Council of the European Union
General Secretariat

PUBLIC

Brussels, 13 May 2026

WK 6803/2026 INIT

LIMITE

EF
ECOFIN
ENV
CODEC

This is a paper intended for a specific community of recipients. Handling and further distribution are under the sole responsibility of community members.

WORKING DOCUMENT

From:	General Secretariat of the Council
To:	Working Party on Financial Services and the Banking Union (Sustainable Finance) Financial Services Attachés
N° Cion doc.:	ST 15751 2025 INIT
Subject:	SFDR Review - CWP 18 May 2026 - Presidency discussion paper

PUBLIC

18th of May 2026

Presidency discussion paper on SFDR

18 May 10:00 JL

PUBLIC

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

May 18, 2026, 10:00-17:30

1. Introduction

The Presidency would like to thank all delegations for their constructive and dedicated work over the past five months, without which it would not have been possible to present a consolidated compromise proposal on the review of the Sustainable Finance Disclosure Regulation (SFDR). Delegations have demonstrated a genuine willingness to make progress on this file, enabling the Council to do its utmost to deliver on the political objectives 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.

With this discussion note the Presidency presents its (first) proposal for a consolidated compromise on the SFDR framework. It is acknowledged that negotiations have been, and continue to be, challenging and that finding common ground requires further and mutual concessions.

It is the Presidency's view that what is now on the table represents a balanced compromise proposal that is ambitious and delivers on the political objectives, while remaining prudent and without compromising financial stability. The Presidency urges Member State to take a holistic view when assessing the proposal. It should be borne in mind that relaxations and simplifications are desirable, but they must not compromise the efficiency, integrity, or operational applicability of the framework.

The discussion note is presenting the proposed amendments and providing the rationale. For the remaining changes the rationale is considered to be self-explanatory, while for provisions where no amendments were introduced, this resulted from their prior discussion and the absence of sufficient support from Member States, either during the meetings or in the written comments following the Council Working Party (CWP) meetings of 17 March, 17 April and 4 May 2026.

The note covers the following:

1. Introduction
2. Definition of financial products - Articles 2 and 19 and Recital (7)
3. Pre-contractual disclosures (Article 6a and Recital(11))
4. Exclusions (Articles 7 and Recital (16))
5. PAIs (Articles 7 and 9 and Recitals (18) and (27))
6. General Purpose Sovereign Debt (Articles 2, 7 and 8 and Recital (22))
7. PAB/CTB Safe Harbor (Article 7 and 9 and Recital (19))
8. Investment Approaches, Type of Assets, Open Element, Private and Real Assets (Articles 2, 7, 8 and 9)
9. Phase in period (Articles 7, 8 and 9)
10. Category names (Articles 7, 8 and 9)

PUBLIC

11. Credible (Article 7 and Recital (16))
12. Treatment of Financial Products Investing in Categorised Products and Other Investments (Article 9a and Recital (23))
13. Transparency of websites, data & estimates (Article 10 and 12a and Recital (24))
14. Articles 13 – 19b
15. Entry into force (Articles 1, 4 and 13 and Recital (27))
16. Amendments to PRIIPs KID Regulation (EU) No 1286/2014
17. Other

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. Definition of financial products - Articles 2 and 19 and Recital (7)

The suggested amendment to recital (9), aim to align SFDR with the broader EU social policy agenda and ensures that disclosures cover the full spectrum of social sustainability objectives. This improves legal certainty and aligns the scope with the substantive changes introduced elsewhere in the text.

Structured products

Based on the discussions of the CWP of 17 April 2026, where the inclusion of structured products under the SFDR was examined, the majority of Member States expressed concerns regarding the definition of structured products and how the categorization criteria would apply to such products. On that basis, the majority supported maintaining the Commission's proposal, which does not include structured products. Nevertheless, the Presidency considers that there are valid arguments for the inclusion of these products within the scope of the SFDR and therefore proposes adding a **review clause** under Article 19, requiring the Commission to review the application of the Regulation within [60] months and to consider the inclusion of structured products within its scope. A relevant explanation is suggested to be added in Recital (7).

Questions to MS:

Q1: Do you agree with the Presidency's compromise proposal to include a review clause under Article 19 to consider the inclusion of structured products within the scope of the SFDR (YES/NO)?

PUBLIC

3. Pre-contractual disclosures – Article 6a and Recital (11)

During the CWP meeting of 17 April, the large majority of Member States supported to: (1) keep the 10% and the notion of non-centrality; (2) not differentiate 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 by deleting the reference to Article 8(1) in paragraph 1, first subparagraph, point (c); and (3) require the addition of a statement when non-categorised products make use of Article 6a that the product does not belong to any category of sustainability-related products.In relation to the latter, it is suggested to add the following paragraph:

This information shall be accompagnied by the following statement:

> ***"This financial product does not meet the minimum criteria to qualify as a sustainability-related financial product under European Union law."***

A relevant clarification is suggested to be added in Recital (11).

Questions to Member States:

Q2: Do you support the proposed amendments to Article 6a of the compromise proposal (YES/NO)?

Q3: If NO, please provide alternative wording.

4. Exclusions (Article 7 and Recital (16))

On the exclusion regime under Article 7, and in trying to find the right balance between those Member States which support the complete removal of the additional exclusions of Article 7(1)(c) and those Member states that wish to maintain the current level of strictness under the Commission Proposal, the Presidency suggests building on the French suggestion discussed in the 4th of May council working party, which received plurality support.

The French suggestion provided for the inclusion of investments in companies in the fossil fuel sector provided that they show a clear path of transition towards sustainability. To achieve this, the French suggestion included a 15% minimum threshold of CAPEX allocation towards low carbon activities which should increase over time, and a mandatory strategy to reduce scope 1 and scope 2 greenhouse gas emissions.

Although, as mentioned, this option received plurality support during the CWP, the written comments show that adjustments are needed to address the concerns of some Member States and safeguard the integrity of the transition category.

Therefore, in the spirit of compromise, the Presidency suggests increasing the CAPEX allocation threshold to 20%, to enable a faster allocation of capital towards transition. Additionally, the presidency suggests moving away from the term "low carbon activities" and specifying that CAPEX should be allocated to "taxonomy aligned activities". This is a well-established, widely used list of activities, and will aid comparability and supervision.

A relevant clarification is also added in Recital (16).

PUBLIC

Questions to Member States

Q4. Do you agree with the Presidency proposal (YES/NO)?

In case the Council negotiating mandate builds on the Presidency proposal –

Q5. Would you instead prefer keeping the threshold to 15% as the French suggestion (YES/NO)?

Q6. Would you prefer to revert to the term “low carbon activities instead of “Taxonomy aligned economic activities” (YES/NO)?

Q7. In order to establish an explicit path towards transition do you agree to add a requirement for CAPEX to increase over time (YES/NO)? If yes, what percentage would you consider as appropriate (i.e [5]% every three years)?

Q8: Would you prefer to include a review clause concerning the threshold (YES/NO)?

Q9: Do you agree with the use of the term “time bound and measurable’’?

5. PAIs (Articles 7, Article 9, and Recitals (18) and (27))

During the discussion of the May 4th CWP meeting and the follow-up written comments on the principal adverse impacts (PAIs) of financial products falling under the Article 7 and Article 9 of this Regulation, Member States have shown preference for the proposal which requires FMPs, to select at **least 2 mandatory indicators** from a list of indicators to be developed in the delegated act.

This approach provides enough flexibility as it allows FMPs to choose those indicators most relevant to their financial products, and in cases where none of the indicators are applicable, FMPs are allowed to use alternatives provided they explain why. At the same time, using a predefined list of indicators will allow for comparability amongst similar financial products and will aid supervision.

Recitals (18) and (27) have been amended to reflect this adjustment.

Questions to Member States

Q10: Do you agree with the adoption of this approach (YES/NO)?

Q11: Do you agree with the number of mandatory indicators (YES/NO)? If “NO” please provide an alternative.

6. General Purpose Sovereign debt (Articles 2, 7 and 8, and Recital (22))

Articles 7

Member States were split with regards to the inclusion of general-purpose sovereign debt (GPSD) in the contribution ratio of the transition category, as put forward in the Spanish non-paper

discussed in the 4th of May Council Working Party. The majority of Member States have nevertheless signaled during the Cyprus Presidency their preference to ensure that insurance and pension products representing 70% of the EU retail investment market and heavily investing in GPSD to meet solvency and risk management requirements, will be contributing under the SFDR to the transitioning of the EU.

Building on this and in an effort to find a compromise, the Presidency suggests a targeted amendment to Article 7 to allow a general exemption for financial products issued by insurance and pension products to include investments in GPSD up to 60% (i.e. 30% above the 30% that is allowed as remaining investments), as long they demonstrate that the investment is aligned with the transition-related objective. This compromise ensures that the majority of investments in the positive contribution would be met by investments meeting requirements in paragraph (2) and at the same time allow insurance and pension products to invest in GPSD aligned with the transition-related objective. The Presidency also proposes to narrow such GPSD to those established in the EU in recognition of EU ESG commitment/progress.

Recital 22 will be adjusted based on the Member States' feedback.

Article 2

Based on feedback received from Member States, it is suggested to remove multilateral development banks (MDBs) from the definition of 'public sector bodies' in point (27) of Article 2 in order to ensure their under Articles 7 and 9.

Questions to Member States:

Q12: Do you agree with the adoption of this approach (YES/NO)?

In case the Council negotiating mandate builds on the Presidency proposal –

Q13: Do you agree with narrowing the inclusion to EU public sector bodies (YES/NO)?

Q14: Do you agree with the maximum portion of the portfolio set at 60% (YES/NO)? If NO, would you consider limiting to 50% (YES/NO)?

ESG basics category - Article 8

The suggested text in paragraphs (1) and (3) is based on the Presidency proposal discussed in May CWP meeting, which received broad support from Member States.

Question to Member States

Q15: Do you agree to maintain the proposed amendments to Article 8?

PUBLIC

7. PAB/CTB safe harbor (Articles 7 and 9 and Recital (19))

The introduction of the PAB/CTB safe harbour for the transition and sustainable categories, received wide support in the Council Working Party of the 17th of March, with a few Member States requesting some adjustments to the wording for clarity as regards to the strategies captured in the safe harbour.

For this purpose, the presidency suggests replacing the phrase "*products that replicate or are managed in reference to...*" with "***products whose investment strategy meets***…", thus incorporating actively managed products more clearly.

To enhance clarity even further and make the safe harbour more comprehensive, the compromise text also includes reference to the common requirements for CTBs and PABs under section 1 of Delegated Regulation (EU) 2020/1818.

Given most Member States also lean towards requiring more PAI disclosures from categorised products, requiring PAB/CTB products to measure and disclose the mandatory benchmarks could also be added to enhance comparability of these products. On the other hand, such an addition could undermine the concept of a safe harbour.

If supported, the following sentence could be added in the relevant subparagraph :

«***Such financial products shall use the minimum number of indicators provided in the second subparagraph, to identify and disclose the principal adverse impacts of their investments on sustainability factors.***]

Recital (19)

On Recital (19) the change introduced is based on one of proposals in the March Presidency note that received the overall support of Member States, aimed at clarifying what can be included as remaining investments in the case of the taxonomy aligned safe harbour.

Questions to Member States

Q16**:** Do you agree with the redrafting of the relevant subparagraphs as proposed (YES/NO)?

Q17: Would you agree with the addition of the requirement to measure and disclosure the mandatory PAIs by PAB/CTB products in order to enhance comparability (YES/NO)?

8. Investment Approaches, Types of Assets, open element, private and real assets (Articles 2, 7, 8 and 9)

On types of assets – based on previous discussions it is suggested to add in Recital (14) a text clarifying the type of assets that products can invest to reach the 70% positive contribution, making reference to applicable sectoral legislation.

On the open element - the relevant paragraphs of Articles 7, 8 and 9 have been redrafted based on the suggestions put forward in the Swedish non papers regarding private and real assets. Although the Swedish non-papers proposal was in relation to the ESG Basics Category, several Member states suggested that all three categories can benefit from its addition. The additions aim to clarify how such asset classes can demonstrate their credible contribution to transition through "proper justification" where standardised ESG data is unavailable. In Article 8, point (c) is also merged with point (e), on the basis of previous Presidency proposal that received broad support.

It is suggested to also add in Article 2 new definitions for private and real assets and a clarification in Recital (14).

Questions to Member States

Q18: Do you agree with the addition related to private and real assets in Articles 7,8 and 9 (YES/NO)?

Q19. Do you support the addition of the two definitions in Article 2 (YES/NO)?

If yes, do you consider that on 'private assets' the term should be expanded to cover private credit to all undertakings (by removing what is in brackets) (YES/NO)?

9. Phase in period (Articles 7, 8 and 9)

The issue of phase-in period was discussed during the January CWP meeting with the Commission clarifying that it relates to the period of time it takes a given financial product for the full implementation of its investment strategy, especially for alternative or private assets and that it should not be confused with the transitional provisions.

The majority of Member States providing a response to a dedicated question, requested to add clarity in level 1 text, in particular in the means of a clearly defined end date for the phase-in period in reaching their final investment strategy, stating that in the absence of such a limit, there is a risk that certain financial market participants may set excessively long phase-in periods, during which they would benefit from the status of managing a categorised product. Some Member States pointed that any provisions on phase-in periods should not be conflict with existing rules in sectoral legislation (for example a ramp-up period for funds to comply with the portfolio composition detailed in their pre-contractual documents).

On the basis of the above and on technical feedback received from the Commission, the Presidency proposes to set the transition-period to three (3) years in order to capture the time taken to implement the investment strategy in relation to alternative and private assets. A more conservative time limit of 2 years could be the alternative option. The time limit is set without prejudice to applicable sectoral legislation.

PUBLIC

Questions to Member States

Q20. Do you support the Presidency Proposal (YES/NO)?

Q21. In case the Council negotiating mandate builds on the Presidency proposal, would you prefer to set the phase in period to 2 years instead of 3 years as proposed by the Presidency (YES/NO)?

10. Category names (Articles 7, 8 and 9)

Following extensive discussions during the CWP meeting of 17 March, the majority of Member States highlighted challenges related to translating the term "ESG" into their national languages and highlighted 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. There was also no material support by Member States with the use of the word "Sustainable" instead of "ESG" in all categories proposed in the April CWP meeting, in particular in relation to the transition category. A proposal by a Member State to consider the possibility of a logo for each category that could be subject to a subsequent consumer testing, received support by a material number of Member States.

As a last effort to reach a consensus, the Presidency suggests as a last alternative proposal to revert to the original proposal by Denmark to use the word Sustainable only in relation to Article 8 and Article 9 (Sustainable Basics and Sustainable Advanced) and keep the original title for Article 7 (Transition) or to revert to the Commission text.

Question to Member States:

Q22: Do you agree with the last alternative wording of the category names (Option 1) or maintaining Commission's proposal (Option 2)?

11. Credible (Article 7 and Recital (16))

Article 7

At the CWP meeting of 4 May, the Presidency presented 2 options on the term 'credible', where option 1 was based on previous CWP discussions and is setting expectations on both FMPs and investees, while Option 2 was sent by Germany and is setting expectations only to FMPs to check the alignment between the investments and the ESG claim. Based on the subsequent written comments the Member States continue to have split views. Some Member States expressed doubts on the German approach while others expressed a preference for a combination of the two options. On the same note, Germany proposed for the sake of compromise a merged option

prescribing in more detail what is expected in the due diligence process. Therefore, the Presidency has decided to include this option as a default in the draft compromise text. The Presidency expects that the Member States clearly state whether they support this option or prefer to revert to one of the options from the last CWP.

Recital 16

At the CWP of 4 May and subsequent replies to the Presidency discussion note Member States supported the Presidency's proposal to clarify 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, while those outside the EU should be assessed against the Paris agreement.

Questions to Member States:

Q23: Do you agree with the compromise text proposal for 'credibility?

Q24: Do you agree with the compromise text proposal for Recital 16?

12. Treatment of financial products investing in categorised products and other investments (Article 9a and Recital (23))

The Presidency proposes to fine tune the redrafting proposals on Article 9a and Recital 23 discussed in the March CWP meeting, to reflect the responses received by Member States in the questionnaire that followed. In particular, the Presidency proposes to extend the scope of Article 9a(1) to MOPs offering only internal funds not falling under the definition of financial products, (by keeping essentially the original "or" instead of "and" in relation to investments in categorised products / other investments that meet the categorisation criteria) and narrow the scope of Article 9a(2) to insurance and pensions products (through targeted changes in that Article and in recital 23) to address the concerns expressed regarding the significant broadening of Article 9a(2)).

Questions to Member States:

Q25: Do Member States agree with the Presidency new proposals on recital 23 and Article 9a (YES/NO)?

Q26: If NO, would you prefer to keep the Presidency proposals as they were presented in the March CWP?

13. Transparency of websites, data & estimates (Articles 10 and Article 12a and Recital (24))

On the data and estimates provisions, Member States supported that ESG data providers should not be included in the scope of the SFDR and that their role should be revisited as agreed by co-legislators in the review clause of the ESG ratings regulation (Regulation (EU) 2024/3005). Based on the above, the Member States supported the Presidency's proposal at the CWP meeting of 17 April to amend Recital 24 to add a reference to the review clause of ESG Ratings Regulation. At the same CWP and subsequent replies to the Presidency discussion note, there was broad support from the Member States for the Presidency's proposal to amend the wording of Article 12a(a)(i)) and add the word 'estimates' to provide clarity and have consistency in the text.

Regarding Article 12a(b), on the information / disclosures to clients, at the CWP of 17 April and subsequent replies to the Presidency discussion note and FR non-paper, the majority of the Member States supported the Presidency proposal to remove the 'upon clients request' provision and use instead website and legal documentation disclosures to provide the information to clients.

Question to Member States:

Q27: Do you agree with the compromise text proposal for Articles 10,12a, and recital 24?

14. Articles 13 – 19b

Marketing communications and naming rules – Article 13

Based on legal advice, drafting suggestions are proposed for Article 13, in order to split the amendments in such a way, as to remove reference to financial advisers (see details under section 15 of this note). Some other amendments in the Article are based on support based on written comments from the majority of Member States, following the discussions during the CWP of 17 March 2026 and represent clarifications proposed by the Presidency, with reference to the links between Article 9a and Article 13(3). The drafting suggestions are incorporated in the consolidated compromise proposal.

Question to Member States:

Q28**:** Do Member States agree with the proposed drafting proposal?

Report – Article 18 and Recital (31)

Following the discussion during the CWP of 17 March 2026 and the follow up written comments, the majority of Member States expressed support to the suggestion that ESAs will sumbit a report to the Commission, on best practices 36 months (instead of 24) after the date of application of the

SFDR Regulation and will do that every three years thereafter (instead of two). The drafting suggestion is incorporated in the consolidated compromise proposal.

Question to Member States:

Q29: Do Member States agree with the proposed drafting proposal (YES/NO)?

Obligations under the ESAP Regulation – Article 18a

Following the discussion during the CWP of 17 March 2026 and the follow up written comments, the majority of Member States expressed support to a further 18-month delay for the obligations under ESAP Regulation to apply. The drafting suggestion is incorporated in the consolidated compromise proposal.

Question to Member States:

Q30: Do Member States agree with the proposed drafting proposal (YES/NO)?

Review – Article 19

Following the discussion during the CWP of 17 March 2026 and the follow up written comments, the majority of Member States expressed support to extend to 60 months after the date of application of the SFDR Regulation, the obligation of the Commission to review the application of the Regulation. Review of structrued products has also been included in the scope of the Regulation as agreed during discussions in the CWP. The drafting suggestions are incorporated in the consolidated compromise proposal.

Question to Member States:

Q31: Do Member States agree with the proposed drafting proposal?

Transitional provisions – Article 19a

Given the fact that a six months implementation period is given for all financial products, amendments have been introduced to Article 19a to make its use voluntary. Drafting suggestions are incorporated in the consolidated compromise proposal and the following options are proposed:

Option 1: Delete Article 19a

Option 2: Accept amended Article 19a as presented in the consolidated compromise proposal

Question to Member States:

Q32: Which option do Member States prefer (Option 1 / Option 2)?

Empowerments – Article 19b

Amendments have been introduced to provide additional information and clarification on the empowerments and more specifically on the development of two sets of indicators. The first set to be used by financial market participants to identify and disclose the principal adverse impacts of financial products falling under Article 7 and Article 9 and the second one to provide financial market participants with indicators to calculate the contribution to sustainability or transition related objectives for financial products falling under Article 7 and Article 9, or the integration of sustainability factors for financial products falling under Article 8 of the Regulation. Amendments have also been introduced to Recital 27, to provide the necessary explanation. The introduced amendments are the result of the discussions during the CWP of 17 April 2026 and the follow up written comments, where the majority of Member States expressed support to these amendments. Drafting suggestions are incorporated in the consolidated compromise proposal.

Moreover, a clarification is added on limited permitted deviations to cover also any delayed divestment from illiquid assets.

Finally, it is proposed that the objection period laid down in Article 19c (Exercise of the delegation) be changed from two months to three months to bring it in line with the horizontal approach in the financial services legislation. Similarly, the extension of the objection period by either the Council or the EP would also be for three months.

Question to Member States:

Q33: Do Member States agree with the proposed drafting proposals?

15. Entry into force – Articles 1, 4 and 13 and Recital (27)

During previous discussion several MS highlighted the importance of ensuring the alignment between application of level 1 and level 2, as well as the alignment of SFDR with changes in other sectoral legislation. However, according to the Council Legal Service's advise, adding a specific requirement for aligning the entry into force of the delegated acts necessary for the functioning of the SFDR with its date of application, is not considered a sound regulatory practice.

To this end, the Presidency proposal for extending of the date of application date of the Regulation to [24] months, received overall support from delegations, in order to allow sufficient time for the Commission to prepare the delegate acts and for the Council to conclude its consultation. In addition, a guidance has been added in Recital (27) calling for the alignment of delegated regulations with the date of application of SFDR.

In addition, based on feedback received from Member States, a paragraph has been added in **Article 4**, specifying that provisions on financial advisers, entity level disclosures and other requirements that have been removed, would apply from the date of entry instead of the date of application. To that effect **Articles 1, 2 and 13** have been redrafted accordingly.

16. Amendments to PRIIPs KID Regulation (EU) No 1286/2014

On the PRIIPs KID/KIID sustainability section, during the 17 April CWP, the majority of MS supported keeping the current scope of application, i.e. introduce the sustainability section only for SFDR-categorised products. However, some Member States called for the need to ensure level playing field for ESG disclosures by non-SFDR products, especially those that would be able to meet the SFDR categorization requirement had they been included under the scope of the SFDR. In order to capture the concerns expressed as regards non- SFDR PRIIPs' ESG disclosures in the KID/KIID, the presidency proposes a revised compromise text along the following lines:

(a) To revert to the original SFDR text as regards with paragraph 3 point (c)(ii) of article 8 of the PRIIPs Regulation, which refers to the information on the nature and features of the PRIIP to be included under the section titled 'What is this product?' and makes reference to the inclusion under this section, where applicable, of specific environmental or social objectives targeted by the product. Thus, the Presidency proposes to delete the relevant amend in the Commission's proposal;

(b) introduce a new point (cb) in paragraph 3 of Article 8, to request non-SFDR PRIIPs to add a disclaimer when they include ESG information in the KID/KIID, in accordance with paragraph 3(c)(ii), in order to enhance the framing of ESG disclosures made by non- SFDR PRIIPs, as follows:

(cb) for a PRIIP that does not fall under the scope of Regulation (EU) 2019/2088, any information on whether and how it considers sustainability factors or contributes to a sustainability objective in accordance with point (c)(ii), should be accompanied by the following statement:

"This financial product does not fall under the scope of Regulation (EU) 2019/2088 and thus cannot be categorised as sustainability-related financial product under that Regulation*".*

If the above change is endorsed by the majority of Member States, it may be warranted to also allow SFDR non-categorised PRIIPs to disclose ESG information in the KID under Article 6a (by deleting point (b) in paragraph 1 of that Article). On the other hand, allowing ESG disclosures in the KID by non-categorised products may result in significant greenwashing risks in the SFDR product market FMPs. Moreover, not allowing ESG disclosures in the KID for non-categorised products would also be a good incentive for FMPs to apply the SFDR categories.

Question to MS:

Q34: Do you see merit in the amendments suggested in relation to non-SFDR PRIIPs (YES/NO)?

Q35: If YES, do you see merit to allow SFDR non-categorised products to include ESG disclosures in the KID pursuant to Article 6a (YES/NO)?

PUBLIC

17. Other

Comparable assets – Recital (18)

Recital (18) relates to Sustainable category. The added wording in the beginning of the recital relates to the concept of "comparable assets" and is based on one of proposals in the March Presidency note that received the overall support of Member States.

On the Sustainable category delegations have requested additional clarification of the notion of "comparable assets", which is intended to allow investments aligned with third-country taxonomies or market-based sustainability standards. In March CWP the majority of Member States supported Presidency's suggestion to clarify the concept in the recitals rather than introduce a prescriptive list in the operative text.

Professional-investors opt-out option

During the CWP meeting of 17 April, the majority of Member States supported the inclusion of professional investors, while some Member States preferred their exclusion. An alternative solution would be to have the option to opt-out.

In case Member States support this option, the following amendments are suggested:

Recital 26

Where existing financial products are closed to new investors and would no longer be offered to investors after the date of application of this Regulation, for reasons of proportionality financial market participants should be able to opt out of applying this Regulation to those financial products. ***The same should apply for financial products which are offered exclusively to professional investors given that they may not be marketed widely beyond a smaller community of investors.***

Article 17

2. ***Financial market participants may choose not to apply Articles 6a, 7, 8 and 9 to financial products referred to Article 2, point (12)(b), which are made available exclusively to professional investors as defined in Article 4(1), point (10), of Directive 2014/65/EU.***

Question to Member States:

Q36: Would you support the opt-out of professional investors (YES/NO)?