Brussels, 8 December 2020

Dear Vice-President Dombrovskis,
dear Commissioner McGuinness,

Given the urgency to align financial flows with the Union's climate and environmental objectives, the Greens/EFA group has played a key role in the establishment of the Regulation facilitating sustainable investments ("taxonomy regulation") and fully supports the Commission's aim to make this regulation succeed as soon as possible. The publication of the draft Delegated Acts setting out the Technical Screening criteria to determine a substantial contributing to climate change mitigation or adaption is a key step in this regard.

For the Greens/EFA it remains crucial that the technical screening criteria consider economic activities sustainable only if they genuinely and substantially contribute to environmental objectives. Any form of 'greenwashing' of economic activities incompatible with the objectives of the European Green Deal must be avoided. The investments made today, will determine our economy for the years to come. We acknowledge that transitional economic activities are part of the taxonomy. However, the technical screening criteria should ensure that the taxonomy prevents investments in transitional activities that lock the economy into unsustainable activities into the future.

While we welcome the good basis that the draft delegated act provides with ambitious standards set for many economic activities, we are concerned that for some economic activities the technical screening criteria are not yet in line with the principle laid down in the taxonomy Regulation to substantially contribute to climate change mitigation or adaptation, and not to cause significant harm to other environmental objectives. Also, in several cases the environmental ambition falls short of the advice of the Technical Expert Group.

In the interest of a credible taxonomy for sustainable investment and to avoid any risks of delay we urge the Commission to take the concerns listed in the annex into account before adopting the delegated acts.

We look forward to continuing our good cooperation in the field of sustainable finance.

Sincerely yours,

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**ANNEX: Greens/EFA comments on technical screening criteria for climate mitigation and adaptation per economic activity**

## Agriculture and forestry

*1.1. Growing of non-perennial crops and 1.2. Growing of perennial crops*

The farm sustainability plan and farm records should include information on amounts and type of inputs used, such as fertilisers, pesticides, antimicrobials, vet meds. The *force majeur* clause, both in respect of pests and diseases, as well as extreme weather events is defined too broadly and thereby risks undermining respect for the technical screening criteria of the economic activity.

In order for economic activities to be considered sustainable in the area of growing of crops, no significant harm criteria in relation to pollution prevention control and protection and restoration of biodiversity and ecosystems, pesticides use in the growing of crops should be substantially better than merely respecting the current legislative framework which is currently not ensuring the absence of negative impacts from pesticides on the environment, and in particular its impact on biodiversity. In its final delegated act, the Commission should introduce requirements in the technical screening criteria to reduce the use of pesticides over time, which is the best path to reduce pesticides' damages on the ecosystems, with the implementation of Integrated Pest Management. If the Commission is serious about its goal in the Farm to Fork Strategy to reduce the overall use and risk of chemical pesticides by 50% and the use of more hazardous pesticides by 50% by 2030, these requirements should be in place for sustainable investments.

Soil protection measures, notably the avoidance of bare soil, must be implemented all year long. For non-perenial crops, long rotations with leguminous plants should also be a condition.

*1.3 Livestock production*

Livestock should only be considered a sustainable economic activity if a clear limitation of livestock density and credible performance-based GHG-emission thresholds are included in the technical screening criteria. Limits on density of livestock should match the ecological carrying capacity of the land supporting the herds/flocks, in line with nutrient outputs (in compliance with the Nitrate Directive). Due diligence obligations should be followed for sourcing animal feed.

*1.4 Afforestation, 1.5. Rehabilitation and restoration of forests and 1.6. Reforestation*

Logging operations and forest management should not qualify if they reduce forests' carbon sink function overall. In particular, afforestation of wetlands and peatlands should be banned, clear cuts avoided and extraction level maintained at an extensive level. The cascading principle should be strictly applied to wood uses, and strict sustainability criteria applied to biomass for energy projects. There should be no negative impacts on biodiversity which means banning short rotation plantations and monocultures and strongly prioritise native species, but also evaluate the impacts on biodiversity (and notably on protected varieties and species) of afforestation or reforestation of "open" habitats.

## Manufacturing

*3.4 Energy efficiency equipment for buildings*

The U values should be set at more ambitious levels given that the performance required by many national building codes is much more stringent. The U value for cladding should be equal or lower than 0,3. The U value for roofing should be equal or lower than 0,2. In addition, a U value for floors should be added at a level equal or lower than 0,3.

Given that construction and demolition waste make over on third of all EU waste, the DNSH criteria are not strict enough to avoid that energy efficiency equipment for buildings cause significant harm to the EU's circular economy objectives.

*3.5. Manufacture of other low carbon technologies*

This category is unclear and too broad to be listed as a separate economic activity and therefore risks including activities which are not sustainable. It should be removed.

*3.6 Manufacture of cement*

The draft Delegated Act should follow the advice from the Technical Expert Group (TEG) to exclude burning refuse-derived fuel (RDF) in cement plants in the DNSH criteria for pollution prevention and control. The TEG has stressed that "co-incineration of waste has significant impacts on health and the environment due to the

polluting nature of the associated emissions” and “may undermine waste minimisation efforts in other sectors. More largely, the use of hazardous waste as alternative fuels should be excluded - at least for all waste that is hazardous because of its content of heavy metals or because of its content of substances that are not rendered non-hazardous during the manufacturing process.

*3.16 Manufacture of plastics in primary form*

Chemical recycling of plastic waste should be classified as waste management, not manufacture. The condition to generate less GHG than manufacturing from fossil fuel feedstock refers to 'Commission Recommendation 2013/179/EU' which allows for attributing avoided emissions from energy recovery. Instead, it should refer to the GHG Protocol Standard, which states that 'companies should not report negative or avoided emissions associated with waste-to-energy in the inventory'.

The DNSH criteria for the manufacture of plastics should ensure that only the recycling of non-hazardous plastic waste (e.g. not PVC waste with more than 0,3% lead in it, no PVC waste containing hazardous softeners) can be considered a transitional sustainable economic activity.

**Energy**

*4.5 Hydropower (adaptation)*

The requirement of 100g CO2e/kWh, is far above the range of global median values of 18.5-24 gCO2eq/kWh reported by the International Hydropower Association and the IPCC and should therefore be substantially lowered to a maximum of 24g/CO2/kWh which corresponds to the upper limit of the recognised median values. The Commission should ensure as part of the climate neutrality objective to move towards 0g/CO2/kWh after that.

The DNSH for sustainable use and protection of water and marine sources should require protected habitats and species directly dependent on water to reach good ecological status or potential, as required by the Water Framework Directive. Also, it should follow the TEG recommendation to avoid any construction of small hydropower (<10MW) which have little benefit in terms of electricity generation compared to their detrimental impact on biodiversity and hydromorphology.

*4.7 Electricity generation from gaseous and liquid fuels*

The threshold of 100gC02e/kWh is only acceptable as a transitional limit and should be reviewed downwards as soon as possible, and in any case at least every three years in consistency with Article 19.5 of the Taxonomy regulation, to ensure a credible path towards climate neutrality by 2050 at the latest.

The DNSH threshold of 270gC02e/kWh in relation to climate mitigation in the climate adaption Delegated Act is higher than the 262g/CO2/kWh recommended by the TEG and higher than the threshold of 250g/CO2/kWh which the EIB uses as a benchmark to phase out support to fossil fuel power generation activities. We call on the Commission to ensure that the DNSH threshold avoids considering the construction of any new gas-fired power plants as sustainable.

*4.8. Electricity generation from bioenergy*

According to the Technical Expert Group report, facilities must use feedstocks which meet criteria on the Manufacture of Biomass, Biogas and Biofuels" - meaning only facilities using feedstocks from Part A of Annex IX of RED II should be eligible. The draft delegated act however refers to "agricultural and forest biomass" at large, only provided they meet the RED sustainability criteria. This implies that burning whole trees and crops to produce energy would be considered sustainable under the taxonomy, which is harmful, rather than beneficial to the EU’s environmental objectives. This is reflected in the Commission’s biodiversity strategy 2030 which states that “the use of whole trees and food and feed crops for energy production – whether produced in the EU or imported – should be minimised”. Electricity generation from bioenergy is considered as a transitional activity, which under Article 19(2) of the Taxonomy Regulation clearly requires the screening criteria to be "consistent with a pathway to limit the temperature increase to 1.5°C above pre-industrial levels". According to the European Academies Science Advisory Council “relying on forest biomass for the EU's renewable energy … increases the risk of overshooting the 1.5°C target”.

The technical screening criteria in the final delegated act should therefore clearly exclude burning of whole trees and crops and clearly limited to the use of residual flows of biomass.

*4.13. Manufacture of biogas and biofuels for use in transport*

The Technical Expert Group report recommended that only biogas and biofuels part A of annex IX of Renewable Energy Directive II should be eligible. In the draft delegated act, it is only required that the

general criteria of the RED II are met with the additional requirement for biofuels that they are not stemming from food and feed crops.

Regarding biogas, the Technical Expert group report recommended that only biogas made out of feedstocks of annex IX part A should be eligible. We urge the Commission to follow these recommendations of the TEG. For the taxonomy to set a more ambitious standard than the status quo, sustainability criteria for advanced biofuels should be tightened further compared to the existing criteria of the RED II.

Moreover, biogas and biofuels in transport should be limited to applications where no zero carbon alternatives exist. The technical screening criteria should, as a minimum ensure that biofuels for passenger cars are not considered an environmentally sustainable activity.

*4.14 Transmission and distribution networks for renewable and low-carbon gases*

We are concerned that the Commission proposes to include the construction of pipelines dedicated to hydrogen or "low carbon gases" in the taxonomy. The TEG recommended to limit the taxonomy eligibility to retrofitting of existing pipelines.

The concepts of "low-carbon gas" and "blending" are insufficiency defined and not restricted to use that is compatible with a path towards climate neutrality given the importance that fossil gas currently plays in these techniques. Hydrogen should only be promoted if derived 100% from additional renewable sources and used where no other alternatives exist.

The reparation of methane leaks is a legal obligation to operators of pipelines and should not be rewarded with a formal recognition as environmentally sustainable by the EU.

The technical screening criteria for transmission and distribution networks should include a threshold based on full life-cycle emissions.

*4.16 Installation of electric heat pumps*

The refrigerant threshold is set at a Global Warming Potential of 675, which is far higher than the existing EU F-gas Regulation. The initial technical report by the Technical Expert Group required Global Warming Potential to be lower than 10. We urge the Commission to follow this initial advice.

*4.20 Cogeneration of heat/cool and power from bioenergy and 4.24 Production of heat/cool from bioenergy*

The concerns expressed under section 4.8 also apply to these activities.

**Water supply, Sewerage, Waste Management and Remediation**

For activities under headings 5.1, 5.2, 5.3, 5.4, 5.5 the DNSH criteria in relation to the sustainable use and protection of water and marine resources should require the operator of the activity to contribute to the cost recovery of water services, as required by Directive 2000/60/EC for activities subject to Union law.

*5.1 Construction, extension and operation of water collection, treatment and supply systems*
The DNSH criteria in relation to the sustainable use and protection of water and marine resources should include fulfilling the requirements set out in the Drinking Water Directive, EQSD directive, Groundwater Directive and Urban Waste Water Treatment Directive.

*5.2 Renewal of water collection, treatment and supply systems*

The DNSH criteria in relation to the sustainable use and protection of water and marine resources should include fulfilling the requirements set out in the Drinking Water Directive, EQSD directive, Groundwater Directive, Urban Waste Water Treatment Directive.

*5.3 (Construction, extension and operation of waste water collection and treatment) and 5.4 Renewal of waste water collection and treatment*

The DNSH criteria in relation to the sustainable use and protection of water and marine resources should include fulfilling the requirements set out in the Water Framework Directive 2000/60/EC. The DNSH criteria in relation to pollution prevention and control *should require, where possible, nature based solutions,* separate storm water collection systems, retention tanks and treatment of the first flush.

**Transport**

*6.5 Transport by motorbikes, passenger cars and light commercial vehicles*

The technical screening criteria for substantial contribution to climate change mitigation include vehicles with emissions up to 50gCO2/km until 2025. Since the taxonomy should guide future investment, there is no need to incentivise investment into combustion engines until 2025.

*6.17 Low carbon airport infrastructure*

The technical screening criteria should ensure that the economic activity is not associated with airport capacity expansion to avoid enabling a significant increase in GHG emissions caused by aviation. The Commission should as a minimum follow the approach taken by the EIB in its climate roadmap, which rejects support for airport capacity expansion.

**Construction and real estate activities**

*7.1 Construction of new buildings*

Buildings are renovated every 30 years on average. In order to reach the climate neutrality target in 2050, all new buildings today, must therefore be built climate neutral. The NZEB standard is defined with varying degrees of ambition across Member States. Therefore a clear requirement of climate neutral buildings is preferred.

The threshold of 5000 m2 is too high. A standard 40-rooms hotel has between 1000-2000 m2. 2000m2 would represent a more appropriate threshold to capture large commercial buildings, where also the cost efficiency of ambitious energy performance is highest. The technical screening criteria should also ensure that deviations and defects are not only reported on, but also *remedied* for increased performance.

The life cycle Global Warming Potential (GWP) should be disclosed regardless of investor and client demand.

Minimum requirements on renewable energy production and green city surfaces should be added to the technical screening criteria for this economic activity:
-All buildings must reserve at least 20% of their outer surface space for renewable energy production.
-All buildings situated in cities (according to the OECD definition) must reserve at least 20% of their outer surface space as green spaces.

Regarding the DNSH criteria in relation to the circular economy, the target of 70% reuse/recovery, including backfilling, applies already in the waste framework directive as of 2020. For new buildings, the target should be increased to at least 80%. Backfilling should be excluded from the counting for the target.

*7.2 Renovation of existing buildings*

It is not acceptable for the taxonomy to be based on the outdated standards of Directive Directive 2010/31/EU. Instead it should be aligned with the Commission's renovation wave strategy. In order to reach the climate neutrality target in 2050, all buildings renovated today must be deep or staged deep renovated to a level ensuring that they are climate neutral. Climate neutral buildings should be used as an indicator. Alternatively, the PED reduction should be at least 80% to be counted as substantially contributing.

Regarding the DNSH critera in relation to the circular economy, the target of 70% reuse/recovery, including backfilling, applies already in the waste framework directive as of 2020. For new buildings, the target should be increased to at least 80%. Backfilling should be excluded from the counting for the target.

Finally, the DNSH should ensure that sufficient time is allowed to recuperate recyclable materials (such as copper cables, etc.).

**Professional, scientific and technical activities**

In the technical screening criteria for determining a substantial contribution to climate adaptation, the DNSH criteria only exclude "activities that are not undertaken for the purpose of fossil fuel extraction or fossil fuel transporting", yet all fossil fuel related R&I activities should be excluded, not only those for the purpose of extraction or transport.

**Financial and Insurance Activities**

*10.1. Non-life insurance: underwriting of climate-related perils and 10.2 reinsurance*

Insurers and reinsurers offering products that cover transition and adaptation risks legitimate carry activities that could qualify as environmentally sustainable. However, the criteria proposed only apply to the liability side of their business. Insurers also invest massive amounts of resources in financial assets often having very long maturities matching their liabilities. The activities covered by the taxonomy should not be viewed in complete isolation of the asset side. Therefore, technical screening criteria should ensure that investments in financial assets of undertakings or economic units that carry out these economic activities meet minimum sustainability requirements including evolving environmental investment targets.

The do no significant harm criteria should also include criteria in relation to the other environmental objectives than climate change mitigation. Insuring products or services that do damage to biodiversity, contribute to pollution or do harm to the circular economy, should not be considered environmentally sustainable.

**General comments related to all economic activities**

The delegated acts should ensure that thresholds for GHS emissions decline over time to respect consistency with the 2050 zero net emissions target.

Throughout the draft delegated act three options are provided to measure GHG emissions: Commission Recommendation 2013/179/EU or ISO 14067 or ISO 14064-1. We urge the Commission to require the use of the PEF methodology in Commission Recommendation in the technical screening criteria since ISO norms are less specific.