

Asset Management & Investment Funds Update

July 2022



Central Bank Taxonomy Disclosure Guidance

On 23 June 2022, the Central Bank revised its May 2022 guidance for Taxonomy disclosures by funds in scope of SFDR Article 8 and 9 as well as those not in scope of SFDR product-level disclosure rules (**Taxonomy Guidance**). The May 2022 guidance was amended to align with the Commission's second SFDR Q&A, also published in May 2022 (see [here](#) for further details). The revised Taxonomy Guidance was published with immediate effect and is applicable until 1 January 2023 (effective date of SFDR Level 2 measures).

Taxonomy Guidance

The Taxonomy Guidance sets out regulatory expectations for disclosures required by funds in scope of the Taxonomy:

1. *Funds subject to Article 5 Taxonomy (SFDR Article 9 funds with environmentally sustainable investments) and funds subject to Article 6 Taxonomy (SFDR Article 8 funds promoting environmental characteristics)*
 - (i) if the fund elects to use the Taxonomy's classification system as part of its asset allocation strategy it must make pre-contractual disclosure, based on reliable data, of the minimum proportion (explicit quantification) of taxonomy-aligned investments in the portfolio and the Central Bank expects that:
 - the taxonomy-alignment disclosure does not include negative justifications (for instance, explaining a lack of alignment by a lack of data) and the disclosure should not leave ambiguity about the alignment of the investments of the fund with the Taxonomy
 - pre-contractual documents should not refer to 'incidental investment' in taxonomy-aligned investments
 - the taxonomy-alignment disclosure could be accompanied by a qualitative clarification explaining how the fund determined the proportion of taxonomy-aligned investments, for example by including the sources of information for the determination
 - pre-contractual documents referencing complementary assessments and estimates on the basis of information from other sources should be in line with recital 21 of the Taxonomy
 - funds subject to Article 6 Taxonomy 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.”

- (ii) if the fund elects not to use the Taxonomy classification system as part of its asset allocation strategy, it must make pre-contractual disclosure of this and **indicate zero** investments in taxonomy-aligned investments. The Central Bank expects that:
- the disclosure does not include negative justifications (for instance, explaining a lack of alignment by a lack of data) and the disclosure should not leave ambiguity about the alignment of the investments of the fund with the Taxonomy Regulation.
 - the pre-contractual document disclosure should not refer to ‘incidental investment’ in taxonomy-aligned investments
 - pre-contractual documents should not refer to ‘incidental investment’ in taxonomy-aligned investments
 - funds subject to Article 6 Taxonomy 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 Central Bank has 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.

2. Funds subject to Article 7 Taxonomy (funds not subject to Article 8 or 9 SFDR)

- The pre-contractual document must include the following statement *“The investments underlying this financial product do not take into account the EU criteria for environmentally sustainable economic activities.”*

Next steps

The Central Bank expects disclosures to be updated to take account of the Taxonomy Guidance at the earliest available opportunity, in the normal course of business or at the latest by 1 January 2023.

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