

Taxonomy Regulation: Approved EU Taxonomy Climate Delegated Act under Art. 10(3) and 11(3) of the Taxonomy Regulation

**Joint meeting of the Committee on Economic and Monetary Affairs (ECON) and of the
Committee on Environment, Public Health and Food Safety (ENVI)
Scrutiny Session of 17 May 2021**

This briefing has been prepared to support **the parliamentary scrutiny** of the Delegated Act (DA) on climate change mitigation and climate change adaptation as foreseen by Regulation (EU) No [2020/852](#) on the establishment of a framework to facilitate sustainable investment (**Taxonomy Regulation**)¹. In accordance with the empowerments set out in Articles 10 and 11 of the Taxonomy Regulation, the Commission shall adopt a delegated act establishing screening criteria to determine the conditions under which an economic activity qualifies as contributing substantially to climate change adaptation or mitigation and whether it does not cause significant harm to one or more of the environmental objectives listed under Article 9.

In brief

The EU's Taxonomy Regulation creates a classification system for environmentally sustainable economic activities ('green list'). This system will provide a common toolbox for market participants to assess whether investment projects have a substantial positive impact on the climate or the environment.

The approved Delegated Act contains technical screening criteria (TSC) for economic activities that can make a substantial contribution to climate change mitigation or adaptation while avoiding significant harm to other environmental objectives.

The Taxonomy Climate Delegated Act will continue to evolve over time. More activities can be added to its scope by means of amendments in order to reflect technological progress and the screening criteria will be subject to regular review. A complementary Delegated Act will be adopted later in 2021 on agriculture and certain energy sectors not yet included in the Delegated Act approved in principle by the Commission on 21 April 2021.

¹ Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 (Text with EEA relevance).

Background: The **Taxonomy Regulation**, entered into force in July 2020, is a classification system, establishing a list of environmentally sustainable economic activities. It mentions the following six **environmental objectives**²:

- 1) climate change mitigation;
- 2) climate change adaptation;
- 3) the sustainable use and protection of water and marine resources;
- 4) the transition to a circular economy;
- 5) pollution prevention and control;
- 6) the protection and restoration of biodiversity and ecosystems;

and sets out the four following overarching conditions³ to establish the degree to which an investment is environmentally sustainable. An economic activity qualifies as environmentally sustainable if it:

- J substantially contributes (SC) to one or more of the above mentioned environmental objectives;
- J does not significantly harm (DNSH) any of the environmental objectives;
- J is carried out in compliance with the minimum safeguards in Article 18;
- J complies with technical screening criteria established by the Commission.

The Taxonomy Regulation empowers⁴ the European Commission to adopt delegated acts that define technical screening criteria for each of the six environmental objectives to specify how competent authorities and market participants shall comply with the obligations (Articles 10(3), 11(3), 12(2), 13(2), 14(2) or 15(2)).

The Regulation is part of the [Commission's Action Plan on 'Financing Sustainable Growth'](#) of March 2018, launching a strategy for sustainable finance with the aim of redirecting capital flows to help generate sustainable and inclusive growth. It provides uniform criteria for companies and investors to determine which economic activities can be considered 'green'. This includes the aim to increase transparency and consistency in the classification of such activities and limit the risk of greenwashing and market fragmentation.

The development of EU taxonomy relies on extensive and continuous input from experts from various fields. Since 2020, the [Platform on sustainable finance](#)⁵ advises the Commission on developing the EU's taxonomy and brings together expertise on sustainability from the public sector, industry, academia, civil society and the financial industry. The Platform is the successor of the [Technical Expert Group \(TEG\) on Sustainable Finance](#) established in 2018 to provide the Commission with assistance in developing legislative proposals. The TEG delivered its final report containing recommendations on the EU Taxonomy and implementation guidance. Further scientific support came from the Commission's Joint Research Centre (JRC).

To keep up with research, the EU Taxonomy framework will be regularly updated. It is intended as a transparent science-based instrument developed to help companies and investors make sustainable investment decisions.

² Article 9.

³ Article 3.

⁴ See overview of empowerments in Table 1 at the end of the paper.

⁵ Article 20.

ITEMS FOR DISCUSSION:

1. [Draft Commission Delegated Regulation \(EU\) .../... of xxx supplementing Regulation \(EU\) 2020/852 of the European Parliament and of the Council by 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](#)
2. [ANNEX I to the Commission Delegated Regulation \(EU\) .../... supplementing Regulation \(EU\) 2020/852 of the European Parliament and of the Council by 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](#)
3. [ANNEX II to the Commission Delegated Regulation \(EU\) .../... supplementing Regulation \(EU\) 2020/852 of the European Parliament and of the Council by 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](#)

Background: Article 10(3) and Article 11(3) of the Taxonomy Regulation require the Commission to establish technical screening criteria⁶ to determine the conditions under which certain economic activities qualify as contributing substantially to climate change mitigation and adaptation, the first two environmental objectives.

Upon the publication of [the inception impact assessment](#) in March 2020, the Commission received reactions from 409 respondents. During the consultation process ahead of the approval of the Delegated Act, the TEG published its [final report](#) on EU Taxonomy, on which a draft Delegated Act was built. Based on the examination of the feedback on the draft text in November 2020, the text was recalibrated and modified.

⁶ The technical screening criteria for determining whether an economic activity contributes substantially to climate change mitigation or climate change adaptation should ensure that the economic activity has a **positive impact on the climate objective or reduces negative impact on the climate objective**. The technical screening criteria for 'do no significant harm' should ensure that the economic activity **has no significant negative environmental impact**. Consequently, those technical screening criteria should specify the minimum requirements that the economic activity should meet in order to qualify as environmentally sustainable. These technical screening criteria should build, where relevant, on existing Union legislation, best practices, standards and methodologies, as well as on well-established standards, practices and methodologies developed by internationally reputed public entities. Where there are no viable alternatives for a specific policy area, the technical screening criteria should also build on well-established standards developed by internationally reputed private bodies.

Scope: This Delegated Regulation specifies the first set of technical screening criteria under which certain economic activities qualify as contributing substantially to **climate change mitigation** and **climate change adaptation** and for determining whether those economic activities cause significant harm to any of the other relevant environmental objectives. The act itself is short with only three Articles. The detailed criteria are set out in the two accompanying Annexes. Article 1 relates to technical screening criteria on climate change mitigation and refers to **Annex I**, while Article 2 relates to technical screening criteria on climate change adaptation and is linked to **Annex II**.

An economic activity pursuing climate change mitigation should contribute substantially to the stabilisation of greenhouse gas emissions by avoiding or reducing them or by enhancing greenhouse gas removals. An economic activity aiming to contribute to climate change adaptation should substantially reduce or prevent the adverse impact of the present or future climate, or the risks of such adverse impact on the activity itself, or on people, nature or assets. The current criteria cover the economic activities of roughly 40% of EU-domiciled listed companies in sectors, which are responsible for almost 80% of direct greenhouse gas emissions in Europe.

- J The criteria for **forestry** is built on a proportionate and flexible process. Forest owners must provide a forest management plan, undergo a climate benefit analysis to calculate carbon stock and sink levels, and perform an audit for the compliance with all technical screening criteria every 10 years. Compared to the previous draft text of the Act, changes were introduced to reduce complexity and burdens notably for smaller forest holdings. The criteria will be reviewed based on upcoming legislation (including the revision of the Renewable Energy Directive), in accordance with the biodiversity and climate neutrality ambitions of the Union.
- J **Energy activities** are subject to a cross-cutting 100g CO₂e/kWh lifecycle emissions threshold, except where evidence clearly shows relevant technologies are well below this level. **Bioenergy** is no longer labelled as a transitional activity and will undergo a revision based on the upcoming Commission's policies. The criteria for **hydropower** have been revised compared to the previous draft text to better align them with the Water Framework Directive.
- J The scope of some **manufacturing** activities has been broadened to promote the development of **hydrogen** markets. The criteria for **hydrogen** reflect the multiple low-carbon applications and go beyond the recommendations of the TEG. For the **manufacture of iron, steel and aluminium**, adjustments were introduced to better recognise different manufacturing processes and delineate distinct activities.
- J The criteria for **waste water systems** were strengthened compared to the TEG recommendations to ensure better alignment with the ambition level required by the Taxonomy Regulation. The calculation methodology for **water supply** recasts the Drinking Water Directive.
- J The scope of **transport infrastructure** is broader for climate change adaptation than for mitigation. Based on the wide range and diversity of the feedback, changes were mostly technical: electrified rail and zero tailpipe emission transport is no longer labelled "transitional", the criteria for DNSH to biodiversity for maritime transport activities are improved, and the criteria for interurban coaches were adjusted to reflect its role in modal shift.
- J To introduce more flexibility and consistency across Member States, the **acquisition and ownership of buildings** can either provide an EPC class A certificate or be within the top 15% in terms of energy performance on a national or regional scale. The feedback concerning the level of ambition on construction and buildings was rather mixed.
- J **Research, development and innovation (R&D&I)** on technologies and other solutions dedicated to climate change is included as an enabling activity that can contribute to helping economic operators

meet taxonomy criteria. For **ICT**, the scope for digital solutions that can deliver emission reductions in other sectors has been broadened.

State of play and procedure: On 21 April 2021, the College of Commissioners has come to a **political agreement and approved** the final text of the Climate Delegated Act. Once the text will be translated into all official languages (approximately by the end of May), the DA will be officially adopted by the Commission and submitted to the co-legislators for scrutiny.

Under [Article 290 TFEU](#), the Parliament may object to the delegated act, but cannot amend it. In accordance with Art 8(4) and 23(6) of the Taxonomy Regulation, the deadline for the European Parliament and the Council to object is **four months** from the date of notification with the possibility to be extended by **two months** at the initiative of the European Parliament or of the Council. Given that the **delegated act has not yet been adopted** and submitted to the co-legislators, the scrutiny period has not started. Following the adoption, should no objection be made, the delegated act is planned to apply from 1 January 2022.

4. Next steps: Completion of the Taxonomy Classification

The Taxonomy Climate Delegated Act is intended as a living document that will evolve over time. The technical screening criteria will be subject to regular review to reflect technological progress. This ensures that new sectors and activities, including transitional and enabling activities, can be added to the scope by means of amendments. In this vein, a complementary Delegated Act will be adopted later in 2021 and deal with agriculture and certain energy sectors that are currently not included.

- J As a reaction to opposing views, the Commission is exploring the inclusion of **natural gas** and related technologies as a transitional activity to facilitate the transfer from coal and oil to renewable energy sources.
- J In light of the ongoing negotiations on the Common Agricultural Policy (CAP), the inclusion of **agriculture** has been delayed to provide greater coherence across the different EU instruments.
- J For the time being, **nuclear energy** is not covered by the Delegated Act, which reflects a delicate compromise on the inclusion of this activity.⁷ As a first step, the JRC drafted a technical report on the 'do no significant harm' aspects of nuclear energy. This report is currently being reviewed by two sets of independent expert groups⁸. The two assessment reports, along with the JRC report, will inform the Commission's decision.

In addition, a second delegated act for the remaining four objectives shall be adopted by 31 December 2021, with a view to ensuring its application from 1 January 2023, in accordance to Articles 12 to 15.

⁷ This is also recognised in recital 27: 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 still ongoing and, as soon as the dedicated process is complete, the Commission will follow up based on its results in the context of this Regulation.

⁸ The Group of Experts on radiation protection and waste management under Article 31 of the Euratom Treaty and the Scientific Committee on Health, Environmental and Emerging Risks on environmental impacts.

Table 1: Overview on empowerments of the Taxonomy Regulation

Legal basis	DA subject	Adoption deadline	COM planning/ OJ publication
Transparency of undertakings in non-financial statements, Art. 8(4)	Specification of content and presentation of the information to be disclosed, including the methodology to be used in order to comply with the Article.	01.06.2021	To be developed (See EBA Technical Advice , ESMA Technical Advice and EIOPA Technical Advice to COM)
Substantial contribution to climate change mitigation, Art. 10(3)	Establishment of technical screening criteria for determining the conditions under which a specific economic activity qualifies as contributing substantially to climate change mitigation and if it causes significant harm to one or more of the relevant environmental objectives.	30.12.2020	Approved Delegate Act, Annex I on Climate change mitigation , Draft Delegated Regulation (See also the Platform on Sustainable Finance Consultation Response)
Substantial contribution to climate change adaptation, Art. 11(3)	Establishment of technical screening criteria for determining the conditions under which a specific economic activity qualifies as contributing substantially to climate change adaptation and if it causes significant harm to one or more of the relevant environmental objectives.	30.12.2020	Approved Delegated Act, Annex II on climate change adaptation , Draft Delegated Regulation (See also the Platform on Sustainable Finance Consultation Response)
Substantial contribution to the sustainable use and protection of water and marine resources, Art. 12(2)	Establishment of technical screening criteria for determining the conditions under which a specific economic activity qualifies as contributing substantially to sustainable use and protection of water and marine resources and if it causes significant harm to one or more of the relevant environmental objectives.	31.12.2021	To be developed
Substantial contribution to the transition to a circular economy, Art. 13(2)	Establishment of technical screening criteria for determining the conditions under which a specific economic activity qualifies as contributing substantially to the transition to a circular economy and if it causes significant harm to one or more of the relevant environmental objectives.	31.12.2021	To be developed
Substantial contribution to pollution prevention and control, Art. 14(2)	Establishment of technical screening criteria for determining the conditions under which a specific economic activity qualifies as contributing substantially to pollution prevention and control and if it causes significant harm to one or more of the relevant environmental objectives.	31.12.2021	To be developed
Substantial contribution to the protection and restoration of biodiversity and ecosystems, Art. 15(2)	Establishment of technical screening criteria for determining the conditions under which a specific economic activity qualifies as contributing substantially to the protection and restoration of biodiversity and ecosystems and if it causes significant harm to one or more of the relevant environmental objectives.	31.12.2021	To be developed

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➤ All ECON Scrutiny papers can be found on the [ECON Policies pages](#)