Ania

Associazione Nazionale
fra le Imprese Assicuratrici

2022 Edition

ANIA Exploring SUSTAINABILITY

Focus on Taxonomy Regulation Delegated Acts

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Sustainability is rapidly becoming a key issue for insurance companies, which - both as investors and as providers of protection - play a central role towards a sustainable transformation of the economy and the achievement of the ambitious sustainable goals set at international, European and national level.

Sustainability factors - covering all three ESG dimensions (Environmental, Social and Governance) - need to be integrated in every single process: from corporate governance to reporting and disclosure, and from underwriting policies to investment strategies.

*The regulatory framework is moving fast in this direction, with particular regard to the European legislation, and ANIA decided to launch in 2021 a new series of newsletter: "**ANIA Exploring SUSTAINABILITY**".*

"ANIA Exploring SUSTAINABILITY" aspires to provide useful information about the rapidly evolving regulatory context of sustainability, with a main focus in 2021 edition on the Sustainable Finance Disclosure Regulation (SFDR) and the Taxonomy Regulation.

The 2022 edition will deal with Level 2 regulation, starting from Taxonomy Regulation Delegated Acts.

The newsletters will be issued on a regular basis, in a one-page format, and each issue will focus on specific features of the legislation in question.

The newsletters will be collected in a single volume to form a practical - and easy to use - reference guide.

Angelo Doni

ANIA Co-Director General

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TR: Introduction to the Climate Delegated Act

1 FEBRUARY, 4 2022

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The **Taxonomy Regulation (TR)** entered into force on 12 July 2020 defines the general framework for determining whether an **economic activity** (**EA**) qualifies as **environmentally sustainable** for the purposes of establishing the degree to which an investment is environmentally sustainable. The **TR** tasked the European Commission to establish technical screening criteria (**TSC**) through the adoption of Delegated Acts defining the specific technical conditions that an **EA** shall respect to meet the first two requirements of the **TR**:

- make a substantial contribution to one or more of the six following environmental objectives (**EO**): climate change mitigation, climate change adaptation, sustainable use and protection of water and marine resources, transition to a circular economy, pollution prevention and control, protection and restoration of biodiversity and ecosystems;
- do not significantly harm any of the six objectives.

After the adoption of a proposed Climate Delegated Regulation by the European Commission, on **4 June 2021**, containing a first set of **TSC** related to the **objectives of climate change mitigation and adaptation**, the European Parliament and Council of the EU took six months to review and approve its contents, till 8 December 2021.

Eventually, on 9 December 2021, **Commission Delegated Regulation (EU) 2021/2139 of 4 June 2021 supplementing Regulation (EU) 2020/852**, also referred to as the "**Climate Delegated Act**" (**CDA**), was published in the Official Journal (along with its Annex I and Annex II) and its provisions came into application on **1 January 2022**. Art. 3, CDA

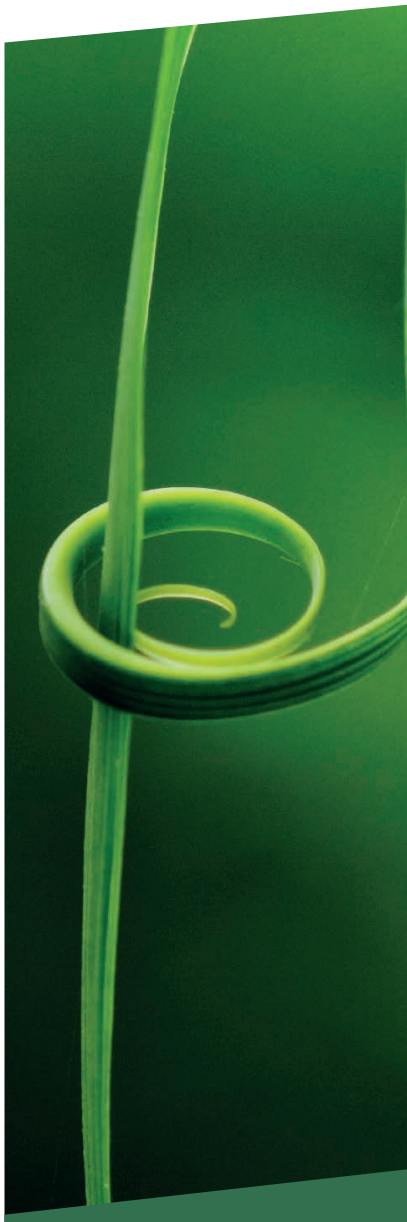
In particular, the **CDA** sets out the **TSC** for determining:

- the conditions under which an **EA** qualifies as "**contributing substantially**" to climate change mitigation or climate change adaptation; and
- whether that EA does no significant harm (**DNSH**) to any of the other environmental objectives. Art. 1, 2 CDA

The **CDA** is a living document and **will continue to evolve over time**, with more activities being added to its scope by means of amendments, **reflecting technological progress** and ensuring that new sectors and activities can be added to the scope over time. This relates, for instance, to the **Complementary Climate Delegated Act** (**CCDA**) presented by the EC on 2 February 2022.

The **CCDA** includes, under strict conditions, **specific nuclear and gas energy activities** in the list of **EAs** covered by the **TR** and the related **TSC**, which are not yet included in the current **CDA**.

While the **CCDA** will be formally adopted, once all languages are available, for the four months (extendable by a further two months) scrutiny period by the European Parliament and the Council, a second **Delegated Act** containing the **TSC** for the **remaining four EOs** should be published by 2022.



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TR: Technical Screening Criteria at a glance

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Article 19 of the **Taxonomy Regulation** (**TR**) establishes several provisions to be met when developing **technical screening criteria** (**TSC**). Within the **Climate Delegated Act** (**CDA**), those provisions find their application in **Annexes I** and **II** that contain the **TSC** for determining the conditions under which a specific economic activity (**EA**) qualifies as contributing substantially to the objectives of climate change mitigation (Annex I) and climate change adaptation (Annex II), without significantly harming any of the other environmental objectives.

To facilitate the identification by undertakings and financial market participants of the relevant **EAs** for which **TSC** are established, **CDA** follows the classification of **EAs** laid down in the NACE Revision 2 classification system established by Regulation (EC) No 1893/2006, thus includes references to NACE codes that can be associated with each type of activity. Those references should be understood as indicative and should not prevail over the specific definition of the activity provided in its description.

As required by the **TR**, the **TSC** consider the nature and the scale of the **EA** and sector to which they refer, and whether the **EA** is an **enabling activity** (i.e. contributes substantially to one or more of the six environmental objectives by directly enabling other activities to make a substantial contribution to one or more of them) or a **transitional activity** (i.e. not replaceable with low-carbon alternative but still substantially contributes to the objective of climate change mitigation).

TSC are alternatively set as:

- **quantitative thresholds** or **minimum requirements**;
- **relative improvements**;
- **set of qualitative performance requirements**;
- **process** or **practice-based requirements**; or
- **precise descriptions** of the **nature** of the **EAs** themselves where those activities by their nature can contribute substantially to climate change mitigation.

To ensure that an **EA** makes a positive impact (or reduces negative impact) on one of the two above-mentioned climate objectives, **TSC** refer to thresholds or performance levels that the **EA** should achieve. Likewise, **TSC** also specify the **minimum requirements** that **EAs** have to meet to not have significant negative environmental impacts and therefore comply with the "do not significant harm" principle.

TSC are built on existing Union law, best practices, standards and methodologies, as well as on well-established standards, practices and methodologies developed by internationally reputed public entities (or private entities when alternatives for a specific policy area are not available).

Eventually, considering that **TSC** for certain activities rely on elements of considerable technical complexity and the assessment whether those criteria have been complied with requires expert knowledge, the **CDA** provides that for such activities the assessment of their alignment with the **TSC** has to be verified by an independent third party.

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TR: Annex I to the Climate Delegated Act

3 MARCH, 4 2022

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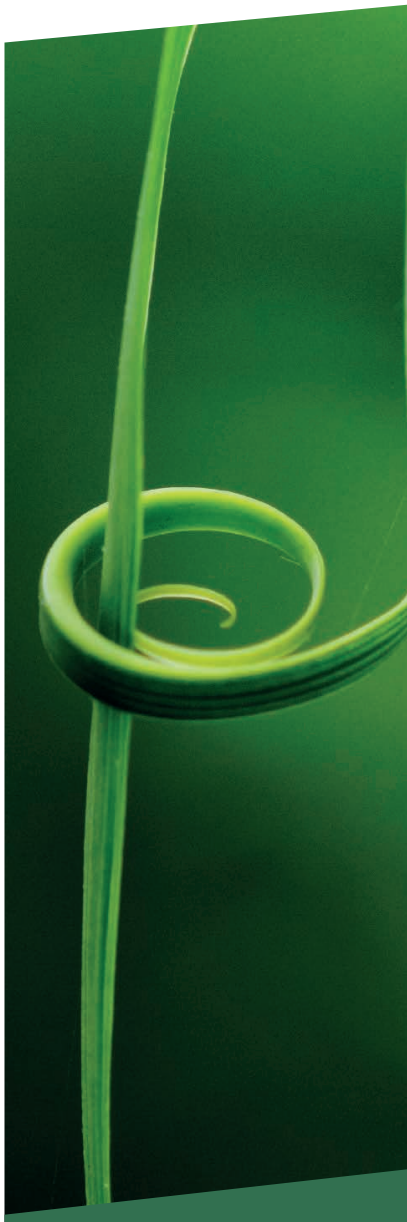
Annex I to the Climate Delegated Act contains the technical screening criteria (**TSC**) for determining under which conditions **88** different **economic activities** (**EAs**) should be considered to make a substantial contribution to **climate change mitigation** as established by **Article 10** of the **Taxonomy Regulation** (**TR**) and therefore considered as "**climate mitigation EAs**".
The **88 EAs** are included within the following **9 sectors**:

- Forestry;
- Environmental protection and restoration activities;
- Manufacturing;
- Energy;
- Water supply, sewerage, waste management and remediation;
- Transport;
- Construction and real estate activities;
- Information and communication; and
- Professional, scientific and technical activities.

The choice of such **EAs** is based on their share of overall greenhouse gas emissions, and on evidence regarding their potential to contribute to avoid (or reduce) producing greenhouse gas emissions or to contribute to greenhouse gas removal, or to enable such avoidance, reduction, removal, or long-term storage for other activities.
Thus, the **TSC** detail how and to what extent the **EAs** can contribute to the **substantial stabilisation of greenhouse gas concentrations by avoiding or reducing emissions or enhancing removals** through, for instance: generating, storing, or using renewable energy or climate-neutral energy, improving energy efficiency, or switching to use of renewable materials.
Considering their features, the **climate mitigation EAs** can be broadly **divided into three categories**:

- **EAs** characterized by very low and zero emissions and carbon sequestration, e.g., Afforestation, Restoration of wetlands, Electricity generation using solar photovoltaic technology;
- **Enabling EAs** that directly enable other **EAs** to make a substantial contribution to climate change mitigation, e.g, Transmission and distribution of electricity, Storage of electricity, thermal energy or hydrogen, Infrastructure for rail transport;
- **Transitional EAs** that are not replaceable with low-carbon alternative but still support the transition to a low carbon economy, e.g., Renovation of existing buildings, Passenger interurban rail transport, Manufacture of iron and steel.

Eventually, the **appendices A to D** to **Annex I** set out generic criteria **for not significantly harming** the **four environmental objectives** of: climate change adaptation, sustainable use and protection of water and marine resources, pollution prevention and control regarding the use and presence of chemicals, protection and restoration of biodiversity and ecosystems. The last Appendix to Annex I (**Appendix E**) includes technical specifications for water appliances.



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ANIA, the Italian Insurance Association, founded in 1944, is a voluntary non-profit association. Its main purpose is to develop and spread the culture of safety and prevention in our country, so as to protect both people and companies, and society as a whole, more and better.

Moreover, ANIA represents its members and the Italian insurance market vis-à-vis the main political and administrative institutions, including the Government and Parliament, trade unions and other social bodies.

The Association studies and cooperates in the resolution of technical, economic, financial, administrative, fiscal, social, juridical and legislative issues concerning the insurance industry. It supports and provides technical assistance to members, promotes the education and professional training of those working in the insurance sector.

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