Comments on the European Commission's proposal for a delegated act specifying disclosure requirements under the EU Taxonomy for entities in the scope of EU NFRD

1 June 2021

Introduction

The Association for Financial Markets in Europe (AFME) and the International Swaps and Derivatives Association (ISDA) (herein the "Associations", also referred to as "we", "our", "us") welcome the opportunity to comment on the draft delegated act[1] (Delegated Act or DA), published by the European Commission for public consultation on May 7, 2021, which stipulates the content and presentation of information to be disclosed by entities in the scope of the EU Non-Financial Reporting Directive (EU NFRD) concerning environmentally sustainable economic activities, and which specifies the methodology to comply with that disclosure obligation. The views expressed in this paper received the endorsement of the Swiss Finance Council, representing Swiss financial institutions active in the EU and internationally.

We take note that the DA took into consideration the recommendations outlined in the Opinion[2] (Opinion or Advice) by the European Banking Authority (EBA) in response to the Commission's call for advice on KPIs and related methodology for the disclosure by credit institutions and by investment firms of information on how and to what extent their activities qualify as environmentally sustainable in accordance with the EU Taxonomy. We commend the EBA and the European Commission for such comprehensive work accomplished which is clearly aiming to mirror the level of ambition set in the European Union towards achieving the Net-Zero GHG targets by 2050 and towards embedding other environmental and social objectives into the European economy. We are fully supportive of those objectives and we would like to draw the Commission's attention to the following high priority issues.

I. Application timeline

Discrepancy between the DA and FAQ document

Firstly, we would like to flag a discrepancy between the text of the draft Delegated Act and the corresponding official FAQ document[3] providing additional guidance on the application of the DA.

According to the Delegated Act:

From 1 January 2022, financial undertakings shall only disclose:

a) the share of their exposures to Taxonomy non-eligible and Taxonomy-eligible economic activities in their total assets;

[1] DRAFT Delegated Act 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: https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12440-Sustainable-finance-obligation-for-certain-companies-to-publish-non-financial-information_en

[2] https://www.eba.europa.eu/eba-advises-commission-kpis-transparency-institutions%E2%80%99-environmentally-sustainable-activities

[3] https://ec.europa.eu/info/sites/default/files/business_economy_euro/banking_and_finance/documents/sustainable-finance-taxonomy-article-8-faq_en.pdf
Response to Q: "*How does this disclosures delegated act treat exposures to companies that are not subject to the reporting under this delegated act (SMEs, non-EU companies) in the reporting of financial companies?*"

b) the share of exposures referred to in Article 8(1) and 8(2) in their total assets *[i.e. exposures to Central governments and Central banks as well as Derivatives]*;
c) the share of exposures to undertakings referred to in Article 8(3) in their total assets *[i.e. exposures to companies that are not subject to the NFRD]*;
d) qualitative information referred to in Annex XI.

Credit institutions should also disclose in their total assets:
(a) share of their trading portfolio
(b) share of on demand inter-bank loans

From 1 January 2023, all KPIs and accompanying information according to the DA should be disclosed.

From 1 June 2024, credit institutions shall disclose the elements of KPIs concerning retail exposures related to immovable property for stock.

From 1 January 2025, credit institutions and investment firms **may be** required to include in the calculation (numerators) of the quantitative KPIs the exposures of companies that are not subject to NFRD and who might provide such information on a voluntary basis - subject to a positive assessment/review indicated in Article 10 of the DA.

We note that the reporting period or reference date is not specified in the Delegated Act and **we recommend that the Commission clarify systematically the reference dates** to prevent potential legal uncertainty that could deter the implementation of the disclosure requirements.

The FAQ document states that:

As of 1 January 2022, for the reporting period 2021, only the share of taxonomy-eligible activities and qualitative information laid down in the disclosures delegated act shall be disclosed.

This provision is in line with the text of the DA.

As of 1 January 2023, for the reporting period 2022, all qualitative information and KPIs will need to be disclosed, except for the inclusion in the numerator of KPIs of certain exposures and investments of financial institutions in non-NFRD (future CSRD) companies.

This statement is generally in line with the text of the DA. However, we note that the disclosures for retail exposures applicable from 1 June 2024 are not referred to explicitly and separately in the FAQ document.

As of 1 January 2025, for the reporting period 2024, the disclosures delegated act will apply fully.

This provision is not clear with regard to what the "full application" would imply – whether it refers to the disclosures for retail exposures applicable from 1 June 2024, as noted in the DA, or whether it implies a broader scope where exposures to non-NFRD companies, including (SMEs and non-EU entities) may also be included on a voluntary basis in the calculation of the numerator of the KPIs. **On the latter, we urge the Commission to perform the review and assessment according to Article 10 of the DA before mandating the inclusion of exposures to non-NFRD entities in any KPIs on a voluntary basis.**

Overall, we strongly believe that it is important to **provide further clarity with regard to the application dates of the transparency requirements under the Taxonomy regulation aligning the requirements across the two documents – the DA and the FAQ document**.

Sequencing of disclosure requirements

In principle, we welcome the phase-in approach proposed by the Commission to the application of the reporting requirements, whereby from 1 January 2022 financial undertakings shall disclose a limited scope of information as outlined in Article 11 (2) and from 1 January 2023 the broader scope of the disclosure requirements will become applicable. We stress that the same phase-in approach should be applied for the other four environmental objectives once the technical screening criteria have been adopted (i.e. more limited reporting during the first reporting cycle followed by the broader scope disclosures in the subsequent reporting periods).

We also note that non-financial undertakings, which are our members' clients/investees, will also be granted the possibility to report only high-level information as per Article 11(1) starting 1 January 2022. Given the important granularity and details in the information that they will be required to report as per Article 3, this is a sensible approach. Yet, this also means that it is only starting from 1 January 2023 that non-financial undertakings will be required to report detailed information on the level of Taxonomy alignment of their economic activities, at the very same time as the application of credit institutions' reporting requirements.

Unfortunately, it will not be feasible for AFME and ISDA members to compute their GARs and other KPIs for publication as early as Q1 2023 if they have to rely on high-level information from non-financial undertakings in 2022. Availability of detailed information from non-financial corporates is imperative for the Associations' members and other financial market participants to comply with many transparency obligations that the European financial sector is facing. We note that AFME and ISDA, together with several other trade associations, have been continuously calling for appropriate sequencing of disclosure obligations of financial institutions vis-à-vis the non-financial sector and we regret to see that our requests continue to remain unheard. We would like to reiterate that the reporting by non-financial entities and reporting by financial companies cannot take place at the same time, especially considering the extent of the disclosures required (please refer to **Section II** of this paper **for our comments on the scope** and to **Appendix I** that displays **the timeline, as currently envisaged, for various transparency obligations to apply for the financial sector across several legislative files as well as obvious dependencies on the data from counterparties**). To this end, as financial institutions' disclosures would also take place at the same time, the inclusion of exposures to financial institutions needs to be phased-in to allow for information collection.

We further note that, in order for financial undertakings to be able to prepare high-quality disclosures, they first need to be able collect the necessary data. The data is usually collected from ESG data providers and not from the borrowers/investees directly. Some information can be of course obtained from the counterparties on a bilateral basis, however it is usually a lengthy process and, before there is a legal obligation to provide the data, it is less likely that companies will provide the information or provide it on a reliable, comparable and auditable basis. After the data is received from external service providers, it would still need to go through internal governance requirements, including due diligence procedures, before it can be fully exploited for reporting purposes by a financial institution. Operational integration of data from 3rd party service providers and potential reconciliation/due diligence/data governance requires 6-12 months of lead time to ensure meaningful and high-quality disclosures. In the absence of relevant and reliable information from non-financial undertakings, the respective data gaps will leave potential investors and other users with disclosures of sub-optimal quality, caveated with legal disclaimers, which is expected to affect the comparability across information produced by financial market participants and would add little decision-useful value to the users of such information. We are also deeply concerned that the more operationally complex the reporting obligation for non-financial undertakings, the less likely financial undertakings will be able to rely on "real data" even after 2023. Based on discussions with their corporate clients, the Associations' members would like to raise this concern.

As noted above, whilst we welcome the staggered approach to the application of the transparency requirements, we caution the European Commission to carefully consider the potential unintended consequences – associated with external disclosures and investors' expectations - stemming from the interplay between the need for credit institutions to disclose "taxonomy-eligible" information in 2022 and "taxonomy-aligned" information from 2023. The industry has reasons to believe, that the two sets of information could give significantly different results (i.e. institutions in 2022 will show "taxonomy-eligible" proportions which will naturally be much higher than "taxonomy-aligned" ratios which will be disclosed in 2023), thus leading to a "cliff-edge effect" which might potentially undermine investors' expectations and trust. Therefore, we ask the European Commission to assess whether introducing any "quantitative" disclosure requirements for credit institutions and investment firms in 2022 would truly be helpful to investors and other users.

Furthermore, we cannot stress enough the importance of appropriate sequencing and alignment of the reporting obligations under the EU Taxonomy and other legislative and regulatory measures. In particular, the EBA is currently working to update the Implementing Technical Standard (ITS) on Pillar 3 disclosures on ESG risks that will also incorporate elements of the Taxonomy related disclosures, such as the Green Asset Ratio (GAR). Under the updated ITS, banks in scope will be required to produce the first set of Pillar 3 disclosures in 2023 covering the annual period of 2022. If banks are not able to obtain information from their counterparties sufficiently in advance of the reporting deadline, they will not be able to fulfil their obligations not only under the EU Taxonomy Regulation but also under the ITS. Please also refer to the joint AFME and ISDA response to the EBA consultation on draft technical standards on Pillar 3 disclosures of ESG risks[4] for our comments on the proposed ITS.

Finally, financial market participants in the scope of the SFDR will need to comply with a set of disclosure obligations starting January 1, 2022[5]. Specifically, asset managers will be required to assess Taxonomy alignment of investee companies in the investment funds for the purpose of periodic reporting taking place in 2022 onwards (including quarterly reporting by MIFID investment firms). It is not clear how the Taxonomy alignment can be measured in the absence of this information from the investee companies until 2023.

Recommendation: Based on the above arguments, the Associations urge the Commission to provide for a logical sequence of disclosure requirements for the financial sector vis-a-vis those for the non-financial sector whereby financial institutions would be required to report in 12 months following the reporting completed by their non-financial counterparties. The interim period would allow financial institutions to obtain access to, process and perform due diligence on, the data disclosed (directly or via ESG data providers) by borrowers/investee companies, thus enabling their own disclosures.

We therefore think that it would be appropriate for banks to prepare the first set of detailed disclosures under the Taxonomy Regulation in relation to climate change mitigation and adaptation environmental objectives covering the reference period of 2023 (i.e. banks would report the first set of KPIs in Q1 2024 based on information from their counterparties (real data) reported in Q1 2023 for the reference period of 2022). To this end, considering the interlinkage of the Taxonomy disclosure obligations with the updated Pillar 3 requirements, a delay of the application of the Pillar 3 ITS would also be necessary due to the fact that banks will only be able to provide the complete Pillar 3 report in Q1 2024.

[4] EBA Consultation on Draft Implementing Standards on prudential disclosures on ESG risks in accordance with Article 449a CRR

[5] According to the Regulatory Technical Standard issues with regard to the content, methodologies and presentation of disclosures pursuant to Article 2a(3), Article 4(6) and (7), Article 8(3), Article 9(5), Article 10(2) and Article 11(4) of Regulation (EU) 2019/2088 - https://www.esma.europa.eu/sites/default/files/library/jc_2021_03_joint_esas_final_report_on_rts_under_sfdr.pdf

II. Extent of disclosure

Whilst we very much welcome and appreciate that the Commission has taken a more pragmatic approach than was initially suggested by the EBA in its Advice by limiting the scope of the exposures to be included in the numerator for key ratios to financing provided to the entities in the scope of the NFRD, the Associations believe that the level of granularity of the disclosure requirements in the Commission's proposal is still too high and premature. Once the detailed disclosure requirements begin to apply on January 1, 2023, the number of data points that would need to be collected by banks to comply with such requirements will be disproportionate to the number of data points that would need to be collected by non-financial companies and asset managers and would pose a significant operational burden (please refer to **Appendix II** for an illustration). Inferring from the primary objective of the EU Taxonomy, which is helping reorient capital flows towards sustainable economic activities, we think that a simpler set of disclosure requirements would be capable of facilitating the achievement of that objective (please refer to **Section III for our detailed comments and recommendations in respect of the metrics proposed in the DA**).

Firstly, the KPIs and other disclosures proposed should be based on the core lending and investment activities that help channel financing flows to non-financial sector counterparties. Ultimately, it is the real economy sectors that would be required to undergo a substantial transformation in order to meet the most urgent sustainability objectives, such as climate change mitigation, and it is the progress on the level of term financing provided by the financial sector for this purpose that would represent useful information to keep track of – at least as the first stage.

Secondly, to maintain its leadership in sustainable finance, the EU should be actively considering the recent developments internationally where many more jurisdictions have started and will continue to be looking to establish and strengthen their position in this space. Advancing international collaboration and regulatory convergence on sustainability taxonomies and disclosure would require a simpler and pragmatic approach. Setting prescriptive and detailed requirements might not garner wide support in other key jurisdictions especially when there is a potential opportunity for others to explore more streamlined and market-driven approaches. This might eventually exacerbate the problem of global financial markets fragmentation – an outcome that could create further impediments and serve counterproductive to the goal of addressing global sustainability issues, such as climate change.

Finally, the scope and nature of the disclosures under Article 8 of the Taxonomy Regulation should not go beyond the original purpose of the requirements, which is "the disclosure by credit institutions and by investment firms of information on how and to what extent their activities are related to economic activities that are environmentally sustainable". Therefore, we urge the European Commission, when finalising its Delegated Act, to remove the requirement noted throughout the text for credit institutions and investment firms to disclose forward-looking information and targets for the proposed KPIs. Whilst we are convinced that disclosing forward looking information by entities across all sectors would be crucial in evaluating their transition potential, we think that preparing forward looking information per each KPI, as seems to be proposed in the DA, and subjecting it to external audit (as will be required by the new Corporate Sustainability Reporting Directive[6] (CSRD) will not be feasible to achieve in the near future. Moreover, if such a requirement was to be maintained, it would transform the Article 8 of the Taxonomy Regulation from a reporting tool to a strategy tool, which was not the original intention of EU co-legislators and would therefore go beyond the mandate of the Level 1 text of the Regulation. We note that the Commission's proposal on the CSRD is looking to introduce a requirement for the entities in scope to report "*qualitative and quantitative information,* ***forward-looking*** *and retrospective information, and information that covers short, medium and long-term time horizons as appropriate*". We think that the CSRD and the respective secondary legislation would constitute the most appropriate place for establishing the nature and extent of forward-looking information that companies would be required to report on.

[6] https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12129-Non-financial-reporting-by-large-companies-updated-rules-_en

III. Recommended disclosures

In the below table we provide our comments and recommendations on the metrics proposed by the European Commission for disclosure by credit institutions and investment firms under the EU Taxonomy. Please also refer to **Appendix III** to this paper for additional comments and points where we would welcome further clarification from the Commission.

<table>
<tr><th>Metrics/KPIs</th><th>Comments/Recommendations</th></tr>
<tr><td colspan="2">Credit Institutions</td></tr>
<tr><td>General</td><td><u>Consistency of numerator and denominator</u>

We strongly support the initial intent expressed by the EBA to ensure that KPI ratios proposed would be measured consistently, specifying that if certain activities/investments are excluded from the numerator they should also be excluded from the denominator as this would ensure a methodological accuracy of the calculation. However, we note that the Commission has taken a very different approach whereby the numerator would contain the proportion of taxonomy aligned exposures and the denominator would include the amount of total assets, only excluding exposures to central banks and central governments (i.e. Total GAR = Total taxonomy aligned exposures / (Total assets – Exposures to central banks and governments).

We believe that the Commission's approach is not appropriate and will result in metrics that would lack comparability and thus usability. Comparing the proportion of taxonomy aligned assets to total assets wound not adequately show the progress made by banks towards financing more environmentally sustainable activities.

To illustrate our position, we draw an example where banks A and B have different business models, leading to incomparable outcomes:

Bank A may hold 80% of its assets in sectors assessed by the Taxonomy, so would naturally have a larger potential to have a larger proportion of Taxonomy aligned assets than a Bank B who may hold only 40% of taxonomy eligible assets. The fact that the Taxonomy is not complete yet and that not all banking assets can be Taxonomy aligned by the definition, should not negatively reflect on banks' KPIs (that are then used in measuring their overall taxonomy alignment by investors) and impair on the comparability between information reported by banks.

We strongly believe that in order for the Green Asset Ratios to maintain the spirit of consistency and methodological accuracy, they should be calculated as a ratio of Taxonomy aligned assets to the total of eligible and relevant assets (i.e the sum of Taxonomy aligned assets divided by the sum of assets in scope and within the sectors assessed by the Taxonomy).

To further illustrate this point, assume that banks A and B each have total assets of 100 monetary units (MU). Bank A has 80% exposure to e.g. energy sector, and Bank B - 40%. Assume the rest of exposures are not covered by the Taxonomy yet (i.e. are not Taxonomy eligible). Bank A holds 10 MU of Taxonomy aligned assets (e.g. "green" energy assets) and Bank B – also 10 MU of similar assets. The GAR based on total assets for the two banks will be the same (10 MU/100 MU = 10%) whilst Bank A actually holds higher proportion of assets that are not Taxonomy aligned (70 MU out of 80 MU vs 30 MU out of 40 MU). The GAR based on eligible assets would be (10 MU / 80 MU = 12.5%) for Bank A and 10 MU / 40</td></tr>
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	MU = 25% for Bank B, which is methodologically correct and would more fairly reflect the level of Taxonomy alignment of the banks' economic activities. ***Stock vs flow:*** We welcome that the **KPIs for credit institutions covering their lending activity would also incorporate a ratio reflecting information on the flow of new lending** during the disclosure period vs only a point-in-time information on stock of exposures. We acknowledge that the point-in-time information on the stock of lending is necessary to understand the institution's level of alignment with the Taxonomy. The draft DA provides that the KPIs should cover the previous five reporting periods (art. 9(3)). We understand that this means a forward- vs a backward-looking approach i.e. firms should append annual numbers in disclosures as a forward-looking measure. For 2022 eligibility reporting, we would like to confirm that there is no expectation for firms to back-report eligibility. In other words, we request the Commission to clarify that **the first of the 5 reporting periods would be 2022** and therefore that the first reporting on the full 5-year KPIs will be 2027. We believe a **retroactive application would not be feasible** as the Taxonomy Regulation is not applicable before 1 January 2022. Financial institutions can only start building a stock of taxonomy-aligned exposures using the flows from 1 January 2022 (1 June 2023 for retail exposures to be disclosed in 2024) meaning that **only financings granted from the date of application of the disclosure requirements should be considered, for both stock and flow**. This should be clarified in the DA as well as in the Excel disclosure template. There is also an inconsistency to solve in Article 11(4) which provides that disclosure on the stock of residential real estate (RRE) exposures should start from June 2024. To be consistent, the June 2024 RRE disclosure should be on the 2023 flows while reporting on the stock for the 5 reporting periods should take place in 2028 for the first time. To support our position above, we note that collecting information on the existing stock of exposures, especially real estate financing, would not be a trivial task for older properties. For example, the EBA recommended that for real estate exposures, the estimation of the GAR should be based on the energy performance of the underlying collateral/asset, based on the energy performance certificate label (EPC), in line with the screening criteria proposed in the Taxonomy for the acquisition of buildings (old and new) or renovation of buildings. We note, however, the EPCs label is not harmonised across Members States and that information on energy performance of existing stock of buildings might not be complete or readily available. For example, in Italy public databases that can be used to extract estimates are not available in all regions. Furthermore, even for regions covered by the public databases, the EPC data is not easily recoverable for older buildings where such data was not produced initially, and where the EPC evaluation is yet to be performed. Finally, we believe that responsibility for **assessing compliance with the DNSH criteria for buildings should not be placed on banks**. A bank can neither ask its clients to provide all the requested information to make the DNSH assessment nor make that assessment by itself. The compliance must be **established by an accredited third party with the relevant expertise**. Banks could then rely on the documents provided by the relevant professionals. **Until such professional expertise is available, we believe that the taxonomy-alignment of the real estate assets should be based on the substantial contribution criteria only** while compliance with DNSH and MSS would be assumed.

	In respect of **car loans**, in our view there is no rationale for treating car loans differently from RRE loans, be it in terms of first disclosure date (January 2023 for the car loan KPI) or scope (no retroactive application on the stock of car loans). Both share the same difficulties in terms of procuring the data to assess taxonomy alignment and the volume of exposures to evaluate. Therefore, **both car loans and RRE exposures KPIs for the flows should be disclosed from June 2024 and none should apply retroactively**. To summarise, information on flows, based on new loans, is necessary to understand how the institution is transitioning and helping its counterparties in the transition to sustainable economy. The contribution to sustainability relies on the new origination of sustainable financing, and the stock alone could mislead stakeholders by offering a static, point-in-time picture. Considering this argument as well as expected data gaps on the stock of some portfolios, as mentioned above, we think that the KPI based on the flow should be more prominent and relevant to the users, including investors, at least during the initial five years following the application of the disclosure requirements. ***<u>Breakdown into transitional, enabling activities and special lending</u>*** As per the proposed disclosure templates, data capture efforts involve tagging economic activity as transitional vs enabling vs specialised lending. Having discussed this with multiple third-party data providers, we have evidence to conclude that this data will not be made available any time soon. In the absence of market data, firms will have to rely on proxies/estimates and/or invest significantly in setting up internal functions/ establishing deal management systems to screen activity deal by deal which is not feasible. We therefore discourage reporting/splitting activity between transitional, enabling and specialised financing and keeping the disclosure requirements simple for first set of reporting phases. ***<u>Type of counterparties</u>*** We strongly support that at this stage KPIs should **only include exposures to <u>non-financial entities</u> that report under the NFRD (in the future – CSRD)**. In its Opinion, the EBA rightly acknowledges that "*where counterparties and clients are not obliged to disclose relevant information and their economic activities cannot be mapped or assessed according to the taxonomy screening criteria in a systematic and comprehensive way that ensures the reliability of the information disclosed, the EBA's advice is not to include these activities in the information to be disclosed",* which we fully support. From banks' perspective, information needs to be not only available and comparable but also regulated and audited to ensure reliability. **Only the information disclosed as per the NFRD (in the future – CSRD) would meet all these criteria.** With regard to KPIs for **exposures to financial counterparties**, that are subject to the NFRD, it is not clear how the data collection and reporting would work in practice if most of the financial institutions would need to report at the same time (it is not clear how, for example, Bank A can calculate its Total GAR if it needs information from Bank B, where the Bank B would need the same information from Bank A to calculate its own Total GAR, and where an Asset Manager C needs information from both banks to measure the taxonomy alignment of its assets under management and thus calculate its own GAR). **In the absence of further guidance, we think that inclusion of exposures to financial institutions in the calculation of the GAR should be phased in until there are agreed**

	consistent methodologies practices to assess taxonomy alignment of such counterparties. ***<u>Jurisdiction of exposures:</u>*** The proposed disclosure template[7] states that "*3. Banks with non-EU subsidiary should provide this information separately for exposures towards non-EU counterparties. For non-EU exposures, while there are additional challenges in terms of absence of common disclosure requirements and methodology, as the EU taxonomy and the NFRD apply only at EU level, given the relevance of these exposures for those credit institutions with non-EU subsidiaries, these institutions should disclose a separate GAR for non-EU exposures, on a best effort basis, in the form of estimates and ranges, using proxies, and explaining the assumptions, caveats and limitation*" We understand that this statement might not be intentional and that it might have been accidentally carried over from the original EBA's Advice. We make this conclusion following the official FAQ document[8] providing additional guidance on the Delegated Act, which states that in principle financial institutions should take into account their exposures to all types of underlying companies as these companies may decide to disclose information on the Taxonomy alignment voluntarily. However, the FAQ document further states that "*To provide SMEs and/or non-EU companies with sufficient time to decide whether to report voluntarily under the Taxonomy Regulation and financial institutions to collect relevant information from those undertakings, this disclosures delegated act will provide for* ***a transitional period of three years*** *for the inclusion of exposures and investments of those undertakings in the numerator of key performance indicators of financial companies,* ***subject to a review and a positive impact assessment undertaken by the Commission***" We strongly believe that the **disclosure requirements under the Delegated Act should mandate only those KPIs that are based on EU exposures (i.e. <u>funds provided to finance the operations/economic activities of NFRD companies in the EU</u>) –** at least until there are agreed consistent methodologies/guidelines for providing estimated information for non-EU exposures in those instances where third country companies may not provide information on the Taxonomy alignment voluntarily. To further explain our point, we note that there are third-country banks that would fall in scope of the NFRD <u>at the group level,</u> as well as EU domiciled banks with third-country operations and would thus be subject to the disclosure obligations under the EU Taxonomy Regulation – based on our understanding, <u>at the group level as well</u>. We find it objectionable as a principle that these obligations should be applied extra-territorially whereby third-country banks and EU banks with third country operations would be required to assess their entire portfolios, including exposures outside of the EU, for Taxonomy alignment. We think that the application to third country firms, should be conditional upon those countries applying an equivalent to the EU Taxonomy. Otherwise, only EU exposures, as noted above, should be included in the scope of the KPIs.

[7] Annex VI to the EU Taxonomy article 8 Delegated Act - Template for the KPIs of credit institutions | European Commission (europa.eu)
[8] https://ec.europa.eu/info/sites/default/files/business_economy_euro/banking_and_finance/documents/sustainable-finance-taxonomy-article-8-faq_en.pdf
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<u>***Methodology of alignment calculation:***</u>

The Commission recommends that in order to measure alignment of banks' non-dedicated loans (i.e., general purpose loans) with the Taxonomy for non-financial corporates, it is only possible to use the percentage of the counterparty's turnover generated by taxonomy-compliant activities.

We generally support the proposal to measure the degree of taxonomy alignment of general-purpose lending based on the share of counterparty's turnover generated from taxonomy aligned activities. However, we think that general purpose lending/financing will play a crucial role in facilitating companies' transition to low carbon business models, and the transition would require substantial CAPEX investments. For a company with high taxonomy aligned CAPEX but yet low revenues from Taxonomy aligned activities, CAPEX might be a more appropriate basis to measure Taxonomy alignment of general-purpose financing provided to the company. We note that in order to measure the Taxonomy alignment for general purpose debt securities, two GARs need to be calculated and disclosed – one GAR based on the proportion of the issuer's taxonomy aligned turnover in the total revenue and the second GAR – based on the proportion of the taxonomy aligned CAPEX in the total CAPEX. It is not clear, however, which of the two would count towards the Total GAR.

We therefore think that both ratios (turnover based and CAPEX based) might need to be disclosed in parallel, where relevant, and that it is not necessarily the turnover-based one that would always most accurately portray the degree of taxonomy alignment of any general-purpose financing.

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Asset classes in scope

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<u>**Banking vs Trading portfolio**</u>

We generally think that **it is the banking book exposures that should form the basis for GAR**, given that the nature of these exposures would be more appropriate for measuring progress on the amounts of capital flows directed to finance sustainable activities. We thus support the Commission's recommendation that assets held in the trading portfolio should be excluded from the computation of the GAR and the associated disclosure obligation, given the nature of the portfolio is different from that of the banking book.

However, **we acknowledge a special role played by derivatives** and that their treatment for the GAR purposes should be considered separately from the rest of assets held for trading, as outlined below.

The EBA's Advice suggests that derivatives should be left out of the GAR calculation for credit institutions in the absence of disclosures or methodologies to assess their Taxonomy alignment. Conversely, the Delegated Act is understood to propose the exclusion of derivatives from the numerator of the GAR for credit institutions but their inclusion in its denominator.

Derivatives perform a critical role in economic activity by facilitating the raising and allocation of capital for green finance, enabling, and helping businesses and investors better manage the risks to which they are exposed, and to more effectively align their exposures with risk tolerance and risk management requirements. The derivatives market also plays a major role in enhancing transparency through providing information on the underlying commodities, securities or assets, which can ultimately contribute to

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long-term sustainability objectives. The financial sector is responding to the challenges in sustainable finance with a diverse range of product structures and transaction types in the derivatives market. While conventional derivatives can certainly be used to hedge non-ESG related risks associated with green instruments, including credit, FX and interest rate risks, a new wave of sustainability-linked derivatives and exchange-traded ESG derivatives has also developed in recent years, alongside existing derivatives such as emissions trading derivatives, renewable energy and renewable fuels derivatives, and catastrophe and weather derivatives. The exponential grown of ESG markets inevitably implies a need for forward prices of these assets and their related indices. Hence, derivatives markets are a key component of mature secondary markets, and it will therefore be increasingly necessary over time that ESG and ESG-linked derivatives are accounted for in the relevant sustainability KPIs.

In line with previous industry response by ISDA to the ESA's Joint Consultation Paper concerning Taxonomy-related sustainability disclosures[9] and in view of the Securities and Markets Stakeholder Group (SMSG) advice[10] to the same Consultation Paper, we strongly believe that derivatives can serve many purposes, including ESG purposes and in such contexts, the relevant KPIs measuring alignment with sustainability purposes should gradually be extended to include such derivatives, provided that it is adequately disclosed how they serve ESG purposes.

However, given the low volume of derivative transactions that currently attain ESG characteristics or objectives and the absence of clear methodologies to assess their sustainability alignment, **we recommend that such derivatives be included in the calculation of the GAR's numerator at a later stage following a more in-depth assessment of their current uses by EU policymakers and regulators**.

Additionally, we believe that the inconsistent treatment of including derivatives in the denominator while they are excluded in whole or in part from the numerator for credit institutions is not optimal from a methodological consistency standpoint and could potentially prove problematic for banks who provide liquidity in derivatives having structurally poor GARs. This inconsistent treatment also applies to the trading book in the denominator while being excluded from the numerator. This in turn would make EU GSIBs less attractive issuers and counterparties for GAR-sensitive investors, and accordingly undermine their capital and funding costs at the very same time as the EU is relying on those same banks to build its CMU and to provide financing for the transition to a sustainable economy. **We would thus like to call on the European Commission to reassess its approach for derivatives holistically in the GAR until this matter has been appropriately examined in more detail as indicators should not be constructed in an inconsistent way that structurally disfavours banks.** Finally, we suggest the approach highlighted above is applied consistently across all relevant calculation KPIs in respect of NFRD entity reporting under Article 8 of the Taxonomy Regulation as differing interpretations could create confusion for investor or result in fragmented outcomes, thereby limiting the potential for evolution of risk management practices in the ESG space going forward.

Accounting categories for covered assets

[9] https://www.isda.org/a/XYzTE/ISDA-Responds-to-ESAs-on-Taxonomy-related-Sustainability-Disclosures.pdf
[10] https://www.esma.europa.eu/sites/default/files/library/esma22-106-3375_smsg_advice_on_taxonomy_related_sustainability_disclosures.pdf

	ANNEX V KPIs of credit institution of the Delegated Act refers to the assets that are in scope using IFRS[11] accounting classification. In light of the existing equivalence regime in the EU in relation of the application of IFRS and US GAAP accounting frameworks, third country entities which fall in the scope of the NFRD/(in the future – CSRD) and which use US GAAP as their primary financial reporting framework should be able to use accounting classification under the US GAAP that corresponds to the classification under IFRS for the purpose of complying with the transparency obligations under the EU Taxonomy Regulation.
Trading book KPI	**We seek clarity with regard to the materiality of the value added by the proposed KPI at this stage and would recommend that its usefulness be assessed in the future once further work by the regulators has been achieved.** As noted in the Section II *Extent of Disclosure* above, we strongly believe that priority should be given to the metrics that would help stakeholders evaluate a financial institution's progress towards financing taxonomy-aligned activities. The proposed Trading book KPI is aiming to measure the proportion of trading activity in taxonomy-aligned instruments (purchases + sales of green debt and equity securities) in the total volume of securities traded. In our view, the purpose of this KPI is not clear in terms of its ability to help track the proportion of finance allocated towards taxonomy-aligned activities. We acknowledge that this KPI would help assess the degree of liquidity of "green" financial instruments, however we do not think that introducing this KPI should be a priority. We further note that operationalising this KPI would be unjustifiably burdensome. In order for a bank to be able to report this KPI, all issuers of the securities in which the bank is trading would need to be tagged for the level of taxonomy alignment. In order to perform this tagging, the complete data would need to be available on all such issuers, which also proves that the reporting of this KPI by banks cannot happen at the same time as the reporting of Taxonomy alignment data by the issuers, and that there should be appropriate sequence and time lag between the two. If this KPI were to be required in the future, to ensure consistency between all credit institutions' KPI calculation, we consider that the trading portfolio of all institutions, irrespective its size, should be taken into consideration for the computation of the KPI. Otherwise, the KPI would not be comparable among entities (with a trading book above and under certain threshold) and may lead to incorrect interpretations and conclusions by stakeholders and market participants.
Fee and commission income KPIs	**We do not support the proposed KPI at this stage and would recommend to re-assess its usefulness in the future.** The KPI represents information on the percentage of fees and commission income towards taxonomy relevant sectors and environmentally sustainable activities (with breakdown for transitional/adaptation and enabling activities) compared to total fees and commission income from NFRD corporates for services other than lending and asset management. According to the Delegated Act, these other services include: *issuance or other services related to third party securities; reception, transmission and execution on*

[11] International Financial Reporting Standards

	behalf of customers of orders to buy or sell securities; merger and acquisition corporate advisory services; corporate finance services related to capital market advisory services for corporate clients or other; clearing and settlement services; custody and other related services; fee and commission income for the distribution of products issued by entities outside the prudential group to its current customers; loan servicing activities; foreign exchange services and international transactions. Whilst we understand that the intention of this KPI is to facilitate the flow of information on the proportion of fee and commission income linked to services provided to corporates aligned with the Taxonomy, we do not think this metrics is relevant and thus necessary at this stage. Similar to the Trading Book KPI, this information would not portray in a meaningful way the progress towards financing the greening of the economy. Costs of preparing these disclosures will significantly outweigh the benefits, which must be avoided.
KPIs based on the stock of off- balance sheet commitments (FinGar, AuM KPIs)	We agree with the original EBA Advice that credit institutions may influence the orientation of capital flows through their off-balance-sheet exposures, for example by backing loans that are financing taxonomy-aligned activities, or in the case of their asset management services, by investing the assets under management in corporates that are aligned with the Taxonomy. **We thus support the proposed KPI for Financial Guarantees. For the AuM KPI, we recommend a KPI based on AuM aligned with the Taxonomy as measured by the proportion of AuM of Art 9 products under the SFDR to total AuM of financial products marketed in the EU.**
Investment firms	
Portfolio management/ investment advice services	We recommend a single KPI based on AuM aligned with the Taxonomy as measured by the proportion of AuM of Art 9 products under the SFDR to total AuM of financial products marketed in the EU.

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About AFME
AFME (Association for Financial Markets in Europe) advocates for deep and integrated European capital markets which serve the needs of companies and investors, supporting economic growth and benefiting society. AFME is the voice of all Europe's wholesale financial markets, providing expertise across a broad range of regulatory and capital markets issues. AFME aims to act as a bridge between market participants and policy makers across Europe, drawing on its strong and long-standing relationships, its technical knowledge and fact-based work. Its members comprise pan-EU and global banks as well as key regional banks, brokers, law firms, investors and other financial market participants. AFME participates in a global alliance with the Securities Industry and Financial Markets Association (SIFMA) in the US, and the Asia Securities Industry and Financial Markets Association (ASIFMA) through the GFMA (Global Financial Markets Association). For more information, please visit the AFME website: www.afme.eu

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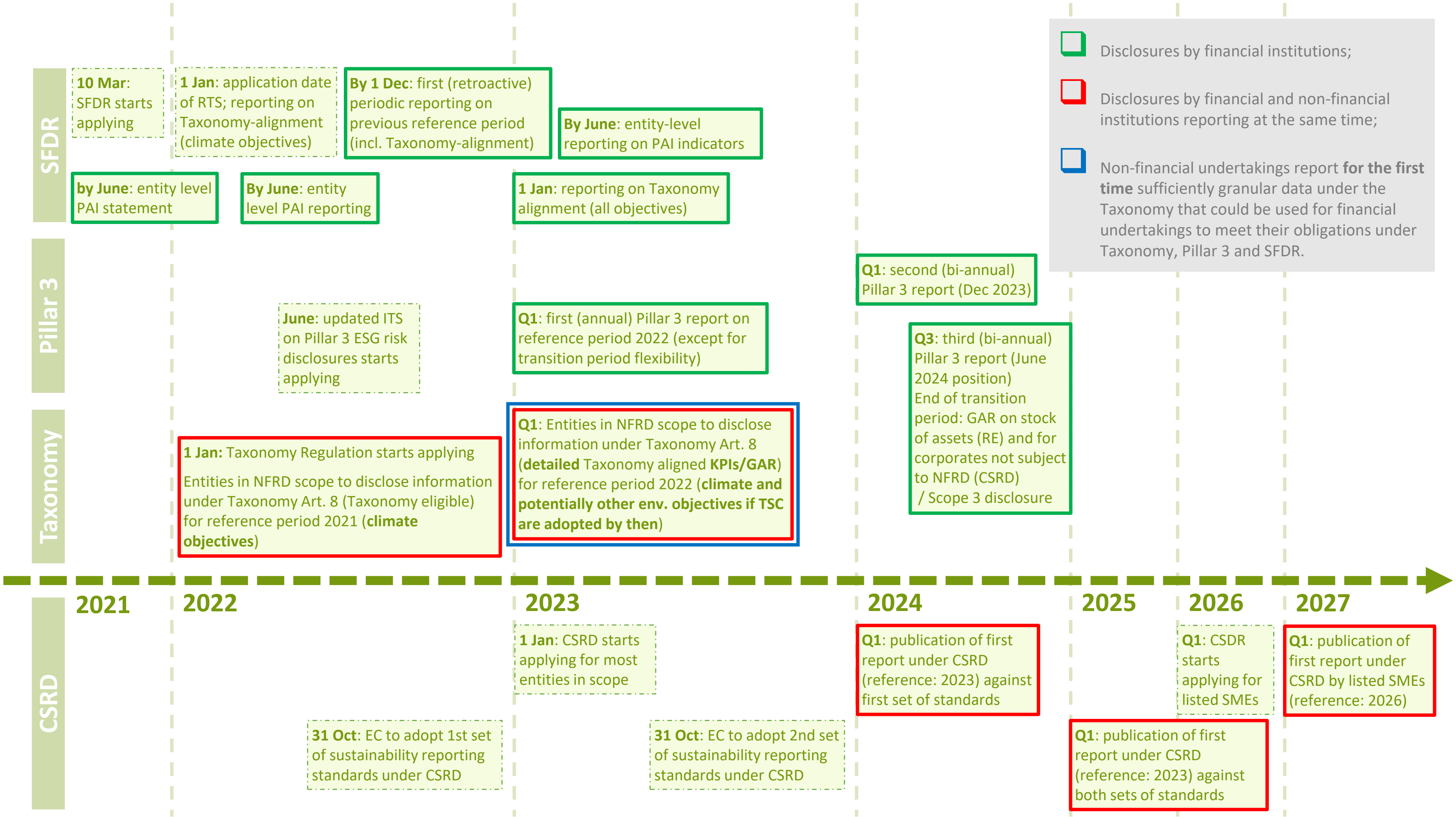
About ISDA
Since 1985, ISDA has worked to make the global derivatives markets safer and more efficient. Today, ISDA has over 950 member institutions from 76 countries. These members comprise a broad range of derivatives market participants, including corporations, investment managers, government and supranational entities, insurance companies, energy and commodities firms, and international and regional banks. In addition to market participants, members also include key components of the derivatives market infrastructure, such as exchanges, intermediaries, clearing houses and repositories, as well as law firms, accounting firms and other service providers. Information about ISDA and its activities is available on the Association's website: www.isda.org. Follow us on Twitter, LinkedIn, Facebook and YouTube.

Appendix I – overview of the timeline for the application of EU disclosure requirements and data dependencies



Appendix II – estimated number of data points to be reported under Art 8 of EU Taxonomy by non-financial corporates, asset managers and banks

1) Non-Financial Corporates

Considering the illustrative data provided in Table 1[12] below, for example, a utility company with distributing energy generated from several sources, such as wind (A) and solar (B) but also natural gas (D) and oil (E) would be required to report about:

4 rows * 17 columns + 2 for B (Turnover of non-eligible activities) = 70 data points for turnover for all objectives (4 rows * 9 columns + 2 for B (Turnover of non-eligible activities) = 38 data points for turnover for climate objectives;
Plus the share of OpEx and CapEx: 70*2 = 140 data points for OpEx and CapEx for all objectives (38*2 = 76 data points for OpEx and CapEx for climate objectives);
Totalling 210 data points due in Q1 2024 when the taxonomy is complete for all environmental objectives and **114 data points due in Q1 2023 for climate objectives only**.

Table 1: Proportion of turnover from products or services associated with economic activities that qualify as environmentally sustainable under Articles 3 and 9 of the Taxonomy Regulation^ - disclosure covering year N

				Substantial contribution criteria						DNSH criteria (Do No Significant Harm')									
Economic activities (1)	Code(s) (2)	Absolute turnover (3)	Proportion of turnover (4)	Climate change mitigation (5)	Climate change adaptation (6)	Water and marine resources (7)	Circular economy (8)	Pollution (9)	Biodiversity and ecosystems 910)	Climate change mitigation (11)	Climate change adaptation (12)	Water and marine	Circular economy (14)	Pollution (15)	Biodiversity and	Minimum safeguards (17)	Taxonomy-aligned proportion of turnover, year N (18)	Taxonomy-aligned proportion of turnover, year N-1 (19)	Category (enabling activity / transitional activity) (20)
		Currency	%	%	%	%	%	%	%	Y/N	Y/N	Y/N	Y/N	Y/N	Y/N	Y/N	Percent	Percent	E/T
A. ELIGIBLE ACTIVITIES																			
A.1. Eligible Taxonomy-aligned activities																			
Activity A			20%	50%*	0%	0%	0%	0%	0%		Y	Y	Y	Y	Y	Y	10%		E
Activity B			11%	0%	0%	100 %	0%	0%	0%	Y	Y		Y	Y	Y	Y	11%		
Turnover of eligible Taxonomy-aligned activities (A.1)			**31%**	**10%**	**0%**	**11%**	**0%**	**0%**	**0%**								**21%**		**10%****
A.2 Eligible not Taxonomy-aligned activities																			
Activity D			18%	0%	0%	0%	0%	0%	0%	Y	Y	Y	Y	Y	Y	Y	0%		T
Activity E			20%	50%	0%	0%	0%	0%	0%	Y	Y	N	Y	Y	Y	Y	0%		
Turnover of eligible not Taxonomy-aligned activities (A.2)			**38%**																
Total (A.1 + A.2)			**69%**	**10%**	**0%**	**11%**	**0%**	**0%**	**0%**								**21%**		**10%***
B. NON-ELIGIBLE ACTIVITIES																			
Turnover of non-eligible activities (B)			**31%**																
Total (A + B)			**100%**																

* The information in this cell denotes that only 50% of activity A qualifies as environmentally sustainable and therefore only 50% of the turnover related with activity A is Taxonomy

[12] Pages 163-166: https://www.esma.europa.eu/sites/default/files/library/esma30-379-471_final_report_-_advice_on_article_8_of_the_taxonomy_regulation.pdf

2) Asset Managers

According to proposed templates[13] for periodic reporting for financial products referred to in Article 8(1) and financial products referred to in Article 9(1), (2) and (3) of Regulation (EU) 2019/2088 ("SFDR") (relevant extracts are noted below), the ***minimum number of key data points*** to be included in the periodic reporting can be estimated as follows ***per each Art 8 or Art 9 product***:

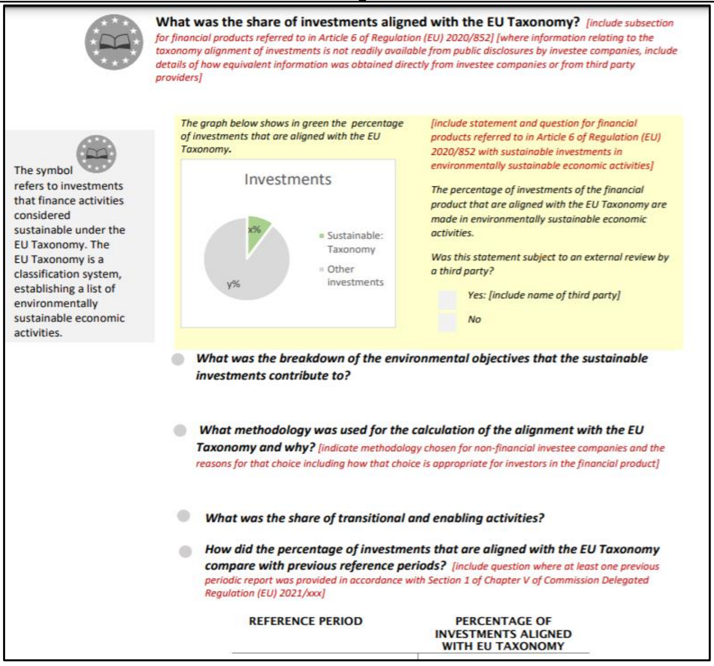
Share of Taxonomy aligned activities and activities that are not aligned in an investment = 2;
Plus Breakdown by Objectives (climate only) = 2;
Plus Transition and Enabling per objective = 2 * 2 = 4.

Totalling 8 data points due in periodic reporting **at the end of 2022**
Plus 16 PAI - due **for June 2023**

Totalling 24 data points
E.g., for a fund with 100 holdings = 2400 data points and for a fund manager with 100 Art 8 and 9 funds = **240,000 data points to be collected**

Article 8 products	Article 9 products

Article 8 products


What was the share of investments aligned with the EU Taxonomy? [include subsection for financial products referred to in Article 6 of Regulation (EU) 2020/852] [where information relating to the taxonomy alignment of investments is not readily available from public disclosures by investee companies, include details of how equivalent information was obtained directly from investee companies or from third party providers]

The symbol refers to investments that finance activities considered sustainable under the EU Taxonomy. The EU Taxonomy is a classification system, establishing a list of environmentally sustainable economic activities.

The graph below shows in green the percentage of investments that are aligned with the EU Taxonomy.

[include statement and question for financial products referred to in Article 6 of Regulation (EU) 2020/852 with sustainable investments in environmentally sustainable economic activities]

The percentage of investments of the financial product that are aligned with the EU Taxonomy are made in environmentally sustainable economic activities.

Was this statement subject to an external review by a third party?

Yes: [include name of third party]
No

What was the breakdown of the environmental objectives that the sustainable investments contribute to?

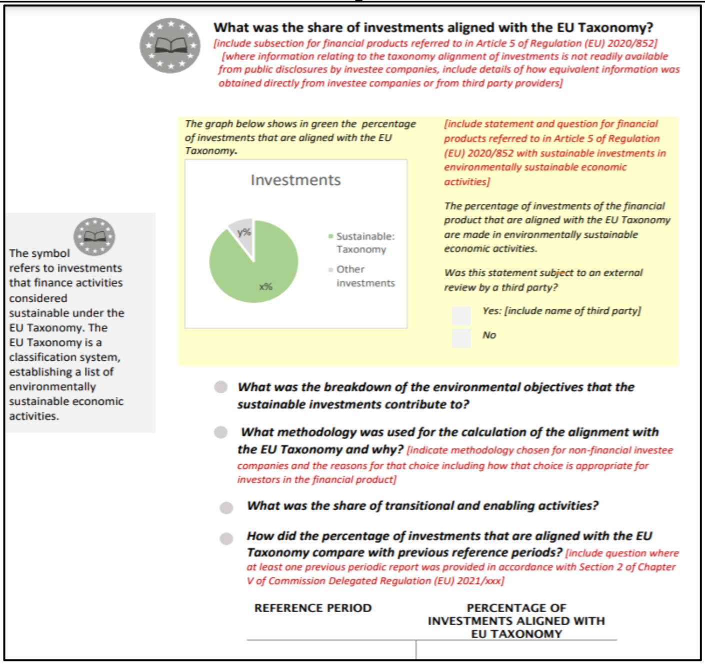
What methodology was used for the calculation of the alignment with the EU Taxonomy and why? *[indicate methodology chosen for non-financial investee companies and the reasons for that choice including how that choice is appropriate for investors in the financial product]*

What was the share of transitional and enabling activities?

How did the percentage of investments that are aligned with the EU Taxonomy compare with previous reference periods? *[include question where at least one previous periodic report was provided in accordance with Section 1 of Chapter V of Commission Delegated Regulation (EU) 2021/xxx]*

REFERENCE PERIOD	PERCENTAGE OF INVESTMENTS ALIGNED WITH EU TAXONOMY

Article 9 products


What was the share of investments aligned with the EU Taxonomy? [include subsection for financial products referred to in Article 5 of Regulation (EU) 2020/852] [where information relating to the taxonomy alignment of investments is not readily available from public disclosures by investee companies, include details of how equivalent information was obtained directly from investee companies or from third party providers]

The symbol refers to investments that finance activities considered sustainable under the EU Taxonomy. The EU Taxonomy is a classification system, establishing a list of environmentally sustainable economic activities.

The graph below shows in green the percentage of investments that are aligned with the EU Taxonomy.

[include statement and question for financial products referred to in Article 5 of Regulation (EU) 2020/852 with sustainable investments in environmentally sustainable economic activities]

The percentage of investments of the financial product that are aligned with the EU Taxonomy are made in environmentally sustainable economic activities.

Was this statement subject to an external review by a third party?

Yes: [include name of third party]
No

What was the breakdown of the environmental objectives that the sustainable investments contribute to?

What methodology was used for the calculation of the alignment with the EU Taxonomy and why? *[indicate methodology chosen for non-financial investee companies and the reasons for that choice including how that choice is appropriate for investors in the financial product]*

What was the share of transitional and enabling activities?

How did the percentage of investments that are aligned with the EU Taxonomy compare with previous reference periods? *[include question where at least one previous periodic report was provided in accordance with Section 2 of Chapter V of Commission Delegated Regulation (EU) 2021/xxx]*

REFERENCE PERIOD	PERCENTAGE OF INVESTMENTS ALIGNED WITH EU TAXONOMY

[13] Pages 41-48: https://www.esma.europa.eu/sites/default/files/library/jc_2021_22_-_joint_consultation_paper_on_taxonomy-related_sustainability_disclosures.pdf

3) Banks

According to the EBA's proposal, scale of the number of data points to be collected **for a Green Asset Ratio only** for credit institutions[14] (excluding other proposed KPIs and sector information for simplicity and excluding KPIs for investment firms) can be demonstrated as follows.

Assuming a bank holds 100,000 NFC counterparties in **a loan book only**, the minimum number of data points for one disclosure period T would be equal to: 100,000*10 relevant columns (columns that a not simple totals of other data points) = **1 000 000**.

		a	b	c	d	e	f	g	h	i	j	k	l	m	n	o	p
			Disclosure reference date T														
			Climate Change Mitigation (CCM)					Climate Change Adaptation (CCA)					TOTAL (CCM + CCA)				
	Million EUR	Total gross carrying amount	Of which towards taxonomy relevant sectors (Taxonomy-eligible)					Of which towards taxonomy relevant sectors (Taxonomy-					Of which towards taxonomy relevant sectors (Taxonomy-				
				Of which environmentally sustainable (Taxonomy-aligned)					Of which environmentally sustainable (Taxonomy-					Of which environmentally sustainable (Taxonomy-			
					Of which specialised lending	Of which transitional	Of which enabling			Of which specialised lending	Of which adaptation	Of which enabling			Of which specialised lending	Of which transitional/adaptation	Of which enabling
1	GAR - Covered assets in both numerator and denominator																
2	Loans and advances, debt securities and equity instruments not HfT eligible for GAR calculation																
3	Financial corporations																
4	Credit institutions																
5	Loans and advances																
6	Debt securities																
7	Equity instruments																
8	Other financial corporations																
9	of which investment firms																
10	Loans and advances																
11	Debt securities																
12	Equity instruments																
13	of which management companies																
14	Loans and advances																
15	Debt securities																
16	Equity instruments																
17	of which insurance undertakings																
18	Loans and advances																
19	Debt securities																
20	Equity instruments																
21	Non-financial corporations																
22	NFCs subject to NFRD disclosure obligations																
23	Loans and advances																
24	Debt securities																
25	Equity instruments																
26	SMEs and NFCs (other than SMEs) not subject to NFRD disclosure obligations																
27	Loans and advances																
28	of which loans collateralised by commercial immovable property																
29	of which building renovation loans																
30	Debt securities																
31	Equity instruments																
32	Non-EU country counterparties not subject to NFRD disclosure obligations																
33	Loans and advances																
34	Debt securities																
35	Equity instruments																
36	Households																
37	of which loans collateralised by residential immovable property																
38	of which building renovation loans																
39	of which motor vehicle loans																
40	Local governments - House financing																
41	Collateral obtained by taking possession: residential and commercial immovable properties																
42	Other assets excluded from the numerator for GAR calculation (covered in the denominator)																
43	Trading book																
44	Derivatives																
45	On demand interbank loans																
46	Other assets not covered for GAR calculation																
47	Sovereigns																
48	Central banks exposure																
49	Total assets																
50	Financial guarantees																
51	Assets under management																
52	Of which debt securities (NFRD obliged corporates)																
53	Of which equity instruments (NFRD obliged corporates)																

This comes in addition to the very granular Pillar 3 disclosures, as proposed by the EBA[15]

[14] Annex VI to the EU Taxonomy article 8 Delegated Act - Template for the KPIs of credit institutions | European Commission (europa.eu)

[15] https://www.eba.europa.eu/eba-launches-public-consultation-draft-technical-standards-pillar-3-disclosures-esg-risks;

Proposed Templates:
https://www.eba.europa.eu/sites/default/documents/files/document_library/Publications/Consultations/2021/Consultation%20on%20draft%20ITS%20on%20Pillar%20disclosures%20on%20ESG%20risk/963622/Annex%20I%20-%20EBA%20draft%20ITS%20on%20Pillar%203%20dislcosures%20on%20ESG%20risks%20%28templates%29.xlsx

Appendix III – Other comments / issues for clarification

Scope	**Intercompany transactions** – for the purpose of calculating the GAR and other KPIs, we understand that the intercompany positions would be excluded from the scope, which we would welcome (if otherwise, it may skew the KPIs when subsidiaries have large intercompany positions versus their third-party positions).
Methodology of alignment calculation	**Portfolio and acquisition finance** – we would welcome guidance in the DA or as part of separate FAQ around the methodology for the Taxonomy alignment of portfolio and acquisition finance. For example, • Should banks disclose the % alignment of the portfolio? • Should this follow the Use of Proceeds methodology or general-purpose finance or both?
Do no significant harm (DNSH) criteria	**DNSH assessment** - we would welcome additional guidance with regard to assumptions that can be made and disclosed when performing the DNSH assessment. For example, in the instances where entities may not be able to fully assess the compliance with the DNSH criteria (for example, due to the lack of respective data), can the Taxonomy alignment be granted under certain assumptions?
External assurance	Considering the fact that disclosures under Article 8 of the Taxonomy Regulation will be subject to third-party limited assurance (according to the new CSRD proposal), we think is important to proactively define, in corporation with the industry and third-party assurance providers, the type of audit evidence that banks should hold with regard to the preparation of the respective disclosures.
Inconsistencies when referencing climate related objectives in the DA	We note inconsistencies in the references to the Climate Change objectives that should be used for assessing taxonomy alignment of RRE exposures. Under paragraph 1.2.1.3 of ANNEX V, it is stated that only investments relevant for climate change mitigation should be considered while the following references are to either "climate DA" or "DA climate change mitigation and climate change adaptation". In our view, investments for the purpose of both climate change mitigation and climate change adaptation should be eligible. It is not clear why climate change adaptation objective should be left out.
Application	
Requirements applicable as of 1 January 2022	a) Are firms expected to follow the proposed disclosure templates for Taxonomy eligibility and non-eligibility reporting? While the templates provide granularity on Eligibility fields, there is no prescribed format for non-eligibility reporting. Is non-eligible portion what remains after taking out eligible portfolio? If yes, what format should be used for reporting non-eligibility? b) Article 2(5) describes eligible activity that is described in the delegated acts adopted pursuant to Articles 10, paragraph 3, 11, paragraph 3, 12, paragraph 2, 13, paragraph 2, 14, paragraph 2 and 15, paragraph 2, of Regulation (EU) 2020/852, irrespective of whether that economic activity meets all of the technical screening criteria laid down in those delegated acts. Article 10, paragraph 3 (2020/852) lists supplement paragraphs 1 and 2 of this Article by establishing technical screening criteria for determining the conditions under which a specific economic activity qualifies as contributing substantially to

	climate change mitigation. This seems contradictory from a legal standpoint. We understand that for the purpose of the first reporting cycle starting on 1 January 2022 entities will only have to identify the proportion of economic activities the technical screening criteria for which have been assessed to date within the Taxonomy Regulation. Entities will thus not be required to consider the technical screening criteria, DNSH and Minimum Social Safeguards when identifying the "Taxonomy-eligible assets". c) Additionally, on qualitative disclosures, the Commission should consider the potential overlapping qualitative disclosure requirements introduced via NFRD / CSRD which includes EU Taxonomy – qualitative nature of disclosures should be considered holistically in order to minimise different interpretations on disclosure requirements.
Requirements applicable as of 1 January 2023	a) It is unclear on how the phased in implementation timelines would work for the other four environment objectives. Are firms expected to report eligibility and alignment (across all relevant disclosure templates) on remaining climate objectives starting from 2023? Considering that the technical screening criteria for the other objectives are still under the development by the EU Platform on Sustainable Finance, timing for the detailed reporting requirements would need to be considered carefully from a market data availability perspective as using proxies / estimates (in the absence of market data) will not add any value to the trends the Commission expects to see over time from disclosures.