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# Final Report on draft Regulatory Technical Standards

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with regard to the content and presentation of disclosures pursuant  
to Article 8(4), 9(6) and 11(5) of Regulation (EU) 2019/2088

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# 1. Executive Summary

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The European Supervisory Authorities (ESAs) have developed through the Joint Committee (JC) draft Regulatory Technical Standards (RTS) with regard to the content and presentation of disclosures under Articles 8(4), 9(6) and 11(5) of Regulation (EU) 2019/2088 (hereinafter ‘Sustainable Finance Disclosure Regulation’ or ‘SFDR’).

The abovementioned Articles were inserted in the SFDR through Article 25 of Regulation (EU) 2020/852 (the ‘Taxonomy Regulation’ or the ‘TR’) which amends the SFDR. Following this amendment, the ESAs have been empowered to develop draft RTS on taxonomy-related product disclosures. Specifically, the ESAs have been empowered to develop further obligations to the SFDR product disclosures where the product makes sustainable investments contributing to environmental objectives.

The draft RTS text and accompanying Annexes included below set out the ESAs’ proposals. They reflect the responses to the ESAs’ Consultation Paper (JC 2021 22) published on 17 March 2021.

The draft RTS contain templates for pre-contractual and periodic product disclosures. The ESAs agreed to amend the existing finalised draft RTS and their accompanying templates in order to minimise duplication and complexity, thus creating a single ruleset. The ESAs’ finalised draft RTS<sup>1</sup> (the ‘SFDR RTS’), which were published 4 February 2021, have already established the content, methodology and presentation of other disclosures to be made under the SFDR in accordance with the ESAs’ empowerments under Articles 2a, 4(6) and (7), 8(3), 9(5), 10(2) and 11(4) SFDR. The ESAs’ aim is to have the technical standards on disclosures rules function as a “single rulebook” for sustainability disclosures for both the original empowerments in the SFDR and the additional ones added by the TR.

In line with the ESAs’ empowerments, the draft RTS have been developed in the following areas:

- According to Article 8(4) SFDR: Development of additional pre-contractual disclosures relating to the content and presentation of Article 8 SFDR products subject to Article 6 TR, concerning climate objectives and other environmental objectives under Article 9 TR respectively.
- According to Article 9(6) SFDR: Development of additional pre-contractual disclosures relating to the content and presentation of Article 9 SFDR products subject to Article 5 TR, relating to disclosures concerning climate objectives and other environmental objectives under Article 9 TR respectively.
- According to Article 11(5) SFDR: Development of additional rules on the content and presentation of information required under Article 5 and 6 TR for periodic disclosures relating to climate objectives and other environmental objectives under Article 9 TR respectively.

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<sup>1</sup> <https://www.esma.europa.eu/press-news/esma-news/three-european-supervisory-authorities-publish-final-report-and-draft-rts>

In **section 2** the general background and rationale of the proposal is presented. **Section 3** includes the RTS and the mandatory templates for the product disclosures. Included in **section 4** is an impact assessment that analyses the ESAs proposals and a feedback statement on the Consultation Paper.

Responses by the stakeholder groups of ESMA, EIOPA and EBA are attached as annexes to this final report.

Lastly, **section 5** contains a draft consolidated SFDR RTS.

## 2. Background and Rationale

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### Introduction

The ESAs' approach in the draft RTS is to amend the existing SFDR RTS instead of creating new technical standards, to minimise duplication and complexity.

The draft RTS cover the content and presentation of additional information to the SFDR product disclosures where the product makes sustainable investments contributing to environmental objectives. As the SFDR RTS included mandatory templates for pre-contractual and periodic information, the taxonomy-related product RTS provide amended templates with additional specific taxonomy-related disclosure requirements.

The amending draft RTS require both an identification of the environmental objectives to which the economic activities funded by the product contribute and substantial disclosures on "how and to what extent" the economic activities the product invests in qualify as environmentally sustainable.

The ESAs considered that in order to disclose "how" investments underlying the financial product are in economic activities that qualify as environmentally sustainable, the description in relation to those sustainable investments should also include an indication of whether the environmentally sustainable economic activities' compliance with the criteria in Article 3 of Regulation (EU) 2020/852 has been subject to an assessment by an auditor or a third party (and if so, the name of that auditor or third party). For pre-contractual disclosures, it should be indicated whether the assessment by auditors or third parties will be performed.

### Disclosure of the environmental objective(s) contributed to

Article 5(a) TR requires that the disclosures include information on the environmental objective or objectives set out in Article 9 TR that the investment of the product contributes to.

The ESAs propose to treat the Article 9 SFDR products with an environmental objective as a subset of a larger Article 9 SFDR category, and Article 8 SFDR products which make sustainable investments with an environmental objective a subset of a larger Article 8 SFDR category of products which make sustainable investments.

In terms of the RTS, for Article 9 SFDR products, the ESAs suggest that the pre-contractual transparency requirement here is inserted into the description of the sustainable investment objective in the SFDR RTS and the periodic disclosure description. The ESAs suggest that this is done by amending the text to add a requirement that financial products that invest in an economic activity that contributes to one or more environmental objective(s) shall provide a description of that as described in Article 9 TR (contained in Article 21 of the draft RTS for pre-contractual disclosures and in Article 65 for periodic disclosures).

For Article 8 SFDR products, given that the disclosures under the ESAs' empowerments for taxonomy RTS are significant, the ESAs propose for pre-contractual Article 6 TR product disclosures, to require the disclosure of the relevant environmental objectives set out in Article 9 TR by amending Article 14 SFDR RTS. For periodic disclosures, the disclosures are to be included within Article 59 of the SFDR RTS.

### **The extent to which investments are taxonomy-aligned**

The disclosures should include information on “how and to what extent” the economic activities the product invests in qualify as environmentally sustainable under the TR.

Pre-contractually, the “extent” to which the economic activities to be invested in qualify as environmentally sustainable is to be disclosed within the disclosure on asset allocation under Article 16 SFDR RTS for Article 6 TR products and under Article 25 SFDR RTS for Article 5 TR products. Periodically, the disclosure is placed within Article 61 of the SFDR RTS for Article 6 TR products and within Article 67 of the SFDR RTS for Article 5 TR products.

For the purposes of this disclosure, the ESAs propose that in pre-contractual disclosures the “extent” to which economic activities to be invested in qualify as environmentally sustainable should be shown in a graphical representation of a key performance indicator (KPI). This KPI should be calculated based on the taxonomy-compliant activities funded by the investments of the financial product. The proposed RTS require the financial market participant to calculate the taxonomy activity contribution of non-financial investee companies by turnover by default, or by capital expenditure or operational expenditure when justified by the features of the financial product.

For periodic disclosures, the ESAs propose that the “extent” to which economic activities invested in qualify as environmentally sustainable should be shown in a graphical representation of all three KPIs as a calculation basis for all non-financial undertaking investee companies the product invests in.

Additional narrative disclosures include a breakdown of activities invested in by environmental objectives they contribute to and whether the activities are enabling or transitional (which are requirements of the TR).

The ESAs have further decided to propose a dual approach which consists of the calculation of two KPIs, one including all investments of the financial product and one excluding sovereign exposures, in order to ensure transparency and comparability and enable investors to assess the proportion of investments aligned with the TR while at the same time avoiding the problem of perception that could otherwise arise because of potentially low KPIs where financial products have high exposures to sovereigns. The low KPIs would be caused by the lack of a reliable methodology to derive taxonomy-aligned activities funded by sovereign exposures.

Therefore, a first KPI is calculated establishing the weighted average taxonomy-aligned activity contribution of investments in the numerator and using all investments as the denominator. A

second KPI should be included in the same way but excluding all sovereign exposures (which includes any investment that results in an exposure to central governments, central banks and supranational issuers) from the numerator and the denominator<sup>2</sup>.

The numerator is to be broken down into taxonomy-aligned assets contributing to taxonomy-aligned economic activities by differentiating between corporate bonds issued by, and equities of, investee companies, green bonds under the future EU Green Bond Standard, other green bonds, investments in non-financial and financial undertakings, investments in real estate assets, investments in infrastructure assets and investments in securitisation positions.

Green bonds issued under the future EU Green Bond Standard should count for 100% of their value in the numerator as such bonds must use 100% of their proceeds towards environmentally sustainable economic activities.

For green bonds issued under other green bond frameworks, the proportion of their value that corresponds to the share of the proceeds of those bonds used for environmentally sustainable economic activities should be included.

For non-financial and financial investee companies the value in the numerator should correspond to the value of the securities to be invested in or invested in by the financial product in those companies weighted by the share of turnover, or, when justified, capital expenditure or operational expenditure by those investee companies aligned with environmentally sustainable economic activities.

Financial market participants will be required to disclose, for pre-contractual disclosures, one KPI of choice for all non-financial undertaking investee companies the product invests in and explain the reasons for that choice, including how that choice is appropriate for the investors and applying the same approach to all investments made by that given financial product. The calculation should be netted for the purposes of reporting the share of investments in taxonomy-aligned economic activities by applying the methodology used to calculate net short positions laid down in Article 3, paragraphs 4 and 5 of Regulation (EU) No 236/2012 of the European Parliament and of the Council<sup>3</sup>.

For financial undertaking investee companies, the value in the numerator should correspond to the share of activities associated with environmentally sustainable activities disclosed by those companies under their Article 8 TR disclosures.

The disclosure should be accompanied by narrative explanations including a breakdown of investments by enabling and transitional activities in accordance with Article 5 TR.

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<sup>2</sup> The second KPI is calculated the same way as the KPI provided in the Delegated Regulation under Article 8 of the TR (C(2021 4987)

<sup>3</sup> Regulation (EU) No 236/2012 of the European Parliament and of the Council of 14 March 2012 on short selling and certain aspects of credit default swaps (OJ L 86, 24.3.2012, p. 1).

## How the investments are taxonomy aligned

The ESAs believe that in order to disclose “how” investments underlying the financial product are made in economic activities that qualify as environmentally sustainable under the TR, the disclosure on asset allocation of the financial product should include an indication of whether the environmentally sustainable economic activities’ compliance with the criteria in Article 3 of Regulation (EU) 2020/852 has been subject to an assurance provided by an auditor or a review by a third party, and if so, the name of that auditor or third party (for pre-contractual disclosures, whether it will be subject to assessment by auditors or third parties).

For one of the aspects of the RTS, the ESAs changed their approach in the final report compared to the Consultation Paper. In the Consultation Paper the ESAs had proposed to derogate from the general SFDR RTS relating to the principle of Do No Significant Harm (DNSH) (which require taking into account the adverse impact indicators of Annex I of the RTS) for taxonomy-aligned sustainable investments, which already require the detailed DNSH rules of the TR Technical Screening Criteria. However, as a result of a legal analysis the ESAs concluded that it is not possible to derogate from the general SFDR DNSH RTS for sustainable investments that are taxonomy-aligned, that derogation has been removed. As a result, the DNSH related rules will be applied to all sustainable investments including the taxonomy-aligned investments. While the ESAs regret this, as they believe this will adversely affect taxonomy-aligned investments, this means that the ESAs’ proposal for publication of a statement on taxonomy-alignment, as included in the Consultation Paper, no longer serves any purpose and has therefore been removed from the final report.

The disclosures described above would be broadly applicable to Article 9 SFDR products. However, the existing SFDR RTS disclosures would continue to apply to Article 9 SFDR products pursuing social objectives, as the Taxonomy does not yet cover those objectives, and additional requirements have been added for Article 9 SFDR products pursuing environmental objectives that are not covered by the EU Taxonomy. This is because according to Recital 19 TR, Article 9 SFDR products pursuing environmental objectives can have investments in economic activities that contribute to an environmental objective as defined under 2(17) SFDR referring to non-taxonomy compliant activities (as indicated by the words “among others” in that Recital). However, such products fall within the scope of Article 5 TR. In this case, the disclosures shall include additional information.

For Article 8 SFDR products, the taxonomy compliant sustainable investments would typically only be a sub-set of investments. Therefore, the Article 6 TR disclosures for Article 8 SFDR products should apply only to those investments that have sustainable investment as their objective.

Furthermore, new pre-contractual and periodic product templates have been provided for Article 5 and 6 TR products derived from the templates provided by the SFDR RTS developed for Article 8 SFDR and Article 9 SFDR products. The templates in these amending RTS showcase Article 5 TR financial products’ investments aligned with the taxonomy and for Article 6 TR financial products investments that contain taxonomy-aligned investments.



## Other changes

Following stakeholders' feedback to the consultation paper, the SFDR RTS have been amended to reflect that the information at the beginning of the mandatory templates for the pre-contractual and periodic disclosures included in the Annexes should identify whether sustainable investments are environmental or social and for environmentally sustainable investments, whether the investments are taxonomy-aligned.

The ESAs have amended the pre-contractual disclosures under Article 17 and Article 24 SFDR RTS for Article 8 and Article 9 SFDR products to include not only information on whether, but also on how, a financial product considers principal adverse impacts on sustainability factors. In addition, Article 17 and Article 24 SFDR RTS have been moved up to Article 14a and 23 of the SFDR RTS, preceding the disclosure on investment strategy.

For Article 9 SFDR products, the disclosures on the objective of a reduction in carbon emissions section, which in the SFDR RTS was included respectively in Articles 27 and 70 is placed after the disclosure on the sustainable investment objective of the financial product (respectively in Articles 22 and 65a).

## Summary of RTS

*Information on environmental objective or environmental objectives to which the investment underlying the financial product contributes*

The draft RTS under the empowerments in Articles 8(4), 9(5) and 11(5) SFDR require the identification of which environmental objectives the financial product contributes to. This identification will be included in the disclosure of environmental characteristics (where the environmental objectives the activities funded by the sustainable investments contribute to are environmental characteristics) or sustainable investment objectives under the SFDR RTS rules for pre-contractual and periodic disclosures.

The draft RTS includes:

- an addition to the general Article 8 SFDR pre-contractual disclosure for products referred to in Article 6 TR that should identify the environmental objective(s) the financial product contributes to;
- an addition to the general Article 9 SFDR pre-contractual disclosure for products referred to in Article 5 TR that should identify the environmental objective(s) the financial product contributes to;
- an addition to the general Article 11 SFDR periodic disclosure for products referred to in Article 6 TR that should identify the environmental objective(s) the financial product has contributed to during the relevant reference period; and

- an addition to the general Article 11 SFDR periodic disclosure for products referred to in Article 5 TR that should identify the environmental objective(s) the financial product has contributed to during the relevant reference period.

*Information on how and to what extent investments underlying the financial product are in economic activities that qualify as environmentally sustainable under the TR*

The draft RTS covering how and to what extent investments underlying the financial product are in economic activities that qualify as environmentally sustainable under the TR require that the financial product calculates the extent of taxonomy alignment of investments in two ways: a first one, by calculating the ratio between a weighted average of taxonomy-aligned investments in the numerator divided by all investments in the denominator. A second ratio is calculated in the same way as the first except by also excluding all sovereign exposures from both the weighted average of taxonomy-aligned investments in the numerator and from all investments in the denominator<sup>4</sup>. These two KPIs should be graphically presented and accompanied by the breakdown between enabling and transitional activities in accordance with Article 5 TR. The rules also propose an indication of whether the compliance of taxonomy-aligned activities will be subject or (for periodic disclosure) has been subject to an assurance provided by an auditor or a review by a third party.

The draft RTS include:

- pre-contractual disclosure for products referred to in Article 6 TR that (1) specify a graphical representation of taxonomy alignment through two KPIs, one based on a weighted average taxonomy alignment of investments in the numerator divided by all investments in the denominator and another one based excluding all sovereign exposures from the weighted average taxonomy alignment on investments in the numerator and all investments in the denominator, accompanied by narrative explanations and (2) an indication of whether the compliance of taxonomy-aligned activities with the criteria of Article 3 TR will be subject to an assurance provided by an auditor or a review by a third party ;
- pre-contractual disclosure for products referred to in Article 5 TR that (1) specify a graphical representation of taxonomy alignment through two KPIs, one based on a weighted average taxonomy alignment of investments in the numerator divided by all investments in the denominator and another one based excluding all sovereign exposures from the weighted average taxonomy alignment on investments in the numerator and all investments in the denominator, accompanied by narrative explanations and (2) an indication of whether the compliance of taxonomy-aligned activities with the criteria of Article 3 TR will be subject to an assurance provided by an auditor or a review by a third party;
- periodic disclosure for products referred to in Article 6 TR that show the representation of taxonomy alignment during the reference period;

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<sup>4</sup> This is the same calculation as that provided in the Delegated Act under Article 8 of the TR

- periodic disclosure for products referred to in Article 5 TR that show the representation of taxonomy alignment during the reference period; and
- annexes with amendments to the templates for the pre-contractual and periodic disclosures for Article 5 TR and Article 6 TR products.

## Other changes

In proposing the changes to the draft SFDR RTS referred to above, the ESAs have also taken the opportunity to propose some targeted revisions to the pre-contractual and periodic disclosures.

The additional changes are as follows:

- The order of the sections and certain items in the pre-contractual and periodic disclosures (and templates) have been shifted:
  - the identification of whether a financial product has designated an index as a reference benchmark has been shifted to the investment strategy section in the pre-contractual templates;
  - the identification of further information being available in website disclosures has been moved as the last item in the pre-contractual disclosures.
  - the information at the beginning of the mandatory templates for the pre-contractual and periodic disclosures included in Annex II should identify whether sustainable investments are environmental or social and for environmentally sustainable investments, whether the investments are taxonomy-aligned. In addition, the statement should identify whether the financial product considers principal adverse impacts;
  - Pre-contractual disclosures to include not only information on whether, but also on how, a financial product considers principal adverse impacts on sustainability factors. This disclosure has been moved up, preceding the disclosure on investment strategy; and
  - For Article 9 SFDR products, the pre-contractual and periodic disclosure on the objective of a reduction in carbon emissions section, which in the SFDR RTS was included respectively in Articles 27 and 70 SFDR RTS is placed after the disclosure on the sustainable investment objective of the financial product (respectively in Articles 22 and 65a).

The ESAs have noted that the European Commission has indicated in a recent letter to the European Parliament and Council that all the SFDR RTS will be adopted in one instrument with an expected application date of 1 July 2022. In light of this, the ESAs acknowledge that the date of application of the draft RTS, originally indicated as 1 January 2022, is likely to be moved forward.

### 3. Draft RTS

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**COMMISSION DELEGATED REGULATION (EU) No .../..  
of **XXX****

**amending the regulatory technical standards laid down in Commission Delegated Regulation (EU) 2021/XXX as regards the content and presentation of information in relation to environmentally sustainable financial product disclosures in precontractual documents and periodic reports**

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2019/2088 of the European Parliament and of the Council on sustainability-related disclosures in the financial services sector <sup>(5)</sup>, and in particular Article 2a(3), the fourth subparagraph of Article 8(3), the fourth subparagraph of Article 8(4), the fourth subparagraph of Article 9(5), the fourth subparagraph of Article 9(6), the fourth subparagraph of Article 10(2), the fourth subparagraph of Article 11(4) and the fourth subparagraph of Article 11(5) thereof,

Whereas:

- (1) Regulation (EU) 2019/2088 establishes harmonised rules for sustainability-related disclosures by financial market participants and financial advisers. Commission Delegated Regulation (EU) 2021/xxx <sup>(6)</sup> lays down the content, methodologies and presentation of entity level principal adverse impact disclosures and the content and presentation of financial product level precontractual, website and periodic disclosures.
- (2) Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 <sup>(7)</sup> requires additional information on the degree of taxonomy alignment to be disclosed within the precontractual and periodic disclosures of a financial product investing in an economic activity that contributes to an environmental objective within the meaning of point (17) of Article 2 of Regulation (EU) 2019/2088.
- (3) For that purpose, the extent to which investments underlying a financial product are in economic activities that qualify as Taxonomy-aligned in accordance with Regulation (EU) 2020/852 (Taxonomy-aligned economic activities) should be graphically represented using a standardised metric to allow easy comparison for end-investors.

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<sup>5</sup> OJ L 317, 9.12.2019, p. 1.

<sup>6</sup> [Insert OJEU reference to Delegated Regulation].

<sup>7</sup> OJ L 198, 22.6.2020, p. 13.

- (4) With reference to the calculation of the taxonomy alignment of investments, the numerator should consist of the market value of the investments in investee companies that represents the proportion of Taxonomy-aligned economic activities of those investee companies. For debt securities for which the terms require the proceeds to be used for Taxonomy-aligned economic activities, those proceeds should also be included in the numerator. Other investments that can contribute to the numerator include infrastructure assets, real estate assets, securitisation assets and investments in other financial products referred to in Article 5 and 6 of Regulation (EU) 2020/852. Due to the lack of reliable methodologies to determine the taxonomy-alignment of exposures achieved through derivatives, such exposures should not be included in the numerator.
- (5) In order to provide investors with comprehensive and non-misleading information on the taxonomy alignment of the investments of the financial product and considering the current lack of an appropriate calculation methodology concerning sovereign exposures, it is appropriate to calculate and graphically represent the taxonomy alignment of the investments in two ways. The first representation should include sovereign exposures both in the numerator and in the denominator. However, where such exposures are not green bonds and cannot yet be assessed for taxonomy-alignment given the lack of developed methodologies, additional narrative disclosures should be made. The second representation should exclude sovereign exposures from the numerator and from the denominator, thus further enhancing comparability among financial products and allowing end-investors an assessment of the financial products' taxonomy-alignment when sovereign exposures are not included.
- (6) Where taxonomy-aligned activities are not yet disclosed by undertakings under Article 8 of Regulation (EU) 2020/852, third party data providers may be relied on. For the assessment of investments in investee companies that are not subject to the disclosures required by Article 8 of Regulation (EU) 2020/852, public reporting of data should be prioritised, followed by privately obtained data, either directly from investee companies or from third parties, in each case provided the information is equivalent to the disclosures made in accordance with that Article.
- (7) For the same reason, financial market participants should select one taxonomy key performance indicator per financial product to measure and disclose in pre-contractual documents the taxonomy alignment of all the investee companies that are non-financial undertakings, so that all non-financial undertakings in which that financial product invests are assessed by their turnover, capital expenditure or operational expenditure consistently. The key performance indicator should by default be the turnover. Capital expenditure or operational expenditure should be used only where the features of the product justify it. This selection should be explained, including by reference to how suitable it is to inform end investors. For all the investee companies that are financial undertakings, the same key performance indicator should be used for the same type of financial undertaking, that is asset managers, investment firms, credit institutions and insurance and reinsurance undertakings, as referred to in point (8) of Article 1 of Commission Delegated Regulation (EU) 2021/XXX [insert reference to Article 8 Taxonomy Regulation Delegated Act]. However, for insurance undertakings that carry out non-life underwriting activities, the applied key performance indicator can combine both the investment and underwriting key performance indicators, as required under Article 8 of Regulation (EU) 2020/852.

- (8) To promote transparency to end investors, it is necessary that the periodic disclosures of how and to what extent the investments underlying the financial product are made in Taxonomy-aligned economic activities provide a comparison with the targeted proportions of taxonomy-aligned investments featured in precontractual disclosures. To ensure comparability and transparency, the periodic disclosures should include the measurement of taxonomy-alignment by turnover, capital expenditure and operational expenditure.
- (9) To establish comparable disclosures for financial products investing in an economic activity that contributes to one or more of the environmental objectives referred to in Regulation (EU) 2020/852, it is necessary to amend Delegated Regulation (EU) 2021/xxx so that harmonised rules and standardised templates complementing the existing disclosures are contained in a single Regulation.
- (10) This Regulation is based on the draft regulatory technical standards submitted to the Commission by the European Banking Authority, the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority (European Supervisory Authorities).
- (11) The European Supervisory Authorities have conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the opinion of the Banking Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council <sup>(1)</sup>, the Insurance and Reinsurance Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1094/2010 of the European Parliament and of the Council <sup>(2)</sup>, and the Securities and Markets Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council <sup>(3)</sup>.
- (12) This Regulation should apply in respect of the environmental objectives referred to in points (a) and (b) of Article 9 of Regulation (EU) 2020/852, from [1 January 2022], and in respect of the environmental objectives referred to in points (c) to (f) of that Article, from 1 January 2023,

HAS ADOPTED THIS REGULATION:

*Article 1*  
**Amendments to Delegated Regulation (EU) 2021/xxx**

Delegated Regulation (EU) 2021/xxx is amended as follows:

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<sup>[1]</sup> Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12).

<sup>[2]</sup> Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC (OJ L 331, 15.12.2010, p. 48).

<sup>[3]</sup> Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84).

(1) Article 1 is replaced with the following:

*'Article 1*  
**Definitions**

For the purposes of this Regulation, the following definitions apply:

- (1) 'reference period' means, for the purposes of Chapter II, the period from 1 January to 31 December of the preceding year and, for the purposes of Chapter V, the period covered by the periodic report referred to in Article 11(2) of Regulation (EU) 2019/2088;
- (2) 'sovereign exposure' means an exposure to central governments, central banks and supranational issuers;
- (3) 'securitisation position' means an exposure to a securitisation;
- (4) 'Taxonomy-aligned economic activity' means an economic activity that complies with the requirements laid down in Article 3 of Regulation (EU) 2020/852; and
- (4) 'fossil fuel sectors' means sectors of the economy which produce, process, store or use fossil fuels as defined in Article 2(62) of Regulation (EU) 2018/1999 of the European Parliament and of the Council <sup>(8)</sup>;

(2) the title of Section 1 of Chapter III is replaced with the following:

*'Section 1*  
***Pre-contractual information for financial products referred to in Article 8(1) of Regulation (EU) 2019/2088***  
*(Article 8(1) to (2a) of Regulation (EU) 2019/2088)';*

(3) Articles 13 and 14 are replaced with the following:

*'Article 13*  
**Presentation of pre-contractual information for financial products referred to in Article 8(1) of Regulation (EU) 2019/2088**

1. Financial market participants shall present the information disclosed in accordance with Article 8(1) to (2a) of Regulation (EU) 2019/2088 and this Section in an annex to the document referred to in Article 6(3) of Regulation (EU) 2019/2088 in accordance with the template set out in Annex II. They shall include a prominent statement in the main body of the document referred to in Article 6(3) of that Regulation that information related to environmental or social characteristics is available in that annex.

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<sup>8</sup> Regulation (EU) 2018/1999 of the European Parliament and of the Council of 11 December 2018 on the Governance of the Energy Union and Climate Action, amending Regulations (EC) No 663/2009 and (EC) No 715/2009 of the European Parliament and of the Council, Directives 94/22/EC, 98/70/EC, 2009/31/EC, 2009/73/EC, 2010/31/EU, 2012/27/EU and 2013/30/EU of the European Parliament and of the Council, Council Directives 2009/119/EC and (EU) 2015/652 and repealing Regulation (EU) No 525/2013 of the European Parliament and of the Council (OJ L 328, 21.12.2018, p. 1).

2. Financial market participants shall provide at the beginning of the annex referred to in paragraph 1 the following information:
  - (a) whether the financial product intends to make any sustainable investments in accordance with the annex referred to in paragraph 1; and
  - (b) that the financial product promotes environmental or social characteristics, but does not have as its objective a sustainable investment.
3. Financial market participants shall present the information referred to in paragraph 1 in summary format in the order and made up of the following sections titled:
  - (a) ‘What environmental and/or social characteristics are promoted by this financial product?’;
  - (b) ‘Does this financial product take into account principal adverse impacts on sustainability factors?’;
  - (c) ‘What investment strategy does this financial product follow?’;
  - (d) ‘What is the asset allocation planned for this financial product?’;
  - (e) where an index is designated as a reference benchmark for the purpose of attaining the environmental or social characteristics promoted by the financial product, ‘Is a specific index designated as a reference benchmark to determine whether this financial product is aligned with the environmental and/or social characteristics that it promotes?’; and
  - (f) ‘Where can I find more product specific information online?’.

#### *Article 14*

#### **Environmental or social characteristics promoted by the financial product section**

1. The section referred to in point (a) of Article 13(3) shall contain a description of the environmental or social characteristics promoted by the financial product, a list of the sustainability indicators used to measure the attainment of each of the environmental or social characteristics promoted by the financial product and shall indicate whether a reference benchmark was designated for the purpose of attaining the environmental or social characteristics promoted by the financial product.
2. For financial products referred to in Article 6 of Regulation (EU) 2020/852, the section referred to in point (a) of Article 13(3) shall also identify the environmental objectives set out in Article 9 of that Regulation to which the sustainable investment underlying the financial product contributes.
3. For financial products that commit to making one or more sustainable investments, a description of how the sustainable investments contribute to a sustainable investment objective and do not significantly harm any of the sustainable investment objectives, including an explanation of:



- (a) how the indicators for adverse impacts in Table 1 of Annex I and any relevant indicators in Tables 2 and 3 of Annex I, are taken into account; and
- (b) whether the sustainable investment is aligned with the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights, including the principles and rights set out in the eight fundamental conventions identified in the Declaration of the International Labour Organisation on Fundamental Principles and Rights at Work and the International Bill of Human Rights.’;

(4) the following Article 14a is inserted:

*‘Article 14a*

**Identification of principal adverse impact consideration section for financial products that promote environmental or social characteristics**

The section referred to in point (b) of Article 13(3) shall:

- (a) explain whether the financial product considers principal adverse impacts on sustainability factors;
- (b) explain how such principal adverse impacts are considered, and
- (c) include a statement that information on principal adverse impacts on sustainability factors is available in the information to be disclosed pursuant to Article 11(2) of Regulation (EU) 2019/2088.’;

(5) Articles 15 and 16 are replaced with the following:

*‘Article 15*

**Investment strategy for environmental or social characteristics section**

The section referred to in point (c) of Article 13(3) shall contain the following information:

- (a) a description of the type of investment strategy used to attain the environmental or social characteristics promoted by the financial product, the binding elements of that strategy to select the investments to attain each of those characteristics and how the strategy is implemented in the investment process on a continuous basis;
- (b) where there is a commitment by the financial market participant to reduce by a minimum rate the scope of investments considered prior to the application of the strategy referred to in point (a), an indication of that rate; and
- (c) a short description of the policy to assess good governance practices of the investee companies.

*Article 16*

**Asset allocation section for financial products that promote environmental or social characteristics**

1. The section referred to in point (d) of Article 13(3) shall contain the following information:

- (a) a narrative explanation of the investments of the financial product; and
  - (b) where the financial product uses derivatives within the meaning of Article 2(1)(29) of Regulation (EU) No 600/2014 of the European Parliament and of the Council <sup>(9)</sup> to attain the environmental or social characteristics promoted by the financial product, a description of how the use of those derivatives attains those characteristics.
2. For the purposes of point (a) of paragraph 1, the narrative explanation shall explain:
- (a) the minimum proportion of the investments of the financial product used to attain the environmental or social characteristics promoted by the financial product in accordance with the binding elements of the investment strategy, including the minimum proportion of sustainable investments of the financial product where it commits to making sustainable investments; and
  - (b) the purpose of the remaining proportion of the investments, including a description of any minimum environmental or social safeguards.;
- (6) the following Articles 16a and 16b are inserted:

*'Article 16a*

**Sustainable investment information in the asset allocation section for financial products that promote environmental or social characteristics**

1. For financial products referred to in Article 6 of Regulation (EU) 2020/852, the section referred to in point (d) of Article 13(3) shall also contain the following information:
- (a) a graphical representation in the form of a pie chart of:
    - (i) the minimum taxonomy alignment of aggregated investments calculated in accordance with paragraphs 1 to 4 of Article 16b;
    - (ii) the minimum taxonomy alignment of aggregated investments excluding sovereign exposures, calculated in accordance with paragraph 5 of Article 16b.

When aggregating the taxonomy alignment of the investments in non-financial undertakings, the same key performance indicator shall be used. When aggregating the taxonomy alignment of the investments in financial undertakings, the same key performance indicator shall be used for the same type of financial undertaking. For insurance and reinsurance undertakings that carry out non-life underwriting activities, the key performance indicator may combine the investment and the underwriting key performance indicators in accordance with Article 8 of Regulation (EU) 2020/852;

- (b) a description of the investments underlying the financial product that are in Taxonomy-aligned economic activities, including whether the compliance of those investments with the requirements laid down in Article 3 of Regulation (EU) 2020/852 will be subject

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<sup>9</sup> Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012 (OJ L 173, 12.6.2014, p. 84).

to an assurance provided by one or more auditors or a review by one or more third parties and, if so, the name or the names of the auditor or third party;

- (c) where the financial product invests in sustainable investments with an environmental objective which invests in economic activities that are not Taxonomy-aligned economic activities, clear explanation of the reasons for doing so; and
  - (d) for financial products referred to in Article 6 of Regulation (EU) 2020/852 that have sovereign exposures and where the financial market participant cannot assess the extent to which those exposures contribute to Taxonomy-aligned economic activities, a narrative explanation of the proportion in total investments of investments that consist of those exposures.
2. For the purposes of point (b) of paragraph 1, the description shall include:
- (a) in respect of investee companies that are non-financial undertakings, whether the taxonomy alignment of investments is measured by turnover, or whether a more representative calculation of the taxonomy alignment is given when measured by capital expenditure or operating expenditure due to the features of the financial product, the reason for that decision, including how it is appropriate for investors in the financial product;
  - (b) where information relating to the taxonomy alignment of investments is not readily available from public disclosures by investee companies, details of how equivalent information was obtained directly from investee companies or from third party providers; and
  - (c) a breakdown of the minimum proportions of investments in the enabling activities referred to in Article 16 of Regulation (EU) 2020/852 and transitional activities referred to in Article 10(2) of that Regulation, in each case expressed as a percentage of all investments of the financial product.
3. For financial products including sustainable investments with a social objective, the section referred to in point (d) of Article 13(3) shall also contain the minimum share of those sustainable investments.

#### *Article 16b*

#### **Calculation of the taxonomy alignment of investments**

1. The taxonomy alignment of investments shall be calculated in accordance with the following formula:

$$\frac{\textit{market value of all taxonomy-aligned investments of the financial product}}{\textit{market value of all investments of the financial product}},$$

where 'taxonomy-aligned investments of the financial product' shall be the sum of the market values of the following investments of the financial product:

- (a) for debt securities and equities of investee companies, where a proportion of activities of those investee companies is associated with Taxonomy-aligned economic activities, the market value of that proportion of those debt securities or equities;
- (b) for debt securities other than those referred to in point (c) where a proportion of the proceeds are required by their terms to be used exclusively on Taxonomy-aligned economic activities, the market value of the proportion of those proceeds;
- (c) for green bonds issued under Union legislation on environmentally sustainable bonds, the market value of those green bonds;
- (d) for investments in real estate assets which qualify as Taxonomy-aligned economic activities, the market value of those investments;
- (e) for investments in infrastructure assets which qualify as Taxonomy-aligned economic activities, the market value of those investments;
- (f) for investments in securitisation positions with underlying exposures in Taxonomy-aligned economic activities, the market value of the proportion of those exposures; and
- (g) for investments in financial products referred to in Article 5 and Article 6 of Regulation (EU) 2020/852, the market value of the proportion of those financial products representing the taxonomy alignment of investments calculated in accordance with this Article.

The calculation shall be performed by applying the methodology used to calculate net short positions laid down in Article 3, paragraphs 4 and 5 of Regulation (EU) No 236/2012 of the European Parliament and of the Council<sup>10</sup>.

2. For the purposes of point (a) of paragraph 1, the proportion of activities of investee companies associated with Taxonomy-aligned economic activities shall be calculated on the basis of the most appropriate key performance indicators for the investments of the financial product using the following information:
  - (a) for investee companies referred to in Article 8(1) and (2) of Regulation (EU) 2020/852, on the basis of the disclosures made by those investee companies in accordance with that Article; and
  - (b) for other investee companies, on the basis of equivalent information.
3. For disclosures referred to in Articles 16a(1)(a) and 25(1)(a), in the case of investee companies that are non-financial undertakings referred to in Article 8(2) of Regulation (EU) 2020/852 and other non-financial undertakings, the calculation referred to in paragraph 2 shall use the same type of key performance indicator for all non-financial undertakings, which shall be turnover.

By way of derogation from the first subparagraph, where a more representative calculation of the taxonomy alignment is given by capital expenditure or operating expenditure due to

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<sup>10</sup> Regulation (EU) No 236/2012 of the European Parliament and of the Council of 14 March 2012 on short selling and certain aspects of credit default swaps (OJ L 86, 24.3.2012, p. 1).

the features of the financial product, the calculation may use the most appropriate of those two indicators.

4. In the case of investee companies that are financial undertakings subject to Article 8(1) of Regulation (EU) 2020/852 and for other financial undertakings, the calculation referred to in paragraph 2 shall use key performance indicators referred to in points (b) to (e) of Section 1.1 of Annex III of Commission Delegated Regulation (EU) 2021/XXX [insert reference to Article 8 Taxonomy Regulation Delegated Act] .
  5. For disclosures referred to in point (ii) of Article 16a(1)(a), point (ii) of Article 25(1)(a), point (iii) of Article 61a(b) and point (iii) of Article 67a(b), paragraphs 1 to 4 shall apply except that the sovereign exposures shall be excluded from the calculation of the numerator and of the denominator of the formula contained in paragraph 1.’;
- (7) Article 17 is deleted;
- (8) Articles 18 and 19 are replaced with the following:

*Article 18*

**Reference benchmark section for financial products that promote environmental or social characteristics**

Where an index is designated as a reference benchmark for the purpose of attaining the environmental or social characteristics promoted by the financial product, the section referred to in point (e) of Article 13(3) shall contain the following information:

- (a) an explanation of how the reference benchmark is continuously aligned with each of the environmental or social characteristics promoted by the financial product and with the investment strategy;
- (b) an explanation of how the designated index differs from a relevant broad market index; and
- (c) an indication of where the methodology used for the calculation of the designated index can be found.

*Article 19*

**Website reference section for financial products that promote environmental or social characteristics**

The section referred to in point (f) of Article 13(3) shall contain the following statement: “More product-specific information can be found on the website”. The statement shall also contain a hyperlink to the website with the information referred to in Article 32.’;

- (9) Section 2 of Chapter III is replaced with the following:

*Section 2*

**Pre-contractual information for financial products referred to in Article 9(1), (2) and (3) of Regulation (EU) 2019/2088**

*(Article 9(1) to (4a) of Regulation (EU) 2019/2088)*

*Article 20*

**Presentation of pre-contractual information for financial products referred to in Article 9(1), (2) and (3) of Regulation (EU) 2019/2088**

1. Financial market participants shall present the information disclosed in accordance with Article 9(1) to (4a) of Regulation (EU) 2019/2088 and this Section in an annex to the document referred to in Article 6(3) of Regulation (EU) 2019/2088 in accordance with the template set out in Annex III. They shall include a prominent statement in the main body of the document referred to in Article 6(3) of that Regulation that information related to sustainable investment is available in that annex.
2. Financial market participants shall include a statement at the beginning of the annex referred to in paragraph 1 that the financial product has a sustainable investment objective.
3. Financial market participants shall present the information referred to in paragraph 1 in summary format in the order and made up of the following sections titled:
  - (a) 'What is the sustainable investment objective of this financial product?';
  - (b) 'Does this financial product take into account principal adverse impacts on sustainability factors?';
  - (c) 'What investment strategy does this financial product follow?';
  - (d) 'What is the asset allocation and the minimum share of sustainable investments?';
  - (e) for a financial product referred to in Article 9(1) of Regulation (EU) 2019/2088, 'Is a specific index designated as a reference benchmark to meet the sustainable investment objective?'; and
  - (f) 'Where can I find more product specific information online?'

*Article 21*

**Sustainable investment objective of the financial product section**

The section referred to in point (a) of Article 20(3) shall contain the following:

- (a) a description of the sustainable investment objective of the financial product, a list of the sustainability indicators used to measure the attainment of the sustainable investment objective and the indication whether a reference benchmark was designated for the purposes of attaining the sustainable investment objective;
- (b) for financial products referred to in Article 5 of Regulation (EU) 2020/852, an identification of the environmental objectives set out in Article 9 of that Regulation to which the sustainable investment underlying the financial product contributes;
- (c) for financial products referred to in Article 9(3) of Regulation (EU) 2019/2088, an explanation that the reference benchmark qualifies as an EU Climate Transition Benchmark or an EU Paris-aligned Benchmark under Chapter 3a of Title III of Regulation

(EU) 2016/1011 and an indication of where the methodology used for the calculation of that benchmark can be found.

By way of derogation from the first subparagraph of point (c), where no EU Climate Transition Benchmark or EU Paris-aligned Benchmark in accordance with Regulation (EU) 2016/1011 is available, the explanation shall describe that fact and how the continued effort of attaining the objective of reducing carbon emissions is ensured in view of achieving the objectives of the Paris Agreement. The financial market participant shall explain the extent to which the financial product complies with the methodological requirements set out in Commission Delegated Regulation (EU) 2020/1818<sup>(11)</sup>; and

- (d) a description of how the sustainable investments contribute to a sustainable investment objective and do not significantly harm any of the sustainable investment objectives, including an explanation of:
  - (i) how the indicators for adverse impacts in Table 1 of Annex I and any relevant indicators in Tables 2 and 3 of Annex I, are taken into account; and
  - (ii) whether the sustainable investment is aligned with the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights, including the principles and rights set out in the eight fundamental conventions identified in the Declaration of the International Labour Organisation on Fundamental Principles and Rights at Work and the International Bill of Human Rights.

#### *Article 22*

### **Identification of principal adverse impact consideration section for financial products with the objective of sustainable investment**

The section referred to in point (b) of Article 20(3) shall:

- (a) explain whether the financial product considers principal adverse impacts on sustainability factors;
- (b) explain how such principal adverse impacts are considered; and
- (c) include a statement that information on principal adverse impacts on sustainability factors is available in the information to be disclosed pursuant to Article 11(2) of Regulation (EU) 2019/2088.

#### *Article 23*

### **Investment strategy section for the sustainable objective**

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<sup>11</sup> Commission Delegated Regulation (EU) 2020/1818 of 17 July 2020 supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council as regards minimum standards for EU Climate Transition Benchmarks and EU Paris-aligned Benchmarks (OJ L 406, 3.12.2020, p. 17).

The section referred to in point (c) of Article 20(3) shall contain the following information:

- (a) a description of the type of investment strategy used to attain the sustainable investment objective of the financial product, the binding elements of that strategy to select the investments to attain that objective and how the strategy is implemented in the investment process on a continuous basis; and
- (b) a short description of the policy used to assess good governance practices of the investee companies.

#### *Article 24*

#### **Asset allocation section for financial products with the objective of sustainable investment**

1. The section referred to in point (d) of Article 20(3) shall contain the following information:
  - (a) a narrative explanation of the investments of the financial product; and
  - (b) where the financial product uses derivatives within the meaning of Article 2(1)(29) of Regulation (EU) No 600/2014 to attain the sustainable investment objective of the financial product, a description of how the use of those derivatives attains that sustainable investment objective.
2. For the purposes of point (a) of paragraph 1 the narrative explanation shall explain:
  - (a) the minimum proportion of the investments of the financial product used to attain the sustainable investment objective in accordance with the binding element of the investment strategy; and
  - (b) the purpose of the remaining proportion of the investments of the financial product, including a description of any minimum environmental or social safeguards, how their proportion and use does not affect the delivery of the sustainable investment objective on a continuous basis and whether those investments are used for hedging, relate to cash held as ancillary liquidity or are investments for which there is insufficient data.

#### *Article 25*

#### **Sustainable investment information in the asset allocation section for financial products with the objective of sustainable investment**

1. For financial products referred to in Article 5 of Regulation (EU) 2020/852, the section referred to in point (d) of Article 20(3) shall also contain the following information:
  - (a) a graphical representation in the form of a pie chart of:
    - (i) the minimum taxonomy alignment of aggregated investments calculated in accordance with paragraphs 1 to 4 of Article 16b;
    - (ii) the minimum taxonomy alignment of aggregated investments excluding sovereign exposures, calculated in accordance with paragraph 5 of Article 16b.



- When aggregating the taxonomy alignment of the investments in non-financial undertakings, the same key performance indicator shall be used. When aggregating the taxonomy alignment of the investments in financial undertakings, the same key performance indicator shall be used for the same type of financial undertakings. For insurance and reinsurance undertakings that carry out non-life underwriting activities, the key performance indicator may combine the investment and the underwriting key performance indicators in accordance with Article 8 of Regulation (EU) 2020/852;
- (b) where the financial product invests in sustainable investments with an environmental objective which invests in economic activities that are not Taxonomy-aligned economic activities, a clear explanation of the reasons for doing so;
  - (c) a description of the investments underlying the financial product that are in Taxonomy-aligned economic activities, including whether the compliance of those investments with the requirements laid down in Article 3 of Regulation (EU) 2020/852 will be subject to an assurance provided by one or more auditors or a review by one or more third parties and, if so, the name or the names of the auditor or third party; and
  - (d) for financial products referred to in Article 5 of Regulation (EU) 2020/852 that have sovereign exposures and where the financial market participant cannot assess the extent to which those exposures contribute to Taxonomy-aligned economic activities, a narrative explanation of the proportion in total investments of investments that consist of those exposures.
2. For the purposes of point (c) of paragraph 1, the description shall include:
- (a) in respect of investee companies that are non-financial undertakings, whether the taxonomy alignment of investments is measured by turnover, or whether a more representative calculation of the taxonomy alignment is given when measured by capital expenditure or operating expenditure due to the features of the financial product, the reason for that decision, including how it is appropriate for investors in the financial product;
  - (b) where information relating to the taxonomy alignment of investments is not readily available from public disclosures by investee companies, details of how equivalent information was obtained directly from investee companies or from third party providers; and
  - (c) a breakdown of the minimum proportions of investments in the enabling activities referred to in Article 16 of Regulation (EU) 2020/852 and transitional activities referred to in Article 10(2) of that Regulation, in each case expressed as a percentage of all investments of the financial product.
3. For financial products including sustainable investments with a social objective, the section referred to in point (d) of Article 20(3) shall also contain the minimum share of those sustainable investments.

#### *Article 26*

#### **Sustainable investment objective attainment with a designated index section**

For a financial product referred to in Article 9(1) of Regulation (EU) 2019/2088, the section referred to in point (e) of Article 20(3) shall contain:

- (a) an explanation of how the taking into account of sustainability factors within the methodology of the reference benchmark is continuously aligned with the sustainable investment objective of the financial product;
- (b) an explanation of how the alignment of the investment strategy referred to in Article 23 with the methodology of the index is ensured on a continuous basis;
- (c) an explanation as to how the designated index differs from a relevant broad market index; and
- (d) an indication of where the methodology used for the calculation of the designated index can be found.

*Article 27*

**Website reference section for financial products with the objective of sustainable investment**

The section referred to in point (f) of Article 20(3) shall contain the following statement: “More product-specific information can be found on the website”. The statement shall also contain a hyperlink to the website with the information referred to in Article 45.’;

(10) in Article 28, in the first subparagraph of paragraph 1, the words ‘Article 8(1) and (2) of that Regulation’ are replaced with ‘Article 8(1) to (2a) of that Regulation’;

(11) in Article 29, in paragraph 1, the words ‘Article 9(1) to (4) of that Regulation’ are replaced with ‘Article 9(1) to (4a) of that Regulation’;

(12) Article 49 is amended as follows:

(a) in point (a), the reference to ‘Article 22’ is replaced with ‘Article 23’; and

(b) in point (b), the reference to ‘Article 22(b)’ is replaced with ‘Article 23(b)’;

(13) In Article 50, the reference to ‘Article 23’ is replaced with ‘Article 24’;

(14) in Article 58, the first paragraph is replaced with the following:

‘1. For financial products referred to in Article 8(1) to (2a) of Regulation (EU) 2019/2088, financial market participants shall present the information referred to in Article 11(1) of Regulation (EU) 2019/2088 and this Section in an annex to the document referred to in Article 11(2) of that Regulation in accordance with the template set out in Annex IV. They shall include a prominent statement in the main body of the document referred to in Article 11(2) of that Regulation that information on the environmental or social characteristics is available in that annex.’;

(15) Article 59 is replaced with the following:

*Article 59*

**Attainment of the environmental or social characteristics promoted by the financial product section**

The section referred to in point (a) of Article 58(2) shall contain the following:

- (a) a description of the extent to which the environmental or social characteristics promoted by the financial product were attained during the reference period, including the performance of the sustainability indicators referred to in Article 14 and any derivatives referred to in Article 16(1)(c) used to attain the environmental or social characteristics;
- (b) for financial products referred to in Article 6 of Regulation (EU) 2020/852, an identification of the environmental objectives set out in Article 9 of that Regulation to which the sustainable investment underlying the financial product contributed;
- (c) where the financial market participant has provided at least one previous periodic report in accordance with this Section for the financial product, a historical comparison between the reference period and previous reference periods;
- (d) for financial products that included a commitment to make sustainable investments, an explanation of how the sustainable investments have contributed to a sustainable investment objective and not harmed significantly any of the sustainable investment objectives during the reference period, including:
  - (i) how the indicators for adverse impacts in Table 1 of Annex I, and any relevant indicators in Tables 2 and 3 of Annex I, were taken into account; and
  - (ii) whether the sustainable investment was aligned with the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights, including the principles and rights set out in the eight fundamental conventions identified in the Declaration of the International Labour Organisation on Fundamental Principles and Rights at Work and the International Bill of Human Rights;
- (e) information on principal adverse impacts on sustainability factors as referred to in point (c) of Article 14a.;

(16) Article 61 is replaced with the following:

*'Article 61*

**Proportion of sustainability-related investments section for products that promote environmental or social characteristics**

The section referred to in point (c) of Article 58(2) shall contain a description of the investments of the financial product, including an explanation of:

- (a) the proportions of the investments of the financial product that attained the promoted environmental or social characteristics during the reference period;
- (b) the purpose of the remainder of the investments during the reference period, including a description of any minimum environmental or social safeguards and whether those investments are used for hedging, relate to cash held as ancillary liquidity or are investments for which there is insufficient data; and

- (c) the proportion of investments during the reference period in different sectors and sub-sectors, including the fossil fuel sectors.’;

(17) the following Article 61a is inserted:

*‘Article 61a*

**Sustainable investment information in the proportion of sustainability-related investments section for products that promote environmental or social characteristics**

For financial products referred to in Article 6 of Regulation (EU) 2020/852, where the financial product included a commitment to make sustainable investments, the section referred to in point (c) of Article 58(2) shall also contain the following information:

- (a) a breakdown of the proportion of each of the environmental objectives set out in Article 9 of Regulation (EU) 2020/852 to which the sustainable investments contributed to;
- (b) a description of the sustainable investments in Taxonomy-aligned economic activities during the reference period, including:
  - (i) whether the compliance of those investments with the requirements laid down in Article 3 of Regulation (EU) 2020/852 was subject to an assurance provided by one or more auditors or a review by one or more third parties and, if so, the name or the names of the auditor or third party;
  - (ii) a graphical representation in the form of a bar chart of the taxonomy alignment of the aggregated investments during the reference period calculated in accordance with paragraphs 1 to 4 of Article 16b. When aggregating the taxonomy alignment of the investments in non-financial undertakings, turnover, capital expenditure and operational expenditure shall be calculated and included in the graphical representation. When aggregating the taxonomy alignment of the investments in financial undertakings, turnover and capital expenditure shall, where applicable, be calculated and included in the graphical representation. For insurance undertakings that carry out non-life underwriting activities, the key performance indicator may combine the investment and the underwriting key performance indicators in accordance with Article 8 of Regulation (EU) 2020/852;
  - (iii) a graphical representation in the form of a bar chart of the taxonomy alignment of the aggregated investments during the reference period excluding sovereign exposures, calculated in accordance with paragraph 5 of Article 16b. When aggregating the taxonomy alignment of the investments in non-financial undertakings, turnover, capital expenditure and operational expenditure shall be calculated and included in the graphical representation. When aggregating the taxonomy alignment of the investments in financial undertakings, turnover and capital expenditure shall, where applicable, be calculated and included in the graphical representation. For insurance undertakings that carry out non-life underwriting activities, the key performance indicator may combine the investment and the underwriting key performance indicators in accordance with Article 8 of Regulation (EU) 2020/852;
- (iv) the information referred to in point (b) of Article 16a(2);

- (v) a breakdown of the proportions of investments during the reference period in the enabling activities referred to in Article 16 of Regulation (EU) 2020/852 and transitional activities referred to in Article 10(2) of that Regulation, in each case expressed as a percentage of all investments of the financial product
  - (vi) where the financial product invested in sustainable investments with an environmental objective which invests in economic activities that are not Taxonomy-aligned economic activities, a clear explanation of the reasons for doing so; and
  - (vii) where the financial market participant has provided at least one previous periodic report in accordance with this Section for the financial product, a historical comparison of the taxonomy alignment of the investments of the reference period with previous reference periods; and
- (c) for financial products referred to in Article 6 of Regulation (EU) 2020/852 that have sovereign exposures and where the financial market participant could not assess the extent to which those exposures contributed to Taxonomy-aligned economic activities during the reference period, a narrative explanation of the proportion in total investments of investments that consisted of those exposures.
  - (d) for financial products investing in sustainable investments with a social objective, the section referred to in point (c) of Article 58(2) shall also contain the minimum share of those sustainable investments.’;

(18) Articles 64 and 65 are replaced with the following:

*‘Article 64*

**Presentation and content requirements for periodic reports for financial products referred to Article 9(1), (2) and (3) of Regulation (EU) 2019/2088**

1. For financial products referred to in Article 9(1) to (4a) of Regulation (EU) 2019/2088, financial market participants shall present the information referred to in Article 11(1) of that Regulation and this Section in an annex to the document referred to in Article 11(2) of that Regulation in accordance with the templates set out in Annex V. Financial market participants shall include a prominent statement in the main body of the document referred to in Article 11(2) of that Regulation that information on sustainable investment is available in that annex.
2. Financial market participants shall present the information referred to in paragraph 1 in the order and made up of the following sections titled:
  - (a) ‘To what extent was the sustainable investment objective of this financial product met?’;
  - (b) ‘What were the top investments of this financial product?’;
  - (c) ‘What was the proportion of sustainability-related investments?’;

- (d) 'What actions have been taken to attain the sustainable investment objective during the reference period?'; and
- (e) for a financial product referred to in Article 9(1) of Regulation (EU) 2019/2088, 'How did this financial product perform compared to the reference sustainable benchmark?'

*Article 65*

**Attainment of the sustainable investment objective of the financial product section**

The section referred to in point (a) of Article 64(2) shall contain the following:

- (a) a description of the extent to which the sustainable investment objective was attained during the reference period, including the performance of the sustainability indicators referred to in Article 21 and any derivatives referred to in Article 24(1)(b) used to attain the sustainable investment objective;
- (b) for financial products referred to in Article 5 of Regulation (EU) 2020/852, an identification of the environmental objectives set out in Article 9 of that Regulation to which the sustainable investment underlying the financial product contributed;
- (c) for a financial product referred to in Article 9(3) of Regulation (EU) 2019/2088, information on how the objective of a reduction in carbon emissions was aligned with the Paris Agreement, containing a description of the contribution of the financial product during the reference period to achieving the objectives of the Paris Agreement, including in respect of an EU Climate Transition Benchmark or EU Paris-aligned Benchmark, the ESG factors and criteria considered by the benchmark administrator in accordance with Commission Delegated Regulation (EU) 2020/1818;
- (d) where the financial market participant has provided at least one previous periodic report in accordance with this Section for the financial product, a historical comparison between the current reference period and previous reference periods; and
- (e) an explanation of how the sustainable investments have contributed to a sustainable investment objective and not harmed significantly any of the sustainable investment objectives during the reference period, including:
  - (i) how the indicators for adverse impacts in Table 1 of Annex I, and any relevant indicators in Tables 2 and 3 of Annex I, were taken into account; and
  - (ii) whether the sustainable investment was aligned with the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights, including the principles and rights set out in the eight fundamental conventions identified in the Declaration of the International Labour Organisation on Fundamental Principles and Rights at Work and the International Bill of Human Rights;
- (f) information on principal adverse impacts on sustainability factors as referred to in point (c) of Article 22.';

(19) Article 67 is replaced with the following:

*'Article 67*

**Proportion of sustainability-related investments for financial products that have a sustainable investment objective section**

The section referred to in point (c) of Article 64(2) shall contain a description of the investments of the financial product, including:

- (a) the proportions of the investments of the financial product that contributed to the sustainable investment objective;
- (b) the purpose of the remainder of the investments during the reference period, including a description of any minimum environmental or social safeguards and whether those investments are used for hedging, relate to cash held as ancillary liquidity or are investments for which there is insufficient data; and
- (c) the proportion of investments during the reference period in different sectors and sub-sectors.;

(20) the following Article 67a is inserted:

*'Article 67a*

**Sustainable investment information in the proportion of sustainability-related investments section for products with the objective of sustainable investment**

For financial products referred to in Article 5 of Regulation (EU) 2020/852, the section referred to in point (c) of Article 64(2) shall also contain the following information:

- (a) a breakdown of the proportion of each of the environmental objectives set out in Article 9 of Regulation (EU) 2020/852 to which the sustainable investments contributed to;
- (b) a description of the sustainable investments in Taxonomy-aligned economic activities during the reference period, including:
  - (i) whether the compliance of those investments with the requirements laid down in Article 3 of Regulation (EU) 2020/852 was subject to an assurance provided by one or more auditors or a review by one or more third parties and, if so, the name or the names of the auditor or third party;
  - (ii) a graphical representation in the form of a bar chart of the taxonomy alignment of the aggregated investments during the reference period calculated in accordance with paragraphs 1 to 4 of Article 16b. When aggregating the taxonomy alignment of the investments in non-financial undertakings, turnover, capital expenditure and operational expenditure shall be calculated and included in the graphical representation. When aggregating the taxonomy alignment of the investments in financial undertakings, turnover and capital expenditure shall, where applicable, be calculated and included in the graphical representation. For insurance undertakings that carry out non-life underwriting activities, the key performance indicator may combine the investment and the underwriting key performance indicators in accordance with Article 8 of Regulation (EU) 2020/852;

- (iii) a graphical representation in the form of a bar chart of the taxonomy alignment of the aggregated investments during the reference period excluding sovereign exposures, calculated in accordance with paragraph 5 of Article 16b. When aggregating the taxonomy alignment of the investments in non-financial undertakings, turnover, capital expenditure and operational expenditure shall be calculated and included in the graphical representation. When aggregating the taxonomy alignment of the investments in financial undertakings, turnover and capital expenditure shall, where applicable, be calculated and included in the graphical representation. For insurance undertakings that carry out non-life underwriting activities, the key performance indicator may combine the investment and the underwriting key performance indicators in accordance with Article 8 of Regulation (EU) 2020/852;
  - (iv) the information referred to in point (b) of Article 25(2); (v) a breakdown of the proportions of investments during the reference period in the enabling activities referred to in Article 16 of Regulation (EU) 2020/852 and transitional activities referred to in Article 10(2) of that Regulation, in each case expressed as a percentage of all investments of the financial product;
  - (vi) where the financial product invested in sustainable investments with an environmental objective which invests in economic activities that are not Taxonomy-aligned economic activities, a clear explanation of the reasons for doing so; and
  - (vii) where the financial market participant has provided at least one previous periodic report in accordance with this Section for the financial product, a historical comparison of the taxonomy alignment of the investments of the reference period with previous reference periods; and
- (c) for financial products referred to in Article 5 of Regulation (EU) 2020/852 that have sovereign exposures and where the financial market participant could not assess the extent to which those exposures contributed to Taxonomy-aligned economic activities, a narrative explanation of the proportion in total investments of investments that consisted of those exposures; and
  - (d) for financial products investing in sustainable investments with a social objective, the section referred to in point (d) of Article 64(2) shall also contain the minimum share of those sustainable investments.’;

(21) Article 70 is deleted;

(22) Article 71 is replaced with the following:

*Article 71*

**Historical comparisons for periodic reports**

1. The historical comparisons referred to in Article 59(c), point (vii) of Article 61a(b), Article 65(d) and point (vii) of Article 67a(b) shall compare the current reference period with the previous



reference period provided in accordance with those Articles and shall continue to make such historical comparisons for at least five previous reference periods.

2. For the purposes of the historical comparisons referred to in Articles 59(c) and 65(d), financial market participants shall report on the performance of the sustainability indicators consistently over time, including the following information:
  - (a) where quantitative disclosures are made, figures with a relative measure such as impact per euro invested;
  - (b) which indicators are subject to an assurance provided by one or more auditors or a review by one or more third parties; and
  - (c) the proportion of underlying assets of the financial product referred to in Articles 61 and 67.;

(23) in Article 72, in point (b) of paragraph 2, the reference to ‘Articles 65 to 70’ is replaced with ‘Articles 65 to 69’;

(24) Article 73 is amended as follows:

- (a) in paragraph 1, the reference to ‘Articles 65 to 70’ is replaced with ‘Articles 65 to 69’; and
- (b) in point (a) of paragraph 2, the reference to ‘Articles 65 to 70’ is replaced with ‘Articles 65 to 69’; and

(25) Annexes II to V are replaced with Annexes I to IV of this Regulation.

## *Article 2*

### **Entry into force and application**

1. This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.
2. This Regulation shall apply from [1 January 2022] in respect of the environmental objectives referred to in points (a) and (b) of Article 9 of Regulation (EU) 2020/852 and from 1 January 2023 in respect of the environmental objectives referred to in points (c) to (f) of Article 9 of that Regulation.
3. By way of derogation from paragraph 2, points (b) and (c) of Article 14a, points (b) and (c) of Article 22, point (e) of Article 59 and point (f) of Article 65 shall apply from 30 December 2022.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

*For the Commission  
The President*

*[For the Commission  
On behalf of the President]*

*[Position]*

**Template pre-contractual disclosure for financial products referred to in Article 8(1) of Regulation (EU) 2019/2088 and Article 6 of Regulation (EU) 2020/852**

Product name: [complete]

Legal entity identifier: [complete]

## Environmental and/or social characteristics

**Does this financial product have a sustainable investment objective?** *[tick and fill in as relevant, the percentage figure represents the minimum commitment to sustainable investments]*

**Yes**    **No**

<p><input type="checkbox"/> It will make a minimum of <b>sustainable investments with an environmental objective:</b> ___%</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> in economic activities that qualify as environmentally sustainable under the EU Taxonomy</li> <li><input type="checkbox"/> in economic activities that do not qualify as environmentally sustainable under the EU Taxonomy</li> </ul> <p><input type="checkbox"/> It will make a minimum of <b>sustainable investments with a social objective:</b> ___%</p>	<p><input type="checkbox"/> It <b>promotes Environmental/Social (E/S) characteristics</b> and while it does not have as its objective a sustainable investment, it will have a minimum proportion of ___% of sustainable investments</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> with an environmental objective in economic activities that qualify as environmentally sustainable under the EU Taxonomy</li> <li><input type="checkbox"/> with an environmental objective in economic activities that do not qualify as environmentally sustainable under the EU Taxonomy</li> <li><input type="checkbox"/> with a social objective</li> </ul> <p><input type="checkbox"/> It promotes E/S characteristics, but <b>will not make any sustainable investments</b></p>
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**Sustainable investment** means an investment in an economic activity that contributes to an environmental or social objective, provided that the investment does not significantly harm any environmental or social objective and that the investee companies follow good governance practices.

The **EU Taxonomy** is a classification system, establishing a list of **environmentally sustainable economic activities**. For the time being, it does not include a list of socially sustainable economic activities. Sustainable investments with an environmental objective might be aligned with the Taxonomy or not.



**What environmental and/or social characteristics are promoted by this financial product?** *[indicate the environmental and/or social characteristics promoted by the financial product and whether a reference benchmark has been designated for the purpose of attaining the environmental or social characteristics promoted by the financial product.]*

- **What sustainability indicators are used to measure the attainment of each of the environmental or social characteristics promoted by this financial product?**

**Sustainability indicators** measure how the environmental or social characteristics promoted by the financial product are attained.

- **What are the objectives of the sustainable investments that the financial product partially intends to make and how does the sustainable investment contribute to such objectives?** *[include question for financial products that make sustainable investments, describe the objectives and how the sustainable investments contribute to the sustainable investment objective. For financial products referred to in Article 6 of Regulation (EU) 2020/852, list the environmental objectives set out in Article 9 of that Regulation to which the sustainable investment underlying the financial product contributes.]*

- **How do the sustainable investments that the financial product partially intends to make, not cause significant harm to any environmental or social sustainable investment objective?** *[include question where the financial product includes sustainable investments]*

— — How have the indicators for adverse impacts on sustainability factors been taken into account?

— — How are the sustainable investments aligned with the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights? Details:

*[Include statement for financial products referred to in Article 6 of Regulation (EU) 2020/852]*  
 The EU Taxonomy sets out a “do not significant harm” principle by which Taxonomy-aligned investments should not significantly harm EU Taxonomy objectives and is accompanied by specific EU criteria.

The “do no significant harm” principle applies only to those investments underlying the financial product that take into account the EU criteria for environmentally sustainable economic activities. The investments underlying the remaining portion of this financial product do not take into account the EU criteria for environmentally sustainable economic activities.

*Any other sustainable investments must also not significantly harm any environmental or social objectives.*

Principal adverse impacts are the most significant negative impacts of investment decisions on sustainability factors relating to environmental, social and employee matters, respect for human rights, anti-corruption and anti-bribery matters.



**Does this financial product consider principal adverse impacts on sustainability factors?**

- Yes, \_\_\_\_\_ *[if the financial product considers principal adverse impacts on sustainability factors, include a clear and reasoned explanation of how it considers principal adverse impacts on sustainability factors. Indicate where, in the information to be disclosed pursuant to Article 11(2) of Regulation (EU) 2019/2088, the information on principal adverse impacts on sustainability factors is available.]*
- No



**What investment strategy does this financial product follow?** *[provide a description of the investment strategy and indicate how the strategy is implemented in the investment process on a continuous basis]*

**The investment strategy** guides investment decisions based on factors such as investment objectives and risk tolerance.

**Good governance** practices include sound management structures, employee relations, remuneration of staff and tax compliance.

- **What are the binding elements of the investment strategy used to select the investments to attain each of the environmental or social characteristics promoted by this financial product?**
- **What is the committed minimum rate to reduce the scope of the investments considered prior to the application of that investment strategy?** *[include question where there is a commitment to reduce the scope of investments by a minimum rate]*
- **What is the policy to assess good governance practices of the investee companies?**



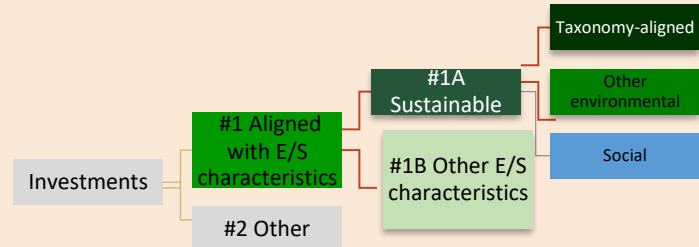
**What is the asset allocation planned for this financial product?**

**Asset allocation** describes the share of investments in specific assets.

*[include note only for financial products referred to in Article 6 of Regulation (EU) 2020/852]*  
Taxonomy-aligned activities are expressed as a share of:

- **turnover** reflecting the share of revenue from green activities of investee companies
- **capital expenditure** (CapEx) showing the green investments made by investee companies, e.g. for a transition to a green economy.
- **operational expenditure** (OpEx) reflecting green operational activities of investee companies.

*[Include only relevant boxes, remove irrelevant ones for the financial product]*



**#1 Aligned with E/S characteristics** includes the investments of the financial product used to attain the environmental or social characteristics promoted by the financial product.

**#2Other** includes the remaining investments of the financial product which are neither aligned with the environmental or social characteristics, nor are qualified as sustainable investments.

*[include the note below where the financial product commits to making sustainable investments]*

- The category **#1 Aligned with E/S characteristics** covers:
- The Subcategory **#1A Sustainable** covers sustainable investments with environmental or social objectives.
  - The sub-category **#1B Other E/S characteristics** covers investments aligned with the environmental or social characteristics that do not qualify as sustainable investments.


- **How does the use of derivatives attain the environmental or social characteristics promoted by the financial product?** *[include question where derivatives are used to attain the environmental or social characteristics promoted by the financial product]*

*[include note only for financial products referred to in Article 6 of Regulation (EU) 2020/852*

**Enabling activities** directly enable other activities to make a substantial contribution to an environmental objective.

**Transitional activities** are activities for which low-carbon alternatives are not yet available and among others have greenhouse gas emission levels corresponding to the best performance.

*[include note for financial products referred to in Article 6 of Regulation (EU) 2020/852 that invest in environmental economic activities that are not environmentally sustainable economic activities]*

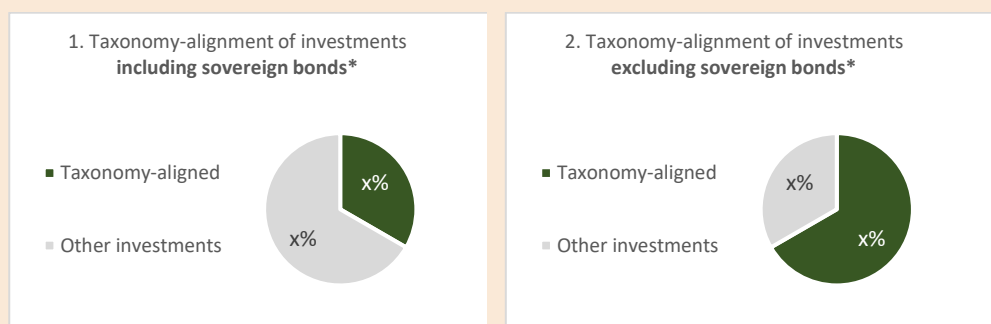
 are sustainable investments with an environmental objective that **do not take into account the criteria** for environmentally sustainable economic activities under the EU Taxonomy.



**To what minimum extent are sustainable investments with an environmental objective aligned with the EU Taxonomy?** *[include subsection for financial products referred to in Article 6 of Regulation (EU) 2020/852 and include according to point (b) of Article 16a(1) the indication of whether the compliance of the investments with the taxonomy will be subject to an assurance by auditors or a review by third parties and, if so, the name of the auditor(s) or third party(ies). According to point (d) of Article 16a(1) a narrative explanation of the proportion of investments that consist of sovereign exposures where the financial market participant cannot assess the extent to which those exposures contribute to Taxonomy-aligned economic activities. According to point (a) of Article 16a(2), include also the description of whether the taxonomy alignment of investments is measured by turnover, or by capital expenditure or operating expenditure and describe the reason for that decision, including how it is appropriate for investors in the financial product. According to point (b) of Article 16a(2), include the details of how equivalent information was obtained directly from investee companies or from third party providers]*

*[include subsection for financial products referred to in Article 6 of Regulation (EU) 2020/852 and include according to point (b) of Article 16a(1) the indication of whether the compliance of the investments with the taxonomy will be subject to an assurance by auditors or a review by third parties and, if so, the name of the auditor(s) or third party(ies). According to point (d) of Article 16a(1) a narrative explanation of the proportion of investments that consist of sovereign exposures where the financial market participant cannot assess the extent to which those exposures contribute to Taxonomy-aligned economic activities. According to point (a) of Article 16a(2), include also the description of whether the taxonomy alignment of investments is measured by turnover, or by capital expenditure or operating expenditure and describe the reason for that decision, including how it is appropriate for investors in the financial product. According to point (b) of Article 16a(2), include the details of how equivalent information was obtained directly from investee companies or from third party providers]*

**The two graphs below show in green the minimum percentage of investments that are aligned with the EU Taxonomy. As there is no appropriate methodology to determine the Taxonomy-alignment of sovereign bonds\*, the first graph shows the Taxonomy-alignment in relation to all the investments of the financial product including sovereign bonds, while the second graph shows the Taxonomy-alignment only in relation to the investments of the financial product other than sovereign bonds.**



\* For the purpose of these graphs, 'sovereign bonds' consist of all sovereign exposures

- **What is the minimum share of investments in transitional and enabling activities?** *[include subsection for financial products referred to in Article 6 of Regulation (EU) 2020/852]*



**What is the minimum share of sustainable investments with an environmental objective that are not aligned with the EU Taxonomy?** *[include subsection only for financial products referred to in Article 6 of Regulation (EU) 2020/852 where the financial product invests in economic activities that are not environmentally sustainable economic activities and explain why the financial product invests in sustainable investments with an environmental objective in economic activities that are not Taxonomy-aligned]*

*[include subsection only for financial products referred to in Article 6 of Regulation (EU) 2020/852 where the financial product invests in economic activities that are not environmentally sustainable economic activities and explain why the financial product invests in sustainable investments with an environmental objective in economic activities that are not Taxonomy-aligned]*



**What is the minimum share of socially sustainable investments?** *[include subsection only where the financial product includes sustainable investments with a social objective]*

*[include subsection only where the financial product includes sustainable investments with a social objective]*



**What investments are included under “#2 Other”, what is their purpose and are there any minimum environmental or social safeguards?**



**Is a specific index designated as a reference benchmark to determine whether this financial product is aligned with the environmental and/or social characteristics that it promotes?** *[include section where an index has been designated as a reference benchmark for the purpose of attaining the environmental or social characteristics promoted by the financial product and indicate where the methodology used for the calculation of the designated index can be found]*

*[include note for financial products where an index has been designated as a reference benchmark for the purpose of attaining the environmental or social characteristics promoted by the financial product]*

**Reference benchmarks** are indexes to measure whether the financial product attains the environmental or social characteristics that they promote.

- **How is the reference benchmark continuously aligned with each of the environmental or social characteristics promoted by the financial product?**
- **How is the alignment of the investment strategy with the methodology of the index ensured on a continuous basis?**
- **How does the designated index differ from a relevant broad market index?**



**Where can I find more product specific information online?**

**More product-specific information can be found on the website:** *[include a hyperlink to the website with the information referred to in Article 32 of Delegated Regulation 202x/xx]*

Annex II

ANNEX III

Template pre-contractual disclosure for financial products referred to in Article 9(1), (2) and (3) of Regulation (EU) 2019/2088 and Article 5 of Regulation (EU) 2020/852

Product name: [complete]

Legal entity identifier: [complete]

## Sustainable investment objective

Does this financial product have a sustainable investment objective? *[tick and fill in as relevant, the percentage figure represents the minimum commitment to sustainable investments]*

<input checked="" type="radio"/> <input checked="" type="radio"/> <input checked="" type="checkbox"/> <b>Yes</b>	<input type="radio"/> <input type="radio"/> <input type="checkbox"/> <b>No</b>
<input type="checkbox"/> It will make a minimum of <b>sustainable investments with an environmental objective: ___%</b> <ul style="list-style-type: none"> <li><input type="checkbox"/> in economic activities that qualify as environmentally sustainable under the EU Taxonomy</li> <li><input type="checkbox"/> in economic activities that do not qualify as environmentally sustainable under the EU Taxonomy</li> </ul>	<input type="checkbox"/> It <b>promotes Environmental/Social (E/S) characteristics</b> and while it does not have as its objective a sustainable investment, it will have a minimum proportion of ___% of sustainable investments <ul style="list-style-type: none"> <li><input type="checkbox"/> with an environmental objective in economic activities that qualify as environmentally sustainable under the EU Taxonomy</li> <li><input type="checkbox"/> with an environmental objective in economic activities that do not qualify as environmentally sustainable under the EU Taxonomy</li> <li><input type="checkbox"/> with a social objective</li> </ul>
<input type="checkbox"/> It will make a minimum of <b>sustainable investments with a social objective: ___%</b>	<input type="checkbox"/> It promotes E/S characteristics, but <b>will not make any sustainable investments</b>

**Sustainable investment** means an investment in an economic activity that contributes to an environmental or social objective, provided that the investment does not significantly harm any environmental or social objective and that the investee companies follow good governance practices.

The **EU Taxonomy** is a classification system, establishing a list of **environmentally sustainable economic activities**. For the time being, it does not include a list of socially sustainable economic activities. Sustainable investments with an environmental objective might be aligned with the Taxonomy or not.



**What is the sustainable investment objective of this financial product?** *[indicate the investment objective pursued by the financial product, describe how the sustainable investments contribute to a sustainable investment objective and indicate whether a reference benchmark has been designated for the purpose of attaining the sustainable investment objective. For financial products referred to in Article 5 of Regulation (EU) 2020/852, in respect of sustainable investments with environmental objectives, list the environmental objectives set out in Article 9 of that Regulation to which the sustainable investment underlying the financial product contributes. For financial products referred to in Article 9(3) of Regulation (EU) 2019/2088, indicate that the financial product has the objective of reducing carbon emissions and where the methodology used for the calculation of the reference benchmark can be found.]*

- **What sustainability indicators are used to measure the attainment of the sustainable investment objective of this financial product?**

**Sustainability indicators** measure how the sustainable objectives of this financial product are attained.



**Principal adverse impacts** are the most significant negative impacts of investment decisions on sustainability factors relating to environmental, social and employee matters, respect for human rights, anti-corruption and anti-bribery matters.

● **How do sustainable investments not cause significant harm to any environmental or social sustainable investment objective?**

— How have the indicators for adverse impacts on sustainability factors been taken into account?

— How are the sustainable investments aligned with the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights?



**Does this financial product consider principal adverse impacts on sustainability factors?**

- Yes *[if the financial product considers principal adverse impacts on sustainability factors, include a clear and reasoned explanation of how it considers principal adverse impacts on sustainability factors. Indicate where, in the information to be disclosed pursuant to Article 11(2) of Regulation (EU) 2019/2088, the information on principal adverse impacts on sustainability factors is available.]*
- No



**The investment strategy** guides investment decisions based on factors such as investment objectives and risk tolerance.

**What investment strategy does this financial product follow?** *[provide a description of the investment strategy and indicate how the strategy is implemented in the investment process on a continuous basis]*

● **What are the binding elements of the investment strategy used to select the investments to attain the sustainable investment objective?**

● **What is the policy to assess good governance practices of the investee companies?**

**Good governance** practices include sound management structures, employee relations, remuneration of staff and tax compliance.



**What is the asset allocation and the minimum share of sustainable investments?**

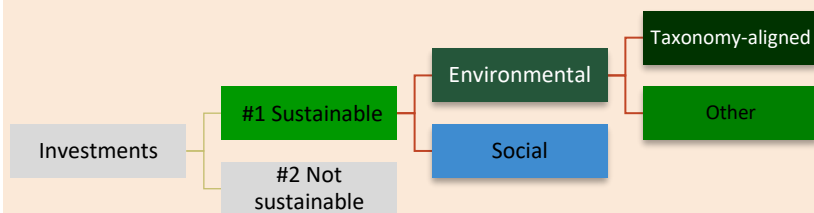
**Asset allocation** describes the share of investments in specific assets.

*[include note only for financial products referred to in Article 5 of Regulation (EU) 2020/852*

Taxonomy-aligned activities are expressed as a share of:

- **turnover** reflecting the share of revenue from green activities of investee companies
- **capital expenditure** (CapEx) showing the green investments made by investee companies, e.g. for a transition to a green economy.
- **operational expenditure** (OpEx) reflecting green operational activities of investee companies.

*[Include only relevant boxes, remove irrelevant ones for the financial product]*



**#1 Sustainable** covers sustainable investments with environmental or social objectives.

**#2 Not sustainable** includes investments which do not qualify as sustainable investments.

- **How does the use of derivatives attain the sustainable investment objective?** *[include question where derivatives are used to attain the sustainable investment objective]*



**To what minimum extent are sustainable investments with an environmental objective aligned with the EU Taxonomy?** *[include subsection for financial products referred to in Article 5 of Regulation (EU) 2020/852 and include according to point (c) of Article 25(1) the indication of whether the compliance of the investments with the taxonomy will be subject to an assurance by auditors or a review by third parties and, if so, the name of the auditor(s) or third party(ies). According to point (d) of Article 25(1) a narrative explanation of the proportion of investments that consist of sovereign exposures where the financial market participant cannot assess the extent to which those exposures contribute to Taxonomy-aligned economic activities. According to point (a) of Article 25(2), include also the description of whether the taxonomy alignment of investments is measured by turnover, or by capital expenditure or operating expenditure and describe the reason for that decision, including how it is appropriate for investors in the financial product. According to point (b) of Article 25(2), include the details of how equivalent information was obtained directly from investee companies or from third party providers]*

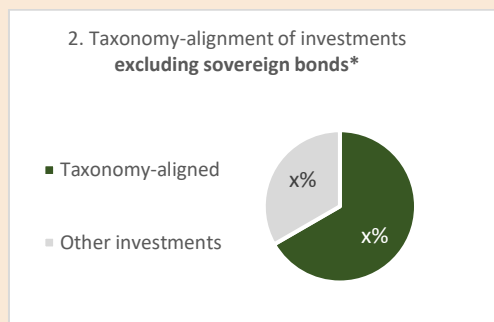
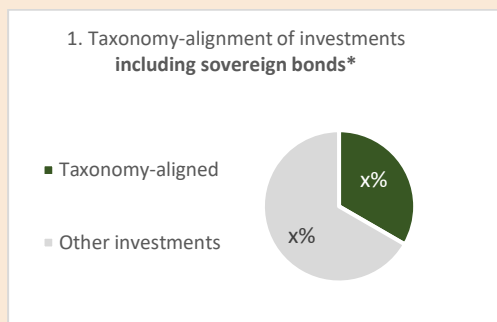
*[include note only for financial products referred to in Article 5 of Regulation (EU) 2020/852*

*[include note only for financial products referred to in Article 5 of Regulation (EU) 2020/852*

**Enabling activities** directly enable other activities to make a substantial contribution to an environmental objective.


**Transitional activities** are activities for which low-carbon alternatives are not yet available and among others have greenhouse gas emission levels corresponding to the best performance.

**The two graphs below show in green the minimum percentage of investments that are aligned with the EU Taxonomy. As there is no appropriate methodology to determine the Taxonomy-alignment of sovereign bonds\*, the first graph shows the Taxonomy-alignment in relation to all the investments of the financial product including sovereign bonds, while the second graph shows the Taxonomy-alignment only in relation to the investments of the financial product other than sovereign bonds.**



\*For the purpose of these graphs, 'sovereign bonds' consist of all sovereign exposures

*[include note for financial products referred to in Article 5 of Regulation (EU) 2020/852 that invest in environmental economic activities that are not environmentally sustainable economic activities]*

 are environmentally sustainable investments that do not take into account the criteria for environmentally sustainable economic activities under the EU Taxonomy.

- **What is the minimum share of investments in transitional and enabling activities?** *[include subsection for financial products referred to in Article 5 of Regulation (EU) 2020/852]*



**What is the minimum share of sustainable investments with an environmental objective that are not aligned with the EU Taxonomy?** *[include subsection only for financial products referred to in Article 5 of Regulation (EU) 2020/852 where the financial product invests in environmental economic activities that are not environmentally sustainable economic activities and explain why the financial product invests in sustainable investments with an environmental objective in economic activities that are not Taxonomy-aligned]*



**What is the minimum share of sustainable investments with a social objective?** *[include subsection only where the financial product includes sustainable investments with a social objective]*



**What investments are included under “#2 Not sustainable”, what is their purpose and are there any minimum environmental or social safeguards?** *[provide a description of the above and explain how the proportion and use of such investments does not affect the delivery of the sustainable investment objective]*



**Is a specific index designated as a reference benchmark to meet the sustainable investment objective?** *[include section only for financial products referred to in Article 9(1) of Regulation (EU) 2019/2088 and indicate where the methodology used for the calculation of the designated index can be found]*

*[include note for financial products referred to in Article 9(1) of Regulation (EU) 2019/2088]*

**Reference benchmarks** are indexes to measure whether the financial product attains the sustainable investment objective.

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



**Where can I find more product specific information online?**

**More product-specific information can be found on the website:** *[include a hyperlink to the website with the information referred to in Article 32 of Delegated Regulation 202x/xx]*

Annex III

ANNEX IV

Template periodic disclosure for financial products referred to in Article 8(1) of Regulation (EU) 2019/2088 and Article 6 of Regulation (EU) 2020/852

Product name: [complete]

Legal entity identifier: [complete]

## Environmental and/or social characteristics

Did this financial product have a sustainable investment objective? *[tick and fill in as relevant, the percentage figure represents the minimum commitment to sustainable investments]*

<input checked="" type="radio"/> <input type="radio"/> <input type="checkbox"/> <b>Yes</b>	<input type="radio"/> <input type="radio"/> <input checked="" type="checkbox"/> <b>No</b>
<input type="checkbox"/> It made <b>sustainable investments with an environmental objective</b> : ___% <ul style="list-style-type: none"> <li><input type="checkbox"/> in economic activities that qualify as environmentally sustainable under the EU Taxonomy</li> <li><input type="checkbox"/> in economic activities that do not qualify as environmentally sustainable under the EU Taxonomy</li> </ul> <input type="checkbox"/> It made <b>sustainable investments with a social objective</b> : ___%	<input type="checkbox"/> It <b>promoted Environmental/Social (E/S) characteristics</b> and while it did not have as its objective a sustainable investment, it had a proportion of ___% of sustainable investments <ul style="list-style-type: none"> <li><input type="checkbox"/> with an environmental objective in economic activities that qualify as environmentally sustainable under the EU Taxonomy</li> <li><input type="checkbox"/> with an environmental objective in economic activities that do not qualify as environmentally sustainable under the EU Taxonomy</li> <li><input type="checkbox"/> with a social objective</li> </ul> <input type="checkbox"/> It promoted E/S characteristics, but <b>did not make any sustainable investments</b>

**Sustainable investment** means an investment in an economic activity that contributes to an environmental or social objective, provided that the investment does not significantly harm any environmental or social objective and that the investee companies follow good governance practices.

The **EU Taxonomy** is a classification system, establishing a list of **environmentally sustainable economic activities**. For the time being, it does not include a list of socially sustainable economic activities. Sustainable investments with an environmental objective might be aligned with the Taxonomy or not.



**To what extent were the environmental and/or social characteristics promoted by this financial product met?** *[list the environmental and/or social characteristics promoted by the financial product. For financial products referred to in Article 6 of Regulation (EU) 2020/852, in respect of sustainable investments with environmental objectives, list the environmental objectives set out in Article 9 of that Regulation to which the sustainable investment underlying the financial product contributed. For financial products that made sustainable investments with social objectives, list the social objectives]*

- **How did the sustainability indicators perform?**
- **...and compared to previous periods?** *[include question for financial products where at least one previous periodic report was provided in accordance with Section 1 of Chapter V of Commission Delegated Regulation (EU) 202x/xxx]*

**Sustainability indicators** measure how the environmental or social characteristics promoted by the financial product are attained.

**Principal adverse impacts** are the most significant negative impacts of investment decisions on sustainability factors relating to environmental, social and employee matters, respect for human rights, anti-corruption and anti-bribery matters.

● **What were the objectives of the sustainable investments that the financial product partially made and how did the sustainable investment contribute to such objectives?** *[include question for financial products that made sustainable investments, where not included in the reply to the above question, describe the objectives. Describe how the sustainable investments contributed to the sustainable investment objective. For financial products referred to in Article 6 of Regulation (EU) 2020/852, list the environmental objectives set out in Article 9 of that Regulation to which the sustainable investment underlying the financial product contributed.]*

● **How did the sustainable investments that the financial product partially made not cause significant harm to any environmental or social sustainable investment objective?** *[include question where the financial product includes sustainable investments]*

— How were the indicators for adverse impacts on sustainability factors taken into account?

— Were sustainable investments aligned with the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights? Details:

*[Include statement for financial products referred to in Article 6 of Regulation (EU) 2020/852]  
The EU Taxonomy sets out a “do not significant harm” principle by which Taxonomy-aligned investments should not significantly harm EU Taxonomy objectives and is accompanied by specific EU criteria.*

The “do no significant harm” principle applies only to those investments underlying the financial product that take into account the EU criteria for environmentally sustainable economic activities. The investments underlying the remaining portion of this financial product do not take into account the EU criteria for environmentally sustainable economic activities.

*Any other sustainable investments must also not significantly harm any environmental or social objectives.*



**How did this financial product consider principal adverse impacts on sustainability factors?** *[include section if the financial product considered principal adverse impacts on sustainability factors]*



## What were the top investments of this financial product?

Largest investments	Sector	% Assets	Country
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The list includes the investments constituting the **greatest proportion of investments** of the financial product during the reference period which is: **[complete]**

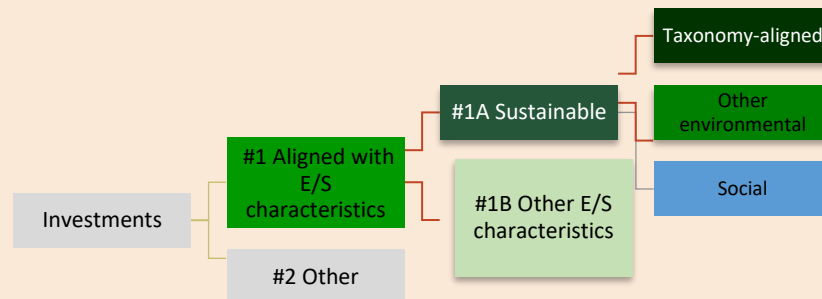


## What was the proportion of sustainability-related investments?

**Asset allocation** describes the share of investments in specific assets.

### ● What was the asset allocation?

*[Include only relevant boxes, remove irrelevant ones for the financial product]*



**#1 Aligned with E/S characteristics** includes the investments of the financial product used to attain the environmental or social characteristics promoted by the financial product.

**#2Other** includes the remaining investments of the financial product which are neither aligned with the environmental or social characteristics, nor are qualified as sustainable investments.

*[include the note below where the financial product made sustainable investments]*

The category **#1 Aligned with E/S characteristics** covers:

- The Subcategory **#1A Sustainable** covers environmentally and socially sustainable investments.
- The sub-category **#1B Other E/S characteristics** covers investments aligned with the environmental or social characteristics that do not qualify as sustainable investments.

*[include note when for financial products referred to in Article 6 of Regulation (EU) 2020/852]*

Taxonomy-aligned activities are expressed as a share of:

- **turnover** reflects the “greenness” of investee companies today.
- **capital expenditure** (CapEx) shows the green investments made by investee companies, relevant for a transition to a green economy.
- **operational expenditure** (OpEx) reflects the green operational activities of investee companies.

*[include note only for financial products referred to in Article 6 of Regulation (EU) 2020/852]*

**Enabling activities** directly enable other activities to make a substantial contribution to an environmental objective.

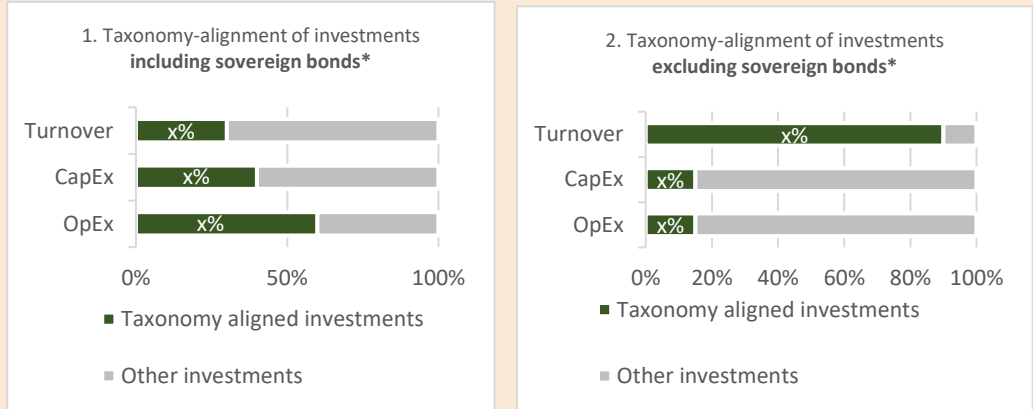
**Transitional activities** are activities for which low-carbon alternatives are not yet available and among others have greenhouse gas emission levels corresponding to the best performance.

● **In which economic sectors were the investments made?**



**To what extent were the sustainable investments with an environmental objective aligned with the EU Taxonomy?** *[include subsection for financial products referred to in Article 6 of Regulation (EU) 2020/852 and include in that text a narrative explanation of the proportion of investments that consist of sovereign exposures where the financial market participant cannot assess the extent to which those exposures contribute to Taxonomy-aligned economic activities. According to Article 61a(b)(i), include the indication of whether the compliance of the investments with the taxonomy was subject to an assurance by auditors or a review by third parties and, if so, the name of the auditor(s) or third party(ies). According to Article 61a(b)(iv), include the details of how equivalent information was obtained directly from investee companies or from third party providers]*

**The graphs below show in green the percentage of investments that were aligned with the EU Taxonomy. As there is no appropriate methodology to determine the Taxonomy-alignment of sovereign bonds\*, the first graph shows the Taxonomy-alignment in relation to all the investments of the financial product including sovereign bonds, while the second graph shows the Taxonomy-alignment only in relation to the investments of the financial product other than sovereign bonds.**



\*For the purpose of these graphs, ‘sovereign bonds’ consist of all sovereign exposures

● **What was the share of investments made in transitional and enabling activities?** *[include a breakdown of the proportions of investments during the reference period]*

● **How did the percentage of investments that were aligned with the EU Taxonomy compare with previous reference periods?** *[include question where at least one previous periodic report was provided in accordance with Section 1 of Chapter V of Commission Delegated Regulation (EU) 202x/xxx]*



*[include note for financial products referred to in Article 6 of Regulation (EU) 2020/852 that invest in environmental economic activities that are not environmentally sustainable economic activities]*



**What was the share of sustainable investments with an environmental objective not aligned with the EU Taxonomy?** *[include subsection only for financial products referred to in Article 6 of Regulation (EU) 2020/852 where the financial product included sustainable investments with an environmental objective that invested in economic activities that are not environmentally sustainable economic activities, and explain why the financial product invested in economic activities that were not Taxonomy-aligned]*

*[include subsection only for financial products referred to in Article 6 of Regulation (EU) 2020/852 where the financial product included sustainable investments with an environmental objective that invested in economic activities that are not environmentally sustainable economic activities, and explain why the financial product invested in economic activities that were not Taxonomy-aligned]*



**What was the share of socially sustainable investments?** *[include question only where the financial product included sustainable investments with a social objective]*



**What investments were included under “other”, what was their purpose and were there any minimum environmental or social safeguards?**

are sustainable investments with an environmental objective that **do not take into account the criteria** for environmentally sustainable economic activities under the EU Taxonomy.



**What actions have been taken to meet the environmental and/or social characteristics during the reference period?**



**How did this financial product perform compared to the reference benchmark?**

*[include section where an index has been designated as a reference benchmark for the purpose of attaining the environmental or social characteristics promoted by the financial product and indicate where the methodology used for the calculation of the designated index can be found]*

*[include note for financial products where an index has been designated as a reference benchmark for the purpose of attaining the environmental or social characteristics promoted by the financial product]*

**Reference benchmarks** are indexes to measure whether the financial product attains the environmental or social characteristics that they promote.

- **How does the reference benchmark differ from a broad market index?**
- **How did this financial product perform with regard to the sustainability indicators to determine the alignment of the reference benchmark with the environmental or social characteristics promoted?**
- **How did this financial product perform compared with the reference benchmark?**
- **How did this financial product perform compared with the broad market index?**



Template periodic disclosure for financial products referred to in Article 9(1), (2) and (3) of Regulation (EU) 2019/2088 and Article 5 of Regulation (EU) 2020/852

Product name: [complete]  
[complete]

Legal entity identifier:

## Sustainable investment objective

**Did this financial product have a sustainable investment objective?** *[tick and fill in as relevant, the percentage figure represents the minimum commitment to sustainable investments]*

<input checked="" type="radio"/> <input checked="" type="radio"/> <input checked="" type="checkbox"/> <b>Yes</b>	<input type="radio"/> <input type="radio"/> <input type="checkbox"/> <b>No</b>
<input type="checkbox"/> It made <b>sustainable investments with an environmental objective:</b> ___% <ul style="list-style-type: none"> <li><input type="checkbox"/> in economic activities that qualify as environmentally sustainable under the EU Taxonomy</li> <li><input type="checkbox"/> in economic activities that do not qualify as environmentally sustainable under the EU Taxonomy</li> </ul>	<input type="checkbox"/> It <b>promoted Environmental/Social (E/S) characteristics</b> and while it did not have as its objective a sustainable investment, it had a proportion of ___% of sustainable investments <ul style="list-style-type: none"> <li><input type="checkbox"/> with an environmental objective in economic activities that qualify as environmentally sustainable under the EU Taxonomy</li> <li><input type="checkbox"/> with an environmental objective in economic activities that do not qualify as environmentally sustainable under the EU Taxonomy</li> <li><input type="checkbox"/> with a social objective</li> </ul>
<input type="checkbox"/> It made <b>sustainable investments with a social objective:</b> ___%	<input type="checkbox"/> It promoted E/S characteristics, but <b>did not make any sustainable investments</b>

**Sustainable investment** means an investment in an economic activity that contributes to an environmental or social objective, provided that the investment does not significantly harm any environmental or social objective and that the investee companies follow good governance practices.

The **EU Taxonomy** is a classification system, establishing a list of **environmentally sustainable economic activities**. For the time being, it does not include a list of socially sustainable economic activities. Sustainable investments with an environmental objective might be aligned with the Taxonomy or not.



**To what extent was the sustainable investment objective of this financial product met?** *[list the sustainable investment objective of this financial product, and describe how the sustainable investments contributed to the sustainable investment objective. For financial products referred to in Article 5 of Regulation (EU) 2020/852, in respect of sustainable investments with environmental objectives, indicate to which environmental objectives set out in Article 9 of Regulation (EU) 2020/852 to the investment underlying the financial product contributed to. For financial products referred to in Article 9(3) of Regulation (EU) 2019/2088 indicate how the objective of a reduction in carbon emissions was aligned with the Paris Agreement]*

- **How did the sustainability indicators perform?**

**Sustainability indicators** measure how the sustainable objectives of this financial product are attained.

- **...and compared to previous periods?** *[include question for financial products where at least one previous periodic report was provided in accordance with Section 1 of Chapter V of Commission Delegated Regulation (EU) 202x/xxx]*

**Principal adverse impacts** are the most significant negative impacts of investment decisions on sustainability factors relating to environmental, social and employee matters, respect for human rights, anti-corruption and anti-bribery matters.

- **How did the sustainable investments not cause significant harm to any sustainable investment objective?** *[include question where the financial product includes sustainable investments]*

— How were the indicators for adverse impacts on sustainability factors taken into account?

— Were sustainable investments aligned with the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights? Details:



**How did this financial product consider principal adverse impacts on sustainability factors?** *[include section if the financial product considered principal adverse impacts on sustainability factors]*



**What were the top investments of this financial product?**

The list includes the investments constituting the **greatest proportion of investments** of the financial product during the reference period which is: *[complete]*

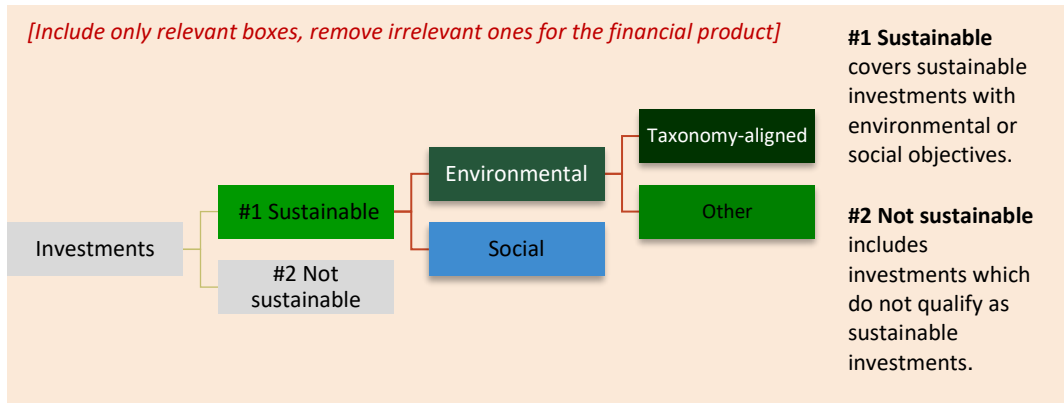
Largest investments	Sector	% Assets	Country



## What was the proportion of sustainability-related investments?

### ● What was the asset allocation?

**Asset allocation** describes the share of investments in specific assets.



### ● In which economic sectors were the investments made?



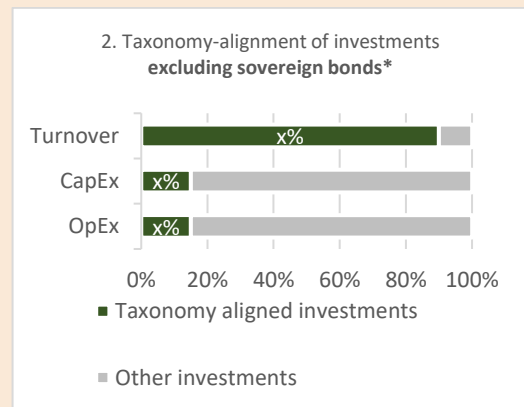
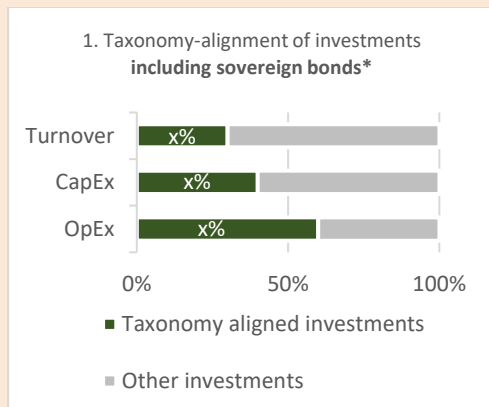
**To what extent were sustainable investments with an environmental objective aligned with the EU Taxonomy?** *[include subsection for financial products referred to in Article 5 of Regulation (EU) 2020/852 and include in that text a narrative explanation of the proportion of investments that consist of sovereign exposures where the financial market participant cannot assess the extent to which those exposures contribute to Taxonomy-aligned economic activities. According to Article 67a(b)(i), include the indication of whether the compliance of the investments with the taxonomy was subject to an assurance by auditors or a review by third parties and, if so, the name of the auditor(s) or third party(ies). According to Article 67a(b)(iv), include the details of how equivalent information was obtained directly from investee companies or from third party providers]*

*[include note only for financial products referred to in Article 5 of Regulation (EU) 2020/852]*

Taxonomy-aligned activities are expressed as a share of:

- **turnover** reflecting the share of revenue from green activities of investee companies
- **capital expenditure (CapEx)** showing the green investments made by investee companies, e.g. for a transition to a green economy.
- **operational expenditure (OpEx)** reflecting green operational activities of investee companies.

**The graphs below show in green the percentage of investments that were aligned with the EU Taxonomy. As there is no appropriate methodology to determine the Taxonomy-alignment of sovereign bonds\*, the first graph shows the Taxonomy-alignment in relation to all the investments of the financial product including sovereign bonds, while the second graph shows the Taxonomy-alignment only in relation to the investments of the financial product other than sovereign bonds.**



\*For the purpose of these graphs, 'sovereign bonds' consist of all sovereign exposures

*[include note when for financial products referred to in Article 5 of Regulation (EU) 2020/852*

**Enabling activities** directly enable other activities to make a substantial contribution to an environmental objective

**Transitional activities are activities** for which low-carbon alternatives are not yet available and that have greenhouse gas emission levels corresponding to the best performance.

*[include note for financial products referred to in Article 6 of Regulation (EU) 2020/852 that invest in environmental economic activities that are not environmentally sustainable economic activities]*



are sustainable investments with an environmental objective that **do not take into account the criteria** for environmentally sustainable economic activities under the EU Taxonomy.

- **What was the share of investments made in transitional and enabling activities?** *[include a breakdown of the proportions of investments during the reference period]*

- **How did the percentage of investments aligned with the EU Taxonomy compare with previous reference periods?** *[include question where at least one previous periodic report was provided in accordance with Section 1 of Chapter V of Commission Delegated Regulation (EU) 2021/xxx]*



**What was the share of sustainable investments with an environmental objective that were not aligned with the EU Taxonomy?** *[include question only for financial products referred to in Article 5 of Regulation (EU) 2020/852 where the financial product included investments with an environmental objective that invested in economic activities that are not environmentally sustainable economic activities and explain why the financial product invested in economic activities that were not Taxonomy-aligned]*



**What was the share of socially sustainable investments?** *[include question only where the financial product includes sustainable investments with a social objective]*



**What investments were included under “not sustainable”, what was their purpose and were there any minimum environmental or social safeguards?**



**What actions have been taken to attain the sustainable investment objective during the reference period?**



**How did this financial product perform compared to the reference sustainable benchmark?** *[include section only for financial products referred to in Article 9(1) of Regulation (EU) 2019/2088 and indicate where the methodology used for the calculation of the designated index can be found]*

*[include note for financial products referred to in Article 9(1) of Regulation (EU) 2019/2088]*

**Reference benchmarks** are indexes to measure whether the financial product attains the sustainable objective.

- *How did the reference benchmark differ from a broad market index?*
  
- *How did this financial product perform with regard to the sustainability indicators to determine the alignment of the reference benchmark with the sustainable investment objective?*
  
- *How did this financial product perform compared with the reference benchmark?*
  
- *How did this financial product perform compared with the broad market index?*

# 4. Accompanying documents

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## 4.1 Impact Assessment

An assessment of the impacts of the proposals in this Final Report has been prepared for the taxonomy-related empowerments in the SFDR.

According to the ESAs' Regulations, the ESAs conduct an analysis of costs and benefits when drafting regulatory technical standards. The analysis of costs and benefits is undertaken according to an Impact Assessment methodology. The draft RTS and its impact assessment have been subject to public consultation.

### **Pre-contractual and periodic disclosures for Article 5-6 TR products (Article 8(4), 9(6) and 11(5) SFDR)**

#### **1. Problem definition**

Article 25 of the Taxonomy Regulation (TR) amends the SFDR, adding new RTS empowerments for the JC to develop additional disclosure obligations on pre-contractual and periodic information for products making use of the environmental taxonomy, divided into technical standards for climate objectives and other environmental objectives.

#### *Baseline scenario*

In developing the options below, the baseline scenario is that there are no harmonised rules for pre-contractual and periodic disclosures for Article 8 or 9 SFDR financial products subject to Articles 5-6 TR.

#### **2. Objective**

The ESAs' objective is to create transparent and comparable disclosures of the environmental objectives that the investments pursue and show how and to what extent the economic activities are taxonomy-aligned.

#### **3. Policy options**

##### **Policy issue 1: Standardisation of presentation and content of the information to be disclosed**

**Option 1.1: Integration of disclosures with SFDR disclosures in one template**

**Option 1.2: Separate mandatory template for Taxonomy disclosures**

**Option 1.3: No template for Taxonomy disclosures**

<b>Policy option 1.1: Integration of disclosures with SFDR disclosures in one template (preferred option)</b>	
Pros	Cons
Offers a standardised framework and a level playing field for financial market participants	Rigid framework for firms not allowing sufficient flexibility for bespoke explanations
Allows for full comparability of products for investors	Difficult to integrate into existing national practices for underlying documents to which the template will be Annexed
A comprehensible standardised format may improve end-investors engagement	Financial products with a social objective would include references to the Taxonomy in the tick-the-box and explanatory notes which is not yet relevant for such products, adding complexity to the disclosures of products with a social investment objective.
Allows for comparative research, e.g., by academics and NGOs	
<b>Policy option 1.2: Separate mandatory template for Taxonomy disclosures</b>	
Pros	Cons
Allows for comparability between products with an environmental investment objective or Article 8 SFDR products that make sustainable investments	<p>A separate template would only be helpful for financial products with a social investment objective or for Article 8 products not making investments with an environmental objective.</p> <p>Not suitable for products with both environmental and social investment objectives, which would need to include two separate templates in case the Taxonomy template would exclude disclosure on social investments. Harder for consumers to understand the overall objectives and ambition of the financial product, when having two separate documents for the same financial product</p>
Simpler disclosures for financial products with a social investment objective, which would use	Harder for consumers to compare the two different templates

the template included in the SFDR RTS which does not include references to the Taxonomy	
<b>Policy option 1.3: Common standards without a template</b>	
Pros	Cons
Allows for some tailoring of approach to specificities of products	Limited information for end-investors and lower comparability due to widely differentiated statements and limited detailed information
Easier to implement for financial market participants	Potential for circumvention due to lower standardisation of information requirements
	Weaker legal basis for end-investors in case of litigation
	Does not allow for comparative research, e.g., by academics and NGOs

## Policy issue 2: KPI disclosure

**Option 2.1: KPIs based on revenue, or payments from investors<sup>12</sup>.**

**Option 2.2: Weighted average of turnover/CapEx/OpEx-based KPI of the taxonomy-aligned investee companies' activities**

**Option 2.3: Granular disclosure of each activity**

<b>Policy option 2.1: KPIs based on revenue, or investors payments<sup>13</sup></b>	
Pros	Cons
Alternative measure of taxonomy-alignment not tied to extent of investments in undertakings, showing contribution to taxonomy through operational income from revenues or investors payments (fees/contributions/premiums)	Potential misleading information given that fees/contributions/premiums earned by financial market participants may relate to products which combine investments in taxonomy-aligned assets as well as in other assets

<sup>12</sup> E.g., fees paid to investment funds, contributions paid to pension schemes or products and premiums for insurance and pension products

<sup>13</sup> Ibidem



Easier for financial market participants to calculate due to only having to take into account own revenues or fees/contributions/premiums	Less meaningful information for end-investors as there is no direct link with activities undertaken by investee undertakings
	Difficulties in capturing the evolution of allocation to taxonomy-aligned assets
<b>Policy option 2.2: Weighted average share of turnover/CapEx/OpEx-based KPI of the taxonomy aligned investee undertakings' activities (preferred option)</b>	
Pros	Cons
Indicator already required by Article 8 TR entity-level disclosures, so easier to adapt to financial products	Potential difficulties in obtaining consistent information from investee undertakings, especially where those undertakings do not disclose according to Article 8 TR
Meaningful indicator for the end-investors due to direct link with investee undertakings' activities	Financial undertakings will not include sovereign exposures in Article 8 TR taxonomy-alignment KPI, leading to overstatement of those undertakings in the KPI
Focus on taxonomy-aligned activities of investee undertakings means calculation is a better expression of the amount of funding going to actual taxonomy-aligned economic activities	
<b>Policy option 2.3: Granular disclosure of each activity</b>	
Pros	Cons
Greatest level of granularity would allow detailed information for investors on every taxonomy-aligned economic activity funded by the product	Resource intensive and costly for financial market participants to calculate and disclose
	Consumer research shows that most of the information will either not be read, or will be misunderstood, or will be read only after buying the product and behavioural economics warns that consumers may disengage when faced with information overload

**Policy issue 3: Choice of KPI**

**Option 3.1: Flexible choice of KPI for each activity/investment in a non-financial undertaking investee company**

**Option 3.2: Choice of a single KPI per product**

**Option 3.3: Mandatory KPI per asset type and investee company**

<b>Policy option 3.1: Flexible choice of KPI for each activity/investment in a non-financial undertaking investee company</b>	
Pros	Cons
Easier to implement for financial markets participants due to the ability to mix and match the measurement of taxonomy-alignment by each economic activity invested in	Limited information for end-investors due to lack of transparency about how the total taxonomy-alignment of the product has been calculated
Greater flexibility that allows the choice of the most suitable KPI, so that the contribution to taxonomy-aligned activities can be measured by the most appropriate indicator	Potential for greenwashing through the choice of the most advantageous KPI per investment. For products disclosing on CapEx or OpEx pre-contractually, periodic disclosures would not show whether the expenditures resulted in green revenues.
	Little comparability between products due to differences between choice of KPI
<b>Policy option 3.2: Same choice of KPI applicable to all investments of the product (preferred option)</b>	
Pros	Cons
Allows for a base level of comparability between financial products	Limited ability to tailor the taxonomy alignment to different kinds of activities and investee companies
Allows for some tailoring of the KPI to the specificities of the investee undertakings of the product	Lower transparency to investors due to the same KPI for all investments
Avoid some degree of greenwashing by requiring the same KPI for all investments of the product	

<b>Policy option 3.3: Disclosure of taxonomy-alignment measured by all three KPIs</b>	
Pros	Cons
Greatest level of transparency to investors due to the disclosure of the taxonomy-alignment of the product measured by all available calculation bases	The provision of three different taxonomy-alignment KPIs could confuse investors. Risk that consumers may disengage when faced with information overload.
	More difficult to easily compare between products due to three different taxonomy-alignment KPIs and potentially unclear meaning of taxonomy measured by turnover, CapEx or OpEx

#### **Policy issue 4: Method of calculation of KPI**

**Option 4.1: Calculation of KPI including all investments in the denominator**

**Option 4.2: Calculation of KPI excluding sovereigns from the denominator**

**Option 4.3: Representation of KPI with both methods of calculation**

<b>Policy option 4.1: Calculation of KPI including all investments in the denominator</b>	
Pros	Cons
Facilitate the calculation and avoid uncertainties as to what proportion of the product's investments are taxonomy related	Products with high exposures to sovereigns would show low KPIs, potentially distorting the understanding of the taxonomy alignment of those products because it is not yet possible to establish the taxonomy-aligned activities funded by sovereign exposures
Offer clarity to the end investor through a concise, high level, comparable figure showing the share of the amount of money invested in taxonomy aligned activities	The low KPIs for products with high sovereign exposures could lead to potentially disruptive investment changes at the expense of diversification and risk management
Lower costs due to the lack of a need to separate out sovereign exposures for the calculation of the KPI	
<b>Policy option 4.2: : Calculation of KPI excluding sovereigns from the denominator</b>	

Pros	Cons
Allows those products with sovereign exposures to exclude such exposures from the KPI to avoid distorting their taxonomy-alignment lower for the sovereign exposures that cannot yet be assessed for taxonomy alignment	Misleading investors by excluding potentially large proportion of investments from the taxonomy alignment KPI
<b>Policy option 4.3: Representation of KPI with both methods of calculation (preferred option)</b>	
Pros	Cons
Greatest level of transparency would allow detailed information for investors on every taxonomy-aligned economic activity funded by the product	Resource intensive and costly for financial market participants to calculate and disclose two KPIs and to separate out the sovereign exposures from the calculation
Reduced risk of distortive incentives to change the asset allocation of the sustainable products.	Potentially confusing for investors to have two KPIs in the documentation

**Policy issue 5: Disclosure on taxonomy-alignment of economic activities**

**Option 5.1: No statement of compliance with Article 3 TR**

**Option 5.2: Indication of compliance with Article 3 TR assured by an auditor or verified by a third party**

**Option 5.3: Mandatory indication of compliance with Article 3 TR assured by an auditor or verified by a third party**

**Option 5.4: Granular disclosure of each activity financed by financial market participant in compliance with Article 3 TR**

<b>Policy option 5.1: No statement on compliance with Article 3 TR</b>	
Pros	Cons
Easy to implement by financial market participants	Potential for lower engagement of financial market participants with the activities funded by the product and potential for consumer detriment
	No clear liability for financial market participants

<b>Policy option 5.2: Voluntary indication of compliance with Article 3 TR assured by an auditor or verified by a third party (preferred option)</b>	
Pros	Cons
Level playing field for financial market participants	Time- and cost-intensive for financial market participants
Opportunity to provide more accurate information to supervisors and end-investors	The disclosure gives a false sense of security as it seems to imply that a system of verification of taxonomy-alignment exists, with clear responsibilities for the auditor and enforceable powers for supervisors. However, the legal framework does not identify who a verified third party or auditor can be and what would be the liability for such third party or auditor verification
Independent verification by a third party	
<b>Policy option 5.3: Mandatory indication of compliance with Article 3 TR assured by an auditor or verified by a third party</b>	
Pros	Cons
Improved consumer protection as a third party has certified the taxonomy-alignment	Time- and cost-intensive for financial market participants
Level playing field for financial market participants	The disclosure gives a false sense of security as it seems to imply that a system of verification of taxonomy-alignment exists, with clear responsibilities for the auditor and enforceable powers for supervisors. However, the legal framework does not identify who a verified third party or auditor can be and what would be the liability for such third party or auditor verification
<b>Policy option 5.4: Mandatory indication of compliance with Article 3 TR</b>	
Pros	Cons
Greatest level of granularity which would allow detailed information for investors	Time consuming and expensive for financial market participants
	Risk of disengagement by end-investors because of information overload

#### 4. Analysis of impact

The ESAs' favoured approach in terms of pre-contractual and periodic disclosure is to focus on the value of the information passed to end-investors and their capacity to compare the information provided. Furthermore, research (e.g., by academics or NGOs) should be enabled, which will support future reviews of the SFDR and its RTS.

The ESAs' decision to amend the RTS provided in February 2021 to the European Commission guided many of the design decisions for the taxonomy-related product RTS, as the disclosures would follow the blueprint set by the original RTS. In other words, the disclosure at pre-contractual and periodic stages would take place through mandatory templates provided in the annexes of the RTS. This decision was strongly supported by the consultation feedback received by the ESAs. An additional consideration was whether the taxonomy-related product disclosures would be provided by separate, new templates or whether the original templates would be amended with additional taxonomy-related information items. However, that would only be beneficial for products making investments with a social objective or Article 8 SFDR products not making investments with an environmental objective. To reduce complexity for financial market participants and investors, the ESAs decided to amend the existing SFDR templates with new taxonomy-related information items. This was also supported by stakeholders' responses to the public consultation.

The ESAs' starting point for the disclosure of the extent to which the products' investments are taxonomy-aligned is the investment process itself. The share of investments in taxonomy-aligned activities is therefore the analytical departure point in developing a KPI for this consultation.

The ESAs considered various alternative possibilities: a KPI based on revenue, a KPI based on return on investments or a KPI based on the full "extent" of the contribution to each single activity. These alternative measurements were discarded because they did not reflect the extent to which the product invests in taxonomy-aligned economic activities or were too complex to aggregate to a single calculation.

The ESAs believe that the "extent" to which economic activities invested in contribute to taxonomy-aligned activities should be calculated based on a weighted average of investments in taxonomy-compliant activities, and that such a solution is preferable in terms of providing investors meaningful information. In taking this approach, the ESAs also considered how the KPI could impact the comparability across different companies, including non-financial undertakings and financial institutions. The ESAs noted that, while in principle the availability of a revenue or fee/premium/contribution income-based KPI for financial market participants would seem conducive to comparability with other type of entities, this may in practice result in misleading information given that the fees/premiums/contributions earned by financial market participants may relate to products which combine investments in taxonomy-aligned assets as well as in other assets. The ESAs further believe that the extent of taxonomy alignment of investments is the only comparable element that should be allowed for the graphical representation of Article 8 and Article 9 SFDR product disclosures.

The ESAs further considered the degree of flexibility to be given to financial market participants in the choice of the appropriate KPI. The most flexible approach of allowing financial market participants to choose the best suited KPI for each activity/investment in a non-financial undertaking investee

company was discarded, as it would not have allowed for comparability, could have had consequences in terms of potential greenwashing.

The ESAs' preferred option for pre-contractual disclosures is to require to calculate the taxonomy-alignment using turnover by default, but allowing financial market participants the possibility to choose another KPI when this is justified by the features of the investments, under the condition that the KPI is applied to all investments made by a given financial product, thus enhancing comparability whilst discouraging any potential misuse of the indicators in artificially overstating the taxonomy-alignment. Periodic disclosures will [consist of all three KPIs for the most transparency.

The ESAs then considered how to best show that investments are made in taxonomy-aligned economic activities. The first option considered was to allow financial market participants to disclose a statement on compliance with Article 3 TR. However, the ESAs discarded such an option as a statement would not meet the objective of allowing a high degree of comparability of disclosures and in reality allowing disparities in the level of accuracy of the information provided. In addition, it would not be clear whether the financial market participant is liable for the disclosed taxonomy-alignment.

The ESAs' preferred option is having an indication of whether compliance of activities invested in with Article 3 TR has been subject to an assurance provided by an auditor or a review provided by a third party. This preferred option would encourage financial market participants to provide accurate information to supervisors and end-investors while it would also provide transparency and a level playing field for all participants.

The ESAs further considered the possibility of including a mandatory statement that the compliance of activities invested in with Article 3 TR has been subject to an assurance provided by an auditor or a review provided by a third party. However, the legal framework does not identify who a verified third party or auditor can be and what the liability for such party verification would be.

Finally, the ESAs considered the possibility of detailed disclosures by financial market participants of the contribution of each investment to taxonomy-aligned economic activities for compliance with Article 3 TR. This option, while providing a very granular disclosure on such investments, would result in a disproportionate burden in terms of time and cost for financial market participants while at the same time risking an information overload for end-investors, thus not justifying the potential added value.

## **4.2 Feedback on Public Consultation**

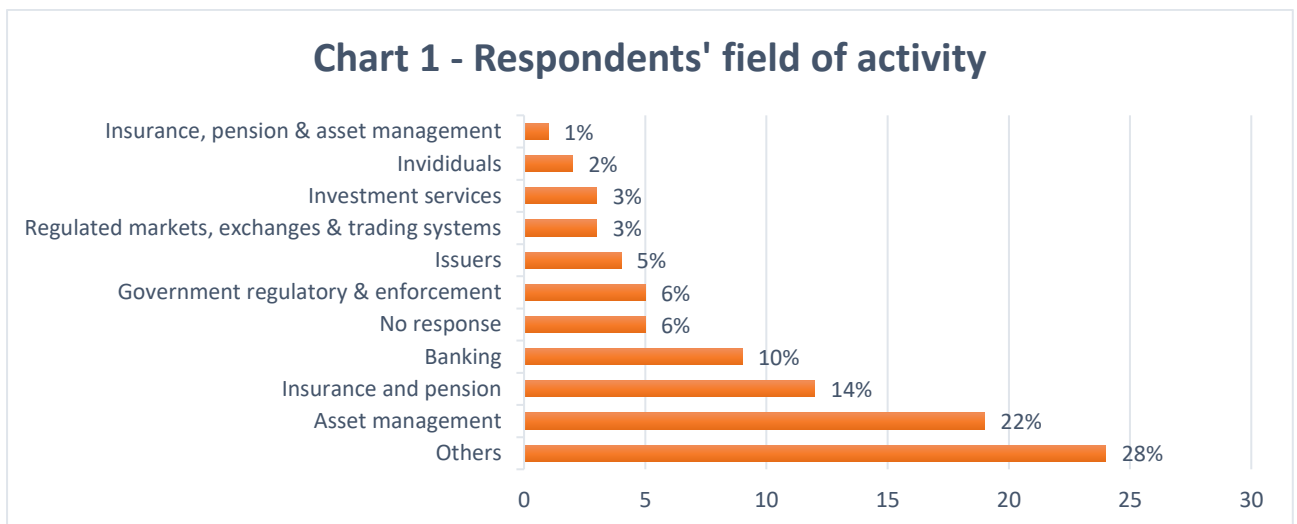
### **1. Background**

The ESAs launched a Consultation Paper on 17 March 2021, with the period for comments ending on 12 May 2021. In total, the ESAs received 87 responses to the consultation. The stakeholders included industry participants and associations from all sectors, including consumer representative organisations, NGOs, the ESAs stakeholder groups, and public sector authorities and bodies.

Contributions came from a wide range of respondents involved in various fields of activities, as represented in Chart 1:

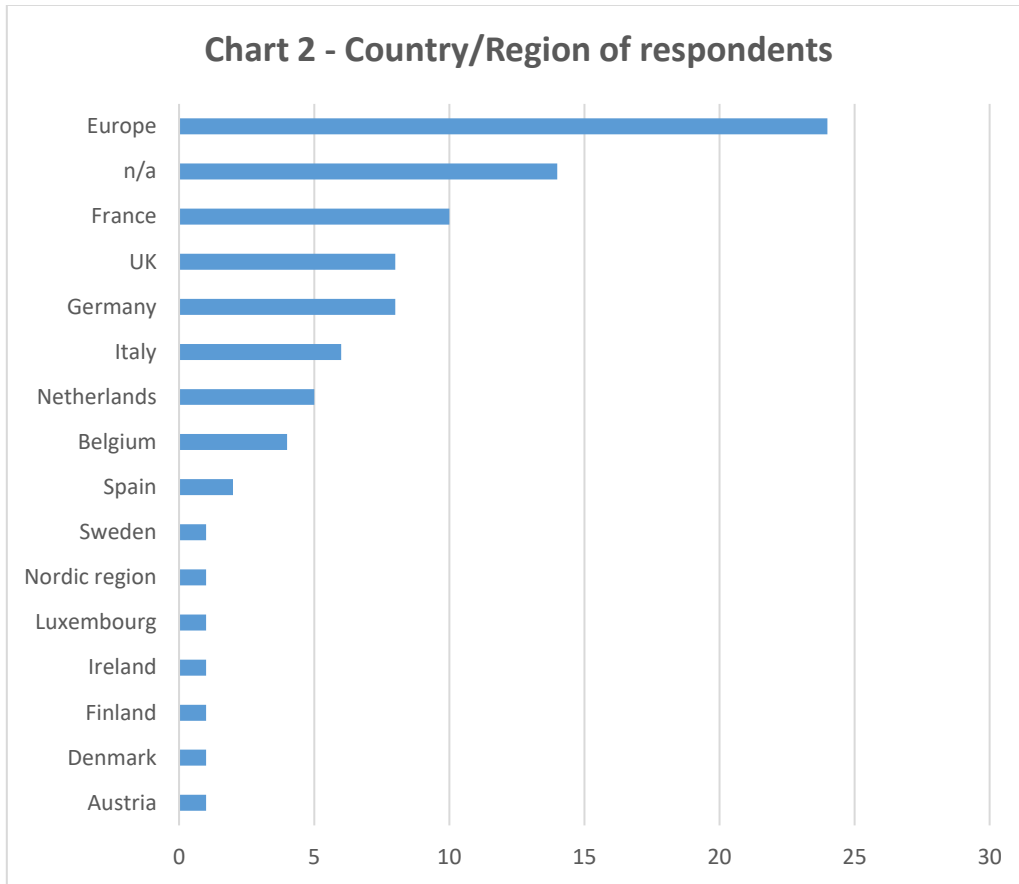
- 19 (22%) asset management;
- 12 (14%) insurance and pension;
- 9 (10%) banking;
- 4 (5%) issuers;
- 5 (6%) government regulatory & enforcement;
- 3 (3%) regulated markets, exchanges & trading systems;
- 3 (3%) investment services;
- 2 (2%) individuals;
- 1 (1%) insurance, pension & asset management; and
- 24 (28%) others<sup>14</sup>.

As indicated in Chart 2, a great majority of respondents came from Europe, in particular various EU member states and the United Kingdom.



<sup>14</sup> The category “others” include, *inter alia* 6 NGOs and 2 consumer representatives. The remaining 5 (6 %) of respondents did not indicate their field of activity.





## 2. Summary of responses

### General comments

Respondents used the general comment section of the public consultation in most cases to provide executive summaries of their responses to the consultation questions.

Many respondents commented on the challenging timelines that financial market participants (FMPs) are facing with the SFDR RTS and amending RTS. To address this, some industry respondents suggested postponing the RTS' entry into force or to adopt a flexible and more principle-based approach in the early stages, whereas others urged the Commission to adopt the final RTS as soon as possible.

Another point that many respondents referred specifically to was the complexity and length of the reporting framework and templates.

On Article 10 SFDR, a few respondents noted that tailor-made portfolios should either be exempted from the disclosures required by this article or be disclosed in a manner that is only accessible to the client, as it would otherwise contravene bank secrecy rules. The respondents also noted that, since a portfolio is not a financial instrument under MiFID II and given that portfolio management agreements

could cover several portfolios, it needs to be clarified how FMPs should apply the RTS when providing portfolio management services.

On the concept of 'minimum taxonomy alignment' in the templates, a number of respondents noted that there would need to be a differentiation between reporting on this concept pre-contractually and periodically, as it would be difficult for FMPs to commit pre-contractually to such minimum level given that they would not have a clear view of what the taxonomy-eligible universe looks like. One of the respondents suggested to this end that the FMP could be allowed to choose one KPI in pre-contractual disclosures, while having more KPIs such as turnover and capex in the periodic disclosures.

On the limited availability of data, many respondents noted that this will lead to FMPs being required to report on data that they do not (yet) have and that the RTS should be aligned with that reality. Additionally, a few respondents pointed to the high costs related to the acquisition of the necessary data for the disclosures. This could partly be addressed by the creation of an EU non-financial data repository, whereas international cooperation would also be needed in the long term.

Many respondents noted that the harmonisation of concepts between different pieces of legislation is important, on which one respondent stated specifically that the amending RTS have inconsistencies with the TR.

On the KPI, a number of respondents highlighted that choosing the same KPI for all investments makes it hard to display mixed strategies and that FMPs should therefore be allowed the choice of either turnover, CapEx or OpEx depending on which is more relevant to the particular sector or company in question. On the other hand, two respondents noted that allowing FMPs such choice could result in greenwashing and that FMPs should instead calculate a weighted average ratio composed of turnover, CapEx and OpEx. On the inclusion of derivatives in the KPI, views were equally split between whether they should be included at all times or only on an optional discretionary basis. On the inclusion of sovereign bonds in the denominator of the KPI, one respondent argued specifically that they would need to be included in the KPI. On the numerator and denominator, a few respondents noted that they should both use the same methodology, and two other respondents said that only taxonomy-eligible investments should be considered.

ESAs' response: The ESAs acknowledge the feedback received and have made a number of alterations to the amending RTS as a result of that feedback where the ESAs were empowered to deliver disclosures. More details on the alterations are provided in the ESAs' responses to the individual questions below. However, the ESAs remind stakeholders that they cannot alter the Level 1 framework, so questions of application timing, scope of disclosures or inconsistencies with other legislation are beyond the empowerments given to the ESAs under the Taxonomy Regulation.

**Question 1: Do you have any views regarding the ESAs' proposed approach to amend the existing SFDR RTS instead of drafting a new set of draft RTS?**

Close to all respondents voiced their support for the proposed approach to amend the existing SFDR RTS instead of drafting a new set of draft RTS, as the creation of a 'single rulebook' will minimise duplication and complexity. Despite this broad support, respondents highlighted that the proposed approach would involve a number of issues, specifically related to timelines, data, alignment with other sustainability disclosure related regulations, the amended templates and the terminology used.

### *Timelines*

A large number of respondents highlighted that the proposed approach would lead to timing and implementation challenges. Respondents were split on how to deal with these challenges. Some industry respondents suggested postponing the RTS' entry into force, or, if that was not possible, to adopt a flexible and more principle-based approach in the early stages allowing for qualitative disclosures and disclosures on the estimated range of taxonomy-alignment. Some of those suggested that there should be three, six or nine months between the adoption of the final RTS and their application. Some suggested to put a transition period in place to allow sufficient time for FMPs to comply. A few respondents suggested that this transition period could align with the implementation timeline of the entity-level taxonomy alignment reporting as proposed by the European Commission in the Article 8 TR Delegated Acts, or with the implementation timelines of Article 7 SFDR. Other respondents noted that this transition period should be based on a best-effort approach in the first year of application.

Whereas some respondents argued that the SFDR RTS should be adopted as soon as possible and that these should be amended by the amending RTS at a later stage, others argued that the SFDR RTS should be endorsed together with the amending RTS in order to avoid conflicting and separate sets of rules. In this regard, two respondents cautioned that the merging of the two RTS should not result in one being used to delay or obstruct the other.

A number of respondents noted that the amendments of SFDR templates should not result in a double implementation effort by FMPs and that further safeguards should be introduced in case the final RTS were not adopted sufficiently early.

### *Alignment with other regulations*

Several respondents noted that efforts should be made to ensure alignment between various ESG disclosures related initiatives, such as between the entity-level Article 8 TR disclosures with the product-level Article 5 and 6 TR disclosures since the latter will be built on the former. There was also a call to safeguard this approach in the future when new taxonomies and standards are developed.

### *Templates*

On the provided templates it was noted that these were already overly complex and long for customers and that the proposed amendments would only add to their complexity. One respondent noted that the templates do not align with SFDR, as SFDR states that the disclosures should present 'information on how those characteristics are met' while the templates include a question on 'whether the financial product intends to make a sustainable investment'. The rationale for this divergence should be better explained. Two respondents noted that the difference between 'sustainable investments' and 'investments with other Environmental or Social characteristics' was not clear in the templates.

### *Data issues*

A number of respondents noted that data quality and availability remain an issue for the effective implementation of the RTS.

ESAs' response: The ESAs' take note of the feedback to this question, recognising that the overlapping empowerments given to the ESAs with different deadlines create a complex environment for sustainability product disclosures. Nonetheless, within the framework set by SFDR and TR, the ESAs prefer to persist with the drafting approach of amending the SFDR RTS to add the additional product disclosures required by the TR.

**Question 2: Do you have any views on the KPI for the disclosure of the extent to which investments are aligned with the taxonomy, which is based on the share of the taxonomy-aligned turnover, capital expenditure or operational expenditure of all underlying non-financial investee companies? Do you agree with that the same approach should apply to all investments made by a given financial product?**

Over a third of the respondents agreed with the proposal of applying the same approach to all investments made by a given financial product. Of these, ten suggested that financial market participants should be allowed to choose the most relevant KPI.

A slightly smaller group of respondents suggested on the other hand that financial market participants should be free to consider the most suitable KPI for each activity/investment in a non-financial undertaking investee company.

Some of those respondents and others from the first group, said that the choice of indicators should be aligned with the forthcoming Delegated Act under Article 8 of the Taxonomy Regulation.

However, six stakeholders were against flexibility, worrying that leaving it up to an FMP to choose between three metrics for the underlying investee companies, could result in major greenwashing and lack of comparability across funds for end-investors.

Most NGOs proposed to require FMPs to report on the three indicators: turnover, CapEx and OpEx. Some suggest using a weighted a ratio composed of the taxonomy-aligned turnover, CapEx and OpEx.

Most non-industry respondents, including NGOs, advised the ESAs to require the disclosure of all three indicators: turnover, CapEx and OpEx. Some consumer representatives and NGOs suggested using a weighted ratio composed of the taxonomy-aligned turnover, CapEx and OpEx.

Independently from their preferred option, a few respondents requested a more specific and precise guidance on the use of KPIs from the ESAs.

ESAs' response: The ESAs take note of the feedback received on the important issue of how the taxonomy-alignment KPI should be calculated for these product disclosures. Bearing in mind the objective of SFDR of transparency and comparability, the ESAs believe that requiring for pre-contractual disclosures the calculation of the taxonomy-alignment based on turnover by default, with the possibility to disclose capital expenditure or operational expenditure as an alternative when this is justified by the features of the financial product, while requiring the KPI to be calculated using all three indicators in the periodic disclosures offers the best balance between comprehensibility and comprehensiveness of the disclosures.

**Question 3: Do you have any views on the benefits and drawbacks of including specifically operational expenditure of underlying non-financial investee companies as one of the possible ways to calculate the KPI referred to in question 2?**

Responses from stakeholders presented varying views on the merits of operational expenditure (OpEx). There was a certain degree of consensus from respondents, albeit expressed in different ways, about including OpEx as one possible way of calculating the KPI.

Some respondents noted that as Article 8 TR specifically requires OpEx disclosure, excluding it would not be in line with the TR. Other respondents said it was essential to keep the possibility of using all three indicators.

Some respondents repeated that flexibility should be given to FMPs to select any of the three KPIs.

Two industry associations noted that OpEx is an important indicator as it is particularly relevant for asset classes such as real estate.

One respondent stated that CapEx and OpEx should not be considered as similar KPIs as the former will be used to a greater extent and is easier to track.

Three respondents recommended reverting to the original regulatory text of “CapEx and, if/when relevant OpEx”.

Two respondents said that OpEx could only provide supplementary information. Three other respondents said that OpEx should only be used as an additional KPI. Similarly, three other respondents preferred to have this KPI as voluntary only, provided where relevant and available.

Two respondents suggested a best effort approach in the use of CapEx/OpEx.

Negative views were expressed by other respondents suggesting that OpEx offers little value, introduces difficulties in the context of accounting and suffers from lack of data. Some respondents therefore considered turnover and CapEx disclosures as sufficient. OpEx is not defined in IFRS or US GAAP and this could lead to less comparable figures. As an advantage they claimed that investors may get a clearer picture of the future Taxonomy alignment.

Four respondents considered the OpEx indicator as irrelevant.

Two industry associations claimed that there is no relevant information on OpEx to be able to assess its usefulness, which would depend on the type of business of the investee company.

Two other respondents were very sceptical regarding the use of OpEx, preferring CapEx as a more useful indicator. Lastly, one respondent suggested, in the event that the OpEx KPI was not considered technically robust at the moment, that the draft RTS could foresee its disclosure in the near future.

ESAs' response: The ESAs acknowledge the feedback with regard to OpEx. Overall, the ESAs believe that OpEx can play a role for non-financial undertaking investee companies' taxonomy-alignment, so should not be removed entirely from the KPI calculation. Pre-contractually, it should remain an option for financial market participants to disclose.

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

The views of respondents to this question were more or less equally split between those in agreement with the proposal to include derivatives, and those against.

The respondents in favour of including derivatives stated that investors may use derivatives to achieve exposures to investee companies. Furthermore, three respondents would support including derivatives but only those that specifically meet the sustainability objectives being promoted by the financial product or are used to attain the environmental or social characteristics or sustainable investment.

Those against including derivatives, which were a slight majority, stated that inclusion of derivatives would add complexity to an already complex calculation, would not give any specific added value and would in case require a clear and robust methodology.

Other respondents were in favour of including derivatives only on a voluntary basis. Two industry associations argued that there should be common guidelines for the use of derivatives.

With regard to the issue of contracts for difference (CFDs), one industry respondent agreed with including CFDs in the scope of assets eligible for assessment against the EU Taxonomy. In addition, that respondent deemed it reasonable to include in the calculation the so-called participation certificates, i.e., derivatives or structured notes that strictly track the performance of their respective underlying asset. Other respondents stressed that in many countries, notably the UK, investors commonly use CFDs to simply avoid taxes.

ESAs' response: The ESAs note the feedback received on the topic of derivatives in the KPI for taxonomy-alignment. Bearing in mind that the ESAs want to ensure that taxonomy-aligned investments directly fund taxonomy-aligned economic activities, the ESAs have decided not to include derivatives in the numerator of the KPI. While there may be legitimate cases for derivatives to be recognised for directly contributing to taxonomy-aligned economic activities, out of an abundance of prudence the ESAs prefer to exclude derivatives for the time being. This issue may be reconsidered in the future once there may be more evidence in this area to allow a different conclusion.

However, the ESAs agree that netting should be recognised in the numerator, to ensure a fair representation of the economic exposure to securities in the numerator. The ESAs recognise that this would be aligned with the European Commission's proposed Delegated Act for Article 8 TR entity-level disclosures.

**Question 5: Is the use of "equities" and "debt instruments" sufficiently clear to capture relevant instruments issued by investee companies? If not, how could that be clarified? Are any specific valuation criteria necessary to ensure that the disclosures are comparable?**

Many respondents generally agreed that the current definitions were sufficiently clear. A few of these respondents noted that the generic terms would leave the necessary flexibility to capture most of the relevant instruments.

Some other respondents did not agree with the usage of “equities” and “debt instruments” in their current descriptions. Some of these respondents argued that “equities” and “debt instruments” are too generic and should be further defined. A few respondents noted that this further precision would be for the purpose of having the possibility to exclude some categories from the calculation. In contrast, one respondent believed that the notions “equity” and “debt” risked being over-restrictive regarding the types of instruments to be included.

Several respondents specifically called for further clarification on the question whether certain types of instruments were captured or not. Instruments mentioned by respondents included rights and warrants, loans, (American) depository receipts, asset-backed securities (ABS), certificates, participation rights, (contingent) convertible bonds, type of derivatives and contingent convertibles. Some respondents called for further clarity in relation to whether the draft RTS also comprise indirect investments in equity or debt instruments issued by investee companies. A few respondents recommended adding a list of instruments under the scope to each relevant category to avoid misinterpretation and ensure consistency. It was also suggested that the FMP explains what it counts towards equities/debt instruments if there are ambiguities.

#### *Equities*

A few respondents believed that only the terminology “debt instruments” was sufficiently clear. These respondents suggested using the terminology ESMA uses in its Article 8 TR draft advice for equity investments. ESMA uses the term ‘public and private equity’, which was believed to be preferable to ‘equities’ as the latter may suggest that only listed equities are in scope of the KPI calculation.

Two respondents wanted the ESAs to elaborate how buying equities/debt instruments in the secondary market can be regarded as an “investment in an economic activity” at all.

Lastly, one respondent suggested that securitised products should also be taken into account.

#### *Green bonds*

Some respondents suggested, at least as long as the standards are not adopted, the introduction of a grandfathering clause for green bonds applying the Green Bond Principles. One of these respondents saw the potential need for additional grandfathering clauses for other single use-of-proceeds-type instruments.

A few respondents were of the opinion that other green bonds should, when other alternative information is unavailable, be allowed to use the corporate level disclosure on taxonomy-alignment as a proxy.

## *Valuation*

Many respondents noted that a market value approach was the most suitable as it would ensure comparability. Some respondents noted in this sense that there was no need for any special valuation criteria.

Lastly, a few respondents believed it useful if the ESAs could publish indicative examples, in order to help FMPs better understand the use of equities and debt instruments and what valuation criteria should be adopted.

ESAs' response: The ESAs take note of the feedback received, noting that current definitions in the CP seemed adequate. The ESAs also note that the instruments capable of contributing to taxonomy-aligned economic activities could be expanded to also include investments in other taxonomy-aligned products under Article 5 and 6 TR to capture indirect investment in taxonomy-aligned activities. Investments in securitisation and infrastructure assets have also been added to the numerator in the final report.

### **Question 6: Do you have any views about including all investments, including sovereign bonds and other assets that cannot be assessed for taxonomy-alignment, of the financial product in the denominator for the KPI?**

A majority of respondents agreed with the ESAs' approach to include all investments in the denominator, in most cases in order to avoid the risk of misleading investors and improving comparability between products.

However, many other respondents (fewer than the first group) argued that the approach by the ESAs in the Consultation Paper of including sovereign bonds in the denominator of the KPI could drive investors away from taxonomy-aligned products due to the potential for low taxonomy-alignment shares and would penalise products' investments in sovereign bonds.

Many of the respondents from both the group that agreed with the inclusion and from those who disagreed with the inclusion of sovereign bonds, argued that whichever approach was chosen, the disclosures could allow both an "all investments" and an "eligible investments" KPI to be shown for more transparency.

Several respondents also argued that there should be more space in the disclosures to explain the composition of the investments, e.g., for non-eligible investments such as sovereign bonds if not included in the main KPI.

Two respondents argued that while sovereign bonds should be excluded, there could be a maximum threshold of investments that are eligible, to prevent abuse and misrepresentation.

Others argued that the approach in these RTS should be consistent with that taken by the Commission in the Delegated Act under Article 8 of the Taxonomy Regulation.

Finally, two respondents noted that the ESAs should consider measuring taxonomy-alignment for sovereign bonds using commitments made in the long-term EU budget (2021-2027) or the indicators



in sovereigns and supranationals in the adverse impact indicators developed for the 4 February 2021 SFDR RTS.

ESAs' response: The ESAs take note of the feedback received on the treatment of sovereign bonds and also note the position taken by the European Commission in its Delegated Regulation under Article 8 TR of excluding sovereign bonds from the entity-level KPI. As the ESAs see merit in both approaches, the ESAs decided to provide investors with two graphical representations of the KPI, one showing the taxonomy-aligned activities as a proportion of all investments and one showing the taxonomy-alignment excluding all sovereign exposures from both the numerator and the denominator. By proposing this dual approach, the ESAs believe that investors will be able to assess financial products' taxonomy alignment and also understand the extent of that alignment when sovereign exposures are excluded.

**Question 7: Do you have any views on the statement of taxonomy compliance of the activities the financial product invests in and whether those statements should be subject to assessment by external or third parties?**

A majority of respondents, representing the financial industry argued that while a statement of the taxonomy compliance of the activities was justifiable, the disclosures should not require a verification of the statement.

Some of those respondents argued that verification and auditing would be better imposed at the investee company level, e.g., through the recently proposed Corporate Sustainability Reporting Directive (CSRD).

However, non-industry respondents and some industry respondents strongly supported mandatory verification/auditing of the statements to enhance the value of information for investors and to increase comparability.

Many industry respondents specifically pointed to the increased costs of external verification which would be passed on to investors or investee companies, although some non-industry respondents said the costs would not be excessive compared to assets under management and that the wording of the verification should be more granular to ensure that the information provided is correct.

Other industry respondents argued that verification of the statement should remain voluntary, as it was in the RTS in the Consultation Paper. A few respondents argued that instead of external verification, the estimated share of data on taxonomy-alignment (as opposed to publicly reported by investee companies) should be disclosed.

A few respondents argued that the statement should be simplified or deleted altogether as such information would be duplicative with other disclosures, e.g., under the PRIIPs KID or UCITS documentation.

Another respondent highlighted the costs of third-party verification and emphasised that FMPs must be very clear in their disclosures in explaining the methodologies used for any estimations. In addition to these clear disclosures, it further recommended that a distinctive internal function

should verify the reporting (and encourage as best practice an external party, which another respondent noted would ensure independence).

ESAs' response: The ESAs acknowledge the feedback received. The ESAs changed approach in the final report so that it is no longer possible to derogate from the general SFDR DNSH RTS rules for sustainable investments that are taxonomy-aligned. While the ESAs regret this, as they believe it will adversely affect taxonomy-aligned investments, this means that the statement of taxonomy-alignment envisaged by the ESAs in the consultation paper no longer serves any purpose.

Nevertheless, the ESAs believe that there is value in a voluntary disclosure by the financial market participant whether the taxonomy-alignment of investments has been reviewed by an external party.

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

Almost all respondents agreed that the periodic disclosures should be aligned with the pre-contractual disclosures.

Although not addressed in this Consultation Paper, many industry respondents stressed that periodic product disclosures should only apply to periodic disclosures with reference periods starting in 2022, as referred to in the ESAs' [25 February 2021 supervisory statement](#).

Some respondents referred to the summary of the consumer testing the ESAs have done which showed that the information provided in the disclosures was considered too complex and difficult to understand, arguing that more cross-referencing to websites should be allowed.

Three respondents suggested deleting several sections ("Environmental and/or social characteristics" "What methodology was used for the calculation of the alignment with the EU taxonomy and why?", "Why did the financial product invest in economic activities that are not environmentally sustainable?" and "How does the reference benchmark differ from a broad market index?") from the periodic disclosures as they merely duplicated the information already provided in the pre-contractual disclosures.

While not part of the periodic disclosures, some respondents stressed that the pre-contractual disclosures should not require a "minimum" share of investments to be taxonomy-aligned, instead this should be "expected minimum share".

Furthermore, a few respondents argued that while a single KPI for underlying investee companies could work, it would be important to disclose taxonomy alignment against turnover, CapEx and OpEx in the periodic disclosures.

Some respondents also recommended that the five-year historical comparison should also be applied to the taxonomy-related disclosures.

Finally, a few respondents argued that requiring the disclosure of an explanation of why environmental sustainable investments are not taxonomy-aligned is not justifiable in product disclosures.

ESAs' response: The ESAs take note of the feedback received and reaffirm that the periodic disclosures will follow the approach taken in the consultation paper of showing to what extent the commitment to taxonomy-alignment given in the pre-contractual disclosure has been achieved during the reference period. The ESAs do not agree with those respondents arguing that the pre-contractual disclosure should not be a commitment by the product, as non-binding disclosures could lead to greenwashing. Furthermore, the ESAs note that the five year historical comparison is already a requirement for the taxonomy-alignment disclosures under Article 71 in the RTS.

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

#### *Length and complexity of the disclosures*

Many respondents raised concerns about the understandability of the disclosures, noting that the templates are legalistic and highly technical. They called for a reduction in the granularity of product disclosures in order to minimise information overload for investors and to avoid jargon, as technical and specialist terms such as “taxonomy” or “does not significantly harm” are not understood by (retail) investors. This was in particular considered to be the case for subtle distinctions between “sustainable investments” (as defined in the SFDR) and investments that are “taxonomy-aligned”.

The pension industry regretted that the ESAs did not consider a proportionality approach for different financial entities and one stakeholder regretted that the results from the consumer testing last year did not lead to an alternative approach.

A few stakeholders requested the ESAs to provide mock-ups of how the Taxonomy-related product templates would look like when used in practice. One stakeholder suggested that the ESAs develop a user-friendly guidance document to help end-users understand the taxonomy-related pre-contractual and periodic disclosures.

Many stakeholders highlighted that it is unclear which questions or sections should be omitted for Article 8 products that do not make sustainable investments or for Article 8 and Article 9 products that make social sustainable investments.

#### *Tick-the-box*

A few industry stakeholders considered that the requirement to identify taxonomy-aligned investments in the tick-the-box is not suitable for products investing in areas not yet described by the Taxonomy. Examples of such products included social products or sector-specific products for which no taxonomy descriptions are currently available. The stakeholders suggested that the ESAs require that financial market participants clearly state in a tick-box solution whether the financial product: (a) invests in economic activities that contribute to an environmental objective or promote environmental characteristics, or (b) does not invest in economic activities that contribute to an environmental objective or promote environmental characteristics. Only financial products ticking option (a) should provide the taxonomy statement.

Some industry stakeholders suggested that the tick-the-box section should add an option for investments in activities which are in the scope of the taxonomy (i.e. taxonomy-eligible activities/sectors). This can be done by adding a new line or tick-box (both for Article 8 and Article 9 SFDR products) asking if the investments are taxonomy-eligible or not.

Two NGOs requested the alignment of SFDR and TR “sustainability” definitions to the greatest extent possible. They noted that “sustainable investment” under the SFDR, should ideally be aligned with “sustainable activities” as defined in the current environmental Taxonomy (and potentially in the future social Taxonomy), as different scopes and definitions used by the SFDR and TR are counterintuitive and confusing for consumers. Allowing environmental products to disclose under the RTS that are not aligned with the Taxonomy to be offered as having an environmental investment objective was believed to go against the requirement of Article 5 TR with regards “how and to what extent the investments (...) are in economic activities that qualify as environmentally sustainable under Article 3 of TR”.

#### *Minimum share of sustainable investments*

Many industry and NGO respondents noted that “minimum share” is not necessarily established for many financial products and – as the Taxonomy Regulation is dynamic – that the taxonomy-alignment of financial products could change during the life of a product. As a result, stakeholders called on the ESAs to replace “minimum” with “targeted”, “current share” or with “minimum expected share”. A few asset managers noted that the proposed pre-contractual disclosures seems to be based on the fact that data on the assets of the financial product already exist. However, for some financial products, e.g. portfolio management services, no product exists when the pre-contractual documentation is established. This information can therefore not be provided.

#### *Share of taxonomy-aligned investments in pre-contractual disclosures*

Some asset managers opposed the ex-ante identification of a quantitative percentage of taxonomy-aligned investments and urged to allow for a more qualitative disclosure of taxonomy-alignment instead. It was argued that pre-contractual disclosures should not reflect data at a specific date but should focus on the strategy and what the portfolio manager is bound to do when making investment decisions. The data should rather be included in the periodic report.

Many stakeholders suggested that the quantitative taxonomy-alignment ratio (pie chart) should be accompanied by a qualitative segment explaining how the FMP plans to increase its share of taxonomy-aligned investments in both the pre-contractual and periodic disclosures.

#### *Discrimination against sustainable investments outside the scope of the Taxonomy*

Some respondents from the insurance and asset management industry argued that care should be taken that the templates do not imply that sustainable investments which are not (yet) within the scope of the TR are any less sustainable (this could e.g. be implied by the question “Why does the financial product invest in economic activities that are not environmentally sustainable?”). Respondents therefore suggested to exclude the section on the sustainable investments which are not aligned with the Taxonomy Regulation (“What is the minimum share of sustainable investments that are not aligned with the EU Taxonomy?”). The negative limitation to the TR was not believed to add any particular value to the client as no comparable assessment framework exists. Also, accompanied by the crossed-out sign, it may create negative associations that could for example result from the currently limited scope of the TR or the focus on social rather than environmental objectives.

A few stakeholders considered that it was not appropriate to require information on why a financial product has invested in economic activities that are not environmentally sustainable or believed that the question needs to be rephrased to avoid negative implications.

#### *Enabling and transition activities*

A few stakeholders noted that the Taxonomy is based on three categories, i.e. enabling, transitioning and “green”. By defining only two of these categories, the third category will not be visible to the customer.

Two stakeholders doubted that it would be feasible for products committing to a certain share of sustainable investments in line with the Taxonomy to specify minimum proportions of transitional and enabling activities in the pre-contractual documents. The commitment to a minimum share of taxonomy-aligned investments that would need to be met and monitored on a continuous basis was considered a challenge in itself and only a few products were believed to be able to make commitments on a more granular level. Therefore, the respondents expected that it would be possible to disclose a zero minimum share of transitional and enabling activities in the pre-contractual documents and to explain to investors that this is due to the lack of feasibility to make binding commitments, but that the actual share of investments in transitional and enabling activities would be disclosed in the periodic report.

#### *Taxonomy-alignment graph and symbols*

While a few NGOs and industry stakeholders welcomed the inclusion of the graphical representation of taxonomy-alignment, others, on the contrary, claimed that the graphical representation did not add any value to the pre-contractual templates.

One respondent suggested to include an additional pie chart in the template that would provide for an indication of the %-split of the taxonomy-aligned activities in turnover/CapEx/OpEx/use of proceeds bonds. This was believed to considerably enhance the quality and level of transparency of the documentation.

Another stakeholder suggested to add a qualitative segment explaining how the FMP planned to increase its share of taxonomy-aligned investments.

One stakeholder believed that Article 5 and 6 products that do not invest in taxonomy-aligned activities should not display the pie chart stating a 0% taxonomy-alignment.

Most NGOs suggested adding a general pie chart representing the share of all sustainable investments (even if not taxonomy-aligned) in relation to all investments to ensure that a general perspective is given and to avoid greenwashing.

One stakeholder claimed that the new icons for taxonomy-alignment disclosure were not meaningful and should be eliminated: an open book symbol by the taxonomy-alignment question did not lead, in the stakeholder’s view, to an obvious conclusion that the section or the graphic illustration concerns alignment to a regulation. Similarly, a symbol crossing out a book was not considered as leading to the conclusion that there is no alignment with a regulation. The icons were also believed to take attention away from the pie chart.

A few stakeholders called on the ESAs to clarify whether the application of the format and graphics is mandatory. No information has been provided by the ESAs regarding the rights to the graphics or the availability of the graphics.

### *Asset allocation graph*

A few stakeholders requested the addition of percentages in the text box. However, one stakeholder noted that the use of percentages to indicate alignment with the taxonomy is not always appropriate and could be misleading.

A few NGOs requested a more detailed breakdown of investments which are not taxonomy-aligned and to differentiate taxonomy-aligned investments between: (1) a proportion of investments which are “properly” taxonomy-aligned, meaning those based on disclosures in line with Article 8 TR as well as externally certified self-disclosed taxonomy-alignment; and (2) a proportion of investments assessed as taxonomy-aligned by FMPs or third parties based on the data gathered from the underlying investee companies or data vendors. The respondents also requested that the template for sustainable investments be amended so as to clarify that Article 9 SFDR products can only make investments with a sustainable objective. “Other” types of investments in Article 9 SFDR products should not be allowed.

One NGO suggested using a different and more informative and self-explanatory set of colours. For example, green for “E” funds (with environmental objectives/characteristics), blue for “S” funds (with social objectives/characteristics) and yellow for funds that have both an E and S focus.

One stakeholder suggested to replace the term asset allocation by “asset composition” as the reporting reflects the composition and not the allocation of assets.

### *Explanatory notes*

Some asset managers and insurers proposed to merge the explanatory note on the EU Taxonomy with the note on “sustainable investment” to explain the relationship between the two concepts, and to add to the note that “As the EU taxonomy is developing dynamically, only a part of the economic activities has been assessed by now. The aim of the EU is that by the year xx, the majority of all economic activities are to be covered.”

One stakeholder suggested adding a note on OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights.

### *Disclaimer for Article 6 TR products*

One stakeholder reminded the ESAs to include the disclaimer required under Article 6 TR: “The investments underlying the remaining portion of this financial product do not take into account the EU criteria for environmentally sustainable economic activities.” It further called on the ESAs to confirm whether such disclaimer should be included in the disclosures relating to any Article 9 SFDR fund which invests a portion of its investments in non-taxonomy aligned investments.

### *Periodic templates*

One stakeholder suggested the removal of the questions “what is their purpose and are there any minimum environmental or social safeguards/Why does the financial product invest in economic activities that are not environmentally sustainable?” in the periodic templates.

### *Multi-Option Products*

Some insurers called on the ESAs to allow for the use of references also in the periodic information.

Some stakeholders noted that it is not clear whether there should be an annex for each investment option qualifying as an Article 8 SFDR or Article 9 SFDR product, or whether a single annex should be provided for all the investment options qualifying as Article 8 SFDR and Article 9 SFDR products.

#### *Other issues*

One stakeholder suggested that the ESAs add the “legal entity identifier” (LEI) as a mandatory data field in the reporting templates and clarify that the "Legal identifier" corresponds to "Legal Entity Identifier". However, a few stakeholders would prefer to require a disclosure of the ISIN.

ESAs’ response: The ESAs appreciated the detailed feedback given by respondents on the templates. The ESAs have amended the templates in the final report to take into account this feedback. The layout has been improved with a view to help comprehensibility of the information. The tick box section has been expanded. The sub-section on sustainable investments not using the taxonomy has been limited to environmental sustainable investments to avoid stigmatising social sustainable investments.

As stated above in the response to question 8, the ESAs believe that pre-contractual disclosure of taxonomy-alignment should be a minimum commitment.

**Question 10: The draft RTS propose unified pre-contractual and periodic templates applicable to all Article 8 and 9 SFDR products (including Article 5 and 6 TR products which are a sub-set of Article 8 and 9 SFDR products). Do you believe it would be preferable to have separate pre-contractual and periodic templates for Article 5-6 TR products, instead of using the same template for all Article 8-9 SFDR products?**

Most respondents favoured a single template while only a few respondents preferred a separate template.

#### *Benefits of a single template*

Four respondents mentioned that it is simpler at an operational level to include taxonomy-related disclosures in the existing templates.

Six other respondents mentioned that a single template would maintain a certain level of compatibility and coherence. Some also added that this would help customers make a choice between products and would aid those who are required to make such disclosures.

#### *Challenges of a single template*

Two respondents highlighted the risk that as not all of the questions in the template would be answered that there would be a small amount of information investors would be able to read.

#### *Challenges of separating the templates*

Several respondents pointed out that separating the templates would be confusing for customers. Two pensions industry associations noted that the separation would further exacerbate the problem

that the information is too technical for some customers or pension scheme participants to understand, while not providing additional insights.

### *Suggestions*

Six respondents mentioned the possibility of ticking boxes at the beginning of the template, which would allow the FMP to only answer relevant questions. It would create a “reasoning tree”. Five other respondents also suggested that the section specifying the alignment with EU Taxonomy should only be included if relevant for the specific product. Another respondent added that this would help efficiency and simplicity.

Two respondents generally noted that product providers should have the flexibility to only complete those sections relevant to the product strategy. Two respondents also suggested explicitly mentioning when indicators are missing or irrelevant. Two other respondents mentioned that the RTS could clearly indicate that information may be available to investors in the prospectus, via a pdf/ website link.

Four respondents suggested embedding the taxonomy-related disclosures under the existing templates, by only making essential changes to the SFDR RTS in separate sections (via add-ons) to facilitate implementation.

Finally, two respondents also noted that the disclosures should be as simple as possible for clients, depending on data availability.

ESAs’ response: The ESAs note that there is support for the approach in the consultation paper of developing merged templates, i.e., the same pre-contractual and periodic templates for all Article 8 SFDR products, including Article 6 TR disclosures and same pre-contractual and periodic templates for all Article 9 SFDR products, including Article 5 TR disclosures by replacing the templates from the 4 February RTS with the amended templates in this final report.

**Question 11: The draft RTS propose in the amended templates to identify whether products making sustainable investments do so according to the EU taxonomy. While this is done to clearly indicate whether Article 5 and 6 TR products (that make sustainable investments with environmental objectives) use the taxonomy, arguably this would have the effect of requiring Article 8 and 9 SFDR products making sustainable investments with social objectives to indicate that too. Do you agree with this proposal?**

Most stakeholders supported the proposal that Article 8 and 9 SFDR products should indicate whether they include sustainable investments according to the EU taxonomy.

However, many respondents mentioned that products should be able to claim social objectives in a positive way, not only in opposition to the environmental Taxonomy (until a more complete Taxonomy also including socially sustainable activities is implemented). A few other stakeholders also noted that a fund which does not comply with the Taxonomy should be able to fully and extensively explain this in the templates.

A few stakeholders noted that it could be misleading for products that have social (not environmental) objectives, to include in the *pre-contractual* information the percentage of assets



that will be aligned with the green Taxonomy, as the products do not have a defined environmental objective. To simplify information provided to customers, products making sustainable investments with social objectives/characteristics could be exempted from indicating the share of taxonomy-eligible investments in the templates. Two stakeholders specifically mentioned their support for the proposal in the long run, once the Taxonomy will also include socially sustainable economic activities.

Some respondents did not support the proposal and considered that the obligation to identify inclusion of taxonomy-aligned investments should only be relevant for products with investments having environmental objectives/characteristics.

A few stakeholders recommended using more neutral language around sustainable investments, in order to address the issue that the RTS is heavily reliant on Taxonomy as a sole tool to guide sustainable investing. Two of the stakeholders added that the same should hold for environmental investments that are not taxonomy-aligned, for example when they are using a Climate Transition Benchmark or Paris-Aligned Benchmark, which are specifically acknowledged under Article 9(3) SFDR.

ESAs' response: The ESAs agree that the approach in the consultation paper would have negatively affected the perception of social sustainable investments, which has been corrected in the final report version of the templates. This has been addressed by limiting the requirement to disclose what the share of environmentally sustainable investments with an environmental objective that are not aligned with the EU Taxonomy is to products that include investments with an environmental objective, and by requiring to separately disclose the share of socially sustainable investments for financial products making such investments.

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

Out of the respondents that explicitly commented on the proposed policy options, most respondents favoured in general the ESAs' chosen approach. Advantages associated with the chosen policy options that were mentioned included increased comparability of products and consistency of information.

However, a few respondents noted the need to further cater to product-specific features such as those found in private equity or venture capital funds (which are blind pools).

Respondents also stated that the current templates are too long and feared they were too complex for consumers, who might therefore refrain from reading them. The respondents believed the disclosures related to the TR should be as concise as possible.

Many respondents stressed the high burden placed on FMPs to comply with the SFDR and Taxonomy disclosure requirements when consistent, comparable and high-quality data on Taxonomy-alignment is not yet available. The comments made related to the difficulty of using data from counterparties that are not included in the scope of the NFRD and future CSRD, the generation of significant costs and risks of over-reliance on data providers. In light of these challenges, a few respondents stressed the importance of having realistic proposals that adequately consider the timing of associated Taxonomy-related developments, such as for the final Taxonomy screening

criteria. It was noted that the chosen policy option of KPI disclosure would depend on this data availability and would require years to become sufficiently widely available.

### *Costs*

No respondent could provide any granular example or estimate of the abovementioned costs. However, some general remarks were made.

Several respondents noted the costs for FMPs associated with the lack of accessible high-quality data. This related to costs arising from buying and relying on data from external providers where some respondents urged caution in the creation of an indirect tax for investors who would be obliged to buy data. Respondents noted that the lack of data and high market concentration of ESG data providers risked considerable fees being charged by those data providers.

Other areas where costs were identified related to (i) the initial costs of setting up operational procedures, processes and IT systems, (ii) obtaining data through internal research and engagement with companies (in particular from companies outside the scope of the NFRD and future CSRD), (iii) annually maintaining obligations under the SFDR, such as periodic reporting. In addition, several respondents expressed particular concern for costs imposed on smaller actors.

Several of the respondents that commented on increased costs urged the ESAs to balance the costs of any new reporting requirement with associated benefits of transparency and usability.

Finally, two respondents made a general remark that it would be useful that the ESAs make use of examples of real products in the application of their disclosure proposals, in order to gain an indication of the impact of the ESAs' proposals.

ESAs' response: The ESAs take note of respondents' concerns on the lack of available data and the costs associated with the new amendments. The ESAs still believe that the changes in the final report create a fair balance between transparency and comprehensibility for investors and consumers.

**Annex 1**

**EBA**

**Banking Stakeholder Group (BSG)**

Reply form for the Joint Consultation Paper on  
Taxonomy-related sustainability disclosures

## General considerations

The BSG generally supports the ESAs' proposed approach to amend the existing SFDR RTS instead of drafting a new set of draft RTS. A consolidated single text of RTS appears reasonable in order to rationalize the regulatory framework and to avoid proliferation of rules. This will ensure a "single rulebook" making the rules more accessible.

In any case it is not practical for the two SFDR-RTSs to come into force at different times. Banks would have to implement the templates of the first RTS and then change them again when the second RTS becomes applicable. Since the templates are mandatory, they cannot be implemented on the basis of the draft of the second RTS, as this would risk violating the law if the second RTS should be delayed.

BSG members highlight the importance that the consolidated version of the RTS, which includes the taxonomy-related information in the precontractual and reporting templates, is finalised in time to ensure an appropriate implementation of the templates. Considering the complexity of the regulation, the need to finalize necessary changes to IT and reporting systems and ongoing discussions and analysis of data providers and considering its timing of the coming into force aimed at ensuring the availability of ESG data originating from issuers (art 8 of the TR and revision of the NFRD), BSG members encourage the ESAs to address and discuss the timing issue with the Commission to ensure proper implementation of the templates. It is suggested that an implementation period of at least six months in terms of the mandatory use of the templates is foreseen, as well as a 1-year transition phase where a best effort approach is allowed.

Having said that, the BSG underlines that the new draft RTS raises the following critical issues already outlined with regard to the first set of draft RTS:

- the unavailability of the necessary data in a standardised and reliable way. This is particularly challenging in respect to the Taxonomy alignment information although it is acknowledged that the CSRD will improve the data availability for entities under its scope;
- the excessive complexity of the required information to be published by financial market participants (FMPs);
- the high costs for the implementation of the new requirements and, therefore, the need for a proportionality approach to be used by market players according to their different characteristics, type of activity and dimensions;

- the timing of implementation that is limited in relation to the complexity of the required adjustments to FMPs.

Also, as a general comment, we believe some language used in the templates should be clarified in order to be easily understandable for investors (“sustainable investment”, “environmentally sustainable economic activities”). Using very similar wording, it may be difficult for investors to understand the subtleties.

Also, we expect to see more clarity on definitions regarding sustainable investing, to give more guidance to investors and to reduce the risk of greenwashing in sustainable finance. Examples of other potentially confusing subjects are: the ambiguity between taxonomy-eligible and taxonomy-aligned, the need to avoid proxies, unless they are formally defined and allowed by authorities, which is unlikely to occur prior to the implementation date. Ultimately, a rush toward premature implementation, in the absence of clear definitions and feasible data collection timeline will create confusion, including significant liability risks for the banks, as investors and NGOs will undoubtedly be very uncomfortable by the “best effort” approach, even if allowed by regulators. It may be more reasonable to limit the disclosure to what can be safely disclosed, and for the “best effort part”, transform the disclosure into a supervisory reporting requirement.

## Specific comments

We believe that the proposed KPI for the disclosure of the extent to which investments are aligned with the taxonomy is appropriate (Question 2). However, the chosen approach must be subject to the finalisation of the reporting obligation of non-financial undertakings under Article 8 of the Taxonomy Regulation, which sets out information that can actually be obtained by the financial undertakings.

As an example, if the final delegated regulation under Article 8 of the Taxonomy Regulation provides flexibility for non-financial undertakings to report on some of the KPIs, e.g. operational expenditure (OpEx), the “one approach for all investments” for the financial product disclosure against the taxonomy will not be viable. Turnover is probably the most relevant indicator. Capital expenditure (CapEx) is, however, also important as regards to companies in transition.

From a theoretical point of view, the proposal regarding the methodology for calculating the KPI consistently with the respective technical advice to the European Commission pursuant to Article 8 of the Regulation (EU) 2020/852 (TR) appears reasonable (Question 3). To ensure consistency and clarity to the end investor, at portfolio level, BSG members support the ESAs approach in requiring that the same approach should apply to a given financial product and one indicator to be used for all the issuers of the underlying portfolio. It would be to the Financial Market participants (FMPs) to choose one of the 3 indicators, to clearly state what is the indicators used and explain why that indicator has been selected.

However, from a practical point of view, this proposal is difficult to apply, considering that the objectives of the taxonomy are set in a delegated act (issued on 21 April 2021 which is expected to be published shortly and to be applied from 1 January 2022) only for climate change mitigation and climate change adaptation. The Technical Screening Criteria (TSCs) for the remaining taxonomy environmental objectives (sustainable use and protection of water and marine resources, transition to a circular economy, pollution prevention and control, protection and restoration of biodiversity and ecosystems) are far from being finalised, meaning that the proposed draft RTS will have a very limited application for a long time, while investor demand is also rising significantly on other environmental, social and governance investments, including notably biodiversity, healthcare, etc. FMPs should be allowed to complement the disclosure with those other ESG goals, based on available market standards, in order to provide investors more transparency on a broader range of ESG products, beyond the limited scope covered so far by the EU Taxonomy.

Moreover, their application will be further limited by the lack of information disclosed by non-financial undertakings. In this respect the Commission has specified that the first annual report under the New Corporate Sustainability Reporting Directive (CSRD) previously named NFRD will be 2023 (first data Q2 2024). It is very unlikely that it will be feasible for non-financial undertakings to disclose the required information from 1 January 2022 (date of application of the SFDR RTS). Therefore, FMPs will not be in a position to consider data reported by non-financial undertakings. In addition, a significant part of the underlyings in investment products are issued by non-financial undertakings that are not in the scope of the NFRD, whether they are under the current NFRD (and/or future CSRD) threshold, or because they are not based in the EU. For example, we see significant interest in investment products with IFIs green underlying, such as Worldbank securities aiming at financing ESG investment in Emerging markets, a key component of the global Paris agreement. It would be paradoxical to be unable to include such underlyings in the “green” part of the financial products offered to our clients.

Considering the above, it would seem reasonable to either postpone the application of these additional disclosure obligations or alternatively allow the FMPs to carry out purely qualitative assessments (e.g., on the basis of proxies provided by information providers and formally endorsed by authorities) due to the lack of quantitative data. This appears to be very important, especially for the precontractual disclosure.

The proposed KPI includes equity and debt instruments issued by financial and non-financial undertakings and real estate assets. The question is raised whether this could also be extended to derivatives such as contracts for differences (Question 4).

It appears to be fine from a theoretical point of view. Still, it is very difficult to be implemented in the case of derivatives because it would require a look through approach, and it might be disproportionate for portfolios managed on individual basis where the use of derivatives is very limited. Therefore, it might be opportune to develop shared guidelines on how and to what extent derivatives could be considered. In practice, we believe that there should be a differentiation between derivatives that are

used to get exposure on an ESG underlying risk, and derivatives that are used for hedging risks in the product, without any ESG objective.

An example of derivatives that are used to get exposure on an ESG underlying risk is the case of ETFs. In most cases, ETFs are built using equity swaps, rather than buying the underlying cash equity in the market. When an ETF is designed to meet a Low-Carbon Benchmark, the synthetic equity exposure should be included in the KPI, otherwise the ETF will show a zero alignment, despite its explicit goal.

An example for derivatives that should NOT be included in the KPI is the case where FX or IRS derivatives are used to hedge currency or interest rate risk in the portfolio, for example if a € denominated fund includes some limited share of non-€ underlying, in order to avoid any currency risk for the investor. In this case, the FX swap has no ESG purpose whatsoever, and should be excluded.

On the question whether the use of “equities” and “debt instruments” is sufficiently clear to capture relevant instruments issued by investee companies (Question 5), BSG members believe that it would be very useful that the ESAs publish a list of indicative examples in order to help FMPs to better understand the use of equities and debt instruments and what valuation criteria should be adopted for each of them, in line with the rules also needed to calculate the Green Asset Ratio.

On the question 6 whether or not to include all investments, including sovereign bonds and other assets that cannot be assessed for taxonomy-alignment, of the financial product in the denominator for the KPI, considering that the main objective of these indicators is to offer clarity to the end investor through a concise, high level, comparable figure showing the share of the amount of money invested in taxonomy aligned activities, BSG members are of the opinion that it is indeed appropriate to include all investments in the denominator. While this may not give a thoroughly accurate view of the composition of the portfolio with regards to the non-taxonomy aligned share of the portfolio (which could be made of both non assessable and not aligned activities), we do consider this to be acceptable as long as the meaning of the % is clearly stated and understood by investors. Otherwise, the method will risk pushing taxonomy-focused investors away from products that might suit them well (but which appear non-aligned due to the inclusion of sovereign bonds and other assets that cannot be assessed for taxonomy-alignment). Including sovereigns in the denominator, for example in a life insurance product, while being unable to include any sovereign exposure in the numerator, would significantly reduce the disclosed ratio, even in the case where there would be a strict “ESG filter” in the non-sovereign portion of the portfolio. Life insurance, retirement savings programs, are generally managed with a combination of sovereign (risk-free) and higher yielding assets, depending on the risk profile of the client. It should be possible to advise the client, on one hand, on the appropriate proportion of govies vs other asset classes, in particular as a function of his/her investment horizon, and separately, to advise on a proportion of ESG investment in the non-govies allocation. The reporting framework should follow this logic.

On question 7, it might be an unnecessary complication to request certification downstream of the process and, in consideration of the already heavy burden placed on FMP to align with the regulation, we would recommend not to prescribe a third-party assessment. In our opinion it is more efficient to

place the certification upstream of the process, i.e., with reference to the data produced by the info providers, in which case the inclusion of information on, whether the statement has been subject to an assurance provided by an auditor or a review by a third party, can be supported. But, the efforts to develop further reporting standards able strengthen accountability and transparency of information provided to the investors and other market participants should be complemented by defining some benchmarks of good practices.

On the amended pre-contractual and periodic templates (Question 9), we believe that including mandatory information on taxonomy-alignment may (see also comments to question 6) pose a risk that some investors are deterred by a low – or even zero – percent minimum taxonomy-investments. If this low number is caused by – for example – an investment strategy related to activities for which no taxonomy-criteria exist, it could be misleading rather than informative. It is suggested therefore that the relevant parts of the templates are supplemented with an additional option stating: “The investments underlying this financial product do not take into account the EU criteria for environmentally sustainable economic activities”.

**To enhance transparency, financial market participants should clearly state in a check box solution whether the financial product (a) invests in economic activities that contribute to an environmental objective or promote environmental characteristics, or (b) does not invest in economic activities that contribute to an environmental objective or promote environmental characteristics.** Only financial products ticking off option (a) should provide the taxonomy statement, whereas financial products ticking off option (b) should provide the disclaimer. Also, and in line with the previous comment, it is suggested that the section on “what is the minimum share of sustainable investments that are not aligned with the EU Taxonomy “ is supplemented by an option to confirm that the financial product does or does not have a minimum share of other sustainable investments.

Also, it is considered not appropriate to require information on, why a financial product has invested in economic activities that are not environmentally sustainable. As stated several times by the European Commission, the Taxonomy Regulation is primary a transparency tool and do not represent a mandatory list of activities to invest into, we do not consider it appropriate to demand a “justification” regarding the choice to invest in taxonomy compliant activities or not. It is not a requirement to only invest in taxonomy-aligned activities. Instead, the periodic reporting templates should allow for a more qualitative description on the taxonomy investments.

On Article 8 – pre-contractual: it is not a pre-requisite for Article 8 products to invest in sustainable investments. Accordingly, the heading “To which objectives do the sustainable investments contribute and how do they not cause significant harm” should be supplemented with a “N/A” option for products, which confirm initially in the template not to invest in sustainable investments. Subject to our comments above, the section on “minimum share of sustainable investments that are not aligned with the Taxonomy Regulation” should not be included for Article 8 products. The level 1 text provides no basis for such specific disclosure requirement on Article 8 products. Such language could mislead



investors in assuming that products not aligned with the EU Taxonomy do not pursue any E,S or G characteristics which may not necessary be the case.

The pre-contractual disclosure should not focus on data from a specific date, but rather on the investment strategy and what the portfolio manager is bound to do when making investment decisions (otherwise this could lead to information being misleading for the customer). The formerly mentioned data could instead be included in the periodic report.

Moreover, setting a minimum proportion of Taxonomy-aligned investments at the pre-contractual level instead of a target could lead to the situation that FMPs put very low thresholds, considering in particular that data on taxonomy-aligned investments is lacking.

Finally, one could also question the proposal to divide the minimum proportion of Taxonomy alignment into transitional and enabling activities. Firstly, and linked to the argument on minimum proportion described above, this limits the portfolio manager even further. Secondly, a customer would often not understand what this means. Thirdly, the Taxonomy is based on three categories, i.e. green, transitional and enabling activities. Defining only two of those, the third category would not be visible for the customer.

For question 10, again from a theoretical point of view, it appears reasonable to propose unified pre-contractual and periodic templates applicable to all Article 8 and 9 SFDR financial products as using the same templates can make it easier for investors (especially retail investors) to get comfortable with the structure. In terms feasibility however, the availability of clear criteria and data to qualify and report all the different types of sustainable investments is essential. If it is not the case, only few sections/parts of the proposed templates could be filled. It may therefore be preferable to have different templates for different product types.

On question 11, it might be important to mitigate any possible misunderstandings with an additional text, e.g. stating that no detailed taxonomy-criteria for social sustainability currently exist.

The identification of sustainable investments for all the 6 environmental objectives has to be finalised first in the EU Taxonomy (so far, only mitigation and adaptation are in the Taxonomy) and also for social objectives. We know that the Platform for Sustainable Finance is committed to issue before the end of this year its first proposal for a social Taxonomy. Therefore, we foreseen a long period ahead having a clear and common tool (delegated act) to identify social sustainable investments. It is again important here to underline the data gap issue (in part depending on the lack of the Taxonomy) and the absolute necessity to give banks a sound period to implement all the bank's processes before making anything compulsory in terms of disclosure.

**Annex 2**

**EIOPA**

**Insurance and Reinsurance Stakeholder Group (IRSG)**

Reply form for the Joint Consultation Paper concerning Taxonomy-related  
sustainability disclosures

## General information about respondent

Name of the company / organisation EIOPA Insurance and Reinsurance Stakeholder Group (IRSG)

### Introduction

The IRSG welcome the 'ESAs' work on disclosures for sustainability-related products as a positive step towards consistent legislation and enhanced transparency for consumers. This work must deliver understandable sustainability-related information to consumers while accounting for comparability across product types in line with the Taxonomy Regulation (TR) objective.

However, care needs to be taken to consider the current market reality and how the taxonomy-related disclosures fit in the current Sustainable Finance Disclosure Regulation (SFDR) templates and the consequent impact on the overall 'consumers' disclosures. In this respect, we appreciate the 'ESAs' effort to provide a robust understanding of the degree of alignment of financial products to taxonomy-eligible activities. The final templates risk being very long and overly detailed for consumers.

We also appreciate how the taxonomy-related disclosures are embedded in those under the SFDR, via amendments to the SFDR RTS. However, the final disclosures need to be balanced and straightforward. Considering the likely delay with the finalisation of the TR RTS and the current timing challenge (the SFDR RTS and therefore the taxonomy-related disclosures are due for application on 1 January 2022), it is key that the taxonomy disclosures only introduce essential changes in the SFDR RTS and consider potential safeguards, in line with the 'ESAs' supervisory statement on the SFDR, to account for the situation where the final RTS are not finalised early enough to allow sufficient time for implementation.

The ESAs should also provide more guidance on the specific taxonomy indicators (for turnover, capex, opex) and the link with the ESAs work on Article 8 of the taxonomy, as this can help financial market participants (FMP) with the implementation. In addition, care should be taken to ensure that product-level disclosures are realistic and adequately consider existing ESG data issues, especially since some of the Delegated Acts setting up the taxonomy are still under development.

- The ESAs should limit their proposals to Taxonomy-related sustainability information that is clearly deemed to add value from a cost-benefit perspective.
- Taxonomy alignment information needs to be publicly disclosed for a sufficiently large scope (which needs to be ensured via an appropriate extension of the scope as per the NFRD/ CSRD).
  - The ESAs should limit their proposals to Taxonomy-related sustainability information that is clearly deemed to add value from a cost-benefit perspective.
  - Taxonomy alignment information needs to be publicly disclosed for a sufficiently large scope (which needs to be ensured via an appropriate extension of the scope as per the NFRD/ CSRD).
- There is a clear need to take due account of unintended consequences. In this respect, the disclosure requirements under Art. 10 of the SFDR, for which disclosure in a password-protected area would not suffice, are concerning. In particular, certain disclosures on tailored

products (e.g. on investment strategy and top investments) should not become public (via the website) as this would lead to a disadvantage for EU FMPs while not being associated with a significant value-add for clients.

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

Yes, we strongly welcome the 'ESAs' proposed approach as it avoids duplications and overlaps in terms of sustainability disclosures. We agree with the "single rulebook" approach, as we need as much convergence as possible in approaches, definitions, and use of KPIs to ease the already very complex data availability and mining challenge faced today. External providers will be better equipped and able to provide services, data and a common language to end-users. Time efficiency, resources availability and level of sophistication also support the maximum level of convergence. We fully support an utmost integrated, consistent and effective approach to avoid duplication for implementation or even several waves of implementation and an effective approach to avoid duplication for implementation or even several implementation waves. Whatever can be consolidated should be consolidated to avoid the additional administrative and financial burden that customers would ultimately bear.

The usage of EU Taxonomy should be a priority. We are aware of potential difficulties, but there is a threat that EU Taxonomy is crowded out by lower standard classification. We would like to raise also attention to the template for light green products. According to the level 1 text, article 8.1. of Regulation (EU) 2019/2088 of the European Parliament and of the Council of 27 November 2019 on sustainability-related disclosures in the financial services sector, the disclosure should present "information on how those characteristics are met". Without any explanation, the ESAs propose the statement "whether the financial product intends to make a sustainable investment". This should be elaborated in more detail: first of all, if this approach is possible, then what is its rationale.

However, there is a concern regarding the timing, which risks being insufficient to allow implementation by January 2022. Therefore, we strongly encourage the ESAs to suggest safeguards in case the final product templates are not available sufficiently early. Such safeguards are equally key to factor in the challenges related to collect taxonomy-related data.

It is key that FMPs are not pressured to disclose information and indicators which are not considered sufficiently reliable and could, thus, bear reputational and legal risks. Therefore, where relevant (e.g. where data is not (yet) available or guidance was provided too late for thorough implementation), respective disclosures shall only be required on a reasonable best efforts basis. In this context, disclosure requirements for Multi-Option Products (MOPs) are particularly concerning. All FMPs shall apply the RTS as of 1 Jan 2022. However, in the case of MOPs, FMPs need the corresponding information from asset managers to prepare their own disclosures. During the ESAs' public hearing, ESAs stated that they believe that asset managers will be able to provide the relevant information in advance of the effective date as FMPs are already working on the templates. However, there is no evidence that this would in fact be the case at all times. Rather, the fact that no time lag is foreseen imposes significant operational challenges and risks on concerned FMPs and does not seem straightforward. Related to this, more generally, clarification is needed as to how FMPs should deal with time gaps when computing the Taxonomy alignment of their financial products (or under Art. 8 of the Taxonomy Regulation (TR))

**Q2: Do you have any views on the KPI for the disclosure of the extent to which investments are aligned with the taxonomy, which is based on the share of the taxonomy-aligned turnover,**

**capital expenditure or operational expenditure of all underlying non-financial investee companies? Do you agree with that the same approach should apply to all investments made by a given financial product?**

On the one hand, this approach allows for the homogeneity of the data summed in the ratio's numerator. However, on the other hand, it will not be possible to capture economic activities/actors who are at different sustainability levels (e.g. transitional activities) with this approach. Indeed, the Consultation Paper question does not seem to take into account the recent recommendations on forward-looking metrics to be published by companies for activities in transition (Report of the EU Sustainable Finance Platform published on 19 March to feed the Commission for the finalisation of the Taxonomy Regulation Delegated Act on climate change).

For instance, if a product invests in two companies, one of which (company A) is taxonomy-aligned and the other (company B) is in transition, then for "A" the investment can be weighted by the share of taxonomy-aligned turnover, but for "B" the investment will have to be weighted by the taxonomy-aligned capex (cf. Platform on sustainable finance advice on transition which recommends to count as taxonomy-aligned investments towards meeting the Taxonomy technical screening criteria in the future).

Consistency is needed across legislation but we would like to emphasise also the importance of coordination amongst EU regulators/supervisors to provide harmonised set of guidelines/recommendation for disclosures.

Depending of the type of investment, turnover, capital expenditure (capex) or operational expenditure (opex) might be more suitable. One approach to be applied to all investments should not, be imposed. Therefore, each financial market participant should consider what KPI is most suitable for each activity/investment in a non-financial undertaking investee company. However, FMPs should also not be required to aggregate Taxonomy alignment on turnover, CapEx and OpEx into one KPI/graph. Rather, they should be required to report all three KPIs, namely to show the Taxonomy alignment for the respective portion of total investments that was assessed based on turnover, CapEx and OpEx, respectively. If FMPs shall be required to only disclose one KPI for Taxonomy alignment, ESAs/EU COM should develop operational guidance as to how FMPs should perform the respective aggregation to avoid inconsistencies. Further, to avoid inconsistencies across FMPs, ESAs/EU COM should develop operational guidance as to the circumstances under which FMPs would be expected to use which KPI.

As not all indicators could be available, the possibility should be left open to use the most relevant indicator (for transitional activities, for instance, choose capex as a measure of the company's investment). Ideally, capex should be used, or turnover if the activities are aligned with the Taxonomy.

Furthermore, regarding the ESAs choice to reintroduce a graphical representation in the SFDR templates, we believe graphical representations (graphs or icons) need to be carefully considered not to complicate the technical implementation by financial market participants and to support the ' 'reader's understanding of the product.

We would like also to point out that the "s KPI's should capture well enough the differences between bank, asset manager, or insurer disclosing the information. This will enable the end report to be relevant and reliable for any end-users. All the used definitions in the policy options had issues to further consider as (1) revenue can be understood in economic ways but also based to various financial accounting standards (incl. national tax-based ones), (2) Fee structure could be captured but might consist of multiple parts incl. insurance layers, (3) capex/opex is not defined in similar ways and has similar problems as those in (1) and (2) but also might need to capture some capital requirements, (4) amount of investments might need to be split under life insurance into unit-linked part and insurers own investments. Therefore it would be suggested to allow for a bit more freedom (principles-based ways)

to decide on what would be the best KPI for different purposes and then possible explain the decision in some ways. Further and more generally, more guidance/clarification would be needed as to which Art. 8 KPI should be considered by FMPs when they invest into financial undertakings (as insurers and banks would be required to report more than one KPI).

Finally, care should be taken to ensure consistency with work related to Article 8 of the TR.

Restrictions of ESG data availability will limit the application of this KPI. Therefore, expert judgements and approximations will be necessary for the interest of a best-effort approach. It is absolutely essential that, as to the lack of data on Taxonomy alignment for eligible investments, both temporarily over the next years (especially the first year) and ultimately (for the CSRD scope), it should be determined how FMPs should deal with investments for which the relevant Art. 8 disclosures under the TR are not (fully) available (e.g. not disclosed (fully) by the investee), not publicly available (e.g. only disclosed to the investor) or publicly disclosed on a voluntary basis, yet not externally verified.

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

Opex is an indicator not frequently used by issuers, and the breakdown of Opex is therefore not really an indicator used in financial analysis and for investment. Nevertheless, we believe it should be possible to use operational expenditure (opex) in line with the work undertaken so far on the taxonomy screening criteria. However, we are of the opinion that capex by the activity should be emphasised, not opex.

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

It would be better to exclude derivatives because taking them into account raises valuation issues (nominal or mark-to-market). Moreover, there would be a need to distinguish between the objectives and ways in which derivatives are used (for example, they might be held in the short term for a one-off de-risking of the solvency ratio). Derivative strategies complement portfolio management practices and may be used from time to time based on anticipation of market movements or economic uncertainties leading to a short-term exposure profile, not in line with the fundamental investment strategies, thus not providing the reader with an adequate KPI. In addition, there is less control for FMPs over the application of sectoral and normative exclusions on certain derivatives (e.g. index-linked derivatives).

Finally, derivatives should be left out of scope as they are, by definition, not directly connected to an activity covered by the Taxonomy. The Taxonomy relates to activities, and derivatives are not cash-driven investments directly impacting the financing of the real economy and thus should be excluded from the KPI calculation. In addition, at least with view to short-selling, any shorting of positions would not be congruent with the TR's primary objective (and should, thus, be out of scope) as short-selling does not generally seem aligned with the objective to incentivize the flow of capital towards (environmentally) sustainable activities.

If the ESAs/EU COM decide to consider derivatives nevertheless, clear guidance as to the respective methodology to assess Taxonomy alignment is needed, which would still need to be developed.

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

The use of "equities" and "debt instruments" seems sufficiently clear to capture relevant instruments issued by investee companies.

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

For one member, it would be preferable to include in the denominator all assets, even those that cannot be assessed for Taxonomy-alignment. This is a methodological choice, but it has the merit of simplifying the exercise. Otherwise, there is a risk of endless debates on what to include in the denominator or exclude.

This inclusion would, on the other hand, "dilute" the proposed ratio, and it would be preferable in this context to use only the assets concerned to avoid this dilution. Therefore, for other members, the focus of the denominator should be on eligible investments under the taxonomy. Total investments could still be reported separately to provide a more transparent picture of the investments in the financial products.

Excluding investments that are strictly non-eligible under the taxonomy from the denominator could provide better comparability across products in line with the taxonomy objectives. This could be key in comparability across product types as some products will inherently have by design a larger share of taxonomy-eligible investments. However, this does not mean these products are necessarily providing a better contribution to the sustainability agenda (for example, an equity fund can achieve 100% taxonomy-eligibility compared to a mixed fund with government bonds).

In addition, the inclusion of all investments in the denominator can provide distortive incentives to change the composition of the sustainable products and include activities that are more likely to pass the do-not-significant-harm principle short-term. This should not come at the expense of better product diversification and risk management. If the KPI shall nonetheless be based on total investments, i.e. as recommended by EIOPA and ESMA for Art. 8 disclosures under the TR, an approach that ensures the necessary transparency as to both eligible activities/investments (in relation to total activities/investments) and aligned activities/investments (in relation to eligible activities/investments) should be pursued at the minimum to also depict the information that would be most informative (namely alignment relative to eligibility). Potentially, this could be added here as an “intermediary” proposal as well.

We note that EU insurers hold large amounts of government bonds (about 33.3%) in domestic ones. In addition, EU insurers show about 15.6% of their total investment concentrated towards banks and a strong home bias (source: Joint Committee Report on risks and vulnerabilities in the EU Financial System, JC 2021 27, 31 March 2021, p. 12). Lacking alternatives, exposures are considerably higher in Central and Eastern Europe. This means, right from the outset, almost 50 % of the EU insurers assets are not eligible for the EU Taxonomy. This would result in at least two adverse collateral effects:

1. Unlevel playing field of (life) insurance products with other financial products competing for retail 'investor's savings, as insurers are forced to disclose a more negative KPI due to methodological flaws.
2. Undue divestment pressure on non-eligible assets (i.e. government and bank bonds) in order to achieve better KPIs

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

The statement on taxonomy compliance is welcome in terms of transparency, but as it stands, it is too general to provide a guarantee of better disclosures as intended. We do not see a need for it to be supervised or audited by an external provider for certification. With time, taxonomy alignment will be part of the investment decision and will figure or will have to figure on a written basis in investment approval processes. That should cover participants in case of audits that would be internal or by supervisory authorities.

We believe that the value of an assessment by external or third parties about the sustainability of the product is limited for the time being, as there is no assessment about the robustness of ESG data and information by investee companies and public entities.

The natural solution to achieve disclosure reliability and fight greenwashing should be tackling this problem at the root. The issue of the quality of disclosed information by investee companies and public entities should therefore be treated under the upcoming revision of the Non-Financial Reporting Directive (NFRD), now falling under the proposal for a Corporate Sustainability Reporting Directive. According to the 2020 public consultation on the matter, the EU could impose stronger audit requirements for non-financial information in the revised NFRD (such a requirement (for limited assurance) has now in fact been proposed by the EU COM (and would also relate to the Art. 8 disclosures under the TR). If the EU were to introduce more robust audit requirements, and financial market participants use the data published by non-financial investee companies in their non-financial reporting under Art. 8 of the Taxonomy Regulation, the information collected will benefit from reasonable assurance.

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

It makes sense to mirror the pre-contractual disclosures as laid down in the proposed RTS for the periodic disclosures, as it is important to ensure coherence with the structure of the SFDR RTS.

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

There is some concern that the current proposals are very detailed and risk overwhelming retail customers who need easy-to-understand and straightforward disclosures. Some insurers' voluntary implementation of the current SFDR templates already shows that pre-contractual disclosures for a single product are several pages long. This will inevitably discourage consumers from reading all information and will not make disclosures digital-friendly nor easy to navigate.

; therefore, it is key that only minimal essential changes are introduced while allowing the use of references and considering simplification of proposals. In addition, the current proposals appear to be still at early stages in terms of methodologies (for example, concerning the calculation of the KPIs, the scope of disclosures, etc.) and consumer testing.

Consumer testing that has already been held at the Warsaw School of Economics proves the complexity of the template. Information tends to satisfy compliance departments rather than consumers. Respondents without economic background have barely a chance to grasp the idea of the product. ESG jargon makes the situation even worse. There is a need for layered information that brings retail investor perspectives at the centre. More attention should be paid to the layout of the template.



FMPs should not be required to report “minimum share” information for their Art. 8 and 9 SFDR products as per the precontractual template. In particular, respective evaluations of the minimum share are complex and subject to significant levels of uncertainty, among others, because the TR is dynamic and will change in further due course. In addition, at least upon initial implementation, even for existing financial products, the relevant investee data for the current portfolio is not yet available. However, this data would be needed at the minimum to compute realistic values. Consequently, FMPs would likely report significantly lower values than their actual expectations as to the minimum share, or even zero Taxonomy alignment, to avoid making regular amendments as well as incurring sanctions and legal or reputational risks.

Care should be taken in the templates not to imply that sustainable investments which are not within the scope of the TR (yet) are any less sustainable; for example, the formulation “What was the share of sustainable investments that are not aligned with the EU Taxonomy?”, accompanied by the crossed-out sign (in the periodic template), may create such negative associations.

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

A member does not find it necessary to have separate pre-contractual and periodic templates for Article 5-6 TR products because there is the risk that a separation will confuse consumers who will have to deal with multiple templates for the same products. At best, Taxonomy-related disclosures would be included in the existing templates (applicable to all Art. 8 and 9 SFDR products) by means of only essential changes to the RTS, possibly only in separate sections (via adds-on) to facilitate implementation.

Other IRSG member(s) recommend at this stage having specific templates for Article 5-6 TR products, including notably detailed information on Taxonomy-aligned target asset allocation, as proposed, for instance in the section on page 35 of the draft RTS.

On the other hand, for a product with a social (not environmental) objective, it would be burdensome and misleading to include in pre-contractual information the percentage of assets aligned with the Taxonomy.

In the long run, however, some members believe the approach should aim at unification.

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

There is unanimity regarding this issue. On the one hand, these disclosures would make mandatory templates longer and are not expected to be particularly meaningful for products that explicitly state not to have environmental objectives/characteristics.

The taxonomy disclosures are a subset of the environmental disclosures (in fact, Article 5 and 6 TR focus on products with environmental objectives). Therefore, the RTS should not introduce an obligation to indicate the share of taxonomy-eligible investments for products that make sustainable investments

with social objectives. That is why Article 8 and 9 SFDR products that make sustainable investments with social objectives should not be under this obligation

On the other hand, unification helps to achieve transparency.

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

We believe that the impact assessment underestimates the current market reality when assessing the content and timing of the proposed requirements. In order to better assess the impact of their proposals, the ESAs could try to apply their proposed disclosures to real financial products. We currently have the impression that, even for simple products, the ESAs are underestimating the difficulty of disclosing the total eligible investments in the scope of the taxonomy and proposed KPIs, primarily due to the lack of required ESG data. For this reason, it is key that proposed requirements for taxonomy-related disclosures remain realistic and adequately consider the time necessary for the real economy to use the taxonomy and disclose related information.

**Annex 3**

**EIOPA**

**Occupational Pensions Stakeholder Group (OPSG)**

Reply form for the Joint Consultation Paper concerning Taxonomy-related  
sustainability disclosures

## INTRODUCTION

The OPSG supports the ESAs' proposed approach to amend the existing SFDR RTS as this will achieve consistency across legislation and help avoid overlaps. In this respect, there are some challenges that the ESAs should consider in their draft RTS:

1. Timing:

Since the Taxonomy-related product disclosures come with amendments to the regulatory technical standards (RTS) of the Sustainable Finance Disclosure Regulation (SFDR), this risks delaying the finalisation of the product disclosures, which are due for application on 1 January 2022. Therefore, the TR RTS should make only essential changes to the SFDR RTS and consider potential safeguards – similar to what the ESAs already suggested in their supervisory statement on the SFDR - in case the final RTS are not adopted sufficiently early to enable FMP to implement the RTS.

As companies begin to report their Taxonomy alignment only in 2022, the periodic disclosures level 2 requirements should enter into application in 2023. Investors do not have the data available for periodic disclosures yet in 2022.

If a postponement of the entry into force and application of the RTS is not plausible/possible, there should at least a flexible and more principle-based approach in the early stage.

2. Content:

- a. While an alignment of Taxonomy-related disclosures with those under the SFDR is appreciated, the final templates risk being very long and overly detailed for customers. Therefore, care should be taken to only introduce essential changes in the RTS, while allowing for a broad use of references in the mandatory templates.
- b. The ESAs could provide examples of how to apply the disclosures to real products, as there is need for guidance on the specific Taxonomy indicators (i.e. for using Turnover, Capex, Opex) and the link with the ESAs work on Article 8 of the Taxonomy.
- c. Only eligible total investments should be considered as not all investments are in scope of the Taxonomy. Not doing so comes with a risk of confusing

customers with respect to product types and related risks (for example, equity funds versus guaranteed products).

3. ESG data/information: it is key that new product-level disclosures are realistic and adequately consider existing issues with providing meaningful Taxonomy-related disclosures. This is key especially because the final Taxonomy screening criteria are not available yet, in turn making the collection of required ESG data even more challenging.

In the absence of mandatory reporting financial market participants need to request from investee companies that they disclose on relevant KPIs, for instance through existing mechanisms such as CDP. In recent years US companies have acquired ESG rating agencies. There is a risk that European financial market players will have a competitive disadvantage due to the costs involved in applying the Taxonomy. The creation of a European non-financial data repository could help but an international cooperation would be more efficient in the long term.

**Question 1: Do you have any views regarding the ESAs' proposed approach to amend the existing SFDR RTS instead of drafting a new set of draft RTS?**

The OPSG supports the approach to amend the existing SFRD RTS to minimize duplication and complexity in this area, to define a single rulebook on sustainability disclosures and clarify certain aspects of the first ESAs proposal as well.

As much convergence as possible is needed in the methods, definitions, and the use of the "green asset ratio" under Article 8 of the Taxonomy Regulation and SFDR RTS.

However, more attention should be paid to the timeline and coordination of work between the ESAs and the Commission.

We are concerned that ESA's report under Taxonomy-related product disclosure, amending the existing SFDR RTS, will be finalised only after the Commission's endorsement of SFDR RTS submitted by ESAs in February. Therefore, the ESAs should work with the Commission in ensuring that the technical standards are endorsed as a single rulebook instead of producing two separate sets of rules.

The choice of the ESAs has an impact on the overall timetable expected for the finalization of the delegated acts envisaged by Regulation (EU) 2019/2088. As the ESAs themselves recognize, they were not able to start the work on the amendments to the RTS until beginning 2021 and the delay will impact the release of the RTS. Financial entities would not have sufficient time to comply with the new requirements, given that the ESAs expect to issue a final report with the amended RTS at the latest by early July 2021, the revised RTS will then be subjected to the scrutiny of the EU institutions and the delegated regulation is planned to apply from 1 January

2022. The concerns raised by the compressed timetable match with those triggered by the lack of information to feed the disclosure as the work on Taxonomy is still under way and when finalized it will take some time for companies to comply with

A compressed timetable and lack of reliable information, at least in the first stage, are problematic for all financial entities, especially for IORPs. Occupational pension schemes are usually small entities which rely on a very restricted staff and small budgets: the compliance to the RTS in a squeezed time would be too burdensome. The new ESG product templates are likely going to be available only shortly before their date of application and they are not need-based, nor easy to understand for customers. The data quality and availability are also particularly challenging for the Taxonomy-related disclosures.

In context of the operational implementation challenges relating to the Taxonomy green asset ratio disclosures by financial undertakings, the OPSG therefore would recommend a transitional, best-effort approach in the first year of the application of the Taxonomy Regulation.

Such a transitional period would also help investors address the uncertainties related to the calculation of green asset ratios caused by the lacking availability of ESG company disclosures, non-availability of data against the Taxonomy DNSH and overreliance on sector-based coefficient methodology developed by the JRC.

**Question 2: Do you have any views on the KPI for the disclosure of the extent to which investments are aligned with the Taxonomy, which is based on the share of the Taxonomy-aligned Turnover, capital expenditure or operational expenditure of all underlying non-financial investee companies? Do you agree with that the same approach should apply to all investments made by a given financial product?**

OPSG agrees that a share of investments as a ratio of eligible assets that are Taxonomy aligned is an appropriate indicator. The choice of indicators should be aligned with the forthcoming Delegated Act under Article 8 of the Taxonomy Regulation, which will determine the calculation methods, eligible assets in the denominators, and the role of Capex in deriving the green asset ratio of financial undertakings.

While the same approach would help comparisons, it does not account for differences in data availability and type of economic activities. Depending on the type of investment, Taxonomy-aligned Turnover, capital expenditure or operational expenditure might be more suitable. A unique method should not be imposed, and each financial market participant should be able to consider the most suitable KPI for each activity/investment in a non-financial undertaking

investee company.

Focusing on the application to all investments, it is also key to ensure consistency with the Level 2 legislation related to Article 8 of the TR. The ESAs should focus on investments which are in the scope of the Taxonomy and exclude those which are strictly non-eligible under the Taxonomy. This is key to avoid putting some products at a competitive disadvantage with respect to others and avoiding confusion to customers, who will have disclosures on 1) sustainable investments, 2) a share of environmentally sustainable investments and 3) a sub-share of Taxonomy-environmental investments. Given this complexity, the graphical representation in the SFDR templates also creates significant issue in terms of comparability between different types of characteristics or objectives, as previously acknowledged by the ESAs themselves in their Final Report on draft RTS (page 144).

At the same time, it is crucial to ensure consistency in the disclosures among different Taxonomy- related initiatives, including the EU Ecolabel for financial products. The proposed calculation method is not consistent with the latest proposal method in relation to the EU Ecolabel for financial products. It is essential for both calculations to be consistent to not create an additional administrative burden producing different %'s – one for SFDR Taxonomy product disclosures and one for the EU Ecolabel.

Therefore, one indicator to be applied to all investments should not be imposed. Financial undertakings should have the possibility to use the indicator (Turnover vs. Capex), which seems most relevant. In an ideal situation, Capex would be used for companies in transition and Turnover for companies achieving higher revenue alignment.

In the current data environment, the Turnover is probably the most relevant indicator. However, subject to the Article 8 DA and its possible provisions on the standardisation of company decarbonisation plans making the activities in question Taxonomy aligned within a given timeframe, Capex could become a metric with an equal footing as the Turnover indicator.

Capex is a crucial metric because it reflects new, incremental green investments in the economy, filling the existing investment gap, which is especially relevant to companies in transition. In this context, the Consultation Paper should take into account the recent [recommendations](#) of the Platform on Sustainable Finance on forward-looking metrics to be published by companies. I agree with the papers' recommendation that product developers can choose whether to weigh a company in a fund portfolio based on the share of Taxonomy-aligned Turnover, or the Taxonomy-aligned Capex.

Choosing the Turnover as the only relevant indicator would also run contrary to the TEG Final Report, which stated that revenue cannot be counted towards climate adaptation, as this is a continuing process, and is not consistent with the latest proposal method in relation to the EU Ecolabel for financial products.

We would also like to highlight a major challenge regarding ex-ante pre-contractual disclosure if Turnover is to be used. Turnover is a past indicator, not a forward-looking one. A portfolio manager will not be able to take a decision to invest/reinforce/divest from a company, thanks to the Turnover that will be communicated by companies. Our main fear is to write a minimum threshold of indicator in the pre-contractual documentation, i.e. to commit to a minimum threshold, which could hardly be controlled.

Nonetheless, use of Capex might introduce heterogeneity issues to the data summed in the numerator of the ratio. To avoid the risk of greenwashing, the use of forward-looking Capex should be encouraged only if the Article 8 DA introduces measures enhancing the reliability and comparability of company decarbonisation plans.

For IORPs with a relevant share of investments in mutual funds, following a proportionality approach, some minimum thresholds could be useful under which this kind of investments should not be considered in the computation of the KPI. In any case, it should be up to the fund manager to provide the IORP with the KPI of the fund in which the IORP would invest.

**Question 3: Do you have any views on the benefits and drawbacks of including specifically operational expenditure of underlying non-financial investee companies as one of the possible ways to calculate the KPI referred to in question 2?**

Even if its usage might be less frequent than Turnover and capital expenditure (Capex), it should be possible to use operational expenditure (Opex) as an additional indicator, as this is envisaged in the work taken so far on the Taxonomy screening criteria. Its inclusion will allow to consider all economic activities whose contribution is measured through the Opex indicator.

The disclosure and availability of the Opex indicator by economic activities is not uniform and comes with several accounting challenges for non-financial undertakings. The inclusion of mandatory Opex disclosure would be disproportionate also to the original Taxonomy regulatory text, which rightly considered “Capex and, if relevant, Opex”. The rationale behind “if relevant” was to allow for including operational expenditures inherently linked to a project. In this context, a general requirement to report on all Opex, albeit well intentioned, would constitute an insurmountable barrier for companies given the extremely high accounting difficulties to allocate operational expenditures to NACE codes and to adjust internal accounts to such a classification. Therefore reverting to the original text: “Capex and, if/when relevant Opex” is recommended, which will ensure its inclusion at the project financing level where and when it is appropriate and meaningful.



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

Ideally all asset categories should if possible be included in a comprehensive KPI. While derivatives are also a type of investment carrying their benefits and risks, and thus should be included, this would increase the already high level of complexity of the KPI formula. Given the current challenges, it is premature to include derivatives in the scope of the indicators. There is no significant added value for customers, while strong guidance and methodology on how to consider them are lacking. Therefore, it would be better to exclude derivatives for the time being.

Considering the large scope of derivatives (future, forwards, options, Total Return Swaps, convertible bonds etc.), the nature of their underlying (indices, interest rates, securities, currencies, cash etc.), purpose (strategic vs. tactical) and their potential usage (exposure, hedging, arbitrage), answering this question is not straightforward. The market would need guidance on how to treat derivatives before including it in the KPIs.

Given the complexity of derivative financial instruments, their potential inclusion in the green asset ratio could raise several technical questions and lead to disproportionate reporting requirements (leverage or short positions, full exposure or residual exposure or delta equivalent exposure, collateral received or posted, etc.). The relevance of derivatives in KPI calculation must be assessed instrument by instrument. For example, for futures, calculation of the MSCI ACWI would require decomposing it into 3,000 constituents, measuring each one at the respective weighting, and building it back up again. Logistically, this would be very difficult for market participants and overly complicated, especially with regards to estimating the underlying data.

If derivatives are to be excluded, the definition should also include CFDs. In many geographies, notably the UK, investors commonly use CFDs to simply avoid stamp duty.

Moreover, for IORP's the use of derivatives is limited; derivatives are mainly used for hedging purposes and not to get a return. For these reasons, the KPI should only be limited to equity and debt instruments, though which IORPs take a direct exposure on the financial and non-financial undertakings.

**Question 5: Is the use of "equities" and "debt instruments" sufficiently clear to capture relevant instruments issued by investee companies? If not, how could that be clarified? Are any specific valuation criteria necessary to ensure that the disclosures are comparable?**

The use of "equities" and "debt instruments" seems sufficiently clear to capture relevant instruments issued, as even more complex investment products (Alternative Investments, Loan portfolios, Infrastructure) could be split up into these two categories.

In terms of valuation, a market value approach is probably the most suitable and efficient in terms of implementation by financial market participants.

**Question 6: Do you have any views about including all investments, including sovereign bonds and other assets that cannot be assessed for Taxonomy-alignment, of the financial product in the denominator for the KPI?**

The disclosures should exclude from the denominator all assets that cannot be assessed for Taxonomy-alignment. These disclosures will provide a better comparability across products in line with the Taxonomy objectives. In fact, as per Recital 13 of the Taxonomy Regulation (TR), the disclosures aim to provide a clear understanding of the extent to which the financial products invest in activities that meet the criteria for environmentally sustainable economic activities under the TR, so that investors can compare investment opportunities across borders and make their business models more environmentally sustainable.

Considering the inclusion of the Taxonomy disclosures in the SFDR templates, as a subset of sustainable investments that are Taxonomy-related, it would be more logical to focus only on those investments - underlying the financial product - that take into account the EU criteria for environmentally sustainable economic activities.

From a logical perspective the ratio should be computed only between fully comparable sets of data, to have a clear measure of the share of Taxonomy-aligned investments held by the financial product. Additionally, for financial products largely invested in sovereign bonds, as is the case of IORPs, the criterion proposed in the draft RTS seems penalizing, as they would appear not very much Taxonomy-aligned financial products. This is far from reality, which see IORPs, as main characters of the ESG market. Considering the government bonds for the purpose of the KPI would reflect a misleading picture of the portfolios of financial products issued by IORPs as a poor pro- environment investor. It could cause pressure on the board of the occupational pension schemes to change the asset allocation of their investments in a direction not fully aligned to the interests of members/beneficiaries, while the IORP2 directive requests the occupational pension schemes to invest their assets on a prudent basis, taking into account the interests of the members/beneficiaries.

While there are good reasons to include sovereign bonds and investments that cannot be assessed for Taxonomy-alignment in the denominator, it would be wise to exclude them and disclose the total investment figure and the percentage of assets that are not eligible for Taxonomy assessment separately.

This would provide sufficient transparency about the overall product composition and avoid that the proposed ratio:

- misleads customers about the comparability of different products in scope of the SFDR (for example, in terms of risk level) and
- penalises products with better diversification (which are likely to invest in assets outside the Taxonomy scope, such as sovereign bonds) as it will highly dilute the percentage of alignment with the Taxonomy.

Nonetheless, should the EU Green Bond Standard develop an objective and science proven methodology for sovereign bond compliance with EU GBS, then these bonds should be calculated towards the numerators and denominator of the green asset ratio for the share of their earmarked, Taxonomy-aligned projects. Sovereign green bond issues for earmarked projects aligned with the Taxonomy should also apply, even if not compliant with the EU GBS. This would also encourage the participation of sovereigns in green bond issuance.

**Question 7: Do you have any views on the statement of Taxonomy compliance of the activities the financial product invests in and whether those statements should be subject to assessment by external or third parties?**

The proposal on a statement of Taxonomy compliance is understandable in terms of transparency and makes sense, but an external or third-party assessment should not be mandatory, because this would be costly requirement. A self-certification disclosure mechanism is appropriate at this stage.

There is a risk that customers proxy the assessment by an external provider as a guarantee of better disclosures, which is not necessarily the case for such high-level statement. It is not clear exactly what is understood with an external or third-party assessment and what level of assurance this could provide to the consumer on Taxonomy compliance. It will most likely have to be carried out by a consultancy or a rating agency and will add extra costs to the relevant products, which in case of an IORP must be borne by the beneficiaries and/or the sponsor companies – both being counterproductive to strengthening the occupational pensions. Such extra costs could discourage IORPs from promoting article 8 or 9 products.

In many cases the assets of a financial product issued by an IORP are invested through an asset manager, an insurance company, an investment company etc based on an agreement in which the investment policy that has to be followed is clearly defined. In these cases, a declaration provided by the subject in charge of the investment should be accepted as a third-party declaration.

Moreover, this question relates also to the upcoming revision of the Non-Financial Reporting Directive (NFRD). According to the 2020 public consultation on the matter, the EU could impose

stronger audit requirements for non-financial information in the revised NFRD. If the revised NFRD were to introduce stronger audit requirements, and financial market participants use the data published by non-financial investee companies in their non-financial reporting under Art. 8 of the Taxonomy Regulation, the information collected will benefit from better assurance, resulting in increased data quality and more trustworthy disclosures by financial undertakings as users of this information.

In the long run, with the revised NFRD in place, and with a maturing market for Taxonomy aligned investments, methodologies for such verifications will probably be developed to support the credibility of green products.

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

It makes sense to mirror the pre-contractual disclosures as laid down in the proposed RTS for the periodic disclosures, as it is important to ensure coherence with the structure of the SFDR RTS. The mirroring will simplify requirements for financial entities and will make it easier for consumers to understand their chosen product in terms of sustainability.

However, certain sections of the reporting documents are not necessary, mainly because they are merely a duplication of the content of the pre-contractual document. For ease of reading and for keeping the spirit of a reporting document, it would be better not to add too much information and not include the following headings:

- “Environmental and/or social characteristics.”
- “What methodology was used for the calculation of the alignment with the EU Taxonomy and why?”
- “Why did the financial product invest in economic activities that are not environmentally sustainable?”
- “How does the reference benchmark differ from a broad market index?”

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

Pre-contractual and periodic templates should be as simple as possible to give members/beneficiaries of financial products issued by IORPs the opportunity to access a fair and truly understandable information. The templates provided to the EU Commission on February 4<sup>th</sup> were already complex and too long. Jargon, definitions and abbreviations were especially singled out in a recent survey performed by AFM in September 2020 “Consumer testing pre-

contractual and periodic ESG financial product information” and many respondents also doubted whether they as consumers were the target audience.

The information disclosure for individual investors must be at all times clear (in the MiFID sense, i.e. intelligible), simple, short and concise, avoiding jargon and comparable, especially as they are only a small part of customers’ disclosures. The current proposals might be overwhelming for retail customers and not help them compare products. Unfortunately, the SFDR does not consider a proportionality approach for different financial entities. Changes to the RTS following this consultation phase, should be as limited as possible and not to further complicate the templates. This would be useful both in terms of clear and adequate disclosure to members/beneficiaries of IORP’s and to ease the compliance by IORPs and other financial entities.

A better consultation process and earlier consumer testing could have helped the ESAs to propose more advanced draft RTS with clearer options and methodologies (e.g., on the KPIs, the scope of disclosures, etc). Unfortunately, due to the timing constraints, the ESAs will have only limited time to account for the input from the public consultation and the findings of the consumer testing, which means suboptimal proposals to be sent to the EC likely for implementation.

Preliminary voluntary implementation of the currently available templates by some financial market participants already shows that a pre-contractual document for a single product results in several pages of disclosures. This excessive length also makes the digital accessibility of the templates problematic and ends up overwhelming consumers who are looking for key non-financial information. It is therefore key that only minimal essential changes are introduced, while allowing the use of references and considering simplification of proposals.

The inclusion of the graphical representation is welcome since it could help individual investors to easily understand the sustainable features of the product as long as the same format of graphical representation is used for the same product category.

The main unclarity is linked to interpretations of how to disclose the underlying information. In relation to the disclosed proportion of Taxonomy aligned investments, it is still unclear whether it shall be seen as a minimum proportion of the underlying investment or an expected average. There is also a challenge of how to disclose the underlying data from the investors if the Taxonomy alignment is based on Turnover, Opex or Capex.

As specific issues, the ESAs could consider the opportunity to provide more clarity on the annex for pre-contractual and periodic reporting for the case in which a product has two or more sustainable investment options qualifying as a financial product referred to Art. 8 and Art. 9 of Regulation 2019/2088. It is not clear if there should be an annex for any investment option qualifying for Art. 8 and Art. 9 or a single annex for all the investment options qualifying for Art. 8 and Art.9. Moreover, as regards art. 63 and 69 of the RTS further clarification could be provided on how to compare the performance of the product with the other indexes requested.

**Question 10: The draft RTS propose unified pre-contractual and periodic templates applicable to all Article 8 and 9 SFDR products (including Article 5 and 6 TR products which are a sub-set of Article 8 and 9 SFDR products). Do you believe it would be preferable to have separate pre-contractual and periodic templates for Article 5-6 TR products, instead of using the same template for all Article 8-9 SFDR products?**

The option to use unified templates appears to be the most logical way forward as a separation of pre-contractual and periodic templates for Article 5-6 TR products would be confusing for customers and not efficient in the long run. Using the same template would maximise the comparability of the information provided, and therefore usefulness of the documents for the investors.

**Question 11: The draft RTS propose in the amended templates to identify whether products making sustainable investments do so according to the EU Taxonomy. While this is done to clearly indicate whether Article 5 and 6 TR products (that make sustainable investments with environmental objectives) use the Taxonomy, arguably this would have the effect of requiring Article 8 and 9 SFDR products making sustainable investments with social objectives to indicate that too. Do you agree with this proposal?**

Sustainable development is not possible without achieving both social and environmental goals. To give the consumer a holistic view of how sustainable a product is, it makes sense to include green Taxonomy disclosure for a product with social objectives and vice versa. This will facilitate the evaluation and comparison of investments.

However, it will also increase the complexity of the disclosure and the reporting burden. Furthermore, an objective and science-based “social Taxonomy” has yet to be developed. In the meantime, a simple reference to the social objectives of the investments could be useful.

While waiting for such potential Social Taxonomy, a product should be able to claim a social objective in a positive way, and not only in opposition to an Environmental Taxonomy. A product that does not comply with the EU Taxonomy alignment should be able to explain it fully and extensively in these templates.

For a product that has a social (not environmental) objective, it could be misleading to include in the pre-contractual information the percentage of assets that will be aligned with the green Taxonomy, as the product does not have a defined environmental objective.

To simplify information provided to customers, products making sustainable investments with social objectives/characteristics could be exempted from indicating the share of Taxonomy-eligible investments in the templates.

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

In order to better assess the impact of their proposal while providing implementation guidance, it would be useful that the ESAs make use of examples of real products in the application of their disclosure proposals. This would provide a good indication of the effort required to provide the disclosures, for example how to disclose about eligible total investments in scope of the Taxonomy, as well as the feasibility and meaning about proposed KPIs.

Finally, it appears that the new product-level disclosures do not sufficiently factor in the current situation in terms of existing issues with ESG data and very much rely on expectations about such information. In this respect, it is key that proposals remain realistic and adequately consider the timing of related Taxonomy-related developments, such as for the final Taxonomy screening criteria.

**Annex 4**

**ESMA**

**Securities and Markets Stakeholder Group (SMSG)**

Advice to the ESAs on the Joint Consultation on Taxonomy-related  
sustainability disclosures



## ADVICE TO THE ESAS

### **SMSG advice to the ESA's Joint Consultation Paper on Taxonomy-related sustain-ability disclosures (draft regulatory technical standards with regard to the content and presentation pursuant to Article 8(4), Article 9(6), Article 11(5) of Regulation (EU) 2019/2088.**

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#### **I. Executive summary**

The SMSG believes that the synergy between different pieces of legislation (in particular the Non-Financial The SMSG refers to its earlier advice on ESG Disclosures (ESMA 22-106-2858). "The SMSG believes that the synergy between different pieces of legislation (in particular the Non-Financial Reporting Directive (NFRD), the Taxonomy Regulation, and the Sustainable Finance Disclosure Regulation (SFDR), but also adjacent legislation such as the Shareholders Rights Directive II and the scheduled reviews of MiFID and UCITS/AIFMD) can contribute significantly to enhancing sustainability in the economy. However, neither the timings nor the concepts of these different pieces of legislation are fully aligned with one another."

By introducing the Taxonomy Regulation's Environmentally Sustainable Activities into the Sustainable Finance Disclosure Regulation, another piece of the puzzle is completed. Although the SMSG welcomes this, it remains worried by the complexity that results from the piecemeal introduction of different pieces of legislation and the use of concepts that are close to one another although not identical to one another. While the SMSG is aware that the draft RTS are confined by the Level 1 legislation, it has added some suggestions for simplification.

With regard to the different questions, the SMSG supports the ESA's proposal to amend the existing draft RTS, rather than draft a new set of RTS.

The SMSG believes that derivatives can serve many purposes, including ESG purposes. In such contexts, the KPI can be extended to include derivatives, provided that it is adequately disclosed how they serve ESG purposes.

On the issue of the KPI indicator, the SMSG is worried that the KPI tells only part of the story. Some instruments cannot be included (example sovereign bonds); social objectives are not yet included. Also, it is concerned that in the perception of the investor, the KPI gets undue prominence (“one indicator tells it all”). For this reason, the SMSG supports an approach where the denominator excludes instruments that are not in scope of the Taxonomy Regulation. However, this should be complemented by another indicator which indicates the potential coverage of the Taxonomy Regulation.

The SMSG believes that assessment by a third party would be useful. However, due to data problems and methodological challenges, it is reasonable to assume that in the beginning, financial companies will be on a learning curve. As such, such assessment should be of an advisory, rather than a compliance nature at first. The SMSG also believes that the responsibility of the data on the investee companies rests with the investee companies themselves. This is something that should be provided for in the Corporate Sustainability Reporting Directive.

It is likely that not only companies, but also National Competent Authorities will be on a learning curve. For this reason, the SMSG proposes that the implementation of this legislation should be a prime focus of regulatory convergence. Also it suggests that questions by financial institutions are primarily answered through ESMA Q&A, rather than bilaterally with national competent authorities.

As already described above, the SMSG remains worried about the complexity of the proposals, to a large extent resulting from piecemeal implementation of different sets of level 1 legislation. To reduce, within the confines of level 1 legislation, the SMSG suggests (i) some subtle wording changes; (ii) to avoid duplication in questions; (iii) clarifications with regard to the indicators.

The SMSG supports the preferred options proposed by the ESAs in their impact analysis be it with some side remarks.

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**I. Question 1: do you have any views regarding the ESA’s proposed approach to amend the existing SFDR RTS instead of drafting a new set of draft RTS**

1. The SMSG agrees with the proposed approach. It is much easier to have one set of RTS rather than two parallel RTS. However, this also raises the question of the implementation date of requirements provided by this new RTS. The implementation date should consider the timeline of green asset ratio reporting under article 8 of the taxonomy regulation (which is planned in Q1 2022), as it would allow market participants to use reliable data from issuers. This will help ensure that clients will benefit from correct and consistent information.

**II. Question 2: do you have any views on the KPI for the disclosure of the extent to which investments are aligned with the taxonomy, which is based on the share of the taxonomy-aligned turnover, capital expenditure or operational expenditure of all underlying non-financial investee companies? Do you agree with that the same approach should apply to all investments made by a given financial product?**

**III. Question 3: do you have any views on the benefits and drawbacks of including specifically operational expenditure of underlying non-financial investee companies as one of the possible ways to calculate the KPI referred to in question 2?**

2. Turnover, capital expenditure and operational expenditure have potentially different merits. Turnover could be an indicator of the degree of sustainable activities at present. Capital expenditure looks more to the future while operational expenditure is the indicator for a company which could have the most direct impact on in its daily working. At the same time, the relevance of the indicator may vary from company to company. Investment products like funds invest into different companies. For some companies, a turnover indicator would be most relevant; for others, capital expenditure would. The relevance of operational expenditure is more questionable. Hence, applying one and the same approach for all issuers in an investment product would not serve its relevance.
3. On the other hand, using different approaches for the different investments made by a given financial product would increase complexity, not only for the investor, but also for the manufacturer (data storage). Nevertheless, for the sake of relevance, the SMSG believes that the possibility to use different approaches should be allowed, provided that background information on the approach is available. However, taking into account that this is highly technical and that the proposed templates for precontractual disclosure and periodic reports are already highly complex and lengthy, this explanation should not be included in the proposed templates but merely available on demand.

**IV. Question 4: the proposed KPI includes equity and debt instrument issued by financial and non-financial undertakings and real estate assets, do you agree that this should also be extended to derivatives such as contracts for differences**

4. Securities like bonds, stocks and commercial paper can serve as financing instruments to channel funds for environmentally sustainable economic activities. While not disregarding the relevance of derivatives to real economic activities, this might seem less direct as for instance bond and stocks, especially in terms of their relevance as tools to finance ESG activities. Even if one would find technical ways to assess to what degree derivatives are linked to the Taxonomy, the interpretation and meaningfulness of such a KPI might seem less straightforward.
5. While the interpretation could seem less straightforward, the SMSG recognizes that there are strategies that use ESG derivatives to attain their investment objective and at the same time are useful for ESG purposes. In these cases, disclosure is paramount to fully explain to investors how derivatives are used to contribute to ESG purposes.
6. Derivatives can serve many purposes. In some cases, they can be used to hedge risks (such as exchange risks; interest rate risk). While this may be of use to the investor, in this context they are financial instruments of a general nature and not directly related to ESG purposes. However, in other cases, they may serve a specific ESG purpose. Carbon Contracts for Differences, for example, may be useful to finance carbon-free technology by providing certainty on the value of the emissions reduced. Other examples include, for example, instruments that set a premium to be paid if certain ESG criteria are not met. As markets for ESG investments develop, investors will need to benchmark their investment strategies with the relevant sectoral indices. This inevitably implies a need for forward prices of these assets and their related indices. Derivatives markets are a key component of mature secondary markets which help deliver this crucial benchmark and pricing function. It will therefore be increasingly necessary over time that ESG derivatives and ESG financial instruments that embed derivatives – and not just contracts for difference – are accounted for. The SMSG acknowledges that these strategies may be beneficial for sustainability purposes. However, at the same time it is worried that it may become increasingly difficult to convey to

investors how such strategies contribute to sustainability. For this reason, it reiterates the necessity of adequate disclosure.

7. Some investors may require data on their ESG investments for reporting purposes. In these cases, it is important that derivatives are included provided that their contribution to ESG objectives can be substantiated. To avoid greenwashing risk, this should require, where relevant, netting long positions of short ones.
8. For these reasons, the SMSG believes that the KPI could be extended to derivatives, provided that it is adequately disclosed how the use of those derivatives helps attain the sustainability objectives.
9. The SMSG warns that while this is relevant for disclosure at the level of a financial product, aggregating the figures thus reported over all financial products could entail double counting. As such, the methodology of any such aggregation should be carefully considered so as to eliminate any double counting and to arrive at a realistic estimate of the overall level of ESG finance. As this is outside the scope of this consultation, the SMSG merely mentions this issue without further elaborating on it.

**V. Question 5: is the use of “equities” and “debt instruments” sufficiently clear to capture relevant instruments issued by investee companies? If not, how could that be clarified? Are any specific valuation criteria necessary to ensure that the disclosures are comparable?**

10. The SMSG suggests some minor clarifications. With regard to equity, it should be clarified that this refers to shares only. This implied that for example, depository receipts are not considered as equity. With regard to debt instrument, the SMSG suggests to clarify that convertible bonds are considered to be debt instruments till their conversion.

**VI. Question 6: do you have any views about including all investments, including sovereign bonds and other assets that cannot be assessed for taxonomy-alignment, of the financial product in the denominator for the KPI.**

11. In answering this question, the SMSG is aware of article 5 of the Taxonomy Regulation, “the description shall specify the proportion of investments in environmentally sustainable activities... as a percentage of all investments selected for the financial product”.
12. The SMSG has as particular concern that the reference to the EU Taxonomy KPI could result in a situation where in the perception of the investor that indicator gets undue prominence. As an illustration of this concern, imagine a hypothetical (institutional) mixed fund: the equity assets consists exclusively of shares in companies that have signed ILO recognized Global Framework Agreements (=potential social objective), while at the same time upholding high standards on gender diversity in the board (=social principal adverse impact indicator); the fixed income part consists of Social Bonds issued by issuers such as the African Development Bank (=potential social objective). Unfortunately, none of these features qualifies the investments as EU Taxonomy Aligned. Hence, the KPI would signal 0%, which could deter investors. While for the sake of the argument, this is a very clear example, other examples can be given as well (example an Emerging Markets Bond fund).
13. While sovereign bonds are a prime example of instruments that cannot be assessed under the Taxonomy Regulation, there are other instruments for which this is not straightforward. For example,

it is not sure under which circumstances derivatives can be included (see Q4). Also, as a taxonomy for social objectives is not yet in place, neither can instruments which incorporate social objectives at present be assessed for the KPI. To avoid a wrong perception among investors, the SMSG believes that it is potentially useful information for the investor to know the proportion of instruments that are potentially in scope of the Taxonomy Regulation.

14. As a possible compromise, the SMSG suggests that the denominator of the KPI should exclude instruments that are not in scope of the Taxonomy Regulation. However, this should be complemented by another indicator which indicates the potential coverage of the Taxonomy Regulation.

- a. This could be done, for example, by a sentence: "This investment products envisages 50% instruments that are covered by the EU Taxonomy Regulation. Of these, the minimum proportion of Taxonomy aligned products is 75%.
- b. Alternatively, a similar objective could be reached by including in the graph "what was the share of investment aligned with the EU Taxonomy" in the category 'other investments' a subdivision 'instruments within scope of the Taxonomy Regulation'.

Both alternatives enable the investor to assess the proportion of investments aligned with the Taxonomy Regulation and hence comply with article 5 of the Taxonomy Regulation. However, the additional information helps to avoid the problem of perception that could otherwise arise because of a low KPI.

**VII. Question 7: do you have any views on the statement of taxonomy compliance of the activities the financial product invests in and whether those statements should be subject to assessment by external or third parties**

15. Due to methodological challenges and data issues, most financial institutions will be on a learning curve in the beginning years. While the SMSG believes in the usefulness of external assessment, this should initially be of an advisory rather than a compliance nature. It could be useful in validating methodological issues, like for example the indicators chosen (see Q2-3) to calculate the KPI.

16. Notwithstanding the external assessment on taxonomy compliance, the prime responsibility for the accuracy at the level of data on investee companies rests with the investee companies. This responsibility should not be transferred to the manager of the financial investment product. Here, the SMSG repeats its earlier advice with regard to the relation with the Corporate Sustainability Reporting Directive.

17. For the same reasons, it is likely that not only financial institutions, but also national supervisory authorities are on a learning curve. For this reason, the SMSG proposes that the implementation of this legislation should be a prime focus of regulatory convergence regulation exchange. Also it suggests that questions by financial institutions are primarily answered through ESMA Q&A, rather than bilaterally with national competent authorities.

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

**IX. Question 9: do you have any views on the amended pre-contractual and periodic templates?**

**X. Question 10: The draft RTS propose unified pre-contractual and periodic templates applicable to all Article 8 and 9 SFDR products (including Article 5 and 6 TR products which are a sub-set of Article 8 and 9 SFDR products). Do you believe it would be preferable to have separate pre-contractual and periodic templates for Article 5-6 TR products, instead of using the same template for all Article 8-9 SFDR products?**

18. The SMSG is aware of the confines set by the Level 1 legislation. Nevertheless, it is extremely worried by the complexity that results from the piecemeal introduction of different pieces of legislation and the use of concepts that are close to one another although not identical to one another. The draft RTS recognize Environmentally Sustainable Activities (Taxonomy Regulation) as a subset of the SFDR article 8 and 9 products. Although this an almost inevitable consequence of the present status of the level 1 legislation, it will have as unfortunate consequence to increase the complexity to the end investor.

- a. the SFDR refers to (environmental and social) “characteristics” (art 8), alongside “objec-tives” (art 9). The Taxonomy Regulation refers to “environmentally sustainable activities”. For an activity to be environmentally sustainable, it should contribute substantially to one or more of the environmental “objectives” of the Taxonomy Regulation. Investments into environmentally sustainable activities can be a subset of both art 8 and 9 products. However, at the same the draft RTS require that the precontractual information for art 8 products should state (see article 13 of the draft RTS): “the financial product promotes environmental or social characteristics, but does not have as its objective a sustainable investment”. These subtleties transform sustainable investing into intellectual high-tech. Unless the investor fully understands the different concepts, it will be very difficult to understand why a product which indicates a minimum share of environmentally sustainable activities at the same time carries a warning: “this product does not have as it objective a sustainable in-vestment.”
- b. Also, at present, the focus of the Taxonomy Regulation is on Environmental objectives. On the other hand, the Sustainable Finance Disclosure Regulation (2019/2088) includes, alongside environmental objectives, also social objectives and governance requirements. To understand all this, the investor should not only understand the difference between ESG-characteristics (art 8) and ESG objectives (art 9), but also the subtle differences between environmental objectives in terms of the Taxonomy Regulation, environmental objectives other than those mentioned in the Taxonomy Regulation and ESG-objectives in general.
- c. SFDR uses the concept of “principal adverse impact”. The Taxonomy Regulation uses the notion of “minimum safeguards” and “does not significantly harm”. The notion of “minimum safeguards” in the Taxonomy Regulation, is smaller than the notion of “principal adverse impact” of the SFDR. For example, board gender diversity, which is a principal adverse impact indicator, is not a minimum safeguard for Taxonomy Alignment. Also, its application is limited to environmentally sustainable activities as defined by the Taxonomy Regulation. The “does not significantly harm” principle of the Taxonomy Regulation focuses on the six environmental objectives recognized by the Taxonomy Regulation. The “principal adverse impact indicators” of the SFDR have a broader scope, ranging from environmental indicators to social and employee, respect for human rights, anti-corruption, and anti-bribery matters.

- d. The subheading “what is the minimum share of sustainable investments that are not aligned with the EU Taxonomy” is confusing.
19. The SMSG also repeats its concern that in the perception of the investor to reduce complexity, one indicator tells it all (the EU Taxonomy KPI) (see also point 10). This could not only overshadow other environmental or social characteristics/objectives, but also principal adverse impact indicators. If “one indicator tells it all”, then why still pay attention to all other information? In this case, a particular concern is that this could distance the EU sustainability legislation from standards elsewhere. For example: in the USA, diversity is a top-of-mind indicator. In this SFDR, this is covered as principal adverse indicator but not as part of the EU Taxonomy KPI.
20. The SMSG notes that “gender diversity within the board of investee companies” is an Annex 1 principal adverse impact indicator and as such should be monitored for investee companies. The focus of the Sustainable Finance Disclosure Regulation is on disclosure with regard to investee companies and not on the investment companies themselves. Nevertheless, the SMSG believes that the credibility of the asset management industry would be enhanced if indicators monitored for investee companies would also be applied within the industry itself.
21. The SMSG considered the possibility to give more prominence to principal adverse indicators by detailing in the template relevant questions such as: (i) which principal indicators were used and why? (ii) are the principal adverse impact indicators used for all investee companies within a financial product or only for those investments with environmental and social objectives? (iii) how are the indicators used to assess adverse impact? However, while fully recognizing the relevance of these questions, the SMSG feared that additional detailing would increase the complexity of an already complex template.
22. While the draft RTS cannot amend the level 1 legislation, the SMSG believes that subtle changes in wording can reduce complexity and the risk of misunderstandings. Examples how to do so, are:
- a. Rather than use, in the proposed template, the wording “EU Taxonomy”, use the wording “EU Environmental Taxonomy”. In this way, the scope of the Taxonomy becomes more visible;
  - b. Rather than use, in the context of art 8 products, the wording “the financial product promotes environmental or social characteristics, but does not have as its objective a sustainable investment”, use “...but does not have as its **core** objective a sustainable investment”;
  - c. Rather than use the ‘negative’ wording “in activities not aligned with the EU Taxonomy”, use a positive wording: “in investments with environmental objectives other than the EU Environmental Taxonomy”; “in investments with social objectives”;
  - d. To avoid confusion between the concepts “significant harm”, used in the Taxonomy Regulation, and “principal adverse impact” used in the SFDR, clarify the question in the template “to which objectives do the sustainable investments contribute and how do they not cause significant harm” as “... and how do they not cause significant harm *to other environmental objectives*”;
  - e. The question “why does the product invest in activities that are not environmentally sustain-able” could shed a needlessly negative shadow over a financial investment product. Would this refer to sovereign bonds? Investments into instruments promoting social, rather than environmental objectives?

23. Some minor changes could reduce the length of the template. For example:

- a. The heading “what investment strategy does this product follow?” can be omitted. Details on general investment strategy can usually be found elsewhere in precontractual information. ESG specific information relating to the investment strategy fit under the heading above “what environmental/social characteristics are promoted by this financial product”
- b. The question “how is that strategy implemented in the investment process on a continuous basis” has little added value, given the question above: “what are the binding elements of the investment strategy to attain each of the environmental or social characteristics”
- c. The question “where can I find more details on the investment strategy” can be omitted, as there is at the end of the template a general question “can I find more product-specific information online”.

24. Separate templates for products incorporating article 5 and 6 Taxonomy Regulation products would be particularly useful for precontractual information. The additional information required for the Taxonomy Regulation adds significantly to the complexity. The questions that are exclusively required for the Taxonomy Regulation are numerous (in particular subheadings: “what is the minimum share of investments aligned with the EU Taxonomy”; “what is the minimum share of investments not aligned with the EU Taxonomy”) and they introduce concepts that could be confusing (for example ‘do not significant harm’ as compared to principal adverse impact’). Consequently, omitting these questions when they are not needed would reduce complexity.

25. To increase user-friendliness, the SMSG is of the opinion that templates should be consumer-tested

**XI. Question 11: the draft RTS propose in the amended templates to identify whether products making sustainable investments do so according to the EU taxonomy. While this is done to clearly indicate whether Article 5 and 6 TR products (that make sustainable investments with environmental objectives) use the taxonomy, arguably this would have the effect of requiring Article 8 and 9 SFDR products making sustainable investments with social objectives to indicate that too. Do you agree with this proposal?**

26. The aim “to clearly indicate whether sustainable investments with environmental objectives” is irrelevant in the case of social objectives, as there is not yet a Taxonomy on social objectives. In its answers on Question 9, the SMSG already indicated the problems that arise because the Taxonomy Regulation’s scope is exclusively on Environmental objectives, whereas the SFDR has a broader scope. Hence, the SMSG agrees with the proposal. Once and if social objectives are the defined in the Taxonomy Regulation, the complexity could be partially remedied. In the meantime, the SMSG repeats its suggestions made above:

- a. Rather than use the wording EU Taxonomy, use the word “EU Environmental Taxonomy”. In this way, the limited scope of the Taxonomy becomes more visible;
- b. Rather than use the ‘negative’ wording “in activities not aligned with the EU Taxonomy”, use a positive wording: “in investments with environmental activities not aligned with the EU Environmental Taxonomy”; “in investments with social objectives”



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

27. Generally speaking, the SMSG supports the preferred options proposed by the ESA's, be it with some side-remarks:

- a. On the proposal of a binding template vs (i) no template or (ii) a non-binding template. The SMSG supports the preferred option of a binding template but reiterates its call for possible simplification;
- b. On KPI based on weighted average share of turnover/capex/opex – based KPI of investee companies vs alternatives of (i) revenue derived from investments or (ii) more granular calculation of each activity. The SMSG supports the preferred option but warns that any choice will depend on data availability and implicit simplifying assumptions and will require years to mature;
- c. On the preferred option of a binding statement within a standardized framework with optional verification by a third party vs alternatives (i) non-binding statements or (ii) full granular disclosure of each activity. The SMSG refers to its answer on question 7, in particular “While the SMSG believes in the usefulness of external assessment, this should initially be of an advisory rather than a compliance nature”, and believes this comes close to the ESA's preferred option.

**XIII. Other issues**

28. On 21st April, the Commission published a draft Delegated Act with technical screening criteria for two of the six environmental objectives in the Taxonomy Regulation. That means that for the time being there are no technical screening criteria for four out of six environmental objectives. Timely delivery of technical screening criteria would be needed to ensure adequate data from investee companies.

29. Major infrastructure projects, often related to the Green Deal, are often executed through SPV's or Public Private Partnerships. These SPV's may have various characteristics, both with operational content (such as assigning work to contractors for, maintenance) and as investment vehicles, often very big in size and of high relevance to institutional investors. Would such SPV's qualify as non-financial investee company or as a financial company. The SMSG would welcome clarification on this.

This advice will be published on the Securities and Markets Stakeholder Group section of ESMA's website.

Adopted on 14 May 2021

[signed]

Veerle Colaert  
Chair, Securities and Markets Stakeholder Group

[signed]

Chris Vervliet  
Rapporteur

## 5. Draft consolidated SFDR RTS

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*The below text is provided for the reader's convenience only. It consolidates the SFDR RTS<sup>15</sup> and the draft RTS contained in this Final Report.*

**COMMISSION DELEGATED REGULATION (EU) No .../..  
of **XXX****

**supplementing Regulation (EU) 2019/2088 of the European Parliament and of the Council on sustainability-related disclosures in the financial services sector with regard to regulatory technical standards specifying the content, methodologies and presentation of information in relation to sustainability indicators and the promotion of environmental or social characteristics and sustainable investment objectives in pre-contractual documents, websites and periodic reports**

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2019/2088 of the European Parliament and of the Council on sustainability-related disclosures in the financial services sector (<sup>16</sup>), and in particular Article 2a(3), the third subparagraph of Article 4(6), the second subparagraph of Article 4(7), the fourth subparagraph of Article 8(3), the fourth subparagraph of Article 9(5), the fourth subparagraph of Article 10(2) and the fourth subparagraph of Article 11(4) thereof,

Whereas:

...

HAS ADOPTED THIS REGULATION:

*CHAPTER I*  
**DEFINITIONS AND GENERAL PROVISIONS**

*Article 1*  
**Definitions**

For the purposes of this Regulation, the following definitions apply:

- (1) 'reference period' means, for the purposes of Chapter II, the period from 1 January to 31 December of the preceding year and, for the purposes of Chapter V, the period covered by the periodic report referred to in Article 11(2) of Regulation (EU) 2019/2088;

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<sup>15</sup> Published on 4 February 2021 and available at this link: <https://www.esma.europa.eu/press-news/esma-news/three-european-supervisory-authorities-publish-final-report-and-draft-rts>

<sup>16</sup> OJ L 317, 9.12.2019, p. 1.

- (2) 'sovereign exposure' means an exposure to central governments, central banks and supranational issuers;
- (3) 'securitisation position' means an exposure to a securitisation;
- (4) 'Taxonomy-aligned economic activity' means an economic activity that complies with the requirements laid down in Article 3 of Regulation (EU) 2020/852; and
- (4) 'fossil fuel sectors' means sectors of the economy which produce, process, store or use fossil fuels as defined in Article 2(62) of Regulation (EU) 2018/1999 of the European Parliament and of the Council <sup>(17)</sup>;

## *Article 2*

### **General principles for the presentation of information**

1. Financial advisers and financial market participants shall provide the information referred to in this Regulation in a manner that is easily accessible, non-discriminatory, free of charge, prominent, simple, concise, comprehensible, fair, clear and not misleading. They shall present and lay out the information in a way that is easy to read, use characters of readable size and use a style that facilitates its understanding.
2. Within the limits of paragraph 1, financial advisers and financial market participants may adapt the font type and size as well as colours of the templates provided in the Annexes.
3. Financial advisers and financial market participants shall provide the information referred to in this Regulation in searchable electronic format, except where the manner referred to in Articles 6(3) and 11(2) of Regulation (EU) 2019/2088 requires the information to be provided on paper.
4. Financial advisers and financial market participants shall keep the information published on their websites in accordance with this Regulation up to date. They shall include the date of publication of the information and clearly identify any updated text with the date of the update. Where that information is presented as a downloadable file, they shall indicate the version history in the file name.
5. Financial advisers and financial market participants shall provide, where available, legal entity identifiers (LEIs) and international securities identification numbers (ISINs) when referring to entities or financial products in the information provided in accordance with this Regulation.

## *Article 3*

### **Reference benchmarks with basket indexes**

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<sup>17</sup> Regulation (EU) 2018/1999 of the European Parliament and of the Council of 11 December 2018 on the Governance of the Energy Union and Climate Action, amending Regulations (EC) No 663/2009 and (EC) No 715/2009 of the European Parliament and of the Council, Directives 94/22/EC, 98/70/EC, 2009/31/EC, 2009/73/EC, 2010/31/EU, 2012/27/EU and 2013/30/EU of the European Parliament and of the Council, Council Directives 2009/119/EC and (EU) 2015/652 and repealing Regulation (EU) No 525/2013 of the European Parliament and of the Council (OJ L 328, 21.12.2018, p. 1).

Where an index designated as a reference benchmark is made up of a basket of indexes, financial advisers and financial market participants shall provide the information referred to in this Regulation relating to that index in respect of the basket and each index in the basket.

## CHAPTER II

### **TRANSPARENCY OF ADVERSE SUSTAINABILITY IMPACTS** (Paragraphs (1), (3), (4) and (5) of Article 4 of Regulation (EU) 2019/2088)

#### Section 1

#### **Financial market participants**

#### Article 4

#### **Financial market participant principal adverse sustainability impacts statement**

1. By 30 June each year, financial market participants shall publish the information referred to in paragraphs 1(a), 2, 3 and 4 of Article 4 of Regulation (EU) 2019/2088 and this Section on their websites in a separate section titled, 'Principal adverse sustainability impacts statement' located in the same part of the website as the section referred to in Article 31.
2. The adverse sustainability impacts statement shall be published in the format set out in Table 1 of Annex I. It shall be in the order and made up of the following sections titled:
  - (a) 'Summary';
  - (b) 'Description of principal adverse sustainability impacts';
  - (c) 'Description of policies to identify and prioritise principal adverse sustainability impacts';
  - (d) 'Engagement policies'; and
  - (e) 'References to international standards'.
3. By way of derogation from paragraphs 1 and 2:
  - (a) for a financial market participant that publishes on its website a statement on due diligence policies with respect to principal adverse impacts of investment decisions on sustainability factors in accordance with this Section for the first time:
    - (i) in respect of the calendar year in which principal adverse impacts are first considered, that financial market participant shall publish the information referred to in paragraphs 1(a), 2, 3 and 4 of Article 4 of Regulation (EU) 2019/2088 and this Section, with the exception of the information that relates to a reference period, on the date on which those impacts are first considered; and
    - (ii) in respect of the following calendar year, the first reference period shall be the period in the preceding year beginning on the date on which principal adverse impacts were first considered and ending on 31 December of that year; and

- (b) for a financial market participant that does not consider the principal adverse impacts of its investment decisions on sustainability factors, that financial market participant shall publish the information referred to in Article 11.

*Article 5*

**Summary section**

1. The section referred to in point (a) of Article 4(2) shall contain the following information:
  - (a) the name of the financial market participant to which the adverse sustainability impacts statement relates;
  - (b) the fact that principal adverse impacts on sustainability factors are considered;
  - (c) the reference period of the statement; and
  - (d) a summary of the principal adverse impacts statement of a maximum length of two sides of A4-sized paper when printed.
2. The section shall be provided in at least:
  - (a) one of the official languages of the home Member State of the financial market participant and, where different, in an additional language customary in the sphere of international finance; and
  - (b) where a financial product of the financial market participant is marketed in a host Member State, one of the official languages of that host Member State.

*Article 6*

**Description of principal adverse sustainability impacts section**

1. The section referred to in point (b) of Article 4(2) shall contain a description for the reference period of adverse impacts of investment decisions of the financial market participant on sustainability factors that qualify as principal, including:
  - (a) the indicators related to principal adverse impacts on sustainability factors as set out in Table 1 of Annex I;
  - (b) at least one additional indicator related to principal adverse impacts on a climate or other environment related sustainability factor that qualifies as principal as set out in Table 2 of Annex I;
  - (c) at least one additional indicator related to principal adverse impacts on a social, employee, human rights, anti-corruption or anti-bribery sustainability factor that qualifies as principal as set out in Table 3 of Annex I; and
  - (d) any other indicators used to identify and assess additional principal adverse impacts on a sustainability factor.

2. The section shall also contain a description of the actions taken during the reference period and actions planned or targets set by the financial market participant for the next reference period to avoid or reduce the principal adverse impacts identified.
3. For the purposes of the description referred to in paragraphs 1 and 2, the assessment shall be based on at least the average of four calculations made by the financial market participant on 31 March, 30 June, 30 September and 31 December during the reference period.
4. Where the financial market participant has provided a description of adverse impacts on sustainability factors for a previous reference period in accordance with paragraphs 1 to 3, the statement shall contain a historical comparison of the current reference period with the previous reference period provided in accordance with those paragraphs and shall continue to include further historical comparisons within that statement for at least five previous reference periods.

#### *Article 7*

#### **Description of policies to identify and prioritise principal adverse sustainability impacts section**

1. The section referred to in point (c) of Article 4(2) shall contain a description of the policies of the financial market participant on the assessment process to identify and prioritise principal adverse impacts on sustainability factors and of how those policies are maintained and applied, including at least the following:
  - (a) the date of approval of the policies by the governing body of the financial market participant;
  - (b) the allocation of responsibility for the implementation of the policies within organisational strategies and procedures;
  - (c) a description of the methodologies to select the indicators referred to in points (b) to (d) of Article 6(1), to identify and assess the principal adverse impacts referred to in points (a) to (d) thereof and, in particular, how those methodologies take into account the probability of occurrence and severity of adverse impacts, including their potentially irremediable character;
  - (d) an explanation of any associated margin of error within those methodologies; and
  - (e) a description of the data sources used.
2. Where information relating to any of the indicators used is not readily available, the section referred to in point (c) of Article 4(2) shall also contain details of the best efforts used to obtain the information either directly from investee companies, or by carrying out additional research, cooperating with third party data providers or external experts or making reasonable assumptions.

#### *Article 8*

#### **Engagement policies section**

1. The section referred to in point (d) of Article 4(2) shall contain:

- (a) where applicable, brief summaries of engagement policies in accordance with Article 3g of Directive 2007/36/EC of the European Parliament and of the Council <sup>(18)</sup>; and
  - (b) brief summaries of any other engagement policies relating to reducing principal adverse impacts.
2. The brief summaries referred to in paragraph 1 shall include a description of the indicators for adverse impacts considered in those policies and how those policies adapt where there is no reduction of the principal adverse impacts over more than one reference period.

#### *Article 9*

#### **References to international standards section**

1. The section referred to in point (e) of Article 4(2) shall contain a description of the adherence of the financial market participant to responsible business conduct codes and internationally recognised standards for due diligence and reporting and, where relevant, the degree of their alignment with the objectives of the Paris Agreement.
2. The description referred to in paragraph 1 shall contain:
  - (a) the adverse impact indicators used in the assessment of principal adverse sustainability impacts referred to in Article 6 to measure that adherence or alignment;
  - (b) the methodology and data used to measure that adherence or alignment, including a description of the scope of coverage, data sources and how the methodology forecasts the future performance of investee companies;
  - (c) where a forward-looking climate scenario is used, an identification of that scenario, including the name and provider of the scenario and when it was designed; and
  - (d) where a forward-looking climate scenario is not used, an explanation of why forward-looking climate scenarios are not considered to be relevant by the financial market participant.

#### *Section 2*

#### **Financial advisers**

#### *Article 10*

#### **Financial adviser adverse sustainability impacts statement**

1. Financial advisers shall publish the information referred to in Article 4(5)(a) of Regulation (EU) 2019/2088 on their websites in a separate section titled, 'Adverse sustainability impacts statement'.

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<sup>18</sup> Directive 2007/36/EC of the European Parliament and of the Council of 11 July 2007 on the exercise of certain rights of shareholders in listed companies (OJ L 184, 14.7.2007, p. 17).



2. The statement referred to in paragraph 1 shall contain details on the process to select the financial products they advise on, including the following:
  - (a) how the information referred to in this Regulation published by financial market participants is used;
  - (b) whether the financial adviser ranks and selects financial products based on at least the indicators in Table 1 of Annex I and, where applicable, a description of the ranking and selection methodology used; and
  - (c) any criteria or thresholds used to select financial products and advise on them based on those impacts.

### *Section 3*

#### ***Financial market participant and financial adviser statement of no consideration of adverse impacts on sustainability factors***

##### *Article 11*

#### **Financial market participant statement of no consideration of adverse impacts on sustainability factors**

1. Financial market participants shall publish the information referred to in Article 4(1)(b) of Regulation (EU) 2019/2088 on their websites in a separate section titled, 'No consideration of sustainability adverse impacts'.
2. The section referred to in paragraph 1 shall include the following:
  - (a) a prominent statement that the financial market participant does not consider the adverse impacts of its investment decisions on sustainability factors; and
  - (b) clear reasons why the financial market participant does not do so with, where relevant, information on whether and, if so, when it intends to consider those adverse impacts by reference to at least the indicators in Table 1 of Annex I.

##### *Article 12*

#### **Financial adviser statement of no consideration of adverse impacts on sustainability factors**

1. Financial advisers shall publish the information referred to in Article 4(5)(b) of Regulation (EU) 2019/2088 on their websites in a separate section titled 'No consideration of sustainability adverse impacts'.
2. The section referred to in paragraph 1 shall include:
  - (a) a prominent statement that the financial adviser does not consider the adverse impacts of investment decisions on sustainability factors in their investment advice or insurance advice; and

- (b) clear reasons why the financial adviser does not do so with, where relevant, information on whether and, if so, when it intends to consider such adverse impacts by reference to at least the indicators in Table 1 of Annex I.

*CHAPTER III*  
**PRE-CONTRACTUAL PRODUCT DISCLOSURE**

*Section 1*  
***Pre-contractual information for financial products referred to in Article 8(1) of Regulation (EU) 2019/2088***

*(Article 8(1) to (2a) of Regulation (EU) 2019/2088)*

*Article 13*  
**Presentation of pre-contractual information for financial products referred to in Article 8(1) of Regulation (EU) 2019/2088**

1. Financial market participants shall present the information disclosed in accordance with Article 8(1) to (2a) of Regulation (EU) 2019/2088 and this Section in an annex to the document referred to in Article 6(3) of Regulation (EU) 2019/2088 in accordance with the template set out in Annex II. They shall include a prominent statement in the main body of the document referred to in Article 6(3) of that Regulation that information related to environmental or social characteristics is available in that annex.
2. Financial market participants shall provide at the beginning of the annex referred to in paragraph 1 the following information:
  - (a) whether the financial product intends to make any sustainable investments in accordance with the annex referred to in paragraph 1; and
  - (b) that the financial product promotes environmental or social characteristics, but does not have as its objective a sustainable investment.
3. Financial market participants shall present the information referred to in paragraph 1 in summary format in the order and made up of the following sections titled:
  - (a) ‘What environmental and/or social characteristics are promoted by this financial product?’;
  - (b) ‘Does this financial product take into account principal adverse impacts on sustainability factors?’;
  - (c) ‘What investment strategy does this financial product follow?’;
  - (d) ‘What is the asset allocation and the minimum share of sustainable investments?’;
  - (e) where an index is designated as a reference benchmark for the purpose of attaining the environmental or social characteristics promoted by the financial product, ‘Is a specific index

designated as a reference benchmark to determine whether this financial product is aligned with the environmental and/or social characteristics that it promotes?'; and

- (f) 'Where can I find more product specific information online?'

#### *Article 14*

##### **Environmental or social characteristics promoted by the financial product section**

1. The section referred to in point (a) of Article 13(3) shall contain a description of the environmental or social characteristics promoted by the financial product, a list of the sustainability indicators used to measure the attainment of each of the environmental or social characteristics promoted by the financial product and shall indicate whether a reference benchmark was designated for the purpose of attaining the environmental or social characteristics promoted by the financial product.
2. For financial products referred to in Article 6 of Regulation (EU) 2020/852, the section referred to in point (a) of Article 13(3) shall also identify the environmental objectives set out in Article 9 of that Regulation to which the sustainable investment underlying the financial product contributes.
3. For financial products that commit to making one or more sustainable investments, a description of how the sustainable investments contribute to a sustainable investment objective and do not significantly harm any of the sustainable investment objectives, including an explanation of:
  - (a) how the indicators for adverse impacts in Table 1 of Annex I and any relevant indicators in Tables 2 and 3 of Annex I, are taken into account; and
  - (b) whether the sustainable investment is aligned with the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights, including the principles and rights set out in the eight fundamental conventions identified in the Declaration of the International Labour Organisation on Fundamental Principles and Rights at Work and the International Bill of Human Rights.

#### *Article 14a*

##### **Identification of principal adverse impact consideration section for financial products that promote environmental or social characteristics**

The section referred to in point (b) of Article 13(3) shall:

- (a) explain whether the financial product considers principal adverse impacts on sustainability factors;
- (b) explain how such principal adverse impacts are considered, and
- (c) include a statement that information on principal adverse impacts on sustainability factors is available in the information to be disclosed pursuant to Article 11(2) of Regulation (EU) 2019/2088.

*Article 15*

**Investment strategy for environmental or social characteristics section**

The section referred to in point (c) of Article 13(3) shall contain the following information:

- (a) a description of the type of investment strategy used to attain the environmental or social characteristics promoted by the financial product, the binding elements of that strategy to select the investments to attain each of those characteristics and how the strategy is implemented in the investment process on a continuous basis;
- (b) where there is a commitment by the financial market participant to reduce by a minimum rate the scope of investments considered prior to the application of the strategy referred to in point (a), an indication of that rate; and
- (c) a short description of the policy to assess good governance practices of the investee companies.

*Article 16*

**Asset allocation section for financial products that promote environmental or social characteristics**

1. The section referred to in point (d) of Article 13(3) shall contain the following information:
  - (a) a narrative explanation of the investments of the financial product; and
  - (b) where the financial product uses derivatives within the meaning of Article 2(1)(29) of Regulation (EU) No 600/2014 of the European Parliament and of the Council<sup>19</sup> to attain the environmental or social characteristics promoted by the financial product, a description of how the use of those derivatives attains those characteristics.
2. For the purposes of point (a) of paragraph 1, the narrative explanation shall explain:
  - (a) the minimum proportion of the investments of the financial product used to attain the environmental or social characteristics promoted by the financial product in accordance with the binding elements of the investment strategy, including the minimum proportion of sustainable investments of the financial product where it commits to making sustainable investments; and
  - (b) the purpose of the remaining proportion of the investments, including a description of any minimum environmental or social safeguards.

*Article 16a*

**Sustainable investment information in the asset allocation section for financial products that promote environmental or social characteristics**

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<sup>19</sup> Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012 (OJ L 173, 12.6.2014, p. 84).

1. For financial products referred to in Article 6 of Regulation (EU) 2020/852, the section referred to in point (d) of Article 13(3) shall also contain the following information:

(a) a graphical representation in the form of a pie chart of:

(i) the minimum taxonomy alignment of aggregated investments calculated in accordance with paragraphs 1 to 4 of Article 16b.

(ii) the minimum taxonomy alignment of aggregated investments excluding sovereign exposures, calculated in accordance with paragraph 5 of Article 16b.

When aggregating the taxonomy alignment of the investments in non-financial undertakings, the same key performance indicator shall be used. When aggregating the taxonomy alignment of the investments in financial undertakings, the same key performance indicator shall be used for the same type of financial undertaking. For insurance and reinsurance undertakings that carry out non-life underwriting activities, the key performance indicator may combine the investment and the underwriting key performance indicators in accordance with Article 8 of Regulation (EU) 2020/852;

(b) a description of the investments underlying the financial product that are in Taxonomy-aligned economic activities, including whether the compliance of those investments with the requirements laid down in Article 3 of Regulation (EU) 2020/852 will be subject to an assurance provided by one or more auditors or a review by one or more third parties and, if so, the name or the names of the auditor or third party;

(c) where the financial product invests in sustainable investments with an environmental objective which invests in economic activities that are not Taxonomy-clear explanation of the reasons for doing so; and

(d) for financial products referred to in Article 6 of Regulation (EU) 2020/852 that have sovereign exposures and where the financial market participant cannot assess the extent to which those exposures contribute to Taxonomy-aligned economic activities, a narrative explanation of the proportion in total investments of investments that consist of those exposures.

2. For the purposes of point (b) of paragraph 1, the description shall include:

(a) in respect of investee companies that are non-financial undertakings, whether the taxonomy alignment of investments is measured by turnover, or whether a more representative calculation of the taxonomy alignment is given when measured by capital expenditure or operating expenditure due to the features of the financial product, the reason for that decision, including how it is appropriate for investors in the financial product;

(b) where information relating to the taxonomy alignment of investments is not readily available from public disclosures by investee companies, details of how equivalent

information was obtained directly from investee companies or from third party providers;  
and

- (c) a breakdown of the minimum proportions of investments in the enabling activities referred to in Article 16 of Regulation (EU) 2020/852 and transitional activities referred to in Article 10(2) of that Regulation, in each case expressed as a percentage of all investments of the financial product.
3. For financial products including sustainable investments with a social objective, the section referred to in point (d) of Article 13(3) shall also contain the minimum share of those sustainable investments.

#### *Article 16b*

#### **Calculation of the taxonomy alignment of investments**

1. The taxonomy alignment of investments shall be calculated in accordance with the following formula:

$$\frac{\text{market value of all taxonomy-aligned investments of the financial product}}{\text{market value of all investments of the financial product}},$$

where 'taxonomy-aligned investments of the financial product' shall be the sum of the market values of the following investments of the financial product:

- (a) for debt securities and equities of investee companies, where a proportion of activities of those investee companies is associated with Taxonomy-aligned economic activities, the market value of that proportion of those debt securities or equities;
- (b) for debt securities other than those referred to in point (c) where a proportion of the proceeds are required by their terms to be used exclusively on Taxonomy-aligned economic activities, the market value of the proportion of those proceeds;
- (c) for green bonds issued under Union legislation on environmentally sustainable bonds, the market value of those green bonds;
- (d) for investments in real estate assets which qualify as Taxonomy-aligned economic activities, the market value of those investments;
- (e) for investments in infrastructure assets which qualify as Taxonomy-aligned economic activities, the market value of those investments;
- (f) for investments in securitisation positions with underlying exposures in Taxonomy-aligned economic activities, the market value of the proportion of those exposures; and
- (g) for investments in financial products referred to in Article 5 and Article 6 of Regulation (EU) 2020/852, the market value of the proportion of those financial products representing the taxonomy alignment of investments calculated in accordance with this Article.

The calculation shall be performed by applying the methodology used to calculate net short positions laid down in Article 3, paragraphs 4 and 5 of Regulation (EU) No 236/2012 of the European Parliament and of the Council<sup>20</sup>.

2. For the purposes of point (a) of paragraph 1, the proportion of activities of investee companies associated with Taxonomy-aligned economic activities shall be calculated on the basis of the most appropriate key performance indicators for the investments of the financial product using the following information:
  - (a) for investee companies referred to in Article 8(1) and (2) of Regulation (EU) 2020/852, on the basis of the disclosures made by those investee companies in accordance with that Article; and
  - (b) for other investee companies, on the basis of equivalent information.
3. For disclosures referred to in Articles 16a(1)(a) and 25(1)(a), in the case of investee companies that are non-financial undertakings referred to in Article 8(2) of Regulation (EU) 2020/852 and other non-financial undertakings, the calculation referred to in paragraph 2 shall use the same type of key performance indicator for all non-financial undertakings, which shall be turnover.

By way of derogation from the first subparagraph, where a more representative calculation of the taxonomy alignment is given by capital expenditure or operating expenditure due to the features of the financial product, the calculation may use the most appropriate of those two indicators.

4. In the case of investee companies that are financial undertakings subject to Article 8(1) of Regulation (EU) 2020/852 and for other financial undertakings, the calculation referred to in paragraph 2 shall use key performance indicators referred to in points (b) to (e) of Section 1.1 of Annex III of Commission Delegated Regulation (EU) 2021/XXX [insert reference to Article 8 Taxonomy Regulation Delegated Act].
5. For disclosures referred to in point (ii) of Article 16a(1)(a), point (ii) of Article 25(1)(a), point (iii) of Article 61a(b) and point (iii) of Article 67a(b), paragraphs 1 to 4 shall apply except that the sovereign exposures shall be excluded from the calculation of the numerator and of the denominator of the formula contained in paragraph 1.

#### *Article 18*

#### **Reference benchmark section for financial products that promote environmental or social characteristics**

Where an index is designated as a reference benchmark for the purpose of attaining the environmental or social characteristics promoted by the financial product, the section referred to in point (e) of Article 13(3) shall contain the following information:

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<sup>20</sup> Regulation (EU) No 236/2012 of the European Parliament and of the Council of 14 March 2012 on short selling and certain aspects of credit default swaps (OJ L 86, 24.3.2012, p. 1).

- (a) an explanation of how the reference benchmark is continuously aligned with each of the environmental or social characteristics promoted by the financial product and with the investment strategy;
- (b) an explanation of how the designated index differs from a relevant broad market index; and
- (c) an indication of where the methodology used for the calculation of the designated index can be found.

*Article 19*

**Website reference section for financial products that promote environmental or social characteristics**

The section referred to in point (f) of Article 13(3) shall contain the following statement: “More product-specific information can be found on the website”. The statement shall also contain a hyperlink to the website with the information referred to in Article 32.

*Section 2*

***Pre-contractual information for financial products referred to in Article 9(1), (2) and (3) of Regulation (EU) 2019/2088***

*(Article 9(1) to (4a) of Regulation (EU) 2019/2088)*

*Article 20*

**Presentation of pre-contractual information for financial products referred to in Article 9(1), (2) and (3) of Regulation (EU) 2019/2088**

1. Financial market participants shall present the information disclosed in accordance with Article 9(1) to (4a) of Regulation (EU) 2019/2088 and this Section in an annex to the document referred to in Article 6(3) of Regulation (EU) 2019/2088 in accordance with the template set out in Annex III. They shall include a prominent statement in the main body of the document referred to in Article 6(3) of that Regulation that information related to sustainable investment is available in that annex.
2. Financial market participants shall include a statement at the beginning of the annex referred to in paragraph 1 that the financial product has a sustainable investment objective.
3. Financial market participants shall present the information referred to in paragraph 1 in summary format in the order and made up of the following sections titled:
  - (a) ‘What is the sustainable investment objective of this financial product?’;
  - (b) ‘Does this financial product take into account principal adverse impacts on sustainability factors?’;
  - (c) ‘What investment strategy does this financial product follow?’;
  - (d) ‘What is the asset allocation and the minimum share of sustainable investments?’;



- (e) for a financial product referred to in Article 9(1) of Regulation (EU) 2019/2088, 'Is a specific index designated as a reference benchmark to meet the sustainable investment objective?'; and
- (f) 'Where can I find more product specific information online?'

#### *Article 21*

#### **Sustainable investment objective of the financial product section**

The section referred to in point (a) of Article 20(3) shall contain the following:

- (a) a description of the sustainable investment objective of the financial product, a list of the sustainability indicators used to measure the attainment of the sustainable investment objective and the indication whether a reference benchmark was designated for the purposes of attaining the sustainable investment objective;
- (b) for financial products referred to in Article 5 of Regulation (EU) 2020/852, an identification of the environmental objectives set out in Article 9 of that Regulation to which the sustainable investment underlying the financial product contributes;
- (c) for financial products referred to in Article 9(3) of Regulation (EU) 2019/2088, an explanation that the reference benchmark qualifies as an EU Climate Transition Benchmark or an EU Paris-aligned Benchmark under Chapter 3a of Title III of Regulation (EU) 2016/1011 and an indication of where the methodology used for the calculation of that benchmark can be found.

By way of derogation from the first subparagraph of point (c), where no EU Climate Transition Benchmark or EU Paris-aligned Benchmark in accordance with Regulation (EU) 2016/1011 is available, the explanation shall describe that fact and how the continued effort of attaining the objective of reducing carbon emissions is ensured in view of achieving the objectives of the Paris Agreement. The financial market participant shall explain the extent to which the financial product complies with the methodological requirements set out in Commission Delegated Regulation (EU) 2020/1818 <sup>(21)</sup>; and

- (d) a description of how the sustainable investments contribute to a sustainable investment objective and do not significantly harm any of the sustainable investment objectives, including an explanation of:
  - (i) how the indicators for adverse impacts in Table 1 of Annex I and any relevant indicators in Tables 2 and 3 of Annex I, are taken into account; and
  - (ii) whether the sustainable investment is aligned with the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights, including the principles and rights set out in the eight fundamental

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<sup>21</sup> Commission Delegated Regulation (EU) 2020/1818 of 17 July 2020 supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council as regards minimum standards for EU Climate Transition Benchmarks and EU Paris-aligned Benchmarks (OJ L 406, 3.12.2020, p. 17).

conventions identified in the Declaration of the International Labour Organisation on Fundamental Principles and Rights at Work and the International Bill of Human Rights.

*Article 22*

**Identification of principal adverse impact consideration section for financial products with the objective of sustainable investment**

The section referred to in point (b) of Article 20(3) shall:

- (a) explain whether the financial product considers principal adverse impacts on sustainability factors;
- (b) explain how such principal adverse impacts are considered; and
- (c) include a statement that information on principal adverse impacts on sustainability factors is available in the information to be disclosed pursuant to Article 11(2) of Regulation (EU) 2019/2088.

*Article 23*

**Investment strategy section for the sustainable objective**

The section referred to in point (c) of Article 20(3) shall contain the following information:

- (a) a description of the type of investment strategy used to attain the sustainable investment objective of the financial product, the binding elements of that strategy to select the investments to attain that objective and how the strategy is implemented in the investment process on a continuous basis; and
- (b) a short description of the policy used to assess good governance practices of the investee companies.

*Article 24*

**Asset allocation section for financial products with the objective of sustainable investment**

1. The section referred to in point (d) of Article 20(3) shall contain the following information:
  - (a) a narrative explanation of the investments of the financial product; and
  - (b) where the financial product uses derivatives within the meaning of Article 2(1)(29) of Regulation (EU) No 600/2014 to attain the sustainable investment objective of the financial product, a description of how the use of those derivatives attains that sustainable investment objective.
2. For the purposes of point (a) of paragraph 1 the narrative explanation shall explain:

- (a) the minimum proportion of the investments of the financial product used to attain the sustainable investment objective in accordance with the binding element of the investment strategy; and
- (b) the purpose of the remaining proportion of the investments of the financial product, including a description of any minimum environmental or social safeguards, how their proportion and use does not affect the delivery of the sustainable investment objective on a continuous basis and whether those investments are used for hedging, relate to cash held as ancillary liquidity or are investments for which there is insufficient data.

*Article 25*

**Sustainable investment information in the asset allocation section for financial products with the objective of sustainable investment**

1. For financial products referred to in Article 5 of Regulation (EU) 2020/852, the section referred to in point (d) of Article 20(3) shall also contain the following information:
  - (a) a graphical representation in the form of a pie chart of:
    - (i) the minimum taxonomy alignment of aggregated investments calculated in accordance with paragraphs 1 to 4 of Article 16b.
    - (ii) the minimum taxonomy alignment of aggregated investments excluding sovereign exposures, calculated in accordance with paragraph 5 of Article 16b.

When aggregating the taxonomy alignment of the investments in non-financial undertakings, the same key performance indicator shall be used. When aggregating the taxonomy alignment of the investments in financial undertakings, the same key performance indicator shall be used for the same type of financial undertakings. For insurance and reinsurance undertakings that carry out non-life underwriting activities, the key performance indicator may combine the investment and the underwriting key performance indicators in accordance with Article 8 of Regulation (EU) 2020/852;

- (b) where the financial product invests in sustainable investments with an environmental objective which invests in economic activities that are not Taxonomy-aligned economic activities, a clear explanation of the reasons for doing so;
- (c) a description of the investments underlying the financial product that are in Taxonomy-aligned economic activities, including whether the compliance of those investments with the requirements laid down in Article 3 of Regulation (EU) 2020/852 will be subject to an assurance provided by one or more auditors or a review by one or more third parties and, if so, the name or the names of the auditor or third party; and
- (d) for financial products referred to in Article 5 of Regulation (EU) 2020/852 that have sovereign exposures and where the financial market participant cannot assess the extent to which those exposures contribute to Taxonomy-aligned economic activities, a narrative explanation of the proportion in total investments of investments that consist of those exposures.

2. For the purposes of point (c) of paragraph 1, the description shall include:
  - (a) in respect of investee companies that are non-financial undertakings, whether the taxonomy alignment of investments is measured by turnover, or whether a more representative calculation of the taxonomy alignment is given when measured by capital expenditure or operating expenditure due to the features of the financial product, the reason for that decision, including how it is appropriate for investors in the financial product;
  - (b) where information relating to the taxonomy alignment of investments is not readily available from public disclosures by investee companies, details of how equivalent information was obtained directly from investee companies or from third party providers; and
  - (c) a breakdown of the minimum proportions of investments in the enabling activities referred to in Article 16 of Regulation (EU) 2020/852 and transitional activities referred to in Article 10(2) of that Regulation, in each case expressed as a percentage of all investments of the financial product.
3. For financial products including sustainable investments with a social objective, the section referred to in point (d) of Article 20(3) shall also contain the minimum share of those sustainable investments.

#### *Article 26*

##### **Sustainable investment objective attainment with a designated index section**

For a financial product referred to in Article 9(1) of Regulation (EU) 2019/2088, the section referred to in point (e) of Article 20(3) shall contain:

- (a) an explanation of how the taking into account of sustainability factors within the methodology of the reference benchmark is continuously aligned with the sustainable investment objective of the financial product;
- (b) an explanation of how the alignment of the investment strategy referred to in Article 23 with the methodology of the index is ensured on a continuous basis;
- (c) an explanation as to how the designated index differs from a relevant broad market index; and
- (d) an indication of where the methodology used for the calculation of the designated index can be found.

#### *Article 27*

##### **Website reference section for financial products with the objective of sustainable investment**

The section referred to in point (f) of Article 20(3) shall contain the following statement: “More product-specific information can be found on the website”. The statement shall also contain a hyperlink to the website with the information referred to in Article 45.

### *Section 3*

#### ***Pre-contractual information for financial products with investment options***

### *Article 28*

#### **Financial products with one or more underlying investment options that qualify those financial products as those referred to in Article 8 of Regulation (EU) 2019/2088**

1. By way of derogation from Articles 13 to 19, where a financial product offers investment options to the investor and one or more of those investment options qualify that financial product as a financial product referred to in Article 8 of Regulation (EU) 2019/2088, in accordance with Article 8(1) to (2a) of that Regulation, financial market participants shall provide a prominent statement in the main body of the document referred to in Article 6(3) of that Regulation (Article 6(3) document) that:
  - (a) the financial product promotes environmental or social characteristics;
  - (b) the attainment of those characteristics is subject to investing in at least one investment option in the list referred to in point (a) of paragraph 2 and holding at least one of those options during the holding period of the financial product; and
  - (c) further information related to those characteristics is available in the annexes referred to in paragraph 3 or, where relevant, through the references referred to in paragraph 5.
2. The prominent statement referred to in paragraph 1 shall be accompanied by:
  - (a) a list of the investment options referred to in points (a) to (c) of paragraph 3, presented in accordance with the categories referred to in those points; and
  - (b) the proportions of investment options within each of those categories relative to the total number of investment options offered by the financial product.
3. Financial market participants shall also provide the following information in annexes to the Article 6(3) document:
  - (a) for each investment option that qualifies as a financial product referred to in Article 8(1) of Regulation (EU) 2019/2088, the information referred to in Articles 13 to 19;
  - (b) for each investment option that qualifies as a financial product referred to in Article 9(1), (2) or (3) of that Regulation, the information referred to in Articles 20 to 27; and
  - (c) for each investment option that has sustainable investment as its objective and is not a financial product referred to in Article 2(12) of Regulation (EU) 2019/2088, the information on the objective of sustainable investment.

4. Financial market participants shall present the information referred to in point (a) of paragraph 3 in accordance with the template set out in Annex II and the information referred to in point (b) of paragraph 3 in accordance with the template set out in Annex III.
5. By way of derogation from paragraph 3, where a financial product offers a range of investment options to the investor such that the information relating to those investment options cannot be provided in the annexes of the Article 6(3) document in a clear and concise manner due to the number of annexes required, financial market participants may provide the information referred to in paragraph 3 by including in the main body of the Article 6(3) document references to the annexes of the applicable disclosures required by the sectoral acts referred to in Article 6(3) of Regulation (EU) 2019/2088 where that information is contained.

#### *Article 29*

#### **Financial products with all underlying investment options having sustainable investment as their objective**

1. By way of derogation from Articles 20 to 27, where a financial product offers investment options to the investor and all of those investment options have sustainable investment as their objective, in accordance with Article 9(1) to (4a) of that Regulation, financial market participants shall provide a prominent statement in the main body of the Article 6(3) document that the financial product has as its objective sustainable investment and that the information related to that objective is available in the annexes referred to in paragraph 3 or, where relevant, through the references referred to in paragraph 5.
2. The prominent statement referred to in paragraph 1 shall be accompanied by:
  - (a) a list of the investment options referred to in points (a) and (b) of paragraph 3, presented in accordance with the categories referred to in those points; and
  - (b) the proportions of investment options within each of those categories relative to the total number of investment options offered by the financial product.
3. Financial market participants shall also provide the following information in annexes to the Article 6(3) document:
  - (a) for each investment option that qualifies as a financial product referred to in Article 9(1), (2) or (3) of that Regulation, the information referred to in Articles 20 to 27; and
  - (b) for each investment option that has sustainable investment as its objective and is not a financial product referred to in Article 2(12) of Regulation (EU) 2019/2088, the information on the objective of sustainable investment.
4. Financial market participants shall present the information referred to in point (a) of paragraph 3 in accordance with the template set out in Annex III.
5. By way of derogation from paragraph 3, where a financial product offers a range of investment options to the investor such that the information relating to those investment options cannot be

provided in the annexes of the Article 6(3) document in a clear and concise manner due to the number of annexes required, financial market participants may provide the information referred to in paragraph 3 by including in the main body of the Article 6(3) document references to the annexes of the applicable disclosures required by the sectoral acts referred to in Article 6(3) of Regulation (EU) 2019/2088 where that information is contained.

#### Article 30

##### **Information on the objective of sustainable investment for financial products with options that do not themselves qualify as financial products**

The information on the objective of sustainable investment referred to in Articles 28(3)(c), 29(3)(b), 72(3)(c) and 73(2)(b) shall include:

- (a) a description of the sustainable investment objective;
- (b) a list of the indicators used to measure the attainment of that sustainable investment objective; and
- (c) a description of how the investments do not significantly harm any of the sustainable investment objectives, including:
  - (i) how the indicators for adverse impacts in Table 1 of Annex I and any relevant indicators in Tables 2 and 3 of Annex I, are taken into account; and
  - (ii) whether the sustainable investment is aligned with the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights, including the principles and rights set out in the eight fundamental conventions identified in the Declaration of the International Labour Organisation on Fundamental Principles and Rights at Work and the International Bill of Human Rights.

#### CHAPTER IV

##### **WEBSITE PRODUCT DISCLOSURE**

*(Article 10(1) of Regulation (EU) 2019/2088)*

#### Article 31

##### **Website sustainability-related product disclosure section**

Financial market participants shall publish the information on their websites in accordance with Article 10(1) of Regulation (EU) 2019/2088 and this Chapter in a separate section titled, 'Sustainability-related disclosures', in the same part of the website as the other information relating to the financial product, including marketing communications. They shall clearly identify the financial product to which the information in the sustainability-related disclosure section relates and prominently display the environmental or social characteristics or the sustainable investment objective of that financial product.

#### Article 32

##### **Website product disclosure for financial products referred to in Article 8(1) of Regulation (EU) 2019/2088**

For financial products referred to in Article 8(1) of Regulation (EU) 2019/2088, financial market participants shall publish the information referred to in Article 10(1) of that Regulation and Articles 33 to 44 in the order and made up of the following sections titled:

- (a) 'Summary';
- (b) 'No sustainable investment objective';
- (c) 'Environmental or social characteristics of the financial product';
- (d) 'Investment strategy';
- (e) 'Proportion of investments';
- (f) 'Monitoring of environmental or social characteristics';
- (g) 'Methodologies';
- (h) 'Data sources and processing';
- (i) 'Limitations to methodologies and data';
- (j) 'Due diligence';
- (k) 'Engagement policies'; and
- (l) where an index is designated as a reference benchmark for the purpose of attaining the environmental or social characteristics promoted by the financial product, 'Designated reference benchmark'.

#### *Article 33*

##### **Summary website section for products that promote environmental or social characteristics**

1. The section referred to in point (a) of Article 32 shall contain a summary of the information referred to in that Article that relates to the financial product of a maximum length of two sides of A4-sized paper when printed.
2. The section shall be provided in at least:
  - (a) one of the official languages of the home Member State and, where different and where the financial product is marketed in more than one Member State, in an additional language customary in the sphere of international finance; and
  - (b) where the financial product is marketed in a host Member State, one of the official languages of that host Member State.

#### *Article 34*

##### **No sustainable investment objective website section**



1. The section referred to in point (b) of Article 32 shall contain the following statement: “This financial product promotes environmental or social characteristics, but does not have as its objective a sustainable investment.”
2. Where the financial product commits to making one or more sustainable investments, the section shall also contain an explanation of how the sustainable investment does not significantly harm any of the sustainable investment objectives, including:
  - (a) how the indicators for adverse impacts in Table 1 of Annex I, and any relevant indicators in Tables 2 and 3 of Annex I, are taken into account; and
  - (b) whether the sustainable investment is aligned with the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights, including the principles and rights set out in the eight fundamental conventions identified in the Declaration of the International Labour Organisation on Fundamental Principles and Rights at Work and the International Bill of Human Rights.

*Article 35*

**Environmental or social characteristics of the financial product website section**

The section referred to in point (c) of Article 32 shall contain the information referred to in Article 10(1)(a) of Regulation (EU) 2019/2088.

*Article 36*

**Investment strategy for products that promote environmental or social characteristics website section**

The section referred to in point (d) of Article 32 shall contain:

- (a) a description of the investment strategy referred to in Article 15; and
- (b) a description of the policy to assess good governance practices of the investee companies referred to in Article 15(c), including with respect to sound management structures, employee relations, remuneration of staff and tax compliance.

*Article 37*

**Proportion of investments for products that promote environmental or social characteristics website section**

The section referred to in point (e) of Article 32 shall contain the information referred to in Article 16 and shall distinguish between direct exposures in investee entities and all other types of exposures to those entities.

*Article 38*

**Monitoring of environmental or social characteristics website section**

The section referred to in point (f) of Article 32 shall contain a description of how the environmental or social characteristics and the sustainability indicators referred to in Article 14 are monitored throughout the lifecycle of the financial product and the related internal or external control mechanisms.

*Article 39*

**Methodologies for environmental or social characteristics website section**

The section referred to in point (g) of Article 32 shall contain a description of the methodologies to measure the attainment of the social or environmental characteristics promoted by the financial product using the sustainability indicators referred to in Articles 14.

*Article 40*

**Data sources and processing for environmental or social characteristics website section**

The section referred to in point (h) of Article 32 shall contain a description of:

- (a) the data sources used to attain each of the environmental or social characteristics promoted by the financial product;
- (b) the measures taken to ensure data quality;
- (c) how data is processed; and
- (d) the proportion of data that is estimated.

*Article 41*

**Limitation to methodologies and data for products that promote environmental or social characteristics website section**

The section referred to in point (i) of Article 32 shall contain a description of:

- (a) any limitations to the methodologies referred to in point (g), and the data sources referred to in point (h), of Article 32;
- (b) how such limitations do not affect the attainment of the environmental or social characteristics promoted by the financial product; and
- (c) the actions taken to address such limitations.

*Article 42*

**Due diligence for environmental or social characteristics website section**

The section referred to in point (j) of Article 32 shall contain a description of the due diligence carried out on the underlying assets of the financial product, including the internal and external controls on that due diligence.

*Article 43*

### **Engagement policies for environmental or social characteristics website section**

The section referred to in point (k) of Article 32 shall contain a description of the engagement policies implemented where engagement is part of the environmental or social investment strategy, including any management procedures applicable to sustainability-related controversies in investee companies.

#### *Article 44*

### **Designated reference benchmark for products that promote environmental or social characteristics website section**

1. The section referred to in point (l) of Article 32 shall contain a description of how the index designated as a reference benchmark is aligned with the environmental or social characteristics promoted by the financial product, including the input data, the methodologies used to select that data, the rebalancing methodologies and how the index is calculated.
2. Where part or all of the information referred to in paragraph 1 is published on the website of the administrator of the reference benchmark, a hyperlink shall be provided to that information.

#### *Article 45*

### **Website product disclosure for financial products referred to in Article 9(1), (2) and (3) of Regulation (EU) 2019/2088**

For financial products referred to in Article 9(1), (2) or (3) of Regulation (EU) 2019/2088, financial market participants shall publish the information referred to in Article 10(1) of that Regulation and Articles 46 to 57 in the order and made up of the following sections titled:

- (a) 'Summary';
- (b) 'No significant harm to the sustainable investment objective';
- (c) 'Sustainable investment objective of the financial product';
- (d) 'Investment strategy';
- (e) 'Proportion of investments';
- (f) 'Monitoring of sustainable investment objective';
- (g) 'Methodologies';
- (h) 'Data sources and processing';
- (i) 'Limitations to methodologies and data';
- (j) 'Due diligence';

(k) 'Engagement policies'; and

(l) 'Attainment of the sustainable investment objective'.

*Article 46*

**Summary website section for financial products with the objective of sustainable investment**

1. The section referred to in point (a) of Article 45 shall contain a summary of the information referred to in that Article that relates to the financial product of a maximum length of two sides of A4-sized paper when printed.
2. The section shall be provided in at least:
  - (a) one of the official languages of the home Member State and, where different and where the financial product is marketed in more than one Member State, in an additional language customary in the sphere of international finance; and
  - (b) where the financial product is marketed in a host Member State, one of the official languages of that host Member State.

*Article 47*

**No significant harm to the sustainable investment objective website section**

1. The section referred to in point (b) of Article 45 shall contain an explanation of how the investments of the financial product do not significantly harm any of the sustainable investment objectives, including:
  - (a) how the indicators for adverse impacts in Table 1 of Annex I, and any relevant indicators in Tables 2 and 3 of Annex I, are taken into account; and
  - (b) whether the sustainable investment is aligned with the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights, including the principles and rights set out in the eight fundamental conventions identified in the Declaration of the International Labour Organisation on Fundamental Principles and Rights at Work and the International Bill of Human Rights.

*Article 48*

**Sustainable investment objective of the financial product website section**

The section referred to in point (c) of Article 45 shall contain the information referred to in Article 10(1)(a) of Regulation (EU) 2019/2088.

*Article 49*

**Investment strategy for financial products with the objective of sustainable investment website section**

The section referred to in point (d) of Article 45 shall contain:

- (a) a description of the investment strategy referred to in Article 23; and
- (b) a description of the policy to assess good governance practices of the investee companies referred to in Article 23(b), including with respect to sound management structures, employee relations, remuneration of staff and tax compliance.

*Article 50*

**Proportion of investments for financial products with the objective of sustainable investment website section**

The section referred to in point (e) of Article 45 shall contain the information referred to in Article 24 and shall distinguish between direct exposures in investee entities and all other types of exposures to those entities.

*Article 51*

**Monitoring of the sustainable investment objective website section**

The section referred to in point (f) of Article 45 shall contain a description of how the sustainable investment objective and the sustainability indicators referred to in Article 21 are monitored throughout the lifecycle of the financial product and the related internal or external control mechanisms.

*Article 52*

**Methodologies for the sustainable objective website section**

The section referred to in point (g) of Article 45 shall contain a description of the methodologies to measure the attainment of the sustainable investment objective using the sustainability indicators referred to in Article 21.

*Article 53*

**Data sources and processing for the sustainable objective website section**

The section referred to in point (h) of Article 45 shall contain a description of:

- (a) the data sources used to attain the sustainable investment objective of the financial product;
- (b) the measures taken to ensure data quality;
- (c) how data is processed; and
- (d) the proportion of data that is estimated.

*Article 54*

**Limitation to methodologies and data for the sustainable objective website section**

The section referred to in point (i) of Article 45 shall contain a description of:

- (a) any limitations to the methodologies referred to in point (g), and the data sources referred to in point (h), of Article 45;
- (b) how such limitations do not affect the attainment of the sustainable investment objective; and
- (c) the actions taken to address such limitations.

*Article 55*

**Due diligence for the sustainable objective website section**

The section referred to in point (j) of Article 45 shall contain a description of the due diligence carried out on the underlying assets of the financial product, including the internal and external controls on that due diligence.

*Article 56*

**Engagement policies for the sustainable objective website section**

The section referred to in point (k) of Article 45 shall contain a description of the engagement policies implemented where engagement is part of the sustainable investment objective, including any management procedures applicable to sustainability-related controversies in investee companies.

*Article 57*

**Attainment of the sustainable investment objective website section**

1. The section referred to in point (l) of Article 45 shall contain a description of:
  - (a) for a financial product referred to in Article 9(1) of Regulation (EU) 2019/2088, how the index designated as a reference benchmark is aligned with the sustainable investment objective of the financial product, including the input data, the methodologies used to select that data, the rebalancing methodologies and how the index is calculated; and
  - (b) for a financial product referred to in Article 9(3) of Regulation (EU) 2019/2088, a statement that the reference benchmark qualifies as an EU Climate Transition Benchmark or an EU Paris-aligned Benchmark under Chapter 3a of Title III of Regulation (EU) 2016/1011 and a hyperlink to where the methodology used for the calculation of that benchmark can be found.
2. By way of derogation from point (a) of paragraph 1, where the information referred to in that point is published on the website of the administrator of the reference benchmark, a hyperlink shall be provided to that information.
3. By way of derogation from point (b) of paragraph 1, where no EU Climate Transition Benchmark or EU Paris-aligned Benchmark in accordance with Regulation (EU) 2016/1011 is available, the section referred to in point (l) of Article 45 shall explain that fact and how the continued effort of attaining the objective of reducing carbon emissions is ensured in view of achieving the objectives of the Paris Agreement. The financial market participant shall also explain the extent to which the

financial product complies with the methodological requirements set out in Commission Delegated Regulation (EU) 2020/1818.

#### *CHAPTER V*

### **PRODUCT DISCLOSURE IN PERIODIC REPORTS**

*(Article 11(1) of Regulation (EU) 2019/2088)*

#### *Section 1*

### ***Periodic reports for financial products referred to in Article 8(1) of Regulation (EU) 2019/2088***

#### *Article 58*

### **Presentation and content requirements for periodic reports for financial products referred to in Article 8(1) of Regulation (EU) 2019/2088**

1. For financial products referred to in Article 8(1) to (2a) of Regulation (EU) 2019/2088, financial market participants shall present the information referred to in Article 11(1) of Regulation (EU) 2019/2088 and this Section in an annex to the document referred to in Article 11(2) of that Regulation in accordance with the template set out in Annex IV. They shall include a prominent statement in the main body of the document referred to in Article 11(2) of that Regulation that information on the environmental or social characteristics is available in that annex.
2. Financial market participants shall present the information referred to in paragraph 1 in the order and made up of the following sections titled:
  - (a) ‘To what extent were the environmental and/or social characteristics promoted by this financial product met?’;
  - (b) ‘What were the top investments of this financial product?’;
  - (c) ‘What was the proportion of sustainability-related investments?’;
  - (d) ‘What actions have been taken to meet the environmental and/or social characteristics during the reference period?’; and
  - (e) for a financial product that designated an index as a reference benchmark to attain the environmental or social characteristics promoted by the financial product, ‘How did this financial product perform compared to the designated reference benchmark?’.

#### *Article 59*

### **Attainment of the environmental or social characteristics promoted by the financial product section**

The section referred to in point (a) of Article 58(2) shall contain the following:

- (a) a description of the extent to which the environmental or social characteristics promoted by the financial product were attained during the reference period, including the performance of the sustainability indicators referred to in Article 14 and any derivatives referred to in Article 16(1)(c) used to attain the environmental or social characteristics;

- (b) for financial products referred to in Article 6 of Regulation (EU) 2020/852, an identification of the environmental objectives set out in Article 9 of that Regulation to which the sustainable investment underlying the financial product contributed;
- (c) where the financial market participant has provided at least one previous periodic report in accordance with this Section for the financial product, a historical comparison between the reference period and previous reference periods;
- (d) for financial products that included a commitment to make sustainable investments, an explanation of how the sustainable investments have contributed to a sustainable investment objective and not harmed significantly any of the sustainable investment objectives during the reference period, including:
  - (i) how the indicators for adverse impacts in Table 1 of Annex I, and any relevant indicators in Tables 2 and 3 of Annex I, were taken into account; and
  - (ii) whether the sustainable investment was aligned with the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights, including the principles and rights set out in the eight fundamental conventions identified in the Declaration of the International Labour Organisation on Fundamental Principles and Rights at Work and the International Bill of Human Rights.
- (e) Information on principal adverse impacts on sustainability factors as referred to in point (c) of Article 14a.

*Article 60*

**Top investments for products that promote environmental or social characteristics section**

1. The section referred to in point (b) of Article 58(2) shall contain a list, in descending order of size, of the 15 investments constituting the greatest proportion of investments of the financial product during the reference period, including the sector and countries of those investments.
2. By way of derogation from paragraph 1, where the number of investments constituting 50 percent of the investments of the financial product during the reference period is less than 15, the section referred to in point (b) of Article 58(2) shall contain a list of those investments, in descending order of size, including the sector and location of those investments.

*Article 61*

**Proportion of sustainability-related investments section for products that promote environmental or social characteristics**

The section referred to in point (c) of Article 58(2) shall contain a description of the investments of the financial product, including an explanation of:

- (a) the proportions of the investments of the financial product that attained the promoted environmental or social characteristics during the reference period;



- (b) the purpose of the remainder of the investments during the reference period, including a description of any minimum environmental or social safeguards and whether those investments are used for hedging, relate to cash held as ancillary liquidity or are investments for which there is insufficient data; and
- (c) the proportion of investments during the reference period in different sectors and sub-sectors, including the fossil fuel sectors.

*Article 61a*

**Sustainable investment information in the proportion of sustainability-related investments section for products that promote environmental or social characteristics**

For financial products referred to in Article 6 of Regulation (EU) 2020/852, where the financial product included a commitment to make sustainable investments, the section referred to in point (c) of Article 58(2) shall also contain the following information:

- (a) a breakdown of the proportion of each of the environmental objectives set out in Article 9 of Regulation (EU) 2020/852 to which the sustainable investments contributed to;
- (b) a description of the sustainable investments in Taxonomy-aligned economic activities during the reference period, including:
  - (i) whether the compliance of those investments with the requirements laid down in Article 3 of Regulation (EU) 2020/852 was subject to an assurance provided by one or more auditors or a review by one or more third parties and, if so, the name or the names of the auditor or third party;
  - (ii) a graphical representation in the form of a bar chart of the taxonomy alignment of the aggregated investments during the reference period calculated in accordance with paragraphs 1 to 4 of Article 16b. When aggregating the taxonomy alignment of the investments in non-financial undertakings, turnover, capital expenditure and operational expenditure shall be calculated and included in the graphical representation. When aggregating the taxonomy alignment of the investments in financial undertakings, turnover and capital expenditure shall, where applicable, be calculated and included in the graphical representation. For insurance undertakings that carry out non-life underwriting activities, the key performance indicator may combine the investment and the underwriting key performance indicators in accordance with Article 8 of Regulation (EU) 2020/852;
  - (iii) a graphical representation in the form of a bar chart of the taxonomy alignment of the aggregated investments during the reference period excluding sovereign exposures, calculated in accordance with paragraph 5 of Article 16b. When aggregating the taxonomy alignment of the investments in non-financial undertakings, turnover, capital expenditure and operational expenditure shall be calculated and included in the graphical representation. When aggregating the taxonomy alignment of the investments in financial undertakings, turnover and capital expenditure shall, where applicable, be calculated and included in the graphical representation. For insurance undertakings that carry out non-life underwriting activities, the key performance indicator may combine the investment

and the underwriting key performance indicators in accordance with Article 8 of Regulation (EU) 2020/852;

(iv) the information referred to in point (b) of Article 16a(2);

(v) a breakdown of the proportions of investments during the reference period in the enabling activities referred to in Article 16 of Regulation (EU) 2020/852 and transitional activities referred to in Article 10(2) of that Regulation, in each case expressed as a percentage of all investments of the financial product;

(vi) where the financial product invested in sustainable investments with an environmental objective which invests in economic activities that are not Taxonomy-aligned economic activities, a clear explanation of the reasons for doing so; and

(vii) where the financial market participant has provided at least one previous periodic report in accordance with this Section for the financial product, a historical comparison of the taxonomy alignment of the investments of the reference period with previous reference periods; and

(c) for financial products referred to in Article 6 of Regulation (EU) 2020/852 that have sovereign exposures and where the financial market participant could not assess the extent to which those exposures contributed to Taxonomy-aligned economic activities during the reference period, a narrative explanation of the proportion in total investments of investments that consisted of those exposures.

(d) for financial products including sustainable investments with a social objective, the section referred to in point (c) of Article 58(2) shall also contain the minimum share of those sustainable investments.

#### *Article 62*

##### **Actions taken to attain environmental or social characteristics section**

The section referred to in point (d) of Article 58(2) shall contain the actions taken within the reference period to attain the environmental or social characteristics promoted by the financial product, including shareholder engagement as defined in Article 3g of Directive 2007/36/EC and any other engagement relating to the environmental or social characteristics promoted by the financial product.

#### *Article 63*

##### **Sustainable performance of the index designated as a benchmark for environmental or social characteristics section**

1. The section referred to in point (e) of Article 58(2) shall include:

(a) an explanation of how the index designated as a reference benchmark differs from a relevant broad market index, including at least the performance during the reference period of the sustainability indicators deemed relevant by the financial market participant to determine the

alignment of the index with the environmental or social characteristics promoted by the financial product and the ESG factors referred to in the benchmark statement of the benchmark administrator in accordance with Article 27(2a) of Regulation (EU) 2016/1011;

- (b) a comparison of the performance during the reference period of the financial product with regard to the indicators measuring the sustainability factors of the index referred to in point (a); and
  - (c) a comparison of the performance during the reference period of the financial product with regard to a relevant broad market index.
2. The comparisons referred to in points (b) and (c) shall be presented, where relevant, in the form of a table or graphical representation.

#### *Section 2*

### ***Periodic reports for financial products referred to in Article 9(1), (2) and (3) of Regulation (EU) 2019/2088***

#### *Article 64*

### **Presentation and content requirements for periodic reports for financial products referred to Article 9(1), (2) and (3) of Regulation (EU) 2019/2088**

1. For financial products referred to in Article 9(1) to (4a) of Regulation (EU) 2019/2088, financial market participants shall present the information referred to in Article 11(1) of that Regulation and this Section in an annex to the document referred to in Article 11(2) of that Regulation in accordance with the templates set out in Annex V. Financial market participants shall include a prominent statement in the main body of the document referred to in Article 11(2) of that Regulation that information on sustainable investment is available in that annex.
2. Financial market participants shall present the information referred to in paragraph 1 in the order and made up of the following sections titled:
  - (a) ‘To what extent was the sustainable investment objective of this financial product met?’;
  - (b) ‘What were the top investments of this financial product?’;
  - (c) ‘What was the proportion of sustainability-related investments?’;
  - (d) ‘What actions have been taken to attain the sustainable investment objective during the reference period?’; and
  - (e) for a financial product referred to in Article 9(1) of Regulation (EU) 2019/2088, ‘How did this financial product perform compared to the reference sustainable benchmark?’.

#### *Article 65*

### **Attainment of the sustainable investment objective of the financial product section**

The section referred to in point (a) of Article 64(2) shall contain the following:

- (a) a description of the extent to which the sustainable investment objective was attained during the reference period, including the performance of the sustainability indicators referred to in Article 21 and any derivatives referred to in Article 24(1)(b) used to attain the sustainable investment objective;
- (b) for financial products referred to in Article 5 of Regulation (EU) 2020/852, an identification of the environmental objectives set out in Article 9 of that Regulation to which the sustainable investment underlying the financial product contributed;
- (c) for a financial product referred to in Article 9(3) of Regulation (EU) 2019/2088, information on how the objective of a reduction in carbon emissions was aligned with the Paris Agreement, containing a description of the contribution of the financial product during the reference period to achieving the objectives of the Paris Agreement, including in respect of an EU Climate Transition Benchmark or EU Paris-aligned Benchmark, the ESG factors and criteria considered by the benchmark administrator in accordance with Commission Delegated Regulation (EU) 2020/1818;
- (d) where the financial market participant has provided at least one previous periodic report in accordance with this Section for the financial product, a historical comparison between the current reference period and previous reference periods; and
- (e) an explanation of how the sustainable investments have contributed to a sustainable investment objective and not harmed significantly any of the sustainable investment objectives during the reference period, including:
  - (i) how the indicators for adverse impacts in Table 1 of Annex I, and any relevant indicators in Tables 2 and 3 of Annex I, were taken into account; and
  - (ii) whether the sustainable investment was aligned with the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights, including the principles and rights set out in the eight fundamental conventions identified in the Declaration of the International Labour Organisation on Fundamental Principles and Rights at Work and the International Bill of Human Rights;
- (f) information on principal adverse impacts on sustainability factors as referred to in point (c) of Article 22.

#### *Article 66*

#### **Top investments for financial products that have a sustainable investment objective section**

1. The section referred to in point (b) of Article 64(2) shall contain a list, in descending order of size, of the 15 investments constituting the greatest proportion of investments of the financial product during the reference period, including the sector and countries of those investments.

2. By way of derogation from paragraph 1, where the number of investments constituting 50 percent of the investments of the financial product during the reference period is less than 15, the section referred to in point (b) of Article 64(2) shall contain a list of those investments, in descending order of size, including the sector and countries of those investments.

*Article 67*

**Proportion of sustainability-related investments for financial products that have a sustainable investment objective section**

The section referred to in point (c) of Article 64(2) shall contain a description of the investments of the financial product, including:

- (a) the proportions of the investments of the financial product that contributed to the sustainable investment objective;
- (b) the purpose of the remainder of the investments during the reference period, including a description of any minimum environmental or social safeguards and whether those investments are used for hedging, relate to cash held as ancillary liquidity or are investments for which there is insufficient data; and
- (c) the proportion of investments during the reference period in different sectors and sub-sectors.

*Article 67a*

**Sustainable investment information in the proportion of sustainability-related investments section for products with the objective of sustainable investment**

For financial products referred to in Article 5 of Regulation (EU) 2020/852, the section referred to in point (c) of Article 64(2) shall also contain the following information:

- (a) a breakdown of the proportion of each of the environmental objectives set out in Article 9 of Regulation (EU) 2020/852 to which the sustainable investments contributed to;
- (b) a description of the sustainable investments in Taxonomy-aligned economic activities during the reference period, including:
  - (i) whether the compliance of those investments with the requirements laid down in Article 3 of Regulation (EU) 2020/852 was subject to an assurance provided by one or more auditors or a review by one or more third parties and, if so, the name or the names of the auditor or third party;
  - (ii) a graphical representation in the form of a bar chart of the taxonomy alignment of the aggregated investments during the reference period calculated in accordance with paragraphs 1 to 4 of Article 16b. When aggregating the taxonomy alignment of the investments in non-financial undertakings, turnover, capital expenditure and operational expenditure shall be calculated and included in the graphical representation. When aggregating the taxonomy alignment of the investments in financial undertakings, turnover and capital expenditure shall, where applicable, be

calculated and included in the graphical representation. For insurance undertakings that carry out non-life underwriting activities, the key performance indicator may combine the investment and the underwriting key performance indicators in accordance with Article 8 of Regulation (EU) 2020/852;

- (iii) a graphical representation in the form of a bar chart of the taxonomy alignment of the aggregated investments during the reference period excluding sovereign exposures, calculated in accordance with paragraph 5 of Article 16b. When aggregating the taxonomy alignment of the investments in non-financial undertakings, turnover, capital expenditure and operational expenditure shall be calculated and included in the graphical representation. When aggregating the taxonomy alignment of the investments in financial undertakings, turnover and capital expenditure shall, where applicable, be calculated and included in the graphical representation. For insurance undertakings that carry out non-life underwriting activities, the key performance indicator may combine the investment and the underwriting key performance indicators in accordance with Article 8 of Regulation (EU) 2020/852;
  - (iv) the information referred to in point (b) of Article 25a(2);
  - (v) a breakdown of the proportions of investments during the reference period in the enabling activities referred to in Article 16 of Regulation (EU) 2020/852 and transitional activities referred to in Article 10(2) of that Regulation, in each case expressed as a percentage of all investments of the financial product;
  - (vi) where the financial product invested in sustainable investments with an environmental objective which invests in economic activities that are not Taxonomy-aligned economic activities, a clear explanation of the reasons for doing so; and
  - (vii) where the financial market participant has provided at least one previous periodic report in accordance with this Section for the financial product, a historical comparison of the taxonomy alignment of the investments of the reference period with previous reference periods; and
- (c) for financial products referred to in Article 5 of Regulation (EU) 2020/852 that have sovereign exposures and where the financial market participant could not assess the extent to which those exposures contributed to Taxonomy-aligned economic activities, a narrative explanation of the proportion in total investments of investments that consisted of those exposures, and
  - (d) for financial products including sustainable investments with a social objective, the section referred to in point (d) of Article 64(2) shall also contain the minimum share of those sustainable investments.

#### *Article 68*

#### **Actions taken to attain the sustainable investment objective section**

The section referred to in point (d) of Article 64(2) shall contain the actions taken within the reference period to attain the sustainable investment objective of the financial product, including shareholder engagement as defined in Article 3g of Directive 2007/36/EC and any other engagement relating to the sustainable investment objective.

#### *Article 69*

#### **Sustainable performance of the index designated as a benchmark for the sustainable objective section**

1. For financial products referred to in Article 9(1) of Regulation (EU) 2019/2088, the section referred to in point (e) of Article 64(2) shall contain the following:
  - (a) an explanation of how the index designated as a reference benchmark differs from a relevant broad market index, including at least the performance during the reference period of the sustainability indicators deemed relevant by the financial market participant to determine the alignment of the index with the sustainable investment objective, including the ESG factors referred to in the benchmark statement of the benchmark administrator in accordance with Article 27(2a) of Regulation (EU) 2016/1011;
  - (b) a comparison of the performance during the reference period of the financial product with regard to the indicators measuring the sustainability factors of the index referred to in point (a); and
  - (c) a comparison of the performance during the reference period of the financial product with regard to a relevant broad market index.
2. The comparisons referred to in points (b) and (c) of paragraph 1 shall be made, where relevant, in the form of a table or graphical representation.

#### *Section 3*

#### ***Historical comparisons for periodic reports and investment options***

#### *Article 71*

#### **Historical comparisons for periodic reports**

1. The historical comparisons referred to in Article 59(c), point (vii) of Article 61a(b), Article 65(d) and point (vii) of Article 67a(b) shall compare the current reference period with the previous reference period provided in accordance with those Articles and shall continue to make such historical comparisons for at least five previous reference periods.
2. For the purposes of the historical comparisons referred to in Articles 59(c) and 65(d), financial market participants shall report on the performance of the sustainability indicators consistently over time, including the following information:
  - (a) where quantitative disclosures are made, figures with a relative measure such as impact per euro invested;

(b) which indicators are subject to an assurance provided by one or more auditors or a review by one or more third parties; and

(c) the proportion of underlying assets of the financial product referred to in Articles 61 and 67.

#### *Article 72*

#### **Financial products with one or more underlying investment options that qualify those financial products as those referred to in Article 8 of Regulation (EU) 2019/2088**

1. By way of derogation from Articles 58 to 64, where a financial product offers investment options to the investor and one or more of those investment options qualify that financial product as a financial product referred to in Article 8 of Regulation (EU) 2019/2088, in accordance with Article 11(1), financial market participants shall provide a prominent statement in the main body of the document referred to in Article 11(2) of that Regulation (Article 11(2) document) that:
  - (a) the financial product promotes environmental or social characteristics;
  - (b) the attainment of those characteristics is subject to investing in at least one investment option referred to in paragraph 2 and holding at least one of those options during the holding period of the financial product; and
  - (c) further information related to those characteristics is available in the annexes referred to in that paragraph.
2. Financial market participants shall also provide the following information in annexes to the Article 11(2) document:
  - (a) for each investment option invested in that qualifies as a financial product referred to in Article 8(1) of Regulation (EU) 2019/2088, the information referred to in Articles 58 to 64;
  - (b) for each investment option invested in that qualifies as a financial product referred to in Article 9(1), (2) or (3) of that Regulation, the information referred to in Articles 65 to 69; and
  - (c) for each investment option invested in that has sustainable investment as its objective and is not a financial product referred to in Article 2(12) of Regulation (EU) 2019/2088, the information on the objective of sustainable investment.
3. Financial market participants shall present the information referred to in point (a) of paragraph 2 in accordance with the template set out in Annex IV and the information referred to in point (b) of paragraph 2 in accordance with the template set out in Annex V.

#### *Article 73*

#### **Financial products with all underlying investment options having sustainable investment as their objective**

1. By way of derogation from Articles 65 to 69, where a financial product offers investment options to the investor and all of those investment options have sustainable investment as their objective,



in accordance with Article 11(1) of that Regulation, financial market participants shall provide a prominent statement in the main body of the Article 11(2) document that the financial product has as its objective sustainable investment and that the information related to that objective is available in the annexes referred to in paragraph 2.

2. Financial market participants shall also provide the following information in annexes to the Article 11(2) document:
  - (a) for each investment option invested in that qualifies as a financial product referred to in Article 9(1), (2) or (3) of that Regulation, the information referred to in Articles 65 to 69; and
  - (b) for each investment option invested in that has sustainable investment as its objective and is not a financial product referred to in Article 2(12) of Regulation (EU) 2019/2088, the information on the objective of sustainable investment.
3. Financial market participants shall present the information referred to in point (a) of paragraph 2 in accordance with the template set out in Annex V.

## *CHAPTER VI* **FINAL PROVISION**

### *Article 74<sup>22</sup>* **Entry into force and application**

1. This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.
2. This Regulation shall apply from [1 January 2022]. This Regulation shall apply from [1 January 2022] in respect of the environmental objectives referred to in points (a) and (b) of Article 9 of Regulation (EU) 2020/852 and from 1 January 2023 in respect of the environmental objectives referred to in points (c) to (f) of Article 9 of that Regulation.
3. By way of derogation from paragraph 2, points (b) and (c) of Article 14a, points (b) and (c) of Article 22, point (e) of Article 59 and point (f) of Article 65 shall apply from 30 December 2022.
4. By way of derogation from paragraph 2, the reporting on Scope 3 GHG emissions in Tables 1 and 2 of Annex I shall apply from 1 January 2023.

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<sup>22</sup> Please note that, for the convenience of the reader, this Article contains both the text of Article 74 of the SFDR RTS and of Article 2 of the draft RTS contained in this Final Report.