Société Générale Group response to the consultation on the implementation of the Sustainable Finance Disclosures Regulation (SFDR)

15 December 2023

We welcome the European Commission consultation, which involves stakeholders in the development of SFDR from the outset. First of all, we should note the major step forward that SFDR has made, not only in terms of the information available on the sustainability of certain financial products/services, but also in terms of raising awareness among professionals and exchanges between the manufacturers of these products and their distributors. SFDR has laid the foundations for a common language that has facilitated dialogue between investment professionals, which can only benefit the end investor.

Improvements are certainly necessary, but given that SFDR has only recently been implemented, we believe it is important that this consultation is the start of a more continuous consultation process to benefit from the growing experience of professionals and to take a sufficiently long view to continue building an effective regime that will redirect investor capital flows.

More fundamentally, we believe in the very logic of the division of roles between the EU taxonomy on the side – addressing and categorizing activities that contribute positively to the mitigation of climate change and other key ESG goals – and the MIFID and IDD directives, on the other side, that focus on identifying clients needs and, finally, SFDR that provides the necessary disclosure at product and manufacturer level to help investors make an informed choice concerning ESG solutions.

We notably would caution against approaches that would tend to blur this efficient distinction of roles and introduce within SFDR some elements of taxonomy or of sectoral exclusions. We consider that this latter role should be reserved to the EU taxonomy itself.

An effective system means making ESG products easier to understand for investors and ensuring their credibility, while at the same time limiting the additional costs that would undermine the performance and therefore the attractiveness of these products.

With this in mind, here are the elements that we consider important at this stage.

Response to section 4: Potential establishment of a categorization system for financial products

As the European Commission points out, beyond the SFDR transparency regime, Articles 8 and 9 are used to some extent as classification tools. This is true in exchanges between professionals (manufacturers and distributors), partly in response to the need to collect MiFID ESG preferences using SFDR concepts. However, it is less true in dealings with end investors, for whom these categories are not visible as such in order to avoid any complexity that might lead to mistrust of these products.

In this respect, it is true that simplifying and clarifying the various ESG product categories could facilitate dialogue with investors and the investment decisions of end clients.

In view of the above, ESG product categories should be built on the following principles.

(i) Maintaining categories 8 and 9 has the advantage of leveraging on acquired expertise while limiting additional costs for ESG financial products.

The concepts of sustainable investment and products promoting ESG characteristics have taken time to understand and train both manufacturers and distributors. This time has enabled these players to become relatively familiar with these concepts and to use them in particular to analyze the ESG preferences of their customers.

It would be a pity not to leverage on the current concepts and take into account all the training that has been put in place. This also has the advantage of limiting the costs incurred by a full review of categories, which could be passed on to ESG financial products.

On the other hand, there is also insufficient hindsight and maturity on very recent measures, and real uncertainties about the most effective approach, which will require time and iterations between the various stakeholders.

Clearly, a balanced approach means leveraging on existing categories.

(ii) Ensuring consistency with the collection of ESG preferences, without however providing for a complete alignment of these two frameworks.

The various SFDR concepts have been used by the legislator to construct the MiFID preference collection regime. On this basis, distributors have designed their questionnaires and processes to make the link between the answers given by investors and the products "categorised" using the SFDR concepts. The distributors worked to educate and simplify the process for end customers.

The SFDR concepts and the collection of ESG preferences are therefore linked and any review of the SFDR framework will have to ensure consistency with MiFID so as to avoid a complete review of client questionnaires. Indeed, such a review could introduce further confusion in the minds of investors regarding ESG products. The credibility and effectiveness of the regime depend on this.

Maintaining the existing categories and improving them with criteria and sub-categories would meet the need for a degree of stability in the MiFID2 regime.

In any event, we do not believe that the framework for collecting ESG preferences under MiFID should be fully aligned with any new SFDR classifications insofar as SFDR can only cover part of the financial instruments covered by the MiFID regime.

(iii) The introduction of sub-categories and minimum criteria depending on the sub-category concerned would simplify ESG products and make them easier to understand for end investors.

Although manufacturers and distributors have made efforts to educate and simplify, the complexity of SFDR concepts can still affect the readability and even attractiveness of these products for investors.

A nomenclature based on the different ESG strategies could be much more accessible for both end investors and financial players.

o The minimum criteria to be implemented would be defined according to the relevant strategy and the different sub-categories.

A minimum alignment with the taxonomy could be coherent for certain products that place particular emphasis on the environmental component. On the other hand, this criterion (i) does not seem suitable for all types of products (e.g. an investment focusing on transition objectives) and (ii) also raises the question of the rigidity that would be implied by setting the minimum share in a regulatory text without taking account of the necessarily gradual approach to aligning the economy with the taxonomy. In other words, the calibration of this minimum share must take into account the reality of the market and its changes over time fairly quickly.

Furthermore, as far as exclusion criteria are concerned, we believe that they are insufficient to characterise an ESG product strategy as such. They could be conceived as a minimum criterion for certain financial products, but we believe that at this stage the sector to be excluded should not be defined by the SFDR regulations. It seems to us that the choice of activities to be excluded at a regulatory level is more a matter for a cross-sectoral debate that cannot be reduced to SFDR.

Instead of the concept of exclusion, the concept of selectivity, which consists of excluding part of an investment universe on the basis of ESG ratings, seems more appropriate for defining the minimum base of ESG products.

o We believe that highlighting transition is fundamental to ensuring the decarbonization of the economy.

We believe that regulatory signals encouraging the financing and investment of players who are not yet at the target but who are committed to robust decarbonization trajectories are fundamental to ensuring the transformation of the economy and a fair transition. It is true that transition can already be considered in the various ESG strategies, but express recognition of such approaches would strengthen their credibility with investors. This would also be an opportunity to reinforce the scope of the European Commission's communication on "just transition", published in June 2023, which provides a very pertinent definition of the framework for transition (which can be based on objectives of alignment with the taxonomy as well as on robust transition plans and science-based objectives).

- Acknowledging the diversity of ESG strategies and permitting alternatives in the choice of minimum criteria to be applied

While we believe that minimum criteria could be usefully added, we also consider that flexibility in the definition of ESG strategies should be preserved as there are several ways to implement a sustainable transition.

Therefore, while supporting the introduction of a minimum number of criteria – including a minimum selectivity where appropriate for article 8 products - we believe that manufacturers should be free to select the ones that they wish to activate for a specific ESG strategy from a prescribed list (e.g. 3 criteria to be chosen among a list of 8).

As an example, an article-8 product could apply, in addition to a minimum required 20% selectivity, other minimum criteria of its choice (e.g. alternatively a minimum taxonomy alignment, or a minimum sustainable investment, or transition trajectories or sectoral exclusions).

Response to section 3.2.1: Standardized 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?

When a product does not pursue ESG objectives, we consider that the important information for investors is that the product does not take ESG criteria into account. This information already exists in the prospectus, but a clear statement in the PRIIPS KIID would seem more accessible to investors.

Secondly, it would seem disproportionate to require the same level of information as an ESG product for a product that the investor does not expect and is clearly alerted to the fact that it does not take ESG criteria into account.

Considering potential extension to SFDR to structured products.

We would welcome the potential inclusion of structured products[1], which may eventually be added to the list of products under article 2 point 12) of the regulations.

Structured products are a critical part of ESG offering in the EU market (capital-protected products for retail) and like funds, they can be manufactured to follow sustainable objectives. As mentioned above in our answer to question 2.4, manufacturers already categorize

[1] For the avoidance of doubt, we recommend the targeted inclusion of ESG structured notes (e.g. structured EMTNs). These products are generally sold in an advised-mode to retail clients, generally in a portfolio-diversification approach.

structured products as “Article 8-like” or “Article 9-like” upon distributors’ request to facilitate the suitability assessment and the target market definition. This is currently the case when these products are the underlying assets of insurance contracts or of structured funds. Therefore, there is no reason why these products should not be included in the new version of SFDR framework.

SOCIETE GENERALE strongly believes that the extension of SFDR scope to a wider range of financial instruments which have environmental, social and sustainable characteristics would rather bring more benefit to the financial industry than the enlargement of the disclosure obligation to financial products which have no ESG or sustainable claims (Article 6 products). The extension will contribute to improving transparency and facilitating the collection of information required to meet the regulatory requirements imposed by other legislations (example MIFID2/IDD as already mentioned).

In addition, this extension will contribute to the recognition of the fact that secondary market products can have an impact on sustainable finance and therefore may claim to have environmental, social and sustainable characteristics.

However, in the eventuality that structured products could be included in SFDR scope, the regulatory framework should be adapted to reflect the specific characteristics of these products. In fact, considering their different nature, structured products cannot be treated the same as the other financial products listed under article 2 point 12), which are conceived to take specific engagement in their pre-contractual documentation, which need to be respected and verified overtime. The respect of the engagement mentioned in the pre-contractual documentation according to SFDR Article 8 and 9, also needs to be disclosed in the periodic reports (according to article 11 SFDR) which will show if the financial product has been able to respect its commitments with the actual asset allocation. In case it doesn’t, the FMPs have the obligation to review the allocation to respect the engagements taken in the pre-contractual documentation. This is possible due to the fact that these are “investment managed” products.

Although, the same logic cannot be applied to structured products for which the performance is related to the pre-defined product formula on which the manufacturer has no influence once the product is issued (there is no room for investment management actions).

In addition, the assessment and disclosure of sustainable-related characteristics should be demonstrated by different type of metrics which may rely more on qualitative than quantitative information. For instance, among the examples of disclosure listed under question 3.2.1 b), only “Taxonomy-related disclosure” and, in some cases “exclusion” would be relevant.

Lastly, should structured products be included in SFDR scope, they should be subject to simplified disclosure templates similar to KID, adapted to the type of information required for this specific category.