

Finnish Energy consultation response on the draft Delegated Act on Sustainable finance – obligation for certain companies to publish non-financial information

Finnish Energy welcomes the opportunity to comment on the European Commission's draft Delegated Act on taxonomy-related disclosures by undertakings reporting non-financial information. Finnish Energy is a branch organisation for the industrial and labor market policy of the energy sector. It represents companies that produce, procure, distribute and sell electricity, gas, district heat and district cooling and related services. Finnish Energy strongly supports the European Commission's goal of climate neutral Europe by 2050. In fact, Finland has pledged to become carbon neutral already in 2035. The sustainable finance framework has great potential to facilitate investments towards activities that support this goal. We believe that the EU Taxonomy's main purpose should be to support the transition to climate neutral Europe, and therefore, the Delegated Regulation on taxonomy-related disclosures should contribute to driving investments into carbon-neutral and low-carbon energy sources.

We would like to highlight the following in the draft Delegated Act:

Entry into force

We support the Commission's proposal on phased-in reporting obligations but even starting of the limited reporting from 2022 comes far too fast for the companies. To ensure high quality reporting and in many cases to be able to report in general, the companies should already now be implementing the changes needed in their reporting systems. Furthermore, the disclosure requirements are based on regulations that have recently been adopted (EU Taxonomy Climate Delegated Act) or are still due to be adopted (the EU Complementary Delegated Act and the Delegated Act on the four remaining environmental objectives). Therefore, we support phased-in reporting and suggest postponing the start of mandatory reporting by one year. This would provide adequate time for companies to properly understand the disclosure requirements and assess the eligibility of their economic activities, not to mention to build the needed reporting systems.

Previous five reporting periods

Requiring companies to publish the key performance indicators covering the previous five reporting periods constitutes an excessive burden. We do not consider the costs of such exercise to exceed the benefits as this data will be time consuming and costly to extract. Also, historical information will have limited value to end-users. At least, the comparative and 5-year information should not be required to report retroactively for the year of adoption i.e., when the regulation enters into force or when the reporting starts for activities that may become taxonomy-eligible in the future.

Disclosure of long-term objectives and targets

Level 1-legislation (Art. 8 of the Taxonomy Regulation) does not refer to mandatory disclosure of companies' long-term objectives and targets. However, under the draft Delegated Act companies are requested to disclose their future objectives and targets for their KPIs and their plans to achieve them. In other words, this obligation goes beyond the level 1-legislation. Furthermore, this obligation as such could lead to disclosing commercially sensitive information and make companies vulnerable to litigation. We suggest that any disclosure that goes beyond the Taxonomy Regulation should be done on a voluntary basis only and companies should have certain flexibility in the way they present additional information.

Contribution to multiple objectives

The requirement of reporting KPIs for each environmental objective would add additional administrative burden and not be justified for the purpose of the regulation. KPIs should focus on one environmental objective. For investors, it should be sufficient to see if the activity is Taxonomy-aligned. Hence, it should be made clear that companies should not assess their activities against all objectives, i.e. companies should be able to select the most relevant objective for their business and for the remaining objectives to state that it was not assessed. Thus, only the main environmental objective that has been duly chosen to assess significant contribution should be disclosed.

Taxonomy eligible and aligned/not-aligned and taxonomy non-eligible activities

Level 1-legislation, Taxonomy Regulation, only requires undertakings to report on "how and to what extent the undertaking's activities are associated with economic activities that qualify as environmentally sustainable", i.e. is limited to reporting on "Taxonomy-aligned" activities only. However, the draft Delegated Act requires companies to provide information on "Taxonomy-eligible but not aligned" activities, on top of information on "Taxonomy-eligible and aligned" activities. Furthermore, the draft Delegated Act requires reporting on "Taxonomy non-eligible activities". We find that the mandatory reporting requirements should be limited to Art. 8 of the Taxonomy Regulation. Otherwise, this would unofficially pave the way for an extended Taxonomy or brown-listing, which would be premature since such an extension has not been formally proposed. We therefore recommend deleting the requirements under section 2. Methodology for reporting of KPIs to be disclosed by non-financial undertakings, bullet (d) and (e) in the draft Delegated Act.

Furthermore, we find it highly unnecessary and undesirable to provide KPI data on each economic activity not covered in the EU Taxonomy. This would lead to overreporting and increase the administrative burden without any added value for investors. Nevertheless, we understand that there should be some room for disclosing the KPIs for those activities not (yet) covered by the EU Taxonomy but can be justified to be environmentally sustainable. Therefore, companies could disclose more (granular) data on a voluntary basis.

Definitions

The European Commission should ensure coherence with the European reporting framework and there should be an alignment between EU Taxonomy definitions/guidance and the corresponding guidance under IFRSs to avoid different interpretations. To ensure comparability between companies, more guidance is needed on how to allocate turnover, OpEx and CapEx between compliant and non-compliant activities.

Furthermore, it should be noted that it might be challenging to refer to the OpEx indicator for all companies. For some businesses, the key financials are revenue & CapEx, and OpEx does not play a large role. Moreover, OpEx is often difficult to attribute to specific Taxonomy activities. OpEx as defined in draft Delegated Act Annex I is not a measure generally used in financial reporting. Making this KPI mandatory would result in additional disclosures in the financial statements – currently not required or even recognised by IFRS. In addition, significant system and process changes would be needed to extract this data. For these reasons, it is of utmost importance that the OpEx KPI should be disclosed only "where relevant".

Disclosure format

We understand the rationale for defining a standardised table for the disclosure of information. However, in practice, the implementation of such a table may be challenging for companies. In particular, the energy industry would recommend some flexibility in the disclosure format, not least as part of the phase-in.

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