Question 1: Do you have any views regarding the ESAs' proposed approach to amend the existing SFDR RTS instead of drafting a new set of draft RTS?

On the appropriateness of the envisaged approach (whereby instead of making a new set of RTS, they are all aggregated into a single regulatory text), it is considered reasonable and the effort of consolidation is appreciated, regardless of the practical difficulties that this approach may entail during processing, given that the RTS to be amended still have to be adopted by the Commission, Parliament and Council, which could incorporate amendments.

But the proposed calendar is extremely demanding:

Financial market participants should have the final regulatory technical standards in place well in advance in order to gather the necessary information and adapt their systems to comply with the relevant regulatory requirements.

This is already recommended by the European Supervisory Authorities themselves in their joint statement of 25 February 2021, which seeks to mitigate the risk of divergent implementation of the Disclosure Regulation in the period between its first date of application on 10 March 2021 and the date of application of the regulatory technical standards implementing the content of the Disclosure Regulation on 1 January 2022.

In the event that these technical standards are not available at least 6 months in advance, i.e. by 30 June 2021, the ESAs have already recommended to the European Commission to incorporate specific safeguards on disclosure deadlines.

Therefore, in line with the proposal by the European Supervisory Authorities, this issue should be reflected in the RTS if they are not published sufficiently in advance.

Along the same lines, and in general terms, it is noted that, in addition to the demanding timetable, the difficulty of compliance is shifted first to the European supervisory authorities and then to the national supervisory authorities and supervised institutions. In this respect, and by way of example, it is recalled that:

- Faced with the impossibility of approving RTS in time to specify the information to be provided under the Disclosure Regulation, whose entry into force began on 10 March 2021, the European Commission, instead of postponing the application of the rule, even for a few months, opted to maintain the date of application of level I, with no more guidance for institutions as to how to do so than the general and high-level principles of the Regulation itself. To this was added the recommendation by the ESAs to use as a reference a set of RTS not yet approved, subject to modification and whose inputs are information from issuers whose provision is not yet mandatory in most cases.

- Paragraph 13 of this consultation states that, given the need to submit these RTS for consultation before 1 June 2021, they are forced to reduce the consultation period from the usual 3 months to only 8 weeks, limiting the possibility of constructive and useful analysis on the feasibility of this important and new issue by the entities affected.

Therefore, in view of the demanding timetable and in order to facilitate both the implementation by financial market participants and the task of supervisors themselves in relation to the calculation of the alignment ratio with the Taxonomy of financial products, a transition or adaptation period of one year is proposed. Thus, during the first year of implementation of the Taxonomy disclosure RTS, the obligations under the RTS should be enforceable under a "best efforts" regime.

The above proposal would help financial market participants to deal with the uncertainties arising from the scarcity of ESG data from companies, the absence of data relating to the assessment of the no significant harm principle, as well as the over-reliance on the ratio methodology developed by the EC Joint Research Centre.

Question 2: Do you have any views on the KPI for the disclosure of the extent to which investments are aligned with the taxonomy, which is based on the share of the taxonomy-aligned turnover, capital expenditure or operational expenditure of all underlying non-financial investee companies? Do you agree with that the same approach should apply to all investments made by a given financial product?

Doubts about the usefulness for the end-investor

The comprehensiveness of the data required and the nature of that data raises questions as to whether the information will be understandable and useful to the end investor. Most investors may be overwhelmed by the amount of detailed information they would receive, may not understand it, or may not directly see the benefits and meaning of this information overload.

In this respect, it should be clarified whether and in which cases it would be necessary for products subject to the disclosure regime of Articles 8 and 9 of the SFDR Regulation, as well as those subject to the disclosure regime of Article 7 of the Taxonomy Regulation, to include the same warnings in relation to the non-consideration of the European taxonomy.

Likewise, in order to facilitate the understanding of the information by the investor, it would be advisable for the ESAs to clarify whether the composition of the information templates or models included as annexes to the disclosure RTS can be adapted to the information applicable to the financial product in question or whether, on the contrary, the complete template must in any case be provided regardless of whether or not all the fields included in it are filled in. In this respect, it should be noted that the option of composing the information in the templates according to the products, in order to avoid overloading investors with information that could appear inconsistent, should be considered the most appropriate option.

The main riesk that has to be addressed is the scarcity of homogeneous and comparable information that may provide a false sense of objectivity in the conclusions that are intended to be presented to investors in order for them to make an informed decision.

Selected KPI

The consultation offers three alternatives for measuring the positive environmental value of investments. The centrepiece is the single metric to be used for the rating of investments as this will result in an indicator that should be prominently advertised in the same way as, for example, the energy efficiency label on household appliances or the volume of vehicle emissions.

Although the KPI to be used must be just one, there is a choice of three metrics: revenue, capital expenditure or operating expenditure (Turnover, Capex, Opex) of the industrial companies that carry out the activities and in which the financial company is invested. It will be possible to choose which of the three metrics to use depending on each investment.

The alternatives to this single KPI were to use the finance company's revenue or fees or to use a granular calculation of each activity.

The ESAs ruled out the first alternative because of the poor correlation with the environmental alignment objective.

And they discard the second alternative because of the work required to develop it and because they consider that the excessive detail will prevent the consumer from reaching conclusions.

The debate is really between the single KPI proposal and the detailed alternative, because the criterion of commissions or revenues of the financial company does not even reach the level of an alternative as it has no relation with the objective pursued.

Difficulties of the proposal

The proposed single KPI has serious shortcomings, especially when it is applied to measure the volume of environmental investments. To this end, it is necessary to take into account a series of peculiarities specific to investments in the environmental field (the examples come from the field of energy transition, but, in addition to being those that will attract the greatest volume of investment, they can be extrapolated to other fields):

- They are very capital-intensive investments, as infrastructures in general, and renewable energies in particular, are characterised by a huge imbalance between Capex and Opex, in favour of the former. This is no coincidence, because finite and costly fuel is supposed to be replaced by free renewable natural energy.

- These are investments that are in their initial phase and, therefore, in order to develop and evolve along the learning curve (lowering their costs) they require subsidies in the first years.

Subsidies are therefore very material. For example, in hydrogen production it is estimated that in 2030 a subsidy of 70% of the Capex will be needed not only for the hydrolysers, but also 70% for the associated renewable electricity generation plant. This figure is not unrealistic, as solar thermal or photovoltaic plants received an energy price of 300-400 €/MWh in the first years of their development, when the market price was around 50-60 €/MWh. Currently the learning curve has brought production cost down to around 30 €/MWh in photovoltaic (whereas thermosolar has been aabndoned since it hasn't substantially lowered its costs).

- These are investments that do not generate Ebitda until several years after the start of the Capex investment, given their development and construction period of around 2-4 years.

Under these conditions,

- the turnover metric will not start to reflect the size of the investment in environmental assets until several years after the investment has started and financing has been obtained.

There will be a significant mismatch between when, for example, a green bond was issued and when the corresponding first Ebitda appears.

And, given that we are in a period of strong growth, this metric will not be able to differentiate which companies have a relevant commitment and which do not.

- The Capex metric should include the subsidies received by the project, otherwise it will not be measuring the real size of the environmental project.

However, even if this problem is solved, the Capex figure may be useful for comparing companies in the same sector - for example, energy - but it is not a metric that allows comparison between different sectors. It is even doubtful that it can be used to compare the same sector, but in different countries with different regulations. For example, in the United States the subsidies are not capital investment subsidies, but tax deductions in corporate income tax, or in Australia the subsidy is injected through a long-term power purchase agreement.

And yet the single KPI is supposed to be used to compare investments in any sector anywhere in the world.

- Opex metrics will normally be of little relevance when it comes to financing large investments.

The ESAs' proposal also states that it will be up to the financial institution to choose which of the three metrics to use. This, far from solving the problems, could make the information to the consumer open to adulteration, as there is no guarantee that the three metrics will be used in the best way in each case.

While it is reasonable and desirable to simplify the issue, it cannot be forgotten that reality is harsh and diverse, especially when one wants to measure an enormously rich and varied world.

In these conditions, forcing an oversimplification, far from helping consumers, gives them the false impression that they are making the right choice, when in fact the correlation between the single KPI and environmental goodness is questionable and will have been subject to a great deal of elaboration until that single figure is provided.

And that's without including many other variables: Which is better, spending a million euros on reducing CO2 emissions by insulating homes or spending it on industrial batteries? Or, which is better, to spend one million euros on reducing CO2 emissions or to spend it on preventing the release of plastics into the ocean?

It is therefore preferable to be realistic and opt for a slightly more granular system that allows comparable sectors to be compared with each other. Trying to compare all sectors against all will lead to opportunities for abuse or manipulation or, at best, contrived or misleading simplifications for consumers and investors. Which is the opposite of what is intended by all taxonomy regulation.

The recommendation is therefore to use a sector-by-sector granularity approach.

Question 3: Do you have any views on the benefits and drawbacks of including specifically operational expenditure of underlying non-financial investee companies as one of the possible ways to calculate the KPI referred to in question 2?

See answer to question 3

Question 4: The proposed KPI includes equity and debt instruments issued by financial and non-financial undertakings and real estate assets, do you agree that this could also be extended to derivatives such as contracts for differences?

See answer to question 3

Question 5: Is the use of “equities” and “debt instruments” sufficiently clear to capture relevant instruments issued by investee companies? If not, how could that be clarified? Are any specific valuation criteria necessary to ensure that the disclosures are comparable?

Question 6: Do you have any views about including all investments, including sovereign bonds and other assets that cannot be assessed for taxonomy-alignment, of the financial product in the denominator for the KPI?

Regarding the inclusion in the denominator of the KPI of all investments including government debt and other assets that cannot be assessed through the taxonomy, it is proposed that government debt be excluded in the numerator and denominator, but with a qualitative explanation when such exclusion actually occurs.

However, in the event that ESAs choose to keep all investments in the denominator of the KPI, and taking into account the weight of public debt in financial products, consideration should be given to the possibility that public debt (excluding those green debt issues to be issued in the short/medium term that will be computed according to the specific methodology to be developed) of those countries that have aligned their spending commitments with European environmental objectives, by means of a binding commitment (law or treaty) and quantified (percentage of budgets), can be computed for the percentage of their emissions (new and stock) equivalent to the alignment percentage included in the EU's multiannual financial framework 2021-2027.

The final report of the RTS of the SFDR Regulation published on 4 February includes a series of indicators on the main adverse events (PAIs) for investments in sovereign debt and supranational organisations. The fact that there are differentiated PAI indicators for this type of assets should allow comparability in terms of sustainability of both sovereign debt issues of different countries and other assets. The ESAs are therefore urged to clarify whether and in which cases the consideration of PAIs can provide another criterion for determining the percentage of public debt that can be taken into account for the purpose of inclusion in the KPI calculation.

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Question 7: Do you have any views on the statement of taxonomy compliance of the activities the financial product invests in and whether those statements should be subject to assessment by external or third parties?

Market participants will provide their views directly

Question 8: Do you have any views on the proposed periodic disclosures which mirror the proposals for pre-contractual amendments?

Market participants will provide their views directly

Question 9: Do you have any views on the amended pre-contractual and periodic templates?

Market participants will provide their views directly

Question 10: The draft RTS propose unified pre-contractual and periodic templates applicable to all Article 8 and 9 SFDR products (including Article 5 and 6 TR products which are a sub-set of Article 8 and 9 SFDR products). Do you believe it would be preferable to have separate pre-contractual and periodic templates for Article 5-6 TR products, instead of using the same template for all Article 8-9 SFDR products?

Market participants will provide their views directly

Question 11: The draft RTS propose in the amended templates to identify whether products making sustainable investments do so according to the EU taxonomy. While this is done to clearly indicate whether Article 5 and 6 TR products (that make sustainable investments with environmental objectives) use the taxonomy, arguably this would have the effect of requiring Article 8 and 9 SFDR products making sustainable investments with social objectives to indicate that too. Do you agree with this proposal?

Market participants will provide their views directly