

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	Association of Real Estate Funds (AREF)
Activity	Investment Services
Are you representing an association?	<input checked="" type="checkbox"/>
Country/Region	UK

Introduction

Please make your introductory comments below, if any:

<ESA_COMMENT_ESG_1>

The Association of Real Estate Funds (AREF) represents the UK real estate funds industry and has 67 member funds with a collective net asset value of more than £70 billion under management on behalf of their investors. The Association is committed to promoting transparency in performance measurement and fund reporting through the AREF Code of Practice, the MSCI/AREF UK Quarterly Property Funds Index and the MSCI/AREF Property Fund Vision Handbook.

<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>

AREF agrees with the ESAs aim to minimise duplication and complexity for sustainability disclosures by having the RTS on disclosures rules function as a “single rulebook” for the Sustainable Finance Disclosure Regulation (SFDR) and for the Taxonomy Regulation (TR).

The ESAs have stated in the consultation that they plan to create one set of RTS for all the environmental taxonomy-related disclosures (covering the six objectives of Article 9 TR). We would welcome clarity from the ESAs on whether they will follow the same approach for the social and governance related disclosures too.

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>
TYPE YOUR TEXT HERE
<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>
TYPE YOUR TEXT HERE
<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>
TYPE YOUR TEXT HERE
<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>
TYPE YOUR TEXT HERE
<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>
TYPE YOUR TEXT HERE
<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>

As this consultation is to consult on updates to the SFDR RTS, albeit in relation to the TR, we felt we should highlight to the ESAs shortfalls with the indicators applicable to real estate investments within the SFDR RTS.

Firstly, we would ask for clarity that real estate investments will only be subject to real estate specific indicators within the SFDR RTS and not to the universal mandatory and opt in indicators. Also, whether the real estate indicators apply to both direct investments and indirect investments, such as REITs and property funds, or if the universal mandatory indicators apply to indirect real estate investments at underlying asset holding level?

Definition (28) – Inefficient real estate assets

Further clarity is required regarding the formula for calculating “inefficient real estate assets”. Not all parts of the EU have enacted NZEB, and NZEB and EPC is defined differently across Europe. Also, non-EU real estate assets may not use terms like EPCs, PED or NZEB. This can make it difficult to measure and compare the contribution to climate change mitigation or adaptation. We would advocate the use of other alternative energy schemes which are widely accepted by market participants and are internationally recognised.

Our members have asked how they should assess, when calculating inefficient real estate assets, developments that are completed after 31/12/2020 but do not have NZEB, as it didn't exist when the building was designed.

Also, we would ask for clarity on how recent the EPC rating needs to be; they are usually provided for a 10-year period.

Table 1 – Principle adverse sustainability impacts statement – Indicators applicable to investments in real estate assets:

- Fossil fuels

The “exposure to fossil fuels through real estate assets” indicator requires clarification. Do the real estate assets have to be directly involved in the extraction, storage, transport or manufacture of fossil fuels as mentioned in the metric for this indicator? Does this indicator include, for example:

- o The energy consumption, of real estate assets, that originate from fossil fuels?
- o Tenants with a business link to extracting, storing, transporting or manufacturing fossil fuels?

Table 2 – Additional climate and other environmental-related indicators:

- Energy consumption intensity

We would ask for clarity on whether the occupier's energy intensity should be included.

There would need to be a consistent approach across jurisdictions for measuring the area occupied by the asset. We would suggest RICS's [global standard for property measurement](#) are referred to.

- Waste production in operations

Clarity is required to ensure there is consistency in reporting waste production in operations. For example, should this include only landlord-controlled waste or the occupiers' waste too? Also, guidance should be provided on exactly how this indicator should be calculated.

- Raw materials consumption for new construction and major renovations

To ensure consistency in reporting a definition for “major renovations” is required. Also, guidance should be provided on how accurately the weight of material is expected to be measured. It is not current practice to record the weight of material used on a construction site so new processes would need to be put in place to do this.

- Land artificialisation

The surface area of the plot of assets is not currently measured so this would be new data that asset holders would need to request. Also, our members have asked for more clarity on which surfaces would need to be measured. Would it include, for example, vertical surfaces such as green walls?

<ESA_QUESTION_ESG_12>