



A. PAI consideration

When should PAI be considered?

How does the consideration of PAI impact the classification of a product?

According to Article 14(3) SFDR RTS (draft version), for financial products that have sustainable investment as its objective (Art. 9 SFDR products), indicators for adverse impacts are used as means to explain how the sustainable investments contribute to a sustainable investment objective and do not significantly harm any of the other sustainable investment objectives.

If a financial product takes PAIs into account, even though it does not have sustainable investment as its objective, the product fulfils an investment preference and is thus identified as a so-called Article 8+ product (Art. 8 SFDR compliant product that incorporates at least one sustainable investor preference).

What entities need to publish as to PAI?

Financial market participants as defined in Article 2(1) SFDR shall publish and maintain on their websites a statement on their due diligence policies with respect to the principal adverse impacts of investment decisions on sustainability factors if

- Article 4(3) SFDR, financial market participants exceed on their balance sheet dates the criterion of the average number of 500 employees during the financial year
- Article 4(4) SFDR, financial market participants which are parent undertakings of a large group as referred to in Article 3(7) of Directive 2013/34/EU exceed on the balance sheet date of the group, on a consolidated basis, the criterion of the average number of 500 employees during the financial year.

How do financial market participants disclose information on PAI for their products?

A product that takes PAI into consideration will have to apply the indicators as laid down in the principal adverse impact statement (Annex 1, Table 1 SFDR RTS).

The adverse sustainability impact statement requires a description of (i) the actions taken during the reference period and (ii) the actions planned or targets set by the financial market participant for the next reference period to avoid or reduce the principal adverse impacts identified as outlined in Article 6(2) RTS.

The regulatory basis does not stipulate at which stage of the investment process financial products have to consider PAIs. However, as per Article 13(3) RTS in accordance with Articles 8 and 9 SFDR, the pre-contractual information shall disclose whether the financial product considers principal adverse impacts on sustainability factors.

B. Sustainability preferences

What are the sustainable investor preferences that have been introduced? How do they affect product structuring?

As per the Amendment to the Delegated Regulation (EU) 2017/565, Article 2(7), a MiFID client can decide whether, and if so to what extent, sustainable product features shall be integrated into his/her investments. The decisions taken by the investor reflect his/her sustainability preferences. According to the potential preferences a financial product can incorporate one or more of the following options to classify as a product that can be distributed to investors within the MiFID II target market who articulated sustainability preferences:

1. sustainable investments that are in line with the definition of the Taxonomy Regulation (EU 2020/852) and therefore can be counted as taxonomy-aligned;
2. sustainable investments that are not taxonomy-aligned but in line with the definition of a “sustainable investment” as per Art. 2 (17) SFDR;
3. investments that take PAIs into account.

