

## **BVI's<sup>1</sup> position on the targeted consultation document implementation of the Sustainable Finance Disclosures Regulation (SFDR)**

The [Sustainable Finance Disclosures Regulation \(SFDR\)](#) started applying in March 2021 and requires financial market participants and financial advisers to disclose how they integrate sustainability risks and principal adverse impacts in their processes at both entity and product levels. It also introduces additional product disclosures for financial products making sustainability claims. This targeted consultation aims at gathering information from a wide range of stakeholders, including financial practitioners, non-governmental organisations, national competent authorities, as well as professional and retail investors, on their experiences with the implementation of the SFDR. The Commission is interested in understanding how the SFDR has been implemented and any potential shortcomings, including in its interaction with the other parts of the European framework for sustainable finance, and in exploring possible options to improve the framework.

The main topics to be covered in this questionnaire are:

- 1. Current requirements of the SFDR**
- 2. Interaction with other sustainable finance legislation**
- 3. Potential changes to the disclosure requirements for financial market participants**
- 4. Potential establishment of a categorisation system for financial products**

Sections 1 and 2 cover the SFDR as it is today, exploring how the regulation is working in practice and the potential issues stakeholders might be facing in implementing it.

Sections 3 and 4 look to the future, assessing possible options to address any potential shortcomings. As there are crosslinks between aspects covered in the different sections, respondents are encouraged to look at the questionnaire in its entirety and adjust their replies accordingly.

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<sup>1</sup> BVI represents the interests of the German fund industry at national and international level. The association promotes sensible regulation of the fund business as well as fair competition vis-à-vis policy makers and regulators. Asset managers act as trustees in the sole interest of the investor and are subject to strict regulation. Funds match funding investors and the capital demands of companies and governments, thus fulfilling an important macro-economic function. BVI's 117 members manage assets of some EUR 4 trillion for retail investors, insurance companies, pension and retirement schemes, banks, churches and foundations. With a share of 28%, Germany represents the largest fund market in the EU. BVI's ID number in the EU Transparency Register is 96816064173-47. For more information, please visit [www.bvi.de/en](http://www.bvi.de/en).

## CONSULTATION QUESTIONS

### 1. CURRENT REQUIREMENTS OF THE SFDR

The EU’s sustainable finance policy is designed to attract private investment to support the transition to a sustainable, climate-neutral economy. The SFDR is designed to contribute to this objective by providing transparency to investors about the sustainability risks that can affect the value of and return on their investments (‘outside-in’ effect) and the adverse impacts that such investments have on the environment and society (‘inside- out’). This is known as double materiality. This section of the questionnaire seeks to assess to what extent respondents consider that the SFDR is meeting its objectives in an effective and efficient manner and to identify their views about potential issues in the implementation of the regulation.

We are seeking the views of respondents on how the SFDR works in practice. In particular, we would like to know more about potential issues stakeholders might have encountered regarding the concepts it establishes and the disclosures it requires.

**Question 1.1:** The SFDR seeks to strengthen transparency through sustainability-related disclosures in the financial services sector to support the EU’s shift to a sustainable, climate neutral economy. In your view, is this broad objective of the regulation still relevant?

1	2	3	4	5	Don’t know
		X			

*(1= not at all, 2= to a limited extent, 3= to some extent, 4= to a large extent, 5= to a very large extent)*

**Question 1.2:** Do you think the SFDR disclosure framework is effective in achieving the following specific objectives (included in its [Explanatory Memorandum](#) and mentioned in its recitals)<sup>2</sup>:

	1	2	3	4	5	Don’t know
Increasing transparency towards end investors with regard to the integration of sustainability risks <sup>3</sup>				X		
Increasing transparency towards end investors with regard to the consideration of adverse sustainability impacts				X		
Strengthening protection of end investors and making it easier for them to benefit from and compare among		X				

<sup>2</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52018PC0354>

<sup>3</sup> In this questionnaire we refer to the term ‘end investor’ (retail or professional) to designate the ultimate beneficiary of the investments in financial products (as defined under the SFDR) made by a person for their own account.



a wide range of financial products and services, including those with sustainability claims						
Channelling capital towards investments considered sustainable, including transitional investments ('investments considered sustainable' should be understood in a broad sense, not limited to the definition of sustainable investment set out in Article 2(17) of SFDR)		X				
Ensuring that ESG considerations are integrated into the investment and advisory process in a consistent manner across the different financial services sectors		X				
Ensuring that remuneration policies of financial market participants and financial advisors are consistent with the integration of sustainability risks and, where relevant, sustainable investment targets and designed to contribute to long-term sustainable growth						X

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

**Question 1.3:** Do you agree that opting for a disclosure framework at EU level was more effective and efficient in seeking to achieve the objectives mentioned in Question 1.2 than if national measures had been taken at Member State level?

1	2	3	4	5	Don't know
				X	

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

**Question 1.4:** Do you agree with the following statement?

	1	2	3	4	5	Don't know
The costs of disclosure under the SFDR framework are proportionate to the benefits it generates (informing end investors, channelling capital towards sustainable investments)	X					

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

**Question 1.5:** To what extent do you agree with the following statements?

	1	2	3	4	5	Don't know
The SFDR has raised awareness in the financial services sector of the potential negative impacts that investment decisions can have on the environment and/or people				X		
Financial market participants have changed the way they make investment decisions and design products since they have been required to disclose sustainability risks and adverse impacts at entity and product level under the SFDR.				X		
The SFDR has had indirect positive effects by increasing pressure on investee companies to act in a more sustainable manner.			X			

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

We would also like to know more about potential issues stakeholders might have encountered regarding the concepts that the SFDR establishes and the disclosures it requires.

**Question 1.6:** To what extent do you agree or disagree with the following statements?

	1	2	3	4	5	Don't know
Some disclosures required by the SFDR are not sufficiently useful to investors					X	
Some legal requirements and concepts in the SFDR, such as 'sustainable investment', are not sufficiently clear					X	
The SFDR is not used as a disclosure framework as intended, but as a labelling and marketing tool (in particular Articles 8 and 9)				X		
Data gaps make it challenging for market participants to disclose fully in line with the legal requirements under the SFDR					X	



Re-use of data for disclosures is hampered by a lack of a common machine-readable format that presents data in a way that makes it easy to extract		X				
There are other deficiencies with the SFDR rules (please specify in text box following question 1.7)				X		

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

**Question 1.7:** To what extent do you agree or disagree with the following statements?

	1	2	3	4	5	Don't know
The issues raised in question 1.6 create legal uncertainty for financial market participants and financial advisers					X	
The issues raised in question 1.6 create reputational risks for financial market participants and financial advisers					X	
The issues raised in question 1.6 do not allow distributors to have a sufficient or robust enough knowledge of the sustainability profile of the products they distribute					X	
The issues raised in question 1.6 create a risk of greenwashing and mis-selling					X	
The issues raised in question 1.6 prevent capital from being allocated to sustainable investments as effectively as it could be			X			
The current framework does not effectively capture investments in transition assets					X	
The current framework does not effectively support a robust enough use of shareholder engagement as a means to support the transition					X	
Others						



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

Please provide any additional explanations as necessary for questions 1.5, 1.6 and 1.7:

- One obvious shortcoming of the current SFDR framework is a clear focus on listed equities, especially as regards minimum requirements (e.g. good governance) and availability of data. Insufficient consideration has been given to the challenges with implementing sustainable investment strategies for other assets that are also important for facilitating transition (private equity/debt investments in SMEs, infrastructure, real estate).
- Another deficiency relates to the design of the standardised ESG disclosures in pre-contractual and periodic documents that are aimed at retail investors in terms of presentation, but definitely not in terms of content. The ESG disclosures are far too detailed, duplicative and not sufficiently focused on key product features to provide useful information for retail investors.
- Another issues that FMPs have so far encountered with the SFDR framework are:
  - o Insufficient consistency with other pieces of EU sustainable finance regulation that raise problems for the practical implementation (cf. our responses to questions in section 2),
  - o Structural problems with divergent and complex methodologies especially for sustainable investments that prevent in-depth understanding of the underlying concepts by advisors and other distributors.

### 1.1. Disclosures of principal adverse impacts (PAIs)

There are several disclosures concerning PAIs in the SFDR. As a general rule, the SFDR requires financial market participants who consider PAIs to disclose them at entity level on their website. It also includes a mandatory requirement for financial market participants to provide such disclosures when they have more than 500 employees (Article 4). The [Delegated Regulation](#)<sup>4</sup> of the SFDR includes a list of these PAI indicators. These entity level PAI indicators are divided into three tables in the Delegated Regulation. Indicators listed in table 1 are mandatory for all participants, and indicators in tables 2 and 3 are subject to a materiality assessment by the financial market participant (at least one indicator from table 2 and one from table 3 must be included in every PAI statement).

Second, the SFDR requires financial market participants who consider PAIs at entity level to indicate in the pre-contractual documentation whether their financial products consider PAIs (Article 7) and to report the impacts in the corresponding periodic disclosures (Article 11). When reporting these impacts, financial market participants may rely on the PAI indicators defined at entity level in the Delegated Regulation.

Finally, in accordance with the empowerment given in Article 2a of SFDR, the Delegated Regulation requires that the do no significant harm (DNSH) assessment of the sustainable investment definition is carried out by taking into account the PAI indicators defined at entity level in Annex I of the Delegated Regulation.

<sup>4</sup> [Commission Delegated Regulation \(EU\) 2022/1288 of 6 April 2022](#)



In this context:

**Question 1.8:** To what extent do you agree with the following statements about entity level disclosures?

	1	2	3	4	5	Don't know
I find it appropriate that certain indicators are always considered material (i.e. "principal") to the financial market participant for its entity level disclosures, while having other indicators subject to a materiality assessment by the financial market participant (approach taken in Annex I of the SFDR Delegated Regulation).		X				
I would find it appropriate that all indicators are always considered material (i.e. "principal") to the financial market participant for its entity level disclosures.	X					
I would find it appropriate that all indicators are always subject to a materiality assessment by the financial market participant for its entity level disclosures.				X		

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

**Question 1.8.1:** When following the approach described in the first statement of question 1.8 above, do you agree that the areas covered by the current indicators listed in table 1 of the Delegated Regulation are the right ones to be considered material in all cases?

1	2	3	4	5	Don't know
		X			

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

**Question 1.9:** To what extent do you agree with the following statements about product level disclosures?

	1	2	3	4	5	Don't know
The requirement to 'take account of' PAI indicators listed in Annex I of the Delegated Regulation for the DNSH assessment, does not create methodological challenges.	X					



In the context of product disclosures for the do no significant harm (DNSH) assessment, it is clear how materiality of principal adverse impact (PAI) indicators listed in Annex I of the Delegated Regulation should be applied	X					
The possibility to consider the PAI indicators listed in Annex I of the Delegated Regulation for product level disclosures of Article 7 do not create methodological challenges.				X		
It is clear how the disclosure requirements of Article 7 as regards principal adverse impacts interact with the requirement to disclose information according to Article 8 when the product promotes environmental and/or social characteristics and with the requirement to disclose information according to Article 9 when the product has sustainable investment as its objective.			X			

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

Please provide any additional explanations as necessary for questions 1.8, 1.8.1 and 1.9:

- Coverage of the current mandatory PAI indicators is already problematic:
  - o Investee companies still do not report the relevant information;
  - o Even after CSRD will kick in, data will become available only for large European issuers;
  - o Data gaps will remain for non-EU companies and SMEs, especially for other than climate-related PAI indicators;
  - o Practical example: data coverage for constituents of the MSCI ACWI (comprising 2,934 companies from developed/emerging markets and roundabout 85 percent of global market capitalization) is:
    - for PAI indicator 8 (emissions to water) for only 1% of companies,
    - for PAI indicator 9 (hazardous waste) for 18% of companies,
    - for PAI indicator 12 (unadjusted gender pay gap) for 6% of companies.
  - o Another practical example are sub-sovereigns: data for PAI indicator 15 (GHG intensity of investee countries) are often entirely lacking for sub-sovereign issuers such as federal states, municipalities; the same applies for supranational organisations.
- Materiality assessment is now determined as the basic principle for CSRD reporting. Given that FMPs have to rely on CSRD data for their own ESG reporting, the SFDR transparency rules should build upon the same principle and should embrace materiality as the basis for PAI disclosures.
- Consequently, materiality assessment under SFDR should be interpreted in the same way as the materiality assessment under CSRD. Further EFRAG guidance on materiality assessment under CSRD is expected shortly and should form the basis for any sector-specific considerations.
- The EU Platform on Sustainable Finance has already conducted analyses of materiality relating to the mandatory PAI indicators. It concluded that some of the mandatory indicators included in table



1 of Annex I SFDR DR are only material for companies conducting certain economic activities. This is the case for the following indicators:

- PAI 9 (hazardous and radioactive waste ratio);
- PAI 5 (non-renewable energy consumption and production – while energy consumption should apply across the board, it is not the case for energy production);
- PAI 8 (emissions to water);
- PAI 11 (investments in companies without sustainable land/agriculture practices or policies).

For further details, cf. [Platform Briefing](#) on SFDR and summary of its responses to the Joint ESAs consultation on SFDR RTS, page 18).

- Following a materiality approach would also help focusing on the relevant and urgent adverse impacts, also in terms of actions.
- For the future, we are in favour of abolishing annual PAI reporting at entity level under SFDR due to the corresponding reporting obligations under CSRD that should apply to FMPs in the same manner as for other companies.
- DNSH harm assessment based on PAI indicators has been implemented in very divergent manner in the market (e.g. based on controversy screening, absolute thresholds, relative thresholds, each with different levels of tolerance), each of the approaches generating different results in terms of non-investable universe. Generally, application of the DNSH test channels capital into already green/sustainable projects and activities and should not be prescribed for transition finance.
- Likewise, consideration of PAIs can be implemented by ways of various approaches and strategies resulting in very diverse outcomes and levels of ambition. For instance, many approaches to PAI consideration are relevant on the portfolio level and apply PAI-related filtering criteria (e.g. exclusions) as part of the asset selection process. Other approaches focus on the investee companies or other investee assets and aim at reducing PAIs in the real world, e.g. by dedicated ESG engagement for reducing GHG emissions. In either case, disclosure is very important in order to inform investors about the focus of each approach/product.
- Implications of PAI consideration for the application of Article 8 SFDR are sometimes unclear and lead to inappropriate outcomes. For instance, consideration of PAI 14 (exposure to controversial weapons) might be allowable under Article 7 given the lack of a minimum level of ambition. On the other hand, most fund managers have anyway committed not to invest in banned weapons at the entity level, for all managed portfolios, meaning that consideration of PAI 14 effectively applies to all their products and is not specific for certain strategies. It is quite questionable whether in such circumstances, sole consideration of PAI 14 should lead to an obligation to disclose for all managed products under Article 8 SFDR.

*Maximum of 5.000 characters*

**Questions 1.10, 1.10.1 and 1.11 are intended for financial market participants and financial advisors subject to the SFDR.**

## **1.2. The cost of disclosures under the SFDR today**

The following two questions aim to assess the costs of the SFDR disclosure requirements distinguishing between one-off and recurring costs. One-off costs are incurred only once to implement a new reporting requirement, e.g. getting familiarised with the legal act and the



associated regulatory or implementing technical standards, setting-up data collection processes or adjusting IT-systems. Recurring costs occur repeatedly every year once the new reporting is in place, e.g. costs of annual data collection and report preparation. In the specific case of precontractual disclosures for example, there are one-off costs to set up the process of publishing precontractual disclosures when a new product is launched, and recurring annual costs to repeat the process of publishing pre-contractual disclosures each time a new product is launched (depends on the number of products launched on average each year). These two questions apply both to entity and product level disclosures.

**Question 1.10:** Could you provide estimates of the one-off and recurring annual costs associated with complying with the SFDR disclosure requirements (EUR)? Please split these estimates between internal costs incurred by the financial market participant and any external services contracted to assist in complying with the requirements (services from third-party data providers, advisory services ...). If such a breakdown is not possible, please provide the total figures.

EUR	Estimated one off costs	Estimated recurring annual costs	Don't know
Internal costs			
Thereof personnel costs			
Thereof IT costs			
External costs			
Thereof data providers			
Thereof advisory services			
Total costs of SFDR disclosure requirements	Between 1 000 000 and 10 000 000	Between 500 000 and 2 200 000	

**Question 1.10.1:** Could you split the total costs between product level and entity level disclosures?

%	Product-level disclosures	Entity-level disclosures	Don't know
Estimated percentage of costs			X

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

As an industry association, we are only able to provide ranges of estimated implementing costs incurred by our members. Nonetheless, all figures that have been submitted to us are impressive, with no implementation project estimated to have produced costs below EUR 1 million. It is also worth



mentioning that implementation costs are not linear to the size of assets under management meaning that small and middle-sized fund managers are disproportionately burdened by SFDR implementation compared to their sources of revenues.

**Against this background, we call upon the Commission to carefully reevaluate the necessity of implementing the substantial technical amendments to the SFDR RTS as recommended by the ESAs in the final report from 30 November 2023 ahead of the wider SFDR review at Level 1.**

Since the mandate for reviewing certain Level 2 concepts of SFDR was conferred on the ESAs well ahead of the discussions on the broader Level 1 review, the benefits of two-phased-reform should be assessed against the expected costs and potential drawbacks. The ESAs recommendations, while helpful in many details, entail fundamental changes especially to the pre-contractual and periodic ESG templates for Art. 8 and 9 disclosures that have generated the highest costs in the initial implementation and will very likely be readapted following the Level 1 review. They also aim at amending approaches to PAI reporting at entity level and introducing new mandatory indicators for social PAIs, even though the appropriateness of the entity-level PAI reporting in general is subject to discussion in the consultation at hand.

**We are, therefore, of the view that the ESAs recommendations on RTS amendments should be deferred to ensure coordinated implementation of Level 1 and Level 2 measures following the wider SFDR review.** This would not only help avoiding yet another wave of implementing costs but, more importantly, provide for a phase of stability to SFDR disclosures that have only recently been fully put into practice (annual reports based on Art. 8 and 9 Level 2 requirements were produced for the first time throughout 2023). According to our members, investors interested in sustainability matters are only starting accustomising themselves with the ESG templates. It would be counterproductive if time and resources now available for training distributors and advancing sustainable investment strategies in dialogue with investors were again bound by extensive implementation projects.

**Question 1.11:** In order to have a better understanding of internal costs, could you provide an estimate of how many full-time-equivalents (FTEs - FTEs - 1 FTE corresponds to 1 employee working full-time the whole year) are involved in preparing SFDR disclosures?

N/A

Could you please provide a split between:

%	Retrieving the data	Analysing the data	Reporting SFDR disclosures	Other	Don't know
Estimated percentage					X



### 1.3. Data and estimates

Financial market participants' and financial advisers' ability to fulfil their ESG transparency requirements depends in part on other disclosure requirements under the EU framework. In particular, they will rely to a significant extent on the [Corporate Sustainability Reporting Directive \(CSRD\)](#). However, entities are not reporting yet under those new disclosure requirements, or they may not be within the scope of the CSRD. Besides, even when data is already available today, it may not always be of good quality.

**Question 1.12:** Are you facing difficulties in obtaining good-quality data?

Yes	No	Don't know
X		

**Question 1.12.1:** If so, do you struggle to find information about the following elements?

	1	2	3	4	5	Don't know
The entity level principal adverse impacts				X		
The proportion of taxonomy-aligned investments (product level)					X	
The contribution to an environmental or social objective, element of the definition of 'sustainable investment' (product level)			X			
The product's principal adverse impacts, including when assessed in the context of the 'do no significant harm' test which requires the consideration of PAI entity level indicators listed in Annex I of the Delegated Regulation and is an element of the definition of 'sustainable investment' (product level)				X		
The good governance practices of investee companies (product level)			X			
Other						

(1= not at all, 2= to a limited extent, 3= to some extent, 4= to a large extent, 5= to a very large extent)



**Question 1.12.2:** Is the SFDR sufficiently flexible to allow for the use of estimates?

1	2	3	4	5	Don't know
					X

(1= not at all, 2= to a limited extent, 3= to some extent, 4= to a large extent, 5= to a very large extent)

**Question 1.12.3:** Is it clear what kind of estimates are allowed by the SFDR?

1	2	3	4	5	Don't know
					X

(1= not at all, 2= to a limited extent, 3= to some extent, 4= to a large extent, 5= to a very large extent)

**Question 1.12.4:** If you use estimates, what kind of estimates do you use to fill the data gap?

	Entity level principal adverse impacts	Taxonomy aligned investments (product level)	Sustainable investments (product level)	Other
Estimates from data providers, based on data coming from the investee companies	4	2	4	
Estimates from data providers, based on data coming from other sources	4	1	4	
In-house estimates	2	1	2	
Internal ESG score models	1	1	1	
External ESG score models	1	1	1	
Other				

(1= not at all, 2= to a limited extent, 3= to some extent, 4= to a large extent, 5= to a very large extent)



**Question 1.12.5:** Do you engage with investee companies to encourage reporting of the missing data?

1	2	3	4	5	Don't know
		X			

(1= not at all, 2= to a limited extent, 3= to some extent, 4= to a large extent, 5= to a very large extent)

Please also provide further explanations to your replies to questions 1.12 to 1.12.5.

- Data challenges are relevant especially for investments outside the EU, SMEs, indirect investments such as target funds or derivatives and real assets. These challenges will mostly persist also after implementation of CSRD reporting.
- For real estate investments, problems with PAI and Taxonomy data are also related to the lack of harmonized standards:
  - o PAI 18 (share of inefficient real estate assets) needs to be calculated based on the EPC rating of C or below. However, even in the EU, EPC ratings do not consistently apply a letter-based scale. For non-EU real estate investments, there is neither a universally acknowledged equivalent rating nor a recognised translation approach to the EPCs.
  - o As regards the EU Taxonomy, the lack of data for establishing the 15 percent of best performing buildings in terms of energy efficiency prevents so far the application of the Taxonomy criteria to the building stock built before end 2021.
- Data availability for establishing contribution to an environmental or social objective tends to be better, because asset managers select the sustainable investment objectives for their products already with a view to data availability.
- Good governance data tends to be available for large listed issuer (depending on the approach to good governance chosen by the FMP), but also here challenges for SMEs remain.
- Many ESG data obtained from commercial ESG vendors are not derived directly from companies' reports, but based on modelling, extrapolations or estimations.
- ESG data are being used not only for reporting purposes, but also as input parameters for investment decisions that can feed into a broader assessment (e.g. as factors for ESG ratings/scores) or be used as hard reference points (e.g. for applying exclusions). Therefore, it is not appropriate to require filling in the existing data gaps with estimations or extrapolations in any case, especially in case of insufficient base for reference data. As a general principle, data should be reported by companies, not estimated by FMPs. Generating reasonable estimates involves huge costs and efforts (all available information needs to be sourced and evaluated), but without a standardised methodology, the results are not at all comparable.
- Use of inhouse estimates is thus not common for investments in equities and debt instruments of companies. On the other hand, for real estate investments, such estimates are quite widely used due to the need to translate different EPC systems to a letter-based scale.
- Engagement for improving data availability is relevant in selected cases, but certainly not feasible for all companies/other investments around the globe.

Maximum of 5.000 characters



**Question 1.13:** Have you increased your offer of financial products that make sustainability claims since the disclosure requirements of Articles 8 and 9 of the SFDR began to apply (i.e. since 2021, have you been offering more products that you categorise as Articles 8 and 9 than those you offered before the regulation was in place and for which you also claimed a certain sustainability performance)?

1	2	3	4	5	Don't know
			X		

(1= not at all, 2= to a limited extent, 3= to some extent, 4= to a large extent, 5= to a very large extent)

**Question 1.13.1:** Please specify how the share of financial products making sustainability claims has evolved in the past years. (Please express it as a percentage of the total financial products you offered each year.)

2020	2021	2022	2023
7,7%	35,1%	48,2%	50,7%

**Question 1.13.2:** If you have increased your offering of financial products making sustainability claims, in your view, has any of the following factors influenced this increase?

	1	2	3	4	5	Don't know
SFDR requirements		X				
Retail investor interest				X		
Professional investor interest				X		
Market competitiveness				X		
Other factors				X		

(1= not at all, 2= not really, 3= partially, 4= mostly, 5= totally)

If other, please specify. Please also provide further explanations to your replies to questions 1.13, 1.13.1 and 1.13.2.

- The entry into force of SFDR Level 1 in March 2021 has triggered a huge wave of new product launches and re-classifications of existing products by including new E/S characteristics in investment strategies. This trend was, however, mostly attributable to the market demand for /investors' interest in products with E/S features, not the regulatory requirements of SFDR.

- Professional investors like insurance companies and pension funds are motivated by regulations, including SFDR, to invest in products with E/S features.
- Introduction of sustainability preferences has had positive effects on the expansion of the range of products with E/S features, not so much on the sales process.
- Sales/distributors' interest was another factor supporting the expansion of product offerings.
- Retail investor interest has suffered after implementation of sustainability preferences in August 2022. In the first two quarters of 2023, net sales of open-ended retail funds with sustainability features in the German market were rather at a low level with overall EUR 2 bn, while retail funds without sustainability features made up for EUR 9 bn. In the third quarter of 2023, German retail funds with sustainability features experiences substantial outflows of nearly EUR 4 bn. This is a significant shift in investment behaviour compared especially to the situation in 2021 after the entry into force of SFDR when funds with sustainability features collected net EUR 48 bn of fresh money compared to EUR 42 bn that flew into other investment funds.
- Our answer to Q 1.13.1 specifies the proportion of Article 8/9 retail funds (UCITS and retail AIFs) in comparison to all retail funds offered by BVI members, except for the figure for 2020 that is based on the internal classifications by product manufacturers. Data is provided as of year-end, with the exception of 2023 where it relates to end Q3.

## 2. INTERACTION WITH OTHER SUSTAINABLE FINANCE LEGISLATION

The SFDR interacts with other parts of the EU's sustainable finance framework. Questions in this section will therefore seek respondents' views about the current interactions, as well as potential inconsistencies or misalignments that might exist between the SFDR and other sustainable finance legislation. There is a need to assess the potential implications for other sustainable finance legal acts if the SFDR legal framework was changed in the future. Questions as regards these potential implications are included in section 4 of this questionnaire, when consulting on the potential establishment of a categorisation system for products, and they do not prejudge future positions that might be taken by the Commission.

The SFDR mainly interacts with the following legislation and their related delegated and implementing acts:

- the [Taxonomy Regulation](#)
- the [Benchmarks Regulation](#)
- the [Corporate Sustainability Reporting Directive \(CSRD\)](#)
- the [Markets in Financial Instruments Directive \(MiFID 2\)](#) and the [Insurance Distribution Directive \(IDD\)](#)
- the [Regulation on Packaged Retail Investment and Insurance Products \(PRIIPs\)](#)

Other legal acts that are currently being negotiated may also interact with the SFDR in the future. They are not covered in this questionnaire as the detailed requirements of these legal acts have not yet been agreed. At this stage, it would be speculative to seek to assess how their interaction with SFDR would function.

Both the SFDR and the Taxonomy Regulation introduce key concepts to the sustainable finance framework. Notably, they introduce definitions of 'sustainable investment' (SFDR) and





‘environmentally sustainable’ economic activities (Taxonomy). Both definitions require, inter alia, a contribution to a sustainable objective and a do no significant harm (DNSH) test. But while these definitions are similar, there are differences between them which could create practical challenges for market participants.

**Question 2.1:** The [Commission recently adopted a FAQ](#) clarifying that investments in Taxonomy-aligned ‘environmentally sustainable’ economic activities can automatically qualify as ‘sustainable investments’ in those activities under the SFDR. To what extent do you agree that this FAQ offers sufficient clarity to market participants on how to treat Taxonomy-aligned investment in the SFDR product level disclosures?

1	2	3	4	5	Don't know
			X		

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

The Benchmarks Regulation introduces two categories of climate benchmarks – the EU climate transition benchmark (EU CTB) and the EU Paris-aligned benchmark (EU PAB) - and requires benchmark administrators to disclose on ESG related matters for all benchmarks (except interest rate and foreign exchange benchmarks). The SFDR makes reference to the CTB and PAB in connection with financial products that have the reduction of carbon emissions as their objective. Both legal frameworks are closely linked as products disclosing under the SFDR can for example passively track a CTB or a PAB or use one of them as a reference benchmark in an active investment strategy. More broadly, passive products rely on the design choices made by the benchmark administrators.

**Question 2.2:** To what extent do you agree or disagree with the following statements?

	1	2	3	4	5	Don't know
The <a href="#">questions &amp; answers published by the Commission in April 2023</a> specifying that the SFDR deems products passively tracking CTB and PAB to be making ‘sustainable investments’ as defined in the SFDR provide sufficient clarity to market participants	X					
The approach to DNSH and good governance in the SFDR is consistent with the environmental, social and governance exclusions under the PAB/CTB	X					



The ESG information provided by benchmark administrators is sufficient and is aligned with the information required by the SFDR for products tracking or referencing these benchmarks				X		
---	--	--	--	---	--	--

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

Both the SFDR and the Corporate Sustainability Reporting Directive (CSRD) introduce entity level disclosure requirements with a double-materiality approach.<sup>5</sup> The CSRD sets out sustainability reporting requirements mainly for all large and all listed undertakings with limited liability (except listed micro-enterprises),<sup>6</sup> while the SFDR introduces sustainability disclosure requirements at entity level for financial market participants and financial advisers as regards the consideration of sustainability related factors in their investment decision-making process. Moreover, in order for financial market participants and financial advisers to meet their product and entity level disclosure obligations under the SFDR, they will rely to a significant extent, on the information reported according to the CSRD and its [European Sustainability Reporting Standards \(ESRS\)](#)<sup>7</sup>.

**Question 2.3:** To what extent do you agree or disagree with the following statements?

	1	2	3	4	5	Don't know
The SFDR disclosures are consistent with the CSRD requirements, in particular with the European Sustainability Reporting Standards		X				
There is room to streamline the entity level disclosure requirements of the SFDR and the CSRD					X	

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

Financial advisors (under MiFID 2) and distributors of insurance-based investment products (under IDD) have to conduct suitability assessments based on the sustainability preferences of customers. These assessments rely in part on sustainability-related information made available by market participants reporting under the SFDR.

<sup>5</sup> Transparency requirements relate to the sustainability risks that can affect the value of investments (SFDR) or companies (CSRD) ('outside-in' effect) and the adverse impacts that such investments or companies have on the environment and society ('inside-out').

<sup>6</sup> Credit institutions and insurance undertakings with unlimited liability are also in scope subject to the same size criteria. Non-EU undertakings listed on the EU regulated markets and non-EU undertakings with a net turnover above EUR 150 million that carry out business in the EU will also have to publish certain sustainability-related information through their EU subsidiaries that are subject to CSRD (or - in the absence of such EU subsidiaries - through their EU branches with net turnover above EUR 40million).

<sup>7</sup> Provided positive scrutiny of co-legislators of the [ESRS delegated act](#).



**Question 2.4:** To what extent do you agree that the product disclosures required in the SFDR and [its Delegated Regulation](#) (e.g. the proportion of sustainable investments or taxonomy aligned investments, or information about principal adverse impacts) are sufficiently useful and comparable to allow distributors to determine whether a product can fit investors' sustainability preferences under MiFID2 and the IDD?

1	2	3	4	5	Don't know
	X				

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

**Question 2.5:** MIFID and IDD require financial advisors to take into account sustainability preferences of clients when providing certain services to them. Do you believe that, on top of this behavioural obligation, the following disclosure requirements for financial advisors of the SFDR are useful?

	1	2	3	4	5	Don't know
Article 3, entity level disclosures about the integration of sustainability risks policies in investment or insurance advice	X					
Article 4, entity level disclosures about consideration of principal adverse impacts	X					
Article 5, entity level disclosures about remuneration policies in relation to the integration of sustainability risks	X					
Article 6, product level pre-contractual disclosures about the integration of sustainability risks in investment or insurance advice			X			
Article 12, requirement to keep information disclosed according to Articles 3 and 5 up to date	X					

(1= not at all, 2= to a limited extent, 3= to some extent, 4= to a large extent, 5= to a very large extent)

**Question 2.6:** Have the requirements on distributors to consider sustainability preferences of clients impacted the quality and consistency of disclosures made under SFDR?

Yes	No	Don't know
	X	



**Question 2.6.1:** If so, how?

PRIPs requires market participants to provide retail investors with [key information documents \(KIDs\)](#). As part of the [retail investment strategy](#)<sup>8</sup> the Commission has recently proposed to include a new sustainability section in the KID to make sustainability-related information of investment products more visible, comparable and understandable for retail investors. Section 4 of this questionnaire includes questions related to PRIIPs, to seek stakeholders' views as regards potential impacts on the content of the KID if a product categorisation system was established.

Please clarify your replies to questions in section 2 as necessary:

**EU Benchmark Regulation:**

- Benchmark Regulation is not helpful for ensuring sufficient ESG-related benchmark disclosures, given that most large benchmark administrators are situated in third countries and currently not subject to EU rules.
- Disclosures on benchmark methodologies are generally available, but often difficult to understand even for finance professionals due to many interlinkages in the disclosed documents. Deep links to ESG benchmark methodologies do not always work for technical reasons which is a problem for referencing in product-level ESG disclosures.

**CSRD:**

- Sustainability-related disclosures at entity level should be streamlined by a horizontal application of CSRD reporting requirements in line with the double materiality principle across all sectors, including the financial services sector. Entity-level transparency requirements under Art. 3, 4(2)(b) and 5 SFDR impose additional burden solely upon financial market participants without discernible benefits and should be deleted:
  - o CSRD reporting regime covers all information to be disclosed under Art. 3, 4(2)(b) and 5 SFDR with consistent reporting standards for all companies and sectors under the ESRS (cf. our answer to Q 3.1.4).
  - o Information would not get lost, but would be delivered under a different framework in a manner that is consistent across sectors.

**MiFID and IDD:**

- The product-level ESG disclosures under SFDR are hardly ever being used at the point of sale. For investment funds, they form part of regulatory documents – sales prospectus and annual report – that are generally too complex for retail investors and not practicable as sales materials.
- Distributors do not derive information on product features relevant for satisfying sustainability preferences of clients from the standardised ESG disclosures. They are being provided with the relevant information and other product features via the European ESG Template (EET) that is generally prepared for each financial product.
- The standardised ESG templates enhance comparability of disclosures, but not of content, given that no uniform standards and methodologies for sustainable investments and PAI consideration exist so far.
- Proportions of sustainable investments reported under SFDR lack any kind of comparability, meaning that products with similar investment strategies and portfolio composition display very different levels of sustainable investments. According to the Morningstar manager research, the

<sup>8</sup> [https://finance.ec.europa.eu/publications/retail-investment-strategy\\_en](https://finance.ec.europa.eu/publications/retail-investment-strategy_en)



range of minimum sustainable investment allocation in funds tracking large cap Paris-Aligned Benchmarks and thus having broadly similar portfolio holdings was between 80 percent and one percent as of September 2022 and between 50 and 10 percent as of December 2022. The minimum proportions will likely be readapted as a consequence of the Commission's Q&As on SFDR from April 2023 indicating that all constituents of Paris-Aligned Benchmarks or even Climate Transition Benchmarks may be deemed sustainable investments. For Q2 2023, Morningstar reports 43 Article 9 funds that have changed their minimum sustainable investment commitment in the last three months, of which 31 showed increases and 12 decreases.

- Taxonomy-aligned investments as the only standardised element of sustainability preferences is still not relevant in practice due to the ongoing process of developing Taxonomy criteria and pending implementation of Taxonomy reporting by EU issuers.

#### PRIIPs:

- We do not support the Commission's proposal for a dedicated new section on environmental sustainability in the PRIIPs KID. As an alternative, we suggest creating a clear reference to the content and presentation of ESG-related information in the pre-contractual annexes under SFDR:
  - o The relevant section should be renamed in "*Does this product have environmental or social characteristics or a sustainable investment objective?*".
  - o Products disclosing under Articles 8 or 9 SFDR should display their core sustainability characteristics that are relevant in terms of sustainability preferences of investors directly in the PRIIPs KID. This could be facilitated by including a brief tick-the-box indication of the relevant sustainability characteristics and a direct link to the pre-contractual ESG annex that would provide the full set of sustainability-related information.
- As regards the notion of an ESG scale that would provide a ranking for sustainability-related product characteristics allowing for comparisons with other PRIIPs, we believe that the usefulness of such solution can be only assessed with a view to the new system of product categorisation. So far, we rather doubt that multi-faceted investment approaches aiming at "positive contribution" (category A of Commission's proposal) or "sustainable transition" (category D of Commissions' proposal) that lack a clear hierarchy can be appropriately represented in a two-dimensional scale.

*Maximum of 5.000 characters*

### **3. POTENTIAL CHANGES TO DISCLOSURE REQUIREMENTS FOR FINANCIAL MARKET PARTICIPANTS**

#### **3.1. ENTITY LEVEL DISCLOSURES**

The SFDR contains entity level disclosure requirements for financial market participants and financial advisers. They shall disclose on their website their policies on the integration of sustainability risks in their investment decision-making process or their investment or insurance advice (Article 3). In addition, they shall disclose whether, and if so, how, they consider the principal adverse impacts of their investment decisions on sustainability factors. For financial market participants with 500 or more employees, the disclosure of a due diligence statement, including information of adverse impacts, is mandatory (Article 4). In addition, financial market



participants and financial advisers shall disclose how their remuneration policies are consistent with the integration of sustainability risks (Article 5).

**Question 3.1.1:** Are these disclosures useful?

	1	2	3	4	5	Don't know
Article 3	X					
Article 4	X					
Article 5	X					

*(1= not at all, 2= not really, 3= partially, 4= mostly, 5= totally)*

Please explain your replies to question 3.1.1 as necessary:

In BVI’s experience, the entity-level disclosures in Articles 3 to 5 SFDR provide no real added value to either investors or supervisors. This relates in particular to the annual PAI statement under Article 4(2)(b) SFDR that has been issued for the first time by 30 June 2023:

- Disclosure of aggregated quantitative PAI figures over several hundreds of managed portfolios is extremely onerous and not at all comparable due to the challenges with (1) availability and quality of PAI data and (2) unclear calculation approaches that are being differently applied by the industry and (3) varying scope of disclosures due to different asset mix and investment strategies aggregated at entity level.
- Good illustration of the current challenges is provided in the [Morningstar manager research](#) “SFDR: Article 8 and Article 9 funds in review: Q2 2023” (pages 31-37).
- In our view, these fundamental problems with entity-level PAI disclosures cannot be reasonably rectified. This is because disclosures aggregated over several (hundreds) portfolios are without any added value for investors. Investors are unable to relate such disclosures, e.g. in terms of the level of financed GHG emissions or other quantitative PAI values, to their specific investments.
- In other instances, there are currently duplications of entity and product-level statements with the risk of misalignment; this pertains in particular to disclosures on integration of sustainability risks in the investment process that are mandatory at entity level under Art. 3 SFDR and then also at the product level under Article 6(1) SFDR.
- Product-specific disclosures that are relevant to investors’ choices are generally preferable.

Complementing the [consultation by the European Supervisory Authorities \(ESAs\) on the revision of the Regulatory Technical Standards of the SFDR](#)<sup>9</sup>, the Commission is interested in respondents’ views as regards the principal adverse impact indicators required by the current Delegated Regulation.

**Question 3.1.2:** Among the specific entity level principal adverse impact indicators required by the

<sup>9</sup> <https://www.esma.europa.eu/press-news/consultations/joint-consultation-review-sfdr-delegated-regulation> – placeholder see what in right hyperlink in September when we launch OPC.



[Delegated Regulation of the SFDR](#) adopted pursuant to Article 4 (tables 1, 2 and 3 of Annex I), which indicators do you find the most (and least) useful?

We deem disclosure of PAI indicators at entity level generally not useful. Values aggregated over several hundreds of portfolios with different investment focus and asset mix are of no value for investors and provide no guidance for specific investment decisions. At product level, such disclosures are currently not mandatory, but would make much more sense (cf. our comments to question 3.2.2. b) below).

*Maximum of 5.000 characters*

Several pieces of EU legislation require entity level disclosures, whether through transparency requirements on sustainability for businesses (for example the CSRD) or disclosure requirements regarding own ESG exposures (such as the Capital Requirements Regulation (CRR) and its Delegated Regulation).

**Question 3.1.3:** In this context, is the SFDR the right place to include entity level disclosures?

1	2	3	4	5	Don't know
X					

*(1= not at all, 2= not really, 3= partially, 4= mostly, 5= totally)*

**Question 3.1.4:** To what extent is there room for streamlining sustainability-related entity level requirements across different pieces of legislation?

1	2	3	4	5	Don't know
				X	

*(1= not at all, 2= to a limited extent, 3= to some extent, 4= to a large extent, 5= to a very large extent)*

Please explain your replies to questions in section 3.1 as necessary

Sustainability-related disclosures at entity level should be streamlined by a horizontal application of CSRD reporting requirements in line with the double materiality principle across all sectors, including the financial services sector. Entity-level transparency requirements under Art. 3, 4(2)(b) and 5 SFDR SFDR impose additional burden solely upon financial market participants without discernible benefits and should be deleted:

- CSRD reporting regime covers all information to be disclosed under Art. 3, 4(2)(b) and 5 SFDR with consistent reporting standards for all companies and sectors under the ESRS.
- Reporting of quantitative PAI figures and potential remediating actions/measures under Art. 4(2)(b) SFDR is fully integrated in the ESRS (cf. Appendix B to ESRS 2).
- Quantitative indicators for PAIs are key components of the CSRD disclosures subject to the materiality principle (only material adverse impacts need to be reported); the same approach should apply across all sectors. For the financial services sector, application of the materiality principle would help focusing mitigating or remediating measures, e.g in terms of shareholder engagement, on adverse impacts that are truly material for the environment and/or the society.

- Art. 5 SFDR corresponds to the reporting standard GOV 3 in ESRS 2 on integration of sustainability-related performance in incentive schemes.
- Art. 3 SFDR should be covered by the general standard IRO-1 in ESRS 2 requiring description of the process to identify and manage material impacts, risks and opportunities.
- On balance, there is no need for separate entity-level disclosures under SFDR, abolishing the requirements of Art. 3, 4(2)(b) and 5 would contribute to streamlining sustainability-related disclosures at entity level in future.
- Information would not get lost, but would be delivered under a different framework in a manner that is consistent across sectors.

*Maximum of 5.000 characters*

### **3.2. PRODUCT LEVEL DISCLOSURES**

The SFDR includes product level disclosure requirements (Articles 6, 7, 8, 9, 10 and 11) that mainly concern risk and adverse impact related information, as well as information about the sustainability performance of a given financial product. The regulation determines which information should be included in precontractual and periodic documentation and on websites.

The SFDR was designed as a disclosure regime, but is being used as a labelling scheme, suggesting that there might be a demand for establishing sustainability product categories. Before assessing whether there might be merit in setting up such product categories in Section 4, Section 3 includes questions analysing the need for possible changes to disclosures, as well as any potential link between product categories and disclosures. The need to ask about potential links between disclosures and sustainability product categories is the reason why this section contains some references to 'products making sustainability claims'. However, this does not pre-empt in any way a decision about how a potential categorisation system and an updated disclosure regime would interact if these were established. The Commission services are openly consulting on all these issues to further assess potential ways forward as regards the SFDR.

The Commission services would therefore like to collect feedback on what transparency requirements stakeholders consider useful and necessary. We would also like to know respondents' views on whether and how these transparency requirements should link to different potential categories of products.

The general principle of the SFDR is that products that make sustainability claims need to disclose information to back up those claims and combat greenwashing. This could be viewed as placing additional burden on products that factor in sustainability considerations. This is why, in the following questions, the Commission services ask respondents about the usefulness of uniform disclosure requirements for products across the board, regardless of related sustainability claims, departing from the general philosophy of the SFDR as regards product disclosures. Providing proportionate information on the sustainability profile of a product which does not make sustainability claims could make it easier for some investors to understand products' sustainability performance, as they would get information also about products that are not designed to achieve any sustainability-related outcome. This section also contains questions exploring whether it could be useful to require financial market participants who make sustainability claims about certain products to disclose additional information (i.e. in case a categorisation system is introduced in the EU framework, the need to require additional information about products that would fall under a





category).

**Question 3.2.1:** Standardised product disclosures - Should the EU impose uniform disclosure requirements for **all** financial products offered in the EU, regardless of their sustainability-related claims or any other consideration?

1	2	3	4	5	Don't know
X					

(1= not at all, 2= to a limited extent, 3= to some extent, 4= to a large extent, 5= to a very large extent)

**Question 3.2.1. a):** If the EU was to impose uniform disclosure requirements for **all** financial products offered in the EU, should disclosures on a limited number of principal adverse impact indicators be required for all financial products offered in the EU?

1	2	3	4	5	Don't know
X					

(1= not at all, 2= to a limited extent, 3= to some extent, 4= to a large extent, 5= to a very large extent)

Please specify which ones:

We do not support introduction of uniform disclosure requirements relating to sustainability matters for all financial products offered in the EU.

*Maximum of 5.000 characters*

**Question 3.2.1 b):** Please see a list of examples of disclosures that could also be required about **all** financial products for transparency purposes. In your view, should these disclosures be mandatory, and/or should any other information be required about **all** financial products for transparency purposes?

	1	2	3	4	5	Don't know
Taxonomy-related disclosures	X					
Engagement strategies	X					
Exclusions	X					
Information about how ESG-related information is used in the investment process	X					
Other information	X					

(1= not at all, 2= to a limited extent, 3= to some extent, 4= to a large extent, 5= to a very large extent)



If you selected 'Other information' please specify:

We do not support introduction of uniform disclosure requirements relating to sustainability matters for all financial products offered in the EU.

*Maximum of 5.000 characters*

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

We do not support introduction of uniform disclosure requirements relating to sustainability matters for all financial products offered in the EU. Our preferred solution would be to maintain the current concept of sustainability-related disclosures where detailed disclosure requirements apply only to products with explicit sustainability claims (current Art. 8 and 9). Given that sustainability-related disclosures are often mistaken for dedicated commitments to certain sustainability outcomes, such limited application of sustainability disclosure requirements would help avoiding confusion among investors and might mitigate greenwashing allegations.

However, should the Commission see added value in introducing broader transparency on sustainability-related issues, we request that such future standards (1) focus on a small number of key sustainability indicators that can be deemed comparable across different markets and potentially different asset classes, (2) be disclosed only in period reports to avoid misapprehensions for sustainability claims and (3) be mandatory only for financial products that are available to retail investors:

- Professional investors such as insurance companies, pension funds, large corporations etc. generally require much more detailed information that is tailored to their particular needs. Standardised ESG information is of no value to this group of investors, but only create unnecessary burden and nuisance for both product providers who need to provide for it and for investors who eventually have to pay. Financial products offered solely to professional investors should thus be exempted from mandatory disclosures, unless the investor explicitly requests provision of ESG information. At the very least, standardised ESG templates must not be prescribed for use in products offered solely to professional investors.
- Regulatory standards for sustainability-related disclosures should thus focus on financial products that are also (not solely, as indicated in the questionnaire) offered to retail investors.
- As regards details of ESG information, i.e. sustainability indicators and relevant calculation methodologies, proper differentiation between asset-based product categories (securities vs. real estate/other real assets) might be necessary.

*Maximum of 5.000 characters*



**Question 3.2.2:** Standardised product disclosures - Would uniform disclosure requirements for **some** financial products be a more appropriate approach, regardless of their sustainability-related claims (e.g. products whose assets under management, or equivalent, would exceed a certain threshold to be defined, products intended solely for retail investors...)? Please note that next question 3.2.3 asks specifically about the need for disclosures in cases of products making sustainability claims.

1	2	3	4	5	Don't know
		X			

(1= not at all, 2= to a limited extent, 3= to some extent, 4= to a large extent, 5= to a very large extent)

**Question 3.2.2 a):** If the EU was to impose uniform disclosure requirements for **some** financial products, what would be the criterion/criteria that would trigger the reporting obligations?

We are in favour of upholding the current concept of sustainability-related disclosures where detailed disclosure requirements apply only to products with explicit sustainability claims (current Art. 8 and 9 products). Given that sustainability-related disclosures are often mistaken for dedicated commitments to certain sustainability outcomes, such limited application of sustainability disclosure requirements would help avoiding confusion among investors and might mitigate greenwashing claims. The purpose of the proposed extension of sustainability-related disclosures is not clear. Such purpose cannot be appropriate investor information, since investors in financial products without specific ESG commitments are generally not interested in sustainability-related disclosures and might be confused by them. Moreover, market experience shows that sustainability KPIs are rather difficult to interpret (e.g. GHG emissions/intensity is intrinsically different between geographical markets and sectors) and can be easily misapprehended.

Nonetheless, should the Commission see added value in introducing broader transparency on sustainability-related issues, we request that such future standards (1) focus on a small number of key sustainability indicators that can be deemed comparable across different markets and potentially different asset classes, (2) be disclosed only in periodic reports to avoid misapprehensions for sustainability claims and (3) be mandatory only for financial products that are available to retail investors:

- Professional investors such as insurance companies, pension funds, large corporations etc. generally require much more detailed information that is tailored to their particular needs. Standardised ESG information is of no value to this group of investors, but only create unnecessary burden and nuisance for both product providers who need to provide for it and for investors who eventually have to pay. Financial products offered solely to professional investors should thus be exempted from mandatory disclosures, unless the investor explicitly requests provision of ESG information.
- Regulatory standards for sustainability-related disclosures should thus focus on financial products that are also (not solely, as indicated in the questionnaire) offered to retail investors.
- As regards details of ESG information, i.e. sustainability indicators and relevant calculation methodologies, proper differentiation between asset-based product categories (securities vs. real estate/other real assets) might be necessary.
- Size of assets under management is subject to volatility and should not be considered an appropriate criterion for differentiating disclosure requirements.



Maximum of 5.000 characters

**Question 3.2.2. b):** If the EU was to impose uniform disclosure requirements for **some** financial products, should a limited number of principal adverse impact indicators be required?

1	2	3	4	5	Don't know
		X			

(1= not at all, 2= to a limited extent, 3= to some extent, 4= to a large extent, 5= to a very large extent)

Please specify which ones:

Should the Commission see added value in introducing broader transparency on sustainability-related issues, we request that such future standards (1) focus on a small number of key sustainability indicators that can be deemed comparable across different markets and potentially different asset classes, (2) be disclosed only in periodic reports to avoid misapprehensions for sustainability claims and (3) be mandatory only for financial products that are available to retail investors.

- Only a small set of key PAI indicators should be considered,
- Based on the current mandatory PAI indicators, we could envisage reporting on GHG intensity, board gender diversity and controversial weapons for companies, share of energy inefficient buildings for real estate,
- Proper distinction between asset classes essential, should it emerge as not feasible to introduce commonly applicable indicators; currently there is no mandatory PAI indicator that could be reported and compared across different asset classes and for multi-asset products,
- Data availability also outside listed EU equities (taking into account emerging markets and private assets, in particular) should be taken into account.

Maximum of 5.000 characters

**Question 3.2.2. c):** Please see a list of examples of disclosures that could also be required about the group of financial products that would be subject to standardised disclosure obligations for transparency purposes (in line with your answer to Q 3.2.2 above). In your view, should these disclosures be mandatory, and/or should any other information be required about that group of financial products?

	1	2	3	4	5	Don't know
Taxonomy-related disclosures				X		
Engagement strategies	X					
Exclusions				X		



Information about how ESG-related information is used in the investment process	X					
Other information				X		

(1= not at all, 2= to a limited extent, 3= to some extent, 4= to a large extent, 5= to a very large extent)

If you selected 'Other information' please specify:

- Integration of sustainability risks in the investment process should be described for all products in line with the current standard under Art. 6(1) SFDR,
- The same applies to consideration of principal adverse impacts in the investment process of investment funds that is mandatory in case of PAI consideration at entity level (cf. Art. 23(6) UCITS DD, Art. 18(6) AIFM DR),
- Use of ESG-related information in general is of much lesser relevance, since ESG ratings/rankings are not used for products without explicit sustainability claims.

Maximum of 5.000 characters

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

Should the Commission see added value in introducing broader transparency on sustainability-related issues, we request that such future standards (1) focus on a small number of key sustainability indicators that can be deemed comparable across different markets and potentially different asset classes, (2) be disclosed only in periodic reports to avoid misapprehensions for sustainability claims and (3) be mandatory only for financial products that are available to retail investors.

Generally, it makes a huge difference if sustainability-related information is disclosed in pre-contractual documents (as part of product offering) or included in regular reporting. In products without dedicated sustainability claims, information on sustainability factors can be disclosed only as part of regular reporting in order to avoid misapprehensions in terms of product commitments and yet another rise of greenwashing allegations. Such basic sustainability reporting should be therefore clearly distinguished from reporting about implementation of a product's investment strategy.

In terms of specific content, our suggestions are as follows:

- A small set of key PAI indicators should be considered,
- Based on the current mandatory PAI indicators, we could envisage reporting on GHG intensity, board gender diversity and controversial weapons for companies, share of energy inefficient buildings for real estate,
- Exclusion criteria applicable at the entity or even group-level that are not specific to a product's investment strategy should be disclosed to all investors,
- Taxonomy-related disclosures, if deemed relevant for all financial products, would need to be significantly simplified (disclosure of OpEx-based Taxonomy indicators and specific reporting on the share of transitioning/enabling activities could be generally deleted) and adjusted to different asset classes (revenue- and CapEx-based indicators are not relevant for real assets, e.g. real estate).

Maximum of 5.000 characters

The following and last section of this questionnaire (section 4) includes questions about the potential establishment of a sustainability product categorisation system at EU level based on



certain criteria that products would have to meet. It presents questions about different ways of setting up such system, including whether additional category specific disclosure requirements should be envisaged. There are therefore certain links between questions in this section (section 3) and questions in the last section of the questionnaire (section 4).

**Question 3.2.3:** If requirements were imposed as per question 3.2.1 and/or 3.2.2, should there be some additional disclosure requirements when a product makes a sustainability claim?

1	2	3	4	5	Don't know
		X			

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

Please explain as necessary your replies to question 3.2.3:

We support the current concept of sustainability-related disclosures where detailed disclosure requirements apply only to products with explicit sustainability claims (current Art. 8 and 9 products).

Given that sustainability-related disclosures are often mistaken for dedicated commitments to certain sustainability outcomes, such limited application of sustainability disclosure requirements would help avoiding confusion among investors and might mitigate greenwashing allegations. The purpose of the proposed extension of sustainability-related disclosures is not clear. Such purpose cannot be appropriate investor information, since investors in financial products without specific ESG commitments are generally not interested in sustainability-related disclosures and might be confused by them. Moreover, market experience shows that sustainability KPIs are rather difficult to interpret (e.g. GHG emissions/intensity is intrinsically different between geographical markets and sectors) and can be easily misapprehended.

Nonetheless, should the Commission see added value in introducing broader transparency on sustainability-related issues, we request that such future standards (1) focus on a small number of key sustainability indicators that can be deemed comparable across different markets and potentially different asset classes, (2) be disclosed only in periodic reports to avoid misapprehensions for sustainability claims and (3) be mandatory only for financial products that are available to retail investors. In addition to these basic sustainability disclosures, we see merit in maintaining more detailed transparency requirements for products with dedicated sustainability claims in order to provide investors with appropriate information about the sustainability-related objectives and commitments, as well as any progress in attaining to them.

*Maximum of 5.000 characters*

Sustainability product information disclosed according to the current requirements of the SFDR can be found in precontractual and periodic documentation and on financial market participants' websites, as required by Articles 6, 7, 8, 9, 10 and 11.



**Question 3.2.4:** In general, is it appropriate to have product related information spread across these three places, i.e. in precontractual disclosures, in periodic documentation and on websites?

1	2	3	4	5	Don't know
			X		

(1= not at all, 2= to a limited extent, 3= to some extent, 4= to a large extent, 5= to a very large extent)

**Question 3.2.5:** More specifically, is the current breakdown of information between precontractual, periodic documentation and website disclosures appropriate and user friendly?

1	2	3	4	5	Don't know
X					

(1= not at all, 2= to a limited extent, 3= to some extent, 4= to a large extent, 5= to a very large extent)

Please explain as necessary your replies to question 3.2.4 and 3.2.5:

The current rigid structure of pre-contractual and periodic disclosures in the standardized ESG annexes leads to many duplications on the one hand and improper breaking up of information that is closely interrelated on the other. The use of legalistic terms in the leading questions for each section further impedes comprehensibility for investors.

In order to improve the quality of sustainability-related disclosures and its usefulness from investors' perspective, the following principles should be considered:

- Precontractual and periodic should be streamlined and focused on the key features of an investment, comprising:
  - o Sustainable investment objectives or characteristics;
  - o Binding elements of the investment strategy, including potential minimum commitments, for attaining the sustainability objectives or characteristics;
  - o main KPIs for measuring sustainability performance.
- There should be a clear link between pre-contractual commitments and periodic reporting (reporting should relate to the attainment, or progress in attaining, of sustainable investment objectives).
- A clear and logical structure should be consistently applied to pre-contractual and periodic disclosures. Elements that are not necessary to understand the main features of the ESG proposition as outlined above should be removed. This applies for instance to the current section on asset allocation in pre-contractual disclosures that duplicates the information on minimum commitments already included in other sections of the ESG annexes.
- Standardised pre-contractual and periodic ESG disclosures should be made available on the website in the same format; duplications or overlaps of information for the purpose of website disclosures should be avoided.
- Disclosure of ESG-relevant policies (e.g. engagement policy, internal approach to data and methodologies, sustainable investment approach) should be possible on the website (not in the product-specific section, given that such policies generally apply at entity level) with the option to



provide links in legal documents.

*Maximum of 5.000 characters*

Current website disclosures make it mandatory for product sustainability information to be publicly available. This includes portfolios managed under a portfolio management mandate, which can mean a large number of disclosures, as each of the managed portfolios is considered a financial product under the SFDR. A [Q&A published by the Commission in July 2021](#)<sup>10</sup> clarified that where a financial market participant makes use of standard portfolio management strategies replicated for clients with similar investment profiles, transparency at the level of those standard strategies can be considered a way of complying with requirements on websites disclosures. This approach facilitates the compliance with Union and national law governing the data protection, and where relevant, it also ensures confidentiality owed to clients.

**Question 3.2.6:** To what extent do you agree with the following statements?

	1	2	3	4	5	Don't know
It is useful that product disclosures under SFDR are publicly available (e.g. because they have the potential to bring wider societal benefits)	X					
Confidentiality aspects need to be taken into account when specifying the information that should be made available to the public under the SFDR					X	
Sustainability information about financial products should be made available to potential investors, investors or the public according to rules in sectoral legislation (e.g.: UCITS, AIFM, IORPs directives); the SFDR should not impose rules in this regard					X	

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

Please explain as necessary your replies to question 3.2.6:

- There is no societal interest for information on financial products or investment portfolios that are managed for individual investors and not available for public distribution.
- Disclosures to institutional investors result in double/multiple reporting of the same information. For instance, an asset manager appointed under delegation has to provide ESG-related SFDR disclosures to the management company who formally is a client of a portfolio management service. The management company managing an AIF (e.g. Spezialfonds under German law) is itself under the obligation to make SFDR disclosures to the fund investor who might be for instance

<sup>10</sup> See question 3 of section V of the [consolidated questions and answers \(Q&A\) on the SFDR and its Delegated Regulation published on the ESAs websites](#).





an insurance company. The insurance company has to prepare sustainability-related SFDR disclosures to the policyholders to whom it offers insurance-based investment options with ESG features.

- In the end, only reporting to end-clients or end-investors should be deemed relevant.
- The Commission’s approach under the SFDR Q&As from July 2021 applies only to standardised model portfolios and does not provide for a practical relief in case of customised investment solutions.

*Maximum of 5.000 characters*

Current product-level disclosures have been designed to allow for comparability between financial products. The SFDR requires pre-contractual disclosures to be made in various documents for the different financial products in scope of the regulation. The disclosure requirements are the same, even though these documents have widely varying levels of detail or complexity, i.e. a UCITS prospectus can be several hundred pages long, while the Pan-European Pension Product Key Information Document (PEPP KID) comprises a few pages.

**Question 3.2.7:** To what extent do you agree with the following statements?

	1	2	3	4	5	Don't know
The same sustainability disclosure topics and the exact same level of granularity of sustainability information (i.e. same number of datapoints) should be required in all types of precontractual documentation to allow for comparability					X	
The same sustainability disclosure topics should be required in all types of precontractual documentation to allow for comparability	X					

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

Please explain as necessary your replies to question 3.2.7:

- Disclosure requirements under SFDR should focus on investment products available to retail investors.
- Professional investors such as insurance companies, pension funds, large corporations etc. generally require much more detailed information that is tailored to their particular needs. Standardised ESG information is of no value to this group of investors, but only create unnecessary burden and nuisance for both product providers who need to provide for it and for investors who eventually have to pay. Financial products offered solely to professional investors should thus be exempted from mandatory disclosures, unless the investor explicitly requests the information. At the very least, standardised ESG templates must not be prescribed for use in products offered solely to professional investors.
- On the other hand, all financial products available to retail investors should be subject to the same disclosure requirements to ensure comparability of their ESG proposition, this corresponds with the underlying idea of PRIIPs KIDs.



- Multi-option products (mostly insurance wrappers) must be able to refer to pre-contractual and periodic disclosures of the underlying investments (mostly investment funds); this would be prevented in case of differences in disclosure requirements.

*Maximum of 5.000 characters*

**Question 3.2.8:** Do you believe that sustainability related disclosure requirements at product level should be independent from any entity level disclosure requirements, (i.e. product disclosures should not be conditional on entity disclosures, and vice-versa)?

Yes	No	Don't know
X		

Please explain as necessary your replies to question 3.2.8:

- Product-related sustainability information should be understandable and consistent as such without any entity-level statements as precondition.
- Interlinkage between entity-level and product-level information entails huge complexity, this can be observed in the ESAs' proposed approach for disclosure of GHG emission reduction strategies (cf. ESAs joint consultation paper on the review of SFDR DR, section 3.5).
- For investors, information at the entity level is not decision-useful, especially if it refers to aggregated values of all financial products managed by a given FMP.

*Maximum of 5.000 characters*

The SFDR is intended to facilitate comparisons between financial products based on their sustainability considerations. In practice, investors, and especially retail investors, may not always have the necessary expertise and knowledge to interpret SFDR product-level disclosures, whether it is about comparing these disclosures to industry averages or credible transition trajectories.

**Question 3.2.9:** Do you think that some product-level disclosures should be expressed on a scale (e.g. if the disclosure results for similar products were put on a scale, in which decile would the product fall)?

Yes	No	Don't know
		X

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

- We are reluctant about the idea of providing sustainability-related disclosures in comparison to e.g. industry averages:
- Implementation of such performance-related scales would entail enormous operational complexity, e.g. as regards grouping of products in order to enable meaningful comparisons, data collection



exercise etc..

- Only limited comparability of sustainability-related performance can be assumed (e.g. GHG emissions must not be compared/put on a scale for different sectors and markets).
- Even in relation to similar products, the reported results might not be comparable due to different data sources and insufficient quality of available data/remaining data gaps.

We understand that the Commission’s thinking is not targeted towards introducing an “ESG scale” as an orientation tool for retail investors. A concept for an “ESG scale” to be included in the PRIIPs KID based on the key sustainability features of financial products has been brought forward by the German Sustainable Finance Council. Indeed, the usefulness of such a scale or indicator will largely depend on the evolvement of the SFDR framework with regard to introducing plain, easily understandable product categories. We suggest to reevaluate this concept at a later stage of the SFDR review.

*Maximum of 5.000 characters*

**Question 3.2.10:** If you are a professional investor, where do you obtain the sustainability information you find relevant?

	1	2	3	4	5	Don't know
From direct enquiries to market participants					X	
Via SFDR disclosures provided by market participants	X					

*(1= not at all, 2= to a limited extent, 3= to some extent, 4= to a large extent, 5= to a very large extent)*

**Question 3.2.11:** If you are a professional investor, do you find the SFDR requirements have improved the quality of information and transparency provided by financial market participants about the sustainability features of the products they offer?

1	2	3	4	5	Don't know
	X				

*(1= not at all, 2= not really, 3= partially, 4= mostly, 5= totally)*

Please explain as necessary your replies to question 3.2.10 and 3.2.11:

- The general transparency rules at SFDR Level 1 are helpful also for professional investors and have created a new market standard for sustainability disclosures. This does not, however, apply to the specific implementation in the standardised Level 2 templates.
- Professional investors such as insurance companies, pension funds, large corporations etc. generally require more detailed, customized information that is tailored to their particular needs. Standardised ESG information is of no value to this group of investors, but only create unnecessary burden and nuisance for both product providers who need to provide for it and for investors who eventually have to pay.
- SFDR disclosures have to be prepared for the business year of the financial product (e.g. investment fund) and are therefore not automatically aligned with the needs of professional



- investors who require the information for their own annual reporting.
- SFDR disclosures currently discourage many institutional investors to include binding ESG elements in their portfolio strategies due to cost-benefit-considerations in terms of enhanced reporting requirements.
  - More flexibility is needed for disclosures to professional investors. Financial products offered solely to professional investors should be exempted from mandatory disclosures, unless the investor explicitly requests the information. At the very least, standardised ESG templates must not be prescribed for use in products offered solely to professional investors.

*Maximum of 5.000 characters*

For disclosures to be effective, they need to be accessible and useable to end investors. We are seeking respondents' views about the need to further improve the accessibility and usability of this information, in particular in a digital context. <sup>11</sup>

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

	1	2	3	4	5	Don't know
Article 2(2) of the SFDR Delegated Regulation already requires financial market participants to make disclosures under the SFDR in a searchable electronic format, unless otherwise required by sectoral legislation. This is sufficient to ensure accessibility and usability of the disclosed information.		X				
It would be useful for all product information disclosed under the SFDR to be machine-readable, searchable and ready for digital use.		X				
It would be useful for some of the product information disclosed under the SFDR to be machine-readable and ready for digital use.					X	
It would be useful to prescribe a specific machine-readable format for all (or some parts) of the reporting under the SFDR (e.g. iXBRL).					X	
It would be useful to make <b>all product information</b> disclosed under the SFDR available in the upcoming European Single Access Point as soon as possible.					X	

<sup>11</sup> These questions are intended to complement Question 42 in the ESAs' [joint consultation paper on the review of the SFDR Delegated Regulation \(JC 2023 09\)](#) which asks for criteria for machine readability of the SFDR Delegated Regulation disclosures.



Entity and product disclosures on websites should be interactive and offer a layered approach enabling investors to access additional information easily on demand.	X					
It would be useful that a potential regulatory attempt to digitalise sustainability disclosures by financial market participants building on the European ESG Template (EET) which has been developed by the financial industry to facilitate the exchange of data between financial market participants and stakeholders regarding sustainability disclosures.			X			

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

**Question 3.2.13:** Do you think the costs of introducing a machine-readable format for the disclosed information would be proportionate to the benefits it would entail?

1	2	3	4	5	Don't know
			X		

(1= not at all, 2= not really, 3= partially, 4= mostly, 5= totally)

Please provide any comments or explanations to explain your answers to questions 3.2.12 and 3.2.13:

- Introduction of a machine-readable format would create substantial initial costs, but should enable much easier access to, and use of, information disclosed by companies and financial market participants. However, in order to justify the one-off investment, requirements should be well-designed and reliable in the longer term.
- As regards disclosures of fund information, considerable added value is expected for indirect investments via target funds in managed portfolios and multi-asset-products.
- Only disclosures of quantitative information and yes/no indicators should be machine-readable in line with the approach adopted in the EET.
- Narratives should be delivered to the ESAP in the pdf format, currently as part of pre-contractual and periodic regulatory information (fund prospectus and annual report).
- EET as a blueprint is only partially suitable, as it comprises both, regulatory and voluntary disclosures. Sections of EET that relate to pre-contractual and periodic information can be used designing data requirements for the ESAP purposes.
- Interactive website disclosures would be very expensive with little added benefit. Market experience with the detailed disclosure requirements under Article 10 SFDR has demonstrated that regulatory micro-management of website information is not an appropriate approach. Website disclosures should be streamlined and aligned with information requirements in pre-contractual/periodic documents.

Maximum of 5.000 characters

Current product-level disclosures have been designed to allow for comparability between financial



products. These financial products and the types of investments they pursue can present differences.

**Question 3.2.14:** To what extent do you agree with the following statement? “When determining what disclosures should be required at product level it should be taken into account: ...”

	1	2	3	4	5	Don't know
Whether the product is a wrapper offering choices between underlying investment options like a Multi-Option Product						X
Whether some of the underlying investments are outside the EU			X			
Whether some of the underlying investments are in an emerging economy			X			
Whether some of the underlying investments are in SMEs			X			
Whether the underlying investments are in certain economic activities or in companies active in certain sectors			X			
Other considerations as regards the type of product or underlying investments				X		

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

Please explain your reply to question 3.2.14:

- Challenges relate primarily to availability/quality of data and the reliability/comparability of the resulting disclosures; distinction of disclosure requirements is rather less of an issue.
- Appropriateness of disclosure requirements often depends on the type of assets; e.g. for illiquid assets such as infrastructure as well as other real assets it is very difficult to consider PAIs and to report on such consideration due to the lack of appropriate metrics. The same problems can be observed with regard to structured/securitized assets.
- Outside the EU, there are general issues with availability and quality of information. The DNSH test for emerging markets is very problematic due to structural lack of reliable data, but also to a different level of progress in sustainability terms.
- Results that are skewed due to insufficient or low quality information should be properly explained.

Maximum of 5.000 characters



## 4. POTENTIAL ESTABLISHMENT OF A CATEGORISATION SYSTEM FOR FINANCIAL PRODUCTS

### 4.1. POTENTIAL OPTIONS

The fact that Articles 8 and 9 of the SFDR are being used as de facto product labels, together with the proliferation of national ESG/sustainability labels, suggests that there is a market demand for such tools in order to communicate the ESG/sustainability performance of financial products. However, there are persistent concerns that the current market use of the SFDR as a labelling scheme might lead to risks of greenwashing (the Commission services seek respondents' views on this in section 1). This is partly because the existing concepts and definitions in the regulation were not conceived for that purpose. Instead, the intention behind them was to encompass as wide a range of products as possible, so that any sustainability claims had to be substantiated. In addition, a proliferation of national labels risks fragmenting the European market and thereby undermining the development of the [capital markets union](#).

The Commission services therefore seek views on the merits of developing a more precise EU-level product categorisation system based on precise criteria. This section of the questionnaire asks for stakeholders' views about both the advantages of establishing sustainability product categories and about how these categories should work. When asking about sustainability product categories, the Commission is referring to a possible distinction between products depending on their sustainability objectives or sustainability performances.

Replies to questions in this section will help assess which type of investor would find product categories useful. Some questions relate to different possibilities as to how the system could be set-up, including whether disclosure requirements about products making sustainability claims should play a role. There are therefore certain links between questions in this section and section 3 on disclosures. Accordingly, respondents are invited to reply to questions in both sections, so that the Commission services can get insights into how they view disclosures and product categories separately, but also how they see the interlinkages between the two.

Given the high demand for sustainability products, questions in this section assume that any potential categorisation system would be voluntary. This is because financial market participants would likely have an interest in offering products with a sustainability claim. The questions in this section presume that only products that claim to fall under a given sustainability product category would be required to meet the corresponding requirements. However, this should not be seen as the Commission's preferred policy approach, as the Commission is only consulting on these topics at this stage.

If the Commission was to propose the development of a more precise product categorisation system, two broad strategies could be envisaged. On the one hand, the product categorisation system could build on and develop the distinction between Articles 8 and 9 and the existing concepts embedded in them (such as environmental/social characteristics, sustainable investment or do no significant harm), complemented by additional (minimum) criteria that more clearly define the products falling within the scope of each article. On the other hand, the product categorisation system could be based on a different approach, for instance focused on the type of investment strategy (promise of positive contribution to certain sustainability objectives, transition focus, etc.), based on criteria that do not necessarily relate to those existing concepts. In such a scenario, concepts such as



environmental/social characteristics or sustainable investment and the distinction between current Articles 8 and 9 of SFDR may disappear altogether from the transparency framework.

**Question 4.1.1:** To what extent do you agree with the following statements?

	1	2	3	4	5	Don't know
Sustainability product categories regulated at EU level would facilitate retail investor understanding of products' sustainability-related strategies and objectives				X		
Sustainability product categories regulated at EU level would facilitate professional investor understanding of products' sustainability-related strategies and objectives	X					
Sustainability product categories regulated at EU level are necessary to combat greenwashing			X			
Sustainability product categories regulated at EU level are necessary to avoid fragmenting the capital markets union.					X	
Sustainability product categories regulated at EU level are necessary to have efficient distribution systems based on investors' sustainability preferences.					X	
There is no need for product categories. Pure disclosure requirements of sustainability information are sufficient.	X					

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

**Question 4.1.2:** If a categorisation system was established, how do you think categories should be designed?

	1	2	3	4	5	Don't know
<b>Approach 1:</b> Splitting categories in a different way than according to existing concepts used in Articles 8 and 9, for example, focusing on the type of investment strategy of the product (promise of positive contribution to certain sustainability objectives, transition, etc.) based on criteria that do not necessarily relate to those existing concepts.				X		





<p><b>Approach 2:</b> Converting Articles 8 and 9 into formal product categories, and clarifying and adding criteria to underpin the existing concepts of environmental/social characteristics, sustainable investment, do no significant harm, etc.</p>	X					
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*(1= totally disagree, 2= mostly disagree, 3= partially disagree and partially agree, 4= mostly agree, 5= totally agree)*

Please explain your reply to questions 4.1.2 and 4.2.2:

BVI supports the endeavour to introduce a categorisation system for sustainable financial products as part of the EU framework for sustainable finance. We have ever since argued that pure transparency requirements currently foreseen under SFDR are insufficient to reorient capital flows and to guide especially retail investors in their investment decisions. Product categorisation in line with uniform criteria that warrant a certain minimum level of ambition in sustainability terms would also help to counter greenwashing claims.

As regards the choice between the two options laid out by the Commission, our observations are as follows:

- Regardless of how the new categorisation system is created, the already implemented concepts and KPIs (elements of the existing Article 8 and Article 9 products) should be duly taken into account and built upon. This applies in particular to the concept of considering PAIs as binding elements of the investment strategy (in line with our interpretation of Article 7(1) SFDR).
- The assumption for establishing Approach 1 in the last half-sentence (“based on criteria that to not necessarily relate to the existing concepts”) should be thus corrected. The aim should be to establish a new categorisation system while drawing from the market experience with the current SFDR framework, not starting from the scratch.
- With regard to approach 2, it would be very difficult to convert Articles 8 und 9 into product categories, given their design as transparency standards and the very wide scope of application of especially Article 8 SFDR.
- In either case, it is essential to recognize that product classification must not be seen as an end in itself. Introduction of sustainable product categories will only be helpful if it addresses the investors’ perspective on sustainability. Plain product categories that are easy to grasp are needed to facilitate understanding of especially retail investors. A review of the criteria for sustainability preferences under MiFID and IDD should be considered an integral part of the initiative at hand, otherwise the reform would be of no practical value.

*Maximum of 5.000 characters*



**If a categorisation system was established according to approach 1 of question 4.1.2**

**Question 4.1.3:** To what extent do you agree that, under approach 1, if a sustainability disclosure framework is maintained in parallel to a categorisation system, the current distinction between Articles 8 and 9 should disappear from that disclosure framework?

1	2	3	4	5	Don't know
				X	

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

**Question 4.1.4:** To what extent would you find the following categories of sustainability products useful?

	1	2	3	4	5	Don't know
A - Products investing in assets that specifically strive to offer targeted, <u>measurable solutions</u> to sustainability related problems that affect people and/or the planet, e.g. investments in firms generating and distributing renewable energy, or in companies building social housing or regenerating urban areas.				X		
B - Products aiming to meet <u>credible sustainability standards</u> or adhering to a specific sustainability-related theme, e.g. investments in companies with evidence of solid waste and water management, or strong representation of women in decision-making.				X		
C - Products that exclude activities and/or investees involved in activities with negative effects on people and/or the planet		X				
D - Products with a transition focus aiming to bring <u>measurable improvements</u> to the sustainability profile of the assets they invest in, e.g. investments in economic activities becoming taxonomy-aligned or in transitional economic activities that are taxonomy aligned, investments in companies, economic activities or portfolios with credible targets and/or plans to decarbonise, improve workers' rights, reduce environmental impacts. <sup>12</sup>				X		

<sup>12</sup> In line with the transition to a climate neutral and sustainable economy.



Other	X					
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(1= not at all, 2= to a limited extent, 3= to some extent, 4= to a large extent, 5= to a very large extent)

If you think there are other possible useful categories, please specify which ones:

**BVI supports establishment of a voluntary system of product categorisation based on the sustainability propositions of financial products. We recommend distinguishing three product categories:**

- **Focus on positive contribution to an environmental/social objective (corresponding to a broader category A):** This category would encompass products that aim at making a measurable positive contribution to either environmental and/or social objective as defined in the specific product terms. In order to avoid scientifically sophisticated debates about the definition of sustainable impact, we recommend widening the scope of this product category to include not only impact-generating strategies, but also impact-aligned products that aim at supporting impactful companies and projects. The broader term “contribution” should be used to encompass both, impact-generating and impact-aligned investments.
- **Focus on sustainable transition (corresponding to category D):** This category should apply to products aiming at facilitating sustainable transition and measuring the relevant progress. Measurability should be based on sustainability indicators stipulated as binding in the product terms; such indicators should be able to refer in particular to the standardized PAI indicators alongside the EU Taxonomy criteria and other recognised metrics that enable measuring progress in transition.
- **Focus on credible sustainability standards including exclusion-based strategies; (corresponding to combined categories B and C):** This product category could be more process-based and rely on credible sustainability standards without aiming at achieving measurable outcomes in sustainability terms (for instance best-in-strategies; thematic investments); could function as a “sweep-up” category.
- **The suggested product categories represent different types of investment approaches and different contributions to sustainability without a specific hierarchy.** Moreover, while there are strong similarities to the concept for sustainable investment labels published by the UK FCA in November 2023, we recommend a broader scope of the classification system and inclusion of products without dedicated sustainability objectives in case such products promote credible standards of sustainability. Nonetheless, compatibility with the UK labelling system and potentially other non-EU frameworks for sustainable products would be welcome at least in terms of reciprocal mapping to facilitate cross-border distribution.
- **All products categories should be designed in a principle-based manner that works for different asset classes as well as for products investing in a variety of assets (so-called multi-asset-products).** A separate product category for real estate/infrastructure investments is not considered necessary.
- **All product categories should require intentionality of outcomes in line with a product’s specific sustainability commitment.** Financial products should be required to be transparent about the progress in attaining to their commitment, but must not be held liable if the outcome falls short of the objective. A guarantee of positive sustainability results, e.g. effective reduction of GHG emissions at the level of target companies, effective mitigation of the gender pay gap, must not be



expected. Attainment of sustainability objectives in the real world depends on a variety of factors, from the macroeconomic parameters to the commitment and success at the level of individual companies/other assets.

- For each category, there should be a set of clear-cut criteria to enable self-assignment by product manufacturers. This would be particularly relevant in case of mutually exclusive product categories and with regard to potential minimum requirements in sustainability terms. Calculation methodologies for minimum commitments at the product level would need to be standardised in order to warrant a common minimum level of sustainability ambition and comparability for investors.
- Introduction of sustainable product categories will only be helpful if it addresses the investors' perspective on sustainability. Plain product categories that are easy to grasp are needed to facilitate understanding of especially retail investors. A review of the criteria for sustainability preferences under MiFID and IDD should be considered an integral part of the initiative at hand, otherwise the reform would be of no practical value:
  - o The new product categories must be developed with the needs of retail investors in mind,
  - o Practical testing with real world distribution channels and consumers will be very important and must take place sufficiently in advance in order to be fully evaluated and processed for the final decisions in terms of product categorisation.

*Maximum of 5.000 characters*

**Question 4.1.5:** To what extent do you think it is useful to distinguish between sustainability product category A and B described above?

1	2	3	4	5	Don't know
				X	

*(1= not at all, 2= to a limited extent, 3= to some extent, 4= to a large extent, 5= to a very large extent)*

**Question 4.1.6:** Do you see merits in distinguishing between products with a social and environmental focus?

1	2	3	4	5	Don't know
	X				

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

**Question 4.1.7:** How many sustainability product categories in total do you think there should be?

1	2	3	4	5	More than 5	Don't know
		X				



**Question 4.1.8:** Do you think product categories should be mutually exclusive, i.e. financial market participants should choose only one category to which the product belongs to in cases where the product meets the criteria of several categories (independently from subsequent potential verification or supervision of the claim)?

Yes	No	There is another possible approach	Don't know
			X

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

N/A

*Maximum of 5.000 characters*

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

**BVI supports establishment of a voluntary system of product categorisation based on the sustainability propositions of financial products. We recommend distinguishing three product categories:**

- **Focus on positive contribution to an environmental/social objective (corresponding to a broader category A):** This category would encompass products that aim at making a measurable positive contribution to either environmental and/or social objective as defined in the specific product terms. In order to avoid scientifically sophisticated debates about the definition of sustainable impact, we recommend widening the scope of this product category to include not only impact-generating strategies, but also impact-aligned products that aim at supporting impactful companies and projects. The broader term “contribution” should be used to encompass both, impact-generating and impact-aligned investments.
- **Focus on sustainable transition (corresponding to category D):** This category should apply to products aiming at facilitating sustainable transition and measuring the relevant progress. Measurability should be based on sustainability indicators stipulated as binding in the product terms; such indicators should be able to refer in particular to the standardized PAI indicators alongside the EU Taxonomy criteria and other recognised metrics that enable measuring progress in transition.
- **Focus on credible sustainability standards including exclusion-based strategies; (corresponding to combined categories B and C):** This product category could be more process-based and rely on credible sustainability standards without aiming at achieving measurable outcomes in sustainability terms (for instance best-in-strategies; thematic investments); could function as a “sweep-up” category.
- Focus of the new product categorization system should be on enabling retail investors, professional investors prefer tailored investment solutions and do not need standardised product categories.
- Simplification is key, asset class neutral approach should be preferred in order not to discriminate strategies or multi-asset-products and remain open for innovation.
- Distinction between environmental and social focus is not appropriate for the purpose of categorising products, but very important element of ESG-related disclosures in the communication



towards investors.

- With regard to the question whether the new product categories should be mutually exclusive, different arguments need to be considered:
  - o Pros: Mutually exclusive product categories would potentially provide better orientation for investors; coverage of multiple categories might be confusing for investors especially in case of self-directed sales; investment focus of a product could be determined at the portfolio level (e.g. transition vs. sustainable contribution).
  - o Cons: Distinction between sustainable contribution and transition might be difficult; products that combine both approaches would be prevented or inhibited; sustainable investment strategies generally combine various elements and are difficult to be pressed into one of three standardized concepts.
  - o In order to solve this dilemma, the UK FCA has recently introduced a “mixed goals” product category as part of the UK labelling regime for sustainable products. Products falling into such “mixed goals” category can combine characteristics of two or more sustainability labels, as long as the overall commitment at portfolio level adheres to the criteria relevant for all products (under the UK regime meaning a minimum commitment of 70% of the portfolio to be invested in line with the “mixed goals” strategy). A similar approach in the EU would cater for mutual exclusivity of product categories without limiting the variety of investment approaches or stifling innovation.

*Maximum of 5.000 characters*

**Question 4.1.9:** If a categorisation system was established that builds on new criteria and not on the existing concepts embedded in Articles 8 and 9, is there is a need for measures to support the transition to this new regime?

1	2	3	4	5	Don't know
				X	

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

Please explain your replies to questions 4.1.9 as necessary:

- Sufficiently long transitioning period would be needed in case of introduction of a new product categorisation system. A high share of the retail investment funds and other EU investment products currently discloses under Article 8 or 9 SFDR and would need to be evaluated and possibly adapted to the new system. Such adaptation will often involve modifications to the product terms, product names and potentially also renewal of product authorization.
- Grandfathering rules should apply to products that are closed to new subscriptions.
- A clear focus on product categorization for the retail market would help to keep transitioning efforts manageable.

*Maximum of 5.000 characters*



**Question 4.1.10:** What should be the minimum criteria to be met in order for a financial product to fall under the different product categories? Could these minimum criteria consist of:

For product category A of question 4.1.4

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

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

Please specify reply:

- **General caveat:** We advise against too rigid minimum criteria for sustainable product categories. In our view, sustainable products should be rather required to account for certain elements such as having a dedicated predefined sustainability objective or adopting sustainability indicators for the measurement of outcomes. These key features should, however, not be defined in each and every detail in order to (1) facilitate investment solutions involving different asset classes and different geographical/sectoral focus (2) avoid inflexibility of the regulatory system that would stifle innovation.
- Disclosures requirements also need to be simplified and focused on the key elements of the sustainable product proposition (objective – strategy – outcome).
- The new categorization system should aim at facilitating communication with investors:
  - o Not all ESG features of sustainable products need to be explained to investors at the point of sale;
  - o Investor’s level of knowledge and absorption capacities should be realistically assessed;
  - o more flexibility for appropriate client communication would be very welcomed.

**Product category A:**

- **This category should encompass products that aim at making a measurable positive contribution to either environmental and/or social objective as defined in the specific product terms.**
- In order to avoid scientifically sophisticated debates about the definition of sustainable impact, we recommend widening the scope of this product category to include not only impact-generating strategies, but also impact-aligned products that aim at supporting impactful companies and projects. The broader term “contribution” should be used to encompass both, impact-generating and impact-aligned investments.



- Products with focus on climate or other environmental aspects covered by EU Taxonomy criteria could be obliged to make a minimum commitment to investments in line with the EU Taxonomy; no specific minimum should be prescribed in order to account for different asset classes and regional/industry focus of the individual investment strategy.
- If sustainable investments according to the current concept of Article 2(17) SFDR were maintained as a basis for investments with measurable contribution (focus of product category A), then the future framework would need to address the following challenges:
  - o availability of data for different geographical locations and different asset classes; the approach should be asset class neutral and not discriminate investments e.g. in emerging markets;
  - o sufficiently clear definitions for the relevant criteria establishing sustainable investments and the underlying standards;
  - o introduction of a common calculation methodology for the proportion of sustainable investments at the portfolio level.
- Under this scenario, exclusions would be anyway part of the DNSH test (based on PAI indicators) and should not be required as minimum standard in addition.
- Whatever approach is chosen, availability of data must be thoroughly considered when determining the minimum standards; avoiding an EU-centric approach and applying an international perspective is essential when it comes to assessing data availability.
- Engagement depends on the relevant asset class and progress made by the individual portfolio company, it is hardly standardizable as an element of investment strategy and should not be enforced or required in all circumstances.
- Engagement can only support a company’s activities, but cannot be seen as obligation of results for the financial product (no positive outcome can be guaranteed).
- Other criteria relevant for category A: Predefined sustainability indicators to measure and report progress in solving environmental or social problems either by investor’s contribution (impact-generating concept), investment’s contribution (impact aligned concept) or a combination of these features (e.g. in case of investment in companies that contribute to attaining the SDGs and investor’s engagement for further facilitating the company-driven solutions).

Maximum of 5.000 characters

For product category B of question 4.1.4

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





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

- **General caveat:** We advise against too rigid minimum criteria for sustainable product categories. In our view, sustainable products should be rather required to account for certain elements such as having a dedicated predefined sustainability objective or adopting sustainability indicators for the measurement of outcomes. These key features should, however, not be defined in each and every detail in order to (1) facilitate investment solutions involving different asset classes and different geographical/sectoral focus (2) avoid inflexibility of the regulatory system that would stifle innovation.
- Disclosures requirements also need to be simplified and focused on the key elements of the sustainable product proposition (objective – strategy – outcome).
- The new categorization system should aim at facilitating communication with investors:
  - o Not all ESG features of sustainable products need to be explained to investors at the point of sale;
  - o Investor’s level of knowledge and absorption capacities should be realistically assessed;
  - o more flexibility for appropriate client communication would be very welcomed.

#### **Product category B:**

- This product category could be more process-based and rely on credible sustainability standards without aiming at achieving measurable outcomes in sustainability terms.
- Should be per definition a wide “sweep-up” category for products that adhere to credible sustainability standards or invest in sustainability themes.
- Conceivable are norm-based approaches (e.g. investments with a focus on fostering the UNGC or OECD Guidelines for multinational enterprises; the pursuit of SDGs without a specific impact intention), green bond strategies or potentially strategies focused on engagement, alongside sustainability-related thematic investments.
- Some index-tracking strategies may fall under category B as well, where they track selective benchmarks that reflect the credible standard for environmental or social sustainability as specified in the investment objective.
- Category B will meet the needs and preferences of those consumers who are seeking a highly ‘ESG screened’ portfolio that invests predominantly in assets with certain sustainability characteristics or that is demonstrably aligned with a sustainability-related theme (positive screening) – and equally that avoids investments in assets that they do not associate with sustainability (negative screening).
- Both approaches – positive and negative ESG screening – should be admissible either on a stand-alone basis or in combination, provided that they conform to the credible sustainability standard as specified in the product terms.
- The key distinguishing features of category B should thus be:
  - o Sustainability objective. Alongside its financial risk/return objective, a category B product should have an objective to invest in assets that meet a credible standard of environmental and/or social sustainability, or that align with a specified environmental and/or social sustainability theme, and thus to constrain investment choices by certain sustainability factors.
  - o Consequently, category B products should define binding sustainability factors that support implementation of the credible sustainability standard or sustainability theme and report about their implementation.

*Maximum of 5.000 characters*



For product category C of question 4.1.4

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

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

Please specify reply:

We do not see added value in distinguishing exclusion-based investments as a separate product category. Instead, we suggest establishing a broader “sweep-up” category B that would encompass investments in line with credible sustainability standards; such investments could also be accomplished by applying sustainability-related exclusions (negative screening).

Maximum of 5.000 characters

For product category D of question 4.1.4

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

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

Please specify reply:



- **General caveat:** We advise against too rigid minimum criteria for sustainable product categories. In our view, sustainable products should be rather required to account for certain elements such as having a dedicated predefined sustainability objective or adopting sustainability indicators for the measurement of outcomes. These key features should, however, not be defined in each and every detail in order to (1) facilitate investment solutions involving different asset classes and different geographical/sectoral focus (2) avoid inflexibility of the regulatory system that would stifle innovation.
- Disclosures requirements also need to be simplified and focused on the key elements of the sustainable product proposition (objective – strategy – outcome).
- The new categorization system should aim at facilitating communication with investors:
  - o Not all ESG features of sustainable products need to be explained to investors at the point of sale;
  - o Investor’s level of knowledge and absorption capacities should be realistically assessed;
  - o more flexibility for appropriate client communication would be very welcomed.

**Product category D:**

- This category should apply to products aiming at facilitating sustainable transition and measuring the relevant progress. Measurability should be based on sustainability indicators stipulated as binding in the product terms; such indicators should be able to refer in particular to the standardized PAI indicators alongside the EU Taxonomy criteria and other recognised metrics that enable measuring progress in transition.
- Engagement is essential for facilitating sustainable transition in companies, but must not be required in any circumstances and not deemed appropriate for all assets.
- Engagement can only support a company’s activities and endeavours, but cannot be seen as obligation of results (no positive outcome can be guaranteed – escalation process needed in case ESG progress falls behind the product’s objectives/commitments).
- Application of minimum exclusions for category D products seems counterproductive, given that the entire economy needs to make progress in transition. The concept of transition generally relates to investee companies that often engage in different economic activities (e.g. utility companies provide for power generation and supply from fossil fuels as well as increasingly from regenerative sources). Making progress in transition, companies can phase-out /decommission harmful activities and expand or build up new business lines, this should not be prevented by exclusions.
- Other criteria relevant for category D: Predefined sustainability indicators to measure and report progress in transition (for example by reference to PAI indicators); in case of strategies aiming at reduction of GHG emissions, such indicators should comprise dedicated decarbonisation pathways.

*Maximum of 5.000 characters*

**Question 4.1.11:** Should criteria focus to any extent on the processes implemented by the product manufacturer to demonstrate how sustainability considerations can constrain investment choices (for instance, a minimum year-on-year improvement of chosen key performance indicators (KPIs), or a minimum exclusion rate of the investable universe)?

	1	2	3	4	5	Don't know
Category A of question 4.1.4	X					



Category B of question 4.1.4	X					
Category C of question 4.1.4	X					
Category D of question 4.1.4		X				

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

**Question 4.1.11 a):** If so, what process criteria would you deem most relevant to demonstrate the stringency of the strategy implemented?

- A rigid system that relies on minimum quantitative improvement or exclusion rate for determining sustainability-related investments would be arbitrary and would disregard the wide variety of environmental or social problems that all need targeted treatment as well as the trade-offs that very often need to be made in making evaluations on sustainability.
- A yearly rate of improvement would be very difficult to be appropriately established for all environmental or social aspects, sectors and assets alike. For most sustainability objectives, such as sustainable use of water and marine resources or pollution control, there is still no scientific or political consensus about the necessary level of ambition to trigger a meaningful change. For social objectives, one could argue that any kind of measurable progress would make a difference.
- The only potential exception are GHG emission reduction strategies in line with the Paris agreement for which globally recognised clear target dates and science-based emission reduction pathways already exist.
- Generally, no commitment to a specific sustainability outcome must be expected in any ESG strategy (no obligation of results). Financial products can have predefined sustainability objectives, strategies for attaining that objective and can report about the relevant progress. Achievement of sustainability objectives in the real world depends, however, on a variety of factors, from the macroeconomic parameters to the commitment and success at the level of individual companies/other assets.

Maximum of 5.000 characters

**If a categorisation system was established according to approach 2 of question 4.1.2**

**Question 4.1.12:** If a categorisation system was established based on existing Articles 8 and 9, are the following concepts of the SFDR fit for that purpose?

	1	2	3	4	5	Don't know
The current concept of 'environmental and/or social characteristics'		X				
The current concept of 'sustainable investment'		X				
The current element of 'contribution to an environmental or social objective' of the sustainable investment concept		X				



The current element 'do no significant harm' of the sustainable investment concept, and its link with the entity level principal adverse impact indicators listed in tables 1, 2 and 3 of Annex I of the Delegated Regulation		X				
The current element of 'investee companies' good governance practices' of the sustainable investment concept		X				

(1= not at all, 2= to a limited extent, 3= to some extent, 4= to a large extent, 5= to a very large extent)

**Question 4.1.12 a):** If you consider that the elements listed in question 4.1.12 are not fit for purpose, how would you further specify the different elements of the 'sustainable investment' concept, what should be the minimum criteria required for each of them?

'contribution to an environmental or social objective', element of the sustainable investment concept	Binding and measurable commitment to attain a dedicated sustainability objective in line with pre-contractual disclosures.
'do no significant harm', element of the sustainable investment concept	CTB exclusions as basic minimum standard; all mandatory PAIs should be taken into account.
'investee companies' good governance practices', element of the sustainable investment concept	No severe controversies in governance matters measured e.g. against UNGC and OECD Guidelines for Multinational Enterprises (already covered by the CTB exclusions).

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

Yes	No	Don't know
		X

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

Potential good governance criteria for government bonds could refer to the FATF list of non-cooperative jurisdictions and exclude investment in government bonds that are subject to EU sanctions.

*Maximum of 5.000 characters*

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

Yes	No	Don't know
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	X	
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If yes, what should be the minimum criteria required for this element?

N/A

*Maximum of 5.000 characters*

**Question 4.1.13:** How would you further specify what promotion of ‘environmental/social characteristics’ means, what should be the minimum criteria required for such characteristics and what should be the trigger for a product to be considered as promoting those characteristics?

- The scope of application of Article 8 SFDR should be tightened; implementation of singular exclusion criteria must not be sufficient to claim promotion of environmental or social characteristics.
- Products should have the objective of implementing ESG standards that are e.g. better than the market (measured either in relative terms by comparison with a relevant benchmark or in absolute terms by applying ESG ratings/indicators); this objective should be clearly laid down as a binding commitment in pre-contractual documents.
- Minimum requirement in terms of good governance should preclude investments in investee companies with severe controversies in governance matters measured e.g. against UNGC and OECD Guidelines for multinational enterprises.
- Such ESG commitment should relate to a predefined high share of the portfolio (75 or 80 percent); cash and hedging instruments should be excluded; treatment of indirect investments like target funds or index derivatives for the purpose of the ESG commitment must be thoroughly considered.
- Target funds that conform to the future minimum Article 8 or 9 standards should automatically qualify as investments for other (multi-asset) Article 8 or 9 products.

**Question 4.1.14:** Do you think that a minimum proportion of investments in taxonomy aligned activities shall be required as a criterion to:

	Yes	No	Don't know
...fall under the potential new product category of Article 8?		X	
...fall under the potential new product category of Article 9?		X	

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

N/A

*Maximum of 5.000 characters*

**Question 4.1.14 b):** If yes, what should be this minimum proportion for Article 9?



N/A

*Maximum of 5.000 characters*

**Question 4.1.15:** Apart from the need to promote environmental/social characteristics and to invest in companies that follow good governance practices for Article 8 products and the need to have sustainable investments as an objective for Article 9 products, should any other criterion be considered for a product to fall under one of the categories?

We see no need for introducing any other minimum binding criteria and generally advise against too rigid requirements for sustainable product categories. In our view, sustainable products should be rather required to account for certain elements such as having a dedicated predefined sustainability objective or adopting sustainability indicators for the measurement of outcomes. These key features should, however, not be defined in each and every detail in order to (1) facilitate investment solutions involving different asset classes and different geographical/sectoral focus (2) avoid inflexibility of the regulatory system that would stifle innovation.

*Maximum of 5.000 characters*

#### 4.2. GENERAL QUESTIONS ABOUT THE POTENTIAL ESTABLISHMENT OF SUSTAINABILITY PRODUCTS CATEGORIES

**Question 4.2.1:** In addition to these criteria, and to other possible cross-cutting/horizontal disclosure requirements on financial products, should there be some additional disclosure requirements when a product falls within a specific sustainability product category? This question presents clear links with question 3.2.3 in section 3.

1	2	3	4	5	Don't know
		X			

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

**Question 4.2.1 a):** Please see a list of examples of disclosures that could be required when a product falls within a specific sustainability product category. Should this information be required when a product falls within a specific sustainability product category, and/or should any other information be required about those products?

	1	2	3	4	5	Don't know
Taxonomy-related disclosures		X				
Engagement strategies		X				
Exclusions		X				



Information about how the criteria required to fall within a specific sustainability product category have been met					X	
Other information					X	

(1= not at all, 2= to a limited extent, 3= to some extent, 4= to a large extent, 5= to a very large extent)

Please specify any other information:

- As today, we need a clear distinction between pre-contractual and periodic disclosures on sustainable products. Pre-contractual disclosures should focus on sustainability objectives and relevant commitments, whereas periodic disclosures should inform investors about the progress made in attaining to sustainability objectives.
- There are three elements that should in our view be reflected and built upon by the future transparency requirements (both precontractual and periodic):
  - o A product’s sustainability objectives (for categories A and D) or broader investment objectives that lead to constraining investment choices by sustainability factors (category B/C).
  - o Binding elements of the investment strategy that aim at attaining the sustainability objectives (for categories A and D) or binding sustainability factors that support implementation of the credible sustainability standard or sustainability theme (category B/C).
  - o Sustainability indicators for measuring contribution to solving environmental/social problems (category A) or progress in transition (category D) or for implementing the binding elements of the investment strategy (category B/C).
- Disclosures on specific topics (Taxonomy/PAl/exclusions) should be only required in case a sustainable product makes specific investment commitments in relation to these topics (e.g. if Taxonomy-aligned investments or exclusions are part of the investment strategy). Otherwise, sustainable products should disclose on these issues in the same manner and to the same extent as other financial products (cf. our replies in section 3.2.2.).
- Comprehensibility for investors is essential, disclosures should be reduced to the necessary minimum.
- Precontractual and periodic disclosures should be streamlined and focused on the key product features; there should be a clear link between precontractual commitments and periodic reporting (periodic reporting about attainment/progress in attaining sustainability /investment objectives).
- The same logical structure should be applied to the website disclosures under Article 10 SFDR which must be fully aligned with binding precontractual and periodic disclosures in order to provide for a recognition effect for investors.
- Disclosure of ESG-relevant policies (e.g. engagement policy, internal approach to data and methodologies, sustainable investment approach) should be possible on the website (not in the product-specific section, given that such policies generally apply at entity level) with the option to provide links in legal documents.

Maximum of 5.000 characters





**Question 4.2.2:** If a product categorisation system was set up, what governance system should be created?

	1	2	3	4	5	Don't know
Third-party verification of categories should be mandatory (i.e. assurance engagements to verify the alignment of candidate products with a sustainability product category and assurance engagements to monitor on-going compliance with the product category criteria)	X					
Market participants should be able to use this categorisation system based on a self-declaration by the product manufacturer supervised by national competent authorities					X	
Other						

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

Please explain your answer to question 4.2.2:

- Clarity and feasibility of the underlying minimum criteria for sustainable product categories is very important, otherwise the system will not work.
- Unambiguous criteria can be applied by product manufacturers like any other regulatory requirement.
- For retail investment funds, a third-party verification would come in addition to the assessment by supervisory authorities who would remain competent for fund authorisation/notification. Such double verification process would be neither appropriate nor helpful, might likely involve time-to-market delays and thus disadvantage sustainable products.
- Ex-post verification by auditors as part of the annual audit provides further safety net for ensuring compliance with the future minimum criteria.

Maximum of 5.000 characters

**Question 4.2.3:** If a categorisation system was established, to what extent do you agree with the following statement? “When determining the criteria for product categories it should be taken into account: ...”

	1	2	3	4	5	Don't know
Whether the product is a wrapper offering choices between underlying investment options like a Multi- Option Product						X



Whether the underlying investments are outside the EU		X				
Whether the underlying investments are in an emerging economy		X				
Whether the underlying investments are in SMEs		X				
Whether the underlying investments are in certain economic activities		X				
Other considerations as regards the type of product or underlying investments				X		

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

Please explain your reply to question 4.2.3:

- The general system of product categorisation should be asset-neutral and work for different asset classes as well as multi-asset strategies.
- Detailed criteria need to take into account and be adapted to different asset classes in order to facilitate a shift towards more sustainability in the entire market.
- In general, we support equivalent sustainability standards for all asset classes, but need to account for specificities of investments and factual difficulties, i.e.
  - o DNSH test for emerging markets is very problematic due to structural lack of reliable data, but also to a different level of progress in sustainability terms,
  - o Outside the EU there are general problems with availability and quality of information which creates issues with reliability/comparability of the resulting disclosures,
  - o Real assets such as real estate struggle with the assessment of non-EU-properties against the EPC standard that forms the basis for the mandatory PAI assessment (PAI indicator 17 in Annex I, Table 1 SFDR DR),
  - o For other assets such as infrastructure, no PAI indicator exist so far which means that it is challenging to implement strategies aiming at mitigating adverse impacts.
- Results that are skewed due to insufficient or low quality information should be properly explained.
- Distinction between physical investment and synthetic replication should be duly taken into account as a relevant aspect for determining and assessing real-world contribution to sustainability.

Maximum of 5.000 characters



**4.3. CONSEQUENCES OF THE ESTABLISHMENT OF A SUSTAINABILITY PRODUCTS CATEGORISATION SYSTEM**

As highlighted in Section 2, any potential changes to the current disclosure regime and the creation of a categorisation system would need to take into account the interactions between the SFDR and other sustainable finance legislation. The following questions address these interactions for different legal acts, in such a scenario of regulatory changes in the arena of financial product disclosures and categorisation.

**Question 4.3.1:** The objective of the PRIIPs KID is to provide short and simple information to retail investors. Do you think that if a product categorisation system was established under the SFDR, the category that a particular product falls in should be included in the PRIIPS KID?

Yes	No	Don't know
X		

Please explain your answer to question 4.3.1:

- The new categorisation system for sustainable products should focus on the perspective and needs of retail investors and be designed with the goal of comprehensibility for consumers.
- Under this precondition, it makes a lot of sense to reflect sustainable product categories in the PRIIPs KID.
- Options for presentation in the PRIIPs KID should be well tested in practice in order to ensure broad comprehensibility also for self-directed investors.
- Consumer testing in different markets and different sales channels is crucial and should take place well in advance in order for the results to be properly evaluated and processed for the final decision-making about sustainable product categories.

Maximum of 5.000 characters

**Question 4.3.2:** If new ESG Benchmarks were developed at EU level (in addition to the existing Paris-aligned benchmarks (PAB) and climate transition benchmarks (CTB), how should their criteria interact with a new product categorisation system?

	1	2	3	4	5	Don't know
The criteria set for the ESG benchmarks and the criteria defined for sustainability product categories should be closely aligned					X	
Other					X	

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



If you chose other, please specify how should these criteria interact:

- The envisaged regulation of ESG benchmarks must not lead to a preferential treatment of passive products; the same rules must apply to actively managed sustainable products and products replicating ESG benchmarks. A level playing field for all sustainable investment strategies, including active and passive, should be the fundamental premise of regulatory activities.
- Each product and each ESG benchmark (if regulated) should be assessed against the same set of criteria for determining conformity with sustainability standards.
- Consequently, if regulatory standards for ESG benchmarks were to be developed, it should be clear that such standards must fully conform with the requirements for specific sustainable product categories.
- Products that passively track such regulated ESG benchmarks could then automatically qualify for a certain sustainability category which the ESG benchmark criteria adhere to.
- On the other hand, we reject a “white list” of regulated EU benchmarks that would automatically classify for sustainable product categories without adhering to the same criteria as actively managed funds
- Criteria for PAB and CTB should also be aligned with the requirements of the future product categories. In our view, CTB should aim at alignment with the product category D under option 1 (sustainable transition), whereas PAB could be operationalised for product category A (sustainable contribution). In both cases, however, full conformity with the requirements of the relevant product category would be necessary.

*Maximum of 5.000 characters*

**Question 4.3.3:** Do you think that products passively tracking a PAB or a CTB should automatically be deemed to satisfy the criteria of a future sustainability product category?

Yes	No	Don't know
		X

**Question 4.3.4:** To what extent do you agree that, if a categorisation system is established, sustainability preferences under MiFID 2/IDD should refer to those possible sustainability product categories?

1	2	3	4	5	Don't know
				X	

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



#### 4.4. MARKETING COMMUNICATIONS AND PRODUCT NAMES

Market participants are increasingly informing their clients about sustainability, both in the context of the SFDR and voluntarily in marketing communications and names. Potentially, any expression related to sustainability provided by market participants to describe and promote the entity or its products and services could mislead clients and other stakeholders if it does not appropriately consider the reasonable expectations.

The SFDR does address the issue of marketing communications in Article 13, prohibiting contradictions between such marketing communications and disclosures under the regulation. Article 13 also includes an empowerment for the European Supervisory Authorities to draft implementing technical standards on how marketing communication should be presented. This empowerment has not been used up to now.

**Question 4.4.1:** Do you agree that the SFDR is the appropriate legal instrument to deal with the accuracy and fairness of marketing communications and the use of sustainability related names for financial products?

Yes	No	Don't know
X		

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

	1	2	3	4	5	Don't know
The introduction of product categories should be accompanied by specific rules on how market participants must label and communicate on their products			X			
The use of terms such as 'sustainable', 'ESG', 'SDG', 'green', 'responsible', 'net zero' should be prohibited for products that do not fall under at least one of the product categories defined above, as appropriate.					X	
Certain terms should be linked to a specific product category and should be reserved for the respective category.	X					

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



**Question 4.4.3:** Would naming and marketing communication rules be sufficient to avoid misleading communications from products that do not fall under a product sustainability category?

1	2	3	4	5	Don't know
				X	

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

Please explain your replies to questions 4.4.1, 4.4.2 and 4.4.3:

- Uniform rules for ESG-related marketing and naming should apply for all financial products in order to establish a level playing field. Therefore, inclusion of such rules in SFDR framework is generally welcome.
- Sector-specific requirements relating to communications on ESG matters, e.g. in the ESMA Guidelines on marketing communications for UCITS and AIFs, should be then abolished in order to avoid inconsistent/duplicative regulations.
- As regards use of ESG-related terms in product names, exclusive assignment of certain terms would be counterproductive if products were able to match several categories (in case of non-exclusive categorisation system or combination of approaches under a “mixed goals” category).
- Also in case of mutually exclusive product categories, use of certain terms might not be clearly delineated. ESG factors, such as “climate”, “biodiversity”, “clean water” etc. can be used to achieve positive contribution (category A), as filtering criteria for the selection of assets (category B/C) or as leading themes for transition (category D).
- In case of new naming rules, it will be very important to manage transition to the new system. Grandfathering should apply at least to product closed to new subscriptions. For other existing products with ESG-related names, extensive transition period should apply in order to keep the transitioning burden feasible for product providers and NCAs.

*Maximum of 5.000 characters*