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ESMA Call for Comments on Consultation Paper (of 28 October 2024) on draft technical advice concerning the Prospectus Regulation and on updating the CDR on metadata

20 December 2024

BSW would like to thank ESMA for the opportunity to comment on the Consultation Paper on draft technical advice concerning the Prospectus Regulation and on updating the CDR on metadata, which covers matters that are of great importance to BSW's members.

We support ESMA's approach to implement the requirements of the Amending Regulation[1] on the format and content of prospectuses on a moderate basis, taking into account that a reliable market and regulatory practice has been established since the introduction of the Prospectus Regulation. We support the general streamlining, and in some cases reduction, of minimum prospectus disclosure requirements. We also believe that a standardised sequence of information works best for standard equity and non-equity securities. For all other types of securities, issuers should retain the flexibility to select a sequence of information that complies best with the requirements of Article 37 CDR.

In respect of the introduction of the new disclosure requirements for non-equity securities that are advertised as taking into account environmental, social or governance (ESG) factors or pursuing ESG objectives (in the following called "ESG Securities"), we strongly believe that the new disclosure requirements set out in the draft Annex 21 should repeat ESMA's Public Statement on the sustainability disclosure in prospectuses of 11 July 2023 (in the following called "ESMA Statement") only, and should not introduce any new disclosure items beyond its content. Issuers of ESG Securities, in particular, in cooperation with the relevant national approval authorities (in the following called "NCAs"), our members that issue ESG Securities have developed a reliable disclosure approach since the publication of the ESMA Statement. Since the markets for structured products have now adapted to ESMA's requirements and since we are not aware of any inadequacies in the content of approved prospectuses or of any concerns expressed by NCAs, we believe that no further adjustments with corresponding costs should be imposed on the market as of this time. This would be consistent with the Commission's request for advice, which specified that the relevant "disclosures should be light touch and proportionate to the sustainability-related claim made".

Having said this, we would like to provide the following specific feedback in response to the questions posed in the Consultation Paper (it being understood that our comments below, given the nature of the BSW as a structured securities association, are limited to non-equity securities matters):

[1] Capitalised terms not defined herein shall bear the meanings given to them in the ESMA Consultation Paper.

Executive Summary of Feedback

In summary, the following are our main points of feedback in response to the questions posed in the Consultation Paper:

- We generally agree with ESMA's approach on the standardised sequence of information in prospectuses to be applied only to prospectuses subject to the "standard" annexes for equity and non-equity disclosures; however, the related requirements set out in Articles 22 and 23 are not free from doubt, and we suggest that corresponding clarifications, including limited changes to the sequence of Annexes I through III of the Amending Regulation in respect of ESG disclosures, should be made.
- We also generally agree with the idea of uniform Annexes for the Registration Document and Securities Note for non-equity securities. We have suggested a few specific changes in some of the disclosure items.
- We would appreciate greater clarity as to whether specific Items in Annexes 6 and 13 (new) apply to retail or wholesale prospectuses.
- We would welcome a review of Annexes 6 and 13 (new) to avoid redundant or unclear requirements due to the merger of varying prospectus formats (*e.g.* Sections 5 to 7 in Annex 13).
- We generally agree with ESMA's introduction of Annex 21.
- We believe, however that no further requirements beyond those already reflected in the ESMA statement on sustainability disclosure in prospectuses dated 11 July 2023 are necessary in relation to ESG product transactions.
- We propose specific changes with a view towards establishing greater clarity in the scope and specific terms of new Annex 21. We would welcome a presentation of Annex 21 that is consistent with the related disclosure items in Annexes 13 and 15 (new).
- We also recommend the synchronisation of Annex 21 with the three MiFID II categories of products set out in Article 2(7) of Delegated Regulation (EU) 2017/565 as amended by Delegated Regulation (EU) 2021/1253.
- We believe the disclosure requirements set out in Annex 21 should be based on the individual issuer's ESG product policy, especially in the context of base prospectuses. It should be clear that Annex 21 does not result in indirect regulation of ESG securities given that most of the securities covered by the scope of Annex 21 are not subject to direct regulation.
- We have undertaken a critical assessment of Items 2.1 to 2.3 of Annex 21 and propose specific changes to these Items in light of our member's concerns.
- We believe that disclosure requirements set out in Section 5 of Annex 21 should rather be included in Annex 15 and consistent with the disclosure details required therein. In order to be a "light touch and proportionate" disclosure requirement, the requirements of Section 5 (as limited and revised pursuant to our suggestions in Q12) should only apply (i) if the underlying is generally able to be used by issuers for the ESG securities, pursuant to or as described in their product policies/frameworks, and (ii) if it is an essential element or at least material component of the framework or the ESG Securities, and have proposed corresponding changes.

Q1: What are your views in relation to format and sequencing? Do you agree with ESMA's approach to limit changes to the 'standard' equity and non-equity annexes? And do you have any concerns relating to a potential tension between Annexes II and III in the Amending Regulation and Articles 24 and 25[2] CDR on scrutiny and disclosure? Please give reasons for your concerns and suggest alternative approaches.

General

We generally agree with ESMA's approach, particularly insofar as prospectuses subject to the "standard" annexes for equity and non-equity disclosures are to follow the same standardised format and sequence as required by the Amending Regulation.

Furthermore, we believe ESMA has taken the correct approach in not applying on a comprehensive basis the new standardisation requirements to other prospectuses, in particular for securities with derivative elements (*i.e.* structured products). Allowing for pragmatism in this regard would be appropriate as this would retain the overall comprehensibility of the relevant formats and contents that have been developed by issuers and accepted by NCAs with the introduction of the Prospectus Regulation and Article 37 CDR. In our view, however, a more uniform approach by NCAs would be beneficial to foster greater harmonisation in the market.

Comprehensibility should, in our view, take precedence over standardisation of format and sequence in this context as it represents an overriding requirement of the PR as set forth in Articles 6(2), 7(3)(b) and 8(4) PR, particularly in the retail area.

Articles 22 and 23 CDR

In the proposed changes to Articles 22 and 23 CDR, however, it does not appear entirely clear whether the sequence set out in Annexes I through III in the Amending Regulation is mandatory or not. In this regard, the provisions of Article 6 (2) of the Amending Regulation (providing that "…*information disclosed in a prospectus shall be presented in a standardised sequence, in accordance with the delegated acts referred to in Article 13(1)* ".) and the last subparagraphs of Articles 22 (1), (2) and 23 (1), (2) CDR (referencing the sequence prescribed by Annexes I, II and III of the Amending Regulation) appear to be contradictory. Greater clarity on this point, and consistent implementation would be welcome. In particular, we would welcome clear guidance in the language of Articles 22 and 23 CDR as to whether the positioning of disclosure sections in Annexes I, II and III of the Amending Regulation, for example risk factors, can be ignored if necessary to comply with the first subparagraph of Articles 22 (1), (2) and 23 (1), (2) CDR.

We support the approach to align the standard Annexes to the sequence set out in Annexes I, II, and III. We would, however, assume that the sequencing of information in a prospectus within each of the sections of Annexes I, II and III is not to be aligned to the sub-items in the standard Annexes so that issuers are able to compose the information within each such section in line with criteria of comprehensibility as set out in current Article 37 CDR only. In particular, it is our understanding that issuers will continue to be able to provide a list of cross-references under Articles 22 (5) and 23 (6) CDR if a reordering of information is preferable to present the information in relation to the respective non-equity securities in an easily analysable, comprehensible format. For example, it should be possible to include specific risk factors required under Annex 15 (new) or Annex 21 (new) or with respect to a guarantor in the general "risk factors" section. Moreover, with respect to sustainable use of proceeds bonds, the information regarding the use of proceeds pursuant Annex 13 (new) overlaps with requirements

[2] Articles 22 and 23 in the CP Annex (clean) and CP Annex.

of Annex 21 and, with respect to sustainability-linked bonds, the description on the terms and conditions pursuant to Annex 13 (new) overlaps with the requirements of Annex 21. Thus, issuers should have the flexibility to deviate from sequences prescribed by Annex I and Annex III to the Amending Regulation if information would have to be duplicated or unnecessarily split up, for example in respect of the section titled "ESG related information" in Annex I and III to the Amending Regulation.

In respect of prospectuses drawn up as separate documents, we understand that Articles 22 (2) and 23 (2) CDR are intended to treat such prospectuses as identical to single document prospectuses. Therefore, if a registration document is intended to be used (also) for a tripartite prospectus describing securities that are not subject to a standard Annex, the sequencing of information in such a registration document is then also not subject to the mandatory sequencing of information pursuant to Annex II of the Amending Regulation. We would welcome a corresponding clarification in the CDR.

In addition, while this language is not new in the CDR, we would also like to take this opportunity to note that the references in Article 23 CDR to an "offering programme" seem imprecise because they could be read so as to only cover prospectuses prepared for offers to the public and not admissions to trading. We would therefore suggest replacing these references with "issuance programme".

Requirement for a short cover note

The new Articles 22 and 23 CDR introduce a "short cover note" regarding the subject matter of the (base) prospectus/registration document to be the first information provided at the beginning of a prospectus. It is not clear to our members and us whether ESMA intends that a new cover note section shall be introduced or whether ESMA is referring to the current practice of including a cover page in certain prospectuses. Our clear preference is to delete this requirement, as it could create duplicative information that is already contained in other parts of the prospectus, in particular in case of base prospectuses, in the general description of the programme section.

Prospectuses generally start with a cover page which names the relevant securities or the issuance programme which the prospectus describes. This is in our view sufficient as a starting point. In respect of ESMA's concerns regarding potential pre-dominant warnings and regulatory statements, we believe that based on Article 37 CDR, NCAs already have the possibility to request the segregation of warnings and regulatory statements from other information on the cover of the prospectus.

Q2: Do you have specific comments about the reduced time periods which financial information should cover which need to be considered as part of this work?

We welcome this change and your specific implementation proposals, as set out in Annexes I and II to the Amending Regulation. In addition, we note that conforming changes will also need to be made to the Annexes to Delegated Regulation (EU) 2019/979 setting out requirements for financial information that issuers are to include in prospectus summaries, *e.g.* the columns in the tables appearing in the Annexes will need to be adjusted to reflect the reduced time periods.

Q3: Do you agree with ESMA's sustainability-related assessment in relation to the 'standard' equity registration document? If not, please explain why?

As our comments are limited to non-equity securities, this question is out of scope for purposes of our feedback.

Q4: With respect to sustainability aspects, do respondents have concerns about the proposal which offers non-equity issuers who fall under the Accounting Directive or Transparency Directive an option to provide an electronic link to their relevant sustainability information?

We have no concerns about this proposal and welcome this change as it is voluntary with respect to each individual issuer. We understand that the electronic link refers to the relevant website on which the relevant information is published rather than to specific documents.

Any such information that can be accessed via the link provided in the prospectus cannot be considered or deemed considered as part of the prospectus under all applicable laws in any of the Member States. Therefore, we kindly ask for a clear statement in the CDR that the PR does not consider such information accessible by a link (as provided for in this Annex 6 or the new Annex 21) to be part of the prospectus – unless incorporated by reference by means and in accordance with Article 19 PR – in addition to the disclaimer that shall be used. We suggest the use of the following language to clarify this point:

> If the issuer of non-equity securities is required to provide sustainability reporting, together with the related assurance opinion in accordance with the Accounting Directive – as amended by the Corporate Sustainability Reporting Directive (CSRD) – and the Transparency Directive, to the extent available, the issuer may include an electronic link to the relevant information. Such information on the website does not become part of the prospectus and a corresponding disclaimer shall be provided that the information on the website does not form part of the prospectus.

Q5: What are you views in relation potential implications of the proposed single nonequity disclosure framework?

We generally welcome the introduction of a single non-equity disclosure framework, as this can be expected to reduce the size and complexity of the CDR and reduce the administrative burdens in respect of the preparation of cross reference checklists by issuers and their review by NCAs.

We would, however, ask for more clarity in the presentation of the new Annexes 6 and 13 as to whether a disclosure item applies to retail or wholesale securities notes. This in particular applies to Annex 13. We would prefer Annex 13 to be drafted in an integrated manner, deviating, where required, on the requirements for public offer prospectuses and prospectuses for admissions to trading (wholesale) only. This is not entirely clear in the current presentation of Annex 13. For example, Section 3 and 4a) could be presented either in an integrated way and by signposting whether a specific item is (for retail only) or (for wholesale/listing prospectuses only) or it could be subdivided in a Section 3(a) (for retail only) and Section 3(b) (for listing prospectuses only). The current presentation increases in particular the burden for NCAs and issuers when reviewing and drafting base prospectuses that are prepared for retail and wholesale issuances.

An integrated approach has the advantage also that in case securities are publicly offered and admitted to trading, duplication of information is avoided.

In addition, with respect to Annex 13, the additional sections 5 to 7 are in our view redundant and should be deleted given that Annex 15, 17 or 19 are to be applied in any case, if their scope applies to a specific security.

Our suggestion for a clear, integrated approach is illustrated below (combining Sections 3 and 4a into a single Section 3):

SECTION 3	TERMS AND CONDITIONS OF THE SECURITIES		
Item 3.1	Information concerning the securities to be offered		
Item 3.1.1	(a) A description of the type and the class of the securities being offered. (b) The international security identification number ('ISIN') of the securities being offered.	retail and wholesale	Cat. B Cat. C
Item 3.1.2	Legislation under which the securities have been created.	retail and wholesale	Cat. A
Item 3.1.3	An indication whether the securities are in registered form or bearer form and whether the securities are in certificated form or book-entry form.	retail and wholesale	Cat. A
	In the case of book-entry form, the name and address of the entity in charge of keeping the records. (retail and wholesale)	retail and wholesale	Cat. C
Item 3.1.4	Currency of the securities issue	retail and wholesale	Cat. C
Item 3.1.5	The relative seniority of the securities in the issuer's capital structure in the event of insolvency, including, where applicable, information on the level of subordination of the securities and the potential impact on the investment in the event of a resolution under Directive 2014/59/EU.	retail and wholesale	Cat. A
Item 3.1.6	A description of the rights attached to the securities, including any limitations of those rights, and procedure for the exercise of those rights.	retail and wholesale	Cat. B
Item 3.1.7	(a) The nominal interest rate;	retail and wholesale	Cat. C
	(b) the provisions relating to interest payable;	retail and wholesale	Cat. B
	(c) the date from which interest becomes payable;	retail and wholesale	Cat. C
	(d) the due dates for interest;	retail and wholesale	Cat. C
	(e) the time limit on the validity of claims to interest and repayment of principal.	retail and wholesale	Cat. B

	Where the rate is not fixed:	retail and wholesale	
	(a) a statement setting out the type of underlying;	retail and wholesale	Cat. A
	(b) a description of the underlying on which the rate is based;	retail and wholesale	Cat. C
	(c) of the method used to relate the rate with the underlying;	retail and wholesale	Cat. B
	(d) an indication where information about the past and the further performance of the underlying and its volatility can be obtained by electronic means and whether or not it can be obtained free of charge;	retail only	Cat. C
	(e) a description of any market disruption or settlement disruption events that affect the underlying; (retail and wholesale)	retail and wholesale	Cat. B
	(f) any adjustment rules with relation to events concerning the underlying;	retail and wholesale	Cat. B
	(g) the name of the calculation agent;	retail and wholesale	Cat. C
	(h) if the security has a derivative component in the interest payment, a clear and comprehensive explanation to help investors understand how the value of their investment is affected by the value of the underlying instrument(s), especially under the circumstances when the risks are most evident.	retail only	Cat. B
Item 3.1.8	(a) Maturity date.	retail and wholesale	Cat. C
	(b) Details of the arrangements for the amortisation of the loan, including the repayment procedures. Where advance amortisation is contemplated, on the initiative of the issuer or of the holder, it shall be described, stipulating amortisation terms and conditions	retail and wholesale	Cat. B
Item 3.1.9	(a)An indication of yield.	retail and wholesale	Cat. C
	(b) A description of the method whereby that yield is calculated in summary form.	retail only	Cat. B

Item 3.1.10	Representation of non-equity security holders including an identification of the organisation representing the investors and provisions applying to such representation. Indication of the website where the public may have free access to the contracts relating to these forms of representation.	retail and wholesale	Cat. B
Item 3.1.11	In the case of new issues, a statement of the resolutions, authorisations and approvals by virtue of which the securities have been or will be created and/or issued.	retail and wholesale	Cat. C
Item 3.1.12	The issue date or in the case of new issues, the expected issue date of the securities.	retail and wholesale	Cat. C
Item 3.1.13	A description of any restrictions on the transferability of the securities.	retail and wholesale	Cat. A
Item 3.1.14	A warning that the tax legislation of the investor's Member State and of the issuer's country of incorporation may have an impact on the income received from the securities. Information on the taxation treatment of the securities where the proposed investment attracts a tax regime specific to that type of investment.	retail only	Cat. A
Item 3.1.15	If different from the issuer, the identity and contact details of the offeror of the securities and/or the person asking for admission to trading, including the legal entity identifier ('LEI') where the offeror has legal personality.	retail and wholesale	Cat. C
Item 3.1.16	Where applicable, the potential impact on the investment in the event of resolution under Directive 2014/59/EU.	retail only	Cat. A
Item 3.2	Details on the admission to trading		Cat. C
Item 3.2.1. ~~4.1a~~	Total amount of securities being admitted to trading	wholesale only	
Item 3.2.2 ~~4.16a~~	(a) An indication of the regulated market, or other third country market, SME Growth Market or MTF where the securities will be traded and for which a prospectus has been published. (b) If known, give the earliest dates on which the securities will be admitted to trading.	retail and wholesale	Cat. B Cat. C
Item 3.2.3 ~~4.17a / 4.5.2~~	Name and address of any paying agents and depository agents in each country.	retail and wholesale	Cat. C

Q6: Do you have any other concerns about the disclosure items as proposed? If so, please explain.

We welcome the opportunity to comment on certain disclosure items of Annexes 6 and 13 below. Please also refer to our responses to Q1 generally, as well as our response to Q8 with respect to Annex 21 in particular.

Comments on Annex 6

Items 5.4 and 5.4.1:

This disclosure item applies only to retail prospectuses and was carried over from the EU Growth prospectus regime. It generally did not apply to non-equity registration documents used for structured securities in the past and seems to be less relevant for most issuers subject to the currently applicable Annexes 6 and 7. While information on key performance indicators may be relevant for growth issuers (in the absence of other information on financial performance), we think that requiring the inclusion of the information on KPIs is not appropriate for other more established issuing entities of non-equity securities. It is to be noted in this context that in case KPIs are audited and included in the registration document, this must be indicated in the registration document pursuant to item 5.3.2 Annex 6 (new) in any case. There are also specific requirements for KPIs used in the ESG context under item 4.1.2 of Annex 21 (new). Beyond that we do not see any need for a specific requirement as regards KPIs for the registration document of non-equity issuers. We therefore kindly ask to delete this item.

~~Item 5.4~~	~~Key Performance Indicators ('KPIs')~~ ~~Retail (Only in relation to non-equity securities the denomination of which is less than EUR 100,000 or not admitted to trading on a segment of a regulated market accessible only to qualified investors.)~~
~~Item 5.4.1~~	~~To the extent not disclosed elsewhere in the registration document and where an issuer has published KPIs, financial and/or operational, or chooses to include such in the registration document a description of the issuer's key performance indicators for each financial year for the period covered by the historical financial information shall be included in the registration document.~~ ~~KPIs must be calculated on a comparable basis. Where the KPIs have been audited by the auditors, that fact must be stated.~~

Item 6.1.2:

The draft adds the term "or prevent" a change of control. Again, this disclosure item comes from the EU Growth prospectus regime. It did not apply to standard retail registration documents in the past. We therefore kindly ask to delete this term.

Item 6.1.2	A description of any arrangements, known to the issuer, the operation of which may at a subsequent date result in ~~or prevent~~ a change in control of the issuer.

Comments on Annex 13

Item 1.7:

We would suggest replacing the proposed "Reasons for the offer, use of proceeds, or expenses of the issue/offer or admission to trading" disclosure, which is currently applicable to offers to retail investors, with the, in our view, much clearer approach from current wholesale disclosure, as set out in existing Item 3.2 of Annex 15.

Item 1.7 would then read as follows:

Item 1.7	~~Reasons for the offer, u~~ Use of proceeds, or expenses of the issue/offer or admission to trading The use and estimated net amount of the proceeds ~~Reasons for the offer to the public or for the admission to trading~~. (Retail only) ~~Where applicable, d~~ Disclosure of the estimated total expenses of the issue/offer and the estimated net amount of the proceeds. (Retail only) These expenses and proceeds shall be broken into each principal intended use and presented in order of priority of such uses. If the issuer is aware that the anticipated proceeds will not be sufficient to fund all the proposed uses, then state the amount and sources of other funds needed. (Admission to trading only). ~~Where applicable, an~~ An estimate of the total expenses related to the admission to trading.	Category C

Item 4.11a:

We would suggest replacing "debt" with "non-equity" for the sake of clarity and consistency with other items.

Item 4.11a would then read as follows:

Item 4.11a	Representation of ~~debt~~ non-equity security holders including an identification of the organisation representing the investors and provisions applying to such representation. Indication of the website where investors may have free access to the contracts relating to these forms of representation.	Category B

Item 4.12a:

We would suggest adding a reference to "new issues" of securities, consistent with the specification in Item 3.1.11.

Item 4.12a would then read as follows:

Item 4.12a	In the case of new issues, a ~~A~~ statement of the resolutions, authorisations and approvals by virtue of which the securities have been created and/or issued.	Category C

Sections 5, 6 and 7:

Finally, we refer to our answer under Q5 and ask for the deletion of the newly added Sections 5 to 7, which are, in our view, redundant:

~~SECTION 5~~	~~ESG RELATED INFORMATION~~
~~Item 5.1~~	~~In the case of ESG-related information, the information that is required in Annex 20.~~
~~SECTION 6~~	~~INFORMATION ON THE GUARANTOR~~
~~Item 6.1~~	~~In the case of a guarantee attached to the securities, the information that is required in Annex 21.~~
~~SECTION 7~~	~~INFORMATION ON THE UNDERLYING SECURITIES AND THE ISSUER OF THE UNDERLYING SECURITIES~~
~~Item 7.1~~	~~(a) Where applicable, the information referred to in items 2.1 and 2.2 of Annex 26 in respect of the issuer of the underlying share.~~ ~~(b) Where applicable, the information referred to in Annex 18. (c) Where applicable, the information required by Article 19(1)~~
~~Item 7.2~~	~~Where applicable, information on derivative securities~~ ~~In the case of issuance of derivative securities, the following information:~~ ~~(a) for derivative securities referred to in Article 20(1), the information referred to in that paragraph;~~ ~~(b) for derivative securities referred to in Article 20(2), the information referred to in that paragraph;~~ ~~(c) for derivative securities referred to in Article 20(3), the information referred to in that paragraph.~~

Q7: In your view, will these proposals add or reduce costs? Please explain your answer.

We expect that the revised CDR, as proposed by ESMA, will at least result in additional costs for issuers that update their existing base prospectuses. In addition, in respect of the mandatory sequencing of information, we cannot exclude ongoing additional costs if issuers are required to re-order or reformulate information that has been published in a different sequence or logic, for example, in their financial reporting.

In any case, we do not expect a decrease in costs, which was one of the main stated targets of the Listing Act.[3] We would therefore welcome as few changes as possible to the existing disclosure standards under the CDR given the intention of the Listing Act to ease the access to capital markets in the EU, which includes lower costs for issuers. We would therefore welcome any suggestions by ESMA which would reduce costs for preparing and updating prospectuses.

In addition, we expect higher preparation costs in connection with the proposed new Annex 21, in particular insofar as Annex 21 provides for requirements beyond the current requirements of the ESMA Statement. Given the proposal by ESMA to add some new requirements to Annex 21 compared to the current ESMA Statement, we expect that the now established review procedures of NCAs might need to be adjusted as well, which could in turn result in new discussions with NCAs about the best "light touch" disclosure approach that also complies with the requirements to avoid misinterpretations by investors. We expect that such a process for the development of the new approval procedures for ESG securities could, in the area of base prospectus updates at least, impact two update seasons with consequential higher implementation costs than would have been incurred without these additional requirements.

Q8: Do you agree with ESMA's approach to the disclosure requirements for nonequity securities that are advertised as taking into account ESG factors or pursuing ESG objectives? Please explain your answer and provide any suggestions for amendments.

ESMA Statement as only basis

We agree with the general approach to develop the new Annex 21 based on the ESMA Statement, to which our members generally adhere. We also agree that the new Annex 21 provides a fundamentally sound basis for all market participants for standardised disclosure requirements thereby protecting against greenwashing allegations, but would like to point out that it is of high practical importance that the Items therein are clearly formulated and, in particular, do not introduce any terms that require additional extrinsic interpretation (*e.g.* "third country taxonomy"[4] or "structured products with a sustainability component"[5]).

In this context, we would like to point out that the application of the requirements in the ESMA Statement resulted in difficult implementation questions in practice, in particular, as decisive terms were unclear and certain requirements, especially relating to structured products with sustainability characteristics, were unclear.

Since the markets for structured products have now adapted to ESMA's requirements and since we are not aware of any inadequacies in the content of approved prospectuses or of any concerns expressed by NCAs, we believe that no further material requirements beyond the content of the ESMA Statement with corresponding costs should be imposed on the market as

[3] See, *e.g.* recitals (5) and (24) of the Amending Regulation.

[4] Please also take into account our answer to Q12.

[5] Please also take into account our answer to Q16.

of this time. This would be consistent with the Commission's request for advice, which specified that the relevant "disclosures should be light touch and proportionate to the sustainability-related claim made".

Clear scope and terms; alignment with MiFID target market definition

To avoid misinterpretation and divergent implementations, we believe it is essential to include appropriate definitions of specific terms in the definitions section.

In our experience, a clearly specified scope[6] and straightforward definitions result in targeted and efficient implementation, making it helpful for both NCAs and the issuers, and creating fewer burdens to all stakeholders and risks of misinterpretation.

Terms that are in line with terms that are already defined the EuGB Regulation should be defined on the basis of the terminology used in the EuGB Regulation, extended to cover social / governance elements, and adjusted as required. In particular, the individual components of the "non-equity securities advertised as taking into account ESG factors or pursuing ESG objectives", such as the terms "advertised", "ESG factors" and "ESG objectives" should be defined in a clear and comprehensible way to ensure a level playing field for issuers and harmonised application by NCAs.

In this context it should be taken into account that MiFID Delegated Directive (EU) 2017/593 as amended by Delegated Directive (EU) 2021/1269 already uses the terms "sustainability related objectives" and "sustainability factors" for the identification of the target market of financial instruments (Article 9 (9)). In connection therewith, it is common in the German market to refer to the sustainability preferences as defined under MiFID Delegated Regulation (EU) 2017/565, as amended by Delegated Regulation (EU) 2021/1253 and the following distinction as regards the target market is used:

- Products with an environmental impact pursuant to point (a) of Article 2(7) of Delegated Regulation (EU) 2017/565 as amended by Delegated Regulation (EU) 2021/1253 (so called "**7A Products**"),
- Products with a sustainability impact pursuant to point (b) of Article 2(7) of Delegated Regulation (EU) 2017/565 as amended by Delegated Regulation (EU) 2021/1253 (so called "**7B Products**"), and
- Products that consider principal adverse impacts (PAIs) on environmental and social factors pursuant to point I of Article 2(7) of Delegated Regulation (EU) 2017/565 as amended by Delegated Regulation (EU) 2021/1253 (so called "**7C Products**").

The MiFID target market definition is relevant for any investment services provided in connection with the non-equity securities and the disclosure under the prospectus regime in relation to non-equity securities and MiFID disclosure should be aligned.

For the purposes of our response to Annex 21, the general term "**ESG Characteristics**" or "**Sustainability Characteristics**" is used by our members and us for the specific structuring components of ESG Securities. This term is open to any kinds of ESG methodologies, standards, factors or objectives used by issuers.

Particularities of non-equity securities issued by BSW members and practical implications

Since 2022, the BSW and its members have agreed on common product and transparency standards for retail (structured) products with sustainability characteristics. Given that the BSW

[6] Please also take into account our answer to Q10, Q11, Q12 and Q13.

members are not subject to specific product regulation in respect of the structuring of ESG Securities and as there is no available product classification system, the requirements provided for by Annex 21 should not result in an indirect product regulation.

The BSW and its members align the categorisation of securities with specific sustainability characteristics to the target market for such securities as set out above.

We want to note in this context that both the Commission as well as ESMA have not yet finalised their views as to whether derivatives (OTC derivatives but also derivatives embedded in non-equity securities) shall be considered as suitable instruments for all purposes in the EU sustainable finance strategy, for example in respect of sustainability ratios, such as the taxonomy ratio. Against this background, we deem it important to take into account our members' focus on 7A Products, 7B Products and 7C Products as an important focal point for the structuring of ESG Securities of all types. Accordingly, any specific disclosure requirements should be proportionate to the related disclosure approach applied by our members, which can only focus on the product policies and the related framework or rules named and applied by the relevant issuer (see next sub-section).

We would like to emphasise that the Commission has also mentioned the alignment of the CDR with the information needs of distributors with respect to the sustainability preferences definition under MiFID II.

Finally, a more clearly defined scope of application of Annex 21 and further clarifications related to the terms used therein would introduce a robust framework and a level playing field for issuers in the EU. A clarification of the scope and the relevant terms would reduce any interpretation uncertainties about the scope of Annex 21 over time which could from its pure text result in an application beyond the usual scope of a securities note, *i.e.* there could be an overlap with entity level disclosures which, however, are intended to be voluntary only pursuant to this Consultation.

Most issuers use frameworks to define their understanding of ESG Securities (most of which are not subject to regulation)

In our experience, most ESG Securities are based on a specifically framed framework / product policy of the issuer (however named by an issuer) which are usually published on the Issuer's product websites and included as a link in prospectuses (in a way as proposed by new Item 3.1.2). ESMA should please take into account that any disclosure requirements under Annex 21 should be based on the issuers' concept of the ESG Characteristics of the advertised ESG Securities, as ESG Securities are not subject to any specific regulations (other than the voluntary EuGB regulation) and should not be indirectly regulated by the PR.

Please note that this answer to Q8 is not exhaustive and that our answers to the following questions Q9 to Q18 should also be taken into account.

Q9: Do you agree with the definitions proposed for 'use of proceeds bonds' and 'sustainability-linked non-equity securities'? If not, what changes to the definition would you suggest?

In line with our remarks in our answer to Q8, we prefer to define the term 'sustainability-linked bonds' based on point (6) of Article 2 of the European Green Bond Regulation (to ensure a harmonised definition approach in the PR and the EuGB standard) and amend it accordingly to cover social and governance aspects.

Further, 'use of proceeds bond' is defined in ESMA's proposal to mean "non-equity securities whose proceeds are applied to finance or re-finance green and/or social projects or activities".

We would like to note that this definition is not consistent with the terminology used in Article 2(b) of the EuGB Regulation, which defines a bond marketed as environmentally sustainable as "a bond whose issuer provides investors with a commitment or any form of pre-contractual claim that the bond proceeds are allocated to economic activities that contribute to an environmental objective". In particular, in order to ensure scenarios in which existing assets are to be utilised are captured, and in practice many green bond issues refer to a portfolio of existing and future financings, we would propose replacing the words "applied to finance or re-finance" with "allocated to".

Moreover, the scope of the 'use of proceeds bond' is also not entirely clear. Shall the definition for example include or exclude transitional economic activities that comply with Article 10(2) of Regulation (EU) 2020/852 or enabling economic activities that comply with Article 16 of Regulation (EU) 2020/852?

Q10: Do you agree with ESMA's approach to dealing with (i) prospectuses relating to EuGBs and ii) prospectuses from issuers who have opted to use the templates for voluntary pre-issuance disclosures, as referred to in European Green Bond Regulation? Please explain your answer and provide any additional proposals to alleviate the regulatory burden.

We understand that ESMA has followed the aim to create a regulatory balance and interoperability between the Prospectus Regulation and the EuGB Regulation. However, in our opinion, it would be more useful to treat the requirements under the EuGB Regulation for issuers of EuGBs and for issuers who have opted to use the templates for voluntary pre-issuance disclosures, as referred to in European Green Bond Regulation, as an appropriate regulatory standard. With regard to the EU Green Bond Regulation, we understand that the EU Commission together with ESMA is planning to publish Guidance/a Q&A on the interaction of the EuGB Regulation and the Prospectus Regulation/Listing Act. It is in our view crucial that this future Q&A provides more clarity and promotes more consistency between EuGB factsheets and applicable disclosure requirements under both regulations.

Given that the content of the EuGB factsheets is intended to provide relevant information – reviewed by an external reviewer – to investors, we believe that ESMA should for the purposes of the CDR start with an assumption that such reviewed disclosures used therein should be sufficient for the purposes of the PR. We would therefore welcome an approach in Annex 21 that allows in particular EuGB issuers to comply with the requirements of the current ESMA Statement only and without any new disclosure requirements beyond the ESMA Statement. We would generally also welcome a complete exclusion of EuGBs from the scope of Annex 21 other than the requirements on risk factors. This avoids duplication of information and ambiguity as to which disclosure requirements apply. For example, in the "Comparison overview EuGB standard factsheet and draft Annex 21" sub-section below, we have shown examples of information items that are duplicative (extracts only).

Moreover, if Annex 21 shall also be used for EuGBs, all information requirements in Annex 21 should be "Category C" information in respect of EuGBs; otherwise, it would be contradictory to ESMA's proposal in Article 14 4(a) CDR (new). This would help to maintain the attractiveness of the EuGB standard without any additional burden or costs on the basis of the related PR/CDR requirements for the content of the prospectus.

With respect to prospectuses from issuers who have opted to use the templates for voluntary pre-issuance disclosures, we could see a similar justification in the future. However, given that such templates are not yet available, we are not able to comment on this at this time. If ESMA expects an opt-out for voluntary pre-issuance disclosures pursuant to the EuGB Regulation, it would in our view make sense to prepare such templates keeping the requirements in Annex 21

in mind, perhaps even with corresponding annotations. This could be seen by the market as a helpful and harmonised disclosure approach in respect to both regulations, could reduce costs and burdens for issuers and could increase the incentive to use the templates for voluntary pre-issuance disclosures.

Comparison overview EuGB standard factsheet and draft Annex 21

EuGB Standard Factsheet	**Annex 21**
1. General information	
• Identity and contact details of external reviewer	• Item 6.2 (information on review, advice or assurances by third parties about the ESG profile of the security)
2. Important information	
• Statement in relation to designation as EU GB in accordance with EuGB standard	• Item 2.1 (a), 2.1 (b) and Item 2.4 (information on taxonomy adherence and specific market standard or label relating to the ESG features of the securities)
• Statement in relation to use of flexibility pocket (Article 5 EuGB standard)	• Item 3.1.3 (description of any permissible terms and conditions for deviations to the minimum use of proceeds, the sustainable projects and activities)
3. Environmental strategy and rationale	
• Statement on external review of the impact report	• Item 6.4 (information on third party review in relation to post-issuance information)
• Information on the manner in which the bonds are expected to contribute to the broader environmental strategy of the issuer	• Item 2.2 (explanation of ESG factors taken into account by the securities and/or ESG objectives pursued by the securities) • Item 3.1.3 (role of use of proceeds bonds in the issuer's green/sustainability strategy)
4. Intended allocation of bond proceeds	
• Intended allocation to taxonomy-aligned economic activities/ Intended allocation to specific taxonomy-aligned economic activities	• Item 3.1.5 (disclosure on criteria used to determine sustainability of underlying loans or assets, including on alignment with EU Taxonomy)
• Information on allocation in accordance with the gradual or portfolio approach	• Item 3.1.4 (information on whether the proceeds of the bond are ringfenced to sustainable projects or assets)[7]
• Intended allocation to economic activities not aligned with the technical screening criteria (Article 5 EuGB standard)	• Item 3.1.3 (description of any permissible terms and conditions for deviations to the minimum use of proceeds, the sustainable projects and activities)
6. Information on reporting (link to issuer's website and issuer's relevant reports)	Item 6.3 (disclosure of post-issuance information)

[7] It is not clear what ringfencing in this context means and/or whether this is relevant.

Q11: Should Annex 21 be disapplied in relation to prospectuses relating to European Green Bonds and/or prospectuses drawn up using the templates for voluntary pre-issuance disclosures? Please explain your answer.

Please see also our answer to Q10.

Since all relevant information for an investment decision is already supposed to be included in the EuGB factsheet, it would be preferable if Annex 21 did either not apply (other than in respect of the risk factors) or would not require any additional disclosure requirements for EuGBs beyond the required information in the EuGB factsheet.

Moreover, all information requirements in Annex 21 should be "Category C" information in respect of EuGBs; otherwise, it would be contradictory to ESMA's proposal in Article 14 4(a) CDR (new).

This would help to maintain the attractiveness of the EuGB standard without any additional burden or costs on the basis of the related PR/CDR requirements for the content of the prospectus.

Please see our answer to Q11 in respect of the templates for voluntary pre-issuance disclosures.

Q12: Are the proposed disclosure requirements in Annex 21 proportionate? If not, please (i) identify disclosure requirements that could be alleviated and (ii) provide a (quantitative) description of the costs of compliance.

We welcome the introduction of Annex 21 and its mostly standard replication of requirements introduced by the ESMA Statement. As noted in our answer to Q8, however, we do not believe it would be appropriate to add any additional new requirements.

However, given that Annex 21 will be used in respect of information in a securities note (please see our answer to Q8 and our statement that it should not be used in connection with Annex 6 (new) disclosure requirements), we would prefer a presentation that, similar to the approach in the expected disclosure tables included in the ESMA Statement, ensures an alignment between Annex 13 (new), 15 (new) and Annex 21. *I.e.*, as Annex 21 provides specific information in respect of – for example – the use of proceeds of an issuance of ESG Securities or KPI linked interest payments thereunder, the relevant items currently proposed for Annex 21 should rather be presented as an additional requirement in respect of Item 1.7 or 4.8, respectively, of Annex 13 (new).

Against this backdrop, we would like to share our understanding and interpretation of the specific Items below and suggest reconsidering the following specific aspects:

Section 1 (Risk Factors)

Item 1.1: A "prominent" disclosure seems incompatible with Article 16 PR taking into account the overall materiality assessment for risk factors. For us, it is questionable how the "prominent" requirement should be treated in view of the overall requirements in Article 16 (1) PR, also in respect of the financial risk factors and the requirements in the new Annex 13. Accordingly, we would suggest deleting the word prominent from this Item (and from the existing Item 1.1 in Annex 17 as well).

In addition, Item 1.1 requires a risk assessment with respect to both the "ESG profile" and the "market risk"/"likely financial effect". This risk conclusion does not necessarily work for all ESG Securities, such as sustainability-linked bonds.

Moreover, regarding the conclusion on the materialisation of the risks on the ESG "profile" of the securities, there should be a limitation to risks that only result in a complete loss of its ESG Characteristics (as defined in our answer in Q8 above) as otherwise the scope of the risk factors is not sufficiently clear in view of the requirement in Article 16 PR, which seems to be aimed at financial risks only and not on risks that certain "sustainability preferences" are no longer met.

In the interest of greater clarity, we would also propose replacing the undefined term "ESG profile" with "ESG Characteristics".

Item 1.1	~~Prominent d~~ Disclosure of risk factors that are material to the securities being offered and/or admitted to trading in order to assess the risks ~~associated with~~ that ~~the~~ ESG ~~profile~~ Characteristics of these securities cease to exist and the related market risks in the section headed 'Risk Factors'. The risk factors should, where relevant, disclose the possible ~~impact of the materialisation of the risks on the~~ loss of the ESG ~~profile characteristics~~ Characteristics of the securities and the likely market risk ~~financial effect~~.

Section 2 (Information concerning the securities)

Items 2.1, 2.2 and 2.3: In our view, the introduction of Item 2.1 and the following Items 2.2 and 2.3 warrants a critical assessment, in particular in light of the specification in the Commission's request for advice that the relevant "disclosures should be light touch and proportionate to the sustainability-related claim made".

Above all, we note that these Items are formulated in a very abstract way, so that the requirements for issuers are unclear and the implementation effort is not foreseeable. Especially since the current practice based on the ESMA Statement is now established for both NCAs and issuers and, according to the feedback from the NCAs so far, the implementation is largely satisfactory and provides the desired transparency and comprehensibility for investors. In addition, Article 37 CDR generally and also currently requires a clear and comprehensive disclosure in a prospectus, *i.e.* also in respect of ESG Characteristics.

In our view, information on whether or not a certain market or regulatory standard are the basis for the structuring of the ESG Securities as well as a clear and comprehensive description of the relevant ESG Characteristics of the ESG Securities based on such standards and/or on the issuer's framework or policy (as set out in Item 3.1.2) should be a "light touch and proportionate" approach as well as sufficient as disclosure to relevant investors. Any additional information such as the proposed unequivocal statements appear extraneous and not particularly useful to investors. It is our understanding that in order to achieve the objectives of the Prospectus Regulation, namely to provide investors with sufficiently comprehensible information to support them in making informed investment decisions and to warn them of risks, it is adequate to describe the issuer's corresponding framework with the applied rules and principles for the ESG characteristics of the ESG Securities.

In our opinion and while taking into account ESMA's arguments set out under Nos. 46 to 48 of the Consultation Paper, it is much more important that issuers adhere to a standard (*e.g.* the BSW Sustainable Finance Code of Conduct with which BSW members comply) to disclose the relevant information pursuant to the standard in the prospectus and describe it to the investor clearly and unambiguously, as set out in Items 2.2 and 3.1.2. In this context, we believe that this is the actual key disclosure, which has, in our experience, also been requested by NCAs on the basis of the ESMA Statement in recent prospectus approval procedures.

Items 2.2 (as commented below) and 2.4 should therefore be the basis for Section 2.

In respect of Item 2.1, we would suggest clarifying that it is limited to cases, where an Issuer does not intend to be (fully) in line with a certain market standard and renumbering it as Item 2.3 (as indicated in No. 48 of the Consultation Paper). In such cases, the issuer should describe the ESG Characteristics in a way which is not misleading in the context of a potential available regulatory or market standard. This requirement already applies based on Article 37 CDR.

Based on our comments above, we suggest the following amendments to Item 2.1 and renumbering it as Item 2.3:

Item 2.3~~1~~	To the extent that the ESG Characteristics or the issuer's framework does not or does not fully adhere to the requirements of (a) ~~Information concerning the securities.~~ ~~(a) If the non-equity securities offered to the public or admitted to trading on a regulated market are advertised as complying with, aligned with, eligible under or otherwise adhering to~~ the EU Taxonomy, in accordance Regulation (EU) 2020/852 of the European Parliament and of the Council 1, or a third country ~~T~~taxonomy, or (b) a specific market standard or label ~~unequivocally state how the criteria in Article 3 of the Taxonomy Regulation or third country taxonomy are met and that they are significant in relation to the ESG features or objective of the non-equity securities and, where relevant, identify the third country taxonomy.~~ ~~(b) If the non-equity securities offered to the public or admitted to trading on a regulated market are advertised as complying with, aligned with, eligible under or otherwise adhering to a specific market standard or label, unequivocally~~ a clear and comprehensive explanation of the ESG Characteristics or the framework in line with the issuer's elections and product policy, including all significant deviations from the legal or market standard that is only partially adhered to ~~state how the criteria in that standard or label are met and how that they are significant in relation to the ESG features or objective of the non-equity securities and identify that market standard or the label relating to the ESG features of the securities~~.

This Item should be Category B.

Based on our comments above, we also suggest the following amendments to Item 2.2:

Item 2.2	A clear and comprehensive explanation to help investors understand the ESG ~~factors~~ Characteristics or the issuer's framework, if any, describing the ESG Characteristics of the non-equity ~~taken into account by the~~ securities and/or ESG objectives pursued by the securities. An electronic link to the applicable framework, if any, shall be included. Such information on the website does not become a part of the prospectus and a corresponding disclaimer shall be provided that the information on the website does not form part of the prospectus.

Item 2.2 should be Category B.

The market for ESG Securities is still in development and the issuer should be able to follow this development during the term of the base prospectus and to include additional or new information in the final terms. In addition, it should be clarified in the course of ESMA's mandate regarding Article 23 (4a) and (8) that any supplement requirement in the context of Annex 21 is not seen as a prohibited product-related supplement.

Item 2.3: We suggest removing Item 2.3 – even though it is based on the ESMA Statement. We think that the information in Item 2.4 describes the basis for the issuer's framework or if the relevant legal or market standard is not used, the re-numbered Item 2.3 (ex Item 2.1), in line with the revisions suggested by us, together with Article 37 CDR should make it clear that issuers shall describe any basis applied by them.

~~Item 2.3~~	~~The basis for any statements concerning the sustainability profile of the securities being offered and/or admitted to trading, including any material underlying data or material assumptions.~~

Item 2.4: We welcome that this item is in line with the ESMA Statement. We suggest renumbering it as Item 2.1 as it is the logical starting point for the disclosure requirements under Annex 21.

Also, this Item should be Category B.

Section 3 (Use of proceeds bonds)

Item 3.1.1: We welcome that this item is in line with the ESMA Statement. We agree that this disclosure item should be Category A.

Item 3.1.2: We make reference to our remarks above in the response to Q8. As most issuers of ESG Securities publish their frameworks/product policies (however named) on their product websites, this information requirement should be moved into Section 2 and – as suggested by us – merged with the proposed new Item 2.2. As in our suggestion regarding Item 2.2, this should be Category B (please see under Items 2.1, 2.2 and 2.3 above).

Item 3.1.3: We agree with this disclosure Item, but would appreciate it if a proportionate scope of the required description could be ensured. For example, it could be clarified that a "brief" description is required. Our understanding is that the issuer should provide a summary of the framework. Thus, the focus should be on the relevant key information if the issuer also has a published sustainability/ESG/social framework.

We therefore also ask for the deletion of the second part of Item 3.1.3. We think that such information goes beyond the general Article 6 PR requirement for a use of proceeds bond and extends the focus to the entity level. Any such disclosure should be voluntary (similar to the disclosures under the newly proposed Annex 6 related to Directive (EU) 2022/2464 as regards corporate sustainability reporting ("CSRD")).

We suggest the following amendments:

Item 3.1.3	In relation to 'use of proceeds' bonds, a brief description of the goal and characteristics of the relevant sustainable projects or activities and how

	the sustainable goal is expected to be achieved as well as any permissible terms and conditions for deviations to the minimum use of proceeds, the sustainable projects and activities. If the sustainable projects or activities are not identified at the time of the prospectus approval, issuers shall disclose the criteria which will be used to identify the relevant projects. ~~This disclosure should clarify whether the 'use of proceeds' bonds are part of financing the entirety of the issuer's green/sustainability strategy and explain the 'use of proceeds' bonds contribution to that strategy, including, where relevant, the financing of activities eligible and/or aligned with the EU Taxonomy or a third country taxonomy~~.

We agree that this disclosure item should be Category B; however, the requirement in the first sentence seems to us to be Category C information as it is likely to be specific to the securities to be issued.

Item 3.1.4: An explicit negative statement seems not to be required so that we expect that issuers can add an N/A to their cross-reference lists. We agree that this disclosure item should be Category C.

Item 3.1.5: Compared to the ESMA Statement, the additional detail on "including whether these loans or assets are eligible and/or aligned with the EU Taxonomy or a third country taxonomy" was added. With regard to the undefined term "third country taxonomy" please see our comment in our answer to Q8 above.

We suggest the following amendments:

Item 3.1.5	If the proceeds of 'use of proceeds' bonds are used or expected to be used to purchase underlying loans or other assets which are considered sustainable, disclosure on the criteria used to determine their sustainability, including whether these loans or assets are eligible and/or aligned with the EU Taxonomy ~~or a third country taxonomy~~.

We agree that this disclosure item should be Category C.

Section 4 (Sustainability-linked bonds)

Sustainability-linked bonds are not within the product scope of the BSW and we accordingly limit our feedback to some general remarks.

We welcome that most of this new Section 4 is in line with the ESMA Statement. We want to note that we expect most of the requirements in this Section 4 already to be included in a prospectus pursuant to the requirements on the description of the securities in Annex 13 (new) (ex Annexes 14 and 15).

The categorisation of information should therefore be in line with Annex 13 (new) (ex Annexes 14 and 15, for example, Item 3.1.7 or 4.8.a., *i.e.* either Category B or C. Please see also the tables in the ESMA Statement on pages 8 and 9.

Section 5 (Information on the underlying)

We generally believe this section should only apply (i) if the underlying (*i.e.* not the issuer) is generally able to be used by issuers for the ESG Securities, pursuant to or as described in their frameworks (*i.e.* not in case of reference rates or commodities), and (ii) if it is an essential element or at least material component of the framework or the ESG Securities and, therefore is intended to play a material role in the marketing of such securities. In particular, for 7A Products, 7B Products and 7C Products, the underlying is only a complementary element of the ESG Securities. Therefore, any disclosure requirement should be proportionate to that effect and not overemphasise the role of the underlying. The economic performance of the underlying is in all such products the primary element for an investment decision of investors.

Therefore, any disclosure requirement on underlyings should be proportionate to what has to be disclosed under the existing Annex 17 (new Annex 15) and as commented in our opening remarks in this answer to Q12, this Section 5 should be seen as complementary to the other specific underlying-related items in Annex 14, 15 (new Annex 13) and Annex 17 (new Annex 15) only. More importantly, the disclosure requirements should not go beyond the applicable required details in respect of the economic relevance of the underlying (from an ESG perspective). Accordingly, we suggest including the information on the underlying in the aforementioned Annexes and to remove it from Annex 21.

With respect to the disclosure requirements contained in Section 5, we would appreciate corresponding clarifications and limitations. See our specific comments below.

Item 5.1: Although Section 5 follows the fundamental concepts of the ESMA Statement, its content is new and explicitly relates to the disclosures on the corresponding underlyings for non-equity securities, in particular for many ESG Securities that are structured products (*i.e.* products with embedded derivative structures). Only shares as underlying which are issued by the issuer are excluded by reference to Article 18(1) and (2) of the new CDR.

Item 5.1.1: While we appreciate ESMA's attempt to introduce concrete disclosure requirements in this Item, we respectfully represent the position of our members that the requirement of the Commission for a "light touch and proportionate" disclosure should not result in burdensome and costly disclosure requirements in relation to the underlying.

Therefore, the question whether or not additional information on the underlyings is required depends on the framework of the issuer or the ESG Characteristics (please see our opening remarks above).

In addition, the approach in the existing Annex 17 (new Annex 15) for derivatives securities should be followed in this Item as well. Annex 17 takes into account, in particular in respect of shares and indices as underlyings, that such underlyings are subject to certain transparency requirements and therefore does not require any specific information on the underlying or the issuer thereof. Moreover, most shares of issuers used as underlyings or contained in indices are or will become subject to ESG transparency requirements under other regulations, in particular issuers of shares on regulated markets (most of them are subject to the CSRD and Article 8 of the Taxonomy Regulation) or indices subject to the benchmark obligation. Annex 21 should take this into account and should be drafted in a way that reflects that issuers of ESG Securities cannot produce information on ESG features of an underlying beyond information that is public.

We therefore ask for the deletion of the first sentence of the proposed Item, *i.e.* the requirement for a "description of the underlying and of the ESG features of the underlying".

Accordingly, the disclosure requirements pursuant to Item 5.1.1 should be limited and issuers should only be required to describe the requirements set by them in respect of the sustainability characteristics of the underlying within their framework or as part of the relevant ESG Securities. Given that issuers are not subject to any regulation in respect of the structuring of ESG Securities and as there is no available products classification system, no positive ESG statement should be required by issuers to be made in prospectuses. Only this approach takes into account the current distribution principles under MIFID II in respect to sustainability preferences of investors.

In any case, we want to emphasise that issuers should only be required to include relevant information set out in this Item to the extent it is publicly available.

We suggest the following amendments:

Item 5.1	In relation to ~~non-equity securities advertised as taking into account ESG factors or pursuing ESG objectives linked to~~ an underlying of the securities (other than shares referred to in Article 20(1) and (2) of this Delegated Regulation and underlyings without any ESG relevance) that is intended to be an essential element or at least material component of the securities or the issue's framework for the securities in respect the advertised ESG factors or ESG objectives:

Item 5.1.1	~~A description of the underlying and of the ESG features of the underlying.~~ A~~n~~ general explanation of the requirements set by the issuer in its applicable framework or otherwise in respect of the underlying~~how the use of an underlying is compatible with the sustainability characteristics that the non-equity securities promote or with the objective of sustainable investment~~.

We agree that this disclosure item should be Category C.

Item 5.1.2: This newly introduced requirement seems appropriate for the BSW and is in line with our feedback on Item 5.1.1. However, please harmonise it with our proposal for Item 5.1.1 and, as stated above, we suggest moving this Item into Annex 13 and 15 (new), respectively.

We agree that this disclosure item should be Category C.

Item 5.1.3: The background of the statement required by this Item 5.1.3 and the reference to "sustainability features" is not sufficiently clear. In particular, it is unclear whether the proposed Item applies to the ESG Securities as such or only in respect of the underlying due to its positioning in Section 5.

We make reference to our arguments on Item 5.1.1 above. We believe that issuers should only be required to describe their product policy in respect of their relevant ESG Securities. Given that issuers are not subject to any regulation in respect of the structuring of ESG Securities and as there is no available product classification system, no positive ESG statement should be required to be made in prospectuses by issuers.

We therefore propose deleting this Item:

~~Item 5.1.3~~	~~A statement as to whether the sustainability features are material for the assessment of the securities.~~

We also think that this disclosure item should, if it would be included in Annex 21, only be categorised as a Category C Item.

Item 5.1.4: The first part of the warning introduced in this item could be rather confusing to investors in a structured product with sustainability characteristics. In addition, the term "sustainable product" is neither used elsewhere in the CDR nor clearly defined.

We propose deleting this item as it would not add disclosure that would be meaningful to investors:

~~Item 5.1.4~~	~~If applicable, a warning that the structured product does not represent an investment in a sustainable product or economic activities, including products or economic activities in transition finance.~~

We also think that this disclosure item should, if it would be included in Annex 21, only be categorised as a Category C Item.

Section 6 (Additional information)

Item 6.1: We emphasize that disclosures on ESG ratings should not be mandatory unless they are used by issuers in their frameworks and for the purposes of the ESG Characteristics of their specific ESG Securities.

In addition, the second sentence should in our view be deleted. We noted in this Consultation Paper that ESMA suggests dropping a similar requirement in respect of credit ratings in the new Annex 6 (Item 2.1 (f)). The same should therefore apply to ESG ratings. It should also be taken into account that there is an upcoming regulation on ESG ratings in the EU. Therefore, any additional information about the ESG ratings seems to us no longer compliant with a "light touch and proportionate" approach for the composition of Annex 21.

We therefore suggest the following amendments:

Item 6.1	Subject to the applicable framework for, or the ESG Characteristics of, the non-equity securities, any ESG ratings used for such purposes and which have been assigned to the issuer or the securities at the request or the cooperation of the issuer in the rating process. ~~A brief explanation of the meaning of the ratings, if it has previously been published by the rating provider.~~

We agree that this should be a Category C Item.

Item 6.2: This Item is mostly in line with the ESMA Statement, with the additional requirement of an electronic link to the website where investors will be able to access the reports which is a suitable solution for BSW. However, in line with our other comments, we suggest replacing "ESG profile" with "ESG Characteristics". Moreover, as this Item could be specific for the relevant securities, the disclosure Item should in our view be categorised as Category C information.

Item 6.3: While we generally agree with this proposal, we believe issuers should only be required to indicate where information is available rather than having to provide additional substantive disclosure. The information by whom any post-issuance review, advice or

assurances will be provided might not be available on the date of approval and, more importantly, might change over the term of the securities. In addition, we believe this is information that should be set out in final terms only and therefore be categorised as Category C instead of Category B.

We suggest the following amendments:

Item 6.3	Whether post-issuance information will be provided. This disclosure should include an indication of ~~what information will be reported (if any) and~~ where it can be obtained.

Item 6.4: See comment on Item 6.3 above. We suggest only requiring issuers to state that such information will be provided by third parties and the potential capacity of such third parties. As the scope of assurances might change during the term of the securities, any additional information on the scope of assurances should not be required to avoid outdated information in the prospectus. In addition, we believe this is information that should be set out in final terms only and therefore be categorised as Category C instead of Category B.

We suggest the following amendments:

Item 6.4	If any review, advice or assurances will be provided by advisors or third parties in relation to the post-issuance information, a corresponding statement to this fact and the potential type of advisors and third parties ~~disclosure concerning the scope of those assurances~~ and by whom they are expected to be provided.

For ease of reference, attached as Appendix A is a consolidated overview of our proposed changes to Annex 21.

For further considerations, please also see Q8 and Q15.

Q13: Do you agree with the proposal to require disclosure about whether post-issuance shall be provided and the scope of this disclosure in items 6.3 and 6.4 of Annex 21? If not, what changes would you propose? Please explain your answer.

Please see our answer to Q12 in respect of Item 2.1.

While we generally agree with this proposal, we believe issuers should only be required to indicate where information is available rather than having to provide additional substantive disclosure about the post-issuance information. The details on the scope of such post-issuance information and by whom any post-issuance review, advice or assurances will be provided might not be available on the date of approval or the date of the final terms or might change over time. Please see our specific comments in these items in our answer to Q12.

Moreover, we believe that this should be information that should rather be incorporated in final terms (Category C instead of Category B).

Q14: Do you agree with ESMA's proposal in item 2.1 of Annex 21 concerning unequivocal statements about how the criteria or standard are met and that they are significant in relation to the ESG features or objectives of the security?

Please see our answer to Q12 in respect of Item 2.1.

In our view, the introduction of Item 2.1 and the following Items 2.2 and 2.3 warrants a critical assessment, in particular in light of the specification in the Commission's request for advice that the relevant "disclosures should be light touch and proportionate to the sustainability-related claim made".

Above all, we note that these Items are formulated in a very abstract way, so that the requirements for issuers are not entirely clear and the implementation effort is not foreseeable. Especially since the current practice based on the ESMA Statement is now established for both NCAs and issuers and, according to the feedback from the NCAs so far, the implementation is largely satisfactory and provides the desired transparency and comprehensibility for investors.

In our view, information on whether or not a certain market or regulatory standard are the basis for the structuring of the ESG Securities as well as a clear description of the relevant ESG Characteristics of the ESG Securities in connection with the issuer's framework (in our observation of the structured products and green bond markets, most issuers have published such frameworks) as a standard (as set out in Item 3.1.2) should be sufficient as disclosure to relevant investors, and additional information such as the proposed statements appear extraneous.

In our opinion and while taking into account ESMA's arguments set out under Nos. 46 to 48 of the Consultation Paper, it is much more important that issuers use a standard (*e.g.* the BSW Sustainable Finance Code of Conduct with which BSW members comply), disclose the relevant information pursuant to the standard in the prospectus and describe it to the investor clearly and unambiguously, as set out in Items 2.2 and 3.1.2. In this context, we believe that this is the actual key disclosure, which has, in our experience, also been requested by NCAs on the basis of the ESMA Statement in recent prospectus approval procedures.

We also refer to our remarks on Items 2.1 and 2.3 in our answer to Q12 above. In our view, Item 2.3 can be removed based on our arguments set out in that answer. In respect of Item 2.1, we would suggest clarifying that it is limited to cases where an Issuer's does not intend to be (fully) in line with a certain market standard (as indicated in No. 48 of the Consultation Paper). In such cases, the issuer should describe the ESG Characteristics in a way which is not misleading in the context of a potential available regulatory or market standard. This requirement already applies based on Article 37 CDR.

Q15: Do you agree with the 'Category A', 'Category B' and 'Category C'[8] classification of the items included in Annex 21, in particular in relation to items 2.1, 2.2 and 2.3? Please provide any suggestions for alternative categorisations and explain your answer.

We would like to suggest a general categorisation of all Items in Sections 2 to 6 as Category B or Category C information. In our opinion, a qualification as Category B or Category C would take into account a considerable scope for development in the ESG product spectrum and promote more flexibility in some areas, which in turn promotes innovation to ensure a success of the Commission's sustainable finance strategy. It should be noted that there are not yet uniform product standards in every area across Europe, in particular with respect to 7A, 7B and 7C Products (please see Q8 above) and that these are generally developing rapidly.

In line with our answer to Q12 above, the following Items should be classified as Category C: Item 3.1.3 (first sentence), 3.1.3, 3.1.5, 5.1.1, 5.1.2, 5.1.3, 5.1.4, 6.1, 6.2, 6.3 and 6.4.

[8] Category A', 'Category B' and 'Category C' information are referred to in the current Article 26 CDR on scrutiny and disclosure.

All other items in Section 2 to 6 are to be classified as Category B.

In addition, and as stated above under Q11, we prefer not to require additional information for EuGBs (beyond the information in the EuGB factsheet) by way of the introduction of Annex 21. In the event that EuGBs should nevertheless fall within the full scope of Annex 21, we would like to make the explicit point that in this case all information should fall under Category C in order to be in line with Article 24(4a). In our view, all information listed in Annex 21 is related to the content of the specific EuGB factsheet and should be sufficiently presented in it. Since the EuGB factsheet is considered Category C information in accordance with Article 24(4a), the applicable Annex 21 items for EU Green Bonds must also be categorised as Category C accordingly.

Q16: Do you agree with ESMA's approach to disclosure for structured products with a sustainability component? Please explain your answer and include any suggestions to improve the approach.

Please see our answers to Q8 and Q12.

Structured products are non-equity securities with a retail denomination and as a general rule the corresponding information requirements with respect to non-equity securities with a retail denomination should be applicable, including Annex 17 (new Annex 15). We do not see a need for further differentiation under the CDR.

Based on that, we generally agree with applying the principles of the ESMA Statement to structured products with sustainability characteristics. The CDR should therefore take into account the requirements under MiFID II and the market development in Germany and many other Member States towards fulfilling sustainability preferences by investors with appropriately structured 7A, 7B and 7C Products and draft the related disclosure Items in Section 2, 5 and 6 accordingly.

The requirements in Section 2 should be revised to take into account that issuers issue and offer their ESG products based on a framework/product policy published on their product websites, either (i) fully based on a market standard to which they adhere or (ii) based on a proprietary ESG Characteristics methodology that might not be based on a market standard at all or only in part. In the case of (i), no additional statements are in our view required and Item 2.1 should not apply. Please see our answer to Q12 above.

In addition, we believe that Section 5 should only apply if (i) the underlying is generally able to be used by issuers for the ESG Characteristics of the non-equity securities, as described in their frameworks, (*i.e.* not in case of reference rates or commodities) and if it is an essential element or at least material component of the framework or the ESG Characteristics of the ESG Securities. We would appreciate a corresponding clarification and limitation to Section 5 together with the changes suggested in Q8 in respect of the disclosure Items therein.

Q17: Do you support ESMA's proposal to amend Article 26 CDR on scrutiny and disclosure to facilitate the incorporation by reference of the relevant information from EuGB factsheets and the templates for voluntary pre-issuance disclosures into base prospectuses via final terms? Please explain your answer and provide any alternative proposals.

We generally agree with this proposal because it facilitates more streamlined disclosure by issuers in an appropriate manner.

Q18: Do you think that allowing incorporation by reference of the relevant information from EuGB factsheets and the templates for voluntary pre-issuance disclosures into base prospectuses via final terms will impose any significant costs or burden on issuers? Please explain your answer.

No, we believe that allowing incorporation by reference of the relevant information from EuGB factsheets will not impose significant costs or burdens on issuers as this information would, as a rule, already appear on their investor relations webpages pertaining to the relevant securities.

Q19: Do you agree with ESMA's assessment regarding changes to the URD annex?

Yes, we agree that no extensive changes to the URD annex are necessary.

Q20: Do you agree with ESMA's proposal to delete Article 40 CDR on scrutiny and disclosure and introduce Article 21b into CDR on scrutiny and disclosure? Please explain your answer and present any alternative proposals.

We generally agree with this proposal, because Article 40 had set out that any criteria could apply, while Article 21b CDR makes clear that such criteria can only be derived from another applicable annex.

Q21: Do you expect the deletion of Article 40 CDR on scrutiny and disclosure and/or the inclusion of Article 21b in CDR on scrutiny and disclosure to lead to additional administrative burden or costs for stakeholders? If so, please quantify the costs as much as possible.

Given that the cases in which Article 21b CDR has been used in the past are unknown to BSW, we are not able to comment on the potential difference in costs. In any case, we would assume that any process resulting in discussions with NCAs about additional disclosure Items could result in higher burden and higher costs. We would, however, think that the application of Article 40 CDR (new) is likely to be limited to very specific cases.

Q22: Do you agree with ESMA's assessment that there are no circumstances in which an NCA should require additional information in a prospectus over and above that which is required under Articles 6, 13, 14a and 15a PR within the context of the scrutiny and approval of a prospectus? Please explain your answer.

Yes, we generally agree with this assessment because the streamlining of required relevant information, coupled with generally tighter disclosure, should be expected to result in the reduction of related costs.

Q23: Do you agree with ESMA's approach to further harmonising the deadlines in NCAs' approval processes, i.e. trying to keep the deadlines as simple as possible and avoiding complicated administrative procedures? In your answer, please indicate what changes could be made to improve ESMA's advice in this area.

While we agree with the approach towards further harmonisation in this area, we would generally welcome greater NCA consistency in the time taken to review prospectuses, to avoid

different treatments of issuers in the Member States. We would therefore – in particular for standard approval processes such as base prospectus updates – welcome general guidance by ESMA to NCAs for uniform and shorter subsequent review periods.

We are not aware of approval processes of our members in which NCAs imposed any deadlines on them. We would therefore think that the imposition of a deadline for responses is rather the exception and we would appreciate it if this would not change given that it is in the own interest of issuers to complete an approval process in a short period of time. The new protection granted by the proposed Article 36(1) CDR is needed only in limited circumstances. We would therefore welcome a clarification that NCAs should only apply such deadlines in limited cases in a short period of time; we are of the view that NCAs should generally not impose any deadlines.

In addition, the introduction in Article 36(3) CDR of an overall 120-working day deadline in which a prospectus would have to be approved also appears unnecessary in our view as, in our experience most NCAs communicate with the issuer and its advisers on a regular basis throughout a given approval request and have sufficient procedures in place for the withdrawal of a request that is protracted too long in the relevant NCA's view.

Q24: Do you believe ESMA's proposal will impose additional costs and/or burdens for issuers? Please explain your answer and provide an indication of the related costs.

We would generally expect lower burdens to the extent review times by NCAs become shorter. There could be potential for higher burdens to the extent NCAs make use of the overall 120-working day deadline and terminate approval proceedings, forcing issuers to restart the approval process with new proceedings; we would, however, expect this deadline to be breached only in very limited cases.

Q25: Do you agree with ESMA's proposal to amend CDR on metadata to account for the new types of prospectuses stemming from the Amending Regulation? Please explain your answer and present any alternative proposals.

We agree with this proposal generally as it does not appear to create an unreasonable additional burden, but the specific implementation by particular NCAs may be more burdensome than others. We suggest monitoring how the metadata are collected and later harmonising the best practices that develop.

Q26: Do you agree that ESMA requires metadata to identify which securities qualify as EuGB (field 39 of draft Annex to CDR on metadata)? If not, why not? Do you think this will create an unreasonable additional burden on issuers? Please explain why.

We agree with this approach generally as it does not appear to create an unreasonable additional burden, but would point out that, in our view, the requirement should only apply to EuGBs as the other types of sustainable non-equity securities are not clearly defined as yet. In addition, the specific implementation by particular NCAs may be more burdensome than others. We suggest monitoring how the metadata are collected and later harmonising the best practices that develop.

Q27: Do you agree with ESMA's proposal to streamline the process of submitting information that will need to be submitted by NCAs to ESAP via the Prospectus

Register (Article 11a of the draft RTS amending CDR on metadata)? Do you think this will create an unreasonable additional burden on issuers? Please explain why.

We agree with this approach generally as it does not appear to create an unreasonable additional burden, but the specific implementation by particular NCAs may prove to be more burdensome on issuers than others, including in terms of additional costs transferred to issuers by NCAs. We suggest monitoring how the metadata are collected and submitted to ESAP, and to what extent relevant costs are transferred to issuers, and later harmonising the best and most economical practices that develop.

Q28: With regards to field 5, is it always possible to determine a single venue 'of first admission' in case of simultaneous admission on two or more venues? Please explain why.

We do not believe that it is always possible to determine a single venue in such circumstances; perhaps it would be beneficial to add "or first trade" following "of first admission" in order to arrive at greater clarity in all instances.

Q29: Do you agree with the other changes proposed on the list of metadata which are proposed in Table 1 of Annex I of the draft CDR on metadata? Do you think these changes will create an unreasonable additional burden on issuers? Please explain why.

We agree with the other changes proposed generally as they do not appear to create an unreasonable additional burden, but the specific implementation by particular NCAs may prove to be more burdensome on issuers than others. We suggest monitoring how the metadata are collected, and later harmonising the best practices that develop.

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Appendix A – Proposed Revisions to Annex 21

SECTION 1 RISK FACTORS

Item 1.1	~~Prominent d~~ Disclosure of risk factors that are material to the securities being offered and/or admitted to trading in order to assess the risks ~~associated with~~ that ~~the~~ ESG ~~profile~~ Characteristics of these securities cease to exist and the related market risks in the section headed 'Risk Factors'. The risk factors should, where relevant, disclose the possible ~~impact of the materialisation of the risks on the~~ loss of the ESG ~~profile characteristics~~ Characteristics of the securities and the likely market risk ~~financial effect~~.

SECTION 2 INFORMATION CONCERNING THE SECURITIES TO BE OFFERED/ADMITTED TO TRADING

Item 2	Information concerning the securities.
Item 2.3~~1~~	To the extent that the ESG Characteristics or the issuer's framework does not or does not fully adhere to the requirements of (a) ~~Information concerning the securities.~~ ~~(a) If the non-equity securities offered to the public or admitted to trading on a regulated market are advertised as complying with, aligned with, eligible under or otherwise adhering to~~ the EU Taxonomy, in accordance Regulation (EU) 2020/852 of the European Parliament and of the Council 1, or a third country ~~T~~taxonomy, or (b) a specific market standard or label ~~unequivocally state how the criteria in Article 3 of the Taxonomy Regulation or third country taxonomy are met and that they are significant in relation to the ESG features or objective of the non-equity securities and, where relevant, identify the third country taxonomy.~~ ~~(b) If the non-equity securities offered to the public or admitted to trading on a regulated market are advertised as complying with, aligned with, eligible under or otherwise adhering to a specific market standard or label, unequivocally~~ a clear and comprehensive explanation of the ESG Characteristics or the framework in line with the issuer's elections and product policy, including all significant deviations from the legal or market standard that is only partially adhered to ~~state how the criteria in that standard or label are met and how that they are significant in relation to the ESG features or objective of the non-equity securities and identify that market standard or the label relating to the ESG features of the securities~~.
Item 2.2	A clear and comprehensive explanation to help investors understand the ESG ~~factors~~ Characteristics or the issuer's framework, if any, describing the ESG Characteristics of the non-equity ~~taken into account by the~~ securities and/or ESG objectives pursued by the securities. An electronic link to the applicable framework, if any, shall be included. Such information on the website does not become a part of the prospectus

	and a corresponding disclaimer shall be provided that the information on the website does not form part of the prospectus.
~~Item 2.3~~	~~The basis for any statements concerning the sustainability profile of the securities being offered and/or admitted to trading, including any material underlying data or material assumptions.~~
Item ~~2.4~~ 2.1	Material information about any specific market standard, label or third country taxonomy relating to the ESG features of the securities.

SECTION 3 USE OF PROCEEDS BONDS

Item 3.1	In relation to use of proceeds bonds:
Item 3.1.1	Disclosure of the material risks regarding the allocation, management of proceeds as well as risks concerning the viability and achievement of the sustainable project(s).
Item 3.1.2	A summary of the material provisions of the applicable framework or an electronic link to the applicable framework, with a disclaimer that the information on the website does not form part of the prospectus unless that information is incorporated by reference into the prospectus. This item does not apply in relation to European Green Bonds.
Item 3.1.3	In relation to 'use of proceeds' bonds, a brief description of the goal and characteristics of the relevant sustainable projects or activities and how the sustainable goal is expected to be achieved as well as any permissible terms and conditions for deviations to the minimum use of proceeds, the sustainable projects and activities. If the sustainable projects or activities are not identified at the time of the prospectus approval, issuers shall disclose the criteria which will be used to identify the relevant projects. ~~This disclosure should clarify whether the 'use of proceeds' bonds are part of financing the entirety of the issuer's green/sustainability strategy and explain the 'use of proceeds' bonds contribution to that strategy, including, where relevant, the financing of activities eligible and/or aligned with the EU Taxonomy or a third country taxonomy~~.
Item 3.1.4	Whether the proceeds of the bond are ringfenced to sustainable projects or assets.
Item 3.1.5	If the proceeds of 'use of proceeds' bonds are used or expected to be used to purchase underlying loans or other assets which are considered sustainable, disclosure on the criteria used to determine their sustainability, including whether these loans or assets are eligible and/or aligned with the EU Taxonomy ~~or a third country taxonomy~~.

SECTION 4 SUSTAINABILITY-LINKED BONDS

Item 4.1	In relation to sustainability-linked bonds:
Item 4.1.1	Disclosure of the material risks regarding key performance indicators (KPIs) and associated sustainability performance targets (SPTs); including but not be limited to, risks concerning potential conflicts of

	interest when such KPIs are selected and monitored. Furthermore, owing to the nature of 'sustainability-linked' bonds, the impact of the issuer's overall firm-level sustainability performance on the security should be clear in the risk factors.
Item 4.1.2	A description of any financial features of the securities such as interest or premium payments which are influenced by the fulfilment or failure to fulfil sustainability or ESG objectives, including the means by which interest payments or redemption amounts are calculated. This disclosure shall include explanations and the calculation methodology of the selected KPIs, SPTs and information enabling investors to assess the consistency of the KPIs and their associated SPTs with the relevant sector-specific science-based targets (if any) and the issuer's sustainability strategy.
Item 4.1.3	If advanced amortisation may occur, disclosure about any impact which this may have on the sustainability performance of an investment.

[Note by BSW: Sustainability-linked bonds are not within the product scope of the BSW and we accordingly limited our feedback to some general remarks.]

SECTION 5 INFORMATION ON THE UNDERLYING

Item 5.1	In relation to ~~non-equity securities advertised as taking into account ESG factors or pursuing ESG objectives linked to~~ an underlying of the securities (other than shares referred to in Article 20(1) and (2) of this Delegated Regulation and underlyings without any ESG relevance) that is intended to be an essential element or at least material component of the securities or the issue's framework for the securities in respect the advertised ESG factors or ESG objectives:
Item 5.1.1	~~A description of the underlying and of the ESG features of the underlying.~~ A~~n~~ general explanation of the requirements set by the issuer in its applicable framework or otherwise in respect of the underlying~~how the use of an underlying is compatible with the sustainability characteristics that the non-equity securities promote or with the objective of sustainable investment~~.
Item 5.1.2	Where the underlying of the securities offered to the public or admitted to trading on a regulated market is an EU Paris-aligned Benchmark or EU Climate Transition Benchmark in accordance with Regulation (EU) 2016/2011 of the European Parliament and of the Council, or a benchmark complying with an ESG-related label, state that fact, identify the benchmark administrator and, where applicable, identify the ESG-related label.
~~Item 5.1.3~~	~~A statement as to whether the sustainability features are material for the assessment of the securities.~~
~~Item 5.1.4~~	~~If applicable, a warning that the structured product does not represent an investment in a sustainable product or economic activities, including products or economic activities in transition finance.~~

SECTION 6 ADDITIONAL INFORMATION

Item 6.1	Subject to the applicable framework for, or the ESG Characteristics of, the non-equity securities, any ESG ratings used for such purposes and which have been assigned to the issuer or the securities at the request or the cooperation of the issuer in the rating process. ~~A brief explanation of the meaning of the ratings, if it has previously been published by the rating provider.~~
Item 6.2	If any review, advice or assurances have been provided by advisors or third parties about the ESG ~~profile~~ Characteristics of the security, the prospectus shall contain disclosure concerning the scope of the review, advice or assurance and by whom they were provided. An electronic link to the website where investors will be able to access the reports, if any, shall be included in the prospectus, together with a disclaimer that the information on the website does not form part of the prospectus unless that information is incorporated by reference into the prospectus
Item 6.3	Whether post-issuance information will be provided. This disclosure should include an indication of ~~what information will be reported (if any) and~~ where it can be obtained.
Item 6.4	If any review, advice or assurances will be provided by advisors or third parties in relation to the post-issuance information, a corresponding statement to this fact and the potential type of advisors and third parties ~~disclosure concerning the scope of those assurances~~ and by whom they are expected to be provided.