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## Feedback on EC December 2023 Draft FAQs on the Disclosures Delegated Act under Article 8 of the EU Taxonomy Regulation

July 2024

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AFME would like to thank the European Commission for its ongoing work, together with the Platform on Sustainable Finance, to improve the usability of Taxonomy reporting for credit institutions and other financial market participants.

Article 9 of the Taxonomy Disclosures Delegated Act (DDA)<sup>1</sup> requires the Commission to review the application of the Delegated Regulation by 30 June 2024. We understand that this review is now likely to be taken forward under the next Commission mandate. With this review in mind, AFME has worked with its members to formulate recommendations on the review of the DDA, with a particular focus on the Green Asset Ratio.<sup>2</sup>

Financial undertakings started reporting their Taxonomy KPIs as of 1 January 2024. We appreciate the Commission's aim to provide additional context and guidance through the adoption of a dedicated set of FAQs. However, the publication of draft FAQs in December 2023 has posed significant practical challenges for our members, especially when their content differed from prevailing understanding at such a late stage in the reporting process.

**We therefore wish to express our support for the list of issues that the European Banking Federation has recently brought to the Commission's attention with respect to the December FAQs. From an AFME perspective, we have identified the following set of issues as most pressing to be addressed well ahead of the next reporting cycle.**

Fully addressing these issues in conjunction with industry feedback is crucial to enable Taxonomy reporting for FY 2024 to more accurately reflect the Taxonomy alignment of banks' portfolios.

### ***"Look-through" approach for assessment of counterparties (FAQs 4, 14, 27, 41 and 42)***

FAQs 4, 14, 27, 41 and 42 provide that when the counterparty is not required to produce EU Taxonomy KPIs, the financial institution is required to "look through" their investments and assets to identify the "ultimate beneficiary" of the financing, the asset manager (for fund holdings), or the closest entity within the consolidated group that produces Taxonomy KPIs. While we agree that a "look-through" approach may be appropriate in some cases given the structural complexity of many undertakings' investments, the approach set out in these FAQs is not appropriate for these types of investments. We recommend practical alternatives to the "look-through" approach for specialised lending and securitisation in our separate publication on the GAR review.

### ***Inclusion of ultimate parent KPIs for exposures to subsidiaries (FAQ 13)***

FAQ 13 provides that where a subsidiary has a parent undertaking subject to CSRD, it must be included in the Taxonomy assessment. Having to assess whether the parent company of a client (which itself is not subject to CSRD) is subject to CSRD requires a detailed study of the group structure of all bank counterparties and is not

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<sup>1</sup> Delegated Regulation (EU) 2021/2178 of 6 July 2021.

<sup>2</sup> For additional recommendations on these FAQs, please see the latest AFME publication, "Recommendations for the review of the Green Asset Ratio" ([available here](#)).

feasible to complete given lack of data on which entities are subject to CSRD. We recommend that corporate entities should provide information on which subsidiaries are included in the consolidation of the parent's Taxonomy disclosures. In addition, we recommend that exposures to non-CSRD reporting SMEs be excluded from the scope of the GAR.

### ***Collection of documented evidence for fulfilment of TSC and DNSH (FAQ 33, 36)***

Commission FAQ 33 and 36 require banks to collect documented evidence for the fulfilment of each DNSH criterion of the Taxonomy alignment of economic activities funded through their lending. This is not possible for banks in the retail and real estate contexts. In these contexts, we recommend providing a simplified, workable approach to the assessment of Taxonomy alignment such as limiting the Taxonomy assessment to substantial contribution criteria or providing that compliance with MSS or DNSH should not apply for retail financing.

### ***Monitoring amended TSC and NZEB criteria (FAQ 19, 23, 34)***

Commission FAQ 19 and 34 require banks to engage with their counterparties to collect evidence of activities' alignment with amended TSC and NZEB criteria, but counterparties are not required to produce evidence of alignment with new TSC or NZEB criteria. This makes annual monitoring of Taxonomy alignment impracticable for banks. We recommend leaving the Taxonomy assessment of special purpose financing and mortgage financing unchanged until the end of the financing term.

### ***Calculation of "flow" for GAR flow (FAQ 65)***

The clarification provided in FAQ 65 that flows represent the amounts "without deducting the amounts of loan repayments..." presents significant practical challenges, as bank systems currently do not produce that information. Additionally, not taking into account repayments produces non-intuitive results for certain products, e.g. revolving facilities. The change introduced involves a very significant additional burden for banks, as they would have to monitor any repayment or additional drawing on existing facilities during the year on their portfolio. We recommend having the GAR Flow obtained by deduction of GAR stock between two consecutive years.

## **Conclusion**

We commend the efforts made by the Commission and its advisory bodies to support undertakings with the implementation of disclosure requirements. Taxonomy reporting Guidance, however, has not aided banks' implementation efforts when it was published in draft form, with reporting work well underway, without stakeholder consultation and in significant volume.

We therefore wish to reiterate the importance of coordination between application timelines and the issuance of planned implementation guidance, considering that the latter should be provided sufficiently in advance of the relevant reporting cycle.

We would welcome a dialogue with the Commission on how the FAQ process could be improved to ensure that it works effectively, and our members would be happy to contribute further with respect to the development of future guidance and FAQs.

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## About AFME

The Association for Financial Markets in Europe (“**AFME**”)<sup>3</sup> represents a broad array of European and global participants in the wholesale financial markets. Its members comprise pan-EU and global banks as well as key regional banks, brokers, law firms, investors and other financial market participants. We advocate stable, competitive, sustainable European financial markets that support economic growth and benefit society.

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<sup>3</sup> AFME is registered on the EU Transparency Register, registration number 65110063986-76.