

# Reply form

**on the Joint Consultation Paper on the review of SFDR Delegated Regulation regarding PAI and financial product disclosures**

12 April 2023  
ESMA34-45-1218

## Responding to this paper

The ESAs invite comments on all matters in the Joint Consultation Paper and in particular on the specific questions in this reply form. Comments are most helpful if they:

- respond to the question stated;
- indicate the specific question to which the comment relates;
- contain a clear rationale; and
- describe any alternatives the ESAs should consider.

ESMA will consider all comments received by **4 July 2023**.

## Instructions

In order to facilitate analysis of responses to the Joint Consultation Paper, respondents are requested to follow the below steps when preparing and submitting their response:

- Insert your responses to the questions in the Joint Consultation Paper in this reply form.
- Please do not remove tags of the type <ESMA\_QUESTION\_SFDR\_1>. Your response to each question has to be framed by the two tags corresponding to the question.
- If you do not wish to respond to a given question, please do not delete it but simply leave the text “TYPE YOUR TEXT HERE” between the tags.
- When you have drafted your responses, save the reply form according to the following convention: ESMA\_CP SFDR Review\_nameofrespondent.

For example, for a respondent named ABCD, the reply form would be saved with the following name: ESMA\_CP SFDR Review\_ABCD.

- Upload the Word reply form containing your responses to ESMA's website (**pdf documents will not be considered except for annexes**). All contributions should be submitted online at [www.esma.europa.eu](http://www.esma.europa.eu) under the heading 'Your input - Consultations'.

## Publication of responses

All contributions received will be published following the close of the consultation, unless you request otherwise. Please clearly and prominently indicate in your submission any part you do not wish to be publicly disclosed. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure. A confidential response may be requested from us in accordance with ESAs' rules on 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 ESMA's 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) 2018/1725<sup>1</sup>. 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.

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<sup>1</sup> Regulation (EU) 2018/1725 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC, OJ L 295, 21.11.2018, p. 39.

## General information about respondent

Name of the company / organisation	ShareAction
Activity	Audit/Legal/Individual
Are you representing an association?	<input type="checkbox"/>
Country/Region	Belgium

## Questions

**Q1 : Do you agree with the newly proposed mandatory social indicators in Annex I, Table I (amount of accumulated earnings in non-cooperative tax jurisdictions for undertakings whose turnover exceeds € 750 million, exposure to companies involved in the cultivation and production of tobacco, interference with the formation of trade unions or election worker representatives, share of employees earning less than the adequate wage)?**

<ESMA\_QUESTION\_SFDR\_1>

ShareAction is a research and campaigning organisation pushing the global investment system to take responsibility for its impacts on people and planet, and to use its power to create a green, fair, and healthy society. We want a future where all finance powers social progress. For 15 years ShareAction has driven responsibility into the heart of mainstream investment through research, campaigning, policy advocacy and public mobilisation. Using our tools and expertise, we influence major investors and the companies they invest in to improve labour standards, tackle the climate crisis and address inequality and public health issues.

ShareAction welcomes the additions to the list of social indicators to better cover social aspects and to ensure coherence with other sustainable finance policies such as the Taxonomy and the ESRS. We have however suggested recommendations on how to strengthen the proposed mandatory social indicators.

- Amount of accumulated earnings in non-cooperative tax jurisdictions

We agree with this indicator

- Exposure to companies involved in the cultivation and production of tobacco

While reporting on activities linked to tobacco is laudable, it is also somewhat random as other public health areas are at least as salient to public health: the global obesity epidemic and activities linked to sugary food marketing; Anti-microbial resistance and activities linked to meat production; global plastic pollution and activities linked to use of packaging. While we acknowledge that the

singling out of tobacco as a reportable activity is justified by a broad social consensus, we would suggest that consensus on some other social vulnerabilities is not far behind that on tobacco and should be explored by ESAs in more depth as a matter of explicit disclosure requirements.

- Interference in the formation of trade unions or election of worker representatives

While we agree with the inclusion of non-interference with unions, ShareAction doesn't consider a focus on policy the most effective indicator. Instead, we would be looking for a more impact-oriented metric, eg "share of investments in investee companies with instances of interference in the formation of trade unions or elections of workers' representatives *as well as* average collective bargaining agreement and trade union coverage rate."

- Share of employees earning less than the adequate wage

While we applaud a reporting requirement on inadequate wages and understand the effort to align with data availability through ESRS, we would prefer to expand the scope beyond employees to cover the whole workforce, to including self-employed workers and workers employed by agencies.

<ESMA\_QUESTION\_SFDR\_1>

**Q2 : Would you recommend any other mandatory social indicator or adjust any of the ones proposed?**

<ESMA\_QUESTION\_SFDR\_2>

ShareAction would recommend reporting on collective bargaining coverage in investee companies according to ESRS S1-8.

We would also propose another indicator "Women in management positions across the organisation in %".

<ESMA\_QUESTION\_SFDR\_2>

**Q3 : Do you agree with the newly proposed opt-in social indicators in Annex I, Table III (excessive use of non-guaranteed-hour employees in investee companies, excessive use of temporary contract employees in investee companies, excessive use of non-employee workers in investee companies, insufficient employment of persons with disabilities in the workforce, lack of grievance/complaints handling mechanism for stakeholders materially affected by the operations of investee companies, lack of grievance/complaints handling mechanism for consumers/ end-users of the investee companies)?**

<ESMA\_QUESTION\_SFDR\_3>

ShareAction applauds the proposed opt-in indicators in principle, but we would like to share our suggestions on how these principles can be strengthened.

- excessive use of non-guaranteed-hour employees in investee companies,

We agree, but would strike the term “excessive” to make the indicator objective.

- excessive use of temporary contract employees in investee companies,

We agree, but would strike the term “excessive” to make the indicator objective.

- excessive use of non-employee workers in investee companies

We agree, but would strike the term “excessive” to make the indicator objective.

- insufficient employment of persons with disabilities in the workforce

We agree, but would strike the term “insufficient” to make the indicator objective. |

<ESMA\_QUESTION\_SFDR\_3>

#### **Q4 : Would you recommend any other social indicator or adjust any of the ones proposed?**

<ESMA\_QUESTION\_SFDR\_4>

ShareAction believes that more indicators looking to the challenges of the future are required. As indicated above, health indicators could be improved/added.

Additionally, ShareAction’s Workforce Disclosure Initiative (WDI) has developed a set of reportable indicators on the topic. By adding these to opt-in social indicators, SFDR would enable FMPs to start preparing for more forward-looking social reporting.

The new WDI indicators are:

##### **On Just transition**

- Describe the risks, impacts and opportunities that may affect the company's workforce as a result of the transition to a climate-neutral economy? (WDI 2023 7.6)
- Explain the action the company has taken, or intends to take, to ensure workers are protected against risks and can access opportunities resulting from the transition to a climate-neutral economy. (WDI 2023 7.7)
- Provide the number and/or percentage (%) of employees that have been reskilled, redeployed or had their employment ended as a result of the transition to a climate-neutral economy. (WDI 2023 7.8)

##### **On Technology, data and automation**

- Describe any workforce surveillance measures used to monitor workers, and how the company ensures this does not have a disproportionate impact on workers' right to privacy. If the company does not conduct any form of workforce surveillance, state this. (WDI 2023 7.9)
- Provide the number and/or percentage (%) of employees that have been reskilled, redeployed or had their employment ended as a result of automation. (WDI 2023 7.10)
- Describe how the company uses artificial intelligence in workforce management, including in recruitment, performance management and workplace decisions. (WDI 2023 7.11)

Source: See 2023 Survey at <https://shareaction.org/workforce-disclosure-initiative/disclose-as-a-company> |

<ESMA\_QUESTION\_SFDR\_4>

**Q5 : Do you agree with the changes proposed to the existing mandatory and opt-in social indicators in Annex I, Table I and III (i.e. replacing the UN Global Compact Principles with the UN Guiding Principles and ILO Declaration on Fundamental Principles and Rights at Work)? Do you have any additional suggestions for changes to other indicators not considered by the ESAs?**

<ESMA\_QUESTION\_SFDR\_5>

| Yes, ShareAction agrees that the reference to the UN Global Compact Principles in #11 should be replaced with a reference to the UN Guiding Principles and ILO Declaration on Fundamental Principles and Rights at Work. This will insure consistency with the EU Taxonomy Minimum Safeguards and the Corporate Sustainability Due Diligence Directive.

We do however think that the focus on violations in #10 remains problematic because it will disincentivize transparency and because due diligence recognises the need for and validity of continuous improvement over time. We fear that the current formulation may risk driving investment away from high-risk areas where companies are trying to engage responsibly and improve circumstances over time. An alternative metric could be whether a company has set (appropriate) prevention and mitigation targets with respect to its principle adverse impacts and whether it has demonstrated progress in line with those targets. At a minimum, the term "violation" needs to be defined. We suggest to hereby build on the EU Sustainable Finance Platform criteria for non-compliance with minimum safeguards Minimum Safeguards, which are 1) Existence of adequate due diligence processes for EU companies, and 2) Liability established by court on human rights including labour rights and refusal to engage in certain stakeholder dialogue mechanisms. |

<ESMA\_QUESTION\_SFDR\_5>

**Q6 : For real estate assets, do you consider relevant to apply any PAI indicator related to social matters to the entity in charge of the management of the real estate assets the FMP invested in?**

<ESMA\_QUESTION\_SFDR\_6>

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<ESMA\_QUESTION\_SFDR\_6>

**Q7 : For real estate assets, do you see any merit in adjusting the definition of PAI indicator 22 of Table 1 in order to align it with the EU Taxonomy criteria applicable to the DNSH of the climate change mitigation objective under the climate change adaptation objective?**

<ESMA\_QUESTION\_SFDR\_7>

|We support to adjust the definition of PAI indicator 22, to align with the Taxonomy to improve consistency between SFDR and the Taxonomy DNSH criteria. |

<ESMA\_QUESTION\_SFDR\_7>

**Q8 : Do you see any challenges in the interaction between the definition ‘enterprise value’ and ‘current value of investment’ for the calculation of the PAI indicators?**

<ESMA\_QUESTION\_SFDR\_8>

|No, ShareAction does not see challenges in the interaction between the definition of ‘enterprise value’ and ‘current value of investments’ for the calculation of the PAI indicators that are worth mentioning. Potential challenges are well documented and discussed, in particular the variability of market prices that result in changing portfolio weights and affect average portfolio impact metrics without an actual change in physical emissions. While such change in metrics may be seen as problematic, it lies in the nature of calculating portfolio averages and – provided there is sufficient additional information – is nothing a skilled analyst cannot master. an example, the same issue arises when calculating average portfolio credit ratings. The average rating may increase due to a particular low-rating portfolio holding dropping in weight due to a current market price collapse. So while the average rating calculation will suggest an increase in portfolio quality, drilling down into the low-rating component will reveal that it is really due to quite the opposite. Such phenomenon is rarely used as a reason to suggest that average portfolio ratings should not be calculated. All it means is that proper analysis should never stop at headline numbers. |

<ESMA\_QUESTION\_SFDR\_8>



**Q9 : Do you have any comments or proposed adjustments to the new formulae suggested in Annex I?**

<ESMA\_QUESTION\_SFDR\_9>

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<ESMA\_QUESTION\_SFDR\_9>

**Q10 : Do you have any comments on the further clarifications or technical changes to the current list of indicators? Did you encounter any issues in the calculation of the adverse impact for any of the other existing indicators in Annex I?**

<ESMA\_QUESTION\_SFDR\_10>

|ShareAction agrees with the EFRAG technical advice that all disclosure requirements which other parties rely on to meet their own disclosure requirements under separate pieces of legislation' should be mandatory and not subject to materiality assessment.

By subjecting all disclosure requirements (with the exception of General requirements) to materiality assessment by reporting undertakings as proposed in Draft delegated regulation Ares(2023)4009405, we fear that the quality of SFDR disclosure could suffer. |

<ESMA\_QUESTION\_SFDR\_10>

**Q11 : Do you agree with the proposal to require the disclosure of the share of information for the PAI indicators for which the financial market participant relies on information directly from investee companies?**

<ESMA\_QUESTION\_SFDR\_11>

|Yes, ShareAction agrees that this information would be useful to investors, as it will – over time - allow to form a view on how serious investors are in pushing companies to produce the data they require. |

<ESMA\_QUESTION\_SFDR\_11>

**Q12 : What is your view on the approach taken in this consultation paper to define 'all investments'? What are the advantages and drawbacks you identify? Would a change in the approach adopted for the treatment of 'all investments' be necessary in your view?**

<ESMA\_QUESTION\_SFDR\_12>

ShareAction agrees with advantages proposed by the consultation for each approach. We would therefore suggest that all calculations using the denominator ‘current value of investments’ are complemented with a second metric ‘current value of investments in this asset class’. This will allow stakeholders to gauge both the significance of a particular impact to the overall portfolio as well as the significance of an impact within a certain asset class. |

<ESMA\_QUESTION\_SFDR\_12>

**Q13 : Do you agree with the ESAs’ proposal to only require the inclusion of information on investee companies’ value chains in the PAI calculations where the investee company reports them? If not, what would you propose as an alternative?**

<ESMA\_QUESTION\_SFDR\_13>

No, ShareAction does not agree that value chain impacts should only be included where reported. Treating impacts as non-existent simply because they are not reported fundamentally collides with the idea of the Regulation. It would make a diligent manager that puts importance on transparency at a disadvantage to investors who do not pay attention to the importance of investee companies’ reporting, thus providing incentives not to report to value chain companies.

ShareAction believes that where reported data is not available in the value-chain, reporters should estimate value chain indicators to the best of their abilities, and indicate the expanse of estimated value-chain impacts. In addition, reporters should lean on value-chain companies to provide the data required under SFDR. |

<ESMA\_QUESTION\_SFDR\_13>

**Q14 : Do you agree with the proposed treatment of derivatives in the PAI indicators or would you suggest any other method?**

<ESMA\_QUESTION\_SFDR\_14>

Yes, Shareaction agrees that derivative exposures need to be included in order to avoid the circumvention of PAI reporting by FMPs.

However, we do not believe FMPs should be permitted to omit exposures where they can show that the counterparty has not hedged themselves. We believe that when accounting for derivatives, the Precautionary Principle should be applied, and the assumption should be made that the exposure will be hedged somewhere in the value chain. |

<ESMA\_QUESTION\_SFDR\_14>

**Q15 : What are your views with regard to the treatment of derivatives in general (Taxonomy-alignment, share of sustainable investments and PAI calculations)? Should the netting provision of Article 17(1)(g) be applied to sustainable investment calculations?**

<ESMA\_QUESTION\_SFDR\_15>

ShareAction agrees that the risk of greenwashing comes from FMPs including derivatives in the numerator in order to overestimate the products' share of sustainable investments, or from the FMPs excluding derivatives from the numerator in order to underestimate the PAIs. Also, as pointed out in our answer to Q14, we believe that when accounting for derivatives, the Precautionary Principle should be applied.

**Net Long exposure on a given issuer**

ShareAction therefore agrees that when FMP calculate the share of Taxonomy-aligned or sustainable investments, they do not include long derivative exposures in the numerator. However, entering a long derivative exposure in principle will have at least a marginal effect on an issuer's refinancing costs and so would be in the spirit of Taxonomy-alignment or sustainable investments and should not be disregarded. We therefore propose to have FMPs report complementary calculations that include long derivative exposures in the numerator.

ShareAction also agrees that when FMP calculate PAI, they are required to include long derivative exposures in the numerator.

**Net short exposure on a given issuer**

ShareAction agrees with permitting netting only at the level of an individual counterparty. However, we think that complementary reporting on exposures below zero should be considered.

**Credit Default Swaps**

ShareAction believes that it is important to treat derivatives in other asset classes in the same way, corporate bonds and credit default swaps in particular. |

<ESMA\_QUESTION\_SFDR\_15>

**Q16 : Do you see the need to extend the scope of the provisions of point g of paragraph 1 of Article 17 of the SFDR Delegated Regulation to asset classes other than equity and sovereign exposures?**

<ESMA\_QUESTION\_SFDR\_16>

| Yes, ShareAction sees the need to extend the scope to corporate credit. |

<ESMA\_QUESTION\_SFDR\_16>

**Q17 : Do you agree with the ESAs' assessment of the DNSH framework under SFDR?**

<ESMA\_QUESTION\_SFDR\_17>

Yes, ShareAction agrees with the ESA's assessment that the SFDR's DNSH framework may lead to reporting yielding different results than Taxonomy DNSH criteria due to SFDR's a) sector agnostic approach and b) entity-focussed approach. DNSH provides thresholds, while SFDR does not, which means that FMPs currently have more freedom to classify an investment as "sustainable" under SFDR than under the Taxonomy.

For this reason, ShareAction proposes that PAI reporting according to Annex 1 Table 1 as prescribed by Article 4 for entity level disclosure are complemented – where objectively possible – with a threshold and then be applied to product level disclosure, both for mandatory and opt-in indicators.

<ESMA\_QUESTION\_SFDR\_17>

**Q18 : With regard to the DNSH disclosures in the SFDR Delegated Regulation, do you consider it relevant to make disclosures about the quantitative thresholds FMPs use to take into account the PAI indicators for DNSH purposes mandatory? Please explain your reasoning.**

<ESMA\_QUESTION\_SFDR\_18>

Yes, ShareAction believes that where FMPs report a portion of their investments as 'sustainable', in the absence of thresholds provided by SFDR or the ESAs, FMPs should be obliged to disclose which quantitative thresholds they use in order to ensure DNSH.

<ESMA\_QUESTION\_SFDR\_18>

**Q19 : Do you support the introduction of an optional "safe harbour" for environmental DNSH for taxonomy-aligned activities? Please explain your reasoning.**

<ESMA\_QUESTION\_SFDR\_19>

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<ESMA\_QUESTION\_SFDR\_19>

**Q20 : Do you agree with the longer term view of the ESAs that if two parallel concepts of sustainability are retained that the Taxonomy TSCs should form the basis of DNSH assessments? Please explain your reasoning.**

<ESMA\_QUESTION\_SFDR\_20>

ShareAction believes that the SFDR Level 1 review will need to clarify the definition of ‘sustainable investment’ in Art 2(17) SFDR by clearly referring to the EU Taxonomy criteria wherever they exist, for environmental issues. In the absence of a Social Taxonomy however, PAI indicators are too broad for the Taxonomy to be used as a basis. What is more, since the taxonomy is activity-focused, applying the taxonomy to entity level under SFDR will only yield a very small proportion of genuinely “sustainable investments.” Therefore, while Taxonomy TSCs should inform environmental DSNH under SFDR where possible, DNSH assessments under SFDR should be considered separate and in their own right.

<ESMA\_QUESTION\_SFDR\_20>

**Q21 : Are there other options for the SFDR Delegated Regulation DNSH disclosures to reduce the risk of greenwashing and increase comparability?**

<ESMA\_QUESTION\_SFDR\_21>

ShareAction believes that the EU taxonomy will need to be broadened (“extended taxonomy”) and deepened (new economic activities) in order to serve as a sound standard.

Additionally, we are in favour of requirements that seeks to clarify the nature of the commitment the product is making with the objective that financial products actually deliver what investors expect.

We propose the use of a logic model in the form of INPUT --> ACTIVITY --> OUTPUT --> OUTCOME --> IMPACT that explains clearly and distinctly to what extent and in what way the fund in question deserves to bear such name.

Through logic models, investment activity can be broken down and analysed. Where the future is concerned, assumptions can be checked for plausibility. Logic models, often called ‘theories of change’, have long been used by charities and NGOs to explain the impact they expect to have, but cannot strictly promise or evidence.

A logic model provides two kinds of components: Elements that are within the control of the investor and can (in principle) be evidenced; and elements that lie in the future or rely on complex causal chains. The former - input, activity and output - can be evidenced by regulators; the latter, outcome and impact - cannot be evidenced easily or at all. Therefore, determining what is and what isn’t greenwashing becomes challenging without being able to look at assumptions. With such a theory of change, retail investors and regulators can form a view on the plausibility of sustainability claims. By comparing the model steps Input, Activity and Output with available evidence and probing

the assumptions for Outcome and Impact, it will be possible for the retail investor to form a view on the strategy of a particular fund. |

<ESMA\_QUESTION\_SFDR\_21>

**Q22 : Do you agree that the proposed disclosures strike the right balance between the need for clear, reliable, decision-useful information for investors and the need to keep requirements feasible and proportional for FMPs? Please explain your answers.**

<ESMA\_QUESTION\_SFDR\_22>

ShareAction believes that the proposed disclosures are feasible and proportional for FMPs in the light of the multiple crisis faced society and, by extension, by retail investors.

ShareAction has difficulties with Section 64 of the consultation document that says

*“The ESAs would like to highlight that such disclosures only aim to foster transparency and comparability between financial products. As with all SFDR disclosures, disclosures at product level on a GHG emission reduction target should not automatically be considered as a guarantee of the robustness or ambition of the methodologies implemented by the FMP.”*

We contend that transparency or comparability will only be fostered if FMPs have confidence in the robustness and ambition of their methodologies. As such, it isn't clear why disclosures at product level on a GHG emissions reduction target should *not* be considered a guarantee, at least of best endeavours by the FMP. Otherwise, if the ESAs retain this clarification without at the same time introducing a minimum definition of what reduction targets *do* mean, such reduction targets are in danger of becoming mere greenwashing. |

<ESMA\_QUESTION\_SFDR\_22>

**Q23 : Do you agree with the proposed approach of providing a hyperlink to the benchmark disclosures for products having GHG emissions reduction as their investment objective under Article 9(3) SFDR or would you prefer specific disclosures for such financial products? Do you believe the introduction of GHG emissions reduction target disclosures could lead to confusion between Article 9(3) and other Article 9 and 8 financial products? Please explain your answer.**

<ESMA\_QUESTION\_SFDR\_23>

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<ESMA\_QUESTION\_SFDR\_23>

**Q24 : The ESAs have introduced a distinction between a product-level commitment to achieve a reduction in financed emissions (through a strategy that possibly relies only on divestments and reallocations) and a commitment to achieve a reduction in investees' emissions (through investment in companies that has adopted and duly executes a convincing transition plan or through active ownership). Do you find this distinction useful for investors and actionable for FMPs? Please explain your answer.**

<ESMA\_QUESTION\_SFDR\_24>

ShareAction is cautious on such distinction. FMPs often use a combination of the two approaches, which may build on each other (divestment being the escalation to non-successful engagement). We fear that the distinction will allow FMPs to claim “real world” sustainability efforts by applying a token quantity of tea-and-cookies engagement and otherwise stay invested in the same assets they would choose for non-sustainable products. We also fear that by making such a distinction, the ESAs would signal to the market that holding-and-engaging fossil fuel producers is a superior option to ending the financing of such.

Such a distinction would have to mandate clear definition of thresholds to be achieved through ‘active ownership’ as well as pre-defined and precisely timed action plans in case of investee companies failing such reduction. |

<ESMA\_QUESTION\_SFDR\_24>

**Q25 : Do you find it useful to have a disclosure on the degree of Paris-Alignment of the Article 9 product's target(s)? Do you think that existing methodologies can provide sufficiently robust assessments of that aspect? If yes, please specify which methodology (or methodologies) would be relevant for that purpose and what are their most critical features? Please explain your answer.**

<ESMA\_QUESTION\_SFDR\_25>

ShareAction would generally welcome disclosures on the Paris-Alignment of investment portfolios, although we do think that needs to be defined sufficiently strict enough to make such a degree-of-alignment figure useful, to prevent creating confusion and possible greenwashing.

ShareAction is in favor of requirements that seeks to clarify the nature of the commitment the product is making with the objective that financial products actually deliver what investors expect. However, we don't think existing methodologies are sufficiently robust to provide reliable answers, with greenwashing being an obvious consequence. A Paris-alignment indicator will have to be strict enough to make such a degree of alignment useful.

Moreover, we propose – beyond just climate objectives - the use of a logic model in the form of INPUT --> ACTIVITY --> OUTPUT --> OUTCOME --> IMPACT that explains clearly and distinctly to what extent and in what way the fund in question deserves to bear such name.

Through logic models, investment activity can be broken down and analysed. Where the future is concerned, assumptions can be checked for plausibility. Logic models, often called ‘theories of change’, have long been used by charities and NGOs to explain the impact they expect to have, but cannot strictly promise or evidence.

A logic model provides two kinds of components: Elements that are within the control of the investor and can (in principle) be evidenced; and elements that lie in the future or rely on complex causal chains. The former - input, activity and output - can be evidenced by regulators; the latter, outcome and impact - cannot be evidenced easily or at all. Therefore, determining what is and what isn’t greenwashing becomes challenging without being able to look at assumptions. With this theory of change, retail investors and regulators can form a view on the plausibility of sustainability claims. By comparing the model steps Input, Activity and Output with available evidence and probing the assumptions for Outcome and Impact, it will be possible for the retail investor to form a view on the strategy of a particular fund. |

<ESMA\_QUESTION\_SFDR\_25>

**Q26 : Do you agree with the proposed approach to require that the target is calculated for all investments of the financial product? Please explain your answer.**

<ESMA\_QUESTION\_SFDR\_26>

| Yes, ShareAction agrees that reduction targets need to be calculated for all investments in order to make sense. Allowing such targets for a sub-set of the portfolio allows FMPs to focus on the parts of a portfolio that are either easy to calculate or easy to reduce, increasing the likelihood that FMPs stick with assets they would hold in non-sustainability-focused products anyway. |

<ESMA\_QUESTION\_SFDR\_26>

**Q27 : Do you agree with the proposed approach to require that, at product level, Financed GHG emissions reduction targets be set and disclosed based on the GHG accounting and reporting standard to be referenced in the forthcoming Delegated Act (DA) of the CSRD? Should the Global GHG Accounting and Reporting Standard for the Financial Industry developed by PCAF be required as the only standard to be used for the disclosures, or should any other standard be considered? Please justify your answer and provide the name of alternative standards you would suggest, if any.**



<ESMA\_QUESTION\_SFDR\_27>

Yes, Shareaction agrees that setting and disclosing emissions reduction targets should be done based on standards referenced in the forthcoming CSRD DA. |

<ESMA\_QUESTION\_SFDR\_27>

**Q28 : Do you agree with the approach taken to removals and the use of carbon credits and the alignment the ESAs have sought to achieve with the EFRAG Draft ESRS E1? Please explain your answer.**

<ESMA\_QUESTION\_SFDR\_28>

Yes, ShareAction agrees that carbon credits should be accounted separately and should not be considered as means to achieve the GHG emissions reduction targets. Carbon credits are neither an alternative to carbon reduction, nor are methodology and application sufficiently robust to warrant their integration into one decarbonisation figure. |

<ESMA\_QUESTION\_SFDR\_28>

**Q29 : Do you find it useful to ask for disclosures regarding the consistency between the product targets and the financial market participants entity-level targets and transition plan for climate change mitigation? What could be the benefits of and challenges to making such disclosures available? Please explain you answer.**

<ESMA\_QUESTION\_SFDR\_29>

Yes, we agree that disclosures regarding the consistency between the product targets and the FMP's entity level targets would be useful for retail investors. As an example, an FMP promoting climate-focussed Article 9 products, but also offering a much higher proportion of Article 6 products without climate ambitions might not satisfy a retail client's criteria for "credibility", thus giving rise to the suspicion of greenwashing as they only offer some climate focussed products but remain largely misaligned with the Paris Agreement. The challenge would be defining "consistency", or lack thereof. A potential solution could be to introduce a requirement to product level-reporting indicating what proportion of products at entity-level in the asset class of the product in question do NOT share its particular sustainability objective. |

<ESMA\_QUESTION\_SFDR\_29>

**Q30 : What are your views on the inclusion of a dashboard at the top of Annexes II-V of the SFDR Delegated Regulation as summary of the key**

**information to complement the more detailed information in the pre-contractual and periodic disclosures? Does it serve the purpose of helping consumers and less experienced retail investors understand the essential information in a simpler and more visual way?**

<ESMA\_QUESTION\_SFDR\_30>

ShareAction believes that the introduction of a dashboard may help legibility of the templates. |

<ESMA\_QUESTION\_SFDR\_30>

**Q31 : Do you agree that the current version of the templates capture all the information needed for retail investors to understand the characteristics of the products? Do you have views on how to further simplify the language in the dashboard, or other sections of the templates, to make it more understandable to retail investors?**

<ESMA\_QUESTION\_SFDR\_31>

While ShareAction agrees with the ESAs' assessment that the terminology used in the templates may be considered challenging for retail investors, and believes that definitions in the left-hand margin can partially address these challenges, we note that the difference between "sustainable objective" and "promotion of characteristics" is not addressed in the draft template margins. |

<ESMA\_QUESTION\_SFDR\_31>

**Q32 : Do you have any suggestion on how to further simplify or enhance the legibility of the current templates?**

<ESMA\_QUESTION\_SFDR\_32>

While ShareAction agrees that the use of greyed-out versus coloured icons can enhance legibility, we believe that the use of the colour green is too generous in the current proposal. We believe that the average recipient would expect proportions q% and r% to be significantly above 0 for the use of the colour green to make sense. Therefore, we propose to use another colour for icons that are not greyed-out. |

<ESMA\_QUESTION\_SFDR\_32>

**Q33 : Is the investment tree in the asset allocation section necessary if the dashboard shows the proportion of sustainable and taxonomy-aligned investments?**

<ESMA\_QUESTION\_SFDR\_33>

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<ESMA\_QUESTION\_SFDR\_33>

**Q34 : Do you agree with this approach of ensuring consistency in the use of colours in Annex II to V in the templates?**

<ESMA\_QUESTION\_SFDR\_34>

|Yes, ShareAction agrees that the colour palette should not be changed for easy recognition. |

<ESMA\_QUESTION\_SFDR\_34>

**Q35 : Do you agree with the approach to allow to display the pre-contractual and periodic disclosures in an extendable manner electronically?**

<ESMA\_QUESTION\_SFDR\_35>

|TYPE YOUR TEXT HERE |

<ESMA\_QUESTION\_SFDR\_35>

**Q36 : Do you have any feedback with regard to the potential criteria for estimates?**

<ESMA\_QUESTION\_SFDR\_36>

|ShareAction agrees with the ESAs' proposals. Specifically,

- We agree that regarding substantial contribution, data should NOT be estimated;
- We agree that for the purpose of DNSH and Minimum Safeguards, investee company data on the existence of adequate due diligence processes could be used, provided that the due diligence framework is in line with the UN Guiding Principles on Business and Human Rights (UNGPs), and the OECD Guidelines and follows the 6-step approach outlined by the OECD. This way, information given will go beyond policies and instead also details relevant processes and implementation steps, including remedy where useful. This process should be continuous and cover the entire value chain, as prescribed by the the UNGPs and the OECD. |

<ESMA\_QUESTION\_SFDR\_36>

**Q37 : Do you perceive the need for a more specific definition of the concept of “key environmental metrics” to prevent greenwashing? If so, how could those metrics be defined?**

<ESMA\_QUESTION\_SFDR\_37>

|TYPE YOUR TEXT HERE |

<ESMA\_QUESTION\_SFDR\_37>

**Q38 : Do you see the need to set out specific rules on the calculation of the proportion of sustainable investments of financial products? Please elaborate.**

<ESMA\_QUESTION\_SFDR\_38>

|Yes, ShareAction sees the need to set out specific rules on the calculation of the proportion of sustainable investments.

Despite being a disclosure-based regulation, the SFDR created two product categories: sustainable investments, often referred to as Art. 9 products and products with ESG characteristics, known as Art. 8 products. Observing how the market has implemented the new rules, SFDR de facto created a semi-standard for financial products that are marketed as “dark green” (Art 9) and “light green” (Art 8). This naming convention has emerged as a market practice, unfortunately it may be misleading to consumers.

The problem is, however, that whilst the regulation stipulates certain requirements that products need to meet to qualify for each category, it remains far from constituting a much-needed sustainability standard for financial products. Article 9 products that pursue an environmental objective are required to disclose a proportion of the EU Taxonomy-alignment of their investments. However, there is no threshold set. This allows products, defined as sustainable investments under the European regulation, to not be aligned with the EU Taxonomy at all. Moreover, neither Article 8 nor Article 9 specify any investment exclusions. Consequently, products qualifying as sustainable investments or products with ESG characteristics can invest in fossil fuel expansion or other environmentally or socially harmful economic activities.

This lack of minimum standards is particularly problematic from a consumer perspective: the lack of minimum criteria is suitable to allow products to be sold to retail-investors as green, even if they do not match a scientific or even common or rational understanding of sustainability. Such greenwashing harms not only the environment but also deceives consumers who may have relinquished a part of their returns to promote sustainability in their financial choices. This undermines trust in the ability of the financial system to promote sustainable finance, lowering retail investor participation in capital markets, including for private pensions and other essentials. The regulation leaves a lot of ambiguity over which products can or cannot qualify for each of the categories (especially in case of Article 8 products), resulting in an inconsistent application of rules across different countries and Financial Market Participants (FMPs).

We therefore propose to develop and adopt minimum requirements for both Article 8 and Article 9 products. |

<ESMA\_QUESTION\_SFDR\_38>

**Q39** : Do you agree that cross-referencing in periodic disclosures of financial products with investment options would be beneficial to address information overload?

<ESMA\_QUESTION\_SFDR\_39>

|TYPE YOUR TEXT HERE |

<ESMA\_QUESTION\_SFDR\_39>

**Q40** : Do you agree with the proposed website disclosures for financial products with investment options?

<ESMA\_QUESTION\_SFDR\_40>

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<ESMA\_QUESTION\_SFDR\_40>

**Q41** : What are your views on the proposal to require that any investment option with sustainability-related features that qualifies the financial product with investment options as a financial product that promotes environmental and/or social characteristics or as a financial product that has sustainable investment as its objective, should disclose the financial product templates, with the exception of those investment options that are financial instruments according to Annex I of Directive 2014/65/EU and are not units in collective investment undertakings? Should those investment options be covered in some other way?

<ESMA\_QUESTION\_SFDR\_41>

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<ESMA\_QUESTION\_SFDR\_41>

**Q42** : What are the criteria the ESAs should consider when defining which information should be disclosed in a machine-readable format? Do you have any

**views at this stage as to which machine-readable format should be used? What challenges do you anticipate preparing and/or consuming such information in a machine-readable format?**

<ESMA\_QUESTION\_SFDR\_42>

|TYPE YOUR TEXT HERE |

<ESMA\_QUESTION\_SFDR\_42>

**Q43 : Do you have any views on the preliminary impact assessments? Can you provide estimates of costs associated with each of the policy options?**

<ESMA\_QUESTION\_SFDR\_43>

|TYPE YOUR TEXT HERE |

<ESMA\_QUESTION\_SFDR\_43>