



EPRA

EUROPEAN PUBLIC
REAL ESTATE ASSOCIATION

Taxonomy Guidelines

Q & A

January
2023

FOREWORD

After extensive engagement with select EPRA members and using the support of KPMG, EPRA published the 'EU Taxonomy alignment in listed Real Estate' guidelines in Q4 2022. The Guidelines provide a practical guide to determining if listed real estate activities are environmentally sustainable as per the criteria of the EU Taxonomy. Since the publication of the guidelines and accompanying webinar, in order to help EPRA members navigate the complexities of reporting under the EU Taxonomy, EPRA has received numerous questions seeking further explanation on select parts of the EU Taxonomy. EPRA together with support from KPMG has consolidated all received questions and composed this FAQ document with a response to these questions. Please note that the below answers are on a best effort basis, based on the latest guidance from the European Commission (accessible [here](#) and [here](#)) and subject to change based on further future guidance from the European Commission. Users of the FAQ are advised to always check responses based on their own research and/or consultation with their auditors.

Q&A

1. How do you suggest dealing with the challenge of EPC for commercial assets in Germany (which don't give a result of A-G)?

We have been advocating for enabling the use of proxy certifications to EPCs, particularly for cases where EPCs are impossible to use (see [here](#) for more information). In the longer term, this will require a legislative change in the current Taxonomy. However, in the meantime, the industry can work with the Commission's Notice (accessible [here](#)), published in December 2022 in a form of FAQs, addressing practical concerns when applying the EU Taxonomy. In the Notice, the Commission states that although standards such as LEED, BREEAM or DGNB are not explicitly considered in the Climate Delegated Act, they can help demonstrating compliance with TSC and be accepted for that purpose. In particular, the Commission refer to the situations (Q145), as raised by EPRA (based on market feedback): 1) where EPC rating is not available (e.g. in Germany for commercial real estate), 2) where Member States exclude specific types of buildings from EPC schemes e.g. industrial buildings (e.g. in Belgium), or 3) where outside the EU no EPC schemes exist. The Commission confirms that in such cases equivalents to EPCs can be used instead.

2. Does the EPBD requirement on EPC (actual consumptions) align with the taxonomy classification? (Demand based)

Indeed, in some Member States EPCs are based on energy consumption rather than energy demand. The Commission confirms (Q 104 in the Notice published in December 2022) that if it is an officially produced EPC, then even if they are consumption-based energy certificates, they can be accepted and used on equal terms to prove Taxonomy-alignment.

Please also note that EPBD is currently under legislative review and some aspects of EPC methodologies are being proposed to change.

3. For acquisition and ownership - do we need to provide all 5 DNSH safeguards or do we only need to provide one if we have significant contribution of climate mitigation? I have heard that law requires only the top 2 but investors want all 6 to be covered ?

In the case of the “Acquisition and Ownership” economic activity, there is only one DNSH criteria which is applicable (climate adaptation). Therefore, in this case, the regulation only requires the disclosure of the information regarding this particular indicator. The Commission confirms such interpretation in its December’s Notice (Q 141).

4. Does LEED and BREEAM certificates count as proxies instead of EPC ratings? In case of not being able to use EPC.

See the answer to question 1. In addition, the Commission indicates that BREEAM, or other equivalent instruments, can also apply to demonstrate some of the DNSH criteria, e.g. to calculate the maximum average flush for WCs, including suites, bowls and flushing cisterns (Q 123 of the Commission’s Notice).

5. If the building is built before 31 December 2020 and has an EPC class A, does it still need to meet the requirements for airtightness?

No, for buildings built before December 31st 2020 the EPC class A certificate is sufficient to qualify under the CCM Substantial Contribution criteria.

6. Why are you looking at NZEB criteria for buildings built before DEC 2020 on that slide? The NZEB criteria is not only applicable to buildings built after 2020 according to the delegate acts?

The NZEB regulation applies to buildings built after 2020, for which the Net Primary Energy Demand has to be 10% lower than the applicable national threshold for NZEB (nearly zero energy buildings).

7. The adaptation solutions are supposed to be nature based. However the list shows different solutions which are not nature-based and can be considered to have an adverse effect on the environment.

According to the legislation, the adaptation solutions should prefer nature-based solutions and/or rely on blue and green infrastructure as much as possible, but it is not mandatory for the solutions to be completely nature-based or relying solely on blue/green infrastructure. For example, in the real estate sector, there are several materials which can be implemented in the adaptation solutions that are not 100% nature based (e.g. glass), but for which a nature-based solution does not exist or it would be unrealistic to implement it, due to economic or supply chain constraints.

8. Can the TCFD compliance be sufficient for the vulnerability assessment?

The climate risk and vulnerability assessment required to identify the climate risks according to the EU Taxonomy includes the identification of material climate risks (from appendix A section II), their implementation in a multi-scenario climate risk and vulnerability assessment and the final structuring of the vulnerabilities into adaptation solutions. While the TCFD recommends the implementation of a multi-scenario climate risk projection in the “Strategy” section, it is not as detailed as the EU Taxonomy regulation in terms of which climate risks can be identified, the structuring of the climate and vulnerability analysis and does not mention the identification of potential adaptation solutions. While the TCFD climate scenario projection analysis can be adapted to fit the requirements of the EU Taxonomy framework, in its basic form it is not sufficient to satisfy the vulnerability assessment standard of the EU Taxonomy.

9. A) What would you say about economic activity “9.3 Professional services related to energy performance of buildings” ? Could a company claim eligibility/alignment if the professional services mentioned in the activity are performed via 3rd parties?

For activities performed by third parties, the contracting firm can claim eligibility as long as the CapEx or OpEx covers shall cover direct non-capitalized costs that relate to research and development, building renovation measures, short-term lease, maintenance repair, and any other direct expenditures relating to the day-to-day servicing of assets of property, plant and equipment by the undertaking or third party to whom activities are outsourced that are necessary to ensure the continued and effective functioning of such assets.

As for turnover, companies must report on activities performed by subcontractors in accordance with the accounting treatment referred to in Section 1.1.1. of Annex I of the Disclosures Delegated Act. Therefore, the company should determine whether it recognizes revenue arising from that activity as its own revenue under the principles set out in the applicable IFRS 15. Where revenue generated by a subcontractor is recognized as company’s revenue, then it must be included in the calculation of the turnover KPI. For more, we refer to the second Commission’s Notice published in December 2022 on the ‘Disclosures Delegated Act’ ([here](#)) (Q 20).

B) Question on activity “7.1. Construction of new buildings” under the climate change mitigation environmental objective: Would a non-development company that does not build solely for future sale (i.e. the one renting space) be falling under this activity?

Unfortunately description of the “Construction of New Buildings” category only refers to the construction of new buildings intended for sale, and is not referring to new developments with a rental objective. However, we are very pleased to see that the Commission addressed the concerns of the industry and in its Notice (Questions 107 and 144) clarifies that the owner of new building, whether it acquires the building through an acquisition, or through own development, can consider the value of the building under Section 7.7. of the EU Taxonomy.

C) How are square meters of a building defined under the EU Taxonomy? Is that a total useful area, for example? Or total gross area?

The EU Taxonomy adopts the definition of “gross floor area” (GFA) when referring to the surface of a building.

10. If an EU based entity is part of a UK based Group but has fewer than 500 employees, is it considered out of scope?

Currently, companies that fall within the NFRD scope are also in scope for the EU Taxonomy; specifically, large public interest companies with more than 500 employees. However, once the CSRD becomes officially applicable, the requirements will be stricter and the number of employees’ threshold will be lowered to 250, among other additional criteria (turnover, balance sheet, revenue etc.). For more information please check the years of reporting for CSRD in the guidelines document. In addition, you may simulate the group’s growth using the EPRA CSRD Tool and see how this will impact the Regulation’s application to your particular case. The Tool as available [here](#).

11. What happens if the company is now below 500 employees but will cross that mark in 2023?

If at the beginning of 2023 the company has less than 500 employees, the company does not fall under the EU Taxonomy framework; however, if during 2023 or in any following year the company reaches or surpasses 500 employees, the company will fall within the EU Taxonomy framework and will have to comply with all the applicable regulation as of the date of the reporting (in this case reporting in 2024 for the year 2023).

12. Do we agree in that activity 7.7 you have to own the real estate to be able to report turnover Capex and OpEx? So property managers not owning the buildings are not in scope.

Not necessarily. The “Acquisition and Ownership” subcategory applies to activities which involve the purchase and ownership of a property, and therefore ownership or at least a prospect of property ownership is a prerequisite. The Commission confirmed that property owners may count in for the category 7.7. also buildings which are subject to development. It means that certain CAPEX may be considered for buildings which are not yet fully completed and hence not yet legally owned by the company. However, property or facility managers who do not own the assets cannot report on the 7.7 activity.

13. When determining when the buildings were built, is location also a criteria?

No, location is not part of the evaluation process for determining the timeframe of the project’s development and construction.

14. Building activities are not considered enabling activities. According to regulation, it would not be possible to recognize eligible or aligned turnover in relation to the CCA objective. Could you please clarify and confirm this?

Answer to this question has evolved as more clarity has been provided from the European Commission to reconcile some of the regulatory uncertainties and incongruences among the different regulatory texts. EU Commission has released an FAQ document regarding the EU Taxonomy on October 6th 2022, slightly after EPRA guidelines were published. In principle, according to the Delegated Acts and question 3 of the FAQ, if an undertaking generates turnover or invests in capital expenditure (CapEx) or operating expenditure (OpEx) corresponding to an economic activity that is described in the Climate Delegated Act, it would count as eligible for Taxonomy-eligibility disclosure. However, according to article 5 of the FAQ, “It is important to note here that the turnover derived from products and services associated with an adapted activity (not classified as enabling) cannot be recognized for Taxonomy-eligibility”. The Commission then provided additional clarity regarding the eligibility of turnover deriving non-enabling adaptation activities in the second Commission’s Notice published in December 2022 on the ‘Disclosures Delegated Act’ ([here](#)) (Questions 8 and 19). In this Notice, the Commission confirmed that revenues from adapted buildings cannot be counted for turnover KPI for CCA unless they also meet the requirements for CCM. We refer to the Commission’s Notice for more information.

15. By when the check (as per example given) buildings must be checked?

Ideally the monitoring should happen on a continuous basis in order to maintain the EU Taxonomy alignment status; specific attention should be paid to the reporting period requirement of the EU Taxonomy. The reference period used is the fiscal year.

16. Do you have examples of climate risks and the specific adaptation measures.**We are actually lagging creativity what that could be in our industry.**

The climate-related hazards on which it will be necessary to build the adaptation solutions upon can be found in the [Appendix A, reachable here](#).

17. In which year do you count CAPEX for a long term project that lasts several years?

For a CapEx or OpEx plan that can be counted as Taxonomy-aligned, there is still regulatory uncertainty around the disclosure and accounting principles that shall be applied when the plan covers multiple years. Nonetheless, a common market practice can be observed which is only counting the realized CapEx or OpEx while an explanatory note is added to disclose the additional planned CapEx or OpEx for the coming years. This is also done in the objective of reconciling with accounting systems and avoid any discrepancies. At the same time shareholders and future investors will be aware of the full CapEx plan for the coming years. In the second Commission's Notice published in December 2022 on the 'Disclosures Delegated Act' ([here](#)), the Commission clarifies that the five or ten-year time period for the CapEx plan should start from its approval by the management body, or by another body approving it by delegation. The time period applies both to a plan to expand an undertaking's Taxonomy-aligned economic activities and to a plan to upgrade or commence Taxonomy-eligible economic activities with a view to rendering them Taxonomy-aligned.

18. We haven't addressed new construction or renovation, will this be covered at some point?

The EU Taxonomy Guide provides a walk-through example for eligibility and alignment only for the "Acquisition and Ownership" economic activity. This is supposed to be an illustrative example for which the logic can be applied in a similar manner to other economic activities.

19. So the CAPEX Plan only take into account the amounts already invested?

As explained in the report, the CapEx plan for future years can be disclosed in a narrative answer; however the calculations included in the formula as shown should be based on the actual CapEx of the current year in order to reconcile the accounting systems.

20. Can you please confirm if there is a preferred KPI for each economic activity: for example turnover for acquisition & ownership, CAPEX for renovations or those three apply to all economic activities?

All three KPIs (turnover, CapEx and OpEx) apply to the relevant real estate economic activities, however, not all three are relevant for all market participants. For example, for developing new buildings turnover will be relevant for construction companies and also for development companies which will be generated from sales of such buildings. For building owners, it will be rather CapEx invested to development of buildings for own use and then revenue is counted from recurrent rent generated under activity 7.7.

21. Could you please communicate us the Top 15% thresholds of Sweden? We contacted that organization and did not manage to get it..

The top 15% of buildings in Sweden is calculated according to the nature and purpose of the buildings, with several different threshold across the spectrum; for example, the kWh/m² threshold for apartment buildings is 75, while for offices and administration is 89. Additionally, other examples are provided in the EU Taxonomy Guide.

22. Will an update be communicated for EPC alignment on EU level for the ongoing discussions EPBD >< Taxonomy? And is an overview available of recommended country level benchmarks?

The EPC alignment is currently not standardized at the European level. We will be working on providing such information to EPRA members by September 2023. In the meantime, please refer to the country examples included in the report.

23. Are there any other best practice available for other countries than Sweden / Germany and France?

We will monitor new developments as they arrive and report on them in the Guideline's update.

24. A question on MS for 2022 EU tax reporting referring to the final report on MS: What to do to find out whether a company is compliant with the Minimum Safeguards? For

companies covered by the CSDDD, you could check the following:

a. Whether the company is held liable for a breach of the CSDDD or other relevant laws in the area of labor rights, consumer rights, taxation or anti-corruption and competition.

b. Whether the company has refused to engage in a case taken up by a OECD National Contact Point (NCP) or the NCP's report states that the company has breached the [OECD guidelines](#).

c. Whether the company has refused to answer a letter from BHRRC within three months if this letter is no older than two years: <https://www.business-humanrights.org/en/companies/>.

25. Does exercising ownership of real estate also include sales (proceeds = eligible turnover)?

It is our understanding that sales proceeds are not part of the "acquisition and ownership" activities; instead, sales proceeds fall under the "construction of new buildings", and in this latter case they can be calculated as eligible turnover.

26. Where can we find the threshold for NZEB?

We will be working on providing such information to EPRA members by September 2023. In the meantime, please see the national NZEB plans implemented by the individual member states [here](#).

27. What about development of new buildings for own portfolio - is this considered to be acquisition and ownership activity?

We are very pleased to see that the European Commission addressed the concerns of the industry and in its Notice (Questions 107 and 144) clarifies that the owner of new building, whether it acquires the building through an acquisition, or through own development, can consider the value of the building under Section 7.7. of the EU Taxonomy.

FOR MORE INFORMATION PLEASE CONTACT:
EPRA SUSTAINABILITY DEPARTMENT



**European Public
Real Estate Association**

T +32 (0)2739 1014
M +32 474 700 164
E sustainability@epra.com
TT [@EPRA_realestate](https://twitter.com/EPRA_realestate)
W www.epra.com

Head Office
Square de Meeus 23
B-1000 Brussels, Belgium
T +32 (0)2 739 1010