

EC consultation on draft EU Taxonomy Art. 8 Delegated Act

A Eurelectric response paper

June 2021

Eurelectric represents the interests of the electricity industry in Europe. Our work covers all major issues affecting our sector. Our members represent the electricity industry in over 30 European countries.

We cover the entire industry from electricity generation and markets to distribution networks and customer issues. We also have affiliates active on several other continents and business associates from a wide variety of sectors with a direct interest in the electricity industry.

We stand for

The vision of the European power sector is to enable and sustain:

- A vibrant competitive European economy, reliably powered by clean, carbon-neutral energy
- A smart, energy efficient and truly sustainable society for all citizens of Europe

We are committed to lead a cost-effective energy transition by:

investing in clean power generation and transition-enabling solutions, to reduce emissions and actively pursue efforts to become carbon-neutral well before mid-century, taking into account different starting points and commercial availability of key transition technologies;

transforming the energy system to make it more responsive, resilient and efficient. This includes increased use of renewable energy, digitalisation, demand side response and reinforcement of grids so they can function as platforms and enablers for customers, cities and communities;

accelerating the energy transition in other economic sectors by offering competitive electricity as a transformation tool for transport, heating and industry;

embedding sustainability in all parts of our value chain and take measures to support the transformation of existing assets towards a zero carbon society;

innovating to discover the cutting-edge business models and develop the breakthrough technologies that are indispensable to allow our industry to lead this transition.

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KEY MESSAGES

Eurelectric welcomes the opportunity to provide feedback to the European Commission's public consultation about the draft Delegated Regulation the content and presentation of information to be disclosed by undertakings subject to Articles 19a or 29a of Directive 2013/34/EU concerning environmentally sustainable economic activities and specifying the methodology to comply with that disclosure obligation. Consequently, we hereby detail our main comments and recommendations on articles and annexes of the current draft Delegated Regulation concerning the criteria that refer to non-financial undertakings.

- **Sustainable finance is a key building block of a European decarbonisation roadmap.** The EU Taxonomy must **enable the whole electricity sector to contribute to the targets as a diversity of generation assets will be needed in the transition to a carbon-neutral economy.** Eurelectric supports a target of at least 55% greenhouse gas (GHG) emissions reduction by 2030. The electricity industry is committed to delivering a carbon-neutral power supply for Europe well before 2050, in line with the objectives of the EU Taxonomy regulation. Reaching this carbon-neutral power system while meeting an increase in electricity demand that is unprecedented in recent times will require significant investment. As such, the approach to sustainable finance should enable achieving the long-term decarbonisation objective of carbon-neutrality.
- **The entry into force of the EU Taxonomy Delegated Act on Article 8 must take place gradually.** The electricity industry is committed to implementing the EU Taxonomy framework. Nevertheless, it should be considered that the new disclosure requirements will inevitably disrupt companies' current accounting and reporting systems and require internal changes (establishment of new reporting processes and structures and the implementation of (new) IT systems). Furthermore, they 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). For these reasons, we welcome the phased-in approach proposed by the European Commission reflecting the complexity of adapting to new disclosure requirements and formats. Due to the very complex requirements and very short time to prepare properly, we urge the European Commission to extend any EU Taxonomy requirement by one year, starting with a phased-in approach.

- **Reporting and format requirements should allow for some flexibility to reflect the specificities of different companies and their activities and to ensure continuity with current global standards.**

While coherence in reporting is essential to ensure comparability of data, it is important to consider that the EU Taxonomy framework applies to a variety of companies and activities. Therefore, the reporting requirements should ensure flexibility for companies to better adapt to the new obligations and deliver a set of data that would be useful and relevant to all stakeholders.

Particularly, flexibility is essential for reporting format requirements to allow companies to continue using widely applied global standards and allow for a level-playing field between European companies and third-country businesses, especially regarding company-specific information.

- **Reporting requirements should not be too granular with limited added value, unnecessary complexity, and disproportionate additional reporting costs.** In this regard, key performance indicators 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 to state for the remaining objectives that they were not assessed. Thus, only the main environmental objective that has been duly chosen to assess significant contribution should be disclosed.
- **Ensure coherence with the European reporting framework.** The reporting standards and requirements as set out in the EU Taxonomy draft Delegated Act shall be in coherence with Corporate Sustainability Reporting Directive (CSRD), including the harmonised reporting standards to be developed by the European Financial Reporting Advisory Group (EFRAG), the EU Green Bond Standard and the Sustainable Finance Disclosure Regulation (SFRD).
- **More guidance on the key performance indicators and the methodology should be provided to the industry.** To ensure that the implementation of the EU Taxonomy framework, especially from the reporting and disclosure perspectives can take place smoothly, we call for the European Commission to consider further guidance on certain elements related to key performance indicators and the methodology. Detailed comments hereafter provide views on which elements should be further specified. In this context, Eurelectric would be happy to further contribute with practical insights, especially regarding the key performance indicators and the methodology.

Detailed comments on the Delegated Regulation

- **Art. 2 – Definitions**

Eurelectric remarks some inconsistency regarding definitions of economic activities provided in Article 2 of the draft delegated act and the economic activities listed in Table 1, Table 2 and Table 3 of Annex II to the draft delegated act.

The definitions provided under Article 2 distinguish between “Taxonomy-aligned”, “Taxonomy-eligible”, and “Taxonomy-non-eligible” activities. However, Table 1, Table 2 and Table 3 of Annex II refers to “Taxonomy-eligible but not environmentally sustainable activities (not Taxonomy-aligned activities)”, which are not defined under Article 2.

Therefore, Eurelectric recommends aligning the definitions under Article 2 and Annex II to the draft delegated act.

- **Art. 3 – Disclosure by non-financial undertakings**

Eurelectric understands 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 electricity industry would recommend some flexibility in the disclosure format, not least as part of the phase-in.

As such, Eurelectric recommends amending the text as follows:

*2. The information referred to in paragraph 1 ~~shall~~ **may** be presented in tabular form by using the templates set out in Annex II to this Regulation.*

In addition, while companies could report on required data using the current formats - which, most of the time, follow global standards - format coherence could be reached by providing guidance to companies.

Alternatively, Eurelectric would support establishing a central reporting platform as suggested in the Renewed Sustainable Finance Strategy consultation.

Finally, in the event of the recommendations mentioned above are not considered, and it becomes a requirement to report according to the standardised table, we recommend the European Commission to allow reporting as an Annex to the existing companies’ reports or on companies’ websites, together with a link to the standardised tables.

- **Art. 9 – Common rules for disclosure by financial undertakings and non-financial undertakings**

About paragraph 1:

Eurelectric agrees with the overall possibility for companies to include accompanying information. Thus, methodology (accounting principles), narrative explanation of the data, and context (comparative years) should be disclosed alongside the key performance indicators. Nevertheless, there should be room for flexibility on the content of accompanying information, provided there is transparency about the methodology used by the company.

About paragraph 3:

Eurelectric notes that the EU Taxonomy Regulation established that non-financial undertakings should include in its non-financial statement or consolidated non-financial statement information on how and to what extent the undertaking’s activities are associated with economic activities that

qualify as environmentally sustainable under Articles 3 and 9 of the EU Taxonomy Regulation. However, Article 9 of the draft delegated act states that it shall be reported in the financial report. Therefore, the draft delegated act should be aligned with the wording of the EU Taxonomy Regulation (level 1 legislation) and clearly mention that any disclosures are to be made in the non-financial statements.

Furthermore, we would like to express our concerns regarding the complexity of the reporting requirements provided under Article 9, paragraph 3, which could be very challenging for companies. To avoid that the obligation to report KPI covering the previous five reporting periods becomes too burdensome, Eurelectric calls for avoiding a retroactive application of the five years reporting requirement and clarifying the starting date of such obligation. As such, Eurelectric suggests that the five years reporting requirement should roll out as follows:

- Reporting on year period 2022 disclosed in 2023
- Reporting on year period 2022 and 2023 disclosed in 2024
- Reporting on year period 2022, 2023 and 2024 disclosed in 2025
- Reporting on year period 2022, 2023, 2024 and 2025 disclosed in 2026
- Reporting on year period 2022, 2023, 2024, 2025 and 2026 disclosed in 2027

It should be noted that the following timeframe only applies when the activity is already assessed in the EU Taxonomy, and reporting can start in 2022. No retroactive effect should apply for activities that may become taxonomy-eligible in the future.

- **Art. 10 – Review**

Article 10 considers a *“review for SME exposures will be accompanied by an Impact Assessment assessing the administrative burden, access to finance and the potential impacts on SMEs of a possible extension to cover SMEs that are not covered by the Directive 2013/34/EU and/or provide such information voluntarily”*.

Eurelectric agrees to take into consideration the company size subject to the obligations. SMEs will play a crucial role in the green transformation. Thus, some minimum reporting standards for more companies should be considered. Yet, disproportionate reporting obligations and additional costs should be avoided, especially for SMEs where these elements may induce real challenges.

Moreover, Eurelectric suggests considering the dynamic character of the EU Taxonomy Regulation. Thus, the review clause should explicitly foresee assessing the relevance of the requested key performance indicators, of their calculation methodologies and templates used for disclosure.

- **Art. 11 – Enter into force**

Information content at entry into application is not clear, especially with regard to the reporting obligations for the year 2021.

In this context, Article 11(1) states that for the first year 2022 (for the reporting period 2021) one has only to disclose the share of taxonomy-*eligible/non-eligible* activities. Thereby the reference to disclose “qualitative information referred to in Section 1.2.1 of Annex I” according to which one has to “explain (a) how turnover, CapEx and OpEx were determined and allocated ...” does not make sense as according to Article 11(3) one shall not disclose his KPIs (the share of turnover, CapEx and OpEx) before 2023. However, if the reference to Section 1.2.1 is only referring to giving ‘qualitative information’ on how one completed the share of taxonomy-*eligible/non-eligible* activities, the obligation would make sense. Eurelectric calls for clarifying this aspect.

Eurelectric strongly recommends that reporting obligation in 2022 for reporting period 2021 should not cover the four environmental objectives for which the delegated act will be published, and which is due to enter into force in 2023. High flexibility should also be considered for activities covered in the upcoming Complementary delegated act which is still under development.

Overall, Eurelectric calls for considering an implementation period/phase-in approach due to the delayed adoption of the delegated acts (both the climate delegated act, the delegated act on the four remaining objectives and the new complementary delegated act).

Finally, considering that the public disclosure of the key performance indicators has been delayed until 1 January 2023, Eurelectric asks for clarification of the term “share” in the following statement: *“From 1 January 2022 non-financial undertakings shall only disclose the share of Taxonomy-eligible and Taxonomy non-eligible economic activities in their total activities and the qualitative information referred to in Section 1.2.1 of Annex I.”*. In other words, does ‘share’ mean the proportion of eligible activities compared to the total number of activities the company has or the proportion of turnover (and similarly for CapEx & OpEx) associated with eligible activities and non-eligible activities?

Eurelectric suggests that such share should be expressed both in turnover and CapEx, to ensure that undertakings can report the performance indicators that best fits their business model, whilst allowing comparability between companies.

Detailed comments on Annex I to the Delegated Regulation

Eurelectric would like to stress the fact that reporting requirements should **not be too granular with limited added value, unnecessary complexity, and disproportionate additional reporting costs**.

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.

The European Commission should ensure coherence with the European reporting framework. The reporting standards and requirements as set out in the Taxonomy draft delegated act shall be in coherence with Corporate Sustainability Reporting Directive (CSRD), including the harmonised reporting standards to be developed by the European Financial Reporting Advisory Group (EFRAG), the EU Green Bond Standard and the Sustainable Finance Disclosure Regulation (SFRD).

- **1.1.1. KPI related to turnover (turnover KPI)**

Eurelectric would like to raise the fact that it is not clear in the EU Taxonomy how to assess the sale of products generated from renewable assets being bought/resold in the wholesale market. For the energy industry, the sale of power is directly connected to the renewable technologies producing the power, and this forms a significant part of our revenue, but the economic activity “Trade of Electricity” (NACE 35.14) itself is not included in the EU Taxonomy.

On this background, Eurelectric recommends more clarity regarding including the sale of products from technologies linked to green assets as Taxonomy-eligible. A similar linkage exists in other legislations such as the Markets in financial instruments directive (MiFID) and the European Market

Infrastructure Regulation (EMIR), where traded exposers related to produced products/commodities can be seen as a hedge if there is the necessary link between the exposure in question and the trade made.

Furthermore, it should be noted that revenues are not regulated by IAS 1 since it covers Income Taxes. Therefore, Eurelectric finds it would be more appropriate to refer to IFRS 15.

All turnover that can be justified as being linked to a specific Taxonomy-eligible activity should be able to be classified as Taxonomy-eligible turnover. In other words, the company only has that revenue due to the Taxonomy-eligible activity and, thus, the turnover should be seen as taxonomy aligned if the triggering activity is aligned. Examples of such turnover could be from balancing services related to Taxonomy-eligible assets and hedging (physical or financial) of exposures from Taxonomy-eligible assets, incl. sale of power to corporate power purchase agreement (CPPA) customers.

The proposed definition of the turnover KPI should be amended to allow undertakings to account for a portion of the revenue generated inside a joint venture (i.e. equity consolidated investments) based on the investor's equity stake.

While IFRS would not show this figure on the face of the consolidated income statement, it is important to remind that the objectives of the two regulations are different: whereas IFRS focuses on control (hence the reason why individual assets, liabilities and revenue in joint ventures are not separately consolidated for a portion), the EU Taxonomy reporting aims at capturing the efforts of a company in and towards sustainable economic activities. IFRS rules applicable to consolidation methods (in particular IAS 28 *Investments in Associates and Joint Ventures*) can hence not justify the exclusion of this part of revenue under the revenue KPI, depriving companies of being rewarded by investors for sustainable investments through equity method joint ventures. Additionally, we note that IFRS 12 (para 21 and B12) requires summarised financial information for each joint venture that is material to the Group. This includes (but is not necessarily limited to) notably revenue and non-current assets, hence reliable information is already available.

It should be noted that there is no risk of double counting since none of the partners in the joint venture would control and thus fully consolidate the revenues in its financial statements (nor would report it entirely in the revenue KPI pursuant Article 8 of the EU Taxonomy Regulation).

- **1.1.2.1. Denominator (CapEx)**

For the energy sector, we find CapEx the most relevant of the KPIs. The approach to screening and reporting sustainable activities should focus on companies' willingness to transform and their speed of change. CapEx is the right metric to measure the progress on a sustainable path generally and specifically to secure the successful transition of the energy sector.

Eurelectric believes it should be up to companies whether additions for IFRS 16 (for Leases) should be considered, although the chosen way forward shall transparently be explained.

Furthermore, CapEx related to the additions for provisional work not yet completed (Long term Receivables for assets under constructions under IFRS 15) related to concessions (where we do apply IFRIC 12) should be considered. As such:

- Equity consolidated investments: the EU Taxonomy reporting objective is to identify the actors that invest and reorient capital flows towards sustainable investments and as such enable investors to identify the companies whose economic activities, products and/or services contribute substantially to any one of the environmental objectives set out in the EU Taxonomy Regulation. Undertakings can also substantially contribute whilst investing in joint ventures and if they are not able to reflect these investments in the CapEx reported, it gives an incomplete picture of their green investments which cannot be

rewarded or assessed by investors. We therefore recommend that an undertaking can also include CapEx included in joint ventures consolidated using the equity method of accounting in accordance with IAS 28 in the numerator pro rata its respective equity stake, as published and assured. Since in the specific case of joint ventures, none of the partners controls (and thus does not fully consolidates), there is no risk of double-counting CapEx (see also our comment under bullet 1 regarding revenue KPI).

- Concession arrangements under IFRIC 12 are not correctly translated into the proposed KPIs. The intangible asset model would be accounted for under IAS 38 and any additions would then be included in the CapEx KPI as defined today while any receivable recognized under IFRIC 12 would not affect this KPI. In those investments, Groups orient capital flows (CapEx) towards long-term investment that will be recovered in the long run through payments from the grantor or from the users (typically concession arrangements have a long duration, often higher than 20 years). These construction or upgrade services that translate into long-term assets (receivable/intangible) are typically considered as CapEx by Groups involved in those transactions and should therefore be included accordingly in the delegated act. It should be noted that double-counting will be avoided (1) as the grantor is a public entity not in the scope of the Taxonomy reporting and (2) to the extent that the construction/upgrade revenue is excluded from the revenue KPIs calculated in accordance with Article 1.1.1 of Appendix 1.

Lastly, as a matter of methodology simplification, all CapEx that can be linked to an eligible or aligned activity should be classified as Taxonomy-eligible CapEx.

- **1.1.2.2. Numerator (CapEx)**

Eurelectric recommends clarifying whether the CapEx devoted to an activity that will become taxonomy aligned within the next five years due to external factors exclusively (such as regulation or changes in the system where the non-financial undertaking is operating) can be already accounted as taxonomy aligned. For example, the total CapEx devoted of a European DSO in a non-European electricity system that does not meet the EU Taxonomy criteria yet but whose national authority foresees that it will do so within the next five years (providing supporting evidence).

Moreover, Eurelectric does not agree with the CapEx plan disclosure as there may be strategically sensitive projects and confidential aspects that 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. We therefore strongly call for this unfounded requirement not to be set.

In this regard, the ESMA advice's conclusion "disagrees that the plan will inevitably result in disclosing sensitive information and thinks that undertakings need to apply their best judgement on the level of detail that can or should be disclosed to avoid disclosing sensitive information" (paragraph 104).

At least, there should be the possibility to omit such information if the disclosure would be seriously prejudicial to the commercial position of the undertaking as described above. In other words, companies should have the prerogative to decide whether such information can be publicly made available.

Also, on a macro-level, it would put Europe on an unlevelled playing field if European companies have to reveal their plans in terms of investments assumed to bring or keep their competitive edge

in a global economy with tough competition. This is not least the case for investments in sustainable activities and assets already today being subject to a ‘global fight’ for having a competitive advantage.

Alternatively, third-party verification of these investment costs could be required as being part of a plan. That is to say that such investment costs should be accounted as sustainable to the extent the company can demonstrate and have a third party verify that it lives up to criteria for being sustainable according to the EU Taxonomy. Nevertheless, this alternative should not lead to unreasonable additional costs for the company.

As such, we recommend amending the paragraph as follows:

*“The CapEx plan referred to in the paragraph above shall ~~be disclosed and be approved by the Management Board of non-financial undertakings.~~ **The plan shall be disclosed unless it contains sensitive information. In that case, the plan will be verified by a third party; this must be clearly noted in a comment beside any other accompanying information regarding the CapEx. The plan shall meet one of the following conditions:**”*

Finally, Eurelectric would like to raise the Commission’s attention on the fact that the five years format¹ is not justified and does not fit with the horizon of many individual companies’ strategy or investment pattern. This is also supported by the ESMA final advice to the European Commission stating that: *“maximum period of five years unless a longer period can be justified (...) on the basis of the features of the concerned investments.”*

- **1.1.3. KPI related to operating expenditure (OpEx) (OpEx KPI)**

Eurelectric welcomes the overall approach to OpEx calculation but stresses the need for further guidance when it comes to the handling of costs related to sustainable OpEx. Consistency with the Taxonomy regulation and industry practices should be sought when developing such a guiding document.

Furthermore, 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. For these reasons, it is of utmost importance that the OpEx KPI should be disclosed only “where relevant”. Thus, in practice, it should not be mandatory or – at least – the level of data necessary should be seen in light of the limited usability for data receivers.

Eurelectric recommends reconsidering the opportunity of including EBITDA among the financial metrics to report the level of alignment to the EU Taxonomy criteria. EBITDA provides a better idea than turnover concerning the operating performance of a business, as it determines the business’s ability to generate cash flow from operations. This is particularly more relevant in businesses such as the electric sector, in which there are business segments able to create a high volume of turnover from “not eligible” activities (such as electricity trading, NACE 35.14) that do not contribute to EBITDA and business value creation in the same proportion. Therefore, EBITDA would provide a better insight on the degree of alignment of the business model of electric utilities, as it will also happen in other sectors with a similar idiosyncrasy.

¹ Maximum of 7 years if the plan aims to upgrade Taxonomy-eligible economic activities to render them Taxonomy-aligned.

- **1.1.3.1. Denominator (OpEx)**

Considering the previous comments, Eurelectric recommends clarifying whether personnel costs and costs from other supporting activities (such as accounting, legal services, strategies, communications, etc.) should somehow be included in the *denominator* of the Operating Expense Related (OpEx) KPI. Furthermore, it should be clarified how non-recurring costs (provisions, extraordinary items, etc.) should be treated if they occur.

- **1.1.3.2. Numerator (OpEx)**

Considering the previous comments, Eurelectric recommends clarifying whether personnel costs should somehow be included in the *numerator* of the Operating Expense Related (OpEx) KPI. Furthermore, it should be clarified how non-recurring costs (provisions, extraordinary items, etc.) should be treated if they occur.

- **1.2. Specification of disclosures accompanying the KPIs of non-financial undertakings**

Eurelectric agrees with the overall possibility for companies to include accompanying information. Thus, methodology (accounting principles), narrative explanation of the data, and context (comparative years) should be disclosed alongside the key performance indicators. Nevertheless, there should be room for flexibility on the content of accompanying information, provided there is transparency about the methodology used by the company.

- **1.2.2. Assessment of compliance with Regulation (EU) 2020/852**

The criteria to determine if an economic activity substantially contributes to an environmental objective are mainly quantitative, making the accountability process clear. However, the do no significant harm principle and the “social safeguards” principle rely on the verification of policies, processes, systems and actions that are qualitative by nature. Thus, Eurelectric recommends providing further guidance on the specific information that non-financial undertaking shall disclose to demonstrate compliance with such principles.

To avoid unjustified costs of compliance, the governance around social safeguards should generally be made at corporate level and not down to each asset level.

Additionally, in case of contribution to multiple objectives (1.2.2.2), the draft delegated act requires non-financial undertaking to demonstrate compliance with the technical screening criteria in respect to several environmental objectives. However, it is not clear how and why this demonstration should be made, since companies are already required to explain how they assessed their compliance with the relevant technical screening criteria and avoided double counting in the calculation (section 1.2.2.1 of the delegated act). We believe it is more relevant to the users of the information that undertakings explain which significant judgements have been exercised to avoid-double counting instead of demonstrating (twice) compliance. We therefore propose to replace the obligation to “*demonstrate compliance*” with an obligation to explain the relevant judgements applied in the allocation of revenues or expenses to different activities.

- **1.2.2.3. Disaggregation of KPIs**

Particularly at this initial stage, Eurelectric recommends that companies are allowed flexibility and acceptance of proxies to be used. For example, when a power plant produces both power and heat or may use different types of fuels during its production, it is not possible to fully link the power

sold in the market from that power plant in terms of which detailed part of that power stems from the moment the power plant used Taxonomy aligned or Taxonomy not-aligned fuel. In such a case, one should be able to demonstrate that a proxy can form the basis for the assessment. Furthermore, Eurelectric would welcome further guidance and clarification on how to allocate turnover, OpEx and CapEx between compliant and non-compliant activities.

- **1.2.3.4. Other additional information**

Eurelectric believes that the disclosure requirements exceed the legal requirements pursuant to Article 8 of the EU Taxonomy Regulation (level 1 legislation) that requests an undertaking to publish only information on *“how and to what extent the undertaking’s activities are associated with economic activities that qualify as environmentally sustainable”*. The EU Taxonomy Regulation does further not set forth any obligation to report on undertakings’ future objectives and targets for the key performance indicators and their plans to achieve them.

The proposed reporting requirement leads to undue overreporting. It also raises serious concerns about having to disclose commercially sensitive information that risks materially impacting the competitive position of European firms if it were to be made public. Nevertheless, when a company has however made public such targets and/or plans, it may include these in the non-financial statement, but on a voluntary basis only.

Thus, any reporting beyond what is set forth under Article 8 EU Taxonomy Regulation should be voluntary only, and companies should have a certain flexibility in the way they present additional information.

- **2. Methodology for reporting of KPIs to be disclosed by non-financial undertakings**

About requirement (a)

Eurelectric supports that group totals for the three KPIs should be disclosed. However, it would be difficult to provide the KPIs per economic activity. Indeed, it is complicated to disaggregate KPI per economic activity when generating facilities are used in an integrated manner. For example, the itemised price per MWh is not available, and, in any case, it varies over the course of a year. Thus, the three KPIs should allow for flexibility in situations where it is not possible to split revenue accordingly, including, in some cases, using proxies. For instance, the generation of power revenue from CHPs cannot be split according to fuel type/technology without using a proxy.

Hence, each individual company should be granted flexibility when assessing whether such a split is fully possible, and thus, in some cases, the disclosure of KPIs per economy activity should not be mandatory. A comply or explain model could be applied here, i.e. if the split plays an insignificant role for the measurement of the company (e.g. if the activity generates only a very little revenue), then the split can be excluded from the Taxonomy aligned disclosure, with an explanation as to why.

For this reason, in cases where revenue lines cannot be divided into specific technologies, then it should be possible to use a proxy indicator to divide the revenue equal to the energy generated from each technology. So if, for example, a power station generates 50% energy from coal and 50% energy from sustainable taxonomy-aligned biomass, but the revenue from each fuel cannot be defined separately, then 50% of the revenue generated from that power station can be assumed green and taxonomy-aligned. Without such an approach related to reality, it would be difficult – if not impossible – to adhere to the requirements.

In these cases, we agree transparency must prevail, meaning that it shall be disclosed that proxies have been used, and third-party verification could secure that the proxies made are within a reasonable outline. Similarly, as it is known from financial accounting, if principles, e.g. for proxies, are changed compared to the previous reporting, it shall be duly marked and described.

Furthermore, there must be a principle of 'equivalent rules' when it comes to non-EU activities. EU rules apply to EU based activities and to secure a level playing field it is appropriate to operate with a principle of 'equivalent rules' to secure that EU based activities are not outcompeted by non-EU activities claiming to be sustainable but only according to significant lower criteria of greenness compared to EU standards. On the other hand, it is important that EU companies can rely on non-EU activities to be seen as sustainable – e.g. an American wind park – if these activities apply to equivalent sustainability criteria. This means that the non-EU rules must be part of a regulatory regime being more or less at the same level but, on the other hand, that the rules do not have to be 1:1 the same. Coming from different historical starting points this may often be the case as long as the setup is generally at the same level.

About requirement (b)

In practice, Eurelectric believes that the requirement of reporting KPIs for each economic activity is very hard to fulfil in the case of energy utilities (see further explanation above about the requirement (a)).

About requirement (c)

Eurelectric is concerned that the requirement of reporting KPIs for each environmental objective as well as a total at undertaking or group level across all objectives would add additional administrative burden and not be justified for the purpose of the regulation. Indeed, 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. Therefore, Eurelectric suggests that only the main environmental objective that has been duly chosen to assess significant contribution should be disclosed.

About requirement (d)

Eurelectric supports the disclosure of KPIs for Taxonomy-eligible economic activity. However, Eurelectric finds it unnecessary and undesirable to provide KPI data on each economic activity not covered in the EU Taxonomy. Such an exercise would increase the administrative burden without any added value for investors. We therefore recommend deleting the requirements under bullet (d).

Nevertheless, we also believe that there should be some room for own assumptions/accounting principles to disclose the KPIs for those activities not (yet) covered by the EU Taxonomy but can be justified to be environmentally sustainable provided there is transparency about the methodology used by the company.

About requirement (e)

Eurelectric finds it unnecessary and undesirable to provide KPI data for Taxonomy-non-eligible economic activities. Such an exercise would increase the administrative burden without any added value for investors. We therefore recommend deleting the requirements under bullet (e).

Detailed comments on Annex II to the Delegated Regulation

Eurelectric believes that the Tables in Annex II should include a legend with a description of each field, also providing the formula to facilitate the common understanding of its rationale. Furthermore, the current version of Annex II includes a numeric code for each field of the Tables without providing a further explanation about the meaning of that code.

Furthermore, Eurelectric remarks some inconsistency regarding definitions of economic activities provided in Article 2 of the draft delegated act and the economic activities listed in Table 1, Table 2 and Table 3 of Annex II to the draft delegated act.

The definitions provided under Article 2 distinguish between “Taxonomy-aligned”, “Taxonomy-eligible”, and “Taxonomy-non-eligible” activities. However, Table 1, Table 2 and Table 3 of Annex II refers to “Taxonomy-eligible but not environmentally sustainable activities (not Taxonomy-aligned activities)”, which are not defined under Article 2.

Therefore, Eurelectric recommends aligning the definitions under Article 2, and Annex II to the draft delegated act.

Finally, we call for removing the distinction between enabling activities and substantially contributing activities in the proposed Tables. Indeed, enabling activities are recognised as contributing to fulfilling a given environmental objective too, and thus, the distinction is not relevant.

Eurelectric pursues in all its activities the application of the following sustainable development values:

Economic Development

- Growth, added-value, efficiency

Environmental Leadership

- Commitment, innovation, pro-activeness

Social Responsibility

- Transparency, ethics, accountability



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