COMMENT

# Comment

of the German Insurance Association (GDV)
ID-number 6437280268-55

on the EU-Commission's Proposal on the review of the Disclosure Regulation

**Gesamtverband der Deutschen Versicherungswirtschaft e. V.**
**German Insurance Association**
Wilhelmstraße 43 / 43 G, 10117 Berlin
Postfach 08 02 64, D-10002 Berlin
Phone: +49 30 2020-5000 · Fax: +49 30 2020-6000

Rue du Champ de Mars 23, B-1050 Brussels
Phone: +32 2 28247-30 · Fax: +49 30 2020-6140
ID-number 6437280268-55
www.gdv.de

**Contact**
Kapitalanlagen

**E-Mail**
kapitalanlagen@gdv.de

## Introduction

German Insurers strongly agree with the need to simplify the current SFDR to regain its purpose as a customer disclosure tool. We therefore very much welcome the fact that the COM proposal contains significant simplifications. We are not convinced that establishing a categorisation system must be the first step for this purpose. However, if the European Commission is committed to such a system, the introduction of a new categorisation system should enable insurers to offer categorised products. Otherwise, the categorisation system would be meaningless for a large part of the market for retail financial products. The revision of the SFDR should, therefore, also take sufficient account of the specific characteristics of insurance investment products. To ensure this, it is necessary to restrict the applicable exclusions and to regulate the handling of sovereign bonds more flexibly.

## Key Issues for German Insurers in upcoming SFDR Review

### 1. Insurance specific issues

Insurers have a unique business model governed by sector specific prudential and conduct legislation (i.e. Solvency II, IDD etc.). Moreover, Insurance Based Investment Products (IBIPs) are unique products that often combine direct investment with secure investments through a "general account" of the insurer as well as with additional insurance cover. As a result, the following points need to be considered in any upcoming SFDR Review:

- **Consider the general account:** Life insurers mostly offer Insurance Based Investment Products (IBIPS) which combine insurance coverage with direct and secure investments. The premiums paid by customers are directed in a single large pot, the so-called general account which is held to many highly regulatory requirements (i.e. Solvency II, IDD etc). The investment principles for the general account are long-term security, quality, liquidity and profitability. These restrict a short-term and complete shift of the customers' funds into pure sustainable investments. Reallocations can have undesirable consequences under commercial, tax and insurance law (one-off effects). In addition, 'sustainable' alternative investments with the necessary term and risk/return profile must be available. This fact must be considered both when defining the categories themselves and when setting thresholds, to ensure that products with (partial) investment in the general account can achieve a category. As such, it is essential that the wide range of investment instruments that a general account is composed of (e.g. including government bonds) is covered by the metrics upon which the potential categorisation system would be built.

  The proposal adds article 12 para (1)(d) of Delegated Regulation 2020/1818 to the applicable exclusions which would exclude companies "that derive 1 % or more of their revenues from […] hard coal and lignite". For German insurers, as this exclusion interferes with insurers'/investors' existing 1.5°C-compliant

phase-out plans for coal and, at the same time, would exclude investments in companies (e.g., utilities) that are already pursuing credible transition plans. Therefore, many general accounts of German insurers would not be able to qualify for any category. We understand that customers of a sustainable product category would expect not to be invested in fossil fuel issuers. Nonetheless, fossil fuel exclusions should appropriately reflect the current economic reality of the transition path and hence be nuanced for the transition and ESG basics categories. In other words, **for the transition and ESG basics categories, exclusions should focus on equity and new fixed income investments, allowing the run-off of pre-existing investments.** This approach would guarantee that no additional CO2 emissions are financed while pre-existing emissions are phased out.

The SFDR should allow all asset classes to qualify for counting towards the objective of all categories to assure adaptability to developing methodologies. The SFDR is intended to support transition in the real economy. Hence, the regulation should focus on assets from the real economy. German insurers have on average invested about 25 % of their general account in sovereign bonds. Including sovereign bonds in the denominator but excluding sovereigns in the categories “transition” and “sustainability” from the numerator would exclude most general accounts de facto from these categories since the respective thresholds would not be achievable. Therefore, IBIPs investing in the general account would be excluded per se from 2 of 3 categories. We advocate strongly for a level-playing-field for all financial products in scope of the SFDR.

We propose that the wording at Level 1 of the SFDR remains sufficiently general, ensuring inclusivity of various asset classes in contributing to the thresholds for the "sustainable" and "transition" categories, based on robust and transparent methodologies. Rather than excluding specific asset classes, the indicators should be designed to broadly encompass the full spectrum of investments. Where a robust methodology is not available, FMPs should also be able to opt out by excluding sovereigns from both the numerator and the denominator. In case this approach is chosen, the proportion of sovereigns within the product should be disclosed to ensure transparence and comparability.

- **Consider Multi-Option Products (MOPs):** Life insurers also offer their customers the option of investing in mutual funds. Typically, customers can choose from a large selection of fixed income, government bonds, real estate and equity funds. A wide range is also usually offered within these fund classes, with the result that the overall portfolio can often contain a three-digit number of funds. It should be ensured that this large selection would not have to be extremely restricted following the introduction of a categorisation system. It should therefore be explicitly clarified that Article 9a applies to MOP. This could be achieved by including a reference to financial products which offer investment options to the investor, which is the legal wording for MOP in the

PRIIP Regulation as well as by the RTS to the current SFDR (see Articles 20 and 21 of the RTS). Also, it should be clarified that investment options within a MOP that are not a financial product can contribute towards the threshold of 70 % at wrapper level, provided they meet the requirements of Art. 7, 8, 9. Furthermore, the relevant fund categories should be 'inherited', i.e. if the fund portfolio only contains sustainable funds, the MOP should also be sustainable. It should be reflected more clearly within the wording of Art. 9a (1) that classified MOPs, meeting the criteria of Art. 7, 8, 9, are considered categorised and can be named as well as use sustainability-related claims in marketing materials accordingly. A mandatory look-through of the underlying investments of the fund should be avoided when calculating the 70 % threshold in accordance with para 1 of Article 9a. It should be clarified that the threshold applies at the underlying fund level instead of the investment level. If funds with different categories are included in the fund portfolio, the 'lowest' category is adopted: this procedure is described in recital 23, but should be incorporated into the actual regulatory text.

- **Overarching Definitions**: Investments need to be considered consistently across categories, which requires a joint across-category methodology as to underlying investments/assets, which would apply irrespective of the different categories. This would enable insurers to aggregate the information received by the Asset Managers on portfolio level without having to assess every underlying asset of the fund itself to check the eligibility as an indicator for the fulfillment of the threshold of 70 % for each category. Without a uniform definition across categories, it seems to be unclear in what way investments and how transition or sustainable investments could be aggregated and contribute to the categories (e.g. investment into a non-categorized fund with 60 % sustainable or transition investments, such as a wind park investment forming part of an infrastructure fund). Also, this would have detrimental effects on insurers' capabilities to steer sustainable investments.

## 2. General Principles for simplification

No matter which approach for the review is chosen we believe the following principles are key to achieve a meaningful simplification of the SFDR:

- **Deletion of entity-level disclosures:** We support the proposal to delete entity-level disclosure requirements for Financial Market Participants (FMPs) regarding principal adverse impacts (PAI) indicators. In order to reduce bureaucratic burden, there should be a "**stop the clock**" provision for the PAI statement required under the existing SFDR.
- **Changes to product-level disclosures:** More clarity is required on the use of existing PAIs and the level of flexibility in disclosure. In our opinion, it would be prudent to have a mandatory disclosure for a limited set of mandatory PAIs (5-7 based on the current PAI-families) for institutional clients on demand

for all categories on product level. Especially there are institutional investors integrating PAI data in their investment strategy to be able to consider adverse impacts on sustainability factors. While the data might be overwhelming and not easy to understand for retail customers, institutional clients already do make use of the underlying data. The current set of mandatory PAI indicators should be the basis for developing the final mandatory indicators in close co-operation with market participants to assure usability of data. It is fundamental to maintain these PAI indicators in the SFDR, also to safeguard the integrity of this vital data under the Corporate Sustainability Reporting Directive (CSRD). Concretely, in the context of the revision of European Sustainability Reporting Standards (ESRS), it should be ensured that the set of mandatory PAI indicators as referenced by ESRS 2 Appendix B and corresponding data points are preserved.

- **Consider investor-specific information needs**: We welcome the simplifications made to the information requirements, specifically the PAI disclosure on entity level (see above). Unfortunately, however, the exemption for professional investors has also been removed. The SFDR has served to compensate the information asymmetry between the product manufacturer and the client, especially the retail client. Professional clients have different information needs. Furthermore, professional clients are regularly in the position to negotiate as equals with the product manufacturer. Therefore, we recommend for the upcoming legislative process to re-integrate the exemption for professional clients as seen in article 17 para (2) of the previous draft version of the proposal.
- **Ensure consistency with other legislation:** Interdependencies between SFDR and CSRD concerning data availability should be considered, in particular to avoid double reporting. While the revised ESRS appropriately reflect the current legal framework, the ESRS 2 Appendix A mapping of datapoints in cross-cutting and topical standards that derive from other EU legislation does not consider potential amendments to SFDR arising from its revision. Therefore, any changes to the SFDR should be monitored and mapped accordingly to ensure that the link between SFDR and ESRS remains fully aligned, maintaining consistency and avoiding missing or inconsistent data.
- Furthermore, new proposals like the proposal 2025/0362 (COD) amending Directives 2016/2341 and 2016/97 as regards the strengthening of the framework for occupational retirement provision in the Supplementary Pension Pack must be aligned with the proposed amendments of the SFDR and should not refer to concepts such like the definition of sustainable investments in Article 2, point 17 of the SFDR, that are likely to be cancelled. Similarly, requirements to invest in accordance with members' sustainability preferences should be explicitly limited to cases where advice is provided and where the respective member or beneficiary can make an active investment choice. Sustainability preferences are, under IDD and MiFID, an inherent part of the advice provided

to an individual customer. They are not applicable in other contexts. Furthermore, the revision of the SFDR should explicitly ensure that sustainability disclosures under the PRIIPs KID are strictly aligned with the revised SFDR framework. Finally, the review of the SFDR should be taken as an opportunity to remedy the complexity of the legal framework on the mandatory enquiry of the sustainability preferences under IDD/MiFID II. This concerns especially the rigid requirements of the EIOPA Guidance on this subject.

- The Unfair Commercial Practices Directive, as amended by the recent EmpCo Directive stipulates strict requirements for environmental claims. For example, generic environmental claims are forbidden under the Directive, unless they are backed by a sustainability label or similar. It should be explicitly clarified that any categories determined by the SFDR can be included in the name and in marketing material of the respective product in order to facilitate identification by consumers.
- The product-related information requirements of Articles 5, 6 and 7 Taxonomy Regulation should be deleted. These requirements have proven to be a source for confusion on the part of providers and investors alike. Furthermore, they are closely connected to the current SFDR and would be inconsistent with the new regime.
- **Ensure a manageable transition phase:** The transition phase from the new to the old system will be challenging for companies. The provisions on the application of the new SFDR should ensure a seamless transition to the new regime. Appropriate timelines for Level 2 regulation and consideration of interconnections between Levels 1 and 2, in particular clarification on how to apply SFDR Level 1 in absence of Level 2 regulation would be appreciated. We recommend aligning the application of the revised Level 1 with the application of the revised level 2. When revising the SFDR, a realistic, legally sound and enforceable application period must be provided for, taking into account the experience gained from previous EU regulatory projects.
- **Handling of of products covered by the current regime:** We have serious concerns regarding the future handling of legacy products, given the fact that life insurance products generally have very long contract terms. We therefore call for solutions to avoid multiple obligations towards customers in the long term and to enable appropriate steering of portfolios regardless of long-term commitments previously made under the old SFDR regime. Also, it needs to be clarified that obligations from the old SFDR – such as the minimum share of sustainable investments – would not need to be maintained for legacy products. Such a clarification should include a duty to inform existing customers about relevant changes to the commitments which have been undertaken by the market participant under the old regime.

Berlin, 20 March 2026