PENSIONS EUROPE

PensionsEurope position paper on the revision of EU rules on sustainable finance disclosures

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Introduction

PensionsEurope welcomes the opportunity to express its views on the on the revision of EU rules on sustainable finance disclosure regulation(SFDR). We previously responded to the European Commission's consultation on the SFDR Level 1 review in December 2023 and published a position paper in January 2025, focusing specifically on the Joint Opinion of the European Supervisory Authorities (ESAs) on the matter.

We strongly support the European Commission's ambition to drive the transition towards a sustainable economy by improving sustainability reporting standards. However, the SFDR framework, in its present form, has led to significant implementation challenges for pension funds, which we highlighted in our previous publications. Any review of the SFDR should align with President von der Leyen's goal of reducing reporting requirements by 25%, and we are pleased to see that the call for evidence focuses on this simplification objective.

The horizontal approach of the SFDR presents serious challenges to pension funds by requiring the same framework to apply to a broad group of different financial market participants (FMPs) and products. We believe that the SFDR framework is mainly designed for retail investment funds, while pension funds are different in at least three significant ways. First, in many or most cases, members are automatically and mandatorily enrolled and have no investment choice. Second, the portfolio of pension funds is far more complex than most retail investment products and typically covers a broad range of listed and unlisted assets, as pension funds have to consider not only the returns and stability of the invested assets, but in many cases also the duration of the pension obligations by an employer's pension scheme (especially when implementing DB-schemes). Third, the product-level and entity-level differentiation is often irrelevant, as the pension fund (entity) only offers a single scheme (product) or is part of the group for which it operates exclusively.

In this paper, we mainly share our views on a possible generic categorization system, commenting on the Joint ESAs' Opinion on the SFDR, the Platform on Sustainable Finance's (PSF) proposal on the categorization of products under the SFDR, and the ESMA's guidelines on funds' names using ESG or sustainability-related terms.

Overall, we strongly advocate for pension funds to be allowed to communicate on sustainability matters with their members and beneficiaries. The SFDR review should explicitly enable this, as banning pension funds from disclosing sustainability information poses significant reputational risks and should be avoided.

We acknowledge that a generic categorisation system could help address the misuse of Articles 8 and 9 as de facto labels, thereby reducing the risk of greenwashing. However, the proposed approaches present significant shortcomings. In particular, the model appears ill-suited to pension funds, given their specific characteristics. Due to their highly diversified portfolios, it would be extremely difficult for pension funds to meet the general minimum thresholds, which may be designed with other, less complex financial products with narrower investment universes in mind.

On the one hand, some members of PensionsEurope think that IORPs must be entirely excluded from the categorisation system or even the SFDR as a whole. On the other hand, other members of PensionsEurope want to be able to make use of the general system of categorisation. Their support for categorisation is, however, subject to the precondition that pension funds should remain free to communicate about sustainability in non-regulatory communication channels (e.g. the heading "sustainability" on the website), irrespective of whether categorisation is achieved or not. Irrespective of our members' different stance on the categorisation system, PensionsEuropesupports the development of separate RTSs within the SFDR for each sub-sector, offering a more tailored and practical solution for IORPs. Considering the diverse IORP landscape across the EU, these RTSs should allow ample flexibility for MS and NCAs to adopt rules that align with their national contexts.

The paper also includes additional proposals to simplify key concepts and streamline disclosure obligations for pension funds and their participants.

Considering the ongoing discussions, we find it crucial that the SFDR Level 1, the draft Regulatory Technical Standards proposed to the ESAs, the Omnibus Simplification Package on sustainability reporting, and any potential amendments to the IORP II Directive concerning sustainability are well-aligned. This will provide legal certainty while preventing legislative overlaps and double efforts.

Regardless of how the SFDR framework evolves, the regulation must ensure that investors and recipients receive clear and comprehensible information about how capital can effectively be directed toward financing the transition. The information should also be tailored to the specific needs of the pension funds' members and beneficiaries.

I. Pension funds and the generic categorization system

Pension funds are long-term investors, with their primary objective being to provide adequate retirement income for their members and beneficiaries. This long-term horizon naturally requires them to take into account risks that could impact portfolio performance over time. Among these, ESG risks—particularly those related to climate change—have become increasingly important in their risk management strategies.

To address such risks, some pension funds have adopted carbon reduction targets or divestment strategies from fossil fuels. In parallel, in some member states there is a large tradition of aligning pension fund investments with the values of their members and broader societal goals. As beneficiaries are becoming more vocal about their sustainability preferences, pension funds are responding by strengthening their responsible investment policies. In other member states, values of the members of the IORPs or broader societal goals are by law not allowed as investment strategy – as such, investment strategies are set by the plan sponsors alone and pension funds will implement these strategies without any further alignment to any own sustainability preference.

Given the challenges outlined, everyone is aware of the challenges of applying a generic categorisation framework to IORPs. This is why some members of PensionsEurope believe pension funds should be excluded from the categorisation system. None of the three approaches currently under discussion appears to be a sound approach, which takes into account the characteristics of IORPs or enables them to communicate effectively about their sustainability ambitions. Furthermore, a categorisation approach might force IORPs to compile an (albeit reduced) PAI-Statement. This would represent a deterioration to the status quo, in which IORPs can explain under Art. 4 why they do not disclose such a statement at entity level. This would lead to high compliance costs for these IORPs without any discernable benefits to their members and beneficiaries (due to the specificities of IORPs outlined above). We believe that for the sake of proportionality, IORPs with employees below the current threshold (500 employees) should retain the "comply or explain" option.

At the same time, other members of PensionsEurope strongly advocate that the SFDR review allows pension funds to communicate clearly and effectively with their participants about their sustainability efforts. Those pension funds want to be able to make use of the general system of categorisation. Their support for categorisation is, however, subject to the precondition that pension funds should remain free to communicate about sustainability in non-regulatory communication channels (e.g. the heading "sustainability" on the website), irrespective of whether categorisation is achieved or not.

However, PensionsEurope shares the European Commission's view that the current use of SFDR Articles 8 and 9 as de facto labels is inadequate and, in some cases, may even increase the risk of greenwashing.

Many pension funds currently classified under Article 8 would be likely to seek inclusion in a revised categorisation framework. Nevertheless, it is important to consider that the SFDR standards have only recently come into effect, leaving little time to properly assess their impacts.

In parallel, some FMPs are still developing methodologies and best practices for applying Articles 8 and 9. The efforts and compliance costs put in place to align with Articles 8 and 9 should not be disregarded. Introducing an entirely new framework should not undermine ongoing efforts, especially in light of the European Commission's objective to reduce regulatory burdens by 25% to strengthen EU competitiveness.

Any shift toward a new categorisation system must therefore be based on a comprehensive cost-benefit analysis. This analysis should also take into account the implications of recent regulatory developments, including the CSRD, CSDDD, and the Taxonomy Regulation, which are likely to impact the availability and quality of sustainability data. At the very least, safeguards should be put in place to protect existing IORPs that are already aligned with Article 8.

For all the above reasons, as we have already highlighted in our response to the European Commission's targeted consultation on the SFDR in December 2023, we advocate for developing a dedicated sub-sectoral RTS for IORPs. This RTS should be tailored to the specificities of pension funds. Given the large diversity of IORPs across the EU, it should also allow for enough flexibility for Member States and NCAs to implement proportionate rules suited to their national contexts. This RTS should also consider the following points:

- Allowing IORPs and their "products" to align voluntarily with proposed transition or sustainability categories (e.g., minimum Taxonomy alignment thresholds);
- Identifying and disclosing specific PAIs tailored to IORPs;
- Recognising the limited relevance of PAIs for members and beneficiaries who have no choice over selecting their pension provider or scheme.

II. ESA's joint opinion on the assessment of the SFDR

In the context of the SFDR review, PensionsEurope identifies several interesting elements in the ESAs' Joint Opinion. We broadly support a number of the proposals. We believe financial institutions can have the greatest impact by financing the transition to sustainability, not only by investing in already sustainable companies. The proposed introduction of a transition category is welcome, if it can be made accessible for pension funds. Therefore, the following considerations should be taken into account in this possible category:

- Government bonds should be excluded from transition pathways, along with assets held for treasury and liquidity purposes, such as financial derivatives (e.g., interest rate swaps) and money market funds.

- Careful consideration needs to be given to the issue of governance. The current good governance test in Article 8 is practically hard to implement, particularly for passive ESG investors. Naturally, governance is a relevant theme in ESG integration and exclusion policies, but a governance incident at a single investee company should not lead to a disqualification from the category.

- Data availability challenges, especially for private market investments, must be carefully addressed.

- Some Member States have additional mandatory requirements regarding the asset structure, which also constrain the asset classes that can be integrated into pension schemes' portfolios.

Any categorization system should also go beyond "sustainable" and "transition" and take into account the following aspects:

- The **"impact subcategory"** is an interesting concept put forward by the ESAs, though the Opinion does not clarify its connection to the transition category. Some of our members would be willing to classify a small portion of their total assets under management as "impact." However, due to concerns around risk management and diversification, this would likely only account for a few percentage points.

- A category based on **engagement**, which is a core tool for institutional investors following sustainability goals and a pillar of initiatives such as the Net-Zero Asset Owner Alliance. Alternatively, engagement could be integrated into the transition category.

That said, we have several concerns about the implementation of a generic categorisation system:

- A generic categorisation framework is likely to place pension funds disproportionately in the lowest categories, or even outside of the defined sustainability-related categories altogether (i.e., the "default category" when not fulfilling the requirements for the new defined sustainability-related categories). This outcome would not result from a lack of ambition or disregard for sustainability, but rather from the characteristics of pension funds such as their broadly diversified portfolios.

- Even if the categorization system remains voluntary, in that sense that fulfilling the requirements for the discussed sustainability-related categories is not binding, the requirements of the "default" category would still have to be fulfilled. While we welcome the recognition that products not classified as "sustainable" or "transition" should still be able to communicate about their sustainability efforts under the ESAs' proposal, all non-categorised IORPs and pension schemes would indeed still fall into the "default" category. This would trigger additional disclosure requirements, including for those that do not currently disclose PAIs.

- Market practices and regulatory expectations could pressure pension funds into categories that do not accurately reflect their ESG efforts. Being labelled as "non-sustainable" or unclassified could lead to reputational concerns among members and beneficiaries, despite the pension fund's active and responsible ESG strategy. Moreover, the proposed indicators in the ESAs proposal will present practical and methodological challenges. For example, in a rating system with five grades, many IORPs would likely fall into the lowest grade due to their high allocation to government bonds. In particular, the allocations to government bonds are heavily influenced by the duration of liabilities (i.e., depending on the age of the participants). A population close to retirement may have 50% or more of their investments in government bonds, typically not classified as "sustainable investments." Automatically labelling these funds as less ambitious or ranking them lower could create misplaced incentives and conflict with prudent person principles. We are also concerned that labelling pension funds as less ambitious could pressure them to adopt investment strategies that deviate from those they need to pursue according to the prudent person principle.

It is important to recognise that a pension fund is not a typical investment fund; its core objective is to provide adequate pensions by balancing risk, return, and cost over the long term, while serving the interests of its stakeholders—primarily the sponsoring employers—whose pension commitments are directly tied to occupational schemes. A generic categorisation system risks overlooking these fundamental characteristics of pension provision.

III. Proposal from the Platform on Sustainable Finance

Considering the approach proposed by the PSF, we view these categories as conceptually interesting. The "ESG collection" seems the most realistic option for pension funds and the easiest to fulfill, which, in principle, is a positive development. As it is mainly intended to replace Article 8, it should remain accessible, and the requirements should not be too high. Minimum exclusion criteria should thus be defined accordingly.

One of our key concerns regarding the PSF proposal relates to its recommendation that unclassified products be prohibited from including any reference to ESG characteristics or sustainability features in their marketing materials. The PSF defines ''marketing'' broadly —as any information provided outside of regulatory disclosures. This would mean that pension funds assigned to the default category could face a de facto ban on using websites, newsletters, videos, or other commonly used communication tools to inform members about sustainability. Such an outcome would be highly problematic, as pension funds' participants rarely consult regulatory disclosures and rely more on these non-regulatory communication channels.

This issue is already visible, to some extent, through the mandatory disclaimer required under Article 7 of the Taxonomy Regulation for Article 6 products, stating that the investments "*do not take into account the EU criteria for environmentally sustainable economic activities*." The problem would be significantly worsened under the categorisation system proposed by the PSF, making fair and transparent communication about existing ESG practices more difficult—or even impossible. This could even affect pension funds' ability to provide ESG-related information on the investment policy principles according to Art. 30 of the IORP II Directive.

Therefore, we strongly oppose this proposal, and its broad interpretation of "marketing." We believe that "marketing" should be understood in the context of a sales process, intended to convince consumers to purchase a product. This definition does not apply to occupational pension schemes, where participants are automatically[1] or mandatorily enrolled and are not "sold" a product in the traditional sense.

Naturally, the content of non-regulatory information should align with regulatory disclosures. However, national law and national supervisory guidance often already indicate that information provided by pension funds is consistent and accurate.

IV. ESMA's guidelines on funds' names or sustainability-related terms

Another element considered for the future sustainability-related fund categorisation system is ESMA's guidelines on funds' names, which are intended to prevent the misleading use of ESG- and sustainability-related terms. PensionsEurope strongly opposes using these fund naming guidelines as the basis for an SFDR categorisation framework applicable to all FMPs.

[1] Automatic enrolment is understood as the process where employees are automatically enrolled unless the member makes the proactive choice to opt-out. Mandatory enrolment means that this possibility for opt-out does not exist.

Funds' names are a critical part of a marketing strategy by for-profit entities, and by selecting a sustainability-related fund name, the provider "markets" those characteristics automatically whenever the consumer reads any information about the product.

Although categories also will have marketing value, their influence on consumer perception is significantly more limited. This is especially true for pension funds, where participants are typically familiar with the name of their pension provider but have limited awareness of regulatory classifications such as "Article 8." Due to these different informational roles, it would be inappropriate to apply the ESMA's fund naming guidelines to the categorisation system. In addition, in some member states, pension funds are typically named after the parental company or the business group by which they are owned. This should not be banned.

Given this, we question why ESMA's fund naming rules—intended for UCITS—should be extended to the pensions sector, particularly when EIOPA has published its own opinion with key principles that national supervisors should consider when probing IORPs and insurance undertakings' sustainability claims. Applying a framework developed for fundamentally different entities would be inappropriate and risk undermining the relevance of sustainability disclosures for pension funds and their participants. Level 3 measures, such as ESMA's guidelines, should also not pre-empt or substitute Level 1 legislative decisions. Respecting this principle is essential to maintaining a sound and coherent legislative process for the SFDR review.

Furthermore, we would like to highlight the following specific concerns:

- The requirement that 80% of assets align with ESG or sustainability objectives is particularly problematic. Many pension funds have a large allocation to government bonds, which regularly account for well over 20% of their entire portfolio. If these bonds are not considered to meet sustainability criteria, the threshold would be impossible to reach. The same issue applies to private assets, where ESG data is less comprehensive. The Commission should explore the use of estimates and allowing the use of a targeted subset of ESG data (rather than the full suite of ESRS data).

- The exclusions under Article 12 of Commission Delegated Regulation (EU) 2020/1818 must be carefully assessed before being applied to a future categorisation system. While many pension funds are already divested from sectors, such as controversial weapons and tobacco, other exclusions, such as violations of the UN Global Compact principles, are far more complex to operationalise. These violations often require subjective interpretation by data providers or FMPs, rather than relying on universally accepted, objective criteria. These breaches can also occur with illiquid assets like private equity or infrastructure, where divestment is not straightforward or may be practically impossible in the short term.

- The guidelines place a strong emphasis on the Taxonomy. Due to the possible upcoming limits to the Taxonomy with the changes through the Omnibus proposal, we do not believe that the Taxonomy could play a central role in the revision of the SFDR.

- The future categorisation framework should accommodate a wide range of environmental, social, and governance strategies. It is worth questioning whether exclusions such as fossil fuel bans are suitable for all strategies or entities.

V. Other improvements to SFDR

In our previous position paper, going beyond the proposed product categorisation systems, we also highlighted other important points, which we believe should be included in the review. These include:

- **Improving the definition of sustainable investments:** It is important to maintain flexibility within the definition of "sustainable investments." A rigid definition based solely on the EU Taxonomy would be undesirable, as the scope of the SFDR is broader. Instead, we would prefer additional guidance on how to apply the existing definition in practice. In particular, with potential changes to the Taxonomy introduced via the Omnibus proposal, PensionsEurope is concerned that placing emphasis on financial materiality could lead to less thorough reporting. This would undermine the credibility of the Taxonomy and further reduce its feasibility as the central element of the SFDR framework.

- **Framework for government bonds**: Since pension funds invest significantly in government bonds, this creates challenges with the SFDR. A large portion of these portfolios is currently classified as 'grey,'' meaning that it does not actively contribute to sustainability objectives. We would support an initiative that either better integrates the sustainability characteristics of government bonds or excludes them clearly from sustainability assessments to focus instead on eligible assets such as equities.

- **Consumer testing**: We fully support the initiative for increasing consumer testing. However, we have consistently opposed the use of horizontal regulations that apply the same rules to different products and user groups, especially when not comparable with each other. All relevant users must be considered. Pension funds' participants have a different experience from other investors because they often cannot act on the information received. This makes them less likely to engage with lengthy, complex details.

- **Transparency of adverse sustainability impacts:** Compared to e.g. UCITS, pension funds' investment allocation is not only much broader but also more complex, with more unlisted assets such as private equity, infrastructure, and real estate. It is more challenging for pension funds to obtain all relevant PAI data for their investments.

  We are concerned about using PAIs as product-related disclosures under the SFDR. Currently, PAI indicators offer limited value to pension fund participants since the data provided lacks context and is difficult to interpret.

  Another critical issue is that FMPs rely heavily on external providers for PAIs disclosures, and while smaller FMPs may have lower absolute costs, these costs are disproportionately high relative to their size. Nevertheless, if PAIs are maintained in the revised framework, the list should focus only on the most relevant indicators. This list should also be restricted to specific asset classes, such as equities, excluding bonds or other types of investments.

- **Consistency between the SFDR and the Omnibus**: To prevent any future challenges concerning consistency, the legislative processes of the Omnibus initiative should be concluded, and its outcomes fully taken into account before starting the upcoming SFDR review. If 80% fewer EU companies provide binding data than previously planned (as proposed), this must also have an impact on the SFDR review:

- The requirement of the PAI report and the PAI indicators, for example, to cover all investments on a look-through basis, is currently difficult to fulfill for many types of investment of pension funds and will therefore certainly not improve significantly in the future. This must be accompanied by an equal reduction in the disclosure requirements if the data basis increases much less than expected.
- Can future SFDR categories for "sustainable" or "transition" products be based on the Taxonomy definitions or the quotas for sustainable activities as defined in the Taxonomy Regulation, if data availability for investments turns out to be significantly lower than expected? In such a case, the criteria for "sustainable" activities and investments would need to be defined more broadly again, as strict reliance on Taxonomy data would render the categorisation impractical due to insufficient underlying information.
- Finally, the question arises as to whether the introduction of mandatory "PAI-light reports" (to take into account material adverse impacts on sustainability factors based on a few defined PAI indicators) for all financial products is still sensible and practicable because of possible lighter CSRD requirements.

In the opposite case, there will be a significant risk of inconsistency and reporting/disclosure requirements for financial market participants and pension schemes that are not connected to data points provided by companies.

Conclusion

PensionsEurope supports the goal of enhancing transparency and reducing greenwashing through the review of the SFDR, but stresses that any new product categorisation system must be fit for purpose and reflect the unique characteristics of pension funds. IORPs are long-term, prudently managed institutions whose primary objective is to deliver adequate retirement income. Their sustainability efforts must therefore be evaluated in light of their fiduciary duty and structural constraints, such as high allocations to government bonds or limited participant choice, rather than through a one-size-fits-all framework as is the case with the current SFDR.

While we see merit in introducing a generic categorisation system, our analysis shows that the categorisation system would risk misrepresenting the sustainability efforts of pension funds, increase compliance costs, and create reputational risks without delivering clear benefits to members or beneficiaries.

Instead, PensionsEurope calls for a pragmatic, proportionate, and tailored approach. Above all, communication with pension funds' participants must remain possible, even if IORPs are not integrated into the categorisation system. Fair, balanced, and accurate disclosures, which include sustainability, are important to maintaining trust with members and beneficiaries.