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17th of April 2026

Presidency discussion paper on SFDR

17 April 10:00 JL

PRESIDENCY NON-PAPER FOR WORKING PARTY ON FINANCIAL SERVICES AND BANKING UNION (SFDR review)

April 17, 2026, 10:00-17:30

1. Introduction

On 20 November 2025, the European Commission presented a proposal for a review of the Sustainable Finance Disclosure Regulation (SFDR), with the objective of addressing shortcomings identified in the current framework, notably with regard to usability, clarity for investors and market participants, and the effectiveness of the framework in mitigating greenwashing risks. The proposal was formally presented on 9 December 2025 together with the accompanying evaluation and impact assessment.

Building on the discussions held during the previous four CWPs the meeting on 17 April provides an opportunity to carry out a consolidated technical review of the key components of the SFDR proposal. This is not intended to reopen issues already examined, but rather to ensure coherence across the full set of provisions before the Presidency begins shaping possible compromise approaches. The discussion will therefore revisit the main elements of the proposal with a view to confirming areas of convergence, identifying any residual concerns, and supporting the development of a clear, proportionate and operational framework.

In particular, the discussion will focus on the following elements:

- Scope (Articles 1 and 2)
- Entity-level disclosures (Articles 3, 4 and 5)
- Transparency and disclosure requirements for categorised products (Articles 7, 8, 9)
- Naming rules for sustainability-related product categories
- Marketing and legal documentation of non-categorised products (Articles 6, 6a, 8, 9a and 13)
- Data and estimates, including the use of ESG data and the role of data providers (Article 12a and Recital 24)
- Delegated acts and level 1 vs level 2 empowerments (Article 19b and Recital 27)

In this context, the Presidency invites the Commission to provide further explanations where appropriate and encourages Member States to share their views on the questions set out in this note, as well as to elaborate on their positions in written contributions following the meeting. The Presidency looks forward to a constructive exchange of views with a view to advancing the Council's examination of the proposal.

2. Scope

2.1 Structured products

The 20 January Council Working Party discussion on the treatment of structured products in the context of the SFDR showed that some Member States would support their inclusion in the revised framework. While a larger number of Member States supported the Commission's proposal which does not include them as 'financial products' under the SFDR, the Presidency considers that since a number of Member States were still assessing and were not ready to provide an opinion in January, and based on more recent stakeholder feedback in favour of their inclusion, this issue may be worth re-considering.

Including structured products could broaden the scope of the SFDR to cover a wider range of potentially comparable products sold to investors in terms of their sustainability characteristics, levelling the playing field for such products and strengthening the role of the SFDR as the cross-industry standard in this respect. By having a broader range of assets covered under the SFDR, it could also help facilitate future alignment between the SFDR and MIFID/IDD distribution rules as well as changes to the PRIIPs KID. This would remove the need for PRIIPs KIDs and distributors to explore alternative ways of communicating the sustainability characteristics of such products.

Additionally, it has become apparent that in order to include structured products in the scope, their manufacturers (investment firms and credit institutions) must also be included due to the wording of Articles 7, 8 and 9, putting the obligations on the FMP rather than the product.

Bearing in mind the above and in order to incorporate structured products and their manufacturers in the SFDR scope, the Presidency would like to suggest some related definitions for both the product and the manufacturer. A link with existing definition under the PRIIPs Regulation (EU) No 1286/2014 is considered beneficial.

The following options are suggested for Member States' consideration:

Option 1

Adding structured products and their manufacturers in article 2 of SFDR by building on the responses received in the public consultation while ensuring alignment with PRIIPs regulation:

(1) 'financial market participant' means:

i) A 'PRIIP' manufacturer' as defined under Article 4(4)a of Regulation (EU) No 1286/2014 of the European Parliament and of the Council

-(12) 'financial product' means:

g) a 'packaged retail investment product'

by way of the following definition:

(i) 'packaged retail investment product' means: a PRIP as defined in point (1) of Article 4 of Regulation (EU) No 1286/2014 of the European Parliament and of the Council, other than a UCITS, an AIF, a derivative as defined by article 2(1) (29) of Regulation 600/2014[1] , or any products referred to under Article 2(2) of Regulation (EU) No 1286/2014 of the European Parliament and of the Council.

In addition, the correct location for pre-contractual and periodic disclosures of such instruments should be added under Article 6 and 11 (i.e. prospectus).

Option 2

A slightly different approach to include structured products and their manufacturers in the scope, would be to add investment firms and credit institutions which manufacture PRIPs in article 2.

The amendments could be as follows:

- (1) 'financial market participant' means:

(i) An investment Firm which manufactures PRIPs
(j) A Credit Institution which manufactures PRIPs

-(12) 'financial product' means:

g) a 'packaged retail investment product'

by way of the following definitions:

- 'Investment firm' means: an investment firm as defined in point (1) of article 4(1) of Directive 2014/65/EU.
- 'Credit institution' means: an undertaking as defined in point (1) of article 4(1) of Regulation (EU) 575/2013.
- 'packaged retail investment product' means: a PRIP as defined in paragraph (1) of Article 4 of Regulation (EU) No 1286/2014 of the European Parliament and of the Council, other than a UCITS, an AIF, a derivative as defined by article 2(1) (29) of Regulation 600/2014[1] , or any products referred to under Article 2(2) of Regulation (EU) No 1286/2014 of the European Parliament and of the Council.

In addition, the correct location for pre-contractual and periodic disclosures of such instruments should be added under Article 6 and 11 (i.e. prospectus).

[1] https://www.amafi.fr/pdf-viewer/?id=21815

Option 3

Having in mind the overall simplification objective, no amendments are made to the proposal text, and structured products and their manufacturers remain out of the scope.

Article covered:

- Article 2

Questions to Member States:

Q1: Do you support the inclusion of structured products, and if yes do you support the legal wording of the options 1 or 2 under section 2.1? Alternatively, do you have any other drafting suggestion on how to define them?

Q2: Do you have any views on how the criteria should apply to structured products (i.e. ESG assessment of the use of proceeds part and other investment parts)?

2.2. Scope of application of the PRIPs KID sustainability section:

A number of Member States raised concern regarding the scope misalignment between the SFDR products and PRIIPs as not all PRIIPs are covered by the SFDR (e.g. structured products, bonds). However, Member States views on how to treat such misalignment differ, with some member states asking for the 'sustainability section' to be expanded to non-SFDR PRIIPs products (which would be free to make ESG claims regardless of their adherence with the categories' criteria if they are not added to the SFDR scope).

If Member States decide to add PRIPs products under the SFDR scope (option 1 under section 2.1), the question is moot (PRIPs KID sustainability section would apply to all PRIIPs). However, if Member States decide not to bring such instruments under the SFDR scope, a legitimate question is whether to expand the sustainability section to non-SFDR products or not.

The Presidency suggests 2 options - only to be analysed if the SFDR scope is not expanded as per option 1 above:

Option 1

If SFDR scope remains unchanged: Keep the current scope of application hence, apply sustainability section only to SFDR-covered products. Non-SFDR PRIPs would not have a dedicated sustainability section in their KID but would not face ESG marketing/communication restrictions and would therefore be allowed to add ESG information in their KID regardless.

Option 2

If SFDR scope remains unchanged: extend the scope of application to cover also non-SFDR PRIPs making ESG claims. While non-SFDR PRIPs would not be in scope of the categorisation system, they would be able to add their ESG information under the same sustainability section.

Article covered:

- Article 2

Questions to Member States:

Q3: According to your response to the previous question (in case you do not support the inclusion of PRIIPs instruments), do you support the expansion of the PRIIPs KID sustainability section to non SFDR products? (option 1 vs option 2 of section 2.2)

Q4: Do you have other drafting suggestions or preferences for accommodating their treatment?

2.3 Financial Advisers, Portfolio Managers and Professional Investors

With regards to Financial Advisers and Portfolio Managers, the discussion during the 20 January Council Working Party and replies to the follow up questions, show clear convergence and almost unanimous support for the Commission' s Proposal (i.e. to exclude them from the Scope). It is worth mentioning that Portfolio Managers are partially included through their obligation to provide information to Financial Market Participants under article 9a(3).

As far as Professional Investors are concerned, the support for the Commission's Proposal is not as definite but still enjoys majority support, with 15 Member States endorsing their inclusion in the Scope of the SFDR and only 5 opposing it.

Based on this information, the Presidency suggests that no amendments are made to the text for Financial Advisers, Portfolio Managers and Professional Investors.

Question to Member States

Q5: Do you have any comments on this section?

3. Entity level pre-contractual disclosures

According to the Impact Assessment accompanying the SFDR review proposal, and in order to achieve the objectives set for the review, the Commission-following both the assessment carried

out and the positive opinion of the Regulatory Scrutiny Board (RSB) issued on 8 October 2025- identified the deletion of entity-level disclosures on principal adverse impacts as one of the three preferred options. This option would largely eliminate the costs associated with such disclosures (representing 25% of the overall disclosure-related costs and generating annual recurring savings of EUR 56 million) and remove any duplication between the SFDR and the CSRD.

Following the 23 February CWP meeting and the written comments subsequently submitted, there is strong support for streamlining SFDR disclosures, reducing entity-level obligations, and deleting Articles 4 (PAI) and 5 (remuneration policies). Delegations underline that the current entity-level framework is burdensome, duplicative, and of limited usefulness, particularly in light of the CSRD/ESRS framework. They also emphasise that the SFDR should focus on investor-relevant disclosures only.

More specifically, regarding the simplification of Article 3 entity-level disclosures, most Member States express support, viewing this provision as a necessary minimum baseline to ensure transparency on ESG risk integration at entity level. One Member State, however, proposed deleting Article 3 in its entirety, arguing that ESG risk integration is already addressed in sectoral legislation and that the SFDR should become exclusively product-focused.

The Commission's proposal to retain Article 3 disclosures is mainly based on the feedback received during the public consultation which ran from September to December 2023. There was a clear call from NGOs, consumer associations and supervisors to retain some entity level disclosures, and, out of the 3 sets of entity-level disclosures, disclosures on sustainability risk policies gathered the highest level of support (with 49% (138 out of 280) of respondents finding them 'totally' or 'mostly' useful).

As regards Articles 4 and 5 on PAI and remuneration, there is broad consensus in favour of deletion. Delegations highlight the high compliance costs, limited decision-usefulness and duplication with other reporting frameworks. While most support full deletion, a few Member States caution that removing entity-level PAI disclosures entirely may lead to over-simplification, reduced comparability, and diminished informational value. However, their suggestions for mitigating this risk vary, ranging from allowing voluntary disclosures to retaining a limited set of core indicators.

Overall takeaway

In light of the above, the Presidency considers that there is broad support for the Commission's proposal to simplify Article 3. Regarding the deletion of Articles 4 and 5 on entity-level PAI and remuneration disclosures, most delegations are again supportive, with only a few proposing the retention of certain PAIs on a voluntary basis. Taking into account the Commission's proposed provisions on PAI identification and disclosure at product level, as well as the fact that the largest entities subject to the CSRD will continue to report under the ESRS, the Presidency considers that the entity-level disclosure framework should be maintained as proposed by the Commission. This approach appears to strike the right balance between simplification and burden reduction, while supporting a shift towards a more product-focused disclosure regime that is viewed as more useful from an investor perspective.

Article covered:

- Article 3

<u>Question to Member States</u>

Q6. Do you agree with the above analysis on Entity level Disclosures?

4. Disclosures for categorised products

4.1 Categorised products Disclosures

According to reactions by Member States following the December 2025 kick-off discussions, there seems to be broad support for the streamlining of the ESG disclosures for categorised products and the suggested elements to be included under Article 7(3) and (4), 8(3) and 9(3) and (4).

Based on the comments received before the January 20th 2026 CWP, few Member States have put forward several suggestions:

- As regards sub-paragraph c(ii) of paragraph 3 of articles 7,8 and 9 and the requirement for a description of *'...(ii) the applicable choice and relative share of investments referred to in paragraph 2;'*:
  Two Member States oppose requiring disclosure of the "relative share of investments, arguing that it is unsuitable and unnecessarily complex for products that frequently change portfolio composition or when investments fall into multiple categories or fluctuate over time. These two member states also stress that, to keep the two-page disclosures clear and usable, information should be streamlined and limited to what is most relevant. Another Member State requests clarification on whether investment-share limits must be met continuously or only at the end of the reporting period, and whether the calculation should be monthly, quarterly, or based on a year-end snapshot.

- As regards sub-paragraph c(iii) of paragraph 3 of articles 7,8 and 9 one Member State proposes setting a maximum phase-in period in Articles 7, 8 and 9(3)(c)(iii), arguing that long phase-ins increase greenwashing risks, especially since some investors rely heavily on fund names, and that ESMA Guidelines emphasize that some investors rely solely on fund names.

- As regards sub-paragraph (e) of paragraph 3 of Article 9 (it seems that the comment captures only Article 9 category), one Member State suggests adding a clause to ensure the disclosure requirement does not override, duplicate, or conflict with existing national rules on breaches and investor compensation.

- As regards paragraph 4 of Articles 7 and 9 and the disclosures relevant to the sustainability related financial products with impact, one Member State suggests that impact and pre-

set impact theory should be defined, and another Member State suggests that the impact theory should be expressed in terms of key performance indicators (commenting: 'as was in the previous version') and it should be applied in the investment process (for the 70% of transition/ sustainable investments).

Overall Takeaway

The main issues calling for further discussion and assessment following the above comments, are the following:

- Whether to remove the Level 1 disclosure on the *relative share of investments* due to its complexity, and-if removed-whether it should instead appear in the supplementary two-page disclosures (see section 4.2).
- Whether to amend the Level 1 disclosure on the *phase-in period* by introducing a maximum duration (possibly differentiated by category), or whether this should instead be addressed through the empowerment for the two-page disclosure (see section 4.2).
- Whether the Level 1 disclosure on *sustainability-related indicators and actions on underperforming assets* should be supplemented to ensure it does not override, duplicate, or conflict with national rules on breaches and investor compensation.

Articles covered:

Articles. 7(3) and (4), 8(3), 9(3) and (4)

Questions to Member States:

Q7. Do Member States see merit in removing the Level 1 disclosure relevant to the *'relative share of investments', in* sub-paragraph c(ii) of paragraph 3 of articles 7,8,9?

Q8. Do Member States see merit in amending the Level 1 disclosure relevant to the *'phase-in period'*, in sub-paragraph c(iii) of paragraph 3 of articles 7,8 and 9, to introduce a specific maximum length for such period?

Q9. Do Member States see merit in amending the Level 1 disclosure relevant to the 'the sustainability related indicator(s) used... *and actions to address any underperforming assets...*', in sub-paragraph (e) of paragraph 3 of articles 7,8, 9?

Q10. Do you have any other suggestions relevant to the provisions included in the disclosures under paragraph (3) of Articles 7, 8 and 9, and /or paragraph (4) of Articles 7and 9? If yes, please explain.

4.2 Relevant Empowerments

During the 23 February WP meeting Member States discussed the empowerments included under Article 19b and more specifically the proposal that the supplementing provisions to be included in the Commission's delegated act, should specify the details of the presentation of the information to be disclosed pursuant to paragraphs 3 and 4 of Articles 7 and 9 and paragraph 3 of Article 8, including a specific provision to limit such information presentation (i) to a maximum of 2 pages for the disclosures under par 3 of Articles 7, 8 and 9, and (ii) to a maximum of 1 page for the disclosures under par. 4 of Articles 7 and 9.

The discussions indicate strong overall support for page limits as they have the potential to improve clarity and usability for retail investors and reduce excessively long compliance-driven documents. However, a number of delegations express the concern that such limitations could lead to the loss of important information (oversimplification), especially where alternative/ complex sustainability strategies need to be presented.

To this end Member States seem to converge on the opinion that, whereas the page limitations introduced at level 1 should be maintained, the relevant level 1 empowerment should also provide for additional layered disclosures in websites, etc to ensure appropriate disclosure of all necessary details. One Member State suggests that the information should be streamlined and limited to the most relevant elements, i.e. the 'relevant share of investments' should not be in the 2-page disclosure, ensuring that disclosures remain proportionate and meaningful for end-investors. A few Member States emphasize the need for standardised templates to structure information and consumer testing to ensure readability.

Overall takeaway

The Presidency considers that the relevant empowerments under Article 19b (more specifically Articles 19b(a)(b), 19b(b)(b) and 19(c)(b)), should be complemented with additional provisions relevant not only to the presentation but also to the structure and content of the information to be disclosed pursuant to Articles 7(3) and (4), 8(3) , 9(3) and (4) , maintaining at the same time the page limits for the 'core disclosure document'. More specifically, the level 1 empowerment, could refer to the establishment of standardised templates ensuring that such information is clear, concise and comparable;

Articles covered:

Article 19b(a)(b), 19b(b)(b) and 19(c)(b)

<u>Questions to Member States</u>

Q11: Do Member States agree with extending the drafting of the relevant level 1 empowerment to refer not only to the presentation but also to the structure (introducing standardised templates) and content (either based on the list provided under 7(3), (4), 8(3), 9(3) and (4) or any other elements Member States wish to add) of the information to be disclosed pursuant to Articles 7(3) and (4), 8(3) , 9(3) and (4)?

Q12: Do you have any other suggestions relevant to the empowerments included under sub-paragraphs (a)(b), (b)(b) and (c)(b) of Article 19(b)? If yes, please explain.

5. Naming rules

During the CWP meeting of 17 March, several Member States did not support the use of the term "ESG" for the third category". It is noted that some Member States highlighted challenges related to translating the term "ESG" into their national languages. Most Member States also emphasised the importance of conducting consumer testing to ensure that naming conventions are clear and meaningful for investors. In response, the Commission clarified that investors will primarily encounter the *product* name rather than the category name. Given that consumer testing requires significant time and financial resources, the Commission noted that such testing would be more appropriately carried out at Level 2 for re-defining sustainability preferences and the investment journey under MiFID and IDD. The Commission, ESAs and NCAs will have very limited resources to conduct a comprehensive consumer testing for the names of the products and categories and the disclosures.

Presidency considers that the suggestion presented by two delegations on streamlining category titles, consistently for all three categories, is worth exploring. In particular, it is suggested to use either 'ESG' or 'sustainable' and add a second term in the category title reflecting the hierarchy between Article 8 and 9, such as 'Advanced' and 'Basic'.

Overall takeaway

Bearing in mind the above, the Presidency considers that in order to be able to achieve a clear distinction between the categories, the naming of the categories must aim to capture:
- the ambition achieved or to be achieved by each category (e.g. sustainable, transition, commitment).
- familiar terminology to investors (e.g. ESG or sustainable).
- clear differentiation in their meaning.

Options suggested:

Option 1: Keep Commission's initial proposal.

Option 2: Amend category names as follows:
- Article 7: "Sustainable Transition"
- Article 8: "Sustainable Basic"
- Article 9: "Sustainable Advanced"

Option 3: Amend category names as follows:

- Article 7: "ESG Transition"
- Article 8: "ESG Basic"
- Article 9: "ESG Advanced"

Questions to Member States:

Q13: Which option do you prefer? Please indicate if any of the options would be completely unacceptable.
Q14: Do you have other suggestions?

6. Marketing and legal documentation of non-categorised products falling under Article 6a

6.1. Legal documentation for non-categorised products (Article 6a)

At the 20 January CWP, the Commission provided clarifications on the line the proposal seeks to draw between the type of sustainability information allowed for categorised products vs. non-categorised products. Only categorised products can use 'sustainability-related claims' in their names and in their marketing communications (Article 13(2)). Non-categorised products on the other hand may only include information on how they 'consider sustainability factors' in their legal documentation, in a limited way (Article 6a). The Commission noted that the only exception was for products under Article 9a(2) investing in categorised products, which can use such terms and make such claims in their marketing communications, but not their names. Article 9a(2) and its link with Article 13(3) has since been discussed successively in the CWPs that followed, with most Member States supporting the Presidency proposal to extend the scope of 9a(2) to cover not only financial products that invest in categorised products but also financial products that invest in other investments that meet the requirements of Articles 7(2), 8(2) or 9(2) (in order to accommodate MOPs with only internal funds as investment options as well as insurance and pension products that would rely on the categorisation criteria but not meet the thresholds to categorise in any of the categories). The Presidency considers that the difference between the financial products falling under Article 6a and Article 9a(2) as proposed by the Presidency is that those under Article 9a would, by design, rely on the categories/criteria and make it a selling point (hence Art 13(3)), whereas those in Art 6a would only do so more incidentally. The latter should therefore not make sustainability-related claims on this basis, to avoid misleading investors. The Presidency addressed a question to delegations whether Article 9a(2) should be restricted only to financial products with meaningful investments with some Member States supporting it but without providing any suggestions as to potential thresholds.

The majority of Member States agree with prohibiting sustainability communication by non-categorised products falling under Article 6a in their marketing documentation. Several Member States however have asked to further discuss **the meaning of 'claims' and how it is different from the 'consideration of sustainability factors'.** Under Article 6a, information '*on whether and*

how (...) products consider sustainability factors' should *'not constitute a claim within the meaning of Article 7(1), Article 8(1) or Article 9(1)'*. Member States asked for clarification on what type of assertions can and cannot be included in the legal documentation of non-categorised products. One Member State for example asked whether general information on exclusions or engagement constitute a claim within the meaning of Articles 7, 8 or 9, or whether this is also permitted under Article 6a.

In this regard, it should be recalled that the Commission explained that the proposal builds on existing SFDR terminology regarding 'sustainability factors' (Article 2(24) which is not amended and is also used in ESRS) and it is the responsibility and judgement of financial market participants to discern whether their products:

(i) merely 'consider' sustainability factors in an ancillary way (Article 6a) i.e. considering certain sustainability factors in the investment strategy but not meeting the criteria of the categories (for example by applying an ESG strategy on only 50% of the portfolio, or not applying the 3 baseline exclusions); or

(ii) 'integrate' sustainability factors as a central part of the product (Article 8) i.e. 'integration' here should be understood as compliance with the Article 8 criteria (70% of assets being covered by an ESG strategy and exclusions being applied to 100% of the portfolio); or

(iii) 'contribute' to sustainability objective(s) (Articles 7 and 9), i.e. complying with the criteria of the Article 7 or 9, namely the demonstration of a positive contribution linked to a sustainable or transition objective by 70% of the assets and compliance with the comprehensive list of exclusions.

The Commission also explained that those falling under (ii) and (iii) are taken to be making 'sustainability-related claims' and referred to recital 12 of the proposal regarding the notion of 'claims' being consistent with recently agreed changes to legislation on unfair commercial practices (introduced by Directive (EU) 2024/825 as regards empowering consumers in the green transition).

The Presidency suggests the following options for discussion:

- **Option 1: not differentiating the nature of ESG claims that can be made in the legal documentation of products falling under Article 6a and products falling under Article 8.** Similar ESG information could be added to the legal documentation (e.g. exclusions, engagement...) but products falling under Article 6a would face the 10% restrictions (limiting such information to 1 or 2 sentences in the document).
    - This could be done either by (1) deleting the reference in Article 6a(1)(c) to 'Article 8(1)'; (2) or to simply explain in a recital that the only difference between the terms 'consideration' or 'integration' of sustainability factors is the compliance (or not) of the criteria (applying an ESG strategy on 70% of the portfolio and applying the

required exclusions on 100% of the portfolio). There would be no differentiation of types of ESG strategies (e.g. exclusions, engagement, best in class, outperforming an ESG benchmark etc would all be investment strategies that can be disclosed by Article 8 or Article 6a);
    - The positive aspect of such option would be that it introduces some flexibility into the continuum from Article 6a to Article 8 products and would avoid risking complex debates/numerous Q&As e.g. on the differences between 'considering ESG factors' and 'integrating ESG factors'. It would be up to the FMPs to decide whether they want to market their product as 'ESG' depending on the extent to which they design their products around ESG factors. It may come however at a cost of blurring the line between categorised and non-categorised products;

- **Option 2**: Further clarifications could be added (e.g. in a recital or legal text) to distinguish between the type of claims that would constitute a 'consideration of sustainability factors' and the type of claims that would constitute the 'integrating sustainability factors.
    - For example, this could mean differentiating different ESG strategies (e.g. exclusions, best-in-class, engagement) between the ones constituting a 'consideration' and the ones constituting an 'integration' of sustainability factors;
    - The positive aspect of such option would be that it would clearly delineate between categorised and non-categorised products. However, it would probably lead to excessive complexity and diverging interpretations between market actors and national supervisors, and would unlikely be easily understood by retail investors;

- **Option 3 (which could be cumulative to option 1)**: Require that the sustainability disclosures under Article 6a are accompanied by a statement that the product does not belong to any category of sustainability-related products.

Regarding the limitations to ESG communication in legal documentations (Article 6a), most Member States agree with the proposed approach but asked to further discuss the concept of **'non-centrality'** and its **associated 10% limit.** The concept of 'non centrality' is defined under Article 6a paragraph 1: *'the information shall be considered not be a central element where it is secondary to the presentation of the product characteristics both in terms of breadth and positioning in the document, neutral and limited to less than 10% of the volume occupied by the presentation of the financial product's investment strategy'.*

The French delegation in its response to the questionnaire that followed the January CWP meeting shared the AMF's positive experience in the implementation and supervision of the AMF ESG communication rules which for certain level of ambition, restrict the volume of ESG

communication in the marketing documentation to 10% of the volume occupied by the presentation of the product's investment strategy.

- *This provision has been in force for six years now and has not raised any practical application questions from market participants;*
- *In the vast majority of cases, ESG communications end up to be one or two-sentence long, in relation to the volume of the description of a product's strategy;*
- *In practice, the AMF does not check the exact number of characters in these ESG communications. Thus, it could happen that ESG represents 10,5%, 11 or 12% of the volume occupied by the investment strategy;*
- *The introduction of the 10% threshold followed tests made with market participants before the introduction of the rules;*
- *The main advantage of the threshold is to provide clear indications to market participants about supervisory expectations, but it is uncommon for AMF supervisory teams to request market participants to make significant changes when enforcing this provision.*

No alternative suggestions have been provided to the 10% limit. Some Member States proposed however to require a disclaimer similar to the statement proposed under option 3 above. Given the positive experience shared by the AMF, the Presidency does not propose further changes other than the possibility to include a statement under option 3 above.

6.2 Marketing documentation for non-categorised products (Article 6a)

In addition, several Member States raised a similar question regarding the difference between **'sustainability-related claims'** and '**integration of sustainability risks'** (Article 6), i.e. whether non-categorised products would be allowed to communicate on their management of sustainability risks in their marketing documentation.

The Presidency suggests two options in this respect:

- **Option 1**: No changes. It would be sufficiently clear, depending on the above choices, what constitutes 'claims' and what constitutes 'integration of sustainability risks'. Further it would be the responsibility of financial market participants to ensure they do not pursue the latter in a way that would contradict the horizontal obligation to ensure all information is fair, clear and not misleading. Competent authorities could also intervene in case of questionable practices;
- **Option 2**: The integration of sustainability risks by non-categorised products could be added in Article 13(3) first subparagraph as an element which is excluded from being referred to in marketing communications. This could allow for less flexibility than option 1

but be clearer for retail investors who may struggle to understand the difference between sustainability risks and sustainability factors.

Articles covered:

- Article 6, 6a, 8, 9a and 13

Questions to Member States:

Q15: Do you have a preference between options 1, 2, 3 or the combination of options 1 and 3 regarding the limitation on ESG information for legal documentations of non-categorised products?
Q16: Do you have a preference between option 1 and 2 regarding the possible limitation on sustainability risks information to be included in the marketing documentation of non-categorised products?
Q17: Do you have any other comments, in particular on the delineation between the non-categorisation products falling under Article 6a and Article 9a(2) as proposed by the Presidency?

7. Data & Estimates

At the CWP meeting of 23 February and subsequent replies to the Presidency discussion note, there is broad support from the Member States for the introduction and purpose of Article 12a. Regarding Article 12a(a), a few Member States have raised the issue that the provision imposes disproportionate burden on FMPs and that the responsibility for ESG data quality should lie directly with ESG data providers, rather than being addressed indirectly through contractual arrangements between providers and FMPs. One Member State requested clarification on what is understood as a sufficient level of formalisation, to ensure that the requirement is applied in a manner proportionate to the nature and scale of the entity concerned, at the same time another Member State requested for qualifiers to ensure proportionality and legal clarity. The Commission has clarified that the 'formalised and documented arrangements' refer mainly to arrangements on how to receive the data (i.e. contractual relationship between the FMP and the data provider). The FMPs would still have the responsibility to ensure the quality of data/information provided as part of their due diligence processes (same as today).

Regarding the provision laid down in Article 12a(b)(i), one Member State requested further clarification on the type of data expected under this point, while another Member State flagged that it seems contradictory with the objective of simplification as it is excessively broad and should be deleted. Regarding 12a(b), on the information to clients, a few Member States proposed that information on data and estimates could be met by reference to standard legal documentation or to a website regarding FMPs' data policies, instead of replying to client's requests. Many Member States support the inclusion of a proportionality clause if the 'clients

upon request' provision stays in the text and one Member State requested clarification on what is the actual consequence if an FMP does not provide the information requested by a client.

The Commission has clarified that the information under Article 12a(b)(i) could be any other ESG information that has not been included in the reporting template (mainly due to the 2-pages limits). This could be additional ESG information, for example on the outperformance in relation to the investment universe, more information on the principal adverse impacts, additional information on the underlying methodologies or underlying indicators etc. As regards the consequences if an FMP does not provide the information requested by a client, the Commission clarified that the FMP would be in breach of compliance, which would be dealt with under the different enforcement rules related to the relevant EU sectoral legislations (e.g. UCITS/AIFMD) since the SFDR (or the review) does not foresee a different/specific framework for SFDR enforcement.

Recital 24 on ESG data providers

The majority of Member States support that data providers should not be included in the scope of the SFDR. Any structural reconsideration of their regulatory status should be addressed in the context of the 2029 review clause of the ESG Ratings Regulation, which provides the appropriate procedural framework for a more considered assessment of costs and benefits.
The Commission has stated during the February CWP meeting that the role of ESG data providers should be revisited as agreed by co-legislators in the review clause under Article 52(2)(c) of the ESG ratings regulation (Regulation (EU) 2024/3005). The Presidency proposes to re-enforce this by amending recital 24 to provide a clear expectation that the Commission will encourage the development of minimum transparency and governance standards for ESG data providers.

Option 1: Amend recital 24 to add a reference to the review clause of ESG Ratings Regulation regarding the ESG data providers.

Possible drafting:

The wide range of potential investable assets for financial products that can be categorised as sustainability-related financial products means that there will continue to be certain data gaps in relation to sustainability data from investees and other assets. It is therefore appropriate to formalise and improve transparency about the use of estimates by financial market participants, without however imposing new requirements on third party sustainability data providers. Notably, proportionate steps should be introduced whereby financial market participants are to document their use of data sources and their use of external and in-house estimates and are to provide their clients with information on such use upon request. The Commission should

consider the provisions of this Regulation when carrying out the review under Article 52 of the Regulation (EU) 2024/3005, in particular whether the scope of that Regulation should be extended to include providers of data products on environmental, social and human rights, and governance factors with a view to ensure that minimum standards on transparency of data sources, control of data quality and data coverage, disclosure of methodologies and fair commercial practices would apply in relation to data and estimates provided by such providers for the purposes of this Regulation.

Option 2: Keep current text of recital 24.

Articles covered by this section:

-Article 12a

-Recital 24

Question to Member States

Q18: Do you have a preference for option 1 or option 2 and / or other drafting suggestions?

Use of data

The Commission has clarified that the 'use of data' is to be understood as including 'estimates', however the Presidency believes that it is not clear from the text that data also captures estimates given the use of the word 'data' in the remaining Article. Article 12a(a)(i) refers only to 'use of data' and not estimates, whereas under 12a(b)(ii), the text reads 'when data and estimates are sourced from data providers'.

Option 1: Amend the wording of Article 12a(a)(i)) and add the word 'estimates' to provide clarity and have consistency in the text.

Possible drafting:

(a) shall ensure that:
*(i) the use of data, **including estimates**, provided by external data providers, other than open source or research freely available to the public, is based on formalised and documented arrangements;*
(ii) the use of estimates that are not based on data provided by external data providers is based on formalised and documented methodologies;

Option 2: Keep current text

Question to Member States

Q19: Do you have a preference for option 1 or option 2, or do you have other drafting suggestions?

Article 12a(b), proportionality clause vs. disclosures

The main concern is that even if a proportionality clause is added, the possibility for clients to request information can contradict the objective of simplification and burden reduction. The Presidency would like to explore the Member States proposals to remove the 'upon clients request' provision and instead use website and legal documentation disclosures to provide this information to clients.

Option 1: Keep current text and add a proportionality clause regarding requests by clients

Possible drafting:

Add a subparagraph under Article 12a:

Information to be provided under Article 12a(b) shall be in a manner that is proportionate to the size, nature and complexity of the financial market participant and the financial products offered and shall not raise issues related to data protection, confidentiality and third-party licensing.

Option 2: Delete Article 12a(b)(i) and add a proportionality clause:

Possible drafting:

(b) shall provide clients upon request with:
~~(i) information regarding sustainability-related financial products other than the information disclosed in accordance with Article 7(3) and (4), Article 8(3), Article 9(3) and (4), and Article 11;~~
*~~(ii)~~ (i) where data or estimates are sourced from data providers, the name and contact details and, where applicable and available, **an overview of** the methodology used by data providers;*
*~~(iii)~~ (ii) **an overview** of the methodology**,** the main assumptions and precautionary principles regarding the treatment of missing datapoints and underlying estimations where those are not based on data provided by external data providers.*

Information to be provided shall be in a manner that is proportionate to the size, nature and complexity of the financial market participant and the financial products offered and shall not raise issues related to data protection, confidentiality and third-party licensing.

Option 3: delete 12a(b)(i) and replace 'upon request' provision of information with relevant disclosures on the website (art10) and legal documentation

Possible drafting:

Recital 24:

(...) Notably, proportionate steps should be introduced whereby financial market participants are to document their use of data sources and their use of external and in-house estimates and are to ***disclose them in the legal documentation and*** *website ~~provide their clients with information on such use upon request~~.*

Article 12a

(b) shall ~~provide clients upon request with~~ ***disclose in the legal documentation****:*

~~(i) information regarding sustainability-related financial products other than the information disclosed in accordance with Article 7(3) and (4), Article 8(3), Article 9(3) and (4), and Article 11;~~

~~(ii)where data or estimates are sourced from data providers, the name and contact details and, where applicable and available, the methodology used by data providers;~~

(i) a description of how data and estimates are used and sourced, the name and contact details of the data provider and, where applicable and available, an overview of the methodology used by data providers;

~~(iii)~~ ***(ii) an overview of*** *the methodology****,*** *the main assumptions and precautionary principles regarding the treatment of missing datapoints and underlying estimations where those are not based on data provided by external data providers.*

Article 10

Financial market participants shall publish and maintain on their websites the following information for each financial product referred to in Article 7(1), Article 8(1) and Article 9(1):
(a) the information referred to in Article 7(3), Article 7(4), Article 8(3), Article 9(3) and Article 9(4);
(b) the information referred to in Article 11~~;~~.
(c) whether estimates are used and whether data and/ or estimates used are provided by data providers.

Questions to Member States

Q20: Do you have a preference for option 1, option 2 or option 3?

Q21: Do you have any other drafting suggestions on 12a(b)?

8. Empowerments

Article 19b sets out the Commission's empowerment to adopt delegated acts necessary for applying the revised SFDR. These empowerments cover: (i) specifying the conditions under which investments contribute to the objectives of the three product categories, and (ii) defining the format and content of the two-page disclosure template for financial products. Recital 27 highlights the need for thorough preparatory work, including consultations with the European Supervisory Authorities and, where appropriate, Member State expert groups on sustainable finance. The ESAs are expected to support the Commission through consumer and investor testing to ensure that the categorisation framework enables distributors to match products to clients' sustainability preferences and that disclosures are clear and understandable in all EU languages.

To ensure equal participation in the preparation of delegated acts, all institutions-Parliament, Council and Member State experts-should receive relevant documents at the same time, and Commission expert group meetings during the preparation phase should involve all parties.

Many Member States underline that Article 19b, and the revised SFDR more generally, relies heavily on future delegated acts, creating uncertainty and implementation risks. Therefore, they support that all key principles, definitions and core elements of the three investment categories and the "open list" should be clearly set at level 1, with only technical details left to level 2. Several Member States ask for a deadline for adopting delegated acts aligned with the application date of the revised SFDR, while others warn that excessive reliance on level-2 measures could increase greenwashing risks and complicate supervision. One Member State highlights the importance of involving relevant stakeholders in drafting and updating the framework.

For Article 19b(a)(i), one Member State proposed aligning indicators with ISSB standards, while another asked for clarification of the term "voluntary". For Article 19b(a)(ii), Member States request that rules on limited deviations from exclusions be set at level 1, and for Article 19b(a)(iii) that phase-in periods and the timing for meeting thresholds be clarified at level 1. For Article 19b(a)(iv), one Member State questioned whether the reference to "conditions" implies an additional list beyond those already included in level 1. While most Member States support empowering the Commission to further specify disclosures for the open list—provided that level-1 framing is sufficiently detailed—one Member States opposed such empowerment, and another suggested specifying a deadline for the adoption of delegated acts.

To address several Member States' request for additional information/clarification on the empowerments, namely on the two sets of voluntary indicators, the Presidency suggests the following clarification in **Recital 27**:

"(27) The power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission to allow for the specification of the conditions for investments to contribute to given transition-related or sustainability-related objectives or to integrate sustainability factors for the categorisation of financial products as sustainability-related products, and disclosure templates for such financial products. **This would include the development of two voluntary sets of indicators. The first set would provide financial market participants with voluntary indicators to identify and disclose the principal adverse impacts of financial products falling under the Article 8 and Article 9 of this Regulation. Such indicators would build on the existing indicators referred to in Annex I of Commission Delegated Regulation (EU) 2022/1288 and Commission Delegated Regulation (EU) 2023/2778** ***(to be adapted to the new CSRD delegated act]*****. The second set would provide financial market participants with voluntary indicators to calculate the contribution to a sustainability or transition related objectives for financial products falling under Article 7 and 9 of this Regulation, or the integration of sustainability factors for financial products falling under Article 8 of this Regulation.** It is of particular importance that the Commission carries out appropriate consultations during its preparatory work, including with the European Supervisory Authorities established by Regulation (EU) No 1093/2010 of the European Parliament and of the Council 79, Regulation (EU) No 1094/2010 of the European Parliament and of the Council80 , and Regulation (EU) No 1095/2010 of the European Parliament and of the Council81 , and with the Member States Expert Group on sustainable finance, where appropriate. The European Supervisory Authorities should also support the Commission in conducting appropriate testing of consumers and investors to inform how product distributors best identify the products that match clients' sustainability preferences under Commission Delegated Regulation (EU) 2017/565, Commission Delegated Directive (EU) 2017/593, Commission Delegated Regulations (EU) 2017/2358 and (EU) 2017/2359, based on the categorisation, and ensure that associated investor-facing details are easily understandable in all official languages of the Union. Those consultations should be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making82. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council should receive all documents at the same time as Member States' experts, and their experts should systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts."

Article covered:

- Article 19b

Questions to Member States

Q22: Do you agree with the suggested addition to recital 27?
Q23: Besides this, do you support the suggestion of introducing a deadline for the adoption of delegated acts? If yes, what deadline would you propose?
Q24: Based on the discussions so far, do you believe that there are other aspects/terms of the proposal which should be further clarified/specified at level 1? If yes, please specify which ones and your concrete suggestions in this regard.
Q25: Are there any provisions of Article 19b which request further clarification or modification either in the Article itself or in the relevant Recital?