# EU Sustainable Finance Update

3 February 2022

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PROMOTING SUSTAINABILITY THROUGH
EUROPEAN FINANCIAL MARKETS

# Agenda, 3 February 2022

- EU Taxonomy Complementary DA – Update
- ESMA consultation on MiFID II requirements – Update
- EFRAG calls for nominations & working papers – Update
- EBA publication on pillar 3 disclosures – Update

# EU Taxonomy – Publication of the Complementary DA

## The Complimentary Delegated Act has been **approved in principle**

- On Wednesday, 2 February 2022, the EU Commission **approved in principle** the **final Complementary Delegated Act** (DA) including natural gas & nuclear energy in the EU Taxonomy.

**Key takeaways:**

- The Comp. DA qualifies both natural gas and nuclear energy as **transitional activities provided certain conditions are satisfied;**

- The Comp. DA also includes **amendments to the Taxonomy Disclosures Delegated Act** (adopted pursuant to Article 8 of the Taxonomy Regulation) to ensure that Taxonomy-related disclosures by companies clearly reflect exposures to natural gas & nuclear energy activities and/or investments.

- The European Commission also envisages **amendments to the Taxonomy-related product disclosures under SFDR** so as to ensure that, where present, exposures to Taxonomy-compliant natural gas & nuclear energy activities are clearly reflected as part of the Green Asset Ratio (GAR) of Art. 5 & Art. 6 investment products.

# EU Taxonomy – Publication of the Complementary DA

The Complimentary Delegated Act has been **approved in principle**

**Sample of the adjustments to the Technical Screening Criteria (TSC):**

- Following feedback from the Platform on Sustainable Finance and the Member State Expert Group on Sustainable Finance (MSEG), the European Commission made **a number of adjustments to the TSC** for natural gas & nuclear energy.

- With regard to nuclear energy activities, the TSC now require **a more detailed, documented plan** as to how Member States will dispose of high-level radioactive waste by 2050.

- With regard to natural gas, there is now a requirement to conduct **a comparative assessment to demonstrate that a natural gas project is the most technologically feasible & cost-effective means of replacing power generation from solid or liquid fossil fuel**.

- Otherwise, **interim targets for the phasing-in of renewable or low-carbon gaseous fuels** have been removed with a switch to full use of renewable or low-carbon gaseous fuels being required by 31 December 2035.

- In terms of disclosures, the Complementary DA now envisages clearer and more meaningful reporting of exposures to Taxonomy-compliant gas & nuclear activities at entity-level. Taxonomy-aligned & Taxonomy-eligible gas & nuclear exposures should be clearly reflected in the denominator & numerator of an entity's KPIs

# EU Taxonomy – Publication of the Complementary DA

The Complimentary Delegated Act has been **approved in principle**

**Next steps:**

- The Complementary DA was **only approved in principle** on 2 February. It has not been formally adopted and so the scrutiny period (during which the Council & European Parliament may object to the DA) has not been initiated.
- The Complementary DA is now being translated into all official languages of the EU prior to formal adoption.
- Once formally adopted, the scrutiny period of 4 months will be initiated. It may be extended by 2 months at the request of either the Council or the European Parliament.
- A reinforced qualified majority is required in Council (20 MS representing 65% of the EU's population must vote in favour of an objection) to block the DA. In the EP, a simple majority of 353 MEPs is required.

**Tentative timeline:**

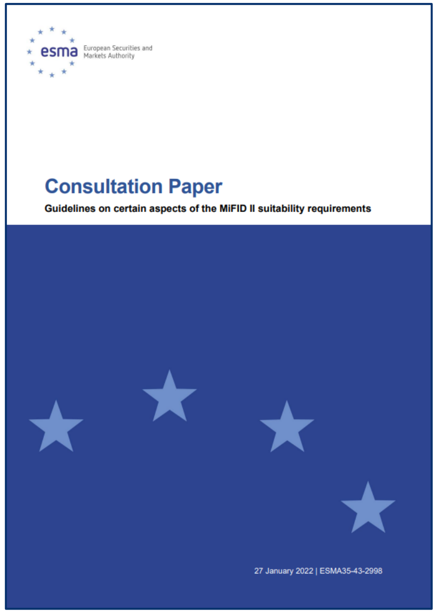
- **Assuming that the Complementary DA is formally adopted at the beginning of March, and that no objections are raised, it could enter into force at some point in either June or August (if scrutiny period is extended)**

# ESMA consultation on MiFID II requirements – Update (1/2)

Consultation launched on draft guidelines regarding aspects of MiFID II suitability requirements

**Context:**

- Update of ESMA's 2018 **MiFID II guidelines** after adoption of amendments to MiFID II Delegated Regulation, which integrated a requirement for advisory and portfolio management processes to take into consideration clients' **sustainability preferences**
- Deadline for comments is **27th April**; final report expected in **Q3 2022**
- ESMA highlights that a second consultation on sustainability-related aspects of product governance will follow in the coming weeks.


esma European Securities and Markets Authority

Consultation Paper

Guidelines on certain aspects of the MiFID II suitability requirements

27 January 2022 | ESMA35-43-2998

<u>**Key aspects for consultation:**</u>

- **Collection of information** from clients on sustainability preferences (self-assessment)
- **Assessment** of sustainability preferences of the client (after suitability of product has been assessed)
- **Organisational requirements** such as appropriate training of staff on sustainability topics
- Recommendation of products that do not meet sustainability preferences (need to document explanation)
- Situations in which client does not express sustainability preferences

# ESMA consultation on MiFID II requirements – Update (2/2)

## Consultation launched on draft guidelines regarding aspects of MiFID II suitability requirements

- ESMA intends to provide more clarity as to how exactly the distributors of financial products should account for the 'sustainability preferences' of their clients when conducting the suitability assessment.

- Firms must ask clients about their 'sustainability preferences'. However, **the manner in which the client may express their 'sustainability preferences' is prescribed (and constrained) by Sustainable Finance regulation**. Something firms will have to explain to their clients using non-technical language.

- Sustainability preferences can only be expressed by reference to products with sustainability-related elements derived from EU regulatory frameworks (i.e. by reference to the level of Taxonomy-alignment, the proportion of sustainable investments (as per Art. 2(17) of SFDR, and due to consideration of PAI indicators.)

- The client may express a combination of sustainability preferences thus allowing the firm to offer products with a combination of sustainability-related characteristics (e.g. a certain level of Taxonomy-alignment and integration of PAI indicators)

# EFRAG update (1/2) – calls for nominations

The has appointed new members and launched several calls for nominations

EFRAG **Sustainability Reporting Pillar**

- 31 member organisations (13 new members recently appointed)

EFRAG **Sustainability Reporting Board**

- responsible for all sustainability reporting positions of EFRAG
- approval and submission of drafts to *European Commission*

Call for Chair (01/02)

Call for members (10/02)

appointment / oversight

input / recommendations

EFRAG **Sustainability Reporting Technical Expert Group (TEG)**

- technical advice on draft standards to *Sustainability Reporting Board*
- own judgment, arguments, technical analysis

Call for Chair (28/02)

Call for members (28/02)

Working Groups (WGs) + Advisory Panels (AP)

**Project Task Force on European Sustainability Reporting Standards (PTF-ESRS)**

- elaboration of standards
- 47 members

**Expert Working Groups** (EWGs)

- review, provide input and contribute to PTF-ESRS work
- 11 EWGs announced in November 2021

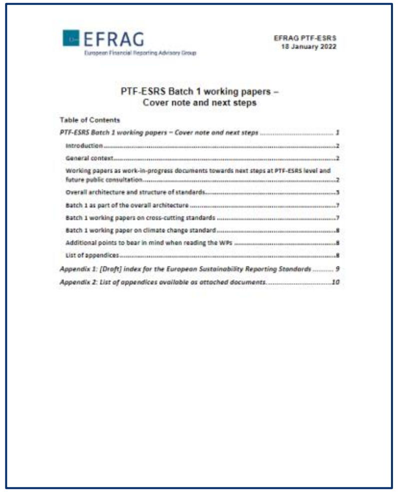
# EFRAG update (2/2) – publication of working papers

The EFRAG PTF-ESRS has published a first batch of working papers for information

**Context:** Project Task Force on European Sustainability Reporting Standards (PTF-ESRS) published *work-in-progress documents* for informational purpose – not open to public consultation

**Working papers:**

- 4 cross-cutting standards: (1) Strategy and business model; (2) Sustainability governance and organisation; (3) Sustainability material impacts, risks and opportunities; (4) Definitions for policies, targets, action plans and resources
- 1 topical standard: **Climate Change** [elaboration of Climate Standard Prototype]
- 2 conceptual guidelines: (1) **Double materiality**; (2) Characteristics of information quality


EFRAG
European Financial Reporting Advisory Group

EFRAG PTF-ESRS
18 January 2022

PTF-ESRS Batch 1 working papers –
Cover note and next steps

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**NEXT STEPS:**

working papers submitted to PTF-ESRS members and review panel → expert working groups → pre-exposure drafts → final consensus discussions in plenary → adoption of exposure drafts → exposure drafts submitted to **public consultation**

# EBA standards on pillar 3 disclosures on ESG risks

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- On 24 January the **European Banking Authority** (EBA) published a final draft with **implementing technical standards (ITS)** on Pillar 3 disclosures on ESG risks (banks subject to Capital Requirements Regulation CRR).

- **OBJECTIVE**: set mandatory and consistent **disclosure requirements for banks** to provide qualitative and quantitative information on:

  A) the <u>exposure to ESG risks</u>, especially <u>climate-related risks</u>, both transition and physical risks;

  B) the <u>actions taken to mitigate those risks</u> ➔ how banks support customers and counterparties in the adaptation & transition process

| What? | How | Guidance | Information include: |
|---|---|---|---|
| **ESG risks** | Qualitative | 3 tables | Under each risk category, disclosure requirements target: governance, business model and strategy, and risk management (TCFD) |
| **Climate change TRANSITION RISKS** | Quantitative | 4 templates | • Sectors that highly contribute to climate change;<br>• Financed GHG emissions;<br>• Alignment to a Paris-aligned scenario;<br>• Energy efficiency of the real estate portfolio |
| **Climate change PHYSICAL RISKS** | Quantitative | 1 template | Sectors and geographies that may be negatively impacted by climate-related events |
| **Mitigating actions** | Quantitative | 5 templates | Exposure to Taxonomy-aligned activities<br>• **Green Asset Ratio (GAR)**<br>• **Banking Book Taxonomy**<br>• **Alignment Ratio (BTAR)**<br>+ other climate change mitigating actions |

**GAR =** Taxonomy-aligned activities of companies under the NFRD (2024)
**BTAR** = Taxonomy-aligned activities of companies not subject to the NFRD (June 2024)

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