

# Submission to the European Commission (EC)

Proposal for a Regulation of the European Parliament and of  
the Council on the establishment of a framework to facilitate  
sustainable investment – COM (2018) 353

## Contents

Introduction .....	1
Submission .....	2

## Introduction

Since its formation in 1927, the ACTU has been the peak trade union body in Australia. There is no other national confederation representing unions. For 90 years the ACTU has played the leading role in advocating in the Australian Fair Work Commission, and its statutory predecessors, for the improvement of employment conditions of employees. It has consulted with governments in the development of almost every legislative measure concerning employment conditions and trade union regulation over that period.

The ACTU consists of affiliated unions and state and regional trades and labour councils. There are currently 43 ACTU affiliates. They have approximately 1.5million members who are engaged across a broad spectrum of industries and occupations in the public and private sector.

The ACTUs stakeholder interest in the European Commission regulation and guidance for investors derives from three core functions of the ACTU.

The first is that we represent the interests of the workforce of listed companies, so any shareholder/investor impact on the operations of companies will inevitably impact on the workforce and their communities. Notwithstanding that company workforces (human capital) is equally as important as the financial capital inputs to company performance, productivity and wealth creation, their voice, contribution, and value creation potential is consistently undervalued or is considered of secondary importance in corporate governance and ESG practice.

The second is that as the peak trade union council for the nation's workforce, we have a responsibility to promote and ensure compliance of a raft of international treaties and norms to which Australia is a signatory, including the ILO Core Labour Conventions and key guidance provided by United Nations bodies, including the UN Guiding Principles on Business and Human Rights and the OECD Guidelines for Multi-National Enterprises.

The third is because we provide professional support and advice to member appointed/elected and labour organisation appointed trustee directors on industry and public-sector superannuation (pension) fund governance boards. In this role, the ACTU assists trustee directors in performance of their fiduciary duty, one aspect of which is assessing investee ESG risk and integrating that into portfolio selection, monitoring and asset stewardship practice.

## Submission

The ACTU believes that there should be a clear distinction between the designations of “green” and “sustainable”. These two concepts are not identical. We prefer that the focus be on sustainable investments, rather than “green” given that “sustainable” usually includes the environmental dimension alongside social and governance dimensions. In the text however, this dichotomy is discounted, and they are presented as synonymous so as to “establish clarity on which activities are ‘green’ or ‘sustainable’, starting with climate change mitigation”. We do not believe this is justifiable.

In the process in which the uniform classification system is defined, we strongly recommend that it propose that trade unions participate as a relevant stakeholder. In any case, they should be able to participate in the Sustainable Finance Platform. The text explicitly mentions financial market agents, universities, research centres, associations and organisations; but not explicitly trade unions, which play a determining role in the governance of pension funds which invest the retirement savings of workers. We believe that the EC should be promoting the concept of social dialogue, which by definition requires the participation of trade unions as the voice of the workforce and as a key custodian of human and labour rights.

It is important to avoid “green washing” in the elaboration of labels, but if the “social” is not reflected properly, there is a risk of “social washing”. Standardisation is important, both for environmental and social factors and disclosure metrics. However, in the draft, the social element is presented as a complementary add-on: “Finally, the Commission should evaluate whether it is appropriate to extend the scope of this Regulation to cover other sustainability objectives, in particular social objectives”. We believe that this section should be amended to make explicit reference to social factor consideration.

The majority of respondents believe that the taxonomy should end up encompassing both social and environmental aspects. Therefore, we strongly believe that the EU should move forward with an approach that integrates social and environmental and we are concerned with the gradual “environment-first” approach that is not defended by the majority of respondents.

We refer the EC to a draft report sponsored by the International Trade Union Confederation (ITUC) and UN supported Principles for Responsible Investment (PRI) jointly prepared by the Initiative on Responsible Investment at the Hauser Institute for Civil Society at the Harvard Kennedy School; the Grantham Research Institute on Climate Change and the Environment at the London School of Economics and Political Science; and the Centre for Climate Change Economics and Policy (CCCEP)

entitled *Investing in a Just Transition: Why investors need to integrate a social dimension into their climate strategies and how they could take action* of June 2018. This paper notes that investor strategies on climate change have yet to incorporate a robust social dimension and argues the case as to why this is essential to ensure the positive and negative implications for workers and communities posed by the shift to a zero-carbon economy are addressed by investors.

This does not mean that the inclusion of a single revised clause to encompass social objectives would address these concerns. We believe that, just as the classification is going to prioritise attention to environmental areas where action is more urgent, the same approach should be adopted with the social, where there are also urgent issues. This is also a requirement of the European pillar of social rights that requires economic activity to be carried out in accordance with minimum international standards in social and labour matters.

We believe that an exhaustive list of environmental objectives should be drawn up, but we also believe that an exhaustive list with social objectives should be drawn up and that the participation of trade unions, represented by the ITUC, should be included in the preparation of this list. The ITUC, through its Global Committee on Workers Capital (CWC) is working with the investor community to support development of a standardised package of globally accepted metrics for disclosure of social factors in investment risk, to ensure sustainable investing.

In our view, there should be a mandatory minimum in the taxonomy, encompassing both social and environmental issues, agreed through a global process of social dialogue in consultation with the EC. If this is not done, it could generate, we insist, “social-washing”.

The minimum guarantees provided for in article thirteen (ILO Core Labour Standards) should also be defined with objective measurement indicators that allow the assessment of whether an investment is sustainable or not.

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174/2018



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