

Submission Date

01/04/2022

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Additional Information

Level 1 Regulation

Transparency Directive (TD) Directive 2004/109/EC

Level 3 Regulation

Guidelines on Alternative Performance Measures

Topic

Alternative Performance Measures (APM)

Historic Question Reference

[ESMA32-51-370 APM Q20]

Subject Matter

Labels used by issuers on ESG financial measures; Paragraphs 3, 4, 8, 17, 22, 33 of the APM Guidelines.

Question

How do the APM Guidelines principles regarding labels apply to ESG financial measures (e.g., green turnover, sustainable CAPEX)?

ESMA Answer

01-04-2022

Original language

[ESMA32-51-370 APM Q20]

ESMA reminds issuers that financial measures using ESG labels may fall under the scope of the APM Guidelines. Therefore, in order to assess whether this is case, issuers should consult the guidance included in Question ESMA_QA_1885 (historic reference *ESMA32-51-370 APM Q19*) of the Q&A of the APM Guidelines.

As regards the labels of such measures, ESMA calls on issuers to use caution when they present APMs using ESG labels as these may be misperceived by users as compliant with the Taxonomy Regulation or SFDR. In order to ensure that APMs using ESG labels (i) *provide* a fair review of the development and performance of the business and of the position of the issuer as prescribed in Articles 4 and 5 of the Transparency Directive, (ii) *do not provide* a misleading depiction of the performance of the issuer in accordance with Article 12 of the Markets Abuse Regulation and (iii) *comply* with paragraph 22 of the APM Guidelines issuers should be clear about whether a specific ESG financial measure is determined in accordance with the Taxonomy Regulation or SFDR. To this end, ESMA recommends that issuers use one or both of the following methods:

a. To display in the label whether the measure is determined in accordance with the Taxonomy Regulation, SFDR (e.g., Non-Taxonomy Turnover or Non-SFDR indicators for principal adverse impacts)

and / or

b. To include information together with the APM used (e.g., footnote) as to whether the APM is calculated in accordance with the Taxonomy Regulation or with the indicators for principal adverse impact in SFDR.

Issuers are reminded to include div on the use of each specific APM using an ESG label in the explanations disclosed to allow users to understand its usefulness, relevance and reliability.

Finally, issuers are also invited to consider the Platform for Sustainable Finance considerations on voluntary information as part of Taxonomy eligibility reporting.[1]

[1]

https://ec.europa.eu/info/sites/default/files/business_economy_euro/banking_and_finance/documents/sustainable-finance-taxonomy-eligibility-reporting-voluntary-information_en.pdf.