|  |
| --- |
| 5 November 2020 |

|  |
| --- |
| Response form for the Consultation Paper on the Draft advice to European Commission under Article 8 of the Taxonomy Regulation |
|   |

|  |
| --- |
| Date: 5 November 2020 |

**Responding to this paper**

ESMA invites responses to the questions set out throughout this Consultation Paper and summarised in Annex II. Responses are most helpful if they:

1. respond to the question stated and indicate the specific question to which they relate;
2. contain a clear rationale; and
3. describe any alternatives ESMA should consider.

ESMA will consider all comments received by **4 December 2020**.

All contributions should be submitted online at [www.esma.europa.eu](http://www.esma.europa.eu) under the heading ‘Your input - Consultations’.

**Instructions**

In order to facilitate analysis of responses to the Consultation Paper, respondents are requested to follow the steps below when preparing and submitting their response:

1. Insert your responses to the consultation questions in the form “Response form\_Consultation Paper on TR Article 8 advice”, available on ESMA’s website alongside the present Consultation Paper ([www.esma.europa.eu](http://www.esma.europa.eu) → ‘Your input – Open consultations’ → ‘Consultation on advice under Taxonomy Regulation Article 8’).
2. Please do not remove tags of the type <ESMA\_QUESTION\_TRART8\_1>. Your response to each question has to be framed by the two tags corresponding to the question.
3. If you do not wish to respond to a given question, please do not delete it but simply leave the text “TYPE YOUR TEXT HERE” between the tags.
4. When you have drafted your response, name your response form according to the following convention: ESMA\_TRART8\_nameofrespondent\_RESPONSEFORM. For example, for a respondent named ABCD, the response form would be entitled ESMA\_TRART8\_ABCD\_RESPONSEFORM.
5. Upload the form containing your responses, in Word format, to ESMA’s website ([www.esma.europa.eu](http://www.esma.europa.eu) under the heading ‘Your input – Open consultations’ → ‘Consultation on advice under Taxonomy Regulation Article 8’).

**Publication of responses**

All contributions received will be published following the close of the consultation, unless you request otherwise. If you do not wish for your response to be publicly disclosed, please clearly indicate this by ticking the appropriate box on the website submission page. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure. A confidential response may be requested from us in accordance with ESMA’s rules on access to documents. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by ESMA’s Board of Appeal and the European Ombudsman.

**Data protection**

Information on data protection can be found at [www.esma.europa.eu](http://www.esma.europa.eu) under the heading ‘[Data protection](https://www.esma.europa.eu/about-esma/data-protection)’.

**Who should read this paper?**

This Consultation Paper may be of particular interest to non-financial undertakings and asset managers covered by Article 8 of Regulation (EU) 2020/852 (the ‘Taxonomy Regulation’) as well as to investors and other users of non-financial information

# General information about respondent

|  |  |
| --- | --- |
| Name of the company / organisation | BMW Group |
| Activity | Issuer/ Non-Financial Undertaking |
| Are you representing an association? |[ ]
| Country/Region | Germany |

# Introduction

Please make your introductory comments below, if any:

<ESMA\_COMMENT\_TRART8\_1>

BMW welcomes ESMA's consultation on reporting requirements as regards Art. 8 of the taxonomy regulation. However, we would like to stress that preparers face an **extremely tight schedule for the application of the new reporting requirements** under the taxonomy regulation. The new disclosure requirements for the three KPI sustainable turnover, CapEx and OpEx will have to be applied for the first time in 2022 with regard to the financial year 2021. As the delegated act will only be adopted by 1 June 2021, **companies will have to apply these requirements retrospectively to the first five months of 2021 and will only have 7 months to implement the new requirements**. Within this very limited period of time, preparers need to identify the economic activities that are taxonomy-aligned and gather the relevant data on the three KPI based on adjusted internal reporting systems to be able to report the data for the financial year 2021. This requires high investments into IT systems and personnel. Any delay of the legal process would cause additional problems for preparers. Usually, preparers have considerably more time to implement new legal frameworks and adjust internal systems and processes.

**We strongly oppose the** **proposed level of disclosure** (see Examples in Annex III, page 90ff). The very high level of detail will create a **high administrative burden for companies, forcing them to disclose business sensitive information and create an information overflow for investors** and users of the taxonomy reporting. Preparers should be granted a high-level of flexibility on how to report on the three KPIs (e.g. structure of the report, format etc.). A standardized table does not take into account the peculiarities of each preparer. We would also request to conduct a cost-benefit analysis for each data point to be reported. It should only be included if it is proven that the costs for the preparer are outweighed by the benefits for the financial market participants.

To enable investors/capital market players to holistically assess a company’s mid- and long-term performance, **consistent and coherent definitions of the KPIs (turnover, Capex, Opex)** are needed. Not all current definitions fulfill these fundamental pre-requisites, since they are not or only partially aligned with internationally acknowledged financial reporting standards like IFRS. To provide for comparability of the reported KPI (sustainable) turnover, CapEx and OpEx clear and unambiguous definitions are needed. The definitions should be derived by on IFRS.

The obligation to publish a **plan for both CapEx and OpEx** could potentially have a negative impact on the competitiveness of EU companies. The proposed level of transparency would force companies to disclose business details for individual economic activities which would allow competitors to analyze European companies’ business strategies/results and make use of this sensitive information. Competitors that are based outside the EU would not have to provide this information. Additionally, **the time horizons of the plans should not be limited to 5 years.** Industry investments in the automotive industry (for example R&D) are part of longer plans of at least 10 years. This may also hold true for other industries.

For turnover, ESMA proposes to provide for a comparison with the previous year. This would create a huge administrative effort especially against the backdrop of the level of details that needs to be reported. In addition, as proposed by ESMA, the requirement for a previous year comparison should only start to apply in the second year of reporting (first comparison would be in 2023 for the report year 2022; comparison 2022 with 2021). It should not apply for the first year of application of the taxonomy regulation as we would have to calculate the turnover retrospectively for 2020 as well.

BMW strongly supports a global set of internationally recognized sustainability reporting standards. This would allow businesses to build public trust through greater transparency of their sustainability initiatives, which will be helpful to investors and an even broader audience. Companies would only need to use a single trusted set of standards which lowers their cost of capital and reduces international and local reporting and audit costs.

<ESMA\_COMMENT\_TRART8\_1>

1. For this KPI, do you agree with the proposed approach to defining turnover (bullet a in the draft advice)?

<ESMA\_QUESTION\_TRART8\_1>

We agree with the proposed approach of defining turnover based on Art. 2 (5) of the EU Accounting Directive. For companies using IFRS, the amounts accounted for under IFRS 15 and IFRS 16 should be counted.

By applying this approach, companies applying IFRS will include turnover covering all amounts derived from the sale of products and the provision of services in the course of their ordinary activities. However, not all the consolidations happen at transaction level. The turnover shall also include income accounted for under other standards when such income qualifies as arising from an entity’s ordinary activities. We assume that the Taxonomy-related turnover has to be calculated only for the group but not for each and every business activity. The latter would be extremely cumbersome and cost-intensive.

<ESMA\_QUESTION\_TRART8\_1>

1. For this KPI, do you agree with the proposed approach to when turnover can be counted (bullet b in the draft advice)?

<ESMA\_QUESTION\_TRART8\_2>

We agree with the proposed approach that all turnover can be counted for the environmental objectives climate change mitigation, sustainable use and protection of water and marine resources, transition to a circular, pollution prevention and control and protection and restoration of biodiversity and ecosystems if the criterion of making a substantial contribution, the DNSH criteria and the minimum safeguards are met. We also agree with ESMA’s suggestion for the environmental objective climate change adaptation that only turnover can be counted where the activity enables other activities to undergo climate change adaptation.

<ESMA\_QUESTION\_TRART8\_2>

1. For this KPI, do you agree with the proposed approach to defining CapEx (bullet a in the draft advice)?

<ESMA\_QUESTION\_TRART8\_3>

We agree with the clarification to define CapEx in accordance with applied IFRS. We also agree that investments made and accounted for under IAS 16, IAS 38 and IAS 40 would qualify as CapEx. From our perspective, fixed leased assets (e.g. right-of-use assets and related depreciation in accordance with IFRS 16 Leases) should be considered as part of CapEx in order to ensure consistency with the figures included in the financial statements. As peers tend to draw up their accounts based on the same accounting framework comparability is supposed to be ensured. ESMA should define clearly how to handle capital disposals, acquisitions through business combinations, revaluations and impairments in the CapEx calculation as they have an impact in explaining the year-on-year variation of CapEx. We support ESMA’s proposal that preparers apply their best judgement of how to split CapEx across their activities and avoid doing so in a way which unduly inflates the CapEx related to Taxonomy-aligned activities. Some guidance/examples on how to split would be welcome.

<ESMA\_QUESTION\_TRART8\_3>

1. For this KPI, do you agree with the proposed approach to when CapEx can be counted, including the definition of ‘plan’ (bullet b in the draft advice)?

<ESMA\_QUESTION\_TRART8\_4>

We oppose the limitation of the plan to a time horizon of only 5 years. Some projects (especially with the 2030 climate target in mind) have longer time horizons. This holds true for example for the R&D costs related to new vehicles (time horizon of up to 10 years). Therefore, CapEx related to projects with longer timeframes should be counted as well.

With regards to the public disclosure of the plan, it would be helpful to have a defined level of detail set out in the delegated act. It should also be noted that there might be sensitive information included in the plan that could be relevant from a competitor's perspective. There should be an option not to disclose publicly certain information if it is business sensitive.

Generally, preparers are facing a trade-off. Information/data needs to be detailed enough to allow for a confirmation/assurance by an independent third party. However, too much information would force preparers to disclose sensitive information.

<ESMA\_QUESTION\_TRART8\_4>

1. For this KPI, do you agree with the proposed approach to defining OpEx (bullet a in the draft advice)?

<ESMA\_QUESTION\_TRART8\_5>

We generally agree with linking OpEx to the entity's main business activities. The EU Accounting Directive provides some examples for eligible line items of the P&L statement (see Annex V of that Directive). The Directive defines a number of items of costs and expenses before referring to ‘other operating expenses’, therefore implicitly indicating that all such items are to be considered as operating expenses. For a profit and loss statement that is presented by nature of expense, these include: staff costs, raw materials and consumables, value adjustments in respect of formation expenses and of tangible and intangible fixed assets (amortisation and depreciation) and value adjustments in respect of current assets, to the extent that they exceed the amount of value adjustments which are normal in the undertaking concerned. For a profit and loss statement presented by function, the relevant items are cost of sales (including value adjustments), distribution costs (including value adjustments) and administrative expenses (including value adjustments). Attributable marketing costs (e.g. launch campaigns for vehicles) should be accounted for as well. Furthermore, non-capitalized R&D expenditures should be included in the calculation of OpEx. ESMA should consider to include depreciation and amortization related to investments which have been initiated before the first year of adoption in the calculation of OpEx. Companies that have invested a lot in green economic activities could have a disadvantage in comparison to competitors that will invest massively in green economic activities after adoption of the legal framework.

<ESMA\_QUESTION\_TRART8\_5>

1. For this KPI, do you agree with the proposed approach to when OpEx can be counted, including the definition of ‘plan’ (bullet b in the draft advice)? With reference to the TEG’s inclusion of the words “if relevant” in relation to OpEx, in which situations should it be possible to count OpEx as Taxonomy-aligned?

<ESMA\_QUESTION\_TRART8\_6>

We oppose the limitation of the plan to a time horizon of only 5 years. Some projects (especially with the 2030 climate target in mind) have longer time horizons. Therefore, OpEx related to projects with longer timeframes should be counted as well. It should also be clarified that operating expenditures are eligible if they relate to taxonomy aligned economic activities. “Part of a plan” could potentially suggest that OpEx can only be counted if the underlying activity is not yet eligible but will be within five years’ time. It should be clarified by ESMA that OpEx can be counted if the plan meets the taxonomy requirements.

With regards to the public disclosure of the plan, it would be helpful to have a defined level of detail set out in the delegated act. It should also be noted that there might be sensitive information included in the plan that could be relevant from a competitor's perspective. There should be an option not to disclose publicly certain information if it is business sensitive.

<ESMA\_QUESTION\_TRART8\_6>

1. Do you believe that any of the suggested approaches covered in questions 1 to 6 above will impose additional costs on non-financial undertakings? If yes, please specify the type of those costs, including whether they are one-off or ongoing, and provide your best quantitative estimate of their size.

<ESMA\_QUESTION\_TRART8\_7>

The calculation of the three KPI and their disclosure including the required level of detail will undoubtedly cause additional costs for preparers due to the establishment of new reporting processes, the implementation/adjustments of (new) processes together with corresponding changes to worldwide IT systems and reporting structures, training of the staff, additional personnel costs etc. Collecting and compiling the data for the three KPI, setting up the data model as well as the determination of the new allocation methodology will generate additional costs and work. Additionally, we will have to set up internal control steps that will have to be carried out on a regular basis in order to safeguard data quality and reliability. Since these KPIs are included in the non-financial statement, this will also generate additional verification costs as we are required by our stakeholders, as of today, to have our non-financial statement verified by an independent assurance services provider.

Generally, technical screening criteria and environmental objectives may change and evolve over time forcing companies to adapt and modify their methodology and organisation. This will generate maintenance and/or updating costs

We estimate our additional costs to be a high one-digit million euro sum.

<ESMA\_QUESTION\_TRART8\_7>

1. Do you agree that sectoral specificities should not be addressed in the advice, as proposed in Section 3.2.3?

<ESMA\_QUESTION\_TRART8\_8>

We support ESMA’s cautious approach and agree that the KPIs should be disclosed irrespective of the sectoral classification of the economic activities of an entity. However, we believe that ESMA should provide in its advice to the EU Commission more sectoral specific guidance as regards details of the respective KPIs, e.g. what revenue, what kind of investments should be included in the KPIs.

<ESMA\_QUESTION\_TRART8\_8>

1. Do you agree with the requirements for accompanying information which ESMA has proposed for the three KPIs?

<ESMA\_QUESTION\_TRART8\_9>

We do not agree to the planned reconciliation of CapEx (referred to disposals and acquisitions of fixed assets, impairments, revaluations, any other valuation adjustments, depreciation and amortisation) to explain changes in the KPI year over year. This is very burdensome and costly for the preparer. Additionally, there is limited value-added for the user of the report if the preparer used the reconciliation of CapEx to explain changes in the KPI in comparison to qualitative information on the changes. It is doubtful that the investor of the company uses the change rates based on the reconciliation of CapEx for his valuation model of the preparer. A qualitative analysis of the changes is absolutely sufficient from our perspective.

Additionally, it should be noted that investors/users will be faced with huge number of new KPI and data in general. We see a high risk of information overload on the investor’s side. The reporting should focus on the most relevant KPI/topics.

<ESMA\_QUESTION\_TRART8\_9>

1. Do you consider that the requirement to refer to the relevant line item(s) in the financial statements for each KPI ensures sufficient integration between the KPIs and the financial statements?

<ESMA\_QUESTION\_TRART8\_10>

We agree that the requirement to refer to the relevant line item(s) in the financial statements for each KPI ensures sufficient integration between the KPIs and the financial statements. Generally, the preparer should have a maximum grade of flexibility in reporting the KPI and linking the statements on the KPI to the financial statement.

<ESMA\_QUESTION\_TRART8\_10>

1. Do you agree with ESMA’s suggestion to permit compliance by reference, so that non-financial undertakings may present the accompanying information elsewhere in the non-financial statement than in the immediate vicinity of the KPIs, as long as they provide a hyperlink to the location of the accompanying information?

<ESMA\_QUESTION\_TRART8\_11>

Preparers should have as much flexibility as possible in deciding where to place the KPIs and accompanying information in the corporate reports. We therefore support ESMA’s suggestion that preparers are allowed to present the accompanying information to the three KPI elsewhere in the non-financial statement and use appropriate tools (for example hyperlinks) to connect the information with the KPIs.

<ESMA\_QUESTION\_TRART8\_11>

1. Do you consider there are additional topics that should be considered by ESMA in order to specify the content of the three KPIs? If yes, please elaborate and explain the relevance of these topics.

<ESMA\_QUESTION\_TRART8\_12>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_TRART8\_12>

1. Do you believe that providing the suggested accompanying information will impose additional costs on non-financial undertakings? If yes, please specify the type of those costs, including whether they are one-off or on-going, and provide your best quantitative estimate of their size.

<ESMA\_QUESTION\_TRART8\_13>

The main initial burden for non-financial undertakings will be the identification of the economic activities, the assessment of their taxonomy-alignment and identification of the assets and OpEx. Especially against the background that the legal definitions for the calculation are unclear and not thoroughly defined. Because of the very limited timeframe for implementation and the missing definitions, the process will be manual at least for the financial year 2021 as the adjustment and implementation of IT systems takes time and needs legal certainty about the definitions of the KPI. This adds massively to the implementation costs.

The planned reconciliation of CapEx (referred to disposals and acquisitions of fixed assets, impairments, revaluations, any other valuation adjustments, depreciation and amortisation) to explain changes in the KPI year over year will also impose high additional costs due to the establishment of new reporting processes, the implementation/adjustments of (new) IT systems and reporting structures and additional personnel costs etc.

The costs are one-off and ongoing. To give an example: adjustments of IT systems are mostly one-off costs but the maintenance costs of the IT systems are ongoing costs. Also personnel costs are ongoing costs.

<ESMA\_QUESTION\_TRART8\_13>

1. Do you agree that non-financial undertakings should provide the three KPIs per economic activity and also provide a total of the three KPIs at the level of the undertaking / group? If not, please provide your reasons and address the impact of your proposal to financial market participants along the investment chain.

<ESMA\_QUESTION\_TRART8\_14>

Preparers should provide the three KPIs at the level of the undertaking/group as the users/investors will be strongly focussing on how much of the turnover, CapEx and OpEx is attributable to sustainable activities. Providing the three KPIs per economic activity would be very burdensome and would incur additional costs for the preparer. It will also be difficult for the investor to extract the most relevant data from the report if the preparer reports on too many details. Such a great level of detail adds to the information overflow caused by financial and non-financial reports and obscures the focus on the most important information. We very much doubt that the added-value for the investor would overcompensate the additional costs for the preparer if this was to be reported per economic activity. Reporting the three KPIs on undertaking/group level together with some additional explanation will be of great benefit for users but the obligation to prepare and disclose a table as illustrated in Annex III of the ESMA Consultation for each KPI is neither adequate nor reasonable from a cost-benefit-perspective.

<ESMA\_QUESTION\_TRART8\_14>

1. Do you agree that where an economic activity contributes to more than one environmental objective, non-financial undertakings should explain how they allocated the turnover / CapEx / OpEx of that activity across environmental objectives and where relevant the reasons for choosing one objective over another?

<ESMA\_QUESTION\_TRART8\_15>

If an economic activity fulfils the criteria as set out in the Taxonomy regulation (substantial contribution to the environmental objective incl. fulfilling the technical screening criteria, criterion of doing no significant harm to any other environmental objective, criterion of minimum safeguards), the three KPI should be counted as taxonomy-aligned. If the economic activity fulfils the criteria of more than one environmental objective this should be disclosed by the preparer.

However, it doesn’t make sense to artificially allocate the turnover / CapEx / OpEx of that activity across the environmental objectives in case the activity fulfils the criteria of several environmental objectives. It will be difficult for auditors to verify the allocation of the preparer as the allocation does not follow any guidelines or rules and to give an assurance for the reported information. The users will have difficulties in comparing the reported data with data reported by other companies as each company will make its own allocation and no common rules for the allocation are defined.

<ESMA\_QUESTION\_TRART8\_15>

1. Do you agree that non-financial undertakings should provide information on enabling and transitional activities?

<ESMA\_QUESTION\_TRART8\_16>

Preparers should provide information on enabling and transitional activities in the accompanying information. The preparer should have as much flexibility as possible in reporting on enabling and transitional activities. There should be no standardized table (see Annex III) with regards to these activities.

<ESMA\_QUESTION\_TRART8\_16>

1. Do you agree that the three KPIs should be provided per environmental objective as well as a total at undertaking or group level across all objectives? If not, please provide your reasons and address the impact of your proposal to financial market participants along the investment chain.

<ESMA\_QUESTION\_TRART8\_17>

Preparers should provide the three KPIs at the level of the undertaking/group as the users/investors will be strongly focussing on how much of the turnover, CapEx and OpEx is attributable to sustainable activities. Providing the three KPIs per environmental objective would be very burdensome and would incur additional costs for the preparer. Such a great level of detail adds to the information overflow caused by financial and non-financial reports and obscures the focus on the most important information. We very much doubt that the added-value for the investor would overcompensate the additional costs for the preparer if this was to be reported per economic activity. Reporting the three KPIs on undertaking/group level together with some additional explanation will be of great benefit for users but the obligation to prepare and disclose a table as illustrated in Annex III of the ESMA Consultation for each KPI is neither adequate nor reasonable from a cost-benefit-perspective.

<ESMA\_QUESTION\_TRART8\_17>

1. Do you agree that non-financial undertakings should be required to provide the three KPIs for economic activities which are covered by the Taxonomy, economic activities which are covered by the Taxonomy but for which the relevant criteria are not met and therefore are not Taxonomy-aligned as well as for economic activities which are not covered by the Taxonomy?

<ESMA\_QUESTION\_TRART8\_18>

The preparers should focus on reporting the KPIs for taxonomy aligned activities as this is the information most sought after by financial market participants. We deem it useful if the preparer highlights activities that are not yet covered by the taxonomy as this has an impact on the investor’s judgement. Additionally the preparer should be allowed to disclose information on these activities to underscore its measure to make these activities sustainable and to give additional valuable information to the investor. However, there should be no obligatory requirements for preparers with regards to disclosing additional information. As outlined above, the obligation to prepare and disclose a table as illustrated in Annex III of the ESMA Consultation for each KPI is neither adequate nor reasonable from a cost-benefit-perspective.

<ESMA\_QUESTION\_TRART8\_18>

1. Do you agree with the proposal not to require retroactive disclosure concerning the four environmental objectives relating to the financial year 2021?

<ESMA\_QUESTION\_TRART8\_19>

Yes, we completely agree. A comparison with the previous year would create a huge administrative effort especially against the backdrop of the level of detail that needs to be reported. In addition, as proposed by ESMA, the requirement for a previous year comparison should only start to apply in the second year of reporting on the respective environmental objective or KPI (first previous year comparison for the four additional environmental objectives would be in the financial year 2023; for the first two environmental objectives it would be the financial year 2022).

<ESMA\_QUESTION\_TRART8\_19>

1. Do you consider that there are specific elements in ESMA’s draft advice which are not in line with the information needed by financial market participants in order to comply with their own obligations under the Taxonomy Regulation and the SFDR? If yes, please specify in your answer.

<ESMA\_QUESTION\_TRART8\_20>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_TRART8\_20>

1. Are there points that should be addressed in ESMA’s advice in order to facilitate compliance of financial market participants across the investment chain? If yes, please specify.

<ESMA\_QUESTION\_TRART8\_21>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_TRART8\_21>

1. Do you believe that ESMA’s detailed proposals under Section 3.3 will impose additional costs on non-financial undertakings? If yes, please specify the type of those costs, to which specific proposal they relate including whether they are one-off or on-going, and provide your best quantitative estimate of their size.

<ESMA\_QUESTION\_TRART8\_22>

Yes, we fully agree that the detailed proposals under Section 3.3 will impose additional costs on preparers. We strongly support a cost-benefit analysis before introducing the mentioned requirements for the methodology.

The calculation of the three KPI and their disclosure including the required level of detail will undoubtedly cause additional costs for preparers due to the establishment of new reporting processes, the implementation/adjustments of (new) IT systems and reporting structures, training of the staff, additional personnel costs etc. Collecting and compiling the data for the three KPI, setting up the data model as well as the determination of the new allocation methodology will generate additional costs and work. Since these KPIs are included in the non-financial statement, this will also generate additional verification costs as we are required by our stakeholders, as of today, to have our non-financial statement verified by an independent assurance services provider

<ESMA\_QUESTION\_TRART8\_22>

1. Do you consider there are additional topics that should be considered by ESMA in order to specify the methodology that non-financial undertakings should follow? If yes, please elaborate and explain the relevance of these topics.

<ESMA\_QUESTION\_TRART8\_23>

BMW welcomes ESMA's consultation on reporting requirements as regards Art. 8 of the taxonomy regulation. However, we would like to stress that preparers face an extremely tight schedule for the application of the new reporting requirements under the taxonomy regulation. The new disclosure requirements for the three KPI turnover, CapEx and OpEx will have to be applied for the first time in 2022 with regard to the financial year 2021. As the delegated act will only be adopted by 1 June 2021, companies will have to apply these requirements retrospectively to the first five months of 2021 and will only have 7 months to implement the new requirements. Within this very limited period of time, preparers need to identify the economic activities that are taxonomy-aligned and gather the relevant data on the three KPI based on adjusted internal reporting systems to be able to report the data for the financial year 2021.

<ESMA\_QUESTION\_TRART8\_23>

1. Do you agree that in order to ensure the comparability of the information disclosed under Article 8(2) of the Taxonomy Regulation and as such facilitate its usage, ESMA should propose the use of a standardised table?

<ESMA\_QUESTION\_TRART8\_24>

Companies should have flexibility with regards to the format of the disclosed information. Preparers are in the best position to choose a format that best fits the information needs of stakeholders. Each company’s approach to the reporting format will take into account its own specific reporting structure, its overarching strategy and the needs of (sector-specific) stakeholders. ESMA should not propose the use of a standardized table for the disclosed information as in Annex III. This is too burdensome for preparers and yields only very limited value for the users. However, ESMA could propose non-binding examples.

<ESMA\_QUESTION\_TRART8\_24>

1. Do you consider that the standard table provided in Annex III of this Consultation Paper is fit for purpose? Do you think the standard table provides the right information, taking into account the burden on non-financial undertakings of compiling the data versus the benefit to users of receiving the data? If not, please explain and provide alternative suggestions to promote the standardisation of the disclosure obligations pursuant to Article 8 of the Taxonomy Regulation.

<ESMA\_QUESTION\_TRART8\_25>

We strongly oppose the use of a standardized table for the disclosed information. As pointed out above, the level of detail required in the standardized table in Annex III for each KPI is far too high and is neither adequate nor reasonable from a cost-benefit-perspective. Instead, we would appreciate if ESMA could propose non-binding examples. Each company should have the flexibility to report based on its own reporting format. See also answer to Q24.

<ESMA\_QUESTION\_TRART8\_25>

1. Do you agree that the disclosure in the three standard tables should comply with the formatting rules mentioned in Table 5?

<ESMA\_QUESTION\_TRART8\_26>

Flexibility should be granted to companies to allow them to ensure consistency with their reporting format and practices. ESMA should consider a reduction of the number of KPIs that would have to be reported by preparers based on a thorough cost-benefit analysis (as for example in the case of IFRS standards). It must be proven that the additional costs for preparers are overcompensated by the additional value added for financial market participants. To tag non-financial information and render it in a machine-readable format would cause high additional costs for the preparer. This should be avoided.

<ESMA\_QUESTION\_TRART8\_26>

1. Do you believe that ESMA’s detailed proposals under Section 3.4 will impose additional costs on non-financial undertakings? If yes, please specify the type of those costs, to which specific proposal they relate including whether they are one-off or on-going, and provide your best quantitative estimate of their size.

<ESMA\_QUESTION\_TRART8\_27>

Yes, ESMA’s detailed proposals under Section 3.4 will impose high additional costs on preparers. Providing information in a standardized table which is not aligned with the usual reporting structure of a preparer increases the costs of adaptation of the reporting. We also oppose the high level of detail that has to be reported. While we agree that some basic rules in relation to the format of the KPI disclosure have to be set, preparers should be given flexibilities to report based on their reporting format and structure. We agree that coherence and consistency of the reported data has to be ensured.

<ESMA\_QUESTION\_TRART8\_27>

1. Do you agree that a share of investments is an appropriate KPI for asset managers? If you do not, what other KPI could be appropriate, please justify.

<ESMA\_QUESTION\_TRART8\_28>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_TRART8\_28>

1. This advice focuses on the collective portfolio management activities of asset managers. Should this advice also cover potentially any other activities that asset managers may have a license for, such as individual portfolio management, investment advice, safekeeping and administration or reception and transmission of orders (‘RTO’)?

<ESMA\_QUESTION\_TRART8\_29>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_TRART8\_29>

1. Do you agree that for the numerator of the KPI the asset manager should consider a weighted average of the investments exposed to investee companies based on the share of turnover derived from Taxonomy-aligned activities of the investee companies? If not please propose and justify an alternative.

<ESMA\_QUESTION\_TRART8\_30>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_TRART8\_30>

1. Do you agree that in addition to a main turnover-derived Taxonomy-alignment KPI, there is merit in requiring the disclosure of CapEx and OpEx-derived figures for Taxonomy-alignment of an asset managers’ investments?

<ESMA\_QUESTION\_TRART8\_31>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_TRART8\_31>

1. Do you think sovereign exposures, such as sovereign bonds (but excluding green bonds complying with the EU Green Bond Standard) should be considered eligible investments and if so under what methodology?

<ESMA\_QUESTION\_TRART8\_32>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_TRART8\_32>

1. Do you agree that the denominator should consist of the value of eligible investments in the funds managed by the asset manager or should it be simply the value of all assets in the funds managed by the asset manager?

<ESMA\_QUESTION\_TRART8\_33>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_TRART8\_33>

1. Do you support restricting the denominator to funds managed by the asset manager with sustainability characteristics or objectives (i.e. governed by Article 8 or 9 of Regulation (EU) 2019/2088)? What are the benefits and drawbacks of such an approach?

<ESMA\_QUESTION\_TRART8\_34>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_TRART8\_34>

1. Is it appropriate to combine equity and fixed income investments in the KPI, bearing in mind that these funding tools are used for different purposes by investee companies? If not, what alternative would you propose?

<ESMA\_QUESTION\_TRART8\_35>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_TRART8\_35>

1. Do you believe the proposed advice will impose additional costs on asset managers? Please specify the type of those costs, to which specific proposal they relate including whether they are one-off or on-going, and provide your best quantitative estimate of their size.

<ESMA\_QUESTION\_TRART8\_36>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_TRART8\_36>

1. What are the benefits and drawbacks of limiting Taxonomy-aligned activities to those reported by Non-Financial Reporting Directive companies?

<ESMA\_QUESTION\_TRART8\_37>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_TRART8\_37>

1. Do you agree with ESMA’s recommendation that the Commission develop a methodology to allow a sector-coefficient to be assigned for non-reporting investee companies?

<ESMA\_QUESTION\_TRART8\_38>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_TRART8\_38>

1. Should netting be allowed, on the lines of Article 3 of the Short-Selling Regulation?

<ESMA\_QUESTION\_TRART8\_39>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_TRART8\_39>

1. How should derivatives be treated for the calculation purposes? Should futures be considered as potential Taxonomy-aligned investments?

<ESMA\_QUESTION\_TRART8\_40>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_TRART8\_40>

1. What are the costs and benefits associated with the different options for non-reported activity coverage, netting and derivatives treatment presented above? Please provide a quantitative estimate for each option, distinguishing between one-off and on-going costs.

<ESMA\_QUESTION\_TRART8\_41>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_TRART8\_41>

1. Do you have any views on the proposed advice recommending a standardised table for presentation of the KPI for asset managers in Annex IV?

<ESMA\_QUESTION\_TRART8\_42>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_TRART8\_42>

1. Do you agree with presenting accompanying information in the vicinity of the standard table?

<ESMA\_QUESTION\_TRART8\_43>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_TRART8\_43>

1. Do you agree that there would be merit in including in the accompanying information a link, if relevant, to an asset managers’ entity-level disclosures on principal adverse impacts of investment decisions on sustainability factors?

<ESMA\_QUESTION\_TRART8\_44>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_TRART8\_44>

1. Do you agree with adopting the same formatting criteria as presented in Section 3.4.2 for the asset manager KPI disclosure?

<ESMA\_QUESTION\_TRART8\_45>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_TRART8\_45>

1. What are the one-off and on-going costs of setting up the reporting and disclosure under this obligation? Please clarify the type of costs incurred and provide a quantitative estimation where possible.

<ESMA\_QUESTION\_TRART8\_46>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_TRART8\_46>