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| 23 April 2020 |

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| Response form for the Joint Consultation Paper concerning ESG disclosures |
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| Date: 23 April 2020  ESMA 34-45-904 |

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:

* 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](https://www.esma.europa.eu/press-news/consultations) under the heading ‘Your input - Consultations’ by 1 September 2020.
* 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]](#footnote-2). Further information on data protection can be found under the [Legal notice](http://www.eba.europa.eu/legal-notice) section of the EBA website and under the [Legal notice](https://eiopa.europa.eu/Pages/Links/Legal-notice.aspx) section of the EIOPA website and under the [Legal notice](https://www.esma.europa.eu/legal-notice) section of the ESMA website.

# General information about respondent

|  |  |
| --- | --- |
| Name of the company / organisation | VEGAN FINANCE LLC |
| Activity | Other Financial service providers |
| Are you representing an association? |  |
| Country/Region | International |

# Introduction

Please make your introductory comments below, if any:

<ESA\_COMMENT\_ESG\_1>

1. As a general remark, in order to meet the UN Sustainable Development Goals by 2030, for most of the metrics, it would be useful for Financial Market Participants to have **measurable objectives** to achieve each year / couple of years / or every five years to stimulate regular progress towards the goals. Very far period of times tend to favour **procrastination**. In tables 1,2, 3, adding columns “**Target**” and “**Target Year**” could be relevant as to ensure the Financial Market Participants to follow a **trajectory.**
2. **The question of weights allocated to ESG pillars**, themes and indicatorsis not or little addressed in the regulation. Through the weightings, a significant risk of greenwashing exists, by optimizing the weightings to make eligible some entities, typically traditional but harmful to the environment, the society, or SDGs, for instance in a “best in class” approach. **Some minimal weights could be defined** to prevent this risk. **For instance minimal weights of 30%** could be defined for Environment, Social and Governance matters.
3. As defined in the article 1 of this Regulation, **only solid fossil fuels are considered in the definition of the “fossil fuel sector”.** Not taking into account **liquid fossil** fuels (petroleum, diesel,…) nor **gaseous** fossil fuels (natural gas) would endanger the achievement of the 2°C target of the Paris agreement. According to the latest forecasts of August 2030, with the governments’ plans to reduce emissions, the planet is very likely to reach +3°C in 2030. One degree more implies reaching points of non-return, as for instance the death of coral reefs, basis of the marine ecosystem, or permafrost melting inducing the release of methane and old viruses. **Including liquid and gaseous fossil fuels in the scope of Article 1 and Table 1** (Annex I) **would quicker and significantly reduce a full spectrum of adverse impacts on the environment** and would benefit to the entire society. In question 5, we propose the metric to address this issue.
4. Some key matters established by the EU “**From Farm to Fork**” strategy do not appear in the indicators of table 1 as use of **pesticides**, use of **antibiotics** **in Agriculture**, **Organic Farming**, and **Animal Welfare.** As clearly written atPage 4, from this communication published in May 20, 2020: “**There is an urgent need** to reduce dependency on pesticides and antimicrobials, reduce excess fertilisation, increase organic farming, improve animal welfare”. it is all the more important to consider the new agricultural strategy because the **Common Agricultural Policy** represents a **third** of the **budget** of the European Union. In question 5, we propose the metrics to address these issues.
5. Tables 1,2, 3 often use systematically the expression “**investee companies**”. However investments can finance also in **countries, states / regions, municipalities** as with Sovereign bonds, or projects with green/social/sustainable bonds. The word "**entities**" could replace "investee companies" and would enlarge the scope of possible issuers. An additional article defining "entity" and expressly illustrating the types of issuers would help the understanding.
6. The metrics, which are only based on “**policies**” are not enough discriminative. It is easy for entities (countries or companies) to meet the targets based on policy-only. This methodology can introduce a **bias by an overrating** of assessed issuers by Financial Market Participants. This is the case for the subjects of **deforestation**, **whistle-blowers** (table 1), **sustainable land/forestry/agriculture**, **sustainable oceans/seas practices** (table 2), which are screened on the basis of policies-only. The following expressions are preferable to use because they are **more stringent** and **more discriminative** in order to promote the best practices: entities “**that do not assess, monitor or control**”, or “**due diligence process**”, or “**with identified insufficiencies in actions** taken to address breaches in”. In question 5, we propose the metrics to address these issues.
7. **All the indicators** and metrics proposed (in Tables 1,2,3 of Annex I) **are more “defensive” and aimed to assess risks than opportunities**. It would be useful to recommend also **positive sustainability indicators** to **identify ESG innovations** and **resilient business models**. Their identification would include new alternative and positive values to **compensate the exit** of excluded issuers identified by risk indicators. The positive sustainability values would contribute to **better returns** for the portfolios and funds. In question 5, we propose a **tables 4 with positive sustainability indicators**. This table 4 could be also used to define Article 9 (Sustainable) products for pre-contractual disclosure (Annex III) and periodic reports (Annex V).

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<ESA\_QUESTION\_ESG\_3>

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

<ESA\_QUESTION\_ESG\_4>

1. Article 1 defines ‘fossil fuel sectors’ by **solid-only** fossil fuels. Liquid and gaseous fossil fuels have to be taken into account too for the global warming and pollution issues as explained in question 19. Furthermore, this restriction misleads the comprehension of the public, and may deceive the public and end-investors’ expectation of what is an sustainable investment, if petroleum, diesel, and gas are not in the scope. In question 5**, the recommendation is to delete the word ‘solid’ from the N°4 indicator and metric ‘Share of investments in ~~solid~~ fossil fuel sectors’** of Table 1 (Annex I) so that all the forms of fossil fuel can be included in the metric.
2. As mentioned in the introduction, the indicators based on “**policies**” are not enough discriminative and can introduce a bias of overrating of issuers by Financial Market Participants. Checking that the investee entities have a **due diligence or control process to avoid any adverse impacts** is more stringent and efficient. For human rights, both (policy and due diligence) are mentioned. But for **deforestation**, **whistle-blowers, sustainable land/forestry/agriculture practices, and sustainable oceans/seas practices,** the following more stringent expressions have not been used: “**due diligence process” or “procedures and controls to identify insufficiencies in actions of prevention and remediation”**. In question 5, we propose the metrics to address these issues.
3. Quoted from the “From Farm to Fork Strategy”, page 4 (Pub. May 20, 2020): “There is an urgent need to **reduce dependency on pesticides and antimicrobials, reduce excess fertilization, increase organic farming, improve animal welfare,** and **reverse biodiversity loss”**. All these themes at the exception of biodiversity are not translated into compulsory indicators and metrics in Table 1 (Annex 1). Adding the following missing themes into indicators and metrics would integer the priorities of the “From Farm to Fork Strategy”, and ensure more consistency between EU regulations (New Green Deal, Taxonomy, SFDR):
   1. Reduction of **pesticides**
   2. Reduction of **antimicrobials** for farmed animals and in aquaculture
   3. Increase of **Organic Farming**
   4. Improvement of **Animal Welfare**
4. As mentioned in the introduction, proposing **positive sustainability indicators** that are able to identify **ESG innovations and resilient business models** would increase the portfolios **returns** and would a provide a sound **alternative** to entities having poor sustainability scores. In question 5, we propose **positive sustainability indicators** and metrics in the hereunder fields. Our recommendation is to make these indicators **compulsories** to ensure better **comparability** between the Financial Market Participants. In addition, to have a **consistent holistic approach** the “**Do Not Significant Harm**” Principle should apply for between each following fields and to the themes and indicators listed in Table 1,2,3 (Annex I), in the Taxonomy, and all EU regulations.
   1. Renewables
   2. Energy efficiency
   3. Biodiversity protection
   4. Innovations in water treatment
   5. Innovations in waste treatment
   6. Plant-based products
   7. Alternatives to animal testing
   8. Innovations in animal-welfare
   9. Circular economy
   10. Inclusive finance

<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>

As explained in introduction and question 19, we recommend to extend the scope of fossil fuel energies beyond solid fossil fuels, but also to liquid, gaseous and solid forms. For this reason, we suggest to delete the word “solid” for the N°4 metrics “Share of investments in **solid** fossil fuel sectors” (Table 1, Annex I) or to replace it by :

* Share of investments in **solid, liquid and gaseous** fossil fuel sectors

Following the publication of the “From Farm to Fork” strategy, and as explained in introduction and question 4, we recommend to add the following compulsory indicators to table 1 (Annex I):

1. Reduction of **pesticides:**
   * Share of (investments in) entities that produce, distribute or use **pesticides**
2. Reduction of **antimicrobials** for farmed animals and in aquaculture:
   1. Share of (investments in) entities that produce, distribute or use **antimicrobials for farmed animals**
   2. Share of (investments in) entities that produce, distribute or use **antimicrobials in aquaculture**
3. Increase of Organic Farming:
   * Share of **organic land** used by investee companies compared to non-organic land, development targets and deadlines (every year, 3 years, 5 years)
4. Animal welfare:
   1. Share of (investments in) investee entities whose activities are in the sector of **intensive animal agriculture.** Explanation: Intensive animal farming is fundamentally based on a high number of animals living per m2, and treated per minute, which induce stress and low immune system and higher exposition to diseases and zoonosis
   2. Share of (investments in) investee entities whose activities are in the sector of **intensive** **fish farming**
   3. Share of (investments in) investee entities that catch fishes by **trawling**
   4. Share of (investments in) investee entities **with identified insufficiencies in actions** taken to address breaches in procedures and **standards of animal-welfare**
   5. Share of **cage-free** raised animals of investee entities compared to **confined** animals, expressed as a percentage
   6. Number of animals **experimented** / euthanized / rehabilitated by investee entities broken down by species

The metrics for the themes of **deforestation**, **whistle-blowers**, **sustainable land/forestry/agriculture practices**, and **sustainable oceans/seas practices** are based only on the entities’ **policies** which are exposed to declaration biases and to overrating risks. The **recommendation is to fully replace them with the following more stringent indicators**. Adding them to the existing metrics based on “policies” would dilute the biases effect without suppressing it.

1. Share of (investments in) entities without a **due diligence** **and control** process to identify, prevent, mitigate and address adverse **deforestation** impacts
2. Share of (investments in) entities without **procedures and controls** on the protection of **whistle-blowers**
3. Share of (investments in) investee companies **with identified insufficiencies in actions** taken **to develop** **sustainable land/forestry/agriculture practices**
4. Share of (investments in) investee companies **with identified insufficiencies in actions** taken **to develop** **sustainable oceans/seas practices**

**The following metrics, which are from Table 2 and 3,** are **more discriminative than just policies** and are less exposed to overrating and declaration bias. They **should be compulsories** and **be part of table 1**. To ensure a **parsimony principle of indicators, to avoid forms of redundancies**, and to privilege the most accurate and stringent metrics, these more discriminative indicators can **replace** their equivalents based on “policies”:

(From Table 2)

1. tonnes of inorganic pollutants equivalent per million EUR invested
2. tonnes of air pollutants equivalent per million EUR invested
3. tonnes of ozone depletion substances equivalent per million EUR invested
4. Average amount of water consumed and reclaimed by the investee companies (in cubic meter) per million EUR of revenue of investee companies
5. Weighted average percentage of water recycled and reused by investee companies
6. Land degradation, desertification and soil sealing as a percentage of land by the investee companies invests in
7. Share of securities in investments not certified as green

(From Table 3)

1. Number/rate of accidents, injuries, fatalities frequency in investee companies
2. Number of workdays lost to injuries, accidents, fatalities, illness of investee companies
3. Share of investments in investee companies without any supplier code of conduct (against unsafe working conditions, precarious work, child labour and forced labour)
4. Percentage of specific control and/or certified compliance for this code of conduct among suppliers of investee companies
5. Number of incidents of discrimination (leading to sanctions) in investee companies
6. Share of (investments in) investee companies without separate CEO and Chair functions
7. Share of securities in investments not labelled as social, green, or sustainable. Explanation: the scope is wider than social bonds only. The word “label” refers to national labels as SRI & Greenfin, FNG-Siegel, LuxFlag, FebelFin, Nordic Swan label or green / social and sustainable bonds.

To answer to the question, yes, since finance’s aim is to anticipate events, it would be very useful to introduce forward-looking indicators, with quantitative targets fixed in a short to mid-time horizon (every year, every 3 years, every 5 years). Fixing a far-time targets favours procrastination (ex: 2030 target).

Scope 4 is a good idea since it can tracks the avoided emissions and stimulate environmental friendly innovations

As explained in the introduction and at question 4, we recommend the creation of a **table 4** that lists compulsory **positive sustainability indicators**. They would **capture ESG innovations** and **resilient business models**. The positively identified entities would **compensate** the outgoing entities having poor sustainability performance. The inclusion of ESG innovations and positive sustainability activities would enhance portfolios **returns**. The compulsory aspect enables the comparison of Financial Market Participants' strategies by end-investors. Even if optional, such a list of positive sustainability indicators and metrics would constitute a **helpful guidance** to Financial Market Participants and end-investors. In addition, to have a **consistent holistic approach** the “**Do Not Significant Harm**” Principle **should apply between all the field and themes listed in Tables 1,2,3 (Annex I)**, **in the Taxonomy, and all EU regulations**.The recommended positive sustainability metrics are the following ones classified by themes:

**Table 4 (proposed) with positive sustainability indicators**

1. Renewables:
   * Share of (investment in) entities having more than 50% of their **activities in renewables conception, production, exploitation, distribution**, or **promotion** measured by the **annual revenue**. All their business and non-business activities (including sponsoring) should respect the “**Do Not Significant Harm**” principle applied to the themes and indicators listed in Table 1,2,3,4 (Annex I), in the Taxonomy, and all EU regulations.
2. Energy efficiency:
   * Share of (investment in) entities having more than 50% of their **activities in energy efficiency conception, production, utilization, distribution**, or **promotion** measured by the **annual revenue**. All their business and non-business activities (including sponsoring) should respect the “**Do Not Significant Harm**” principle applied to the themes and indicators listed in Table 1,2,3,4 (Annex I), in the Taxonomy, and all EU regulations.
3. Biodiversity protection:
   * Share of (investment in) entities having more than 50% of their **activities in biodiversity protection or promotion**, measured by the **annual revenue**. All their business and non-business activities (including sponsoring) should respect the “**Do Not Significant Harm**” principle applied to the themes and indicators listed in Table 1,2,3,4 (Annex I), in the Taxonomy, and all EU regulations.
4. Innovations in water treatment:
   * Share of (investment in) entities having more than 50% of their **activities in water treatment innovative methods design, production, utilization, distribution**, or **promotion** measured by the **annual revenue**. All their business and non-business activities (including sponsoring) should respect the “**Do Not Significant Harm**” principle applied to the themes and indicators listed in Table 1,2,3,4 (Annex I), in the Taxonomy, and all EU regulations.
5. Innovations in waste treatment:
   * Share of (investment in) entities having more than 50% of their **activities in waste treatment innovative methods design, production, utilization, distribution**, or **promotion** measured by the **annual revenue**. All their business and non-business activities (including sponsoring) should respect the “**Do Not Significant Harm**” principle applied to the themes and indicators listed in Table 1,2,3,4 (Annex I), in the Taxonomy, and all EU regulations.
6. Plant-based products:
   * Share of (investment in) entities having more than 50% of their **activities in plant-based products conception, production, distribution**, or **promotion** measured by the **annual revenue**. All their business and non-business activities (including sponsoring) should respect the “**Do Not Significant Harm**” principle applied to the themes and indicators listed in Table 1,2,3,4 (Annex I), in the Taxonomy, and all EU regulations.
7. Alternatives to animal testing:
   * Share of (investment in) entities having more than 50% of their **activities in alternatives to animal testing solutions conception, production, utilization, distribution**, or **promotion** measured by the **annual revenue**. All their business and non-business activities (including sponsoring) should respect the “**Do Not Significant Harm**” principle applied to the themes and indicators listed in Table 1,2,3,4 (Annex I), in the Taxonomy, and all EU regulations.
8. Innovations in animal-welfare:
   * Share of (investment in) entities having more than 50% of their **activities in animal-welfare innovative methods design, production, utilization, distribution**, or **promotion** measured by the **annual revenue**. All their business and non-business activities (including sponsoring) should respect the “**Do Not Significant Harm**” principle applied to the themes and indicators listed in Table 1,2,3,4 (Annex I), in the Taxonomy, and all EU regulations.
9. Circular economy:
   * Share of (investment in) entities having more than 50% of their **activities in circular economy sector**, measured by the **annual revenue**. All their business and non-business activities (including sponsoring) should respect the “**Do Not Significant Harm**” principle applied to the themes and indicators listed in Table 1,2,3,4 (Annex I), in the Taxonomy, and all EU regulations.
10. Inclusive finance:
    * Share of (investment in) entities having more than 50% of their **activities in inclusive financial services conception, distribution**, or **promotion** measured by the **annual revenue**. All their business and non-business activities (including sponsoring) should respect the “**Do Not Significant Harm**” principle applied to the themes and indicators listed in Table 1,2,3,4 (Annex I), in the Taxonomy, and all EU regulations.
11. Mixed positive sustainability activities:
    * Share of (investment in) **entities identified as having positive sustainability activities if the entity cumulates at least 50% of the activities** of conception, production, distribution, utilization, and/or promotion **measured by annual revenue** in the **fields of Table 4** :renewables, energy efficiency, biodiversity protection, innovations in water treatment, innovations in waste treatment, plant-based products, alternatives to animal testing, innovations in animal-welfare, circular economy and inclusive finance. All their business and non-business activities (including sponsoring) should respect the “**Do Not Significant Harm**” principle applied to the themes and indicators listed in Table 1,2,3,4 (Annex I), in the Taxonomy, and all EU regulations.

**Miscellaneous remark :** at the end of table 1, it seems that the N° from 8 to 11 of articles are shifted from their themes.

Ex: The title of Article 9 of the Joint Consultation Paper is “Engagement policies” whereas it is written in Table 1: “Engagement policies

[Information referred to in Article 10]

“

The correct mapping seems to be:

|  |  |
| --- | --- |
| Art. 7 of Joint Consultation | Description of policies to **assess** principal adverse sustainability impacts |
| Art. 8 of Joint Consultation | Description of actions to **address** principal adverse sustainability impacts |
| Art. 9 of Joint Consultation | Engagement policies |
| Art. 10 of Joint Consultation | Adherence to international standards |

<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>

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<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>

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<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>

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<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

YES, mandatory is fundamental to enable comparability and avoid greenwashing.

<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>

As mentioned in the introduction (7), the identification of **opportunities** in addition to risk assessment is key to enhance portfolios returns, to finance ESG innovations and resilient business models, and to propose alternatives to the exclusions. We propose a table 4 at Question 5 that lists 10 positive sustainability indicators. In addition, to ensure the attainment of **sustainability objectives** promoted by **Article 9** (Sustainable) products, and **beyond** by extension to prevent from any harm in all the matters defended by the Taxonomy and the EU regulations, the “**Do Not Significant Harm**” principle of the Taxonomy should be apply to all themes mentioned by the Regulation in Tables 1,2,3 and 4 (proposed), the Taxonomy, and **all EU regulations**.

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<ESA\_QUESTION\_ESG\_16>

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

<ESA\_QUESTION\_ESG\_17>

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<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>

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<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>

YES, we agree, but solid forms only are not enough. In addition liquid and gaseous fuels should be disclosed too because of their adverse impacts on the environment. Petroleum and diesel are forms of liquid fuels and their production and combustion do contribute to global warming and to polluting the environment, which is contrary to the “**Do Not Significantly Harm**” principle of the Taxonomy.

Burning natural gas, a gaseous fossil fuel, produces carbon dioxide gas and pollutes the air. Some ways of its production using fracking techniques induce adverse impacts in polluting water sources and ecosystems.

**Nuclear energy** should be disclosed too, especially where / how-much / how nuclear **waste** end.

<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>

TYPE YOUR TEXT HERE

<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>

**Good governance is the prerequisite** for all types of investments truly respectful of the environment and the society. Thus, Yes the RTS requirements should include also these stringent and relevant elements.

<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 “Do Not Significant Harm” principle is justified and is the minimum to guarantee that investments that harm the sustainable objectives promoted by Article 8 and 9 be excluded. And as mentioned in question 13 in **to prevent from any harm in all the matters defended by the Taxonomy and the EU regulations** in a holistic consistent approach, the “**Do Not Significant Harm**” principle of the Taxonomy should be apply to all themes mentioned by the Regulation in Tables 1,2,3 and 4 (proposed), the Taxonomy, and **all EU regulations** <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 to disclose the use of such strategies, where relevant? If yes, how would you define such widely used strategies?

<ESA\_QUESTION\_ESG\_23>

Yes, it would be useful that the Financial Market Participants disclose on their strategies because it would allow better comparability between them. The recommended compulsory indicators are:

* Share of investments that follow the “Best in Class” strategy with objectives and short to mid-term deadlines
* Share of investments that follow the “Best in Universe” strategy with objectives and short to mid-term deadlines
* Share of investments that follow the “Best Effort” strategy with objectives and short to mid-term deadlines
* Share of **labelled sustainable investments** with breakdown by type of label
* Share of **impact investments**
* **List of activities excluded and their precise criteria (List of exclusions)**
* **Share of investments excluded** when the exclusion activity or sector was announced.

In addition : the “**Do Not Significantly Harm” (DNSH)** principle is based on the fact that all activities are interconnected. “**Best in Class strategy**” allows to keep the leaders within an industry, even if the industry’s activities harm the other sectors, the environment and the society, for instance by keeping on polluting. Thus, the DNSH principle should promote a transition from the “Best in Class” to the “**Best in Universe**” strategy.

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<ESA\_QUESTION\_ESG\_27>

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. [↑](#footnote-ref-2)