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COVER NOTE

From:	General Secretariat of the Council
date of receipt:	27 January 2020
To:	Delegations
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the establishment of a framework to facilitate sustainable investment - letter from Chairs of the European Parliament's ECON and ENVI Committees

Delegations will find attached a letter from the European Parliament's ECON and ENVI Committees, and its annex.

Encl.: IM 000942/2020

IM 000942 2020
27.01.2020

European Parliament

Committee on Economic and Monetary Affairs
Committee on the Environment and Public Health
The Chairs

Ambassador Irena Andrassy
Chair of COREPER II
Council of the European Union
Rue de la Loi 175
1048 Brussels

D 300895 24.01.2020

Subject: Council's position in view of the adoption of the proposal for a Regulation of the European Parliament and of the Council on the establishment of a framework to facilitate sustainable investment (2018/0178 (COD)) - Early second reading agreement

Dear Ambassador Andrassy,

We have been informed that at its meeting of 18 December 2019 COREPER decided to accept the outcome of the informal interinstitutional negotiations, including the modifications to the text endorsed by written procedure on 16 December 2019.

In our respective capacity as Chair of the Committee on Economic and Monetary Affairs and as Chair of the Committee on the Environment and Public Health, we intend to recommend to the European Parliament's Plenary that the Council's position be accepted, subject to legal-linguistic verification, at Parliament's second reading.

In Annex to this letter, you will find the text of the Regulation which includes one correction, given that the text considered by COREPER at its meeting of 18 December 2019 did not reflect the agreement of the co-legislators on Article 16, paragraph 6 to foresee an objection period of four months (extendable by two additional months).

Yours sincerely,

Irene Tinagli
Chair of the Committee on Economic and Monetary Affairs

Pascal Canfin
Chair of the Committee on the Environment and Public Health

Annex: text agreed Regulation of the European Parliament and of the Council on the establishment of a framework to facilitate sustainable investment (2018/0178 (COD))

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European Parliament
2019-2024

Committee on Economic and Monetary Affairs
Committee on the Environment, Public Health and Food Safety

16.1.2020

PROVISIONAL AGREEMENT RESULTING FROM INTERINSTITUTIONAL NEGOTIATIONS

Subject: Proposal for a regulation of the European Parliament and of the Council on the establishment of a framework to facilitate sustainable investment
COM(2018)0353 – C8-0207/2018 – 2018/0178(COD))

The interinstitutional negotiations on the aforementioned proposal for a regulation have led to a compromise. In accordance with Rule 74(4) of the Rules of Procedure, the provisional agreement, reproduced below, is submitted as a whole to the Committee on Economic and Monetary Affairs and to the Committee on the Environment, Public Health and Food Safety for decision by way of a single vote.

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the establishment of a framework to facilitate sustainable investment, and amending Regulation 2019/2088 on sustainability-related disclosures in the financial services sector

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee[1],

Acting in accordance with the ordinary legislative procedure,

Whereas:

(1) Article 3(3) of the Treaty on European Union (TEU) aims to establish an internal market that works for the sustainable development of Europe, based among others on balanced economic growth and a high level of protection and improvement of the quality of the environment.

[1] OJ C 62, 15.2.2019, p. 103.

(2) On 25 September 2015, the UN General Assembly adopted a new global sustainable development framework: the 2030 Agenda for Sustainable Development[2] having at its core the Sustainable Development Goals (SDGs) covering three pillars of sustainability: environmental, social and economic/governance. The Commission's Communication of 22 November 2016 on the next steps for a sustainable European future[3] links the SDGs to the Union policy framework to ensure that all Union actions and policy initiatives, within the Union and globally, take the SDGs on board at the outset. In its conclusions of 20 June 2017[4] the Council of the European Union confirmed the commitment of the Union and the Member States to the implementation of the 2030 Agenda in a full, coherent, comprehensive, integrated and effective manner, and in close cooperation with partners and other stakeholders. On 11 December 2019, the European Commission published its Communication on the European Green Deal.

(3) In 2016, the Council concluded on behalf of the Union the Paris Agreement[5]. Article 2(1)(c) of the Paris Agreement sets the objective of strengthening the response to climate change, among other means by making finance flows consistent with a pathway towards low greenhouse gas emissions and climate-resilient development. In this context, the European Council adopted on 12 December 2019 conclusions on climate change. In light of this, this Regulation represents a key step towards the objective of achieving a climate-neutral EU by 2050.

(4) Sustainability and the transition to a safe, climate neutral and climate resilient, more resource-efficient and circular economy is the key in ensuring long-term competitiveness of the Union's economy. Sustainability has long been at the heart of the European Union project and the Treaties give recognition to its social and environmental dimensions.

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2 Transforming our World: The 2030 Agenda for Sustainable Development (UN 2015) available at https://sustainabledevelopment.un.org/post2015/transformingourworld.

3 COM(2016) 739 final.

4 DEVGEN 139, ONU 83, ENV 624.

5 Council Decision (EU) 2016/1841 of 5 October 2016 on the conclusion, on behalf of the European Union, of the Paris Agreement adopted under the United Nations Framework Convention on Climate Change (OJ L 282, 19.10.2016, p. 4).

(5) In December 2016, the Commission mandated a High-Level Expert Group to develop an overarching and comprehensive Union strategy on sustainable finance. The report of the High-Level Expert Group published on 31 January 2018[6] calls for the creation of a technically robust classification system at Union level to establish clarity on which activities are 'green' or 'sustainable', starting with climate change mitigation.

(6) In March 2018, the Commission published its Action Plan 'Financing Sustainable Growth'[7] setting up an ambitious and comprehensive strategy on sustainable finance. One of the objectives set out in the Action Plan is to reorient capital flows towards sustainable investment in order to achieve sustainable and inclusive growth. The establishment of a unified classification system for sustainable activities is the most important and urgent action envisaged by the Action Plan. The Action Plan recognises that the shift of capital flows towards more sustainable activities has to be underpinned by a shared, holistic understanding of the environmental sustainability of activities and investments. As a first step, clear guidance on activities qualifying as contributing to environmental objectives, should help inform investors about the investments that fund environmentally sustainable economic activities. Further guidance on the activities contributing to other sustainability objectives, including social objectives, might be developed at a later stage.

[6] EU High-Level Expert Group on Sustainable Finance Final Report, Financing a Sustainable European Economy, available at: https://ec.europa.eu/info/sites/info/files/180131-sustainable-finance-final-report_en.pdf.
[7] COM(2018) 97 final.

(6a) Given the systemic nature of global environmental challenges, there is a need for a systemic and forward-looking approach to environmental sustainability, addressing growing negative trends, such as climate change, the loss of biodiversity, the global overconsumption of resources, the appearance of new threats including hazardous chemicals and their combined effects, nutrition scarcity, ozone depletion, ocean acidification, fresh water depletion, and land system change.

(7) Decision No. 1386/2013/EU of the European Parliament and of the Council[8] called for an increase in private sector funding for environmental and climate-related expenditure, notably through putting in place incentives and methodologies that stimulate companies to measure the environmental costs of their business and profits derived from using environmental services.

(8) Achieving SDGs in the Union requires channelling of capital flows towards sustainable investments. It is important to fully exploit the potential of the internal market for the achievement of those goals and to ensure that capital flows channelled towards sustainable investments are not disrupted in the internal market.

(8a) The scale of the challenge and the costs associated with inaction or delayed action entails gradually moving the financial system to support the economy to function on a sustainable basis. To that end, sustainable finance needs to be brought into the mainstream and consideration needs to be made of sustainability impact in respect of financial products and services.

[8] Decision No. 1386/2013/EU of the European Parliament and of the Council of 20 November 2013 on a General Union Environment Action Programme to 2020 'Living well, within the limits of our planet' (OJ L 354/171 28.12.2013).

(9) Offering financial products which pursue environmentally sustainable objectives is an effective way of channelling private investments into sustainable activities. National requirements for marketing financial products or corporate bonds as environmentally sustainable investments, including the requirements set out by Member States and the Union to allow the relevant market actors to use a national label, aim to enhance investor confidence and awareness of environmental impact, to create visibility and to address concerns about "greenwashing". Greenwashing refers to the practice of gaining an unfair competitive advantage by marketing a financial product as environmentally friendly, when in fact it does not meet basic environmental standards. Currently a few Member States have in place labelling schemes. Those existing schemes build on different taxonomies classifying environmentally sustainable economic activities. Given the political commitments under the Paris Agreement and at Union level, it is likely that more and more Member States will establish labelling schemes or other requirements on financial market participants or issuers in respect of financial products or corporate bonds marketed as environmentally sustainable. In doing so, Member States would be using their own national taxonomies for the purposes of determining which investments qualify as sustainable. If such national requirements are based on different criteria as to which economic activities qualify as environmentally sustainable, investors will be discouraged from investing across borders, due to difficulties in comparing different investment opportunities. In addition, economic operators wishing to attract investment from across the Union would have to meet different criteria in the various Member States in order for their activities to qualify as environmentally sustainable for the purposes of those different labels. The absence of uniform criteria will thus increase costs and create a significant disincentive for economic operators, amounting to an impediment to access cross-border capital markets for sustainable investments.

The criteria for determining whether an economic activity is environmentally sustainable should be harmonised at Union level, in order to remove barriers to the functioning of the internal market with regard to raising funds for sustainable projects, and prevent their future emergence. With such harmonisation economic operators will find it easier to raise funding for their environmentally sustainable activities across borders, as their economic activities can be compared against uniform criteria in order to be selected as underlying assets for environmentally sustainable investments. It will therefore facilitate attracting investment across borders within the Union.

(10) Moreover, if financial market participants do not provide any explanation to investors for how the activities they invest in contribute to environmental objectives, or if they use different concepts in their explanation of what is a 'environmentally sustainable' economic activity, investors will find it disproportionately burdensome to check and compare different financial products. It has been found that this discourages investors from investing into environmentally sustainable financial products. Furthermore, the lack of investor confidence has major detrimental impacts on the market for sustainable investment. It has further been shown that national rules or market-based initiatives taken to tackle this issue within national borders will lead to fragmenting the internal market. If financial market participants disclose how and to what extent the financial products that they offer are environmentally sustainable actually meet the criteria for environmentally sustainable economic activities under this Regulation, and they use for such disclosures common criteria across the Union, this will help investors compare investment opportunities across borders and will incentivise investee companies to make their business models more sustainable. Additionally, investors will invest in environmentally sustainable financial products with higher confidence across the Union, thereby improving the functioning of the internal market.

(11) To address existing obstacles to the functioning of the internal market and to prevent the emergence of such obstacles in the future, Member States and the Union should be required to use a common concept of environmentally sustainable investment when setting up requirements for financial market participants or issuers for the purpose of labelling financial products or corporate bonds marketed as environmentally sustainable at national and Union level. Provisions in the present Regulation referring to certificate-based tax incentive schemes that exist prior to the entry into force of this Regulation, are without prejudice to the competences of the Union and of Member States with respect to tax provisions, as set out by the Treaties.

(12) Establishing criteria for environmentally sustainable economic activities may encourage economic operators not covered by this Regulation to publish and disclose on their websites, on a voluntary basis, information on the environmentally sustainable economic activities they carry out. This information will not only help financial market participants and other relevant actors in the financial markets to easily identify which economic operators carry out environmentally sustainable economic activities, but it will also make it easier for these economic operators to raise funding for their environmentally sustainable activities.

(13) A Union classification of environmentally sustainable economic activities should enable the development of future Union policies in support of sustainable finance, including Union-wide standards for environmentally sustainable financial products and eventually the establishment of labels that formally recognise compliance with those standards across the Union, as well as to be the basis for other economic and regulatory measures. Uniform legal requirements for considering the degree of environmental sustainability of investments, based on uniform criteria for environmentally sustainable economic activities, are necessary as a reference for future Union legislation aiming at facilitating the shift of investments towards environmentally sustainable economic activities.

(14) In the context of achieving SDGs in the Union, policy choices such as the creation of a European Fund for Strategic Investment, have been effective in contributing to channel private investment alongside public spending towards sustainable investments. Regulation (EU) 2015/1017 of the European Parliament and of the Council[9] specifies a 40% horizontal climate investment target for infrastructure and innovation projects under the European Fund for Strategic Investment. Common criteria for the sustainability of economic activities, including environmental impact, could underpin future similar initiatives of the Union mobilising investment pursuing climate-related or other environmental objectives.

(15) To avoid market fragmentation as well as harm to consumer interests due to divergent notions of environmentally sustainable economic activities, national requirements that financial market participants or issuers should comply with when they wish to market financial products or corporate bonds as being environmentally sustainable, should build on the uniform criteria for environmentally sustainable economic activities. Those financial market participants or issuers include financial market participants making available environmentally sustainable financial products and non-financial companies issuing environmentally sustainable corporate bonds.

[9] Regulation (EU) 2017/2396 of the European Parliament and of the Council of 13 December 2017 amending Regulations (EU) No 1316/2013 and (EU) 2015/1017 as regards the extension of the duration of the European Fund for Strategic Investments as well as the introduction of technical enhancements for that Fund and the European Investment Advisory Hub (OJ L 345, 27.12.2017, p. 34).

(16) To avoid harming consumer interests, fund managers and institutional investors offering financial products, should disclose how and to what extent the criteria for environmentally sustainable economic activities are used to determine the environmental sustainability of the investments. The information disclosed should enable investors to understand the share of the investment funding environmentally sustainable economic activities as a percentage of all economic activities and thus the degree of environmental sustainability of the investment. Where a financial product invests in an economic activity that contributes to an environmental objective, the information to be disclosed should specify the environmental objective or environmental objectives, to which the investment underlying the financial product contributes, as well as how and to what extent the investments underlying the financial product fund environmentally sustainable economic activities, including details on the respective proportions of enabling and transition activities. The Commission should specify the information that needs to be disclosed for that purpose. That information should enable national competent authorities to verify compliance with the disclosure obligation easily, and to enforce that obligation in accordance with applicable national law. Where financial market participants do not take into account the criteria for environmentally sustainable investments they should provide a statement to this end.

(16 -a)The Commission guidelines on non-financial reporting, providing a supplement on reporting climate-related information (2019/C 209/01), recommend that large companies should report on certain climate-related key performance indicators (KPIs) based on the framework established by this Regulation. In particular, information on the proportion of such large non-financial companies' turnover, Capital Expenditure (CapEx) or Operating Expenditure (OpEx), that are associated with environmentally sustainable economic activities, and KPIs that are tailored for large financial companies provide useful information to investors, who are interested in companies whose products and services substantially contribute to any one of the environmental objectives set out in this Regulation. It is therefore appropriate to require the annual publication of such KPIs by those large companies, and to further specify such requirement in delegated acts, in particular with regard of large financial companies. While it would be disproportionately burdensome to extend such a requirement to smaller companies, the latter may voluntarily decide to publish this information.

(16a) The disclosure obligation laid down in this Regulation supplements the disclosure rules enshrined in Regulation 2019/2088 on sustainability-related disclosures in the financial services sector. To enhance transparency and to provide an objective point of comparison to end-investors by financial market participants on the share of investments that fund environmentally sustainable economic activities, this Regulation supplements the disclosure requirements in the rules on pre-contractual and periodical transparency and transparency by means of websites laid down in Regulation 2019/2088 on sustainability-related disclosures in the financial services sector. Regulation 2019/2088 includes within 'sustainable investments' investments that pursue environmental objectives that, among others, should comprise investments into 'environmentally sustainable economic activities' within the meaning of this Regulation.

Sustainable investments including environmentally sustainable investments should fulfil the "do no significantly harm" requirement formulated in Article 2(17) of Regulation 2019/2088 on sustainability-related disclosures in the financial services sector.

To ensure reliability, consistency and comparability of sustainability-related disclosures in the financial markets, disclosures related to this Regulation should use existing sustainability indicators to the extent feasible as put forward by the European Parliament Own Initiative Report on Sustainable Finance of 29 May 2018. In this context, the technical screening criteria should to the extent feasible, be based on the sustainability indicators in Regulation 2019/2088 on sustainability-related disclosures in the financial services sector.

(16e) Regarding economic activities carried out by undertakings that are not required to disclose information under this Regulation, there could be exceptional cases where financial market participants cannot reasonably obtain the relevant information to reliably determine the alignment with the technical screening criteria. In such exceptional cases and only for those economic activities for which complete, reliable and timely information could not be obtained, the financial market participants may make complementary assessments and estimates on the basis of information from other sources. Such assessments and estimates should only compensate for limited and specific parts of the desired data elements, and produce a prudent outcome. In order to ensure clear and not misleading disclosure to investors, financial market participants should clearly explain the basis for their conclusions and the reasons for having to make such complementary assessments and estimates for the purposes of disclosure to end-investors.

(17) To avoid circumvention of the disclosure obligation, that obligation should also apply where financial products are offered as promoting environmental characteristics, including those having as their target environmental protection in a broad sense.

(18) For the purposes of determining the environmental sustainability of an economic activity, an exhaustive list of environmental objectives should be laid down. The six environmental objectives should be: climate change mitigation, climate change adaptation, sustainable use and protection of water and marine resources, transition to a circular economy, pollution prevention and control, and protection and restoration of biodiversity and ecosystems.

(18a) An economic activity that promotes the objective of climate change mitigation should substantially contribute to the stabilisation of greenhouse gas emissions by avoiding or reducing them or enhancing greenhouse gas removals. The economic activity should be consistent with the long term temperature goal of the Paris Agreement. This environmental objective should be interpreted in line with relevant Union law, including Council Directive 2009/31/EC on the geological storage of CO2.

(18aa) An economic activity that promotes the objective of climate change adaptation should substantially contribute to reducing or preventing adverse impact of the current or future climate or risks of adverse impact, on that activity itself or people, nature and assets. This environmental objective should be interpreted in line with relevant Union law and the Sendai Framework for Disaster Risk Reduction 2015-2030.

(18b) The environmental objective of sustainable use and protection of water and marine resources should be interpreted in line with relevant Union law, including Regulation (EU) No 1380/2013[10] and Directives 2000/60/EC[11], 2006/7/EC[12], 2006/118/EC[13], 2008/56/EC[14] and 2008/105/EC[15] of the European Parliament and of the Council, Council Directives 91/271/EEC[16], 91/676/EEC[17] and 98/83/EC[18] and Commission Decision (EU) 2017/848[19] and the communications of the Commission of 18 July 2007 entitled "Addressing the challenge of water scarcity and droughts in the European Union", and of 14 November 2012 entitled "A Blueprint to Safeguard Europe's Water Resources" and of 15 November 2012 entitled "A Fitness check of EU Freshwater policy" and of 11 March 2019 entitled "European Union Strategic Approach to Pharmaceuticals in the Environment".

[10] Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC (OJ L 354, 28.12.2013, p. 22).

[11] Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (OJ L 327, 22.12.2000, p. 1).

[12] Directive 2006/7/EC of the European Parliament and of the Council of 15 February 2006 concerning the management of bathing water quality and repealing Directive 76/160/EEC (OJ L 64, 4.3.2006, p. 37)

[13] Directive 2006/118/EC of the European Parliament and of the Council of 12 December 2006 on the protection of groundwater against pollution and deterioration (OJ L 372, 27.12.2006, p. 19).

[14] Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008 establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive) (OJ L 164, 25.6.2008, p. 19).

[15] Directive 2008/105/EC of the European Parliament and of the Council of 16 December 2008 on environmental quality standards in the field of water policy, amending and subsequently repealing Council Directives 82/176/EEC, 83/513/EEC, 84/156/EEC, 84/491/EEC, 86/280/EEC and amending Directive 2000/60/EC of the European Parliament and of the Council (OJ L 348, 24.12.2008, p. 84).

[16] Council Directive 91/271/EEC of 21 May 1991 concerning urban waste water treatment (OJ L 135, 30.5.1991, p. 40).

[17] Council Directive 91/676/EEC of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources (OJ L 375, 31.12.1991, p. 1-8).

[18] Council Directive 98/83/EC of 3 November 1998 on the quality of water intended for human consumption (OJ L 330, 5.12.1998, p. 32).

[19] Commission Decision (EU) 2017/848 of 17 May 2017 laying down criteria and methodological standards on good environmental status of marine waters and specifications and standardised methods for monitoring and assessment, and repealing Decision 2010/477/EU (OJ L 125, 18.5.2017, p. 43).

(18c) The environmental objective of the transition to a circular economy should be interpreted in line with relevant Union law in the area of circular economy, waste and chemicals, including Regulations 1013/2006[20], 1907/2006[21] and 2019/1021[22] and Directives 2008/98/EC[23], 94/62/EC[24], 2000/53/EC[25], 2006/66/EC[26], 2011/65/EU[27], 2012/19/EU[28], 2010/75/EU[29], (EU) 2019/883[30] and (EU) 2019/904[31] of the European Parliament and of the Council, Council Directive 1999/31/EC[32], Commission Regulation (EU) No 1357/2014[33] and Commission Decisions 2000/532/EC[34] and 2014/955/EU[35] and the communications of the Commission of 2 December 2015 titled "Closing the loop - An EU action plan for the

[20] Regulation No 1013/2006 of the European Parliament and of the council of 14 June 2006 on shipments of waste (OJ L 190, 12.7.2006, p. 1–98).

[21] Regulation No 1907/2006 of the European Parliament and of the council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC (OJ L 396, 30.12.2006, p. 1–850) with amendments.

[22] Regulation (EU) 2019/1021 of the European Parliament and of the Council of 20 June 2019 on persistent organic pollutants (OJ L 169, 25.6.2019, p. 45).

[23] Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312, 22.11.2008, p. 3).

[24] European Parliament and Council Directive 94/62/EC of 20 December 1994 on packaging and packaging waste (OJ L 365, 31.12.1994, p. 10).

[25] Directive 2000/53/EC of the European Parliament and of the Council of 18 September 2000 on end-of life vehicles (OJ L 269, 21.10.2000, p. 34).

[26] Directive 2006/66/EC of the European Parliament and of the Council of 6 September 2006 on batteries and accumulators and waste batteries and accumulators and repealing Directive 91/157/EEC (OJ L 266, 26.9.2006, p. 1).

[27] Directive 2011/65/EU of the European Parliament and of the Council of 8 June 2011 on the restriction of the use of certain hazardous substances in electrical and electronic equipment Text with EEA relevance (*OJ L 174, 1.7.2011, p. 88–110).*

[28] Directive 2012/19/EU of the European Parliament and of the Council of 4 July 2012 on waste electrical and electronic equipment (WEEE) (OJ L 197, 24.7.2012, p. 38).

[29] Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) (OJ L 334, 17.12.2010, p. 17).

[30] Directive (EU) 2019/883 of the European Parliament and of the Council of 17 April 2019 on port reception facilities for the delivery of waste from ships, amending Directive 2010/65/EU and repealing Directive 2000/59/EC (*OJ L 151, 7.6.2019, p. 116).*

[31] Directive (EU) 2019/904 of the European Parliament and of the Council of 5 June 2019 on the reduction of the impact of certain plastic products on the environment (*OJ L 155, 12.6.2019, p. 1–19).*

[32] Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste (*OJ L 182, 16.7.1999, p. 1).*

[33] Commission Regulation (EU) No 1357/2014 of 18 December 2014 replacing Annex III to Directive 2008/98/EC of the European Parliament and of the Council on waste and repealing certain Directives (*OJ L 365, 19.12.2014, p. 89).*

[34] Commission Decision of 3 May 2000 replacing Decision 94/3/EC establishing a list of wastes pursuant to Article 1(a) of Council Directive 75/442/EEC on waste and Council Decision 94/904/EC establishing a list of hazardous waste pursuant to Article 1(4) of Council Directive 91/689/EEC on hazardous waste *(OJ L 226, 6.9.2000, p. 3).*

[35] Commission Decision of 18 December 2014 amending Decision 2000/532/EC on the list of waste pursuant to Directive 2008/98/EC of the European Parliament and of the Council (*OJ L 370, 30.12.2014, p. 44).*

Circular Economy" and of 16 January 2018 titled "A European Strategy for Plastics in a Circular Economy".

An economic activity can substantially contribute to the objective of circular economy through several means, including by increasing durability, reparability, upgradability and re-usability of products, reducing resource use through design and choice of materials, facilitating repurposing, disassembly and deconstruction in the buildings and construction sector, in particular to reduce the use of and promote the reuse of building materials, and developing 'product-as-a-service' business models as well as circular value chains, with the aim to keep products, components and materials at their highest utility and value. Similarly, reducing the content of hazardous substances in materials and products throughout the lifecycle, including by replacing them with safer alternatives, should be at least in line with the harmonized legal requirements laid down at Union level. An economic activity can also substantially contribute to the objective of circular economy by reducing the generation of food waste in production, processing, manufacturing or distribution.

(18d) The environmental objective of pollution prevention and control should be interpreted in line with relevant Union law, including Directives 2000/60/EC, 2004/35/CE[36], 2004/107/EC[37], 2006/118/EC, 2008/50/EC[38], 2008/105/EC, 2010/75/EU, 2016/802/EU[39] and 2016/2284/EU[40] of the European Parliament and of the Council.

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[36] Directive 2004/35/CE of the European Parliament and of the Council of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage (OJ L 143, 30.4.2004, p. 56).

[37] Directive 2004/107/EC of the European Parliament and of the Council of 15 December 2004 relating to arsenic, cadmium, mercury, nickel and polycyclic aromatic hydrocarbons in ambient air (OJ L 23, 26.1.2005, p. 3), *as amended by Commission Directive (EU) 2015/1480 of 21 May 2008 (OJ L 226, 29.8.2015, p. 4).*

[38] Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe (*OJ L 152, 11.6.2008, p. 1).*

[39] Directive (EU) 2016/802 of the European Parliament and of the Council of 11 May 2016 relating to a reduction in the sulphur content of certain liquid fuels (OJ L 132, 21.5.2016, p. 58).

[40] Directive (EU) 2016/2284 of the European Parliament and of the Council of 14 December 2016 on the reduction of national emissions of certain atmospheric pollutants (OJ L 344, 17.12.2016, p. 1).

(19) The environmental objective of protection and restoration of biodiversity and ecosystems should be interpreted in line with relevant Union law, including Regulations 995/2010[41], 1143/2014[42] and 511/2014[43] and Directives 2009/147/EC of the European Parliament and of the Council[44], Council Directives 91/676[45] and 92/43/EEC[46], , and the communications of the Commission of 21 May 2003 titled "Forest Law Enforcement, Governance and Trade (FLEGT)", of 3 May 2011 titled "Our life insurance, our natural capital: an EU biodiversity strategy to 2020" and of 6 May 2013 titled "Green Infrastructure (GI) – Enhancing Europe's natural Capital", of 26 February 2016 titled "EU Action Plan against Wildlife Trafficking" and of 23 July 2019 titled "Stepping up EU Action to Protect and Restore the World's Forests", and Council Regulation (EC) No 338/97 of 9 December 1996 on the protection of species of wild fauna and flora by regulating trade therein[47].

(19aa) An economic activity can substantially contribute to the objective of protection and restoration of biodiversity and ecosystems, through several means, including by protecting, conserving or restoring biodiversity and ecosystems, and as such by enhancing ecosystem services. These services are grouped into four categories, namely provisioning, including the provisioning of food and water; regulating, including the control of climate and disease; supporting, including nutrient cycles and oxygen production; and cultural, including spiritual and recreational benefits.

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41 Regulation (EU) No 995/2010 of the European Parliament and of the Council of 20 October 2010 laying down the obligations of operators who place timber and timber products on the market (OJ L 295, 12.11.2010, p. 23).

42 Regulation (EU) No 1143/2014 of the European Parliament and of the Council of 22 October 2014 on the prevention and management of the introduction and spread of invasive alien species (OJ L 317, 4.11.2014, p. 35).

43 Regulation (EU) No 511/2014 of the European Parliament and of the Council of 16 April 2014 on compliance measures for users from the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization in the Union (OJ L 150, 20.5.2014, p. 59).

44 Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (OJ L 020, 26.1.2010, p. 7).

45 Council Directive 91/676/EEC of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources (OJ L 375, 31.12.1991, p. 1).

46 Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ L 206, 22.7.1992, p. 7).

47 Council Regulation (EC) No 338/97 of 9 December 1996 on the protection of species of wild fauna and flora by regulating trade therein (OJ L 61, 3.3.1997, p. 1-69)

(19a) In the context of this Regulation, 'sustainable forest management should be understood by considering practices and use of forests and forest land that contribute to enhancing biodiversity or to halting or preventing degradation of ecosystems, deforestation and habitat loss; by considering the stewardship and use of forests and forest land in a way, and at a rate, that maintains their biodiversity, productivity, regeneration capacity, vitality and their potential to fulfil, now and in the future, relevant ecological, economic and social functions, at local, national, and global levels, and that does not cause damage to other ecosystems, as defined in Resolution H1 General Guidelines for the Sustainable Management of Forests in Europe, MCPFE 1993; and by considering Regulation (EU) 2018/841[2] Regulation (EU) No 995/2010[3], Directive (EU) 2018/2001[4] and European Forest Strategy: for forests and the forest based sector[48],

(19b) In the context of this Regulation, 'energy efficiency' is used in a broad sense and should be considered by taking into account the relevant Union law, including Directive (EU) 2012/27[49], Directive (EU) 2018/844[50], as well as the products regulations laid down pursuant to Directive 2009/125/EC[51], and Regulation (EU) 2017/1369[52].

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[48] Communication from the Commission to the European parliament, the Council, the European Economic and Social Committee and the Committee of the Regions COM (2013) 659 final

[49] Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC Directive (EU) 2018/2002 of the European Parliament and of the Council of 11 December 2018 amending Directive 2012/27/EU on energy efficiency (OJ L 328, 21.12.2018, p. 210-230).

[50] Directive (EU) 2018/844 of the European Parliament and of the Council of 30 May 2018 amending Directive 2010/31/EU on the energy performance of buildings and Directive 2012/27/EU on energy efficiency (OJ L 156, 19.6.2018, p.75-91)

[51] Directive 2009/125/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for the setting of ecodesign requirements for energy-related products (OJ L 285, 31.10.2009, p. 10-35)

[52] Regulation (EU) 2017/1369 of the European Parliament and of the Council of 4 July 2017 setting a framework for energy labelling and repealing Directive 2010/30/EU (OJ L 198, 28.7.2017, p.1-23)

(20) For each environmental objective, uniform criteria for considering economic activities to be substantially contributing to that objective should be laid down. One element of the uniform criteria should be to avoid significant harm to any of the environmental objectives set out in this Regulation. This is in order to avoid that investments are considered environmentally sustainable although the economic activities benefitting from those investments cause harm to the environment to an extent outweighing their contribution to an environmental objective. The criteria should take into account the life cycle of the products and services provided by that economic activity, including evidence from existing life cycle assessments, notably by considering their production, use and end-of-life, in addition to the environmental impacts of the economic activity itself.

(21) Recalling the joint commitment of the European Parliament, the Council and the Commission to pursue the principles enshrined in the European Pillar of Social Rights in support of sustainable and inclusive growth and recognising the relevance of international minimum human and labour rights and standards, compliance with minimum safeguards should be a condition for economic activities to qualify as environmentally sustainable. For that reason economic activities should only qualify as environmentally sustainable where they are carried out in alignment with the OECD Guidelines for Multinational Enterprises and UN Guiding Principles on Business and Human Rights, including the International Labour Organisation's ('ILO') declaration on Fundamental Rights and Principles at Work, the eight ILO core conventions and the International Bill of Human Rights. The ILO core conventions define human and labour rights that companies are should respect. Several of those international standards are enshrined the Charter of Fundamental Rights of the European Union, in particular the prohibition of slavery and forced labour and the principle of non-discrimination. Those minimum safeguards are without prejudice to the application of more stringent requirements on environment, health and safety and social sustainability set out in Union law, where applicable.

When implementing these minimum safeguards, undertakings should adhere to the principle of 'do not significantly harm' within the meaning of Regulation 2019/2088 on sustainability-related disclosures in the financial services sector, including regulatory technical standards further specifying that principle.

(21a) In order to ensure consistency between this Regulation and Regulation 2019/2088 on sustainability-related disclosures in the financial services sector, this Regulation should amend Regulation 2019/2088 on sustainability-related disclosures in the financial services sector to introduce regulatory technical standards developed jointly by ESAs to further specify the details of the presentation and content of the information in relation to the principle of 'do not significantly harm'. These regulatory technical standards should be consistent with the content, methodologies, and presentation of indicators in relation to adverse impacts referred to in paragraphs 6 and 7 of Article 4. They should also be consistent with the principles enshrined in the European Pillar of Social Rights, the OECD Guidelines for Multinational Enterprises, UN Guiding Principles on Business and Human Rights, including the International Labour Organisation's ('ILO') declaration on Fundamental Rights and Principles at Work, the eight ILO core conventions and the International Bill of Human Rights.

For the purposes of Article 16c of this Regulation, the European Banking Authority ('EBA'), European Insurance and Occupational Pensions Authority ('EIOPA') and the European Securities and Markets Authority ('ESMA') (collectively known as the European Supervisory Authorities, the 'ESAs') established by Regulation (EU) No 1093/2010 of the European Parliament and of the Council , Regulation (EU) No 1094/2010 of the European Parliament and of the Council and Regulation (EU) No 1095/2010 of the European Parliament and of the Council respectively should, through the Joint Committee, develop draft regulatory technical standards to supplement Articles 2, 8, 9 and 11 of Regulation 2019/2088 on sustainability-related disclosures in the financial services sector.

(22) Given the specific technical details needed to assess the environmental impact of an economic activity and the fast-changing nature of both science and technology, the criteria of environmentally sustainable economic activities should be adapted regularly to those changes. For the criteria to be up to date, based on scientific evidence and input from experts as well as relevant stakeholders, the conditions for substantial contribution and significant harm should be specified with more granularity for different economic activities and should be updated regularly. For that purpose, granular and calibrated technical screening criteria for the different economic activities should be laid down by the Commission, on the basis of the technical input of a multi-stakeholder Platform on Sustainable Finance.

(23) Some economic activities have a negative impact on the environment, and a substantial contribution to one or more environmental objectives can be achieved by reducing such negative impact. For those economic activities, it is appropriate to set out technical screening criteria that require a substantial improvement in environmental performance compared to, inter alia, the industry average, but at the same time avoids environmentally harmful lock-in effects, including carbon intensive lock-in effects, during the economic lifetime of the funded economic activity. Those criteria should also consider the long-term impact of a specific economic activity.

(24) An economic activity should not be considered environmentally sustainable if it causes more harm to the environment than the benefits it brings. The technical screening criteria should identify the minimum requirements necessary to avoid a significant harm to other objectives including by building on any minimum requirements laid down pursuant to Union law. When establishing and updating the technical screening criteria, the Commission should ensure that those criteria are based on available scientific evidence, are developed by taking into account life cycle considerations, including existing life cycle assessments, and are updated regularly. Where scientific evaluation does not allow for the risk to be determined with sufficient certainty, the precautionary principle should apply, in line with Article 191 TFEU.

(24a) In defining the technical screening criteria for the climate change mitigation objective, the Commission should take into account and incentivise the ongoing and necessary transition towards a climate-neutral economy in accordance with Article 6(1a). The transition, in addition to the use of climate neutral energy and more investments in economic activities and sectors that are already low carbon, requires substantial reductions in greenhouse gas emissions in other economic activities and sectors for which there are no technologically and economically feasible low carbon alternatives. Those economic activities should be considered to substantially contribute to climate change mitigation if their greenhouse gas emissions are substantially lower than sector or industry average, they do not hamper the development and deployment of low-carbon alternatives and they do not lead to a lock-in in assets incompatible with the objective of climate-neutrality, considering the economic lifetime of those assets. The technical screening criteria for these activities should ensure that these transitional activities have a credible path towards climate neutrality, and these technical screening criteria should be adjusted accordingly at regular intervals.

(24b) An economic activity should be considered to contribute substantially to one or more of the environmental objectives set out in this regulation by directly enabling other activities to make a substantial contribution to one or more of those objectives. For that purpose, that enabling activity should not lead to a lock-in in assets that undermine long-term environmental goals, considering the economic lifetime of those assets, and should have a substantial positive environmental impact on the basis of lifecycle considerations.

(25) When establishing and updating the technical screening criteria the Commission should take into account relevant Union law, including the Regulation (EC) 66/2010 of the European Parliament and the Council[53], the EU Eco-Management and Audit Scheme[54], the EU Green Public Procurement criteria[55], and the on-going work on Product and Organisation Environmental Footprint rules[56]. To avoid unnecessary inconsistencies with classifications of economic activities that already exist for other purposes, the Commission should also take into account the statistical classifications relating to the Environmental Goods and Services Sector, namely the Classification of Environmental Protection Activities and Expenditure (CEPA) and the Classification of Resource Management Activities (CReMA)[57]. When establishing and updating the technical screening criteria the Commission should take into account existing environmental indicators and reporting frameworks, developed by, amongst others, the Commission, the EEA, and existing international standards, such as those developed by, amongst the others, the OECD.

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53 Regulation (EC) 66/2010 of the European Parliament and the Council of 25 November 2009 on the EU Ecolabel (OJ L 27, 30.1.2010, p. 1).

54 Regulation (EC) No 1221/2009 of the European Parliament and of the Council of 25 November 2009 on the voluntary participation by organisations in a Community eco-management and audit scheme (EMAS), repealing Regulation (EC) No 761/2001 and Commission Decisions 2001/681/EC and 2006/193/EC (OJ L 342, 22.12.2009, p. 1).

55 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions Public procurement for a better environment {SEC(2008)2124} {SEC(2008)2125} {SEC(2008)2126} COM(2008)0400.

56 2013/179/EU: Commission Recommendation of 9 April 2013 on the use of common methods to measure and communicate the life cycle environmental performance of products and organisations (OJ L 124, 4.5.2013, p. 1).

57 Annex 4 and 5 of Regulation (EU) No 538/2014 of the European Parliament and of the Council of 16 April 2014 amending Regulation (EU) No 691/2011 on European environmental economic accounts (OJ L 158, 27.5.2014, ***p.113***).

(26) When establishing and updating the technical screening criteria the Commission should also take into account the specificities of the infrastructure sector and take into account environmental, social and economic externalities within a cost-benefit analysis. In that regard, the Commission should consider relevant Union law and standards, including Directive 2001/42/EC of the European Parliament and of the Council[58], Directive 2011/92/EU of the European Parliament and of the Council[59] Directive 2014/23/EU of the European Parliament and of the Council[60], Directive 2014/24/EU of the European Parliament and of the Council[61], Directive 2014/25/EU of the European Parliament and of the Council[62], as well as current methodology, as well as the work of international organisations, such as the OECD. In that context, the technical screening criteria should promote appropriate governance frameworks integrating environmental, social and governance factors, as referred to in the United Nations-supported Principles for Responsible Investment[63], at all stages of a project's lifecycle.

(27) The technical screening criteria should ensure that relevant economic activities within a specific sector can qualify as environmentally sustainable and are treated equally if they contribute equally towards one or more of the environmental objectives laid out in this Regulation. The potential capacity to contribute towards those environmental objectives may vary across sectors, which should be reflected in the criteria. However, within each sector, those criteria should not unfairly disadvantage certain economic activities over others if the former contribute towards the environmental objectives to the same extent as the latter.

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[58] Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment (OJ L 197, 21.7.2001, p. 30).

[59] Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment (OJ L 26, 28.1.2012, p. 1).

[60] Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts (OJ L 94, 28.3.2014, p. 1).

[61] Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p. 65).

[62] Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243).

[63] https://www.unpri.org/download?ac=1534.

(28) When establishing technical screening criteria for environmentally sustainable activities, the Commission should assess whether the adoption of those criteria would give rise to stranded assets or result in inconsistent incentives, or have any other adverse impact on financial markets.

(29) To avoid overly burdensome compliance costs on economic operators, the Commission should establish technical screening criteria that provide for sufficient legal clarity, are practicable, easy to apply and with which compliance can be verified within reasonable cost-of-compliance boundaries, avoiding unnecessary administrative burden. Technical screening criteria could require carrying out a life cycle assessment when sufficiently practicable and needed.

(30) To ensure that investments are channelled towards economic activities that make the greatest positive impact on the environmental objectives, the Commission should give priority to the establishment of technical screening criteria for the economic activities that potentially contribute most to the environmental objectives.

(31) Appropriate technical screening criteria should be established for the transport sector, including for mobile assets, which should take into account that the transport sector, including international shipping, contributes close to 26% of total greenhouse gas emissions in the Union. As stated in the Action Plan on Financing Sustainable Growth[64] the transport sector represents about 30% of additional annual investment needs for sustainable development in the Union, including by increasing electrification or transition to cleaner modes of transport by promoting modal shift and traffic management.

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64 COM(2018) 97 final.

(32) When developing the technical screening criteria, it is of particular importance that the Commission carries out appropriate consultations in line with the Better Regulation requirements. The process for the establishment and update of the technical screening criteria should involve relevant stakeholders and build on the advice of experts with proven knowledge and experience in the relevant areas. For that purpose, the Commission should set up a Platform on sustainable finance. This Platform should be composed of experts representing both the public and the private sector. Public sector representatives should include experts from the European Environmental Agency, the European Supervisory Authorities and the European Investment Bank and the European Union Agency for Fundamental Rights. Private sector experts should include financial and non-financial market actors and business sectors, representing relevant industries, and those with accounting and reporting expertise. The Platform should also include experts representing civil society, including those with expertise in the field of environmental, social, labour and governance issues. Financial Market Participants should be encouraged to inform the Commission if they consider that an economic activity that does not meet the technical screening criteria, or for which such criteria have not been established yet, should be considered environmentally sustainable, to help the Commission to evaluate the appropriateness of complementing or updating the technical screening criteria

(32a) The Platform should be constituted in accordance with the applicable horizontal rules on the creation and operation of Commission Expert Groups, including with regards to the selection process, which should aim to ensure a high level of expertise, geographical and gender balance, as well as a balanced representation of relevant know how, taking into account the specific tasks of the Platform. During the selection process the Commission should, in accordance with the horizontal rules, perform an assessment determining whether potential conflicts of interest exist and should take the appropriate measures to deal with the conflict.

(32aa) The Platform should advise the Commission on the development, analysis and review of technical screening criteria, including their potential impact on the valuation of assets that until the adoption of the technical screening criteria were considered as environmentally sustainable assets under existing market practices. The Platform should also advise the Commission on whether the technical screening criteria are suitable for further uses in future Union policy initiatives aimed at facilitating sustainable investment and on the possible role of sustainability accounting and reporting standards in the application of the technical screening criteria. The Platform should advise the Commission on developing further measures to improve data availability and quality taking into account the objective of avoiding undue administrative burden, addressing other sustainability objectives, including social objectives, and the functioning on minimum safeguards and the possibly need to supplement them.

(32aaa) The Commission should continue the existing Member States Expert Group on sustainable finance and provide the expert group with a formal status. The tasks of this expert group will, inter alia, consist of advising the Commission on the appropriateness of the technical screening criteria and the approach taken by the Platform with regard to developing these criteria. For this purpose, the Commission should inform Member States through regular meetings of the Member States Expert Group.

(33) In order to specify the requirements set out in this Regulation, and particularly to establish and update granular and calibrated technical screening criteria for different economic activities as to what constitutes a substantial contribution and significant harm to the environmental objectives, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of the information required to comply with the disclosure obligation set out in Articles 4delta (3) and 16c, and the technical screening criteria mentioned in Article 6(2), Article 7(2), Article 8(2), Article 9(2), Article 10(2) and Article 11(2). It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, such as through the Platform and the Member States Expert Group, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council should receive all documents at the same time as Member States' experts, and the experts of the European Parliament and the Council should systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

(33a) This Regulation supplements the disclosure requirements laid down in Regulation 2019/2088 on sustainability-related disclosures in the financial services sector. To ensure the orderly and effective monitoring of compliance by financial market participants with this Regulation, Member States should rely on the competent authorities designated in accordance with Regulation 2019/2088 on sustainability-related disclosures in the financial services sector. In addition, to enforce compliance, Member States should lay down rules on measures and penalties, which should be effective, proportionate and dissuasive. National competent authorities, ESMA, EBA, and EIOPA should exercise the product intervention powers laid down in PEPP, PRIIPS, and MIFIR also with respect to misselling practices or misleading disclosures of sustainability-related information, including the information requirements laid down in the Taxonomy Regulation.

(33b) In order to ensure efficient and sustainable organization of the work and meeting practices both regarding the Platform and the Member States Expert Group, and in order to enable broad participation and efficient interaction within the groups, their subgroups, the Commission and stakeholders, the use of enhanced virtual and digital modalities, should be considered , where appropriate.

(34) To give sufficient time to the relevant actors to familiarise themselves with the criteria for environmentally sustainable economic activities set out in this Regulation and to prepare for their application, the obligations set out in this Regulation should become applicable, for each environmental objective, 12 months after the relevant technical screening criteria have been adopted.

(35) The application of this Regulation should be reviewed regularly in order to assess, amongst others, the following elements:

(i) the progress on the implementation of this Regulation with regard to the development of technical screening criteria for environmentally sustainable economic activities ;

(ii) the possible need to revise and complement the criteria set out in this Regulation for considering an economic activity environmentally sustainable;

(iii) the effectiveness of the taxonomy in channelling private investments into sustainable activities and in particular as regards the flows of capital into private enterprises and other legal entities; and

(iv) further developing the current taxonomy and expanding its scope beyond environmentally sustainable economic activities, in order to cover activities that significantly harm environmental sustainability, as well as other sustainability objectives, including social objectives.

(36) Since the objectives of this Regulation cannot be sufficiently achieved by the Member States, but can be better achieved at Union level, by reason of the need to introduce at Union level uniform criteria for environmentally sustainable economic activities, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives,

HAVE ADOPTED THIS REGULATION:

Chapter I

Subject matter, scope and definitions

Article 1
Subject matter and scope

1. This Regulation establishes the criteria for determining whether an economic activity is environmentally sustainable for the purposes of establishing the degree of environmental sustainability of an investment.

2. This Regulation applies to:

a. measures adopted by Member States or by the Union setting out any requirements on financial market participants or issuers in respect of financial products or corporate bonds that are made available as environmentally sustainable.

b. financial market participants making available financial products

c. undertakings which are subject to the obligation to publish a non-financial statement or a consolidated non-financial statement pursuant to Articles 19a or 29a of Directive 2013/34/EU.

Article 2

Definitions

1. For the purposes of this Regulation, the following definitions shall apply:

(a) 'environmentally sustainable investment' means an investment that funds one or several economic activities that qualify under this Regulation as environmentally sustainable;

(b) 'financial market participants' means a financial market participants as defined in Article 2 (1) and Article 16 of Regulation 2019/2088 on sustainability-related disclosures in the financial services sector;

(c) 'financial product' mean a financial product as defined in Article 2 (12) of Regulation 2019/2088 on sustainability-related disclosures in the financial services sector;

(ca) 'issuer' means an issuer as defined in Article 2(h) of Regulation (EU) 2017/1129 of the European Parliament and of the Council[65];

(d) 'climate change mitigation' means the process of holding the increase in the global average temperature to well below 2 °C and pursuing efforts to limit it to 1.5 °C above pre-industrial levels, as laid down the Paris Agreement;

(e) 'climate change adaptation' means the process of adjustment to actual and expected climate change and its impacts;

(f) 'greenhouse gas' means a greenhouse gas listed in Annex I to Regulation (EU) No 525/2013 of the European Parliament and of the Council[66];

(fa) 'waste hierarchy' means waste hierarchy as laid down in Article 4 of Directive 2008/98/EC of the European Parliament and of the Council[67];

(g) 'circular economy' means maintaining the value of products, materials and other resources in the economy for as long as possible, enhancing their efficient use in production and consumption, thus reducing the environmental impact of this use, minimising waste and the release of hazardous substances at all stages of the life cycle, including through the application of the waste hierarchy;

(ga) 'pollutants' means substances, vibrations, heat, noise, light or other contaminants present in air, water or land, which may be harmful to human health or the environment, which may result in damage to material property, or which may impair or interfere with amenities and other legitimate uses of the environment;

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65 Regulation (EU) 2017/1129 of the European Parliament and of the Council of 14 June 2017 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Directive 2003/71/EC (OJ L 168, 30.6.2017, p. 12).

66 Regulation (EU) No 525/2013 of the European Parliament and of the Council on a mechanism for monitoring and reporting greenhouse gas emissions and for reporting other information at national and Union level relevant to climate change and repealing Decision 280/2004/EC (OJ L 165, 18.6.2013, p. 13).

67 Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312, 22.11.2008, p. 3).

(gb) 'soil' means the top layer of the Earth's crust situated between the bedrock and the surface, which is composed of mineral particles, organic matter, water, air and living organisms;

(h) 'pollution' means:

(i) the direct or indirect introduction, as a result of human activity, of pollutants into air, water or land;

(ii) in the context of the marine environment, pollution as defined in Article 3(8) of Directive 2008/56/EC of the European Parliament and of the Council[68];

(iii) in the context of the water environment, pollution as defined in Article 2(33) of Directive 2000/60/EC of the European Parliament and of the Council[69];

(ha) 'ecosystem' means a dynamic complex of plant, animal, and micro-organism communities and their non-living environment interacting as a functional unit;

(hb) 'ecosystem services' means the direct and indirect contributions of ecosystems to the economic, social, cultural and other benefits that people derive from ecosystems.;

(hc) 'biodiversity' means the variability among living organisms from all sources including, inter alia, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part; this includes diversity within species, between species and of ecosystems;

(i) 'the good condition of an ecosystem' means an ecosystem that is in a good physical, chemical and biological condition or of a good physical, chemical and biological quality with self-reproduction or self-restoration capability, where species composition, ecosystem structure and ecological functions are not impaired;

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[68] Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008 establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive) (OJ L 164, 25.6.2008, p. 19–40).

[69] Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (Water Framework Directive) (OJ L 327, 22.12.2000, p. 1-73).

(j) 'energy efficiency' means using energy more efficiently at all the stages of the energy chain from production to final consumption;

(k) 'good environmental status' means good environmental status as defined in Article 3(5) of Directive 2008/56/EC, as determined on the basis of the qualitative descriptors set out in Annex I to Directive 2008/56/EC and as further specified in Commission Decision (EU) 2017/848;

(ka) 'good status' means good chemical status and good ecological status in the case of surface waters, and good chemical and good quantitative status in the case of groundwaters, as classified in accordance with Annex V to Directive 2000/60/EC and with Directives 2008/105/EC and 2006/118/EC;

(kb) 'good ecological potential' means the status of a heavily modified or artificial body of water, so classified in accordance with Annex V to Directive 2000/60/EC;

(l) 'marine waters' means marine waters as defined in Article 3(1) of Directive 2008/56/EC;

(m) 'surface water' means surface water as defined in Article 2(1) of Directive 2000/60/EC[70];

(ma) 'groundwater' means groundwater as defined in Article 2(2) of Directive 2000/60/EC[71];

(o) 'competent authority' means a national authority designated by a Member State to supervise financial market participants in respect of their compliance with the requirements of this Regulation.

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[70] Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (OJ L 327, 22.12.2000, p.1).

[71] Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (OJ L 327, 22.12.2000, p.1).

Chapter II

Environmentally sustainable economic activities

Article 3

Criteria for environmentally sustainable economic activities

For the purposes of establishing the degree of environmental sustainability of an investment, an economic activity shall be considered environmentally sustainable where that activity complies with all of the following criteria:

(a) the economic activity contributes substantially to one or more of the environmental objectives set out in Article 5 in accordance with Articles 6 to 11a;

(b) the economic activity does not significantly harm any of the environmental objectives set out in Article 5 in accordance with Article 12;

(c) the economic activity is carried out in compliance with the minimum safeguards laid down in Article 13;

(d) the economic activity complies with technical screening criteria that have been specified by the Commission in accordance with Articles 6(2) 7(2), 8(2), 9(2), 10(2) and 11(2).

Article 4

Use of the criteria for environmentally sustainable economic activities in public measures, standards and labels

Member States and the Union shall apply the criteria for determining environmentally sustainable economic activities set out in Article 3 for the purposes of any measures setting out requirements financial market participants or issuers in respect of financial products or corporate bonds that are made available as 'environmentally sustainable'.

Article 4α

Transparency of environmentally sustainable investments in pre-contractual disclosures and periodic reports

Where a financial product referred to in Article 9(1), (2) and (3) of the Disclosure Regulation invests in an economic activity that contributes to an environmental objective within the meaning of Article 2(17) of that Regulation, the information to be disclosed in accordance with Articles 6(3) and 11(2) of that Regulation shall include the following:

(a) the information on the environmental objective or environmental objectives to which the investment underlying the financial product contributes, as set out in Article 5;

(b) a description of how and to what extent the investments underlying the financial product are invested in environmentally sustainable economic activities, as set out in Article 3.

The description referred to in point (b) of the first subparagraph shall specify the share of investments in environmentally sustainable economic activities, including details on the respective proportions of enabling and transition activities, as a percentage of all investments selected for the financial product.

Article 4β

Transparency of financial products that promote environmental characteristics in pre-contractual disclosures and periodic reports

Where a financial product referred to in Article 8(1) of the Disclosure Regulation promotes environmental characteristics, Article 4α shall apply *mutatis mutandis*.

The information to be disclosed in accordance with Articles 6(3) and 11(2) of the Disclosure Regulation shall be accompanied by the following statement:

'The "do no significant harm" principle is applied only for the investments underlying the product that take into account the EU criteria for environmentally sustainable investments.

The investments underlying the remaining portion of this financial product do not take into account the EU criteria for environmentally sustainable investments.'

Article 4γ

Transparency of other financial products in pre-contractual disclosures and periodic reports

Where a financial product is not subject to Articles 8(1) and Articles 9(1), (2) and (3) of the Disclosure Regulation, the information to be disclosed in accordance with the provisions of sectoral legislation referred to in Articles 6(3) and 11(2) of that Regulation shall be accompanied by the following statement:

'The investments underlying this financial product do not take into account the EU criteria for environmentally sustainable investments.'

Article 4delta

Transparency of undertakings in non-financial statements

1. Any undertaking which is subject to the obligation to publish a non-financial information pursuant to Articles 19a or 29a of Directive 2013/34/EU shall include in its non-financial statement or consolidated non-financial statement information on how and to what extent the undertaking's activities are associated with environmentally sustainable economic activities as set out in Article 3 and Article 5.

2. In particular, non-financial undertakings shall disclose the following:

(a) the proportion of their turnover derived from products or services associated with environmentally sustainable economic activities as set out in Article 3 and Article 5; and

(b) the proportion of their total investments (Capital Expenditure) and/or expenditures (Operating Expenditure) related to assets or processes associated with environmentally sustainable economic activities as set out in Article 3 and Article 5.

3. If an undertaking publishes non-financial information pursuant to Articles 19a or 29a of Directive 2013/34/EU in a separate report in accordance with paragraph 4 of Article 19a and paragraph 4 of Article 29a of Directive 2013/34/EU, the information referred to in paragraph 1 and paragraph 2 shall be published in that separate report.

4. The Commission shall adopt a delegated act in accordance with Article 16 to supplement paragraphs 1 and 2 to specify the application of those paragraphs, taking into account the specificities of both financial and non-financial undertakings and the technical screening criteria set out in accordance of this Regulation. The Commission shall adopt that delegated act by 1 June 2021.

Article 5

Environmental objectives

For the purposes of this Regulation, the following shall be environmental objectives:

(1) climate change mitigation;

(2) climate change adaptation;

(3) sustainable use and protection of water and marine resources;

(4) transition to a circular economy

(5) pollution prevention and control;

(6) protection and restoration of biodiversity and ecosystems.

Article 6

Substantial contribution to climate change mitigation

1. An economic activity shall be considered to contribute substantially to climate change mitigation where that activity substantially contributes to the stabilization of greenhouse gas concentrations in the atmosphere at a level which prevents dangerous anthropogenic interference with the climate system by avoiding or reducing greenhouse gas emissions or enhancing greenhouse gas removals through any of the following means, including through process or product innovation, consistent with the long term temperature goal of the Paris Agreement:

(a) generating, transmitting, storing, distributing or using renewable energy in line with Directive (EU) 2018/2001, including through using innovative technology with a potential for significant future savings or through necessary reinforcement or extension of the grid;

(b) improving energy efficiency except for power generation activities that are referred to in Article 14(2a);

(c) increasing clean or climate-neutral mobility;

(d) switching to the use of sustainably sourced renewable materials;

(e) increasing the use of environmentally safe carbon capture and utilisation (CCU) and carbon capture and storage (CCS) technologies that deliver a net reduction in greenhouse gas emissions;

(fa) strengthening land carbon sinks, including through avoided deforestation and forest degradation, restoration of forests, sustainable management and restoration of croplands, grasslands and wetlands, afforestation, and regenerative agriculture;

(g) establishing energy infrastructure required for enabling the decarbonisation of energy systems;

(h) producing clean and efficient fuels from renewable or carbon-neutral sources;

(i) enabling any of the above in accordance with Article 11a.

1a. For the purposes of paragraph 1, an economic activity for which there is no technologically and economically feasible low carbon alternative, shall be considered to contribute substantially to climate change mitigation as it supports the transition to a climate-neutral economy consistent with a pathway to limit the temperature increase to 1.5 degrees Celsius above pre-industrial levels including by phasing out greenhouse gas emissions, in particular from solid fossil fuels, where that activity:

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

(ii) does not hamper the development and deployment of low-carbon alternatives; and

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

For the purpose of this paragraph and the establishment of technical screening criteria in accordance of Article 14, the Commission shall assess the potential contribution and feasibility of all relevant existing technologies.

2. Prior to adopting the delegated acts referred to in the second subparagraph, the Commission shall gather all necessary expertise from the Platform regarding technical screening criteria.

The Commission shall adopt delegated act in accordance with Article 16 to:

(a) supplement paragraph 1 and paragraph 1a to establish technical screening criteria for determining under which conditions a specific economic activity is considered, for the purposes of this Regulation, to contribute substantially to climate change mitigation;

(b) supplement Article 12 to establish technical screening criteria, for each relevant environmental objective, for determining whether an economic activity in respect of which screening criteria are established pursuant to point (a) of this paragraph is considered, for the purposes of this Regulation, to cause significant harm to one or more of those objectives.

3. The Commission shall establish the technical screening criteria referred to in paragraph 2 of this Article in one delegated act, taking into account the requirements laid down in Article 14.

4. The Commission shall adopt the delegated act referred to in paragraph 2 by 31 December 2020, with a view to ensure its entry into application on 31 December 2021.

Article 7

Substantial contribution to climate change adaptation

1. An economic activity shall be considered to contribute substantially to climate change adaptation where:

(a) that economic activity includes adaptation solutions that either substantially reduce the risk of the adverse impact or substantially reduces the adverse impact of the current and expected future climate on that economic activity itself without increasing the risk of an adverse impact on other people, nature and assets ; or where

(b) that economic activity provides adaptation solutions that, in addition to the conditions laid down in Art 11a, contribute substantially to preventing or reducing the risk of the adverse impact or substantially reduces the adverse impact of the current and expected future climate on other people, nature or assets without increasing the risk of an adverse impact on other people, nature and assets.

1a. The adaptation solutions referred to in point (a) of paragraph 1 shall be assessed and prioritised using the best available climate projections and shall, as a minimum, prevent or reduce:

(a) the location-specific and context-specific adverse impact of climate change on the economic activity; or

(b) the adverse impact that climate change may have on the environment within which the economic activity takes place

(c) enabling any of the above in accordance with Article 11a.

2. Prior to adopting the delegated acts referred to in the second subparagraph, the Commission shall gather all necessary expertise from the Platform regarding technical screening criteria.

The Commission shall adopt delegated act in accordance with Article 16 to:

(a) supplement paragraphs 1 and paragraph 1a to establish technical screening criteria for determining under which conditions a specific economic activity is considered, for the purposes of this Regulation, to contribute substantially to climate change adaptation;

(b) supplement Article 12 to establish technical screening criteria, for each relevant environmental objective, for determining whether an economic activity in respect of which screening criteria are established pursuant to point (a) of this paragraph is considered, for the purposes of this Regulation, to cause significant harm to one or more of those objectives.

3. The Commission shall establish the technical screening criteria referred to in paragraph 2 of this Article in one delegated act, taking into account the requirements laid down in Article 14.

4. The Commission shall adopt the delegated act referred to in paragraph 2 by 31 December 2020, with a view to ensure its entry into application on 31 December 2021.

Article 8

Substantial contribution to sustainable use and protection of water and marine resources

1. An economic activity shall be considered to contribute substantially to the sustainable use and protection of water and marine resources where that activity substantially contributes to achieving the good status of water bodies, including surface water and groundwater bodies, or to preventing their deterioration when they are already in good status, or to achieving the good environmental status of marine waters, or to preventing their deterioration when they are already in good environmental status, through any of the following means:

(a) protecting the environment from the adverse effects of urban and industrial waste water discharges, including from contaminants of emerging concern such as pharmaceuticals and microplastics, including by ensuring the adequate collection, treatment and discharge of urban and industrial waste waters;

(b) protecting human health from the adverse impact of any contamination of water intended for human consumption by ensuring that it is free from any micro-organisms, parasites and substances that constitute a potential danger to human health as well as increasing citizens' access to clean drinking water;

(d) improving water management and efficiency, including protecting and enhancing the status of aquatic ecosystems, promoting sustainable water use based on long-term protection of available water resources including using measures such as water reuse, ensuring the progressive reduction of pollutant emissions into surface water and groundwater or contributing to mitigating the effects of floods and droughts, or any other activity that protects or improves the qualitative and quantitative status of water bodies;

(e) ensuring the sustainable use of marine ecosystem services or contributing to good environmental status of marine waters, including by protecting, preserving or restoring the marine environment and by preventing and reducing inputs in the marine environment.

(f) enabling any of the above in accordance with Article 11a.

2. Prior to adopting the delegated acts referred to in the second subparagraph, the Commission shall gather all necessary expertise from the Platform regarding technical screening criteria.

The Commission shall adopt delegated act in accordance with Article 16 to:

(a) supplement paragraph 1 to establish technical screening criteria for determining under which conditions a specific economic activity is considered, for the purposes of this Regulation, to contribute substantially to sustainable use and protection of water and marine resources;

(b) supplement Article 12 to establish technical screening criteria, for each relevant environmental objective, for determining whether an economic activity in respect of which screening criteria are established pursuant to point (a) of this paragraph is considered, for the purposes of this Regulation, to cause significant harm to one or more of those objectives.

3. The Commission shall establish the technical screening criteria referred to in paragraph 2 of this Article in one delegated act, taking into account the requirements laid down in Article 14.

4. The Commission shall adopt the delegated act referred to in paragraph 2 by 31 December 2021, with a view to ensure its entry into application on 31 December 2022.

Article 9

Substantial contribution to the circular economy

1. An economic activity shall be considered to contribute substantially to the transition to a circular economy, including waste prevention, re-use and recycling where that activity contributes substantially to that environmental objective through any of the following means:

(a) improving the efficiency in the use of natural resources, including sustainably sourced bio-based and other raw materials, in production, including through

(i) reducing the use of primary raw materials or increasing the use of by-products and secondary raw materials, and

(ii) resource and energy efficiency measures;

(b) increasing the durability, reparability, upgradability, or reusability of products, in particular in designing and manufacturing activities;

(c) increasing the recyclability of products, including of individual materials contained in products, inter alia through substitution or reduced use of products and materials that are not recyclable in particular in designing and manufacturing activities;

(d) substantially reducing the content of hazardous substances and substituting substances of very high concern in materials and products throughout their lifecycle, in line with the objectives laid down in Union law, including by replacing such substances with safer alternatives and ensuring traceability;

(e) prolonging the use of products including through reuse, design for longevity, repurposing, disassembly, remanufacturing, upgrades, repair and sharing;

(f) increasing the use of secondary raw materials and their quality, including by high-quality recycling of waste;

(g) preventing or reducing waste generation including from the extraction of minerals, and from the construction and demolition of buildings;

(h) increasing preparing for re-use and recycling of waste;

(ha) increasing the development of waste management infrastructure needed for prevention, preparing for re-use and recycling, while ensuring that the resulting recovered materials are recycled as high-quality secondary raw material input in production, avoiding downcycling;

(i) minimising incineration and avoiding disposal (including landfilling) of waste, in accordance with principles of the waste hierarchy;

(j) avoiding and reducing litter;

(kb) enabling any of the above in accordance with Article 11a.

2. Prior to adopting the delegated acts referred to in the second subparagraph, the Commission shall gather all necessary expertise from the Platform regarding technical screening criteria.

The Commission shall adopt delegated act in accordance with Article 16 to:

(a) supplement paragraph 1 to establish technical screening criteria for determining under which conditions a specific economic activity is considered, for the purposes of this Regulation, to contribute substantially to the transition to a more circular economy;

(b) supplement Article 12 to establish technical screening criteria, for each relevant environmental objective, for determining whether an economic activity in respect of which screening criteria are established pursuant to point (a) of this paragraph is considered, for the purposes of this Regulation, to cause significant harm to one or more of those objectives.

3. The Commission shall establish the technical screening criteria referred to in paragraph 2 of this Article in one delegated act, taking into account the requirements laid down in Article 14.

4. The Commission shall adopt the delegated act referred to in paragraph 2 by 31 December 2021, with a view to ensure its entry into application on 31 December 2022.

Article 10

Substantial contribution to pollution prevention and control

1. An economic activity shall be considered to contribute substantially to pollution prevention and control where that activity contributes substantially to environmental protection from pollution through any of the following means:

(a) preventing or, where that is not practicable, reducing pollutant emissions into air, water or land other than greenhouse gasses;

(b) improving levels of air, water or soil quality in the areas in which the economic activity takes place whilst minimizing negative impacts on, and risks to, human health and the environment;

(c) preventing or minimising adverse impacts on human health and the environment of the production, use and disposal of chemicals;

(d) cleaning-up litter and other pollution.

(e) enabling any of the above in accordance with Article 11a.

2. Prior to adopting the delegated acts referred to in the second subparagraph, the Commission shall gather all necessary expertise from the Platform regarding technical screening criteria.

The Commission shall adopt delegated act in accordance with Article 16 to:

(a) supplement paragraph 1 to establish technical screening criteria for determining under which conditions a specific economic activity is considered, for the purposes of this Regulation, to contribute substantially to pollution prevention and control as regards

(b) supplement Article 12 to establish technical screening criteria, for each relevant environmental objective, for determining whether an economic activity in respect of which screening criteria are established pursuant to point (a) of this paragraph is considered, for the purposes of this Regulation, to cause significant harm to one or more of those objectives.

3. The Commission shall establish the technical screening criteria referred to in paragraph 2 of this Article in one delegated act, taking into account the requirements laid down in Article 14.

4. The Commission shall adopt the delegated act referred to in paragraph 2 by 31 December 2021, with a view to ensure its entry into application on 31 December 2022.

Article 11

Substantial contribution to protection and restoration of biodiversity and ecosystems

1. For the purposes of this Regulation, an economic activity shall be considered to contribute substantially to the protection and restoration of biodiversity and ecosystems where that activity contributes substantially to protecting, conserving or restoring biodiversity and to achieving the good condition of ecosystems, or to protecting ecosystems that are already in good condition, through any of the following means:

(a) nature and biodiversity conservation, including achieving favourable conservation status of natural and semi-natural habitats and species, or preventing their deterioration where they are already in favourable status, protecting and restoring terrestrial, marine and other aquatic ecosystems in order to improve their condition and enhance their capacity to provide services;

(b) sustainable land use and management, including adequate protection of soil biodiversity, land degradation neutrality, and the remediation of contaminated sites;

(c) sustainable agricultural practices, including those that contribute to enhancing biodiversity or to halting or preventing the degradation of soils and other ecosystems, deforestation and habitat loss;

(d) sustainable forest management including practices and use of forests and forest land that contribute to enhancing biodiversity or to halting or preventing degradation of ecosystems, deforestation and habitat loss;

(da) enabling any of the above in accordance with Article 11a.

2. Prior to adopting the delegated acts referred to in the second subparagraph, the Commission shall gather all necessary expertise from the Platform regarding technical screening criteria.

The Commission shall adopt delegated acts in accordance with Article 16 to:

(a) supplement paragraph 1 to establish technical screening criteria for determining under which conditions a specific economic activity is considered, for the purposes of this Regulation, to contribute substantially to the protection and restoration of biodiversity and ecosystems as regards

(b) supplement Article 12 to establish technical screening criteria, for each relevant environmental objective, for determining whether an economic activity in respect of which screening criteria are established pursuant to point (a) of this paragraph is considered, for the purposes of this Regulation, to cause significant harm to one or more of those objectives.

3. The Commission shall establish the technical screening criteria referred to in paragraph 2 of this Article in one delegated act, taking into account the requirements laid down in Article 14.

4. The Commission shall adopt the delegated act referred to in paragraph 2 by 31 December 2021, with a view to ensure its entry into application on 31 December 2022.

Article 11a

Enabling activities

An economic activity shall be considered to contribute substantially to one or more of the environmental objectives set out in Article 5 by directly enabling other activities to make a substantial contribution to one or more of those objectives, and where that activity:

(a) does not lead to a lock-in in assets that undermine long-term environmental goals, considering the economic lifetime of those assets;

(b) has a substantial positive environmental impact on the basis of lifecycle considerations.

Article 12

Significant harm to environmental objectives

For the purposes of Article 3(b), taking into account the life cycle of the products and services provided by an economic activity, including evidence from existing life cycle assessments, that economic activity shall be considered as significantly harming:

(a) climate change mitigation, where that activity leads to significant greenhouse gas emissions;

(b) climate change adaptation, where that activity leads to an increased adverse impact of the current and expected climate, on itself or for other people, nature and assets;

(c) sustainable use and protection of water and marine resources, where that activity is detrimental to the good status, or where relevant the good ecological potential, of water bodies, including surface waters and groundwaters, or to the good environmental status of marine waters;

(d) circular economy, including waste prevention and recycling, where that activity leads to significant inefficiencies in the use of materials and the direct or indirect use of natural resources such as non-renewable energy sources, raw materials, water and land in one or more stages of the life-cycle of products, including in terms of durability, reparability, upgradability, reusability or recyclability of products; or where that activity leads to a significant increase in the generation, incineration or disposal of waste, with the exception of incineration of non-recyclable hazardous waste, or where the long term disposal of waste may cause significant and long-term harm to the environment;

(e) pollution prevention and control where that activity leads to a significant increase in the emissions of pollutants into air, water or land, as compared to the situation before the activity started;

(f) the protection and restoration of biodiversity and ecosystems, where that activity is detrimental to a significant extent to the good condition and resilience of ecosystems or where that activity is detrimental to the conservation status of habitats and species, including those of Community interest.

1a. When assessing an economic activity against the criteria (a) to (f), the environmental impacts of the activity itself, as well as of the products and services provided by that activity throughout their life cycle shall be taken into account, notably by considering their production, use and end-of-life.

Article 13

Minimum safeguards

The minimum safeguards referred to in point (c) of Article 3 shall be procedures implemented by the undertaking that is carrying out an economic activity to ensure the alignment with the OECD Guidelines for Multinational Enterprises and UN Guiding Principles on Business and Human Rights, including the principles and rights set out in the eight fundamental conventions identified in the International Labour Organisation's declaration on Fundamental Rights and Principles at Work and the International Bill of Human Rights.

When implementing procedures to comply with the minimum safeguards referred to in Article 3(c), undertakings shall adhere to the principle of 'do no significantly harm' referred to in Article 2(17) of Regulation 2019/2088 on sustainability-related disclosures in the financial services sector.

Article 14

Requirements for technical screening criteria

1. The technical screening criteria adopted in accordance with Articles 6(2), 7(2), 8(2), 9(2), 10(2) and 11(2) 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 impacts of a given economic activity;

(b) specify the minimum requirements that need to be met to avoid significant harm to all relevant environmental objectives, considering both the short and long term impacts of a given economic activity;

(c) be quantitative and contain thresholds as far as possible, and be qualitative otherwise;

(d) where appropriate, build upon Union labelling and certification schemes, Union methodologies for assessing environmental footprint, and Union statistical classification systems, and take into account any relevant existing Union legislation;

(da) use sustainability indicators, as referred to in Article 4(6) of Regulation 2019/2088 on sustainability-related disclosures in the financial services sector, to the extent feasible;

(e) be based on conclusive scientific evidence and the precautionary principle enshrined in article 191 TFEU;

(f) take into account the life cycle, including evidence from existing life cycle assessments, by considering the environmental impacts of the economic activity itself, as well as of the products and services provided by that economic activity, notably by considering their production, use and end-of-life;

(g) take into account the nature and the scale of the economic activity, including:

(i) whether it is an enabling activity referred to in Article 11a;

(ii) whether it is a transitional activity referred to in Article 6(1a);

and clearly indicate, where applicable, if the economic activity belongs to one of the categories referred to in points (i) and (ii).

(h) 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, as well as the risk of creating inconsistent incentives for investing sustainably;

(i) cover all relevant economic activities within a specific sector and ensure that those activities are treated equally if they contribute equally towards one or more of the environmental objectives laid down in Article 5 of this Regulation, to avoid distorting competition in the market;

(j) are easy to use and be set as to facilitate the verification of compliance with those criteria.

2. The technical screening criteria referred to in paragraph 1 shall also include criteria for activities related to the clean energy transition consistent with a pathway to limit the temperature increase to 1.5 degrees Celsius above pre-industrial levels, in particular energy efficiency and renewable energy, to the extent that those are substantially contributing to any of the environmental objectives.

2a. The technical screening criteria referred to in paragraph 1 shall ensure that power generation activities that use solid fossil fuels are not considered environmentally sustainable economic activities.

3. The technical screening criteria referred to in paragraph 1 shall also include criteria for activities related to the switch to clean or climate-neutral mobility, including through modal shift, efficiency measures and alternative fuels, to the extent that those are substantially contributing to any of the environmental objectives.

4. The Commission shall regularly review the technical screening criteria referred to in paragraph 1 and, where appropriate, amend the delegated acts adopted in accordance with this Regulation in line with scientific and technological developments.

In that context, before amending or replacing a delegated act, the Commission shall assess the implementation of those criteria taking into account the outcome of their application by financial market participants and impact on capital markets, including channelling investments into sustainable economic activities.

To ensure that economic activities referred to in Article 6(1a) remain on a credible transition pathway consistent with a climate-neutral economy, the Commission shall review the technical screening criteria for those activities at least every 3 years and, where appropriate, amend the delegated act referred to in Article 6(2) adopted in accordance with this Regulation in line with scientific and technological developments.

Article 15

Platform on Sustainable Finance

1. The Commission shall establish a Platform on sustainable finance. It shall be composed in a balanced manner of the following groups:

(a) representatives of the following:

(i) the European Environment Agency;

(ii) the European Supervisory Authorities;

(iii) the European Investment Bank and the European Investment Fund;

(iiia) the European Union Agency for Fundamental Rights;

(b) experts representing relevant private stakeholders, including financial and non-financial market actors and business sectors, representing relevant industries, and those with accounting and reporting expertise;

(ba) experts representing civil society, including those with expertise in the field of environmental, social, labour and governance issues;

(c) experts appointed in a personal capacity, with proven knowledge and experience in the areas covered by this Regulation;

(d) experts representing academia, including universities, research institutes and other scientific organisations, including those with global expertise.

2. The Platform on Sustainable Finance shall:

(a) advise the Commission on the technical screening criteria referred to in Article 14, and the possible need to update those criteria;

(b) analyse the impact of the technical screening criteria in terms of potential costs and benefits of their application;

(c) assist the Commission in analysing requests from stakeholders to develop or revise technical screening criteria for a given economic activity;

(da) advise the Commission insofar appropriate on the possible role of sustainability accounting and reporting standards in supporting the application of the technical screening criteria;

(e) monitor and report regularly to the Commission on EU and Member State level trends regarding capital flows towards sustainable investment;

(ea) advise the Commission on the possible need to develop further measures to improve data availability and quality;

(eaa) advise the Commission on the usability of the technical screening criteria, taking into account the objective of avoiding undue administrative burden;

(f) advise the Commission on the possible need to amend this Regulation;

(fa) advise the Commission on the evaluation and development of sustainable finance policies, including concerning policy coherence issues;

(fb) advise the Commission on addressing other sustainability objectives, including social objectives;

(h) advise the Commission on the functioning of Article 13 and the possible need to supplement the requirements thereof.

2a. The Platform shall take into account a wide range of stakeholders' views.

3. The Platform shall be chaired by the Commission and constituted in accordance with the horizontal rules on the creation and operation of Commission expert groups. In this context the Commission may invite experts with specific expertise on an ad hoc basis.

4. The Platform shall carry out its tasks in accordance with the principle of transparency. The Commission shall publish minutes of the Platform meetings as well as other relevant documents on the Commission website.

5. Where financial market participants consider that an economic activity which does not comply with the technical screening criteria laid down in accordance with this Regulation or for which such technical screening criteria have not been established yet, should be considered environmentally sustainable, they may inform the Platform on Sustainable Finance.

Article 15a

Competent authorities

1. Member States shall ensure that the competent authorities designated in accordance with Regulation 2019/2088 on sustainability-related disclosures in the finances services sector monitor the compliance of financial market participants with the requirements laid down in Articles 4alpha, beta, gamma of this Regulation. All competent authorities shall have all the supervisory and investigatory powers that are necessary for the exercise of their functions under this Regulation.

2. For the purposes of this Regulation, all competent authorities shall cooperate with each other and shall provide each other, without undue delay, with such information as is relevant for the purposes of carrying out their duties under this Regulation.

Article 15b

Measures and penalties

Member States shall lay down the rules on measures and penalties applicable to infringements of Article 4 (alfa, beta, and gamma). The measures and penalties provided for shall be effective, proportionate and dissuasive.

Article 16

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission, subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Articles 4delta(3), 6(2), 7(2), 8(2), 9(2), 10(2) and 11(2) shall be conferred on the Commission for an indeterminate period from [Date of entry into force of this Regulation].

3. The delegation of powers referred to in paragraph 2 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. The Commission shall gather all necessary expertise, prior to the adoption and during the development of delegated acts, including through the consultation of the experts of the Member States Expert Group on Sustainable Finance (Member States Expert Group) referred to in Article 16b. Before adopting a delegated act, the Commission shall act in accordance with the principles and procedures laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to Articles 4delta(3), 6(2), 7(2), 8(2), 9(2), 10(2) and 11(2) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of four months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 16b

Member States Expert Group

1. A Member States Expert Group on Sustainable Finance (Member States Expert Group) shall advise the Commission on the appropriateness of the technical screening criteria and the approach taken by the Platform referred to in Article 15 regarding the developing of the criteria in accordance with Article 14.

2. The Commission shall inform Member States through meetings of the expert group to facilitate an exchange of views between the Member States and the Commission on a timely basis, in particular as regards the key output of the Platform, such as new screening criteria or material updates thereof, or draft reports.

Article 16c

Amendments to Regulation 2019/2088 (Disclosure Regulation)

Regulation 2019/2088 (Disclosure Regulation) is amended as follows:

Article 2

"new 2. The ESAs shall, through the Joint Committee, develop draft regulatory technical standards to specify the details of the presentation and content of the information in relation to the principle of 'do not significantly harm' in Article 2(17) consistent with the content, methodologies, and presentation of indicators in relation to adverse impacts referred to in paragraphs 6 and 7 of Article 4.

The ESAs shall submit the draft regulatory technical standards referred to in the first subparagraph of this paragraph to the Commission by 1 December 2020.

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulations (EU) No 1093/2010, (EU) No 1094/2010 and (EU) No 1095/2010."

Article 8

Transparency of the promotion of environmental or social characteristics in pre-contractual disclosures

"new 2a. Where financial market participants make available a financial product as referred to in Article 4 beta of the Taxonomy Regulation, they shall include in the information to be disclosed pursuant to Article 6(1) and (3) information pursuant to Article 4 beta of the Taxonomy Regulation."

"new 4. The ESAs shall, through the Joint Committee, develop draft regulatory technical standards to specify the details of the presentation and content of the information referred to Article new 2a of this Regulation.

When developing the draft regulatory technical standards referred to in the first subparagraph of this paragraph, the ESAs shall take into account the various types of financial products, their characteristics and the differences between them, as well as the objective that disclosures are to be accurate, fair, clear, not misleading, simple and concise and, to achieve that objective, to amend, where necessary, regulatory technical standards referred to in paragraph 3. The draft regulatory technical standards shall take into account application dates referred to in Article 18(2)(a) and (b) of the Taxonomy Regulation in respect of the environmental objectives referred to in Article 5 of that Regulation.

The ESAs shall submit the draft regulatory technical standards referred to in the first subparagraph of this paragraph to the Commission by 1 June 2021 in respect of the environmental objectives referred to in Article 5(1) and 5(2) of the Taxonomy Regulation and by 1 June 2022 in respect of the environmental objectives referred to in Articles 5(3), 5(4), 5(5) and 5(6) of the Taxonomy Regulation.

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulations (EU) No 1093/2010, (EU) No 1094/2010 and (EU) No 1095/2010.";

Article 9

Transparency of sustainable investments in pre-contractual disclosures

"new 2a. Financial market participants shall include in the information to be disclosed pursuant to Article 6(1) and (3) information pursuant Article 4 alpha of the Taxonomy Regulation."

"new 6. The ESAs shall, through the Joint Committee, develop draft regulatory technical standards to specify the details of the presentation and content of the information referred to in New Article new 2α of this Regulation.

When developing the draft regulatory technical standards referred to in the first subparagraph of this paragraph, the ESAs shall take into account the various types of financial products, their objectives as referred to in paragraphs 1, 2 and 3 and the differences between them as well as the objective that disclosures are to be accurate, fair, clear, not misleading, simple and concise and, to achieve that objective, to amend, where necessary, regulatory technical standards referred to in paragraph 5. The draft regulatory technical standards shall take into account application dates referred to in Article 18(2)(a) and (b) of the Taxonomy Regulation in respect of the environmental objectives referred to in Article 5 of that Regulation.

The ESAs shall submit the draft regulatory technical standards referred to in the first subparagraph of this paragraph to the Commission by 1 June 2021 in respect of the environmental objectives referred to in Article 5(1) and 5(2) of the Taxonomy Regulation and by 1 June 2022 in respect of the environmental objectives referred to in Articles 5(3), 5(4), 5(5) and 5(6) of the Taxonomy Regulation.

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulations (EU) No 1093/2010, (EU) No 1094/2010 and (EU) No 1095/2010."

Article 11

Transparency of the promotion of environmental or social characteristics and of sustainable investments in periodic reports

"new Article 11(1) (c) for a financial product subject to Article 4 alpha of the Taxonomy Regulation, the information pursuant to Article 4 alpha of that Regulation;

new Article 11(1) (d) for a financial product subject to Article 4 beta of the Taxonomy Regulation, the information pursuant to Article 4 beta of that Regulation."

"new 5. The ESAs shall, through the Joint Committee, develop draft regulatory technical standards to specify the details of the presentation and content of the information referred to in Article new 11(1)c and new 11(1)d of this Regulation.

When developing the draft regulatory technical standards referred to in the first subparagraph of this paragraph, the ESAs shall take into account the various types of financial products, their characteristics and objectives and the differences between them and amend, where necessary, regulatory technical standards referred to in paragraph 4. The draft regulatory technical standards shall take into account application dates referred to in Article 18(2)(a) and (b) of the Taxonomy Regulation in respect of the environmental objectives referred to in Article 5 of that Regulation. The ESAs shall update the regulatory technical standards in the light of regulatory and technological developments.

The ESAs shall submit the draft regulatory technical standards referred to in the first subparagraph of this paragraph to the Commission by 1 June 2021 in respect of the environmental objectives referred to in Article 5(1) and 5(2) of the Taxonomy Regulation and by 1 June 2022 in respect of the environmental objectives referred to in Articles 5(3), 5(4), 5(5) and 5(6) of the Taxonomy Regulation.

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulations (EU) No 1093/2010, (EU) No 1094/2010 and (EU) No 1095/2010."

Chapter III

Final provisions

Article 17

Review

By [2 years after entry into force], and subsequently every three years thereafter, the Commission shall publish a report on the application of this Regulation. That report shall evaluate the following:

(a) the progress on the implementation of this Regulation with regard to the development of technical screening criteria for environmentally sustainable economic activities;

(b) the possible need to revise and complement the criteria set out in this Regulation for considering an economic activity environmentally sustainable;

(c) the use of the definition of environmentally sustainable investment in Union law, and at Member State level, including the provisions required for setting up verification mechanisms of compliance with the criteria set out in this Regulation;

(d) the effectiveness of the taxonomy in channelling private investments into sustainable activities and in particular as regards the flows of capital into private enterprises and other legal entities, particularly equity capital, on one hand through financial products referred to in this Regulation and, on the other hand, through other financial products, in application of the technical screening criteria;

(e) access by financial markets participants referred to in this Regulation, and investors to reliable, timely and verifiable information and data regarding companies and other legal entities, taking into account related administrative burden, as well as modalities of verification of such data, necessary in determining the degree of alignment with the technical screening criteria and ensuring compliance with it, taking into account investees within and outside the scope of the Regulation and in both cases, as regards equity and debt capital;

(f) supervisory provisions set out in Articles 15a and 15b.

By 31 December 2021, the Commission shall publish a report describing the provisions required for extending the scope of this Regulation to:

(a) further develop the current taxonomy and expand its scope beyond environmentally sustainable economic activities in order to cover economic activities that do not have a significant impact on environmental sustainability as well as activities that do significantly harm environmental sustainability as well as review the appropriateness of specific disclosure requirements related to transitional and enabling activities;

(b) cover other sustainability objectives, including social objectives.

2. By [2 years after the entry into force], the Commission shall assess the effectiveness of the advisory procedures for the development of the technical screening criteria set up by this Regulation.

Article 18

Entry into force and application

1. This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

2. Articles 4, 4alfa, 4beta, 4gamma and 4delta shall apply:

(a) in respect of the environmental objectives referred to in points (1) and (2) of Article 5 by 31 December 2021;

(b) in respect of the environmental objectives referred to in points (3) to (6) of Article 5 by 31 December 2022.

3. Article 4 (1) shall not apply to certificate based tax incentive schemes that exist prior to the entry into force of this Regulation setting out requirements for financial products that aim to finance sustainable projects.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at …,

For the European Parliament	For the Council
The President	*The President*