

The EBA's position on the draft proposal for an extension of the Taxonomy to significantly harmful activities

Response to the public consultation of the EU Platform on Sustainable Finance on the draft proposal for an extended taxonomy¹

I. EBA firmly disagrees with the establishment of a Taxonomy of "significantly harmful" activities

II. The EBA recommends making the most of "transitional activities" in the current Taxonomy framework

III. Should an extension of the Taxonomy to "significantly harmful" and "intermediate performance" activities be decided, this should be based on:

- a. An assessment of the effectiveness of the Taxonomy of sustainable activities, and
- b. A legislative vote of the Council and of the European Parliament

IV. EBA recommends high level of transparency in the setting of technical screening criteria

V. EBA asks for an update of the membership of the Platform to enhance its representativeness of business sectors covered by the Taxonomy

I. EBA firmly disagrees with the establishment of a Taxonomy of "significantly harmful" activities

As far as the biogas and biomethane industry is concerned, some activities could transition to environmental sustainability (as interpreted by the Taxonomy setting criteria for the objective of climate change mitigation²) by producing, distributing or using sustainable biogas, but a formal Taxonomy of "significantly harmful" activities could harm their transition, especially in the context of a wider scope of entities subject to non-financial reporting under a future CSRD.

a) The extension of the Taxonomy could harm companies in transition more than it could bring benefits. Even though the European Commission could set up an "appropriate supporting EU policy framework, including the provision of additional incentive structures and transition finance support", as recommended by the Platform (p. 21), there is no guarantee about the content of this framework and its effectiveness to mitigate risks for the transition of "harmful" and "intermediate" activities towards environmental sustainability.

Risks are tremendous:

¹ See: https://ec.europa.eu/info/publications/210712-sustainable-finance-platform-draft-reports_en

² [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.](#)

- It would accelerate transition risks, including reputational risks for companies genuinely involved in a transition, thereby making access to finance more difficult or expensive (blacklisting effect)
- It also runs the risk of creating "stranded asset by legislation"
- It could undermine the "just transition" in regions reliant on fossil fuels for power and heat supply
- Companies are likely to divest less environmentally friendly activities (those in the amber or even red space) and sell these to non-EU market players that have no interest nor incentive to green the activity

Gas distribution and transmission could suffer from reputational risks despite being essential to the energy system and very active in the transition to renewable gases. As regulated activities, they have specific features:

- their activities and investment plans are subject to regulation and approval by regulation authorities
- the volume of renewable and low carbon gases they transport depends on the existence of national and European legislative frameworks favourable to the production and injection of these gases.

Furthermore, transport of natural gas will play a major role for a long time in supplying energy throughout the year, meeting the peak demand the electricity system cannot face, and in acting as back-up to the electricity system.

*b) Creating a 'Significant Harm' and 'Intermediate Performance' Taxonomy would significantly increase the **administrative burden** when implementation of the Taxonomy is already a challenge.*

By 2023, companies are likely to be still adapting their data collection and reporting processes to provide investors with more robust assessment of their activities against the Taxonomy.

II. The EBA recommends making the most of "transitional activities" in the current Taxonomy framework

Before considering any extension of the Taxonomy to "significant harm" and "intermediate" levels of performance, the Platform and the European Commission should **first develop as much as possible the "transitional activities" category** created by Article 10(2) of the Taxonomy Regulation.

We recommend identifying potential new "transitional activities" in line with Article 10(2) of the Taxonomy Regulation. This could be done by:

- Setting, where relevant, new transitional criteria for activities that are already in the Taxonomy but for which there isn't such criteria;
- Reviewing existing "transitional" criteria to extend them in compliance with the conditions set in Articles 10(2) and 19 of the Taxonomy Regulation.

III. Should an extension of the Taxonomy to SH and IP activities be decided, this should be based on:

- c. An assessment of the effectiveness of the Taxonomy of sustainable activities, and**
- d. A legislative vote of the Council and of the European Parliament**

We do agree with the urgency of addressing climate change mitigation. The European biogas and biomethane sector is fully committed to increasing the share of renewable energy and to the transition to a circular economy.

However:

a) Prior to the development of the scope of the Taxonomy, the taxonomy of "sustainable activities" should be first finalised, implemented by companies and financial markets, and its effectiveness and usability assessed.

The interim report of the Platform recommends an extension to SH and IP activities as of 2023 (interim recommendation 7). But **the effectiveness of the Taxonomy** to increase "green" and transition finance, including its **usability, should first be assessed** and debated. This can be properly done only later in the decade once the Taxonomy has been tested for a few years for all environmental objectives. In 2023, the Taxonomy of sustainable activities will only start being fully implemented, i.e. the companies will start reporting against the four other environmental objectives in addition to the reporting against

climate change mitigation and adaptation. *Therefore, it would be premature to propose an extension of the Taxonomy in 2022 with reporting by companies as of 2023.*

It would be better to wait for the report the Commission shall publish in 2025, pursuant to Article 26(1) of the Taxonomy Regulation, which will deal with, among other topics:

"(d) the effectiveness of the application of the technical screening criteria established pursuant to this Regulation in channeling private investments into environmentally sustainable economic activities and in particular as regards capital flows, including equity, into private enterprises and other legal entities, both through financial products covered by this Regulation and other financial products;

(e) the access by financial market participants covered by this Regulation and by investors to reliable, timely and verifiable information and data regarding private enterprises and other legal entities, including investee companies within and outside the scope of this Regulation and, in both cases, as regards equity and debt capital, taking into account the associated administrative burden, as well as the procedures for the verification of the data that are necessary for the determination of the degree of alignment with the technical screening criteria and to ensure compliance with those procedures;"

b) Such extension should only be decided by the co-legislators, under the ordinary legislative procedure, given the potential impact of the Taxonomy on the financing of the economy and on the ecological transition as well as the interplay with other EU policies

- The use of the Taxonomy already goes beyond its initial field ("green" private finance) and is already referred to in EU funding programmes, including the European Regional Development Fund, the Just Transition Fund and the Recovery and Resilience Plans. It will also be used by the European Investment Bank as a tool for project selection and tracking of expenditures related to the climate change mitigation objective.

- Therefore, the Council of the EU and the European Parliament should **validate by a legislative vote such extension and the conditions of its implementation.**

IV. EBA recommends high level of transparency in the setting of technical screening criteria

Given the expected major impact of the Taxonomy on the European economy, it is critical that the choice of technical screening criteria is **transparent**. It will enhance the legitimacy of the criteria. Therefore, for any future proposal and adoption of technical screening criteria, the Platform *and* the Commission should present the underlying rationale and the scientific references used.

- This has not been done consistently in the past. Experience of the consultations of the last two years shows that increased level of transparency **would smooth the way for more constructive feedback and dialogue** with stakeholders and the co-legislators both:

- when building the first version criteria, and
- when updates of the criteria are proposed in the coming years.

- When it comes to climate change mitigation, the underlying rationale for the criteria setting should include all solutions that are both available today and reliably useful for a quick decarbonization of the economy.

V. EBA asks for an update of the membership of the Platform to enhance its representativeness of business sectors covered by the Taxonomy

The coverage of industry sectors by the membership of the Platform is insufficient compared to the industries covered by the Taxonomy. It should be improved as soon as possible and seriously pondered over in 2022 (given the initial mandate of the members of the Platform is two years).

The biogas industry should be represented. The biogas sector is at the crossroads of many sectors (agriculture, waste management, wastewater treatment, gas networks, and end-uses sectors: heating, power generation, transport) and its representatives would thus bring added value to the work of the Platform.

Contact

Susanna Pflüger – Secretary-General pfluger@europeanbiogas.eu

Anthony Lorin – Policy Officer lorin@europeanbiogas.eu

About the EBA

The **European Biogas Association** is the voice of renewable gas in Europe since 2009. EBA advocates the recognition of biomethane and other renewable gases as sustainable, on demand and flexible energy sources that provide multiple knock-on socio-economic and environmental benefits. Supported by its members, EBA is committed to work with European institutions, industry, agricultural partners, NGOs and academia to develop policies which can enable the large-scale deployment of renewable gases and organic fertilisers throughout Europe, supported by transparent, well-established sustainability certification bodies to ensure that sustainability remains at the core of the industry. The association counts today on a well-established network of over 150 national organisations, scientific institutes, and companies from Europe and beyond.