

Actuarial Association of Europe (AAE) response to ESA Joint Consultation Paper Review of SFDR Delegated Regulation regarding PAI and financial product disclosures given for public consultation.

AAE is grateful for the opportunity to answer to this consultation. We have concentrated on selected question within the consultation to provide technical input. For most questions, however, we are aware of a variety of different opinions within the AAE. AAE stayed silent on these questions.

Based on our actuarial experience the data quality accessibility and transferability is the key element and predisposition for the high quality of the production of the public disclosures. Appropriate segregation of responsibilities is key when using information up-stream of down-stream. Meaningful disclosure requires appropriate comprehensiveness, which might be challenging, where information with origin outside the EEA/EU is required.

We feel that for some of the technical remarks on indicators or formulae, a technical follow up discussion might be useful.

Your sincerely, Lutz Wilhelmy, Chairperson of AAE

ABOUT THE AAE

The Actuarial Association of Europe (AAE) was established in 1978 under the name Groupe Consultatif to represent actuarial associations in Europe. Its purpose is to provide advice and opinions to the various organisations of the European Union – the Commission, the Council of Ministers, the European Parliament, EIOPA and their various committees – on actuarial issues in European legislation. The AAE currently has 37 member associations in 36 European countries, representing over 29,000 actuaries. Advice and comments provided by the AAE on behalf of the European actuarial profession are totally independent of industry interests.

Question 1: Do you agree with the newly proposed mandatory social indicators in Annex I, Table I (amount of accumulated earnings in non-cooperative tax jurisdictions for undertakings whose turnover exceeds € 750 million, exposure to companies involved in the cultivation and production of tobacco, interference with the formation of trade unions or election worker representatives, share of employees earning less than the adequate wage) ?

Answer: The mandatory social indicator “amount of accumulated earnings in non-cooperative tax jurisdictions.”, given the current list of [EU list of non-cooperative jurisdictions for tax purposes](#), may be useful. We ask if earnings (unaccumulated) might be a better measure. This judgement on this, however, depends on the precise purpose of the indicator

In general, fighting climate change & nature loss (E) or inequality (S) requires appropriate public funding. Hence companies should demonstrate that they are responsible corporate citizens, with a positive impact on society through paying an appropriate share of taxes in the jurisdictions where they employ people and where they generate revenue (G).

While an indicator for the skewness of wage distribution in a company may be beneficial, the proposed measure can be fully misleading. In a company that pays 99 of its employees 1000 and the only other employee 1001, the indicator would be 99% as this is the share of employees earning less than the adequate wage (1000.01). This is clearly an undesired outcome indicating an adverse impact, where there is materially equal payment.

AAE would be delighted to discuss better indicators.

Question 2: Would you recommend any other mandatory social indicator or adjust any of the ones proposed?

AAE Answer: N/A

Question 3: Do you agree with the newly proposed opt-in social indicators in Annex I, Table III (excessive use of non-guaranteed-hour employees in investee companies, excessive use of temporary contract employees in investee companies, excessive use of non-employee workers in investee companies, insufficient employment of persons with disabilities in the workforce, lack of grievance/complaints handling mechanism for stakeholders materially affected by the operations of investee companies, lack of grievance/complaints handling mechanism for consumers/ end users of the investee companies)?

AAE Answer: N/A

Question 4: Would you recommend any other social indicator or adjust any of the ones proposed?

AAE Answer: N/A

Question 5: Do you agree with the changes proposed to the existing mandatory and opt-in social indicators in Annex I, Table I and III (i.e. replacing the UN Global Compact Principles with the UN Guiding Principles and ILO Declaration on Fundamental Principles and Rights at Work) ? Do you have any additional suggestions for changes to other indicators not considered by the ESAs?

AAE Answer: N/A

Question 6: For real estate assets, do you consider relevant to apply any PAI indicator related to social matters to the entity in charge of the management of the real estate assets the FMP invested in?

AAE answer: N/

Question 7: For real estate assets, do you see any merit in adjusting the definition of PAI indicator 22 of Table 1 in order to align it with the EU Taxonomy criteria applicable to the DNSH of the climate change mitigation objective under the climate change adaptation objective?

AAE answer: N/A

Question 8: Do you see any challenges in the interaction between the definition 'enterprise value' and 'current value of investment' for the calculation of the PAI indicators?

AAE answer: N/A

Question 9: Do you have any comments or proposed adjustments to the new formulae suggested in Annex I?

AAE answer:

Formular (3), seems to be a weighted (by investment share) average of ratios (emissions per revenue €). Depending on its use, such a construct has some potential to lead to misleading results. Similar for (6), (14), (19), (28), (29), (44), (45), (53), (54),(55), and (57).

Formular (13.1) is clearly floored. Consider a company i with 1 male earning 1000 and 1001 females earning 1 each. The gender pay gap in this company i would be 0. Even if "pay" is an average pay in this formular, a normalization to a 100% employment could make sense. Else companies with offering liberal part-time arrangements might end up showing a huge gender pay gap. Also segregation by "job-class" could be considered if the target is to measure to what extent the same work-same pay rule is followed.

AAE would be delighted to discuss this further.

In formula (26) "ozone – depleting" such be probably replaced by "ozone-depleting". Similar in formulae (28), (48), (68).

In (68) the second sum is unclear.

AAE offers its help in reviewing and testing these formulae.

Question 10: Do you have any comments on the further clarifications or technical changes to the current list of indicators? Did you encounter any issues in the calculation of the adverse impact for any of the other existing indicators in Annex I?

AAE answer: The "non-exhaustive" list seems to be related to some of the remarks in our answer to Question 9. AAE offers its help in reviewing and testing these formulae.

Question 11: Do you agree with the proposal to require the disclosure of the share of information for the PAI indicators for which the financial market participant relies on information directly from investee companies?

AAE answer: N/A

Question 12: What is your view on the approach taken in this consultation paper to define ‘all investments’? What are the advantages and drawbacks you identify? Would a change in the approach adopted for the treatment of ‘all investments’ be necessary in your view?

AAE answer: Unit Linked insurance products may require specific treatment. AAE would be delighted to discuss this further.

Question 13: Do you agree with the ESAs’ proposal to only require the inclusion of information on investee companies’ value chains in the PAI calculations where the investee company reports them? If not, what would you propose as an alternative?

AAE answer: N/A

Question 14: Do you agree with the proposed treatment of derivatives in the PAI indicators or would you suggest any other method?

AAE answer: N/A

Question 15: What are your views with regard to the treatment of derivatives in general (Taxonomyalignment, share of sustainable investments and PAI calculations)? Should the netting provision of Article 17(1)(g) be applied to sustainable investment calculations?

AAE answer: This is complex question. In insurance, derivatives are often used for risk management purposes, or to match cashflows of insurance products better. This is clearly different from investment. We currently could not appreciate all implication of the netting provision.

Question 16: Do you see the need to extend the scope of the provisions of point g of paragraph 1 of Article 17 of the SFDR Delegated Regulation to asset classes other than equity and sovereign exposures?

AAE answer: N/A

Question 17: Do you agree with the ESAs’ assessment of the DNSH framework under SFDR?

AAE answer: N/A

Question 18: With regard to the DNSH disclosures in the SFDR Delegated Regulation, do you consider it relevant to make disclosures about the quantitative thresholds FMPs use to take into account the PAI indicators for DNSH purposes mandatory? Please explain your reasoning.

AAE answer: N/A

Question 19: Do you support the introduction of an optional “safe harbour” for environmental DNSH for taxonomy-aligned activities? Please explain your reasoning.

AAE answer: N/A

Question 20: Do you agree with the longer term view of the ESAs that if two parallel concepts of sustainability are retained that the Taxonomy TSCs should form the basis of DNSH assessments? Please explain your reasoning

AAE answer: N/A

Question 21: Are there other options for the SFDR Delegated Regulation DNSH disclosures to reduce the risk of greenwashing and increase comparability?

AAE answer: N/A

Question 22: Do you agree that the proposed disclosures strike the right balance between the need for clear, reliable, decision-useful information for investors and the need to keep requirements feasible and proportional for FMPs? Please explain your answers.

AAE answer: N/A

Question 23: Do you agree with the proposed approach of providing a hyperlink to the benchmark disclosures for products having GHG emissions reduction as their investment objective under Article 9(3) SFDR or would you prefer specific disclosures for such financial products? Do you believe the introduction of GHG emissions reduction target disclosures could lead to confusion between Article 9(3) and other Article 9 and 8 financial products? Please explain your answer.

AAE answer: N/A

Question 24: The ESAs have introduced a distinction between a product-level commitment to achieve a reduction in financed emissions (through a strategy that possibly relies only on divestments and reallocations) and a commitment to achieve a reduction in investees' emissions (through investment in companies that has adopted and duly executes a convincing transition plan or through active ownership). Do you find this distinction useful for investors and actionable for FMPs? Please explain your answer.

AAE answer: It may be useful to differentiate between the product level commitment and the company's' commitment.

Question 25: Do you find it useful to have a disclosure on the degree of Paris-Alignment of the Article 9 product's target(s)? Do you think that existing methodologies can provide sufficiently robust assessments of that aspect? If yes, please specify which methodology (or methodologies) would be relevant for that purpose and what are their most critical features? Please explain your answer.

AAE answer: N/A

Question 26: Do you agree with the proposed approach to require that the target is calculated on the basis of all investments of the financial product? Please explain your answer.

AAE answer: N/A

Question 27: Do you agree with the proposed approach to require that, at product level, Financed GHG emissions reduction targets be set and disclosed based on the GHG accounting and reporting standard to be referenced in the forthcoming Delegated Act (DA) of the CSRD? Should the Global GHG Accounting and Reporting Standard for the Financial Industry developed by PCAF be required as the only standard to be used for the disclosures, or should any other standard be considered? Please justify your answer and provide the name of alternative standards you would suggest, if any.

AAE answer: N/A

Question 28: Do you agree with the approach taken to removals and the use of carbon credits and the alignment the ESAs have sought to achieve with the EFRAG Draft ESRS E1? Please explain your answer.

AAE answer: N/A

Question 29: Do you find it useful to ask for disclosures regarding the consistency between the product targets and the financial market participants entity-level targets and transition plan for climate change mitigation? What could be the benefits of and challenges to making such disclosures available? Please explain your answer.

AAE answer: N/A

Question 30: What are your views on the inclusion of a dashboard at the top of Annexes II-V of the SFDR Delegated Regulation as summary of the key information to complement the more detailed information in the pre-contractual and periodic disclosures? Does it serve the purpose of helping consumers and less experienced retail investors understand the essential information in a simpler and more visual way?

AAE answer: Dashboards, pictograms and schematic are often easier to understand, and the key summary information shall be stated at beginning. Its use should be judged by the help it provided to users/consumers to better understand.

Question 31: Do you agree that the current version of the templates capture all the information needed for retail investors to understand the characteristics of the products? Do you have views on how to further simplify the language in the dashboard, or other sections of the templates, to make it more understandable to retail investors?

AAE answer: N/A

Question 32: Do you have any suggestion on how to further simplify or enhance the legibility of the current templates?

AAE answer: N/A

Question 33: Is the investment tree in the asset allocation section necessary if the dashboard shows the proportion of sustainable and taxonomy-aligned investments?

AAE answer: N/A

Question 34: Do you agree with this approach of ensuring consistency in the use of colours in Annex II to V in the templates?

AAE answer: Consistency is usually beneficial to avoid misunderstanding. We see no objections to full harmonization if the rules are clearly defined.

Question 35: Do you agree with the approach to allow to display the pre-contractual and periodic disclosures in an extendable manner electronically?

AAE answer: N/A

Question 36: Do you have any feedback with regard to the potential criteria for estimates?

AAE answer: N/A

Question 37: Do you perceive the need for a more specific definition of the concept of “key environmental metrics” to prevent greenwashing? If so, how could those metrics be defined?

AAE answer: N/A

Question 38: Do you see the need to set out specific rules on the calculation of the proportion of sustainable investments of financial products? Please elaborate.

AAE answer: N/A

Question 39: Do you agree that cross-referencing in periodic disclosures of financial products with investment options would be beneficial to address information overload?

AAE answer: Cross-referencing, if clear and unambiguous, is a good option to address information overload and operational risk

Question 40: Do you agree with the proposed website disclosures for financial products with investment options?

AAE answer: N/A

Question 41: What are your views on the proposal to require that any investment option with sustainability-related features that qualifies the financial product with investment options as a financial product that promotes environmental and/or social characteristics or as a financial product that has sustainable investment as its objective, should disclose the financial product templates, with the exception of those investment options that are financial instruments according to Annex I of Directive 2014/65/EU and are not units in collective investment undertakings? Should those investment options be covered in some other way?

AAE answer: N/A

Question 42: What are the criteria the ESAs should consider when defining which information should be disclosed in a machine-readable format? Do you have any views at this stage as to which machine-readable format should be used? What challenges do you anticipate preparing and/or consuming such information in a machine-readable format?

AAE answer: We consider machine-readable formats useful in reporting. Appropriate, reliable viewers should be provided free of charge.

Question 43: Do you have any views on the preliminary impact assessments? Can you provide estimates of costs associated with each of the policy options?

AAE answer: N/A