|  |  |
| --- | --- |
| **European Commission**  **Directorate-General for Financial Stability**  **Financial Services and Capital Markets Union**  **1049 Bruxelles/Brussels**  **Belgium** | **UKSIF**  **73 Watling Street**  **London**  **EC4M 9BJ**  **info@uksif.org** |

**15 December 2023**

Dear all,

**RE: Targeted Consultation Document-Implementation of the Sustainable Finance Disclosures Regulation (SFDR)**

We are pleased to respond on behalf of our members to the targeted consultation on the implementation of the Sustainable Finance Disclosures Regulation (SFDR). UKSIF is the UK’s leading membership network for sustainable finance, representing more than 300 financial institutions and investors collectively managing over £19trn in global assets under management (AUM).[[1]](#footnote-2)

Alongside other national sustainable investment forums (SIFs) from across Europe, UKSIF is a member of Eurosif and separately to our own response below, we are supportive of a number of the key messages outlined in Eurosif’s submission to the targeted consultation.

Together with our members, UKSIF has closely followed in the UK the evolution of the SFDR framework since its application in March 2021, and we have drawn extensively on the regime’s implementation in the EU’s market to inform our ongoing work with our members and policymakers to embed sustainability in the UK’s public policy and regulatory frameworks and across financial markets.

We have been strongly supportive of the core objectives of the SFDR to address greenwashing risks in the market and promote capital flows towards sustainable investments, and we believe it has helped further elevate the importance of embedding sustainability risks and opportunities within firms’ investment decision-making, strategies, and cultures.

In the UK, we have welcomed the recent steps adopted by the Financial Conduct Authority (FCA) to draw directly on the experience of the SFDR framework, among other international regimes, in its approach to sustainability disclosures and fund labelling, and to consider where certain clarifications and improvements could be made.

We are delighted to see the recent publication of the FCA’s final Policy Statement, PS23/16: Sustainability Disclosure Requirements (SDR) and investment labels, which provides welcome clarity for our industry and has generally been well-received by financial market participants, industry groups, and the NGO community. We would support consideration by the Commission going forward of how the revised SFDR framework could align closely with the emerging Sustainability Disclosure Requirements (SDR) and investment labels in the UK.[[2]](#footnote-3)

Our response to this targeted consultation has been significantly shaped by the UK’s own efforts in developing the SDR and investment labels over the last two years, which we have directly contributed towards as a member of the independent Disclosures and Labels Advisory Group (DLAG).

The DLAG has been comprised of leading industry and investor-led associations, including the Principles for Responsible Investment (PRI), Investment Association (IA), the Investing and Saving Alliance (TISA), and representatives from across civil society and academia. The group has provided ongoing guidance and constructive challenge to the regulator on the design of the regime, supporting the positive evolution of the proposals over time.[[3]](#footnote-4)

Above all, in our response to the consultation we would recommend that the Commission continue to build on the existing SFDR framework and several of its concepts; for example, the Article 2 (17) definition of ‘sustainable investment’, ‘Do No Significant Harm’, and a number of the Principle Adverse Impact (PAI) indicators, particularly at the product-level, while developing a distinct, voluntary product classification system within the SFDR aligned to the UK’s SDR.[[4]](#footnote-5)

We would very much welcome a marked shift from reliance on Articles 6, 8, and 9 as de-facto fund labels in the market, which has contributed to greenwashing risks for end investors, while supporting further clarification to a number of the concepts of the SFDR, including those indicated directly above. There remains today very diverse interpretations of these underlying concepts among many stakeholders, while clarification and a more evolutionary approach in these specific areas should, we expect, help alleviate some of the additional costs that firms will face in implementation of the new SFDR framework.

A distinct classification system should explore new sustainability-related criteria and principles for investments products and strategies qualifying as sustainable under the SFDR, including importantly for those strategies that aim to support the transition towards a more sustainable future. Clearer recognition of transition strategies and investments in the SFDR is critical, especially in light of the continued, urgent need to transition the whole economy towards net-zero and to ensure that capital flows are not limited towards those activities that can have the largest, real-world impact on emissions reductions.

Broadly speaking, we believe there are a number of very important elements of the FCA’s finalised regime that should be explored by the Commission as part of its upcoming review of the SFDR.

These include the following: the holistic approach adopted in setting out rules simultaneously for entity-level and product-level sustainability disclosures, fund labels, naming and marketing, and an ‘anti-greenwashing’ rule; extensive consumer testing conducted by the regulator and industry bodies; the use of ‘consumer-friendly’ terminology in fund disclosures to make these as accessible as possible for retail investors; the non-hierarchical approach to the investment labels; a dedicated category for multi-asset funds and blended strategies to recognise those funds that may be invested across a number of labels; the recognition of transitioning strategies within a disclosures and labelling framework; flexibility for firms to disclose against a broad range of objective, robust sustainability standards to demonstrate the sustainability characteristics of labelled funds, beyond a ‘green taxonomy’ alone; and the ‘opt-in’ nature of the SDR with firms able to choose voluntarily whether to apply for labels with ongoing review from the regulator.[[5]](#footnote-6)

While naturally we expect there may be some nuances and differences across the EU’s and UK’s approaches to disclosures and fund labelling, we would strongly emphasise the need for continued close co-operation between our respective regulatory authorities, and across different jurisdictions, such as the United States, Australia, and elsewhere, as well as global standard-setting institutions, to promote harmonised approaches, and crucially consistency in the fund disclosures accessed by clients and savers in different markets.

With many global markets now seemingly moving more towards a labelling regime, the Commission’s approach to a revised framework should take into account the international direction of travel and upcoming experience of countries- such as the UK and U.S- as fund labelling regimes develop, with the overall objective of promoting global consistency and minimising confusion for end investors.

Across the EU, the Commission will need to continue to be mindful of fund labelling approaches being adopted, or starting to be considered, by Member States and how a future framework could seamlessly interact with and work alongside national authorities’ own sustainability labelling regimes, whether voluntary or mandatory.

We look forward to seeing the Commission’s review progress over the coming months, and in support of your work we would be delighted to share with you some of our and our members’ latest perspectives on the UK’s recently finalised Sustainability Disclosure Requirements (SDR) and investment labels.

Yours sincerely,



**James Alexander**

**Chief Executive**

EUROPEAN COMMISSION

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

Financial markets Asset management

**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.

Commission européenne/Europese Commissie, 1049 Bruxelles/Brussel, BELGIQUE/BELGIË - Tel. +32 22991111 <https://ec.europa.eu/info/business-economy-euro_en>

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

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

# INTRODUCTION

The [Sustainable Finance Disclosures Regulation (SFDR)](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32019R2088) 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 (‘insideout’). 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 effectivein achieving the following specific objectives (included in its [Explanatory Memorandum](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52018PC0354) 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 a wide range of financial products and services, including those with sustainability claims |  | | X |  | |  | | |  |  |
| Channelling capital towards investments considered sustainable, including transitional investments (‘investments considered sustainable’ should be understood in a broad sense, not limited to the definition of sustainable investment set out in Article 2(17) of SFDR) |  |  | | | X | |  |  | |  |
| Ensuring that ESG considerations are integrated into the investment and advisory process in a consistent manner across the different financial services sectors |  |  | | | X | |  |  | |  |
| Ensuring that remuneration policies of financial market participants and financial advisors are consistent with the integration of sustainability risks and, where relevant, sustainable investment targets and designed to contribute to long-term sustainable growth |  | X | | |  | |  |  | |  |

*(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 to extract |  |  |  | X |  |  |
| 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 |  |  |  |  |  |  |

*(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:

|  |
| --- |
| Broadly speaking, we believe that the SFDR framework has-to a large extent- increased awareness among our members and financial market participants on the importance of embedding sustainability risks and opportunities into investment decision-making and strategies, while also helping facilitate capital towards sustainable investments.  There has also been some success in terms of enhancing transparency across financial markets in Europe, and helping to encourage regulatory authorities in other international jurisdictions, such as the UK and elsewhere, to consider ambitious approaches to sustainability disclosures and fund labelling.  While the SFDR has, in some respects, fulfilled its original objectives as a sustainability disclosures framework and elevated sustainability considerations more directly into the mainstream of firms’ decision-making, the framework has experienced a number of implementation challenges since its application in June 2021. This includes its interpretation and common use by market participants as a de-facto fund labelling regime.  Linked to this, there is an ongoing lack of clarity over a number of important concepts underpinning the SFDR, and mixed signals from policymakers over the objectives and purpose of these. The uncertainty over many of these concepts and notions of the framework had led to regulatory authorities, financial market participants, legal advisers, and other groups continually changing their views and guidance in these areas, leading to confusion for many firms.  This includes the definition of ‘sustainable investments’, and ‘Do No Significant Harm (DNSH), as well as promoting ‘environmental or social characteristics’ and other key underlying concepts within the SFDR framework.  These implementation challenges, among others, have unfortunately led to heightened greenwashing risks and concerns in the market for investors, and reputational risks for those firms reporting against the framework. There have been question marks, in our view, on the extent to which the SFDR is truly fulfilling its ultimate objectives of incentivising capital flows towards more sustainable investments, including importantly those transitioning activities that will be necessary to address in order for financial markets to support the global transition to net-zero carbon emissions.  We very much welcome the Commission’s review of the SFDR, and we would recommend that policymakers use this opportunity to reconsider how a new framework could better fulfil the original envisaged objectives, and promote much greater transparency over sustainable investments in the market. |

## 1.1. 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:02022R1288-20230220)[[6]](#footnote-7) 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:

|  |
| --- |
| We would very much welcome much further consideration by the Commission of a number of changes to the Principal Adverse Impact (PAI) indicators, in particular at the entity-level, to ensure these can be as meaningful and decision-useful as possible to investors and wider stakeholders.  The ongoing lack of comparability across the entity-level PAI disclosures, due to the differing calculations of the indicators by firms and data availability issues, necessitates, in our view, a review of this regime.  In regards to data availability, there has been reliance on the use of proxy data and data estimates that can cause some challenges in terms of comparability of data in the market, and more broadly there continues to be a need for high-quality, objective, and evidence-based data estimates. The ongoing shift of PAI data from one year to another, driven partially by shifts in financial markets and the preferences of clients, has made comparability of this data very difficult.  We would recommend the entity-level PAI indicators are, at a minimum, streamlined further to make sure that these disclosures are relevant to the business models and activities of underlying investments of a firm’s portfolio, as well as being accessible and relevant to retail investors. Entity-level disclosures under the SFDR and CSRD should be more closely aligned, and policymakers will need to take steps to minimise risks of duplicative reporting across both regimes.  A ‘comply or explain’ approach could potentially be implemented to a narrower set of entity-level PAIs, providing an opportunity for firms to disclose why some of the indicators are not necessarily relevant to their investments. This approach may however lead to less comparability among firms’ reporting of entity-level PAIs, and this should be taken into account.  There have been particular challenges with the entity-level PAI disclosures for funds and investment strategies covering various different asset types and geographies, including multi-asset funds and fund of funds. For these type of funds, these disclosures have not been fully transparent and beneficial for investors, which have generally operated more effectively for single asset funds.  There have also been challenges relating to real-estate focused funds; for example, indicator 18 on ‘Exposure to energy-inefficient real estate assets’ directly applies EU building directives which means it is difficult to apply this indicator to real estate assets located outside of the EU. In this instance, it can be complex for firms to determine whether they can disclose a local alternative indicator where possible, though this could undermine the comparability aspects of the PAI.  In regards to product-level PAI disclosures, we think that these are more decision-useful at the product-level and we would recommend that some of those most essential, financially material indicators are maintained by the Commission and remain mandatory for all funds, with other indicators remaining voluntary for funds that are most relevant.  Those mandatory indicators should include indicators on greenhouse gas (GHG) emissions-scope 1, 2, and 3- carbon footprint and intensity, as well as on human rights violations, e.g. compliance with the UN Global Compact’s principles, and OECD’s due diligence guidelines violations, board diversity, and the gender pay gap. This recommended list of mandatory indicators on climate change and human rights violations predominantly should be disclosed by all funds, regardless of their sustainability claims and characteristics, to promote comparability of PAI reporting.  In terms of additional PAIs, as highlighted these could be included on a ‘comply or explain’ basis or be voluntary for funds, with some PAIs then made mandatory over time, potentially, as data availability improves (e.g. environmental PAI indicators relating to emissions to water, hazardous waste, and activities negatively impacting biodiversity).  Finally, data availability issues will need to be comprehensively addressed by policymakers in order to fully resolve ongoing challenges of reporting on the PAI indicators.  This is particularly relevant in light of the recent decision from the Commission confirming that disclosure of all data points under the final ESRS will be subject to materiality assessments, which will make the availability of high-quality corporate data more challenging. Further guidance and support will be required for financial market participants to address data gaps under the SFDR and these sequencing issues, including how PAI indicators could be calculated in the absence of good-quality underlying disclosures from investee companies. Even as the ESRS are implemented across the market in the coming years on a mandatory basis, we would expect that some data gaps would remain, for example among non-EU companies not captured by the CSRD, which should remain a consideration for the Commission in future. |

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

## 1.2. 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:

|  |
| --- |
| No comments from UKSIF. |

**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 |  |  |  |  |  |

## 1.3. 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 Sustainability Reporting Directive (CSRD).](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32022L2464) 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** | **No** | **Don’t know** |
| X |  |  |

**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?

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

1. **Entity level principal adverse impacts**

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  | 1 | 2 | 3 | 4 | 5 | Don’t know |
| Estimates from data providers, based on data coming from the investee companies |  |  |  |  |  |  |
| Estimates from data providers, based on data coming from other sources |  |  |  |  |  |  |
| In-house estimates |  |  |  |  |  |  |
| Internal ESG score models |  |  |  |  |  |  |
| External ESG score models |  |  |  |  |  |  |
| 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)*

1. **Taxonomy aligned investments (product level)**

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  | 1 | 2 | 3 | 4 | 5 | Don’t know |
| Estimates from data providers, based on data coming from the investee companies |  |  |  |  |  |  |
| Estimates from data providers, based on data coming from other sources |  |  |  |  |  |  |
| In-house estimates |  |  |  |  |  |  |
| Internal ESG score models |  |  |  |  |  |  |
| External ESG score models |  |  |  |  |  |  |
| 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)*

1. **Sustainable investments (product level)**

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  | 1 | 2 | 3 | 4 | 5 | Don’t know |
| Estimates from data providers, based on data coming from the investee companies |  |  |  |  |  |  |
| Estimates from data providers, based on data coming from other sources |  |  |  |  |  |  |
| In-house estimates |  |  |  |  |  |  |
| Internal ESG score models |  |  |  |  |  |  |
| External ESG score models |  |  |  |  |  |  |
| 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)*

1. **Other data points**

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  | 1 | 2 | 3 | 4 | 5 | Don’t know |
| Estimates from data providers, based on data coming from the investee companies |  |  |  |  |  |  |
| Estimates from data providers, based on data coming from other sources |  |  |  |  |  |  |
| In-house estimates |  |  |  |  |  |  |
| Internal ESG score models |  |  |  |  |  |  |
| External ESG score models |  |  |  |  |  |  |
| 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 |
|  |  |  |  |  |  |

*(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.

|  |
| --- |
| While we have not provided detailed views on many of the questions directly above as a membership organisation, our understanding from some of our members is there continues to be extensive reliance on external data providers, and data estimates from firms, to comply with the existing SFDR.  There is also a lack of sufficient clarity under the framework on the types of estimates permitted to be used by firms. We support our members more actively and regularly engaging with their investee companies to encourage reporting of missing sustainability-related data, while also noting that policymakers should make further efforts to markedly improve the quality of underlying corporate data for financial market participants. |

**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 |
|  |  |  |  |  |  |

*(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 |  |  |  |  |  |  |
| Retail investor interest |  |  |  |  |  |  |
| Professional investor interest |  |  |  |  |  |  |
| Market competitiveness |  |  |  |  |  |  |
| 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.

|  |
| --- |
| No comments from UKSIF. |

**2. 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:32020R0852)
* the [Benchmarks Regulation](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32016R1011)
* the [Corporate Sustainability Reporting Directive (CSRD)](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32022L2464)
* the [Markets in Financial Instruments Directive (MiFID 2)](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32014L0065) and the [Insurance Distribution Directive (IDD)](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32016L0097)
* the [Regulation on Packaged Retail Investment and Insurance Products (PRIIPs)](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32014R1286)

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://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52023XC0616(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://www.esma.europa.eu/joint-committee/joint-qas)  [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.[[7]](#footnote-8) The CSRD sets out sustainability reporting requirements mainly for all large and all listed undertakings with limited liability (except listed micro-enterprises),[[8]](#footnote-9) 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 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/capital-markets-union-and-financial-markets/company-reporting-and-auditing/company-reporting/corporate-sustainability-reporting_en#standards)[[9]](#footnote-10).

**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://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:02022R1288-20230220) (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 documents (KIDs). As part of the [retail investment strategy](https://finance.ec.europa.eu/publications/retail-investment-strategy_en)[[10]](#footnote-11), 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 would very much welcome further efforts to promote greater consistency between the definitions of ‘sustainable investment’ and ‘environmentally sustainable’ activities under the SFDR and ‘green taxonomy’, respectively.  This would assist in alleviating some of the challenges facing financial market participants reporting against the SFDR.  In terms of the SFDR and ‘green taxonomy’ specifically, notable differences between these two core initiatives have led to a number of challenges for financial market participants and greenwashing risks in the market.  We would like to see greater alignment across the entity-level assessment of a ‘sustainable investment’ under the SFDR and the activity-level assessment of an ‘environmentally sustainable’ activity under the Taxonomy Regulation. This could build off the advice provided by the Commission’s notice from June this year and the ESAs that outlines a ‘safe harbour’ concept regarding the notion of sustainable investments under the SFDR.  More broadly, the review of the SFDR should seek to avoid-as much as possible- contrasting underlying definitions and principles for the same concepts across the SFDR, taxonomy, and other linked regulatory initiatives, and greater coherence across these initiatives will be hugely important going forward.  In regards to the interaction between the SFDR and CSRD, further streamlining will be necessary to avoid a significant over-lap of sustainability disclosures, particularly at the entity-level, and we would like to see the CSRD better incentivise companies to publish the necessary disclosures to ensure financial market participants can make informed investment decisions and comply with the requirements of the SFDR.  Our members continue to require access to high-quality corporate disclosures, and will want companies to conduct objective and robust materiality assessments when complying with the European Sustainability Reporting Standards (ESRS) applying from 1 January 2024.  In terms of sustainability preferences for clients, there are question marks over whether the three main sustainability preferences defined by MiFID II are sufficiently broad to reflect clients’ diverse sustainability preferences and values when it comes to sustainable investing approaches, as well as how retail investors will understand these three concepts.  One potential solution would be to promote alignment of the sustainability preference categories to the product categories under a revised SFDR framework.  In future, we would like to see a clear categorisation of products with transparent sustainability objectives communicated and for this to be reflected in the MiFID sustainability preferences advisory process. As part of this, questions based on each of the product categories could be considered to help guide end clients towards those products that are best suited to their needs and preferences. |

1. **POTENTIAL CHANGES TO DISCLOSURE REQUIREMENTS FOR FINANCIAL MARKET**

**PARTICIPANTS**

**3.1. 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:

|  |
| --- |
| As previously highlighted in our response, the current entity-level Principle Adverse Impact (PAI) indicators are not sufficiently decision-useful in all cases for investors, and we would advise that these indicators are streamlined in due course so that these disclosures are more relevant to the activities of underlying investments.  At present, the entity-level PAI disclosures are overly broad and not fund-specific per sei, leading to relatively limited value in some cases for financial market participants. The lack of high-quality data has increased the issues in this area, and we have seen a ‘tick-box’ mentality adopted in many respects in these disclosures. |

Complementing the [consultation by the European Supervisory Authorities (ESAs) on the revision of the Regulatory Technical Standards of the SFDR](https://www.esma.europa.eu/press-news/consultations/joint-consultation-review-sfdr-delegated-regulation)[[11]](#footnote-12), 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:02022R1288-20230220) adopted pursuant to Article 4 (tables 1, 2 and 3 of Annex I), which indicators do you find the most (and least) useful?

|  |
| --- |
| While very prescriptive entity-level Principle Adverse Impact (PAI) indicators have not been sufficiently meaningful for end investors, we would advise retaining a number of these disclosures in future, including a limited number for all financial products.  This includes retaining requirements, for example, for financial market participations to disclose the integration of sustainability risks and their remuneration policies with regards to this. In terms of the less useful indicators, these include Article 4 disclosures that have not allowed for meaningful comparability between financial market participants.  In terms of the more useful indicators, these are mainly those at the product-level, including those laid out in tables 1, 2, and 3 of Annex I of the SFDR Delegated Regulations, and where data availability is comparatively less of a challenge. |

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

|  |
| --- |
| Given the issues raised in this consultation and by financial market participants in regards to the entity-level PAIs, there is merit for sustainability disclosures at the entity-level to be encompassed to a greater extent than currently with the CRSD rather than the SFDR framework.  This could assist in reducing duplicative reporting requirements for firms and potentially minimise confusion for end investors, with potential for the CSRD’s requirements to bring together and consolidate various different disclosures.  This would be a positive outcome given the upcoming implementation of the CRSD’s from next year and the increased acceptance of the ESRS, as well as recent attempts to improve its compatibility with the International Sustainability Standards Board’s (ISSB’s) disclosure standards. |

**3.2. 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:

|  |
| --- |
| We think there is a good case for all financial products in the EU to disclose against a limited set of PAI indicators, including those relating to greenhouse gas (GHG) emissions, carbon footprint, and human rights violations, such as reporting against the UN Global Compact, OECD’s guidelines, and exposure to controversial arms and weapons.  For those products that are labelled as ‘sustainable’ and pursuing sustainability objectives or have these characteristics, they should be mandated to provide additional disclosures that are proportionate to their sustainability claims.  This limited baseline for all products in the EU would help promote comparability over time across all funds with firms having flexibility, should they wish to, to provide narrative explanations alongside these disclosures to explain why and how certain PAI indicators beyond those highlighted above may be relevant, or not, to their strategies, with additional valuable context necessary for these indicators. A minimum baseline approach will need to be proportionate to avoid incentivising ‘green-hushing’ practices, and emphasise simplicity and accessibility for investors.  We would strongly encourage regulatory authorities to conduct extensive consumer testing, which the FCA has done for the finalised SDR regime with more than 15,000 consumers in the UK, ahead of any disclosure requirements coming into effect for all financial products in the EU. Consumer testing in the EU should seek to extensively test the understanding of this group of the names of the labelling categories, the disclosure requirements, and marketing materials. As part of this, it would be interesting to consider how Articles 6, 8, and 9 are interpreted by retail investors currently, and what fund labels could resonate more effectively.  Finally, a high-level, two page ‘factsheet’ with minimum disclosures outlined could be explored, drawing on the FCA’s finalised approach to consumer-facing disclosures which applies to labelled funds or those funds using explicit sustainability-related terms. |

**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:

|  |
| --- |
| As previously highlighted, we think that all financial products should also disclose whether investee companies are complying with globally recognised frameworks for minimum business standards, such as the UN Global Impact guiding principles, OECD’s guidelines, and other frameworks. |

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

|  |
| --- |
| We are supportive of a minimum baseline of disclosure requirements applying to all financial products, regardless of their sustainability objectives and profile.  A minimum baseline of disclosures would assist in the comparability across products in the EU and help to promote a level playing-field. These disclosures could include reporting on how sustainability risks are integrated into investment processes, and reporting on a very limited set of PAI indicators, as previously mentioned in our response. For sustainable-labelled funds, as highlighted previously, they should face proportionately more detailed disclosures when compared with non-labelled funds.  This approach should actively draw on the UK FCA’s approach to disclosures, which includes a high-level ‘sustainability factsheet’ that comprises a summary of a product’s key sustainability-related features to assist consumers in their understanding of the product, comparability, and their ability to hold their provider to account for its sustainability claims. This will apply to all funds qualifying for the labelling regime, or those non-labelled funds with sustainability-related terms highlighted in their fund name or marketing materials.  A ‘comply or explain’ approach could be adopted to the minimum baseline of disclosure requirements to allow funds to explain why they may not choose to integrate sustainability into their decision-making, or for example disclose their taxonomy-alignment to end investors. This could assist end investors in understanding their fund disclosures. |

**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?

|  |
| --- |
| A requirement to have a limited minimum set of disclosures in place for only some financial products may damage efforts to promote comparability across products in the market for end investors. For those funds that are marketed as sustainable and pursuing sustainable investment strategies, there should be additional disclosure requirements in place. |

**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:

|  |
| --- |
| No comments from UKSIF. |

**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:

|  |
| --- |
| As previously highlighted in our response, having in place minimum disclosures in place for all financial products, we think, would help level the playing field across products in the market and minimise risks of confusion for end investors. |

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:**

Those funds which make sustainability-related claims should have to publish specific disclosures to support these claims, while there should be additional disclosures in place for those products that qualify for one of the sustainable product categories, specifically that are proportionate to their sustainability claims.

.

**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:

|  |
| --- |
| Generally speaking, we are supportive of having product-related disclosures outlined in precontractual disclosures, periodic documentation, and on websites.  We would recommend further consideration being given to improve the accessibility and streamlining of product-level disclosures, specifically drawing on the FCA’s ‘tiered’ structure for disclosures in the SDR regime, which includes the following:  • **Consumer-facing disclosures**: summary of the products’ key sustainability-related features, helping consumers to better understand those features, compare similar products or the same product over time, and hold the provider to account for its sustainability claims.  • **Detailed disclosures:** will provide more granular information, which could be useful to institutional investors and a broader range of stakeholders. These will be located in the pre-contractual disclosures, sustainability product report and sustainability entity report. |

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 Commission in July 2021](https://www.esma.europa.eu/joint-committee/joint-qas)[[12]](#footnote-13) 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:

|  |
| --- |
| Firms’ disclosures under the SFDR should be publicly available, and we would support further efforts to facilitate wider public access to this information. The role of the European Single Access Point (ESAP) could be explored in this regard in the coming years. |

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?

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  | 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:

|  |
| --- |
| As mentioned in our response, consistency and comparability across all financial products in the EU should be a key objective of the revised SFDR framework, with the same information accessible across different types of precontractual documentation. |

**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:

|  |
| --- |
| As highlighted in our response previously, we would recommend that firms’ sustainability disclosures, particularly in regards to the Principal Adverse Impacts (PAIs), primarily focus at the product-level rather than the entity-level. |

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?

|  |
| --- |
| We think it will be very important for the Commission to ensure that a revised framework does not adopt a hierarchical model, which a scaled approach to product-level disclosures would be very likely to lead towards.  The SDR proposals from the FCA have been very clear in specifying that the four sustainable labelling categories are non-hierarchical. The upcoming SFDR framework will need to avoid risks that certain categories, if the scaled approach is adopted, are interpreted by end investors as ‘better’- in some form- than other categories, rather than simply being a ‘different’ investment approach and strategy.  These considerations will need to be clearly reflected in the product disclosures, with for example neutral language adopted in these disclosures to ensure a hierarchy does not arise. |

**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 |  |  |  |  |  |  |  |
| Via SFDR disclosures provided by participants | market |  |  |  |  |  |  |

*(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 |
|  |  |  |  |  |  |

*(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:

|  |
| --- |
| No comments from UKSIF. |

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. [[13]](#footnote-14)

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

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  | 1 | 2 | 3 | 4 | 5 | Don’t know |
| Article 2(2) of the SFDR Delegated Regulation already requires financial market participants to make disclosures under the SFDR in a searchable electronic format, unless otherwise required by sectoral legislation. This is sufficient to ensure accessibility and usability of the disclosed information. |  |  |  |  |  | X |
| It would be useful for all product information disclosed under the SFDR to be machine-readable, searchable and ready for digital use. |  |  |  | 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:

|  |
| --- |
| No comments from UKSIF. |

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 |  |  |  |  |  | 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 3.2.14:

|  |
| --- |
| Similarly to the approach adopted in the FCA’s SDR proposals, there will naturally need to be some certain, limited differences between the approach to disclosures across a range of investment strategies, including for multi-asset funds and blended investment strategies, those funds domiciled outside of the EU, and emerging-markets focused funds.  For example in regards to multi-asset funds, the approach to disclosures at the product-level would need to take particular care to demonstrate the breakdown of the fund by asset type, geography, etc, and the extent to which the sustainable labelled fund could encompass various elements and investment approaches adopted across other sustainability product categories.  We expect it will be more challenging to have a consistent set of labels and disclosures in place for these funds given that the targeted, multiple investment strategies could be very different, as well as the types of funds here (e.g. third-party managed funds and directly managed funds). There is the question of whether the barriers to qualify for a sustainability product category could be disproportionately high for multi-asset funds when compared with single asset funds, and accommodation will be necessary for these funds under the revised SFDR.  Another consideration is passive strategies and making sure the qualifying criteria can effectively accommodate passive funds. Finally for funds with some underlying investment in SMEs, there will be some data availability challenges, and capacity-building continues to be needed to enhance capacity and understanding among small businesses to report and measure PAI-relevant data. There is also the issue of the relative size of small businesses in developing countries being smaller than their equivalents in the EU. |

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

**PRODUCTS**

**4.1. 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 not necessarily relate to those existing concepts. |  |  | X |  |  |  |
| **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:

|  |
| --- |
| We very much welcome the opportunity afforded by the Commission’s consultation to consider how the existing SFDR framework could be clarified and reformed in future to ensure it can deliver more effectively on its original, intended objectives.  We are supportive of a ‘hybrid’ approach drawing on both ‘Approach 1’ and ‘Approach 2’ highlighted by the Commission; specifically, building on the main concepts and notions of the current framework, including the definition of ‘sustainable investments’ and the Principle Adverse Impact (PAI) indicators, while moving away from the de-facto labels that ‘Article 8’ and ‘Article 9’ have evolved towards.  This new approach to the SFDR would need to be implemented over time to allow financial market participants a sufficient period to make changes to their existing fund disclosures, documentation, and undertake any other necessary changes in advance of a new framework coming into effect.  A shift towards distinct labelling categories similarly to the FCA’s SDRs and SEC’s draft ESG fund disclosure rules, centred around the investment objectives and sustainability objectives of funds, under a revised SFDR framework would be a positive step forward, in our view. More specifically, a ‘hybrid’ approach from the Commission should consider the following elements under a revised framework:   * A distinct, voluntary product categorisation system based on funds’ objectives, investment strategies, and sustainability profile and claims, with specific disclosure requirements linked to the various categories. * This should include a new ‘transitioning’ category to recognise, crucially, those funds and strategies that have a specific objective to support the transition towards a more sustainable future, drawing on the FCA’s ‘Sustainable Improvers’ category. * The categories should aim to apply to a wide range of sustainable investment strategies, approaches, and asset classes, for example beyond single asset funds and actively-managed listed equity funds, such as multi-asset funds and passive strategies, recognising the growing diversity in the sustainable funds market today. We support funds in the categories having a sustainability objective in place as part of the fund’s investment objective. * Minimum criteria underpinning the new product categories which funds would need to fulfil in order for qualify for. In addition, evolving existing concepts within the SFDR, such as ‘sustainable investments’, the PAIs, and ‘promoting E & S characteristics’. * Alignment and coherency with other sustainable finance regulatory initiatives in the EU, such as the taxonomy and ESMA’s fund naming rules. |

## …………………………………………………………………………………………… 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.[[14]](#footnote-15) |  |  |  |  | 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)*

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

|  |
| --- |
| We largely agree with the sustainability product categories outlined above, which closely mirror the FCA’s fund labelling proposals.  We do have reservations however over the proposed ‘Category C’, as we do not believe that funds using exclusions or negative screens *alone* should be sufficient in qualifying for a sustainability category, as well as those funds only integrating ESG factors into investment analysis and decision-making.  We believe that the product categories under the revised SFDR framework should closely resemble the FCA’s proposals, specifically recognising the following funds: funds that are seeking to offer targeted, measurable solutions to environmental or social problems to achieve real-world impacts; funds that are seeking to achieve a credible sustainability standard or them; and funds that are looking to improve the sustainability of underlying assets over time.  Alongside this, there is merit in considering an additional fourth category which the FCA has now committed to, and this could seek to accommodate multi-asset funds and blended investment strategies that could qualify for a number of the product categories. |

**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?

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| 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.

|  |
| --- |
| We believe that a very clear distinction would be needed across the various product categories under a revised SFDR framework, and as much mutually exclusivity as is possible.  This would promote understanding of the purpose and objectives of the categories among retail investors, and minimise the risks of confusion. With that said, in practice retaining mutual exclusivity will prove challenging in some respects, particularly for those funds investing in a range of asset types and sub-funds, such as multi-asset funds and blended strategies.  This has been a critical issue identified in the FCA’s SDR regime. This has implications for end investors who will need to have access to diversified opportunities to invest sustainability under the UK’s regime, and we are pleased the regulator has reached a positive outcome to better accommodate multi-asset funds and blended strategies. |

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

|  |
| --- |
| As mentioned in our response, it will be very important for the sustainability product categories to be sufficiently distinct from one another to promote end investors’ understanding of the purpose and objectives of each of the categories under the revised SFDR framework.  In terms of distinguishing between products with a social and environmental focus, we would recommend the Commission draw on the FCA’s approach that recognises the importance of funds focusing on environmental themes beyond climate change alone, as well as social factors, such as gender diversity and the ‘Just Transition.’  This has been a key change adopted by the regulator during discussions over the SDR regime, and as the underlying criteria are considered for the product categories, there will be a need for a broad range of sustainability criteria to be captured, not just climate related criteria per sei.  For example, across the FCA’s four labelling categories, there will be a 70% minimum threshold rule applied across all the labels, specifically with 70% of the gross value of a fund’s assets needing to be invested in line with the fund’s sustainability objective, though there will be some limited exceptions to this. Finally, in regards to the number of sustainability product categories, we would support 3 to 4 categories and believe a relatively narrow set of categories will assist consumers’ understanding of the SFDR. |

**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 expect that there will be a need for a sufficient phase-in period for financial markets participants and further, ongoing guidance from the Commission and ESMA to assist in the transition to any new regime. A phase-in period will also be valuable for clients and consumers to adjust and become familiar with the new rules.  This will be particularly important given the need for firms to make the necessary changes to fund documentation and disclosures, as well as marketing materials, and a review of reporting processes, frameworks, and changes to the relationship with other parties such as distributors and financial advisers.  More broadly, there will be extensive work we expect for many firms to assess how their existing product range could be mapped across to the revised framework, and also interact with new regimes in the UK, US, Australia, and elsewhere. |

**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 |  | X |  |  |  |  |
| Engagement strategies |  |  |  | X |  |  |
| Exclusions |  |  |  | X |  |  |
| Pre-defined, measurable, positive environmental, social or governance-related outcome |  |  |  | X |  |  |
| Other |  |  |  |  |  |  |

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

Please specify reply:

|  |
| --- |
| Similarly to the approach taken by the FCA in the SDR proposals, we are supportive of a mix of objective qualitative and quantitative criteria for all products falling under the different sustainability product categories.  The FCA has provided relative flexibility in its approach to minimum criteria for each of the four labelling categories in the UK, with appropriate discretion provided to firms seeking to meet a ‘high bar’ and more direct recognition in the proposed regime of funds’ different sustainable investment approaches and clients’ diverse sustainability preferences when compared to the existing SFDR.  In regards to taxonomy-alignment criteria across all the categories, we would recommend that the taxonomy is utilised as one of a *series* of objective minimum criteria that firms could use to demonstrate the sustainability characteristics and profile of their fund, but not the only criteria mandated per sei.  Other minimum sustainability criteria could be the UN SDGs, an external standard, or a credible internal benchmark/tool, so long as the latter can be visibly demonstrated to be sufficiently credible, robust, meet minimum standards, be well-established for some time ideally, and with full transparency over the benchmark’s methodology.  Reliance on taxonomy alignment criteria alone would carry certain risks, given its limited application to environmental and climate topics, its lack of coverage across all economic sectors of activity, data availability issues, and its broader, ongoing implementation challenges in the market. Taxonomy-related disclosures alone may risk confusing some end investors in light of these issues and the UK FCA’s approach in offering flexibility for firms to use the taxonomy or another evidence-based absolute standard/measure of sustainability is broadly positive.  On minimum engagement criteria across the categories identified in this consultation, consideration could be given to the stewardship and engagement criteria outlined in the FCA’s SDR whereby a key ‘overarching principle’ that all products seeking to qualify for a sustainable investment label must follow is a general investor stewardship principle.  In terms of pre-defined, measurable, positive environmental, social or governance-related outcome, we would expect this should be a minimum criteria for products specifically falling under an ‘Impact’ or ‘dark green’ labelling category in the SFDR.  Finally, for product category A, we would expect the following criteria to be considered alongside the pre-defined, measurable sustainability outcomes: ‘a theory of change’ that is in line with the product's sustainability objective, a robust methodology to measure on an ongoing basis and demonstrate that investment activities have had a positive environmental and/or social impact, and a stewardship escalation strategy and plan should positive, real-world outcome no longer be achievable. |

For product category B of question 4.1.4

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

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

Please specify reply:

|  |
| --- |
| For products in Category B, as mentioned in our previous response, we believe that the taxonomy and other sustainability criteria-such as the UN SDGs or a credible standard that has wide recognition in the market or a robust, objective internal standard - could be used as a minimum criteria for these products.  Separately, a similar rule to the FCA’s 70% threshold for all of the UK’s labelling categories should be seriously considered.  Alongside this, minimum stewardship requirements should also be in place for this category, and as mentioned for all four categories highlighted in the consultation, one specific requirement could be disclosing how investor stewardship has been applied to promote alignment of the funds’ assets with increased progress against the quantitative threshold over time, as well as a stewardship escalation plan should underlying assets not demonstrate sufficient alignment with a fund’s sustainability objective over time. |

For product category C of question 4.1.4

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

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

Please specify reply:

|  |
| --- |
| No comments- we would not be supportive of product category C as proposed, as it would, in our view, exclusionary strategies or negative screening alone does not contribute sufficiently to sustainability outcomes in the real world to qualify for a label. |

For product category D of question 4.1.4

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

*(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, clear stewardship and engagement criteria will be particularly crucial, given the important role that this will play in improving the underlying sustainability profile and performance of the fund’s assets over time.  Clear and measurable stewardship metrics should be disclosed by the fund at the onset. Firms should clearly state up front the key engagement metrics upon which they are seeking to improve against in this product category, and a minimum engagement metrics requirement could be outlined here.  One such metric could be the introduction of fixed-engagement timeframes, over the short term and medium term, while another suggestion could be to bring in a ‘credible standard’ for this category, which would focus on specific improvements over time (e.g. a percentage increase in alignment with a sustainability standard each year), rather than a set threshold being met from the outset.  Minimum taxonomy alignment criteria could be considered, centring around the opex and capex of underlying investments rather than revenue, though we think as a part of a series of sustainability-related criteria that firms could use to inform their disclosures. |

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

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

*(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?

|  |
| --- |
| Broadly speaking, the process criteria should be as clear, measurable, and objective as possible, while striving to encourage a ‘high bar’ in market practice.  These should be a mix of more principles-based and quantitative-based criteria (e.g. specific KPIs) to ensure that financial market participants are able to fully substantiate any sustainability claims that their products are making, whether in the fund name, marketing materials, or disclosures.  Similarly to the UK SDRs, firms should be able to decide if they want to qualify for one of the sustainable product categories, and if so they should then assess whether their funds can meet the process criteria on an ongoing basis.  Specifically, the criteria should draw on the SDRs approach covering product category-specific criteria, as well as broader criteria (mainly principles-based) that all firms would need to satisfy in order to qualify for one of the categories. In terms of quantitative-based criteria, the EU taxonomy should be one of a series of criteria that firms could disclose, though not the sole criteria we believe to determine whether a fund meets the threshold to qualify for one of the categories. Finally, the criteria for each of the categories would need to be sufficiently distinct from one another to ensure these remain mutually exclusive. |

## 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 | While supportive of this, this concept should be clarified further and evolve over time, for example potentially including specific minimum quantitative KPIs such as a minimum percentage of alignment to the EU taxonomy or other robust environmental/social standard. |
| ‘do no significant harm’, element of the sustainable investment concept | Similarly, while supportive of the objectives of the DNSH principle, efforts should be made to clarify and simplify its implementation in practice. The ‘DNSH’ element has at times been too restrictive, resulting in a disproportionate number of investments being discounted from the potential investment universe of a number of products. |
| ‘investee companies’ good governance practices’, element of the sustainable investment concept | The principle of ‘good governance practices’ should be clarified, and one way of achieving this could be to highlight a requirement that companies respect international frameworks and principles such as the UN Guiding Principles or OECD Guidelines. |

**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?

|  |
| --- |
| An extension of the ‘good governance’ concept to encompass investment in government bonds could be beneficial, and could be linked to PAI 16: investee countries subject to social violations. |

**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?

|  |
| --- |
| No comments here from UKSIF. |

**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?

|  |
| --- |
| One way of adding further specificity to the promotion of ‘environmental/social characteristics’ could be to bring in the concept of ‘intentionality’ into this concept, with relevant products required to clearly demonstrate and provide a statement of intention, with performance then measured against this and disclosed.  ‘Promotion’ could be replaced by ‘demonstration’ in this respect of the sustainability features of a product. |

**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?

|  |
| --- |
| No comments |

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

|  |
| --- |
| No comments |

**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?

|  |
| --- |
| As previously highlighted in our response, the concept of ‘promoting environmental/social characteristics’ should evolve to require demonstration in practice and the intention that these characteristics are at the heart of the investment decision-making process.  We would advise the Commission adopt a broader approach to criteria for those funds falling under one of the categories, beyond a ‘green taxonomy’ alone. This is in part due to the challenges of obtaining high-quality taxonomy-related data in the market, and more limited applicability to environmental-focused funds. The new criteria for the EU’s categories should be based on the FCA’s SDR approach whereby funds must disclose a ‘robust, evidence-based standard that is an absolute measure of sustainability’, based on a taxonomy or other authoritative standard. |

**4.2. GENERAL QUESTIONS ABOUT THE POTENTIAL ESTABLISHMENT OF SUSTAINABILITY PRODUCTS CATEGORIES**

**Question 4.2.1**: In addition to these criteria, and to other possible crosscutting/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 |  |  |  |  |  |  |

*(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:

|  |
| --- |
| No comments |

**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:

|  |
| --- |
| At this point, we do not support mandatory over mandatory independent verification at this stage, which is the approach that is being adopted by the FCA.  We have concerns that third-party verification could have a disproportionate negative impact on smaller market participants, which would be less well-placed to have resources to spend on verification.  Larger, better resourced firms could gain an unfair advantage, for example by markedly increasing their funds’ sustainability attributes through third-party verification, with smaller firms not able to do this to the same extent, due to high costs incurred by verification. The possibility of requiring independent verification should be kept under review in the coming years, and there could be a role for an independent body, in some form, in overseeing verification for the product labels should this approach be adopted. |

**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 MultiOption 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:

|  |
| --- |
| We believe that many of these considerations noted above in the consultation will need to be taken into account when determining the criteria for the sustainability product categories.  This includes the first consideration noted, with multi-asset funds and blended investment strategies requiring particular careful treatment under a revised SFDR framework to ensure that these funds that may be adopting a sustainable investment approach and have a sustainability objective can be accommodated in the framework.  The second consideration noted is also important to ensure as much as interoperability as possible between EU-domiciled funds, UK funds, and other overseas funds. We expect many of our members will have questions in terms of understanding the full implications for their funds based in the UK and other third-countries, and ensuring equal treatment in the fund disclosures for end clients.  In terms of emerging markets, there will be particular considerations for emerging markets focused funds, and making sure the SFDR does not put up disproportionately higher barriers for these investments, due to issues in gathering good data in many regions in emerging economies. This will be important for regulatory authorities to keep under close review. |

**4.3. 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:

|  |
| --- |
| It will be important to include the fund disclosures to retail investors within the PRIIPs KID to promote accessibility of disclosures and transparency.  Alongside this, consideration could be given to a short, high-level ‘factsheet’ to illustrate the key objectives and features of the product, which could draw on the FCA’s approach to a ‘sustainability factsheet’ containing the most decision-useful disclosures and content for retail investors. |

**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 |
|  | X |  |

**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)*

**4.4. 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 |
| X |  |  |

**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:

|  |
| --- |
| The SFDR should include requirements around the transparency and accuracy of marketing materials and communications relating to the sustainability product categories under the revised framework.  Those funds that do not qualify for any of the product categories should be prevented from making overt and exaggerated sustainability claims in their marketing materials and in particular in fund naming, and the use of certain terms should be restricted for fund names. In regards to the marketing, national competent authorities we expect may have more latitude in determining these rules and the EU could consider developing guidance to promote consistency in the marketing rules across Member States.  Finally, the Commission, ESMA and other authorities should be joined up as much as possible in determining the fund naming and marketing rules, and the FCA’s combined approach considering disclosures, fund labels, naming and marketing, should be drawn on. |

1. For more information, please visit [www.uksif.org](http://www.uksif.org). [↑](#footnote-ref-2)
2. FCA [PS23/16](https://www.fca.org.uk/publication/policy/ps23-16.pdf), Sustainability Disclosure Requirements (SDR) and investment labels, November 2023. [↑](#footnote-ref-3)
3. UKSIF’s response is informed by our membership, though this does not necessarily reflect the views and perspectives of our entire membership, either individually or collectively. [↑](#footnote-ref-4)
4. In our response, we note that more specific criteria is necessary to underpin Article 2 (17) definition of ‘sustainable investment’ and ‘Do No Significant Harm’ (DNSH). [↑](#footnote-ref-5)
5. In regards to consumer testing, the FCA engaged in testing of the SDR measures with over 15,000 individuals, while drawing on existing surveys, such as its ‘Financial Lives’ survey which takes place approximately every 2 years. The latest ‘Financial Lives’ survey indicated that 81% of adults surveyed would like the way their money is invested to do some good as well as provide a financial return. [↑](#footnote-ref-6)
6. [Commission Delegated Regulation (EU) 2022/1288 of 6 April 2022](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:02022R1288-20230220)  [↑](#footnote-ref-7)
7. 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’). [↑](#footnote-ref-8)
8. 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). [↑](#footnote-ref-9)
9. Provided positive scrutiny of co-legislators of the [ESRS delegated act.](https://finance.ec.europa.eu/regulation-and-supervision/financial-services-legislation/implementing-and-delegated-acts/corporate-sustainability-reporting-directive_en) [↑](#footnote-ref-10)
10. <https://finance.ec.europa.eu/publications/retail-investment-strategy_en> [↑](#footnote-ref-11)
11. [https://www.esma.europa.eu/press-news/consultations/joint-consultation-review-sfdr-delegatedhttps://www.esma.europa.eu/press-news/consultations/joint-consultation-review-sfdr-delegated-regulationregulation](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. [↑](#footnote-ref-12)
12. See question 3 of section V of the [consolidated questions and answers (Q&A) on the SFDR and its Delegated Regulation published on the ESAs websites.](https://www.esma.europa.eu/joint-committee/joint-qas) [↑](#footnote-ref-13)
13. These questions are intended to complement Question 42 in the ESAs’ [joint consultation paper on the review of the SFDR Delegated Regulation (JC 2023 09)](https://www.esma.europa.eu/press-news/consultations/joint-consultation-review-sfdr-delegated-regulation) which asks for criteria for machine readability of the SFDR Delegated Regulation disclosures. [↑](#footnote-ref-14)
14. In line with the transition to a climate neutral and sustainable economy. [↑](#footnote-ref-15)