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(Information)

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EUROPEAN COMMISSION

Commission Notice on the interpretation of certain legal provisions of the Disclosures Delegated Act under Article 8 of EU Taxonomy Regulation on the reporting of eligible economic activities and assets

(2022/C 385/01)

This frequently asked questions (FAQs) document aims to clarify the content of the Disclosures Delegated Act under Article 8 of the EU Taxonomy Regulation ('Disclosures Delegated Act') ([1]) to aid its implementation.

The FAQs contained in this document clarify the provisions already contained in the applicable legislation. They do not extend in any way the rights and obligations deriving from such legislation nor introduce any additional requirements of the concerned operators and competent authorities. The FAQs are merely intended to assist financial and non-financial undertakings in the implementation of the relevant legal provisions. Only the Court of Justice of the European Union is competent to authoritatively interpret Union law. The views expressed in this Notice cannot prejudge the position that the European Commission might take before the Union and national courts.

On 20 December 2021, the Commission published 22 FAQs on how financial and non-financial undertakings should report taxonomy-eligible economic activities and assets in accordance with the Disclosures Delegated Act. This document complements these FAQs.

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([1]) Commission Delegated Regulation (EU) 2021/2178 of 6 July 2021 supplementing Regulation (EU) 2020/852 of the European Parliament and of the Council by specifying the content and presentation of information to be disclosed by undertakings subject to Articles 19a or 29a of Directive 2013/34/EU concerning environmentally sustainable economic activities, and specifying the methodology to comply with that disclosure obligation (OJ L 443, 10.12.2021, p. 9).

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GENERAL FAQS

1. To what undertakings does the reporting obligation under the Taxonomy Regulation Article 8 Delegated Act apply?

The Delegated Act supplementing Article 8 of the Taxonomy Regulation (Regulation (EU) 2021/2178) ('the Disclosures Delegated Act') sets out specific requirements for Taxonomy-related reporting by undertakings covered by Directive EU 2014/95 (the Non-Financial Reporting Directive) [2].

Specifically, Article 8(1) of Regulation EU 2020/852 [3] (the Taxonomy Regulation) contains a cross reference to Articles 19a and 29a of Directive EU 2013/34 [4] (the Accounting Directive) which were introduced by Directive EU 2014/95 (the Non-Financial Reporting Directive (NFRD)). More precisely, the Taxonomy Regulation specifies that 'any undertaking which is subject to an obligation to publish non-financial information pursuant to Article 19a or Article 29a of Directive 2013/34/EU shall include in its non-financial statement or consolidated non-financial statement information on how and to what extent the undertaking's activities are associated with economic activities that qualify as environmentally sustainable under Articles 3 and 9 of this Regulation'. In other words, undertakings that are subject to mandatory reporting obligations under the Accounting Directive, also have reporting obligations under the Taxonomy Regulation.

In accordance with Articles 19a and 29a of the Accounting Directive, the following undertakings are subject to the obligation to publish non-financial information: a large undertaking as defined in Article 3(4) of that Directive which is a public-interest entity as defined in Article 2 point (1) of that Directive with more than 500 employees on average during the financial year; and a public-interest entity which is a parent undertaking of a large group as defined in Article 3(7) of that Directive with more than 500 employees on average on a consolidated basis during the financial year. Based on Article 8(1) of the Taxonomy Regulation, such undertakings are also subject to the Taxonomy Regulation related disclosure obligations.

Article 8(1) of the Taxonomy Regulation does not specifically refer to national measures transposing the NFRD that potentially extend the scope of its application to cover other categories of smaller undertakings. Therefore, the reporting requirements under Article 8(1) of the Taxonomy Regulation apply to undertakings directly in the scope of the NFRD. They do not apply to those undertakings covered only by national law transposing the NFRD. However, under the Disclosures Delegated Act, undertakings covered only by national law transposing the NFRD can report their alignment with the Taxonomy voluntarily.

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[2] Directive 2014/95/EU of the European Parliament and of the Council of 22 October 2014 amending Directive 2013/34/EU as regards disclosure of non-financial and diversity information by certain large undertakings and groups (OJ L 330, 15.11.2014, p. 1).

[3] Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 (OJ L 198, 22.6.2020, p. 13).

[4] Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19).

2. How is an 'economic activity' defined in the Disclosures Delegated Act?

The Taxonomy Regulation lays down a classification of environmentally sustainable economic activities. This classification is largely based on the Nomenclature of Economic Activities (NACE), the statistical classification of economic activities in the EU.

An economic activity takes place when resources such as capital, goods, labour, manufacturing techniques or intermediary products are combined to produce specific goods or services. It is characterised by an input of resources, a production process and an output of products (goods or services).

Regulation EU 2021/2139 (the Climate Delegated Act) [5] describes and assigns criteria on a high level. It does not refer to only one specific economic activity, but rather to categories of economic activities. For example, it sets criteria for the general category 'manufacture of cement', rather than the manufacturing of cement in one specific plant by one specific operator.

The reference to NACE sectors in the Climate Delegated Act is only indicative and not necessarily exhaustive. Therefore, an economic activity could match the description of an activity and the technical screening criteria laid out the Climate Delegated Act (Annexes I and II thereof) even if the NACE sector of the company is not listed in the relevant section of the Climate Delegated Act.

3. What is a Taxonomy-eligible economic activity?

Article 1(5) of the Disclosures Delegated Act defines an eligible economic activity as an activity that is described in the delegated acts adopted under Article 10(3), Article 11(3), Article 12(2), Article 13(2), Article 14(2) and Article 15(2) of the Taxonomy Regulation. For the reporting period ending in 2022 (and for activities conducted in 2021), this definition corresponds to economic activities described in the Climate Delegated Act as adopted on 4 June 2021.

More specifically, according to Article 1(5) of the Disclosures Delegated Act, an economic activity is eligible irrespective of whether it meets any or all of the technical screening criteria laid down in the Climate Delegated Act (and future delegated acts). Therefore, the fact that an economic activity is Taxonomy-eligible does not give any indication of the environmental performance and sustainability of that activity.

In principle, if an undertaking generates turnover or invests in capital expenditure (CapEx) or operating expenditure (OpEx) corresponding to an economic activity that is described in the Climate Delegated Act, it would count as eligible for Taxonomy-eligibility disclosure. On the contrary, if an activity is not yet included in the Delegated Act, it should not be considered as being eligible. Furthermore, the Taxonomy is a dynamic framework that should expand its scope of activities overtime, in particular by including other environmental objectives, which should expand the scope of eligible activities accordingly.

In practical terms, identifying Taxonomy-eligible economic activities is the first step towards assessing the alignment of economic activities with the Taxonomy technical screening criteria. Eligible activities constitute the baseline universe of activities that have the potential to align with the technical screening criteria, including as transitional or enabling activities.

As a general principle, eligibility reporting, in accordance with Article 10 of the Disclosures Delegated Act, should serve to help undertakings prepare for their future alignment disclosures [6].

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[5] Commission Delegated Regulation (EU) 2021/2139 of 4 June 2021 supplementing Regulation (EU) 2020/852 of the European Parliament and of the Council by establishing the technical screening criteria for determining the conditions under which an economic activity qualifies as contributing substantially to climate change mitigation or climate change adaptation and for determining whether that economic activity causes no significant harm to any of the other environmental objectives (OJ L 442, 9.12.2021, p. 1).

[6] For the sake of clarity, it is noted that eligible activities do not equal to the denominator of the Taxonomy-alignment KPI. For non-financial undertakings total CapEx, OpEx and turnover will be used. Covered assets for the KPI of financial undertakings.

Finally, the Taxonomy Regulation, the Climate Delegated Act and the Disclosures Delegated Act do not differentiate between *core* and *non-core* economic or business activities. Therefore, undertakings should report all of their economic activities in line with the definition of eligibility under Article 1(5) of the Disclosures Delegated Act, as explained above.

The timeline for eligibility and alignment disclosures is further described in the FAQs Question 2, published on 20 December 2021.

4. What are 'enabling' and 'transitional' economic activities in the context of Taxonomy-eligibility reporting?

Articles 16 and 10(2) of the Taxonomy Regulation define enabling and transitional economic activities ([7]). Transitional activities are those for which low-carbon alternatives are not yet available and that have greenhouse gas emission levels that correspond to the best performance in the sector or industry, which fulfil the two following conditions: (i) they should not hamper the development and deployment of low-carbon alternatives, and (ii) they should not lead to a lock-in of carbon-intensive assets, considering the economic lifetime of those assets. On the other hand, enabling activities are those that directly enable others to make a substantial contribution to an environmental objective.

For eligibility reporting in accordance with Article 10 of the Disclosures Delegated Act, economic activities defined as enabling or transitional activities should not be treated differently from other activities. If they are within the scope of the respective description, they should be identified as eligible.

It is noted however that an economic activity is only transitional or enabling under EU Taxonomy provided it meets the technical screening criteria in the respective section of Annex I and II to the Climate Delegated Act. Therefore, and in particular for the first year(s) of eligibility reporting in accordance with Article 10 of the Disclosures Delegated Act, those activities can only be considered as eligible-to be-transitional or eligible-to-be-enabling and reported i.e marked as such, on a voluntary basis. This is not different from eligibility reporting for other activities, where eligibility does not give an indication of the environmental performance of the activity.

5. How to identify and report eligibility for adaptation-related economic activities?

There are two different types of activities that can make a substantial contribution to climate change adaptation included in Annex II to the Climate Delegated Act:

— adaptation activities, i.e. activities including adaptation solutions in accordance with Article 11 (1)(a) of the Taxonomy Regulation ([8]),

— enabling economic activities, i.e. activities providing adaptation solutions in accordance with Article 11 (1)(b) of the Taxonomy Regulation ([9]).

Eligibility reporting requirements differ depending on whether the economic activity is marked as an enabling activity or an adaptation activity in Annex II to the Climate Delegated Act. For the former category (enabling activities), the turnover and corresponding CapEx and OpEx can qualify as eligible activities ([10]).

([7]) Please refer to Articles 10(2) and 16 of the Taxonomy Regulation EU 2020/852.

([8]) Article 11(1)(a) of the Taxonomy Regulation EU 2020/852 refers to activities, including adaptation solutions that either substantially reduce the risk of the adverse impact of the current climate and the expected future climate on that economic activity or substantially reduce that adverse impact, without increasing the risk of an adverse impact on people, nature or assets.

([9]) Article 11 (1)(b) of the Taxonomy Regulation refers to activities that provide adaptation solutions that, in addition to satisfying the conditions set out in Article 16, contribute substantially to preventing or reducing the risk of the adverse impact of the current climate and the expected future climate on people, nature or assets, without increasing the risk of an adverse impact on other people, nature or assets.

([10]) In accordance with recital 48 of the Climate Delegated Act '…However, when the core business of economic activities enabling adaptation in accordance with Article 11(1), point (b), of Regulation (EU) 2020/852 is to provide technologies, products, services, information, or practices with the objectives of increasing the level of resilience to physical climate risks of other people, nature, cultural heritage, assets or of other economic activities, in addition to capital expenditure, the turnover derived from products or services associated with those economic activities should be considered as proportion of turnover derived from products or services associated with economic activities that qualify as environmentally sustainable.'

For the latter category (adaptation activities), the reporting entity needs to demonstrate that a climate risk and vulnerability assessment has been performed and that an expenditure plan has been set up to implement adaptation solutions that reduce the activity's most significant physical climate risks as set out in Appendix A to Annex II. Only if these requirements are fulfilled can the reporting entity count the CapEx and OpEx of the adaptation activity for Taxonomy-eligibility.

It is important to note here that the turnover derived from products and services associated with an adapted activity cannot be recognised for Taxonomy-eligibility. This is because once the substantial contribution to climate change adaptation of an activity has taken place (i.e. once the activity has been made resilient to climate change), the turnover corresponding to that activity should not count as eligible. Note that the adapted activity may or may not provide environmental benefits.

6. How should NACE codes be used to identify Taxonomy-eligible activities in the context of eligibility-reporting?

NACE is a classification system for products and economic activities. NACE codes provide a framework to collect and present a wide range of statistics in economic fields, based on economic activity.

NACE uses four levels. The National transpositions of NACE codes sometimes include more than four levels, but the first four levels are the same for all Member States.

All descriptions of economic activities included in Annexes I and II to the Climate Delegated Act provide that the economic activities in the respective category can correspond to one or more specific NACE codes.

Furthermore, recital 6 of the Climate Delegated Act clarifies that the references to NACE codes should be understood as indicative. The assessment of Taxonomy-eligibility should be made in view of the specific description of the activity provided in the Annexes of the Climate Delegated Act.

More specifically, NACE codes should help users navigate through the Taxonomy, in particular those users that already work with NACE codes. NACE codes can help identify taxonomy-eligible activities (not aligned ones). However, only the specific activity description in the Climate Delegated Act sets out the exact scope of the activities included in the Act.

In practice, this means that:

— if a NACE code is broader than the activity description, the description prevails over the scope of the NACE code;

— if an economic activity does not have a NACE code but does meet the activity description, it can qualify as Taxonomy-eligible;

— if an activity description does not fully correspond to the undertaking's activity, it might be necessary to segment the undertaking's activities so the respective parts can fall under the activity description or under several activities that are described separately;

— if the NACE code of an economic activity is not mentioned in the Climate Delegated Act, but the economic activity corresponds to the description of the activity, it can qualify as Taxonomy-eligible.

7. Can undertakings report voluntary information in the context of Taxonomy-eligibility reporting?

As a general rule, the Disclosures Delegated Act does not preclude voluntary disclosures of undertakings' activities. On the contrary, all undertakings subject to the reporting obligation are encouraged to voluntarily report any relevant additional information where they consider that this is relevant to investors to gain a better understanding of the entity's taxonomy-eligibility.

Nevertheless, and as a general principle for all undertakings, voluntary disclosures are not part of the mandatory disclosures under Article 8 of the Taxonomy Regulation and entities should always explain the reasons for making such disclosures.

Moreover, voluntary disclosures should not contradict or misrepresent mandatory information under the Disclosures Delegated Act. Voluntary disclosures should also not be more prominent than mandatory disclosures. If an undertaking includes a voluntary disclosure, it should add supporting detail setting out ([11]):

— the basis for this disclosure;

— the methods used for its preparation; and

— a clear explanation of how it differs from mandatory reporting.

The briefing ([12]) of the Platform on Sustainable Finance provides further advice on best practices for voluntary reporting and voluntary use of the templates for eligibility reporting in the first year(s) of reporting.

NON-FINANCIAL UNDERTAKINGS

8. How far should undertakings assess and report Taxonomy-eligible activities in their value chain, both upstream and downstream?

Generally, reporting on Taxonomy-eligible activities does not entail an assessment of an undertaking's value-chain, as *in most cases* the descriptions of the activities in the Climate Delegated Act do not contain value-chain references. Likewise, companies are not expected to assess the sustainability of their suppliers in particular in the phase of eligibility reporting.

The Taxonomy sets criteria per sector and activity, not per product line or company. Companies that generate revenue in several sectors within the value chain of one product, must disclose the various processes and parts in the value chain across those sectors and activities. This applies to activities that are carried out by the reporting entity, not by its suppliers. Operators that are active in several sectors across the value chain of one product or technology, but generate revenue from that product only under one activity, must disclose only under that specific revenue-generating activity.

For reporting turnover, assets and processes in the value chain of an activity are only eligible if they are explicitly included in the activity description. For example, if the description only refers to manufacturing of final products, intermediary activities in the value chain are not automatically eligible. Accordingly, manufacturing specific car and vehicle components is not automatically eligible under the section 'manufacture of low carbon technologies for transport'. From a supplier's perspective, this means that the activity of a company that is a supplier to a Taxonomy-eligible activity is not by definition Taxonomy-eligible and the manufacturing of specific components for cars is not by default eligible under the activity 'manufacture of low carbon technologies for transport'. This is because the EU Taxonomy does not take a blanket approach for upstream activities. Instead it sets out specific criteria for each included activity, including the relevant 'do no significant harm' criteria.

However, certain key components that are spelled out in separate Sections, such as for batteries or hydrogen (in Sections 3.2 and 3.4) are eligible. Furthermore, the manufacture of components can qualify under the section 'manufacture of other low carbon technologies' (Section 3.6 of Annex I to the Climate Delegated Act) where not covered by other sections and where they meet the activity description. As the activity description in Section 3.6 is very broad, NACE codes C22, C25, C26, C27 and C28 should be considered as advice for the scope of this activity. The scope of NACE codes for this activity notably includes tyres and semi-conductors, if those products meet the activity description (see also question 19). Mining, by contrast, would not be covered by the description.

For reporting CapEx and OpEx, all purchases of assets and processes or services that are essential to carry out a particular eligible activity are eligible as well. The components that car manufacturers purchase to manufacture low-carbon cars are eligible. Under eligibility reporting, the car or vehicle manufacturers do not need to screen their suppliers and individual purchases. They must only determine whether their own manufacturing process is a Taxonomy-eligible economic activity. If the own activity is considered Taxonomy-eligible, the CapEx for investments in essential assets or components corresponding to that activity is considered Taxonomy-eligible. Another example is the purchase of software that is essential to develop or use ICT solutions for climate change mitigation, if these solutions are eligible under activity 8.2.

([11]) See also question 12 of the FAQs published on 20 December 2021.
([12]) Platform considerations on reporting voluntary information under Taxonomy-eligibility reporting.

From a client's perspective, the purchase of outputs of Taxonomy-eligible activities is not by definition Taxonomy-eligible. For example, the purchase of renewable energy does not by definition qualify as Taxonomy-eligible ([13]). The purchase of Taxonomy-eligible output is only eligible when it can be reported as one of the various types of CapEx or OpEx described in Annex I to the Disclosures Delegated Act, in particular such as for example the installation of solar panels on buildings covered by category (c) of CapEx mentioned in Section 1.1.2.2 of Annex I of to the Disclosures Delegated Act (see also Question 11).

9. **How to identify Taxonomy-eligible activities of which activity descriptions contain qualifiers, such as 'low carbon', and 'climate-related perils'?**

The activity descriptions in the Climate Delegated Act serve as a reference point to identify Taxonomy-eligible activities. However, some descriptions contain 'qualifiers' which could be understood in a subjective way, such as 'low carbon', which may in some cases impact the eligibility.

Eligibility does not depend on compliance with the technical screening criteria but is assessed solely on the basis of the description of the activity. The qualifiers, such as 'low carbon' vehicles or 'low carbon' vessels for the purpose of Section 3.3 in the Annex I to the Climate Delegated Act ('manufacture of low carbon technologies for transport'), which are not defined in a clear way, should only be taken into account for the purposes of determining the compliance with the technical screening criteria and are therefore not relevant for the reporting on eligibility. For example, a car manufacturer would be able to report as eligible all their car manufacturing activities, including those of combustion engine cars.

On the other hand, in the case of the activity 'manufacture of other low carbon technologies' (Section 3.6) the description of the activity points to the objective of the activity. The activity covers manufactured technologies that are 'aimed at substantial life cycle greenhouse gas (GHG) emission savings in other sectors of the economy'. For any activity or product to be eligible for climate change mitigation under this category, the activity or product needs to have the objective of enabling a substantial reduction of GHG emissions in another sector of the economy. This means that if a technology is the best in their sector, but does not aim at substantial emission reductions in another sector, it would not be eligible. For example, a very energy efficient manufacturing process of a screw which does not aim to lead to emission reduction in another sector, would not qualify.

In a similar way, activity 10.1 in Annex II to the Climate Delegated Act ('Non-life insurance: underwriting of climate-related perils') refers to 'climate related perils'. These are set out in Appendix A to Annex II to the Climate Delegated Act ('Classification of climate-related hazards'). Insurance undertakings may only count a line of business as Taxonomy-eligible if it contains a policy with terms related to the treatment of climate perils.

10. **Should undertakings report a breakdown of Taxonomy-eligibility per environmental objective?**

Activities contributing to both climate change mitigation and climate change adaptation as defined in the Climate Delegated Act are within the scope of the first reporting year(s).

Article 10(2) and 10(3) of the Disclosures Delegated Act do not require the use of the reporting templates provided in the Annexes for eligibility reporting. They also do not explicitly require a distinction between environmental objectives for mitigation and adaptation in the first year(s) of eligibility reporting.

However, advice is for undertakings to use on voluntary basis the templates included in the Annexes to the Disclosures Delegated Act that require a split of environmental objectives for alignment reporting.

([13]) This may be reviewed overtime in light of the Fit for 55 package and climate goals agreed by the Council and the European Parliament.

This suggestion is justified by the fact that when reporting their Taxonomy-alignment key performance indicators (KPIs) in accordance with the Disclosures Delegated Act, undertakings will be required to break down their economic activities based on their contributions across environmental objectives as specified in the tables of the Annexes to the Disclosures Delegated Act. This would make it easier to compare Taxonomy-eligibility reporting and Taxonomy-alignment reporting. It would also make reporting more consistent across undertakings' first year(s) of eligibility reporting to prepare for their Taxonomy-alignment reporting, on a voluntary basis.

For activities covered, climate change mitigation and adaptation largely overlap in scope. However, for reporting the alignment KPIs, it should be noted that there are some important differences between the two Annexes to the Climate Delegated Act catering for specificities for each objective. These differences are set out in the bullet points below.

- Certain activities are included only for climate change mitigation (Annex I) and not for climate change adaptation (Annex II), notably:
  - 'Data-driven solutions for GHG emissions reductions' (Section 8.2);
  - 'Research, development and innovation for direct air capture of CO2' (Section 9.2); and
  - 'Professional services related to energy performance of buildings' (Section 9.3).
- Certain activities are included only for climate change adaptation (Annex II) and not for climate change mitigation (Annex I), notably:
  - 'Computer programming, consultancy and related activities' (Section 8.2);
  - 'Programming and broadcasting activities' (Section 8.3); and
  - 'Engineering activities and related technical consultancy dedicated to adaptation to climate change' (Section 9.1).
- In addition, activities across the following sectors are only included for climate change adaptation:
  - insurance;
  - education;
  - human health;
  - social work; and
  - arts, entertainment, and recreation.
- Certain activities are included in both Annexes to the Climate Delegated Act but their names and descriptions differ. Notably, this concerns certain infrastructure for transport activities (Sections 6.15, 6.16 and 6.17) and certain manufacturing activities (such as Sections 3.2 and 3.4). The names and descriptions of these activities were tailored to the specificities of the respective objective.
- Lastly, some inconsistencies in the titles and descriptions of activities in Annexes I and Annex II have been signalled. For example, the words 'light' and 'renting' are missing in respectively the title and the description of activity 6.5. 'Transport by motorbikes, passenger cars and commercial vehicles' in Annex II. Any such inconsistencies should be signalled to the Commission for further correction.

The briefing ([14]) of the Platform on Sustainable Finance provides further advice on best practices for voluntary reporting for eligibility reporting in the first year(s) of reporting.

11. How are turnover, CapEx and OpEx defined in the context of Taxonomy-eligibility reporting?

The Disclosures Delegated Act sets out the definitions of Turnover, CapEx and OpEx key performance indicators (KPIs) in Sections 1.1.1, 1.1.2 and 1.1.3 of Annex I respectively.

Non-financial undertakings should disclose the part of their net turnover (as defined in Section 1.1.1 of Annex I to the Disclosures Delegated Act) that corresponds to their Taxonomy-eligible economic activities.

([14]) Platform considerations on the reporting of voluntary information under Taxonomy-eligibility reporting.

As regards eligible CapEx information, in accordance with Section 1.1.3.2 of Annex I to the Disclosures Delegated Act, reporting focuses on the three categories of CapEx:

a) CapEx that is related to assets or processes corresponding to Taxonomy-eligible economic activities;

b) CapEx that is part of a plan to expand Taxonomy-eligible economic activities or enable Taxonomy-eligible economic activities to become Taxonomy-aligned.

c) CapEx mentioned in category (c) of Section 1.1.2.2 of Annex I to the Disclosures Delegated Act, relating to the purchase of output from Taxonomy-eligible economic activities and individual measures enabling the target activities to become low-carbon or to lead to greenhouse gas reductions, notably activities listed in points 7.3 to 7.6 of Annex I to the Climate Delegated Act and other economic activities listed in the delegated acts adopted under Article 10(3), Article 11(3), Article 12(2), Article 13(2), Article 14(2) and Article 15(2) of the Taxonomy Regulation.

The measures corresponding to category (c) must be implemented and operational within 18 months.

For CapEx category c), the assessment focuses on the output and individual measures. It does not focus on the target economic activity for which the expenditure is incurred. Entities must assess whether the expenditure qualifies as:

— a purchase of an output of a Taxonomy-eligible activity; or

— an individual measure to improve energy efficiency included in the Taxonomy.

In other words such outputs and measures must be listed in the Climate Delegated Act. Expenditures on assets or processes which might be useful to enable the target activity to become low-carbon but which are not activities listed in the Climate Delegated Act do not fall under category (c).

For a non-eligible target activity, for example a restaurant purchasing and installing solar panels, such expenditures could fall under category (c). For renovation of buildings, category (c) only covers measures corresponding to activities listed in the Climate Delegated Act (e.g. certain energy-efficient windows).

The reporting of OpEx for the first year(s) of implementation of the Disclosures Delegated Act must follow the same approach. Reporting on the three categories mentioned in Section 1.1.3.2 should focus on the eligibility of the economic activities to which this expenditure correspond. Therefore, the three categories (a), (b) and (c) mentioned in Sections 1.1.2.2 and 1.1.3.2 relating to the numerator of CapEx and OpEx, respectively, are relevant for eligibility reporting in the first year(s) of implementation of the Disclosures Delegated Act.

For example, regarding category (b), any CapEx on eligible activities made in 2021 (and reported in 2022 disclosures) would count as eligible in the 2022 report. This is regardless of whether the investment under the CapEx plan will meet the technical screening criteria set out in the Climate Delegated Act at maturity.

Similarly, OpEx category (b) on eligible activities made in 2021 (and reported in 2022 disclosures) would count as eligible in the 2022 report. This is irrespective of whether the corresponding economic activity meets the technical screening criteria. This is because entities do not need to report on the alignment of their economic activities in the first year of reporting.

The briefing ([15]) of the Platform on Sustainable Finance provides further advice on best practices for voluntary reporting for eligibility reporting in the first year(s) of reporting.

([15]) Platform considerations on the reporting of voluntary information under Taxonomy-eligibility reporting.

12. **What is the scope of 'other direct expenditures' set out in Annex I to the Disclosures Delegated Act?**

Section 1.1.3.1 ('Denominator') of Annex 1 to the Disclosures Delegated Act sets out that the denominator of the KPI for Taxonomy-aligned reporting 'shall cover direct non-capitalised costs that relate to research and development, building renovation measures, short-term lease, maintenance and repair, and any other direct expenditures relating to the day-to-day servicing of assets of property, plant and equipment by the undertaking or third party to whom activities are outsourced that are necessary to ensure the continued and effective functioning of such assets.'

The OpEx category in that sense is closely related to maintenance and repair costs which are already explicitly mentioned in the OpEx definition, in Section 1.1.3.1 of Annex I.

In practice, this means the denominator of the OpEx KPI for Taxonomy-alignment reporting includes/excludes the costs set out in the table below.

Inclusions	Exclusions [16]
— Maintenance material — Cost of employee repairing a machine — Cost of employee cleaning a factory — IT dedicated to maintenance	— Overheads — Raw materials — Cost of employee operating the machine — Cost of managing research and development projects — Electricity, fluids, or reagents needed to operate property, plant, and equipment

The briefing [17] of the Platform on Sustainable Finance provides further advice on best practices for voluntary reporting for eligibility reporting in the first year(s) of reporting.

13. **How should undertakings account for negative revenues in the context of Taxonomy-eligibility reporting?**

The Disclosures Delegated Act does not specify how to treat negative revenues under Taxonomy-eligibility reporting.

Negative revenue could be treated as a 0 % value for Taxonomy-eligibility reporting. However, undertakings could, report the negative value in monetary amount.

If the entity makes negative revenue within one activity, the denominator could be the absolute value of the positive turnover from the remaining activities. This could be used to calculate the proportion of eligible activities. Please see the example in Table 2.

Table 2

Example of how to report Taxonomy-eligible turnover if there is negative revenue

Activity	Example: absolute turnover	Example: proportion of turnover
Activity A	EUR 50 million	33 %
Activity B	EUR 100 million	67 %
Activity C	**EUR –50 million**	0 %

(16) This list is non-exhaustive and provides examples of expenses that would not fit with the OpEx notion of 'maintenance and repair, and any other direct expenditures relating to the day-to-day servicing of assets of property, plant and equipment by the undertaking or third party to whom activities are outsourced that are necessary to ensure the continued and effective functioning of such assets' per Section 1.1.3.1 of Annex I. As a general remark, expenses relating to overheads should be excluded to avoid as much as possible the subjectivity inherent in making allocations of those overheads to the specific item of property, plant and equipment concerned.

(17) Platform considerations on the reporting of voluntary information under Taxonomy-eligibility reporting.

14. **Should undertakings avoid double reporting of Taxonomy-eligible activities?**

Under Article 10 (2) of the Disclosures Delegated Act, undertakings must use Section 1.2 of Annex I to report Taxonomy-eligibility information as it relates to the reporting of qualitative information. Annex I, Section 1.2.2.1, point (c), explicitly states that undertakings should explain how they avoided double counting in the allocation of the amounts of Taxonomy-aligned turnover, CapEx and OpEx in the numerator of the relevant KPIs. The intention behind this requirement is to ensure reliability and consistency in reporting the three KPIs.

It is suggested that under their Taxonomy-eligibility reporting, undertakings adopt a similar approach to that under Annex I, Section 1.2.2.1. Undertakings must explain how they have avoided double counting of the relevant amounts of turnover and expenditure across their reporting of eligible economic activities.

15. **Should an entity report Taxonomy-eligible turnover when the economic activity has not been performed by itself, but by a subcontractor?**

Annex I, Section 1.1.1, clarifies that the reported turnover of Taxonomy-aligned activities must cover the revenue recognised under international accounting standard 1, paragraph 82(a), as adopted by Commission Regulation (EC) No 1126/2008 ([18]).

For Taxonomy-eligibility reporting, in accordance with Article 10 of the Disclosures Delegated Act, entities reporting under the International Financial Reporting Standards (IFRS) are encouraged to use the revenue accounted for in their financial statements in accordance with IFRS to disclose their turnover for the eligible activities.

An entity should first determine the underlying economic activity in accordance with Annex I to the Climate Delegated Act to assess how it should report turnover from Taxonomy-eligible activities, although the goods or services have been provided by a subcontractor. This is in line with the IFRS rules. Then, the entity should determine whether it controls the economic activity provided by a subcontractor. 'Control' in this context means whether the entity controls the circumstances under which the subcontractor works.

The briefing ([19]) of the Platform on Sustainable Finance provides further advice on best practices for voluntary reporting for eligibility reporting in the first year(s) of reporting.

16. **How should a non-financial undertaking report on products and services that are both consumed internally and sold externally?**

Annex I to the Disclosures Delegated Act clarifies that undertakings must use the same accounting principles that apply to the preparation of their consolidated annual financial statements to calculate their Taxonomy-aligned turnover. This is to ensure comparability with the turnover reported in the entity's consolidated financial statements. As a result, when a consolidated non-financial statement is prepared, the accounting principles of consolidation would exclude intercompany sales and turnover from own consumption.

Section 1.2.3 of Annex I to the Disclosures Delegated Act provides that however non-financial undertakings 'shall disclose information about the amounts related to Taxonomy-aligned activities pursued for non-financial undertakings' own internal consumption'.

As a consequence, under Taxonomy-eligibility reporting, an entity should only include in its numerator the turnover from external sales. Turnover from 'internal sales' could be disclosed voluntarily, separately from the mandatory disclosure under the Disclosures Delegated Act ([20]).

([18]) Commission Regulation (EC) No 1126/2008 of 3 November 2008 adopting certain international accounting standards in accordance with Regulation (EC) No 1606/2002 of the European Parliament and of the Council (OJ L 320, 29.11.2008, p. 1).

([19]) Platform considerations on the reporting of voluntary information under Taxonomy-eligibility reporting.

([20]) Voluntary reporting should be prepared on a basis that does not contradict or misrepresent the mandatory information pursuant to the Disclosures Delegated Act and it should not be given more prominence than the mandatory disclosures. Where an undertaking includes voluntary reporting, this should be accompanied by supporting detail setting out the basis for this disclosure and methods used for its preparation along with a clear explanation on how it differs from mandatory reporting.

The briefing [21] of the Platform on Sustainable Finance provides further advice on best practices for voluntary reporting for eligibility reporting in the first year(s) of reporting.

17. **How should non-financial undertakings treat intangibles under Taxonomy-eligibility reporting?**

The Disclosures Delegated Act refers to intangibles in the context of Taxonomy-alignment reporting in two sections:

a) Section 1.1.1 in relation to the turnover KPIs; and

b) Section 1.1.2.1 in relation to the denominator of the CapEx KPI.

Therefore, CapEx reporting under Article 10 (2) of the Disclosures Delegated Act must include intangible assets that correspond to eligible economic activities as defined in Article 1(5) of the Disclosures Delegated Act.

The same approach should be followed for eligible turnover disclosures. This means that net turnover from intangible assets should be counted if it corresponds to eligible economic activities under the Disclosures Delegated Act.

Intangible assets are not included in the OpEx definition. However, the definition of the denominator of the OpEx KPI in Section 1.1.3.1, which refers to 'direct non-capitalised costs' (see Question 12 just above). Therefore, intangibles that are not capitalised under international accounting standard 38 do not count as assets and are therefore allocated to OpEx.

18. **Should non-financial undertakings report the Taxonomy-eligibility of their non-EU activities?**

Non-financial undertakings that fall within scope of the NFRD must cover in their non-financial reporting their economic activities regardless of whether these take place outside the Union. The same approach applies to the reporting obligation under Article 8 of the Taxonomy Regulation and under the Disclosures Delegated Act [22].

Article 10 (2) of the Disclosures Delegated Act sets out the reporting obligations of non-financial undertakings for their first year of reporting. Non-financial undertakings must include the turnover, CapEx and OpEx related to non-EU eligible activities in their eligibility disclosures.

Non-financial undertakings would also be expected to provide information on the assessment of economic activities carried out in non-EU countries in the narrative information required under Annex I, Section 1.2 (*Specification of disclosures accompanying the KPIs of non-financial undertakings*). The information disclosed under this section would focus on the assessment of eligibility of economic activities.

19. **How should non-financial undertakings treat the turnover of eligible activities that are deconsolidated during the financial year?**

Annex I, Section 1.1.1 clarifies that the reported turnover of Taxonomy-aligned activities must cover the revenue recognised under international accounting standard 1, paragraph 82(a), as adopted by Commission Regulation (EC) No 1126/2008.

For Taxonomy-eligibility reporting and in accordance with Article 10 of the Disclosures Delegated Act, entities reporting under the IFRS are encouraged to use the revenue accounted for in their financial statements under the IFRS to disclose their turnover for the eligible activities.

Under IFRS 10, paragraphs 25 and B98, if a parent undertaking loses control over a subsidiary, it must continue to recognise any income and expenses arising from that subsidiary and incurred up to the date of deconsolidation (i.e. where a subsidiary no longer forms part of a parent undertaking/group) in its income statement. However, all related assets and liabilities must be derecognised from the statement of financial position upon deconsolidation.

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[21] Platform considerations on the reporting of voluntary information under Taxonomy-eligibility reporting.

[22] For financial undertakings, Article 7 of the Disclosures Delegated Act clarifies that non-NFRD exposures (which include non-EU) shall not be reported in the numerator of the KPI, subject to a review to be carried out in accordance with Article 9 of the Disclosures Delegated Act.

For example, a subsidiary is sold on 30 June and up to that date it has generated Taxonomy-eligible turnover. Therefore, on 31 December, the parent undertaking reporting under IFRS will no longer consolidate the assets and liabilities of that subsidiary due to the loss of control that occurred on 30 June. However, it will still account in its income statement for the Taxonomy-eligible turnover arising from the former subsidiary up until June 30. For reporting under the Disclosures Delegated Act, this means that Taxonomy-eligible sales must also be recognised up to 30 June.

FINANCIAL UNDERTAKINGS

20. What should financial undertakings report if underlying entities' information is not publicly available?

Undertakings falling under the NFRD must report their Taxonomy-eligibility in their non-financial statement alongside their annual accounts. Different undertakings report their annual accounts at different points throughout the fiscal year. Therefore, financial undertakings may not have all the information publicly available to enable their own eligibility disclosures in the first reporting cycle (in 2022) ([23]).

Article 10(3) of the Disclosures Delegated Act does not exclude application of Article 8(4) of the Disclosures Delegated Act. Under this Article, financial undertakings must use the most recently available information provided by the financial or non-financial underlying investee entity or counterparty for their eligibility reporting. This aids consistency between Taxonomy-eligibility reporting and Taxonomy-alignment reporting, and across undertakings.

If information is not readily or publicly available, financial undertakings are encouraged to contact their underlying entities that fall under the scope of the NFRD. These could use either voluntary disclosures or bilateral exchanges with their underlying investees or counterparties to provide Taxonomy-related information.

In addition, financial undertakings could choose to estimate their eligibility disclosures and report the information voluntarily, separately from their mandatory disclosures under the Disclosures Delegated Act ([24]).

The briefing ([25]) of the Platform on Sustainable Finance provides further advice on best practices for voluntary reporting for eligibility reporting in the first year(s) of reporting.

21. What is the difference between covered assets and total assets in the context of Taxonomy-eligibility reporting?

The Annexes to the Disclosures Delegated Act set out the scope of the KPIs for Taxonomy-alignment reporting.

For instance, Annex V, Section 1.1 ('Scope of the KPIs'), sets out that, for credit institutions, covered assets are the total on-balance sheet assets minus those assets that are excluded from the calculation of the green asset ratio. This means that covered assets are all assets in the balance-sheet or portfolio of an asset manager, excluding exposures to central banks, supranational issuers and central governments, as set out in Article 7(1) of the Disclosures Delegated Act. For credit institutions, assets held for trading as defined in Commission Implementing Regulation (EU) 2021/451 ([26]) (FINREP)) also do not fall under the KPIs.

([23]) For further detail on reporting obligations, please see Question 4 ('How should mixed groups composed of financial and non-financial undertakings, or with diversified and multiple lines of activities report?') of the published FAQs.

([24]) Voluntary reporting should not contradict or misrepresent mandatory information under the Disclosures Delegated Act. It should also not be more prominent than mandatory disclosures. If an undertaking includes voluntary reporting, it should add supporting detail to it setting out the basis for this disclosure, the methods used for its preparation, and a clear explanation of how it differs from mandatory reporting.

([25]) Platform considerations on the reporting of voluntary information under Taxonomy-eligibility reporting.

([26]) Commission Implementing Regulation (EU) 2021/451 of 17 December 2020 laying down implementing technical standards for the application of Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to supervisory reporting of institutions and repealing Implementing Regulation (EU) No 680/2014 (OJ L 97, 19.3.2021, p. 1).

In line with the exclusions under Article 10(3) (b) and (c), financial undertakings should use a scope of covered assets for their eligibility reporting disclosures that is similar to the scope of covered assets for their alignment reporting. This would make it easier to compare Taxonomy-eligibility reporting and Taxonomy-alignment reporting.

This means that the financial undertaking should clearly indicate:

— the assets that are excluded from the denominator of the Taxonomy-eligible assets ratio (e.g. exposures to central governments, central banks and supranational issuers; the trading portfolio of credit institutions); and

— the percentage of covered assets that are Taxonomy-eligible over total assets.

22. **Should cash and cash equivalent assets be considered in the context of Taxonomy-eligibility reporting?**

Article 10(3) should be read in conjunction with Article 7 (1), (2) and (3) of the Disclosures Delegated Act. Cash and cash equivalent assets are not excluded from the exposures referred to in Article 7 (1), (2) and (3).

Under the Disclosures Delegated Act and its Annex I, these exposures are included in the denominator of the Taxonomy-aligned KPIs of financial institutions. However, it does not seem feasible to assess the eligibility of cash and cash equivalent assets as they are not actually funding an economic activity. It is also not clear which economic activity these assets will be allocated. These assets can only be reported as funding eligible activities once the funds have been allocated to a specific activity.

ASSET MANAGERS

23. **How may asset managers weight their holdings in a portfolio to report Taxonomy-eligible assets?**

Article 10(3) of the Disclosures Delegated Act do not require the use of the reporting templates provided in the Annexes for eligibility reporting. However, advice is for undertakings to voluntarily use the templates provided in the Annexes to the Disclosures Delegated Act to prepare their Taxonomy-eligibility reporting.

In this regard, Annex III to the Disclosures Delegated Act, sets out the details of the numerator and denominator of asset managers' for their Taxonomy-aligned KPIs.

In accordance with Annex III Section 1 ('Content of KPI to be disclosed by asset managers'), eligibility reporting is not weighted by the stake in the undertaking's equity, debt or enterprise value including cash. It is weighted by the value of the exposures in the total assets of the asset manager (see the definition of the numerator in Annex III, Section 1.1).

For example, where an asset manager is exposed to two assets:

— EUR 100 million equity in 100 % eligible company A;

— EUR 100 million bond in 0 % eligible company B

= EUR 200 million total assets.

This means: 50 % eligibility over total assets = (100 × 100 % + 100 × 0 %) / 200.

The briefing ([27]) of the Platform on Sustainable Finance provides further advice on best practices for voluntary reporting for eligibility reporting in the first year(s) of reporting.

24. **Do mortgages qualify as eligible for an asset manager (as an investment) or only for the bank that provided the loan originally?**

Article 10(3) should be read in conjunction with Article 7 (1), (2) and (3) of the Disclosures Delegated Act. Mortgages are not excluded from the exposures referred to in Article 7(1), (2) and (3). Therefore, mortgages should qualify as eligible assets for both asset managers and credit institutions.

([27]) Platform considerations on the reporting of voluntary information under Taxonomy-eligibility reporting.

INSURERS

25. **What activities should an insurer and a reinsurer consider when reporting their underwriting activities in the context of Taxonomy-eligibility reporting?**

The Climate Delegated Act sets out the activities covered by the underwriting. These activities relate to non-life insurance and reinsurance activities consisting in underwriting of climate-related perils.

Eligible non-life insurance activities are specified in, Section 10.1, sub-section 'Description of the activity', points (a) to (h) of Annex II to the Climate Delegated Act. As indicated in the name of the activity, apart from belonging to a relevant line of business, the insurance policy terms must provide coverage of risks related to 'climate perils' in view of Appendix A to Annex II to the Climate Delegated Act in order to be counted for Taxonomy-eligibility.

The reinsurance of eligible insurance activities can also be counted for Taxonomy-eligibility.

CREDIT INSTITUTIONS

26. **Do the reporting obligations under the Disclosures Delegated Act apply to a large entity that is not a credit institution under Article 4 of the Capital Requirements Regulation but is treated as a financial undertaking under Articles 19a and 29a of the NFRD?**

This situation can arise if specialised financial undertakings (e.g. factoring or guarantee businesses) that are not credit institutions under Article 4 of Regulation EU 575/2013 ([28]) (the Capital Requirements Regulation (CRR)) are treated as such under national law. If an entity does not meet the definition of a credit institution set out in Article 4 of the CRR, normally it does not fall under in scope of the Disclosures Delegated Act.

If, on the other hand, the same entity is deemed a large public-interest undertaking with more than 500 employees, it falls under the NFRD and thus the Disclosures Delegated Act. Then it is also subject to the Taxonomy Regulation and the related disclosure obligations. Furthermore, such firms are encouraged to disclose voluntarily under Annex VI if they consider this Annex to be more relevant and also if they are submitting supervisory reporting in accordance with (Commission Implementing Regulation (EU) 2021/451 ([29]) (FINREP)) to their National Competent Authority (NCA).

27. **How can CapEx be associated with general purpose lending in the context of Taxonomy-eligibility reporting?**

Article 10(2) and 10(3) of the Disclosures Delegated Act do not require the use of the reporting templates provided in the Annexes for eligibility reporting. However, advice is for undertakings to voluntarily use the templates provided in the Annexes to the Disclosures Delegated Act to prepare their Taxonomy-eligibility reporting.

In this regard, Annex V to the Disclosures Delegated Act, sets out the details of how credit institutions must report their Taxonomy-alignment KPIs:

If the use of proceeds is unknown ((i) loans and advances – general purpose, (ii) debt securities – general purpose, and (iii) equity holdings, all of which are recorded in the banking book), Taxonomy aligned/eligibility exposures should be calculated twice. They are the sum of the gross carrying amount of the total loans and advances, debt securities, and equity holdings, with unknown use of proceeds to non-financial undertakings. The sum must be weighted by the proportion of Taxonomy-aligned/eligible economic activities of the counterparty calculated based on:

— the turnover KPI of the counterparty (share of the turnover that is Taxonomy aligned); and

— the CapEx KPI of the counterparty (share of the CapEx that is Taxonomy aligned).

([28]) Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013, p. 1).

([29]) Regulation (EU) 2021/451 of 17 December 2020 laying down implementing technical standards for the application of Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to supervisory reporting of institutions and repealing Implementing Regulation (EU) No 680/2014 (OJ L 97, 19.3.2021, p. 1).

Therefore, to report Taxonomy-alignment KPIs, credit institutions must assign the published CapEx KPI of the underlying company to the relevant general purpose loan, debt security, or equity holding in the same manner as the turnover KPI ([30]).

For eligibility-reporting, credit institutions could disclose the proportion of their eligible general-purpose assets based on:

— the underlying entity's reported eligible turnover;

— and on the underlying entity's reported eligible CapEx.

The briefing ([31]) of the Platform on Sustainable Finance provides further advice on best practices for voluntary reporting for eligibility reporting and use of the reporting templates in the first year(s) of reporting.

28. **How should a credit institution with a Markets in Financial Instruments Directive (MifiD) investment firm license report its Taxonomy-eligible economic activities?**

If a parent undertaking is classified as a credit institution (under the CRR), but undertakes investment activities, it should follow the requirements for credit institutions under the Disclosures Delegated Act.

Article 10(2) and 10(3) of the Disclosures Delegated Act do not require the use of the reporting templates provided in the Annexes for eligibility reporting. However, advice is for undertakings to voluntarily use the templates provided in the Annexes of the Disclosures Delegated Act to prepare their Taxonomy-eligibility reporting.

In this regard, Annex VI to the Disclosures Delegated Act, sets out the templates that credit institutions must use to report their Taxonomy-alignment key KPIs for investment activities. Therefore, for eligibility-reporting, credit institutions could disclose, on a voluntary basis, the proportion of their eligible investment activities.

The briefing ([32]) of the Platform on Sustainable Finance provides further advice on best practices for voluntary reporting for eligibility reporting and use of the reporting templates in the first year(s) of reporting.

DEBT MARKET

29. **How to assess and report the Taxonomy-eligibility of a debt asset such as a bond or a loan?**

Article 10(2) and (3) of the Disclosures Delegated Act do not require the use of the reporting templates provided in the Annexes for eligibility reporting. However, advice is for undertakings to voluntarily use the templates provided in the Annexes of the Disclosures Delegated Act to prepare their Taxonomy-eligibility reporting.

In this regard, Annex V to the Disclosures Delegated Act, sets out the details of how to assess and report loans and debt instruments for Taxonomy-alignment KPIs. Annex V explains that general purpose lending and/or debt carries the Taxonomy-eligibility turnover or CapEx value of the underlying entity (i.e. investee or counterparty).

To calculate Taxonomy-eligibility of general-purpose debt instruments, it is recommended to apply the eligibility value of the underlying entity (turnover and CapEx).

If all or a portion of the use of proceeds of a debt instrument is Taxonomy-eligible, reporting of this value would take precedence over the issuer-level value within the Taxonomy-alignment KPIs. Such proceeds may be directly allocated to Taxonomy-eligible activities or be part of a CapEx or OpEx plan to render an activity or asset Taxonomy-aligned.

For Taxonomy-eligibility reporting, it could be considered, for example, that if 50 % of the proceeds of the debt instrument are allocated to Taxonomy-eligible projects or programmes, the Taxonomy-eligibility Turnover and CapEx values of the bond should be 50 %.

([30]) This approach is aligned with the reporting rules set out in the Non-Financial Reporting Directive (NFRD). If there is no information on the issuer, the entity may use disclosures of the parent entity if it falls under the NFRD.

([31]) Platform considerations on the reporting of voluntary information under Taxonomy-eligibility reporting.

([32]) Platform considerations on the reporting of voluntary information under Taxonomy-eligibility reporting.

In this sense, not all of a use of proceeds (green) debt instrument would be eligible under the Taxonomy in its entirety. However, it would be eligible for the portion of the proceeds that can be allocated to Taxonomy-eligible activities.

The briefing ([33]) of the Platform on Sustainable Finance provides further advice on best practices for voluntary reporting for eligibility reporting in the first year(s) of reporting.

30. **Does the use of all proceeds from debt products need to be independently verified if reported as Taxonomy-eligible?**

There is no requirement that proceeds from debt products be independently verified as Taxonomy-eligible. This answer has no bearing on specific requirements for external review or external assurance under Union legislation.

31. **Can green debt instruments from non-EU entities be reported as Taxonomy-eligible?**

Article 10(3) of the Disclosures Delegated Act clarifies that financial undertakings should disclose information taking into consideration the provisions under Article 7(3) of the Disclosures Delegated Act.

In accordance with Article 7(3) of the Disclosures Delegated Act, undertakings which do not fall under the NFRD (including non-EU undertakings) are excluded from the numerator but included in the denominator of the KPIs for Taxonomy-alignment reporting of financial undertakings. This treatment will be reviewed by 30 June 2024.

However, Article 7(4) states: ‘Without prejudice to paragraph 1, environmentally sustainable bonds or debt securities with the purpose of financing specific identified activities that are issued by an investee undertaking shall be included in the numerator of KPIs up to the full value of Taxonomy-aligned economic activities that the proceeds of those bonds and debt securities finance, on the basis of information provided by the investee undertaking.’

Therefore, financial undertakings shall include in the numerator of the eligibility disclosure the Taxonomy-eligible proceeds of environmentally sustainable bonds and debt securities whose purpose is to finance specific identified activities.

Debt securities under Article 7(4) include non-EU issuers’ use of proceeds bonds, and do not include use of proceed loans, in line with the definitions set out in the Commission Implementing Regulation (EU) 2021/451 (FINREP) ([34]).

As a general remark, the scope of this exclusion from the numerator of the KPI will be reviewed in 2024 in accordance with Article 9 of the Disclosures Delegated Act.

In addition, the Disclosures Delegated Act does not prevent financial undertakings from including voluntary information about their exposures to non-EU entities’ investments with use of proceeds that is deemed to be eligible. Such information must always be reported separately from mandatory disclosures under the Disclosures Delegated Act ([35]).

The briefing ([36]) of the Platform on Sustainable Finance provides further advice on best practices for voluntary reporting for eligibility reporting in the first year(s) of reporting.

32. **Can green sovereign debt be reported as Taxonomy-eligible?**

Article 10(3) of the Disclosures Delegated Act clarifies that financial undertakings should disclose information taking into consideration the provisions set out in Article 7(1) of the Disclosures Delegated Act.

([33]) Platform considerations on the reporting of voluntary information under Taxonomy-eligibility reporting.

([34]) See Annex V to Commission Implementing Regulation (EU) 2021/451 and Art 1 2(a) of Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36).

([35]) Voluntary reporting should not contradict or misrepresent mandatory information under the Disclosures Delegated Act. It should also not be more prominent than mandatory disclosures. If an undertaking includes voluntary reporting, it should add supporting detail to it setting out the basis for this disclosure, the methods used for its preparation, and a clear explanation of how it differs from mandatory reporting.

([36]) Platform considerations on the reporting of voluntary information under Taxonomy-eligibility reporting.

Article 7(1) excludes exposures to central governments, central banks and supranational issuers from the calculation of the numerator and denominator of KPIs of financial undertakings. Therefore, in accordance with Article 10 of the Disclosures Delegated Act, financial undertakings should not include their sovereign exposures in their Taxonomy-eligible disclosures.

The briefing ([37]) of the Platform on Sustainable Finance provides further advice on best practices for voluntary reporting for eligibility reporting in the first year(s) of reporting.

INTERACTION WITH OTHER REGULATIONS

33. **How does the Disclosures Delegated Act interact with the proposed requirements on corporate sustainability reporting?**

The proposed corporate sustainability reporting directive (CSRD), amending the existing reporting requirements introduced in the Accounting Directive by the NFRD should complement the Disclosures Delegated Act, which has the same mandatory scope of application as the rules on sustainability reporting in the Accounting Directive ([38]). The proposed CSRD will extend the personal scope of the current reporting requirements to cover:

— all large listed and non-listed companies; and

— all listed SMEs, except micro companies.

In addition to the Taxonomy related reporting requirements currently detailed in the Taxonomy Delegated Act, these companies will need to publish sustainability information in their management reports, in accordance with sustainability reporting standards which the Commission will adopt via delegated acts.

According to the CSRD proposal, companies concerned would need to disclose sustainability information under the new requirements for the first time in 2024, for the financial year 2023. Under the proposal, listed SMEs would benefit from a transition period of 3 years and would be required to disclose the information for the first time in 2027 for the financial year 2026.

In principle and depending on the outcome of the legislative process on the CSRD, reporting requirements under each regulation will be clearly defined and should also be streamlined and coherent to the extent possible so that companies should not report the same information twice.

The information under the Disclosures Delegated Act should be reported in the same management report at company level, alongside other sustainability related information required under the CSRD provisions as proposed. To this information, the same assurance and digitalisation requirements would apply as to the rest of the sustainability information reported.

([37]) Platform considerations on the reporting of voluntary information under Taxonomy-eligibility reporting.

([38]) The proposed corporate sustainability reporting directive (CSRD) is expected to amend the provisions of the Accounting Directive introduced by the Non-Financial Reporting Directive, subject to the outcome of the process of negotiations of the proposal. See proposal for a Directive of the European Parliament and of the Council amending Directive 2013/34/EU, Directive 2004/109/EC, Directive 2006/43/EC and Regulation (EU) No 537/2014, as regards corporate sustainability reporting, COM/2021/189 final.