ALLEN & OVERY

Client Bulletin – SFDR consultation and review by European Commission – a first step towards SFDR 2.0

September 2023

1. Speed read

The Commission has launched a far reaching consultation and review of SFDR, long expected by the industry. This bulletin provides an overview, as well as giving thought as to what we might see in terms of SFDR 2.0.

2. How did we get here?

The Sustainable Finance Disclosure Regulation 2019/2088 (**SFDR**) was adopted on 27 November 2019 - it began to apply in a phased way from 10 March 2021.[1]

The **Taxonomy Regulation** entered into force on 12 July 2020, and is formally known as Regulation (EU) 2020/852 on the establishment of a framework to facilitate sustainable investment.[2] Among other things, it introduced a detailed product disclosure regime for products in scope of SFDR, via both directly applicable requirements and amendments to SFDR. It also began to apply in a phased way, beginning on 1 January 2022.

Under SFDR and the Taxonomy Regulation, the European Supervisory Authorities (**ESAs**) were mandated to develop Level 2 requirements or Regulatory Technical Standards (**RTS**). After a protracted process and many delays, these were eventually finalised and have applied since 1 January 2023.[3]

The Complementary Climate Delegated Act was published in the Official Journal on 15 July 2022 and applied from 1 January 2023. Not without controversy, under this Act, in general terms, specific nuclear and gas energy activities were to be considered aligned with the EU taxonomy – in other words, sustainable or "green". Following on from this, and a report published by ESMA on SFDR amendments for nuclear and gas activities,[4] Commission Delegated Regulation (EU) 2023/363 was published in the Official Journal on 17 February 2023 and entered into force on 20 February 2023.[5] This updated the templates for pre-contractual and periodic disclosures to include a graph to demonstrate the extent to which relevant products are exposed to EU taxonomy compliant gas and nuclear activities.[6]

Under Article 19 of SFDR, the Commission was required to evaluate SFDR, considering various matters including *"the benefits and proportionality of the related administrative burden"* as regards the principal adverse impacts (**PAI**) regime, and *"whether the functioning of [SFDR] is inhibited by the lack of data or their suboptimal quality, including indicators on adverse impacts on sustainability factors by investee companies".* This deadline was not met.

In various speeches in 2022 and 2023, as well as bilateral meetings with industry groups, the Commission and the ESAs suggested they were open to reconsidering aspects of the regime, and making improvements. For example, in a speech given in May 2023,[7] ESMA acknowledged the complexities of the regime, and the potential benefit of labels: *"… we believe that labels for sustainable financial products are a useful tool to channel resources to finance the necessary shift of our economies. The interest in labels is evidenced by the fact that the market is using Article 8 and Article 9 of SFDR, which were designed for disclosure purposes only, as actual marketing labels. A credible European labelling regime with robust common criteria would provide more clarity on the investment options for investors to decide if and how to contribute to financing the transition."* If this comes to fruition, it would be an interesting and useful development in terms of sustainable finance in the EU, and throw down the gauntlet to other countries and regions to accelerate their own progress and elevate their levels of ambition.

3. Consultation and review of SFDR

On 14 September 2023, the Commission published its long-awaited consultation and review in relation to SFDR.[8] The consultation is open for three months, with the deadline for comments being 15 December 2023.

The "outreach" comprises two separate elements:

1. Public consultation – this includes approximately 32 substantive questions and is 64 pages long; and

2. "Targeted" consultation – this is directed at industry bodies and firms familiar with SFDR and the EU's sustainable finance framework. It contains approximately 92 detailed substantive questions and is 132 pages long.

Various workshops and roundtables are also scheduled, to enable stakeholders to submit further input.

1_https://eur-lex.europa.eu/eli/reg/2019/2088/oj and https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02019R2088-20200712&qid=1694846904197
2_https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32020R0852
3_https://eur-lex.europa.eu/eli/reg_del/2022/1288/oj and https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02022R1288-20230220&qid=1694847170424
4 https://www.esma.europa.eu/document/final-report-sfdr-amendments-nuclear-and-gas-activities
5 https://eur-lex.europa.eu/eli/reg_del/2023/363/oj
6 https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32022R1214
7 www.esma.europa.eu/sites/default/files/2023-05/ESMA30-1668416927-2473_Natasha_Cazenave_speech_AFME_2nd_Annual_Sustainable_Finance_Conference.pdf
8 https://finance.ec.europa.eu/sustainable-finance/disclosures/sustainability-related-disclosure-financial-services-sector_en

Initial observations

First, to the Commission's credit, they seem to be holding nothing back – stating that the consultation is intended to assess potential shortcomings in the regime, *"focusing on legal certainty, the useability of the regulation and its ability to play its part in tackling greenwashing."*

These points come through clearly in the substance and breadth of the questions asked – and the impression is that the Commission genuinely wishes to have a frank dialogue on improvements, both big and small, as well as where SFDR may go from here – in other words, "SFDR 2.0".

Secondly, the questionnaires give useful colour as to the way the Commission is looking at SFDR and its "soft" benefits – e.g. promoting the evolution of the approach to sustainability, promoting awareness in the market as regards negative impacts etc.

And that is probably a fair point – in being the "first mover" in terms of sustainable finance regulation, the Commission (along with SFDR and the EU taxonomy regime) has come under significant criticism. For example, requiring disclosures that do not always make sense or are in a format that is unhelpful, or requiring product level disclosures under SFDR without equivalent legislation being in place to require the necessary disclosures from companies in the real economy (referred to in the industry as a problem in the "sequencing" of applicable new disclosure requirements). When other jurisdictions launch their own initiatives, it is often said that they can learn from the (many) mistakes made in relation to SFDR and the EU taxonomy.

Against this backdrop, it will be interesting to see the results of the consultation, and whether there is an acknowledgement that, notwithstanding its flaws and weaknesses, the regime was successful in "turbo charging" conversations in the industry as regards sustainability, data and disclosures. Perhaps it was to be expected that, the first time around, the regime would not get much right and would need to evolve – but it may be fair to give the Commission credit in starting somewhere.

For better or worse, SFDR is known and talked about in jurisdictions and in relation to products outside its scope, with a sort of brand recognition not unlike UCITS.

Thirdly, we should recognise the significant willingness throughout the industry to engage with this work programme by the Commission. We believe the industry is proposing to give considerable time and thought to providing constructive input and helping to guide what will ultimately be "SFDR 2.0".

A final point: the difficulties the UK has experienced in terms of developing a UK equivalent to SFDR – with a proposed new product labelling regime, an anti-greenwashing rule, and new ESG-related entity and product disclosure requirements – underlines the challenge that regulators and lawmakers face in relation to sustainable finance regulation, and with an ESG product labelling regime in particular. Put simply, it is hard to come up with something that pleases enough people on enough issues.

With that in mind, the fact that the Commission's consultation is framed in such an open and constructive way is especially welcome, but the scale of the challenge should not be underestimated.

4. Public consultation

This questionnaire covers two main topics: the current requirements of SFDR, and the interaction with other sustainable finance legislation – e.g. the EU Corporate Sustainability Reporting Directive (**CSRD**), the taxonomy regime, the Benchmarks Regulation, and the regime introduced by the Markets in Financial Instruments Directive (**MiFID II**) and the Insurance Distribution Directive (**IDD**) on sustainability preferences.

Overall, the focus of the first questionnaire is on how SFDR is working today and the issues firms have in implementing it. There are no questions in this questionnaire on options for change – these are the exclusive province of the targeted consultation questionnaire (see below).

Interestingly, the Commission has framed its explanation of SFDR in terms of "double materiality", with the starting point for the consultation being as follows:

"The EU's sustainable finance policy is designed to attract private investment to support the transition to a sustainable, climate-neutral economy. The SFDR is designed to contribute to this objective by providing transparency to investors about the sustainability risks that can affect the value of and return on their investments ('outside-in' effect) and the adverse impacts that such investments have on the environment and society ('inside-out'). This is known as double materiality. This section of the questionnaire seeks to assess to what extent respondents consider that the SFDR is meeting its objectives in an effective and efficient manner and to identify their views about potential issues in the implementation of the regulation.

We are seeking the views of respondents on how the SFDR works in practice. In particular, we would like to know more about potential issues stakeholders might have encountered regarding the concepts it establishes and the disclosures it requires."

This reference to double materiality acknowledges the international tussle at present between the EU's new European Sustainability Reporting Standards (ESRS), which come into effect in 2024 and use a double materiality approach, and the approach of its main rival, the International Sustainability Standards Board (ISSB), with IFRS S1 and S2. These take a different approach, considering information to be material *"if omitting, obscuring or misstating it could be reasonably expected to influence investor decisions"*.

Some of the key questions asked in the public consultation:
The SFDR seeks to strengthen transparency through sustainability-related disclosures in the financial services sector to support the EU's shift to a sustainable, climate neutral economy. In your view, is this broad objective of the regulation still relevant?
Do you think the SFDR disclosure framework is effective in achieving the following specific objectives (included in its Explanatory Memorandum and mentioned in its recitals): – increasing transparency towards end investors with regard to the integration of sustainability risks; – increasing transparency towards end investors with regard to the consideration of adverse sustainability impacts; – strengthening protection of end investors and making it easier for them to benefit from and compare among a wide range of financial products and services, including those with sustainability claims; – channelling capital towards investments considered sustainable, including transitional investment [we are told to interpret these phrases in the broadest sense]; – ensuring that ESG considerations are integrated into the investment and advisory process in a consistent manner across the different financial services sectors; and – Ensuring that remuneration policies of financial market participants and financial advisors are consistent with the integration of sustainability risks and, where relevant, sustainable investment targets and designed to contribute to long-term sustainable growth.
Do you agree that the costs of disclosure under the SFDR framework are proportionate to the benefits it generates (informing end investors, channelling capital towards sustainable investments)?

Some of the key questions asked in the public consultation:

To what extent do you agree with the following statements?

- the SFDR has raised awareness in the financial services sector of the potential negative impacts that investment decisions can have on the environment and/or people;
- financial market participants have changed the way they make investment decisions and design products since they have been required to disclose sustainability risks and adverse impacts at entity and product level under the SFDR; and
- the SFDR has had indirect positive effects by increasing pressure on investee companies to act in a more sustainable manner.

To what extent do you agree or disagree with the following statements?

- some disclosures required by the SFDR are not sufficiently useful to investors;
- some legal requirements and concepts in the SFDR, such as ‘sustainable investment’, are not sufficiently clear;
- the SFDR is not used as a disclosure framework as intended, but as a labelling and marketing tool (in particular Articles 8 and 9);
- data gaps make it challenging for market participants to disclose fully in line with the legal requirements under the SFDR;
- data gaps make it challenging for market participants to disclose fully in line with the legal requirements under the SFDR;
- re-use of data for disclosures is hampered by a lack of a common machine-readable format that presents data in a way that makes them easy to extract;
- there are other deficiencies with the SFDR rules [specify].

There are a number of detailed questions in relation to costs – both initial (e.g. in the beginning to make new required disclosures), and ongoing costs in complying with the regime.

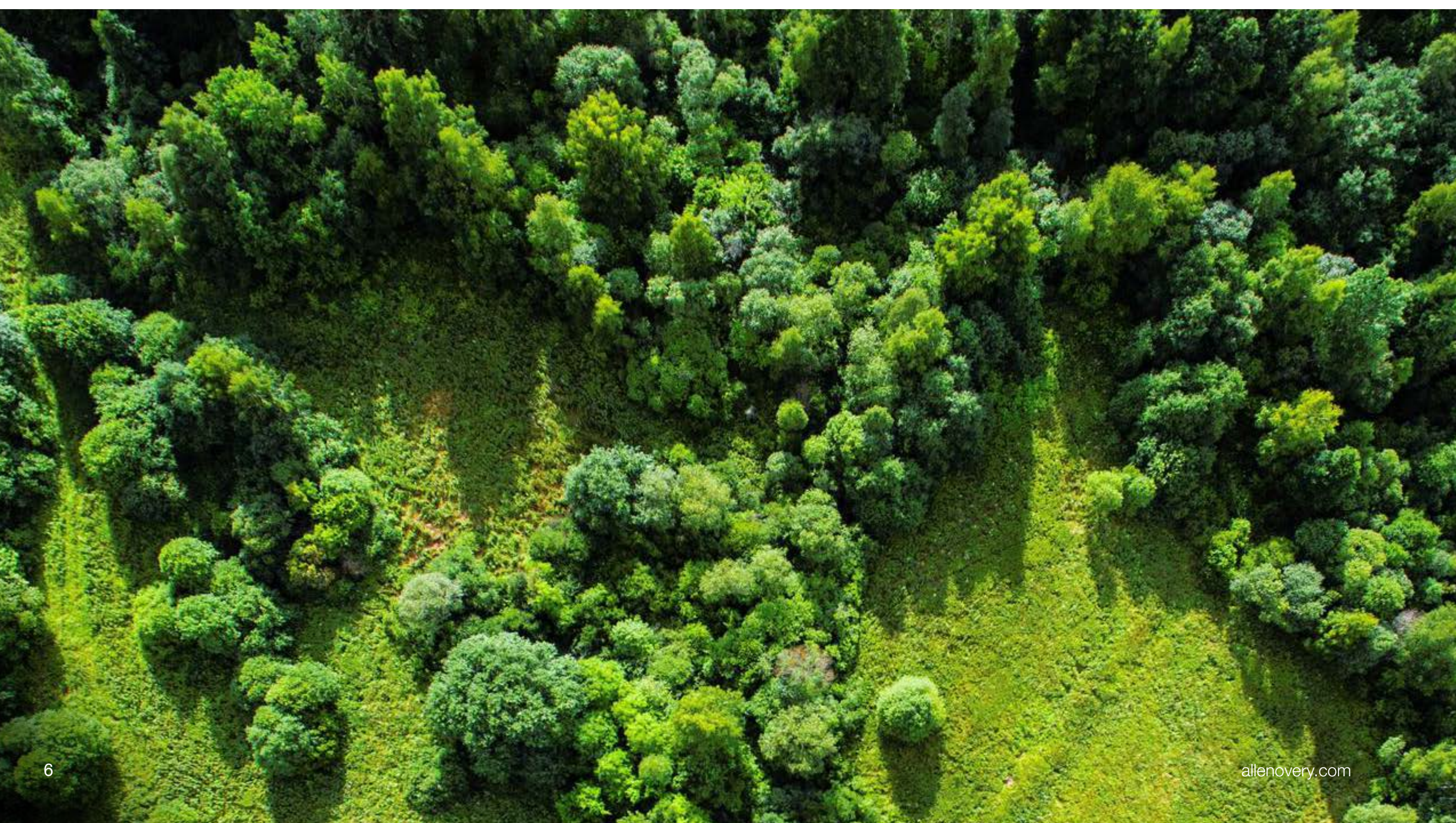
Data and estimates - Are you facing difficulties in obtaining good-quality data? Is the SFDR sufficiently flexible to allow for the use of estimates? Is it clear what kind of estimates are allowed by the SFDR? If you use estimates, what kind of estimates do you use to fill the data gap? [e.g. in house, estimates generated by models, estimates from data providers etc] Do you engage with investee companies to encourage reporting of the missing data?

The evolution of the market - Have you increased your offer of financial products that make sustainability claims since the disclosure requirements of Articles 8 and 9 of the SFDR began to apply (i.e. since 2021, have you been offering more products that you categorise as Articles 8 and 9 than those you offered before the regulation was in place and for which you also claimed a certain sustainability performance)?

If so, what are the main drivers?

- SFDR requirements?
- Retail investor interest?
- Professional investor interest?
- Market competitiveness?
- Other?

Some of the key questions asked in the public consultation:
[Agree or disagree] The SFDR disclosures are consistent with the CSRD requirements, in particular with the European Sustainability Reporting Standards. [OR] There is room to streamline the entity level disclosure requirements of the SFDR and the CSRD.
To what extent do you agree that the product disclosures required in the SFDR and its Delegated Regulation (e.g. the proportion of sustainable investments or taxonomy aligned investments, or information about principal adverse impacts) are sufficiently useful and comparable to allow distributors to determine whether a product can fit investors' sustainability preferences under MiFID 2 and the IDD?
MIFID and IDD require financial advisors to take into account sustainability preferences of clients when providing certain services to them. Do you believe that, on top of this behavioural obligation, the following disclosure requirements for financial advisors of the SFDR are useful? [e.g. SDFR entity level disclosure under article 3 of SFDR, entity level disclosures on PAI under article 3, etc].
As a final point, we would flag the next questions (summarised below), which stand out as particularly pointed and are likely to generate significant discussion within industry bodies:
To what extent do you agree or disagree with the following statements? – The questions and answers published by the Commission in April 2023 specifying that SFDR deems products passively tracking a climate transition benchmark (**CTB**) or Paris-aligned benchmark (**PAB**) to be making "sustainable investments" as defined in the SFDR provide sufficient clarity to market participants. – The approach to "do no significant harm" and good governance in SFDR is consistent with the environmental, social and governance exclusions under the PAB/CTB regime. – The ESG information provided by benchmark administrators is sufficient and aligned with the information required by SFDR for products tracking or referencing these benchmarks.



5. Targeted Consulation

This questionnaire covers four main topics:

– views on the current requirements of the SFDR;
– the interaction with other sustainable finance legislation;
– potential changes to the disclosure requirements in the regime; and
– views on the potential establishment of a new categorisation or labelling system for financial products.

The first two topics overlap with the public consultation questionnaire – and an electronic compare shows the two questionnaires are virtually identical in these areas. See above for comments on the content of these.

The last two topics are unique to the targeted consultation, designed to elicit more detailed feedback from experts.

Potential changes to disclosure requirements

Some of the key questions:
As regards entity level disclosures required by SFDR
– Are the SFDR disclosures useful?
– Which PAI indicators are the most (and least) useful?
– Is SFDR the right place to include entity level disclosures – i.e. as opposed to CSRD or the EU capital requirements regime?
– Is there room for streamlining sustainability-related entity level requirements across the different legislation?
Standardised product disclosures
Should the updated regime impose uniform disclosure requirements for all relevant financial products offered in the EU, regardless of their sustainability-related claims or any other consideration? NB: This question may be controversial, in probing whether it is preferable (and proportionate) to require the same disclosures for all products, whether they have ESG characteristics or not, to assist investors in comparing them from a sustainability perspective, and also to help steer investments into products that promote sustainability goals over those which do not. However, this would be a sea change for SFDR. It currently imposes only limited disclosure requirements (on sustainability risk) for products across the board, including those referred to sometimes as Article 6 products.
If yes, should disclosures on a limited number of principal adverse impact indicators be required for all financial products offered in the EU? If yes, which indicators?
From a list of potential disclosures, which (if any) should be required for disclosure for all financial products: taxonomy-related disclosures, engagement strategies, exclusions, information about how ESG-related information is used in the investment process, other.
On the other hand, would uniform disclosure requirements for some products only be more appropriate regardless of their sustainability-related claims – e.g. based on assets under management exceeding a specified threshold, or retail products only?
If yes, what criteria? And what PAI indicators (if any)?
In each case, should additional disclosure requirements apply if a product makes a sustainability claim (i.e. in line with the current approach under Articles 8 and 9 of SFDR)?

Some of the key questions:
Is it the right approach to have product related information spread across three places – precontractual disclosures, periodic disclosures and on websites? And is the current breakdown between these three "appropriate and use friendly"?
The Commission then goes on to ask various questions about the balance between public disclosure requirements for websites (e.g. is this transparency potentially bringing wider societal benefits) vs confidentiality considerations, and whether sustainability information should be imposed by sectoral legislation only (AIFMD etc) rather than horizontally applicable law such as SFDR. NB: It will be interesting to see whether the Commission really is willing to take on board industry comments on these topics.
Whether the same sustainability disclosure topics and level of granularity should be required across the board to allow comparability?
Whether product level disclosure requirements should apply regardless of entity disclosures and vice versa? This presumably relates to the current PAI regime under SFDR, which links the two.
The Commission then discusses the idea that SFDR is intended to facilitate comparisons between financial products based on their sustainability considerations – but that investors (especially retail) may not have the expertise/knowledge to interpret the disclosures "whether it is about comparing these disclosures to industry averages or credible transition trajectories." It then asks whether some product disclosures should be expressed on a scale – and if so, how should the scales be established and which information should be expressed on a scale? **NB: This idea of adding a scale (along the lines of what we see in PRIIPs) is new, and may be controversial in the industry.**
Questions for professional investors
Where do you obtain the sustainability information you find relevant – direct enquiries to product providers? SFDR disclosures?
Have the SFDR requirements improved the quality of information and transparency provided by firms about the sustainability features of the products they offer?
Effectiveness of disclosures
The Commission goes on to ask technical questions as regards machine readable disclosures, and whether format or other requirements should be imposed? Should product disclosures be required to be available via the European Single Access Point asap?
Should product and entity disclosures be interactive and offered a layered approach so an investor can get additional information easily on demand?
Would a regulatory attempt to digitalise ESG disclosures be useful, building on the ESG template (EET) developed by the industry?
Would the costs of introducing a machine readable format be proportionate to the benefits?
When determining what product disclosures should be required, the following should/should not be taken into account – the Commission then includes a list of variables – e.g. whether some of the underlying investments are outside the EU, are in an emerging economy, are in SMEs etc.

Potential new labelling regime for SFDR2.0

This is the most important aspect of the overall consultation, and likely to generate the most discussion in the industry.

The Commission starts this section by observing that Articles 8 and 9 are being used as de facto product labels, and that some individual EU countries have developed their own sustainability labels, and that this suggests a market demand for such tools.

The Commission also notes that the development of individual national regimes gives rise to concerns about fragmentation and undermines the capital market unions – a predictable comment which might alone suggest that in fact a centralised labelling regime is inevitable, no matter what industry feedback is provided.

On the other hand, the Commission suggests that "Given the high demand for sustainability products, questions in this section assume that any potential categorisation system would be voluntary" – although it expressly preserves its options on this, given that this is only a consultation.

For a product categorisation system, two broad strategies are suggested:

Approach 1 – the system could take the current Article 8 and 9 regime as a starting point, drawing on the key words and phrases in those regimes and adding additional minimum criteria to define products within scope. In other words, to evolve the existing regime to something better.

Approach 2 – take a different approach; e.g. focusing on the type of investment strategy (e.g. a promise of a positive contribution to certain sustainability objectives, transition focus etc) based on new criteria or concepts. In this scenario, the existing SFDR nomenclature may disappear altogether. In other words, if you were to start with a blank sheet of paper, what would you do?

Some of the key questions:
[Agree or disagree] Sustainability product categories regulated at an EU level: – would facilitate retail investor understanding of products' sustainability strategies and objectives; – would facilitate professional investors' understanding; – are necessary to combat greenwashing; – are necessary to combat fragmenting the capital markets union; – are necessary to have efficient distribution systems based on an investor's sustainability preferences; OR: There is no need for product categories. Disclosures of sustainability information are sufficient.
If a categorisation system was established, how should the categories be designed – Approach 1 as above or Approach 2?
If Approach 1:
Should the current Article 8 vs 9 distinction disappear?
What about these categories: – Product category A - Products investing in assets that specifically strive to offer targeted measurable solutions to sustainability-related problems that affect people or the planet – e.g. investments in firms generating renewable energy, or in companies building social housing? – Product category B - Products aiming to meet credible sustainability standards or adhering to specific sustainability-related themes – e.g. investment in companies with evidence of solid waste and water management, or strong representation of women in decision making? – Product category C - Products that just take an exclusionary approach – e.g. that will not invest in companies involved in activities with negative effects on people or the planet? – Product category D - Products with a transition focus aiming to bring measurable improvements to the sustainability profile of what they invest in – e.g. investments in economic activities becoming taxonomy aligned or in transitional economic activities that are taxonomy aligned, or in companies with credible targets or plans to decarbonise, or improve workers' rights or reduce environmental impacts? – Other?

Some of the key questions:
If Approach 1:
Should the categories distinguish between social and environmentally focused products?
How many categories should there be?
Should a product be allowed to fall into one of the categories only (i.e. they're mutually exclusive)?
If Approach 2:
What transitional regime should apply (if any)?
What minimum criteria should apply for the new product categories?
Could the criteria for the four product categories above relate to: – Taxonomy alignment? – Engagement strategies? – Exclusions? – Pre-defined and measurable positive environmental, social or governance related outcomes? – Other?
Should the criteria focus on processes the product provider uses to demonstrate how the sustainability characteristics of the product are applied – e.g. minimum year on year improvement in particular KPIs or a minimum exclusion rate for the investable universe? NB: We expect this question may be controversial – it shows the preference of the Commission for measurable criteria to be put forward in a product's design. But whether this is what the industry will consider practical is another question.
If yes, what criteria?
If Approach 2 is used, what concepts (if any) from SFDR are fit for purpose: – Current concepts of environmental and social characteristics? – The current concept of a sustainable investment? – Within that, the reference to a contribution to an environment or social objective? – The "do no significant harm" (DNSH) concept and its link to PAI indicators? – The good governance concept? NB: It will be very interesting to see what feedback is given on these points – and how this may vary across different types of stakeholders.
If some of all of these are not considered fit for purpose, what would you prefer instead for a "sustainable investment" concept? What minimum criteria should apply?
Should the good governance test apply to government bonds? If so, with what minimum criteria?
Should the good governance test be adapted to include investments in real estate? If so, with what minimum criteria?

Some of the key questions:
If Approach 2:
How would you further specify what the promotion of environment/social characteristics means? What should the minimum criteria be? What triggers should apply before a product is considered to promise those characteristics?
Should a minimum taxonomy alignment proportion apply for the potential new product category for Article 8 or 9? If so, what proportion should apply for each?
What new/additional requirements (if any) should apply for Article 8 and 9 products?
Should the good governance test be adapted to include investments in real estate? If so, with what minimum criteria?
Product disclosures
Should additional product level disclosure requirements apply when products fall within the new categories? E.g. taxonomy related disclosures? Disclosure on engagement strategy, exclusions, how other criteria have been met?
Governance and mandatory third party verification
If a product categorisation system was set up, what governance system should be created? – Mandatory third party verification – both for initial and ongoing compliance – Self-declaration by the product provider (supervised by national regulators) – Other NB: Again, it will be interesting to see where this goes. The use of verification has clearly been a critical element in the development of the EU green bond standard or EU GBS, being mandatory in that context. And in some product areas outside the scope of SFDR, the use of some form of external verification (whether a second party opinion or otherwise) to demonstrate a product's alignment with ESG related industry standards is very high – driven by market standards. There is clearly a point to consider as regards cost, but equally, there is a concern about ensuring the credibility of any new labelling system and a consistent approach being taken in the industry, to promote certainty. There may be a "lesson learnt" as regards SFDR implementation, where significant uncertainty existed as to the way in which Article 8 and 9 requirements could or should be interpreted, with significant divergence in the industry. External verification may be one way to avoid similar issues arising again – although possibly the industry can argue that other ideas will be just as good, and more cost effective. e.g. perhaps extensive Commission guidance, issued alongside any new product labelling regime, could be a substitute.
If a categorisation system is established, should certain factors be taken into account – e.g. the underlying investments being outside the EU, in an emerging economy, in SMEs etc?

Some of the key questions:
Interaction with other relevant EU law
Should the categorisation be covered in the PRIIPs KID?
If new ESG benchmarks are developed, should the criteria be closely aligned with any new SFDR categorisation system? Or not?
Should a product that passively tracks a PAB or CTB automatically fall in one of the new sustainability product categories?
If a categorisation system is established, should sustainability preferences under MiFID II and the IDD refer to these?
Marketing communications and product names
Should SFDR cover the accuracy/fairness in terms of marketing communications and the use of sustainability-related product names?
[Agree or disagree] – The introduction of product categories should be accompanied by specific rules on how market participants must label and communicate on their products. – The use of certain terms should be prohibited if the product does not fall within one of the new product categories – e.g. sustainable, ESG, SDG, green, responsible, net zero. – Certain terms should be linked to a specific product category and reserved for that category.
Would naming and marketing communication rules be sufficient to avoid misleading communications from products that do not fall within one of the product sustainability categories?

6. Next steps

The deadline for responses to the Commission's consultation is 15 December 2023, with responses required to be provided using the prescribed online form.

In the interim, a number of industry bodies are mobilising their membership to review the consultation in detail, and consider how far the industry is aligned in terms of its response and what ideas for a new product labelling regime can be put forward.

In parallel, the FCA is expected to finalise its own product labelling regime in Q4 2023 – when this lands, it will be interesting to see whether the direction of travel between the EU and UK on this front is beginning to align, or if it looks set to remain divergent for the foreseeable future.

Allen & Overy means Allen & Overy LLP and/or its affiliated undertakings. Allen & Overy LLP is a limited liability partnership registered in England and Wales with registered number OC306763. Allen & Overy (Holdings) Limited is a limited company registered in England and Wales with registered number 07462870. Allen & Overy LLP and Allen & Overy (Holdings) Limited are authorised and regulated by the Solicitors Regulation Authority of England and Wales. The term partner is used to refer to a member of Allen & Overy LLP or a director of Allen & Overy (Holdings) Limited or, in either case, an employee or consultant with equivalent standing and qualifications or an individual with equivalent status in one of Allen & Overy LLP's affiliated undertakings. A list of the members of Allen & Overy LLP and of the non-members who are designated as partners, and a list of the directors of Allen & Overy (Holdings) Limited, is open to inspection at our registered office at One Bishops Square, London E1 6AD.
© Allen & Overy LLP 2023. This document is for general information purposes only and is not intended to provide legal or other professional advice.UK CS2309_CDD-74425_ADD109391