

# BAI Best Practices for Principal Adverse Impact (PAI) KPIs under SFDR for Real Estate and Infrastructure Assets

19 January 2022

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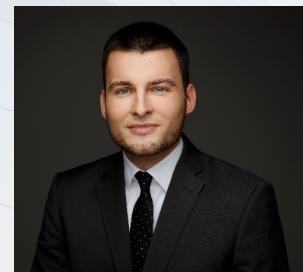
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- **BAI Working Group on Sustainable Finance & ESG** (permanent working group): preparation of opinions for consultations on all levels (IOSCO, European Union, Germany), dialogue and exchange of information
- **BAI PAI Best Practices Roundtables** (ad hoc) for RE, Infra, PE/PD
- **(BAI) Standards for ESG Due Diligence for Alternative Investments?**
- **BAI Webinars on ESG topics**
- **BAI Workshops on ESG topics** (September 2019, June 2021, next in 2022)
- **BAI AIC:** Pre-Event on ESG Data & Research, Key-Note Speeches etc. (<https://www.ai-conference.com/>)
- **BAI Infomails & Newsletters with ESG topics**

# Overview of Disclosure Requirements

2021

2022

2023

2024

APPLICATION OF  
THE REGULATION

**10 March 2021**  
Application of SFDR  
regulation

**1st January 2022**  
Application of the EU Taxonomy  
Climate objectives

**1st January 2023**  
Application of the EU Taxonomy  
Remaining 4 environmental  
objectives

PRODUCT  
DISCLOSURE

The obligation to disclose alignment with the Taxonomy in relation to first two objectives applies for Art 8 & 9 SFDR products. **The templates on how to report will not yet apply.**

**1st Jan. to 31 Dec. 2022:**  
(First) Reference period for entity-level adverse sustainability impact (PAI) statement

**1st January 2023**  
**Art 8 & 9 product disclosure templates will apply following delay**

**30 June 2023**  
Disclosure of **adverse sustainability impacts (PAI)** at entity-level

**1st January 2024**  
Disclosure of **Taxonomy-alignment of Art 8 & 9 products** relative to all environmental objectives

CORPORATE  
DISCLOSURE

**1st January 2022**  
Disclosure of Taxonomy-eligibility **only by undertakings**

**1st January 2023**  
Disclosure of Taxonomy-alignment by **non-financial undertakings** in relation to all environmental objectives

**1st January 2024**  
Disclosure of Taxonomy-alignment of **financial undertakings** in relation to all environmental objectives

INTEGRATION OF  
SUSTAINABILITY  
PREFERENCES

**2nd August 2022**

Application of sustainability-related provisions under MiFID II & IDD

Sustainability preferences of client must be ascertained. However, information on Taxonomy-alignment & complete SFDR product disclosures will be unavailable.

## Real Estate

- First draft published on the BAI website ([General Guidance](#), [Real Estate PAI](#), [Infrastructure PAI](#))

- Public consultation phase until 25 February 2022

- **Feedback and questions to** [bommer@bvai.de](mailto:bommer@bvai.de) , [jegor.tokarevich@sof-ltd.com](mailto:jegor.tokarevich@sof-ltd.com)



## Infrastructure

## Corporates (PE / PD)

- Working Group with colleagues experienced in PAI calculation for **Private Equity / Private Debt** – applications welcome!

- Applications to [bommer@bvai.de](mailto:bommer@bvai.de)



## General Guidance ([Link](#))



### BAI Best Practices for Principal Adverse Impact (PAI) Indicators under SFDR

#### Draft Version 1.0 13/12/2021

##### I. General Remarks & Disclaimer

These Best Practices were drafted during multiple BAI Roundtables with market participants from the alternative investments industry. The purpose of the Roundtables was to discuss the current existing and draft regulatory requirements and document the understanding of some technical aspects of PAI by the participants. It is important to mention that various aspects have been controversially discussed by the participants. In such cases different views and interpretations were documented in the Best Practices. This document is not a legal opinion, a financial advice or any other regulated activity. It is a documentation of different opinions of BAI Roundtable participants and BAI disclaims any and all liability arising from actions taken in response to this document.

##### II. Timeline

The following timeline is applicable with regard to PAI KPIs:

<b>SFDR effective from</b>	10/3/2021 (no PAI to be reported until PAI RTS come into force)
<b>PAI RTS enter into force</b>	1/1/2023
<b>Art. 4 disclosures (company level)</b>	<u>Base case interpretation based on the current drafts:</u>
• First PAI reference period:	• 1/1/2022-31/12/2022 (*)
• First PAI disclosure:	• until 30/6/2023 (*)
<b>Art. 7 pre-contractual disclosures (fund level)</b>	by 30/12/2022
<b>Art. 11 annual report (fund level)</b>	Timeline and interpretation according to Art. 4

Further PAI reporting and disclosures based on **contractual arrangements (e.g., side letters) or voluntary motivation** can be additionally made independently from the regulatory provisions above.

Currently there is an uncertainty to which extent PAI KPIs also have to be calculated for the purpose of the DNSH assessment for sustainable investments (Art. 2 (17) and Art. 2a SFDR). Art. 2a SFDR states that "[...] the principle of 'do no significant harm' referred to in point (17) of Article 2 of this Regulation consistent with the content, methodologies, and presentation in respect of the sustainability indicators in relation to the adverse impacts referred to in paragraphs 6 and 7 of Article 4 of this Regulation."

The recent SFDR RTS on Taxonomy Disclosures as of 22/10/2021 stated that PAI have to be calculated for DNSH ("SFDR RTS relating to the principle of Do No Significant Harm (DNSH) (which require taking into account the adverse impact indicators of Annex I of the RTS"). This confirms the already published proposal in the SFDR RTS as of 2/02/2021: "The ESAs note the feedback on the preliminary DNSH proposals in the consultation paper. While acknowledging the criticism regarding the link between the DNSH disclosures and the PAI indicators, the ESAs note that the amendment in Article 2a(1) of SFDR requires the ESAs to make the DNSH disclosure 'consistent'".

## Asset Class Specific PAI Guidance ([Link RE](#), [Link Infra](#))

#	PAI Category	PAI Description	Unit of Measure - asset level	Unit of Measure - fund level	Comment	Investees Company Supranationals, Real Estate	Mandatory Additional (* = 1 KPI broken down into several)	Environmental, Social	Data Source	Static vs. dynamic	Calculation Methodology	Methodology for Estimates	Comments
21	Fossil Fuels	Share of investments in real estate assets involved in the extraction, storage, transport or manufacture of fossil fuels	YN	%		RE	M	E	Annual Report, Business Plan, Management Company Reports	static	- economic activities provided by the asset are classified and then compared to the relevant fossil fuels activities. If there is a match, then "Y", otherwise it is a "N" - as explained in the general guidance, the assessment is made on the direct activity provided by the asset rather than the activities provided by the tenant.	no estimates should be provided	In practice, hybrid models (multiple activities) are unusual with regard to fossil fuels, therefore we assume that every asset either is or is not involved into the fossil fuel activities, so that the question can be answered with "Y" or "N" rather than with % based on revenues, cases or open
22	Energy efficiency	Share of investments in energy-efficient real estate asset	YN	%		RE	M	E	EPC Certificate, NZEB Standard (documentation: documentation (incl. the reference date (before 31.12.2020))	static	- identify which standard is applicable based on EPC/NZEB requirements and the year when it was built - comparison of the relevant standard to the energy performance limit (C in the context of EPC, PED below NZEB)	reference asset	good data coverage for residential real estate additional data might be required for commercial real estate the reference date for the determination of the relevant standard (EPC or NZEB) is not clearly defined, alternatives are (i) <u>publication date</u> (conservative assumption) or (ii) <u>application</u> (less conservative assumption)
									alternative 1 / average proxy approach: generic LCA studies for a project or a technical asset alternative 2 / direct assessment approach: subcontractors and regular asset reports for the assessed period (e.g. with smart meters or energy bills) CO2 factors from market studies (e.g. CA, global factors) / country-specific values for the carbon intensity	- EPC/NZEB the average proxy approach is used - dynamic if periodic KPI values are calculated in the direct assessment approach	alternative 2 / direct assessment approach: values are sourced directly from the asset on a quarterly basis, sub-contractors would calculate the CO2 emissions based on recognized methodologies	alternative 1 / average proxy approach: Life Cycle Assessment (LCA) Scope 1 emissions / amount of quarters for the project, lifetime = 2nd, quarterly GHG Scope 1 contribution (drawback: no periodic assessment possible, no meaningful comparison between quarters)	scope 1 in the RE context are emissions generated from heating and cooling where the relevant periodic data is available, the direct assessment approach might be the optimal solution in many cases however, if this is not possible, the average proxy approach might be considered as a feasible best estimate for some infrastructure projects (e.g. renewables) it might even have the benefit of appropriately considering the asset specifics - average quarterly values based on the LCA would also include the CO2 emissions of the project phases with a high GHG intensity such as the construction and the dismantling and thus may introduce noise



## The Regulatory Purposes of PAI KPIs

### Adverse Impact Disclosures (Art. 4/7 SFDR)

#### Entity Level

- **Art. 4 SFDR**
- “**Opt out**” option for entities < 500 employees
- **Format, Scope, Frequency** based on Draft RTS
- Disclosure in **2023** for the ref. period **2022**



#### Product Level

- **Art. 7 SFDR**
- Mandatory, if **Art. 4 SFDR disclosures**
- **Format, scope, frequency** based on Draft RTS
- Pre-&post-contractual discl. by **30/12/2022**

### Sustainable Investments Disclosures (Art. 8/9 SFDR)

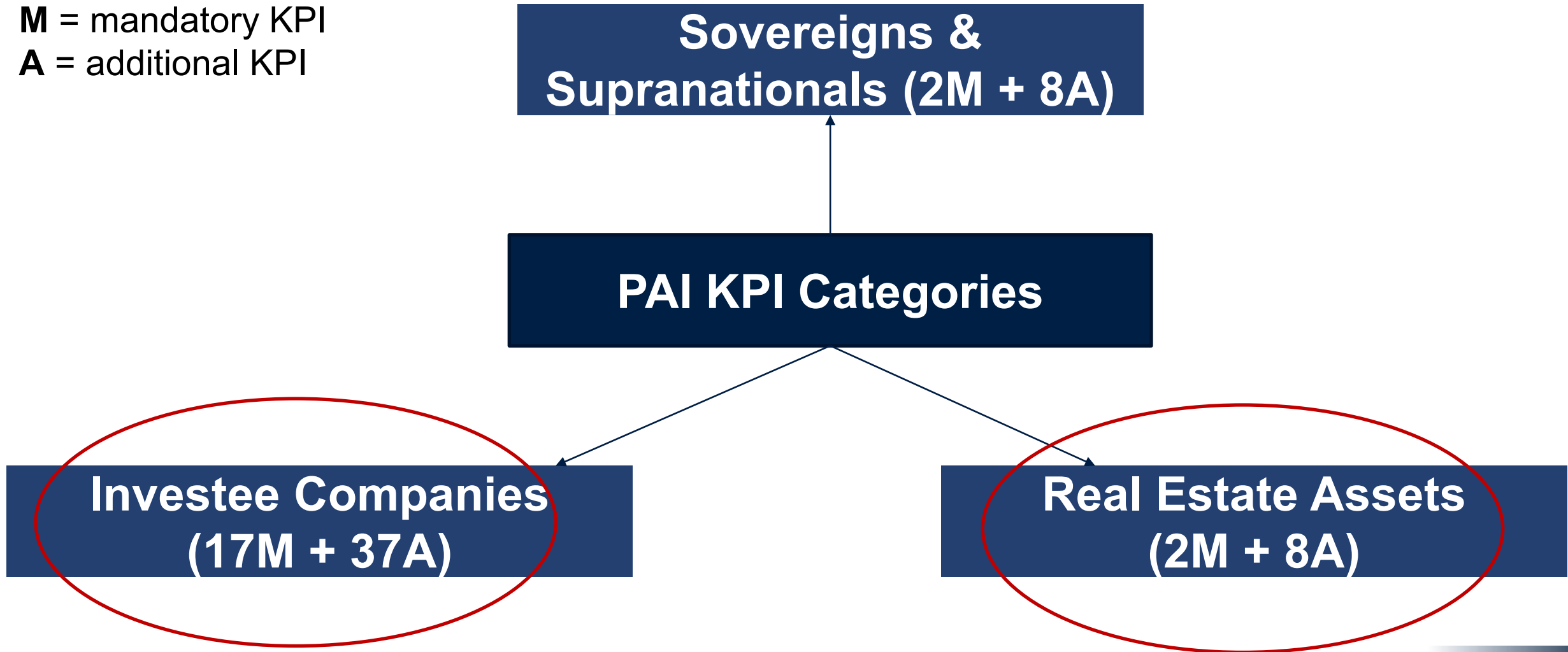
#### Product Level

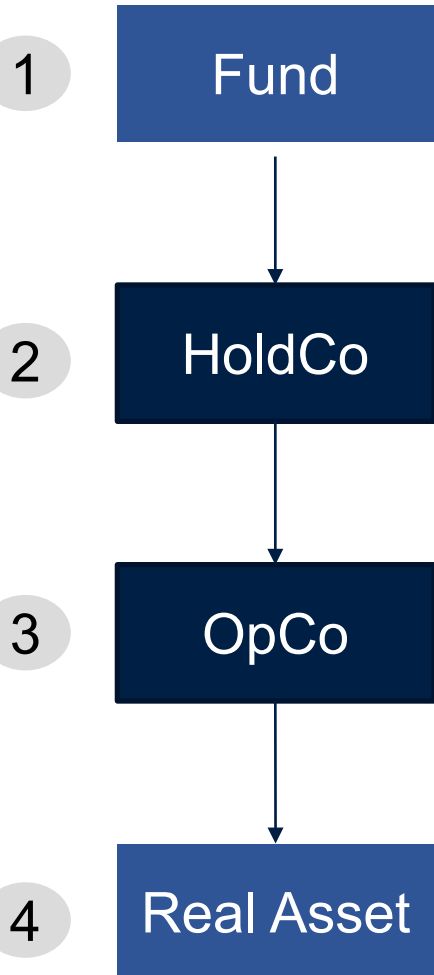
- **Art. 8 with sust. inv., Art. 9 SFDR**
- Mandatory for **DNSH disclosures** of sustainable investments
- **Format, scope, frequency unclear**?
- After 1//2023?



=> *BAI WG understanding: no quant. SFDR disclosures required*

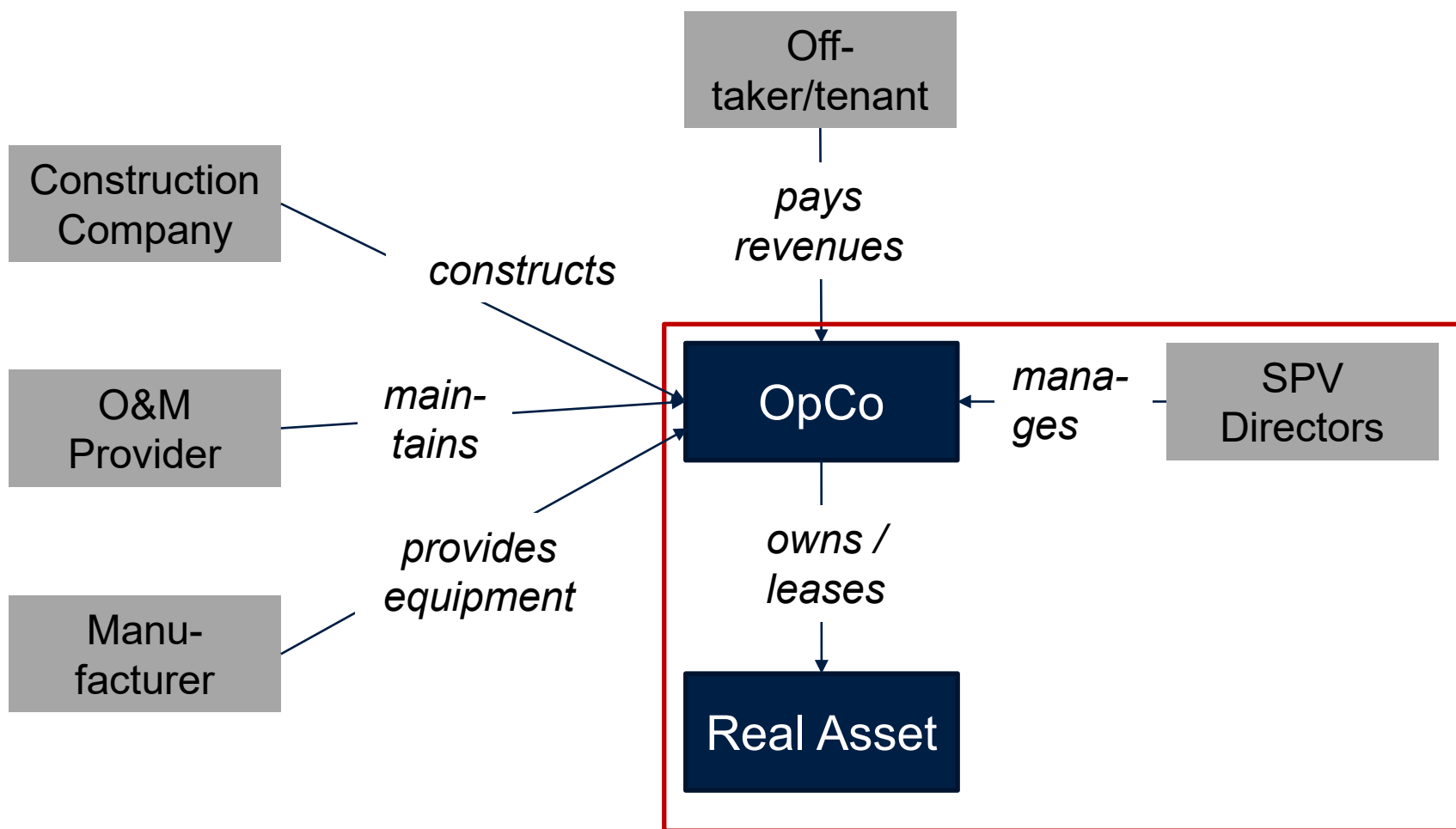
**M** = mandatory KPI  
**A** = additional KPI





- General look-through requirement through **funds & SPVs** (**Art. 4 Draft RTS 2 February 2021**)
- **Real Estate Projects** (acquired via SPVs)
  - > Look-through to the **RE object** (hotel, office etc.)
  - > RE object to be assessed in the PAI category “**real estate**”
- **Infrastructure Projects** (acquired via SPVs) ?
  - > **Option 1:** look through SPVs, assess the real asset in the category “**investee company**”
  - > **Option 2:** no look through SPVs, assess the SPVs in the category “**investee company**”
  - > **Option 3:** look through SPVs, assess the real asset in the category “**real estate**”





## Real Estate Projects

-> direct / primary activity of the real estate object (e.g., renting out space), not the tenant ?

## Infrastructure Projects

-> on the level of the **real asset** (some inv. company KPIs irrelevant) ?

-> on the level of the **service providers / SPV** ?

## Energy consumption in GWh of owned real estate assets per square meter

<b>Data Source</b>	subcontractors and regular <b>asset reports</b> for the assessed period (e.g. with <b>[monthly] smart meters</b> or <b>[annual] energy bills</b> ) or from utility
<b>Type</b>	<b>dynamic</b>
<b>Calculation</b>	periodic GwH / m2 of the relevant area
<b>Estimate</b>	quarterly = ¼ annual (if annual available)
<b>Comment</b>	<p>no <b>clear definition of area</b> (net vs. gross. vs industry standards e.g., ZIA, CRREM, GRESB)</p> <p><b>greenwashing risk:</b> the higher the area, the better the KPI value</p>

?

## Average unadjusted gender pay gap of investee companies

<b>Data Source</b>	<b>payroll</b> (SPV level), <b>ESG reporting</b> (service provider level)
<b>Type</b>	depends on the selected approach
<b>Calculation</b>	(average gross hourly earnings of male paid employees – average gross hourly earnings of female paid employees) / average gross hourly earnings of male paid employees
<b>Estimate</b>	-
<b>Comment</b>	<p><b>Approach 1: general irrelevance for the real asset</b> (e.g., “0” = for no pay gap, “N/A” =&gt; aggregation difficult)</p> <p><b>Approach 2: SPV employees / service provider level</b> (e.g., SPV directors vs. material service providers vs. aggregation)</p>

?

?



- Different **PAI purposes**:
  - **Art. 4 & 7 SFDR (adverse impact)** -> clear format, timing, scope
  - **Art. 8 incl. sust. inv. & 9 SFDR (sust. inv.) as part of DNSH**  
-> format, timing, scope currently unclear
- Currently many technical questions and **room for interpretation** for RE / Infra
  - **Look-through** level (OpCo vs. HoldCo vs. Real Asset)
  - **Activity** level (asset only, SPV, service provider?)
  - Selection of the **right set of KPIs for infrastructure** assets  
(investee company vs. real estate)
  - **KPI-specific** methodological questions (e.g., definition of area, N/A KPIs?)
  - **Data quality** (final vs. estimates, audited vs. unaudited etc.)

- Judgement of different interpretations based on
  - **Regulatory requirements** (Draft RTS 2 February 2021)
  - **Greenwashing risk**
  - **Operational feasibility** (“common sense”)
  - **Potential double counting**  
 (“if I report the PAI KPI, will it be also reported somewhere else?”)
- **Next steps:**
  - Provide BAI with the feedback re the first Draft PAI Best Practices Infra / RE
  - Apply for the BAI WG on PAI for Corporates (PE / PD)

## Outlook 2022 on Alternative Investment Asset Classes (in German):

25. Januar 2022: "Assetklassenausblick zu Private Equity und Private Debt"

10. Februar 2022: "Assetklassenausblick zu Real Assets und Infrastruktur"

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