

EU Sustainable Finance Update

2 December 2021



PROMOTING SUSTAINABILITY THROUGH
EUROPEAN FINANCIAL MARKETS

Agenda, 2 December 2021

- EU Taxonomy - State-of-play
- SFDR RTS - State-of-play
- European Green Bonds – Update
- Capital Markets Union Package - Update



EU Taxonomy – State-of-Play

Status of Complimentary Delegated Act

- We understand that the so-called **Complimentary Delegated Act** – which will clarify the treatment of **natural gas & nuclear energy** under the EU Taxonomy – will be published in mid-December – possibly as soon as the 9th December.
- We cannot say at this juncture what conditions will be attached to natural gas & nuclear energy in order to qualify as Taxonomy-aligned under the Complimentary DA.
- We can speculate that natural gas and/or nuclear energy may be included in the Taxonomy as **transitional activities subject to a sunset clause** – whereby their inclusion in the Taxonomy would be time-limited.
- It has also been rumoured that natural gas projects would only qualify as Taxonomy-aligned in cases where they directly substitute for energy production using coal and provided certain performance thresholds are satisfied.

Brussels to weaken its sustainable finance ‘green standard’

EU taxonomy is likely to include nuclear power and natural gas, which will fuel allegations of greenwashing



EU Taxonomy – State-of-Play

Status of Complimentary Delegated Act

- We must stress that these are only possibilities when it comes to the substance of the Complimentary DA.
- We understand that the drafting is being handled by the Cabinet of President Von der Leyen directly such is the level of political sensitivity. Even other senior Commissioners may not be fully apprised of the details of the Complimentary DA.
- This has become a concern for prominent Member States that have insisted on the inclusion of natural gas & nuclear energy in the Taxonomy – particularly France.
- The fact that the contents of the Complimentary DA are not known, and that publication has been delayed to mid-December has made the French Government nervous.
- Policymakers in Paris would like to avoid a scenario where the conditions for the Taxonomy-alignment of nuclear energy are too stringent.



EU Taxonomy – State-of-Play

Status of Complimentary Delegated Act

- Important to the political context, the scrutiny period for the Climate Delegated Act in Council will end on 7th December. In the absence of a **qualified majority** of EU Member States voting for an objection to the Climate DA – it will enter into force.
- According to the calculations of the European Commission, there is no qualified majority in the Council to block the Climate DA. Accordingly, the Commission is confident that the Council cannot threaten to block the Climate DA to create leverage over the Complimentary DA – thus explaining why they have delayed publication of the Complimentary DA until after the Climate DA is passed.
- That said - there is an ECOFIN Council scheduled on 7 December. We understand that France is attempting to mobilise opposition to the Climate DA before the ECOFIN Council convenes.

To reach a **qualified majority** in the Council – 55% of EU Member States, collectively representing 65% of the EU population, would have to vote to block the Climate DA.



EU Taxonomy – State-of-Play

Status of Complimentary Delegated Act

- The French reason for doing so is to maintain **political leverage** over the Commission and thereby ensure that the conditions on the use of natural gas & nuclear energy stipulated by the Complimentary DA are flexible enough for French purposes.
- We understand that the interest in having nuclear energy & natural gas included in the Taxonomy reflects the expectation on the part of several Member States that **the Taxonomy could be used as an allocation tool for public spending in the years to come – particularly when EU funds are concerned.**
- Accordingly, the inclusion of nuclear energy in the Taxonomy would facilitate French public spending to renovate/expand existing nuclear power stations and add new nuclear power capacity to their energy infrastructure.

November 9, 2021
10:08 PM CET
Last Updated 23 days ago

Energy

Macron says France will build new nuclear energy reactors

Reuters
2 minute read









EU Taxonomy – State-of-Play

Eurosif concerns & engagement on the issue

- Eurosif issued a Statement outlining the credibility risks associated with including natural gas & nuclear energy in the EU Taxonomy and have shared it with the relevant policymakers.

In brief, the Eurosif Statement conveys the following points;

- There are significant risks associated with inclusion of natural gas & nuclear energy in the EU Taxonomy. **Principally, the credibility of the EU Sustainable Finance agenda will be cast into doubt if natural gas & nuclear energy can qualify as sustainable in the EU;**
- Eurosif believes that their inclusion would result in the EU Taxonomy no longer constituting a list of sustainable activities but rather a list of transitional activities;
- There are few benefits to including natural gas & nuclear energy in the EU Taxonomy. There exclusion would not prejudice Member States' prerogative to select the best energy mix to suit their decarbonisation plans.
- **Eurosif also harbours concerns over how the inclusion of natural gas & nuclear energy in the EU Taxonomy will undermine product disclosures under SFDR.**

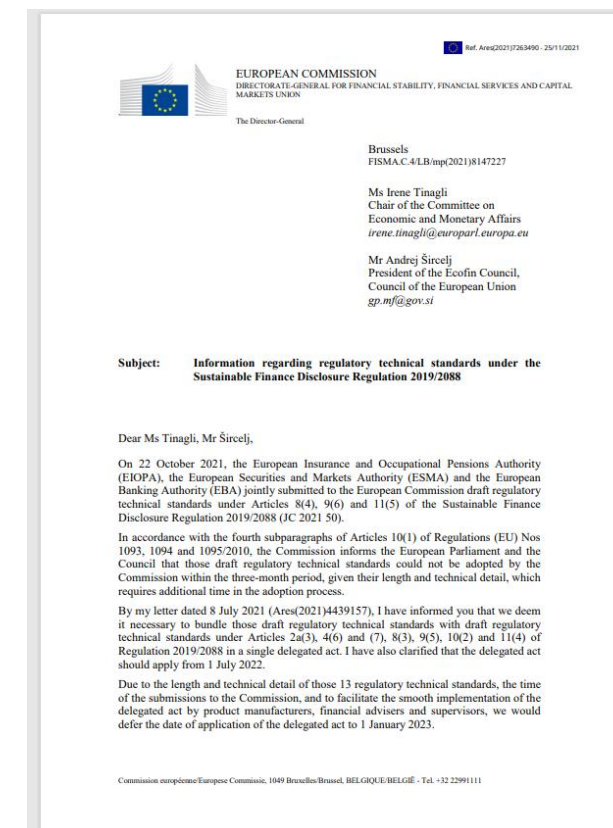


SFDR RTS – State of play

Application of SFDR RTS further delayed until 1 January 2023



- On 25th November, the European Commission sent a letter to the European Parliament & the Council announcing a **further delay to the application of the technical standards under SFDR**.
- The latest delay means that the date on which the technical standards will enter into application is now **1 January 2023** – deferred by an additional 6 months.
- The Commission stated that the additional delay is necessary to allow sufficient time for the Delegated Act consolidating the finalized Regulatory Technical Standards (RTS) submitted by the European Supervisory Authorities (ESAs) to be prepared, adopted and scrutinized by the European Parliament and the Council before entering into force.
- Unfortunately, the delay will create additional regulatory compliance issues for financial market participants and will do little to address the fundamental challenges that FMPs have encountered while trying to implement the SFDR – such as the lack of reliable data.



SFDR RTS – State of play

Application of SFDR RTS further delayed until 1 January 2023

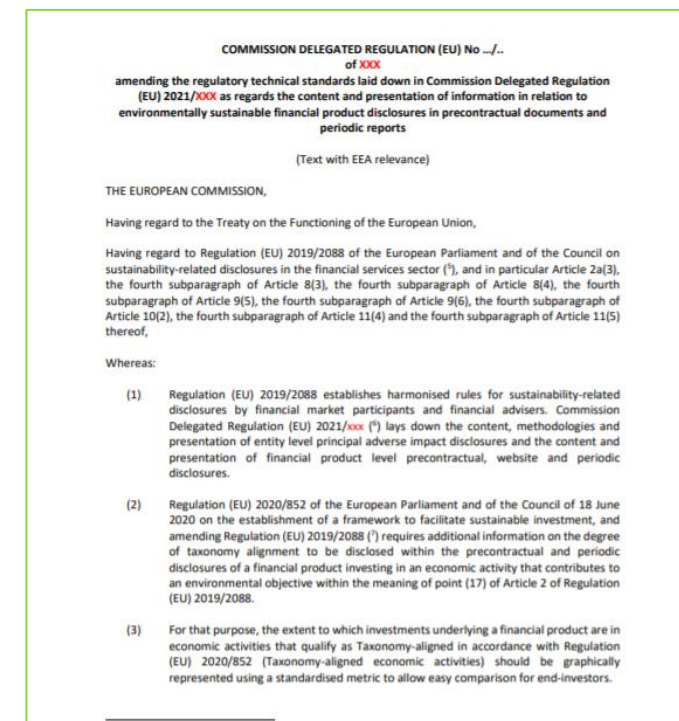
- The additional delay will affect a number of disclosure requirements – these include the following;

Pre-contractual disclosures for Article 8 products – including Taxonomy-related product disclosures stipulated by Article 6 of the Taxonomy Regulation which applies in cases where Article 8 products include exposure to/investments in Taxonomy-aligned economic activities.

Pre-contractual disclosures for Article 9 products – including Taxonomy-related product disclosures stipulated by Article 5 of the Taxonomy Regulation which applies in cases where Article 9 products include exposure to/investments in Taxonomy-aligned economic activities.

Importantly, the deferral will not apply to the disclosure of adverse sustainability impacts at entity level in the form of a PAI statement as stipulated by Article 4 of the SFDR.

The Commission has clarified that Financial Market Participants will have to publish their first PAI statement on **30 June 2023**.



SFDR RTS – State of play

Application of SFDR RTS further delayed until 1 January 2023

- In Eurosif's view, the deferral of the application of the technical standards under SFDR will do little to address the implementation challenges that FMPs have encountered – most notably in relation to the availability of reliable data.
- In addition, the deferral will create further compliance challenges – most notably when it comes to assessing the sustainability preferences of clients in the manner prescribed by MiFID II – which will apply as of August 2022 and require SFDR disclosures to be operational.
- Finally, Eurosif is concerned that the inclusion of natural gas & nuclear energy in the Taxonomy may necessitate a revision of the SFDR's Taxonomy-related product disclosures – as in their current form they are not sufficiently granular to reflect exposures to natural gas & nuclear energy if present in a product portfolio.

EU Green Bond Standard - Update

Policy assessment

In the EU Council (Draft compromise text discussed on 23 November)

Main topics for discussion/amendments to the EU Commission proposal:

- Flexibility on the Taxonomy-alignment of the use of proceeds
- Role of external reviewers & national competent authorities, and supervisory powers of ESMA
- Application date: 18 months after the publication of the Regulation

In the EU Parliament

- Objections to the flexibility regime on the allocation of proceeds
- Concerns about the possible introduction of natural gas and nuclear power in the EU Taxonomy
- Make the EU GBS mandatory
- Add more specific requirements on the environmental plan of the issuer

The opinion of the European Central Bank (5 November)

- Invites the EC to evaluate the opportunity to make the EU GBS mandatory
- Full support for full Taxonomy-alignment of the use of proceeds; concerns on the 5-10 Taxonomy-alignment plan
- Proceeds should be allocated according the TSC applicable at the point of issuance and for the entire lifetime of the green bond
- Designate competent authority for issuers outside the EU



The 2021 Capital Markets Union (CMU) package (1/3)

New measures proposed to boost Europe's capital markets

Aim:

- On 25 November, the European Commission published **four legislative proposals**, delivering on its commitments under the **2020 Capital Markets Union action plan**.
- Proposals aim to improve the ability of companies to **raise capital** across the EU, **broaden investment opportunities** for retail investors and better **integrate capital markets**

Proposals:



Four legislative proposals under new CMU package (2/3)

Better connect EU companies with investors, improve access to funding, broaden investment opportunities, further integrate EU capital markets

ESAP: European Single Access Point

- Establishment of ESAP for public **financial and sustainability-related information** on EU companies and EU investment products
- Disclosures under **SFDR** must be submitted from 1 January 2025 and disclosures under **EU Taxonomy** from 1 January 2024
- Seeks to **improve visibility** towards investors and open up **access to financing**



ELTIF: European Long-Term Investment Funds

- Review of Regulation to **increase attractiveness** of ELTIFs
- Proposed changes aim to **make investment in ELTIFs easier** for retail investors, while ensuring strong **investor protection**
- Changes include broadened scope of eligible assets, more flexible fund rules, reduced limitations on borrowing, facilitate marketing of ELTIFs

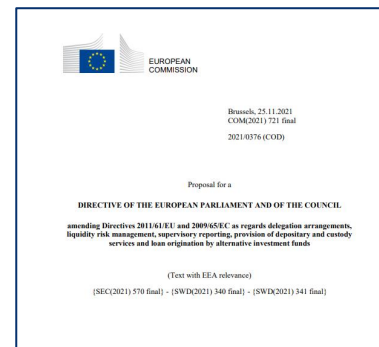


Four legislative proposals under new CMU package (3/3)

Better connect EU companies with investors, improve access to funding, broaden investment opportunities, further integrate EU capital markets

AIFMD / UCITSD: Alternative Investment Funds

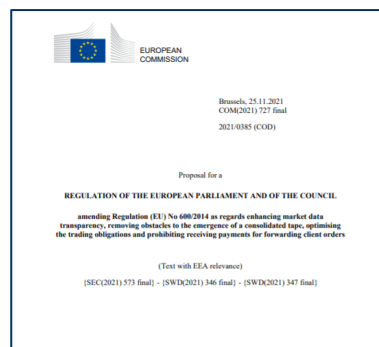
- Review of Directive to **enhance efficiency** and **integration** of AIF market
- Harmonisation of rules to **facilitate lending** to real economy, while protecting investors and ensuring financial stability
- No mention of particular sustainability-related provisions



Next steps: The legislative proposals will now be discussed by the European Parliament and the Council

MiFIR: Markets in Financial Instruments

- Review of Regulation to **enhance transparency** on capital markets
- Changes include transparency obligations, alignment of derivatives trading obligation, introduction of 'European consolidated tape'
- No mention of particular sustainability-related provisions



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