

**Response Form**  
**for the**  
***Consultation Paper on the development of the***  
***CFA Institute ESG Disclosure Standards for Investment Products***

CFA Institute is developing a voluntary, global industry standard, the CFA Institute ESG Disclosure Standards for Investment Products (the “Standard”), to establish disclosure requirements for investment products with ESG-related features. The purpose of the Standard is to provide greater transparency and comparability for investors by enabling asset managers to clearly communicate the ESG-related features of their investment products. The goal for this Consultation Paper is to elicit feedback on the proposed scope, structure, and design principles of the Standard. **All comments must be received by 19 October 2020 in order to be considered.**

**Providing Feedback**

Public commentary on this Consultation Paper will help shape an Exposure Draft, the initial version of the Standard, which is expected to be issued in May 2021. Comments should be provided in this response form. You may address as few or as many of the Consultation Paper’s questions as you wish. Unless otherwise requested, all comments will be posted on the CFA Institute website.

Guidelines for submission

Comments are most useful when they:

- directly address a specific issue or question,
- provide a rationale and support for the opinions expressed, and
- suggest alternative solutions in the event of disagreement.

There is a section for general comments at the end of this response form.

Positive comments in support of a proposal are equally as helpful as those that provide constructive suggestions for improvement.

Requirements for submission

For comments to be considered, please adhere to the following requirements:

- Insert responses to numbered questions in the designated areas of the response form. Please do not remove tags of the type <QUESTION\_XX>. Your response to each question must be framed by the two tags corresponding to the question. If you do not wish to respond to a given question, please do not delete it but simply leave the text “ENTER RESPONSE HERE” between the tags.
- Provide all comments in English.
- Assign a unique file name to your response form.
- Submit the response form as a Microsoft Word document.
- Submit the response form to [standards@cfainstitute.org](mailto:standards@cfainstitute.org) by 5:00 PM E.T. on 19 October 2020.

## General Information (required)

<b>Respondent:</b> <i>(Please enter your full name if you are submitting as an individual or the name of the organization if you are submitting on behalf of an organization.)</i>	CFA Society Spain – Advocacy Committee
<b>Stakeholder Group:</b> <i>(Please select the stakeholder group with which you most closely identify.)</i>	Choose an item.
<b>Region:</b> <i>(If you are submitting as an individual, please select the region in which you live. If you are submitting on behalf of an organization and the organization has a significant presence in multiple regions, please select “Global”. Otherwise, please select the region in which the organization has its main office.)</i>	Europe
<b>Country:</b> <i>(If you are submitting as an individual, please enter the country in which you live. If you are submitting on behalf of an organization, please enter the country in which the organization has its main office.)</i>	Spain
<b>Confidentiality Preference:</b> <i>(Please select your preference for whether your response is published on the CFA Institute website.)</i>	yes, my response may be published

## Consultation Paper Questions

### **Market Needs**

**Question 1: Do you agree that a standard is needed to help investors better understand and compare investment products with ESG-related features?**

<QUESTION\_01>

Yes, we do. There is a real need to have a standard for ESG comparability among investment products as it is for the rest of ESG dimensions: Accounting, Disclosure (from the issuer) or Performance.

This need goes beyond the traditional barriers between markets (ie. Europe, USA or Asia). So a real global standard, with real global impacts will help the investment community to enhance the pretended objectives of ESG investing: Shape the future of investments to a more sustainable economy.

<QUESTION\_01>

### **Terminology**

**Question 2: Are any of the defined terms ambiguous? If so, how could they be clarified?**

<QUESTION\_02>

No, they are not ambiguous in our opinion.

<QUESTION\_02>

### **Purpose and Scope**

**Question 3: In addition to the examples listed in Table 1, which regulations and standards, either in existence or in development, should be considered during the development of the Standard to avoid duplication or conflict and to ensure alignment and referencing if and when applicable?**

<QUESTION\_03>

Main regulatory initiatives are included in Table 1, for this purpose specially EU Taxonomy.

<QUESTION\_03>

**Question 4: Do you agree that a disclosure-based approach would be more helpful to achieve the Standard's goals of transparency and comparability than a prescriptive-based approach?**

<QUESTION\_04>

Yes, we do. It will enhance the comparability and transparency. The filter of materiality will be needed to ensure the use of a consistent disclosure. Regarding the items considered immaterial, there should be also a common approach: State that the item is immaterial or remain silent. And if the firm's option is to make no disclosure regarding a certain topic (not considered immaterial), the firm should explain why

<QUESTION\_04>

**Question 5: Do you agree that the Standard should focus only on product-level disclosures and not firm-level disclosures?**

<QUESTION\_05>

If the standard ultimate goal is to promote the integrity of the ESG market, the answer will be “No”. Both perspectives (product-level and firm-level) should complement each other.

The investment process is important to avoid green-washing and to show true commitment (stewardship and engagement) to the companies. Otherwise, it can become simply a matter of having product of one kind or another as if it were a fad, and not a matter of company principles. If the focus is only on the product, it could mean that the company may in turn fail to comply with all the principles.

Besides, ESG investors will not only be focused in the current investment opportunities but will trust and engage with asset managers that promote certain goals. Then, only putting all the efforts on product dimension could lead to a point-in-time vision. Investors trust people behind products, and hence the firm itself.

<QUESTION\_05>

**Question 6: Do you agree that an asset manager should be permitted to choose the investment products to which they apply the Standard rather than be required to apply the Standard to all their investment products with ESG-related features?**

<QUESTION\_06>

Yes, due to the actual status of the ESG definitions, which are still under development, and the numerous different criteria that the available analysts apply. We encourage the principle of “comply or explain” is applied. Firms should be able to choose the investment products where they apply the standards and explain why they do not apply them to some others, when applicable.

<QUESTION\_06>

## **Design Principles**

**Question 7: Do you agree with the design principles for definitions of ESG-related terms?**

<QUESTION\_07>

Yes. We would like to add that technical terms, even if used widely within the industry, should be avoided when the target public is retail investors, unless they have become of common use within broad society. Example, terms like the “greenhouse effect” would be ok, as they are broadly known now. But “xxx CO2 levels” or trigger level discussions should not be admissible. For example, recent templates published by the ESAS as an example of application for pre contractual documents to comply with the RTS in March 2021, lack of this view. They use references to technical aspects like the EU taxonomy or

certain trigger amounts in a very technical way that is impossible for an average retail investor to understand it.

<QUESTION\_07>

**Question 8: Do you agree with the design principles for disclosure requirements?**

<QUESTION\_08>

Yes, as long as when talking about “Required disclosures” the principle of “comply or explain” may be used, in case the firm does not feel like disclosing that point in particular and prefers to explain why (may be no data is available or may be misleading, or there are certain aspects that are being clarified and the firm does not want to use whatever is available...).

<QUESTION\_08>

**Question 9: Should the Standard require that all disclosures be made in a single document? If disclosures were spread across multiple documents, would that pose a challenge for investors to understand and compare investment products?**

<QUESTION\_09>

No, a single key information document in line with the KID may be useful but additional information for investors is needed. So the investment firm should document the rationale that proves the “sustainable” or “ESG-related features” claiming.

There is a big challenge regarding ESG disclosures, as more often than not, further clarifications are needed and supportive information is usually expected. Therefore, there is a general suggestion in the industry to study the possibility to make disclosures by layers, meaning that you disclose things in a simple way at the “first layer level” and attach links to further explanations or documents where it is deemed convenient. If the information is in electronic format, this is done in an easy way by using hyperlinks. If available in paper documents, usually the attachments may be ready to print (Annex format) in the offices where you may get the general paper information.

<QUESTION\_09>

**Question 10: Do you agree with the design principle for independent examination?**

<QUESTION\_10>

We agree that an independent examination ensures the investor that he/she is not being cheated...to the extent the examination goes (which most of the times is not described). So, if we are talking about a kind of auditor, it would be fine, but that is not cheap.

Assuming firms are willing to pay the cost of an independent examination, then we would let them choose among the examination of the product (it might work like a “label” at the fund level, which is already expected at the UE level in a couple of years time and the National Authorities will rule it) or to

do it, by choice, at company level, which may show further compromise. This second chance is similar to obtaining an ISO 9000, UNPRI qualification or other similar certifications. We think this also gives the investors the assurance that the management firm they have chosen is compromised with ESG principles and applies them on a regular basis to everything they do, explaining it whenever they do not, so there is no green-washing.

<QUESTION\_10>

**Question 11: Should independent examination be required, or should it be recommended as best practice but ultimately left to the discretion of the asset manager?**

<QUESTION\_11>

As it is something that may not be cheap, and also the regulator may ask for it in a certain way if the management company claims to manage ESG funds and wants to have a label, it would already be mandatory. If the company wants to go further and show a big compromise with ESG principles and get a certification for the company as a whole, we think that should be recommend as best practice and not mandatory. However, if the company claims to comply with a certain standard, it should be mandatory to be able to demonstrate so at any moment (and having the assessment of an independent examiner like an auditor would be a nice way to do so).

<QUESTION\_11>

**Question 12: Should the independent examiner (i) examine the disclosures relative to only the design of the investment product, or (ii) examine the disclosures relative to both the design and implementation of the investment product?**

<QUESTION\_12>

Both, but we agree that it would depend on what the firm wants to claim. See previous answers.

<QUESTION\_12>

### **Proposal for General Disclosure Requirements**

**Question 13: Do you agree with the scope of the general disclosure requirements? Are there topics that should be added, deleted, or modified?**

<QUESTION\_13>

ENTER RESPONSE HERE

<QUESTION\_13>

**Question 14: Should the disclosure requirements address an investment product’s intention to align with policy goals, such as the UN Sustainable Development Goals (SDGs), and if so, should these requirements be part of general disclosure requirements or feature-specific disclosure requirements?**

<QUESTION\_14>

Thought it should not be a general requirement or specific question, it should be disclosed if material. Therefore, materiality assessment should be implemented in the standard design, allowing the asset managers firms include this type of information where suitable.

This is currently generally done in impact funds, which is a very specific kind of ESG fund, could be said that is the highest degree of compromise; but there may be many other funds that claim they follow ESG principles without having to go so far. It could be a “nice to have”, in the sense that it may be easier for investors to understand and compare with others, but never “a must”. Besides the SDG goals may change in some years time.

<QUESTION\_14>

**Question 15: Should the disclosure requirements include an explanation of whether, and if so how, an investment product considers principal adverse impacts on sustainability factors and where to find additional information, as required by Article 7 of Regulation EU 2019/2088 Sustainable Finance Disclosure Regulation?**

<QUESTION\_15>

Addressing the PIAS in the right way is not easy at all, especially the way article 7 describes. Many times there is the chance that you may not know about an adverse impact at the moment you are writing the KID; let’s think about “asbestos” in the 50’s, as an example. It was not known that it might harm so much. People thought the usage was save, it was fine for isolating both from heat and noise and was thought to be a great improvement in building. Some years after they found out that it had cancer properties and was harmful for the environment.

KIDs are written to last for some time and they may be used by investors to claim for their rights in front of a judge; anything that you write and might not be accurate may become a “contract violation” in certain jurisdictions, so we better be careful with what we make mandatory in those documents. You may review the assets you invest in with due care, but it is impossible to know about each and all potential adverse effects they may have in all ESG factors on the medium or long term; even on the short term, sometimes. So all you can do is to describe how you have considered all potential effects and include a disclaimer regarding any other factors you may not have been able to figure out.

These being said, we agree it would be nice to have a safe harbor of certain aspects to cover in a certain way, like a check list, that might, at least, provide some guidance of the aspects to cover and a “minima standard”.

<QUESTION\_15>

## **Proposal for ESG-Related Features and Feature-Specific Disclosure Requirements**

**Question 16: Do you believe that “ESG Integration” is a clear and appropriate name for this feature? If not, please suggest an alternative and explain why it would be a better choice.**

<QUESTION\_16>

ENTER RESPONSE HERE

<QUESTION\_16>

**Question 17: If an investment product had Feature (A), and only Feature (A), as defined above, would it be consistent with the CFA institute policy paper “Positions on Environmental, Social, and Governance Integration”? In other words, would it be clear that material ESG-related factors are considered alongside traditional financial factors solely for the purpose of seeking to improve risk-adjusted returns? If not, please suggest how that could be made clearer.**

<QUESTION\_17>

ENTER RESPONSE HERE

<QUESTION\_17>

**Question 18: Is Feature (A) clearly defined? If not, please explain how the definition could be made clearer or more precise.**

<QUESTION\_18>

ENTER RESPONSE HERE

<QUESTION\_18>

**Question 19: Do you agree with the issues to be addressed by the disclosure requirements specific to Feature (A)? Are there issues that should be added, deleted, or modified?**

<QUESTION\_19>

ENTER RESPONSE HERE

<QUESTION\_19>

**Question 20: Do you believe that “ESG-related Exclusions” is a clear and appropriate name for this feature? If not, please suggest an alternative and explain why it would be a better choice.**

<QUESTION\_20>

ENTER RESPONSE HERE

<QUESTION\_20>



**Question 21: Are “negative screening” and “norms-based screening” similar enough, particularly in the types of issues to be addressed by disclosure requirements, that they can both be covered by Feature (B) ESG-Related Exclusions? If you prefer that they be two separate features, please explain the key differences in function, benefits, and disclosure requirements.**

<QUESTION\_21>

ENTER RESPONSE HERE

<QUESTION\_21>

**Question 22: Is Feature (B) clearly defined? If not, please suggest how the definition could be made clearer or more precise.**

<QUESTION\_22>

ENTER RESPONSE HERE

<QUESTION\_22>

**Question 23: Do you agree with the issues to be addressed by the disclosure requirements specific to Feature (B)? Are there issues that should be added, deleted, or modified?**

<QUESTION\_23>

ENTER RESPONSE HERE

<QUESTION\_23>

**Question 24: Do you believe that “Best-in-Class” is a clear and appropriate name for this feature? If not, is “Positive ESG Performance Profile” a better name? If you dislike both of these names, please suggest an alternative and explain why it would be a better choice.**

<QUESTION\_24>

ENTER RESPONSE HERE

<QUESTION\_24>

**Question 25: Do you agree that Feature (C) is distinct enough, particularly in the types of issues to be addressed by disclosure requirements, that it should be separate from other features? If not, please suggest the feature with which it should be combined.**

<QUESTION\_25>

ENTER RESPONSE HERE

<QUESTION\_25>

**Question 26: Is Feature (C) clearly defined? If not, please explain how the definition could be made clearer or more precise.**

<QUESTION\_26>

ENTER RESPONSE HERE

<QUESTION\_26>

**Question 27: Do you agree with the issues to be addressed by the disclosure requirements specific to Feature (C)? Are there issues that should be added, deleted, or modified?**

<QUESTION\_27>

ENTER RESPONSE HERE

<QUESTION\_27>

**Question 28: Do you believe that “ESG-related Thematic Focus” is a clear and appropriate name for this feature? If not, please suggest an alternative and explain why it would be a better choice.**

<QUESTION\_28>

ENTER RESPONSE HERE

<QUESTION\_28>

**Question 29: Do you agree Feature (D) is distinct enough, particularly in the types of issues to be addressed by disclosure requirements, that it should be separate from other features? If not, please suggest the feature with which it should be combined.**

<QUESTION\_29>

ENTER RESPONSE HERE

<QUESTION\_29>

**Question 30: Is Feature (D) clearly defined? If not, please explain how the definition could be made clearer or more precise.**

<QUESTION\_30>

ENTER RESPONSE HERE

<QUESTION\_30>

**Question 31: Do you agree with the issues to be addressed by the disclosure requirements specific to Feature (D)? Are there issues that should be added, deleted, or modified?**

<QUESTION\_31>

ENTER RESPONSE HERE

<QUESTION\_31>

**Question 32: Do you believe that “Impact Objective” is a clear and appropriate name for this feature? If not, please suggest an alternative and explain why it would be a better choice.**

<QUESTION\_32>

ENTER RESPONSE HERE

<QUESTION\_32>

**Question 33: Is Feature (E) clearly defined? If not, please explain how the definition could be made clearer or more precise.**

<QUESTION\_33>

ENTER RESPONSE HERE

<QUESTION\_33>

**Question 34: Do you agree with the issues to be addressed by the disclosure requirements specific to Feature (E)? Are there issues that should be added, deleted, or modified?**

<QUESTION\_34>

ENTER RESPONSE HERE

<QUESTION\_34>

**Question 35: Do you believe that “Proxy Voting, Engagement, and Stewardship” is a clear and appropriate name for this feature? If not, please suggest an alternative and explain why it would be a better choice.**

<QUESTION\_35>

ENTER RESPONSE HERE

<QUESTION\_35>

**Question 36: Do you agree that “Proxy Voting, Engagement, and Stewardship” should be a distinct feature? If not, would you prefer that the types of issues to be addressed by disclosure requirements be redistributed to other features or to general disclosures?**

<QUESTION\_36>

ENTER RESPONSE HERE

<QUESTION\_36>

**Question 37: Is Feature (F) clearly defined? If not, please explain how the definition could be made clearer or more precise.**

<QUESTION\_37>

ENTER RESPONSE HERE

<QUESTION\_37>

**Question 38: Do you agree with the issues to be addressed by the disclosure requirements specific to Feature (F)? Are there issues that should be added, deleted, or modified?**

<QUESTION\_38>

ENTER RESPONSE HERE

<QUESTION\_38>

**Question 39: Do the six features described fully cover the spectrum of ESG-related features currently offered in the marketplace?**

<QUESTION\_39>

They do, to the extent this classification is the one usually managed by industry participants

<QUESTION\_39>

### **Proposal for Classification of ESG-Related Features According to ESG-Related Needs**

**Question 40: Does this list of ESG-related needs represent the spectrum of investors’ ESG-related needs?**

<QUESTION\_40>

Mostly does, but we think the one phrased like “I don’t want to violate my personal beliefs or the mission, principles, or beliefs of my organization” is not appropriate, as it relates to beliefs. We think ESG principles should not be mixed up with other principles that include religious beliefs, such as the

Sariah or the Catholic Church principles. There are certain aspects that might have very different interpretations.

For example, there may be people that, from an “ethical” perspective, might think a responsible way of behavior is limiting the amount of children people should be let to have. This would not only mean contraceptive means would be permitted, but desirable. Even abortion might be. They might claim that this way of thinking is an “ESG coherent thinking”, as the natural resources are limited and human beings, within the last 50 years, are behaving “like a pest” for the world and doubling inhabitants without control, ending with natural resources and other species. But this is opposite to Catholic Church principles, who might also claim to have an “ESG coherent thinking”, not harming life (human life on the first place); which one is more “ESG” compliant?

We think these considerations should be treated apart from ESG. It is fine to have a fund that claims to comply with Catholic Church principles. And it is fine to have a fund that complies with ESG factors (classical ones, not ones talking about religious beliefs). Others may believe that all beings have the same rights, meaning you may harm a human being to save an animal or a plant. They are all very respectful, but mixing it with ESG definitions may be going too far at the actual stage of the world.

We would like to be able to choose a fund that might comply with ESG features. If, besides, it also complies with Sariah, or Catholic Church principles, or animistic believes, or ..., it is fine, but that would be another characteristic of the fund, not one to mix with ESG concept.

<QUESTION\_40>

**Question 41: Are these five ESG-related needs clearly differentiated and mutually exclusive?**

<QUESTION\_41>

They are finely identified, but we think there is no need for them to be mutually exclusive and indeed they are not.

For example, “I want to know that the ESG factors that are material to the risk and return of my investments are explicitly considered” and “I want to capitalize on investment opportunities related to long-term environmental or social trends” might be related, are not exclusive.

An investment may comply with both, and even with “I want to invest in specific solutions that intend to make a measurable contribution to a defined environmental or social need, problem, or goal”, if it is a profitable investment. For example, investing in a company like Tesla some years ago (before the rise) might achieve all those goals, according to some points of view.

<QUESTION\_41>

**Question 42: Do you agree with the classification of ESG-related features according to ESG-related needs, as shown in Table 3? If not, how might it be improved?**

<QUESTION\_42>

It is fine if you do not include the bit about believes, see answer to question #40, although a bit generic. We would advise to use it always as a complement and after having read all the information of the product first, so to have a more accurate knowledge of the characteristics of the product.

<QUESTION\_42>

### **Users and Benefits**

**Question 43: Do you agree with the description of user benefits? Are there any benefits that should be added or deleted?**

<QUESTION\_43>

Yes, but we think it is assumed it will clarify much more than what it will do in practice. ESG documents are full of small details, and it would be very adventurous to assume that all those users may fulfill their doubts and expectations regarding the ESG behavior of a product just by reading this information. We think it helps, but those not substitute the rest of the information, even though it may be cumbersome.

<QUESTION\_43>

**Question 44: Do you agree with the terms used to define the users of the Standard? Are there any terms we should include, or avoid using?**

<QUESTION\_44>

Yes. Main users are identified and clearly stated.

<QUESTION\_44>

**General Comments: Please enter general comments below.**

<GENERAL\_COMMENTS>

ENTER RESPONSE HERE

<GENERAL\_COMMENTS>