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BANKING AND FINANCE

Public consultation on institutional investors and asset managers' duties regarding sustainability

Fields marked with * are mandatory.

Introduction

At the end of 2015, governments from around the world chose a more sustainable path for our planet and our economy by adopting the Paris agreement on climate change and the UN 2030 Agenda for Sustainable Development.

Sustainability has since long been at the heart of the European project. The EU is committed to development that meets the needs of the present without compromising the ability of future generations to meet their own needs (Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions 'Next steps for a sustainable European future European action for sustainability' {SWD(2016) 390 final}).

The EU wants its financial system to be aligned with its sustainability objectives. The commitment to incorporating sustainability elements into EU financial services policies and cross cutting initiatives is ingrained in the Mid-Term Review of the Capital Markets Union Action Plan (Mid-Term Review of the Capital Markets Union Action Plan - COM(2017) 292 final).

To develop the overall vision of sustainable finance that this requires, the Commission decided last year to appoint a High-Level Expert Group (HLEG) on sustainable finance under the chairmanship of Christian Thimann. This group is supporting the Commission to develop an overarching and comprehensive EU strategy on sustainable finance.

On 13 July 2017, the HLEG published its interim report which provided a comprehensive vision on sustainable finance. It identified two imperatives for Europe's financial system. "The first is to strengthen financial stability and asset pricing, by improving the assessment and management of long term risks and intangible factors of value creation. The second is to improve the contribution of the financial sector to sustainable and inclusive growth by financing long-term needs and accelerating the shift to a sustainable economy".

In its interim report (EU High-Level Expert Group on Sustainable Finance, 'Financing a sustainable European economy' Interim report, July 2017), the HLEG proposed eight early recommendations for policy action on sustainable finance. The third recommendation focused on establishing a "fiduciary duty" that encompasses sustainability. The HLEG suggested clarifying that the duties of institutional investors and asset managers explicitly integrate material environmental, social and governance (ESG) factors and long term sustainability.

Given the maturity and the interest of the HLEG recommendation, the Commission has decided to start work on an impact assessment to assess whether and how a clarification of the duties of institutional investors and asset managers in terms of sustainability could contribute to a more efficient allocation of capital, and to sustainable and inclusive growth.

The duties of care, loyalty and prudence are embedded in the EU's financial framework governing obligations that institutional investors and asset managers owe to their end-investors/scheme members. These duties are the foundation of investment process.

The implementation of these duties implies fulfillment of various obligations for asset managers and institutional investors that include, for instance, the duty to act in the best interest of beneficiaries /investors, with due care, skill and diligence in performing their activities, including the identification and management of conflict of interests. They are also required to act honestly, and ensure adequate and proportionate performance of their activities.

Although these duties are embedded in the EU financial legal framework, it appears unclear that they require institutional investors and asset managers to assess the materiality of sustainability risks (i.e risks relating to environmental, social and governance issues). Market practices indicate that institutional investors and asset managers generally understand these duties as requiring a focus on maximising short-term financial returns and disregard long-term effects on performance due to sustainability factors and risks. This can lead to misallocation of capital and might give rise to concerns about financial stability since markets can be vulnerable to abrupt corrections, such as those associated with the delayed transition to low carbon economies.

This consultation will help the Commission gather and analyse the necessary evidence to determine possible action to improve the assessment and integration of sustainability factors in the relevant investment entities' decision-making process.

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-investors-duties-sustainability@ec.europa.eu.

More information:

- on this consultation
- on the protection of personal data regime for this consultation

Glossary

Relevant investment entities: entities managing assets entrusted to them

Sustainability factors: for the purpose of this consultation, sustainability factors refer to environmental, social and governance issues as defined by the United Nations Environment Programme (UNEP) (*UNEP Inquiry, Definitions and Concepts: Background Note, 2016*). The exact scope of sustainability factors to be addressed is also the object of this consultation.

Environmental issues relate to the quality and functioning of the natural environment and natural systems including biodiversity loss; greenhouse gas emissions, renewable energy, energy efficiency, natural resource depletion or pollution; waste management; ozone depletion; changes in land use; ocean acidification and changes to the nitrogen and phosphorus cycles

Social issues relate to rights, well-being and interests of people and communities including human rights, labour standards, health and safety, relations with local communities, activities in conflict zones, health and access to medicine, consumer protection; and controversial weapons.

Governance issues relate to the management of investee entities. Issues include board structure, size, diversity, skills and independence; executive pay; shareholder rights; stakeholder interaction; disclosure of information; business ethics; bribery and corruption; internal controls and risk management; and, in general, issues dealing with the relationship between a company's management, its board, its shareholders and its other stakeholders.

1. Information about you

* Are you replying as:

- ○ a private individual
- ◉ an organisation or a company
- ○ a public authority or an international organisation

* Name of your organisation:

Swiss Sustainable Finance

Contact email address:

The information you provide here is for administrative purposes only and will not be published

info@sustainablefinance.ch

* Is your organisation included in the Transparency Register?

(If your organisation is not registered, we invite you to register here, although it is not compulsory to be registered to reply to this consultation. Why a transparency register?)

- ○ Yes
- ◉ No

* Type of organisation:

- ○ Academic institution
- ○ Company, SME, micro-enterprise, sole trader
- ○ Institutional investor
- ○ Consultancy, law firm
- ○ Consumer association
- ◉ Industry association
- ○ Media
- ○ Non-governmental organisation
- ○ Think tank
- ○ Trade union
- ○ Other

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

Switzerland

* Field of activity or sector (*if applicable*):

at least 1 choice(s)

- ☐ Accounting

- [ ] Auditing
- [ ] Banking
- [ ] Credit rating agencies
- [ ] Insurance
- [ ] Occupational pension provision
- [ ] Personal pension provision
- [ ] Collective Investment Management
- [ ] Individual portfolio management
- [ ] Financial advice
- [ ] Market infrastructure operation (e.g. CCPs, CSDs, Stock exchanges)
- [ ] Service provider (e.g. index provider, research providers)
- [x] Other
- [ ] Not applicable

*Please specify your activity field(s) or sector(s):

Swiss Sustainable Finance (SSF) strengthens the position of Switzerland in the global marketplace for sustainable finance by informing, educating and catalysing growth. The association, founded in 2014, has representation in Zurich, Geneva and Lugano. Currently SSF unites 96 members and network partners from financial service providers, investors, universities and business schools, public sector entities and other interested organisations. An overview of SSF's current members and network partners can be found online at www.sustainablefinance.ch

Important notice on the publication of responses

*Contributions received are intended for publication on the Commission's website. Do you agree to your contribution being published?
(see specific privacy statement)

- (●) Yes, I agree to my response being published under the name I indicate (*name of your organisation /company/public authority or your name if your reply as an individual*)
- ( ) No, I do not want my response to be published

2. Your opinion

2.1 Questions addressed to all respondents:

I. General overview

1) Do you think relevant investment entities should consider sustainability factors in their investment decision-making?

- (●) Yes

- [ ] No
- [ ] No opinion

Please explain the reasons:

Institutional investors and asset managers hold the lever in the form of their investment decisions to achieve long-term stability of the economy by helping to stabilize the ecological and social framework they are acting in. Abstaining from considering sustainability factors does distort reality in that material variables related to ESG risks are not factored into the valuation of assets (i.e. costs for environmental degradation, costs related to high turnover due to poor employment conditions).

There are several reasons why investment entities should consider sustainability aspects when making investment decisions. Three important reasons are

- improving the risk/return profile of investments,
- promoting sustainable development and business practices, and
- complying with generally recognised international and national standards/norms or specific values defined by their own organisation within their investment activity.

2) What are the sustainability factors that the relevant investment entities should consider? (Please make a choice and indicate the importance of the different factors (1 is not important and 5 is very important). (Please refer to the definition in the Glossary).

	Yes	No	No opinion
Climate factors (these include climate mitigation factors as well as climate resilience factors)	●	○	○
Other environmental factors	●	○	○
Social factors	●	○	○
Governance factors	●	○	○
Others	○	○	○

Importance for climate factors:

- [ ] 1
- [ ] 2
- [ ] 3
- [ ] 4
- [x] 5

Importance for other environmental factors:

- [ ] 1
- [ ] 2
- [ ] 3
- [ ] 4
- [x] 5

Importance for social factors:

- ( ) 1
- ( ) 2
- ( ) 3
- ( ) 4
- (x) 5

Importance for governance factors:

- ( ) 1
- ( ) 2
- ( ) 3
- ( ) 4
- (x) 5

Please specify, which specific factors within the above categories you are considering, if any:

As an industry association promoting sustainable finance, we advocate for the use of ESG considerations within investment decisions. We encourage individual actors to define what is important to them (i.e. their beneficiaries and clients) through a careful process based on their respective situation and preference. In our handbook on sustainable investments we provide guidance on the process to define these preferences (see chapter 21 in the SSF Handbook (http://www.sustainablefinance.ch/en/handbook-on-sustainable-investments-2016-_content---1--3091.html).

3) Based on which criteria should the relevant investment entities consider sustainability factors in their investment decision making?

Please explain:

1. Value creation/better investment decisions
2. Asset owner/stakeholder demand
3. Risk profile of portfolio
4. Regulatory framework
5. Long-term growth of investee-company
6. Materiality of ESG factors
7. Reputational risk management
8. Alignment of institutional mission and investment practice

4) Which of the following entities should consider sustainability factors in their investment decision-making? (Possibility to select several answers). If so, please indicate the level of impact that this would have (1 is the smallest impact and 5 is the highest impact).

	Yes	No	No opinion
Occupational pension providers	(x)	( )	( )
Personal pension providers	(x)	( )	( )
Life insurance providers	(x)	( )	( )
Non-life insurance providers	(x)	( )	( )

Collective investment funds (UCITS, AIF, EuVECA, EuSEF, ELTIF)	(x)	( )	( )
Individual portfolio managers	(x)	( )	( )

Please explain:

The answer given to question 1 applies to all asset owners and asset managers.

Comment: level of impact mainly depends on size of investment manager.

Level of impact for occupational pension providers:

- ( ) 1
- ( ) 2
- (x) 3
- ( ) 4
- ( ) 5

Level of impact for personal pension providers:

- ( ) 1
- ( ) 2
- (x) 3
- ( ) 4
- ( ) 5

Level of impact for life insurance providers:

- ( ) 1
- ( ) 2
- (x) 3
- ( ) 4
- ( ) 5

Level of impact non-life insurance providers:

- ( ) 1
- ( ) 2
- (x) 3
- ( ) 4
- ( ) 5

Level of impact for collective investment funds (UCITS, AIF, EuVECA, EuSEF, ELTIF):

- ( ) 1
- ( ) 2
- (x) 3
- ( ) 4

- ○ 5

Level of impact for individual portfolio managers:

- ○ 1
- ◉ 2
- ○ 3
- ○ 4
- ○ 5

II. Problem

5) To your knowledge, what share of investment entities active in the EEA (European Economic Area) currently consider sustainability factors in their investment decisions?

	All or almost all	More than two thirds	More than half	More than a third	None or almost none	No opinion
Occupational pension providers	○	○	○	○	◉	○
Personal pension providers	○	○	○	○	◉	○
Life insurance providers	○	○	○	◉	○	○
Non-life insurance providers	○	○	◉	○	○	○
Collective investment funds (UCITS, AIF, EuVECA, EuSEF, ELTIF)	○	○	○	◉	○	○
Individual portfolio managers	○	○	○	○	◉	○

6) To your knowledge, which is the level of integration of sustainability factors by the different investment entities (active in the EEA)?

	High integration	Medium integration	Low integration	No integration	No opinion
Occupational pension providers	○	○	◉	○	○
Personal pension providers	○	○	◉	○	○
Life insurance providers	○	○	◉	○	○
Non-life insurance providers	○	◉	○	○	○
Collective investment funds (UCITS, AIF, EuVECA, EuSEF, ELTIF)	○	○	◉	○	○
Individual portfolio managers	○	○	◉	○	○

7) Which constraints prevent relevant investment entities from integrating sustainability factors or facilitate their disregard. Please provide the importance of the different constraints that you consider relevant (1 is not important and 5 is very important).

	1	2	3	4	5	No opinion
Lack of expertise and experience				X		
Lack of data/research		X				
Lack of impact on asset performance				X		
Inadequate methodologies for the calculation of sustainability risks			X			
Inadequate sustainable impact metrics			X			
Excessive costs for the scale of your company			X			
No interest from financial intermediaries				X		
No interest from beneficiaries/clients				X		
European regulatory barriers		X				
National regulatory barriers		X				
Lack of fiscal incentives			X			
Lack of eligible entities	X					
Others				X		

Please specify others:

Lack of standardized ESG-metrics
Not enough support from top management
Lack of corporate culture supportive of ESG integration.

Please provide more details on what the constraints/reasons are and how they limit the integration of sustainability factors:

Lack of standardized and comparable ESG-metrics, also due to lack of reporting standards, are often named as a barrier by investors. Recent regulatory initiatives (EU Sustainability reporting, TCFD, HLEG on sustainable finance) will help standardize ESG data and therewith increase comparability.

Investment professionals often express concerns about a corporate culture that does not facilitate ESG integration. Often such concerns stem from the perception that it hurts performance to integrate ESG factors. Short investment time horizons, lack of ESG objectives and incentives and generally low top management attention are some of the factors mentioned.

8) How challenging is it for relevant investment entities to integrate the different sustainability factors? (1 is not challenging and 5 is very challenging) - Please refer to the definition in the Glossary).

	1	2	3	4	5	No opinion
Climate factors (*these include climate mitigation factors as well as climate resilience factors*)			X			
Other Environment factors			X			
Social factors			X			
Governance factors		X				
Others						

Please explain:

With the TCFD report, institutional investors have received guidelines on how to report on climate related risks. These recommendations have been taken up by the PRI and integrated into its reporting framework. Reporting frameworks on other sustainability factors (i.e. GRI, SASB) are converging but standardization of metrics in other environmental and in social aspects is slow.

III. Policy options

9) In which area should relevant investment entities consider sustainability factors within their investment decision-making? Please make a choice and indicate the relevance of the different areas (1 is minor relevance and 5 is very high relevance).

	Yes	No	No opinion
Governance	X		
Investment strategy	X		
Asset allocation	X		
Risk management	X		
Others	X		

Please specify others:

See Figure 24 in SSF Handbook: Integration of Sustainability in Different Elements of the Investment Process

German: http://www.sustainablefinance.ch/upload/cms/user
/SSF_Handbuch_Nachhaltige_Anlagen_2016_11_28_einseitig_Web.pdf

French: http://www.sustainablefinance.ch/upload/cms/user
/SSF_Guide_de_Iinvestissement_durable_2017_03_03_einseitig_Web.pdf

Relevance for governance:

- ( ) 1
- ( ) 2
- ( ) 3
- (x) 4
- ( ) 5

Relevance for investment strategy:

- ( ) 1
- ( ) 2
- ( ) 3
- (x) 4
- ( ) 5

Relevance for asset allocation:

- ( ) 1
- ( ) 2
- (x) 3
- ( ) 4
- ( ) 5

Relevance for risk management:

- ( ) 1
- ( ) 2
- ( ) 3
- ( ) 4
- (x) 5

Relevance for others:

- ( ) 1
- ( ) 2
- ( ) 3
- ( ) 4
- ( ) 5

10) Within the area of governance, which arrangements would be most appropriate to enable the integration of sustainability factors? (1 is the not appropriate and 5 is the very appropriate).

	1	2	3	4	5	No opinion
Specific sustainability investment Committee	( )	(x)	( )	( )	( )	( )
Specific sustainability member of the Board	( )	(x)	( )	( )	( )	( )

Sustainability performance as part of remuneration criteria	○	○	○	◉	○	○
Integration of sustainability factors in the investment decision process	○	○	○	○	◉	○
Integration of sustainability checks in the control process	○	○	○	○	◉	○
Periodic reporting to senior management/board	○	○	○	◉	○	○
Others	○	○	○	○	○	○

11) Should insurance and pension providers consult their beneficiaries on an annual/periodic basis on their preference as regards sustainability factors?

◉ Yes
○ No
○ No opinion

Please explain:

Many beneficiaries are currently not aware of how their pension funds are investing and the impact of those investments. Investments should be aligned with the values of beneficiaries and their overall benefit should be maximized.

As an example, the Swiss Association for Responsible Investments (SVVK-ASIR), founded on 3 December 2015 by seven pension funds from the public sphere, consider opinions of their beneficiaries (the general public) based on national laws and norms. SVVK-ASIR’s assessment criteria are defined as objectively as possible and reflect the democratic consensus typical of Switzerland. In the area of human rights, these normative criteria are based exclusively on Swiss law and on international treaties and conventions ratified by Switzerland. SVVK-ASIR’s Board decided on the selection of particular key human rights as basic criteria for the screening and monitoring of the portfolio of their members, which is carried out every 6 months for the Equity and Fixed Income asset classes.

12) Within the portfolio's asset allocation, should relevant investment entities consider sustainability factors even if the consideration of these factors would lead to lower returns to beneficiaries/clients in the medium/short term?

◉ Yes
○ No
○ No opinion

Please explain:

There is strong scientific evidence that the integration of sustainability factors does not systematically result in lower returns. Therefore, there is no need to forego financial performance while investing more sustainably. Yet, in some cases there may be conflicts with regards to the time horizon. It is part of the fiduciary duty of investment entities to maximize the financial benefit for their beneficiaries in the mid to long term, while some regulatory frameworks focus on the maximization in shorter time frames. Such trade-offs need to be discussed and dealt with. It is a core element of a sustainable investment policy to focus on longer time periods and therewith optimize the risk/return profile over longer time horizons while increasing the ESG-level of a portfolio.

13) Within the area of risk management, does the current set of corporate disclosures provide the relevant investment entities with adequate information to perform sustainability risk assessments in respect of investee companies?

- (x) Yes
- ( ) No
- ( ) No opinion

Please explain where the possible gaps are, if any:

Encompassing information on sustainability performance is available in the market. Yet, as mentioned above, further standardization would increase comparability of such metrics and improve relevance of such data.

14) Do the overall information or risk metrics available enable the relevant investment entities to adequately perform sustainability risk assessments?

- ( ) Yes
- ( ) No
- (x) No opinion

15) Do you think that uniform criteria to perform sustainability risk assessments should be developed at EU level?

- ( ) Yes
- ( ) No
- (x) No opinion

16) In case material exposure to sustainability factors is identified, what are the most appropriate actions to be performed by the relevant investment entity?

In case material exposure to sustainability risks is identified, the investment entity has several options of how to react to this:

- Engage with investee company and try to influence it to reduce identified risks
- Underweight company in portfolio
- Divest from company

17) Should relevant investment entities disclose how they consider sustainability factors within their investment decision-making?

- (x) Yes
- ( ) No
- ( ) No opinion

Please explain:

We consider it important that an investment entity reports about the overall strategy and the result of the sustainability integration (e.g. disclosure of average level of sustainability and its development over time, disclosure of engagement and voting activities). However, disclosing details of the sustainability integration process is perceived as difficult by some players due to competitive reasons (i.e.investment processes being proprietary). Yet, under the Eurosif Transparency Code, many market players already provide a lot of transparency on their sustainable investment processes.

If yes, what areas should the disclosure cover? Please make a choice and indicate the relevance of disclosure within the different areas (1 is minor relevance and 5 is high relevance):

	Yes	No	No opinion
Governance	(x)	( )	( )
Investment strategy	(x)	( )	( )
Asset allocation	(x)	( )	( )
Risk management	(x)	( )	( )
Other	( )	( )	( )

Relevance for governance:

- ( ) 1
- ( ) 2
- ( ) 3
- (x) 4
- ( ) 5

Relevance for investment strategy:

- ( ) 1
- ( ) 2
- ( ) 3
- (x) 4
- ( ) 5

Relevance for asset allocation:

- ( ) 1
- (x) 2
- ( ) 3
- ( ) 4
- ( ) 5

Relevance for risk management:

- ( ) 1
- ( ) 2
- ( ) 3
- (x) 4
- ( ) 5

If yes, where?

	Yes	No	No opinion
Pre-contractual disclosure (e.g. prospectuses)	x		
Semi-annual/annual reports			x
Periodic reports	x		
Website	x		
Newsletters			x
Factsheets			x
Marketing materials			x
Others			

IV. Impacts for stakeholders

18) Which stakeholder groups would incur costs and which would benefit from integrating sustainability factors within investment decision-making by relevant investment entities?

	Benefits	Costs
Occupational pension providers	x	x
Personal pension providers	x	x
Life insurance providers	x	x
Non-life insurance providers	x	x
Collective investment funds (UCITS, AIF, EuVECA, EuSEF, ELTIF)	x	x
Individual portfolio managers	x	x
General public	x	
Retail investors	x	
Financial advisors		
Service providers (index provider, research providers…)	x	x
Other stakeholders (please specify)	x	x

Please explain:

The question of benefits depends on the period that is analysed. In the short term, transaction costs will definitely occur also given the needed knowledge creation on the topic. However, for organisations and entities with horizons that exceed the next 5-10 years, ESG factors are bound to bring about benefits to all those stakeholder groups.

Independent financial advisors play a minor role in Switzerland, which is why SSF does not feel in the position to make a comment on the potential benefits and costs for this group.

We have additional comments on three questions, where we feel it is important that we comment on our answer but no comment field was provided:
Comment to question 5: The level of adoption of sustainable investing differs strongly from country to country.

Comment to question 14: Encompassing information on sustainability performance is available in the market. Yet, know-how as to how to use such data in risk management processes is still limited and often subjective which is why further practical experience has to be gained.

Comment to question 15: Cooperation of different entities in standardizing sustainability risk assessment is key. The EU could certainly play an important role in facilitating such a process, but other regions would have to be included in the process. Many of the major sustainability risks stem from emerging and developing regions which is why it is important to define metrics that manage to reflect all types of risks adequately.

2.2 Questions addressed to end-investors

1) Do you take into account sustainability factors when you choose your investment products or investment entity?

- Yes
- No

3. 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) here:

Useful links

More on the Transparency register (http://ec.europa.eu/transparencyregister/public/homePage.do?locale=en)

Consultation details (https://ec.europa.eu/info/consultations/finance-2017-investors-duties-sustainability_en)

Specific privacy statement (https://ec.europa.eu/info/files/specific-privacy-statement-institutional-investors-and-asset-managers-duties-regarding-sustainability_en)

Contact

fisma-investors-duties-sustainability@ec.europa.eu