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Feedback on: Sustainable investment – EU environmental taxonomy

Delegated Act: Taxonomy Environmental Delegated Act (Annex V-VII to Environmental Delegated Act (Art 8))

The Accounting Standards Committee of Germany (ASCG) welcomes the possibility to comment the draft delegated regulation. The ASCG is the national standard setter in the area of group financial reporting in Germany. The organisation was established on 17 March 1998 as an independent and registered not-for-profit association by German Industry and is domiciled in Berlin. The ASCG had been formally acknowledged by the Ministry of Justice as the private standardisation organisation pursuant sec. 342 of the German Commercial Code.

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Article 5 paragraph 1 Draft delegated regulation (Ares(2023)2481554)

The deletion of the phase-in for the reporting on the remaining four environmental objectives as laid out in Article 5 paragraph 1 of this draft delegated regulation reduces unnecessarily the time to implement the new reporting requirements as outlined in this draft delegated regulation. Reporting undertakings should be given sufficient time to implement the new disclosure requirements especially against the background that the European Sustainability Reporting Standards have to be implemented as well. From a reporting undertakings perspective it would be preferable that the first reporting on the new environmental objectives should be first provided in 2025 for the financial year 2024.

Article 5 paragraph 2 Draft delegated regulation (Ares(2023)2481554)Amendments to Article 10 paragraph 6 Delegated Regulation (EU) 2021/2178

The provision states that from 1 January 2025 key performance indicators shall be disclosed. It remains unclear whether this also encompasses all other accompanying information pursuant to Annexes I and II to Delegated Regulation (EU) 2021/2178. The latter approach has been explicitly used in the phasing-in of reporting requirements for the initial two climate change objectives in 2022. This raises the particular issue whether this distinction in the current proposal is made on purpose and whether a further gradual introduction of the reporting requirements even beyond 2025 is intended or not. A clarification would be welcome.

Amendments to Article 10 paragraph 7 Delegated Regulation (EU) 2021/2178

It appears that the year 2025 is not covered by the text as currently proposed. At the minimum, the easing of reporting requirements should last from 1 January 2024 to 31 December 2025, because according to this draft delegated act, the full reporting obligations for financial undertakings are not to begin until 1 January 2026. Therefore, the European Commission should extend the period in which disclosure is limited to taxonomy-eligible activities until 31 December 2025, amending proposed paragraph 7 as follows: "7. From 1 January 2024 until 31 December 2025 financial undertakings shall only disclose (...)".

Nevertheless, the Commission clarified in its [Commission Notice \(C/2022/6937\)](#) (Question 20) that actual data provided by NFRD undertakings must be used by financial undertakings in their mandatory disclosures, and estimates can only be used in voluntary disclosures (presented separately from mandatory ones). Financial undertakings rely on data provided by their non-financial investee undertakings to assess their exposures to taxonomy-eligible and taxonomy-aligned economic activities. This has been acknowledged in this draft delegated regulation (as well as Article 10 paragraph 3 and paragraph 5 of the Delegated Regulation (EU) 2021/2178 regarding climate change objectives) by later effective date for financial undertakings (compared to non-financial undertakings) for their taxonomy-alignment reporting. However, this is not the case for their taxonomy-eligibility reporting which is required to start at the same time as non-financial undertakings, even though data will only be available to financial undertakings one year after the first eligibility reporting of non-financial undertakings.

Therefore, financial undertakings should benefit of a one-year delay not only for taxonomy-alignment reporting but also for taxonomy-eligibility reporting. As a consequence, proposed Article 10 paragraph 7 should be amended as follows: "7. From 1 January 2025 until 31 December 2025 financial undertakings shall only disclose (...)".

The provision states that from 1 January 2026 key performance indicators shall be disclosed. It remains unclear whether this also encompasses all other accompanying information pursuant to the Annexes to Delegated Regulation (EU) 2021/2178. The latter approach has been explicitly

used in the phasing-in of reporting requirements for the initial two climate change objectives in 2022. This raises the particular issue whether this distinction in the current proposal is made on purpose and whether a further gradual introduction of the reporting requirements even beyond 2026 is intended or not. A clarification would be welcome.

Amendments to Article 10 paragraph 6 and 7 Delegated Regulation (EU) 2021/2178

This draft delegated regulation should specify the practical approach for reporting undertakings using the easing of the reporting requirements. In December 2021, the European Commission released a particular FAQ document regarding similar aspects ([FAQs: How should financial and non-financial undertakings report Taxonomy-eligible economic activities and assets in accordance with the Taxonomy Regulation Article 8 Disclosures Delegated Act?, December 2021 \(updated January 2022\)](#)). The practical approach of the easing of the reporting requirements of this draft delegated act should be clearly addressed at an early stage. One way could be a specific recital explaining this or, alternatively, an additional FAQ should be provided in parallel to the final legal text addressing this in a concerted manner to allow reporting undertakings to prepare with sufficient lead time. In particular, questions 2, 5, 8, 10 and 11 of the FAQ document (December 2021 (updated January 2022)) regarding the reporting requirements on taxonomy-eligible activities were helpful for reporting undertakings and should be addressed in the same way for this draft delegated regulation. This includes, for example, the question: “Should financial and non-financial undertakings use the Annexes provided in the Disclosure Delegated Act to report their eligibility disclosures”?

Paragraph 6 Annex V Draft delegated regulation (Ares(2023)2481554)

Amendments to Annex II Delegated Regulation (EU) 2021/2178

Under the draft delegated regulation, the colour theme of the templates is foreseen to become mandatory. The colouring as such gives high prominence to the data contained in these columns. The exact colouring for the individual environmental objectives is not necessarily related to these particular objectives. For example, the two climate-related environmental objectives are not green. From our perspective, other information seems more important to be highlighted, especially the column for currency and proportion of the turnover-, capex- and opex-KPI. Additionally, without the provision of the exact colour codes it is impossible replicate the colouring scheme and the colours do not necessarily match the layout of the individual management report. Accordingly, the colouring scheme should not be mandatory.

The deletion of column (18) in the current reporting template for all three KPIs is strongly supported as columns (18) and (4) contain the same information. The amendments should be used to further simplify the disclosures table to reduce the complexity of the disclosure tables and increase their readability: The cells for the DNSH criteria and for the minimum safeguards for taxonomy-aligned activities should also be filled in black, as the DNSH criteria and requirements to the minimum safeguards are always met here. Otherwise, the activities posted in this section of the template would not be taxonomy-aligned activities. Alternatively, the columns on DNSH criteria and minimum safeguards could be removed, as there is no provision for them in the Delegated Regulation (EU) 2021/2178 and the meaningfulness of these columns for taxonomy-eligible and taxonomy-aligned activities is not given thereby reducing the complexity considerably. In case the columns on DNSH criteria would be not removed, the choice of options should not only include “Y/N” but also “N/A” or “left blank” as option since in some activities DNSH criteria are not outlined for all objectives (e.g. activity 6.5. “Transport by motorbikes, passenger cars and light commercial vehicles”).

Regarding the additional lines regarding “transitional” and “enabling” activities, there is no provision for the additional lines in the Delegated Regulation (EU) 2021/2178 (Annex I point 2 (a) does not require these lines). Therefore, this additional information could be questioned.

The separate information on eligibility or non-eligibility of activities per environmental objective (“EL; N/EL”) under A.2 seems unnecessary as the information on eligibility or non-eligibility is also disclosed under the column “Code”.

The deletion of the line containing the sum of A.1 and A.2 is supported, as there is no provision for them in the Delegated Regulation (EU) 2021/2178.

The additions “(A.1)” and “(A.2)” to the cells for total taxonomy-eligible and taxonomy-aligned KPIs should be removed as they are no longer mentioned in the cell for the total KPI and have no use in the “year N-1”-cell. Alternatively, the addition “(B)” could be included in the cell for total taxonomy-non-eligible KPI and the addition “(A.1 + A.2 + B)” in the cell for the total KPI.

Moreover, non-financial undertakings shall identify each activity, including a subset of transitional and enabling economic activities (Annex I point 2 (a) Delegated Regulation (EU) 2021/2178). This provision could be considered to mean that there should also be an indication for taxonomy-eligible activities whether such activities are enabling or transitional. For taxonomy-eligible activities, however, no indication needs to be given in the column for transitional or enabling activities. Therefore, the absence to provide such information on taxonomy-eligible economic activities could be questioned. This question should be clarified by the European Commission.

General comments

The taxonomy is still incomplete and does not yet reflect all activities of the European economy. As a result, undertakings cannot report taxonomy-eligible and taxonomy-aligned KPIs, which may not reflect their real sustainability performance. Therefore, we would like to strongly underline the importance of the European Commission’s efforts that additional activities are swiftly included on a continuous basis. In addition, we welcome the idea that as soon as possible undertakings and other stakeholders are offered a specific communication channel to propose new activities and revisions to the technical assessment criteria.

Furthermore, reporting undertakings are confronted with short-term publications of new requirements and interpretation guidelines. The publication of the first two delegated regulations and the provision of the FAQ documents of the European Commission were perceived by reporting undertakings as clearly too short-term regarding the mandatory application date. As it is unclear to the reporting undertakings when further relevant documents will be issued, there is also a lack of planability. This lack of planning can further delay the establishment of new reporting processes and a corresponding internal control system and its anchoring in the IT infrastructure of reporting undertakings. Furthermore, the short-term nature leads to unnecessarily heterogeneous reporting in practice, as no sufficient exchange can take place in advance to develop “best practice” approaches. Therefore, new requirements and FAQ documents should be published as early as possible with the necessary lead time to give the preparers sufficient time.

In order to provide added value for users it should be ensured that the legal texts do not leave too much room for interpretations leading to disclosures that will not be comparable between reporting undertakings of the same industry (e.g. inconsistent DNSH criteria for activities affecting the same products). The European Commission should therefore provide for substantial and comprehensive interpretation guidance to ease the implementation of the new disclosure requirements and to improve comparability.

Activities should be referenced and described consistently across all environmental objectives. In the draft delegated regulation, the same activities are referenced with different numbers, which

might lead to confusion. For example, the activity "Construction of new buildings" is attached to number 7.1 for the environmental objective "climate change mitigation", whereas it is attached to number 3.1 for the environmental objective "Circular economy". The draft does require an additional code for the respective environmental goal for each numbering of an activity. For example, the activity "Construction of new buildings" is given the code "CCM 7.1" for the environmental objective "climate change mitigation", whereas it is given the code "CE 3.1" for the environmental objective "Circular economy". However, the information in the cells for the respective environmental objective makes this abbreviation unnecessary, as it is already clear to which environmental objective an activity contributes. Therefore, the abbreviations should be removed in the case of uniform numbering. In addition, an activity can contribute to several environmental objectives. Uniform numbering makes this easier to represent, as only one line is needed in the reporting template for the respective activity. According to the draft delegated regulation, two lines would be needed in the example.

The [EU Taxonomy Calculator](#) uses the reporting templates as presented in the current version of the Delegated Regulation (EU) 2021/2178. Since amendments to the reporting templates are foreseen, the calculator should use the adapted version of the templates. Additionally, the Taxonomy Calculator seems to calculate incorrectly. In row "Turnover/CapEx/OpEx of environmentally sustainable activities (Taxonomy-aligned) (A.1)" percentage figures are presented for the substantial contribution to each environmental objective as a sum for all aligned activities (contributing to the respective objective). For activities that are only partially aligned, the result calculated for these cells does not seem to be appropriate. In such cases, the result for the substantial contribution ends up being a lower percentage than the total proportion of aligned turnover/CapEx/OpEx (column 4). Our understanding is that the sum of all substantial contributions should be identical to the proportion of total aligned turnover/CapEx/OpEx under A.1. The European Commission should ensure a correct calculation since the EU Taxonomy Calculator will be considered authoritative guidance by many users.