

Response to the ESAs consultation on EU taxonomy-related sustainability product-level disclosures

12 May 2021

Finance Watch responded to the ESAs [consultation](#) on the taxonomy-related sustainability disclosures pursuant to Article 8(4), 9(6) and 11(5) of Regulation (EU) 2019/2088 (known as SFDR).

These Articles, introduced in SFRD through the Article 25 of the EU Taxonomy Regulation, empower the European Supervisory Authorities to develop additional disclosure obligations for products making use of the environmental taxonomy, namely so-called Art. 9 (“dark green”) and Art. 8 (“light green”) products as defined under SFDR. The disclosure requirements, added through the EU Taxonomy, refer to the information that needs to be published according to Articles 5 and 6 of the Taxonomy Regulation. Hence, a frequent reference in the paper to Art. 5 and Art. 6 fund-level taxonomy-related disclosures.

KEY MESSAGES

- Finance Watch favours the creation of a **“single rulebook” for sustainability disclosures** with the aim to reduce the complexity, duplication, potential inconsistencies or overlaps. A coherent approach is of great importance given that the EU Taxonomy Regulation (TR) and the regulation on sustainability-related disclosure in the financial services sector (SFDR) are closely intertwined. Following the same logic, we support the proposal for using the same, unified template for Art. 5 and 6 TR disclosures as for Art. 8 and 9 SFDR product pre-contractual and periodic disclosures.

- **Funds’ taxonomy-alignment ratio:** we strongly believe that **giving flexibility to a financial market participant (FMP) to choose between three metrics** (the taxonomy-aligned turnover, CAPEX or OPEX) in case of non-financial companies when calculating fund’s taxonomy-alignment ratio, **could result in major greenwashing and insufficient comparability** across funds for the end-investors.

Instead, we suggest that for each non-financial company within a fund, an FMP calculates a **weighted average ratio composed of the taxonomy-aligned turnover, CAPEX and OPEX**. The respective weights should reflect the relative proportion of turnover, CAPEX and OPEX.

- **DNSH criteria:** we are calling against **exempting EU taxonomy-compliant investments from screening against the “Do No Significant Harm” (DNSH) criteria in SFDR** for the following reasons:
 - DNSH criteria in TR are assessed at economic activity-level while DNSH criteria in SFDR are assessed at company-level.

- The only DNSH criteria in TR developed so far are for climate change adaptation and climate change mitigation objectives, with the on-going work for the remaining four environmental objectives.
- DNSH criteria in TR for climate change adaptation and climate change mitigation do not cover all sectors.
- **Treatment of derivatives:** derivative transactions should be assessed by their nature:
 - Their **gross positions can be included** in the fund's taxonomy-alignment ratio when they are used for **hedging** purposes of **investments in taxonomy-aligned economic activities**.
 - **Short exposures** to taxonomy-aligned investments should be **netted**.
 - **Derivatives that meet neither of the above two conditions** (in other words derivatives used with the principal objective of gaining exposure to the fluctuations of an underlying asset price), should be **excluded from the numerator** of the fund's taxonomy-alignment ratio. However, they should be included in the ratio's denominator covering all investments.

The ESAs or the Platform on Sustainable Finance should develop further specifications based on the above-mentioned principles to prevent any potential abuses.

- We call for a **mandatory external verification / assurance of the taxonomy alignment** disclosed by investee companies in line with Art. 8 TR as well as the taxonomy alignment disclosed by FMPs in line with Art. 5 and 6 TR. This is essential to avoid greenwashing and provide certainty and reliability of information to end investors. We also caution against a box-ticking approach with regards to assurance of the taxonomy-alignment statement. Verification of the substance, including the ratios, is of great importance.

Please see our responses to specific questions below where we make several additional suggestions, including on how pre-contractual and periodic disclosures could be improved.

RESPONSES TO SPECIFIC QUESTIONS

Question 1: 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?

We support the **suggested approach to create a “single rulebook” for sustainability disclosures** at Level 2 for both the original empowerments in SFDR and the additional ones added by the EU Taxonomy Regulation (TR).

In the short run, financial market participants (FMPs), applying the rules, may find amending the soon to be finalised SFDR RTS inconvenient and more difficult to prepare. Level 1 requirements for pre-contractual disclosures for products promoting environmental or social characteristics and products with sustainable investment objectives apply already as of 10 March 2021. Detailed requirements in line with the soon to be finalised SFDR RTS with regards to the aforementioned disclosures shall apply as of 1 January 2022, while those disclosures that are consulted on in this paper, shall apply as of 1 January 2022 for climate objectives and as of 1 January 2023 for other environmental objectives.

In the long term, amending the soon to be finalised SFDR RTS with the aim to **create a “single rulebook” for sustainability disclosures** will reduce the complexity, duplication, potential inconsistencies or overlaps. Having one consistent set of disclosure requirements will make it easier for those applying the rules to understand them and prepare the required disclosures.

A coherent approach is of great importance given that TR and SFDR are closely intertwined and as Art. 5 and 6 TR products are defined as subsets of Art. 8 and 9 SFDR products.

We would like to highlight the importance of closely aligning the entity-level Art. 8 TR disclosures with the product-level Art.5 and 6 TR disclosures as the latter will be built on the former.

Question 2: 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?

We **support the ESAs proposal** for the KPI for the disclosure of the extent to which investments are aligned with the taxonomy **except for one crucial point**. Whilst we understand the challenges around designing one taxonomy-alignment ratio of the fund, we strongly believe that **leaving it up to an FMP to choose between three metrics** (the taxonomy-aligned turnover, CAPEX or OPEX) **for the underlying investee companies, could result in major greenwashing and lack of comparability across funds** for end-investors.

For instance, an FMP could choose CAPEX as a metric for a fund which includes businesses which have 0% taxonomy-aligned turnover but that are investing in taxonomy-aligned economic activities resulting in a 100% taxonomy-aligned CAPEX. Such a fund could be marketed as an Art. 9 product and sold to an end-investor as a sustainable investment with a

high proportion of taxonomy-alignment, but such an alignment would not be a fair reflection of the sustainability of the companies it has invested in. Moreover, it would fail to capture the momentum of the evolution towards sustainability of activities on a transition pathway, as taxonomy-aligned CAPEX has to translate into taxonomy-aligned turnover at one point to reflect the effectiveness of the transition towards sustainability.

In order to reflect more adequately the taxonomy-alignment of non-financial companies in a fund, we suggest that for each non-financial company within a fund, an FMP calculates a **weighted average ratio composed of the taxonomy-aligned turnover, CAPEX and OPEX**. The respective weights should reflect the relative proportion of turnover, CAPEX and OPEX. Those ratios should be incorporated in the fund's taxonomy-aligned ratio, after being weighted to reflect the share of the company in the fund (in line with the ESAs' proposal).

Such a solution would prevent greenwashing, or misrepresentation, by removing the flexibility to choose the metrics which make funds look "greener" than they actually are. Moreover, what is truly interesting is the company's transition to sustainability. To understand whether a company is truly on a transition pathway, you need disclosures of both taxonomy-aligned turnover and CAPEX over a period of several years. Such disclosure would enable to analyse whether the taxonomy-aligned turnover is evolving over time and to what extent CAPEX from previous years converts into turnover. This is why in Art. 8 TR, co-legislators required investee companies to disclose taxonomy-aligned **turnover, CAPEX AND OPEX**. We strongly believe **the same logic should apply to fund-level disclosures in Art. 5 and 6 TR**.

Question 3: 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?

While taxonomy-aligned turnover and CAPEX seem to be given the most prominence in the taxonomy-related debate, OPEX is also an important KPI, providing an overview of company's operating expenses, e.g. on salaries & wages, office rent & supplies, advertisement & marketing, trips & travels, repairs & maintenance, variety of fees (legal, financial), etc. It is useful to understand to which extent a company's operating expenditures are funding sustainable investments as classified by the EU taxonomy. Therefore, it should be seen as an addition to turnover and CAPEX metrics rather than instead of them.

As mentioned in our response to question 2, in line with the requirements of Art. 8 of TR (clearly demonstrating the intention of the co-legislators), to have a full picture of the EU taxonomy alignment, non-financial companies should disclose all three metrics: taxonomy-aligned turnover, CAPEX AND OPEX. We warn against enabling FMPs to freely swap one ratio with another, which would create serious greenwashing concerns and very limited comparability across funds for end-investors.

Please see also our response to question 2.

Question 4: The proposed KPI includes equity and debt instruments issued by financial and nonfinancial undertakings and real estate assets, do you agree that this could also be extended to derivatives such as contracts for differences?

Derivatives, including CfDs, should not be treated in the same way as plain vanilla equity and debt instruments with regards to the Taxonomy-alignment fund ratio, as they do not have the same effect in terms of financing sustainable investments.

Contracts for differences are in their nature similar with equity swaps and forward contracts - these are simply different legal wrappers used while gaining exposure to an asset price. Derivatives can, by construction, be used simply for gaining exposure to fluctuations of an asset price without bringing capital to the activity or company whose asset price fluctuations is replicated.

However, as reflected in the disclosures proposed in the draft RTS (Article 23), some derivatives can be used with the aim to support the sustainable investment objective(s). This includes derivatives used to hedge certain risks (e.g., of currency or interest rates fluctuations) in particular in the case of project finance, or other types of investments in environmentally sustainable activities. In some cases, hedging through derivatives is even a prerequisite to such investments, and in that context using derivatives can support or even enable financing of taxonomy-aligned economic activities. Such use of derivatives for hedging purposes is therefore fundamentally different, and must be distinguished from the use of derivatives for gaining exposure to the underlying assets.

Given that many derivative transactions result in short positions, which bet against the performance of an investment in a sustainable activity, excluding all derivative transactions from the taxonomy-alignment ratio's numerator will not provide a true picture of the proportion of the fund's investments in the taxonomy-aligned activities.

We therefore suggest the following approach with regards to the treatment of derivatives while calculating fund's taxonomy-alignment:

- Derivatives used for hedging purposes of investments in taxonomy-aligned economic activities can be included (gross positions) in the numerator of the fund's taxonomy-alignment ratio.
- Whenever derivatives provide a short exposure to taxonomy-aligned investments, such transactions should be netted in the numerator of the taxonomy-alignment ratio. This way, these short exposures will appropriately balance out the fund's long taxonomy-aligned exposures.
- Derivatives that meet neither of the above two conditions (in other words derivatives used with the principal objective of gaining exposure to the fluctuations of an underlying asset price), should be excluded from the numerator of the fund's taxonomy-alignment ratio. However, in line with the ESAs' proposals, together with all other investments they should be included in the ratio's denominator.

The ESAs or the Platform on Sustainable Finance should develop further specifications based on the above-mentioned principles to prevent any potential abuses.

Question 5: 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?

For the success of the sustainability-related disclosures framework, including the EU Taxonomy, it is important to clearly define what financial instruments are eligible and whether and how they should be included in the ratio depicting the Taxonomy-alignment of financial products. Equity and debt are relatively straightforward instruments, but clear specification is needed regarding non-plain vanilla instruments, etc. We suggest that the final RTS is as specific as possible regarding different types of financial instruments and their “eligibility” for inclusion in the taxonomy-alignment ratio.

Question 6: 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?

In line with the advice of ESMA and EIOPA regarding Art. 8 disclosures, we believe that all investments should be included in the denominator for the KPI. Otherwise, portfolios with investments which currently cannot be assessed by the Taxonomy, would seem more Taxonomy-aligned, and hence more sustainable, than portfolios with measurable but non-aligned investments. This would open the door to greenwashing and encourage investments in instruments which currently cannot be measured against the Taxonomy. On the contrary, FMPs should be encouraged to invest as much as possible in taxonomy-aligned activities. Inclusion of all investments in the denominator would also incentivize FMPs to screen "other assets" some of which might be assessed for taxonomy-alignment but simply have not been assessed because of high costs or missing competences.

We appreciate that including all investments in the denominator implies that certain products will never be 100% taxonomy-aligned due to the choice of sector allocation or the choice of financial instrument used. But this is only coherent with the way the taxonomy is structured and with its objectives.

We also support the ESAs’ proposal to allow disclosure of a proportion of the taxonomy-alignment calculated by an FMP, based on the data obtained from the investee company or a third data provider. However, we believe that the **taxonomy-alignment calculated this way should be clearly distinguished from the taxonomy-alignment in case of disclosures by companies within the scope of the Non-Financial Reporting Directive (NFRD / CSRD), currently being reviewed, or in case of self-disclosures by companies from outside the scope of NFRD (CSRD).** Whenever data on the taxonomy-alignment of the underlying investee companies’ activities is publicly not available, FMPs should be transparent about it. We suggest labelling such disclosures differently, e.g. **EU taxonomy-alignment based on non-public data”**.

In principle, **we are against allowing FMPs or third data providers to use proxies or estimates to calculate taxonomy-alignment** as this could lead to greenwashing and goes against ‘raison d’être’ of the EU taxonomy, which is to create a scientific and objective classification system of the environmentally sustainable economic activities. However, **if**

proxies or estimates to calculate the taxonomy-alignment were to be permitted, we would insist that they be based on a methodology developed by the Platform on Sustainable Finance and adopted by the European Commission.

To provide full clarity to end-investors, we **call for a detailed breakdown of the taxonomy-alignment ratio**, including its graphical representation to demonstrate what is the proportion of the investments which are: 1) taxonomy-aligned, 2) taxonomy-aligned based on non-public data, and 3) taxonomy non-aligned further broken down into: a) not meeting taxonomy criteria, b) taxonomy not-eligible, and c) investments for which there is no data available. Please see our proposal for a fund's taxonomy-alignment breakdown in the annex.

Question 7: 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?

We call for assurance / external verification of the taxonomy-alignment of both Art. 8 entity-level disclosures and Art. 5 and 6 fund-level disclosures. This is in line with the Commission's proposal requiring assurance of Art. 8 disclosures in the context of the ongoing review of Non-Financial Reporting Directive (CSRD). We strongly believe that **Art. 5 and 6 disclosures should also be subject to a mandatory assurance obligation**. This is essential to prevent greenwashing and provide certainty and reliability of information to end investors.

At the same time, we would like to point out the importance of an appropriate wording of such an obligation. Requiring assurance of a statement of taxonomy compliance could result in auditors' / external verifiers' merely checking whether such a statement is provided and whether the statement is in compliance with the requirements in Art. 5 and 6 of TR and Art. 8 and 9 of SFDR, i.e. whether the appropriate statement was selected for an appropriate product category.

Such an assessment is useful, but the essential would be to provide assurance of the accuracy of taxonomy-alignment disclosures: whether the information provided is correct, are ratios properly calculated, etc.

Question 8: Do you have any views on the proposed periodic disclosures which mirror the proposals for pre-contractual amendments?

We support the proposal for the periodic disclosures to be properly aligned with pre-contractual disclosures and therefore for the templates to mirror each other to the extent possible (same language, graphics, sequencing, etc.).

We also have several additional content-related comments applicable to the proposed periodic disclosures:

- We strongly suggest defining **a minimum reference period of at least five years** that would allow understanding the track record and progression of the share of sustainable investments, in particular in the EU taxonomy-aligned activities.

- Periodic disclosures should provide information on **whether** and to **what extent** the **minimum share of sustainable investments set as a target in pre-contractual disclosures**, in particular **with regards to the EU taxonomy-aligned activities, was met**.
- We are calling for bringing back the original ESAs proposal to require the disclosures of the **top 10 investments** of the financial product in the periodic disclosures. Leaving full flexibility to an FMP would create an opportunity for greenwashing and reduce comparability across the products for the end investor.

Please also see our response to question 9 where we make comments on the amended templates for pre-contractual and periodic disclosures.

Question 9: Do you have any views on the amended pre-contractual and periodic templates?

Mock-ups with exemplary answers would prove useful

We **regret that the templates in the consultation paper do not provide examples of answers to the questions**. Mock-ups in the ESAs' consultation on product disclosure templates under SFDR, which closed in October last year, were very useful. Such answers, even if not legally binding, would help the industry to implement the rules, would result in their more harmonised application and an increased supervisory convergence.

Overview of SFDR and TR-related product categories & assets' allocation

We would like to take this opportunity to comment on the **infographic providing an overview of SFDR and TR-related product categories** which was shared during the ESAs' hearing on Art. 5 and Art. 6 TR disclosures (see in the annex to this response). The infographic as such is a very useful attempt to provide more clarity on the interlinks between different product categories and different SFDR and TR disclosure obligations. However, we believe that it could benefit from a simpler approach.

We appreciate that from a legal standpoint, Art. 8 and Art. 9 of SFDR are seen as creating two distinct financial product categories by prescribing specific disclosures. Furthermore, Art. 5 and Art. 6 of TR are adding an additional layer of disclosures to both Art. 8 and Art. 9 products. From a practical standpoint, **presenting Art. 9** (product pursuing sustainable investment, referred to as "dark green") **as a subset of Art. 8** (product with ESG characteristics, referred to as "light green") **would simplify matters** both for FMPs and end-investors. This would also reduce complexity of pre-contractual and periodic disclosures.

Art. 9 products are investments with a sustainable objective(s).

We question **why the asset allocation in the template for Art. 9 products allows for an inclusion of non-sustainable investments** by dividing investments into two categories: "sustainable investments" and "other".

This is in contradiction with Art. 9 SFDR which reads:

“Where a financial product has sustainable investment as its objective and an index has been designated as a reference benchmark, the information to be disclosed pursuant to Article 6(1) and (3) shall be accompanied by the following (...).”

This is by contrast to Art. 8 which does allow products to promote characteristics other than ESG characteristics:

*“Where a financial product promotes, **among other characteristics**, environmental or social characteristics, or a combination of those characteristics, provided that the companies in which the investments are made follow good governance practices, the information to be disclosed pursuant to Article 6(1) and (3) shall include the following (...).”*

We request that the template for sustainable investments be **amended clarifying that Art. 9 products can only make investments with a sustainable objective(s)**.

We also have several more specific suggestions with regards to the amended pre-contractual and periodic templates:

- Regarding the graphical representation of the assets' allocation, we think it would be useful to **require a pie chart or another graph** that would demonstrate an **indicative proportion of the targeted assets per category in pre-contractual disclosures**, as well as **investments made in each of the categories in the periodic disclosures**. Such visuals are very helpful to end-investors.
- We support the requirement to provide a pie-chart depicting a share of the investment's taxonomy-alignment. However, we think that a **more detailed breakdown of investments which are not taxonomy-aligned**, showing a share of investments which are taxonomy-eligible but not meeting criteria of the taxonomy, non-eligible and those for which there is no data available, would be very helpful for end-investors. Similarly, it would be useful that **taxonomy-aligned investments differentiate between** 1) a proportion of investments which are **“properly” taxonomy-aligned**, meaning those based on disclosures in line with Art. 8 TR as well as externally certified self-disclosed taxonomy-alignment; and 2) a proportion of **investments assessed as taxonomy-aligned by FMPs or third parties based on the data gathered from the underlying investee companies or data vendors**. Please see our proposal for an infographic in the annex.
- While we understand the rationale for asking to disclose what is the **minimum** share of investments aligned with the EU taxonomy in the pre-contractual disclosures, we **question the logic of requiring a disclosure of the minimum share of sustainable investments that are not aligned with the EU taxonomy** in the same document. This seems to lead to pursuing two, mutually exclusive objectives.

- We advise that FMPs are specifically required to disclose what is the reference benchmark in case there is one followed. The proposed templates are not specific enough. In case of both Art. 8 and Art. 9 products there is a “yes or no answer” question on whether a benchmark has been designated. In case of Art. 9 products there are further questions asking:

- 1) How does the reference benchmark take into account sustainability factors in a way that is continuously aligned with the sustainable investment objective?
- 2) How is the alignment of the investment strategy with the methodology of the index ensured on a continuous basis?
- 3) Why and how does the designated index differ from a relevant broad market index?

There are similar two follow up questions for Art. 8 products. However, neither in case of Art. 8 nor in case of Art. 9 there is a question asking to specify what the actual benchmark is. We therefore suggest to adjust the aforementioned questions as follows:

Art. 8 products: “Is a specific index designated as a reference benchmark to determine whether this financial product is aligned with the environmental or social characteristics that it promotes? **If yes, please name and describe this benchmark.**”

Art. 9 products: “Is a specific index designated as a reference sustainable benchmark to meet the sustainable investment objective? **If yes, please name and describe this benchmark.**”

- Regarding the section on **principal adverse impacts (PAIs)** on sustainability factors, we strongly suggest that an **incorporation by reference with an active hyperlink** is required to a document where there is a **detailed description of the evaluation of the aforementioned PAIs**. A mere “yes or no” answer to a question “Does this financial product take into account principal adverse impacts on sustainability factors?” is not sufficient.
- At the end of the template, there is a statement: “More product-specific information can be found on the website” with an instruction to insert a hyperlink to the website. We are wondering how the ESAs are planning to address the investor protection here. To our knowledge, website disclosures do not offer the same level of investor protection due to no requirements with regards to external verification / assurance and there is a reduced legal liability in terms of the information provided.
- Last but not least, there seems to be a mistake in the infographic on page 42 of the consultation paper where the description of #1B Other E/S characteristics is the same one as for #1 Sustainable investments.

Question 10: 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?

As Art. 5 and 6 of TR specify further disclosure obligations for Art. 8 and 9 products, **we fully support the proposal for using the same, unified template for pre-contractual and periodic disclosures.** This also follows the logic of creating a “single rulebook” for sustainable disclosures and would be particularly beneficial for retail investors who prefer to have all product disclosures in one place (or at least with links / references to all of the information in one place allowing them to take an informed decision).

Question 11: 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?

Yes, we concur with the ESA's proposal.

The work on the EU taxonomy, including in terms of extending it to cover social objectives, is on-going. For the moment, the EU taxonomy does not define socially sustainable investments, however the Platform on Sustainable Finance is doing the preparatory work in that regard, which will form the basis for the Commission's recommendations to be presented towards the end of this year.

To avoid too frequent revisions of SFDR, similarly to the ESAs' proposals with regards to disclosures on TR environmental objectives beyond the climate ones, we suggest that the **RTS requires FMPs to disclose whether and to what extent Art. 8 and Art. 9 products, including those making sustainable investments with a social objective(s), are aligned with the EU taxonomy.**

The benefit would be three-fold:

- 1) Once the scope of TR is expanded to include social objectives, FMPs would have to automatically disclose the social taxonomy alignment of Art. 8 and Art. 9 products, without the necessity to revise the rules.
- 2) There may be products contributing to a mix of environmental and social objectives at the same time. We should avoid a potential situation where an FMP may try to “escape” taxonomy-related disclosure obligations by referring only to a social objective pursued by the product. We therefore suggest that Art. 8 and Art. 9 products contributing to a social objective(s) also disclose how and to what extent they meet the criteria of the EU taxonomy, even if for the time being TR is confined to environmentally sustainable economic activities.

3) Some investments with a positive social impact may have a negative environmental impact, and vice-versa. Therefore, we suggest requiring disclosure of the taxonomy-alignment with regards to environmentally sustainable activities by funds pursuing social objectives. This would avoid misleading investors (who may assume Art. 9 products with social objectives are also environmentally sustainable) and contribute to achieving the EU climate goals.

We would also like to express our views on the ESAs proposal with regards **to DNSH criteria for investments that are in taxonomy-aligned activities**. We understand the logic of suggesting to supersede the broader 2(17) SFDR DNSH provision in case of investments that qualify as environmentally sustainable as per the EU taxonomy and hence meeting DNSH harm criteria included in the screening criteria accompanying TR. However, we would like to point out the following:

- DNSH criteria which are part of the EU taxonomy disclosure framework are assessed at the economic activity level. Meanwhile, DNSH criteria covered by SFDR are assessed at the investee company level. An investee company can very well be conducting a number of taxonomy-compliant activities, meeting the DNSH taxonomy criteria, and other activities not respecting the DNSH taxonomy criteria.
- The EU taxonomy is work in progress and for the moment DNSH criteria in TR have been developed only for the climate mitigation and climate adaptation objectives. Work is ongoing for the remaining 4 environmental objectives. Moreover, even for the two climate objectives, taxonomy DNSH criteria do not exist for all sectors.

Considering the above, we are calling against **exempting investments in environmentally sustainable activities which are EU taxonomy-compliant from screening against DNSH in SFDR**. We see them as complementary.

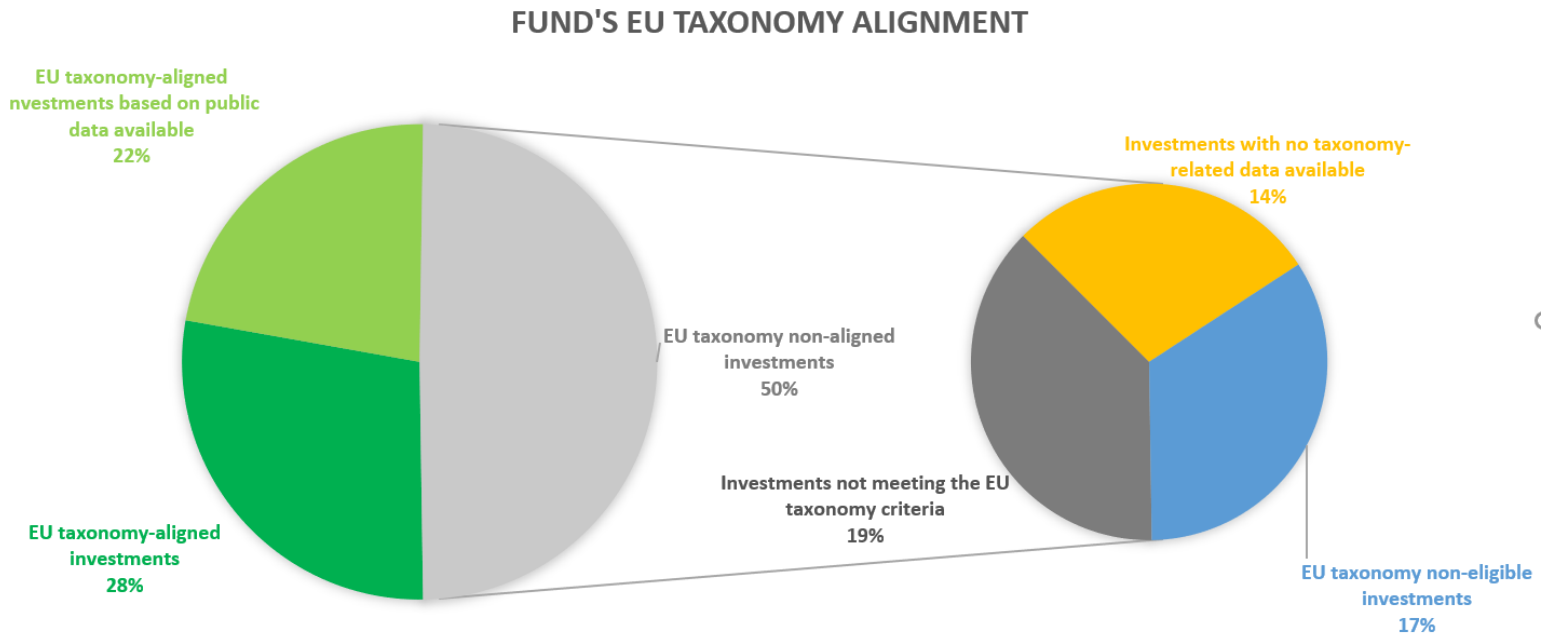
**Question 12: Do you have any views regarding the preliminary impact assessments?
Can you provide more granular examples of costs associated with the policy options?**

No comment.

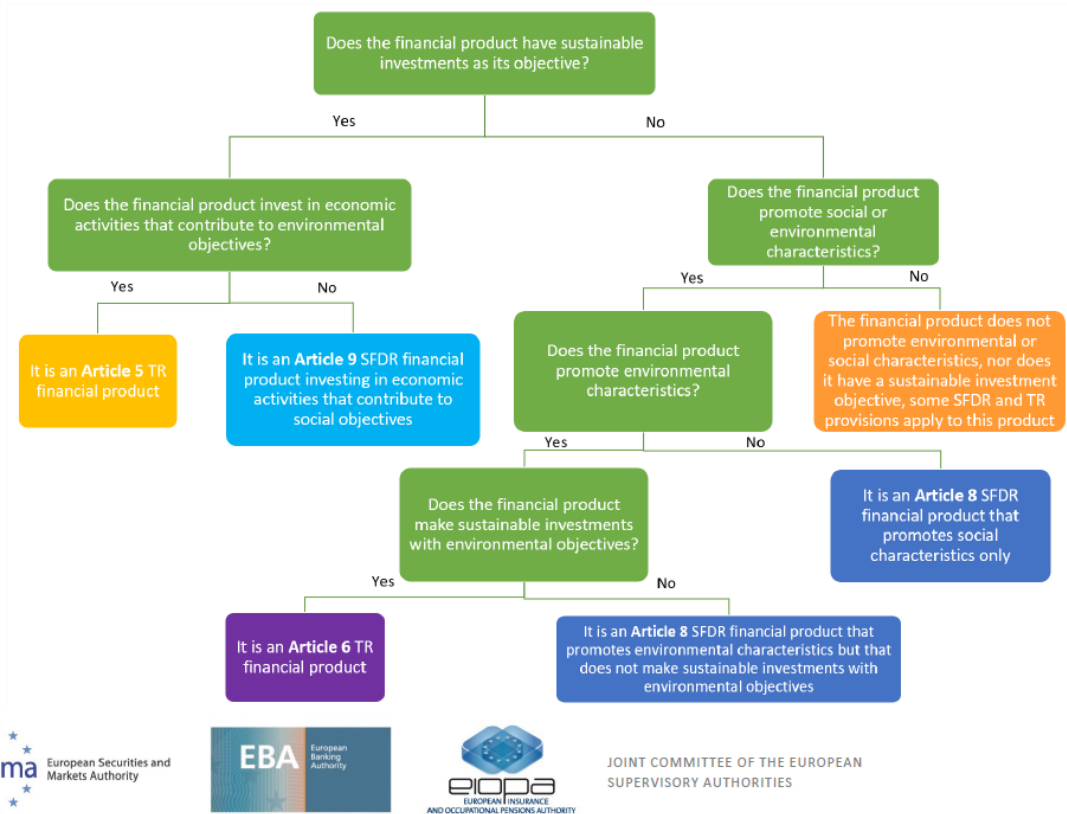
Annex

Figure 1: Finance Watch proposal for illustrating a fund's EU taxonomy-alignment

Values have been selected randomly only for the purpose of presenting an alternative way to illustrate a fund's EU taxonomy-alignment.



Article 5 – 6 TR financial products



6

Figure 1: ESAs infographic presented at the ESA's public hearing on 29 April 2021