



European Securities and
Markets Authority

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



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 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 → '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 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 under the heading '[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	NFU – Nordic Financial Unions
Activity	Other
Are you representing an association?	<input checked="" type="checkbox"/>
Country/Region	Sweden

Introduction

Please make your introductory comments below, if any:

<ESMA_COMMENT_TRART8_1>

TYPE YOUR TEXT HERE

<ESMA_COMMENT_TRART8_1>



Q1 For this KPI, do you agree with the proposed approach to defining turnover (bullet a in the draft advice)?

<ESMA_QUESTION_TRART8_1>

Concerning the definition of 'turnover', we find that it is positive that it is consistent with the Accounting Directive and the approach taken by the TEG. Furthermore, as mentioned, 'turnover' and 'revenue' can be used interchangeably, and while both ESMA and the TEG refer to that, we find that it could be beneficial to include this notion in the draft advice itself, as well.

<ESMA_QUESTION_TRART8_1>

Q2 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>

For this segment, we find that the section iii. The criterion on minimum safeguards could use further elaboration. ESMA in points 54 and 55 mentions that the co-legislators have assumed that the Level 1 text is already specific enough, and therefore no further detailing is deemed necessary. However, according to Article 18 from the Taxonomy Regulation, the minimum safeguards are defined as procedures that companies should carry out to ensure alignment with the several instruments such as the fundamental ILO Conventions, the OECD Guidelines for Multinational Enterprises, UN Guiding Principles on Business and Human Rights and the International Bill of Rights. These instruments are well-known to relevant actors, but currently there are no procedural asks behind them. This means that it is unclear if/how they should all be considered at once and how they interact in the context of the Taxonomy, when the aim is to ensure compliance.

The TEG offers some advice concerning standards that should be followed, however it should also be noted that the work of the TEG was completed before the Taxonomy Regulation was adopted. This question is relevant also in the context of the additional disclosures, mentioned at a later stage in the consultation.

<ESMA_QUESTION_TRART8_2>

Q3 For this KPI, do you agree with the proposed approach to defining CapEx (bullet a in the draft advice)?

<ESMA_QUESTION_TRART8_3>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_TRART8_3>

Q4 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>

Concerning the wording, we suggest using 'implementation plan' just for the purpose of alignment with the recommendations from the TEG, as long as their five-year recommendation is already being used in the bullet b. Additionally, our considerations in expressed in Question 2 would also apply here.

<ESMA_QUESTION_TRART8_4>

Q5 For this KPI, do you agree with the proposed approach to defining OpEx (bullet a in the draft advice)?

<ESMA_QUESTION_TRART8_5>

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<ESMA_QUESTION_TRART8_5>

Q6 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>
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<ESMA_QUESTION_TRART8_6>

Q7 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>

Q8 Do you agree that sectoral specificities should not be addressed in the advice, as proposed in Section 3.2.3?

<ESMA_QUESTION_TRART8_8>
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<ESMA_QUESTION_TRART8_8>

Q9 Do you agree with the requirements for accompanying information which ESMA has proposed for the three KPIs?

<ESMA_QUESTION_TRART8_9>
We agree with the proposed requirement on including accompanying information that could further clarify the presented information. This could also be beneficial should there be any changes in the reporting methods throughout the years, which if not clarified could present an incorrect picture of reality.
<ESMA_QUESTION_TRART8_9>

Q10 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>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_TRART8_10>

Q11 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>
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<ESMA_QUESTION_TRART8_11>

Q12 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>

Q13 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>

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<ESMA_QUESTION_TRART8_13>

Q14 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>

We find that the combination of Approach 1 and Approach 2 would provide for the best way forward and account to the highest level of transparency and disclosure. This is also the most complex approach to implement, and therefore appropriate time and resources for preparation needs to be given. It also due noting that one of the main arguments for ESMA to choose this way forward is because the NFRD currently does not require auditing of the non-financial statement. However, given that the question of auditing might be considered/changed with the currently ongoing review of the NFRD, as well as addressed through the project work carried out by EFRAG on NFRD standards, this view might merit a re-view once there is bigger clarity over the future of the NFRD.

<ESMA_QUESTION_TRART8_14>

Q15 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>

In connection to this issue, we would like to raise the argument presented in 3.3.2.3 Company Size, concerning the differentiation of KPIs based on proportionality. Here, ESMA states that the undertakings that fall within the NFRD are fairly large, as they must have at least 500 employees. But the interlinkage between the NFRD and the Accounting Directive, coupled with the way the Accounting Directive has been implemented might lead to a different scenario – according to a study by the Swedish Agency for Growth Policy Analysis (Tillväxtanalys) states that out of the 28th Member States, plus Norway and Iceland, 11 have chosen to define large undertakings differently than in the Accounting Directive, while all except six have re-defined public interest entities. The Swedish application is, according to the study, broader than the requirements stated in the NFRD, because it covers companies with over 250 employees and applies



to all companies, for example. Depending on the detailed application in other Member States, the question of proportionality might still be relevant to address.

<ESMA_QUESTION_TRART8_15>

Q16 Do you agree that non-financial undertakings should provide information on enabling and transitional activities?

<ESMA_QUESTION_TRART8_16>

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<ESMA_QUESTION_TRART8_16>

Q17 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>

Providing such level of detailed information would indeed be in full alignment with the original idea behind the Action Plan Financing Sustainable Growth. However, it is due noticing that the main arguments used for this approach are the Disclosure Regulation and Recital 6 from the Taxonomy Regulation. Currently, the RTS from the Disclosure Regulation are delayed, hence the synergies that were expected to be achieved with the NFRD will not be seized in time.

At the same time, the Recital 6 indeed mentions the importance of clarity behind each of the environmental objectives. That same Recital ends on the note that further guidance on activities that might contribute to other sustainability objectives, including social objectives might be developed at a later stage. This puts forward the question of how this advice will reflect the progress made with, for example, the social objectives, which could be ready by the time this advice is in full effect.

<ESMA_QUESTION_TRART8_17>

Q18 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 proposed Approach 2 could be a good way going forward, with the undertakings providing the three-KPIs approach for economic activities covered by the Taxonomy, and narrative disclosure for the rest with an obligation to inform the Platform on Sustainable Finance. In this way, it could be made possible that the Platform fulfils its mandate while also developing a more unformed approach to those activities that are not yet covered with technical screening criteria.

<ESMA_QUESTION_TRART8_18>

Q19 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>

Given the time lag between the different legislative pieces, we see merit in not requiring retroactive disclosure concerning the four environmental objectives. This would allow for better preparedness and more phased-out approach to reporting.

<ESMA_QUESTION_TRART8_19>

Q20 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>

Q21 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>
Given that there will be new compliance demands, we find it essential that the employee perspective is considered when assessing the next steps. While employees are eager to act in a professional manner and fulfill their duties, it is crucial that they are given enough time and resources, as well as adequate competence development, in order to successfully work with the new requirements. These are considerations to be taken into account when assessing the cost impact of the proposed policy options, as well. While it has been raised multiple times before, we would like to stress again these elements, as well as the concerns surrounding the policy coherence of the different files in the sustainable finance agenda, which touch upon similar elements but are developed at different times.
<ESMA_QUESTION_TRART8_21>

Q22 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>
Please kindly refer to our answer to Question 21.
<ESMA_QUESTION_TRART8_22>

Q23 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>
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<ESMA_QUESTION_TRART8_23>

Q24 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>
Using a standardized table would be beneficial for the disclosure, as it would not only allow for a more uniformed approach, but also for easier comparability of information and data. In the review process of the NFRD, we have also called for a more standardized approach to reporting, as it would also provide for easier way to observe possible changes to methods and beyond-one year progression on particular issues.



<ESMA_QUESTION_TRART8_24>

Q25 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>

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<ESMA_QUESTION_TRART8_25>

Q26 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>

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<ESMA_QUESTION_TRART8_26>

Q27 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>

Possible additional costs could arise concerning obtaining data for the purpose of disclosure, as well as through the costs, time or other resources needed for appropriate training and competence development of employees. The latter could be seen as an on-going cost, as these needs will progress and incur in parallel to the unfolding of the reporting requirements.

<ESMA_QUESTION_TRART8_27>

Q28 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>

Q29 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>

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<ESMA_QUESTION_TRART8_29>

Q30 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>
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<ESMA_QUESTION_TRART8_30>

Q31 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>
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<ESMA_QUESTION_TRART8_31>

Q32 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>
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<ESMA_QUESTION_TRART8_32>

Q33 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>

Q34 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>
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<ESMA_QUESTION_TRART8_34>

Q35 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>
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<ESMA_QUESTION_TRART8_35>



Q36 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>
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<ESMA_QUESTION_TRART8_36>

Q37 What are the benefits and drawbacks of limiting Taxonomy-aligned activities to those reported by Non-Financial Reporting Directive companies?

<ESMA_QUESTION_TRART8_37>
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<ESMA_QUESTION_TRART8_37>

Q38 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>
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<ESMA_QUESTION_TRART8_38>

Q39 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>

Q40 How should derivatives be treated for the calculation purposes? Should futures be considered as potential Taxonomy-aligned investments?

<ESMA_QUESTION_TRART8_40>
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<ESMA_QUESTION_TRART8_40>

Q41 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>

Q42 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>
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<ESMA_QUESTION_TRART8_42>

Q43 Do you agree with presenting accompanying information in the vicinity of the standard table?

<ESMA_QUESTION_TRART8_43>
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<ESMA_QUESTION_TRART8_43>

Q44 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>

Q45 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>
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<ESMA_QUESTION_TRART8_45>

Q46 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>
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<ESMA_QUESTION_TRART8_46>