

ESG & SUSTAINABILITY

## Taxonomy Regulation – *Proposed technical screening criteria and amendments published*

On 5 April 2023, the European Commission published a draft delegated act supplementing the Taxonomy Regulation<sup>1</sup> setting out the technical screening criteria in respect of the four remaining environmental objectives (the **Taxonomy Environmental Delegated Act**).

The draft delegated act also details proposed amendments to the Taxonomy Article 8 Delegated Act.<sup>2</sup>

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<sup>1</sup> Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088.

<sup>2</sup> Commission Delegated Regulation (EU) 2021/2178 of 6 July 2021 supplementing Regulation (EU) 2020/852 of the European Parliament and of the Council by specifying the content and presentation of information to be disclosed by undertakings subject to Articles 19a or 29a of Directive 2013/34/EU concerning environmentally sustainable economic activities, and specifying the methodology to comply with that disclosure obligation. Also known as the Taxonomy Disclosures Delegated Act.



In addition, the European Commission published a second draft delegated act amending Commission Delegated Regulation (EU) 2021/2139<sup>3</sup> (the **Taxonomy Climate Delegated Act**). The proposed amendments to the Taxonomy Climate Delegated Act relate to the establishment of technical screening criteria for economic activities/sectors not currently covered by the Taxonomy Climate Delegated Act. The European Commission has launched a consultation seeking stakeholder feedback on these proposals with the closing date for submissions being 3 May 2023. It is intended that these proposals be finalised over the course of this year with 1 January 2024 the anticipated application date. In this update we break down these proposals and highlight the economic activities for which technical screening criteria are being prepared.

<sup>3</sup> Commission Delegated Regulation (EU) 2021/2139 of 4 June 2021 supplementing Regulation (EU) 2020/852 of the European Parliament and of the Council by establishing the technical screening criteria for determining the conditions under which an economic activity qualifies as contributing substantially to climate change mitigation or climate change adaptation and for determining whether that economic activity causes no significant harm to any of the other environmental objectives



## Background

By way of reminder, the Taxonomy Regulation establishes a framework for determining whether an economic activity qualifies as environmentally sustainable with four criteria to be considered, see **Table 1** below.

**Table 1 – Criteria for environmentally sustainable economic activities**

An economic activity shall qualify as environmentally sustainable where that economic activity:
1. contributes substantially to one or more environmental objectives
2. does not significantly harm any of the environmental objectives
3. is carried out in compliance with minimum safeguards and
4. complies with technical screening criteria established by the European Commission.

Six environmental objectives are detailed in the Taxonomy Regulation – (a) climate change mitigation; (b) climate change adaptation; (c) the sustainable use and protection of water and marine resources; (d) the transition to a circular economy; (e) pollution prevention and control; and (f) the protection and restoration of biodiversity and ecosystems. As noted in the explanatory memorandum to the draft Taxonomy Environmental Delegated Act the technical screening criteria operationalise conditions (1) and (2) in **Table 1** by specifying the performance requirements for any economic activity that determine under what conditions that activity:

- i. makes a substantial contribution to a given environmental objective, and
- ii. does not significantly harm the other environmental objectives.



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**Proposed amendments to the Taxonomy Climate Delegated Act**

The technical screening criteria in respect of the first two environmental objectives, being climate change mitigation and climate change adaptation, are set out in the Taxonomy Climate Delegated Act. As set out above, it is proposed to amend this Act to increase the number of economic activities for which technical screening criteria are available thereby expanding the activities that can qualify as environmentally sustainable or “Taxonomy aligned” once the relevant criteria are met. It is proposed to include technical screening criteria for the economic activities detailed in **Table 2**. Other amendments of a more technical nature are also proposed to some of the technical screening criteria already set out in the Taxonomy Climate Delegated Act.



**Table 2 – Additional economic activities for which technical screening criteria are being proposed**

<b>Climate Change Mitigation</b>	<b>Climate Change Adaptation</b>
Manufacture of low carbon technologies for transport	Desalination
Manufacture of automotive and mobility components	Civil engineering
Manufacture of rail constituents	Software enabling climate risk management
Manufacture, installation, and servicing of high, medium and low voltage electrical equipment for electrical transmission and distribution that result in or enable a substantial contribution to climate change mitigation	Consultancy for climate risk management
Manufacturing of aircraft	Emergency services
Inland passenger water transport	Flood risk prevention and protection infrastructure
Inland freight water transport	
Retrofitting of inland water passenger and freight transport	
Sea and coastal freight water transport, vessels for port operations and auxiliary activities	
Sea and coastal passenger water transport	
Retrofitting of sea and coastal freight and passenger water transport	
Infrastructure for rail transport	
Infrastructure enabling low carbon water transport	
Infrastructure enabling low carbon airport infrastructure	
Leasing of aircraft	
Passenger and freight air transport	
Air transport ground handling operations	



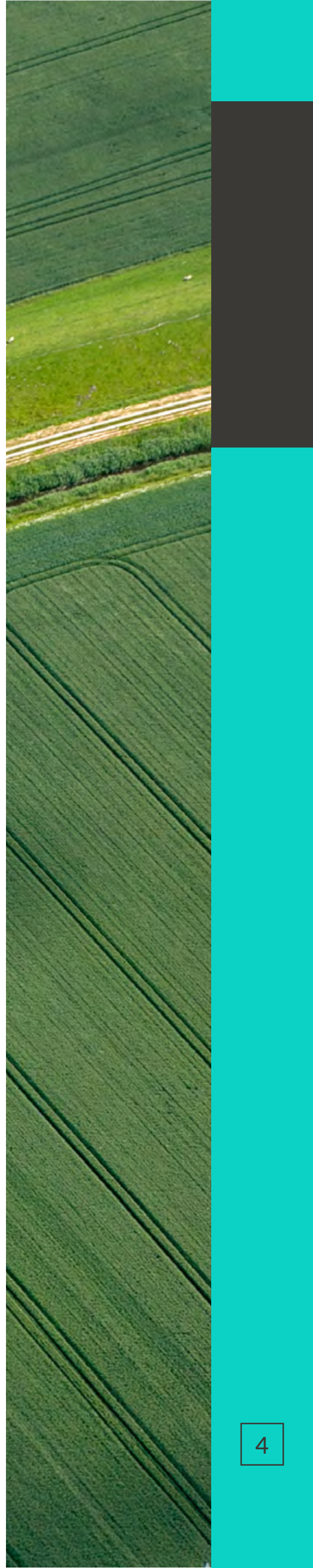
**Draft Taxonomy Environmental Delegated Act**

The annexes to the draft Taxonomy Environmental Delegated Act contain the proposed technical screening criteria in respect of the four remaining environmental objectives, being the sustainable use and protection of water and marine resources (Annex I); the transition to a circular economy (Annex II); pollution prevention and control (Annex III); and the protection and restoration of biodiversity and ecosystems (Annex IV). The European Commission is prioritising those economic activities and sectors that have been identified as having the biggest potential to make a substantial contribution to one or more of the environmental objectives set out in the Taxonomy Regulation and listed above in the “Background” section. The sectors and specific economic activities for which technical screening criteria are being proposed are set out in **Table 3**.

**Table 3 – Sectors and economic activities for which technical screening criteria are being proposed in respect of the following environmental objectives:**

- » Sustainable use and protection of water and marine resources
- » The transition to a circular economy
- » Pollution prevention and control
- » Protection and restoration of biodiversity and ecosystems

Sustainable use and protection of water and marine resources	The transition to a circular economy	Pollution prevention and control	Protection and restoration of biodiversity and ecosystems
Manufacture, installation and associated services for leakage control technologies enabling leakage reduction and prevention in water supply systems ( <i>Manufacturing</i> )	Manufacture of plastic packaging goods ( <i>Manufacturing</i> )	Manufacture of active pharmaceutical ingredients (API) or drug substances ( <i>Manufacturing</i> )	Conservation, including restoration, of habitats, ecosystems and species ( <i>Environmental protection and restoration activities</i> )
Water supply ( <i>Water supply, sewerage, waste management and remediation activities</i> )	Manufacture of electrical and electronic equipment ( <i>Manufacturing</i> )	Manufacture of pharmaceutical products ( <i>Manufacturing</i> )	Hotels, holiday, camping grounds and similar accommodation ( <i>Accommodation activities</i> )
Urban Waste Water Treatment ( <i>Water supply, sewerage, waste management and remediation activities</i> )	Phosphorus recovery from waste water ( <i>Water supply, sewerage, waste management and remediation activities</i> )	Collection and transport of hazardous waste ( <i>Water supply, sewerage, waste management and remediation activities</i> )	
Sustainable urban drainage systems ( <i>Water supply, sewerage, waste management and remediation activities</i> )	Production of alternative water resources for purposes other than human consumption ( <i>Water supply, sewerage, waste management and remediation activities</i> )	Treatment of hazardous waste ( <i>Water supply, sewerage, waste management and remediation activities</i> )	





Sustainable use and protection of water and marine resources	The transition to a circular economy	Pollution prevention and control	Protection and restoration of biodiversity and ecosystems
Nature-based solutions for flood and drought risk prevention and protection ( <i>Disaster risk management</i> )	Collection and transport of non-hazardous and hazardous waste ( <i>Water supply, sewerage, waste management and remediation activities</i> )	Remediation of legally non-conforming landfills and abandoned or illegal waste dumps ( <i>Water supply, sewerage, waste management and remediation activities</i> )	
Provision of information technology (IT) or operational technology (OT) data-driven solutions for leakage reduction ( <i>Information and communication</i> )	Treatment of hazardous waste ( <i>Water supply, sewerage, waste management and remediation activities</i> )	Remediation of contaminated sites and areas ( <i>Water supply, sewerage, waste management and remediation activities</i> )	
	Recovery of bio-waste by anaerobic digestion or composting ( <i>Water supply, sewerage, waste management and remediation activities</i> )		
	Depollution and dismantling of end-of-life products ( <i>Water supply, sewerage, waste management and remediation activities</i> )		
	Sorting and material recovery of non-hazardous waste ( <i>Water supply, sewerage, waste management and remediation activities</i> )		
	Construction of new buildings ( <i>Construction and real estate activities</i> )		



Sustainable use and protection of water and marine resources	The transition to a circular economy	Pollution prevention and control	Protection and restoration of biodiversity and ecosystems
	Renovation of existing buildings <i>(Construction and real estate activities)</i>		
	Demolition and wrecking of buildings and other structures <i>(Construction and real estate activities)</i>		
	Maintenance of roads and motorways <i>(Construction and real estate activities)</i>		
	Use of concrete in civil engineering <i>(Construction and real estate activities)</i>		
	Provision of IT/OT data-driven solutions and software <i>(Information and communication)</i>		
	Repair, refurbishment and remanufacturing <i>(Services)</i>		
	Sale of spare parts <i>(Services)</i>		
	Preparation for re-use of end-of-life products and product components <i>(Services)</i>		
	Sale of second-hand goods <i>(Services)</i>		
	Product-as-a-service and other circular use- and result-oriented service models <i>(Services)</i>		
	Marketplace for the trade of second-hand goods for reuse <i>(Services)</i>		





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The European Commission has advised that there are certain sectors and economic activities, such as agriculture, forestry and fishing as well as certain manufacturing activities, where further assessment is needed prior to technical screening criteria being proposed. It is likely that these sectors and activities will be added to the Taxonomy at some point in the future.

### Proposed amendments to the Taxonomy Article 8 Delegated Act

Taxonomy Article 8 Delegated Act sets out how companies that are required to report in accordance with Article 8 of the Taxonomy Regulation should disclose the Taxonomy alignment of their activities with specific guidance for “*non-financial undertakings*” and various categories of “*financial undertakings*” including banks, asset managers, investment firms and (re)insurers. The amendments to this delegated act proposed in the Taxonomy Environmental Delegated Act detail the information that in scope companies will

be required to disclose from 1 January 2024 with the key performance indicators of non-financial undertakings to cover the economic activities set out in the Taxonomy Environmental Delegated Act from 1 January 2025 with an additional year for financial undertakings until 1 January 2026.

### Expansion of the Taxonomy Compass

The European Commission created a tool called the Taxonomy Compass which provided an easily searchable version of the information contained in the Taxonomy Climate Delegated Act as well as that set out in the Complementary Climate Delegated Act.<sup>4</sup> Those interested in reviewing the economic activities relating to a specific sector can select the “*Activities by sector*” tab while those interested in understanding what economic activities more broadly are captured can browse using the “*EU Taxonomy Compass*” tab. The European Commission recently

expanded its Taxonomy toolkit and the Taxonomy Compass tool now forms part of a broader set of tools within the “*EU Taxonomy Navigator*” [webpage](#). In addition to the Taxonomy Compass, two other resources are also available – (i) the EU Taxonomy Calculator which is designed to assist those with reporting obligations under Article 8 of the Taxonomy Regulation; and (ii) a FAQ repository which sets out all the FAQ documents published by the European Commission on the Taxonomy to date.

### Next Steps

The European Commission is seeking feedback on the proposals detailed above. If any of the above economic activities (those set out in **Tables 2 and 3**) are of relevance to your business, we would suggest that you review the content of the Annexes to the draft Taxonomy Environmental Delegated Act and the draft delegated act amending the Taxonomy Climate Delegated Act and

provide any feedback on the specifics of the draft technical screening criteria for each relevant economic activity prior to 3 May deadline. Where your company does not currently disclose information in accordance with Article 8 of the Taxonomy Regulation but will be required to prepare sustainability statements under the Corporate Sustainability Reporting Directive<sup>5</sup> (CSRD) and its transposing legislation the dates set out in the “*Proposed amendments to the Taxonomy Article 8 Delegated Act*” section should be noted in your CSRD implementation plan. In addition, the EU Taxonomy Calculator can be used to understand how a non-financial undertaking can complete the templates set out in the Taxonomy Article 8 Delegated Act, noting that the calculator can only be used to assist with the calculation of turnover, CapEx and OpEx key performance indicators for non-financial undertakings in respect of the climate change mitigation objective only.

<sup>4</sup> Commission Delegated Regulation (EU) 2022/1214 of 9 March 2022 amending Delegated Regulation (EU) 2021/2139 as regards economic activities in certain energy sectors and Delegated Regulation (EU) 2021/2178 as regards specific public disclosures for those economic activities. Published in July 2022 and details the specific nuclear and gas energy activities that are covered by the Taxonomy.

<sup>5</sup> Directive (EU) 2022/2464 of the European Parliament and of the Council of 14 December 2022 amending Regulation (EU) No 537/2014, Directive 2004/109/EC, Directive 2006/43/EC and Directive 2013/34/EU, as regards corporate sustainability reporting.



## Key contacts



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## Resources



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