



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	Autorité des Normes Comptables (ANC)
Activity	Government, Regulatory and Enforcement
Are you representing an association?	<input 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>

### Consistency with the ESRs

We understand that the ESAs' approach in terms of extension of the list of indicators for principal adverse impacts is to rely primarily upon the draft European Sustainability Reporting Standards (ESRS) published by EFRAG as mandated by the CSRD.

We welcome the effort to **insure consistency between the sustainability reporting under CSRD and the reporting requested by sectorial financial regulation** and we believe that the adoption of ESRs is an opportunity to review the relevance of all PAIs and not only the new ones. You will find our detailed analysis below but as a general comment we do think that the SFDR delegated regulation should systematically introduce the reference to the CSRD delegated regulation (the way it is done in appendix C of ESRS 2) and the wording of SFDR aligned on the wording of CSRD both for new and old indicators.

We observe that the proposed new indicators are not always aligned with the ESRs (see for example PAI 17 in Table 1) and that the **ultimate reference should be the ESRs** that will be adopted in the delegated regulation of CSRD and not the November EFRAG proposal. At this juncture, we will therefore refer to the draft DR currently put in consultation by the EC.

This draft DR **introduces more phasing-in in the ESRs implementation** and **generalises the materiality assessment** in order to only report relevant data points. We do believe that it should be taken into account by SFDR:

- First by **not rushing to request data which are not yet available** on a reliable manner, even in the EU (to say nothing of third countries), due to the progressive implementation of the ESRs, and by **introducing delays** in requiring some PAIs that need to be experienced under CSRD/ESRS before being aggregated at FMP or product level (e.g., PAIs 12, 18 and 19 of table 2 should be experienced and may not be available before 2028). In order not to widen the current data gap due to the sequencing issue between CSRD and SFDR, we would suggest that the application date of any addition to the PAI list under SFDR shall be aligned with the date at which large undertakings will provide their first report on the relevant indicators under CSRD/ESRS ie 2026 for the 1st reporting on FY 2025, plus an additional phasing of 1 or 2 years for some indicators. The smallest the companies, the less likely the information will be available. Should an application date for new PAIs be set earlier than the date above, it should then be acknowledged that FMP's proxies of missing information will likely not be reliable.
- Second to adapt the way data points considered to be non-material by investee companies should be treated in SFDR. French Stakeholders consider that consistency between different EU regulation is crucial and urgent. The preferred option would be to clarify that if a data point requested by SFDR is not material for an undertaking for its sustainability reporting and therefore reported as non material by this company (new requirement to be introduced in the ESRs), it would be **taken positively in the investing company calculation**, i.e., the investee company with non-material indicators will be included in the denominator and not in the numerator; each PAIs should be analysed on a case-by-case basis to define and standardize the relevant "neutral / non detrimental" value to be given for non-material indicators (zero, 50%, Yes, etc.). It is important that clarity can be given before the implementation of the ESRs for a fair treatment and an application by all FMPs having to integrate "non-material" data to meet their SFDR obligations, without leaving room for interpretation.

Deciding differently would contradict through SFDR the stance taken by CSRD and negate both phasing-in and materiality assessment, especially for the numerous opt-in PAIs since the option does apply to the financial undertakings but not to the investee companies who should be ready to answer requests from a variety of investing companies.

### **Simplification of the scheme**

**The scheme should be simplified**, as the burden on relying parties appears disproportionate given the issue of data availability and the cost of reporting implementation. The following recommendations on the simplification of the scheme should be considered:

- **reducing the number of indicators** that is currently approaching 70, in particular by merging certain PAIs with a similar objective (e.g., precarious workers, grievance mechanisms) and removing/delaying some non mature ones; it should be noted that opt-in indicators are in practice becoming mandatory when each limited partners chose different PAIs;

- **better prioritising the topics** between mandatory and additional PAI (e.g., two PAIs on parity and none on health & safety in table 1, emissions to water rather than areas of water stress); the structure of PAIs' tables between mandatory and opt-in indicators may also be challenged;
- **clarifying the way the DNSH test should be performed at the entity level taking into account the concept of materiality;**
- *reviewing the PAIs' formulas in order to improve their relevance and help financial actors making investment decisions*, notably by weighting the value of the investments to the value of the enterprises when appropriate (e.g., financial amounts as PAI 14 of table 1 on accumulated earnings in non-cooperative tax jurisdictions).

Please find below our recommendations on the newly proposed mandatory social indicators (table 1).

#### **PAI 14 – Amount of accumulated earnings in non-cooperative tax jurisdictions:**

- The proposed indicator is not required in the ESRS as tax issues are out of the scope of CSRD; However, this is dealt with in the EU Accounting Directive where new reporting obligations have been introduced.
- If it is decided to retain the PAI, the name of the proposed indicator could be misleading as the value of accumulated earnings in non-cooperative tax jurisdictions does not depend on the current value of all investments. The amount of accumulated earnings in non-cooperative tax jurisdictions remains constant, irrespective of the size of global investments. Instead of measuring the intensity of accumulated earnings in non-cooperative tax jurisdictions in relation to the value of all investments, it would be more relevant to calculate the share of the value of all investments expressed by the accumulated earnings in non-cooperative tax jurisdictions. To do this accurately, it is proposed that the formula be based on the holding ratio (current value of investment over the enterprise value), as accumulated earnings are part of the investee's own funds.
- Therefore, it is recommended that the value of accumulated earnings in non-cooperative tax jurisdictions be multiplied by (i) the weighting of the value of the enterprise in relation to the value of all enterprises and (ii) the weighting of the value of the investment in relation to the value of all investments (*see response to Q9 on proposed formula*).
- Also, It is considered that the share of accumulated earnings in non-cooperative tax jurisdictions would be more comparable than the amount of accumulated earnings in non-cooperative tax jurisdictions. Therefore, it is suggested renaming the indicator as "**share of accumulated earnings in non-cooperative tax jurisdictions**", since the result expresses a percentage rather than an amount.
- Furthermore, the information is expected to be provided in the yearly reporting of underlying undertakings. As result, it is necessary to specify that both the amount of accumulated earning and the list of non-cooperative tax jurisdictions will be "locked" as per the yearly report, until the next annual report is issued.
- Data availability should be considered before any implementation of this PAI:
  - \* First EU reportings (on FY 2025) are expected to be available in the course of 2026 that will show few financial indicators (accumulated earnings, net profit,...) in non-cooperative tax jurisdictions. Therefore this PAI may be introduced on 31.12.2026 the earliest.

\* This indicator being only reported by undertakings which revenues are above €750 mio, it shall then be accepted that the PAI value for undertakings below the threshold is 0.

\* The information will be missing for non EU multinational undertakings, more particularly for accumulated earnings.

To this extent, **net profits** per country may be much easier to catch from all multinational entities (in the “country by country” report) and could therefore be a good alternative to accumulated earnings.

#### **PAI 16 – Exposure to companies involved in the cultivation and production of tobacco:**

- This proposed PAI is required under ESRS 2 §40 d) iv. The involvement in the sector of the cultivation and production of tobacco should be precisely defined. It is suggested adopting the definition provided by the ESRS to ensure consistency. According to this definition, undertakings within this sector should derive at least 10% of their revenues from activities related to the cultivation and production of tobacco.

#### **PAI 17 – Interference with the formation of trade unions or election worker representatives:**

- The proposed indicator is not required in the ESRS, which raises the issue of data availability from underlying undertakings. It is only mentioned as an example of policies related to own workforce in ESRS S1 of the draft Delegated Act on ESRS. The definition and the value of a commitment on non-interference in the formation of trade unions or election of worker representatives could be challenged and such a policy commitment may not necessarily guarantee total non-interference. This new PAI should not be retained.
- It is suggested replacing this indicator with one focusing on collective bargaining or workers' representation, as derived from ESRS S1-8, such as the share of employees covered by collective bargaining agreements or the share of employees covered by workers' representatives.

#### **PAI 18 – Share of employees earning less than the adequate wage:**

- The term "investing companies" in page 9 of the consultation document seems to be confused with the term "investee companies".
- Reporting the percentage of employees who earn less than an adequate wage is a new KPI required under the ESRS. However, collecting this information may be complicated for companies, as they need to gather data on the adequate wage benchmarks in each country they operate in and compare it to their employees' wages. Before including this KPI in sustainable finance requirements, it is important to gather feedback on its implementation under the CSRD. This input will help determine whether it is feasible and effective to use this KPI to assess companies' sustainable performance.
- If it is decided to retain the PAI, it is recommended that the formula be adjusted to more accurately reflect the share of employees who earn less than an adequate wage (*see response to Q9 on proposed formula*). Additionally, it is suggested applying the KPI to companies with material risks of non-adequate wage only that is to say mainly companies with employees outside Europe (22 out of 27 European countries have already implemented minimum wages regulations).

- ESMA\_QUESTION\_SFDR\_1>

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

<ESMA\_QUESTION\_SFDR\_2>

Please find below our preliminary recommendations on the other mandatory social indicators (table 1).

**PAI 10 – Violations of OECD Guidelines for Multinational Enterprises or the UN Guiding Principles including the principles and rights set out in the eight fundamental conventions identified in the ILO Declaration and the International Bill of Human Rights:**

- The suitability of "violations of OECD and UNGP guidelines" as the most relevant KPI for assessing social and human rights may be questioned as it applies mostly to worldwide companies operating outside of Europe compared to small size large undertakings operating within Europe.
- One option could be to replace the proposed indicator with one related to collective bargaining in line with ESRS S1-8 or one related to health & safety in line with ESRS S1-14 (*see proposal of replacement for PAI 12 or PAI 17*).
- If it is decided to retain the PAI, it is recommended that the involvement in violations of OECD Guidelines for Multinational Enterprises or the UN Guiding Principles be more clearly defined, link with ESRS S1-17, S2-1 and S3-1 be improved and the scope of application be specified in relation to the company's own workforce and the entire value chain (*see response to Q5 for more details*). It should be noted that auditability of such violations may pose challenges in absence of clear definition in ESRS.
- In any case, materiality should be considered in determining the applicability of the PAI (an investee company answering "Not material for the undertaking" under CSRD should be considered in the denominator of the product portfolio).

**PAI 11 – Lack of processes and compliance mechanisms to monitor compliance with OECD Guidelines for Multinational Enterprises or the UN Guiding principles including the principles and rights set out in the eight fundamental conventions identified in the ILO Declaration and the International Bill of Human Rights:**

- Having two mandatory PAI related to violations of human rights seems to be excessive when none relates to health and safety issues for instance. We support PAI 11 focused on the processes and compliance mechanisms rather than PAI 10 focused on the violations, since it assesses implementation of means rather than relying solely on difficult-to-determine results.
- The proposed indicator should only be applicable to companies with operations outside of Europe, subject to a materiality assessment. It is not necessary to require European SMEs and small size large undertakings with operations solely within Europe to develop a grievance mechanism in order to be eligible for sustainable investments.

- Furthermore, to ensure auditability, clear definitions of policies and grievance mechanisms, including the scope of the processes and compliance mechanisms, are necessary (*see response to Q5 for more details*).

#### **PAI 12 – Gender pay gap between female and male employees:**

- Parity is currently covered by two mandatory indicators (PAI 12 and 13), whereas health and safety is not covered. To ensure a comprehensive coverage of social topics, it is recommended to move PAI 12 of table 1 to table 3 and to replace it by PAI 1 of table 3 on health and safety. A global analysis of the relevance and classification between mandatory and optional of the near 70 PAIs should be conducted.
- The current formula floors the gender pay gap at 0, which is not the case under the ESRS. ANC wonders if such difference is legitimate and would recommend to delete the “Max” in the formula.
- Furthermore, it is suggested to analyse whether the formula should be based on the holding ratio (current value of investment over the enterprise value), as the management and supervisory board gender diversity are tied to the investee's own funds (*see proposed formula for PAI 14 as it relies on a similar principle*).

#### **PAI 15 – Exposure to controversial weapons:**

- This proposed PAI is required under ESRS 2 §40 d) iii. There is a need for defining the involvement in the sector of the controversial weapons. Specifically, further clarification is necessary regarding the percentage of revenues that constitutes being "involved in" the manufacture or selling of controversial weapons. |

<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>

|Please find below our recommendations on the newly proposed opt-in social indicators (table 3).

**PAI 9 – Excessive use of non-guaranteed-hour employees in investee companies; PAI 10 – Excessive use of temporary contract employees in investee companies; and PAI 11 – Excessive use of non-employee workers in investee companies:**

- ANC suggests the consolidation of these three PAIs, as they represent precarious working conditions. The disaggregation of these indicators at the portfolio level does not provide valuable insights for decision-making purposes. ANC suggests a single PAI that would be: “**share of non-guaranteed hour, temporary contract employees and non-employee workers in investee companies as share of total employees**”. At a minimum, it is suggested consolidating PAI 9 and 10, and keeping PAI 11.
- Furthermore, the term “excessive” is not defined in the document, neither in the ESRS. ANC considers that the definition of “excessive” depends on the sectors and business models and can not be defined once for all. It is the responsibility of the investors and analysts to assess whether this share of precarious employees in the portfolio is excessive compared to benchmarks. ANC suggests to remove this word in the name of the PAI.
- Regarding PAI 11, the reference to ESRS should be ESRS S1-7 instead of ESRS S1-6 as outlined in page 10 of the consultation document.

#### **PAI 12 – Insufficient employment of persons with disabilities within the workforce:**

- ANC welcomes the fact that this PAI would be based on the ESRS definitions (S1-12 and AR 77).
- However, ANC underlines that national differences in reporting regulations around certain types of disabilities, local norms and the challenge of encouraging voluntary disclosures by employees may lead to low data coverage and uncomparable information. ESRS S1-12 requires “the percentage of persons with disabilities amongst its employees “ and AR 77 states: “when disclosing the information required in paragraph 77 regarding persons with disabilities, the undertaking shall provide any contextual information necessary to understand the data and how the data has been compiled (methodology). For example, information about the impact of different legal definitions of persons with disabilities in the different countries in which the undertaking has operations”. These limits on disabilities definition and access to data will be all the more important for non EU investees. **In this context, ANC calls for a delay in introducing PAI 12 until ESRS S1-12 is experienced during at least 2 or 3 reporting years in Europe.**
- Should the PAI 12 be maintained, the term “insuffisant” is not defined in the document, neither in the ESRS. ANC suggests that the authorities provide quantitative thresholds or benchmarks for this PAI and additional guidances as well.
- And finally, ANC wants to point out that the formula (page 98 of the consultation document) needs to be analysed in detail on examples to better understand what it reflects (see answer to question 9).

#### **PAI 19 – Lack of grievance/complaints handling mechanism for affected communities relating to the operations of the investee companies:**

- First, ANC suggests that this PAIs be subject to materiality assessment. Indeed, issues regarding affected communities are particularly pregnant for specific industries, such as mining, and should be subject to materiality assessment. These impacts can be more effectively addressed by considering the sector exposure of investment or financing portfolios, rather than relying solely on the existence of remediation mechanisms. ANC suggests reframing the PAI in line with materiality assessment as follows: “share of investments in investee companies **where matters**

related to affected communities are material, but without remediation mechanism for stakeholders materially affected by the operations of the investee companies”.

- Second, ANC calls for clarification in defining the scope and boundaries of these “remediation mechanisms”. ESRS S3 refers to “processes to remediate”, “channels to raise concerns” and “grievance mechanisms”. Which criterion should be taken into account to define that an investee lacks grievance/complaints mechanism for its affected communities?
- Thirdly, ANC suggests to merge all the PAI related to existence of grievance mechanism in one PAI detailing what is the scope and coverage of the mechanism (human rights, discrimination, corruption and employees, employees in value chain, affected stakeholders and consumers) rather than asking the existence of grievance mechanism for each type of subject matter and each type of stakeholder.
- Finally, ANC recommends that this PAI be delayed until **ESRS S3-3 is experienced during at least 2 or 3 reporting years in Europe or till ESRS sector specific requirements are ready (Mining will require such disclosure for instance)**.

#### **PAI 20 – Lack of grievance/complaints mechanism for consumers/end-users of the investee company:**

- First, ANC considers that managing consumers satisfaction is a core business issue rather than an ESG issue. The link with sustainability is not so obvious. It is important to ascertain whether these mechanisms are related to sustainability concerns or business-as-usual consumer policies followed in regular business operations.
- If kept, this PAI should be subject to materiality assessment. Indeed, issues related to consumers are particularly pregnant for specific industries operating in the business-to-consumer (B2C) sector and should therefore be assessed for materiality. Hence ANC suggests to reframe the PAI in line with materiality assessment as follows: “share of investments in investee companies **where matters related to consumers are material**, but without remediation mechanism for consumers/end-users of the investee companies”.
- ANC points out that the concept of a grievance/complaints handling mechanism for consumers requires definition. ESRS S4 refers to “processes to remediate”, “channels to raise concerns” and “grievance mechanisms”. Which criterion should be taken into account to define that an investee lacks grievance/complaints mechanism for its consumers? |

<ESMA\_QUESTION\_SFDR\_3>

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

<ESMA\_QUESTION\_SFDR\_4>

|Regarding the other proposed opt-in social indicators (table 3), it is recommended to:

- reduce their number by merging certain PAIs (e.g., merger of PAI 5 with PAI 11 of table 1; merger of PAIs 15, 16 and 17 with PAIs 13 and 14 of table 3) and by deleting some of them (e.g., PAI 7 a., PAI 22),
  - **Determine the standard “neutral” value to be integrated in SFDR PAI for “non material” datapoints under CSRD/ESRS**
- , and
- ensure consistency with the ESRS (e.g., PAI 1 in relation to MDR-P; PAIs 2 and 3 in relation to ESRS S1-14; PAI 4 in relation to ESRS S2-1, G1-1 and G1-2; PAI 5 in relation to ESRS S1-3; PAI 6 in relation to ESRS G1-1; PAI 7 in relation to ESRS S1-17; PAI 8 in relation to ESRS S1-16; PAI 13 in relation to ESRS S1-1, S2-1, S3-1 and S4-1; PAI 14 in relation to ESRS 2 GOV-4; PAI 18 in relation to ESRS S1-17, S2-4, S3-4 and S4-4; PAI 21 in relation to ESRS G1-1; PAI 23 in relation to ESRS G1-4).

ANC expects to be able to provide deeper expertise on all PAIs in a forthcoming broader consultation, however, we attach in appendix preliminary recommendations on table 3 PAIs. |

<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>

| We support the proposed changes, which would strengthen the alignment of sustainable finance regulations and bring them closer to global norms and best practices.

However, we are concerned about the proposed formulae for violations of the UN Guiding Principles and “policies to monitor compliance with or no availability of grievance mechanisms to address violations of at least one international guideline or principle” as it may create confusion on what constitutes compliance with the UN Guiding Principles, and what acceptable monitoring policies and mechanisms would entail.

It is suggested that underlying undertakings provide at a minimum evidence of continued human rights due diligence and monitoring of human rights risks as well as formal commitment to access to remedy.

The challenge would be to define what constitutes a violation as stakeholders have different interpretations. In the absence of global agreement on this matter, it would be helpful to have further consultation on relevant metrics to ensure that the guidelines are not too prescriptive or burdensome (see related response to Q2 on PAI 10 and 11). |

<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>

|n/a |

<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>

|n/a |

<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>

|When requiring the share of investments related to a monetary amount (e.g., PAI 14 of table 1 on accumulated earnings in non-cooperative tax jurisdictions) of investee companies, it is recommended to systematically weigh the current value of investment in investee company against the enterprise value of investee company. This would allow that the indicator be based on the holding ratio (current value of investment over the enterprise value), since the sustainability performance of investee companies is tied to the investee's own funds, and is not a function of total investments in the portfolio (see response to Q1 and Q9 on PAI 14 for an example). |

<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>

When requiring the share of investments related to a monetary amount (e.g., PAI 14 of table 1 on accumulated earnings in non-cooperative tax jurisdictions) of investee companies, it is recommended to systematically weigh the current value of investment in investee company against the enterprise value of investee company. ANC wonders whether the PAIs expressed as percentage of employees should be weighted against the number of employees (e.g., PAIs 18 of table 1 and 12 of table 2).

**PAI 14 of table 1 – Amount of accumulated earnings in non-cooperative tax jurisdictions:**

- It is recommended that the value of accumulated earnings in non-cooperative tax jurisdictions be multiplied by (i) the weighting of the value of the enterprise in relation to the value of all enterprises and (ii) the weighting of the value of the investment in relation to the value of all investments (see response to Q1 for related details and see proposed formula below).
- Also, it is suggested renaming the indicator as "**share of accumulated earnings in non-cooperative tax jurisdictions**", since the result expresses a percentage rather than an amount.

Investee Company	Current value of investment	Consolidated revenue	Accumulated earning	Consultation	Enterprise Value	Proposed formula
	a	b	c	$(a/\text{Total } a)*c$	d	$(a/d*c)/\text{Total } a$
A	200	800	150	30	2400	1,25%
B	200	200		0	600	
C	200	200		0	600	
D	400	800	50	20	2400	0,83%
Total	1000			50	6000	<b>2,08%</b>

**PAI 18 of table 1 – Share of employees earning less than the adequate wage:**

- If it is decided to retain the PAI, it is recommended that the formula be adjusted to more accurately reflect the share of employees who earn less than an adequate wage in a company's activities (see response to Q1 for related details and see proposed formula below).

Investee company	Current value of investment	Number of employees	Number earning less than the adequate wage	Consultation formula	Share of investment in b	Share of investment in c
	a	b	c	$d = (a/\text{total } a)*(c/\text{total } c)$	$e = (a/\text{total } a)*b$	$f=(a/\text{total } a)*c$
A	200	800	80	2%	160	16
B	200	200	0	0%	40	0
C	200	200	0	0%	40	0
D	400	800	200	10%	320	80
TOTAL	1000	2000	280	12%	560	96

						17,14%	= f/e
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$e = (\text{current value of investment} / \text{current value of all investments}) \times \text{number of employees}$

$f = (\text{current value of investment} / \text{current value of all investments}) \times \text{number earning less than the adequate wage}$

PAI = total f / total e

**PAI 12 of table 2 – Insufficient employment of persons with disabilities within the workforce:**

- ANC remarks that the formula to measure “Insufficient employment of persons with disabilities” in page 98 of the consultation document does not fit with the purpose of this PAI. Indeed, PAIs are supposed to tend towards zero, but with this formula, the higher the number, the more positive the impact. ANC suggests the following formula:  $(\text{number of employee} - \text{number of persons with disabilities in investee company}) / \text{number of employees in investing company}$ . This formula can be summarized as:  $\text{number of employees without a disability} / \text{number of employees}$ . Moreover, in order to take in account the share of employees with disabilities in the portfolio we suggest this formula:

Investee company	Current value of investment	Number of employees	Number of employees with disabilities	Consultation formula	Share of investment in b	Share of investment in c	
	a	b	c	$d = (a/\text{total } a) * (c/\text{total } c)$	$e = (a/\text{total } a) * b$	$f = (a/\text{total } a) * c$	
A	200	800	80	2%	160	16	
B	200	200	0	0%	40	0	
C	200	200	0	0%	40	0	
D	400	800	200	10%	320	80	
<b>TOTAL</b>	1000	2000	280	12%	560	96	
						17,14%	= total f/total e

$e = (\text{current value of investment} / \text{current value of all investments}) \times \text{number of employees}$

$f = (\text{current value of investment} / \text{current value of all investments}) \times \text{number of employees with disabilities}$

PAI = total f / total e

<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>

Please find below our first preliminary recommendations on the proposed mandatory environmental PAIs (table 1). ANC expects to be able to provide deeper expertise on all PAIs in a forthcoming broader consultation, however, we attach in appendix preliminary recommendations on table 2 environmental PAIs.

#### **PAI 3 of table 1 – GHG intensity of investee companies:**

- Scope 1 and 2 GHG emissions are reliable and within the control of investee companies, whereas Scope 3 GHG emissions are estimated and can only be partially influenced by investees. The carbon intensity ratio per revenue is primarily meaningful when assessing Scope 1 and 2 GHG emissions, as it reflects the reductions achieved by investees.
- Scope 3 GHG emissions primarily reflect the sectoral distribution of the investments of FMPs, which can be effectively monitored through the percentage of investments per sector. This data is readily available and easy to collect for FMPs, as the sectors with high climate impact and their emission sources are well-known. It is the responsibility of FMPs to reduce their investments in these sectors and analyse the Scope 3 GHG emissions of their investees operating in these high climate impact sectors. This allows FMPs to exert pressure on investees to reduce their Scope 3 GHG emissions, particularly in relation to purchased goods, transportation, and the use of sold products, while ensuring outsourcing of most emitting activities is not used as major decarbonisation lever.
- Therefore, it is recommended that GHG intensity of investee companies be preferably applied only to the Scope 1 and 2 GHG emissions. The description should be reframed as follows: “**total Scope 1 & 2** GHG emissions expressed as a ratio of investee company’s revenue”. However, the GHG intensity of investee companies based on 3 scopes could be maintained as a complementary source of information.

#### **PAI 4 of table 1 – Exposure to companies active in the fossil fuel sector:**

- There should be a specific breakdown between the coal, oil and gas sectors. PAI 4 should therefore be split in three parts and reframed as follows: “**breakdown (%)** of investments in companies active in the coal, **oil and gas** sectors”.
- Finally, the determination of investee companies' sectors should be based on the definition provided by EFRAG: specifically, sectors should be defined based on activities that generate at least 10% of the company's total revenues.

#### **PAI 5 of table 1 – Share of non-renewable energy consumption and production:**

- Regarding energy consumption, it is necessary to focus on identifying consumption from fossil sources, which encompass primary fossil energy as well as secondary sources from fossil energy such as electricity, hydrogen, and heat. It is crucial to consider both primary and secondary fossil sources. Consequently, PAI 5 a) should be split and reframed as follows: "a) share of **primary** energy consumption of investee companies from fossil energy sources" and "b) share of **secondary** energy consumption (**electricity, heat, hydrogen**) of investee companies from fossil energy sources”.

- In the case of secondary sources, a robust traceability system should be established to track the origin of electricity, heat and hydrogen. This should include expanding existing systems such as Guarantee of Origin (GO) and Renewable Energy Certificate (REC) systems to cover all energy sources of electricity, heat and hydrogen.
- Regarding energy production, the requirements should specifically apply to companies operating within the energy sectors. It is worth noting that these sectors are already addressed by PAI 4 and should not be disclosed twice. Consequently, PAI 5 b) should be deleted.

#### PAI 8 of table 1 – Emissions to water:

- The relevance of emissions to water may be questioned as the primary indicator for assessing impacts and risks related to water. While it combines both pollution and water-related aspects, its applicability may vary depending on the materiality of water discharges for different companies and sectors.
- It is recommended to consider an alternative indicator, such as the “**share of investments in investee companies with sites located in areas of high water stress with material water consumption**”. This proposed PAI holds greater relevance in the current context, provides a measure of exposure for investors, and is easier to calculate compared to emissions to water.

#### PAI 9 of table 1 – Hazardous waste and radioactive waste ratio:

- The relevance of "hazardous waste and radioactive waste ratio" may be questioned as the primary indicators for assessing impacts and risks related to resources and circular economy. The focus should shift towards assessing waste minimisation efforts and waste treatment.
- If it decided to retain the PAI, it should be subject to materiality since not all companies generate hazardous or radioactive waste, and the description could be reframed as follows: tonnes of **material** hazardous waste and radioactive waste generated by investee companies per million EUR invested”.

Regarding environmental opt-in PAIs (table 2), ANC recommends to:

- reduce their number (e.g., PAI 1 , 2 and 3 on pollutants, PAI 5, PAI 7, PAI 11, PAI 12, PAI 14b, PAI 15),
- introduce materiality (e.g., PAIs 1 , 2 and 3 on pollutants, PAI 6 on water usage and recycling, PAI 10 on land use change, PAI 13 on non-recycled waste ratio and PAI 14a on natural species and protected areas), and
- ensure consistency with the ESRS (e.g., PAI 4). ]

<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>

[n/a ]

<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>

Both approaches make sense. We would however recommend:

- to consider the denominator of the PAI shall be the exposure to “eligible assets” i.e., the relevant type of investment to which the PAI relates (either investee company, or sovereign or real estate). This promotes consistency and enables the comparison. It prevents the dilution effect of a denominator where the weight of irrelevant assets could impact the PAI.
- besides, the “eligibility ratio” shall be provided to allow investors to convert the PAI over all the assets (ie net asset value for a fund) |

<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>

[n/a ]

<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>

[n/a ]

<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>

[n/a ]

<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>

[n/a ]

<ESMA\_QUESTION\_SFDR\_16>

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

<ESMA\_QUESTION\_SFDR\_17>

[n/a ]

<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>

[n/a ]

<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>

|n/a |

<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>

|n/a |

<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>

|n/a |

<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>

|ANC believes that the proposed disclosures do not fully 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. This analysis is based on the following reasoning:

- 1- ESRS standards for FMPs are yet to be developed. In particular, financed/facilitated/assured GHG emissions have not been defined yet. ESRS E1 only recommends that FMPs should consider Partnership for Carbon Accounting Financials (PCAF), specifically part A “Financed Emissions” and part C “Insurance-Associated Emissions”, when preparing their Scope 3

calculation. Working groups on financial standards are currently being established and will develop these definitions in the coming months. **SFDR should rely on and be consistent with existing ESRS definitions and requirements at entity level and should phase-in and adapt its own requirements for FMPS in accordance with currently applicable rules and methodologies.**

- 2- ANC agrees that the GHG emission reduction targets should be assessed separately at the FMP level (AUM) and at the products level. For both levels, reliable and comparable Scope 1, 2 and 3 calculation is a prerequisite. As the definition of financed/facilitated/assured emissions is still pending and given the importance of these emissions for FMPs, investees' GHG emissions will be more reliable than FMPs' emissions. At FMP level, **the decarbonisation levers are primarily the sectoral divestment/reallocation strategy and the investment/financing strategy by country** (national energy mix is a key indirect decarbonisation lever), **and finally the delivery of absolute reductions by investees** (which also includes the decarbonisation lever of location strategy by country). At product level, the same decarbonisation levers apply, but more granular criterion such as benchmarks, sector exclusions, and the level of ambition of GHG emission reduction targets, among others, should be offered to FMPs to differentiate their products.
- 3- Regarding the assessment of GHG emission reductions targets, ANC would like to emphasise that Scope 1 and 2 GHG emissions should be differentiated from Scope 3 GHG emissions. Scope 1 & 2 are reliable and within the control of investee companies, whereas Scope 3 GHG emissions are estimated and can only be partially influenced by investees. Note that financed/facilitated are a specific Scope 3 category that is core to FMPs carbon footprint but of a slightly different nature (which is the reason why PCAF is only recommended under ESRS E1) and has not been precisely defined yet by EFRAG. ESRS E1 requires undertakings to disclose their GHG emission reduction targets for Scope 1, 2, and 3 GHG emissions, either separately or combined and in absolute value and, where relevant, in intensity value. **Good practice would be to disclose separately Scope 1 & 2 targets in absolute value. The disclosure of Scope 3 reduction targets should be considered as a complementary information. The carbon intensity ratio per revenue is primarily meaningful when assessing Scope 1 and 2 GHG emissions**, as it reflects the reductions directly achieved by investees. The intensity ratio per revenue including Scope 3 reflects mainly the divestment/reallocation strategy of the product and to a smaller extent the delivery of reductions by the investees and is based on data that are not fully reliable. Therefore, ANC recommends to first **assess the GHG reductions** at both FMP and product levels **through a Scope 1 & 2 intensity ratio per M€ invested**. Even if the carbon intensity ratio based on scope 1, 2 & 3 is less relevant (as the scope 3 numerator covers the value chain when the revenue denominator covers own operations), it should be kept as a complementary information reflecting the effort conducted on the full value chain. It also allows to trace scope 1 & 2 reductions by outsourcing of most emitting activities.
- 4- **It is still possible and easy to amend and align both SFDR PAIs and ESRS requirements following the current consultations.**
- 5- When it comes to Net Zero commitments at FMPs level and **transition of their investment portfolios to net-zero**, ANC reminds that ESRS have stated that "the undertaking shall not

include GHG removals, carbon credits or avoided emissions as a means of achieving the GHG emission reduction targets”. This should apply as well to FMPs and their investment portfolios. The use of removals and carbon credits in portfolios is another dimension of the products’ assessment that should not be mixed with the GHG emission reductions targets assessment. Net Zero has been defined by ESRS as the “residual GHG emissions (after approximately 90-95% of GHG emission reduction with the possibility for justified sectoral variations in line with a recognised sectoral decarbonisation pathway) that are intended to be neutralised by, for example, GHG removals in its own operations and value chain”. Under these definitions, the net zero commitment will become much more difficult to achieve both at FMPs and products’ levels. At both product and FMPs level, **financed emission targets should necessarily be defined in gross terms** and the potential targets on removals and carbon credit, if any, should be expressed as an amount of tCO<sub>2</sub>e cancelled over the target period by the investees and/or by the FMP to offset the residual portfolio emissions. In this context, the “progress on off-sets” template (e.g. in Annex IV for art 8) should probably be removed.

- 6- To conclude, **the commitments should be focused on expressing either the carbon intensity per M€ invested target or the consolidated reduction targets of investees in % over a given period (2025-2030-2040, etc.) at both FMPs and products’ levels. In any case, these targets should be primarily calculated on the gross Scope 1 & 2 GHG emission reduction expressed in absolute value, intensity targets on 3 scopes complementing these commitments.** |

<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>

|n/a |

<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 introduced by the ESAs between product-level commitments to reduce financed emissions and commitments to reduce investees' emissions is helpful in educating FMPs. However, in practice, a combination of approaches will likely be necessary to achieve these commitments. Therefore, it is important to have both sector allocation targets and financed emissions targets based on Scope 1 and 2 reductions of the investees. FMPs should be allowed to maintain autonomy in setting their own decarbonisation strategy at the product level. |

<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>

A disclosure on the degree of Paris-Alignment is neither really meaningful at investee level nor at portfolio level or FMP level as explained in ESRS. ESRS E1 states in AR 2 "Sectoral pathways have not yet been defined by the public policies for all sectors. Hence, the disclosure under paragraph 16(a) on the compatibility of the transition plan with the objective of limiting global warming to 1.5°C should be understood as the disclosure of the undertaking's GHG emissions reduction target. The disclosure under paragraph 16(a) shall be benchmarked in relation to a pathway to 1.5°C. This benchmark should be based on either a sectoral decarbonisation pathway if available for the undertaking's sector or an economy-wide scenario bearing in mind its limitations (i.e., it is a simple translation of emission reduction objectives from the state to undertaking level)." ANC argues that sectoral pathways need to be defined at EU or global level. In this context, the only meaningful and robust disclosure/commitment would be quantitative GHG reduction targets combined with a sectoral allocation target.

However, ANC acknowledges that the EU has already endorsed the possibility of aligning portfolios to the objectives of the Paris Agreement via its climate benchmarks, EU PAB and CTB. |

<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>

ANC considers that the target should be calculated on all investments of the financial product as it should reflect the performance of the whole financial product. However it should be calculated only on the investees part (excluding cash,...) where PCAF applies

<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>

Until ESRS standards specific to the finance sector are put in place, ANC recommends applying ESRS E1, which recommends that FMPs should “consider Partnership for Carbon Accounting Financials (PCAF), specifically part A “Financed Emissions” and part C “Insurance-Associated Emissions”, when preparing their Scope 3 calculation”, without making it mandatory. In the future, when ESRS financial standards on financed GHG emissions reduction targets become available, SFDR should implement them. In between, applying PCAF seems to be the best solution bearing in mind the answer to Q22 (commitments on GHG emission reduction targets should be primarily based on the gross Scope 1 & 2 GHG emission reduction expressed in absolute value, and accompanied by targets related to sectoral allocation of the investments/financing/insured activities. Intensity targets on 3 scopes may complement these commitments).

<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>

ANC supports the mandatory reporting on off-sets when they are used by the FMP to compensate for the residual emission of the product. However, we support the ESAs’ proposal that the off-sets of investee companies should always be separated out (ie the targets should be always be set in gross terms, without allowing for the netting of off-sets)

<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>

ESRS E1 defines the transition plan on climate change mitigation as composed of the GHG emission reduction targets, the resources allocated to achieve them and the shift of the products' portfolio towards sustainable products and services. Applied to financial institutions, the transition plan should be composed of:

- the strategy and target for sector allocation (which will cover the Scope 3 dimension as the high climate impact sectors are well known), and
- the consolidated target for GHG emission reduction delivered by investees, expressed either as carbon intensity per M€ invested target or consolidated reduction targets of investees in % over a given period (2025-2030-2040, etc.) in any case calculated on the gross Scope 1 & 2 GHG emission reduction expressed in absolute value.

The entity-level target for FMPs should essentially aggregate the financial product targets factored by the sector allocation evolution. Therefore, consistency between both targets could theoretically be required as a reconciliation exercise but ANC is doubtful on the practicability of such a reconciliation. This exercise may probably be experienced prior to mandating it. Regardless, this analysis will likely be part of the financial sector standard under ESRS and could be experienced in-between before mandating it. Until the adoption of the financial sector standards under ESRS, it should remain an option under SFDR. |

<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>

|n/a |

<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>

[n/a ]

<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>

[n/a ]

<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>

[n/a ]

<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>

[n/a ]

<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>

[n/a ]

<ESMA\_QUESTION\_SFDR\_35>

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

<ESMA\_QUESTION\_SFDR\_36>

[n/a ]

<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>

[n/a ]

<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>

[n/a ]

<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>

[n/a ]

<ESMA\_QUESTION\_SFDR\_39>

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

<ESMA\_QUESTION\_SFDR\_40>

[n/a ]

<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>

[n/a ]

<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>

[n/a ]

<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>

[n/a]

<ESMA\_QUESTION\_SFDR\_43>

## Appendix

### Table 1

#### **PAI 3 of table 1 – GHG intensity of investee companies:**

- Scope 1 and 2 GHG emissions are reliable and within the control of investee companies, whereas Scope 3 GHG emissions are estimated and can only be partially influenced by investees. The carbon intensity ratio per revenue is primarily meaningful when assessing Scope 1 and 2 GHG emissions, as it reflects the reductions achieved by investees.
- Scope 3 GHG emissions primarily reflect the sectoral distribution of the investments of FMPs, which can be effectively monitored through the percentage of investments per sector. This data is readily available and easy to collect for FMPs, as the sectors with high climate impact and their emission sources are well-known. It is the responsibility of FMPs to reduce their investments in these sectors and analyse the Scope 3 GHG emissions of their investees operating in these high climate impact sectors. This allows FMPs to exert pressure on investees to reduce their Scope 3 GHG emissions, particularly in relation to purchased goods, transportation, and the use of sold products.
- Therefore, it is recommended that GHG intensity of investee companies be preferably applied to the combined Scope 1 and 2 GHG emissions. The description should be reframed as follows: “**total Scope 1 & 2** GHG emissions expressed as a ratio of investee company’s revenue”

#### **PAI 4 of table 1 – Exposure to companies active in the fossil fuel sector:**

- Instead of limiting the sectoral split to fossil fuel sectors, it could be expanded to encompass all sectors with high climate impact, as defined by the Taxonomy regulation. PAI 4 a) could be reframed as follows: “**share of investments in companies active in the high climate impact sectors**”.
- Furthermore, there should be a specific breakdown of the coal, oil, and gas sectors within this expanded scope. If Scope 3 GHG emissions are no longer part of the intensity per revenue ratio as recommended for PAI 3, they should be addressed by further sector breakdowns. PAI 4 b) should be reframed as follows: “**breakdown (%)** of investments in companies active in the coal, **oil and gas** sectors”.
- Finally, the determination of investee companies' sectors should be based on the definition provided by EFRAG: specifically, sectors should be defined based on activities that generate at least 10% of the company's total revenues. And the sectoral exposure should be considered globally and required once to answer all exclusion and climate issues rather than to multiply the number of PAIs. Assessment of transition risks rely in any case on the allocation of investments by sector (see Q22).

**PAI 5 of table 1 – Share of non-renewable energy consumption and production:**

- Regarding energy consumption, it is necessary to focus on identifying consumption from fossil sources, which encompass primary fossil energy as well as secondary sources from fossil energy such as electricity, hydrogen, and heat. It is crucial to consider both primary and secondary fossil sources. Consequently, PAI 5 a) should be split and reframed as follows: "a) share of **primary** energy consumption of investee companies from fossil energy sources" and "b) share of **secondary** energy consumption (**electricity, heat, hydrogen**) of investee companies from fossil energy sources".
- In the case of secondary sources, a robust traceability system should be established to track the origin of electricity, heat and hydrogen. This should include expanding existing systems such as Guarantee of Origin (GO) and Renewable Energy Certificate (REC) systems to cover all energy sources of electricity, heat and hydrogen.
- Regarding energy production, the requirements should specifically apply to companies operating within the energy sectors. It is worth noting that these sectors are already addressed by PAI 4 and should not be disclosed twice. Consequently, PAI 5 b) should be deleted.

**PAI 6 of table 1 – Energy consumption intensity per high impact climate sector:**

- It is recommended to delete PAI 6 as it is not considered a priority for allocating funding and investments to sustainable activities in the context of sustainable finance. Instead, it is viewed as more relevant for assessing efficiency in general performance management at corporate level. Furthermore, PAI 6 may overlap to some extent with PAI 3, which focuses on carbon intensity per revenue.

**PAI 8 of table 1 – Emissions to water:**

- The relevance of emissions to water may be questioned as the primary indicator for assessing impacts and risks related to water. While it combines both pollution and water-related aspects, its applicability may vary depending on the materiality of water discharges for different companies and sectors.
- It is recommended to consider an alternative indicator, such as the "**share of investments in investee companies with sites located in areas of high water stress with material water consumption**". This proposed PAI holds greater relevance in the current context, provides a measure of exposure for investors, and is easier to calculate compared to emissions to water.

**PAI 9 of table 1 – Hazardous waste and radioactive waste ratio:**

- The relevance of "hazardous waste and radioactive waste ratio" may be questioned as the primary indicators for assessing impacts and risks related to resources and circular economy. The focus should shift towards assessing waste minimisation efforts and waste treatment.
- If it decided to retain the PAI, it should be subject to materiality since not all companies generate hazardous or radioactive waste, and the description could be reframed as follows: tonnes of **material** hazardous waste and radioactive waste generated by investee companies per million EUR invested".

## **Table 2**

### **PAI 1 of table 2 – Emissions of inorganic pollutants; PAI 2 – Emissions of air pollutants; PAI 3 – Emissions of ozone-depleting substances**

- Inorganic pollutants, air pollutants and ozone-depleting substances primarily pertain to a limited number of industries, such as the chemicals sector. Consequently, PAIs should be subject to materiality assessment and the descriptions could be reframed as follows: “PAI 1: tonnes of **material** inorganic pollutants equivalent per million EUR invested”; “PAI 2: tonnes of **material** air pollutants equivalent per million EUR invested”; and “PAI 3: tonnes of **material** ozone-depleting substances equivalent per million EUR invested”.
- Instead of relying on intensity ratios per million euros invested, a more effective approach to addressing these impacts could involve sector-based exposure analysis of portfolios.

### **PAI 4 of table 2 – Investments in companies without carbon emission reduction initiatives:**

- The definition of the PAI should be harmonised with ESRS E1. The term "initiatives aimed at aligning with the Paris Agreement" should be substituted with the term "GHG emission reduction targets" to be result-oriented. The description should be reframed as follows: “share of investments in investee companies without **GHG** emission reduction **target** aimed at aligning with the Paris Agreement”.

### **PAI 5 of table 2 – Breakdown of energy consumption by type of non-renewable sources of energy:**

- It is proposed to delete PAI 5 as it does not provide additional value beyond the mandatory ones. The information regarding this breakdown is already covered by the carbon footprint covered by PAI 4 of Table 1.

### **PAI 6 of table 2 – Water usage and recycling:**

- PAI 6 b) on water intensity per revenue may hold significance for sectors like food and beverage or agriculture. It should be noted that an average amount at portfolio level will reflect the sector allocation, not the portfolio's performance in water management. The PAI should be subject to materiality assessment, and the description should be reframed as follows: “average amount of **material** water consumed by the investee companies (in cubic meters) per million EUR of revenue of investee companies”.
- Detailed tracking of water recycled and reused at the portfolio level (average of high and low impact sectors) may render the PAI (b) meaningless. The PAI should be subject to materiality assessment, and the description should be reframed as follows: “percentage of **material** water recycled and reused by investee companies”.

### **PAI 7 of table 2 – Investments in companies without water management policies:**

- It is proposed to delete PAI 7 as environmental PAIs that rely solely on environmental management policies do not contribute to reducing environmental impacts effectively. To ensure its effectiveness, the environmental PAIs should be focused on results-oriented metrics to emphasise tangible outcomes and measurable reductions in environmental impacts.

**PAI 8 of table 2 – Exposure to areas of high water stress:**

- The focus should not be on water management policy as it does not guarantee an effective reduction of the environmental impact, but rather on the materiality of water consumption in water-stressed areas. The description should be reframed as follows: “share of investments in investee companies with sites located in areas of high water stress ~~without a water management policy~~ **with material water consumption**”. The indicator should be moved to table 1 as a replacement of PAI 8.

**PAI 10 of table 2 – Land degradation, desertification, soil sealing:**

- The PAI should apply only to priority sectors provided by the Taskforce on Nature-related Financial Disclosures (TNFD) and if the company has identified material impacts with regards to land-use and land-use change. The description should be reframed as follows: “share of investments in investee companies **operating in priority sectors provided by TNFD** the activities of which cause **material impacts with regards to land use and land-use change**”.

**PAI 11 of table 2 – Investments in companies without sustainable land/agriculture practices or policies:**

- It is proposed to delete PAI 11 as environmental PAIs that rely solely on environmental management policies do not contribute to reducing environmental impacts effectively. To ensure its effectiveness, the environmental PAIs should be focused on the materiality of impacts with regards to land use and land use change, which is already covered by PAI 10 of table 2.

**PAI 12 of table 2 – Investments in companies without sustainable oceans/seas practices or policies:**

- It is proposed to delete PAI 12 as environmental PAIs that rely solely on environmental management policies do not contribute to reducing environmental impacts effectively. To ensure its effectiveness, the environmental PAIs should be focused on the materiality of impacts with regards to oceans and seas. The description should be reframed as follows: “share of investments in investee companies, the activities of which ~~involve oceans, seas, coasts or inland water activities without sustainable oceans/seas practices or policies~~ **generate material impacts on oceans and seas**”.

**PAI 13 of table 2 – Non-recycled waste ratio:**

- Waste management is only relevant for some industries and should be subject to materiality. The description should be reframed as follows “tonnes of **material** non-recycled waste generated by investee companies per million EUR invested”.

**PAI 14 of table 2 – Natural species and protected areas:**

- With regard to PAI 14 a), the inclusion of detailed information regarding threatened species at the portfolio level seems excessive. This could potentially render the PAI insignificant. It is recommended to subject PAI 14 a) to materiality assessment. The description should be reframed

as follows: “share of investments in investee companies whose operations ~~affect~~ **have a material impact on** threatened species”.

- With regard to PAI 14 b), the management policy is not the primary concern in this case. It is proposed to delete PAI 14 b).

**PAI 15 of table 2 – Share of investments in companies without a policy to address deforestation:**

- It is proposed to delete PAI 15 as environmental PAIs that rely solely on environmental management policies do not contribute to reducing environmental impacts effectively. To ensure its effectiveness, the environmental PAIs should be focused on the materiality of impacts with regards to deforestation, which is already covered by PAI 10 of table 2

**Table 3**

**PAI 1 of table 3 – Investments in companies without workplace accident prevention policies or management systems:**

- Further clarification on workplace accident prevention policies and management systems should be provided. For instance, the term "policy" should be defined in line with Minimum Disclosure Requirement – Policies (MDR-P) in ESRS 2 of draft delegated act on ESRS.
- To ensure a comprehensive coverage of social topics, it is recommended to move PAI 1 of table 3 to table 1 as there is no mandatory indicator on health and safety (*see response to Q1 on PAI 12 of table 1*).

**PAI 2 of table 3 – Rate of recordable work-related injuries:**

- Consistency with ESRS S1-14 of draft delegated act on ESRS should be clearly required. More specifically, a reference to the guidance on computing the rate of recordable work-related injuries, as outlined in AR 91 to AR 93 of draft delegated act, could be introduced in the description of the indicator, in its formula or in a separate cross-reference table.

**PAI 3 of table 3 – Number of days lost to work-related injuries, accidents, ill health and fatalities:**

- Consistency with ESRS S1-14 of draft delegated act on ESRS should be clearly required. More specifically, a reference to guidance on work-related ill health, as outlined in AR 94 to AR 96 of draft delegated act, could be introduced in the description of the indicator, in its formula or in a separate cross-reference table.

**PAI 4 of table 3 – Lack of a supplier code of conduct:**

- Consistency with ESRS S2-1 and ESRS G1-1 and G1-2 of draft delegated act on ESRS should be clearly required, either in the description of the indicator, in its formula or in a separate cross-reference table.

**PAI 5 of table 3 – Lack of grievance/complaints handling mechanism to report alleged cases of discrimination related to employee matters:**

- PAI 5 could be merged with PAI 11 of table 1, which covers human rights grievance mechanisms. Companies are likely to develop a comprehensive mechanism that addresses all employee matters related to discrimination, human rights, and other relevant social issues.
- Consistency with ESRS S1-3 of draft delegated act on ESRS should be clearly required, either in the description of the indicator, in its formula or in a separate cross-reference table.

**PAI 6 of table 3 – Insufficient whistleblower protection:**

- Consistency with ESRS G1-1 of draft delegated act on ESRS should be clearly required, either in the description of the indicator, in its formula or in a separate cross-reference table.

**PAI 7 of table 3 – Incidents of discrimination and incidents of discrimination related to any type of discrimination leading to monetary and non-monetary sanctions in investee companies:**

- The quantification of incidents, whether of any type, does not hold relevance at the portfolio level, as it would result in an average that lacks significance. The definition of incidents is a multifaceted matter that may not accurately depict the behavior of a company, but rather the effectiveness of its grievance mechanism.
- If it is decided to retain the PAI, it would be more relevant to focus only on PAI 7 (b) where sanctions have been imposed.
- Consistency with ESRS S1-17 should be clearly required, either in the description of the indicator, in its formula or in a separate cross-reference table.

**PAI 8 of table 3 – Excessive CEO pay ratio:**

- The aggregation of excessive CEO pay ratio does not hold relevance at the portfolio level, as it would result in an average that lacks significance.
- If it is decided to retain the PAI, consistency with ESRS S1-16 should be clearly required, either in the description of the indicator, in its formula or in a separate cross-reference table.

**PAI 13 of table 3 – Lack of human rights policies:**

- Consistency with ESRS S1-1, ESRS S2-1, ESRS S3-1 and ESRS S4-1 of draft delegated act on ESRS should be clearly required, either in the description of the indicator, in its formula or in a separate cross-reference table.

**PAI 14 of table 3 – Lack of due diligence:**

- Consistency with ESRS 2 GOV-4 of draft delegated act on ESRS should be clearly required, either in the description of the indicator, in its formula or in a separate cross-reference table.

**PAI 15 of table 3 – Lack of processes and measures for preventing trafficking in human beings:**

- PAI 15 related to trafficking in human beings could be merged with PAI 13 and 14 of table 3, which focus on human rights and due diligence. This consolidation eliminates the need for a distinct PAI specifically dedicated to human trafficking, as it can be adequately addressed within the broader context of human rights and due diligence.

**PAI 16 of table 3 – Operations and suppliers using workforce qualifying as child labour:**

- PAI 16 related to child labour could be merged with PAI 13 and 14 of table 3, which address human rights and due diligence. This consolidation eliminates the need for a distinct PAI dedicated solely to child labor, as it can be adequately addressed within the broader context of human rights and due diligence.

**PAI 17 of table 3 – Operations and suppliers at significant risk of forced or compulsory labour:**

- PAI 17 related to forced labor could be merged with PAI 13 and 14 of table 3, which address human rights and due diligence. This consolidation eliminates the need for a distinct PAI dedicated solely to child labor, as it can be adequately addressed within the broader context of human rights and due diligence.

**PAI 18 of table 3 – Number of identified cases of severe human rights issues and incidents:**

- The quantification of incidents, whether of any type, lacks relevance at the portfolio level. The definition of incidents is a multifaceted matter that may not accurately depict the behavior of a company, but rather the effectiveness of its grievance mechanism. Consequently, it is recommended to focus on instances where sanctions have been imposed.
- Consistency with ESRS S1-17, S2-4, S3-4 and S4-4 of draft delegated act on ESRS should be clearly required, either in the description of the indicator, in its formula or in a separate cross-reference table.

**PAI 21 of table 3 – Lack of anti-corruption and anti-bribery policies:**

- Consistency with ESRS G1-1 of draft delegated act on ESRS should be clearly required, either in the description of the indicator, in its formula or in a separate cross-reference table.

**PAI 22 of table 3 – Cases of insufficient action taken to address reaches of standards of anti-corruption and anti-bribery:**

- It is suggested to delete PAI 22 due to the lack of a clear definition for "insufficient action taken" and its similarity to PAI 23 of table 3, which shares the same objective of assessing portfolio corruption performance.

**PAI 23 of table 3 – Number of convictions and amount of fines for violation of anti-corruption and anti-bribery laws:**

- Consistency with ESRS G1-4 of draft delegated act on ESRS should be clearly required, either in the description of the indicator, in its formula or in a separate cross-reference table.