ESMA
European Securities and Markets Authority

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Final Report

2023-2024 CSA on the integration of sustainability risks and disclosures

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1. Executive Summary

Reasons for publication

In July 2023, ESMA launched a Common Supervisory Action (CSA) with National Competent Authorities (NCAs) on the integration of sustainability risks and disclosures in the investment fund sector.

The CSA's aim was to assess, foster and enforce the compliance of supervised entities with: i) the provisions introduced by the AIFMD and UCITS Directive implementing measures on the integration of sustainability risks; ii) the current regulatory framework under the Sustainable Finance Disclosure Regulation (SFDR), including the financial product disclosure of the share of taxonomy-aligned investments stemming from the Taxonomy Regulation (TR), and related SFDR implementing measures, and iii) the adherence to the principles of the ESMA Supervisory briefing on sustainably risks and disclosures in the area of investment management.

The CSA also supported the feedback gathering on the current greenwashing practices and risks in the EU market, and the findings have informed the ESMA Final Report on greenwashing[1].

This report sets out ESMA's analysis and conclusions of the CSA exercise and presents ESMA's views on its findings, including on the assessment of whether market participants adhere to the relevant rules and standards on sustainability risks and disclosures. It also provides specific recommendations to NCAs and market participants.

Content

Section 2 explains the background of the exercise, Section 3 describes the scope of the analysis and the characteristics of the selected sample, and Sections 4 to 7 set out the CSA's main findings. The report includes, under the relevant sections, boxes with examples (1 to 15) highlighting practical cases of non-compliance (in red), good practices (in green), and below average practices (in light blue) that were identified by NCAs during the exercise. The follow-up actions envisaged by NCAs are described under Section 8 before the Conclusions.

Key findings

The CSA results show that there is room for improvement in the level of managers' compliance with the framework on the integration of sustainability risks and disclosures. While the majority of NCAs considered that there was an overall satisfactory level of

[1] See ESMA Report on Greenwashing, 4 June 2024: ESMA36-287652198-2699 Final Report on Greenwashing

compliance of managers with the applicable regulatory requirements, they nonetheless found several vulnerabilities, which were addressed as part of the process, through bilateral letters and other supervisory orders. Going forward, ESMA encourages NCAs to continue proactive engagement with market participants and follow up with those cases where vulnerabilities were detected, including enforcement, where appropriate.

Next steps

Building on the findings of the CSA exercise, ESMA will continue exchanging and cooperating with NCAs on this topic and related follow-up actions.

ESMA will facilitate discussions among NCAs to foster a common supervisory culture across the EU and to promote effective, sound and consistent supervision with regard to the integration of sustainability risks and disclosures.

1. Background

1. In July 2023, ESMA launched a CSA with NCAs to assess disclosures and sustainability risks integration in the investment fund sector[2] with a view to evaluate the compliance of supervised investment fund managers with the relevant provisions and further enhancing supervisory convergence in this area.

2. Specifically, the CSA aimed to investigate whether authorised managers, being UCITS management companies and AIFMs (hereafter referred as 'managers'):

    a) comply with the organisational requirements set out in the UCITS Directive and AIFMD framework with respect to the integration of sustainability risks[3];

    b) comply with the disclosure requirements at both entities and product level, as included in the SFDR regulatory framework [4]; and

    c) adhere to the principles of the Supervisory Briefing on sustainability risks and disclosures in the area of investment management[5].

3. Following the European Commission's request for input related to greenwashing[6], on 15 November 2022 the ESAs launched a Call for Evidence[7] motivated by the need to better understand which areas may become more prone to greenwashing risks. Based on the definition of greenwashing and the assessment of greenwashing risks for the asset management sector included in the ESMA Progress Report[8], the CSA supported ESMA's information gathering and analysis ahead of the ESMA Final Report on greenwashing [9]. The areas more prone to potential greenwashing risks used as reference during the CSA were product-level claims (incl. marketing material), entity-level claims (about net-zero targets, linking remuneration to ESG performance), and entity and product-level claims about active engagement and proxy-voting.

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[2] ESMA and NCAs to assess disclosures and sustainability risks in the investment fund sector

[3] Commission Delegated Regulation 2021/1255/EU amending Delegated Regulation (EU) No 231/2013 as regards the sustainability risks and sustainability factors to be taken into account by Alternative Investment Fund Managers and Commission Delegated Directive 2021/1270/EU amending Directive 2010/43/EU as regards the sustainability risks and sustainability factors to be taken into account for Undertakings for Collective Investment in Transferable Securities (UCITS).

[4] 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 and Commission Delegated Regulation (EU) 2022/1288 supplementing Regulation (EU) 2019/2088 of the European Parliament and of the Council with regard to regulatory technical standards specifying the details of the content and presentation of the information in relation to the principle of 'do no significant harm', specifying the content, methodologies and presentation of information in relation to sustainability indicators and adverse sustainability impacts, and the content and presentation of the information in relation to the promotion of environmental or social characteristics and sustainable investment objectives in pre- contractual documents, on websites and in periodic reports.

[5] See ESMA Supervisory Briefing on sustainability risks and disclosures, 31 May 2022: esma34-45-1427_supervisory_briefing_on_sustainability_risks_and_disclosures.pdf (europa.eu).

[6] EC's request for input related to greenwashing

[7] ESAs Call for evidence on Greenwashing

[8] See ESMA Progress Report: ESMA30-1668416927-2498 Progress Report on Greenwashing. Greenwashing is defined as 'practice where sustainability-related statements, declarations, actions, or communications do not clearly and fairly reflect the underlying sustainability profile of an entity, a financial product, or financial services. This practice may be misleading to consumers, investors, or other market participants.

[9] See footnote 1 for ESMA's Final Report on Greenwashing.

4. From 2023, the topic of ESG disclosures has been identified as one of ESMA's Union Strategic Priorities (USSP), given its high relevance from an investor protection perspective. In this context, NCAs are expected to carry out intensified supervisory work on this topic, and ESMA prompted supervisory action with common objectives, including several CSAs in different sectors. The CSA on the integration of sustainability risks and disclosures in the investment management sector provided a valuable opportunity to exchange knowledge and experience amongst NCAs on their supervisory approaches to the assessment of compliance with the disclosures under SFDR and to ensure that UCITS and AIFs have the necessary procedures in place related to the integration of sustainability risks.

5. The CSA does not reflect potential future changes to SFDR under any forthcoming review by the European Commission, instead the focus is on the experience of NCAs and ESMA with the supervision of the disclosures, which will be helpful also for an amended framework. It is also important to note that when the CSA was launched and during the field work, the emphasis was placed on the need to ensure that the currently applicable disclosure framework was properly applied and supervised.

6. The work was conducted under a common methodology developed by ESMA between September 2022 and March 2023, which was formally agreed with NCAs in June 2023. The CSA assessment framework, including scope, coverage thresholds, methodology, supervisory expectations and timeline, is a joint effort to carry out a comprehensive supervisory action in a convergent manner.

7. In the course of 2023 and 2024, NCAs regularly shared their knowledge and experience to promote supervisory convergence on how they supervise the integration of sustainability risks and disclosures. NCAs were asked to report to ESMA on the CSA results in two parts: by January 2024 for the questions related to greenwashing risks, and by 30 September 2024 for the overall results.

8. Following the completion of the CSA exercise, ESMA launched a survey (the "CSA survey") addressed to NCAs to assess the impact of the exercise and to take stock of follow-up actions envisaged or taken by NCAs. NCAs submitted their responses in December 2024 and results of the CSA survey are explained in the subsequent paragraphs.

2. Scope of the analysis and methodology

9. To ensure supervisory convergence in relation to the sample size and the overall coverage of the CSA across Member States, ESMA and NCAs agreed on a minimum coverage threshold of UCITS management companies and AIFMs in each jurisdiction.

10. All but one NCA met the criteria for the minimum coverage of managers across all the EU/EEA Member States[10], with some NCAs even going above the minimum coverage, or assessing their entire market.

11. NCAs followed the approach set out in the CSA assessment framework in relation to the selection of the sample. While they were given discretion on the selection of the sample, NCAs followed the principles below in the selection of the categories of funds and fund managers:

    a) **Size**: preference for covering both large and smaller/mid-sized entities.

    b) **Type of investors**: preference was given to entities with a retail investor base and managing funds having ESG characteristics or sustainable investment as objective. Most managers chosen for the sample were managers of UCITS funds.

    c) **Cross border funds and home/host cooperation**: notwithstanding the principle to prioritise cross-border funds, and with a few exceptions, most NCAs had no cross-border funds in their samples. For those NCAs who exchanged information on a cross-border basis, they reported a very efficient cooperation between home and host NCAs, with a rapid and complete exchange of information.

    d) **Diversity of types of SFDR disclosures**: the objective of the exercise was to get an understanding of the characteristics of the funds posing the highest risks of failing to comply with the SFDR disclosures and misleading investors about the sustainability of the funds. NCAs selected, where possible, at least one fund disclosing under Article 6, one disclosing under Article 8 and one disclosing under Article 9 to allow the assessment of this variety of disclosures. Among those funds, some NCAs included funds making net zero or carbon neutrality claims.

    e) **Supervisory knowledge or experience indicating higher greenwashing risks**: NCAs used their knowledge of actual or potential greenwashing risks faced by investors in the selection of the funds' sample.

    f) **Approach**: To perform the CSA, most NCAs used a desk-based review approach, complemented by on-site visits to either the whole or part of the

[10] One NCA was slightly below the agreed threshold but ensured a high representativeness in the sample.

sample of supervised entities. In addition, some NCAs used special tools for conducting the desk-based review to allow a faster processing of the answers. Some NCAs also applied Natural Language Processing (NLPs) based methodologies to extract key information, classify the type of disclosures and assess greenwashing risks.

g) **Questionnaire**: NCAs had discretion to calibrate and complement the CSA assessment framework. While some NCAs adapted some questions for their market, most NCAs did not raise any additional questions and only followed up with managers in specific circumstances (e.g. in case of unclear or ambiguous responses, or when the written policies and provisions were considered incomplete). There were a few additional requests made related to topics such as the alignment between underlying product investments and disclosures, and processes to monitor delegated portfolio managers.

h) **Quantitative data**: Most NCAs did not request any quantitative data or additional fund-level data. A few NCAs requested additional data via on-site inspections, in particular on underlying investments of funds disclosing under Article 9 SFDR, including the criteria used to determine if companies do not meet the Do Not Significantly Harm (DNSH) test for sustainable investments. One NCA challenged misalignments by using a proprietary ESG dashboard tool combining an assessment of the pre-contractual documents for each fund against the latest portfolio submitted for that fund.

12. ESMA acknowledges the efforts made by NCAs in the processing of detailed qualitative information provided by managers, requiring significant resources. ESMA also praises NCAs for selecting a diversified sample of entities in the scope of the exercise, taking into account the criteria identified in the CSA assessment framework.

3. Compliance with the legislative framework

13. The CSA assessment framework covered several provisions related to the implementation and review of policies and procedures related to the integration of sustainability risks and procedures[11], and the disclosure framework under the SFDR.

14. Those provisions require, among other things, that managers should have in place policies and procedures ensuring that sustainability risks are duly considered as part of their risk management assessment, that there are relevant resources, with necessary skills, knowledge and expertise retained for the effective integration of

[11] Requirements introduced by the Commission Delegated Regulation (EU) 2021/1255 and Commission Delegated Directive (EU) 2021/1270 on the integration of sustainability risks.

sustainably risks. Remuneration policies also need to be updated so that they are consistent with the integration of sustainability risks.

15. The assessment framework also covered provisions related to the appropriate disclosures on the consideration of sustainability factors, details on the disclosure of engagement policies, as well as product level disclosures, focusing on pre-contractual, website and periodic disclosures.

16. The CSA exercise was useful in detecting several vulnerabilities, which were addressed promptly based on engagement between supervised entities and NCAs. Some of these vulnerabilities are also illustrated in the examples included in this report.

17. NCAs reported an overall satisfactory level of compliance with the provisions related to the integration of sustainability risks under the UCITS Directive and AIFMD frameworks. Most managers in scope of the exercise complied with the relevant regulatory provisions. However, in particular with respect to the SFDR framework, there was significant room for improvement based on the findings reported by NCAs.

18. The list below provides an overview of the main issues and vulnerabilities detected by NCAs when performing the CSA analysis.

    a) **Disclosures**: vague and overly general language, missing or inadequate details and difficult to locate. Several inconsistencies were also observed between pre-contractual, periodic and website disclosures and marketing material, with discrepancies between the sustainability information disclosed and in the more granular sections of the website concerning methodologies and data sources and processing. Key findings identified by NCAs were that the environmental or social characteristics in the pre-contractual information were not clearly disclosed, making it unclear how the characteristics were measured and fulfilled. Furthermore, the identification of promoted features/objectives was often too generic (e.g., 'the product promotes environmental features', 'the product pursues social objectives').

    b) **PAI statements at entity level**: inadequate level of details and unsatisfactory explanation of non-consideration, and inconsistencies in the calculations;

    c) **Integration of sustainability risks**: lack of properly documented policies and lack of escalation procedures in case of breach of the policies;

    d) **Resources**: cases of low number of dedicated employees for sustainability tasks, or unsatisfactory knowledge of sustainability matters from the relevant employees;

    e) **Remuneration policies**: lack of specific criteria and indicators to measure how remuneration policies are consistent with the integration of sustainability risk;

    f) **Controls and processes in place**: lack of processes to ensure that the description of the funds' ESG strategies is substantiated by the ESG

metrics/data used or consistent with environmental and/or social characteristics and good governance principles;

g) **ESG data**: lack of verification or review process of data from third parties, data sometimes incomplete or inaccurate, information obtained by an ESG-provider without further checks;

h) **Auditing system**: lack of audit of the implementation of the internal policies.

19. In the paragraphs below, ESMA has outlined the main findings of the CSA, with recommendations to NCAs and market participants with respect to the supervision and application of the relevant rules.

20. Based on the feedback received, and as shown in Table 1 below, the proportion of the funds in the CSA sample where NCAs found evidence of incorrect or misleading disclosures is "zero, or close to zero" for 13 NCAs, and "more than 20%" for ten NCAs. As shown in Table 2, when asked under which category the funds evidencing incorrect or misleading disclosures relate to, half of the NCAs identified funds disclosing under Article 8 of the SFDR. Finally, Table 3 shows that most NCAs (15) reported that they have addressed all of the cases.

Table 1

Number of NCAs reporting the proportion of the funds in the CSA sample where evidence of incorrect or misleading disclosures was found

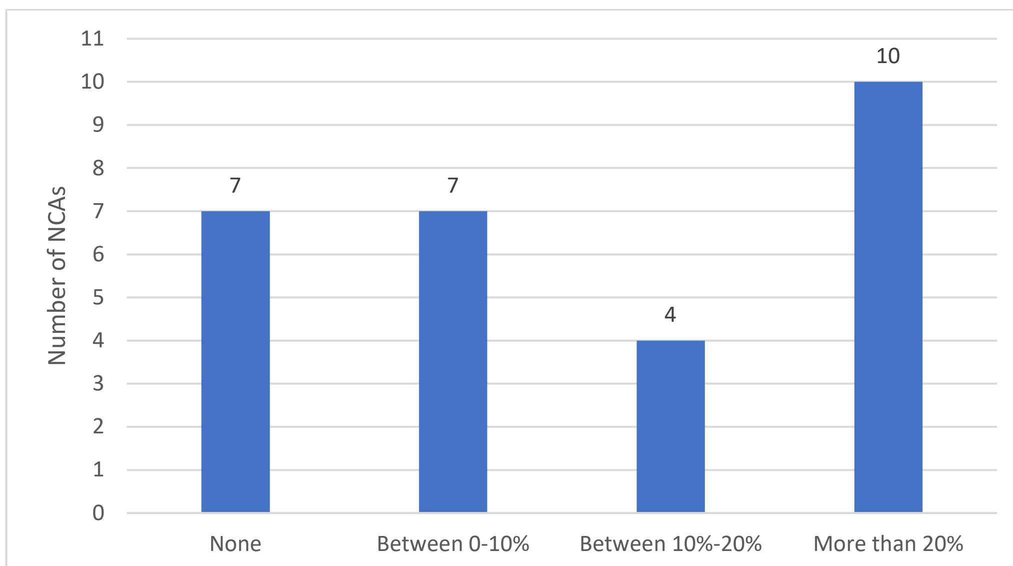


Table 2

Number of NCAs reporting the category of SFDR disclosures where evidence of incorrect or misleading disclosures was found

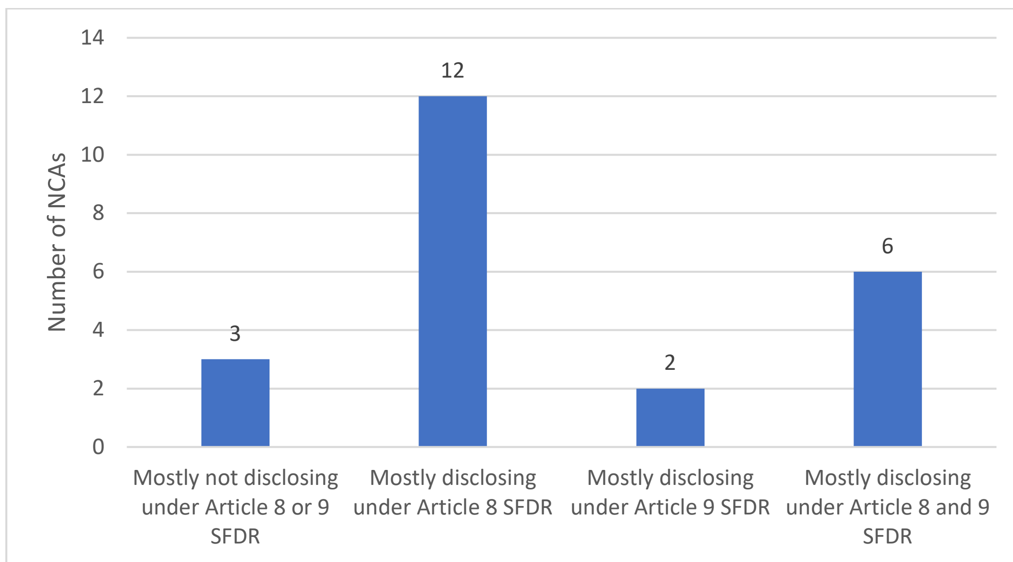
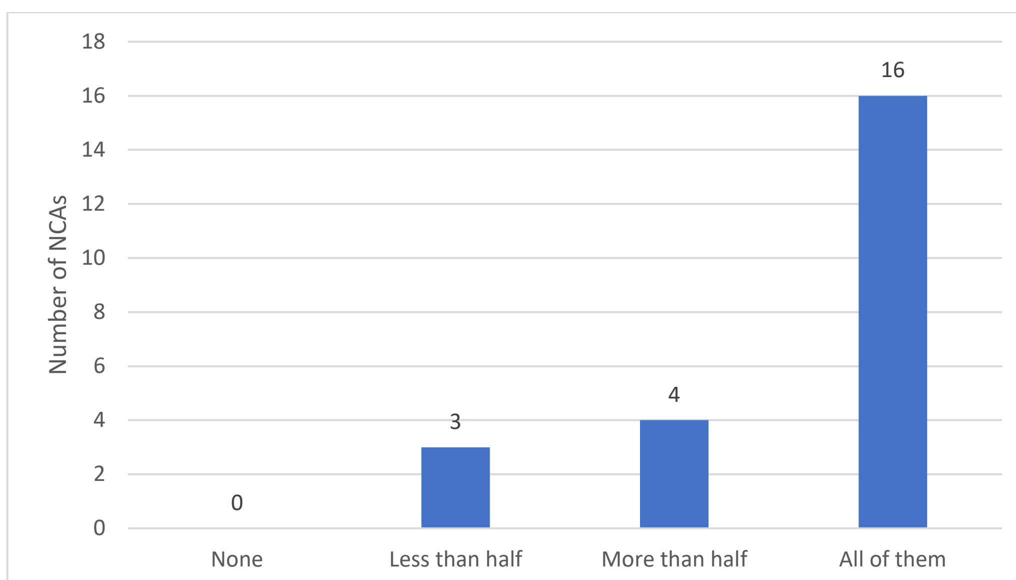


Table 3

Number of NCAs reporting the proportion of incorrect or misleading disclosure cases that have already been addressed



4. Integration of sustainability risks and factors

21. The first part of the CSA covered questions related to the integration of sustainability risks in operating conditions, administrative procedures, control mechanisms, organisational requirements, conflict of interest and risk management.

22. Based on the regulatory framework on the integration of sustainability risks under the UCITS Directive and AIFMD, managers should have in place policies and procedures on due diligence to take into account sustainability risks. An important part of the assessment related to the retention of the necessary resources and expertise for the effective integration of sustainability risks into the managers governance structure and the senior management responsibilities in this respect. NCAs were also asked about the assessment of their supervised entities in terms of the appropriate mechanisms in place to identify and address conflict of interest arising from greenwashing.

23. Most NCAs confirmed that sustainability risks are integrated in the managers' decision-making procedures and organisational requirements and that there is a structure in place which involves the management board, senior management, the risk and control committees to ensure all the steps are undertaken to discuss sustainability matters and the integration of sustainability risks. This result is also confirmed by the outcome of the CSA survey (see Tables 4 and 5). A few breaches were identified as managers lacked documented procedures in place ensuring alignment of the relevant sustainability risks in the investment decision with the funds' investment strategies.

24. Other vulnerabilities found in this area relate to the lack of due diligence on how sustainability risks are integrated in the investment management process, the lack of description of the sustainability indicators and the corresponding limits in the fund risk profile, the frequency of reporting to senior management or board of directors that could be enhanced, and poor description of escalation process in policies and procedures. Finally, additional vulnerabilities relate to the types of funds covered: some managers erroneously do not consider funds disclosing under Article 6 of the SFDR in their risk management processes, and there is room for improvement on how the sustainability risks are taken into account for the different type of assets covered such as cash, fixed-term deposits, structured products and derivative instruments.

Table 4

Number of NCAs reporting the proportion of managers in the CSA sample that did not provide / provided outdated copies of written policies and procedure on the integration of sustainability risks and disclosures

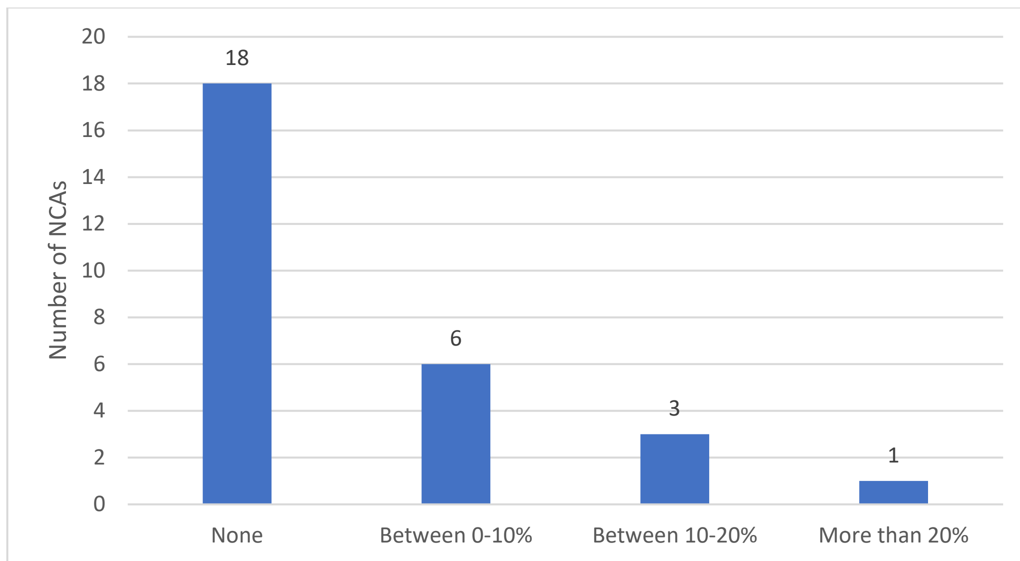
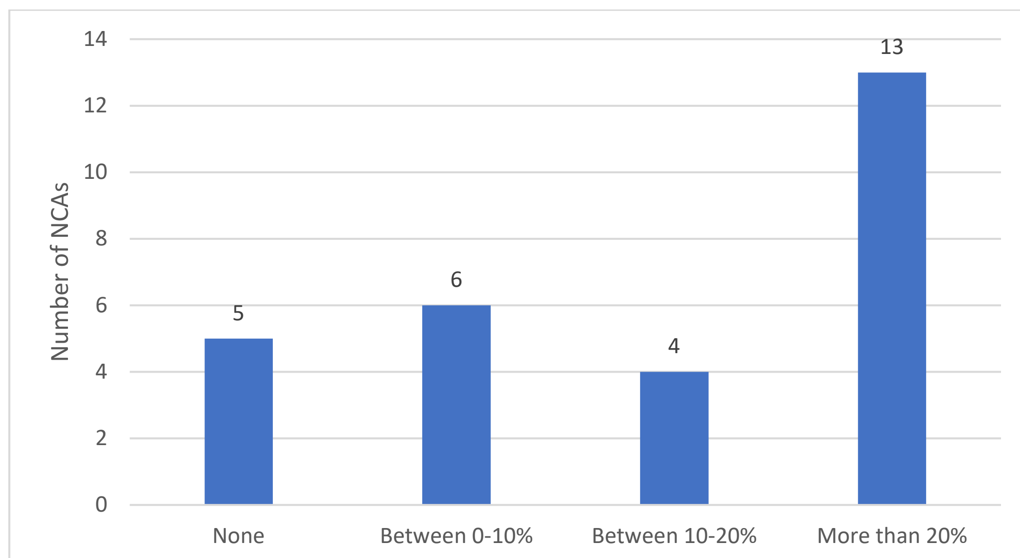


Table 5

Number of NCAs reporting the proportion of managers in the CSA sample that provided written policies and procedure with shortcomings in terms of coverage and /or content



Considerations regarding integration of greenwashing risks

25. Managers were also invited to indicate whether they have accounted for greenwashing risks[12] in their organisation and the mitigants applied to address greenwashing risks. NCAs found that managers had a definition for greenwashing and that greenwashing risks are generally accounted for at the level of the whole organisation. One vulnerability spotted by some NCAs was the confusion made between sustainability risks and greenwashing risks, treated as the same type of risk[13]. Examples of mitigants against greenwashing risks provided by supervised entities include governance (establishment of ESG committees composed of executive officers, multi-level sustainability risk integration at organisation), resources (internal review units and legal experts to advise on ESG matters), the management process (the initial due diligence activities during fund set-up, ongoing monitoring), documentation (marketing materials review), and procedures/policies (policies and product governance levels).

26. In addition, NCAs have reported that, at the time the first set of responses on greenwashing were provided (in January 2024), some managers were in breach of their obligations but were in the process of updating their conflicts of interest policies to incorporate greenwashing risks as part of sustainability risks. NCAs emphasised the importance of clear definitions of greenwashing risk within managers' policies, along with robust procedures for identifying and managing conflicts related to greenwashing.

Integration of sustainability risks in decision-making procedures and organisational requirements

27. There are different approaches in the integration of sustainability risks, depending on the size and structure of the manager. Generally, managers provide quarterly and ad hoc data on sustainability risk to their boards. Sustainability risks are considered through various instruments in the investment process, such as ESG data to calculate and define internal scores, minimum ratings and ESG/ KPIs. In some cases, managers have a process in place with a platform or dashboard for the analysis and monitoring of sustainability issues related to investments in customer portfolios, or they use scoring systems, where an alert is sent to the portfolio manager when certain scoring thresholds are breached, or annual engagement with investees to manage these risks. Examples provided by managers of their sustainability risk analysis showed that this was often qualitative, based on sectoral exclusion policies, controversy analysis and ESG ratings/scores (e.g. no investments to be made in companies with a 'high' ESG risk, benchmarked against the rating of the data provider). It is worth noting that in some cases, managers who claimed to be assessing sustainability risk impact did not

[12] Greenwashing risk is considered as the risk of misleading sustainability claims occurring and misleading investors in their decisions (see Progress Report on greenwashing, paragraph 27).

[13] Sustainability risk is defined under Article 2 (22) of the SFDR as an environmental, social or governance event or condition that, if it occurs, could cause an actual or a potential material negative impact on the value of the investment. In the context of financial markets, greenwashing risk (as defined in the Progress Report on greenwashing, see footnote 12 above) refers to the risk of misleading sustainability claims occurring and misleading investors in their decisions.

provide a robust methodology to quantify that impact, or in some cases the manager used information about the issuers' ESG profile without an analysis of the specific characteristics promoted or the sustainable objectives pursued by the fund.

28. Generally, NCAs found that managers continually monitor sustainability risks. By way of a specific example, some NCAs have observed larger managers monitor the portfolio to ensure that the methodology on ESG integration is applied appropriately, whereas smaller managers often rely on the application of the methodology by third parties, such as index providers. Another observation by NCAs is that managers of actively managed funds set specific sustainability risks thresholds and integrated them into the fund during the initial fund selection and due diligence process.

29. Based on the feedback from supervised entities, NCAs have broadly structured their responses to the questions related to the integration of sustainability risks in decision-making procedures and organisational requirements according to the following elements:

    a) **Internal organisation**: there is a clear identification of the role for staff and departments, with the supervised entities in the sample providing supporting documents to prove the integration of sustainability risks in the overall organisation of the entities, including roles and responsibilities of the different committees. However, in some cases, inconsistencies were spotted in the level of granularity of the information in policies, procedures and arrangements in place to ensure that investment decisions are carried out in compliance with the objectives, investment strategies and risk limits of the UCITS or AIFs.

    b) **Regular updates**: the results show that most managers regularly update, at least on an annual, half yearly and in some cases even quarterly basis their risk management procedures to assess the impact of sustainability risks in the funds they manage.

    c) **Internal control system**: this has been identified as an area of focus for the ongoing supervision. In most cases, the risk management and compliance function, and the internal audit function, duly incorporate sustainability factors and risks in their regular assessment. However, there were a few cases where supervised entities did not integrate sustainability risks in the third level of control. ESMA encourages NCAs to follow up on this area. The 2025 CSA on compliance and internal audit functions of managers will provide NCAs with an opportunity to investigate this area further[14].

    d) **IT system**: For some NCAs, information on the integration of sustainability risks is part of the managers' IT systems. A few reported having developed customised in-house systems for the integration of sustainability risks and impacts and adapted IT procedures accordingly.

[14] ESMA launches a Common Supervisory Action with NCAs on Compliance and Internal Audit Functions

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e) **Publication on websites**: NCAs reported that all managers confirmed that the information about policies related to the integration of sustainability risks is published on the website.

Adequacy of the level of resources and related expertise for the effective integration in the governance of the organisation

30. NCAs were overall satisfied with respect to the experience and knowledge of the staff in charge of the integration of sustainability risks.

31. The number and percentage of total Full Time Equivalent (FTEs) employees responsible for the effective integration of sustainability risks varied across managers. Based on the feedback from the sample of managers assessed by NCAs, the number of FTEs working on the integration of sustainability risk ranged between 0.5 to 16. However, the figures reported were difficult to calculate and then compare across supervised entities in different jurisdictions, as for most employees, the integration of sustainability risk is only one part of their responsibilities. The integration of sustainability risks into the managers' activities is primarily carried out by employees from the investment management and risk management Departments/Units. Employees from other teams, such as Compliance, Sales and Marketing, Operations & Finance, and Corporate and Legal Affairs Units also focus on ESG-related matters. Senior management, including the Management Board and the Chief Sustainability Officer, typically oversees the sustainable investment strategy and its implementation.

32. Smaller managers tend to allocate a greater proportion of their workforce to ESG matters. For example, in one jurisdiction, small firms allocate around 10% of their FTEs to ESG matters, while larger firms allocate around 1.5%. In a few cases, NCAs identified that the number of people dedicated to the effective integration of sustainability risks was not adequate. With respect to senior management, experience was considered inadequate only in a few instances.

33. There are also mechanisms in place to ensure that an adequate level of training is provided to support staff in understanding and implementing the sustainability commitments of the managers.

Examples 1 – 3 on the integration of sustainability risks and factors

34. The list below includes examples of good (in green) and below average practices (in light red) based on NCAs' observations during the CSA exercise.

Example 1

Good practice: Policies and procedures on the integration of sustainability risks

✓ A fund sets out screening criteria and exclusion lists and performs a review (at least) on an annual basis. Once the portfolio becomes too exposed to unabated fossil fuels, the manager detects the risk and follows up by diversifying the portfolio into other (non-vulnerable) sectors.

Example 2

Good practice: Integration of sustainability risks in risk management procedures

✓ The risk management integrates ESG scores into the existing risk management metrics when calculating the risk profile of the funds and portfolios under management.
✓ The manager rates each issuer based on their quartile ranking within their respective sector, determining four levels of ESG Risk.
✓ When a portfolio has high ESG Risk for two consecutive quarters, the manager considers what actions to take to improve the ESG profile of the funds over the longer-term.

Example 3

Below-average practice: Senior management's skills and expertise

✘ The experience of the senior management in relation to ESG and the integration of sustainability risks into their governance is one year and acquired through trainings and seminars.
✘ Senior management has an inadequate level of resources and expertise for the effective integration of sustainability risks and senior managers do not have a proven track record linked to sustainability, complemented by adequate training.

ESMA Views

I – ESMA would like to highlight the continuing importance of all managers to have in place – and enact - policies and procedures to take into account sustainability risks and on the integration of sustainability risks in risk management procedures.

II - ESMA considers that the necessary workforce with adequate skills, knowledge and expertise for the effective integration of sustainability risks should be acquired and

retained by managers, including evidence that training to enhance sustainability related skills were delivered, and at a regular frequency.

III - ESMA also encourages NCAs to follow up with supervised entities to ensure they take the necessary steps to take into account and mitigate greenwashing risks.

5. Entity-level SFDR disclosures

35. The second part of the CSA covered compliance with entity-level disclosures under SFDR, including the compliance with the transparency of remuneration policies in relation to the integration of sustainability risks, and compliance with the transparency of consideration of principal adverse impacts (PAI) of the entities' investment decisions on sustainability factors.

36. The results of the CSA confirm the findings under the 2024 Joint ESAs Report on PAI disclosures under Article 18 of the SFDR[15], meaning that there is still margin for improvement in the overall quality of the PAI statements.

37. An important part of the CSA was also to assess the controls that supervised entities have in place to ensure that the description of their funds' ESG strategies are substantiated by ESG metrics and data used. In this respect, most NCAs observed that supervised entities employ various methods to ensure consistency between the description of their funds' ESG strategies and the ESG metrics and data used. Such methods include pre-defined verifications, due diligence on data sources, ongoing monitoring, cooperation between internal teams, periodic checks on externally provided ESG data, and continuous review of ESG-related information in fund documents.

38. Most NCAs confirmed that their supervised entities periodically review all the information published on the website on an ongoing basis. Some entities have internal guidelines requiring regular reviews and timely disclosure of sustainability related information on the website or dedicated procedures to keep on the website a table listing all its previous versions and the related date of publication and update.

Consistency of remuneration policies with the integration of sustainability risks

39. SFDR requires that financial market participants and financial advisers include in their remuneration policies information on how those policies are consistent with the integration of sustainability risks and they should publish that information on their websites. Supervised entities were asked to demonstrate that their remuneration

[15] See the Joint ESAs Report on Principal Adverse Impact disclosures under the Sustainable Finance Disclosure Regulation: JC 2024 68 Report on the Principal Adverse Impact disclosures under the Sustainable Finance Disclosure Regulation

policies include information on the consistency with the integration of sustainability risks.

40. Most NCAs replied that the managers in their sample have information on the integration of sustainability risks in their remuneration policies. A few cases were identified where they do not incorporate sustainability risks at all into remuneration policies. In some other cases, information and details about how the remuneration policies are consistent with the integration of sustainability risks were missing, vague or principles-based and did not link performance incentives with specific ESG metrics. Cases were identified where, for example, the remuneration policy was only published on the website of the parent company, and on the website of the distributor of the same group, without providing any link of the manager itself. This is in breach of the transparency of remuneration policies[16], as financial market participants should include on their websites (and not on the group website) information on their remuneration policies in relation to the integration of sustainability risks.

41. Specific methodologies used to consider sustainability risks in the remuneration process include: criteria related to sustainability risks which are integrated in the employees' objectives or performance indicators; the role played by sustainability risks as triggers for clawback provisions, the process for the determination of the level of remuneration, including the use of key sustainable risk indicators, and in case of portfolio management delegation, the consideration of sustainability risks in the remuneration practices of the delegate in the due diligence process.

Consideration of PAIs

42. The entity-level section of the CSA covered the compliance with the provisions regarding the consideration of principal adverse impacts (PAI) of the entities' investment decisions on sustainability factors. Supervised entities considering the PAIs of their investment decisions were asked to demonstrate that they have properly completed, updated and published on their website the information required in the template provided in Annex I, of the SFDR Delegated Regulation.

43. Most NCAs stated that there was, overall, a good level of compliance with Annex I of the SFDR Delegated Regulation. Some vulnerabilities were identified and addressed by NCAs in the course of the CSA, such as:

    a) managers not providing detailed information regarding the indicators used to consider PAIs on sustainability factors;

    b) lack of detailed information related to the methodology and data used to measure the adherence to responsible business conduct codes and international recognised standards or alignment with the objectives of the Paris Agreement;

[16] Article 5 of the SFDR.

c) changes to the template provided in Annex I of the SFDR Delegated Regulation (e.g. sections concerning real estate and government bonds deleted); and

d) managers not reporting detailed information related to the forward-looking climate scenario or providing unclear description of the "engagement policies" and their adaptation where there is no reduction of the PAI over more than one period; in one case, a manager mentioned on the website that the PAI statement only relates to its funds disclosing under Article 8 or Article 9 of the SFDR, instead of covering all the manager's investments[17].

44. Information provided by entities was reported to be overall easy and straightforward to find on their websites, except for some cases where accessibility of the disclosures could be improved as they are placed in sections of the entity website that are not so intuitive[18].

45. The PAI summary sections also call for further enhancement. According to the SFDR Delegated Regulation, the summary section should be completed with information such as the name of the entity and the reference period. The summary should be available in the official languages of the home member state and should be two sides of A4-sides paper[19]. NCAs reported that the information is not always easy and straightforward to find due to the proliferation of links or because the location of the information depends on the investor's profile. This is a contrast to the entity PAI disclosure itself, which NCAs observed was easier to locate. Managers are encouraged to make translated summaries easier to locate.

46. The explanations on non-consideration of PAIs are also not fully satisfactory. The SFDR requires an explanation of the reasons for not considering PAIs at the entity level. NCAs found that explanations range from the overly extensive reporting requirements, which pose a heavy burden for small companies, to the lack of availability of market information, lack of reasonably priced and readily available data, limited resources for smaller entities. In one case a manager explicitly justified the non-consideration of PAIs by saying that its investments were too limited to justify considering PAIs.[20]

47. Unsurprisingly, depending on the PAI indicator, the extent to which the figures published are covered by data can vary significantly. For example, coverage data rates for GHG emission indicators are usually high (around 80%) when the ones for other topics such as emissions to water are globally lower (usually below 20%). In some

[17] Joint SFDR Q&A IV.24 states that Financial Market Participants have to consider all investment decisions for the disclosures under Article 4(1)(a), 4(3) or 4(4) SFDR.
[18] Although not legally binding, reference can be made to JC 2023 55 - Final Report on draft Regulatory Technical Standards on the review of PAI and financial product disclosures in the SFDR Delegated Regulation, for guidance on how to improve disclosures related to carbon reduction efforts.
[19] Article 5 of the SFDR Delegated Regulation.
[20] For further guidance on good and bad practices regarding the explanation of non-compliance under Article 4(1)(b) of the SFDR please refer to the Joint ESAs Report on Principal Adverse Impact disclosures under the Sustainable Finance Disclosure Regulation published on 30 October 2024, under Section 3 of the Report (Key findings: good and bad practices and lessons learned).

cases, PAI statements lacked some information, such as publication date or information about all the mandatory indicators.

48. One NCA has also observed that practices can also vary between managers in the calculation of the denominator of some PAI indicators. Notably, some exclude derivatives.[21]

Examples 4 – 7 on entity-level PAI disclosures

49. As in the section above, ESMA would like to share a few examples provided by NCAs of good (in green), below average practices (in light red) and a case of non-compliance (in red) based on NCAs' observations during the CSA exercise.

Example 4

Below average practice: Failure to disclose reduction of carbon emissions aligned with Paris agreement

✘ One manager considers principal adverse impact of investment decisions on sustainability factors without referencing the degree of their alignment with the objectives of the Paris Agreement, despite using a specific risk assessment tool for the assessment of the decarbonisation pathways on both asset and portfolio level. In this case, the manager should be able to provide specific reference to the alignment with the objectives of the Paris Agreement under Article 4(2)(d) of the SFDR.

Example 5

Below average practice: Poor disclosure of remuneration policies

✘ Some managers did not describe in their remuneration policies the information that must be considered when calculating the variable remuneration. Under Article 5(1) of the SFDR, financial market participants and financial advisers must include in their remuneration policies information on how those policies are consistent with the integration of sustainability risks, and must publish that information on their websites.

[21] The ESAs have provided guidance on the calculation of 'all investments' under Joint SFDR Q&A III.2.

Example 6

Non-compliance: PAI statement

✗✗ One manager mentions on its website that its PAI statement only relates to funds disclosing under Article 8 or 9 of SFDR. As confirmed in joint SFDR Q&As IV.24 and IV.25, financial market participants should consider all investment decisions for the disclosures under Article 4(1)(a), 4(3) or 4(4) SFDR.

Example 7

Good practice: Engagement policies

✓ One manager includes in the PAI statement a description of how its engagement policies will be adapted where there is no reduction of the PAIs over more than one period reported. This is an example of an ambitious engagement policy disclosed under Article 8(2)(b) of the SFDR Delegated Regulation.

ESMA Views

IV-ESMA recommends NCAs to check that information and details about how the remuneration policies are consistent with the integration of sustainability risks are clearly stated in the related policies. ESMA believes there are still areas for improvement, particularly in refining the specificity of sustainability metrics such as ESG risk scores, or any other criteria the financial market participant may decide to include.

V - NCAs are invited to continue verifying that the PAI statements are compliant with Table I, Annex I of the SFDR Delegated Regulation, including where shortcomings have been found such as disclosure about the adherence to international standards, clear definition of the actions taken and planned, with targets set for the next reference period. As a general principle, supervised entities have a responsibility to ensure sustainability disclosures are fair, clear and not misleading.

VI - Finally, ESMA encourages NCAs to develop tools to be able to perform controls on entity-level disclosures, for instance by checking the consistency of disclosures with the investments made.

ESMA
European Securities and Markets Authority

6. Product-level SFDR disclosures

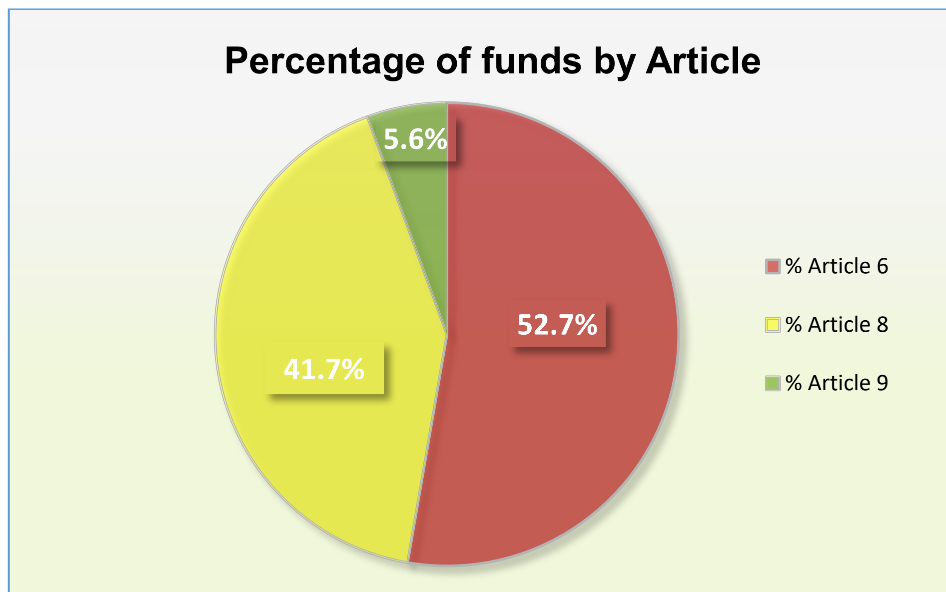
50. In the third and last section of the CSA questionnaire, NCAs were asked to assess compliance with fund-specific disclosures under Article 6, 8 and 9 of the SFDR, based on their sample selection.

51. The relevant provisions related to pre-contractual, website and periodic disclosures, with detailed questions on the consistency between funds' names and underlying investments, PAI disclosures, and sustainable investments' contribution and DNSH tests (including the PAI indicators taken into account for DNSH purposes).

52. The below provides an overview of the percentage of type of funds based on their SFDR disclosure selected by NCAs for the analysis of the specific product-level questions. Most jurisdictions have selected a heterogeneous sample. While most of the funds analysed are UCITS, a few jurisdictions also included AIFs. Only a few NCAs included in the sample funds that make net zero or carbon neutrality claims.

Table 6

Breakdown of total number of funds selected for the CSA according to the type of SFDR disclosure



General observations

Product level PAI disclosures

53. The information provided about PAIs at product level varies greatly across managers. Some provide very detailed and comprehensive information including quantitative data, a comparison with the previous years, and explanations about the specific actions carried out on certain securities in the portfolio. Others provide generic information without adjusting data to the characteristics of the corresponding fund (e.g. 'the manager has identified PAIs for the fund and has managed them through different tools, exclusions, involvement policy', 'we have considered the main indicators', etc).

54. There were also cases in which the disclosure did not mention the characteristics/objectives promoted or identified too many characteristics and objectives, or a summary indicator of portfolio performance was identified for all characteristics and objectives pursued.

55. NCAs showcased a variety of approaches for those supervised entities using engagement to achieve sustainability objectives at product level. In other cases, supervised entities mentioned engagement in the fund legal documents. Such references were usually a broad and vague presentation of the entity's engagement strategy and policy and was not necessarily adapted to the funds' investment strategies. Disclosure on engagement would be made through stewardship reports, annual reports or website disclosures.

56. Also, for the minority of NCAs who investigated funds making net-zero or carbon neutrality claims, they found that such disclosures varied significantly. NCAs stated that limited information is typically provided on asset coverage, methodology, actions planned, potential obstacles, reference points. In some cases there was no disclosure of methodology and potential obstacles.

Website disclosures

57. Accessibility of the website disclosures can be improved also at product level and benefit from simpler language to help investor comprehension. Most NCAs confirmed that the two-page summary of the website disclosures[22] covered all the relevant sections of the rest of the website disclosures for almost all managers in their sample. However, there were cases of non-compliance, where the 'summary section' was missing, incomplete, longer than two pages or difficult to find.

58. NCAs were asked to look at website disclosures for funds disclosing under Article 6 of the SFDR. The analysis indicates that there were a few funds disclosing under Article 6 SFDR showing images on websites suggestive of the environment, such as pictures of windmills, images of recycling, circular economy, nature and wildlife. The relevant

[22] Article 25 and 38 of the SFDR Delegated Regulation require a two-page summary of all the website disclosures.

NCAs have engaged in supervisory discussions to understand the reasons for such images, and the images were subsequently removed. While this was a concerning example of greenwashing, it was a positive outcome of this CSA that NCAs followed up with the relevant funds to ensure the appropriate changes, both in terms of funds' names and use of suggestive non-textual imagery and sounds that can be linked to the environment or society for funds disclosing under Article 6 of the SFDR.

Names of funds

59. With respect to the question about whether the names of the funds in scope reflect the ESG or sustainability-related characteristics or objectives, NCAs confirmed that, generally, the names of funds reflected their ESG or sustainability-related characteristics or objectives. Furthermore, most funds disclosing under Article 6 of the SFDR made no reference to ESG and sustainability in their names.

60. Some NCAs noted that they verify the prospectus and the Annexes *ex-ante*, which ensures that pre-contractual information adequately complies with the transparency requirements of the SFDR, its implementing rules and the provisions in ESMA's Supervisory Briefing related to funds names[23].

61. A few NCAs identified shortcomings both in terms of (1) funds disclosing under Article 6 of the SFDR having ESG or sustainability related terms in their names, and (2) funds whose names focused on "transition" or "impact" not having an aligned investment strategy and corresponding binding criteria applied in promoting the environmental characteristics of the fund.

Criteria and definition of sustainable investment under Article 2(17) SFDR

62. NCAs reported that managers developed their own criteria for sustainable investments under Article 2(17) SFDR (covering exclusions, maximum thresholds, good governance, adherence to good standing principles, external service provider ratings), leading to a variety of different strategies applied, which is not surprising given the discretion allowed under SFDR.

63. Managers refer to the PAI indicators to assess compliance with the DNSH principle as required by the current provisions[24]. They reportedly often rely on scoring models or sustainable investment frameworks (such as exclusion policies or controversy analysis) to determine whether investments are sustainable, using PAI indicators. Some models used all 14 mandatory PAIs by applying specific criteria or thresholds to establish DNSH. However, the level of detail provided varies, and the thresholds used are generally not disclosed. In other cases, NCAs reported managers using definitions of

[23] See footnote 5. The CSA supervisory framework did not cover the compliance with the Guidelines on ESG-and sustainability-related terms in funds' names given the guidelines did not start applying until after the launch of the CSA exercise.
[24] The use of PAI indicators is mandatory to demonstrate that an investment qualifies as a sustainable investment. The PAI indicators to be used are the ones in Table 1 of Annex 1 and any relevant indicators in Tables 2 and 3 of Annex I, cf. "Clarifications on the ESAs' draft RTS under SFDR", ESAs (2.6.2022).

the underlying index providers. Some managers carry out the assurance of good governance practices through the assessment of internal policies (adoption of principles and binding policies such as codes of ethics, whistle-blower policies or supplier codes of conduct). A few managers also use external ESG ratings with a set minimum ESG score to determine compliance with DNSH and good governance or screening criteria exclusively designed on the basis of the sustainability goal of overall portfolio rather than setting criteria related to single issuers.

64. The range of answers, practices and interpretations provided by the sample demonstrates the high level of variety in the evaluation of sustainable investment that can partly be explained by a lack of clarity and detail and the resulting degree of discretion in existing regulatory requirements. ESMA notes that the growing body of Q&As provided by the ESAs[25] aims to provide further guidance where the provisions of the SFDR Delegated Regulation are unclear.

65. The disclosures by funds disclosing under Article 9 SFDR regarding the criteria used to comply with Article 2(17) SFDR are found to be clearer than those of corresponding Article 8 SFDR products. It is important to note that disclosure about sustainable investment applies equally regardless of whether the fund disclosed under Article 8 or 9 of the SFDR.

66. A shortcoming observed was that for some Article 8 SFDR funds there were no processes in place to ensure that good governance practices were followed in the companies invested in. Managers did not have criteria for how long a company could remain in the portfolio if it showed an improvement, while still being in violation of good governance principles. Additionally, they did not have criteria for determining when a breach was sufficiently severe to lead to the exclusion from the product.

67. The CSA also explored whether there were any differences between the achieved levels of sustainable investments, Taxonomy-aligned investments and the minimum commitments to those types of investments[26]. The results show that for funds disclosing under Article 8 SFDR, managers are cautious about not overstating the funds' share of sustainable investment to avoid accusations of greenwashing. One observation is that for passive funds, changes in the constituents of the reference index can result in the actual share of investments falling below the minimum commitment. Hence, it is common for index funds to commit to very low shares of both taxonomy aligned and sustainable investments to avoid any potential breaches. In addition, a significant majority of funds disclosing under Article 8 or 9 of the SFDR have adopted a 0% minimum commitment to Taxonomy-aligned investments. The rationale provided for such commitments was the lack of reliable and consistent data required to confidently report an appropriate level of minimum investment. There were cases where NCAs reported managers significantly exceeding their minimum commitments to sustainable

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[25] JC 2023 18 - Consolidated JC SFDR QAs, in particular questions V.21, V.22, V.23, V.24. ESMA notes that draft Article 17a of the draft RTS in JC 2023 55 also contains a suggestion for a calculation methodology for sustainable investments.

[26] The CSA aimed to assess whether, based on the requirements in the pre-contractual disclosure templates regarding the minimum commitment to sustainable and taxonomy aligned investments, the achieved level was different than the minimum commitment, with the potential explanations provided and potential corrective measures taken.

investments by 77% (one fund had 20% minimum and 98.5% achieved, the other had 5% minimum and 81.9% achieved): in these cases, investors are misled by what could seem a deliberately unrealistic initial commitment. One NCA reported that a manager did not meet its precontractual commitment to sustainable investments due to being in a ramp-up period, calling for clarification about whether there was sufficient explanation about the ramp-up.

68. Finally, some different calculation methods for sustainable investments were observed by NCAs for managers in their jurisdictions, especially with regard to the coverage of investments in the denominator. ESMA notes that even though not legally binding, the ESAs did suggest a way to calculate sustainable investments in draft RTS contained in JC 2023 55, Article 17a.

PAI consideration, thresholds, criteria and methods to establish contribution and DNSH

69. The SFDR definition of sustainable investments requires demonstration of contribution, do no significant harm (DNSH) and good governance, but gives discretion for financial market participants with regard to detailed methodologies, thresholds and criteria. The only part that is more significantly detailed is that the financial market participants must take into account the PAI indicators for the DNSH test.

70. The last section of the assessment framework focused on disclosures of funds' contribution to sustainable investments' and DNSH tests and an overview of the indicators from Table 2 and 3[27] that are taken into account for DNSH purposes. This section was particularly important due to the current SFDR framework not requiring disclosure of any specific thresholds or other criteria for assessing the sustainable investments' contribution and DNSH tests.[28]

Measuring contribution

71. With regard to contribution, the most common approach is to set thresholds for revenue that contribute to the UN Sustainable Development Goals (SDGs)[29], other approaches include thorough negative selections and positive screening methods. Taxonomy-aligned revenues and sustainability-linked or green bonds are also often used to contribute to an environmental or social objective. Examples provided measure contribution by the achievement of one or more of the SDGs (e.g. by the sales that the companies generate in business areas that contribute to the achievement of SGDs,

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[27] of Annex I of the SFDR Delegated Regulation

[28] In the draft RTS published by the ESAs in December 2023 (JC 2023 55) there are specific references to disclosure of thresholds or criteria for the PAI indicators that the financial product uses to determine that its sustainable investments comply with the DNSH principle.

[29] [29] Acknowledging the risk of greenwashing associated to the recourse to SDGs. See ESMA TRV Risk Analysis, *Impact investing – Do SDG funds fulfil their promises?* 1 February 2024; ESMA, *Progress report on greenwashing*, 31 May 2023; ESMA, *Final report on greenwashing*, 4 June 2024.

such as alternative energy, sustainable agriculture or water management). To determine compliance with good governance, the most common strategy is to exclude companies in breach of international norms.

72. With regard to compliance with the DNSH principle, in most cases managers use exclusion criteria, analysis of controversies and the degree of alignment with the major international treaties.

Use of PAI indicators taken into account for DNSH purposes

73. Some NCAs reported that the use of PAI indicators as part of the DNSH of sustainable investment is often done by incorporation into existing policies (exclusion, controversy, best in class). When entities do not use all PAIs indicators in Table I of the Annex I of the SFDR Delegated Regulation for DNSH purposes, the justification is because of insufficient or unreliable data for certain indicators. However, there is a legal obligation in the SFDR Delegated Regulation to take into account all mandatory PAI indicators in Table 1[30] at least, and also any relevant indicators from Tables 2 and 3 of Annex I of that Regulation, for DNSH disclosures for sustainable investments. Indicators from Table 1 of Annex I of the SFDR Delegated Regulation cannot simply be left out of the DNSH disclosures. Article 7(2) of the SFDR Delegated Regulation provides guidance for entity-level PAI disclosure about what to do where information is not readily available, which may be useful for product-level DNSH disclosure also: obtaining the data directly from investee companies, carrying out additional research, cooperating with third party data providers or external experts or making reasonable assumptions.

74. Some NCAs report a high degree of consistency between the information provided related to the “taking into account” of PAI indicators for DNSH purposes and the “consideration” of PAIs at product level (under Article 7 of the SFDR). Based on the information received by NCAs, Table 7 below provides an overview of the opt-in PAI indicators from Tables 2 and 3 of Annex I of the SFDR Delegated Regulation that are most commonly used for DNSH purposes[31]. NCAs reported that several funds considered indicators from Table 2 and Table 3 that align with their investment strategies and are relevant to assessing the sustainability of their investments. The selection of additional indicators from these tables tends to depend on data availability and quality, severity and scope of negative sustainability impacts, relevance to asset classes, overall sustainability goals, and complementarity to the indicators in Table 1, Annex I of the SFDR Delegated Regulation.

[30] of Annex I of the SFDR Delegated Regulation.

[31] Under the SFDR Delegated Regulation, Financial Market Participants (FMPs) have to show how the indicators for adverse impacts on sustainability factors have been taken into account and include any explanation of how the indicators for adverse impacts in Table 1 of the Annex I and any relevant indicators in Table 2 and 3 of Annex I, are taken into account.

Table 7

Overview of the most used indicators from Table 2 and 3 that funds in scope took into account for DNSH purposes

	Table 2
Number of funds	Indicator
4	Investments in companies without carbon emission reduction initiatives
5	Breakdown of energy consumption by type of non-renewable sources of energy
6	Water usage and recycling
8	Exposure to areas of high-water stress
15	Deforestation
	Table 3
1	Investments in companies without workplace accident prevention policies
2	Rate of accidents
4	Lack of a supplier code of conduct
9	Lack of a human rights policy
14	Number of identified cases of severe human rights issues and incidents
15	Lack of anti-corruption and anti-bribery policies

Examples 8 – 15 on product disclosure

75. Finally, ESMA would like to share a few examples provided by NCAs of good (in green), below average practices (in light red) and a case of non-compliance (in red) based on NCAs' observations during the CSA exercise.

Example 8

Good practice: Designation of sustainability characteristics or objectives

✓ Manager identifies in financial product disclosures a fund's promoted characteristics/objectives pursued on the basis of officially accepted classifications, such as sub-objectives clearly identified for the SDGs or the classification of environmental objectives under Article 9 of the Taxonomy Regulation and the classification of social objectives in the February 2022 report by the Platform on Sustainable Finance on a social taxonomy".

Example 9

Good practice: Good governance

✓ The manager performed a screening for good governance practices, with clear criteria and principles to assess whether a company should be excluded or remain in the portfolio when a controversy is identified, both at the time of the investment, and on an ongoing basis. The processes put in place for funds disclosing under Article 8 of the SFDR are sufficient to ensure that good governance practices are followed in the companies invested in.

Example 10

Below average practice: Identification of excessive numbers of characteristics and objectives

✗ A fund discloses in its pre-contractual disclosures that it promotes all the SDGs as sustainability characteristics. Subsequently in periodic disclosures the fund notes that it contributed to one or two of those SDGs. This does not serve to guide an investor about the fund's investment selection but rather can enable ex-post the justification of investments as contributing to some of those very broad characteristics.

✗ It is misleading to claim to promote a very high number of objectives when investments only contribute towards achieving very few of them.

Example 11

Below average practice: Inconsistent methodologies for sustainable investments

✗ One fund offered by a manager focuses on 13 goals related to environmental footprint, avoidance of environmental risks, social factors and the promotion of good corporate governance, while another fund offered by the same manager considers investments in the energy sector, water or recycling and with a responsible use of resources. Both funds are committed to invest at least 51% in taxonomy-aligned investments. However, the share of sustainable investments within the meaning of Article 2(17) SFDR is calculated differently for the two funds, so that they are not disclosed in a comparable manner for both funds by the same manager[32].

[32] Joint SFDR Q&A V.16 states that FMPs should not interpret Article 2(17) SFDR differently for different financial products that they offer.

Example 12

Non-compliance: DNSH and social sustainability linked bonds

✖✖ A fund disclosing under Article 9 SFDR investing in green, social and sustainability bonds finds that the issuers of those bonds fail to share enough information and so claims it is not able to perform a DNSH analysis. This means that the sustainable investment conditions of Article 2(17) SFDR are not fulfilled. Lack of information is not a reason to fail to comply with the DNSH principle and managers could consider alternatives, such as those referred to in Article 7(2) of the SFDR Delegated Regulation.

Example 13

Non-compliance: Failure to disclose ESG rating methodology

✖✖ The ESG score/rating of a fund is compared to that of a well-known benchmark, with both ESG scores/ratings calculated by the manager on the basis of information provided by a data provider. The fund failed to disclose this adequately and failed to disclose an objective procedure for the calculation, this situation may create risk of moral hazard, as the manager may be incentivised to overemphasise the fund's ESG performance in its internal ESG score/rating. For this reason, and because Article 9(4) of the SFDR requires the identification of the methodology used, it is important to give adequate transparency of the methodologies used to assess, measure and monitor the environmental or social characteristics or the impact of the sustainable investments selected for the fund.

Example 14

Non-compliance: Good governance criteria

✖✖ Managers had insufficient processes for Article 8 SFDR funds to ensure that good governance practices were followed in the companies invested in. Although there was some level of screening for these practices, there were no defined timeframes or materiality thresholds for how long engagement with a non-compliant company could continue before it would be excluded from the investment universe. Article 8 SFDR requires that, independently of whether the fund is investing in sustainable investment or not, investments are made in companies that follow good governance practices.

Example 15

Non-compliance: Inconsistency between marketing material and pre-contractual disclosures

✖✖ A manager discloses for a fund inconsistent information between the marketing material and pre-contractual documentation. The marketing material did not mention any of the fund's characteristics but used several logos and visual images including some related to the UN SDGs, without having contributions to the UN SDGs as part of their characteristics in the pre-contractual documents. Under Article 13 of SFDR, marketing communication should not contradict the SFDR disclosures.

ESMA Views

VII - ESMA stresses the importance of ensuring that website product disclosures are easily accessible, fair, clear and not misleading. In addition, ESMA underlines the importance of disclosures being accessible to all investors, easily locatable, presented in simple language instead of using jargon.

VIII - NCAs are encouraged to continue challenging the appropriateness of the funds' names and requesting an explanation when the name of the fund is not commensurate with the funds' investment objectives and policy and its strategy as described in the relevant fund documentation (the ESMA Guidelines on ESG- and sustainability-related terms in funds' names[33], which became applicable after the CSA was concluded, will assist NCAs).

IX - NCAs are encouraged to remain more vigilant about the funds sustainable investments' disclosures properly taking into account the PAI indicators for DNSH purposes. All indicators from Table 1 of Annex I of the SFDR Delegated Regulation must be taken into account for pre-contractual and periodic DNSH disclosures.

X - NCAs should encourage entities to avoid overly general references to SDGs for sustainable investments' contribution to sustainability objectives in order to ensure that disclosures are fair, clear and not misleading.

XI - Finally, similar to ESMA view VI, ESMA encourages NCAs to develop tools to be able to perform controls on product level disclosures.

[33] ESMA34-1592494965-657 Guidelines on funds names using ESG or sustainability related terms

7. Follow-up actions envisaged by NCAs

76. NCAs were asked to report on the follow-up actions that they plan on taking following the CSA exercise.

77. The majority of NCAs considered that there was an overall satisfactory level of compliance of managers with the applicable regulatory requirements, and that most of the vulnerabilities spotted by NCAs were addressed by supervised entities before the end of the CSA exercise.

78. As part of this process, many NCAs have already issued bilateral letters to entities to ensure managers' compliance and outline specific areas of improvements. Other NCAs issued supervisory orders, warning notices or risk mitigation programmes when breaches were identified, to ensure timely remediation with the shortcomings identified.

79. Most NCAs highlighted that they have followed up or are going to follow up on the CSA's main findings (in particular those related to incorrect use of names, use of suggestive non-textual imagery and incomplete or missing disclosures). In some cases, NCAs had set specific deadlines and based on the responses reported in Table 9 below, most NCAs expect the shortcomings to be addressed in the coming weeks/ months[34].

80. Only one NCA stated that they have used enforcement actions, and another stated that at the time of the submission of the response, they would envisage enforcement actions against the fund manager. The rest of the NCAs indicated that the detected regulatory breaches can be better solved through escalated supervisory measures rather than enforcement actions.

[34] As reminder, NCAs submitted their responses in December 2024.

Table 8

Number of NCAs reporting their follow-up actions planned or envisaged as a result of the CSA exercise[35]

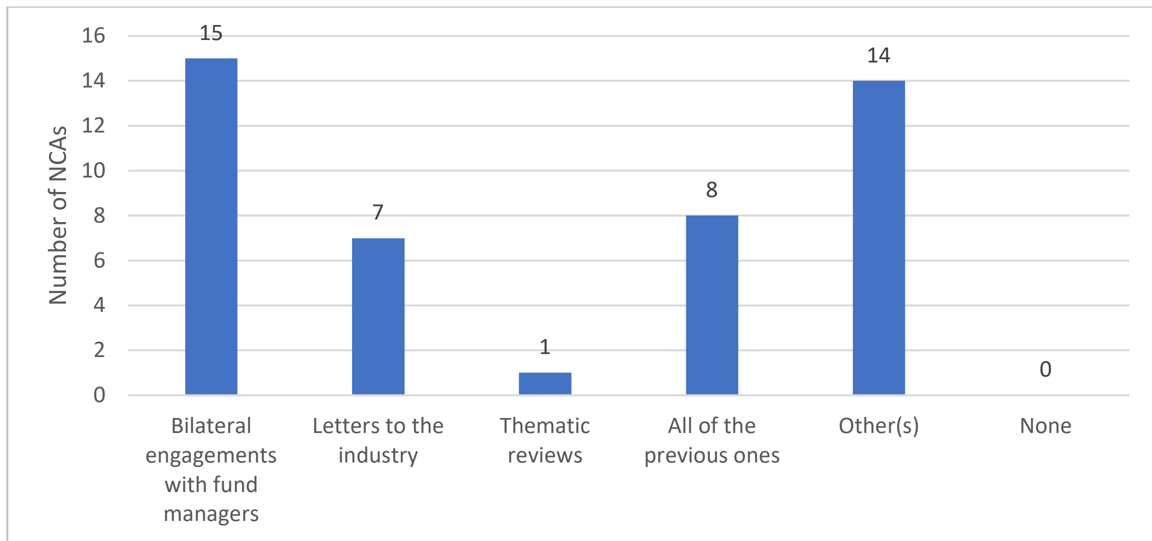
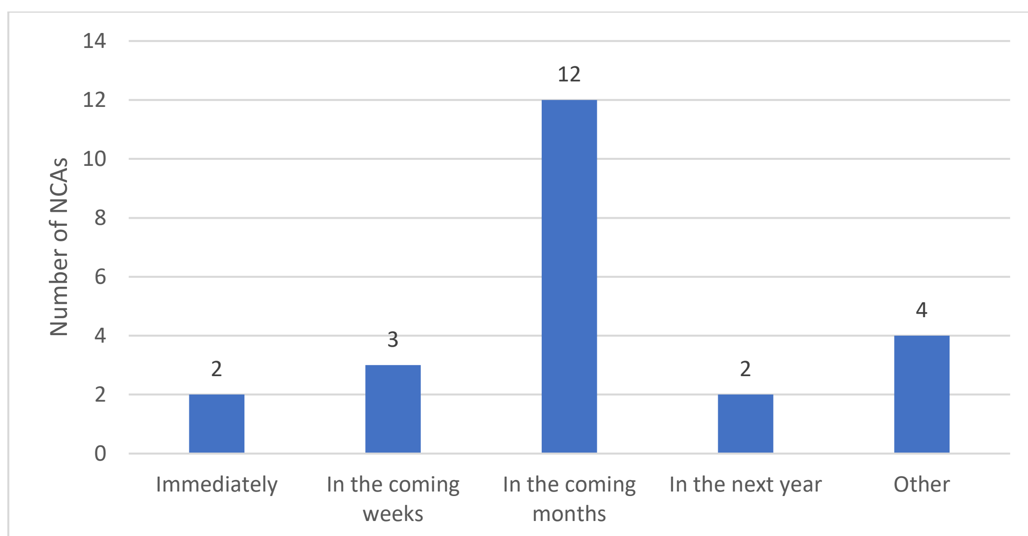


Table 9

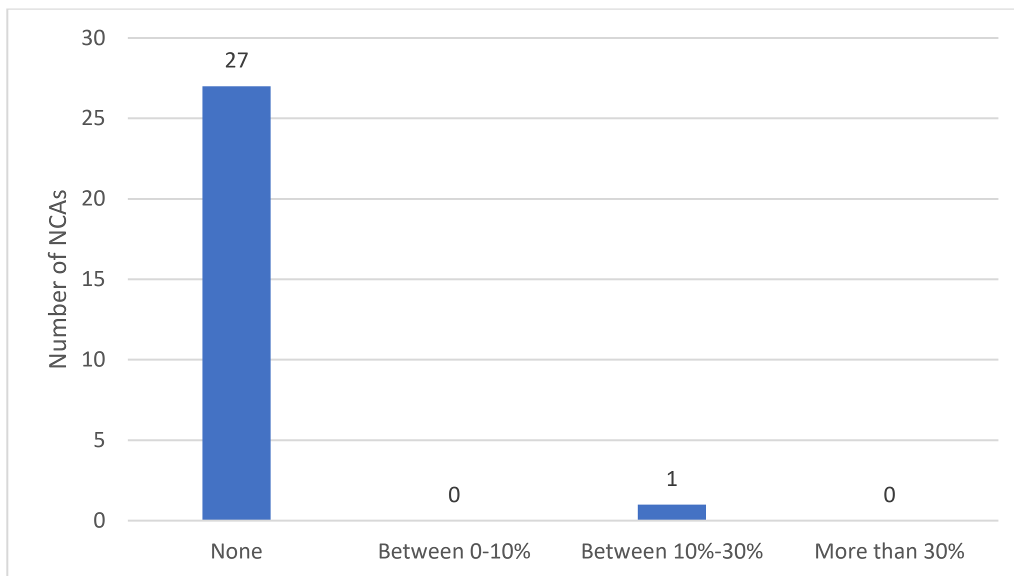
Number of NCAs reporting their expected timeframe for funds / managers will address the shortcomings identified as of December 2024



[35] With 'other actions' NCAs have mentioned on-site inspections, industry workshops or publication of reports.

Table 10

Number of NCAs reporting the proportion of managers in the CSA sample on which they envisage to start enforcement actions as of December 2024



ESMA Views

XII - ESMA acknowledges NCAs' general preference to use escalated supervisory measures instead of taking enforcement measures. While acknowledging the level of discretion provided by current rules, ESMA reiterates the importance of using the full range of the supervisory and enforcement toolkit they have been provided with by the applicable legal framework.

8. Conclusions

81. The CSA results show that while the majority of NCAs considered that there was an overall satisfactory level of compliance, there is still room for improvement in the level of managers' compliance with the framework on the integration of sustainability risks and disclosures.

82. ESMA has two important observations: (1) the CSA has helped NCAs to identify breaches that could be addressed by the supervised entities; and (2) supervised entities and NCAs are building on the experience of the implementation of the regulatory framework since March 2021 and are becoming more familiar with the

supervision of the disclosure requirements on the integration of sustainability risks and disclosures and their enforcement.

83. Going forward, ESMA encourages NCAs to continue proactive engagement with market participants and follow up with those cases where vulnerabilities were detected. ESMA also acknowledges and praises the fact that NCAs have entered into supervisory dialogue with market participants to address shortcomings identified. Also, as stated in the conclusions of the ESMA Final Report on greenwashing[36], NCAs are encouraged to embed the ESA's common high-level understanding of greenwashing as a reference point in their ongoing supervision.

84. ESMA and NCAs will continue monitoring compliance and maintain their focus on implementing the sustainable finance legal and supervisory framework, combating greenwashing, and promoting transparency in sustainable investments.

85. ESMA acknowledges the challenge reported by NCAs that certain key concepts of the SFDR regulatory framework, such as the definition of sustainable investment under Article 2 (17) of the SFDR, are left to the discretion of the market participants. A future review of SFDR which establishes product categories with clear criteria, as called for in the ESAs' joint Opinion on SFDR[37] and the ESMA Opinion on the functioning of the SF Framework[38], would mitigate this shortcoming. In the meantime, and as stated in ESMA view XII, market participants should comply with the current rules and NCAs are invited to use their enforcement powers if and when appropriate in case of regulatory breaches.

86. It is also important to highlight that the concrete changes coming out of a future review of the SFDR will not be applicable in the near future. Hence, it is important that NCAs remain vigilant on the supervision of the current framework and supervised entities continue applying the current provisions.

[36] See footnote 1.
[37] JC 2024 06 Joint ESAs Opinion on the assessment of the Sustainable Finance Disclosure Regulation (SFDR)
[38] ESMA36-1079078717-2587 Opinion on the functioning of the Sustainable Finance Framework