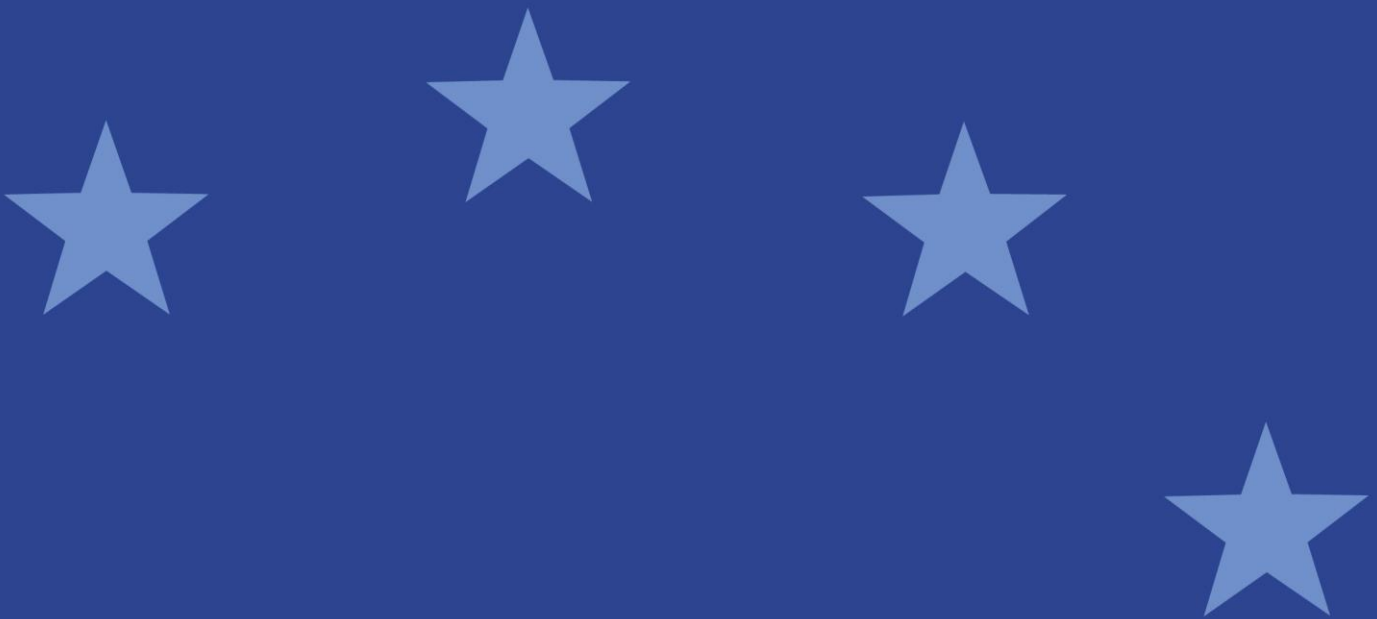


# Response form for the Joint Consultation Paper concerning Taxonomy-related sustainability disclo- sures





## Responding to this paper

The European Supervisory Authorities (ESAs) welcome comments on this consultation paper setting out the proposed Regulatory Technical Standards (hereinafter “RTS”) on content and presentation of disclosures pursuant to Article 8(4), 9(6) and 11(5) of Regulation (EU) 2019/2088 (hereinafter Sustainable Finance Disclosure Regulation “SFDR”) and in particular on the specific questions summarised in Section 3 of the consultation paper under “Questions to stakeholders”.

Comments are most helpful if they:

- contain a clear rationale; and
- describe any alternatives the ESAs should consider.

When describing alternative approaches the ESAs encourage stakeholders to consider how the approach would achieve the aims of SFDR.

## Instructions

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

- Insert your responses to the questions in the Consultation Paper in the present response form.
- Please do not remove tags of the type <ESA\_QUESTION\_ESG\_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 response, name your response form according to the following convention: ESA\_ESG\_nameofrespondent\_RESPONSEFORM. For example, for a respondent named ABCD, the response form would be entitled ESA\_ESG\_ABCD\_RESPONSEFORM.
- The consultation paper is available on the websites of the three ESAs and the Joint Committee. Comments on this consultation paper can be sent using the response form, via the [ESMA website](#) under the heading ‘Your input - Consultations’ by 12 May 2021.
- Contributions not provided in the template for comments, 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<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	European Association of Co-operative Banks
Activity	Banking sector
Are you representing an association?	<input checked="" type="checkbox"/>
Country/Region	Belgium

## Introduction

***Please make your introductory comments below, if any:***

<ESA\_COMMENT\_ESG\_1>

TYPE YOUR TEXT HERE

<ESA\_COMMENT\_ESG\_1>

## Q1 : Do you have any views regarding the ESAs' proposed approach to amend the existing SFDR RTS instead of drafting a new set of draft RTS?

<ESA\_QUESTION\_ESG\_1>

The EACB appreciates that the ESAs have been transparent on this process and are addressing this question to stakeholders. We would thus like to express our support that the proposed approach of a single comprehensive set of SFDR RTS rather than separate draft RTS, is very much favoured by our members.

The EU co-legislators should in terms of transparency and fiduciary duties to the client, definitely avoid a situation where separate templates or multiple amendments to templates exist. The stakeholder responses to the July 2020 consultation on the SFDR RTS already showed that the industry considered the pre-contractual and periodic product templates too complex for clients. In addition, the two consumer testing exercises run by the ESAs for the draft RTS in the Netherlands and Poland showed that *"a substantial number of respondents found the text complicated and hard to read. Another, quite large, portion of the respondents said that they had not been able to read the complete document, were not interested or simply did not know"*. This issue will be further intensified with the addition of the current Taxonomy related amendments to the templates, especially if they are provided as a separate template instead of an integrated set.

That said, the proposed process accompanying the consolidated transparency approach is far from perfect for the following reasons:-

- **Timeline challenges of SFDR RTS:** On 4 May, the no-objection period of the European Commission to adopt the draft RTS endorsed in the ESAs' final report came to an end. But of course with the newly proposed approach through this consultation, the European Commission did not publish its decision. If the ESAs do deliver their final report by latest July 2021 as indicated, then normally another three months' no-objection period would apply. We are thus envisaging a final set of SFDR RTS to be adopted by the European Commission around October 2021, which of course would then be subject to a scrutiny period by the European Parliament or the Council. The final RTS may be very different than the current draft RTS, and might even be published in the Official Journal of the European Union after the proposed application date of the RTS (1 January 2022). Against this background, the expectation for banks and other financial companies to plan ahead for implementation by 1 January 2022 is highly impractical and disappointing.
- **Timeline challenges with Taxonomy RTS:** The Sustainable Finance Package of 21 April 2021 published by the European Commission, has shed some light on the various workstreams in sustainable finance that are vital for successful compliance with the SFDR. However, the timeline challenges also persist in these files because not all the technical screening criteria RTS mandated under the Taxonomy have been published in order to apply the Taxonomy-related disclosures being proposed in this consultation under the SFDR. The ESAs try to address this issue in the consultation by proposing a transitional approach, whereby application of the disclosures for the Taxonomy's climate objectives (Article 9a-9b Taxonomy) starts to be applied to the templates from 1 January 2022, and the disclosures for non-climate objectives (Article 9c-9f Taxonomy) would become applicable from 1 January 2023. The rationale behind this is because the technical screening criteria for climate objectives has now been adopted in the Sustainable Finance Package of 21 April, and those for non-climate objectives are still pending. However, we are still missing from the climate objectives, the technical screening criteria for some agriculture and energy sectors. Furthermore, the methodology for the Taxonomy related pre-contractual disclosures that must be made to the client under the SFDR also takes into account the advice by the ESAs on Article 8 Taxonomy disclosures. The delegated act derived from Article 8 Taxonomy, is only now just under consultation for a short three week period. The intention is for the delegated act to be adopted by June 2021, and become applicable in January 2022, but this is a very tight deadline to fulfil. We are also still analysing the consultation paper and proposed delegated act to better understand if there are any issues. Overall, it is highly unlikely that any Taxonomy related disclosures could be effectively made from the beginning of 2022 due to the above reasons
- **Data challenges:** The issue with lack of data quality and availability is not new, but it is important

to mention in terms of managing implementation of the rules. The pre-contractual and periodic reporting requirements under SFDR will require the use of data resulting from the NFRD and the principle adverse impact (PAI) statements under the SFDR. Furthermore, the new Corporate Sustainability Reporting Directive (CSRD) published under the Sustainable Finance Package will also help cover data gaps under the NFRD through an extended scope. However, the first reporting of NFRD data and the entity-level PAIs (Article 4 SFDR) will not be published until the summer of 2023. As from December 2022, the product-level PAIs (Article 7 SFDR) will then become applicable which means reporting at product level in this regard will even begin at a later stage. Finally, the data under the CSRD will only become available as from 2024. As far as Taxonomy Related templates are concerned, it thus makes little sense to start reporting for 2021 in 2022.

- **Legal certainty of ESAs' safeguards:** In February, the ESAs published a supervisory statement accompanying the final report on the SFDR RTS. In this statement, the ESAs stated that NCAs could base their supervision, and that financial market participants and financial advisors could begin implementation towards compliance, based on the draft SFDR RTS even though these could be subject to change by the EU co-legislators. This statement was likely meant to address the impractical timing and sequencing scenario described above which will definitely cause a double implementation effort, with additional costs and challenges for financial companies. However, it is very difficult from a legal perspective for the industry to rely on a supervisory statement that is based on a draft RTS, which is not even published in the OJEU or at least adopted by the European Commission. The legal basis for such "safeguard" is questionable. Another safeguard provided for in the statement is that allowing for a transition period for the application of Article 11 SFDR on periodic reporting "...in case the RTS are not adopted sufficiently early to allow at least six months to enable financial market participants to gather the necessary information and adapt their practices to comply with Chapter V of the RTS". This safeguard is appreciated by the EACB, but it is legally uncertain at this stage if such transitional approach will be supported by the European Commission.
- **Level 1 SFDR issues:** We understand that there are challenges that the ESAs cannot really help the industry with because these stem from legal issues under the Level 1 SFDR text. Some of these issues were addressed by the ESAs to the European Commission in a letter submitted in January 2021, but we still eagerly await a reply from the Commission. For example, one important level 1 issue is the frequency of periodic reporting for asset management customers. The Level 1 SFDR text does not provide immediate clarity on this. Article 11(2)(h) SFDR refers to Article 25(6) MiFID II, but there is no mention here of the frequency with which the reports are to be provided. There seems to be a 'conceptual error' in the regulation when integrating MiFID II into SFDR. We currently assume an annual obligation in relation to a quarterly or monthly reporting, on the basis of MiFID II. Also subject to the preamble 21 of the SFDR, we conclude that an annual periodic reporting frequency is envisaged. In addition, we assume that SFDR Article 11(2) deals with the method of distribution, not specifically the frequency thereof. If the MiFID frequency were to be followed, we believe that there would be inexplicable and undesirable differences between different products and sectors. The monthly or quarterly reporting frequency compares poorly with the frequency of reports on other financial products that fall within the scope of SFDR, for example those products on which banks depend on their MiFID portfolio management services (e.g. the annual reporting frequency for UCITS and AIFs that compares poorly with a monthly or quarterly report for MiFID portfolio management services). In addition, the reports of the UCITS and AIFs will also have to serve as input for banks' portfolios consisting wholly or partly of investment funds.

For these reasons, we can only see the proposed approach working if:-

- The Commission provides answers and legal certainty with respect to the various Level 1 issues still unclear to the industry;
- All pending Taxonomy and SFDR RTS are adopted by the EU-co legislators within the required timelines that could allow sufficient implement time;
- However, in the case that the financial market participants will have less than 6 months to implement the SFDR RTS (which to be fair already seems to be the case), then the Commission could endorse the ESAs safeguards in their supervisory statement, and also provide additional safeguards for further articles under the SFDR.
- Under normal circumstances, this implementation period would require at least 12 months for

banks to be prepared. Considering the legal uncertainty and constantly changing content and timelines, banks cannot deploy the required large-scale (IT) capacity by 1 January 2022. We therefore consider it a reasonable and fair position that costly and limited (IT) capacity is only used once there is sufficient certainty about the obligations that will apply.

- We also consider that a best-efforts transitional approach is expected in the first year (January to December 2022) of application of the SFDR RTS and the RTS under Articles 5, 6 and 8 of the Taxonomy. It would be confusing to investors/distributors and burdensome to manufacturers to apply the templates based on the first SFDR RTS (which are not yet endorsed by the EU co-legislators) and then these must be changed based on the Taxonomy related amendments. The use of templates should start only after the adoption of the comprehensive SFDR RTS.

We also have specific feedback on articles under the proposed RTS and as per the content of the consultation paper:-

p. 6	<b>Paragraph 5 (IV) of consultation paper</b>	<p>The ESAs write that Article 3 Taxonomy sets out the key criteria for environmentally sustainable economic activities, where economic activities must .. (iv) “comply with <i>all</i> the technical screening criteria under Articles 10(3) (substantial contribution to climate change mitigation), 11(3) (substantial contribution to climate change adaptation), 12(2) (substantial contribution to sustainable use of and protection of water and marine resources), 13(2) (substantial contribution to the transition to a circular economy), 14(2) (substantial contribution to pollution prevention and control) or 15(2) (substantial contribution to the protection and restoration of biodiversity and ecosystems).</p> <p>However, Article 3 Taxonomy does not state that there has to compliance with all the technical screening criteria; “..complies with technical screening criteria that have been established by the Commission in accordance with Article 10 (3), 11(3), 12(2), 13(2), 14(2) or 15(2).”</p>
p. 8	<b>Paragraph 17 of consultation paper</b>	This seems to indicate that the current Article 16 of the SFDR RTS published in February will be changed. The ESAs should elaborate further on what this paragraph means.
p. 8	<b>Paragraph 21 of consultation paper</b>	We do not fully understand this paragraph stating that companies are obligated under the NFRD to disclose sustainability information, but sovereigns are technically excluded from the regulation. In terms of green sovereign bonds in the portfolio, we wonder if these count as a green activity. Further clarification here would be appreciated.
p. 11, p. 13	<b>Paragraph 38, 47 (3<sup>rd</sup> bullet) of consultation paper</b>	We are curious to know which criteria would be leading once a social taxonomy comes into place. For example, windfarms (green activity) in Western Sahara (occupied country).
p. 11	<b>Paragraph 40 of consultation paper</b>	We believe that the statement ‘that have sustainable investment as their objective’ should be changed to ‘that can be categorized as sustainable investments’. Otherwise it seems not to differentiate between Article 8 and 9 products.
p. 27	<b>Art. 59 of draft RTS</b>	We wish to understand what could be an ‘action’ under this article, and if that could be (partial) exclusion or engagement for example.



		We also wonder how reference periods could work in relation to the attainment of goals. For example, if a financial market participant sells the product on the day before the reference period, does this mean all ESG factors ‘attained’ will not count? For PAIs there will be 4 periods, but how do these 4 PAI-periods relate to the single reference period in the periodic reporting template?
<b>p. 28</b>	<b>Art. 60 of draft RTS</b>	The EACB also seeks clarity on how country allocation of instruments and funds will help consumers in reality. For example, most European investment funds are listed in Ireland or Luxembourg. This will be their country of registration, but the underlying investment could be made everywhere worldwide. The same goes for a single equity (MiFID instrument), e.g. a multinational company listed in an EU country but having worldwide (environmental) exposure.
<b>p. xx</b>	<b>Art. 61 of draft RTS</b>	Regarding Article 61a (1)(b)(i): How could PAI-indicators from table 1 be taken into account, when firms collecting this data on an entity level will disclose this information for the first time in June 2023?

<ESA\_QUESTION\_ESG\_1>

**Q2: Do you have any views on the KPI for the disclosure of the extent to which investments are aligned with the taxonomy, which is based on the share of the taxonomy-aligned turnover, capital expenditure or operational expenditure of all underlying non-financial investee companies? Do you agree with that the same approach should apply to all investments made by a given financial product?**

<ESA\_QUESTION\_ESG\_2>

Normally having the same approach for all investments made by a financial product would be the best approach, as it would allow investors to make investment decisions based on the same measure, and it would be more relevant in terms of portfolio construction and client communication. However, there is not enough information to assess if this is indeed the best approach.

Assuming that the NFRD (and future CSRD, EU Taxonomy) data are correct, available in time and aligned with the SFDR requirements, we can imagine that all three data points are used for all investments made in a given financial product (turnover, CapEx and OpEx). However, only revenue-data is available, and this makes it hard for financial market participants to be expected to calculate what % is a sustainable investment.

This makes the turnover currently the most relevant measure as it is already broadly used in the market for some indicators (CO2 intensity for example). CapEx could nevertheless reflect some kind of forward-looking measure regarding the different KPIs and it would be interesting to use it at some point in time.

Some problems persist though, such as the uncertainty that smaller companies (those which are not in scope of the Taxonomy Regulation) will report on their taxonomy alignment, which makes the accuracy of the KPI questionable. Similar data availability problems can also concern other asset classes. It would be important to clarify how much financial market participants can rely on estimates when reporting the KPI. Data availability problems are relevant also with regards to the PAI disclosure, as non-financial companies are not obliged to report the information needed for the PAI indicators.<ESA\_QUESTION\_ESG\_2>



**Q3: Do you have any views on the benefits and drawbacks of including specifically operational expenditure of underlying non-financial investee companies as one of the possible ways to calculate the KPI referred to in question 2?**

<ESA\_QUESTION\_ESG\_3>

The lack of good information on expenditure makes it hard to provide a good assessment of benefits and drawbacks of including operational expenditure of underlying non-financial investee companies as one of the possible ways to calculate the KPI. We assume that the type of business of the investee company determines the usefulness / added value of including operational expenditure.

That said, if one had to consider expenditure such as CapEx, this is an indication of the future and not the current set-up. Thus by allowing OpEx to be a measurement it will allow for a wider view of the company's Taxonomy alignment. The drawbacks however are how to combine the methodologies in the disclosures, and the fact that the communication granularity of non-financial companies not uniform. The latter is a challenge which is linked to classic accounting and financial reporting. On this basis, we would recommend to use turnover and when possible, to disclose CapEx and OpEx-derived figures for Taxonomy-alignment of an asset managers' investments based on a best efforts approach.

<ESA\_QUESTION\_ESG\_3>

**Q4: The proposed KPI includes equity and debt instruments issued by financial and non-financial undertakings and real estate assets, do you agree that this could also be extended to derivatives such as contracts for differences?**

<ESA\_QUESTION\_ESG\_4>

Considering the large scope of derivatives (future, forwards, options, Total Return Swaps, convertible bonds etc.), the nature of underlying (indices, interest rates, securities, currencies, cash etc.) and their potential usage (exposure, hedging, arbitrage), providing an answer to this question in a simple and straightforward way is highly complicated.

Moreover, given the complexity of derivative financial instruments, their potential inclusion in the KPI calculation would raise several technical questions (leverage or short positions, full exposure or residual exposure or delta equivalent exposure, collateral received or posted, etc.) and thus complicate the set up of the templates.

In principle we would thus prefer to exclude the extension of scope to all derivatives, and rather to assess the relevance of derivatives in the KPI calculation instrument by instrument, keeping in mind the risk of greenwashing if some of them were ignored or taken into account. The market would also need guidance on how to treat derivatives before including them in the KPIs.

Moreover, we wonder what level of 'look-through' should be aimed for from a discretionary portfolio management (DPM) angle. Clearly, MiFID instruments like equities and bonds are not in scope of SFDR (Article 2 and 3 SFDR). Therefore, if the fund or DPM manager uses MiFID instruments for his portfolio construction, to what level do they have to disclose and report on their holdings in the Taxonomy related product templates? In general, the difference between the term "financial instrument" according to MiFID and the term "financial product" according to the SFDR causes confusion. As financial products contain different financial instruments, but manufacturers of financial instruments are in the short term not generally obliged to disclose sustainability related information, it will be difficult for financial market participants offering financial products to obtain the necessary data for SFDR purposes. We suggest more attention should be paid by the ESAs on the level of look through.

<ESA\_QUESTION\_ESG\_4>

**Q5: Is the use of “equities” and “debt instruments” sufficiently clear to capture relevant instruments issued by investee companies? If not, how could that be clarified? Are any specific valuation criteria necessary to ensure that the disclosures are comparable?**

<ESA\_QUESTION\_ESG\_5>

Sustainable investment (Article 2(17) SFDR) means an investment in an economic activity. Investments are however not made in economic activities. Asset managers will buy “debt instruments” and “equities” issued by investee companies. The (secondary) market value of such instruments, does not reflect the investment in / contribution to the economic activity of the investee company. The proceeds of such trades (purchase price) will be for the benefit of the seller (not the investee company nor the economic activity). In that sense, we would like the ESAs to elaborate how buying equity / debt instruments (in the secondary market) can be regarded as an “investment in an economic activity”.

In terms of scope, we also wish to receive clarity that asset backed securities (ABS) can be taken into account.

<ESA\_QUESTION\_ESG\_5>

**Q6: Do you have any views about including all investments, including sovereign bonds and other assets that cannot be assessed for taxonomy-alignment, of the financial product in the denominator for the KPI?**

<ESA\_QUESTION\_ESG\_6>

We understand the logic for the Commission in accepting the ESA’s technical advice regarding Article 8 Taxonomy disclosures when providing the KPI in this proposed RTS. Considering all investments in the denominator would avoid giving a false picture of the proportion of taxonomy eligible investments compared to the product’s total investments. This would help in terms of comparability and greenwashing concerns.

We also note this approach is echoed in the newly published delegated act on Article 8 Taxonomy periodic disclosures, where all bank balance sheet assets must be considered in the denominator of the Green Asset Ratio (GAR), and all assets under management in the case of the fund or portfolio must be considered in the denominator of the Green Investment Ratio (GIR). The current methodology for the KPI under this consultation, also depends on the Article 8 Taxonomy delegated acts in terms of the above-mentioned ratios. Therefore, providing a clear response to this question is complicated by the fact that our members still need to assess the delegated act proposed for Article 8 Taxonomy, as well as, to consider the GAR and GIR methodology further as part of the related consultation.

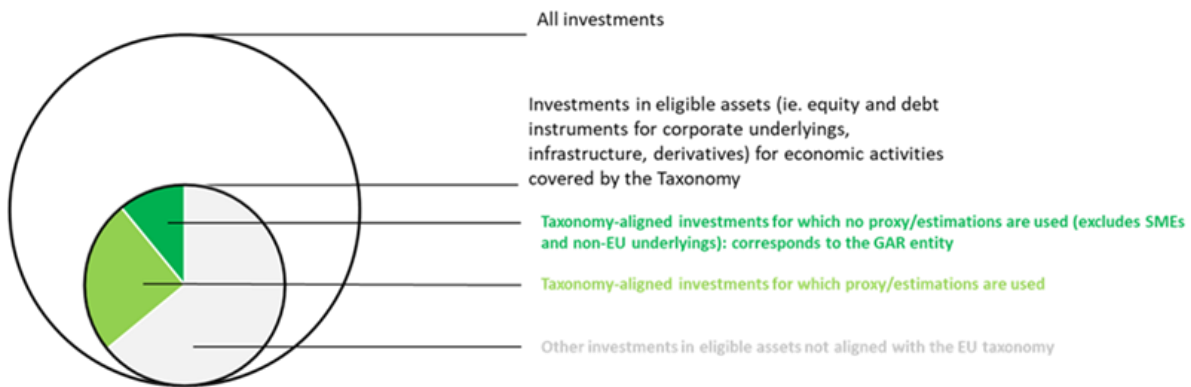
In the meantime, we note that the proposed inclusion of all eligible investments in the denominator can also be misleading. This is because the scope of eligible activities may vary greatly depending on the policy adopted by each company due to various missing pieces of the puzzle: unavailable or lack of good quality data, pending Taxonomy environmental objectives criteria, pending social Taxonomy, etc. By way of example, a company that does not want to use proxies in its GAR calculation, may decide to exclude activities for which no data is available. These may include activities related to SMEs, non-EU companies not subject to the CSRD, activities without a NACE code, and so on. However, this does not mean it is not taxonomy eligible, but just that it cannot be assessed for eligibility. This also gives a false representation to investors.

On the other hand, the company might use proxies for non-EU activities covered by the Taxonomy in its GAR for example and exclude the rest. The company might also disclose all activities in its GAR, whether it has data or not. And it may also decide to qualify all activities as non-eligible because it has no data. Besides

comparability issues, we also see a competition issue in favour of non-EU sustainable activities here which should not be the case.

Therefore, our members have considered a few solutions that could match up to these challenges:

- A blank explanation field could be added to the KPI whereby financial market participants could disclose the product’s investments and the investments’ relation to the EU Taxonomy in more detail. This would be especially relevant for situations where the product is actually environmentally sustainable or sustainable in terms of social objectives, but not Taxonomy-aligned. Just because the investments made are not Taxonomy-aligned, it does not mean that they are not ‘green’ or sustainable. However, we are not sure if retail investors would understand this explanation also considering that there are questions in the template sections where similar explanations can be made. Therefore, another option instead of a blank field could be to clarify one of the already proposed question fields in the periodic and pre-contractual templates under the heading “*Why did the financial product invest in economic activities that are not environmentally sustainable?*”. As explained in our answer to question 8, this question can be changed to something along the lines of: “*Why does the financial product make investments that do contribute to environmentally sustainable objectives, but are not aligned with the EU Taxonomy?*”. This provides the opportunity to explain but without misrepresenting the situation to the client;
- We also considered a graphical representation that could be easier for the investor to follow, and that would disclose the percentage of the total portfolio analysed.

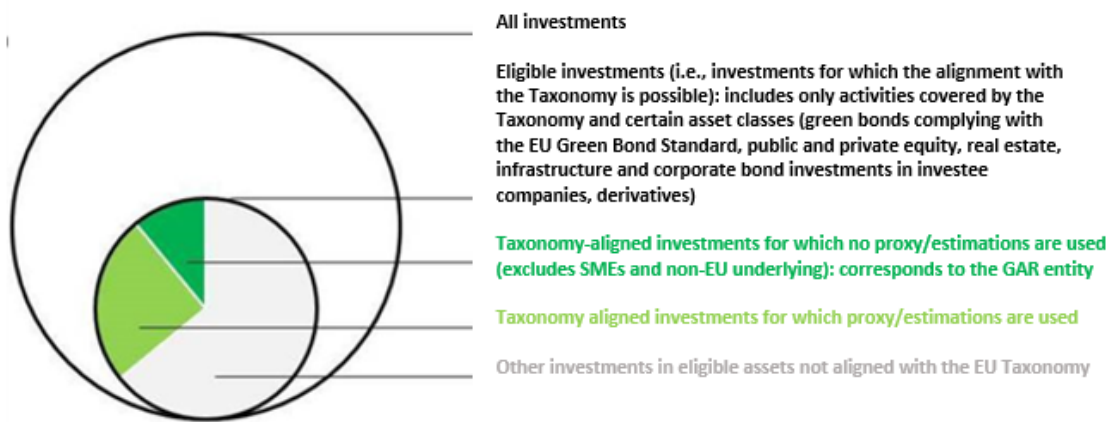


The investor would be able to see the total investments in the larger circle of the above graph, but also consider which percentage of that total is considering investments in eligible assets for economic activities covered by the Taxonomy.

We include two different examples, to illustrate how this could work. Example 1 is a product that has a mix of non-eligible and eligible investments. Example 2 illustrates a product that invests in eligible activities but some of which might be non-assessable.

Example of a financial product that invests in:

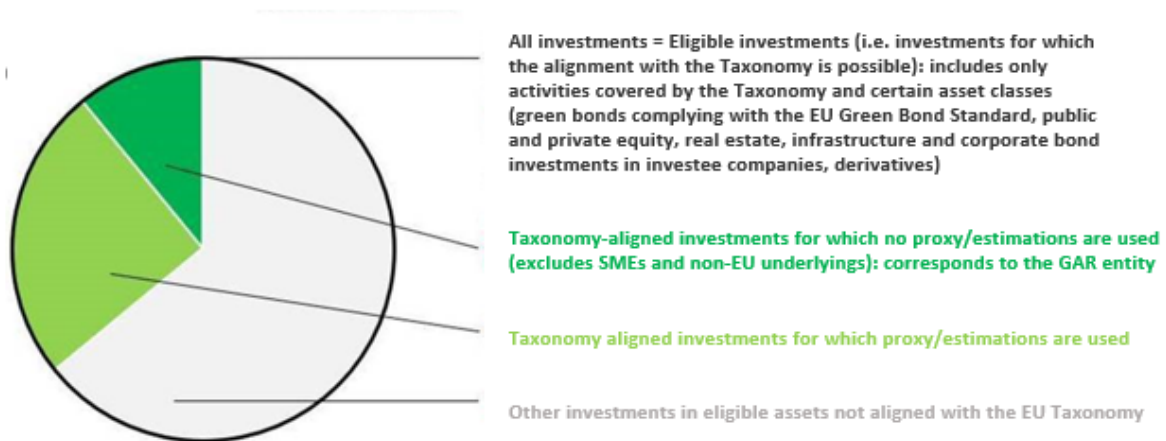
- Non-eligible investments, e.g., sovereign bonds
- Eligible investments of different sorts:
  - NFRD-corporates aligned with the Taxonomy: data is available => included in the dark green section.
  - Non-NFRD corporate aligned with the Taxonomy: data is not available, and the producer decides to use estimates to calculate the taxonomy alignment => included in the light green section. If the producer decides to not use estimates, the light green section will show 0%.
  - Other corporates not aligned with the Taxonomy: included in the grey section.



Example 1

Example of a financial product that invests in:

- Only eligible investments of different sorts:
  - NFRD-corporates aligned with the Taxonomy: data is available=> included in the dark green section
  - Non-NFRD corporate with the Taxonomy: data is not available, and the producer needs to use estimates to calculate the taxonomy alignment=> included in the light green section. If the producer decides to not use estimates, the light green section will show 0%.
  - Other corporates not aligned with the taxonomy: included in the grey section. This section includes non-NFRD corporates for which data is not available if the manufacturer decided not to use proxies/estimates.



Example 2

Of course this proposed graphical representation would have to be consumer tested to ensure that it is simple and understandable to retail clients. In the meantime, we also support a transitional best efforts approach in parallel as outlined in our answer to question 1 and 9.

<ESA\_QUESTION\_ESG\_6>

**Q7: Do you have any views on the statement of taxonomy compliance of the activities the financial product invests in and whether those statements should be subject to assessment by external or third parties?**

<ESA\_QUESTION\_ESG\_7>

It goes without saying that the data that is disseminated for the use of Taxonomy-related periodic reporting by banks for the individual portfolios that our members manage, should be reliable and of good quality. External assessments at the source of information (annual reports for example, from the investee companies) and/or licensing of the provision of such data by data vendors, can be helpful in that regard. We however don't see any benefit in external assessments of Taxonomy-related disclosures in our members' periodic reports to clients. The already existing three lines of defence model, including internal audit, and external supervision by the NCAs should be sufficient.

In general, we also see an external assessment obligation as a Level 1 question. It is not legally sound to introduce third-party verification obligations to financial products through Level 2 technical standards. In particular, we wonder which third parties this would be according to the ESAs (i.e. accounting firm, sustainability rating agencies etc.) and where the responsibility for alignment would be vested.

On this note, the CSRD shall be taking into account assurance of data at investee company level, and the requirement for an external assessment might also become mandatory for EU green bonds in the EU Green Bond standard. For other investments, the market and standards are not mature enough to include a third-party assessment at the moment.

<ESA\_QUESTION\_ESG\_7>

**Q8 : Do you have any views on the proposed periodic disclosures which mirror the proposals for pre-contractual amendments?**

<ESA\_QUESTION\_ESG\_8>

We do agree that the information provided ex-ante should be comparable and consistent with the information provided ex-post to clients. However, we anticipate that there would be already inconsistencies reported anyway in terms of data availability. As investee companies only begin to report their Taxonomy alignment in 2022, the periodic disclosures should enter into application in 2023 but some of this data will not even be available by 2022.

Furthermore, we believe that certain sections of the documents used for periodic reporting are not necessary matters for reporting in terms of substance and also due to the fact that they are merely a duplication of the content of the pre-contractual document. For ease of reading and also for keeping the spirit of a reporting document, we would welcome not to add too much information and to exclude the following headings in the periodic reporting: “Environmental and/or social characteristics”, “What methodology was used for the calculation of the alignment with the EU taxonomy and why?”, and “How does the reference benchmark differ from a broad market index?”. Furthermore, we would propose to change the heading: “Why did the financial product invest in economic activities that are not environmentally sustainable?” to something along the lines of: “*Why does the financial product make investments that do contribute to environmentally sustainable objectives, but are not aligned with the EU Taxonomy?*”. This will be easier to understand, avoid misinterpretation of clients and not discriminate against products that could be eligible but are not either not able to be assessed for Taxonomy alignment, or do not qualify for Taxonomy alignment.

<ESA\_QUESTION\_ESG\_8>

**Q9: Do you have any views on the amended pre-contractual and periodic templates?**

<ESA\_QUESTION\_ESG\_9>

In general, we support the use of templates so that retail investors get comparable information about the different financial products available in the market. However, we see the success of these templates reliant on the recommendations made in our answer to question 1. The reality is that the finalisation of the SFDR RTS by mid-2021 does not look promising and the ambition for banks to fully implement the RTS by 1 January 2022 needs to be adjusted. A best-efforts transitional approach would thus be the best way forward for the Taxonomy related disclosures in the templates, but potentially also to the SFDR RTS in general. It would make sense to align the full application of the Taxonomy related disclosures to the PAI product level disclosures under Article 7 SFDR. Therefore, disclosures and reporting would coherently and logically all commence from 2023 allowing sufficient implementation time and more data to be made available.

Furthermore, we also consider the following issues and recommendations:



- In relation to the disclosed proportion of Taxonomy aligned investments, it is still unclear whether or not this shall be seen as a minimum proportion of the underlying investment or an expected average. We also see a challenge of how to disclose the underlying data from the investors if the Taxonomy alignment is based on turnover, OpEx or CapEx. More information can be found in our answers to questions 2 and 3.
- Information overload was considered for customers to be an overwhelming experience when it came to the changes implemented post-MiFID II. In addition, the key objective of investor transparency delivered in the form of a “one-size-fits-all” template did not prove to work in situations such as the PRIIPs KID. Therefore, the value of the templates in terms of simple, consistent and comparable information to clients is in our opinion not being thoroughly achieved. It would be helpful if the ESAs could provide an up-to-date and relevant example of how the Taxonomy related product templates could look like in reality, for example for an SFDR Article 8 product that partly invests in Article 9 and has Taxonomy alignment. The ESAs would be helping to steer financial market participants in the right direction with such example.

<ESA\_QUESTION\_ESG\_9>

**Q10 : The draft RTS propose unified pre-contractual and periodic templates applicable to all Article 8 and 9 SFDR products (including Article 5 and 6 TR products which are a sub-set of Article 8 and 9 SFDR products). Do you believe it would be preferable to have separate pre-contractual and periodic templates for Article 5-6 TR products, instead of using the same template for all Article 8-9 SFDR products?**

<ESA\_QUESTION\_ESG\_10>

Our members agree that having all the relevant disclosures in the same templates for all Article 8 and 9 financial products would be preferred because it will allow for comparability. We also think the disclosures should be as simple as possible for clients, but this also depends on the availability of the data.

<ESA\_QUESTION\_ESG\_10>

**Q11 : The draft RTS propose in the amended templates to identify whether products making sustainable investments do so according to the EU taxonomy. While this is done to clearly indicate whether Article 5 and 6 TR products (that make sustainable investments with environmental objectives) use the taxonomy, arguably this would have the effect of requiring Article 8 and 9 SFDR products making sustainable investments with social objectives to indicate that too. Do you agree with this proposal?**

<ESA\_QUESTION\_ESG\_11>

We agree that such approach would give the impression that Article 8 and 9 products with social objectives would be at disadvantage until the Taxonomy has developed social objectives. We thus call for EU co-legislators to work on producing a social Taxonomy sooner rather than later. In the meantime, such products should not require disclosure of EU Taxonomy alignment.

<ESA\_QUESTION\_ESG\_11>

**Q12 : Do you have any views regarding the preliminary impact assessments? Can you provide more granular examples of costs associated with the policy options?**

<ESA\_QUESTION\_ESG\_12>





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<ESA\_QUESTION\_ESG\_12>