

ASSET MANAGEMENT &
INVESTMENT FUNDS

CBI expectations for Taxonomy Disclosures

The Central Bank of Ireland (**CBI**) set out its expectations for funds required to disclose under the EU Taxonomy Regulation (**TR**).

This approach will apply until 1 January 2023, when the Sustainable Finance Disclosure Regulation (**SFDR**) Level 2 template disclosures come into force.

7 MIN READ

Timing

The CBI expects that where disclosure updates/amendments are required, they be made:

- at the earliest available opportunity,
- in the normal course of business, or
- by 1 January 2023, at the latest.

Options for funds required to disclose under the TR¹

- » Funds disclosing under Article 9 SFDR that invest in environmentally sustainable investments (per Article 2 (17) SFDR)
- » Funds disclosing under Article 8 SFDR that promote environmental characteristics

Funds which choose to use the TR classification system for environmentally sustainable economic activities

- the pre-contractual document of a fund disclosing under Article 9 SFDR that invests in an economic activity that contributes to an environmental objective within the meaning of Article 2(17) of the SFDR must comply with Article 5 of the TR
- the pre-contractual document of a fund disclosing under Article 8 SFDR that promotes environmental characteristics must comply with Article 6 of the TR. Article 6 of the TR provides that Article 5 of the TR shall apply mutatis mutandis and the disclosure shall be accompanied by the following statement:

“The “do no significant harm” principle applies only to those investments underlying the financial product that take into account the EU criteria for environmentally sustainable economic activities. The investments underlying the remaining portion of this financial product do not take into account the EU criteria for environmentally sustainable economic activities.”

- the pre-contractual disclosure (to comply with Article 5(b) of the TR) of the minimum proportion of fund investments in economic activities that qualify as environmentally sustainable (under Article 3 TR criteria) should (per the European Commission Q&A) be based on reliable data
- the numerical disclosure may be accompanied by a qualitative explanation of how the fund determined the proportion of taxonomy-aligned investments, for example by including the sources of information for the determination (per the ESA’s supervisory statement)
- the taxonomy-alignment disclosure should not include negative justifications (for instance, explaining a lack of alignment due to a lack of data)

¹ Article 8 products promoting only social characteristics and Article 9 products investing wholly in economic activities with social objectives are not required to disclose under the TR.

- the taxonomy-alignment disclosure should not leave ambiguity about the alignment of the investments of the fund with the TR
- pre-contractual document disclosures should not refer to ‘incidental investment’ (per the European Commission Q&A)
- pre-contractual disclosures making complementary assessments and estimates on the basis of information from other sources (in exceptional cases and only for those economic activities for which complete, reliable and timely information could not be obtained) should align with the European Commission Q&A

Funds which choose not to use the TR classification system for environmentally sustainable economic activities

This includes where the fund does not collect data on the environmental objective(s) set out in Article 9 of the TR and on how and to what extent the fund investments are in economic activities that qualify as environmentally sustainable under Article 3 of the TR:

- the pre-contractual document of a fund disclosing under Article 9 SFDR that invests in an economic activity that contributes to an environmental objective within the meaning of Article 2(17) of the SFDR must comply with Article 5 of the TR
- the pre-contractual document of a fund disclosing under Article 8 SFDR that promotes environmental characteristics must comply with Article 6 of the TR. Article 6 of the TR provides that Article 5 of the TR shall apply mutatis mutandis and the disclosure shall be accompanied by the following statement:

“The “do no significant harm” principle applies only to those investments underlying the financial product that take into account the EU criteria for environmentally sustainable economic activities. The investments underlying the remaining portion of this financial product do not take into account the EU criteria for environmentally sustainable economic activities.”

- the pre-contractual document disclosure (to comply with Article 5(b) of the TR) must indicate zero investments in economic activities that qualify, under Article 3 of the TR, as environmentally sustainable

- the taxonomy-alignment disclosure should not include negative justifications (for instance, explaining a lack of alignment due to a lack of data)
- the taxonomy-alignment disclosure should not leave ambiguity about the alignment of the investments of the fund with the TR and accordingly should disclose that it does not use the TR classification system
- the pre-contractual document disclosure should not refer to ‘incidental investment’ (per the European Commission Q&A)

Funds disclosing under Article 7 TR

- Where a fund is not disclosing under Article 8(1) or Article 9(1), (2), (3) of SFDR, the CBI expects the pre-contractual document to include the following statement (to comply with Article 7 of the TR):

“The investments underlying this financial product do not take into account the EU criteria for environmentally sustainable economic activities.”



Funds disclosing under Article 6 TR

- funds disclosing under Article 6 TR must include the following pre-contractual disclaimer:

“The “do no significant harm” principle applies only to those investments underlying the financial product that take into account the EU criteria for environmentally sustainable economic activities. The investments underlying the remaining portion of this financial product do not take into account the EU criteria for environmentally sustainable economic activities.”







While the disclaimer is arguably not appropriate for funds which do not invest in taxonomy-aligned investments, the CBI clarified that it must be included and be read as confirming that the ‘do no significant harm’ principle applies to 0% of the fund’s investments with the ‘remaining portion’ referencing 100% of the fund’s portfolio. This statement is also included in the template disclosure of the RTS which comes into force 1 January 2023.

What is the EU Taxonomy?

The EU Taxonomy is a **green classification system** that translates the EU’s climate and environmental objectives into criteria for specific economic activities for investment purposes. It recognises as green, or ‘environmentally sustainable’, economic activities that make a substantial contribution to at least one of the EU’s climate and environmental objectives, while not significantly harming any of these objectives and meeting minimum social safeguards. The TR is the first element. The Taxonomy Delegated Acts will set criteria for activities to define what it means to make a substantial contribution and what it means to do no significant harm. The EU Taxonomy is a transparency tool that will introduce some mandatory disclosure obligations requiring disclosure of Taxonomy-aligned activities. Market participants may also voluntarily choose to use the criteria of the EU Taxonomy.



Sources

-  [SFDR \(consolidated\)](#), discussed [here](#)
-  [SFDR RTS](#) (not yet published in the Official Journal)
-  [TR](#), discussed [here](#)
-  European Commission [Q&A](#) on the applicability of the SFDR and the TR discussed [here](#)
-  The European Supervisory Authorities (ESA's) supervisory statement on the application of the SFDR, updated 25 March 2022, and available [here](#)
-  ESA's [clarifications](#) on key areas of the RTS under SFDR

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