



FESE response to ESMA consultation on draft advice on Taxonomy Regulation Article 8

Brussels 4th December

Introduction

FESE welcomes the opportunity to provide input on ESMA's draft advice to the European Commission under Article 8 of the Taxonomy Regulation. A clearly defined taxonomy, whereby agreement on what constitutes environmentally sustainable assets is found, is a necessary starting point for other actions, such as standards and labels. This will also assist high quality and comparable financial disclosures.

FESE generally agrees with ESMA's proposal regarding the definition of turnover, CapEx and OpEx.

The draft advice includes several references to the EU Green Bond Standards. However, as there is currently no legal certainty on this proposal it seems premature to link the analysis, advice and methodology under Article 8 of the Taxonomy Regulation to it.

FESE would advise to further consider the current lack of data (at least for the first years). Article 8 of the Taxonomy Regulation requires companies to disclose their share of taxonomy-aligned revenues & capex. Given the complexity of meeting alignment criteria and the still limited scope of the EU Taxonomy, these disclosures should include the percentage of taxonomy-relevant and non-relevant revenues/capex, and ideally the resulting share of non-taxonomy-aligned (but relevant) revenues and capex. That would prevent biased interpretations and help stakeholders and investors to better understand the real sustainable quality of the company. Example: Firm A has 20 % of taxonomy-aligned revenues. Firm B has 10 %. >> Firm A looks greener. However, if Firm A has 20 % of green revenues out of 100 % of taxonomy-relevant revenues, then 80% of its activity is not aligned, whereas it could be. Moreover, Firm B may only have 15 % taxonomy-relevant revenues, therefore 2/3 of its taxonomy-relevant activities are aligned.

In addition, and for the purpose of clarity, we believe that ESMA should make it clear that any future reference to "operators", within the scope of the Taxonomy regulation, refers to (unlisted) private companies.

Finally, as a side note, we believe it is important that the regulatory frameworks are consistent and not overly complicated for market participants to comply with. It is therefore key to ensure alignment in the upcoming review of the NFRD and the possible creation of non-financial reporting standards.

Q1 - For this KPI, do you agree with the proposed approach to defining turnover (bullet a in the draft advice)?

We generally agree with ESMA's proposal regarding the definition of turnover.

Q2 - For this KPI, do you agree with the proposed approach to when turnover can be counted (bullet b in the draft advice)?

We generally agree with ESMA's proposal regarding the definition of turnover.

Q3 - For this KPI, do you agree with the proposed approach to defining CapEx (bullet a in the draft advice)?

We generally agree with ESMA's proposal regarding the definition of both CapEx and OpEx.

Q4 - For this KPI, do you agree with the proposed approach to when CapEx can be counted, including the definition of 'plan' (bullet b in the draft advice)?

We generally agree with ESMA's proposal regarding the definition of both CapEx and OpEx.

Q5 - For this KPI, do you agree with the proposed approach to defining OpEx (bullet a in the draft advice)?

We generally agree with ESMA's proposal regarding the definition of both CapEx and OpEx.

Q6 - For this KPI, do you agree with the proposed approach to when OpEx can be counted, including the definition of 'plan' (bullet b in the draft advice)? With reference to the TEG's inclusion of the words "if relevant" in relation to OpEx, in which situations should it be possible to count OpEx as Taxonomy-aligned?

We generally agree with ESMA's proposal regarding the definition of both CapEx and OpEx.

Q7 - Do you believe that any of the suggested approaches covered in questions 1 to 6 above will impose additional costs on non-financial undertakings? If yes, please specify the type of those costs, including whether they are one-off or ongoing, and provide your best quantitative estimate of their size.

We believe that any of the suggested approaches covered in questions 1 to 6 will impose additional costs on non-financial undertakings. Compliance costs are high, and non-financial undertakings will require additional time and resources in order for their economic activities to qualify as environmentally sustainable, regardless of the undertakings' size.

Q8 - Do you agree that sectoral specificities should not be addressed in the advice, as proposed in Section 3.2.3?

N/A

Q9 - Do you agree with the requirements for accompanying information which ESMA has proposed for the three KPIs?

N/A

Q10 - Do you consider that the requirement to refer to the relevant line item(s) in the financial statements for each KPI ensures sufficient integration between the KPIs and the financial statements?

N/A

Q11 - Do you agree with ESMA's suggestion to permit compliance by reference, so that non-financial undertakings may present the accompanying information elsewhere in the non-financial statement than in the immediate vicinity of the KPIs, as long as they provide a hyperlink to the location of the accompanying information?

N/A

Q12 - Do you consider there are additional topics that should be considered by ESMA in order to specify the content of the three KPIs? If yes, please elaborate and explain the relevance of these topics.

N/A

Q13 - Do you believe that providing the suggested accompanying information will impose additional costs on non-financial undertakings? If yes, please specify the type of those costs, including whether they are one-off or on-going, and provide your best quantitative estimate of their size.

We believe that providing the suggested accompanying information will impose additional costs on non-financial undertakings.

Q14 - Do you agree that non-financial undertakings should provide the three KPIs per economic activity and also provide a total of the three KPIs at the level of the undertaking / group? If not, please provide your reasons and address the impact of your proposal to financial market participants along the investment chain.

N/A

Q15 - Do you agree that where an economic activity contributes to more than one environmental objective, non-financial undertakings should explain how they allocated the turnover / CapEx / OpEx of that activity across environmental objectives and where relevant the reasons for choosing one objective over another?

N/A

Q16 - Do you agree that non-financial undertakings should provide information on enabling and transitional activities?

N/A

Q17 - Do you agree that the three KPIs should be provided per environmental objective as well as a total at undertaking or group level across all objectives? If not, please provide your reasons and address the impact of your proposal to financial market participants along the investment chain.

N/A

Q18 - Do you agree that non-financial undertakings should be required to provide the three KPIs for economic activities which are covered by the Taxonomy, economic activities which are covered by the Taxonomy but for which the relevant criteria are not met and therefore are not Taxonomy-aligned as well as for economic activities which are not covered by the Taxonomy?

N/A

Q19 - Do you agree with the proposal not to require retroactive disclosure concerning the four environmental objectives relating to the financial year 2021?

N/A

Q20 - Do you consider that there are specific elements in ESMA's draft advice which are not in line with the information needed by financial market participants in order to comply with their own obligations under the Taxonomy Regulation and the SFDR? If yes, please specify in your answer.

N/A

Q21 - Are there points that should be addressed in ESMA's advice in order to facilitate compliance of financial market participants across the investment chain? If yes, please specify.

N/A

Q22 - Do you believe that ESMA's detailed proposals under Section 3.3 will impose additional costs on non-financial undertakings? If yes, please specify the type of those costs, to which specific proposal they relate including whether they are one-off or ongoing, and provide your best quantitative estimate of their size.

N/A

Q23 - Do you consider there are additional topics that should be considered by ESMA in order to specify the methodology that non-financial undertakings should follow? If yes, please elaborate and explain the relevance of these topics.

N/A

Q24 - Do you agree that in order to ensure the comparability of the information disclosed under Article 8(2) of the Taxonomy Regulation and as such facilitate its usage, ESMA should propose the use of a standardised table?

N/A

Q25 - Do you consider that the standard table provided in Annex III of this Consultation Paper is fit for purpose? Do you think the standard table provides the right information, taking into account the burden on non-financial undertakings of compiling the data versus the benefit to users of receiving the data? If not, please explain and provide alternative suggestions to pro-mote the standardisation of the disclosure obligations pursuant to Article 8 of the Taxonomy Regulation.

N/A

Q26 - Do you agree that the disclosure in the three standard tables should comply with the formatting rules mentioned in Table 5?

N/A

Q27 - Do you believe that ESMA's detailed proposals under Section 3.4 will impose additional costs on non-financial undertakings? If yes, please specify the type of those costs, to which specific proposal they relate including whether they are one-off or ongoing, and provide your best quantitative estimate of their size.

N/A

Q28 - Do you agree that a share of investments is an appropriate KPI for asset managers? If you do not, what other KPI could be appropriate, please justify.

N/A

Q29 - This advice focuses on the collective portfolio management activities of asset managers. Should this advice also cover potentially any other activities that asset managers may have a license for, such as individual portfolio management, investment advice, safekeeping and administration or reception and transmission of orders ('RTO')?

N/A

Q30 - Do you agree that for the numerator of the KPI the asset manager should consider a weighted average of the investments exposed to investee companies based on the share of turnover derived from Taxonomy-aligned activities of the investee companies? If not please propose and justify an alternative.

N/A

Q31 - Do you agree that in addition to a main turnover-derived Taxonomy-alignment KPI, there is merit in requiring the disclosure of CapEx and OpEx-derived figures for Taxonomy-alignment of an asset managers' investments?

N/A

Q32 - Do you think sovereign exposures, such as sovereign bonds (but excluding green bonds complying with the EU Green Bond Standard) should be considered eligible investments and if so under what methodology?

N/A

Q33 - Do you agree that the denominator should consist of the value of eligible investments in the funds managed by the asset manager or should it be simply the value of all assets in the funds managed by the asset manager?

N/A

Q34 - Do you support restricting the denominator to funds managed by the asset manager with sustainability characteristics or objectives (i.e. governed by Article 8 or 9 of Regulation (EU) 2019/2088)? What are the benefits and drawbacks of such an approach?

N/A

Q35 - Is it appropriate to combine equity and fixed income investments in the KPI, bearing in mind that these funding tools are used for different purposes by investee companies? If not, what alternative would you propose?

N/A

Q36 - Do you believe the proposed advice will impose additional costs on asset managers? Please specify the type of those costs, to which specific proposal they relate including whether they are one-off or on-going, and provide your best quantitative estimate of their size.

N/A

Q37 - What are the benefits and drawbacks of limiting Taxonomy-aligned activities to those reported by Non-Financial Reporting Directive companies?

N/A

Q38 - Do you agree with ESMA's recommendation that the Commission develop a methodology to allow a sector-coefficient to be assigned for non-reporting investee companies?

N/A

Q39 - Should netting be allowed, on the lines of Article 3 of the Short-Selling Regulation?

N/A

Q40 - How should derivatives be treated for the calculation purposes? Should futures be considered as potential Taxonomy-aligned investments?

N/A

Q41 - What are the costs and benefits associated with the different options for non-reported activity coverage, netting and derivatives treatment presented above? Please provide a quantitative estimate for each option, distinguishing between one-off and on-going costs.

N/A

Q42 - Do you have any views on the proposed advice recommending a standardised table for presentation of the KPI for asset managers in Annex IV?

N/A

Q43 - Do you agree with presenting accompanying information in the vicinity of the standard table?

N/A

Q44 - Do you agree that there would be merit in including in the accompanying information a link, if relevant, to an asset managers' entity-level disclosures on principal adverse impacts of investment decisions on sustainability factors?

N/A

Q45 - Do you agree with adopting the same formatting criteria as presented in Section 3.4.2 for the asset manager KPI disclosure?

N/A

Q46 - What are the one-off and on-going costs of setting up the reporting and disclosure under this obligation? Please clarify the type of costs incurred and provide a quantitative estimation where possible.

N/A