

16 October 2020

AMICE Response to ESAs' Survey on templates for Environmental and/or Social financial products under SFDR

Introduction

The European Supervisory Authorities (ESAs) welcome comments on this survey setting out **the details of the presentation** of the information to be disclosed pursuant to Article 8(3), Article 9(5) and Article 11(4) of the Regulation (EU) 2019/2088 of the European Parliament and of the Council of 27 November 2019 on sustainability-related disclosures in the financial services (SFDR). This information concerns pre-contractual and periodic disclosures to be included in existing disclosures provided for under EU sectoral legislation and provided by, for example, AIFMs, UCITS management companies, insurance undertakings, IORPs or PEPP providers. The ESAs propose to standardise the disclosures by requiring the use of specific templates, recognising the need for standardisation of disclosures to promote comparability of different financial products in different Member States with respect to ESG information, in line with Recital 9 of the SFDR.

The colour of the font and of the template's background, as well as type of font to be used are not prescribed in the templates. These should be adapted by the financial market participants to fit the formatting of the underlying document to which the templates are integrated (prospectus, annual report, pre-enrolment disclosure for prospective pension scheme members, etc).

The final content of the templates is subject to the outcome of concurrent consumer testing exercise and the final report of the ESAs on the draft RTS under SFDR.

The consultation package includes:

- Preliminary, **illustrative mock-ups** of pre-contractual and periodic disclosure templates of products promoting Environmental and/or Social (E/S) characteristics (under Article 8 and Article 11 of the SFDR). The templates for the disclosure of products with a sustainable investment objective (Article 9) are very similar to those for the products promoting E/S characteristics and have not been included in the on-line survey. N.B. These mock-ups are purely illustrative for the purposes of gathering feedback on the presentation of information.
- An on-line survey

The ESAs particularly invite comments **on presentational aspects** of the mock-ups as the content of the mock-ups already reflects the current text of the draft RTS which were addressed in the recent public consultation on the on content, methodologies and presentation of disclosures under the SFDR that ran from 23 April until 1 September 2020.

Comments are most helpful if they:

- contain a clear rationale; and
- describe any alternatives the ESAs should consider.

When describing alternative approaches, the ESAs encourage stakeholders to consider how the approach would achieve the key objectives of the SFDR regarding product disclosures, namely to prevent "greenwashing" and reduce information asymmetries for end investors.

Submission of responses

The consultation paper is available on the websites of the three ESAs and the Joint Committee. Comments must be sent using the EUsurvey by **16 October 2020**.

Contributions not provided in the EUsurvey tool for comments, or after the deadline will not be processed.

Publication of responses

All contributions received will be published following the close of the consultation, unless you request otherwise in the respective field in the template for comments. A confidential response may be requested from us in accordance with ESAs rules on public access to documents. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by ESAs Board of Appeal and the European Ombudsman

Data protection

The protection of individuals with regard to the processing of personal data by the ESAs is based on Regulation (EU) 2018/17253. Further information on data protection can be found under the Legal notice section of the EBA website and under the Legal notice section of the EIOPA website and under the Legal notice section of the ESMA website.

Survey - introduction

The illustrative mock-ups relate to disclosure documents for a fictitious exchange traded fund (ETF). Most ETFs are index funds. This means that they usually replicate the index by holding the same securities in the same proportions as a certain stock market index. This product replicates a fictitious index, called TRXI World Fossil Fuel Free Index, which replicates the total market index TRXI World Index, but excludes from it companies that own solid fossil fuel reserves.

The two documents that you will see are mock-ups of ESG information from the following underlying documents:

- a) **Prospectus of the ETF** – which provides information before buying the product*
- b) **Annual report of the ETF** – which provides information on the product for the last 12 months*

The mock-ups are named as follows:

- Mock-up 1: pre-contractual disclosure for a product promoting Environmental or/and Social characteristics (with icons)*
- Mock-up 2: pre-contractual disclosure for a product promoting Environmental or/and Social characteristics (without icons)*
- Mock-up 3: periodic disclosure for a product promoting Environmental or/and Social characteristics (with icons)*

Questions

Q1 How useful is the highly standardised presentation of the information in this format?

1. Useless
2. Fairly useless
3. Neither useless nor useful
4. Fairly useful
5. Very useful

Please explain:

AMICE supports the overall objective of the Sustainability-related Disclosures Regulation (SFDR) to enhance transparency regarding integration of environmental, social and governance matters ("ESG") into investment decisions. Standardised templates allow financial market participants to disclose the required information without ambiguity and ensure comparability and the maximum harmonisation of the disclosure. However, we want to stress that the information included in the templates should be compliant with Article 8(3) and 9(5) of SFDR, in order to provide that disclosures are "fair, clear, not misleading, simple and concise". Moreover, the ESAs should take into account the various types of financial products.

The illustrative templates are too prescriptive and extensive. The language used is too complex and might not be comprehensible to the average consumer. Moreover, some of the information provided in the templates duplicates information already provided in other disclosure documents required by EU law (e.g. PRIIPs KID or PEPP KID) or national law.

The usefulness of the proposed templates for all the financial products within the scope of the SFDR (such as PEPP, MOPs or hybrid products) is also questionable. The PEPP Regulation already foresees the integration of the ESG information into the PEPP KID and it is unclear how the ESAs proposed templates would be integrated in the PEPP KID.

For the above reasons, the ESAs should include only the key ESG product information in the pre-contractual and periodic templates, and should:

- avoid too much complex layout;
- strike the right balance between the amount of the new ESG information and the information currently required by the existing mandatory templates;
- ensure that the required quantitative data are easily available and clearly linked to the Taxonomy Regulation and the NFRD;
- ensure compliance with IDD and Solvency II requirements;
- ensure adequate timeline for financial market participants and financial advisers.

We would like to highlight that the information conveyed to investors (in particular, to retail ones) should meet the materiality screening criterion in order to provide a reliable guidance for their decisions. The materiality test is the only one which can increase the value added of transparency and improve the awareness of investors on the effects of their decision on sustainability objectives.

Finally, Article 6(3) of SFDR states that pre-contractual information must be disclosed according to Article 185(2) of the Solvency II Directive and Article 29(1) of IDD. These disclosure requirements are mostly detailed at national level, taking into account the transposition in the national legislative framework of the above directives. Therefore, AMICE would like to remind that pre-contractual information for insurance products is currently disclosed according to standardized mandatory templates detailed by National Supervisory Authorities. In our opinion,

new ESG templates should be conceived in a way that ensures the coherence with the abovementioned already existing standardised templates.

Q2 More specifically, how useful is the presentation of the information with the use of **icons** as visual aids?

1. Useless
2. Fairly useless
3. Neither useless nor useful
4. Fairly useful
5. Very useful

Please explain:

In general, the use of icons can serve as visual aid and help consumers to understand easily the information. This would also promote comparability among products with E/S characteristics. However, the icons used in the ESAs' mock-ups are not adequate and do not really provide support to explain the information disclosed in the templates. The presentation of the templates via digital media might be challenging due to the fact that the display of icons would require the use of an additional column.

Q3 More specifically, how useful is the presentation of the information with the use of **graphs** as visual aids?

1. Useless
2. Fairly useless
3. Neither useless nor useful
4. Fairly useful
5. Very useful

Please explain:

In principle, AMICE supports the use of graphs as visual aid to enhance understanding. However, the suggested graphs are too detailed and complex. In particular, the second graph on sectoral exposure is confusing and contains a high number of data categories. It might be difficult to have the breakdown of the different sections of E/S investments between different categories. There is also duplication of the information presented in the narrative and the graphs. As a result, the templates are too long and prescriptive.

Q4 More specifically, how useful is the presentation of the information with the use of **explanatory notes**, in the column at the right side of the document, which are presented on a grey background)?

1. Useless
2. Fairly useless
3. Neither useless nor useful
4. Fairly useful

5. Very useful

Please explain:

The use of explanatory notes is useful but in their current formulation, these are quite technical and an average consumer might not be able to understand their meaning.

These should be specific to the product and not just general as they would lose their purpose.

The definitions and explanations should be concise, written in plain language and better placed in order to ensure the digital presentation of the templates. There should be the possibility to provide further details in a layered form or via pop-ups.

Q5 Are there any presentational aspects that might make it hard to understand the sustainability-aspects of products? For example, with regards the distinction between the sub-categories of investments, this is the difference between #1A and #1B?

Yes

- No
- Other

Please explain:

There is need to clarify the definitions which at the moment are not clear and are misleading for consumers. As mentioned in our response to the previous consultation, there is not a clear distinction between “Article 8” and “Article 9” products of the SFDR. Although we recognize that the lack of clarity on the exact definition of financial products that “*promote, among other characteristics, environmental or social characteristics*” and the one referred to financial products that “*have sustainable investment as their objective*” should be properly addressed at the level of the Regulation (the level 1 text), we are concerned with the difficult practical implementation of many requirements due to these ambiguous definitions.

Q6 Do you have any other suggestions or comments to improve the presentation of these disclosure documents?

Please explain:

Given the broad scope of the SFDR, the ESAs’ proposals must be tested on a significant range of products in order to ensure they are suitable for all financial products in all markets. Given that the ESG content of a product may vary according to the fund selection within it, testing should also be necessary at fund level.

The proposed templates are too long and prescriptive and they must be aligned with applicable regulation and national requirements. To improve the presentation, the templates should avoid information overload and present clear, concise and simple information.

In particular, AMICE would like to call the ESAs attention on the disclosure of the sustainability aspects of financial products with underlying multiple investment options as they are referred to by Article 22 and Article 32 of the draft RTS.

More precisely, Article 22 of the draft RTS that are to be included in the Commission delegated regulation supplementing Regulation (EU) 2019/2088, states that “by way of derogation from Articles 14 to 21, where a financial product offers the investor, among other investment options, investment options that qualify that financial product as a financial product referred to in Article 8(1) of Regulation (EU) 2019/2088”, the information to be disclosed in accordance with Article 8(1) and (2) of that Regulation shall include:

(a) the summary list of those investment options;

(b) the information provided by those investment options in accordance with Article 8(1) and (2) or Article 9(1) to (4) of Regulation (EU) 2019/2088 with clear indications to which investment options the information relates.

Article 32 of the draft RTS provides for similar disclosure requirements with respect to financial products that offer the investor, among other investment options, investment options that qualify this financial product as a financial product referred to in Article 9(1), (2) or (3) of Regulation (EU) 2019/2088.

Provided that the present consultation concerns illustrative mock-ups relating only to standard products that have been drafted in accordance with the provisions indicated by the draft RTS under Articles 14 to 21 and Articles 23 to 31, AMICE believes that it is crucial to clarify the presentational aspects of all the products with underlying investment options (i.e. those indicated by Articles 22 and 32) and the templates to be used.

Given the above, with reference to multi-option financial products we call upon the ESAs to confirm that:

- i. financial market participants should disclose only the information related to the investment options that qualify that financial product as a financial product referred to in Article 8(1) of Regulation (EU) 2019/2088 or as a financial product referred to in Article 9(1), (2) or (3) of Regulation (EU) 2019/2088;
- ii. the aforesaid information relating to selected investment options to be disclosed in accordance with Article 8(1) and (2) or Article 9(1) to (4) of Regulation (EU) 2019/2088 should include the information indicated by Article 22 and 32 of the draft RTS and should be represented *via* the standard form.

This means that the instructions provided respectively by Articles 14-21 and by Articles 23-31 of the draft RTS, as well the templates provided under Annex II and III, should apply also for the disclosure of the investment options of the MOP that qualify the latter as a financial product referred to in Article 8(1) or in Article 9(1), (2) and (3) of Regulation (EU) 2019/2088.

Such an interpretation would ensure legal certainty and consistency to the disclosure of the sustainability aspects of the different products (both standard and multi-option), while avoiding to confuse customers with different and excessive information.

Q7 *When the templates are presented via digital media, can you foresee any particular challenges? Can you suggest how these particular challenges could be overcome while retaining the core aspects of the standardised template format?*

Please explain:

The accessibility of the templates via digital media is uncertain, given their length and the use of a table with several columns. This would make it difficult to read all the information on a smartphone or a tablet.

A shorter and simpler template would improve the usability of the templates presented via digital media, to the benefit of users with specific accessibility needs and improve the readability across different digital devices.

There should be the possibility of layering the information to help consumers in navigating the document and extracting key information. The layering can facilitate comprehensibility and streamline the quantity of information.