Framework to facilitate sustainable investment

2018/0178(COD) - 08/05/2020 - Council position

The Council adopted its position at first reading with a view to the adoption of a regulation of the European Parliament and of the Council on the establishment of a framework to facilitate sustainable investment and amending regulation (EU) 2019/2088 (also known as the taxonomy regulation).

The proposed Regulation is part of the action plan ‘Financing Sustainable Growth’, which aims to channel capital flows towards sustainable investment in order to achieve sustainable and inclusive growth. It aims to establish the criteria for determining at EU level which activities should be considered ‘green’.

The ‘EU taxonomy’ should provide a common language that investors and companies could use to identify opportunities to invest in projects and economic activities that make a substantial contribution to climate and environmental objectives.

The Council's position at first reading reflects the compromise reached in negotiations between the Council and the European Parliament. It includes the following main elements:

Scope of application

The Council's position provides for the application of the taxonomy to all adopted public measures, standards or labels that set out requirements on financial market participants or issuers in the area of financial products or corporate bonds that are marketed as environmentally sustainable.

According to the Council position:

- all financial market participants, within the meaning of Regulation (EU) 2019/2088 on disclosure of information, should be required to declare how and to what extent the investments underlying their financial products support economic activities that comply with the taxonomy ;

- financial market participants who do not wish to publish information on how they comply with the taxonomy and who therefore do not wish to market their products as environmentally sustainable, should make a statement explaining their position;

- large financial and non-financial companies that are already required to disclose non-financial information should report in their non-financial statements or consolidated non-financial statements certain key climate-related performance indicators, which are based on the framework established by the taxonomy Regulation.

The Commission shall publish, by 31 December 2021 at the latest, a report describing the provisions that would be necessary to extend the scope of the Regulation to cover environmentally sustainable economic activities that significantly harm the environment, as well as other sustainability objectives, including social objectives.

Environmental objectives

In order to determine whether a given economic activity is environmentally sustainable, the Council's position sets out an exhaustive list of six environmental objectives to which the activity should contribute

substantially, namely: (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; and (6) protection and restoration of biodiversity and ecosystems.

Technical screening criteria

For each environmental objective, uniform technical screening criteria for determining whether economic activities contribute substantially to the objective concerned should be laid down by the Commission in delegated acts. An essential element of those uniform criteria is the absence of significant prejudice to the environmental objectives.

Climate neutrality

The Council position sets out clear requirements for technical examination criteria, which the Commission should respect when developing these criteria by means of delegated acts. These requirements take into account the principle of technological neutrality and provide that the technical review criteria shall ensure that power generation activities using solid fossil fuels are not considered to be environmentally sustainable economic activities.

Minimum safeguards

Compliance with minimum safeguards should also be a condition for an economic activity to be considered environmentally sustainable. Thus, an economic activity may only be considered environmentally sustainable when it is carried out in the framework of the OECD Guidelines for Multinational Enterprises and the UN Guidelines on Business and Human Rights, including the International Labour Organisation (ILO) Declaration on Fundamental Principles and Rights at Work, the eight ILO fundamental conventions and the International Bill of Human Rights.

Eligible environmentally sustainable economic activities

The Council position introduced two sub-categories of environmentally sustainable economic activities: (i) enabling activities (applicable to all six environmental objectives) and (ii) transition activities (applicable only to the climate change mitigation objective):

- enabling activities directly enable other activities to make a substantial contribution to one or more of the environmental objectives. Safeguards have been put in place to prevent greenwashing. The first of these safeguards is that enabling activities cannot lead to a 'lockin' in assets that undermine long-term environmental goals, considering the economic lifetime of those assets. The second of these safeguards is that enabling activities must have a substantial positive environmental impact on the basis of lifecycle considerations;

- transition activities are activities: (i) for which there are currently no technologically and economically feasible low-carbon alternatives available; (ii) and that support the transition to a climate-neutral economy in a manner that is consistent with a pathway to limit the temperature increase to 1.5 degrees Celsius above pre-industrial levels.

Governance

The process for the establishment and update of the technical screening criteria should involve relevant stakeholders and should build on the advice of experts who have proven knowledge and experience in the relevant areas. For that purpose, the Commission should set up a Platform on Sustainable Finance. The Platform should be composed of experts representing both the public and private sectors.

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, on addressing other sustainability objectives, including social objectives.

Timeframe for implementation

The Council's position provides that the Commission should give priority to delegated acts which pursue climate-related objectives by adopting them by 31 December 2020 at the latest, in order to ensure their application as from 1 January 2022. Delegated acts pursuing the other objectives under the taxonomy regulation should be adopted by 31 December 2021 at the latest in order to ensure their application as from 1 January 2023.