BETTER FINANCE's feedback on the European Commission Proposal for a regulation on the establishment of a framework to facilitate sustainable investment – COM (2018) 353

***BETTER FINANCE**, the European Federation of Investors and Financial Services Users, is the dedicated representative of financial services users at European level. It counts about fifty national and international members and sub-member organizations in turn comprising about 4.5 million individual members. Our organization acts as an independent financial expertise centre to the direct benefit of the European financial services users (shareholders, other investors, savers, pension fund participants, life insurance policy holders, borrowers, etc.) and other stakeholders of the European financial services who are independent from the financial industry. As such its activities are supported by the European Union since 2012.*

***BETTER FINANCE** is the most involved European end user and civil society organisation in the EU Authorities' financial advisory groups, with experts participating in the Securities & Markets, the Banking, the Occupational Pensions and Insurance and Reinsurance Stakeholder Groups of the European Supervisory Authorities; as well as in the European Commission's Financial Services User Group (FSUG), and in the European Financial Reporting advisory Group (EFRAG). Its national members also participate in national financial regulators and supervisors bodies when possible.*

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BETTER FINANCE welcomes this opportunity to comment on the European Commission proposal on the establishment of a framework to facilitate sustainable investment.

EU citizens as savers and individual investors are the main provider of long term funding to the EU economy and are mostly by nature long term oriented, as their needs are often long-term ones: pension, home purchase, children education, etc. Therefore, they are concerned with the impact of the investment of their savings on sustainability.

BETTER FINANCE is a strong advocate of sustainability, but sustainable finance will only be achieved:

- firstly, by Public Authorities identifying precisely the beneficiaries of what the economists call the "negative externalities" of human activities and businesses on the ecosystem, and then adequately taxing these negative externalities for the beneficiaries to pay the right price of hurting the environment. That is by far most powerful and effective. The carbon tax is a good step in this direction.
- secondly, by improving corporate governance and ensuring the long-term engagement of shareholders and investors by addressing the "agency ownership" issues and removing the barriers to share voting by the ultimate and economic owner.
- and only thirdly by aligning the interests of investment intermediaries (asset managers, pension funds, financial and insurance distributors and advisors) to the time horizon and interests of the end investors (mostly the citizens as long term and pension savers).

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As representative of investors and financial services users, BETTER FINANCE strongly supports this initiative to create a classification system in order to establish market clarity on what can be considered as sustainable. As pointed out by the High-Level Expert group on sustainable finance[1], we need to "*identify under which conditions or criteria any given investment or financial product will contribute to the EU's sustainability objectives"*.

A clear taxonomy would bring more clarity for investors by allowing an easier comparability across standards, labels, products and jurisdictions and would enable retail investors to invest in sustainability with greater confidence and ease.

BETTER FINANCE is concerned regarding the following points.

1. The three components of the "ESG" consideration

The European Commission has chosen to adopt a sequenced approached by tackling first the environmental criteria (as provided in article 5 "*climate change mitigation and adaptation, transition to a circular economy, pollution prevention and control and protection of healthy ecosystems*"). The Commission must make sure to cover all environmental issues (e.g. air pollution, food poisoning and animal and fauna diversity).

For more clarity, the title of the regulation should clearly state that it relates to the classification of environmentally sustainable economic activities (and does not address social and governance criteria).

We understand that the Commission wants to go step by step as the classification of environmental and non-environmental activities will already be difficult. However, we believe that the Commission should develop at the same time the criteria for the three components of the ESG (environment, social and governance) as all three of them should be considered in the assessment of the sustainability of a product.

We believe that this sequencing approach could lead to two negative consequences. First focusing on environmental aspects could lead to more investment in environmentally sustainable projects, leaving investments for social and governance-oriented initiatives on the side. Secondly and consequently, it means that there will be no common criteria to classify activities as sustainable in terms of fulfilling social and governance criteria. This lack of common basis could lead to a development of products claiming to be sustainable, leaving the retail investor with no clear guidance as to whether they really incorporate environmental, social and corporate governance factors in their investment processes.

Therefore, we believe that the "S" and "G" considerations should be developed at the same time as the "E".

Article 17(1) provides that by the 31th December 2021, the Commission shall publish a report on the application of the regulation and evaluate the appropriateness of extending the scope of this regulation

[1] Final report of the High-Level expert group on Sustainable finance https://ec.europa.eu/info/sites/info/files/180131-sustainable-finance-final-report_en.pdf

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to cover other sustainability objectives, in particular social objectives (article 17(1)(c)). However, we believe that the social and corporate governance criteria should be developed much sooner. Moreover, developing the three criteria would ensure more consistency and transparency for individual investors.

2. A clear and compulsory taxonomy before starting implementation

In its impact assessment, the Regulatory Scrutiny Board (RSB) raised that it would be a good option to introduce a delay between the first use of the taxonomy by "*pioneers*" participants for a period of six months to one year in order to give regulators the time to amend, adjust and calibrate properly the classification before turning this classification to an obligation.

We agree with this proposal from the RSB. Before turning environmental criteria in an obligation, we must make sure that financial market players (institutional investors and asset managers) are properly trained to provide adequate and correct advice on real sustainable products to retail investors.

With regard to the Commission's regulation proposal on low carbon benchmarks and positive carbon impact benchmark, we believe that this taxonomy shall be compulsory. Indeed, the Commission's proposal provides that the Commission will be empowered to enact delegated acts which will specify the minimum standards for harmonisation. However, these delegated acts will not require administrators of low carbon and positive carbon impact benchmark to use the EU taxonomy when designing parameters of the methodology for selecting underlying assets. We strongly disagree with this approach: the application of the EU taxonomy should not be at the discretion of the index administrators.

With this proposed regulation index administrators won't even have to follow the EU taxonomy when selecting the underlying assets. It would certainly not be a good start to establish an EU taxonomy by exempting the carbon investment indices from using it.

3. Disclosure of information (article 4)

We support article 4(2) which provides that *"financial market participants offering financial products as environmentally sustainable investments, or as investment having similar characteristics, shall disclose information on how and to what extent the criteria for environmentally sustainable economic activities".*

As representative of financial services users and retail investors, we strongly support this measure. However, we are asking the Commission to set clear and compulsory guidelines (in the delegated acts to be adopted by the Commission) for market players to clearly disclose this information in order to allow investors to easily compare the products. This information shall be disclosed in a standardised way to ensure comparability.

4. Supervision and platform on sustainable finance

The application of this regulation and of the delegated acts to be adopted should be closely monitored by an independent organisation who would assess the real level of sustainability of products sold to retail investors.

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This would be part of the Commission proposal in the Sustainable Finance Action Plan which provides that "*the Action Plan calls on the ESAs to provide direct support to its implementation by performing specific tasks, along the lines suggested in this strategy. Notably, the ESAs should provide guidance on how sustainability considerations can be effectively taken into account in relevant EU financial services legislation and help to identify existing gaps. They should also promote convergence on the implementation of sustainability considerations in EU law.*"[2]

We support this idea which should be clearly mentioned in the regulation.

We also support the idea of a platform on sustainable finance (article 15) but we should make sure that this platform represents the interests of retail investors who are the end-users of these products. In appointing the members of this platform, the Commission must ensure that the representation of the industry and of consumers is balanced.

[2] Commission Action Plan on Sustainable finance, p.12 https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52018DC0097&from=EN

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