



Brussels, 18th December 2020

EACB answer to the consultation on the Delegated Acts to the Taxonomy Regulation

General comment:

The EACB believes that the implementation of the criteria proposed in the delegated acts to the Taxonomy Regulation will play an important role in creating a uniform EU-definition of environmentally sustainable economic activities with regard to the first two environmental objectives established in the regulation (climate change mitigation and adaptation). However, we believe that (as shown on the example of the categories and activities below) the proposed draft technical screening criteria should be improved to safeguard an easy usability, avoiding inconsistencies due to the lack of clarity in wording and generally we argue to limit the many cross references present in the report. Also, it is important to continuously revise and adapt the taxonomy to the fast-moving international work with sustainability, adopting new criteria and eligible categories to be added to those already existing (in accordance with the future developments in the field of sustainability).

Consequently, we strongly advocate formally updating the taxonomy at regular intervals and entailing revisioning. In particular, this would be relevant when taxonomy eligible assets are used as collateral for instance when issuing green bonds as existing sustainable finance assets must not be affected due to the updated definition.

Our members would like to highlight the significant administrative efforts that will be requested to turn the requirements laid down in the delegated acts into an applicable "view table" that can be used to screen customers or determine ESG risks by entering parameters into the customer data systems in order to achieve a degree of automation at some point. This becomes particularly relevant with regard to small regional banks - but also with regard to the countless SMEs, which represent around the 98% of the total number of companies in Europe and which should be able to classify themselves using a definition of the technical screening criteria. Especially those companies will face several challenges to work through the technical screening criteria and apply them in practice. In order to solve these tasks, sufficient (time/money) resources must be planned in: we fear that for many companies it will not be possible to obtain and maintain the required data when the delegated acts will become fully applicable.

For this reason, we suggest the Commission to elaborate a comprehensive web-based tool that assists in the application of the Taxonomy.

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EACB AISBL – Secretariat • Rue de l'Industrie 26-38 • B-1040 Brussels

Tel: (+32 2) 230 11 24 • Fax (+32 2) 230 06 49 • Enterprise 0896.081.149 • lobbying register 4172526951-19
www.eacb.coop • e-mail : secretariat@eacb.coop



SPECIFIC COMMENTS:

I. Acquisition and ownership of buildings:

- On the building sector, we believe the new wording **“For buildings built before 31 December 2020, the building has at least Energy Performance Certificate (EPC) class A”** (page 203, Annex I) represents a critical challenge, which contradicts the concept introduced in the final report of the TEG, according to which "top 15% of the local existing stock in terms of operational Primary Energy Demand...Certification schemes such as EPCs may be used as evidence of eligibility...". If this new proposal will be integrated in the official delegated act to the taxonomy regulation, **it will represent a significant obstacle for a large number of buildings to be eligible according to the criteria for environmentally sustainable activities**. We cautioned that the proposed requirement of energy label A would weaken the applicability of the Taxonomy and therefore slow down both the harmonization and promotion of green financing. Thresholds for energy label A in each EU member state are decided nationally. Therefore, ambitiousness of the threshold varies significantly. In some member states, the energy label A is very hard to achieve; the share of label A is estimated to cover very low percentages (in some cases less than 0,5%) of the whole residential building stock. In some other countries the share of label A is much higher due to differences in thresholds compared to local climate. To better understand the impact it might have, some of our members have quantified the reduction in houses' eligibility under the new wording (compared to the previous one) at around 90-95 %. This can lead to a 'de facto' disappearance of incentives for banks and borrowers to favor better houses within the building stock when taking the purchasing (and financing) decision, something against the objectives of the EU environmental agenda, and thus failing to impulse housing renovation. In several states, indeed, the 15% TOP of the national stock estimation corresponds to EPC level "A" and partially/fully level "B". Limiting the scope to "A" would remove currently eligible "B" part.
- Moreover, it should be noted that the '15% best' criterium is already a moving target, an objective that will become more demanding as time passes by, thus creating a positive trend towards higher requirements as the building stock is being renewed, and its average energy efficiency improves. That is why the '15% best' approach should not be taken as an easy target, or a threshold that risks creating stranded assets or lacking the needed incentives to improve energy efficiency. On the contrary, it would allow homeowners to increase their willingness to invest in renovations.
- In addition, EPC certificates across EU members states differ in terms of format, sometimes even in terms of information they contain and in most of the cases they are issued and only available in the local language. To make the comparison of the buildings' energy efficiency based on the EPC certificates within the EU possible, the structure and content of the EPC certificates must be aligned across the EU countries firstly. Furthermore, creation and maintenance of the central publicly available EPC database for the EU countries would ensure data availability and increase transparency within and between the EU countries. Only few EU countries have currently national register for EPC certificates. Finally, as the EPC certificates are obligatory within the EU and given the presence of our members in Non-EU countries, we need to consider which alternative methodology apply in those contexts. 15% TOP of the national stock seems once again to be a valid alternative.

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- The Taxonomy was supposed to take into account existing market practices that would make it easier to use and ensure it is aligned with existing green bond frameworks. However, if the criterion “energy label A” is applied, the Taxonomy will significantly diverge from existing market practices and current Green Bond market in Europe.
- Similarly, since the vast majority of the DNSH criteria was built on existing EU regulations, the DNSH criteria should be such that fulfilment is easy to check for large numbers of buildings. At the moment for some DNSH criteria there is no data available to check whether a building fulfils the criteria or not.
- Particularly, DNSH criteria of “not built on arable land, crop land with a moderate to high level of soil fertility or forest land” is very challenging in some Northern European countries for geographical reasons (i.e. Finland). In such countries, most of new constructions, in fact, need to be planned in forest areas because there are not any other places to build. The proposed DNSH criteria would make the Taxonomy infeasible in these areas, risking to limit the possibility to finance taxonomy aligned activities in the building sector. In fact, we believe that the scope of the taxonomy could be reached only if the criteria proposed in the delegated acts will allow a sufficient share of economic activities to be eligible as environmentally sustainable in a feasible way.

II. Construction of new buildings:

- Eligibility criteria for new buildings (i.e. built after December 2020) are based on a Primary Energy Demand 20% lower than the NZEB requirements. In many EU countries, the NZEB requirements are already very ambitious. For instance in France, starting from mid-2021 all new buildings will be at “positive energy”, i.e. producing more energy than they are consuming. The proposed wording doesn’t specify how the extra 20% of energy performance would be calculated when buildings already have a negative net energy consumption. In that respect, the TEG recommended in its final report no additional requirement where the local regulation is already net-zero carbon aligned: “Where net-zero carbon is already mandated by regulation (as may be the case for some building types in some Member States), the taxonomy should not require better performance, since net zero carbon can be considered sufficient (from the side of new constructions) to allow the entire building stock to be climate-neutral by 2050” (p. 372, Technical appendix). We would recommend using just the NZEB standard without additional requirements.
- For all these reasons, we believe the Taxonomy can promote green financing if, and only if, the criteria are achievable for a reasonable amount of assets. **With the proposed change in criteria, the Taxonomy will not really incentivise financing of residential buildings.** This is especially noteworthy if related to the % of GHG emissions that comes from the building sector at European and global level.

III. Agriculture and forestry:

- The draft technical screening criteria not only represent a challenge from the usability point of view for Member States, the agriculture and forestry sector and other users of

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the EU-Taxonomy but also seems to put criteria into force that set a new policy in parallel with the Common Agricultural Policy (CAP) and its provisions in regards of conditionality and greening requirements. For the agriculture and forestry sector sustainable economic activities are already defined in sectorial regulations and in our view don't have to be redefined for sustainable investment purposes; the technical screening criteria must be in line and compatible with existing measures in the CAP, REDII and Sustainable Forest Management. As mentioned above relating to buildings, technical screening criteria in Annex I relating to agriculture and forestry seem also to be presented really tightly. Ordinary sustainable Nordic forest management is excluded. In the final report of the TEG, ordinary sustainable forest management was included. Only measures above or beyond some kind of "ordinary" forest management can be now classified as sustainable based on Commission's latest proposal. This means in practise that current financing on 'ordinary' terms relating to agriculture and forestry would be out of scope based on Taxonomy. Many Member States have a long history for improving forestry environmentally: forests represent a carbon sink, as their growth stores more carbon than is released through their use and natural drain. According to the criteria proposed in the draft delegated act, a substantial part of sustainable activities related to the forestry sector would be out of the scope of the regulation. Of course the bar should be set ambitiously, but not over ambitiously. We argue for a good consideration of the level of criteria. Several of our members have commented on it.

- Regarding the forest management plan included in Annex I in points 1.5, 1.6 and 1.7, the preparation and management of such a plan is very complex and costly, especially for small forest owners. In point 1.7 ("Improved forest management", the proof of a „net CO2 balance or saving/reduction“ over 20 years is really hard to achieve in small forests (too expensive); the value fluctuates between individual models and the increase in temperature causes increased transformation activity (this means more humus depletion and thus CO2 production in the soil). In points 4.8, 4.20, 4.24 the criterion of 80% GHG-reduction goes beyond the RED II (80% reduction applies in RED II for new plants from 2026).
- **Agriculture and Forestry (section 1 of Annex I, Annex II): Compliance with the "Do No Significant Harm" (DNSH) criterion.** According to the draft technical screening criteria, economic activities in the agriculture and forestry sector explicitly have to comply with the "Do No Significant Harm" (DNSH) criterion. This is extremely challenging, since (for example) a robust climate risk and vulnerability assessment required under DNSH for climate change adaptation would be a highly challenging task for clients from these sectors. Most of the technical thresholds set by the EU Taxonomy are extremely ambitious. The DNSH-assessment (step 3 of the EU Taxonomy assessment) is in most cases even more challenging. A common approach so far could have been a due diligence controversies' check for the client involved combined with the assumption of the DNSH assessment being fulfilled - should the project financed take place or should the customer/the creditor involved be situated in the EU. In the mid- to long term, the aim would be to transition to a DNSH-assessment that is fully compliant with the requirements set in the EU Taxonomy regulation.
- **Agriculture and Forestry (section 1 of Annex I, Annex II) – Reference to FSC and PEFC certificates.** According to the draft technical screening criteria, in the section dedicated to agriculture and forestry the reference to FSC and PEFC certificates ("being likely to satisfy Sustainable Forest Management requirements (excl. non-conversion requirement) and DNSH criteria") has been removed. Both certifications

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cover a high share of the forests globally. Inclusion of the reference to those certificates would simplify demonstration of compliance with some of the technical screening criteria. Hence, several of our members argued that the reference to FSC and PEFC certificates should be included.

Agriculture and Forestry (section 1 of Annex I, Annex II): According to the draft technical screening criteria, in the sector agriculture and forestry the demonstration of compliance with the essential management practices and the demonstration of compliance with GHG thresholds (incl. GHG emissions and carbon sequestration) are not independent alternatives to choose from. Alignment with both technical criteria mentioned is required according to the current draft. Flexibility of choice would without doubt enhance the usability of the taxonomy. GHG improvement targets (incl. measurement of climate baseline, emissions and removals) require existence of farm level GHG accounting for customers, which is not yet widespread in the agriculture sector. Nor is a pool of proxy indicators for compliance with disclosure of GHG emissions and removals (standards, certification schemes, carbon credit schemes and similar) established and set in this sector. For the reasons listed above, being able to choose between the demonstration of GHG records and, alternatively, the deployment of the specified bundle of practices, would facilitate the uptake and disclosure against the technical criteria in the agriculture sector.

IV. Energy:

- **Hydropower plants DNSH criterion 3 (Annex I page 105-106):** As it is stated in the draft proposal *"The operation of the hydropower plant fully complies with that authorisation or permit issued by the competent authority, and sets out all relevant mitigation measures necessary to: (a) ensure conditions as close as possible to undisturbed continuity in the specific water body the plant relates to, including state-of-the-art and fully functional fish passes and turbines preventing fish kill, measures to ensure minimum ecological flow and sediment flow, adaptation of the operation of the plant; (b) reduce the impact of hydropeaking; (c) protect or enhance habitats for aquatic species; (d) reduce adverse impacts of eutrophication"*. In many countries, due to geographical specificities, the use of hydropower has a long and consolidated tradition and lots of hydropower plants are financed. Hydropower as such is a low carbon way to produce energy. However, we believe that the additional requirements related to the "state-of-the-art and fully functional fish passes etc." could lead to a situation where a relevant number of hydropower plants will remain outside the scope of Taxonomy at the moment.

V. Water Supply, Sewerage, Waste Management and Remediation:

- **Water Supply, Sewerage, Waste Management and Remediation (section 5 of Annex I, Annex II):** In the draft technical screening criteria, the activities "Direct Air Capture of CO₂" and "Capture of anthropogenic emissions" are missing in the description of the sector. Both activities provide substantial contribution to achieving

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net-zero GHG emissions targets by 2050. Both activities represent an essential part of the CCS and CCU carbon abatement technologies, which play a key role in different sectors such as manufacturing, electricity, gas (...) and so on. For instance, in the activity "4.8. Electricity generation from bioenergy" use of carbon capture and storage technology is listed as one of the criteria for EU Taxonomy compliance. This would require a definition of the carbon capture criteria in the first place.

VI. Manufacturing:

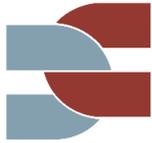
- **Manufacturing (section 3 of Annex I, Annex II) – mitigation measures:** In the draft technical screening criteria, "mitigation measures" are missing in the description of the activity. Mitigation measures represent enabling activities, since they are recognized as critical steps supporting the transition of economic activities in high emitting manufacturing sectors towards reaching the defined thresholds. Most of the technical thresholds set by the EU Taxonomy are extremely ambitious. In the EU Taxonomy version as of 03/2020, mitigation measures were eligible provided they were incorporated into a single investment plan within a determined time frame (5 or 10 years) that outlines how each of the measures in combination with others will enable the activity to meet the threshold defined within various manufacturing activities. Given that most of the investments required in this sector are mid- to long-term, having an opportunity to include individual investments in different measures, implemented over a defined time span as part of an overall investment plan, as taxonomy aligned, was contributory. The fact that "mitigation measures" are missing, could be interpreted as financing of only manufacturing activities complying with the activity threshold at the moment of the assessment would be considered eligible, regardless of whether the customers with an existing investment plan need financing for reaching thresholds defined over time. This is particularly relevant for financing projects, green mortgages, the use of proceeds from green bonds.
- **Manufacturing (section 3 of Annex I, Annex II) – aluminium recycling:** In the draft technical screening criteria, in relation to the activity "Manufacture of aluminium" aluminium recycling as an activity is missing in the description of the activity. According to the TEG's final report, all aluminium recycling was eligible due to significantly lower emissions than primary production. Description of the activity in the delegated act only focuses on the primary and secondary production of the material, thereby ignoring the recycling activity, which most of the customers from this sector are engaging in.
- **Manufacturing (section 3 of Annex I, Annex II) – secondary production of steel:** In the draft technical screening criteria, in relation to the activity "Manufacture of iron and steel" the secondary production of steel as an activity is missing in the description of the activity. According to the TEG's final report, secondary production of steel (i.e. using scrap steel) is considered eligible due to significantly lower emissions than primary steel production.

Final remarks: The EACB and its members would like to stress that they expressly support the political targets for creating sustainable classification framework for economic activities. As local and regional banks owned by their members, co-operative banks play a key role in

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fostering sustainability (via sustainable investments or savings products, energy transition project financing, green financing to SMEs and energy efficiency financing of private and public buildings) or via their social mission: reinvesting significant portions of available profits back into the community. For this reason, we believe that the criteria proposed for the classification of sustainable economic activities, in accordance with the Taxonomy Regulation, must be suitably challenging on the one hand but usable and concrete on the other, in order to allow all operators who want to contribute to the transition to be able to use them as a lever to increase the possibility of financing environmentally sustainable projects at a local level.

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