EUROPEAN COMMISSION

DIRECTORATE-GENERAL FOR FINANCIAL STABILITY, FINANCIAL SERVICES AND CAPITAL MARKETS UNION

# TARGETED CONSULTATION DOCUMENT IMPLEMENTATION OF

**THE SUSTAINABLE FINANCE DISCLOSURES REGULATION (SFDR)**

**Disclaimer**

This document is a working document of the Commission services for consultation and does not prejudge the final decision that the Commission may take.

The views reflected on this consultation paper provide an indication on the approach the Commission services may take but do not constitute a final policy position or a formal proposal by the European Commission.

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You are invited to reply **by 15 December 2023** at the latest to the **online questionnaire**

available on the following webpage:

[https://finance.ec.europa.eu/regulation-and-supervision/consultations/finance-2023-sfdr-](https://finance.ec.europa.eu/regulation-and-supervision/consultations/finance-2023-sfdr-implementation_en) [implementation\_en](https://finance.ec.europa.eu/regulation-and-supervision/consultations/finance-2023-sfdr-implementation_en)

Please note that in order to ensure a fair and transparent consultation process **only responses received through the online questionnaire will be taken into account and included in the report summarising the responses**.

This consultation follows the normal rules of the European Commission for targeted consultations. Responses will be published in accordance with the privacy options respondents will have opted for in the online questionnaire.

Responses authorised for publication will be published on the following webpage: [https://finance.ec.europa.eu/regulation-and-supervision/consultations/finance-2023-sfdr-](https://finance.ec.europa.eu/regulation-and-supervision/consultations/finance-2023-sfdr-implementation_en) [implementation\_en](https://eur-lex.europa.eu/legal-content/EN/TXT/)

Any question on this consultation or issue encountered with the online questionnaire can be raised via email at [fisma-sfdr@ec.europa.eu](mailto:fisma-sfdr@ec.europa.eu).

INTRODUCTION

The [Sustainable Finance Disclosures Regulation (SFDR)](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32019R2088) started applying in March 2021 and requires financial market participants and financial advisers to disclose how they integrate sustainability risks and principal adverse impacts in their processes at both entity and product levels. It also introduces additional product disclosures for financial products making sustainability claims.

This targeted consultation aims at gathering information from a wide range of stakeholders, including financial practitioners, non-governmental organisations, national competent authorities, as well as professional and retail investors, on their experiences with the implementation of the SFDR. The Commission is interested in understanding how the SFDR has been implemented and any potential shortcomings, including in its interaction with the other parts of the European framework for sustainable finance, and in exploring possible options to improve the framework.

The main topics to be covered in this questionnaire are:

1. ***Current requirements of the SFDR***
2. ***Interaction with other sustainable finance legislation***
3. ***Potential changes to the disclosure requirements for financial market participants***
4. ***Potential establishment of a categorisation system for financial products***

Sections 1 and 2 cover the SFDR as it is today, exploring how the regulation is working in practice and the potential issues stakeholders might be facing in implementing it.

Sections 3 and 4 look to the future, assessing possible options to address any potential shortcomings. As there are crosslinks between aspects covered in the different sections, respondents are encouraged to look at the questionnaire in its entirety and adjust their replies accordingly.

**CONSULTATION QUESTIONS**

1. **CURRENT REQUIREMENTS OF THE SFDR**

The EU’s sustainable finance policy is designed to attract private investment to support the transition to a sustainable, climate-neutral economy. The SFDR is designed to contribute to this objective by providing transparency to investors about the sustainability risks that can affect the value of and return on their investments (‘outside-in’ effect) and the adverse impacts that such investments have on the environment and society (‘inside- out’). This is known as double materiality. This section of the questionnaire seeks to assess to what extent respondents consider that the SFDR is meeting its objectives in an effective and efficient manner and to identify their views about potential issues in the implementation of the regulation.

We are seeking the views of respondents on how the SFDR works in practice. In particular, we would like to know more about potential issues stakeholders might have encountered regarding the concepts it establishes and the disclosures it requires.

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

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| 1 | 2 | 3 | 4 | 5 | Don’t know |
|  |  |  | X |  |  |

*(1= not at all, 2= to a limited extent, 3= to some extent, 4= to a large extent, 5= to a very large extent)*

**Question 1.2:** Do you think the SFDR disclosure framework is effective in achieving the following specific objectives (included in its [Explanatory Memorandum](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52018PC0354) and mentioned in its recitals)1:

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  | 1 | 2 | 3 | 4 | 5 | Don’t know |
| Increasing transparency towards end investors with regard to the integration of sustainability risks2 |  |  | X |  |  |  |
| Increasing transparency towards end investors with regard to the consideration of adverse sustainability impacts |  |  | X |  |  |  |
| Strengthening protection of end investors and making it easier for them to benefit from and compare among |  | X |  |  |  |  |

1 [https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52018PC0354](https://www.esma.europa.eu/press-news/consultations/joint-consultation-review-sfdr-delegated-regulation?uri=CELEX%3A52018PC0354)

2 In this questionnaire we refer to the term ‘end investor’ (retail or professional) to designate the ultimate beneficiary of the investments in financial products (as defined under the SFDR) made by a person for their own account.

|  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| a wide range of financial products and services, including those with sustainability claims |  |  | |  | |  | |  |  |
| Channelling capital towards investments considered sustainable, including transitional investments (‘investments considered sustainable’ should be understood in a broad sense, not limited to the definition of sustainable investment set out in Article 2(17) of SFDR) |  | X |  | |  | |  | |  |
| Ensuring that ESG considerations are integrated into the investment and advisory process in a consistent manner across the different financial services sectors |  | X |  | |  | |  | |  |
| Ensuring that remuneration policies of financial market participants and financial advisors are consistent with the integration of sustainability risks and, where relevant, sustainable investment targets and designed to contribute to long-term sustainable growth |  |  | X | |  | |  | |  |

*(1= totally disagree, 2= mostly disagree, 3= partially disagree and partially agree, 4= mostly agree, 5= totally agree)*

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

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| 1 | 2 | 3 | 4 | 5 | Don’t know |
|  |  |  | X |  |  |

*(1= totally disagree, 2= mostly disagree, 3= partially disagree and partially agree, 4= mostly agree, 5= totally agree)*

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

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

*(1= totally disagree, 2= mostly disagree, 3= partially disagree and partially agree, 4= mostly agree, 5= totally agree)*

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

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

*(1= totally disagree, 2= mostly disagree, 3= partially disagree and partially agree, 4= mostly agree, 5= totally agree)*

We would also like to know more about potential issues stakeholders might have encountered regarding the concepts that the SFDR establishes and the disclosures it requires.

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

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  | 1 | 2 | 3 | 4 | 5 | Don’ t  kno w |
| Some disclosures required by the SFDR are not sufficiently useful to investors |  |  |  |  | X |  |
| Some legal requirements and concepts in the SFDR, such as ‘sustainable investment’, are not sufficiently clear |  |  |  |  | X |  |
| The SFDR is not used as a disclosure framework as intended, but as a labelling and marketing tool (in particular Articles 8 and 9) |  |  |  |  | X |  |
| Data gaps make it challenging for market participants to disclose fully in line with the legal requirements under the SFDR |  |  |  |  | X |  |
| Re-use of data for disclosures is hampered by a lack of a common machine-readable format that presents data in a way that makes it easy |  |  | X |  |  |  |

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| to extract |  |  |  |  |  |  |
| There are other deficiencies with the SFDR rules (please specify in text box following question 1.7) |  |  |  |  | X |  |

*(1= totally disagree, 2= mostly disagree, 3= partially disagree and partially agree, 4= mostly agree, 5= totally agree)*

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

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

*(1= totally disagree, 2= mostly disagree, 3= partially disagree and partially agree, 4= mostly agree, 5= totally agree)*

Please provide any additional explanations as necessary for questions 1.5, 1.6 and 1.7:

*An EU level framework for sustainability-related disclosure remains extremely pertinent today. The SFDR has had an undeniable positive impact: increased transparency and dialogue with clients, prioritization of ESG topics, increased corporate awareness. Nevertheless, implementation of the requirements has raised numerous challenges and concerns among authorities, FMPs and investors. To fully harness the regulation's potential in combating greenwashing and promoting the redirection of capital towards sustainable endeavors, several weaknesses need to be addressed.*

***Unclear definitions*** *(“sustainable investment”, “promotion of E/S characteristics”, Article 8/9 distinction, 100% threshold) create difficulties in interpretation by NCAs, inconsistent enforcement, lack of comparability, and confusion among financial market participants. In addition, the requirement disclosures are* ***complex and extensive****, and as such are often* ***not easily grasped by the end-investors.*** *The aim should be to achieve quality disclosures rather than quantity. A distinction between retail and institutional investors could be useful, as institutional investors are now used to the disclosure and ask for it in order to fulfill their own SFDR obligations.*

*The usefulness of* ***entity-level disclosure for investors****, in particular retail investors, can be questioned. Investors decide to invest in a fund, not in an asset manager: entity-level disclosure do not allow them to compare funds. We understand that the initial objective of such disclosure was to allow investors to better assess what the asset management is doing more globally in terms of ESG but the SFDR PAI statement have failed to reach this purpose.*

***Data gaps*** *are a key issue in the implementation the SFDR. The recent decision to reduce the scope of companies subject to non-financial reporting obligations under the CSRD will not help this; even for companies still subject to the CSRD reporting, the latest clarification from the European Commission that corporates are able to report only information that are material for their business will increase those data gaps and make it very difficult for asset managers to report, especially for KPIs that were considered as always material by the ESAs as well as asset managers.*

*Furthermore, in line with green goals and in particular with the Commission’s recommendation on facilitating finance for the* ***transition*** *to a sustainable economy (June 2023) we consider that transition finance should be more clearly accounted for in the SFDR. To better achieve this,* ***Article 2(17) should introduce binding and measurable objectives at the financial product level, instead of applying at issuer level****. The SFDR should introduce category of financial transition products, measured against the investment fund’s commitment (eg. Net Zero aligned funds, decarbonation funds, transition-linked-bonds, sustainability-linked-bonds, Paris Aligned Benchmarks, Climate Transition Benchmarks, …).*

***Machine-readable formats*** *ease the collection and assessment processes of data published by issuers and investee companies. In order to ease the data transfer process between financial product manufacturers and financial product distributors (or any other intermediaries that would need product data), the financial industry have coordinated as part of the FinDatEx organization to create a machine-readable format of product information manufacturers need to communicate to distributors: the European ESG Template (EET).*

*We would also take this opportunity to underline that any future modifications should be analysed in detail to avoid adding an extra layer of complexity to the current framework which would make implementation more difficult for market participants, cause customer fatigue with new information/requirements in a short period of time, and generating an increase in manufacturing and distribution costs that could eventually result in higher prices for financial products.*

# Disclosures of principal adverse impacts (PAIs)

There are several disclosures concerning PAIs in the SFDR. As a general rule, the SFDR requires financial market participants who consider PAIs to disclose them at entity level on their website. It also includes a mandatory requirement for financial market participants to provide such disclosures when they have more than 500 employees (Article 4). The [Delegated Regulation](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02022R1288-20230220)3 of the SFDR includes a list of these PAI indicators. These entity level PAI indicators are divided into three tables in the Delegated Regulation. Indicators listed in table 1 are mandatory for all participants, and indicators in tables 2 and 3 are subject to a materiality assessment by the financial market participant (at least one indicator from table 2 and one from table 3 must be included in every PAI statement).

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

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

In this context:

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

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

*(1= totally disagree, 2= mostly disagree, 3= partially disagree and partially agree, 4= mostly agree, 5= totally agree)*

**Question 1.8.1**: When following the approach described in the first statement of question

1.8 above, do you agree that the areas covered by the current indicators listed in table 1 of the Delegated Regulation are the right ones to be considered material in all cases?

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| 1 | 2 | 3 | 4 | 5 | Don’t know |
|  |  | X |  |  |  |

*(1= totally disagree, 2= mostly disagree, 3= partially disagree and partially agree, 4= mostly agree, 5= totally agree)*

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

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

*(1= totally disagree, 2= mostly disagree, 3= partially disagree and partially agree, 4= mostly agree, 5= totally agree)*

Please provide any additional explanations as necessary for questions 1.8, 1.8.1 and 1.9:

*At* ***investee company level****, based on the ESRS, disclosures and datapoints within each standard may be subject to a materiality assessment by the reporting entity, including the PAI and transition plans/target disclosures and data points. In addition, explanations as to why the reporting entity has considered a disclosure “not material” is optional. This can create permanent data gaps between CSRD and SFDR.*

*Consequently,* ***some indicators may be difficult to collect, measure or quantify, making it difficult for financial market participants to report on them accurately****. Requiring all indicators to be considered material for entity-level disclosures could result in inaccurate reporting, which could be misleading for investors. Instead, financial market participants should be allowed to focus on the indicators that are most relevant and significant to their business and financial products, while still providing sufficient coverage of the principal adverse indicators.*

***On Question 1.8.1:***

*Data gaps make it very difficult for financial institutions to publish relevant information on the KPIs considered always material. Underlying information should be made available by the investee companies, and clear guidelines should be provided on how to take “non-material” information into account for each and every mandatory PAI indicators.*

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

* 1. **The cost of disclosures under the SFDR today**

The following two questions aim to assess the costs of the SFDR disclosure requirements distinguishing between one-off and recurring costs. One-off costs are incurred only once to implement a new reporting requirement, e.g. getting familiarised with the legal act and the associated regulatory or implementing technical standards, setting-up data collection processes or adjusting IT-systems. Recurring costs occur repeatedly every year once the new reporting is in place, e.g. costs of annual data collection and report preparation. In the specific case of precontractual disclosures for example, there are one-off costs to set up the process of publishing precontractual disclosures when a new product is launched, and recurring annual costs to repeat the process of publishing pre-contractual disclosures each time a new product is launched (depends on the number of products launched on average each year). These two questions apply both to entity and product level disclosures.

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

|  |  |  |  |
| --- | --- | --- | --- |
| EUR | Estimated one off costs | Estimated recurring annual costs | Don’t know |
| Internal costs |  |  |  |
| Thereof personnel costs |  |  |  |
| Thereof IT costs |  |  |  |
| External costs |  |  |  |
| Thereof data providers |  |  |  |
| Thereof advisory services |  |  |  |
| Total costs of SFDR disclosure requirements |  |  |  |

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

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

If you wish to provide additional details, please use the box below:

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

Could you please provide a split between:

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| % | Retrieving the data | Analysing the data | Reporting SFDR  disclosures | Other | Don’t know |
| Estimated percentage |  |  |  |  |  |

# Data and estimates

Financial market participants' and financial advisers’ ability to fulfil their ESG transparency requirements depends in part on other disclosure requirements under the EU framework. In particular, they will rely to a significant extent on the [Corporate](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32022L2464) [Sustainability Reporting Directive (CSRD).](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32022L2464) However, entities are not reporting yet under those new disclosure requirements, or they may not be within the scope of the CSRD. Besides, even when data is already available today, it may not always be of good quality.

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

|  |  |  |
| --- | --- | --- |
| Yes X | No | Don’t know |

**Question 1.12.1**: If so, do you struggle to find information about the following elements?

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  | 1 | 2 | 3 | 4 | 5 | Don’t know |
| The entity level principal adverse impacts |  |  |  | X |  |  |
| The proportion of taxonomy-aligned investments (product level) |  |  |  | X |  |  |
| The contribution to an environmental or social objective, element of the definition of ‘sustainable investment’ (product level) |  |  |  | X |  |  |
| The product’s principal adverse impacts, including when assessed in the context of the ‘do no significant harm’ test which requires the consideration of PAI entity level indicators listed in Annex I of the Delegated Regulation and is an element of the definition of ‘sustainable investment’ (product level) |  |  |  | X |  |  |
| The good governance practices of investee companies (product level) |  |  | X |  |  |  |
| Other |  |  |  |  |  |  |

*(1= not at all, 2= to a limited extent, 3= to some extent, 4= to a large extent, 5= to a very large extent)*

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

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| 1 | 2 | 3 | 4 | 5 | Don’t know |
|  | X |  |  |  |  |

*(1= not at all, 2= to a limited extent, 3= to some extent, 4= to a large extent, 5= to a very large extent)*

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

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| 1 | 2 | 3 | 4 | 5 | Don’t know |
| X |  |  |  |  |  |

*(1= not at all, 2= to a limited extent, 3= to some extent, 4= to a large extent, 5= to a very large extent)*

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

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | Entity level principal adverse impacts | Taxonomy aligned investments (product level) | Sustainable investments (product level) | Other |
| Estimates from data providers, based on data coming from the investee companies | 3/4 | 3/4 | 3 |  |
| Estimates from data providers, based on data coming from other sources | 3/4 | 3/4 | 3 |  |
| In-house estimates | 2 | 2 | 2 |  |
| Internal ESG score models | 2 | 2 | 2 |  |
| External ESG score models | 2 | 2 | 2 |  |
| Other |  |  |  |  |

*(1= not at all, 2= to a limited extent, 3= to some extent, 4= to a large extent, 5= to a very large extent)*

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

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| 1 | 2 | 3 | 4 | 5 | Don’t know |
|  |  | X |  |  |  |

*(1= not at all, 2= to a limited extent, 3= to some extent, 4= to a large extent, 5= to a very large extent)*

Please also provide further explanations to your replies to questions 1.12 to 1.12.5.

*The current misalignment of SFDR and CSRD timelines generate* ***data gaps*** *which will only be reduced once CSRD fully applies to underlying undertakings (at least for European investments. The difficulties for investment products investing in different regions or globally will remain). The current data gap affects the accuracy and reliability of results, even when best efforts are made to collect or estimate the data.*

*In addition, the lack of standardized reporting, especially out of the scope of CSRD, prevents from the direct use of reported data. The use of data derived from reported metrics should be allowed to favor the development of estimates.*

*As an example: on the estimation of compliance with minimum social safeguards, while the use of controversies should not be encouraged to show compliance, it could be useful to demonstrate a misalignment with this criterion.*

*Clear guidance is needed as to* ***how to deal with “non material” information*** *from investee companies for the purposes of SFDR level 2.*

***On Question 1.12.1***

*Data availability may vary depending on the KPI in question and also the type of company invested in. In particular, if data is rather highly available on GHG emissions for large cap public companies, it is not the same for private markets and smaller companies. KPIs that particularly suffer from availability: gender pay gap, biodiversity/land protection, energy consumption (renewable vs. non-renewable).*

*When data is not directly available from corporates, estimates may be used.*

*In terms of data quality, very few tools are available to ensure the quality of data bought externally or even provided bilaterally by companies (through questionnaires). Consistency checks can help to make sure that the data is relevant. Some affiliates have developed their internal methodologies and use their own data to determine eg. Contribution to environmental objectives.*

*Regarding the proportion of taxonomy-aligned investments at product-level, data availability depends on the type of market: while it is less challenging for public markets than for private markets, it remains a big issue, particularly due to the limited scope of sectors covered by the Taxonomy.*

*When it comes to assessing PAIs including DNSH, the issue is more one of methodology and definitions. The industry broadly adopted similar methodologies to implement the DNSH which only need straightforward and mostly available data (controversies analysis + exclusions).*

*As regards good governance practices, information on investee companies is rather easily accessible on public markets. However, once again, the issue of definition of good governance practices may be the main concern and prevent good quality data.*

***On Question 1.12.5***

*Banks do engage with investee companies on different items, including in some cases to ask for further disclosures; however missing data is not, at this stage, a trigger for investment activities.*

**Question 1.13**: Have you increased your offer of financial products that make sustainability claims since the disclosure requirements of Articles 8 and 9 of the SFDR began to apply (i.e. since 2021, have you been offering more products that you categorise as Articles 8 and 9 than those you offered before the regulation was in place and for which you also claimed a certain sustainability performance)?

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| 1 | 2 | 3 | 4 | 5 | Don’t know |
|  |  |  | X |  |  |

*(1= not at all, 2= to a limited extent, 3= to some extent, 4= to a large extent, 5= to a very large extent)*

**Question 1.13.1**: Please specify how the share of financial products making sustainability claims has evolved in the past years. (Please express it as a percentage of the total financial products you offered each year.)

|  |  |  |  |
| --- | --- | --- | --- |
| 2020 | 2021 | 2022 | 2023 |
|  |  |  |  |

**Question 1.13.2**: If you have increased your offering of financial products making sustainability claims, in your view, has any of the following factors influenced this increase?

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

*(1= not at all, 2= not really, 3= partially, 4= mostly, 5= totally)*

If other, please specify. Please also provide further explanations to your replies to questions 1.13, 1.13.1 and 1.13.2.

1. **INTERACTION WITH OTHER SUSTAINABLE FINANCE LEGISLATION**

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

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

* the [Taxonomy Regulation](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32020R0852)
* the [Benchmarks Regulation](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32016R1011)
* the [Corporate Sustainability Reporting Directive (CSRD)](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32022L2464)
* the [Markets in Financial Instruments Directive (MiFID 2)](https://www.esma.europa.eu/press-news/consultations/joint-consultation-review-sfdr-delegated-regulation?uri=CELEX%3A32014L0065) and the [Insurance](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32016L0097) [Distribution Directive (IDD)](https://finance.ec.europa.eu/publications/retail-investment-strategy_en?uri=CELEX%3A32016L0097)
* the [Regulation on Packaged Retail Investment and Insurance Products (PRIIPs)](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32014R1286)

Other legal acts that are currently being negotiated may also interact with the SFDR in the future. They are not covered in this questionnaire as the detailed requirements of these legal acts have not yet been agreed. At this stage, it would be speculative to seek to assess how their interaction with SFDR would function.

Both the SFDR and the Taxonomy Regulation introduce key concepts to the sustainable finance framework. Notably, they introduce definitions of ‘sustainable investment’ (SFDR) and ‘environmentally sustainable’ economic activities (Taxonomy). Both definitions require, inter alia, a contribution to a sustainable objective and a do no significant harm (DNSH) test. But while these definitions are similar, there are differences between them which could create practical challenges for market participants.

**Question 2.1:** The [Commission recently adopted a FAQ](https://www.esma.europa.eu/joint-committee/joint-qas?uri=CELEX%3A52023XC0616(01)) clarifying that investments in Taxonomy-aligned ‘environmentally sustainable’ economic activities can automatically qualify as ‘sustainable investments’ in those activities under the SFDR. To what extent do you agree that this FAQ offers sufficient clarity to market participants on how to treat Taxonomy-aligned investment in the SFDR product level disclosures?

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| 1 | 2 | 3 | 4 | 5 | Don’t know |
|  |  | X |  |  |  |

*(1= totally disagree, 2= mostly disagree, 3= partially disagree and partially agree, 4= mostly agree, 5= totally agree)*

The Benchmarks Regulation introduces two categories of climate benchmarks – the EU climate transition benchmark (EU CTB) and the EU Paris-aligned benchmark (EU PAB) - and requires benchmark administrators to disclose on ESG related matters for all benchmarks (except interest rate and foreign exchange benchmarks). The SFDR makes reference to the CTB and PAB in connection with financial products that have the reduction of carbon emissions as their objective. Both legal frameworks are closely

linked as products disclosing under the SFDR can for example passively track a CTB or a PAB or use one of them as a reference benchmark in an active investment strategy. More broadly, passive products rely on the design choices made by the benchmark administrators.

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

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  | 1 | 2 | 3 | 4 | 5 | Don’t know |
| The [questions & answers published by the](https://eur-lex.europa.eu/legal-content/EN/TXT/) [Commission in April 2023](https://www.esma.europa.eu/joint-committee/joint-qas) specifying that the SFDR deems products passively tracking CTB and PAB to be making ‘sustainable investments’ as defined in the SFDR provide sufficient clarity to market participants |  |  | X |  |  |  |
| The approach to DNSH and good governance in the SFDR is consistent with the environmental, social and governance exclusions under the PAB/CTB |  | X |  |  |  |  |
| The ESG information provided by benchmark administrators is sufficient and is aligned with the information required by the SFDR for products tracking or referencing these benchmarks |  | X |  |  |  |  |

*(1= totally disagree, 2= mostly disagree, 3= partially disagree and partially agree, 4= mostly agree, 5= totally agree)*

Both the SFDR and the Corporate Sustainability Reporting Directive (CSRD) introduce entity level disclosure requirements with a double-materiality approach.4 The CSRD sets out sustainability reporting requirements mainly for all large and all listed undertakings with limited liability (except listed micro-enterprises),5 while the SFDR introduces sustainability disclosure requirements at entity level for financial market participants and financial advisers as regards the consideration of sustainability related factors in their investment decision-making process. Moreover, in order for financial market participants and financial advisers to meet their product and entity level disclosure obligations under

4 Transparency requirements relate to the sustainability risks that can affect the value of investments (SFDR) or companies (CSRD) (‘outside-in’ effect) and the adverse impacts that such investments or companies have on the environment and society (‘inside-out’).

5 Credit institutions and insurance undertakings with unlimited liability are also in scope subject to the same size criteria. Non-EU undertakings listed on the EU regulated markets and non-EU undertakings with a net turnover above EUR 150 million that carry out business in the EU will also have to publish certain sustainability-related information through their EU subsidiaries that are subject to CSRD (or - in the absence of such EU subsidiaries – through their EU branches with net turnover above EUR 40 million).

the SFDR, they will rely to a significant extent, on the information reported according to the CSRD and its [European Sustainability Reporting Standards (ESRS)](https://finance.ec.europa.eu/regulation-and-supervision/consultations/finance-2023-sfdr-implementation_en#standards)6.

**Question 2.3**: To what extent do you agree or disagree with the following statements?

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

*(1= totally disagree, 2= mostly disagree, 3= partially disagree and partially agree, 4= mostly agree, 5= totally agree)*

Financial advisors (under MiFID 2) and distributors of insurance-based investment products (under IDD) have to conduct suitability assessments based on the sustainability preferences of customers. These assessments rely in part on sustainability-related information made available by market participants reporting under the SFDR.

**Question 2.4**: To what extent do you agree that the product disclosures required in the SFDR and [its Delegated Regulation](https://www.esma.europa.eu/joint-committee/joint-qas?uri=CELEX%3A02022R1288-20230220) (e.g. the proportion of sustainable investments or taxonomy aligned investments, or information about principal adverse impacts) are sufficiently useful and comparable to allow distributors to determine whether a product can fit investors’ sustainability preferences under MiFID2 and the IDD?

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| 1 | 2 | 3 | 4 | 5 | Don’t know |
|  | X |  |  |  |  |

*(1= totally disagree, 2= mostly disagree, 3= partially disagree and partially agree, 4= mostly agree, 5= totally agree)*

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

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  | 1 | 2 | 3 | 4 | 5 | Don’t know |
| Article 3, entity level disclosures about the integration of sustainability risks policies in investment or insurance advice |  | X |  |  |  |  |

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| Article 4, entity level disclosures about consideration of principal adverse impacts |  | X |  |  |  |  |
| Article 5, entity level disclosures about remuneration policies in relation to the integration of sustainability risks |  | X |  |  |  |  |
| Article 6, product level pre-contractual disclosures about the integration of sustainability risks in investment or insurance advice |  |  | X |  |  |  |
| Article 12, requirement to keep information disclosed according to Articles 3 and 5 up to date |  |  | X |  |  |  |

*(1= not at all, 2= to a limited extent, 3= to some extent, 4= to a large extent, 5= to a very large extent)*

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

|  |  |  |
| --- | --- | --- |
| Yes | No | Don’t know |
| X |  |  |

**Question 2.6.1**: If so, how?

PRIIPs requires market participants to provide retail investors with [key information](https://www.esma.europa.eu/joint-committee/joint-qas) [documents (KIDs).](file://localhost/C:/Users/caprami/AppData/Local/Microsoft/Windows/INetCache/Content.Outlook/O5J7GFIN/key%20information%20documents%20(KIDs)) As part of the [retail investment strategy](https://eur-lex.europa.eu/legal-content/EN/TXT/)7, the Commission has recently proposed to include a new sustainability section in the KID to make sustainability-related information of investment products more visible, comparable and understandable for retail investors. Section 4 of this questionnaire includes questions related to PRIIPs, to seek stakeholders’ views as regards potential impacts on the content of the KID if a product categorisation system was established.

Please clarify your replies to questions in section 2 as necessary:

*We recognize efforts to correlate reporting under different regulations. However, indicators relevant to the SFDR, the EU Climate BMR, Pillar 3 disclosures and other investor information regulations should be disclosed by in-scope companies on a mandatory basis. Different sustainability reporting regulations can lead to double reporting, creating administrative barriers for different actors, duplication, contradictions, and confusion. The SFDR review is an opportunity to rectify inconsistencies affecting the sustainable finance framework/consider revisiting other regulations to ensure they are duly aligned.*

*We welcome the clarification that Taxonomy-aligned activities can automatically be considered environmentally sustainable for SFDR purposes. It is still unclear how the share of sustainable investment should be calculated at company level, since Taxonomy alignment only applies at activity level. The social taxonomy is still to be determined, resulting in imbalance in the number of funds addressing the social dimension compared to the environmental one.*

*The client sustainability preferences assessment carried out by financial advisors under MiFID and IDD is not necessarily aligned with SFDR art8/9 categorisation. These inconsistencies and the complexity of the applicable framework generate confusion among investors. This may be further exacerbated by the proposed amendment of PRIIPs in the context of the Retail Investment Strategy, which should take into account this revision of SFDR. Sustainability preferences should be recalibrated to better fit in the sustainable finance framework.*

*Regarding both index tracking products and active benchmarked products, ambiguities remain when qualifying each individual portfolio constituent as a sustainable investment. As a result, SFDR requirements have hindered new asset gathering and conversions, which had gained momentum in 2020-2021, and is restraining the adoption of PAB/CTBs. The SFDR generated confusion in the design of PAB/CTB indexes used as underlying of passive/ETF management, as well as for benchmarking. Alignment or at least consistency between SFDR disclosures for investment managers and BMR disclosures for index administrators would increase transparency and facilitate reporting. PAB/CTBs must apply DNSH in accordance with the Taxonomy Regulation: for PABs DNSH triggers exclusions (action at company level) while the Taxonomy definition of DNSH applies at activity level. An oil company’s investment in renewables can be considered Taxonomy-aligned in application of DNSH, and increase a portfolio’s CapEx exposure to renewables under the SFDR; however, the company cannot be included in a PAB index. In this case, the PAB is counter-productive to Taxonomy and SFDR objectives to boost investment in activities that are aligned.*

*ESRS: Banks rely on information provided by corporates. To avoid problematic data gaps, financial and non-financial requirements must be well aligned. As data gaps subsist, banks increasingly depend on data providers, increasing the burden on issuers facing multiple data requests.*

*Investee companies are only required to disclose indicators that they consider material, but asset managers must disclose all mandatory indicators, leading to a timing issue (it was expected that investee companies would disclose their indicators before asset managers). This has also affected the disclosures shared with clients.*

*Even if the ESRS links ESRS datapoints and SFDR indicators, there are cases where they do not exactly match:*

*PAI6: Energy consumption intensity per high impact climate sector: The ESRS requires a breakdown per NACE while SFDR requires detail per sector.*

*PAI3: Number of days lost to injuries, accidents, fatalities or illness: SFDR does not define whether this covers employees and non-employees*

*There are still markets that fall outside the CSRD. The framework would benefit from greater flexibility in some respects, eg. concerning social funds: in some cases, certain environmental factors may not be applicable, or data may not be available for certain companies. The one-size-fits-all approach creates unnecessary restrictions and can hinder innovation.*

*Entity level disclosures enable investors to better appreciate the ambition of FMPs. They should be streamlined, particularly given that CSRD reporting should cover all information to be disclosed under Art. 3, 4(2)(b) and 5 SFDR with consistent requirements for all companies and sectors. Where FMP is required to report under the CSRD on its assets under management and advisory, then it should be exempt from reporting under SFDR. If not, it should be subject to SFDR reporting requirements.*

*Under SFDR each regulated entity has to publish its own PAI statement. It would be much more efficient to regroup these under a consolidated one, like under the CSRD.*

*Question 2.4: the precontractual disclosure requirement is not adapted to the retail client.*

7 [https://finance.ec.europa.eu/publications/retail-investment-strategy\_en](https://www.esma.europa.eu/press-news/consultations/joint-consultation-review-sfdr-delegated-regulation)

1. **POTENTIAL CHANGES TO DISCLOSURE REQUIREMENTS FOR FINANCIAL MARKET PARTICIPANTS**
   1. **ENTITY LEVEL DISCLOSURES**

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

**Question 3.1.1**: Are these disclosures useful?

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  | 1 | 2 | 3 | 4 | 5 | Don’t know |
| Article 3 |  |  | **X** |  |  |  |
| Article 4 |  |  | **X** |  |  |  |
| Article 5 |  |  | **X** |  |  |  |

*(1= not at all, 2= not really, 3= partially, 4= mostly, 5= totally)*

Please explain your replies to question 3.1.1 as necessary:

*Entity-level disclosures are mostly useful for investors to assess the sustainability factors linked to the FMP in question. This enables the goals of the SFDR to support sustainable goals at entity level.*

*It would be necessary to find an appropriate balance between comparability and flexibility of the information to be reported to ensure that such information makes sense to the investor receiving it and, in particular, to retailers.*

*We believe it is useful to have access to comparable information in the area of transparency for sustainability preferences. In this regard, entity level disclosure requirements are a positive tool to avoid potential greenwashing effects. Nonetheless, there is still room for improvement, as some of these disclosures might not be relevant for investors when it comes to the cost-efficiency of processing such information.*

*Information on PAI is easier to understand and to convey to clients, compared to information related to the sustainability risks. The Taxonomy Regulation has helped financial institutions create a better understanding, for clients, of ESG-related topics and impacts. ESG risks, although very important to consider in investment choices and disclosures, are a little too theoretical, more difficult to define and assess in order to guide the investment decision-making process of a market participant. ESG risks disclosure should be tackled with more decision and with far more accurate indications by the EU Regulator.*

*Finally, Article 5 requirements are not, by themselves, appropriate and effective in order to influence the remuneration policies of the financial market participants.*

Complementing the [consultation by the European Supervisory Authorities (ESAs) on the](https://ec.europa.eu/info/business-economy-euro_en) [revision of the Regulatory Technical Standards of the SFDR](https://www.esma.europa.eu/press-news/consultations/joint-consultation-review-sfdr-delegated-regulation)8, the Commission is interested in respondents’ views as regards the principal adverse impact indicators required by the current Delegated Regulation.

**Question 3.1.2**: Among the specific entity level principal adverse impact indicators required by the [Delegated Regulation of the SFDR](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02022R1288-20230220) adopted pursuant to Article 4 (tables 1, 2 and 3 of Annex I), which indicators do you find the most (and least) useful?

8 [https://www.esma.europa.eu/press-news/consultations/joint-consultation-review-sfdr-delegated-](file://localhost/C:/Users/caprami/AppData/Local/Microsoft/Windows/INetCache/Content.Outlook/O5J7GFIN/key%20information%20documents%20(KIDs)) [regulation](https://www.esma.europa.eu/press-news/consultations/joint-consultation-review-sfdr-delegated-regulation) – placeholder see what in right hyperlink in September when we launch OPC.

*The most useful indicators are those that are coherent with the wider sustainable finance framework, ie., renewable energy, UN Guiding Principles; exposure to companies active in the fossil fuel sector; GHG intensity of investee companies and Carbon footprint.*

*However, some other indicators could be improved upon to increase their usefulness. Data availability remains an obstacle for a number of indicators, making them difficult to use in practice. In this regard, we would mention in particular the following PAIs:*

*5. Share of non-renewable energy consumption and production*

*6. Energy consumption intensity per high impact climate sector*

*7. Activities negatively affecting biodiversity-sensitive areas*

*8. Emissions to water*

*9. Hazardous waste ratio*

*12. Unadjusted gender pay gap*

*Regarding those same PAIs, it should also be mentioned that FMPs can have different interpretations of what the PAIs encompass.*

*In addition, data is not always standardised, making the respective PAIs difficult to compare. We would mention in this regard PAIs 6 (Energy consumption intensity for high impact climate sectors); 8 (Emissions to water) and 9 (Hazardous waste ratio) and 12 (Unadjusted gender pay gap). These three PAIs are complex to report, which may further decrease their comparability and therefore usefulness.*

*Furthermore, due to the different ratios contained in certain PAIs, those PAIs cannot be properly compared. PAI 1 on GHG emissions is related to assets under management or to the FMP’s balance sheet. A bigger balance sheet will naturally reflect a greater absolute value of GHG emissions. PAI 2 (calculated per amount invested ) and PAI 2 (per amount of sales) allows for more meaningful comparisons.*

*Several positive changes have been proposed by the ESAs in their RTS review, most notably the clarifications relating to PAI 5 on board gender diversity, PAI 6 on share of non-renewable energy consumption and production (in line with the EET), PAI 16 on investee countries subject to social violations, now based on exposures.*

Several pieces of EU legislation require entity level disclosures, whether through transparency requirements on sustainability for businesses (for example the CSRD) or disclosure requirements regarding own ESG exposures (such as the Capital Requirements Regulation (CRR) and its Delegated Regulation).

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

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| 1 | 2 | 3 | 4 | 5 | Don’t know |
|  |  | **X** |  |  |  |

*(1= not at all, 2= not really, 3= partially, 4= mostly, 5= totally)*

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

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| 1 | 2 | 3 | 4 | 5 | Don’t know |
|  |  |  | **X** |  |  |

*(1= not at all, 2= to a limited extent, 3= to some extent, 4= to a large extent, 5= to a very large extent)*

Please explain your replies to questions in section 3.1 as necessary

*The conceptual complexity of the definitions contained in SFDR and its RTS, and the many cross-references it contains, entails interpretation issues for FMPs and clients. We consider it necessary to simplify disclosure requirements, addressing the most urgent and relevant issues. Retail customers find it difficult to understand all the information available in the market due to the complexity of the disclosures. In addition, it should be noted that sustainability information is currently reported separately from the other documentation that financial products must provide to the markets. An integrated report would provide investors with a holistic view, simplify reporting and reduce costs for the entities subject to these obligations.*

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

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

*There is a clear opportunity to streamline sustainability-related entity level requirements in particular with the CSRD given that CSRD will encompass the disclosures under Art 3, Art 4(2)(b) and Art 5 SFDR. We take the view that FMPs reporting their assets under management and advisory should be exempted from corresponding CSRD requirements.*

*In addition, it is worth noting that the CSRD allows for consolidated statements with subsidiaries. We would support a similar functioning of the SFDR (single PAI statement at group level).*

* 1. **PRODUCT LEVEL DISCLOSURES**

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

The SFDR was designed as a disclosure regime, but is being used as a labelling scheme, suggesting that there might be a demand for establishing sustainability product categories. Before assessing whether there might be merit in setting up such product categories in Section 4, Section 3 includes questions analysing the need for possible changes to disclosures, as well as any potential link between product categories and disclosures. The need to ask about potential links between disclosures and sustainability product categories is the reason why this section contains some references to ‘products making sustainability claims’. However, this does not pre-empt in any way a decision about how a potential categorisation system and an updated disclosure regime would interact if these were established. The Commission services are openly consulting on all these issues to further assess potential ways forward as regards the SFDR.

The Commission services would therefore like to collect feedback on what transparency requirements stakeholders consider useful and necessary. We would also like to know

respondents’ views on whether and how these transparency requirements should link to different potential categories of products.

The general principle of the SFDR is that products that make sustainability claims need to disclose information to back up those claims and combat greenwashing. This could be viewed as placing additional burden on products that factor in sustainability considerations. This is why, in the following questions, the Commission services ask respondents about the usefulness of uniform disclosure requirements for products across the board, regardless of related sustainability claims, departing from the general philosophy of the SFDR as regards product disclosures. Providing proportionate information on the sustainability profile of a product which does not make sustainability claims could make it easier for some investors to understand products’ sustainability performance, as they would get information also about products that are not designed to achieve any sustainability-related outcome. This section also contains questions exploring whether it could be useful to require financial market participants who make sustainability claims about certain products to disclose additional information (i.e. in case a categorisation system is introduced in the EU framework, the need to require additional information about products that would fall under a category).

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

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| 1 | 2 | 3 | 4 | 5 | Don’t know |
|  |  | **X** |  |  |  |

*(1= not at all, 2= to a limited extent, 3= to some extent, 4= to a large extent, 5= to a very large extent)*

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

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| 1 | 2 | 3 | 4 | 5 | Don’t know |
|  |  | **X** |  |  |  |

*(1= not at all, 2= to a limited extent, 3= to some extent, 4= to a large extent, 5= to a very large extent)*

Please specify which ones:

*Applying uniform disclosure requirements to all financial products offered in the EU would level the playing field and help streamline and simplify the framework, enhancing accessibility and comparability of products.*

*Disclosures’ criteria should be harmonised at the EU level, but disclosures should be based on the pertinence and features of each product.*

*The main goal of standarised product disclsoures should be to provide retail investors with clear, accessible and meaningful information that helps them make informed decisions. In that respect, it is important that the chosen approach serves this core objective ensuring that the essence of ESG products is accurately communicated and not misunderstood or oversimplified with uniform disclosure requirements.*

*Disclosure requirements relating PAIs that are commonly accepted as material for financial products and FMPs (GHG emissions, human rights violations) should apply to all products.*

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

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  | 1 | 2 | 3 | 4 | 5 | Don’t know |
| Taxonomy-related disclosures |  | **X** |  |  |  |  |
| Engagement strategies |  | **X** |  |  |  |  |
| Exclusions |  | **X** |  |  |  |  |
| Information about how ESG-related information is used in the investment process |  | **X** |  |  |  |  |
| Other information |  |  |  |  | **X** |  |

*(1= not at all, 2= to a limited extent, 3= to some extent, 4= to a large extent, 5= to a very large extent)*

If you selected ‘Other information’ please specify:

*Financial market participants must disclose extensive information in the pre-contractual documents and periodic reports as regards Art 8 and 9 products. The complexity of the information conveyed can discourage end-investors from investing in more sustainable products, which is clearly opposite to the desired effect of the SFDR.*

*We would argue that product disclosures should aim to properly inform investors with clear indications of the sustainability objectives and level of ambition, without over-burdening financial market participants. A single template, instead of the pre-contractual disclosures, including identical sections for each product but with flexibility in filling them out; clear and readily understandable explanations should be included, rather than disclosing only against set technical criteria. Disclosure criteria should be harmonised at the EU level but disclosures should be based on the pertinence and features of each product.*

*The main goal of standarised product disclsoures should be to provide retail investors with clear, accessible and meaningful information that helps them make informed decisions. In that respect, it is important that the chosen approach serves this core objective ensuring that the essence of ESG products is accurately communicated and not misunderstood or oversimplified with uniform disclosure requirements.*

Please explain as necessary your replies to questions 3.2.1 and its sub-questions:

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

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| 1 | 2 | 3 | 4 | 5 | Don’t know |
| **X** |  |  |  |  |  |

*(1= not at all, 2= to a limited extent, 3= to some extent, 4= to a large extent, 5= to a very large extent)*

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

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

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| 1 | 2 | 3 | 4 | 5 | Don’t know |
|  |  |  |  | **X** |  |

*(1= not at all, 2= to a limited extent, 3= to some extent, 4= to a large extent, 5= to a very large extent)*

Please specify which ones:

There should be a limited number of mandatory PAI indicators. Additional ones should be accounted for on the basis of the fund’s name and objectives.

**Question 3.2.2. c)**: Please see a list of examples of disclosures that could also be required about the group of financial products that would be subject to standardised disclosure obligations for transparency purposes (in line with your answer to Q 3.2.2 above). In your view, should these disclosures be mandatory, and/or should any other information be required about that group of financial products?

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  | 1 | 2 | 3 | 4 | 5 | Don’t know |
| Taxonomy-related disclosures |  | **X** |  |  |  |  |
| Engagement strategies |  | **X** |  |  |  |  |
| Exclusions |  | **X** |  |  |  |  |
| Information about how ESG-related information is used in the investment process |  | **X** |  |  |  |  |
| Other information |  |  |  |  | **X** |  |

*(1= not at all, 2= to a limited extent, 3= to some extent, 4= to a large extent, 5= to a very large extent)*

If you selected ‘Other information’ please specify:

Please explain as necessary your replies to questions 3.2.2 and its sub-questions:

*Managing disclosure requirements for a specific set of financial products, such as those with assets under management surpassing a specified threshold or exclusively designed for retail investors, proves overly intricate. The primary rationale behind extending disclosure obligations to encompass all financial products is to ensure a level playing field for these products. Imposing disclosure requirements solely on a subset of products would undermine this objective, introducing additional complexity and confusion to the markets, and impeding comparability.*

The following and last section of this questionnaire (section 4) includes questions about the potential establishment of a sustainability product categorisation system at EU level based on certain criteria that products would have to meet. It presents questions about different ways of setting up such system, including whether additional category specific

disclosure requirements should be envisaged. There are therefore certain links between questions in this section (section 3) and questions in the last section of the questionnaire (section 4).

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

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| 1 | 2 | 3 | 4 | 5 | Don’t know |
|  |  |  | **X** |  |  |

*(1= totally disagree, 2= mostly disagree, 3= partially disagree and partially agree, 4= mostly agree, 5= totally agree)*

Please explain as necessary your replies to question 3.2.3:

Products that do not fall within a category prescribed by the SFDR should not be allowed to make sustainability claims.

Sustainability product information disclosed according to the current requirements of the SFDR can be found in precontractual and periodic documentation and on financial market participants’ websites, as required by Articles 6, 7, 8, 9, 10 and 11.

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

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| 1 | 2 | 3 | 4 | 5 | Don’t know |
|  |  | **X** |  |  |  |

*(1= not at all, 2= to a limited extent, 3= to some extent, 4= to a large extent, 5= to a very large extent)*

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

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| 1 | 2 | 3 | 4 | 5 | Don’t know |
|  | **X** |  |  |  |  |

*(1= not at all, 2= to a limited extent, 3= to some extent, 4= to a large extent, 5= to a very large extent)*

Please explain as necessary your replies to question 3.2.4 and 3.2.5:

*We support the recommendations of the Platform on Sustainable Finance, that reporting requirements should prioritize the most pertinent information for measuring sustainability and impact, ultimately benefiting investors engaged in green and sustainable activities. We consider it necessary to simplify the information requirements, addressing the most urgent and relevant aspects. Retail customers find it difficult to understand all the information available in the market given the complexity of the disclosures*

*Dispersion of product-related information across these three locations can be appropriate, if the pre-contractual and periodic disclosures are simplified. As stated above, the current complexity of disclosures often proves challenging for end-investors to comprehend. This intricacy runs the risk of discouraging investors from reallocating their savings towards a more sustainable economy, rather than assisting them in establishing clear sustainable preferences that can guide their choice of suitable products.*

*Furthermore, simplification would enable informed investment decisions, enhance comprehension of financial products, and prevent an undue burden on financial market participants. Consequently, we propose that pre-contractual and periodic disclosures be streamlined, focusing on key features such as sustainability objectives and characteristics, binding elements of the investment strategy, main KPIs for measuring sustainability performance, and establishing a clear link between pre-contractual commitments and periodic reporting.*

Current website disclosures make it mandatory for product sustainability information to be publicly available. This includes portfolios managed under a portfolio management

mandate, which can mean a large number of disclosures, as each of the managed portfolios is considered a financial product under the SFDR. A [Q&A published by the](https://eur-lex.europa.eu/legal-content/EN/TXT/) [Commission in July 2021](https://finance.ec.europa.eu/publications/retail-investment-strategy_en)9 clarified that where a financial market participant makes use of standard portfolio management strategies replicated for clients with similar investment profiles, transparency at the level of those standard strategies can be considered a way of complying with requirements on websites disclosures. This approach facilitates the compliance with Union and national law governing the data protection, and where relevant, it also ensures confidentiality owed to clients.

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

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

*(1= totally disagree, 2= mostly disagree, 3= partially disagree and partially agree, 4= mostly agree, 5= totally agree)*

Please explain as necessary your replies to question 3.2.6:

The existing product-level disclosures are meant to facilitate comparisons among financial products. Nevertheless, there is a need for simplifying these pre- and post-contractual disclosures to enhance their accessibility and increase use by retail investors.

Current product-level disclosures have been designed to allow for comparability between financial products. The SFDR requires pre-contractual disclosures to be made in various documents for the different financial products in scope of the regulation. The disclosure requirements are the same, even though these documents have widely varying levels of detail or complexity, i.e. a UCITS prospectus can be several hundred pages long, while the Pan-European Pension Product Key Information Document (PEPP KID) comprises a few pages.

**Question 3.2.7**: To what extent do you agree with the following statements?9 See question 3 of section V of the [consolidated questions and answers (Q&A) on the SFDR and its](https://www.esma.europa.eu/joint-committee/joint-qas) [Delegated Regulation published on the ESAs websites.](https://www.esma.europa.eu/joint-committee/joint-qas)

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

*(1= totally disagree, 2= mostly disagree, 3= partially disagree and partially agree, 4= mostly agree, 5= totally agree)*

Please explain as necessary your replies to question 3.2.7:

Clients already receive a massive amount of information through MiFID and PRIIPS requirements. We should avoid making the information provided to clients more complex and extensive.

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

|  |  |  |
| --- | --- | --- |
| Yes | No | Don’t know |
| **X** |  |  |

Please explain as necessary your replies to question 3.2.8:

*There should not be a duplication but a minimum interopreability between entity-level and product-level disclosures, taking into account the specificities of each product, while respecting the hierarchy of entity-products.*

*Product disclosures should not be conditional to entity disclosures as they do not relate to the same level of sustainability consideration. A product may take into consideration certain aspects that are not considered at entity level. Indeed, each product can have a different sustainable strategy that won’t apply to the entire FMP. For example, considering decarbonisation targets, disclosures at the entity and at product level should be completely independent and uncorrelated for fair competition reasons.*

SFDR is intended to facilitate comparison between financial products based on their sustainability considerations. In practice, investors, and especially retail investors, may not always have the necessary expertise or knowledge to interpret SFDR product-level disclosures, whether it is about comparing these disclosures to industry averages or credible transition trajectories.

The SFDR is intended to facilitate comparisons between financial products based on their sustainability considerations. In practice, investors, and especially retail investors, may not always have the necessary expertise and knowledge to interpret SFDR product-level disclosures, whether it is about comparing these disclosures to industry averages or credible transition trajectories.

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

|  |  |  |
| --- | --- | --- |
| Yes | No | Don’t know |
|  | **X** |  |

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

Implementing a scaling system risks be operationally challenging, entail significant costs, and necessitate selective reasoning to justify why certain products outperform others.

The EC’s categorisation based on specific indicators, like greenhouse gas intensity or other key performance indicators, risks oversimplifying the intricate nature of ESG products and inadvertently introduces a subjective hierarchy. For instance, comparing an environmental fund to a social fund would introduce significant complexity and could lead to confusion.

An alternative approach would be to adapt the current categorisation to better reflect the strength of the product in terms of sustainability / transition commitment (see our proposal on product categorization) : none / significant / very significant commitment.

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

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

*(1= not at all, 2= to a limited extent, 3= to some extent, 4= to a large extent, 5= to a very large extent)*

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

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| 1 | 2 | 3 | 4 | 5 | Don’t know |
|  |  | **X** |  |  |  |

*(1= not at all, 2= not really, 3= partially, 4= mostly, 5= totally)*

Please explain as necessary your replies to question 3.2.10 and 3.2.11:

*Overall, SFDR requirements have elevated the expectations of professional clients concerning transparency, establishing a new market standard for asset managers. Institutional clients have experienced a significant surge in direct inquiries to market participants regarding sustainable information, with the number increasing by more than sixfold since 2020. This uptick is largely attributed to the highly customized requirements of institutional clients. SFDR has acted as a catalyst, intensifying transparency demands, however it remains that standard SFDR requirements may not entirely fulfill these evolving needs.*

For disclosures to be effective, they need to be accessible and useable to end investors. We are seeking respondents’ views about the need to further improve the accessibility and usability of this information, in particular in a digital context. 10

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

10 These questions are intended to complement Question 42 in the ESAs’ [joint consultation paper on the](https://www.esma.europa.eu/press-news/consultations/joint-consultation-review-sfdr-delegated-regulation) [review of the SFDR Delegated Regulation (JC 2023 09)](https://eur-lex.europa.eu/legal-content/EN/TXT/) which asks for criteria for machine readability of the SFDR Delegated Regulation disclosures.

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  | 1 | 2 | 3 | 4 | 5 | Don’t know |
| Article 2(2) of the SFDR Delegated Regulation already requires financial market participants to make disclosures under the SFDR in a searchable electronic format, unless otherwise required by sectoral legislation. This is sufficient to ensure accessibility and usability of the disclosed information. |  |  | **X** |  |  |  |
| It would be useful for all product information disclosed under the SFDR to be machine-readable, searchable and ready for digital use. |  |  | **X** |  |  |  |
| It would be useful for some of the product information disclosed under the SFDR to be machine-readable and ready for digital use. |  |  |  |  | **X** |  |
| It would be useful to prescribe a specific machine- readable format for all (or some parts) of the reporting under the SFDR (e.g. iXBRL). |  |  |  |  | **X** |  |
| It would be useful to make all product information disclosed under the SFDR available in the upcoming European Single Access Point as soon as possible. |  |  |  |  |  | **X** |
| Entity and product disclosures on websites should be interactive and offer a layered approach enabling investors to access additional information easily on demand. |  |  | **X** |  |  |  |
| It would be useful that a potential regulatory attempt to digitalise sustainability disclosures by financial market participants building on the European ESG Template (EET) which has been developed by the financial industry to facilitate the exchange of data between financial market participants and stakeholders regarding sustainability disclosures. |  |  | **X** |  |  |  |

*(1= totally disagree, 2= mostly disagree, 3= partially disagree and partially agree, 4= mostly agree, 5= totally agree)*

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

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| 1 | 2 | 3 | 4 | 5 | Don’t know |
|  | **X** |  |  |  |  |

*(1= not at all, 2= not really, 3= partially, 4= mostly, 5= totally)*

Please provide any comments or explanations to explain your answers to questions 3.2.12 and 3.2.13:

Current product-level disclosures have been designed to allow for comparability between financial products. These financial products and the types of investments they pursue can present differences.

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

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  | 1 | 2 | 3 | 4 | 5 | Don’t know |
| Whether the product is a wrapper offering choices between underlying investment options like a Multi-Option Product | **X** |  |  |  |  |  |
| Whether some of the underlying investments are outside the EU | **X** |  |  |  |  |  |
| Whether some of the underlying investments are in an emerging economy | **X** |  |  |  |  |  |
| Whether some of the underlying investments are in SMEs | **X** |  |  |  |  |  |
| Whether the underlying investments are in certain economic activities or in companies active in certain sectors | **X** |  |  |  |  |  |
| Other considerations as regards the type of product or underlying investments |  |  |  |  |  |  |

*(1= totally disagree, 2= mostly disagree, 3= partially disagree and partially agree, 4= mostly agree, 5= totally agree)*

Please explain your reply to question 3.2.14:

*We acknowledge that the CSRD will enhance access to harmonized sustainability information, however the scope of the CSRD is limited to only some companies. In addition, FMPs will continue to struggle accessing some non-financial data of companies subject to the CSRD due to the decision to make all topical ESRS subject to the materiality assessment. Therefore, information that was assessed as non-material will not be available to FMPs for their own reporting under SFDR.*

*While we welcome some clarification provided by the EC in the Q&A published together with the ESRS Proposal, it is not clear how FMPs should consider a “non-material” information for their own reporting purpose. We understand that clarifications will be provided in the sectoral ESRS and we take this opportunity to remind that if undertakings do not report on some PAI indicators because they are deemed not material, financial institutions should also be able to consider that such information is not material for their own reporting requirement.*

1. **POTENTIAL ESTABLISHMENT OF A CATEGORISATION SYSTEM FOR FINANCIAL PRODUCTS**
   1. **POTENTIAL OPTIONS**

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

The Commission services therefore seek views on the merits of developing a more precise EU-level product categorisation system based on precise criteria. This section of the questionnaire asks for stakeholders’ views about both the advantages of establishing sustainability product categories and about how these categories should work. When asking about sustainability product categories, the Commission is referring to a possible distinction between products depending on their sustainability objectives or sustainability performances.

Replies to questions in this section will help assess which type of investor would find product categories useful. Some questions relate to different possibilities as to how the system could be set-up, including whether disclosure requirements about products making sustainability claims should play a role. There are therefore certain links between questions in this section and section 3 on disclosures. Accordingly, respondents are invited to reply to questions in both sections, so that the Commission services can get insights into how they view disclosures and product categories separately, but also how they see the interlinkages between the two.

Given the high demand for sustainability products, questions in this section assume that any potential categorisation system would be voluntary. This is because financial market participants would likely have an interest in offering products with a sustainability claim. The questions in this section presume that only products that claim to fall under a given sustainability product category would be required to meet the corresponding requirements. However, this should not be seen as the Commission’s preferred policy approach, as the Commission is only consulting on these topics at this stage.

If the Commission was to propose the development of a more precise product categorisation system, two broad strategies could be envisaged. On the one hand, the product categorisation system could build on and develop the distinction between Articles 8 and 9 and the existing concepts embedded in them (such as environmental/social characteristics, sustainable investment or do no significant harm), complemented by additional (minimum) criteria that more clearly define the products falling within the scope of each article. On the other hand, the product categorisation system could be based on a different approach, for instance focused on the type of investment strategy (promise of positive contribution to certain sustainability objectives,

transition focus, etc.), based on criteria that do not necessarily relate to those existing concepts. In such a scenario, concepts such as environmental/social characteristics or sustainable investment and the distinction between current Articles 8 and 9 of SFDR may disappear altogether from the transparency framework.

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

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

*(1= totally disagree, 2= mostly disagree, 3= partially disagree and partially agree, 4= mostly agree, 5= totally agree)*

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

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  | 1 | 2 | 3 | 4 | 5 | Don’t know |
| **Approach 1**: Splitting categories in a different way than according to existing concepts used in Articles 8 and 9, for example, focusing on the type of investment strategy of the product (promise of positive contribution to certain sustainability  objectives, transition, etc.) based on criteria that do |  |  | **X** |  |  |  |

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| not necessarily relate to those existing concepts. |  |  |  |  |  |  |
| **Approach 2**: Converting Articles 8 and 9 into formal product categories, and clarifying and adding criteria to underpin the existing concepts of environmental/social characteristics, sustainable investment, do no significant harm, etc. |  |  | **X** |  |  |  |

*(1= totally disagree, 2= mostly disagree, 3= partially disagree and partially agree, 4= mostly agree, 5= totally agree)*

Please explain your reply to questions 4.1.2 and 4.2.2:

*Customers have just begun to understand the current Art 8/9 categorization, therefore it seems that a total overhaul at this stage would be very burdensome and confusing. We would advise against a hasty revision of the framework, however we agree that SFDR has not achieved its intended effects and that a revision of Articles 6, 8 and 9 will be necessary. It is necessary to create a framework that is understandable by all investors, differentiating between the information needs of institutional and retail investors. A more efficient approach would be to remove the blurry notions of “promotion”, “characteristics” and unclear definitions. Clear information should be conveyed to end-investors, showing the level of commitment toward disclosed objectives. Transition should also be properly accounted for, as a fundamental aspect for reaching environmental goals.*

*We value the reflection that the Commission is carrying out that shows the need to review and improve some aspects of the Regulation. However, only two years after its entry into force, we believe that a cost-benefit analysis should be carried out, taking into account the advantages and disadvantages of any new implementation or development, as this may generate greater uncertainty in the market and confusion for investors. Moreover, we understand that, to establish conceptually easy-to-understand product categories for investors, it is necessary to conduct practical tests with actual distribution channels and consumers, that should be done before finalizing any categorisation system. Such testing should serve to ensure that categories are not only theoretically sound but also workable in practice.*

*Product categorization can be helpful in recommending products to customers who do not have clear sustainability preferences or are unable to define them. As such, a revised framework could refine the categories to better reflect financial products’ strategies, distinguishing products with contribution strategies, transition strategies, and those which can demonstrate binding ESG factors embedded in their investment process applicable to their entire portfolio.*

*In addition, different levels of ambitions should be allowed for financial products, provided that their end objective is clearly disclosed. Products not related to any measurable, binding ESG objective should not make any sustainability claims. Products exceeding applicable benchmarks could be deemed to have a “significant objective”, and those exceeding such benchmarks by far, could be deemed to have a “very significant objective”. The different levels of ambition could be assessed in the context of the universe chose by the investor, against existing regulatory benchmarks, or market benchmarks that are widely accepted in practice. Alternatively, specific thresholds could be agreed to define the objective levels.*

*We take the view that the SFDR requirements should evolve, according to a constant dialogue between regulators and industry.*

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

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

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

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| 1 | 2 | 3 | 4 | 5 | Don’t know |
|  |  | **X** |  |  |  |

*(1= totally disagree, 2= mostly disagree, 3= partially disagree and partially agree, 4= mostly agree, 5= totally agree)*

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

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  | 1 | 2 | 3 | 4 | 5 | Don’t know |
| A - Products investing in assets that specifically strive to offer targeted, measurable solutions to sustainability related problems that affect people and/or the planet, e.g. investments in firms generating and distributing renewable energy, or in companies building social housing or regenerating urban areas. |  |  | **X** |  |  |  |
| B - Products aiming to meet credible sustainability standards or adhering to a specific sustainability-  related theme, e.g. investments in companies with evidence of solid waste and water management, or |  |  |  |  |  |  |

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| strong representation of women in decision-making. |  |  | **X** |  |  |  |
| C - Products that exclude activities and/or investees involved in activities with negative effects on people and/or the planet |  |  | **X** |  |  |  |
| D - Products with a transition focus aiming to bring measurable improvements to the sustainability profile of the assets they invest in, e.g. investments in economic activities becoming taxonomy-aligned or in transitional economic activities that are taxonomy aligned, investments in companies, economic activities or portfolios with credible targets and/or plans to decarbonise, improve workers’ rights, reduce environmental impacts.11 |  |  | **X** |  |  |  |
| Other |  |  |  |  |  | **X** |

*(1= not at all, 2= to a limited extent, 3= to some extent, 4= to a large extent, 5= to a very large extent)*

If you think there are other possible useful categories, please specify which ones:

Products not related to any measurable, binding ESG objective should not make any sustainability claims. Products exceeding applicable benchmarks could be deemed to have a “significant objective”, and those exceeding such benchmarks by far, could be deemed to have a “very significant objective”. The different levels of ambition could be assessed in the context of the universe chose by the investor, against existing regulatory benchmarks, or market benchmarks that are widely accepted in practice. Alternatively, specific thresholds could be agreed to define the objective levels.

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

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| 1 | 2 | 3 | 4 | 5 | Don’t know |
|  |  | **X** |  |  |  |

*(1= not at all, 2= to a limited extent, 3= to some extent, 4= to a large extent, 5= to a very large extent)*

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

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| 1 | 2 | 3 | 4 | 5 | Don’t know |
|  |  | **X** |  |  |  |

*(1= totally disagree, 2= mostly disagree, 3= partially disagree and partially agree, 4= mostly agree, 5= totally agree)*

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

11 In line with the transition to a climate neutral and sustainable economy.

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| 1 | 2 | 3 | 4 | 5 | More than 5 | Don’t know |
|  |  | **X** |  |  |  |  |

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

|  |  |  |  |
| --- | --- | --- | --- |
| Yes | No | There is another possible approach | Don’t know |
|  |  |  | **X** |

In case you have selected “There is another possible approach”, please specify below.

Please explain your replies to questions 4.1.5, 4.1.6, 4.1.7 and 4.1.8.

***Question 4.1.6:***

*Our understanding of that question is that the Commission wants to know whether we would support creating product categories that would be dedicated to “social” or to “environment”. In our view, the product categories should rather be determined on the basis of the product’s objective and measurable performance, whether it aims at a social or environmental objective.*

***Question 4.1.8:***

*Exclusive categories (eg. based on intentionality) would avoid confusion and strengthen consumer protection. Such a categorisation would need to rest on clear definitions, or be assessed against agreed thresholds.*

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

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| 1 | 2 | 3 | 4 | 5 | Don’t know |
|  |  | **X** |  |  |  |

*(1= totally disagree, 2= mostly disagree, 3= partially disagree and partially agree, 4= mostly agree, 5= totally agree)*

Please explain your replies to questions 4.1.9 as necessary:

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

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

For product category A of question 4.1.4

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

*(1= totally disagree, 2= mostly disagree, 3= partially disagree and partially agree, 4= mostly agree, 5= totally agree)*

Please specify reply:

For product category B of question 4.1.4

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

*(1= totally disagree, 2= mostly disagree, 3= partially disagree and partially agree, 4= mostly agree, 5= totally agree)*

Please specify reply:

For product category C of question 4.1.4

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

*(1= totally disagree, 2= mostly disagree, 3= partially disagree and partially agree, 4= mostly agree, 5= totally agree)*

Please specify reply:

For product category D of question 4.1.4

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

*(1= totally disagree, 2= mostly disagree, 3= partially disagree and partially agree, 4= mostly agree, 5= totally agree)*

Please specify reply:

**Question 4.1.11**: Should criteria focus to any extent on the processes implemented by the product manufacturer to demonstrate how sustainability considerations can constrain investment choices (for instance, a minimum year-on-year improvement of chosen key performance indicators (KPIs), or a minimum exclusion rate of the investable universe)?

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  | 1 | 2 | 3 | 4 | 5 | Don’t know |
| Category A of question 4.1.4 |  |  |  |  |  |  |
| Category B of question 4.1.4 |  |  |  |  |  |  |
| Category C of question 4.1.4 |  |  |  |  |  |  |
| Category D of question 4.1.4 |  |  |  |  |  |  |

*(1= totally disagree, 2= mostly disagree, 3= partially disagree and partially agree, 4= mostly agree, 5= totally agree)*

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

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

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

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

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| The current element of ‘investee companies’ good governance practices’ of the sustainable investment concept | **X** |  |  |  |  |  |

*(1= not at all, 2= to a limited extent, 3= to some extent, 4= to a large extent, 5= to a very large extent)*

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

|  |  |
| --- | --- |
| ‘contribution to an environmental or social objective’, element of the sustainable investment concept | *The current definitions leave a lot of room for interpretation. More clarity is needed. These notions are understood differently among asset managers and are too limited to allow FMPs to truly transform their portfolios.*  *To allow a deep reorientation of capital flows and adequately support FMPs, the current SFDR concepts need to be amended. We believe Article 2(17) SFDR applied at issuer level should be replaced by a concept built on binding and measurable objectives at the financial product level.* |
| ‘do no significant harm’, element of the sustainable investment concept | *Article 2(17) SFDR applied at issuer level should be deleted* |
| ‘investee companies’ good governance practices’, element of the sustainable investment concept | *Article 2(17) SFDR applied at issuer level should be deleted* |

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

|  |  |  |
| --- | --- | --- |
| Yes | No | Don’t know |
| **X** |  |  |

If yes, what should be the minimum criteria required for this element?

*Reference should be made to the level of EU sanctions in relation to human rights.*

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

|  |  |  |
| --- | --- | --- |
| Yes | No | Don’t know |
|  |  | **X** |

If yes, what should be the minimum criteria required for this element?

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

*As stated above, financial products should be allowed to have different levels of ambition as long as their end objective is clearly specified in product disclosure.**Only financial products which include measurable, comparable and binding sustainability objectives should be authorized to make any sustainability claims.*

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

|  |  |  |  |
| --- | --- | --- | --- |
|  | Yes | No | Don’t know |
| …fall under the potential new product category of Article 8? |  |  | **X** |
| …fall under the potential new product category of Article 9? |  |  | **X** |

**Question 4.1.14 a):** If yes, what should be this minimum proportion for Article 8?

**Question 4.1.14 b):** If yes, what should be this minimum proportion for Article 9?

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

Clear measurable targets would help to better define product categories, as well as clear definitions for measuring active ownership activities.

# General questions about the potential establishment of sustainability products categories

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

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| 1 | 2 | 3 | 4 | 5 | Don’t know |
|  |  | **X** |  |  |  |

*(1= totally disagree, 2= mostly disagree, 3= partially disagree and partially agree, 4= mostly agree, 5= totally agree)*

**Question 4.2.1 a):** Please see a list of examples of disclosures that could be required when a product falls within a specific sustainability product category. Should this information be required when a product falls within a specific sustainability product category, and/or should any other information be required about those products?

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  | 1 | 2 | 3 | 4 | 5 | Don’t know |
| Taxonomy-related disclosures |  |  | **X** |  |  |  |
| Engagement strategies |  |  | **X** |  |  |  |
| Exclusions |  |  | **X** |  |  |  |
| Information about how the criteria required to fall within a specific sustainability product category have been met |  |  | **X** |  |  |  |
| Other information |  |  |  |  | **X** |  |

*(1= not at all, 2= to a limited extent, 3= to some extent, 4= to a large extent, 5= to a very large extent)*

Please specify any other information:

*The revised SFDR framework should require product-level disclosures on the abovementioned points for transparency purposes, on a “comply or explain” basis. Products that do not integrate such features should clearly state and explain why.*

*Products integrating these features would have to disclose the relevant information and the extent to which they are integrated. These disclosures would then be used as a justification of the sustainability claims of products and as proof of them meeting the criteria establishing products categories under the revised SFDR framework.*

*Products falling within categories under the revised SFDR should disclose information about how the criteria required to fall within a specific sustainability product category have been met.*

*In our view only financial products which include measurable, comparable and binding sustainability objectives should be authorized to be considered as “sustainable”.**Financial products should be allowed to have different levels of ambition as long as that end objective is clearly specified in product disclosures.*

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

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

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| Other |  |  |  |  |  |  |

*(1= totally disagree, 2= mostly disagree, 3= partially disagree and partially agree, 4= mostly agree, 5= totally agree)*

Please explain your answer to question 4.2.2:

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

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  | 1 | 2 | 3 | 4 | 5 | Don’t know |
| Whether the product is a wrapper offering choices between underlying investment options like a Multi- Option Product |  | **X** |  |  |  |  |
| Whether the underlying investments are outside the EU |  |  | **X** |  |  |  |
| Whether the underlying investments are in an emerging economy |  |  |  |  |  | **X** |
| Whether the underlying investments are in SMEs |  |  |  |  |  | **X** |
| Whether the underlying investments are in certain economic activities |  |  |  |  |  | **X** |
| Other considerations as regards the type of product or underlying investments |  |  |  |  |  | **X** |

*(1= totally disagree, 2= mostly disagree, 3= partially disagree and partially agree, 4= mostly agree, 5= totally agree)*

Please explain your reply to question 4.2.3:

*A clearer definition for wrappers would be welcome. A possible approach would be to set a definite minimum amount for underlying funds or products to indicate their sustainability categorisation.*

# Consequences of the establishment of a sustainability products categorisation system

As highlighted in Section 2, any potential changes to the current disclosure regime and the creation of a categorisation system would need to take into account the interactions between the SFDR and other sustainable finance legislation. The following questions address these interactions for different legal acts, in such a scenario of regulatory changes in the arena of financial product disclosures and categorisation.

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

|  |  |  |
| --- | --- | --- |
| Yes | No | Don’t know |
| **X** |  |  |

Please explain your answer to question 4.3.1:

The product documentation in general should be streamlined and unified. It is not optimal to deal with several documents which contain overlapping information.

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

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  | 1 | 2 | 3 | 4 | 5 | Don’t know |
| The criteria set for the ESG benchmarks and the criteria defined for sustainability product categories should be closely aligned |  |  |  | **X** |  |  |
| Other |  |  |  |  |  |  |

*(1= totally disagree, 2= mostly disagree, 3= partially disagree and partially agree, 4= mostly agree, 5= totally agree)*

If you chose other, please specify how should these criteria interact:

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

|  |  |  |
| --- | --- | --- |
| Yes | No | Don’t know |
|  |  |  |

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

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| 1 | 2 | 3 | 4 | 5 | Don’t know |
|  |  |  |  | **X** |  |

*(1= totally disagree, 2= mostly disagree, 3= partially disagree and partially agree, 4= mostly agree, 5= totally agree)*

# Marketing communications and product names

Market participants are increasingly informing their clients about sustainability, both in the context of the SFDR and voluntarily in marketing communications and names. Potentially, any expression related to sustainability provided by market participants to describe and promote the entity or its products and services could mislead clients and other stakeholders if it does not appropriately consider the reasonable expectations.

The SFDR does address the issue of marketing communications in Article 13, prohibiting contradictions between such marketing communications and disclosures under the regulation. Article 13 also includes an empowerment for the European Supervisory Authorities to draft implementing technical standards on how marketing communication should be presented. This empowerment has not been used up to now.

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

|  |  |  |
| --- | --- | --- |
| Yes | No | Don’t know |
|  |  |  |

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

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

*(1= totally disagree, 2= mostly disagree, 3= partially disagree and partially agree, 4= mostly agree, 5= totally agree)*

**Question 4.4.3**: Would naming and marketing communication rules be sufficient to avoid misleading communications from products that do not fall under a product sustainability category?

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| 1 | 2 | 3 | 4 | 5 | Don’t know |
|  |  | **X** |  |  |  |

*(1= totally disagree, 2= mostly disagree, 3= partially disagree and partially agree, 4= mostly agree, 5= totally agree)*

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

*Products that do not satisfy the criteria of any categories that would be established under the revised SFDR should be prevented from using any sustainability-related claims in marketing communications.*

*We would also like to highlight that marketing rules are to a significant extent left to the appreciation of national competent authorities, which can have different understandings of what constitutes marketing communications. In that regard, while SFDR should cater for the specificities of national markets, there would be merit in developing additional guidance at ESMA level once the revised SFDR is implemented to ensure consistency in the interpretation of these rules across jurisdictions ;*

*Categories should be determined mainly in accordance with the investment objective. Categorization should be as stringent in terms of disclosure as in terms of investment product name.*