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EU GREEN BOND STANDARD

December 2024




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EU GREEN BOND STANDARD – OVERVIEW

EU GREEN BOND STANDARD – OVERVIEW

- EU proposal to **fight greenwashing and enhance comparability**
- **Standard is voluntary but has “teeth”**
- Published in the Official Journal and applies from **21 December 2024**:
- **Key differences from the ICMA Green Bond Principles:**
 - Use of proceeds to be EU Taxonomy aligned (subject to limited exceptions)
 - Standardised allocation, impact and external review templates and pre-issuance EU GBS “factsheets”
 - Mandatory second party opinions from external reviewers
 - ESMA supervision of external reviewers (subject to a transitional regime)
 - Voluntary disclosure templates for any green bond or SLB issued in the EU
 - Requires a Prospectus Regulation compliant Prospectus (subject to standard exceptions for PR exempt Issuers)





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EU GREEN BOND STANDARD – USE OF PROCEEDS

USE OF PROCEEDS

Net proceeds

- Net proceeds must be allocated in alignment with the EU Taxonomy (subject to the limited exception for proceeds that are the subject of the "Flexibility Pocket" or whilst being used towards EU Taxonomy alignment under a "CapEX plan" – see below).
- Net proceeds are *"the difference between the total bond proceeds and the issuance costs that are directly related to the issuance of the bond, which include the costs of financial intermediaries leading the issuance, advisory costs, legal costs, rating costs and the costs related to the external review"*.
- Issuers must allocate proceeds in full before the maturity of the bond (the *"gradual approach"*). Issuers may also allocate proceeds from one or more EU green bonds to a portfolio of fixed assets or financial assets aligned with the EU Taxonomy (the *"portfolio approach"*).
- Further, issuers must use the proceeds for financing or refinancing any of the following:
 - fixed assets
 - capital expenditure
 - operating expenditure *"incurred no more than 3 years"* pre-issuance
 - financial assets created *"not later than 5 years"* post issuance (*note, time limit does not apply when using "portfolio" approach*). Financial assets can be allocated to *"not more than 3 subsequent financial assets in succession"*
 - assets and expenditures of households

Flexibility pocket

- Up to 15% of proceeds may be allocated to EU Taxonomy compliant activities where no EU Taxonomy Technical Screening Criteria (TSC) have been developed (*but must meet DNSH criteria*) or for specific activities related to international support of green finance (e.g. specific types of climate finance reported to the United Nations Framework Convention on Climate Change) (*but must meet TSC on a best-efforts basis*).

USE OF PROCEEDS

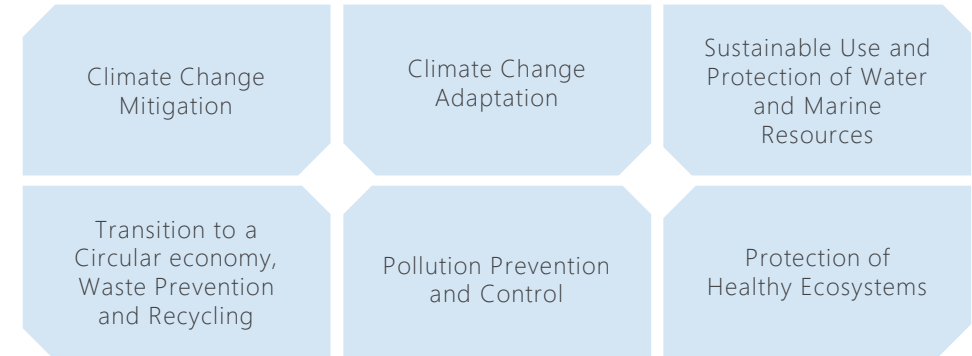
A quick refresher on the EU Taxonomy, DNSH and Technical screening criteria.....

An economic activity is environmentally sustainable under the **EU Taxonomy** when it:

- substantially contributes to one of the six defined **environmental objectives**
- **does no significant harm (DNSH)** to any of the other five objectives
- complies with **minimum social safeguards**

Economic activities are defined by reference to an EU industrial classification system called "NACE"

THE SIX ENVIRONMENTAL OBJECTIVES UNDER THE TAXONOMY REGULATION



Technical screening criteria

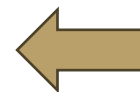
Substantial contribution to climate change mitigation

1. The economic activity manufactures, repairs, maintains, retrofits, repurposes and upgrades components that are essential for delivering and improving the environmental performance for the following vehicles:

- urban, suburban and road passenger transport devices, where the direct (tailpipe) CO₂ emissions of the vehicles are zero;
- vehicles designated as categories M2 and M3³ where the direct (tailpipe) CO₂ emissions of the vehicles are zero;
- vehicles of category M1 and N1 classified as light-duty vehicles⁴ where specific emissions of CO₂, as defined in Article 3(1), point (h), of Regulation (EU) 2019/631 of the European Parliament and of the Council⁵, are zero;
- vehicles of category L⁶ with tailpipe CO₂ emissions equal to 0 g CO₂/km calculated in accordance with the emission test laid down in Regulation (EU) No 168/2013;
- vehicles of categories N2 and N3, and N1 classified as heavy-duty vehicles, not dedicated to transporting fossil fuels with a technically permissible maximum laden mass not exceeding 7,5 tonnes that are "zero-emission heavy-duty vehicles" as defined in Article 3, point (11), of Regulation (EU) 2019/1242 of the European Parliament and of the Council⁷.

2. The economic activity manufactures, repairs, maintains, retrofits, repurposes and upgrades mobility components for personal mobility devices with a propulsion that comes from the physical activity of the user, from a zero-emissions motor, or a mix of zero-emissions motor and physical activity.

As part of this test, the specific activity in question must also satisfy detailed **technical screening criteria (TSC)**. The TSC are intended to be dynamic, changing over time to "keep them aligned with overall policy objectives, technological developments and the availability of scientifically robust evidence justifying the introduction of new or updated criteria".



See the TSC for "Manufacture of automotive and mobility components"


USE OF PROCEEDS

CapEX Plan

- Proceeds may also be used to finance capital expenditures and operating expenditures that will meet the requirements of the EU Taxonomy prior to maturity (seemingly within 5 years, see definition of CapEX plan) subject to the publication of a CapEX plan.
- By way of background, a CapEx plan is defined as “a plan to expand Taxonomy-aligned economic activities or to allow Taxonomy-eligible economic activities to become Taxonomy-aligned”.
- The definition of CapEX plan is contained in a separate regulation, Regulation ((EU) 2021/2178) (sometimes called the Delegated Disclosures Act) and refers to plans of “non-financial undertakings” only.
- CapEX plans, if used, will also require an external review, which must be published within 60 days of the deadline by which the capital and operating expenditures are to be EU Taxonomy aligned.

Grandfathering

- Proceeds should be allocated in line with the TSC at the time of issuance.
- Where the TSC are amended after issuance, unallocated proceeds and proceeds covered by a CapEX plan that have not yet met EU Taxonomy requirements should be allocated in line with the amended TSC within 7 years.
- For portfolio approach, assets included in portfolio must have been TSC aligned at any point 7 years prior to the publication of the relevant allocation report.
- Where proceeds covered by a CapEX plan that have not yet met EU Taxonomy requirements are “at risk of not being aligned” with amended TSC, the Issuer is obliged to draw up, submit to external review by an external reviewer and publish a plan for aligning them “to the extent possible with the amended TSC and for mitigating to the extent possible the negative consequences of the lack of full alignment with the amended TSC”. The plan must be published within 7 years of date of application of the amended TSC.



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EU GREEN BOND STANDARD – REPORTING

REPORTING

Pre-Issuance report

- Issuer is required to complete a “European green bond factsheet” pre-issuance which must be verified with a positive opinion by an external reviewer. The form of the report is set out in Annex I to the Regulation.

Allocation reports

- An allocation report must be published for every 12 month period until the full allocation of proceeds and, if applicable, until completion of the CapEX plan. Issuers must obtain a post-issuance review from an external reviewer after full allocation of the proceeds and on an annual basis where proceeds are allocated in that year on a portfolio basis. Allocation reports and reviews, must be published within 270 days following the end of the annual period. The form of the report is set out in Annex II to the Regulation.

Impact reports

- An impact report must be published after full allocation of proceeds and at least once during the lifetime of the bond. The form of the report is set out in Annex III to the Regulation.
- A review of the impact report by an external reviewer may be obtained but is not mandatory.

CapEX Plan

- CapEX plans, if used, will also require an external review, which must be published within 60 days of the deadline by which the capital and operating expenditures are to be EU Taxonomy aligned.
- See also requirement for publishing an updated CapEX plan where proceeds are “at risk of not being aligned” with amended TSC.

Note, Prospectus, Pre-Issuance Reports, Allocation Reports, Impact Reports and CapEX plans must be published on Issuer’s website

EUROPEAN GREEN BOND FACTSHEET

EUROPEAN GREEN BOND FACTSHEET

This document and its contents are not subject to any approval or endorsement from ESMA or any other competent authority.

1. General information

- [Date of publication of the European Green Bond factsheet]
- [The legal name of the issuer]
- [Where available, the legal entity identifier (LEI) of the issuer]
- [Website address providing investors with information on how to contact the issuer]
- [Where available, the name of the bond(s) assigned by the issuer]
- [Where available, the international securities identification numbers (ISIN) of the bond(s)]
- [Where available, the planned issuance date or period]
- [The identity and contact details of the external reviewer]
- [Where applicable, the name of the competent authority that has approved the bond prospectus(es)]

2. Important information

- [The following statement: "[This bond uses] [These bonds use] the designation 'European Green Bond' or 'EuGB' in accordance with Regulation (EU) 2023/2631 of the European Parliament and of the Council (")."]
- [Where bonds proceeds are intended to be allocated in accordance with Article 5 of that Regulation, the following statement: "[This European Green Bond makes] [These European Green Bonds make] use of the flexibility permitting a partial non-alignment with the technical screening criteria set out in the delegated acts adopted pursuant to Article 10(3), 11(3), 12(2), 13(2), 14(2) or 15(2) of Regulation (EU) 2020/852 of the European Parliament and of the Council (") ('the technical screening criteria'), as further described in Section 4 of this factsheet."]

3. Environmental strategy and rationale

[A statement about whether or not the issuer intends to obtain an external review of the information submitted under this Section via a review of the impact report.]

Overview

- [Information on the manner in which the bond(s) is/are expected to contribute to the broader environmental strategy of the issuer, including the environmental objectives referred to in Article 9 of Regulation (EU) 2020/852 pursued by the bond(s).]

Link with the assets, turnover, CapEx, and OpEx key performance indicators

- [To the extent available to the issuer at the time of issuance, and where the issuer is subject to Article 8 of Regulation (EU) 2020/852, a description of how and to what extent (e.g., expressed as an estimated percentage change year-on-year) bond proceeds are expected to contribute to the issuer's key performance indicators for taxonomy-aligned assets, turnover, capital expenditure and operating expenditure.]

Link to the transition plans

- [Where the issuer is subject to an obligation to publish plans pursuant to Article 19a(2), point (a)(iii), or, where applicable, Article 29a(2), point (a)(iii), of Directive 2013/34/EU of the European Parliament and of the Council ("), or where the issuer voluntarily publishes transition plans:

- the manner in which bond proceeds are intended to contribute to funding and implementing those plans. The information may be given at an economic activity level or at a project-by-project level; and
- a link to the website where those plans are published.]

Securitisation

[Where applicable in the case of a securitisation, a description of the manner in which Article 18(1) of Regulation (EU) 2023/2631 is complied with and the information required in Article 19(2) of that Regulation.]

4. Intended allocation of bond proceeds

[The information listed below shall be provided at least at the level of the economic activity, and ideally at the level of the project or group of projects. Confidentiality agreements, competitive considerations or a large number of underlying qualifying projects and similar considerations may justify limiting the amount of detail that is made available. Where bond proceeds are allocated to expenditure as referred to in Article 4(3) of Regulation (EU) 2023/2631, the information may be provided at programme level.]

Intended allocation to taxonomy-aligned economic activities

- [Whether the issuer is allocating proceeds in accordance with the gradual or portfolio approach, and whether the bond(s) [is a/are] securitisation bond(s).]
- [The minimum proportion of bond proceeds that is required according to the issuer's plans to be used for activities that are environmentally sustainable under Article 3 of Regulation (EU) 2020/852, according to the methodology in the allocation report (the proportion shall be at least 85 %): [XX] % of the bond proceeds.]
- [Where available, an indication of the share of the bond proceeds to be used for financing (in the year of issuance or after the year of issuance) and refinancing.]
- [Where the issuer is a sovereign, and bond proceeds are planned to be allocated to tax relief as set out in Article 4(3) of Regulation (EU) 2023/2631, an estimate of the expected volume of revenue loss associated with eligible tax relief.]
- [Where available, the targeted environmental objective(s), as referred to in Article 9 of Regulation (EU) 2020/852.]
- [For each of the economic activities to which proceeds are intended to be allocated, information on their types, sectors and respective NACE codes in accordance with the statistical classification of economic activities established by Regulation (EC) No 1893/2006 of the European Parliament and of the Council (").]

Intended allocation to specific taxonomy-aligned economic activities

- [Where bond proceeds are intended to be allocated to an enabling or transitional economic activity, which type of enabling or transitional economic activity is intended to be financed and, where available, the amount and proportion of proceeds intended to be allocated to each type of enabling or transitional economic activity.]
- [Where applicable, the amount and proportion of proceeds intended to be allocated to taxonomy-aligned activities related to nuclear energy and fossil gas in accordance with Articles 10(2) and 11(3) of Regulation (EU) 2020/852.]

Intended allocation to economic activities not aligned with the technical screening criteria

- [Where bond proceeds are intended to be allocated in accordance with Article 5 of Regulation (EU) 2023/2631, a statement that the [net] proceeds of the bond are intended to be partially allocated to economic activities that are not aligned with the technical screening criteria. The issuer shall describe such non-alignment, the activities concerned and, where available the estimated percentage of the proceeds intended to finance such activities as a total and on a per-activity basis, including a breakdown describing which point(s) of Article 5(1) of Regulation (EU) 2023/2631 is/are being used. Furthermore, an explanation why the technical screening criteria cannot be applied and an explanation of the manner in which the issuer intends to ensure that those activities comply with Article 5(3) and (4) of Regulation (EU) 2023/2631 and Article 3, points (a), (b) and (c), of Regulation (EU) 2020/852.]

Process and timeline for allocation

[The estimated time following bond issuance until the full allocation of bond proceeds.]

[A description of the processes by which the issuer will determine how projects align with the criteria for environmentally sustainable economic activities set out in Article 3 of Regulation (EU) 2020/852 ('taxonomy requirements').]

Issuance costs

[An estimate of the amount of cumulative issuance costs that are deducted from the proceeds, as permitted under Article 4(1) of Regulation (EU) 2023/2631, with an accompanying explanation.]

5. Environmental impact of bond proceeds

[Where available, an estimate of the anticipated environmental impacts of the proceeds of the bond(s). Where this information is not available, this must be justified.]

6. Information on reporting

[A link to the issuer's website as required by Article 15(1) of Regulation (EU) 2023/2631.]

[Where applicable, a link to the issuer's relevant reports, such as the consolidated management report or the consolidated sustainability report pursuant to Directive 2013/34/EU.]

The date on which the first reporting period starts, if different from the issuance date, as set out in Article 11(1) of Regulation (EU) 2023/2631.


- [An indication of whether allocation reports will include project-by-project information on amounts allocated and the expected environmental impacts.]

7. CapEx plan

- [Where applicable, a detailed description of the CapEx plan referred to in Article 7 of Regulation (EU) 2023/2631 including the main parameters used by the issuer to determine the alignment of the relevant assets or activities with the taxonomy requirements by the end of the period provided for in that Article.]

8. Other relevant information

[In the case of a securitisation bond, references in this document to the issuer shall be construed as and, where appropriate, replaced with references to the originator.]



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EU GREEN BOND STANDARD – EXTERNAL REVIEW

EXTERNAL REVIEW

Independent external reviewer


- Issuers will be required to obtain external reviews on the European green bond fact sheet and certain allocation reports. Issuers may also contract an external reviewer to provide an impact report review. The forms of these external reviews are set out in Annex IV to the Regulation.

ESMA Registration System

- External reviewers will be subject to a registration system and supervisory framework and will need to provide their independent opinion on whether the issuer has aligned with the EU Taxonomy criteria. The supervisory framework, amongst other items, covers corporate governance, quality, independence, conflicts of interest and record keeping. ESMA will be tasked with establishing the register and supervision regime for EU and third-country external reviewers.

Transitional regime

- Will apply for the first 18 months following the entry into force of the Regulation to enable issuance before the registration system is fully on-stream. This means external reviewers can provide services after notifying ESMA and providing the registration information referred to in [Article 23\(1\)](#). External reviewers operating during the transition period should make their **best efforts** to comply with the requirements of the EU GBS.



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EU GREEN BOND STANDARD – OTHER ITEMS

OTHER ITEMS

EU Prospectus Regulation

- The EU GBS can only be used by issuers that publish a prospectus under the EU Prospectus Regulation with the exception of those EU sovereign and quasi sovereign entities that are exempt from the EU Prospectus Regulation (i.e. exempt under Article 1(2)(b) and (d) of the Prospectus Regulation).

Sovereigns and public bodies

- EU sovereign and quasi sovereign entities that are exempt from the EU Prospectus Regulation and third-country equivalent entities, may allocate proceeds to various types of public expenditure provided that the proceeds are allocated in alignment with the EU Taxonomy. Post-issuance reviews of the allocation of proceeds may be provided by a “state auditor” not subject to ESMA supervision.

Securitisation

- The use of proceeds requirements will apply to the originator. Synthetic securitisations are excluded as are certain sectors such as exposures financing the exploration, mining, extraction, production, processing, storage, refining or distribution, including transportation, and trade of fossil fuels.

Penalties

- The relevant competent authority is required to supervise compliance with the EU GBS.
- Competent authorities will have a range of powers including compelling the publication of reviews, assessments and allocation reports, suspending admission to trading, making public the fact the issuer has failed to comply with the EU GBS, prohibiting the future issuance of an EU GBS plus a range of other administrative penalties (including fines) and potentially criminal penalties.

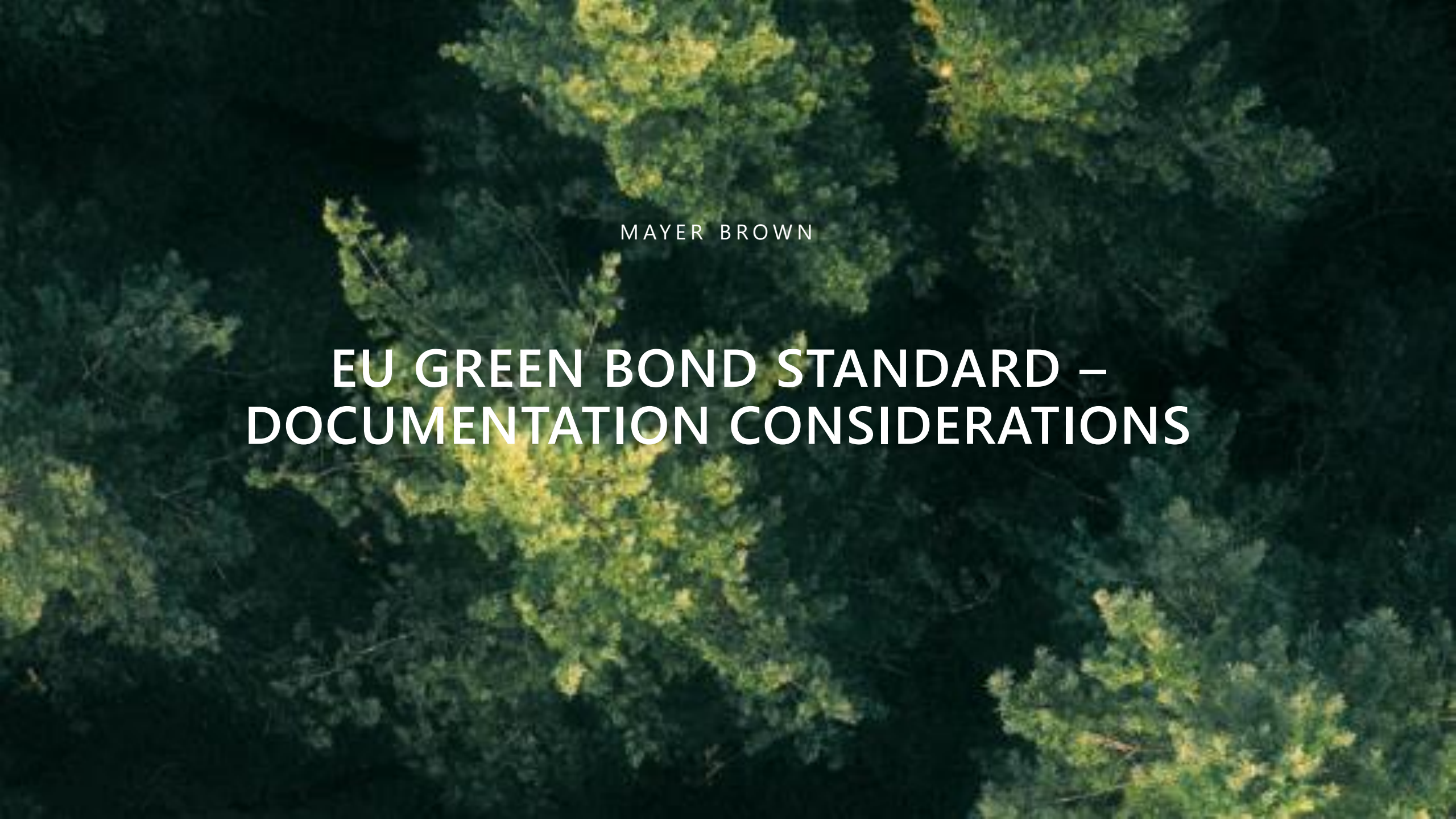
OTHER ITEMS

Voluntary disclosures

Issuers of use of proceeds bonds “marketed as environmentally sustainable” that are not EU GBS bonds and environmental sustainability linked bonds may provide voluntary pre-issuance and post-issuance disclosures based on templates to be developed by the European Commission. Voluntary disclosure templates will include items such as (if required under CSRD) disclosure of transition plan, (if required under Article 8 Taxonomy) Issuer taxonomy alignment, taxonomy alignment of use of proceeds, the rationale, level of ambition and materiality (SLBs) plus other items. Template for reporting are subject to consultation and we understand likely to be adopted in early 2025.

2. For an issuer of bonds marketed as environmentally sustainable, the templates referred to in paragraph 1 shall include at least the following elements:
 - (a) where the issuer is subject to an obligation to publish plans pursuant to Article 19a(2), point (a)(iii), or, Article 29a(2), point (a)(iii), of Directive 2013/34/EU, or where the issuer voluntarily published such plans, the manner in which the bond proceeds contribute to the implementation of those plans;
 - (b) where the issuer is subject to the obligation to disclose information pursuant to Article 8 of Regulation (EU) 2020/852, the manner in which the bond proceeds contribute to the issuer's taxonomy-aligned turnover, capital expenditure and operating expenditure;
 - (c) the minimum proportion of bond proceeds that are used for activities that are environmentally sustainable under Article 3 of Regulation (EU) 2020/852.
3. For an issuer of sustainability-linked bonds, the templates referred to in paragraph 1 shall include at least the following elements:
 - (a) the rationale, level of ambition, materiality, and calculation methodology of the key performance indicators set by the issuer;
 - (b) where the issuer is subject to an obligation to publish plans pursuant to Article 19a(2), point (a)(iii), or Article 29a(2), point (a)(iii), of Directive 2013/34/EU, or where the issuer voluntarily published such plans, the manner in which the bond proceeds are intended to contribute to the implementation of those plans;
 - (c) where relevant, the manner in which the bond proceeds are linked to the issuer's taxonomy-aligned turnover, capital expenditure and operating expenditure by applying Delegated Regulation (EU) 2021/2178;
 - (d) a description of the bond structure, including the coupon adjustment mechanism.

Post-issuance voluntary disclosures – Article 21



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EU GREEN BOND STANDARD – DOCUMENTATION CONSIDERATIONS

DOCUMENTATION CONSIDERATIONS

Prospectus

- There will be additional information included in the offering documentation and subsequent reporting that will be subject to scrutiny by investors and competent authorities – this needs to be subject to diligence and made clear that is not the responsibility of the underwriters.
- Consider disclaimers and risk factors. These will need to be updated from market standard for ICMA deals.
- Consider ESMA Public Statement on "[Sustainability Disclosure in Prospectuses](#)".
- Certain new technical requirements e.g. Bonds must be designated as "European Green Bond" or "EuGB" throughout the prospectus (Article 14(1)(a)). Use of proceeds section must state that issued in accordance with the EU Green Bond Regulation (Art14(1)(b)). For PR compliant Prospectus, if applicable, a summary of CapEx plan must be included in the Prospectus (Art14(4)).
- If EU GBS and non-EU GBS issuances combined in one Base Prospectus – differentiation needs to be clear to avoid misleading investors.
- How can EU GBS mechanics be added to a Programme – potentially via Supplement, Update, Drawdown Prospectus. It will be a fact specific discussion.
- Upcoming changes via the Listing Act (*worth watching this space as the picture develops in 2025*):
 - Minimum disclosure standards under the Prospectus Regulation will be updated with the implementation of the Listing Act.
 - ESMA Consultation Paper of 28 October (see "[Useful Links](#)" section for details) discusses the new Annex 21 building block for ESG information in non-equity prospectuses. ESMA believes that most of the required information can be sourced from the EU GB Factsheet.
 - Incorporation by reference of the relevant information from an EU GB Factsheet is required by the Listing Act; ESMA has proposed unique solution by an incorporation by reference into Final Terms of the EU GB Factsheet without the need to update or supplement existing base prospectuses.
- Impact on roadshow materials and other advertisements. These should carry similar disclaimers to those in the Prospectus re EU GBS alignment.

DOCUMENTATION CONSIDERATIONS

Subscription Agreement/Dealer Agreement

- Consider what level of additional contractual protection may be desirable e.g. reps on the accuracy of the Green Bond Fact sheet and intention to comply with the ongoing requirements of the EU GBS.

Due diligence

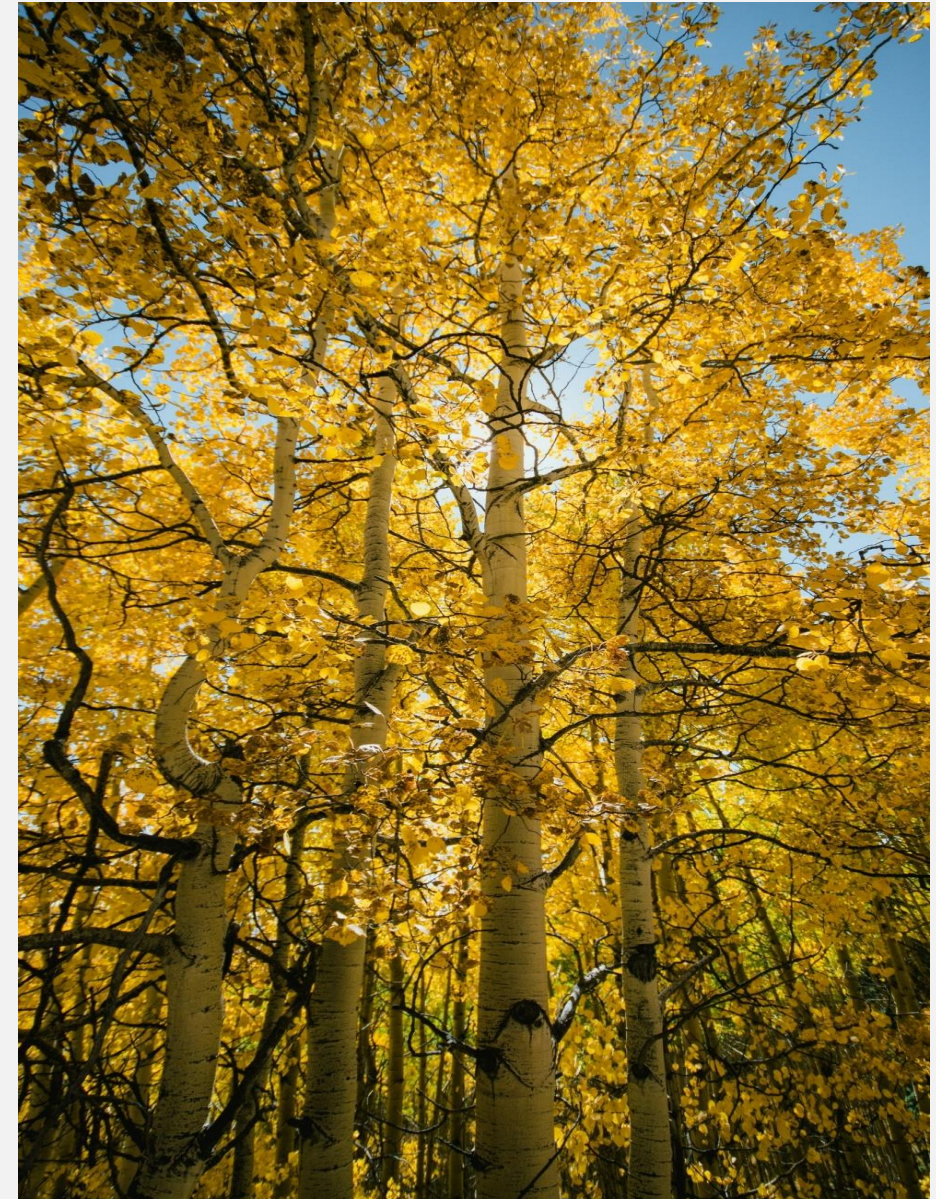
- Enhanced questions on the work done to ensure EU GBS compliance and taxonomy alignment.

Announcements

- Care around wording announcing the transaction. Aim is to avoid the idea that underwriters have ensured compliance with EU GBS.

EU GREEN BOND STANDARD – USEFUL LINKS

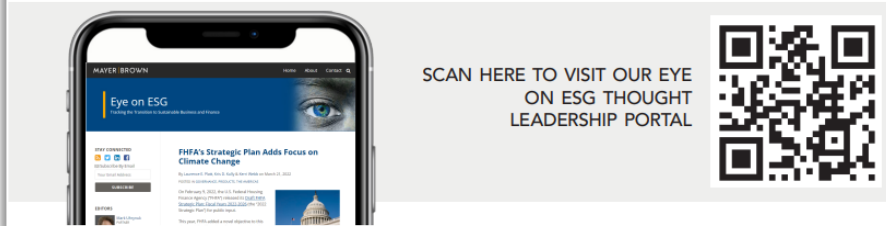
- [Mayer Brown Insight Series](#) – Our introduction to the EU GBS
- [The European Green Bond Standard \(EU\) 2023/2631](#) – Legislative text
- [The European Green Bond Standard](#) – EU Commission EU GBS Webpage
- [EU taxonomy for sustainable activities](#) – EU Commission Taxonomy Webpage
- [Regulation \(\(EU\) 2021/2178\)](#) – Useful for detail on CapEX and OpEX plans
- [Regulation \(\(EU\) 2017/1129\)](#) – The Prospectus Regulation
- [Getting ready for the EU GBS](#) – EU Commission Workshop (22 October)
- [ESMA makes proposals to streamline the prospectus area and seeks stakeholder input](#) – ESMA PR Consultation Paper (28 October)



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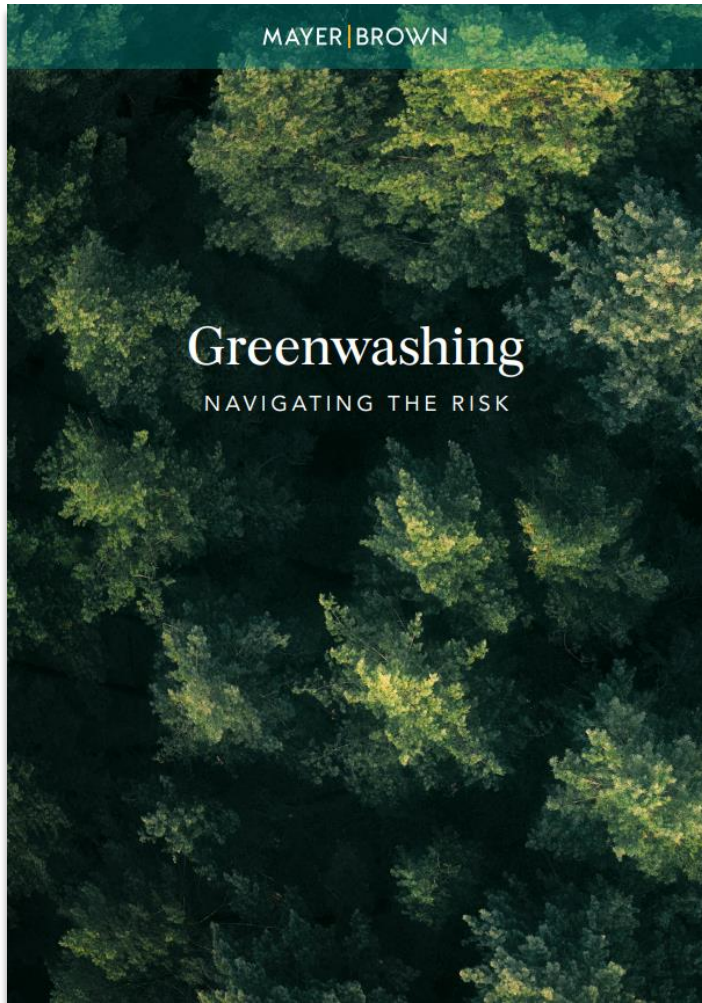
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GREENWASHING: NAVIGATING THE RISK



"...The risk of an accusation of "greenwashing" is now an important concern for many companies. Greenwashing is an ill-defined concept but, nevertheless, is increasingly a source of litigation and regulatory scrutiny – with more of both expected. It carries with it reputational, regulatory and litigation risks for which companies should be prepared. Whilst the risks are always context specific – varying by jurisdiction, industry and product - there are common themes. We take an in-depth look at those themes and make suggestions for how organisations can think about mitigating greenwashing risk..."

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