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Taxonomy regulation - Article 8: on reporting obligations of companies

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To promote sustainable investment, the Taxonomy Regulation (Regulation (EU) 2020/852) establishes a European Union-wide classification system to identify economic activities that are considered sustainable. Pursuant to Article 8 of this regulation, companies are required to publish sustainability indicators from 1 January 2022. A delegated regulation published by the European Commission on 6 July 2021 determines the content, calculation methodology and presentation of these indicators. To help issuers in the application of this new regulation, the AMF would like to remind issuers of its main provisions.

Companies subject to the new reporting obligations

Since 01/01/2022, the requirement to deliver sustainability indicators under Article 8 of the Taxonomy Regulation applies, to companies subject to the obligation to publish non-financial statements in accordance with Article 19a or Article 29a of the Accounting Directive 2013/34/EU.

This requirement thus concerns, public interest entities within the meaning of Directive 2013/34/EU, provided that their average number of employees during the financial year exceeds 500, and their balance sheet total exceeds €20 million or their net turnover exceeds €40 million on their balance sheet date.

The public interest entities concerned, which are within the scope of this Directive, are therefore, as long as they are organized according to one of the legal forms of companies listed in Annex I or, in certain circumstances, in Annex II of Directive 2013/34/EU:

- companies whose transferable securities are admitted to trading on an EU regulated market;
- credit institutions as defined in Article 4(1) of Regulation (EU) 575/2013;
- insurance undertakings as defined in Article 2(1) of Directive 91/674/CEE.

It also concerns parent companies of large undertakings, where they are themselves public interest entities within the meaning of Directive 2013/34/EU and exceed these thresholds.

Implementation schedule and procedures

The Delegated Regulation (EU) 2021/2178 of July 6, 2021 published in the Official Journal on December 10, 2021 specifies the modalities of application of the provisions of Article 8 of the Taxonomy Regulation.

The reporting obligations set out in the Delegated Regulation will be phased in as follows:

1 January 2022	<p>— Lighter reporting for non-financial undertakings:</p> <ol style="list-style-type: none"> 1 ● publication of the proportion of their total turnover, capital expenditure (capex) and operating expenditure (opex) for the financial year 2021 that are associated with economic activities eligible and non-eligible under the European Taxonomy 2 ● indicators published in the non-financial statement in 2022 will only cover data for the financial year 2021 without comparative information for the financial year 2020 <p>— Lighter reporting for financial undertakings: publication of specific indicators, including eligibility indicators</p>
1 January 2023	<p>— Full reporting for non-financial undertakings:</p> <ol style="list-style-type: none"> 1 ● publication of the proportion of the three indicators (turnover, capex and opex*) that are associated with economic activities aligned and non-aligned with the European Taxonomy 2 ● indicators published in the non-financial statement in 2023 will only cover data for the financial year 2022 without comparative information for the financial year 2021 <p>— Lighter reporting maintained for financial undertakings</p>
1 January 2024	<p>— Full reporting including for financial undertakings: publication of indicators aligned with the European Taxonomy</p> <ol style="list-style-type: none"> 1 ● The indicators published in the non-financial statement in 2024 will cover data for the financial year 2023 with comparative information for the year 2022, for non-financial undertakings.

*Non-financial undertakings may be exempted from computing the opex indicator where opex is deemed not material to their business.

** Some indicators specific to financial undertakings will be required only from 2026 onwards (on 2025 data).

Six environmental objectives covered by the Taxonomy Regulation

The six environmental objectives covered by the Taxonomy Regulation include two climate objectives on climate change mitigation and adaptation. The other four environmental objectives cover the sustainable use and protection of water and marine resources, the transition to a circular economy, pollution prevention and control, and the protection and restoration of biodiversity and ecosystems.

Eligible economic activities and aligned economic activities

An economic activity is considered “eligible” if it is included in the regularly updated [list of activities](https://ec.europa.eu/sustainable-finance-taxonomy/index.htm) URL = [https://ec.europa.eu/sustainable-finance-taxonomy/index.htm]

covered by the delegated acts of the Taxonomy Regulation. These are the activities that have been selected at this stage by the European Commission, which are likely to make a substantial contribution to any one of the six environmental objectives. A Taxonomy-eligible economic activity is not necessarily a Taxonomy-aligned activity, i.e. it may not meet the criteria to be considered aligned with the European taxonomy.

An economic activity is considered “aligned” with one of the six environmental objectives if:

- 1 • it contributes substantially to the achievement of that objective (compliance with specific technical criteria);
- 2 • it does not harm any of the other five objectives (“Do No Significant Harm” criteria);
- 3 • minimum safeguards (e.g. OECD, United Nations, etc. guidelines) are otherwise met.

The technical alignment criteria have been defined for the two climate objectives in the Climate Delegated Act and its annexes (Delegated Regulation (EU) 2021/2139 published in the Official Journal on 9 December 2021). Thus, only the climate objectives are to be taken into account when calculating the indicators for the 2022 report covering the financial year 2021. The indicators will only take into account the four other environmental objectives 12 months after the date of application of the delegated acts, which will define the technical alignment criteria for these four objectives (these delegated acts are currently being developed by the European Commission and are expected in the first half of 2022).

Presentation of information

The information should be presented in the non-financial statement.

Taxonomy-aligned indicators are presented by economic activity and by environmental objective, according to the templates set out in the annexes to the Delegated Regulation (Annex II for non-financial issuers).

Additional qualitative information is required to describe, for example, the composition of the indicators, the nature of the eligible or aligned economic activities, the methodologies used to allocate the indicators to the different activities, or the way in which the company assessed that the technical alignment criteria were met.

Preparing companies for the phased application of this new regulation

These new reporting requirements can be complex, depending on each company's activities and organisational structure. Given the ambitious implementation schedule, the AMF encourages the issuers concerned to continue the work for the gradual application of this text:

- identifying which of their economic activities are covered by the European classification;
- carefully considering the methodology for calculating the indicators and the technical alignment criteria;
- where necessary, adapting their information systems and processes for data collection and production;
- it may also be helpful for issuers to discuss with stakeholders such as auditors or independent assurance services providers.

Issuers may find it useful to refer to:

- Questions and answers (FAQ) published by the Commission in December 2021 and February 2022, aimed at clarifying to stakeholders the content of the provisions of the Article 8 delegated act, and to assist in the implementation of these reporting obligations;
- the [EU Taxonomy Compass](#), a tool developed by the European Commission that can be used by users to check which activities are included in the EU Taxonomy (taxonomy-eligible activities) and which criteria must be met for each activity to be considered aligned.

Connectivity between financial and non-financial information

The AMF emphasises the growing expectations of investors that companies consider the effects of climate change and the commitments made in this regard in their financial statements.

The AMF therefore encourages companies to pursue their reflection on this subject and involve all relevant departments, their governance bodies and their statutory auditors.

In general, in an environment where reporting obligations are increasing, the AMF underlines the importance of maintaining consistency between the information presented in the management report (including the non-financial statement), in the other communication materials and in financial statements.

Find out more

✚ Taxonomy Regulation: Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020

✚ Delegated Regulation on climate objectives and its annexes on the technical alignment criteria: Annex 1 on climate change mitigation, Annex 2 on climate change adaptation

✚ Delegated Regulation Article 8 (sustainability indicators) and its annexes

✚ FAQs of the European Commission from 20.12.2021 (updated in January 2022)

✚ FAQs of the European Commission from 02.02.2022

✚ [Link to EU Taxonomy Compass](#)

Keywords

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