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BANKING AND FINANCE

Public consultation on institutional investors and asset managers' duties regarding sustainability

Fields marked with * are mandatory.

Introduction

At the end of 2015, governments from around the world chose a more sustainable path for our planet and our economy by adopting the Paris agreement on climate change and the UN 2030 Agenda for Sustainable Development.

Sustainability has since long been at the heart of the European project. The EU is committed to development that meets the needs of the present without compromising the ability of future generations to meet their own needs (Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions 'Next steps for a sustainable European future European action for sustainability' {SWD(2016) 390 final}).

The EU wants its financial system to be aligned with its sustainability objectives. The commitment to incorporating sustainability elements into EU financial services policies and cross cutting initiatives is ingrained in the Mid-Term Review of the Capital Markets Union Action Plan (Mid-Term Review of the Capital Markets Union Action Plan - COM(2017) 292 final).

To develop the overall vision of sustainable finance that this requires, the Commission decided last year to appoint a High-Level Expert Group (HLEG) on sustainable finance under the chairmanship of Christian Thimann. This group is supporting the Commission to develop an overarching and comprehensive EU strategy on sustainable finance.

On 13 July 2017, the HLEG published its interim report which provided a comprehensive vision on sustainable finance. It identified two imperatives for Europe's financial system. "The first is to strengthen financial stability and asset pricing, by improving the assessment and management of long term risks and intangible factors of value creation. The second is to improve the contribution of the financial sector to sustainable and inclusive growth by financing long-term needs and accelerating the shift to a sustainable economy".

In its interim report (EU High-Level Expert Group on Sustainable Finance, 'Financing a sustainable European economy' Interim report, July 2017), the HLEG proposed eight early recommendations for policy action on sustainable finance. The third recommendation focused on establishing a "fiduciary duty" that encompasses sustainability. The HLEG suggested clarifying that the duties of institutional investors and asset managers explicitly integrate material environmental, social and governance (ESG) factors and long term sustainability.

Given the maturity and the interest of the HLEG recommendation, the Commission has decided to start work on an impact assessment to assess whether and how a clarification of the duties of institutional investors and asset managers in terms of sustainability could contribute to a more efficient allocation of capital, and to sustainable and inclusive growth.

The duties of care, loyalty and prudence are embedded in the EU's financial framework governing obligations that institutional investors and asset managers owe to their end-investors/scheme members. These duties are the foundation of investment process.

The implementation of these duties implies fulfillment of various obligations for asset managers and institutional investors that include, for instance, the duty to act in the best interest of beneficiaries /investors, with due care, skill and diligence in performing their activities, including the identification and management of conflict of interests. They are also required to act honestly, and ensure adequate and proportionate performance of their activities.

Although these duties are embedded in the EU financial legal framework, it appears unclear that they require institutional investors and asset managers to assess the materiality of sustainability risks (i.e risks relating to environmental, social and governance issues). Market practices indicate that institutional investors and asset managers generally understand these duties as requiring a focus on maximising short-term financial returns and disregard long-term effects on performance due to sustainability factors and risks. This can lead to misallocation of capital and might give rise to concerns about financial stability since markets can be vulnerable to abrupt corrections, such as those associated with the delayed transition to low carbon economies.

This consultation will help the Commission gather and analyse the necessary evidence to determine possible action to improve the assessment and integration of sustainability factors in the relevant investment entities' decision-making process.

Please note: In order to ensure a fair and transparent consultation process **only responses received through our online questionnaire will be taken into account** and included in the report summarising the responses. Should you have a problem completing this questionnaire or if you require particular assistance, please contact fisma-investors-duties-sustainability@ec.europa.eu.

More information:

- on this consultation
- on the protection of personal data regime for this consultation

Glossary

Relevant investment entities: entities managing assets entrusted to them

Sustainability factors: for the purpose of this consultation, sustainability factors refer to environmental, social and governance issues as defined by the United Nations Environment Programme (UNEP) (*UNEP Inquiry, Definitions and Concepts: Background Note, 2016*). The exact scope of sustainability factors to be addressed is also the object of this consultation.

Environmental issues relate to the quality and functioning of the natural environment and natural systems including biodiversity loss; greenhouse gas emissions, renewable energy, energy efficiency, natural resource depletion or pollution; waste management; ozone depletion; changes in land use; ocean acidification and changes to the nitrogen and phosphorus cycles

Social issues relate to rights, well-being and interests of people and communities including human rights, labour standards, health and safety, relations with local communities, activities in conflict zones, health and access to medicine, consumer protection; and controversial weapons.

Governance issues relate to the management of investee entities. Issues include board structure, size, diversity, skills and independence; executive pay; shareholder rights; stakeholder interaction; disclosure of information; business ethics; bribery and corruption; internal controls and risk management; and, in general, issues dealing with the relationship between a company's management, its board, its shareholders and its other stakeholders.

1. Information about you

* Are you replying as:

- ○ a private individual
- ● an organisation or a company
- ○ a public authority or an international organisation

* Name of your organisation:

UNI Europa Finance

Contact email address:

The information you provide here is for administrative purposes only and will not be published

morten.clausen@uniglobalunion.org

* Is your organisation included in the Transparency Register?

(If your organisation is not registered, we invite you to register here, although it is not compulsory to be registered to reply to this consultation. Why a transparency register?)

- ● Yes
- ○ No

* If so, please indicate your Register ID number:

43785827982-59

* Type of organisation:

- ○ Academic institution
- ○ Company, SME, micro-enterprise, sole trader
- ○ Institutional investor
- ○ Consultancy, law firm
- ○ Consumer association
- ○ Industry association
- ○ Media
- ○ Non-governmental organisation
- ○ Think tank
- ● Trade union
- ○ Other

* Where are you based and/or where do you carry out your activity?

Belgium

*Field of activity or sector (*if applicable*):

at least 1 choice(s)

- [ ] Accounting
- [ ] Auditing
- [ ] Banking
- [ ] Credit rating agencies
- [ ] Insurance
- [ ] Occupational pension provision
- [ ] Personal pension provision
- [ ] Collective Investment Management
- [ ] Individual portfolio management
- [ ] Financial advice
- [ ] Market infrastructure operation (e.g. CCPs, CSDs, Stock exchanges)
- [ ] Service provider (e.g. index provider, research providers)
- [ ] Other
- [x] Not applicable

Important notice on the publication of responses

*Contributions received are intended for publication on the Commission's website. Do you agree to your contribution being published?
(see specific privacy statement)

- (•) Yes, I agree to my response being published under the name I indicate (*name of your organisation /company/public authority or your name if your reply as an individual*)
- ( ) No, I do not want my response to be published

2. Your opinion

2.1 Questions addressed to all respondents:

I. General overview

1) Do you think relevant investment entities should consider sustainability factors in their investment decision-making?

- (•) Yes
- ( ) No
- ( ) No opinion

Please explain the reasons:

UNI Europa Finance (UEF) sees several advantages for investment entities to start considering sustainability factors such as sound industrial relations including the right for employees to be represented collectively by trade unions and collective agreements more in their decisions-making processes. Apart from benefits to the environment in considering environmental risks more accurately, there are also great possibilities for investors to guarantee stability and profitability of their investments through further focusing on some key aspects. These aspects include the way in which companies treat and involve employees, employee representatives and unions and the society around them. As has been shown by several studies already, having stable labour relations within a company and committing to collective bargaining with the employee representatives will more likely lead to qualified decisions that are supported and implemented more smoothly by the entire workforce compared to a situation where the employer will have to deal with every employee individually. In short, collective agreements and social dialogue ensure a more productive workforce. This will mean both higher productivity and less sick leave. Furthermore, it will lead to lower employee turnover, which will benefit the company in terms of retained knowledge and qualified staff. It will also ensure that proper attention is paid to health and safety concerns, which if handled correctly can increase productivity in the company and avoid extra costs to the surrounding society in terms of healthcare requirements and social benefits. These factors put together will lead to companies being able to provide better products and services, with less potentially looming crises that could surface at any time and upset plans and stability. This type of consideration should also extend to the way companies being invested in, behave when operating outside of their home country. A phenomenon that we often see is that companies maintain good relations with trade unions and the surrounding society in their home countries (EU countries), while disregarding good industrial relations practice or in some cases even allowing exploitative business models to take place in their operations abroad. This is problematic both from an ethical and stability of investment perspective. However, so far these factors do not seem to be given much consideration by most larger investors. The financial sector with its massive assets under management has a key role to play in addressing societal concerns and labour conditions. It is therefore vital that the social perspective goes hand in with environmental and governance aspects. The EU commitment is clearly articulated by the TFEU article 151: “The Union and the Member States […] shall have as their objectives the promotion of employment, improved living and working conditions, […], proper social protection, dialogue between management and labour, the development of human resources with a view to lasting high employment and the combating of exclusion”. We would like the HLEG to take this broader perspective into account.
The recommendations from the HLEG should strive toward integrating environmental and social concerns, and include labour factors as a key element in investment decision-making and a policy for sustainable finance.
We believe that relevant investment entities should consider sustainability factors in their investment decision-making and UEF see this as a competitive advantage in the years to come. Storebrand based in the Nordic countries has had remarkable success in promoting sustainable investments for their pension clients and has been recognized by the World Economic Forum in 2017.
All bonds have the potential to move significant capital into investments that would lead the world into a more sustainable development. UEF believes that we need a clear taxonomy on green financial products and has already, in some cases, at the national level supported the idea of a transparent financial products /green bond standard. We support branding and reporting that will stimulate consumers and business to make informed choices. It is crucial that the players in the financial industry are competent and updated on how ESG-themes affect investment, society and customers. Education on sustainability and accountability must be part of training at all levels, from company to national level. UEF believe this should be a natural part of company-based training for employees, while union representatives and employee representatives in boards can carry the message of sustainable finance in their companies.
UNI Europa Finance is the European-level trade union organisation for the finance sector. It represents 100 unions with 1.5 millions workers in the banking and insurance industries. It is part of UNI Global Union and recognised by the European Union as a social partner.

2) What are the sustainability factors that the relevant investment entities should consider? (Please make a choice and indicate the importance of the different factors (1 is not important and 5 is very important). (Please refer to the definition in the Glossary).

	Yes	No	No opinion
Climate factors (these include climate mitigation factors as well as climate resilience factors)	◉	○	○
Other environmental factors	◉	○	○
Social factors	◉	○	○
Governance factors	◉	○	○
Others	○	○	○

Importance for climate factors:

- ○ 1
- ○ 2
- ○ 3
- ○ 4
- ◉ 5

Importance for other environmental factors:

- ○ 1
- ○ 2
- ○ 3
- ○ 4
- ◉ 5

Importance for social factors:

- ○ 1
- ○ 2
- ○ 3
- ○ 4
- ◉ 5

Importance for governance factors:

- ○ 1
- ○ 2
- ○ 3
- ○ 4
- ◉ 5

Please specify, which specific factors within the above categories you are considering, if any:

3) Based on which criteria should the relevant investment entities consider sustainability factors in their investment decision making?

Please explain:

4) Which of the following entities should consider sustainability factors in their investment decision-making? (Possibility to select several answers). If so, please indicate the level of impact that this would have (1 is the smallest impact and 5 is the highest impact).

	Yes	No	No opinion
Occupational pension providers	◉	○	○
Personal pension providers	◉	○	○
Life insurance providers	◉	○	○
Non-life insurance providers	◉	○	○
Collective investment funds (UCITS, AIF, EuVECA, EuSEF, ELTIF)	◉	○	○
Individual portfolio managers	◉	○	○

Please explain:

Level of impact for occupational pension providers:

- ○ 1
- ○ 2
- ○ 3
- ○ 4
- ◉ 5

Level of impact for personal pension providers:

- ( ) 1
- ( ) 2
- ( ) 3
- ( ) 4
- (•) 5

Level of impact for life insurance providers:

- ( ) 1
- ( ) 2
- ( ) 3
- ( ) 4
- (•) 5

Level of impact non-life insurance providers:

- ( ) 1
- ( ) 2
- ( ) 3
- ( ) 4
- (•) 5

Level of impact for collective investment funds (UCITS, AIF, EuVECA, EuSEF, ELTIF):

- ( ) 1
- ( ) 2
- ( ) 3
- ( ) 4
- (•) 5

Level of impact for individual portfolio managers:

- ( ) 1
- ( ) 2
- ( ) 3
- ( ) 4
- (•) 5

II. Problem

5) To your knowledge, what share of investment entities active in the EEA (European Economic Area) currently consider sustainability factors in their investment decisions?

	All or almost all	More than two thirds	More than half	More than a third	None or almost none	No opinion
Occupational pension providers	( )	( )	( )	( )	( )	( )
Personal pension providers	( )	( )	( )	( )	( )	( )

Life insurance providers						
Non-life insurance providers						
Collective investment funds (UCITS, AIF, EuVECA, EuSEF, ELTIF)						
Individual portfolio managers						

6) To your knowledge, which is the level of integration of sustainability factors by the different investment entities (active in the EEA)?

	High integration	Medium integration	Low integration	No integration	No opinion
Occupational pension providers					
Personal pension providers					
Life insurance providers					
Non-life insurance providers					
Collective investment funds (UCITS, AIF, EuVECA, EuSEF, ELTIF)					
Individual portfolio managers					

7) Which constraints prevent relevant investment entities from integrating sustainability factors or facilitate their disregard. Please provide the importance of the different constraints that you consider relevant (1 is not important and 5 is very important).

	1	2	3	4	5	No opinion
Lack of expertise and experience						
Lack of data/research						
Lack of impact on asset performance						
Inadequate methodologies for the calculation of sustainability risks						
Inadequate sustainable impact metrics						
Excessive costs for the scale of your company						
No interest from financial intermediaries						
No interest from beneficiaries/clients						
European regulatory barriers						
National regulatory barriers						

Lack of fiscal incentives	○	○	○	○	○	○
Lack of eligible entities	○	○	○	○	○	○
Others	○	○	○	○	○	○

8) How challenging is it for relevant investment entities to integrate the different sustainability factors? (1 is not challenging and 5 is very challenging) - Please refer to the definition in the Glossary).

	1	2	3	4	5	No opinion
Climate factors (*these include climate mitigation factors as well as climate resilience factors*)	○	○	○	○	○	○
Other Environment factors	○	○	○	○	○	○
Social factors	○	○	○	○	○	○
Governance factors	○	○	○	○	○	○
Others	○	○	○	○	○	○

III. Policy options

9) In which area should relevant investment entities consider sustainability factors within their investment decision-making? Please make a choice and indicate the relevance of the different areas (1 is minor relevance and 5 is very high relevance).

	Yes	No	No opinion
Governance	◉	○	○
Investment strategy	◉	○	○
Asset allocation	◉	○	○
Risk management	◉	○	○
Others	○	○	○

Relevance for governance:

- ○ 1
- ○ 2
- ○ 3
- ○ 4
- ◉ 5

Relevance for investment strategy:

- ( ) 1
- ( ) 2
- ( ) 3
- ( ) 4
- (x) 5

Relevance for asset allocation:

- ( ) 1
- ( ) 2
- ( ) 3
- ( ) 4
- (x) 5

Relevance for risk management:

- ( ) 1
- ( ) 2
- ( ) 3
- ( ) 4
- (x) 5

10) Within the area of governance, which arrangements would be most appropriate to enable the integration of sustainability factors? (1 is the not appropriate and 5 is the very appropriate).

	1	2	3	4	5	No opinion
Specific sustainability investment Committee			X			
Specific sustainability member of the Board			X			
Sustainability performance as part of remuneration criteria	X					
Integration of sustainability factors in the investment decision process					X	
Integration of sustainability checks in the control process					X	
Periodic reporting to senior management/board				X		
Others			X			

Please specify others:

Ensuring that integration of sustainability factors happens in the structures of investment allows it to easily and quickly be institutionalised. However, placing the responsibility of ensuring a switch to sustainability on the shoulders of the individual employee is a potentially harmful way of ensuring the change. Using this method, while not ensuring a wider reorientation in the whole structure would potentially leave the individual employee in a Catch 22 situation, where they have to respect sustainability requirements while being penalised by the company for doing so.
It is crucial that the players in the financial industry are competent and updated on how ESG-themes affect investment, society and customers. Education on sustainability and accountability must be part of different

training and competence programs. Involvement of employees together with the employers and other relevant stakeholders such as national authorities is key to success in ensuring good governance and transition.

11) Should insurance and pension providers consult their beneficiaries on an annual/periodic basis on their preference as regards sustainability factors?

- (x) Yes
- ( ) No
- ( ) No opinion

Please explain:

Consulting on preferences at the start of an investment should be mandatory. Especially in relation to pensions, a high degree of attention should be paid to informing and consulting about sustainability factors. However, subsequent enquiries seem unnecessary and could potentially be seen as unnecessary scrutiny of individual preferences by the client.

12) Within the portfolio's asset allocation, should relevant investment entities consider sustainability factors even if the consideration of these factors would lead to lower returns to beneficiaries/clients in the medium/short term?

- ( ) Yes
- (x) No
- ( ) No opinion

Please explain:

The fiduciary duty of the investment entities must be respected, with return for the beneficiary ensured in the timeframe specified. However, investment entities should always try to the best of their possibilities and knowledge, to advice clients about the benefits of sustainable investment. As an investor, you have opportunities to make an active contribution while making financial returns, as recent research shows that there is a strong link between high rates of return and sustainable investments. The sustainability message must be conveyed by the employees in the financial sector to all consumers and hence the knowledge of the financial advisor in these decision-making processes are essential. However, the neutrality of the investment entity must be ensured in order to avoid conflicts of interest. Nevertheless, long term investment particularly in a pension situation is preferable. E.g. 3-5 % in 15 years is better than 15 % in 3 years.

13) Within the area of risk management, does the current set of corporate disclosures provide the relevant investment entities with adequate information to perform sustainability risk assessments in respect of investee companies?

- ( ) Yes
- (x) No
- ( ) No opinion

Please explain where the possible gaps are, if any:

Most reporting outside of the financial aspect is done on a voluntary basis, with a significant chance for companies to report curated sets of data and perform ‘greenwashing’ of their business models. Providing

companies with more reporting standards and making sharing of more information mandatory would go a long way in rectifying this problem. Especially on the area of social commitments and duties to employees and community there is hardly any reporting standards and companies end up highlighting the good work they do in different communities, while glossing over the issues with strikes and breaches of health and safety requirements they may have. Classifications or standards of sustainability should entail minimum standards on labour rights. The ShareAction Workforce Disclosure Initiative is an interesting example in this regard. Any such initiative would also imply that, regardless of the design of the framework and the powers invested in the administrator, there must be no worsening of employee's rights in any aspect due to an investment.
The report "Green Finance: Opportunities and challenges for the Norwegian financial sector" (PWC, 2016) gives some specific recommendations to the Norwegian financial industry in the years to come.
On reporting, the following recommendations were highlighted:
-Make ESG factors essential for reporting activities. This should be a part of the company's annual accounting reporting.
-Authorities can also require company boards to sign and arrange to publish non-financial figures to create more accountability
-Corporate social responsibility could also be rated and published by authorities

14) Do the overall information or risk metrics available enable the relevant investment entities to adequately perform sustainability risk assessments?

- ○ Yes
- ○ No
- ○ No opinion

15) Do you think that uniform criteria to perform sustainability risk assessments should be developed at EU level?

- ◉ Yes
- ○ No
- ○ No opinion

Please explain:

Both in terms of bringing about a more social Europe and reinforcing the green transition, a more unified approach at EU level would be beneficial. In recognition that many large European companies are also multi-national companies with operations both inside and outside of the EU, developing better criteria is not just a duty for us here in the EU, but also as our contribution to helping the world. Companies using tactics outside of the EU that would be frowned upon here in Europe, should be held accountable in their home countries. After all, whether a company exposes itself to risks at home or abroad, its risk profile remains the same.
Additionally, the financial industry should facilitate dilemma training for employees, including integrating ESG into all sector specific training programs. The financial industry is a competence-intensive industry with skilled workers and a catalyst to the green transition.
A strong and innovative sector that will create green jobs and limit the outsourcing of these competences is imperative. Investments in research, competence and production of financial services will be an imperative in the years to come. By having a common European approach to this challenge, we can ensure a good outcome.

16) In case material exposure to sustainability factors is identified, what are the most appropriate actions to be performed by the relevant investment entity?

17) Should relevant investment entities disclose how they consider sustainability factors within their investment decision-making?

- (x) Yes
- ( ) No
- ( ) No opinion

Please explain:

Only by having information about the decision-making criteria available to the public can society make investors aware of which other factors they should consider, or mount awareness of factors being ignored. Transparency on the social impact of investments is urgently needed and metrics should be developed to support this aim. First, certain investment decisions may have profound impact on local employment in an area or region, both positively and negatively, and investors have a right to access this information. Secondly, a financial investment into any given institution may, just as with environmental aspects, impact social factors. For example, the actions of a certain companies or sector may be in breach of the right of collective bargaining, the freedom of association or the right to strike, acknowledged both in ILO Conventions and the EU Charter on Fundamental Rights, or undermine social dialogue.

If yes, what areas should the disclosure cover? Please make a choice and indicate the relevance of disclosure within the different areas (1 is minor relevance and 5 is high relevance):

	Yes	No	No opinion
Governance	(x)	( )	( )
Investment strategy	(x)	( )	( )
Asset allocation	(x)	( )	( )
Risk management	(x)	( )	( )
Other	( )	( )	( )

Relevance for governance:

- ( ) 1
- ( ) 2
- ( ) 3
- (x) 4
- ( ) 5

Relevance for investment strategy:

- ( ) 1

- ○ 2
- ○ 3
- ◉ 4
- ○ 5

Relevance for asset allocation:

- ○ 1
- ○ 2
- ○ 3
- ◉ 4
- ○ 5

Relevance for risk management:

- ○ 1
- ○ 2
- ○ 3
- ○ 4
- ◉ 5

If yes, where?

	Yes	No	No opinion
Pre-contractual disclosure (e.g. prospectuses)	◉	○	○
Semi-annual/annual reports	◉	○	○
Periodic reports	○	○	○
Website	◉	○	○
Newsletters	○	○	○
Factsheets	◉	○	○
Marketing materials	○	○	○
Others	○	○	○

IV. Impacts for stakeholders

18) Which stakeholder groups would incur costs and which would benefit from integrating sustainability factors within investment decision-making by relevant investment entities?

	Benefits	Costs
Occupational pension providers	☐	☐
Personal pension providers	☐	☐

Life insurance providers	☐	☐
Non-life insurance providers	☐	☐
Collective investment funds (UCITS, AIF, EuVECA, EuSEF, ELTIF)	☐	☐
Individual portfolio managers	☐	☐
General public	☐	☐
Retail investors	☐	☐
Financial advisors	☐	☐
Service providers (index provider, research providers…)	☐	☐
Other stakeholders (please specify)	☐	☐

2.2 Questions addressed to end-investors

1) Do you take into account sustainability factors when you choose your investment products or investment entity?

- Yes
- No

3. Additional information

Should you wish to provide additional information (e.g. a position paper, report) or raise specific points not covered by the questionnaire, you can upload your additional document(s) here:

Useful links

More on the Transparency register (http://ec.europa.eu/transparencyregister/public/homePage.do?locale=en)

Consultation details (https://ec.europa.eu/info/consultations/finance-2017-investors-duties-sustainability_en)

Specific privacy statement (https://ec.europa.eu/info/files/specific-privacy-statement-institutional-investors-and-asset-managers-duties-regarding-sustainability_en)

Contact

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