

The Consumer Voice in Europe

ESAs' CONSULTATION ON TAXONOMY ALIGNED SUSTAINABILITY DISCLOSURES FOR FINANCIAL PRODUCTS

BEUC Response



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Why it matters to consumers

Consumers are increasingly interested in buying financial products that contribute to a more sustainable world. The European Commission's recently agreed Taxonomy Regulation will give consumers a better understanding of how sustainable their investments are and help to combat greenwashing. The rules in this consultation set out how taxonomy alignment should be disclosed in the pre-contractual documentation that is provided to consumers when buying financial products, including how such information should be calculated and presented to consumers.

Summary

Consumers have begun changing their behaviour on financial markets. One aspect of this change is an increased awareness of sustainability issues that come with investment. The increasing demand for sustainable investments has revealed a severe shortage of reliable information on ESG products.

Consumers should have access to information, that is both comprehensive and concise. The Key Performance Indicator (KPI) discussed in this consultation is a contribution to the effort of matching these goals. The layout and comparability of information documents presented to consumers both at sale and periodically further contribute to a situation, in which consumers can inform themselves about the sustainability aspects of the products offered to them.

While information documents are no viable substitute for the necessary improvements to consumer advice and sales models, BEUC believes consumers can still benefit from such documents if the ESAs can:

- (a) Offer the key information figures that are both informative and hard to manipulate;
- (b) Avoid overloading these documents with non-essential information;
- (c) Keep the information documents for various products comparable.

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?

The proposal of amending the existing SFDR RTS instead of drawing up a new set is sensible. It offers two main advantages:

1. It will likely be a quicker process, which is relevant when considering the tight schedule, the Taxonomy regulation must be made operational in.
2. A single rulebook will be easier to operate and provide greater clarity on the interaction of rules for industry, consumers and their advocates.

On a cautionary note, the merging of these two processes should not result in one being used to delay or obstruct the other.

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?

The same approach to KPI calculation should apply to all investments made by a given financial product to avoid cherry-picking criteria. If a financial market provider were free to choose which criteria to apply to specific investments, the logical outcome would be to choose the one with the most positive report for each investment. This would lead to highly confusing results for consumers.

Ideally, there should be one, standardised approach to reporting KPI across all providers. Although, that may be difficult to achieve because of sectoral differences between banks and insurers for example, such standardization would greatly improve the comparability for consumers.

Furthermore, the reporting should be done as a weighted average of all criteria. For example it should not be possible to focus entirely on Capital expenditure when investing in equity, because such a measure could be deceptive. For example, a coal-energy company might not invest much in its established business, but could take small steps by investing in renewable energies. Such transition should of course be recognized but it should not be reported as shares in a sustainable business because of its CapEx.

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?

Operational expenditure would be a reasonable metric, provided it is not used as the sole reporting metric and it is not an option that can be chosen or discarded at will. These considerations relate back to the response to question 2.

In general, operational expenditures are a relevant metric complementing capital expenditures. Not all enterprises can claim CapEx for sustainability, particularly if they are already operating a sustainable business that is not presently upscaling.

OpEx + CapEx are therefore a fair measure for effort for sustainability. After all, these measures are quite literally what it costs to act sustainably and to transition to sustainability respectively.

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?

The purpose of reporting KPI is to inform consumers of the sustainability impact of their investments. Therefore, derivatives should only be reportable if they actively increase financing available to sustainable businesses. This may be the case in the use of some derivatives used to leverage the effect of an investment.

More often though, derivatives are used to hedge against the risks of another investment. It can be very difficult to identify the environmental performance associated with derivatives.

If the ESAs have the ability to judge which derivatives do have a positive impact and would be willing to implement a net reporting regime, then this would provide additional value to consumers. Under these circumstances, such reporting should be mandatory to financial market actors. However, if such a regime is out of scope, technically fraught or otherwise unrealistic, then derivatives should be excluded from KPI numerator calculations but not form the denominator. This would ensure that derivatives are not falsely or unverifiably reported as sustainable while maintaining comparability because the entirety of invested capital remains as the basis of the calculation. Please see question 6 for a full explanation of the importance of this aspect.

Contracts for difference do not impact the business of the underlying asset, so they should not be reportable as sustainable.

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?

No comments.

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?

Having all assets in the KPI denominator is necessary to ensure comparability for consumers. If assets that cannot be judged are left out of the calculation of the KPI, it would skew the results. Consumers want to know how much of their investment is going to sustainable purposes. If instruments are left out of the denominator because it is impossible to assess its taxonomy compliance, then taxonomy compliance will climb and the consumer will be misinformed about how compliant his or her investment actually is. In fact, a fund could heavily invest in these assets (on which there is no information about taxonomy alignment) in order to seem more sustainable. This would also be a significant disadvantage for “honest” sustainable funds which would not employ such tactics, potentially crowding them out.

This would be reasoning enough, but there is a political aspect as well. If “no information” assets are not part of the KPI calculation, then there would be no reason for the industry to want to extend the taxonomy – ever. Including these in the calculation reverses the incentive, hopefully leading to the industry to have a vested interest in further clarifications, which is what we need if consumers are to get full disclosure.

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?

Assessment by a third party is additional security against fraud, negligence and simple errors. Having such an assurance would be a significant consumer benefit. Ideally, this would be done by a non-profit ESG rating agency, which would be exclusively beholden to providing the most accurate assessment possible. Sadly, such an agency does not exist. Therefore, a for profit ESG rating agency would still provide benefit for investor protection, the same way analogous institutions do for financial reporting.

If such an obligation is to be established, it would be relevant to find the correct wording. It should be made clear, that the purpose of such a review is not to check if the disclosure is compliant with the Taxonomy articles discussed in this consultation, meaning if the product has been filed in the correct product category. Instead, it would be much more relevant to check the veracity of the information provided. This would cover a check of the calculations, but also of the underlying data provided.

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

Periodic push information is a significant benefit to consumers. MiFID II has shown that providing ex-post information of this type to consumers was more effective to increase their awareness than ex-ante information. These documents should mirror the pre-contractual disclosures in formatting, language and content to allow for easier comparisons.

However, if more granular information is to be included, periodic information would be a better place to introduce the additional information. This is the case because consumers have more time, and experience, and less pressure while reading these documents, and therefore have a higher capacity for absorbing information provided in ex-post documents.

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

No comments.

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?

It would be preferable to use the same template wherever this is possible. A unified information document would increase comparability. The different legal basis does not matter to consumers, but being handed differently formatted information would. Wherever information is unavailable or irrelevant, this should be explicitly stated, to maintain maximum alignment and therefore comparability. Ultimately these are instruments which exist solely for the consumers benefit and should be optimized for concise, relevant and comparable information.

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?

Social sustainability is a vital aspect of ESG. Any contribution in this field should be reported to consumers to enable a well-informed investment decision. This should not be too difficult to achieve, because the SFDR has a wider scope on social sustainability than the taxonomy does in its current form. Such reporting is more of an opportunity than an obligation to the industry and should be enabled until the taxonomy clarifies its criteria on social sustainability.

It is essential however, that any claims of social sustainability made in this way, must be substantiated by a clear reasoning and the relevant data. And, preferably, should be reviewed by a third party as per the answer to Question 7.

12. Do you have any views regarding the preliminary impact assessments? Can you provide more granular examples of costs associated with the policy options?

No comments.

END.



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