

AFEP position on the Commission proposal for a regulation on the establishment of a framework to facilitate sustainable investment IN VIEW OF TRIALOGUE NEGOTIATIONS

- Large French companies have been **engaged for many years** in integrating ESG topics in their strategies. They present the highest level of non-financial information compared to companies worldwide and have made strong commitments, notably to reduce their GHG emissions, to respect human rights, to preserve biodiversity and engage in circular economy.
- They **support the creation of a taxonomy** of environmentally sustainable activities. However, **the taxonomy will miss its purpose if it does not help companies finance their transition. The challenge is indeed not to make finance greener but to bring about a greener economy.** Banks and investors should provide financing resources **to support companies in their transition process rather than implement exclusion strategies.** It is therefore of the utmost importance that trialogue negotiations **build the basis for an efficient and workable system that helps to channel capital flows towards companies in transition.**
- You will find below our **key recommendations for trialogue negotiations.**

1. Stick to the original scope limited to environmentally sustainable financial products

- Companies are **opposed to an extension of the scope of the regulation** - as proposed by Parliament - to other financial products, accompanied by a comply or explain regime (art. 1). This **'comply or explain' regime** that allows financial market participants not to apply the Regulation **does not seem viable**, especially since it would require them to declare in their prospectus that the financial product "does not pursue sustainability objectives and that the product [risks] supporting activities that are not sustainable". Extending the scope beyond environmentally-sustainable products would be **misleading for retail investors and burdensome for financial products providers and issuers.**
- Companies are also opposed to the Parliament's amendments aimed at **increasing reporting requirements** to the European Supervisory Authorities (ESAs) (art. 4.2a and 4.2b) **and strengthening the ESAs powers as regards market monitoring** (art. 4a). Effective enforcement of this regulation can only be achieved by National Competent Authorities with close cooperation at EU level.

2. Support transition through a forward-looking approach, not a "brown taxonomy"

- Companies support an **inclusive and forward-looking approach to enable the transition of "brown" activities towards environmental sustainability.** This is reflected in the Council text by the inclusion of the notion of activities "**enabling another economic activity** to substantially improve its environmental performance" (art. 3 (a)) (whose definition should however be further specified), and, in the Parliament's text, the inclusion of the notion of **transition** in the technical screening criteria "through research and innovation projects, specific timelines and pathways of this transition" (art. 14.1.(g)).
- Companies are **strongly opposed to drawing up a list of "harmful" or "brown" activities** - proposed by Parliament in art. 3a and the review clause (art. 17) for December 2021 - and, in general, **to any ex-ante exclusion.** Such a list **would foster investors' exclusion strategies and decrease financing of large GHG emitters committed to get greener.** Those actors would then have **more difficulties to finance their transition while they have the strongest impacts!** They would subsequently either not invest until the end of life of their installations or look for alternative source of financing such as private equity or financing from outside the EU.

3. Build workable *Technical Screening Criteria* based on clear objectives

- As the Parliament and the Council have **"hardened"** the different objectives of the taxonomy, companies are **concerned about the workability of the conditions** that would be imposed. Demanding the protection of biodiversity, for example, is one thing, but asking for the protection **and** restoration of biodiversity could make the goal difficult to achieve (art. 11).
- Companies **support the Council's approach with regard to the adoption of level 2 measures**. Firstly, it **guarantees adequate consultation of national experts** through a division between delegated acts for the definition of technical screening criteria and implementing acts for the determination of the thresholds applicable to these criteria (art. 6.4), and through the creation of a Member States Expert Group (art. 16b). Secondly, it requires that the Commission, "prior to their adoption, **gather[s] 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.**"
- Companies are not in favour of the provisions inserted in the Parliament's text aimed at (i) assessing the opportunity by December 2021 to **include compliance with other minimum safeguards** in order to establish whether an economic activity is environmentally sustainable and (ii) **developing "sustainability" accounting standards and integrated reporting** (art. 15.2.(da)), as well as the inclusion of EFRAG as a member of the Platform. The purpose of the Platform should be to advise the Commission on the development of technical screening criteria and assess and monitor the implementation of the regulation. Reflections regarding reporting issues should not be addressed through this proposal and the Platform does not appear to be the appropriate forum to carry out such discussions.

4. Engage with companies to make the taxonomy work

- Non-financial companies were **not sufficiently involved** in the work and discussions leading to the Sustainable Finance action plan and in the discussions of the Technical Expert Group. In order to deliver efficient and proportionate measures fostering sustainable finance, it is **crucial to involve corporates**, which play a key role in energy transition and reporting processes.
- Therefore, **they need to be adequately represented on the Sustainable Finance Platform** created by the Taxonomy Regulation (art.15). Improvements from the Council and Parliament in this regard are well received by companies. The taxonomy will work only if the definition of criteria and thresholds and their update rests on the feedbacks and experience of companies whose activities are covered.

About AFEP

Since 1982, Afep brings together large companies operating in France. The Association, based in Paris and Brussels, aims to foster a business-friendly environment and to present the company members' vision to French public authorities, European institutions and international organisations. Restoring business competitiveness to achieve growth and sustainable employment in Europe and tackle the challenges of globalisation is Afep's core priority. Afep has around 120 members. More than 8 million people are employed by Afep companies and their annual combined turnover amounts to €2,600 billion.

Afep is involved in drafting cross-sectoral legislation, at French and European level, in the following areas: economy, taxation, company law and corporate governance, corporate finance and financial markets, competition, intellectual property and consumer affairs, labour law and social protection, environment and energy, corporate social responsibility and trade.

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