IRSG

INSURANCE AND REINSURANCE STAKEHOLDER GROUP

IRSG Advice on Taxonomy-related sustainability disclosures

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European Insurance and Occupational Pensions Authority

General information about respondent

Name of the company / organisation	Insurance and Reinsurance Stakeholder Group
Activity	
Are you representing an association?	☐
Country/Region	Europe

Introduction

Please make your introductory comments below, if any:

<ESA_COMMENT_**ESG**_1>

The IRSG welcome the 'ESAs' work on disclosures for sustainability-related products as a positive step towards consistent legislation and enhanced transparency for consumers. This work must deliver understandable sustainability-related information to consumers while accounting for comparability across product types in line with the Taxonomy Regulation (TR) objective.

However, care needs to be taken to consider the current market reality and how the taxonomy-related disclosures fit in the current Sustainable Finance Disclosure Regulation (SFDR) templates and the consequent impact on the overall 'consumers' disclosures. In this respect, we appreciate the 'ESAs' effort to provide a robust understanding of the degree of alignment of financial products to taxonomy-eligible activities. The final templates risk being very long and overly detailed for consumers. The efforts to develop further reporting standards able strengthen accountability and transparency in the information provided to consumers and other market participants to ease their choices in investing in sustainable products should continue though. These reporting standards should be complemented by defining some benchmarks of good practices.

We also appreciate how the taxonomy-related disclosures are embedded in those under the SFDR, via amendments to the SFDR RTS. However, the final disclosures need to be balanced and straightforward. Considering the likely delay with the finalisation of the TR RTS and the current timing challenge (the SFDR RTS and therefore the taxonomy-related disclosures are due for application on 1 January 2022), it is key that the taxonomy disclosures only introduce essential changes in the SFDR RTS and consider potential safeguards, in line with the 'ESAs' supervisory statement on the SFDR, to account for the situation where the final RTS are not finalised early enough to allow sufficient time for implementation.

The ESAs should also provide more guidance on the specific taxonomy indicators (for turnover, capex, opex) and the link with the ESAs work on Article 8 of the taxonomy, as this can help financial market participants (FMP) with the implementation. In addition, care should be taken to ensure that product-level disclosures are realistic and adequately consider existing ESG data issues, especially since some the Delegated Acts setting up the taxonomy are still under development.

The ESAs should limit their proposals to Taxonomy-related sustainability information that is clearly deemed to add value from a cost-benefit perspective. Taxonomy alignment information needs to be publicly disclosed for a sufficiently large scope (which needs to be ensured via an appropriate extension of the scope as per the NFRD/ CSRD).

There is a clear need to take due account of unintended consequences. In this respect, the disclosure requirements under Art. 10 of the SFDR, for which disclosure in a password-protected area would not suffice, are concerning. In particular, certain disclosures on tailored products (e.g. on investment strategy and top investments) should not become public (via the website) as this would lead to a disadvantage for EU FMPs while not being associated with a significant value-add for clients.

<ESA_COMMENT_**ESG**_1>

: 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?

<ESA_QUESTION_ESG_1>

Yes, we strongly welcome the 'ESAs' proposed approach as it avoids duplications and overlaps in terms of sustainability disclosures. We agree with the "single rulebook" approach, as we need as much convergence as possible in approaches, definitions, and use of KPIs to ease the already very complex data availability and mining challenge faced today. External providers will be better equipped and able to provide services, data and a common language to end-users. Time efficiency, resources availability and level of sophistication also support the maximum level of convergence. We fully support an utmost integrated, consistent and effective approach to avoid duplication for implementation or even several waves of implementation and an effective approach to avoid duplication for implementation or even several implementation waves. Whatever can be consolidated should be consolidated to avoid the additional administrative and financial burden that customers would ultimately bear.

The usage of EU Taxonomy should be a priority. We are aware of potential difficulties, but there is a threat that EU Taxonomy is crowded out by lower standard classification. We would like to raise also attention to the template for light green products. According to the level 1 text, article 8.1. of Regulation (EU) 2019/2088 of the European Parliament and of the Council of 27 November 2019 on sustainability-related disclosures in the financial services sector, the disclosure should present "information on how those characteristics are met". Without any explanation, the ESAs propose the statement "whether the financial product intends to make a sustainable investment". This should be elaborated in more detail: first of all, if this approach is possible, then what is its rationale.

However, there is a concern regarding the timing, which risks being insufficient to allow implementation by January 2022. Therefore, we strongly encourage the ESAs to suggest safeguards in case the final product templates are not available sufficiently early. Such safeguards are equally key to factor in the challenges related to collect taxonomy-related data.

It is key that FMPs are not pressured to disclose information and indicators which are not considered sufficiently reliable and could, thus, bear reputational and legal risks. Therefore, where relevant (e.g. where data is not (yet) available or guidance was provided too late for thorough implementation), respective disclosures shall only be required on a reasonable best efforts basis. In this context, disclosure requirements for Multi-Option Products (MOPs) are particularly concerning. All FMPs shall apply the RTS as of 1 Jan 2022. However, in the case of MOPs, FMPs need the corresponding information from asset managers to prepare their own disclosures. During the ESAs' public hearing, ESAs stated that they believe that asset managers will be able to provide the relevant information in advance of the effective date as FMPs are already working on the templates. However, there is no evidence that this would in fact be the case at all times. Rather, the fact that no time lag is foreseen imposes significant oper

<ESA_QUESTION_ESG_1>

: 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?

<ESA_QUESTION_ESG_2>

On the one hand, this approach allows for the homogeneity of the data summed in the ratio's numerator. However, on the other hand, it will not be possible to capture economic activities/actors who are at different sustainability levels (e.g. transitional activities) with this approach. Indeed, the Consultation Paper question does not seem to take into account the recent recommendations on forward-looking metrics to be published by companies for activities in transition (Report of the EU Sustainable Finance Platform published on 19 March to feed the Commission for the finalisation of the Taxonomy Regulation Delegated Act on climate change).

For instance, if a product invests in two companies, one of which (company A) is taxonomy-aligned and the other (company B) is in transition, then for "A" the investment can be weighted by the share of taxonomy-aligned turnover, but for "B" the investment will have to be weighted by the taxonomy-aligned capex (cf. Platform on sustainable finance advice on transition which recommends to count as taxonomy-aligned investments towards meeting the Taxonomy technical screening criteria in the future).

Consistency is needed across legislation but we would like to emphasise also the importance of coordination amongst EU regulators/supervisors to provide harmonised set of guidelines/recommendation for disclosures.

Depending of the type of investment, turnover, capital expenditure (capex) or operational expenditure (opex) might be more suitable. One approach to be applied to all investments should not, be imposed. Therefore, each financial market participant should consider what KPI is most suitable for each activity/investment in a non-financial undertaking investee company. However, FMPs should also not be required to aggregate Taxonomy alignment on turnover, CapEx and OpEx into one KPI/graph. Rather, they should be required to report all three KPIs, namely to show the Taxonomy alignment for the respective portion of total investments that was assessed based on turnover, CapEx and OpEx, respectively. If FMPs shall be required to only disclose one KPI for Taxonomy alignment, ESAs/EU COM should develop operational guidance as to how FMPs should perform the respective aggregation to avoid inconsistencies. Further, to avoid inconsistencies across FMPs, ESAs/EU COM should develop operational guidance as to the circumstances under which FMPs would be expected to use which KPI.

As not all indicators could be available, the possibility should be left open to use the most relevant indicator (for transitional activities, for instance, choose capex as a measure of the company's investment). Ideally, capex should be used, or turnover if the activities are aligned with the Taxonomy.

Furthermore, regarding the ESAs choice to reintroduce a graphical representation in the SFDR templates, we believe graphical representations (graphs or icons) need to be carefully considered not to complicate the technical implementation by financial market participants and to support the ' 'reader's understanding of the product.

We would like also to point out that the ''s KPI's should capture well enough the differences between bank, asset manager, or insurer disclosing the information. This will enable the end report to be relevant and reliable for any end-users. All the used definitions in the policy options had issues to further consider as (1) revenue can be understood in economic ways but also based to various financial accounting standards (incl. national tax-based ones), (2) Fee structure could be captured but might consist of multiple parts incl. insurance layers, (3) capex/opex is not defined in similar ways and has similar problems as those in (1) and (2) but also might need to capture some capital requirements, (4) amount of investments might need to be split under life insurance into unit-linked part and insurers own investments. Therefore it would be suggested to allow for a bit more freedom (principles-based ways) to decide on what would be the best KPI for different purposes and then possible explain the decision in some ways. Further and more generally, more guidance/clarification would be needed as to which Art. 8 KPI should be considered by FMPs when they invest into financial untertakings (as insurers and banks would be required to report more than one KPI).

Finally, care should be taken to ensure consistency with work related to Article 8 of the TR.

Restrictions of ESG data availability will limit the application of this KPI. Therefore, expert judgements and approximations will be necessary for the interest of a best-effort approach.It is absolutely essential that, as to the lack of data on Taxonomy alignment for eligible investments, both temporarily over the next years (especially the first year) and ultimately (for the CSRD scope), it should be determined how FMPs should deal with investments for which the relevant Art. 8 disclosures under the TR are not (fully) available (e.g. not disclosed (fully) by the investee), not publicly available (e.g. only disclosed to the investor) or publicly disclosed on a voluntary basis, yet not externally verified.

<ESA_QUESTION_ESG_2>

: 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?

<ESA_QUESTION_ESG_3>

Opex is an indicator not frequently used by issuers, and the breakdown of Opex is therefore not really an indicator used in financial analysis and for investment. Nevertheless, we believe it should be possible to use operational expenditure (opex) in line with the work undertaken so far on the taxonomy screening criteria. However, we are of the opinion that capex by the activity should be emphasised, not opex.

<ESA_QUESTION_ESG_3>

: 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?

<ESA_QUESTION_ESG_4>

It would be better to exclude derivatives because taking them into account raises valuation issues (nominal or mark-to-market). Moreover, there would be a need to distinguish between the objectives and ways in which derivatives are used (for example, they might be held in the short term for a one-off de-risking of the solvency ratio). Derivative strategies complement portfolio management practices and may be used from time to time based on anticipation of market movements or economic uncertainties leading to a short-term exposure profile, not in line with the fundamental investment strategies, thus not providing the reader with an adequate KPI. In addition, there is less control for FMPs over the application of sectoral and normative exclusions on certain derivatives (e.g. index-linked derivatives).

Finally, derivatives should be left out of scope as they are, by definition, not directly connected to an activity covered by the Taxonomy. The Taxonomy relates to activities, and derivatives are not cash-driven investments directly impacting the financing of the real economy and thus should be excluded from the KPI calculation. In addition, at least with view to short-selling, any shorting of positions would not be congruent with the TR’s primary objective (and should, thus, be out of scope) as short-selling does not generally seem aligned with the objective to incentivize the flow of capital towards (environmentally) sustainable activities.

If the ESAs/EU COM decide to consider derivatives nevertheless, clear guidance as to the respective methodology to assess Taxonomy alignment is needed, which would still need to be developed.

<ESA_QUESTION_ESG_4>

: 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?

<ESA_QUESTION_ESG_5>

The use of "equities" and "debt instruments" seems sufficiently clear to capture relevant instruments issued by investee companies.

<ESA_QUESTION_ESG_5>

: 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?

<ESA_QUESTION_ESG_6>

For one member, it would be preferable to include in the denominator all assets, even those that cannot be assessed for Taxonomy-alignment. This is a methodological choice, but it has the merit of simplifying the exercise. Otherwise, there is a risk of endless debates on what to include in the denominator or exclude.

This inclusion would, on the other hand, "dilute" the proposed ratio, and it would be preferable in this context to use only the assets concerned to avoid this dilution. Therefore, for other members, the focus of the denominator should be on eligible investments under the taxonomy. Total investments could still be reported separately to provide a more transparent picture of the investments in the financial products.

Excluding investments that are strictly non-eligible under the taxonomy from the denominator could provide better comparability across products in line with the taxonomy objectives. This could be key in comparability across product types as some products will inherently have by design a larger share of taxonomy-eligible investments. However, this does not mean these products are necessarily providing a better contribution to the sustainability agenda (for example, an equity fund can achieve 100% taxonomy-eligibility compared to a mixed fund with government bonds).

In addition, the inclusion of all investments in the denominator can provide distortive incentives to change the composition of the sustainable products and include activities that are more likely to pass the do-not-significant-harm principle short-term. This should not come at the expense of better product diversification and risk management. If the KPI shall nonetheless be based on total investments, i.e. as recommended by EIOPA and ESMA for Art. 8 disclosures under the TR, an approach that ensures the necessary transparency as to both eligible activities/investments (in relation to total activities/investments) and aligned activities/investments (in relation to eligible activities/investments) should be pursued at the minimum to also depict the information that would be most informative (namely alignment relative to eligibility). Potentially, this could be added here as an “intermediary” proposal as well.

We note that EU insurers hold large amounts of government bonds (about 33.3%) in domestic ones. In addition, EU insurers show about 15.6% of their total investment concentrated towards banks and a strong home bias (source: Joint Committee Report on risks and vulnerabilities in the EU Financial System, JC 2021 27, 31 March 2021, p. 12). Lacking alternatives, exposures are considerably higher in Central and Eastern Europe. This means, right from the outset, almost 50 % of the EU insurers assets are not eligible for the EU Taxonomy. This would result in at least two adverse collateral effects:

1. Unlevel playing field of (life) insurance products with other financial products competing for retail ' 'investor's savings, as insurers are forced to disclose a more negative KPI due to methodological flaws.
2. Undue divestment pressure on non-eligible assets (i.e. government and bank bonds) in order to achieve better KPIs

<ESA_QUESTION_ESG_6>

: 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?

<ESA_QUESTION_ESG_7>

The statement on taxonomy compliance is welcome in terms of transparency, but as it stands, it is too general to provide a guarantee of better disclosures as intended. We do not see a need for it to be supervised or audited by an external provider for certification. With time, taxonomy alignment will be part of the investment decision and will figure or will have to figure on a written basis in investment approval processes. That should cover participants in case of audits that would be internal or by supervisory authorities.

We believe that the value of an assessment by external or third parties about the sustainability of the product is limited for the time being, as there is no assessment about the robustness of ESG data and information by investee companies and public entities.

The natural solution to achieve disclosure reliability and fight greenwashing should be tackling this problem at the root. The issue of the quality of disclosed information by investee companies and public entities should therefore be treated under the upcoming revision of the Non-Financial Reporting Directive (NFRD), now falling under the proposal for a Corporate Sustainability Reporting Directive . According to the 2020 public consultation on the matter, the EU could impose stronger audit requirements for non-financial information in the revised NFRD (such a requirement (for limited assurance) has now in fact been proposed by the EU COM (and would also relate to the Art. 8 disclosures under the TR). If the EU were to introduce more robust audit requirements, and financial market participants use the data published by non-financial investee companies in their non-financial reporting under Art. 8 of the Taxonomy Regulation, the information collected will benefit from reasonable assurance.

<ESA_QUESTION_ESG_7>

Q1 : Do you have any views on the proposed periodic disclosures which mirror the proposals for pre-contractual amendments?

<ESA_QUESTION_ESG_8>

It makes sense to mirror the pre-contractual disclosures as laid down in the proposed RTS for the periodic disclosures, as it is important to ensure coherence with the structure of the SFDR RTS.

<ESA_QUESTION_ESG_8>

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

<ESA_QUESTION_ESG_9>

There is some concern that the current proposals are very detailed and risk overwhelming retail customers who need easy-to-understand and straightforward disclosures. Some insurers' voluntary implementation of the current SFDR templates already shows that pre-contractual disclosures for a single product are several pages long. This will inevitably discourage consumers from reading all information and will not make disclosures digital-friendly nor easy to navigate.

; therefore, it is key that only minimal essential changes are introduced while allowing the use of references and considering simplification of proposals. In addition, the current proposals appear to be still at early stages in terms of methodologies (for example, concerning the calculation of the KPIs, the scope of disclosures, etc.) and consumer testing. For financial products that have sustainable investment objectives, pre-contractual disclosures must include specifications that ESG factors are integrated and to disclose the associated risk, if any, as investors to have the possibility to make comparative assessment and to take their respective investment decisions considering the impact of sustainability risks on the returns of financial products.

Consumer testing that has already been held at the Warsaw School of Economics proves the complexity of the template. Information tends to satisfy compliance departments rather than consumers. Respondents without economic background have barely a chance to grasp the idea of the product. ESG jargon makes the situation even worse. There is a need for layered information that brings retail investor perspectives at the centre. More attention should be paid to the layout of the template.

FMPs should not be required to report “minimum share” information for their Art. 8 and 9 SFDR products as per the precontractual template. In particular, respective evaluations of the minimum share are complex and subject to significant levels of uncertainty, among others, because the TR is dynamic and will change in further due course. In addition, at least upon initial implementation, even for existing financial products, the relevant investee data for the current portfolio is not yet available. However, this data would be needed at the minimum to compute realistic values. Consequently, FMPs would likely report significantly lower values than their actual expectations as to the minimum share, or even zero Taxonomy alignment, to avoid making regular amendments as well as incurring sanctions and legal or reputational risks.

Care should be taken in the templates not to imply that sustainable investments which are not within the scope of the TR (yet) are any less sustainable; for example, the formulation “What was the share of sustainable investments that are not aligned with the EU Taxonomy?”, accompanied by the crossed-out sign (in the periodic template), may create such negative associations.

<ESA_QUESTION_ESG_9>

: 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?

<ESA_QUESTION_ESG_10>

A member does not find it necessary to have separate pre-contractual and periodic templates for Article 5-6 TR products because there is the risk that a separation will confuse consumers who will have to deal with multiple templates for the same products.At best, Taxonomy-related disclosures would be included in the existing templates (applicable to all Art. 8 and 9 SFDR products) by means of only essential changes to the RTS, possibly only in separate sections (via adds-on) to facilitate implementation.

Other IRSG member(s) recommend at this stage having specific templates for Article 5-6 TR products, including notably detailed information on Taxonomy-aligned target asset allocation, as proposed, for instance in the section on page 35 of the draft RTS.

On the other hand, for a product with a social (not environmental) objective, it would be burdensome and misleading to include in pre-contractual information the percentage of assets aligned with the Taxonomy.

In the long run, however, some members believe the approach should aim at unification.

<ESA_QUESTION_ESG_10>

: 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?

<ESA_QUESTION_ESG_11>

There is unanimity regarding this issue. On the one hand, these disclosures would make mandatory templates longer and are not expected to be particularly meaningful for products that explicitly state not to have environmental objectives/characteristics.
The taxonomy disclosures are a subset of the environmental disclosures (in fact, Article 5 and 6 TR focus on products with environmental objectives). Therefore, the RTS should not introduce an obligation to indicate the share of taxonomy-eligible investments for products that make sustainable investments with social objectives. That is why Article 8 and 9 SFDR products that make sustainable investments with social objectives should not be under this obligation

On the other hand, unification helps to achieve transparency. More clarity on definitions regarding sustainable investment are necessary, to give more guidance to investors and other financial market participants and to reduce the risk of greenwashing in sustainable finance. Certain formulations used into the templates should be clarified in order to be easily understandable for investors and other FMP. For instance, ”environmentally sustainable economic activities” appears in Draft regulatory technical standards with regard to the content and presentation of sustainability disclosures pursuant to Article 8(4), 9(6) and 11(5) of Regulation (EU) 2019/2088 for 77 times and in templates appears „sustainable investments with environmental objectives”_ in Q11 and in annexes). Using very similar wording, it may be difficult for investors to understand the subtleties if the concepts are not properly explained.

<ESA_QUESTION_ESG_11>

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

<ESA_QUESTION_ESG_12>

We believe that the impact assessment underestimates the current market reality when assessing the content and timing of the proposed requirements. In order to better assess the impact of their proposals, the ESAs could try to apply their proposed disclosures to real financial products. We currently have the impression that, even for simple products, the ESAs are underestimating the difficulty of disclosing the total eligible investments in the scope of the taxonomy and proposed KPIs, primarily due to the lack of required ESG data. For this reason, it is key that proposed requirements for taxonomy-related disclosures remain realistic and adequately consider the time necessary for the real economy to use the taxonomy and disclose related information.

<ESA_QUESTION_ESG_12>