

DUFAS welcomes SFDR 2.0 and sets out key recommendations for further improvement

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The Dutch Fund and Asset Management Association (DUFAS) welcomes the proposal for amending the Sustainable Finance Disclosure Regulation (SFDR), which is a considerable and much-needed improvement to the current regulation and its requirements. We emphasize our strong support for the SFDR and its objectives as a central part of the EU Sustainable Finance Framework. The European Commission proposes amendments that reflect the need to make the SFDR fit for purpose and more closely connected to industry best practices and market requirements. We support the proposed focus on products, through removing portfolio management services and investment advice from the scope of SFDR and by introducing product categories with clear product eligibility criteria. We also welcome the simplification of the entity level disclosures, most notably by the removal of the entity level PAI statement, while retaining the disclosures on sustainability risk management policies. We explicitly welcome the option to include crucial investments that support and enable the energy transition under the transition product category, as well as investments targeting other than climate-related transitions. We commend the European Commission for showing a clear ambition to integrate market feedback and sustainable investing practices into the various parts of the proposal. At the same time, there are certain aspects that can significantly benefit from further improvement, in order to enable investors to invest sustainably, to improve comparability between products, and to support practical implementation by our members. In this position statement, we present our key recommendations.

1. Strengthen the transitional provisions for the implementation of SFDR 2.0

To promote a swift and focused implementation of the revised SFDR, further consideration should be given to transitional provisions from the current regime to the new set of rules, and to the interaction with – and any required changes to – related rules laid down in e.g. MiFID II. The market benefits from swift elimination of current and burdensome requirements that will be stricken under the revised SFDR, in order to dedicate focus and resources to developing products and disclosures following the revised approach. While the amount of time needed for market participants to apply the new framework will also depend on the level of complexity to be introduced by the final legislative act and delegated regulations, we consider the proposed 18 month date of application period generally speaking sufficient. It is important that any specific requirements potentially laid down in delegated acts are established well ahead of the date of application. We also emphasize the need to make sure related changes to MiFID II requirements are fully synchronized with the timeframe of the revised SFDR, again stressing the need to allow for an adequate implementation period. Finally, we want to stress that for fund-of-funds structures, the revised framework should recognize that data collection, validation and aggregation are inherently sequential. We therefore propose that fund-of-funds are granted an additional (PAI) reporting window, allowing disclosure to take place after receipt of underlying fund information. This could take the form of a defined transitional period (e.g. an additional reporting cycle or limited time extension, to be further specified).

DUFAS recommends:

1. Allow a full period of 18 months for application of the new rules, with timely delivery of the Level 2 requirements at least one year before said date of application of the Regulation.
2. Periodic reporting requirements should only apply from 12 months after the date of application, allowing to show performance of the product against the updated pre-contractual commitments.
3. Explicitly allow for a deferred reporting timeline for fund-of-funds compared to single-layer funds, reflecting the structural dependency on data availability from underlying funds.
4. Provide a 'stop-the-clock' provision to targeted obligations for immediate effect at the date of entry-into-force, such as the PAI statement, SFDR information for discretionary portfolio management, and periodic reports. This does not need to apply to pre-contractual information requirements. If still relevant, clarity should be provided on how to deal with periodic reports that cover both the SFDR 1.0 and 2.0 period.
5. Clarify rules for pension funds on pre-contractual disclosures during 12-month transition period (art 6), as well as on marketing communication (as art 19a does not apply to art 13).

2. Introduce an opt-out for AIFs offered exclusively to professional investors

AIFs offered exclusively to professional investors are restricted to a professional investor base with no broad market access, where information asymmetries are less likely to manifest. The relationship and communication between fund managers and institutional clients is often direct and tailored which would justify less strictly prescribed reporting formats, while still allowing the flow of relevant information. Imposing the full regulatory framework on such a market segment, which has a much higher level of knowledge than retail investors, risks creating an unnecessarily heavy and disproportionate burden, which does not enhance investor protection but instead undermines efficiency and competitiveness.

DUFAS recommends:

1. To introduce an opt-out for AIFs offered exclusively to professional investors, ensuring that regulation remains risk-based and proportionate to the actual distribution and target audience. Such AIFs would still need to be allowed to provide all relevant data to professional investors, be it no longer under the requirement of specific SFDR-formats.

3. Provide quality safeguards on third-party data provision and introduce proportionality in requirements for FMPs

Reliable data is essential to the success of the SFDR and to the objectives of the EU sustainable finance framework. The proposal aims to enhance transparency around the use of estimates for purposes of SFDR reporting. This is highly relevant since, following the revision of the CSRD rules, the use of estimates is expected to significantly increase in the foreseeable future. Our members will increasingly need to rely on the services of data providers to source the data necessary for sustainable investment decisions as well as for their own reporting requirements. The quality of this information is key for a meaningful contribution to the objectives of the SFDR, and to meet client expectations regarding the performance of their investments. However, the current drafting of Article 12a creates a significant imbalance in the treatment of financial market participants and ESG data providers. It places extensive transparency and accountability obligations on regulated entities,

while data providers still remain unregulated. This asymmetry risks further undermining data quality and investor protection.

DUFAS recommends:

1. To strengthen oversight of ESG data providers, with a focus on supporting robust methodologies that help users understand a data provider's assessment, through transparency requirements rather than prescribed formulas to be applied by providers.
2. To consider various options for strengthening such oversight, e.g. by introducing an amendment to article 12a that incentivizes third party data providers to adopt industry standards in line with best practice recommendations, to impose (outside of the SFDR) a parallel duty to ensure data quality, methodological robustness and transparency, or to introduce a recital expressing a clear expectation to encourage the development of minimum transparency and governance standards for ESG data providers, for instance through a code of conduct.¹
3. To introduce a proportionality principle under art 12a(b) iii, by acknowledging limitations for FMPs in terms of data availability at investee or asset level, and requiring supervision of such methodology and disclosure to follow a principle of proportionality.

4. Introduce a limited mandatory set of PAI indicators to be applied to all three categories

A majority of our members supports introducing a mandatory, but limited set of indicators that should apply to *all* categorized products, promoting comparability of adverse sustainability-related impacts across categories. Acknowledging that such data may not be available for certain investments or not applicable to all asset classes, a substantiated 'non-applicable' disclosure option introduces a practical degree of flexibility. The mandatory disclosures may be complemented by the voluntary disclosure of indicators selected based on relevance to a specific product's objective or strategy.

DUFAS recommends:

1. To require *all* categorized products to report on a core set of metrics based on PAI indicators (e.g. GHG emissions, fossil fuel exposure, lack of human rights due diligence processes, UN Global Compact violations), providing investors with consistent and comparable benchmarks across products.
2. To allow additional, voluntary sustainability indicators, to the discretion of the financial market participant, that can be tailored to specific investment strategies and objectives to identify principal adverse impacts and support practical, decision-useful reporting.

While our recommendations aim to constructively enhance the initial proposal as presented by the European Commission (which regards categorized products only), we would like to emphasize that DUFAS has consistently argued that the SFDR should also support a level playing field between non-sustainable and sustainable products by requiring all financial products, also those not qualifying as

¹ Embedding this expectation in a recital would provide an important policy signal while relying on pragmatic, industry-led solutions without the additional costs of regulation. A possible development of a voluntary code of conduct, under the Commission's oversight, would promote higher data quality over time and support a level playing fields in competitive terms.

sustainable products under the SFDR, to disclose at least on a similarly limited but mandatory set of negative impact indicators.

5. Prioritize consistency within the EU regulatory framework, including with regard to minimum product criteria and sustainability preferences

We emphasize that consistency of rules within the EU regulatory framework is essential to support effective and meaningful implementation. This concerns most notably alignment between the SFDR and key points of reference such as the EU Climate Benchmarks (CTB and PAB), with which other initiatives, such as the ESMA Fund Naming Guidelines, also seek alignment. However, we also want to stress the need to modify the criteria for the assessment of client sustainability preferences under IDD/MiFID II, as sustainability preferences remain a client-level requirement and continue to apply to portfolio management services (PMS) outside the SFDR framework. It is essential to ensure that the removal of PMS from the scope of the regulation does not create uncertainty in the application of clients' sustainability preferences under MiFID.

We support the introduction of minimum exclusions to enhance credibility and comparability across SFDR product categories. Such exclusions must be adequately aligned with the objective of each category and operationally workable across asset classes. They, too, should be consistent within the EU regulatory framework, taking account of related rules that have already been implemented by our members and which have in practice already shaped supervisory expectations. We acknowledge that the exact nature of suitable exclusion criteria for, most notably, the transition and sustainable product categories is subject of discussion. Regardless of the outcome of these discussions, we emphasize above all the need for consistency and alignment, in order to support comparability and understandability for investors, but also to maintain a level playing field between active and passive strategies. Additionally, we recommend to acknowledge investor engagement strategies and transition plan assessments towards certain exclusion criteria also in high-emitting sectors - excessive exclusions could shrink the investable universe, harm diversification and dilute stewardship value-add, while (mandatory) transparency around exposure to certain economic activities could be an alternative way forward as well (as per our recommendation under point 4 above).

DUFAS recommends:

1. Align and make consistent the minimum exclusion criteria within the EU sustainable finance framework by amending relevant legislation, while making sure the criteria can support investor strategies based on the assessment of transition plans and shareholder engagement rather than exclusion thresholds alone.
2. Align the MiFID II and IDD requirements around assessment of sustainability preferences with amendments to the SFDR, such as the deletion of the definition of sustainable investment and changes to PAI. SFDR categorizations may serve as a reference point where relevant, but should not become the default or exclusive compliance mechanism for portfolio management.

6. Support a meaningful implementation of social minimum safeguards regarding violations of UNGC principles and OECD MNE Guidelines

DUFAS supports including social sustainability and human rights criteria as part of the mandatory exclusion criteria. To this end, the proposal should take into account the challenges and responsibilities around the meaningful implementation of these criteria, around assessing compliance with these criteria, and around the important role of investor engagement activities regarding company performance against said criteria. The proposal introduces hard-coded exclusions of OECD or UNGC² non-compliance, a binary in-or-out approach which finds itself at odds with the design of these international frameworks: the frameworks expect businesses to respect human rights by setting up adequate human rights due diligence processes, by conducting a process of ongoing, iterative due diligence, and by promoting a risk-based approach that does not automatically penalize companies for the presence of risks or adverse impacts in their operations and supply chains. In the absence of a clear definition for purposes of meaningful SFDR minimum safeguards, a 'violation' against these frameworks may in practice mean very different things, from absence of due diligence processes to severe human rights harm established to be caused by company conduct. Additionally, the proposed approach leaves no room for portfolio companies to improve or clarify actions or for financial market participants to consider engagement to this end. We also note that data providers in practice may reach very different conclusions on UNGC/OECD compliance scores and sometimes tend to be backward looking, resulting in prolonged non-compliance even when companies might already have taken relevant steps to mitigate or remediate negative impacts. This can usually only be identified by means of engagement. Furthermore, there would be a need to clarify how these requirements could be meaningfully applied to financial products that include illiquid investments, where divestment may not be a readily available option. From the above follows that we also seek recognition of engagement strategies as an important part of sustainable investing practices under all three product categories, not just under the transition category.

DUFAS recommends:

1. To redesign the criteria around social minimum safeguards to explicit target the exclusion of companies involved in severe human rights abuses, while taking into account due diligence policies and procedures following OECD Guidelines and the UN Guiding Principles (rather than UNGC). Since the proposal adopts the Climate Benchmark exclusion criteria, this suggests the need to integrally reflect on the design and effectiveness of the criteria put in place by interrelated EU regulations.
2. Recognize the relevance and contribution of engagement strategies for all product categories and provide further specification around the qualifiers for contribution of such engagement strategies, e.g. being time-bound, subsequent investment actions in view of engagement targets (not) being met, etc.
3. Clarify that financial market participants are explicitly allowed room to validate a data vendor's assessment regarding minimum safeguards, for example by means of company engagement.
4. Include a reference to art. 19b that allows limited permitted deviations from the exclusions for categorization purposes of art 7 to 9, which could serve as a legal base to allow passive breaches of the OECD Guidelines. Such exemption is key for pension funds and asset

² We suggest to consider introducing a reference to the UN Guiding Principles as the applicable soft law standard alongside the OECD Guidelines, rather than the UN Global Compact. See also the 2011 Note on the Relationship Between the UN Global Compact and the UN Guiding Principles for further background ([link](#)).

managers with positions in illiquid investments to determine whether or not the categories are feasible.

5. Clarify how 'good governance', as an important pre-condition for sustainability in general and specifically as an important contributor to compliance with social minimum safeguards by investees, continues to be reflected in the product categories (as per recital (8) of the proposal).

7. Finetune the treatment of public debt instruments for categorization purposes

The proposal introduces a universal rule for treatment of general purpose public issued debt, which we consider to be disproportional for art 7 and 9 products. First of all, for purposes of categorization and contribution to sustainability objectives, distinction should be made between sovereign debt and other types of public-issuances, e.g. Dutch FMO bonds. In addition, given that SDGs are explicitly mentioned in the proposal as a means to assess social sustainability objectives, it should be possible to include public debt instruments which meet certain SDG thresholds to be classified as eligible for article 7 and 9 products. We also note that pension funds in practice need to allocate significantly to sovereign bonds because these instruments serve as low-risk, high-liquidity assets that align with liability-driven investment strategies. Exposure of more than 30% of a pension fund's portfolio to sovereign bonds is common for Dutch liability-driven portfolios. This warrants further consideration on how to treat such instruments within the categorization scheme.

DUFAS recommends:

1. To retain the proposed treatment of general purpose sovereign debt for counting towards art 8 funds only.
2. To introduce a separate treatment for sub-sovereigns, supranationals, and MDBs, which could count (as opposed to general purpose *sovereign* debt) toward both transition and sustainable objectives as well.
3. To provide illustrative references to acceptable methodologies for assessing contribution of general-purpose sovereign bonds for purposes of art 8 categorization.

8. Clarify the phase-in requirements, also for the ongoing application of quantitative thresholds

For categorized products (and consequently mixed products following art 9a), there is the option to have a phase-in period to reach the 70% threshold. There are no provisions for flexibility during a fund's lifecycle, which may face temporary threshold-breaches due to illiquid assets or for other reasons.

DUFAS recommends:

1. Introduce sufficient flexibility during a fund's lifecycle to allow for temporary 'threshold-breaches' in order to accommodate investments in illiquid assets or for other relevant reasons.

9. Support on-going innovation of 'impact products' and align the proposal with market best practices

Given their innovative character, impact investment strategies should be able to retain the flexibility towards their investment approaches. We would welcome reference to transparency frameworks

and international standards such as GIIN and IRIS+, rather than detailed prescriptions or definitions that will restrict the innovative character of impact products. Additionally, we stress the importance of recognizing ‘intentional impact’ as a central element to impact investment products, rather than a mere focus on quantifiable metrics. The latter may favor products that measure something but do not address real problems. We therefore propose to reintroduce the notion of ‘problem-solving contribution’ in the category of Sustainable products, for example: ‘Sustainable products shall demonstrate measurable outcomes that address material environmental or social challenges, including those identified in the European Green Deal, Biodiversity Strategy and other EU transition pathways.’

Regarding impact-related disclosures, the categorization scheme is accompanied by strict naming and marketing communication restrictions. This follows from the wording “financial market participants shall not claim that” in Articles 7, 8 and 9. Although we understand the approach, we feel that clarification is needed specifically for ESG Basics products that allocate part of the portfolio to transition, sustainable and impact investments. It should be possible to provide fair, clear and not-misleading non-regulatory information about these investments. This is particularly relevant for pension funds that operate only one product (the pension scheme) but still have impact, transition and sustainable investments as part of their investment strategy.

DUFAS recommends:

1. Introduce a reference to existing frameworks and standards for impact products in order to support flexibility and innovation for impact investments.
2. To clarify in the recitals that: “if an ESG basics product has impact, sustainable or transition investments as a binding element in its strategy, this may be disclosed under art 8, sub 3 (i) and it should be allowed to communicate on impact investments made.” This also would be in line with the communication restrictions in art 13, sub 1 and 2 (marketing communications not contradicting disclosed information and being fair, clear and not-misleading).

10. Central role for consumer testing

In the proposal, consumer testing provisions are foreseen only for the interplay with relevant distribution rules. Ideally, category naming too should be based on sound consumer testing with a view on maximizing understandability while at the same time respecting established industry practices regarding the use of specific terminology. As a case in point, we note that the proposal does not respect the well-established definition of the term “ESG integration” as the non-binding consideration of sustainability risks in investment decisions and we would therefore caution against linking the term to one specific category - in particular, the ESG basics category.

DUFAS recommends:

1. Consider introducing consumer testing as a foundational building block to all client-facing requirements on the presentation and content of information, including on client expectations regarding the contribution criteria of each category and their interplay with the relevant distribution rules.

11. Clarify the application to a wider set of asset classes and to other than environmental topics

DUFAS notes that the proposal may introduce unintended tilts towards certain financial instruments and sustainability topics, thereby affecting capital allocation, product development and real-world impact.

While the proposal should be practically applicable to all relevant asset classes, the various considerations and criteria, where applicable, seem to be generally tilted towards providing clarification and guidance around listed equity investments and corporate issuances, with less consideration for the application to other asset classes such as private market investments and other debt instruments. This appears due to a corporate centric disclosure architecture (focusing on issuer level data), product categories requiring standardized and comparable metrics, and data availability tilting towards certain investments. As a consequence, the proposal may support the development of products focusing on listed equity and corporate bonds, rather than on e.g. private equity or infrastructure investments, regardless of the materiality of underlying economic activities.

Similarly, the proposal focuses predominantly on clarifying aspects around environmental sustainability, leaving other topics more thinly covered. This appears due to the proposal being primarily anchored in the EU climate agenda, supported by environmentally focused tools (e.g. Taxonomy) and explicit criteria regarding climate contribution factors (Climate Benchmarks, transition pathways, etc.), which are in practice also more easily quantifiable and measurable than e.g. social contribution criteria. Here, too, the unintended consequence may be a general product tilt towards environmental sustainability, focusing only on that part of the EU's sustainability agenda.

DUFAS recommends:

1. To support the practical application and implementation of the revised SFDR framework by providing further guidance and examples on methodologies and specificities that concern other asset classes as well as the most material sustainability topics.

12. Specify the eligibility for the Transition category of crucial investments to support the climate and energy transitions

DUFAS welcomes that the proposal (under art. 7(2)(h)) does not restrict to be included under the Transition category those crucial investments that support and enable the energy transition, to the extent that such activities are not already covered by the EU Taxonomy. However, this approach is not made explicit or specified. Preferably, the proposal explicitly clarifies that investments in relevant supporting activities are allowed under article 7.

DUFAS recommends:

1. Clarify that activities that are essential to the climate and/or energy transition, but are not activities that in themselves can be or are (necessarily) on a transition pathway, are explicitly eligible for inclusion in transition products. This might concern e.g. major investments in energy infrastructure, heating networks, battery storage, green hydrogen, etc, which are typical examples of enabling activities for the climate and energy transitions, and for which large public-private financing initiatives are likely required.

DUFAS: Dutch Fund and Asset Management Association

Since 2003, DUFAS has been committed to a healthy asset management sector in the Netherlands. DUFAS has more than 50 members: from large asset managers who invest Dutch pension and insurance assets to smaller, specialist asset managers. DUFAS increases awareness of the social relevance of investing, helps to develop sector standards and represents the sector in the implementation of new laws and regulations. In addition, DUFAS is committed to a single European market with equal regulations.

More information

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