SwissFinanceCouncil
Fostering International Dialogue

SFC Response to the European Commission targeted consultation on the implementation of the Sustainable Finance Disclosure Regulation (SFDR)

Introduction

The Swiss Finance Council (SFC) engages in dialogue around policy developments in finance at a European level. Our members, including among the largest global asset and wealth management firms, have substantial activities within the EU and contribute to a diverse market and choice for European retail investors.

We have an interest in the SFDR because our members operate as retail investment product manufacturers, distributors, and advisors, serving EU clients from both within the EU and on a cross-border basis. Greater transparency on the sustainability characteristics of financial products will support investors in making their decisions and facilitate the flow of capital to finance the transition to a sustainable economy.

This paper provides an overview of our key recommendations in the context of the targeted consultation of the SFDR. We will follow up with more detailed suggestions as the European Commission takes its final policy decision.

A simpler EU sustainability disclosure framework

We call for a rationalization of the disclosure requirements and a simplification of the documentation for pre-contractual and periodic reporting.

Disclosure is key to build trust with retail investors. However, although a lot of resources have been spent on fulfilling and updating the pre-contractual and the period disclosure documentation, clients do not seem to substantially engage with these documents. Consumer research shows that investors, in particular retail investors, find it hard to understand and compare information stemming from the SFDR.

This calls for a refinement of the disclosure regime to reduce complexity and make it more user-friendly, especially for retail investors. In this context, we invite the European Commission to re-assess the usefulness of the **entity-level Principal Adverse Impact Indicators (PAIs) and either eliminate them or limit disclosure against those that are considered material by the entity.** These indicators imply significant compliance costs and the benefits are not evident as most retail investors direct their investments towards specific financial products and consider information at product level rather than entity's PAIs.

We also support **simplifying the documentation by making product pre-contractual and annual periodic reporting template a more concise document**.

We appreciate that the European Supervisory Authorities (ESAs – ESMA, EBA, EIOPA), in the recently published Final Report[1] amending the draft revised Regulatory Technical Standards (RTS) to the Delegated Regulation under the SFDR, made efforts to simplify the templates for financial product's disclosure, including the addition of a one-page dashboard summarizing key information about the product's nature. However, we invite the European Commission **to consider the implementation challenges that FMPs would face if they were to apply the revised RTS in light of a potential SFDR level 1 review coming in a few years**. FMPs would incur in significant costs to change the disclosure templates, while being aware that the overall system could change again following the level 1 assessment of the SFDR framework.

[1] JC 2023 55 - Final Report SFDR Delegated Regulation amending RTS (europa.eu)

Consider the differences between retail investors and professional investors

Institutional investors might have a higher level of awareness and understanding of the information and often necessitate more granular data or additional metrics to evaluate investments against their sustainability benchmarks. They also have more resources to understand and analyse these disclosures.

On the other hand, retail investors may lack the knowledge or the resources to interpret such disclosures and would benefit from more simplified or explanatory disclosures.

In light of these differences, we welcome a differentiated approach for institutional and retail investors under the SFDR disclosure framework. While we support mandatory template requirements for retail investors, more flexibility is needed in the reporting channels to institutional investors.

Ensure international interoperability of a revised SFDR framework

Several international jurisdictions are at different stages of developing their own sustainability disclosure framework for financial products, such as the UK FCA's Sustainability Disclosure Requirements (SDR), the Swiss Federal Council position on greenwashing, and the US SEC's amended Investment Advisers Act and the Investment Company Act (see Annex).

In this context, we urge the European Commission to ensure that any upcoming revision of the SFDR is designed in a way which is interoperable with the frameworks of other international jurisdictions, to maximize international capital flows directed at financing the transition.

Addressing inconsistencies between the SFDR and other EU sustainable finance legislation

CSRD: Allow flexibility to address data gaps for FMPs

According to the European Sustainability Reporting Standards (ESRS) under the CSRD, investee companies are required to disclose PAIs indicators only if they are deemed material, while the SFDR requires FMPs to disclose all the PAIs regardless of their materiality. This misalignment will in time heavily impact the quality and accuracy of disclosures being shared with clients, thereby undermining the objective of promoting transparency and informed decision-making.

In addition, while the CSRD was mentioned as a measure to bridge some of these data gaps, it doesn't entirely address the issue as investments are not limited to European investee companies and a limited number of investee companies are in-scope of the first implementation phase of CSRD.

Recognizing that financial services disclosure will rely on progress in the wider economy, the SFDR should allow for more flexibility in the use of estimates to fill the data gaps of FMPs.

Align SFDR with MiFID 2 sustainability preferences

Under MiFID 2, financial advisors have to conduct suitability assessments based on the sustainability preferences of customers. These assessments rely in part on sustainability-related information made available by market participants reporting under the SFDR. However, it is difficult for advisors to determine whether products fit investors' sustainability preferences on the basis of the SFDR ESG concepts such as 'sustainable investments' and 'PAIs' which are not entirely clear to investors.

Should such ESG concepts be clarified via and SFDR review, sustainability preferences under MiFID 2 should reflect such changes. **In case a categorization system for financial products is established under**

the SFDR, sustainability preferences should be calibrated to the generic ESG needs of the clients rather than only the sustainability categories put in place.

PRIIPs: Eliminate standalone PRIIPs ESG dashboard and refer to SFDR Annex of the Prospectus

As part of the retail investment strategy, the Commission has recently proposed to include a new sustainability section – standalone ESG dashboard – in the Key Information Document (KID) to make sustainability-related information of investment products more visible for retail investors.

However, in order to streamline the information available to investors as well as to avoid any inconsistency between the proposed ESG dashboard and the information made available under the SFDR, we recommend instead **indicating that such ESG information is available in the SFDR Annexes to the prospectus[2] and inserting a link to it within the general section of the KID**.

Support for a product categorization system focused on investment strategies

The use of SFDR Articles 8 and 9 as labels signals a market demand for a voluntary categorization scheme which would help communicate the sustainability performance of certain financial products in a simple and intuitive way to investors.

The creation of such a system would imply that only products that claim to fall under a certain category would be required to meet the corresponding requirements. The introduction of precise criteria would help address the risk of greenwashing and allow investors to confidently rely on these categories as quality labels.

In this context**, we support a categorization system building on intentionality, meaning, what the product intends to achieve.** There are basic qualitative criteria the product categorization could build upon:

1) The product intention has to be clearly reflected by the underlying investment strategy and in the investment objective;
2) The strategy needs to be described and substantiated in concrete actions that the FMPs intends to undertake, including on the role of stewardship;
3) The strategy should be accompanied by credible and science-based KPIs, mirroring the progress made with respect to the declared intention and objective.

The chosen approach should be asset-neutral in order for products to maintain the flexibility to draw investments from various asset classes. Products should be allowed to employ various ESG strategies and still benefit from a label, rather than underlying investments being restricted to a specific ESG strategy only to receive a label. It is also important to **evaluate portfolio-level objectives rather than merely assessing asset-level qualifications.**

Regardless of whether the Commission will opt for the first or second approach, **we consider it essential that a future classification system incorporates the concept of transition finance**. The structured inclusion of transition finance, as defined in the European Commission's Communication from June 2023, within the SFDR will be key to increase transparency over those companies that are trying to reduce their climate and environmental impacts, thus contributing to the broader global net zero objective.

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[2] The SFDR Regulatory Technical Standards (RTS) recently adopted by the European Commission set out the form and content of the pre-contractual and annual report disclosures that Article 8 and Article 9 products must make. These are detailed disclosures and must be made using the mandatory templates as set out in the SFDR RTS, which should be included as Annexes to prospectus.

Role for the ESMA Guidelines for the use of ESG or sustainability-related terms in funds' names

Pending the upcoming SFDR review, FMPs will still have to comply with the current sustainability-disclosure requirements which lack clear ESG concepts and a fully-fledged labelling regime. The lack of clear definitions in the SFDR precludes the introduction of quantitative thresholds to assess funds' names, as proposed by the European Securities and Markets Authority (ESMA) in its draft Guidelines for the use of ESG or sustainability-related terms in funds' names[3]. For this reason, **we believe there is merit in ESMA delaying these guidelines and introducing a simple easily understood minimum standard in line with investors' expectations which FMPs can rely on in the meantime.**

[3] Consultation on Guidelines on funds' names using ESG or sustainability-related terms (europa.eu).

Annex 1: Overview of international sustainability-related disclosure requirements for asset managers

	EU	UK	Switzerland	US
State of Play	SFDR in force since 2021. Delegated Act endorsing the RTS applicable as of January 2023. Consultation on SFDR implementation from September to December 2023. Commission's decision on potential SFDR review due in Q3-Q4 2024.	FCA Consultation on SDR and investment labels from October 2022 to January 2023. Final Policy Statement on 28 November 2023. Anti-greenwashing rule and guidance in force as of May 2024. Firms can use the labels as of 31 July 2024. Naming and marketing rules in force as of December 2024. Ongoing product and entity level disclosure in a phased way as of December 2025.	Industry self-regulation on transparency and disclosure for sustainability-related collective assets of September 2022. Federal Department of Finance (FDF) to put forward[4] a proposal for a principle-based state regulation at ordinance level to implement the Federal Council position on greenwashing (December 2022) by end-August 2024. FDF to consider industry self-regulation implementing this position as an alternative.	In June 2022, the SEC proposed[5] amended rules under the Investment Advisers Act and the Investment Company Act to enhance disclosures of investment advisers and companies about ESG investment practices.
Scope	FMPs manufacturing and selling financial products and performing portfolio management services in the EU (UCITS and AIFs). Financial advisors providing investment advice or insurance advice regarding IBIPs.	All FCA-authorized firms are subject to the anti-greenwashing rule. UK asset management firms and distributors (UCITS and AIFs) for additional disclosure rules and voluntary use of labels.	To be defined, depending on the FDF proposal. Current industry self-regulation on manufacturing and management of sustainable collective investments.	US registered investment companies, registered investment advisers, and certain unregistered advisers.
Type of disclosure	Entity-level and product-level	Entity-level and product-level	To be defined	Entity-level and product-level
Labelling system	**Not in the current SFDR,** although Articles 8 and 9 have been used as a labeling regime.	**Yes,** voluntary use of labels subject to general and specific qualifying criteria. Four labels, which reflect products with a	Not at this stage. However, the Federal Council position states that financial products labelled as sustainable or as having sustainable characteristics	**Not formally**, but disclosure requirements differ depending on the types of funds identified, which are three:

[4] Further efforts to prevent greenwashing (admin.ch).
[5] SEC.gov | Enhanced Disclosures by Certain Investment Advisers and Investment Companies About Environmental, Social, and Governance Investment Practices

	Consultation considers potential creation of categorization system based on either Articles 8 and 9 or a different approach, i.e., building on investment strategy of the product and distinguishing between products: 1. Investing in assets striving to offer **targeted, measurable solutions to sustainability-related problems** affecting people and the planet. 2. Aiming to meet **credible sustainability standards/themes**. 3. **Excluding activities** or investees involved in activities with negative sustainability effects. 4. With **a transition focus.**	sustainability objective consistent with an aim to invest: 1. **Sustainability Focus**, at least 70% in assets that are E and/or S sustainable. 2. **Sustainability Improvers**, at least 70% in assets that have the potential to improve E and/or S sustainability over time. 3. **Sustainability Impact**, aim to achieve a pre-defined positive, measurable, impact in relation to an E and/or S outcome (and invest at least 70% of their assets accordingly). **4. Sustainability Mixed Goals,** at least 70% in accordance with a combination of the sustainability objectives for the other labels.	must pursue at least one of the following investment objectives: 1. Alignment with one or more specific sustainability goals, or 2. Contribution to achieving one or more specific sustainability goals, based on an impact investment approach, a credible ownership approach or a combination of two.	1. **Integration Funds.** Funds that integrate ESG factors alongside non-ESG factors in investment decisions. 2. **ESG-Focused Funds**. Funds for which ESG factors are a significant or main consideration. 3. **Impact Funds**. A subset of ESG-Focused Funds that seek to achieve a particular ESG impact.
Content of product level disclosure	**A combination of pre-contractual, periodic and website disclosure regarding:** **For all products:** integration of sustainability risks in investment decisions, how risk factors impact portfolio returns, explanation of whether and why PAIs are considered and quantification.	**For all products using labels or sustainability-related terms in their names and marketing**: Consumer-facing disclosures to provide a summary of the products' key sustainability-related features. Additional detailed disclosure: o Pre-contractual disclosures, covering the sustainability-related	Based on the Federal Council's position, the product documentation or the financial service provider should specify whether the investment objective being pursued is an alignment goal, a contribution to the achievement of one or more specific sustainability goals, or a combination of both.	Funds considering ESG factors in their investment process to disclose additional info on their strategy, as follows: 1. **Integration funds**. How ESG factors are incorporated into investment process. If they consider GHG emissions, funds required to disclose additional information, including methodology and data sources

	Article 8 and 9 products: additional disclosure on ESG characteristics promoted, investment strategy and policy, benchmark index and index calculation methodology. **Article 9 products**: additional disclosure on ESG fund objectives, proof of alignment with EU Taxonomy and DNSH, impact measurement methodology, index methodology alignment with fund objectives.	features of investment products. o **Dedicated sustainability product report only for the labelled products** on an ongoing basis building on the TCFD product report (mainly including key sustainability-related performance indicators and metrics).	Financial service provider offering a sustainable product or service should describe its sustainability approach: 1. In case of alignment objective, how this is concretely achieved and measured in the investment process. 2. Under the impact investment approach, management process used to achieve the desired impact, key performance indicators for measuring the effective impact and monitor these indicators. 3. Under the active ownership approach, information on selection process for its target investments, coordination with other investors, process for influencing the target company, escalation procedures and the processes for assessing the effectiveness of engagement.	used as part of consideration of GHG emissions. 2. **ESG-Focused funds**. Detailed disclosure, including a **standardized ESG strategy overview table**. If they consider environmental factors in investment strategies, funds required to disclose **carbon footprint** and weighted average carbon intensity of their portfolio. Additional disclosure in case of **use of proxy voting or engagement** to implement strategy. 3. **Impact funds**. How it measures progress on its objective.
Content of entity-level disclosure	**Website disclosure** • Policies on the integration of sustainability risks in the investment decision-making process/ investment advice. • Statement on due diligence policy detailing whether PAIs are considered on investment decisions. This includes indicators,	**Disclosure for all in-scope asset managers** in respect of how the firm takes sustainability-related matters into account in managing investments on behalf of clients and consumers. Largely based on the ISSB proposed general sustainability-related disclosure requirements (IFRS S1).	*See above, depending on future proposal.*	Advisers considering ESG factors to make disclosures in their brochures with respect to their consideration of ESG factors in the significant investment strategies or methods of analysis and report certain ESG information in their annual filings.

	summary of engagement policies, confirmation of adherence to responsible business conduct codes and internationally recognized standards, disclosure of integration of sustainability risks in remuneration policies.			
Naming and Marketing	Marketing communication should not contradict information disclosed according to current SFDR.	**General anti-greenwashing rule for all FCA-regulated firms** to make sure that the naming and marketing of products in the UK is clear, fair and not misleading. **Product names and marketing materials.** Prohibit firms providing in-scope products to retail investors that do not qualify for the labels from using terms such as ESG, climate, impact, sustainable, responsible, green, etc.	To be defined.	No specific proposed amendments on marketing as the Marketing Rule[6] already prohibits an adviser from, directly or indirectly, distributing advertisements that contain any untrue statement of a material fact, or omitting to state a material fact necessary in order to make the statement made, in the light of the circumstances under which it was made, not misleading.
Audit	Not mandatory in the current SFDR. Consultation considers whether a third-party verification should be mandated.	Mandatory independent assessment of the robust, evidence-based standard for sustainability.	Implementation of transparency principles to be verified by an independent third party.	Not mandatory.

[6] Final Rule: Investment Adviser Marketing (sec.gov)