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| Consultation Paper  |
| Draft Implementing Technical Standardsamending Commission Implementing Regulation (EU) 2024/3172, as regards the disclosures on ESG risks, equity exposures and the aggregate exposure to shadow banking entities |



The **EU Federation for the Factoring and Commercial Finance Industry (EUF)** is the industry body and voice for the European factoring industry (EU transparency register no. 39275004756-35). The EUF’s members and partners consist of 13 national factoring and commercial finance associations (representing in the EU [in alphabetic order] Austria, Belgium, Croatia, the Czech Republic, Denmark, France, Germany, Greece, Italy, the Netherlands, Poland, Portugal and Spain) as well as the international factoring association FCI and the UK and Norway as partners.

It is in its role as the representative body of the European factoring and commercial finance industry that the **EUF wishes to provide input on the EBA Consultation on draft Guidelines on the management of ESG risks**

* + 1. Do you have any comments on the proposed set of information for Large institutions?

***Template 1 (Banking Book) of 3rd pilar ESG requests to report « Total Gross Carrying amount » of « exposures towards sectors that highly contribute to climate change », including: “Of which exposures towards companies excluded from EU Paris-aligned Benchmarks. »***

***In light of the annex V of COMMISSION IMPLEMENTING REGULATION (EU) 2021/451 of 17 December 2020 we understand with satisfaction that the exposure is to the assignor, since it refers only to the amount of the loan, whether factoring with or without recourse.***

***“c) ‘Trade receivables’ shall include loans to other debtors granted on the basis of bills or other documents that give the right to receive the proceeds of transactions for the sale of goods or provision of services. That item shall include all factoring and similar transactions, like acceptances, outright purchase of trade receivables, forfaiting, discounting of invoice, bills of exchange, commercial papers and other claims where the reporting institution buys the trade receivables (both with and without recourse);”***

***EUF agreed that it’s important to consider seller and not debtor to establish ESG reporting.***

***Things currently being as they are, a principle based approach should be privileged in order not to take a wrong direction and not to over-burden the institutions in reporting and monitoring.***

***One must keep in mind that European institutions currently submitted to CRR should not be put at a disadvantage vis-à-vis non-EU global competitors who could be subject to looser regulation and use this advantage to unduly gain market shares – such a competitive disadvantage for European financial institutions is also disadvantageous to ESG compliance on a whole.***

* + 1. Do you have any comments on the simplified set of information for Other listed institutions and Large subsidiaries?
		2. Do you have any comments on the simplified set of information proposed for SNCI and other non-listed institutions?

***EUF supports the introduction of a proportionality principle, notably for the periodicity of review of ESG risks for small and non-complex institutions – SNCIs). Similarly, the proportionality approach should also encompass specificities of different forms of financing.***

**EUF thinks helpful to recall that factors can only interact with their clients (ie the assignors of the invoices), and not with the debtors of the invoices. The analysis of debtors should be excluded from the approach because factors have no contractual link with buyers.**

**Here are the key mechanisms of the factoring business and ESG risks monitoring :**

* **factoring is a general purpose finance (not linked to a dedicated asset) ;**
* **3 parties are involved: the factor, the client, and the debtor ;**
* **the only contract signed is one between the factor and the assignor/client to finance receivables ; no contract is signed between the factor and the debtor ;**
* **furthermore, around 75% of factoring contracts are confidential, ie not revealed to the debtor ; no dialogue can be established between the debtor and the factor ;**
* **the factor becomes the owner of the receivables and finances the client, the financing benefits only the client, not the debtor ; the factor is only the passive recipient of the invoice payments from the debtor ;**
* **factors are insured / re-insured on the financial risk taken on the debtor, from 90% to 100% depending on debtor ;**
* **factors duly analyse and monitor all ESG risk of all their contractual counterparts (ie clients); debtors cannot be subject to an ESG assessment by the factor (as not financed and not contractually linked).**
	+ 1. Do you have any comments on the proposed approach based on materiality principle to reduce the frequency (from semi-annual to annual) of specific templates (qualitative, template 3, and templates 6-10) for large listed institutions?
		2. Do you have any comments on the transitional provisions and on the overall content of section 3.5 of the consultation paper?

***Institutions falling within the expanded scope introduced by CRR3—namely large non- listed institutions, other institutions, small and non-complex institutions SNCIs, and large subsidiaries—shall apply the ITS proposed in this Consultation Paper from the reference date of 31 December 2026 onwards. Until that reference date the disclosure obligations on ESG related risks under the EBA Pillar 3 ITS would not apply.***

***Due to various constraints, particularly IT developments and also staff training, it would be suitable to delay implementation for an additional year. This would allow the parties to better understand the various information requested from them in a regulatory setting that is not yet mature, or at least, not yet fully understood.***

Qualitative Information

* + 1. Do you have any comments on the proposed amendments to Table 1 and Table 3?

***The collection of data related to ESG risks is currently no easy task since ESG reports and data are still not always available, and this should be considered accordingly when institutions are required to analyse and manage ESG risks.***

***To be efficient, the industry needs to know how to set the rules and how rating agencies work. The problem of evaluation of the ESG ratings by agencies remains, and lack of supervision of the obligation to report on the methodology of rating agencies results in a lack of transparency.***

***The methodology of rating agencies (which very often are global) has to be the same : an effective harmonization would ease the lives of institutions and help them to price the risk according to the ESG tenor of transactions.***

* + 1. Do you have any further suggestions on Table 1A?
		2. Do you have any comments on the proposed additions and deletions to the sector breakdown?

Quantitative Information

* + 1. Do you have any views with regards to the update of the templates to NACE 2.1?
		2. Do you have any further comments on Template 1?
		3. Do you have any comments or alternative suggestions for SNCIs and other institutions that are not listed, regarding the sector breakdown?

**EUF thinks helpful to recall that factors can only interact with their clients (ie the assignors of the invoices), and not with the debtors of the invoices. The analysis of debtors should be excluded from the approach because factors have no contractual link with buyers.**

* + 1. Do you have any additional suggestions how to adjust Template 1A for SNCIs and other institutions that are not listed?
		2. Do you have any further comments on Template 1A?
		3. Should Template 2 in addition include separate information on EPC labels estimated and about the share of EPC labels that can be estimated?
		4. Should rows 2, 3 and 4 and 7, 8 and 9 for the EP score continue to include estimates or should it only include actual information on energy consumption, akin to the same rows for EPC labels?
		5. Do you have any comments on the inclusion of information on covered bonds?
		6. Do you have any comments on the breakdown included in columns b to g on the levels of energy performance?
		7. Do you have any further comments on Template 2?
		8. Do you have any comments on Template 3?
		9. Do you have any comments with the proposals on Template 4 and the instructions?
		10. Do you have any views on whether this template could be improved with some more granular information in the rows, by requesting e.g. split by sector of counterparty or other?
		11. Do you have any further comments on Template 4?
		12. Do you have any comments on the proposal using NUTS level 3 breakdown for Large institutions and NUTS level 2 for Other listed institutions and Large subsidiaries? Would NUTS level 2 breakdown be sufficient for Large institutions as well?Do you have any comments on the instructions for the accompanying narrative and on whether they are comprehensive and clear?
		13. Do you have any further comments on Template 5 and on its simplified version Template 5A?
		14. Do you have any comments on the proposal to fully align templates on the GAR, that is, templates 7 and 8, with those under the Taxonomy delegated act by replacing the templates with a direct cross reference to the delegated act?
		15. Do you have any comments on the proposal related the BTAR and to keep it voluntary?
		16. Do you have any comments regarding the adjustments to template 10?>
		17. Do you have any further comments on the Consultation Paper Pillar 3 disclosures requirements on ESG risk?
		18. *Disclosure of the aggregate exposure to shadow banking entities*
		19. Are the new template EU SB 1 and the related instructions clear to the respondents? If no, please motivate your response.
		20. Do the respondents agree that the new template EU SB 1 and the related instructions fit the purpose and meet the requirements set out in the underlying regulation?
		21. *Disclosure of equity exposures*
		22. Are the amended template EU CR 10.5 and the related instructions clear to the respondents? If no, please motivate your response.
		23. Do the respondents agree that the amended template EU CR 10.5 and the related instructions fit the purpose and meet the requirements set out in the underlying regulation?
		24. *Mapping tool*
		25. Do the respondents consider that the “mapping tool” appropriately reflects the mapping of the quantitative disclosure templates with supervisory reporting templates?