



JOINT COMMITTEE OF THE EUROPEAN  
SUPERVISORY AUTHORITIES

# Reply form

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

12 April 2023  
ESMA34-45-1218

## Responding to this paper

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

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

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

## Instructions

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

- Insert your responses to the questions in the Joint Consultation Paper in this reply form.
- Please do not remove tags of the type <ESMA\_QUESTION\_SFDR\_1>. Your response to each question has to be framed by the two tags corresponding to the question.
- If you do not wish to respond to a given question, please do not delete it but simply leave the text “TYPE YOUR TEXT HERE” between the tags.
- When you have drafted your responses, save the reply form according to the following convention: ESMA\_CP SFDR Review\_nameofrespondent.

For example, for a respondent named ABCD, the reply form would be saved with the following name: ESMA\_CP SFDR Review\_ABCD.

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

## Publication of responses

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

## Data protection

The protection of individuals with regard to the processing of personal data by the ESAs is based on Regulation (EU) 2018/1725<sup>1</sup>. 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.

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

## General information about respondent

Name of the company / organisation	AFG (Association Française de la Gestion financière)
Activity	Other Financial service providers
Are you representing an association?	<input checked="" type="checkbox"/>
Country/Region	France

## Questions

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

<ESMA\_QUESTION\_SFDR\_1>

As a general comment, AFG would like to raise one concern, in the context where the European Commission (EC) decided to make all ESRS standards, disclosure requirements and data points subject to the “materiality assessment”. Indeed, financial market participants (FMPs) depend on information provided by their counterparts to comply with their own disclosure requirements, it is hence of the foremost importance that mandatory PAI indicators are also mandatory in the CSRD framework. We highlight once again the need for consistency between ESAs’ work on the SFDR level 2 review and the EC work on the CSRD and would like to remind that any new PAI included should be made mandatory in the CSRD and only implemented when the related data point in the corporate reporting becomes applicable to all in-scope undertakings. Additional PAIs should not worsen the data gap issue FMPs are currently facing.

Moreover, it is also important to remind that some undertakings will not be subject to the CSRD (undertakings in emerging countries, undertakings below the thresholds,...), FMPs won’t be able to collect information from such counterparts. Clear guidance should be adopted to clarify how FMPs will have to deal with situations when the information is not reported by undertakings considering that materiality does not apply and by those not under the scope of the CSRD.

In this context, financial institutions will highly depend on data providers which are not yet regulated. There is hence a distortion between the obligations borne by financial institutions and data providers. It is quite important that final measures adopted for ESG data and ratings providers (following the publication by the European Commission of a new legislative text proposal on a regulation for ESG

ratings providers) adequately address this distortion and that the need to create a holistic regulatory framework for data and rating providers (for both financial and non-financial information) is globally assessed.

While we believe that these new PAI are seeking to address material social issues (tax, pay equity, worker rights, tobacco), we have strong reservations about making the reporting mandatory without further clarification (on calculation methodology, indicator definitions or use of estimates notably). We also believe that an impact analysis should be made to make sure that newly proposed social indicators are pertinent and with a good coverage.

As a general comment, we would like to highlight that KPIs may not be readily available for certain asset classes.

More specifically, please find below some comments on the newly proposed mandatory social indicators.

**1. Amount of accumulated earnings in non-cooperative tax jurisdictions for undertakings whose turnover exceeds € 750 million (PAI 14)**

ESAs indicates that this PAI is not an ESRS disclosure. but an Accounting Directive disclosure which we understand should become applicable for FY 2025 for EU undertakings establishing their accounts on a calendar year basis, therefore available for the first time to FMPs and data providers in the course of 2026. This new PAI shall therefore not come into application before 31.12.2016. However, the information will be missing for non-EU multinational undertakings, more particularly for accumulated earnings. Net profits may be easier to catch.

Moreover, the EU list of non-cooperative tax jurisdictions is subject to change. This will make tracking this information difficult and we therefore suggest FMPs are allowed to freeze the information at the date of the last undertaking's reporting. For non-EU multinational undertaking, the EU should provide guidance on the acceptable use of estimates in the absence of reported data. And for EU undertakings which revenues are below €750 million, therefore out of scope of reporting obligation, it should be allowed to consider the information irrelevant, therefore set at zero. Furthermore, it is worth flagging that introducing new PAIs for Alternative asset classes, and in particular for assets for which liquidity may be lower, could lead to a breach of article 9 criteria, with challenges to solve them as divestment may not be straight-forward.

**2. Exposure to companies involved in the cultivation and production of tobacco (PAI 16)**

This indicator should be relatively easy to measure as there are established ESG databases which track company revenue exposure to tobacco production. Given that this indicator is required in ESRS (ESRS 2 SBM-1), we consider it would be relevant to include it in the set of social PAI indicators (please refer to our general remarks with regards the need for consistency between SFDR and CSRD). Specific guidance should be given as to how involvement should be measured (e.g. revenue) and the tolerance threshold for this indicator.

**3. Interference with the formation of trade unions or election worker representatives (PAI 17)**

We agree that from a fundamental perspective this is an issue which is relevant and likely to be material for a number of sectors. However, we note that the underlying data may not be sufficient in terms of coverage as it is not a mandatory indicator as part of ESRS S1 (it is only mentioned as an example in ESRS 1 -8), with a calculation methodology which would need to be clarified. In that context, it will be challenging to propose it as a mandatory PAI (unless there is a modification of the ESRS).

Moreover, as currently worded this indicator would be very tricky to measure. Defining what constitutes “interference” is challenging as this could include systematic and idiosyncratic factors and could have a time dimension as well. The term “commitment” also needs refinement. It may be possible to check this based on the absence of related policies (e.g. one related to “Freedom of Association”), though typically we do not consider the existence of a policy as a material indicator of avoiding adverse impact as even companies with strong worker rights policies can interfere with unionization. Also a policy isn’t a commitment per se and in general we do not believe policy-related indicators are that indicative of actual performance.

Finally, it should also be noted that this PAI may not be available for certain alternative asset classes.

#### 4. **Share of employees earning less than the adequate wage (PAI 18)**

From a fundamental perspective, this is indeed an indicator which seems relevant to assess how a company handles social issues. However, the concept of adequate wages remains insufficiently defined, subjective and may lead to discrepancies between FMPs.

Therefore, we call for ESAs to bring more clarity on these indicators before requiring any implementation. Moreover, as already mentioned, the timing of reporting of any new PAIs under SFDR should be aligned with reporting obligations under the CSRD to avoid any data gap issues. ]

<ESMA\_QUESTION\_SFDR\_1>

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

<ESMA\_QUESTION\_SFDR\_2>

[The European Commission invited the ESAs to “(1) streamline and develop further the regulatory framework, (2) consider extending the lists of universal indicators for principal adverse impacts, as well as other indicators, and (3) refine the content of all the indicators for adverse impacts and their respective definitions, applicable methodologies, metrics and presentation”. While we acknowledge the work done by the ESAs in this consultation, we believe that ESAs could have taken the opportunity of this consultation to streamline existing PAI indicators. A comprehensive assessment of existing PAI Indicators (coverage, data availability,...) would also have some added-value to understand where the market stands.

We see interest to disclose additional Social PAIs to strengthen social dimension in DNSH and corresponding consideration of related PAI in financial products. However, data relating to PAI is still a challenge both in terms of availability and reliability mainly because issuers are not yet due to report on existing PAI, with social being less advanced than other pillars in terms of maturity. Timing to including additional social PAIs will be appropriate after the largest scope of corporates start reporting on those social sustainability themes post CSRD's entry into force (please refer to Q1 on our high level position with regards consistency between SFDR and CSRD).

We believe that there is a need for mature data on PAI prior to enforcing new PAI indicators. In this context, we believe that there is no need to add any other social mandatory PAI at this stage. |

<ESMA\_QUESTION\_SFDR\_2>

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

<ESMA\_QUESTION\_SFDR\_3>

| AFG believes that further clarification is needed on the interpretation of “*excessive use of*” (optional PAI 9, 10 and 11) or “*insufficient employment of*” (optional PAI 12). Indeed, FMPs may apply these concepts differently depending on the jurisdiction, sector, companies, thus reducing the comparability objective of the ESAs.

Therefore, we call for ESAs to bring more clarity on these indicators before requiring any implementation. Moreover, as already mentioned, the timing of reporting of any new PAIs under SFDR should be aligned with reporting obligations under the CSRD to avoid any data gap issues. |

<ESMA\_QUESTION\_SFDR\_3>

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

<ESMA\_QUESTION\_SFDR\_4>

| No. |

<ESMA\_QUESTION\_SFDR\_4>

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

<ESMA\_QUESTION\_SFDR\_5>

In principle, AFG supports the proposed replacement of the UN Global Compact Principles by the UN Guiding Principles on Business and Human Rights and the Declaration of the International Labour Organisation on Fundamental Principles and Rights at Work and the International Bill of Human Rights to foster consistency with other regulations (Taxonomy). It should be reminded that consistency with the CSRD should be provided and companies should be required to publish such information (please refer to our general comment in Q1).

At the same time, we are concerned that the proposed formulae requires further clarification so as to avoid confusion as to what would constitute compliance with the UN Guiding Principles, and therefore, what acceptable monitoring policies and processes, as well as UN Guiding Principles' violation would entail. |

<ESMA\_QUESTION\_SFDR\_5>

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

<ESMA\_QUESTION\_SFDR\_6>

No, AFG thinks that the Taxonomy Regulation already covers these matters for real estate assets. Applying PAI indicator related to social matters would duplicate the work. |

<ESMA\_QUESTION\_SFDR\_6>

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

<ESMA\_QUESTION\_SFDR\_7>



Yes, AFG agrees to adjusting the definition of PAI indicator 22 of Table 1 in order to align it with the EU Taxonomy criteria applicable to the DNSH of the climate change mitigation objective under the climate change adaptation objective in order to achieve consistency and avoid duplication. |

<ESMA\_QUESTION\_SFDR\_7>

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

<ESMA\_QUESTION\_SFDR\_8>

First, ESAs should clarify why some PAI are based on “enterprise value” while other are based on “current value of investments”.

We see a challenge in estimating the detention percentage. Article 6.3 of Commission Delegated Regulation (EU) 2022/1288 (the “SFDR RTS”) requires the calculation of impacts as the average of impacts on 31 March, 30 June, 30 September, and 31 December of each period from 1 January to 31 December.

Some PAI, like the GHG emission, are determined as the value of the impact (i.e., the emission level) multiplied by the detention percentage (current value of the investment/investee company’s enterprise value). Whilst the SFDR Delegated Regulation provides the following definition of the enterprise value at year-end, it does not include any indication as to how the detention percentage shall be determined for the periods other than year-ends. On the other hand, in the Q&A published on 17 November 2022 under the reference JC 2022 82, the ESAs indicate that the “*enterprise value is fixed at fiscal year-end, annually*” (question 6) and that “*the quarterly impacts should be based on the current value of the investment derived from the valuation of the individual investment (e.g. share) price valued at fiscal year-end multiplied by the quantity of investments (e.g. shares) held at the end of each quarter. In such manner the composition of the investments at the end of each quarter is taken into account, but the valuation reflects the fiscal year-end point in time*” (question 7).

Whilst the approach suggested above addresses the bias induced by the variations of share prices in the context of shares, determining the detention percentage by comparing the current value of the investments at quarter-end to the enterprise value at year-end introduces many other biases. linked, for instance, to:

- variation of the number of shares issued by a company (capital increase/decrease, stock split, corporate actions, etc.);
- companies liquidated before year-end;
- variation of the net debt ratio of the company during the year;
- debt investment (including bond price variation);
- derivatives.

Indeed, the regulatory issue is, how to estimate detention percentage of a given company during the year while being consistent with the impact figures published at year-end by the company.

The approach described in the Q&A consists in calculating the detention percentage from the number of securities held by investors at the end of each quarter. However, this

- does not solve the consistency issue, focuses on how to manage the impact of financial market fluctuations, does not resolve issues regarding changes in debt profile, activity perimeter of the company, credit event, etc., but introduces huge impact in case of changes in the capital structure of the company (stock split, capital increase, corporate action).
- introduces unwelcome complexity on the calculation approaches for only a limited number of PAIs while the others can be calculated based on quarterly market valuations, increasing operational risks.
- introduces huge additional workload for reporting and is contrary to common practices for portfolio analysis (presentation of asset allocations, performance and risk calculations, look-through analysis for prudential reports), which are based on market valuations.

**Consequently, it will be virtually impossible to reconcile financial, risk and PAI assessments for portfolios, or provide look-through analysis for investments in funds.**

To reduce the bias in the PAI impact calculation, we recommend for transparency and consistency purposes, to adopt an approach that relies on the current value of investments at market value in the numerator and a **quarterly estimation of the enterprise value based on market prices at the denominator** to calculate the detention percentage.

Last, it should be reminded that FMPs depend on data provided by their undertakings (ESRS). To enable FMPs to answer to this obligation, undertakings should also be required to publish their enterprise value quarterly (requirement to be included in the CSRD). If such information is not provided, FMPs should not be required to disclose such information on a quarterly basis. |

<ESMA\_QUESTION\_SFDR\_8>

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

<ESMA\_QUESTION\_SFDR\_9>

| AFG welcomes the work done by ESAs to clarify the PAI formulae, this work will enhance comparability and avoid different interpretations between financial market participants. As already mentioned, new formulas and definitions under SFDR should be aligned with the standards set by the CSRD.

Please find below some comments:

- **Formula (5) on exposure to companies active in the coal sector:** the definition part of the Appendix does not provide a definition of the “coal sector”. The ESAs should provide a clear definition of what is meant by “coal sector” (Is it related to coal power plants, trading, transportation, or mining?).

- **Formulae (4) and (5) on exposure to companies active in the fossil fuel sector and the coal sector:** the ESAs should specify what is expected: should we consider the entire investee company or only the proportion of its exposure to the fossil fuel or the coal sector? In the case where it is expected to consider the exposure of the entire investee company, a revenue threshold above which an investee company is considered in its entirety should be set. This threshold will have the merit to avoid considering an investee company in its entirety when it only has a limited part of revenues derived from fossil fuel or coal sectors.
- **Formulae (20) on sovereign intensity:** the ESAs should clarify which is the scope for country's GHG intensity : Territorial emissions? Including agencies? +imported? -exported? All ? ...
- **Formulae (10) on hazardous and radioactive waste:** Nuclear waste and other hazardous waste although both calculated in tonnes, have very different levels of magnitude (nuclear waste often being negligible). To facilitate an effective assessment in relation to nuclear waste, it could be appropriate to separate it from the other hazardous waste with two separate indicators.
- **Formulae (13) on gender pay gap:** the formula floors the gender pay gap at 0. However, to address the gender gap, companies where females are paid more than males should also be addressed. Thus, the formula should allow for negative values in cases where women are paid more.

**Changes in formulas imply some time for implementation and guidance and we call on authorities to apply changes on a 1<sup>st</sup> of January basis in so as not to impact calculations in the course of the annual reporting (quarterly averages) and avoid useless restatements.** |

<ESMA\_QUESTION\_SFDR\_9>

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

<ESMA\_QUESTION\_SFDR\_10>

|The current misalignment of SFDR and CSRD timelines generate data gaps, please refer to our answer to Q1 on the need for consistency between the SFDR and the CSRD.

Qualitative information, such as company policies, management practices, processes and compliance mechanisms is particularly difficult to appreciate and estimate in the absence of reporting obligations, and requires judgmental and expertise assessment which can lead to very different result by data providers or FMPs.

1, 2, 3 PAI – Scope 3	On Scope 3 of GHG emissions: estimated models can diverge significantly leading to heterogeneity between FMPs.
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	Scope 3 data is very rarely disclosed and estimates vary dramatically across vendors. Where data is disclosed typically it is done so inconsistently (e.g. with all 17 scope 3 types not filled by individual entities). All of these factors could distort reporting figures and make them difficult to interpret by market participants independently and in reference to other asset managers.
5. Share of non-renewable energy consumption and production	Collection of raw data is very low (and high estimation error for entities that do not report) which could distort reporting figures.
6. Energy consumption intensity per high impact climate sector	We would welcome clarification on the primary NACE code of the company to be used for multi-sector companies, to understand how the primary NACE code is expected to be defined.
7. Activities negatively affecting biodiversity-sensitive areas	Collection of raw data is very low (and high estimation error for entities that do not report) which could distort reporting figures.
8. Emissions to water	Collection of raw data is very low (and high estimation error for entities that do not report) which could distort reporting figures.
9. Hazardous waste ratio	Collection of raw data is very low (and high estimation error for entities that do not report) which could distort reporting figures.
12. Gender pay gap between female and male employees	Collection of raw data is very low (and high estimation error for entities that do not report) which could distort reporting figures.
15. GHG intensity (Scope 3)	ESG Experts concluded that the data quality doesn't reach standards to be reported. Sovereign carbon emissions for Scope 3, provided by OECD, is as of 2018. However, Scope 1 & 2 data, already sourced by different providers, correspond to 2019 and therefore, it is not recommended to mix carbon emissions from different years.
19. Sovereign GHG intensity	We would welcome clarifications on the scope for a country's GHG intensity, focusing in particular on territorial emissions, treatment of agencies, treatment of imported emissions, treatment of exported emissions.

20. Investee countries subject to social violations	We identify a possible issue for indirect investments (Fund of Funds) that could lead to double counting.
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**To this extent, ESAs should consider:**

- The possibility for FMPs to mention that there is a low coverage of the PAI.
- Determining a threshold of coverage below which the PAI may be disregarded. The coverage ratio being composed of eligible assets for which we have “raw data” and estimates.

As already mentioned in previous questions, the timing of reporting on PAIs under SFDR should be aligned with reporting obligations under the CSRD to avoid any data gap issues. ]

<ESMA\_QUESTION\_SFDR\_10>

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

<ESMA\_QUESTION\_SFDR\_11>

[We understand that the rationale for this proposal is to enable investors to access the robustness of the PAI indicators. Nevertheless, we have some doubts with regards the value of such information. The November 2022 Q&A from the ESAs indicates that providing this information is a “good practice” and we believe that this information should not be made mandatory and should remain a “good practice”. In any case, it should be clarified what is meant by “information received directly from investee companies” : can the information provided by data providers be considered as “directly received from investee companies” when such data providers have obtained the information directly from the company?

On another note, we believe that an information that will bring more more added value to the PAI reporting would be the coverage ratio of PAI indicators (coverage being understood as “raw data” and estimates).. Indeed, until the CSRD/ESRS is fully implemented (and depending on the evolution of CSRD requirements, please refer to Q1 for the CSRD context), financial market participants struggle to collect all the required information from investee companies to assess PAI indicators. This information will provide a useful information to investors for comparability purposes and investment decisions. ]

<ESMA\_QUESTION\_SFDR\_11>

**Q12 : What is your view on the approach taken in this consultation paper to define ‘all investments’? What are the advantages and drawbacks you identify?**

**Would a change in the approach adopted for the treatment of ‘all investments’ be necessary in your view?**

<ESMA\_QUESTION\_SFDR\_12>

AFG understands ESAs’ objective to enhance comparability between financial products. However, we believe that flexibility should be provided, as both proposed approaches make sense. Therefore, FMPs should have the possibility to decide which approach they wish to take (i.e. approach 1: “all investments” or approach 2: investments in the particular type of “asset” the PAI relates to i.e. investee entity or sovereign or real estate i.e. “the eligible assets” i.e.).

When using the first approach, we believe that the denominator should be the Net Asset Value rather than Asset Under Management.

When using the second approach, the denominator would be the eligible assets only. FMPs should complement their disclosure with the publication of an eligibility ratio. This ratio would be the eligible asset exposure over the net asset value of the financial product and would allow comparability between products using the approach 1 and products using the approach 2. |

<ESMA\_QUESTION\_SFDR\_12>

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

<ESMA\_QUESTION\_SFDR\_13>

As already explained in Q1, we believe that consistency between the CSRD and the SFDR is essential. In this regard, we agree to include information on investee companies’ value chains in the PAI calculations only when such information is reported by the investee company. Moreover, it should be clearly mentioned that FMPs can use estimations and proxies when data are not available from the investee company. |

<ESMA\_QUESTION\_SFDR\_13>

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

<ESMA\_QUESTION\_SFDR\_14>

AFG agrees with ESMA that the exposures are meaningful and that as a principle, the PAI calculations should seek to account the exposures also gained through derivatives when meaningful/material to the ESG strategy. However, our answer is no to this question as AFG believes that the proposal is imperfect and incomplete.

**It is essential to have a coherent approach between the different metrics, i.e. all 3 metrics : SI, PAI, taxonomy alignment should bear a coherent, consistent and complete calculation methodology.** It seems to us that the current proposal is not accurate and bears inconsistencies. We firmly believe that the accuracy should be a priority in terms of disclosure, and SFDR is a disclosure regime. And when this is at the expense of comparability, this should be accepted. Indeed, the comparability on inconsistent and inaccurate calculations is meaningless and in any case the SFDR should pursue first its objective of transparency (and at lesser extent comparability, when choices are to be made).

AFG is of the opinion that the proposal should strive to be aligned and consistent with the type of calculations used also for financial ratios. The goal is to achieve meaningful and consistent calculations.

If ESMA is right with the principle of counting in also the exposures gained through ESG meaningful/material\* derivatives, the AFG does not understand the suggestion to differentiate between indicators and only add exposure if it has a “negative” impact on to the indicator. AFG totally disagrees with this suggestion, which is disconnected to the consistency of the use of derivatives for UCITS and AIFMD directives. The use of the exposure through derivatives should consider both sides, whether it increases or decreases the indicator.

AFG advocates that, at least for the numerator, **ESG meaningful/material derivatives should be in.** There is no doubt that the calculation is delta equivalent exposure following the UCITS and AIFMD global risk calculation guidelines. AFG also agrees with ESMA’s suggestion that the net shorts should be floored to 0.

As a reminder, net delta equivalent exposures grasp the economical exposures of funds, which represent the fund’s and thus investors’ exposures to the economy. The question of the counterparty method of hedging is intrusive and irrelevant for this matter. It would be a nightmare with no value added to ask each counterparty on each deal, knowing that they have Basel strict rules of hedging risks on the management of their books. Funds’ counterparties of derivatives and other EPMs are banking regulated entities that are required to hedge their positions and not keep open positions. There will always be a buying (or selling) interest in the market linked to the derivative’s long (or short) exposure.

\* AFG means by ESG meaningful/material derivatives the application of an approach that takes into account meaningful exposures. Indeed, according to the objective of the derivative, i.e. in particular materiality and ESG intentionality are key. The use of for instance ESG neutral derivatives such as foreign exchange or interest rate derivatives should be disregarded. Also, non-significant and/or temporary use of derivatives or the use of derivatives on broad indices do not concur to the ESG profile of the fund and are excluded. |

<ESMA\_QUESTION\_SFDR\_14>

**Q15 : What are your views with regard to the treatment of derivatives in general (Taxonomy-alignment, share of sustainable investments and PAI**

## calculations)? Should the netting provision of Article 17(1)(g) be applied to sustainable investment calculations?

<ESMA\_QUESTION\_SFDR\_15>

AFG agrees with ESMA with regards of the clarification of the treatment of derivatives. The solutions should also be viewed in a broader context that goes beyond our sector and involves specialists' suggestions like ISDA. As to the previous question, AFG insists on consistent calculation methods between long and short (consider both, i.e. their net result) and between indicators (PAI, taxonomy-alignment, share of sustainable investments).

Calculations should be based on the **net delta underlying-equivalent methodologies** as they are detailed in the UCITS/AIFMD global risk calculation methodologies.

AFG **agrees that the netting provisions** should be applied to sustainable investment calculations and suggests to be more accurate than the sole reference to Article 17(1)(g), by also linking to the UCITS and AIFMD global risk rules (including the netting and hedging provisions).

As a reminder, derivatives are an integral part of efficient portfolio management performed in the best interest of the fund investors and rules to deal with derivatives' underlying exposures are already in place. This is why the unique prism of greenwashing risk to deal with derivatives exposure is incorrect and leading to an inconsistent methodology. AFG believes that a non-harmonised approach that dictates the inclusion of derivatives based solely on the risk of greenwashing is not in line with the treatment of these subjects by the UCITS and AIFM Directives, nor with the objectives and the reality of investment management. It is essential that the approach be similar for the 3 indicators : PAI, SI and taxonomy.

Derivatives should be included in the numerator of these ratios only (and systematically) when they have been integrated into the portfolios as part of the ESG management objective. For this, it is necessary to :

- disregard FX and interest rate derivatives
- distinguish a rather structural and non-negligible use to include derivatives . Indeed, the vast majority of derivatives' use is not for ESG exposure purposes as they are only used for EPM - efficient portfolio management techniques for liquidity reasons / time to market reasons, risk management, and on a temporary/non-structural manner and/or for a negligible proportion of the portfolio. The indicators should instead account for derivatives that do contribute to the ESG strategy - both for long and short exposures.
- base the calculations on the net exposure by issuer (either when a single-underlying derivative is used or derivatives on indices/baskets with few securities and that be easily transpired)
- include shorts if they are based on a single underlying derivatives or on undiversified baskets/indices (i.e. with few securities)
- floor to 0 net short exposures



- ensure that counterparties for OTC derivatives are eligible entities with regards to the ESG criteria of the asset manager like controversies.

On the complex subject of the denominator, AFG would like to :

- recall the importance of meaningful transparency which is linked to accuracy in the calculation
- suggest not impose total assets as the sole denominator for all calculations because it is not appropriate for all PAIs
- recommend that “all meaningful assets” be used (including the delta equivalent exposure of meaningful/material derivatives), but net total assets could also be used in some cases for reasons of operational simplicity when the use of derivatives is mainly for risk/Efficient Portfolio Management reasons and are not entered with/have an effect on an ESG objective and/or when the part of non-ESG assets (in particular cash) is structurally non-significant. When the approach of “all meaningful assets” is used, the asset manager mentions the part it represents on the net assets. |

<ESMA\_QUESTION\_SFDR\_15>

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

<ESMA\_QUESTION\_SFDR\_16>

|Yes. The asset classes question is clarified if an additional reference is made to the UCITS and AIFMD global risk rules (including netting and hedging rules). The sectoral rules are more detailed and broader in scope than a literal reading of the specific provisions of the Short Selling Regulation pointed at. |

<ESMA\_QUESTION\_SFDR\_16>

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

<ESMA\_QUESTION\_SFDR\_17>

|As a general comment, we have some doubts over the proposed clarification in the context of the level 2 review while the EC has announced an SFDR assessment in autumn which could likely lead to the review of level 1. Indeed, the “DNSH” is a level 1 concept, entangled with SFDR’s “sustainable investment” concept and we believe that a level 1 review should be made prior to any detailed requirements at level 2.

Moreover, it should be reminded that the DNSH is one of the “sustainable investment” components. “Fixing” the DNSH only will not allow to achieve the ESAs’ objective of further comparability when the other components of the “sustainable investment” definition (notably the contribution part) are not clearly defined. |

<ESMA\_QUESTION\_SFDR\_17>

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

<ESMA\_QUESTION\_SFDR\_18>

|For our general comment on the DNSH review, please refer to Q17.

We are not in favour of a mandatory requirement to disclose quantitative thresholds to take into account the PAI indicators for DNSH purpose.  
In addition, it should be reminded that threshold can also be applied through binary tests (Yes/No) on qualitative information. |

<ESMA\_QUESTION\_SFDR\_18>

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

<ESMA\_QUESTION\_SFDR\_19>

|In its Sustainable Finance package published on 13<sup>th</sup> June 2023, the EC has already confirmed that a “safe harbour” was provided for environmental DNSH for taxonomy aligned activities.  
We would like to remind that it may be difficult to implement for FMPs from an operational standpoint. Indeed, it would be difficult to have two-parallel processes: i.e. applying the SFDR DNSH to the proportion of investments that is not taxonomy-aligned and not applying the DNSH to the other part of the product (taxonomy-aligned proportion).  
In this context, we believe that this “safe harbour” should remain optional and FMPs should be allowed to apply the SFDR DNSH to taxonomy aligned activities.  
Actually, the safe harbour option could be beneficial for use of proceeds products triggering only one activity. |

<ESMA\_QUESTION\_SFDR\_19>

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

<ESMA\_QUESTION\_SFDR\_20>

From a theoretical standpoint, merging both DNSH would have the advantage to ensure consistency between the Taxonomy Regulation and the SFDR. However, practical implementation seems very challenging for the following reasons:

- As already mentioned in Q19, the Taxonomy DNSH applies at economic activity level while the SFDR DNSH applies at entity level.
- The Taxonomy Regulation does not set any “social” objective. Until a Social Taxonomy gets developer and enters into force, the EU DNSH only covers environmental DNSH. |

<ESMA\_QUESTION\_SFDR\_20>

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

<ESMA\_QUESTION\_SFDR\_21>

|TYPE YOUR TEXT HERE |

<ESMA\_QUESTION\_SFDR\_21>

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

<ESMA\_QUESTION\_SFDR\_22>

Overall, we believe that the proposal disclosures on decarbonisation are heading in the right direction and allows for further transparency and comparability. However, it should be clearly mentioned that these requirements only apply to products with GHG emission reduction targets. In addition, requirements are too detailed and complex to implement at this stage and some disclosures could be alleviated pending harmonized data and methodologies (please refer to our answers in Q23 to Q29 for further detail. |

<ESMA\_QUESTION\_SFDR\_22>

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

<ESMA\_QUESTION\_SFDR\_23>

We are in favour of providing a hyperlink to the benchmark disclosures for products having GHG emissions reduction as their investment objective under Article 9(3) SFDR. This proposal would have the advantage to alleviate the annexes which are already overloaded. |

<ESMA\_QUESTION\_SFDR\_23>

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

<ESMA\_QUESTION\_SFDR\_24>

The distinction is useful to understand how the product intends to achieve the GHG reduction it aims for. However, it should be reminded that there are many ways to achieve GHG reductions. In this context, the description of the strategy should remain in the hands of FMPs.

Thus, we believe that options "(a) divests from investments with particular GHG emissions levels and invests instead in companies with lower GHG emissions", "(b) invests in companies that are expected to deliver GHG emissions reductions over the duration of the investment" and "(c) engages with investee companies to contribute to their GHG emissions reduction" should be completed with an option "(d) Other – explain" that would allow to capture other ways to reduce GHG emissions.

It is important to remind that it may be hard to assess whether the GHG reduction is achieved through one lever or another and it may be achieved by a combination of levers. In this context, we believe that options (a), (b), (c) and (d) previously mentioned should not be mutually exclusive. |

<ESMA\_QUESTION\_SFDR\_24>

**Q25 : Do you find it useful to have a disclosure on the degree of Paris-Alignment of the Article 9 product's target(s)? Do you think that existing methodologies can provide sufficiently robust assessments of that aspect? If**

**yes, please specify which methodology (or methodologies) would be relevant for that purpose and what are their most critical features? Please explain your answer.**

<ESMA\_QUESTION\_SFDR\_25>

We believe that it is useful to have a disclosure on the degree of Paris-Alignment. However, we have some additional comments:

- We do not understand why article 8 products do not have the possibility to be aligned with Paris Agreement. We believe that this disclosure would make sense for both article 8 and 9 products.
- The disclosures are presented in a binary way: either the product is aiming aligned with 1.5 degrees (“Yes”) or it’s not aiming to be aligned to 1.5 degree (“if no, include the following text *“The target of this financial product is not compatible with the objective to limit global warming to 1.5 °C.”*”). There is also the possibility to say that the alignment has not been assessed. Such possibility should also be included in the templates.
- To avoid any confusion, we believe the wording of the question should be modified: “Does the greenhouse gas emission reduction target aim to limit global warming to well below 2°C?”

There is no standard metrics or methodology to assess Paris-aligned decarbonization pathway and there are many pathways to achieve Net Zero being used by FMPs at this stage, with a significant level of complexity. |

<ESMA\_QUESTION\_SFDR\_25>

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

<ESMA\_QUESTION\_SFDR\_26>

We agree with the proposed approach to require that the target is calculated for all investments allowing for comparability between financial products. |

<ESMA\_QUESTION\_SFDR\_26>

**Q27 : Do you agree with the proposed approach to require that, at product level, Financed GHG emissions reduction targets be set and disclosed based on the GHG accounting and reporting standard to be referenced in the forthcoming Delegated Act (DA) of the CSRD? Should the Global GHG Accounting and Reporting Standard for the Financial Industry developed by PCAF be required as the only standard to be used for the disclosures, or should any other standard**

**be considered? Please justify your answer and provide the name of alternative standards you would suggest, if any.**

<ESMA\_QUESTION\_SFDR\_27>

We agree with the proposed approach to require the use of PCAF methodology as long as this methodology is referenced in the ESRS and ISSB framework. As already mentioned, there is a need for consistency between SFDR and the CSRD (and ISSB – “interoperability”).

<ESMA\_QUESTION\_SFDR\_27>

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

<ESMA\_QUESTION\_SFDR\_28>

We believe that some information will unnecessarily overload financial products’ annexes with no added value. Especially given the fact that if targets are set in “gross” terms, additional requirement to also set targets on off-sets is not only burdensome but useless.

In this context, we would like to propose some amendments to the “GHG emission reduction targets” table:

- As already explained above, we believe that disclosure on “GHG removals and storage” and “Carbon credits used by investee companies and/or purchased by the FMP” does not bring any added value to the financial product reporting when targets are set on gross, hence we believe that these lines should be removed or optional.
- We agree with the objective of the ESAs to allow further comparability between financial products; hence we believe that the first line of the table should be kept. However, financial products have different ways to achieve GHG emission reduction targets. In this context, we believe that an additional line allowing FMPs to disclose other KPIs should be included.

To sum up, we believe that the table should be modified in the following way:

	[Baseline year]	[Date of expected achievement of intermediate target]	[Add columns for other intermediate targets, where applicable]	[Date of expected achievement of the final target]
GHG emission reduction targets (tCO2-eq/€M)				
Other KPI (to be defined by the FMP)				

<ESMA\_QUESTION\_SFDR\_28>

**Q29 : Do you find it useful to ask for disclosures regarding the consistency between the product targets and the financial market participants entity-level targets and transition plan for climate change mitigation? What could be the benefits of and challenges to making such disclosures available? Please explain your answer.**

<ESMA\_QUESTION\_SFDR\_29>

We believe that such disclosure wouldn't be useful and may be difficult to explain to retail investors. Indeed:

- Targets at entity and product level may not be similar.
- Methodologies used to calculate these targets may be different and difficult to reconcile.

<ESMA\_QUESTION\_SFDR\_29>

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

<ESMA\_QUESTION\_SFDR\_30>

As a general comment, we would like to highlight that changes made to the content and format of the templates raises significant challenges for FMPs (additional costs and operational burden). Moreover, we would like to remind that SFDR annexes have been applying since January 2023 and have already been updated in February 2023 to include disclosure requirements about nuclear and gas-related activities. Modifying the content and format of the templates once again will have a significant impact on the FMPs without any impact study on the potential benefits and drawbacks. Additionally, retail investors may not understand why templates are constantly changing.

We support the inclusion of a dashboard which we believe will enhance templates readability and comparability.

Nevertheless, we have some technical comments:

- On Annexes II to V:

- The numerous pictograms are confusing and will be difficult to implement on an operational standpoint. We suggest avoiding to erase the pictograms.
- We believe that the relationship between “q” and “r” is too complex for a retail to understand. Moreover, we believe that “r” is not always included in “q”, we suggest erasing the curly bracket.
- On Annexes II & IV – Article 8 products: we believe that the title of the article 8 template should not require a split between E or S characteristics promoted by the financial products.
- On Annex III & V – Article 9 products: the EC has clarified that “*passive funds tracking an EU Climate Benchmark fall under the scope of Article 9 and are deemed to have sustainable investment as an objective*”. In this context, we believe that article 9 templates should include two additional tick-boxes to clarify whether the product is an article 9(3) product or not. |

<ESMA\_QUESTION\_SFDR\_30>

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

<ESMA\_QUESTION\_SFDR\_31>

### **1. Numbering of questions**

For ease of reference, we believe that the templates’ questions should be numbered.

### **2. Clearly define what information is expected in the template**

AFG believes that ESAs should further clarify what is expected from the questions included in the templates. This would improve investors understanding and allow a consistent supervisory approach by National Competent Authorities.

Indeed, supervisory practices differ within the EU. If we take the example of the question “What investment strategy does this product, follow?”:

- Some NCAs consider that FMPs should only include financial elements,
- Others consider that only non-financial elements should be included,
- And others that both financial and non-financial elements should be included.

It is essential that ESAs clearly define what is expected from each question to allow a consistent implementation and supervisory practice within the EU. These clarifications could be included directly in the annexes or in a guidance document.

### **3. Taxonomy-alignment graphical representation**



The ESAs Final RTS published in September 2022 indicates that if the product does not invest in fossil gas and/or nuclear energy EU Taxonomy-aligned economic the Taxonomy breakdown is not required and it is possible to include the previous graphical representation format (“*If the product does not intend to invest in such activities, such breakdowns are not required in the graphical representation and the existing graphical representations from the already published version of Commission Delegated Regulation (EU) 2022/1288 should be used instead.*”). The current version of the templates does not allow for this possibility as it is not mentioned in the templates. We believe that this possibility should be included.

Moreover, it should be made clear that FMPs commitments is on the “global share of EU Taxonomy investment” (i.e. “d%” in the templates) and not on the taxonomy split (i.e. a, b and c in the templates).

Finally, from an IT perspective, the graphical representation is difficult to produce. ESAs should consider simplifying the format. ]

<ESMA\_QUESTION\_SFDR\_31>

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

<ESMA\_QUESTION\_SFDR\_32>

[TYPE YOUR TEXT HERE ]

<ESMA\_QUESTION\_SFDR\_32>

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

<ESMA\_QUESTION\_SFDR\_33>

[AFG supports ESAs proposal to erase the investment tree in the asset allocation. Indeed, the allocation tree was not clear and numerous questions were raised on the matter, notably: it gives the impression that ratios are subset of each other and may lead to double counting issues.

In conjunction with the deletion of the allocation tree, we believe that question “*What is the minimum share of sustainable investments with an environmental objective that do not meet the criteria of the EU Taxonomy?*” should also be erased.

Indeed as already mentioned, “sustainable investment” and “taxonomy” ratios are two different notions (as confirmed by the EC in the answer to the ESAs questions published in April 2023) and are

not subsets of each other, we hence believe that this question would be confusing and lead to reporting errors. |

<ESMA\_QUESTION\_SFDR\_33>

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

<ESMA\_QUESTION\_SFDR\_34>

|We believe that the fact that pictograms have different colours depending on the answer of the question will be difficult to implement with no added value. Moreover, we believe that colours will bring confusion to investors understanding as the “green” colour is only used when the products “makes sustainable investments, EU Taxonomy aligned investments, or where it considers PAI” with no other distinction. In this way, we believe that requirements on the use of colours should not be maintained. |

<ESMA\_QUESTION\_SFDR\_34>

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

<ESMA\_QUESTION\_SFDR\_35>

|TYPE YOUR TEXT HERE |

<ESMA\_QUESTION\_SFDR\_35>

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

<ESMA\_QUESTION\_SFDR\_36>

|TYPE YOUR TEXT HERE |

<ESMA\_QUESTION\_SFDR\_36>

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

<ESMA\_QUESTION\_SFDR\_37>

[TYPE YOUR TEXT HERE ]

<ESMA\_QUESTION\_SFDR\_37>

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

<ESMA\_QUESTION\_SFDR\_38>

**AFG believes that clarity is needed on the calculation of the “sustainable investment ratio” (SI ratio).** Please refer to our answers in Q12, 14, 15 and 16 for the denominator’s definition. |

<ESMA\_QUESTION\_SFDR\_38>

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

<ESMA\_QUESTION\_SFDR\_39>

[TYPE YOUR TEXT HERE ]

<ESMA\_QUESTION\_SFDR\_39>

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

<ESMA\_QUESTION\_SFDR\_40>

[TYPE YOUR TEXT HERE ]

<ESMA\_QUESTION\_SFDR\_40>

**Q41 : What are your views on the proposal to require that any investment option with sustainability-related features that qualifies the financial product with investment options as a financial product that promotes environmental and/or social characteristics or as a financial product that has sustainable investment as its objective, should disclose the financial product templates, with the exception of those investment options that are financial instruments according to Annex I of Directive 2014/65/EU and are not units in collective investment undertakings? Should those investment options be covered in some other way?**

<ESMA\_QUESTION\_SFDR\_41>

[TYPE YOUR TEXT HERE ]

<ESMA\_QUESTION\_SFDR\_41>

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

<ESMA\_QUESTION\_SFDR\_42>

[TYPE YOUR TEXT HERE ]

<ESMA\_QUESTION\_SFDR\_42>

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

<ESMA\_QUESTION\_SFDR\_43>

[TYPE YOUR TEXT HERE ]

<ESMA\_QUESTION\_SFDR\_43>