JOINT COMMITTEE OF THE EUROPEAN SUPERVISORY AUTHORITIES

Reply form

on the Joint Consultation Paper on the review of SFDR Delegated Regulation regarding PAI and financial product disclosures

12 April 2023
ESMA34-45-1218

Responding to this paper

The ESAs invite comments on all matters in the Joint Consultation Paper and in particular on the specific questions in this reply form. Comments are most helpful if they:

- respond to the question stated;
- indicate the specific question to which the comment relates;
- contain a clear rationale; and
- describe any alternatives the ESAs should consider.

ESMA will consider all comments received by **4 July 2023.**

Instructions

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

- Insert your responses to the questions in the Joint Consultation Paper in this reply form.
- Please do not remove tags of the type <ESMA_QUESTION_SFDR_1>. Your response to each question has to be framed by the two tags corresponding to the question.
- If you do not wish to respond to a given question, please do not delete it but simply leave the text “TYPE YOUR TEXT HERE” between the tags.
- When you have drafted your responses, save the reply form according to the following convention: ESMA_CP SFDR Review_nameofrespondent.

  For example, for a respondent named ABCD, the reply form would be saved with the following name: ESMA_CP SFDR Review_ABCD.

- Upload the Word reply form containing your responses to ESMA’s website (**pdf documents will not be considered except for annexes**). All contributions should be submitted online at www.esma.europa.eu under the heading ‘Your input - Consultations’.

Publication of responses

All contributions received will be published following the close of the consultation, unless you request otherwise. Please clearly and prominently indicate in your submission any part you do not wish to be publicly disclosed. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure. A confidential response may be requested from us in accordance with ESAs' rules on access to documents. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by ESMA's Board of Appeal and the European Ombudsman.

Data protection

The protection of individuals with regard to the processing of personal data by the ESAs is based on Regulation (EU) 2018/1725[1]. Further information on data protection can be found under the Legal notice section of the EBA website and under the Legal notice section of the EIOPA website and under the Legal notice section of the ESMA website.

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

General information about respondent

Name of the company / organisation	GDV
Activity	Insurance and Pension
Are you representing an association?	☒
Country/Region	Germany

The GDV welcomes the opportunity to comment on the Draft Report on the PAI-Review. We welcome the ESA's work on the SFDR and the Principal Adverse Impacts. Nevertheless, we would like to highlight the following key elements which should be considered in the ongoing ESA's work on the SFDR and the Principal Adverse Impacts in general and regarding data/calculation and requirements for insurers.

Overall, we would like to point out, that reporting requirements from the SFDR constitute a significant burden to financial market participants. If a new regulation is going to be introduced, it is important that companies get enough time to put systems and processes in place. Given that this often requires IT projects special attention should be given to adequate transition time.

General comments:

- In March 2023 Commission President von der Leyen announced, that by autumn, the Commission will put forward concrete proposals to simplify reporting requirements and to reduce them by 25 percent. Given this announcement, we ask the ESAs to carefully consider, whether it would not be more feasible to waive the introduction of any additional obligatory social PAIs.
- We are concerned that the parallel work on the RTS and on Level 1 of the SFDR will result in double implementation for financial market participants (FMP). In our view, there is no need to precipitately make changes to the RTS, which will be outdated once the EU Commission puts forward its proposals to modify the SFDR in the course of next year. We suggest that the ESA use the expertise gained from this consultation to further evaluate and improve the SFDR at Level 1. The RTS should be reviewed on the basis of the SFDR after any legislative changes at Level 1 have been finalized.
- It is crucial that PAI indicators are consistent and aligned with the disclosure requirements under the (draft) EU Sustainability Reporting Standards (ESRS) regarding timing and content to ensure to FMPs availability of reliable information for their PAI statement disclosures, limiting reporting burden and dependencies on third-party providers. Following the Commission's proposal on the ESRS investees can assess SFDR datapoints as not material for their own reporting. In these cases it is crucial that the EC and the ESAs clarify how FMPs should report on their SFDR PAI indicators. We propose that corporates should disclose a "qualified zero" which can be used by FMPs in their SFDR PAI reporting. Alternatively, a clarification should be added that PAI-relevant information

which is not part of the undertaking's sustainability report under the CSRD is considered to be implicitly reported as "not material for the undertaking", in analogy to the provision of ESRS 1 para. 36, and is treated as zero.

- The changes to the PAI indicators will impact the DNSH test for sustainable investments which in the worst case scenario affects the commitment to invest a minimum in sustainable investments and as well products already sold with such a commitment.
- Further clarification and guidance on the interpretation and application of SFDR-related definitions and requirements, in particular the definition of or guidance on the term "sustainable investment", is important to support consistent and comparable disclosures for consumers and avoid legal and reputational risks for preparers. Furthermore, we recommend that editable versions of the template should be made available in due time before the entry into force of the new requirements to allow for sufficient time for financial market participants to adapt their documentation and processes.
- The GDV welcomes the changes to the templates aiming at improved simplicity, readability and usability of the SFDR templates given the current length and complexity creating confusion for consumers. However, we do believe that the ESAs should consider cutting the size and the detail of the templates fundamentally.

Comments on data/calculation and requirements for insurers:

- Adding additional mandatory (and potentially also optional) indicators further stresses the data collection challenge, until data will be available by the investee companies as part of the ESRS in connection with the CSRD and ideally via a supporting and accessible data source like the ESAP (European Single Access Point). The data provider landscape is already moving to an oligopolistic market and additional data points will lead to an additional offering of these providers at probably increasing licence costs. To ease this, the timing of the different regulatory requirements (SFDR, EU Taxonomy and CSRD) should be aligned as well as possible. Provided this, additional reporting requirements should lead to less severe additional market data licence and data onboarding costs.
- For new data points, even if available on the provider market, coverage might still be limited to a small extent and FMPs would need to collect or estimate them via best effort. Hence, the meaningfulness of additional KPIs might be limited in the light of the aim to improve transparency on sustainability aspects. If data is not available on investee company level for investments in target funds it might be necessary to collect this data via industry templates like the EET. This exchange format is already very comprehensive in order to meet the different regulatory and industry reporting needs and first versions with data content only started to be exchanged. Adding new SFDR KPIs increases complexity of these templates furthermore and comes with additional costs for the respective FMPs providing and collecting this information.
- GDV supports the ESA's efforts to unify the PAI calculation with unique formulae. But we want to point out the following: With the first PAI reporting in June 2023 a historical comparison of KPIs will be started. The same definition would need to apply for new KPIs to allow comparability to the already reported data, specifically for mandatory PAIs. If the definition changes, comparability of PAIs is only given, if already disclosed KPIs are recalculated. In our view, this would confuse clients and should be avoided. Therefore, in case of changes, FMPs should not be obliged to recalculate already reported PAI.

- Regarding the PAI indicators additional formulae have been provided. However, also for the periodic reporting templates for Article 8 and 9 products, additional clarification on KPI calculation would be required. E.g. through which methodology and calculation formulae could a potential double counting between the share of sustainable investments and share of EU Taxonomy aligned investments be avoided if associated investee companies fulfil both criteria.
- Inconsistencies in requirements and timelines on the side of the insurer and the asset manager should be adressed. Specifically, the asset managers are not required to provide standalone SFDR templates, while insurers are required to provide exactly the specific template disclosures to clients for their unit-linked products. Furthermore, asset managers are not required to provide SFDR templates and periodic reporting necessarily in the language of the country of distribution. This can lead to comprehension problems for customers. The timeline challenge arises when insurers are required to provide e.g. periodic reporting at date when such reporting is not released by asset managers or is not signed of by the regulator thereof.
- Inconsistencies may also arise from obligations by national regulators, whose interpretation is more strict or differs from the EU rules. E.g. the inconsistency on interpreting Certificates as financial products.
- The templates for the pre-contractual and the periodic disclosures should be substantially simplified. The proposed dashboard and the use of hyperlinks are steps into the right direction but do not go far enough. In order to be noticed, read and understood by consumers, the templates must be reduced to a maximum of two pages when filled in. The more detailed information should be accessible via hyperlink on the FMP's website.

Questions

Q1 : Do you agree with the newly proposed mandatory social indicators in Annex I, Table I (amount of accumulated earnings in non-cooperative tax jurisdictions for undertakings whose turnover exceeds € 750 million, exposure to companies involved in the cultivation and production of tobacco, interference with the formation of trade unions or election worker representatives, share of employees earning less than the adequate wage)?

<ESMA_QUESTION_SFDR_1>

In March 2023 Commission President von der Leyen announced, that by autumn, the Commission will put forward concrete proposals to simplify reporting requirements and to reduce them by 25 percent. Given this announcement, we ask ESAs to carefully consider, whether it would not be more feasible to waive the introduction of any additional obligatory social PAIs.

GDV welcomes the fact, that the ESA used the (draft) ESRS under the CSRD as a basis for defining new PAI indicators. Regarding data availability, it is of the utmost importance that the disclosure requirements under the EU Sustainability Reporting Standards (ESRS) of the Corporate Sustainability Reporting Directive (CSRD) and the SFDR Delegated Regulation remain as consistent as possible in content and timing. Investors need the CSRD reported ESG data from their investees to comply with their SFDR requirements, and in particular PAI indicators. However, they face considerable data gaps

as CSRD reports will only be published from 2025 onwards, following a phased approach. Any further requirements in the SFDR should only be decided on once the final DA to the ESRS has been adopted. At best, only data points mandatorily required under the ESRS should also be required under the SFDR. Assuming that the EC will leave all data points subject to materiality, only the presumably most material data points across companies from the ESRS should represent PAI indicators under the SFDR. Where no reporting occurs, FMPs must be explicitly allowed to assume zero and to not produce estimates. The required SFDR disclosures should be timed in accordance with the reporting of non-financial companies under the ESRS, meaning with a one-year delay, so that FMPs can rely on reported data.

Regarding the proposed PAI in detail, we have some comments:

Share of employee earnings less than adequate wage: Is not sufficiently clear enough and might lead to inconsistent reporting. This PAI is included in the ESRS but what about non-EU data?

Interference with the formation of trade unions or election worker representatives: Implicitly included in PAI 10 already. And it seems, that the indicator on the interference of a company with the formation of a trade unions or election worker representatives is not aligned with the information required to be disclosed under ESRS S1 as it is only cited as an example of policy that might be in place and therefore disclosed under ESRS S1-8. This indicator would be an additional controversy indicator (which was meant to be avoided); Interference unclear – no time restrictions. Interference is only mentioned in appendix B2, ESRS S1.

Freedom of association/Collective bargaining including the rate of workers covered by collective agreements	Non-interference in trade union formation and recruitment (including trade union access to undertakings), bargaining in good faith, recognition of, adequate time off for duties, facilities and dismissal protection for workers' representatives, no discrimination of trade union members and workers' representatives

Amount of accumulated earnings in non-cooperative tax jurisdictions for undertakings whose turnover exceeds € 750 million: It is currently not useful to include this metric, as data availability is not sufficient. Likewise, already on political level discussions on CbC reporting, so investor reporting and associated requirement to disclose “actions taken” seem unfitting.

<ESMA_QUESTION_SFDR_1>

Q2 : Would you recommend any other mandatory social indicator or adjust any of the ones proposed?

<ESMA_QUESTION_SFDR_2>

In March 2023 Commission President von der Leyen announced, that by autumn, the Commission will put forward concrete proposals to simplify reporting requirements and to reduce them by 25 percent. Given this announcement, we ask ESAs to carefully consider, whether it would not be more feasible to waive the introduction of any additional obligatory social PAIs.

Therefore, we do not recommend any other mandatory social indicator. Containing consistent and reliable information from their investees to be included in their PAI statement for each mandatory indicator requires a significant effort from financial market participant, given the current data gap. Therefore, at minimum and already mentioned in our general comments, information required under SFDR should be aligned with information that will be provided under the ESRS. As mentioned in Q1, this is not the case for the proposed indicator on the interference in the formation of trade unions or election worker representatives. This indicator could therefore be adapted eg. to match with the information required under ESRS S1-8 on the coverage of collective bargaining agreements and social dialogue for an undertaking's workforce. It would likewise be ideal, if indicators would take into account different reporting realities outside the ESRS reporting scope and specifically for investments outside of the EU.

<ESMA_QUESTION_SFDR_2>

Q3 : Do you agree with the newly proposed opt-in social indicators in Annex I, Table III (excessive use of non-guaranteed-hour employees in investee companies, excessive use of temporary contract employees in investee companies, excessive use of non-employee workers in investee companies, insufficient employment of persons with disabilities in the workforce, lack of grievance/complaints handling mechanism for stakeholders materially affected by the operations of investee companies, lack of grievance/complaints handling mechanism for consumers/ end-users of the investee companies)?

<ESMA_QUESTION_SFDR_3>

Each additional indicator can make the disclosure more complex for users and preparers. Regarding the availability of data, we strongly recommend an alignment with the CSRD/ESRS in content and timing.

The proposed indicators non-guaranteed-hour employees, temporary contract and non-employee workers are only in scope of ESRS S1 and therefore, only applicable for Own Operations and not downstream value chain (investee companies). Data points would be available, but scope and definition of "excessive use" is not clear, i.e. what would be the definition of "insufficient"?

Furthermore, it remains unclear how to deal with country specific employment quota for employees with a disability. This would trigger questions about the aggregation level: Group vs. country level? We recommend not to include employees with disability and non-employee workers as interpretation/assessment from investor is too difficult.

GDV welcomes the fact that all new opt-in indicators have been defined based on the (draft) ESRS to allow investors easier access to such information to be reported in their PAI statements. But for materiality reasons it is key that these indicators remain optional to allow FMPs different materiality assessments.

<ESMA_QUESTION_SFDR_3>

Q4 : Would you recommend any other social indicator or adjust any of the ones proposed?

<ESMA_QUESTION_SFDR_4>

No. Non-financial companies could have to disclose all PAI indicators (i.e. not only the mandatory ones) to satisfy all the information demand of Financial Market Participants (FMPs). When extending the list of indicators, this significant effort for preparers should be acknowledged. It is important, that the public availability of and access to reliable data should be taken into account, in particular regarding data needed from investees not subject to CSRD, as the requirement to directly obtain the information from investee companies is inefficient and the alternative to carry out additional efforts might create dependencies on third-party data providers.

We also refer to the announcement of Commission President von der Leyen to reduce the reporting burden by 25 percent.

<ESMA_QUESTION_SFDR_4>

Q5 : Do you agree with the changes proposed to the existing mandatory and opt-in social indicators in Annex I, Table I and III (i.e. replacing the UN Global Compact Principles with the UN Guiding Principles and ILO Declaration on Fundamental Principles and Rights at Work)? Do you have any additional suggestions for changes to other indicators not considered by the ESAs?

<ESMA_QUESTION_SFDR_5>

We agree with the proposed changes to foster consistency and support an alignment with the EU Taxonomy criteria on minimum safeguards. However, it would be beneficial if the regulator could further specify how “violations” should be interpreted, if there is a decay on controversies in past reporting periods and ideally even reference to a publicly available database / assessment.

For PAI #4 we see merit in adjusting it to an “exposure to companies active in the fossil fuel sector without carbon emission reduction initiatives (aimed at aligning with the Paris Agreement)”. This could facilitate financing and supporting of the transformation of the economy.

PAI #11 still mixes “and” / “or” in the name and description, likewise the wording still leaves a lot of room for interpretation, which leads to incomparable disclosures across FMPs.

<ESMA_QUESTION_SFDR_5>

Q6 : For real estate assets, do you consider relevant to apply any PAI indicator related to social matters to the entity in charge of the management of the real estate assets the FMP invested in?

<ESMA_QUESTION_SFDR_6>

No. Disclosures on how Asset Managers are selected by FMPs are more relevant in general from our point of view, and disclosure on how FMPs consider ESG in their sourcing due diligence processes. Furthermore, for social matters it seems more relevant to “capture” PAI at building level.

However, current social PAIs can only be applied to the company level. Unfortunately, there’s currently no common understanding on how to measure social aspects at building level in a meaningful way (except for social housing). This is heavily debated within the industry without a clear answer yet. It should therefore be closely monitored and re-evaluated on a regular basis (availability of such building-related indicators).

<ESMA_QUESTION_SFDR_6>

Q7 : For real estate assets, do you see any merit in adjusting the definition of PAI indicator 22 of Table 1 in order to align it with the EU Taxonomy criteria applicable to the DNSH of the climate change mitigation objective under the climate change adaptation objective?

<ESMA_QUESTION_SFDR_7>

Yes, GDV supports greater consistency and alignment where possible between the SFDR PAI indicators and the EU Taxonomy criteria.

We generally support greater consistency and alignment where possible between the SFDR PAI indicators and the EU Taxonomy criteria. This would relate, in particular to the harmonization of the EPC evaluation according to PAI and the EU Taxonomy. For PAI an EPC “C” is already negative while an EPC “C” would pass the DNSH-test of the Taxonomy. For PAI, it should be clarified that also the alternative route via "Top X%" is considered appropriate.

Moreover NZEB requirements are hard to implement (esp. outside the EU) and should be replaced by specific thresholds.

<ESMA_QUESTION_SFDR_7>

Q8 : Do you see any challenges in the interaction between the definition ‘enterprise value’ and ‘current value of investment’ for the calculation of the PAI indicators?

<ESMA_QUESTION_SFDR_8>

Yes, there is a potential mismatch between the numerator and denominator in case FMPs do not regularly update the EVIC values and do not use nominal values for their debt exposure. To avoid this mismatch, the calculation of PAI metrics could be based on the investor allocation approach to recalculate the EVIC quarterly with the share prices at quarter ends so that the denominator (market cap in EVIC) is aligned with the nominator (public equity investment in investee companies). As the EVIC is based on the book value of total debt insurers likewise use the nominal value of their fixed income investments in investee companies for the investor allocation approach PAI metrics. If FMPs do not use the nominal exposure in debt investments, they could in the present market environment understate their potential adverse impact.

<ESMA_QUESTION_SFDR_8>

Q9 : Do you have any comments or proposed adjustments to the new formulae suggested in Annex I?

<ESMA_QUESTION_SFDR_9>

It would be beneficial if the regulator could further specify how “violations” should be interpreted and if there is a decay on controversies in past reporting periods – this is relevant for PAI #10 and PAI #16. Specifically for PAI #16 “Number of investee countries subject to social violations, as referred to in international treaties and conventions, United Nations principles and, where applicable, national law” there is no consistency in the market or data provided by data vendors. This makes comparability impossible.

PAI #11 “Share of investments in investee companies without policies to monitor compliance with or with grievance/ complaints handling mechanisms to address violations of the OECD Guidelines for Multinational Enterprises, the UN Guiding Principles, including the principles and rights set out in the eight fundamental conventions identified in the ILO Declaration and the International Bill of Human Rights” still mixes “and” / “or” in the name and description, likewise the wording still leaves a lot of room for interpretation, which leads to incomparable disclosures across FMPs.

PAI #12 was previously defined as “Average unadjusted gender pay gap of investee companies”, which is now changed to “Average gender pay gap between female and male employees of investee companies”. It would be beneficial to keep the “unadjusted” specification in to ensure comparability and clarity.

<ESMA_QUESTION_SFDR_9>

Q10 : Do you have any comments on the further clarifications or technical changes to the current list of indicators? Did you encounter any issues in the calculation of the adverse impact for any of the other existing indicators in Annex I?

<ESMA_QUESTION_SFDR_10>

Use of PPP-adjusted GDP for PAI reporting of financed Sovereign carbon emissions

Various industry initiatives (PCAF, ASCOR) as well as the EU Regulator have published methodologies to calculate financed emissions of a Sovereign issuer. PCAF and ASCOR methodologies are fully aligned and are seen as best practice and develop quickly into industry standard. ASCOR was established with the UN-convened Net Zero Asset Owner Alliance and other (institutional) investor groups (like IIGCC). Therefore, the methodology recommended by ASCOR is supported and will be adopted by a large number of asset owners. The methodology prescribed by the EU Regulator deviates from the methodology proposed by PCAF and ASCOR with respect to the so-called attribution factor. While all financial market participants or financial advisors based in the EU have to report their Sovereign carbon footprint according to EU Regulation (SFDR), the attribution factor proposed by PCAF/ASCOR makes more sense from an economic perspective and ensures a fairer treatment in particular of countries of the global south. Therefore, we expect that the vast majority of EU asset owners will use PCAF/ASCOR methodology for internal steering purposes and EU SFDR methodology for PAI-Reporting. This inconsistency causes additional complexity and misalignment between PAI reporting, sustainability reporting and internal steering.

To calculate the share of emissions financed by a financial institution, it is required to define the total value of the respective borrower. The share of emissions financed can then be calculated by dividing the exposure of the financial institution to the borrower by the total value of the borrower. The key question is how to define the total value of a Sovereign issuer (i.e. what is the equivalent to Enterprise Value including Cash of a listed company). Both, PCAF/ASCOR and the EU Regulator use the value of a country's output measured by GDP as a proxy for the country's total value. However, the key difference is that PCAF/ASCOR adjust GDP by the Purchasing Power Parity (PPP) factor which leads to a fairer reflection of a country's actual economy size.

We propose to change the attribution factor from GDP to PPP-adjusted GDP for PAI reporting of the Sovereign carbon footprint to be reflected in the update of the SFDR Delegated Regulation (Regulatory Technical Standards Annex I - formula for "GHG intensity of sovereigns").

In addition, an EPC translation table would need to be included: This would be necessary as EPCs are based on a largely European framework and the A+B thresholds set in order to identify energy efficient buildings vary across EU countries. A table that compares the different EPCs across EU that meet the energy efficiency standards would be helpful. In the second step it would be helpful to compare other global standards whenever available in US and Asia in order for FIs to be able to push for energy efficiency across the global real estate portfolio.

<ESMA_QUESTION_SFDR_10>

Q11 : Do you agree with the proposal to require the disclosure of the share of information for the PAI indicators for which the financial market participant relies on information directly from investee companies?

<ESMA_QUESTION_SFDR_11>

There is still a lack of publicly available and reliable data and this lack require significant efforts from financial market participants to provide for the PAI information, in particular until the CSRD comes into application, as the requirement to directly obtain all the information from all investee companies is highly inefficient and its alternative creates dependencies on third party data providers.

It would be beneficial, if the regulator could provide the necessary data infrastructure for companies to upload and verify their data. Present scenario aggravates dependencies on data providers and high concentration of market powers in the data vendor sphere. A public database would lead to transparency and comparability of reports, as well as ease reporting burden for smaller FMPs.

The disclosure of the share of data coming directly from investee companies would support consumers' understanding that the responsibility for the accuracy of ESG data cannot be put solely on financial market participants. However, it would need to be clarified carefully what is meant by "information directly from investee companies".

<ESMA_QUESTION_SFDR_11>

Q12 : What is your view on the approach taken in this consultation paper to define 'all investments'? What are the advantages and drawbacks you identify? Would a change in the approach adopted for the treatment of 'all investments' be necessary in your view?

<ESMA_QUESTION_SFDR_12>

Generally, GDV supports an alignment across regulatory disclosures with clearer guidance for the inclusion of Cash, Cash equivalents and Derivatives so that a consistent implementation across Taxonomy, Sustainable Investments and PAI can be achieved: e.g. disclose % of these assets in the portfolio but exclude these from the reporting scope. For share and investor allocation PAI metrics comparability across financial products with different split in PAI categories is only possible if the entire product is included in the denominator opposed to e.g. only exposure to investee companies. For weighted average indicators it is critical to rebalance based on the data coverage and PAI category so that the calculation is not skewed as missing data would be treated as "real zeros".

Furthermore, we see the necessity to add real estate investments in the definition of "all investments" as they are missing in the definition **for insurers**. Real estate investments are an important asset class for insurers, and we see no plausible reason to exclude them from the calculations. Moreover, without adding these investments, e.g. in the calculation of exposure to fossil fuels through real estate assets, they would have to be included in the numerator (i.e. "current value of investment in real estate assets involved in the extraction, storage, transport or manufacture of fossil fuels"), but not in the denominator (i.e. "current value of all investments").

The proposed definition in para (4) number i of Annex I should be amended as follows (amendments in bold):

"for financial market participants referred to in Article 2(1)(a) of Regulation (EU) 2019/2088, the following balance sheet items: holdings in related undertakings, including **property (item R0080),** participations (item R0090), equities (item R0100), bonds (item R0130), collective investment undertakings (item R0180), derivatives (item R0190), deposits other than cash equivalents (item R0200), other investments (item R0210), assets held for index-linked and unit-linked contracts (item R0220), loans and mortgages (item R0230), deposits to cedants (item R0350) and cash and cash equivalents (item R0410), as defined in Annex I to Commission Implementing Regulation (EU) 2015/2452".

We agree that the notion of 'all investments' aims to cover all the investments made by the financial market participant. The meaning and scope of 'all investments' depends on who makes the 'investment decision'. The SFDR uses the term 'investment decision' either connected to customers or to financial market participants.

Article 4 SFDR requires financial market participants to publish a statement where they consider principal adverse impacts of [their] investment decisions on sustainability factors ('Transparency of adverse sustainability impacts at entity level') (see also Art. 6 SFDR RTS: 'principal adverse impacts of their investment decisions'), while e.g Recital 19 refers to the investment decision of the end investor (customer).

Therefore, we recommend that PAI reporting on entity level exclusively covers investments made by the financial market participant itself, ie proprietary owned investments, where the investment decision lays with the financial market participant.

For unit-linked contracts, the investment decision itself is made by the customer. The customer decides for a specific product out of several options and hence, explicitly or implicitly chooses the option to invest in, not the financial market participants.

We therefore recommend to include in Annex I point (4) 'current value of all investments' (p. 75 of 'Joint Consultation Paper - Review of SFDR Delegated Regulation regarding PAI and financial product disclosures') the wording "[…] investments of the financial market participant, [where the investment decision is made by the financial market participant].

<ESMA_QUESTION_SFDR_12>

Q13 : Do you agree with the ESAs' proposal to only require the inclusion of information on investee companies' value chains in the PAI calculations where the investee company reports them? If not, what would you propose as an alternative?

<ESMA_QUESTION_SFDR_13>

Comparability is problematic as well as data coverage / consistency for investments outside the CSRD reporting scope and EU.

E.g., for the gender pay gap we already have the situation that company disclosures usually do not refer to the entire operations, but mostly are sourced from the regulatory disclosure requirements in the UK and hence only refer to a fraction of the company's operations in the UK. The message to the client is consequently misleading when FMPs are communicating an "average unadjusted gender pay gap" for their portfolio.

<ESMA_QUESTION_SFDR_13>

Q14 : Do you agree with the proposed treatment of derivatives in the PAI indicators or would you suggest any other method?

<ESMA_QUESTION_SFDR_14>

We propose the following approach:

As regards the denominator, we support a consideration with market value.

As regards the numerator, the following aspects could be considered:

- No consideration of index derivatives, currencies and interest rates
- Consideration of single name derivatives with the nominal value (forward rate * pieces * leverage) – presumably immaterial
- PAI: consideration of long positions to avoid greenwashing (i.e. the numerator increases)
- PAI: no consideration of short positions, to avoid window dressing (i.e. the numberator is not decreasing)
- Offsetting derivatives can be allocated (netting)
- Repo and SecLending has to be considered.

<ESMA_QUESTION_SFDR_14>

Q15 : What are your views with regard to the treatment of derivatives in general (Taxonomy-alignment, share of sustainable investments and PAI calculations)? Should the netting provision of Article 17(1)(g) be applied to sustainable investment calculations?

<ESMA_QUESTION_SFDR_15>

Netting should be considered.

As a general remark, the question should rather be how to expand the scope of the Taxonomy and SFDR Article 2(17) on SI beyond corporates, real estate and sovereigns. We should be able to define

sustainable investment opportunities in project finance, private assets, government related assets etc. Already now, many expand the current regulatory scope to include such assets. Nonetheless, a central framework with guidance would be helpful. A framework that encompasses both listed and unlisted assets.

Furthermore, the specific consideration of derivatives might not significantly help investors to gain more transparency about ESG aspects of the financial product. The influence on the sustainable investment aspects of derivatives by the investment decision process of the FMPs seems to be only limited. Moreover, respective standards or labels on respective ESG characteristics of derivatives would need to be established and collected. If underlying baskets of derivatives refer to indices, the reference to EU Climate Transition or Paris-Aligned Benchmarks might help, but calculations which make the look-through on underlying baskets necessary would significantly increase data and calculation complexity as well as costs. Additional market data licence costs might be required to cover the look-through and ESG data on all underlyings (e.g. for larger baskets). Moreover, KPI calculation itself will be more burdensome for derivatives and will challenge the operational processes of FMPs.

In addition, it is important to consider that futures don't trigger real-world cash flows, which is a solid argument that can't be generalized to the other instrument types stated here. It's important to understand that Futures are marked-to-market and don't trigger investments in the underlying. Since most of the hedging in mutual funds is Futures-based, we would clearly benefit from explicitly excluding them from the scope.

With regards to netting it would be helpful to get a clarification on whether issuer level or portfolio level is considered here.

Furthermore, we have the following additional remarks regarding netting:

- Zero lower bound: Netting longs and shorts but with a zero lower bound leads to a different treatment of longs and shorts in the case of negative net exposure and a uniform treatment otherwise. This to me is an inconsistency that lacks any justification.

The investment decision is usually a choice between (i) the physical investment, (ii) entering the long side of a derivatives contract or (iii) entering the short side of a derivatives contract. Any outcome of this decision should adequately be reflected in the sustainability characteristics of the portfolio. Thereby both the positive impact (SI/Taxo share) and the negative impact (PAI) should be affected by the decision in the same logic. To ensure consistency, we would recommend a uniform treatment of long and short legs and also a uniform treatment between SI/Taxo share and PAI.

<ESMA_QUESTION_SFDR_15>

Q16 : Do you see the need to extend the scope of the provisions of point g of paragraph 1 of Article 17 of the SFDR Delegated Regulation to asset classes other than equity and sovereign exposures?

<ESMA_QUESTION_SFDR_16>

Yes. An overarching framework would generate transparency and comparability, thus also limiting the greenwashing risk. Currently the taxonomy-alignment of sovereign debt can not be assessed due to a lack of methodology. The development of a comprehensive methodology is key.

<ESMA_QUESTION_SFDR_16>

Q17 : Do you agree with the ESAs' assessment of the DNSH framework under SFDR?

<ESMA_QUESTION_SFDR_17>

The focus should be on all three pillars of Article 2(17) SFDR. Objectives, DNSH and Good Governance Practice (GGP). As regards objectives, the definition and calculation of "sustainable investments" should be clarified in line with the EU Taxonomy Regulation.

As regards DNSH and GGP, there is a broad range on how DNSH and GGP are screened and considered. This results in incomparability and in some instances even greenwashing risks. Clear guidance is certainly needed on consideration requirements.

As regards DNSH, the analysis of challenges and limited comparability identified in the ESAs' reasoning is highly relevant. This reasoning also applies to the assessment of an investment's positive contribution.

In that context, the insurance industry welcomes further clarification and guidance on the application of DNSH-related requirements to support consistent and comparable disclosures for users and avoid legal and reputational risks for preparers.

In that sense, we welcome further clarification and guidance on the application of DNSH-related requirements to support consistent and comparable disclosures for users and avoid legal and reputational risks for preparers. In particular, we strongly welcome the clarification of the European Commission that "investments in 'environmentally sustainable economic activities' within the meaning of the EU Taxonomy can be qualified as a 'sustainable investment' within the meaning of the SFDR" (Measure 1 of the Commission Staff Working Document, Enhancing the usability of the EU Taxonomy and the overall EU sustainable finance framework) as well as the Commission Notice from June 13. Please see also our answer to question 19.

<ESMA_QUESTION_SFDR_17>

Q18 : With regard to the DNSH disclosures in the SFDR Delegated Regulation, do you consider it relevant to make disclosures about the quantitative thresholds FMPs use to take into account the PAI indicators for DNSH purposes mandatory? Please explain your reasoning.

<ESMA_QUESTION_SFDR_18>

Key challenges we would like to stress in regards to the disclosure of quantitative thresholds are the fact that FMPs are using different sources of data and methodologies behind this data. Hence, the essential requirement here should be to transparently disclose the Sustainable Investments and DNSH approach taken. Transparently means, with all the required details to understand the approach and with reference as to where the data stems from. Therefore, we are of the opinion, that thresholds might be not very helpful and are potentially confusing for investors.

However, in case quantitative thresholds are introduced, in order to reduce complexity and confusion, guidance on how to set tolerance levels and how to interpret them is essential. PAIs that capture performance e.g. GHG emissions might vary substantially depending on the geographical and sectoral exposure, size of the companies and on factors that render comparability complex and can, if misinterpret, penalise financial product with a more thorough sustainability approach than others that, at a first glance, might look as performing better.

<ESMA_QUESTION_SFDR_18>

Q19 : Do you support the introduction of an optional "safe harbour" for environmental DNSH for taxonomy-aligned activities? Please explain your reasoning.

<ESMA_QUESTION_SFDR_19>

Yes, we support the introduction of an optional "safe harbour" mechanism if double DNSH check for taxonomy-aligned investments as a subset of sustainable investments in product reporting can be avoided. This would provide legal clarity and strengthen comparability of taxonomy-aligned shares in product reporting. At present these are not comparable due to divergent DNSH-checks by FMPs.

In that regard, we welcome the Commission's notice published on June 13, 2023, understanding that such a safe harbour mechanism would already be in place. Please see also our answer to question 17.

<ESMA_QUESTION_SFDR_19>

Q20 : Do you agree with the longer term view of the ESAs that if two parallel concepts of sustainability are retained that the Taxonomy TSCs should form the basis of DNSH assessments? Please explain your reasoning.

<ESMA_QUESTION_SFDR_20>

The "parallel existence" of two sustainability/DNSH concepts seems problematic but in the absence of a social and governance taxonomy inevitable. In order to make taxonomy-compliant investments also SFDR-sustainable, clear guidelines should be available in a timely manner as to which DNSH

criteria exist in the social sector. These could complement a safe harbor for environmental DNSH to create legal certainty and should also be based on the social PAI indicators. The adjustment of PAI indicators 10 and 11 to the taxonomy minimum protection is therefore clearly to be welcomed. It would also be conceivable to extend the taxonomy minimum protection to Level 1 based on the social PAI indicators. In addition, the PSF could create appropriate Level 3 specifications or develop a combined Level 2 proposal for minimum social protections.

We would recommend addressing the DNSH-related issues in the Commission's SFDR level 1 comprehensive assessment with the aim of achieving a convergence and alignment of the definitions in SFDR and EU Taxonomy. Ideally, and in line with the objective of the EU Taxonomy to provide for a common understanding in the EU of what can be considered as sustainable, there should be a shift to a single taxonomy-based system for DNSH to increase consistency of the EU Sustainable Finance framework (in particular between the SFDR and the EU Taxonomy) and thereby reduce the current confusion and uncertainties regarding the definition of what is considered to be sustainable.

<ESMA_QUESTION_SFDR_20>

Q21 : Are there other options for the SFDR Delegated Regulation DNSH disclosures to reduce the risk of greenwashing and increase comparability?

<ESMA_QUESTION_SFDR_21>

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<ESMA_QUESTION_SFDR_21>

Q22 : Do you agree that the proposed disclosures strike the right balance between the need for clear, reliable, decision-useful information for investors and the need to keep requirements feasible and proportional for FMPs? Please explain your answers.

<ESMA_QUESTION_SFDR_22>

Targets are a very useful information but there should be a possibility to disclose these targets on asset class level, both long-term and mid-term. For example, the net-zero target 2050 is a long-term target usually communicated on entity level. This target is achieved by setting intermediary targets on asset class and sector level. The disclosure of these targets on entity level would be helpful for transparency reasons but please note that these targets are steered on asset class level with the ultimate objective to cover the full portfolio with decarbonization targets to meet the net-zero commitment.

In the market exist various standards that are using common methodologies to set science-based targets (e.g., the NZAOA, via its Target Setting Protocol). Science based methodologies should thus be used as guidance.

Key challenges we would identify are that data and methodologies are not yet available for all asset classes. This challenge would, on the one hand, relate to CSRD timelines, and, on the other hand, to specificities of general account products (e.g. CO2 emissions of sovereigns).

<ESMA_QUESTION_SFDR_22>

Q23 : Do you agree with the proposed approach of providing a hyperlink to the benchmark disclosures for products having GHG emissions reduction as their investment objective under Article 9(3) SFDR or would you prefer specific disclosures for such financial products? Do you believe the introduction of GHG emissions reduction target disclosures could lead to confusion between Article 9(3) and other Article 9 and 8 financial products? Please explain your answer.

<ESMA_QUESTION_SFDR_23>

If a product follows a benchmark then it should disclose which benchmark it is. Every other product with decarbonization as its objective, should disclose the targets set on entity level and based on which target setting framework.

<ESMA_QUESTION_SFDR_23>

Q24 : The ESAs have introduced a distinction between a product-level commitment to achieve a reduction in financed emissions (through a strategy that possibly relies only on divestments and reallocations) and a commitment to achieve a reduction in investees' emissions (through investment in companies that has adopted and duly executes a convincing transition plan or through active ownership). Do you find this distinction useful for investors and actionable for FMPs? Please explain your answer.

<ESMA_QUESTION_SFDR_24>

Yes, we generally agree with the ESA's approach. But Asset owners could also pursue an approach based on a mix of different reduction measures. A reduction is not achieved only by divestment/reallocation or financing the transition. It can also be both, and beyond. Target reduction measures are taken at entity level and steered via different asset classes, breaking these down on product level adds to much complexity. Moreover, linking these target achievements to individual products could be misleading. For example, engagement activities are steered on group level, If an engagement is successful then most likely this is reflected in company's ESG performance. To then make a statement that a particular product has led to an improvement of the performance wouldn't be true. The same applies for targets. If a decarbonization of X% is achieved on subportfolio level, the direct link is difficult to be established on product level.

Also, we would like to hint at the fact identified in the Q&A of DG FISMA of April 2023 that transition plans on their own are not sufficient, as it needs to comply with a list of criteria to be deemed credible and need to be backed by a progress reporting of evidences for CO2e reductions in line with the commitments.

<ESMA_QUESTION_SFDR_24>

Q25 : Do you find it useful to have a disclosure on the degree of Paris-Alignment of the Article 9 product's target(s)? Do you think that existing methodologies can provide sufficiently robust assessments of that aspect? If yes, please specify which methodology (or methodologies) would be relevant for that purpose and what are their most critical features? Please explain your answer.

<ESMA_QUESTION_SFDR_25>

We generally see merits in the disclosure on the degree of Paris-Alignment. But, at this point in time, we are not convinced that such disclosure would be feasible, as unclarities remain regarding the details and level of granularity of the assessment in accordance with the the scientific scenarios based to the IPCC report. In our perspective, further questions prevail, e.g. if such an assessment would serve as an extra layer of verification of targets, and if other forms of verification should be included like SBTi, NZAOA, Race to Zero.

<ESMA_QUESTION_SFDR_25>

Q26 : Do you agree with the proposed approach to require that the target is calculated for all investments of the financial product? Please explain your answer.

<ESMA_QUESTION_SFDR_26>

We would like to stress that this is not possible for all products and comparability will be difficult as everyone uses different approaches to set targets. Thus, the target could only be disclosed where applicable and possible. An overarching long-term target is made for all products. Nonetheless, this long-term target cannot be broken down to all asset classes as of now, due to lack of methodology and data availability. It's a best effort. Objective is to have a target for all investments, but this will only be possible in the next 2-5 years.

<ESMA_QUESTION_SFDR_26>

Q27 : Do you agree with the proposed approach to require that, at product level, Financed GHG emissions reduction targets be set and disclosed based on

the GHG accounting and reporting standard to be referenced in the forthcoming Delegated Act (DA) of the CSRD? Should the Global GHG Accounting and Reporting Standard for the Financial Industry developed by PCAF be required as the only standard to be used for the disclosures, or should any other standard be considered? Please justify your answer and provide the name of alternative standards you would suggest, if any.

<ESMA_QUESTION_SFDR_27>

We support the ESAs' willingness to ensure alignment between SFDR and CSRD, which explicitly refers to both the GHG Protocol as well as PCAF for financial institutions. However, it should be taken into account that a) the regulatory process of the CSRD framework is not concluded and b) that new innovative quantitative methodologies should be encouraged where/as they evolve. As such, while the GHG Protocol Standard is the most commonly used methodology to report on Scope 3 GHG emissions and should, thus, be applied also in the SFDR context, a clause should also allow respective review and/or reference to emission reduction targets based on potential new methodologies developed in the future. This approach would be aligned with the ESRS, which e.g. state that the PCAF (incl. the recent Nov 2022 update) "shall be considered".

This, however, also implies that application of PCAF should currently not be required, at least not as long as EFRAG as well as the Commission's proposal only requires its consideration. To ensure full alignment, only the GHG Protocol should be required to be applied by FMPs under the SFDR at this stage. Once the ESRS require reporting on insurance-associated emissions, this should also be considered in the SFDR.

<ESMA_QUESTION_SFDR_27>

Q28 : Do you agree with the approach taken to removals and the use of carbon credits and the alignment the ESAs have sought to achieve with the EFRAG Draft ESRS E1? Please explain your answer.

<ESMA_QUESTION_SFDR_28>

Yes, we generally support close alignment with ESRS requirements. As companies will report separately on their gross GHG emissions, GHG removals and use of carbon credits under their CSRD reporting requirements, the same approach should be taken for disclosures under the SFDR for the sake of consistency and full transparency on GHG emissions reductions operated by the investee company. However, more guidance is needed.

<ESMA_QUESTION_SFDR_28>

Q29 : Do you find it useful to ask for disclosures regarding the consistency between the product targets and the financial market participants entity-level

targets and transition plan for climate change mitigation? What could be the benefits of and challenges to making such disclosures available? Please explain you answer.

<ESMA_QUESTION_SFDR_29>

It adds more complexity. Especially for entities that offer both unit-linked and general account based products there might be different strategies underlying each product, depending on the underlying investment options. It should be welcomed if FMPs offer more ambitious sustainability related products then their overarching targets on entity level. For general account based products targets are in most if not all cases on entity level. These are the same targets that are also communicated on product level. Transition plans and climate change mitigation measures are also taken on entity level, e.g. when joining initiatives like AOA.

In the case of Multi-Option products, no conclusion can be drawn from the target of the underlying, individual fund to the targets of the FMP as the provider of the Multi-Option products. Consequently, for Multi-Option products where clients can choose out of a multitude of differently focused funds, the requirement to assess alignment to the FMP's targets might be misleading, giving that the fund template refers to the fund issuer as the "FMP" and not the product provider of the Multi-Option product itself. In Multi-Option products, the customer can choose dedicated thematic funds with differing targets. For social funds we see a risk that they are treated less favourably if they are benchmarked against for example AOA-targets of the FMP despite climate not being their strategy focus.

<ESMA_QUESTION_SFDR_29>

Q30 : What are your views on the inclusion of a dashboard at the top of Annexes II-V of the SFDR Delegated Regulation as summary of the key information to complement the more detailed information in the pre-contractual and periodic disclosures? Does it serve the purpose of helping consumers and less experienced retail investors understand the essential information in a simpler and more visual way?

<ESMA_QUESTION_SFDR_30>

Please see our comments on Question 31.

<ESMA_QUESTION_SFDR_30>

Q31 : Do you agree that the current version of the templates capture all the information needed for retail investors to understand the characteristics of the products? Do you have views on how to further simplify the language in the dashboard, or other sections of the templates, to make it more understandable to retail investors?

<ESMA_QUESTION_SFDR_31>

We welcome the effort to make the language of the templates more comprehensible for retail investors. The objective should be to make the templates more likely to be noticed, read, and understood by customers. However, we are concerned that despite the proposed changes, the templates will still be ignored by most retail investors due to their excessive length and detail. In our view, it is essential that the content of the templates is significantly reduced.

We agree with the assessment in the Consultation Paper and in EIOPA's Progress Report on Greenwashing that the vast majority of consumers will not look further than the dashboard. The remaining, detailed information is in fact relevant only for more professional investors. We therefore believe that the ESA's approach regarding the dashboard and the use of hyperlinks points into the right direction. It should, however, be pursued much further.

On this basis, the templates should, in our view, consist only of the following elements:

- The dashboard proposed by the ESA in the Consultation Paper,
- very high-level and concise information as required by Articles 7, 8 (1-3), 9 (1-5), 11 (1) SFDR and Articles 5 and 6 Taxonomy Regulation without standardized text passages (unless prescribed at Level 1) or graphic representations,
- a reference including a hyperlink to the more detailed and more standardized information which can be found on the FMP's website in accordance with Article 10 SFDR.

In this way, the templates could be reduced to one or two pages (filled in), which is, in our view, the absolute maximum which would realistically be perceived and read by customers. It should be stressed that this approach would not lead to less information being available to customers since the details remain accessible via hyperlink.

The ESA should bear in mind that the sustainability information is only one element of a package of pre-contractual/periodic information required by other legislation. If the package as a whole becomes too big, the information in its entirety risks being ignored by customers. This is also a point which needs to be addressed in the consumer testing of the requirements. Test persons should not be asked to examine the templates on their own but should be given the templates as part of the information package referred to in Articles 6(3) and 11 (2) SFDR.

In this context, we would also like to touch upon the recently published proposals to include sustainability information in the PRIIP-KID. We believe that it is important that the sustainability information in the PRIIP KID is consistent with the advisory process (enquiry of the sustainability preferences) and with the information provided under the SFDR. The EU Commission's proposals do not yet provide consistency in this regard. In order to avoid confusion on the part of consumers, the sustainability information in the PRIIP KID could be extracted from the dashboard proposed for the SFDR templates (e. g. minimum proportion invested in sustainable or Taxonomy-aligned assets and consideration of principle adverse impacts on sustainability factors). Alternatively, a hyperlink to the SFDR information could be sufficient.

<ESMA_QUESTION_SFDR_31>

Q32 : Do you have any suggestion on how to further simplify or enhance the legibility of the current templates?

<ESMA_QUESTION_SFDR_32>

Please see our comments on Question 31.

Generally, we see a series of practical challenges which would need to be tackled:

- Inconsistencies in requirements and timelines on the side of the insurer and the asset manager. Specifically, the asset managers are not required to provide standalone SFDR templates, while insurers are required to provide exactly the specific template disclosures (please see our comments on Question 39 for suggestions on this point). The timeline challenge arises when insurers are required to provide e.g. periodic reporting at date when such reporting is not released by asset managers or is not signed off by the regulator thereof.

Inconsistencies in obligations by national regulators, whose interpretation are more strict or differs from the EU rules. E.g. the inconsistency on interpreting Certificates as financial products.

<ESMA_QUESTION_SFDR_32>

Q33 : Is the investment tree in the asset allocation section necessary if the dashboard shows the proportion of sustainable and taxonomy-aligned investments?

<ESMA_QUESTION_SFDR_33>

The asset allocation tree provides a good overview in a customer friendly way on the different investment categories (e.g. characteristics applying to entire product, whereas sustainable investments are only a fraction thereof) and how these are interlinked (e.g. taxonomy-aligned investments as subset of sustainable investments). We would, therefore, support maintaining the investment tree as part of the more detailed information which can be accessed on the FMP's website (please see the comments on Question 31 for our suggestions regarding the design and content of the templates).

<ESMA_QUESTION_SFDR_33>

Q34 : Do you agree with this approach of ensuring consistency in the use of colours in Annex II to V in the templates?

<ESMA_QUESTION_SFDR_34>

It is important that FMP can continue to use black and white printouts for the disclosures. Insurers are required by sector specific legislation to provide much of their customer information on paper. Colour printouts are not only more costly but also have a worse environmental impact than black and white copies. Furthermore, colours in the charts are very difficult to distinguish, especially in smaller graphical representations unless colours with high contrasts are used. The ESA should consider that even if colour templates are provided electronically, many customers will still make black and white printouts for their own use.

Improved consistency, readability and simplicity are necessary for consumers given the current complexity and length of the templates. Please see our comments on Question 31 in this regard.

Furthermore, should the standardisation of the templates be extended to the colours, it is essential that editable versions of the template are made available in due time before the entry into force of the new requirements to ensure consistency in the colours used by financial market participants.

<ESMA_QUESTION_SFDR_34>

Q35 : Do you agree with the approach to allow to display the pre-contractual and periodic disclosures in an extendable manner electronically?

<ESMA_QUESTION_SFDR_35>

Please see our comments on the simplification of the templates under Question 31. We believe that a significant reduction of the information in the templates is essential to achieve the objective of the documents which is to be noticed, read and understood by customers. The more detailed information could be provided on the FMP's website and referred to in the templates via a hyperlink.

In general we agree that it should be possible to display information documents in an extendable manner when provided via digital means. This should, however, not be mandatory. Furthermore, the SFDR information are meant to be annexed to the information provided in accordance with Solvency II. These documents are mostly physical documents (still often printed on paper). It needs to be ensured that these documents provided on paper and digitally are consistent.

<ESMA_QUESTION_SFDR_35>

Q36 : Do you have any feedback with regard to the potential criteria for estimates?

<ESMA_QUESTION_SFDR_36>

GDV appreciates the consideration given by the ESAs to situations of unavailability of the relevant data needed to determine the alignment of certain economic activities with the technical screening criteria established under the Taxonomy Regulation (eg. cases in which undertakings are not falling

under the scope of the EU Taxonomy reporting requirements). In such cases, it is crucial to allow financial market participants to rely on estimates. However, transparency on the applied methodology should accompany such disclosure.

As regards the proposed criteria, further clarity should be provided as to the definition of required key environmental metrics and how those can be used to determine substantial contribution in order to ensure consistency, comparability and avoid reputational risk for preparers.

<ESMA_QUESTION_SFDR_36>

Q37 : Do you perceive the need for a more specific definition of the concept of "key environmental metrics" to prevent greenwashing? If so, how could those metrics be defined?

<ESMA_QUESTION_SFDR_37>

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<ESMA_QUESTION_SFDR_37>

Q38 : Do you see the need to set out specific rules on the calculation of the proportion of sustainable investments of financial products? Please elaborate.

<ESMA_QUESTION_SFDR_38>

We consider clarity and thus legal certainty about the calculation of the proportion of sustainable investments of financial products to be very important for both product providers and investors.

In our opinion, however, it is crucial that the following sequence is followed: First, the definition of "sustainable investments" according to Art. 2 Nr. 17 SFDR must be clarified. Only when this prerequisite is fulfilled, rules for the calculation are useful.

We propose to calculate the share for companies on activity level in line with EU Taxonomy, for consistency and comparability reasons.

<ESMA_QUESTION_SFDR_38>

Q39 : Do you agree that cross-referencing in periodic disclosures of financial products with investment options would be beneficial to address information overload?

<ESMA_QUESTION_SFDR_39>

Yes. We strongly agree. As periodic disclosure usually significantly exceeds 60 pages (~80 pages), it is neither customer-friendly nor sustainable to attach the periodic disclosures for each fund/underlying option. It is, therefore, to be welcome that the ESA intend to allow cross-referencing also in in the periodic disclosures. Otherwise, there would be a risk of a negative perception of the regulation and the insurer on the part of customers, considering the large amounts of paper which have to be posted. In view of the enormous printing and postage costs, the current situation also creates an uneven playing field to the detriment of insurers. Contrary to other FMP, insurers are required by sectoral regulation to provide much of their information on paper. The possibility to use hyperlinks would to address this disparity.

Regarding the need to further simplify the templates, please also see our suggestions in the comments to Question 31.

While we agree that it should be as easy as possible for consumers to access the information on the investment options, it is in many cases not feasible to provide a link which leads directly and exclusively to the relevant SFDR information. The reason for this is that under the current RTS, UCITS management companies and AIFM are not required to publish the information under Articles 8, 9 and 11 SFDR as stand-alone documents. In many cases, the SFDR information would therefore have to be extracted manually from the relevant prospectuses. This would have to be done not only once but regularly to take account of updates. We would ask the ESA to use their mandate under Article 10 (2) SFDR to specify the the presentation requirements referred to in the second subparagraph of Article 10 (1) SFDR in order to ensure that the SFDR information of the underlying investment options are available as separate electronic documents.

<ESMA_QUESTION_SFDR_39>

Q40 : Do you agree with the proposed website disclosures for financial products with investment options?

<ESMA_QUESTION_SFDR_40>

We agree that for products with investment options the detailed disclosures should be provided at the level of the the investment option. Please also see our comments on Question 31 for our suggestions to simplify the templates.

<ESMA_QUESTION_SFDR_40>

Q41 : What are your views on the proposal to require that any investment option with sustainability-related features that qualifies the financial product with investment options as a financial product that promotes environmental and/or social characteristics or as a financial product that has sustainable investment as its objective, should disclose the financial product templates, with the exception of those investment options that are financial instruments

according to Annex I of Directive 2014/65/EU and are not units in collective investment undertakings? Should those investment options be covered in some other way?

<ESMA_QUESTION_SFDR_41>

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<ESMA_QUESTION_SFDR_41>

Q42 : What are the criteria the ESAs should consider when defining which information should be disclosed in a machine-readable format? Do you have any views at this stage as to which machine-readable format should be used? What challenges do you anticipate preparing and/or consuming such information in a machine-readable format?

<ESMA_QUESTION_SFDR_42>

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<ESMA_QUESTION_SFDR_42>

Q43 : Do you have any views on the preliminary impact assessments? Can you provide estimates of costs associated with each of the policy options?

<ESMA_QUESTION_SFDR_43>

It is too early to give an assessment on impact and costs at this point in time. The full reporting requirements have only started this January.

German insurers are worried that the need for new regulation to be implemented by the undertakings concerned is not always given due consideration by policymakers. This has become particularly evident in the development of the SFDR. Most recent example in this context have been the changes made to the SFDR templates in February 2023 with an implementation period of only three days.

We would, therefore, ask the ESA, being nearest to the realities of the industry, to raise the awareness of policymakers, especially the EU Commission, of the fact that the implementation of new rules requires time and effort on the part of FMP. This awareness should include the following elements:

- Requirements at Levels 1 to 3 should be properly drafted and reflected before they are put into action. Unclear or incorrect references and inconsistencies with other legislation (e. g. SFDR / Taxonomy) result in legal uncertainties, divergent implementation and, eventually, in

the need for correction. While we appreciate the ESA's efforts to provide clarity via Q&A, it is, in our view, troubling that since 2021 numerous sets of Q&A by the ESA and the EU Commission have been necessary for this purpose. It should be borne in mind that each time the requirements are clarified or modified, FMP have to adapt and readapt their processes and disclosures. This increases the costs of products to the detriment of customers.

- New rules should be applied only once Levels 2 and (as far as possible) 3 are finalized. Otherwise, FMP have to undergo the implementation process two or three times for the same legislative act.
- If changes to requirements are necessary, they should, as far as possible, be bundled and put into action with one common application date. It is significantly easier for FMP to make less frequent yet larger adjustments to their disclosures than to implement a constant stream of modifications. Longer periods without changes to the requirements would also help consumer understanding by allowing for comparisons of the disclosures over time.
- Where new legislation is introduced or changes are made to existing rules, a realistic implementation period needs to be provided. For changes such as the ones proposed by the ESA in the current Consultation, FMP would need 9 months starting with the publication of the final rules in the Official Journal. It is important that the ESA include a proposal to this effect in the draft RTS in order to underline its importance vis-à-vis the EU Commission.

In view of the abovesaid comments, we would like to ask the ESA to reconsider whether the envisaged changes are really necessary at this point in time. In line with Article 19 SFDR, the EU Commission is currently evaluating possible changes to the SFDR at Level 1. A legislative proposal for such changes could be forthcoming as soon as next year. Any changes to the RTS effected in the meantime would risk being outdated as soon as they are implemented by FMP. In order to avoid redundant implementation efforts, we suggest using the insights gained in the course of this consultation and the consumer testing to continue the work on the evaluation and improvement of the SFDR at Level 1 and preparing any subsequent changes to the RTS.

<ESMA_QUESTION_SFDR_43>