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 Taxonomy-related sustainability disclosures

Responding to this paper

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

Comments are most helpful if they:

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

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

Instructions

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

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

Publication of responses

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

Data protection

The protection of individuals with regard to the processing of personal data by the ESAs is based on Regulation (EU) 2018/1725[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	AIPB Associazione Italiana Private Banking
Activity	Banking sector
Are you representing an association?	☒
Country/Region	Italy

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>
We welcome positively the amendment of the existing SFDR RTS, instead of drafting a new set of draft RTS. We consider this being the best approach given that in this case no new regulation has been put forward, and the present document rather represents a natural, expected, unfolding of the SFDR regulation- Also, in this case an amendment is considered the best course of action given that the current draft RTS is already highly referenced and referred to in conversations between investors. A new draft RTS would probably add confusion in the market.
<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>
We agree with the proposed measure as it follows a "comply-or-explain" approach. Reference being made to all equity and debt instruments, with no exclusion, ensures that a sustainable investment approach is built in asset allocation and in risk management of all investors. This ultimately reflects the overarching goal of limiting global warming under the Paris Agreement, and the fact that efforts should be shared by all countries and all industries. The issue of lack of data, and of lack of access to data for investors, leaves ample room for third party providers to market this 'information'. This might be an obstacle for the full integration and usability of data in the future. A centralised European platform could store and provide timely information with respect to taxonomy alignment of equity and debt, and provide detailed information to subsequent amendments of the technical criteria of the Taxonomy, ensuring that the market does not overly depend on third party providers, which in the best cases are able to provide ESG data for 10 to 15 thousand issuers worldwide. This ultimately poses a threat to exhaustive disclosure in line with the regulatory timeline. Requiring only a partial coverage of investor's portfolios (e.g. 70%) could support a smoother transtion towards a full adoption of the new reporting in 3/5 years time. Also, sovereign bonds should not be counted towards this threshold and be excluded by this initiative as a whole.
<ESA_QUESTION_ESG_2>

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

<ESA_QUESTION_ESG_3>
Using operational expenditure (opex) rather than turnover of capital expenditure (capex) might create at least 2 problems: on one hand, we could expect there to be a greater leeway in defining a company's opex compared to their capex or turnover. Doing so, a company might include as taxonomy-aligned a set of 'ancillary services' to taxonomy aligned activities that are not currently clearly defined (e.g. *how do we categories opex?*). This would in turn shift the attention towards individual methodologies used by the company in defining itself "aligned", ultimately increasing pressure on investors that might be under-resourced to carry proper due diligence. On the other hand, we notice that the sustainable investment industry give preferential treatment to capex vs opex as the former is easier to track impact-of and is expected to provide a greater step forward with respect to limiting global warming to well below two degrees. Ultimately, considering capex and opex on the same ground might hamper the success of the overall initiative.
<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>
In order to analyse a debt portfolio of securities from an ESG standpoint, it is common to convert individual positions' identifiers to relative issuer's equity identifiers (such as an ISIN). It is likely that the same approach will be employed by industry professionals in order to analyse the taxonomy alignment of their portfolio. This approach is most likely scalable rather than analysing report-by-report. The analysis of ESG Data, and the future analysis of taxonomy related data, might not fit with the way in which derivatives are categorised by third party databases of financial data. Similarly, contracts for differences are not easily included in current ESG analysis and are unlikely to be monitored as easily as plain equity and debt investments are.
<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>

As per Article 16b '*Calculation of the taxonomy alignment of investments'*, taxonomy aligned debt instruments can comprehend either bond's whose use of proceeds follow the taxonomy or debt where a proportion of activities of the investee companies is associated with environmentally sustainable economic activities. While the first approach is intuitive, and it's likely to be strengthened by the implementation of the EU Green Bond Standard, the latter might need a better definition: specifically it would necessary to define the subsidiary level that of the investee company (e.g. parent company, ultimate parent company...) to which the sustainable activity refers to.
<ESA_QUESTION_ESG_5>

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

<ESA_QUESTION_ESG_6>
We agree with the proposed measure as it follows a "comply-or-explain" approach. Reference being made to all equity and debt instruments ensures that a sustainable investment approach is built in the asset allocation and in risk management of all investors in all instances. As mentioned in the question (Q6) and described in the answer to Q2 of this document, sovereign bonds should be excluded by this initiative as a whole because data with respect to governments cannot be currently compared with corporate level data.
<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>

In order to provide continuity to the current reporting practises, minimising disruption for and maximising transparency for the financial system, it would be optimal to include this information in non-financial reports issued by investors. Auditors are required to audit non-financial disclosures that are in their accounts, and the same should also be done with respect to taxonomy compliance of activities. However,

the nature of this audit must be different in nature. It should rather focus on analysing the methodology used by investors to retrieve data published by investees. In fact, the data utilised (being audited upon) is already likely to be audited at company level (following the non-financial reporting directive in place at the time, e.g NFRD or CSRD). We remian highly positive with respect to the practice of financial and non financial data auditing as it constitutes a strong driver to enhance transparency and trust in the market.
<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>
With respect to Article 16b we advise to provide additional information with respect to the split of debt instruments whose issuer is taxonomy aligned and those debt instrument whose use of proceeds are taxonomy aligned. This should help avoiding double counting when an issuer is itself taxonomy-aligned and issues a taxonomy aligned use of proceeds bond (e.g. green bond under the EU GBS).
<ESA_QUESTION_ESG_8>

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

<ESA_QUESTION_ESG_9>
Overall, but especially in this section, referring to promoting environmental and social characteristics appears to be at odds with the purpose of the taxonomy. The current environmental objectives with technical criteria, and the upcoming four, are “environmental” in nature and include “social” characteristics only to the extent to which safeguards are taken into account. It is likely that most financial products that focus on social objectives/characteristics won’t be taxonomy aligned at any time in the near future. We don’t envision any solution to this point at this time. We believe that the current template should contribute to more narrowly define the financial products in object. This could be done by providing a ‘tick box’ section that contains more in depth information about the type of product that is being reported upon. This would support investors in better analysing and comparing similar funds.
On a more technical standpoint, we suggest to include an additional pie chart in the template that provides an indication of the % split of the taxonomy aligned activities in turnover/capex/opex/use of proceeds bonds. This will considerably enhance the quality and level of transparency of the documentation.
<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>
No. We believe it would be best to keep the same template, mainly for two reasons: on the one hand, article 6 will be incentivised to integrate ESG considerations, enhancing the responsibility sharing of our economies in monitoring ESG risks and contributing to the Paris Agreement. On the other hand, it would simplify reporting duties and provide lower burdens for investors.
<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>
A different template structure might not be the best approach, given the novelty of this initiative and the objective of making it employable by the entire financial industry leads to the consequential mandate to 'keep things simple'. Article 8 and 9 funds with social (only) objectives will not be aligned to the EU Taxonomy, at least up until the EU Taxonomy will start taking into account also the social sphere.
<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>
No specific view or indication ca be provided in this section
<ESA_QUESTION_ESG_12>