



OPINION

European Economic and Social Committee

Sustainable finance taxonomy – climate change

Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. EU Taxonomy, Corporate Sustainability Reporting, Sustainability Preferences and Fiduciary Duties:

Directing finance towards the European Green Deal

[COM(2021) 188 final]

ECO/549

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Outcome of vote (for/against/abstentions)	191/1/10

1. **Conclusions and recommendations**

- 1.1 The EESC welcomes the Sustainable Finance Package and underscores the potential key role of the Delegated Regulation in creating a clear, coherent and comprehensive framework to highlight the ambitious development of a greener economy without lock-in effects, with technical criteria that clearly define the green investments that directly contribute to Europe's climate objectives and on which the practices of the business sectors concerned and the financial sector can be aligned.
- 1.2 The EESC underscores the urgency of efficient measures to get to grips with climate change and to reduce emissions, provided for in the EU Climate Law and in the light of the sixth IPCC report¹ (Intergovernmental Panel on Climate Change). For that very reason, it is essential that efficient, easily applicable, innovative and productive tools are used, to bring about rapid and readable results. The assessment of the Delegated Regulation should be carried out in this spirit.
- 1.3 The EESC recognises the crucial role of the Delegated Regulation in creating transparency through clear criteria regarding sustainable investment, to assist those wishing to invest in such projects and hence both preventing "greenwashing" and spreading awareness of and attracting investment in sustainable projects. As such, it can create a fair and transparent level playing field for green finance in the EU.
- 1.4 A clear and precise definition of the technical criteria set out in the Delegated Regulation that meet the ambition of a low-carbon economy for Europe are therefore the fundamental prerequisite for a reasonable, realistic and acceptable commitment without the risk of greenwashing. Given the central role of the Delegated Regulation in the credibility of the taxonomy – which is essential to the success of this essentially voluntary system – obtaining this commitment is a major challenge.
- 1.5 The EESC is therefore of the opinion that economic activities and projects defined as "sustainable" in the Delegated Regulation must be attractive to investors in the real economy and assumes that investors will expect a sustainable project to be realistic, achievable, reasonably profitable and predictable for actors on the market. They must, in other words, be attractive without creating a risk of greenwashing.
- 1.6 In general terms, a high level of ambition with regard to climate change mitigation measures or extensive information requirements with long-term future projections in relation to climate change adaptation may prove a complex and costly challenge, particularly for SMEs in a market economy. This also raised the question of wider recognition of transitional solutions as a green path to ensure a smooth transition. It is however imperative that lock-in effects are prevented.
- 1.7 The EESC takes note of the concerns of real economy actors regarding the negative effects of the Delegated Regulation on financing possibilities and costs. The Committee therefore underscores the importance of adequate monitoring by surveillance authorities to prevent distortive effects on financial markets, particularly in view of the widening scope of taxonomy

¹ [Climate Change 2021 - The Physical Science Basis](#), 2021

criteria to include, for instance, non-financial reporting and the proposed EU Green Bond Standard.

- 1.8 The EESC also points out the risk of too high costs in implementing the taxonomy criteria as provided in the Delegated Regulation. That is why the EESC stresses the need to develop green insurance for SMEs to reduce this cost risk.
- 1.9 The Delegated Regulation sets environmental standards that are often more ambitious than those of EU sectoral legislation. Bearing in mind the need for clarity and attractiveness mentioned above, this may lead to a confusing situation, including financing problems for actors that comply with the highest environmental standards under EU sectoral legislation. The EESC agrees that a high ambition is needed but would nevertheless for practical reasons and to avoid confusion recommend applying the highest environmental standards set in level 1 EU legislation to the taxonomy. On top of this, the Delegated Regulation (a level 2 act) seems to contain some provisions that are inconsistent, unclear and not fully assessed. This, taken together with the statements made above, in particular in points 1.5–1.10, leads the EESC to question whether the Delegated Regulation in its present form, in spite of its laudable objective, is fit for purpose. The EESC strongly recommends the Commission to make proposals to heighten the standards of EU environmental legislation.
- 1.10 The EESC would welcome initiatives to improve the taxonomy system along the lines outlined above to widen its coverage and improve it as a means of supporting the EU's climate policy aims, through efficient implementation of EU environmental legislation, and calls on the Commission to take further initiatives in that direction. The Committee takes note that the important issue of the EU taxonomy of climate and environment harming activities remains open. It should be addressed urgently.

2. **Background**

- 2.1 On 21 April 2021, the European Commission released a Sustainable Finance Package ("the Package") consisting of:
- the Communication *EU Taxonomy, Corporate Sustainability Reporting, Sustainability Preferences and Fiduciary Duties: Directing finance towards the European Green Deal*²;
 - a Commission Delegated Regulation ("the Delegated Regulation") supplementing two of the six environmental objectives set out in Articles 10 and 11 of Regulation (EU) 2020/852 on the establishment of a framework to facilitate sustainable investment and amending Regulation (EU) 2019/2088 ("the Taxonomy Regulation") with technical screening criteria to determine the conditions under which a specific economic activity qualifies as contributing substantially to climate change mitigation (Article 10) and as contributing substantially to climate change adaptation (Article 11), as well as criteria to determine if an economic activity causes significant harm to environmental objectives (Article 17). The Delegated Regulation was formally adopted on 4 June 2021;
 - a proposal for a new Corporate Sustainability Reporting Directive;

² [COM\(2021\) 188 final](#).

- amended delegated acts under the Markets in Financial Instruments Directive (MiFiD II) and the Insurance Distribution Directive (IDD). These introduce sustainability as part of the information to be given to clients prior to investment decisions;
- further amendments to delegated acts regarding fiduciary duties, and to delegated acts on asset management, insurance, reinsurance and investment to include sustainability risks to the value of investments.

3. **General Comments**

- 3.1 According to the Communication, the Package is intended as a means to encourage private investment in sustainable projects, to provide the vast financial resources needed to reach the climate neutrality objective set out in the Green Deal, beyond the resources earmarked to help the European economy recover from the COVID-19 crisis.
- 3.2 The Communication highlights the importance of the Delegated Regulation in setting out the criteria that define the green economic activities that will make a substantial contribution to the Green Deal objectives.
- 3.3 The EESC welcomes the Package and underscores the Delegated Regulation's potential key role in creating a clear, coherent and comprehensive framework to enable the ambitious development of a greener economy without lock-in effects, with clear and transparent technical criteria defining the green investments that directly contribute to Europe's climate objectives and on which the practices of the business sectors concerned and the financial sector can be aligned.
- 3.4 The EESC underscores the urgency of efficient measures to get to grips with climate change and reduce emissions as provided for in the EU Climate Law and in the light of the sixth IPCC report³. For that very reason, it is essential that efficient, easily applicable, innovative and productive tools are used, to bring about rapid and readable results. The assessment of the Delegated Regulation should be carried out in this spirit.
- 3.5 A clear and precise definition of the technical criteria set out in the Delegated Regulation that meet the ambition of a low-carbon economy for Europe are therefore the fundamental prerequisite for a reasonable, realistic and acceptable commitment without the risk of greenwashing. Given the central role of the Delegated Regulation in the credibility of the taxonomy – which is essential to the success of this essentially voluntary system – obtaining this commitment is a major challenge.
- 3.6 The EESC nevertheless welcomes the ambition shown in the Delegated Regulation, to set a uniform EU standard defining activities that qualify as contributing substantially to climate change mitigation or adaptation. Technical criteria should provide a clear framework for green investments to create a level playing field on the financial markets and avoid "greenwashing" projects. Views diverge as to the scope and usefulness of transitory options. The EESC takes the

³ [Climate Change 2021 - The Physical Science Basis, 2021](#)

view that the technical criteria should afford wider possibilities to recognise transitory solutions as a path to enable a smooth transition. It is imperative that lock-in effects are prevented.

- 3.7 The EESC takes note of the statement in the Communication that the Delegated Regulation is to be seen as a living document that will evolve over time both with respect to scope and level.
- 3.8 The EESC therefore recognises the important role of the Delegated Regulation in creating transparency with regard to the activities that meet the criteria set and that attract investors wishing to invest in sustainable projects. It thus forms a basis for defining an economic activity as environmentally sustainable, as well as for applying the compulsory provisions on transparency and disclosure set out in the Taxonomy Regulation. It could be significant in terms of spreading awareness of and attracting investment in sustainable projects and preventing greenwashing.
- 3.9 The Delegated Regulation is described as a transparency tool and it is part of a voluntary system in the sense that market operators are not under an obligation to live up to the standards it sets, nor are investors obliged to invest in economic activities or projects fulfilling those standards.
- 3.10 Therefore, as already pointed out, economic activities and projects defined as sustainable according to the Delegated Regulation must be clear to be attractive to investors in the real economy. It is also reasonable to assume that investors will invest in realistic, profitable and predictable sustainable green projects. Profitability expectations may vary and will often be lower in situations involving financing through co-operative or locally or regionally owned banks or 5-6% instead of 11-15% as generally expected. Greater profitability will generally attract big capital flows, whereas the choice of cooperative or regional banks may typically concern smaller-scale projects.
- 3.11 It is key that the criteria set out in the Delegated Regulation for an economic activity or a project to qualify as environmentally sustainable appear achievable at a reasonable cost, profitable and reasonably predictable or, in other words, as commercially attractive. In this context it is however important to bear in mind that in particular SMEs may often be in need of support to manage the green transition. Still, the taxonomy as such should be limited to technical criteria.
- 3.12 If the taxonomy fails to meet the criteria set out in the two preceding paragraphs, the prospects of the entire project may be questioned. A voluntary system must be attractive to bring about the transformation it seeks.
- 3.13 Based on the key elements outlined above, a number of the provisions in the Delegated Regulation appear questionable. In general terms, a high level of ambition with regard to climate change mitigation measures or extensive information requirements with long-term future projections in relation to climate change adaptation may appear too difficult to achieve, too complex, costly or not profitable enough in a market economy, except for a small number of very big actors and with little regard for practical effects, in particular regarding SMEs. This would mean losing the broad uptake obviously sought, while still causing financing difficulties for those companies that comply with applicable EU environmental legislation, but not with the Delegated Regulation. That is why the EESC stresses the need to develop green insurance for

SMEs to reduce this cost risk. A few examples of this will be given below under "Specific Comments".

- 3.14 Actors in the real economy have expressed concerns that the technical criteria set out in the Delegated Regulation might lead to financing difficulties regarding activities that do not comply with the Regulation. The EESC agrees that there may be such a risk, considering that the scope of the taxonomy is widening to serve as a basis for non-financial reporting under Article 8 of the Taxonomy Regulation, as well as for the proposed EU Green Bond Standard⁴.
- 3.15 The EESC therefore underlines the importance of surveillance authorities monitoring the application of the Delegated Regulation to avoid discriminatory effects on credit possibilities and credit costs with respect to undertakings that do not fulfil the taxonomy criteria. Those actors should still get fair treatment when attracting financial means necessary.
- 3.16 In this context, the EESC refers to an expert report of the Scientific Council of the German Ministry of Finance indicating that attempting to steer the use of capital flows in the real economy through financial regulation is very difficult, and would require far reaching, detailed and very complete legislation, and that such a taxonomy brings the risk of high complexity and excessive bureaucratic costs⁵.
- 3.17 The only mandatory elements in the Package, as far as this opinion is concerned, are the provisions on transparency set out in Articles 4 to 7 of the Taxonomy Regulation and the amended delegated acts relating to markets in financial instruments, insurance distribution and various fiduciary duties to raise awareness of the possibilities and risks involved in sustainable investments and to ensure that clients and prospective clients are sufficiently informed in this regard.
- 3.18 The financial market delegated acts appear fit for purpose overall and they are therefore adequate tools for raising awareness of sustainable investments and thus opening the road for channelling much needed resources into such investments.
- 3.19 The Delegated Regulation sets environmental standards that are often more ambitious than those of EU sectoral legislation. Bearing in mind the need for clarity mentioned in point 3.6, this double standard may lead to a confusing situation, including financing problems for actors that comply with the highest environmental standards under EU sectoral legislation. The EESC agrees that a high level of ambition is needed, but would nevertheless for practical reasons and to avoid confusion recommend applying the highest environmental standards set in level 1 EU legislation also for the purpose of the taxonomy in order that it may efficiently fulfil its obligation to ensure the transparency of financial products and prevent greenwashing. These reasons, taken together with the statements made in points 3.6 and 3.13–3.16 above, makes the EESC question whether the Delegated Regulation (a level 2 act) in its present form, in spite of

⁴ Commission Proposal for a Regulation on EU Green Bonds – [COM\(2021\) 391 final - 2021/0191 \(COD\)](#).

⁵ *Grüne Finanzierung und Grüne Staatsanleihen – Geeignete Instrumente für eine wirksame Umweltpolitik?* [Green Finance and Green Public Loans - Suitable Instruments for Effective Environmental Policy?] – Scientific Advisory Council to the Federal Ministry of Finance - Expert opinion 02/2021.

its laudable objective, is fit for purpose⁶. The EESC strongly recommends the Commission to make proposals to heighten the standards of EU environmental legislation.

- 3.20 It is well known that green financial products are attractive to the financial markets. The EESC therefore commends the basic intention of the taxonomy to create transparency, prevent greenwashing and draw attention to green financial products but would nevertheless warn against the risk of unsound bubble effects on financial markets.
- 3.21 The EESC would welcome initiatives to improve the taxonomy system along the lines outlined above to widen its coverage and improve it as a significant means of support for the EU's agreed climate policy aims, through efficient implementation of EU environmental legislation, and calls on the Commission to take further initiatives in that direction.
- 3.22 The Committee takes note that the important issue of the EU taxonomy of climate and environment harming activities remains open. It should be addressed urgently.

4. **Specific Comments**

The Delegated Regulation

- 4.1 The EESC underscores the key role of renewable energy in the sustainability transition and draws attention to the need to ensure suitable transitory solutions, as required, *inter alia*, to ensure the proper functioning of logistics value chains, while paying attention to the imperative need to avoid lock-in effects.
- 4.2 It appears from point 6.3 of Annex 1 to the Delegated Regulation that buses, fulfilling the zero-tailpipe emission criterion will only qualify as sustainable if operating in urban and suburban traffic, while other bus operations are only eligible for so-called transitional activities until 31 December 2025 if they correspond to the highest EURO class category (EURO 6). Failing that a zero-tailpipe emission criterion will apply, but it appears from the text that it only qualifies as a transitional activity subject to reassessment at least every three years, according to Article 19 of the Taxonomy Regulation. There seems to be no reference to the standards set in the Clean Vehicles Directive. Given the uncertainty of the situation beyond 31 December 2025, who would then dare invest in a bus company? Classifying the highest environmental requirements in EU legislation – EURO 6 – as a transitory activity seems strange and likely to create confusion.
- 4.2.1 Heavy commercial vehicles – HGVs (category N2 and N3) in freight transport services by road (Section 6.6) qualify as sustainable if they qualify as zero emission vehicles under Article 3 (11) of Regulation (EU) 2019/1242 with emissions under 1g CO₂/km or, for vehicles over 7.5 tonnes "where technologically and economically not feasible" to achieve zero emissions, they fulfil low emission standards according to Article 3 (12) as a transitional activity. For Light Commercial

⁶ *Sustainable finance – Eine kritische Würdigung der deutschen und europäischen Vorhaben* [Sustainable finance - a critical appraisal of German and European projects] Munich and Upper Bavaria Chamber of Commerce and Industry, Leibnitz - Institute for Economic Research at the University of Munich 2020.

Vehicles, LCVs with a maximum laden weight of up to 3.5 tonnes (N1), zero tailpipe emissions apply. All other freight transport services by road are transitional.

- 4.2.2 The treatment of HGVs shows a pragmatic approach that should have been more frequent in the Delegated Regulation. The zero-tailpipe requirement for LCVs (N1) in Section 6.6 seems inconsistent with Section 6.5 on transport by motorbikes, cars and LCVs where, for no obvious reason, more lenient provisions apply.
- 4.2.3 Taken together, the different treatment of road vehicles in different activities seems inconsistent and messy, with no explanation of the very different approach in different contexts.
- 4.3 A recurrent provision in Section 6 (Transport) of Annex 1 excludes vehicles or vessels dedicated to the transport of fossil fuels; as access to such fuels should not be facilitated. However, according to recital 35, the "usability" of this requirement may be assessed. It appears dubious to insert a requirement when doubts exist about its usefulness. Further, the requirement is not clear. A vehicle can often transport both fossil and alternative fuels. It is not clear whether the requirement refers to construction or use of the vehicle or vessel, so neither interpretation nor impact are clear.
- 4.4 Further examples are offered by the provisions on climate benefit analyses in points 1.1, 1.2 and 1.3 of Annex 1, which come on top of for instance, afforestation plans, forest restoration plans and forest management plans and which apply down to small holdings of 13 hectares. Requirements appear fairly complex and the reference made to the availability of online tools provided by the Food and Agricultural Organisation of the United Nations is likely to be of little consolation to small holders and demonstrates the disadvantageous situation for smaller undertakings created by the top-down approach used in the Delegated Regulation.
- 4.5 Certainly, the preservation of forests, including carbon sinks, is an essential element of EU environmental policy, but administrative obligations must remain proportional to the resources of those targeted. The principles applied by the Forest Stewardship Council are an example of clear and reasonable principles for forest exploitation and management⁷.
- 4.6 With respect to climate adaptation, reference may be made to the provisions in point 1.3 of Annex 2 on forest management and in point 6.3 on urban, suburban and interurban road passenger transport, which provides for an analysis of the climate effects of major investments spanning from 10 to 30 years.

⁷ www.fsc.org.

4.7 The statement in the Communication that the taxonomy does not accept activities that improve the current levels of environmental performance, but not at the level of substantial contribution, goes against Article 10(2) of the Taxonomy Regulation. Therefore, as already suggested, more space should be afforded to transitional solutions.

Brussels, 22 September 2021

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