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| 5 November 2020 |

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

* respond to the question stated and indicate the specific question to which they relate;
* contain a clear rationale; and
* 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:

* 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’).
* 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.
* 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.
* 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.
* 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

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| --- | --- |
| Name of the company / organisation | Finland Chamber of Commerce |
| Activity | Issuer Association |
| Are you representing an association? |[x]
| Country/Region | Finland |

# Introduction

Please make your introductory comments below, if any:

<ESMA\_COMMENT\_TRART8\_1>

Finland Chamber of Commerce appreciates the possibility to comment the draft Advice under Article 8 of the Taxonomy Regulation.

Finland Chamber of Commerce is an organisation promoting entrepreneurship and a favourable business environment and coordinating the operations of the nineteen independent regional Chambers of Commerce in Finland. The 19 Finnish Chambers of Commerce have 21,000 member companies in a range of industries, including SMEs. Our member companies account for approximately 50 % of business turnover and about 40 % of jobs in Finland. Sustainability is one of our strategic priorities. In order to promote sustainability, we have launched two self-regulatory initiatives which assist companies and organisations to strive for sustainable operations: Climate Commitment (carbon neutrality by 2035) and Human Rights Commitment (focus on human rights and social responsibility). We also arrange sustainability-related training for organisations.

In our response we focus on issues that are relevant for non-financial undertakings (issuers).

In general, we share the objective of Article 8 of the Taxonomy Regulation to provide standardised and comparable information on the proportion of activities aligned with the taxonomy. We also support the proposal to align the calculation of the KPIs with the applicable accounting rules of the issuer. However, we feel that the disclosure requirements proposed in the draft advice are too detailed. The proposals of the draft advice also lead to too complex presentation of information which is not useful for the users of non-financial information.

In our view, undertaking / group level disclosure of KPIs per each environmental objective should at this stage be allowed and more detailed activity level disclosures could be made on a voluntary basis. Moreover, references to the notes of financial statements or to disclosures relating to APMs should be allowed instead of requiring duplicated disclosure in the non-financial reports.

Recital 22 of the Taxonomy Regulation suggests that companies currently falling outside the scope of the Non-Financial Reporting Directive (NFRD) could voluntarily disclose information required by Article 8 of the Taxonomy Regulation. Extensive disclosure requirements are unlikely to attract companies outside the scope of the NFRD to disclose such information. In our view, the disclosure requirements should be designed so that even companies currently outside the scope of Article 8 of the Taxonomy Regulation could be attracted to disclose such information. This would also make it easier for financial undertakings to meet their disclosure requirements under the Taxonomy Regulation and the Regulation on sustainability-related disclosures in the financial services sector (SFDR).

We also note that even the initial part of the EU taxonomy is still in its draft stage. The initial taxonomy covers only activities that are considered to have the potential to make a substantial contribution to climate change mitigation or climate change adaptation. As a consequence, a part of EU issuers and/or their activities are not yet covered by the taxonomy. It is therefore difficult to properly assess the possible costs relating to the proposals in the draft advice. In any case, practical application of the taxonomy will be difficult for many issuers and sufficient data may not always be available for issuers. In order to alleviate regulatory burden and to better take into account the principle of materiality, issuers with only marginal proportion of activities falling under the existing taxonomy should be allowed to state that the proportion of taxonomy-aligned activities is negligible and that the issuer has therefore not made a full assessment of the taxonomy alignment.

Finally, we wish to remind ESMA that the NFRD is currently under review. In our view, the delegated act under the Taxonomy Regulation should not prejudice the upcoming NFRD review. Based on the earlier consultation by the European Commission, it seems possible that the scope of the NFRD is extended in the review. This, in turn, would extend the scope of Article 8 of the Taxonomy Regulation. It also seems possible that the disclosure requirements relating to non-financial information are further harmonised in the review. In our view it is crucial that the disclosure requirements under Article 8 of the Taxonomy Regulation are reviewed once the NFRD review is completed.

<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>

Yes, we agree..

<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>

Yes, we agree.

<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>

Yes, we agree.

<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 agree with the principles relating to when CapEx can be counted but disagree with the definition of ‘plan’.

In our view, item iii of the definition of ‘plan’ requires too detailed disclosure. In line with the general principles of financial and non-financial reporting, the principle of materiality should be embedded in the disclosure requirement. Users of non-financial information would benefit from having material information on the plans in the non-financial reports instead of splitting information to non-financial reports and websites of issuers.

<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>

Yes, we agree.

<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 agree with the principles relating to when OpEx can be counted but disagree with the definition of ‘plan’.

In our view, item iii of the definition of ‘plan’ requires too detailed disclosure. In line with the general principles of financial and non-financial reporting, the principle of materiality should be embedded in the disclosure requirement. Users of non-financial information would benefit from having material information on the plans in the non-financial reports instead of splitting information to non-financial reports and websites of issuers.

<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>

TYPE YOUR TEXT HERE

<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>

Yes, we agree.

<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>

No. With regard to accounting policies, issuers should be allowed to make reference to the notes of their financial statements or to disclosures relating to APMs where accounting policies and/or APMs are explained. Possibility to make references only within the non-financial report is not sufficient in this regard.

Moreover, the principle of materiality should be embedded in the accompanying disclosures. The detailed disclosure requirements relating to interpretation and reconciliation of the KPIs should be replaced by a more general requirement to provide information necessary for understanding the change in the KPI.

<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 note that ESMA Guidelines on APMs do not require reconciliation of an APM where an APM is directly identifiable from the financial statements. Similarly, reference to the relevant line item(s) in the financial statements should not be required where the relevant non-financial KPI is directly identifiable in the financial statements.

Moreover, issuers should be allowed to make reference to the notes of their financial statements or to disclosures relating to APMs where accounting policies and/or APMs are explained. Possibility to make references only within the non-financial report is not sufficient in this regard.

<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>

Possibility to make references only within the non-financial report is not sufficient in this regard. Issuers should be allowed to make reference to the notes of their financial statements or to disclosures relating to APMs where accounting policies and/or APMs are explained.

<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>

No.

<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>

TYPE YOUR TEXT HERE

<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>

No. In our view, the proposed activity level disclosure is too detailed. The proposal also leads to too complex presentation of information which is not useful for the users of non-financial information.

In our view, undertaking / group level disclosure of KPIs per environmental objective should at this stage be allowed and more detailed activity level disclosures could be made on a voluntary basis.

Recital 22 of the Taxonomy Regulation suggests that companies currently falling outside the scope of the NFRD could voluntarily disclose information required by Article 8 of the Taxonomy Regulation. Extensive disclosure requirements are unlikely to attract companies outside the scope of the NFRD to disclose such information. In our view, the disclosure requirements should be designed so that even companies currently outside the scope of Article 8 of the Taxonomy Regulation could be attracted to disclose such information. This would also make it easier for financial undertakings to meet their disclosure requirements under the Taxonomy Regulation and the SFDR.

<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>

Yes, we agree.

<ESMA\_QUESTION\_TRART8\_15>

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

<ESMA\_QUESTION\_TRART8\_16>

Yes, we agree.

<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>

Yes, we agree. However, activity level disclosure should not be required.

<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>

Yes, we agree. However, the disclosure should be made at undertaking / group level and not at activity level.

<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 fully support the proposal not to require retroactive disclosure.

<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>

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<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>

Practical application of the taxonomy will be difficult for many issuers and sufficient data may not always be available for issuers. In order to alleviate regulatory burden and to better take into account the principle of materiality, issuers with only marginal proportion of activities falling under the existing taxonomy should be allowed to state that the proportion of taxonomy-aligned activities is negligible and that the issuer has therefore not made a full assessment of the taxonomy alignment.

<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>

Yes, we agree.

<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>

No. The information required in the standard table is too detailed which also leads to complex presentation of information. Undertaking / group level disclosure of KPIs per environmental objective should at this stage be allowed. More detailed activity level disclosures could be made on a voluntary basis in disclosures accompanying the KPIs.

In order to further simplify presentation of information, we propose to leave out information items relating to DNSH and minimum safeguards. An activity cannot be considered taxonomy aligned if those criteria are not met. Therefore, the distinction between taxonomy aligned and taxonomy covered but non-aligned activities already addresses this. Moreover, the draft advice already proposes that issuers are required to disclose for each KPI how the assessment of substantial contribution criteria, DNSH criteria and the compliance with the minimum safeguards has been performed.

<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>

We understand that rounding of figures may lead to multiplicative effects when financial sector firms are aggregating them for their reporting under the Taxonomy Regulation and the SFDR. Still, requiring absolute figures up to two digits after the decimal seems excessively detailed for firms with turnover or investments measured in billions of euros. Certain degree of rounding should therefore be allowed for absolute figures.

<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>

TYPE YOUR TEXT HERE

<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>

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<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>