

IMPLEMENTATION OF TAXONOMY-ALIGNING BENCHMARKS (TABs)

CALL FOR FEEDBACK OF THE PLATFORM ON SUSTAINABLE FINANCE

- AMAFI's answer

Association française des marchés financiers (AMAFI) is the trade association representing financial markets' participants of the sell-side industry located in France. It has a wide and diverse membership of more than 170 global and local institutions notably investment firms, credit institutions, broker-dealers, exchanges and private banks. They operate in all market segments, such as equities, bonds and derivatives including commodities derivatives. AMAFI represents and supports its members at national, European and international levels, from the drafting of the legislation to its implementation. Through our work, we seek to promote a regulatory framework that enables the development of sound, efficient and competitive capital markets for the benefit of investors, businesses and the economy in general.

I. GENERAL OBSERVATIONS

AMAFI welcomes the opportunity to answer the Platform on Sustainable Finance's (PSF) call for feedback on the proposal to create two new ESG benchmarks related to the alignment with the Taxonomy. We believe that in order to improve the usability of the Taxonomy, it needs to be increasingly integrated into sustainable finance regulations to ensure convergence of approaches and to encourage companies to disclose reliable data.

As the PSF notes in its report¹, and as observed by the AMF in its analysis of the Taxonomy reporting by French non-financial entities², companies do not always disclose CapEx information related to Taxonomy eligibility and/or alignment, and even when they do, the sustainable CapEx are quite low and the qualitative information not sufficiently detailed. Given that Green CapEx can provide an important signal of companies' commitment to the Net Zero transition, improving CapEx transparency and encouraging companies to use this reference is a step forward and could help drive investments in the transition³. Indeed, CapEx information at the activity-level related to Taxonomy targets is often based on transition plans, which helps to strengthen the credibility of the transition strategy of the company. This would be consistent with the requirements of the new EU Green Bond Standard, as issuers of such bonds have to provide a reliable CapEx plan (covering a transition horizon of 5 to 10 years).

¹ Platform on Sustainable Finance, [Climate Change Taxonomy and the EU Regulatory Response: EU Taxonomy-Aligning Benchmarks \(TABs\) Report](#), 13 December 2023. From now on "PSF TABs Report".

² Autorité des Marché Financiers, [Rapport sur le reporting taxonomie des sociétés non-financières cotées](#), 20 November 2023.

³ As highlighted by the PSF in its Report "[A Compendium of Market Practices](#)", January 2024.

AMAFI believes that the proposed TABs would be a welcome addition to the current EU ESG benchmarks, because they would expand the number of eligible issuers compared to the current PAB and CTB, as no initial decarbonisation target is imposed. This flexibility is much needed to diversify investments into more ESG underlyings and to channel financing into transition assets.

However, the report does not provide sufficient evidence to support the quantitative thresholds on which the proposed methodology is based ([see answers to Q1.10 and Q1.11](#)), and there are also **some inconsistencies in the application of the pre-filter and exclusion criteria**. More importantly, the application of the Minimum Social Safeguard (MSS) and DNSH criteria would actually result in not achieving the main purpose of the TABs, which is to direct investments to transition activities⁴, as only issuers with activities already aligned would be eligible ([see answer to Q1.6](#)). These inaccuracies create some confusion, making it difficult to fully assess the proposed TABs in terms of feasibility and level of ambition.

Finally, the PSF TABs Report is silent on the regulatory framework that will ultimately apply to TABs. Indeed, it is unclear whether TABs will be integrated into the BMR with the same status as PABs and CTBs, or whether they will fall under a generic ESG benchmark category. This will have a direct impact on the status required of benchmark administrators of TABs and the disclosure requirements that will apply ([see section 2](#)). This matter is especially important in view of the fact that the [revision of the Benchmark Regulation](#) proposed by the European Commission in October 2023 includes a significant simplification of the disclosure obligations for non-significant benchmarks.

Our detailed comments are provided below.

II. ANSWERS TO THE QUESTIONS

1. METHODOLOGY OF THE TAXONOMY-ALIGNING BENCHMARKS

Q 1.1 Do you think the TABex and TAB differ methodology-wise sufficiently from each other?

In our view, the differences between the two benchmarks are not sufficiently detailed in the PSF report. For example, both TAB and TABex are presented as being inspired by PABs, but only TABex can really be considered as such, as the same exclusions apply to both TABex and PAB (except for electricity generation). In addition, we believe that the CapEx alignment rate should not be the same for TAB and TABex, because as no activity exclusion is applied to the TAB (except for pre-filters), the initial level of ambition is not the same, and efforts to achieve the same taxonomy alignment target should be more important.

Another difference between TAB and TABex concerns the rules for the use of CapEx estimates:

- TABex can only use reported CapEx information ("*Administrators of EU Taxonomy-Aligned Benchmarks with Exclusions only need to use taxonomy-aligned CapEx information as disclosed by the issuer*"⁵)
- TAB can rely on CapEx estimates for 50% of the trajectory target ("*Administrators of EU Taxonomy-Aligned Benchmarks without Exclusions only need to use taxonomy-aligned CapEx information as disclosed by the issuer for fifty percent of the taxonomy-aligned trajectory target*"⁶).

This difference creates a clear imbalance between TAB and TABex, adding additional constraints to TABex without a clear rationale, which could discourage benchmark administrators from using it, especially considering ([as mentioned in the introduction](#)) that CapEx information is rarely available today.

⁴ [PSF TABs Report](#), "[...] *EU Taxonomy-Aligned Benchmarks have broader ambitions [...] to direct their investments towards opportunities related to the energy transition (transition opportunity objective), specifically by increasing capital flow into Taxonomy-aligned capital expenditure.*"

⁵ [PSF TABs Report](#), page 28, point 12.a.i.

⁶ [PSF TABs Report](#), page 28, point 12.a.ii.

In addition, we have doubts about the value of an ESG benchmark without exclusions (TAB), considering that the exclusion thresholds of TABex are quite low and that already today the most used benchmarks are those with the most ambitious criteria (for example, the Paris Aligned Benchmark "PAB" standard is used more than the Climate Transitions Benchmark "CTB"). Furthermore, as stated in the consultation report, "*certain activities such as coal tend to be always harmful*", so we believe that coal activities should be systematically excluded in any ESG benchmark above the 1% threshold.

Q1.2 Do you think the TABex/TAB differs methodology-wise sufficiently from CTBs?

Yes.

[Same as Q1.3]

Q1.3 Do you think the TABex/TAB differs methodology-wise sufficiently from PABs?

Yes, we believe that the TABex/TAB methodology is sufficiently different from PABs. This methodology helps to broaden the benchmark universe by taking into account CapEx, which is a forward-looking indicator⁷, and by not imposing initial decarbonisation thresholds⁸. In addition, a specific feature of TABs is the reference to the Taxonomy framework, which is not required for PABs.

Q1.4 Please express your agreement with the proposed minimum requirements for taxonomy-aligning benchmarks with exclusions (TABexs):

- Year-on-year self-decarbonisation of the benchmark
 - (3/5) *Neutral*.
- Investable universe pre-filters
 - (2/5) *Rather disagree* ([see answer to Q1.6](#)).
- Activity exclusions
 - (3/5) *Neutral* ([see answer to Q1.5](#)).
- Scaling environmentally sustainable taxonomy CapEx
 - (3/5) *Neutral*.
- Environmentally sustainable CapEx decarbonisation holiday
 - (4/5) *Rather agree*.
- Exposure constraints
 - (3/5) *Neutral*.
- Disqualification from label if 2 consecutive years of misalignments with CapEx or CO2e trajectory, or any 3 years of misalignments with CapEx or CO2e trajectory within a consecutive 10-year period
 - (4/5) *Rather agree*.
- Review frequency
 - (3/5) *Neutral* – In addition to the periodical frequency, we suggest that the review should be linked to possible updates of the Taxonomy and SFDR. For example, a review should be considered when there are significant changes or developments to the taxonomy criteria (new eligible activities, changes to quantitative thresholds, etc.).

⁷ TABs allow to consider companies that are not aligned today but have a good probability to be aligned in the future.

⁸ 50% for PABs and 30% for CTBs.

Q1.5 Please provide any comments on the activity exclusions of the taxonomy-aligning benchmarks with exclusions (TABex) minimum requirements.

We have noticed that the proposed exclusions for TABex are almost the same as for PABs and CTBs (*Delegated Regulation 2020/1818*⁹, Art. 12), except for electricity generation.

In this respect, we welcome this alignment with the existing Climate Benchmarks, but it must be highlighted that when TABex will start to consider CapEx based on other environmental objectives than climate related ones, i.e. transition to a circular economy and pollution prevention and control, the exclusion criteria may need to be adapted.

In addition, we understand that electricity generation has not been included in the list of activities to be excluded from TABex probably because it represents a valid alternative to move away from high emission energy sources. However, in the revised version of the French Socially Responsible Investing (SRI) fund label it was mentioned that above a certain threshold of GHG intensity, electricity generation cannot be compatible with the Paris Agreement targets, so these activities are excluded according to specific criteria¹⁰. The same approach is applied for the exclusion of these activities under the PABs¹¹.

More information on why the PSF ultimately decided not to exclude these activities would be helpful.

Q1.6 Please provide any comments on recommended changes or additions to the taxonomy-aligning benchmarks with exclusions (TABex) minimum requirements.

As mentioned in the introduction regarding the pre-filter which should be applied to TABex and TAB, we found in the report that there is some confusion and inconsistency in the different sections of the document, both in terms of the criteria and their application:

- **About the criteria on social violation**, in some parts of the document, reference is made to the UNGCs (United Nations Global Compact) standards¹², while in others reference is made to the UNGPs (UN Guiding Principles on Business and Human Rights)¹³. The principles of the UNGCs are used for the PAB social filters, while the UNGPs are mentioned in Article 18.1 of the Taxonomy Regulation¹⁴ for the assessment of the minimum social safeguard criteria¹⁵. Given that the principles of the UNGPs are more ambitious than the UNGCs, it would be useful to clarify which standard should apply, also taking into account that issuers rarely disclose their compliance with the UNGPs, while more information is available on their compliance with the principles of the UNGCs. In addition, we would like to highlight that information on the UNGPs is not always available from data providers and even when it is, the coverage and level of granularity is not the same as for the UNGCs.

⁹ [Commission Delegated Regulation \(EU\) 2020/1818](#) of 17 July 2020 supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council as regards minimum standards for EU Climate Transition Benchmarks and EU Paris-aligned Benchmarks

¹⁰ [Label ISR referential](#), applicable since 1st March 2024. Page 47.

¹¹ Extract article 12.1.(g) of the [Commission Delegated Regulation \(EU\) 2020/1818](#) “companies that derive 50 % or more of their revenues from electricity generation with a GHG intensity of more than 100 g CO₂ e/kWh”

¹² [PSF TABs Report](#), page 28, point 11.b.iii.

¹³ [PSF TABs Report](#), page 24, summary table 2.

¹⁴ [\(EU\) 2019/2088](#).

¹⁵ “The minimum safeguards referred to in point (c) of Article 3 shall be procedures implemented by an undertaking that is carrying out an economic activity to ensure the alignment with the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights, including the principles and rights set out in the eight fundamental conventions identified in the Declaration of the International Labour Organisation on Fundamental Principles and Rights at Work and the International Bill of Human Rights.”

- **About the application of the criteria**, we note that in some parts of the document they are defined as applicable to both TABex and TAB¹⁶, while in others they are defined as applicable only to TABex¹⁷.

Clarification is needed to allow FMPs to better assess the possible limitations of data availability and the real difference between the two benchmarks (TAB and TABex).

With regard to the DNSH and Minimum Social Safeguards (MSS) pre-filters, their application is not consistent with the main purpose of the benchmarks of fostering a progressive greening of CapEx and encouraging investments in transition activities.

Given that the UNGPs are part of the social criteria used to ensure compliance with the MSS of the Taxonomy Regulation, the use of these principles as a pre-filter would imply that they are not part of the alignment pathway but must already be achieved by the issuer before it can be included in the scope of the benchmark. The same consideration applies to the DNSH criteria, which by the way, are mentioned as pre-filters on page 21 of the PSF TABs Report but not in the summary table on page 24¹⁸.

Furthermore, given that compliance with the DNSH and MSS principles is required to move from a Taxonomy-eligible activity to a Taxonomy-aligned activity, the application of these pre-filters would mean that only issuers with CapEx already aligned could be included in the benchmark.

This seems incompatible with the possibility of engaging with companies with “*poor climate performance*” or, as stated on page 21 of the PSF TABs Report, that TAB without exclusions would allow “*any type of company to be included, regardless of its current and/or past climate impact, as long as it undertakes the necessary changes*”.

Q1.7 Please express your agreement with the proposed minimum requirements for taxonomy-aligning benchmarks without exclusions (TABs):

Same answers as Q1.4 for TABex.

Q1.8 Please provide any comments on recommended changes or additions to the taxonomy-aligning benchmarks without exclusions (TABs) minimum requirements:

Same answers as Q1.6 for TABex.

Q1.9 Do you think the minimum standards suggested in the report leave enough flexibility for market players to further innovate in the field of EU taxonomy indices aligned with ambitious climate trajectories?

Yes, we believe that the minimum standards proposed in the report are flexible enough to allow for further innovation. However, as mentioned above, we believe that the TAB without exclusion risks being too flexible to allow climate trajectories to be respected, especially given that the TABex already allows for a significant expansion of the investable universe without requiring an initial decarbonisation threshold.

¹⁶ [PSF TABs Report](#), page 24, summary table 2.

¹⁷ [PSF TABs Report](#), page 28, point 11.b.iii.

¹⁸ Other inconsistency to be highlighted, together with the fact that it is not specified whether the DNSH assessment has to be applied only to CapEx.

Q1.10 Do you agree with proposed minimum 5 percentage points increase in taxonomy-aligned capital expenditure per annum?

Given the current lack of CapEx data and the fact that there is insufficient historical evidence on investment trends, we are not in a position to agree or disagree on the possibility of respecting the minimum 5% annual increase in Taxonomy-aligned investment.

However, we believe that a progressive rate of alignment would be more appropriate than a linear one, for example starting at a level of 2% or 3% and adjusting over time to achieve the same objective. A linear progression of CapEx alignment does not seem to correspond to the current economic reality, where transition plans are under construction and companies are just starting to apply taxonomy criteria to their activities.

Furthermore, we do not fully agree with the consideration of 2023 as a baseline for TABex/TAB. In fact, even if this baseline is the one recommended for PABs and CTBs¹⁹, TABs will not be officially integrated into the BMR regulation before the end of 2024, which means that the first benchmarks will not be available before 2025 at best, with some difficulties in retrieving the CapEx data from 2023.

In addition, given that the EU Green Bonds Standard will come into force in December 2024, it is possible that more issuers will be able to provide information on green CapEx and related CapEx plans from that date. Being aware of the low level of availability and quality of CapEx information today, we believe it is too early to recommend a baseline of 2023 and an annual CapEx alignment rate of 5% for TABs.

Q1.11 The Platform defines ‘CapEx securities’ as those securities with a proportional nominal CapEx-to-Price ratio exceeding 1%. Do you believe that this 1% minimum threshold is too low?

We are not in a position to comment specifically on the 1% threshold because, [as mentioned in the introduction](#), we believe that the approach needs to be further explained by the PSF experts in order to understand how this percentage has been determined.

We also have doubts about the proposed formula for calculating the Capex-to-Price ratio, which is obtained by using figures related to the book value of the asset class in the numerator and figures related to the market value of the asset in the denominator. Similar ratios (such as the price to book ratio) are commonly used to identify overvalued or undervalued companies, but that is not the purpose of this threshold. Therefore, it is difficult to see how the ratio of book value to market value can provide valuable information on the level of investment ambition of a company, especially given that the ratio can vary significantly depending on the market value, which is a dynamic measure.

It is also unclear to us which "Asset Class" should be taken into account for the calculation of the "Proportional Book Value of the Asset Class". Indeed, if the calculation of the Capex-to-Price ratio is expected to be done for each potential component of the benchmark, we would expect the "Book Value of Total Assets" to correspond to the total balance sheet value (after depreciation) of each company whose securities compose the benchmark, and thus the "Book Value of Asset Class" should represent the value of a specific asset related to Capex investment. However, this aspect is not sufficiently explained in the PSF TABs Report and it is therefore not clear to which asset class the reference should be made.

We suggest to the PSF to share additional details with market participants on the accounting figures considered and to provide some concrete examples to help understand better the methodology.

¹⁹ Reference stated in PSF TABs Report to the [“Platform recommendations on Data and Usability as part of Taxonomy reporting”](#), October 2022, page 158.

Q1.12 What year do you think ought to be the target for achieving 100% environmentally sustainable CapEx within taxonomy-aligning benchmarks?

AMAFI is not in a position to comment on the possible achievement of 100% environmentally sustainable CapEx from a transitional perspective. However, the PSF TABs Report mentions that the 100% target remains hypothetical, considering that the Taxonomy framework does not cover all activities of CapEx securities. In fact, given that companies in most cases carry out multiple activities, it seems impossible to achieve 100% CapEx alignment to Taxonomy as CapEx would also concern activities outside of the scope of the Taxonomy (these CapEx are defined in the PSF TABs Report as “*non-environmentally sustainable CapEx*”, to which the criteria related to the decarbonisation trajectory of PABs will be applied).

In addition, the PSF TABs Report does not specify if a specific proportion of *environmentally sustainable CapEx* compared to *non-environmentally sustainable CapEx* is expected for the benchmarks to be meaningful from on a Taxonomy perspective. It would be interesting to investigate whether TABs with, for example, only 10% sustainable CapEx would still be able to meet the targets presented in the PSF TABs Report.

Q1.15 What is the overall impact of the technical advice on taxonomy-aligning benchmarks (with and without exclusions) in terms of benefits or costs to investors?

For investors who intend to leverage the Taxonomy, we believe these benchmarks make sense. We do not think that there are any specific considerations on the cost side brought about by those new types of benchmarks from a user perspective.

Q1.16 What is the overall impact of the technical advice on taxonomy-aligning benchmarks (with and without exclusions) in terms of benefits or costs to society and the natural environment?

This is consistent and follows on from the EU Taxonomy and provides a concrete means of directing investments to ESG-friendly sectors/issuers.

2. SUSTAINABILITY DISCLOSURE REQUIREMENTS

[As mentioned in the introduction](#), the disclosure requirements to be applied to TABs would depend very much on the regulatory framework that will apply to these benchmarks. For example, if TABs are included in the BMR under the same regime as PABs and CTBs, a consistent approach should be applied as this would help to reduce potential resistance to the new benchmarks and engage the market without creating confusion. It will also allow administrators to develop these benchmarks with minimal additional process or investment. It will also allow users to immediately understand and compare the new TABs.

2.10 Do you think that administrators of taxonomy-aligning benchmarks (with and without exclusions) should disclose on the incorporation of the precautionary principle in estimations of CO2e data where issuer self-reported data was not reliably available?

Yes, we believe that administrators of TABs should disclose on the incorporation of the precautionary principle in estimations of CO2e data where issuer self-reported data was not reliably available. This requirement is already stated in the report at point 12.a.iii. “*Administrators of EU Taxonomy-aligning Benchmarks (With or Without Exclusions) that use GHG estimations that are not based on data provided by an external data provider, shall formalise, document, and make public the methodology upon which such estimations are based, including: 1. the approach that they have used to calculate GHG emissions, and the main assumptions and the precautionary principles underlying those estimations [...]*”

More generally, as mentioned in our response to Q1.1, the use of estimates of CO2e data is not the main concern with the estimates required by TABs. The most sensitive issue is related to the lack of data on CapEx, as this information is rarely disclosed by issuers and its approximation is almost impossible without qualitative information on the company's strategy, and as of today only few data providers are able to provide this information, and only with a heterogeneous level of confidence in its reliability.

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