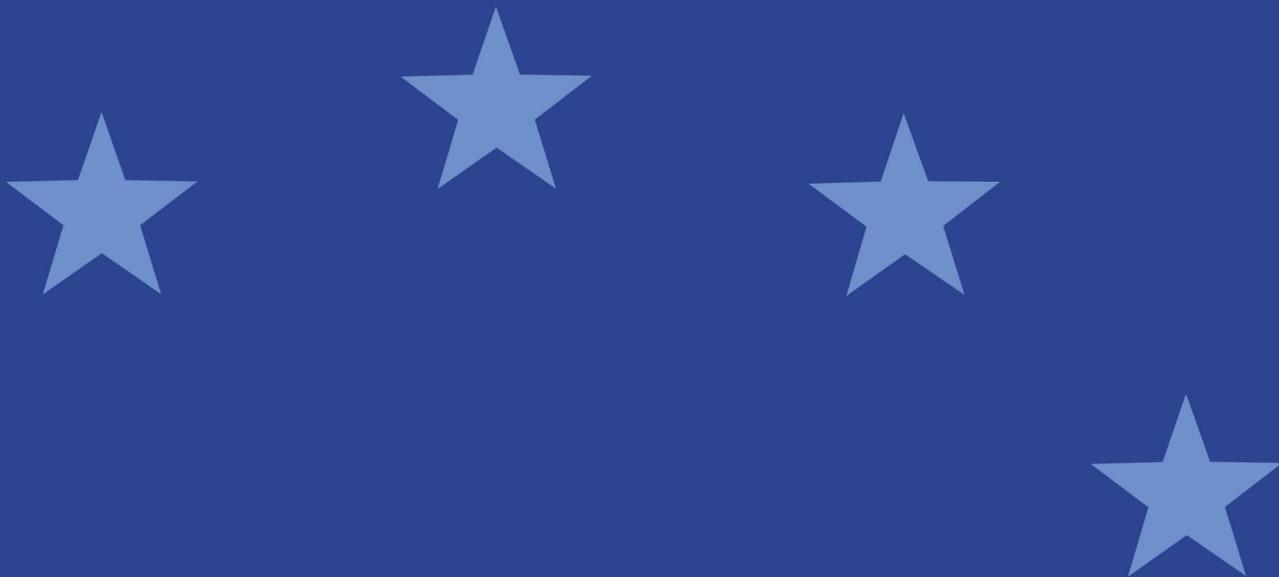


## **Response form for the Consultation Paper on the Draft advice to European Commission under Article 8 of the Taxonomy Regulation**



## 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](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](#)'.

### **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	ICI Global
Activity	Asset Manager Association
Are you representing an association?	<input checked="" type="checkbox"/>
Country/Region	International

## Introduction

***Please make your introductory comments below, if any:***

<ESMA\_COMMENT\_TRART8\_1>

We are responding to this consultation on behalf of the members of ICI Global, which carries out the international work of the Investment Company Institute, the leading association representing regulated funds globally. ICI's membership includes regulated funds publicly offered to investors in jurisdictions worldwide, with total assets of US\$34.1 trillion. ICI seeks to encourage adherence to high ethical standards, promote public understanding, and otherwise advance the interests of regulated investment funds, their managers, and investors. ICI Global has offices in London, Hong Kong, and Washington, DC.

We appreciate the opportunity to provide feedback to ESMA on the draft advice to the European Commission under Article 8 of the Taxonomy Regulation. We generally support ESMA's approach and appreciate ESMA's recognition of the importance of ensuring that issuers are required to disclose the information that asset managers will need to meet their legal obligations under Taxonomy Regulation Articles 5 and 6 (i.e., the financial product disclosure requirements for SFDR Article 8 and 9 products).

<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>  
TYPE YOUR TEXT HERE  
<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>  
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>  
TYPE YOUR TEXT 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>  
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>  
TYPE YOUR TEXT HERE  
<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>  
TYPE YOUR TEXT HERE  
<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>  
TYPE YOUR TEXT HERE  
<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>  
TYPE YOUR TEXT HERE  
<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>  
TYPE YOUR TEXT HERE  
<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>  
TYPE YOUR TEXT HERE  
<ESMA\_QUESTION\_TRART8\_15>

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

<ESMA\_QUESTION\_TRART8\_16>  
Yes, we agree with ESMA's approach. It is essential that the Taxonomy disclosure requirements for issuers are aligned with the Taxonomy disclosure requirements for SFDR Article 8 and 9 financial products. Taxonomy Regulation Articles 5 and 6 require SFDR Article 8 and 9 financial products to disclose the proportion of investments in environmentally sustainable economic activities selected for the financial product, including details on the proportions of enabling and transitional activities, respectively, as a percentage of all investments selected for the financial product. Asset managers will need to obtain this information from issuers (non-financial as well as financial undertakings), and the Taxonomy's issuer disclosure therefore should align with this requirement.  
<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>  
TYPE YOUR TEXT HERE  
<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>



Yes, we agree that issuers should be required to provide this disclosure so that investors can differentiate between whether an issuer's economic activities are not Taxonomy aligned because the economic activity does not meet the relevant criteria or because the economic activity is not covered by the Taxonomy.

<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>

TYPE YOUR TEXT HERE

<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>

We support ESMA's proposed approach to align the information required from issuers with the information that asset managers need to comply with the financial product disclosure required under Taxonomy Regulation Articles 5 and 6. We note, however, that the regulatory technical standards (RTS) for the SFDR are not yet finalized, and that significant challenges are expected to remain around obtaining data from investee companies with respect to the adverse impact indicators under SFDR Article 4.

<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>

The Taxonomy Regulation will require asset managers to begin disclosing information about investee companies' degree of Taxonomy-alignment (i.e., financial product disclosure under Taxonomy Regulation Articles 5 and 6) at the same time (i.e., 1 January 2022) as it requires companies to make that same disclosure about their Taxonomy-alignment (under Taxonomy Regulation Article 8). This is likely to create a sequencing challenge where asset managers will not have the opportunity to first obtain that data from issuer disclosures and aggregate that data into their own disclosures.

<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>

TYPE YOUR TEXT HERE

<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>  
TYPE YOUR TEXT HERE  
<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>  
TYPE YOUR TEXT HERE  
<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>  
TYPE YOUR TEXT HERE  
<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>  
TYPE YOUR TEXT HERE  
<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>  
Yes, we agree that using a share of investments approach is a more appropriate KPI for asset managers than KPIs based on revenue or return on investment. We note, however, that asset owners and asset managers subject to NFRD reporting will report the same investments twice.  
<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>  
We agree with ESMA that sovereign bonds should not be considered eligible investments as there is no defined methodology or data to enable investors to assess Taxonomy alignment of sovereign bond exposures.  
<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>  
We agree with ESMA that the denominator should consist of the value of Taxonomy eligible investments rather than the value of all investments. This approach is important to avoid providing a misleading view of Taxonomy alignment, given that only a portion of an asset manager's AUM will be Taxonomy eligible.  
<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>  
TYPE YOUR TEXT HERE



<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>

TYPE YOUR TEXT HERE

<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>

The Taxonomy Regulation already requires asset managers to disclose Taxonomy alignment data for each SFDR Article 8 or 9 fund (i.e., ESG funds). If asset managers are required to report Taxonomy alignment for investments beyond those in ESG funds, they will incur additional ongoing costs as they will need to use internal and external resources (e.g., data providers) to source, analyse, and disclose Taxonomy data for those additional investments.

<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>

We support limiting reporting of Taxonomy-aligned activities to available data (i.e., investments where the issuer discloses the Taxonomy KPIs). We note that Taxonomy-alignment data is less likely to be available for investments in SMEs and developing markets. We urge caution with requiring the inclusion of third-party estimated or modelled data for those investments where the data is not disclosed by the issuer. The reliability of this data is unlikely to be consistent across data providers given that they obtain data from different sources, make different assumptions, and frequently estimate data using different methodologies. We caution that requiring 100% data coverage will result in the inclusion of low quality data, which in turn will reduce the quality of the aggregate Taxonomy KPI disclosure.

<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>

No, we do not agree with ESMA's recommendation to develop sector co-efficients to be assigned to non-reporting companies. Estimating data using a sector-coefficient would run counter to the granular nature of the Taxonomy's technical screening criteria. As discussed in our response to Question 37, Taxonomy reporting should be limited to where reported data is available. Inclusion of estimates will result in the inclusion of low quality data, which in turn will reduce the quality of the aggregate Taxonomy KPI disclosure.

<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>  
TYPE YOUR TEXT HERE  
<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>