European Securities and Markets Authority

EBA EUROPEAN BANKING AUTHORITY

EIOPA EUROPEAN INSURANCE AND OCCUPATIONAL PENSIONS AUTHORITY

JOINT COMMITTEE OF THE EUROPEAN SUPERVISORY AUTHORITIES

Response form for the Joint Consultation Paper concerning ESG disclosures

23 April 2020

Date: 23 April 2020
ESMA 34-45-904

JOINT COMMITTEE OF THE EUROPEAN SUPERVISORY AUTHORITIES

Responding to this paper

The European Supervisory Authorities (ESAs) invite comments on all matters in this consultation paper on ESG disclosures under Regulation (EU) 2019/2088 on sustainability-related disclosures in the financial sector (hereinafter "SFDR") and in particular on the specific questions summarised in Section 3 of the consultation paper under "Questions to stakeholders".

Comments are most helpful if they:

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

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

Instructions

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

Q1 Insert your responses to the questions in the Consultation Paper in the present response form.

Q2 Please do not remove tags of the type <ESA_QUESTION_ESG_1>. Your response to each question has to be framed by the two tags corresponding to the question.

Q3 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.

Q4 When you have drafted your response, name your response form according to the following convention: ESA_ESG_nameofrespondent_RESPONSEFORM. For example, for a respondent named ABCD, the response form would be entitled ESA_ESG_ABCD_RESPONSEFORM.

Q5 The consultation paper is available on the websites of the three ESAs and the Joint Committee. Comments on this consultation paper can be sent using the response form, via the ESMA website under the heading 'Your input - Consultations' by **1 September 2020**.

Q6 Contributions not provided in the template for comments, or after the deadline will not be processed.

Publication of responses

All contributions received will be published following the close of the consultation, unless you request otherwise in the respective field in the template for comments. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure. A confidential response may be requested from us in accordance with ESAs rules on public access to documents. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by ESAs Board of Appeal and the European Ombudsman.

Data protection

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

[1] 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	The international business of Federated Hermes
Activity	Investment Services
Are you representing an association?	☐
Country/Region	UK

Introduction

Please make your introductory comments below, if any:

<ESA_COMMENT_ESG_1>
The international business of Federated Hermes (‘Federated Hermes’) includes Hermes Investment Management Limited (HIML) and EOS. HIML is authorised and regulated and carries out regulated activities referred to. EOS is a Stewardship services provider and does not carry out regulated activity.

We strongly support the aims and objectives of Regulation on Sustainability-Related Disclosures in the Financial Sector (Regulation (EU) 2019/2088), or Sustainable Finance Disclosure Regulation (SFDR). We welcome the increased transparency for end investors, including in relation to adverse impacts. However, we are concerned that the proposed Regulatory Technical Standards (RTS) will not achieve these objectives and may even harm them. The highly prescriptive approach taken throughout risks a tick-box, boilerplate response from some financial market participants (FMPs). Such an approach is not specified by the Level 1 regulatory text nor do we believe it is the objective of the European Supervisory Authorities (ESAs). Thus we strongly urge the approach be revised to be more principles-based in order to achieve the goals of the Level 1 text.

<u>Key messages</u>

Our key concerns are as follows:

- Lack of alignment between the Taxonomy and the RTS, particularly in relation to the principle of ‘do not significantly harm’ (DNSH), is a notable issue that would create a confusing framework for end investors (that is, those investing in financial products, including clients and their end beneficiaries).

- Initial reactions to the proposed RTS have largely expressed uncertainty over the scope of Article 8. The Level 1 text leaves it fairly open to interpretation, but the Level 2 text seems to indicate that the broad concept of ESG integration alone is not enough. However there does seem scope for products with ESG integration which demonstrably influences capital allocation and is integrated into the investment process or products with active outcomes-based stewardship to improve investee practices or capital allocation in relation to environmental or social factors to be included.

- The mandatory template for principal adverse impact (PAI) indicators fails to capture the impact that investors can have through active stewardship and advocacy, focusing only on the FMP’s capital allocation. This risks misleading end investors and disincentivising investor stewardship. Mandatory indicators are falsely assumed to be equally material across all investments and do not take into account the likelihood or severity of risks materialising. There are also concerns in the industry about the lack of workable methodologies behind the PAI proposals.

- Data availability will pose a significant challenge, particularly for smaller or non-EU assets. In the draft RTS the onus is on investors to obtain any PAI data not published already by investees, which risks creating a bias towards large investors with the capacity to do so and large cap companies who are more likely to disclose the data already. We expand further on the need for alignment with the Non-Financial Reporting Directive in our response.

The key changes we propose in order to achieve the aims of the SFDR and the RTS are :

- To align the Taxonomy and RTS approaches to DNSH, using the existing DNSH criteria for environmental objectives and minimum social safeguards in the Taxonomy as a framework for determining significant harm and identifying PAIs. This could be updated in future if social and/or brown taxonomies are developed.

- To take a less prescriptive approach to PAI disclosures, by removing mandatory metrics entirely or providing a shorter list of key metrics that would indicate significant harm to the Taxonomy's environmental objectives or minimum social safeguards. This would contextualise such disclosures in relation to the existing Taxonomy framework. Investors should be able to then focus on the most material adverse impacts for their products and contextualise with disclosures that capture their real economy impacts through stewardship and advocacy, not just their capital allocation. A stronger focus on the processes in place to manage adverse impacts is important, including due diligence processes to identify actual or potential adverse impacts within a portfolio or potential future investments, how this is monitored on an ongoing basis, and how they engage and use other rights as an investor to influence investees and prevent or mitigate such adverse impacts .

- To streamline the disclosure and reporting requirements for Article 8 and Article 9 products to focus on the most relevant information for end investors.

- We believe that products with ESG integration which demonstrably influences capital allocation and is integrated into the investment process and products with active outcomes-based stewardship to improve investee practices or capital allocation in relation to environmental or social factors should be considered to have environmental or social characteristics that bring them into the scope of Article 8, and that this is in line with the Level 1 text. In both cases, the theory of change – that is, what the product is trying to achieve with its particular ESG integration and/or stewardship approach – should be clearly communicated to the end investor. We advise the ESAs and the Commission to confirm the intent of the Level 1 regulation if required and provide guidance as soon as possible on which products will be in scope so that investors have sufficient time to prepare disclosures.

We strongly believe these changes would be of greater use to end investors in understanding the approach and impact of financial market participants and that they are in line with the Level 1 regulatory text. Taking a more principles-based approach will allow more meaningful disclosure. This does however require regulators to have the capacity and skillset to supervise such a reporting regime. A good comparison is the FRC's approach to supervising the new Stewardship Code. The Code is principles-based and signatories are given the flexibility to report as they wish as long as the relevant material is included, but the FRC have increased their capacity and expertise to assess such reporting and will delist any that do not meet the standards.

<u>Deadlines and timings</u>

We also have concerns regarding the timings of the various requirements. Firstly, it is of crucial importance that the deadlines and transition periods of each disclosure requirement are made much clearer in the RTS. There is a significant amount of confusion in the industry that is yet to be resolved. This could lead to some firms not complying with the regulations in time due to a lack of clarity rather than deliberate delay. The following timelines are unclear:

- Principal adverse impact disclosures and reporting. We understand from the ESAs' public hearing that the disclosure of due diligence statements on managing PAIs must be disclosed by 30th June 2021 after the regulation comes into force on 10th March 2021, and the deadline for reporting on principal adverse impacts is 30th June 2022 (with a reference period of 10th March 2021 to 31st December 2021) This could be much clearer in the RTS.

- Pre-contractual disclosures for all products. Such requirements enter into force on 10th March 2021, and our understanding from the ESAs' public hearing is that these disclosures should be made as part of the next annual update required by regulation for the pre-contractual documentation, and so before 10th March 2022. However, clarification of this by the ESAs or the Commission is much needed as there are currently different interpretations amongst FMPs.

- Website disclosure – it is our understanding from the ESAs' public hearing that website disclosures must be in place by the 10th March 2021. However if the relevant pre-contractual disclosures have not yet been updated, then this may create inconsistent disclosures between the two, and yet the draft RTS states that the two should be consistent (Recital 16).

- Periodic reporting – it is not clear whether the periodic requirements that come into force in January 2022 require the next report after this date to incorporate the newly required information or whether the reference date begins on 1st January 2022 and the first report in 2023 should incorporate the new requirements. The latter would be preferable in order to allow enough time for pre-contractual updates to be made for the majority of products first before the reference period for periodic reporting begins.

We strongly advise a clear, simple timeline is included in the final RTS or in further guidance from the Commission that states the exact deadlines or transition periods for each requirement in order to remove any confusion. Where there are areas that cannot be unilaterally confirmed by the ESAs, it is crucially important that they work with the Commission to provide clarity in order to ensure that FMPs have the required information to implement the regulation.

A further concern relating to the timings of the requirements is that the deadline for compliance with some aspects of SFDR is very soon after the deadline for the ESAs to publish their final RTS. We are concerned that this time period will not be sufficient for FMPs to meaningfully comply with the requirements as firms will be unable to prepare the disclosures required by the RTS until the final version is published. The time required to implement these changes with sufficient internal and board governance should not be underestimated. From the point at which the technical standards are released, and depending on how significant the changes are from the draft RTS, it would likely take 6 to 8 weeks before FMPs are able to present amended documents to the regulator for consideration. Depending on the approach of specific regulators and whether or not there are any 'fast track' reviews in place there could be a further 6 to 8 weeks of review and comments from the regulator.

For pre-contractual disclosures, whether they must be made before the 10th March 2021 or – if the requirement is to update disclosures as part of their next scheduled annual update after 10th March - for those products with annual updates falling soon after the 10th March, there is likely to be a significant and possibly unmanageable burden on regulators to approve the relevant documentation in time. For example, the Central Bank of Ireland (CBI) closes to submissions for new funds and significant changes from October until January. This is to allow the regulator to process any backlog ahead of the holiday period, but even under normal circumstances this presents real challenges every year. By the time the CBI reopens for new submissions in January there is often some pent up demand from managers to have new funds reviewed and fund changes considered. Funds regulated in Ireland are required to update all their KIIDs every year no later than 35 business days after 31st December. Investment managers often use this opportunity to make other small documentation updates that might need to be reflected in their KIIDs. Even for FMPs with relatively small product ranges this can still represent thousands of KIIDs. Given the more substantive nature of updates required as a result of SFDR implementation this represents a significant increase in the amount of work for the regulators.

If the technical standards must be implemented by a certain date and this is not done in time to update the fund document with the annual KIID update, this would require a second KIID update within one year which would incur significant costs that we do not believe will benefit the investors in the short term, although they will of course benefit from increased disclosures in the long term.

We would advise the ESAs to work with the Commission to establish a more pragmatic timeline, in addition to providing greater clarity over deadlines. We understand that the Commission has already expressed an unwillingness to delay the 10th March 2021 implementation date, and so this could include transition or 'non-action' periods for those disclosures required in 2021 for which the standards will not be published until December 2020.

Furthermore, if alignment with the Non-Financial Reporting Directive (NFRD) and Taxonomy would be more easily achieved by delaying the finalisation of the RTS and subsequent reporting requirements, we believe this would be worthwhile to achieve a more impactful and co-ordinated approach. We support the need for greater and meaningful disclosures by investors as part of the transition to a more sustainable economy and feel that this would be more effectively achieved if sufficient time is taken to get the approach right, so that the right kind of behaviours are incentivised.

Our views on the current proposals are set out in more detail below, with practical suggestions as to how the ESAs can more closely align the final RTS with the aims of the SFDR. Please do not hesitate to contact us if we can be of use discussing any of the below further.
<ESA_COMMENT_ESG_1>

- **: Do you agree with the approach proposed in Chapter II and Annex I – where the indicators in Table 1 always lead to principal adverse impacts irrespective of the value of the metrics, requiring consistent disclosure, and the indicators in Table 2 and 3 are subject to an "opt-in" regime for disclosure??**

<ESA_QUESTION_ESG_1>
In addition to our concerns with the alignment of the RTS with the Taxonomy (see our answer to Question 22) , there are a number of issues with the current approach taken to PAI disclosures, which we set out in our response to Questions 1 - 5. We believe that a principles-based approach would be far more effective in achieving the aims of the SFDR than the current prescriptive approach, which risks box-ticking and meaningless reporting.

We are significantly concerned with the approach taken to materiality. The Level 1 text requires FMPs to determine whether their investment decisions had PAIs on sustainability factors, and if so to disclose these impacts. This suggests that the choice of what counts as a PAI is up to the FMP to determine. 'Principal' adverse impacts should by their very nature be material. The current draft states that any positive value for the mandatory indicators is 'principal'. However, the indicators proposed are by no means equally material across investments – dependent on both sector and asset class - and so positive values do not always indicate PAIs. For example, the lack of a deforestation policy is not necessarily indicative of adverse impacts as deforestation is not a material issue for all sectors or asset classes (for example, the majority of real estate based in existing urban areas). Even for relevant sectors, the lack of a deforestation policy can indicate a lack of formal oversight but does not demonstrate adverse impacts, just as the presence of a policy does not indicate how effectively the policy has been implemented. Furthermore, some of the proposed indicators lack the nuance to be meaningful, as they do not take into account the likelihood or severity of risks materialising. For example, entities with a small proportion of assets exposed to water stress would be counted the same as entities with a majority of their assets exposed to water stress. This does not give any indication of the severity of such impacts. It also does not take account of the water efficiency of these specific entities, and so lacks the nuance of the Taxonomy. A less prescriptive approach would enable FMPs to select the most material indicators for their investments and provide more context – for example, sector specific disclosures with material indicators.
<ESA_QUESTION_ESG_1>

- **: Does the approach laid out in Chapter II and Annex I, take sufficiently into account the size, nature, and scale of financial market participants activities and the type of products they make available?**

<ESA_QUESTION_ESG_2>
Data availability will pose a significant challenge, particularly for smaller or non-EU assets. For example, only 10.9% of the MSCI ACWI SMID benchmark disclose scope 1 emissions and even for the FTSE 250 this figure is only 48.6%[2]. In the draft RTS the onus is on investors to obtain any PAI data that is not publicly disclosed directly from investee companies which will be very effort intensive and therefore costly for both investors and investees. It is implied that only if this is not possible should investors make assumptions or use third-party data. This will create a bias towards large scale FMPs (due to the increased costs and capacity required to obtain data) and large cap/EU investees for which data is more widely available due to regulatory reporting requirements. Whilst we see the potential for this approach to drive increased disclosure by investees, which is certainly desirable, we advise that it should be equally as acceptable to obtain data or estimated data from third party providers as long as this is disclosed along with any assumptions used. This is the case regardless of whether mandatory PAI indicators are included in the RTS.

Many of the indicators proposed are mostly of relevance to equities and corporate bonds, with limited relevance to other asset classes.

[2] Based on a Bloomberg screening run in July 2020 of the latest financial year.

If the ESAs do include a set of mandatory indicators, it is crucial that the corporate disclosures required by the NFRD and Taxonomy cover any such indicators. Under the current RTS proposals, general data availability challenges will be compounded by the selection of some PAI indicators which are not widely used by the industry already, and so availability will be further limited and reliance on potentially unreliable estimates increased. Inclusion of any mandatory PAI indicators in corporate disclosure requirements of the NFRD will go some way to tackle this issue, reducing the proportion of companies – those not captured by the NFRD – whose data must be estimated. However, investors may continue to face difficulties obtaining or estimating data from small or non-EU companies. It will therefore be important for engagement with the appropriate bodies in other jurisdictions to encourage increased corporate disclosure standards in these markets.

Inclusion of methodologies for any mandatory or even recommended PAI indicators in the NFRD will be key. Investees use inconsistent methodologies to calculate such indicators, and also disclose on different proportions of their activities (for example, very few companies disclose 100% of their Scope 1 and 2 emissions). Specification of methodology will help to ensure that investee disclosures can be aggregated meaningfully.
<ESA_QUESTION_ESG_2>

- **: If you do not agree with the approach in Chapter II and Annex I, is there another way to ensure sufficiently comparable disclosure against key indicators?**

<ESA_QUESTION_ESG_3>
We would advise that the list of mandatory indicators is removed, and instead FMPs are required to publish – as per the level 1 text – a description of key PAIs, the governance and processes in place to identify and mitigate them, and actions taken or planned to do so. Common minimum obligations of disclosure can be specified, but with the flexibility to identify and report the most material adverse impacts specific to the FMP. This can allow for more qualitative information, though encouragement should be given to support this information with quantitative data where possible – recommended metrics and methodologies could be included in the final RTS if desired (Option 2.1 for Policy Issue 2 regarding adverse impacts in the ESAs' consultation paper). As per the OECD approach, we feel a stronger focus on the processes in place to manage adverse impacts is important through an emphasis on due diligence processes to identify actual or potential adverse impacts within an FMP's portfolio or potential future investments, and how this is monitored on an ongoing basis. FMPs should also disclose how they engage and use other rights as an investor to influence investees and prevent or mitigate such adverse impacts. This can be supported by relevant quantitative metrics, such as the number of identified violations of social safeguards. Reporting around the implementation of such policies and processes is more meaningful than current suggested PAI indicators. This will encourage investors to act as responsible stewards of the assets they are invested in and to drive increased change in the real economy.

If the ESAs feel that specification of a core set of mandatory metrics is essential, then we would propose revising the list to focus on a few key metrics, which have available methodologies. Consideration should also be given to the availability of data, and may wish to keep the list under revision as the availability of data evolves. FMPs should have the flexibility to contextualise these with disclosures that capture the real economy impacts of the FMP through engagement and advocacy, as well as capital allocation (please see our response to Question 5) as well as additional metrics that demonstrate material adverse impacts specific to the FMP. If the ESAs choose to maintain a small set of mandatory PAI indicators (and see our answer to Question 2 on the importance of alignment with NFRD and our answer to Question 22 on alignment with the Taxonomy), we would advise selecting key metrics which would indicate significant harm to the Taxonomy's environmental objectives or minimum social safeguards *and* are common across most investments. This would enable the required alignment between the DNSH and PAI indicators and the Taxonomy.

Examples from the current list, which are aligned with the Taxonomy's DNSH criteria and social safeguards, are relevant to a large proportion of investments, have available methodologies and are realistic to expect assets to disclose, include Scope 1, 2 and 3 carbon emissions (though for Scope 3 emissions, given the significant challenges of data availability and possible double counting, we advise that FMPs should be given the opportunity to disclose only reported data, as long as it is specified which proportion of assets this covers until investee disclosure improves) and non-recycled waste ratio for environmental topics. For social topics, indicators should focus on breaches of the OECD Guidelines for Multinational Enterprises and UN Guiding Principles on Business and Human Rights, including the principles and rights set out in the eight fundamental conventions identified in the Declaration of the International Labour Organisation (ILO) on Fundamental Principles and Rights at Work and the International Bill of Human Rights (for example identified cases of severe human rights issues and incidents or number/rate of accidents, injuries and fatalities). One proxy for this may be severe controversies or breaches of the UN Global Compact principles, which are used as a framework to measure severe violations by a number of ESG data providers.

Where the FMP does not feel that the aggregation of metrics would be useful at an entity level, we advise that there should be an option to break down entity disclosures by product or asset class, in addition to or instead of at entity level. We believe that this is of far greater use to end investors.
<ESA_QUESTION_ESG_3>

- **: Do you have any views on the reporting template provided in Table 1 of Annex I?**

<ESA_QUESTION_ESG_4>
In line with our response to Questions 1 and 5, we feel that the template does not allow enough flexibility for the FMP to highlight the most material aspects or contextualise responses with a broader view of investor impact.
<ESA_QUESTION_ESG_4>

- **: Do you agree with the indicators? Would you recommend any other indicators? Do you see merit in including forward-looking indicators such as emission reduction pathways, or scope 4 emissions (saving other companies´ GHG emissions)?**

<ESA_QUESTION_ESG_5>
In addition to our concerns outlined in Questions 1-4 regarding the need to apply a principle of materiality and data availability, due to its prescriptiveness the draft RTS' approach to PAI disclosures does not capture the full scope of investor impact, which risks misleading end investors and disincentivising investor stewardship. It also does not capture the direction of travel of investees, and so lacks important context. We support the double materiality perspective – that is, considering both the impacts of sustainability factors on investment and also vice versa – however, the approach taken only incorporates the impacts linked to investors through the assets they own and does not acknowledge an investor's role in influencing real economy outcomes. This could disincentivise investor stewardship, which has an important role to play in the transition to a more sustainable economy.

The frameworks used by the OECD recommendations on responsible business conduct for institutional investors[3] and the UN PRI, both of which are referenced in the legislation, distinguish between the impacts an investor has caused through its own operations, impacts an investor has contributed to through business relationships/investment activities and impacts an investor is linked to through the activities, products and services of its investees. According to the OECD, for activities contributed to by the investor or for activities linked directly by a business relationship, the investor needs to use its leverage to influence the entity causing the impact in order to mitigate it. The PAI indicators specified in Tables 1,2 and 3 of the draft RTS focus on the impacts caused by investee activities, products and services but do little to acknowledge the impacts – positive or negative – an investor can have through their stewardship and advocacy activities, or lack of. Whilst the choice of where to invest is an important aspect of investor impact, it is also crucial that the role of active stewardship and advocacy in delivering positive impacts and mitigating negative ones is acknowledged. The OECD specifically lists engagement with entities responsible for adverse impacts and advocacy with regulators and policymakers as key in responding to adverse impacts. It is also

[3] https://mneguidelines.oecd.org/RBC-for-Institutional-Investors.pdf

important to aid end investors in distinguishing between FMPs which take a box-ticking approach to stewardship and those which carry out active, outcomes based engagement.

For example, under the proposed approach, products investing in companies with poor ESG practices with the intention of engaging with these companies for improvement could appear to have a negative impact due to current investee practices. However, this is only part of the story as, if successful, the FMP could over time deliver positive impacts in the real economy which may not have been possible without the relevant ownership rights. For example, investor engagement has resulted in a number of net zero emissions targets through the Climate Action 100+ initiative.[4] As such, the proposed disclosures may favour systematic index products over active products and risk stifling innovation, by placing the onus entirely on capital allocation and not the role of stewardship and policy engagement to deliver real economy impacts. Stewardship is referenced in the Level 1 text as a means of mitigating potential adverse impacts (Recital 18) and we believe this role should be recognised more clearly in the disclosure of adverse impacts themselves. Taking a less prescriptive approach would allow FMPs to identify a wider range of relevant metrics to demonstrate their adverse impacts but also contextualise with details of engagement and voting activity or indications of the direction of travel. For example, disclosure of GHG emissions could be contextualised with details of voting activity or commitments by investees in line with the Paris Agreement. We believe this would be of greater use to end investors in understanding the impact of FMPs and is in line with the Level 1 text requiring information of actions taken or planned to mitigate adverse impacts.
<ESA_QUESTION_ESG_5>

- **: In addition to the proposed indicators on carbon emissions in Annex I, do you see merit in also requesting a) a relative measure of carbon emissions relative to the EU 2030 climate and energy framework target and b) a relative measure of carbon emissions relative to the prevailing carbon price?**

<ESA_QUESTION_ESG_6>
No. If users of the disclosures wish to calculate this, providing carbon emissions and weighted average carbon intensity will be sufficient. In order to avoid providing overwhelming amounts of information, the focus should be on key metrics.
<ESA_QUESTION_ESG_6>

- **: The ESAs saw merit in requiring measurement of both (1) the share of the investments in companies without a particular issue required by the indicator and (2) the share of all companies in the investments without that issue. Do you have any feedback on this proposal?**

<ESA_QUESTION_ESG_7>
In addition to our concerns with the general approach to selecting such indicators, we would suggest that the share of the investments in companies is the key focus of any mandatory indicators, rather than the share of all companies in the investments, to simplify disclosures and focus on the exposure to these risks and impacts.
<ESA_QUESTION_ESG_7>

- : **Would you see merit in including more advanced indicators or metrics to allow financial market participants to capture activities by investee companies to reduce GHG emissions? If yes, how would such advanced metrics capture adverse impacts?**

<ESA_QUESTION_ESG_8>
As outlined in our response to Questions 1 and 3, we believe that at most there should be a small core set of mandatory indicators, but FMPs should be able to contextualise the indicators with measures to show a wider range of investor impact and direction of travel. For carbon emissions, this may include for example

[4] https://climateaction100.files.wordpress.com/2019/10/progressreport2019.pdf

relevant voting, engagement with investees, and the share of investments in companies with verified science-based targets. We would not advise mandating such additional indicators, as again materiality will vary between FMPs and their products. However optional recommendations or examples could be provided.
<ESA_QUESTION_ESG_8>

- **: Do you agree with the goal of trying to deliver indicators for social and employee matters, respect for human rights, anti-corruption and anti-bribery matters at the same time as the environmental indicators?**

<ESA_QUESTION_ESG_9>
Whilst there are benefits to introducing such requirements at the same time for environmental and social indicators to drive up disclosure, the priority should be getting the standards right. In particular, if alignment with the Taxonomy is more feasible with a longer timeline then this should be the priority. Regardless, the list of indicators should be kept under review particularly to maintain alignment with the Taxonomy as it is further developed and to take into accounts update to the Non-Financial Reporting Directive.
<ESA_QUESTION_ESG_9>

- **: Do you agree with the proposal that financial market participants should provide a historical comparison of principal adverse impact disclosures up to ten years? If not, what timespan would you suggest?**

<ESA_QUESTION_ESG_10>
A historical comparison is useful, particularly for FMPs claiming to be investing more sustainably over time or moving investee companies to more sustainable practices. However ten years' worth of data may be an overwhelming amount of information for end investors and also data may not be directly comparable given that this is an evolving space so methodologies are likely to change over time. We would suggest a comparison over 5 years would be proportionate. It is also important that FMPs are able to explain and contextualise trends.
<ESA_QUESTION_ESG_10>

- **: Are there any ways to discourage potential "window dressing" techniques in the principal adverse impact reporting? Should the ESAs consider harmonising the methodology and timing of reporting across the reference period, e.g. on what dates the composition of investments must be taken into account? If not, what alternative would you suggest to curtail window dressing techniques?**

<ESA_QUESTION_ESG_11>
There is a lack of clarity around the methodologies that should be employed to calculate PAI indicators at the entity level under the proposed RTS. Some of the key issues include:

- The proposal to aggregate all indicators to entity level in reporting risks losing meaning due to the lack of context and materiality. This does not serve the end investor's needs.
- It will be challenging to calculate the indicators for certain asset classes and instruments, such as sovereign bonds.
- It is unclear how FMPs should account for double counting, for example in the case of carbon emissions. Such instances arise both through multiple exposures to the same company – for example through equity and debt or derivatives - and through exposure to assets in the same value chain, where one asset's Scope 1 emissions may be captured under another asset's Scope 2 emissions. This is a widely recognised issue that experts are still working in in the EU and elsewhere – for example through the PCAF initiative.

- There is also a lack of clarity in relation to the point in time at which investee data should be captured, with mentions in the ESAs' public hearing of a daily average or a snapshot at the point of an investment decision. Most data are not disclosed frequently enough to make this workable. This is again not a workable approach as investees do not disclose so regularly or on such a granular basis, and it would not be desirable for them to do so given the capacity and cost implications.

There would be merit in defining basic methodologies for identification and aggregation of any mandatory – or ideally recommended - indicators for the main asset classes and instruments, in order to mitigate some of the challenges we outline above. Efforts should be made in such methodologies to normalise indicators to allow factors such as changes in AUM that may impact on historical comparisons required under the standards.

There does not seem to be one clear solution to the question of how to factor in investments across the entire reference period. Taking a snapshot at the end of the reference period would be significantly more straightforward, however it may not be representative of the investments across the entire reference period and so is not a true reflection of an investor's impacts. On balance, we recommend that any recommended or mandatory metrics are designed in such a way that they can be weighted for the holding period (or equivalent, depending on the asset class) and are possible to aggregate and compare across different reference periods. So, for example, carbon emissions would be weighted by the holding period and by the percentage owned of the investee during this period.

For some metrics this may not be possible, for example it is difficult to see how gender pay gaps or the ration of average to CEO pay could be weighted and aggregated. Many of these are not metrics we consider should be included in any list of mandatory KPIs. However there are a small number which capture the occurrence of a specific event – for example identified cases of severe human rights issues and incidents – which may be key indicators for breaches of social safeguards and yet would be very difficult to weight by holding period and/or easily be appointed to investors in terms of investors' intentional impact. Clear guidance should be provided on the methodologies for calculating such indicators, for example conversion to a measure of frequency.

Efforts should be made – including through the NFRD reform – to ensure that data are disclosed frequently enough, are as up-to-date as possible and are granular enough that cumulative metrics can be meaningfully assessed for the period of holding. The frequency of disclosure should be factored into the selection of indicators. For example, calculating financed emissions based on quarterly reporting is more accurate than a calculation based on annual reporting.
<ESA_QUESTION_ESG_11>

- **: Do you agree with the approach to have mandatory (1) pre-contractual and (2) periodic templates for financial products?**

<ESA_QUESTION_ESG_12>
Whilst there is merit in providing an overview of the information that must be included in each document, in particular for pre-contractual disclosures, we do not see that a mandatory template is required. FMPs should be given the flexibility to structure the disclosures and reporting in the way that is most informative and useful to end investors and the regulators depending on the content.
<ESA_QUESTION_ESG_12>

- **: If the ESAs develop such pre-contractual and periodic templates, what elements should the ESAs include and how should they be formatted?**

<ESA_QUESTION_ESG_13>
Please refer to our answer to Question 12.
<ESA_QUESTION_ESG_13>

- **: If you do not agree with harmonised reporting templates for financial products, please suggest what other approach you would propose that would ensure comparability between products.**

<ESA_QUESTION_ESG_14>
Please refer to our answer to Question 12. The requirements included in the Level 1 regulatory text and further detail specified in the RTS should create enough comparability between products.
<ESA_QUESTION_ESG_14>

- **: Do you agree with the balance of information between pre-contractual and website information requirements? Apart from the items listed under Questions 25 and 26, is there anything you would add or subtract from these proposals?**

<ESA_QUESTION_ESG_15>
Yes, we agree that pre-contractual disclosures should contain clear and concise information for decision-making but that more detailed disclosures or disclosure of information that is likely to require updating are best made on the website.

We have concerns relating to product level discrepancies between the SFDR and Taxonomy reporting requirements. For example, the following disclosures will be required under the proposed RTS (left) and the amendments to the SFDR included in the Taxonomy Regulation (right) for Article 8 products with environmental characteristics (with similar issues for products with social characteristics if the Taxonomy is further expanded):

SFDR RTS proposal	Taxonomy obligation
Articles 15 and 41 RTS: • A graph presenting: ▪ How much of the product is "sustainable investments" broken down by environmental and social objectives; ▪ The total investments, excluding the above, that contribute to E&S characteristics, broken down by E&S; ▪ Everything else • Narrative to include description of the purpose of the remainder of the investments and the investment in different sectors, including solid fossil fuels (labelled as fossil fuels). **Articles 18 and 37 RTS:** • A list of sustainability indicators used to measure attainment of E&S characteristics.	• Environmental objectives (as per the Taxonomy) to which the investments within the product contribute; • Description of how the EU Taxonomy was used in determining the sustainability of the investments; • Description and proportion of the product's investments that are in economic activities qualifying as 'environmentally sustainable' according to Article 3 of the Taxonomy Regulation; • Proportion of "enabling" and "transition" investments within the product. • [TEG recommendation: proportion of the fund that is potentially aligned but for which full validation cannot be completed]

As shown in the above example, there are similar areas of disclosure that use different frameworks. Furthermore, the requirement to disclose the proportion of investments in Article 8 products that meet sustainable investment criteria will require all investments to be assessed against these criteria – despite this not being an objective of the product and potentially causing confusion with Article 9 products – as well as against the Taxonomy criteria for products with environmental characteristics. We agree that investments of both Article 8 and Article 9 products should not be required to be Taxonomy-compliant, however that does not mean it wouldn't be useful to use the taxonomy as a framework for reporting. Thus, more work is needed to harmonise the disclosures, with a focus on usefulness and clarity for end investors. Although the timeframes for the ESAs to produce standards for the new requirements introduced to the SFDR through the Taxonomy Regulation are longer, it is important that the RTS produced by December 2020 take these future requirements into account so that the final set of standards are coherent. We would advise removing the additional requirements in the left-hand column above which cover similar ground to the requirements introduced via the Taxonomy Regulation. When drafting disclosure standards for the right-hand column, these should be well integrated into other requirements included in the RTS to provide a coherent disclosure framework. We would also advise the ESAs to work with the Commission to develop a clear description of how the SFDR/RTS, Taxonomy and Non-Financial Reporting Directive (NFRD) fit together coherently.

Whilst the Level 1 text and the draft RTS provide an option for Article 8 products to use a standard benchmark that is not aligned with its environmental or social characteristics, the Level 1 text (for example, Recital 21) implies that Article 9 products with a benchmark must use benchmarks that are aligned with their sustainable investment objective. Aside from the new EU low-carbon and transition benchmarks there are no minimum standards for such benchmarks and there may not be benchmarks available that align with the objective of the product. We would advise including in the RTS an explanation of how FMPs should proceed in such a case – for example, similar to Article 8 products, a clear statement that the selected benchmark does not align with the products objectives and an explanation of why it was chosen.
<ESA_QUESTION_ESG_15>

- **: Do you think the differences between Article 8 and Article 9 products are sufficiently well captured by the proposed provisions? If not, please suggest how the disclosures could be further distinguished.**

<ESA_QUESTION_ESG_16>
The differences between Article 8 and Article 9 products are clear enough in the proposed provisions, but the scope of Article 8 is not clearly defined in the Level 1 text, and whilst the consultation paper does make some attempt to clarify this, it has led to different interpretations regarding the inclusion of products with ESG integration. Given that disclosures must be made for products which are deemed to meet the criteria of Articles 8 or 9, regardless of whether they are marketed as such, it is particularly important that sufficient clarity is provided about which products are within scope.

The background analysis in the ESAs' consultation paper notes that 'the broad concept of 'ESG integration' should not be enough to justify that a product promotes environmental or social characteristics…only selection criteria for underlying assets that apply on a binding basis should be disclosed as part of pre-contractual disclosures.' However, at the ESAs' public hearing it was advised that whilst general promises of ESG integration are not sufficiently granular to qualify the product as Article 8, if such a characteristic has specific impacts on investment decisions and is communicated to end investors as informing such capital allocation then it may be within scope of Article 8. This latter, more nuanced interpretation is, we believe, in line with the Level 1 text which has no mention of 'binding' criteria. A requirement of 'binding' criteria may favour funds which, for example, apply an exclusionary screen over funds which analyse the fundamentals of an asset to fully understand its ESG characteristics. If done properly, ESG integration should impact portfolio construction due to integration of a broader range of risks and opportunities into investment decision making. Our understanding is therefore that if ESG integration impacts investment decisions such as portfolio construction *and* this is communicated to clients and prospects then the product is within the scope of Article 8.

Stewardship and engagement relating to ESG risks is an extremely important aspect of sustainable investment. In addition to informing investment decisions, done well it can deliver positive real economy impacts. Active and outcomes-based engagement can improve investee practices or investee capital allocation in relation to environmental or social factors. Whilst investing in assets that are already delivering positive social and environmental impacts is one way of investing sustainably, outcomes-based engagement with assets drives the sort of change needed to close the EUR 170bn p.a. 2030 climate and energy investment gap through influencing primary capital allocation decisions at the investee company level. Although engagement is not the same as ESG integration, such engagement can also be an important source of insight relating to ESG risk and opportunity and as such we recommend it be explicitly acknowledged as a key feature of many products with environmental and social characteristics.

Whilst we understand that the ESAs cannot unilaterally further define terms in the Level 1 regulation, given the statement in the consultation paper which seems at odds to Level 1 text and the ESAs' own public hearing, we strongly advise that the ESAs explicitly clarify that products with ESG integration, which may include integration of engagement insights related to ESG, that impacts investment decisions and is communicated to end investors would be considered to meet the Article 8 criteria specified in the regulation – working with the Commission to confirm the intent of the Level 1 regulation if required. We request that the ESAs provide guidance as soon as possible on which products will be in scope so that FMPs have sufficient time to prepare disclosures. This is in the interests of the end investors, who we believe would value the additional disclosures in order to better distinguish between the different ESG integration approaches of FMPs.

We do also have concerns that minimal exclusions could qualify a product for Article 8, and so recommend that disclosure of the materiality of any exclusions described as relating to ESG or sustainability – as already advised in the RTS consultation paper – is incorporated into the final RTS on a mandatory basis, to demonstrate the extent of the reduction in the investable universe and so potential impact on portfolio construction. Furthermore, it is possible to exclude certain sectors for reasons not related to environmental or social factors, which we do not believe should be captured by Article 8. Therefore, consistent with our views on ESG integration and stewardship, we believe that there should be a clear articulation of the theory of change. For example, exclusions may be based on withholding capital from unsustainable sectors as part of price signalling to encourage a broader transition. Otherwise this regulation risks rewarding products that take a tick box but less rigorous approach, whilst excluding products which are aiming to improve the sustainability of companies in the real economy.

Clarity is advised on implications for product names, particularly which products can be referred to as 'sustainable'. Whilst only Article 9 products are classed as fully meeting the criteria for 'sustainable investment', both Article 8 and 9 products fall under the Sustainable Finance Disclosure Regulation. We would encourage a broader view of what counts as sustainable that includes Article 8 products and acknowledge the important role that the investor's strategy can play through engaging with companies to improve their sustainability performance, deliver sustainable outcomes and help generate additional positive real economy impact over time. Again, we would advise the ESAs and the Commission to work together to provide clear guidance to FMPs on this issue, to ensure that there is a common approach to product names.
<ESA_QUESTION_ESG_16>

- **: Do the graphical and narrative descriptions of investment proportions capture indirect investments sufficiently?**

<ESA_QUESTION_ESG_17>
Please refer to our answer to Question 15. We advise removing these requirements and a focus on breakdown of Taxonomy compliance, as otherwise there will be similar disclosures using two different frameworks.
<ESA_QUESTION_ESG_17>

- **: The draft RTS require in Article 15(2) that for Article 8 products graphical representations illustrate the proportion of investments screened against the environmental or social characteristics of the financial product. However, as characteristics can widely vary from product to product do**

you think using the same graphical representation for very different types of products could be misleading to end-investors? If yes, how should such graphic representation be adapted?

<ESA_QUESTION_ESG_18>
Please refer to our answer to Question 15. We advise removing these requirements and a focus on breakdown of Taxonomy compliance, as otherwise there will be similar disclosures using two different frameworks.
<ESA_QUESTION_ESG_18>

- **: Do you agree with always disclosing exposure to solid fossil-fuel sectors? Are there other sectors that should be captured in such a way, such as nuclear energy?**

<ESA_QUESTION_ESG_19>
We agree – as per the Taxonomy – that investments in solid fossil fuels are not sustainable. However, there are other carbon-intensive economic activities, or indeed activities that are damaging to one or more of the Taxonomy's environmental objectives. As described earlier, we feel that FMPs should select the indicators relevant to their own most material impacts based on their investments. Whilst solid fossil fuels exposure will result in adverse impacts, the same is true of other investments – including investments exposed to other fossil fuels which do not meet the Taxonomy DNSH criteria – and disclosing only solid fossil fuel exposure will not capture this. Rather than include a list of all economic activities that cause adverse impacts, we advise a requirement for firms to consider and disclose exposure to particular sectors or economic activities that cause significant harm.

We would also suggest that rather than defining the term 'fossil fuels' in the RTS as referring only to solid fossil fuels, the full term 'solid fossil fuels' should be used. In common usage, 'fossil fuels' includes all hydrocarbon-based fuel sources, such as oil and natural gas (as per the definitions promoted by the Intergovernmental Panel on Climate Change.) Using a narrower definition could potentially be misleading for the end investor who may assume that all exposures to fossil fuels are captured in such an indicator.
<ESA_QUESTION_ESG_19>

- **: Do the product disclosure rules take sufficient account of the differences between products, such as multi-option products or portfolio management products?**

<ESA_QUESTION_ESG_20>
The draft RTS requires disclosures to be easily accessible and some disclosures to be published on an FMP's website. Whilst the consultation paper notes potential confidentiality concerns for firms providing portfolio management services, as segregated mandates are in scope of the disclosure requirements due to the inclusion of portfolio management in the definition of a financial product, it does not provide clear guidance on how this should be dealt with. However the draft RTS also requires FMPs to comply at all times with national and Union law governing the protection of confidentiality of information, including the protection of 'undisclosed know-how and business information and the processing of personal data' (Recital 17) in reference to the periodic disclosures. Clarity is needed over the nature and extent of public disclosure requirements for segregated mandates, including whether confidentiality obligations under other European and/or domestic laws take precedence over SFDR requirements, and whether confidentiality obligations must arise from EU or domestic legislation or whether contractual obligations are also relevant.
<ESA_QUESTION_ESG_20>

- **: While Article 8 SFDR suggests investee companies should have "good governance practices", Article 2(17) SFDR includes specific details for good governance practices for sustainable investment investee companies including "sound management structures, employee relations, remuneration of staff and tax compliance". Should the requirements in the RTS for good governance**

practices for Article 8 products also capture these elements, bearing in mind Article 8 products may not be undertaking sustainable investments?

<ESA_QUESTION_ESG_21>
In relation to good governance practices, we support the approach taken in the draft RTS that requires FMPs should be required to disclose their policy on how they try to ensure good governance in investees. This should cover both investment decisions and stewardship activities, and include how the FMP monitors governance in investees and responds to identified or potential controversies. This approach allows for variation in views on what is considered good governance, which is also influenced by geography, rather than specifying precise standards of governance investees must reach, which is beyond the remit of the SFDR. We see no harm in providing the examples of 'sound management structures, employee relations, remuneration of staff and tax compliance' as key areas of focus for good governance across both Article 8 and 9 products.
<ESA_QUESTION_ESG_21>

- **: What are your views on the preliminary proposals on "do not significantly harm" principle disclosures in line with the new empowerment under the taxonomy regulation, which can be found in Recital (33), Articles 16(2), 25, 34(3), 35(3), 38 and 45 in the draft RTS?**

<ESA_QUESTION_ESG_22>
The links to the Regulation on the establishment of a framework to facilitate sustainable investment (Regulation (EU) 2020/852)[5], or 'Taxonomy Regulation', are at best unclear and at worst misaligned. The draft RTS appear to have been developed without attempts to align with the Taxonomy, which provides a confusing framework and misses an opportunity to incorporate the technical expertise captured in the Taxonomy. We appreciate there were challenges with the sequencing of SFDR and Taxonomy deadlines, and hope that the ESAs will now use the period before the final RTS are due to bring them into closer alignment with the Taxonomy.

The Taxonomy Regulation and the Technical Annex to the Technical Expert Group (TEG) final report on the EU Taxonomy[6] define 'do not significantly harm' (DNSH) criteria for each of the six identified environmental objectives to ensure that progress is not made on one objective at the expense of others, with high-level criteria for each objective as well as more detailed thresholds for each economic activity included in the Taxonomy itself. The Taxonomy Regulation (Article 8) specifies that economic activities should only qualify as environmentally sustainable where there are procedures to ensure alignment with the OECD Guidelines for Multinational Enterprises and UN Guiding Principles on Business and Human Rights, including the principles and rights set out in the eight fundamental conventions identified in the Declaration of the International Labour Organisation (ILO) on Fundamental Principles and Rights at Work and the International Bill of Human Rights. The fundamental conventions of the ILO define human and labour rights that undertakings should respect.

The Taxonomy Regulation also refers to the SFDR and states that 'undertakings should adhere to the principle of 'do no significant harm' referred to in Regulation (EU) 2019/2088 and take into account the regulatory technical standards adopted pursuant to that Regulation that further specify that principle' and that the Taxonomy should take into account environmental principal adverse impact (PAI) indicators specified in the RTS. It is therefore very important that the RTS and the Taxonomy regulation are aligned, and given that the high-level interpretation of significant harm to environmental and social aspects is already enshrined in the legislation of the Taxonomy (Articles 17 and 18), we believe the most effective way is to align the RTS with the Taxonomy DNSH approach outlined above.

For a number of reasons, we believe that the DNSH approach specified in the draft RTS does not align with the Taxonomy:

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[5] https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32020R0852&from=EN
[6] https://ec.europa.eu/info/sites/info/files/business_economy_euro/banking_and_finance/documents/200309-sustainable-finance-teg-final-report-taxonomy-annexes_en.pdf

- The PAI indicators do not clearly align with the DNSH criteria and minimum safeguards included in the Taxonomy Regulation (Articles 17 and 18), nor indeed do they seem to be aligned with any particular framework. As the RTS uses these misaligned indicators as the basis for the DNSH assessment, the approach to DNSH in the RTS is different to the one in the Taxonomy.

- The PAI indicators' lack of materiality for specific sectors or economic activities is not accounted for in the long list of mandatory indicators. This is in contrast to the approach of the Taxonomy, which is based on specified environmental objectives and contains DNSH criteria for specific economic activities based on scientific evidence and contextualisation of the activity's role in the transition to a sustainable economy (we expand more on the issues that may be caused by the current approach in our answer to question 1).

- While the Taxonomy sets clear thresholds for what counts as significant harm to environmental objectives and has minimum social safeguards, in the draft RTS such judgements are left to the discretion of the FMP. As the RTS PAI indicators are not aligned with a particular framework and do not take account of materiality of indicators in specific contexts, there is little context within which to define significant harm. This introduces a large amount of subjectivity.

As a result, these two disclosure regimes, despite having similar focal areas and end objectives, use two different frameworks for DNSH. This will undermine the Taxonomy's aim of creating a common framework and, by placing misaligned frameworks side by side in the same documents, make it difficult for end investors to take meaning from these disclosures.

<u>We would advise the European Supervisory Authorities (ESAs) to use the Taxonomy's high-level conditions for DNSH to environmental objectives [7] and minimum social safeguards[8] as the basis for DNSH assessments in relation to sustainable investments, rather than the current PAI indicators. The DNSH assessment for sustainable investments under SFDR and for Taxonomy compliance would then be based on the same DNSH criteria/minimum social safeguards, which would streamline the process for FMPs.</u>

Where assessments have already been made at economic activity level to demonstrate Taxonomy compliance of investments, such information could be used to demonstrate compliance with the DNSH principle of sustainable investment. For other investments, an assessment could be made at investee level as to whether the investee causes significant harm to the Taxonomy's environmental objectives or minimum social safeguards (based on Articles 17 and 18 of the Taxonomy Regulation). Our views on how the PAI indicators should be aligned with the Taxonomy are set out in Question 3. The ESAs should explore whether thresholds could be developed, drawing on the Taxonomy's technical screening criteria. Otherwise, FMPs could be asked to make an assessment using a principles-based approach, including due diligence in relation to investee controversies.

This approach should be reflected in the development of the disclosure standards for DNSH in relation to sustainable investments. If and when a social taxonomy becomes available, the minimum social safeguards could be replaced with the DNSH criteria for social objectives. The technical standards should be revised if a brown taxonomy is subsequently introduced so that this forms the basis of DNSH assessments for sustainable investments, including any thresholds.

We also advise that the wording in Articles 38 and 45 of the draft RTS more clearly states that it is the approach to excluding investments that cause significant harm and how this worked in practice e.g. ex-ante screening, post-controversy exclusion that must be disclosed, not the list of the specific investments that were excluded.
<ESA_QUESTION_ESG_22>

- **: Do you see merit in the ESAs defining widely used ESG investment strategies (such as best-in-class, best-in-universe, exclusions, etc.) and giving financial market participants an opportunity**

[7] https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32020R0852&from=EN Article 17
[8] https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32020R0852&from=EN Article 18

to disclose the use of such strategies, where relevant? If yes, how would you define such widely used strategies?

<ESA_QUESTION_ESG_23>
We do not see the need for the ESAs to define such investment strategies given the numerous existing initiatives that have attempted to do so already. Requiring disclosure as to how each product applies such strategies is sufficient. As noted above, we feel the language used regarding the inclusion of ESG integration strategies which impact investment decisions and are communicated to clients within the scope of Article 8 should be clarified.
<ESA_QUESTION_ESG_23>

- **: Do you agree with the approach on the disclosure of financial products' top investments in periodic disclosures as currently set out in Articles 39 and 46 of the draft RTS?**

<ESA_QUESTION_ESG_24>
We are supportive of the inclusion of the top investments in periodic disclosures. Standard good practice is the top 10 investments, which we suggest is adopted in the RTS. We do not see that disclosing a longer list of holdings would add significant benefit, and so may unnecessarily extend the length of disclosures for end investors.

<ESA_QUESTION_ESG_24>

- **: For each of the following four elements, please indicate whether you believe it is better to include the item in the pre-contractual or the website disclosures for financial products? Please explain your reasoning.**

1. **an indication of any commitment of a minimum reduction rate of the investments (sometimes referred to as the "investable universe") considered prior to the application of the investment strategy - in the draft RTS below it is in the pre-contractual disclosure Articles 17(b) and 26(b);**
2. **a short description of the policy to assess good governance practices of the investee companies - in the draft RTS below it is in pre-contractual disclosure Articles 17(c) and 26(c);**
3. **a description of the limitations to (1) methodologies and (2) data sources and how such limitations do not affect the attainment of any environmental or social characteristics or sustainable investment objective of the financial product - in the draft RTS below it is in the website disclosure under Article 34(1)(k) and Article 35(1)(k); and**
4. **a reference to whether data sources are external or internal and in what proportions - not currently reflected in the draft RTS but could complement the pre-contractual disclosures under Article 17.**

<ESA_QUESTION_ESG_25>
As per our answer to Question 15, we agree that pre-contractual disclosures should contain clear and concise information for decision-making but that more detailed disclosures or disclosure of information that is likely to require updating are best made on the website. In light of these we agree with the inclusion of (1), and (2) in the precontractual disclosures and the inclusion of (3) in the website disclosures. If (4) is included, we advise that it would be best placed alongside (3) in the website disclosures given it is more detailed and liable to change.
<ESA_QUESTION_ESG_25>

- **: Is it better to include a separate section on information on how the use of derivatives meets each of the environmental or social characteristics or sustainable investment objectives promoted by the financial product, as in the below draft RTS under Article 19 and article 28, or would it be better to integrate this section with the graphical and narrative explanation of the investment proportions under Article 15(2) and 24(2)?**

<ESA_QUESTION_ESG_26>
We do not have strong views on this question.
<ESA_QUESTION_ESG_26>

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

<ESA_QUESTION_ESG_27>
Our views on the Preliminary Impact Assessments are captured in our previous answers.
<ESA_QUESTION_ESG_27>