

# EUGBS final text: need to know!



GREEN & SUSTAINABLE **HUB**



The final text of the **EUGBS Regulation has leaked this Wednesday**. It means that few days are left before its official adoption as a European law. **Entry into application will occur around mid-2024**. There is no big surprise compared to drafts. The linkage to the EU Taxonomy cumulative criteria – TSC, DNSH, MS – is strong. Flexibility is limited and three-fold. First, only 15% of proceeds can be ringfenced to not yet eligible activities with safeguards. Second, CAPEX plans allow the earmarking of proceeds not yet aligned (“forward-looking alignment” within 5 years with usability concerns). Lastly, eligible expenditures are adapted for Sovereigns. Two key features of the EUGBS lie in the standardization of information (pre and post issuance templates) as well as in the strict supervision & accountability of external reviewers (real clampdown). **The Standard is not mandatory and is supposedly elitist**. It sets a “gold standard” but breaks with the binarity of the Taxonomy. The niche effect is softened by welcome **optional sustainability disclosure requirements** for issuers not willing or unable to fully comply with the Standard. **It will encourage any issuer to voluntarily publish proceeds alignment ratios below 100%**. We thus anticipate a porous coexistence of different “pockets” of green bonds: ICMA, CBI, full EUGBS and “shades of EUGBS”. **We have mapped out potential use cases**. Market participants should also wait for the announced release of guidelines and templates by the European Commission and the ESMA.

Figure 1: the EUGBS breaks with the green EU Taxonomy binarity

Issuance format	Situation/Type of alignment with the EUGBS/taxonomy	Comments	
Use-of-Proceeds Bonds	<b>Official EUGBS</b>		
	1. EUGBS “standardized” issuances (with full alignment on TSC, DNSH, MS, transition plan, and verification by a verifier accredited by ESMA)	Penetration figures to be strongly heterogeneous across sectors and according to issuer types: single-activity/infrastructure issuers will be advantaged	
	2. EUGBS “standardized” issuances using the <b>flexibility pocket</b> (ex: 90% of the proceeds aligned and the remaining 10% for non-eligible yet activities)	Strongly sectorial-biased. Flexibility pocket to disappear over time with taxonomy coverage extension, limited applicability for aid policy	
	<b>Opt-in Regime (optional disclosure)</b>	3. Green Bonds with full alignment of proceeds but with <b>issues around third-party verification</b> (ex: deficiencies in issuer transition plan, external verifier not accredited)	Depending a lot on accreditation procedures/stringency, and transition plan requirements (how the alignment with Paris-compatible trajectory is performed)
		4. Green Bonds with 100% TSC fulfillment (Significant Contribution) but <b>uncertainty, concerns or breaches around DNSH or minimum safeguards (MS) demonstration</b>	This share can decrease if usability on DNSH and MS improves
		5. “Mainstream” Green Bonds (ICMA, CBI) with <b>opt in taxonomy alignment ratio disclosure</b> (ex: disclosing 45% of proceeds alignment)	It will become the dominant “practice” or situation in our view, with transparency around misalignment reasons
		6. Green Bonds using <b>EUGBS official templates</b> to disclose <b>key information in a standardized way</b> but without reporting proceeds total alignment ratio	Such standardization of information disclosure and use of templates could be at the expense of “framework”
7. Green Bonds issued based on frameworks encompassing <b>some of the TSC in the eligibility criteria</b> (on a discretionary basis, “criteria shopping”), or simply referring to the 6 environmental objectives		This is the minimum, it will be done even by non-EU issuers and/or the ones with little European investor basis), the rationale around the cherry picking will have to be explained	
Sustainability-linked Bonds (KPIs)	• SLB using EUGBS templates but also <b>official taxonomy alignment ratios as KPIs</b>	The integration of taxonomy KPIs in SLB frameworks will be growing very fast for European issuers (cf. SPIE and ENEL SLB frameworks)	
	• SLB using <b>EUGBS templates</b> (ex: rationale, ambition level, materiality, calculation methodology of the KPI, how the bond contributes to the issuer’s transition plan)	No real additionality compared to the ICMA SLB principles	

Alignment ascending order: from minimum (6,7), intermediate (3,4,5), to strong alignment (1,2)

Source: Natixis CIB Green & Sustainable Hub (Authors)



Q&A

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#### Q0: What is the purpose of the Regulation?

*“This Regulation lays down uniform requirements for issuers of bonds that wish to use the designation ‘European Green Bond’ or ‘EuGB’ for their bonds made available to investors in the Union, provides optional sustainability disclosure requirements for bonds marketed as environmentally sustainable and sustainability-linked bonds in the Union, and establishes a registration system and supervisory framework for external reviewers of European Green Bonds.”*

## Bond-related requirements

Use of the proceeds of EUGBS: [Article 4](#)

#### Q1: What % of alignment to the Taxonomy is required for the designation ‘EUGBS’?

**Before the maturity of a European green bond**, the proceeds of that bond, **shall be only and fully allocated according to the taxonomy requirements** (i.e., 100% aligned).

#### Q2: What are the eligible assets?

**Fixed assets**, capital expenditures (**capex**), operating expenditures (**opex**) that were incurred more recently than three years prior to the issuance of the EUGBS, and **assets and expenditures of households**.

#### Q3: What conditions for financial assets to be eligible?

Those assets are eligible if created no later than five years after the issuance of the EUGBS.

#### Q4: What are the eligible assets for sovereigns?

**Tax relief, subsidies, intermediate consumption, current transfers within a general government, current international cooperation, or other types of public expenditure**, provided that the proceeds are allocated according to the taxonomy requirements.

#### Q5: Is the EUGBS accessible to all potential issuers?

Theoretically yes, the EUGBS is open to all issuers, including non-European ones. However, it is elitist notably because of the stringency of some thresholds. It will be more accessible to single activity issuers operating in sectors for which technical screening criteria are among the easiest, and who have in place strong environmental and social safeguards, and little activity outside Europe.

#### Q6: Should the issuer publish a prospectus to be eligible the EUGBS designation?

The designation ‘EUGBS’ can only be used by issuers that publish a prospectus (with the exception of bonds which do not require a prospectus according to the [EU Regulation](#)).

Flexibility pocket: (*whereas 9a*) – [Article 4a](#)

#### Q7: What is the flexibility pocket? And what are the activities falling into it?

By derogation to the 100% UoP alignment requirement, issuers may allocate up to 15% of the proceeds to:

- economic activities **with no TSC entered into force by the date of issuance of the EUGBS**,
- activities in the context of **international support** reported in accordance with internationally agreed guidelines, including:
  - **climate finance** reported to the UNFCCC,
  - and **Official development Aid** (ODA) reported to the OECD DAC.

**Q8: What are the requirements for activities covered by the flexibility pocket?**

For economic activities without technical screening criteria yet set, **a complete and “in-house” demonstration is still required (TSC, DNSH, MS)**, which should be included in the EUGBS factsheet and thus **validated by an external reviewer via a positive opinion in the pre-issuance review.**

**Q9: Is the issuer allowed to deduce costs of the proceeds in the allocation to green expenditures?**

Yes, issuers may deduce issuance costs (incl. the costs of financial intermediaries leading the issuance, advisory costs, legal costs, rating costs and the costs related to the external review).

Forward looking alignment: [Article 6](#)

**Q10: How much flexibility do Capex plan offer?**

- **Where the use of proceeds allocated to Capex or Opex relate to economic activities that do not meet the Taxonomy requirements yet, the financing of improvement measures can be counted as Taxonomy-aligned if they are part an implementation plan (i.e., a Capex Plan) to meet the activity threshold.** In such case, the issuer shall publish the CapEx plan.
- **Eligible capital expenditure should relate to economic activities that meet or are expected to meet the taxonomy requirements within five years from the issuance** of the bond, unless a longer period of up to ten years is justified by the specific features of the economic activities and investments concerned.
- The issuer should include a summary of its CapEx plan **in its prospectus**, as well as **report on the progress made in the implementation of its plan in the annual allocation reports.**

In our view, this “forward-looking alignment” raises usability and verification concerns. Capex plan and transition plan must be distinguished.

**Q11: What are requirements set for the Capex plan?**

- The Capex plan shall specify **a deadline by which all the capital and operating expenditures shall be taxonomy-aligned** (set before the European green bond reaches maturity).
- **The issuer shall obtain an assessment from an external reviewer about the taxonomy-alignment of capital and operating expenditures that are included in that CapEx plan** and funded by the proceeds of that EUGBS. The assessment shall be provided by the external reviewer within **60 days after the deadline** set.

**Q12: Is a portfolio approach allowed?**

Yes.

- Issuers may allocate proceeds from a portfolio of one or more outstanding European Green Bonds to a portfolio of fixed assets or financial assets, **provided that they demonstrate in allocation reports that the total value of fixed assets or of financial assets in their portfolio exceeds the total value of their portfolio of outstanding bonds.**
- They need to **demonstrate** that the value of those environmentally sustainable assets exceeds or equals the value of EUGBS that have not yet matured.

Grandfathering: (*whereas 11*) – [Article 7](#)

**Q13: How does the 7-year grandfathering work?**

To provide legal certainty and prevent amendments to the TSC from having a negative impact on the price of outstanding European Green Bonds, issuers should be able to apply the TSC **applicable at the moment of issuance of the relevant** bond when allocating proceeds. Where the relevant TSC are amended, the issuer should ensure that **unallocated proceeds and proceeds covered by a CapEx plan** that have not yet met the taxonomy requirements, comply with the amended TSC within seven years.



**Q14: What happens if an economic activity is at risk of not complying with the amended TSC?**

The issuer shall draw up, submit to external review by an external reviewer, and **publish a plan for aligning to the extent possible with the amended TSC** and mitigate the negative consequences, to the extent possible. This plan should be published before the end of the grandfathering period and be reviewed.

**Q15: How does the 7-year grandfathering apply to the portfolio approach?**

If any asset financed by a European Green Bond does not align with the amended TSC, **it can continue to be part of the pool of financed assets for at most seven years.**

## Transparency and external review requirements

Transition Plan disclosure: (*whereas 18a*)

**Q16: Should the issuer publish its transition plan? What coherence with the CSRD?**

**Issuers of EUGBS, environmentally sustainable bonds or SLBs** that are subject to an obligation to publish a transition plan pursuant NFRD or CSRD, or if the issuer voluntarily published such plans: they **shall indicate how their bond contributes to the funding and implementing of their transition plan.**

- For EUGBS issuances: this information **should be disclosed** in European Green Bond factsheet and annual allocation report.
- Under the voluntary regime:
  - this information should be disclosed in the optional pre-issuance and post-issuance periodic disclosure templates,
  - should provide **information on how and to what extent the issuance of the bond increases its proportion of entity-level taxonomy alignment** (e.g., in + x% in taxonomy-aligned turnover)

Transparency: (*whereas 13 & 20 & 20e*) – *Article 8, article 9 and Article 10*

**Q17: Which and where documents shall be disclosed by issuers?**

- Transparency is based on the mandatory use of **European Green Bond factsheet** (prior the issuance) and **annual allocation reports** (from the issuance date).
- **An impact report** should be published **at least once during the lifetime of the bond and after the full allocation of the proceeds.** It is not mandatory to have an external review, only encouraged.
  - Such impact reports shall clearly specify the metrics, methodologies and assumptions applied in the assessment of the environmental impact.
- The disclosure documents, including the European green bond factsheet, the allocation report, the impact report, and, where applicable, the CapEx plan, as well as the reviews carried out by external reviewers **shall be publicly and freely available.**
- Issuers shall publish on their **website** details about the European Green Bonds they issue, as well as the **pre-issuance review, any post-issuance reviews**, as well as, if applicable, any **impact report reviews, the CapEx plan and a link to the prospectus.**

**Q18: How much time is allowed to publish the allocation report?**

**It is made public within 270 days following the end of each annual period** (i.e., starting as of the issuance date), and the external reviewer must have at least 90 days to review the allocation report.

External review: (*whereas 14 & 21 & 23 & 24 & 36 & 37*) – *Article 8, article 9, article 10 & article 13*

#### Q19: When an external review is required?

- Issuers of EUGBS should contract **an independent external reviewer to provide a pre-issuance review** of the European Green Bond factsheet, **and a post-issuance review** of the European Green Bond annual allocation reports **after the full allocation** of the proceeds of the EUGBS. They both must use the templates provided by the regulation.  
→ *It seems there will be a single external reviewer for all documents.*
- **A new post-issuance review is not needed if no change in allocation was made** to the portfolio of assets and no asset in the portfolio was changed or itself subject to a change in allocation, **compared to the period covered by the previous allocation report.**
- The external review for impact reports is **only suggested.**

#### Q20: What if the allocation of proceeds is corrected by the issuers?

**Any amendments** to the allocation report shall be subject to a **new post-issuance review.**

#### Q21: What shall be assessed by external reviewers?

First and foremost, Taxonomy alignment:

- When assessing the alignment with quantitative criteria, they should verify that **any forward-looking estimations are based on reasonable assumptions**, without giving guarantees on outcomes.
- When assessing the alignment with qualitative criteria, they should **verify the existence of appropriate processes and due diligence systems** designed to assess, mitigate and remedy risks and issues that may arise in relation to these criteria.

All other elements to be verified in the pre and post-issuances documents are mentioned in the Annexes of the Regulation.

Securitization disclosures: (*whereas 20b*) – [Articles 13a to 13d](#)

#### Q22: Are there specific requirements for securitized assets?

Yes. Are excluded: exposures financing the exploration, mining, extraction, production, processing, storage, refining or distribution of fossil fuels (but not excluded when the exposure to fossil fuel is marginal)

## Optional disclosures for bonds marketed as environmentally sustainable and SLBs

Voluntary regime: (*whereas 7a*) – [Articles 13g & 13h](#)

#### Q23: For which bonds can we use the templates and what must be disclosed?

- Optional sustainability disclosure requirements are provided for bonds marketed as **environmentally sustainable and sustainability-linked bonds (SLBs).**
- The templates shall contain **information on the allocation of bond proceeds to Taxonomy-aligned activities**, while clearly identifying the share of proceeds allocated to gas and nuclear energy.

#### Q24: Are SLBs covered by the Regulation?

- The only SLBs included are those whose financial or structural characteristics vary depending on whether the issuer achieves predefined **environmental sustainability objectives (and not social or governance objectives).**
- SLBs will have specific requirements in the disclosure templates to be released by the Commission.

**Q25: What types of templates are expected and when?**

- The templates shall be developed by the Commission by means of **guidelines for pre-issuance disclosures, and a delegated act for periodic disclosures**.
- The Commission shall publish the guidelines and adopt the delegated act by **12 months after entry into force of this Regulation**.

**Q26: Is the “voluntary regime” subject to supervision?**

The EUGBS supervision regime shall apply to issuers using templates for **periodic post-issuance information** for the duration of their issuance.

## Conditions for external review of EUGBS and reviews

External review: [Articles 14 to 35](#)

**Q27: What requirements are set for external reviewers?**

- External reviewers shall be **registered and are subject to ongoing supervision by the European Securities and Markets Authority (ESMA)**.
- External reviewers shall disclose to users **the methodologies and key assumptions** they use in their external review activities in sufficient detail.
- They must **have in place arrangements for their own sound corporate governance** to ensure that their pre- and post-issuance reviews are **independent, objective and of good quality**.
- They should disclose **any conflicts of interest** in a transparent manner in the reviews and keep records of the safeguards applied to mitigate any threat to their independence.
- External reviewers **shall keep adequate records** of all several quoted documentations and communications related to the assessment activity of the EUGBS.

**Q28: What are the procedures to register and according to what timeline?**

- ESMA shall register or refuse to register an applicant within 45 working days after receipt of the complete application.
- **ESMA shall develop draft regulatory technical standards and implementing standards to further specify the criteria on which it can assess an application for registration** by an external reviewer, and to specify the standard forms, templates and procedures.
- Drafts shall be submitted to the Commission **between 12 and 24 months** (depending on the nature of the draft) **after the date of entry into force of the Regulation**.

**Q29: Are third-country external reviewers allowed to review the EUGBS?**

Yes. A third-country external reviewer may provide its services to issuers that issue European green bonds **where that third-country external reviewer is registered in the register of third-country external reviewers** kept by ESMA.

**Q30: What transitional regime for external reviewers to provide their services? – Article 62**

- A transitional regime for external reviewers is set **for the first 18 months following the application date of the EUGBS Regulation**.
- During this transitional period, **external reviewers may provide services after having notified ESMA and make their best efforts to comply with their requirements** under the EUGBS Regulation.
- After the 18 months deadline, the external reviewers shall provide services only in accordance with the regulatory regime after they have been registered by the ESMA.



## Supervision by competent authorities and ESMA

Supervision: (whereas 20d) – Article 36 & 37

### Q31: What are the competent authorities' supervisory powers?

The supervisory powers of the competent authorities **may be exercised before or after the issuance of the relevant European green bonds**. In particular, they have the power to:

- require issuers under the voluntary regime those issuers **to include all the elements referred to therein in their periodic post-issuance disclosures**,
- require issuers failing their obligation **to make this information publicly available**.

### Q32: Are external reviewers made accountable? – Article 52

Yes. **If ESMA finds that an external reviewer has, by intent or negligence, committed one or more of the infringements, it shall adopt a decision imposing a fine (from 20K to 200K EUR) or periodic penalty payments.**

### Q33: Can an issuance lose its “EUGBS” designation during its lifetime?

This point remains unclear, **though competent authorities have the power to impose the issuer to make a public statement indicating the nature of the infringement**, as well as to **cease it promptly**. Additionally, they can prohibit the issuer from issuing EUGBS for a period of time not exceeding one year.

## Final provisions (Regulation review, entry into force and application)

EUGBS regulation review: (whereas 36a) – Articles 63 & 64

### Q34: What review is foreseen for the EUGBS regulation?

- The application of this Regulation will be **reviewed by the Commission five years after its entry into force**, and every three years thereafter.
- Three years after the entry into force of this Regulation, the Commission should also produce **a report assessing the need to regulate sustainability-linked bonds**.
- By the end of 2024 and every three years thereafter, the Commission should additionally produce a report on the review of the technical screening criteria

### Q35: When will the regulation enter into force and be implemented?

- The Regulation **shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union**.
- This Regulation **shall apply from 12 months after the date of entry into force** of this Regulation.

## Foreseeable impacts on the green bond market

### Q36: What are the foreseeable impacts of the EUGBS on ICMA green label?

One can expect market subsegments to coexist following the adoption of the EUGBS, one can imagine different categories of green bonds:

1. the best-in-class European Green Bond fulfilling the taxonomy alignment requirement
2. the middle category of bonds using the EU GBS Templates, and some TSC, to go a step further especially by disclosing their taxonomy alignment
3. And the classic ICMA Green Bond with a bit of Taxonomy shopping

See Figure 1: the EUGBS breaks with the green EU Taxonomy binarity.

### Q37: Is it preferable to use the EUGBS or an ICMA label?

It depends on the situations (market context, sectors, investor basis, green credentials of the issuer, etc.). The scarcity of EU Green Bonds due to its stringency will make them looked for. Such product will be sought by investors for their substantial contribution to environmental objectives as well as for their contribution to the computation of financial undertaking Green Asset Ratio.

**Q38: Is the process to get EUGBS longer, more complex, and more expensive than for a ICMA green label?**

Due to the extra disclosure requirements, the Standard would very likely lengthen Green Bond Program Structuring. One can expect this to be particularly true for the first years of the standard application as only few third parties will be ESMA approved, and verifications will be more in depth.

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