SVENSKT NÄRINGSLIV
SWEDISH ENTERPRISE

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Feedback on the Platform on Sustainable Finance's draft report on social taxonomy

The Confederation of Swedish Enterprise welcomes the opportunity to provide feedback to the Platform's report on a social taxonomy. In addition to our reply to the on-line survey, we would like to make the following general observations.

Process

A social taxonomy along the lines suggested by the platform would potentially have far reaching consequences for investment in business. It is therefore unfortunate that the period of consultation is set during the main vacation period in Europe, when the possibility for business associations such as ours and other relevant stakeholders to make the warranted thorough analysis is limited. We also find it unfortunate that the composition of the platform's working group does not include expertise from the business sector, thus making it more difficult for the platform to assess the implications and practicality of the proposals.

In order for a social taxonomy to be successful in achieving its stated goals, the technical criteria must be regarded as legitimate and relevant by corporates and investors. However, it should be noted that proposed technical criteria for the first two environmental objectives have been generally regarded as controversial. Given the subjective nature of a social taxonomy, and the large differences between member states, we expect the process to establish technical criteria for the social taxonomy to be even more challenging. Furthermore, we note that the taxonomy system remains new and untested, making any kind of credible impact assessment very difficult. Lastly, we note the rapidity with which the taxonomy system is increasing in complexity. In addition to the social taxonomy, discussions about further extensions of the green taxonomy and the establishment of technical criteria for four of the six environmental objectives are under way, further increasing the risk of unintended consequences.

Content

We fully support the aim of promoting sustainable investments, including the social aspects. However, the report has not shown the added value of a social taxonomy, nor has it addressed the many risks that such a social taxonomy would entail. Some of our main concerns include:

The aim seems to be to standardize what objectively constitutes a positive or negative social impact, i.e. a similar approach as that taken in the "green" taxonomy as regards the impact on the environment. However, this is not possible. It disregards the fact that the overall social impact always involves a trade-off between different social goals and that the desired outcomes vary very much depending on local circumstances and preferences. Consequently, we do not believe the one-size-fit-all approach taken in the report is appropriate or feasible.

Notably, many of the objectives/criteria proposed in section 4.4 of the draft report, if included in a regulation, would go beyond EU competences and disrespect not only the differences in national industrial relation systems and practices, but also established managerial prerogatives and property rights. They include, for example, the objectives on living wage, collective bargaining, low reliance on outsourcing and agency workers, and social protection including part-employer funded employee pension. Whilst a social taxonomy would not create obligations for companies in these regards, having such criteria in place would naturally favour investment in compliant companies, even if these criteria are not in line with the national industrial relations system.

A social taxonomy would influence which companies get investments. If the approach/structure and criteria proposed in the draft report were taken forward, this could lead to companies that really need investment (i.e. to create productive jobs, invest in workers etc) not actually getting it. This is because the draft report inappropriately distinguishes between ‘inherent’ social benefits of business and other benefits with ‘added’ social value. If a taxonomy were to be introduced, it would have to measure the overall social impact in order not to risk leading to a misallocation of resources.

It is not appropriate that provision of goods and services would only be regarded as meeting social taxonomy criteria when there is an additional social goal, e.g. for people/groups in situations of vulnerability or only in relation to investment in social projects (e.g. schools, hospitals etc). This approach is too narrow. Investments targeting one specific group may displace investments with a much greater overall social impact. In developing countries in particular, it is also about general investment in the economy, thereby creating jobs, which has a huge impact on taking people out of poverty – a crucial social goal.

In the report, many of the horizontal objectives and criteria are formulated categorically without taking account the trade-offs that are necessary to reach a good social outcome. For example, in the report it is stated that the principle of free prior and informed consent (FPIC) related to indigenous peoples should be ensured. This principle can be found in the UN Indigenous Declaration and the UN Body ILO Convention No. 169. However, there is no clear legal definition of the concept and interpretations in different industries and different parts of the world vary.

In the Swedish context, with its 51 Sami villages and about 4600 reindeer owners, reindeer husbandry land interests cover more than 50% of Sweden's area. This means that it is absolutely necessary that reindeer husbandry and other land use are able to be carried out side by side. Consequently, any application of the FPIC must reflect the fact that reindeer husbandry does not have an exclusive right to the land, which is hinted at in the report, but rather that other activities must take account of the needs of reindeer husbandry.

We also have serious reservations about including "governance" in a social taxonomy. In EU member states, corporate governance is and should remain governed by national law or practice. Several of the proposed criteria such as diversity or sustainability-linked renumeration, if included in a regulation, would have a negative impact on established property (ownership) rights and disrupt a long-standing and fine-tuned balance in national corporate governance systems. Further, what constitutes the right balance between short and long-term, cash and equity compensation of executive remuneration cannot be commonly agreed since it depends on each company’s business model, size and specific situation. Creating an EU-wide taxonomy standard on corporate governance on top of fragmented national rules will not only be highly controversial but disproportionate and potentially counterproductive to the aims of any social taxonomy.

Concerning the issue of aggressive tax planning, companies pay taxes according to law. Within the context of international tax treaties and EU law regarding tax policy, this is a matter for national legislation. Since paying more taxes than legally required might have a negative impact on a company’s viability and possibility to contribute socially, we do not consider such tax payments a social aim in itself. They should not have an impact on the classification of financing activities. Further, article 18 of the regulation (minimum safeguards) already refers to the OECD Guidelines for Multinational Enterprises regarding the tax conduct of companies. As for tax transparency, the EU in 2021 decided to introduce public country-by-country reporting requirements for tax purposes for large companies. In addition, there is no commonly agreed definition of aggressive/non-aggressive tax planning. It would therefore be very difficult to describe what should constitute the base for assessment of what is acceptable in the context of a social taxonomy. Based on this, we see no reason for the tax related proposals described in the report.

Conclusion

In our view, the arguments put forward in this report do not justify extending the Taxonomy Regulation to social objectives.