



EUROPEAN COMMISSION

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

Financial marketsAsset management

**TARGETED CONSULTATION DOCUMENT**

**IMPLEMENTATION OF**

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

: We are against the creation of a double threshold that would, on the one hand set the minimum percentage of sustainable investment of a fund and, on the other hand, set a minimum percentage of investments that should meet the environmental and social characteristics or sustainable investment objectives.

**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.

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/finance-2023-sfdriplementation\\_en](https://finance.ec.europa.eu/regulation-and-supervision/consultations/finance-2023-sfdriplementation_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 targeted 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/finance-2023-sfdriplementation\\_en](https://finance.ec.europa.eu/regulation-and-supervision/consultations/finance-2023-sfdriplementation_en)

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

## 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 ('insideout'). 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
				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 1.2:** 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
Increasing transparency towards end investors with regard to the integration of sustainability risks <sup>2</sup>		x				
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		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.

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)			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)

**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
				x	

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

**Question 1.4:** 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)			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
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)

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.

**Question 1.6:** 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			x			
Some legal requirements and concepts in the SFDR, such as 'sustainable investment', 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	
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
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		
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:

SFDR played an important role for raising awareness on sustainability concerns and set the grounds for the next elements of the sustainable finance agenda. However, considering the legislative developments and the observed practices, we welcome the initiative from the European Commission to revisit SFDR. Beyond the limitations highlighted in question 1.6 (limited usefulness of the reported information, lack of clarity of key concepts, use of the existing framework as a labelling system, data gaps and limited machine-readability of the disclosures), additional deficiencies are to be mentioned:

**Scope of SFDR for interoperability with other legislative texts:**

Key concepts introduced under SFDR are used in MiFID delegated act and IDD delegated act to determine clients' sustainability preferences. However, while SFDR covers financial products, MiFID II covers financial instruments. The concept of financial instrument is broader than the concept of financial product as it includes, among other things, derivatives, structured products, as well as equity and bonds. This creates a regulatory gap that needs to be bridged to avoid inadequate practices. Although an extension of the scope of SFDR – and the underlying disclosure requirements - to all financial instruments would not be desirable, the definition of SFDR concepts should also be applicable at the level of each instrument.

Currently, the consideration of principal adverse impact is usually done at portfolio level. This poses limitations for “ad-hoc” investment advice provided for a single investment as such advice does not fall in a broader service of portfolio advice. Similarly, a notion of sustainable investment defined at entity level – as it is currently often the case - implies that an advice on equity or bonds is systematically 0% or 100% of sustainable investment, which does not offer the same level of granularity as ESG MiFID where the client is able to express preferences for different percentages of sustainable investment.

**Lack of comparability of entity-level disclosures:**

Beyond the lack of clarity on the definition of concepts introduced under SFDR (e.g. sustainable investment and the consideration of principal adverse impact), which impacts the comparability of the sustainability level of products manufactured by different financial market participants (FMPs), the entity level disclosures required under SFDR Article 3 (Transparency of sustainability risk policies) and Article 5 (Transparency of remuneration policies in relation to the integration of sustainability risks) should also at least be made more comparable by adding content and format details for those disclosures.

**Accessibility of the disclosures:**

Both entity level and product level disclosures are made available in different ways by FMPs and financial advisors, which generates complexity for retrieving the information. For example, Article 5 disclosures are, in some cases, integrated in the general remuneration policy while, in other cases, it consists in a separate document.

### **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>1</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.

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<sup>1</sup> [Commission Delegated Regulation \(EU\) 2022/1288 of 6 April 2022](#)



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).					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					
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(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
			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
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:

**Q1.8:** The introduction of PAI subject to materiality assessment leaves an important reliance on the quality of the materiality assessment (application of quantitative threshold, time horizon covered, etc.). Making PAI disclosures subject to materiality assessment may have the consequence of minimizing the actual adverse impact of investment and making FMPs non comparable. Therefore, we strongly recommend not to switch the current mandatory PAI to “voluntary/subject to materiality assessment”. The fact that those PAI are subject to a materiality assessment in the CSRD delegated act should not influence this approach. FMPs should simply be allowed to state “zero” in their PAI statement.

It is also unclear to us whether only a single PAI from table 2 and 3 of Annex I of the SFDR delegated regulation (providing a list of additional PAI) must be disclosed when several PAI are material. In fact, SFDR does not refer to the notion of materiality assessment but to the publication of at least one of the additional PAI of table 2 and 3 of Annex I of the SFDR delegated regulation – which should be selected based on its relevance.

**Q1.9:** Two key challenges arise when considering PAI at product level: (1) the lack of comparable approaches between FMPs to determine when the FMP can state that it considers PAI and (2) how this approach should interact with the DNSH assessment:

(1) There is an ambiguity for determining to what extent a financial product considers an adverse impact. Financial market participants are indeed required to describe their policies to identify and prioritise principal adverse impacts on sustainability factors, but there are no minimum requirements defining when it can be stated that adverse impacts are considered. Therefore, some asset managers can be much stricter on criteria and values than others. This is particularly problematic as the consideration of

adverse impacts is part of the sustainability preferences that clients can express when seeking investment advice.

(2) SFDR leaves the flexibility to the FMPs to define how PAI and the DNSH are interacting. However, like for the notion of “PAI” consideration, this generates very heterogeneous approaches between FMPs, making the results not comparable. The definition of DNSH/PAI at entity level also generates a possible contradiction with the economic activity-level DNSH, as considered by the Taxonomy Regulation. The consideration of “harming investment” at different granularity levels can lead a situation where a company might not meet the SFDR DNSH criteria (given that those criteria are defined for all types of economic activities), but still meet the Taxonomy DNSH (given that DNSH thresholds may be less stringent for certain economic activities). This issue has already been flagged by the Commission in its Q&A and by ESMA in its final report on draft RTS published on 4 December 2023. ESMA proposed to solve this contradiction through the introduction of a ‘safe harbour’. Such ‘safe harbor’ (which only brings legal certainty on the flexibility for FMPs to determine their methodology for the SFDR DNSH assessment) emphasises the importance to adapt SFDR and its key concepts in a way that is consistent with other legislative texts, in particular the Taxonomy.

**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.

**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

Internal costs			N/A
Thereof personnel costs			N/A
Thereof IT costs			N/A
External costs			N/A
Thereof data providers			N/A
Thereof advisory services			N/A
Total costs of SFDR disclosure requirements			N/A

**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			N/A

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

N/A
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**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?

N/A
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Could you please provide a split between:

%	Retrieving the data	Analysing the data	Reporting SFDR disclosures	Other	Don't know
Estimated percentage					N/A

### 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 N/A
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**Question 1.12.1:** 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						N/A
The proportion of taxonomy-aligned investments (product level)						N/A
The contribution to an environmental or social objective, element of the definition of 'sustainable investment' (product level)						N/A
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)						N/A
The good governance practices of investee companies (product level)						N/A
Other						N/A

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

(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
					N/A

(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.

N/A
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**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
					N/A

(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
			N/A

**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
SFDR requirements						N/A
Retail investor interest						N/A
Professional investor interest						N/A
Market competitiveness						N/A
Other factors						N/A

(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.

N/A
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**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
		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
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>2</sup> The CSRD sets out sustainability reporting requirements mainly for all large and all listed undertakings with limited liability (except listed micro-enterprises),<sup>3</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

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the SFDR, they will rely to a significant extent, on the information reported according to the CSRD and its [European Sustainability Reporting Standards \(ESRS\)](#)<sup>4</sup>.

<sup>2</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>3</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).

<sup>4</sup> Provided positive scrutiny of co-legislators of the [ESRS delegated act](#).

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

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
	X	

**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](#)<sup>5</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:

**Alignment with EU PAB/EU CTB:**

We do not support the Commission's view specifying that the SFDR deems products passively tracking CTB and PAB to be making 'sustainable investments', given the very limited engagement of passive investors with their investee companies. Active investment should be promoted over passive investing. Passive investing results in relying on large market indices and on an autonomous transition of the company while renouncing the decision-making over what does and does not get financed and blindly trusting benchmark administrators and the economic modelling they use. On the other hand, as a result of passive investing, financial products following climate benchmarks are encouraged to divest from high-emitting companies instead of engaging for their transition. Targeting the decarbonisation of a portfolio without targeting the decarbonisation of the real economy is not an effective way to achieve meaningful impact.

Moreover, the **formula of the GHG intensity metric** – a metric which we do not support as it makes targets easier to reach - is inconsistent between the Benchmark Regulation, which uses the enterprise value, and SFDR, which uses the revenue of investee companies.

<sup>5</sup> [https://finance.ec.europa.eu/publications/retail-investment-strategy\\_en](https://finance.ec.europa.eu/publications/retail-investment-strategy_en)

**Alignment with CSRD:**

Although we regret that the co-legislators decided to make the SFDR datapoints optional under the CSRD delegated acts, we believe that the current mandatory SFDR PAI should remain mandatory, while giving the possibility for FMPs to report the value to “zero” when it is not material for the investee companies. Indeed, making the mandatory PAI subject to materiality assessment may undermine the quality of the information reported and undermine the comparability between FMPs. Also, the quality of the materiality assessment under CSRD will be verified in the context of assurance review, which is not the case for the publication of PAI statements.

We also welcome the work performed by ESAs to better align the PAI terminology between SFDR and CSRD datapoints, which enhance the global consistency of the sustainable finance regulatory framework.

**Alignment with MiFID:**

As previously mentioned, **SFDR and MiFID have different scopes**, which leads to complexity for considering the sustainability preferences of clients when providing investment advice – in particular on an ad-hoc basis – on equity, bonds or other financial instruments that do not qualify as financial products.

The flexibility in the **definition of sustainable investment and of PAI consideration** leads to limited comparability of products manufactured by different asset managers, which ultimately affects the consideration of clients’ preferences. Today, FMPs have adopted very different approaches to determine which investment can be considered as sustainable, and they may combine different investment strategies to do so (e.g. best-in-class, exclusions, controversy screening, theme selection). In their approach, certain asset managers decided to exclude all companies active in the fossil fuel sector, considering the harm that the sector is causing on the environment. However, other asset managers decided to stick to a best-in-class strategy and allow fossil fuel companies to be potentially considered as sustainable, depending on their transition actions and targets. This could result in considering a fossil fuel company as a sustainable investment, while another company in renewable energy would not be considered as such because it would underperform its peers. Ultimately, this means that a client could express a preference for a minimum percentage of sustainable investment, and be proposed financial products manufactured by different asset managers that would integrate very different methodologies to determine this percentage.

Our answer to question 2.4 considers answering to two distinctive elements: (1) does SFDR provide sufficient disclosures to determine whether the instrument fits with the clients’ preferences, as per the existing definition of sustainability preferences in the MiFID/IDD delegated regulation and (2) does the current definition of sustainability preferences allow the clients to differentiate between the different levels of sustainability performance and, if not, does SFDR provide

sufficient disclosures to better consider clients' preferences (e.g. based on a revised definition).

While SFDR disclosures provide sufficient information at the level of financial products for the suitability test to be done based on the current definition of sustainability preferences, the current definition appears to be difficult to understand. On the one hand, clients should have the possibility to define preferences for investing i) in products that are sustainable and ii) in products that aim for transitioning the investee companies to more sustainable behaviours. On the other hand, the notions of taxonomy alignment, sustainable investment and principal adverse impact consideration lead investors to confusion on how to best express his preferences. Based on those observations, it appears that the SFDR disclosures are not sufficient. In addition and as detailed in section 4 of this consultation response, sustainability preferences could be completed by the choice of investing as per a specific theme.

### 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
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:

**Article 3 disclosures** are relevant for FMPs, but require more details on the content and the format in order to make the information comparable between the FMPs. We indeed believe that **Article 3 disclosure requirements (Integration of sustainability risk policies) for financial advisers** has a limited added value in their current format. First, financial advisers distributing their own products (e.g. products manufactured by them or by an FMP that is part of the same group) tend to refer to their sustainability risk policies as FMP. Second, we believe that the consideration of sustainability risks should be specific to the advice given and therefore integrated in MiFID/IDD.

**Article 4 disclosures** are a key element to understand the adverse impact of investment activities of FMPs, track the evolution of those indicators and incentivize them setting targets.

We also believe that the **current Article 5 disclosure requirement (Integration of sustainability risks in remuneration policies)** has major deficiencies. Restricting the provision to a mere disclosure requirement leads FMPs and FAs to disclosing high-level and non-specific statements. Moreover, FMPs still have the possibility to disclose that they are not considering sustainability risks or that sustainability risks are indirectly

integrated through the implementation of a prudent remuneration policy to ensure the sustainability of the financial institution. Finally, we believe that such disclosures should not be separate from the remuneration policy to be disclosed by credit institutions, according to CRR Article 450. We would therefore encourage the inclusion of minimum requirements on the integration of sustainability risks in the remuneration policies (both for identified staff and non-identified staff). Disclosure requirements should also be aligned between SFDR or CRR and the related 2015/22 EBA guidelines by including cross-references.

Article 5 disclosures are therefore of low value as long as the integration of sustainability risks in remuneration policies is not subject to minimum requirements (disregarding the current discussions on CSDDD concerning the possible requirements for the directors' variable remuneration to be linked with transition plans) and that SFDR does not specify a minimum set of information to be provided. As stated in our answer to question 2.6.1, provided these improvements are implemented, Article 5 disclosures would be of value.

Complementing the [consultation by the European Supervisory Authorities \(ESAs\) on the revision of the Regulatory Technical Standards of the SFDR](#)<sup>6</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?

--

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
			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
		x			

<sup>6</sup> <https://www.esma.europa.eu/press-news/consultations/joint-consultation-review-sfdr-delegatedregulation> placeholder see what in right hyperlink in September when we launch OPC.

*(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

As previously mentioned, we encourage the Commission to align the remuneration requirements, including the disclosure-related requirements, between SFDR, CRR, Solvency II and CSDDD. Remuneration requirements should define the weight that the achievement of transition plans should represent in the variable remuneration and should include sustainability risk KPIs in the employees' remuneration scorecard. Mandatory clawback mechanisms for those sustainability factors should also be introduced to increase management attention to sustainability concerns.

### **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
				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
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:

We strongly encourage the inclusion of minimum requirements for all products and suggest that all products are required to disclose the PAI as a list of indicators to help understand the negative impact of the products. Today, it seems contradictory that sustainable financial products are subject to additional reporting costs compared to Article 6 products.

Requiring all products to disclose a PAI statement would (1) allow comparing the negative impact of each product, (2) facilitate the availability of information for entity-level PAI statement and (3) facilitate the availability of information for funds of funds to report this information without having to perform a look-through assessment. Those reasons also explain why the same number of mandatory principal adverse impact indicators should be reported for all financial products.

**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
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)

If you selected ‘Other information’ please specify:

As detailed in the next answer, we support the inclusion of information on sustainability risks and adverse impact indicators for all the products.

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

**We support the inclusion of minimum reporting requirements for all products.**

**Sustainability risks and adverse impact indicators**

Giving the possibility for investors to understand the negative sustainability impact of their investments is a fundamental element of transparency. It is also key for the investor to understand how sustainability risks are integrated for their products. **Therefore, we support the disclosure of PAI indicators for all products on a periodic basis.** We would also welcome ex-ante disclosures on whether the fund applies (1) exclusions for highly emitting sectors (e.g. fossil fuels sectors) and (2) exclusions for sectors highly exposed to transition risks and (3) how the fund integrates sustainability risks. Such additional ex-ante information would be easy to provide and would help asset managers that manufacture sustainable financial products to ensure that their investments (e.g. in case of a fund of fund) respect their exclusion policies. Information on the integration of sustainability risks would also help investors better understand the sustainability risks of financial products, in particular in a context where we can expect that non-sustainable products are more exposed to such risks.

**Sustainability level of the product**

The **percentage of taxonomy-alignment and sustainable investment should also be disclosed, both in pre-contractual and periodic disclosures**, in order to support FMPs managing sustainable products to access the information (in case of a fund of fund). Should a fund manager not want to commit to a minimum percentage of taxonomy alignment of sustainable investment for the non-classified products, pre-contractual disclosures could still include a commitment of 0%.

**Engagement strategies**

However, we believe that the inclusion of **information on engagement strategies for all products would not be useful** as it could lead to confusion on the level of engagement of asset managers and we would therefore restrict such information for products that would classify as “transitional products”, as further developed later in this consultation, as possibly for “impact products”.

**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
		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?

Additional disclosures should be triggered by the classification of financial products (as per new products categories based on minimum criteria, see our answers below for the proposed classification) or by the promotion of specific sustainability characteristics.

Concretely, transition-related disclosures should be triggered by the classification of products as “transition focus” or by the promotion of investment decisions and corporate actions supporting the transition of investee companies. For such products, we support the inclusion of detailed **qualitative and quantitative information on engagement strategies** and the **GHG emissions reduction targets and taxonomy increase targets**.

**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
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:

The **mandatory** PAI indicators to be disclosed should be the same for all the financial products. See our responses to the questions related to the PAIs above.

**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
Taxonomy-related disclosures				x		
Engagement strategies			x			
Exclusions					x	
Information about how ESG-related information is used in the investment process					x	
Other information						

(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 selected 'Other information' please specify:

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

Cf answer to question 3.2.1 (b).
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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
			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:

Cf answer to question 3.2.1 (b).
----------------------------------

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
				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
		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:

It is important to ensure that the information is easily accessible, whether through the pre-contractual documentation or through website disclosures. The distinction between pre-contractual and periodic documentation is also necessary as the information disclosed has different purposes (presenting commitment vs actual values).

However, we encourage the Commission streamlining the information disclosed under each of the three channels. Currently, the website disclosures must contain additional disclosures as per paragraphs 1(a) and 1(b) of SFDR Article 10.

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>7</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
It is useful that product disclosures under SFDR are publicly available (e.g. because they have the potential to bring wider societal benefits)					x	

<sup>7</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](#).

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= mostly agree, 5= totally agree)

Please explain as necessary your replies to question 3.2.6:

No particular comments.

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
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:

No further comments.

**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:

No further comments.

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	

**Question 3.2.9.1:** If so, how should those scales be established and which information should be expressed on a scale?

The inclusion of a scale would be redundant with the existing quantitative metrics (percentage of taxonomy alignment and percentage of sustainable investment) and could therefore bring an unnecessary complexity for the readability of the disclosures. Moreover, the scale would not integrate the qualitative information disclosed and may for example not reflect the quality of engagement policies.

Alternatively, the Commission could also enhance the comparability of the quantitative metrics through the inclusion of a visual benchmark comparison, which would compare the percentage of Taxonomy alignment and the percentage of sustainable investment – to the extent that the definition of the latter is clarified – with a representative benchmark over a period of five years. Similarly, a product with a transition focus could compare the pace of transition of their investee companies with a representative benchmark. Although this would imply complexity to ensure that adequate benchmarks are selected and that a meaningful concept of “transition performance” is introduced, we believe that those would have more value than the introduction of a scale.

Yet the introduction of scale could be considered as an option for disclosures that are specifically designed for retail investors. Currently, retail investors are struggling

understanding the questionnaire for providing their sustainability preferences. In particular, the difference between the concept of taxonomy alignment, the concept of sustainable investment and the consideration of principal adverse impact can seem very abstract to them. The expression of preferences based on (1) the classification of products – to the extent that those have to respect minimum criteria – and (2) the introduction of a scale to express the “sustainability appetite/preferences” of the retail investor could be considered. The scale could be inspired from the existing “1 to 7” Summary Risk Indicator of the PRIIPS KID, which addresses the risk and reward position of the product. This would imply adapting the PRIIPS Regulation and the MiFID/IDD Delegated Regulation to translate the content of the SFDR disclosures into simplified metrics, but would not require the inclusion of a scale in the SFDR disclosures.

**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
From direct enquiries to market participants						N/A
Via SFDR disclosures provided by market participants						N/A

*(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
					N/A

*(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>8</sup>

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

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<sup>8</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.



	1	2	3	4	5	Don't know
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		
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
		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:

We believe that the introduction of the EET already provides a format that has been generally accepted by the industry. This helps at ensuring that data providers are appropriately collecting the sustainability disclosure information.

We acknowledge that the EET template does not have to be made publicly available and that its use is limited to the communication of the disclosures from the product manufacturer to the product distributors or to other manufacturers. However, we only see a limited interest for retail investors to have such machine-readable predefined format publicly available.

In a broader context, the European Single Access Point will still require that corporate and fund data become machine-readable and follow a predefined structure. The implementation of ESAP may therefore require the development of a specific machine-readable format that differs from the existing EET.

Although making the entity and product disclosures on websites interactive does not seem to have negative consequences on transparency, we consider that it is more important to provide summarised information at the beginning of the SFDR disclosures, as proposed by ESMA in its final report on draft RTS published on 4 December 2023, and in the PRIIPS key information document.

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
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:

Multi-option products may propose underlying investments with different sustainability levels. Consequently, the disclosure requirements should take into account this specificity to ensure transparency towards the investors.

Although we understand that products focusing on investments in non-EU countries and SMEs will face challenges to capture information on taxonomy-alignment and other relevant metrics, we believe that the introduction of disclosure exceptions could lead to inappropriate practices and ultimately affect the advice given to investors. Instead, we are in favour of allowing the use of estimates when such information is not made available by the investee companies. Such estimates (incl. data sources and methodological assumptions) should be clearly explained/disclosed.

#### 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
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					

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

Please explain your reply to questions 4.1.2 and 4.2.2:

<p>We agree that the assimilation of the current SFDR categories to a form of sustainability label poses a real problem of transparency and evident greenwashing. To answer the concern, two options are possible:</p> <ul style="list-style-type: none"> <li>• Removing SFDR categories while maintaining transparency requirements for all sustainable products, in which case product labelling will need to be regulated separately. However, it is important to consider the impact that eliminating categories could have on the education and awareness of private investors.</li> <li>• Accepting the use of SFDR as a labelling tool, in which case strict criteria will need to be imposed for different product categories. Product categories, to the extent that the selected criteria are sufficiently robust, would be useful as they have the potential of differentiating the different purposes of sustainable investing and, among others, end the confusion between green products, products considering ESG risks and transitioning products. This option therefore seems more favourable. Yet the split of the categories should be done in a different way than according to Articles 6, 8 and 9 of SFDR to better map with the possible</li> </ul>
--

sustainable investing purposes (e.g. investing in specific themes or in transition finance).

We strongly encourage the Commission to leverage from the three key classifications proposed by the UK FCA, which we deem to be a meaningful approach:

- Sustainability focus: products with an objective to maintain a high standard of sustainability in the profile of assets
- Sustainability improvers: products which aim at improving the environmental or social sustainability overtime
- Sustainability impact: products which aim at achieving a positive impact.

However, we do not support the introduction of the additional “mixed fund” category introduced by the FCA as it may lead to unclear fund strategies and the limited use of available levers for “sustainability impact” funds to also allow distributing this product as “sustainability focus”.

Also, the category “sustainability impact” should be intended to cover the niche market of “impact finance” and allow impact/ethical funds to better fit in the SFDR framework. However, this would require clearly defining the notion of impact, taking into account the complexity of defining strict requirements for this notion given that it incorporates governance and qualitative metrics. Such a category should only be proposed if the definition of impact finance does not open the door to assimilating traditional investments to impact financing.

As detailed below, we believe that the inclusion of a “theme investing” category should not be proposed at the same level of the three previously mentioned categories as it rather consists in focusing on specific underlying values. Therefore, investing in a specific theme could be done under each of the three above categories.

.....  
 ..... **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
				x	

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

**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
--	---	---	---	---	---	------------

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 strong representation of women in decision-making.		x				
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>9</sup>					x	
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) If you think there are other possible useful categories, please specify which ones:

The proposed classifications could align with the FCA proposal with:

- category C corresponding to “sustainability focus” products,
- category D corresponding to “sustainability improver” products and
- category A corresponding to “sustainability impact” products.

As previously mentioned, we consider that category B should rather be a sub-category of any of the other categories. Such a sub-category could be considered to provide investors with a better understanding of the specific features of sustainable investment strategy and could leverage from the SDGs or the categories of PAI. However, bringing this category at the same level as other categories will increase confusion and lead to complexity such as possible overlaps between different categories.

As mentioned in our response to question 4.1.2, we consider that category A should only exist if a clear definition of impact finance is given and that the category aims at identifying the current niche market of impact/ethical funds.

<sup>9</sup> In line with the transition to a climate neutral and sustainable economy.

In addition to categories A, C and D, the Commission should consider a classification for products that are socially or environmentally harming, although we acknowledge that defining criteria for products in this category would require careful consideration. Such a category would also differ from other proposed categories as a “negative label” implies that it should be mandatory for the products meeting the underlying criteria to classify under this category. Positive categories (categories A, C and D) would, on the contrary, consist in voluntary schemes that FMPs could commit to respect. This category could also play an important role to ensure that FMPs managing socially or environmentally harmful products take sufficient actions to classify their product under category D (sustainability improver). Finally, we believe that a category identifying harmful investments instead of a category solely based on the consideration of adverse impact will prevent the creation of an “easy to comply” positive category that could mislead investors and incentivize them to opt for products with low sustainability ambitions instead of category C products. The introduction of an intermediate category between neutral products and category C products could indeed lead to nudging and decrease sustainability ambitions of clients.

**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
				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
	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
			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
x			

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

Categories A, C and D should be exclusive as FMPs should develop consistent strategies and focus on a specific objective. This is particularly important as we expect that category D criteria will mostly focus on obligations of means (e.g. minimum engagement activities) instead of obligations of results (e.g. evolution of taxonomy alignment) as detailed in question 4.1.10. Making a combination of categories possible could lead asset managers to develop products that are already sustainable (category C) and demonstrate high engagement activities to also fall under the category of “sustainability improver”/category D products although the impact on transitioning those “already sustainable investments” would be very limited.

As previously mentioned, category B could be an underlying category to each of the three categories. Therefore, **category B could be combined with any of the three other categories. However, we do not see the creation of this sub-category as a priority** for legislative intervention and the flexibility could be left to the FMP to develop underlying investing themes or not. In fact, thematic approaches already exist throughout the eligible investment universe defined for the products (e.g. focus on specific industries, regions, etc.)

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

**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
			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:

We do not support a phased implementation where the current and the coming regimes would coexist as this would generate important challenges such as for the management of client preferences.

However, several legislative decisions could support the transition to the new regime:

- defining the same date for the application of the level 1 and the level 2 legislative texts to avoid inconsistencies between the adapted requirements of SFDR and the delegated acts.
- adapting simultaneously the PRIIPS Regulation and the MiFID/IDD delegated acts to adapt the notion of sustainability preferences and define the same application date to prevent timing inconsistencies between the disclosure of product information and the consideration of sustainability preferences.
- providing flexibility for the adaptation of clients' portfolio in the case their portfolio would not be suitable with the clients' preferences due to the adaptation of the key concepts.
- promoting the knowledge of client facing staff to prevent inadequate communication of sustainability-related information to the client.

**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
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 mentioned in our response to question 4.1.2, we consider that category A should only exist if a clear definition of impact finance is given and that the category aims at identifying the current niche market of impact/ethical funds. This would imply that minimum criteria are defined on that basis. We also support the integration of minimum criteria on exclusion and engagement actions, but consider that minimum criteria on taxonomy alignment and sustainable investment could not be compatible with impact investing strategies.

For product category B of question 4.1.4

	1	2	3	4	5	Don't know
Taxonomy alignment						X
Engagement strategies						X
Exclusions						X
Pre-defined, measurable, positive environmental, social or governance-related outcome						X
Other						

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

Please specify reply:

As explained in our answer to the question 3.2.1 (b), we do not support the creation of this separate category.

For product category C of question 4.1.4

	1	2	3	4	5	Don't know
Taxonomy alignment					x	
Engagement strategies			X			
Exclusions					X	
Pre-defined, measurable, positive environmental, social or governance-related outcome					X	
Other						

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

Please specify reply:

As per our answer to the question 3.2.1 (b), we support the inclusion of minimum criteria related to:

- taxonomy alignment,
- percentage of sustainable investment,
- exclusions,
- principal adverse impact.

For product category D of question 4.1.4

	1	2	3	4	5	Don't know
Taxonomy alignment	x					
Engagement strategies					x	
Exclusions	x					
Pre-defined, measurable, positive environmental, social or governance-related outcome	x					
Other						

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

Please specify reply:

In order to assess the actions taken by the asset manager to promote transition, additional disclosures on engagement strategies/actions, based on qualitative and quantitative information should be available for category D products, both on an ex-ante and an ex-post basis. Moreover, for those products, GHG emissions reduction targets and targets of percentage increase of taxonomy alignment should be defined and disclosed.

Although we do not support including exclusions as minimum criteria for category D, engagement strategies should also include a divestment strategy in the case investee companies would repetitively not meet their transition targets.

However, those targets should only be introduced as a disclosure requirement. **Minimum criteria for GHG emissions reduction targets and taxonomy increase targets should not be included.** Indeed, we could intuitively expect funds to see their GHG emissions decrease and the taxonomy alignment increase, but this assumption is only relevant in the context of a static portfolio. In the case of most of funds, the asset manager will continuously adapt its portfolio and it could be that:

- an increase of the taxonomy alignment is explained by the divestment from a company that is not aligned with the Taxonomy to reinvest the proceeds in a company that is already aligned with the Taxonomy.
- a decrease of the taxonomy alignment is explained by the divestment from companies that have well transitioned during the holding period to reinvest in less sustainable companies.

For that reason, it would be challenging to set obligations of results for a product to be classified as a “transition focus” product. Minimum criteria for this category should therefore mostly be based on obligations of means (e.g. minimum expectations in terms of actions such as investment policies, engagement and escalation).

However, the Commission could still consider developing a notion of transition performance as a disclosure requirement, which would take into account the evolution of the GHG emissions/taxonomy alignment of the investees during the holding periods. Yet this approach would prove to be challenging for the monitoring of targets for investee companies that do not report their taxonomy-alignment.

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**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
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?

--

.....  
 ..... **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
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 criteria required for each of them?

‘contribution to an environmental or social objective’, element of the sustainable investment concept	X
‘do no significant harm’, element of the sustainable investment concept	X
‘investee companies’ good governance practices’, element of the sustainable investment concept	X

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

Yes	No	Don’t know
		x

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

--

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

Yes	No	Don’t know
		x

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

--

**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?

--

**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
...fall under the potential new product category of Article 8?	x		
...fall under the potential new product category of Article 9?	x		

**Question 4.1.14 a):** If yes, what should be this minimum proportion for Article 8?

<p>A proportion should be defined based on the adapted notion of sustainable investment. It is currently not possible to set a meaningful proportion.</p> <p>In any case, we do not agree that the current Article 8/9 classification can be meaningfully used as a promotion-based classification would remain misleading for the investors.</p>
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**Question 4.1.14 b):** If yes, what should be this minimum proportion for Article 9?

Cf answer to question 4.1.14 a).
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**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?

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## 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 crosscutting/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
				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
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						

(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:

--

**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
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				



Other						
-------	--	--	--	--	--	--

(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:

Third party verification could help bring trust in the actual level of sustainability of the product. We acknowledge that this would generate an additional cost that investors would need to bear for investing in sustainable products. However, external reviews already exist for industry labels (e.g. Towards Sustainability) and the additional review cost remains sufficiently low for not decreasing the appetite from asset managers to obtain these labels.

Yet we support limiting the scope of the assurance engagement to verifying the compliance with the minimum criteria of the product category, and not extending it to a quality review of the disclosures.

However, third party verification would pose organisational challenges for transitioning to the new regime, which would need to be considered for the verification of the categorisation of existing products.

On top of a third party verification, clarifying the sanction framework in a first instance could already foster the implementation of good governance practices for the application of the new regime.

**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
Whether the product is a wrapper offering choices between underlying investment options like a MultiOption 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:

Cf. answer to question 3.2.14.

### 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 categorisation 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
x		

Please explain your answer to question 4.3.1:

The new categories would be a key element to help retail investors to easily understand the (minimum) sustainability level of the product.

**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
The criteria set for the ESG benchmarks and the criteria defined for sustainability product categories should be closely aligned					x	
Other						

(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:

As mentioned, the lack of engagement action for passively managed ETFs is a problem. For the PAB/CTB ETFs to be classified as transition products, they should also meet the engagement requirements and be aligned with the SFDR possible future transition product category. We therefore support an alignment between the two frameworks, but SFDR should also set additional requirements for the asset manager to claim developing “transition focus” products.

**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
	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
				x	

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

#### 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
x		

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

	1	2	3	4	5	Don't know
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
		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:

It is critical that the accuracy and fairness of marketing communications and the use of sustainability related names for financial products is regulated in SFDR.

The ESMA recommendations on sustainability funds' names are a relevant starting point, to the extent that the notion of sustainable investment is clarified. However, we do not support the introduction of a double threshold on the minimum percentage of sustainable investment (e.g. 50% as initially proposed by ESMA) and the minimum percentage of the portfolio that should be allocated to article 8/9 products (80% as initially proposed by ESMA) as it brings unnecessary complexity to identify the right pocket for technical positions (e.g. cash, money market funds, etc.). We would therefore rather support the use of the taxonomy/sustainable investment thresholds complemented by the DNSH principle for the entire portfolio to allow a fund to be named "ESG", "sustainable", "green", or "responsible". Yet, given the current definition of "sustainable investment", we are welcoming the proposition from ESMA in its proposed change not to use the 50% sustainable investment threshold for its guidelines on funds' name.

We also support aligning the thresholds with the category C minimum criteria. In fact, fund naming rules could also be extended to prevent the use of the terms “transition” or “impact” for products that would not be classified respectively as category D or category A. A strict alignment between the fund naming rules and the classification of the products would indeed simplify the rules and avoid the introduction of separate thresholds.