FEDERATION OF THE DUTCH PENSION FUNDS

EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR FINANCIAL STABILITY, FINANCIAL SERVICES AND CAPITAL MARKETS UNION

Financial markets
Asset management

TARGETED CONSULTATION DOCUMENT

IMPLEMENTATION OF THE SUSTAINABLE FINANCE DISCLOSURES REGULATION (SFDR)

Disclaimer

This document is a working document of the Commission services for consultation and does not prejudge the final decision that the Commission may take.

The views reflected on this consultation paper provide an indication on the approach the Commission services may take but do not constitute a final policy position or a formal proposal by the European Commission.

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You are invited to reply **by 15 December 2023** at the latest to the **online questionnaire** available on the following webpage: https://finance.ec.europa.eu/regulation-and-supervision/consultations/finance-2023-sfdr-implementation_en

Please note that in order to ensure a fair and transparent consultation process **only responses received through the online questionnaire will be taken into account and included in the report summarising the responses**.

This consultation follows the normal rules of the European Commission for targeted consultations. Responses will be published in accordance with the privacy options respondents will have opted for in the online questionnaire.

Responses authorised for publication will be published on the following webpage: https://finance.ec.europa.eu/regulation-and-supervision/consultations/finance-2023-sfdr-implementation_en

Any question on this consultation or issue encountered with the online questionnaire can be raised via email at fisma-sfdr@ec.europa.eu.

INTRODUCTION

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.

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)[1]:

	1	2	3	4	5	Don't know
Increasing transparency towards end investors with regard to the integration of sustainability risks[2]	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 a wide range of financial products and services, including those with sustainability claims.		X				
Channelling capital towards investments considered sustainable, including transitional investments			X			

(‘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)						
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)

[1] https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52018PC0354

[2] 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.

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			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 1.5, 1.6 and 1.7:

In relation to the questions above, the following works well with the SFDR from the perspective of a pension fund and/or pension asset manager:

- The benefits for a pension fund are greater as an investor (user of information) than vis-à-vis our participants (as a provider of information).
- The SFDR has increased the focus on sustainability disclosures and increased the amount of information. Albeit delayed, the PAIs are creating demand for sustainability data of corporates. There are many teething problems to be worked out, but we continue to strongly support this policy objective.

What does not work well with the SFDR?

- Comparability of data and information is low or absent at the moment.
- Information on sustainability risks is still mostly qualitative. The SFDR has not led to more or better information from external asset managers, nor is it easy to aggregate this in a meaningful manner at portfolio level. We can provide participants little more than a description of potential risks. Moreover, detailed disclosures are not particularly useful for participants without opt-out or investment choice.
- The broad definition of “promotion” creates greenwashing risks. The bar is set very low, which means that many pension funds are in scope. Because Article 8 is interpreted as a label, arguably even by the supervisor, it creates expectations that were not foreseen by the legislation.
- The definition of “sustainable investments” is not sufficiently strict. The disclosures and not comparable between FMPs.
- The overall benefit to our “end-investors” (participants) is limited at best or even negative. The product information is much too technical for participants. Moreover, participants have no choice whether to invest or not, so they will not be comparing information or have no “action perspective”. This fundamentally changes the way in which they engage with information.
- We are convinced that financial institutions can make the biggest impact by financing the transition, rather than being invested in companies that are already sustainable. This approach is currently not sufficiently recognized by the SFDR and therefore it does not encourage the best use of capital.

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 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[3]

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).					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					

[3] Commission Delegated Regulation (EU) 2022/1288 of 6 April 2022

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)

<u>Question 1.8.1</u>: 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)

<u>Question 1.9</u>: 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:

In short we are in favor of:

- PAI product disclosures at product level instead of a PAI entity disclosure.
- A standard set of mandatory PAIs; no optional/additional PAIs.
- Clear guidance on setting PAI thresholds for the DNSH test to determine SI.

Contrary to the current framework, we find it appropriate to move away from a PAI entity statement and instead move towards PAI product disclosures. Financial products that consider adverse impacts should therefore disclose PAIs at product level. This would also entail disclosure of a few core PAIs for all financial products, subject to proportionality requirements, regardless of the sustainable characteristics.

We believe disclosures on entity level have little or no value for end-investors when making meaningful comparisons. This is especially true for PAI values attached to individually managed portfolios as these values do not reflect on the strategy of the financial participant, but rather on its clients' investment strategies.

For its PAI entity statement, the current framework requires FMPs to choose additional PAIs to their sole discretion, which has undesirable consequences as this leads to:

1. complicated investment and contracting processes, because additional PAI data needs to be obtained from external parties and managers.
2. methodological challenges, because it is clear the PAI indicators should be "taken into account" for determining the DNSH thresholds for the SI methodology, which leads to differences in SI definitions and requires additional checks and balances in investment processes.

We believe there should be one standard set of PAI indicators that are always considered material; and not subject to a materiality assessment. Such PAI indicators should correspond with the CSRD reporting requirements.

1.9

The current requirement "to take into account" the PAI indicators to determine DNSH does not only lead to methodological challenges (as shared above), but also to unclarity on how the indicators should be applied. As in general we support the concept of PAI indicators, we believe it would be helpful to provide guidance on (how to determine) suitable thresholds for the DNSH test. Without such guidance there is a risk that this would lead to a race to the bottom by financial market participants, aiming to claim high percentages of SI.

Part of the methodological challenges are also laid in the current PAI product disclosures of article 7, as it is unclear how they interact with, E/S characteristics for example. To us the solution is to go to PAI product disclosure instead of PAI entity disclosure.

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			

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			

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

As explained above, entity-level disclosures and product-level disclosures cannot be split in the case of IORPs.

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?

Could you please provide a split between:

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

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	5	5	5	
Estimates from data providers, based on data coming from other sources	5	5	5	
In-house estimates	1	1	1	
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.

We find the areas covered by the indicators relevant. However, the indicators themselves are not in all cases a good representation of the area, such as in the case of biodiversity, water and waste.

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)

<u>Question 1.13.1</u>: 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

<u>Question 1.13.2</u>: 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.

We do not have a consistent manner of measuring the amount of Dutch pension funds making sustainability claims over the years. A significant majority has a responsible investment policy. These could be considered to fall within this category prior to the SFDR. They typically run only one "product", the pension scheme.

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.

<u>Question 2.2</u>: To what extent do you agree or disagree with the following statements?

	1	2	3	4	5	Don't know
The [questions & answers published by the Commission in April 2023](#) 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.[4] The CSRD sets out sustainability reporting requirements mainly for all large and all listed undertakings with limited liability (except listed micro-enterprises),[5]

Both the SFDR and the Corporate Sustainability Reporting Directive (CSRD) introduce entity level disclosure requirements with a double-materiality approach.[4] The CSRD sets out sustainability reporting requirements mainly for all large and all listed undertakings with limited liability (except listed micro-enterprises),[5] 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.

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[4] 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').

[5] 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 40 million).

[6] Provided positive scrutiny of co-legislators of the ESRS delegated act.

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)[6]

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.

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)

[6] Provided positive scrutiny of co-legislators of the ESRS delegated act.

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?

PRIIPs requires market participants to provide retail investors with key information documents (KIDs). As part of the retail investment strategy[7], 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:

Regarding the interaction between the CSRD and the SFDR, we observe a large divergence between the concept of PAIs (fixed set of indicators and values are always materially negative) and the materiality test under the Delegated Acts of the CSRD from July 2023. PAI data should have remained automatically material under the ESRS, as was initially foreseen. However, given that the decision was made to grant companies the right declare PAI indicators immaterial, this now has to be addressed in the SFDR, as was promised by the European Commission. This also raises questions concerning the treatment of non-EU companies. The corollary seems to be that FMPs are not required to report on PAIs insofar EU companies deem them non-material, but for non-EU companies all indicators will always be considered material.

Another highly critical issue for IORPs is the potential overlap between the IORP II directive and the SFDR. Article 8 of the SFDR gives a very broad definition of ''promotion.'' This promotion could appear in almost any type of document created by the IORPs. Under IORP II, some of these disclosures are needed. We would be opposed to a scenario in which the IORP II amendments would force IORPs to automatically fall under Article 8 SFDR. We appreciate that EIOPA has now addressed this issue in the technical advice for the review of the IORP II Directive. There, EIOPA explains that if IORPs, under the prudent person rule, consider the adverse impacts of investment decisions on sustainability factors within the context of sustainability risks only, it would avoid triggering SFDR Article 8. We think it is important that the European Commission carefully considers this issue in the review of both the SFDR and IOPR2.

With the introduced benchmarks, the BMR seems to introduce a fixed and own definition of sustainable investments that will most likely differ from the SFDR definitions of sustainable investments that are created by FMPs, as they have to come up with their own definition. This leads to confusion, because according to the guidance, FMPs may deem portfolios sustainable that passively follow a Paris-aligned benchmark, while such investments may not classify as sustainable under their own definition.

[7] https://finance.ec.europa.eu/publications/retail-investment-strategy_en

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:

Arguably the entity-level disclosures are somewhat more useful for pension funds than for other FMPs, as they often operate only one product: the scheme. Nevertheless, the disclosures still do not help participants much in understanding the negative impact of investments. Whereas PAI disclosures can be helpful for professional investors, the template and the information is much too complicated for participants.

Information on sustainability risks is still mainly qualitative. The SFDR has not led to more or better information from external asset managers, nor can it be used at portfolio level. Pension funds typically provide participants a description of potential risks. Detailed disclosures are not particularly useful for participants without opt-out or investment choice. At the same time, in some cases the disclosures on Article 3 have led to a fruitful dialogue between pension funds and fiduciary managers on the content of the policy.

Articles 5 has typically been implemented by pension funds by stating that there is no variable pay or that sustainability does not play a role in the remuneration policy.

Complementing the consultation by the European Supervisory Authorities (ESAs) on the revision of the Regulatory Technical Standards of the SFDR[8] the Commission is interested in respondents' views as regards the principal adverse impact indicators required by the current Delegated Regulation.

8 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.

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

In general:

- Some indicators have a good coverage and are good quantifiable like for example table 1 indicators: CO2 (1), fossil fuel exposure (4), wage gap (12). Moreover, we find the indicators on the OECD Guidelines also useful (10 and 11).
- For some indicators it is difficult to express these in numbers, like for example table 1 numbers 7, 8 and 9, as well as the mandatory table 3 indicator 12 (significant risk on child labor).

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

As mentioned, entity-level data has limited use and the cross-comparability between e.g. IORPs and investment funds does not really serve a purpose. It could be good to use sectoral legislation for entity-level disclosures on governance, ESG integration and risk policies. Alternatively, the CSRD could be used for this.

Having entity-level disclosures in sectoral legislation would also avoid duplication or overlap. We note, for example, that EIOPA proposes to introduce rules on remuneration in relation to sustainability in IORP2 in its recent advice to the European Commission.

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:

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:

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

We believe that requiring all products to disclose would be disproportionate. PAI and Taxonomy disclosures currently require getting data from external providers. While these costs may be somewhat lower for smaller FMPs, they are not linearly proportional.

Purely hypothetically, an annual costs of EUR 100 000 adds an additional costs of 10 basis points to a pension fund of 100 million AuM, whereas for a pension fund of 100 billion this would equal 0.01 bps. The average total expense ratio of Dutch pension funds is around 50 basis points in 2022.

A requirement to have all products disclose could also stifle innovation and competition by adding significant and relatively high costs to new financial products, which have smaller amounts of AuM when being launched.

EIOPA estimates that a 1% increase in costs can lead to cumulative lifetime lower pension of 20%. Assuming annual reporting costs of 100 000 euros, a participant with a pension fund with AuM of 1 billion euros would see their pension reduced by 0,2%. Assuming a target pension capital of 300 000 euros, that equates to a reduction of capital of 600 euros.

<u>Question 3.2.2</u>: 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)

<u>Question 3.2.2 a)</u>: 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?

<u>Question 3.2.2. b)</u>: 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:

The most relevant and reliable ones, which probably means greenhouse gas emission and the OECD guideline indicators.

<u>Question 3.2.2. c)</u>: 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						

(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:

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

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:

Additional levels of rules and supervision should apply to those products who want to make use of the categories proposed in chapter 4. We have seen that the different levels of sustainability as part of a disclosure framework did not work and led to greenwashing. We recommend to remove Article 8 and Article 9. The suggestion in this question would leave in place the core of the problem.

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:

As participants are automatically enrolled without opt-out or any (in most cases) investment choice, it is not necessary to have "precontractual" information, as there is no precontractual phase and the information is not actionable. The logic of the SFDR is that a client is promised something precontractually, which can be verified through periodic information. However, this situation does not apply to a pension fund and the sustainable finance policy is updated constantly.

Participants who are interested in sustainability aspects of the investments of their pension fund most likely will look at the website. We believe the SFDR should allow for understandable website disclosures, which will most helpful to participants. We also agree that periodic reporting is necessary to track the sustainability performance of the product/pension fund over time. Moreover, the differentiation of precontractual and periodic information makes more sense for other types of products than pension funds.

The templates currently are much too complicated for participants or retail clients, for that matter. Average citizens are unlikely to engage with the information, particularly when they have no choice to make.

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[9] 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.

[9] 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](#).

<u>Question 3.2.6</u>: 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:

We strongly agree with the notion to let go of a horizontal approach. Participants are mostly automatically enrolled and therefore will not be comparing pension products with investment products. And even if someone were interested to make the comparison, it is very challenging to objective compare the degree of sustainability of a 100% listed-equity ETF with the complex portfolio of a pension fund. Assume a pension fund only invests in stocks (50%) and in goverment bonds (50%) and it reaches a taxonomy-alignment of 10% in its stock portfolio, resulting in 5% Taxonomy-alignment on the level of the product. Is this pension fund more or less ambitious than a mutual fund with only stocks and 7,5% Taxonomy-alignment?

As such it is preferable to let go of the horizontal approach. This could be achieved within SFDR, for example by allowing the ESA's to enforce seperate RTS per sub-sector. Alternatively, it could be achieved by "devolving" rules from the RTS to sectoral regulation, in our case IORP2.

Finally, the rules leave no room for confidentiality. This is difficult in particular for asset manager who operate client-specific mandates for pension funds.

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:

As explained in our previous answers, comparability is not relevant for pension fund. It should not come at the expense of clarity and comprehensibility.

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:

There is no difference between product and entity level for IORPs. The disclosures are the same and collecting data requires large efforts.

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?

This is very difficult to operationalize in a fair and consistent manner. For example, the level of investments in government bonds is strongly determined by the duration of the liabilities (in other words, how "old" the population of participants is). An "old" pension fund may be invested for more than 50% in government bonds, which typically are not seen as "sustainable investments". Such a pension fund could be automatically considered less ambitious and ranked at a lower scale. This would create the wrong kind of incentives and create tension between prudent person principles and sustainability ambitions.

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)

<u>Question 3.2.11:</u> 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:

Data providers are making an effort to improve data quality. There is potential in the long-run, but currently a lot of improvements are necessary for the data to be useful.

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. [10]

[10] 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.

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 <u>all</u> product information disclosed under the SFDR available in the upcoming European Single Access Point as soon as possible.					X	
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)

<u>Question 3.2.13</u>: 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:

This will be costly in the beginning, but in the long run this would benefit the processes and create savings in terms of costs for data providers.

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.

<u>Question 3.2.14</u>: 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						

(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:

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.

<u>Question 4.1.1</u>: To what extent do you agree with the following statements?

	1	2	3	4	5	Don't know

	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)

<u>Question 4.1.2</u>: If a categorisation system was established, how do you think categories should be designed?

	1	2	3	4	5	Don't know
Approach 1: 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	
Approach 2: 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.	X					

(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:

As widely acknowledged, the product disclosures in the SFDR have not had their intended effect. We do not believe that tinkering with Article 8 and 9, or introducing categorization next to Article 8 or 9, will solve the unintended consequences. Adding categorization next to Article 8 and 9 will significantly increase the complexity from the perspective of a pension fund participant or retail client. It will give more, rather than less, room for providers to present disclosures disingenuously in order to generate more sales. On the other hand, it will increase the likelihood of accidental greenwashing by pension funds trying the navigate the additional complexities.

Attempting to "improve" Article 8 and 9 by adding minimum requirements will also give rise to problems for pension funds. For example, the French supervisor AMF has proposed to impose quantitative thresholds for Taxonomy-aligned assets or yet-to-be-defined "transition assets". In case these assets can mainly be found in the listed equity space, a given target for a pension fund with e.g. 25% allocation towards listed equity would be four times as ambitious as the same target for an equity ETF. This difference could also occur within the pension sector, where pension funds with an older population is automatically more invested in government bonds compared a relatively new pension funds with a young population.

The same challenge exists when taking into consideration the degree to which the ESG policy is "binding". It is proposed that this is measured by considering the minimum reduction of the investment universe. This approach too is very much focus on the listed equity space. For asset classes like private equity, real estate, private debt, mortgages, securitizations and hedge funds there is no known universe from which titles can be excluded.

……………………………………………………………………………………………

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

<u>Question 4.1.3</u>: 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)

<u>Question 4.1.4</u>: 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, measurable solutions 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 credible sustainability standards 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 measurable improvements 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.[11]				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)

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

[11] In line with the transition to a climate neutral and sustainable economy.

<u>Question 4.1.5:</u> 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)

<u>Question 4.1.6:</u> 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)

<u>Question 4.1.7</u>: 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			

<u>Question 4.1.8</u>: 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.

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

Pension funds often incorporate multiple strategies in their responsible investment policies, so in theory should be able to fall within multiple categories. That being said, there should be strict enough rules to avoid mis-use of categories, which could result in pension funds not being able to use them at all. However, that does not need to be a problem as pension funds are not distributed or marketed.

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:

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						

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

Please specify reply:

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						

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

Please specify reply:

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						

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

Please specify reply:

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						

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

Please specify reply:

There should not be a legal requirement to obtain transition objectives, but the ability to demonstrate progress against objectives is important.

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 minimum exclusion rate does not work for all asset classes. If these categories should be accessible to pension funds, this a problem because there are significant allocations to private assets, which do not have a universe.

………………………………………………………………………………………

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

<u>Question 4.1.12</u>: 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)

<u>Question 4.1.12 a)</u>: 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	A taxonomy-like framework would be useful to clarify this concept.
'do no significant harm', element of the sustainable investment concept	A taxonomy-like framework would be useful to clarify this concept.
'investee companies' good governance practices', element of the sustainable investment concept	A taxonomy-like framework would be useful to clarify this concept.

<u>Question 4.1.12 b)</u>: 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?

<u>Question 4.1.12 c)</u>: Should the good governance concept be adapted to include investments in real estate investments?

Yes	No	Don't know
	X	

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

<u>Question 4.1.13</u>: 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?

<u>Question 4.1.14:</u> 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?

This would be very problematic for pension funds, if Article 8 would still be triggered by the current definition of promotion. By having any form of responsible investment policy, pension funds would subsequently have to comply with a Taxonomy-alignment target, which would presumably be designed with a listed equity mutual fund in mind. The majority of assets are invested in asset classes that cannot be Taxonomy-aligned or for which data is lacking. Investments in listed equity and corporate debt would have to exceed a multiple of the target in order to reach the target at the level of the entire portfolio. This would cut across the need for sufficient diversification.

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

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?

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						

(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:

<u>Question 4.2.2</u>: 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:

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:

It should be considered whether the product invests in multiple asset classes and in particular private assets. Data availability issues for non-EU investments should also be taken into account.

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:

We do not have experience with the KID.

<u>Question 4.3.2</u>: 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						

(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:

<u>Question 4.3.3:</u> 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)

<u>Question 4.4.3</u>: 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: