

Context and main positions

AFG has consistently supported and advocated for this revision, with the aim of evolving the current framework from a “transparency” regime to a “categorization” regime based on minimum criteria. In this regard, it seems useful to reiterate the objectives that, in our view, the revision should pursue:

- **Simplify and ensure consistency** and credibility in the sustainable finance regulatory framework,
- **Place the final client at the centre** of the sustainable finance framework,
- **Ensure the reallocation of capital flows to support the transformation** toward a more sustainable economy.

We want to remind that to be successful, the revision should:

- **Ensure a consistent framework** with other pieces of the sustainable finance framework and a level playing field and **coherent application date** between financial products, financial instruments and services;
- Allow to **reflect the diverse sustainability ambitions** of investors that may not seek products with the highest level of sustainability performance or the most stringent sustainability objectives.
- **Ensure that the offer of financial products can effectively respond to demand from retail investors.** Overly restrictive criteria could limit the offer of products, making it more difficult to meet retail investors’ sustainability preferences and ultimately undermining the objective of reallocating capital.

I. Criteria under the ESG Basics category

The aim of the ESG Basics category is to accommodate a broad range of investment strategies. This category is essential as it accommodates a large share of the existing sustainable investment market while including binding elements to avoid pitfalls from the current SFDR. Moreover, **it allows to reflect the diverse sustainability ambitions of retail investors that may not seek products with the highest level of sustainability performance or the most stringent sustainability objectives.**

The Commission proposal on the outperforming criteria ((a) and (b)) set at the “investment level” does not mirror current market practice (“at portfolio level”) and raises concerns in terms of usability.

While we understand it was not the EC intention, at this stage no clarification was provided in any of the co-legislators’ positions. Such unclear wording may lead in diverging interpretation among member states, and supervisory authorities.

In this context, **it is essential to clarify that the outperformance can be measured at the level of individual investments or at the portfolio level. This clarification is essential to ensure that investors retain access to a broad range of ESG products that meet their specific needs and avoid any discrepancies between members states.**

The Council and Parliament require outperforming “*at least two specific appropriate sustainability indicators*” (criteria (b)). The outperformance of two “sustainability” indicators is problematic because these indicators are often weakly correlated. Moreover, adding two separate outperformance constraints further restricts portfolio management. Last, in a context of simplification (omnibus), it should be reminded that there are also issues related to data availability and quality. **Therefore, we urge the co-legislators to go back to the EC proposal and ask for the outperformance of “at least one sustainability indicator”.**

II. Exclusions under the transition category

The aim of the **transition category** is to **support the transition of the entire economy**, including the fossil fuel sector. It is important to be able to support companies that are on a path of improvements in terms of GHG emissions and/or that have officially committed to objectives. **The aim of the revised SFDR is to provide greater clarity to end-investors.** Investors expect “Transition” products to faithfully **reflect the reality of an economy-wide corporate sustainable transformation**. The systematic exclusion of certain sectors (oil and gas) from the category’s investment universe would seem counter-intuitive, especially given that the said sectors are the most carbon-intensive – i.e. those whose transition will by definition be the most critical to achieve an economy-wide decarbonisation.

Additionally, the exclusions proposed **would substantially reduce shareholder engagement capacity, notably held by EU players, and deprive investors of leverage to support the transition** of aligned or transitioning oil and gas players.

Our primary request was to align the exclusions with those applicable to the Climate Transition Benchmark. In light of the co-legislators’ position, we have serious concerns about any further tightening of the criteria, as this would run counter to the purpose of the category, hinder capital reallocation and reduce its usability. The number of conditions that has to be met to reinstate some companies in the transition category creates such a complex and burdensome framework that it will be very difficult for asset managers to implement it in practice and for client to understand the goal and logic of the category.

More particularly, it should be reminded that:

- The data is not available nor comparable for the new criteria “*Taxonomy CapEx > CapEx for development of new projects for the exploration, extraction, mining or refining of hard coal and lignite, oil fuels or fossil gaseous fuels*”. Data providers do not provide this information. This criterion will be particularly difficult to meet, if not impossible;
- The Taxonomy framework does not cover the entire economy nor non-EU companies, it is therefore essential to ensure that Taxonomy-equivalent are eligible;
- Only 2 or 3 companies will reach the 20% Taxonomy CapEx threshold if using Taxonomy Regulation only.

III. Calendar, framework consistency and level playing field between financial products

We welcome proposals to set the implementation date 24 months after the entry into force of the new framework. This calendar will allow the Commission to develop the level 2 measures under SFDR and MiFID/IDD to ensure that they will be implemented simultaneously with the SFDR level 1. This would help avoid the numerous subsequent operational adjustments that followed the SFDR implementation.

We also welcome provisions requiring the immediate entry into force of requirements that will be deleted from the new SFDR. **However, provisions excluding financial products from the scope of the new SFDR should enter into force at the same time of the regulation** (i.e. 18/24 months after entry into force). Indeed, if such provisions were to apply immediately, while the MiFID/IDD level 2 has not been updated, “portfolio management” would be in a position where it cannot be distributed to end investors.

In any case, we remind that it is essential that the European Commission **ensures consistent application of sustainability preferences and equal treatment across the different products and services offered to investors** (i.e. funds and mandates) **under MiFID and IDD. Ensuring an orderly implementation of changes in SFDR, MIFID and IDD, will be critical to support understanding and trust in particular from retail investors, and to allow for the re-allocation of financial flows towards sustainable investments.** We therefore urge the European Commission to initiate the work on MIFID and IDD evolutions, and work with industry practitioners such as the AFG and other key representatives from different stakeholder groups.

Last, to avoid differentiated treatment between financial products under the revised SFDR, we urge co-legislators to include all financial products under article 9a(2). There is no clear reason for why funds (UCITS and AIF) have been removed from the Council and Parliament proposals. SFDR should ensure that the principle of “same product, same rules” is consistently applied.

IV. Investments in public sectors use of proceeds

We support the Council and Parliament approach which allows the inclusion of EU GBS use of proceeds or other well recognized market standards as long as they apply categories' exclusions. Allowing the use of other robust market standards is essential as the EUGBS remains a relatively new framework and currently only covers an extremely limited share of the global green bond market inside and outside of the EU. Furthermore, the EUGBS scope is also only covering green bonds and excludes social and sustainability bonds. As asset managers invest broadly in all geographies and across various sustainability themes, this extension to other market standards broadens access to the global sustainable bond market and enhances geographic and thematic diversification.

V. Engagement

Engagement is a key tool for asset management companies, enabling them to influence investee companies, promote better practices, and enhance long-term value creation.

Engagement is conducted at asset management company level rather than at product level. Therefore, requiring the implementation and/or reporting of engagement-related information at product level or at the level of underlying investments is disproportionate.

Moreover, it should be recalled that engagement is already regulated under other EU legislation (SRD II) and therefore should not be duplicated or further prescriptively regulated in this context.

In its' proposal, the European Parliament mixes ex-ante requirements with elements that belong to ex-post reporting, which creates complexity and makes the framework difficult to apply in practice. These two dimensions should be clearly separated: quantitative information on the product's strategy should be treated as a reporting requirement rather than as an ex-ante criterion for categorisation.

For all these reasons, we believe that the European Parliament proposal (article 7(3)(ea)) should be further clarified:

“a description of the sustainability-related engagement strategy pursued by the financial market participant, ~~including the proportion of portfolio covered by the engagement activities~~ and how that strategy has been implemented in alignment with the sustainability-related objectives of the financial product, or a clear ~~and reasoned~~ explanation of why it is not pursuing such a strategy”