

June 2, 2021

European Commission  
1049 Brussels, Belgium



Japanese Bankers Association

## **JBA comments on the draft delegated regulation for EU Taxonomy Article 8 Delegated Act**

Dear Sirs/Madams:

The Japanese Bankers Association<sup>1</sup> (JBA) appreciates the opportunity to provide our comments to the consultation on the draft delegated regulation for EU Taxonomy Article 8 Delegated Act (hereinafter "Draft Act") on May 7, 2021.

We, as non-EU financial institutions operating in the EU, have provided many comments to sustainability-related consultations held in the EU. Our key comments have been as below;

- We respect the EU has led the climate-related discussions, however, if this comes from the will to capture the “first mover advantage”, we are afraid to say it is not appropriate approach. Climate change, which is the definitely global challenge, needs global solution. If fragmented framework will be implemented to tackle climate change in each jurisdiction separately, that would be resulted in the disruption of each corporate’s effort to tackle climate change. The EU should seek the way to cooperate with other jurisdictions to establish the global framework, rather than try to “export” EU framework outside the EU.
- The EU Taxonomy and EU regulations or legislations based on EU Taxonomy are not generally applied to corporates including financial institutions outside the EU. However, as long as they operate in the EU, either directly or indirectly, corporates are required to follow them. Thus, the alignment with global discussion is indispensable. The EU should not dash to conclusion, but it should take time to secure consistency with the discussion in Basel Committee of Banking Supervision (BCBS), IFRS, or TCFD.
- The European Commission explains the EU Taxonomy is aimed to enhance “transition to a greener world”. However, the EU Taxonomy Delegated Acts seem to approve only green activities based on the EU Taxonomy as “sustainable”, and others are categorized “unsustainable”. It seems “transitional” activities are not categorized as green and this would discourage the momentum in each jurisdiction to achieve the Paris Agreement, including tremendous effort in each corporate or country to be greener.
- An excessive and prescriptive taxonomy might lead to impede innovation. In order to create an environment for fostering creativity and innovations of private sector, we consider that the taxonomy should be a flexible framework and be regularly reviewed to reflect current trends.
- We understand the EU Taxonomy has been developed to avoid “Green wash”, however, directly reflecting the EU Taxonomy to risk management and disclosure framework would mislead investors. For example, there would be the case when one activity categorized as “green” by the EU Taxonomy should not be treated as the same in another jurisdiction. Provided technical screening criteria differ country by country, we cannot refer to the EU Taxonomy globally, rather, the alignment with NDC (Nationally Determined Contribution) in each jurisdiction would be referred.

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<sup>1</sup> The Japanese Bankers Association is the leading trade association for banks, bank holding companies and bankers associations in Japan. As of June 2, 2021, the JBA has 114 Full Members (banks), 3 Bank Holding Company Members (bank holding companies), 74 Associate Members (banks & bank holding companies), 58 Special Members (regionally-based bankers associations) and one Sub-Associate Member for a total of 250 members. Several of its largest member banks are active participants in the EU financial markets.

## **Entire EU framework for sustainability-related disclosure**

The EU Taxonomy Article 8 stipulates sustainability-related disclosures to non-financial and financial undertakings. The Draft Act states as the following;

Article 8(1) of the Taxonomy Regulation, provides that certain large undertakings that are required to publish non-financial information under the NFRD should disclose information to the public on how and to what extent their activities are associated with environmentally sustainable economic activities as defined under the EU Taxonomy legislation. The NFRD, as reviewed by the CSRD, the Regulation on sustainability-related disclosures in the financial services sector (i.e. Regulation (EU) 2019/2088, the 'SFDR')<sup>10</sup>, and the disclosures required under the Taxonomy Regulation set out in the Delegated Act, are the central elements of the sustainability reporting regime that underpins the EU's sustainable finance strategy.

Under the Taxonomy Regulation, financial market participants covered by the SFDR and companies covered by the NFRD are both required to disclose, amongst others, the extent to which their products or activities are environmentally sustainable. The Taxonomy Regulation and this Delegated Act, therefore, complement the NFRD and SFDR by providing for a common reference point for reporting the degree of alignment with sustainable activities in the Taxonomy Regulation.

The JBA believes it is indispensable for the EU to have the entire picture of disclosure framework for all market participants. The JBA acknowledges requirements on CSRD and requirements on SFDR would differ, however, financial institutions should anyway refer to SFDR as long as we provide financial products to market, in addition to complying CSRD. Thus, the JBA believes discussions for each disclosure requirement should be proceeded under the consistent awareness of entire EU disclosure framework. Fragmented framework based on fragmented discussion would not be beneficial.

## **Establishment of practical framework**

The JBA generally supports European Commission's approach to enhance sustainability-related disclosure. However, European Commission should consider that the most important beneficiary for disclosure should be investors. Disclosure framework should be simple, transparent, and easy enough to understand.

As stated in the TEG report published in June 2019, the JBA believes the taxonomy should be positioned as a framework to facilitate transition to a net zero world. We agree with the need to establish the taxonomy with numerical criteria/thresholds to avoid "green wash", but we are concerned that using the taxonomy only to judge compliance based on the current technology/output would limit the possibility of future development and innovation. Using the taxonomy only to judge the compliance against the stated criteria/thresholds could disincentivize the transition to low-carbon economy. It is our strong view that the taxonomy should support not only "pure green" activities/technologies but also the efforts aiming to "become green/greener". The taxonomy should take more gradual approach to support transition/innovation to become greener. This gradual approach should be encouraged to be used in the context of applying taxonomy in areas of supervision, disclosure and product development.

The JBA believes this approach should be the same when the disclosure framework is developed. For example, the JBA understands the concept and rationale of the Green Asset Ratio (GAR) which is required to disclose, however, it should be secured that the GAR is not used as the tool of penalizing financial institutions whose GAR is lower than other financial institutions.

We hope that our comments will contribute to the discussions of the European Commission.

(End)