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

Financial markets
Asset management

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 prejudge 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.

You are invited to reply **by 15 December 2023** at the latest to the **online questionnaire** available on the following webpage:
https://finance.ec.europa.eu/regulation-and-supervision/consultations-0/public-consultation-implementation-sustainable-finance-disclosures-regulation-sfdr_en

Please note that in order to ensure a fair and transparent consultation process **only responses received through the online questionnaire will be taken into account and included in the report summarising the responses**.

This consultation follows the normal rules of the European Commission for public consultations. Responses will be published in accordance with the privacy options respondents will have opted for in the online questionnaire.

Responses authorised for publication will be published on the following webpage: https://finance.ec.europa.eu/regulation-and-supervision/consultations-0/public-consultation-implementation-sustainable-finance-disclosures-regulation-sfdr_en

Any question on this consultation or issue encountered with the online questionnaire can be raised via email at fisma-sfdr@ec.europa.eu.

INTRODUCTION

The Sustainable Finance Disclosures Regulation (SFDR) started applying in March 2021 and requires financial market participants and financial advisers to disclose at entity and product levels 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 sustainable financial products making sustainability claims.

This public 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***

The public consultation covers 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.

The Commission is also interested in exploring possible options to improve the framework and address any potential shortcomings. You can therefore find a targeted consultation that in addition to topics 1 and 2 mentioned above, includes questions about potential changes to the disclosure requirements of the SFDR and the potential establishment of a categorisation system for financial products.

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

(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 1.2: 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)[1]:

	1	2	3	4	5	Don't know
Increasing transparency towards end investors with regard to the integration of sustainability risks[2]						
Increasing transparency towards end investors with regard to the consideration of adverse sustainability impacts						
Strengthening protection of end investors and making it easier for them to benefit from and compare among						

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

[2] 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.

a wide range of financial products and services, including those with sustainability claims						
Channelling 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)						
Ensuring that ESG considerations are integrated into the investment and advisory process in a consistent manner across the different financial services sectors						
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						

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

<u>Question 1.3</u>: 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

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

<u>Question 1.4</u>: Do you agree with the following statement?

	1	2	3	4	5	Don't know
The costs of disclosure under the SFDR framework are proportionate to the benefits it generates (informing end investors, channelling capital towards sustainable investments)						

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

<u>Question 1.5</u>: To what extent do you agree with the following statements?

	1	2	3	4	5	Don't know
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						
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.						
The SFDR has had indirect positive effects by increasing pressure on investee companies to act in a more sustainable manner.						

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

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

<u>Question 1.6</u>: To what extent do you agree or disagree with the following statements?

	1	2	3	4	5	Don't know
Some disclosures required by the SFDR are not sufficiently useful to investors						
Some legal requirements and concepts in the SFDR, such as 'sustainable investment', are not sufficiently clear						
The SFDR is not used as a disclosure framework as intended, but as a labelling and marketing tool (in particular Articles 8 and 9)						
Data gaps make it challenging for market participants to disclose fully in line with the legal requirements under the SFDR						
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						
There are other deficiencies with the SFDR rules (please specify in text box following question 1.7)						

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

<u>Question 1.7</u>: To what extent do you agree or disagree with the following statements?

	1	2	3	4	5	Don't know
The issues raised in question 1.6 create legal uncertainty for financial market participants and financial advisers						
The issues raised in question 1.6 create reputational risks for financial market participants and financial advisers						
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						
The issues raised in question 1.6 create a risk of greenwashing and mis-selling						
The issues raised in question 1.6 prevent capital from being allocated to sustainable investments as effectively as it could be						
The current framework does not effectively capture investments in transition assets						
The current framework does not effectively support a robust enough use of shareholder engagement as a means to support the transition						
Others						

(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 1.5, 1.6 and 1.7:

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[3] 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.

In this context:

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
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).						
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.						

[3] Commission Delegated Regulation (EU) 2022/1288 of 6 April 2022

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.						

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

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

(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
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.						
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						
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.						
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.						

(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:

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

1.2. The cost of disclosures under the SFDR today

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.

<u>Question 1.10</u>: 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
Internal costs			
Thereof personnel costs			
Thereof IT costs			
External costs			
Thereof data providers			
Thereof advisory services			
Total costs of SFDR disclosure requirements			

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
Estimated percentage of costs			

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

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 - 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
Estimated percentage					

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

<u>Question 1.12.1</u>: If so, do you struggle to find information about the following elements?

	1	2	3	4	5	Don’t know
The entity level principal adverse impacts						
The proportion of taxonomy-aligned investments (product level)						
The contribution to an environmental or social objective, element of the definition of ‘sustainable investment’ (product level)						
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)						
The good governance practices of investee companies (product level)						
Other						

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

<u>Question 1.12.2</u>: Is the SFDR sufficiently flexible to allow for the use of estimates?

1	2	3	4	5	Don’t know

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

<u>Question 1.12.3</u>: Is it clear what kind of estimates are allowed by the SFDR?

1	2	3	4	5	Don’t know

(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				
Estimates from data providers, based on data coming from other sources				
In-house estimates				
Internal ESG score models				
External ESG score models				
Other				

(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

(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 1.13: 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

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

<u>Question 1.13.1</u>: 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

<u>Question 1.13.2</u>: 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
SFDR requirements						
Retail investor interest						
Professional investor interest						
Market competitiveness						
Other factors						

(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 prejudge 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

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

(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.[4] The CSRD sets out sustainability reporting requirements mainly for all large and all listed undertakings with limited liability (except listed micro-enterprises),[5] 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

[4] 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').

[5] 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).

the SFDR, they will rely to a significant extent, on the information reported according to the CSRD and its European Sustainability Reporting Standards (ESRS)[6].

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

	1	2	3	4	5	Don't know
The SFDR disclosures are consistent with the CSRD requirements, in particular with the European Sustainability Reporting Standards						
There is room to streamline the entity level disclosure requirements of the SFDR and the CSRD						

(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

(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
Article 3, entity level disclosures about the integration of sustainability risks policies in investment or insurance advice						

[6] Provided positive scrutiny of co-legislators of the ESRS delegated act.

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

(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

Question 2.6.1: If so, how?

PRIIPs requires market participants to provide retail investors with key information documents (KIDs). As part of the retail investment strategy[7], 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:

[7] https://finance.ec.europa.eu/publications/retail-investment-strategy_en