

**Feedback on the ESA's joint consultation paper on the review of SFDR
Delegated Regulation regarding PAI and financial product disclosures SFDR**

1. Who is the ASPIM?

The Association française des Sociétés de Placement Immobilier (the ASPIM) – the French association for Real Estate investment companies – promotes, represents, and defends the interests of its members, managers of alternative investment Real Estate funds (SCPI, OPCI and other AIFs).

Created in 1975, this not-for-profit Association represents companies that manage portfolios of Real Estate assets for an asset value of €280.5 bn (2021) for the French market. Its 107 members, Portfolio Management Companies, and other unlisted Real Estate Investment Funds are authorized entities accredited by the Autorité des Marchés Financiers (AMF).

2. Feedback on the ESA's joint consultation paper

2.1. Indicators for principal adverse impacts

Question 6 – For real estate assets, do you consider it relevant to apply a PAI indicator relating to social issues to the entity in charge of managing the real estate assets in which the portfolio manager has invested?

The particularity of investing in a real estate asset is that, unlike investing in a company, no workforce is attached to this asset. Thus ASPIM considers that implementing a social PAI indicator for real estate assets in the same way as it is done for companies is not relevant.

Moreover, the 2 options proposed by the ESAs do not seem for us to be consistent with the intent of the SFDR regulation:

- Considering a social PAI at the level of the management company would mean targeting the principal adverse impacts of the management company instead of those of the real estate assets in which the financial proceeds are invested and would result in a duplication of existing regulations for the management company.

- Considering a social PAI at the level of property managers and other service providers would require non-listed real estate investment funds to take into account the principal adverse impacts linked to the value chain of the investment, which is only optional for other asset classes, depending on the availability of information. In addition, these issues are already

Considered by non-listed real estate investments funds by using tools such as service provider charters, clauses in property manager contracts, etc., to justify good governance practices at asset level and comply with the DNSH principle of SFDR. Thus, making the reporting of PAI indicators related to social issues compulsory for non-listed real estate funds would only add an additional layer of reporting on a topic which is already addressed elsewhere by the SFDR regulation.

For these reasons, ASPIM considers that requiring real estate asset managers to take social PAI into account is not necessary.

Question 7: For real estate assets, do you see any interest in adjusting the definition of the PAI indicator #22 of table 1 in order to align it with the criteria of the EU taxonomy applicable to the DNSH of the objective of climate change mitigation as part of the climate change adaptation goal?

ASPIM considers this proposal as relevant as it will help better take into consideration the reality of the market by considering that an asset is inefficient only from an EPC "D" and not from an EPC "C", as initially planned, but also as it will reinforce consistency between regulations and better take into account the level of availability and quality of EPCs in certain countries by proposing the use of a threshold based on the actual energy performance of buildings (top 30%).

Question 11: 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 coming directly from the investees?

ASPIM considers that disclosing the share of the data used for the calculation of the PAI indicators coming from real data directly collected at asset level instead of estimated data (e.g., actual energy consumption versus estimated consumption in the case of assets real estate) is relevant and worth communicating to investors in order to help them better understand the quality of the information communicated.

ASPIM therefore agrees with this proposal to disclose the share of information used for the calculation of PAI indicators coming from actual or estimated data in the "explanation" column of Annex 1.

2.2. DNSH disclosure design options

Question 17: Do you agree with the assessment made by the ESAs of the DNSH framework within the framework of the SFDR?

To facilitate the understanding of the FMPs responsible for applying the texts, as well as individual investors who will have to use the information disclosed, ASPIM believes greater efforts should be made in the RTS to explain and clarify the principle, the specificities and the interest of the DNSH principle of SFDR, in particular with regard to other concepts such as the PAI and the DNSH of the Taxonomy.

Furthermore, ASPIM considers that the lack of detailed guidelines on how FMPs should consider the principal adverse impacts and the PAI indicators does not allow FMPs to apply the DNSH principle of SFDR consistently.

Question 18: With regard to the information on DNSHs in the SFDR delegated regulation, do you consider that it is relevant to make mandatory the information on the quantitative thresholds used by FMPs to take into account the PAI indicators for the purposes of DNSH? Please explain your reasoning.

The definition of “sustainable investment” laid down in Article 2(17) of the SFDR Regulation defines a sustainable investment as an investment that (1) contributes to an environmental or social objective, (2) does not significantly harm any of other objectives and (3) follow good governance practices. In this context, ASPIM considers that the disclosure of quantitative thresholds should be limited to the thresholds set to illustrate the contribution to the environmental or social objective and that the obligation concerning compliance with the DNSH principle of SFDR should be limited to reporting on the principal adverse impacts using relevant PAI indicators.

For example, a real estate fund that has chosen to pursue a social objective should be required to communicate the quantitative social thresholds it has set in order to demonstrate its positive contribution to the sustainable investment objective and moreover should report on the principal adverse impacts of the product to demonstrate how it limits the adverse impacts on the other objectives (description of actions taken and progress made in particular).

In this example, requiring quantitative thresholds to demonstrate compliance with the DNSH principle of SFDR could mean that the financial product would also have to meet a minimum investment threshold in terms of energy performance, which would not be consistent with the strategy pursued by the financial product, and would run the risk to drastically reduce the investment universe, thus limiting the ability of FMPs to offer products tailored to investor demand.

For these reasons, ASPIM considers that compliance with the DNSH principle of SFDR should be limited to the description of how the principal adverse impacts are taken into account, the reporting of the selected PAI indicators and the associated narrative including the actions taken to limit these negative impacts and the progress made.

Question 19: Do you support the introduction of an optional exemption for environmental DNSHs under taxonomy-aligned activities? Please explain your reasoning.

ASPIM believes this exemption is relevant to reinforce the consistency between the different texts.

Given the level of requirement of the thresholds set by the DNSH criteria of the EU Taxonomy, an investment that qualify as environmentally sustainable under the EU Taxonomy, which therefore complies with the DNSH threshold set by the EU Taxonomy, should also comply with the DNSH threshold set by the FMP as part of its own definition of a sustainable investment, which is generally less ambitious than the technical criteria of the EU Taxonomy.

Question 20: Do you agree with the long-term view of ESAs that if two parallel concepts of sustainability are retained, taxonomy TSCs should form the basis of DNSH assessments? Please explain your reasoning.

The definition of “sustainable investment” laid down in Article 2(17) of the SFDR Regulation defines a sustainable investment as an investment that (1) contributes to an environmental or social objective, (2) does not significantly harm any of other objectives and (3) follow good governance practices. A sustainable investment must therefore demonstrate its positive contribution to the environmental or social objective pursued while limiting the potential adverse impact on the other objectives. For this reason, ASPIM considers it is not relevant to set quantitative thresholds to demonstrate compliance with the DNSH principle of SFDR (see answer to question 18).

Furthermore, using the DNSH thresholds set by the EU Taxonomy, which are sometimes very uneven and too ambitious, does not seem suitable.

First, the EU Taxonomy do not define DNSH thresholds for all the environmental and social objectives listed in Article 2(17) of the SFDR regulation. For example, for activity “7.7 Acquisition and ownership of buildings”, the only DNSH thresholds available in the EU Taxonomy relate solely to climate change mitigation and adaptation.

Second, the available DNSH thresholds set by the EU Taxonomy are too ambitious to meet the DNSH principle of SFDR requirements. For example, the DNSH threshold set by the EU Taxonomy for energy consumption (DPE > C or top 30% of the market) is too demanding given the maturity of the market, existing regulations and the need to improve the building stock. This would mean that all real estate financial products would have to invest in new build assets only and follow a sustainable energy investment objective, thus limiting any strategy aiming at improving the existing building stock, which is the main challenge for the ecological transition of the real estate sector. A quantitative DNSH threshold for SFDR should rather consider the top 70%, i.e., exclude the worst 30% of assets available on the market, instead of considering only the best 30%, at the risk of excessively reducing the investment universe.

For all these reasons, ASPIM considers that relying only on the technical screening criteria set by the EU Taxonomy to form the basis of DNSH assessments of SFDR does not seem appropriate and that the definition of quantitative thresholds for the DNSH assessments of SFDR should be the subject of specific work.

2.3. Amendments regarding GHG emissions reduction targets

Question 22: Do you agree that the proposed information strikes the right balance between the need for clear, reliable and decision-useful information for investors and the need to maintain realistic and proportionate requirements for investment manager portfolio? Please explain your answers

Even if it is a lot of additional information to disclose, ASPIM considers that the proposed elements are relevant with the aim of enhancing transparency vis-à-vis investors for financial products that have chosen to set a GHG emission reduction target.

Question 24: The ESAs have introduced a distinction between the product-level commitment to reduce funded emissions (through a strategy that may only rely on

divestments and reallocations) and the commitment to reduce the emissions of invested companies (through investments in companies that have adopted and duly implemented a convincing transition plan or through active shareholding). Do you think this distinction is useful for investors and can be implemented by FMPs? Please explain your answer.

ASPIM considers the need to distinguish between these different approaches to reducing GHG emissions is not essential, and is likely to cause more confusion than anything else among retail investors, particularly for non-listed real estate investment funds.

Indeed, a same financial product could combine one or more of these approaches (e.g.: a non-listed real estate investment fund that would combine a best-in-class approach, i.e., approach b.1 proposed by the ESAs, with a best-in-progress approach, i.e., approach b.2 proposed by the ESAs) or use them successively at different times of the product's lifetime. This would therefore require being able to select one or more of these approaches in the product's pre-contractual documentation and would imply having to update the product's pre-contractual documentation with each new development.

Question 26: Do you agree with the proposed approach of requiring the target to be calculated for all investments of the financial product? Please explain your answer.

Non-listed real estate investment funds generally have more various type of assets on their balance sheet than other type of funds, including hedging instruments, liquidities but also account receivables which can represent a significant proportion of the total asset value of the fund and be volatile over time. It is therefore very complicated, if not impossible, for a non-listed real estate investment fund to commit to a GHG emission reduction target for all investments of the financial product. This GHG emission reduction target should therefore relate solely to the product's actual investments, i.e., the real estate assets in the portfolio. However, the scope of this target should not necessarily include assets under construction and not delivered, liquidities or hedging instruments.

2.4. Simplification of the templates

Question 30: What do you think of the inclusion of a dashboard at the top of Annexes II to V of the SFDR Delegated Regulation as a summary of key information to complement the more detailed information contained in the pre-contractual and periodic information? Does it help less experienced retail consumers and investors understand essential information in a simpler and more visual way?

ASPIM considers the proposed dashboard to be clearer than the current version. On the other hand, it assumes that the reader is already familiar with and can differentiate between the 4 key concepts presented: "sustainable investments", "EU Taxonomy investments", "principal adverse impacts", "GHG emissions reduction target".

Questions 31: Do you think that the current version of the models contains all the information necessary for retail investors to understand the characteristics of the products? Do you have any ideas on how to further simplify the language of the dashboard or other sections of the templates, to make it more understandable for retail investors?

ASPIM believes that, in general, the current version of the models contains all the necessary and sufficient information for retail investors.

However, the logical sequence of questions, as well as the wording and vocabulary used, could be improved to facilitate understanding of the different concepts and make them easier to understand for the reader (e.g., it is very complicated for a non-initiated reader to distinguish between the concepts of DNSH and PAI).

Furthermore, to make the current version of the models easier to understand for retail investors, ASPIM considers it would be appropriate to add in the body of the template or in the appendix a list of definitions of the key concepts introduced (e.g. "sustainable investments", "EU Taxonomy investments", "principal adverse impact", "DNSH", etc.), replacing the notes in the left-hand margin of the documents, which are not at all practical and not readable.

Question 32: Do you have any suggestions on how to further simplify or improve the readability of the current templates?

ASPIM considers that the formatting of the current version of the models could be improved (e.g., manipulation of logos) to facilitate their use by FMPs.

Finally, to strengthen the consistency between Article 8 and Article 9 periodic models, ASPIM considers that the Article 8 periodic model should also provide the possibility for FMPs to report on the sustainability indicators retained, as well as on n vs. n-1 comparison, as provided for in the Article 9 periodic model.

Question 33: Is the investment tree in the asset allocation section necessary if the dashboard shows the proportion of investments that are sustainable and aligned with the taxonomy?

In view of the information contained in the new dashboard proposed by the ESAs, ASPIM considers that this diagram could be deleted to avoid repetition of information, which is also a source of error and confusion for the reader.

2.5. Other adjustments

Question 38: Do you think it is necessary to establish specific rules for calculating the proportion of sustainable investments in financial products? Please specify

ASPIM considers it is necessary to establish specific rules for calculating the proportion of sustainable investments in financial products, especially for real estate financial products.

Thus, ASPIM would like to draw ESAs attention to some specific characteristics of non-listed real estate investment funds that should be considered when assessing the share of sustainable investment of a real estate finance financial product.

Non-listed real estate investment funds generally have more various type of assets on their balance sheet than other type of funds, including hedging instruments, liquidities but also account receivables which can represent a significant proportion of the total asset value of the fund and be volatile over time. It is therefore very complicated, if not impossible, for a non-listed real estate investment fund to commit to 100% sustainable investments and to be

classified as an article 9 product under the SFDR if only hedging instruments and liquidities are excluded.

For this reason, ASPIM recommends that non-listed real estate investment funds consider only a fund's actual investments (i.e., the financial and real estate assets appearing on its balance sheet), thus excluding not only hedging instruments and liquidities, but also account receivables. This would enable non-listed real estate investment funds to display a representative sustainable investment share without having to consider an excessive margin on the quantitative thresholds proposed to mitigate the risk of non-compliance due solely to the volatility of account receivables over time.

Moreover, to ensure consistency between the different regulatory provisions, ASPIM recommends this methodology to be also used for the calculation of the various ratios required by the SFDR templates.
