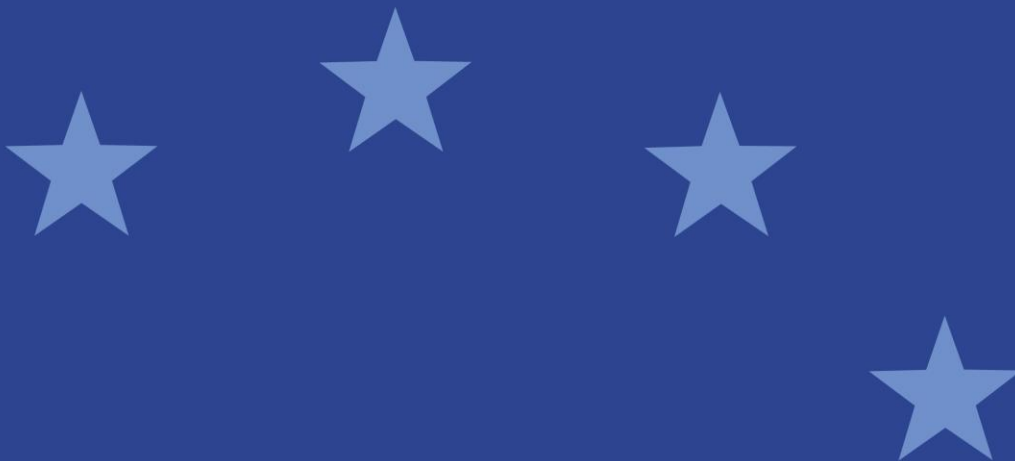




JOINT COMMITTEE OF THE EUROPEAN
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Response form for the Joint Consultation Paper concerning ESG disclosures



23 April 2020

Date: 23 April 2020
ESMA 34-45-904



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Responding to this paper

The European Supervisory Authorities (ESAs) invite comments on all matters in this consultation paper on ESG disclosures under Regulation (EU) 2019/2088 on sustainability-related disclosures in the financial sector (hereinafter “SFDR”) and in particular on the specific questions summarised in Section 3 of the consultation paper under “Questions to stakeholders”.

Comments are most helpful if they:

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

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

Instructions

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

- Q1** Insert your responses to the questions in the Consultation Paper in the present response form.
- Q2** Please do not remove tags of the type <ESA_QUESTION_ESG_1>. Your response to each question has to be framed by the two tags corresponding to the question.
- Q3** If you do not wish to respond to a given question, please do not delete it but simply leave the text “TYPE YOUR TEXT HERE” between the tags.
- Q4** When you have drafted your response, name your response form according to the following convention: ESA_ESG_nameofrespondent_RESPONSEFORM. For example, for a respondent named ABCD, the response form would be entitled ESA_ESG_ABCD_RESPONSEFORM.
- Q5** The consultation paper is available on the websites of the three ESAs and the Joint Committee. Comments on this consultation paper can be sent using the response form, via the [ESMA website](#) under the heading ‘Your input - Consultations’ by **1 September 2020**.
- Q6** Contributions not provided in the template for comments, or after the deadline will not be processed.



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SUPERVISORY AUTHORITIES

Publication of responses

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

Data protection

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

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



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General information about respondent

Name of the company / organisation	Principles for Responsible Investment
Activity	Other Financial service providers
Are you representing an association?	<input checked="" type="checkbox"/>
Country/Region	Europe

Introduction

Please make your introductory comments below, if any:

<ESA_COMMENT_ESG_1>

The PRI strongly supports the aims and objectives of the Regulation on Sustainability-Related Disclosures in the Financial Sector (Regulation (EU) 2019/2088 (hereinafter Sustainable Finance Disclosure Regulation "SFDR"). We understand the aims to include helping end-investors to understand the sustainability impact of products and encouraging management of adverse impacts by investors.

However, we are concerned that the proposed RTS framework approach to entity level principal adverse impact indicators is not fit for purpose. Indicators at the investor/entity level typically focus on decisions made at the highest level: policy, governance and due diligence. This can be supplemented by quantified impact measures, but the aggregation must be done carefully and respecting the processes surrounding management of individual funds. Many of the indicators in Annexes I, II and III could be suitable for assessing the performance of an individual issuer but become unhelpful or misleading when aggregated to the entity level. They also present substantial methodological and data collection challenges, leading to a substantial reporting burden for limited additional value.

We are also concerned that the RTS framework for entity and fund level disclosures appears to be developed independently of the EU Taxonomy, a framework which seeks to address many of the same concepts and has many of the same investors and funds in scope. This presents a fragmented and potentially confusing framework for investors and end-users of the disclosures.

Overarching recommendations:

- The EU institutions should develop and publish a clear overview of how SFDR, the Taxonomy and current and future RTSs, as well as the revision of the Non-Financial Reporting Directive, will work together as a coherent framework for disclosure of sustainability risk and impact by investors and companies.**
- The approach set out in Chapter II, Annex I, II and III should be reconsidered.** In the short term, we recommend the RTS focus on indicators which evidence the quality of an investor's due diligence processes on environmental and social issues, consistent with Regulation and the key elements of due diligence laid out in the OECD Guidelines on Responsible Business Conduct for Institutional Investors, on which the Regulation is based. Over time, the EU should work towards greater integration of the "adverse impacts" concept with the "do no significant harm" and minimum safeguard expectations of the EU Taxonomy. **A detailed proposal on how this could be done is set out in response to Q3.**
- The following issues should be considered in developing the Articles:**

Commented [NF1]: Can we make this recommendation number 1 – or at least sign-post it in the summary. It is the absence of this clear overview that is causing the problems.



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SUPERVISORY AUTHORITIES

- **The proposed disclaimer for Article 8 funds – “this product does not have sustainable investment as its objective” – should be removed or amended to avoid misleading consumers.**
- **The definition of “fossil fuels” should at minimum be aligned to the IPCC definitions, but ideally replaced with a more sophisticated concept of environmental harm.**
- **The disclosure requirements around ESG and climate benchmarks should be revised to reflect the fact that firms may have valid reasons for not choosing an ESG benchmark, and should not be penalised for doing so.**

<ESA_COMMENT_ESG_1>



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SUPERVISORY AUTHORITIES

- 1. : Do you agree with the approach proposed in Chapter II and Annex I – where the indicators in Table 1 always lead to principal adverse impacts irrespective of the value of the metrics, requiring consistent disclosure, and the indicators in Table 2 and 3 are subject to an “opt-in” regime for disclosure??**

<ESA_QUESTION_ESG_1>

No.

We strongly support the notion that investors should consider a wide range of environmental and social issues as part of their due diligence. However, we do not agree with the view, expressed by the ESAs, that “any positive value for the assessment of the indicators is classified as having a principal adverse impact” for the following reasons:

- It assumes that the impact of the underlying investees is the same as the impact of the investor. This does not reflect the nature of investment or the levers that investors have to influence the behaviour of underlying investees.
- It assumes that any non-zero value for an indicator is an adverse impact. In some cases this may be true, but it is not a universal rule and nor is it realistic – for example, the highest performing low carbon funds at present would still have a (small) carbon footprint because the world is still transitioning to net-zero. This could have implications for Article 9 funds as the PAI indicators are linked through to the assessment of avoiding significant harm.
- The language of “principal adverse impacts” implies that there should be a hierarchy, with investors able to prioritise the most important impacts. However, we do agree that some issues are systemic and likely to be significant for every investor.

Our detailed recommendations are contained in Question 3.

<ESA_QUESTION_ESG_1>

- 2. : Does the approach laid out in Chapter II and Annex I, take sufficiently into account the size, nature, and scale of financial market participants activities and the type of products they make available?**

<ESA_QUESTION_ESG_2>

No. As we have read it, the approach laid out does not take into account the size, nature or scale of financial market participant activities, or of the different product types they make available. Requiring disclosure against a fixed list of 30+ indicators inconsistent with a due-diligence framework based on a concept of proportionality.

Regarding product types, we do not consider that the Article 8/Article 9 framework is a valid way to differentiate different types of sustainable product. In practice, we do not recognise that Article 9 funds will always create more positive impact than Article 8 funds. The framework is designed to assess the underlying investments in a fund, but the characteristics of the underlying investment are not always a good measure of the impact of the investor’s strategy, for example failing to reflect an investor’s stewardship activities.

<ESA_QUESTION_ESG_2>

- 3. : If you do not agree with the approach in Chapter II and Annex I, is there another way to ensure sufficiently comparable disclosure against key indicators?**



JOINT COMMITTEE OF THE EUROPEAN
SUPERVISORY AUTHORITIES

<ESA_QUESTION_ESG_3>

Yes.

Below, we set out an example of how this could be done. This approach has the following key characteristics:

1. Investors should be able to identify the most significant issues in their overall portfolio, should demonstrate the steps taken to understand the full range of potential issues, and provide justification when issues are not considered principal adverse impacts. However, we recognise that certain issues are systemic and likely to be significant for every investor. We therefore recommend that all investors should always be required to disclose on their response to **climate change** and respect for **human rights** (although as below, we have some reservations on the proposed indicators relating to both themes).
2. The template should focus on indicators which map to the key elements of the OECD guidelines.
3. Quantitative indicators should be used to support and substantiate this due diligence-based reporting, but investors should select these where appropriate to their overall strategy.
 - a. For climate change, we recommend that the “principal adverse impacts” indicators reference the “do no significant harm” elements of the EU Taxonomy, subject to review once these have been finalised. We note that practical implementation will be very challenging as the data evolves, and investors and companies become more familiar with the Framework. Investors could therefore disclose indicators such as:
 - i. Number of funds/individual holdings assessed for significant harm in a given year;
 - ii. Number of funds in which instances of harm were identified;
 - iii. Number of individual holdings in which significant harm was identified;
 - iv. Proportion of the portfolio that exceeds the “do no significant harm” criteria of the EU Taxonomy;Investors should also have the option to include additional impact indicators to help them communicate their approach, for example:
 - v. Implied warming of the portfolio, expressed in degrees.
 - b. On quantitative indicators relating to social and employee matters and human rights, we recognise the need for greater clarity on measurement, but are concerned that the existing indicators require substantial further development. We encourage the ESAs to undertake more development in consultation with industry and human rights experts and to align this with the potential development of an EU Social Taxonomy.

Below, we give an example of this approach in practice (this should be subject to further testing):

Principal Adverse Impacts: Due Diligence and Outcomes Indicators	
1. Embedding responsible business conduct into policies and management systems	
1a.	Statement(s) regarding the FMP's response to specific international agreements, such as the SDG goals and targets, the Paris Agreement, the UN Guiding Principles on Business and Human Rights and OECD Guidelines for Multinational Enterprises – including guidance on Responsible Business Conduct for Institutional Investors.
1b.	Policies relating to the implementation of these agreements, if relevant, with dates of approval and individual(s) or groups responsible for approval.
1c.	Individuals and business units with responsibility for implementation, and specific responsibilities.
2. Identifying and assessing adverse impacts in the firms in which it invests	
2a.	Which sustainability issues have been considered, including at least those in scope for the EU Taxonomy (climate change mitigation, climate change adaptation, circular economy, water, pollution and protection and restoration of healthy ecosystems) and NFRD (social responsibility and treatment of employees, respect for human rights, anticorruption and bribery, Board Diversity).
2b.	Which issues have been identified as Principal Adverse Impacts of the investor (including climate and human rights), and justification for issues not identified as PAIs.
2c.	How the process considers geographical, economic, social and other factors.
2d.	How the process considers the probability of occurrence, severity and irremediable character of impacts.
2e.	Limitations of the methodologies including limits of accessible data.
3. Ceasing, preventing or mitigating adverse impacts	
3a.	For each issue identified as a Principal Adverse Impact, a description of the actions taken during the reference period, and planned for the next reference period.
3b.	Targets set in relation to these issues, at what level they are set and how they derive from global goals such as those listed in 1a.
4. Tracking implementation and results	
4a.	Taxonomy-aligned indicators (could include): <ul style="list-style-type: none"> Number of funds/individual holdings assessed for significant harm in a given year; Number of funds in which instances of harm were identified; Number of individual holdings in which significant harm was identified; Proportion of the portfolio that exceeds the "do no significant harm" criteria of the EU Taxonomy; . (Current scope is environmental issues, with possible extension to include future social Taxonomy).
4b.	Optional additional indicators: <ul style="list-style-type: none"> Implied warming of the portfolio, expressed in degrees.
5. Communicating how impacts are addressed	
5a.	How the investor communicates externally about its impacts, excluding the RTS disclosure requirements.
6. Providing for, or cooperating in, remediation where appropriate	
6a.	Statement of policy regarding remedy for the adverse impacts on individuals, workers and communities that it has caused, contributed to or been linked to.
6b.	Examples from the current reference period.
6c.	Planned actions for the next reference period.

The following issues should also be considered in developing the Articles:

- The proposed disclaimer for Article 8 funds – “this product does not have sustainable investment as its objective” – should be removed or amended to avoid misleading consumers.



JOINT COMMITTEE OF THE EUROPEAN SUPERVISORY AUTHORITIES

- The definition of “fossil fuels” should at minimum be aligned to the IPCC definitions, but ideally replaced with a more sophisticated concept of environmental harm.
- The disclosure requirements around ESG and climate benchmarks should be revised to reflect the fact that firms may have valid reasons for not choosing an ESG benchmark.

<ESA_QUESTION_ESG_3>

4. : Do you have any views on the reporting template provided in Table 1 of Annex I?

<ESA_QUESTION_ESG_4>

We do not support the proposal and recommend an alternative approach in our response to Q3.

<ESA_QUESTION_ESG_4>

5. : Do you agree with the indicators? Would you recommend any other indicators? Do you see merit in including forward-looking indicators such as emission reduction pathways, or scope 4 emissions (saving other companies’ GHG emissions)?

<ESA_QUESTION_ESG_5>

In general, no.

Indicators at the investor/entity level typically focus on decisions made at the highest level: policy, governance and due diligence. This can be supplemented by quantified impact measures, but the aggregation must be done carefully and respecting the processes surrounding management of individual funds. Quantitative indicators should be used to support and substantiate due diligence-based reporting, but investors should select these where appropriate to their overall strategy.

Many of the indicators in Annexes I, II and III could be suitable for assessing the performance of an individual issuer but become unhelpful or misleading when aggregated to the entity level. They also present substantial methodological and data collection challenges, leading to a substantial reporting burden for limited additional value. Careful consideration needs to be given to the design of indicators to ensure that they enable a meaningful comparison and are true measures of impact.

Quantified outcomes indicators should build from metrics in use in the investment industry, be carefully aggregated to reflect the SFDR / OECD framework for understanding investor impact (cause, contribute, be linked to) contextualise the impact in relation to Union goals.

While we recognise immediate practical challenges, over time **there should be greater integration of the “adverse impacts” concept with the “do no significant harm” and minimum safeguard expectations of the EU Taxonomy.** The concept of “principal adverse impacts” is closely linked to the concept of “significant harm” and “minimum safeguards” embedded in the Taxonomy Regulation.

The DNSH criteria of the EU Taxonomy are designed to provide a robust, science-based, technology neutral threshold for significant harm to environmental objectives. The forthcoming Taxonomy delegated acts will provide harmonised metrics and screening criteria for establishing whether an activity is causing significant harm. By contrast, the proposed PAI indicators focus on quantifying the impact, but not putting that impact into context with respect to the EU’s environmental or social objectives. Creating two distinct sets of indicators for measuring these related concepts is confusing and unhelpful.

We recommend the following:



JOINT COMMITTEE OF THE EUROPEAN
SUPERVISORY AUTHORITIES

- a. For climate change, we recommend that the “principal adverse impacts” indicators reference the “do no significant harm” elements of the EU Taxonomy, subject to review once these have been finalised. We note that practical implementation will be very challenging as the data evolves, and investors and companies become more familiar with the Framework. Investors could therefore disclose indicators such as:
- Number of funds/individual holdings assessed for significant harm in a given year;
 - Number of funds in which instances of harm were identified;
 - Number of individual holdings in which significant harm was identified;
 - Proportion of the portfolio that exceeds the “do no significant harm” criteria of the EU Taxonomy;

Investors should also have the option to include additional impact indicators to help them communicate their approach, for example:

- Implied warming of the portfolio, expressed in degrees.
- b. On social and employee matters and human rights, we recognise the need for greater clarity on measurement, but are concerned that the existing indicators require substantial further development. We encourage the ESAs to undertake more development in consultation with industry and human rights experts and to align this with the potential development of an EU Social Taxonomy.

c.
<ESA_QUESTION_ESG_5>

6. : In addition to the proposed indicators on carbon emissions in Annex I, do you see merit in also requesting a) a relative measure of carbon emissions relative to the EU 2030 climate and energy framework target and b) a relative measure of carbon emissions relative to the prevailing carbon price?

<ESA_QUESTION_ESG_6>

While we understand the proposal to require a relative measure of carbon emissions to the 2030 target, using the Taxonomy would also achieve this aim as it is designed to reflect the EU 2030 target. Disclosure relative to the prevailing carbon price may be a valuable metric to disclose in the context of managing climate risk but is not an impact indicator in its own right.

<ESA_QUESTION_ESG_6>

7. : The ESAs saw merit in requiring measurement of both (1) the share of the investments in companies without a particular issue required by the indicator and (2) the share of all companies in the investments without that issue. Do you have any feedback on this proposal?

<ESA_QUESTION_ESG_7>

As above, we have substantial concerns regarding the design of indicators where these are aggregated to entity level. At present we do not see value in requiring indicators to be calculated on the basis of both of these methodologies.

<ESA_QUESTION_ESG_7>

8. : Would you see merit in including more advanced indicators or metrics to allow financial market participants to capture activities by investee companies to reduce GHG emissions? If yes, how would such advanced metrics capture adverse impacts?

<ESA_QUESTION_ESG_8>

Yes and no.



JOINT COMMITTEE OF THE EUROPEAN
SUPERVISORY AUTHORITIES

We do see value in enabling investors to report on the improvements made by companies, as part of their actions to mitigate adverse impacts where these have been identified. However, these are not a measure of the investor's adverse impacts, and should not be a substitute for meaningful disclosure on metrics that assess the alignment of the investor's approach with critical sustainability goals, such as the EU's 2050 and 2030 targets.

<ESA_QUESTION_ESG_8>

9. : Do you agree with the goal of trying to deliver indicators for social and employee matters, respect for human rights, anti-corruption and anti-bribery matters at the same time as the environmental indicators?

<ESA_QUESTION_ESG_9>

No.

The PRI strongly supports greater attention to social and employee matters, respect for human rights, anti-corruption and anti-bribery matters by investors.

We recognise the need for greater clarity on measurement, but are concerned that the existing indicators require substantial further development. We encourage the ESAs to undertake more development in consultation with industry and human rights experts and to align this with the potential development of an EU Social Taxonomy.

<ESA_QUESTION_ESG_9>

10. : Do you agree with the proposal that financial market participants should provide a historical comparison of principal adverse impact disclosures up to ten years? If not, what timespan would you suggest?

<ESA_QUESTION_ESG_10>

Yes. For appropriate metrics, we support the disclosure of a historical comparison. This is particularly important for stewardship-based strategies where improvements in performance may take place over several years.

<ESA_QUESTION_ESG_10>

11. : Are there any ways to discourage potential "window dressing" techniques in the principal adverse impact reporting? Should the ESAs consider harmonising the methodology and timing of reporting across the reference period, e.g. on what dates the composition of investments must be taken into account? If not, what alternative would you suggest to curtail window dressing techniques?

<ESA_QUESTION_ESG_11>

One approach might be to require the calculations to be based on a point in time assessment that is broadly representative of the holdings across the given reference period.

<ESA_QUESTION_ESG_11>

12. : Do you agree with the approach to have mandatory (1) pre-contractual and (2) periodic templates for financial products?

<ESA_QUESTION_ESG_12>



JOINT COMMITTEE OF THE EUROPEAN SUPERVISORY AUTHORITIES

Yes, we consider that some standardised elements are necessary to enable comparability across products. However, we are concerned that the proposed templates only reflect the SFDR requirements and do not consider the Taxonomy requirements, or any future integration of the two.

<ESA_QUESTION_ESG_12>

13. : If the ESAs develop such pre-contractual and periodic templates, what elements should the ESAs include and how should they be formatted?

<ESA_QUESTION_ESG_13>

The templates are an opportunity to harmonise the various sustainability reporting requirements. For example, we note that the EU Taxonomy also establishes mandatory precontractual and periodic reporting requirements.

Under the proposed regime, an Article 8 fund promoting environmental issues would be required to disclose two distinct sets of information under SFDR and the Taxonomy:

SFDR RTS proposal	Taxonomy obligation
<p>Article 15 RTS:</p> <p>A graph presenting:</p> <ol style="list-style-type: none"> 1. How much of the product is “sustainable investments” according to SFDR broken down by environmental and social; 2. The total investments, excluding the above, that contribute to E&S characteristics, broken down by E&S; 3. Everything else <ul style="list-style-type: none"> - Narrative to include description of the purpose of the remainder of the investments and the investment in different sectors, including solid fossil fuels (labelled as fossil fuels). <p>Article 18 RTS:</p> <ul style="list-style-type: none"> - A list of sustainability indicators. 	<p>Taxonomy Regulation requirements:</p> <ul style="list-style-type: none"> - Narrative explaining the extent to which the EU Taxonomy was used in determining the sustainability of the investments; - Proportion of the fund that is “environmentally sustainable investments” in accordance with the EU Taxonomy; - Environmental objectives to which the fund contributes; - Proportion of “enabling” and “transition” investments within the fund. <p>TEG recommendation:</p> <ul style="list-style-type: none"> - “Potential alignment” - proportion of the fund that is potentially aligned but for which full validation cannot be completed.

This is duplicative and confusing to an end investor. We recommend that the EU review and streamline the concepts, with a view to eliminating duplication. In particular, where similar or identical concepts are proposed across both regulations, these should be addressed once in a harmonised way.<ESA_QUESTION_ESG_13>

14. : If you do not agree with harmonised reporting templates for financial products, please suggest what other approach you would propose that would ensure comparability between products.

<ESA_QUESTION_ESG_14>

TYPE YOUR TEXT HERE

<ESA_QUESTION_ESG_14>



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SUPERVISORY AUTHORITIES

15. : Do you agree with the balance of information between pre-contractual and website information requirements? Apart from the items listed under Questions 25 and 26, is there anything you would add or subtract from these proposals?

<ESA_QUESTION_ESG_15>
TYPE YOUR TEXT HERE
<ESA_QUESTION_ESG_15>

16. : Do you think the differences between Article 8 and Article 9 products are sufficiently well captured by the proposed provisions? If not, please suggest how the disclosures could be further distinguished.

<ESA_QUESTION_ESG_16>

We fundamentally disagree that the Article 8/9 framework is a valid way to differentiate different types of sustainable investment product. We are particularly concerned with the proposal to require Article 8 funds to carry a disclaimer stating that they do not target sustainable investments, which we think would mislead consumers.

Article 8/9 Framework

Conceptually, the SFDR recognises two fund types:

1. "Article 8" funds which promote the environmental and social characteristics of the underlying investments, alone or in combination with other characteristics. This is implicitly understood to be a lower impact ("light green") category of fund, and to include strategies such as stewardship.
2. "Article 9" funds which target "sustainable investments", as defined by the regulation, including a sub-set of funds targeting a reduction in carbon emissions (Article 9.3). This is implicitly understood to be a higher impact type of fund ("dark green").

In practice, we do not recognise that Article 9 funds will always create more positive impact than Article 8 funds. The framework is designed to assess the underlying investments in a fund, but the characteristics of the underlying investment are not always a good measure of the impact of the investor's strategy, for example failing to reflect an investor's stewardship activities.

There are three principal ways in which investors can contribute to a change in outcomes, or impact:

1. Capital allocation;
2. Stewardship;
3. Dialogue with policymakers.

Depending on the characteristics of the investment, one of these may be more powerful than another. For example, many ESG funds in Europe are listed equity funds. Capital allocation may have a small influence on price, and therefore a weak and indirect influence on the company. However, investors can have a significant and direct impact through company engagement and exercise of ownership rights, as demonstrated by recent net-zero commitments by European oil majors as a direct result of investor pressure. Allocating capital to high carbon companies is integral to this strategy, as it confers ownership rights.

The framework for Article 8 and 9 funds cannot be changed in the RTS. However, we recommend that the disclosure expectations for both be the same. This would allow end investors to make a judgement based on clear performance indicators, rather than on the unhelpful distinction created in the SFDR.



JOINT COMMITTEE OF THE EUROPEAN
SUPERVISORY AUTHORITIES

Article 8 fund disclaimer

Under the proposed RTS Article 16 (No sustainable investment objective), Article 8 funds must carry a disclaimer that states “**this product does not have sustainable investment as its objective**”.

Article 8 funds will include a large number of existing ESG and SRI products on the market. As above, these funds may have very significant positive impacts on the environment and society, even if they do not meet the Article 9 definition.

The term “sustainable investment” will be understood in a much wider way than the narrowly defined regulatory definition. In particular, most consumers would read this to mean that the fund is not in any way sustainable. We are concerned that this disclaimer would be misleading and could result in clients and consumers avoiding products which could be a good fit for their sustainability preferences.

<ESA_QUESTION_ESG_16>

17. : Do the graphical and narrative descriptions of investment proportions capture indirect investments sufficiently?

<ESA_QUESTION_ESG_17>

We assume that for any quantitative disclosures, the information would need to be sourced directly from the fund manager (which may present additional challenges). For qualitative and process-based information, for indirect investment, greater emphasis should be put on the role of due diligence and ESG issues in selection, appointment (contracting) and ongoing monitoring of external managers.

<ESA_QUESTION_ESG_17>

18. : The draft RTS require in Article 15(2) that for Article 8 products graphical representations illustrate the proportion of investments screened against the environmental or social characteristics of the financial product. However, as characteristics can widely vary from product to product do you think using the same graphical representation for very different types of products could be misleading to end-investors? If yes, how should such graphic representation be adapted?

<ESA_QUESTION_ESG_18>

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<ESA_QUESTION_ESG_18>

19. : Do you agree with always disclosing exposure to solid fossil-fuel sectors? Are there other sectors that should be captured in such a way, such as nuclear energy?

<ESA_QUESTION_ESG_19>

No.

Firstly, the draft RTS proposes to define the term “fossil fuel sectors” to only include solid fossil fuels. This is highly misleading. The term “fossil fuels” is already widely understood to refer to all hydrocarbon-based fuel sources including oil and natural gas, as referenced under the definitions promoted by the Intergovernmental Panel on Climate Change. Unless the end investor is familiar with the regulatory definition, they are likely to assume that this refers to all fossil fuels. This could be very misleading.

Secondly, the approach of focussing on specific sectors could be improved. The inclusion of mandatory disclosure of fossil fuels appears designed to identify the extent to which a product is invested in high-carbon activities, a source of substantial environmental harm. While this is true, fossil fuel sectors are not the



JOINT COMMITTEE OF THE EUROPEAN
SUPERVISORY AUTHORITIES

only source of substantial harm and may not have a substantial negative impact on other environmental issues. The Taxonomy, by contrast, establishes technology-neutral thresholds by which an economic activity, such as energy generation, can demonstrate that it is avoiding substantial harm across all environmental goals. As above, we recommend the EU consider how the concepts of “do no significant harm” could be harmonised across the Taxonomy and Disclosure regulations.

<ESA_QUESTION_ESG_19>

20. : Do the product disclosure rules take sufficient account of the differences between products, such as multi-option products or portfolio management products?

<ESA_QUESTION_ESG_20>

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<ESA_QUESTION_ESG_20>

21. : While Article 8 SFDR suggests investee companies should have “good governance practices”, Article 2(17) SFDR includes specific details for good governance practices for sustainable investment investee companies including “sound management structures, employee relations, remuneration of staff and tax compliance”. Should the requirements in the RTS for good governance practices for Article 8 products also capture these elements, bearing in mind Article 8 products may not be undertaking sustainable investments?

<ESA_QUESTION_ESG_21>

TYPE YOUR TEXT HERE

<ESA_QUESTION_ESG_21>

22. : What are your views on the preliminary proposals on “do not significantly harm” principle disclosures in line with the new empowerment under the taxonomy regulation, which can be found in Recital (33), Articles 16(2), 25, 34(3), 35(3), 38 and 45 in the draft RTS?

<ESA_QUESTION_ESG_22>

TYPE YOUR TEXT HERE

<ESA_QUESTION_ESG_22>

23. : Do you see merit in the ESAs defining widely used ESG investment strategies (such as best-in-class, best-in-universe, exclusions, etc.) and giving financial market participants an opportunity to disclose the use of such strategies, where relevant? If yes, how would you define such widely used strategies?

<ESA_QUESTION_ESG_23>

Yes, this could be a helpful part of an investor’s disclosure.

The PRI Reporting Framework is reported on by over 3,000 investors annually and defines the following key strategies:

1. Screening
2. Sustainability themed investment (also referred to as environmentally and socially themed investment)
3. Integration of ESG issues
4. Stewardship / Active ownership (engagement and voting)



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SUPERVISORY AUTHORITIES

The full definitions can be seen here: https://www.unpri.org/Uploads/i/m/n/maindefinitionstoprireporting-framework_127272_949397.pdf

<ESA_QUESTION_ESG_23>

24. : Do you agree with the approach on the disclosure of financial products' top investments in periodic disclosures as currently set out in Articles 39 and 46 of the draft RTS?

<ESA_QUESTION_ESG_24>

Yes, we support greater transparency regarding the underlying holdings of individual funds.

<ESA_QUESTION_ESG_24>

25. : For each of the following four elements, please indicate whether you believe it is better to include the item in the pre-contractual or the website disclosures for financial products? Please explain your reasoning.

4. an indication of any commitment of a minimum reduction rate of the investments (sometimes referred to as the "investable universe") considered prior to the application of the investment strategy - in the draft RTS below it is in the pre-contractual disclosure Articles 17(b) and 26(b);
5. a short description of the policy to assess good governance practices of the investee companies - in the draft RTS below it is in pre-contractual disclosure Articles 17(c) and 26(c);
6. a description of the limitations to (1) methodologies and (2) data sources and how such limitations do not affect the attainment of any environmental or social characteristics or sustainable investment objective of the financial product - in the draft RTS below it is in the website disclosure under Article 34(1)(k) and Article 35(1)(k); and
7. a reference to whether data sources are external or internal and in what proportions - not currently reflected in the draft RTS but could complement the pre-contractual disclosures under Article 17.

<ESA_QUESTION_ESG_25>

Points 1 and 2 would be appropriate to include in precontractual disclosures, as they may form part of the sustainable investment strategy the fund is pursuing. Points 3 and 4 should be accessible to clients, but may be too detailed to include in precontractual reporting.

<ESA_QUESTION_ESG_25>

26. : Is it better to include a separate section on information on how the use of derivatives meets each of the environmental or social characteristics or sustainable investment objectives promoted by the financial product, as in the below draft RTS under Article 19 and article 28, or would it be better to integrate this section with the graphical and narrative explanation of the investment proportions under Article 15(2) and 24(2)?

<ESA_QUESTION_ESG_26>

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<ESA_QUESTION_ESG_26>

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

<ESA_QUESTION_ESG_27>



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<ESA_QUESTION_ESG_27>