

AMICE Comments on the European Commission draft delegated act under the Taxonomy Regulation

AMICE supports the EU efforts to make the European economy greener and more resilient in line with the objectives of the Green Deal and the CMU action plan. We welcome the opportunity to provide comments on the first delegated act under the EU Taxonomy Regulation, in particular the technical screening criteria as identified in relation to Financial and Insurance Activities (“Non-life insurance: underwriting of climate-related perils” (Section 10.1, Annex II)) and Forestry activities (Section 1, Annex I).

We support the inclusion of non-life insurance as an eligible activity that substantially contributes to the objective of adaptation of climate change, through the provision of insurance underwriting services related to climate risks, regardless of the activity or the asset insured.

We are convinced that climate risk insurance directly reduces the impact of climatic events by partially or totally covering the economic losses resulting from these events. Combined with preventive measures, it helps to reduce future risks. Non-life insurance should therefore be considered to make a substantial contribution to adaptation to climate change, regardless of the sector of activity covered, whether or not this is aligned with the Taxonomy, since the product includes the cover of a climatic risk (NatCat, storm, hail, snow or other climatic hazards linked to weather insurance on harvest).

Prevention expenditure undertaken by insurers should also be eligible insofar as they contribute to the objective of mitigating climate change through the reduction of claims, and to the objective of adaptation to climate change on the other hand through the prevention of climate risks.

Regarding the technical screening criteria, we believe that some adjustments are needed to appropriately reflect the specificities of our business model. The listed criteria should apply at company level.

We suggest removing the sub-criterion linked to price signal in criterion 1 and extending criterion 2 to all prevention or protection measures put in place by the insurer, individually or collectively, regardless if linked to the product or not.

Although sharing loss data is key to enhance adaptation to climate change with public authorities or academics, we believe that insurers should be able to anonymise the data they share as such data is business sensitive and it is the intellectual property of the insurer.

We strongly question the removal of the activity “Existing forest management” from the delegated act which is a significant deviation from the final recommendations of the TEG published in March 2020.

Our detailed comments are included in the attached document.

Detailed comments

Comments regarding “Non-life insurance: underwriting of climate-related perils” (Section 10.1 of Annex II)

1. Comments on the list of eligible non-life insurance activities

AMICE believes that the list of eligible non-life insurance activities should be based on an existing classification, such as LoBs of the Solvency II Directive. The following activities should be eligible:

- (4) Motor vehicle liability insurance
- (5) Other motor insurance
- (6) Marine, aviation and transport insurance
- (7) Fire and other damage to property insurance
- (11) Assistance.

2. Comments on the technical screening criteria

The listed technical criteria should apply at company level and not at product level as it would be difficult to comply with these.

a) Criterion 1

The wording of this criterion should be amended as follows:

1. Leadership in modelling ~~and pricing~~ of climate risks:

(a) the insurance activity uses ~~state-of-the-art~~ modelling techniques that:

- (i) properly reflect climate change risks;*
- (ii) do not only rely on historical trend;*
- (iii) integrate forward-looking scenarios.*

(b) the insurer publicly discloses how the climate change risks are considered in the insurance activity

(c) ~~the insurance activity provides incentives for risk reduction by acting as a price signal of risk, including reduced premiums or deductibles, possibly based on supportive information on existing/possible actions, to policyholders who protect an asset or activity against natural catastrophes damages. After a large-scale climate risk event, the insurer provides information upon requests on the conditions under which coverage under the insurance activity could be renewed or maintained and in particular the benefits of building better in that context.~~

Regarding point (b), we believe that the criterion should be fulfilled by a general climate disclosure without detailing the risk modelling as this is commercially sensitive information and is part of the insurer's expertise.

The issue of pricing should be removed from point (c) as it goes against the principle of actuarial pricing. Premiums are calculated based on the risk level following the requirements set under the Solvency II Directive. Pricing is based on risks and considers existing prevention and/or protection measures, including against climate risks.

Alternatively, the wording in point (c) can specify that a premium reduction should be applied only if it reflects an effective risk reduction due to the implementation of adaptation solutions by the policyholder.

Through the implementation of specific risk-based pricing techniques insurers can drill down into individual risks and assess them on their own merits, and thus take into account the benefits deriving from the application by the policyholder of de-risking practices such as climate adaptation solutions, in terms of risk-reduction, by “translating” them into risk-based rewards.

This is the way through which insurers are able to create “shared value”, and thus contribute to the transition to a greener economy, by incentivizing behaviour change following the risk-based reward

principle. On the contrary, a regulatory intervention on pricing could risk to bring distortion into the insurance business.

b) Criterion 2

We propose the following rewording:

2. Product design:

(a) insurance products sold under the insurance activity ~~offer risk-based rewards for~~ include preventive or protection measures to protect an asset, an activity, or people against natural catastrophes damages. These measures can include, without being limited to, modulation of premiums or insurance deductibles based on preventive or adaptation actions, contribution to the financing of prevention/protection actions against climate risks, information and/or advice provided to policyholders on climate risks and preventive measures that they could take. ~~actions taken by policyholders, including lower premiums where a policyholder has invested in adaptation measures;~~

(b) ~~the distribution strategy for such products covers measures to ensure that policyholders are informed on the relevance of preventive measures that they could take, for the terms and conditions of the insurance coverage, including any impact of such measures on the insurance coverage or the premium level.~~

The criterion should be amended in order to extend to all prevention or protection measures which contribute to climate risk awareness and the implementation of adaptation actions. Such measures are not always necessarily linked to the action of policyholders, but could be taken for example by public authorities.

c) Criterion 3

We suggest rewording criterion 3 as follows:

3. Innovative insurance coverage solutions:

(a) ~~insurance products sold under the insurance activity offer coverage for the climate-related perils where the demands and needs of policyholders require so;~~

(b) depending on the demands and needs of individual customers, products may include specific risk transfer solutions such as protection against business interruption, contingent business interruption, other non-physical damage-related loss factors, cascading effects and interdependencies of hazards (secondary perils), cascading impacts of interacting natural and technological hazards, critical infrastructure failures.

The reference to the demands and needs of policyholders should be deleted as it goes against criterion 1 and the freedom of contract.

d) Criterion 4

Although sharing loss data is key to enhance adaptation to climate change with public authorities or academics, we believe that insurers should be able to anonymise the data they share as such data is business sensitive and it is the intellectual property of the insurer. Alternatively, this criterion could be met in a collective way.

We would like to emphasize the importance of data sharing by public authorities as this would enable insurers to better understand the risks and improve their product offerings covering climate-related perils or improve post-disaster management.

e) Criterion 5

We would like to point out that the time to deal with a claim can depend on the size and the nature of the loss event. Large-scale loss events can have an impact on the availability of experts.

f) DNSH criterion

In our view, the DNSH criterion should be removed. According to recital (32) “*The technical screening criteria for ensuring that activities that contribute substantially to climate change adaptation do not cause*

significant harm to climate change mitigation should be laid down for those activities that present a risk of producing significant greenhouse gas emissions while they have the potential to contribute substantially to climate change adaptation.” Insurance activities are not directly responsible for significant greenhouse gas emissions. In most cases, insurance coverage of these activities is mandatory and does not as such contribute to additional greenhouse gas emissions.

Overall, the presentation of this DSNH does not seem to be consistent with the DNSH that applies to most activities, which is inclusive and based on a specific segment of these activities. Here the DNSH encompasses the whole activity but excludes a segment for reasons that are not directly related to the definition of DNSH.

In case the European Commission would like to maintain this exclusion as a matter of political principle, it should be mentioned in the relevant section defining the overall activity, while clarifying the possible exclusions. This would be at the beginning of section 10.1: *“The activity is classified under NACE code K65.12 in accordance with the statistical classification of economic activities established by Regulation (EC) No 1893/2006.”*

Moreover, the exclusion should be reworded to be clearer on the fact the exclusion concern only the use of vehicles, property or other assets “dedicated” to fossil fuels. The current wording is not clear enough and could lead to exclude the insurance climate risks of almost all companies and assets that use fossil fuels as main energy. Finally, a rewording is necessary to clarify that this exclusion only concerns the insurance of solid fossil fuels but not the insurance activity in general if some contracts cover fossil fuels assets or companies.

Comments regarding “Forestry” (Section 1 of Annex I)

We strongly question the removal of the activity “Existing forest management” from the delegated act. This is a significant deviation from the final recommendations of the TEG published in March 2020. Removing this activity will have negative effects for forest owners, companies and investors. It will unjustly exclude sustainable forest management practices. Furthermore, classifying the activity as non-eligible under the Taxonomy cannot be in line with the purpose of the Taxonomy Regulation and will counteract the EU’s climate objectives.

Forest management in fact contributes to climate change mitigation. The substitution effect of renewable raw material produced from the forest is even more substantial and replaces, importantly, fossil-fuel based and/or CO₂-intense products. Raw material produced from the forest can also give an added substitutional value when the carbon is stored. The substitution effect, can be viewed as an enabler for transition in line with the EU’s climate objectives. The forest raw material is also enabling other economic activities listed in Article 10(1) of Regulation 2020/852.

We question the addition of the new activity “Improved forest management” and its alignment with the objectives of the Taxonomy Regulation. The extensive requirements set out in the new activity cannot be considered as merely technical screening criteria. The activity has not been part of previous consultations.

The additionality criteria significantly narrow down the scope of eligible activities in countries with strict forest management laws, including requirements for re-planting after harvest.

Any EU legislation regarding forestry must consider the different natural conditions and timeframes of forests. For example, in the Nordics a forest’s life cycle is around 60-80 years at least. Thus, a climate benefit analysis of only 20 years for an individual forest is too short and misleading. That analysis should at least cover one life cycle of forests.

Finally, we want to express our concerns regarding the proportionality and the detail level of the proposed delegated act. The content and form a Union action must not go beyond what is necessary to achieve the intended objectives. The measures proposed under “Forestry” seem disproportionate since they do not recognize customary sustainability practices of “existing forest management”. The detailed requirements for reporting and review put on forest owners is another example. Furthermore, the act manifests a lack of flexibility in relation to already existing national forestry laws with strict sustainability requirements. To summarise, we believe that the proportionality aspects of this proposal need to be reassessed.