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CONSULTATION

From:	General Secretariat of the Council
To:	Working Party on Financial Services and the Banking Union (Sustainable Finance) Financial Services Attachés
Subject:	Sustainable Finance Disclosure Regulation - CWP of 11 June 2026 - Presidency discussion paper on SFDR

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11th of June 2026

Presidency discussion paper on SFDR

11 June 10:00 JL

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

June 11, 2026, 10:00-13:30

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 (second) proposal for a consolidated compromise on the SFDR framework – the new amendments are indicated in red colour while drafting improvements suggested by the Council lawyer-linguist are marked in purple colour. 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 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.

The note covers the following:

1. Introduction
2. Exclusions (Articles 7 and Recital (16))
3. PAIs (Articles 7 and 9)
4. General Purpose Sovereign Debt (Article 7 and Recital (22))
5. Articles 6a and 9a and Recitals (11) and (23)
6. Amendments to PRIIPs KID Regulation (EU) No 1286/2014
7. Professional Investors (Article 17 and Recital (26))

In this context, the Presidency 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

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meeting. The Presidency looks forward to a constructive exchange of views with a view to advancing the Council's examination of the proposal.

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

Following the discussion of the May 18th CWP, the Presidency evaluated the written replies of Member States regarding the exclusion regime under Article 7.

Even though some Members States expressed their skepticism, the proposal to use Capital Expenditure (CAPEX) as a metric for fossil fuel exclusions put forward in the Presidency Note received strong support. The Member States which disagree with the proposal are split between those who prefer to go back to the Commission's proposal (i.e. a more stringent regime) and those who prefer to completely remove the additional exclusions and move towards a more lenient approach. Considering this, the Presidency suggests keeping the CAPEX approach as a compromise and fine-tune the details of the text to address the concerns put forward by Member States including making reference to the activities of "mining" and "distribution" referred to in Article 12(1)(d).

The 20% threshold for the CAPEX allocation is preferred by most Members States, compared to the 15% also discussed, with a few supporting the need for an even higher percentage. Nevertheless, since a substantial number of Member States have indicated preference for the 15%, the Presidency proposes to keep the 20% threshold as a compromise and allow for its re-evaluation through a review clause added under Article 19(e).

In addition to the actual threshold level, Member States provided their position on whether the CAPEX percentage should increase over time, with some calling for a fixed increase after a period of time and some calling for CAPEX to increase but without specifying quantitative conditions. After factoring in the concerns about its practical implementation and lack of proper assessment, its potential inconsistency with the taxonomy framework and the potential disincentives it may create for such companies to use Article 7 to fund transitioning, the Presidency suggests avoiding including such a requirement at this stage and returning to the issue through the aforementioned review clause. This approach will enable the continued relevance of the Regulation by allowing for adaptation to social and technological progress.

The 18th of May CWP also included an exchange of views on the terms 'Taxonomy aligned activities' and 'low carbon activities', with the majority of Member States indicating support for the former rather than the latter. Therefore, the Presidency suggests retaining this term as proposed in the first compromise text.

Article 7(1)(b) has been amended to reflect the changes mentioned above by deleting the reference to Article 12(1)(d) of Regulation (EU) 2020/1818.

Finally, since the Transition Category will allow exposure to companies that derive revenues from the exploration, extraction and refining of hard coal and lignite, oil fuels or gaseous fuels, the Presidency evaluated different approaches to further safeguard the integrity of the category and minimise greenwashing risks. The addition of a disclaimer was discussed but after consideration the Presidency believes that an additional mandatory disclosure requirement will be more effective. This will be based on an existing adverse indicator (see indicator number 4, table 1 of Annex I to

Delegated Regulation (EU) 2022/1288) and will require FMPs to disclose the share of investments in companies active in the fossil fuel sector, for all relevant financial products.

Recital (16) has been redrafted to reflect the above-proposed changes in the operative text.

3. PAIs (Articles 7and 9)

During the discussion of the May 18th CWP meeting and the follow-up written comments on the principal adverse impacts (PAIs) of financial products falling under Articles 7 and Article 9 of the Regulation, the majority of Member States shows an appetite for a mandatory disclosure of a number of PAIs, either choosing from a list of indicators to be developed in the delegated act, or for predefined PAIs that will not be chosen from a list and will apply to all financial products of a given category. On the contrary, a few Member States still oppose the approach of having to disclose PAIs since they consider that PAIs are not relevant under the SFDR 2.0 framework which focuses on the positive contribution of the financial products.

The Member States that support the approach where FMPs can choose a number of PAIs from a list, want to ensure flexibility in order to reflect the diversity of transition and sustainable strategies. The Members States that support the predefined mandatory PAIs want to ensure comparability for investors. However, in terms of comparability, it should be noted that the use of predefined mandatory PAIs can result in a number of financial products being unable to comply with this requirement. It could be the case where an indicator is used by an FMP as a positive contribution indicator for the financial product and therefore will not be applicable to be used for the same financial product as a PAI. On this note, it appears that these Member States are willing to accept a larger number of PAIs to be chosen from the list to ensure that comparability will be achieved since there will be a higher possibility to cover all sustainability framework spectrum and the FMPs will end up using the same PAIs according to the financial product's strategy.

On that basis, and since the PCY believes that the approach for a mandatory disclosure of a number of PAIs that are chosen from a list of indicators provides for an appropriate balance between comparability and the flexibility needed, the PCY proposes as a compromise to build upon the previous draft compromise and increase the number of PAIs from two to three (in addition to the mandatory PAI on exposure to companies active in the fossil fuel sector, to be introduced under Section 2 above).

4. General Purpose Sovereign debt (Article 7 and Recital (22))

Member States were still split with regards to the inclusion of general-purpose sovereign debt (GPSD) in the contribution ratio of the transition category, in particular with regards to the threshold that was proposed in the Presidency note. The majority of the delegations, however, showed openness to such a provision if the threshold was reduced closer to 50% given that financial products can, under the Commission proposal, invest up to 30% in GPSD as part of the remaining investments. Some also called for more clarity as to how this threshold applies to both the 70% positive contribution investments and the 30% remaining investments. Member States arguing for a higher threshold noted that the remaining investments would include other investments for hedging or diversification purposes. The majority of the delegations also supported limiting such

investments to public sector bodies established in the EU in recognition of EU ESG commitment/progress, although there were also calls to extend it to third country issuances for technical and legal grounds. Lastly, a substantial number of delegations considered that limiting such a possibility only to insurance and pension products would create an unlevel playing field and called to extend it to all products. Some of these delegations pointed out that insurance and pension products benefit also by other suggested changes to the Commission proposal notably on Article 9a(2).

Based on the above analysis, the Presidency proposes as option 1 to: (a) limit the scope to insurance and pensions products in relation to investments in GPSD under Article 7 but extend the scope of Article 9a(2) to cover also funds of funds (as the initial intention of the Commission's proposal); (b) apply the threshold on GPSD under Article 7(1) to investments counted only for the positive contribution, calibrated at 25%; and (c) limit such investments to those established in the EU.

The above proposals would ensure: a theoretical maximum 55% of investments in GSPD but in practical terms the actual maximum would be closer to 50%, given that only up to 25% can be counted towards the positive contribution and the 30% remaining investments would not be entirely composed by such investments; investments in third country GPSD could still be part of the 30% remaining investments. Since Article 9a(2) would also apply to non-categorised funds of funds subject to Article 6a which make investments in categorized products or other investments in accordance with the categorization criteria, it means that funds of funds would be able to make ESG claims in their marketing communication in accordance with Article 13(3), 2nd subparagraph.

An alternative option (option 2) would be to expand the scope for investments in GPSD to all financial products in Article 7 and limit the scope of Art 9a(2) to insurance and pension products. In such case, the Presidency considers that the threshold should be calibrated lower, at 15% given that the solvency and liquidity arguments used to set it higher for insurance and pension products, don't apply.

Recital (22) was redrafted to reflect the changes proposed under option 1.

Q1: Which option do you prefer, option 1 or option 2?

Option 1:

- GPSD counting only for insurance & pension products;
- Threshold 25% - applied to the positive contribution bucket; only EU GPSD counts;
- Article 9a(2) extended to cover also non-categorised funds of funds.

Option 2:

- GPSD counting for all financial products in Article 7;
- Threshold 15%- applied to the positive contribution bucket; only EU GPSD counts;
- Article 9a(2) limited only to insurance & pension products.

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5. Articles 6a, 9a and Recitals (11) and (23)

Article 9a

The proposed amendments to Article 9a(2) aim to:

- Extending the scope of Article 9a(2) to cover also funds of funds (see option 1 in Section 4 above);
- Clarify the link with Article 6a, in particular that disclosures under Article 9a(2) should meet the requirements of Article 6a;
- Introduce additional disclosure requirements for MOPs, in particular an indication for each option of their relevant category or non-categorisation where applicable and for categorised options or options that meet the categorization requirements, the relevant disclosures under Articles 7, 8 and 9 provided in a single and concise manner consistent with the 10% limit (otherwise in the form of references or weblinks).

Delegations are invited to comment whether the disclaimer that applies to non-categorised products under Article 6a would be relevant also for non-categorised products that can disclose the information under Article 9a(2), in particular MOPs.

Article 6a

The phrase “less than” was removed to avoid strict interpretations of the threshold.

Recital (11)

An addition was introduced to Recital (11) to clarify that while there can be some overlap between the consideration (Article 6a) and integration (Article 8) of sustainability factors, this does not extend to claims made under Art 7 and 9, and without going too far into drawing out normative distinctions between ”consideration” and ”integration” which was not preferred among MS in the CWP of 17 April. Moreover, additions were introduced to clarify that the 10% threshold is not a hard threshold.

Recital (23)

Recital (23) was further redrafted to reflect the changes proposed under option 1 and also to clarify how the exclusions would apply under Article 9a(1).

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

A concern was raised regarding the Presidency’s amendments in the first compromise text, specifically in relation to non-SFDR PRIIPs. The issue is that returning to the original wording of Article 8(3)(c)(ii) of the PRIIPs Regulation would require SFDR-categorised products to disclose their sustainability objectives in two separate sections of the KID: once under point (c)(ii) and again under point (ca). In addition, restoring the original text could create confusion for non-categorised SFDR PRIIPs. This is because Article 8(3)(c)(ii) would require them to disclose environmental and social objectives where relevant, while Article 6a(1)(b) prohibits them from including information on the consideration of sustainability factors in the KID.

In order to address the above concern, the Presidency suggests retaining paragraph c(ii) as in the Commission's proposal. By retaining paragraph (c)(ii) the new point (cb) removes the contradiction that previously affected non-SFDR PRIIPs by clearly allowing them to include sustainability-related information in the KID. Paragraph (c)(ii) can then remain as the general disclosure rule for all PRIIPs, while point (ca) functions as the specific section where SFDR-categorised products present their sustainability objectives. In this setup, the specific rule (ca) naturally takes precedence for SFDR products, so they do not end up disclosing the same information twice, and non-SFDR PRIIPs no longer face inconsistent requirements.

7. Professional-investors – Article 17 and Recital (26)

During the CWP meeting of 18 May, Member States views were split concerning the possibility of an opt-out of professional investors, while some Member States preferred their exclusion.

Presidency considers that professional investors could be given the option to opt out because they do not need the same level of prescriptive, standardised sustainability disclosures as retail investors. Applying the full regime to them could create unnecessary burdens without improving investor protection. It is suggested to limit the scope of this provision to alternative investment funds made available exclusively to professional clients, as these products are in practice the most relevant from the perspective of professional investors.

Recital (26) is also redrafted to reflect the above change.