****

**FBF response to the Consultation on SFDR – 15/12/2023**

**We point out that the main issues arising from SFDR are mainly due to a lack of harmonization across various EU sustainable finance regulations and varying implementation dates. Banks wish to capitalize on the important work done to implement SFDR and for the future revision of SFDR to be co-constructed with financial market players through regular consultations.**

First, we would like to point out that the format of the consultation didn’t allow us to reflect the diversity of banks’ activities (as both distributors and producers of investment products). The multiple choice answers and the fact questions could occasionally be interpreted in opposite ways did not completely allow us to explain the complexity for financial institutions to implement SFDR.

1. **Context:**

The French Banking Federation would like to highlight the positive contribution of SFDR in considering double materiality and transparency towards investors. SFDR has enabled progress and financial institutions have taken full advantage of this regulation. Nevertheless, retail investors have not fully benefitted from this increased transparency due to a complex implementation and the lack of clear definition of “sustainable investment” and “promotion of E or S characteristics”. Financial institutions faced difficult access to data, data quality issues, lack of customer expectations and understanding, and complex interactions with other regulations.

We consider that two years after the start of its implementation, SFDR has not met the expectations of both retail customers and financial institutions. The necessary implementation efforts appear disproportionate to the impacts. In addition, SFDR has yet failed to drive reallocation of private financing towards sustainable activities.

We thank the Commission for this consultation which allows us to share our challenges and questions.

1. **Possible areas of improvement:**
2. Lack of clear definition of “sustainable investment” and “promotion of E or S characteristics”

An immediate issue arose during implementation because of the lack of clear definition of “sustainable investment” and “promotion of E or S characteristics”, leaving those concepts subject to interpretation. This lack of definition did not allow final investors to clearly understand the purpose of each financial product. We strongly believe that those concepts, as well as the different categories of financial products, should be clearly defined to avoid differences with other sustainable finance regulations and any suspicion of greenwashing from end customers. This should increase transparency and limit reputational risks for financial institutions.

1. Mismatch with customer expectations

SFDR does not meet the expectations of end-investors, as c retail investors do not understand the level of granularity requested by SFDR. There is a decorrelation between their level of understanding and the level of information provided to them. In addition, the time allocated by retail investors to exchange with their financial advisor is usually insufficient to reach the level of granularity proposed by SFDR. Onboarding SFDR requirements in banks’ distribution activity is therefore difficult. This suggests an approach based on the actual expectations and level of knowledge of each investor would probably be relevant to include in the revision of SFDR. Customers are also in demand for financial products that positively contribute to sustainable objectives, including climate transition and adaptation, rather than products which do not have a negative impact. Bringing closer MiFID IDD ESG preferences with SFDR would facilitate identification of products matching client’s sustainability preferences. Defining a sustainability threshold could be a satisfactory step forward.

1. Litigation risks (in relation to question 2.3):

Several different regulations came into force over a short period of time and are increasingly demanding. At the same time, litigation risks have increased considerably for financial institutions while corporate clients have not yet implemented CSRD and cannot yet respond to our requests for ESG-related information. From a distributor's perspective, it is difficult to discuss with customers on topics for which information is not yet available. Data availability and quality is a great challenge. Harmonization between regulations is absolutely needed, including CSRD, MIFID/IDD, BMR, PRIIPS, and EU GBS. For example, materiality assessment should be harmonized between ESRS and SFDR, notably for indicators deemed not material, to allow better comparability.

1. Data issues (related to question 1.12.4):

This table does not reflect the complexity and diversity of financial services. Within a financial institution, different parts of the business can use different sources of data. For example, an entity can use external data providers, while another will use internal estimates. Financial Institutions’ use of data providers is increasing, and so is the related cost. Nevertheless, data quality is not always reliable – thus the urgent need to regulate ESG data providers.

Until CSRD is fully implemented, data availability will remain limited, and the use of estimated data the only option to comply with regulatory expectations. Even after CSRD is fully implemented, a lot of data will remain unavailable because of the materiality condition for companies’ disclosure. SFDR disclosure preparers should therefore be allowed to use ‘zero’ when the investee discloses ‘zero’ after their materiality assessment. This clarification should be included in the text of SFDR’s revision (level 1). At this stage, we do not want a third-party audit and wish to remain on a self-declaration approach.

In addition, the current lack of automated digital extraction of data does not facilitate their accessibility and use. Hence, we support the creation of a machine-readable format although we do not see this as a priority in the revision of SFDR.

1. Implementation costs:

The one-off implementation costs and the recurring annual costs associated with complying with SFDR have been very important. This has created a competitive issue between financial market players. Future developments and revision of SFDR must take this cost-related aspect into account, notably by leveraging on work already implemented.

1. Disclosures:

The cost and granularity of data is too great compared to what is useful to and requested by customers, and CSRD only requires companies to report on material topics. Therefore, the number of mandatory PAI indicators should be reduced to a limited number of always mandatory (i.e. material) indicators: those related to GHG emissions and to the UN principles. Entity-level disclosures should be consistent between CSRD and SFDR to ease data collection and reinforce data quality (as CSRD data are audited) for entities reporting under CSRD – including the materiality rule under CSRD.

We strongly believe that entity-level disclosures under SFDR should be harmonized with CSRD disclosures. An exemption from entity-level disclosures under SFDR could be considered for financial market participants that are also covered by CSRD. It should be acknowledged that data availability varies between disclosure requirement, with some PAI (especially climate) easier to report than others (water, waste).

The cost and granularity of data is too great compared to what is useful and requested by customers, especially as the documentation is rarely used by distributors, hence the number of mandatory PAIs can be reduced.

Also, the definition of some PAI indicators is unclear, leading to diverging interpretations by various data providers and financial market participants. They should be clarified.

Some information provided in pre-contractual and periodic documentation, as well as on websites is repetitive, too granular, and unnecessary for customers, while other information is only available through one media (such as on the website), hindering the complete understanding of customers. There is a need to streamline information made available to customers.

1. Scope of SFDR :

EU retail investors generally do not participate in the equity market and prefer to invest in investment products with guaranteed capital that only structured products can offer. Today, structured products fall outside the scope of SFDR, although financial market participants may use the EU Taxonomy or SFDR’s principle adverse impacts (PAI) to evaluate their level of sustainability as requested by investors. If an extension of the scope were to be considered, structured products could be integrated (with reporting requirements specified in the level 2 texts).

1. Category:

We recommend adapting articles 6, 8 and 9 (without commenting on maintaining the nominative nature of these different categories) to capitalize on the work carried out so far in terms of implementation (including of ESG preferences under MiFID and IDD). If new categories were to be considered, they could thus be evolutions from the three current categories, with the introduction of minimum performance indicators to assess the strength of products in terms of sustainability commitments. We recommend adding the notion of “transition” with a clear definition. However, there is no consensus amongst our members on the creation of a specific “transition” category per se. As regulatory change represents additional costs for companies, new developments pertaining to the products categories should undergo an impact study on both financial cost and simplification for the retail investor. This is the reason why we urge the Commission to keep an open and regular dialogue with the financial services industry in the definition of any future improved and/or new product categories, including at Level 2.