

# POSITION PAPER

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SUBJECT: SFDR

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## Executive summary

**The Dutch Federation of Pension Funds welcomes the review of the Sustainable Finance Disclosure Regulation (SFDR).** Dutch pension funds (IORPs) want to be able to make use of categorisation because of the clear signal it sends about their responsible investment policies and the transparency it provides to members and other stakeholders. Categorisation, with clear minimum requirements, will give end-users better information about the sustainability characteristics of the product compared to the current self-classification system under Article 8 and 9. We also welcome the simplification of the framework by removing reporting on Principle Adverse Impact (PAI) indicators.

**At the same time, the review comes with significant risks for our sector.** Pension funds differ substantially from retail investment products. Members are mandatorily enrolled and most often have no investment choice. As there is no pre-contractual phase, non-regulatory information (websites, newsletters) plays a much more important role in communication with members. Pension funds also have complex and diversified portfolios, across many asset classes, and strategic asset allocation is heavily influenced by prudential rules. This means that the conditions for categorisation can impact pension funds in a fundamentally different way than retail investment funds.

While we applaud the move from self-classification to categorisation, it is of paramount importance to **avoid a situation in which pension funds cannot practically meet the requirements for categorisation, yet are still captured by the communication restrictions.** Pension should be able to explain how they invest on behalf of, and according to the preferences of, their members. Ensuring that pension funds can continue to communicate clearly with their members on their (responsible) investment policies is our central priority. Otherwise, the SFDR would actually create barriers for having an ambitious responsible investment policy, disincentivise investments needed for the green transition and limit transparency

**The European Commission proposal takes into account the specificities of pension funds in principle.** The treatment of government bonds and the 70% threshold make the ESG Basics category accessible and Article 9a2 allows communication about underlying products that meet the criteria for categorisation. These are vital provisions that must be maintained. If not, pension funds would be practically unable to categorise or communicate about underlying categorised products. In such a scenario, policymakers should reconsider the inclusion of IORPs within the scope of the SFDR.

Moreover, further clarifications are necessary to ensure that this specific position of pension funds is effectively and unambiguously safeguarded in the text. These concern:

1. Treatment of government bonds and the methodologies that can be used to include them under the ESG Basics Category.
2. The implementation of the mandatory exclusions of the ESG Basics category in practice in relation to passive breaches, engagement and limited deviations.
3. Allowing communication on transition, sustainable and impact investments as part of an ESG Basics product.
4. Ensuring the ability to communicate about portfolio mandates under Article 9a2.

## 1. Introduction

Most Dutch pension funds apply responsible investment policies on behalf of their members and emphasise the importance of transparency on the sustainability characteristics of their investments for members and stakeholders. As of 2024, 65% of Dutch pension schemes are Article 8 products, representing 96% of active members<sup>1</sup>. This means that the vast majority of Dutch employees currently receives SFDR information and is able to access information that makes sustainability claims.

In our earlier [position paper](#) ahead of the SFDR Review proposal, we therefore supported the intention to replace the current self-classification system under Articles 8 and 9 with a more solid categorisation system. At the same time, we cautioned that an ill-designed categorisation system could lead to communication restrictions for pension funds, due to their very different nature compared to retail investment products.

### **Why pension funds are different than other financial market participants under the SFDR:**

- *Members and beneficiaries are automatically and mandatorily enrolled. They cannot opt-out and the vast majority do not have investment choices. Regulatory information, such as the pre-contractual SFDR template, is almost never read. Instead, non-regulatory information channels – websites, newsletters – play a much more important role in explaining the responsible investment strategy in plain language suited to members, while layering allows to click through to detailed and regulatory information.*
- *Pension funds invest significantly in government bonds for prudential and risk-management reasons, depending on age and risk preference of membership population. Pension funds would never change the allocation towards government bonds to obtain thresholds for categorisation.*
- *Pension fund portfolios are composed of a wide variety of asset classes and are much more complicated than those of most retail investment products. Pension funds rely on professional external asset managers to invest through many underlying investment funds or portfolio management mandates.*
- *Pension funds are managed by social partners, and incorporate the sustainability preferences of members in their investment policy. There are different ways of ascertaining these preferences (surveys, ESG-related membership councils), which require a good flow of information about the responsible investment policy, in a manner that is clear and understandable.*

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<sup>1</sup> Source: AFM, 2024 [link](#))

### **How the proposal addresses the specific situation of pension funds**

Pension funds are in scope as financial market participant and the pension scheme as a financial product. Pension funds will therefore be able to make sustainability claims either by categorising under the ESG Basics category or by making use of the categorisation of underlying products under Article 9a, namely investment funds and portfolio management mandates. It is clear that the Transition and Sustainable categories cannot be achieved by the pension scheme, due to diversification requirements in the context of IORP2's prudent person rule<sup>2</sup>.

In case neither the pension scheme nor underlying products can be categorised, Article 6a allows for some communication about sustainability in pre-contractual disclosures. However, as mentioned above, pre-contractual disclosures are almost irrelevant in communicating with members and beneficiaries and non-regulatory communication channels play a much bigger role. Article 6a therefore does not help pension funds.

It is important to note that if pension funds would no longer be able to make claims about sustainability to their members and beneficiaries, this would create a significant barrier for putting in place responsible investment policies and to be transparent on the sustainable profile of the portfolio.

In our assessment, categorisation under the **ESG Basics category may be possible for Dutch pension funds**, with some important caveats.

- The treatment of government bonds is fundamental. If government bonds are excluded from the numerator, but included in the denominator, the 70% threshold will be impossible to clear for Dutch pension funds. See section 2.
- The threshold of 70% should not be raised. Pension funds will continue to hold some assets that are investments without a binding responsible investment strategy. These could include assets held for liquidity purposes, assets for which insufficient data is available, and unlisted legacy investments.
- While we agree with the mandatory exclusions of the ESG Basics category, clarifications are needed how to implement these in practice. Limited deviations should be allowed for passive breaches of the OECD Guidelines. See section 3.
- An IORP with a ESG Basics product with sustainable, transition or impact investments as binding element in its strategy should be allowed to communicate on such investments made. See section 4.
- The SFDR needs to be clear about the role portfolio management can play as an underlying product, for achieving categorisation at the level of the pension scheme based on underlying products under Article 9a1. Pension funds must be able to rely on the information of asset managers, as provided in the proposal. See section 5.

For those pension funds that cannot meet the requirements of the ESG Basics category, **communication on the basis of Article 9a2 can be a solution**, with the following caveats:

- For the purposes of 9a2, pension funds must be able to communicate on investments executed through portfolio management, even if portfolio management is no longer included as a financial product as defined in the SFDR.
- Pension funds must be able to rely on information provided by asset managers, as indicated in the proposal.

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<sup>2</sup> IORP2 Directive, Article 19.

- We note that Article 9a2 can be used by products that “are constituted of **two or more** underlying financial products” that meet the conditions for categorisation. We recommend that Article 9a2 can also be used in case a **single** underlying financial product is categorised. If for example the entire listed equity portfolio is invested through a single ESG Basics investment fund, this can constitute a significant proportion of the portfolio. Moreover, the requirement for two underlying products could be easily circumvented by arbitrarily splitting the investment fund (e.g. EU and non-EU equity).

Dutch pension funds want to be able to participate in categorisation because of the clear signal this sends about their responsible investment policies. We therefore applaud the move from self-classification to categorisation. However, it is absolutely paramount that pension funds should not end up in a situation where they are kept in scope of the SFDR as a financial market participant, but that the rules on categorisation are such that pension funds cannot practically meet all the requirements. This would mean that they will face communication restrictions, limiting their ability to communicate about the responsible investment policy with their members. This could occur when failing to further clarify the provision of the proposals or amending them to address concerns about greenwashing in other sectors. **If such a situation were to materialise, we urge legislators to reconsider the inclusion of IORPs in the scope of the SFDR.**

## 2. Treatment of government bonds

As mentioned, pension funds must allocate to government bonds for risk-management and diversification purposes. The asset class plays an important role in liability-driven investments: investing with the aim to pay out a monthly pension (annuity) with certainty. According to EIOPA, the average weighted allocation of IORPs to government bonds was around 27% in 2025<sup>3</sup>. This means that a significant proportion of all IORPs allocate more than 30% to this category.

The SFDR proposal includes government bonds in the denominator for the calculation of the 70% threshold. The asset class (except for green bonds) is excluded from the numerator for the Transition and Sustainable categories, but is allowed to be included in the numerator for the ESG Basics category, “using available methodologies appropriate to assess the sustainability of those investments for that purpose”.<sup>4</sup> **We support the SFDR proposal on the proposed inclusion of government bonds under the ESG Basics category.**

There is no risk that pension funds will misuse the allocation to government bonds to artificially inflate the percentage of eligible assets beyond the 70% threshold, as this would fundamentally alter the performance of the product and would breach various prudential rules under IORP2 and national pension law. The pension scheme is also not distributed or marketed based on sustainability claims, but instead members are mandatorily enrolled due to their employment. Should policymakers have concerns about greenwashing risks, we believe that pension funds (and potentially also insurance companies) could be treated differently for the aforementioned reasons than for example retail investment funds, where sustainability claims play a bigger role during the distribution process.

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<sup>3</sup> EIOPA, IORP Risk Dashboard April 2025, ([link](#)). The percentage includes exposures through investments funds (i.e. look-through basis).

<sup>4</sup> Recital 22, SFDR proposal.

**Should government bonds be excluded from the numerator, but not the denominator, for the purpose of calculating the 70% threshold for the ESG Basics category, it will become impossible for Dutch pension funds to make use of this category.**

Additionally, it is extremely important how supervisors will judge what is covered by “available methodologies” for integrating sustainability in the government bond asset class. We therefore urge policymakers to **provide a non-exhaustive list of themes that could be covered by these “available methodologies”** in recital 22, which could include governmental action to mitigate climate change and methodologies to measure the adherence to human rights and democratic values. This could also include inclusion and exclusion criteria, for example Countries with UN or EU AMS Embargos or the use of World bank indicators. Such a recital should be flexible enough to allow innovation and shifting priorities in responsible investment policies and themes, not just climate.

### **3. The application of exclusions of OECD violators in practice**

We welcome the introduction of mandatory exclusions in order to provide a minimum level of sustainability to the categories. We support the proposed exclusions in principle, as they reflect topics familiar to pension scheme members and beneficiaries and thereby enhance the credibility of the categorisation system. Some adjustments to existing investment policies of Dutch pension funds would be required.

The proposal is **not sufficiently clear on how financial market participants should implement the exclusions and deal with investments that breach the requirements**. This pertains mainly to exclusion of OECD violators:

- We believe that engagement should be allowed to play a role for asset classes where a pension fund has influence as a shareholder. Engagement is a central tenet of the OECD guidelines for institutional investors and the establishment that an investee company is an OECD violator is a judgement call that considers both the adverse impacts as well as the processes of the company to mitigate the adverse impacts. To avoid the risk of greenwashing, engagement should only qualify if documented, with clear targets, and accompanied by escalation pathways. This ensures that engagement is not a mere statement of intent but a demonstrable instrument of pension funds’ ESG strategy.
- The SFDR should address illiquid assets. Pension funds are not always in a position to divest from a company, even if it is a clear OECD violator, for example in the case of infrastructure or private equity investments. In this case, maintaining a single OECD violator in the portfolio should not mean the entire portfolio spanning multiple thousands of companies should be decategorised.

Under Article 19b, the new Regulatory Technical Standard should already allow for limited permitted deviations from the exclusions. However, this provision seems mainly aimed at deviations for the aim of hedging. Article 19b should therefore also indicate the abovementioned issues to be addressed in the RTS, with further clarifications in a recital.

## 4. Communication on sustainable and impact investments

The categorisation scheme is accompanied by strict naming and marketing communication restrictions. This follows from the wording “financial market participants shall not claim that” in Articles 7, 8 and 9. Although we understand the approach, we feel that clarification is needed specifically for ESG Basics products that allocate part of the portfolio to transition, sustainable and impact investments. It should be possible to provide fair, clear and not-misleading non-regulatory information about these investments.

An ESG basics product cannot use the term impact, transition and sustainable in its name, but may still include impact, transition and sustainable investments as part of their investment strategy. This is particularly relevant for pension funds that operate only one product (the pension scheme) but still have impact, transition and sustainable investments as part of their investment strategy.

We propose clarifying in the recitals that: “if an ESG basics product includes impact investments as a binding element of its strategy, this may be disclosed under Article 8(3)i, and communication on such impact investments should be allowed, provided those claims are clear, fair and not misleading.” This would align with the communication restrictions in Articles 13(1) and (2), requiring marketing communications to be consistent with disclosures and to be fair, clear and not misleading. The same reasoning applies to the terms sustainable investment and transition investment, as Article 8(2)(d) also allows these as permitted investments for ESG basics products. This clarification is needed because Articles 7, 8 and 9 currently state that “financial market participants shall not claim that...”. Without clarification, ESG Basics products may be unable to properly disclose their investment strategy, which would not be fair, clear or could be misleading. By the same token, a financial market participant communicating on the basis of Article 9a2 about an underlying ESG Basics product, should be given the same ability to communicate about impact, sustainable or transition investments if they are a part of the binding investment strategy of this underlying product.

## 5. Communication on the basis of portfolio mandates

Dutch pension funds outsource asset management to asset managers, mainly through two conduits: investment funds (such as UCITS or AIFs) and portfolio management mandates. In the Dutch pension fund sector, we are observing a trend towards using portfolio management mandates, because it allows a more tailored approach, particularly on ESG characteristics. Because asset management is outsourced, pension funds rely on asset managers for providing data for SFDR reporting and implementing ESG characteristics for SFDR compliance. So far, this worked smoothly for both investment funds and portfolio management mandates.

Importantly, the SFDR proposal facilitates pension funds under Article 9a2 in communicating about the sustainability characteristics of their portfolios by allowing the communication on the basis of underlying products. This provides relief for pension funds that, for diversification and/or data availability reasons, cannot achieve the 70% threshold at the level of the pension scheme.

However, the SFDR proposal removes portfolio management mandates from the scope of the SFDR. Recital 23 clarifies that financial market participants may nonetheless make claims about underlying products taking the form portfolio management, if these products comply with the

requirements of categorisation under Articles 7, 8 or 9. This clarification seems insufficiently reflected in the text of Article 9a and the second paragraph in particular.<sup>5</sup> As the ability to communicate with members will entirely hinge on making claims about portfolio management mandates, we urge policymakers to clarify the intention of Recital 23 in Article 9a itself.

Finally, we strongly support the recognition of the distribution of roles between asset managers and pension funds by allowing pension funds to rely on the information provided by asset managers. This avoided unnecessary regulatory burden and duplicative efforts.

## 6. PAI reporting

We welcome the removal of the reporting of principle adverse impacts. While the PAI statement did provide some harmonised ESG data points, experience shows that the data were not used in the responsible investment strategy. Website traffic shows that the statement was not often read by members and beneficiaries. Scrapping the statement therefore is a welcome cost-saving measure. We call upon supervisors to provide clarity as soon as possible about the reporting cycle for the year 2026 and 2027 to avoid unnecessary costs, possibly through a no-action letter. Given the lack of practical relevance and use of the PAI indicators for the responsible investment policy, we would oppose mandatory PAI-indicators for the ESG Basics category.

## 7. Interaction with the IORP2 review

It is necessary to consider the interaction between the IORP2 review and the SFDR. Under the IORP2 review proposal, pension funds would be required to gauge sustainability preferences of members and beneficiaries. This would require communicating with members about the responsible investment policy. Moreover, the proposal also expands the role of sustainability by making the consideration of the sustainability impact of investments mandatory. On the one hand the SFDR would require obtaining categorisation before making sustainability claims, while IORP2 could make making the incorporation of sustainability in investments decisions a requirement. It would be undesirable if one piece of regulation would require certain behaviour and another piece of regulation ban communication about this behaviour.

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The Dutch Federation of Pension Funds represents nearly all pension funds in the Netherlands. It promotes the interests of 6.7 million members, 4 million pensioners and 8.6 deferred members. The vast majority of Dutch employees is a member of a pension fund associated with the Dutch Federation of Pension Funds. Dutch pension funds have around 1700 billion euros of assets under management.

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<sup>5</sup> Note that Article 9a1 refers to “investments in categorised products **or other investments** that meet the requirements of Articles 7, 8 or 9”. Article 9a2 merely refers to products that “invest in, are exposed to or are constituted of two or more underlying financial products as referred to in Articles 7, 8 and 9”. The second paragraph, that is crucial for pension funds unable to achieve 70%, does not seem to refer to “other investments”, but only “products” (which excludes portfolio management).