

SFDR REVIEW

SUPPORTING SOUND SUSTAINABLE INVESTMENT

AMAFI and FBF's priorities for the trilogue negotiations

As negotiations enter the trilogue stage, AMAFI and FBF wish to draw the co-legislators' attention to a number of outstanding issues that are critical to ensuring that the SFDR review deliver on its core objectives: simpler, more efficient rules that facilitate the channelling of capital towards sustainable investments, better aligned with market realities and easier for retail investors to understand and use.

In particular, the availability of products with ESG characteristics should not be restricted beyond what is necessary to prevent greenwashing. Overly restrictive requirements would narrow the range of products that can mobilise savings towards sustainable projects and companies, including those supporting decarbonisation. For the same reason, the review should ensure that related regulations consistently accommodate products with sustainability characteristics that fall outside the scope of SFDR, and that SFDR categories are workable in practice.

In particular, the revised regulation should address the following topics, further detailed in the [Table](#) p. 3, and for which corresponding amendments are proposed in the [Annex](#) p. 7:

- **Allow PRIIPs out of the SFDR scope to communicate on their sustainable objectives in the KID.** The section "How sustainable is this product?" should be open to all PRIIPS products, provided a statement that they are not categorised under SFDR is included when relevant. This will ensure that products outside the scope of SFDR that have environmental and social objectives or characteristics can continue to communicate them without ambiguity. The statement proposed by the Council should be retained¹, instead of the one of the European Parliament² that could misleadingly suggest that such products cannot pursue sustainability objectives. ([Topic 1](#))
- **Shorten the review clause from 36 to 24 months** to reassess the inclusion of structured investment products in SFDR. Add a mandate for ESMA to assess, ahead of that review, how these products should be brought in scope, taking into account their specificities. ([Topic 2](#))

¹ Under the [Council proposal](#), the statement applies only to PRIIPs outside the scope of SFDR that disclose whether and how they consider sustainability factors or contribute to a sustainability objective. It reads: "This financial product does not fall under the scope of Regulation (EU) 2019/2088 and thus cannot be categorised as sustainability-related financial product under that Regulation".

² [European Parliament](#) require all PRIIPs that are not categorised under SFDR, whether within or outside its scope and irrespective of any sustainability-related claims, to include a statement under a dedicated section entitled "How sustainable is this product?", confirming that "the financial product is not categorised under the EU standards for defining sustainable financial products".

- **Preserve the eligibility of products outside the scope of SFDR for MiFID II sustainability preferences** by retaining the Parliament's clarification that financial instruments may incorporate ESG characteristics in a manner similar to SFDR products, and ensuring that this principle is reflected in the revised MiFID II delegated acts without making SFDR categorisation a prerequisite. ([Topic 3](#))
- **Align the application date of the revised SFDR with those of the revised MiFID II, IDD and PRIIPs**, including relevant Level 1 and Level 2 measures, to avoid inconsistencies between product categorisation, disclosure and distribution requirements. ([Topic 4](#))
- **Ensure sufficient flexibility in PAI to reflect the characteristics and investment strategy of individual products**, by retaining the Council's approach, which avoids prescribing mandatory PAI for each category at Level 1 and leaves their selection and calibration to Level 2, taking account of the relevance of indicators to different investment strategies. ([Topic 5](#))
- **Ensure that the category criteria are workable and allow for different investment strategies and product structures**. Retain operationally feasible transition safeguards ([Topic 6](#)), effective PAB/CTB safe harbours ([Topic 7](#)) and established ESG selection methodologies ([Topic 8](#)) and allow financial products that invest in non-categorised products to be considered sustainable, providing that those investments meet the requirements of Articles 7, 8 or 9. ([Topic 9](#)).

European Commission's proposal ([SFDR, PRIIPs](#)), Council's position ([SFDR, PRIIPs](#)), European Parliament's position ([SFDR, PRIIPs](#)) and AMAFI & FBF's proposals relevant to the topics identified

N.	Topic	EC proposal	Council position	European Parliament position	Proposals
1	PRIIPs KID: Sustainability disclosure for products outside SFDR scope <i>(PRIIPs Art. 8(3))</i>	Removes from the general "What is this product?" section the possibility to refer expressly to environmental or social objectives. A new "How sustainable is this product?" section is introduced for PRIIPs that qualify as SFDR sustainability-related products, indicating their Article 7, 8 or 9 category and relevant objective/indicators.	Restores the possibility for PRIIPs to disclose environmental or social characteristics. For a PRIIP outside the scope of SFDR, sustainability information must be accompanied by a statement that the product is outside SFDR and therefore cannot be categorised as a sustainability-related financial product under that Regulation. The warning is therefore triggered only where an out-of-scope PRIIP communicates sustainability information.	Removes the reference to environmental/social objectives from the general section but introduces a "How sustainable is this product?" section for all PRIIPs. SFDR products disclose their category; other PRIIPs must state that they are " <i>not categorised under the EU standards for defining sustainable financial products</i> ". The statement therefore depends on categorisation status, rather than on whether an out-of-scope product makes an ESG claim, and it extends beyond SFDR alone.	Retain the Council's approach which allows PRIIPs outside the scope of SFDR to communicate their sustainability objectives or characteristics in the KID's "How sustainable is this product?" section, accompanied by a factual statement that they are not categorised under SFDR. The statement should be slightly amended to be more objective and limited to the product's status outside SFDR, in line with position in AMAFI / 26-57 . (<i>See Annex I</i>). Being outside SFDR does not mean that a product cannot pursue sustainability objectives. The Parliament's reference to "EU standards" could misleadingly suggest otherwise and create ambiguity regarding the product's treatment under other EU frameworks, including MiFID II/IDD and the EU Green Bond Standard.
2	Review clause: possible inclusion of structured investment products <i>(SFDR Art. 19 and Recital 7)</i>	Requires a review within 36 months after application, covering: (i) categorisation practices under Articles 7, 8 and 9; (ii) the use of data and estimates under Article 12a and whether data availability or quality impairs the functioning of SFDR; and (iii) whether the 15% Taxonomy-alignment safe-harbour threshold	Requires a review within 60 months after application, covering, as the Commission, categorisation practices, data/estimates and the Taxonomy safe-harbour calibration. It adds the possible inclusion of structured products within the scope of SFDR as a review item. It also adds a review of the 20% Taxonomy-aligned	Requires a review within 36 months after application, covering categorisation practices and data/estimates, but broadens the scope review differently from the Council. The Commission must assess whether the scope of SFDR remains appropriate, including whether PRIIPs other than UCITS, AIFs or MiFIR derivatives should be	Shorten the review period to 24 months, allowing to assess rapidly whether and how structured investment products should be brought within the scope of SFDR ³ . Article 19 should also be amended to give a mandate to ESMA to perform an impact analysis as requested by the parties not in favour on the inclusion. Keep the amendment to recital 7) in the Council proposal, adjusting the review period from 60 to 24 months. (<i>See Annex II</i>)

³ Proposals for applying the SFDR categories to structured investment products are set out in [AMAFI / 26-16](#).

N.	Topic	EC proposal	Council position	European Parliament position	Proposals
		under Articles 7 and 9 should be adjusted. Structured investment products are not expressly covered by the review.	CAPEX threshold under Article 7(1)(c)(i) and whether a mandatory periodic increase of that threshold would be appropriate.	brought within SFDR (definition given to identify structured investment products). It also requires an assessment of whether the names of the sustainability-related product categories remain clear and understandable for end-investors. The Taxonomy safe-harbour calibration is subject to a separate review after 36 months and periodically thereafter.	
3	Eligibility of products outside SFDR for MiFID II sustainability preferences <i>(Recital 13)</i>	Provides for SFDR categories to be reflected in MiFID II and IDD distribution rules, without addressing the treatment of products outside SFDR.	Adds a distinction between categorised and non-categorised financial instruments and insurance products, without expressly safeguarding the eligibility of products outside SFDR.	Explicitly recognises that financial instruments and investment services outside the SFDR categorisation framework may incorporate ESG characteristics similar to those of SFDR products.	Retain the Parliament's clarification to ensure that financial instruments outside the scope of SFDR can be recognised as incorporating ESG characteristics comparable to those of SFDR products and remain eligible to meet clients' MiFID II sustainability preferences, where they satisfy equivalent criteria. Ensure this principle is reflected in the revised MiFID II delegated acts, so that SFDR categorisation does not become a prerequisite for eligibility.
4	Application timeline and coordination with MiFID II, IDD and PRIIPs <i>(Recital 34a Council proposal)</i>	Application generally 18 months after entry into force.	Moves towards a 24-month application period and introduces Recital 34a to coordinate implementation with the relevant adaptations of the distribution framework.	Also moves towards 24 months but does not retain the Council's coordination recital.	Maintain Council Recital 34a and add PRIIPs reference, alongside MiFID II and IDD. Categorisation, disclosure and distribution level 1 and level 2 requirements should become enforceable all at the same date to avoid inconsistent requirements and sequencing across the product-manufacturing and distribution chain. <i>(See Annex III)</i>
5	PAI	Art. 7 and Art. 9 require identification and disclosure of PAI and actions taken, but the use of	Art. 7 and Art. 9 require at least three indicators from Level 2, selected according to relevance;	Much more prescriptive requirements. Art. 7 requires fossil exposure + GHG emissions + at	Support a balanced Council-Parliament approach. PAI requirements should remain sufficiently flexible to reflect the characteristics

N.	Topic	EC proposal	Council position	European Parliament position	Proposals
	(SFDR Art. 7, 8 and 9)	sustainability indicators remains optional in full or in part; Art. 8 contains no PAI requirement.	alternative indicators are permitted where none is relevant. Art. 7 adds a fossil-sector exposure indicator where the product invests in relevant fossil companies. No PAI obligation under Art. 8.	least one additional relevant PAI; Art. 8 introduces a PAI requirement absent from both Commission and Council, namely fossil-sector exposure; and Art. 9 mandates four PAIs: fossil exposure, GHG emissions, biodiversity-sensitive areas and absence of UNGP/OECD monitoring processes.	and investment strategy of individual products. Prescriptive PAI requirements should not be embedded in Level 1. Keep Council proposal for Articles 7 and 9 and add PAI requirements for Article 8 products but not defined at Level 1. (See Annex IV)
6	Exclusions applicable to the Transition category (SFDR Art. 7(1)(c))	Excludes companies developing new fossil fuel projects. For coal/lignite, companies are also excluded where they develop new projects or do not have a phase-out plan. Provides a carve-out for certain use-of-proceeds instruments, including EuGBs.	Moves from a new-project exclusion to an issuer-level fossil revenue test, with an exemption for companies demonstrating transition through two cumulative conditions: at least 20% of total CAPEX allocated to Taxonomy-aligned activities and a time-bound and measurable Scope 1 and 2 GHG reduction strategy compatible with the Paris Agreement. Maintains a carve-out for qualifying use-of-proceeds instruments.	Builds on the Council approach but adds two cumulative safeguards: (iii) a time-bound and measurable coal/lignite phase-out plan, where relevant; and (iv) over a rolling three-year period, the average proportion of total CAPEX allocated to Taxonomy-aligned activities must exceed the proportion allocated to the development of new fossil fuel projects.	Delete the three-year CAPEX test proposed by the European Parliament under Article 7(1)(c)(iv). Transition safeguards are necessary, but overly complex criteria risk unduly narrowing the range of eligible investments and limiting the category's use. This test raises operational and ongoing monitoring challenges: unlike Taxonomy-aligned CAPEX, CAPEX allocated specifically to the "development of new projects" in fossil activities is not defined through an equivalent standardised methodology and may not be separately identifiable in available issuer data. The rolling three-year calculation adds further complexity.
7	PAB / CTB safe harbour (SFDR Art. 7 and 9)	A product that replicates or is managed in reference to a CTB or PAB is deemed to meet all conditions of the first subparagraph of Art. 7(1) or 9(1) contribution, exclusions and PAI.	Narrows the benchmark safe harbour: where the product's investment strategy and allocation comply with the relevant CTB/PAB requirements, only Art. 7(1)(a)-(c) are deemed satisfied. The product must therefore comply separately with the PAI requirement in point (d).	Restores/maintains a broad benchmark safe harbour: products that replicate or are managed in reference to a CTB/PAB are considered to meet the conditions of the first subparagraph of Art. 7(1) and 9(1).	Preserve safe harbour and the " <i>replicate or are managed in reference to</i> " formulation. This wording allows for synthetic replication and recognises contribution through exposure. The Council's "investment strategy and allocation" formulation is more asset-management-specific and, by excluding the PAI condition from the safe harbour, narrows its effect.

N.	Topic	EC proposal	Council position	European Parliament position	Proposals
8	ESG Basics contribution criteria <i>(SFDR Article 8(2)(a) and (b))</i>	(a) Investments with an ESG rating under Regulation (EU) 2024/3005 that outperforms the average rating of the investment universe or reference benchmark. (b) Investments that outperform the average investment universe or reference benchmark on at least one appropriate sustainability indicator.	a) Retains the ESG-rating outperformance test against the average investment universe or reference benchmark. (b) Strengthens the indicator-based test by requiring outperformance on at least two specific appropriate sustainability indicators.	(a) Retains an outperformance test based on ESG ratings against the average investment universe or reference benchmark. (b) Requires outperformance against the average investment universe or reference benchmark on at least two specific appropriate sustainability indicators.	Preserve established best-in-class and best-in-universe approaches under ESG Basics. Clarify that Article 8(2)(a) and (b) do not limit eligible strategies to average-outperformance methodologies. The framework should allow for established selection-based best-in-class and best-in-universe approaches and comparisons against relevant sectoral peer groups. It should also clarify that outperformance may be assessed at portfolio level.
9	Products combining categorised and non-categorised products <i>(SFDR Art. 9a)</i>	Allows products combining categorised products or other qualifying investments to meet the 70% threshold. Sets out the category hierarchy in the recital, but not in the article. Requires composition disclosures for non-categorised products combining underlying categorised products.	Codifies the category hierarchy: Sustainable only: Art. 9; Sustainable + Transition: Art. 7; combinations including ESG Basics: Art. 8. Requires exclusions across the entire portfolio. Expressly recognises non-categorised investments meeting category criteria, including options within multi-option PRIIPs, and extends disclosure rules to certain funds of funds.	Changes the 70% calculation wording to refer to qualifying underlying portfolios of categorised products. Unlike the Council, does not codify the category hierarchy in the article. Recognises qualifying multi-option PRIIP investments but provides narrower express coverage of funds of funds.	Retain the Council's approach under Article 9a ⁴ , allowing non-categorised investments meeting the relevant SFDR criteria to count towards the 70% threshold. This is particularly important for IBIPs offering structured products, which fall outside SFDR but may meet its sustainability criteria.

⁴ "1. Financial products that claim that they **invest in or combine sustainability-related financial products or make** other investments that meet the requirements of Articles 7, 8 or 9, **shall be deemed to be in sustainability-related financial products if:**

a) **they meet the 70% threshold of investments referred to in paragraph 1, first subparagraph, point (a) of Articles 7, 8 or 9 by way of investments in sustainability-related financial products or other investments that meet the requirements of those Articles; and "**

ANNEX

I. AMENDMENT TO ARTICLE 8(3) OF REGULATION (EU) No 1286/2014

Proposed amendments (*in red*)

*“(cb) for a PRIIP that does not fall under the scope of Regulation (EU) 2019/2088, any information on whether and how it considers sustainability factors or contributes to a sustainability objective shall be accompanied by the following statement: “This financial product does not fall under the scope of Regulation (EU) 2019/2088 and thus **it is not cannot be categorised as sustainability-related financial product** under that Regulation;”*

Justification

In the Council proposal, stating that products falling outside the scope of SFDR “*cannot be categorised as sustainability-related products*” may be interpreted as implying that such products are inherently less sustainable than the ones within the scope of SFDR. When presented alongside information on their environmental or social characteristics, such a statement may be confusing for retail investors, as it does not clearly distinguish between the regulatory scope of SFDR and the sustainability characteristics of the product itself.

II. AMENDMENT TO ARTICLE 19 AND RECITAL 7 OF REGULATION (EU) 2019/2088

Proposed amendments (*in red*) of Article 19

- In Council version:

“By ~~36~~ **60 24** months after the date of application of this Regulation], the Commission shall review the application of this Regulation, taking into account, where relevant, the findings and recommendations submitted by ESMA pursuant to point (ca), and shall in particular consider:”

(ca) the inclusion of structured investment products in the scope of this Regulation. For this purpose, ESMA shall, by [18 months after the date of application of this Regulation], carry out an impact assessment and submit its findings and recommendations to the Commission on how structured investment products are to be included within the scope of this Regulation, taking into account their specific characteristics and the adaptations, if any, required to the categorisation, calculation and disclosure requirements laid down in this Regulation;”

- In European Parliament version:

“By [~~36~~ **24** months after the date of application of this Regulation], the Commission shall review the application of this Regulation, taking into account, where relevant, the findings and recommendations submitted by ESMA pursuant to point (ca), and shall in particular consider:”

(bb) whether the scope of this Regulation is appropriate to achieve its objectives in accordance with Article 1 thereof, including whether PRIIPs as defined in Article 4, point (3), of Regulation (EU) No 1286/2014, other than a UCITS, an AIF, or a derivative as defined in Article 2(1), point (29), of Regulation 600/2014 should be included in the scope of this Regulation. For this purpose, ESMA shall, by [18 months after the date of application of this Regulation], carry out an impact assessment and submit its findings and recommendations to the Commission on how structured investment products are to be included within the scope of this Regulation, taking into account their specific characteristics and the adaptations, if any, required to the categorisation, calculation and disclosure requirements laid down in this Regulation;”

Proposed amendments (*in red*) of Recital 7 in Council proposal

*“The scope of financial products subject to Regulation (EU) 2019/2088 should be re-assessed ~~60~~ **24** months after the date of application of this Regulation, notably to analyse the potential inclusion of structured products. This would allow for analysing the market practices, as well as the costs and benefits of applying the categories’ criteria and disclosures to structured products.”*

III. AMENDMENT TO RECITAL 34A OF REGULATION (EU) 2019/2088

Proposed amendments (*in red*) in Council proposal:

(34a) In order to ensure coherent and effective implementation of this Regulation, the date of application of the delegated acts necessary for the application of this Regulation, including the revision of Commission Delegated Regulation (EU) 2017/565, Commission Delegated Directive (EU) 2017/593 and Commission Delegated Regulations (EU) 2017/2358 and (EU) 2017/2359, as well as the date of application of the relevant amendments to Regulation (EU) No 1286/2014 and its delegated acts, should be aligned with its date of application,

IV. AMENDMENT TO ARTICLE 8(1) OF REGULATION (EU) 2019/2088

Proposed amendments (*in red*)

“(c) they identify and disclose the principal adverse impacts of their investments on sustainability factors, and explain any actions taken to address those impacts.

Financial market participants shall comply in full or in part with the disclosure requirement described under the first subparagraph point (d) by using appropriate sustainability-related indicators.

For the purpose of point (d) of the first subparagraph, financial market participants shall use at least one indicator listed in the delegated act to be adopted by the Commission referred to in Article 19b(a)(a)(i) which is most relevant to the ESG related objective of the financial product. Where financial market participants demonstrate that none of those indicators are relevant to the financial product, they may use alternative sustainability-related indicators.”

