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SUSTAINABLE INVESTMENT — Taxonomy Regulation

To ensure sustainability and the transition to a climate-neutral, resilient, circular and more efficient economy, the European Union has considered it essential to provide financial products with environmental sustainability objectives for private investment in sustainable activities, in response to the climate emergency, including green bonds, green loans and other dynamic instruments.

Sustainable investment and financing have grown exponentially in recent years, in connection with ESG criteria, that is, environmental, social and corporate governance criteria. In the near future, growth is expected to be even faster, as the market and investors increasingly embrace environmental concerns.

The European Commission has played an important role in the regulation of sustainable investment, harmonizing the criteria and eliminating obstacles to the functioning of the internal market, bearing in mind the entirety of the financial system and the specificities and ambitions of the EU in the climate domain, with the intention of reducing greenwashing phenomena.

It is through the so-called taxonomy for sustainable investment, in force since 12 July 2020, that the respective legal framework is established, with emphasis on the applicable criteria and which allow the identification of sustainable investments.

We then explore Regulation (EU) 2020/852, of the European Parliament and of the Council, of 18 June 2020 (Taxonomy Regulation), and its implications for companies and investors.

Taxonomy

Taxonomy is an essential tool for companies and investors, establishing a common reference for investment in environmentally sustainable economic activities and projects.

Sustainable economic activities and environmental goals

An **economic activity** is qualified **as environmentally sustainable** if:

a) contribute substantially to environmental goals;

b) not significantly harm any of the environmental objectives;

c) is carried out in accordance with minimum safeguards; and,

d) meet technical evaluation criteria established by the European Commission.

Only economic activities that meet all these requirements are considered environmentally sustainable and therefore their investments are also qualified as sustainable.

The **environmental objectives** to be considered for these purposes correspond to:

a) climate change mitigation;

b) adaptation to climate change;

c) sustainable use and protection of water and marine resources;

d) transition to a circular economy;

e) prevention and control of pollution;

f) protection and restoration of biodiversity and ecosystems.

For example, an economic activity is qualified as contributing to the **mitigation of climate change** if it contributes substantially to the stabilization of atmospheric concentrations of greenhouse gases (this includes **technologies for capturing and using or storing carbon dioxide**).

Without prejudice to these objectives being somewhat densified as to the activities they cover, the respective technical criteria still need to be implemented by the European Commission.

Regarding the objectives of **mitigation and adaptation to climate change**, the European Commission will shortly publish the respective **technical assessment criteria**, applying, from 1 January 2022, in sectors responsible for almost 80% of direct emissions of greenhouse gases such as energy, forestry, manufacturing and transport.

The technical assessment criteria identify the most relevant potential contributions to the specific environmental objective, specify the minimum requirements that must be met to avoid significantly harming any other relevant environmental objectives, and cover all relevant economic activities.

It is expected that the European Commission will approve the other technical criteria regarding the remaining environmental objectives between 2021 and 2022.

Pre-contractual Information, Periodic Reports and Non-financial Statements

The Taxonomy Regulation also provides for obligations for **those involved in the financial market and for companies subject to the obligation to publish non-financial statements** or consolidated non-financial statements. These obligations are effective from January 1, 2022, regarding the objectives of mitigation and adaptation to climate change.

- **Stakeholders in the financial market that provide financial products**

These stakeholders will have to disclose in pre-contractual information and periodic reports: (i) **information** on the applicable environmental objectives and, (ii) a **description** of how and to what extent the investments underlying the financial product finance sustainable economic activities of the from an environmental point of view.

The following are subject to these obligations, for example: credit institutions or investment companies that provide portfolio management services; insurance companies offering insurance-based investment products; managers of alternative investment funds, qualified venture capital or qualified social entrepreneurship; management companies of collective investment schemes in transferable securities.

- **Companies subject to the obligation to publish a non-financial statement**

These companies will be required to include in their respective non-financial statements information on the form and extent of the association of the company's activities with economic activities that are qualified as sustainable from an environmental point of view.

For example, non-financial companies must now disclose the proportion of their **turnover** resulting from products or services associated with economic activities that qualify as environmentally sustainable.

Article written in accordance with the legislation in force on 8 June 2021.