

Call for feedback on the Platform for Sustainable Finance's report on minimum safeguards

Fields marked with * are mandatory.

Introduction

Disclaimer:

This call for feedback is part of ongoing work by the [Platform on Sustainable Finance](#), which was set up by the Commission to provide advice on the further development of the EU taxonomy framework.

This feedback process is not an official Commission consultation. The draft report produced by the Platform is not an official Commission document. Nothing in this feedback process commits the Commission nor does it preclude any policy outcomes.

The [report on minimum safeguards](#) is intended to provide advice on the application of the minimum safeguards (MS) which bring a social and governance component to the [EU taxonomy](#). The MS are mentioned in Article 3 of the [Taxonomy Regulation \(TR\)](#) as one of the criteria for environmentally sustainable activities, and are further defined in Article 18. The advice in the Report is structured by a) embedding the MS in existing EU regulation, b) identifying the substantive topics of the standards and norms referenced in Article 18 of the Taxonomy Regulation and c) by working out how compliance with MS can be established.

Analysing the standards referred to in Article 18 of the TR ([OECD guidelines for multinational enterprises \(MNE\)](#), [UN guiding principles on business and human rights \(UNGPR\)](#), the [eight conventions on fundamental principles and rights at work](#) and the [international bill of human rights](#)), the report identifies four core substantive topics for which compliance with minimum safeguards has to be defined. These four topics are

- Human rights including workers' rights and consumers' rights
- Bribery/corruption
- Taxation

- Fair competition

The advice on these four topics is worked out close to the standards referenced in Article 18 TR and to upcoming EU regulation which is built on these same standards, the [Corporate Human Rights Due Diligence Directive \(CSDDD\)](#) and the [Corporate Sustainability Reporting Directive \(CSRD\)](#) and the respective disclosure requirements. As both are still not yet fully finalised there remains some uncertainty as to their implementation. Therefore, the solution developed in this report is to a) build the requirements for MS compliance on the international standards referenced in Article 18 and especially on the six steps of the UNGPs/OECD guidelines for MNE, b) point to upcoming regulations and disclosure requirements that build on these standards and c) to point to independent sources of information covering particular aspects of MS implementation which could be used for external performance checks.

More concretely the report advises to consider the following as a sign of non-compliance with MS

1. inadequate or non-existing human rights due diligence processes in companies including labour rights, bribery, taxation and fair competition
2. a company's final conviction in court, if it is related to any of the above listed topics
3. a lack of collaboration with a national contact point (NCP) or an assessment of non-compliance with OECD guidelines for MNE by an OECD NCP
4. a company not responding to allegations raised by the [Business and Human Rights Resource Centre](#)

It is further suggested that points two to four should be valid until the company has implemented a due diligence system that makes such breaches unlikely.

On the basis of this advice, the [EU Platform on Sustainable Finance](#) would like to solicit public feedback on the following questions.

Please note: In order to ensure a fair and transparent consultation process **only responses received through our online questionnaire will be taken into account** and included in the report summarising the responses. Should you have a problem completing this questionnaire or if you require particular assistance, please contact fisma-platform-sf@ec.europa.eu.

More information on

- [the publication of the report on minimum safeguards](#)
- [the EU Platform on Sustainable Finance](#)
- [sustainable finance](#)
- [the protection of personal data regime for this call for feedback](#)

About you

* Language of my contribution

- Bulgarian
- Croatian
- Czech
- Danish
- Dutch
- English
- Estonian
- Finnish
- French
- German
- Greek
- Hungarian
- Irish
- Italian
- Latvian
- Lithuanian
- Maltese
- Polish
- Portuguese
- Romanian
- Slovak
- Slovenian
- Spanish
- Swedish

* I am giving my contribution as

- Academic/research institution
- Business association
- Company/business organisation
- Consumer organisation
- EU citizen
- Environmental organisation
- Non-EU citizen
- Non-governmental organisation (NGO)
- Public authority

- Trade union
- Other

* First name

Maik

* Surname

Preußner

* Email (this won't be published)

m.preussner@gdv.de

* Organisation name

255 character(s) maximum

Gesamtverband der Deutschen Versicherungswirtschaft e.V.

* Organisation size

- Micro (1 to 9 employees)
- Small (10 to 49 employees)
- Medium (50 to 249 employees)
- Large (250 or more)

Transparency register number

255 character(s) maximum

Check if your organisation is on the [transparency register](#). It's a voluntary database for organisations seeking to influence EU decision-making.

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* Where are you based and/or where do you carry out your activity?

Please add your country of origin, or that of your organisation.

- | | | | |
|--------------------------------------|--|-------------------------------------|--------------------------------------|
| <input type="radio"/> Austria | <input type="radio"/> France | <input type="radio"/> Lithuania | <input type="radio"/> Slovakia |
| <input type="radio"/> Belgium | <input checked="" type="radio"/> Germany | <input type="radio"/> Luxembourg | <input type="radio"/> Slovenia |
| <input type="radio"/> Bulgaria | <input type="radio"/> Greece | <input type="radio"/> Malta | <input type="radio"/> Spain |
| <input type="radio"/> Croatia | <input type="radio"/> Hungary | <input type="radio"/> Netherlands | <input type="radio"/> Sweden |
| <input type="radio"/> Cyprus | <input type="radio"/> Iceland | <input type="radio"/> Norway | <input type="radio"/> Switzerland |
| <input type="radio"/> Czech Republic | <input type="radio"/> Ireland | <input type="radio"/> Other country | <input type="radio"/> United Kingdom |

- Denmark
- Estonia
- Finland
- Italy
- Latvia
- Liechtenstein
- Poland
- Portugal
- Romania

* Field of activity or sector (if applicable)

- Accounting
- Auditing
- Banking
- Credit rating agencies
- Insurance
- Pension provision
- Investment management (e.g. hedge funds, private equity funds, venture capital funds, money market funds, securities)
- Market infrastructure operation (e.g. CCPs, CSDs, Stock exchanges)
- Social entrepreneurship
- Other
- Not applicable

* **Contributions received are intended for publication on the Commission's website. Do you agree to your contribution being published?**

The Commission will publish the responses to this public consultation. You can choose whether you would like your details to be made public or to remain anonymous.

- Yes, I agree to my responses being published under the name I indicate (name of your organisation/company/public authority or your name if your reply as an individual – your email address will never be published)**
- No, I do not want my response to be published**

I agree with the [personal data protection provisions](#)

Your opinion

The Report proposes two sets of criteria for the establishment of non-compliance with MS: one related to adequate due diligence processes implemented in companies (i.e. relying on corporate reporting and disclosure) and the other related to the actual outcome of these processes or the company's performance (i.e. relying on external checks on companies).

Question 1. Do you agree with this two-pronged approach?

- Yes

- No
 - Don't know / no opinion / not applicable
-

The advice of the report is that companies covered in the future by the EU due diligence law (the [proposed CSDD Directive](#)) which are acting in compliance with the law would be considered aligned with the human rights part of the minimum safeguards as the demands of these two legislations overlap (provided that the final scope and the requirements of CSDDD will indeed be aligned with the standards and norms of Taxonomy Regulation Article 18).

Question 2. Do you agree with this advice of the report?

- Yes
- No
- Don't know / no opinion / not applicable

Please explain why you do not agree with this advice of the report:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

GDV generally agrees with this advice. Nevertheless, we have raised some concerns in our following answers. Furthermore, we recommend alignment of the human rights part of the minimum safeguards (MS) with the upcoming Corporate Sustainability Due Diligence Directive (CSDD).

GDV also encourages the PSF to be more precise on the amendments needed in the ESRS to ensure complete compliance with the MS (eg via the inclusion of a table matching MS requirements and CSRD disclosures requirements). To ensure equal data availability across CSRD companies (with or without taxonomy-eligible activities) and to avoid fragmentation of reporting requirement (for preparers) and data sources/reporting channels (for users), integrating minimum safeguards in the EU Sustainability Reporting Standards (ESRS) is essential. Then the CSRD can ensure reporting on minimum safeguards and, therefore, an investor in a CSRD company knows whether the latter is compliant with the minimum safeguards.

The [UNGPs](#) require that due diligence processes implemented in a company result in human rights abuses being effectively prevented and mitigated. To check whether processes implemented in a company fulfil this requirement, the report suggests applying external checks based on a company

- a. having had a final conviction at court
- b. or not responding to complaints at OECD national contact points or allegations via [Business and Human Rights Resource Centre](#).

Question 3. Do you agree with this approach?

- Yes
- No
- Don't know / no opinion / not applicable

Please explain your answer to question 3:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Although we generally could agree with this approach, we see a problem with data availability. The UNGP Reporting Framework is a voluntary framework. According to the website only about 80 companies are using the framework. And the upcoming CSRD does not require to disclose convictions - as the PSF admits. Although there might be other sources to obtain such information, we doubt that enough data is available and that available data is sufficiently reliable. Although the Platform provides links to Benchmarks, the universe covered for example for the Corporate Human Rights Benchmark consists of only 230 companies. This is not nearly enough to cover an insurers' portfolio. Therefore, the relevant information for most issuers will not be available and/or not reliable enough and we therefore currently do not support such an approach.

Question 3.1 Which type of court cases should be selected as criterion for non-compliance with minimum safeguards?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

First, in any case relevant court cases should be limited to convictions for intentional human rights abuse. This would be comparable with the materiality concept of the CSRD. Moreover, we are of the opinion that a previous and thorough cross-country analysis, EU- and Non-EU-Jurisdictions, is indispensable and should be carried out. Second, a modest timeframe should be defined, after which the judgement is no longer relevant for determining, if someone is non-compliant with minimum safeguards. We recommend 2 years. Otherwise, we encourage the Platform to illustrate with concrete examples how such re-determination should be performed.

Question 3.2 Are there other types of external checks you would suggest (data for these checks should be publicly available and lead to the same result for a company)?

- Yes
- No
- Don't know / no opinion / not applicable

The advice given in the Report on corruption, taxation and fair competition is comparable to the advice on human rights in that it requires that a company has implemented processes to avoid and address negative impacts and that the company has not been finally convicted for violations in these fields.

Question 4. Do you agree with this approach?

- Yes
- No
- Don't know / no opinion / not applicable

Please explain your answer to question 3:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

See answer to question 3. In any way, it should be limited to cases of a certain severity. This would be comparable to the materiality concept of the CSRD. Taxation rules are mostly complex. Therefore, not any conviction in this area should be relevant and adequate thresholds should be applicable. Furthermore, a modest timeframe should be defined, after which the judgement is no longer relevant for determining, if someone is non-compliant with minimum safeguards. We recommend 2 years. Otherwise, we encourage the Platform to illustrate with concrete examples how such re-determination should be performed.

Question 4.1 Which type of court cases should be selected as criterion for non-compliance with minimum safeguards?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

In any case relevant court cases should be limited to convictions for intentional corruption, taxation and fair competition. Moreover, we are of the opinion that a previous and thorough cross-country analysis, EU- and Non-EU-Jurisdictions, is indispensable and should be carried out. For adequate thresholds see answer to question 4. Furthermore, a modest timeframe should be defined, after which the judgement is no longer relevant for determining, if someone is non-compliant with minimum safeguards. We recommend 2 years. Otherwise, we encourage the Platform to illustrate with concrete examples how such re-determination should be performed.

Question 4.2 Are there other types of external checks you would suggest (data for these checks should be publicly available and lead to the same result for a company)?

- Yes
- No
- Don't know / no opinion / not applicable

A suggestion given in the Report on MS is to consider the human rights due diligence processes companies have implemented and do checks on their performance, rather than rely on controversy checks based on media coverage (as is done by some ESG rating agencies).

Question 5.1 What do you think these changes imply for companies?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

GDV supports the EU's sustainability objectives and in general the basic concept of the proposal für a Corporate Sustainability Due-Diligence Directive (CSDDD). But we question the PSF's suggestion to consider the policyholder-insurer relationship as equivalent to other business relationships. The relationship between an insurer and its policyholders is highly regulated through insurance contract law. The integration of minimum safeguards in this relationship may result in refusing insurance coverage. This may contradict national compulsory insurance cover and negatively impact the role of the insurance industry. Furthermore, the fact that companies cannot rely on controversy checks would potentially limit the eligibility of ESG rating agencies they can mandate - if the agencies do not change their process. Furthermore, it remains unclear, how to measure the performance of the processes and which performance is sufficient to comply with article 18.

Question 5.2 What do you think these changes imply for investors?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

GDV is of the opinion, that for companies subject to Taxonomy regulation, the external verification of MS compliance should rest with the auditor. Investors should not be required to perform supplementary diligence to assess MS compliance of a company. For companies not covered by the Taxonomy regulation, e.g. non-EU companies, it will be a very time consuming and burdensome process for investors to verify MS compliance. In consequence this would limit the investment universe of insurers to companies in scope of the Taxonomy regulation. Recognizing voluntary statements of third-party companies should be considered at least. These changes would also limit the eligibility of useable ESG ratings - if the agencies do not change their process. Finally it remains unclear, how to measure the performance of the processes and which performance is enough to comply with article 18.

The [OECD guidelines for multinational enterprises](#) highlight the importance of good corporate governance. The Report takes this up by developing criteria for bribery/corruption, taxation and fair competition.

Question 6. Do you agree with this approach?

- Yes
- No
- Don't know / no opinion / not applicable

Question 6.1 Which other aspects of good corporate governance matters do you believe the advice should cover or refer to would you like to add?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Although we generally could agree with this concept, also here we see a problem with the data availability. With the upcoming CSRD reporting requirements data will be available for large EU companies. But neither for taxation purposes nor for third-country companies.

Question 7. Do you have further suggestions or comments on the Report?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Additional information

Should you wish to provide additional information (e.g. a position paper, report) or raise specific points not covered by the questionnaire, you can upload your additional document(s) below. **Please make sure you do not include any personal data in the file you upload if you want to remain anonymous.**

The maximum file size is 1 MB.

You can upload several files.

Only files of the type pdf,txt,doc,docx,odt,rtf are allowed

Useful links

[More on this call for feedback \(https://ec.europa.eu/info/publications/220711-sustainable-finance-platform-report-minimum-safeguards_en\)](https://ec.europa.eu/info/publications/220711-sustainable-finance-platform-report-minimum-safeguards_en)

[More on the EU Platform on Sustainable Finance \(https://ec.europa.eu/info/business-economy-euro/banking-and-finance/sustainable-finance/overview-sustainable-finance/platform-sustainable-finance_en\)](https://ec.europa.eu/info/business-economy-euro/banking-and-finance/sustainable-finance/overview-sustainable-finance/platform-sustainable-finance_en)

[More on sustainable finance \(https://ec.europa.eu/info/business-economy-euro/banking-and-finance/sustainable-finance_en\)](https://ec.europa.eu/info/business-economy-euro/banking-and-finance/sustainable-finance_en)

[Specific privacy statement \(https://ec.europa.eu/info/files/2022-platform-sustainable-finance-minimum-safeguards-report-specific-privacy-statement_en\)](https://ec.europa.eu/info/files/2022-platform-sustainable-finance-minimum-safeguards-report-specific-privacy-statement_en)

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