

## Invest Europe response to the European Commission Call for Evidence for an Impact Assessment on SFDR 2.0

30 May 2025

On behalf of the pan-European private equity and venture capital (PE/VC) industry, we have set out below our comments on the future direction of SFDR. Please also refer to our previous letters to the European Commission from 30 January and 16 May 2025.

- **Disclosure-based regime:** We believe that SFDR should remain a disclosure-based regime and should not be replaced by a product categorisation regime. The current SFDR framework is well understood, and our members have invested significant time, capital, and resources in its implementation. In our view, a formal product categorisation regime poses substantial risks for private fund managers. Many such managers raise and offer a single fund globally, requiring them to manage the competing sustainability-related objectives and priorities of investors, governments and regulators across jurisdictions. Imposing product labels in the EU may be incompatible with regulatory requirements or investor expectations in other regions, likely heightening the risk of litigation and other challenges. If they are introduced at all, product labels should be limited to retail investors (and optional for use by professional funds) and subject to the manager's choice.

In addition, we would like to stress the utmost importance of introducing clear grandfathering provisions for the PE/VC industry. More specifically, there ought to be an optional exemption from the requirements of SFDR 2.0 for all closed-ended financial products which are either: (a) fully closed to new EU investors, or (b) established and in the process of concluding their fundraising period as at the date of SFDR 2.0's application - provided that such financial products continue to disclose to investors in line with the requirements of SFDR. This is essential for such products as they were designed, marketed and sold based on the requirements of SFDR.

The Commission should also be mindful of the Omnibus Package and ensure that any changes to e.g. the EU Taxonomy and CSRD are carried through thoughtfully to SFDR. For example, as the Omnibus contemplates reducing the number of companies in-scope of EU Taxonomy-alignment reporting, it would not make sense to mandate a minimum percentage of EU Taxonomy-alignment as a requirement for a product category. If Taxonomy-alignment information becomes scarce due to the Omnibus, we further advocate that Taxonomy reporting under SFDR should become voluntary, in particular at product level where the product has not committed to any Taxonomy alignment. More broadly, we recommend establishing that funds which do not commit to having EU Taxonomy-aligned investments are not required to report on actual EU Taxonomy alignment. The assessment of EU Taxonomy alignment requires significant efforts and costs for managers and there is limited value in obligating funds which do not commit to Taxonomy alignment to report on such alignment.

- **Disclosure templates:** The SFDR reporting framework should be simplified. We ask for the following:
  - The current mandatory pre-contractual and periodic reporting templates are too rigid and difficult to complete. We request that the pre-contractual and reporting requirements are aligned with the approach taken for website disclosures which set out required disclosure topics while allowing FMPs the flexibility to draft the disclosures. While we understand the policy objective of having comparable disclosures, in particular for retail investor products, we do not consider that the rigid templates achieve this. We also note that a similar approach is taken with other key investor disclosures under AIFMD, such as investor reporting requirements under Articles 22 and 23 AIFMD, where comparability is not seen to be compromised by this approach. If the templates must be retained, they should become voluntary for financial products targeting only professional investors, who are typically sophisticated and rely on their own due diligence processes for investment decisions. The formatting of the templates should also be amended to make it easier for all stakeholders to complete and use the templates.
  - The website disclosures are almost entirely duplicative of the pre-contractual disclosures with only limited additional information provided to investors. Nevertheless, the website disclosures require FMPs to re-package substantially the information in the pre-contractual disclosure in another format for the website disclosure. This is of limited use for investors and creates unnecessary work for FMPs. We request that the disclosure requirements and format of pre-contractual and website disclosures are fully aligned.
  - We also consider that the pre-contractual, website and reporting requirements should be simplified by removing some of the onerous detail in the SFDR RTS and the Taxonomy Regulation which is either duplicative or unclear. For example, Articles 5 and 6 of the Taxonomy Regulation require SFDR Article 8 and 9 products to disclose, as a part of their periodic reporting, how any sustainable investments, as defined under Article 2(17) SFDR, contribute to Taxonomy objectives. This is confusing and duplicative, because sustainable investments must also disclose under the template how they contribute to sustainable objectives, as understood under Article 2(17) SFDR. As sustainable investments under Article 2(17) are separate from the Taxonomy Regulation, there is no clear benefit to investors, who also receive information on whether any of the investments are Taxonomy-aligned, and further, this creates confusion by mixing two different concepts.

Another unclear question in the SFDR RTS template for Article 8 products is “what are the binding elements of the investment strategy used to select the investments to attain each of the environmental or social characteristics promoted by the financial product”. Not all financial products promote environmental and social characteristics that are tied to the investment strategy. For example, some FMPs will seek to engage with underlying investee companies to improve their business from an environmental or social perspective. This is neither tied to the investment strategy nor can FMPs always guarantee that a specific outcome is achieved. Therefore, the question is misleading for a group of financial products. NCAs in Member States have different

interpretations on how the question should be answered in such cases, eroding a harmonised approach. We therefore advocate that it should be removed.

We note that the ESAs' final report on the review of PAI and financial product disclosures in the SFDR Delegated Regulation, published in December 2023, amended this question, but nevertheless still requires an explanation of the sustainability aspects of the investment strategy to which the financial product is bound, indicating how the strategy is implemented in the investment process on a continuous basis. The proposed re-formulation of the question, if ever adopted, does still not recognise that not all financial products promote environmental or social characteristics tied to the investment strategy.

- **Periodic reports:** More generally, FMPs would also welcome more detailed guidance on which data (referring to which date or period) should be used for certain calculations in the periodic reports. Some of the calculations, such as for data related to principal adverse impacts, are required to be based on data measured on a quarterly basis, whereas other periodic reporting will be measured based on data as of the end of the reporting period. FMPs would appreciate clear metrics on how the respective disclosures in the report should be calculated and which data should be used for such calculations.
- **PAI indicators:** The entity-level reporting requirements relating to PAIs should be removed (as highlighted by several respondents to the Commission's 2023 Targeted SFDR Consultation). Investors invest in specific funds, not in fund managers themselves. Aggregated entity-level PAI data is costly to produce and offers limited value to investors seeking fund-specific insights. Moreover, PAI data is often unavailable for certain asset classes, forcing managers to rely on estimates or proxies, which may be misleading.

At the product level, the reporting burden should be reduced by introducing a materiality threshold. Rather than mandating disclosure against the pre-defined mandatory set of PAI indicators, FMPs should explicitly be permitted to report only on those PAI indicators that they consider material to a given fund's investment strategy. Should the Commission maintain the concept of "mandatory" PAI indicators, these should be reduced and aligned with the voluntary reporting standards for SMEs.

- **Good governance:** The scope of SFDR's "good governance" requirements should be redefined. In particular, many private funds invest in or through special purpose vehicles or similar bespoke corporate structures, which, in our view, should fall outside the scope of these requirements. More broadly, it should be clarified that the "good governance" requirements are flexible, fact-specific and introduce a minimum standard only (as opposed to "best practices"). They can be satisfied by implementing changes to remedy bad governance or improve governance post-acquisition rather than the assessment requiring day one compliance.
- **Asset allocation:** We recommend that the approach to asset allocation should better recognise that managers of drawdown funds with illiquid investment strategies typically commit to the inclusion of E/S characteristics (or sustainable investments) in their assets based on committed/invested capital with respect to portfolio investments, rather than net asset value or total assets. In general, such funds do not seek to align ancillary investments with their E/S characteristics (noting that such assets include cash, cash equivalents, derivatives or other investments for liquidity management, working capital, and/or accounts receivables).

There are three particular difficulties:

- (i) Investment valuations may fluctuate over time, with very limited ability to rebalance a portfolio if such fluctuations were to cause the “#1 Aligned” portion of the portfolio to decrease when measured on current values;
- (ii) The proportion of ancillary investments that will be held in the fund from time to time is generally uncertain and unknowable, which means that its inclusion in the denominator for the asset allocation necessarily makes it difficult to define the relative proportions of “#1 Aligned” and “#2 Other” assets with precision; and
- (iii) As capital is deployed by the fund over time when drawing down from investors, funds that intend to have both portfolio investments that are aligned and other portfolio investments that are not aligned to the E/S characteristics face a potential issue with the ordering of the investments that they make - i.e. if the first investment is not aligned, the “#1 Alignment” percentage would be 0% (which would be below the pre-contractual commitment).

Accordingly, we recommend that:

- (a) The denominator used for calculating the asset allocation should only take into account portfolio investments without ancillary investments (i.e., not total investments). Such standard would create more certainty about the value of the asset allocation reported and more consistency across funds which would make it easier for investors to compare;
- (b) Funds should also be able to express their commitment to the proportion of portfolio investments that will be #1 Aligned with E/S characteristics (or sustainable investments) based on invested/committed capital, rather than current market value, (albeit with current asset allocation optionally tracked on portfolio values in periodic reports); and
- (c) Any revised SFDR standards explicitly recognise that an illiquid fund with a drawdown approach to deploying capital is able to assess compliance with their asset allocation commitments based on a proportion of invested capital once the fund is fully invested (we note that this is consistent with guidance from the CSSF regarding ‘ramp-up’ periods for UCITS type products).