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Your ref., Your message of Our ref., person in charge Extension Date

BSBV 39/Horvath 3141 15th Dec 2023

**Key Messages - Targeted consultation on the implementation of the Sustainable Finance Disclosures Regulation (SFDR)**

The Division Bank and Insurance of the Austrian Federal Economic Chamber, as legal representative of the entire Austrian banking and insurance industry, appreciates the possibility to comment on the above cited consultation papier. We would like to note the following comments and remarks.

1. **Preliminary Remarks**

The Sustainable Finance Disclosure Regulation (SFDR) aims to enhance transparency in the financial market regarding sustainability and we fully support that objective.

Despite all efforts, however, there is limited evidence of client engagement with sustainability information in pre-contractual documents, raising questions about their practical utility, hence user-friendliness. Divergent interpretations across EU jurisdictions and data quality issues from providers have not only escalated expenses for investment management companies, but have also caused confusion among investors. Not least, the approach to inquiring ESG/sustainability preferences appears to hinder active investor participation, often reducing compliance to a mere checkbox exercise without fostering meaningful behavioural change. As a consequence, in practical application, Art 6, 8, and 9 SFDR have been utilized as quasi-labels, perhaps in an effort to foster to some, if only a minimal degree investor engagement with the sustainability-related pre-contractual document information. However, the likelihood of retail investors delving into the disclosures of investment funds or investment fund management companies is minimal. The inclination to employ SFDR as a quasi-labelling and marketing tool is, in part, also a response to the existing framework of sustainability preferences within MiFID II. Nevertheless, it has become evident that the state of SFDR is not conducive to serving a meaningful label-function. Hence, certainly, this also necessitates enhanced adjustment of the sustainability preferences outlined in MiFID II and its interplay with the SFDR. Striking a balance between straightforward transparency and substantive (sub) classifications is crucial, emphasizing the delicate nature of effectively conveying essential information to investors without oversimplifying complex material distinctions.

While the SFDR's intentions are commendable, a thorough review is imperative to ensure it achieves its objectives without unduly straining investors. Any proposed changes should be rigorously assessed based on their impact on the interests of investors, the balance between streamlining of disclosure obligations, simplification, comparability and flexibility, and the accommodation of various ESG strategies and ambitions on the portfolio level, such as the inclusion of transition elements.

Against the background of the final report of the ESAs regarding the amendment of the SFDR RTS we ask the Commission not amend the SFDR RTS in order to avoid further implementation costs until it is clear whether (and how) the legal text of the SFDR will change (which would entail a further amendment to the RTS).

1. **Key comments and proposals**
2. **Alignment of SFDR and CSRD (PAI Disclosures)**

The inclusion of PAI disclosures in SFDR was intended to enhance transparency and accountability. Such disclosures are also addressed by other regulations such as the Corporate Sustainability Reporting Directive (CSRD) and its European Sustainability Reporting Standards (ESRS). The notable disparity in disclosure requirements between companies under the CSRD/ESRS and those covered by the SFDR has raised substantial concerns. In contrast to companies covered by the ESRS, who are obligated to only disclose those indicators that they consider material, companies covered by SFDR face a requirement to disclose all mandatory indicators. This misalignment has adversely affected the quality and accuracy of disclosures provided to clients, undermining the intended goal of fostering transparency and informed decision-making. Hence, it may be reasonable to align the SFDR with the CSRD in that regard. Regardless, it is crucial to acknowledge that while the CSRD aims to tackle specific data gaps, its effectiveness is constrained by its limited temporal, geographical, and material scope, rendering it unable to furnish substantial data for all investments made in investment funds for the purpose of SFDR disclosures.

1. **Suitability of Certain Mandatory Disclosures for All Products**

Re-evaluating the suitability of certain mandatory disclosures for all financial products would acknowledge the need for a nuanced approach to disclosure. A re-evaluation would ensure that disclosures are fit for their intended purpose. Analysis should be directed toward ensuring that mandatory templates strike a balance between uniformity and relevance, aligning with the core objectives of SFDR. The legal framework should accommodate different types of financial products while guaranteeing investors receive essential information in a clear and comprehensible manner:

On one hand, certain mandatory standardized disclosures may be beneficial for all financial products, such as the disclosure of key sustainability indicators (e.g., exclusions and CO2 footprint) across all products, irrespective of their nature. This approach facilitates the provision of essential information to investors while allowing room for further individual product-specific disclosures.

On the other hand, certain mandatory disclosures might warrant consideration regarding whether their applicability should be limited to specific products: E.g., Taxonomy alignment is particularly relevant for green/mixed products and less so for purely social ones – at least until a “Social Taxonomy” becomes reality.

A suitability consideration would acknowledge the proportionate need for flexibility in tailoring disclosure requirements to the characteristics of different types of products while still ensuring that essential information is accessible to investors. As such, including negative Taxonomy disclaimers in an already obvious “non-green” Article 6 SFDR product may unnecessarily agglomerate information that an investor does not need or want, particularly if no prior interest in ESG- or sustainable products had been raised. This proposal highlights the need for a tailored approach to sustainability disclosures, taking into account the nature and characteristics of different financial products and investor needs.

Furthermore, information could and should be understandable and compact: instead of retail investors having to compare a tremendous number of pages of pre-contractual sustainability information – which they likely will not do - investors may find that a “PRIIPs-like” key information document on sustainability (e.g. 3 pages) might be more useful than extensive information overload in the pre-contractual document. Naturally, this should not result in additional regulatory burden, i.e. another layer of disclosure. Instead, there would be room for discussion regarding the extent to which the granularity of sustainability information for retail investors could be generally curtailed and streamlined.

1. **Distinguishing between the Necessary Granularity of Sustainability Information for Retail and Professional Investors**

Distinguishing between the granularity of sustainability information for retail and professional investors may be sensible. Professional investors may have a greater capacity to process a large amount of complex data and granular information, while retail investors may benefit from a more simplified presentation, such as a sustainability-related key information document. This should however, of course, not result in additional regulatory burden, as outlined above. Striking a balance in the granularity of templates ensures that the information is appropriately tailored to the intended audience, while consistency and clarity in disclosure requirements should be maintained. Disclosures should weigh the necessity for tailored information with the need for standardization in specific cases.

1. **Balancing Comparability and Flexibility in (Website) Disclosures**

Striking a balance between comparability and flexibility is crucial. While comparability enables investors to make well-informed choices, excessive standardization may inhibit the communication of meaningful information. The current focus on comparability may need to be reconsidered to ensure that the disclosure requirements serve the best interests of investors. The current emphasis on comparability in the SFDR must be weighed against its impact on the provision of clear, concise, and useful information.

For the same reasons, the idea to reduce the standardization of website disclosures is also noteworthy insofar as over-standardization can lead to further information overload and potential obfuscation of essential details. A more streamlined and targeted approach to website disclosures can enhance their effectiveness in conveying meaningful sustainability information to investors. The revised framework for website disclosures should maintain the transparency and accessibility of sustainability information while allowing financial market participants the necessary flexibility to tailor their disclosures to their specific circumstances. Legal provisions should ensure that essential information is accessible to investors while providing financial market participants with a reasonable degree of discretion in presenting the information.

1. **Scepticism about Numerical Scaling for ESG Information**

On another note, we would like to voice scepticism surrounding the use of a numerical scaling system for ESG information. ESG factors often involve nuanced and qualitative considerations that may not be adequately captured by a numerical scale. A more comprehensive approach to presenting ESG and sustainability data, including narrative descriptions, may better serve the interests of investors. Specifically, a numerical classification system within the SFDR will lead to difficulties for holistic approaches for broad portfolios - i.e. funds that invest in different asset classes globally - as these funds also include impact or thematic components, but are naturally not focused on specific themes, let alone on one or two concrete sustainability-related objectives. Notably, however, such funds that capture a broad array of sustainability-related characteristics or objectives are perceived as particularly interesting “basic products” for retail investors and are also in high demand. The often very granular thematic products that have become rather fashionable in recent years are certainly justified as an addition to a well-diversified portfolio, but are by no means a stand-alone solution for the vast amount of retail clients.

We, therefore, would like to suggest that instead of numerically classifying or labelling a fund within the SFDR framework, various ESG or sustainability dimensions should be used to (sub) classify products, possibly in line with a revision of the MiFID II sustainability preferences : General classifications could be divided into (i) targeted measurable objectives, (ii) general objectives or themes, (iii) transition focus. Other and complementing (sub-)classifications could encompass, e.g., those elaborated on in the “White Paper Classification Scheme for Sustainable Investments”[[1]](#footnote-1) (Busch et al 2022): (i) negative screening: ethical/norm-based/risk-oriented/impact-oriented; (ii) positive screening: ESG integration, Best-in-Class/Best-in-Universe/Best-in-Progress, sustainability themed; (iii) engagement & voting. If investors desire further information, they can then delve into the specifics of the investment strategy to better understand the approaches used.

1. **Further General Comments**

Notably, the SFDR and Taxonomy disclosure requirements related to products appear predominantly designed for equity investments, casting doubt on whether government bonds can authentically align with sustainable investment objectives. Explicit and specific consideration of government bonds within the regulation is limited to the PAI framework and the disclosure of Taxonomy data (pie chart). In practice, mixed funds, encompassing diverse asset classes, often lack a dedicated sustainable investment objective. Consequently, funds adhering to Article 9 SFDR disclosures are more often than not equity portfolios, making them suitable for only a select clientele. Moreover, the regulation lacks explicit provisions for investments in investment funds or ETFs, giving rise to practical challenges. Particularly, effectively disclosing considerations of PAI or sustainability-related goals becomes more intricate when dealing with indirect investments through other investment funds.

1. **Conclusion**

The issues raised are vital in refining the regulatory framework for sustainability disclosures in the financial sector. The suggestions for greater flexibility and a balanced approach to streamlining and comparability are steps toward optimizing the effectiveness of the SFDR. However, careful consideration is necessary to strike the right balance, ensuring that investors receive the essential and compact information they need to make informed decisions while minimizing regulatory burdens and information overload.

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1. <https://www.eurosif.org/wp-content/uploads/2022/07/FINAL-White-Paper-Eurosif-Classification.pdf> [↑](#footnote-ref-1)