



Sustainability Disclosures for Issuers

A FIRST LOOK ON
INFORMATION REPORTED
UNDER ARTICLE 8 OF THE
TAXONOMY REGULATION FOR
THE TRANSITION YEAR

Sustainability Disclosures for Issuers

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Sustainability Disclosures for Issuers

Article 8 of the Taxonomy Regulation applies since 1 January 2022 and requires Issuers to meet new disclosure obligations on how and to what extent their activities are associated with economic activities that qualify as environmentally sustainable under Articles 3 and 9 of such regulation.

Key takeaways

- For **this first reporting period**, the concerned Issuers were confronted with a **very short implementation period**, between the publication of the regulation and its application, as well as with **regulatory provisions** which, at first sight, may have seemed easy to observe but which may have, during the implementation process, turned out **to be more complicated than expected**.
- Despite these conditions, **60% of the reviewed Issuers** were able to achieve compliance with the new disclosure requirements. As regards the remaining 40%, the CSSF reminds them to comply with the requirements of Article 8 of the European Taxonomy. Sustainability data is increasingly seen as material information for issuers, in the same way as financial information. Article 8 contributes to providing relevant information in this context. Thus, faced with **disclosure requirements that will continue to increase** and the **strong market's expectation** to be provided with such data, Issuers cannot afford to be late and must prepare as of now in order to comply with these new requirements.
- Our review has also shown the **importance of providing high qualitative information** to enable users to better understand the information given and to be able to compare it across Issuers, as well as across different sectors. Therefore, the CSSF recommends Issuers to improve the qualitative information provided, thus allowing a better achievement of the objective of the regulation which is to provide clear, understandable, relevant and comparable information.
- For the second year of reporting from 1 January 2023 the disclosure requirements on Taxonomy-alignment information will, in **absence of detailed practical guidance** and in **anticipation of the awaited publication of the Environmental Delegated Act**, be highly challenging for Issuers.
- As a result, **the remaining months**, leading up to the publication of the next reporting, are **critical** for Issuers in view of ensuring a smooth but successful implementation of Article 8 of the Taxonomy Regulation.

References and definitions

Legislative references

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| <i>Taxonomy Regulation</i> | 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. |
| <i>Accounting Directive</i> | 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. |
| <i>Non-Financial Reporting Directive</i> | Directive 2014/95/EU of the European Parliament and of the Council of 22 October 2014 amending Accounting Directive as regards disclosure of non-financial and diversity information by certain large undertakings and groups. |
| <i>Climate Delegated Act</i> | Commission Delegated Regulation (EU) 2021/2139 of 4 June 2021 supplementing Taxonomy Regulation 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. |
| <i>Disclosures Delegated Act</i> | Commission Delegated Regulation (EU) 2021/2178 of 6 July 2021 supplementing Taxonomy Regulation by specifying the content and presentation of information to be disclosed by undertakings subject to Articles 19a or 29a of Accounting Directive concerning environmentally sustainable economic activities, and specifying the methodology to comply with that disclosure obligation. |
| <i>Complementary Climate Delegated Act</i> | Commission Delegated Regulation (EU) 2022/1214 of 9 March 2022 amending Climate Delegated Act as regards economic activities in certain energy sectors and Disclosures Delegated Act as regards specific public disclosures for those economic activities. |

| | |
|------------------------------------|---|
| <i>Environmental Delegated Act</i> | (Draft) second delegated act supplementing Taxonomy Regulation by establishing the technical screening criteria for determining the conditions under which an economic activity qualifies as contributing substantially to the 4 remaining environmental objectives and for determining whether that economic activity causes no significant harm to any of the other environmental objectives. |
|------------------------------------|---|

Abbreviations

| | |
|-------------|-----------------------------------|
| <i>NFRD</i> | Non-Financial Reporting Directive |
| <i>CDA</i> | Climate Delegated Act |
| <i>DDA</i> | Disclosures Delegated Act |
| <i>NFU</i> | Non-Financial Undertaking |
| <i>KPI</i> | Key Performance Indicator |

Definition

| | |
|---------|--|
| Issuers | Non-financial undertakings whose securities are admitted to trading on a regulated market, for which Luxembourg is the home Member State, exceeding 500 employees, total assets of EUR 20 million and/or a net turnover of EUR 40 million. By definition, <u>Issuers in this report are subject to the NFRD.</u> |
|---------|--|

Graphic legend

- Obligation, Reminder
- Recommendation
- Tools, Guidance

1. Introduction

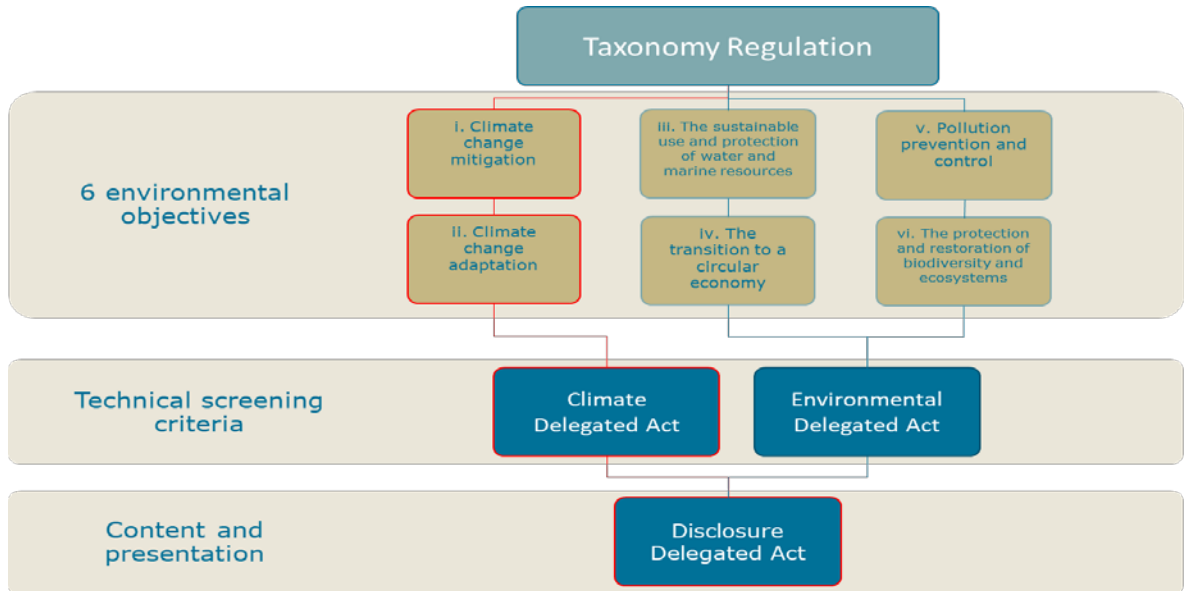
Article 8 of the Taxonomy Regulation aims to increase transparency in the market and to prevent greenwashing by requiring that investors are provided with information on the environmental performance of the assets and economic activities of Issuers.

The EU Taxonomy is a classification system, establishing a list of **environmentally sustainable economic activities** and provides companies, investors and policymakers with appropriate definitions of economic activities that are to be considered environmentally sustainable.

The Taxonomy Regulation establishes the basis for the EU Taxonomy by setting out 4 overarching conditions that an economic activity has to meet in order to qualify as environmentally sustainable. It also establishes **six environmental objectives** which are: (i) climate change mitigation; (ii) climate change adaptation; (iii) sustainable use and protection of water and marine resources; (iv) transition to a circular economy; (v) pollution prevention and control; and (vi) protection and restoration of biodiversity and ecosystems.

Under the Taxonomy Regulation, the European Commission has to come up with the actual list of environmentally sustainable activities by defining **technical screening criteria for each environmental objective** through delegated acts.

An overview of the key elements of the Taxonomy Regulation can be summarised as shown in Fig. 1 below, with the applicable elements in force since 1 January 2022 boxed in red.



The first delegated act, the **Climate Delegated Act**, concerning the technical screening criteria for economic activities with a significant contribution to climate change mitigation and climate change adaptation was published in the Official Journal of the European Union on 9 December 2021 and is applicable since 1 January 2022.

Since that date and in accordance with Article 10 (2) of the **Disclosures Delegated Act**, non-financial undertakings shall disclose:

- (a) the proportion of Taxonomy-eligible and Taxonomy non-eligible economic activities in their total turnover, capital and operational expenditure (together the 'KPIs'); and
- (b) the **qualitative information** referred to in Section 1.2. of Annex I of the DDA relevant for this disclosure, including but not limited to a description of the nature of their Taxonomy-eligible economic activities, by referring to the CDA.

The second delegated act, the **Environmental Delegated Act** concerning the technical screening criteria for economic activities with significant contribution to the 4 other environmental objectives is currently being developed and should entered into force on 1 January 2023.

In order to facilitate the reading of this document, some key elements of the Taxonomy Regulation, such as the definition of economic activity, of Taxonomy-eligible activity, and the main quantitative and qualitative information to disclose, are explained in Appendix I.

2. Scope

This thematic review focused on the information required by Article 8 of the Taxonomy Regulation to be published by Issuers between 1 January 2022 and 30 June 2022, i.e. Issuers with a financial year ending 31 December 2021. Such population was composed of 31 Issuers.

The thematic review covers only disclosure obligations of non-financial undertakings. We remind Issuers which are financial undertakings that they have to comply with the provisions of Article 10 (3) of the DDA . Accordingly, they have to report the proportion of their exposures to activities that are considered as eligible in their total assets and to disclose qualitative information.

The thematic review was initially carried out as a desktop examination. A desktop examination does not entail any interaction between the CSSF and the Issuers. Therefore, the observations made in this report have not been discussed beforehand with all the interested parties. This type of examination was chosen to allow for the publication of a report in a timely manner in order to provide all stakeholders with observations and recommendations for their next reporting.

Following this review, the CSSF has nevertheless sent information requests to certain Issuers, in particular to those which do not seem to comply with the new obligations as well as to those for which additional information was considered useful. The purpose of these on-going requests is mainly to act preventively in the light of the next alignment reporting.

Amongst the 31 Issuers under review, **only 19 Issuers (~ 60%) provided the information requested about their Taxonomy-eligible activities** in accordance with Article 8 of the Taxonomy Regulation. Amongst Issuers who provided the information, 5 entities reported to have only Taxonomy non-eligible activities.

Fig.2 Reporting under the Taxonomy Regulation for 2022

| Sector | Issuers | Eligibility Report | Eligible activities | Non-eligible activities | No reporting |
|---------------------------------|-----------|--------------------|---------------------|-------------------------|--------------|
| 1. Real Estate & Infrastructure | 6 | 5 | 5 | 0 | 1 |
| 2. Industrials | 7 | 6 | 4 | 2 | 1 |
| 3. Transportation & Logistics | 4 | 3 | 2 | 1 | 1 |
| 4. Consumer Products & Retail | 2 | 2 | 1 | 1 | 0 |
| 5. Other Issuers | 12 | 3 | 2 | 1 | 9 |
| | 31 | 19 | 14 | 5 | 12 |

Issuers have been grouped by sectors where relevant for this analysis and for comparative purposes. 'Industrials' regroups Issuers active in the following sectors: 'Industrial Manufacturing', 'Metals & Mining' and 'Industrial Services'. 'Others Issuers' include Issuers from 'Agriculture', 'Health & Life Sciences', 'Media & Entertainment', 'Technology' and 'Telecommunication' sectors.

For the sectors listed under 1. to 4. in Fig.2 above, we present in the next sections observations made in relation to eligibility reporting, underlying good practices and suggesting recommendations, tools and any other information useful for Issuers for their next reporting.

3. Reporting on eligible activities

3.1 Real Estate & Infrastructure

Among the 5 Issuers in this sector having been reviewed and having published information on their Taxonomy-eligible activities, 1 Issuer does not, as required by the Taxonomy Regulation, refer to the CDA but to the NACE Codes¹ from the European Commission. As a result, such Issuer, being presented in Fig. 3 hereafter as an Issuer having published relevant information, could not be taken into account for comparison purposes.

Issuers shall not (only) refer to the NACE Codes, but to the corresponding economic activity as per the CDA. Terminologies may actually differ and makes the reconciliation unpracticable for the users.

4 Issuers have linked their economic activities to those referred to in section 7 'Construction and real estate activities' of Annex I or II of the CDA. However, as the business and economic models of the Issuers in this sector are not always the same, we observe differences in the selection of their reported eligible activities ("✓"). Some Issuers also indicate economic activities, eligible for the EU Taxonomy, that they intend to carry out in the future ("▶▶").

Fig.3 Reported eligible activities in the Real Estate & Infrastructure sector

| Economic Activity | | Issuer 1 | Issuer 2 | Issuer 3 | Issuer 4 | Issuer 5 |
|-------------------|---|----------|----------|----------|----------|----------|
| 7.1 | Construction of new buildings | ✓ | | ✓ | ✓ | |
| 7.2 | Renovation of existing buildings | ✓ | ✓ | ✓ | ✓ | |
| 7.3 | Installation, maintenance and repair of energy efficiency equipment | ✓ | ✓ | ✓ | ✓ | |
| 7.4 | Installation, maintenance and repair of charging stations for electric vehicles in buildings (and parking spaces attached to buildings) | ▶▶ | | | ✓ | |
| 7.5 | Installation, maintenance and repair of instruments and devices for measuring, regulation and controlling energy performance of buildings | ▶▶ | ✓ | ✓ | ✓ | |

¹ [EUROPA - Competition - List of NACE codes](#)

| | | | | | | |
|-----|--|----|---|---|---|---|
| 7.6 | Installation, maintenance and repair of renewable energy technologies | ▶▶ | | | ✓ | |
| 7.7 | Acquisition and ownership of buildings | ✓ | ✓ | ✓ | ✓ | |
| / | Development of non-residential building projects | | | | | ✓ |
| / | Construction of non-residential projects | | | | | ✓ |
| / | Specialised construction activities | | | | | ✓ |
| / | Architectural and engineering activities, technical testing and analysis | | | | | ✓ |

For the purpose of identifying Taxonomy-eligible activities, the European Commission released the EU Taxonomy Compass¹, an online tool which aims to make the contents of the EU Taxonomy easier to access for a variety of users.

The EU Taxonomy Compass enables users to check which activities are included in the EU Taxonomy (taxonomy-eligible activities), to which objectives they substantially contribute and what criteria they have to meet. It provides a visual representation of the contents of the EU Taxonomy, starting with the CDA (climate change mitigation and climate change adaptation). Looking forward, the EU Taxonomy Compass will be updated to include future delegated acts specifying technical screening criteria for additional economic activities substantially contributing to the climate objectives and the other environmental objectives of the Taxonomy Regulation.

Several economic activities from Section 4 'Energy' of Annex I and II of the CDA have also been identified as eligible activities by these Issuers ("✓"). These selected activities actually have a direct link to the construction sector. 4 Issuers also refer to renewable energy activities, even if they do not yet carry out these activities but see them as potentially applicable in the coming years ("▶▶").

¹ <https://ec.europa.eu/sustainable-finance-taxonomy/>

Fig.4 Reported eligible activities in the Real Estate & Infrastructure sector (continued)

| Economic Activity | | Issuer 1 | Issuer 2 | Issuer 3 | Issuer 4 | Issuer 5 |
|-------------------|--|-------------|-------------|-------------|-------------|-------------|
| 4.1 | Electricity generation using solar photovoltaic technology | ✓ | ✓ | ✓ | ▶▶ | |
| 4.6 | Electricity generation from geothermal energy | | ▶▶ | ▶▶ | ▶▶ | |
| 4.16 | Installation and operation of electric heat pumps | | ▶▶ | ▶▶ | ▶▶ | |

The Platform for Sustainable Finance published **the EU taxonomy NACE alternate classification mapping**, an indicative mapping of selected industry classification systems (including NACE codes), and how they relate to the description of economic activities in the Climate Delegated Act. While this document is not an official guidance document from the European Commission or from the three European Supervisory Authorities, it can be considered to be a valid source to reconcile the coding with the activity descriptions in the CDA.

3.2 Industrials

The 6 Issuers reviewed are operating in the sectors 'Industrial Manufacturing' (2), 'Metals & Mining' (2) and 'Industrial services' (2). For the two first categories, most of their activities are eligible for the EU Taxonomy while this is not the case for the third category. Accordingly, our observations are split within the 2 subcategories 'Industrial Operations' regrouping 4 Issuers from the first two sectors and 'Industrial Services' including 2 Issuers.

Industrial Operations

Fig.5 Reported eligible activities in the Industrial Operations sector

| Economic Activity | | Issuer 1 | Issuer 2 | Issuer 3 | Issuer 4 |
|-------------------|---|-------------|-------------|-------------|-------------|
| 3.9 | Manufacture of iron and steel | | ✓ | ✓ | |
| 5.11 | Transport of CO2 | ✓ | | | |
| 7.6 | Installation, maintenance and repair of renewable energy technologies | ✓ | | | |
| ? | Manufacture of tubes, pipes, hollow profiles and related fittings, of steel | | | | ✓ |

The Issuers reviewed found their economic activities within section on “Manufacturing”, on “Water supply, sewerage, waste management and remediation” and on “Construction and real estate activities” in the CDA. For one Issuer, we are not able to identify its eligible activities because reference to the CDA was not clear (“?”).

In conclusion, we were able to note some good practices such as the disclosure of the list of eligible activities together with a narrative explanation of how these activities fit the operations or projects undertaken by the entity. Disclosures are however to be considered insufficient when Issuers only provide a NACE code without the corresponding eligible activity as per the CDA.

The CSSF understands that the eligibility identification process for many NFU has not been finalized or remains cautious. This is probably due to the short time between the publication of the CDA and the DDA, and the date set for their implementation by the NFU. **We consider however that Issuers have to stand ready for the scheduled new reporting requirements as from 1 January 2023.**

Industrial Services

Both Issuers have reported that their economic activities and / or corresponding NACE codes were not eligible to the Taxonomy Regulation.

It is also worth to mention that these entities have, like many others, emphasize on the fact that their assessment is an on-going process and that it will be revaluated in the future, particularly in the light of the evolution of the regulation.

None of these Issuers provided information on details in relation to their non-eligible activities.

The CSSF recommends Issuers to give narrative information on their economic activities which do not meet descriptions of economic activities in the CDA. While this is not explicitly required, it provides the user of information with a holistic view on the entity's operations and the reasons of their non-eligibility.

3.3 Transportation & Logistics

For the 3 Issuers operating in the Transportation & Logistics sector, economic activities are reported differently from one undertaking to another. But even though, our past experience and our continued supervision of these Issuers allow us to understand the outcomes of their analysis.

Fig.6 Reported eligible activities in the Transportation & Logistics sector

| Economic Activity | | Issuer 1 | Issuer 2 | Issuer 3 |
|-------------------|---|-------------|-------------|-------------|
| 6.6 | Freight transport services by road | | ✓ | ✓ |
| / | Acquisition of products in the areas of energy management and vehicle fleet | | ✓ | |

- Issuer 1 has considered it has no eligible activities. This is due to its particular business model as, although it is categorized in this Transportation & Logistics sector, it does not own its fleet of vehicles but manages parties in the value chain.
- Issuer 2 has similarities with Issuer 1, with the exception that it carries on some of its transportation activities. Accordingly, eligible activities within section 6 'Transportation' of Annex I and II the CDA have been identified. However, Issuer 2 mentioned other eligible activities without properly referring to the number and name of eligible activities of the CDA ('/'), as shown in the table above.
- Issuer 3 is owning its fleet of vehicles and as such, clearly reported its activities as eligible under 6.6 'Freight transport services by road', with a significant proportion attributable to each KPI (see Section 4).

The CSSF considers that transparency related to narrative description of the non-eligible activities for some Issuers operating in this sector should be given. For instance, intuitively, one might expect that nearly all activities in the industry "Transportation and Logistics" are eligible by virtue of section 6 "Transport" of the CDA, which seems, pursuant to our findings, not to be the case. Therefore, Issuers are encouraged to provide qualitative disclosures for allowing a better understanding of their economic activities and the reason for their non-eligibility under the Taxonomy Regulation.

Issuers that do not have eligible economic activities shall nonetheless fill in Section B of the templates provided in Annex II to the DDA, as this part relates to information on economic activities that are non-eligible. Moreover, **Issuers should provide the user of the information with** qualitative disclosures to explain what these activities are and why they are not eligible.

3.4 Consumer Products and Retail

The 2 Issuers of the Consumer Products and Retail sector reported that the bulk of their activities could not qualify as sustainable in relation to the two first environmental objectives foreseen in the CDA. One Issuer even states that, while certain eligible activities may actually have been identified, they were considered as not material.

For the purpose of reporting information under Article 8 of the Taxonomy Regulation, Issuers are reminded that all the activities that qualify as environmentally sustainable must be disclosed, regardless of their materiality status.

In opposition, the second Issuer has nevertheless identified to a certain extent, beyond its core retail activities, activities eligible for the EU Taxonomy, as shown in Fig. 7 below.

Fig.7 Reported eligible activities in the Consumer Products & Retail sector

| Economic Activity | | Issuer 1 | Issuer 2 |
|-------------------|--|----------|----------|
| 6.6 | Freight transport services by road | | ✓ |
| 8.1 | Data processing, hosting and related activities | | ✓ |
| 8.2 | Computer programming, consultancy and related activities | | ✓ |

We emphasize the fact that the scope of eligible economic activities of an undertaking may go beyond the operations which may be considered as being part of its core activities. Therefore, the identification process to be undertaken by Issuers should be scrupulously performed in view of encompassing all relevant activities.

3.5 Other Issuers

The population of Issuers analysed includes a limited number of Issuers in different sectors (Agriculture, Communications, Health & Life Sciences, Media & Entertainment and Technology) for which reported results are too limited to make relevant observations.

In accordance with the provisions of the NFRD, a parent undertaking which is also a subsidiary undertaking shall be exempted from the obligation to prepare a non-financial statement if that exempted parent undertaking and its subsidiaries are included in the consolidated management report or the separate report of another undertaking. The disclosure obligations of the Article 8 of the Taxonomy Regulation follow this rule by requiring that the relevant information has to be included in the non-financial statement of such other undertaking.

As a result, Issuers can be exempted to provide the required disclosures, provided that such disclosures are included in the management report or separate report of another related undertaking.

Whereas this option has been taken by two Issuers of this category, some other Issuers not providing their Taxonomy-eligible information did not refer to this exemption in their management report despite the fact that they fulfilled the conditions for benefiting therefrom.

4. Reporting on KPIs

In this section, we are discussing the proportion of Taxonomy-eligible activities which the reviewed Issuers have reported for each of the 3 KPIs, i.e. Turnover, Capex and Opex. The table below summarizes the average proportion reported in the same sectors and for the same Issuers than those discussed in section 3.

Fig.8 Average proportion of eligible activities in each KPI per sector

| KPIs | Real Estate & Infrastructure | Industrials | Transportation & Logistics (*) | | Commercial Products & Retail |
|-----------------|------------------------------|-------------|--------------------------------|--------|------------------------------|
| | | | (fleet) | (ff) | |
| Turnover | ca. 67% | 75% | > 90% | < 1 % | < 1 % |
| Capex | > 90% | > 75% | > 80% | < 10 % | < 10 % |
| Opex | ca. 50% | 75% | > 90% | none | < 10 % |

(*) Because of the specific observations we made for this sector, we felt it was important to distinguish between Issuers who have their fleet of vehicles on their balance sheet ("fleet") and those who do not recognise their fleet, or only a small part thereof, on their balance sheet ("freight forwarder" or "ff").

4.1 Real Estate & Infrastructure

Turnover

Since we noted differences between Issuers in their assessment of activities considered as eligible, or because the field of their economic activities is distinct, the proportion of Turnover disclosed can be significantly different. The most prominent example relates to revenue derived from the renting out of real estate properties (i.e. rental income).

Article 8.2(a) of the Taxonomy Regulation requires NFUs to disclose the proportion of their turnover derived from products or services associated with economic activities that qualify as environmentally sustainable. We have noted that Issuers in this sector have either considered that:

- renting activities are economic activities distinct from those that are eligible as environmentally sustainable and listed under 7.1 to 7.7 above (construction, renovation, acquisition of buildings and 7 or equipment); or
- renting activities are derived from those economic activities that are eligible as environmentally sustainable.

In accordance with the Taxonomy Compass, the NACE Code L68 'Real Estate Activities' is associated to the economic activity 7.7 'Acquisition and ownership of building'. The economic activity is therefore not limited to the acquisition of a building, but also to renting and operating activities.

We remind Issuers to carefully review all NACE Codes. Some codes can have similar labelling, but the underlying economic activities are different and are mapped to different activities that qualify as sustainable as per the CDA.

As an example, one Issuer estimated however that its economic activities were related to NACE Codes F41 'Construction of buildings' and F43 'Specialized construction activities'. Those economic activities do not include the revenue from operating such buildings. Accordingly, it excluded its rental income from activities which are eligible as sustainable, which explained a significant difference in the proportion of turnover reported as compared to its peers. A consequence of this inconsistency is that the relevant average percentage included in Fig.8 above is lower than it should actually be.

Capex and Opex

In comparison with Turnover, we observed some consistency in the inclusion of eligible activities for the purpose of computing their proportion in Capex, with a proportion of eligible activities between 90% and 100%. Considering that, based on our observations, the average reported eligible turnover may be underestimated (in case rental income has been excluded as explained above) or has been diluted (because one Issuer carries on other activities than Real Estate activities), the proportion for both KPIs is ultimately quite similar.

However, such consistency was not observed for Opex. Indeed:

- 2 Issuers have a proportion of Taxonomy-eligible economic activities higher than 75 percent in their total operational expenditures. We noted that differences exist in the scope of activities included in the numerator, which may include operating expenses not linked to the real estate activities, but which are eligible with regards to the CDA (for instance, transportation).
- 2 Issuers have a proportion of Taxonomy-eligible economic activities significantly lower than 75 percent in their total operational expenditures. These Issuers have limited their field of Taxonomy-eligible activities to certain economic activities, namely activities 7.3 'Installation, maintenance and repair of energy efficiency equipment' and 7.5 'Installation, maintenance and repair of instruments and devices for measuring, regulation and controlling energy performance of buildings'. Without further qualitative information, it is questionable, from a reader's perspective, why proportion change significantly from a KPI to another, and, in the present case, why Opex have been limited to these two activities and not to the same economic activities than for turnover or Capex.

Issuers had probably different views in the proportion of Opex to be included in the numerator and / or the denominator. Actually, the list of items enumerated in point 1.1.3.1. of Annex I of the DDA (Opex) to be included in the denominator, is relatively large and encompasses the majority of costs that do not meet the capitalization criteria of the standards mentioned in point 1.1.2.1. of Annex I (Capex).

Issuers are encouraged to provide more qualitative information on the eligible activities which have been retained for each KPI, in particular why some eligible activities have been retained for certain KPIs and not for others.

4.2 Industrials

A significant number of manufacturing activities are associated with environmentally sustainable activities. As a reminder, Issuers operating in the 'Industrial Services' sector have reported no eligible activity, therefore only Issuers operating in the 'Industrial Operations' sector (4) are analysed in this section.

The sector shows some of the highest proportions of eligible activities for the three KPIs, and this is observed consistently across Issuers. Small discrepancies can be observed when looking in details:

- Regarding Turnover, 3 Issuers have a proportion of eligible activities above 90 percent and one Issuer has a proportion of eligible activities at circa 25 percent. This is not an abnormal observation, but information provided in disclosures is not sufficient to understand where the proportions are stemming from / how the percentages are made up.
- Regarding Capex, all entities reported an eligibility rate of above 75 percent, which is in the case of one Issuer hard to interpret without qualitative information against a significantly lower proportion of eligible Turnover.
- Again, there is more disparity in the eligibility rate for Opex, but there is no conclusion to be drawn at this stage without further disclosures. We found that it remains extremely challenging for the user of information to link the proportion (or value) of the Opex reported to the income statement of underlying entities and the notes to the underlying financial statements.

For turnover and capital expenditure, non-financial undertakings shall include references to the related line items in the non-financial statements as required by the DDA. While this is not required for operating expenditure, we recommend, in light of our above findings, Issuers to provide similar references for operating expenditure as far as practicable.

4.3 Transportation and Logistics

The results between the two subcategories are fundamentally opposite:

- On one side, the Issuer operating its own fleet has classified its main revenue streams as Taxonomy eligible due to the fact that they fall directly under activity '6.6 *Freight transport services by road*'. Since the operations of this entity are sufficiently explicit, it is relatively easy to understand the proportion of turnover falling within this category. The same observation is also valid for Capex, as the entity largely explained in its business model how it performs its services. Likewise, Opex includes sufficient information to understand not only what is included in the counting, but also which expenses have not been retained.
- On the other side, the Issuers which do not operate transportation services or only to a limited extent, have only an insignificant proportion of their turnover resulting from eligible activities. For these entities, further qualitative information would be useful in the second year of reporting. We also observe a limited number of investments and expenses made in relation to the acquisition of products in the areas of energy management and vehicle fleet. We however regret not to have sufficient information disclosure to understand how eligible investments and expenses have been selected and reported.

Issuers should revisit their accompanying narrative disclosure in light of this report and the good practices observed amongst their peers to ensure a consistent approach in each sector, or between entities encompassing the same economic activities. Only coherence and consistency will enable the user of information to better understand the resulting proportions from one entity to another.

4.4 Consumer Products and Retail

In this sector, the economic activities which may qualify as environmentally sustainable are marginal and, as a result, so are the proportions reported. Figures observed in Capex and Opex are low and represent amounts invested or expensed mainly for new or improved infrastructure.

5. Reporting of qualitative information

5.1 Accounting policies

In accordance with Section 1.2.1 of Annex I of the DDA, NFUs shall provide information on the accounting policies applied. As mentioned, only relevant disclosure shall be considered during the transition period.

- The first information to be disclosed is how the KPIs are determined and allocated to the numerator. Overall, some information was disclosed. Nevertheless, only one year of implementation and the absence of specific guidance prevent the emergence of clear consistency and comparability across sectors. While we can highlight efforts made by some Issuers in providing descriptive information, such information sticks however too often to the definitions used in Section 1.1. on the KPIs and, in most cases, is not sufficiently entity-specific.
- The second information to be disclosed is the basis used for the calculation of the KPIs, including any assessment in the allocation of revenues or expenditures to the different economic activities. At this stage, such information is not relevant for the first reporting year since the requirements of Article 10 (2) of the DDA do not require the contribution of economic activities to environmental objectives.

We noted however that some Issuers mentioned to which of the two environmental objectives (i.e. climate change mitigation and climate change adaptation) their economic activities were contributing, and some already mentioned to which objective they decided to allocate the KPIs while the allocation exercise is to be disclosed in the next reporting only.

As from January 2023, Issuers will have to fill up the reporting tables included in Appendix II of the DDA. A key issue in that exercise will be how to report the individual contributions to the different objectives in the dedicated reporting form.

As from the next year on, NFUs shall also explain if the application of any calculations has changed since the previous reporting period and, as the case may be, why those changes result in more reliable and relevant information.

The first reporting year has been challenging for the Issuers and we understand from our review that there are still uncertainties in the definition of the scope of economic activities and their eligibility under the Taxonomy Regulation. Therefore, significant changes in scope and proportions may be expected for the second year of reporting. As a result, **the CSSF will pay particular attention to the narrative description to be provided in relation to these changes and we urge the Issuers not to omit any relevant explanations in their respect.**

5.2 Assessment of compliance

In accordance with Section 1.2.2 of Annex I of the DDA, NFUs shall provide different information on their assessment of compliance with the Taxonomy Regulation. We observed the following information reported by Issuers:

- 6 Issuers of 14 having eligible activities (Fig. 2 above) provided some information on how they assess compliance, usually giving a (too) brief description of working groups or ad-hoc committees involved in the analysis of economic activities, and their assessment against the Climate Delegated Act.

Article 10 (2) of the DDA specifies that the qualitative information shall be 'relevant information for this disclosure' (i.e. the disclosure on the proportion of eligible activities). In our opinion, the assessment of compliance is one of the most critical requirements for the user of information to understand how an entity has effectively implemented the Taxonomy Regulation. To date, such disclosures are insufficient.

In order to comply with section 1.2.2.1 of Appendix I of the DDA, the CSSF considers that Issuers should provide qualitative information on their internal organisation together with information on how the assessment processes are undertaken internally. The given information should allow readers to understand (i) how the eligibility process has been undertaken and (ii) how and by whom compliance with the technical screening criteria referred in the delegated acts has been assessed.

- 6 Issuers of 14 also provided information on the contribution of their economic activities to each environmental objective. Among those 6 Issuers, 4 already clarified to which environmental objective(s) they have decided to allocate their economic activities for reporting purposes. Since the allocation of economic activities to specific environmental objectives was not mandatory for the first year, the efforts of such Issuers are worth to be highlighted at this occasion.

The allocation exercise remains a significant area of judgment for Issuers in case eligible activities contribute to multiple objectives. Issuers are therefore urged to keep in mind the significant disclosure requirements as exposed under section 1.2.2.2 of Appendix I of the DDA.

6. Closing remarks

- From 1 January 2023, the DDA will fully apply to NFUs and, in accordance with Article 10(4) of the DDA, NFUs will need to report their activities that are considered aligned with the CDA. For that purpose, Issuers are invited to review the methodology for reporting of KPIs as presented in point 2 of Annex I of the DDA, and fill out the templates for KPIs presented in Annex II of the DDA.
- For financial undertakings, the provisions of Article 10 (2) of the Disclosure Delegated Act will still apply in 2023. Accordingly, they only have to report the proportion of their exposures to activities that are considered as eligible total assets and disclose qualitative information.
- The European Commission published FAQs in view of providing answers to some of the questions that stakeholders raised in relation to several issues concerning the Regulation and its draft delegated acts. In this respect, Issuers are encouraged to consult the following documents:
 - [FAQs - EU Taxonomy](#)
 - [FAQs - Disclosures Delegated Act 1](#)
 - [FAQs - Disclosures Delegated Act 2](#)

As it is expected that the European Commission will continue to update its FAQs or release new guidance, in particular on Taxonomy-alignment, Issuers should take all necessary measures to keep themselves informed on the evolution in this respect.

- In 2023, the information published under Article 8 of the Taxonomy Regulation will be subject to a particular attention of the CSSF. The CSSF understands that although the Taxonomy Regulation has provided for a phased-in implementation, Issuers may have faced challenges in applying the rules laid down in the delegated acts. In this context, Issuers are reminded that they can contact the CSSF who participates in various international committees and can relay their concerns on the implementation of the delegated acts.
- Finally, we want to remind that, in 2022, the EU Commission released the Complementary Climate Delegated Act including, under strict conditions, specific nuclear and gas energy activities in the list of economic activities covered by the EU taxonomy. As the given act will be applicable as from 1 January 2023 and has, at the date of this report not yet been published, Issuers should monitor developments that may occur in the coming weeks in order to determine any resulting implications on their disclosure requirements as of January 1, 2023.

Appendix I - Key concepts of the Taxonomy Regulation

What is an economic activity?

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. Thus, an economic activity is characterized by an input of resources, a production process and an output of products (goods or services)¹.

An activity, as defined here, may consist of one simple process, but may also cover a whole range of sub-processes, each mentioned in different categories of the classification (for example, the manufacturing of a car consists of specific activities such as casting, forging, welding, assembling or painting). If the production process is organised as an integrated series of elementary activities within the same statistical unit, the whole combination is regarded as one activity.

In the EU Taxonomy, the identification of economic activities is based on the system NACE (**N**omenclature générale des **A**ctivités économiques dans les **C**ommunauté **E**uropéennes) which is the statistical industrial classification used in Europe.

What are Taxonomy-eligible activities?

The Taxonomy Regulation establishes the general framework for determining whether **an economic activity qualifies as environmentally sustainable** for the purposes of establishing the degree to which an investment is environmentally sustainable.

For that purpose, the Commission adopts delegated acts establishing the technical screening criteria for determining the conditions under which a specific economic activity qualifies as contributing substantially to environmental objectives and to establish technical screening criteria for determining whether that economic activity causes no significant harm to any of the other environmental objectives.

The technical screening criteria covering the two first environmental objectives of climate change mitigation and climate change adaptation are set out in Annex I to the CDA. In 2022, NFUs shall only disclose the proportion of Taxonomy-eligible and Taxonomy non-eligible economic activities in relation to these two objectives. An economic activity that is described and has technical screening criteria set out in the taxonomy is a Taxonomy-eligible activity.

¹ *Glossary: Economic activity*

KPIs

The **turnover** corresponds to the definition of net turnover as given by the Accounting Directive which represents the amounts derived from the sale of products and the provision of services after deducting sales rebates and value added tax and other taxes directly linked to turnover.

Capex represents additions to tangible and intangible assets during the financial year considered before depreciation, amortisation and any re-measurements, including those resulting from revaluations and impairments, for the relevant financial year and excluding fair value changes. Capex shall also include additions to tangible and intangible assets resulting from business combinations.

Opex shall include 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 are outsourced activities that are necessary to ensure the continued and effective functioning of such assets.

In this context, it is worth to remind that Annex I of the DDA explains how these calculations should be approached by non-financial undertakings that apply International Financial Reporting Standards ('IFRS') and those that apply General Accepted Accounting Principles ('GAAP').

Qualitative information

Section 1.2 of Annex I of the DDA requires NFUs to disclose additional information accompanying the relevant KPIs. In this respect, Article 10 (2) of the DDA specifies that only information relevant for the disclosure of the proportion of Taxonomy-eligible and Taxonomy non-eligible economic activities in the KPIs shall be disclosed. It is up to Issuers to select the appropriate disclosures.

Accounting policy: NFUs shall explain how each of the KPIs were determined and allocated to the numerator as well as the basis on which the turnover, capital expenditure and operating expenditure were calculated, including any assessment in the allocation of revenues or expenditures to different economic activities.

Assessment of compliance with Taxonomy Regulation:

- ✓ NFUs shall describe the nature of their Taxonomy-eligible activities, explain how they assessed compliance with the associated technical screening criteria and how they avoided double counting in the allocations of the numerator of KPIs across economic activities.
- ✓ Where an economic activity contributes to several environmental objectives, NFUs shall demonstrate compliance with the technical screening criteria with respect to several environmental objectives, disclose the KPIs from that activity as contributing to several environmental objectives and, to avoid double counting, only count once the turnover from that activity in the numerator of the KPIs as defined in point 1.1 of this Annex .

- ✓ Where the KPIs for an economic activity are to be disaggregated, in particular where production facilities are used in an integrated manner, non-financial undertakings shall ensure that any disaggregation is based on criteria that are appropriate for the production process being implemented and reflects the technical specificities of that process. In addition, appropriate information accompanying the KPIs on the basis of such disaggregation is to be provided.

Contextual information: NFUs shall explain the figures of each KPI and the reasons for any changes in those figures in the reporting period. NFUs may also disclose additional KPIs based on turnover, Capex, Opex that include investments in equity accounted in joint ventures.



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