

Taxonomy Regulation

Draft Delegated Regulation on establishing the technical screening criteria for determining the conditions under which an economic activity qualifies as contributing substantially to climate change mitigation or climate change adaptation and for determining whether that economic activity causes no significant harm to any of the other environmental objectives

EAPB COMMENTS

The European Association of Public Banks (EAPB) welcomes the opportunity to comment on the draft Delegated Regulation on climate change mitigation and adaptation under Taxonomy Regulation. EAPB members actively contribute to achieving the EU's climate and sustainability objectives by funding sustainable projects across Europe.

EAPB welcomes the Taxonomy as a tool to define and promote sustainable activities. That said, we have a number of concerns as listed below.

- In its current form and in the absence of pragmatic usability guidance, the total burden of the Taxonomy is too high, in terms of both excessively demanding criteria requirements, a non-proportional administrative burden and the non-consideration of regional contexts.
- In particular, we fear that project owners (customers of public banks) will lose interest if the information burden is too onerous and opt for traditional funding requiring less disclosure. Ultimately, the sustainable finance market rests on the availability of eligible assets.
- For financial institutions like EAPB members, who are not project owners, the cost/benefit of Taxonomy alignment simply does not add up. This conflicts with the aims of the Delegated Act to “ensure usability and proportionality” and being “easy for economic operators and investors to use”.
- We fear the current Taxonomy design risks undermining not only the EAPB members' own ability to contribute to the sustainable finance market but also considerably slowing down its harmonization (via the proposed EU Green Bond Standard). Moreover, we believe the Taxonomy does not ensure technology neutrality and disregards numerous sustainable economic activities. Bioenergy fulfilling requirements for sustainability and GHG-savings of RED should be classified as a sustainable activity, and not as only transitional. It is also unfortunate that all relevant existing technologies are not addressed in the delegated acts, prohibiting a systems approach to sustainable energy solutions. EAPB considers that the Delegated Regulation should indicate a timeline for resolution of matters related to nuclear energy.
- From an investor or financing perspective, the delegated acts must not give rise to any legal or reputational risks, especially in view of the taxonomy's focus on investments in economic activities with long-term life cycles. Liability for fulfilling Taxonomy requirements and for accuracy of data should be on the project owner, clarification on this matter is needed. Be more precise by means of technical screening criteria.
- Freedom of choice regarding different CO₂ accounting methods (ISO vs. GHG Protocol etc.) within the scope of an economic activity could considerably reduce the comparability for investors or make the due diligence process more complex. The goal of the taxonomy should be to ensure a uniformity of methods for individual economic activities and thus to guarantee comparability. Criteria that requires ex-post data gathering is unwelcome, as it results in increased administrative burden and is contrary to current market practice.

- For most companies, the implementation of the Delegated Act will only be possible at great expense and by consulting a sustainability consultant. EAPB therefore advocates that, in view of the short implementation period, the delegated act should be limited to new business from January 1, 2022, for a sufficient transitional period. Existing business at this date should be excluded from this.

On DNSH requirements

- Complying with DNSH requirements should be simplified. Where relevant national or EU legislation exists, compliance should mean a ‘tick the box’ exercise where project owners confirm the legislation is respected.
- The credit institution should not be required to verify such statement, unless it receives indications on non-compliance. While such an approach is outlined in the TEG Taxonomy Report, it does not match the detailed criteria laid out in individual DNSH requirements.
- Regarding DNSH assessment, the principle of proportionality (in terms of company size, investment size, risk profile, etc.) should prevail, in accordance with established risk management practices.

Detailed comments on Annex 1 and Annex 2 of the draft Delegated Regulation

Cross-sectoral remarks as regards Annex II (climate change adaptation objective):

- Although a flexible framework adapted to the current state of knowledge is necessary, higher clarity on the terms used and on the available means to check compliance with the criteria is required: 1) The nature of “non-physical solutions” (organizational, behavioural?) to reduce physical climate risks should be clarified. 2) It should be made explicit whether the elements in Appendix A should be checked in an exhaustive manner or depending on the context of the operation (e.g. coastal erosion when the project is inland). 3) How to ensure the “robustness” of the climate risk and vulnerability assessment? 4) For activities with an expected lifespan of more than 10 years, how many future scenarios should be elaborated? Scenarios up to 2030 – 2050 may not be feasible for certain risks without prospective data such as flood. 5) How to objectify “best available science for vulnerability and risk analysis”? 6) For adaptation solutions: how is the impact of the solution to be justified (requirement a) ? Which pre-defined indicators should monitor implementation of the adaptation solutions (Requirement d)?

Manufacturing

- Manufacture of hydrogen (Annex 1, para 3.1): We recommend to specify that para 3.1 applies to all types of hydrogen, regardless of the technology used to produce it.
- Manufacture of low-carbon technologies for transport (Annex 2, para 3.3): The Commission’s proposal should not exclude zero emission freight locomotive which are universal and can sometimes be used to transport mixed goods including fossil fuels.

Construction and Real Estate Activities

- With reference to Article 16 of the Taxonomy Regulation, economic activities that make a significant contribution to one or more of the environmental objectives set out in the Taxonomy Regulation should be included in the delegated act and also be classified as sustainable if they do not achieve the highest efficiency classes despite their high positive environmental contribution. In the building sector in particular, comprehensive energy-related renovation measures can have a highly positive impact on the climate without meeting the energy efficiency class A required by the Commission for buildings constructed before December 31, 2020.
- It should be allowed to rely on national regulatory calculations as an option rather than EPC (lack of comparability across Member States, inconsistent with the turnover KPI in some Member States (France), different application depending on the asset (residential/non-residential)).

- Modify criteria for '7.1 Construction of New Buildings' so that i) alignment is made by fulfilling one of the following: **either** NZEB-requirements for new buildings -20% **or** EPC class A; ii) Global Warming Potential is limited to the A1-A5 stages of the life cycle; iii) climate adaptation assessment requirements apply only for specifically identified risks; iv) requirements for circular design are postponed; v) restrictions for building on forest land are limited to regions where forest is scarce.
- Modify TSC criteria for '7.7 Acquisition and Ownership of Buildings', so that alignment is made by fulfilling one of the following: **either** EPC class A, **or** NZEB-requirements for new buildings -20% **or** top 15% of building stock in relevant subcategory **or** buildings that fulfil renovation requirements according to 7.2 within three years.
- For '7.7 Acquisition and Ownership of Buildings', the Commission should clarify that both building management and ownership are covered: 1) "Building management": asset or property management for third parties. This would be relevant to account for entities that do not develop or own but manage real estate assets for third parties. It could have similar criteria as Acquisition and ownership of buildings. 2) "Ownership of highly performing buildings": independently from their origin (own development, own renovation or acquisition). A 15% threshold, via national regulatory calculations or EPC A and B could be used as threshold. Calculation on actual ex post data on energy use should also be possible. TSCs for 7.1 and 7.7 should be harmonized, and guidance should be provided on when to apply which set of criteria.
- The requirements for material recovery rate and water appliance efficiency are significantly higher than current market practice. Where there are relevant EU directives and policies, which are sufficiently ambitious in scope, we recommend using these as opposed to introducing specific requirements for the Taxonomy.
- Some of the DNSH requirements and the evidence required in this context cannot be met by the financing institutions or at reasonable cost, e.g. due to a lack of national regulations/laws and the resulting lack of data collection by the owners/builders the required proof of water consumption cannot be provided. Legal requirements need to be addressed to manufacturers/retailers. A corresponding requirement could then be legally standardised as a construction standard.

Energy

- Bioenergy fulfilling requirements for sustainability and GHG-savings of RED should be classified as a sustainable activity, and not as only transitional. Bioenergy is classified as a renewable energy source in other international frameworks, and also opens up for negative emissions (BECCS). Requirements on biofuels should follow RED as regards GHG-savings, and the 20 MW-limit not to administratively over-burden small operations.
- Waste to energy should be included as a transitional activity under certain conditions, as there is still a need for efficient energy recovery from waste that cannot be recycled.
- Electricity generation from hydropower (Annex 1, para 4.5): Hydropower is also a renewable energy (like solar or wind farms). Hydropower life-cycle GHG emissions may be lower than the ones from solar plants. Such approach with calculating emissions for hydro but not for solar is therefore inconsistent. For consistency reasons, we propose to: either count life-cycle GHG emissions for all technologies (renewables included); or do not count for all renewable technologies (hydro included).
- Transmission and distribution of electricity (Annex 1, para 4.9): The approach proposed by the Commission may be inefficient in some cases. For example, for upgrade/development of onshore electricity network, where both (a) and (b) are above 100 g/kWh CO₂, but the network needs to be developed because of offshore wind farms under construction. This will not be a direct connection but expansion of the existing one. In such case, development of offshore cable would probably be allowed but onshore parts not. Additionally, development / upgrade of transmission and distribution network (excluding direct connection to installations with emissions above 100 g/kWh CO₂), particularly in countries where electricity losses are still relatively

high, will be a way to minimize CO₂ emissions (more efficient / upgraded electricity network -> less electricity losses -> less electricity production -> less CO₂ emissions). We propose to allow all distribution and transmission network investments excluding direct connection to installations with emissions above 100 g/kWh CO₂.

- Cogeneration of heat, cool and power from geothermal energy (Annex 2, para 4.18): With reference to DNSH criteria, it is unclear how the emissions in Annex 2 relate to the emissions in Annex 1 (262 vs 100 g CO₂/kWh).
- Cogeneration of heat, cool and power from gaseous and liquid fuels (Annex 2, para 4.19): Same comment as for para 4.18 above.
- Nuclear energy (draft Delegated Regulation, Recital 15): The Commission's proposal provides that "*Regulation (EU) 2020/852 recognises the importance of 'climate neutral energy' and requires the Commission to assess the potential contribution and feasibility of all relevant existing technologies. For nuclear energy, that assessment is ongoing and the Commission will report on its results in the context of the review of this Regulation.*" EAPB considers that the Delegated Regulation should indicate a timeline for resolution of this matter related to nuclear energy.

Water supply, sewerage, waste management and remediation

- The front-to-end net zero energy demand for wastewater collection and treatment systems is extremely demanding, even in a Nordic setting and particularly when introducing more stringent treatment requirements. This will effectively unqualify a great number of investments which are highly necessary, but where energy efficiency is not the main purpose. If the threshold for the front-to-end net zero energy demand is kept, then it should be clearly defined. It should be confirmed that wastewater treatment plants in the EU have capability to calculate "kWh per cubic meter waste water effluent treated (one TSC)".
- Landfill gas capture and utilization (Annex 1, para 5.10): It is unclear if "*The landfill has not been opened after 8 July 2020*" means that no new landfills after 2020 will be classified as having "Substantial contribution to climate change mitigation" or just that the landfill can't be opened after being closed.

Transport

- Vehicles operating on biofuels fulfilling GHG-savings and sustainability requirements according to the RED should be accepted.
- Hybrid should be reintroduced to broaden the scope and allow for transition in technologies where needed.
- The Transport chapter (and whole Annex 1) seems to omit activities concerning the development of digital transport management systems like ITS, RIS, SESAR (except ERTMS which is covered in 6.14 of Annex 1). These activities play an important role in the development of sustainable transport in accordance with Union transport priorities and the commitments taken under the Paris Agreement.
- Freight rail transport (Annex 1, para 6.2; Annex 2, para 6.2): Why do the Commission's proposal excludes from freight rail transport the freight terminal activities, which plays a major role in development of intermodal transport? This is particularly incomprehensible in the context of the provisions on the important contribution of rail infrastructure for freight transshipment between transport modes to mitigating climate change (see para 6.14 of Annex 1).
- Infrastructure enabling low-carbon road transport (Annex 1, para 6.15; Annex 2, para 6.15): Why do the Commission's proposal excludes installation of street lighting and electrical signals? These elements of infrastructure play an important role in traffic management activities like ITS.
- Urban, suburban and road passenger transport (Annex 1, para 6.03): The TEG approach (50 gCO₂e/pkm until 2025) better serves the context of public transportation. Zero-emission collective vehicles requirement is inconsistent with the Clean Vehicles Directive. The modal shift best serves mitigation of GHGs in transportation. Zero-

emission vehicles can be more polluting than low carbon alternatives (life cycle approach). Zero-emission collective vehicles are currently not suitable for long-distance transport (low-density areas). The UITP methodology is available to calculate the 50gCO₂ per passenger/pkm criterion.

Agriculture and Forestry

(Annex 1, para 1.4 – 1.8)

- Criterion 3 (Additionality) should be deleted when the project takes place in a country with a stringent regulation system as it would be impossible to prove otherwise
- Criterion 2 (Climate benefit analysis): the 20-year period is not appropriate for activity “1.7”
- Frequency of verification should not be shorter than 10 years as in the TEG report.

Energy efficiency:

- Efficient LED lighting installation should be an eligible activity. For example, when changing public lighting systems from old lighting systems to new ones.

Activities which should be covered by the EU Taxonomy

A) Mitigation Objective

- Much in the spirit as activity “9.1. Engineering activities and related technical consultancy dedicated to adaptation to climate change”, technical assistance to entities in assessing compliance with the technical screening criteria referred to in Annex I and/or enabling them to meet compliance should be considered an enabling activity as referred to in Article 10(1), point (i), of Regulation (EU) 2020/852. While it would have much impact overall for the transition of the economy, smaller entities (SMEs, local authorities) would be the most to benefit. This would favour their inclusion into taxonomy-based sustainable finance practices.

B) Adaptation objective

- Strategic sectors and activities whose continuity is necessary in a climate crisis context such as hospitals and social infrastructures;
- Weather-sensitive sectors that do not hinder mitigation such as tourism and outdoor leisure activities, especially in specific geographies such as mountains and littoral ;
- A list or principles for adding innovative enabling activities (solutions?) such as technologies (warning systems/ risks management tools) as the TEG mentioned in its reports;
- A definition of adaptation loans that would fit to finance adaptation of activities in the whole economy.