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Sustainability Growth Innovation*

Position Paper

SGI Europe Policy Recommendation to Delegated Act on
Disclosure Obligations in the Taxonomy Regulation on Article 8

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SGI Europe welcomes the Commission's determination to continue the process with the EU Taxonomy, aiming to finance the transition to a climate-neutral Europe by 2050. SGI Europe is very supportive in setting the right framework to redirect capital flows towards environmental and social sustainable economic activities. The initiative for a sustainable finance mechanism and the Taxonomy Regulation can act as an enabling tool to realise the objectives of the EU Green Deal. For SGI Europe, sending its policy recommendation on the Delegated Act (DA) on the reporting obligations, is from high importance to our members of the public services and services of general interest (SGIs).

Having an observer role with the Sustainable Finance Platform, SGI Europe is in clear favour and supports the European Commission on its path to further develop the EU Taxonomy, strengthen its tools and applications for a functional sustainability reporting scheme that will serve investors, insurers and EU citizens on the performance of companies and how they contribute to the vision of the EU Green Deal to make it into a reality for everyone.

SGI Europe will therefore take this opportunity within the Platform and in this public consultation to underline also some worries on the planned extension of the reporting requirements to avoid overburdening companies with unnecessary complex reporting obligation that create significant additional costs for companies. Ultimately, this risks making the EU Taxonomy framework less attractive, especially for smaller undertakings. Therefore, the balance between providing necessary sustainability information to investors and the civil society and the extra burden this entails for the reporting companies should be considered by the Commission in the context of the recent Commission proposal for a Corporate Sustainable Reporting Directive (CSRD) and during the finalisation of the DA on reporting obligations in the Taxonomy (Article 8).

In this regard, SGI Europe would like to present in its policy recommendations below, how those concerns can be addressed in the draft delegated act on Article 8:

Allow for an adequate implementation phase

SGI Europe acknowledged that the draft DA foresees a gradual implementation of the disclosure obligations, with full reporting on the three KPIs becoming mandatory from 1 January 2023. Yet it misses to recognise the fact that companies might be faced with challenges in adjusting their present reporting system to new requirements, especially since the relevant first set of technical screening criteria (TSC) will only be officially adopted by the end of May 2021. In this context, with reporting on the KPIs is not being required in 2022, the requirement to disclose qualitative information how KPIs have been calculated does not make sense. In Article 11 (1) it should therefore be clarified, that in the first reporting year only qualitative information of the taxonomy-eligibility of activities must be disclosed. Additionally, it is not comprehensible what is meant by "share of taxonomy-eligible and taxonomy-non eligible economic activities" and how this request relates to the table in Annex II. It is also not clear which qualitative information should be reported in the first year of application.

Overall, the entry into force of the Article 8 DA, while the position on certain activities is not yet determined, is likely to create a breach of equality and could be discriminatory, preventing these activities from benefiting from the investments to which they could nevertheless be entitled. Therefore, the DA should be amended with a provision stipulating that its entry into force in January 2022 is conditioned to the adoption of the complementary DA. Otherwise, it is imperative, in the light of the principle of equal treatment, that this DA includes, alongside the Eligible / Non-eligible categories, a category for activities under examination.

Focus on one environmental objective

The draft DA requires companies to report on the taxonomy-alignment of all economic activities for all six environmental objectives. This unnecessarily complicates reporting without generating significant added value to the disclosed information. Additionally, it is often difficult to clearly distinguish between the environmental objectives for reporting purposes. As per Article 3 of the Taxonomy Regulation, a company chooses one of the six environmental objectives to assess its significant contribution to one of the environmental objectives. For the remaining objectives, the company needs to prove that no significant harm is done. For proving taxonomy-alignment to investors and other interested parties, it is therefore sufficient to focus the reporting on one chosen environmental objective. The methodology in Annex I and the templates in Annex II of the draft DA should be revised accordingly.

Avoid retroactive disclosure obligations

In Article 9 (3) of the draft DA it should be clarified that the provision should only apply forward-looking from 1 January 2023 onwards but not retroactively. From a company's perspective, providing the KPIs covering the previous five reporting periods is almost impossible. Some of the assets concerned might, for example, be closed down or not be in the ownership of the reporting company anymore. We would also like to mention that clarification will be needed regarding the transposition phase.

Emphasise the importance of forward-looking metrics

While Article 8 defines three KPIs, we believe the focus should be put on CapEx to facilitate investments into sustainable activities rather than punishing past investments into non-taxonomy-aligned activities. Static measures – such as turnover and operating expense – in contrast, only have a low informative value about the future direction of a company. SGI Europe therefore welcomes the essential role of CapEx as the main KPI for financial undertakings.

Recognise national accounting principles

For all three KPIs, undertakings should be allowed to report in accordance with national generally accepted accounting principles, as it is already foreseen for CapEx and OpEx. A similar provision should be included for turnover to clarify that the information can be disclosed either pursuant to the International Accounting Standard or to the applicable national standards.

Clarify the definition of CapEx and OpEx

The definition of CapEx (Annex I 1.1.2.) should clarify the inclusion of joint ventures and associated companies for the calculation of the KPI. For purposes of comparability and to allow for an exact definition of the OpEx-denominator, it should also be clarified whether the definition of OpEx (Annex I 1.1.3.1) includes indirect costs from administration (financial functions, strategy) and commercial activities.

Annex II- KPI's of non-financial undertakings

The required table in Annex II contains much more information than what is indicated in the Article 8 of the Taxonomy Regulation. The Article mentioned requires indicating the percentage of alignment with the taxonomy while the table in Annex II also requires additional information such as the detail of all the data for each economic activity and quantification of revenues, CapEx and OpEx for each economic activity (column 3). Given its nature of strategically sensitive information, the CapEx plan cannot be disclosed prematurely. Thus, public disclosure of a sustainable project as the only way to have investments costs acknowledged may put the company in an unjustified situation of having to choose between having cost acknowledged or maintaining a competitive advantage.