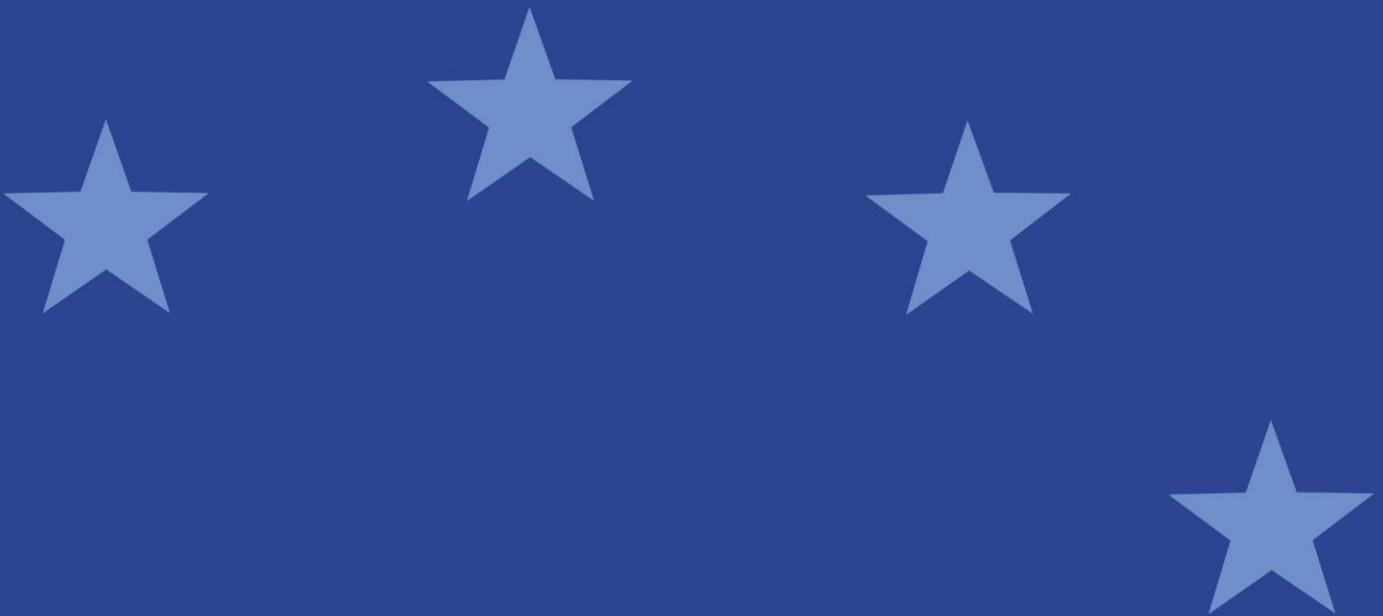


Response form for the Joint Consultation Paper concerning Taxonomy-related sustainability disclo- sures





Responding to this paper

The European Supervisory Authorities (ESAs) welcome comments on this consultation paper setting out the proposed Regulatory Technical Standards (hereinafter “RTS”) on content and presentation of disclosures pursuant to Article 8(4), 9(6) and 11(5) of Regulation (EU) 2019/2088 (hereinafter Sustainable Finance Disclosure Regulation “SFDR”) and in particular on the specific questions summarised in Section 3 of the consultation paper under “Questions to stakeholders”.

Comments are most helpful if they:

- contain a clear rationale; and
- describe any alternatives the ESAs should consider.

When describing alternative approaches the ESAs encourage stakeholders to consider how the approach would achieve the aims of SFDR.

Instructions

In order to facilitate analysis of responses to the Consultation Paper, respondents are requested to follow the below steps when preparing and submitting their response:

- Insert your responses to the questions in the Consultation Paper in the present response form.
- Please do not remove tags of the type <ESA_QUESTION_ESG_1>. Your response to each question has to be framed by the two tags corresponding to the question.
- If you do not wish to respond to a given question, please do not delete it but simply leave the text “TYPE YOUR TEXT HERE” between the tags.
- When you have drafted your response, name your response form according to the following convention: ESA_ESG_nameofrespondent_RESPONSEFORM. For example, for a respondent named ABCD, the response form would be entitled ESA_ESG_ABCD_RESPONSEFORM.
- The consultation paper is available on the websites of the three ESAs and the Joint Committee. Comments on this consultation paper can be sent using the response form, via the [ESMA website](#) under the heading ‘Your input - Consultations’ by 12 May 2021.
- Contributions not provided in the template for comments, or after the deadline will not be processed.

Publication of responses

All contributions received will be published following the close of the consultation, unless you request otherwise in the respective field in the template for comments. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure. A confidential response may be requested from us in accordance with ESAs rules on public access to documents. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by ESAs Board of Appeal and the European Ombudsman.

Data protection

The protection of individuals with regard to the processing of personal data by the ESAs is based on Regulation (EU) 2018/1725¹. Further information on data protection can be found under the [Legal notice](#) section of the EBA website and under the [Legal notice](#) section of the EIOPA website and under the [Legal notice](#) section of the ESMA website.

¹ Regulation (EU) 2018/1725 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC, OJ L 295, 21.11.2018, p. 39.

General information about respondent

Name of the company / organisation	European Association of Paritarian Institutions (AEIP)
Activity	Insurance and Pension
Are you representing an association?	<input checked="" type="checkbox"/>
Country/Region	Europe

Introduction

Please make your introductory comments below, if any:

<ESA_COMMENT_ESG_1>

We welcome the opportunity to comment on these draft measures. We also applaud the effort of the ESAs to clarify the Level 1 provisions of both the SFDR and the Taxonomy Regulation through the letter of 7 January to the European Commission and the webinar of 29 April. Nevertheless, the entire framework remains difficult to understand and implement, with unclear definitions and overlap.

Moreover, both the SFDR and the Taxonomy apply to a wide range of financial market participants (FMP) and products. As a result, the same information has to be read by very different types of audiences. While we are a strong supporter of the Taxonomy, we continue to believe that this harmonised approach to pre-contractual information is flawed.

Pension funds and provident institutions (occupational pension insurers) are both users and providers of information under the SFDR and Taxonomy Regulation (TR). To give an example from the members of AEIP at the national-level, a great number of Dutch pension funds or their investment managers employ dedicated responsible investment teams that will greatly value detailed, comprehensive and comparable information. However, many pension funds and provident institutions have mandatory participation established by collective agreements –for example in the Netherlands, in Belgium, in Germany and in France– so their automatically enrolled members have a completely different level of financial literacy, time and interest (as they can be managers in the automotive industry or employees in the construction sector as well) .

We feel that the combined information requirements of the SFDR and TR will lead to an overflow of information for pension funds participants, life insurance beneficiaries and retail clients. We recommend a balanced approach to information requirements in order to find a compromise between the information needs of different users.

As such we recommend:

- Removing Article 16a (1) a (ii): we would caution against these ‘negative’ explanations, because they require an understanding of the difference between ‘promotion’ and ‘sustainable investments’.
- Removing or reducing (or putting at the bottom) of the entire sector on the classification of the financial product as being Article 8/9 SFDR, making sustainable investments according to Art. 2(17) SFDR, and doing so in environmental objectives that may or may not fall within the Taxonomy. This type of information is meaningless for pension fund participants, or retail clients more generally.<ESA_COMMENT_ESG_1>

Q1 : Do you have any views regarding the ESAs' proposed approach to amend the existing SFDR RTS instead of drafting a new set of draft RTS?

<ESA_QUESTION_ESG_1>

We believe that it makes sense to have one Level 2 measure that covers both SFDR and Taxonomy disclosure requirements for financial market participants offering Article 8 or 9 products. We therefore support the approach chosen.

At the same time, the entire SFDR and Taxonomy implementation process has been marred by inadequate implementation timelines, as well as lack of clarity about definitions and rules. Amending the SFDR RTS during the implementation process is creating a moving target for the combined set of disclosure rules. Therefore, both European and national supervisors should take into account these implementation challenges, particularly in the immediate post-implementation phase in 2022. The publication of the non-binding consolidated version does help, if only a little bit.

Moreover, we believe that more clarity is required on the terminology of 'sustainable investments'. Recital 19 of the Taxonomy Regulation suggests that sustainable investments include taxonomy-aligned investments. However, the difference between 'sustainable investments' and 'investments with other E/S characteristics' as in the templates is not clear.<ESA_QUESTION_ESG_1>

Q2 : Do you have any views on the KPI for the disclosure of the extent to which investments are aligned with the taxonomy, which is based on the share of the taxonomy-aligned turnover, capital expenditure or operational expenditure of all underlying non-financial investee companies? Do you agree with that the same approach should apply to all investments made by a given financial product?

<ESA_QUESTION_ESG_2>

We see revenue and capital expenditures (CAPEX) alignment as the most important metrics. It could be envisaged that CAPEX plays a bigger role in the early stages of the Taxonomy, as companies make investments towards Paris-alignment, while later on revenue becomes more relevant, when company products and services comply with the screening criteria. For example, some Dutch funds currently map their investments against the SDGs and use revenue to do so.

We agree that same approach should be taken for all investments in the product as the taxonomy-alignment figure would be meaningless if revenue, CAPEX and OPEX metrics would be combined into one calculation.

Having FMP report different metrics can be a challenge for pension funds as end-users. Ideally, pension funds would combine the reported KPIs of the financial products they invest in, which are typically multiple investment mandates or investment funds. If asset managers choose different metrics, it will become impossible to combine these disclosures.

EBA has suggested that banks publish their green asset ratio (GAR) as the main taxonomy KPI. However, including GAR into the KPI-calculation of an investment fund is questionable as this would create a mixture of revenue-aligned figures for non-financials and asset-aligned figures for financials. <ESA_QUESTION_ESG_2>

Q3 : Do you have any views on the benefits and drawbacks of including specifically operational expenditure of underlying non-financial investee companies as one of the possible ways to calculate the KPI referred to in question 2?

<ESA_QUESTION_ESG_3>

We see limited value in operational expenses (OPEX) alignment disclosures and regard revenue and CAPEX disclosures as sufficient (we assume that in this consultation 'operational expenditures' refers to 'operating expenses' as described in the Technical Report of the Technical Expert Group from March 2020).

A drawback of OPEX is that there is no definition of OPEX in IFRS or US GAAP. This means that there may be differences between investee companies with respect to the cost categories that are included in their reported OPEX figure. In addition, different depreciation and amortization policies between investee companies could make OPEX figures less comparable.

An advantage of reporting OPEX would be that investors get a clearer picture of the future taxonomy alignment of a company as it may be incurring costs that do not yet show up in revenue figures. However, we believe that CAPEX sufficiently reflects the plans of companies in this respect. <ESA_QUESTION_ESG_3>

Q4: The proposed KPI includes equity and debt instruments issued by financial and non-financial undertakings and real estate assets, do you agree that this could also be extended to derivatives such as contracts for differences?

<ESA_QUESTION_ESG_4>

Derivatives should generally be excluded from the KPI calculation as it increases complexity of calculation and could therefore be difficult to interpret. We have no strong opinion on making an exception for contract for differences (CFDs), but understand that they are used in some jurisdictions as an alternative for straight equity positions.

Financial market participants (FMPs) could be offered the option to provide comments on the use of derivatives in the template. For example, FMPs could explain how the use of derivatives could alter the Taxonomy alignment of the product if the impact of derivatives were taken into account into the KPI calculation.

Pension funds and provident institutions only use derivatives for hedging purposes, mainly interest and to a lesser degree currency.

<ESA_QUESTION_ESG_4>

Q5: Is the use of "equities" and "debt instruments" sufficiently clear to capture relevant instruments issued by investee companies? If not, how could that be clarified? Are any specific valuation criteria necessary to ensure that the disclosures are comparable?

<ESA_QUESTION_ESG_5>

We believe that their use is not sufficiently clear hence we suggest using the ESMA terminology in its Article 8 Taxonomy Regulation draft advice for equity investments (ESMA30-379-325). ESMA uses the term 'public and private equity', which is a clearer term than 'equities' as the latter may suggest that only listed equities are in scope of the KPI calculation, which is not the case. The terminology 'debt instruments' is sufficiently clear, in our view. There should also be clarification with regard to mezzanine structures, so any further decision should be based on the prevailing risk factor: either equity or debt.

<ESA_QUESTION_ESG_5>

Q6: Do you have any views about including all investments, including sovereign bonds and other assets that cannot be assessed for taxonomy-alignment, of the financial product in the denominator for the KPI?

<ESA_QUESTION_ESG_6>

There are advantages to both including and excluding all assets in the denominator.

Allowing the exclusion of non-eligible assets could make financial products less comparable for end-investors if it is not crystal clear what qualifies as 'assets that cannot be assessed for taxonomy-compliance'. It is clear that some types of assets cannot be assessed at all, but for some other this may depend on whether data is available or not. If FMPs are allowed to make judgement calls on what to include in the denominator, this will reduce the comparability of the Taxonomy disclosure.

On the other hand, excluding assets that – for the moment – cannot contribute to the Taxonomy's environmental objects can help to shed more light into the level of ambition in terms of responsible investment of financial products. For example, a 'grey' pension funds with an older population of participants will have a much higher allocation towards government bonds than a 'green' funds with a young population. If the funds use the same investment strategy for investment in companies, the green fund will still have a higher Taxonomy-alignment and therefore may seem more ambitious.

It could be an option to include all assets in the denominator, but allow FMPs to report in additional also a metric with only assets in the denominator that can be assessed. In that regard, we would propose the inclusion of sovereign bonds with a more pragmatic approach. At the same time, it could be useful to set out a standard quota for the inclusion of Developed and Emerging Market bonds (i.e. 30% / 20%). Notably, it should be avoided that an asset is included in the nominator but excluded in the denominator.

<ESA_QUESTION_ESG_6>

Q7 : Do you have any views on the statement of taxonomy compliance of the activities the financial product invests in and whether those statements should be subject to assessment by external or third parties?

<ESA_QUESTION_ESG_7>

We are strong advocates of ensuring that companies report reliable data on non-financial issues. Data that cannot be obtained from companies directly will be provided by data providers. The quality of Taxonomy reporting will rely for the largest extent on the quality of data provided by these organisations. Supervision, and potentially assurance or validation, should ensure this.

National competent authorities should be responsible for supervising compliance of FMPs with the Taxonomy Regulation. We do not recommend requiring external assurance by third parties, as this would not entail the assurance of the underlying data. As a result, we feel that such a requirement would lead to additional costs for pension funds, without much added benefit. Moreover, such a requirement is not mentioned in the Level 1 of the TR and should not be introduced in a Level 2 measure.

<ESA_QUESTION_ESG_7>

Q8 : Do you have any views on the proposed periodic disclosures which mirror the proposals for pre-contractual amendments?

<ESA_QUESTION_ESG_8>

We welcome the 'mirroring' of the pre-contractual and periodic reporting templates as it enables users/end investors to more easily compare ex-ante and ex-post reporting of a financial product. <ESA_QUESTION_ESG_8>

Q9 : Do you have any views on the amended pre-contractual and periodic templates?

<ESA_QUESTION_ESG_9>

In general, we strongly doubt whether the entire package of information required by the Level 2 measures will help participants understand the sustainability aspects of their pension savings. The information points that are required are legalistic and very technical. IORPs and provident institutions must publish annual information in their annual reports so we have our doubts that a template would be useful in this context.

In addition, Member States should have a certain leeway with respect to templates, in order to consider particular features in national systems.

The difference between Article 8 and 9 products is not clearly defined and currently we are still waiting for more clarity of the European Commission on this matter.

We believe that more clarity is required on the terminology of 'sustainable investments'. Recital 19 of the Taxonomy Regulation suggests that sustainable investments include taxonomy-aligned investments. However, the difference between 'sustainable investments' and 'investments with other E/S characteristics' as in the templates is not clear (see also question 1) <ESA_QUESTION_ESG_9>

Q10 : The draft RTS propose unified pre-contractual and periodic templates applicable to all Article 8 and 9 SFDR products (including Article 5 and 6 TR products which are a sub-set of Article 8 and 9 SFDR products). Do you believe it would be preferable to have separate pre-contractual and periodic templates for Article 5-6 TR products, instead of using the same template for all Article 8-9 SFDR products?

<ESA_QUESTION_ESG_10>

For the sake of simplicity and comparability, it would not be useful to have separate pre-contractual and periodic templates., SFDR makes a distinction between Article 8, Article 9 products and products that do not consider sustainability risks relevant or do not consider principal adverse impacts. So adding additional product categories or more templates would be confusing to pension participants or end investors while not providing additional insights. It would be sufficient to clearly articulate the investment objective (Article 9) or the ESG characteristics that are promoted (Article 8) by the product.

Generally, we believe that the templates and SFDR product information to be of limited value for automatically enrolled participants, as the information is too technical to understand while adding more complexity. <ESA_QUESTION_ESG_10>

Q11 : The draft RTS propose in the amended templates to identify whether products making sustainable investments do so according to the EU taxonomy. While this is done to clearly indicate whether Article 5 and 6 TR products (that make sustainable investments with environmental objectives) use the taxonomy, arguably this would have the effect of requiring Article 8 and 9 SFDR products making sustainable investments with social objectives to indicate that too. Do you agree with this proposal?

<ESA_QUESTION_ESG_11>

A majority of Dutch and Belgian pension funds classify as SDFR Article 8 products, while none classify as Article 9. We are currently not sure which degree of pension funds and provident institutions would consider that they make environmental 'sustainable investments', which would trigger the use of the Taxonomy.

We do note that the proposal conflicts with Article 5 of the Taxonomy Regulation, which only requires Taxonomy disclosures for products that contribute to an environmental objective. It therefore seems to put an additional burden on pension funds and provident institutions that only focus on social issues with their sustainable investments. Given the social partner governance model of occupational paritarian pension funds, a great number of pension funds focuses on social issues.

<ESA_QUESTION_ESG_11>

Q12 : Do you have any views regarding the preliminary impact assessments? Can you provide more granular examples of costs associated with the policy options?



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<ESA_QUESTION_ESG_12>
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