

01 September 2020

Submission to the Joint Committee of the
European Supervisory Authorities

**VIA RESPONSE FORM RE: JOINT CONSULTATION PAPER CONCERNING
ESG DISCLOSURES**

Dear Joint Committee:

Financial Planning Standards Board Ltd.'s (FPSB¹) European affiliate organizations (collectively, FPSB Europe) are pleased to provide comments on the European Supervisory Authorities' (ESAs) [Joint Consultation Paper Concerning ESG Disclosures](#). FPSB Europe consists of eight nonprofit professional financial planning bodies, including:

- 1) Österreichischer Verband Financial Planners (Austria)
- 2) Association Francaise des Conseils en Gestion de Patrimoine Certifies (France)
- 3) Financial Planning Standards Board Deutschland (Germany)
- 4) Financial Planning Standards Board Ireland
- 5) Federatie Financieel Planners (The Netherlands)
- 6) Swiss Financial Planners Organization (Switzerland)
- 7) Finansal Planlama Derneği (Turkey)
- 8) Chartered Institute for Securities & Investment (United Kingdom)

Established in 2004, FPSB's mission is to benefit the public by establishing, upholding and promoting worldwide professional standards in financial planning. FPSB, together with its global network of professional financial planning bodies – represented in Europe by the organizations above – develops, promotes and enforces internationally consistent, locally relevant standards so that:

- The public can identify competent, ethical financial planners who have committed to placing their clients' interests first;
- Practitioners can distinguish themselves as competent, ethical financial planning professionals; and
- Consumers, regulators and other key stakeholders can have confidence in both financial planning professionals and the financial planning profession, and recognize the value that financial planning offers to individuals and society.

¹ FPSB manages, develops and operates certification, education and related programs to benefit the global community by establishing, upholding and promoting worldwide professional standards in financial planning. FPSB demonstrates its commitment to excellence with the marks of professional distinction – CFP, CERTIFIED FINANCIAL PLANNER and CFP Logo Mark – which it owns outside the United States. FPSB and the FPSB global network administer CFP and other certification programs in the following 27 territories: Australia, Austria, Brazil, Canada, Chinese Taipei, Colombia, France, Germany, Hong Kong, India, Indonesia, Ireland, Israel, Japan, Malaysia, the Netherlands, New Zealand, People's Republic of China, Peru, Republic of Korea, Singapore, South Africa, Switzerland, Thailand, Turkey, the United Kingdom and the United States. At the end of 2019, there were 188,104 CFP professionals worldwide. For more, visit [fpsb.org](https://www.fpsb.org).

FPSB owns the international CERTIFIED FINANCIAL PLANNER certification program outside the United States, and has licensed the affiliate organizations of FPSB Europe to oversee the administration, promotion and enforcement of CERTIFIED FINANCIAL PLANNER certification in Europe.

CERTIFIED FINANCIAL PLANNER professionals meet rigorous competency, ethics and practice standards, qualifying them to develop financial planning strategies to assist their clients in achieving their financial and life goals. CERTIFIED FINANCIAL PLANNER professionals are part of a growing global community of financial services practitioners who place clients' interests first, both through their commitment to financial planning professionalism, and their adherence to FPSB's *Code of Ethics and Professional Responsibility* and *Financial Planning Practice Standards*.

As of 31 December 2019, there were close to 190,000 CFP professionals in 26 countries and territories worldwide, with over 8,200 CERTIFIED FINANCIAL PLANNER professionals practising in Austria, France, Germany, Ireland, the Netherlands, Switzerland and the United Kingdom.

About FPSB's Standards

FPSB's standards are based on a global framework that includes empirical research of the abilities, professional skills and knowledge needed to practice financial planning. FPSB and its Affiliates have developed initial education, assessment, experience and ethics requirements, as well as continuing professional development standards for financial planning professionals globally. The organizations comprising FPSB Europe have localized these global standards and certification requirements for applicability in each of their territories, and maintain the relevancy of these standards through regular analyses of the practice of financial planning in Europe.

What Is Financial Planning?

FPSB and its affiliate organizations define financial planning as the process of developing strategies to help people manage their financial affairs to meet life goals. In creating their recommendations and plans, financial planners may review all relevant aspects of a client's situation across a breadth of financial planning activities, including inter-relationships among often conflicting objectives. At the end of the financial planning process, a financial planner may or may not recommend products to a client.

Although financial planning is gaining prominence as a professional practice globally, people who call themselves financial planners often do so with little or no training or oversight. FPSB seeks to position financial planning oversight and models of professionalism within, or adjacent to, existing or proposed regulatory frameworks, whereby regulators and professional financial planning bodies work together to protect and benefit consumers.

FPSB Europe's Point of View

FPSB Europe's responses to the ESAs' questions are through the rubric of financial planning – a client-centric, process-driven professional practice that can help (re)build trust and restore the public's confidence in the marketplace and financial intermediaries. We have therefore applied the following principles in our response:

- 1) Retail investors accessing ESG products have a right to straightforward, easy to understand and consistent disclosure that will allow them to make informed decisions about which financial products are right for them and fulfil their needs, both in terms of investment goals and sustainability outcomes.
- 2) Disclosures provided by financial market participants on ESG products are straightforward, easy to understand and consistent, and provided in a manner that facilitates financial advisers meeting their regulatory obligations to integrate clients' ESG preferences into suitability assessments and investment recommendations.
- 3) A commitment to ethics and to placing the clients' interests first is embraced by product providers and financial advisers creating and presenting ESG product disclosures.

If you have any questions or would like additional information, please feel free to contact David Kop, CFP, Head of Stakeholder Engagement at FPSB, at +27 71 868 9312 or dkop@fpsb.org, or Noel Maye, CEO of FPSB, at +1-720-407-1902 or nmaye@fpsb.org. We appreciate the opportunity to participate in the ESAs' comment process.

Respectfully submitted,

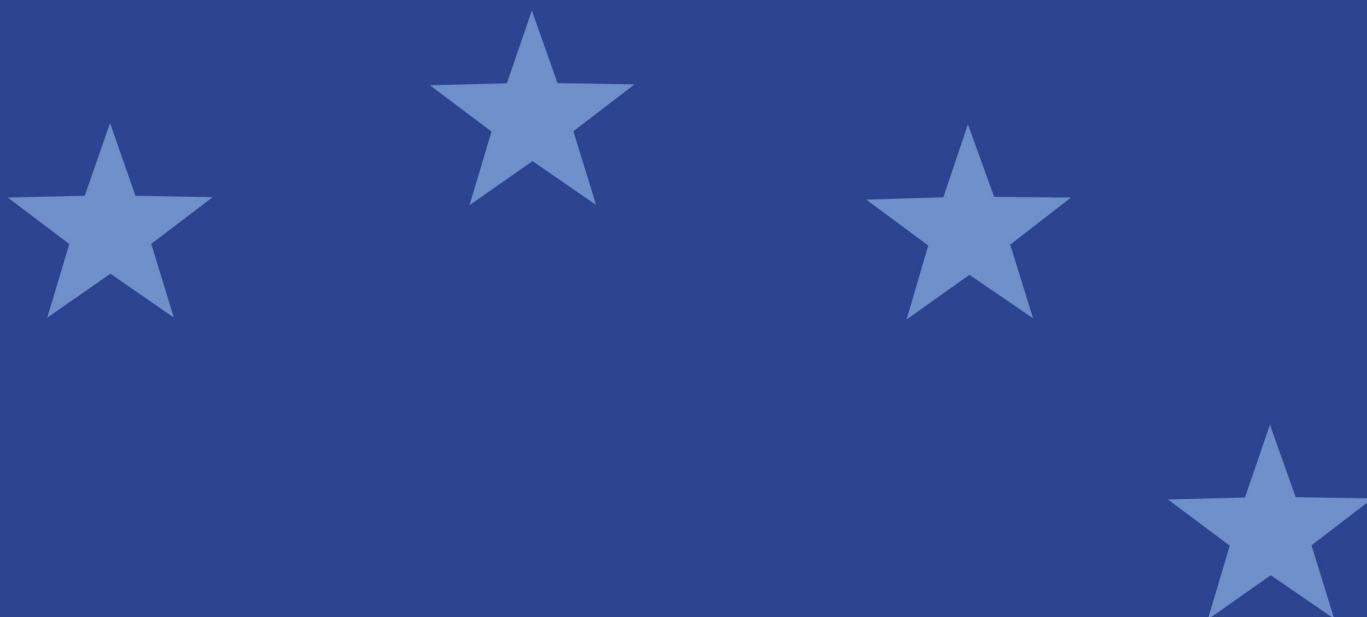
David Kop, CFP
Head of Stakeholder Engagement, FPSB
(Seconded from the Financial Planning Institute)

Noel Maye
CEO, FPSB

Cc:

Österreichischer Verband Financial Planners (Austria)
Association Francaise des Conseils en Gestion de Patrimoine Certifies (France)
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Response form for the Joint Consultation Paper concerning ESG disclosures



Date: 23 April 2020
ESMA 34-45-904

Responding to this paper

The European Supervisory Authorities (ESAs) invite comments on all matters in this consultation paper on ESG disclosures under Regulation (EU) 2019/2088 on sustainability-related disclosures in the financial sector (hereinafter “SFDR”) and in particular on the specific questions summarised in Section 3 of the consultation paper under “Questions to stakeholders”.

Comments are most helpful if they:

1. contain a clear rationale; and
2. describe any alternatives the ESAs should consider.

When describing alternative approaches the ESAs encourage stakeholders to consider how the approach would achieve the aims of SFDR.

Instructions

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

- Q1** Insert your responses to the questions in the Consultation Paper in the present response form.
- Q2** Please do not remove tags of the type <ESA_QUESTION_ESG_1>. Your response to each question has to be framed by the two tags corresponding to the question.
- Q3** If you do not wish to respond to a given question, please do not delete it but simply leave the text “TYPE YOUR TEXT HERE” between the tags.
- Q4** When you have drafted your response, name your response form according to the following convention: ESA_ESG_nameofrespondent_RESPONSEFORM. For example, for a respondent named ABCD, the response form would be entitled ESA_ESG_ABCD_RESPONSEFORM.
- Q5** The consultation paper is available on the websites of the three ESAs and the Joint Committee. Comments on this consultation paper can be sent using the response form, via the [ESMA website](#) under the heading ‘Your input - Consultations’ by 1 September 2020.
- Q6** Contributions not provided in the template for comments, or after the deadline will not be processed.

Publication of responses

All contributions received will be published following the close of the consultation, unless you request otherwise in the respective field in the template for comments. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure. A confidential response may be requested from us in accordance with ESAs rules on public access to documents. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by ESAs Board of Appeal and the European Ombudsman.

Data protection

The protection of individuals with regard to the processing of personal data by the ESAs is based on Regulation (EU) 2018/1725¹. Further information on data protection can be found under the [Legal notice](#) section of the EBA website and under the [Legal notice](#) section of the EIOPA website and under the [Legal notice](#) section of the ESMA website.

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

General information about respondent

Name of the company / organisation	FPSB Europe
Activity	Other Financial service providers
Are you representing an association?	EUROPEAN AFFILIATES OF FPSB
Country/Region	Europe

Introduction

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If you have any questions or would like additional information, please feel free to contact me at dkop@fpsb.org or FPSB's CEO Noel Maye at nmaye@fpsb.org. We appreciate the opportunity to participate in the ESAs' comment process.

Question 12: Do you agree with the approach to have mandatory (1) pre-contractual and (2) periodic templates for financial products?

FPSB Europe supports the use of pre-contractual and periodic template disclosure documents for ESG products that are straightforward, easy to understand and consistent among types or across classes of ESG products, which will support retail investors to make informed decisions about which financial products are right for them and fulfil their needs, both in terms of investment goals and sustainability outcomes.

FPSB Europe further suggests that such disclosure templates allow the Financial Market Participant, or Financial Adviser, to add additional information to enhance retail investors' ability to make an informed decision about the ESG product.

Question 13: If the ESAs develop such pre-contractual and periodic templates, what elements should the ESAs include and how should they be formatted?

In line with FPSB Europe's response in question 12, the templates should be provided in an editable format to allow parties to enhance the type and level of disclosure provided, as appropriate. In addition to the items listed in Article 14 and 23 of the RTS, FPSB Europe proposes adding the following elements to disclosure documents:

- 1) An indication of what factor(s) was most heavily weighted in the sustainability indicators used;
- 2) An explanation of why the higher/lower weighting was applied to the various indicators;
- 3) A performance comparison amongst peers (with the appropriate disclosure regarding reliance on past performance);
- 4) An explanation of the highest risk factor in the investment that could affect performance or the attainment of sustainability objectives, and whether the investment has had issues with this factor in the past; and
- 5) An explanation of the due diligence conducted by the product provider with regard to the presentation and promotion of the ESG product.

Question 15: Do you agree with the balance of information between pre-contractual and website information requirements? Apart from the items listed under Questions 25 and 26, is there anything you would add or subtract from these proposals?

FPSB Europe agrees with the balance of information, and also recommends the following:

- 1) The information contained in the (pre-contractual and regular reporting) templates and on the provider's website should be straightforward, easy to understand and consistent among types or across classes of ESG products, which will support retail investors to make informed decisions about which financial products are right for them and fulfil their needs, both in terms of investment goals and sustainability outcomes.
- 2) Neither option should be used as a mechanism for "hidden disclosure" (i.e., important information on risks, impacts, etc. hidden in dense, small font text).
- 3) While language provided on a website might provide a high-level summary of information contained in the pre-contractual disclosure, or elsewhere on the website,

no information provided in the context of disclosure should be written in "marketing language" – whether at a summary level or in-depth, all disclosure language should be consistent across all printed and online forms.

- 4) To support the regulatory requirement that financial advisers raise the issue and integrate clients' ESG preferences into suitability assessments and investment recommendations, disclosure documents should be drafted in a way that allows financial advisers to use them to guide and coach clients in making an informed decision about which financial products are right for them and fulfil their needs, both in terms of investment goals and sustainability outcomes.
- 5) ESG product disclosures should provide adequate disclosure with regard to how the Environmental, Social and Governance element weightings relate and interact to describe the product.

Question 16: Do you think the differences between Article 8 and Article 9 products are sufficiently well captured by the proposed provisions? If not, please suggest how the disclosures could be further distinguished.

FPSB Europe recommends that the financial services ecosystem with an interest in ESG investing (Consumer Groups, Financial Market participants, Financial Advisers, Professional Bodies/Associations and Regulators) collaborate on the development of a clear and consistent taxonomy for ESG activities, indicators and products so that retail investors and other market participants can have a shared understanding of which investments meet ESG requirements, and how.

Question 18: The draft RTS require in Article 15(2) that for Article 8 products graphical representations illustrate the proportion of investments screened against the environmental or social characteristics of the financial product. However, as characteristics can widely vary from product to product do you think using the same graphical representation for very different types of products could be misleading to end-investors? If yes, how should such graphic representation be adapted?

FPSB Europe believes that the graphical representation will be generally sufficient for comprehension by financial advisers and retail investors, but could be supported by additional indicators that describe how the various elements combined to generate the final product descriptor, the factor that most influenced the indicator, and the biggest risk to the investment product achieving its environmental and/or social impact.

Question 21: While Article 8 SFDR suggests investee companies should have "good governance practices", Article 2(17) SFDR includes specific details for good governance practices for sustainable investment investee companies including "sound management structures, employee relations, remuneration of staff and tax compliance". Should the requirements in the RTS for good governance practices for Article 8 products also capture these elements, bearing in mind Article 8 products may not be undertaking sustainable investments?

FPSB Europe supports that the RTS should capture good governance practices when the product is undertaking sustainable investments. More broadly, FPSB Europe supports the notion that the European Supervisory Authorities promote that ESG providers and market participants advising retail investors on ESG products embrace a culture of ethics and of client first principles, so that ESG products are not only fit for purpose, but ultimately designed with the benefit of the end investor in mind.

Question 22: What are your views on the preliminary proposals on “do not significantly harm” principle disclosures in line with the new empowerment under the taxonomy regulation, which can be found in Recital (33), Articles 16(2), 25, 34(3), 35(3), 38 and 45 in the draft RTS?

FPSB Europe believes that in the absence of a framework, which we recommend is developed in consultation with the investment ecosystem (Consumer Groups, Financial Market participants, Financial Advisers, Professional Bodies/Associations and Regulators), the “do not significantly harm” principle disclosures may not be comparable amongst different products and investments. We recommend that these disclosures are closely monitored and the framework developed sooner rather than later. Moreover, FPSB Europe supports the notion that the European Supervisory Authorities promote a governance approach that is stronger than “do no harm” – one that embraces a culture of ethics and of client first principles, so that ESG products are not only fit for purpose, but ultimately designed with the benefit of the end investor in mind.

Question 23: Do you see merit in the ESAs defining widely used ESG investment strategies (such as best-in-class, best-in-universe, exclusions, etc.) and giving financial market participants an opportunity to disclose the use of such strategies, where relevant? If yes, how would you define such widely used strategies?

Yes. FPSB Europe believes that ESG investment strategies should be defined and disclosed. We believe that the different strategies will most likely deliver different results at different times, so it is important that market participants disclose these strategies. These strategies could be defined as part of the new ESG taxonomy to be developed by the financial services ecosystem with an interest in ESG investing (Consumer Groups, Financial Market participants, Financial Advisers, Professional Bodies/Associations and Regulators). See our answer to question 16 above.

Question 24: Do you agree with the approach on the disclosure of financial products’ top investments in periodic disclosures as currently set out in Articles 39 and 46 of the draft RTS?

FPSB Europe agrees with the disclosure of the top investments in ESG products in periodic disclosures. This will allow for the transparency of the holdings and for financial advisers and/or retail investors to independently verify the information, should they so require.

Question 25: For each of the following four elements, please indicate whether you believe it is better to include the item in the pre-contractual or the website disclosures for financial products? Please explain your reasoning.

- 1. an indication of any commitment of a minimum reduction rate of the investments (sometimes referred to as the "investable universe") considered prior to the application of the investment strategy - in the draft RTS below it is in the pre-contractual disclosure Articles 17(b) and 26(b);**
- 2. a short description of the policy to assess good governance practices of the investee companies - in the draft RTS below it is in pre-contractual disclosure Articles 17(c) and 26(c);**
- 3. a description of the limitations to (1) methodologies and (2) data sources and how such limitations do not affect the attainment of any environmental or social characteristics or sustainable investment objective of the financial product - in the draft RTS below it is in the website disclosure under Article 34(1)(k) and Article 35(1)(k); and**
- 4. a reference to whether data sources are external or internal and in what proportions - not currently reflected in the draft RTS but could complement the pre-contractual disclosures under Article 17.**

FPSB Europe agrees with the position of all four elements. We would, however, like to refer to our reply in question 15, which outline some principles we believe should also be applied.

-- END --