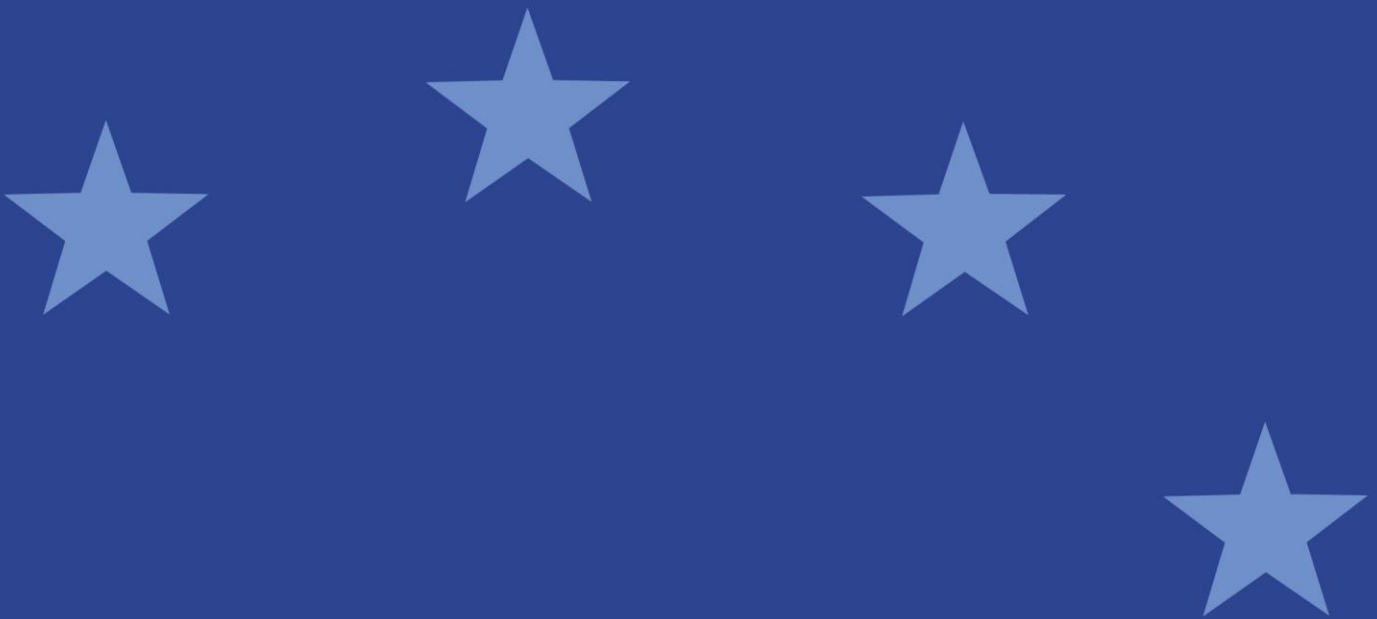


Response form for the Joint Consultation Paper concerning Taxonomy-related sustainability disclo- sures





Responding to this paper

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

Comments are most helpful if they:

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

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

Instructions

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

- Insert your responses to the questions in the Consultation Paper in the present response form.
- Please do not remove tags of the type <ESA_QUESTION_ESG_1>. Your response to each question has to be framed by the two tags corresponding to the question.
- If you do not wish to respond to a given question, please do not delete it but simply leave the text “TYPE YOUR TEXT HERE” between the tags.
- When you have drafted your response, name your response form according to the following convention: ESA_ESG_nameofrespondent_RESPONSEFORM. For example, for a respondent named ABCD, the response form would be entitled ESA_ESG_ABCD_RESPONSEFORM.
- The consultation paper is available on the websites of the three ESAs and the Joint Committee. Comments on this consultation paper can be sent using the response form, via the [ESMA website](#) under the heading ‘Your input - Consultations’ by 12 May 2021.
- Contributions not provided in the template for comments, or after the deadline will not be processed.

Publication of responses

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

Data protection

The protection of individuals with regard to the processing of personal data by the ESAs is based on Regulation (EU) 2018/1725¹. 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	BETTER FINANCE
Activity	NGO – European federation of investors and financial services users
Are you representing an association?	<input checked="" type="checkbox"/>
Country/Region	Belgium

Introduction

Please make your introductory comments below, if any:

<ESA_COMMENT_ESG_1>
TYPE YOUR TEXT HERE
<ESA_COMMENT_ESG_1>

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

<ESA_QUESTION_ESG_1>

BETTER FINANCE welcomes the proposed approach to amend the existing Regulatory Technical Standards for the Sustainable disclosure regulation. In particular, we support the Single Rulebook approach to avoid duplication and complexity in this domain. However, we advise to coordinate with EU Commission in order to make sure that the set of regulatory technical standards published in February 2021 will be endorsed together with these new amending regulatory technical standards in order to avoid conflicting and separate sets of rules.

<ESA_QUESTION_ESG_1>

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

<ESA_QUESTION_ESG_2>

In general, we support that the KPI should be calculated by establishing the weighted average taxonomy-aligned activity contribution of investments in the numerator and using all investments as the denominator. It is particularly important to consider as denominator the entire sample of investments in order to provide a comprehensive overview of taxonomy aligned investments. BETTER FINANCE in its research on sustainable investment funds and related ESG rating, has noticed that not always sustainability factoring is screened for the 100% of the portfolio. Sustainability screening might apply only to a part of the portfolio thus allowing non-sustainable investment in a fund marked as sustainable. Therefore, we strongly agree with this calculation.

However, we have some concerns regarding the numerator and the possibility to choose 1 indicator among the 3 proposed (Turnover, CAPEX or OPEX). This would provide too much flexibility to the asset managers in the choice of the indicator with the possible effect of missing the correct representation of the product. In addition, the Turnover and CAPEX are very different indicators that should be used following specific characteristics of the underlying asset. The turnover is a "present" indicator that provides an indication on the actual level of "greenness" of the company at the present time. On the contrary CAPEX is a forward-looking indicator that shows the direction of the company in greening its activities. This indicator is more representative for companies in transition compared to "pure green player". In addition, it would be difficult to compare sustainable products if some use only Turnover and other only CAPEX. There is evidence that the EU individual investors feel overwhelmed by the sheer complexity of, and uncertainty associated with, the investment products available. The information on distributors' websites is not really transparent and not at all standardised across products and countries and it is difficult for individual investors who are not financially savvy to find, understand and compare this information in order to make an informed investment decision and choose a suitable product². Therefore, we believe that it should not be up to the asset manager to choose 1 indicator, but the ESAs should consider providing guidance on if and when all the 3 indicators need to be applied for the same product in order to facilitate comparisons between products. Also, non-financial companies will be obliged to disclose Turnover, Capex and Opex therefore there won't be issues in terms of lack of available data.

<ESA_QUESTION_ESG_2>

² Study on the distribution systems of retail investment products https://ec.europa.eu/info/publications/180425-retail-investment-products-distribution-systems_en

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

<ESA_QUESTION_ESG_3>

As previously mentioned the 3 indicators should be disclosed for the all underlying assets.

<ESA_QUESTION_ESG_3>

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

<ESA_QUESTION_ESG_4>

Considering the complexity of derivatives, their inclusion in the green asset calculation could raise some issues. Derivatives have a very large scope (future, forwards, options, swaps convertible bonds etc.) with very different nature (hedging or speculative) that does not completely fit the purpose of having more sustainable investments. Due to their nature and their use, derivatives should be, at the moment, excluded by the calculation of KPIs until when additional guidance is provided.

<ESA_QUESTION_ESG_4>

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

<ESA_QUESTION_ESG_5>

Yes, the use of equities and debt instruments is sufficiently clear to capture relevant instruments issued by investee companies.

<ESA_QUESTION_ESG_5>

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

<ESA_QUESTION_ESG_6>

As previously explained in question 2, It is very important to consider as denominator all the investments in order to provide a comprehensive image of the portfolio. BETTER FINANCE, in its research on sustainable investments funds and related ESG rating, has noticed that not always sustainability factoring is screened for the 100% of the portfolio. Currently, sustainability screening might apply only to a part of the portfolio thus allowing non-sustainable investment in a fund marked as sustainable. Therefore, we strongly agree with the calculation that will include all the investments in the denominator.

<ESA_QUESTION_ESG_6>

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

<ESA_QUESTION_ESG_7>

Yes, BETTER FINANCE believes that a statement on the taxonomy compliance of the activities should be provided and it should be also subject to third parties' assessment. In addition to the statement, we believe that also the KPIs should be audited by third parties.

The RTS should ask to provide a clear statement if the data have been audited or not by third parties. This should provide additional certainty on the reliability of the information disclosed.

<ESA_QUESTION_ESG_7>

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

<ESA_QUESTION_ESG_8>

TYPE YOUR TEXT HERE

<ESA_QUESTION_ESG_8>

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

<ESA_QUESTION_ESG_9>

We welcome the inclusion of the graphical representation. We believe that the graphical representation could help individual investors to easily understand the sustainable features of the product as long as the same format of graphical representation is used for the same product category. Unfortunately, we regret that the templates were not made mandatory.

We believe that information provided in the template should be reduced in order to avoid the overload of the information for the individual investors. We welcome the inclusion of the link- website at the end of the template which can provide additional information to the retail investors. However, we stress again that information disclosure for individual investors must be at all times clear (in the MiFID sense; i.e. intelligible), simple, short and concise, avoiding jargon and comparable.

In addition, we believe that the product classification as presented by the RTS creates confusion to individual investors. At the moment there are 3 different classifications: taxonomy alignment, environmental/social characteristics and environmental/social objectives, for which it is difficult to understand the difference for an average investor. Also lack of clear definition of environmental/social characteristics and objectives contributes to creates confusion on the type of products. This overcomplication could mislead individual investors and therefore allow for market practices with risks of greenwashing.

We understand the RTS are bound by the level 1 regulation, however some solutions can be found in order the reduce the complexity among the different product categories. In particular sustainable investment definition should be aligned as much as possible to the environmental taxonomy and the future social taxonomy in order to align the requirements for when there will be social standards. Finally, specific guidance and interpretation of environmental/ social objectives and characteristics should be provided. Possibly, simple terms for individual investors should be adopted as "light sustainable products that promote environmental or social characteristics" and "strong sustainable investment product" that are taxonomy aligned.

<ESA_QUESTION_ESG_9>

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

<ESA_QUESTION_ESG_10>

In order to maximise the comparability of the information provided, the two templates should reach the maximum level of convergence, thus specifying in each template the product category. Therefore, we advice to align the templates for Article 5-6 Taxonomy Regulation products with the template for article 8-9 SFDR Sustainable finance disclosure regulation products.

<ESA_QUESTION_ESG_10>

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

<ESA_QUESTION_ESG_11>

We believe that in absence of the “Social taxonomy” it is not necessary to provide additional requirements on social objectives disclosure. However, we consider necessary to indicate at least that the investment has social objectives and to substantiate this claim.

<ESA_QUESTION_ESG_11>

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

<ESA_QUESTION_ESG_12>

TYPE YOUR TEXT HERE

<ESA_QUESTION_ESG_12>