BUNDESVERBAND DEUTSCHER
LEASING-UNTERNEHMEN

Template for providing your feedback on the EU Taxonomy Delegated Acts

TYPE OF RESPONDENT: Business Association	**TRANSPARENCY REGISTER NUMBER:** LobbyR R001688
COUNTRY: Germany	**SECTOR OF ACTIVITY: Banking/Finance - Leasing**
ORGANISATION: Bundesverband Deutscher Leasing-Unternehmen e.V.	**ORGANISATION SIZE: Small (< 50 employees)**
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COMMENT

Delegated Act: Taxonomy Environmental Delegated Act

Annex: **Annex V-VII to Environmental Delegated Act (Art 8)**

ACTIVITY (e.g. CCM 3.19 Manufacture of rail constituents):

GENERAL COMMENT (incl. comments on corrections of technical mistakes in Climate Delegated Act and Article 8 Delegated Act):

About the BDL
The BDL represents the interests of the German leasing industry, which generates a new business volume of around EUR 70 billion annually. This means that the leasing industry finances about one third of all equipment investments in Germany, with a disproportionately high share in the investment supply of German small and medium-sized enterprises. Around 150 leasing companies are organized in the BDL, which together represent a share of over 90 percent of the German leasing market. The business model of leasing companies is characterized by small and medium-sized enterprises.

According to Article 8 paragraph 1 of the Taxonomy Regulation, any company required to prepare a sustainability reporting pursuant to Article 19a or Article 29a of the CRR is also obliged to disclose the extent of its Taxonomy eligible contracts. The Taxonomy Regulation distinguishes between financial undertakings within the meaning of Article 4 CRR and non-financial undertakings. In accordance with this distinction, leasing companies are generally required to report the key performance indicators (KPIs) for non-financial undertakings (turnover, CapEX, OpEx).

Question 26 of the EU Commission's FAQ (dated 2 February 2022) already dealt with the question of whether financial services providers that are not in the scope of the CRR may also report financial KPIs (Green Asset Ratio and Banking Book Taxonomy Alignment Ratio) as an alternative to the KPIs for non-financial undertakings (turnover, CapEX, OpEx). In its answer, the EU Commission gives financial

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services providers the option of voluntarily reporting according to Annex VI of the Taxonomy Regulation if this reporting template is more suitable.

However, this answer still leaves a scope for interpretation. Auditors refer to the possibility of voluntary reporting in the sense of FAQ no. 26 as an additional requirement. This means that leasing companies could report on the KPIs for financial undertakings, but would still have to report on the KPIs for non-financial companies as well. This double burden is in no way feasable for medium-sized companies.

With the entry into force of the CSRD, more than half of the German leasing companies will fall within the scope of the CSRD and Article 8 Taxonomy Regulation because of their turnover and balance sheet total and will thus be obliged to provide a sustainable reporting. The majority of these companies have a medium-sized structure with only 10 to 15 employees. The implementation of a sustainability reporting poses a considerable challenge, particularly with this level of staffing.

An additional complicating factor is that about 2/3 of the German leasing companies do not fall under the CRR and would therefore have to report the KPIs for non financial undertakings (share of turnover, CapEx, OpEx) in accordance with Article 8 of the Taxonomy Regulation - even though the nature of their business model means that they are more appropriately assigned to the financial sector and their internal management is based on this. The allocation of the leasing industry to the financial sector is otherwise in line with the European System of Accounts (ESA 2010). Furthermore, leasing companies are also subject to national financial supervision by BaFin and Deutsche Bundesbank.

Urgent clarification of question 26 is needed. Leasing companies, as financial service providers who are not covered within the scope of the CRR but are being under national supervision (see Regulation (EU) No 575/2013, article 119 (5)) may voluntarily report the key figures for the financial sector, without having to additionally report the KPIs required for non-financial undertakings.

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COMMENT

Delegated Act: Taxonomy Environmental Delegated Act

Annex: Annex II Climate Delegated Act (CCA)

ACTIVITY (e.g. CCM 3.19 Manufacture of rail constituents): CE 5.5 Product-as-a-service and other circular use-and result-oriented service models

GENERAL COMMENT (incl. comments on corrections of technical mistakes in Climate Delegated Act and Article 8 Delegated Act):

COMMENT ON THE ACTIVITY DESCRIPTION:

In order for a product-as-a-service transaction is eligible to the environmental Taxonomy for circular economy, the financed object must have either at least twice the lifetime or twice the usage intensity, or the combination of lifetime and usage intensity must be twice as high as the EU reference values that are yet to be defined. This results in two challenges for the leasing business model, which make the implementation of the taxonomy criteria practically impossible.

1. Tax regulations only allow a maximum use of 90 % of the normal useful life

The tax regulations for leasing in Germany only allow a maximum use of 90% of the normal useful life. Otherwise, the transaction would no longer be considered a leasing transaction. As a result, leasing contracts could never meet the criteria of the taxonomy and would be excluded from application per se, despite of a business model that is closely orientated on circular economy.

2. Separate consideration of first use phase and secondary/tertiary use phase excludes leasing

The proposed wording is based on a classic rental or second-hand business in which a property is rented several times in succession by the same lessor. In this regard, the requirements of the circular economy can be achieved with appropriate planning.

In the case of leasing, however, the initial period of use and the subsequent sale of the leased asset on the secondary market (for further use by another user) must always be viewed as a single entity. This means that leasing companies take back the leased asset from the lessee at the end of the agreed term, usually refurbish the asset and sell it on to a third party for further use. It is only the combination of these different usage phases that generates the economic benefit for the leasing company itself.

In this combined view, the leasing business model is based on the principle of a circular economy, and the assets are in use for longer than their normal useful life, i.e. for well over 100%.

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Therefore, we request a practical adjustment, according to which leasing transactions also fall under the taxonomy, environmental objective circular economy, if the leasing company utilises its objects on the secondary market and thus, in the overall view, it can be assumed that the product lifetime will typically fulfil the technical assessment criteria.

Furthermore, we are in favour of including the NACE code C29 Manufacture of motor vehicles, trailers and semi-trailers analogous to "5.4. Sale of second-hand goods", so that leasing companies that do not offer one-stop services can also take the objects into account accordingly.

COMMENT ON THE ACTIVITY SUBSTANTIAL CONTRIBUTION CRITERIA:

The restriction "while ensuring that ownership remains with the company providing the service" in the first sentence of the contribution criteria unnecessarily reduces the proportion of activities that comply with the circular economy and would exclude a large proportion of leasing companies that offer "product-as-a-service" contracts from the scope of application. Only manufacturers who lease and service their products at the same time would be able to meet the criteria of the circular economy. However, this would exclude more than 60 % of the leasing sector in Germany.

Background:
Leasing companies act as the legal owner of the leased asset, but are usually not identical with the company that provides the service to the asset. Only rarely are the service provider and the lessor under the same ownership (e.g. manufacturer leasing).

As long as the economic activity supports the longevity and use of the objects in the sense of the technical screening criteria for a circular economy, the leasing company should also be allowed to consider a transaction as taxonomy-aligned in which a contractual partner provides the necessary services. This would ensure that companies within the leasing sector are treated equally and that the lessee can continue to conclude contracts with the leasing company that suits him best without suffering disadvantages in the taxonomy calculation.

Therefore, leasing companies should also be allowed to consider transactions where a third party provides the services.

COMMENT ON THE ACTIVITY DO NO SIGNIFICANT HARM CRITERIA:

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COMMENT

Delegated Act: Amendment to Taxonomy Climate Delegated Act

Annex: Annex I to Climate Delegated Act (CCM)

ACTIVITY (e.g. CCM 3.19 Manufacture of rail constituents): CE 6.18. Leasing of aircraft

GENERAL COMMENT (incl. comments on corrections of technical mistakes in Climate Delegated Act and Article 8 Delegated Act):

COMMENT ON THE ACTIVITY DESCRIPTION:

We expressly welcome the expansion of the Taxonomy Regulation in Environmental Objectives 1 and 2 and see this as a clear incentive for progress in the sustainable orientation of the economy. The inclusion of aviation and the associated operation of rolling stock and other infrastructure as part of a forward-looking mobility concept plays an important role.

COMMENT ON THE ACTIVITY SUBSTANTIAL CONTRIBUTION CRITERIA:

In addition to the operation of carbon-free or carbon-lean aircraft, the technical screening criteria also take into account the criterion of exchanging a taxonomy-eligible aircraft for a non-taxonomy-compliant aircraft in the fleet.

As leasing companies usually become the owner of the aircraft, this requirement could be misinterpreted to mean that the taxonomy eligibility must be based on the leasing company's fleet. This approach would discriminate against leasing companies with only a single aircraft leasing in their portfolio in favour of leasing companies with large aircraft fleets.

We therefore ask for clarification that, when determining the technical screening criteria, the fleet used by the respective airline (including the lessee) should be taken into account, irrespective of the ownership structure, and that the portfolio of the leasing company itself is not relevant.

COMMENT ON THE ACTIVITY DO NO SIGNIFICANT HARM CRITERIA:

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