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Subject:	SFDR Review - CWP 17 March 2026 - Spanish non-paper on the treatment of general-purpose sovereign bonds under the SFDR categorisation framework
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# **Non-paper on the treatment of general-purpose sovereign bonds under the SFDR categorisation framework: Proposed Level 1 amendments to Articles 7 and 9**

## **1. Purpose**

This non-paper examines the treatment of general-purpose sovereign bonds under the SFDR 2.0 categorisation framework, with a view to contributing to Working Party discussions on Articles 7 and 9 of the Commission's proposal. It identifies a structural issue arising from the Commission's proposal as currently drafted and puts forward concrete drafting proposals for the amendment of those provisions at Level 1, together with a proposed new recital.

The proposed amendments are designed to ensure that Level 1 itself provides clear substantive orientation for the treatment of general-purpose sovereign bonds, including the conditions of eligibility, the applicable safeguards and the calibration requirements across the two categories.

## **2. State of play under the Commission proposal**

The Commission proposal establishes differentiated treatment of public sector body issuances across the three product categories:

- Under the ESG basics category (Article 8), the Commission's proposal does not exclude general-purpose sovereign bonds from the scope of eligible investments for the purposes of the 70% threshold. This reflects a considered policy choice to preserve the operability of the ESG basics category for strategies with material sovereign bond exposure.
- Under the transition category (Article 7) and the sustainable category (Article 9), the Commission's proposal takes a more restrictive approach. The last subparagraph of Article 7(1) and the penultimate subparagraph of Article 9(1) limit the eligibility of public sector body issuances to use-of-proceeds instruments — namely those issued in accordance with Article 3 of Regulation (EU) 2023/2631 (EU Green Bond Standard) or those satisfying equivalent exclusion-based criteria. General-purpose sovereign bonds are, by default, excluded from the scope of eligible investments for the purposes of those provisions.

The rationale for this differentiated approach is clear: the transition and sustainable categories carry a higher sustainability ambition than the ESG basics category and allowing general-purpose sovereign bonds to qualify without further conditions could dilute their integrity. However, the Commission's proposal as currently drafted addresses this concern in an overly binary manner. The result is a structural asymmetry that is not fully justified on sustainability grounds and that unnecessarily constrains the design of transition and sustainable products with material sovereign bond exposure, without providing any pathway for this situation to be addressed as assessment methodologies evolve.

## **3. Rationale to propose an additional eligibility pathway for general-purpose sovereign debt**

The case for proposing an additional eligibility pathway can be summarised as follows. The Commission's proposal as currently drafted permits general-purpose sovereign bonds to contribute to the 70% threshold under Article 8 but not under Articles 7 and 9. This asymmetry

rests on an implicit premise that general-purpose sovereign bonds cannot, as a class, support sustainability objectives at a level commensurate with the ambition of the transition or sustainable categories. At the same time, the following arguments must be taken into account:

- Sovereign issuers finance public expenditure that is often directly relevant to the transition to a low-carbon economy, including through public investment in energy infrastructure, transport, buildings, and social programmes. The sustainability relevance of this expenditure is not confined to ring-fenced use-of-proceeds instruments.
- The Commission proposal does not apply to sovereign issuers the same credibility assessment logic that it applies to corporate issuers under Article 7. Corporate bonds may qualify under Article 7 where the issuer has a credible transition plan meeting defined criteria. No equivalent pathway exists for sovereign bonds, notwithstanding that sovereign transition strategies and climate commitments are subject to international reporting frameworks and public scrutiny under instruments such as the Paris Agreement and the EU Climate Law.
- The restriction to use-of-proceeds instruments was adopted in the absence of an established methodology for assessing the sustainability of general-purpose sovereign bonds at the time the Commission proposal was prepared. This may reflect a practical constraint at the time of drafting rather than a principled regulatory determination that such bonds are structurally incapable of meeting sustainability criteria equivalent in ambition to those required under Articles 7 and 9. Entrenching this restriction without any alternative pathway would lock-in the exclusion irrespective of how methodologies develop. A more proportionate approach is to establish the substantive conditions of eligibility directly at Level 1, enabling financial market participants to demonstrate compliance on the basis of available information.

It is therefore proposed that Articles 7 and 9 be amended to include an additional eligibility pathway for general-purpose sovereign bonds, subject to substantive conditions set out directly in the operative text of those provisions.

## 4. Proposed Level 1 amendments

The following concrete drafting proposals are put forward for consideration. New text proposed is presented in blue italics and underlined. Existing text is reproduced in plain italics for ease of reference.

### 4.1 Proposed new Recital 22

A new recital is proposed to provide the interpretative context for the amendments to Articles 7 and 9 and to set out the key orientations that should inform their application:

*(22) General-purpose bonds issued by public sector bodies represent a significant share of EU capital markets and of the investment universe of many financial market participants subject to this Regulation. Their exclusion from the minimum investment alignment thresholds applicable under the transition and sustainable product categories may constrain the design of financial products that genuinely contribute to transition and sustainability objectives, without being fully justified by a principled sustainability-based distinction. It is therefore appropriate to establish at Level 1 the conditions under which general-purpose issuances by public sector bodies may count towards the relevant thresholds under Articles 7(1) and 9(1), subject to a demonstration, based on credible, verifiable and publicly available information, that*

the issuer's sustainability strategy and expenditure policies meet defined criteria. Those criteria should be anchored in the EU Climate Law and, for third-country issuers, the Paris Agreement. The criteria applicable under Article 9(1) should reflect the higher ambition of the sustainable product category relative to the transition category under Article 7(1) and the ESG basics category under Article 8(1) and should accordingly be more demanding. Financial market participants that rely on this pathway should reflect the basis of that assessment in the periodic reports referred to in Article 10.

#### **4.2 Proposed amendment to Article 7(1), last subparagraph**

A new point (c) is proposed for the last subparagraph of Article 7(1), creating a third eligibility pathway for general-purpose sovereign bonds subject to two substantive conditions set directly at Level 1<sup>1</sup>. A light disclosure cross-reference is added as a new final subparagraph.

##### **Proposed text (additions underlined in blue):**

*The first subparagraph, point (a) shall not include investment in issuances by public sector bodies, with the exception of ~~the use of proceeds instruments issued by public sector bodies:~~*

*(a) use of proceeds instruments issued by public sector bodies in accordance with Article 3 of Regulation (EU) 2023/2631; or*

*(b) use of proceeds instruments issued by public sector bodies where the proceeds do not fund any underlying activities excluded under Article 12(1), points (a), (b) and (d), of Delegated Regulation (EU) 2020/1818 or companies excluded under Article 12(1), point (c), of that Regulation; or*

*(c) general-purpose issuances by public sector bodies in respect of which the financial market participant demonstrates, on the basis of credible, verifiable and publicly available information, that:*

*(i) the issuer has adopted a transition plan or equivalent sustainability framework aligned with the objectives of the EU Climate Law or, for third-country issuers, with the Paris Agreement; and*

*(ii) the issuer's expenditure policies do not to a significant extent fund activities excluded under Article 12(1), points (a), (b) and (d), of Delegated Regulation (EU) 2020/1818 or companies excluded under Article 12(1), point (c), of that Regulation.*

*Financial market participants that rely on point (c) shall reflect the basis of that assessment in the periodic reports referred to in Article 10.*

#### **4.3 Proposed amendment to Article 9(1), penultimate subparagraph**

The same structural approach applies to Article 9. The proposed new point (c) mirrors the architecture of Article 7(1)(c), but the conditions are calibrated at a higher level of ambition. The requirement in point (c)(i) is strengthened by requiring binding targets and regular monitoring, whereas point (c)(ii) adds a positive alignment requirement about the issuer's actual expenditure with sustainability objectives, and intentionally requires reference to a

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<sup>1</sup> Drafting note on exclusions: The exclusion criteria in point (c)(ii) mirror those already applicable under point (b) of this subparagraph and are proposed without prejudice to any amendments to those exclusion criteria that may be agreed in the course of Working Party discussions. Should the exclusions applicable under Article 7(1) be modified in the course of negotiations, the same modifications would apply consistently to point (c)(ii) of this subparagraph.

recognised assessment methodology in order to anchor the test in verifiable and structured analysis rather than self-assessment alone. Both the alignment and exclusion conditions<sup>2</sup> are set at a higher bar than their equivalents in Article 7, reflecting the higher sustainability ambition of the sustainable product category.

**Proposed text (additions underlined in blue):**

*The financial products referred to in the first subparagraph, point (a), shall not include investments in issuances by public sector bodies, with the exception of use of proceeds instruments issued by public sector bodies:*

*(a) use of proceeds instruments issued by public sector bodies in accordance with Article 3 of Regulation (EU) 2023/2631;*

*(b) use of proceeds instruments issued by public sector bodies where the proceeds do not fund:*

*(i) any underlying activities excluded under Article 12(1), points (a) and (b), and (d) to (g), of Delegated Regulation (EU) 2020/1818 or in the first subparagraph, point (c); or*

*(ii) companies excluded under Article 12(1), point (c), of Delegated Regulation (EU) 2020/1818; or*

*(c) general-purpose issuances by public sector bodies in respect of which the financial market participant demonstrates, on the basis of credible, verifiable and publicly available information, that:*

*i) the issuer's sustainability strategy, including its transition plan or equivalent framework, is aligned with the objectives of the EU Climate Law or, for third-country issuers, with the Paris Agreement, and is supported by binding targets and a credible implementation mechanism subject to regular monitoring; and*

*(ii) the issuer's expenditure policies are positively and materially aligned with sustainability objectives at a level commensurate with the ambition of the sustainable product category, as demonstrated by reference to a recognised sustainability assessment methodology for sovereign issuers that: (i) covers environmental, social and governance dimensions in an integrated manner; (ii) is based on publicly available data drawn from international organisations or equivalent public sources; and (iii) enables a systematic and comparable assessment of sovereign issuers on a consistent and cross-country basis; and*

*(iii) the issuer's expenditure policies do not to a significant extent fund activities excluded under Article 12(1), points (a) and (b), and (d) to (g), of Delegated Regulation (EU) 2020/1818 or companies excluded under Article 12(1), point (c), of that Regulation.*

*Financial market participants that rely on point (c) shall reflect the basis of that assessment in the periodic reports referred to in Article 10.*

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<sup>2</sup> Drafting note on exclusions: The exclusion criteria in point (c)(iii) mirror those already applicable under point (b) of this subparagraph and are proposed without prejudice to any amendments to those exclusion criteria that may be agreed in the course of Working Party discussions. Should the exclusions applicable under Article 9(1) be modified in the course of negotiations, the same modifications would apply consistently to point (c)(iii) of this subparagraph.

#### 4.4 Note on recognised assessment methodologies: publicly available examples

The condition set out in Article 9(1)(c)(ii) requires financial market participants to rely on a recognised sustainability assessment methodology that meets the three criteria set out in that provision. The purpose of the criteria is to channel reliance towards methodologies that are sufficiently robust, transparent and comparable to support the higher sustainability ambition of the sustainable product category, while preserving flexibility for the methodology landscape to evolve.

Several methodologies currently available in the public domain meet, or largely meet, those criteria and may serve as points of reference for Working Party consideration. These include in particular:

- **The [World Bank Sovereign ESG Data Portal](#)**, which provides a comprehensive and regularly updated dataset covering environmental, social and governance indicators for a broad range of sovereign issuers, based on internationally harmonised data sources. Its institutional standing and wide adoption among financial market participants make it a natural reference point for the purposes of this provision.
- **The [SDG Index and Dashboards](#)**, published annually by the Sustainable Development Solutions Network (SDSN) under the auspices of the United Nations, which measures the performance of UN Member States against all 17 Sustainable Development Goals across environmental, social and governance dimensions. Its alignment with the UN 2030 Agenda gives it a direct connection to the sustainability objectives referenced in the EU sustainable finance framework.
- **The [Transition Performance Index \(TPI\)](#)**, developed under the auspices of the European Commission, which monitors and classifies countries according to their progress across four transition dimensions — economic, social, environmental and governance. Its EU institutional origin is particularly relevant for the purposes of this Regulation.

The above examples are illustrative and non-exhaustive. The criteria set out in Article 9(1)(c)(ii) are designed to be methodology-neutral, provided the conditions of coverage, data quality and comparability are met. Financial market participants are not required to rely on any single methodology and may combine several of them, provided the overall assessment meets the standard required under that provision.

## 5. Conclusion

The proposed amendments represent a proportionate and principled approach to addressing the structural issue identified in Section 3. The key features of the proposal are as follows:

- The substantive conditions of eligibility under the new pathway are set out at Level 1, in the operative text of Articles 7(1) and 9(1). The pathway is self-executing on the basis of those conditions, without any requirement for prior adoption of delegated acts.
- The conditions under Article 9(1)(c) are substantively more demanding than those under Article 7(1)(c) and are structured in three distinct requirements — credibility of the transition strategy, positive expenditure alignment, and an exclusion floor — reflecting the higher sustainability ambition of the sustainable product category. Article 7(1)(c) requires only transition plan alignment and an exclusion floor.
- The exclusion tests in point (c)(ii) of Article 7 and point (c)(iii) of Article 9 are formulated by direct reference to the exclusion criteria of Delegated Regulation (EU) 2020/1818,

mirroring the language of points (a) and (b) of the respective subparagraphs. Both are proposed without prejudice to any modifications to those exclusion criteria that may be agreed in the course of Working Party discussions, which would apply consistently to the new subparagraph.

- The disclosure obligation under the new pathway is addressed by way of a cross-reference to the existing periodic reporting framework under Article 10, avoiding duplication with the general documentation requirements of Article 12a.

The Working Party is invited to consider this proposal. Further technical input can be provided on any of the issues raised, including on the calibration of the conditions under each of the two provisions and on the application of the methodology criteria set out in Article 9(1)(c)(ii).