



Brussels, 03 July 2023

## EACB Answer to ESAs' consultation on Review of SFDR Delegated Regulation regarding PAI and financial product disclosures

### July 2023

The **European Association of Co-operative Banks** ([EACB](https://www.eacb.coop)) is the voice of the co-operative banks in Europe. It represents, promotes and defends the common interests of its 27 member institutions and of co-operative banks in general. Co-operative banks form decentralised networks which are subject to banking as well as co-operative legislation. Democracy, transparency and proximity are the three key characteristics of the co-operative banks' business model. With 2,700 locally operating banks and 52,000 outlets co-operative banks are widely represented throughout the enlarged European Union, playing a major role in the financial and economic system. They have a long tradition in serving 223 million customers, consumers, retailers and communities. The co-operative banks in Europe represent 87 million members and 705,000 employees and have a total average market share of about 20%.

For further details, please visit [www.eacb.coop](http://www.eacb.coop)

**The voice of 2.700 local and retail banks, 87 million members, 223 million customers in Europe**

**EACB AISBL** – Secretariat • Rue de l'Industrie 26-38 • B-1040 Brussels

Tel: (+32 2) 230 11 24 • Fax (+32 2) 230 06 49 • Enterprise 0896.081.149 • lobbying register 4172526951-19  
[www.eacb.coop](http://www.eacb.coop) • e-mail : [secretariat@eacb.coop](mailto:secretariat@eacb.coop)



## Introduction

The EACB welcomes the opportunity to provide feedback to the consultation of the European Supervisory Authorities (ESAs) on the review of the SFDR Delegated Regulation regarding PAI and financial product disclosures. We welcome the ESAs proposals to clarify and streamline the disclosure requirements under the SFDR, and the efforts to align with the existing – and incoming – sustainable finance legislation in particular. Nonetheless, this sustainable finance framework is still being implemented and several changes proposed by the ESAs are, in our view, still premature. We would also argue that any changes of significance should be debated during the SFDR level 1 review that will be launched shortly.

## General comments

- The EACB wishes to stress the importance of aligning SFDR RTS disclosure requirements with the new European Sustainability Reporting Standards coming into effect under the CSRD. Maximum coherence throughout the regulatory framework is key to achieve the goals pursued.
- As the SFDR level 1 review is imminent, European cooperative banks respectfully ask the ESAs to reconsider any changes to the current RTS that would imply costly and burdensome implementation, for limited benefits in the short term. Financial market participants have been making significant efforts in recent months to create the PAI statement based on the current SFDR disclosure requirements, and investors have only recently familiarised themselves with the format of disclosures. Therefore, the EACB takes the view that any overarching changes to the SFDR framework should be reserved for the level 1 review, which will provide a more appropriate context for discussion.
- While alignment with related legislations and technical corrections are welcome, the EACB is wary at this stage of the adoption of further PAIs. We understand that the ESAs have been mandated to propose changes at this time, however further implementation of the current sustainable finance framework is needed before any changes can be brought to SFDR level 2 in a meaningful way.

## Responses

**Question 1: 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)?**

The EACB takes the view that the introduction of new mandatory social indicators would be premature at this stage. The sustainable finance framework is still being implemented: financial market participants are already making significant efforts to create their PAI statements based on the current SFDR level II legislation, including costly developments (IT, training, customer



information) that will need to be reviewed. Importantly, the issues of coherence and data availability are still a concern.

The ESA's proposal to align the KPIs with the Corporate Sustainability Reporting Directive (CSRD) and the draft European Sustainability Reporting Standards (ESRS) is very much welcome as these will enable disclosures from investee companies and thereby increase the availability of reliable data. To ensure that the relevant data is available when new PAIs are introduced, and to ensure coherence of the sustainable finance framework, the entry into force of the reviewed SFDR RTS should be well aligned with the implementation of the CSRD.

As regards the proposed indicators "Amount of accumulated earnings in non-cooperative tax jurisdictions" and "interference with the formation of trade unions or election worker representatives", we foresee a significant data gap as this information is not included in the upcoming ESRS. It would be highly impractical for financial market participants to have to abide by a set of PAIs that are not aligned with non-financial reporting requirements. Furthermore, the indicator on earnings in non-cooperative tax jurisdictions under the proposed drafting seems too strict to apply to what is only a potential problem. We therefore suggest that those indicators should not be added. Only indicators with satisfactory data coverage should be included in the final RTS.

The indicator "Share of employees earning less than the adequate wage" may also be difficult to measure in the absence of a globally applicable standard.

Finally, the EACB would take the opportunity to reiterate that priority should be given to defining sustainable transition investments, as a prerequisite to a well-functioning sustainable finance legal framework. This would enable product comparability and provide legal protection against greenwashing risks.

### **Question 2: Would you recommend any other mandatory social indicator or adjust any of the ones proposed?**

As stated above in response to Q1, the inclusion of new mandatory social indicators should not currently be a priority given the lack of data and common measurement methodology. The previous PAI identification via ESG data vendors has shown that the collection of data and the mapping of the legally defined PAIs is a long process and represents a significant in particular for small and medium sized financial market participants. The mapping requires increased costs and operational burdens, with only certain parts of the investment universe being covered by non-financial reporting.

Moreover, most market participants and financial advisers and in particular retail investors are still becoming familiar with the PAI concept. The EACB considers that the list of mandatory social indicators should not be expanded at this stage to ensure better understanding by the different users and avoid confusion.

### **Question 3: 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)?**

In line with the above response to Q2, the EACB would propose not to add new KPIs for PAI assessment at this stage, and to wait for the final ESRS to ensure alignment. Annex I, Table 3 already contains a large number of social PAIs. Furthermore, several issues arise regarding specific indicators being proposed in the review:

- The notions of excessive use remain highly subjective depending on the situation. For example, some people might prefer flexibility to job security, so that the notion of precariousness is not really well appreciated. The first three indicators should therefore be reformulated.
- Insufficient employment of people with disabilities: this indicator should be aligned with existing requirements under national legislation (eg. France) and must consider the differences across sectors.
- Share of investments in investee companies without remediation mechanism for consumers/end-users of the investee companies (table 3 p.10) + formulae (65) in Annex I p.100: in line with efforts toward coherence across EU legislations, the KPI should specify that this is about materially affected consumers/end-users, for consistency with the ESRS S4 .

However if we had to consider the addition of opt-in social indicators, we would advise that in order to avoid confusion and reduce complexity, only the indicators of general importance for all assets and sectors and with satisfactory data coverage should be included in the final opt-in list.

**Question 4: Would you recommend any other social indicator or adjust any of the ones proposed?**

No. Keeping the three Tables of indicators to a small set of KPIs would be highly beneficial for the general understanding by distributors and end-investors. The concept of PAI is still new not only to most market participants and financial advisers, but especially to retail investors. Adding new indicators will very likely overstrain investors who are anyway struggling to relate entity-level disclosures, e.g. by a portfolio manager, to their individual portfolio/wealth management.

**Question 5: 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?**



The EACB does not agree to the change proposed to the changes proposing to replace the UN Global Compact Principles with the UN Guiding Principles and ILO Declaration on Fundamental Rights at Work. The references to the UNGP and ILO Declaration are less clear, and this change would give rise to practical questions.

Firstly, data on controversies and breaches of the UN Global Compact is widely available. Numerous products have been aligned with the UN Global Compact based on the current legislative framework, and replacing this indicator with the UN Guiding Principles will undoubtedly lead to confusion among investors. This lack of certainty could have a negative impact on the demand for sustainable financial instruments. In addition, this change would require extensive contractual adjustments and client interaction. Clients risk being flooded with information and data, with no added value.

**Question 7: 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?**

The EACB welcomes the effort to further align with the Taxonomy Regulation, which would allow better understanding of the subject and simplify parallel strategies (PAI product and taxonomy proportion). That said, the taxonomy criteria is measured as either EPC C, or top 30% of the national building stock, whereas the ESAs proposes these two criteria as cumulative (see p. 11, §18). Under such a change, a building built before 31 December 2020 would qualify as 'inefficient real estate asset' if it meets the two cumulative conditions:

- a. the building has an Energy performance certificate (EPC) below C; and
- b. the building is not within the top 30% of the national or regional building stock expressed as operational primary energy demand (PED) and demonstrated by adequate evidence.

We would suggest that the indicator be further aligned with the Taxonomy criteria.

Nonetheless, adjusting the criteria would be beneficial as bringing a building from D to C in order to improve the PAI quota is more significant than improving a building from C to B.

Potential disadvantages of the proposed adjustment is that since the market for A-C real estate is broader, investment pressure for very efficient buildings (A and B buildings) would decrease. The demand for improvement may also decrease, with a decrease in investment as well.

Finally, it should be emphasized that data availability is also crucial here. It is essential to ensure that the relevant data is reliable and accessible.

**Question 9: Do you have any comments or proposed adjustments to the new formulae suggested in Annex I?**



The EACB stresses that in general, new formulae should not increase the complexity of calculating PAI indicators.

We welcome the clarification of some formulae, in particular that for calculating PAI indicators 3 and 15 on the GHG intensity of investee companies and of investee countries.

We would suggest further amendments to the following formulae:

- Formula 7 ("energy consumption intensity per high impact climate sector"): the data relating to company's revenue portion falling into NACE sector (A-H, L), required by the formula, is not available given that NACE codes apply to the company as a whole. To avoid an artificial reduction of the PAI indicator 6, without imposing a burdensome calculation, we would suggest that NACE sectors be accounted for in the definition of "all investments".
- Formula 13 ("gender pay gap"): maximisation does not seem justified given that the payment for male and female employees of a company is taken as a whole.
- Formula 21 ("investee countries subject to social violations"): there is an apparent contradiction between the wording of the PAI 20. The PAI refers to the number of investee countries subject to social violations, whereas the formula is expressed as a percentage value. This contradiction should be remedied.

Moreover, Table 1 should be amended to address the topic of historical comparison pursuant to Article 10 of the current RTS. Financial market participants are indeed required to provide a historical comparison of the period reported on with the previous one, and subsequently, with every previous period reported on up to the last five previous periods, as implemented in the Table 1 column "Impact [year n-1]", section "Description of the principal adverse impacts on sustainability factors". Additionally, Table 1 contains a dedicated section "Historical comparison" where information should be provided. The current RTS however do not provide for such an additional section and it remains unclear which information should be included there. The revision should therefore also resolve this contradiction by deleting the section "Historical comparison" in Table 1.

Furthermore, we suggest to delete the requirement to provide a summary, in Table 1, in one of the official languages of the host Member State, if the financial product is made available in a host Member state (Article 5). Even for prospectuses and annual reports of investment funds – i.e. product related documents – English versions are sufficient, if the investment fund is distributed in another Member State than its Home Member State. This should apply all the more to general, company-related information from which (potential) investors will not derive any details about specific products.

**Question 10: 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?**



The EACB welcomes the technical revisions proposed by the ESAs in the current PAI framework, as they will bring much needed clarifications to financial institutions on how to interpret SFDR requirements. That said, we would expect the ESRS to provide at least the mandatory SFDR PAIs as a minimum, whether or not the materiality approach is applied. There should be a determined convention for non-significant and non-material PAI (0), otherwise, they should be mandatory.

We would also like to point out that there were numerous challenges when generating the first PAI-aggregation, most notably the following:

- The introduction of the counter-intuitive connection of an investments valuation at its fiscal year end with Q&A jc\_2022\_62\_jc\_sfdr\_Q&A\_DeIVO.pdf implied large efforts to change the calculation. It would be appreciated, if such changes are proposed with an amendment of the delegation regulation, as is done with this consultation (see Q8).
- The calculation of the "Carbon footprint" is contrary to the common calculation of the carbon footprint in the market. In the current formula for the carbon footprint it is required, that 'all investments' are considered as 'million Euros'. This implies, that the denominator of the formula becomes artificially small compared to the nominator (where the current value of investment in company i is considered) and thus means an artificially high carbon footprint. We appreciate that this has been corrected with formula 2 in this consultation.
- Some of the PAI-indicators (such as PAI 8, 9 12 and 13 of the current RTS have a very small coverage of ESG-data. We therefore welcome that the proposed new PAI-indicators are based on the ESRS. But this will only reduce the problem for future calculations, if the data is actually reported by the companies.

**Question 11: 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?**

Disclosing the share of information received directly from investee companies might prove useful if it makes the information more understandable for stakeholders, in particular in light of the recent CSRD changes that might lead to fewer data being collected directly from investee companies.

In that sense, a box could be added in the template showing the source of the information (directly reported information, proxy), indicating the share of information based on proxies and the share of information that was not assessed due to lack of data available. We could also consider providing an explanation of the data policy on the website, as well as our methodology if an estimate has been made.

Nonetheless, practice has shown that FMPs barely obtain data directly from the investee companies. For portfolio management purposes, it is almost possible to obtain the data directly from the investee companies. Small and middle-sized FMPs in particular rely on ESG data vendors, as they do not have the capacity to approach the investing companies directly. To facilitate a reliable and valid PAI calculation, FMPs have to rely on ESG-data by ESG-data



vendors, which is processed automatically with a software solution. It is just not possible to carry out the complex PAI-aggregation manually for all investments of a FMP. Even if data were manually gathered, integrating such data in a sophisticated PAI-aggregation is particularly unrealistic. It would require having separate data sources for potentially the same investment. Furthermore, such manual data collection and integration in the PAI-aggregation poses a very high risk for human error and thus reduces the PAI-statements validity.

Apart from that, we have reservations on the actual added value of disclosing information on the PAI indicators for which the FMP relies on information directly from investee companies, as a statement without further explanations for the end investors. Disclosing "100% data gathered from ESG-data supplier" does not seem a beneficial information either. Any clarifications in terms of information for the PAI indicators for which the FMP relies on information directly from investee companies will very likely not be taken into account unless investors are familiar with the general concept. In our opinion, this does not add much value either; a general reference to estimates is sufficient.

**Question 12: 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?**

We agree with the ESAs that both the comparability of PAI-statements as well as avoidance of greenwashing are very important. PAI-indicators can get artificially low if investments are used for weighing the PAI-indicator they do not apply to. This could indicate a case of greenwashing. And as the ESAs rightfully acknowledged, using "all investments" as a denominator has the advantage of simplicity and comparability from an investor's perspective. We therefore welcome the new approach which can lead to more clarity.

According to the new proposal, "all Investments" could be defined as investments in the particular type of investment (i.e., investee companies, sovereigns and supranationals, or real estate assets) understood as causing the adverse impact. Information on PAI then relates only to the individual investment values of the investment type relevant for the respective PAI. Focusing PAI calculations on relevant risk categories would have the advantage of focusing each indicator on the asset types for which it is relevant.

Considering that the numerator varies depending on the indicator to focus only on corporate, sovereign or real estate exposures, having "all investments" as a denominator might create a bias in the presentation of the information for financial institutions that are more exposed to one asset class than the others, and as such undermine comparability.

Consequently, in order to disclose meaningful information to investors, financial institutions should be allowed to disclose both indicators:

- One based on all investments
- One based on the relevant corporate/sovereign/real estate investments.



Apart from that, it is questionable which effects those changes would have for the PAI-Statement and the section "historical comparison" (Annex I, Table 1). The results of the comparison would not be meaningful since they would be based on different PAI calculation methods. We would be grateful if the ESAs could clarify this aspect in the Final Report.

Finally, we would propose to only include investments for which data for a specific PAI-indicator is available at all (in order to align it with the respective European legislation on reporting).

**Question 13: 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?**

Where investee companies are not subject to reporting requirements, financial market participants should not be required to obtain that information through other channels such as third-party providers. The inclusion of information on investee companies' value chains in the PAI calculations can only be required where the investee companies are covered by the CSRD and thereby publicly disclose the necessary data. However, this may reduce comparability and the level playing field where some companies are able to focus on only part of their activity and thereby report lower levels of adverse impacts.

The EACB recognises that the negative effects of the value chain should be considered in the PAI calculation, in alignment with the CSRD and ESRS, although it questions the significance of such an inclusion in PAI calculations. This inclusion would in addition be highly complex and could result in double counting.

**Question 14: Do you agree with the proposed treatment of derivatives in the PAI indicators or would you suggest any other method?**

A PAI for derivatives transactions is only relevant when the derivative can be seen as an investment decision by the financial institution (e.g. hedging interest rate risks on loans of borrowers) or giving opportunity for extra return of an already existing investment portfolio (e.g. writing call options on shares in the portfolio of the client). In these cases, there are no investments in economic activities and no investment decision as meant for the PAI (see article 4, paragraph 1a of the SFDR) and therefore the PAI should be seen as not applicable.

Derivatives, through which investors can share business risk and modify the cost of capital, allow investors to be exposed to companies' equity and debt hence contribute to the definition of their cost of capital / refinancing in the future. The degree of influence gained through this second channel is a direct function of how much positive or negative economic exposure investors are willing to take on a given corporate.

As regards the proposals:

- Delta



We welcome the consideration of derivatives as an investment decision measured according to their equivalent position in the underlying asset. The metric should be consistent across the three ratios (PAI, Taxonomy and SI).

- Long/short netting

We welcome the inclusion of long and short derivatives positions. In order to embrace the full economic exposure on a given issuers, both the amount of risk carried out by long and short positions must be reflected for their full value. Long and short should be netted at the level of an individual counterpart. The proposed approach to floor this indicator to zero by issuer and by PAI category seems reasonable to us.

- Physical investment

Regarding the option for FMPs to disregard derivatives if they cannot show that they result in a physical investment in the underlying asset, we would disagree with this criterion. The ownership of a physical asset is not a criterion to evidence impacts. Therefore, the inclusion or exclusion of this criterion is irrelevant to capture investor's impacts when using derivatives. Physical ownership should not be a condition for the calculation of the PAI or other ESG indicators.

In terms of limitations, the calculation of derivatives on the respective indices will only be feasible if index providers themselves disclose PAI. In addition, the complexity and effort allocated to calculating the PAI will increase and will also result in additional licensing costs. These will ultimately be borne by the investors as expenses associated with the management of the investment funds.

As an alternative, it would be conceivable to publish key figures on the use of derivatives, from which it would be possible to derive the actual extent of perceived distortions that they cause.

**Question 15: 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?**

Derivatives can be relevant for Taxonomy-alignment, proportion of sustainable investment and PAI calculation, when they are used to transfer economic risk on sustainable investments (eg. Credit Default Swaps). In those cases, double counting by the investor and the entity taking over the economic risk should be prevented. The concerned parties will need to agree on who will add the investment to their numerator (and denominator, as the economic risk of the investment was transferred).

Where derivatives are used for hedging or achieving extra return on an existing portfolio, they should not be considered relevant for Taxonomy alignment, proportion of sustainable investment and the PAI.

The ESAs should ensure consistency across KPIs to avoid confusion and detrimental effects on the EU derivatives market. The inconsistent treatment of derivatives risks leading investors to reducing their derivatives activity, thereby reducing the beneficial effects of derivatives in fostering investments by providing companies with a reduction in their cost of capital, opening



access to wider markets, and including retail investors. Long and short positions should both be taken into account in Taxonomy and SI calculations, given the significance of the amount of risk carried by both.

We agree with the reference to the Short Selling regulation in the sense that both long and short derivative positions should be netted for their full algebraic value at issuer level. Within the current framework and spirit of SFDR and Taxonomy regulations, we would agree to floor the algebraic sum to zero.

We do not agree with the cross-reference to the underliers of “share capital and sovereign debt” in the Short Selling regulation as the scope of underliers authorised to be captured and netted.

In terms of timeline, mid-2024 seems premature for several actors and we would suggest that the operationalization and implementation of the new reporting rules be phased in.

**Question 17: Do you agree with the ESAs’ assessment of the DNSH framework under SFDR?**

The EACB agrees with the ESAs’ assessment of the DNSH framework under SFDR laid down in the consultation paper.

**Question 18: 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.**

We agree that DNSH safe harbour should apply for SFDR investments aligned with the taxonomy. As regards PAIs for other sustainable investments, we understand that to increase comparability, FMPs should disclose the respective quantitative thresholds they use to take into account the PAI indicators for DNSH for those indicators, where thresholds are suitable or meaningful. However, only realistic thresholds can be useful to prevent greenwashing. At this stage, we are reluctant to make disclosures about the quantitative thresholds used to take into account the PAI indicators for DNSH purposes. As these thresholds are supposed to be individual, they won’t provide comparability and investors might struggle understanding why some FMPs considered a threshold and other not. This lack of comparability could in the end increase the FMPs’ reputational risk.

The current SFDR framework leaves flexibility for potential other ways of “taking into account”. It should also be possible to use qualitative assessments to determine DNSH on PAI indicators, especially when thresholds are not suitable to assess the significance of an adverse impact. For example, the metric for the biodiversity PAI indicator measures whether a company has harmful activities in biodiversity-sensitive areas, but harmful does not have to be significantly harmful. This requires assessing the extent of the harm, for example based on environmental impact assessment reports.



**Question 19: Do you support the introduction of an optional “safe harbour” for environmental DNSH for taxonomy-aligned activities? Please explain your reasoning.**

We support the introduction of an optional safe harbour for environmental DNSH for taxonomy-aligned activities as a sensible approach.

**Question 22: 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.**

The EACB would support a less complex approach. The new proposals for disclosures of GHG emission reduction targets in the ESG templates are too very extensive and detailed, which could impede the goal of clear and succinct information of investors.

We would prefer a simpler framework distinguishing different categories such as green, transitional, neutral, harmful and very harmful.

**Question 23: 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.**

The EACB considers that to avoid investors’ information overload, a hyperlink would be sufficient.

However, the GHG emission reduction trajectory disclosure does not seem necessary nor useful for the end clients. This approach should rather be part of a more holistic review of SFDR level 1.

**Question 25: 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.**

The disclosure on the degree of Paris alignment of Article 9 product targets may in principle be useful and prevent greenwashing. However its implementation would require a great deal of technical effort, while its added value for the average investor is questionable.

**Question 27: 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.**

The EACB agrees with this approach, as EFRAG has built on these pre-existing standardisation efforts for the development of its draft ESRS. Under the draft ESRS E1, which covers climate-related disclosure requirements, financial institutions are required to consider the use of the PCAF's Standard for their financed emissions. Requiring the use of PCAF would support consistency in the way targets are set and progress is measured. PCAF's Standard covers all seven GHG included in national inventories under the United Nations Framework Convention for Climate Change (UNFCCC). In line with the GHG Protocol, PCAF's Standard requires the inclusion of investee companies' scope 1 and scope 2 emissions, and is set to require the inclusion of scope 3 emissions for all sectors over time (following a phased-in approach).

**Question 28: 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.**

The EACB believes that consistency with the forthcoming Delegated Regulation of the CSRD would be beneficial with regard to GHG removals and storage, and the use of carbon credits. Based on the latest ESRS drafts companies would be required to report separately on their gross GHG emissions, on GHG removals and on their use of carbon credits.

**Question 29: 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 you answer.**

For the investor, product-related disclosure adds the most value; at entity level, the information value is regularly rather low.

We are concerned that too strict requirements for ex-ante quantitative targets might deter FMPs from offering products aiming at reducing GHG emissions for reasons of potential legal liability or greenwashing claims.

**Question 30: 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?**



A dashboard is supposed to show at a glance all key ESG characteristics of Article 8 and Article 9 products. In this regard we are in favor of adjustments to the existing dashboard; including a “must-read” section at the beginning of product disclosures enhances readability and understandability of the information.

However, these changes are always associated with a certain implementation effort (both technologically and in processes) which should be proportional to the added value that comes with the adjustments for the client. Additionally, clients and advisors have just gotten used to the existing dashboard. We fear that the dashboard proposed by the ESAs will not bring any clarity to retail investors as it only uses unknown and unclear concepts without providing any contextual help that might guide investors. This further highlights that changes to the current dashboard need to be justified by significant benefits in terms of usability

The information in the dashboard should clearly encompass all ESG product features that are relevant in terms of sustainability preferences of investors at the point of sale according to Article 2 No. 7 MiFID II Delegated Regulation. Therefore, we welcome adding an indication in terms of PAI consideration at the product level.

The proposed dashboards do not allow to immediately identify the type of ESG-related investment strategy that the product is using. For example, products might not always have a generalist ESG strategy, but focus on 1 or several aspects of the ESG topics. Within the realm of Article 8, products might also use very different strategies that would need to be explained to investors in this “must-read” section to make sure that they are able to understand the intention of the product.

From an investor point of view, we would prefer a “tick the box” indication in the dashboard – rather than using icons in grey or green indicating the “sustainability” of a financial product. Apart from that, the proposed (dual) coloring would add another layer of complexity for implementation.

We see no added value in the field with 250-character limit, for instance for Article 8 SFDR products, to [include the environmental and/or social characteristic(s) promoted by the product and the [X]% of the product's investments that promote those characteristics – 250 character limit with spaces], whereas the 1st section of the template below (without any limit) is answering such question (more clearly): “What are the environmental and/or social characteristics of this product”. To avoid redundancy and duplications it should be sufficient to indicate in the dashboard, that the product promotes environmental and/or social characteristics and to indicate the minimum proportion of sustainable investments.

For products indicating that they consider PAI, further information should be provided in the annex. The relevant section should be renamed in “Does this product consider principal adverse impacts on sustainability factors.

**Question 31: 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?**

The EACB considers that the templates are useful tools to compare information on financial products and welcomes the efforts to simplify them and render them more accessible. As a preliminary remark, it should be clarified whether the content of the questions themselves should be amended, or just their comprehensibility for retail investors. The EACB has reservations as to whether a new dashboard and the deletion of the asset allocation tree would really improve clients' understanding. In any event, the templates are still too complex for most retail investors, and we would propose they be amended as follows:

- Dashboard: the simplification makes sense as relevant sustainability preferences are visible at a glance. However, limitation to 250 characters to describe the promoted environmental/social characteristics including the share of investments is not enough to provide adequate descriptions.
- Repetitions: the templates are very lengthy. Their structure could be reviewed to avoid information being repeated throughout.
- Order of the questions: the textboxes for the templates for Articles 8 and 9 should appear at the end of the table rather than at the beginning.
- Reduction of greenhouse gas emissions: the new proposed icon for is misleading, as the graph only refers to CO<sub>2</sub>.
- Ratios: certain ratios should be discarded as what they bring in additional complexity far outweighs the potential increased clarity. Concepts should be aligned across the entire regulatory framework. As such, SFDR should stick to the concepts that are defined in the Sustainability Preferences of the MIFID II/IDD amendments, namely the consideration of PAIs, the proportion of Sustainable Investments and the proportion of Taxonomy-aligned investments.
- Minimum proportion and spot values should be better articulated: the templates are not implemented in an harmonized manner across European jurisdictions, which further complexifies an already complex topic. It should be clarified that
  - o FMPs are free to take minimum commitments or not (the absence of a minimum commitment on a KPI does not mean that the fund will not invest in securities contributing to the said KPI but simply that the fund will not seek to invest in those securities).
  - o There is no mandatory breakdown of commitments; FMPs should be free to take the minimum commitments they choose. For one, managing ratio that are within one another is complex and could lead to a reduction in commitments. Furthermore, when investors take a commitment to invest a minimum share of assets in a geographical zone, they are not required to commit to minimum holding in the sub-geographies of the zone. This does not prevent them to clarify the breakdown in ex-post reporting, but in the ex-ante positioning, the only commitment is on one ratio. There is no reason that, for extra-financial ratios, this would be different.
  - o Ex-post reporting is independent from ex-ante commitment: minimum commitments are about the positioning of the products while ex-post reporting is about transparency
- Benchmarks: While we support the use of proprietary methodologies as they bring convictions and innovation on the market, they are difficult to compare. For retail



investors, it can be confusing as, when comparing two funds with 43% each of Sustainable Investments, there is no way of telling which one is the most demanding. Therefore, we strongly encourage the disclosures to reintegrate the notion of the benchmark to compare the fund (as for financial performance).

**Question 33: Is the investment tree in the asset allocation section necessary if the dashboard shows the proportion of sustainable and taxonomy-aligned investments?**

FMPs have made a considerable effort to implement the investment tree, as a tool enabling investors to understand the key elements of the portfolio without necessarily mastering the underlying concepts (such as sustainable investment, or EU taxonomy investments). The asset allocation tree should be maintained for its pedagogical purposes. It could nonetheless be reassessed in light of proposed changes to the dashboard. In any way it would benefit from further clarification.

Some financial advisors experience the investment tree as advantageous, as it reflects their consultation process. In these cases, the dashboard might be less intuitive. However, this advantage should be examined to determine whether it continues to provide sufficient benefit to justify the update effort in light of the change to the dashboard.

Since the template is intended for use by retail investors, it is – in any case - highly advisable to limit the information that they need to digest and not to overestimate their willingness and ability to perform due diligence on the extra-financial characteristics.

Lastly the term ‘asset allocation’ is generally understood as the balance between different asset types (shares, bonds, real estate, liquidity etc.). Using the term ‘asset allocation’ has caused confusions among investors. A reversion would therefore be deemed beneficial for clients.

**Question 35: Do you agree with the approach to allow to display the pre-contractual and periodic disclosures in an extendable manner electronically?**

This proposal “to allow to display the pre-contractual and periodic disclosures in an extendable manner electronically” should only be an option, but not an obligation. Fund documents – including Annexes pursuant Annex II – V Delegated Regulation (UE) 2022/1288 – are prepared in a consolidated form.

**Question 39: Do you agree that cross-referencing in periodic disclosures of financial products with investment options would be beneficial to address information overload?**

Cross-referencing would be beneficial where the information is too long and complex to fit into one, comprehensible page.



**Question 43: Do you have any views on the preliminary impact assessments? Can you provide estimates of costs associated with each of the policy options?**

To avoid legal uncertainties the planned SFDR evaluation at Level 1 should necessarily be aligned and coordinated with the current review of the SFDR RTS. A situation where FMPs have to implement changes according to the RTS based on this Consultation, although more fundamental changes at Level 1 – and subsequently Level 2 – are forthcoming shortly afterwards, must definitely be avoided.

When amending the RTS, it would be desirable to think about easing the burden on FMPs. Portfolio management is classified as an investment service under MiFID II and as a financial product under the SFDR. Pre-contractual information and regular reportings have to be provided to individual clients for each individual portfolio management service. Hundreds and more contractual documents and regular reportings have to be prepared. Again, this results in huge IT costs and burdens that FMPs have already incurred. Changing the templates in the way proposed would not only negate this effort, but even generate its duplication. We therefore ask the ESAs to refrain from changing the templates once again within this short period of time.

**Contact:**

The EACB trusts that its comments will be taken into account.

For further information or questions on this paper, please contact:

- Ms Marieke van Berkel, Head of Department ([Marieke.vanBerkel@eachb.coop](mailto:Marieke.vanBerkel@eachb.coop))
- Ms Tamara Chetcuti, Senior Adviser, Financial markets ([Tamara.Chetcuti@eachb.coop](mailto:Tamara.Chetcuti@eachb.coop))