

Response to ESAs joint consultation on taxonomy-related sustainability disclosures

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Contact person:	Andrea Pintus, Francesca Bertolo	E-mail:	investments@insuranceeurope.eu
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General comments

Insurance Europe appreciates the possibility to provide comments to the European Supervisory Authorities (ESAs) consultation product disclosures under the Taxonomy Regulation. The proposal of a single rulebook is welcome, as it helps avoid overlaps and duplications between Sustainable Finance Disclosure Regulation (SFDR) and Taxonomy Regulation (TR), while making regulatory requirements more efficient.

However, in order to achieve the Taxonomy's objectives, some areas require urgent attention:

Timing: the timing and sequencing of the taxonomy-related work on risks is very inefficient and this will cause practical difficulties and needlessly double the required implementation efforts. This will needlessly create additional costs and challenges for financial market participants (FMPs). The taxonomy-related product disclosure requirements will amend the regulatory technical standards (RTS) of the SFDR. Since the final RTS and related templates will only be published in the Official Journal of the European Union (OJEU) very late in 2021 – or even after the application date of 1 January 2022 – it is key that:

- The Taxonomy Regulation (TR) RTS are published in the OJEU as soon as possible and only introduce **essential changes** to the SFDR RTS.
- Subsequent amendments to the SFDR templates should not result in a **double implementation effort by FMPs**. It is of utmost importance that changes in the templates will not create unjustified burdens, and operational and IT costs.
- The European Commission (EC) should consider further **safeguards** in case the final RTS are not adopted sufficiently early to enable FMPs to gather the necessary information and to adapt their practices to comply with the RTS. In this respect, one solution would be to take a similar approach to that suggested by the European Supervisory Authorities (ESAs) in their supervisory statement on the SFDR, which already recommends specific safeguards for targeted aspects of the RTS in case they are not adopted sufficiently early. These safeguards would also acknowledge the fact that investee companies need time to report on their taxonomy alignment, as only two of the criteria for taxonomy objectives have been defined so far (Delegated Acts on mitigation and adaptation approved by the EC in April 2021).

Content: an alignment of taxonomy-related disclosures with those under the SFDR can help to avoid overlaps and duplications. However, the following issues need to be considered:

- Using separate pre-contractual and periodic templates for Article 5-6 TR products, instead of using the same templates for all Article 8-9 SFDR products, would be very confusing and introduce two additional categories.
 - Recommendation: Article 5 TR should refer to information requirements for Article 9 SFDR products and Article 6 should refer to information requirements for Article 8 SFDR products.
- The final templates risk being too detailed, overly complex and long for customers.
 - Recommendation: the TR RTS should only introduce essential changes and a broad use of links in the mandatory templates should be allowed.
- Attention should be paid to avoid inconsistencies and confusion for consumers regarding specific terms and definitions: eg “environmentally sustainable economic activities” and “DNSH”.
 - Recommendation: Ensure that templates are understandable for consumers and avoid inconsistencies.
- Regarding the specific taxonomy computation for the calculation of the key performance indicator (KPI) to be disclosed (turnover, capex, opex), there is a lot of confusion in terms of how this would work in practice and to what extent the indicators would be comparable across FMPs.
 - Recommendation: the ESAs should consider testing these templates on real products in the market. Consumer testing should have also been considered at earlier stages.
- It is important that a consistent approach is followed across legislation, especially with respect to the Level 2 of the TR for entity disclosures under the NFRD (Article 8 of the TR), as well as across related sustainability workstreams run by EU regulators/supervisors.
 - Recommendation:
 - The European insurance sector suggests ensuring that customers have a full understanding of the product (which is also in line with the different KPIs proposed in the draft EC Delegated Act on article 8 TR) and suggest the use of:
 1. A main KPI with an indication of the taxonomy alignment of the product with respect to eligible investments. For this reason, the industry ESAs should consider a mandatory KPI of taxonomy-aligned activities based on eligible investment (see below) considering that:
 - Total investments in the denominator of the KPI should focus on eligible investments: ie equity and corporate bonds, infrastructure, real estate investments and green sovereign bonds. If the denominator includes investments other than eligible investments, it is essential that the disclosure requirements ensure transparency and completeness of information provided to consumers in terms of both eligibility and alignment. This would allow them to trace low alignment values to low eligibility values (where relevant).
 - Sovereign bonds (other than green) should be excluded for the time being, as they are strictly non-eligible under the TR. Similarly, derivative contracts should be out of scope, as they are not directly connected to an activity covered by the Taxonomy and their inclusion would be overwhelming and require specific methodology. These exclusions would also be consistent with the draft EC Delegated Act on entity-level disclosures.
 2. A complementary optional measure with an indication of the taxonomy alignment of the product with respect to all investments. In this respect, the ESAs should review the calculation of the proposed KPI, so that it is aligned with the draft EC Delegated Act on taxonomy-related disclosures at entity level, so that information flows between entity and product information is consistent.
 - The disclosure for the breakdown of the investments in enabling and transitional activities should be consistent with the information disclosed by financial and non-financial companies, as well as the KPI methodologies. In order for FMPs to disclose such splits in their templates, it is important that financial and non-financial undertakings report such information together with the Article 8 information.

- The ESAs should align the KPI methodologies with the EU Taxonomy Climate Delegated Act and consider consistency with the EU Ecolabel criteria for retail financial products.
- With respect to the choice between taxonomy-aligned turnover, capital expenditure or operating expenditure, the industry does not see the need to recommend applying the same approach to all investments made by a given financial product. On the contrary, it finds this inconsistent with the TR.
 - Recommendation:
 - FMPs should retain flexibility on the measurement of taxonomy-aligned activities, as this depend on the screening criteria of each activity. Reporting should be possible for all investments without exclusions. All such information is irreplaceable for investors from an investment perspective.

ESG data/information: it is key that new product-level disclosures are realistic and adequately consider existing issues with ESG data quality and availability. It will be very difficult to provide meaningful taxonomy-related disclosures due to a number of issues, such as:

- The taxonomy screening criteria are very detailed, as they are at the level of economic activities of investee companies. Without publicly available ESG information, there is a risk of inconsistent results across different investors who may arrive at different assessments for the same investment/company.
- Market participants and investors invest in thousands of different investments and would all have to do their own certification/assessment for each investment. There is a clear need for all companies to publicly disclose ESG information, with sufficient detail for FMPs to comply with their disclosure obligations. It is, therefore, important that taxonomy alignment information is publicly disclosed for a sufficiently large scope of investee companies.
- Financial market participants might not have access to sufficiently reliable information for companies that are not in the scope of the Corporate Sustainability Reporting Directive (CSRD). In this case, to avoid reputational or legal risks, it should be stressed that disclosures shall only be required on a reasonable best-efforts basis. Data gaps are especially important for MOPs: as the same application date applies to all FMPs, insurers need information from asset managers in advance to prepare their own disclosures.
- These screening criteria have not yet been finalised: the DAs on the TR objectives are still under development and very few economic activities are currently covered by the TR DA (some estimates, in line with EC testing, show that the TR covers below 5% of listed companies in the EU). Therefore, the share of investments aligned with the TR is likely to be very small for most Article 8 products, and maybe even Article 9 products.

Questions from joint consultation paper

Q1. 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 European insurance industry supports the idea of a single rulebook for SFDR and TR, to help avoid conflicting regulations and to provide coherence in approaches, definitions, and the use of KPIs. Before the finalisation of the TR, the insurance industry advocated in favour of the alignment of taxonomy-related disclosures with those under the SFDR to avoid overlaps and duplications, while making regulatory requirements more efficient. Time efficiency, resources availability and level of sophistication are also good reasons to support the maximum level of convergence.

However, the following issues still need to be addressed:

- The new ESG product templates - based on the SFDR as amended by the TR – will be published in the OJEU only very late in 2021, therefore leaving **too limited implementation time** for insurers. In fact, even the TR itself prescribes that “the obligation set out in this Regulation should become applicable, [...], 12 months after the technical screening criteria have been established” in order to give sufficient time to the relevant actors to prepare (recital 57 TR). In addition, the draft EC Delegated Act on taxonomy disclosures fully acknowledges this issue at entity level in Recital 13: *“In view of the entry into force and application of Commission Delegated Regulation [Climate Delegated Act] by end of 2021 and material difficulties for assessing compliance of economic activities in 2022 with technical screening criteria laid down therein for the previous reporting year, the application of this Regulation in 2022 should be limited only to certain elements and qualitative reporting. This Regulation should therefore apply fully only from 1 January 2023.”*
- Subsequent amendments of SFDR templates should not result in a **double implementation effort by FMPs**. It is of utmost importance that changes in the templates do not create unjustified burdens and operational and IT costs.
- The ESAs should introduce further **safeguards** in case the final RTS are not adopted sufficiently early to enable FMPs to gather the necessary information and to adapt their practices to comply with the RTS. A solution could be to introduce a dynamic deadline for targeted aspects of the RTS implementation. There are other practical examples of Union law providing for dynamic deadlines: eg Art 74 of the PEPP Regulation, where the application should start 12 months after the entry into force of the Delegated Regulation.
- The **draft templates for sustainable products are already overly complex and long for customers**.
- The **data quality and availability are still an issue**, further complicated by the fact that the TR screening criteria have not been finalised yet. A single rulebook can also ease the already very complex data availability and mining challenge faced by financial market participants, as external providers will be better equipped and able to provide services, data and a common language to end users. In this respect, it is important that the final RTS are consistent with the EC work on the Delegated Act on taxonomy disclosures at entity level and the rules about non-financial reporting provided in the NFRD. Alignment of the timelines and content of these obligations is important to allow for adequate data flows and a feasible implementation.

Q2. 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 approach to the proposed KPI for investments is welcome, in particular with respect to the ESAs efforts to achieve consistency between the information provided at entity and at product level. However, the European insurance industry would like to raise some comments aimed at achieving consistency across legislative measures and to improve the quality of disclosures.

With respect to the choice between taxonomy-aligned **turnover, capital expenditure or operating expenditure**:

- **The industry is of the view that all the KPIs should be reported separately. It does not see the rationale nor the need to apply the same approach to all investments made by a given financial product**, since that would exclude all investments that are not reported according to the chosen metric. This would imply that FMPs would not be able to fulfil their reporting requirements. The proposal implies that the choice and use of a certain methodology (turnover, capital expenditure or operating expenditure) is made by the FMP or the reporting company, when in fact it is determined by the screening criteria for the activities under the TR. Therefore, the sector recommends that the RTS do not ask FMPs to make any unnecessary choice in the KPI to report on, and refers back to the recommendations of the Technical Expert Group on Sustainable Finance on the use of turnover, capital expenditure or operating expenditure, as well as the draft EC Delegated Act on taxonomy-entity level disclosures which requires reporting of both turnover and capex. If possible, the ESAs should consider a combined measure for the three KPIs based on a consistent and clear methodology for aggregation.
- While the insurance industry understands the challenge faced by the ESAs in providing comparable disclosures for a range of different financial product for different investors, it is of the view that information related to turnover, capital expenditure and operating expenditure has limited add-value to product disclosures for retail customers. The industry notes that **all such information is vital for investors** to assess the credibility of a company's strategy from an investment perspective, as it allows proper construction of green portfolios and analysis of companies' sustainability performance and strategies. Maintaining the use of capex and opex is key for capturing a dynamic picture of the portfolio, whose communication is key for customers buying and holding financial products with a long run perspective.
- Equally important, if FMPs are to report on all investments, they cannot choose only one KPI based on turnover to report on: they must report on the KPIs separately. This is key because:
 - An economic activity listed in the draft Commission Delegated Regulation establishing the technical screening criteria for **taxonomy-aligned activities can be measured in one of three ways depending on the type of the activity**. If the activity is a product or service (eg 3.2. Manufacture of equipment for the production of hydrogen), then it is measured by its share of total turnover. If the activity is an investment or expenditure (eg 5.4. Renewal of wastewater collection and treatment), it is measured by its share of capital expenditure or operational expenditure. In line with this rationale, FMPs should be able to use taxonomy-related information based on turnover, capex and opex, as published by investee companies (with the exception of undertakings not in scope of the CSRD).
 - If turnover was the recommended choice, then there would be a constraint limiting the ability of sustainable products to consider investments contributing to climate change adaptation as most of these activities are measured by capital expenditure or operational expenditure. As indicated in the EU Taxonomy Climate Delegated Act, **turnover, in most cases, cannot be recognised for activities contributing to climate change adaptation** (see recital 48: "*only capital expenditures incurred for all steps necessary for making the activity climate resilient should be considered as the proportion of capital and operating expenditure related to assets or processes associated with economic activities that qualify as environmentally sustainable and that turnover from that economic activity that has been made resilient should not be counted as derived from products or services associated with economic activities that qualify as environmentally sustainable*"). With

respect to the objective of climate change adaptation, turnover can only be used for enabling activities. **Only capex and opex can be recognised for substantial contribution to climate change adaptation.** In this respect, flexibility is also recommended to allow meaningful disclosures with respect to the future Delegated Regulation on non-climate objectives.

- There is a clear rationale in the TR for non-financial undertaking to disclose the proportion of turnover, capital expenditure and the operating expenditure (depending on the activity). Such disclosures need to provide a clear understanding of the multiple economic activities in which a company is involved. In line with the objectives of the taxonomy, disclosures are not limited to prevent greenwashing, but also aim to help investors and the public to understand companies' trajectory towards sustainability, in line with the broader objectives of the European Green Deal. Aside from helping investors analyse a company's investment in its existing and new assets, capital expenditures can give an indication of a company's strategy for improving environmental performance and resilience. **While turnover gives a clear snapshot of investments in taxonomy-aligned activities, capex gives a very good sense of a company's transition path** (see also report by the EU Sustainable Finance Platform of 19 March, which recommends that capex disclosures are prominent and accessible: "*Capex disclosures should be treated with similar importance to turnover disclosures. The primary ratios of all actors – financial and non-financial – should be reported both in terms of turnover alignment as well as capex alignment to the extent possible. Financial products that fall under the scope of the Taxonomy Regulation should strive to disclose alignment using both financial metrics*" (page 20).
- Flexibility on the methodology would also allow for **consistency with the EU Ecolabel criteria for retail financial products.**

With respect to the **breakdown of the investments in enabling and transitional activities:**

- The insurance sector stresses the need for further guidance. This requirement appears inconsistent with the above-mentioned methodological choice between turnover, capex and opex. For example, if an FMP was to only consider turnover in its KPI, then it would be likely to be unable to disclose on transitional activities as in most cases they tend to be identified through capex.
- The ESAs are invited to take note of potential inconsistencies that arise when considering information disclosed by financial and non-financial undertakings. At this stage, there is no Level 1 requirement for a non-financial undertaking to disclose the breakdown of the investments in enabling and transitional activities. In order for an FMP to disclose such a split in its templates, it is key that financial undertakings report such information together with the Article 8 information. Beyond compliance with their disclosures, this information would help FMPs to better understand the sustainability strategy of the companies.

With respect to the **application time of these specific KPIs disclosures**, the industry appreciates the reference to Article 8 of the TR on disclosures made by companies under the scope of the NFRD, as this is key for consistent and reliable disclosures. The industry notes that information under such entity disclosures will only be available after the first reporting period referring to the previous year. In this respect, the industry notes that FMPs will need the latest available data disclosed by investee companies as per Article 8 TR. Therefore, proposed product obligations are dependent on entity-level information and should, therefore, account for timing and data collection considerations.

Q3: *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?*

Insurance Europe is aware that the disclosures related to operational expenditure KPIs are not yet currently very common. Opex is not frequently used by issuers and its breakdown is therefore not really used in financial analysis and for investment. However, as investors, opex could still provide relevant information to complement turnover and capex information about alignment of companies' activities with the TR.

It is also important to note that the opex is identified as a relevant indicator in the TR and that the choice of the KPI (turnover, capex, opex) is not made by the reporting company or by the reporting FMP. On the contrary, it is usually related to the economic activities. Since information related to operational expenditure is expected to become more widely available as non-financial undertaking reported taxonomy-related KPIs and the taxonomy are developed, the sector recommends that FMPs are allowed to report additional opex-related information, if relevant, to complement the main KPIs based on turnover and capex.

Q4: *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?*

No. The insurance industry is of the view that derivatives should not be in the scope of the indicators.

Their inclusion would:

- Not add significant value to customers and make disclosures for direct investment significantly more burdensome for FMPs.
- Require clear guidance and robust methodology, which still needs to be developed. A number of issues need to be treated first, including:
 - Methodologies to deal with issues of valuation (eg nominal or mark-to-market) and types of derivatives (ie interest rate swaps, FX derivatives, commodities-related derivatives). There might be cases such as in futures where, even if it would be possible to calculate a KPI, the exposure might result in a negative total contribution to a specific KPI and questionable economic meaning.
 - Distinction between the objective behind the use of derivatives (eg hedging in risk management, short-term holding for a one-off de-risking of the solvency ratio or other portfolio management practices), coherently with ESMA's recommendations (eg ESMA's advice on netting and short-selling).
 - Consistency with taxonomy-related disclosures at entity-level. The Commission's proposals of 7 May currently exclude derivatives of the financial undertakings from the entity-level KPIs. Consistency of these entity disclosures and the product-level disclosures is important, as they will be closely interlinked and will be necessary under the current ESAs proposal in Article 16b of the RTS.
 - Way to deal with the application of sectoral and normative exclusions on certain derivatives (eg index-linked derivatives), which are not under the control of FMPs.

As derivatives are, by definition, not directly connected to an activity covered by the TR, they should be left out of scope. Before any proposal on this inclusion is made, a thorough analysis considering each derivative/category of derivatives on an individual basis would be necessary.

Q5: *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?*

Given the context of the wording, the use of "equities" and "debt instruments" appears sufficiently clear to capture relevant instruments issued by investee companies.

Regarding the valuation criteria, the industry agrees that market value should be used to ensure comparability.

Q6: 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?

The European insurance sector is of the view that the proposed disclosures should provide investors with complete and clear information that allows them to have a full understanding of the product, in line with the different KPIs required in the draft EC Delegated Act on article 8 TR. While the sector acknowledges the efforts made by the ESAs to limit the complexity of the proposed disclosures, this should not come at the expense of clear information. Disclosures should therefore provide:

1. A main mandatory KPI with an indication of the taxonomy alignment of the product with respect to taxonomy eligible investments. For this reason, the industry suggests that the ESAs consider a KPI of taxonomy-aligned activities based on eligible investment (see below).
2. A complementary optional measure with an indication of the taxonomy alignment of the product with respect to all investments. In this respect, the ESAs should review the calculation of their proposed KPI so that it is aligned with the draft EC Delegated Act on taxonomy-related disclosures at entity level, so that information flows between entity and product information is consistent.

Therefore, the industry proposes that:

- Besides showing the main KPI as a proportion of total investments financing “taxonomy-aligned” activities in relation to **“taxonomy-eligible” investments of the portfolio**, the template should allow the possibility to disclose the proportion of investments financing “taxonomy-eligible” investments in relation to total investments. This would provide a complete and more transparent picture for customers.
- The template contains, alongside the KPI graph, an **explanation field** where FMPs can describe the product’s investments and the investments’ relation to the TR in more detail. This is particularly important, as investments can be sustainable without being taxonomy-aligned, and it should be possible to clearly communicate this to the customer.

1. Specifically, the industry recommends that the ESAs consider a KPI with a denominator based on eligible investments. In this case, the denominator would **exclude all assets that cannot be assessed for taxonomy-alignment** so as to consider the following:

- **There is a risk that the taxonomy-alignment of a financial product compared to all investments will not be very informative for the time being** and will be difficult to understand by and communicate to customers in the coming years. A focus on eligible investments would allow insurers to indicate the **share of total investments that cannot be assessed for taxonomy-alignment**. This would provide a better picture of the taxonomy-alignment of the product, with sufficient transparency about the product composition. The disclosures should allow to also indicate the **share of total investments that cannot be assessed for taxonomy-alignment**. This would provide sufficient transparency about the composition of the product. This is because the evolution of the TR is dynamic and, at this point in time, only a relatively small section of economic activities and only private investees situated in the EU and reporting under NFRD are covered by the TR. Even the economic activities in sectors that are already covered by the TR will only partially meet its criteria. This should be disclosed, especially to clarify the difference between taxonomy-aligned environmental investments and environmental investment that are not taxonomy-aligned (this is important, as many investments could qualify at later stage as the taxonomy is developed). Indeed, in its communication on EU Taxonomy of 21 April, the European Commission itself stated that early testing of the technical screening criteria has shown a low overall TR alignment in companies’ activities and investment portfolios (*“between one and five percent, with many companies and investment portfolios standing at zero”*).
- There are some concerns about the inclusion of all investments in the denominator and in particular of sovereign bonds, which are an important asset class for (re)insurers, especially for the types of long-term products in the scope of the SFDR. This inclusion would:
 - Dilute the proposed ratio, resulting in negative consequences in terms of **comparability of very different products in the scope of the SFDR**.

- Penalise investors with **diversified and international portfolios** such as (re)insurers, as they invest to a great extent in assets that are not yet covered by the TR, including sovereigns bond and investments that do not fall under the NFRD (ie international investments, SME investments, etc – where the investor might find more difficulty in collecting the relevant information for the TR assessment).
- It is important to note that investments in asset classes not currently in the scope of the TR (eg sovereigns) often reflect **other characteristics of the financial product**, such as the risk level. A guaranteed product, or a product with an aim to deliver a stable return, often have a higher allocation to these types of investments. It would not be fair to compare a KPI for such a product with, for example, an equity fund where all assets can be assessed for taxonomy-alignment.
- Finally, for comparability reasons between insurers and FMPs, it is important that **no discretion is left to FMPs about whether or not to include sovereigns in their KPIs** and that the exact same rules as to the nominator and denominator apply for all FMPs. In this respect, Insurance Europe notes that the draft EC Delegated Act on Article 8 taxonomy-related disclosures clearly states that “*the exposures to central governments and central banks shall be excluded from the numerator and denominator of key performance indicators of financial undertakings.*” It is important that KPI at product level and entity level have the same methodologies for consistency.

2. As it is relevant for customers to also know the proportion of taxonomy-aligned investments in relation to the whole portfolio, the industry would also recommend that another optional measure based on all investments is disclosed. In this case, the ESAs are encouraged to review the calculation of their proposed KPI, so that it is aligned with the draft EC Delegated Act on taxonomy-related disclosures at entity level. The method to report the share of investments aligned with the TR at entity level and at product level should be the same. Consistency of information between entity and product information is important, as product and entity disclosures are closely intertwined.

Finally, Insurance Europe appreciates the fact that consistency is needed across legislation, especially the Level 2 of the TR for disclosures under the NFRD (Article 8 of the TR) and across workstreams run by EU regulators/supervisors so that a harmonised set of consistent disclosures can be achieved. For instance:

- Eligible total investments should include equity and corporate bonds, infrastructure, real estate investments and green sovereign bonds. However, it should exclude sovereign bonds (other than those that are green) as they are strictly non-eligible under the TR. Their inclusion risks unjustifiably putting some products at a competitive disadvantage with respect to others.
- The link with the share of activities associated with environmentally sustainable activities disclosed by those companies under their Article 8 TR disclosures is appreciated. However, for Article 8 disclosures, more clarity would be appreciated regarding what numerator value should be used for insurance companies. In addition, the lack of data availability should be addressed. Indeed, over 6,000 large companies currently subject to the NFRD will publish their turnover, capex and opex that are aligned with the TR. However, the majority of the companies and asset owners will not report necessary data for compliance: eg SMEs, non-listed companies and non-EU companies will not be obliged to report this information. This lack of data will affect reported ratios, depending on the methodological choice (ie whether the lack of available data means no alignment to the TR or whether those investments should be excluded from the ratios or whether companies would be allowed to apply a proxy).
- To better align the product level disclosures with the entity level disclosures, the ESAs should consider a graphical representation that enables investors to have a full understanding of the product, in line with the different KPIs required in the draft EC Delegated Act on article 8 TR. If the ESAs take the view that this is too complex, then the graphical representation should be based on the eligible investments only, and additional explanation related to total assets should be reported in an ad hoc explanation field.

Q7: *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?*

In principle, the industry agrees with the proposed statement of TR compliance.

With respect to the assessment by external or third parties, besides transparency, there is no significant added benefit for such a statement compared to its cost. On the contrary, if the assurance provided is focused on the statement rather than on the TR assessment of the economic activities, the assessment of the statement risks being confused with a guarantee of better disclosures, which is not necessarily the case, especially because the reliability of taxonomy-related information will be directly dependent on the TR screening assessment performed by the investee companies (and disclosed by investee companies as noted by the RTS, eg Article 16b, rather than FMPs). In this respect, it should be made clear that for the computation of these key performance indicators (KPIs), FMPs will be allowed to use the latest available data disclosed by investee companies as per Article 8 TR, which in practice might also be the prior year's TR reporting data, on a best effort basis.

The industry therefore notes that the assessment of such a statement in such a general way might bring about more negative consequences than benefits. The industry therefore considers that:

- Such an assessment by external or third parties is premature and represents an unnecessary cost barrier to market sustainable products for small and less-resourceful FMPs.
- The question of reliability of taxonomy-related information should be first addressed in the context of the proposal on the Corporate Sustainability Reporting Directive (CSRD) and related taxonomy disclosures at entity-level. Should the EU impose assurance requirements for investee companies, then reliability would be based on the fact that FMPs would use the data directly published by non-financial investee companies in their disclosures. Information collected by FMPs would then indirectly benefit from assurance. The same consideration applies to the future EU Green Bond standard.

Q8: *Do you have any views on the proposed periodic disclosures which mirror the proposals for pre-contractual amendments?*

The insurance industry appreciates the coherency of the proposed approach. It is logical to mirror the pre-contractual disclosures as laid out in the proposed RTS for the periodic disclosures, as it is important to ensure coherence with the structure of the SFDR RTS.

If investee companies begin to report their TR alignment only in 2022, the periodic disclosures level 2 requirements can hardly be fulfilled before 2023 as FMPs will not have the necessary data to comply in 2022. It is key that the ESAs do not overlook this issue as it is key to successful implementation.

Q9: *Do you have any views on the amended pre-contractual and periodic templates?*

Insurance Europe wishes to reiterate that product disclosures must be simple and meaningful, and designed around consumers' needs and expectations. Thorough consumer testing – if encompassing a broad and representative sample of markets, consumers and different products – is key to ensure that any proposals are workable for all products in scope and truly improves consumers' understanding. However, the fact that the TR RTS consumer testing was run in parallel to this ESAs public consultation has not allowed the ESAs to factor-in the outcomes of the consumer testing in the proposals included in the public consultation. Stakeholders are being consulted on options and methodologies that are still incomplete or a work-in-progress. Moreover, the ESAs will have very limited time to analyse all the responses to the public consultation and the findings of the testing, and then develop appropriate proposals rules accordingly.

Following the publication of this consultation, at the ESAs public hearing on 29 April, the ESAs presented the outcomes of the consumer testing on the draft sustainability templates. The industry understands that the consumer testing was conducted only in two countries: in the Netherlands through the Consumer Panel of the Authority for the Financial Markets, and in Poland in cooperation with the Warsaw School of Economics. However, this sample is not representative of the variety of EU consumers and markets, especially in terms of education. Moreover, only part of the revised templates were tested, in isolation from all the other financial and non-financial information received by consumers.

Despite this simplified approach, concerns were raised by respondents over: length, complexity, density of the text, unclear language and possible repetitions across sections of the revised templates. Respondents also raised concerns over the layout and attractiveness of the template and the complexity of the introductory table in page one. A number of stakeholders raised similar concerns during the ESAs' public hearing, highlighting the risk of information overload and consumers' confusion.

Insurance Europe's preliminary assessment already indicates that over 6-8 pages will be necessary for the pre-contractual document of a single, simple fund, and 20, 50 or even 100 pages for the periodic document of a multi-option product (MOP), which is not going to help consumers understand and digest the information received.

To put this in a broader context, the 2016 Solvency II Directive and 2018 PRIIPs Regulation, IDD and GDPR have led to a 250% increase — from 33 to 115 — in the number of individual disclosures that a broker is required to make to a customer at the precontractual stage when selling an insurance-based investment product. And the number of disclosures for an online sale is now an infeasible 174, counting the new Regulation on sustainability-related disclosures. This number will increase even further with TR RTS, up to 190. In practical terms, considering the overall requirements applicable at national level, this could mean that consumers will be provided with more than 50-80 pages of pre-contractual information if they are interested in a simple MOP with ESG objectives and investing in activities aligned with the TR.

This excessive length also makes the accessibility of the templates via digital tools (eg a smartphone or tablet) even more difficult. Consumers need to easily find the most important information they are looking for regardless of the device they use to access the document, but the mock-ups provided do not achieve this objective. Data shows that the presentation of product information on smartphones or tablets is key. A report based on Google data ([link](#)) shows that the use of mobile devices in insurance searches increased dramatically since 2008 (+156% for life insurance between 2008 and 2014). The same report highlights that 67% of consumers who access the internet through a smartphone or tablet are more likely to take action – buy a product, complete a form or download an app etc – on a website that is optimized for mobile devices.

The SFDR templates are already very heavy and only minimal essential changes should be introduced, while allowing the use of links to existing information where possible. In order to aid the implementation of the templates by FMPs, the ESAs and the Commission should consider developing an editable version of template in all official languages of the EU, as it was successfully done for the Insurance Product Information Document (IPID) template under the Insurance Distribution Directive ([link](#)). The editable versions should be released as soon as possible, with no obligation for FMPs to use these specific files in case they choose to develop their own templates according the regulatory requirements.

Attention should be paid to avoid inconsistencies and confusion for consumers:

- Firstly, in the pre-contractual templates (Annex II & III), the graphs under section "What is the asset allocation planned for this financial product?" and section "What is the minimum share of investments aligned with the EU Taxonomy?" both use the term "sustainable", but refer to two different definitions (Article 2.17 SFDR and Article 3 TR). The same issue is true for the periodic templates (Annex IV & V). It is very likely that this will be confusing for the customer. It may therefore be helpful to differentiate more clearly between the two definitions. For example, instead of the label "Sustainable: Taxonomy", the label could be "Taxonomy-aligned investments", as in Article 16b.

- Secondly, the proposed definition of “environmentally sustainable economic activities” in the RTS includes only taxonomy-aligned activities. Given that there are other environmentally sustainable activities than the taxonomy-aligned ones, this definition is misleading and raises the question of how to refer to the non-taxonomy-aligned environmentally sustainable activities. It would be more appropriate and less confusing for consumers to follow the labelling example in the previous subparagraph and include “taxonomy-aligned” in this definition.
- Lastly, there is also a significant risk that the statement referred to in Article 6 TR will be misleading for consumers. This statement says that the “do no significant harm” principle applies only to those investments underlying the financial product that take into account the EU criteria for environmentally sustainable economic activities. At the same time, consumers are provided with information in the template on how all other sustainable investments do not significantly harm any of the sustainable investment objectives. It is obvious that consumers in general will not have the knowledge or ability to differentiate between the TR-DNSH and the SFDR-DNSH: therefore, this set up will only lead to confusion.

While it is important to clarify these specific terms and definitions to ensure good consumer understanding, they also confirm the general difficulties in making these templates designed around consumers’ needs and expectations and underlines the strong need for proper consumer testing.

Also, some provisions make use of the term “*minimum share*” of investment. It is important to delete this wording, as not all financial products necessarily establish a minimum share of investments. The pre-contractual information should reflect the actual composition of the portfolio at the time of the publication of the information. Therefore, the industry feels strongly that the wording “*minimum share*” is not appropriate to describe the capital allocation and could be misleading and bring about unnecessary liability risks. If the intention is to disclose a commitment on a target, then the wording should be changed as “current share”. This is important also in consideration that the TR is not a static piece of legislation. It is certain that it will evolve and change considerably in the future. Life insurance contracts have a very long duration of 30 to 40 years. Including information on a definite minimum share of TR aligned investments for the whole term is not feasible.

Besides, due to its limited scope, the TR only covers a fraction of the sustainable investments available. Care should be taken in the templates not to imply that sustainable investments which are not within the scope of the TR are any less sustainable. The insurance industry would, therefore, suggest not to include a separate section on the sustainable investments which are not aligned with the TR, as it would create a wrong impression for the customer. The relevant information on sustainable investments which do not fall under the TR is already provided in other sections of the templates. With regard to a product focusing on social objectives but that also includes some TR aligned investments, it would, for example, not be appropriate to include a section titled “Why does the financial product invest in economic activities that are not environmentally sustainable?”. Also, the proposed icon for this section – the symbol of the Taxonomy merged with a prohibition sign – inappropriately implies a warning of negative implications of the product.

Furthermore, it should be made clear to the client that the TR is a classification system that is developing dynamically and that, up to now, it only covers a small section of economic activities within the EU. It is essential that the customer is informed about the fact that the share of taxonomy-compliant investments makes up only a small portion of investments in sustainable economic activities and that this will grow as the range of taxonomy-eligible activities expands. Therefore, the insurance industry suggests completing the accompanying explanatory text accordingly, for example, by adding: “*As the EU taxonomy is developing dynamically, only a part of the economic activities has been assessed by now. The aim of the EU is that by the year xx, the majority of all economic activities are to be covered.*”

Alongside the KPI graph, the template should include an explanation field where FMPs can describe the product’s investments and the investments’ relation to the EU taxonomy in more detail (see q6). This is particularly important as investments can be sustainable without being taxonomy-aligned, and it should be possible to clearly communicate this to the customer.

Moreover, the industry proposes that the template should allow the possibility to disclose the proportion of investments financing “taxonomy-eligible” investments in relation to total investments. This would provide a complete and more transparent picture for customers, and be aligned with the draft EC Delegated Acts on Article 8 TR.

Q10: *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?*

Since the ESAs have decided to introduce mandatory templates for SFDR products, the insurance industry suggests maintaining unified templates. A separation of pre-contractual and periodic templates for Article 5-6 TR products would come with a significant risk of confusion for customers. The industry takes the view that the best option would be to embed the taxonomy-related disclosures under the existing templates (applicable to all Article 8 and 9 SFDR products) by only making essential changes to the SFDR RTS in separate sections (via adds-on) to facilitate implementation.

Q11: *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?*

The industry is of the opinion that the current proposal is misleading for the client. A product that has social objectives will have to tick the box “in activities not aligned with the EU Taxonomy” which could appear negative for a client that does not have a good knowledge of the TR. Therefore, insurers suggest only adding a single box “The total or part of the sustainable investments is aligned with the EU Taxonomy”. When ticking this box, the specific section dedicated to Articles 5 and 6 TR products should be included.

That means the template will look like the below:

Promotes environmental or social characteristics, but does not have as its objective a sustainable investment

- It does not invest in sustainable investments
- It invests partially in sustainable investments
 - The total or **part of the sustainable investments is aligned with the EU Taxonomy**

Has sustainable investment as its objective. Sustainable investment means an investment in an economic activity that contributes to an environmental or social objective, provided that the investment does not significantly harm any environmental or social objective and that the investee companies follow good governance practices.

The total or **part of the sustainable investments is aligned with the EU Taxonomy**

Given the way the text of the RTS is constructed, clearly stating that the taxonomy-related disclosures only apply for Article 5 and 6 TR products, there seems to be no risk of the effect mentioned in the question (ie requiring products making sustainable investments with social objectives to make taxonomy-related disclosures). If there is any uncertainty in this regard, the text of the RTS should specify that for Article 8 and 9 SFDR products making sustainable investments with social objectives/characteristics there is no obligation to



indicate the share of taxonomy-eligible investments. Such obligation should therefore only be relevant for products with investments having environmental objectives/characteristics. This would also avoid unnecessarily adding complexity and length to the templates.

Q12: *Do you have any views regarding the preliminary impact assessments? Can you provide more granular examples of costs associated with the policy options?*

Insurance Europe reiterates that the current templates are too long and complex for consumers. Sustainability-related information risks are overwhelming and disproportionate with respect to other equally relevant information. This means there is a risk that customers will not read or understand the templates. The disclosures related to the TR should therefore be as concise as possible.

Insurance Europe is the European insurance and reinsurance federation. Through its 37 member bodies — the national insurance associations — it represents all types and sizes of insurance and reinsurance undertakings. Insurance Europe, which is based in Brussels, represents undertakings that account for around 95% of total European premium income. Insurance makes a major contribution to Europe's economic growth and development. European insurers pay out almost €1 000bn annually — or €2.7bn a day — in claims, directly employ nearly 950 000 people and invest over €10.4trn in the economy.