

Platform on Sustainable Finance

Consultation Response

Taxonomy draft Delegated Act setting out technical screening criteria for climate change mitigation and adaptation.



**PLATFORM ON
SUSTAINABLE FINANCE**

Mr Valdis Dombrovskis

Executive Vice-President of the European Commission

Ms Mairead McGuinness

Commissioner for Financial services, financial stability and Capital Markets Union

Brussels, 18 December 2020

Dear Executive Vice-President,

Dear Commissioner,

On behalf of the members and observers of the Platform on Sustainable Finance, I would like to thank you for your trust in the Platform to provide the Commission with high quality and evidence-based advice on the future development of the EU Taxonomy, its usability and sustainable finance policies in more general, in line with Article 20 of the EU Taxonomy Regulation (Regulation (EU) 2020/852).

In view of Articles 10(4), 11(4) and 20 of the Taxonomy Regulation, the Commission on 19 November 2020 invited the Platform on Sustainable Finance to provide its views on the first draft Delegated Regulation¹ supplementing the EU Taxonomy Regulation prior to its adoption.

The stakeholder consultation of the first draft Delegated Regulation is a key step towards the objective of achieving a climate-neutral European Union by 2050, reducing emissions by at least 55% by 2030 and building climate resilience across our economy, while not harming our air, water and ecosystems and the transition to a circular economy.

On behalf of the Platform on Sustainable Finance, I am delighted to submit the attached consultation response on the draft Delegated Regulation.

The feedback focusses on issues relating to data and usability aspects of the technical screening criteria, as well as raises some of the additional issues, in particular relating to the application of Articles 10 and 19 of the Taxonomy Regulation, which the Platform invites the Commission to consider when reviewing feedback on the draft Delegated Regulation.

Yours sincerely,

Nathan Fabian

Chair of the Platform on Sustainable Finance

¹ Draft Delegated Act 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

Contents

1. OVERVIEW	4
1a. The Platform on Sustainable Finance	4
1b. About this paper	4
1c. Issues covered	4
1d. Summary of key points	5
1e. Background on the development of the technical screening criteria	5
2. ANALYSIS AND RECOMMENDATIONS: DATA AND USABILITY	7
2a. Enabling the transition to Taxonomy-alignment	7
2b. Application of NACE codes	8
2c. Structure and format of the Delegated Act	10
2d. Formulation of technical screening criteria: cross-cutting	11
2e. Formulation of technical screening criteria: specific activities	14
2f. SMEs and Households	17
3. RECOMMENDATIONS FOR REVIEWING FEEDBACK ON THE DELEGATED ACT	18
3a. Credibility	18
3b. Consistency	20
3c. Predictability	22

This paper represents the overall view of the members and observers of the Platform on Sustainable Finance. However, it may not necessarily, on all aspects, represent the individual views of member institutions or experts. This paper does not reflect the views of the European Commission or its services.

1. Overview

1a. The Platform on Sustainable Finance

The Platform on Sustainable Finance is a group of experts set up to advise the European Commission on the ongoing development of the sustainable finance agenda. The [Platform](#) is comprised of appointed members from a wide range of sectors, including industry, academia and civil society.

1b. About this paper

This paper sets out feedback from the Platform to the European Commission regarding the first draft Delegated Act supplementing the EU Taxonomy Regulation (Regulation (EU) 2020/852).²

In November 2020, the Commission released the draft Delegated Act which sets out technical screening criteria for determining when economic activities can contribute substantially to climate change mitigation and adaptation, and when they can be considered to cause significant harm to other environmental objectives within the context of the EU Taxonomy.³

The Platform has focussed its comments in this response on the draft Delegated Act establishing the technical screening criteria for the climate change objectives. The Platform also notes a limited number of usability issues which arise because of this draft Delegated Act, but which may be relevant to other initiatives underway. The Commission will adopt subsequent rules and guidance regarding the Taxonomy, including:

- Delegated Act setting out the content, presentation and methodologies for complying with the disclosure requirements under Article 8 of the Taxonomy Regulation, to be adopted by 1 June 2021;
- Regulatory Technical Standards specifying the details of the content and presentation of the disclosure requirements under Article 5 and 6 of the Taxonomy Regulation, to be adopted by 1 June 2021 for the climate change objectives.

The Platform's mandate includes provision of ongoing advice regarding the usability of the Taxonomy. In this context, the Platform is currently assessing market preparedness for the disclosure obligations and identifying data availability and limitations.

1c. Issues covered

In the context of this consultation, the Platform was invited to comment primarily on **data and usability issues**, including observations around data issues and challenges related to the technical screening criteria and commentary on the overall structure of the draft Delegated Act, including the use of NACE as a guiding system for identifying and organizing activities.

In evaluating usability, the Platform has focussed on the users of the Taxonomy as understood in the Taxonomy Regulation, namely the EU and Member States, Financial Market Participants and undertakings. In addition, the Platform recognises that other economic actors may be impacted by the Taxonomy Regulation directly or indirectly, but are not required to make disclosures under the

² Draft Delegated Act 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 These are established in Article 10(3), 11(3), 12(2), 13(2), 14(2) or 15(2) of the Taxonomy Regulation.

regulation, and may not be able to rely on guidance established in the forthcoming Article 8 Delegated Act.

The Platform was also invited to give **further recommendations**, where appropriate, for the Commission to consider in evaluating the responses to the consultation on the draft Delegated Act, also in view of the objectives and requirements set out in the Taxonomy Regulation.

1d. Summary of key points

The Platform has considered the invitation for feedback in line with the stated purpose of the Taxonomy.

The Taxonomy establishes a common language on environmental performance, builds trust in financial markets, avoids greenwashing and helps companies to transition their activities to a more sustainable footing.

The Platform provides feedback on the following issues:

Recommendations relating to data and usability. The Platform has identified several aspects of the draft Delegated Act which may impact the usability of the Taxonomy. These are split into:

- Provisions for transition and enabling activities to Taxonomy alignment
- Application of NACE codes.
- Structure and format of the Delegated Act.
- Formulation of technical screening criteria: cross-cutting issues and issues specific to the formulation of individual criteria.
- Specific issues relating to use of the Taxonomy by SMEs and households.

Additional recommendations. Throughout this review, the Platform identified additional issues, in particular relating to the application of Articles 10 and 19 of the Taxonomy Regulation, for the Commission to consider when reviewing feedback on the draft Delegated Act. These are split into:

- Credibility: expert processes, evidence basis and precautionary principle, transition concepts and alignment with EU initiatives.
- Consistency: consistency of investment incentives, technology neutrality, favouring of quantitative criteria and consistency in boundary setting.
- Predictability.

1e. Background on the development of the technical screening criteria

The draft Delegated Act draws from the final recommendations of the Technical Expert Group on Sustainable Finance (TEG) in relation to the EU Taxonomy.

The experts on the TEG developed their recommendations over 20 months and with substantial consultation and scientific and technical input. The TEG has received input from all parts of the investment chain, industry sector representatives, academia, environmental experts, civil society and public bodies. This has resulted in recommendations in line with the requirements of the Regulation and the best evidence available.

Importantly, the TEG's recommendations were aligned to key EU goals: the need to achieve climate neutrality by 2050, to reduce emissions by at least 55% by 2030 and to build climate resilience across our economy, while not harming our air, water and ecosystems and the transition to a circular economy. The Platform also recognises an important point of principle regarding EU law and the Taxonomy. While aligning criteria to definitions and methodologies embedded in EU law may

reduce the reporting burden on EU users of the Taxonomy, existing EU law is not always sufficiently precise or ambitious to meet the “substantial contribution” requirements of the Taxonomy Regulation. As a result, substantial contribution criteria will often go beyond existing regulatory minima within economic sectors. Regulatory minima have been heavily relied on in development of the “do no significant harm” criteria across environmental objectives 3-6 for climate mitigation and adaptation.

2. Analysis and recommendations: data and usability

The Platform was invited to comment primarily on data and usability issues, including observations around data issues and challenges related to the technical screening criteria and commentary on the overall structure of the draft Delegated Act, including the use of NACE as a guiding system for identifying and organizing activities.

The Platform's feedback is split into several parts:

- a. Provisions for transition of activities in the Taxonomy
- b. Application of NACE codes
- c. Structure and format of the delegated acts
- d. Formulation of criteria
- e. Application of the Taxonomy to SMEs and households

The Platform also recognises that reliable, complete and timely data will be key for the usability of the EU-taxonomy and the establishment of an European Single Access Point as proposed under the CMU in late 2020 could be a value-added EU-initiative to improve access and use of taxonomy-relevant data.

2a. Enabling the transition to Taxonomy-alignment

Summary of issue

One of the key recommendations from the Technical Expert Group is the use of the Taxonomy to finance improvements in activities which do not currently meet the technical screening criteria (the "transition provision"). This is reflected in the TEG reports of March 2020.

A full analysis is given in the [Summary Report](#) (Section 2.1.3 Improvement measures within an economic activity, p15). For example, the report states:

"Some economic activities will already meet the technical screening criteria. For those that do not, the TEG recommends that the financing of improvement measures (capex and, if relevant, opex) can be counted as Taxonomy-aligned if they are part of an implementation plan to meet the activity threshold over a defined time period (TEG recommends a limit of five years for these plans). In the case of climate change adaptation, the plan should directly respond to the climate risks identified in the assessment required by the adaptation principles".

The [Technical Annex](#) (Updated methodology & Updated Technical Screening Criteria) reflects this in the "principle" underlying many of the technical screening criteria, following a similar formulation:

"Mitigation measures are eligible provided they are incorporated into a single investment plan within a determined time frame (5 or 10 years) that outlines how each of the measures in combination with others will in combination enable the activity to meet the threshold defined below actions".

Recognizing improvement measures is a critical issue for corporate and financial users. In order to provide incentives to all companies to improve their environmental performance, the Taxonomy should not only recognize activities that already meet the criteria, but also recognize efforts with purpose of meeting those criteria over time. Removing this element severely limits the potential uses of the Taxonomy and risks undermining this purpose of the Taxonomy as a tool to support to transition to a sustainable economy.

In this context, it is also important to consider the timeline for implementation of those improvement measures. While 5 years may be appropriate as an indicative timeline, a more tailored approach on implementation timelines for investment plans is needed by users of the Taxonomy. The timeline for investment plans ought to reflect the needs and complexities of the different types of investments or projects for different industries. A minor renovation plan would require a much shorter implementation timeline compared to a complete retrofit of several plants or the construction of a large infrastructure project.

Further, realising or delivering the plan, consistent with the Taxonomy criteria is the more important consideration in practice. Requiring clear disclosures on the progress in implementing the plan should therefore be a requirement of claiming that related capital expenditures are Taxonomy aligned. These requirements should include ensuring that the plan adjusts to meet Taxonomy criteria that change during the life of the plan.

This issue is relevant to the formulation of some of the technical screening criteria but may also be an important consideration for the future Delegated Act setting out the content, presentation and methodologies for complying with the disclosure requirements under Article 8 of the Taxonomy Regulation. Notably on the "what" (definitions of OpEx, CapEx and "directly enabling other activities" (as from Art. 16)), "when" (the first financial reporting year) and "how" questions (IT support from the Commission to clarify the scope of the NACE codes and companies' activities; and need to streamline reporting requirements under other sustainable finance-related initiatives, e.g. NFRD).

Recommendation

The Platform recommends that the draft Delegated Act:

- Includes language clarifying that measures should be considered eligible where they form part of a plan with a determined timeframe that outlines how the measures in combination will meet the technical screening criteria. The timeframe should be justified depending on nature of the activity or plan;
- Provides greater clarity and certainty through the future Delegated Act setting out the content, presentation and methodologies for complying with the disclosure requirements under Article 8 of the Taxonomy Regulation, to be adopted by 1 June 2021, and if relevant, future Regulatory Technical Standards specifying the details of the content and presentation of the disclosure requirements under Article 5 and 6 of the Taxonomy Regulation, to be adopted by 1 June 2021 for the climate change objectives.
- Plans would need to be recalibrated following any changes in technical screening criteria.

The Commission, supported by the Platform, should consider further work on a framework for establishing appropriate timelines, with reference to the nature of the activity.

2b. Application of NACE codes

2b(i) Misalignment of NACE

Summary of issue

The Platform recognised NACE as a tool for structuring information and, in future, for collection of data on capital flows aligned to a sustainable economy⁴. At the same time, the Platform notes that NACE is a statistical classification system and was not designed for the sole purpose of classification

⁴ The Platform is tasked with monitoring and reporting on capital flows towards sustainable investments. Further details on how the Platform will pursue this objective will be shared in 2021.

of activities based on environmental contribution, as is the intent of the EU Taxonomy. Consequently, not all activities set out in the draft Delegated Act have NACE codes, and NACE codes may not adequately match the boundaries of an activity for the purposes of analysing the activity's environmental footprint. The Platform recognises that this may present challenges when matching activities to the Taxonomy criteria.

- **Example:** Conservation of wetlands (Activity 2.1 in Annex I) has no NACE code associated with it.
- **Example:** NACE D35.1.1 (Electricity Generation) captures electricity generating technologies with very different environmental profiles, and as such has to be supplemented with a more detailed breakdown.

The Platform also notes that NACE is not widely used by corporates or investors.

Recommendation

The Platform makes the following recommendations:

1. The draft Delegated Act should clarify that the activity description is the ultimate reference for identifying, and reporting on, Taxonomy-aligned activities.
2. The EU should consider updating NACE to ensure alignment with the Taxonomy and better reflect market needs. In addition, it is recommended to establish additional equivalence tables advancing those in Appendix B of the TEG's Handbook of Climate Transition Benchmarks⁵, for example to include more widely used classification systems in financial markets.⁶

2b(ii) Activities crossing NACE codes

Summary of issue

The full development, deployment and end of life treatment of an activity may cross multiple NACE codes or scopes of activity (see recommendations regarding misalignment of NACE which recommend that the activity description be the primary reference for determining taxonomy eligibility).

Users of the Taxonomy should be able to support the development of these activities in different contexts. However, the draft Delegated Act identifies some, but not all activities / codes as relevant.

- Example: Electric vehicles may involve:
 - manufacturing (e.g. C29.1: manufacture of motor vehicles)
 - operation (e.g. Taxis (H49.3.2: Taxi operation), courier services (H53.2.0 - Other postal and courier activities))
 - financing (e.g. K64.92: Credit Granting)
 - leasing (e.g. N77.1: Renting and leasing of motor vehicles)
 - maintenance (e.g. G45.2.0: Maintenance and repair of motor vehicles)
 - end-of-life treatment (e.g. E38: Waste collection, treatment and disposal activities; materials recovery).

⁵ https://ec.europa.eu/info/sites/info/files/business_economy_euro/banking_and_finance/documents/192020-sustainable-finance-teg-benchmarks-handbook_en_0.pdf

⁶ Equivalence tables are published for international and other National statistical classification systems:

https://ec.europa.eu/eurostat/ramon/relations/index.cfm?TargetUrl=LST_REL&StrLanguageCode=EN&IntCurrentPage=11

- The draft Delegated Act recognises the manufacturing and waste disposal codes (in the case of waste, not specific to vehicles), but does not explicitly recognise auto-financing, taxi operation, courier services, leasing or maintenance.

At this stage, the rules regarding financial metrics are yet to be finalised. However, based on the TEG recommendations regarding accounting of turnover, OpEx and CapEx, this implies that certain companies may be unable to claim taxonomy-aligned turnover even where their primary business is strongly associated with an activity which is taxonomy aligned.

- **Example:** A Taxi firm operating a zero-tailpipe fleet would not be able to count their turnover as Taxonomy-aligned. However, expenditures related to the purchase of new zero-tailpipe emissions vehicles would be considered Taxonomy-aligned.

Recommendation

The Platform recommends that:

- The draft Delegated Act should acknowledge some flexibility in the application of activity boundaries / codes in early deployment of the Taxonomy. This is consistent with the recommendations of the TEG (see [Eligible NACE Codes - Points of Note, p36](#)).
- These issues have substantial consequences for future Taxonomy design. The Platform will consider this issue further, with a view to better capturing a fuller range of activities in the Taxonomy, and in future design of technical screening criteria.

2c. Structure and format of the Delegated Act

2c(i) Regulatory cross-references

Summary of issue

In some cases, the draft Delegated Act aligns to definitions in other regulations or Directives. Where feasible and in line with the science-based approach and ambition of the Taxonomy, this brings welcome consistency and harmonisation to the Taxonomy framework. However, it may present challenges if the revision of these requirements is not synchronised.

- **Example:** Criteria for some activities⁷ refer to benchmarks set in other regulations (e.g. EU ETS).

Recommendation

The Platform recommends that thresholds should be aligned with definitions or benchmarks in EU legislation where feasible and in line with the science-based requirements and ambition and requirements of the Taxonomy Regulation. The use of dynamic cross-references should be encouraged to ensure synchronised updates.

2c(ii) Footnotes

Summary of issue

In the draft Delegated Act, the criteria for aluminium are set out in the footnotes, not the main body of the text. This may be confusing for users.

Recommendation

⁷ Manufacturing of cement, aluminium, iron and steel, carbon black, disodium carbonate, organic basic chemicals, anhydrous ammonia and nitric acid.

Include the technical screening criteria for aluminium in the main body of the text.

2d. Formulation of technical screening criteria: cross-cutting

The Platform identifies several usability issues relating to the formulation of the technical screening criteria.

2d(i) Adaptation activities

Summary of issue – adapted activities

The Platform notes that the selection and prioritization of sectors for adaptation objectives was designed to leverage existing technical work establishing “do no significant harm” criteria

All sectors of the economy need to adapt to the changing climate. Nonetheless, the Platform recognises that the brunt of impacts and economic losses is already and will increasingly be borne by those sectors that are directly dependent on climatic conditions (such as agriculture, fisheries and tourism) or those who are projected to experience the highest damage to their assets or interruptions in their operations due to the biophysical impacts. The draft Delegated Act therefore may miss highly vulnerable sectors, limiting its usability.

Further, in defining substantial contribution to climate change adaptation, the draft Delegated Act refers to activities being “... consistent with local, sectoral, regional or national adaptation efforts” which is unspecific and difficult to demonstrate compliance with.

Recommendation

The Platform recommends that:

- The draft Delegated Act should refer to “local, sectoral, regional or national adaptation policy aims, and planned actions as laid out in adaptation strategies and adaptation action plans” rather than “efforts”.
- Any further activities identified to make a substantial contribution to climate change adaptation should be developed following an evidence-based selection and prioritization exercise, based on assessment of climate risk.

Summary of issue – activities enabling adaptation

The draft Delegated Act recognises that activities can make a substantial contribution to climate change adaptation in two ways: either through being adapted or by enabling adaptation in other parts of the economy.

This responds to recommendations by the TEG, which proposed to create two distinct sets of principles covering each situation. The TEG also recognised that many activities could perform either, or both functions and as such proposed that users of the Taxonomy have the option to select whether their contribution should be recognised as “enabling” or “adapted activity”, noting that “additional ex-ante screening could be developed to determine which economic activities should be included in the Taxonomy and which may be filtered out on the basis of their environmental impact and life-cycle considerations.”

The draft Delegated Act takes a different approach, separating enabling activities from the economic activities being adapted. As well as designating distinct criteria for substantial contribution in adapted activities in Agriculture, the draft Delegated Act also provides activity specific criteria for enabling activities, but only for 3 specific solutions: non-life insurance/reinsurance, RDI for nature-based solutions, and consultancy services.

Generally, users will find it easier to demonstrate compliance where criteria are more precise and tailored to the activity in question. However, in the case of enabling activities for adaptation, the benefits are currently outweighed by the drawbacks. This approach leads to an excessively narrow scope of enabling adaptation activities included in the Taxonomy, which in turn heavily limits the usability of the Taxonomy for financing adaptation across the economy.

- **Example:** Afforestation and natural capital restoration can be an important enabling adaptation for coastal regions, slope stabilisation in transport networks, water basin protection and addressing heat island effects in cities, amongst other uses. In the draft Delegated Act, only adaptation of these activities is recognised as Taxonomy-aligned, and not the role of afforestation in enabling adaptation.

Although out of scope for this draft Delegated Act, the Platform also recognises the TEG recommendations regarding different treatment of financial metrics for “adapted” and “enabling” activities. The TEG Report of March 2020, particularly the Technical Annex (p.27) states:

"In the case of an economic activity enabling adaptation, the revenue and/or expenditure associated with the economic activity that meets the relevant screening criteria is considered as eligible.

In the case of an adapted economic activity, at this time, only the costs of adaptation can be counted, not the revenues and/ or expenditure associated with the whole activity. This is because adaptation of an economic activity is delivered in activities that have primary objectives other than adaptation (for example adaptation of an electricity transmission line to increased risk of flood). When those activities are adapted to cope with physical climate risk, they contribute to the climate resilience of the entire, highly integrated and interconnected economic system and as a result, deliver a global benefit through aggregated adaptation in all sectors of an economy. However, methodologies, tools and metrics to measure these climate resilience benefits remain under development. These technical limitations mean that counting only the costs of adaptation of the economic activity is the most viable, conservative option today."

As such, careful consideration should be given to which activities should be eligible to be considered “enabling”, as this has substantial implications for accounting of Taxonomy-aligned turnover and capex.

Recommendation

The Platform recommends that the draft Delegated Act should substantially expand the scope of enabling activities which can make a substantial contribution to climate change adaptation, either by: (1) re-introducing strengthened general requirements clarifying how enabling activities can support adaptation in other economic activities; or (2) by identifying “low hanging fruit” from the existing list of activities deemed to make a substantial contribution to adaptation through being adapted, but which could also act as enablers, as well as including the other TEG recommended priority sectors, including weather monitoring and warning systems, research, development and innovation and flood protection.

Although beyond the scope of this Delegated Act, the Platform notes that rules will be provided for certain Taxonomy users regarding financial metrics in the Article 8 Delegated Act.⁸ Care should be taken to ensure that this guidance addresses the unique needs and constraints of adaptation activities in the Taxonomy.

⁸ Voluntary users of the Taxonomy, such as issuers of EU Green Bonds, may benefit from additional guidance.

2d(ii) GHG emissions methodologies

Summary of issue

The draft Delegated Act gives significant flexibility to users of the Taxonomy regarding the GHG emissions methodology employed.

For the following activities,⁹ the draft Delegated Act gives the option of referring to Commission Recommendation 2013/179/EU (referring to the 'Product Environmental Footprint', the European harmonised way of carrying out a Life Cycle Assessment) or ISO 14067 (the ISO methodology on carbon footprint of products) or ISO 14064-1 (the ISO methodology to account GHG emissions of organisations):

- Manufacture of other low carbon technologies
- Manufacture of chlorine
- Manufacture of organic basic chemicals
- Manufacture of plastics in primary form (both in the climate mitigation and adaptation taxonomy)
- Electricity generation from hydropower
- Electricity generation from geothermal energy
- Electricity generation from gaseous and liquid fuels
- Cogeneration of heat/cool and power from geothermal energy
- Cogeneration of heat/cool and power from gaseous and liquid fuels
- Production of heat/cool from geothermal energy
- Production of heat/cool from gaseous and liquid fuels
- Data-driven solutions for GHG emissions reductions
- Research, development and innovation

However, the methodologies proposed may still lead to substantially different outcomes, depending on the focus of the methodology and the decisions made during the calculation (where methodologies give options for users, or where methodologies do not map to the economic activity boundaries in the Delegated Act). Generally, these methodologies are not designed for assessment of an economic activity. Where the economic activity boundary is different from the organisation or product boundary defined in the GHG methodology, the user will need to adapt their approach. From a usability perspective, this may lead to poor comparability between Taxonomy disclosures.

- **Example:** ISO 14064-1 is a standard for organisational level GHG emissions inventories. Users may need to adapt their approach to perform activity level calculations.
- **Example:** ISO 14067 is a standard for assessing lifecycle emissions of products. As with ISO 14064-1, this may require some adaptation to perform activity level calculations. ISO 14067 also leaves several methodological choices to the practitioner which may lead to divergent results.
- **Example:** Product Environmental Footprint methodology of the European Commission. As above, where the product and activity boundaries do not match, some adaptation may be required. PEF is a more prescriptive framework and provides a degree of methodological consistency, leading to increased comparability of results.¹⁰

Recommendation

⁹ The activity 'Manufacture of hydrogen' refers in part to other methodologies (in both the annexes on mitigation and adaptation), recommendations on GHG emissions accounting methodologies are made as part of this specific activity.

¹⁰ [Reference goes here: Manfredi et al., 2015]

The Platform recommends that further work be undertaken to harmonise and standardise GHG emissions accounting methodologies across the Taxonomy, and to assess the suitability of existing methodologies for economic activity LCA calculations.

2e. Formulation of technical screening criteria: specific activities

2e(i) Lack of data leading to implementation challenges

Summary of issue

Buildings are responsible for about 40% of the EU's energy consumption, and 36% of greenhouse gas emissions from energy. Energy efficiency is an effective climate mitigation measure. In order to properly assess building emissions and energy performance, comparable data on a m2 basis would be needed. This data is not widely available across the EU. As a result, establishing accurate and comparable performance criteria for buildings in the EU is not currently possible in the way that can be achieved for manufacturing facilities or transport vehicles. The use of energy performance regimes, specifically EPC's, also suffer a lack of comparability because building performance expectations vary by country for each level of EPC rating (E.g. EPC A ratings cover a range of <1% to >10% of building stock in different countries, while EPC A+B covers a range of <3% to >30% of building stock¹¹). The consequence is that the economic activity of building acquisition does not have a comparable benchmark to use when assessing building energy or emissions efficiency performance across the EU. Until such benchmark exists, a short-term common approach is needed to help the market to orient investments towards more energy efficient buildings.

Recommendation

The Commission should consider appropriate and common short-term approaches for technical screening criteria for energy efficiency in buildings, including proposals made by the Technical Expert Group on Sustainable Finance.

2e(ii) Research, Development and Innovation

Summary of issue

The Platform welcomes the introduction of R&DI in the Taxonomy, although it notes that the criteria have not been subject to expert input and stakeholder consultation. Support to fundamental research must be maintained to ensure the development of breakthrough technologies in sectors that need to transition to low-carbon. In addition, appropriate support along the Technology Readiness Levels (TRLs) scale (including risk-sharing measures for the demonstration of innovative technologies and first-of-its-kind plants) is important for the development of a more circular and climate neutral economy.

As such, the Platform recognises the need for flexibility in early stages of R&D activities. As drafted, the criteria require activities to receive a third-party assured lifecycle GHG footprint, which may not be accessible to early-stage RD&I projects.

The Platform also raises concerns that the draft Delegated Act exclude RD&I aimed at achieving thresholds for activities marked as “enabling” or “transition”. Innovation is needed in many forms to meet future environmental targets, and RD&I is critical to bring forward disruptive technologies. This includes new enabling technologies, as well as technologies which may increase the environmental

¹¹ Energy Performance Certificates, Assessing their status and potential, Figure 6, Distribution of EPC label ratings. https://x-tendo.eu/wp-content/uploads/2020/05/X-TENDO-REPORT_FINAL_pages.pdf

performance of activities designated as “transition”, where arguably the greatest investment in innovation is required.

Recommendation

The Platform recommends that the Delegated Act:

- Reflect the importance of early-stage RD&I.
- Reflect the need for flexible application of the criteria in early stages of development of RD&I projects, for example regarding GHG footprinting.
- Ensure that RD&I directed towards transitional and enabling activities can be considered taxonomy-aligned when making a substantial contribution and when alternative low carbon solutions are not already available.

2e(iii) Low carbon technologies

Summary of issue

The draft Delegated Act defines “low carbon activities” with reference to NACE codes C10:33. The Platform notes that the intent is to capture the manufacture of technologies that result in emissions savings, not to capture lower intensity production processes for general manufacturing. However, the wide range of NACE codes listed, in combination with the lack of clear definition of “low carbon activities”, could lead to misinterpretation on this point.

In addition, the Platform recognises that this could lead to activities being included in the Taxonomy which would traditionally be excluded from sustainable financial products.¹²

Recommendation

The Platform recommends that the Commission clarify the definition of “low carbon technologies” - including that these are enabling activities to support substantial GHG emissions reductions in other sectors of the economy - to avoid misinterpretation of these criteria.

2e(iv) Timeline issues for financial product alignment

Summary of issue

The draft Delegated Act contains criteria which will be reviewed on a schedule, either set out in the design of the criteria (e.g. transport) or every third year by virtue of being a “transitional” activity. This predictability for the reviewing of criteria is welcome.

A challenge for companies and financial market participants arises when a financial instrument or product has a different investment timeframe to the revision of the technical screening criteria. This is particularly the case for green bonds, loans and mortgages but may affect all green or use of proceeds debt products. This challenge necessarily arises when technical screening criteria are likely to tighten over time, but the implications for companies and financial products must be addressed.

Recommendation

The Platform recommends further work is needed to establish appropriate practice for accounting for Taxonomy-alignment with different financial products and underlying investments, in particular

¹² As a reference, see the minimum exclusions proposed by the Technical Expert Group on Sustainable Finance for climate benchmarks: https://ec.europa.eu/info/sites/info/files/business_economy_euro/banking_and_finance/documents/190618-sustainable-finance-teg-report-climate-benchmarks-and-disclosures_en.pdf

where the timeframe for the underlying investment or project is considerably longer than the timeframe for revision of the technical screening criteria.

2e(v) *Sea and coastal passenger water transport, Sea and coastal freight water transport*

Summary of issue

Although the Platform has not considered the thresholds for the criteria on *Sea and coastal passenger water transport* or *Sea and coastal freight water transport*, the proposed criteria relating to port operations are ambiguous and should be clarified from a usability perspective. Further, the use of Energy Efficiency Design Index (EEDI) values may present usability challenges.

Port operations are an important part of sea transport. The draft Delegated Act refers to “normal ship operations” but the text is not clear on whether this should include operations both at sea and at port.

- **Example:** The draft criteria for substantial contribution to climate change mitigation state that “(b) until 31 December 2025, hybrid vessels use at least 50% of zero direct (tailpipe) CO2 emission fuel mass or plug-in power for their normal operation”¹³

The platform notes challenges with the criteria relating to use of EEDI values. Although there are multiple options for demonstrating compliance within this activity, reference to EEDI is the most accessible option for many operators. However, EEDI does not cover all types and sizes of ships and may be particularly inaccessible for smaller ships or those built before 2007.

Recommendation

The Platform recommends adding “at sea and in port” to clarify that a ship’s normal operation includes operations both in port (such as loading and offloading), and at sea.

The Platform recommends adding the possibility for ships without EEDI value to comply by meeting an equivalent accepted standard.

2e(vi) *Inconsistency with financial and insurance activities*

Summary of issue

Point (c) of criterion n°1 for substantial contribution to climate change adaptation specifies that insurance activities should provide incentives for risk reduction by acting as a price signal of risk, including reduced premiums or deductibles to policyholders.

However, the premiums’ calculation is already based on the risk level, as required by the principles of the Solvency 2 Directive. Pricing is based on actual risks. Therefore, it already considers existing prevention and/or protection measures, including against climate risks. The current wording of this criterion goes against the principle of actuarial pricing: it assumes that the price is set first and that a discount linked to preventive actions can be deduced afterwards. A “price signal” is incompatible with the general principle of risk pooling.

Recommendation

¹³ Page 192, chapter 6.11, SC: “The activity complies with one or more of the following criteria:

b) until 31 December 2025, hybrid vessels use at least 50 % of zero direct (tailpipe) CO2 emission fuel mass or plug-in power for their normal operation;”

The Platform recommends that the draft Delegated Act clarifies point c under criterion 1 for substantial contribution to climate change adaptation by financial and insurance activities, for example by using the following formulation:

"the insurance activity provides incentives for risk reduction by acting as a price signal of risk (for example through reduced premiums or deductibles based on supportive information on actions by policyholders who protect an asset or activity against natural catastrophes damages and hereby reduce the actual risk incurred). After a climate risk event, the insurer provides information on the conditions under which coverage under the insurance activity could be renewed or maintained and in particular the benefits of building better in that context."

2f. SMEs and Households

Summary of issue

The Platform recognises the importance of high environmental standards throughout the Taxonomy. However, SMEs¹⁴ and households would face unique challenges in demonstrating compliance with the EU Taxonomy if financial institutions would require this information from these actors, in particular where the complexity or compliance cost of the requirements is disproportionately large relative to their individual environmental footprint.

The following priority issues, which can be especially challenging for SME's, have been identified:

- The qualitative, risk-based requirements relating to demonstrating a substantial contribution or avoidance of significant harm to adaptation.
- To demonstrate avoidance of harm to pollution prevention and control for buildings, the Taxonomy sets criteria regarding management of asbestos and substances of high concern.
- In several criteria, lifecycle emissions are required to be calculated.
- Some criteria require third-party assurance.

Recommendation

The Platform recommends that the principle of proportionality for Taxonomy disclosures in financial products related to SMEs and households is further developed in the future delegated act regarding the content and presentation of Taxonomy Disclosures under Article 8 of the Taxonomy Regulation.

SMEs and homeowners should be permitted to rely on other provisions: where an Environmental Impact Assessment (EIA) has been carried out, buildings should be deemed compliant with local and/or National regulations and not require further assessment.

¹⁴ Following the EU definition of business with less than 250 employees.

3. Recommendations for reviewing feedback on the Delegated Act

The Platform was also invited to give recommendations, where appropriate, for the Commission to use in evaluating the responses to the consultation on the Delegated Act, also in view of the objectives and requirements set out in the Taxonomy Regulation. The Platform has separated its recommendations into three parts:

- a) Credibility of technical screening criteria.
- b) Consistency of technical screening criteria.
- c) Predictability of technical screening criteria.

3a. Credibility

To build confidence in the Taxonomy as tool for financial markets to identify environmentally sustainable investments and to help companies transition their activities to a sustainable performance level, it is essential that the technical screening criteria are credible. More specifically, this means:

3a(i) Ensure transparency of expert process

While it is understood that the Commission is empowered to adopt the final technical screening criteria into law, the Taxonomy Regulation mandates that criteria should be developed with input from technical experts and adequate consultation of stakeholders. Several activities included in the draft Delegated Act have not gone through this process. For climate change mitigation, these activities are:

- Restoration of wetlands;
- Operation of personal mobility devices;
- Retrofitting of inland water passenger and freight transport;
- Sea and coastal freight water transport
- Sea and coastal passenger water transport
- Retrofitting of sea and coastal freight and passenger water transport;
- Low carbon airport infrastructure;
- Research, development and innovation.

Several of these activities, particularly those related to sea and coastal transport and airport infrastructure have both substantial emissions levels and potential to contribute to the climate change mitigation objective and warrant further scrutiny.

In addition, the draft Delegated Act includes several new activities for climate change adaptation that can be adapted (criteria are the same for these activities). These include entertainment and culture activities; education; residential care; acquisition and ownership of buildings; computer programming, consultancy and related activities; and data processing, hosting and related activities. Further, the draft Delegated Acts includes criteria for four new enabling activities for climate change adaptation:

- Non-life insurance: underwriting of climate-related perils;
- Reinsurance;
- Research, development and innovation related to nature-based solutions for adaptation;
- Engineering activities and related technical consultancy dedicated to adaptation to climate change.

All activities to be included in the Taxonomy must receive transparent expert assessment before they are included in the Delegated Act. The Platform is committed to providing high quality, timely technical advice as the Commission considers activities for inclusion in the Taxonomy and would respond with a fast-track review of the criteria for the new activities. At a minimum, the evidence and processes used by the Commission for developing these criteria should be made transparent to all stakeholders.

3a(ii) Ensure criteria and DNSH-provisions are based on the best available scientific evidence, adopting the precautionary principle in cases where evidence is ambiguous or weak

Article (19(1)(f) requires that technical screening criteria: *“be based on conclusive scientific evidence and the precautionary principle enshrined in Article 191 TFEU”*.

The sources of evidence vary by environmental objective. Central to assessment of climate change mitigation and adaptation is the work of the Intergovernmental Panel on Climate Change (IPCC), which demonstrates the urgency of action on climate, in addition to specific data sets on individual economic activities and sectors. However, scientific evidence is equally important for objectives 3-6.

Where evidence is available, all technical screening criteria must demonstrate that their substantial contribution is in line with EU goals, and DNSH-provisions must demonstrate they do not contradict EU goals. In the case of climate change, this should require demonstrating that the substantial contribution is consistent with pathways reflecting the EU’s commitment to climate neutrality by 2050 or enhancing the preparedness and capacity to respond to the impacts of climate change. For DNSH-provisions, this should require demonstrating that the provisions do not run counter to the EU-Biodiversity Strategy, Zero-Pollution Action Plan, Chemicals Strategy and New Circular Economy Strategy.

Where evidence cannot be provided, or is inconclusive, the draft Delegated Act should reflect the [precautionary principle](#), consistent with its aim to “ensure a higher level of environmental protection through preventative decision-taking”.

3a(iii) Ensure criteria for transitional activities are consistent with the requirements and objectives of the Taxonomy Regulation

The Taxonomy Regulation establishes a separate category of environmentally sustainable activities: transitional activities. These activities make a substantial contribution to the objective of climate change mitigation and the market will be able to recognise investments into these activities as sustainable.

Article 10(2) of the Taxonomy Regulation explicitly requires that transitional activities are: *“consistent with a pathway to limit the temperature increase to 1,5 degrees Celsius above preindustrial levels”*. Further, Article 10(2) states that a transitional activity:

“(a) has greenhouse gas emission levels that correspond to the best performance in the sector or industry;

(c) does not lead to a lock-in of carbon-intensive assets, considering the economic lifetime of those assets.”

The Platform recommends that technical screening criteria for transitional activities should therefore be set at a level consistent with these requirements and the EU's objective for climate change mitigation.

- **Example:** While gas fired energy facilities without emissions controls such as carbon capture and storage and methane leakage reduction in extraction, transportation and storage could contribute to the energy transition as a substitute for more harmful fossil fuels, it would not meet the requirements of Article 10(2). As recognised in the recommendations by the TEG, unabated gas-fired energy generation would: (i) not be consistent with a pathway to limit warming to 1.5 degrees above pre-industrial levels and the EU's 2030 and 2050 climate targets; (ii) not have emissions levels that corresponds to best performance in the sector; and (iii) lead to a lock-in of carbon intensive assets, considering the lifetime of an average facility.

3a(iv) Revisit criteria in line with increased ambition of EU sustainability initiatives

The draft Delegated Act is being proposed at a time when Europe's climate ambitions are being raised. Within the Green Deal, the European Commission has already started development of initiatives to improve environmental performance across sectors (e.g. Renovation Wave) and to strengthen the EU's response to specific objectives (e.g. Biodiversity Strategy).

Under the Commission's 2021 work programme, the 'fit for 55' package sets out a plan to revise a range of Directives and Regulations within the context of Europe's proposed 2030 emissions reduction target of -55% on 1990 levels. The 'fit for 55' package envisages revision to laws including those governing renewables, energy efficiency, buildings, land use, energy taxation and emissions trading.

The draft Delegated Act should ensure that the technical screening criteria meet, or exceed, any increased ambition set out in these programs, relative to the recommendations of the TEG.

3b.Consistency

The Taxonomy needs to reflect the specific environmental profiles of economic activities. However, consistency in design, approach and ambition should be pursued wherever possible.

Within this, we recognise the following dimensions of ensuring consistency:

3b(i) Avoid creating inconsistent incentives by setting criteria that give the market inaccurate guidance on what activities are sustainable today and in the near future

Article 19(1)(i) requires that technical screening criteria: *"take into account the potential market impact of the transition to a more sustainable economy, including the risk of certain assets becoming stranded as a result of such transition, as well as the risk of creating inconsistent incentives for investing sustainably"*.

The Platform recognises that investors needs clear and consistent signals on what are sustainable investments. Given the long duration or maturity of certain investments, investors need to have confidence that activities and related investments are sustainable today and will remain sustainable in the near future. If criteria need to be tightened after a short period of time, they create inconsistent incentives for investors and risk creating stranded assets related to activities that are no longer considered sustainable.

- **Example:** For bioenergy, the draft Delegated Act does not follow the TEG recommendations to restrict bioenergy feedstock to low-ILUC advanced feedstocks, but instead aligns the criteria for eligible feedstock with the Renewable Energy Directive recast (RED II). However, due to the EU's increased 2030 climate ambition, the EU's biodiversity strategy and the upcoming revision of RED II in 2021 under the 'fit for 55' agenda, it is likely that criteria will need to be tightened in the short term.

3b(ii) Ensure criteria adhere to principle of technology neutrality

The principle of technology neutrality is set out in Article 19 as follows:

"The technical screening criteria [...] shall:

a) identify the most relevant potential contributions to the given environmental objective while respecting the principle of technological neutrality, considering both the short- and long-term impact of a given economic activity;

[..]

j) cover all relevant economic activities within a specific sector and ensure that those activities are treated equally if they contribute equally towards the environmental objectives set out in Article 9 of this Regulation, to avoid distorting competition in the market; [...]"

The Platform recognises that this is critical to ensure that in line with the regulation, the Platform recommends that the Delegated Act ensure that the Taxonomy can be applied consistently.

- **Example:** The draft Delegated Act considers energy from renewable energy sources automatically eligible, introducing differential requirements based on energy source which may not be consistent with the principle of technology neutrality.

3b(iii) Ensure criteria are quantitative where possible

Article 19(1)(c) requires that criteria: *"be quantitative and contain thresholds to the extent possible, and otherwise be qualitative;"*

The Platform recognises that quantitative criteria provide substantial benefits for users. Quantitative criteria enable a definitive assessment of whether an activity is Taxonomy-aligned and clearer accounting for environmental benefits. Markets operate best with clear indicators and metrics; therefore, quantitative criteria should be maintained as much as possible to support interpretation and comparative analysis.

- **Example:** In its recommendations for agriculture, the TEG recommended that to meet the technical screening criteria for substantial contribution (to climate change mitigation), an economic activity should either rely on a set of management practices or demonstrate a reduction in GHG emissions compared to a baseline. The draft delegated act removes the option to demonstrate compliance via this route.

3b(iv) Ensure activity boundaries (including lifecycle) are consistently applied where evidence and data exists and the lifecycle considerations are material

Article 19(1)(g) requires that criteria: *"take into account the life cycle, including evidence from existing life-cycle assessments, by considering both the environmental impact of the economic activity itself and the environmental impact of the products and services provided by that economic activity, in particular by considering the production, use and end of life of those products and services"*.

The Platform recognises the importance of understanding the full environmental impacts of an activity through lifecycle analysis. Technical screening criteria should ensure that all material impacts are captured in specified methodologies. A full lifecycle calculation may not be required in cases where it can be demonstrated that the upstream or downstream considerations are not material in the context of the overall environmental footprint. However, this should be assessed for a whole activity, and any variations in activity boundary should be clearly evidenced.

- **Example:** For energy generation activities, the technical screening criteria incorporate a lifecycle assessment for substantial contribution to climate change mitigation, but do not require this in the criteria for avoiding significant harm. The implications of this difference should be explicitly clear.

3c. Predictability

Certainty and predictability will help users of the Taxonomy to plan and invest with confidence, and guard against stranded assets. Within this, we recommend the following:

3c(i) Ensure criteria offer a clear outlook on when and how they will be changed or reviewed (where possible).

The draft Delegated Act contains criteria which will be reviewed on a schedule, either set out in the design of the criteria (e.g. transport) or every third year by virtue of being a “transitional” activity. This predictability for the reviewing of criteria is welcome, subject to resolving challenges around alignment of investment time horizons with the revision period of criteria. Such declining thresholds are key to achieving the EU’s 2030 and net zero 2050 climate target as well as the global 1.5-degree temperature goal. The draft Delegated Act should seek to provide predictability wherever possible.

- **Example:** The technical screening criteria for substantial contribution to climate change mitigation for transport by motorbikes, passenger cars and light commercial vehicles sets CO2 emissions limits which will increase in ambition from 1 January 2026. However, this approach is not applied in other sectors where such an approach was proposed by the TEG, such as energy.