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From: General Secretariat of the Council  
To: Permanent Representatives Committee (Part 2)

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Subject: Proposal for a Regulation of the European Parliament and of the Council  
on the establishment of a framework to facilitate sustainable investment  
*- Mandate for negotiations with the European Parliament*

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Delegations will find attached the Presidency compromise text for a mandate for negotiations with the European Parliament.

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**on the establishment of a framework to facilitate sustainable investment**

(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 Central Bank,<sup>1</sup>

Having regard to the Opinion of the European Economic and Social Committee,<sup>2</sup>

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Article 3(3) of the Treaty on European Union 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.

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<sup>1</sup> OJ C , , p. .

<sup>2</sup> OJ C , , p. .

- (2) On 25 September 2015, the UN General Assembly adopted a new global sustainable development framework: the 2030 Agenda for Sustainable Development<sup>3</sup> having at its core the Sustainable Development Goals (SDGs) covering three pillars of sustainability: environmental, social and economic/governance. The Commission Communication of 22 November 2016 on the next steps for a sustainable European future<sup>4</sup> 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<sup>5</sup> 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.
- (3) In 2016, the Council concluded on behalf of the Union the Paris Agreement<sup>6</sup>. 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.
- (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.
- (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<sup>7</sup> 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.

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<sup>3</sup> Transforming our World: The 2030 Agenda for Sustainable Development (UN 2015) available at <https://sustainabledevelopment.un.org/post2015/transformingourworld>.

<sup>4</sup> COM(2016) 739 final.

<sup>5</sup> DEVGEN 139, ONU 83, ENV 624.

<sup>6</sup> 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).

<sup>7</sup> 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](https://ec.europa.eu/info/sites/info/files/180131-sustainable-finance-final-report_en.pdf).

- (6) In March 2018, the Commission published its Action Plan 'Financing Sustainable Growth'<sup>8</sup> 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 understanding of what 'sustainable' means. 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.
- (6a) While acknowledging the urgency of addressing climate change and pursuing all environmental objectives, further analytical work should be carried out in order to advance other sustainability objectives, including social objectives and good governance, thereby implementing the 2030 Agenda in a full, coherent, comprehensive, integrated and effective manner.
- (7) Decision No. 1386/2013/EU of the European Parliament and of the Council<sup>9</sup> calls for an increase in private sector funding for environmental and climate-related expenditure, notably through 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 investment are not disrupted in the internal market.
- (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 to allow the relevant market actors to use a national label, aim to enhance investor confidence, 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.

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<sup>8</sup> COM(2018) 97 final.

<sup>9</sup> 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).

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 barriers to access cross-border capital markets for the purposes of raising funds for sustainable projects are expected to grow further. The criteria for determining whether an economic activity is environmentally sustainable should therefore be harmonised at Union level, in order to remove obstacles to the functioning of the internal market 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 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 claim 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 for such disclosures, this will help investors compare environmentally sustainable investment opportunities across borders. 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 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 level. When doing this, this Regulation does not affect and is without prejudice to any fiscal measures (such as tax measures) that Member States may adopt on a national level with the aim to incentivise sustainable investment.

National labelling schemes should be consistent with the legal obligation as set out in Article 1 point (2a), including the technical screening criteria applicable for those economic activities.

- (12) Establishing criteria for environmentally sustainable economic activities may encourage economic operators to publish and to 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. Uniform legal requirements for considering investments as environmentally sustainable investments, based on uniform criteria for environmentally sustainable economic activities, are necessary as a reference for future Union legislation aiming at enabling those investments.

- (13a) A Union classification of environmentally sustainable economic activities should be based on any relevant Union legislation, where appropriate. It should also build, where appropriate, on Union labelling and certification schemes, Union methodologies for assessing environmental footprint, and Union statistical classification systems, where appropriate.
- (14) In the context of achieving SDGs in the Union, policy choices such as the creation of a European Fund for Strategic Investment, have proven to be 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<sup>10</sup> specifies a 40% climate investment target for infrastructure and innovation projects under the European Fund for Strategic Investment. Common criteria for the sustainability of economic activities could underpin future similar initiatives of the Union supporting 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 which 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. Financial market participants making available environmentally sustainable financial products and issuers referred to in Article 1 point (2)(a) issuing environmentally sustainable corporate bonds should use the same concept of environmentally sustainable economic activities, when disclosing how these investments are ‘environmentally sustainable’.
- (16) In the interest of investors, including consumers, financial market participants making available financial products as ‘environmentally sustainable’, should disclose how and to what extent the investment meets the criteria environmentally sustainable economic activities as defined in this Regulation. If another approach is pursued, such as attaining only certain environmental characteristics, financial market participants should disclose the investment approach in respect of the financial product, applying the requirements under the Regulation XYZ/2019 on sustainability-related disclosures in the financial services sector.

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<sup>10</sup> 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).

When complying with their obligations under this Regulation, financial market participants may additionally take into account a wide range of different qualitative and quantitative indicators and disclosures, which they consider relevant for investors to assess financial products made available as environmentally sustainable. The current compliance and the degree of alignment with the technical screening criteria regarding the underlying economic activities must however, be one of a range of indicators, if the financial product is made available as ‘environmentally sustainable’.

With regard to other financial products not within the scope of this Regulation, which are not made available as ‘environmentally sustainable’ there is no obligation to disclose their degree of alignment with the technical screening criteria referred to in this Regulation.

(16aa) In the interests of investors, financial market participants making available financial products as ‘low-carbon’, should disclose how and to what extent the investment meets the criteria for low-carbon activities, pursuant to Article 9(3) of the Regulation XYZ/2019 on sustainability-related disclosures in the financial services sector.

When making available financial products as ‘low-carbon’, financial market participants should take into account technical screening criteria determining under which conditions a specific economic activity is considered, for the purposes of this Regulation, to contribute substantially to climate change mitigation.

A ‘low-carbon’ activity should indeed target the reduction in carbon emissions and hence should include the objective of low carbon emission exposure in view of achieving the long-term global warming targets of the Paris Climate Agreement. Such option should allow financial market participants to target more specific investments related to climate change mitigation objective while ensuring sufficient articulation with the requirements laid out in Regulation XYZ/2019 on sustainability-related disclosures in the financial services sector.

- (16a) The disclosure obligation laid down in this Regulation supplements the disclosure rules enshrined in Regulation XYZ/2019 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 XYZ/2019 on sustainability-related disclosures in the financial services sector. Regulation XYZ/2019 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.

The information disclosed to investors under this Regulation should enable the national competent authority to monitor compliance with the disclosure obligation and to enforce that obligation in accordance with applicable law. The competent authority should monitor that the information given in line with Article 4(2) and 4(2a) of this Regulation, is consistent with the information disclosed under the Regulation XYZ/2019 on sustainability-related disclosures in the financial services sector, to the extent applicable, and assess whether the disclosure is clear and not misleading.

- (16b) The definition of ‘financial market participants’ and ‘financial products’, this Regulation is consistent with Regulation XYZ/2019 on sustainability-related disclosures in the financial services sector. Where providers of pension products who operate national social security schemes are subject to Regulation XYZ/2019 on sustainability-related disclosures in the financial services sector in accordance with Article 16 of that Regulation, they should also comply with the disclosure obligation in relation to the common criteria for environmentally sustainable economic activities under this Regulation.
- (16c) In respect of undertakings, this Regulation does not lay down any additional disclosure requirements, beyond those that already exist in Directive 2013/34/EU of the European Parliament and of the Council<sup>11</sup> that as regards the disclosure of non-financial and diversity information by certain large undertakings and groups. Financial market participants making available financial products as environmentally sustainable can obtain information to assess the environmental performance of companies through annual reports, as that Directive requires large European companies, which are public-interest entities, to disclose material environmental information. In this respect, the Commission Guidelines on non-financial reporting<sup>12</sup> recommend that companies, for whom climate is financially material, to report the percentage of their turnover in the reporting year from products or services associated with activities that meet the corresponding criteria for environmental sustainability, as set out in this Regulation, or report the percentage of their investment (CapEx) or expenditures

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<sup>11</sup> Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19).

<sup>12</sup> Communication from the Commission Guidelines on non-financial reporting: Supplement on reporting climate-related information (2019/C 209/01)

(OpEx) in the reporting year for assets or processes that support products or services associated with activities that meet the corresponding criteria for environmental sustainability as set out in this Regulation.

Moreover, financial market participants making available financial products as ‘environmentally sustainable’ that contribute to an environmental objective, will be incentivized to obtain further information on the environmental performance of companies, with regard to environmentally sustainable economic activities, through direct engagement with the company and by requesting the relevant environmental research data from third party providers of reports and ratings.

- (16d) For the purposes of Article 4(2a) 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<sup>13</sup>, Regulation (EU) No 1094/2010 of the European Parliament and of the Council<sup>14</sup> and Regulation (EU) No 1095/2010 of the European Parliament and of the Council<sup>15</sup> respectively should, through the Joint Committee, develop draft regulatory technical standards to complement those developed in accordance with Articles 9(5), 10(2), 11(4) and 13(2) of the Regulation XYZ/2019 on sustainability-related disclosures in the financial services sector.
- (16e) There could be exceptional cases where financial market participants cannot reasonably obtain complete, reliable and timely information relating to the turnover, capital or expenditures or other relevant information regarding the economic activities included in the financial product made available as ‘environmentally sustainable’ referred to in this Regulation, and consequently might not be able to reliably determine the degree of alignment with the technical screening criteria or the share of investments funding environmentally sustainable economic activities included in the financial product. 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. For a status as ‘environmentally sustainable’ investment, such assessments and estimates should only compensate for limited and specific parts of the desired data elements, and produce a prudent outcome.

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<sup>13</sup> Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC

<sup>14</sup> Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC

<sup>15</sup> Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC

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 assessments and estimates for the purposes of disclosure to end-investors.

- (17) Financial market participants should be encouraged to inform the the Platform on Sustainable Finance, if they consider that an economic activity which does not meet the technical screening criteria, or for which such criteria have not been established yet, should be considered environmentally sustainable, in order to help the the Platform to evaluate the appropriateness of complementing or updating the technical screening criteria.
- (18) To determine whether an economic activity is environmentally sustainable, an exhaustive list of environmental objectives should be laid down. To avoid missing out on activities which enable or harm environmental sustainability, ample consideration should be given to the full value chain impact of any economic activity, as well as the impacts of the products and services provided by that economic activity. The first two of the objectives should concern climate change, being climate change mitigation and climate change adaptation. The other environmental objectives should be sustainable use and protection of water and marine resources, transition to a circular economy including waste prevention and recycling, pollution prevention and control as well as protection and restoration of biodiversity and ecosystems.

In addition, an economic activity that enables another economic activity to substantially improve its environmental performance with regard to one or more environmental objectives could be vital for the transition to more sustainable economies. Enabling activities should therefore, also qualify as ‘environmentally sustainable’ provided that the activity enables substantial improvement of the environmental performance.

- (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 in line with the long term temperature targets under the Paris Agreement. An economic activity could promote the objective of climate change adaptation, where the activity would substantially contribute to reducing or preventing adverse impact of the current or future climate or risks of adverse impact on that activity itself.
- (18b) The environmental objective of sustainable use and protection of water and marine resources consists of improving or preventing the deterioration of the status of water bodies, including surface water and ground water bodies, and improving or preventing deterioration of the environmental status of marine waters. This environmental objective should be interpreted taking into account relevant legislative and non-legislative instruments of the Union,

including Council Directive 98/83/EC<sup>16</sup>, Directive 2000/60/EC<sup>17</sup>, Directive 2008/56/EC<sup>18</sup>, Commission Decision (EU) 2017/848<sup>19</sup> and Regulation (EU) No 1380/2013.<sup>20</sup>

- (18c) The environmental objective of the circular economy, including waste prevention and recycling, should be interpreted taking into account relevant legislative and non-legislative instruments in the area of circular economy, waste and chemicals, including the Circular Economy Action Plan<sup>21</sup>, the EU Plastics Strategy<sup>22</sup>, the Waste Framework Directive<sup>23</sup>, EU legislation on waste management operations<sup>24</sup> and on specific waste streams, EU legislation in the field of chemicals.

An economic activity can substantially contribute to the objective of circular economy including waste prevention and recycling, through several means, including by increasing durability, reparability, upgradability and re-usability of products, and developing ‘product-as-a-service’ business models as well as circular value chains. 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.

- (18d) The environmental objective of pollution prevention and control should be interpreted taking into account relevant legislative instruments of the Union (in particular the pollutants covered by these instruments), including Directive 2010/75/EU of the European Parliament

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<sup>16</sup> Council Directive 98/83/EC of 3 November 1998 on the quality of water intended for human consumption

<sup>17</sup> 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

<sup>18</sup> 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)

<sup>19</sup> 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

<sup>20</sup> 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.

<sup>21</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - Closing the loop - An EU action plan for the Circular Economy (COM(2015)614 final)

<sup>22</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - A European Strategy for Plastics in a Circular Economy (COM(2018) 28 final)

<sup>23</sup> Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives

<sup>24</sup> Directive 2000/76/EC of the European Parliament and of the Council of 4 December 2000 on the incineration of waste, Directive 2000/59/EC of the European Parliament and of the Council of 27 November 2000 on port reception facilities for ship-generated waste and cargo residues and Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste

and of the Council<sup>25</sup>, Directive 2001/81/EC of the European Parliament and of the Council<sup>26</sup>, Directive 2008/50/EC of the European Parliament and of the Council<sup>27</sup>, Directive 2000/60/EC of the European Parliament and of the Council<sup>28</sup> and Directive 2006/118/EC of the European Parliament and of the Council<sup>29</sup>.

- (19) The environmental objective of protection and restoration of biodiversity and ecosystems consist of protecting, conserving and enhancing biodiversity and 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. The environmental objective of protection and restoration of biodiversity and ecosystems should be interpreted taking into account relevant legislative and non-legislative instruments of the Union, including Directive 2009/147/EC of the European Parliament and of the Council<sup>30</sup>, Council Directive 92/43/EEC<sup>31</sup>, Regulation (EU) No 1143/2014 of the European Parliament and of the Council,<sup>32</sup> the EU Biodiversity Strategy to 2020,<sup>33</sup> the EU Green Infrastructure Strategy, Council Directive 91/676,<sup>34</sup> Regulation (EU) No 511/2014 of the European Parliament and of the Council,<sup>35</sup> Regulation

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<sup>25</sup> 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)

<sup>26</sup> Directive 2001/81/EC of the European Parliament and of the Council of 23 October 2001 on national emission ceilings for certain atmospheric pollutants (OJ L 309, 27.11.2001, p. 22)

<sup>27</sup> 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)

<sup>28</sup> 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). See in particular the Priority Substances listed in Annex X.

<sup>29</sup> 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)

<sup>30</sup> 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).

<sup>31</sup> 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).

<sup>32</sup> 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).

<sup>33</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - Our life insurance, our natural capital: an EU biodiversity strategy to 2020 (COM/2011/0244 final).

<sup>34</sup> Council Directive 91/676 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).

<sup>35</sup> 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).

(EU) No 995/2010 of the European Parliament and of the Council,<sup>36</sup> the Forest Law Enforcement, Governance and Trade Action Plan,<sup>37</sup> the Wildlife Trafficking Action Plan<sup>38</sup> European Forest Strategy: for forests and the forest based sector<sup>39</sup>, the Communication on Stepping up EU Action to Protect and Restore the World's Forests<sup>40</sup> 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<sup>41</sup>.

- (19a) In the context of this Regulation, 'sustainable forest management practices'<sup>42</sup> should be considered by including 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.
- (19b) In the context of this Regulation, 'energy efficiency' should be considered by taking into account the relevant legislative instruments of the Union in the field of energy efficiency, including Directive (EU) 2012/2743, Directive (EU) 2018/84444, as well as the products

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<sup>36</sup> 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).

<sup>37</sup> Communication from the Commission to the Council and the European Parliament - Forest Law Enforcement, Governance and Trade (FLEGT) - Proposal for an EU Action Plan (COM/2003/0251 final).

<sup>38</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - EU Action Plan against Wildlife Trafficking (COM/2016/087 final).

<sup>39</sup> 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

<sup>40</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - Stepping up EU Action to Protect and Restore the World's Forests (COM(2019) 352 final)

<sup>41</sup> 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)

<sup>42</sup> Resolution H1 General Guidelines for the Sustainable Management of Forests in Europe, MCPFE 1993.

<sup>43</sup> 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.

<sup>44</sup> 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)

regulations laid down pursuant to Directive 2009/125/EC<sup>45</sup>, and Regulation (EU) 2017/1369<sup>46</sup>.

- (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. Those criteria should take into account impacts from the production, use and end-of-life of products and services provided by that economic activity 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 conditions for substantial contribution and for not causing significant harm should enable investments into environmentally sustainable economic activities to make a real contribution to the environmental objectives.
- (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.
- (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-stakeholders Platform.

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<sup>45</sup> 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)

<sup>46</sup> 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)

- (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 carbon-intensive lock-in 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 all relevant objectives. When establishing and updating the technical screening criteria, the Commission should ensure that those criteria are based on available scientific evidence 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. The technical screening criteria established for environmentally sustainable economic activities and the rationale for their selection should be made available in a user-friendly manner.
- (24a) In defining the technical screening criteria, the Commission should take into account and incentivise the ongoing and necessary transition process towards a climate-neutral economy. The transition will need economic activities that are less damaging for the environment, while at the same time it is ensured that there is no locking-in of investments in activities that, while not harming the environment today or during the lifetime of the asset, or harm the environment less than existing activities, perpetuate infrastructures or installations, that are incompatible with long-term greenhouse gas neutrality and other long-term environmental objectives.

The technical screening criteria should ensure that the selected economic activities have a credible path towards long-term sustainability goals, including the Paris Agreement. The technical criteria for these transitional activities should be adjusted regularly, in order to provide a transition path for the selected economic activities towards long-term sustainability goals, including the Paris Agreement.

- (25) When establishing and updating the technical screening criteria the Commission should take into account relevant Union law, as well as non-legislative instruments of the Union already in place, including the Regulation (EC) 66/2010 of the European Parliament and the Council<sup>47</sup>, the EU Eco-Management and Audit Scheme,<sup>48</sup> the EU Green Public Procurement criteria<sup>49</sup> and the on-going work on Product and Organisation Environmental Footprint

<sup>47</sup> 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).

<sup>48</sup> 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. 1–45).

<sup>49</sup> 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 final.

rules.<sup>50</sup> 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).<sup>51</sup>

- (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 the work of international organisations, such as the OECD, relevant Union legislation and standards, including Directive 2001/42/EC of the European Parliament and of the Council<sup>52</sup>, Directive 2011/92/EU of the European Parliament and of the Council<sup>53</sup> Directive 2014/23/EU of the European Parliament and of the Council<sup>54</sup>, Directive 2014/24/EU of the European Parliament and of the Council<sup>55</sup>, Directive 2014/25/EU of the European Parliament and of the Council<sup>56</sup>, as well as current methodology. 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<sup>57</sup>, at all stages of a project's lifecycle.
- (27) To avoid distorting competition when raising financing for environmentally sustainable economic activities, the technical screening criteria should ensure that all relevant economic activities within a specific sector can qualify as environmentally sustainable and are treated equally if their net contribution is equal 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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<sup>50</sup> 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. 1–210).

<sup>51</sup> 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).

<sup>52</sup> 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).

<sup>53</sup> 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).

<sup>54</sup> 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).

<sup>55</sup> 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).

<sup>56</sup> 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).

<sup>57</sup> <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 for 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.
- (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<sup>58</sup> 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.
- (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. That 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 ESAs and the European Investment Bank. Private sector experts should include representatives of relevant stakeholders, including financial market actors, universities, research institutes and non-governmental organisations, as well as representatives of the relevant economic sectors and industries.

The Platform should advise the Commission on the development, analysis and review of the 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 criteria or market practices, as appropriate. 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. The Platform should carry out external consultations, involving other key representatives of the industrial sector, as appropriate. The Platform, when preparing the advice on establishing and developing the technical screening criteria, should disclose the relevant information supporting their assessment and provide the rationale and justification

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<sup>58</sup> Communication from the Commission to the European Parliament, the European Council, the Council. The European Central Bank, the European and Social Committee and the Committee of the Regions – Action Plan: Financing Sustainable Growth (COM(2018) 97 final)

regarding the economic activities included in technical screening criteria, or the decision not to include them.

- (33) To ensure the adequate participation of the Member States in the development of the technical screening criteria, 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 to facilitate an exchange of views between Member States.
- (33a) It is of particular importance that the Commission carries out appropriate consultations during its preparatory work, including at expert level through the Platform and the Member States Expert Group, and that those consultations be conducted in accordance with the principles laid down in the Inter-institutional Agreement of 13 April 2016 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 to which Member States' experts are invited. In addition, the Commission should provide the Member States Expert Group a timely access to the key output of the Platform.

It is also important that in the advice given by the Platform to the Commission regarding the technical screening criteria the outcome of their application and reception in the capital markets by financial markets participants is taken into account. The advice should be transparently made available to the markets ahead of the publication of any draft legal acts to allow preparation for their use.

- (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.
- (33c) In order to specify the requirements set out in this Regulation and in particular, 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 (TFEU) should be delegated to the Commission in respect of 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). In order to ensure that the technical screening criteria are implemented in a uniform manner across the Union and to facilitate their wide use both within and outside the Union, implementing powers should be conferred upon the Commission to adopt implementing acts mentioned in Article 6(4), Article 7(4), Article 8(4), Article 9(4), Article 10(4) and Article 11(4), within the framework of the delegated acts. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council. Those implementing acts shall be science-based and sufficiently ambitious in light of achieving the Union's environmental

objectives, including the Paris Agreement temperature objectives and the Union's commitments to the implementation of the United Nation's Agenda 2030.

- (33d) While the technical screening criteria laid down in delegated acts should define the relevant sectors, the criteria, the metrics as well as the requirements regarding the 'significant harm' referred to under Article 12, an implementing act should specify, within the framework of the delegated acts the concrete thresholds, which can be quantitative or, if not feasible, qualitative or a combination thereof.
- (33e) When establishing the technical screening criteria, economic activities should be assessed in a manner that reflects the criteria for environmentally sustainable economic activities set out in this Regulation. The assessment should first identify economic activities that can substantially contribute to at least one environmental objective. Second, the technical screening criteria for such substantial contribution should ensure that the economic activity does not significantly harm any of the other relevant environmental objectives. Third, the requirements should ensure that the economic operator carrying out the qualifying economic activity complies with the minimum social safeguards.
- (33f) To ensure orderly and effective supervision of compliance with the obligations set out in Articles 4(2) and 4(2a) this Regulation, Member States should rely on competent authorities, already designated under Article 14 of Regulation XYZ/2019 on sustainability-related disclosures in the financial services sector, but also designate a competent authority for this Regulation, where necessary, in order to ensure efficient supervision. In addition, to enforce compliance with Articles 4(2) and 4(2a) of this Regulation effectively, Member States should lay down rules on measures and penalties, which should be effective, proportionate and dissuasive. Articles 15 and 15b that concern above-mentioned, should become applicable at the same time as the delegated, implementing acts and the regulatory technical standards referred to in this Regulation have started to apply.
- (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 as well as the delegated and implementing acts adopted under it, should become applicable, for each environmental objective, not earlier than 12 months after the relevant delegated and implementing acts have been adopted.
- (35) The application of this Regulation should be reviewed regularly in order to assess the progress on the development of technical screening criteria for environmentally sustainable activities, the use of the definition of environmentally sustainable investment on EU and Member State level, the appropriateness of the establishment of a verification mechanism and the need to revise the criteria. Furthermore, the review should include assessing the environmental impact of economic activities as well as the appropriateness of a standardised methodology as regards to such economic activities, which contribute to an environmental objective, but are not yet considered to be environmentally sustainable in accordance with this Regulation.

In addition, the functioning of the Commission expert groups for the tasks referred to in Article 15 and 16b should be evaluated and impact assessed with a view to long-term needs. The development and updating of the technical screening criteria will continue for a number of years. The Platform has also other related tasks. In order to ensure a broad, credible and

well-resourced functions, appropriate Member States' involvement, the feasibility of alternative governance models and their budgetary implications should be explored.

The Union legal framework should encourage sustainable economic activities to be carried out by a large variety of economic operators, for example SMEs and listed issuers. Also, these should be incentivized to raise debt and equity capital for their sustainable economic activities and the transition to sustainable business. The scope of the Regulation does not include directly companies and other entities. This means that many listed or unlisted companies although they can voluntary-use the taxonomy, are not targeted with enforcement measures by competent authorities. Hence they may have difficulties in accessing sustainable finance. It should be analysed, whether the scope of the Regulation and other relevant EU legislation could have impacts on the capital flows to more sustainable economic activities, and the diversity of funding sources by different types of economic operators.

- (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 as environmentally sustainable investments that contribute to one or more environmental objectives.

#### *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 participant’ means a financial market participant as defined in Article 2 (a) of Regulation XYZ/2019 on sustainability-related disclosures in the financial services sector, while taking into account the opt-in provision in Article 16 of the same Regulation;
  - (c) ‘financial product’ mean a financial product as defined in Article 2 (l) of Regulation XYZ/2019 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;<sup>59</sup>;

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<sup>59</sup> 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

- (d) 'climate change mitigation' means the process of holding the increase in the global average temperature to well below 2 °C above pre-industrial levels and pursuing efforts to limit the temperature increase to 1.5 °C above pre-industrial levels;
- (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 Part 2 of Annex V of Regulation (EU) 2018/1999 of the European Parliament and of the Council of 11 December 2018 on the Governance of the Energy Union and Climate Action<sup>60</sup>;
- (g) 'circular economy' means maintaining the value of products, materials and other resources in the economy for as long as possible, enhancing the sustainability of production processes and facilitating sustainable consumption, thus reducing the environmental impact, and minimising waste and the release of hazardous substances at all stages of the life cycle, including through the application of the waste hierarchy as laid down in Article 4 of Directive 2008/98/EC of the European Parliament and of the Council;<sup>61</sup>
- (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, including those pollutants covered by EU legislation;
- (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<sup>62</sup>;

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trading on a regulated market, and repealing Directive 2003/71/EC (OJ L 168, 30.6.2017, p. 12).

<sup>60</sup> Regulation (EU) 2018/1999 of the European Parliament and of the Council of 11 December 2018 on the Governance of the Energy Union and Climate Action, amending Regulations (EC) No 663/2009 and (EC) No 715/2009 of the European Parliament and of the Council, Directives 94/22/EC, 98/70/EC, 2009/31/EC, 2009/73/EC, 2010/31/EU, 2012/27/EU and 2013/30/EU of the European Parliament and of the Council, Council Directives 2009/119/EC and (EU) 2015/652 and repealing Regulation (EU) No 525/2013 of the European Parliament and of the Council

<sup>61</sup> 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).

<sup>62</sup> 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).

(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<sup>63</sup>;

- (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;
- (j) ‘energy efficiency’ means using energy more efficiently at all the stages of the energy chain from production to final consumption in accordance with Directive 2012/27/EU;
- (k) ‘good environmental status’ means good environmental status as defined in Article 3(5) of Directive 2008/56/EC;
- (ka) ‘good status’ means good chemical 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, Directive 2008/105/EC and Directive 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’ and ‘groundwater’ shall have the same meaning as in points (1) and (2) of Article 2 of Directive 2000/60/EC<sup>64</sup>;
- (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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<sup>63</sup> 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).

<sup>64</sup> 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*

An economic activity shall be considered environmentally sustainable where that activity complies with all of the following criteria:

- (a) the economic activity contributes substantially in accordance with Articles 6 to 11 to one or more of the environmental objectives set out in Article 5, including by enabling another economic activity to substantially improve its environmental performance with regards to one or more of those objectives;
- (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*

1. Member States shall apply the criteria as the basis and minimum requirements for determining environmentally sustainable economic activities set out in Article 3 and Article 5 for the purposes of any measures, other than fiscal measures, that impose requirements on financial market participants or issuers in respect of financial products or corporate bonds that are made available as ‘environmentally sustainable’.
2. Where financial market participants make available financial products as ‘sustainable investments’ that contribute to an environmental objective, under Article 2 (q) of Regulation XYZ/2019 on sustainability-related disclosures in the financial services sector, paragraph 2a of this Regulation shall apply to the information to be disclosed pursuant to Article (1), (2) and (3), Article 10(1) and Article 11(1) and 13(1) of Regulation XYZ/2019.
  - 2a. Financial market participants shall specify how and to what extent the investment meets the criteria for environmentally sustainable economic activities as set out in Article 3 and Article 5. This information shall enable investors to identify the share of investments funding environmentally sustainable economic activities as a percentage of all investments selected for the financial product.
  - 2b. 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 ('the Platform').

- 2c. The EBA, EIOPA and ESMA, through the Joint Committee of the European Supervisory Authorities ('Joint Committee') shall develop draft regulatory technical standards to specify the details of the presentation and content of the information to be 4(2)(a) of this Regulation and complement those developed under Articles 9(5), 10(2), 11(4) and 13(2) of Regulation XYZ/2019 on sustainability-related disclosures in the financial services sector.

When developing the draft regulatory technical standards EBA, EIOPA and ESMA shall take into account the various types of financial products, their objectives and differences thereof as well as the aim of accurate, clear, not misleading, simple and concise disclosures.

EBA, EIOPA and ESMA shall submit those draft regulatory technical standards to the Commission by ... [PO: Please insert date 12 months after the date of entry into force of this Regulation.

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

#### *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 including waste prevention and recycling;
- (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 targets of the Paris Agreement:

- (a) generating, transmitting, storing, distributing or using renewable energy in line with Directive (EU) 2018/2001<sup>65</sup> or climate-neutral energy (including carbon-neutral energy), 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;
- (c) increasing clean or climate-neutral mobility;
- (d) switching to use of renewable sources and renewable materials;
- (e) increasing the deployment of carbon capture and storage in line with Directive 2009/31/EC, and carbon capture and use;
- (f) phasing out anthropogenic emissions of greenhouse gases, in particular from solid fossil fuels;
- (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) strengthening land carbon sinks.

1a. For the purposes of paragraph 1, an economic activity shall also be considered to contribute substantially to climate change mitigation also where it supports the transition to a climate-neutral economy, leads to significant emissions reductions, has an environmental performance that is substantially better than the industry average and avoids carbon-intensive lock-in during the economic lifetime of the financed economic activity.

2. The Commission shall adopt delegated act in accordance with Article 16 and, prior to their adoption, gather all necessary expertise from the Platform regarding technical screening criteria and assess the implementation of the criteria taking into account the outcome of their application by financial market participants and their reception and impact on capital markets 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 as regards;
  - (i) the sector classification and rubric of a given economic activity;

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<sup>65</sup> Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources (OJ L 328, 21.12.2018, p. 82-209)

- (ii) the criteria applicable to a given economic activity; and
    - (iii) the metrics used to measure the environmental performance of the economic activity, including defining the boundaries for this measurement.
  - (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, within the framework of the delegated act referred to in paragraph 2 of this Article, adopt implementing acts to set quantitative or qualitative thresholds, or a combination thereof, which must be met by the economic activity in order to be considered environmentally sustainable.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 16a.
  5. The Commission shall adopt the delegated act and the implementing act referred to in paragraphs 2, 3 and 4 by 31 December 2021, with a view to ensuring their entry into application on 31 December 2022.

#### *Article 7*

##### *Substantial contribution to climate change adaptation*

1. An economic activity shall be considered to contribute substantially to climate change adaptation:
  - (a) where, the adverse impact of the current and expected future climate or the risks of adverse impacts of climate change on that activity itself are substantially reduced, without increasing climate-related vulnerabilities of other environments and activities;
  - (b) where that activity, contributes substantially to preventing or reducing the adverse impact of the current and expected future climate or the risks of adverse impacts from climate change without increasing vulnerabilities of other environments and activities.
- 1a. The economic activity referred to under point (a) and (b) of the first paragraph shall provide a substantial contribution to climate change adaptation through either of the following means:
  - (a) preventing or reducing the location- and context-specific adverse impacts of climate change on the economic activity. These impacts shall be assessed and prioritised using best available climate projections;

- (b) preventing or reducing the adverse impacts that climate change may have on the natural and built environment within which the economic activity takes place. These impacts shall be assessed and prioritised using best available climate projections.
- 2. The Commission shall adopt delegated act in accordance with Article 16 and, prior to their adoption, gather all necessary expertise from the Platform regarding technical screening criteria and assess the implementation of the criteria taking into account the outcome of their application by financial market participants and their reception and impact on capital markets 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 adaptation as regards:
    - (i) the sector classification and rubric of a given economic activity;
    - (ii) the criteria applicable to a given economic activity; and
    - (iii) the metrics used to measure the environmental performance of the economic activity, including defining the boundaries for this measurement.
  - (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, within the framework of the delegated act referred to in paragraph 2 of this Article, adopt implementing acts to set quantitative or qualitative thresholds, or a combination thereof, which must be met by the economic activity in order to be considered environmentally sustainable. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 16a.
- 5. The Commission shall adopt the delegated act and the implementing act referred to in paragraphs 2, 3 and 4 by 31 December 2021, with a view to ensuring their entry into application on 31 December 2022.

#### *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 improving or preventing the deterioration of the status of water bodies, including surface

water and groundwater bodies, or to improving or preventing the deterioration of the environmental status of marine waters, through any of the following means:

- (a) protecting the environment from the adverse impact of urban and industrial waste water discharges 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;
- (c) [deleted]
- (d) improving water management and efficiency, including preventing deterioration, protecting and enhancing the status of aquatic ecosystems, promoting sustainable water use based on a long-term protection of available water resources, 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 quality and quantity status of water bodies;
- (e) ensuring the sustainable use of marine ecosystems, resources, goods and services by protecting and preserving the marine environment and preventing its deterioration, or restoring marine ecosystems in areas where they have been adversely affected.

2. The Commission shall adopt delegated act in accordance with Article 16 and, prior to their adoption, gather all necessary expertise from the Platform regarding technical screening criteria and assess the implementation of the criteria taking into account the outcome of their application by financial market participants and their reception and impact on capital markets 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 as regards:
  - (i) the sector classification and rubric of a given economic activity;
  - (ii) the criteria applicable to a given economic activity; and
  - (iii) the metrics used to measure the environmental performance of the economic activity, including defining the boundaries for this measurement.
- (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, within the framework of the delegated act referred to in paragraph 2 of this Article, adopt implementing acts to set quantitative or qualitative thresholds, or a combination thereof, which must be met by the economic activity in order to be considered environmentally sustainable. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 16a.
5. The Commission shall adopt the delegated act and the implementing act referred to in paragraphs 2, 3 and 4 by 31 December 2021, with a view to ensuring their entry into application on 31 December 2022.

### *Article 9*

#### *Substantial contribution to a circular economy including waste prevention and recycling*

1. An economic activity shall be considered to contribute substantially to the transition to a more circular economy including waste prevention and recycling where that activity contributes substantially to that environmental objective through any of the following means:
  - (a) improving the efficient use of raw materials in production, including through reducing the use of primary raw materials and increasing the sustainable use of by-products and secondary raw materials;
  - (b) increasing the durability, reparability, upgradability or reusability of products;
  - (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;
  - (d) substantially reducing the content of hazardous substances in materials and products in line with the requirements of the EU legislation throughout the lifecycle, including by replacing them with safer alternatives and by improving traceability;
  - (e) prolonging the use of products, buildings, facilities and infrastructure 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;
  - (g) preventing or reducing waste generation;
  - (h) increasing preparing for re-use and recycling;
  - (i) minimising incineration and avoiding disposal (including landfilling) of waste, in accordance with principles of the waste hierarchy as set out in Article 4 of Directive 2008/98/EC;

- (j) avoiding litter;
  - (k) improving the efficient use of natural resources, through energy and resource efficiency measures leading to significant savings.
2. The Commission shall adopt delegated act in accordance with Article 16 and, prior to their adoption, gather all necessary expertise the Platform regarding technical screening criteria and assess the implementation of the criteria taking into account the outcome of their application by financial market participants and their reception and impact on capital markets 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 including waste prevention and recycling, as regards:
    - (i) the sector classification and rubric of a given economic activity;
    - (ii) the criteria applicable to a given economic activity; and
    - (iii) the metrics used to measure the environmental performance of the economic activity, including defining the boundaries for this measurement.
  - (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, within the framework of the delegated act referred to in paragraph 2 of this Article, adopt implementing acts to set quantitative or qualitative thresholds, or a combination thereof, which must be met by the economic activity in order to be considered environmentally sustainable. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 16a.
5. The Commission shall adopt the delegated act and the implementing act referred to in paragraphs 2, 3 and 4 by 31 December 2021, with a view to ensuring their 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 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 adverse impact on human health and the environment of the production, use and disposal of chemicals;
  - (d) cleaning-up litter and other pollution.
  
2. The Commission shall adopt delegated act in accordance with Article 16 and, prior to their adoption, gather all necessary expertise from the Platform regarding technical screening criteria and assess the implementation of the criteria taking into account the outcome of their application by financial market participants and their reception and impact on capital markets 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:
    - (i) the sector classification and rubric of a given economic activity;
    - (ii) the criteria applicable to a given economic activity; and
    - (iii) the metrics used to measure the environmental performance of the economic activity, including defining the boundaries for this measurement.
  - (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, within the framework of the delegated act referred to in paragraph 2 of this Article, adopt implementing acts to set quantitative or qualitative thresholds, or a combination thereof, which must be met by the economic activity in order to be considered environmentally sustainable. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 16a.
5. The Commission shall adopt the delegated act and the implementing act referred to in paragraphs 2, 3 and 4 by 31 December 2021, with a view to ensuring their 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 and enhancing biodiversity and ecosystem services in line with the relevant legislative and non-legislative Union instruments, through any of the following means:
  - (a) nature and biodiversity conservation, including protecting and improving the conservation status of habitats and species, restoring terrestrial, marine and aquatic ecosystems in order to improve their status 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 maintaining or enhancing biodiversity or to halting or preventing the degradation of soils and other ecosystems, deforestation and habitat loss;
  - (d) sustainable forest management practices.
2. The Commission shall adopt delegated act in accordance with Article 16 and, prior to their adoption, gather all necessary expertise from the Platform regarding technical screening criteria and assess the implementation of the criteria taking into account the outcome of their application by financial market participants and their reception and impact on capital markets 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 of ecosystems as regards:
    - (i) the sector classification and rubric of a given economic activity;
    - (ii) the criteria applicable to a given economic activity; and

- (iii) the metrics used to measure the environmental performance of the economic activity, including defining the boundaries for this measurement.
  - (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, within the framework of the delegated act referred to in paragraph 2 of this Article, adopt implementing acts to set quantitative or qualitative thresholds, or a combination thereof, which must be met by the economic activity in order to be considered environmentally sustainable. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 16a.
- 5. The Commission shall adopt the delegated act and the implementing act referred to in paragraphs 2, 3 and 4 by 31 December 2021, with a view to ensuring their entry into application on 31 December 2022.

## *Article 12*

### *Significant harm to environmental objectives*

For the purposes of Article 3(b), an 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, for and beyond the natural and built environment within which that activity takes place;
- (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) the transition to a circular economy including waste prevention and recycling, where that activity leads to significant inefficiencies in the use of materials 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 (including landfilling) of waste in deviation from priorities of the waste hierarchy set out in Article 4 of Directive 2008/98/EC;

- (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 status of habitats and species, and to achieving or maintaining the good status of ecosystems and the services they provide, or where that activity is detrimental to the conservation status of habitats and species of Community interest, in line with Directive 92/43/EEC<sup>66</sup> and Directive 2009/147/EC<sup>67</sup>.

### *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.

### *Article 14* *Requirements for technical screening criteria*

1. The technical screening criteria adopted in accordance with Articles 6(2) and (4), 7(2) and (4), 8(2) and (4), 9(2) and (4), 10(2) and (4) and 11(2) and (4) 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;

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<sup>66</sup> Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora.

<sup>67</sup> Directive 2009/147/EC of the European Parliament and of the Council on the conservation of wild birds.

- (d) where appropriate, build upon Union labelling and certification schemes, Union methodologies for assessing the environmental footprint, and Union statistical classification systems, and take into account any relevant existing Union legislation;
  - (e) be based on conclusive scientific evidence and take into account, where relevant, the precautionary principle enshrined in article 191 TFEU;
  - (f) take into account 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 the possible enabling nature of activities referred to in point (a) of Article 3 and activities which support the transition to a carbon neutral economy in accordance with Article 6(1a);
  - (h) take into account the potential market impact 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 their net contribution is equal towards one or more environmental objectives laid down in Article 5 of this Regulation, to avoid distorting competition in the market;
  - (j) 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, in particular energy efficiency and renewable energy, to the extent that those are substantially contributing to any of the environmental objectives.
  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.

*Article 15*  
*Platform on Sustainable Finance*

1. The Commission shall establish the Platform on Sustainable Finance ('the Platform') which shall be composed of:
  - (a) representatives of:
    - (i) the European Environment Agency;

- (ii) the European Supervisory Authorities;
- (iii) the European Investment Bank and the European Investment Fund;
- (b) experts representing relevant private stakeholders, including financial and non-financial market actors and business sectors, representing relevant industries;
- (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;
- (e) experts representing civil society, including those with expertise in the field of environmental, social, labour and governance issues.

2. The Platform shall:

- (a) advise the Commission on the technical screening criteria referred to in Article 14, and the possible need to update those criteria taking into account the outcome of their application as appropriate;
- (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;
- (ca) provide, when advising the Commission and analysing the impacts of technical screening criteria, the rationale and justification regarding the economic activities examined and included in technical screening criteria, or, in a case where an economic activity will not be included in technical screening criteria, the rationale and justification for that decision;
- (d) advise the Commission on the suitability of the technical screening criteria for possible further use;
- (da) advise the Commission on the suitability of the technical screening criteria for potential use with regard to regions and environmental conditions outside the Union;
- (e) monitor and report regularly to the Commission on capital flows towards sustainable investment;
- (f) advise the Commission on the possible need to amend this Regulation;
- (g) consult external stakeholders, including key representatives of the relevant industry sector;
- (h) advise the Commission on the functioning of Article 13 and the possible need to supplement the requirements thereof.

3. The Platform shall be chaired by the Commission and constituted in accordance with the applicable rules on the creation and operation of Commission expert groups.
4. The Platform should carry out its tasks in accordance with the principle of transparency. The Commission shall provide to the Expert Group referred to in Article 16b access on a timely basis to the agendas, minutes of meetings, the reports and assessments and any relevant materials of the Platform that have been provided in accordance with paragraph 2.

*Article 15a*  
*Competent authorities*

1. Member States shall designate competent authorities for supervising the compliance with the disclosure obligation laid down in Article 4(2) and (2a), which shall, in accordance with national law, have all the supervisory and investigatory powers necessary for the exercise of their functions under this Regulation.
2. For the purposes of the application of this Regulation the competent authorities shall cooperate with each other and provide each other without undue delay with such information as is relevant for the purposes of carrying out their duties under this Regulation and of making use of their powers.

*Article 15b*  
*Measures and penalties*

Member States shall lay down the rules on measures and penalties applicable to infringements of Article 4(2) and (2a). 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 and implementing acts is conferred on the Commission, subject to the conditions laid down in this Article.
2. The power to adopt delegated acts and implementing acts referred to in Articles 6(2), (3), (4) and (5), 7(2), (3), (4) and (5), 8(2), (3), (4) and (5), 9(2), (3), (4) and (5), 10(2), (3), (4) and (5) and 11(2), (3), (4) and (5) 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 or implementing acts already in force.
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Inter-institutional 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.
- 5a. The Commission shall consult targeted stakeholders and carry out public consultations, as appropriate, prior to the drawing-up of the delegated acts.
6. A delegated act adopted pursuant to Articles 6(2), (3), (4) and (5), 7(2), (3), (4) and (5), 8(2), (3), (4) and (5), 9(2), (3), (4) and (5), 10(2), (3), (4) and (5) and 11(2), (3), (4) and (5) 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.
7. A regulatory technical standard adopted pursuant to Article 4(2c) shall not become applicable earlier than the delegated acts referred to in Articles 6 to 11.

#### *Article 16a*

##### *Committee procedure*

1. The Commission shall be assisted by the Member States Expert Group on Sustainable Finance. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011 of the European Parliament and of the Council.
2. Where reference is made to this article, Article 5 of Regulation (EU) No 182/2011 shall apply.

#### *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 the criteria in accordance with Article 14.
2. The Commission shall inform Member States through regular meetings of the expert group to facilitate an exchange of views between on a timely basis the Member States and the Commission, in particular as regards the key output of the Platform, such as new screening criteria or material updates thereof, or draft reports.
3. The Commission shall gather all necessary expertise, prior to the adoption and during the development of delegated acts, including through the consultation of the Member States Expert Group.

The Commission shall consult the Member States Expert Group on each draft delegated act.

The Member States Expert Group shall be provided with the draft delegated acts, the draft agenda and any other relevant documents in sufficient time to prepare.

The Commission services shall state the conclusions they have drawn from the consultation of the Member States Expert Group, including how they intend to take the views of the expert group into consideration. Those conclusions shall be recorded in writing.

Where the material content of a draft delegated act is amended in any way, the Commission shall give the expert group the opportunity to react to the amended version of the draft delegated act in writing where appropriate.

4. The Member States Expert Group shall act as the committee within the meaning of Regulation (EU) No 182/2011 of the European Parliament and of the Council referred to in Article 16.
5. To ensure equal access to information, the European Parliament and Council shall receive all documents at the same time as the Member States Expert Group. Experts of the Member State holding the Presidency of the Council shall automatically have access to the meetings of the Platform, referred to in Article 15.

## Chapter III

### Final provisions

#### *Article 17* *Review clause*

1. By 31 December 2022, 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 appropriateness of extending the scope of this Regulation to cover other sustainability objectives, in particular social objectives;
  - (c) the use of the definition of environmentally sustainable investment in Union law, and at Member State level, including the appropriateness of setting up a mechanism to verify compliance with the criteria set out in this Regulation.
  - (d) the appropriateness of providing a standardised methodology for assessing the environmental impact of economic activities that contribute to an environmental objective, but are not yet considered to be environmentally sustainable under Article 3 of this Regulation.

- 1a. By December 2023 and subsequently every three years, the Commission shall publish a report on the possible need to revise and complement the criteria set out in this Regulation for considering if an economic activity environmentally sustainable.
2. By December 2022, the Commission shall publish a report on the functioning of the Platform and the Member States Expert Group, in particular evaluating the cost-efficiency, transparency, resourceful governance and organisation of the functions referred to in Articles 15 and 16b.
3. By July 2022, the Commission shall publish a report on the functioning of the Regulation, particularly on the impact of the limitations in the scope of this Regulation and other relevant EU legal framework as regards:
  - (a) flow 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 other than financial products, in application of the technical screening criteria;
  - (b) 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, as well as modalities of verification of such data, necessary in the determining of 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 both as equity and debt capital.
4. The reports referred to in paragraphs 1, 1a, 2 and 3 shall be sent to the European Parliament and to the Council. The Commission shall make accompanying proposals where appropriate.

*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 3 to 13 shall apply:
  - (a) in respect of the environmental objectives referred to in points (1) and (2) of Article 5, from 1 July 2020;
  - (b) in respect of the environmental objectives referred to in points (3) to (6) of Article 5, from 1 July 2021;
3. Articles 15a and 15b shall apply from the entry into force of the delegated and implementing acts referred to in Articles 6(2), (3), (4) and (5), 7(2), (3), (4) and (5), 8(2), (3), (4) and (5), 9(2), (3), (4) and (5), 10(2), (3), (4) and (5) and 11(2), (3), (4) and (5) as well as the regulatory technical standards referred to in Article 4(2c).

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

Done at Brussels,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*