



EUROPEAN COMMISSION

DIRECTORATE-GENERAL FOR FINANCIAL STABILITY, FINANCIAL SERVICES AND CAPITAL  
MARKETS UNION

Financial markets  
Asset management

**TARGETED CONSULTATION DOCUMENT**

**IMPLEMENTATION OF  
THE SUSTAINABLE FINANCE DISCLOSURES REGULATION (SFDR)**

**Disclaimer**

This document is a working document of the Commission services for consultation and does not prejudice the final decision that the Commission may take.

The views reflected on this consultation paper provide an indication on the approach the Commission services may take but do not constitute a final policy position or a formal proposal by the European Commission.

## INTRODUCTION

The [Sustainable Finance Disclosures Regulation \(SFDR\)](#) started applying in March 2021 and requires financial market participants and financial advisers to disclose how they integrate sustainability risks and principal adverse impacts in their processes at both entity and product levels. It also introduces additional product disclosures for financial products making sustainability claims.

This targeted consultation aims at gathering information from a wide range of stakeholders, including financial practitioners, non-governmental organisations, national competent authorities, as well as professional and retail investors, on their experiences with the implementation of the SFDR. The Commission is interested in understanding how the SFDR has been implemented and any potential shortcomings, including in its interaction with the other parts of the European framework for sustainable finance, and in exploring possible options to improve the framework.

The main topics to be covered in this questionnaire are:

- 1. Current requirements of the SFDR***
- 2. Interaction with other sustainable finance legislation***
- 3. Potential changes to the disclosure requirements for financial market participants***
- 4. Potential establishment of a categorisation system for financial products***

Sections 1 and 2 cover the SFDR as it is today, exploring how the regulation is working in practice and the potential issues stakeholders might be facing in implementing it.

Sections 3 and 4 look to the future, assessing possible options to address any potential shortcomings. As there are crosslinks between aspects covered in the different sections, respondents are encouraged to look at the questionnaire in its entirety and adjust their replies accordingly.

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RESPONSE KEY	
<i>Text Colour</i>	<i>Description</i>
<b>Black</b>	European Commission consultation text.
<b>Blue</b>	Irish Funds response submitted in the consultation form.
<b>Green</b>	Due to response section and character limits in the European Commission consultation form, Irish Funds was limited in explaining our response. To provide additional rationale and clarify our response, Irish Funds has included further explanatory text in green that will not be submitted via the EC portal but will be sent separately to the EC.

## CONSULTATION QUESTIONS

### 1. CURRENT REQUIREMENTS OF THE SFDR

The EU's sustainable finance policy is designed to attract private investment to support the transition to a sustainable, climate-neutral economy. The SFDR is designed to contribute to this objective by providing transparency to investors about the sustainability risks that can affect the value of and return on their investments ('outside-in' effect) and the adverse impacts that such investments have on the environment and society ('inside-out'). This is known as double materiality. This section of the questionnaire seeks to assess to what extent respondents consider that the SFDR is meeting its objectives in an effective and efficient manner and to identify their views about potential issues in the implementation of the regulation.

We are seeking the views of respondents on how the SFDR works in practice. In particular, we would like to know more about potential issues stakeholders might have encountered regarding the concepts it establishes and the disclosures it requires.

**Question 1.1:** The SFDR seeks to strengthen transparency through sustainability-related disclosures in the financial services sector to support the EU's shift to a sustainable, climate neutral economy. In your view, is this broad objective of the regulation still relevant?

1	2	3	4	5	Don't know / No Opinion / NA
				X	

(1 = not at all, 2 = to a limited extent, 3 = to some extent, 4 = to a large extent, 5 = to a very large extent)

The objective of the Sustainable Finance Disclosure Regulation (SFDR) is to strengthen transparency to support the European Union's (EU) shift to a sustainable, climate neutral economy remains relevant, demonstrated by the impact of extreme weather events experienced since its implementation in 2021.

**Question 1.2:** Do you think the SFDR disclosure framework is effective in achieving the following specific objectives (included in its [Explanatory Memorandum](#) and mentioned in its recitals)<sup>1</sup>:

	1	2	3	4	5	Don't know / No Opinion / NA
Increasing transparency towards end investors with regard to the integration of sustainability risks <sup>2</sup>			X			

<sup>1</sup><https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52018PC0354>

<sup>2</sup> In this questionnaire we refer to the term 'end investor' (retail or professional) to designate the ultimate beneficiary of the investments in financial products (as defined under the SFDR) made by a person for their own account.

Increasing transparency towards end investors with regard to the consideration of adverse sustainability impacts.				X		
Strengthening protection of end investors and making it easier for them to benefit from and compare among a wide range of financial products and services, including those with sustainability claims.			X			
Channeling capital towards investments considered sustainable, including transitional investments ('investments considered sustainable' should be understood in a broad sense, not limited to the definition of sustainable investment set out in Article 2(17) of SFDR).		X				
Ensuring that ESG considerations are integrated into the investment and advisory process in a consistent manner across the different financial services sectors.		X				
Ensuring that remuneration policies of financial market participants and financial advisors are consistent with the integration of sustainability risks and, where relevant, sustainable investment targets and designed to contribute to long-term sustainable growth.		X				

(1= totally disagree, 2= mostly disagree, 3= partially disagree and partially agree, 4= mostly agree, 5= totally agree)

Taking various of the statements set out in the table at question 1.2 in turn, we have included our comments below.

### ***Increasing transparency towards end investors with regard to the integration of sustainability risk<sup>3</sup>***

Based on questions being raised by professional investors on product ranges, until recently, professional investors have not been particularly focused on the sustainability risks associated with individual fund products. The focus has been on how the relevant fund has been “categorised” under the SFDR and whether or not it implements an Environmental, Social, Governance (ESG) investment strategy. However, Irish Funds members have recently started to observe an increased focus on the sustainability risks associated with the relevant investment fund and how such sustainability risks are being managed by the relevant manager.

### ***Increasing transparency towards end investors with regard to the consideration of adverse sustainability impacts***

The mandatory disclosures relating to whether or not a fund considers principal adverse impacts (PAI) on sustainability factors has improved transparency with regard to the consideration of

<sup>3</sup> In this questionnaire we refer to the term ‘end investor’ (retail or professional) to designate the ultimate beneficiary of the investments in financial products (as defined under the SFDR) made by a person for their own account.

principal adverse impacts on sustainability factors as part of the investment decision-making process. However, given that the detailed PAI disclosure obligations have only applied since the beginning of 2023, it is not yet possible to confirm whether the provision of this information has impacted on investor behaviour when selecting investment products.

If this concept is retained under any future framework, we suggest that the legislation itself clarifies, as per the European Commission Q&A from April 2023<sup>4</sup>, that in order to report on PAI, the fund manager must take action to mitigate any such negative impacts identified and that it is not sufficient to just report on these impacts.

Furthermore, Irish Funds questions whether end investors really understand the concept of PAI and suggest that consumer testing on this is carried out as part of any review of the SFDR framework.

Finally, as noted in further detail below, Irish Funds is of the view that the “entity-level” PAI disclosures under Article 4 of the SFDR do not serve any purpose and should be removed from any future iteration of the SFDR framework. These “entity-level” disclosures are confusing for investors who receive more meaningful and relevant product-specific information on the consideration of PAI of investment decisions on sustainability factors under Article 7 of the SFDR

***Ensuring that remuneration policies of financial market participants and financial advisors are consistent with the integration of sustainability risks and, where relevant, sustainable investment targets and designed to contribute to long-term sustainable growth***

The introduction of an obligation to disclose how remuneration arrangements of identified staff are consistent with the integration of sustainability risks has caused financial market participants (FMPs) to consider whether and how existing remuneration arrangements discourage excessive risk-taking with respect to sustainability risks. However, Irish Funds would note that there is no obligation under Article 5 of the SFDR to ensure that remuneration policies are consistent, where relevant, with “*sustainable investment targets and designed to contribute to long-term sustainable growth*”.

Furthermore, as noted in further detail below, Irish Funds questions the usefulness of this entity-level information for investors in making investment decisions.

**Question 1.3:** Do you agree that opting for a disclosure framework at EU level was more effective and efficient in seeking to achieve the objectives mentioned in Question 1.2 than if national measures had been taken at Member State level?

1	2	3	4	5	Don't know / No Opinion / NA
			X		

(1= totally disagree, 2= mostly disagree, 3= partially disagree and partially agree, 4= mostly agree, 5= totally agree)

Irish Funds is of the view that opting for a disclosure framework at the EU level was more effective and efficient than if national measures were taken at individual Member State level. However, as noted in more detail further below, the introduction of a pan-EU disclosures

<sup>4</sup> [Consolidated Q&A on the SFDR \(europa.eu\)](https://ec.europa.eu/economy_finance/consolidated_qa_sfdr_en)

framework has nonetheless been significantly hampered by the introduction of national labelling regimes by certain individual Member States which has impeded the sale of funds making sustainability claims across EU Member States, thus undermining the objective of the EU Capital Markets Union (CMU) as well as causing confusion amongst the investor community.

**Question 1.4:** Do you agree with the following statement?

	1	2	3	4	5	Don't know / No Opinion / NA
The costs of disclosure under the SFDR framework are proportionate to the benefits it generates (informing end investors, channelling capital towards sustainable investments)	X					

(1= totally disagree, 2= mostly disagree, 3= partially disagree and partially agree, 4= mostly agree, 5= totally agree)

**Question 1.5:** To what extent do you agree with the following statements?

	1	2	3	4	5	Don't know / No Opinion / NA
The SFDR has raised awareness in the financial services sector of the potential negative impacts that investment decisions can have on the environment and/or people.				X		
Financial market participants have changed the way they make investment decisions and design products since they have been required to disclose sustainability risks and adverse impacts at entity and product level under the SFDR.			X			
The SFDR has had indirect positive effects by increasing pressure on investee companies to act in a more sustainable manner.				X		

(1= totally disagree, 2= mostly disagree, 3= partially disagree and partially agree, 4=mostly agree, 5= totally agree)

Taking various of the statements set out in the table at question 1.5 in turn, we have included our comments below.

*The SFDR has raised awareness in the financial services sector of the potential negative impacts that investment decisions can have on the environment and/or people*

Based on feedback received from those members who contributed to this Irish Funds response, the introduction of product-level PAI disclosures for all funds, regardless of whether or not they apply an ESG investment strategy, has forced financial market participants in the financial services sector to analyse the existing investment process for each fund under management to consider as to whether a product does in fact consider the potential negative impacts of its investments on the environment and/or people.

As noted elsewhere in our response, these Irish Funds members are however of the view that entity-level reporting of PAI under Article 4 of the SFDR should be removed as it has created unnecessary confusion for investors who are primarily concerned with the impact of their specific investment on environmental/societal factors.

***Financial market participants have changed the way they make investment decisions and design products since they have been required to disclose sustainability risks and adverse impacts at entity and product level under the SFDR***

While the SFDR disclosure obligations relating to sustainability risk and adverse impacts at product level have impacted on how financial market participants make investment decisions and design products, Irish Funds would note that the positive obligation imposed on fund management companies under the revisions to the Undertakings for Collective Investment in Transferable Securities Directive (UCITS)<sup>5</sup> and Alternative Investment Fund Managers Directive (AIFMD)<sup>6</sup> frameworks to integrate sustainability risk into investment due diligence and risk management processes (applicable since 1 August 2022) has also driven change in the way in which investment decisions are made and products are designed. The extent to which Irish fund management companies have changed the way in which they make investment decisions as a result of disclosure obligations arising under the SFDR is also dependent on whether or not funds under management make sustainability-related claims in their fund documentation.

We would also like to know more about potential issues stakeholders might have encountered regarding the concepts that the SFDR established and the disclosures it requires.

**Question 1.6:** To what extent do you agree with the following statements?

	1	2	3	4	5	Don't know / No Opinion / NA
Some disclosures required by the SFDR are not sufficiently useful to investors.				X		
Some legal requirements and concepts in the SFDR, such as sustainable investments, are not sufficiently clear.		X				
The SFDR is not used as a disclosure framework as intended, but as a labelling and marketing tool (in particular Articles 8 and 9).				X		

<sup>5</sup> [EUR-Lex - 32021L1270 - EN - EUR-Lex \(europa.eu\)](#)

<sup>6</sup> [EUR-Lex - 32021R1255 - EN - EUR-Lex \(europa.eu\)](#)



Data gaps make it challenging for market participants to disclose fully in line with the legal requirements under the SFDR.					X	
Re-use of data for disclosures is hampered by a lack of a common machine-readable format that presents data in a way that makes it easy to extract			X			
There are other deficiencies with the SFDR rules (please specify in text box following question 1.7)			X			

(1= totally disagree, 2= mostly disagree, 3= partially disagree and partially agree, 4= mostly agree, 5= totally agree)

**Question 1.7:** To what extent do you agree or disagree with the following statements?

	1	2	3	4	5	Don't know / No Opinion / NA
The issues raised in question 1.6 create legal uncertainty for financial market participants and financial advisers			X			
The issues raised in question 1.6 create reputational risks for financial market participants and financial advisers				X		
The issues raised in question 1.6 do not allow distributors to have a sufficient or robust enough knowledge of the sustainability profile of the products they distribute			X			
The issues raised in question 1.6 create a risk of greenwashing and mis-selling			X			
The issues raised in question 1.6 prevent capital from being allocated to sustainable investments as effectively as it could be			X			
The current framework does not effectively capture investments in transition assets				X		
The current framework does not effectively support a robust enough use of shareholder engagement as a means to support the transition				X		



concepts.

Given the original lack of clarity around matters such as (i) the concept of “sustainable investment” under the SFDR and (ii) the scope of Article 9(3) of the SFDR, Irish Funds is of the view that the low numbers of funds choosing to fall within the scope of Article 9 of the SFDR has arisen in part due to concerns around reputational issues. Such issues could arise if a fund was forced to “downgrade” to Article 8 in response to guidance being issued by the European Commission/ESAs/NCAs. This is exacerbated by the intense and often negative media coverage which has followed the decision by certain asset managers to “downgrade” the classification of a specific fund, even in circumstances where such re-classification was driven by the publication of new guidance by the European Commission/ESAs etc. Concerns around reputational risk have been compounded by the heavy reliance of industry on unregulated data providers and the need to, at times, use estimates to rate companies due to lack of available data.

Irish Funds is of the view that the current SFDR framework:

- has not been fully effective in achieving the objective of channelling capital towards investments considered sustainable. This is demonstrated by the low number of funds disclosing under Article 9 of the SFDR and the relatively low proportion of Article 8 funds which commit to invest a significant portion of assets in sustainable investments. This may improve in light of the legal certainty afforded by the clarifications provided by the Commission Q&A in April 2023<sup>8</sup> on the definition of ‘sustainable investments’ and the scope of Article 9(3) of the SFDR;
- does not adequately capture investment in transition assets given the lack of a specific definition of a “transition investment”/lack of tailored disclosure obligations for this category of investment under the SFDR; and
- does not effectively support a robust use of shareholder engagement as a means to support the transition. However, as detailed in Section 4 of our response, Irish Funds is not in favour of the introduction of a blanket requirement under which all funds which make sustainability claims are required to implement an issuer engagement strategy as the use of such a strategy may not be an appropriate way of achieving the fund’s objective depending on the asset class(es)/geographical focus/location of the investment manager of the relevant fund..

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<sup>8</sup> [Consolidated Q&A on the SFDR \(europa.eu\)](https://ec.europa.eu/economy_finance/consolidated_qa_sfdr_en)

## 1.1 Disclosures of principal adverse impacts (PAIs)

There are several disclosures concerning PAIs in the SFDR. As a general rule, the SFDR requires financial market participants who consider PAIs to disclose them at entity level on their website. It also includes a mandatory requirement for financial market participants to provide such disclosures when they have more than 500 employees (Article 4). The [Delegated Regulation](#)<sup>39</sup> of the SFDR includes a list of these PAI indicators. These entity level PAI indicators are divided into three tables in the Delegated Regulation. Indicators listed in table 1 are mandatory for all participants, and indicators in tables 2 and 3 are subject to a materiality assessment by the financial market participant (at least one indicator from table 2 and one from table 3 must be included in every PAI statement).

Second, the SFDR requires financial market participants who consider PAIs at entity level to indicate in the pre-contractual documentation whether their financial products consider PAIs (Article 7) and to report the impacts in the corresponding periodic disclosures (Article 11). When reporting these impacts, financial market participants may rely on the PAI indicators defined at entity level in the Delegated Regulation.

Finally, in accordance with the empowerment given in Article 2a of SFDR, the Delegated Regulation requires that the do no significant harm (DNSH) assessment of the sustainable investment definition is carried out by taking into account the PAI indicators defined at entity level in Annex I of the Delegated Regulation.

**Question 1.8:** To what extent do you agree with the following statements about entity level disclosures?

	1	2	3	4	5	Don't know / No Opinion / NA
I find it appropriate that certain indicators are always considered material (i.e., “principal”) to the financial market participant for its entity level disclosures, while having other indicators subject to a materiality assessment by the financial market participant (approach taken in Annex I of the SFDR Delegated Regulation).	X					
I would find it appropriate that all indicators are always considered material (i.e., “principal”) to the financial market participant for its entity level disclosures.	X					
I would find it appropriate that all indicators are always subject to a materiality assessment by the financial market participant for its entity level disclosures.						X

(1= totally disagree, 2= mostly disagree, 3= partially disagree and partially agree, 4= mostly agree, 5= totally agree)

<sup>9</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:02022R1288-20230220>

**Question 1.8.1:** When following the approach described in the first statement of question 1.8 above, do you agree that the areas covered by the current indicators listed in table 1 of the Delegated Regulation are the right ones to be considered material in all cases?

1	2	3	4	5	Don't know / No Opinion / NA
X					

(1= totally disagree, 2= mostly disagree, 3= partially disagree and partially agree, 4= mostly agree, 5= totally agree)

**Question 1.9:** To what extent do you agree with the following statements about product level disclosures?

	1	2	3	4	5	Don't know / No Opinion / NA
The requirement to 'take account of' PAI indicators listed in Annex I of the Delegated Regulation for the DNSH assessment, does not create methodological challenges.		X				
In the context of product disclosures for the do no significant harm (DNSH) assessment, it is clear how materiality of principal adverse impact (PAI) indicators listed in Annex I of the Delegated Regulation should be applied			X			
The possibility to consider the PAI indicators listed in Annex I of the Delegated Regulation for product level disclosures of Article 7 do not create methodological challenges.					X	
It is clear how the disclosure requirements of Article 7 as regards principal adverse impacts interact with the requirement to disclose information according to Article 8 when the product promotes environmental and/or social characteristics and with the requirement to disclose information according to Article 9 when the product has sustainable investment as its objective.		X				

(1= totally disagree, 2= mostly disagree, 3= partially disagree and partially agree, 4= mostly agree, 5= totally agree)

Please provide any additional explanations as necessary for questions 1.8, 1.8.1 and 1.9

### Question 1.8 and Question 1.8.1

As noted elsewhere in our response, Irish Funds is of the view that entity-level PAI disclosures should be removed from any future iteration of the SFDR framework as these disclosures are confusing for investors who receive more meaningful and relevant product-specific

information on the consideration of PAI of investment decisions on sustainability factors under Article 7 of the SFDR. This position has been reflected in our responses to the individual questions posed.

### Question 1.9

On the question as to whether the requirement to ‘take account of’ PAI indicators listed in Annex I of the Delegated Regulation for the Do No Significant Harm (DNSH) assessment does not create methodological challenges, Irish Funds believes that there is not consistent data coverage across all mandatory PAI indicators and that all indicators are not relevant for all sectors and accordingly, this requirement does create methodological challenges for certain asset managers.

Regarding whether, in the context of product disclosures for the DNSH assessment, it is clear how materiality of PAI indicators listed in Annex I of the Delegated Regulation should be applied, Irish Funds has answered in the middle with a three. As outlined in the Irish Funds response to the ESA Consultation on Proposed Amendments to SFDR Level 2 in June 2023<sup>10</sup>, Irish Funds expressed the view that the introduction of quantitative thresholds which would set down a specific materiality threshold for the DNSH limb of the “sustainable investment” definition using each of the mandatory PAI indicators would be problematic for certain management companies. The details of the Irish Funds position can be seen in the Irish Funds response to the ESA Consultation on Proposed Amendments to SFDR Level 2 in June 2023<sup>11</sup>.

Regarding whether the possibility to consider the PAI indicators listed in Annex I of the Delegated Regulation for product level disclosures of Article 7 creates methodological challenges, Irish Funds believes that given that there is no mandatory obligation under the SFDR or the Delegated Regulation to consider the PAI indicators listed in Annex I of the Delegated Regulation in order to include a “positive” PAI statement in the relevant fund supplement under Article 7, this does not automatically create any methodological challenges.

Finally, on the last question, Irish Funds selected ‘*mostly disagree*’ because the legislation itself does not create a direct link between Article 7 disclosures and the PAI-related questions included in the pre-contractual annexes and periodic report annexes.

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<sup>10</sup> [Irish Funds response to the ESA Consultation on Proposed Amendments to SFDR Level 2 in June 2023](#)

<sup>11</sup> [Irish Funds response to the ESA Consultation on Proposed Amendments to SFDR Level 2 in June 2023](#)

## 1.2 The cost of disclosures under the SFDR today

**Questions 1.10, 1.10.1 and 1.11 are intended for financial market participants and financial advisors subject to the SFDR.**

The following two questions aim to assess the costs of the SFDR disclosure requirements distinguishing between one-off and recurring costs. One-off costs are incurred only once to implement a new reporting requirement, e.g. getting familiarised with the legal act and the associated regulatory or implementing technical standards, setting-up data collection processes or adjusting IT-systems. Recurring costs occur repeatedly every year once the new reporting is in place, e.g. costs of annual data collection and report preparation. In the specific case of precontractual disclosures for example, there are one-off costs to set up the process of publishing precontractual disclosures when a new product is launched, and recurring annual costs to repeat the process of publishing pre-contractual disclosures each time a new product is launched (depends on the number of products launched on average each year). These two questions apply both to entity and product level disclosures.

**Question 1.10:** Could you provide estimates of the one-off and recurring annual costs associated with complying with the SFDR disclosure requirements (EUR)? Please split these estimates between internal costs incurred by the financial market participant and any external services contracted to assist in complying with the requirements (services from third-party data providers, advisory services ...). If such a breakdown is not possible, please provide the total figures.

EUR	Estimated one off costs	Estimated recurring annual costs	Don't know / No Opinion / NA
Internal costs			X
Thereof personnel costs			X
Thereof IT costs			X
External costs			X
Thereof data providers			X
Thereof advisory services			X
Total costs of SFDR disclosure requirements			X

**Question 1.10.1:** Could you split the total costs between product level and entity level disclosures?

%	Product-level disclosures	Entity-level disclosures	Don't know / No Opinion / NA
Estimated percentage of costs			X



If you wish to provide additional details, please use the box below:

Given that we are an industry body it has not been possible to collate representative estimates of one-off and recurring costs incurred by financial market participants. However, feedback from our membership is that the costs of SFDR implementation have been significantly higher than otherwise might have been the case due to the staggered implementation of the SFDR, which resulted in the following mandatory updates to fund documentation:

- (i) March 2021: Update to relevant documentation to address “Level 1” SFDR;
- (ii) January 2023: Update to relevant documentation to address “Level 2” SFDR;
- (iii) 2023: Further update to pre-contractual disclosures to address Commission Delegated Regulation 2023/363.

Avoidable implementation costs were also incurred in certain cases where a re-classification under the SFDR was required in light of the guidance<sup>12</sup> issued by the European Commission in July 2021 relating to the scope of Article 9(3) of the SFDR which was then subsequently overturned by guidance<sup>13</sup> issued by the European Commission in April 2023.

Therefore, it is important to note that outside of the direct cost of updating disclosures, the original lack of clarity, subsequent Q&As, and multiple delays to implementation deadlines have all resulted in significantly higher spending on external advisers (i.e., lawyers and consultants). This could have been avoided with (i) a coordinated implementation of the disclosure obligations under the SFDR and related delegated acts and (ii) greater clarity being provided by the European Commission/ESAs on the SFDR framework from the outset.

Irish Funds strongly advises that any future revisions to both the SFDR itself and any related delegated regulations are implemented in as coordinated a manner as possible in order to avoid such unnecessary additional implementation costs being incurred, much of which will be borne by fund investors.

Furthermore, we urge the Commission to ensure that feedback received on this consultation are taken into account as part of its review of the ESAs final report on RTS amendments.

**Question 1.11:** In order to have a better understanding of internal costs, could you provide an estimate of how many full-time-equivalents (FTEs - 1 FTE corresponds to 1 employee working full-time the whole year) are involved in preparing SFDR disclosures?

Could you please provide a split between:

%	Retrieving the data	Analysing the data	Reporting SFDR disclosures	Other	Don't know / No Opinion / NA
Estimated percentage					X

Please specify what corresponds to “other” costs:

<sup>12</sup> [https://www.esma.europa.eu/sites/default/files/library/sfdr\\_ec\\_qa\\_1313978.pdf](https://www.esma.europa.eu/sites/default/files/library/sfdr_ec_qa_1313978.pdf)

<sup>13</sup> <https://www.esma.europa.eu/joint-committee/joint-qas>



### 1.3 Data and estimates

Financial market participants' and financial advisers' ability to fulfil their ESG transparency requirements depends in part on other disclosure requirements under the EU framework. In particular, they will rely to a significant extent on the [Corporate Sustainability Reporting Directive \(CSRD\)](#). However, entities are not reporting yet under those new disclosure requirements, or they may not be within the scope of the CSRD. Besides, even when data is already available today, it may not always be of good quality.

**Question 1.12:** Are you facing difficulties in obtaining good-quality data?

Yes	No	Don't know / No Opinion / NA
X		

**Question 1.12.1:** If so, do you struggle to find information about the following elements?

	1	2	3	4	5	Don't know/ No opinion/ NA
The entity level principal adverse impacts						X
The proportion of taxonomy-aligned investments (product level)					X	
The contribution to an environmental or social objective, element of the definition of 'sustainable investment' (product level)			X			
The product's principal adverse impacts, including when assessed in the context of the 'do no significant harm' test which requires the consideration of PAI entity level indicators listed in Annex I of the Delegated Regulation and is an element of the definition of 'sustainable investment' (product level)				X		
The good governance practices of investee companies (product level)						X
Other						X

(1= not at all, 2= to a limited extent, 3= to some extent, 4= to a large extent, 5= to a very large extent)

**Question 1.12.2:** Is the SFDR sufficiently flexible to allow for the use of estimates?

1	2	3	4	5	Don't know / No Opinion / NA
			X		

(1= not at all, 2= to a limited extent, 3= to some extent, 4= to a large extent, 5= to a very large extent)

**Question 1.12.3:** Is it clear what kind of estimates are allowed by the SFDR?

1	2	3	4	5	Don't know / No Opinion / NA
	X				

(1= not at all, 2= to a limited extent, 3= to some extent, 4= to a large extent, 5= to a very large extent)

**Question 1.12.4:** If you use estimates, what kind of estimates do you use to fill the data gap?

	Entity level principal adverse impacts	Taxonomy aligned investments (product level)	Sustainable investments (product level)	Other
Estimates from data providers, based on data coming from the investee companies	3	5	3	
Estimates from data providers, based on data coming from other sources	3	5	3	
In-house estimates			4	
Internal ESG score models	2		2	
External ESG score models	2		2	
Other			2	

(1= not at all, 2= to a limited extent, 3= to some extent, 4= to a large extent, 5= to a very large extent)

**Question 1.12.5:** Do you engage with investee companies to encourage reporting of the missing data?

1	2	3	4	5	Don't know / No Opinion / NA
				X	

(1= not at all, 2= to a limited extent, 3= to some extent, 4= to a large extent, 5= to a very large extent)

Please also provide further explanations to your replies to questions 1.12 to 1.12.5.

### Question 1.12.3

Given that the only reference made to estimates in SFDR legislation are (i) in the context of entity-level PAI reporting in Article 7(2) of the Delegated Regulation and (ii) in the context of the website disclosures for Article 8/Article 9 funds (which require disclosure on the proportion of data that is estimated and that the only additional guidance provided by the European Commission/ESMA to date relating to the use of estimates within the SFDR framework focuses on use of “equivalent information” for assessing the Taxonomy-alignment of investments), Irish Funds is of the view that the SFDR is not clear on the kind of estimates which can be used under the SFDR when calculating the proportion of assets which constitute “sustainable investments”/which are used to promote environmental/social characteristics for example.

### Question 1.12.4

Based on feedback received from our members, as an industry, they are reliant on third-party data. However, due to a lack of data and increasing need, our members are using nearly all methods to get the data needed and for this reason we have selected all columns in the first two rows.

Members have reported that the use of estimates from data providers, based on data coming from the investee companies is the best-case scenario but is often not available and thus, other methods must be utilised. It is often necessary to use estimates from data providers based on data coming from other sources, with this being especially true for non-EU companies.

Certain members reported that they find it necessary to use organizations like the Science Based Targets initiative<sup>14</sup> or SBTI (that are not selling services but are collecting information) to fill data gaps.

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<sup>14</sup> [Science Based Targets initiative](#)

**Question 1.13:** Have you increased your offer of financial products that make sustainability claims since the disclosure requirements of Articles 8 and 9 of the SFDR began to apply (i.e. since 2021, have you been offering more products that you categorise as Articles 8 and 9 than those you offered before the regulation was in place and for which you also claimed a certain sustainability performance)?

1	2	3	4	5	Don't know / No Opinion / NA
				X	

(1= not at all, 2= to a limited extent, 3= to some extent, 4= to a large extent, 5= to a very large extent)

**Question 1.13.1:** Please specify how the share of financial products making sustainability claims has evolved in the past years. (Please express it as a percentage of the total financial products you offered each year.)

2020	2021	2022	2023

**Question 1.13.2:** If you have increased your offering of financial products making sustainability claims, in your view, has any of the following factors influenced this increase?

	1	2	3	4	5	Don't know / No Opinion / NA
SFDR requirements					X	
Retail investor interest					X	
Professional investor interest					X	
Market competitiveness					X	
Other factors						X

(1= not at all, 2= not really, 3= partially, 4= mostly, 5= totally)

If other, please specify. Please also provide further explanations to your replies to questions 1.13, 1.13.1 and 1.13.2.

## 2. INTERACTION WITH OTHER SUSTAINABLE FINANCE LEGISLATION

The SFDR interacts with other parts of the EU's sustainable finance framework. Questions in this section will therefore seek respondents' views about the current interactions, as well as potential inconsistencies or misalignments that might exist between the SFDR and other sustainable finance legislation. There is a need to assess the potential implications for other sustainable finance legal acts if the SFDR legal framework was changed in the future. Questions as regards these potential implications are included in section 4 of this questionnaire, when consulting on the potential establishment of a categorisation system for products, and they do not prejudice future positions that might be taken by the Commission.

The SFDR mainly interacts with the following legislation and their related delegated and implementing acts:

- the [Taxonomy Regulation](#)
- the [Benchmarks Regulation](#)
- the [Corporate Sustainability Reporting Directive \(CSRD\)](#)
- the [Markets in Financial Instruments Directive \(MiFID 2\)](#) and the [Insurance Distribution Directive \(IDD\)](#)
- the [Regulation on Packaged Retail Investment and Insurance Products \(PRIIPs\)](#)

Other legal acts that are currently being negotiated may also interact with the SFDR in the future. They are not covered in this questionnaire as the detailed requirements of these legal acts have not yet been agreed. At this stage, it would be speculative to seek to assess how their interaction with SFDR would function.

Both the SFDR and the Taxonomy Regulation introduce key concepts to the sustainable finance framework. Notably, they introduce definitions of 'sustainable investment' (SFDR) and 'environmentally sustainable' economic activities (Taxonomy). Both definitions require, inter alia, a contribution to a sustainable objective and a do no significant harm (DNSH) test. But while these definitions are similar, there are differences between them which could create practical challenges for market participants.

**Question 2.1:** The [Commission recently adopted a FAQ](#) clarifying that investments in Taxonomy-aligned 'environmentally sustainable' economic activities can automatically qualify as 'sustainable investments' in those activities under the SFDR. To what extent do you agree that this FAQ offers sufficient clarity to market participants on how to treat Taxonomy-aligned investment in the SFDR product level disclosures?

1	2	3	4	5	Don't know / No Opinion / NA
X					

(1= totally disagree, 2= mostly disagree, 3= partially disagree and partially agree, 4= mostly agree, 5= totally agree)

The Benchmarks Regulation introduces two categories of climate benchmarks – the EU climate transition benchmark (EU CTB) and the EU Paris-aligned benchmark (EU PAB) - and requires benchmark administrators to disclose on ESG related matters for all benchmarks (except interest rate and foreign exchange benchmarks). The SFDR makes reference to the CTB and PAB in connection with financial products that have the reduction of carbon emissions as their objective. Both legal frameworks are closely linked as products disclosing under the SFDR can for example passively track a CTB or a PAB or use one of them as a reference benchmark in an active investment strategy. More broadly, passive products rely on the design choices made by the benchmark administrators.

**Question 2.2:** To what extent do you agree or disagree with the following statements?

	1	2	3	4	5	Don't know / No Opinion / NA
The <a href="#">questions &amp; answers published by the Commission in April 2023</a> specifying that the SFDR deems products passively tracking CTB and PAB to be making 'sustainable investments' as defined in the SFDR provide sufficient clarity to market participants					X	
The approach to DNSH and good governance in the SFDR is consistent with the environmental, social and governance exclusions under the PAB/CTB		X				
The ESG information provided by benchmark administrators is sufficient and is aligned with the information required by the SFDR for products tracking or referencing these benchmarks		X				

(1= totally disagree, 2= mostly disagree, 3= partially disagree and partially agree, 4= mostly agree, 5= totally agree)

Both the SFDR and the Corporate Sustainability Reporting Directive (CSRD) introduce entity level disclosure requirements with a double-materiality approach.<sup>15</sup> The CSRD sets out sustainability reporting requirements mainly for all large and all listed undertakings with limited liability (except listed micro-enterprises)<sup>16</sup>, while the SFDR introduces sustainability disclosure requirements at entity level for financial market participants and financial advisers as regards the consideration of sustainability related factors in their investment decision-making process. Moreover, in order for financial market participants and financial advisers to meet their product and entity level disclosure obligations under the SFDR, they will rely to a

<sup>15</sup> Transparency requirements relate to the sustainability risks that can affect the value of investments (SFDR) or companies (CSRD) ('outside-in' effect) and the adverse impacts that such investments or companies have on the environment and society ('inside-out').

<sup>16</sup> Credit institutions and insurance undertakings with unlimited liability are also in scope subject to the same size criteria. Non-EU undertakings listed on the EU regulated markets and non-EU undertakings with a net turnover above EUR 150 million that carry out business in the EU will also have to publish certain sustainability-related information through their EU subsidiaries that are subject to CSRD (or - in the absence of such EU subsidiaries – through their EU branches with net turnover above EUR 40 million).

significant extent, on the information reported according to the CSRD and its [European Sustainability Reporting Standards \(ESRS\)](#)<sup>17</sup>.

**Question 2.3:** To what extent do you agree or disagree with the following statements?

	1	2	3	4	5	Don't know / No Opinion / NA
The SFDR disclosures are consistent with the CSRD requirements, in particular with the European Sustainability Reporting Standards	X					
There is room to streamline the entity level disclosure requirements of the SFDR and the CSRD					X	

(1= totally disagree, 2= mostly disagree, 3= partially disagree and partially agree, 4= mostly agree, 5= totally agree)

Financial advisors (under MiFID 2) and distributors of insurance-based investment products (under IDD) have to conduct suitability assessments based on the sustainability preferences of customers. These assessments rely in part on sustainability-related information made available by market participants reporting under the SFDR.

**Question 2.4:** To what extent do you agree that the product disclosures required in the SFDR and [its Delegated Regulation](#) (e.g. the proportion of sustainable investments or taxonomy aligned investments, or information about principal adverse impacts) are sufficiently useful and comparable to allow distributors to determine whether a product can fit investors' sustainability preferences under MiFID2 and the IDD?

1	2	3	4	5	Don't know / No Opinion / NA
		X			

(1= totally disagree, 2= mostly disagree, 3= partially disagree and partially agree, 4= mostly agree, 5= totally agree)

**Question 2.5:** MIFID and IDD require financial advisors to take into account sustainability preferences of clients when providing certain services to them. Do you believe that, on top of this behavioural obligation, the following disclosure requirements for financial advisors of the SFDR are useful?

	1	2	3	4	5	Don't know / No Opinion / NA
Article 3, entity level disclosures about the integration of sustainability risks policies in investment or insurance advice						X

<sup>17</sup> Provided positive scrutiny of co-legislators of the ESRS delegated act.

Article 4, entity level disclosures about consideration of principal adverse impacts						X
Article 5, entity level disclosures about remuneration policies in relation to the integration of sustainability risks						X
Article 6, product level pre-contractual disclosures about the integration of sustainability risks in investment or insurance advice						X
Article 12, requirement to keep information disclosed according to Articles 3 and 5 up to date						X

(1= not at all, 2= to a limited extent, 3= to some extent, 4= to a large extent, 5= to a very large extent)

**Question 2.6:** Have the requirements on distributors to consider sustainability preferences of clients impacted the quality and consistency of disclosures made under SFDR?

Yes	No	Don't know / No Opinion / NA
	X	

**Question 2.6.1:** If so, how?

N/A

PRIIPs requires market participants to provide retail investors with [key information documents \(KIDs\)](#). As part of the [retail investment strategy](#)<sup>18</sup>, the Commission has recently proposed to include a new sustainability section in the KID to make sustainability-related information of investment products more visible, comparable and understandable for retail investors. Section 4 of this questionnaire includes questions related to PRIIPs, to seek stakeholders' views as regards potential impacts on the content of the KID if a product categorisation system was established.

Please clarify your replies to questions in section 2 as necessary:

SFDR operates within a wider package of measures adopted under the EU Sustainable Finance strategy. It is intrinsically linked to many of those measures including the Corporate Sustainability Reporting Directive (CSRD), the Taxonomy Regulation, the Benchmarks Regulation and measures amending financial market participants' governing regimes such as the Undertakings for Collective Investment in Transferable Securities Directive (UCITS), AIFMD, and Markets in Financial Instruments Directive (MiFID) frameworks. Ensuring the connectedness, consistency and alignment of SFDR with each of those measures is essential for the effectiveness of financial market participants' compliance and ultimately the success of SFDR.

<sup>18</sup> [https://finance.ec.europa.eu/publications/retail-investment-strategy\\_en](https://finance.ec.europa.eu/publications/retail-investment-strategy_en).



## Question 2.1

We suggest the guidance in the FAQ<sup>19</sup> is insufficiently clear and requires amendment to enhance the clarity, and thereby its utility, for financial market participants disclosing a share of sustainable investments.

As noted by the European Supervisory Authorities (ESAs) in the Joint Consultation Paper published on 12 April 2023<sup>20</sup>, there are several key differences in how SFDR and the Taxonomy operate. These differences, notwithstanding the FAQ, continue to give rise to legal and practical concerns for financial market participants' disclosure of sustainable investments under SFDR. In particular, the SFDR PAI indicators which FMPs are required to take into account when demonstrating "sustainable investments" in respect of the DNSH principle, are sector-agnostic and, as clarified in the FAQ, are required to be taken into account at the level of the investment when assessing a general debt/equity investment as a sustainable investment under SFDR. This contrasts with the Taxonomy, which sets down activity-specific technical screening criteria for assessing Taxonomy-aligned activities. Investments in such activities are required under SFDR to be calculated using the market value of the proportion of Taxonomy aligned activities of the investee company.

The FAQ clarifies that such differences may be addressed for general debt/equity investments by (i) deeming the Taxonomy-aligned activities as satisfying the sustainable investment test under SFDR and (ii) assessing the remaining portion of non-Taxonomy aligned activities/the whole investment against the SFDR test for sustainable investments. This, however, requires the application of two frameworks, with very different approaches, to the same general equity/debt investment before that investment can qualify as a sustainable investment under SFDR. It is important to note this is the case irrespective of the level of Taxonomy-aligned activities of the investee company, meaning that a company with X% Taxonomy-aligned activities may be disclosed, using the market value of X% of the investment in the company, as an environmentally sustainable investment but not as a sustainable investment under SFDR where the whole investment does not satisfy the SFDR sustainable investment test. This appears at odds with (a) the SFDR definition of sustainable investment, which is stated to mean an investment in a sustainable activity, (b) the interpretation of this definition in the April 2023 Commission Q&A<sup>21</sup> which notes that sustainable investments can be measured, in accordance with FMPs individual methodologies, both at the level of a company and at the level of a specific activity and (c) Recital 19 of the Taxonomy Regulation which recognises that Taxonomy-aligned investments are a sub-set of SFDR sustainable investments.

Therefore, the lack of clarity and utility of the FAQ in assessing sustainable investments under SFDR arises from the guidance at (ii) above i.e., the necessity to also assess the non-Taxonomy aligned activities (along with the Taxonomy aligned activities) of an investee company against the SFDR sustainable investment contribution test. We recommend removal of this portion of the guidance which would align the FAQ with (a) – (c) above. This recommendation could be further supported by additional guidance clarifying that, in line with the Commission's 6 April 2023 Q&A, that Taxonomy disclosures may be used to assess sustainable investments at both the level of the investee company (i.e., covering all activities) and at the level of a specific activity of the company. Where the investment is in the general debt/equity of the company and is assessed by the FMP at the level of the investee company, the FMP's sustainable

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<sup>19</sup> [https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52023XC0616\(01\)](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52023XC0616(01))

<sup>20</sup> <https://www.esma.europa.eu/press-news/consultations/joint-consultation-review-sfdr-delegated-regulation>

<sup>21</sup> [Consolidated Q&A on the SFDR \(europa.eu\)](#)

investment methodology may use the Taxonomy-aligned activities of the investee company to determine the company's contribution under the SFDR sustainable investment test while applying only SFDR Do No Significant Harm (DNSH) and good governance tests to the non-Taxonomy-aligned activities. Alternatively, where the investment is being assessed at activity-level, and in line with the SFDR methodology for FMPs' calculation of the Taxonomy alignment of portfolios, the market value of the proportion of the investment corresponding to the proportion of the investee company's Taxonomy-aligned activities could be used as a proxy figure for the sustainability of the investment and reported as a sustainable investment. This approach would facilitate use of Taxonomy disclosures to both calculate and report on SFDR sustainable investments and thereby enhance the alignment of SFDR and the Taxonomy.

We note the ESA Final Report<sup>22</sup> on draft Regulatory Technical Standards on the review of PAI and financial product disclosures in the SFDR Delegated Regulation published on 4 December 2023, facilitates the use of Taxonomy disclosures in the manner requested above and we are therefore supportive of the adoption of the draft RTS in this regard.

## Question 2.2

Taking each of the statements set out in the table at question 2.2 in turn, we have set out our comments under each:

***The questions & answers published by the Commission in April 2023 specifying that the SFDR deems products passively tracking CTB and PAB to be making 'sustainable investments' as defined in the SFDR provide sufficient clarity to market participants***

We strongly agree with the sufficiency of the clarification in the April 2023 Commission Q&A<sup>23</sup> in respect of the deeming of Climate Transition Benchmark (CTB) and Paris Aligned Benchmark (PAB) trackers' holdings as sustainable investments, most notably as it resolves the considerable uncertainty for FMPs when interpreting SFDR Article 9(3) and recognises the importance of transition investments as part of a sustainable investment strategy. We would welcome, however, further clarification on the sustainability of investments made pursuant to an active strategy which applies the minimum standards for CTB/PAB labels in selecting investments. Such an approach would both level the passive/active playing field and further support recognition of the importance of transition investments under SFDR which leverage the PAB and CTB rules as transition strategy building blocks. We would also note that very few PAB/CTB products have maintained an SFDR classification under Article 9, or re-classified from Article 8 to Article 9 SFDR, following de-classification in advance of the April 2023 clarification. We consider this may be due to remaining ambiguities about the qualification of PAB/CTB tracking and active benchmarked products' portfolio holdings as sustainable investments. As a result, it may be said that SFDR has slowed down the strong momentum of new asset gathering, and asset conversions observed in 2020-2021 and is still restraining products' use of PAB/CTBs.

***The approach to DNSH and good governance in the SFDR is consistent with the environmental, social and governance exclusions under the PAB/CTB***

We agree that the exclusions under the PAB/CTB rules are broadly consistent with the SFDR

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<sup>22</sup> <https://www.esma.europa.eu/press-news/esma-news/esas-put-forward-amendments-sustainability-disclosures-financial-sector>

<sup>23</sup> [Consolidated Q&A on the SFDR \(europa.eu\)](#)

PAI indicators, to be taken into account in the assessment of DNSH compliance, as the exclusions can be linked to/reflect certain of the PAI indicators. However, we note inconsistencies (set out below) naturally arise as the PAB/CTB exclusions do not have the same purpose as the PAI indicators for DNSH and the good governance rules under SFDR:

- The PAB/CTB exclusions are largely, and quite appropriately, environmentally focussed given they are intended to assess climate transition investments. However, SFDR DNSH and good governance rules are disclosure rules for a broader category of environmental (including climate) and socially sustainable investments. For example, while PAB/CTB rules refer to excluding companies that significantly harm the Taxonomy environmental objectives, they do not specifically refer to all of the SFDR environmental (mandatory and voluntary) PAI indicators.
- In line with the climate transition focus of the PAB/CTB rules, the exclusions thereunder are sector-specific (i.e., for companies operating in particular sectors). Whereas SFDR PAI indicators are sector-agnostic. In reality, however, we suggest that certain of the SFDR PAI indicators are sector-specific and in line with the recommendations of the EU Platform on Sustainable Finance<sup>24</sup>. We suggest that this be formally recognised under SFDR which would better align the regime with PAB/CTB rules.
- We also note PAB/CTBs must apply the DNSH principle in accordance with the Taxonomy Regulation, which like for SFDR, follows an approach by activity instead of an approach by company. However, PABs' DNSH triggers exclusions i.e., an action at company level while the Taxonomy definition of "significant harm" is at activity level, not company level. For example, an oil company's investment in Renewables can be Taxonomy "aligned" after DNSH and increase a portfolio capex exposure to Renewables under SFDR, however the company cannot be included in a PAB index. In such case, PAB is counter-productive to Taxonomy and SFDR objectives to boost investment in activities that are aligned.
- Additionally, it is important to highlight that the PAB/CTB exclusions incorporate specific thresholds which we note is appropriate for labels such as the PAB/CTB label, but which we do not consider appropriate for the current disclosure-focus of SFDR.
- Finally, the SFDR good governance requirements are not specifically referenced in the PAB/CTB exclusions but rather generally through the exclusions relating to the United Nations Global Compact (UNGC) principles and the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct<sup>25</sup>.

***The ESG information provided by benchmark administrators is sufficient and is aligned with the information required by the SFDR for products tracking or referencing these benchmarks***

We note further alignment of benchmark providers' ESG disclosure obligations with SFDR could be achieved and would be welcomed to increase transparency and facilitate reporting. Such alignment could reduce the level of bilateral engagement with benchmark

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<sup>24</sup> [Platform Briefing on SFDR and summary of its response to the Joint ESAs Consultation on SFDR RTS.](#)

<sup>25</sup> <https://www.oecd.org/corporate/mne/34873731.pdf>

providers currently necessary for FMPs to rely on benchmark methodologies for classification of E/S aligned investments, sustainable investments, and good governance of investee companies. This could be affected by aligning the ESG benchmark methodology statement in the Annex to Commission Delegated Regulation 2020/1817 (including alignment of data points, terminology, metrics, calculation methodologies and application) with the SFDR disclosure templates and website disclosure rules or including benchmarks within the SFDR definition of 'financial products'.

### **Question 2.3**

While reiterating our support for the removal of entity-level PAI disclosure rules as detailed in our responses to Questions (1.5 and 1.6) above. If retained, we support full alignment of the European Sustainability Reporting Standards (ESRS) with SFDR. All SFDR PAI indicators should have a fully consistent (including definitions, metrics and methodologies) equivalent in the ESRS, subject to necessary adjustments taking account of the differing nature of in scope entities. For example, in the case of PAI 1 (GHG emissions) SFDR Level 2, reporting Scope 1, 2, and 3 emission levels by investee companies under ESRS is appropriate. However, reporting by FMPs of 'financed' emissions under PAI 1 is inappropriately impacted by the level of assets under management as reporting by those FMPs with more assets under management looks worse despite investing in the same underlying company as those FMPs with less assets under management.

Irrespective of the achievement of ESRS/SFDR alignment however, we note the (proposed) introduction of materiality assessments for all ESG data points under the ESRS. While the introduction of materiality is understandable from the perspective of ensuring a proportionate reporting burden for investee companies, it will undoubtedly impact on FMPs reporting ability under SFDR. FMPs are required to prioritise publicly available investee company data when complying with SFDR disclosure rules. This supports the EU sustainable finance strategy's objective of increasing the availability for asset owners of adequate and appropriate sustainability information from businesses. FMPs are, to all intents and purposes, a vehicle for that data and should not be placed in the position of having to reasonably assume companies' sustainability risks, impacts, and opportunities absent an obligation on investee companies to provide that data. Notwithstanding any forthcoming guidance stipulating that non-reported data points can be assumed to have zero impact, the absence of investee company reporting on non-material ESRS data points will severely frustrate the reasonable assumption of PAIs under SFDR and potentially result in the over/under estimation of impacts, thereby misleading investors and leaving the FMP open to accusations of greenwashing/bleaching in circumstances where the FMP has no concrete means to mitigate such risks. Furthermore, CSRD allows for consolidation, while SFDR does not. At the moment, SFDR does not allow to consolidate all subsidiaries into a single PAI statement. Each regulated entity must publish its own PAI statement. Therefore, we support not only the alignment of ESRS data points with SFDR but also the alignment of SFDR with the concept of materiality if introduced for the ESRS.

### **Question 2.4 and 2.5**

We consider it, as yet, unclear whether SFDR advisor disclosures are useful given the continuing and significant challenges in implementing the MiFID sustainability preference rules. A key issue giving rise to such challenges is the lack of alignment between the MiFID sustainability preference rules and SFDR. This arises as MiFID sustainability preference rules

conceive specific product types i.e., products investing in sustainable investments, products investing in Taxonomy-aligned sustainable investments, products considering PAIs, products investing in a combination of these investments. Whereas SFDR, being a disclosures regime, does not currently conceive particular product types. Accordingly, there is a significant challenge in identifying and matching investors sustainability preferences using SFDR disclosures as these do not specifically delineate across the MiFID product types. We note ESMA's call for evidence on suitability is an opportunity to consider and seek to address these challenges and reserve comment pending the outcome of that process. We further note the ESAs' proposed revisions to the SFDR RTS<sup>26</sup> and recall Irish Funds' support (as set out in its response<sup>27</sup> to the ESAs' consultation) for the proposed amendments relating to the 'dashboard' to incorporate all the required information to assess whether a product meets investors' sustainability preferences under MiFID. We also note our response to Question 4.3.4 below, detailing our full support for aligning the MiFID sustainability preferences with any sustainable product categories if a categorisation system, as contemplated within this consultation, is established.

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<sup>26</sup> Joint Consultation Paper, Review of SFDR Delegated Regulation regarding PAI and financial product disclosures, JC 2023 09, 12 April 2023 [https://www.esma.europa.eu/sites/default/files/2023-04/JC\\_2023\\_09\\_Joint\\_consultation\\_paper\\_on\\_review\\_of\\_SFDR\\_Delegated\\_Regulation.pdf](https://www.esma.europa.eu/sites/default/files/2023-04/JC_2023_09_Joint_consultation_paper_on_review_of_SFDR_Delegated_Regulation.pdf)

<sup>27</sup> [Irish Funds response to the ESA Consultation on Proposed Amendments to SFDR Level 2 in June 2023](#)

### 3. POTENTIAL CHANGES TO DISCLOSURE REQUIREMENTS FOR FINANCIAL MARKET PARTICIPANTS

#### 3.1 ENTITY LEVEL DISCLOSURES

The SFDR contains entity level disclosure requirements for financial market participants and financial advisers. They shall disclose on their website their policies on the integration of sustainability risks in their investment decision-making process or their investment or insurance advice (Article 3). In addition, they shall disclose whether, and if so, how, they consider the principal adverse impacts of their investment decisions on sustainability factors. For financial market participants with 500 or more employees, the disclosure of a due diligence statement, including information of adverse impacts, is mandatory (Article 4). In addition, financial market participants and financial advisers shall disclose how their remuneration policies are consistent with the integration of sustainability risks (Article 5).

**Question 3.1.1:** Are these disclosures useful?

	1	2	3	4	5	Don't know / No Opinion / NA
Article 3			X			
Article 4		X				
Article 5	X					

(1= not at all, 2= not really, 3= partially, 4= mostly, 5= totally)

Please explain your replies to question 3.1.1 as necessary:

As a general comment, investors invest in specific funds, not in managers. Entity-level disclosures are therefore of limited value to investors given the breadth of their scope (i.e., they cover all funds under management of the relevant financial market participant (FMP), rather than being fund-specific). It is important to note that certain of these requirements are marginally more useful than others. For example, disclosures around the sustainability risk-related due diligence policies of managers might be considered useful to some degree. In many cases, there is a sense that investors request confirmation that these requirements are being met solely to ensure that the entity complies with its obligations under SFDR but that these disclosures do not otherwise impact on an investor's decision-making process.

Article 4 disclosures are particularly unhelpful to investors, bearing in mind the range of funds that may be under an FMP's management (including bespoke non-sustainable mandates). Additionally, data availability issues significantly detract from the usefulness of PAI-related disclosures to investors. Although CSRD should increase data availability, this will not be the case for some time and will not cure all data availability issues. Please see further our response to Question 3.1.2 below on point.



Complementing the [consultation by the European Supervisory Authorities \(ESAs\) on the revision of the Regulatory Technical Standards of the SFDR](#)<sup>28</sup>, the Commission is interested in respondents' views as regards the principal adverse impact indicators required by the current Delegated Regulation.

**Question 3.1.2:** Among the specific entity level principal adverse impact indicators required by the [Delegated Regulation of the SFDR](#) adopted pursuant to Article 4 (tables 1, 2 and 3 of Annex I), which indicators do you find the most (and least) useful?

#### *Availability of Data*

In order to accurately report on particular principal adverse impacts (PAIs), FMPs need access to reliable and comprehensive data. However, this data may not always be readily available, particularly in respect of smaller companies or those operating in less developed markets. The PAI indicators where there is the greatest level of data availability are the PAI indicators most useful for investors. For example, Table 1 PAI indicators 1 – 4 and 14 have more data, as opposed to those which are more bespoke to certain industries/other PAI indicators. The following are the more difficult to obtain relevant data:

- 5. Share of non-renewable energy consumption and production
- 6. Energy consumption intensity per high impact climate sector
- 7. Activities negatively affecting biodiversity-sensitive areas
- 8. Emissions to water
- 9. Hazardous waste ratio
- 12. Unadjusted gender pay gap

#### *No relevant information*

PAI 1, which is related to carbon emissions, may not be as useful as PAI 2 (carbon footprint) and PAI 3 (carbon intensity) because it is dependent on the assets under management (AUM) of each FMP. This means that larger FMPs may have higher carbon emissions simply because they have more AUM, rather than because they are less sustainable. On the other hand, PAI 2, which is normalised by M€ invested, and PAI 3, which is normalised per M€ sales provide a more meaningful comparison between different FMPs, regardless of their size.

#### *Standardisation of data:*

Even when data is available, there may be challenges in standardising it across different companies and sectors. This can make it difficult to compare and analyse data on a consistent basis. This is generally considered to be the case, for example, in respect of the following indicators:

- 6. Energy consumption intensity per high impact climate sector
- 8. Emissions to water
- 9. Hazardous waste ratio
- 12. Unadjusted gender pay gap

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<sup>28</sup> <https://www.esma.europa.eu/press-news/consultations/joint-consultation-review-sfdr-delegatedregulation>

### *Interpretation of the PAI*

There may be different interpretations of what a particular PAI entails, which can lead to inconsistencies in reporting. This can make it more difficult to compare data across different companies and sectors. This is generally considered to be the case for the following indicators:

- 5. Share of non-renewable energy consumption and production
- 6. Energy consumption intensity per high impact climate sector
- 7. Activities negatively affecting biodiversity-sensitive areas
- 8. Emissions to water
- 9. Hazardous waste ratio
- 12. Unadjusted gender pay gap

### *Complexity of the PAI*

Some PAIs may be more complex than others. This can make it more difficult for FMPs to accurately report on these PAIs and for final users to interpret these PAIs. This is generally considered to be the case, for example, in respect of the following indicators:

- 6. Energy consumption intensity per high impact climate sector\*
- 8. Emissions to water
- 9. Hazardous waste ratio

\* For this indicator, obtaining the information needed for the nominator and denominator (energy consumption and revenues belonging to Nomenclature Statistics on the European Activities of the European Community or NACE( $\alpha$ )) can be difficult, especially for conglomerates operating in multiple NACE sectors. Some would suggest that as long as there is no reporting obligation of this indicator per NACE sector applicable to the underlying investee company, then the overall energy consumption intensity is allocated to the NACE sector with the highest share in the company's revenues.

Several pieces of EU legislation require entity level disclosures, whether through transparency requirements on sustainability for businesses (for example the CSRD) or disclosure requirements regarding own ESG exposures (such as the Capital Requirements Regulation (CRR) and its Delegated Regulation).

**Question 3.1.3:** In this context, is the SFDR the right place to include entity level disclosures?

1	2	3	4	5	Don't know / No Opinion / NA
	X				

(1= not at all, 2= not really, 3= partially, 4= mostly, 5= totally)



**Question 3.1.4:** To what extent is there room for streamlining sustainability-related entity level requirements across different pieces of legislation?

1	2	3	4	5	Don't know / No Opinion / NA
		X			

*(1= not at all, 2= to a limited extent, 3= to some extent, 4= to a large extent, 5= to a very large extent)*

Please explain your replies to questions in section 3.1 as necessary

#### Questions 3.1.3 and 3.1.4

CSRD would be a more appropriate place to include entity-level disclosures, noting in particular, that there is already a requirement under CSRD to disclose policies in relation to sustainability matters. The more fundamental point, however, is that bearing in mind the objective of transparency for investors, entity level disclosures are of limited use to investors, as indicated above and this, as opposed to the legislative source of the requirements, should be the primary focus of the legislators.

## 3.2 PRODUCT LEVEL DISCLOSURES

The SFDR includes product level disclosure requirements (Articles 6, 7, 8, 9, 10 and 11) that mainly concern risk and adverse impact related information, as well as information about the sustainability performance of a given financial product. The regulation determines which information should be included in precontractual and periodic documentation and on websites. The SFDR was designed as a disclosure regime, but is being used as a labelling scheme, suggesting that there might be a demand for establishing sustainability product categories. Before assessing whether there might be merit in setting up such product categories in Section 4, Section 3 includes questions analysing the need for possible changes to disclosures, as well as any potential link between product categories and disclosures. The need to ask about potential links between disclosures and sustainability product categories is the reason why this section contains some references to ‘products making sustainability claims’. However, this does not pre-empt in any way a decision about how a potential categorisation system and an updated disclosure regime would interact if these were established. The Commission services are openly consulting on all these issues to further assess potential ways forward as regards the SFDR.

The Commission services would therefore like to collect feedback on what transparency requirements stakeholders consider useful and necessary. We would also like to know respondents’ views on whether and how these transparency requirements should link to different potential categories of products.

The general principle of the SFDR is that products that make sustainability claims need to disclose information to back up those claims and combat greenwashing. This could be viewed as placing additional burden on products that factor in sustainability considerations. This is why, in the following questions, the Commission services ask respondents about the usefulness of uniform disclosure requirements for products across the board, regardless of related sustainability claims, departing from the general philosophy of the SFDR as regards product disclosures. Providing proportionate information on the sustainability profile of a product which does not make sustainability claims could make it easier for some investors to understand products’ sustainability performance, as they would get information also about products that are not designed to achieve any sustainability-related outcome. This section also contains questions exploring whether it could be useful to require financial market participants who make sustainability claims about certain products to disclose additional information (i.e., in case a categorisation system is introduced in the EU framework, the need to require additional information about products that would fall under a category).

**Question 3.2.1:** Standardised 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?

1	2	3	4	5	Don't know / No Opinion / NA
		X			

(1= not at all, 2= to a limited extent, 3= to some extent, 4= to a large extent, 5= to a very large extent)

**Question 3.2.1. a):** If the EU was to impose uniform disclosure requirements for **all** financial products offered in the EU, should disclosures on a limited number of principal adverse impact indicators be required for all financial products offered in the EU?

1	2	3	4	5	Don't know / No Opinion / NA
X					

(1= not at all, 2= to a limited extent, 3= to some extent, 4= to a large extent, 5= to a very large extent)

Please specify which ones:

N/A

**Question 3.2.1 b):** Please see a list of examples of disclosures that could also be required about **all** financial products for transparency purposes. In your view, should these disclosures be mandatory, and/or should any other information be required about **all** financial products for transparency purposes?

	1	2	3	4	5	Don't know / No Opinion / NA
Taxonomy-related disclosures						X
Engagement strategies					X	
Exclusions					X	
Information about how ESG-related information is used in the investment process					X	
Other information						X

(1= not at all, 2= to a limited extent, 3= to some extent, 4= to a large extent, 5= to a very large extent)

Please explain as necessary your replies to questions 3.2.1 and its sub-questions:

### Question 3.2.1

There is already a uniform disclosure requirement in place for all financial products in the form of Article 6 SFDR disclosure requirements. We believe that there is merit in retaining Article 6 as the 'baseline' requirement in relation to disclosing sustainability-related information in pre-contractual documentation. We would also suggest, noting the similarities that exist between the disclosure requirements set out in Article 8 and Article 9, that these Article 8 and 9 disclosure requirements could be merged and/or adjusted to detail the pre-contractual disclosure requirements for all financial products adhering to the voluntary categorisation regime referred to in Section 4 below, with the disclosures required being dependent upon the label being adopted by the relevant financial product. Please see further our response to Questions 4.1.2 and 4.2.2. As a general comment, consideration should be given to consumer

behaviour and how they are likely to use the disclosures/conclusions they may draw from the information given to them in practice, as this may not always be aligned with the stated objectives of the disclosures. The length, level of detail, and technical content should be consistent with the level of knowledge of the expected consumers of the disclosures (i.e. disclosures aimed at retail investors should not be too long and easily understood, while professional investors may wish to obtain more detailed disclosures and data, with more technical explanations).

### **3.2.1 a)**

If this is interpreted to mean that it would be mandatory to report on a limited number of PAIs, this could lead to potential mis-selling, as end investors are unlikely to be able to distinguish between data being reported for regulatory reasons and data which is being provided because it reflects binding commitments of the product. If the objective is to give investors more information to assist them to direct their capital towards more sustainable products, then disclosures should be based on the binding sustainability-related commitments of those products. Likewise, intermediaries/advisors not directly involved in the product design or fully aware of the regulatory requirements might also struggle to make this distinction. This requirement would also give rise to additional costs (eventually be borne by the end investor), which, in the absence of a clear benefit to including the requirement, would be difficult to justify.

At most, if a particular sustainability risk is deemed material to the product, then a requirement could potentially be included to disclose the PAI indicator associated with that risk to provide some quantification (as opposed to imposing a requirement which leads to the disclosure of metrics that are not used as an input into the investment process, leading to a tick box exercise). To some extent this is already consistent with existing requirements under Recital 15 of SFDR as FMPs can already choose to disclose sustainability risks qualitatively and/or quantitatively.

### **3.2.1 b)**

Consistent with our response above, insofar as disclosures around engagement strategies, exclusions, and information about how ESG-related information is used in the investment process are already relevant for the purposes of disclosing under Article 6 SFDR, these disclosure requirements are considered to be in order for all financial products. It is from this perspective only that a rating of 5 has been assigned in the table at 3.2.1 b) to these disclosure requirements. To the extent that these disclosures are otherwise required to be made, together with Taxonomy-related disclosures and other information disclosures, are considered appropriate only for products which adhere to the voluntary categorisation regime described in Section 4. As to the appropriateness of requiring these disclosures for said financial products, please refer to our response to 4.1.10, which considers the appropriateness of the majority of these disclosures for each of the proposed product categorisations.

As a general comment, careful consideration should be given to the merits of any such disclosure requirements, as requirements to produce a high volume of disclosures that do not provide useful information for investors may end up being counter-productive, if it makes it harder for investors to locate the information they actually need.

**Question 3.2.2:** Standardised product disclosures - Would uniform disclosure requirements for **some** financial products be a more appropriate approach, regardless of their sustainability-related claims (e.g. products whose assets under management, or equivalent, would exceed a certain threshold to be defined, products intended solely for retail investors...)? Please note that next question 3.2.3 asks specifically about the need for disclosures in cases of products making sustainability claims.

1	2	3	4	5	Don't know / No Opinion / NA
X					

(1= not at all, 2= to a limited extent, 3= to some extent, 4= to a large extent, 5= to a very large extent)

**Question 3.2.2 a):** If the EU was to impose uniform disclosure requirements for **some** financial products, what would be the criterion/criteria that would trigger the reporting obligations?

Please refer to our answer above.

**Question 3.2.2. b):** If the EU was to impose uniform disclosure requirements for **some** financial products, should a limited number of principal adverse impact indicators be required?

1	2	3	4	5	Don't know / No Opinion / NA
X					

(1= not at all, 2= to a limited extent, 3= to some extent, 4= to a large extent, 5= to a very large extent)

**Question 3.2.2. c):** Please see a list of examples of disclosures that could also be required about the group of financial products that would be subject to standardised disclosure obligations for transparency purposes (in line with your answer to Q 3.2.2 above). In your view, should these disclosures be mandatory, and/or should any other information be required about that group of financial products?

	1	2	3	4	5	Don't know / No Opinion / NA
Taxonomy-related disclosures						X
Engagement strategies					X	
Exclusions					X	
Information about how ESG-related information is used in the investment process					X	
Other information						X

(1= not at all, 2= to a limited extent, 3= to some extent, 4= to a large extent, 5= to a very large extent)

Please explain as necessary your replies to questions 3.2.2 and its sub-questions:

### Question 3.2.2

As per our response to 3.2.1 above, our preference would be for Article 6 to be used as the ‘baseline’ requirement in relation to disclosing sustainability-related information in pre-contractual documentation by all financial products. We would also suggest, noting the similarities that exist between the disclosure requirements set out in Article 8 and Article 9, that the Article 8 and 9 disclosure requirements could be merged and/or adjusted to detail the pre-contractual disclosure requirements for any financial products adhering to the voluntary categorisation regime referred to in Section 4 below, with the disclosures required being dependent upon the label being adopted by the relevant financial product.

However, to the extent the approach suggested in 3.2.2 were to be taken we would highlight that scoping on the basis of static data (not dynamic data such as AUM) would be preferable and that it would not be appropriate to impose uniform disclosure requirements on public as opposed to private funds and segregated accounts.

### Question 3.2.2 a)

See response to 3.2.2.

### Question 3.2.2 b)

See response to 3.2.1 a).

### Question 3.2.2 c)

See responses to 3.2.1 b) and 4.1.10.

The following and last section of this questionnaire (section 4) includes questions about the potential establishment of a sustainability product categorisation system at EU level based on certain criteria that products would have to meet. It presents questions about different ways of setting up such system, including whether additional category specific disclosure requirements should be envisaged. There are therefore certain links between questions in this section (section 3) and questions in the last section of the questionnaire (section 4).

**Question 3.2.3:** If requirements were imposed as per question 3.2.1 and/or 3.2.2, should there be some additional disclosure requirements when a product makes a sustainability claim?

1	2	3	4	5	Don't know / No Opinion / NA
				X	

(1= totally disagree, 2= mostly disagree, 3= partially disagree and partially agree, 4= mostly agree, 5= totally agree)

Please explain as necessary your replies to question 3.2.3:

See response to question 3.2.1.

Sustainability product information disclosed according to the current requirements of the SFDR can be found in precontractual and periodic documentation and on financial market participants' websites, as required by Articles 6, 7, 8, 9, 10 and 11.

**Question 3.2.4:** In general, is it appropriate to have product related information spread across these three places, i.e. in precontractual disclosures, in periodic documentation and on websites?

1	2	3	4	5	Don't know / No Opinion / NA
X					

(1= not at all, 2= to a limited extent, 3= to some extent, 4= to a large extent, 5= to a very large extent)

**Question 3.2.5:** More specifically, is the current breakdown of information between precontractual, periodic documentation and website disclosures appropriate and user friendly?

1	2	3	4	5	Don't know / No Opinion / NA
X					

(1= not at all, 2= to a limited extent, 3= to some extent, 4= to a large extent, 5= to a very large extent)

Please explain as necessary your replies to question 3.2.4 and 3.2.5:

### Question 3.2.4

Website disclosures are largely repetitive of pre-contractual disclosures which, together with periodic reporting annex disclosures, should cover such information as is required. This is particularly the case for private funds which would not otherwise be required to make relevant information public. Some managers also report minimal engagement with website disclosures by investors, with very few to no individual investors accessing sustainability-related disclosures included on their websites. There is also an undue administrative burden associated with website disclosure requirements (e.g., translation requirements and attendant costs, requirements to explain changes to website disclosures, requirements to include document version numbers, and naming conventions for website disclosure headings that are too lengthy).

In general, the ability and willingness of retail investors to carry out due diligence on the funds in which they invest should not be overestimated. The need for simplification of and to improve the accessibility of SFDR disclosures is critical to enabling/encouraging investors to engage with the disclosures, so that they can make informed investment decisions/sustainable choices. Although SFDR is intended to facilitate comparisons between financial products based on their sustainability considerations, in practice, investors (and particularly retail investors) do not always have the necessary knowledge and expertise to interpret existing, complex product-level disclosures. There is, therefore, appetite amongst FMPs for a standalone pre-contractual disclosure document, to replace the pre-contractual document (PCD) annex. This could be

similar to the PCD annex or, ideally, would be a more simplified and streamlined version, perhaps more akin to a three-page ESG Key Investor Information Document (KIID), which would be circulated alongside (but not appended to) fund prospectus documents. This approach would, in the first instance, help draw investors' attention more readily to the relevant disclosures, noting that PCD annexes are typically embedded in lengthy prospectus documents (often consolidated to include details of/supplements for numerous sub-funds of the umbrella) and are not, therefore, easily accessible for investors. Please see our various responses to questions relevant to the question of simplifying SFDR disclosures set out elsewhere in this submission.

### Question 3.2.5

Website disclosures are not considered user friendly. As per our response to question 3.2.4, these are largely repetitive of pre-contractual disclosures and it is cumbersome for investors to be required to consult three separate disclosure points to gather the full suite of sustainability-related information pertaining to the relevant product. Pre-contractual and periodic reporting disclosures, however, serve distinct purposes (disclosure of ex-ante and ex-post sustainability-related information respectively) which is considered reasonable.

Current website disclosures make it mandatory for product sustainability information to be publicly available. This includes portfolios managed under a portfolio management mandate, which can mean a large number of disclosures, as each of the managed portfolios is considered a financial product under the SFDR. A [Q&A published by the Commission in July 2021](#)<sup>29</sup> clarified that where a financial market participant makes use of standard portfolio management strategies replicated for clients with similar investment profiles, transparency at the level of those standard strategies can be considered a way of complying with requirements on websites disclosures. This approach facilitates the compliance with Union and national law governing the data protection, and where relevant, it also ensures confidentiality owed to clients.

### **Question 3.2.6:** To what extent do you agree with the following statements?

	1	2	3	4	5	Don't know / No Opinion / NA
It is useful that product disclosures under SFDR are publicly available (e.g. because they have the potential to bring wider societal benefits)	X					
Confidentiality aspects need to be taken into account when specifying the information that should be made available to the public under the SFDR					X	
Sustainability information about financial products should be made available to potential investors, investors or the public according to rules in sectoral legislation (e.g.: UCITS, AIFM, IORPs directives); the SFDR should not impose rules in this regard					X	

(1= totally disagree, 2= mostly disagree, 3= partially disagree and partially agree, 4=

<sup>29</sup> See question 3 of section V of the consolidated questions and answers (Q&A) on the SFDR and its Delegated Regulation published on the ESAs websites.



mostly agree, 5= totally agree)

Please explain as necessary your replies to question 3.2.6:

Taking each of the statements set out in the table at question 3.2.6 in turn, we have set out our comments under each:

***It is useful that product disclosures under SFDR are publicly available (e.g. because they have the potential to bring wider societal benefits)***

- It is unclear what wider societal benefits these disclosures bring.
- These disclosures are not useful for client-directed investment strategies/segregated portfolios and confidentiality issues arise around client account disclosures/private funds.

***Confidentiality aspects need to be taken into account when specifying the information that should be made available to the public under the SFDR***

If standardised disclosures were required for all products, and the requirement to publish them on a website remained, this would potentially be considered marketing for private funds, when they otherwise would not have wanted to do this.

***Sustainability information about financial products should be made available to potential investors, investors or the public according to rules in sectoral legislation (e.g.: UCITS, AIFM, IORPs directives); the SFDR should not impose rules in this regard***

To the extent that this would mean it is necessary only to include sustainability-related disclosures in the fund prospectus/annual report, not websites, then this would be welcomed.

Current product-level disclosures have been designed to allow for comparability between financial products. The SFDR requires pre-contractual disclosures to be made in various documents for the different financial products in scope of the regulation. The disclosure requirements are the same, even though these documents have widely varying levels of detail or complexity, i.e. a UCITS prospectus can be several hundred pages long, while the Pan-European Pension Product Key Information Document (PEPP KID) comprises a few pages.

**Question 3.2.7:** To what extent do you agree with the following statements?

	1	2	3	4	5	Don't know / No Opinion / NA
The same sustainability disclosure topics and the exact same level of granularity of sustainability information (i.e. same number of datapoints) should be required in all types of precontractual documentation to allow for comparability	X					

The same sustainability disclosure topics should be required in all types of precontractual documentation to allow for comparability		X				
--	--	---	--	--	--	--

(1= totally disagree, 2= mostly disagree, 3= partially disagree and partially agree, 4= mostly agree, 5= totally agree)

Please explain as necessary your replies to question 3.2.7:

As we are representing the Irish funds industry only, our responses are only concerned with the subset of financial products that comprise that industry. That said, as mentioned earlier, if the use of template disclosures is retained in the next iteration of the SFDR framework, we believe the introduction of product-specific templates for different types of financial products (e.g., investment fund-specific templates, insurance-product-specific templates etc.) would be preferable.

**Question 3.2.8:** Do you believe that sustainability related disclosure requirements at product level should be independent from any entity level disclosure requirements, (i.e. product disclosures should not be conditional on entity disclosures, and vice-versa)?

Yes	No	Don't know
X		

Please explain as necessary your replies to question 3.2.8:

As above, investors invest in specific funds, not in managers. Information needs to be fund-specific to be meaningful to an investor.

The SFDR is intended to facilitate comparisons between financial products based on their sustainability considerations. In practice, investors, and especially retail investors, may not always have the necessary expertise and knowledge to interpret SFDR product-level disclosures, whether it is about comparing these disclosures to industry averages or credible transition trajectories.

**Question 3.2.9:** Do you think that some product-level disclosures should be expressed on a scale (e.g., if the disclosure results for similar products were put on a scale, in which decile would the product fall)?

Yes	No	Don't know
	X	

Our initial sense is that this will not be achievable as it is not clear how this would/could be defined, or consistently applied across all firms and products. Additionally, it may be too reductive to effectively convey all the different ways in which sustainability can be relevant and a product's level of sustainability-related ambition.

**Question 3.2.9 a):** If so, how should those scales be established and which information should be expressed on a scale?

N/A

**Question 3.2.10:** If you are a professional investor, where do you obtain the sustainability information you find relevant?

	1	2	3	4	5	Don't know / No Opinion / NA
From direct enquiries to market participants						X
Via SFDR disclosures provided by market participants						X

(1= not at all, 2= to a limited extent, 3= to some extent, 4= to a large extent, 5= to a very large extent)

**Question 3.2.11:** If you are a professional investor, do you find the SFDR requirements have improved the quality of information and transparency provided by financial market participants about the sustainability features of the products they offer?

1	2	3	4	5	Don't know / No Opinion / NA
					X

(1= not at all, 2= not really, 3= partially, 4= mostly, 5= totally)

Please explain as necessary your replies to question 3.2.10 and 3.2.11:

N/A

For disclosures to be effective, they need to be accessible and useable to end investors. We are seeking respondents' views about the need to further improve the accessibility and usability of this information, in particular in a digital context.<sup>30</sup>

**Question 3.2.12:** To what extent do you agree or disagree with the following statements?

	1	2	3	4	5	Don't know / No Opinion / NA
Article 2(2) of the SFDR Delegated Regulation already requires financial market participants to make disclosures under the SFDR in a searchable electronic format, unless otherwise required by sectoral legislation. This is sufficient to ensure accessibility and usability of the disclosed information.					X	

<sup>30</sup> These questions are intended to complement Question 42 in the ESAs' joint consultation paper on the review of the SFDR Delegated Regulation (JC 2023 09) which asks for criteria for machine readability of the SFDR Delegated Regulation disclosures.

It would be useful for all product information disclosed under the SFDR to be machine-readable, searchable and ready for digital use.			X			
It would be useful for some of the product information disclosed under the SFDR to be machine-readable and ready for digital use.			X			
It would be useful to prescribe a specific machine-readable format for all (or some parts) of the reporting under the SFDR (e.g. iXBRL).			X			
It would be useful to make <u>all</u> product information disclosed under the SFDR available in the upcoming European Single Access Point as soon as possible.						X
Entity and product disclosures on websites should be interactive and offer a layered approach enabling investors to access additional information easily on demand.	X					
It would be useful that a potential regulatory attempt to digitalise sustainability disclosures by financial market participants building on the European ESG Template (EET) which has been developed by the financial industry to facilitate the exchange of data between financial market participants and stakeholders regarding sustainability disclosures.						X

(1= totally disagree, 2= mostly disagree, 3= partially disagree and partially agree, 4= mostly agree, 5= totally agree)

**Question 3.2.13:** Do you think the costs of introducing a machine-readable format for the disclosed information would be proportionate to the benefits it would entail?

1	2	3	4	5	Don't know / No Opinion / NA
		X			

(1= not at all, 2= not really, 3= partially, 4= mostly, 5= totally)

Please provide any comments or explanations to explain your answers to questions 3.2.12 and 3.2.13:

Taking various of the statements set out in the table at question 3.2.12 in turn, we have included our comments below. These comments also cover question 3.2.13.

*It would be useful for all product information disclosed under the SFDR to be machine-readable, searchable and ready for digital use*

This would involve significant work (and cost). At least 12 months would be needed to implement such a proposal. If it meant that: (1) regulators would no longer need to issue sustainability-related data collection requests; and (2) there would no longer be a need to complete the EET, then this might be a worthwhile exercise but not otherwise.

The requirement to do this should also be proportionate to how widely the data needs to be made available, i.e., there would be limited benefit to this for private funds or segregated accounts, as information on those types of products is generally confidential/has restricted access.

***It would be useful for some of the product information disclosed under the SFDR to be machine-readable and ready for digital use***

As set out above.

***It would be useful to prescribe a specific machine- readable format for all (or some parts) of the reporting under the SFDR (e.g. iXBRL)***

As set out above.

***It would be useful to make all product information disclosed under the SFDR available in the upcoming European Single Access Point as soon as possible***

We would query what this would require of FMPs/financial products to implement, detail around which would be required in order to provide a meaningful response to this question.

***Entity and product disclosures on websites should be interactive and offer a layered approach enabling investors to access additional information easily on demand***

As stated earlier – website disclosures are not considered useful, and we would need to see an example of what is being proposed here before being able to comment on its appropriateness in a more meaningful way.

***It would be useful that a potential regulatory attempt to digitalise sustainability disclosures by financial market participants building on the European ESG Template (EET) which has been developed by the financial industry to facilitate the exchange of data between financial market participants and stakeholders regarding sustainability disclosures.***

As the primary purpose of the EET is to disseminate information for sustainability preferences, it should not be brought into any regulatory framework before the outcomes of this consultation are finalised and the future definitions of sustainability preferences are known. It is unclear what this proposal would require of FMPs/financial products and further details would be welcomed in order to comment on this statement in a more meaningful way.

Current product-level disclosures have been designed to allow for comparability between financial products. These financial products and the types of investments they pursue can present differences.

**Question 3.2.14:** To what extent do you agree with the following statement? “When determining what disclosures should be required at product level it should be taken into account: ...”

	1	2	3	4	5	Don't know / No Opinion / NA
Whether the product is a wrapper offering choices between underlying investment options like a Multi-Option Product					X	
Whether some of the underlying investments are outside the EU			X			
Whether some of the underlying investments are in an emerging economy			X			
Whether some of the underlying investments are in SMEs				X		
Whether the underlying investments are in certain economic activities or in companies active in certain sectors				X		
Other considerations as regards the type of product or underlying investments					X	

(1= totally disagree, 2= mostly disagree, 3= partially disagree and partially agree, 4= mostly agree, 5= totally agree)

Please explain your reply to question 3.2.14:

Only financial products which adhere to the voluntary categorisation regime discussed in Section 4 should be required to make sustainability-related disclosures beyond those required under Article 6 SFDR (as per our earlier response at 3.2.1). On that basis, see below response to 4.2.3.

## 4. POTENTIAL ESTABLISHMENT OF A CATEGORISATION SYSTEM FOR FINANCIAL PRODUCTS

### 4.1 POTENTIAL OPTIONS

The fact that Articles 8 and 9 of the SFDR are being used as de facto product labels, together with the proliferation of national ESG/sustainability labels, suggests that there is a market demand for such tools in order to communicate the ESG/sustainability performance of financial products. However, there are persistent concerns that the current market use of the SFDR as a labelling scheme might lead to risks of greenwashing (the Commission services seek respondents' views on this in section 1). This is partly because the existing concepts and definitions in the regulation were not conceived for that purpose. Instead, the intention behind them was to encompass as wide a range of products as possible, so that any sustainability claims had to be substantiated. In addition, a proliferation of national labels risks fragmenting the European market and thereby undermining the development of the [capital markets union](#).

The Commission services therefore seek views on the merits of developing a more precise EU-level product categorisation system based on precise criteria. This section of the questionnaire asks for stakeholders' views about both the advantages of establishing sustainability product categories and about how these categories should work. When asking about sustainability product categories, the Commission is referring to a possible distinction between products depending on their sustainability objectives or sustainability performances.

Replies to questions in this section will help assess which type of investor would find product categories useful. Some questions relate to different possibilities as to how the system could be set-up, including whether disclosure requirements about products making sustainability claims should play a role. There are therefore certain links between questions in this section and section 3 on disclosures. Accordingly, respondents are invited to reply to questions in both sections, so that the Commission services can get insights into how they view disclosures and product categories separately, but also how they see the interlinkages between the two.

Given the high demand for sustainability products, questions in this section assume that any potential categorisation system would be voluntary. This is because financial market participants would likely have an interest in offering products with a sustainability claim. The questions in this section presume that only products that claim to fall under a given sustainability product category would be required to meet the corresponding requirements. However, this should not be seen as the Commission's preferred policy approach, as the Commission is only consulting on these topics at this stage.

If the Commission was to propose the development of a more precise product categorisation system, two broad strategies could be envisaged. On the one hand, the product categorisation system could build on and develop the distinction between Articles 8 and 9 and the existing concepts embedded in them (such as environmental/social characteristics, sustainable investment or do no significant harm), complemented by additional (minimum) criteria that more clearly define the products falling within the scope of each article. On the other hand, the product categorisation system could be based on a different approach, for instance focused on the type of investment strategy (promise of positive contribution to certain sustainability objectives transition focus, etc.), based on criteria that do not necessarily relate to those existing concepts. In such a scenario, concepts such as environmental/social characteristics or sustainable investment and the distinction between current Articles 8 and 9 of SFDR may

disappear altogether from the transparency framework.

**Question 4.1.1:** To what extent do you agree with the following statements?

	1	2	3	4	5	Don't know / No Opinion / NA
Sustainability product categories regulated at EU level would facilitate retail investor understanding of products' sustainability-related strategies and objectives					X	
Sustainability product categories regulated at EU level would facilitate professional investor understanding of products' sustainability-related strategies and objectives					X	
Sustainability product categories regulated at EU level are necessary to combat greenwashing				X		
Sustainability product categories regulated at EU level are necessary to avoid fragmenting the capital markets union.					X	
Sustainability product categories regulated at EU level are necessary to have efficient distribution systems based on investors' sustainability preferences.					X	
There is no need for product categories. Pure disclosure requirements of sustainability information are sufficient.	X					

(1= totally disagree, 2= mostly disagree, 3= partially disagree and partially agree, 4= mostly agree, 5= totally agree)

**Question 4.1.2:** If a categorisation system was established, how do you think categories should be designed?

	1	2	3	4	5	Don't know
<b>Approach 1:</b> Splitting categories in a different way than according to existing concepts used in Articles 8 and 9, for example, focusing on the type of investment strategy of the product (promise of positive contribution to certain sustainability objectives, transition, etc.) based on criteria that do not necessarily relate to those existing concepts.				X		



<b>Approach 2:</b> Converting Articles 8 and 9 into formal product categories, and clarifying and adding criteria to underpin the existing concepts of environmental/social characteristics, sustainable investment, do no significant harm, etc.			X			
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(1= totally disagree, 2= mostly disagree, 3= partially disagree and partially agree, 4= mostly agree, 5= totally agree)

Please explain your reply to questions 4.1.1 and 4.1.2:

We are of the view that any proposed categorisation system does not necessarily need to be based on Article 8 or Article 9 of SFDR, nor on existing concepts. Whilst concepts such as ‘sustainable investments’, ‘do no significant harm’, and ‘principal adverse impact’ could be recalibrated and form part of a proposed categorisation system, we do not believe that the categorisation system needs to be built upon the concepts of ‘promoting an environmental or social characteristic’ and/or a ‘sustainable investment objective’. It is more important, and in fact fundamental, that any proposed categorisation system comprises sufficiently clear categories, with clear objective qualitative minimum criteria so that investors (both retail and institutional) can fully understand the proposed categories and their associated concepts and criteria.

Financial market participants, and indeed the industry as a whole, have become more familiar with SFDR and its concepts since March 2021 and we believe that there are useful elements within SFDR that could co-exist with a categorisation regime (aside from some of the concepts listed above). For example, we believe that there is merit in retaining Article 6 as being the ‘baseline’ requirement in relation to disclosing sustainability-related information in pre-contractual documentation. We would also suggest, noting the similarities that exist between the disclosure requirements set out in Article 8 and Article 9, that the Article 8 and 9 disclosure requirements could be merged and/or adjusted to detail the pre-contractual disclosure requirements for all financial products adhering to the voluntary categorisation regime, with the disclosures required being dependent upon the label being adopted by the relevant financial product.

Whilst we see merit in retaining certain concepts within the existing disclosure regime provided they can be recalibrated to support the categorisation regime. The risk with proceeding under Approach 2 is that clarifying or adding criteria to the existing Article 8 and 9 concepts may not (i) cater for, or differentiate between, the wide spectrum of ESG strategies currently available in the market, (ii) adequately address some of the issues financial market participants are already facing in relation to the implementation of SFDR, or (iii) provide the Commission with the freedom or flexibility that is required in order to create a clear, pan-EU labelling regime that is ‘fit for purpose’.

We are also of the view that should Approach 1 be taken when designing the proposed categorisation system, this could support a categorisation regime that can be more easily understood by retail investors (and by institutional investors). For example, placing a focus on the objective of the strategy itself is generally easier to understand and the naming convention adopted for the categorisation regime should also be sensible and clear – this is discussed further below. Further, Approach 1 would facilitate the ability of the proposed categorisation system to be more interoperable with other categorisation systems which are being proposed

outside of the EU (e.g., the United Kingdom's (UK) Sustainability Disclosure Requirement (SRD)). In this regard, we would note that UK fund advisors have had direct experience in seeking to marry SFDR/SFDR-related concepts with the SDR and this has proven to be very challenging. We would also note the recent amendments that the Financial Conduct Authority (FCA) have sought to make to the SDR<sup>31</sup>, and that these should be taken into consideration by the Commission when seeking to construct the proposed labelling or categorisation regime.

In short, a clear, pan-EU labelling regime is supported in order to afford clarity and trust to fund categorisations being utilised within the EU. However, it is essential that any such categorisation system is clear and that the transition to any such categorisation system affords industry participants with sufficient time (and clarity in terms of the transition process) to fully adopt any such proposed categorisation system.

#### **If a categorisation system was established according to approach 1 of question 4.1.2**

**Question 4.1.3:** To what extent do you agree that, under approach 1, if a sustainability disclosure framework is maintained in parallel to a categorisation system, the current distinction between Articles 8 and 9 should disappear from that disclosure framework?

1	2	3	4	5	Don't know / No Opinion / NA
				X	

(1= totally disagree, 2= mostly disagree, 3= partially disagree and partially agree, 4= mostly agree, 5= totally agree)

The current Article 8 and 9 disclosure templates are very similar in nature and so, as mentioned, there may be merit in merging or adjusting the Article 8 and 9 disclosure requirements to cater for the pre-contractual disclosure requirements that apply to all financial products adhering to the voluntary categorisation regime, with the disclosures required being dependent upon the label being adopted by the relevant financial product.

**Question 4.1.4:** To what extent would you find the following categories of sustainability products useful?

	1	2	3	4	5	Don't know / No Opinion / NA
A - Products investing in assets that specifically strive to offer targeted, measurable solutions to sustainability related problems that affect people and/or the planet, e.g., investments in firms generating and distributing renewable energy, or in companies building social housing or regenerating urban areas.					X	
B - Products aiming to meet credible sustainability standards or adhering to a specific sustainability-related theme, e.g., investments in companies with evidence of solid waste and water management, or					X	

<sup>31</sup> <https://www.fca.org.uk/publication/policy/ps23-16.pdf>

strong representation of women in decision-making.						
C - Products that exclude activities and/or investees involved in activities with negative effects on people and/or the planet					X	
D - Products with a transition focus aiming to bring measurable improvements to the sustainability profile of the assets they invest in, e.g., investments in economic activities becoming taxonomy-aligned or in transitional economic activities that are taxonomy aligned, investments in companies, economic activities or portfolios with credible targets and/or plans to decarbonise, improve workers' rights, reduce environmental impacts <sup>32</sup>					X	
Other					X	

(1= not at all, 2= to a limited extent, 3= to some extent, 4= to a large extent, 5= to a very large extent)

If you think there are other possible useful categories, please specify which ones:

We are generally supportive of the above-listed categories, but we believe that thought needs to be given to the naming convention that should be adopted for each category and in particular, we need to ensure that the name given to each such category or label seeks to mitigate against (and ideally, avoid) any greenwashing risk arising by virtue of the financial product adopting a particular label. For example, Category C should not necessarily be regarded as a 'sustainable' product (but perhaps it could have its own naming convention), with Categories B and D being deemed to be 'sustainable' products, and with Category A being a 'sustainable impact' product. The name of each product should also have regard to a 'retail-audience' as this should make it easier for financial advisers to explain the sustainability intention of the product. We would also advise that perhaps the word 'sustainability' replace the word 'sustainable' in order to avoid inadvertently giving the impression to investors that the fund has already achieved a particular sustainable outcome.

For category C, there are benefits in clearly identifying products that do not have positive sustainability intentions (e.g., through impact or contribution) but go beyond ESG integration, although as noted in the previous paragraph, this category needs to be explicit in relation to not having any positive sustainability intentions to differentiate it from the other three categories. Also, the description provided for Category C should be recalibrated to align with the other categories. As framed, it does not set out the intention but rather how the intention is achieved (i.e., through exclusions). We suggest reframing Category C to "Products aiming to avoid or reduce significant harm on people and/or the planet" or something similar.

Furthermore, if a 'minimum percentage of assets' threshold is to be utilised by the Commission in respect of certain labels, we would also note that the FCA have recently introduced a "Sustainability Mixed Goals" label which provides for a blend of the other SDR labels,

<sup>32</sup> In line with the transition to a climate neutral and sustainable economy.

provided the requisite minimum criteria have been met for each such label.

**Question 4.1.5:** To what extent do you think it is useful to distinguish between sustainability product category A and B described above?

1	2	3	4	5	Don't know / No Opinion / NA
			X		

(1= not at all, 2= to a limited extent, 3= to some extent, 4= to a large extent, 5= to a very large extent)

**Question 4.1.6:** Do you see merits in distinguishing between products with a social and environmental focus?

1	2	3	4	5	Don't know / No Opinion / NA
	X				

(1= totally disagree, 2= mostly disagree, 3= partially disagree and partially agree, 4= mostly agree, 5= totally agree)

**Question 4.1.7:** How many sustainability product categories in total do you think there should be?

1	2	3	4	5	More than 5	Don't know / No Opinion / NA
						X

**Question 4.1.8:** Do you think product categories should be mutually exclusive, i.e. financial market participants should choose only one category to which the product belongs to in cases where the product meets the criteria of several categories (independently from subsequent potential verification or supervision of the claim)?

Yes	No	There is another possible approach	Don't know / No Opinion / NA
X			

In case you have selected "There is another possible approach", please specify below.

N/A

Please explain your replies to questions 4.1.5, 4.1.6, 4.1.7 and 4.1.8.

#### Question 4.1.5

We believe that it is useful to distinguish between sustainability product category A and B,

emphasizing clarity between the labels is important. For example, it is imperative that the distinction between (a) striving to offer solutions to sustainability related problems (under Category A), and (b) aiming to adhere to a specific sustainability related theme, is clear. This could perhaps be made clear by requiring a Category A product to detail how it can or should strive to offer solutions to sustainability related problems (e.g., making ‘sustainable investments’ etc.).

#### **Question 4.1.6**

Financial products can and do incorporate both social and environmental focuses and at times, environmental and societal endeavours are intrinsically linked (e.g., SDG-aligned funds). We do not believe that distinguishing between products with a social or an environmental focus should necessarily be achieved by adding more categories or sub-categories, but rather this could be achieved through a requirement to disclose the environmental and/or social issues that are being addressed by the financial product (and perhaps to disclose the importance or weight being placed on these environmental and/or social issues). In other words, we would support distinguishing between an environmental and social focus, if a specific focus exists, through disclosure, rather than via additional categories or sub-categories.

#### **Question 4.1.7**

There is a general view that between 3 to 5 is optimal, but where one lands is dependent on the clarity of, and the distinction amongst, the labels. There should be enough categories to allow for a clear and practical differentiation amongst the categories (whilst also catering for as many asset classes/strategies as possible), but too many categories will lead to confusion.

#### **Question 4.1.8**

We are of the view that the product categories, if they will be based on intentionality and/or the objective of the investment strategy, should be mutually exclusive, with minimum qualifying criteria and disclosure requirements set for all categories/financial products. Additionally, we believe that financial products should subscribe to only one category to avoid confusion. This is dependent on the categorisation system being able to cater for as many asset classes and strategies as possible, whilst at the same time providing for a clear and practical differentiation amongst the categories based on a product’s intention. However, we believe that the qualifying criteria or ESG strategies/tools that a product may employ to achieve that ‘intention’ should not be mutually exclusive. For example, for a product adhering to Category A (e.g., by employing an impact investing approach), may also employ stewardship and/or exclusion. As such, these ESG criteria/tools should not be mutually exclusive.

Further, thought needs to be given to the compatibility of certain investment strategies with one or more proposed categories/labels. For example, a fund employing a multi-asset strategy may have portions of its portfolio that could fit within one or more categories but if the fund is to select a single category/label. It should be clear to the FMP what that category should be, which should be based on the overall intention of the fund. Please also see our response to the question relating to sustainability preferences below and we would also refer the Commission to the approach the FCA has taken with respect to its recently introduced “*Sustainability Mixed Goals*” label<sup>33</sup>.

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<sup>33</sup> <https://www.fca.org.uk/publication/policy/ps23-16.pdf>

**Question 4.1.9:** If a categorisation system was established that builds on new criteria and not on the existing concepts embedded in Articles 8 and 9, is there is a need for measures to support the transition to this new regime?

1	2	3	4	5	Don't know / No Opinion / NA
				X	

(1= totally disagree, 2= mostly disagree, 3= partially disagree and partially agree, 4= mostly agree, 5= totally agree)

Please explain your replies to questions 4.1.9 as necessary:

Given the level of change that the industry has been subject to as a result of, inter alia, SFDR, and noting the level of change that is being contemplated as part of this Consultation, the most important measure to support the transition to any new regime will be an adequate implementation period, which should largely be dependent on the level of change that is to be put forward by the Commission. In order to support such a transition, we would suggest that at the very least: (a) a further consultation in respect of any proposed categorisation system should be afforded to industry stakeholders, (b) the Commission should engage with FMPs, investors and distributors in order to gather further feedback and concerns, (c) an appropriate lead-in time is absolutely required, (d) advance and timely issuances of RTS/Q&As clarifying concepts and minimum requirements/criteria is required, (e) guidance needs to be provided in relation to how any such transition process should operate (e.g., transitioning reporting requirements etc.), and (f) importantly, there needs to be consistent and transparent change management amongst EU regulators and authorities to avoid differences in interpretations (i.e., unified supervision understandings and standards).

**Question 4.1.10:** What should be the minimum criteria to be met in order for a financial product to fall under the different product categories? Could these minimum criteria consist of:

For product category A of question 4.1.4

	1	2	3	4	5	Don't know / No Opinion / NA
Taxonomy alignment	X					
Engagement strategies			X			
Exclusions			X			
Pre-defined, measurable, positive environmental, social or governance-related outcome					X	
Other					X	

(1= totally disagree, 2= mostly disagree, 3= partially disagree and partially agree, 4= mostly agree, 5= totally agree)

Please specify reply:

At the outset, it is important to distinguish between objective qualitative criteria (e.g., disclosure requirements) and quantitative criteria. Each plays an important role in the context of combating greenwashing and providing transparency to investors. However, we would suggest that there should initially be a focus on qualitative criteria covering the following elements: (a) product intention clearly being articulated in the investment objective and/or investment strategy/policy; (b) credible, rigorous and evidence-based key performance indicator (KPIs) being specified to measure the attainment of the product's intention; and (c) how stewardship forms part of attaining the product's intention being explained. Quantitative criteria based on concepts or elements that are (a) not used as an input to achieve the intention of the strategy/objective and/or (b) not compatible with the broad spectrum of ESG strategies/products currently available in the market, should not form part of any prescribed, quantitative minimum criteria. As regards our responses above:

- The EU Taxonomy is not yet fully functioning, and it is not required to be used outside of the EU (in most cases) and so, on balance, we do not believe that the EU Taxonomy is needed, as a minimum criterion for Category A.
- Engagement strategies and exclusions have been marked as 3, as we would expect products using engagement or stewardship (to amplify the desired impact) and exclusions to disclose this information. However, we do not support any quantitative criteria being imposed on this category (e.g., minimum number of engagements, baseline set of exclusions, etc.).
- By its nature, impact products should be expected to have pre-defined, measurable, positive environmental, social and/or governance-related outcomes. Further, we would suggest that products adhering to this category could seek to disclose alignment with an impact investing framework (e.g., Global Impact Investing Network (GIIN), Operating Principles for Impact Management (OPM), etc.).

For product category B of question 4.1.4

	1	2	3	4	5	Don't know / No Opinion / NA
Taxonomy alignment		X				
Engagement strategies			X			
Exclusions			X			
Pre-defined, measurable, positive environmental, social or governance-related outcome				X		
Other					X	

(1= totally disagree, 2= mostly disagree, 3= partially disagree and partially agree, 4= mostly agree, 5= totally agree)



Please specify reply:

Please refer to the viewpoints set out in response to Category A above, which broadly apply to Category B. We would also note that whilst Category B products should have specific targets or KPIs and/or use sustainability indicators, the ‘impact’ on real-world outcomes should carry less weight than in Category A. Again, we believe that it is imperative that the distinction between (a) striving to offer solutions to sustainability related problems (under Category A) and (b) aiming to adhere to a specific sustainability related theme, is made clear. For this category, there may be merit in considering whether the selection of investments could be based on certain relevant sustainability frameworks (e.g., EU Taxonomy (or other non-EU taxonomies), EU Green Bond Standards, SDGs, ICMA Social Bond Principles, etc.).

For product category C of question 4.1.4

	1	2	3	4	5	Don't know / No Opinion / NA
Taxonomy alignment	X					
Engagement strategies			X			
Exclusions					X	
Pre-defined, measurable, positive environmental, social or governance-related outcome			X			
Other	X					

(1= totally disagree, 2= mostly disagree, 3= partially disagree and partially agree, 4= mostly agree, 5= totally agree)

Please specify reply:

We do not believe that a level of EU Taxonomy alignment is necessary or an appropriate minimum criterion for a product falling within Category C. As regards pre-defined measurable, positive outcomes, this should not be necessary for a Category C product and in this regard, we would suggest (as alluded to in Question 4.1.11) that the percentage reduction in the investable universe is not the only way to measure the benefit or impact of an exclusions based strategy (e.g., there can be a benefit in disclosing how the product has performed as against a peer group/benchmark that does not apply the relevant exclusionary criteria). However, we believe that it is important that the benefits of or purpose of the exclusions/approach being taken with respect to Category C products are articulated and disclosed so that investors can understand the benefits and/or purpose in investing in a Category C product.



For product category D of question 4.1.4

	1	2	3	4	5	Don't know / No Opinion / NA
Taxonomy alignment	X					
Engagement strategies					X	
Exclusions			X			
Pre-defined, measurable, positive environmental, social or governance- related outcome					X	
Other					X	

(1= totally disagree, 2= mostly disagree, 3= partially disagree and partially agree, 4= mostly agree, 5= totally agree)

Please specify reply:

As regards our responses above:

- It is difficult to see why or how EU Taxonomy alignment should be a minimum criterion for Category D, particularly noting the 'DNSH' element of the Taxonomy-alignment assessment and how this is operable with 'transition' products.
- Whilst engagement or stewardship strategies are extremely important for Category D, appropriate consideration should be given to how to ensure that the criteria remain asset-class agnostic. For example, stewardship in fixed income is not as developed as that in equity investment and occurs less frequently.
- It is difficult to see how exclusions are necessary for Category D products.
- Pre-defined targets or outcomes are important for Category D products (akin to Category B). However, we do not agree (as alluded to in Question 4.1.11) that improvements should be demonstrated on a year-on-year basis as that could lead to 'short-term' focus. To avoid unintended consequences, thought should be given to whether 'improvements' should be demonstrated over time rather than year-on-year.

**Question 4.1.11:** Should criteria focus to any extent on the processes implemented by the product manufacturer to demonstrate how sustainability considerations can constrain investment choices (for instance, a minimum year-on-year improvement of chosen key performance indicators (KPIs), or a minimum exclusion rate of the investable universe)?

	1	2	3	4	5	Don't know / No Opinion / NA
Category A of question 4.1.4			X			
Category B of question 4.1.4			X			

Category C of question 4.1.4			X			
Category D of question 4.1.4			X			

(1= totally disagree, 2= mostly disagree, 3= partially disagree and partially agree, 4= mostly agree, 5= totally agree)

**Question 4.1.11 a):** If so, what process criteria would you deem most relevant to demonstrate the stringency of the strategy implemented?

Whilst having credible, rigorous, and evidence-based KPIs that measure a responsible/sustainable investment product's ongoing performance towards meeting a sustainability need/goal/target is important, this is dependent on the investment strategy employed by the product and/or the asset class(es) in which a product invests. We would suggest that these KPIs should be chosen by the FMP and not imposed on them. Further, products without any binding or measurable ESG objectives or intentions should not be permitted to make sustainability claims (noting our suggestion that Article 6 can and should remain the 'baseline' requirement in relation to disclosing sustainability-related information in pre-contractual documentation). As mentioned above, we do not believe that the percentage reduction in the investable universe is the only or optimal way to measure the benefit or impact of an exclusions-based strategy and there can be a benefit in disclosing how the product has performed as against a peer group/benchmark that does not apply the relevant exclusionary criteria (e.g., the Weighted Average Carbon Intensity (WACI) of the product as against the WACI of a comparable index). Furthermore, we do not agree that there should be a minimum year-on-year improvement as that could encourage a 'short-term' focus. We believe improvements should be demonstrated over time rather than year-on-year.

**If a categorisation system was established according to approach 2 of question 4.1.2**

**Question 4.1.12:** If a categorisation system was established based on existing Articles 8 and 9, are the following concepts of the SFDR fit for that purpose?

	1	2	3	4	5	Don't know / No Opinion / NA
The current concept of 'environmental and/or social characteristics'		X				
The current concept of 'sustainable investment'			X			
The current element of 'contribution to an environmental or social objective' of the sustainable investment concept			X			

The current element ‘do no significant harm’ of the sustainable investment concept, and its link with the entity level principal adverse impact indicators listed in tables 1, 2 and 3 of Annex I of the Delegated Regulation			X			
The current element of ‘investee companies’ good governance practices’ of the sustainable investment concept	X					

(1= not at all, 2= to a limited extent, 3= to some extent, 4= to a large extent, 5= to a very large extent)

**Question 4.1.12 a):** If you consider that the elements listed in question 4.1.12 are not fit for purpose, how would you further specify the different elements of the ‘sustainable investment’ concept, what should be the minimum required for each of them?

‘contribution to an environmental or social objective’, element of the sustainable investment concept	<p>Notwithstanding the challenges associated with data availability, it is difficult to provide for a uniform minimum set of criteria to assess a positive contribution to an environmental or social objective (across all asset classes).</p> <p>We are supportive of the subjective approach to assessing what is a ‘sustainable investment’, provided that the approach to making this assessment is adequately documented and disclosed. Further, ‘contribution’ will be inherently associated with certain elements of the proposed product categories in any event. Therefore, we do not believe that further minimum criteria in relation to what constitutes ‘contribution’ is necessary.</p> <p>However, should minimum criteria be set for what constitutes a positive contribution, any such criteria needs to cater for the different types of asset classes/industries to ensure market participants can have a similar understanding/consistent approach to determining what is a positive contribution.</p>
‘do no significant harm’, element of the sustainable investment concept	A number of industry participants are of the view that the PAI indicators are not fit for purpose in this regard and that the ‘DNSH’ element of the ‘sustainable investment’ definition was, at times, overly restrictive and has resulted in a disproportionate number of

	<p>investments being discounted from the investment universe of several financial products (e.g., transition assets). We are of the view that a qualitative approach (e.g., through engagement/stewardship or otherwise) in certain instances might also be useful when approaching this element of the sustainable investment concept.</p> <p>On balance, we do not support the addition of minimum criteria in relation to the ‘DNSH’ concept and we believe that this may need to be reviewed and/or re-calibrated if it is to be utilised as part of any proposed categorisation system. Another way to approach this ‘DNSH’ concept could be to impose a requirement to disclose if a financial product does have exposures to predetermined list of activities/sectors that investors would reasonably expect to be inconsistent with a sustainable product (e.g., top 3 exposures by reference to value).</p>
‘investee companies’ good governance practices’, element of the sustainable investment concept	<p>We are of the view that the good governance concept should not be a pre-requisite to adhere to a label. Governance is a combination of structures and behaviours and whilst FMPs and products can influence and drive positive change in this space, it should not act as an exclusionary criterion in all instances. A careful balance between systems, processes and people is the essential foundation for long-term company success and we believe that there is no single governance model that delivers the best long-term outcomes – rather, this is something that needs to be considered before making an investment and something that constantly needs to be improved upon whilst holding an investment. We would also note that the good governance requirement is not always a ‘fit for purpose’ concept for all asset classes (e.g., government debt, venture capital, real estate etc.).</p>

**Question 4.1.12 b):** Should the good governance concept be adapted to include investments in government bonds?

Yes	No	Don't know / No Opinion / NA
	X	

If yes, what should be the minimum criteria required for this element?

As above.

**Question 4.1.12 c):** Should the good governance concept be adapted to include investments in real estate investments?

Yes	No	Don't know / No Opinion / NA
	X	

If yes, what should be the minimum criteria required for this element?

As above.

**Question 4.1.13:** How would you further specify what promotion of 'environmental/social characteristics' means, what should be the minimum criteria required for such characteristics and what should be the trigger for a product to be considered as promoting those characteristics?

Whilst the Commission's July 2021 Q&A<sup>34</sup> has clarified what is meant by 'promoting', a difference of approach has been taken with respect to what constitutes an 'environmental and/or social characteristic' (e.g., a target, goal, or aspiration that the financial product is striving to achieve, which can be measured and monitored, which is distinct from what the financial product is investing in and/or how the financial product is seeking to meet the promoted characteristic(s)). This is one of the principal sources for the broad spectrum of financial products disclosing under Article 8 of SFDR. Regarding what the minimum criteria should be, this is dependent on what type of fund categories the Commission wishes to cater for within Article 8 (e.g., products that avoid or minimise adverse impact through exclusions, products that seek to outperform a benchmark or an investment universe on an ESG related indicator, products that target an ambition which can be measured and monitored etc.).

**Question 4.1.14:** Do you think that a minimum proportion of investments in taxonomy aligned activities shall be required as a criterion to:

	Yes	No	Don't know / No Opinion / NA
...fall under the potential new product category of Article 8?		X	

<sup>34</sup> [https://www.esma.europa.eu/sites/default/files/library/sfdr\\_ec\\_qa\\_1313978.pdf](https://www.esma.europa.eu/sites/default/files/library/sfdr_ec_qa_1313978.pdf)

...fall under the potential new product category of Article 9?		X	
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**Question 4.1.14 a):** If yes, what should be this minimum proportion for Article 8?

N/A

**Question 4.1.14 b):** If yes, what should be this minimum proportion for Article 9?

N/A

**Question 4.1.15:** Apart from the need to promote environmental/social characteristics and to invest in companies that follow good governance practices for Article 8 products and the need to have sustainable investments as an objective for Article 9 products, should any other criterion be considered for a product to fall under one of the categories?

As above.

## 4.2 GENERAL QUESTIONS ABOUT THE POTENTIAL ESTABLISHMENT OF SUSTAINABILITY PRODUCTS CATEGORIES

**Question 4.2.1:** In addition to these criteria, and to other possible cross-cutting/horizontal disclosure requirements on financial products, should there be some additional disclosure requirements when a product falls within a specific sustainability product category? This question presents clear links with question 3.2.3 in section 3.

1	2	3	4	5	Don't know / No Opinion / NA
			X		

(1= totally disagree, 2= mostly disagree, 3= partially disagree and partially agree, 4= mostly agree, 5= totally agree)

**Question 4.2.1 a):** Please see a list of examples of disclosures that could be required when a product falls within a specific sustainability product category. Should this information be required when a product falls within a specific sustainability product category, and/or should any other information be required about those products?

	1	2	3	4	5	Don't know / No Opinion / NA
Taxonomy-related disclosures		X				
Engagement strategies				X		
Exclusions				X		
Information about how the criteria required to fall within a specific sustainability product category have been met					X	
Other information					X	

(1= not at all, 2= to a limited extent, 3= to some extent, 4= to a large extent, 5= to a very large extent)

Please specify any other information:

We believe that there is merit in requiring products adhering to a label to specify credible, rigorous, and evidence-based KPIs that measure a responsible/sustainable investment product's ongoing performance towards meeting a specific sustainability need or target. Any other disclosure requirements should be designed in a way that they can be used for any sustainability product category, with a potential additional section on the investment strategy's specificity (for instance, for transition products, disclosure on the committed transition pathway). Disclosure of concepts or elements that are (a) not used as an input to achieve the intention of the strategy/objective and/or (b) not compatible with the broad spectrum of ESG strategies/products currently available in the market, should not form part of any disclosures that could be required when a product falls within a specific sustainability product category.

**Question 4.2.2:** If a product categorisation system was set up, what governance system should be created?

	1	2	3	4	5	Don't know / No Opinion / NA
Third-party verification of categories should be mandatory (i.e. assurance engagements to verify the alignment of candidate products with a sustainability product category and assurance engagements to monitor on-going compliance with the product category criteria)	X					
Market participants should be able to use this categorisation system based on a self-declaration by the product manufacturer supervised by national competent authorities				X		
Others						X

(1= totally disagree, 2= mostly disagree, 3= partially disagree and partially agree, 4= mostly agree, 5= totally agree)

Please explain your answer to question 4.2.2:

We do not support the introduction of mandatory third-party verification as:

- a) these verifications or assessments should generally be imposed at source. In this case, the disclosures being made by investee companies;
- b) an FMP's internal product governance and compliance controls should be sufficiently robust to ensure the appropriate categorisation and labelling. Further, FMPs are already generally required to conduct oversight of the activities performed by delegates or outsourced service providers and FMPs are best placed to continue to do so;
- c) a mandatory requirement would not add a proportionate level of value/comfort, while at the same time, likely significantly increasing costs for the financial product;
- d) NCAs approval of new funds and updates to existing funds should already provide some level of confidence regarding FMPs use of categories; and
- e) if a third-party verification system was introduced:
  - it is not clear how often this verification would need to be performed;
  - there may be disagreements as to whether certain criteria were met as some of it may be subjective based on the different sources of data being used and it is not clear how these issues would be resolved; and
  - the availability of any such third-party verification systems would need to be fully assessed to know that such systems are available and easily assessable by FMPs.



It is also our expectation that if an FMP chooses to use a category that it keeps a record as to the basis on which the category is being used and such a record should be available to the NCA upon request. In line with existing governance arrangements, FMPs must review the category chosen at least annually and ensure that a record of this review is kept.

**Question 4.2.3:** If a categorisation system was established, to what extent do you agree with the following statement? “When determining the criteria for product categories it should be taken into account...”:

	1	2	3	4	5	Don't know / No Opinion / NA
Whether the product is a wrapper offering choices between underlying investment options like a Multi- Option Product					X	
Whether the underlying investments are outside the EU			X			
Whether the underlying investments are in an emerging economy			X			
Whether the underlying investments are in SMEs				X		
Whether the underlying investments are in certain economic activities				X		
Other considerations as regards the type of product or underlying investments					X	

(1= totally disagree, 2= mostly disagree, 3= partially disagree and partially agree, 4= mostly agree, 5= totally agree)

Please explain your reply to question 4.2.3:

This is dependent on the asset class(es) in which the financial product invests and/or the investment strategy employed by the financial product. For example:

- consideration should be given as to how a product employing a Fund of Fund (FoF) investment strategy can and will meet a particular category and/or whether minimum criteria should be imposed for a FoF to adhere to a specific label (e.g., that a certain percentage of the investments should be adhering to the same label etc.);
- it is important to give weight to the fact that EU domiciled financial products do not exclusively invest in EU based assets/companies and this needs to be taken into account when considering the minimum criteria that might be set for certain product categories (e.g., investments outside the EU may not report on the EU Taxonomy or may not use ESRS and investment in developing countries may not meet good governance requirement etc.); and
- financial products investing in certain asset classes are unable to comply with certain minimum criteria (e.g., real estate, or SMEs or private companies (within a private

equity structure) may not have the ability to receive all of the required information noting that these investee companies do not have the same governance or reporting infrastructure as large cap stocks).

### 4.3 CONSEQUENCES OF THE ESTABLISHMENT OF A SUSTAINABILITY PRODUCTS CATEGORISATION SYSTEM

As highlighted in Section 2, any potential changes to the current disclosure regime and the creation of a categorisation system would need to take into account the interactions between the SFDR and other sustainable finance legislation. The following questions address these interactions for different legal acts, in such a scenario of regulatory changes in the arena of financial product disclosures and categorisation.

**Question 4.3.1:** The objective of the PRIIPs KID is to provide short and simple information to retail investors. Do you think that if a product categorization system was established under the SFDR, the category that a particular product falls in should be included in the PRIIPS KID?

Yes	No	Don't know / No Opinion / NA
X		

Please explain your answer to question 4.3.1:

It would be important to the product category be included in the PRIIPS KID as this forms part of the relevant information an investor may wish, or should need, to know before investing. However, any updates to PRIIPs KIDs to reflect product categorisation should only be made once a full review of the PRIIPs Level 1 requirements has been completed.

**Question 4.3.2:** If new ESG Benchmarks were developed at EU level (in addition to the existing Paris-aligned benchmarks (PAB) and climate transition benchmarks (CTB)), how should their criteria interact with a new product categorisation system?

	1	2	3	4	5	Don't know / No Opinion / NA
The criteria set for the ESG benchmarks and the criteria defined for sustainability product categories should be closely aligned				X		
Other					X	

(1= totally disagree, 2= mostly disagree, 3= partially disagree and partially agree, 4= mostly agree, 5= totally agree)

If you chose other, please specify how should these criteria interact:

It is important to have transparency in relation to the way the index is managed and how the index attains its ESG objective. For instance, for a transition benchmark, it is important that the achievement of a sustainability goal is attained through an actual transformation of the issuer and not mainly through divestment which is not directly meeting the goal of 'transitioning'.

**Question 4.3.3:** Do you think that products passively tracking a PAB or a CTB should automatically be deemed to satisfy the criteria of a future sustainability product category?

Yes	No	Don't know / No Opinion / NA
X		

**Question 4.3.4:** To what extent do you agree that, if a categorisation system is established, sustainability preferences under MiFID 2/IDD should refer to those possible sustainability product categories?

1	2	3	4	5	Don't know / No Opinion / NA
		X			

(1= totally disagree, 2= mostly disagree, 3= partially disagree and partially agree, 4= mostly agree, 5= totally agree)

We have indicated 3 because whilst we do believe the product categorisations should form part of the sustainability preferences under MiFID 2/IDD, we do not believe that we should limit the sustainability preferences under MiFID 2/IDD to simply the product categorisations. One way to do this is to change 'sustainability preferences' to 'ESG-related needs' because not all consumers want to achieve sustainability-related outcomes. Furthermore, there may be merit in linking 'ESG-related needs' with the ESG strategies/tools employed by products (rather than directly corresponding to product categories). For example, a consumer that wants to ensure that its investment in the product does not harm the environment and/or society and/or avoids exposure to certain asset classes should be offered products that employ exclusionary techniques regardless of category. In this situation, a consumer could be offered products within Categories A, B, C, and/or D provided they employ exclusions. This should then lead to further discussion between the financial adviser and client regarding the differences between these categories and return trade-offs by choosing one category over the other. We believe that there is merit in reframing discussions using a broader concept like ESG-related needs which can be addressed through ESG strategies/tools (e.g., engagement/stewardship, exclusions etc.), as this could lead to more informed and productive discussions between consumers and their advisers and importantly, this will facilitate product categories to be mutually exclusive.

#### 4.4 MARKETING COMMUNICATIONS AND PRODUCT NAMES

Market participants are increasingly informing their clients about sustainability, both in the context of the SFDR and voluntarily in marketing communications and names. Potentially, any expression related to sustainability provided by market participants to describe and promote the entity or its products and services could mislead clients and other stakeholders if it does not appropriately consider the reasonable expectations.

The SFDR does address the issue of marketing communications in Article 13, prohibiting contradictions between such marketing communications and disclosures under the regulation. Article 13 also includes an empowerment for the European Supervisory Authorities to draft implementing technical standards on how marketing communication should be presented. This empowerment has not been used up to now.

**Question 4.4.1:** Do you agree that the SFDR is the appropriate legal instrument to deal with the accuracy and fairness of marketing communications and the use of sustainability related names for financial products?

Yes	No	Don't know / No Opinion / NA
	X	

**Question 4.4.2:** To what extent do you agree with the following statements?

	1	2	3	4	5	Don't know / No Opinion / NA
The introduction of product categories should be accompanied by specific rules on how market participants must label and communicate on their products			X			
The use of terms such as 'sustainable', 'ESG', 'SDG', 'green', 'responsible', 'net zero' should be prohibited for products that do not fall under at least one of the product categories defined above, as appropriate.			X			
Certain terms should be linked to a specific product category and should be reserved for the respective category.			X			

(1= totally disagree, 2= mostly disagree, 3= partially disagree and partially agree, 4= mostly agree, 5= totally agree)

**Question 4.4.3:** Would naming and marketing communication rules be sufficient to avoid misleading communications from products that do not fall under a product sustainability category?

1	2	3	4	5	Don't know / No Opinion / NA
		X			

(1= totally disagree, 2= mostly disagree, 3= partially disagree and partially agree, 4= mostly agree, 5= totally agree)

Please explain your replies to questions 4.4.1, 4.4.2 and 4.4.3:

#### Question 4.4.1

Sectoral legislation generally requires marketing materials to be clear, fair and not misleading and so whilst SFDR and/or a categorisation system can determine the level and type of disclosure which may be required in pre-contractual documentation, extending the remit of SFDR and/or a categorisation system to provide for prescriptive disclosure requirements in respect of all marketing materials may not be appropriate and/or feasible.

#### Question 4.4.2 and 4.4.3

We have answered partially disagree and partially agree because one is dependent on a variety of factors in order to support (or otherwise) these statements or concepts.

For example, it will depend on how the naming and marketing communication rules are to be calibrated. We believe that a very strict prohibition on product names and marketing materials could be disproportionate to the harm that the Commission is seeking to avoid. While there is merit in prohibiting specific terms from, and/or reserving specific terms for, specific categories, it must be done in an appropriate and calibrated manner to avoid it being overly complex or onerous. This should also be future proofed as much as possible as new terms enter the lexicon and new types of products are developed.

If a strict prohibition on the use of sustainability-related terms in marketing materials is taken, this may have unintended consequences (e.g., limiting consumer access to decision-useful information) and it will be extremely difficult to implement in practice. For example, 'responsible' is a term that has been frequently associated with the integration of sustainability risks within the investment decision making process and so to impose a prohibition on the use of this term for products which are disclosing under Article 6 but are not voluntarily adopting a label could cause difficulty. Further ESG-related terms and concepts need to be used to articulate how an FMP considers ESG risks, thus there is a risk that any prohibition on using such terms will lead to firms being less transparent regarding their consideration of both ESG risks and opportunities, outside of the mandated disclosures. This could potentially lead to 'green bleaching' which may (a) not help consumers understand how products consider ESG risks and/or opportunities, and/or (b) impact the amount of capital that is being allocated to ESG-related/motivated investments. In this regard, the focus should be on ensuring that the communication of these sustainability-related terms is always proportionate to the role that ESG plays in an investment strategy and that the existing 'fair, clear and not misleading' rule under sectoral legislation should already be sufficient to address this. We would also refer the

Commission to the FCA's revised approach<sup>35</sup> to the SDR marketing rules which have become less restrictive to allow firms use sustainability terms in their marketing materials, subject to specified conditions being met.

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<sup>35</sup> <https://www.fca.org.uk/publication/policy/ps23-16.pdf>