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4th of May 2026

Presidency discussion paper on SFDR

4 May 14:30 JL

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

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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 five CWPs, this meeting will revisit the last topics remaining for discussions with a view to reach compromise and to table a draft compromise at the next CWP, to be held on 18 May.

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

- Treatment of general purposes sovereign debt
- Definition of 'Credibility' under the Transition Category
- Exclusions under the Transition and ESG Category
- Principal Adverse Impacts

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.

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2. Treatment of general purposes sovereign debt

2.1 Transition Category

Following the split feedback on whether to keep the proposed exclusion of general purposes sovereign debt (GPSD) in the contribution ratio of the transition category, this note puts forward two options: (1) retaining the proposed exclusion of GPSD (COM proposal); (2) setting criteria for the possible inclusion of GPSD, based on the new Spanish non-paper.

OPTION 1 – RETAINING THE PROPOSED EXCLUSION OF GPSD (i.e. retaining the approach of the Commission's proposal)

Almost half of the Member States that expressed an opinion on the treatment of sovereign debt (8 of them) supported the Commission's proposal. These Member States believe that it is necessary to exclude such assets to avoid greenwashing, recognising that such investments are very general (i.e. hard to prove the actual contribution to sustainability/transition) and that there are no commonly agreed criteria for assessing the sustainability profile of such investments. Several Member States also pointed to the difficulties and political risks associated with developing criteria to gauge the sustainability of general-purpose sovereign issuances.

OPTION 2 – DELETING THE PROPOSED EXCLUSION OF GPSD AND DEVELOPING A SET OF CRITERIA FOR THEIR POSSIBLE INCLUSION IN THE CONTRIBUTION RATIO UNDER THE TRANSITION CATEGORY

A large number of Member States that expressed an opinion showed support or openness to explore the Spanish proposal that was discussed during the March CWP meeting, to integrate GPSD in the contribution ratio of the sustainable and transition category by establishing certain conditions of eligibility at level 1. In the Spanish non-paper that is included for discussion as part of this CWP meeting, the proposal is to confine the general-purpose sovereign pathway to Article 7 in order to preserve the strong incentive for public sector bodies to issue use-of-proceeds instruments, to qualify under Article 9**.**

The criteria set out in the new Spanish proposal are designed to be methodology-neutral (FMPs are not required to rely on any particular existing methodologies and can combine several of them). This option includes amendments to recital 22 and Article 7.

The Presidency highlights the following elements for the consideration of Member States:

- This option deletes from recital 22 the proposed indication that the exclusions cannot apply to GPSD (see text in red below). While it is not clear whether and, if so, how such

exclusions would apply to sovereigns included in the 70% of contributing investments (as amended version of the exclusions are proposed), it is clear that they would apply to the remaining 30% - which in the absence of this indication may be interpreted as excluding all GPSD from the 'remaining portion'.

- The proposed amended version of the exclusion ('the issuer's expenditure policies do not to a significant extent fund activities') might create interpretation issues regarding what a 'significant extent' means. Depending on the interpretation taken (either by regulators at level 2 or 3; or by FMPs themselves), certain EU member States' GPSD could be excluded.

Amendments to Recital 22

~~There are currently no comprehensive metrics for gauging the sustainability of general-purpose sovereign, sub-sovereign and supranational debt issuances. Investments in such debt issuances should therefore be excluded from counting towards the contribution of financial products to sustainability or transition related objectives. Without affecting the treatment or inclusion of those debt issuances among investments by financial products in general, investments in such debt issuances should be excluded from qualifying for the numerator of the portion of investment that needs to be reached by financial products that are categorised under the sustainable and transition categories. However, financial market participants should be allowed to include those debt issuances in the numerator of financial products that are categorised under the ESG basics category, using available methodologies that are appropriate to assess the sustainability of those investments for that purpose. Further, the exclusions regarding investments which financial products that are categorised as sustainability-related financial products cannot make, apply to companies, and not to sovereigns, sub-sovereigns and supra-nationals. Those exclusions therefore do not restrict investments in debt issuances by sovereigns, sub-sovereigns and supra-nationals, which can thus feature in the denominator of those financial products, including notably debt issuances by Union Member States, Union-level bodies and other public sector bodies not subject to any applicable Union-level financial sanctions. In contrast, investments in financial instruments issued by sovereigns, sub-sovereigns and supra-nationals, where the use of proceeds is known, where those instruments support specific sustainability aims, and provided that those financial instruments do not directly or indirectly fund activities that are excluded from investments by financial products that are categorised as sustainability-related financial products, can be included in the numerator of all categorised financial products. This balanced approach should allow sustainability-related financial products to continue to fund public projects and activities related to sustainability, while providing safeguards to potential greenwashing risks. Financial market participants should ensure that investments in public sector debt by categorised financial products are consistent with the stated sustainability-related objective or strategy of those products to avoid greenwashing risks and be aligned with end-investors' expectations.~~

(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. Under the transition category, financial market participants may invest in undertakings or economic activities with credible transition plans. In the interests of consistency and of a level playing field between corporate and sovereign issuers, it is appropriate to establish an equivalent eligibility pathway under which general-purpose issuances by public sector bodies may count towards the relevant threshold under Article 7(1)(a), subject to a demonstration, based on credible, verifiable and publicly available information, that the issuer's transition strategy and expenditure policies meet defined criteria. Those criteria should be anchored in the EU Climate Law and, for third-country issuers, in the Paris Agreement, and should be evidenced by the submission of nationally determined contributions or equivalent national instruments and by the adoption of domestic policies and measures implementing those commitments. Formal adherence to the Paris Agreement or a general commitment to its objectives is not sufficient; financial market participants should demonstrate that the issuer is actively implementing policies and measures consistent with its stated commitments. The additional eligibility pathway is confined to the transition category. The sustainable category under Article 9 is reserved for use-of-proceeds instruments, which remain the appropriate vehicle for the highest level of sustainability ambition and the exclusive pathway for sovereign bonds qualifying under that category. Financial market participants that rely on this pathway should reflect the basis of that assessment in the periodic reports referred to in Article 10.

Amendments to Article 7(1), fifth subparagraph

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, national climate strategy or equivalent sustainability framework aligned with the objectives of the EU Climate Law or, for***

third-country issuers, with the objectives of Paris Agreement, as evidenced by the submission of nationally determined contributions or equivalent national instruments and by the adoption of domestic policies and measures implementing those commitments; 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.

Questions to Member States:

Q1: Which option do you prefer? In case you support option 2, do you see merit in (i) keeping in recital 22 the indication that the exclusions cannot apply to GPSD and (ii) adding an empowerment to clarify/ provide guidance on point (c)(ii), in order to ensure level playing field?

Q2: Do you have any other redrafting suggestions to further improve the text?

2.2 ESG Basics Category

Pursuant to the Commission's proposal, investments in GPSD may qualify as investments contributing to the 70% of the ESG Basics Category. This provision ensures a categorisation pathway for insurance and pension products investing heavily in GPSD for solvency and risk control requirements.

Nonetheless, the Swedish non-paper that was circulated in the March CWP meeting considered that there is a need to further clarify how the GPSD will fulfil the objective of integrating sustainability factors in line with any of the investments approaches of listed in Article 8(2) or to introduce explicitly in the text a separate pathway using available methodologies. A significant number of delegations have supported or expressed openness to the Swedish proposal.

An option could consist in introducing provisions specific to the GSPD under Article 8. Such provisions could require documented methodologies for assessing the integration of sustainability factors in combination with a "do not contradict" safeguard and further disclosure relating to assumptions. These provisions could be complemented by level 2 measures *via* an empowerment under Article 19b(b) to specify the criteria and minimum disclosures for these methodologies.

Amendments to Article 8(1)

New (second) subparagraph:

Investments referred to in the first subparagraph, point (a), may include investments in general-purpose debt issuances by public sector bodies when financial products meet the following conditions: -

(a) The assessment of whether those investments integrate sustainability factors for the purposes of this paragraph is based on formalised and documented methodologies; and

(b) they ensure that those investments do not contradict the sustainability-related claims made by the product.

Amendments to Article 8(3)

3. For financial products as referred to in paragraph 1, financial market participants shall disclose the following information:

(da) the key assumptions of the methodology referred to in paragraph 1, second subparagraph, point (a);

Questions to Member States:

Q3: Do you support the proposed redrafting of Article 8 and adding an empowerment under Article 19b(b) to specify these methodologies?

Q4: Do you have any redrafting suggestions to further improve the text?

3. Definition of Credibility under the Transition Category

The Presidency presented two options on how to further define 'credibility' in the transition category during the March CWP. Member States views were split on the suggested options, whilst the majority of Member States were in favour of using the term 'credible' and agreed to use process-based principles. This note puts forward two options: (1) option 1 builds on the previously presented 'option 1' which received considerable supports; (2) option 2 was suggested by Germany.

While option 1 sets some expectations on investee companies (i.e. lists elements to be checked on non-financial companies to assess the credibility), option 2 focuses only on the processes put in place by the FMPs to ensure the alignment between the ESG claim and the investments.

OPTION 1 – SETTING EXPECTATIONS ON NON-FINANCIAL COMPANIES (e.g. publishing transition plans or science-based targets) AND ON THE FMPs (e.g. implementing a portfolio level target or an engagement strategy)

This option largely builds from option 1 of the Presidency note CWP 4 which received support. Small adjustments were made to clarify that the SFDR should not be interpretated as creating new transparency obligations from investee companies (information on 'credible' could also be acquired by FMPs through engagement or their own research, or from third parties, not necessarily through companies' reporting) and adding one element for the credibility of transition plan and science-based targets based on member states' feedback (setting clear time-bound targets with interim milestones).

Under option 1, the expectation behind credibility is twofold: (1) the investee must be able to demonstrate credibility; (2) FMPs must have processes to ascertain the credibility of their investments.

'Credible' is retained for all investment approaches under points (c), (d), (e), (g) and (h) and maintains the obligation of alignment with the EU Climate Law in case of climate change mitigation claims.

- 'Credible' is defined through process-based principles. The principles are different for points (c) and (d) (setting the expectations for non-financial companies) and for point (e), (g) and (h) (setting the expectations for the FMPs). This distinction is premised on what could reasonably be expected as proportionate requirements:
    - from investees companies, including under the VSME recommendation[1] and the emerging revised ESRS[2], and without going too far in terms of criteria which could undermine their eligibility for products in the category.
    - from FMPs to ensure their due diligence under these approaches is based on appropriate steps to ensure ambition, transparency and accountability, and without going too far in terms of introducing requirements which could be at odds with the recently agreed Omnibus I[3] as regards due diligence by financial undertakings.

<u>Amendments to Article 7(2)</u>

[1] Commission Recommendation (EU) 2025/1710 of 30 July 2025 on a voluntary sustainability reporting standard for small and medium-sized undertakings EUR-Lex - 32025H1710 - EN - EUR-Lex
[2] Draft Simplified ESRS | EFRAG
[3] Directive - EU - 2026/470 - EN - EUR-Lex

Addition of the following (third and fourth) new subparagraphs:

Financial products with investments referred to in the first subparagraph points (c) and (d) shall be supported by information on the undertakings or economic activities regarding: their dedicated governance and resources, initial diagnosis, measurable and time-bound targets with milestones or interim targets, and strategy and actions to carry out the transition plan or achieve the targets, including implementation and monitoring .

Financial products with investments referred to in the first subparagraph points (e), (g) and (h) shall be based on rigorous, formalised and documented methodologies and procedures put in place by the financial market participants.

OPTION 2 – SETTING EXPECTATIONS ONLY ON THE FMPs (to check the alignment between the investments and the ESG claim)

This option was sent by Germany and suggests defining 'credible' with regards to the alignment with the investment objective (and not with regard to the ambition of an investment with regard to a sustainability objective or with regarding to whether the claims are actually pursued).

Under option two, the expectations behind credibility are: (1) investments must be in line with the product's marketed and disclosed objective (described under Art.7(1)(a) and (2) FMPs must have processes to monitor the progress made and strategies to deal with underperformance at the level of the portfolio.

Amendments to Article 7 would spell out that credibility means that an FMP has in place adequate processes and methods to make investments in line with the transition objective of the product. This approach also maintains the requirement to be aligned with the Paris Agreement/EU Climate Law for climate objectives.

Amendments to Article 7(2):

With the addition of the following (third and fourth) new subparagraphs:

To ensure credibility of the investment approaches under points (c) to (h) of the first subparagraph, Financial Market Participants shall, in line with sector specific regulation:

> ***(i) subparagraph, point (aan appropriate, documented and regularly updated due diligence process for each investment made the financial product that contributes to the transition objective(s) referred to in paragraph 1, first subparagraph, point (a); and***

(ii) implement appropriate monitoring processes to assess the progress made and to address underperforming investments or underperformance at the level of the portfolio with regard to the transition objective(s) referred to in under paragraph 1, first subparagraph, point (a).

Financial Market Participants shall review the processes referred to in points (i) an (ii) of this paragraph with appropriate frequency at least once a year and adapt them whenever necessary.

Recital (16)

Some Member States asked whether the requirement to be compatible with the objective of achieving climate neutrality as established in the EU Climate law applies to investments in assets located outside of the EU. The draft compromise could include clarification on that matter in recital 16, namely specifying that the compatibility of EU-based investments should be assessed in relation to the Climate law, in line with its character as the EU contribution to the Paris agreement[4], while those outside the EU should be assessed against the Paris agreement.

Such a clarification could be drafted as follows:

(16) [...] To ensure a meaningful contribution to the international and European climate goals, financial products which pursue a climate change mitigation objective should align their ambition with that in the Paris Agreement and in Regulation (EU) 2021/1119, in particular for financial market participants relying on transition plans and science-based targets from companies or projects, or when pursuing a sustainability-related engagement strategy with investee companies. ***In line with its character as the Union contribution to the Paris Agreement, the ambition of investments in the Union should be assessed against Regulation (EU) 2021/1119, while those in third countries should be assessed against the Paris Agreement.***

Questions to Member States:

Q5: Do you prefer option 1 or option 2?

Q6: Do you support the amendment of recital 16? Do you have and redrafting suggestions?

[4] Recital 8 of Regulation (EU) 2021/1119

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4. Exclusions

4.1 Transition Category – Article 7

Following the mixed feedback received on the fossil fuel expansion exclusion under Article 7(1)(c), with some member states wanting to include certain of these fossil fuel companies under conditions that they also participate to the climate transition, this note puts forwards three options:

Suggestion options

- Option 1: keeping this exclusion unchanged (i.e. retaining the wording of the Commission's proposal);
- Option 2: amending the exclusion to allow for the inclusion of companies conducting fossil fuel activities, provided that they commit a minimum share of their capital expenditures to low-carbon energy activities and decrease their scopes 1 and 2 greenhouse gas emissions.
- Option 3: amending the exclusion to allow for the inclusion of companies conducting fossil fuel activities, provided that their capital expenditure, allocated to those activities, is capped at different levels.

Member States also flagged that the current legal wording does not allow FMPs to apply a use-of-proceed approach on this specific exclusion. After discussing with the European Commission, it is understood that this is due to a drafting mistake. Changes to the drafting to allow for the use or proceed approach will be done in the draft compromise.

OPTION 1 – RETAINING THE PROPOSED EXCLUSION OF FOSSIL FUEL EXPANSION (i.e. retaining the approach of the Commission's proposal)

Several Member States considered that it is necessary to exclude companies developing new projects relating to fossil fuels or do not have a plan to phase-out from their hard coal or lignite activities for power generation. They consider that this exclusion would contribute to the integrity of the transition category and limit the potential risk of misunderstanding from end investors.

OPTION 2 – AMENDING THE EXCLUSION TO ALLOW FOR THE INCLUSION OF COMPANIES CONDUCTING NEW FOSSIL FUEL ACTIVITIES PROVIDED THAT THEY COMMIT A MINIMUM SHARE OF THEIR CAPITAL EXPENDITURES TO LOW-CARBON/GREEN ENERGY ACTIVITIES AND DECREASE THEIR SCOPES 1 AND 2 GREENHOUSE GAS EMISSIONS.

This option was shared by France. It suggests two cumulative conditions for companies captured by the exclusion on fossil fuels to be invested by financial products under the transition category. The first condition relates to the proportion of capital expenditures channelled to low-carbon energy activities – it could also be envisaged to refer to Taxonomy-aligned activities instead of low-

carbon energy activities. The suggested level, calibrated based on green capital expenditures (green capex), sourced from "green capex" data provided by data providers or from companies' taxonomy-aligned reporting, is designed to include fossil fuel companies that demonstrate a relatively higher level of ambition in their transition efforts compared to their peers. The second condition relates to the reduction of Scopes 1 and 2 greenhouse gas emissions.

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Amendment to Article 7(1)(c)

(c) They exclude investment in companies that ***derive revenues from the exploration, extraction and refining of hard coal and lignite, oil fuels or gaseous fuels, except where such companies:***

(i) allocate at least [15%] of total capital expenditures to [low-carbon energy activities / Taxonomy-aligned activities], and increase that share over time; and

(ii) have in place a time-bound and measurable strategy to reduce their Scope 1 and Scope 2 greenhouse gas emissions.

~~***(i) develop new projects for the exploration, extraction, distribution or refining of hard coal and lignite, oil fuels or gaseous fuels; or***~~

~~***(ii) develop new projects for, or do not have a plan to phase-out from, the exploration, mining, extraction, distribution, refining or exploitation of hard coal or lignite for power generation.***~~

OPTION 3 – INCLUDING COMPANIES CONDUCTING FOSSIL FUEL ACTIVITIES, WITH A CAP ON RELATED CAPEX.

This option was shared by Spain. The 'new projects' notion is completely removed as it is considered imprecise and hard to verify. The suggestion allows transition products to invest in companies conducting fossil fuel activities provided that the capital expenditure allocated to those activities is limited to varying degrees. The classification is based on Delegated Regulation (EU) 2020/1818. Another condition for companies to enter the investable universe, is the requirement to have phase-out plans, thus securing transition.

Amendment to Article 7(1)(c)

(c) they exclude investments in companies ~~*that*~~*:*

(i) as referred to in Article 12(1), points (a), (b), and (c) of Delegated Regulation (EU) 2020/1818;

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(ii) that allocate [1 %] or more of their capital expenditure to the exploration, mining, extraction, distribution or refining of hard coal and lignite;

(iii) that allocate [10 %] or more of their capital expenditure to the exploration, extraction, distribution or refining of oil fuels;

(iv) that allocate [50 %] or more of their capital expenditure to the exploration, extraction, manufacturing or distribution of gaseous fuels;

(v) that allocate [50 %] or more of their capital expenditure to electricity generation with a GHG intensity of more than 100 g CO_2e/kWh;

(vi) that do not have a plan to phase out from the exploration, mining, extraction, distribution, refining or exploitation of hard coal, lignite, oil fuels or gaseous fuels;

with the exception, for points (ii) to (vi), of investments in use of proceeds instruments issued by those companies

(i) in accordance with Article 3 of Regulation (EU) 2023/2631 of the European Parliament and of the Council; or

(ii) where the proceeds do not fund any underlying activities as referred to in points (ii) to (v), provided that the issuer of the use of proceeds instruments is not excluded under point (i).

~~*(i) develop new projects for the exploration, extraction, distribution or of hard coal and lignite, oil fuels or gaseous fuels; or*~~

~~*(ii) develop new projects for, or do not have a plan to phase-out from, the exploration, mining, extraction, distribution, refining or exploitation of hard coal, or lignite for power generation.*~~

Questions to Member States:

Q7: Do you have a preference for option 1, 2 or 3 regarding the Transition Category?

Q8: Do you have any other suggestions?

4.2. ESG Basics Category – Article 8

Regarding the ESG Basics Category, some Members States believe that the expansion of the exclusion criteria, will strengthen the integrity of the category and will minimise greenwashing risks. Although the notion of expanding the exclusions of the least ambitious category seems counterintuitive at first glance; by reducing the investable universe under this category, Financial

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Market Participants will be forced to go through the Article 7 path if they want to categorise their products under SFDR, thus mobilising capital towards transition.

As the March Council Working Party did not focus on the exclusions of the ESG Basics Category, the Presidency considers it useful to present the following options for Member States' consideration.

Option 1

Based on the Spanish suggestion, this option provides a distinction between different investment strategies by allowing for two different levels of exclusions. The first level is universal for all types of strategies whilst the second only applies when the strategy integrates environmental factors.

Amendment of Article 8(1)(b)

*(b) they exclude investments in companies as referred to in Article 12(1), points (a), (b**~~);~~ and** (c) **~~and (d)~~** of Delegated Regulation (EU) 2020/1818; **where those financial products integrate environmental factors in their investment strategy, they shall also exclude investments in companies as referred to in Article 12(1), points (d), (e), (f) and (g), of that Delegated Regulation,** with the exception of investments in use of proceeds instruments issued by companies:*

(i) in accordance with Article 3 of Regulation (EU) 2023/2631; or

*(ii) where the proceeds do not fund any underlying activities as referred to in Article 12(1), points (a), (b) **~~and~~,** (d), **(e), (f) and (g),** of Delegated Regulation (EU) 2020/1818, provided that the issuer of the use of proceeds instruments is not excluded under Article 12(1), point (c), of that Regulation.*

Option 2

Keep the Commission's Proposal – no amendments to be made to the text.

Questions to Member States:

Q9: Which option do you prefer regarding the ESG Basics Category?

5. Principal Adverse Impacts (PAIs)

Member States expressed mixed views as regards the treatment of PAIs. The majority of Member States that expressed a view supported the Commission's proposal, amongst which 8 Member

States wanted to reinforce PAI requirements and make some indicators mandatory. Five (5) Member States were in favour of deleting them.

This note presents two options:

- Option 1 consists in retaining the PAI requirements based on an indicative list of indicators for the voluntary use of FMPs (i.e. retaining the Commission's proposal).
- Option 2 consists in requiring FMPs, for transition and sustainable financial products, to choose 2 indicators among the list of PAI indicators to be developed under level 2, while giving them leeway to use their own indicators if they do not find appropriate indicators within the list.

OPTION 1 – RETAINING THE PAI REQUIREMENTS BASED ON AN INDICATIVE LIST OF INDICATORS FOR THE VOLUNTARY USE OF FMPs (I.E. RETAINING THE COMMISSION'S PROPOSAL).

The Commission's proposal requires FMPs, for transition and sustainable financial products, to report on PAIs while providing flexibility and limiting burden as FMPs may decide to use their own indicators. Therefore, it appears as a compromise between Member States in favour of reinforcing PAIs requirements and those in favour of removing them.

OPTION 2 – REQUIRING FMPs TO CHOOSE 2 INDICATORS AMONG THE LIST OF PAI INDICATORS TO BE DEVELOPED UNDER LEVEL 2, WHILE GIVING THEM LEEWAY TO USE THEIR OWN INDICATORS IF THEY DO NOT FIND APPROPRIATE INDICATORS WITHIN THE LIST.

This option builds on the feedback and proposals expressed by Member States pointing out the importance of mandatory PAIs to ensure comparability of financial products. It would require FMPs, for transition and sustainable financial products, to select at least 2 indicators from the list of PAIs indicators to be set out in the delegated act.

Considering that it would not be possible for this list to address properly the specificities of each investment strategy and objective of financial products, this option allows FMPs to use their own indicators if they demonstrate that no indicator of the list is relevant to their products. Furthermore, to take into account market practices, it could be envisaged to extend in the future the list of PAI indicators laid down in the delegated act. This extension would aim to take stock of the indicators used by FMPs when they do not find relevant indicators to their products in the delegated act.

This option also clarifies that:

- Information about PAIs is to be included in precontractual disclosures of transition and sustainable products pursuant to Articles 7(3) and 9(3); and

- The delegated act would include two separate lists of indicators:
    - A list of sustainability-related indicators to measure transition or sustainable objectives under Articles 7(1), 8(1) and 9(1), first subparagraph, point (a);
    - A second list of PAI indicators relating to Articles 7(1) and 9(1), first subparagraph, point (d).

Amendments to Article 7 and 9:

- **Amendments to Article 7(1) and Article 9(1) first subparagraph point (d)**

(d) they identify and disclose the principal adverse impacts of their investments on sustainability factors, and explain any actions taken to address those impacts.

Financial market participants ***~~may choose to~~*** *shall comply* ***~~in full or in part~~*** *with the disclosure requirement described under the first subparagraph point (d) by using* ***a set of appropriate*** *sustainability-related indicators.*

For the purpose of the first subparagraph, point (d), financial market participants shall at least use [2] indicators listed in the delegated act adopted by the Commission in accordance with Article 19c and that are relevant to their financial product. Where financial market participants demonstrate that none of these indicators are relevant to their product, they may use alternative sustainability-related indicators.

- **Amendments to Article 7(3) and Article 9(3) – introducing a new reporting requirement**

(f) the sustainability-related indicators used by the financial market participant referred to in first subparagraph, point (d), for identifying and disclosing the principal adverse impacts of the product's investments on sustainability factors.

Amendments to Article 19b

Article 19b

The Commission shall be empowered to adopt a delegated act in accordance with Article 19c to supplement:

(a) paragraphs 1, 2, 3 and 4 of Article 7 to specify:

(a) the conditions for investments to contribute to the transition-related objective, and more in particular to specify:

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(i) ***the two lists*** *of indicators building on the indicators referred to in Annex I to Commission Delegated Regulation (EU) 2022/1288*11 and Commission Delegated Regulation (EU) 2023/2772 [to be adapted to the new CSRD delegated act]*12 ,* ***the first one*** *for voluntary use by financial market participants when complying with paragraph 1, first subparagraph, point (a)* ~~***and to be used by financial market participants when complying with paragraph 1, first subparagraph***~~ ***and the second one for use by financial market participants when complying with paragraph (1-, first subparagraph, point (d).***

Amendments to Recital 18

(18) […] It would bring accurate transparency on adverse impacts, therefore allowing end-investors to understand the potential harm of such products, while bringing more legal clarity on the required obligation to financial market participants than the current principle of 'consideration' of principal adverse impact indicators. Indicators should be developed that build on the current principal adverse impact indicators referred to in Annex I to Commission Delegated Regulation (EU) 2022/1888 and Commission Delegated Regulation (EU) 2023/2772 for ~~***voluntary***~~ *use by financial market participants when complying with the identification and disclosure of principal adverse impacts.* ~~***However, f***~~ ***F****inancial market participants should have* ***some*** ~~***the***~~ *flexibility to disclose these principal adverse impacts using a different approach, such as different indicators or a qualitative explanation of such impacts and actions, if it fits better the nature of the impact identified or addressed.* ***As part of these disclosures, financial market participants should at least use two indicators among those to be developed. However, considering the wide variety of assets, strategies and objectives, it could happen that none of these indicators*** ~~***in this flexibility on how to identify the impacts should allow them to focus on the impacts which***~~ *are actually relevant for* ***some of*** *their products.* ***Upon appropriate demonstration to their competent authorities, financial market participants should have the possibility to use their own indicators.*** ~~***depending on the assets, strategies and objectives pursued.***~~ ***The list of indicators to be laid down in the delegated act could be extended in the future to reflect market practices and include indicators frequently used by financial market participants.*** *[…]*

Questions to Member States:

Q10: Which option do Member States prefer?

Q11: Do Member States have any other comments/concerns on this issue?