



# New developments in green taxonomy

New classification of activities according to their contribution to non-climate environmental objectives and extension of climate taxonomy

European Union - Legal flash

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## Key aspects

### From January 1, 2024

- **The green taxonomy is extended** by incorporating new activities into the climate taxonomy ([Delegated Regulation \(EU\) 2023/2485](#)) and providing a new classification of activities according to their contribution to non-climate environmental objectives ([Delegated Regulation \(EU\) 2023/2486](#)).
- **Undertakings subject to the new disclosure requirements**
  - **Non-financial undertakings**
    - From January 1 to December 31, 2024, they are required to disclose the proportion of their activities that are taxonomy-eligible.
    - From January 1, 2025, they are required to disclose the proportion of their activities that are taxonomy-aligned.
  - **Financial undertakings**
    - From January 1, 2024, to December 31, 2025, they are required to disclose the proportion of their assets covered by the exposures related to taxonomy-eligible activities.
    - From January 1, 2026, they will have to report KPIs as appropriate in each case to reflect how their activity aligns with the new taxonomy.



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## Context

To achieve its objective of reaching net zero CO<sub>2</sub> emissions by 2050 and meet the rest of its environmental and social commitments, the European Union (EU) needs to reallocate a significant amount of capital into specific types of projects or company profiles. The absence of common definitions as to which undertakings, projects and financial assets are considered “green” or “social” has historically hampered the development of sustainable finances, which take ESG criteria into account on making investment decisions.

The EU taxonomy aims to fill this void by creating a common classification system allowing financial markets to properly assess sustainability and direct their investments accordingly. Investors are in no way obliged to invest in the listed activities but can use the taxonomy freely as a tool to identify sustainable and transition activities. To improve market transparency, certain entities are required under the regulation to use the taxonomy classification, e.g., undertakings subject to corporate sustainability reporting, market participants that offer financial products, and environmentally sustainable bond issuers on disclosing the allocation of their revenues.

The Taxonomy Regulation ([Regulation \(EU\) 2020/852](#)) establishes the criteria for determining whether an economic activity qualifies as environmentally sustainable. In general terms, the activity must:

1. contribute substantially to one of the six environmental objectives set out in the regulation;
2. not cause significant harm to any of the other environmental objectives; respect the Do No Significant Harm (DNSH) principle;
3. meet the minimum social safeguards; and
4. comply with technical screening criteria so that they contribute substantially to at least one environmental objective without causing significant harm to the other environmental objectives.



To enable investors and the public to make a proper assessment of the proportion of the sustainable economic activities, article 8 of the Taxonomy Regulation requires undertakings to disclose which of their economic activities are taxonomy-aligned and the environmental objective to which they contribute substantially. [Delegated Regulation \(EU\) 2021/2178](#) (“**Technical Standards of article 8 of the Taxonomy Regulation**”) sets out these reporting obligations,



specifying the contents and submission of this information, the methodology to be followed and the key performance indicators (“KPIs”).

To date, the Commission has framed sustainable activities in climate change terms, as in [Delegated Regulation \(EU\) 2021/2139](#) (the “**Climate Taxonomy Delegated Regulation**”) and [Delegated Regulation \(EU\) 2022/1214](#), which laid down new technical screening criteria for economic activities in the natural gas and nuclear energy sectors.

On November 21, 2023, the two new delegated regulations discussed in this Legal Flash were published. They will be directly applicable from January 1, 2024:

- [Delegated Regulation \(EU\) 2023/2485](#), amending the Climate Taxonomy Delegated Regulation to establish additional activities and modify several technical screening criteria regarding climate goals (the “**Amended Climate Taxonomy Delegated Regulation**”).
- [Delegated Regulation \(EU\) 2023/2486](#), which sets out technical screening criteria for non-climate environmental taxonomy (the “**Non-climate Taxonomy Delegated Regulation**”).

It is worth noting that this classification is not final but will be updated on a regular basis. Currently, it is focused on classifying economic activities that are considered most likely to contribute to environmental objectives. However, new activities will be added, as has already happened regarding climate change mitigation and adaptation. The Commission is currently working on an extension of the taxonomy to include social objectives.

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## Amended Climate Taxonomy Delegated Regulation

- **New activities added to the climate taxonomy.** It incorporates additional activities that qualify as contributing substantially to climate change mitigation (primarily in **the transport sector and its value chain**) and climate change adaptation (largely for **activities enabling adaptation to the unavoidable effects of climate change**, including desalination and services for preventing and responding to climate-related disasters and emergencies):

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### Climate change mitigation

- 3.18 Manufacture of automotive and mobility components
- 3.19 Manufacture of rail rolling stock constituents
- 3.20 Manufacture, installation, and servicing of high, medium and low voltage electrical equipment for electrical transmission and distribution that result in or enable a substantial contribution to climate change mitigation
- 3.21 Manufacturing of aircraft
- 6.18 Leasing of aircraft
- 6.19 Passenger and freight air transport
- 6.20 Air transport ground handling operations



Climate change adaptation

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- 5.13 Desalination
- 8.4 Software enabling physical climate risk management and adaptation
- 9.3 Consultancy for physical climate risk management and adaptation
- 14.1 Emergency services
- 14.2 Flood risk prevention and protection infrastructure

➤ Update of the technical screening criteria of activities included in the climate taxonomy.

Specifically:

- The technical selection criteria for **freight and passenger shipping** have been modified to adapt them to the decarbonization criteria adopted by the International Maritime Organization and the EU, which will be applicable from January 1, 2025.
- The **energy sector, transport sector, and the construction and renovation of buildings**, to determine whether activities carried out in these sectors significantly harm any environmental objectives related to pollution prevention and the protection of water and marine resources.

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## Non-climate Taxonomy Delegated Regulation

➤ Update of the technical screening criteria for non-climate environmental taxonomy. The annexes to this regulation set out the requirements that certain activities must fulfill to be considered as significantly contributing to each of the following non-climate environmental objectives and doing no significant harm to others:

- Sustainable use and protection of water and marine resources
- Transition to a circular economy
- Pollution prevention and control
- Protection and restoration of biodiversity and ecosystems

The table below shows the activities covered by each of the four non-climate environmental objectives.

Annex	Environmental objective	Economic activities covered
I.	Sustainable use and protection of water and marine resources	<ul style="list-style-type: none"> <li>▪ Manufacture, installation and associated services for leakage control technologies</li> <li>▪ Water supply</li> <li>▪ Urban waste water treatment</li> <li>▪ Sustainable urban drainage systems</li> </ul>



Annex	Environmental objective	Economic activities covered
		<ul style="list-style-type: none"> <li>▪ Nature-based solutions for flood and drought risk prevention and protection</li> <li>▪ Information technology (IT) and operational technology (OT) data-driven solutions for leakage reduction</li> </ul>
II.	Transition to a circular economy	<ul style="list-style-type: none"> <li>▪ Manufacture of plastic packaging goods and of electrical and electronic equipment</li> <li>▪ Water supply, sewerage, waste management and remediation activities</li> <li>▪ Construction and real estate activities (including renovation, demolition and wrecking, and the use of concrete in civil engineering)</li> <li>▪ Provision of information technology (IT) and operational technology (OT) data-driven solutions</li> <li>▪ Services for the repair and reuse of electronic products, textiles and furniture, among others</li> </ul>
III.	Pollution prevention and control	<ul style="list-style-type: none"> <li>▪ Manufacture of active pharmaceutical ingredients (API) or active substances</li> <li>▪ Collection, transport and treatment of hazardous waste</li> <li>▪ Remediation of legally non-conforming landfills and abandoned or illegal waste dumps</li> <li>▪ Remediation of contaminated sites and areas</li> </ul>
IV.	Protection and restoration of biodiversity and ecosystems	<ul style="list-style-type: none"> <li>▪ Conservation, including restoration, of habitats, ecosystems and species</li> <li>▪ Hotels, holiday, camping grounds and similar accommodation</li> </ul>

➤ Article 10 of the Technical Standards of article 8 of the Taxonomy Regulation is amended, extending disclosure requirements for companies to the new (climate and non-climate) environmental objectives—as explained below—and to address certain technical and legal shortcomings.

## New reporting obligations

To better understand the scope of the new disclosure requirements set out under article 10 of the Technical Standards of article 8 of the Taxonomy Regulation, it is advisable to outline certain concepts:

- **Eligible activities.** Activities carried out by the company that appear in the taxonomy.



- **Aligned activities.** Activities that, in addition to being listed in the relevant taxonomy, meet the requirements of the Taxonomy Regulation (i.e., contribute substantially to an environmental objective, respect the DNSH principle and the minimum social safeguards, and meet the technical criteria).
- **Key performance indicators (KPIs).** KPIs represent the proportion of aligned activities considering the company's total activities and provide investors with the comparison between companies that operate in the same sector or that carry out similar activities.

The chosen KPIs vary according to the type of company. Non-financial undertakings must report on the percentage representing aligned activities regarding (i) total turnover, (ii) fixed asset investments (CapEx), and (iii) operating expenses (OpEx). The list of KPIs is longer for financial undertakings (e.g., credit institutions, investment services companies and insurers) and depends on the type of entity.

The disclosure deadlines set out in the regulation for financial undertakings are more flexible than those for non-financial undertakings, as the former need time to request and process the data from the companies they finance, insure, or invest in, to disclose their own information. Thus, non-financial institutions must report on their alignment with the climate taxonomy from January 1, 2023, while financial institutions have until January 1, 2024.

#### ➤ **Developments affecting non-financial undertakings**

- **From January 1 to December 31, 2024,** they will have to report the percentage of eligible activities under the new climate and non-climate taxonomy in their total turnover, CapEx and OpEx. Moreover, they will have to provide the qualitative information referred to in Annex I, section 1.2 of the Technical Standards of article 8 of the Taxonomy Regulation (accounting policy, assessment of compliance with the Taxonomy Regulation, and contextual information about turnover, CapEx and OpEx).
- **From January 1, 2025,** they must indicate the proportion of activities aligned with this new taxonomy in their total turnover, CapEx and OpEx.

#### ➤ **Developments affecting financial undertakings**

- **From January 1, 2024, until December 31, 2025,** they will have to report the proportion in their covered assets of exposures to eligible and non-eligible economic activities under the new taxonomy.



**From January 1, 2026**, they will have to report KPIs as appropriate in each case to reflect how their activity aligns with the new taxonomy.

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For further information, please contact our [Knowledge and Innovation Group](#) lawyers or your regular contact person at Cuatrecasas.

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