

Position Paper

SFDR Review: Priorities for trilogues

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The review of the Sustainable Finance Disclosure Regulation (SFDR) represents an important opportunity to fulfil the Regulation's original objectives, building on the proposed introduction of a voluntary product categorisation regime and the streamlining of disclosure requirements.

As the co-legislators begin trilogue negotiations, it is essential to maintain focus on ensuring that the product categorisation framework is workable in practice and provides investors with meaningful sustainability information while avoiding unnecessary operational complexity.

AFME welcomes the significant convergence emerging between the Council and the European Parliament on a number of important issues. In particular, we support:

- Achieving a clearer and more targeted application by confirming the exclusion of portfolio management and advisory services from the scope of SFDR 2.0.
- Retaining the removal of entity-level disclosures under Articles 4 and 5.
- Delivering timely burden reduction by applying the reduced scope and removal of entity-level reporting as early as possible following the Regulation's entry into force.
- Introducing an eligibility pathway for general-purpose sovereign debt under the Transition category.
- Retaining the Benchmark Regulation (BMR)-related "safe harbour" provisions under Articles 7 and 9.

These measures represent meaningful progress towards a more streamlined and proportionate framework and should be preserved in the final trilogue agreement.

In addition, we urge the co-legislators to give due consideration to the following priorities during trilogue negotiations:

- Maximising coherence between SFDR, MiFID and PRIIPs frameworks;
- Ensuring proportionate transparency for non-categorised products (Article 6a);
- Constructing the Transition category to facilitate transition finance in practice;
- Maintaining a proportionate approach to disclosures consistent with simplification objectives; and
- Integrating the categories with the "investable universe" of sustainable products.

We elaborate on these areas below reflecting upon the co-legislators' positions.

Maximising coherence between SFDR, MiFID and PRIIPs

AFME welcomes the co-legislators' progress in increasing consistency and coherence between SFDR and related sectoral legislation for the distribution of other financial products.

We strongly support the European Parliament's proposed Recital 7b, as well as amendments to Recital 13, which acknowledge the differences in scope between SFDR, MiFID and PRIIPs and confirm that products which incorporate ESG characteristics but are outside of the scope of SFDR would still be suitable for meeting clients' sustainability preferences.

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From a timing perspective, revised MiFID and IDD requirements must be in place before the application date of SFDR 2.0 to allow distributors and advisers to continue to recommend products with ESG characteristics as suitable for clients with sustainability preferences. Therefore, AFME also supports the Council's introduction of Recital 34a on aligning the application date of SFDR 2.0 with the revised MiFID sustainability preferences regime.

Taken together, these amendments are critical for ensuring the future coherence of SFDR, MiFID and PRIIPs and should be retained in the final compromise text.

Sustainability disclosures for non-SFDR PRIIPs

Consistent with the reality that products outside the SFDR perimeter may still be suitable for meeting investors' sustainability preferences, the PRIIPs Regulation must allow all PRIIPs products, including non-SFDR ones, to disclose how they consider sustainability factors in the "How sustainable is this product?" section of the Key Information Document (KID).

AFME supports the Council's amendments to PRIIPs (Article 2(2) amending Article 8(3) of Regulation 1286/2014), which allow PRIIPs outside the scope of SFDR to include information on whether and how a product considers sustainability factors or contributes to a sustainability objective within the KID. The wording of the accompanying/additional statement should be adjusted as follows to avoid the risk of retail investors mistakenly understanding that such products "cannot" be sustainable:

*"This financial product does not fall under the scope of Regulation (EU) 2019/2088 and thus **cannot is not categorised as sustainability-related financial product** under that Regulation."*

In contrast, we do not support the Parliament's amendments to PRIIPs, which would require a statement that a non-SFDR PRIIP *"is not categorised under the EU standards for defining sustainable financial products"*, while preventing any further disclosures on the product's sustainability characteristics in the KID. First, unlike the Council's formulation, an additional statement is required for all PRIIPs, not just PRIIPs disclosing information on whether and how it considers sustainability factors in the KID. Rather than explaining the differences in scope between SFDR and PRIIPs, requiring an additional statement for all PRIIPs regarding SFDR categorization creates unnecessary burdens and will confuse end-clients. Second, as set out above, some non-SFDR products have a sustainability objective or consider sustainability factors but are outside the scope of SFDR. Products outside of the SFDR scope such as structured products still comply with other EU standards and regulations for defining sustainable products such as the EU Green Bond Standard or the Prospectus Regulation. Therefore, the additional statement without any further permitted disclosure would mislead investors as to the ESG characteristics of such non-SFDR products and could lead to suppression of material investor information from the KID. The Council amendments to PRIIPs ensure the greatest coherence between the overlapping PRIIPs, MiFID and SFDR regimes and should be retained with the above wording.

Ensuring proportionate transparency for non-categorised products (Article 6a)

Both the Council and Parliament add additional statements for non-categorised products (Article 6a SFDR).

Any additional statement required for non-categorised products under Article 6a should remain strictly neutral and factual, stating only that the product is not categorised under SFDR, rather than referring more vaguely to "EU standards" or "not meeting the minimum criteria... under EU law". Should the co-legislators consider an additional disclaimer under Article 6a necessary, we consider a neutral formulation to be the most appropriate, adapted from the Parliament's proposal: *"Financial market participants disclosing information under paragraph 1 of this Article shall include a statement in a prominent manner in the information referred to in Articles 6(3) and 11(2) confirming that the financial product is not categorised under ~~the~~*

Regulation (EU) 2019/2088~~*EU standards for defining sustainable financial products and thus is not required to disclose its negative environmental impact.”*~~

Constructing the Transition category to facilitate transition finance in practice

The Transition category should capture products supporting companies or assets that are not yet sustainable but are on a credible transition pathway, including those in high-impact sectors where transition finance is most needed. With this objective in mind, AFME has been highlighting, from the outset of the legislative process, the importance of avoiding exclusion criteria for Article 7 that go beyond the Climate Transition Benchmark (CTB) exclusion baseline.

While we recognise both co-legislators' efforts to integrate a forward-looking perspective into the Article 7 exclusion criteria, we support retaining the Council's formulation of Article 7(1)(b) and (c). The Council's approach better reflects the purpose of the Transition category by allowing financial institutions to engage with companies and assess a range of factors relevant to credible transition pathways, including capex, transition planning and GHG emissions reduction strategies.

The European Parliament's version would introduce additional prescriptive conditions under Article 7(1)(c), adding complexity, while retaining a reference to Article 12(1)(d) of Delegated Regulation (EU) 2020/1818 (Paris-Aligned Benchmarks) under Article 7(1)(b). Backward-looking revenue thresholds do not allow for active “brown-to-green” strategies where financial institutions engage with clients to fund decarbonisation. In any case, it is unclear how the 1% revenue threshold from the Paris-Aligned Benchmarks (PAB) criteria in Article 7(1)(b) would reconcile with the forward-looking conditions set out under Article 7(1)(c).

Even if the PAB benchmark provisions are removed from Article 7(1)(b), the Parliament's proposed approach raises significant operational challenges and complexity. The definition of “new projects” under Article 7(1)(c)(iv) is not available in standard market datasets and would require issuer-by-issuer, project-level assessments, which are not operationally feasible for large, diversified investment universes managed by asset managers. It is also not clear how the rolling capex in Article 7(1)(c)(iv) would be measured.

Maintaining a proportionate approach to disclosures consistent with simplification objectives

Entity-level disclosures

We welcome the retention of the removal of entity-level disclosures under Articles 4 and 5, which is important to deliver simplification and avoid duplication with sustainability reporting under CSRD. On the other hand, we do not see sufficient added value in the Parliament's proposed additional disclosures under Article 3, requiring the disclosure of information on the proportion of AUM and number of products that are invested in each category, relative to total AUM and total number of products.

In addition, from an implementation perspective, we are concerned about the Parliament's proposal to apply this additional Article 3 requirement immediately upon the Regulation's entry into force. If the additional disclosure is anticipated to “require minimal administrative burden”, as stated in the Parliament's Recital 10, it must come into force at the same time as the categorisation regime itself. Firms cannot determine and report such figures before the categorisation regime is in place. If retained, at a minimum, the disclosure obligation should be aligned with the application of the new categorisation regime (24 months transitional period) and accompanied by appropriate transitional provisions.

Product-level disclosures

It is important to preserve a sufficiently flexible and proportionate approach to product-level PAI disclosures, in line with the Commission's initial proposal and simplification objectives. AFME supports the Council's approach to product-level PAI disclosures. While the Council introduces a more structured framework than the Commission proposal, it retains an element of flexibility based on relevance to the financial product.

The Parliament's product-level disclosure regime introduces a new requirement under Article 8(3)(da) for ESG Basics products to disclose the proportion of investments in Taxonomy-aligned economic activities. This creates an apparent inconsistency between categories: for Transition and Sustainable products, the Parliament's formulation of Articles 7(3)(d) and 9(3)(d) require information on the use of Taxonomy-aligned investments *only where the product pursues an environmental objective*. By contrast, Article 8(3)(da) would require the disclosure for all ESG Basics products, irrespective of whether their strategy has an environmental focus. It is not logical or proportionate for the least ambitious/broadest ESG category to be subject to a broader mandatory Taxonomy disclosure than the Transition and Sustainable categories. We therefore recommend removal of the Taxonomy alignment disclosure requirement for the ESG Basics category, or at the absolute minimum, consistently applying the same environmental-objective limitation across all three categories.

Integrating the categories with the “investable universe” of sustainable products

AFME supports the Council's recognition of use-of-proceeds instruments issued pursuant to established market-led initiatives within the Article 9 investment criteria. Green, social and sustainable instruments issued by public-sector bodies and corporate issuers continue to form a significant part of the sustainable investment universe, and explicit recognition of these standards provides legal certainty for issuers and investors. The final agreement should also clearly recognise the use-of-proceeds instruments aligned with credible market standards in the Article 7 criteria, such as green, sustainability-linked or “transition” bonds.

About AFME

AFME represents a broad array of European and global participants in the wholesale financial markets. Its members comprise pan-EU and global banks as well as key regional banks, brokers, law firms, investors and other financial market participants. We advocate stable, competitive, sustainable European financial markets that support economic growth and benefit society. AFME is registered on the EU Transparency Register, registration number 65110063986-76.

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