



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	Vattenfall AB
Activity	Issuer/ Non-Financial Undertaking
Are you representing an association?	<input type="checkbox"/>
Country/Region	Europe

Introduction

Please make your introductory comments below, if any:

<ESMA_COMMENT_TRART8_1>

Since the consultation period is very short and the draft delegated act was not published until 20 November, it prevents us from being able to comment in detail on the issues, given that the final wording of the delegated acts may have implications for how to report.

Regarding the conditions under which incurred costs qualify for calculation of CapEx and OpEx we are concerned with the requirement to make the plan available to the public since it can include confidential information.

The implementation time plan is particularly short for this regulation. Adjustments to reporting systems will not be possible to any material extent. Given that, the requirements on details and stringency in definitions need to be set at a reasonable level accordingly. Economic activities set up in the reporting systems may partly be aligned and partly not. Existing data reporting systems need to be used to estimate the share of alignment with a degree of uncertainty. Companies may be required to indicate the principles for how estimations are done.

Many issuing companies span a wide range of activities where some have very low turnovers or are entirely used as support for other activities. A materiality filter needs to be allowed for what level of detail is published in the report.

<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>

Vattenfall believe that a principle based approach to determine turnover would be more adequate.

<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>

TYPE YOUR TEXT HERE

<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>

Balance sheet is affected by for example exchange rate differences and effects from business combinations. We therefore believe the capital expenditure as presented in the statement of cash flows would be a better starting point.

<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>

We see a problem with the proposed definition of CapEx as it only include such costs that are part of a transformation plan. However, as we understand article 8, CapEx should include all expenses related to assets or processes associated with economic activities that qualify as significantly contributing to one objective, doing no harm to the other and meeting the minimum safeguards. Therefore we don't see a reason for having the limitation that the expenses need to be part of a transformation plan to be appropriate. As we understand expenditures related to replacing already existing assets would not be included and from our perspective that does not make sense. Projects within "Economic activities" that are not yet aligned with the Taxonomy, that aims at transforming parts of the activity to be aligned with the Taxonomy within five years, according to a plan, should count for the purpose of this KPI. We, however, have major concerns that the transformation plans should be made public as it can include confidential information.

<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>

TYPE YOUR TEXT HERE

<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>

We have major concerns that the transformation plans should be made public as it can include confidential information.

<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>

We expect the substantial additional costs in respect of both internal work force (man hours) and also external costs to adjust systems, both one-off and going forward. We are really concerned about the real benefit from having spent all those internal man hours and external costs. We need to have a clear materiality principle applicable for this reporting in order to making it possible for us to focus on the really important areas. Given the limited consultation period we find it not possible to assess the costs

<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>

Vattenfall agrees to this approach

<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>

No we don't agree. The companies should decide on that given the specific characteristics of the company. Reporting all information that is requested as Accompanying Information e.g. would make the reporting very extensive, in a way not proportional to the requirements as described in the Taxonomy.

<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>

Yes we agree. The companies should decide on that given the specific characteristics of the company. However, as mentioned above our opinion is that it should be the companies that decide if accompanying information is presented.

<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>

We expect the substantial additional costs in respect of both internal work force (man hours) and also external costs to adjust systems, both one-off and going forward. We are really concerned about the real benefit from having spent all those internal man hours and external costs. We need to have a clear materiality principle applicable for this reporting in order to making it possible for us to focus on the really important areas. Given the limited consultation period we find it not possible to assess the costs.

<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>

TYPE YOUR TEXT HERE

<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>

No we do not agree. Already under current rules the disclosure requirements are extensive. We would also like to remind that the IASB has in its Disclosure Initiative request the companies to “cut the clutter”. Introducing detailed mandatory disclosure requirements in this turnover/OpEx/CapEx area is going the wrong way. The companies need to do their own assessments for relevant disclosure given the companies business, communication and will disclose the relevant information needed.

For any activity significantly contributing to more than one objective the allocation of the three KPIs between them will be highly arbitrary. An activity contributing to several environmental objectives should acknowledge this but disclose CapEx/opEx/turnover unallocated. How an activity contributes to the different objectives could be stated in additional information.

<ESMA_QUESTION_TRART8_15>

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

<ESMA_QUESTION_TRART8_16>

TYPE YOUR TEXT HERE

<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>

For any activity significantly contributing to more than one objective the allocation of the three KPIs between them will be highly arbitrary. We suggest that the KPIs are given per activity and the objectives it contributes significantly to are listed without an explicit, quantitative allocation of the KPIs and then for the total undertaking without dividing on objectives.

<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>

Reporting of the three KPIs for each activity that is listed in the Taxonomy but not aligned would require the reporting systems to be set up according to NACE codes. Given that this is not done, the effort and cost to do that goes way beyond the benefits.

<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>

Agree. A retroactive reporting would require unreasonable efforts. We expect an implementation period of 12-24 months from when the final standard is set.

<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>
TYPE YOUR TEXT HERE
<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>
We expect the substantial additional costs in respect of both internal work force (man hours) and also external costs to adjust systems, both one-off and going forward. We are really concerned about the real benefit from having spent all those internal man hours and external costs. We need to have a clear materiality principle applicable for this reporting in order to making it possible for us to focus on the really important areas. Given the limited consultation period we find it not possible to assess the costs.
<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>
TYPE YOUR TEXT HERE
<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>
No, we don’t agree. Each company should decide in which format/table relevant information should be presented.
<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>

No, we don't agree. Each company should decide in which format/table relevant information should be presented.

<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>

No, we don't agree. Each company should decide in which format/table relevant information should be presented.

<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>

We believe the detailed proposals will impose significant additional costs for Vattenfall both in terms of Vattenfall internal manhours and in terms of external consultancy costs. The costs mainly refer to set up the internal accounts in a way that both is in line with Vattenfall internal steering and in line with the proposal. We would expect an implementation-project will take at least 12-24 months to complete when the final definitions have been decided upon. The long time frame for it is due to that we most likely need to reset the whole accounting and reporting structure.

<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>

TYPE YOUR TEXT HERE

<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>
TYPE YOUR TEXT HERE
<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>
TYPE YOUR TEXT HERE
<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>
TYPE YOUR TEXT HERE
<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>
TYPE YOUR TEXT HERE
<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>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_TRART8_38>

Q39 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>

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>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_TRART8_42>



Q43 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>

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>
TYPE YOUR TEXT HERE
<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>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_TRART8_46>