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New SFDR categories for funds - a short analysis of the proposal provided by the Platform on Sustainable Finance

Status 20 January 2025

On 17 December 2024, the Platform on Sustainable Finance (the Platform) has published a proposal¹ (the Proposal) setting out a product categorisation scheme to be included in the Sustainable Finance Disclosure Regulation (SFDR). The SFDR is the European Union's disclosure framework for financial products (including funds) which started applying in March 2021. The purpose of the Proposal is to advise the European Commission to which the Platform acts as advisory body. The European Commission currently considers reviewing the SFDR to enhance its effectiveness and ensure consistency with the overall EU Sustainable Finance framework. To this end, it has carried out an extensive public consultation process in 2023 (see our blogposts [here](#) and [here](#)). Over the course of 2024, various regulators have published their ideas on how to change the SFDR framework (see our blogposts [here](#) and [here](#)).

Although the Proposal does not bind the European Commission, it currently seems likely that if the European Commission decides to amend the SFDR framework, it will follow the main recommendations of the Proposal. Another possible scenario would be that SFDR itself remains unchanged and only the implementation provisions contained in the SFDR Delegated Act² are amended, thus avoiding lengthy political negotiations which may put the entire framework at risk (for more information on the amendments suggested by ESMA to the SFDR Delegated Act see our blogpost [here](#)). This briefing provides a short introduction to the Proposal, thoughts on a potential timeline and an analysis of the minimum criteria applicable for each of the three categories (Sustainable, Transition, ESG Collection) set out in the Proposal.

Please note that this briefing reflects our current understanding of the Platform's recommendations in the Proposal, some of which require further interpretation and clarification. It is therefore likely that certain criteria may be interpreted differently in the further course of the legislative procedure.

Will the scope of the SFDR be extended?

The Platform recognises that the scope of the SFDR framework is more limited as compared to the rules on sustainability preferences set out in the context of the Markets in Financial Instruments Directive (MiFID) and the Insurance Distribution Directive (IDD) frameworks.

The Platform therefore recommends extending the scope of the proposed categorisation scheme under the new SFDR to all products falling within the scope of the IDD/MiFiD provisions on sustainability preferences.³

Will grandfathering be available?

The Platform notes that some products currently disclosing under Art. 8 or Art. 9 SFDR would likely not fall within any of the three new categories.⁴ It recognizes that product providers need time to either change the product's sustainability features or amend its documentation. The Platform mentions that products disclosing under Art. 9 SFDR could be recognised as a separate category or sub-category for a limited period of time (e.g. 1 year). There are no further concrete suggestions regarding rules on grandfathering and/or transition to the new categorization framework. Instead, the Platform calls upon the European Commission to consider such rules in light of different investment strategies

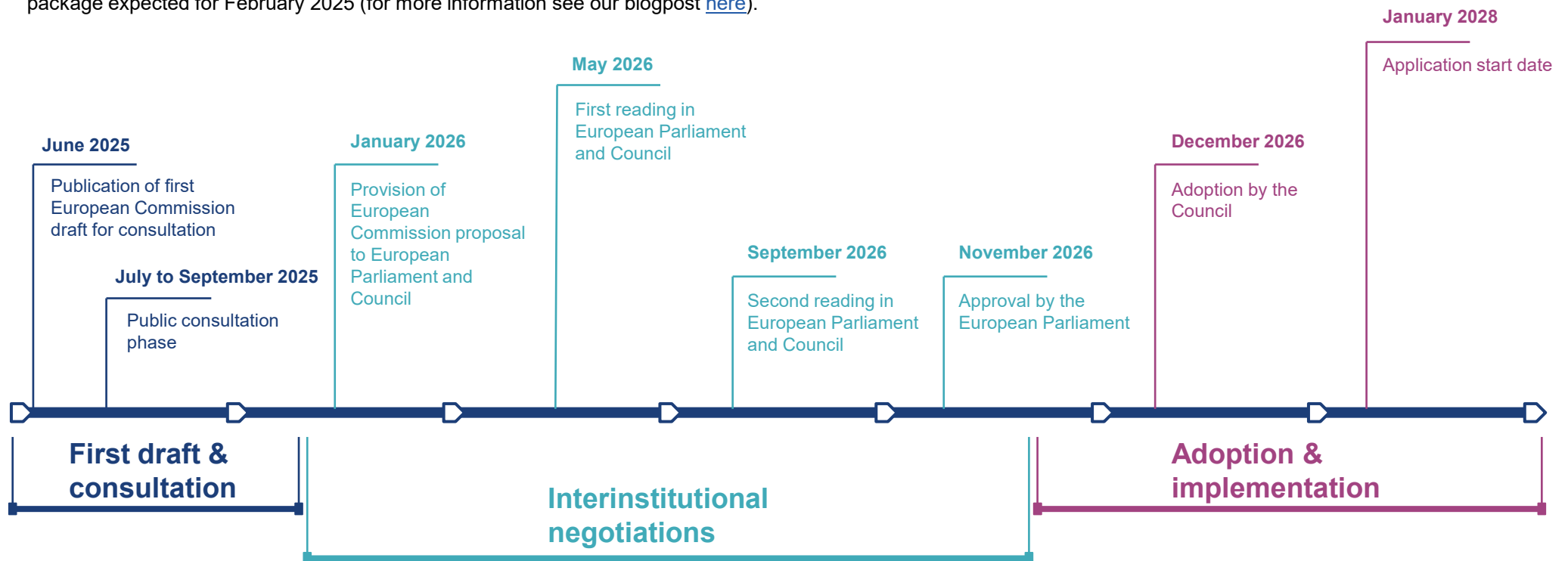
Which rules apply to Unclassified Products?

Funds that do not meet the minimum criteria of the Proposal's categories (Sustainable, Transition, ESG Collection) qualify as Unclassified Products. The Platform also provides an option for fund managers to qualify their funds as Unclassified Products even if they meet the minimum criteria. For Unclassified Products, fund managers must nevertheless report on certain sustainability datapoints, including Taxonomy alignment and certain PAI indicators (GHG emissions, carbon footprint, GHG intensity of investee companies, violations of United Nations Guiding Principles for Business and Human Rights (UN Guiding Principles) or OECD Guidelines for Multinational Enterprises and Business Conduct (OECD Guidelines)). The marketing documents of Unclassified Products may not use any sustainability features and description of these features is limited to the legal documentation. Fund managers must ensure that this description is clearly distinguishable from disclosures for categorised funds. Funds qualifying as Unclassified Products must include a disclaimer noting that the fund is unclassified and that it does not fulfil the criteria for a categorised product. These rules for Unclassified Products apply also to funds limited to professional or well-informed investors since the Platform's categorization framework does not distinguish between different types of investors.

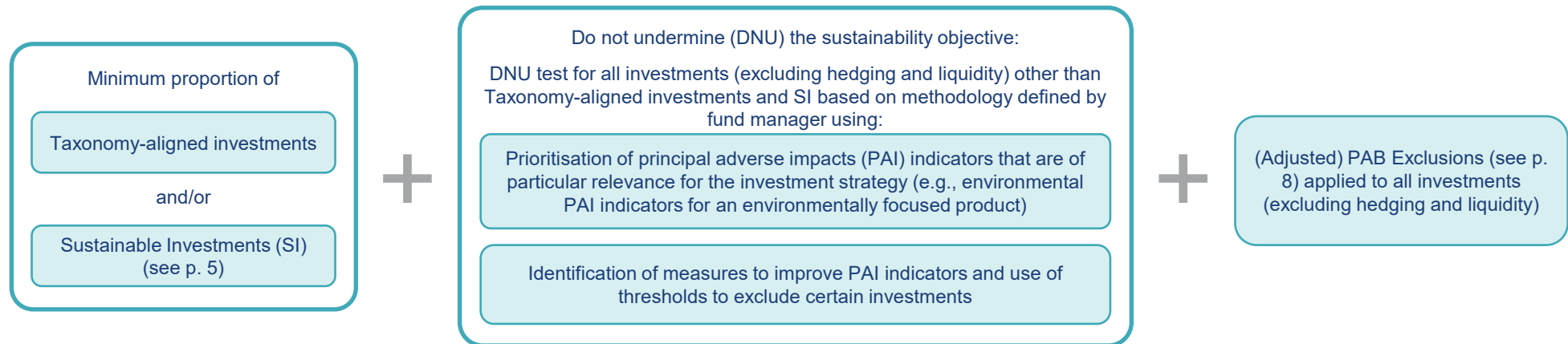
1. Available [here](#).
2. Commission Delegated Regulation (EU) 2022/1288 of 6 April 2022, available [here](#).
3. For an overview of products see p. 67 of the Proposal.
4. See p. 33 of the Proposal for a matching table.

What is the timeline for the SFDR review?

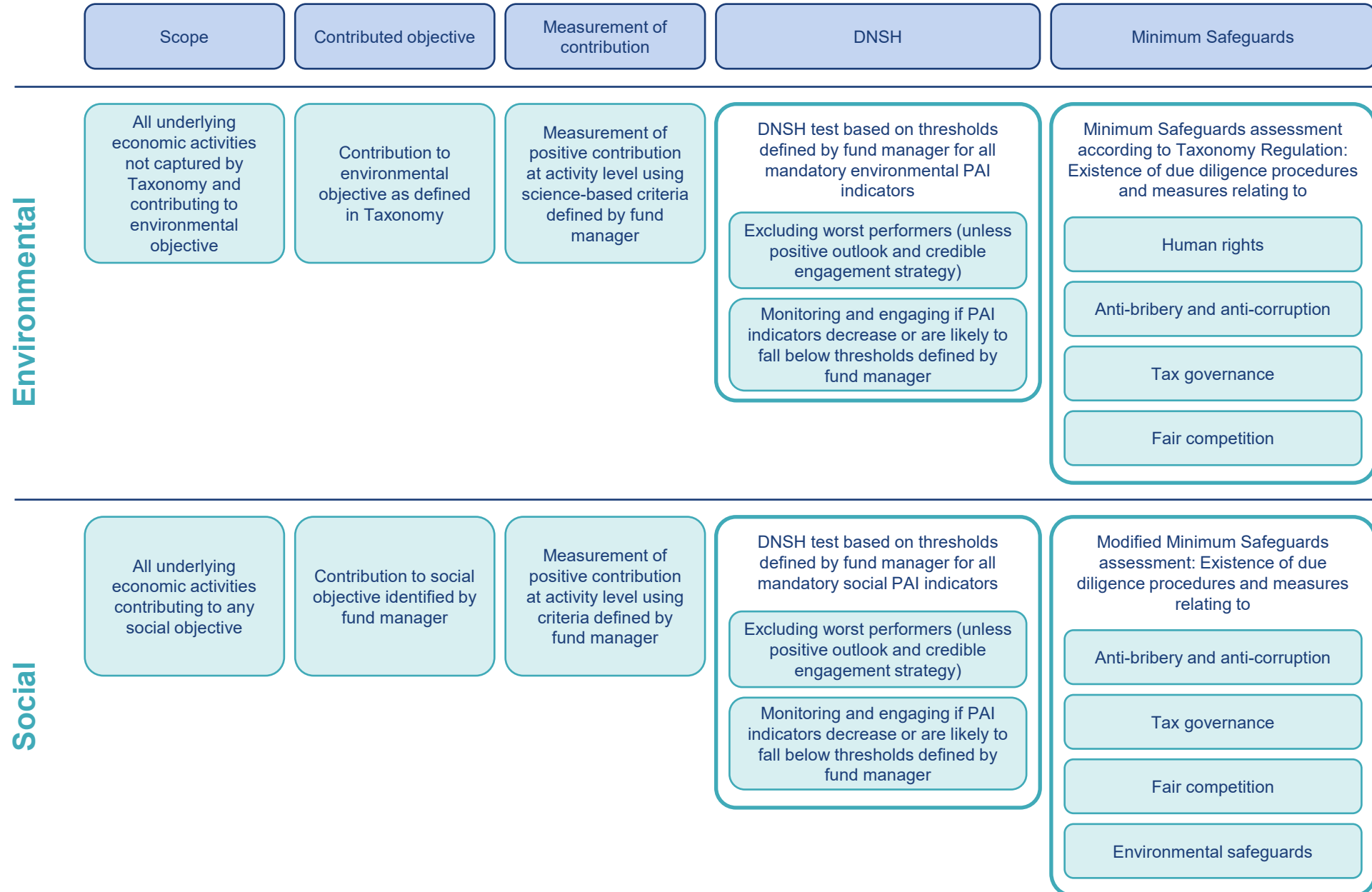
The European securities regulator (ESMA) has anticipated last year that the European Commission may publish a proposal on how to reform SFDR by the end of the second quarter of 2025. It is important to note that SFDR is a so-called “Level 1” EU legislation. These are basic EU laws adopted through a co-decision procedure between the European Commission, the European Parliament and the Council. Such procedures usually take at least one to two years. A very indicative timeline for the SFDR review is set out below. Depending on the interinstitutional negotiations between the European Parliament and the Council this timeline may be extended significantly. Moreover, there are rumours in the market that the European Commission is considering including SFDR into the announced “omnibus” simplification package expected for February 2025 (for more information see our blogpost [here](#)).



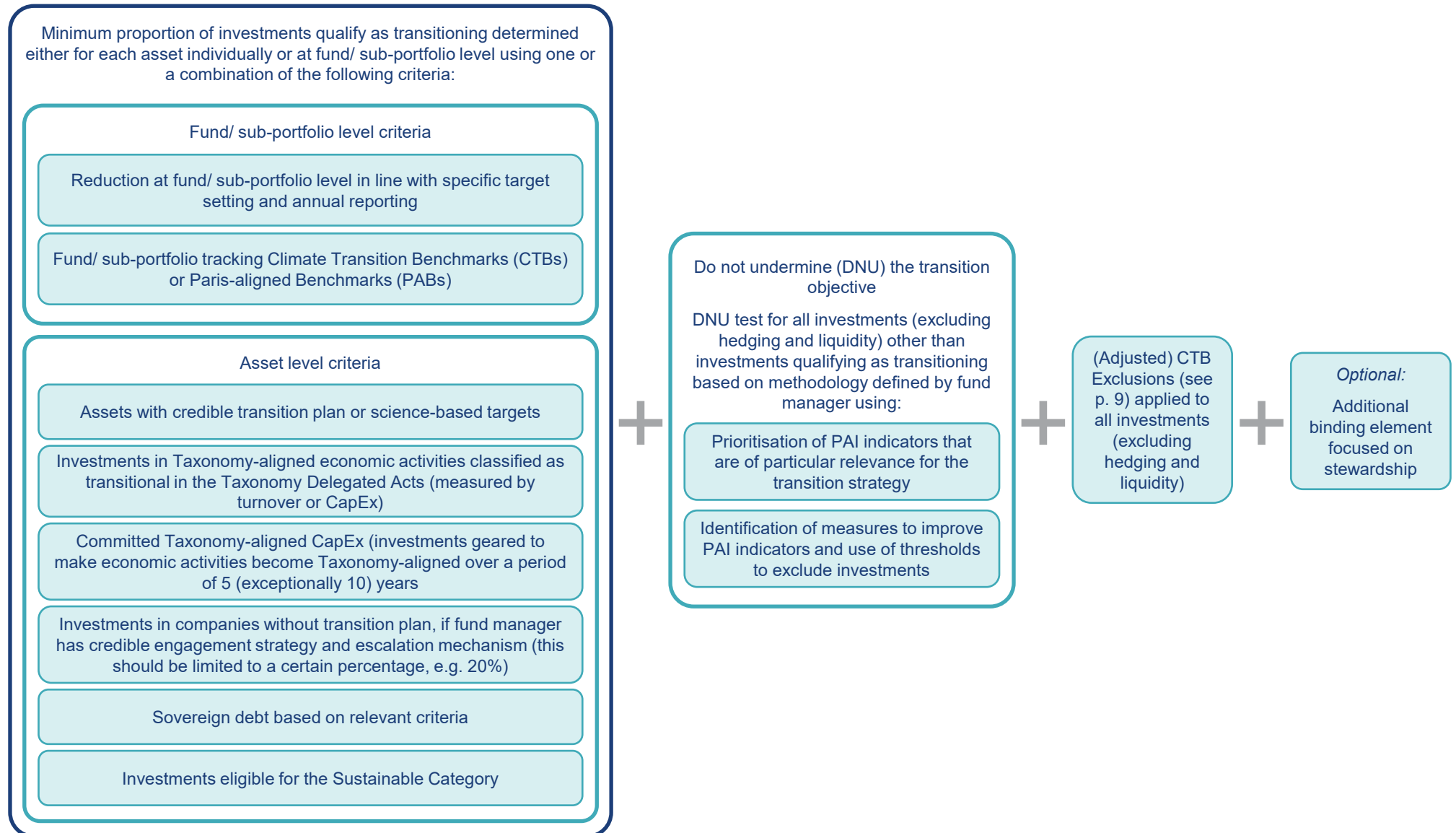
What are the minimum criteria for the Sustainable Category?



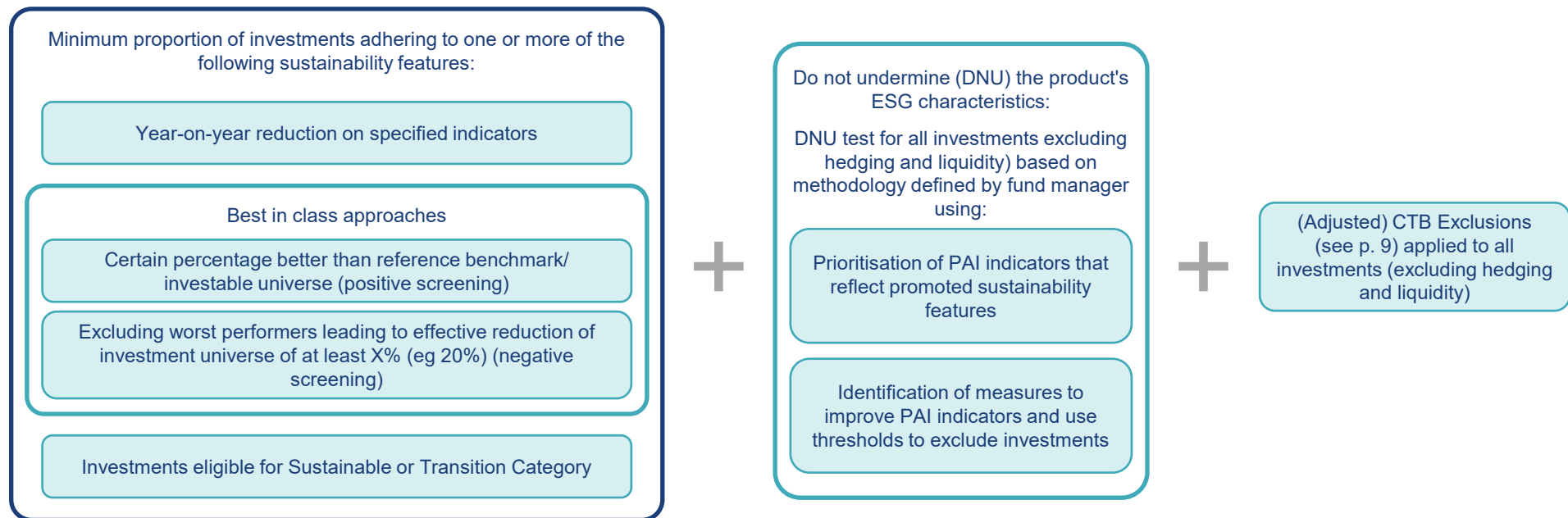
What are the elements of Sustainable Investments (SI)?



What are the minimum criteria for the Transition Category?



What are the minimum criteria for the ESG Collection Category?



Which adjustments have been suggested to the PAB Exclusions?

PAB Exclusions are the exclusions defined for Paris-aligned Benchmarks in Art. 12(1) Commission Delegated Regulation (EU) 2020/1818, available [here](#).

Category	Current exclusions	Adjustments suggested by the Platform
Controversial Weapons	Companies involved in any activities related to controversial weapons	None
Tobacco	Companies involved in the cultivation and production of tobacco	Exclusion does not apply to issuers of use-of-proceeds bonds financing sustainable projects, provided the issuer has a CapEx plan in line with the European Green Bond Standard (EU GBS)
Violation of international standards	Companies that benchmark administrators find in violation of the principles of the United Nations Global Compact (UNGC Principles) or the OECD Guidelines	Replacing UNGC Principles by UN Guiding Principles
Fossil fuels	Companies that derive 1 % or more of their revenues from exploration, mining, extraction, distribution or refining of hard coal and lignite (Revenue Exclusion)	Adding exclusion of companies investing in first time production, expansion or exploration of coal (measured by CapEx relating to coal exploration or processing activities of 1% or more) (Capex Exclusion) ¹ Revenue Exclusion and CapEx Exclusion do not apply to issuers of use-of-proceeds bonds financing sustainable projects, provided the issuer has a CapEx plan in line with EU GBS
	Companies that derive 10 % or more of their revenues from the exploration, extraction, distribution or refining of oil fuels (Revenue Exclusion)	Adding exclusion of companies investing in first time production, expansion or exploration of oil (measured by CapEx relating to oil exploration or processing activities of 10% or more) (CapEx Exclusion) ¹ Revenue Exclusion and CapEx Exclusion do not apply to issuers of use-of-proceeds bonds financing sustainable projects, provided the issuer has a CapEx plan in line with EU GBS
	Companies that derive 50 % or more of their revenues from the exploration, extraction, manufacturing or distribution of gaseous fuels (Revenue Exclusion)	Adding exclusion of companies investing in first time production, expansion or exploration of gas (measured by CapEx relating to gas exploration or processing activities of 50% or more) (CapEx Exclusion) ¹ Revenue Exclusion and CapEx Exclusion do not apply to issuers of use-of-proceeds bonds financing sustainable projects, provided the issuer has a CapEx plan in line with EU GBS
High GHG intensity	Companies that derive 50 % or more of their revenues from electricity generation with a GHG intensity of more than 100 g CO ₂ e/kW	Exclusion does not apply to issuers of use-of-proceeds bonds financing sustainable projects, provided the issuer has a CapEx plan in line with the EU GBS

1. Strictly following the wording of the Proposal, a company would still be investable if does not fall within both the Revenue Exclusion and the CapEx Exclusion ("derive 1% or more of their revenues from and invest in first-time production, expansion or exploration of fossil fuels"). However, from the further explanations in the Proposal, we take that the CapEx Exclusion is supposed to be applied as additional exclusion and not as cumulative criterion together with the Revenue Exclusion. The latter would mean a massive softening compared to the PAB Exclusions since companies generating significant fossil fuel revenues would still be eligible as long as they do not also fall within the CapEx Exclusion.

Which adjustments have been suggested to the CTB Exclusions?

CTB Exclusions are the exclusions defined for Climate Transition Benchmarks in Art. 10(2) and 12(1)(a) to (c) Commission Delegated Regulation (EU) 2020/1818, available [here](#).

Category	Current exclusions	Adjustments suggested by the Platform
Controversial Weapons	Companies involved in any activities related to controversial weapons	None
Tobacco	Companies involved in the cultivation and production of tobacco	Exclusion does not apply to issuers of use-of-proceeds bonds financing sustainable projects, provided the issuer has a CapEx plan in line with the European Green Bond Standard (EU GBS)
Violation of international standards	Companies that benchmark administrators find in violation of the principles of the UNGC Principles or the OECD Guidelines	Replacing UNGC Principles by UN Guiding Principles
Fossil fuels	None	Exclusion of companies that (1) derive 1 % or more of their revenues from coal exploration or processing activities <u>and</u> (2) invest in first time production, expansion or exploration of coal (measured by CapEx relating to coal exploration or processing activities of 1% or more ¹) (Combined Revenue and CapEx Exclusion) ²
		Combined Revenue and CapEx Exclusion does not apply to issuers of use-of-proceeds bonds financing sustainable projects, provided the issuer has a CapEx plan in line with EU GBS
		Exclusion of companies that (1) derive 10 % or more of their revenues from oil exploration or processing activities <u>and</u> (2) invest in first time production, expansion or exploration of oil (measured by CapEx relating to oil exploration or processing activities of 10% or more ¹) (Combined Revenue and CapEx Exclusion) ²
		Combined Revenue and CapEx Exclusion does not apply to issuers of use-of-proceeds bonds financing sustainable projects, provided the issuer has a CapEx plan in line with EU GBS
High GHG intensity	None	Exclusion of companies that (1) derive 50 % or more of their revenues from gas exploration or processing activities <u>and</u> (2) invest in first time production, expansion or exploration of oil (measured by CapEx relating to gas exploration or processing activities of 50% or more ¹) (Combined Revenue and CapEx Exclusion) ²
		Combined Revenue and CapEx Exclusion does not apply to issuers of use-of-proceeds bonds financing sustainable projects, provided the issuer has a CapEx plan in line with EU GBS

1. In another part of the Proposal, the Platform refers to CapEx thresholds of 0.5% (coal), 5% (oil) and 25% (gas) (p. 78, 80). Hence it is not clear which thresholds the Platform ultimately suggests.
2. To our understanding, the Proposal suggests that the adjusted CTB Exclusions only exclude companies which caught by the Combined Revenue and CapEx Exclusion (i.e. breach both thresholds). This differs from the proposed adjustments to the PAB Exclusions (see p. 8), where, as we understand the Proposal, a company must be excluded if it falls within either the Revenue Exclusion or the CapEx Exclusion. However, the Proposal is not clear on this point and describes the required adjustments in different parts in different ways. The Platform refers at several points to the exclusions it has proposed for the Investing for Transition Benchmarks with exclusions (ITBex, Platform's recommendations available [here](#)). We have therefore interpreted the adjustments to the CTB Exclusions in line with Platform's recommendations on ITBex.

Your main contacts



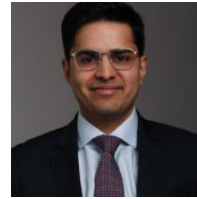
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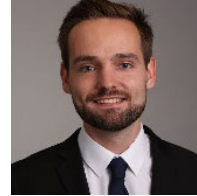
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