

SFDR L1-review - Insurance and Pension Denmark response

Insurance & Pension Denmark is pleased to be able to provide input to the targeted consultation on SFDR Level 1-regulation.

Insurance & Pension Denmark represents Danish insurance companies. Among our members are all Danish life insurers and labour market-based pension providers delivering DC pension schemes to the majority of Danish wage earners, and investing, on behalf of pension savers, some 3.500 bn. Dkk, corresponding to more than 150 pct. of Danish GDP. As life insurers and pension providers, our members are subject to the SFDR regulation.

The Danish insurance and Pension industry strongly supports the Disclosure regulation: It is of utmost importance to increase transparency towards end investors with regard to the integration of sustainability risks in investment products and to help end investors make sustainable investment choices.

We regret that the current SFDR regulation has not fully succeeded in achieving its stated goals. While transparency has certainly been strengthened, end investors are not sufficiently helped by the increased transparency, because the information given is massive and extremely difficult for many to understand. Thus, from the viewpoint of Danish insurers and pension companies, there is a need for more clear and understandable information which is available when and where the end investors require it, ie., typically in an electronic format. Keeping the new EU initiative on proposals to simplify reporting requirements and reducing them by 25 pct in mind, changes to requirements aiming at improving simplicity, readability, and usability of the SFDR are welcomed – where existing requirements do not add needed value.

In this letter we explain our overall views regarding the development of the SFDR. Insurance & Pension Denmark is, of course, available to elaborate on the views expressed.

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Overall views

Insurance & Pension Denmark

Our overall views encompass the following topics:

Case No. GES-2022-00139

DocID 475697

- Information handed out or in other ways made accessible to customers should enable them to make decisions regarding sustainability in their investments. This, we regret, is not fully achieved with the current disclosure requirements, and, thus, it should be a top priority going forward.
- The informational value of SFDR disclosures must be in focus of the current review. Thorough consumer testing of the information aimed at end investors must be carried out across all member states, with a focus on end investors' needs and on their capacity to understand and make use of the information and with a focus on how end investors typically access like information in the various member states.
- In line with the above, it is in our view necessary to ensure that information to customers is available when they need it and in a format that appeals to them. We believe much can and must be done to make SFDR disclosures more easily accessible.
- SFDR entity specific disclosures will, over the coming years, be supplemented by entity specific CSRD disclosures which, we believe, have the potential to become the "go-to" entity specific disclosures. As we consider it important to avoid duplication of information, we believe the SFDR entity specific disclosure requirements should be phased out as the CSRD disclosures are phased in. However, a suitable transition period would be necessary to ensure that all FMPs can be compared on entity specific informations, even while the CSRD is being phased in. We would like to point out that there will still be room for information on Principal Adverse Indicators (PAIs) at investment product level.
- Danish insurers and pension companies want to preserve the principle of specific reporting requirements for investment products with sustainability characteristics (art. 8) respectively for products with sustainability goals (art. 9). In practice, art. 8 and art. 9 are by many FMPs considered de facto sustainability categories. We do not, however, see a significant need for coining such categories in the regulation, just as we do not see a need to go further by introducing new sustainability categories.
- We consider it of high importance that the SFDR art. 2.17 is preserved. Some clarification of art. 2.17 could be helpful. However, many companies value the flexibility embedded in the current regulation.
- SFDR should not, in our view, incorporate rules or set out standards for marketing of investment products. We believe that existing marketing regulation is adequate in relation to preventing green washing and to ensuring that customers receive proper information about the "sustainability content" of investment products.

Below we'll go a bit more into detail with the views presented above:

Informational value of SFDR disclosures

As stated, the current SFDR disclosure requirements have not achieved the stated goal of equipping customers with sufficient information to make informed decisions about investments. In our opinion, this is mainly because the product specific disclosure requirements are very extensive – in many cases the information to customers takes up 8-10 pages or more, and many terms used in the templates are technical terms that may be difficult to understand for non-experts. Therefore, many customers, unfortunately, react to the information with confusion and bewilderment. This point of view is substantiated by feed back from Danish pension companies.

The SFDR regulation seems to be based on investment products that invest in one or a few asset classes and with a pre-defined strategy. However, Danish pension companies typically offer their customers investment products that invest broadly in many different asset classes and strategies and where the asset composition can change over time, for example because these are so-called life cycle products. For such products, the current templates are very difficult to handle as the SFDR requires that information must be given on specific sustainability issues per asset class. We realize that according to UNGP and OECD Guidelines, due diligence differs across asset classes. However, we suggest that the information requirements in the SFDR are adapted so that information pension companies must provide to customers with such broad investment products becomes more comprehensible, thereby helping end investors gain insight and – possibly – respond by choosing sustainable products.

Thus, making the SFDR product specific information user friendly should be of the highest priority for the current review. Increasing user friendliness could be achieved by

- Cutting down on the amount of information given to customers
- Setting a goal that SFDR product informations must take up only a few pages. This would align the size of disclosure documents with that of eg. PRIIPS KID's and similar investment product information aimed at customers.
- Allowing FMPs to make information available in a digital and layered form. This would, in our view, make it much easier for customers to get an overview of the entirety of the information while allowing to dig deeper in areas of particular interest.
- Conducting thorough user friendliness tests of the SFDR information templates. In our view, tests of the current templates have been carried out in an overly superficial manner and without a view to the differences among retail investors throughout Europe. Consequently, the current templates reflect to a large extent the principle of the lowest common denominator. We appreciate the aim to develop one standard information template suitable for all Europeans. However, given the differences across

Europe with respect to the prevalence of internet and the level of digitization, we believe it's counter productive to make one very prescriptive way mandating how to purvey the information. For this reason, we believe, it's necessary that consumer tests of SFDR product information in the future are carried out in all countries.

Insurance & Pension Denmark

Case No. GES-2022-00139

DocID 475697

Making information more available to customers

In line with the above, we believe that SFDR product information should be available to customers in formats that actually fit the customers. In Denmark, with the high degree of digitization, it doesn't make much sense requiring that information must be handed out to customers in paper format or, for that matter, that it should be published in specific reports. Rather, Danish customers would be much better helped if the information was available on the FMPs website and, equally important, in a layered structure so that the customer could decide what to look at superficially and what to take a closer look at. This approach, we believe, would further enable FMPs to achieve a better coherence between precontractual information and periodic reporting, which would undoubtedly be to the benefit of customers. There is, in our opinion, no doubt that many customers are sincerely interested in the sustainability information that SFDR aims to purvey, and FMPs do an extensive work of providing the information.

However, the feedback Insurance & Pension Denmark is getting from Danish pension companies, is that customers react to the information with confusion and lack of understanding. Hence the regulation is not achieving its full purpose.

Avoiding double reporting on entity specific disclosures in the SFDR

We recognize the need for entity specific information about the way in which FMPs take sustainability into consideration when making investment decisions. And we find it highly relevant to report information on the impact FMPs investments have on sustainability matters. However, with the coming CSRD reporting the information given by many FMPs as part of the SFDR reporting are expected to be duplicated in the CSRD reporting. This goes for the PAI indicators, it goes for the information on how the entity takes account of sustainability in the day-to-day operations and investment decisions and it probably also goes for the information on how the FMPs remuneration policies supports sustainability.

It goes without saying that duplicate information should be avoided, not least because having to give information in several places is burdensome. One of the purposes of the CSRD is to make one report on entity level, meeting all relevant stakeholders needs. Therefore, we find that when the reporting is done in accordance with the CSRD, the purpose with entity level reporting after SFDR becomes unclear. Further, with two separate reports on what is conceptually – and in many cases also datawise – the same, there is a great risk that there will be discrepancies between the different reports of the FMP

leading to unclarity, confusion and perhaps to the perception among some that FMPs are deliberately obscuring information.

Insurance & Pension Denmark

Case No. GES-2022-00139

DocID 475697

We therefore strongly suggest that, as the reporting after CSRD is – gradually – phased in, the requirement for FMPs to report entity specific information - once they are subject to the CSRD reporting obligation – be phased out – in line with a general “one-in-one-out” principle. We acknowledge that even once CSRD is fully phased in there may be FMPs which are exempt from the CSRD reporting obligation. In order to ensure that all FMPs can be compared on entity specific information, we suggest to preserve the obligation for FMPs not subject to the CSRD reporting obligation to render the current SFDR entity specific reporting requirements. Also, we would like to point out that this suggestion does not preclude preserving product level PAI information.

SFDR to remain a reporting regime and art. 2.17 to be preserved

The current SFDR leaves room for improvement. However, we believe that the high-level ambition of the regulation which is to ensure that FMPs inform their customers about

- what kind of sustainability they can expect in an investment product and to what degree and (precontractual information)
- to what extent they live up to the sustainability ambitions (periodic information)

is still very relevant. In this regard, we call for extensive consumer testing, before any specific changes are to be discussed.

The current art. 8 and art. 9 reporting requirements are by many seen as a de facto sustainability categorization of investment products. Expanding the regulation into more categories is not our preferred option if we want to make it easier for customers to choose sustainable investment products. FMPs define sustainability and thus form the characteristics of, or goals for, an investment product in different ways. Setting up predefined categories will, we believe, constrain FMPs and thus limit the development of a broad supply of investment products with sustainability characteristics or goals across E, S and G to the benefit of customers

Further, if some predefined categories of sustainable products are defined, we fear that the supply of sustainable investment products will focus on living up to these category definitions and, thus, sustainability matters which are not easily pursued under these categories will be overlooked.

We acknowledge that the flexibility the current art. 2.17 gives FMPs in defining their sustainability “model” makes it all the more important to ensure clear communication to customers about the kind of sustainability and the level of achievement that characterizes the investment products. And in our

view, achieving this “clear communication” should be the number one priority for the ongoing review.

Insurance & Pension Denmark

Case No. GES-2022-00139

DocID 475697

No marketing regulation in SFDR

Both in EU- and national regulation, there is already marketing rules in place. In Denmark, the Consumer Ombudsman enforces marketing rules strictly, in order to prevent greenwashing and to ensure that consumers have access to fair and adequate information about products’ sustainability characteristics and to information that substantiates any claims, including sustainability claims.

We fear that introducing marketing regulation in the SFDR will make it less clear what the rules actually are. Specifically, compliance officers, supervisory authorities, the Consumer Ombudsman and others will be left with the difficult task of determining which rules apply under which circumstances, which rules take precedence over which and how to deal with potential regulatory gaps and inconsistencies across different regulations. Therefore, we strongly suggest that the SFDR remains a reporting regime, focused on product specific information, while marketing requirements remains out of scope of the SFDR.

Legislative process for SFDR

On a separate note, we’d like to comment on the legislative process surrounding the SFDR and other, intertwined sustainability regulation.

Insurance and Pension Denmark (IPD) support the SFDR’s objective to serve as a tool to raise awareness and inform about sustainable investments in the financial services sector. We recognize that Europe played a key role as a pioneer for sustainable finance product disclosures, and commend the efforts made to set the European framework for such disclosures. The SFDR is an important piece of regulation, a part of the larger set of regulatory initiatives (including CSRD, Taxonomy regulation and the upcoming CSDDD and ESAP) which are combined. The infrastructure between these different sets of regulation is still not in place. The regulation has only been in force since 2021, and insurers have invested significant resources and efforts in its implementation. Therefore, now is not the time for adding further requirements – but the time for focusing on making the data infrastructure between the different sets of regulation work and for ensuring that the regulation already in force can be brought to work and fulfill its purpose.

We are increasingly concerned that there appears to be very little awareness by policymakers of the need for new regulation to be implemented by the undertakings concerned. This tendency has become particularly evident in the development of the SFDR, e.g., the changes made to the SFDR templates in February 2023 with an implementation period of only three days. IPD suggest coordinating the review of SFDR level 1 (through this assessment) and

level 2 (through the review of the SFDR social PAIs). SFDR and its Delegated Regulation would benefit from coordination, considering both topics and timing, of the two ongoing review processes. Additionally, it should be borne in mind that each time the SFDR requirements are clarified or modified, FMPs have to adapt and re-adapt their processes and disclosures: this also increases the costs of products to the detriment of customers.

Insurance & Pension Denmark

Case No. GES-2022-00139

DocID 475697