable investment objective of the financial product]*

**Reference sustainable benchmarks** are indexes used to measure whether the financial product attains the sustainable investment objective.

+



**How was the objective of a reduction in carbon emissions aligned with the Paris Agreement?** *[include section for a financial product referred to in Article 9(3) of Regulation (EU) 2019/2088]*

# 4. Accompanying documents

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## 4.1 Impact Assessment

An assessment of impacts of the proposals in this Final Report has been prepared separately for the different empowerments in SFDR.

According to ESAs' Regulation, the ESAs conduct analysis of costs and benefits when drafting regulatory technical standards. The analysis of costs and benefits is undertaken according to an Impact Assessment methodology. The draft RTS and its impact assessment were also subject to public consultation. The ESAs were also asked to seek input from the European Environment Agency and the Joint Research Centre of the European Commission, which has been done for the entity level principal adverse impact reporting for environmental indicators.

### Impact assessment for entity level principal adverse impact reporting (Article 4 SFDR)

#### 1. Problem definition

According to Article 4(6) and (7) SFDR the ESAs must develop through the Joint Committee draft regulatory technical standards specifying the content, methodologies and presentation of information (to be published on a firm's website) of a statement on the due diligence policy in respect of the adverse impact of investment decisions on sustainability indicators in relation to (i) climate and other environment-related impacts and (ii) social and employee matters, respect for human rights, anti-corruption and bribery matters.

The general purpose of introducing a requirement to assess principal adverse impacts is further set out in the recitals of the Regulation. Recital 12 SFDR notes that in order to comply with their duties to act in the best interest of end investors, financial market participants and financial advisers have to assess "all relevant sustainability risks that might have a relevant material negative impact on the financial return of an investment or advice". Therefore, Recital 13 SFDR notes that financial market participants and financial adviser must "publish written policies on the integration of sustainability risks and ensure the transparency of such integration".

#### *Baseline scenario*

In developing the options below, the baseline scenario is that where there are no harmonised rules for disclosure of principal adverse impacts and that firms would each disclose as they see fit and use entirely optional indicators.

#### 2. Objectives

The overall objective of the RTS is to ensure that the financial market participant and financial advisers disclose relevant information regarding the due diligence policies of financial market participants and financial advisers to allow end investors to make informed decisions.

The measures adopted should also ensure sufficient consistency across the EU to make meaningful comparison possible for end investors, as set out in Recital 9 SFDR. End investors should be able to rely on the adverse impact disclosures made by financial market participants and financial advisers to explain sufficiently clearly how they take into account adverse impacts and the actions financial market participants take or plan to take to address them.

### **3. Policy options**

#### **Adverse impact - Policy issue 1: The level of disclosures**

##### **Option 1.1: High level principles for disclosure**

##### **Option 1.2: Common minimum standards on identification and disclosure of adverse impacts**

##### **Option 1.3: Detailed rules on all adverse impacts**

One of the important choices the ESAs had to consider in developing the draft RTS is the level of disclosure required. While the Article 4(1)(a) SFDR requires a “statement on due diligence policies” and the list in Article 4(2)(a) SFDR requires “information about ... policies”, the ESAs’ believe that the level of disclosure should be more than only high-level statements about policies. In particular the requirement in Article 4(2)(b) SFDR necessitates a more comprehensive disclosure of the adverse impacts of investment decisions on sustainability factors.

Nevertheless, there could be three possible options for the level of disclosures under Article 4 SFDR. Option 1 is requiring only a “statement” type disclosure, requiring financial market participants and financial advisers only to disclose a statement on their policies. However, it is questionable whether such an approach would fulfil the requirements of all elements of Article 4(2)(b) SFDR in particular. Option 2 is the ESAs’ preferred approach, requiring some common elements but leaving tailoring up to financial market participants and financial advisers. Option 3 would require granular detailed disclosure of all adverse impacts and actions taken. While the third option would be the most resource intensive, arguably it could risk ignoring the language in Article 4(1)(a) and 4(5)(a) SFDR that the consideration of adverse impact of investment decisions on sustainability factors should take into account the size, nature and scale of activities and types of financial products made available.

<b>Policy option 1: High level statements as disclosure</b>
---

Pros	Cons
Easier to implement across a range of different financial market participants, financial advisers and products	No comparability of adverse impacts due to widely differentiated website statements
Allow qualitative assessment/evaluation of adverse impacts	Potentially very little detailed information about adverse impacts for investors
	Potentially not allowed under Level 1, could lead to circumvention.
<b>Policy option 2: Common minimum obligations on identification and disclosure of adverse impacts (preferred option)</b>	
Pros	Cons
Allows for a base level of comparability between operators	More resource intensive to implement than simply statements
Allows for some tailoring of approach to size, nature, scale of activities	Could risk some impacts not to be considered due to minimal requirements
<b>Policy option 3: Same format and detailed rules on disclosure of all adverse impacts and all actions taken or planned to be taken</b>	
Pros	Cons
Greatest level of granularity would allow quantitative research of investors adverse impacts across the EU	The most resource intensive and expensive for financial market participants and financial advisers, particularly for smaller entities
Less potential room for disclosing misleading information and therefore, greenwashing	Not taking into account Level 1 proportionality language

## **Adverse impact - Policy issue 2: The type of indicators to be used when assessing adverse impact**

### **Option 2.1: Only optional indicators to assess adverse impacts**

## **Option 2.2: Mix of universal and opt-in indicators to assess adverse impacts**

## **Option 2.3: Only universal mandatory indicators to assess adverse impacts**

The level 1 text is silent on the level of choice that the ESAs should make in developing the sustainability indicators under Articles 4(6) and (7) SFDR. However, the empowerment in Articles 4(6) and (7) SFDR notes that ESAs must develop technical standards on the content, methodologies and presentation of information in respect of **sustainability indicators** in relation to adverse impacts. The ESAs interpret this to mean not only requiring disclosure of adverse impacts and actions taken to reduce impact, but to also require the development of some common indicators to measure the adverse impacts of investment decisions on sustainability factors.

The issue of data availability was raised in the consultation paper responses by many stakeholders. The ESAs are aware that it may not be straightforward to assess the adverse impact of an investment decision due to the lack of reported data on a particular indicator. Nevertheless, the ESAs are convinced that the situation is improving, as evidenced by the growing share of ESG data provided by data providers. Furthermore, as the ESAs propose that the application date of the RTS should be set as 1 January 2022, financial market participants have more time to prepare for the start of the reporting under these RTS.

The ESAs considered three options for the development of indicators for adverse impact reporting. Option 1 would be to create an optional list of indicators to help financial market participants to assess adverse impacts of their investment decisions on sustainability factors. Option 2 would follow a “mixed approach” of requiring a set of universally mandatory indicators coupled with a set of opt-in indicators. This is intended to allow adverse impact assessments tailored to the specificities of financial market participants as well as creating a harmonised disclosure on areas where availability of data is better but leave many other assessments up to the financial market participant or financial adviser. Such a list could be updated in the future under further reviews of the technical standards. Option 3 would be the development of a fully mandatory list of universal indicators that financial market participants must use to assess the adverse impacts of their investment decisions on sustainability factors. Given the heterogeneity of the different sectors covered by the definition of financial market participant, such an approach would pose significant challenges for ESAs to develop and keep updated in line with the evolution in sustainable finance.

<b>Policy Option 1: Only optional indicators to assess adverse impact</b>	
Pros	Cons
Easier to implement across a range of financial market participants and financial advisers	Little harmonised assessment of adverse impacts on any single indicator

Could lead to greater volume of voluntary reporting due to flexible approach	Underlying assumptions and methodologies are not comparable since the choice of indicators is not evident
	Not clear if compliant with level 1 obligation to prescribe “methodologies” for sustainability indicators and to create comparable disclosures
<b>Policy option 2: Mix of universal mandatory and opt-in indicators to assess adverse impact (preferred option)</b>	
Pros	Cons
Allows assessment of adverse impacts across all reporting entities against the minimum list of universal indicators, would create demand for data reporting on the minimum list.	More costly to assess adverse impact of all investment decisions against minimum list with questionable data availability in some cases
May lead to more meaningful disclosure for investors who would be able to compare providers based on adverse impact on minimum list of universal indicators	Universally mandatory indicators may not be relevant for all financial market participants or financial advisers
Should help financial market participants and financial advisers develop ESG integration in their investment processes for minimum list of universal indicators	Could lead to more “explain” than “comply” due to mandatory nature of some indicators
<b>Policy option 3: Only universal mandatory indicators to assess adverse impact</b>	
Pros	Cons
Robust disclosures and maximum comparability among those reporting	Most expensive for financial market participants and financial advisers to implement, particularly for smaller entities
	Very difficult to ensure fully up to date comprehensive list of indicators with robust data sources to back them up

	Very difficult to review the list of universal mandatory indicators to reflect technological progress or data availability for new indicators
	Universal mandatory indicators may not be relevant for all financial market participants or financial advisers

#### 4. Analysis of impact

In analysing the impact of the proposed rules on adverse impact disclosure, the comply or explain nature of the regulatory provision in the Level 1 text is important to bear in mind. Financial market participants and financial advisers will have the possibility to publish a statement that they do not take adverse impact of their investment decisions on sustainability factors into account. 36 months after entry into force all companies with 500 or more employees will no longer be able to explain why they do not take into account such adverse impacts of their investment decisions on sustainability factors. The ESAs believe it is important to ensure a balanced approach that does not needlessly deter financial market participants and financial advisers from opting not to disclose under this comply or explain regime.

Those firms who will publish statements on their due diligence policies regarding the principal adverse impacts of their investment decisions will need to consider how to disclose this information in line with the RTS.

The ESAs' preferred approach aims to strike a balance between the cost and complexity of implementation and the usefulness of disclosures for investors. The ESAs believes that in order for the adverse impact disclosures to be meaningful, some minimum common elements of disclosure are necessary to include for all financial market participants and financial advisers without a fully harmonised template with the same fields to be filled in. The ESAs, following the feedback of stakeholders, have also decided to propose a minimum number of universal mandatory indicators and a larger choice of opt-in indicators, in order to improve comparability and incentivise financial market participants to disclose.

The sustainability indicators are a central part of the adverse impact disclosure process. Climate and other environment related adverse impacts require specific sustainability indicators. In consultation with the EEA and JRC the ESAs have proposed a list of climate and environment related universal mandatory indicators. Furthermore, the ESAs have expanded the types of entities the adverse impacts could stem from. Whereas the consultation paper had only one list of indicators, mainly applicable to exposures to investee companies, the final report Annex has also included exposures to sovereigns (and supranationals) and real estate assets.



For investments in investee companies, the final report includes indicators on greenhouse gas emissions, exposures to fossil fuels, energy performance, biodiversity, water and waste. For investments in sovereigns and supranational, the ESAs have included one mandatory climate and environmental indicator on the greenhouse gas emission intensity. For investments in real estate assets the climate and environmental related indicators proposed concern greenhouse gas emissions and the energy consumption intensity. These universal mandatory indicators are accompanied by other climate and environment related indicators to be used on an opt-in basis, as outlined in Annex I of the draft RTS.

Regarding social and employee matters, the ESAs believe that sustainability indicators in this field should also be used on the same mandatory and opt-in basis in Annex I.

For investments in investee companies the relevant mandatory social indicators concern the violations, the processes and compliance mechanisms of companies with regard to the UN Global Compact principles and the OECD Guidelines for Multinational Enterprises as well as indicators on gender pay gap, gender diversity and controversial weapons.

For investments in sovereigns and supranationals, the only mandatory social indicators regard the investment in countries subject to social violations.

The impact of introducing systems and processes to report the principal adverse impacts and the actions taken and planned may be significant, depending on the size of the investments undertaken and the kinds of exposures of the investments (e.g. sectors, countries). In this regard, the ESAs note the work done by the European Commission in its impact assessment on the proposal legislative proposals in the sustainable finance action plan. The Commission asked in its public consultation about the additional costs of integrating ESG considerations, to which respondents with one exception chose the lowest range of costs. Furthermore, in the Commission's targeted interviews, six firms provided numbers on the prospective costs of ESG integration. For the small entities, the additional cost ranged from EUR 80 000 to EUR 200 000 per year (for buying external data, doing additional internal research, engagement with companies etc.), i.e. maximum 0.0001 % of AuM (by way of comparison, the total cost for an equity fund is around 2 % per year (based on a [study](#) by Deloitte). The highest relative additional cost the Commission received was 0.0003 % of AuM per year (for an entity with EUR 72 billion AuM).

The ESAs believe that the integration of ESG considerations to disclose adverse impacts and actions taken will not be disproportionately high. The approach of requiring a short list of universal mandatory indicators for the assessment and allowing the further tailoring of the assessment against a set of opt-in indicators strikes the right balance between the need to create a harmonised regime and the ability to implement the new rules.

## **Impact assessment for pre-contractual product disclosure (Articles 8 and 9 SFDR)**

### **1. Problem definition**

According to Articles 8 and 9 SFDR, the ESAs must develop through the Joint Committee draft regulatory technical standards specifying the content and presentation of information to be disclosed in sectoral pre-contractual information to show:

- how a product with environmental or social characteristics meet those characteristics and if an index has been designated as a reference benchmark, whether and how that index is consistent with those characteristics, and
- where a product has sustainable investment objectives and has a designated index as a reference benchmark, how that index is aligned with the sustainable investment objective and an explanation as to why and how that designated index aligned with the objective differs from a broad market index.

The general purpose of introducing requirement to provide pre-contractual disclosures is to ensure transparency in the promotion of environmental or social characteristics and to ensure that end-investors receive a fair, clear and concise information prior to investing in a financial product.

#### *Baseline scenario*

In developing the options below, the baseline scenario is the situation where the SFDR applies, but where there is no RTS to further specify the obligations that Articles 8 and 9 of the SFDR impose. In practical terms, this means that there would be no harmonised rules specifying the content and presentation of pre-contractual information.

## **2. Objectives**

The overall objective of the RTS is to ensure that the presentation and content of the information provided in Article 8 and Article 9 of the SFDR is harmonised both in terms of content and presentation. Even though greenwashing is not mentioned explicitly in SFDR, the ESAs are aware of the importance of this topic and regards it as one case of misleading information.

## **3. Policy options**

### **Adverse impact - Policy issue 1: The level of disclosure**

#### **Option 1.1: High level principles for disclosure**

#### **Option 1.2: Common minimum standards on disclosure**

#### **Option 1.3: Detailed rules on all information**

<b>Policy option 1: High level principles for disclosure</b>	
Pros	Cons
Easier to implement across range of different products subject to different sectoral requirements	Reduces comparability of products due to widely differentiated statements
	Potentially limited detailed information for investors
	Potential for circumvention
	Weaker legal basis for end-investors in case of litigation
<b>Policy option 2: Common minimum standards on disclosure (preferred option)</b>	
Pros	Cons
Allows for a base level of comparability	More resource intensive to implement, particularly for smaller financial market participants
Allows for some tailoring of approach to specificities of products	Some risk might not be considered due to minimal requirements
	Risks of information overload and low understanding by consumers of the information disclosed if no detailed rules on the presentation of information are introduced to ensure understandability by consumers
<b>Policy option 3: Same format and detailed rules on disclosure</b>	
Pros	Cons
Greatest level of granularity would allow detailed information for investors	Resource intensive for financial market participants

Better clarification of the responsibility of the product manufacturer towards the end-investor and stronger legal basis in case of litigation	Extensive disclosure could significantly increase the amount of information provided to end-investors and make the information gathering process more difficult for them
More information provided to supervisors in the context of their supervisory activities	Risk of information asymmetry: consumer research shows that most of the information will either not be read, or will be misunderstood, or will be read only after buying the product and behavioural economics warns that consumers may disengage when faced with information overload

**Adverse impact - Policy issue 2: Relevance of prescribing a mandatory template for pre-contractual disclosure**

**Option 2.1: No template**

**Option 2.2: A non-binding template**

**Option 2.3: Mandatory template**

<b>Policy Option 1: No template</b>	
Pros	Cons
Allows for flexibility to adapt to products specificities	Reduces comparability of products due to widely differentiated statements
	Enables different levels of information
<b>Policy option 2: A non-binding template</b>	
Pros	Cons
Expected to harmonise display and content while enabling some flexibility	Benefits will depend heavily on the ability of financial market participants to voluntarily use the template

<b>Policy option 3: Mandatory template (Preferred option)</b>	
Pros	Cons
Offers a standardised framework and a level playing field for financial market participants	Rigid framework for firms not allowing sufficient flexibility for bespoke explanations
Allows for full comparability of products for investors	Difficult to integrate in diverse sectoral pre-contractual documentation specified in Article 6(3) SFDR and in diverse national practices
A comprehensible standardised format may improve consumer engagement	

#### **4. Analysis of impact**

The ESAs' preferred approach is to focus on the usefulness of the information passed to end-investors and notably end investors' ability to compare information provided in relation to different products.

The ESAs considered the option of enacting high-level principles for disclosure but decided to discard it as it potentially goes against the aim of the Level 1 text. Setting detailed rules on all information was also discarded as it was likely to be resource intensive and expensive for financial market participants and financial advisers with limited added value for end-investors as compared to the solution consisting in setting minimum standards.

Setting minimum standards will allow a base level of comparability and some tailoring of approach to specificities of products while ensuring that end-investor receive a level of information sufficient for the purpose of its decision-making process.

The ESAs also considered the relevance of requiring financial market participants to comply with a mandatory template for disclosure. While the ESAs have consistently tried to strike a balance between the objective of enabling comparability and the constraints for firms, it reached the conclusions that requiring a mandatory template was the better policy option to allow comparability and to offer a level playing field for firms.

This conclusion was confirmed by the balance of the responses to an on-line EU survey on draft templates and by the two consumer testing exercises conducted in the Netherlands and Poland. These exercises showed the difficulty of agreeing a set of disclosures that are both comprehensive and comprehensible to retail investors. Harmonised disclosure templates improve the comparability of products.

## Impact assessment for website product disclosure (Articles 10 SFDR)

### 1. Problem definition

Article 10 of the SFDR empowered the ESAs to develop through the Joint Committee draft regulatory technical standards specifying the content and presentation of information to be disclosed on the entity's website on (i) the environmental or social characteristics or the sustainable investment objective of Articles 8 and 9 products and on (ii) the methodologies used to assess, measure and monitor these characteristics or objectives.

The general purpose of introducing website disclosure obligations is to enhance transparency and properly inform end-investors about the sustainability-related impact of their investments in financial products with environmental or social characteristics or financial products which pursue sustainability objectives. Recital 24 SFDR provides that it was appropriate to “*set out more specific and standardised disclosure requirements with regard to such investment*”.

#### *Baseline scenario*

When analysing the impact of the proposed measures, the baseline scenario consists in a situation where there are no harmonised rules on the content and presentation of information to be disclosed under Article 10 of the SFDR. Financial market participants would then be able to disclose the relevant information at their discretion.

### 2. Objectives

The overall objective of the RTS is to ensure that the financial market participants and financial advisers disclose relevant information to allow end-investors to make informed decisions in relation to financial products promoting, among other characteristics, environmental and social characteristics and products with a sustainable investment objective.

The measures adopted aim to ensure a greater products comparability across the EU for end-investors. End-investors should be able to rely on meaningful information, easily accessible on the website of financial market participants, on how Articles 8 and 9 products meet their environmental and social characteristics or their sustainable investment objectives.

### 3. Policy options

#### **Policy issue 1: The level of disclosure**

##### **Option 1.1: High level principles for disclosure**

##### **Option 1.2: Common minimum standards on website product disclosure**

### Option 1.3: Detailed rules on all information

One of the important choices the ESAs had to consider in developing the draft RTS is the level of disclosure required. The level 1 text specifies that financial market participants are required to disclose “*a description of the environmental or social characteristics or the sustainable investment objective*” as well as “*information on the methodologies used to assess, measure and monitor the environmental or social characteristics or the impact of the sustainable investments selected for the financial product (...)*”. In this context, the ESAs are of the view that the level of disclosure should be more than only high-level statements. This is in line with the Level 1 text which requires that the information should be published “*in a way that it is accurate, fair, clear, not misleading, simple and concise*”.

However, three options were considered in relation to the level of disclosures under Article 10 SFDR. Option 1 consists in setting high level principles that financial market participants should respect when disclosing. It is contentious to the extent that it requires only a “statement” type disclosure to fulfil the requirements stated above. Option 2 consists in requiring some common elements but to leave tailoring up to financial market participants. The latter is the preferred approach. Finally, Option 3 would be to impose detailed website disclosure. In addition to being the most resource intensive, that option might also increase the risk of ignoring the provision of Article 10(2) whereby the RTS should take into account the various types of financial products, their characteristics and objectives as referred to in paragraph 1 and the differences between them.

<b>Policy option 1: High level principles for disclosure</b>	
Pros	Cons
Easier to implement across range of different actors and portfolios	Reduces comparability of products due to widely differentiated statements
	Potentially limited detailed information across investors
	Potentially not allowed under Level 1, could lead to circumvention.
<b>Policy option 2: Common minimum standards on website product disclosure (preferred option)</b>	
Pros	Cons

Allows for a base level of comparability between operators	More resource intensive to implement
Allows for some tailoring of approach to specificities of products	Some risks might not be considered due to minimal requirements
<b>Policy option 3: Detailed rules on all information</b>	
Pros	Cons
Greatest level of granularity would allow detailed information for investors	The most resource intensive for financial market participants
Easier to supervise	Potentially not taking into account Level 1 proportionality language

**Policy issue 2: The presentation requirements of the information disclosed on the website**

**Option 2.1: No format requirements**

**Option 2.2: A common summary format with a pre-determined maximum length**

**Option 2.3: A standardised disclosure template**

The second subparagraph of Article 10(1) of the SFDR provides that the information disclosed should be “clear, succinct and understandable to investors”. The ESAs are therefore of the view that financial market participants should not only be required to disclose information in accordance with Article 10 (1) but also to respect some common standards in relation to the format.

The ESAs considered three options with regard to the presentation requirements of the website disclosure under Article 10. Option 1 would be not to set presentation requirements and therefore to leave freedom to financial market participants on how the information should be disclosed. Option 2 would follow an intermediate approach consisting in requiring the information to be presented in a common summary format with a pre-determined maximum length. This option intended to enhance harmonisation of disclosures across products and is the preferred option of the ESAs. Option 3 would be to develop a standardised disclosure template that would have to be completed and published by financial market participants.

<b>Policy Option 2.1: No format requirements</b>
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Pros	Cons
Easier to implement for financial market participants and financial advisers	Reduces comparability of products due to heterogeneous disclosure formats
Allows for some tailoring of approach to specificities of products and tools used to display the information	Might not be compliant with Level 1 which requires that disclosure be accurate, fair, clear, not misleading, simple and concise.
<b>Policy option 2.2: A common summary format with a pre-determined maximum length</b>	
Pros	Cons
Expected to enhance disclosure harmonisation, improving the understandability for investors	Potentially more demanding for financial market participants and financial advisers to implement
Allows for some tailoring of approach to specificities of products	Will not allow full comparability across all products
	Will deter innovation in the presentation of online information
<b>Policy option 2.3: A standardised disclosure template (preferred policy approach)</b>	
Pros	Cons
Allows full comparability of products for end-investors across the range of different financial products in scope of the regulation	Rigid framework for financial markets participants
Offers a standardised framework and a level playing field for firms	Difficulties in complying with a prescribed template for each type of product

#### 4. Analysis of impact

The ESAs' preferred approach is to focus on the usefulness of the information passed to end-consumers and notably end investors' ability to compare information provided in relation to different products.

The ESAs considered the option consisting in only enacting high level principles for website disclosures but decided to discard it as it could potentially go against the aim of the Level 1 text. Setting detailed rules on all information was also discarded as it was likely to be resource intensive and expensive for financial markets participants while offering limited added value to end-investors as compared to the solution consisting in setting minimum standards.

Setting minimum harmonised rules will allow a base level of comparability and some tailoring of approach to specificities of products while ensuring that end-investor receive a level of information sufficient for the purpose of its decision-making process.

The ESAs also considered the relevance of requiring firms to comply with a mandatory template for website disclosure. However, the ESAs are of the view that requiring financial market participants to publish the information to be disclosed in a free summary format would be the best policy option since it allows to strike a balance between the objective of enabling comparability and the constraints for firms.

The impact of introducing systems and process to publish on their website information on how relevant products meet environmental or social characteristics or sustainable investment objectives in a summary format should be limited for financial market participants. The ESAs believe that the reporting requirements set out in Articles 8 and 9 will ensure access to sufficient high-quality information while the requirement of disclosing in a summary format should not be overly burdensome for financial market participants. The ESAs also note that the requirements introduced by Article 10 SFDR might entail additional IT costs but are of the view that these should remain relatively low.

The requirements for website disclosures in the draft RTS in the final report is similar to that in the consultation paper, although the requirement to show direct versus indirect investments has been moved to website disclosures from pre-contractual and periodic disclosures.

## **Impact assessment for periodic product disclosure (Articles 11 SFDR)**

### **1. Problem definition**

In accordance with Article 11 SFDR, the ESAs must develop through the Joint Committee draft regulatory technical standards specifying the content and presentation of information to be disclosed in periodic reports through sectoral legislation specifying how relevant products met their environmental or social characteristics and the overall sustainability-related impact of products with sustainable investment objectives, including those with an index designated as a reference benchmark.

The general purpose of introducing a requirement for financial market participants to provide periodic reporting is to update regularly end-investor on the information provided at the pre-contractual phase and on the basis of which they may have decided to acquire a financial product.

*Baseline scenario*

In developing the options below, the baseline scenario refers to the situation where the SFDR applies but where no RTS provides further guidance on the content and presentation of information to be disclosed under Article 11 of the SFDR. Financial market participants would then be able to disclose periodically as they see fit.

## 2. Objectives

The overall objective of the RTS is to ensure that the presentation and content of the information provided in the context of the periodic reporting is harmonised both in terms of content and presentation and addresses the objectives set in the level 1 text.

## 3. Policy options

### Policy issue 1: Relevance of prescribing a mandatory template for periodic product disclosures

#### Option 1.1: No template for periodic product disclosures

#### Option 1.2: A non-binding template for periodic product disclosures

#### Option 1.3: Mandatory template for periodic product disclosures

<b>Policy Option 1.1: No template for periodic product disclosures</b>	
Pros	Cons
Allows for flexibility to adapt to products specificities	Reduces comparability of products in end-investor portfolio
Easier to combine with sectoral reporting requirements	Enables adjustments of information to end-investor needs
<b>Policy option 1.2: A non-binding template for periodic product disclosures</b>	
Pros	Cons
Expected to harmonise display and content while enabling some flexibility	Harmonisation will depend heavily on the willingness of firms to voluntarily abide to the template

	Difficult to integrate in existing templates or national practices
<b>Policy option 1.3: Mandatory template for periodic product disclosures (preferred policy approach)</b>	
Pros	Cons
Offers a standardised framework that can be applied in a harmonised way	Rigid framework for financial markets participants
Allows for full comparability of products for end-investors	Difficult to integrate in existing templates or national practices

## Policy issue 2: Granularity of disclosures

### Option 2.1: High level periodic disclosures

### Option 2.2: Mid-range approach for periodic disclosures

### Option 2.3: Granular approach for periodic disclosures

<b>Policy option 2.1: High level periodic disclosures</b>	
Pros	Cons
Easier to implement for financial markets participants	Limited information for end-investors
	Potential for circumvention.
<b>Policy option 2.2: Common minimum standards on identification and disclosure (preferred option)</b>	
Pros	Cons
Allows for a base level of comparability between operators	More resource intensive to implement
Allows for some tailoring of approach to specificities of products	Some risk might not to be considered due to minimal requirements

	Risk of information asymmetry: consumer research shows that most of the information will either not be read, or will be misunderstood, or will be read only after buying the product and behavioural economics warns that consumers may disengage when faced with information overload
<b>Policy option 2.3: Detailed rules on disclosure in the same format</b>	
Pros	Cons
Greatest level of granularity would allow detailed information for investors	Possibly the more resource intensive and expensive for financial market participants and financial advisers
Comprehensibility by investors would be improved	Risk of information asymmetry: consumer research shows that most of the information will either not be read, or will be misunderstood, or will be read only after buying the product and behavioural economics warns that consumers may disengage when faced with information overload

#### 4. Analysis of impact

As for pre-contractual disclosures, the ESAs' preferred approach on periodic disclosures is to focus on the usefulness of the information passed to end-investors and notably end investors' ability to compare information provided on a periodic basis in relation to different products.

Equally, the relevance of requiring firms to comply with a mandatory template for periodic disclosure was considered. In light of the policy option selected in relation to pre-contractual disclosure, it appears relevant to require a mandatory template as well for periodic disclosure. Furthermore, this option is also favoured because it allows comparability between products and offer a level playing field for financial markets participants

The ESAs considered the option of high-level principles for disclosure but decided against this notably because it would not be aligned with the information provided during the pre-contractual phase. Setting detailed rules on all information was also discarded as it was likely to be resource intensive and expensive

for financial markets participants with limited added value for end-investors as compared to the solution consisting in setting minimum standards.

Setting minimum harmonised rules will allow a base level of comparability while enabling, to an extent, tailoring the approaches to specificities of products.

## **Impact assessment for “do not significantly harm” (DNSH) principle RTS**

### **1. Problem definition**

According to Article 2a SFDR the ESAs must develop through the Joint Committee draft regulatory technical standards to specify the details of the presentation and content of the information in relation to the principle of “do not significantly harm” (DNSH) in Article 2(17) consistent with the content, methodologies, and presentation of indicators in relation to adverse impacts referred to in paragraphs 6 and 7 of Article 4 SFDR.

The Taxonomy Regulation, which adds Article 2a to SFDR to introduce the new empowerment, also notes in its draft Recital 36 that the purpose of the measure is to ensure consistency between the Taxonomy Regulation and SFDR. The Recital further underlines that the RTS should be consistent with the indicators on adverse impact and with the European Pillar of Social Rights, the OECD Guidelines for Multinational Enterprises, UN Guiding Principles on Business and Human Rights, including the International Labour Organisation’s (‘ILO’) declaration on Fundamental Rights and Principles at Work, the eight ILO core conventions and the International Bill of Human Rights.

#### *Baseline scenario*

In developing the options below, the baseline scenario is that where there is no harmonised definition of the DNSH principle and no overall requirement to, nor any harmonised way of, disclosing how a product complies with the DNSH principle when making sustainable investments.

### **2. Objectives**

The overall objective of the RTS is to ensure that the financial market participant disclose relevant information regarding their adherence to the “do not significantly harm” principle where their financial products make sustainable investments. The objective is to inform end investors about how the product does not significantly harm environmental or social objectives.

The measures adopted should also ensure sufficient consistency across the EU to make meaningful comparison possible for end investors. End investors should be able to rely on the “do not significantly harm disclosures” made by financial market participants to be able to compare different products and different manufacturers sufficiently.

### 3. Policy options

#### Policy issue 1: The scope of DNSH assessment

##### Option 1.1: Include principal adverse impact indicators in Table 1 of Annex I

##### Option 1.2: Include principal adverse impact indicators in Table 1 of Annex I and environmental objectives

##### Option 1.3: Include all Annex I indicators and environmental objectives

An important aspect of the scope of the level of compliance with the DNSH principle is whether to apply the disclosures to both the principal adverse impact indicators developed in Annex I of these draft RTS and the environmental objectives of the taxonomy regulation.

The Article 2(17) reference to the precautionary principle of “do not significantly harm” captures also economic activities contributing to social objectives, not only environmental objectives, whereas the taxonomy regulation only addresses environmental objectives. For this reason, the ESAs consider it essential to capture also social indicators for the scope of the DNSH disclosures.

The draft principal adverse impact indicators in Annex I are divided into universal mandatory indicators always leading to principal adverse impact in Table 1 and opt-in indicators that financial market participants may use to identify additional principal adverse impacts of their investment decisions for the environment in Table 2 and society in Table 3.

However, the taxonomy regulation itself has provisions for the application of the DNSH principle as it is an essential part of the framework. Economic activities are taxonomy compliant when they contribute to one or more of the environmental objectives and do not significantly harm the other objectives.

<b>Policy option 1.1: Include principal adverse impact indicators in Table 1 of Annex I</b>	
Pros	Cons
Simplicity – the indicators in Table 1 are clearly laid out and provide a framework for consideration for DNSH purposes	Potentially undermining Article 12 of the taxonomy regulation which sets out provisions for determining significant harm for each environmental objective
Efficient – if the financial market participant is disclosing its principal adverse impacts it will already have made assessments of its investment decisions against all Table 1 indicators	By excluding the taxonomy regulation objectives, the DNSH assessments to be included in the Delegated Acts would be absent from the assessment, creating essentially a parallel process

	of DNSH in the disclosure regulation from that in the taxonomy regulation
<b>Policy option 1.2: Include principal adverse impact indicators in Table 1 of Annex I and environmental objectives (favoured policy approach)</b>	
Pros	Cons
Comprehensive – captures indicators for environmental and social principal adverse impacts and also excludes companies whose activities do significant harm to environmental objectives in the taxonomy regulation	May fail to capture sufficient indicators for the assessment by excluding the opt-in indicators in Tables 2 and 3
Efficient – if the financial market participant is disclosing its principal adverse impacts it will already have made assessments of its investment decisions against all Table 1 indicators	
<b>Policy option 1.3: Include all Annex I indicators and environmental objectives</b>	
Pros	Cons
Most comprehensive – would capture all the indicators in Tables 1-3 of Annex I, ensuring maximum coverage of DNSH assessment against the principal adverse impact indicators, and also capturing the taxonomy regulation’s DNSH assessment framework against environmental objectives	Most costly – would require significant investment of resource to screen against indicators in Tables 2 and 3 which the financial market participant will not have considered for its principal adverse impact disclosures

**Policy issue 2: The type of DNSH disclosures**

**Option 1.1: High level policy commitment on assessment of significant harm**

**Option 1.2: Details on the assessment made of significant harm of investments including any own thresholds set**

**Option 1.3: Details of assessments made against pre-determined thresholds for each indicator**

Another important aspect of the development of DNSH principles disclosures is how the financial market participant discloses that its investments do not significantly harm the sustainable investment objective. The



ESAs have considered this aspect and noted that the disclosure could consist of either of (1) some kind of policy for assessing the significant harm in relation to the principal adverse impact indicators, (2) details of the firm’s own thresholds and resulting assessments of significant harm of investments against the indicators in Table 1 of Annex I, or (3) results of assessments of investments against the indicators in Table 1 of Annex I using pre-set thresholds for significant harm developed by the ESAs.

<b>Policy option 1.1: High level policy commitment on assessment of significant harm</b>	
Pros	Cons
Simplicity: The task of creating a policy commitment and disclosing it would be relatively simple for financial market participants making sustainable investments	Very low comparability: by allowing firms to simply disclose a policy the disclosures would have the least comparability for investors and supervisors
Low costs: implementation cost of disclosures themselves (excluding the actual assessments) would be low	Low usefulness: by not requiring disclosures of the levels of harm of investments, the product disclosures would not add very much value to investors or supervisors
<b>Policy option 1.2: Details on the assessment made of significant harm of investments including any own thresholds set (favoured policy approach)</b>	
Pros	Cons
Useful disclosures: by requiring disclosures of assessments against each indicator including any thresholds used, investors and supervisors would learn much more from the assessments made by firms as opposed to simply policies	Low comparability: With firms free to set their own thresholds, it would be harder for investors and supervisors to compare disclosures between firms
Quantitative indication of significant harm: disclosures against potential thresholds would mean quantitative assessments of significant harm, a more granular approach to disclosures	Potential for no thresholds: by making thresholds optional (“any” thresholds) this option opens the door for qualitative assessments without quantitative indicators.
<b>Policy option 1.3: Details of assessments made against pre-determined thresholds for each indicator</b>	
Pros	Cons

Highest level of comparability: disclosures would show results against harmonised pre-determined thresholds of significant harm	Technical complexity would be extremely high and requires significant scientific input by ESAs and EU authorities.
Lower costs than own thresholds: as firms could rely on pre-determined thresholds of significant harm, there would be associate cost of developing own thresholds for significant harm for each indicator in Annex I.	Potentially in contravention of the empowerment to develop presentation and content of disclosures for products making use of DNSH principle

#### 4. Analysis of impact

The ESAs were not able to consider all policy options’ detailed impacts due to the general lack of time to develop the proposals in the empowerment in Article 2a SFDR. Nevertheless, within the framework that these suggestions were prepared, the ESAs believe that in addition to considering the principal adverse impact indicators in Annex I, a financial product making use of the DNSH principle should also ensure that investments are in companies whose activities are aligned with the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights, including the principles and rights set out in the eight fundamental conventions identified in the Declaration of the International Labour Organisation on Fundamental Principles and Rights at Work and the International Bill of Human Rights (as set out in Article 18 of the Taxonomy Regulation).

The ESAs therefore believe the policy option to be considered for the scope of the DNSH disclosure relate to the level of ambition among the draft principal adverse impact indicators and minimum safeguards in the taxonomy regulation.

Regarding the type of disclosures, given the wording of the legal empowerment to develop the presentation and content of disclosures, the ESAs believe that the best option would be to require the disclosure of how the indicators in Table 1 of Annex I of the draft RTS are taken into account.

The impact of such assessments should be considered additional to the disclosures already made by financial market participants in preparing their other disclosures under SFDR. However, those firms who have already considered the principal adverse impacts of their investment decisions at entity level will have a lighter burden since they will already have incurred the costs of assessing their investment decisions against the indicators in Table 1 of Annex I of the draft RTS.

However, there will also be benefits to disclosure of compliance with the DNSH principle. Harmonised disclosures will increase public trust in sustainability related products, which will help increase the availability of finance for products helping combat climate change.

## 4.2 Feedback on Public Consultation

### 1. Background

The ESAs launched a Consultation Paper on 23 April 2020, with the period for comment ending on 1 September 2020. In total, the ESAs received 165 responses to the consultation. The stakeholders included industry participants and associations from all sectors, including intermediaries, consumer representative organisations, the ESAs stakeholder groups, and public sector authorities and bodies.

Contributions came from a wide variety of type of respondents, as represented in Chart 1:

- 81 (49%) associations;
- 54 (33%) private companies;
- 16 (10%) either public authorities or international organisations;
- 9 (5%) NGOs;
- 3 (2%) private individuals; and
- 2 (1%) academic institutions.

In terms of field of activity (see Chart 2), the majority of respondents (70 (43%)) belong to the asset management, insurance and pensions industries. 19 (12%) responses came from governmental, regulatory and enforcement authorities. It is worth noting that within the category 'others' are included – inter alia – trade repositories, issuers and regulated market operators.

While the vast majority of responses came from EU Member States (see Chart 3), a significant number came from the UK and the United States, underlining the global interest generated by the consultation.

Chart 1 - Type of respondents

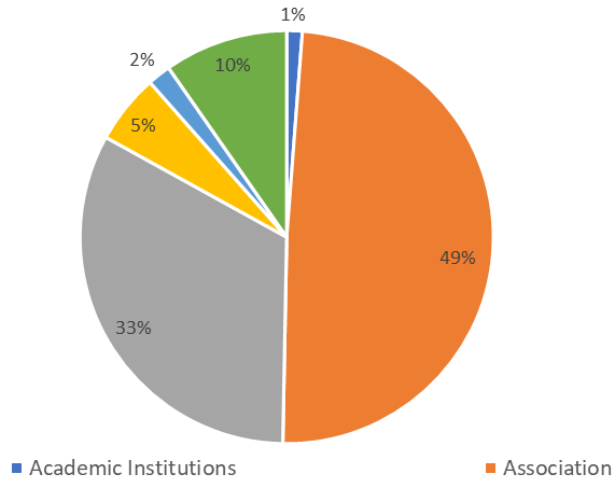
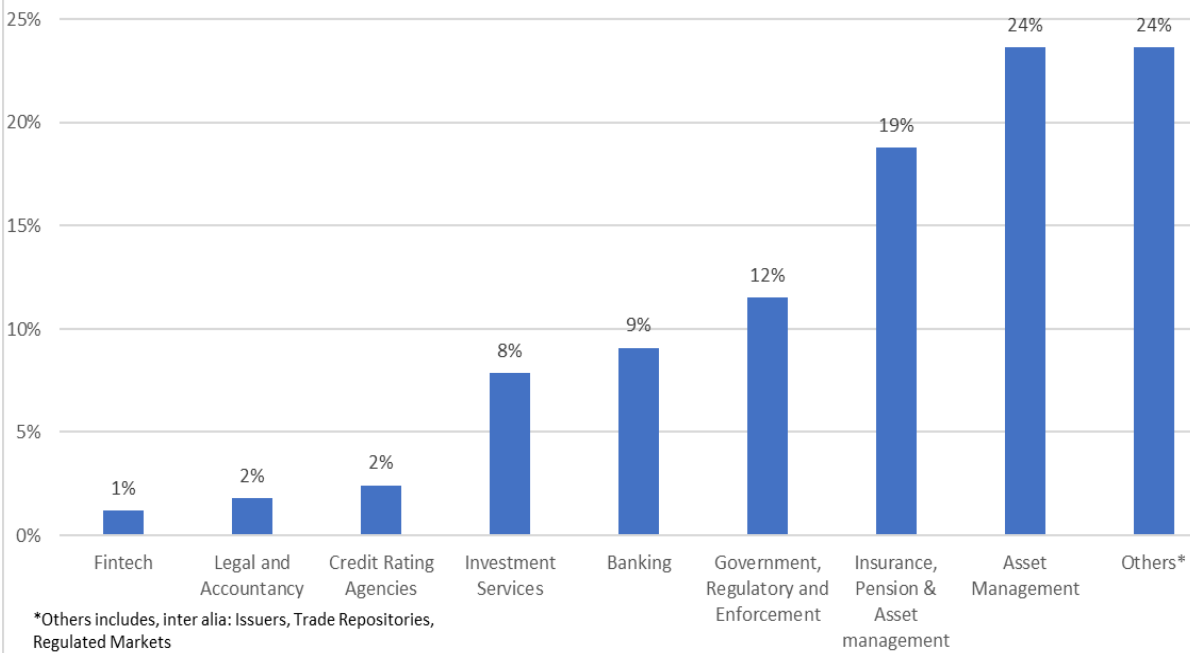
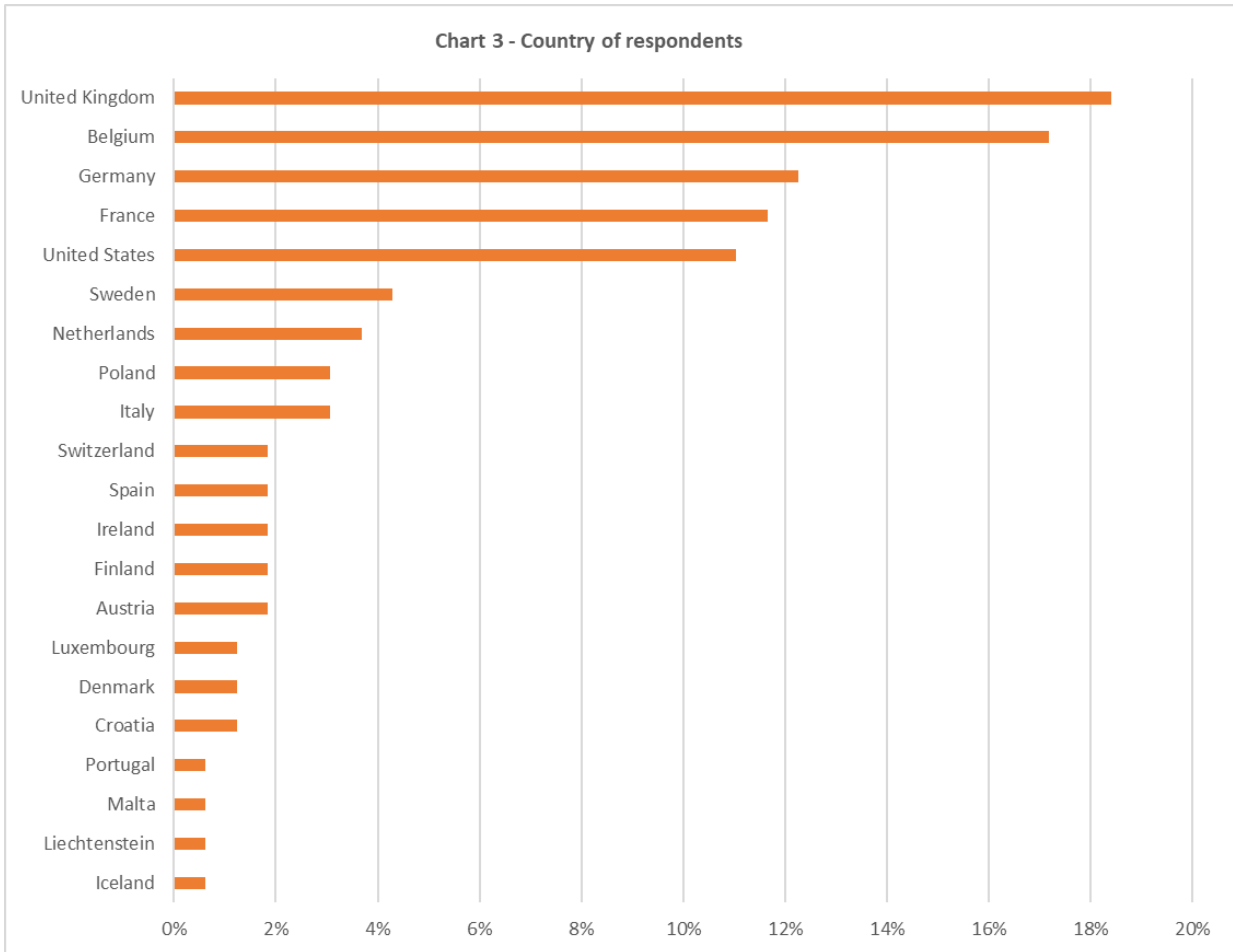


Chart 2 - Field of activity





## 2. Summary of responses

### General Comments

Respondents used the general comment section of the public consultation in most cases to provide executive summaries for their responses to the 27 questions in the consultation. All respondents noted the importance of sustainable finance in general and the role of disclosures in the financial sector specifically. Many respondents highlighted their existing commitment to sustainability, while rejecting the prescriptive approach proposed by the ESAs in the consultation paper.

Some respondents took the opportunity to showcase relevant research or publications they have published in the area of ESG research.

Many industry respondents commented on the challenging timelines that any financial market participants are facing with the SFDR. The short time between the finalisation of the RTS and the application date in SFDR (10 March 2021) was particularly highlighted. Many also chose to highlight the need to ensure consistency with other pieces of sustainable finance legislation, particularly the Taxonomy Regulation and the Non-Financial Reporting Directive.

Many respondents stressed that where the disclosures are designed to be read by consumers and investors, they should be comprehensible and comparable.

Most industry respondents stressed the high cost of implementation of the proposals by the ESAs, especially for financial market participants on principal adverse impact (PAI) reporting at entity level, due to the lack of reliable data from investee companies. Some respondents recommended that the ESAs create a centralised data register.

Many industry representatives also stressed the need to provide clearer definitions of Article 8 and Article 9 products for the product disclosures. The scope of Article 8 products was particularly requested to be clarified.

Some respondents also expressed disagreement with the requirements of the level 1 text to report PAI at entity level at all or until more uniform data was available from investee companies. Some special interest organisations stressed in their preamble to include their particular concern in the PAI indicators.

ESAs' response: The ESAs acknowledge the responses received and wishes to stress that the intention behind the consultation was to seek feedback in order to calibrate the RTS appropriately. However, there are clear limits to what the ESAs can deliver in these RTS. Most importantly, ESAs cannot alter the level 1 text, cannot provide legal definitions to concepts used in the level 1 text and cannot deviate from the empowerments given to them by the level 1 text.

**Question 1: Do you agree with the approach proposed in Chapter II and Annex I – where the indicators in Table 1 always lead to principal adverse impacts irrespective of the value of the metrics, requiring consistent disclosure, and the indicators in Table 2 and 3 are subject to an “opt-in” regime for disclosure?**

The ESAs received significant amount of detailed comments to the PAI reporting framework. The overall approach laid out by the ESAs was supported in its main lines by around 30% of respondents and a significant amount of issues were raised.

#### *Data availability*

Most feedback from stakeholders focused on the current lack of easily accessible and reliable sustainability data on the market. Serious concerns were raised in particular from industry representatives as regards their ability to comply with the reporting on the 32 mandatory KPIs.

The specific issue of Scope 3 greenhouse gas (GHG) emissions was raised several times, to underline the lack of data as well as the persistence of methodological divergences in Scope 3 calculations. Some stakeholders

suggested that Scope 3 emissions be left out or phased-in under the same conditions set out under the Benchmark Regulation delegated acts.

In order to address data gaps, some respondents proposed an extra column in the template to reflect any inability to cover all investments in scope for a given indicator. This comment was shared by some supporters and non-supporters of the overall approach alike.

Some industry respondents also highlighted the dependence on external data providers that the proposed reporting framework would lead to and the associated cost. Stakeholders underlined that requiring direct outreach to investors before using data providers would make cost issues even more acute. Some respondents, however, argued that setting up a core set of mandatory indicators, especially if reduced in number, would help improve corporate disclosures and foster convergence.

Many respondents also insisted that data would be significantly improved with the implementation of the upcoming review of the Non-Financial Reporting Directive (NFRD), thus offering an opportunity to address this issue. In this context, several respondents called for the set of mandatory indicators not to be enforced before the new requirements imposed on corporate reporting apply. Likewise, some respondents raised the particular issue of the availability of data for non-EU investments and non-NFRD entities, which is unlikely to be addressed by the abovementioned NFRD review.

#### *Overall approach and choice of indicators*

Many respondents stated that the consultation paper approach is too prescriptive, as it does not allow a materiality assessment, as enshrined in SFDR, as well as in many existing reporting standards (TCFD, GRI, PRI, SASB, etc.). These respondents favoured making all indicators fully optional.

In order to better contextualise disclosures, some respondents called for thresholds to identify the levels at which adverse impacts become material. Others called for the disclosed indicators to be compared with a benchmark to ease comprehensibility.

Moreover, several respondents noted that many indicators were not relevant to real assets, securities issued by sovereign entities, project bonds and other specific types of assets. Some respondents also called for more clarity regarding the correct way to account for alternative types of strategies, such as exposure through derivatives, or short strategies.

A significant number of respondents disagreed that the designated mandatory indicators would always lead to principle adverse impacts. For instance, policy-oriented indicators are unlikely to identify a material impact as some policies can be irrelevant to some investee companies (such as deforestation), while a policy does not guarantee the absence of adverse impact. Ratio-oriented metrics (such as the gender pay gap) could also

fail to reveal a PAI. Likewise, several respondents noted that aggregation could lead to misleading PAIs, e.g. an all-female board would offset an all-male board.

Nonetheless, many respondents recognised or supported that a core set of indicators, covering key issues material to all sectors and asset classes could be considered. These respondents, however, requested that the list of core indicators should be reduced to ensure that only universal issues are covered and to address data availability issues.

Respondents also pointed out that the justification for the obligation to choose at least one indicator from Tables 2 and 3 should be clarified, as the obligation had little added value and could lead to cherry picking.

A significant number of respondents called for more qualitative information to be disclosed, including through an expansion of the “explanation” column. Those who supported mandatory indicators stressed the importance of such qualitative disclosures to better contextualise indicators and to better account for actions taken by investors. A few respondents stated that the proposed choice of indicators places too much focus on the impact of investee companies while not offering a representation of actions carried out at investor level.

#### *Alignment with other legislation*

Industry and non-industry respondents alike noted the need for alignment of concepts and requirements across other regulation, especially the Taxonomy Regulation. In particular, respondents requested the ESAs not to develop different sets of data requirements for PAIs and the Do No Significant Harm (DNSH) principle under Article 2(17) SFDR. More specifically, numerous respondents called for the Taxonomy Regulation DNSH thresholds to be somehow imported into the SFDR RTS. A few respondents also mentioned that the framework would benefit from some inspiration drawn from the Benchmark Regulation delegated acts.

#### *Other observations*

Some respondents pointed out issues relating to the design of SFDR, in particular that product-level reporting would have been more valuable to investors as PAIs are better addressed at product level, or that PAI reporting should be required depending on a particular product’s strategy and design to integrate sustainability issues.

Several respondents also noted that the use of NACE codes would be unnecessarily cumbersome, as this classification system does not correspond to market practice.

The issue of timing was raised a significant amount of times by stakeholders pointing out that some clarification would be welcome as to when the first disclosures are expected and how the reference periods should be reported.



ESAs' response: The ESAs acknowledge that the proposed framework for entity-level PAI reporting in the consultation paper was complex and potentially burdensome. While acknowledging support for a list of universal indicators of PAI, the ESAs recognise that a shorter list may better capture universal impacts applicable to all sectors and better reflect current data availability. Furthermore, the ESAs believe that more specific materiality considerations are required for the longer list of opt-in indicators. Finally, the ESAs see merit in recognising that the main list of indicators is tailored to investments in investee companies and in developing specific indicators for investments in sovereigns and real estate assets.

**Question 2: Does the approach laid out in Chapter II and Annex I, take sufficiently into account the size, nature, and scale of financial market participants activities and the type of products they make available?**

A significant majority of respondents noted that the proposed framework for PAI reporting could be further improved in terms of proportionality. Many respondents rejected what was argued to be a “one-size-fits-all” approach.

Several respondents noted that the suggested approach was disproportionately costly and burdensome, regardless of the size of the reporting entity. A majority of stakeholders pointed out that the framework was particularly burdensome for smaller financial market participants. Those respondents argued that the “comply or explain” mechanism prescribed by Article 4 SFDR could be further supplemented by specific provisions applicable to financial market participants with fewer than 500 employees that choose to comply.

A few respondents, however, noted that the approach was satisfactory, and that the “comply or explain” mechanism in Article 4 SFDR was sufficient. One respondent pointed out that, whatever the framework, optimal data quality could not reasonably be expected in the very near future.

Many of the arguments made to Question 1 (see above) were also repeated in Question 2, for instance the importance of materiality assessments, the application to different asset classes, and sectoral relevance. Many respondents repeated the observation that the requirement to seek data directly from investee companies was disproportionate, considering that financial market participants can hold positions in several thousands of investee companies at any one time.

Some respondents also raised concerns over the requirement in Article 4 SFDR that the reporting must cover 100% of investments, especially when considering the sustainability data gaps. A few respondents suggested that “reasonable efforts” (as opposed to “best efforts”) would make this requirement more proportionate.

Some respondents proposed to address the issue of proportionality regarding data availability by removing non-EU investee companies from the scope of reporting. A few other respondents requested a delay to the reporting until the NFRD review was complete.

A significant number of respondents pointed out that product-level reporting would have proven more proportionate and more meaningful, given that the approach to PAIs can widely differ from product to product and strategy to strategy, as suggested under Article 7 SFDR.

A few respondents argued that requiring a historical comparison spanning over ten years is disproportionate.

On actions taken to mitigate adverse impacts, a few respondents suggested that the requirement to provide an explanation of the reduction in PAIs achieved by the actions taken is unfeasible, considering the difficulty of proving a correlation between an action and the impact.

Finally, some respondents pointed out the peculiarity of some financial products or financial market participants, such as portfolio management services and IORPs, arguing that they should be left out of the scope of reporting. In particular, some stakeholders considered that financial market participants providing portfolio management services were only abiding by a mandate set by their clients, and therefore should not be required to report on investment decisions for which they have been mandated or should be subject to alternative disclosure requirements.

ESAs' response: The ESAs would like to remind respondents that proportionality was already built into Article 4 SFDR as the entity-level PAI reporting is to be done on a comply-or-explain basis and that the ESAs were not empowered to further differentiate between financial market participants. A significant number of the suggestions by respondents to this question cannot therefore be addressed in these RTS by the ESAs. The ESAs cannot change the scope of reporting, the rate of coverage or the application to non-EU investments. However, the ESAs recognise that a ten-year historical comparison may be disproportionate and have therefore changed this to five years in the draft RTS in this Final Report.

**Question 3: If you do not agree with the approach in Chapter II and Annex I, is there another way to ensure sufficiently comparable disclosure against key indicators?**

Many respondents agreed with the ESAs' proposal to define standardised indicators. Nonetheless, almost all respondents argued that the RTS could strike a better balance.

Some respondents argued that all indicators should be made voluntary and serve as a toolbox to identify PAIs, while waiting the NFRD review to be finalised. Other respondents pointed out that a core set of mandatory indicators could be maintained, provided that this set focuses on systemic issues that are material to all sectors and asset classes. The set of mandatory indicators could be complemented by a second list of indicators that would be reported subject to a materiality assessment. Some other respondents suggested that a "comply-or-explain" mechanism could be put in place for indicators that are not part of the core mandatory list, or that more indicators become progressively mandatory via a phase-in mechanism.

Respondents' preferred number of mandatory indicators varied significantly, from three to seventeen. Some key indicators appear on a recurrent basis in responses from stakeholders, in particular carbon emissions. Respondents recommended that mandatory indicators should take into account different asset classes and, where possible, allow a sectoral breakdown to prevent misinterpretation stemming from data aggregation across sectors and asset classes.

In order to foster convergence between the different pieces of EU sustainable finance legislation, several stakeholders suggested that mandatory indicators should be aligned with the Taxonomy Regulation, and with the Benchmark Regulation delegated acts.

Several respondents also argued that disclosing the "rate of coverage" for each mandatory indicator should be made possible, as this would reduce unreliable estimations. Some respondents suggested that the proportion of estimated data should also be disclosed, alongside assumptions used for such estimations.

A majority of stakeholders also insisted that the qualitative aspect of disclosures should be reinforced, some requesting that those qualitative aspects should be the core of the disclosure, only complemented by indicator disclosures.

A few respondents used this question as an opportunity to request that the calculation of the indicators should not be on a continual basis, suggesting that a snapshot calculation would be more proportionate.

Finally, several comments urged the ESAs to provide guidance for product-level PAI reporting. Some respondents argued that non-ESG products should be left out of scope, as well as investments with a very short time horizon or exposure via derivatives.

ESAs' response: The ESAs acknowledge the responses received to this question. However, many of the suggestions in the responses go beyond the empowerment the ESAs received in SFDR. The ESAs cannot change issues such as the scope of reporting or the rate of coverage. However, the ESAs agree that a snapshot-based reporting is more proportionate than a continuous calculation during a reference period. For this reason the ESAs have proposed that an annual calculation is made on the basis of four quarterly snapshot calculations.

#### **Question 4: Do you have any views on the reporting template provided in Table 1 of Annex I?**

A considerable number of respondents underlined how the proposed reporting template provided in Table 1 of Annex I might result in a box-ticking exercise and boilerplate disclosures rather than providing meaningful information to clients. Such a reporting exercise should instead be intended as a dialogue with investors, where the goal should be to help them understand the underlying investment process through a narrative

approach and not just through a mere disclosure against a standardised list. In this light, providing 32 mandatory indicators may inhibit end-investors' ability to make informed decisions as they might feel overwhelmed with data and disengage from the ESG consequences of their investments.

Several respondents raised detailed observation on the structure of the template:

- One respondent suggested to have no more than one metric per line/cell, whereas the ESAs' proposal in many cases suggested two separate metrics.
- One respondent underlined how such a standardised level of information might undermine comparability to the previous year as changes in assets under management and a different product mix might severely influence on the impact of the indicator;
- One respondent asked for further clarification on how the 'Explanation' column should be filled (e.g. whether it should refer to the provider or the methodology used to estimate the single indicator);
- Two respondents suggested to add a column to specify what the percentage is for information that is based on real data, the one estimated and the one that could not even be estimated; and
- One respondent suggested that for each reported metric, the report should require information about the time period to which the reported metric pertains.

Some respondents underlined how the summary section required under Article 5(1)(d) is a duplication of more detailed information already required to be disclosed and in its current form it provides no added value. Few respondents argued that the approach adopted by the ESAs would not fall in the remit of their mandate. More in particular, Articles 4(1)(a) and 4(2) require financial market participants to disclose policies and actions with regard to the principle adverse sustainability impact. This calls for a more flexible and principles-based approach than the mere set of indicators disclosed in Table 1 of Annex I.

A few respondents remarked the importance to conduct consumer tests on the final template to ensure that it presents the information in an accessible and manageable manner to end-investors.

ESAs' response: The ESAs take note of the suggested improvements to the template for PAI reporting. The ESAs have simplified some aspects of the template, bearing in mind the objective of achieving comprehensible, comprehensive and comparable disclosures for entities' PAI of investment decisions.

**Question 5: Do you agree with the indicators? Would you recommend any other indicators? Do you see merit in including forward-looking indicators such as emission reduction pathways, or scope 4 emissions (saving other companies' GHG emissions)?**

A minority of respondents proposed to introduce new indicators, on greenhouse gas emissions, energy performance and biodiversity, social issues (such as social dialogue and the existence of a supplier code of conduct or violations of the United Nations Global Compact (UNGC) principles), pollution, pesticides, animal welfare and pollution.

A majority of respondents argued that the list of mandatory indicators should be reduced because it is too burdensome or has limited informative value.

Five respondents suggested extending the solid fossil fuel indicator to all fossil fuels, gases and oil.

Regarding forward-looking indicators, views were split. A small majority of respondents either did not oppose or actively supported developing forward-looking indicators, but with more specific definitions and methodologies. However, many respondents criticised forward-looking indicators noting that the models used to calculate such indicators are imperfect or not compatible with PAI reporting. Other respondents noted that the proposed indicators were too complex and were strongly against the introduction of further forward-looking indicators.

Many respondents provided methodological comments to improve certain specific indicators, mainly related to energy performance, biodiversity, and gender diversity.

General remarks on the approach adopted in the RTS include:

- Doubts about whether some indicators qualify as PAI indicators as they lack a notion of "significant harm";
- Some respondents pointed out that the indicators regarding policies in place within a company are not relevant as they do not necessarily result in an actual adverse impact;
- A lot of respondents considered that some indicators, chiefly biodiversity, deforestation and water emissions indicators are not relevant for all financial market participants and for all industries;
- The information provided by some indicators is not relevant at entity level;
- The lack of data availability is significant, mostly due to a lack of sustainability disclosures in investee companies, particularly for non-listed companies, Scope 3 emissions, CEO pay ratios, energy consumption, water and waste emissions, and workplace accident prevention; and
- Many respondents insisted on the need to ensure consistency with the Taxonomy Regulation.

Three respondents noted that the proposed indicators apply only to investee companies and questioned how to address impacts from sovereigns and real estate.

ESAs' response: The ESAs are grateful for the detailed comments on the draft indicators in the consultation paper. Acknowledging the technical difficulties with the proposed framework, the ESAs have modified aspects of the RTS by separating impacts from investee companies, sovereigns and real estate. Furthermore, in many cases a policy based metric has been replaced by a more quantitative metric, such as violations or breaches. The set of universal indicators has been reduced from the proposal in the consultation paper and the opt-in indicators are now subject to a materiality assessment.

**Question 6: In addition to the proposed indicators on carbon emission in Annex I, do you see merit in also requesting a relative measure of carbon emission a) relative to EU 2030 climate and energy framework target and b) relative to prevailing carbon price.**

A significant majority of respondents disagreed with the ESAs' proposal to request two additional indicators on carbon emissions in Annex I mentioned in the question.

Some respondents agreed to both measures, some added that they would contribute to additional disclosure, that they represent explicit targets of EU policy, that they would complement the Taxonomy regulation, and that they would provide useful information to investors.

However, among those who agreed, some preferred a measure of carbon emissions relative to the EU 2030 climate and energy framework target.

Many of the respondents flagged the lack of data for Scope 3 emissions (and warned that including them in the formula would lead to flaws in the outcome).

Some respondents highlighted that producing and disclosing such indicators would be challenging, if not impossible, without revised NFRD standards in place and therefore suggested further investigation in the context of the NFRD review and Taxonomy Regulation.

Some respondents pointed out that such additional indicators could add complexity and create confusion for the end-investors while representing a cost for companies, that could be further rolled over to end-investors.

Some respondents pointed out that taking the EU 2030 climate and energy framework target as a benchmark would be of limited practical value if the investment portfolio has a significant share of its portfolio in investee companies located outside the EU.

ESAs' response: The ESAs acknowledge that the suggested relative measures of carbon emissions caused confusion with stakeholders and would not necessarily add material benefit to the disclosures.

**Question 7: The ESAs saw merit in requiring measurement of both (1) the share of the investments in companies without a particular issue required by the indicator, and (2) the share of all companies in the investments without that issue. Do you have any feedback on this proposal?**

About half of all respondents were generally favourable to the proposal, with a majority supporting the measurement of the share of the investments in affected companies. Only a few showed a preference for the second metric on the share of affected companies compared to all companies in the investments.

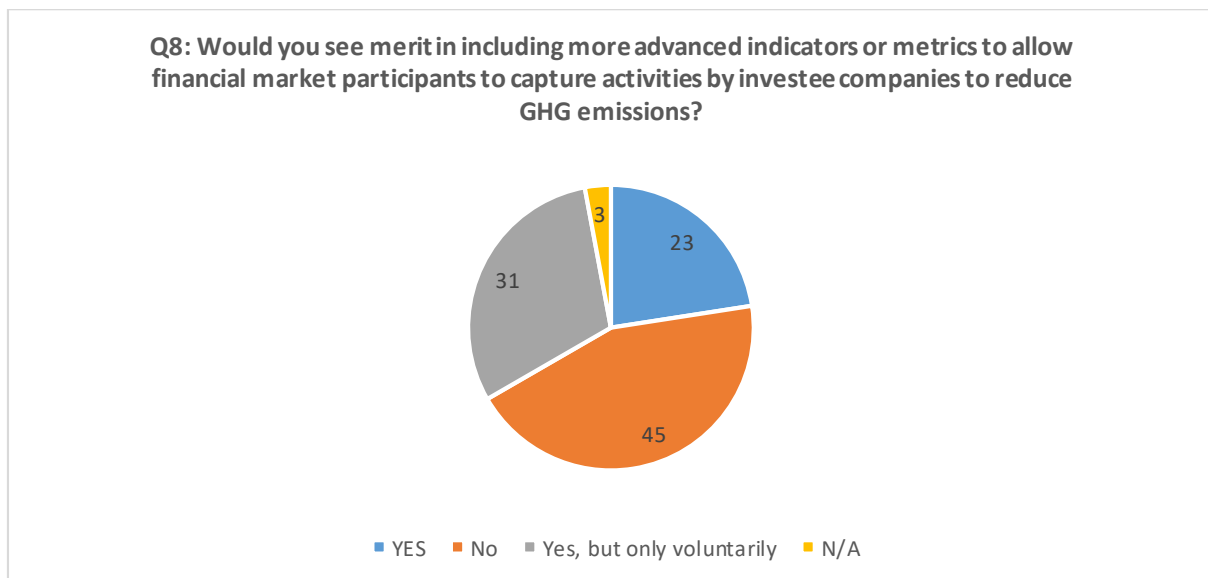
About a third of the respondents were against the introduction of either of these measures, warning that the complexity would make disclosures difficult for retail investors.

Furthermore, some respondents added that such requirements would duplicate metrics on the same indicator which would be burdensome and could be misleading.

ESAs' response: The ESAs agree with the feedback and propose to move to only one metric for the relevant indicators consisting of the share of investments in the affected investee companies.

**Question 8: Would you see merit in including more advanced indicators or metrics to allow financial market participants to capture activities by investee companies to reduce GHG emissions? If yes, how would such advanced metrics capture adverse impacts?**

The chart below shows how respondents answered to the first part of the question.



The majority of the respondents do not object in principle to include more advanced indicators or metrics to allow financial market participants to capture activities by investee companies to reduce GHG emissions but indicate their agreement only on a voluntary basis.

However, few respondents supported the proposal on advanced indicators. Some respondents warned that such advanced indicators, in their nature still theoretical and much dependant on the assumptions used in their calculation, could lead to greenwashing.

Some respondents pointed out that indicators capturing activities by investee companies to reduce GHG emissions would measure a positive contribution of a company's activities and not an "adverse impact".

ESAs' response: The ESAs agree with the majority of the respondents that such positive indicators are not appropriate to adverse impact reporting.

**Question 9: Do you agree with the goal of trying to deliver indicators for social and employee matters, respect for human rights, anti-corruption and anti-bribery matters at the same time as the environmental indicators?**

A significant majority of respondents agreed with ESMA's approach and saw merit in delivering indicators for social and employee matters, respect for human rights, anti-corruption and anti-bribery, beyond the environmental ones.

While being overall supportive, most of the respondents flagged the lack of data and the absence of a reliable source to calculate social and governance related indicators. To address this, some respondents suggested to make such indicators non-mandatory and to instead look at non-signatories and breaches of UNGC.

Some stakeholders noted that social indicators should be delayed until a social taxonomy is developed to complement the environmental Taxonomy Regulation.

ESAs' response: The ESAs acknowledge the concerns with regard to the potential lack of data for some of the proposed social indicators but believe that the inclusion of social indicators with this package of RTS is beneficial in terms of simplicity and predictability for financial market participants and for comparability purposes for investors.

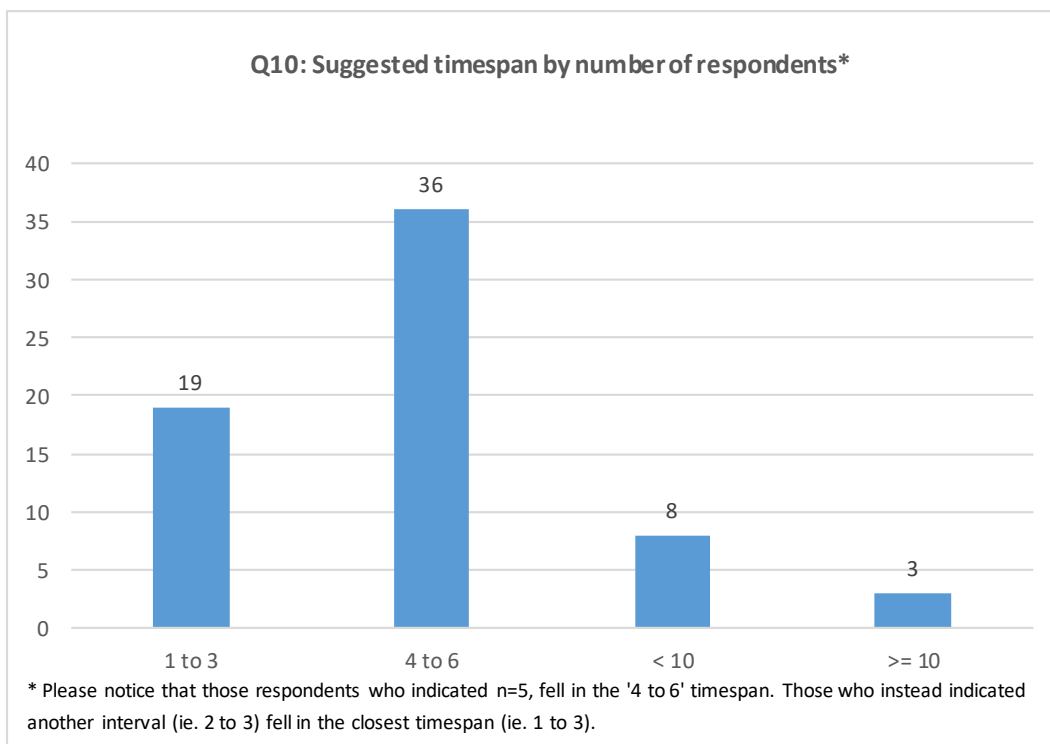
**Question 10: Do you agree with the proposal that financial market participants should provide a historical comparison of principal adverse impact disclosures up to ten years? If not, what timespan would you suggest?**

While virtually all the respondents agreed on providing a historical comparison of PAI disclosures, a significant majority argued that a ten-year period is not the appropriate timespan for the following reasons:

- such a specification goes beyond what is prescribed by SFDR;
- providing end-investors with such extensive historical comparison would contradict the ESAs' requirement to provide information that is "simple, concise, comprehensible and clear";
- in light of the evolving nature of many metrics and data availability, indicators are not consistently comparable over a prolonged period of time; and
- absolute historical figures do not inform investors about the actual impact of investments, since e.g. an increase in assets under management could lead to higher results while investee companies have reduced impacts.

Among all the respondents that proposed another timeframe to be considered, results are shown in the chart below.





Several respondents asked for clarification whether the ten year historical comparison should be considered retrospectively.

ESAs' response: The ESAs believe there is merit in requiring a historical comparison but acknowledge that a shorter period than ten years is appropriate and has therefore proposed a period of five years in the RTS in this final report.

**Question 11. Are there any ways to discourage potential “window dressing” techniques in the principal adverse impact reporting? Should the ESAs consider harmonising the methodology and timing of reporting across the reference period, e.g. on what dates the composition of investments must be taken into account? If not, what alternative would you suggest to curtail window dressing techniques?**

Many of the respondents remarked that any “window dressing” technique would mean a deliberate attempt to mislead investors, which would be against financial market participants’ regulatory and fiduciary obligations to act in the best interest of investors.

Virtually all respondents agreed that harmonising the methodology for reporting across the reference period would enhance comparability and transparency. However, a significant majority of respondents were against the approach to calculate the PAI on the entire reference period by weighting the impact that each investment had on a daily (or more frequent) basis. Respondents argued that such a requirement would be excessively burdensome.

On the timing of the reporting, many respondents suggested to introduce a fixed reporting date, such as 31 December, either through an average of quarterly calculations or a single annual calculation.

ESAs' response: The ESAs take note of the comments by financial market participants' representatives on the potential disincentives to window dressing. In order to reduce the burden of calculating the values, while still providing predictability, the ESAs propose an end of year calculation based on the average of at least four quarter-end calculations.

**Question 12: Do you agree with the approach to have mandatory (1) pre-contractual and (2) periodic templates for financial products?**

Respondents views were split. Half of the respondents supported mandatory templates for pre-contractual and periodic reporting because this could avoid greenwashing and support comparability and consistency among financial products. The other half did not support mandatory templates.

Some of those opposing the templates suggested having optional templates whereas others preferred that existing templates such as the PRIIPs KID and the UCITS KIIDs were amended to include sustainability information.

Some respondents regarded a mandatory template for all products as problematic because investment strategies can vary significantly. They asked the ESAs' not to provide a rigid framework but a flexible one which can be adapted to all kind of financial products and asset classes.

Some respondents stressed that mandatory templates for pre-contractual and periodic information only have value for retail investors because they have a need for comparability. These respondents argued that professional or institutional clients require tailor-made information and have special abilities to evaluate sustainability information. These respondents proposed that disclosure via templates should be optional for products targeted to professional investors.

For insurance products, some respondents noted that the SFDR pre-contractual disclosures are to be done according to Article 185 (2) of the Solvency II Directive and Article 29 (1) IDD. These disclosures allow for a degree of flexibility and are mostly detailed at national level, concluding that mandatory templates under SFDR are not compatible with general insurance regulation. This issue was also raised for pension products provided by IORPs.

Finally, some respondents argued that the RTS were sufficiently detailed in terms of consistent information and therefore templates would not be needed.

Pensions industry respondents noted that prospective members to a pension scheme who are automatically enrolled in a pension scheme should be provided with sustainability information after their enrolment as they do not have an investment choice in those cases. Some respondents argue that IORPs are not financial institutions and that employees do not take investment decisions, so IORPs should not require the same transparency obligations as other financial entities.

Concern was expressed that the proposed templates may only reflect the SFDR requirements and not consider the requirements in the Taxonomy Regulation.

In general, many respondents asked for templates that are easy to understand and not too complex.

Several respondents expressed concern about the date of application for information requirements and raised concerns about problems stemming from the short timelines provided by the SFDR.

Another timing issue was raised in the context of Article 20 (3) SFDR which rules that the new periodic disclosure requirements would apply to reports issued from 1 January 2022. This is especially an issue for funds with specific year-ends. It could happen that funds might be obliged to report about a time prior to the SFDR implementation. Therefore, the industry asks to clarify that periodic reporting requirements will only apply to a full year after the implementation date.

ESAs' response: The ESAs take note of the feedback received to this question. On balance, the ESAs believe that mandatory templates for pre-contractual and periodic information is required to ensure comparability between products and to ensure consistent transparency to investors.

The ESAs consulted on draft templates from 21 September to 16 October and conducted two consumer testing exercises, in the Netherlands and Poland, to help develop appropriate templates.

The application date of the RTS has been delayed. The ESAs have proposed in the RTS to delay the application date of the RTS to 1 January 2022.

**Question 13: If the ESAs develop such pre-contractual and periodic templates, what elements should the ESAs include and how should they be formatted?**

Many respondents requested simple, easy to understand templates in a standardised format. On the other hand, some respondents mention that the templates should avoid being too prescriptive but rather be flexible in length and content, to cover all kind of financial products and investment strategies. Information should be limited to avoid an overload and duplication of information for consumers.

With regard to the content of the templates, respondents suggested a significant number of issues that should be considered when developing templates such as:

- minimum data fields;
- standardised information order;
- key definitions; and
- the methodology used.

Respondents asked for further clarification on how “sustainability indicators” are expected to be incorporated into pre-contractual and periodic disclosures.

Respondents disagreed with the draft disclaimer that an Article 8 product does not have sustainable investment as an objective as it could be misleading to investors.

Several respondents argued that sustainable investment objectives, strategies and sustainability indicators relate to each other and therefore should not be presented under different headings. Others mentioned that sections for environmental or social characteristics promoted by financial products and investment strategies are the same thing. On the other hand, other respondents asked for a distinct clarification between environmental or social characteristics and sustainable investment objectives.

Some respondents expressed concern that money market instruments (MMI) were singled out as not being capable of contributing to specific environmental or social characteristics or objectives.

ESAs’ response: The ESAs have taken into account the feedback received and will reflect this in the templates to the extent feasible and possible under the empowerments given to the ESAs in SFDR.

**Question 14: If you do not agree with harmonised reporting templates for financial products, please suggest what other approach you would propose that would ensure comparability between products.**

Many respondents did not offer alternatives to templates and consider generally templates as an appropriate option for disclosing ESG information. Often they referred to the answers provided under questions 12 and 13 so suggesting different kinds of templates, e.g. mandatory or optional, limitation to retail investors, flexibility to cover a broad range of investment products etc.

Some respondents rejected templates, preferring an approach providing guidance on best practices for disclosure and a flexible approach. Some respondents requested the integration of sustainability disclosures in the various existing disclosure regimes.

ESAs’ response: The ESAs note that a majority of respondents had agreed with harmonised templates and confirm that this is the supported policy choice for pre-contractual and periodic disclosures under the RTS in this final report.

**Question 15: Do you agree with the balance of information between pre-contractual and website information requirements? Apart from the items listed under Questions 25 and 26, is there anything you would add or subtract from these proposals?**

Most industry respondents argued that the balance of information in the consultation paper had shifted too far towards pre-contractual information requirements, noting that retail investors should not be overloaded with information in pre-contractual documents and that website references should be used to a greater extent. These respondents state that the large volume of quantitative information that needs to be disclosed

may overwhelm customers of financial products without providing meaningful and/or comprehensible information. These respondents also called for layering of information.

However, some other respondents were in favour of keeping the pre-contractual information as the main source of information as opposed to websites.

Some respondents requested more consumer testing to determine the right balance of information, the level of detail of the information as well as the optimal location.

Respondents made the following proposals to move information from pre-contractual disclosures to the website:

- many asset manager representatives noted that websites are better suited for the disclosure of graphical representation of investments of the financial products;
- pension industry representatives and some asset managers stated that information on derivatives should not be included pre-contractually; and
- pension industry representatives propose to move information on the difference between direct and indirect holdings to the website.

Industry respondents also noted that some products are tailor-made private funds and portfolios managed on discretionary basis set up under bilateral agreements protected by confidentiality. Public website disclosures of products for institutional investors that are not publicly distributed should not be included in the website disclosures or should be made in a password-protected area of the website, otherwise it would be problematic in view of the general confidentiality of contractual agreements with institutional investors, applicable to both tailored funds and individual mandates, to disclose the relevant details in the public domain of the website.

Some industry respondents noted that the “summary” should not be required to be provided or should be optional, although some other respondents were in favour of the summary. Some insurance industry respondents argued that the summary should not be required to be provided in a language customary in the sphere of international finance if the relevant product is distributed only in the domestic market.

Some respondents asked for a clarification on whether information requirements on the website can be complied by providing a link to the relevant information on the website of the fund provider.

ESAs’ response: The ESAs take note of the observations made by respondents to this question. With regard to the balance of information, the ESAs believe that within the constraints of the different types of documents listed in Article 6(3) SFDR, the disclosures set out in the RTS in the final report and the templates represent a balance and a compromise. However, the ESAs agree that information related to direct or indirect holdings could be better placed on the website than in pre-contractual or periodic disclosures.

With regard to tailor-made products, the ESAs note that they cannot change the SFDR product scope which makes no differentiation between whether a product is “private” or “public” or whether a product is intended for a single client, according to the products listed in Article 2(12) SFDR. Furthermore, the public website disclosure requirement in Article 10 SFDR makes no provision for password protected disclosure, which by

definition is not “public” then. The ESAs have provided a reminder in Recital 36 RTS, however, that website disclosures should respect EU and national rules on confidentiality of information.

With regard to the language of the website product summary, the ESAs agree that for proportionality purposes it is justified to require the translation into a language customary in the sphere of international finance only where a product is marketed in more than one Member State.

**Question 16: Do you think the differences between Article 8 and Article 9 products are sufficiently well captured by the proposed provisions? If not, please suggest how the disclosures could be further distinguished.**

Most respondents stated that the differences between Article 8 and Article 9 products, but also mainstream products, were not sufficiently well captured by the proposed provisions. Many respondents recommended adding a definition of environmental or social characteristics. Only for a minority of respondents were the differences clear.

Some respondents interpreted the differences as Article 8 products having a primary objective to maximise a risk-return profile while promoting ESG characteristics while Article 9 products have the primary objective of making a sustainable impact.

Respondents noted that considering that many financial products combine different approaches (exclusion, selection, etc.) and different issues (climate, overall ESG, specific ESG themes, impact investing, etc.) in varying degrees of restriction and/or conviction, it is difficult to classify products under Article 8 or 9 unless there are established minimum thresholds, minimum impact (vs. an established reference), e.g. percentage reduction/ improvement, and/or any other measure that would qualify whether a product “promotes ESG” or “has a sustainable investment objective”.

Some respondents pointed out the lack of a clear dividing line to qualify those products that fall under the scope of Article 8. For instance, whether exclusions, which are not actively promoted, lead to inclusion in Article 8 or not. For instance, exclusions might be a legal requirement in certain jurisdictions.

Respondents provided several suggestions for language in a recital to clarify the scope of Article 8 products, requesting that simple exclusion should be exempt or that there should be an element of active promotion of a characteristic.

Most respondents opposed the requirement to disclose the proportion of sustainable investments and called for the removal of the proposed disclaimer for Article 8 products.

Some respondents also suggested that disclosures should allow investments to have both environmental or social characteristics and have a sustainable investment as their objectives.

Some respondents recommend including minimum thresholds for relevant investments in order to avoid excessive complexity of the information on the planned proportion of investments in different sectors and sub-sectors.

Many respondents requested to remove the requirement to reference EU Climate Benchmarks for Article 9 products that have carbon emissions reduction as their objective for Article 9 products.

Some respondents requested reinforcing the link between the Taxonomy and the SFDR in particular regarding the definition of environmental investments. Leaving the definition as broad as it currently is would allow financial market participants to argue that virtually any economic activity is a sustainable investment. Linking the definition to the economic activities in the taxonomy would provide much needed clarity.

Some respondents interpreted SFDR to mean that that environmental Article 9 products can only be EU Taxonomy products.

ESAs' response: The ESAs note the helpful feedback from respondents to this question, although many of the suggestions would require a change in the SFDR text that is beyond the ESAs' empowerments. For instance, the fact that Article 8 products can make sustainable investments is allowed under SFDR, so the disclosures in the ESAs' RTS must capture that.

Nonetheless, where possible, the ESAs have emphasised differences between the two types of products. For instance, the disclaimer for Article 8 products envisaged by the ESAs is one of the main ways to differentiate the two categories of products. Also, the requirement for Article 9 products to disclose more significantly with regard to the remainder of investments that are not sustainable investments sets Article 9 products apart from Article 8 products.

#### **Question 17: Do the graphical and narrative descriptions of investment proportions capture indirect investments sufficiently?**

Most respondents noted that the distinction between direct and indirect investments is not useful for retail consumers, and not clear for financial market participants. In particular, many respondents noted that the scope of indirect investments was not clear and not effectively defined. However, some other respondents found that the descriptions capture indirect investments sufficiently.

Some respondents argued that indirect investments such as derivatives or special vehicles should be exempted from the exercise as their function is to protect end-investors from volatility and other risks.

Pension industry representatives queried whether investing via funds would be considered indirect investing, which would mean that a pension fund would not have any direct investments when it holds shares in a collective investment vehicle, even if this vehicle is set up by a wholly-owned investment manager solely for the purpose of investments by the pension fund. In any case, an average pension fund member will not understand it, but at least it should be considered that investments through investment vehicles are 'direct' investments.

ESAs' response: The ESAs take note of the responses to the question. The ESAs agree that graphical representation of indirect investments may be misleading without further context. However, the ESAs do not agree to remove the distinction entirely but have moved the disclosure to the website disclosure to allow for greater context and flexibility of representation.

**Question 18: The draft RTS require in Article 15(2) that for Article 8 products graphical representations illustrate the proportion of investments screened against the environmental or social characteristics of the financial product. However, as characteristics can widely vary from product to product do you think using the same graphical representation for very different types of products could be misleading to end-investors? If yes, how should such graphic representation be adapted?**

Most respondents answered that while harmonisation of the graphical representation is beneficial, the inclusion of a graphical representations to illustrate the proportion of investments screened against the environmental or social characteristics of the financial product could be misleading given that environmental and social characteristics can vary so widely, and are not comparable across products that follow different strategies. When various strategies are combined (exclusions and best-in-class approach), it is impossible to capture all these different elements in a single graphical representation.

Some other respondents were in favour of the graphical representations of the proportion of investments. Many respondents recommended consumer testing.

ESAs' response: The ESAs have decided to remove graphical representation of investment proportions in the pre-contractual and periodic disclosures due to the lack of comparability between different types of characteristics or objectives.

**Question 19: Do you agree with always disclosing exposure to solid fossil-fuel sectors? Are there other sectors that should be captured in such a way, such as nuclear energy?**

A significant majority of respondents agreed with the approach of the ESAs to require specific disclosure against some sectors. Many of those noted the benefits it would bring to consistent disclosure to investors.

However, most respondents stressed that they did not agree with the ESAs' proposal to limit fossil fuel exposures to "solid fossil fuels" and instead urged the ESAs to broaden the fossil fuel sector exposure to include all fossil fuels. Of those who disagreed with the approach by the ESAs, some noted that such disclosures would be premature without an agreed "brown taxonomy".

Some respondents requested greater clarity on what exposure to a sector should entail, recommending in one case the use of NACE codes to identify the correct sectors, in other cases limiting exposure to investee companies only and still in other cases limiting the exposures to activity level analysis by investee companies.

Some individual respondents suggested additional sector exposures, including tobacco or controversial weapons.

A handful of respondents agreed that exposure to nuclear should also always be disclosed.

ESAs' response: The ESAs acknowledge the helpful feedback received from stakeholders. The ESAs agree to widen the scope of disclosures regarding exposures to all fossil fuels and to align the definition with the EU Taxonomy Regulation.



**Question 20: Do the product disclosure rules take sufficient account of the differences between products, such as multi-option products or portfolio management products?**

Many respondents considered that the disclosure rules do not take sufficiently into consideration the difference between products. Some respondents considered the requirements should be adjusted to the type of products, as for example funds-of-funds, multi-asset funds or government bond funds.

On individual portfolio management:

Many respondents considered that the requirements do not take into account the specific characteristics of individual portfolio management. In particular, they considered that the pre-contractual and website disclosures requirements may be in conflict with confidentiality duties. They suggested that disclosures could be limited to representative/standardised model portfolios only or to report on underlying products, rather than on portfolios. They also considered that where the portfolio management service follows an investment strategy made available only to that client, the information could be provided on the website in a password-protected area.

Some also consider that publishing information on single portfolios is not proportional compared with benefits. Some suggested that where two or more vehicles invest in the same underlying asset class, or where a segregated mandate invests alongside a main fund, in the same investments, it would seem proportionate to treat them as the same products and to provide a single portfolio disclosure, and where the differences are immaterial to the underlying assets to not treat them as separate products.

On the type of investor needs:

Many respondents also considered that the requirements do not fulfil the professional investors' needs as investors generally require customised reporting formats (e.g. regulatory reporting in case of insurance companies and pension funds). Some respondents suggested that for products sold exclusively to financial investors and not subject to public distribution, standardised disclosures in accordance with templates that have been developed for the retail audience and website disclosures should be optional. They also considered that disclosures could be provided in a separate password-protected area.

On multi-option products (MOPs):

Several insurance industry representatives recommended that it should be clarified that where a MOP qualifies under Article 8 or 9 of the Regulation, Articles 14-21 and 23-31 of the RTS would not apply, and MOPs manufacturers would only need to comply with articles 22 and 32 of the RTS. They consider it would be helpful that the RTS explicitly state that this means no information on the product wrapper would need to be disclosed, and that merely a reference to the information provided by the underlying investment options is sufficient.

A few respondents nevertheless considered that pre-contractual disclosures should disclose the information for each possible combination of the underlying options, in order to provide for accurate and not misleading information to non-professional clients.

On other insurance products:

A few respondents raised some concerns as regard the requirements applicable for unit-linked insurance products, where part of the investment is allocated to a fund chosen by the policyholder and another part to the insurer's collective pool, and for the unit-linked products and requested further guidance.

Some respondents requested further clarity on closed business. They suggested that no product disclosure would apply, including in cases where a customer switches underlying funds, and that website reporting is not required by the product manufacturer.

ESAs' response: The ESAs take note of the comments on multi-option products and portfolios. The ESAs have modified the rules applicable to MOPs, to clarify them. With regard to tailor-made products, the ESAs note that they cannot change the SFDR product scope which makes no differentiation between whether a product is "private" or "public" or whether a product is intended for a single client, according to the products listed in Article 2(12) SFDR. Furthermore, the public website disclosure requirement in Article 10 SFDR makes no provision for password protected disclosure, which by definition is not "public" then. The ESAs have provided a reminder in Recital 36 RTS, however, that website disclosures should respect EU and national rules on confidentiality of information.

With regard to unit-linked insurance products or closed business products, the ESAs did not see a possibility to add specific requirements due to the lack of differentiation in the SFDR definition of products under Article 2(12) SFDR.

**Question 21: While Article 8 SFDR suggests investee companies should have "good governance practices", Article 2(17) SFDR includes specific details for good governance practices for sustainable investment investee companies including "sound management structures, employee relations, remuneration of staff and tax compliance". Should the requirements in the RTS for good governance practices for Article 8 products also capture these elements, bearing in mind Article 8 products may not be undertaking sustainable investments?**

Respondents were almost equally divided between those who agreed that the more stringent Article 9 requirements on good governance disclosure should be applied to Article 8 products and those who disagreed with that proposal.

However, many of the first group of respondents stressed that the most significant reason for a uniform requirement is simplicity, i.e. the need to avoid having two different disclosure regimes, and it is not clear that that group of respondents would agree that the Article 2(17) criteria for good governance practices are the best starting point for a uniform regime. Indeed, many such respondents suggested the alignment of the good governance requirements with existing EU requirements in NFRD or SRD II.

Many of those respondents who disagreed with the proposal noted that it would "gold-plate" Article 8 products, which may not make sustainable investments.

Some respondents disagreed with any criteria or additional specifications at all to be applied to either Article 8 or Article 9 products.

A few respondents suggested that the more detailed Article 9 requirements should only be applied for the sustainable investments of an Article 8 product.

Finally, a few respondents suggested going even further than Article 2(17) criteria for both Article 9 and Article 8 products.

ESAs' response: The ESAs note the evenly divided nature of the stakeholder responses to this question. On balance, the ESAs believe it is better to have the same requirements for good governance for both Article 8 and Article 9 products based on the criteria in Article 2(17).

**Question 22: What are your views on the preliminary proposals on “do not significantly harm” principle disclosures in line with the new empowerment under the taxonomy regulation, which can be found in Recital (33), Articles 16(2), 25, 34(3), 35(3), 38 and 45 in the draft RTS?**

Almost all respondents who responded to the question noted the differences between the Article 2(17) DNSH requirement and the Taxonomy Regulation concept of DNSH and requested that the ESAs were more explicitly linking the two concepts, or clarifying them to the extent possible under their empowerments, and where not possible, the Commission should provide clarity. Several respondents stressed the complexity of the proposed disclosures, especially for retail investors to comprehend.

Most respondents further thought that the requirement to take into account 50 PAI indicators, especially as the ESAs' PAI indicators do not take materiality into account, is an excessive burden for any product wanting to make sustainable investments and could therefore be a significant barrier to the development of Article 9 products.

Most respondents requested that products that are compliant with the environmental taxonomy as set out in the Taxonomy Regulation should not also have to comply with the DNSH disclosures under Article 2(17) SFDR. Some respondents requested that the whole basis of the DNSH disclosures should follow the Taxonomy Regulation activity-based approach, despite the empowerment to the ESAs requiring that the information is "consistent" with the PAI indicators (Article 2a(1) SFDR).

Many respondents also considered that introducing DNSH disclosures for Article 8 products risk confusing investors. In particular, the proposed disclaimer for Article 8 products set out in Article 16(1) RTS was considered sub-optimal.

Draft ESAs' response: The ESAs note the feedback on the preliminary DNSH proposals in the consultation paper. While acknowledging the criticism regarding the link between the DNSH disclosures and the PAI indicators, the ESAs note that the empowerment in Article 2a(1) of SFDR requires the ESAs to make the DNSH disclosures “consistent” with the adverse impact indicators developed by the ESAs under Article 4(6)-(7) SFDR. In light of this empowerment, the ESAs have proposed that DNSH disclosures in the draft RTS should take into account the adverse impact indicators proposed in Annex I of the RTS. Furthermore, the ESAs have proposed an alignment with the same safeguards as those in Article 18 of the Taxonomy Regulation to provide greater coherence between the DNSH provisions in the two regulations.

Furthermore, the ESAs intend to avoid double reporting for EU taxonomy aligned products, which will be further elaborated in the forthcoming taxonomy product RTS consultation paper.

**Question 23: Do you see merit in the ESAs defining widely used ESG investment strategies (such as best-in-class, best-in-universe, exclusions, etc.) and giving financial market participants an opportunity to disclose the use of such strategies, where relevant? If yes, how would you define such widely used strategies?**

While a significant number of respondents saw merit in defining widely used ESG investment strategies, roughly as many did not.

Respondents who did not identify merit in defining widely used ESG investment strategies:

Many respondents did not identify merit in defining widely used ESG investment strategies.

Some highlighted that there was no clear mandate in the level 1 regulation for defining such strategies.

Many respondents considered that defining widely used ESG strategies might have the unintended effect to limit innovative approaches to ESG investment. Some respondents suggested instead that providing examples with a non-exhaustive list of types of strategies could help providing further clarity.

Some respondents consider that the strategies cannot be sufficiently comprehensive to cover all the factors which determine actual strategies. Some added that the widely used ESG investment strategies would not be easily understandable by retail clients.

Some respondents clarified that the widely used ESG investment strategies have been developed and defined by market standards and private standard setters and did not see merit in overlying them by regulatory definitions which would apply in the EU only.

Respondents from the insurance sector clarified that the approach could create an obligation to take adverse impact into account in all investment strategies, possibly creating conflict between the insurers' regulatory obligations and their fiduciary duties to act in the best interest of their clients.

Respondents who identify merit in defining widely used ESG investment strategies

Many respondents see merit in defining widely used ESG investment strategies such as best-in-class, best-in-universe, exclusion based, integration based, engagement investing and impact investing.

Some respondents consider that there has been a rise in terminologies being used to describe various approaches related to sustainability that can be confusing even to more sophisticated investors. They consider useful to give financial market participants the opportunity to disclose the use of such strategies, where relevant, and to allow for comparability among them. They identify such definitions as useful in preventing the risk of mis-selling and greenwashing. One respondent suggested that it would be useful for the European Commission to develop a wide range of pan-European label for both the retail and institutional markets that mirror those strategies.

The respondents who support defining widely used ESG investment strategies identify some challenges, such as in cases where several strategies are combined and potential side-effects such as tick-boxing.

ESAs' response: The ESAs do not believe there is merit, on balance, in including widely used investment strategies in a tick-box style disclosure, due to the evolving nature of sustainability products and terminology.

**Question 24: Do you agree with the approach on the disclosure of financial products' top investments in periodic disclosures as currently set out in Articles 39 and 46 of the draft RTS?**

A number of respondents welcome the approach on the disclosure of financial products' top investments in periodic disclosures, or did not request specific changes, while most respondents requested changes. A few respondents welcomed the approach, favouring higher thresholds and more constraining standards. Some respondents considered that in some cases the top 25 investments could potentially cover only a small proportion of the total investments of the financial products.

Some respondents acknowledged that in several countries, such disclosures are already available and consequently do not consider that these disclosures would be particularly burdensome.

Many respondents, while agreeing with the general approach, considered that the disclosure should be made in a way which is consistent with the sectoral information. For funds, for example, the annual report includes a full inventory of the fund assets on the closing date of the reporting period. Many respondents suggested for the requirements to be aligned with UCITS and AIFMD. Several respondents consider that the risk that asset managers change the composition of funds before the closing date to improve the disclosures is limited because of related transactions costs. Some of them suggested that when reporting at a closing date, firms should disclose any material changes in the top 25 investments during the reference period together with a rationale for these changes.

Many respondents believed that the current practice by investment funds of providing monthly disclosures on the 10 top performing investments is enough.

Some respondents, notably from the insurance sector, consider that reporting on top investments might not be possible due to confidentiality agreements

Some respondents clarified that it is necessary to add some information in order to make information more meaningful for the end investors. Some respondents consider that disclosing the sector and the geographical location is more useful for investors, while 1 respondent suggests that the list might be classified by economic activity rather than by sector in order to be aligned with the taxonomy. One respondent suggests including whether each of the top investments are classified as sustainable. On the contrary, some respondents consider that providing information on sector or location may be seen by market participants as compromising proprietary investment strategies.

ESAs' response: The ESAs note the many helpful responses received and believe it is merited to keep the top holding disclosure as a useful information item for investors but to reduce the top holding disclosure requirement from 25 to 15.

**Question 25:**

**For each of the following four elements, please indicate whether you believe it is better to include the item in the pre-contractual or the website disclosures for financial products? Please explain your reasoning.**

- a) an indication of any commitment of a minimum reduction rate of the investments (sometimes referred to as the “investable universe”) considered prior to the application of the investment strategy – in the draft RTS below it is in the pre-contractual disclosure Articles 17(b) and 26(b);**
- b) a short description of the policy to assess good governance practices of the investee companies – in the draft RTS below it is in pre-contractual disclosure Articles 17(c) and 26(c);**
- c) a description of the limitations to (1) methodologies and (2) data sources and how such limitations do not affect the attainment of any environmental or social characteristics or sustainable investment objective of the financial product – in the draft RTS below it is in the website disclosure under Article 34(1)(k) and Article 35(1)(k); and**
- d) a reference to whether data sources are external or internal and in what proportions – not currently reflected in the draft RTS but could complement the pre-contractual disclosures under Article 17.**

Slightly fewer respondents favoured the pre-contractual disclosure, rather than the website disclosure, as regards the item a (indication of any commitment of a minimum reduction rate of the investments considered prior to the application of the investment strategy). Please refer to the chart below.

A majority of respondents favoured the website disclosure, rather than the pre-contractual disclosure for the three other items b. Please refer to the chart below.

A few respondents suggested to use the periodic report or annual responsible investment report or suggested to use both the pre-contractual and website disclosures.

Many respondents considered that when the information is subject to frequent changes or uncertain at the time of a product launch, it is preferable to publish on the website. Many respondents also considered preferable to provide investors with succinct pre-contractual information, while providing some longer descriptions to the website. On the contrary, a good number of respondents considered useful to provide a readily comprehensive documentation in the pre-contractual documentation. They notably considered this information to be more subject to legal safeguards.

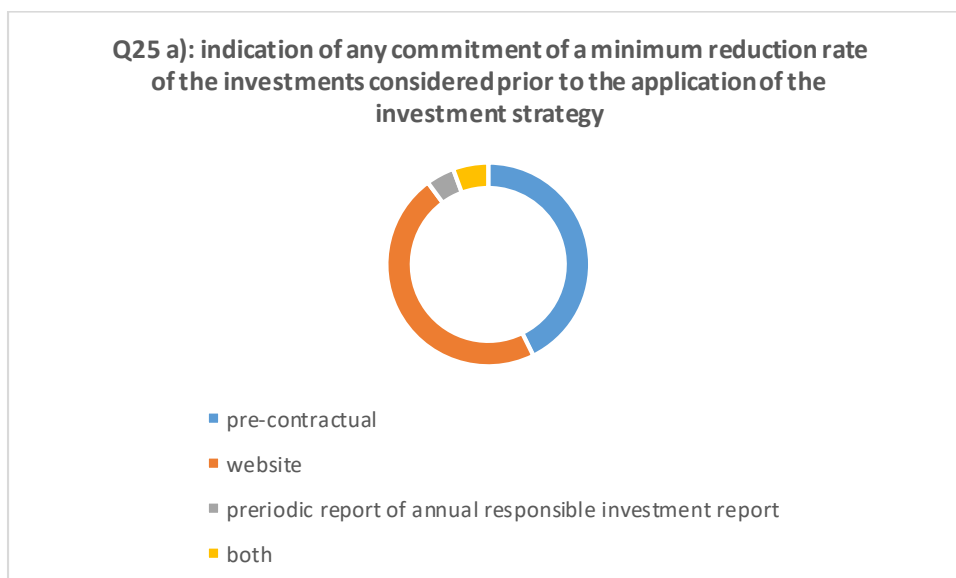
Most respondents from the insurance sector considered that, while all elements (a, b, c and d) listed should be provided to consumers, they are already included in various existing mandatory disclosures and it would be better to refer to the website disclosures. They notably highlighted that insurance undertakings hold “several hundred thousand” investments. They believe that complex information is more easily accessible for the user if it is provided on a website than if it is part of an extensive patchwork of different information provided on paper or another durable medium.

Several respondents considered that disclosures on websites should be avoided for discretionary managed portfolios as such portfolios are in many cases made for individual clients and a disclosure on websites might allow identifying the clients.

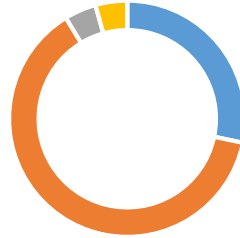
As regard the item a), several respondents considered that it should be an optional disclosure as they considered as it depends on the investment strategy, some considered that such disclosure should be voluntary as it depends on the offering terms of a product. Some respondents also consider that it is not identifiable prior to the application of the investment strategy. Some respondents clarified that this item should be part of the pre-contractual disclosure as it relates to details which are relevant at a product level, contrary to other criteria which are relating to firm-wide policies and practices.

Several respondents considered that the assumption according to which any financial product relying on an exclusion strategy should have a minimum reduction commitment in place might raise issues related to investor protection as such reduction of eligible investments would reduce the risk diversification opportunities. They also clarify that most firms apply exclusion criteria that are based on qualitative considerations of certain environmental or social factors, but not in terms of investable assets. One respondent suggested changing Recital 24 in order to make clear that exclusions are part of the investment strategy from the outset.

One respondent considers that the basic figures for non-financial information comes from the companies invested in and are from this point of view external. From their point of view, it is therefore less interesting whether data come from internal or external sources, but rather whether these data are reported or estimated and whether these data are externally verified or only self-reported.

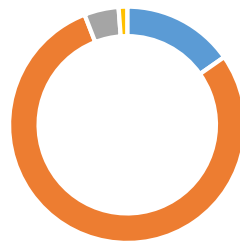


**Q25 b): short description of the policy to assess good governance practices of the investee companies**



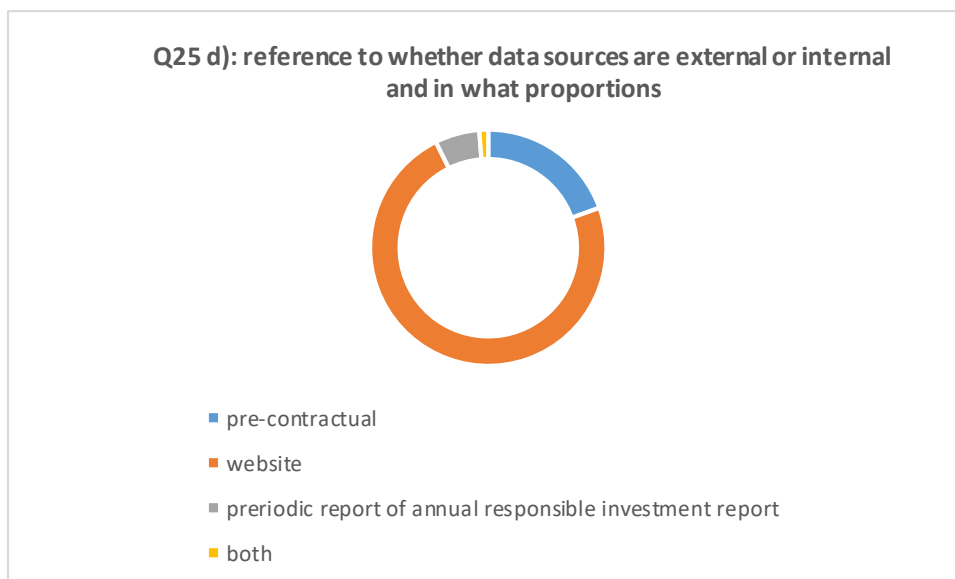
- pre-contractual
- website
- periodic report of annual responsible investment report
- both

**Q25 c): description of the limitations to methodologies and data sources**



- pre-contractual
- website
- periodic report of annual responsible investment report
- both





ESAs' response: On balance the ESAs believe the stakeholder feedback justifies retaining the balance of disclosures between pre-contractual and website as presented in the consultation paper with some minor modifications.

**Question 26: Is it better to include a separate section on information on how the use of derivatives meets each of the environmental or social characteristics or sustainable investment objectives promoted by the financial product, as in the below draft RTS under Article 19 and article 28, or would it be better to integrate this section with the graphical and narrative explanation of the investment proportions under Article 15(2) and 24(2)?**

Respondents provided a wide variety of responses. While sixteen respondents favoured including a separate section on information on how the use of derivatives meets each of the environmental and social characteristics or sustainable investment objectives promoted by the financial product, 39 respondents considered it better to integrate this section with the graphical and narrative explanation of the investment proportions. Among the respondents who were in favour of providing a separate section, some considered that no graphical explanations should be provided for derivatives.

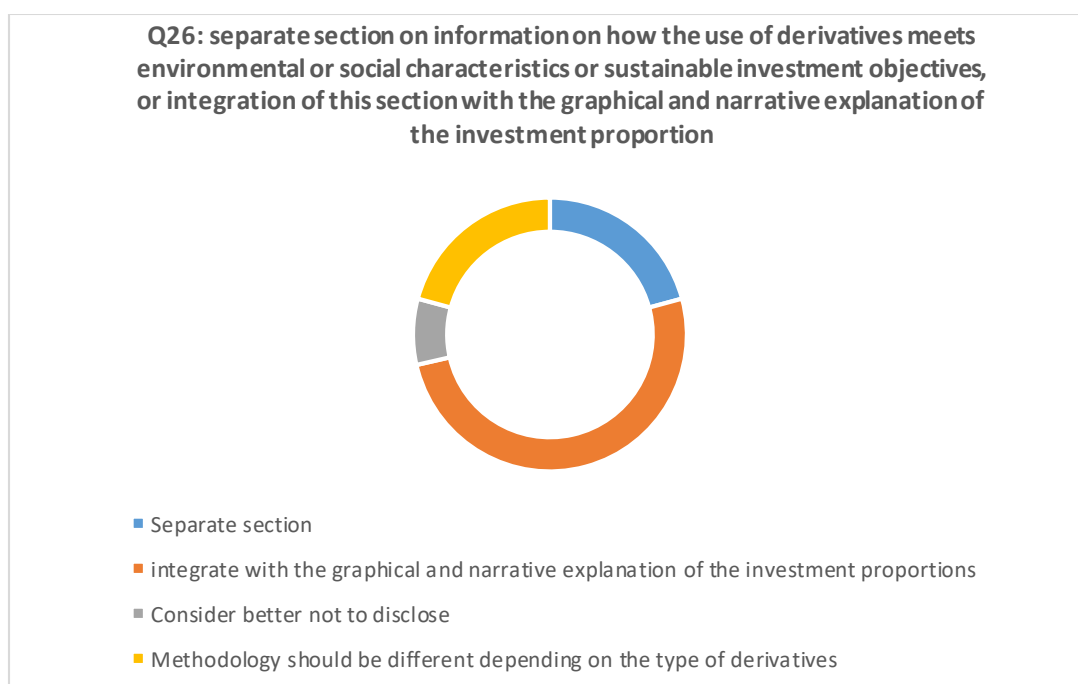
Besides those respondents which expressed a clear choice, five respondents preferred not to disclose on the use of derivatives and sixteen respondents preferred the methodology used to be different depending on the use of derivatives. Some respondents considered that both options were valuable depending on whether derivatives are used for efficient portfolio management or whether derivatives are used as a core instrument to attain a sustainable characteristic or objective.

Many respondents welcomed clarifications regarding the conditions under which the use of derivatives could be considered sustainable and requested further guidance on the way to report according to the types of derivatives.

Many respondents highlighted that derivatives may be used in ways not clearly linked to the sustainable objectives of the product (e.g. to hedge currency or interest rate risk). These types of derivatives would not

be categorised as “sustainable investments” as they would not meet the environmental and sustainable characteristics of a product. Therefore, some respondents consider that including them in the graphical and narrative explanations of the sustainable investment objectives of the financial product could mislead investors. Some respondents suggested that financial market participants might clarify that derivatives are not connected to the ESG characteristics, where this is the case, and what is their purpose. Some respondents also suggested that derivatives used for such purposes which do not have negative impacts on ESG or sustainable characteristics should be excluded from the calculations of ESG or sustainable investments proportions.

Some respondents from the insurance sector did not see the need to have a separate section as the usage of derivatives was already governed by the Solvency II Directive, which provides that the use of derivative instruments shall be possible only insofar as they contribute to a reduction of risks or facilitate efficient portfolio management.



ESAs’ response: The ESAs acknowledge the feedback and have decided that the disclosure of derivatives should be limited to where they are used for speculative purposes to achieve the sustainability characteristic or objective of the financial product.

**Question 27 Do you have any views regarding the preliminary impact assessments? Can you provide more granular examples of costs associated with the policy options?**

Most respondents (around 55%) did not reply to this question and, when they did, they did not provide preliminary impact assessments. Only a few respondents provided numerical estimates.

The vast majority of respondents that did reply to the question acknowledged that the ESAs' proposal is expected to entail high implementing and operating costs for financial market participants. A number of respondents questioned the reference to a cost estimate provided by the European Commission's impact assessment of the Action Plan on Sustainable Finance.

Many of the respondents noted that the data required to calculate the PAI indicators is not widely available and that they would need to be obtained within a very short timeframe either directly from issuers (sometimes based on estimates) or purchased from a limited number of commercial data providers that have significant market power. Notwithstanding potential improvements that new regulatory requirements may bring, they are likely to take some time to become fully effective. For these reasons, respondents call for a phased approach, giving time to the markets to adjust and develop the necessary tools and for a closer link between the requirements of the RTS and the scope and information requirements under the forthcoming revised NFRD, which is currently considered by policymakers as the main tool for sustainability disclosures by investee companies.

At any rate, analysing the comprehensive disclosures and "producing"/"calculating" the PAI was seen to require additional costs, including obtaining data from investee companies or data providers, developing in-house analytical capabilities, additional headcount, IT-investments to account for new datasets/reporting requirements, etc.), particularly for small and medium-sized financial market participants.

The costs associated with disclosing adverse impacts at entity level were considered disproportionate in relation to its likely usefulness to investors. The cost of implementing the proposed framework was considered out of reach for most small financial market participants and could act as a barrier to entry. Some respondents expressed concerns over the risks of creating an unlevel playing field between smaller and larger financial market participants. Also, the promotion of Article 8 or 9 products may be hampered due to the increased costs involved and/or because such costs may be passed on to investors, hence affecting the return and overall attractiveness of such products.

Nonetheless, some respondents fully supported the approach of the ESAs or supported even more ambitious options.

ESAs' response: The ESAs take note of the comments by financial market participant respondents regarding the potential costs of implementing the rules in the RTS. On PAI reporting, the ESAs stress that the reporting framework is already "comply or explain" for most financial market participants. The ESAs have also decided to reduce the number of mandatory indicators in Table 1 of the Annex. On the product rules, the ESAs stress that the requirements only apply to products falling under those categories and are designed to reduce greenwashing, not to "promote" new sustainable products. The ESAs remind all stakeholders of the overriding objectives of SFDR, which are to reduce greenwashing and to provide comparable sustainability reporting to investors.

**EIOPA**

**Occupational Pensions Stakeholder Group (OPSG) and the Insurance and  
Reinsurance Stakeholder Group (IRSG)**

Reply form for the Joint Consultation on ESG Disclosures

## General information about respondent

Name of the company / organisation EIOPA Insurance and Reinsurance Stakeholder Group and EIOPA Occupational Pensions Stakeholder Group

### Introduction

***Please make your introductory comments below, if any:***

The purpose and rationale for new ESG related disclosures is highly welcome and the aim to fasten the EU development in different ways to more sustainable path is critical and very important. In order to achieve this goal it is also key to find the right steps. Therefore these few aspects needs to be taken carefully into account.

We share the overall goal of making investment more transparent and facilitate informed decisions by retail clients. Therefore, we support standardisation, however, at the same time we see a need of flexible approach and adequate implementation timeline. In the interest of clarity and cost reduction (primarily IT), the transition has to allow companies to align in a progressive way to also avoid a box-ticking approach. As a fall back option, we would suggest limiting the number of mandatory indicators to 5 or 10, for instance. An incremental approach toward this goal is recommended to achieve a real transparency and not more confusion (overload/duplication) for customers and allow technical feasibility for issuers/asset owner/asset managers. Whilst we support and sympathise with the spirit of this proposal, the practicability and current capability to meet them needs to be given further consideration. All disclosures should be technically feasible and adequately consider existing issues with ESG data quality and availability.

Much of the Annex 1 details are not yet possible on a fund by fund basis as global corporate disclosure is itself not pervasive enough. In other words, there will be a huge number of null responses.

The Commission needs to tie the application of this into the review of the effectiveness of the non-financial reporting directive, as well as the shareholder rights directive and choreograph a longer term and more phased approach accordingly. The RTS proposal is not consistent with the level of corporate disclosure regarding the sustainability indicators in the adverse impact template, so would need to wait for the NFRD revisions to bed in before becoming meaningful

We are also concerned that it plays into the hands of the data providers and ratings agencies who have achieved oligopolistic pricing power, which could materially impact fees and hence customer costs. This is an important issue as is the lack of transparency and comparability between ESG ratings (if they are to be used as indicators by firms). Also, these additional disclosures and costs will potentially mean that sustainable products become more expensive for product manufacturers and for larger firms who do not have the "explain" option within the comply or explain regime. If these are either passed on to the customer, or lead to product fees being higher for sustainable products which could affect long term performance and undermine the growth of sustainable product options.

We would also question whether there is client demand for data at this scale. The disclosures are very technical, so whilst they are likely to help in the avoidance of greenwashing, in terms of how useful they will be for customers, particularly retail customers, it is likely to be more confusing. Also, at a firm level, the aggregation of portfolios will mean that the indicators are not necessarily reflective of the firm's sustainability credentials.

The consumer angle is important and should be the main focus of the work. Not all financial companies have shareholders or other important stakeholders which would require ESG related disclosures, taking for example the mutual insurers. But consumers are important for all players in the financial industry and therefore that should be the main focus to weight the different new requirements for ESG disclosures. Information provided under SFDR needs to be understandable and as simple as possible. This is important for decisions making when buying new products and for building trust between customers and product manufacturers. Then there might be additional needs when it comes to shareholders or new investors but this should not be a mandatory requirement for every and all financial companies. When setting these new requirements for ESG reporting, it is crucial to have a holistic understanding of the abilities the wide range of companies, communities and investment structures have on reporting any of their activities on ESG related measures. If the underlying sector, to where the financial sector investments are directed, is not able to provide this new ESG information, then the financial sector does not have that ability either. Also if it will be required that the financial sector provides very detailed information but needs to have own proxies in creating it then a major risk will be the credibility of such disclosures. And when not credible, it might even ruin the ultimate goal set in the first place.

The entity-level disclosures should better consider materiality of adverse impacts and the current issues with the availability of ESG data, while providing more clarity with respect to the definitions and the scope of the disclosures.

The adverse impacts may paint a negative picture, when some firms are likely to be prioritising transition and impact. Investing in high emitting companies and using stewardship to encourage them to set meaningful and measurable pathways to net zero may be one of the most impactful approaches that an asset owner or asset manager can take, but would likely lead to significant negative impacts in the short term. Trajectories and transition plans may be more important than "moment in time" indicators.

The Level 1 regulation (article 4(2)) asks for disclosure of information on policies to identify and prioritise adverse impacts, and the actions taken and engagement policies. The RTS seem to focus on the disclosure of the indicators, not the policies for identifying, prioritising and mitigating the impacts. The proposed approach focuses on the actions of underlying investee companies but it does not sufficiently consider the actions of the financial market participants.

The indicators should be designed to be consistent with the approach of the taxonomy regulation to avoid the risk of a two-tier approach developing. A principles-based disclosure against the objectives of the taxonomy, for example, might work better at firm level, with greater detail at product level. It is worth bearing in mind importance of data credibility.

As regards the disclosures for the two types of sustainable product, it would be useful for firms (and national competent authorities) to have more guidance on which type of product should sit in which category. It is also not clear how these extensive sustainability disclosures would fit within the space constraints of a PRIIP KID or UCITS KIID, and how sustainability risks are not going to be over-emphasised as against other risks of a product.

In summary, we are 100% behind the spirit of enhanced transparency and improved sharing of information on investment impact. We need something much more practicable, longer term and more focussed on financial market participants' own investment impact via engagement, rather than simply that of the underlying companies at a point in time. In that respect, we must keep in mind that fund managers are not in full control of engagement outcomes and eventually it is the company's management that takes ultimate decision, especially in companies with very dispersed ownership. This should be less about how any one company performs at a moment of time, and more about how it improves and supports transition.

There is a risk that the RTS become too prescriptive and result in overly complex consumer information. The use of mandatory pre-contractual and periodic templates in particular should be avoided to allow for a degree of flexibility in implementation at national level and across various product types. The RTS should focus only

on what information needs to be disclosed rather than being too prescriptive on the form of these disclosures in order to avoid a repeat of the problems we are seeing now with PRIIPs.

We are fully aware of steps undertaken by the European Commission. However we would like to stress that transition period is crucial in this regard. As first step, some the members suggest to publish the already existing ESG investment policies and criteria, and metrics of implementations (i.e. how many issuers have been excluded, on what criteria, engagement and voting activities, etc). Standardised indicators on adverse impacts should remain voluntary for a transitional period, until non-financial reporting standards are sufficiently defined to allow financial market participants to have access to ESG information to comply with the RTS.

The indicators in the final RTS corresponding to Chapter II and Annex I should eventually be part of the Non Financial Disclosure framework and should be audited, to make sure investors' and retail customers' view is based on solid and reliable data.

Questions from the ESAs are highlighted in **bold**

- **Do you agree with the approach proposed in Chapter II and Annex I – where the indicators in Table 1 always lead to principal adverse impacts irrespective of the value of the metrics, requiring consistent disclosure, and the indicators in Table 2 and 3 are subject to an “opt-in” regime for disclosure?**

When setting these new requirements for ESG reporting its crucial to have a holistic understanding of the abilities the wide range of companies, communities and investment structures have on reporting any of their activities on ESG related measures. If the underlying sector, to where the financial sector investments are directed, is not able to provide this new ESG information, then the financial sector does not have that ability either. Also if it will be required that the financial sector provides very detailed information but needs to have own proxies in creating it then a major risk will be the credibility of such disclosures. And when not credible, it might even ruin the ultimate goal set in the first place.

The consumer angle is important and should be the main focus of the work. Not all financial companies have shareholders or other important stakeholders which would require ESG related disclosures, taking for example the mutual insurers. But consumers are important for all players in the financial industry and therefore that should be the main focus to weight the different new requirements for ESG disclosures. Needs to be understandable or even simple, important for decisions making when buying new products and binding for the company selling the product so that trust can emerge. Then there might be additional needs when it comes to shareholders or new investors but this should not be a mandatory requirement for every and all financial companies.

Members support the EU sustainability objectives and welcome the ESAs work on ESG disclosures as a further step towards increased transparency in sustainable investing - members acknowledge that the financial industry has an important role to play in this. It is important that the ESAs work reflects both market reality and the parallel policy developments on sustainable finance, including the revision of the NFRD and the development of the Taxonomy for sustainable economic activities. It is therefore important to make a close link to the taxonomy in order to be able to efficiently use it to define sustainable finance.

We welcome the EU COM objective to make the economy more sustainable. However, it should be noted that this process needs to be coherent with ongoing policy developments on sustainable finance and market reality. In this respect, some of the members find the approach taken in the draft RTS and in the proposed level of standardization is premature and requires a detail of disclosures that is not consistent with available market information. In addition, it risks putting an extreme pressure on financial market participants, without delivering sufficient benefits for users of this information. While they are fully aware of the role of disclosures, they'd like to encourage the ESAs to adopt a more flexible approach - at least until related legislation has been finalized

(e.g. Taxonomy Regulation, Review of the Non-Financial Reporting Directive (NFRD)) and to better take into account the following implementation challenges:

- **Clarity of definitions:** I believe that the ESAs should elaborate on the concept of adverse impact, before proposing a long list of mandatory indicators to measure it. Transparency of adverse impacts at entity level requires a common understanding of what needs to be measured if financial market participants are expected to identify and report on principal adverse impacts (PAI).
- **Materiality:** proposed PAI disclosures should better take into account materiality based on severity and likelihood of the impacts. The draft RTS link the concept of adverse sustainability impacts to a risk dimension. However, the draft RTS appear to prioritize standardization over a risk-based approach. An assessment of the principal adverse impacts (PAI) should take into account the likelihood and the severity of a risk materializing, which is strongly dependent on entity-specific portfolios. The assumption that all investment processes lead to principal adverse impacts is not justified. In practice, while standardization is relevant to the presentation and harmonization of indicators, not all proposed indicators may be relevant for a given entity or portfolio (e.g. a deforestation policy is not necessarily needed for a tech company and a workplace accident prevention policy is not key for the financial industry). In addition, financial market players are better placed to assess what impacts are principal. The need for standardisation should not come at the expense of a risk-based approach as not all investments are likely to be relevant with regard to adverse impacts. Therefore, they are supportive of the approach proposed under article 6(d) to consider adverse impact qualifying as principal. They find that this is most appropriate to account for materiality based on severity and frequency of occurrences in a given investment portfolio, as recognised by the ESAs in recital 5.
- **Information and data:** all indicators should be technically feasible and adequately consider existing issues with ESG data quality and availability. Currently ESG data is not readily available or robust at the level of investee companies to allow meaningful quantitative disclosures as prescribed in the draft RTS. While guidance is helpful for financial market participants, the proposals of the draft RTS on quantitative indicators are premature with respect to the level of requested standardisation, without being justified by sufficient benefits for users of this information. Ensuring the correct sequencing is of the utmost importance to ensure all the elements are in place. Therefore, I believe that the ESAs should consider a transitional approach for the disclosure of quantitative indicators, in line with the availability of necessary ESG data by investee companies. In addition, I note that disclosures based on qualitative indicators could be even more meaningful than quantitative indicators, especially when data coverage for the latter is insufficient. All indicators should be technically feasible and adequately consider existing issues with ESG data quality and availability. Therefore, while we appreciate guidance on presentation of existing adverse sustainability impacts, proposed indicators should not be mandatory at this stage unless ESG data necessary to produce indicators is available in a standardized electronic format that facilitates access and minimizes the cost for investors and other users of the information. At present, such ESG-related data (and even less so for adverse impacts) is not readily available or sufficiently reliable for most indicators at the level of investee companies to be disclosed with the level of precision proposed in the draft RTS. Also, information received by investee companies can be of poor quality, while that provided by ESG data providers is often inconsistent. This issue is exacerbated by the global nature of investment portfolios. To assure that required data on adverse impacts is readily available and sufficiently reliable, comparable and standardized, it needs to be consistent with the to be reported data in the context of the review of the NFRD. In this context we would clearly ask for a centralized, open access, free of charge EU data register.
- **Scope:** Proper consideration of all asset classes is key to deliver a meaningful picture of PAI. I therefore would invite the ESAs to explain how to consider these asset classes and test their proposed approach with a real portfolio. In view of the wide range of asset classes in investment portfolios, I believe that more guidance is needed on how various asset classes should be considered to identify and report on the PAI. Specifically, the ESAs approach appears to focus on equity and corporate bonds, but it does not



seem to give the right consideration to other asset classes such as real estate, sovereign bonds or derivatives, which can represent a big portfolio proportion in an insurer's portfolio. The RTS suggests that financial market participants should report PAI for all their investments. When the investment is outsourced, it needs to be clear that the investment company should provide necessary information for aggregation at entity level by the financial market participant. In this respect, the ESAs should consider adequate timing for financial market participants to receive necessary PAI information for their indirect investment.

In line with the above, proposed mandatory PAI indicators need to be consistent with the availability of ESG data to comply with proposed disclosures. Therefore, I believe the requirements of the RTS should be linked with the scope of the revised NFRD, which is currently considered by policymakers as the main tool for ESG disclosures by investee companies. Consistency will also ensure investors have all the data they need to comply efficiently and consistently with the Regulation.

- **Consistency of legislation:** Proposed legislation should be coherent and consistent with related policy developments. Concretely, the approaches for determining the criteria and indicators of “do not substantially harm” (DNSH) principle of the Taxonomy regulation and the “principal adverse impacts” (PAI) should be largely coherent. For example, if the taxonomy DNSH for mitigation uses greenhouse gas emissions, then the PAI should use greenhouse gas emissions rather than an alternative measure of mitigation. Consistency of legislation: Proposed legislation should be coherent and consistent with related policy developments, while avoiding contradictions and allowing proposed disclosures to remain sufficiently stable over time. In this respect, the link between the Taxonomy Regulation and the RTS on the Disclosure Regulation should be better clarified. In practice, the proposed disclosure regime should better consider upcoming work under the taxonomy framework, i.e. the RTS regarding the “do not significantly harm” (DNSH) principle. As the DNSH and the “principal adverse impacts” (PAI) pursue the same regulatory objectives, i.e. they are intended to avoid “significant adverse effects” on the environmental objectives of the Taxonomy and on sustainable investments of the SFRD, they should be largely consistent and, where relevant, use the same approaches for determining their criteria and indicators. For example, if the taxonomy bases the DNSH for mitigation on greenhouse gas emissions, then the PAI should prefer greenhouse gas emissions to alternative measures of PAI related to mitigation. This would avoid confusion for all information users/providers and it would be more consistent from a data perspective. Similarly, data needed for the requested indicators should also be compatible with the Benchmark Regulation as well as with ESG data under the NFRD.
- **Timing:** The Regulation will apply from 10 March 2021, likely before the related, final Level 2 measures are adopted. I believe that the proposal of the ESAs should better consider the resulting compliance challenges and liability risks for market players, as well as confusion for investors. For example, a phased-in approach could facilitate the implementation of the RTS. The Regulation will apply from 10 March 2021. However, the Regulation is very likely to become applicable before the related, final Level 2 measures are even adopted, thus creating significant compliance challenges and liability risks for market players, as well as confusion for investors. Moreover, the timing of the application of the RTS should consider that the ongoing NFRD review has the objective to better standardize non-financial information. We are concerned about the risk to start reporting on a first list of indicators that will change in the coming years, while the EFRAG will propose new standardized non-financial indicators (in the context of the NFRD review).
- **Benefit for consumers and other users of non-financial information:** Financial illiteracy, complexity and information overload are obstacles to good disclosures. I would encourage the ESAs to take due account of the needs and limitations of consumers and other users of ESG information. Financial illiteracy, complexity and information overload are three well-known obstacles for good consumer disclosure. It is key that the ESAs take due account about the needs and limitations of consumers and other users of non-financial information.

- **Scope:** In view of the very broad diversification and wide range of asset classes within an insurer's portfolio, it is necessary to clarify which asset classes should be taken into account to identify and report on the PAI (incl. clarification on how derivatives should be taken into account). Further, we suggest more flexibility for the general account of insurers, i.e. a minimum investment threshold (such that minor holdings in companies are out of scope, as well as investments into companies which do not need to report along the NFRD e.g. SMEs).

Given the above-mentioned challenges, some members believe that the mandatory indicators in Table 1 should remain voluntary at this stage, to be disclosed depending on materiality considerations. They also note that financial market participants should be allowed to disclose PAI information based on a "reasonable effort principle" and based on the share of their portfolio for which information is available. An alternative could be to set a minimum basis of indicators that can be considered as key and in line with the taxonomy so far.

Some members think that it will be useful for process of the assessment of principal adverse sustainability impacts to consider a number of qualitative indicators in addition to the quantitative indicators. Qualitative indicators are needed to capture impacts that are important and cannot be quantified, especially those regarding social issues and employees, respect for human rights, anti-corruption and anti-bribery matters. There was also a voice that those indicators may lead to principal adverse impacts, but only when applied to products based on a specific company. However there are several products based on indices and in such a case those adverse impacts may remain hidden.

It should strengthen once more that the purpose and rationale for new ESG related disclosures is highly welcomed and the aim to fasten the EU development in different ways to more sustainable path is critical and very important.

- **Does the approach laid out in Chapter II and Annex I, take sufficiently into account the size, nature, and scale of financial market participants activities and the type of products they make available?**

Some member believes that the RTS should better account for different sizes, nature and scale of financial market participants activities, as well as the required proportionality approach of the SFDR. Specifically, they believe that:

- The ESAs should consider the possibility of differentiating between size, nature, and scale of financial market participants activities to ensure that requirements are proportional and feasible. In fact, ESG disclosures should not become a barrier for small-sized players, nor should they force such players to rely on third party data providers to get access to ESG data.
- Financial market participants should have sufficient flexibility in implementing proposed requirements in line with their specific investment portfolios. A certain degree of discretion could result in more practical and cost-effective disclosures, without reduced information value for consumers.
- Proposed disclosures should consider upcoming work on sustainable finance under the taxonomy framework and the review of the NFRD. This will ensure stability of disclosures and will facilitate implementation, especially for small-sized financial market participants.

Consideration of size, nature, and scale of financial advisors' activities needs better consideration in the draft RTS. As a large part of insurance distributors are SMEs or individuals, proposals for financial advisers should not just duplicate the requirements for financial market players. In this respect, I agree with article 4 (5) a) of the SFDR and highlight that Article 12 of the RTS does not appear to follow the same proportional approach of the Regulation on this point. Finally, when financial advisors do not have a website, the requirements should not impose on them to have one in order to publish ESG disclosures.

Other member emphasized that Annex I is a too extensive and daunting list of indicators covering relevant aspects for financial market, but will almost inevitably be too long for some economic activities to be evaluated. A suggestion is to select a core set of indicators, which all activities must look at and a secondary set, which may be used accordingly for each type of economic activities, depending on financial product details and design. The set should be comprehensive and complete, but at the same time minimal and decomposable. For example, "total carbon emissions", "carbon footprint", "carbon intensity" involve some complexity regarding investee company's Scope 1, 2 and 3 carbon emission. Also worth adding the consideration around the overall emission consideration against the ones linked to specific projects that maybe specifically relevant for certain assets. Because of the complexity involved, this will be extremely difficult for analysis and deciding, when choosing to invest regarding the preferences for consequences on climate and environment and the investor judgments about relevant possibly and/or uncertain events. A solution can be that complex indicators to be broken down into parts involving a smaller number of indicators.

There was also a voice stressing the point that they are not appropriate to complex products, especially those based on so called "ESG indices"

One member thinks it seems to be too detailed and less reporting should be required. Also those companies that don't have shareholders or even un-listed companies might have less requirement for reporting of this level of details. Those players should be included in the scope as much as SMEs.

- **: If you do not agree with the approach in Chapter II and Annex I, is there another way to ensure sufficiently comparable disclosure against key indicators?**

Some member notes that the ESAs approach is heavily oriented towards quantitative indicators and believes that standardisation can be achieved also via the use of qualitative information, especially for the social aspects of PAI. Given the reliance of the ESAs approach on quantitative sustainability data, which is unavailable or inconsistent, related disclosures risk being of poor quality and meaning. For ESG disclosures to be feasible and comparable, ESG data necessary for compliance with the SFDR should be made available by investee companies and publicly reported in line with the reviewed NFRD, possibly in a standardised and electronic format under a centralised, public EU ESG data register. This would minimise the burden for investors and for companies reporting non-financial information, while providing good comparability of information.

The same member acknowledges that the ESAs recognise in Article 7(2) that there are cases when ESG information is not available or cannot be obtained, but I believe that the proposed solution does not adequately respond to the real compliance challenges for financial market participants. Therefore, the member would encourage the ESAs to consider a transitional approach aimed at allowing gradual implementation of comparable and meaningful disclosures by financial market participants.

Specifically, the member would encourage the ESAs to consider the following:

- The adverse impact indicators as defined in Table 1 should remain voluntary for a transitional period and based on "reasonable effort", until non-financial reporting standards are sufficiently defined (in view of the review of the NFRD).
- PAI disclosures should primarily be based on materiality considerations. Financial market participants should assess the materiality of adverse impact and disclose it based on such assessment. Only at a later stage, on the condition these indicators have been standardised under the revision of the NFRD, a selection of indicators could become mandatory, independently of the results of the materiality assessment run by the financial market participant.
- Not all investments are likely to be relevant with regard to adverse impacts. Therefore, the ESAs should allow financial market participants to disclose PAI focusing on the most material holdings.

This approach would allow financial market participants to disclose quantitative PAI indicators when they are meaningful, avoiding that these obligations become a tick the box exercise and are of limited benefit to users of sustainability-related information.

The other member notes that yet, there are no international accounting standards for ESG data, comparability, verification and audit approaches remain inconsistent. It is echoed by other members, who think there should be a lot more judgement left for the industry to provide reporting that would bring the important aspects out for their key stakeholders. For instance qualitative information might be used more and also insurers could provide scenarios through their ORSA reports and even publish some of the key results. This would allow insurers to make a holistic overview of the ESG factor and their impact.

We are aware of steps undertaken by the European Commission. However we would like to stress that in case of products based on indices there should be a condition stating that so called “ESG index” cannot be called as such if all indicators are not calculated for a bunch of all companies included in that specific index, with a direct indication, which specific company creates such an adverse impact – e.g. if a “black” or “brown” energy company is not excluded totally from that index, or is not specified directly with exact adverse impacts, such an index cannot be called an “ESG index”.

- : **Do you have any views on the reporting template provided in Table 1 of Annex I?**

Different members express their opinion

- **Summary:** The summary section required under Article 5(1)(d) does not provide additional information in its current form and should be removed. As an alternative, it should be the only piece of information to be disclosed. As it stands, the summary is a duplication of the more detailed information already required to be disclosed.
- **Description of principal adverse sustainability impacts:**
  - The identified 32 proposed mandatory indicators of adverse impacts are not principal for all financial market participants under the meaning of PAI outlined in the SFDR. Instead, financial market participants should identify the most relevant indicators based on materiality assessment and a risk-based prioritisation. The member supports transparent disclosures and fully understand the importance to assess investment portfolio against EC sustainability objectives, but the need for standardisation should not lead to an excessively burdensome approach for market participants, especially without proof of material benefits for information users.
  - The member notes that more clarity is needed regarding what some indicators are trying to capture. Some may not be informative or even relevant at portfolio level, while others will only reflect the size and/or composition of the investment portfolio, not the PAI.

There was also a remark that if definition of ‘water emissions’ is amount of specific pollutants by weight held within water discharges, it is unlikely that investee companies would be tracking this and be able to provide data. Very few companies are disclosing this level of granularity neither on an aggregate nor facility level. Therefore the ability of an Financial institution being able to disclose this data on a portfolio basis will be extremely limited. Other indicators for consideration: “Exposure to companies without any active midterm water pollution reduction targets”

Care not to drive divestment from areas of stress! There is a risk associated with the disclosure of data tied to “areas of high water stress” that must be managed - the risk that it may signal a desire to divest from these areas when in fact, these are the areas where investment and development are often greatly needed. Guidance should be provided with signposts to innovation.

This indicator could be further refined as follows: “%/volume of water consumed from areas of high water stress” OR “%/volume of water withdrawn from non-renewable sources”

Other indicators for consideration: “Exposure to high impact companies without any active mid-term water consumption reduction targets”; “Exposure to companies that have not achieved reductions in water consumption in the past three years”. : Note that not all discharge from all industry activities would need to be treated

Table 2:

5. Water usage: Total amount of water consumed and reclaimed, broken down per sector where relevant: Need to define “consumed” and “reclaimed”

6. Water recycled and reused: There is no standard approach to defining recycling and reuse. Also recycling and reuse activities are not appropriate/technical relevant for all activities. Impossible to benchmark.

7. Investing in companies without water management initiatives: This term is very broad and would need to be defined or limited to “without freshwater consumption reduction targets”

- **Description of policies to identify and prioritise principal adverse sustainability impacts:** Some members consider this information as appropriate for publication on the website and appreciate the fact that Article 7(2) accounts for cases when information might not be obtained from investee companies. To make sure that market participants are not pressured to disclose unreliable information, the adoption of a “reasonable efforts” is suggested as a wording for Article 7.
- **Description of actions to address principal adverse sustainability impacts:**
  - The member encourages the ESAs to maintain the wording of the Regulation and to add the following wording in Article 8: *“The section referred to in point (d) of Article 4(2) shall contain the following information, where relevant.”*
  - The member also finds that the level of detail for tracking actions taken to reduce adverse impacts is excessive and prone to window-dressing as the effectiveness of some actions may be difficult to measure or subjective. Therefore, I would invite the ESAs to limit disclosures to robust evidence and concrete actions.
- **Engagement policies:** The member considers the information in Article 9 as appropriate for website publication.
- **References to international standards:** The member also agrees with Article 10 on the disclosure of responsible business conduct codes and internationally recognised. However, I note that forward looking climate scenarios and indicators are under development, therefore it is key to allow financial market participants to consider their relevance for publication.
- **Comprehensibility of the information:** With regard to the customers and other users of information, sustainability-related information should be clear and understandable. Too detailed sustainability indicators are not conducive to comprehensibility.

Other members highlight, it could be useful for the assessment of principal adverse sustainability impacts process to consider a number of qualitative indicators in addition to the quantitative indicators. Qualitative indicators are needed to capture impacts that are important and cannot be quantified, especially those regarding social and employee, respect for human rights, anti-corruption and anti-bribery matters.

- **: Do you agree with the indicators? Would you recommend any other indicators? Do you see merit in including forward-looking indicators such as emission reduction pathways, or scope 4 emissions (saving other companies’ GHG emissions)?**

However due to complexity of matter we suggest voluntary nature of these disclosures.

Whilst further quantitative forward-looking metrics could be proposed for climate, similar indicators in other ESG areas would not be equally available. On climate however, one additional indicator could be “exposure to companies without any active, medium-term (e.g. 2025-2035) emissions reduction target covering relevant value chain emissions”. (please see NFRD non-binding guidelines for reporting climate-related information for further details around targets disclosure). The concept of targets could also be applied to other ESG indicators. A historical pathway related climate metric could be “Exposure to companies without Scope 1 & 2 emissions reductions over the last 3 years”. This metric could also be further specified by relating it to annual reduction

requirements as laid out in the PAB/CTB Benchmark proposals (i.e. 7% annual reduction). Scope 4 emissions savings would not relate to adverse impacts but rather positive impacts.

One member agrees that transparency is key, but believes that the concept of adverse impact needs to be risk-based and is not a pure sustainability assessment of investment portfolios. This is one of the reasons why the Regulation and ongoing policy developments distinguish adverse impacts, sustainability risks and the degree of sustainability assessment.

The member also notes that:

- Indicators of adverse impacts, notwithstanding their importance, should not be necessarily classified as “principal” without prior assessment. In addition, it is not completely clear under which assumptions some of the proposed indicators capture *adverse* impacts.
- Proposed indicators should not by default be quantitative and data-intensive. I believe that qualitative indicators are equally significant and more appropriate given the current issues with ESG data.
- I recommend that the ESAs elaborate on the concept of adverse impact and limit proposed public disclosures to observable and verifiable facts. Therefore, emission reduction pathways, or scope 4 emissions should be considered only at later stage.
- Some indicators are not informative or even relevant to report at an aggregate level, but will only reflect the size and/or composition of the investment portfolio. A mandatory list of indicators might lead to unnecessary efforts for financial market participants and irrelevant information for users. Similarly, the indicators should not be misleading or based on weak estimates, as it might happen for scope 3 and 4 emissions indicators.
- The draft RTS should also provide minimum guidance on how bonds issued by central and local governments and supranational entities or any other asset that is not issued by a corporate should be treated.
- The disclosure requirements must take into account the needs and benefits of the users of nonfinancial information. Too complex indicators, such as emission reduction pathways or scope 4 emissions, are highly likely to be misunderstood and risk becoming a tick-the-box-exercise.

Therefore, while these indicators are useful, when they do not capture PAI or are not based on robust information, they should remain optional, and should be further investigated in the context of the NFRD review. Similarly, forward-looking indicators on emission reduction pathways or scope 4 emissions should remain subject to an opt-in regime.

Other member highlights that the indicators in annex 1 will need much more specifications before usable for the financial industry. One solution could be to allow different metrics for different type of financial companies (Bank, Asset managers, insurers etc.) to come up with an solution that works. As an example, for life insurers, the indicators in (f), (g) and (i) needs to be a lot different as:

- (1) ‘investee company’s enterprise value’ does not mean that much (some life insurers have MCEV but many don’t, Solvency II own funds could also be one candidate for this),
- (2) in ‘current value of investment’ it needs to be decided whether unit-linked funds are part of it or not and if they are what that means as the underlying decision of the investment is made by the consumer,
- (3) in ‘investee company’s €M revenue’ also whether savings and pension payments are counted as ‘revenue or not.

There is also a proposal to: add an indicator to highlight number of layoff (crucial in the next years as a consequence of COVID 19 impact and one of the main ‘social’ impacts Larry Fink referred to in his letters to CEOs)

Add the overall exposure to some controversial sectors such as: coal, tar sands, armament and weapons that violate fundamental humanitarian principles through their normal use (cluster bombs, antipersonnel landmines, nuclear weapons, biological and chemical weapons), other fossil fuels, nuclear power, tobacco, etc.

In case of historical comparison up to 10 years: there is a suggestion to start with the goal of having

3 years, with the final goal of having a 10-years track record by 2030

With reference to precontractual and periodic templates, there is a suggestion to

- Have yearly updates, periodic updates would be too expensive and not effective for transparency purposes
- Include the following information:
  - In case of negative screening:
    - highlight exposure to controversial sectors
    - highlight 'Morningstahr-like' evaluation of funds
    - refer to sustainability policy/benchmark/indices applied
- **: In addition to the proposed indicators on carbon emissions in Annex I, do you see merit in also requesting a) a relative measure of carbon emissions relative to the EU 2030 climate and energy framework target and b) a relative measure of carbon emissions relative to the prevailing carbon price?**

One member thinks that producing and disclosing proposed indicators is challenging without nonfinancial reporting standards in place. The member believes that this should be further investigated in the context of the NFRD review, and the empowerments under Articles 8 and 25 of the draft taxonomy Regulation. Fortunately, the EC is currently developing further its development in this space.

Other member's opinion is that some environmental data provides support the disclosure of metrics about portfolio alignment to science-based international climate objectives. Work in the area is evolving rapidly with around a dozen different methodologies currently in the market for measuring company and/or portfolio temperatures.

The amended non-binding guidelines to the NFRD for reporting climate-related information also recommend corporate disclosures of targets versus EU climate and energy objectives.

Overall, this is a very new, innovative and dynamic area of metric development both for corporates and financial market participants. The requirement to disclose such a metric under the SFRD could support corporate disclosures and standardisation of approaches.

- **: The ESAs saw merit in requiring measurement of both (1) the share of the investments in companies without a particular issue required by the indicator and (2) the share of all companies in the investments without that issue. Do you have any feedback on this proposal?**

One member notices, that it is crucial to name all the specific companies with a particular issue, with exact calculations required. It is worth a consideration whether such an impact could be grouped as one factor for all the companies, or should be specified individually for every one of them separately.

Other member sees that most of the suggested indicators have to be reported on (1) the share of the investments and (2) the share of all companies in the investments. The member believes that the second category is not meaningful and increases the burden to provide data points, already complex and numerous. Therefore, the member would suggest reporting each indicator only based on the first category (i.e. based on the value of the investments and not on the number of companies).

Furthermore, when calculating the share of investments, it must be clear what each indicator truly measures. Financial market participants like insurers usually have a very diversified investment portfolio including many types of assets (government bonds, unlisted equity, bonds, loans, infrastructure, etc). This makes the calculations less straightforward compared to an equity portfolio of listed companies (see response to question 1).

Having said that, the member strongly believes that non-financial reporting standards are key to be able to precisely measure such share of investments, especially considering the different types of investment instruments used in financial markets. Available ESG data at the level of investee companies are needed for a consistent and robust assessment.

- **: Would you see merit in including more advanced indicators or metrics to allow financial market participants to capture activities by investee companies to reduce GHG emissions? If yes, how would such advanced metrics capture adverse impacts?**

One member believes that a finalised taxonomy and available ESG data at the level of investee companies would be necessary for a consistent and robust assessment of how these activities contribute to the EU mitigation objectives. Regulatory requirements related to such classification should remain voluntary until all aspects of the taxonomy are sufficiently developed, especially those related to enabling and transitional activities. This will ensure that financial market participants deliver a realistic picture and avoid penalising unfairly some economic activities.

- **: Do you agree with the goal of trying to deliver indicators for social and employee matters, respect for human rights, anti-corruption and anti-bribery matters at the same time as the environmental indicators?**

One member fully welcomes the developments of indicators for social and employee matters, respect for human rights, anti-corruption and anti-bribery matters. I believe that sustainability needs to consider all environmental, social and governance (ESG) factors contributing to sustainable investments, as they are implicitly connected. Cognisant of the fact that these data is not available nor is the taxonomy to support it, it could be envisaged to postpone requiring social data for the first reporting waves.

While the member reiterates the challenges for investors to have access to reliable information sources, also acknowledges the urgency to take action on the environmental aspect and to focus on it as a priority as highlighted in the SFDR. Therefore, to facilitate implementation for financial market participants, the member would suggest that the adverse impacts for social considerations (possibly with the exception of indicators for human rights and controversial weapon) remain voluntary for a transitional period. Should the ESAs insist on developing mandatory "social" indicators in parallel with environmental indicators, then the member would recommend proper consideration of qualitative indicators and flexibility for financial market participants based on principal indicators resulting from an internal materiality assessment.

Other member thinks should we completely benefit from all the advantages non-financial reporting can offer, these aspects need to be addressed, even at the same time as the environmental indicators. Reporting on non-financial information positively stimulates sustainability. Once non-financial issues are part of the management report, the commitment of the board to improve the non-financial aspects in their organisations will increase. Not only do these indicators help organizations to improve its performance, it is also very important for transparency.

- **: Do you agree with the proposal that financial market participants should provide a historical comparison of principal adverse impact disclosures up to ten years? If not, what timespan would you suggest?**

One member notices that art. 6 paragraph 2 is worded in such a way, that even if the financial market participant is able (with not a big problem) to provide a description of adverse impacts covering the previous ten years, it may provide such a description only for the period from 10 March 2021 (letter c). Therefore there should be an additional condition that the condition specified in letter c may be used only when it is impossible to provide a full description or provision such a full description would be too costly and unproportionate.



Other member considers that a period of up to ten years is too long for a historical comparison. A considerably shorter period, e.g. of 5 years, would be better suited for data stability and it would be less burdensome for financial market participants. In addition, this will help comparison in terms of data stability and make the requirement less burdensome in terms of records of information. Moreover, given the evolution of methodologies and indicators, the ESAs should consider instances when historical comparison is inaccurate or misleading due to changes in data or methodologies (eg change of data providers).

There was also a voice that it could be one indicator regarding the activities and participants who have historically contributed the most to climate change. The problem with the historical data and the time span is that they might be not easy to compare. ESG data — generally speaking — are poorly verified, non standardized and inconsistent. For the future, ten years can be considered a reasonable historical interval.

• : **Are there any ways to discourage potential “window dressing” techniques in the principal adverse impact reporting? Should the ESAs consider harmonising the methodology and timing of reporting across the reference period, e.g. on what dates the composition of investments must be taken into account? If not, what alternative would you suggest to curtail window dressing techniques?**

One member thinks that the PAI disclosures must reflect the existing reporting approach of financial market participants. The selection of indicators risks encouraging window dressing if they are not based on observable and verifiable facts. The evaluation of actions taken to reduce adverse impacts can also be subjective. Therefore, it is crucial that a common understanding of adverse impact is reached and that proposed indicators are consistent with ongoing policy work on the EU taxonomy and the review of the NFRD.

The member does not believe that more granular requirements and harmonisation of methodologies will be a suitable solution to these issues. While guidance is useful, flexibility in implementation is key to be able to adopt the methodologies and timing most adequate to the specificities and investment profiles of financial market participants. In addition, non-financial reporting standards will be key for reliable disclosures and to fight against green-washing, as they can provide reliable ESG data to be used for PAI indicators, reducing the margin for window dressing.

Regarding the **timing of reporting**, the member would welcome harmonisation of the reporting date of asset holdings. However, the dates for reporting the composition of investments need to be staggered for investors compared to investee companies or investment firms. Depending on when investee companies report the required data on indicators in a given year, necessary data from investee companies could only be taken into account by an investor with a lagging time period ranging from a short timeframe to up to one year. Finally, there should be a separation of financial reporting requirements and ESG reporting to avoid operational overload, allow flexibility in terms of internal processes and reporting timetables. Such separation does not represent an obstacle to align ESG reporting to financial reporting, as even with different timetables, reported information can still refer to the same reference periods covered in financial reporting. In addition, more frequent reporting from financial market participants should be optional.

Other member thinks that the best way to discourage potential “window dressing” techniques in the principal adverse impact reporting is through regulation, establishing a clear framework and by harmonizing methodology of reporting, even standardize the way the information required are collected and processed. Even if financial reporting aspect appears more robustness than sustainability reporting aspect, reporting non-financial indicators it is relevant to assess if a company is consistent with ESG values and to assess the adverse impact on climate change. For this reason, a harmonised methodology and uniform timing of reporting, complying the same guidelines and accuracy standards of the disclosure of information, are important for corporate sustainability reporting.

Additionally, the public pressure, awareness of asset holders could trigger the conscious efforts of the businesses to have positively impacted on the society, and at the same time to build a strong corporate

relationship with the various stakeholders through the tool of ESG factors. Investors can choose to make money in ways that contribute to a healthier, more prosperous, and sustainable community, therefore it is important to educate the large public, the consumers to understand that they also, when they act as investors themselves have a social responsibility.

Other member emphasizes that the risk of window dressing could be reduced by requiring reporting entities to disclose information on a 1-year average basis, i.e. a 1-year average carbon intensity of an investment portfolio.

- **: Do you agree with the approach to have mandatory (1) pre-contractual and (2) periodic templates for financial products?**

One member agrees, but emphasizes that such templates should include a case of index based investments, as described in the answer to question 3. The other member is also supportive, as it is important that these mandatory pre-contractual and periodic templates for financial products to have a standardised content, to make financial products easy to understand and compare by the potential investors/consumers.

Other member disagrees, as the introduction of new templates is not required nor easy to implement, unless their use is optional. The SFDR requires that disclosures of information for insurance products are done according to Article 185(2) of the Solvency II Directive and Article 29(1) of IDD. These disclosures allow for a degree of flexibility and are mostly detailed at national level. Therefore, inflexible requirements under SFDR are not compatible with the general rules of IDD or Solvency II and should not be introduced through these RTS. The following would, for example, be more appropriate for customer disclosures:

- National disclosure format resulting from Solvency II and the minimum harmonisation approach taken in IDD.
- Link to the available information in the PRIIPs KID “Other information” section – note that the KID “What is the product?” section already provides for the possibility to indicate whether a product has sustainability objectives.

The same member underlines, should the ESAs pursue the introduction of templates, a specific consultation with stakeholders and consumer testing would be necessary.

- **: If the ESAs develop such pre-contractual and periodic templates, what elements should the ESAs include and how should they be formatted?**

A member thinks, that **mandatory templates should not be introduced for SFDR disclosures**. In case optional templates are developed, they should contain the minimum data fields to be included, the order in which information should appear, and potentially key definitions. This would ensure a degree of comparability between products while respecting the minimum harmonisation principle of IDD and respecting national specificities in IDD implementation. It is also crucial that any template provided is digital friendly and does not follow the restrictive approach used in PRIIPs. A degree of flexibility allows financial market participants to tailor disclosed information to the type of product offered.

- **: If you do not agree with harmonised reporting templates for financial products, please suggest what other approach you would propose that would ensure comparability between products.**

One member expresses the opinion that rather than producing templates, **the RTS should specify only what information needs to be disclosed without specifying the format of these disclosures**.

- : **Do you agree with the balance of information between pre-contractual and website information requirements? Apart from the items listed under Questions 25 and 26, is there anything you would add or subtract from these proposals?**

According to one of the members **information is generally more accessible on a website**, where technical features (such as layers and menus) make it easier to navigate. In order to avoid duplication of information, a single disclosure requirement should be created where possible, containing only the information that is absolutely necessary.

In order to reduce the administrative burden with regard to products which incorporate external funds (unit-linked products), I would appreciate a clarification that information requirements on the website can be complied with by providing a link to the relevant information on the website of the fund provider.

Other member underlines that regarding the pre-contractual information, in order to protect investors/consumers, must be clear, not misleading and up to date. As long as the Disclosure Regulation and the draft RTSs give further detail on the proposed form of those disclosures for such sustainability oriented products, and require that Adverse Impacts Statement must be disclosed on the website of a firm, the most important is not just following the guidelines but the accuracy of the disclosure information on environmental, social, and economic measurements. The RTSs specify that such information is made available in searchable electronic format in Art 2(2) Draft RTSs. If the information are accurate, it will not be difficult to obtain a balance of information between pre-contractual and website information requirements.

- : **Do you think the differences between Article 8 and Article 9 products are sufficiently well captured by the proposed provisions? If not, please suggest how the disclosures could be further distinguished.**

One member notices that **the distinction between “sustainable investment products” and “products that promote environmental or social characteristics” is not clear**. More guidance in Level 2 is needed to determine when a product will qualify for either product category. This will facilitate compliance by financial market participants. Unless more guidance is given, national supervision might end up having substantially different interpretations.

In the absence of such clear definition, it is also difficult to assess which information is necessary to well capture and distinguish the features of the two categories.

- : **Do the graphical and narrative descriptions of investment proportions capture indirect investments sufficiently?**

One member thinks that the rationale for the requirement to distinguish between direct and indirect holdings and the added value of such information is not clear.

- : **The draft RTS require in Article 15(2) that for Article 8 products graphical representations illustrate the proportion of investments screened against the environmental or social characteristics of the financial product. However, as characteristics can widely vary from product to product do you think using the same graphical representation for very different types of products could be misleading to end-investors? If yes, how should such graphic representation be adapted?**

According to one of the members the same graphical representation for very different types of products might end up misleading end-investors, as it does not consider the constraints and the allocation of different products types.

Should the ESAs pursue the requirement of a graphical representation, they should perform a test run of the requirement on a range of actual products in order to identify potential challenges.

Finally, the member appreciate that this graphical representation is not required for multi-option products (MOPs), at wrapper level. According to article 22 and 32, there is a derogation for financial products with underlying investment options, so that article 15 and 24 do not apply to MOPs. Indeed, it is not feasible for the graphic to capture the nature of the overall product where a retail investor can choose between a large number of underlying funds, and a graphic representation at the level of each underlying fund is more workable.

- : **Do you agree with always disclosing exposure to solid fossil-fuel sectors? Are there other sectors that should be captured in such a way, such as nuclear energy?**

Some members agree, but one of them emphasizes differentiation between “black” and “brown” sectors. Adding other sectors, as nuclear energy, would be too difficult to state with no doubt, so they could be left aside. Next member underlined that it is important to disclose the exposure to solid fossil-fuel sectors, segregated between black and brown, but also disclosure of oil exposure and to any other energy form that produce heating into the free environment and/or waste including emissions or the release of gas, liquid, and solid radioactive waste.

Other member suggests that sectorial disclosures are developed in line with the taxonomy regulation and based on the classification at activity level as provided by investee companies. Power generation activities that use solid fossil fuels are clearly excluded by the Taxonomy regulation. Guidance on more detailed disclosures should be investigated at a later stage, in the context of the empowerment under Article 25 of the draft taxonomy regulation.

There is also an opinion, that woulwe could foresee a disclosure requirement including exposure to all non-renewable sources of energy and electricity. This must include liquid fossil fuels and, separately, nuclear energy given the adverse impact on waste and social factors of the latter.

- : **Do the product disclosure rules take sufficient account of the differences between products, such as multi-option products or portfolio management products?**

One of the members believes the rules regarding multi-option products (MOPs) should be explained further as there is a lack of clarity on their application. It should be clarified that where a MOP qualifies under Article 8 or 9 of the Regulation, Articles 14-21 and 23-31 of the RTS do not apply, and that MOPs manufacturers would only need to comply with Article 22 and 32 of the RTS. It would also be helpful for the RTS to be explicit that this means that no information on the product “wrapper” would need to be disclosed.

The acknowledgement in Recital 36 that overall disclosures for MOPs will be lengthy is appreciated.

The member appreciates that disclosures that relate to the overall composition of the product are not applicable to products with a large number of underlying options.

Other member agrees, it is important to disclose the exposure to solid fossil-fuel sectors, segregated between black and brown, but also disclosure of oil exposure and to any other energy form that produce heating into the free environment and/or waste including emissions or the release of gas, liquid, and solid radioactive waste.

- : **While Article 8 SFDR suggests investee companies should have “good governance practices”, Article 2(17) SFDR includes specific details for good governance practices for sustainable investment investee companies including “sound management structures, employee relations, remuneration of staff and tax compliance”. Should the requirements in the RTS for good governance practices for Article 8 products also capture these elements, bearing in mind Article 8 products may not be undertaking sustainable investments?**

One of the members does not believe that it is appropriate for the specific details included in Article 2(17) to be applied to Article 8 products through the RTS. Good governance practices are analysed in various ways by financial market participants in a manner that is appropriate to the varying nature of investee companies.

The list in Article 2(17) SFDR is not exhaustive and forms only part of the broader definition of a 'sustainable investment'. Applying only part of this definition to Article 8 products is potentially confusing.

- : **What are your views on the preliminary proposals on “do not significantly harm” principle disclosures in line with the new empowerment under the taxonomy regulation, which can be found in Recital (33), Articles 16(2), 25, 34(3), 35(3), 38 and 45 in the draft RTS?**

There are some ambiguities, on one hand, the “do not significantly harm” principle of the taxonomy appears to be a narrow concept related specifically to thresholds on the assessment of the sustainability of economic activities. On the other hand, the adverse impact appears to be a risk-based concept related to how investments affect sustainability factors.

Despite this distinction, there is a strong link between the two concepts and there is value in a degree of alignment that recognises how these two concepts will exist in parallel. I believe that the current drafting should clarify these concepts and provide guidance on the difference between principal adverse impact and the concept of “do not significantly harm”.

The concept of „do not significantly harm” exists in the Disclosure Regulation, more as a “precautionary principle” not as a defined concept. “Do not significantly harm” principle disclosures in line with the new Taxonomy Regulation brings more clarity, is a key part of the information to be provided in Product Pre-Contractual, Periodic and Website Disclosure. However, the principle of DNSH is not listed in the Adverse Impacts Statement, and it is still unclear the relation between “adverse impact” and “significantly harm”.

- : **Do you see merit in the ESAs defining widely used ESG investment strategies (such as best-in-class, best-in-universe, exclusions, etc.) and giving financial market participants an opportunity to disclose the use of such strategies, where relevant? If yes, how would you define such widely used strategies?**

There are opposite opinions on this issue, one member does not believe that there would be any added value in defining such strategies further, as they could already be defined in pre-contractual information under investment strategies, where additional information can be referenced.

Other member agrees, as for financial market participants who offer products which claim to pursue an environmental, social or sustainable investment strategy or potentially much more broadly those that promote environment or, social characteristics, the environmental or social characteristics or sustainable investment objectives, periodic product disclosure requirements could show the track record of the product in terms of how successful it is in attaining its sustainable characteristics or objectives. Therefore, the ongoing disclosures in periodic reports should be up to date and are not limited to the fundraising period or other special events.

- : **Do you agree with the approach on the disclosure of financial products' top investments in periodic disclosures as currently set out in Articles 39 and 46 of the draft RTS?**

One of the members agrees, it is extremely important for the products based on indices, especially so called “ESG indices”.

But on the other hand this information is available if the delay of publication is aligned with annual reporting of funds. Other member notes that this information should often be provided by investment firms. While the

member supports transparency, the member believe that the chosen approach cannot be excessively burdensome, and it needs to balance adequate value for customers and burden for financial market participants.

The ESAs should also elaborate on how to disclose information about sector and location with respect to financial instruments such as equity, bonds, covered bonds, derivatives, etc.

- **: For each of the following four elements, please indicate whether you believe it is better to include the item in the pre-contractual or the website disclosures for financial products? Please explain your reasoning.**
- 1. **an indication of any commitment of a minimum reduction rate of the investments (sometimes referred to as the "investable universe") considered prior to the application of the investment strategy - in the draft RTS below it is in the pre-contractual disclosure Articles 17(b) and 26(b);**
- 2. **a short description of the policy to assess good governance practices of the investee companies - in the draft RTS below it is in pre-contractual disclosure Articles 17(c) and 26(c);**
- 3. **a description of the limitations to (1) methodologies and (2) data sources and how such limitations do not affect the attainment of any environmental or social characteristics or sustainable investment objective of the financial product - in the draft RTS below it is in the website disclosure under Article 34(1)(k) and Article 35(1)(k); and**
- 4. **a reference to whether data sources are external or internal and in what proportions – not currently reflected in the draft RTS but could complement the pre-contractual disclosures under Article 17.**

One of the members does not see the rationale for including the first element (a) (as detailed in Article 17(b) and 26(b)) in the disclosures. In practice, defining the investment universe is part of the investment strategy and is not something identifiable "prior to the application of the investment strategy".

The other elements (b-d) listed in this question should indeed be provided to consumers, and in fact are already included in various existing mandatory disclosures. Links to this information in the website disclosures should be sufficient. The policies are already readable and are intended to be used by investors, so I see no need for them to be shortened or summarised under this Regulation.

- **: Is it better to include a separate section on information on how the use of derivatives meets each of the environmental or social characteristics or sustainable investment objectives promoted by the financial product, as in the below draft RTS under Article 19 and article 28, or would it be better to integrate this section with the graphical and narrative explanation of the investment proportions under Article 15(2) and 24(2)?**

One of the member does not see the added value of a separate section on derivatives. Regarding the numerous information to disclose, a focus on derivatives is not necessary and seems excessive. The use of derivatives should be covered in the financial market participant's investment and risk policy instead.

Focusing on the insurance sector, the usage of derivatives is already covered under the prudent person principle (article 132 (4) of the Solvency II Directive dictates that the use of derivative instruments shall be possible only insofar as they contribute to a reduction of risks or facilitate efficient portfolio management).

However of the member agrees, in case of whether derivatives are used to attain the ESG characteristics or objectives.

**: Do you have any views regarding the preliminary impact assessments? Can you provide more granular examples of costs associated with the policy options?**

One of the members believes that the implementation costs of such a sophisticated disclosure system are much higher than estimated in the preliminary impact assessment.

According to the member's opinion, the impact assessments produced by the ESAs do not give due consideration to the range of different financial market participants and financial advisers to which these requirements will apply. For example, the cost benefit analysis envisages small IT costs for making changes to facilitate website disclosures. For small insurers and intermediaries this will not be the case.

Many of the costs related to compliance with SFDR are fixed and unrelated to the size of the financial market participant or adviser. This necessarily means the relative compliance cost for smaller companies will be higher.

Moreover, the risk of overload of precontractual information should be better assessed. The ESG information provided under the SFDR requirements and these RTS comes on top of a significant amount of pre-existing precontractual information. The level of disclosures should be tested on retail investors to assess whether such detailed information is really required and assists in making informed decisions in relation to financial products promoting, environmental and social characteristics and products with a sustainable investment objective.

**ESMA**

**Securities and Markets Stakeholder Group (SMSG)**

Advice to the ESAs on the Consultation on ESG Disclosures



## ADVICE TO THE ESAS

### **SMSG advice to the ESA's Joint Consultation Paper on ESG Disclosures (draft regulatory technical standards with regard to the content, methodologies and presentation pursuant to Article 2a, Article 4(6) and (7), Article 8(3), Article 9(5), Article 10(2) and Article 11(4) of Regulation EU 2019/2088.**

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#### **I. Executive summary**

The SMSG believes that the synergy between different pieces of legislation (in particular the Non-Financial Reporting Directive (NFRD), the Taxonomy Regulation, and the Sustainable Finance Disclosure Regulation (SFDR), but also adjacent legislation such as the Shareholders Rights Directive II and the scheduled reviews of MiFID and UCITS/AIFMD) can contribute significantly to enhancing sustainability in the economy. However, neither the timings nor the concepts of these different pieces of legislation are fully synchronized or aligned with one another. The SMSG believes in the usefulness of setting a significant step forward now, while enabling the possibility of an iterative process resulting from the interaction between the different pieces of legislation.

To optimally exploit this synergy, enhance effectiveness of the different pieces of legislation and maintain simplicity, the SMSG believes in the usefulness of an iterative process between these different pieces of legislation, probably for at least two-three years. This could be organized to culminate with the scheduled review of the SFDR end 2022. However, to allow sufficient degrees of freedom for the iterative process, the SMSG suggests a phased approach with regard to the draft RTS. This is particularly relevant for the proposed set of mandatory reference indicators to describe adverse impact. It is feared that introducing these indicators in a 'Big Bang' would set path dependency, which makes it difficult to finetune them at a later stage.

The SMSG believes it is important to set a first step forward. In this respect, it notes that the draft RTS entail many aspects such as the use of a format, the description of policies, engagement etc. Among all these is also the use of descriptive indicators. It is on the latter that the discussion is focused. The SMSG contests the use of an extended set of indicators for the following reasons:

- There will be a problem of data availability for a substantial period to come
- The proposed set requires fine-tuning, which could possibly come by as a result of the iterative process described above. However, there is a risk that introducing these indicators in a one-off Big Bang seals the possibility for later adjustments.

An alternative could for example be to start with a much smaller core set of reference indicators to be used whenever relevant following a comply or explain mode, while maintaining the policy indicators. Over time, this set could possibly expand.

While it is useful, as a common toolbox for cross-sector non-financial analysis and as input to the review of the NFRD, to suggest, already at this stage, a set of potential reference indicators, the SMSG believes in the need to finetune them. This toolbox should also be viewed as a common language between investors/analysts on one side and issuers on the other. The dialogue with issuers is paramount to reach meaningful transparency and the establishment of indicators should not pre-empt the review of the NFRD.

The present proposals reflect the status of the current political decision making in the EU. As such, the Social indicators (for which the ESA mandate provides a later deadline) are underdeveloped as compared to the Environmental indicators. While the SMSG values that the ESA's try to insert indicators for Governance into the draft RTS, through for example the indicators for 'social and employee matters', it regrets that Level 1 legislation has not given them an explicit mandate to develop Governance indicators.

One of the reasons for development of the SFDR was the need for comparability of information disclosed to investors. Regarding this, the SMSG would like to point ESA's attention to the issue of precise definitions of particular indicators. The definitions of particular indicators provided in the draft RTS may have precise names, but they need to be accompanied by detailed instructions as to what data need to be used to calculate these indicators. Without these instructions companies may provide financial institutions with data as seems appropriate to the companies and that would result in incomparability of data from different Member States.

On a conceptual level, the SMSG questions the usefulness of an extended set of descriptive indicators at entity level, as the most relevant level for the investor is the product level. Also, the SMSG believes that the relevance of individual indicators may vary depending on the type of product. However, if one allows a degree of flexibility, one should also demand transparency and disclosure regarding this flexibility. For this reason, the SMSG suggests that:

- the field "description of policies to identify and prioritise principal adverse sustainability impacts" (template under article 4), should disclose (i) which criteria are used to select and prioritize indicators for adverse impact at product level and (ii) the process (governance) through which this done.
- Specifically for art. 8 and 9 products, the templates (still to be developed) should disclose why particular indicators are used and why others are not.

The SMSG asks the ESA's and the Commission to take their responsibility and provide more clarity on what exactly is meant by article 8 and 9 products. Given the wide range of products that could possibly fit under article 8, transparency about the degree of sustainability is important. Hence a graphic representation illustrating the degree of sustainability is useful, combined with a narrative which is simple and straightforward. In this respect, it is also important that there is consistency between marketing communication and website information /precontractual disclosure. The SMSG points at the possibility (article 13, draft RTS) for the ESA's to ensure this consistency through draft RTS. For reasons of simplicity, the SMSG proposes to integrate the warning referred to in draft article 16(1) in the narrative accompanying the graph and reformulate it accordingly, with reference to the graph (for example: "only the part indicated in the graph ... promotes environmental or social characteristics"). Also, the SMSG suggests to reinforce the link between the Taxonomy Regulation and the Sustainable Finance Disclosure Regulation with regard to sustainable investment.

With regard to the use of adverse impact indicators at product level, the SMSG notes that many of the concerns at entity level, are also relevant at product level: timing problems with regard to the availability of data, problems

of materiality (relevance of indicators differs across products) and proportionality, the need to allow an iterative process rather than seal the indicators through a “Big Bang” at too early a stage, the need to consider qualitative considerations in the assessment of adverse impact, rather than merely quantitative ones (example: thresholds). The SMSG calls on the ESA’s to consider alternative approaches, keeping these considerations in mind.

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## **I. Bridging the gap between theory and practice**

1. The SMSG is aware of the context in which it writes its advice: daunting economic and social challenges on a global scale resulting from the COVID-19 crisis; unprecedented environmental threats, in particular climate change. Against this background, enhancing the Environmental, Social and Governance (ESG) inclination of the economy has a valuable role to play. Also, it can increase the appeal of entrepreneurship and investing as being part of the solution.
2. Financial legislation alone cannot adequately deal with these challenges. Nevertheless, disclosure has its role to play. As such, the SMSG is aware of the unique opportunity arising at this point in time, in particular by the potential synergy between the Sustainable Finance Disclosure Regulation (SFDR) and the Non-Financial Reporting Directive (NFRD).
3. To fully exploit this potential, the gap between theory and practice should be bridged. In this respect, well-balanced regulatory technical standards guiding the implementation are of utmost importance.
  - a. “Go forward, but mind the steps”. The SMSG’s principal worry is the timing, which is considered to be unrealistic for several reasons:
    - i. There will be a time lag between the review of the Non-Financial Reporting Directive and the implementation of the Sustainable Finance Disclosure Regulation. However, the former is a prerequisite for the latter, as its review is needed to facilitate data availability. Reliable data are important to enhance the credibility of the SFRD. The SMSG cautions not to jeopardize the potential of this legislation by timings that do not take into account data constraints. Inasmuch as a primary purpose of the NFRD review will be to identify which indicators should be to standardized on cross-sector basis (taking into account principle of materiality), the proposed set of indicators should not pre-empt this complex analysis.
    - ii. The implementation of SFDR will require additional costs and resources for data collecting and reporting from issuer-companies. This will be particularly so for SME’s, who are at this stage less acquainted with ESG reporting. However, the Sustainable Finance Disclosure Regulation was approved in pre-COVID-19 times. Today, many companies, including SME’s are struggling for survival. As such, the timing imposed by the SFDR requires a ‘new-reality’ check.
    - iii. The indicators put forward by the ESAs are addressed to investors (financial market participants) to allow them to assess the principal adverse impacts of their investment

decisions (or financial advice). These indicators will directly impact reporting of non-financial information by issuers and when the data will not be available, financial market participants will turn to investee companies to collect all necessary information. All reporting requirements should be dealt with in the context of the review of the Non-Financial Reporting Directive (NFRD) and ensure consistency of the reporting framework for issuers with the Taxonomy Regulation.

- iv. Article 7(2) of the draft RTS implies that the principal source of information relevant to the disclosures should be gathered through direct engagement with investee companies. Where “best efforts” have been insufficient to gather the necessary information from the investee company, an asset manager may resort to “third-party data providers”, conduct additional research or make “reasonable assumptions”. As the data required to calculate adverse impacts according to the indicators is, at this early stage, in most cases unattainable directly from investee companies, entities subject to the disclosure requirements risk developing a dependence on third-party data providers that claim to have access to the necessary information. Hence, there are legitimate concerns that pursuing the Big Bang approach represented by these draft RTS will trigger a “race to the bottom” among third-party data providers as they scramble to offer data that purport to cater to the needs of asset managers arising from the disclosure requirements. For their part, asset managers harbour serious concerns regarding the reliability, accuracy and robustness of the data offered by third-party providers that relates to indicators for which data is not available or readily attainable from investee companies.
- v. the 32 core indicators put forward by the ESAs will add up to the indicators laid down in the Taxonomy Regulation (sustainable proportion of turnover, capital expenditure and operating expenditure) and to the KPIs that will come out of the review of the NFRD

- 4. Notwithstanding these remarks, the SMSG believes it is important to move forward, but rather than a Big Bang approach, it suggests a phased approach (see below).
- 5. There is scope for cross-fertilisation between different pieces of legislation, in particular the SFDR, the NFRD and the Taxonomy Regulation. As such, the SMSG’s plea for a phased approach should allow for an iterative interaction between different sets of legislation.
- 6. Investors require comparability, simplicity and reliability. Each of these concerns will be kept in mind throughout this advice. The consultation acknowledges the need for disclosure that is easy to use and refers amongst others to the use of templates. While not all templates were ready at the time of the consultation, the SMSG points at the importance of them being consumer tested. Particular challenges are:
  - a. How to cope with the difference in precontractual disclosure between UCITS and occupational pensions, resulting from Level 1 legislation;

- b. How to device the template so that aside of the quantitative indicators, attention is also drawn to how financial institutions/products go along with these realities (for example: engagement through (proxy) voting);
- 7. “In der Beschränkung zeigt sich der Meister”. A major concern is data overload for both the investor who needs to understand and the financial advisor who needs to explain. This is particularly so for the high number of data to screen against the proposed adverse impact indicators. This also invokes the question: at which level are data most relevant: at an overall level encompassing all products or at product level, taking into account the specificities of the product (for example: SME vs large cap funds; sectoral differences...).
- 8. Materiality and proportionality. Taking into account on the one hand the risk of data overload, on the other hand the challenges of data availability, the SMSG suggests to look more deeply into the matter of materiality and proportionality.
  - a. Materiality: the SMSG doubts the relevance of 32 mandatory indicators to assess principal adverse impact. In particular, the SMSG wants to discuss the relevance of aggregating these indicators over all relevant products of a financial institution (see below). Moreover, an extended set of mandatory indicators may not necessarily increase the relevance. The longer the list of mandatory indicators, the less scope there is for adding optional indicators, without increasing the data overload. However, these optional indicators may be relevant for specific products. This then raises the issue of the appropriate level of using indicators and related to that, the relation between SFDR art 4, 7, 8, 9 (see below).
  - b. Proportionality: the extended set does not allow for proportionality between data delivered by SME's and large caps. This risks to put a strain on the resources of SME's.
- 9. More clarity is needed on the requirements for precontractual disclosure. In particular, the following issues should be addressed.
  - a. A clear demarcation of which products fall under SFDR art 8 and art 9 respectively;
  - b. The relation between the information to be provided at the level of the financial institution and at the level of products.
- 10. The 32 mandatory indicators reflect to a large extent the status of the political decision making in Europe, with a focus on the E(nvironmental), where the Taxonomy Regulation reflects a political consensus. This results in a choice of 16 mandatory Environmental indicators. G(overnance) on the other hand has no 'own' indicators, neither mandatory, nor optional. Instead, the indicators relevant for Governance are inserted into the indicators for “Social and Employee Matters”, leaving less potential indicators for the latter. Unfortunately, the ESA's are constrained here by the level 1 legislation, which does not give them a mandate to elaborate separate draft regulatory standards on G(overnance). The focus on the E reflects the European context while other countries/regions may focus more on S(ocial)<sup>30</sup> and G(overnance). The

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<sup>30</sup> For example, the focus on diversity in the American context.

focus on the E should not obscure the importance of the S and G. This is all the more important as the indicators that are distinguished by the SFDR will probably guide the review of the NFRD.

## II. The timing: putting the pieces of the puzzles together...

### *Alignment with other legislation*

11. The draft RTS and the SFDR in its entirety cannot be seen in isolation but are part of a puzzle, the pieces of which will gradually be assembled over the next two-three years.

12. Of direct relevance to this draft RTS are:

- a. MiFID II Commission Delegated Regulation: the draft text aligns the reporting on principal adverse impact with the timing for precontractual disclosure in SDFR, i.e. 30 December 2022<sup>31</sup>. When it comes to retail clients the alignment with regard to MiFID II (and PRIIPs) is highly desirable. The scope of the financial products defined in article 2(12) SFDR however is not consistent with the scope defined by the draft text of MiFID II (Art. 1 Delegated Directive 2017/593) and Art. 2 (Delegated Regulation 2017/565). This may cause problems when it comes to financial instruments others than those defined in the SFDR which are designed to respond to investors sustainability preferences and where the issuer is required to comply with MiFID II product governance requirements. Therefore we recommend that the ESAs should already take into account the necessity of making the scopes consistent.
- b. Taxonomy Regulation<sup>32</sup>: the Taxonomy Regulation contains several links to SFDR.
  - i. Art 18: linking 'minimum safeguards' and 'do not significantly harm': unfortunately, due to the difference in timing between the approval of the Taxonomy Regulation and the draft RTS, not all of the 'minimum safeguards' provided for in art 18 of the Taxonomy Regulation are in Annex 1 of the draft RTS<sup>33</sup>
  - ii. follow-up tasks for the ESA's to provide draft RTS on environmental objectives, with as deadlines (depending on the kind of objective) 1 June 2021 and 1 June 2022;
  - iii. More granular timings, at least as far as it touches upon environmental objectives.

For all of the above, the Taxonomy Regulation incorporates amendments to the SFDR. Apart from these, the Taxonomy Regulation also provides a timetable for its own extension. By 31 December 2021 the Commission shall publish a report to extend the scope of the Taxonomy

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<sup>31</sup> ...as of 30 December 2022, considers principal adverse impacts on sustainability factors, as referred to in article 7(1), point (a), of that Regulation.

<sup>32</sup> Regulation 2019/2088, in full: Regulation on the establishment of a framework to facilitate sustainable investment and amending Regulation 2019/2088. It is popularly known as 'Taxonomy Regulation'.

<sup>33</sup> The OECD Principles for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights are not in Annex 1 of the draft RTS, neither as mandatory nor as opt-in indicators.

Regulation to cover other sustainability objectives, such as social objectives (Taxonomy Regulation, art. 26 (2)).

The SMSG suggests to reinforce the link between the Taxonomy Regulation and the Sustainable Finance Disclosure Regulation in particular regarding the definitions of sustainable investment.

- c. Non-Financial Reporting Directive: a review of the NFRD is scheduled. The Commission proposal is scheduled in Q1 2021. The relevance of the NFRD is discussed below.
- d. the review of UCITS and AIFMD. This refers to elements such as the organization of the firm and the assessment of sustainability risk, that are outside the scope of the draft RTS. The SMSG understands that the draft RTS are constrained by Level 1 legislation. Nevertheless, we suggest that the templates are developed as part of the existing funds' documentation, rather than as new documents. However, the provisions should be practically thought-through and well-aligned with other key client disclosures, such as the UCITS KIID and its space constraints. More generally, for information requested in templates for pre-contractual disclosures, more guidance would be useful with respect to whether and to what extent references (links) to websites containing the required information will be accepted.

#### *Stepwise approach for SFDR itself*

13. The SFDR itself provides for a phased implementation:

- a. By 30 December 2020, the ESA's shall develop draft RTS in relation to the adverse impact on the climate and the environment and on precontractual disclosure requirements for art 8 and 9 products. By 30 December 2021, they shall develop draft RTS in relation to adverse impacts in the fields of social and employee matters, respect for human rights, anti-corruption and anti-bribery.
- b. The first full period for the reporting (website) at the level of the entity (=financial institution) is 31 Dec 2021 – 31 December 2022.
- c. By 30 December 2022, precontractual disclosure at product level should be ready.
- d. By 30 December 2022, the Commission shall evaluate the SFDR, considering in particular proportionality and data availability.

#### *Timing constraints for the draft RTS*

14. In referring to policy options for the Do Not Significantly Harm principle, the ESA's themselves indicate that they were "not able to consider all policy options' possible detailed impacts due to the general lack of time to develop the proposals" (draft RTS, page 91). The SMSG is aware of the timings set by the Level 1 legislation. However, taking into account on the one hand the importance of this legislation, on the other hand the timing constraints under which the draft RTS need to be developed, it prefers a stepwise approach, that allows for gradual improvement, over a Big Bang at an early stage.

### *Towards an iterative process*

15. From the overview above, the SMSG concludes that there will be a complex interaction between different pieces of legislation for at least two years to come. The amendment of the SFDR by the Taxonomy Regulation is a first proof of this. Taking into account the iterative interaction between different pieces of legislation that will follow in the next two years, the SMSG contests the usefulness of a Big Bang with regard to data provision at an early stage.
16. Apart from the considerations above, there is a particular legal concern. The draft RTS to be provided by the ESA's are input for the Commission to supplement the Regulation. Taking into account the time allowed to the Commission to endorse the draft RTS proposed by the ESA's and the time allowed to Parliament and the Council to object to the RTS, it is theoretically impossible to have the RTS endorsed by the start date of the SFDR, i.e. 10 March 2020.
17. The SMSG recognizes the virtues of different points of view with regard to the start of the SFDR and in particular the draft RTS. On the one hand, it is important to move forward. On the other hand, the problems with regard to data availability cannot be disregarded.
18. The draft RTS are multifaceted. They include elements such as the use of templates for comparability and simplicity, the description of policy principles, engagement policies and, also, as one element amongst other, the use of 32 mandatory reference indicators and a series of optional indicators.
19. It is on these reference indicators that much of the discussion is focused. The prime merit of suggesting indicators at this early stage is that they provide input for review of the NFRD (see below, discussion on the Non-Financial Reporting Directive). On the other hand, the obligation to describe 32 indicators and a series of optional indicators creates, for the entity, a problem of data availability and or the end investor a problem of information overload. Also, these indicators refer primarily to the entity level, less at product level. For this reason, the SMSG is fearful of a Big Bang, which puts much of the challenge for data provision at an early stage and at level which is less relevant (entity level).

### **III. The Non-Financial Reporting Directive**

20. Although NFRD is not the topic of this consultation, there are good reasons to discuss the relation to NFRD.
21. On the one hand, the NFRD can facilitate the availability of data. However, realistically speaking there will be a substantial time gap between the implementation of the SFDR and the review of the NFRD. The Commission proposal for the NFRD is not expected before Q1 2021. At that time, the trilateral interaction between Parliament, the Commission and the Council still has to start. In the absence of the reviewed NFRD, the dependence on a limited number of data providers increases.
22. On the other hand, by suggesting indicators, irrespective of whether they are optional or mandatory, the SFDR and its technical guidelines, provide input for the review of the NFRD. This means that the choice of indicators should be carefully balanced:
  - a. the longer the list of mandatory indicators, the less scope there will be for the NFRD to differentiate for example between companies > 500 employees and SME. A degree of proportionality in the NFRD would be useful to avoid too high a reporting burden for SME's



and to avoid perverse side-effects like encouraging a shift to private equity, away from listed entities.

- b. the present lack of standards for data delivery often results in additional work for issuers as they have to fill in different questionnaires by different interested parties. In this respect, bringing more standardization through a reviewed NFRD could be beneficial. However, to the extent that there is a relative underweight of S and G in the indicators proposed by the SFDR, there is a risk that this is mirrored in the NFRD as well. Apart from the ethical and social considerations, this could negatively impact the relevance of the NFRD and its potential to become an alternative for the multiple questionnaires.

23. For all these reasons, the SMSG believes that an iterative process of cross-fertilisation between the SFDR and the NFRD is useful. The draft regulatory standards can facilitate this by allowing a phased approach.

24. One of the concerns of the SMSG is reliability of data. However, the end result (i.e. the disclosure pursuant to the SFDR) depends on the reliability of the input. For this reason, the SMSG calls on legislators to provide sufficient safeguards that the data provided through the NFRD are reliable.

25. Possible remedies in the remits of the ESAs mandate (especially relevant to product disclosures) are the following:

- a. Ensure flexibility (and legal certainty) by allowing the use of qualitative information, narrative descriptions and estimates. However, some members are concerned that narrative descriptions and estimates may be used to deprive readers from the relevant information or may be misleading. Also, estimates are impractical for several indicators (for example gender diversity at the board). An alternative suggestion, with pros and cons, is to make the reporting on a specific part of the investment universe on a best effort base rather than using estimates;
- b. Carefully balance information to be provided in pre-contractual disclosures vs website disclosures. Website disclosures are better suited to disclose information characterized by uncertainty and frequent updates. Those could be more easily updated, subject to availability of data.

#### **IV. 32 mandatory indicators + optional indicators for adverse impact**

*Article 4: an intro for dummies*

26. The ESA's have a mandate, under article 4(6) and 4(7) of the SFDR to develop draft regulatory technical standards in relation to adverse impact:

- a. climate and other environmental-related adverse impacts; (art 4.6, by 30 December 2020);
- b. social and employee matters, respect for human rights, anti-corruption and anti-bribery matters (art 4.7, by 30 December 2021).

27. The SMSG notes and regrets that this does not specifically include governance indicators.

28. It is important to keep in mind that article 4 refers to transparency on adverse impacts at entity level (i.e. at the level of the financial institution, not at product level).

29. To do so, the draft RTS propose a format (template) that includes:

- a. a summary;
- b. a description of principal adverse impacts;
- c. description of policies to identify and prioritise principal adverse sustainability impacts;
- d. description of actions to address principal adverse sustainability impacts;
- e. engagement policies;
- f. references to international standards.

30. The SMSG acknowledges the usefulness, for reasons of simplicity and comparability, of a format to disclose policies, actions and engagement.

31. However, the approach chosen for the description of adverse impact is strongly contested.

*Adverse impact indicators: what the fuss is all about*

32. The ESA's propose 32 mandatory indicators (Annex 1), to be complemented by some optional indicators. Of the 32 mandatory indicators, 16 refer to E(nvironmental) indicators, that are to a large extent mapped on the Taxonomy Regulation. Theoretically, the aggregation of all these reference indicators at entity level could reflect some kind of name and shame approach, with as aim identifying financial institutions that offer products with proportionally higher adverse impacts. Although this would probably present data overload for the average retail investor, it may be relevant for other parties (for example: journalists; stakeholder representatives; organized shareholders). Nevertheless, this approach runs into a variety of practical problems:

- a. Certainly in the first years, there will be data problems: ("bad data drive out the good ones"). At a product level, some products will at an earlier stage have reliable quantified data while others may lag (for example large cap funds vs SME funds). However, aggregation over all products would mean that reliable data are lumped with incomplete data;
- b. A complete class of products is outside the scope of the draft RTS anyway: government bond funds. Annex 1 of the draft Regulatory Technical Standards does not include a single indicator relevant to government bond funds. Aggregating over products is not relevant if a major class of products is excluded.
- c. the set of potential indicators, either mandatory or potential, may not yet be optimally balanced nor complete. Progressive insight or the iteration between SFDR, the NFRD and the Taxonomy Regulation or other pieces of regulation could result in additional finetuning. However, the present proposal of 32 mandatory indicators risks of setting in motion a huge

investment into data provision, so that there is little scope for finetuning afterwards. A Big Bang risks to introduce path dependency which excludes finetuning at a later stage. Some examples where finetuning could be useful:

- i. item 6 (annex 1): “breakdown of energy consumption by type of non-renewable source or energy”. Proposed indicators should be aligned as much as possible with requirements by other reporting standards. However, the proposed indicators require more detailed information than what is currently disclosed by the CDP;
- ii. “Excessive CEO pay ratio” could possibly be better aligned with the disclosure obligation required under the Shareholders Rights Directive II, which does not require a ratio per se but a comparison between the evolution of the performance of the company, the evolution of the remuneration of directors and of those of the employees of the company (see art 9b (1b) in addition to a narrative to be provided under article 9a (6) how pay and employment conditions were taken into account in the remuneration policy.
- iii. item 26 and 27, annex 1: these indicators express the risk that a company is exposed, in terms of the type of its operations or its geographic areas, either directly or through its suppliers to the risks of compulsory labour or child labour. However, these regions do need more, not less investment – be it that is ethical investment. On the other hand, ‘supplier code of conduct’, which would be relevant in this case, is just an optional indicator (table 3, item 3). More in general, it would be useful to have a closer look at potential Global Value Chain indicators;
- iv. not all of the minimum safeguards of Article 18 of the Taxonomy Regulation are in Annex 1 of the draft RTS.
- v. Several of the indicators proposed in Annex 1 require instructions on how to calculate them. Example: gender pay gap (proposed indicator 18). One can use different definitions of employee (only persons with work employment contract; persons employed on civil-law contracts; temporary workers; insourced employees; etc.). Also, one may calculate base salary (gross or net), base salary+bonuses etc. Clarification is needed to allow comparability. Alignment with the Shareholder Rights Directive should be investigated.

33. The quantitative data on itself only tell part of the story and it must be avoided that they start leading a life on their own. For example, engagement/(proxy) voting is very relevant and could be used as a lever to encourage change, for example if one has a high exposure to fossil fuel companies.

34. The choice to describe adverse impact through a combination of mandatory and optional reference indicators is primarily a choice made by the ESA’s to ensure comparability and discussed with pro’s and con’s in the draft RTS (see p 72 – 73), rather than a formal legal obligation resulting from the level 1 text.

35. Article 4 refers to disclosure at entity level. The SMSG is of the opinion that the product level is the most relevant for the following reasons:

- a. The investors buys a product (an investment fund; a pension fund...), not the managing asset manager.
- b. Consistency with other pieces of legislation, in particular MiFID. MiFID will be reviewed to incorporate sustainability preference in suitability assessment and in product governance. However, this is at product level.
- c. Alignment with the responsibility of the financial advisor. The draft RTS, article 12, describes the responsibility of the financial advisor with regard to adverse impact. This too refers to the product level: "The statement shall contain details on the process to select the financial products they advise on, including the following: (a) how the information published by financial market participants in accordance with this Regulation is used; (b) whether the financial adviser ranks and selects financial products based on the principal adverse impacts referred to in Table 1 of Annex I and, if so, a description of the ranking and selection methodology used; and (c) any criteria or thresholds used to select financial products and advise on them based on those impacts."

*From entity level to product level*

36. While all of the above contests (i) the mandatory aggregation of reference indicators at entity level, (ii) the high number of these mandatory indicators, it does not contest the usefulness of indicators as such. However, the usefulness stems from other reasons:

- a. As a common toolbox for cross-sector non-financial analysis. This toolbox should also be viewed a common language between investors/analysts on one side and issuers on the other. The dialogue with issuers is paramount to reach meaningful transparency.
- b. As input for the review of the NFRD
- c. As input for the disclosure at product level, to ensure, that where reference indicators are used, these follow common methodologies. Although article 4 refers to disclosure at entity level, there is also a link to information at product level.
  - i. Article 7, referring to transparency of adverse sustainability impacts in precontractual information at product level: "Where information in Article 11(2) includes quantifications of principal adverse impacts on sustainability factors, that information may rely on the provisions of the regulatory technical standards adopted pursuant to Article 4(6) and (7)".
  - ii. Draft RTS, article 16, referring to precontractual information for products promoting amongst others environmental of social characteristics (i.e. art 8 products): "Where a financial product invests in a sustainable investment, the section shall also contain an explanation of how the sustainable investment does not significantly harm the sustainable investment objectives, including: (a) how the indicators for adverse impacts in Annex I are taken into account; and...."

- iii. Draft RTS, article 25, referring to precontractual information for products having sustainable investment as their goal (i.e. art 9 products): promoting amongst others environmental of social characteristics (i.e. art 8 products): “The section referred to (...)shall contain an explanation of how the investments of the financial product do not significantly harm the sustainable investment objectives, including: (a) how the indicators for adverse impacts in Annex I are taken into account; and...
- iv. Draft RTS, article 34, referring to website product information for article 8 products: “...Where a financial product invests in a sustainable investment, the section shall also contain an explanation of how the sustainable investment does not significantly harm the sustainable investment objectives, including: (a) how the indicators for adverse impacts in Annex I are taken into account; and...”. A similar reference to Annex 1 is made for periodic reports of article 8 products (draft RTS, article 38)
- v. Draft RTS, article 35, referring to website product information for article 9 products: “The section.... shall contain an explanation of how the investments of the financial product do not significantly harm the sustainable investment objectives, including: (a) how the indicators for adverse impacts in Annex I are taken into account; and...”. A similar reference to Annex 1 is made for periodic reports of article 9 products (draft RTS, article 39).

37. The references to Annex 1 show the importance of Annex 1 as a framework containing standardized reference indicators. On the other hand, it is not clear to what the wording “may rely on” (art 7); “shall contain an explanation how the indicators referred to are taken into account” (art 8 and 9 products) exactly implies. While the SMSG is aware that the ESA’s do not have a mandate on article 7, they do have a mandate to elaborate RTS for article 8 and 9 products.

38. For all these reasons, the SMSG believes that is extremely important to carefully balance the information to be presented at product level:

- a. Clarity is to be given on the relation between reference indicators at entity level and those at product level.
- b. A degree of flexibility should be safeguarded to finetune the choice of reference indicators to the nature of the product, without increasing the information overload. The relevance of reference indicators depends partly on the nature of the product. For example: a reference to the OECD guidelines for MNC’s may be useful for a large cap equity fund, but much less for a SME fund. However, an extended set of mandatory indicators plus opt-in indicators, leaves little possibility to add optional indicators without increasing the data overload.
- c. Notwithstanding this degree of flexibility, circumvention should be avoided. To avoid circumvention, it is important that it is disclosed why particular indicators are used and why others are not. Also, where reference indicators are used, they should be standardized.

39. As a possible way out within the confines of the level 1, the SMSG would suggest:

- a. rather than 32 mandatory indicators and additional opt-in indicators (entity level), a strongly reduced core-set of indicators to be used whenever relevant following a strict comply or explain mode<sup>34</sup>, that could possibly expand over time, as data availability improves. While the SMSG acknowledged the difficulties arising at this point in time, some insisted that the goal should remain for these indicators to become mandatory after a given period in time, with the scheduled review of the SFDR by 30/12/2022 as possible target date. Starting with a limited core set of indicators would have the advantage of reducing the workload at a time when there are still many uncertainties; reducing the risk of path dependence; not confining the information to be given at product level. Although the SMSG advances the principle of a core set of indicators, it was not able, due to timing constraints to evaluate examples of such core sets. In any case, they should aim to be cross-sectoral, have high propensity to standardization and data availability. In this case, a high degree of compliance can be expected.
- b. Use the field “description of policies to identify and prioritize principal adverse sustainability impacts” in the template to be developed under article 4, to disclose which criteria are used to select and prioritize indicators for adverse impact at product level and the process (governance) through which this done.
- c. Use the templates (still to be developed) for art 8 and 9 products, on which the ESA’s have a mandate, to disclose why particular indicators were used and why others were not.

## V. Disclosure at the level of products

40. The ESA’s have a mandate to develop draft RTS for disclosure at product level for article 8 and article 9 products. This refers to precontractual information (SFDR article 8-9); website information (SFDR article 10) and periodic reports (art 11).

*Art 8 and 9: what are we speaking about?*

41. A particular concern of the SMSG is that there is still much confusion about what exactly is meant by article 8 and article 9 products. The SMSG calls on the ESA’s (together with the Commission) to provide further clarification to that extent. That should preferably be done through the draft RTS, to the extent that the ESA’s have a mandate to do so through the draft RTS; if not so, through, for example, Q&A

42. While art 8 in particular invokes uncertainty and confusion, there are also uncertainties surrounding article 9 products. The Level 1 legislation (SFDR, article 9), refers to article 9 as: “where a financial product has sustainable investment as objective”. The draft RTS refers to “sustainable investment objective of the product”, and also to “the” sustainable investment objective. We would suggest to align the wording with the level 1 text (i.e. sustainable investment as objective).

*Art 8: how to make sure that the investor knows what he is buying*

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<sup>34</sup> While a majority of the working group members agreed with the wording, there was no *full* consensus on the reference to a comply or explain mode. The intention was to avoid, by using the word ‘mandatory’ a wording that leaves no room to exceptions and operational real-life challenges. Against this concern stood the fear that comply or explain should not result in dilution.

43. The SMSG is concerned that, given the wide range of products that could possibly fit under article 8, it is important that there is sufficient disclosure on the degree of sustainability within an article 8 product. For this reason, a graphic representation, as provided for in the draft RTS (article 15), is potentially helpful, although it requires a taxonomy on social objectives to be fully effective. In addition, the accompanying narrative needs to be sufficiently simple and straightforward. Also it is important that there is consistency between marketing communication and website information/ precontractual disclosure describing the degree of sustainability of article 8 products, which the ESA's can safeguard in terms of SFDR article 13.

44. Related to this, The SMSG discussed the warning to be provided in precontractual disclosure for article 8 products (draft RTS, article 16, 1: 'this product does not have as its objective sustainable investment'). In considering this warning, the SMSG took into account the following considerations:

- a. it is important to distinguish article 8 from article 9 products, the latter having sustainable investment as objective (while article 8 products promote, amongst others, environmental or social characteristics);
- b. the wording of this warning is such that it could result in investors disregarding this product from a sustainability point of view;
- c. this warning comes on top of a warning to be provided because of the Taxonomy Regulation<sup>35</sup> and on top of a narrative accompanying a graph that illustrates the degree of sustainability, making disclosure extremely complex to understand.

45. As an alternative to the warning proposed in draft RTS art 16-1, the SMSG proposes to use the narrative accompanying the graph, for example through wording like: "only the part indicated in the graph ... promotes environmental or social characteristics".

#### *Adverse impact at the product level*

46. Finally, the SMSG discussed the disclosure requirements for adverse impact at product level (art 8 and 9). Neither the level 1 text, nor the draft RTS explicitly contains the provision that the indicators in Annex 1 are to be described or quantified at product level. The draft RTS requires: "Where a financial product invests in a sustainable investment, the section shall also contain an explanation of how the sustainable investment does not significantly harm the sustainable investment objectives, including: (a) how the indicators for adverse impacts in Annex I are taken into account." However, this wording does not constitute an obligation to describe in full these indicators.

47. With regard to product level, the SMSG confirmed the relevance of different issues mentioned before.

- a. A timing problem: it will take substantial time before it will be possible to quantify these indicators, due to lack of data. Nevertheless, the SMSG also recognized that the indication

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<sup>35</sup> Taxonomy Regulation art 6: 'The "do no significant harm" principle applies only to those investments underlying the financial product that take into account the EU criteria for environmentally sustainable economic activities. The investments underlying the remaining portion of this financial product do not take into account the EU criteria for environmentally sustainable economic activities.'

that certain indicators will need to be used, can trigger the provision of these data, be it with a delay;

- b. The relevance of indicators differs depending on the product;
- c. There is a need for finetuning of indicators as well as for an iterative process between different pieces of legislation rather than a Big Bang which seals the indicators that are to be used.
- d. The complexity of the data to be disclosed is a cause of concern:
  - i. for the investor. In addition to the risk of information overload, the definitions of article 8 and 9 products; concepts such as adverse impact, the relation with the Taxonomy Regulation, .... It all adds up to an increasingly complex puzzle. Consumer testing of templates and the provided information would be useful, but apart from that draft RTS should avoid needless complexity through information overload. Yet on the other hand, the SMSG is aware that for specific stakeholders (consumer representatives; NGO's; journalists...) this information, although complex, is potentially relevant;
  - ii. for asset managers. A specific concern is that the data requirements could be so demanding that they become barriers to entry for smaller financial entities. In such a case, that could have as adverse side-effect that less, not more investment is channelled to sustainable finance.
- e. It must be avoided that these quantitative indicators start living a life on their own.

48. With this in mind, the SMSG considered an approach, derived from the draft RTS, where for each product, all of the 50 Annex 1 impact indicators should be assessed. This approach would be the most comprehensive one and is related<sup>36</sup> to option 1.3 in the draft RTS on Do Not Significantly Harm (page 89). The most comprehensive approach was considered to avoid that at product level, the indicators were confined to the selection of opt-in indicators selected at entity level. Note that on itself, this would not require financial market participants to publish details of the product's impact against the indicators, but only to disclose how it has taken into account the indicators. Under the ESA's favoured option (see option 1.2, page 90), assessment would require that it is assessed whether the investments made by the product *do not significantly breach certain thresholds*, defined by the financial market participant, for any of the indicators.

49. However, the SMSG concluded that this was not in line with its concerns. First of all and foremost, it will be impossible for a substantial time to implement it. Secondly, it does not distinguish between indicators that are relevant for a specific product and those that are not. Thirdly, the use of thresholds sets quantitative exclusion criteria and in doing so does not allow for qualitative considerations to be taken into account. Finally, it would require a heavy exercise, while the SMSG preferred a gradual process whereby through an iterative process the methodology is improved over time.

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<sup>36</sup> Not identical, because option 1.3 also captures the Taxonomy Regulation's Environmental objectives.



50. The SMSG also touched upon two subsequent alternatives.

51. The first one is 'out of the box', as compared to the paradigm of the draft RTS (i.e. use of extended set of adverse impact indicators. It consists in considering a limited and evolving list of indicators (Environment, Social, and Governance) used like a common toolbox for investors/analysts. These indicators should be of potential, but varying relevance in different sectors. Whenever relevant, these indicators should be used to evidence the fund's Principal Adverse Impact. These indicators should also be contributed/approved by the issuers to ensure meaningfulness as well as cross-sector data availability. Another advantage would be that it results in a limited number of indicators, tailored to the product.

52. For the other alternative, the starting point would be the complete set of Annex 1 indicators. However, not assessing indicators would be possible on a "comply or explain" basis for three possible reasons: (i) the indicator is not relevant for the particular product; (ii) due to lack of data, the indicator cannot yet be used; (iii) the financial market participant has another indicator for the same issue<sup>37</sup>. Possibly, this "comply or explain" approach could be integrated in the template (still to be developed) for reporting on art 8 or 9 products, in the field that allows to explain why and how certain indicators are prioritised. Certainly, in the beginning, with a scarcity of data, "comply or explain" should be allowed to be the rule rather than the exception. Once a reduced number of indicators is selected, it should be indicated how investments are assessed against these indicators. Thresholds are but one of several possibilities to do so. For example: the exposure to high risk areas regarding compulsory labour/child labour could be mitigated through alignment with OECD guidelines for MNC's, ILO recognized Global Framework Agreements, suppliers Codes of Conduct or else. Or exposure to fossil fuel companies could be mitigated by engagement policies (voting). Rather than referring to thresholds as only alternative, the draft RTS could refer to different possible alternatives. Compared to the first alternative (the 'toolbox'), this second alternative would alleviate some of the problems associated with the use of the Annex 1 indicators. However, the starting point, *with pros and cons*, would still be the extended set of indicators.

53. Due to time constraints, the SMSG could not discuss the proposals at length, nor achieve consensus. They are mentioned as illustration of possible alternatives, with a call to the ESA's to investigate these and other possible alternatives before coming to a final proposal, keeping in mind the concerns raised by the SMSG.

## VI. Financial impact of the proposals

54. The draft RTS attempt to quantify the financial impact of the proposal (see page 74). In doing so it refers to the impact assessment done by the Commission, where the focus is on the cost to buy external data, doing internal research, engagement policies...). The overall conclusion is that this cost is marginal.

55. The SMSG is concerned that this impact analysis focuses only at one cost element: the purchase of data and the use of it by the financial entity. In addition, the SMSG believes that two more cost elements need to be taken into account.

56. At the level of distributor, there is the additional costs of financial advice – at least in a context where advice is given person-to-person. Assuming a gross wage cost of a financial advisor equivalent to 1 euro/minute

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<sup>37</sup> This third option could reduce comparability among products and financial market participants. On the other hand, it is in line with the concern to allow an iterative process of improving the indicators, as it could allow learning by doing by suggesting alternative and possibly better indicators for the same issue.

(proxy) and assuming that explaining these indicators would require an additional 10 – 15 minutes, the additional wage cost of advice would be equivalent to 10 – 15 euro. On an investment amount of 5000 euro, this would be equivalent to a one-off cost of 0.2 to 0.3%. Simplicity and avoidance of data overload could be useful here. Data overload would not only be more time consuming for the advisor, but would neither be desirable from the investor's point of view.

57. Secondly, there is the cost of data delivery, i.e. costs for issuers. These costs may be proportionally higher for SME's. Also, in comparison to large corporations, they often do not yet have processes in place to provide such data. However, there are also possibilities to lessen this cost. At present, issuers are asked by different agencies to provide sustainability data. To the extent that standardization could result in less data varieties to be provided and less different formats to be filled in, it would contribute to lowering the costs of data provision. However, to achieve this goal, a well-balanced iterative process between at least three crucial pieces of legislation is needed: the Taxonomy Regulation; the Non-Reporting Directive and the Sustainable Finance Disclosure Regulation. However, the SMSG believes that at present, the situation is still premature. Hence, it is important that the draft RTS does not constrain the iterative process.

## **VII. Other issues**

58. For financial products that are "portfolios" ESAs note in the consultation paper (see page 12) that the requirements on product-by-product disclosures on websites will entail GDPR considerations. The SMSG notes that in addition thereto, it should be considered whether a requirement to disclose information linked to individual clients could in fact be in contravention with bank and contractual secrecy legislation and which regulatory measures could be taken to remedy this problem.

59. The SMSG also suggests to consider the specific situation of green bonds (or rather a fund investing into green bonds), where the issuer has possibly set in place due diligence to separate the funding for the project from general corporate funding. To what extent are the present disclosure requirements and in particular the descriptive indicators meaningful for these products?

60. While templates could be useful for retail investors, the SMSG suggest to look at other ways of disclosure for institutional investors. Institutional investors may face very specific disclosure requirements, that could probably not be met through standardized templates.

61. It is possible that financial market participants or products consider other adverse impact than the one mentioned in Annex 1. Examples: exclusion criteria for adult entertainment, tobacco... To avoid later discussions with regulators, it would be good that the draft RTS explicitly allows financial market participants and products to include additional adverse impact indicators.

62. The public utility of having the Commission to organize a consolidated database where issuers report and different stakeholders access quality ESG data should be assessed.

This advice will be published on the Securities and Markets Stakeholder Group section of ESMA's website.

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[signed]

Veerle Colaert  
Chair, Securities and Markets Stakeholder Group