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# Joint Consultation Paper

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## ESG disclosures

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Draft regulatory technical standards with regard to the content, methodologies and presentation of disclosures pursuant to Article 2a, 4(6) and (7), Article 8(3), Article 9(5), Article 10(2) and Article 11(4) of Regulation (EU) 2019/2088

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# 1. Responding to this Consultation

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The European Supervisory Authorities (ESAs) welcome comments on this consultation paper setting out the proposed Regulatory Technical Standards (hereinafter “RTS”) on content, methodologies and presentation of disclosures pursuant to Articles 2a, 4(6) and (7), Article 8(3), Article 9(5), Article 10(2) and Article 11(4) of Regulation (EU) 2019/2088 (hereinafter *Sustainable Finance Disclosure Regulation* “SFDR”).

The consultation package includes:

- The Consultation Paper
- The draft RTS on sustainability-related disclosures and their relevant Annexes.
- Template for comments

The ESAs invite comments on any aspect of this paper. Comments are most helpful if they:

- indicate the specific point to which a comment relates;
- contain a clear rationale;
- provide evidence to support the views expressed/rationale proposed; and
- describe any alternative regulatory choices that the ESAs should consider.

The ESAs also invite specific comments on the questions on the draft RTS as listed in Section 4, and any input on the preliminary impact assessment in Section 5.

## Submission of responses

The consultation paper is available on the websites of the three ESAs. Comments on this consultation paper should be sent using the response form, via the ESMA website under the heading ‘Your input/Consultations’ Please send your comments in the provided response form by 1 September 2020.

Contributions not provided in the response form or after the deadline will not be processed.

## Publication of responses

All contributions received will be published following the close of the consultation, unless you request otherwise in the respective field in the template for comments. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure. A confidential response may be requested from us in accordance with ESAs rules on public access to documents. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by ESAs Board of Appeal and the European Ombudsman.

## Data protection

The protection of individuals with regard to the processing of personal data by the ESAs is based on Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing

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Regulation (EC) No 45/2001 and Decision No 1247/2002/EC as implemented by the ESAs in the implementing rules adopted by their Management Board. Further information on data protection can be found under the Legal notice section of the EBA website and under the Legal notice section of the EIOPA website and under the Legal notice section of the ESMA website.

## 2. Executive Summary

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### Reasons for publications

The SFDR Article 2a<sup>1</sup>, 4(6) and (7), Article 8(3), Article 9(5), Article 10(2) and Article 11(4) empower the ESAs to deliver, through the Joint Committee (JC), draft Regulatory Technical Standards (RTS) with regard to the content, methodologies and presentation of sustainability-related disclosures. Six of these RTS must be delivered by 30 December 2020 and one must be delivered by 30 December 2021.

During the preparation of this Consultation Paper, the ESAs sought input from the Joint Research Centre of the European Commission and the European Environment Agency as referred to in Article 4(6) SFDR.

### General background

Following the adoption of the 2015 Paris Agreement on climate change and the United Nations 2030 Agenda for Sustainable Development, the Commission has expressed in the Action Plan “Financing Sustainable Growth” its intention to clarify fiduciary duties and increase transparency in the field of sustainability risks and sustainable investment opportunities with the aim to:

- reorient capital flows towards sustainable investment in order to achieve sustainable and inclusive growth;
- assess and manage relevant financial risks stemming from climate change, resource depletion, environmental degradation and social issues; and
- foster transparency and long-termism in financial and economic activity.

Given the environmental emergency situation, urgent action is needed to mobilise capital not only through public policies but also by means of the financial services sector. In order to adapt to this new environment, financial market participants and financial advisers should be required to disclose specific information on their approaches to the integration of sustainability risks and the consideration of adverse sustainability impacts.

As noted in Recital (9) SFDR, in the absence of harmonised EU rules on sustainability-related disclosures to end-investors, it is likely that diverging measures will continue to be adopted at national level and different approaches in different financial services sectors might persist. Such divergent measures and approaches would continue to cause significant distortions of competition resulting from significant differences in disclosure standards. In addition, a parallel development of market-based practices, based on commercially driven priorities that produce divergent results currently causes further market fragmentation and might even further exacerbate inefficiencies in the functioning of the internal market in the future. Divergent disclosure standards and market-based practices make it very difficult to compare between different financial products and create

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<sup>1</sup> Article 2a of SFDR will be added by the [Regulation on the establishment of a framework to facilitate sustainable investment \(Taxonomy Regulation\)](#)

an uneven playing field between these products and between distribution channels, and erect additional barriers to the internal market. Such divergences can also be confusing for end-investors and can distort their investment decisions. For example, the lack of harmonised rules relating to transparency makes it difficult for end-investors to effectively compare different financial products in different Member States with regard to their environmental, social and governance risks and sustainable investment objectives. In ensuring compliance with the Paris Climate Agreement, there is a risk that Member States will adopt divergent national measures which could create obstacles to the smooth functioning of the internal market and be detrimental to financial market participants and financial advisers. It is therefore necessary to address the existing challenges to the functioning of the internal market and to enhance comparability of financial products in order to avoid likely future obstacles.

Recital (10) SFDR states that the legislation aims to reduce information asymmetries in principal-agent relationships with regard to the integration of sustainability risks, the consideration of adverse sustainability impacts and the promotion of environmental or social characteristics as well as sustainable investment by means of pre-contractual and ongoing disclosures to end-investors, acting as principals, by financial market participants or financial advisers, acting as agents on behalf of principals.

The scope of the SFDR is extremely broad, covering a very wide range of financial products and financial market participants. The SFDR is in essence trying to harmonise ESG disclosure standards for disclosures of different types of information complexity, granularity and consumer-friendliness, ranging from detailed fund prospectuses to the concise “key information documents” for pan-European pension products (PEPPs). On the hand, a more maximalist approach to disclosures aims at providing detailed information, and on the other, a more minimalistic to approach to consumers aims to avoid information overload and ensure that the information is read and can be understood by consumers. This leads to sustainability-related information requirements designed for pre-contractual disclosures in longer documents needing to be reconciled with the need to ensure information is produced at a comprehensible level for consumers consuming shorter documents.

Additionally, it is undeniable that consideration of sustainability factors in the investment decision making and advisory processes can have adverse impacts beyond the financial markets on the environment and on societal factors. It can decrease the resilience of the real economy and the stability of the financial system and in so doing ultimately impact on the risk-return profile of financial products. It is therefore key that financial market participants and financial advisers provide the necessary information on the adverse impacts of investment decisions and financial advice to enable end-investors to make informed investment decisions.

### **Purpose of Consultation Paper and process followed**

The draft RTS relate to several disclosure obligations under the SFDR regarding the publication of:

- the **details of the presentation and content of the information in relation to the principle of ‘do not significantly harm’** as set out in Article 2(17) of the SFDR consistent with the content, methodologies, and presentation of indicators in relation to adverse impacts referred to in Article 4(6) and (7) SFDR.

- a statement on an entity's website of a statement on the due diligence policy in respect of the adverse impact of investment decisions on sustainability factors in relation to **climate and other environment-related impacts** (Article 4(6)) and **adverse impacts in the field of social and employee matters, respect for human rights, anti-corruption and anti-bribery matters** (Article 4(7)).
- **pre-contractual information** on how a product with environmental or social characteristics meet those characteristics and if an index has been designated as a reference benchmark, whether and how that index is consistent with those characteristics (Article 8).
- **pre-contractual information** to show, where a product has sustainable investment objectives and a) has a designated index as a reference benchmark, how that index is aligned with the sustainable investment objective and an explanation as to why and how that designated index aligned with the objective differs from a broad market index (Article 9(1) SFDR); b) if no index has been designated as a reference benchmark, an explanation on how that objective is to be attained (Article 9(2) SFDR).
- Information on an entity's **website** to describe the environmental or social characteristics of financial products or the sustainable investment; the methodologies used; the pre-contractual information referred to in Articles 8 and 9; and the periodic reports referred to in Article 11.
- Information in **periodic reports** according to sectoral legislation specifying (a) the extent to which products with environmental and/or social characteristics meet those characteristics, and (b) for products with sustainable investment objectives and products which objective is a reduction in carbon emissions: (i) the overall sustainability-related impact of the product by means of relevant sustainability indicators and (ii) where an index has been designated as a reference benchmark, a comparison between the overall impact of the financial product with the designated index and a broad market index through sustainability indicators (Article 11 of the SFDR).

The draft RTS text and accompanying Annex form the core of this Consultation Paper (**Section 4**).

A preliminary analysis of the expected impacts of the proposed draft RTS is also included (**Section 5**) in order to gather stakeholder feedback on possible costs and benefits of the proposals and the relative scale of these costs and benefits for different stakeholders.

### 3. Background analysis

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While ESG products are becoming more popular in Europe, justifying common harmonised product disclosure rules, the area of principal adverse impact reporting is relatively new. The ESAs are aware that data constraint is one of the biggest challenges when it comes to sustainability-related information to end-investors, especially in the case of principal adverse impacts of investment decisions. There are already market participants providing ESG-related data even when those approaches have limitations, for example ESG ratings<sup>2</sup> in relation to comparability.

Nevertheless, the ESAs shares the view that it is necessary to start demanding data from financial market participants and financial advisers to achieve the objectives of the SFDR in order to make sustainability-related information available. The ESAs are aware that this point may be a concern for respondents regarding some indicators in particular, which could be further considered if necessary.

Furthermore, certain key areas of adverse impacts should always be considered principal adverse impacts, such as greenhouse gas emissions, negative biodiversity impacts, or lack of adherence to fundamental labour conventions.

Therefore, the ESAs have laid out a set of mandatory indicators in Annex I of the draft RTS that financial market participants should always consider principal adverse impacts of their investment decisions. These are complemented by a suggested set of additional, non-exhaustive, indicators, that can be helpful in identifying, assessing and prioritising additional principal adverse impacts.

The ESAs also identified as a challenge that the negotiations were on-going on the draft taxonomy regulation while Article 2(17) SFDR defined “sustainable investments” without reference to the taxonomy regulation. At the same time, companies issuing equity or debt instruments, into which a financial product within the meaning of Article 2(12) SFDR may invest, regularly carry out more than one or even a variety of activities. Some of these activities might be taxonomy-eligible while others are not. The acquisition of such equity or debt instruments would therefore not only finance taxonomy-eligible activities. The ESAs discussed whether the environmentally sustainable products according to Article 9 SFDR are limited to those investing in activities contributing to environmental objectives according to the proposed EU regulation on taxonomy. Such an approach would have been favourable in terms of comparability of sustainable investments and combating greenwashing. However, Article 2(17) SFDR does not feature a link of environmentally sustainable investments to the draft taxonomy regulation.

The ESAs also acknowledged that the empowerments related to taxonomy-specific product disclosures, laid out in Article 25 of the draft taxonomy regulation, will be an occasion to further strengthen the link between ‘sustainable investments’ as defined under Article 2(17) SFDR, and

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<sup>2</sup> Schoemaker / Schramade, *Principles of Sustainable Finance*, 1<sup>st</sup> edition 2019, pages 187 - 188: “ESG ratings have a number of limitations by design. First, ratings want to be too many things to too many people. They have little focus on material issues, although it is crucial from investment purposes to focus on material issues (Khan, Serafeim, and A. Yoon, 2016 “Corporate Sustainability: first evidence on materiality”, *Accounting Review*, 91(6): 1697-724). Secondly, the ratings are based on reported data and policies, which are only a fraction of what is needed for a good assessment and are sometimes even conflicting (Tirole, J. 2017, *Economics for the Common Good*).



investments financing taxonomy-compliant activities, with a view to reducing regulatory divergence.

The ESAs take note of the provisions in the taxonomy regulation empowering the ESAs with drafting additional technical standards on the concept of “do not significantly harm”. The deadline for submitting the regulatory technical standards on “do not significantly harm” is foreseen to be 30 December 2020, which would coincide with the deadline for the majority of the SFDR technical standards. Therefore, the ESAs decided to include suggested proposals on “do not significantly harm” disclosure, related to the adverse impact indicators developed by the ESAs, in this consultation paper and to ask stakeholders for feedback on these provisions specifically.

The ESAs acknowledge the strong link between the concept of “do not significantly harm” under SFDR and the same notion under the taxonomy regulation applied to environmental activities. For example, the detailed technical screening criteria for “do not significantly harm” under the taxonomy regulation would be useful input for firms’ assessment of “do not significantly harm” where SFDR products make environmentally sustainable investments in economic objectives. However, the definition of sustainable investments in Article 2(17) SFDR includes both environmental and social objectives, while the taxonomy regulation is only limited environmental objectives. Furthermore, the disclosure of principal adverse impact and significant harm may involve different uses of the same indicators. For these reasons, the ESAs believe the Commission should consider studying the feasibility of clarifying the relation between the concepts of “do not significantly harm” and principal adverse impact in the future.

The ESAs concluded that the proportion of investments in the financial product funding taxonomy-eligible activities should be disclosed while being aware that it is necessary to receive this information from the investee companies. It is notable that the taxonomy regulation indicates that financial market participants (FMPs) should specify how and to what extent (in a form of a percentage) the investment meets the criteria for environmentally sustainable economic activities. However, considering the extended deadline for submission of RTSs for taxonomy-compliant products in the taxonomy regulation, the ESAs have decided to delay this work.

The product disclosure requirements must be integrated into existing sectoral disclosure formats (Article 6(3) SFDR). At the same time ESAs are asked to consider that the product disclosures should be “accurate, fair, clear, not misleading, simple and concise” in Article 8(3) and 9(5) SFDR. The ESAs are of the view that it is more advantageous to provide the sustainability-related information in a dedicated section of the above-mentioned sectoral disclosures and that templates should be provided to harmonise how the information requirements should be met to improve comparability.

The ESAs faced significant challenges in calibrating the draft RTS to the different types of documents listed under Article 6(3) SFDR. SFDR requires the ESAs to design a single set of uniform pre-contractual disclosures for very different types of documents which serve different purposes and apply divergent approaches to pre-contractual disclosure granularity.

On the one hand, for PEPPs, IORPs and all individual pension products, the disclosure in the SFDR must be done in short consumer-facing documents, including a KID in the case of the PEPP. On the other hand, for other financial products such as UCITS funds, the disclosure from the SFDR must be done in longer pre-contractual documentation, such as a fund prospectus.

Arguably, in order to achieve the cross-sectoral harmonisation objective, the possible level of granularity to be achieved for all products in scope is limited by the key information that can be included in the more concise documents. Shorter pre-contractual disclosures aim at keeping the pre-contractual information as concise as possible to avoid information overload. The pre-contractual document refers to website information for more information, including on methodologies and data sources. Simplicity helps consumers engage. The policy approach chosen for the pre-contractual granularity of information is of minimum standardisation of requirements, which allows for some tailoring of approach to specificities of products.

However, providing investors with more detailed pre-contractual disclosures may enable them to make better-informed investment decisions, whereas information on websites might not necessarily raise the same level of attention and therefore risk being neglected by investors. Furthermore, information included in the legal documentation of the product clarifies the responsibility of the product manufacturer towards the end-investor. Legal documentation is also a more valuable tool in terms of supervision of whether products are suitable to investors. Therefore, more granular pre-contractual disclosures could better suit the objective of combating greenwashing.

Because trying to find a workable solution to this issue has been challenging, the text in the draft RTS below is subject to specific feedback ESAs are seeking from stakeholders on the balance of disclosures in Questions 25 and 26.

The ESAs noted that under SFDR, products with a sustainable investment objective that rely on an index to attain the sustainable investment objective (as specified in Article 9(1) SFDR) are passive products and they must demonstrate that the designated index is aligned with the product's sustainable investment objective. To ensure a level playing field with products with a sustainable investment objective that pursue an active investment strategy (as specified in Article 9(2) SFDR), the ESAs decided that the same level of investor information should be provided to investors. As a result, products with a sustainable investment objective relying on a passive investment strategy should disclose index-level information for the relevant disclosure requirements.

While the SFDR aims to reduce information asymmetries and providing end-investors with "accurate, fair, clear, not misleading" product-specific information, the ESAs are aware of the risks of greenwashing. The scope of the category of products with environmental and social characteristics (Article 8) was intentionally drafted as a catch-all category to cover all financial products with different environmental or social ambitions that do not qualify as sustainable investments according to Article 9 SFDR. The ESAs are aware of the recent discussions around greenwashing and that ESG products create mis-selling risks.

Greenwashing for products is referred to in Recital (9) of the draft Taxonomy Regulation as "the practice of gaining an unfair competitive advantage by marketing a financial product as environmentally friendly, when in fact it does not meet basic environmental standards". Additionally, the entity-level disclosures of principal adverse impacts of investment decisions on sustainability factors could give rise to greenwashing at financial market participant level.

The ESAs are aware that the accusation of greenwashing might be connected with some ESG strategies, for example "best-in-class" which is typically defined as "focusing on investing in companies that perform better on ESG issues than their peers do". This approach could make it

possible for financial market participants to include companies in a financial product according to Article 8 which might be regarded as unsustainable or “brown” by end-investors. For this reason, the website disclosure requirements were considered important for product manufacturers to disclose information about methodology and data sources.

The ESAs are aware that SFDR will include requirements on the taking into account of sustainability risks for all products and consequently considers that the broad concept of ‘ESG integration’ should not be enough to justify that a product promotes environmental or social characteristics. Also, in order to limit the length of disclosure and to prevent greenwashing (where financial market participants would extensively disclose on non-binding ESG criteria), the ESAs have decided to require that only selection criteria for underlying assets that apply on a binding basis should be disclosed as part of pre-contractual disclosures.

The ESAs believe that product categorisation plays an important role in the perception end-investors have of a given product’s characteristics or objective. This is why the ESAs have suggested that financial market participants should not “over disclose” on sustainability, including through product categorisation, if that is not commensurate with the actual effects of sustainability on their investment policy.

It is neither the intention nor the mandate of the ESAs to reduce the choice of ESG strategies for companies. However, the ESAs noted the importance of Article 7(1) SFDR, which requires that adverse impacts of products will be clearly communicated to end-investors.

The ESAs also discussed how to deal with the requirement that investee companies shall follow “good governance practices”. Article 2(17) SFDR shows that the level 1 legislators had a wide understanding of this term by giving examples encompassing “sound management structures, employee relations, remuneration of staff and tax compliance”. While the wording qualifies “good governance practices” as a precondition for products, according to Article 8 and 9 SFDR, the ESAs decided to include governance elements in the disclosure requirements under the draft RTS. Furthermore, the ESAs believe that such a precondition is mandatory for any products under Article 8 SFDR with environmental or social characteristics.

The ESAs discussed the necessity and possibility to define terms crucial for the application of the level 1 text. While the ESAs see merit in specifying terms that are currently not defined in level 1 legislation (“promotion of environmental or social characteristics” / “follow good governance practices”), the ESAs concluded that possibilities for defining terms at level 2 are limited, instead chose to provide context for the level 2 articles in the recitals to this RTS.

The ESAs are aware that disclosure obligations have an effect on the compliance costs for companies, as outlined in Section 5, and that due to economies of scale these costs are especially onerous for smaller companies. While the ESAs do not have the intention that small companies are crowded out from the market, the ESAs concluded that in addition to the provisions already in SFDR, the possibilities to address proportionality in these RTS are limited. However, the ESAs duly considered which information items are necessary to meet the objective to inform end-investors sufficiently and excluded information items deemed too granular to be included in the draft RTS. It should also be underlined that most of the disclosure requirements contained in the draft RTS already are part of industry initiatives, such as the Eurosif Transparency Code.

At the same time, the ESAs considered how to avoid disincentivising legitimate innovation in this area. Not only are more and more investors willing to buy sustainable products, there is evidence that taking into account sustainability considerations has a positive effect on the long-term value of an investee company.<sup>3</sup>

Although the draft RTS do not address marketing communications, the ESAs noted that Article 13 SFDR specifically requires that marketing communications do not contradict the information disclosed. The ESAs will consider the opportunity to further develop the optional ITS contained in Article 13 SFDR subject to developments in marketing communications for the relevant financial products.

Finally, the ESAs discussed difficulties relating to disclosure requirements linked to portfolio management services, considered as a financial product under Article 2(12) SFDR, and as a result subject to product-by-product disclosures. The ESAs are fully aware of the difficulties both in terms of the burden imposed on financial market participants managing a high number of portfolios, as well as in terms of privacy. It is therefore important that website disclosures on portfolio management services should comply with GDPR provisions. Similar concerns also regard tailor-made financial products, such as dedicated funds.

## Summary of RTS

### *Principal adverse impact disclosure - Article 4(6) and 4(7) SFDR*

The draft RTS under Article 4(6) provides a specification for the content, methodology and presentation of the information required by Article 4(1)-(5) in respect of the sustainability indicators in relation to adverse impacts on the climate and other environment-related adverse impacts.

This text is complemented by proposals for the empowerment under Article 4(7) which requires a specification of the content, methodology and presentation of the information required by Article 4(1)-(5) in respect of the sustainability indicators in relation to adverse impacts in the field of social and employee matters, respect for human rights, anti-corruption and anti-bribery matters.

The draft RTS combine these two empowerments into a single framework for adverse impact disclosure by financial market participants. The draft RTS includes:

- a mandatory reporting template to use for the statement on considering principal adverse impacts of investment decisions on sustainability factors, which contains required reporting items on summary, scope, the principal adverse impacts, policies on the identification of principal adverse impacts, actions taken and planned to mitigate the principal adverse impacts, adherence to international standards and a historical comparison;
- a set of indicators for both climate and environment-related adverse impacts and adverse impacts in the field of social and employee matters, respect for human rights, anti-corruption and anti-bribery matters, including;

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<sup>3</sup> For example Eccles, Ioannou, Serafeim [“The Impact of Corporate Sustainability on Organizational Processes and Performance”](#)

- a core set of mandatory indicators that will always lead to principal adverse impacts of investment decisions on sustainability factors, irrespective of the result of the assessment by the financial market participant; and
- additional indicators for environmental and social factors, to be used to identify, assess and prioritise additional principal adverse impacts;
- a statement to be published where adverse impacts of investment decisions are not considered by financial market participants under Article 4(1)(b) and financial advisers under Article 4(5)(b); and
- requirements for financial advisers in line with their obligations under Article 4(5)(a).

*Product pre-contractual disclosure - Article 8 and 9 SFDR, including “Do not significantly harm” – Article 2a SFDR*

The draft RTS for Articles 8 and 9 SFDR set out the details of the content and presentation of the information to be disclosed at the pre-contractual level in the sectoral documentation prescribed by Article 6(3) SFDR. The draft RTS include:

- a requirement to use a mandatory reporting template for the presentation of pre-contractual disclosure;
- a list of items to be included in the reporting indicating clearly the type of product and how the environmental or social characteristic (or combination thereof) or the sustainable investment objective of the product are achieved;
- additional items of disclosure where the product designates an index as a reference benchmark; and
- requirements for products making sustainable investments regarding how the product complies with the “do not significantly harm” principle from Article 2(17) SFDR in relation to the principal adverse impact indicators in Annex I of the draft RTS.

*Product website disclosure - Article 10 SFDR, including “Do not significantly harm” – Article 2a SFDR*

The draft RTS for product website disclosure set out the details of the content and presentation of information to be publicly disclosed on the website by the financial market participant for Article 8 and Article 9 SFDR products. The draft RTS:

- set out where and how the financial market participant must publish the information on the website, including the need to publish a two-page summary;
- includes a list of items to be included in the disclosure, focusing on the methodology employed, the data sources used, and any screening criteria employed;
- includes requirements for products making sustainable investments regarding how the product complies with the “do not significantly harm” principle from Article 2(17) SFDR in relation to the principal adverse impact indicators in Annex I of the draft RTS.

The draft RTS for periodic product disclosure set out the details of the content and presentation of information to be disclosed for Article 8 and 9 SFDR products in the sectoral documentation prescribed in Article 11(2) SFDR. The draft RTS include:

- a requirement to use a mandatory reporting template for the presentation of the periodic disclosure; and
- A granular list of items to be included in the reporting, focusing on the success of the product in attaining its environmental or social characteristic (or combination thereof) or sustainable investment objective.
- Requirements for products making sustainable investments regarding how the product has successfully complied with the “do not significantly harm” principle from Article 2(17) SFDR in relation to the principal adverse impact indicators in Annex I of the draft RTS.

### **Questions to stakeholders**

There are a number of measures contained in the draft RTS where the ESAs would like feedback from stakeholders. The following specific questions and accompanying explanatory text highlight these measures. All references are to the draft RTS within this Consultation Paper.

#### **Adverse impact indicators**

The ESAs, taking into account the input received by the JRC and EEA, saw as the best approach to use a mandatory set of indicators to ensure a minimum level of harmonised assessment of principal adverse impacts of investment decisions on sustainability factors. These indicators would always be considered to be leading to principal adverse impacts on the environment and society, irrespective of the value of financial market participant’s result for the indicator’s metric. In other words, the financial market participants have no choice to determine whether their investments lead to principal adverse impacts for these indicators because any positive value for the assessment of the indicators is classified as having a principal adverse impact.

This set is complemented by additional indicators that are included on an opt-in basis, for financial market participants to use for the assessment of principal adverse impact. Financial market participants have to choose at least one environmental indicator and one social indicator to be included in the principal adverse impact disclosure. Financial market participants may also add other indicators relevant to their investments.

In order to promote comparable disclosures at entity level, the ESAs have proposed a reporting template containing principal adverse impacts in Table 1.

Furthermore, the ESAs saw merit in trying to consult on the indicators for social and employee matters, respect for human rights, anti-corruption and anti-bribery matters at the same time as the environmental indicators, even though SFDR grants the ESAs one more year to deliver that part of the technical standards.

In developing the indicators, the ESAs have taken into account the European Commission’s Technical Expert Group (TEG) work on transparency for benchmark administrators. It remains a goal of the ESAs to align the indicators with the forthcoming Delegated Acts.

Finally, the indicators also take into account the determination of the ESAs to consult on disclosure of how financial products comply with the “do not significantly harm” principle

enshrined in Article 2(17) of Regulation (EU) 2019/2088, in relation to the principal adverse impact indicators. In practice this means that some indicators are intended to capture different aspects of significant harm to environmental or social factors. For this reason, the ESAs saw merit in including an indicator for exposure to the manufacture and selling of controversial weapons, based on the baseline exclusions for EU climate transition benchmarks (CTB) and EU Paris aligned benchmarks (PAB).<sup>4</sup>

*Question 1: Do you agree with the approach proposed in Chapter II and Annex I – where the indicators in Table 1 always lead to principal adverse impacts irrespective of the value of the metrics, requiring consistent disclosure, and the indicators in Table 2 and 3 are subject to an “opt-in” regime for disclosure?*

*Question 2: Does the approach laid out in Chapter II and Annex I, take sufficiently into account the size, nature, and scale of financial market participants activities and the type of products they make available?*

*Question 3: If you do not agree with the approach in Chapter II and Annex I, is there another way to ensure sufficiently comparable disclosure against key indicators?*

*Question 4: Do you have any views on the reporting template provided in Table 1 of Annex I?*

*Question 5: Do you agree with the indicators? Would you recommend any other indicators? Do you see merit in including forward-looking indicators such as emission reduction pathways, or scope 4 emissions (saving other companies’ GHG emissions)?*

*Question 6: In addition to the proposed indicators on carbon emissions in Annex I, do you see merit in also requesting a) a relative measure of carbon emissions relative to the EU 2030 climate and energy framework target and b) a relative measure of carbon emissions relative to the prevailing carbon price?*

*Question 7: The ESAs saw merit in requiring measurement of both (1) the share of the investments in companies without a particular issue required by the indicator and (2) the share of all companies in the investments without that issue. Do you have any feedback on this proposal?*

*Question 8: Would you see merit in including more advanced indicators or metrics to allow financial market participants to capture activities by investee companies to reduce GHG emissions? If yes, how would such advanced metrics capture adverse impacts?*

*Question 9: Do you agree with the goal of trying to deliver indicators for social and employee matters, respect for human rights, anti-corruption and anti-bribery matters at the same time as the environmental indicators?*

*Question 10: Do you agree with the proposal that financial market participants should provide a historical comparison of principal adverse impact disclosures up to ten years? If not, what timespan would you suggest?*

*Question 11: Are there any ways to discourage potential “window dressing” techniques in the principal adverse impact reporting? Should the ESAs consider harmonising the methodology and timing of reporting across the reference period, e.g. on what dates the composition of investments must be taken into account? If not, what alternative would you suggest to curtail window dressing techniques?*

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<sup>4</sup> As set out in Section 5.9.1 of the EU Technical Expert Group on Sustainable Finance, September 2019

## Templates

The ESAs saw merit in providing mandatory disclosure templates for pre-contractual and periodic product disclosure for Article 8 and Article 9 SFDR products, in order to benefit from harmonised disclosures in a comparable way. However, given the uncertainty regarding the granularity of disclosure under Chapter III (pre-contractual disclosure), the ESAs have delayed the drafting of these templates until there is greater certainty regarding what should be disclosed. The ESAs envisage launching a separate process to develop these templates after the consultation paper has been launched.

*Question 12: Do you agree with the approach to have mandatory (1) pre-contractual and (2) periodic templates for financial products?*

*Question 13: If the ESAs develop such pre-contractual and periodic templates, what elements should the ESAs include and how should they be formatted?*

*Question 14: If you do not agree with harmonised reporting templates for financial products, please suggest what other approach you would propose that would ensure comparability between products.*

## Product disclosure at pre-contractual, website and periodic level

SFDR indicates that information on financial products falling under the scope of Article 8 and Article 9 should be located in pre-contractual information as well as on websites, without further specifying the precise scope of each disclosure. The ESAs have set out a proposal for pre-contractual information requirements in Chapter III of the draft RTS, taking into account the differences of the various financial products and the differences between the types of pre-contractual documentation set out in Article 6(3) SFDR. This proposal tries to strike a balance between comprehensiveness and comprehensibility of information. This pre-contractual information is complemented by website information under Chapter IV of the draft RTS. The periodic product disclosure focus on the success of the product in achieving its environmental or social characteristic (or combination thereof) or sustainable investment objective.

*Question 15: Do you agree with the balance of information between pre-contractual and website information requirements? Apart from the items listed under Questions 25 and 26, is there anything you would add or subtract from these proposals?*

*Question 16: Do you think the differences between Article 8 and Article 9 products are sufficiently well captured by the proposed provisions? If not, please suggest how the disclosures could be further distinguished.*

*Question 17: Do the graphical and narrative descriptions of investment proportions capture indirect investments sufficiently?*

*Question 18: The draft RTS require in Article 15(2) that for Article 8 products graphical representations illustrate the proportion of investments screened against the environmental or social characteristics of the financial product. However, as characteristics can widely vary from product to product do you think using the same graphical representation for very different types of*



*products could be misleading to end-investors? If yes, how should such graphic representation be adapted?*

*Question 19: Do you agree with always disclosing exposure to solid fossil-fuel sectors? Are there other sectors that should be captured in such a way, such as nuclear energy?*

*Question 20: Do the product disclosure rules take sufficient account of the differences between products, such as multi-option products or portfolio management products?*

*Question 21: While Article 8 SFDR suggests investee companies should have “good governance practices”, Article 2(17) SFDR includes specific details for good governance practices for sustainable investment investee companies including “sound management structures, employee relations, remuneration of staff and tax compliance”. Should the requirements in the RTS for good governance practices for Article 8 products also capture these elements, bearing in mind Article 8 products may not be undertaking sustainable investments?*

*Question 22: What are your views on the preliminary proposals on “do not significantly harm” principle disclosures in line with the new empowerment under the taxonomy regulation, which can be found in Recital (33), Articles 16(2), 25, 34(3), 35(3), 38 and 45 in the draft RTS?*

*Question 23: Do you see merit in the ESAs defining widely used ESG investment strategies (such as best-in-class, best-in-universe, exclusions, etc.) and giving financial market participants an opportunity to disclose the use of such strategies, where relevant? If yes, how would you define such widely used strategies?*

*Question 24: Do you agree with the approach on the disclosure of financial products’ top investments in periodic disclosures as currently set out in Articles 39 and 46 of the draft RTS?*

### **Specific questions on pre-contractual disclosure items in light of differences between types of disclosure documents**

As highlighted in the background section above, the ESAs believe that finding the balance between pre-contractual and website disclosure is challenging given the different types of disclosure documents in Article 6(3) of Regulation (EU) 2019/2088. Therefore, specific feedback is sought from stakeholders in this regard.

*Question 25: For each of the following four elements, please indicate whether you believe it is better to include the item in the pre-contractual or the website disclosures for financial products? Please explain your reasoning.*

- a) an indication of any commitment of a minimum reduction rate of the investments (sometimes referred to as the “investable universe”) considered prior to the application of the investment strategy – in the draft RTS below it is in the pre-contractual disclosure Articles 17(b) and 26(b);*
  - b) a short description of the policy to assess good governance practices of the investee companies – in the draft RTS below it is in pre-contractual disclosure Articles 17(c) and 26(c);*
  - c) a description of the limitations to (1) methodologies and (2) data sources and how such limitations do not affect the attainment of any environmental or social characteristics or*
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*sustainable investment objective of the financial product – in the draft RTS below it is in the website disclosure under Article 34(1)(k) and Article 35(1)(k); and*

- d) a reference to whether data sources are external or internal and in what proportions – not currently reflected in the draft RTS but could complement the pre-contractual disclosures under Article 17.*

*Question 26: Is it better to include a separate section on information on how the use of derivatives meets each of the environmental or social characteristics or sustainable investment objectives promoted by the financial product, as in the below draft RTS under Article 19 and article 28, or would it be better to integrate this section with the graphical and narrative explanation of the investment proportions under Article 15(2) and 24(2)?*

### **Preliminary impact assessments**

The ESAs have provided preliminary impact assessments for the empowerments in SFDR. Given the short time available for consideration of the empowerment in the not yet published Taxonomy Regulation, it has not been possible to provide a preliminary impact assessment on the empowerment related to “do not significantly harm”.

*Question 27: Do you have any views regarding the preliminary impact assessments? Can you provide more granular examples of costs associated with the policy options?*

### **Next steps**

The ESAs will be reviewing these draft technical standards based on the responses received. They will then be submitted as a final report to the Commission for endorsement before being published in the Official Journal of the European Union.

## 4. Draft RTS

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

**supplementing Regulation (EU) 2019/2088 of the European Parliament and of the Council on sustainability-related disclosures in the financial services sector with regard to the content, methodologies and presentation of information in relation to sustainability indicators and the promotion of environmental or social characteristics and sustainable investment objectives in pre-contractual documents, websites and periodic reports**

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2019/2088 of the European Parliament and of the Council on sustainability-related disclosures in the financial services sector [<sup>5</sup>], and in particular Article 2a, Article 4(6) and (7), Article 8(3), Article 9(5), Article 10(2) and Article 11(4) thereof,

Whereas:

- (1) Regulation (EU) 2019/2088 establishes harmonised rules for the disclosure of sustainability-related risks by financial market participants and financial advisers. The content, methodologies and presentation of entity level principal adverse impacts are laid down in this Regulation. The content and presentation of financial products' pre-contractual, website and periodic disclosure are also laid down in this Regulation.
- (2) In order to ensure sufficient comparability of entity level principal adverse impact disclosures, the information should be disclosed annually in relation to common reference points in the form laid down in Annex I of this Regulation. The statement should be updated each year to show progress made towards reducing the principal adverse impacts of investment decisions on environmental and societal factors.
- (3) For the purposes of the assessment of principal adverse impacts by financial market participants, an investment in an investee company or an entity includes direct holdings of capital instruments issued by those entities and any other exposure to those entities through derivatives or otherwise.
- (4) Union objectives of the European Green deal, in particular carbon neutrality, increasing the share of renewable energy and energy efficiency and the protection of biodiversity, mean that it is essential that any adverse impacts in these areas are identified as principal adverse impacts. Equally, adverse impacts relating to core principles of the Union, in particular certain social and employee matters, respect for human rights, anti-corruption and anti-bribery matters should be identified as principal adverse impacts. The 2011 Communication on Corporate Social Responsibility of the Commission recalls the importance of working towards the

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<sup>5</sup> OJ L 317, 9.12.2019, p. 1-16.

implementation of the UN Guiding Principles on Business and Human Rights because of their contribution to Union objectives in relation to specific human rights issues, such as child labour and forced prison labour, as well as core labour standards, including gender equality, non-discrimination, freedom of association and the right to collective bargaining.

- (5) In order to prioritise adverse impacts and identify other principal adverse impacts, it is key that financial market participants understand their scope, severity, probability of occurrence and potentially irremediable character on sustainability factors. Scope concerns the reach of the effects of the impact, for example the number of individuals that could be affected or the extent of environmental damage such as the volume of water polluted or melting glaciers that could lead to floods, loss of water power capacity, decrease of revenues from tourism and agriculture and thus higher unemployment and non-performing loans. Probability of occurrence refers to the likelihood of adverse impacts to materialise. It is appropriate to standardise certain common adverse impacts which are considered to be measurable to provide a common reference point for the purposes of identifying which of those impacts are principal.
- (6) In order to identify and prioritise other principal adverse impacts it is important that financial market participants understand their scope, severity, probability of occurrence and potentially irremediable character on sustainability factors. Scope concerns the reach of the effects of the impact, for example the number of individuals that could be affected or the extent of environmental damage such as the volume of water polluted or melting glaciers that could lead to floods, loss of water power capacity, decrease of revenues from tourism and agriculture and thus higher unemployment and non-performing loans. Probability of occurrence refers to the likelihood of adverse impacts to materialise. It is appropriate to standardise certain common principal adverse impacts which are considered to provide a common reference point for the purposes of identifying which of those impacts are principal
- (7) Financial market participants may identify principal adverse impacts on sustainability factors through various means. For example, they may employ external market research providers, internal financial analysts and specialists in the area of sustainable investments, undertake specifically commissioned studies, use publicly available information or shared information from peer networks or collaborative initiatives. Financial market participants may also engage directly with the management of investee companies to better understand the risk of adverse impacts on sustainability factors.
- (8) Financial advisers are being provided with information on principal adverse sustainability impacts by financial market participants. Information provided by financial advisers on whether and how they take into account adverse sustainability impacts within their investment or insurance advice should clearly spell out how the information provided by financial market participants is processed and integrated in their investment or insurance advice. In particular, should the financial adviser rely on adverse sustainability impacts criteria for integration of financial products or financial market participants within the advisory portfolio, such criteria should be stated.
- (9) The disclosure requirements in this Regulation are designed to impose fundamental regulatory requirements which are appropriate for all financial market participants and were regarded as necessary to meet the objective of Regulation (EU) 2019/2088. Depending on their size and nature, a significant number of financial market participants fall under the scope of Regulation (EU) 2019/2088. Financial market

participants exceeding the number of 500 employees on their own balance sheet or, where they are parent undertakings, on their group balance sheet are subject to the disclosure obligations on principal adverse impacts at entity level set out in this Regulation. Financial market participants below the threshold of 500 employees should at least explain where they do not consider adverse impacts of investments decisions on sustainability factors the reasons to not consider them. Similarly, financial advisers that consider principal adverse impacts on sustainability factors in their advice are subject to the disclosure obligations set out in this Regulation.

- (10) Financial market participants should present the pre-contractual and periodic information in the manner set out in the relevant sectoral legislation. In addition to these sectoral requirements, for the purposes of the disclosures, it is necessary to specify further principles for the presentation of information.
- (11) The assessment of principal adverse impacts included in this Regulation relates only to the activities of the financial market participants and financial advisers within the scope of Regulation (EU) 2019/2088.
- (12) With respect to the content of the periodic disclosure obligations under Article 11 of Regulation (EU) 2019/2088, financial market participants should disclose a minimum set of standardised and comparable relevant quantitative and qualitative indicators to show how their product meets its characteristics or objectives. These indicators should be relevant to the design and investment strategy of the financial product as described in the financial product's pre-contractual information.
- (13) To ensure that end-investors have access to reliable data that can be used and analysed in a timely and efficient matter, certain disclosed information, such as the international securities identification numbers (ISINs) identifying the securities, and the legal entity identifiers (LEIs) identifying the entities, should be mentioned where available. Disclosed information should remain publicly available for at least 10 years after its publication, to ensure that their period of public availability is aligned with those of annual and half-yearly financial reports under Directive 2004/109/EC and of prospectuses under Regulation (EU) 2017/1129.
- (14) Bearing in mind the limitations of current carbon foot printing metrics, where financial market participants make reference to the degree of their alignment with the objectives of the Paris Agreement under Article 4(2)(d) of Regulation (EU) 2019/2088, this disclosure should be carried out on the basis of forward looking climate scenarios, for example as outlined in the Financial Stability Board Task Force on Climate-related Financial Disclosure's Technical Supplement on The Use of Scenario Analysis in Disclosure of Climate-related Risks and Opportunities<sup>6</sup>.
- (15) Action by financial market participants in relation to principal adverse sustainability impacts according to Article 4(2)(b) of Regulation 2019/2088 and Article 7 of this Regulation may include but are not limited to exercising voting rights as a shareholder, sending letters to or attending meetings with the management of investee companies, setting up documented and time-bound engagement in actions or shareholder dialogue with specific sustainability objectives, planning escalation measures in case those objectives are not achieved, including reductions of investments or exclusion decisions.

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<sup>6</sup> <https://www.fsb-tcfd.org/publications/final-technical-supplement/>

- (16) In their website product disclosure, financial market participants should disclose additional details regarding the product's investment strategy provided that such information is consistent with the pre-contractual information.
- (17) Financial market participants should include on their website a clear, succinct and understandable summary of the information provided as part of the periodic reporting. When doing so, financial market participants should comply at all time with national and Union law governing the protection of confidentiality of information, including the protection of undisclosed know-how and business information and the processing of personal data.
- (18) Financial products with various degrees of ambition with regard to the taking into consideration of sustainability factors are being developed. Among such financial products, a difference is to be made between financial products offered to end-investors as specifically targeting sustainable investments, and all other financial products which claim to take into account sustainability factors in investment decisions. Financial products promoting environmental or social characteristics can cover various investment approaches and strategies, from best-in-class to specific sectoral exclusions. The disclosures required from financial market participants making available such financial products should attempt to reflect such diversity and to cover the widest possible range of approaches.
- (19) Financial market participants that market financial products promoting environmental or social characteristics, or a combination of those characteristics, should make disclosures on those characteristics without misleading end-investors. This implies that financial market participants should not disclose excessively on sustainability, including through product categorisation, if that is not commensurate with the way in which sustainability is given effect in their investment policy. Therefore, disclosure of criteria for the selection of underlying assets should be limited to those criteria that financial market participants actually bind themselves with as part of their investment decision-making process. As a consequence, financial market participants should not mislead investors by disclosing selection criteria which they may disapply or override at their discretion.
- (20) Financial products with environmental or social characteristics can invest in a wide range of underlying assets, whether such assets qualify as sustainable investments, or contribute to the specific environmental or social characteristics promoted by the product. Underlying investments can also consist of assets that are not relevant to the environmental or social characteristics promoted by the product, such as hedging instruments, unscreened investments for diversification purposes or investments for which data is lacking, or money market instruments. Financial market participants marketing such products should be fully transparent as regards the allocation of the underlying investments to those categories of investments.
- (21) Financial products with environmental or social characteristics should be considered to be promoting, among other characteristics, environmental or social characteristics, or a combination thereof, when information provided to clients, in marketing communications or in mandatory investor disclosures or as part of a process of automatic enrolment in an IORP, references sustainability factors that are taken in consideration when allocating the capital invested of the product.

- (22) As regards investments that do not qualify as sustainable or as contributing to the environmental or social characteristics promoted by the financial product, financial market participants may decide to apply some baseline environmental or social safeguards. If that is the case, financial market participants should explain those safeguards.
- (23) Where products under Article 8 of Regulation (EU) 2019/2088 pursue environmental or social investment strategies, financial market participants should be transparent about the strategy and clearly indicate it to allow easy identification by end-investors.
- (24) In particular, considering that many financial products currently rely on exclusion strategies based on environmental or social criteria, end-investors should be provided with the necessary information to assess the materiality of such criteria on investment decisions, and the impact of that strategy on the composition of resulting portfolio. Current market practice demonstrate that some exclusion strategies are showcased as material, while actually consisting in exclusions based on criteria that lead to the exclusion of a limited number of investments or are based on exclusions required by law. Consequently, disclosing on any commitment with regard to a minimum reduction of the set of potential investments as a result of the application of the exclusion strategy is necessary in order to give end-investors better visibility over the materiality of the offered strategy.
- (25) Regulation (EU) 2019/2088 aims to reduce information asymmetries in principal-agent relationships with regard to the promotion of environmental or social characteristics and sustainable investment objectives by requiring financial market participants to make pre-contractual and website disclosures to end investors when they act as agents of those end investors. In order for such measure to be fully effective, it is expected that financial market participants monitor, throughout a financial product's lifecycle how the financial product complies with the disclosed environmental or social characteristics, or sustainable investment objective. Consequently, financial market participants should mention, as part of their website disclosures, the control mechanisms, internal or external, put in place to monitor such compliance on a continuous basis.
- (26) Regulation (EU) 2019/2088 specifies that assessment of good governance practices forms an integral part of financial products falling under Article 8 or Article 9 of that Regulation and should be considered as a prerequisite for promoting environmental or social characteristics, or for pursuing a sustainable investment objective. Therefore, financial products with environmental or social characteristics or with a sustainable investment objective should also include information on the financial market participant's policy to assess good governance practices of investee companies.
- (27) Regulation (EU) 2088/2019 recognises that financial products that promote environmental or social characteristics, or a combination of those characteristics, may set up investment portfolios that match an index. In such cases, financial products should make available information on whether and if so how that index is consistent with the characteristics or their combinations.
- (28) Regulation (EU) 2088/2019 also recognises that financial products that have sustainable investments as their objective might be setting up portfolios that match a sustainability-related index in order to deliver such an objective. In such cases, the information on how the designated sustainability-related index is aligned with the objective of sustainable investments and the explanation of the reasons and content

of differences between the designated sustainability-related index and a broad market index should be made available. Such financial products should clearly demonstrate that the design of the designated index is appropriate to deliver the stated sustainable investment objective, and that the financial product's strategy ensures that the financial product is continuously aligned with that index. This is also why, for such financial products, core methodological disclosures should be made at index level. Conversely, where a financial product does not resort to an index to ensure the delivery of the sustainable investment objective, disclosures should explain the strategy developed by the financial market participant to attain such objective.

- (29) Financial products should not pursue low-carbon investment objectives without using new Union climate-related benchmarks. If such benchmarks are not available, financial market participants should demonstrate how the financial product complies with the relevant standards applicable to EU Paris-aligned benchmarks or EU Climate Transition benchmarks as set out in the Regulation (EU) 2019/2089.
- (30) Financial market participants can resort to various investment methods to justify the attainment of the environmental or social characteristics, or the delivery of the sustainable investment objective of the financial product. Financial market participants can directly invest in securities issued by investee companies, or resort to other methods such as investment via funds of funds or exposure via the use of derivatives. Financial market participants should be transparent as to the share of their investments that will be carried out via direct holdings, and that carried out via alternative methods. In particular, financial market participants should explain how the use of derivatives is compatible with the environmental or social characteristics being promoted, or with the sustainable investment objective pursued.
- (31) In order to ensure clarity to end-investors, pre-contractual information relating to financial products under Article 8 of Regulation (EU) 2019/2088 should make clear, by way of a statement, that such products do not have sustainable investment as an objective. For the same purpose, and in order to ensure a level-playing field with products under Article 9 of Regulation (EU) 2019/2088, pre-contractual, website and periodic information relating to products under Article 8 of Regulation (EU) 2019/2088 should also mention the proportions that such investments are planned to take – or actually taking – within the related investment portfolio.
- (32) As regards financial products under Article 9 of Regulation (EU) 2019/2088, considering that sustainable investments form the investment objective of such products, financial market participants should disclose how the share of investments that do not qualify as sustainable investments does not jeopardise the achievement of the sustainable investment objective.
- (33) Regulation (EU) 2019/2088 requires that investments need to comply with the 'do not significantly harm' principle in order to qualify as sustainable investment. This principle is particularly important for financial products under Article 9 of Regulation (EU) 2019/2088, as it is a necessary criterion to justify that an investment contributes to the delivery of the sustainable investment objective. However, this principle is also relevant to financial products under Article 8 of Regulation (EU) 2019/2088, as disclosures relating to the proportion of sustainable investments comprised in such products is also expected. As a result, financial market participants making available both types of financial products should provide information relating to the 'do not significantly harm' principle. It is also necessary to specify that this principle, as regards harms to environmental objectives, is closely linked to the criteria to be developed in the context



of the Regulation on the establishment of a framework to facilitate sustainable investment in order to assess the 'do not significantly harm' criterion in that Regulation. Nonetheless, in the absence of a yet fully functional framework to define environmentally sustainable investment, financial market participants should be transparent with regard to the criteria used, including any potential thresholds set, in order to assess that the investments qualifying as sustainable do not significantly harm environmental nor social objectives.

- (34) The scope of application of the Regulation (EU) 2019/2088 includes financial products, especially insurance-based investment products that can offer a range of investment underlying options to end-investors. Some of these investment options may qualify that financial product as a financial product referred to in Article 8(1) of Regulation (EU) 2019/2088. In that case, end-investors should be provided with the summary list of those investment options and the information provided by those investment options in accordance with this Regulation with clear indications to which investment options the information relates.
- (35) For a financial product offering a range of investment options to qualify as a financial product referred to in Article 9(1), (2) or (3) of Regulation (EU) 2019/2088, all its investment options should qualify as financial products. In that case, end-investors should be provided with the summary list of those investment options and the information provided by those investment options in accordance with this Regulation with clear indications to which investment options the information relates.
- (36) The disclosures applicable to insurance-based investment products offering a range of investment options and qualifying as a financial product may be lengthy. According to the demands and needs of the end-investors and, as the case may be, the result of their appropriateness or suitability assessments performed in accordance with Article 30 (1) and (2) of Directive (EU) 2016/97 on insurance distribution<sup>7</sup>, insurance distributors should draw the attention of the end-investors to the disclosures related to the investment options that the end-investors actually consider investing in in accordance with Article 29(1) of that Directive.
- (37) Financial market participants should use website disclosures to disclose on specific items, to expand on topics disclosed in a concise way in pre-contractual documents, and to provide further information they deem relevant which will help end-investors better understand the investment strategies offered. Before a contract is closed, financial market participants should inform end-investors about the fact that more product-specific, detailed information can be found on the website and provide them with a link to that information.
- (38) In order to ensure consistency between pre-contractual disclosures and periodic disclosures, financial market participants should report on the specific sustainability indicators mentioned as part of the pre-contractual information used to measure the attainment of the environmental or social characteristics, or the delivery of the sustainable investment objective. Should a financial market participant choose to report, as part of the required periodic disclosure, on new sustainability indicators, the financial market participant should explain those choices and provide a historic comparison of the performance for those new indicators in subsequent reports.

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<sup>7</sup> Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution (recast) (OJ L 26 2.2.2016 p.19)

- (39) Financial market participants making available financial products resorting to a reference benchmark to justify the attainment of environmental or social characteristics, or the delivery of the sustainable investment objective, should be transparent on how the financial product delivers a sustainable performance that is as close as possible to that of the designated reference benchmark. As a result, and in order to foster consistency with ESG disclosures required at benchmark level as set out in Regulation (EU) 2019/2089<sup>8</sup>, financial market participants should include, as part of the periodic reporting disclosures, a comparison between the performance of the financial product with that of the designated reference benchmark, for all sustainability indicators deemed relevant to justify that the designated benchmark is aligned with the financial product's characteristics or sustainable investment objective. This comparison should also allow end-investors to clearly identify the sustainable performance of the financial product compared to that of a mainstream product: this is why the comparison mentioned above should also include a comparison with the sustainable performance of a broad market index.
- (40) The provisions of this Regulation should be considered as a whole, since they deal with the information that must be provided by financial market participants and financial advisers in relation to sustainability-related disclosures in the financial services sector required under Regulation (EU) 2019/2088. To ensure coherence between those provisions, which should enter into force at the same time, and to facilitate a comprehensive view by those persons of their obligations under that Regulation, it is efficient to include the regulatory technical standards in a single Regulation.
- (41) This Regulation is based on the draft regulatory technical standards submitted to the Commission by the European Banking Authority, the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority (European Supervisory Authorities).
- (42) The European Supervisory Authorities have consulted the European Environment Agency, the Joint Research Center of the European Commission and conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the opinion of the Banking Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council <sup>(1)</sup>, the Insurance and Reinsurance Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1094/2010 of the European Parliament and of the Council <sup>(2)</sup>, and the Securities and Markets Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council <sup>(3)</sup>.

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<sup>8</sup> Regulation (EU) 2019/2089 of The European Parliament and of the Council of 27 November 2019 amending Regulation (EU) 2016/1011 as regards EU Climate Transition Benchmarks, EU Paris-aligned Benchmarks and sustainability-related disclosures for benchmarks (OJ L 317, 9.12.2019, p.17)

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

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

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

- (43) For reasons of consistency and in order to ensure the smooth functioning of the financial services sector, it is necessary that this Regulation and the provisions laid down in Regulation (EU) 2019/2088 apply from the same date,

HAS ADOPTED THIS REGULATION:

*CHAPTER I*  
**DEFINITIONS AND GENERAL PROVISIONS**

*Article 1*  
**Definitions**

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

- (1) ‘fossil fuel sectors’ means investment related to production, processing, distribution, storage or combustion of solid fossil fuels, with the exception of investment related to clean vehicles<sup>9</sup> as defined in Article 4 of Directive 2009/33/EC of the European Parliament and of the Council<sup>10</sup>; and
- (2) ‘reference period’ means, for the purposes of Articles 5 to 10, the period from 1 January to 31 December of the preceding year and, for the purposes of Articles 36 to 52, the period covered by the periodic report referred to in Article 11(2) of Regulation (EU) 2019/2088.

*Article 2*  
**General principles for the presentation of information**

1. Financial market participants shall provide the information referred to in this Regulation in a manner that is easily accessible, non-discriminatory, free of charge, simple, concise, comprehensible, fair, clear and not misleading. The information shall be presented and laid out in a way that is easy to read, using characters of readable size, and shall be written in a style that facilitates its understanding.
2. Financial market participants shall provide the information referred to in this Regulation in searchable electronic format.
3. Financial market participants shall keep the information published on their websites in accordance with this Regulation up to date. They shall include the date of publication of the information and clearly identify any updated text with the date of the update.
4. Financial market participants shall provide, where available, legal entity identifiers (LEIs) and international securities identification numbers (ISINs) when referring to entities or financial products in the information provided in accordance with this Regulation.

*Article 3*  
**Reference benchmarks with basket indexes**

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<sup>9</sup> Proposal for a Regulation on the European Regional Development Fund and on the Cohesion Fund (COM(2018)372)

<sup>10</sup> Directive 2009/33/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of clean and energy-efficient road transport vehicles (OJ L 120, 15.5.2009, p. 5).

Where an index designated as a reference benchmark is made up of a basket of indexes, financial market participants shall provide the information relating to that index in respect of the basket and each index.

## CHAPTER II

### TRANSPARENCY OF ADVERSE SUSTAINABILITY IMPACTS

*(Paragraphs (1), (3), (4) and (5) of Article 4 of Regulation (EU) 2019/2088)*

#### Article 4

##### **Financial market participant adverse sustainability impacts statement**

1. From the date on which principal adverse impacts of investment decisions on sustainability factors are first considered and thereafter by 30 June each year, financial market participants shall publish the information referred to in paragraphs 1(a), 3 and 4 of Article 4 of Regulation (EU) 2019/2088, this Article and Articles 5 to 12 of this Regulation on their websites in a separate section titled, 'Adverse sustainability impacts statement' located in the same part of the website as the section referred to in Article 33.
2. The adverse sustainability impacts statement shall be published in the format set out in Table 1 of Annex I. It shall be in the order and made up of the following sections titled:
  - (a) 'Summary';
  - (b) 'Description of principal adverse sustainability impacts';
  - (c) 'Description of policies to identify and prioritise principal adverse sustainability impacts';
  - (d) 'Description of actions to address principal adverse sustainability impacts';
  - (e) 'Engagement policies'; and
  - (f) 'References to international standards'.
3. By way of derogation to paragraph 1, for a financial market participant that first considers the principal adverse impacts of its investment decisions on sustainability factors in a given year:
  - (a) until 30 June of the following year, that financial market participant shall publish the information referred to in this Article and Articles 6 to 11 except for the information that relates to a reference period; and
  - (b) from 30 June of the following year, the first reference period shall be the period in the preceding year beginning on the date on which principal adverse impacts were first considered and ending on 31 December.

#### Article 5

##### **Summary**

1. The section referred to in point (a) of Article 4(2) shall contain the following information:
    - (a) the name of the financial market participant to which the adverse sustainability impacts statement relates;
    - (b) the fact that principal adverse impacts on sustainability factors are considered;
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- (c) the reference period of the statement; and
  - (d) a summary of the principal adverse impacts statement of a maximum length of two sides of A4-sized paper when printed.
2. The summary shall be provided in, as a minimum, at least one of the official languages of the home Member State of the financial market participant and, if different, in a language customary in the sphere of international finance.

#### *Article 6*

#### **Description of principal adverse sustainability impacts**

1. The section referred to in point (b) of Article 4(2) shall contain a description of the assessment for the reference period of adverse impacts of investment decisions of the financial market participant on sustainability factors that qualify as principal, including at least the following:
- (a) the minimum principal adverse impacts on sustainability factors as set out in Table 1 of Annex I;
  - (b) at least one additional principal adverse impact on a climate or other environment-related sustainability factor that qualifies as principal as set out in Table 2 of Annex I;
  - (c) at least one additional principal adverse impact on a social, employee, human rights, anti-corruption or anti-bribery sustainability factor that qualifies as principal as set out in Table 3 of Annex I; and
  - (d) any other adverse impact on a sustainability factor that qualifies as principal.
2. Where the financial market participant has provided a description of adverse impacts on sustainability factors for at least one previous reference period in accordance with paragraph 1, the statement shall contain a historical comparison of the current reference period with the previous reference periods covering at least the shortest of the following periods:
- (a) the previous ten years;
  - (b) from the date on which the financial market participant first considered principal adverse impacts of its investment decisions on sustainability factors; or
  - (c) from 10 March 2021.

#### *Article 7*

#### **Description of policies to identify and prioritise principal adverse sustainability impacts**

1. The section referred to in point (c) of Article 4(2) shall contain a description of the policies of the financial market participant on the assessment process to identify and prioritise principal adverse impacts on sustainability factors, of the indicators used and of how those policies are maintained and applied, including at least the following:
- (a) the date of approval of the policies by the governing body of the financial market participant;

- (b) the allocation of responsibility for the implementation of the policies within organisational strategies and procedures;
  - (c) a description of the methodologies to assess each principal adverse impact and, in particular, how those methodologies take into account the probability of occurrence and severity of adverse impacts, including their potentially irremediable character;
  - (d) an explanation of any associated margin of error within those methodologies; and
  - (e) a description of the data sources used.
2. Where information relating to any of the indicators used is not readily available, the section referred to in point (c) of Article 4(2) shall also contain details of:
- (a) the best efforts used to obtain the information directly from investee companies; and
  - (b) where, despite best efforts, the information cannot be obtained directly from investee companies, the best efforts used to assess the adverse impacts, including a description of any reasonable assumptions used, additional research carried out, cooperation with third party data providers or use of external experts.

#### *Article 8*

### **Description of actions and engagement policies to address principal adverse sustainability impacts**

The section referred to in point (d) of Article 4(2) shall contain the following information:

- (a) a description of the actions taken during the reference period and planned by the financial market participant for the next reference period to avoid or reduce the principal adverse impacts identified; and
- (b) an explanation of the reduction in principal adverse impacts achieved by the actions taken during the reference period.

#### *Article 9*

### **Engagement policies**

The section referred to in point (e) of Article 4(2) shall contain, where applicable, the brief summaries of engagement policies in accordance with Article 3g of Directive 2007/36/EC of the European Parliament and of the Council<sup>11</sup>, any other relevant engagement policies and an explanation of the reduction in principal adverse impacts achieved of the actions taken during the reference period.

#### *Article 10*

### **References to international standards**

The section referred to in point (f) of Article 4(2) shall contain a description of the adherence of the financial market participant to responsible business conduct codes and internationally recognised standards for due diligence and reporting and, where relevant, the degree of their alignment with the objectives of the Paris Agreement, including at least forward-looking

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<sup>11</sup> Directive 2007/36/EC of the European Parliament and of the Council of 11 July 2007 on the exercise of certain rights of shareholders in listed companies (OJ L 184, 14.7.2007, p. 17)

climate scenarios. The description shall specify the adverse indicators used in the assessment of principal adverse sustainability impacts referred to in Article 6 to measure that adherence or alignment.

#### *Article 11*

### **Financial market participant statement of no consideration of adverse impacts on sustainability factors**

Financial market participants shall publish the information referred to in Article 4(1)(b) of Regulation (EU) 2019/2088 on their websites in a separate section titled, 'No consideration of sustainability adverse impacts'. That section shall start with a prominent statement that the financial market participant does not consider the adverse impacts of its investment decisions on sustainability factors. The clear reasons for why the financial market participant does not do so shall include, where relevant, information on whether and, if so, when it intends to consider those adverse impacts by reference to at least the principal adverse impacts referred to in Table 1 of Annex I.

#### *Article 12*

### **Financial adviser adverse sustainability impacts statement**

Financial advisers shall publish the information referred to in Article 4(5)(a) of Regulation (EU) 2019/2088 on their websites in a separate section titled, 'Adverse sustainability impacts statement'. The statement shall contain details on the process to select the financial products they advise on, including the following:

- (a) how the information published by financial market participants in accordance with this Regulation is used;
- (b) whether the financial adviser ranks and selects financial products based on the principal adverse impacts referred to in Table 1 of Annex I and, if so, a description of the ranking and selection methodology used; and
- (c) any criteria or thresholds used to select financial products and advise on them based on those impacts.

#### *Article 13*

### **Financial adviser statement of no consideration of adverse impacts on sustainability factors**

Financial advisers shall publish the information referred to in Article 4(5)(b) of Regulation (EU) 2019/2088 on their websites in a separate section titled, 'No consideration of sustainability adverse impacts'. That section shall start with a prominent statement that the financial adviser does not consider the adverse impacts of investment decisions on sustainability factors in their investment advice or insurance advice. The clear reasons for why the financial adviser does not do so shall include, where relevant, information on whether and, if so, when it intends to consider such adverse impacts by reference to at least the principal adverse impacts referred to in Table 1 of Annex I.

## *CHAPTER III*

### **PRE-CONTRACTUAL PRODUCT DISCLOSURE**

#### *Section 1*

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

*(Article 8(1) and (2) of Regulation (EU) 2019/2088)*

*Article 14*

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

Financial market participants shall present the information disclosed in accordance with Article 8(1) and (2) of Regulation (EU) 2019/2088, this Article and Articles 15 to 21 of this Regulation in accordance with the template set out in Annex II. The information shall be presented in summary format in the order and made up of the following sections titled:

- (a) 'Environmental or social characteristics promoted by the financial product';
- (b) 'No sustainable investment objective';
- (c) 'Investment strategy';
- (d) 'Sustainability indicators';
- (e) 'Use of derivatives';
- (f) 'Website reference'; and
- (g) if an index has been designated for the financial product as a reference benchmark, 'Reference benchmark'.

*Article 15*

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

1. The section referred to in point (a) of Article 14 shall contain the following information:
  - (a) a description of the environmental or social characteristics promoted by the financial product;
  - (b) a narrative and graphical representation of the investments of the financial product; and
  - (c) a reference to the webpage where the information referred to in Article 4 is published.
2. For the purposes of point (b) of paragraph 1:
  - (a) the graphical representation shall illustrate the planned proportions of:
    - (i) the total investments that are sustainable investments and, where relevant, the subdivision of those sustainable investments between environmental or social objectives;
    - (ii) the total investments other than those in point (i) that contribute to the attainment of the environmental or social characteristics promoted by the financial product and, where relevant, the subdivision of those investments between environmental or social characteristics; and



- (iii) the remainder of the investments.
- (b) the narrative explanation shall explain:
- (i) the planned proportions in point (a); distinguishing between direct holdings in investee companies and all other types of exposures to those companies;
  - (ii) the purpose of the planned remainder of the investments, including a description of any potential minimum environmental or social safeguards and whether those investments are used for hedging, relate to money market instruments or are investments for which there is insufficient data; and
  - (iii) the planned proportion of investments in different sectors and sub-sectors, including the fossil fuel sectors.

*Article 16*

**No sustainable investment objective**

1. The section referred to in point (b) of Article 14 shall contain the following statement: “This product does not have as its objective sustainable investment.”
2. Where a financial product invests in a sustainable investment, the section shall also contain an explanation of how the sustainable investment does not significantly harm the sustainable investment objectives, including:
  - (a) how the indicators for adverse impacts in Annex I are taken into account; and
  - (b) how investments that significantly harm the sustainable investment objectives are excluded.

*Article 17*

**Investment strategy**

The section referred to in point (c) of Article 14 shall contain the following information:

- (a) a description of the type of investment strategy used to attain the environmental or social characteristics promoted by the financial product, the binding elements of that strategy to select the investments to attain each of those characteristics and how the strategy is implemented in the investment process on a continuous basis;
- (b) where there is a commitment by the financial market participant to reduce by a minimum rate the scope of investments considered prior to the application of the strategy referred to in point (a), an indication of that rate;
- (c) a short description of the policy to assess good governance practices of the investee companies and a reference to the website containing the information referred to in Article 34(e)(ii).

*Article 18*

**Sustainability indicators**

The section referred to in point (d) of Article 14 shall contain a list of the sustainability indicators used to measure the attainment of each of the environmental or social characteristics promoted by the financial product.

*Article 19*  
**Use of derivatives**

The section referred to in point (e) of Article 14 shall contain information on how the use of derivatives within the meaning of Article 2(1)(29) of Regulation (EU) No 600/2014 of the European Parliament and of the Council<sup>12</sup> meets each of the environmental or social characteristics promoted by the financial product.

*Article 20*  
**Website reference**

The section referred to in point (f) of Article 14 shall contain the following statement: “More product-specific information can be found on the website”. The statement shall also contain a reference to the website containing the information referred to in Article 34.

*Article 21*  
**Reference benchmark**

1. The section referred to in point (g) of Article 14 shall contain the following information:
  - (a) an explanation of how the reference benchmark is continuously aligned with each of the environmental or social characteristics promoted by the financial product and with the investment strategy; and
  - (b) where an index is designated as a reference benchmark that is consistent with each of the environmental or social characteristics promoted by the financial product, an explanation of how the designated index differs from a broad market index.
2. By way of derogation from paragraph 1(a), if the methodology of the reference benchmark is not aligned with an environmental or social characteristic promoted by the financial product, the section shall contain a prominent statement that the reference benchmark is not consistent with the environmental or social characteristics promoted by the financial product.

*Article 22*  
**Financial products referred to in Article 8(1) of Regulation (EU) 2019/2088 with underlying investment options**

By way of derogation from Articles 14 to 21, where a financial product offers the investor, among other investment options, investment options that qualify that financial product as a financial product referred to in Article 8(1) of Regulation (EU) 2019/2088, the information to be disclosed in accordance with Article 8(1) and (2) of that Regulation shall include:

- (a) the summary list of those investment options; and

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<sup>12</sup> Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012 (OJ L 173, 12.6.2014, p. 84).

- (b) the information provided by those investment options in accordance with Article 8(1) and (2) or Article 9(1) to (4) of Regulation (EU) 2019/2088 with clear indications to which investment options the information relates.

The summary list shall make a clear distinction among those investment options that qualify as financial products referred to in Article 9(1), (2) and (3) of Regulation (EU) 2019/2088 and those investment options that qualify as financial products referred to in Article 8(1) of that Regulation.

The summary list shall include for each of those investment option cross-references to the disclosures required by the sectoral legislation referred to in Article 6(3) of that Regulation.

#### *Section II*

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

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

#### *Article 23*

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

Financial market participants shall present the information disclosed in accordance with Article 9(1) to (4) of Regulation (EU) 2019/2088, this Article and Articles 24 to 31 of this Regulation in accordance with the template set out in Annex III. The information shall be presented in summary format in the order and made up of the following sections titled:

- (a) 'Sustainable investment objective of the financial product';
- (b) 'No significant harm to the sustainable investment objectives';
- (c) 'Investment strategy';
- (d) 'Sustainability indicators';
- (e) 'Use of derivatives';
- (f) 'Website reference';
- (g) for a financial product referred to in Article 9(1) of Regulation (EU) 2019/2088, 'Sustainable investment objective attainment with a designated index'; and
- (h) for a financial product referred to in Article 9(3) of Regulation (EU) 2019/2088, 'Objective of a reduction in carbon emissions'.

#### *Article 24*

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

1. The section referred to in point (a) of Article 23 shall contain the following information:
  - (a) a description of the sustainable investment objective of the financial product;
  - (b) a narrative explanation and a graphical representation of the investments of the financial product; and

(c) a reference to the hyperlink of the webpage where the information referred to in Article 4 is published.

2. For the purposes of point (b) of paragraph 1:

(a) the graphical representation shall illustrate the planned proportion of the total investments that are sustainable investments and, where relevant, the subdivision of those sustainable investments between environmental or social objectives;

(b) the narrative explanation shall explain:

(i) the planned proportion in point (a) distinguishing between direct holdings in investee companies and all other types of exposures to those companies;

(ii) the purpose of the planned remainder of the investments, including a description of any minimum environmental or social safeguards, how their proportion and use does not affect the delivery of the sustainable investment objective on a continuous basis and whether those investments are used for hedging, relate to money market instruments or are investments for which there is insufficient data; and

(iii) the proportion of investments in different sectors and sub-sectors, including the fossil fuel sectors.

#### *Article 25*

#### **No significant harm to the sustainable investment objectives**

The section referred to in point (b) of Article 23 shall contain an explanation of how the investments of the financial product do not significantly harm the sustainable investment objectives, including:

(a) how the indicators for adverse impacts in Annex I are taken into account; and

(b) how investments that significantly harm the sustainable investment objectives are excluded.

#### *Article 26*

#### **Investment strategy**

The section referred to in point (c) of Article 23 shall contain the following information:

(a) a description of the type of investment strategy used to attain the sustainable investment objective of the financial product, the binding elements of that strategy to select the investments to attain that objective and how the strategy is implemented in the investment process on a continuous basis;

(b) where there is a commitment by the financial market participant to reduce by a minimum rate the scope of investments considered prior to the application of the strategy referred to in point (a), an indication of that rate;

(c) a short description of the policy used to assess good governance practices of the investee companies and a reference to the website containing the information referred to in Article 35(e)(ii);

*Article 27*  
**Sustainability indicators**

The section referred to in point (d) of Article 23 shall contain a list of the sustainability indicators used to measure the attainment of the sustainable investment objective.

*Article 28*  
**Use of derivatives**

The section referred to in point (e) of Article 23 shall contain information on how the use of derivatives within the meaning of Article 2(1)(29) of Regulation (EU) No 600/2014 of the European Parliament and of the Council<sup>13</sup> attains the sustainable investment objective.

*Article 29*  
**Website reference**

The section referred to in point (f) of Article 23 shall contain the following statement: “More product-specific information can be found on the website”. The statement shall also contain a reference to the website containing the information referred to in Article 35.

*Article 30*  
**Sustainable investment objective attainment with a designated index**

For a financial product referred to in Article 9(1) of Regulation (EU) 2019/2088, the section referred to in point (g) of Article 23 shall contain:

- (a) an explanation of how the taking into account of sustainability factors within the methodology of the reference benchmark is continuously aligned with the sustainable investment objective of the financial product;
- (b) an explanation as to why and how the designated index differs from a broad market index; and
- (c) an explanation of how the alignment of the investment strategy referred to in Article 26 with the methodology of the index is ensured on a continuous basis.

*Article 31*  
**Objective of a reduction in carbon emissions**

1. For a financial product referred to in Article 9(3) of Regulation (EU) 2019/2088, the section referred to in point (h) of Article 23 shall contain an explanation that the reference benchmark qualifies as an EU Climate Transition Benchmark or an EU Paris-aligned Benchmark under Chapter 3a of Title III of Regulation (EU) 2016/1011 of the European Parliament and of the Council<sup>14</sup>.
2. By way of derogation from paragraph 1, where no EU Climate Transition Benchmark or EU Paris-aligned Benchmark in accordance with Regulation (EU) 2016/1011 is available,

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<sup>13</sup> Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012 (OJ L 173, 12.6.2014, p. 84).

<sup>14</sup> Regulation (EU) 2016/1011 of the European Parliament and of the Council on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds and amending Directives 2008/48/EC and 2014/17/EU and Regulation (EU) No 596/2014 (OJ L 171, 29.6.2016, p.1)

the section referred to in point (h) of Article 23 shall explain that fact and how the continued effort of attaining the objective of reducing carbon emissions is ensured in view of achieving the long-term global warming targets of the Paris Climate Agreement. In particular, the financial market participant shall explain how the financial product complies with the methodological requirements set out in Articles 19a, 19b and 19c of Regulation (EU) 2016/1011.

*Article 32*

**Financial products referred to in Article 9(1) to (3) of Regulation (EU) 2019/2088 with underlying investment options**

By way of derogation from Articles 23 to 31, where a financial product offers the investor a range of investment options that qualify that financial product as a financial product referred to in Article 9(1), (2) or (3) of Regulation (EU) 2019/2088, the information to be disclosed in accordance with Article 9(1) to (4) of that Regulation shall include:

- (a) the summary list of those investment options; and
- (b) the information provided by those investment options in accordance with Article 9(1) to (4) of Regulation (EU) 2019/2088 with clear indications to which investment options the information relates.

The summary list shall include for each of those investment options cross-references to the disclosures required by the sectoral legislation referred to in Article 6(3) of that Regulation.

*CHAPTER IV*

**WEBSITE PRODUCT DISCLOSURE**

*(Article 10(1) of Regulation (EU) 2019/2088)*

*Article 33*

**Sustainability-related product disclosure section**

Financial market participants shall publish the information on their websites in accordance with Article 10(1) of Regulation (EU) 2019/2088 and this Chapter in a section titled 'Sustainability-related disclosures' in the same part of the website as the other information relating to the financial product, including marketing communications. They shall clearly identify the financial product to which the information in the sustainability-related disclosure section relates and prominently display the environmental or social characteristics or the sustainable investment objective of that financial product.

*Article 34*

**Website product disclosure for financial products referred to in Article 8(1) of Regulation (EU) 2019/2088**

1. Financial market participants shall publish the information referred to in Article 10(1) of Regulation (EU) 2019/2088 and this Article for each financial product referred to in Article 8(1) of Regulation (EU) 2019/2088. They shall publish that information in the order and made up of the following sections titled:
  - (a) 'Summary', which shall contain a summary of the information referred to in this Article that relates to the financial product of a maximum length of two sides of A4-sized paper when printed;

- (b) 'Environmental or social characteristics of the financial product', which shall contain the information referred to in Article 10(1)(a) of Regulation (EU) 2019/2088;
  - (c) 'Proportion of investments' which shall contain the information referred to in Article 15(1)(b);
  - (d) 'No sustainable investment objective', which shall contain the information referred to in paragraph 4;
  - (e) 'Investment strategy', which shall contain a description of the investment strategy referred to in Article 17 and a description of the policy to assess good governance practices of the investee companies referred to in Article 17(c).
  - (f) 'Monitoring of environmental or social characteristics', which shall contain a description of how the environmental or social characteristics referred to in Article 15(1)(a) and the sustainability indicators referred to in Article 18 are monitored throughout the lifecycle of the financial product and the related internal or external control mechanisms;
  - (g) 'Methodologies', which shall contain a description of the methodologies to measure the attainment of the social or environmental characteristics promoted by the financial product using the sustainability indicators referred to in Article 18 and 37(2);
  - (h) 'Due diligence', which shall contain a description of due diligence carried out on the underlying assets of the financial product, including the internal and external controls on that due diligence;
  - (i) 'Engagement policies', which shall contain a description of the engagement policies implemented if engagement is part of the environmental or social investment strategy, including any management procedures applicable to sustainability-related controversies in investee companies;
  - (j) 'Data sources and processing', which shall contain a description of:
    - i. the data sources used to attain each of the environmental or social characteristics promoted by the financial product;
    - ii. the measures taken to ensure data quality;
    - iii. how data is processed;
    - iv. the proportion that is estimated;
  - (k) 'Limitations to methodologies and data', which shall contain a description of any limitations to the methodologies referred to in point (g) and the data sources referred to in point (j) as well as how such limitations do not affect the attainment of the environmental or social characteristics promoted by the financial product, including the actions taken to address such limitations; and
  - (l) for financial products with an index designated as a reference benchmark, 'Designated reference benchmark', which shall contain the information referred to in paragraph 4.
2. The summary referred to in point (a) of paragraph 1 shall be provided in at least one of the official languages of the home Member State and, if different, in a language customary in the sphere of international finance.

3. The section referred to in point (d) of paragraph 1 shall contain the following statement: “This product does not have as its objective sustainable investment.” Where a financial product invests in a sustainable investment, the section shall also contain an explanation of how the sustainable investment does not significantly harm the sustainable investment objectives, including:
  - (a) how the indicators for adverse impacts in Annex I are taken into account; and
  - (b) how investments that significantly harm the sustainable investment objectives are excluded.
4. The section referred to in point (h) of paragraph 1 shall contain a description of the index designated as a reference benchmark, including the input data, the methodologies used to select that data, the rebalancing methodologies, the underlying components, how the index is calculated and the effect of leverage within the index. In case part or all of that information is published on the website of the administrator of the reference benchmark, a hyperlink may be provided to that information.

#### *Article 35*

#### **Website product disclosure for financial products referred to in Article 9(1), (2) and (3) of Regulation (EU) 2019/2088**

1. Financial market participants shall publish the information referred to in Article 10(1) of Regulation (EU) 2019/2088 and this Article for each financial product referred to in Article 9(1), (2) and (3) of Regulation (EU) 2019/2088. They shall publish that information in the order and made up of the following sections titled:
    - (a) ‘Summary’, which shall contain a summary of the information referred to in this Article that relates to the financial product of a maximum length of two sides of A4-sized paper when printed;
    - (b) ‘Sustainable investment objective of the financial product’, which shall contain the information referred to in Article 10(1)(a) of Regulation (EU) 2019/2088;
    - (c) ‘Proportion of investments’ which shall contain the information referred to in Article 24(1)(b);
    - (d) ‘No significant harm to the sustainable investment objective’, which shall contain the information referred to in paragraph 3;
    - (e) ‘Investment strategy’, which shall contain a description of the investment strategy referred to in Article 26 and a description of the policy to assess good governance practices of the investee companies referred to in Article 26(c), in particular with respect to sound management structures, employee relations, remuneration of staff and tax compliance;
    - (f) ‘Monitoring of sustainable investment objective’, which shall contain a description of how the sustainable investment objective referred to in Article 24(1)(a) and the sustainability indicators referred to in Article 27 and 37(2) are monitored throughout the lifecycle of the financial product and the related internal or external control mechanisms;
    - (g) ‘Methodologies’, which shall contain a description of the methodologies to measure the attainment of the sustainable investment objective using the sustainability indicators referred to in Article 27 and 37(2);
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- (h) 'Due diligence', which shall contain a description of due diligence carried out on the underlying assets of the financial product, including the internal and external controls on that due diligence;
  - (i) 'Engagement policies', which shall contain a description of the engagement policies implemented if engagement is part of the environmental or social investment strategy, including any management procedures applicable to sustainability-related controversies in investee companies;
  - (j) 'Data sources and processing', which shall contain a description of:
    - i. the data sources used to attain each sustainable investment objectives of the financial product;
    - ii. the measures taken to ensure data quality;
    - iii. how data is processed;
    - iv. the proportion that is estimated;
  - (k) 'Limitations to methodologies and data', which shall contain a description of any limitations to the methodologies referred to in point (g) and the data sources referred to in point (j) as well as how such limitations do not affect the attainment of the sustainable investment objective, including the actions taken to address such limitations; and
  - (l) 'Attainment of the sustainable investment objective', which shall contain the information referred to in paragraph 4.
2. The summary referred to in point (a) of paragraph 1 shall be provided in at least one of the official languages of the home Member State and, if different, in a language customary in the sphere of international finance.
  3. The section referred to in point (d) of paragraph 1 shall contain an explanation of how the investments of the financial product do not significantly harm the sustainable investment objectives, including:
    - (a) how the indicators for adverse impacts in Annex I are taken into account; and
    - (b) how investments that significantly harm the sustainable investment objectives are excluded.
  4. The section referred to in point (l) of paragraph 1 shall contain a description of:
    - (a) for a financial product referred to in Article 9(1), the index designated as a reference benchmark, including the input data, the methodologies used to select that data, the rebalancing methodologies, the underlying components, how the index is calculated and the effect of leverage within the index; and
    - (b) for a financial product referred to in Article 9(3), a statement that the reference benchmark qualifies as an EU Climate Transition Benchmark or an EU Paris-aligned Benchmark under Chapter 3a of Title III of Regulation (EU) 2016/1011 of the European Parliament and of the Council<sup>15</sup>.

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<sup>15</sup> Regulation (EU) 2016/1011 of the European Parliament and of the Council on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds and amending Directives 2008/48/EC and 2014/17/EU and Regulation (EU) No 596/2014 (OJ L 171, 29.6.2016, p.1)

5. By way of derogation from point (a) of paragraph 4, in case part or all of the information referred to in that point is published on the website of the administrator of the reference benchmark, a hyperlink may be provided to that information.
6. By way of derogation from point (b) of paragraph 4, where no EU Climate Transition Benchmark or EU Paris-aligned Benchmark in accordance with Regulation (EU) 2016/1011 is available, the section referred to in point (l) of paragraph 1 shall explain that fact and how the continued effort of attaining the objective of reducing carbon emissions is ensured in view of achieving the long-term global warming targets of the Paris Climate Agreement. In particular, the financial market participant shall explain how the financial product complies with the methodological requirements set out in Articles 19a, 19b and 19c of Regulation (EU) 2016/1011.

#### *CHAPTER V*

### **PRODUCT DISCLOSURE IN PERIODIC REPORTS**

*(Article 11(1) of Regulation (EU) 2019/2088)*

#### *Section 1*

### ***Periodic reports for financial products referred to in Article 8(1) of Regulation (EU) 2019/2088***

#### *Article 36*

### **Presentation requirements for periodic reports for financial products referred to in Article 8(1) of Regulation (EU) 2019/2088**

Financial market participants shall present the information referred to in Article 11(1) of Regulation (EU) 2019/2088, this Article and Articles 37 to 42 of this Regulation in accordance with the templates set out in Annex IV of this Regulation. The information shall be in the order and made up of the following sections titled:

- (a) 'Attainment of the environmental or social characteristics promoted by the financial product';
- (b) 'No significant harm of sustainable investment objectives';
- (c) 'Top investments of the financial product';
- (d) for a financial product with an index designated as a reference benchmark that is not aligned with an environmental or social characteristic promoted by the financial product, 'Sustainable performance of the index designated as a benchmark';
- (e) 'Proportion of sustainability-related investments'; and
- (f) 'Actions taken to attain environmental or social characteristics'.

#### *Article 37*

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

1. The section referred to in point (a) of Article 36 shall contain the following:

- (a) a description of the extent to which the environmental or social characteristics promoted by the financial product were attained during the reference period, including the performance of the sustainability indicators used;
  - (b) where the financial market participant has provided at least one previous periodic report in accordance with this Article for the financial product, a historical comparison between the reference period and previous reference periods.
2. In respect of any additional sustainability indicator excluded from the pre-contractual information provided in accordance with Article 18 or in a previous periodic report provided in accordance with this Article, the section shall also include an explanation and justification of the use of that indicator, including how it is consistent with the environmental or social characteristic promoted by the financial product.

#### *Article 38*

#### **No significant harm to sustainable investment objectives**

For a financial product with a sustainable investment, the section referred to in point (b) of Article 36 shall contain an explanation of how that sustainable investment has not harmed significantly the sustainable investment objectives during the reference period, including:

- (a) how the indicators for adverse impacts in Annex I were taken into account; and
- (b) whether any investments were excluded due to their significant harm to the sustainable investment objectives.

#### *Article 39*

#### **Top investments of the financial product**

1. The section referred to in point (c) of Article 36 shall contain a list, in descending order of size, of the 25 investments constituting on average the greatest proportion of investments of the financial product during the reference period, including the sector and location of those investments.
2. By way of derogation from paragraph 1, where the number of investments constituting on average 50 percent of the investments of the financial product during the reference period is less than 25, a list of those investments, in descending order of size, including the sector and location of those investments.

#### *Article 40*

#### **Sustainable performance of the index designated as a benchmark**

1. The section referred to in point (d) of Article 36 shall include:
  - (a) an explanation of how the index designated as a reference benchmark differs from a broad market index, including at least the performance during the reference period of the sustainability indicators deemed relevant by the financial market participant to determine the alignment of the index with the sustainable investment objective and the sustainability factors referred to in the benchmark statement of the benchmark administrator in accordance with Article 27(2a) of Regulation (EU) 2016/1011;

- (b) a comparison of the performance during the reference period of the financial product with regard to the indicators measuring the sustainability factors of the index referred to in point (a); and
  - (c) a comparison of the performance during the reference period of the financial product with regard to a relevant broad market index.
2. The comparisons referred to in points (b) and (c) shall be presented in the form of a table or graphical representation.

#### *Article 41*

#### **Proportion of sustainability-related investments**

The section referred to in point (e) of Article 36 shall contain the following:

- (a) a graphical representation that illustrates the proportions during the reference period of:
  - (i) the total investments that are sustainable investments and, where relevant, the subdivision of those sustainable investments between environmental or social objectives;
  - (ii) the total investments other than those in point (i) that contribute to the attainment of the environmental or social characteristics promoted by the financial product and, where relevant, the subdivision of those investments between environmental or social characteristics; and
  - (iii) the remainder of the investments; and
- (b) a narrative explanation that explains:
  - (i) the proportions in point (a) distinguishing between direct holdings in investee companies and all other types of exposures to those companies;
  - (ii) the purpose of the remainder of the investments during the reference period, including a description of any potential minimum environmental or social safeguards and whether those investments are used for hedging, relate to money market instruments or are investments for which there is insufficient data; and
  - (iii) the proportion of investments during the reference period in different sectors and sub-sectors, including the fossil fuel sectors.

#### *Article 42*

#### **Actions taken to attain environmental or social characteristics**

The section referred to in point (f) of Article 36 shall contain the actions taken within the reference period to attain the environmental or social characteristics promoted by the financial product, including shareholder engagement as defined in Article 3g of Directive 2007/36/EC and any other relevant shareholder engagement.

#### *Section 2*

#### ***Periodic reports for financial products referred to in Article 9(1), (2) and (3) of Regulation (EU) 2019/2088***

*Article 43*

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

Financial market participants shall present the information referred to in Article 11(1) of Regulation (EU) 2019/2088, this Article and Articles 43 to 51 of this Regulation in accordance with the templates set out in Annex V of this Regulation. The information shall be in the order and made up of the following sections titled:

- (a) 'Attainment of the sustainable investment objective of the financial product';
- (b) 'No significant harm of sustainable investment objectives';
- (c) 'Top investments of the financial product';
- (d) for a financial product referred to in Article 9(1) of Regulation (EU) 2019/2088, 'Sustainable performance of the index designated as a benchmark';
- (e) for a financial product referred to in Article 9(3) of Regulation (EU) 2019/2088, 'Objective of a reduction in carbon emissions';
- (f) 'Proportion of sustainability-related investments'; and
- (g) 'Actions taken to attain the sustainable investment objective'.

*Article 44*

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

1. The section referred to in point (a) of Article 43 shall contain the following:
  - (a) a description of the extent to which the sustainable investment objective was attained during the reference period, including the performance of the sustainability indicators used; and
  - (b) where the financial market participant has provided at least one previous periodic report in accordance with this Article for the financial product, a historical comparison between the current reference period and previous reference periods.
2. In respect of any additional sustainability indicator excluded from the pre-contractual information provided in accordance with Article 27 or in a previous periodic report provided in accordance with this Article, the section shall also include an explanation and justification of the use of that indicator, including how it is consistent with the sustainable investment objective.

*Article 45*

**No significant harm to sustainable investment objectives**

The section referred to in point (h) of Article 43 shall contain an explanation of how the investments of the financial product have not significantly harmed the sustainable investment objectives during the reference period, including

- (a) how the indicators for adverse impacts in Annex I were taken into account; and

- (b) whether any investments were excluded due to their significant harm to the sustainable investment objectives.

#### *Article 46*

#### **Top investments of the financial product**

1. The section referred to in point (b) of Article 43 shall contain a list, in descending order of size, of the 25 investments constituting on average the greatest proportion of investments of the financial product during the reference period, including the sector and location of those investments.
2. By way of derogation from paragraph 1, where the number of investments constituting on average 50 percent of the investments of the financial product during the reference period is less than 25, a list of those investments, in descending order of size, including the sector and location of those investments.

#### *Article 47*

#### **Sustainable performance of the index designated as a benchmark**

1. For financial products referred to in Article 9(1) of Regulation (EU) 2019/2088, the section referred to in point (c) of Article 43 shall contain the following:
  - (a) an explanation of how the index designated as a reference benchmark differs from a broad market index, including at least the performance during the reference period of the sustainability indicators deemed relevant by the financial market participant to determine the alignment of the index with the sustainable investment objective, including the ESG factors referred to in the benchmark statement of the benchmark administrator in accordance with Article 27(2a) of Regulation (EU) 2016/1011;
  - (b) a comparison of the performance during the reference period of the financial product with regard to the indicators measuring the sustainability factors of the index referred to in point (a); and
  - (c) a comparison of the performance during the reference period of the financial product with regard to a relevant broad market index.
2. The comparisons referred to in point (b) and (c) shall be made in the form of a table or graphical representation.
3. By way of derogation from point (a) of paragraph 1, if the number of investments constituting on average 50 percent of the investments of the index during the reference period is less than 25, the section referred to in point (c) of Article 43 shall contain a list of those investments, in descending order of size, including the sector and location of those investments.

#### *Article 48*

#### **Objective of a reduction in carbon emissions**

For a financial product referred to in Article 9(3) of Regulation (EU) 2019/2088, the section referred to in point (e) of Article 43 shall contain a description of the contribution of the financial product during the reference period to achieving the long-term global warming objectives of the Paris Agreement, including in respect of an EU Climate Transition Benchmark or EU Paris-aligned Benchmark, the ESG factors and criteria considered by the benchmark administrator in accordance with Articles 19a to 19d and Article 27(2a) of Regulation (EU) 2016/1011.

*Article 49*

**Proportion of sustainability-related investments**

The section referred to in point (f) of Article 43 shall contain the following:

- (i) a graphical representation that illustrates the proportions during the reference period of the total investments that are sustainable investments and, where relevant, the subdivision of those sustainable investments with environmental or social objectives;
- (ii) a narrative explanation that explains:
  - (i) the proportions in point (a) distinguishing between direct holdings in investee companies and all other types of exposures to those companies; and
  - (ii) the purpose of the remainder of the investments during the reference period, including a description of any minimum environmental or social safeguards and whether those investments are used for hedging, relate to money market instruments or are investments for which there is insufficient data; and
  - (iii) the proportion of investments during the reference period in different sectors and sub-sectors, including the fossil fuel sectors.

*Article 50*

**Actions taken to attain the sustainable investment objective**

The section referred to in point (g) of Article 43 shall contain the actions taken within the reference period to attain the sustainable investment objective of the financial product, including shareholder engagement as defined in Article 3g of Directive 2007/36/EC and any other relevant shareholder engagement.

*Section 3*

***Historical comparisons for periodic reports***

*Article 51*

**Historical comparisons for periodic reports**

1. The historical comparisons referred to in Articles 37(1)(b) and 44(1)(b) shall compare the current reference period with previous reference periods that cover at least the shortest of the following:
  - (a) the previous ten years;
  - (b) from the date on which the financial market participant first considered the sustainability indicator reported on; or
  - (c) from 1 January 2022.
2. For the purposes of paragraph 1, financial market participants shall report on the performance of the sustainability indicators consistently over time, including the following information:
  - (a) annual average performance figures net of fees, including an identification of the charges and fees included or excluded from the calculation of performance figures;

- (b) where quantitative disclosures are made, figures with a relative measure such as impact per euro invested;
- (c) whether each indicator is subject to an assurance provided by an auditor or a review by a third party; and
- (d) the proportion of underlying assets of the financial product referred to in Articles 41(b)(ii) and 49(b)(ii).

#### *Article 52*

#### **Financial products with underlying investment options**

By way of derogation from Articles 36 to 51, financial products that offer the investor investment options referred to in Articles 22 and 32 of this Regulation shall include in the disclosures in accordance with Article 11(1) of Regulation (EU) 2019/2088:

- (a) summary of information provided in accordance with Article 11(1) of Regulation (EU) 2019/2088 by selected investment options that qualify as financial products referred to in Article 8(1) and Article 9(1), (2) and (3) of that Regulation; and
- (b) information provided by those investment options in accordance with Article 11(1) of Regulation (EU) 2019/2088 with clear indications to which investment options the information relates.

#### *CHAPTER VI*

#### **FINAL PROVISIONS**

#### *Article 53*

#### **Transitional provision**

In respect of a financial market participant that first considered the principal adverse impacts of its investment decisions before 1 March 2021, from that date until 30 June 2022, by way of derogation from Article 4(1), that financial market participant shall publish the information in Articles 5 to 10 except for the information that relates to a reference period.

#### *Article 54*

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

1. This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.
2. This Regulation shall apply from 10 March 2021.
3. By way of derogation from paragraph 2 of this Article, Articles 36 to 52 shall apply from 1 January 2022.



ANNEX I

**Template principal adverse impacts statement**

1. For the purposes of this Annex, the following definitions shall apply:

- (a) 'scope 1, 2 and 3 carbon emissions' means the greenhouse gas emissions referred to in point (1)(e)(i-iii) of Annex III of Regulation (EU) 2016/1011 of the European Parliament and of the Council of 8 June 2016 on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds and amending Directives 2008/48/EC and 2014/17/EU and Regulation (EU) No 596/2014<sup>16</sup>;
- (b) 'tonne of carbon dioxide equivalent' as defined in Article 3(j) of Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a system for greenhouse gas emission allowance trading within the Union and amending Council Directive 96/61/EC<sup>17</sup>;
- (c) 'enterprise value' means the sum of the investee company's market capitalisation of common stock at fiscal year end, the market capitalisation of preferred equity at fiscal year-end, and the book values of total debt and minorities' interests excluding the cash and cash equivalents held by the investee company;
- (d) 'current value of investment' means the value in EUR of the investment by the financial market participant in the investee company
- (e) 'current value of all investments' means the value in EUR of all investments by the financial market participant
- (f) 'total carbon emissions' shall be calculated in accordance with the following formula

$$\sum_n^i \left( \frac{\text{current value of investment}_i}{\text{investee company's enterprise value}_i} \times \text{investee company's Scope 1, 2 and 3 carbon emissions}_i \right)$$

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<sup>16</sup> OJ L 171, 29.6.2016, p. 1.

<sup>17</sup> OJ L 275 25.10.2003, p. 32.

(g) 'carbon footprint' shall be calculated in accordance with the following formula

$$\frac{\sum_n^i \left( \frac{\text{current value of investment}_i}{\text{investee company's enterprise value}_i} \times \text{investee company's Scope 1, 2 and 3 carbon emissions}_i \right)}{\text{current value of all investments (€M)}}$$

(h) 'weighted average' means a ratio of the weight of the investment by the financial market participant in an investee company in relation to all investments of the financial market participant;

(i) 'carbon intensity' shall be calculated in accordance with the following formula

$$\sum_n^i \left( \frac{\text{current value of investment}_i}{\text{current value of all investments (€M)}} \times \frac{\text{investee company's Scope 1, 2 and 3 carbon emissions}_i}{\text{investee company's €M revenue}_i} \right)$$

(j) 'renewable energy sources' as defined in Article 2(1) of Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources (recast)<sup>18</sup>;

(k) 'non-renewable energy sources' means energy from sources other than those referred to in point (j);

(l) 'energy consumption intensity' means the ratio of energy consumption per unit of activity, output or any other metric of the investee company to the total energy consumption of that investee company;

(m) 'protected area' means an area designated under the European Environment Agency's Common Database on Designated Areas (CDDA)<sup>19</sup>;

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<sup>18</sup> OJ L 328 21.12.2018, p.82

<sup>19</sup> <https://www.eea.europa.eu/data-and-maps/data/nationally-designated-areas-national-cdda-14>

- (n) ‘area of high biodiversity value outside protected areas’ means land with high biodiversity value as defined Article 7b(3) of Directive 98/70/EC of the European Parliament and of the Council of 13 October 1998 relating to the quality of petrol and diesel fuels and amending Council Directive 93/12/EEC<sup>20</sup>;
- (o) ‘water emissions’ means direct nitrates, direct phosphate emissions, direct pesticides emissions, direct emissions of priority substances as defined in the Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy<sup>21</sup>, Council Directive of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources (91/676/EEC) 22, Council Directive 91/271/EEC of 21 May 1991 concerning urban waste-water treatment<sup>23</sup> and Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control)<sup>24</sup>;
- (p) ‘area of high water stress’ means regions where the percentage of total water withdrawn is high (60%) or extremely high (80%) in the World Resources Institute’s (WRI) Water Risk Atlas tool “Aquaduct”;
- (q) ‘hazardous waste’ means hazardous waste as defined in Article 3(2) of Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives 25 and radioactive waste;
- (r) ‘non-recycled waste’ means any waste not recycled within the meaning of ‘recycling’ in Article 3(17) of Directive 2008/98/EC;
- (s) ‘drivers of biodiversity and ecosystem change’ means the ones examined in the global assessment report on biodiversity and ecosystem services of the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES), released in May 2019
- (t) ‘gender pay gap’ means the difference between average gross hourly earnings of male and female employees as a percentage of male gross earnings;

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<sup>20</sup> OJ L 350, 28.12.1998, p.58

<sup>21</sup> OJ L 327, 22.12.2000, p. 1

<sup>22</sup> OJ L 375, 31.12.1991, p.1

<sup>23</sup> OJ L 135, 30.5.1991, p. 40

<sup>24</sup> OJ L 334, 17.12.2010, p.17

<sup>25</sup> OJ L 312, 22.11.2008, p. 3

- (u) 'board' means the administrative, management or supervisory body of a company;
- (v) 'human rights policy' means a policy commitment approved at board level on human rights covering the economic activities of the investee company consistent with UN Guiding Principles on Business and Human Rights;
- (w) 'whistleblower' means 'reporting person' as defined in Article 5(7) of Directive (EU) 2019/1937 of the European Parliament and of the Council on the protection of persons who report breaches of Union law<sup>26</sup>; and
- (x) 'air pollutants' means direct sulphur dioxides (SO<sub>x</sub>/SO<sub>2</sub>) emissions, direct nitrogen oxides (NO<sub>x</sub>/NO<sub>2</sub>) emissions, direct ammonia (NH<sub>3</sub>) emissions, direct particulate matter (PM<sub>2.5</sub>) emissions, direct non-methane volatile organic compounds (NMVOC) emissions, direct total heavy metals (HM) emissions (encompassing cadmium, mercury and lead) as defined in Directive (EU) 2016/2284 of the European Parliament and of the Council of 14 December 2016 on the reduction of national emissions of certain atmospheric pollutants, amending Directive 2003/35/EC and repealing Directive 2001/81/EC<sup>27</sup>.

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<sup>26</sup> OJ L305, 26.11.2019, p.17

<sup>27</sup> OJ L 344, 17.12.2016, p.1

*Table 1*  
**Principal adverse impacts statement**

<p><b>Summary</b></p> <p>[Name and, where available, LEI] considers principal adverse impacts of its investment decisions on sustainability factors.</p> <p>This principal adverse impacts statement covers the period from 1 January to 31 December [year n].</p> <p>[Summary referred to in Article 6(1)(d) in one of the official languages of the home Member State of the financial market participant and, if different, in a language customary in the sphere of international finance]</p>					
<p><b>Details of the assessment of principal adverse sustainability impacts</b></p> <p>[Information referred to in Article 7 in the format set out below]</p>					
Adverse sustainability indicator		Metric (expressed in market value)	Impact [year n]	Impact [year n-1]	Explanation
<b>CLIMATE AND OTHER ENVIRONMENT-RELATED INDICATORS</b>					
Greenhouse gas emissions	1. Carbon emissions (broken down by scope 1, 2 and 3 carbon emissions - including agriculture, forestry and other land use (AFOLU) emissions - and in total)	Please see point (f) above			
	2. Carbon footprint	Please see point (g) above			
	3. Weighted average carbon intensity	Please see point (i) above			
	4. Solid fossil fuel sector exposure	Share of investments in solid fossil fuel sectors			
Energy performance	5. Total energy consumption from non-renewable sources and share of non-renewable energy consumption	1. Total energy consumption of investee companies from non-			

		renewable energy sources (in GWh), expressed as a weighted average 2. Share of non-renewable energy consumption of investee companies from non-renewable energy sources compared to renewable energy sources, expressed as a percentage			
	6. Breakdown of energy consumption by type of non-renewable sources of energy	Share of energy from non-renewable sources used by investee companies broken down by each non-renewable energy source			
	7. Energy consumption intensity	Energy consumption of investee companies per million EUR of revenue of those companies (in GWh), expressed as a weighted average			
	8. Energy consumption intensity per sector	Energy consumption intensity per million EUR of revenue of investee companies, per NACE sector (in GWh), expressed as a weighted average			
Biodiversity	9. Biodiversity and ecosystem preservation practices	1. Share of all investments in investee companies that do not assess, monitor or control the pressures			

		<p>corresponding to the indirect and direct drivers of biodiversity and ecosystem change</p> <p>2. Share of all investee companies that do not assess, monitor or control the pressures corresponding to the indirect and direct drivers of biodiversity and ecosystem change</p>			
	10. Natural species and protected areas	<p>1.Share of investments invested in investee companies whose operations affect IUCN Red List species and/or national conservation list species</p> <p>2.Share of investments in investee companies with operational sites owned, leased, managed in, or adjacent to, protected areas and areas of high biodiversity value outside protected areas</p>			
	11. Deforestation	1. Share of investments in entities without a deforestation policy			

		2. Share of investee companies without a deforestation policy			
Water	12. Water emissions	Weight in tonnes of water emissions generated by investee companies per million EUR invested, expressed as a weighted average			
	13. Exposure to areas of high water stress	1. Share of investments in investee companies with sites located in areas of high water stress 2. Share of investee companies with sites located in areas of high water stress			
	14. Untreated discharged waste water	Total amount in cubic meters of untreated waste water discharged by the investee companies expressed as a weighted average			
Waste	15. Hazardous waste ratio	Weight in tonnes of hazardous waste generated by investee companies per million EUR invested, expressed as a weighted average			



	16. Non-recycled waste ratio	Weight in tonnes of non-recycled waste generated by investee companies per million EUR invested, expressed as a weighted average			
<b>SOCIAL AND EMPLOYEE, RESPECT FOR HUMAN RIGHTS, ANTI-CORRUPTION AND ANTI-BRIBERY MATTERS</b>					
Social and employee matters	17. Implementation of fundamental ILO Conventions	1. Share of investments in entities without due diligence policies on issues addressed by the fundamental ILO Conventions 1 to 8 2. Share of investee companies without due diligence policies on issues addressed by the fundamental ILO Conventions 1 to 8			
	18. Gender pay gap	Average gender pay gap of investee companies			
	19. Excessive CEO pay ratio	Average ratio within investee companies of the annual total compensation for the highest compensated individual to the median annual total compensation for all employees (excluding the			

		highest-compensated individual)			
	20. Board gender diversity	Average ratio of female to male board members in investee companies			
	21. Insufficient whistleblower protection	1. Share of investments in entities without policies on the protection of whistleblowers 2. Share of investee companies without policies on the protection of whistleblowers			
	22. Investment in investee companies without workplace accident prevention policies	1. Share of investments in investee companies without a workplace accident prevention policy 2. Share of investee companies without a workplace accident prevention policy			
Human rights	23. Human rights policy	1. Share of investments in entities without a human rights policy 2. Share of investee companies without a human rights policy			
	24. Due diligence	1. Share of investments in entities without a due diligence process to			

		<p>identify, prevent, mitigate and address adverse human rights impacts</p> <p>2. Share of investee companies without a due diligence process to identify, prevent, mitigate and address adverse human rights impacts</p>			
	25. Processes and measures for preventing trafficking in human beings	<p>1. Share of investments in investee companies without policies against trafficking in human beings</p> <p>2. Share of all investments exposed to entities without international framework agreements combating trafficking in human beings</p>			
	26. Operations and suppliers at significant risk of incidents of child labour	<p>1. Share of the investments in investee companies exposed to operations and suppliers at significant risk of incidents of child labour exposed to hazardous work in terms of geographic areas or type of operation</p>			

		2. Share of investee companies exposed to operations and suppliers at significant risk for incidents of child labour exposed to hazardous work in terms of geographic areas or type of operation			
	27. Operations and suppliers at significant risk of incidents of forced or compulsory labour	1. Share of the investments in investee companies exposed to operations and suppliers at significant risk of incidents of forced or compulsory labour in terms in terms of geographic areas and/or the type of operation 2. Share of investee companies exposed to operations and suppliers at significant risk of incidents of forced or compulsory labour in terms in terms of geographic areas and/or the type of operation			
	28. Number and nature of identified cases of severe human rights issues and incidents	Number and nature of cases of severe human rights issues and incidents			

		connected to investee companies			
	29. Exposure to controversial weapons (land mines and cluster bombs)	Any investment in entities involved in the manufacture or selling of controversial weapons (land mines and cluster bombs)			
Anti-corruption and anti-bribery	30. Anti-corruption and anti-bribery policies	1. Share of investments in entities without policies on anti-corruption and anti-bribery consistent with the United Nations Convention against Corruption 2. Share of investee companies without policies on anti-corruption and bribery consistent with the United Nations Convention against Corruption			
	31. Cases of insufficient action taken to address breaches of standards of anti-corruption and anti-bribery	1. Share of investments in investee companies with identified insufficiencies in actions taken to address breaches in procedures and standards of anti-corruption and anti-bribery 2. Share of investee companies with			

		insufficiencies in actions taken to address breaches in procedures and standards of anti-corruption and anti-bribery			
	32. Number of convictions and amount of fines for violation of anti-corruption and anti-bribery laws	Numbers of convictions and amount of fines for violations of anti-corruption and anti-bribery laws by investee companies			
[Insert description of adverse sustainability impact in Table 2]	[Insert descriptions of relevant adverse sustainability indicators in Table 2]	[Insert metrics from relevant adverse sustainability indicators in Table 2]			
[Insert description of adverse sustainability impact in Table 3]	[Insert descriptions of relevant adverse sustainability indicators in Table 3]	[Insert metrics from relevant adverse sustainability indicators in Table 3]			
[Insert description of any other adverse sustainability impacts identified]	[Insert descriptions of any other relevant adverse sustainability indicators identified]	[Insert metrics of any other adverse sustainability indicators identified]			

<b>Description of policies to assess principal adverse sustainability impacts</b> [Information referred to in Article 8]
<b>Description of actions to address principal adverse sustainability impacts</b> [Information referred to in Article 9]
<b>Engagement policies</b> [Information referred to in Article 10]
<b>Adherence to international standards</b> [Information referred to in Article 11]
<b>Historical comparison</b> [Insert the information referred to in Article 7(2)]

*Table 2*  
**Additional climate and other environment-related indicators**

<b>Adverse sustainability impact</b>	<b>Adverse sustainability impact (qualitative or quantitative)</b>	<b>Metric (expressed in market value)</b>
<b>CLIMATE AND OTHER ENVIRONMENT-RELATED INDICATORS</b>		
Emissions	1. Emissions of inorganic pollutants	tonnes of inorganic pollutants equivalent per million EUR invested
	2. Emissions of air pollutants	tonnes of air pollutants equivalent per million EUR invested
	3. Emissions of ozone depletion substances	tonnes of ozone depletion substances equivalent per million EUR invested
	4. Investing in companies without carbon emission reduction initiatives	1. Share of investments in investee companies without carbon emission reduction initiatives 2. Share of investee companies without carbon emission reduction initiatives
Water, waste and material	5. Water usage: Total amount of water consumed and reclaimed, broken down per sector where relevant	Average amount of water consumed and reclaimed by the investee companies (in cubic meter) per million



		EUR of revenue of investee companies
	6. Water recycled and reused	Weighted average percentage of water recycled and reused by investee companies
	7. Investing in companies without water management initiatives	1. Share of investments in investee companies with no water management initiatives 2. Share of investee companies with no water management initiatives
	8. Land degradation, desertification, soil sealing	Land degradation, desertification and soil sealing as a percentage of land by the investee companies FMP invests in
	9. Investing in companies without sustainable land/forestry/agriculture practices	1. Share of investments in investee companies without sustainable land/forestry/agriculture practices policies 2. Share of investee companies without sustainable land/forestry/agriculture practices policies
	10. Investing in companies without sustainable oceans/seas practices	1. Share of investments in investee companies without sustainable

		oceans/seas practices policies 2. Share of investee companies without sustainable oceans/seas practices policies
Green securities	11. Share of securities not certified as green	Share of securities in investments not certified as green

Table 3

**Additional indicators for social and employee, respect for human rights, anti-corruption and anti-bribery matters**

<b>SOCIAL AND EMPLOYEE, RESPECT FOR HUMAN RIGHTS, ANTI-CORRUPTION AND ANTI-BRIBERY MATTERS</b>		
Social and employee matters	1. Number/rate of accidents, injuries, fatalities, frequency	Number/rate of accidents, injuries, fatalities frequency in investee companies
	2. Number of days lost for injuries, accidents, fatalities, illness	Number of workdays lost to injuries, accidents, fatalities, illness of investee companies
	3. Supplier code of conduct	1. Share of investments in investee companies without any supplier code of conduct (against unsafe working conditions,

		<p>precarious work, child labour and forced labour)</p> <p>2. Percentage of specific control and/or certified compliance for this code of conduct among suppliers of investee companies</p>
	4. Grievance/complaints handling mechanism	<p>1. Share of investments in investee companies without any grievance/complaints handling mechanism</p> <p>2. Share of investee companies without any grievance/complaints handling mechanism</p>
	5. Incidents of discrimination	<p>1. Number of incidents of discrimination reported in investee companies</p> <p>2. Number of incidents of discrimination leading to sanctions in investee companies</p>
	6. Lack of separation of CEO and Chair functions on the boards of investee companies	<p>1. Share of investments in investee companies without separate CEO and Chair functions</p> <p>2. Share of investee companies without separate CEO and Chair functions</p>

Social securities	7. Share of securities not certified as social	Share of securities in investments not certified as social
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*ANNEX II*

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

***To be developed***

*ANNEX III*

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

***To be developed***

*ANNEX IV*

**Template periodic report for financial products referred to in Article 8(1) of Regulation (EU) 2019/2088**

***To be developed***

*ANNEX V*

**Template periodic report for financial products referred to in Article 9(1), (2) and (3) of Regulation (EU) 2019/2088**

***To be developed***

## 5. Preliminary Impact Assessments

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An assessment of impacts of the proposals in this Consultation Paper has been prepared separately for the different empowerments in the SFDR.

According to ESAs' Regulation, the ESAs conduct analysis of costs and benefits when drafting regulatory technical standards. The analysis of costs and benefits is undertaken according to an Impact Assessment methodology. The draft RTS and its impact assessment are subject to public consultation. The ESAs were also asked to seek input from the European Environment Agency and the Joint Research Centre of the European Commission, which has been done for the entity level principal adverse impact reporting.

### Impact assessment for entity level principal adverse impact reporting (Article 4 SFDR)

#### 1. Problem definition

According to Article 4(6) and (7) SFDR the ESAs must develop through the Joint Committee draft regulatory technical standards specifying the content, methodologies and presentation of information (to be published on a firm's website) of a statement on the due diligence policy in respect of the adverse impact of investment decisions on sustainability indicators in relation to (i) climate and other environment-related impacts and (ii) social and employee matters, respect for human rights, anti-corruption and bribery matters.

The general purpose of introducing a requirement to assess principal adverse impacts is further set out in the recitals of the Regulation. Recital 12 SFDR notes that in order to comply with their duties to act in the best interest of end-investors, financial market participants and financial advisers have to assess "all relevant sustainability risks that might have a relevant material negative impact on the financial return of an investment or advice". Therefore, Recital 13 SFDR notes that financial market participants and financial adviser must "publish written policies on the integration of sustainability risks and ensure the transparency of such integration".

#### *Baseline scenario*

In developing the options below, the baseline scenario is that where there are no harmonised rules for disclosure of principal adverse impacts and that firms would each disclose as they see fit and use entirely optional indicators.

#### 2. Objectives

The overall objective of the RTS is to ensure that the financial market participant and financial advisers disclose relevant information regarding the due diligence policies of financial market participants and financial advisers to allow end investors to make informed decisions.

The measures adopted should also ensure sufficient consistency across the EU to make meaningful comparison possible for end investors, as set out in Recital (9) SFDR. End investors should be able to rely on the adverse impact disclosures made by financial market participants and financial advisers to explain sufficiently clearly how they take into account adverse impacts and the actions financial market participants take or plan to take to address them.

### 3. Policy options

#### Adverse impact - Policy issue 1: The level of disclosures

##### Option 1.1: High level principles for disclosure

##### Option 1.2: Common minimum standards on identification and disclosure of adverse impacts

##### Option 1.3: Detailed rules on all adverse impacts

One of the important choices the ESAs had to consider in developing the draft RTS for this Consultation Paper is the level of disclosure required. While the level 1 text requires in Article 4(1)(a) a “statement on due diligence policies” and the list in Article 4(2)(a) requires “information about ... policies”, the ESAs’ working group believes that the level of disclosure should be more than only high-level statements about policies. In particular the requirement in Article 4(2)(b) would seem to necessitate a more comprehensive disclosure of the adverse impacts of investment decisions on sustainability factors.

Nevertheless, there could be three possible options for the level of disclosures under Article 4 SFDR. Option 1 is requiring only a “statement” type disclosure, requiring financial market participants and financial advisers only to disclose a statement on their policies. However, it is questionable whether such an approach would fulfil the requirements of all elements of Article 4(2)(b) SFDR in particular. Option 2 is the preferred approach of the working group, requiring some common elements but leaving tailoring up to financial market participants and financial advisers. Option 3 would require granular detailed disclosure of all adverse impacts and actions taken. While the third option would be the most resource intensive, arguably it could risk ignoring the exhortation in Article 4(1)(a) and 4(5)(a) of the SFDR that the consideration of adverse impact of investment decisions on sustainability factors should take into account the size, nature and scale of activities and types of financial products made available.

<b>Policy option 1: High level statements as disclosure</b>	
Pros	Cons
Easier to implement across a range of different financial market participants, financial advisers and products	No comparability of adverse impacts due to widely differentiated website statements

Allow qualitative assessment/evaluation of adverse impacts	Potentially very little detailed information about adverse impacts for investors
	Potentially not allowed under Level 1, could lead to circumvention.
<b>Policy option 2: Common minimum obligations on identification and disclosure of adverse impacts (preferred option)</b>	
Pros	Cons
Allows for a base level of comparability between operators	More resource intensive to implement than simply statements
Allows for some tailoring of approach to size, nature, scale of activities	Could risk some impacts not to be considered due to minimal requirements
<b>Policy option 3: Same format and detailed rules on disclosure of all adverse impacts and all actions taken or planned to be taken</b>	
Pros	Cons
Greatest level of granularity would allow quantitative research of investors adverse impacts across the EU	The most resource intensive and expensive for financial market participants and financial advisers, particularly for smaller entities
Less potential room for disclosing misleading information and therefore, greenwashing	Not taking into account Level 1 proportionality language

## **Adverse impact - Policy issue 2: The type of indicators to be used when assessing adverse impact**

### **Option 2.1: Only optional indicators to assess adverse impacts**

### **Option 2.2: Mix of mandatory and opt-in indicators to assess adverse impacts**

### **Option 2.3: Only mandatory indicators to assess adverse impacts**

The level 1 text is silent on the level of compulsion choice that the ESAs should make in developing the sustainability indicators in Articles 4(6) and (7). However, the empowerment in Articles 4(6) and (7) notes that ESAs must develop technical standards on the content, methodologies and presentation of information in respect of **sustainability indicators** in relation to adverse impacts.

The ESAs interpret this to mean not only requiring disclosure of adverse impacts and actions taken to reduce impact, but to also require the development of some common indicators to measure the adverse impacts of investment decisions on sustainability factors.

The issue of data availability has been raised repeatedly by stakeholders. The ESAs are aware that it may not be straightforward to assess the adverse impact of an investment decision due to the lack of reported data on a particular indicator. Nevertheless, the ESAs are convinced that the situation is improving, as evidenced by the growing share of ESG data provided by data providers.

The ESAs considered three options for the development of indicators for adverse impact reporting. Option 1 would be to create an optional list of indicators to help financial market participants to assess adverse impacts of their investment decisions on sustainability factors. Option 2 would follow a “mixed approach” of requiring a set of mandatory indicators coupled with a set of opt-in indicators. This is intended to create some harmonised adverse impact assessment disclosure on some areas where availability of data is better but leave many other assessment disclosures up to the financial market participant or financial adviser. Such a list could be updated in the future under further reviews of the technical standards. Option 3 would be the development of a fully mandatory list of indicators that financial market participants must use to assess the adverse impacts of their investment decisions on sustainability factors. Given the heterogeneity of the different sectors covered by the definition of financial market participant, such an approach would pose significant challenges for ESAs to develop and keep updated in line with the evolution in sustainable finance.

<b>Policy Option 1: Only optional indicators to assess adverse impact</b>	
Pros	Cons
Easier to implement across a range of financial market participants and financial advisers	Little harmonised assessment of adverse impacts on any single indicator
Could lead to greater volume of voluntary reporting due to flexible approach	Underlying assumptions and methodologies are not comparable since the choice of indicators is not evident
	Not clear if compliant with level 1 obligation to prescribe “methodologies” for sustainability indicators and to create comparable disclosures
<b>Policy option 2: Mix of mandatory and optional indicators to assess adverse impact (preferred option)</b>	



Pros	Cons
Allows assessment of adverse impacts across all reporting entities against the minimum list of indicators, would create demand for data reporting on the minimum list.	More costly to assess adverse impact of all investment decisions against minimum list with questionable data availability in some cases
May lead to more meaningful disclosure for investors who would be able to compare providers based on adverse impact on minimum list of indicators	Mandatory indicators may not be relevant for all financial market participants or financial advisers
Should help financial market participants and financial advisers develop ESG integration in their investment processes for minimum list of indicators	Could lead to more “explain” than “comply” due to mandatory nature of some indicators
<b>Policy option 3: Only mandatory indicators to assess adverse impact</b>	
Pros	Cons
Robust disclosures and maximum comparability among those reporting	Most expensive for financial market participants and financial advisers to implement, particularly for smaller entities
	Very difficult to ensure fully up to date comprehensive list of indicators with robust data sources to back them up
	Very difficult to review the list of mandatory indicators to reflect technological progress or data availability for new indicators
	Mandatory indicators may not be relevant for all financial market participants or financial advisers

#### 4. Analysis of impact

In analysing the impact of the proposed rules on adverse impact disclosure, the comply or explain nature of the regulatory provision in the Level 1 text is important to bear in mind. Financial market participants and financial advisers will have the possibility to publish a statement that they do not take adverse impact of their investment decisions on sustainability factors into account. 36 months after entry into force all companies with 500 or more employees will no longer be able to explain why they do not take into account such adverse impacts of their investment decisions on sustainability factors. The working group believes it is important to ensure a balanced approach that does not needlessly deter financial market participants and financial advisers from opting not to disclose under this comply or explain regime.

Those firms who will publish statements on their due diligence policies regarding the principal adverse impacts of their investment decisions will need to consider how to disclose this information in line with the RTS.

The ESAs' preferred approach aims to strike a balance between the cost and complexity of implementation and the usefulness of disclosures for investors. The working group believes that in order for the adverse impact disclosures to be meaningful, some minimum common elements of disclosure are necessary to include for all financial market participants and financial advisers without a fully harmonised template with the same fields to be filled in.

The issue of sustainability indicators is a central part of the adverse impact disclosure process. Climate and other environment related adverse impacts require specific sustainability indicators, for example in the form of carbon emissions. In consultation with the EEA and JRC the working group has proposed a minimum list accompanied by other climate and environment related indicators to be used on an opt-in basis, as outlined in Annex I of the draft RTS.

Regarding social and employee matters, the working group believes that sustainability indicators in this field should also be used on the same mandatory and opt-in basis in Annex I.

The impact of introducing systems and processes to report the principal adverse impacts and the actions taken and planned may be significant, depending on the size of the investments undertaken and the kinds of exposures of the investments (e.g. sectors, countries). In this regard, the working group notes the work done by the European Commission in its [impact assessment](#) on the proposal legislative proposals in the sustainable finance action plan. The Commission asked in its public consultation about the additional costs of integrating ESG considerations, to which respondents with one exception chose the lowest range of costs. Furthermore, in the Commission's targeted interviews, six firms provided numbers on the prospective costs of ESG integration. For the small entities, the additional cost ranged from EUR 80 000 to EUR 200 000 per year (for buying external data, doing additional internal research, engagement with companies etc.), i.e. maximum 0.0001 % of AuM (by way of comparison, the total cost for an equity fund is around 2 % per year (based on a [study](#) by Deloitte). The highest relative additional cost the Commission received was 0.0003 % of AuM per year (for a player with EUR 72 billion AuM).

The majority of the ESAs' working group believes that the integration of ESG considerations to disclose adverse impacts and actions taken will not be disproportionately high. The approach of requiring mandatory indicators for the assessment and allowing the further tailoring of the assessment against an opt-in set of indicators strikes the right balance between the need to create a harmonised regime and the ability to implement the new rules.

## **Impact assessment for pre-contractual product disclosure (Articles 8 and 9 SFDR)**

### **1. Problem definition**

According to Articles 8 and 9 of the SFDR, the ESAs must develop through the Joint Committee draft regulatory technical standards specifying the content, methodologies and presentation of information to be disclosed in sectoral pre-contractual information to show:

- how a product with environmental or social characteristics meet those characteristics and if an index has been designated as a reference benchmark, whether and how that index is consistent with those characteristics, and
- where a product has sustainable investment objectives and has a designated index as a reference benchmark, how that index is aligned with the sustainable investment objective and an explanation as to why and how that designated index aligned with the objective differs from a broad market index.

The general purpose of introducing requirement to provide pre-contractual disclosures is to ensure transparency in the promotion of environmental or social characteristics and to ensure that end-investors receive a fair, clear and concise information prior to investing in a financial product.

#### *Baseline scenario*

In developing the options below, the baseline scenario is the situation where the SFDR applies, but where there is no RTS to further specify the obligations that Articles 8 and 9 of the SFDR impose. In practical terms, this means that there would be no harmonised rules specifying the content and presentation of pre-contractual information.

### **2. Objectives**

The overall objective of the RTS is to ensure that the presentation and content of the information provided in Article 8 and Article 9 of the SDFR is harmonised both in terms of content and presentation. Even though greenwashing is not mentioned in the SFDR, the ESAs are aware of the importance of this topic and regards it as one case of misleading information.

### **3. Policy options**

#### **Adverse impact - Policy issue 1: The level of disclosure**

##### **Option 1.1: High level principles for disclosure**

**Option 1.2: Common minimum standards on disclosure**

**Option 1.3: Detailed rules on all information**

<b>Policy option 1: High level principles for disclosure</b>	
Pros	Cons
Easier to implement across range of different products subject to different sectoral requirements	Reduces comparability of products due to widely differentiated statements
	Potentially limited detailed information for investors
	Potential for circumvention
	Weaker legal basis for end-investors in case of litigation
<b>Policy option 2: Common minimum standards on disclosure (preferred option)</b>	
Pros	Cons
Allows for a base level of comparability	More resource intensive to implement, particularly for smaller financial market participants
Allows for some tailoring of approach to specificities of products	Some risk might not be considered due to minimal requirements
	Risks of information overload and low understanding by consumers of the information disclosed if no detailed rules on the presentation of information are introduced to ensure understandability by consumers
<b>Policy option 3: Same format and detailed rules on disclosure</b>	

Pros	Cons
Greatest level of granularity would allow detailed information for investors	Resource intensive for financial market participants
Better clarification of the responsibility of the product manufacturer towards the end-investor and stronger legal basis in case of litigation.	Extensive disclosure could significantly increase the amount of information provided to end-investors and make the information gathering process more difficult for them
More information provided to supervisors in the context of their supervisory activities.	Risk of information asymmetry: consumer research shows that most of the information will either not be read, or will be misunderstood, or will be read only after buying the product and behavioural economics warns that consumers may disengage when faced with information overload

**Adverse impact - Policy issue 2: Relevance of prescribing a mandatory template for pre-contractual disclosure**

**Option 2.1: No template**

**Option 2.2: A non-binding template**

**Option 2.3: Mandatory template**

<b>Policy Option 1: No template</b>	
Pros	Cons
Allows for flexibility to adapt to products specificities	Reduces comparability of products due to widely differentiated statements
	Enables different levels of information
<b>Policy option 2: A non-binding template</b>	
Pros	Cons

Expected to harmonise display and content while enabling some flexibility	Benefits will depend heavily on the ability of financial market participants to voluntarily use the template
<b>Policy option 3: Mandatory template (Preferred option)</b>	
Pros	Cons
Offers a standardised framework and a level playing field for financial market participants	Rigid framework for firms not allowing sufficient flexibility for bespoke explanations
Allows for full comparability of products for investors	Difficult to integrate in diverse sectoral pre-contractual documentation specified in Article 6(3) SFDR and in diverse national practices
A comprehensible standardised format may improve consumer engagement	

#### 4. Analysis of impact

The ESAs' preferred approach is to focus on the efficiency of the information passed to end-investors and notably its ability to compare information provided in relation to different products.

The ESAs considered the option of enacting high-level principles for disclosure but decided to discard it as it potentially goes against the aim of the Level 1 text. Setting detailed rules on all information was also discarded as it was likely to be resource intensive and expensive for financial market participants and financial advisers with limited added value for end-investors as compared to the solution consisting in setting minimum standards.

Setting minimum standards will allow a base level of comparability and some tailoring of approach to specificities of products while ensuring that end-investor receive a level of information sufficient for the purpose of its decision-making process.

The ESAs also considered the relevance of requiring financial market participants to comply with a mandatory template for disclosure. While the ESAs have consistently tried to strike a balance between the objective of enabling comparability and the constraints for firms, it reached the conclusions that requiring a mandatory template was the better policy option to allow comparability and to offer a level playing field for firms.

## Impact assessment for website product disclosure (Articles 10 SFDR)

### 1. Problem definition

Article 10 of the SFDR empowered the ESAs to develop through the Joint Committee draft regulatory technical standards specifying the content and presentation of information to be disclosed on the entity's website on (i) the environmental or social characteristics or the sustainable investment objective of Articles 8 and 9 products and on (ii) the methodologies used to assess, measure and monitor these characteristics or objectives.

The general purpose of introducing website disclosure obligations is to enhance transparency and properly inform end-investors about the sustainability-related impact of their investments in financial products with environmental or social characteristics or financial products which pursue sustainability objectives. Recital 24 of the SFDR provides that it was appropriate to “*set out more specific and standardised disclosure requirements with regard to such investment*”.

#### *Baseline scenario*

When analysing the impact of the proposed measures, the baseline scenario consists in a situation where there are no harmonised rules on the content and presentation of information to be disclosed under Article 10 of the SFDR. Financial market participants would then be able to disclose the relevant information at their discretion.

### 2. Objectives

The overall objective of the RTS is to ensure that the financial market participants and financial advisers disclose relevant information to allow end-investors to make informed decisions in relation to financial products promoting, among other characteristics, environmental and social characteristics and products with a sustainable investment objective.

The measures adopted aim to ensure a greater products comparability across the EU for end-investors. End-investors should be able to rely on meaningful information easily accessible on the website of financial market participants on how Articles 8 and 9 products meet their environmental and social characteristics or their sustainable investment objectives.

### 3. Policy options

#### **Policy issue 1: The level of disclosure**

##### **Option 1.1: High level principles for disclosure**

##### **Option 1.2: Common minimum standards on website product disclosure**

##### **Option 1.3: Detailed rules on all information**

One of the important choices the ESAs had to consider in developing the draft RTS for this Consultation Paper is the level of disclosure required. The level 1 text specifies that financial market participants are required to disclose “a description of the environmental or social characteristics or the sustainable investment objective” as well as “information on the methodologies used to assess, measure and monitor the environmental or social characteristics or the impact of the sustainable investments selected for the financial product (...)”. In this context, the ESAs are of the view that the level of disclosure should be more than only high-level statements. This is in line with the Level 1 text which requires that the information should be published “in a way that it is accurate, fair, clear, not misleading, simple and concise”.

However, three options were considered in relation to the level of disclosures under Article 10 SFDR. Option 1 consists in setting high level principles that financial market participants should respect when disclosing. It is contentious to the extent that it requires only a “statement” type disclosure to fulfil the requirements stated above. Option 2 consists in requiring some common elements but to leave tailoring up to financial market participants. The latter is the preferred approach. Finally, option 3 would be to impose detailed website disclosure. In addition to being the most resource intensive, it might also entail the risk of ignoring the provision of Article 10(2) whereby the RTS should take into account the various types of financial products, their characteristics and objectives as referred to in paragraph 1 and the differences between them.

<b>Policy option 1: High level principles for disclosure</b>	
Pros	Cons
Easier to implement across range of different actors and portfolios	Reduces comparability of products due to widely differentiated statements
	Potentially limited detailed information across investors
	Potentially not allowed under Level 1, could lead to circumvention.
<b>Policy option 2: Common minimum standards on website product disclosure (preferred option)</b>	
Pros	Cons
Allows for a base level of comparability between operators	More resource intensive to implement



Allows for some tailoring of approach to specificities of products	Some risks might not be considered due to minimal requirements
<b>Policy option 3: Detailed rules on all information</b>	
Pros	Cons
Greatest level of granularity would allow detailed information for investors	The most resource intensive for financial market participants
Easier to supervise	Potentially not taking into account Level 1 proportionality language

**Policy issue 2: The presentation requirements of the information disclosed on the website**

**Option 2.1: No format requirements**

**Option 2.2: A common summary format with a pre-determined maximum length**

**Option 2.3: A standardised disclosure template**

The second subparagraph of Article 10(1) of the SFDR provides that the information disclosed should be “clear, succinct and understandable to investors”. The working group is therefore of the view that financial market participants should not only be required to disclose information in accordance with Article 10 (1) but also to respect some common standards in relation to the format.

The ESAs considered three options with regard to the presentation requirements of the website disclosure under Article 10. Option 1 would be not to set presentation requirements and therefore to leave freedom to financial market participants on how the information should be disclosed. Option 2 would follow an intermediate approach consisting in requiring the information to be presented in a common summary format with a pre-determined maximum length. This option intended to enhance harmonisation of disclosures across products and is the preferred option of the ESAs. Option 3 would be to develop a standardised disclosure template that would have to be filled out and published by financial market participants.

<b>Policy Option 2.1: No format requirements</b>	
Pros	Cons
Easier to implement for financial market participants and financial advisers	Reduces comparability of products due to heterogeneous disclosure formats

Allows for some tailoring of approach to specificities of products and tools used to display the information	Might not be compliant with Level 1 which requires that disclosure be accurate, fair, clear, not misleading, simple and concise.
<b>Policy option 2.2: A common summary format with a pre-determined maximum length</b>	
Pros	Cons
Expected to enhance disclosure harmonisation, improving the understandability for investors	Potentially more demanding for financial market participants and financial advisers to implement
Allows for some tailoring of approach to specificities of products	Will not allow full comparability across all products
	Will deter innovation in the presentation of online information
<b>Policy option 2.3: A standardised disclosure template (preferred policy approach)</b>	
Pros	Cons
Allows full comparability of products for end-investors across the range of different financial products in scope of the regulation	Rigid framework for financial markets participants
Offers a standardised framework and a level playing field for firms	Difficulties in complying with a prescribed template for each type of product

#### 4. Analysis of impact

The ESAs' preferred approach is to focus on the efficiency of the information passed to end-consumers and notably its ability to compare information provided in relation to different products.

The ESAs considered the option consisting in only enacting high level principles for website disclosures but decided to discard it as it could potentially go against the aim of the Level 1 text. Setting detailed rules on all information was also discarded as it was likely to be resource intensive and expensive for financial markets participants while offering limited added value to end-investors as compared to the solution consisting in setting minimum standards.

Setting minimum harmonised rules will allow a base level of comparability and some tailoring of approach to specificities of products while ensuring that end-investor receive a level of information sufficient for the purpose of its decision-making process.

The ESAs also considered the relevance of requiring firms to comply with a mandatory template for website disclosure. However, the working group is of the view that requiring financial market participants to publish the information to be disclosed in a free summary format would be the best policy option since it allows to strike a balance between the objective of enabling comparability and the constraints for firms.

The impact of introducing systems and process to publish on their website information on how relevant products meet environmental or social characteristics or sustainable investment objectives in a summary format should be very limited for financial market participants. The ESAs believe that the reporting requirements set out in Articles 8 and 9 will ensure access to sufficient high-quality information while the requirement of disclosing in a summary format should not be overly burdensome for financial market participants. The ESAs also note that the requirements introduced by Article 10 of the SFDR might entail additional IT costs but is of the view that these should remain relatively low.

## **Impact assessment for periodic product disclosure (Articles 11 SFDR)**

### **1. Problem definition**

In accordance with Article 11 of the SFDR, the ESAs must develop through the Joint Committee draft regulatory technical standards specifying the content, methodologies and presentation of information to be disclosed in periodic reports through sectoral legislation specifying how relevant products met their environmental or social characteristics and the overall sustainability-related impact of products with sustainable investment objectives, including those with an index designated as a reference benchmark.

The general purpose of introducing a requirement for financial market participants which consider the principal adverse impacts of investment decisions on sustainability factors firms to provide periodic reporting is to update regularly end-investor on the information provided at the pre-contractual phase and on the basis of which they have decided to acquire a financial product.

#### *Baseline scenario*

In developing the options below, the baseline scenario refers to the situation where the SFDR applies but where no RTS provides further guidance on the content, methodologies and presentation of information to be disclosed under Article 11 of the SFDR. Financial market participants would then be able to disclose periodically as they see fit.

## 2. Objectives

The overall objective of the RTS is to ensure that the presentation and content of the information provided in the context of the periodic reporting is harmonised both in terms of content and presentation and addresses the objectives set in the level 1 text.

## 3. Policy options

### Policy issue 1: Relevance of prescribing a mandatory template for periodic product disclosures

#### Option 1.1: No template for periodic product disclosures

#### Option 1.2: A non-binding template for periodic product disclosures

#### Option 1.3: Mandatory template for periodic product disclosures

<b>Policy Option 1.1: No template for periodic product disclosures</b>	
Pros	Cons
Allows for flexibility to adapt to products specificities	Reduces comparability of products in end-investor portfolio
Easier to combine with sectoral reporting requirements	Enables adjustments of information to end-investor needs
<b>Policy option 1.2: A non-binding template for periodic product disclosures</b>	
Pros	Cons
Expected to harmonise display and content while enabling some flexibility	Harmonisation will depend heavily on the willingness of firms to voluntarily abide to the template
	Difficult to integrate in existing templates or national practices
<b>Policy option 1.3: Mandatory template for periodic product disclosures (preferred policy approach)</b>	
Pros	Cons

Offers a standardised framework that can be applied in a harmonised way	Rigid framework for financial markets participants
Allows for full comparability of products for end-investors	Difficult to integrate in existing templates or national practices

**Policy issue 2: Granularity of disclosures**

**Option 2.1: High level periodic disclosures**

**Option 2.2: Mid-range approach for periodic disclosures**

**Option 2.3: Granular approach for periodic disclosures**

<b>Policy option 2.1: High level periodic disclosures</b>	
Pros	Cons
Easier to implement for financial markets participants	Limited information for end-investors
	Potential for circumvention.
<b>Policy option 2.2: Common minimum standards on identification and disclosure (preferred option)</b>	
Pros	Cons
Allows for a base level of comparability between operators	More resource intensive to implement
Allows for some tailoring of approach to specificities of products	Some risk might not to be considered due to minimal requirements
	Risk of information asymmetry: consumer research shows that most of the information will either not be read, or will be misunderstood, or will be read only after buying the product and behavioural economics warns that consumers may

	disengage when faced with information overload
<b>Policy option 2.3: Detailed rules on disclosure in the same format</b>	
Pros	Cons
Greatest level of granularity would allow detailed information for investors	Possibly the more resource intensive and expensive for financial market participants and financial advisers
Comprehensibility by investors would be improved	Risk of information asymmetry: consumer research shows that most of the information will either not be read, or will be misunderstood, or will be read only after buying the product and behavioural economics warns that consumers may disengage when faced with information overload

#### 4. Analysis of impact

As for pre-contractual disclosures, the ESAs' preferred approach is to focus on the efficiency of the information passed to end-consumers and notably its ability to compare information provided on a periodic basis in relation to different products.

As for pre-contractual disclosures, the relevance of requiring firms to comply with a mandatory template for periodic disclosure was considered. In light of the policy option selected in relation to pre-contractual disclosure, it appears relevant to require a mandatory template as well for periodic disclosure. As for pre-contractual disclosures, this option is also favoured because it allows comparability between products and offer a level playing field for financial markets participants.

The ESAs' considered the option consisting in enacting high-level principles for disclosure but decided to discard notably because it would not be aligned with the information provided during the pre-contractual phase. Setting detailed rules on all information was also discarded as it was likely to be resource intensive and expensive for financial markets participants with limited added value for end-investors as compared to the solution consisting in setting minimum standards.

Setting minimum harmonised rules will allow a base level of comparability while enabling, to an extent, tailoring of approach to specificities of products.

## Impact assessment for “do not significantly harm” (DNSH) principle RTS

### 1. Problem definition

According to Article 2a SFDR the ESAs must develop through the Joint Committee draft regulatory technical standards to specify the details of the presentation and content of the information in relation to the principle of “do not significantly harm” (DNSH) in Article 2(17) consistent with the content, methodologies, and presentation of indicators in relation to adverse impacts referred to in paragraphs 6 and 7 of Article 4.

The Taxonomy Regulation, which adds Article 2a to SFDR to introduce the new empowerment, also notes in its draft Recital 36 that the purpose of the measure is to ensure consistency between the Taxonomy Regulation and SFDR. The Recital further underlines that the RTS should be consistent with the indicators on adverse impact and with the European Pillar of Social Rights, the OECD Guidelines for Multinational Enterprises, UN Guiding Principles on Business and Human Rights, including the International Labour Organisation’s (‘ILO’) declaration on Fundamental Rights and Principles at Work, the eight ILO core conventions and the International Bill of Human Rights.

#### *Baseline scenario*

In developing the options below, the baseline scenario is that where there is no harmonised definition of the DNSH principle and no overall requirement to, nor any harmonised way of, disclosing how a product complies with the DNSH principle when making sustainable investments.

### 2. Objectives

The overall objective of the RTS is to ensure that the financial market participant disclose relevant information regarding their adherence to the “do not significantly harm” principle where their financial products invest in sustainable investments. The objective is to inform end investors about how the product does not significantly harm the environmental objectives it is not contributing to.

The measures adopted should also ensure sufficient consistency across the EU to make meaningful comparison possible for end investors. End investors should be able to rely on the “do not significantly harm disclosures” made by financial market participants to be able to compare different products and different manufacturers sufficiently.

### 3. Policy options

#### **Policy issue 1: The scope of DNSH assessment**

**Option 1.1: Include principal adverse impact indicators in Table 1 of Annex I**

**Option 1.2: Include principal adverse impact indicators in Table 1 of Annex I and environmental objectives**

**Option 1.3: Include all Annex I indicators and environmental objectives**

An important aspect of the scope of the level of compliance with the DNSH principle is whether to apply the disclosures to both the principal adverse impact indicators developed in Annex I of these draft RTS and the environmental objectives of the taxonomy regulation.

The Article 2(17) reference to the precautionary principle of “do not significantly harm” captures also economic activities contributing to social objectives, not only environmental objectives, whereas the taxonomy regulation only addresses environmental objectives. For this reason, the ESAs consider it essential to capture also social indicators for the scope of the DNSH disclosures.

The draft principal adverse impact indicators in Annex I are divided into mandatory indicators always leading to principal adverse impact in Table 1 and opt-in indicators that financial market participants may use to identify additional principal adverse impacts of their investment decisions for the environment in Table 2 and society in Table 3.

However, the taxonomy regulation itself has provisions for the application of the DNSH principle as it is an essential part of the framework. Economic activities are taxonomy compliant when they contribute to one or more of the environmental objectives and do not significantly harm the other objectives.

<b>Policy option 1.1: Include principal adverse impact indicators in Table 1 of Annex I</b>	
Pros	Cons
Simplicity – the indicators in Table 1 are clearly laid out and provide a framework for consideration for DNSH purposes	Potentially undermining Article 12 of the taxonomy regulation which sets out provisions for determining significant harm for each environmental objective
Efficient – if the financial market participant is disclosing its principal adverse impacts it will already have made assessments of its investment decisions against all Table 1 indicators	By excluding the taxonomy regulation objectives, the DNSH assessments to be included in the Delegated Acts would be missed from the assessment, creating essentially a parallel process of DNSH in the disclosure regulation from that in the taxonomy regulation
<b>Policy option 1.2: Include principal adverse impact indicators in Table 1 of Annex I and environmental objectives (favoured policy approach)</b>	
Pros	Cons



Comprehensive – captures indicators for environmental and social principal adverse impacts and also excludes companies whose activities do significant harm to environmental objectives in the taxonomy regulation	May fail to capture sufficient indicators for the assessment by excluding the opt-in indicators in Tables 2 and 3
Efficient – if the financial market participant is disclosing its principal adverse impacts it will already have made assessments of its investment decisions against all Table 1 indicators	
<b>Policy option 1.3: Include all Annex I indicators and environmental objectives</b>	
Pros	Cons
Most comprehensive – would capture all the indicators in Tables 1-3 of Annex I, ensuring maximum coverage of DNSH assessment against the principal adverse impact indicators, and also capturing the taxonomy regulation’s DNSH assessment framework against environmental objectives	Most costly – would require significant investment of resource to screen against indicators in Tables 2 and 3 which the financial market participant will not have considered for its principal adverse impact disclosures

**Policy issue 2: The type of DNSH disclosures**

**Option 1.1: High level policy commitment on assessment of significant harm**

**Option 1.2: Details on the assessment made of significant harm of investments including any own thresholds set**

**Option 1.3: Details of assessments made against pre-determined thresholds for each indicator**

Another important aspect of the development of DNSH principles disclosures is how the financial market participant discloses that its investments do not significantly harm the sustainable investment objective. The ESAs have considered this aspect and noted that the disclosure could consist of either of (1) some kind of policy for assessing the significant harm in relation to the principal adverse impact indicators, (2) details of the firm’s own thresholds and resulting assessments of significant harm of investments against the indicators in Table 1 of Annex I, or (3) results of assessments of investments against the indicators in Table 1 of Annex I using pre-set thresholds for significant harm developed by the ESAs.

<b>Policy option 1.1: High level policy commitment on assessment of significant harm</b>	
Pros	Cons
Simplicity: The task of creating a policy commitment and disclosing it would be relatively simple for financial market participants making sustainable investments	Very low comparability: by allowing firms to simply disclose a policy the disclosures would have the least comparability for investors and supervisors
Low costs: implementation cost of disclosures themselves (excluding the actual assessments) would be low	Low usefulness: by not requiring disclosures of the levels of harm of investments, the product disclosures would not add very much value to investors or supervisors
<b>Policy option 1.2: Details on the assessment made of significant harm of investments including any own thresholds set (favoured policy approach)</b>	
Pros	Cons
Useful disclosures: by requiring disclosures of assessments against each indicator including any thresholds used, investors and supervisors would learn much more from the assessments made by firms as opposed to simply policies	Low comparability: With firms free to set their own thresholds, it would be harder for investors and supervisors to compare disclosures between firms
Quantitative indication of significant harm: disclosures against potential thresholds would mean quantitative assessments of significant harm, a more granular approach to disclosures	Potential for no thresholds: by making thresholds optional (“any” thresholds) this option opens the door for qualitative assessments without quantitative indicators.
<b>Policy option 1.3: Details of assessments made against pre-determined thresholds for each indicator</b>	
Pros	Cons
Highest level of comparability: disclosures would show results against harmonised pre-determined thresholds of significant harm	Technical complexity would be extremely high and require significant scientific input by ESAs and EU authorities.

<p>Lower costs than own thresholds: as firms could rely on pre-determined thresholds of significant harm, there would be associate cost of developing own thresholds for significant harm for each indicator in Annex I.</p>	<p>Potentially in contravention of the empowerment to develop presentation and content of disclosures for products making use of DNSH principle</p>
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#### 4. Analysis of impact

The ESAs was not able to consider all policy options’ detailed impacts due to the general lack of time to develop the proposals. Nevertheless, within the framework that these suggestions were prepared, the ESAs believe that in addition to considering the principal adverse impact indicators in Annex I, a financial product making use of the DNSH principle should also exclude companies whose activities significantly harm the environmental objectives set out in the taxonomy regulation.

The ESAs therefore believe the policy option to be considered for the scope of the DNSH disclosure relate to the level of ambition among the draft principal adverse impact indicators and the environmental objectives in the taxonomy regulation.

Regarding the type of disclosures, given the wording of the legal empowerment to develop the presentation and content of disclosures, the complexity of the indicators developed in Table 1 of Annex I and the lack of time to sufficiently prepare, the ESAs believe that the best option would be require the disclosure of the firm’s own thresholds for significant harm against the indicators in Table 1 of Annex I of the draft RTS.

The impact of such assessments should be considered additional to the disclosures already made by financial market participants in preparing their other disclosures under Regulation (EU) 2019/2088. However, those firms who have already considered the principal adverse impacts of their investment decisions will have a lighter burden since they will already have incurred the costs of assessing their investment decisions against the indicators in Table 1 of Annex I of the draft RTS.

However, there will also be benefits to disclosure of compliance with the DNSH principle. Harmonised disclosures will increase public trust in sustainability related products, which will help increase the availability of finance for products helping combat climate change.