

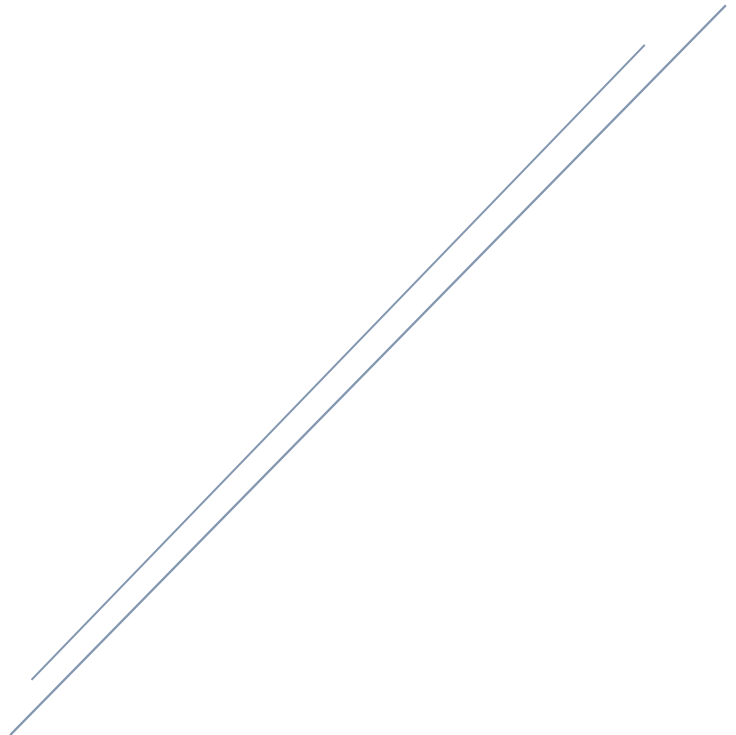


Association Européenne des Institutions Paritaires
European Association of Paritarian Institutions

Deforestation Regulation threatens to
disrupt relations between pension funds and
their sponsor undertakings

AEIP Statement

22 November 2022



European Association of Paritarian Institutions (AEIP)

Opening statement

On 13 September 2022, the European Parliament adopted its position on the [Deforestation Regulation](#). The new law would make it obligatory for companies to verify (do due diligence) that goods sold in the EU have not been produced on deforested or degraded land anywhere in the world.

AEIP and its members are strongly committed to combatting deforestation and forest degradation with the aim to achieve the EU's sustainability objectives and protecting our ecosystems. More and more pension funds consider the negative impact of investments on the environment and societies (inside-out perspective), in line with the OECD Guidelines¹. This means that they already implement due diligence policies to identify and mitigate negative impacts. Furthermore, the existing initiatives, such as the EU Taxonomy Regulation, CSRD and CSDDD and SFDR establish a comprehensive and coherent regulatory framework for pension funds. We fully agree that to fight global climate change and biodiversity loss there is the need to ensure that products sold in the EU do not come from deforested or degraded land, and **this can best be controlled and prevented by operators and traders, not by the financial sector.**

However, including pension funds² in the scope of the Deforestation Regulation would create the serious risk that many pension funds would have to discontinue relations with their sponsor companies, thereby threatening pension entitlements.

For this reason, AEIP calls on the decision-makers involved in the triilogue negotiations to reconsider and **reject the extension of the scope of this Regulation to financial undertakings.**

Lack of adequate and specific definitions lead to regulatory ambiguity

Amendments by the ENVI Committee have enlarged the scope of the Regulation proposal from operators and traders to include financial undertakings. It must be underlined that pension funds are inherently different from other financial market entities in the sense that the vast majority are 'not-for-profit', they play an important social role in pension adequacy, they do not have any shareholders and **most importantly do not sell products, since employees often benefit from a mandatory affiliation to the pension scheme based on their employment relationship and are not customers.** In most cases pension funds carry out investments by buying shares and corporate bonds purchased on the secondary markets and have **no direct contractual relationship with investee companies.** The above could lead to the conclusion that the investment activities of pension funds are not in scope. However, on the basis of the current text of the CSDDD large pension funds and large asset managers are in scope.

The lack of clear definitions and incongruity between proposed articles and recitals at EU level would lead to regulatory uncertainty and diverging implementation across the Member States.

Unclear results of pension funds' due diligence vis-à-vis sponsoring undertakings

According to the Parliament amendments (i.e. Amendment 148) financial institution shall exercise due diligence prior to providing financial services to customers. In relation to pension funds this raises several issues considering that **pension funds provide a service to sponsoring undertakings;** they offer pension

¹ OECD (2017), Responsible business conduct for institutional investors: Key considerations for due diligence under the OECD Guidelines for Multinational Enterprises. Available [here](#).

² Pension institutions under [Regulation \(EC\) No 883/2004](#) and institutions for occupational retirement provision (IORPs) under [IORP II Directive](#).

after retirement to the employees of a company or a group of companies. Under the Parliament amendments, a pension fund should conduct due diligence vis-à-vis sponsoring undertakings. The Deforestation Regulation sets very low boundaries for offenses. That way, it could be possible that a pension fund will have to **discontinue services to its sponsor if there is a ‘non-negligible risk’ of deforestation in the sponsor’s value chain**. We can readily imagine such occasions could occur for pension funds servicing companies in the food, agricultural or retail sector.

Pension funds are closely related to their sponsor undertakings. **As paritarian institutions, both employees’ and employers’ representatives sit on the board of pension fund**. Pension fund boards would find themselves in an awkward position if they were to decide on discontinuing cooperation with the organisations they own or work at, and which pays their pension premiums.

It should be underlined that if the pension fund needs to stop providing a service to a sponsor, this means that it would **need to stop collecting pension premiums** and it would raise the question of what to do with the assets managed on behalf of the company’s employees. This would **significantly impact the pension of millions of workers, affect the sustainability of pension schemes and undermine the functioning of occupational schemes in the applicable sectors**.

The Regulation should also adopt a **principle-based approach** and lead to the **proper implementation of the proportionality principle** which takes into consideration the **diverse landscape of pension funds** within and across EU countries. The costs of conducting due diligence would weigh disproportionately heavy on smaller pension funds, as a due diligence statement has to be submitted for each investment, regardless of how small the allocation is.

Conclusion

We believe it is wrong to hold all employees and former employees of a company responsible for possible contributions to deforestation and forest degradation, by threatening the security of their pension entitlements. Moreover, pension funds should not be put in a position where they hold social partners accountable to their actions. It proves as an example for why the Deforestation Regulation – while it could be useful in the real economy – should not apply to the financial sector.

We consider that the new rules established in the Regulation should only be applied on direct operators and traders. They should not be extended to financial institutions, to ensure the proper functioning of the pension sector and the protection of members and beneficiaries.

Therefore, we urge the European institutions not to adopt the following amendments: 40, 87, 105, 127, 130, 148, 149 and 158 of the Deforestation Regulation, as proposed by the Parliament.

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AEIP Disclaimer



AEIP represents the European Paritarian Institutions of Social Protection in Brussels since 1997. The Association gathers 29 leading large and medium-sized social protection providers, which are managed on the basis of joint governance and equal representation by both employees and employers' organizations (the social partners) in 12 EU Member States.

AEIP represents its members' values and interests at the level of both European and international institutions. In particular, AEIP - through its working groups - deals with EU coordinated pension schemes and pension funds, healthcare, unemployment, provident and paid-holiday schemes.

Owing to the quality of its members and to the delegation of powers conferred to its Board, AEIP aims at becoming the leading body for the promotion of balanced paritarian social protection systems in Europe. AEIP promotes and develops programs and orientations aiming at the sustainability of paritarian social protection systems at local level taking into account the national specificities aiming at ensuring social cohesion in Europe.

Based thereon, AEIP prepares recommendations, proposes local programs and influences European decisions to safeguard and promote the interests of its members. AEIP thinks ahead and anticipates modern paritarian social protection systems that take into account changing economic and societal patterns. It furthermore seeks to find a new balance between and across generations.

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