



Brussels, XXX  
[...] (2023) XXX draft

**COMMISSION DELEGATED REGULATION (EU) .../...**

**of XXX**

**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 the sustainable use and protection of water and marine resources, to the transition to a circular economy, to pollution prevention and control, or to the protection and restoration of biodiversity and ecosystems and for determining whether that economic activity causes no significant harm to any of the other environmental objectives and amending Delegated Regulation (EU) 2021/2178 as regards specific public disclosures for those economic activities**

(Text with EEA relevance)

[...]

*This draft has not been adopted or endorsed by the European Commission. Any views expressed are the preliminary views of the Commission services and may not in any circumstances be regarded as stating an official position of the Commission.*

## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE DELEGATED ACT

#### 1.1. General background and objective

The European Green Deal is the Union's growth strategy<sup>1</sup>. It aims to transform the EU into a fair and prosperous society with a modern, resource-efficient and competitive economy. The goals are to achieve no net emissions of greenhouse gases in 2050, protect the environment and health of Europeans, and achieve economic growth by the most efficient and sustainable use of natural resources. It also aims to protect, conserve and strengthen the EU's natural capital, and protect the health and well-being of the public from environmental risks.

Regulation (EU) 2020/852 of the European Parliament and of the Council<sup>2</sup> (the 'Taxonomy Regulation') aims to help channel capital towards activities that substantially contribute to reaching the objectives of the European Green Deal, such as climate neutrality and resilience, zero pollution, preservation of biodiversity and ecosystems, the transition to a circular economy and sustainable use of water and marine resources. By providing companies, investors and policymakers with definitions of economic activities that can be considered to be environmentally sustainable, the Taxonomy Regulation is expected to help direct investments in economic sectors where they are most needed for a fair green transition.

This framework helps to increase transparency, mitigate the risk of 'greenwashing' and avoid the market fragmentation that can be caused by a lack of common understanding on what constitutes environmentally sustainable economic activities. However, the Taxonomy Regulation does not impose any obligation on investors to invest only in those economic activities that meet specific criteria laid down in that Regulation.

The Taxonomy Regulation lays down the framework for the EU Taxonomy by setting out four conditions that an economic activity must meet to qualify as environmentally sustainable. A qualifying activity must:

- (i) contribute substantially to one or more of the six environmental objectives<sup>3</sup> set out in Article 9 of the Taxonomy Regulation in accordance with Articles 10 to 16 of that Regulation;
- (ii) do no significant harm to any of the other environmental objectives in accordance with Article 17 of that Regulation;
- (iii) be carried out in compliance with the minimum (social) safeguards set out in Article 18 of the Taxonomy Regulation;
- (iv) comply with the technical screening criteria set out by the Commission through delegated acts in accordance with Articles 10 (3), 11(3), 12(2), 13(2), 14(2) and 15(2) of the Taxonomy Regulation. The technical screening criteria operationalise the conditions (i) and (ii) by specifying the performance requirements for any economic activity that determine

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<sup>1</sup> Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions The European Green Deal COM(2019) 640 final.

<sup>2</sup> Regulation (EU) 2020/852 of the European Parliament and of the Council on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 (OJ L 198, 22.6.2020, p. 13).

<sup>3</sup> The six environmental objectives as defined in the Taxonomy Regulation are as follows: (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 ecosystem.

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.

The Commission adopted on 4 June 2021 Commission Delegated Regulation (EU) 2021/2139<sup>4</sup> establishing technical screening criteria under which certain economic activities qualify as contributing substantially to climate change mitigation or climate change adaptation and not causing significant harm to any of the other relevant environmental objectives (the ‘Taxonomy Climate Delegated Act’). On 6 July 2021 the Commission adopted Commission Delegated Regulation (EU) 2021/2178<sup>5</sup> specifying the content, methodology, and presentation of the information to be disclosed by both non-financial and financial undertakings that are required to report about the eligibility and alignment of their activities with the EU Taxonomy (the ‘Taxonomy Disclosures Delegated Act’). On 9 March 2022, the Commission adopted Commission Delegated Regulation (EU) 2022/1214<sup>6</sup> amending the Taxonomy Climate Delegated Act and the Taxonomy Disclosures Delegated Act. These amendments included certain activities in the EU Taxonomy on energy generation from nuclear energy and from natural gas and set out specific disclosure requirements for those activities.

This Delegated Act (the ‘Taxonomy Environmental Delegated Act’) specifies the technical screening criteria under which certain economic activities in the sectors of manufacturing, water supply, sewerage, waste management and remediation, construction, civil engineering, disaster risk management, information and communication, environmental protection and restoration and accommodation activities, qualify as contributing substantially to: (i) the sustainable use and protection of water and marine resources; (ii) the transition to a circular economy; (iii) pollution prevention and control; or (iv) the protection and restoration of biodiversity and ecosystems. This Act also specifies criteria for determining whether those economic activities cause significant harm to any of the other environmental objectives. This Act prioritises those economic activities and sectors that were identified as having the biggest potential to make a substantial contribution to one or more of the four environmental objectives and for which it was possible to develop or refine the recommended criteria without further delay. For certain sectors and activities, such as agriculture, forestry or fishing, as well as certain manufacturing activities, a further assessment and calibration of criteria will be needed<sup>7</sup>.

As climate change is likely to affect all sectors of the economy, all sectors of the economy will need to be adapted to the adverse impact of the current climate and the expected future

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<sup>4</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 (OJ L 442, 9.12.2021, p. 1).

<sup>5</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 (OJ L 443, 10.12.2021, p. 9).

<sup>6</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 (OJ L 188, 15.7.2022, p. 1).

<sup>7</sup> The Staff Working Document accompanying this Regulation provides further clarification regarding the choice of sectors and activities covered.

climate. The Taxonomy Climate Delegated Act therefore established technical screening criteria for climate change adaptation for all sectors and economic activities that were covered by the technical screening criteria for climate change mitigation. Due to time constraints, the Platform and the Commission were not able at this stage to develop adaptation criteria also for the activities included in the Taxonomy Environmental Delegated Act to make them adapted to climate change. The Commission aims to develop technical screening criteria for relevant activities to make them adapted to climate change in the future.

This Delegated Act also amends the Taxonomy Disclosures Delegated Act to ensure that the disclosure requirements laid down in it are consistent with the provisions of the Taxonomy Environmental Delegated Act and to correct a small number of technical mistakes and inconsistencies.

The amending Delegated Act is part of a regulatory package that also includes the Delegated Act amending the Taxonomy Climate Delegated Act, which sets out the technical screening criteria for climate change mitigation and climate change adaptation for additional economic activities not yet included in that Delegated Act. It also introduces limited amendments of a technical nature to improve the implementation of the Taxonomy Climate Delegated Act.

## **1.2. Legal background**

This Delegated Act is based on the empowerments set out in Articles 8(4), 12(2), 13(2), 14(2) and 15(2) of the Taxonomy Regulation. The technical screening criteria are set in accordance with the requirements of Article 19 of that Regulation.

In accordance with Article 31 of the Interinstitutional Agreement of 13 April 2016 on Better Law-Making<sup>8</sup>, this Delegated Act combines five interrelated empowerments of the Taxonomy Regulation in a single act. These are the empowerments laid down in Articles 12(2), 13(2), 14(2) and 15(2) related to the technical screening criteria for the sustainable use and protection of water and marine resources, transition to a circular economy, pollution prevention and control and protection, and restoration of biodiversity and ecosystems respectively and an empowerment in Article 8(4) on the information to be disclosed by undertakings that are subject to an obligation to publish non-financial information pursuant to Article 19a or Article 29(a) of Directive 2013/34/EU of the European Parliament and of the Council<sup>9</sup> (the ‘Accounting Directive’).

## **2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT**

This Delegated Act builds on the recommendations of the Platform on Sustainable Finance (PSF), a Commission expert group set up in 2020 composed of diverse private and public sector stakeholders. The PSF is mandated under Article 20 of the Taxonomy Regulation to advise the Commission on the technical screening criteria for the six environmental objectives of the EU Taxonomy.

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<sup>8</sup> Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making (OJ L 123, 12.5.2016, p. 1).

<sup>9</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).

Building on a prioritisation of economic activities with the biggest potential to make a substantial contribution to one of the four environmental objectives of the EU Taxonomy, the Platform developed draft technical screening criteria for a number of activities.

The draft technical screening criteria proposed by the Platform were published for [stakeholder feedback](#) from August to September 2021. The feedback provided by stakeholders was considered by the Platform before the publication of its final recommendations in [March](#) and [November](#) 2022. The final recommendations of the Platform were also discussed with the Member States Expert Group (MSEG) of the Commission on several occasions in particular on 6 April, 8 July, 4 October and 15 December 2022 and on 24 January 2023.

The Commission considered the recommended technical screening criteria developed by the Platform and conducted further work to ensure that the criteria meet the requirements set out in Article 19 of the Taxonomy Regulation. The draft criteria were shared with the MSEG on [\[X\] to X 2023](#) and published again for a 4-week public consultation to gather stakeholder feedback from [\[X to X 2023\]](#). The Commission took the feedback from Member States and external stakeholders into account when finalising its draft Delegated Act.

[\[Main changes made after consultation.\]](#)

### 3. ASSESSMENT OF IMPACTS

The Commission carried out an assessment of impacts of the Delegated Act. The assessment of impacts did not take the form of a formal impact assessment. This is because the Delegated Act follows the policy choices already made in the Taxonomy Regulation and, to a large extent in the Taxonomy Climate Delegated Act. The Taxonomy Regulation was subject to an impact assessment<sup>10</sup> that provided an assessment of the economic, social and environmental impacts of reporting under the EU Taxonomy. The Taxonomy Climate Delegated Act was accompanied by a proportionate impact assessment<sup>11</sup> that outlined in detail the general approaches taken to specifying technical screening criteria. That assessment remains relevant for the technical screening criteria for the environmental objectives.

This Delegated Act is supported by an analytical Staff Working Document<sup>12</sup> that: (i) describes the context and purpose of the initiative; (ii) explains the approach taken for the definition of the specific technical screening criteria, including how those criteria are expected to work in practice; (iii) explains any divergences or additions made to the Platform's recommendations; (iv) summarises the expected benefits and costs of this initiative, including, in particular administrative costs; and (v) describes how this initiative will be monitored and evaluated.

[\[Consultation, scientific expertise, platform, MSEG etc.\]](#)

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<sup>10</sup> Commission Staff Working Document Impact Assessment Accompanying the document Proposal for a Regulation of the European Parliament and of the Council on the establishment of a framework to facilitate sustainable investment and Proposal for a Regulation of the European Parliament and of the Council on disclosures relating to sustainable investments and sustainability risks and amending Directive (EU) 2016/2341 and Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) 2016/1011 on low carbon benchmarks and positive carbon impact benchmarks, SWD/2018/264 final.

<sup>11</sup> Commission Staff Working Document Impact Assessment Report Accompanying the document Commission Delegated Regulation (EU) .../... 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, SWD/2021/0152 final.

<sup>12</sup> [\[Placeholder for a reference to the SWD.\]](#)

The Commission assessed, the consistency of this Delegated Act with the climate-neutrality objective set out in Article 2(1) of Regulation (EU) 2021/1119 of the European Parliament and of the Council<sup>13</sup> and with ensuring progress on adaptation as referred to in Article 5 of that Regulation.

In accordance with the requirements set out in Article 17 of the Taxonomy Regulation, the Commission calibrated the technical screening criteria for ensuring that economic activities that contribute substantially to one of the environmental objectives do not cause significant harm (DNSH) to climate change mitigation to ensure that no activity that leads to significant greenhouse gas (GHG) emissions can be considered to be environmentally sustainable. The potential of high GHG emissions and thus significant harm to the climate change mitigation objective has been considered for each economic activity. For activities that have such potential, the DNSH to mitigation criteria were developed. For activities that have a low risk of high GHG emissions, no criteria were proposed. Wherever possible and appropriate, these DNSH to mitigation criteria cross-reference compliance with minimum requirements set out in EU law. Where EU legislation does not prescribe specific minimum performance related to environmental ambition, quantitative metrics in legislation were used, such as EU Emission Trading System (ETS) installation data. The criteria can be both quantitative, such as GHG emissions, and qualitative, such as a requirement to have a methane leakage monitoring plan.

Similarly, the Commission calibrated the technical screening criteria to ensure that economic activities that contribute substantially to one of the environmental objectives do not cause significant harm to climate change adaptation. This ensures that no activity can be considered to be environmentally sustainable if it leads to an increased adverse impact of the current climate and the expected future climate, on the activity itself or on people, nature or assets.

The approach taken to set out the DNSH to adaptation reflects the idea that adaptation is everyone's responsibility and that all levels of governance should climate-proof their decisions and operations, including private individuals and economic operators. The DNSH to adaptation is based on whether the activity is climate-proof, i.e. whether any existing and future impacts that are material to the activity are identified, and solutions are found to minimise or avoid possible losses or impact on business continuity. The DNSH criteria set out a process-based requirement that is the same across all economic activities. This process-based requirement is proposed for all activities following the approach that climate change will affect the whole economy.

#### **4. LEGAL ELEMENTS OF THE DELEGATED ACT**

The right to adopt delegated acts is provided for under Articles 8(4), 12(2), 13(2), 14(2) and 15(2) of the Taxonomy Regulation.

Article 1 lays down the technical screening criteria for the sustainable use and protection of water and marine resources.

Article 2 lays down the technical screening criteria for the transition to a circular economy.

Article 3 lays down the technical screening criteria for pollution prevention and control.

Article 4 lays down the technical screening criteria for the protection and restoration of biodiversity and ecosystems.

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<sup>13</sup> Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 ('European Climate Law') (OJ L 243, 9.7.2021, p. 1).

Article 5 lays down the amendments to the Taxonomy Disclosures Delegated Act.

Article 6 lays down the rules on the entry into force and the date of application of this Regulation.

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(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2020/852 of the European Parliament and of the Council on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088<sup>14</sup>, and in particular Articles 8(4), 12(2), 13(2), 14(2) and 15(2) thereof,

Whereas:

- (1) Regulation (EU) 2020/852 establishes the general framework for determining whether an economic activity qualifies as environmentally sustainable for the purposes of establishing the degree to which an investment is environmentally sustainable. That Regulation applies to measures adopted by the Union or by Member States that set out requirements for financial market participants or issuers in respect of financial products or corporate bonds that are made available as environmentally sustainable, to financial market participants that make available financial products, and to undertakings that are subject to the obligation to publish a non-financial statement pursuant to Article 19a of Directive 2013/34/EU of the European Parliament and of the Council<sup>15</sup> or a consolidated non-financial statement pursuant to Article 29a of that Directive. Economic operators or public authorities that are not covered by Regulation (EU) 2020/852 may also apply that Regulation on a voluntary basis.
- (2) Articles 12(2), 13(2), 14(2) and 15(2) of Regulation (EU) 2020/852 require the Commission to adopt delegated acts establishing the technical screening criteria for determining the conditions under which a specific economic activity qualifies as contributing substantially to the sustainable use and protection of water and marine

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<sup>14</sup> OJ L 198, 22.6.2020, p. 13.

<sup>15</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).



resources, to the transition to a circular economy, to pollution prevention and control or to the protection and restoration of biodiversity and ecosystems, respectively, and to establish, for each relevant environmental objective laid down in Article 9 of that Regulation, technical screening criteria for determining whether that economic activity causes no significant harm to one or more of those environmental objectives.

- (3) The Communication from the Commission of 6 July 2021 ‘Strategy for Financing the Transition to a Sustainable Economy’<sup>16</sup> announced the establishment of technical screening criteria for environmental objectives covering the sustainable use and protection of water and marine resources, to the transition to a circular economy, to pollution prevention and control, and to the protection and restoration of biodiversity and ecosystems. Those technical screening criteria should be adopted in addition to the technical screening criteria established in Commission Delegated Regulation (EU) 2021/2139<sup>17</sup>.
- (4) The technical screening criteria for environmental objectives covering the sustainable use and protection of water and marine resources, the transition to a circular economy, pollution prevention and control, and the protection and restoration of biodiversity and ecosystems, should, like the technical screening criteria established in Delegated Regulation (EU) 2021/2139, where possible, follow the classification of economic activities laid down in the NACE Revision 2 classification system of economic activities established by Regulation (EC) No 1893/2006 of the European Parliament and of the Council<sup>18</sup>. To facilitate the identification by undertakings and financial market participants of the relevant economic activities for which technical screening criteria should be established, the specific description of an economic activity should also include indicative references to NACE codes that can be associated with that activity. Those references should be understood as indicative and should not prevail over the specific definition of the economic activity provided in its description.
- (5) The technical screening criteria for economic activities that contribute substantially to the sustainable use and protection of water and marine resources, to the transition to a circular economy, to pollution prevention and control, and to the protection and restoration of biodiversity and ecosystems should ensure that the economic activity concerned has a positive impact on one of those objectives. Those technical screening criteria should therefore refer to thresholds or performance levels that the economic activity should achieve to qualify as contributing substantially to one of those objectives. The technical screening criteria for ‘do no significant harm’ (DNSH) should ensure that the economic activity has no significant negative environmental

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<sup>16</sup> Communication from the Commission of 6 July 2021 to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions Strategy for Financing the Transition to a Sustainable Economy, COM/2021/390 final.

<sup>17</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 (OJ L 442, 9.12.2021, p. 1).

<sup>18</sup> Regulation (EC) No 1893/2006 of the European Parliament and of the Council of 20 December 2006 establishing the statistical classification of economic activities NACE Revision 2 and amending Council Regulation (EEC) No 3037/90 as well as certain EC Regulations on specific statistical domains (OJ L 393, 30.12.2006, p. 1).

impacts, including climate-related impacts. Consequently, those technical screening criteria should specify the minimum requirements that the economic activity should meet to qualify as environmentally sustainable.

- (6) The technical screening criteria for determining whether an economic activity contributes substantially to one of the environmental objectives laid down in Article 9 of Regulation (EU) 2020/852 and does no significant harm to any of the other environmental objectives should, where relevant build, on existing Union law, best practices, standards and methodologies, and well-established standards, practices and methodologies developed by internationally reputed public entities. Where those standards, practices and methodologies are not available for a specific policy area, the technical screening criteria should build on well-established standards developed by internationally reputed private bodies.
- (7) Pursuant to Article 19(1), point (h), of Regulation (EU) 2020/852, the technical screening criteria should take into account the nature and the scale of the economic activity and sector that they refer to, and whether the economic activity is an enabling activity as referred to in Article 16 of that Regulation. For the technical screening criteria to meet the requirements of Article 19 of Regulation (EU) 2020/852 in an effective and balanced way, those technical screening criteria should be set as a quantitative threshold or minimum requirement, a relative improvement, a set of qualitative performance requirements, process or practice-based requirements, or a precise description of the nature of the economic activity itself where that activity by its nature can contribute substantially to the environmental objectives.
- (8) The technical screening criteria for determining under which conditions an economic activity qualifies as contributing substantially to the sustainable use and protection of water and marine resources should reflect the need to achieve good status for all water bodies and good environmental status for marine waters, and to prevent the deterioration of water bodies that already have good status or marine waters that are already in good environmental status. It is therefore appropriate to focus first on those economic activities and sectors that have the greatest potential to achieve those aims.
- (9) The Union framework<sup>19</sup> for water protection ensures an integrated approach to water management, respecting the integrity of whole ecosystems. The technical screening criteria should therefore aim at addressing the adverse effects of urban and industrial

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<sup>19</sup> In particular 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), Directive 2008/105/EC of the European Parliament and of the Council of 16 December 2008 on environmental quality standards in the field of water policy, amending and subsequently repealing Council Directives 82/176/EEC, 83/513/EEC, 84/156/EEC, 84/491/EEC, 86/280/EEC and amending Directive 2000/60/EC of the European Parliament and of the Council (OJ L 348, 24.12.2008, p. 84), 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), Council Directive 91/271/EEC of 21 May 1991 concerning urban waste-water treatment (OJ L 135, 30.5.1991, p. 40), Directive (EU) 2020/2184 of the European Parliament and of the Council of 16 December 2020 on the quality of water intended for human consumption (OJ L 435, 23.12.2020, p. 1), 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), Directive 2006/7/EC of the European Parliament and of the Council of 15 February 2006 concerning the management of bathing water quality and repealing Directive 76/160/EEC (OJ L 64, 4.3.2006, p. 37) and Council Directive 91/676/EEC 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).

waste water discharges, protecting human health from the adverse impact of any contamination of water intended for human consumption, improving water management and efficiency, ensuring the sustainable use of marine ecosystem services, contributing to the good environmental status of marine waters and to the overall achievement and maintenance of good status or good potential of bodies of water, including bodies of surface water and groundwater.

- (10) As regards solutions inspired and supported by nature, which provide environmental, social and economic benefits and help build resilience, the technical screening criteria should aim at preventing and protecting against floods or droughts while enhancing natural water retention, biodiversity and water quality.
- (11) The transition to a circular economy is an enabler of environmental sustainability that generates significant benefits for the sustainable management of water, the protection and conservation of biodiversity, the prevention and control of pollution and the mitigation of climate change. The circular economy reflects the need for economic activities to promote efficient use of resources through appropriate re-use and recycling of resources. The technical screening criteria for determining under which conditions an economic activity qualifies as contributing substantially to the transition to a circular economy should therefore ensure that in the design and production phase, the operator takes into account the long-term value retention and waste reduction of the product over its lifecycle. During its use phase, the product should be subject to maintenance to extend its life, while reducing the amount of waste. The product should be dismantled or treated after its use to ensure that it can be re-used or recycled for the manufacturing of another product. That approach can limit the dependency of the Union's economy on materials imported from third countries, which is particularly important in respect of critical raw materials. It is therefore appropriate to focus first on those economic activities and sectors that have the greatest potential to achieve those aims.
- (12) When considering the circularity of a product, the design and production phases are key for ensuring durability and potential re-use of the product and for its recyclability. Those phases are also imperative for reducing the content of hazardous substances and substituting substances of very high concern in materials and products throughout their life cycle. The technical screening criteria for manufacturing activities that substantially contribute to the transition to circular economy should therefore set design requirements for products' longevity, reparability, and reuse, as well as requirements on the use of materials, substances and processes that allow for quality recycling of the product. The use of hazardous substances should be minimised. Where possible, the criteria should also require the use of recycled materials for the manufacturing of the product itself.
- (13) In the follow-up to communications from the Commission of 11 December 2019 'The European Green Deal'<sup>20</sup>, of 3 March 2020 on a new Circular Economy Action Plan<sup>21</sup>

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<sup>20</sup> Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions: The European Green Deal (COM(2019) 640 final).

<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 A new Circular Economy Action Plan For a cleaner and more competitive Europe (COM/2020/98 final).

and of 16 January 2018 European Strategy for Plastics<sup>22</sup>, the technical screening criteria for plastic packaging manufacturing should be complemented, reviewed and where necessary revised and taking into account relevant Union law, including Directive 94/62/EC<sup>23</sup> and its future revisions.

- (14) Good waste management is a building block of the circular economy and helps prevent waste from having a negative impact on the environment and human health. The Union legislation on waste<sup>24</sup> improves waste management by setting out a 'waste hierarchy' under which waste prevention, preparing for recycling are the preferred options, followed by other recovery, including energy recovery and only as a last resort, disposal such as incineration without energy recovery or landfilling. The technical screening criteria for determining the conditions under which a specific economic activity qualifies as contributing substantially to the transition to a circular economy should therefore aim at preventing or reducing waste generation, increasing the preparation for re-use and recycling of waste, avoiding down cycling and disposal of waste. Taking into account that materials suitable for being reintroduced into the circular economy, such as metals and inorganic salts, can be recycled from combustion products, in particular from bottom ashes from non-hazardous waste incineration, the inclusion of this recycling activity and its related technical screening criteria should be considered for inclusion under the taxonomy in the next stage of development.
- (15) Construction is responsible for 37% of waste in the Union<sup>25</sup>. Ensuring that the materials used in the construction and maintenance process of buildings and other civil engineering objects come mainly from re-used or recycled (secondary raw) materials; and are in turn prepared for re-use or recycling when the built asset is demolished, can therefore play an important role in the transition to a circular economy. Technical screening criteria therefore should be laid down for the construction of new buildings, renovation of existing buildings, demolition or wrecking of buildings and other structures, maintenance of roads and motorways and for the use of concrete in civil engineering projects. Considerations of the circularity of the materials and the built asset need to be taken into account in the design phase, up until the dismantling phase. The technical screening criteria should therefore follow the principles of circular design and production of the built asset, as well as a circular use of materials used to produce that asset.
- (16) A whole new range of sustainable services, product-as-a-service business models and digital solutions brings about a better quality of life, innovative jobs and upgraded knowledge and skills. In line with the Communication of the Commission of 11 March 2020 'A new Circular Economy Action Plan For a cleaner and more competitive

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<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/2018/028 final).

<sup>23</sup> Directive 94/62/EC of the European Parliament and of the Council of 20 December 1994 on packaging and packaging waste (OJ L 365, 31.12.1994, p. 10).

<sup>24</sup> See in particular Article 4 of 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>25</sup> Eurostat Statistics Explained database, presenting data collected in accordance with Regulation (EC) No 2150/2002 of the European Parliament and of the Council of 25 November 2002 on waste statistics (OJ L 332, 9.12.2002, p. 1), available at [https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Waste\\_statistics#Total\\_waste\\_generation](https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Waste_statistics#Total_waste_generation).

Europe',<sup>26</sup> circular economy provides high-quality, functional and safe products, which are efficient and affordable, last longer and are designed for re-use, repair and high-quality recycling. The technical screening criteria for determining the conditions under which innovative sustainable services qualify as contributing substantially to the transition to a circular economy should therefore be laid down for activities that contribute to prolonging the life of products.

- (17) Digital solutions, including the use of digital product passports, can provide real-time data about an item's location, condition, and availability, and increase the traceability of materials and that way enhance value retention in every design, manufacturing and consumer decision. That in turn enables economic actors to move to circular business models, including product-as-a-service business model, ultimately decoupling economic activities from the use of natural resources and improving an economic activity's environmental impacts. Technical screening criteria should therefore be established for new digital solutions that can improve the transparency and efficiency of environmental monitoring and enforcement, including decision-making within integrated water resources management.
- (18) The technical screening criteria for determining under which conditions an economic activity qualifies as contributing substantially to pollution prevention and control should reflect the need to eliminate pollution in air, water, soil, living organisms and food resources. Pollution can cause illnesses and in consequence may lead to premature deaths. Its most harmful impacts on human health are typically borne by the most vulnerable groups<sup>27</sup>. Pollution also threatens biodiversity and contributes to the mass extinction of species. As outlined in the Communication from the Commission of 12 May 2021, Pathway to a Healthy Planet for All EU Action Plan: 'Towards Zero Pollution for Air, Water and Soil'<sup>28</sup>, the economic benefits of fighting pollution are substantial and the benefits for society far outweigh the required costs.
- (19) Following ambition of the Communication from the Commission of 14 October 2020 'Chemicals Strategy for Sustainability Towards a Toxic-Free Environment'<sup>29</sup>, to help to prevent and control pollution it is particularly important to progressively phase out the most harmful substances from products for consumer or professional use except when their use has been proven to be essential for society and to substitute or minimise the production and use of substances of concern, as far as possible.
- (20) Pollution caused by certain pharmaceutical ingredients may pose risks to the environment and to human health as outlined in the Communication from the Commission of 11 March 2019 'European Union Strategic Approach to

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<sup>26</sup> Communication from the Commission of 11 March 2020 to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, A new Circular Economy Action Plan For a cleaner and more competitive Europe, COM/2020/98 final.

<sup>27</sup> European Environmental Agency Report No 22/2018, Unequal exposure and unequal impacts: social vulnerability to air pollution, noise and extreme temperatures in Europe, available at <https://www.eea.europa.eu/publications/unequal-exposure-and-unequal-impacts>.

<sup>28</sup> Communication from the Commission of 12 May 2021 to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Pathway to a Healthy Planet for All EU Action Plan: 'Towards Zero Pollution for Air, Water and Soil', COM/2021/400 final.

<sup>29</sup> Communication from the Commission of 14 October 2020 to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Chemicals Strategy for Sustainability Towards a Toxic-Free Environment, COM/2020/667 final.

Pharmaceuticals in the Environment<sup>30</sup>. Technical screening criteria for the manufacturing of active pharmaceutical ingredients or drug substances and for the manufacturing of pharmaceutical products should therefore aim at promoting the production and use of ingredients that are naturally occurring substances or are classified as readily biodegradable.

- (21) Preventing and reducing emission of pollutants in the end-of-life phase of products, and the cleaning-up of existing pollution, have a significant potential to protect the environment from pollution and to improve the state of the environment. Technical screening criteria should therefore be established for the collection, transport and treatment of hazardous waste which poses a greater risk to the environment and human health than non-hazardous waste, as well as for remediation of non-conforming landfills and abandoned or illegal waste dumps and of contaminated sites and areas.
- (22) The technical screening criteria for determining under which conditions an economic activity qualifies as contributing substantially to the protection and restoration of biodiversity and ecosystems should reflect the need to protect, conserve or restore biodiversity to achieve the good condition of ecosystems or to protect ecosystems that are already in good condition. Loss of biodiversity and collapse of ecosystems are one of the biggest threats facing humanity in the next decade<sup>31</sup>. Nature is as important for our mental and physical wellbeing as it is for our society's ability to cope with global change, health threats and disasters. Healthy ecosystems provide food and food security, clean water, clean air, sources for medicines, carbon sinks and protection against natural disasters caused by climate change, and against zoonosis outbreaks.
- (23) Conservation of biodiversity has direct economic benefits for many sectors of the economy. The agri-food sector benefits from an improved condition of soils, water resources and conservation of pollinators. Fisheries benefit from enhanced fish populations and more sustainable marine and freshwater management. Water companies benefit from enhanced water purification; while property owners, insurers and inhabitants benefit from reductions in floods and natural hazards. The tourism sector benefits from enhanced landscape and biodiversity<sup>32</sup>. The technical screening criteria should therefore aim at maintaining or improving the status and trends of terrestrial, freshwater and marine habitats, ecosystems and populations of related fauna and flora species.
- (24) The value of biodiversity and the associated services provided by healthy ecosystems is important for tourism as it contributes significantly to the attractiveness and quality of tourism destinations, and therefore to their competitiveness. Tourism activities should therefore have a more active and tangible role in maintaining the natural and landscape assets in good status and in improving them. Technical screening criteria should therefore be established for tourism accommodation activities and should aim at ensuring that those activities follow appropriate principles and minimum requirements to protect and sustain the biodiversity and ecosystems, and to contribute to their conservation.

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<sup>30</sup> Communication from the Commission of 11 March 2019 to the European Parliament, the Council and the European Economic and Social Committee, European Union Strategic Approach to Pharmaceuticals in the Environment, COM/2019/128 final.

<sup>31</sup> World Economic Forum (2020), The Global Risks Report 2020.

<sup>32</sup> Commission Staff Working Document Impact Assessment Accompanying the proposal for a Regulation of the European Parliament and of the Council on nature restoration, SWD/2022/167 final , Part 2/12.

- (25) The technical screening criteria for determining whether the economic activities that contribute substantially to one of the environmental objectives cause no significant harm to any of the other environmental objectives should aim at ensuring that contribution to one of the environmental objectives is not made at the expense of other environmental objectives. The ‘do no significant harm’ criteria play therefore an essential role in ensuring the environmental integrity of the classification of environmentally sustainable activities. The ‘do no significant harm’ criteria for a given environmental objective should be specified for those activities that present a risk of causing significant harm to that objective. Those criteria should take into account and build upon the relevant requirements of existing Union law.
- (26) The technical screening criteria for ensuring that activities that contribute substantially to one of the environmental objectives do not cause significant harm to climate change mitigation should ensure that economic activities that have the potential to contribute substantially to environmental objectives other than climate change mitigation do not lead to significant greenhouse gas emissions.
- (27) Climate change is likely to affect all sectors of the economy. The technical screening criteria for ensuring that economic activities that contribute substantially to one of the environmental objectives do not cause significant harm to climate change adaptation should therefore apply to all of those economic activities. Those criteria should ensure that existing and future risks that are material to the economic activity are identified and that adaptation solutions are implemented to minimise or avoid possible losses or impacts on business continuity.
- (28) The technical screening criteria for ‘do no significant harm’ to sustainable use and protection of water and marine resources should be specified for all activities that may hinder such sustainable use and protection. Those criteria should aim at avoiding that economic activities are detrimental to the good status or the good ecological potential of water bodies, including surface water and groundwater, or to the good environmental status of marine waters, by requiring that environmental degradation risks are identified and addressed, in accordance with a water use and protection management plan or with the Member States’ marine strategies.
- (29) The technical screening criteria for ‘do no significant harm’ to transition to a circular economy should be tailored to specific economic activities to ensure that those activities do not lead to inefficiencies in the use of resources or to lock-in linear production models, and that waste is avoided or reduced and, where unavoidable, managed in accordance with the waste hierarchy. Those criteria should also ensure that economic activities do not undermine the objective of transitioning to a circular economy.
- (30) The technical screening criteria for ‘do no significant harm’ to pollution prevention and control should reflect sector specificities to address the relevant sources and types of pollution into air, water or land, referring, where relevant, to best available techniques conclusions established under Directive 2010/75/EU of the European Parliament and of the Council<sup>33</sup>.
- (31) The criteria for ‘do no significant harm’ to protection and restoration of biodiversity and ecosystems should be specified for all activities that can pose risks to the status or

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<sup>33</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) (recast) (OJ L 334, 17.12.2010, p. 17).

condition of habitats, species or ecosystems and should require that, where relevant, environmental impact assessments or other appropriate assessments are undertaken and the conclusions from such assessments are implemented. Those criteria should ensure that even in the absence of a requirement to perform an environmental impact assessment or other appropriate assessment, activities do not lead to the disturbance, capturing or killing of legally protected species or the deterioration of legally protected habitats.

- (32) As climate change is likely to affect all sectors of the economy, all sectors of the economy will need to be adapted to the adverse impact of the current climate and the expected future climate. Technical screening criteria for substantial contribution to climate change adaptation should therefore be established in the future for all sectors and economic activities that are covered by the technical screening criteria for substantial contribution to the sustainable use and protection of water and marine resources, to the transition to a circular economy, to pollution prevention and control or to the protection and restoration of biodiversity and ecosystems set out in this Regulation.
- (33) The inclusion of new economic activities contributing to environmental objectives pursuant to Articles 12(2), 13(2), 14(2), and 15(2) of Regulation (EU) 2020/852 will widen the coverage of disclosures laid down in Article 8 of that Regulation. Commission Delegated Regulation (EU) 2021/2178, which was adopted on the basis of Article 8(4) of Regulation (EU) 2020/852, should therefore be amended to reflect that widened scope. To address certain technical and legal inconsistencies identified since the application of Delegated Regulation (EU) 2021/2178, targeted amendments should also be introduced to that Regulation.
- (34) The four environmental objectives referred to in Article 9, points (c) to (f), of Regulation (EU) 2020/852 and in Articles 12, 13, 14 and 15 of that Regulation are closely interlinked in terms of the means by which an objective is achieved and the benefits that achieving one of the objectives may have on other objectives. The provisions determining whether an economic activity contributes substantially to the sustainable use and protection of water and marine resources, to the transition to a circular economy, to pollution prevention and control or to the protection and restoration of biodiversity and ecosystems, are thus closely interrelated, and are closely linked to the need to widen the disclosure obligations laid down in Delegated Regulation (EU) 2021/2178. To ensure coherence between those provisions, which should enter into force at the same time, to facilitate a comprehensive view of the legal framework for stakeholders and to facilitate the application of Regulation (EU) 2020/852, it is necessary to include those provisions in a single Regulation.
- (35) To ensure that the application of Regulation (EU) 2020/852 evolves with scientific, technological, market and policy developments, this Regulation should be regularly reviewed and, where appropriate, amended as regards the activities considered to be contributing substantially to the sustainable use and protection of water and marine resources, to the transition to a circular economy, to pollution prevention and control, to the protection and restoration of biodiversity and ecosystems, and the corresponding technical screening criteria.
- (36) This Regulation is consistent with the climate-neutrality objective set out in Article 2(1) of Regulation (EU) 2021/1119 of the European Parliament and of the



Council<sup>34</sup> and ensures progress on adaptation as referred to in Article 5 of that Regulation. The Commission assessed the consistency of the technical screening criteria for ensuring that economic activities that contribute substantially to one of the environmental objectives do not cause significant harm to climate change mitigation and climate change adaptation with the objective and targets of Regulation (EU) 2021/111 as required by Article 6(4) thereof.

- (37) It is necessary to provide non-financial and financial undertakings with sufficient time to assess whether their economic activities comply with the technical screening criteria laid down in this Regulation, and to report on the basis of that assessment in accordance with Delegated Regulation (EU) 2021/2178. The date of application of this Regulation should therefore be deferred until 1 January 2024,

HAS ADOPTED THIS REGULATION:

#### *Article 1*

### **Technical screening criteria related to the sustainable use and protection of water and marine resources**

The technical screening criteria for determining the conditions under which an economic activity qualifies as contributing substantially to the sustainable use and protection of water and marine resources and for determining whether that economic activity causes no significant harm to any of the other environmental objectives laid down in Article 9 of Regulation (EU) 2020/852 are set out in Annex I to this Regulation.

#### *Article 2*

### **Technical screening criteria related to the transition to a circular economy**

The technical screening criteria for determining the conditions under which an economic activity qualifies as contributing substantially to the transition to a circular economy and for determining whether that economic activity causes no significant harm to any of the other environmental objectives laid down in Article 9 of Regulation (EU) 2020/852 are set out in Annex II to this Regulation.

#### *Article 3*

### **Technical screening criteria related to pollution prevention and control**

The technical screening criteria for determining the conditions under which an economic activity qualifies as contributing substantially to pollution prevention and control and for determining whether that economic activity causes no significant harm to any of the other environmental objectives laid down in Article 9 of Regulation (EU) 2020/852 are set out in Annex III to this Regulation.

#### *Article 4*

### **Technical screening criteria related to the protection and restoration of biodiversity and ecosystems**

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<sup>34</sup> Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 ('European Climate Law') (OJ L 243, 9.7.2021, p. 1).

The technical screening criteria for determining the conditions under which an economic activity qualifies as contributing substantially to the protection and restoration of biodiversity and ecosystems and for determining whether that economic activity causes no significant harm to any of the other environmental objectives laid down in Article 9 of Regulation (EU) 2020/852 are set out in Annex IV to this Regulation.

#### *Article 5*

### **Amendments to Delegated Regulation (EU) 2021/2178**

Delegated Regulation (EU) 2021/2178 is amended as follows:

- (1) in Article 8, paragraph 5 is deleted;
- (2) in Article 10, the following paragraphs 6 and 7 are added:

‘6. From 1 January 2024 until 31 December 2024, non-financial undertakings shall only disclose the proportion of Taxonomy-eligible and Taxonomy non-eligible economic activities pursuant to Regulation [Taxonomy Environmental Delegated Regulation] and Sections 3.18 to 3.21, Sections 6.18 to 6.20 of Annex I to Delegated Regulation 2021/2139 and Sections 5.13, 7.8, 8.4, 9.3, 14.1 and 14.2 of Annex II to Delegated Regulation 2021/2139 in their total turnover, capital and operational expenditure and the qualitative information referred to in Section 1.2 of Annex I relevant for that disclosure.

The key performance indicators of non-financial undertakings shall cover the economic activities set out in Regulation [Taxonomy Environmental Delegated Regulation] and Sections 3.18 to 3.21, Sections 6.18 to 6.20 of Annex I to Delegated Regulation 2021/2139 and Sections 5.13, 7.8, 8.4, 9.3, 14.1 and 14.2 of Annex II to Delegated Regulation 2021/2139 from 1 January 2025.

7. From 1 January 2024 until 31 December 2024, financial undertakings shall only disclose:

- (a) the proportion in their covered assets of exposures to Taxonomy non-eligible and Taxonomy-eligible economic activities pursuant to Regulation [Taxonomy Environmental Delegated Regulation] and Sections 3.18 to 3.21, Sections 6.18 to 6.20 of Annex I to Delegated Regulation 2021/2139 and Sections 5.13, 7.8, 8.4, 9.3, 14.1 and 14.2 of Annex II to Delegated Regulation 2021/2139;
- (b) the qualitative information referred to in Annex XI relating to economic activities referred to in point (a).

The key performance indicators of financial undertakings shall cover the economic activities set out in Regulation [Taxonomy Environmental Delegated Regulation] and Sections 3.18 to 3.21, Sections 6.18 to 6.20 of Annex I to Delegated Regulation 2021/2139 and Sections 5.13, 7.8, 8.4, 9.3, 14.1 and 14.2 of Annex II to Delegated Regulation 2021/2139 from 1 January 2026.’

- (3) Annexes I, II, IV, V and X are amended in accordance with Annex V to this Regulation.
- (4) Annex VI is replaced by the text set out in Annex VI to this Regulation;
- (5) Annex VIII is replaced by the text set out in Annex VII to this Regulation.

*Article 6*

This Regulation shall enter into force on the [twentieth day] following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2024.

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

Done at Brussels,

*For the Commission*  
*The President*  
*Ursula VON DER LEYEN*

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