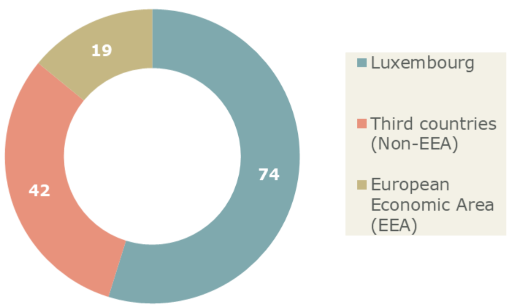
Results of the enforcement of the 2023 financial and non-financial information published by issuers subject to the Transparency Law

1. Introduction

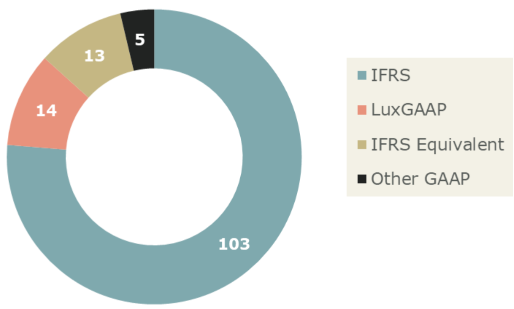
The CSSF is the competent authority to ensure the supervision of securities markets. In this context, the CSSF is in charge of examining the compliance of the financial and non-financial information, published by issuers under its supervision, with the relevant reporting framework and thereby contributes to investor protection and promotes confidence in financial markets.

Population of issuers falling within the scope of enforcement of financial information as at 1 January 2024

Geographical area

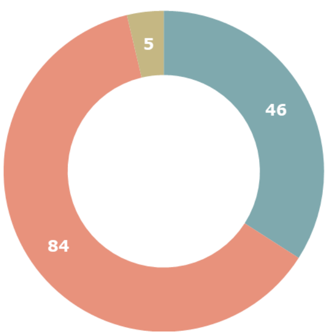


Principal GAAP

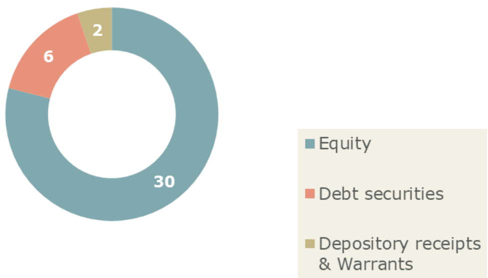


Population of issuers falling within the scope of enforcement as at 1 January 2024 by type of securities

for financial information



for non-financial information



2. Introduction

The selection of the issuers that are examined each year is based on a mixed model in which a risk-based approach is combined with a sampling and a rotation approach. The risk-based approach adopted considers the risk of a misstatement as well as the possible impact of such a misstatement on the financial markets.

As part of the examination process and depending on the topics covered, the CSSF identifies the most effective way for examining the selected financial and non-financial information. As a result, the enforcement activities usually consist of a combination of thematic, focused and unlimited examinations.

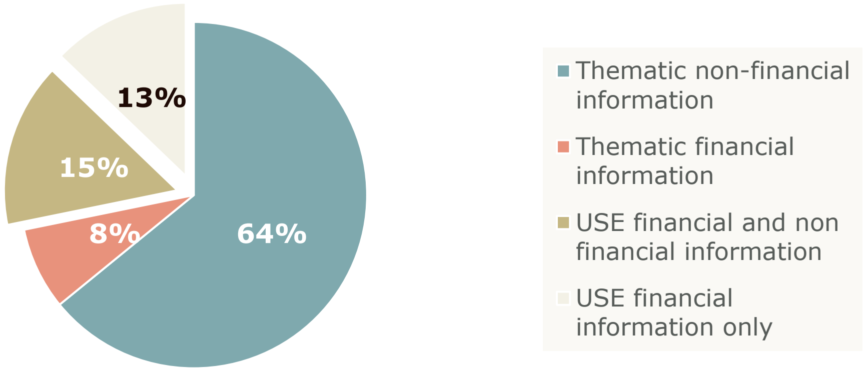
Types of examinations performed by the CSSF:

- **Unlimited examinations ("USE")**: evaluation of the entire content of the financial and non-financial information of an issuer included in one or more harmonised documents in order to identify issues/areas that, in the enforcer's opinion, need further analysis and subsequent assessment of whether the information regarding those areas is in accordance with the relevant reporting framework. An USE usually entails an interaction between the CSSF and the issuer.
- **Focused examinations ("FSE")**: evaluation of pre-defined issues in the financial and non-financial information of an issuer and the assessment of whether the information is compliant with the relevant reporting framework in respect of those issues. These examinations may imply interactions of the CSSF with the issuer or not, depending both on the issues and findings.
- **Thematic examinations**: review of the practices followed by a sample of issuers concerning specific issues. A thematic review does not generally imply an interaction between the CSSF and the issuer.

When selecting the issuers to be examined during its 2024 enforcement campaign, the CSSF also considered the retained priorities, which concerned both financial and non-financial information and which were presented in its Communiqué dated 8 January 2024.

Thus, the examinations performed in 2024 can be further illustrated as follows:

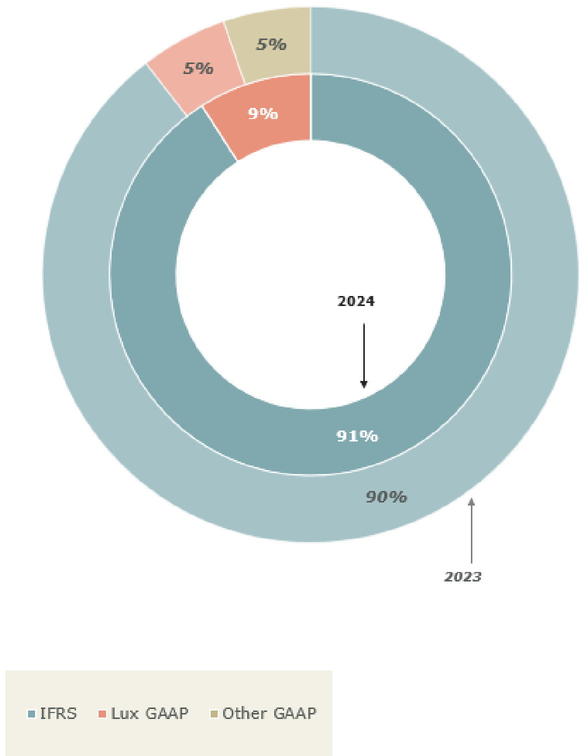
Breakdown of issuers examined by type of examination



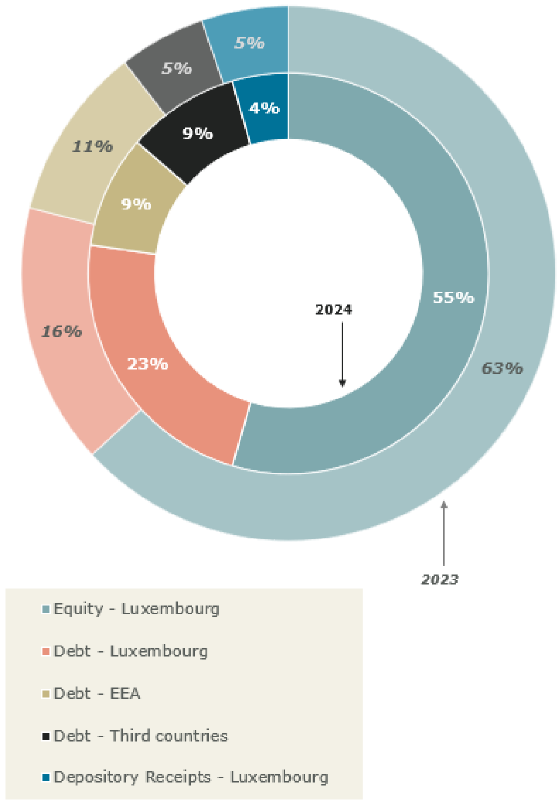
In 2024, the **Unlimited examinations** covered 16% of the population of issuers under the CSSF's scope (2023: 13%). As the charts below show, these examinations covered different categories of issuers and accounting standards, and thus a representative sample of the population of issuers supervised by the CSSF.

Unlimited examinations in 2024 and 2023: breakdown by

Principal Gaap used by issuers



Type of securities admitted and country

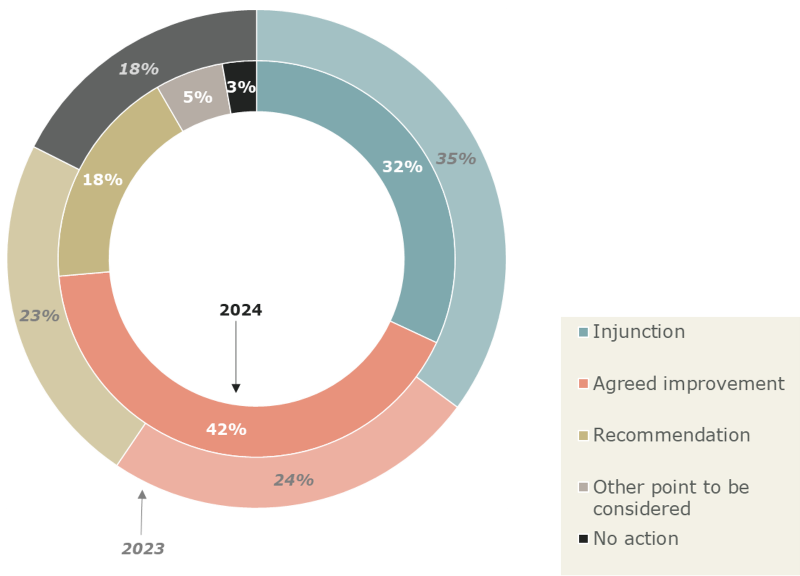


In the course of the examinations performed, the CSSF is led to take decisions with respect to certain issuers, the purpose of which is either to correct the errors identified or to amend and improve the financial and non-financial information subsequently published.

Amongst the decisions taken in 2024, 32% were injunctions pronounced because the accounting treatment, the presentation or the disclosure of the information was not in compliance with the applicable reporting framework. 42% represented agreed improvements of issuers on the accounting treatment or disclosures to be made. Another 18% were recommendations to improve the information in future reports. In 5% of cases, we also drew the issuer's attention to issues that could have a material impact in the future.

Finally, we also investigated several issues or areas where we concluded, after thorough analysis, that the reporting framework has been duly respected and that no further action was deemed necessary.

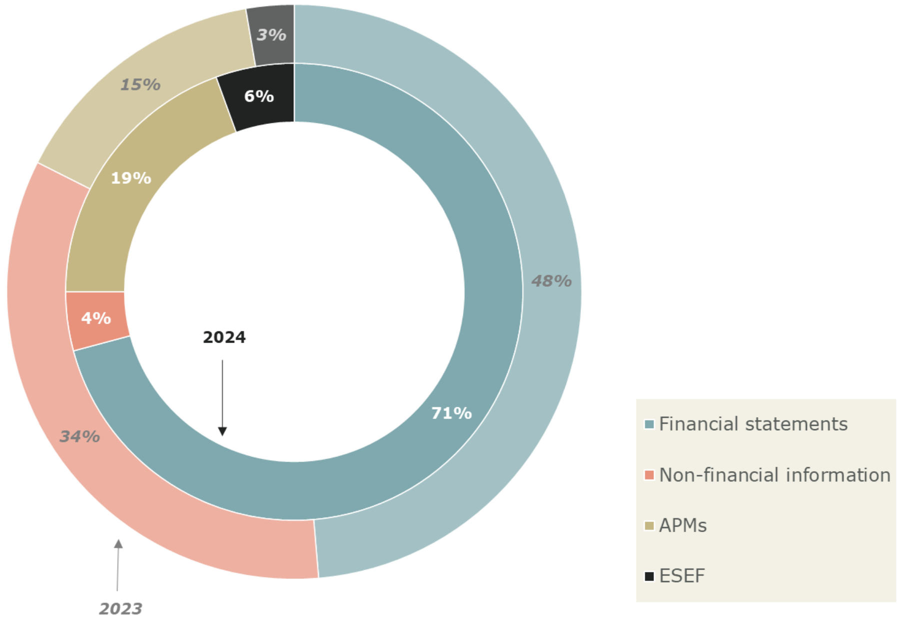
Breakdown by type of decision



In 2024, the decisions shown in the graph above were communicated to issuers in the context of individual letters to be considered for their future regulated information to be published, with the exception of one decision which was the subject to a specific publication by name on the CSSF's website on 1st October 2024.

In addition to examining financial information alone, the CSSF's mission also covers non-financial information, Alternative Performance Measures ("APMs") and the European Single Electronic Format ("ESEF") taxonomy. Therefore, the actions taken by the CSSF no longer exclusively concern the content of the financial statements, as shown in the chart below.

Decisions by type or format of regulated information



In 2024, the number of decisions taken by the CSSF regarding non-financial information was lower than in 2023 due to the CSSF's focus on the climate transition plans put in place by issuers through a thematic examination. Thematic examination does not generally call for decisions on the part of the CSSF.

3. Main findings related to financial information

Impairment of non-financial assets

In a difficult period for some issuers due to unfavourable and uncertain macro-economic conditions, the CSSF paid particular attention to the impairment tests carried out on goodwill and assets with indefinite useful lives. More than usual, we observed shortcomings in relation to the requirements of IAS 36 *Impairment of Assets*.

These failings included the following:

- Directly attributable assets were excluded, thereby incorrectly reducing the carrying amount of cash-generating unit ("CGU");
- Budgets prepared over a 10-year period without adequate justification for this extended period compared to the default maximum period of five years indicated in the standard, in an ecosystem where peer companies did not adopt similar durations;
- Levels of Capital expenditure (Capex) and Net working capital that did not match the business growth assumptions used in the budgets;

- Very high projections for revenue growth, operating margins and expected free cash flows over the medium term without sufficient justification or support from external evidence. The free cash flows used for the last year of the budget (which serves as the basis for calculating the terminal value) could represent 5 to 10 times the free cash flows for the first year of the budget;
- A consequent disproportionate weighing of the terminal value in the total Value in Use (“VIU”), with the result that the majority of the VIU was derived from less reliable assumptions;
- Sensitivity analysis was often not disclosed or even not carried out by issuers, even for a CGU where a reasonably possible change in a key assumption might cause an impairment.

In light of this, the CSSF wishes to draw attention to the following requirements of IAS 36:

- Paragraphs 33 and 34 emphasise the importance of basing cash flow projections on reasonable and supportable assumptions that represent management's best estimate of the range of economic conditions that will exist over the remaining useful life of the asset;
- Paragraphs 75-77 specify the composition of the carrying amount of the CGU which includes the carrying amount of only those assets that can be attributed directly, or allocated on a reasonable and consistent basis;
- Paragraph 134 (f) asks to disclose the sensitivity of key assumptions on which management has based its determination of the recoverable amount of a CGU.

The CSSF stresses that issuers should have as much evidence as possible for the budgets used, particularly in difficult economic conditions.

They should ensure that cash flow projections are based on reasonable and supportable assumptions, particularly for medium-term horizons, and provide a sensitivity analysis where requested and necessary.

Fair value disclosures pertaining to investment property

As outlined in the CSSF’s 2024 priorities, the current macroeconomic environment increases the uncertainty associated with determining fair value ("FV").

Therefore, the CSSF carried out a thematic review of the FV-related disclosures of a sample of real estate issuers measuring their investment property portfolios under the FV model as stipulated in paragraphs 33 to 55 of IAS 40 *Investment Property*.

We observed that the sampled issuers disclosed information about the valuation inputs, techniques and outcomes as per FV disclosure requirements of IFRS 13 *Fair Value Measurement*. The investment properties held by the examined issuers were all classified as level 3 in the FV hierarchy and as such required quantitative information about the significant unobservable inputs used in the FV measurement. We noted that most of the issuers in the sample adequately outlined the valuation techniques used together with quantitative information about the underlying significant unobservable inputs, i.e.:

- for the Discounted Cash Flows approach: rent growth, long term vacancy rates, discount rates, capitalisation rate…;
- for the comparable approach: price per sqm, rent per sqm…;
- for the residual approach: sales price per sqm, development costs per sqm and developer margin assumptions...

We further highlight that, as per paragraph 92 (d) of IFRS 13, issuers need to consider "whether users of financial statements need additional information to evaluate the quantitative information disclosed". In this context, in its Public Statement on European common enforcement priorities for 2023 annual financial reports (ESMA32-193237008-1793), ESMA expressed its expectations that issuers should "explain how they determined all key inputs, such as the capitalisation rate and/or the rate of return" in order to satisfy the requirements of the aforementioned paragraph 92 (d) in light of the current macroeconomic tensions affecting significantly the real estate sector. We observed that none but one of the sampled issuers provided such bespoke disclosures. Furthermore, even the issuer who did provide some disclosures to this effect, did not cover thoroughly all the unobservable inputs used for all the valuation techniques applied.

As regards changes in unobservable inputs, where a change in those inputs might result in a significantly higher or lower FV measurement, some of the examined issuers provided a narrative description of such sensitivity, whereas an equal proportion disclosed full quantitative sensitivity analysis, on top of the narrative description. Whilst both approaches satisfy IFRS 13 disclosure requirements *per se*, we note that the latter provides users of the financial statements with more granular and meaningful information.

The CSSF is concerned by the fact that none of the sampled issuers has followed thoroughly ESMA's recommendations. When macroeconomic circumstances increase the uncertainty inherent to FV measurement of investment properties categorized as level 3 of the FV hierarchy, we exhort issuers not only to disclose quantitative information about the unobservable inputs but also to explain how such key inputs have been determined. In addition, the CSSF encourages issuers to complement the narrative description of the sensitivity of FV measurement to changes in unobservable inputs with a quantitative sensitivity analysis.

Interim financial statements

As part of its 2024 examination campaign, the CSSF has identified several disclosure gaps in interim financial statements prepared in accordance with IAS 34 *Interim Financial Reporting*. Consequently, the CSSF would like to highlight the areas where such deficiencies have been most frequently identified:

- issuers, whose operations were affected by cyclicality should provide appropriate explanatory commentary to this effect in their interim financial statements;

- issuers should provide adequate disclosures about the FV of financial instruments in accordance with the requirements of IFRS 13 and IFRS 7 *Financial Instruments: Disclosures*, as referred to in IAS 34;
- issuers should disaggregate revenue recognised from contracts with customers into categories that depict how the nature, amount, timing and uncertainty of revenue and cash flows are affected by economic factors further to the requirements of IFRS 15 *Revenue from Contracts with Customers*, as referred to in IAS 34;
- issuers should ensure that business combination-related disclosures satisfy the requirements of IFRS 3 *Business Combinations*, as referred to in IAS 34.

The CSSF emphasises that, albeit the legal and regulatory framework and the fact that IFRS do not impose any kind of assurance requirements on the interim financial statements, those should not be perceived as less important than the annual financial statements and should be prepared with due care. This implies satisfying all the disclosure requirements set out in IAS 34, subject to the overarching tenet of materiality.

Segment reporting

Another field in which the CSSF noted that adequate disclosures were missing or incomplete was that of the segment reporting, with regard to the requirements of IFRS 8 *Operating Segments*. For instance, the disaggregation of revenue information in some issuers' segment reporting note proved to be significantly less granular than the way such data was presented on the face of the income statement itself. Such an approach seems inconsistent and lacks adequate granularity.

Other instances of non-compliance detected pertained to the requirement of IFRS 8 to separately identify and describe material reconciling items. For example, the amount of each material adjustment necessary to reconcile the profit or loss of the reportable segment to the entity's profit or loss resulting from different accounting policies, should be separately identified and described.

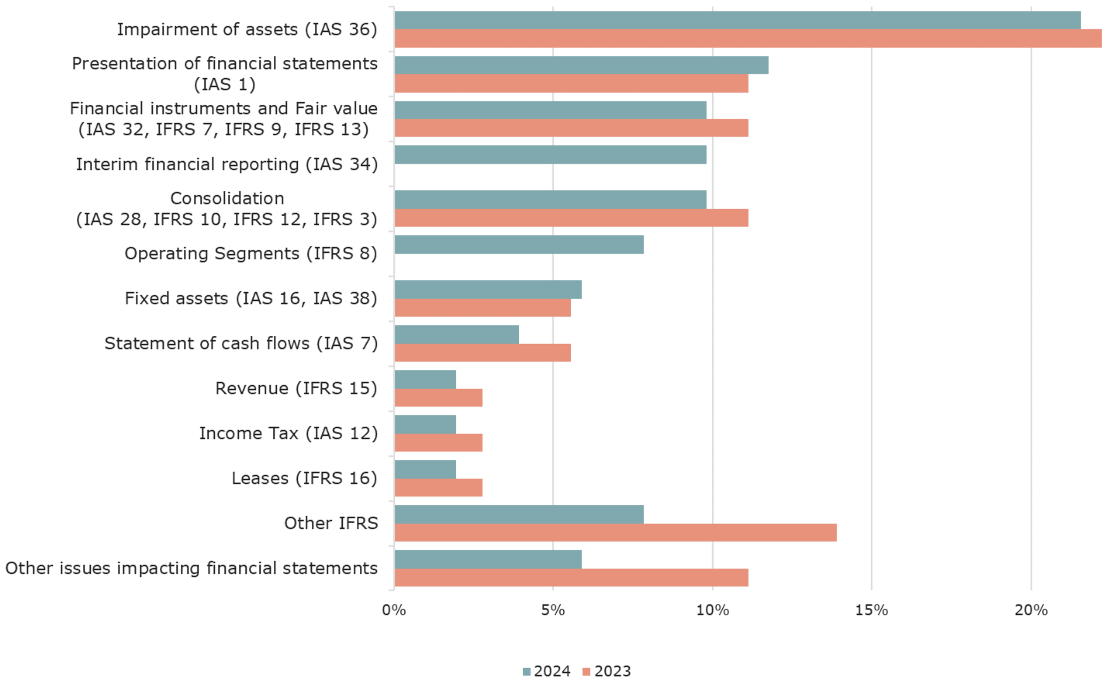
We also noted that in some cases, for the sake of the reconciliation completeness, a reconciling column or row under the generic term "corporate" (or similar) has been inserted in the segment reporting tables. We consider that even when such "corporate" reconciling column or row is not explicitly flagged as an operating segment, such a presentation could be somewhat misleading for the users of the financial statements.

Given that "corporate" or "functional" elements cannot be considered as an operating segment *per se*, the CSSF recommends that, where such a column or row is deemed necessary, issuers should clearly indicate that such presentation is for reconciliation purpose only.

We also regret that, in several cases, the issuers' descriptions of their accounting policies with regard to segment reporting turned out to be quite boilerplate, in essence merely reproducing paragraphs from IFRS 8. The CSSF reminds issuers that, in order to add value, descriptions of the accounting policies should be tailored and should, *inter alia*, clearly expound the rationale for delineating the issuers' reportable operating segments.

The CSSF wishes to emphasise that, although IFRS 8 is a disclosure-only oriented standard, satisfactory compliance with its requirements is key for the users of the financial statements to understand and assess the nature and financial performance of business activities as perceived by the issuer itself.

Breakdown of decisions on financial statements by topic



Alternative Performance Measures ("APM")

ESMA Guidelines on Alternative Performance Measures (APMs) (ref ESMA/2015/1415, "Guidelines") are nearly a decade old, since they were published in October 2015, and compliance with them by issuers has improved overall. Nevertheless, during our reviews of management reports and press releases on earnings, we still identified issues.

Thus, while most issuers now apply the principles of these guidelines for most of the APMs presented, there were still breaches for certain measures.

The main areas of concern are:

- Lack of clear and explicit definitions: breaches might result either from the issuer's failure to identify a measure as an APM or from its assumption that the measure is widespread in the industry, rendering such disclosure unnecessary;

- Misstatements in the reconciliations (or lack of reconciliations) and explanations on the use of APMs, for the same reasons;
- Certain definitions and reconciliations were provided by issuers, but only for some of the APMs presented.

Another issue we came across on a number of occasions this year was the use of different labels to refer to the same measure, especially for adjusted EBITDA which can be named, by the same issuer and in the same publication, "adjusted EBITDA," "underlying EBITDA", "normalised EBITDA," or "EBITDA excluding items."

The CSSF reminds issuers that an APM is defined as a financial measure of historical or future financial performance, financial position, or cash flows, other than a financial measure defined or specified in the applicable financial reporting framework. Except for the exemptions provided in paragraph 19 of the Guidelines, for all measures that fulfil this definition and are presented in the management reports or press releases, all information required by the Guidelines should be provided. This applies even if the measures are supposed to be widespread in the industry or if the reconciliation appears self-evident.

4. Main findings related to non-financial information

Disclosure of transition plans

In the context of the expected transition from the Non-Financial Reporting Directive (as transposed by the law of 23 July 2016) to the Corporate Sustainable Reporting Directive, the CSSF has performed a fact-finding exercise (identified as a thematic examination in the statistics presented in section 2.) in order to assess the current and envisaged disclosures on transition plans for climate change mitigation in the current and future sustainability reporting of issuers.

For this examination, the CSSF analysed the responses received to a specific questionnaire sent to a wide selection of issuers, 80% of which were non-financial companies and 20% were financial companies.

The purpose of this exercise was to highlight the key points that issuers should bear in mind when reporting on transition plans.

The intention was also to shed light on the challenges faced by issuers in the preparation of their transition plans and on their state of awareness and preparedness prior to the publication of their first sustainability reports in accordance with ESRS.

The review focussed on the materiality assessment, the disclosure of targets, decarbonisation levers, actions and financial resources, locked-in emissions, monitoring of the transition plan, and governance issues.

We refer to the report published on 20 December 2024 for the results of this fact-finding exercise.

Disclosures relating to Article 8 of the Taxonomy Regulation

As in 2023, we reviewed the information required by Article 8 of the Taxonomy Regulation published by issuers.

Overall, we noted substantial progress regarding these disclosures and notably a better understanding of how to use the compulsory templates.

However, we also observed that some issuers still struggle with the assessment of eligible activities, i.e., activities which qualify as activities that can make a substantial contribution to an environmental objective defined in the Taxonomy Reporting. Specially, assessing the eligibility of issuers' economic activities defined in the Climate Delegated Act (CDA) can be challenging for some specific activities for which little guidance exists.

We would like to remind issuers that they can benefit from a number of free tools provided at EU level such as the European Commission's FAQs, the International Platform on Sustainable Finance or the EU Taxonomy Compass.

5. Next steps

On 5 December 2024, the CSSF has released its priorities in relation to the enforcement of the 2024 annual reports published by issuers subject to the Transparency Law. These priorities, as well as a link to ESMA's ECEPs, can be found on the CSSF's website under Enforcement of Issuer Disclosure.

Relevant publications

Since January 2024, we have issued several publications and relayed relevant communications from ESMA and other stakeholders. They can be found on the CSSF website under Enforcement of Issuer Disclosure.

Moreover, the CSSF has launched in May 2024 a new webpage dedicated to the CSRD and the ESRS. The aim of the webpage is to provide entities with an overview of the CSRD regulation, as well as links to our publications on the subject and reference texts. This webpage is available here.

Date	Document		Link
13.01.2025	Annual statistics	Population concerned by the enforcement	Link
20.12.2024	Report	Transition plans: preparing for climate change impacts *Fact-finding exercise on issuers' sustainability reporting*	Link
05.12.2024	Communiqué	Enforcement of the 2024 annual reports published by issuers subject to the Transparency Law: Themes and issues to be monitored specifically in 2025	Link
24.10.2024	Statement	ESMA Public Statement on European common enforcement priorities for 2024 corporate reporting	Link
08.10.2024	Statement	ESMA Public Statement on Accounting for Carbon allowances in financial statements	Link
07.08.2024	FAQ	European Commission FAQ on the implementation of the EU corporate sustainability reporting rules	Link
05.07.2024	Report	ESMA Final Report on Guidelines on enforcement of sustainability information	Link
05.07.2024	Statement	ESMA Public Statement on the first application of the ESRS	Link
27.05.2024	Report	ESMA Report: 29th extract from the EECS's database of enforcement	Link
15.04.2024	Communiqué	Results of the enforcement of the 2022 financial and non-financial information published by issuers subject to the Transparency Law	Link
02.02.2024	Report	2022 climate-related disclosures: Gap analysis *Thematic review on issuers' sustainability statements on the verge of the CSRD entry into force*	Link