Paris, December 2023
European Commission

Targeted consultation – Implementation of the Sustainable Finance Disclosures Regulation (SFDR)

Dear Sir or Madam,

I am writing on behalf of the Autorité des Normes Comptables ('ANC'), the French public authority whose remit covers financial and sustainability standards, to provide our comments on the targeted consultation on implementation of the Sustainable Finance Disclosures Regulation ('SFDR').

While the SFDR review should fully draw on the CSRD and the associated delegated regulation, the central focus of this consultation lies in defining the nature of the SFDR regulation, whether as a simple disclosure framework or as a labelling tool. We perceive SFDR's objectives as threefold:

- allowing the orientation of capital flows towards sustainable and transitioning activities in a reliable framework,
- enhancing the responsibility of financial market participants ('FMP') towards the environment and society,
- reducing systematic risks weighting on the European economy.

To achieve these objectives, we believe that SFDR should first function as a transparency tool, limited to a concise set of ESG metrics applicable to all financial products and consolidated at the entity level. On top of that, SFDR should integrate an ESG categorisation tool for financial products with sustainability claims based on defined criteria and minimum thresholds.

The sustainability reporting by FMP could be structured around four levels:

1. Entities

Whatever the legislative vehicle, be it through CSRD or SFDR, disclosure requirements at entity level should be the same, given that these legislations share common objectives. CSRD, supplemented by the sector-specific standards for financial undertakings to be developed, should be the cornerstone of entity requirements.

The scope of entities covered by the disclosure requirements needs nevertheless to be reviewed. Currently CSRD requests a reporting from large corporate, at group level with an exemption for non-listed subsidiaries while SFDR does not provide for a reporting at group level but has a specific threshold at 500 employees.

We consider that neither CSRD nor SFDR properly defines a reporting scope appropriate for entities focusing on managing assets for third parties. First the amount of assets under management (AUM) could be an indicator more relevant than the net turnover, balance sheet total assets or even number of employees (due to the widespread recourse to delegations). Second the independence in the management which is a fundamental principle in this sector could justify having a reporting requirement at entity and waiving the subsidiary exemption when the AUM is above a particular threshold.

Below the mentioned thresholds, the disclosure requirements might be adapted and drastically simplified.

Entities should disclose their policies for managing sustainability matters, including climate (i.e., portfolio policies to be compatible with the goals of the Paris Agreement and to be aligned with the environmental objectives of the European Taxonomy), biodiversity (i.e., portfolio policies to be compatible with the goals of the Kunming-Montreal Agreement), and risk management (i.e., engagement and voting policies in relation to Directive 2007/36/EC).

Alongside, entities should disclose metrics related to sustainability matters, including environment (i.e., Scope 1,2 & 3 GHG emissions intensity of investments, breakdown (%) of investments in assets involved in the coal, oil and gas sectors, share of investments in assets aligned with the environmental objectives of the Taxonomy (green ratio of AUM)) and possibly social impacts (i.e., share of investments in assets involved in the manufacture or selling of controversial weapons, share of investments in assets involved in the cultivation and production of tobacco).

2. All financial products

Strengthening transparency framework appears to be a prerequisite before categorisation, drawing on the current regulatory experience. The essence of the regulation should be maintained while proposing adjustments to ensure effectiveness, readability, and comparability of financial products for users.

Minimum transparency rules should apply to all financial products to reflect the sustainability content of the entity's products portfolio, but they should be limited to corporate and infrastructure asset classes. Indeed, the sustainability content of financial products would be more accurately assessed within comparable corporate asset classes such as equity, infrastructure and related debt instruments. Consequently, there is a need to disclose the coverage rate of the financial products within these asset classes. Transparency rules should be simplified, including the removal of the 6/8/9 architecture and reporting templates. A limited number of mandatory metrics should be required on environmental and possibly social impacts as described above.

3. Financial products with sustainability claims

Three categories could be created to structure the ambition level of financial products with sustainability claims:

- Minimum responsible practices: This category mandates policies and targets for managing sustainability matters at product level, at least on climate (i.e., portfolio policies to be compatible with the goals of the Paris Agreement and to be aligned with the environmental objectives of the European Taxonomy) or biodiversity (i.e., portfolio policies to be compatible with the goals of the Kunming-Montreal Agreement) or and risk management (i.e., engagement and voting policies). This category should exclude assets involved in the coal, oil and gas sectors as well as in the manufacture or selling of controversial weapons and in the cultivation and production of tobacco.
- Sustainable contribution (or green activities): In this category, the requirements extend to the ones mentioned in 'Minimum responsible practices', with the addition of a minimum alignment with the European Taxonomy. This category encompasses infrastructure projects aligned with the European Taxonomy.
- Transition: This category encompasses investee companies with a transition plan that meets the requirements outlined in the CSRD. Such plans should include reliable GHG emission reduction targets.

In order for the product to be eligible to one of the above categories a minimum percentage of the assets would need to comply with simple requirements (e.g., X % of the assets are invested in corporate with more than Y % of their turnover aligned with the taxonomy …).

Categories should guide the naming and communication of products with sustainability claims.

4. Labels

Flexible references to labels based on national and/or regional regulatory and voluntary initiatives would come in addition to the above-mentioned levels. These labels would allow for opportunities of leveraging existing well-known market efforts as well as future market and product innovation.

If you would like to discuss our comments further, please do not hesitate to contact Eric Duvaud or myself.

Yours sincerely,

Robert Ophèle