

AFME recommends focusing on the original objectives of the EU Green Bond Standard in the context of the trilogues

20 June 2022

AFME welcomes the progress made by Member States and the European Parliament with the discussions on the Commission's proposal to establish an EU Green Bond Standard (EuGBS).¹ The adoption of the Council's general approach² and Parliament's report³ paves the way to the next step in the negotiations. As co-legislators enter the phase of interinstitutional negotiations (trilogues), AFME wishes to contribute our members' views and recommendations on the key outstanding issues under discussion. We aim to provide practical industry input to support an effective framework and stimulate the green bonds market in the EU.

According to our research, after several consecutive years of rapid growth, ESG bond and loan issuance started showing signs of a slowdown. Our latest ESG Finance Report for Q1 2022 indicates that market conditions have been unfavourable for primary issuance in the first quarter.⁴ The global interest rate environment, market volatility, and the ongoing geopolitical tensions have contributed to challenging market conditions.

The EuGBS can play a crucial role in stimulating the market, and we find it ever more important focusing on the initiative's original objectives to create a voluntary "gold standard" label for green bonds which is attractive to issuers and investors.

A renewed focus on the original objectives for establishing an EuGBS will, at the same time, encourage issuance and facilitate the trilogues. The Commission's proposal set out the objective of establishing a voluntary, credible, "gold standard" to enhance transparency, comparability and credibility in the green bond market. Co-legislators' decision to maintain the voluntary nature of the Standard is a positive sign, allowing the EuGBS to complement existing market labels and issuers to offer green bonds in line with other international standards to support continued growth in the market.

Looking at the proposal made by Parliament and Council, AFME's key priorities for the trilogues are:

1. Focus on criteria to use the EU *Green* Bond designation without threatening the continued growth of the market for sustainable bonds
2. Maintain the Standard's voluntary nature and its strong link with the EU Taxonomy Regulation
3. Develop a product-based framework, avoiding complex disclosure requirements at the issuer level
4. After changes to the Taxonomy, ensure that eligible bonds maintain their designation until maturity
5. Ensure the standard works for securitisation and supports the development of green securitisations
6. Ensure sufficient time for each periodic review of the legislation, and maintain its voluntary nature

¹ [Proposal for a Regulation of the European Parliament and of the Council on European green bonds](#)

² [Council of the European Union – Presidency compromise \(April 2022\)](#)

³ [European Parliament report on the EuGBS proposal](#)

⁴ [ESG Finance Report Q1 2022 - European Sustainable Finance](#)

The Commission's proposal for an EU Green Bond Standard was designed with a focus on environmental sustainability. Its distinguishing feature is the link with the EU Taxonomy Regulation, a dynamic and science-based classification system for environmentally sustainable economic activities. This link gives the standard its credibility and contributes to fighting greenwashing and promoting integrity in the EU green bonds market. The original scope of the standard captures environmental sustainability and applies to green use-of-proceeds bonds, without pre-empting market initiatives or any future measures aiming to establish a framework for any other type of sustainable or sustainability-linked bond.

The Parliament's report substantially extends the coverage of the label, which would capture all bonds marketed in the EU as environmentally sustainable. EU issuers of any green and sustainability-linked bonds would then have to provide website, pre-contractual, and periodic disclosures on their investments' principal adverse impact, alongside a CapEx plan reflecting the issuer's commitment to improve the greenness of its activities. The rationale for these amendments is to mitigate the risk of greenwashing and to reward companies on a verifiable trajectory towards net-zero. The amendments share these objectives with the Sustainable Finance Disclosures Regulation (SFDR) and the proposed Corporate Sustainability Disclosures Directive (CSRD).

This new approach is a meaningful shift from the original objectives of the proposal. We are concerned that it would adversely impact the EU green and sustainable bonds market and therefore undermine the progress in developing sustainable finance in the EU. The additional disclosure requirements provided by the parliament for bonds marketed as environmentally sustainable that do not use the "EuGB" designation would increase complexity, overlaps and litigation risks for issuers, for example, by requiring the disclosure of the percentage of expected taxonomy-alignment of the proceeds. As a result, issuing environmentally sustainable bonds in the EU would become by far less attractive and issuers might then prefer other traditional instruments for re-financing over sustainable finance instruments. European Green Bond markets could be expected to decrease in scale and lose their global leading position, and very large European issuers might consider to turn to less-restrictive non-EU markets for issuances of environmentally sustainable bonds aligned with other market principles. Green bonds are one of the most important tools for transition finance and as a result the sustainable finance market would be damaged in Europe.

The transparency obligations also clash with the proposal's objective to introduce a voluntary standard and introduce unnecessary burdens for all prospective issuers of green, environmentally sustainable, or sustainability-linked bonds. Of these, a majority is represented by corporates that will already be captured by the transparency requirements of the CSRD but are exempt from the disclosure provisions in the SFDR, which was designed specifically for financial market participants. For financial institutions, the amendments overlap with existing regulation, including the SFDR, which provides for detailed requirements for financial market participants to disclose, at entity- and product-level, the environmental and social impact of investment products marketed as sustainable. We therefore urge the co-legislators to maintain the original scope of the proposal and not introduce requirements for other bonds.

Moreover, the proposed framework was designed specifically for green bonds, extending its scope to sustainability-linked bonds without appropriately re-assessing the framework could result in significant risks and confusion in the market. In fact, unlike traditional green and social bonds, sustainability-linked bonds come without restrictions on how proceeds can be used. Instead, issuers pledge to improve their performance against tailor-made ESG targets and link this commitment directly to the coupon paid to investors.

In addition to the expansion of the scope of the proposal and the introduction of new disclosure requirements for issuers, the amendments tabled by the Parliament introduce new requirements for issuers publishing transition plans in accordance with the CSRD requirements. Issuers will be required to receive from an auditor a positive opinion on their transition plan. The latter shall verify that *the bond contributes to a credible pathway to align with the objective to achieve climate neutrality by 2050 at the latest.*

Several initiatives, from both market participants and regulators, seek to establish a solid framework for the development and presentation of credible transition plans aligned with the goals of the Paris Agreement. EFRAG is developing sustainability reporting standards under the CSRD which will specify how companies report on their transition plans. Similarly work is underway through the ISSB and for the financial sector by regulators and international bodies such as GFANZ. Again the corporate disclosure framework is the appropriate place for such requirements and there is likely to be overlap and potential inconsistency in requirements that could dissuade issuers from utilising the EuGBS. In addition, the relevant criteria have not been defined yet and auditors cannot rely on the necessary framework to verify that a bond *credibly* contributes to achieving climate neutrality. Without the legal certainty provided by such framework, auditors cannot provide a reliable opinion, and a requirement to do so may have a negative impact on the EU sustainable bonds' market's integrity.

If such requirements would be introduced, it has to be taken into account that the EuGBS will become effective ahead of the CSRD and related EFRAG standards for transition plans would not be yet available. This would endanger the usability and uptake of the EuGBS. Where the EuGBS refers to other Sustainable Finance regulation, an adequate sequencing including flexibility in the first years needs to be ensured to support effectiveness of the standard and avoid litigation risks.

To ensure the Regulation achieves its objectives, the EuGBS framework should not seek to replicate the objectives and intended uses of other EU initiatives and those put forward by the ISSB and GFANZ, which address greenwashing and transition considerations in a more granular and targeted way. The increased complexity for issuers, investors and reviewers may exceed the benefits brought by pursuing the EU Green Bond designation. The added requirements also involve a mandate for the European Supervisory Authorities to jointly develop regulatory technical standards on the presentation of such information, introducing yet another layer of complexity as well as delaying the application of the framework. **We therefore strongly recommend that co-legislators maintain a product-based approach to deliver on the EuGBS objectives.**

It remains essential to provide clarity on eligibility throughout the term of the bond

In our previous publications, we noted the importance for Green Bonds to maintain their designation for the entire term to maturity regardless of updated Taxonomy criteria, a necessary condition for issuers and investors to rely on this instrument.⁵ The Parliament's report acknowledges this issue and represents a step in the right direction proposing 10-years' grandfathering, compared to the proposal's five. The Council's approach instead provides for full grandfathering, thereby preventing that a green bond might no longer be classified as green under the EU Green Bonds regulation at a certain point in time if the Taxonomy criteria are updated after the creation of the debt. In addition to dissuading longer maturity issuances, given the risk of having to exit the investment when it no longer qualifies under the updated criteria, limited grandfathering introduces the need for constant monitoring and poses several other operational challenges: at any maturity, even for the proportion of proceeds that have not yet been allocated, issuers and investors agree on a plan to determine which activities they are going to finance in the future; in the case of sovereign issuers, the timing and amount for the allocation of proceeds is determined by the recipients and the issuer cannot exert control on this decision. We would therefore favour the Council's approach and, to ensure transparency, issuers may be required to indicate the version of the Taxonomy that the bonds complied with at the date of issuance.

We also note that the Council proposes under Article 12.4 to require issuers to include a binding clause in the terms of the EuGBS that they shall undertake towards investors to comply with all requirements set out for conditions for use of proceeds, transparency and external review. This binding requirement for the continued use of proceeds for green assets would mean that failure to do so would be an event of default. This would seem to conflict with the EBA view on how green MREL and capital can work. Specifically, the EBA considers important to make it clear in the bond documentation and risk factors that running out of green assets will not be an event of default nor would it require the issuer to redeem the bonds.

⁵ [AFME views on the EU Green Bond Standard \(GBS\) proposal in the context of the European Parliament and Council negotiations \(December 2021\)](#)

Ensuring the standard works for securitisation and supports the development of green securitisations

Green securitisation can play an important role freeing up capital from banks active in green lending. We have therefore provided recommendations to ensure that the EuGBS supports the growth of EU securitisation markets and applies effectively to securitisation structures. The Parliament's amendment clarifying that, where a European Green Bond is used for securitisation purposes, the provisions on the Taxonomy-alignment of use of proceeds "apply to the entity from which the issuance economically originates" (that is, the originator of the assets or seller of the assets into the securitisation), not the issuer of the securitised product (e.g. a special purpose vehicle or SSPE), is consistent with the policy objectives of the initiative and the options contained in both the EBA report on developing a framework for sustainable securitisation⁶ and the ECB opinion on the Commission's proposal,⁷ as well as AFME's views.⁸

We recommend clarifying further the language of Article 6a of the Parliament's report, to provide that, in the case of a European Green Bond that is a securitisation instrument, the requirements of Article 6 may apply to the SSPE *or* to the originator (or originators) of the securitisation *or* to both, provided that the proceeds allocated to taxonomy-aligned economic activity, in aggregate, is in an amount at least equal to that required by Article 4. The optionality to choose between the two approaches is consistent with current market practice and would enable blended products to qualify under the Standard. More details of Article 6a would also benefit from clarification, such as on the Standard's usability for synthetic green securitisation, or revolving structures, or structured notes, and we will continue promoting dialogue with industry experts throughout the negotiations to ensure the EuGBS harnesses the potential of green securitisation.

A proportionate application of the Taxonomy's criteria will facilitate the Standard's adoption

The general approach adopted by Member States supports the introduction of a "flexibility pocket" allowing up to 20% of the proceeds to not align with the Taxonomy's Technical Screening Criteria. This flexibility takes stock of the limited pipeline of Taxonomy-aligned projects, and is conditional on complying with the Taxonomy's objectives. During the trilogues, co-legislators will evaluate how to find the right balance between encouraging issuance in the near-term and ensuring the credibility of the standard.

The priority will be for the EuGBS criteria to be the same across issuers and issuances. It is encouraging that co-legislators do not seek any longer to draw distinctions between sovereign and private issuers with regards to Taxonomy-alignment flexibility, as this would have added complexity in the framework, caused confusion among issuers and investors (especially non-European ones) and diluted the Standard's efficacy. Meanwhile, a new equivalence provision, allowing the Commission to adopt a Delegated Act authorising the allocation of EuGB proceeds in accordance with third-country taxonomies deemed equivalent, can also facilitate the adoption of the Standard among issuers in other jurisdictions.

Maintaining a strong focus on Taxonomy-alignment can also avoid that negotiations stall on the treatment of specific sectors or activities. The EU Taxonomy Regulation will specify how economic activities should be categorised, and the GBS should not diverge from the application of the Taxonomy's criteria. A differential treatment would threaten the proposal's harmonisation objectives, adding complexity for issuers and confusion for investors. Addressing this discussion through Delegated Regulation adopted under the EU Taxonomy Regulation will facilitate the timely adoption of the EU Green Bond Standard. Targeted transparency requirements in the allocation report published by EU GB issuers can address co-legislators' concerns around both Taxonomy-alignment and the energy mix of financed projects.

We therefore believe that the EuGBS should maintain a strong link with the EU Taxonomy Regulation, meant to provide science-based foundations to the label, ensure the same treatment of sovereign and private issuers, and facilitate the negotiations to deliver on the proposal.

⁶ [EBA Report – Developing a Framework for Sustainable Securitisation \(March 2022\)](#)

⁷ [Opinion of the European Central Bank on a proposal for a regulation on European green bonds \(CON/2021/30\) 2022/C \(November 2021\)](#)

⁸ [Press Release - AFME welcomes EBA report suggesting EU Green Bond Standard framework adjustments for securitisation \(March 2022\)](#)

Ensure sufficient time for each periodic review of the legislation, and maintain its voluntary nature

Parliament and Member States proposed review clauses for the Commission to submit a report on the application of the Regulation, and we would also welcome a regular assessment the impact of the Standard on the EU market. The report should be based on a careful assessment made in a dialogue with ESMA and the PSF; it should evaluate the Standard's impact on issuance, market integrity, supervision, and on functioning of the market for external reviewers. The Parliament proposes to also consider whether the Standard should be made mandatory after two years from its entry into force. Nevertheless, we wish to emphasise the importance of maintaining the EuGBS a product-based, voluntary framework and we do not find merits in modifying the nature of the original proposal as this will ensure the Standard continues to benefit issuers and investors.

Realistically, the review should not occur earlier than five years after the entry into force of the Regulation, especially in light of a still evolving Taxonomy framework and the fact that the Level 2 measures under the EuGBS may require a longer timeframe to be developed by ESMA.⁹ That is the most appropriate time frame to measure reliably the effects of introducing the standard, especially considering the volatile market conditions that the current geopolitical context can be expected to cause in the near term. Allowing a reasonable amount of time for reviewing the Regulation will ensure that the Standard remains fit for its purpose and AFME's research will continue monitoring trends in the market to support this objective.

External Reviewers Should Be Required to Provide Alignment Opinions, Not Compliance Assessments

We very much welcome the changes to Article 9, paragraph 7(a) and sections 3 and 5 of Annex IV in the Council text, which remove the requirement for External Reviewers to assess "compliance" with Articles 4 to 7 and with the Taxonomy Regulation. We agree with the Council that External Reviewers should be required to assess "alignment" or whether the issuer "in accordance with" the provisions of the EuGBS and the Taxonomy.

However, we noted that these welcome wording changes (from "in compliance" to "in accordance" and "aligned") are not yet reflected in other related articles. For example, Art. 8 paragraph 3(a); Art. 9 paragraph 7(b), 8, and 9; Art. 11 paragraph 1(b); as well as in Annex IV, section 5 retain the original "compliance" wording. The European Parliament has also retained the "compliance" wording in its version of the text, despite a number of amendments being tabled to change the language to "alignment / in accordance".

For consistency with the welcome changes made to the Council text to Article 9 and Annex IV, we would like to suggest replacing the words "has complied / compliance" with "has aligned / alignment" in the articles mentioned in the paragraph above. This would resolve the impediments to current green bond external reviewers from opting into the EU Green Bond Standard.

We believe that a requirement for External Reviewers to assess "compliance" with the EuGBS itself and / or with the EU Taxonomy would severely limit the potential number of external reviewers for the EuGBS standard and limit its potential for adoption in the market.

⁹ [ESMA letter co-legislators on Regulation for European Green Bonds \(January 2022\)](#)

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About AFME

AFME represents a broad array of European and global participants in the wholesale financial markets. Its members comprise pan-EU and global banks as well as key regional banks, brokers, law firms, investors and other financial market participants. We advocate stable, competitive, sustainable European financial markets that support economic growth and benefit society.¹⁰

¹⁰ AFME is the European member of the Global Financial Markets Association (GFMA) a global alliance with the Securities Industry and Financial Markets Association (SIFMA) in the US, and the Asia Securities Industry and Financial Markets Association (ASIFMA) in Asia. AFME is registered on the EU Transparency Register, registration number 65110063986-76.