



**Mr Peter Power**  
Head of Cabinet    Commissioner    Mairead  
McGuinness  
Rue de la Loi 200  
BE - 1049 Brussels

30 June 2021

## Re: Taxonomy Regulation Article 8 Delegated Act

Dear Mr. Power,

Companies are integrating sustainability in the core of their business strategy and models, and the Taxonomy Regulation can support their transition. The disclosure of relevant information in relation to corporate activities may bring clarity and transparency on environmental sustainability to investors, companies and issuers, and therefore finance the transition. For these reasons, BusinessEurope supports the overall objectives of the Taxonomy Regulation.

BusinessEurope has contributed to the public consultation on the draft Article 8 Delegated Act<sup>1</sup> and exchanged extensively with Commission colleagues in the last past weeks. These meetings have proved useful to clarify companies' commitment to the Taxonomy Regulation, and suggestions for a feasible and comparable implementation of the reporting requirements.

Ahead of the imminent formal adoption of the Article 8 Delegated Act, please allow me to stress three points of extreme importance for companies.

### 1. Disclosure of Taxonomy eligible but not aligned activities

The Taxonomy Regulation requires companies to disclose how and to what extent their activities are associated with environmentally sustainable economic activities. **Reporting on activities that are 'Taxonomy eligible but not aligned' and 'not eligible' goes well beyond what co-legislators agreed.** This disclosure therefore raises a legal question, as it is not required by Level-1 legislation.

Beyond the legal concerns, we are convinced that **this disclosure would also give competitors unprecedented access to their business models and strategic investment planning**, therefore undermining the EU's competitiveness. As a matter of fact, requiring a company to disclose turnover, CapEx and OpEx based on economic activities (regardless of whether they are aligned or not) would allow competitors to get insight into the turnover of the individual business divisions as well as information on key investment decisions (CapEx). This granular information is sensitive for any business. Furthermore, it would lead to litigation risks against those companies who have activities failing to comply with the Do Not Significant Harm criteria.

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<sup>1</sup> BusinessEurope's response to draft Art. 8 Delegated Act is annexed to this letter



## 2. Disclosure of CapEx plan

The disclosure of the CapEx plan will be essential to demonstrate companies' willingness to contribute to the sustainability objectives. At the same time, **we would strongly recommend deleting the requirements for which the plan should be disclosed and approved by the Management Board of non-financial undertakings.**

Firstly, many investments that a company makes in its transformation **lack a sufficient level of materiality** and therefore are considered individually irrelevant. Secondly, even aggregated plan would **risk revealing trade and business secrets** of European companies at the advantage of international competitors. This would overall undermine the EU's competitiveness.

To avoid any risk, **we recommend that references to the CapEx plan permit compliance.** Companies may decide to disclose further information in relation to their CapEx plan, but this should be voluntary.

## 3. Timeline

It is paramount that companies have enough time to implement the disclosure requirements. It cannot be emphasised strongly enough that **Taxonomy reporting is likely to be costly and complex to implement**: preparing the disclosure is likely to involve hundreds or thousands of detailed technical and accounting judgments, with a need to ensure consistency with other disclosures made in the company's financial statement. The input data required to prepare the disclosures under the Regulation is currently not readily available within the reporting systems of non-financial undertakings and great efforts are needed to set up and adapt reporting processes as well as IT and reporting systems to derive this information. Many technical and accounting judgments will be necessary to generate data, the initial reporting cycles will entail significant manual efforts, and the costs associated with updating legacy systems are expected to be extremely high. Significantly, while workflows can eventually be automated, **many of the required data points require discretionary decisions**, implying a significant commitment of human resources on an ongoing basis. Considering the difficulties and uncertainties in implementing the Taxonomy disclosure obligations, **we call on the Commission to delay by one year the Art. 8 DA.**

A rushed implementation would not only be unworkable, but it would also lead to bad data quality and comparability. Hence, it would undermine the very objective of the Taxonomy's obligations. Furthermore, we are concerned that companies are asked to pay for the delay adoption processes on the technical screening criteria for climate change objectives and reporting requirements.

We remain at your disposal for a legally sound, implementable and proportionate Taxonomy disclosure.

Yours sincerely,

  
Markus J. Beyrer