



## Comparative Legal Aspects of the EU and Russia Policy in the Field of Green Financing

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### ABSTRACT

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The purpose of the article is to consider, using the example of the EU and Russia, potential challenges and problems of legislative regulation of green finance in the framework of the implementation of the current sustainable development agenda. Using the method of political and legal analysis, the study analyzes the current state of legal regulation and political initiatives of the Russian Federation and the EU in the field of green finance. Initially, the paper considers the legal institutionalization of green finance in the field of financial legal relations, and certain legal aspects related to environmental taxes within the framework of the green finance system. Further the work moves on to a review and analysis of EU and Russian policy along with legal and regulatory aspects in the field of green finance. The research gives reason to say that both Russia and the EU are characterized by the lack of unified definitions within the framework of green investments, which creates additional obstacles for potential investors. Of particular importance for the development of the green finance sector is the development of systems and standards for assessing the impact of green finance on the achievement of environmental goals. However, there is currently no legal institutionalization of such standards, which takes the issue beyond the scope of direct legal regulation. Russia, in order to join the global process as a full participant, needs to work out a number of issues of a legal and organizational nature, including issues of the legal nature and system of environmental payments, their administration, in particular determining the procedure for interaction with external verifiers in the framework of the green projects implementation. The lack of political motivation inhibits initiatives in the sphere, while the issues of legal regulation often undeservedly remain in the shadows. This, in turn, causes a theoretical gap, which this work intends to fill. In order to ensure sustainable development, the possibilities of international regulatory cooperation and the harmonization of legislation are becoming important. From a practical point of view, the study is of interest to both lawyers and specialists in the field of financing and investment.

## 1. INTRODUCTION

With the development of globalization and the growing influence of transnational corporations and their share in the global economy, the main focus of the concept of sustainable development and green investment began to shift from the national level to the corporate level, leading to the institutionalization and formation of a green finance market [1]. More and more countries are focusing on sustainable development, of which green finance is an important part. The leading role in this matter belongs to the financial regulators. The green finance system is developing at the intersection of two areas - the financial market and environmentally friendly human activity in all its manifestations: the organization of production and the provision of services, the implementation of projects, the production of products, fundraising, investment strategies, etc. [2].

Despite the fact that at present the topic of "green" finance to a greater extent relates to the field of financing and investment, as can be expected, it will become widespread in legal science in the near future, which is predetermined by the

general interest in the problems of sustainable development and the implementation of Environmental, social, and governance (ESG) principles. For example, green investments as an element of green finance, being in essence a purely financial instrument, at the same time carry an additional social component. If used properly, they can become an effective instrument of public policy. At the same time, the emergence of such a concept as green finance gives rise to a number of new legal relations that simultaneously extend to the sphere of environmental, financial, tax and a number of other branches of law. Modern jurisprudence at the international level and at the level of national legislation is called upon to institutionalize green finance, defining their niche in the field of legal relations. It should be noted that at present there is no uniform understanding of the essence of "green" finance. The OECD links green finance and investment to green development, which means achieving economic growth while reducing pollution and greenhouse gas emissions, as well as minimizing waste and increasing the efficiency of natural resource use [3].

Despite the social and economic challenges posed by the COVID-19 crisis, countries are continuing, or in some cases accelerating, the implementation of existing policies and measures aimed at greening the economy. Green measures to restore economic growth can enable countries to recover more effectively by combining economic recovery and job creation while achieving environmental goals [4].

The green economy and corporate social responsibility do not have a philanthropic nature, but are a factor of business sustainability, including such factors as image improvement, credit rating increases, investor confidence growth, customer loyalty, the opportunity to enter new sales markets, etc. The transition to a green economy largely takes place within the framework of achieving the goals set out in the Paris Agreement. In its course, concepts are developed, a system of regulation and measurement of investments is created, the size of which is estimated at tens of trillions of dollars. According to the estimates of the International Energy Agency (IEA), in order to achieve climate goals and sustainable development by 2030, it is necessary to mobilize green financing in the amount of 90 trillion dollars [5].

The economic structure of the EU and Russia has a number of significant differences, but both the Russian Federation and the EU now recognize the importance of using green finance as an important tool in finding a balance between environmental goals and financial sustainability. The importance of developing the green finance market in Russia is dictated by both environmental and economic reasons. According to the World Bank, Russia is one of the ten countries that produce the most emissions, both in absolute terms and per capita. At the same time, waste is produced twice as much as in the EU, with the incomparable size of the Russian economy [6]. If Russia is only at the beginning of the path to the formation of a green finance market, then the EU countries at this stage are forming the agenda, being the unspoken leader in the industry. However, for both the EU and Russia, there are a number of issues regarding both the definition of policy guidelines and the legal institutionalization of green finance. In the absence of legislative definitions of the concept of green finance, it would seem that some terminological certainty could be introduced by science. However, in numerous scientific studies, there is also no generally accepted approach to the definition of the term "green" finance and the concept of "green" finance associated with it. Perhaps the most meaningful is the definition of the German Development Institute, which defined green finance as a complex concept that includes all forms of investment or lending that take into account the impact on the environment and increase environmental sustainability. A key element of green finance is sustainable investment and banking, where investment and lending decisions are made based on environmental screening and risk assessment to meet environmental sustainability standards [7].

The term "green finance" is proposed to be considered in three main aspects:

- 1) a set of different ways of financing technological processes and projects in the field of green economic activity;
- 2) a set of financial institutions (banks, insurance companies, etc.) involved in the financing of environmental programs and projects;
- 3) financial products and services (credits, bonds, etc.) with ecological component [8].

The scientific literature identifies a number of features inherent in green financing:

- funds are directed to finance the development and implementation of "green" projects, technologies, activities;
- it is associated with low-carbon, resource-efficient, inclusive economy;
- participation of large institutional investors, as well as the expressed interest of a state;
- implementation of innovations;
- investment in natural capital, manifested in positive environmental impact;
- increase in the welfare of the population;
- financing most often comes from green bonds, green loans or green project financing;
- longer duration, etc. [9].

Modern research on issues of green financing are devoted to such issues as the assessment of the impact of the Emissions Trading Scheme of the European Union on enterprises falling under the scope of regulation of this scheme in the industrial and energy sectors [10], the role of green financing in achieving the goals of sustainable development and energy security [11], the impact of environmental taxes on CO<sub>2</sub> emissions in EU countries [12], an analysis of the characteristics of green bond markets to promote green financing in the world in the post-pandemic era [13], the sensitivity of the European system of environmental taxation to the economic cycle [14].

Despite the fact that the general trend is to focus on the SDGs, different regions and countries around the world are forming national green strategies for financing sustainable development in accordance with their national interests and the specifics of the economy of each country. In Russia, the formation of common approaches, principles and rules for the development of a green finance system, as well as legislation in this area, is at an early stage, steps are being taken to create a system of responsible financing and green financial instruments, which actualizes the problem and creates the need for its scientific understanding. Within the framework of this study, there was an attempt to cover some aspects of the areas above (including the issues of the legal nature and administration of environmental payments in Russia in the context of international legal regulation, issues related to the functioning of the green bond market, etc.), given that at the moment these issues are not fully considered, and the first eco-innovations implemented in the financial market require prompt and comprehensive legal response, as well as scientific understanding. Based on a review of modern studies, it can be noted that most of them are devoted to environmental and economic policy issues, and to a lesser extent to legal regulation issues. At the same time, comparative legal studies devoted to the review of Russian experience are limited and, as a rule, address only the political component of the issue. This, in turn, creates a research gap.

This study implies to analyze the current state of legal regulation of green finance in the Russia and EU, as part of the implementation of the current sustainable development agenda.

In the frame of achieving the objectives of the study, it is supposed to analyze the existing legislation of the EU and Russia in the field of green finance, while highlighting the key areas of state policy in this industry, as well as identify a number of issues that are not subject to existing legislative regulation. This, in turn, will make it possible to identify a range of issues that require a legal solution and propose measures aimed at improving existing legal mechanisms.

## 2. MATERIALS AND METHODS

The documentary basis of this study is the legislative acts of Russia and the EU concerning the issues of legislative regulation of legal relations in the field of green finance, in particular Decree of the Government of the Russian Federation of September 21, 2021 No. 1587 On the approval of criteria for projects of sustainable (including green) development in the Russian Federation and requirements to the verification system for sustainable (including green) development projects in the Russian Federation, Decree of the Government of the Russian Federation of July 14, 2021 No. 1912-r on the approval of the goals and main directions of sustainable (including green) development of the Russian Federation, Regulation (EU) 2016/1011 of June 8, 2016 on financial indicators used by financial market participants and amending Directives 2008/48/EC and 2014/17/EU and Regulation (EU) No. 596/2014; Directive (EU) 2016/2341 of 14 December 2016 on occupational pensions; Directive (EU) 2016/97 of 20 January 2016 on the distribution of insurance premiums (IDD Directive); EU Directive 2014/95/EU of October 22, 2014 on the disclosure of non-financial information, Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 Commission Delegated Regulation supplementing Regulation (EU) 2020/852 by specifying the content and presentation of information to be disclosed by undertakings subject to Article 19a or 29a of Directive 2013/34/EU concerning environmentally sustainable economic activities, and specifying the methodology to comply with that disclosure obligation.

Using the method of political and legal analysis, the study analyzes the current state of legal regulation and political initiatives of the EU in the field of green finance, certain aspects related to environmental taxes within the framework of the green finance system, as well as issues of institutionalization of green finance in the field of financial legal relations. Based on the experience of the EU, the question of what problems other states may face in the framework of these legal relations is being considered. Current methodological approach of the study involves the consideration of political and legal measures that affect the rights and obligations of legal entities and individuals in the field of commercial and tax legal relations. Representing a qualitative method, the method of political and legal analysis is aimed at studying the legal regulation and actions of authorities in the context of considering certain legal relations and/or challenges. At the same time, the key component of the method is the study of legislative regulation in conjunction with the political priorities of the state and from the perspective of international practices.

## 3. RESULTS

### 3.1 Institutionalization and administration of green finance in the EU against the background of world experience

Interest in the green agenda among entrepreneurs and investors is beginning to grow as they realize its importance for well-being and business development prospects [15]. In addition to the directly environmental sphere, the issue of the

institutional affiliation of green finance currently has several other dimensions - political, economic and legal, which should be considered inextricably linked. Considering the issue of green finance from a legal point of view, the sphere of financial and tax law is of particular interest. At the same time, from the point of view of the formation of mechanisms for legislative regulation, the origins should be sought in the political activities of international organizations, the international institutionalization of the category of green finance.

For the United Nations, green finance plays an important role in achieving several sustainable development goals. Its environmental team is already working with public and private sector organizations, trying to bring international financial systems into line with the sustainable development agenda. Some of the activities in which UN-Environment participates include helping countries to reorganize their regulatory frameworks, for example, so that "green" borrowing meets the requirements, as well as helping to plan the public sector in a more environmentally friendly way [16]. It is increasingly recognized in OECD countries that economic instruments, such as environmental taxes, can successfully stimulate a shift towards less environmentally harmful forms of production and consumption, while allowing producers and consumers the flexibility to adjust production and consumption [17]. Environmental taxes and payments applied in developed foreign countries were introduced with the aim of encouraging entrepreneurs to reduce the generation of waste and reduce the volume of their disposal at landfills and landfills through the introduction of low-waste technologies, as well as organizing the collection and processing of generated waste, which is a secondary raw material. When choosing the type of tax to be established and its amount, legislators proceed from creating the most favorable conditions for the implementation of the "polluter pays" principle, taking into account the current economic situation in the country.

The concept of environmental taxes was developed in the middle of the last century [18, 19]. The classical understanding of the ecological tax is based on the fact that such a tax is designed to reflect in monetary terms the damage caused by the taxpayers to a person or set of persons as a result of environmental pollution and to compensate for such damage. It is important that the environment is the property of society and has the properties of a public good, since any number of people can be its consumer [20]. Accordingly, environmental payments, which compensate the damage caused to a public good, are public in nature. The essence of environmental taxes lies in the economic stimulation of environmental development. But along with the use of "green" taxes as an economic tool to reduce the harmful impact on the environment, they also perform a fiscal function. In practice, however, it turned out that obtaining reliable estimates of environmental damage is sometimes extremely difficult, as well as establishing the specific number of persons exposed to pollution of one or another source. Features of environmental damage, first of all, non-obviousness of causal links between the negative impact on the environment and the harm caused, predetermine the difficulty or impossibility of compensation and the calculation of the harm caused, and by virtue of this - the conventionality of assessing its amount. Often, the damage caused to the environment is difficult to repair or cannot be repaired at all, and the previous state of the environment that existed before the offense is irreparable [21]. In addition, it is not always practical to impose the obligation directly on the

persons causing the damage (for example, a state may oblige companies to keep adjacent areas clean, although in fact a person who throws garbage in the street must pay for cleaning). Therefore, over time, there have been some changes in the understanding of the ecological tax.

Currently, the most common is the definition of environmental tax formulated by the Statistical Service of the European Union (Eurostat) for the purposes of international statistical accounting. According to it, an ecological tax is a tax whose tax base is a physical characteristic of an object whose impact on the environment is recognized as negative, or another object associated with it [14]. There is another modern definition of an ecological tax. The European Foundation for the Improvement of Living and Working Conditions [22] defines an environmental tax as an obligation imposed by a state on those who use the environment. This definition captures the basic principle of environmental taxes, which is called the “polluter pays” principle [22].

The use of environmental taxes in economically developed countries is widespread. Thus, as of 2015, transport taxes, taxes on energy, fuel and energy resources have been introduced in 33 European countries, carbon taxes in 12 countries, charges for waste disposal and recycling in 26 countries, taxes on hazardous materials in 15 countries, taxes on hazardous products in 30 countries [23].

A review of environmental taxes in European countries allows one to see that their application has resulted in a reduction of the negative impact on the environment due to the introduction of new technologies by polluting companies. For example, in Great Britain from 1990 to 2008, emissions of pollutants decreased significantly, while GDP growth during this period was 54% [24].

At the moment, concern about climate change in developed countries has reached a very serious level, which led to the organization and development of a number of environmental initiatives and documents. One of the initiatives being developed by Europe is the introduction of a carbon tax on goods imported from countries without carbon regulation (regulation of greenhouse gas emissions). The Paris Agreement of the UN Framework Convention on Climate Change recommends the adoption of a tax on CO<sub>2</sub> emissions (a so-called “carbon tax”), in connection with which all countries that have signed are considering its introduction. The discussed amount of the tax ranges from \$10 to \$60 per ton of CO<sub>2</sub>. According to the logic of the carbon tax, these funds should be redirected to the development of renewable energy and energy efficiency. In publications, there are data on the public trading of quotas for the right to emit carbon dioxide in Europe for 15 years, while the quotas, as an asset, can be bought and resold by various interested private entities [10].

Despite the different approaches to the understanding of environmental tax in foreign countries, the following common features can be identified:

- first, environmental taxes and payments are public in nature;

- second, the payers, as a rule, are legal entities and individuals, connected with the sources of environmental pollution;

- third, the environmental tax has a pronounced environmental orientation, which is manifested both in the fiscal nature and in the regulatory nature of environmental taxes. Fiscal nature implies filling budgets to accumulate these payments for further spending on environmental purposes. The regulatory nature of environmental taxes lies in the fact

that through budgetary and tax mechanisms there is an impact on the behavior of taxpayers, encouraging them to reduce environmental damage from their activities.

Russia also has taxes and other payments of a similar nature, but a systematic view of the meaning and functioning of these payments has not been developed sufficiently. Such payments include the environmental fee. In the Russian legislation, the environmental fee appeared since 2015-01-01; and its calculation, payment, and reporting were first carried out in 2017 (based on the results of 2016). According to the legislation the environmental fee is not included in the system of taxes and fees of the Russian Federation (Art. 1315, 18 of the Tax Code) and refers to non-tax revenues of the federal budget (Clause 1 of Art. 24.5 of the Federal Law of 1998-06-24 No. 89-FZ “On Production and Consumption Waste”, hereinafter - the Law No 89-FZ). It is noteworthy that in Article 51 of the Budget Code of the Russian Federation “Non-tax revenues of the federal budget”, environmental fee is not directly mentioned, although the recycling fees (Article 24.1 of the Law No. 89-FZ) - are mentioned. Nevertheless, article 24.5 of the Law No 89-FZ (introduced by the Federal Law of 2014-10-29 No. 458-FZ) establishes the basis of the environmental fee from 2015-01-01. Clause 8 of the mentioned article stipulates that the procedure for collecting the environmental fee (including the procedure for calculating it, the term of payment, the procedure for collecting, offsetting and refunding overpaid or overcharged amounts of this fee) is established by the Government of the RF. Accordingly, without the acts of the RF Government regulating these parameters, the collection of the environmental fee would be impossible.

As a result, the elements of the fee are partially disclosed in:

- Decree of the Government of the RF from 2015-10-08 No. 1073 “On environmental fee” (hereinafter - Regulation No. 1073);

- Decree of the Government of the RF of 2016-04-09 No. 284 “Rates of environmental fee for each group of goods subject to disposal after the loss of their consumer properties, paid by manufacturers, importers of goods that do not provide independent disposal of waste from the use of goods”;

- Decree of the Government of the Russian Federation No. 3721r dated 2020-12-31, “On approval of the lists of goods, packaging of goods subject to disposal after loss of their consumer properties”.

An analysis of the norms establishing the payers and elements of the environmental fee allows seeing that:

- 1) payers and part of the elements (object, tax base, tax rate, tax period) of the environmental fee are established by law, while other elements are established in subordinate acts;

- 2) the wording of the circle of payers and some elements of the environmental fee is not definite. In particular, the law does not prescribe the rights and obligations of fee payers concerning the procedure for changing the terms of payment of the environmental fee;

- 3) in comparison with tax payments, enforcement of the obligation to pay the environmental fee is complicated by the fact that a regulatory authority does not have the right to collect the fee out-of-court, and there is no norm on security measures. Responsibility for non-fulfillment of this obligation is introduced by the Federal law of 2019-06-17 No. 141-FZ “On amendments to the Code of the Russian Federation on administrative offences” in the form of sanctions under article 8.41.1 of the Code of the Russian Federation on administrative offences.

The Federal Service for the Supervision of the Use of Natural Resources (Rosprirodnadzor), a body whose main function is not to collect payments (like the Federal Tax Service), but to supervise the use of natural resources, administers the environmental fee. However, one should take into account that the concept of green finance is far from being limited to fiscal policy issues. Under the collective name "green finance" one should understand the component of the capital market, the expansion of a number of financial instruments and opportunities for investors. "Green" finance combines such concepts as "green" investments aimed at the implementation of ecologically clean, energy-efficient and low-carbon projects, "green" bonds, preferential lending, subsidies for "green" projects. In the context of EU policy, green finance is understood as finance to support economic growth while reducing pressure on the environment, and taking into account social and governance aspects. Green finance also includes being transparent about the risks associated with ESG factors that may affect the financial system and mitigating such risks through the proper management of financial and corporate entities [2].

The term "green finance" is often used as a synonym for "green investment". However, in practice, green finance is a broader spectrum of activities that includes more than just investment (Green financing stakeholders' interaction - See Supplementary Figure 1). Most importantly, it includes operating costs associated with investing in environmental projects that are not included in the definition of green investment presented in current studies, based on the traditional concept of investment. By 2025, the EBRD is committed to allocating more than 50% of its funding to climate and other environmental goals. Another obligation is related to the alignment of all future operations with the goals and principles of the Paris Agreement, which means that any investment will be evaluated according to its content. This approach will affect the reorientation of finances and the way of interacting with customers and operations. This requires the mobilization of the private sector and the conditions for the flow of world capital to developing countries. That is why the EBRD is going to become more involved in the development of climate strategies and policies at the national and sectoral levels [25].

One of the most important legislative initiatives of the EU in the framework of green finance regulation was the adoption of the Sustainable Finance Disclosure Regulation (SFDR) - a European regulation introduced to increase the transparency of the market for sustainable investment products, prevent money laundering and increase the transparency of financial market participants' statements about sustainable development. The new EU regulation on green finance will significantly affect the investment priorities of commercial banks and development banks outside the EU. The SFDR is a set of rules that aim to make sustainability disclosures more understandable to investors [26].

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In 2021, the European Commission planned to conduct the first issue of "green" bonds. The intention to issue "green" bonds in the amount of EUR250 billion by the end of 2026 will make the EU the largest issuer of "green" bonds in the world. (EU legal entities involved in the circulation of green bonds - See Supplementary Figure 2) In addition, the European Commission presented the strategy of sustainable financing to combat climate change, the European standard for "green" bonds, and also adopted regulations on the disclosure by financial and non-financial companies of information about the degree of sustainability of their activities [28, 29].

As key requirements of the European standard of green bonds, the European Commission specifies compliance with the taxonomy, transparency, external verification, supervision by the European Securities Markets Agency (ESMA) of verifiers. According to the first criterion the funds collected through the bonds must be fully allocated to projects that comply with the EU taxonomy. Transparency criterion implies full transparency of the distribution of proceeds from bonds, which is ensured by establishing detailed reporting requirements. According to 3<sup>rd</sup> requirement all European "green" bonds must be verified by an external reviewer (verifier) to make sure that the financed projects comply with the requirements of the EU Taxonomy Regulation. Supervision requirement stipulates that external verifiers providing services to issuers of European "green" bonds must be registered and supervised by ESMA [30].

In 2020, the EU Technical expert group on sustainable finance (TEG) presented recommendations for the creation of an EU standard for green bonds. This is a voluntary certification scheme that ensures that the use of proceeds is fully compliant with the EU Taxonomy, which sets out the criteria for what is truly sustainable, using six definitions to be applied throughout the block [31]. Currently, the Commission, the Council and the European Parliament have different views on several contentious issues, in particular, on the harmonization of the taxonomy of the use of income, a clause to protect the investor from changes in the legislation of the host country or the introduction of any international sanctions or trade restrictions (grandfathering clause) and transition plans at issuer-level. As a result, the Parliament proposed to expand and strengthen EU requirements for green bond standards, while the Council called for greater flexibility for issuers. Parliament proposes several minimum sustainability disclosure requirements for all bonds marketed as environmentally sustainable, including bonds linked to sustainability. To date, a final decision on the approval of the standard has not been made [32].

Analysis of the impact of green bonds on environmental performance and issuer involvement is still largely unexplored due to limited data. In order to identify any real impacts associated with issuing green bonds, ideally, detailed information on the investment projects, which the proceeds of the bond issue are channeled to, as well as their ultimate impact on the environment, would be required. However, such detailed information is rarely disclosed on a regular basis. In particular, environmental impact reporting is not mandatory in any of the guidelines, although it is considered an encouraged good practice as it enhances market accountability. The World Resources Institute's GHG Protocol recommends tracking three types of corporate carbon emissions: the amount of emissions produced directly by the enterprise; emissions from

energy suppliers; all other emissions in the value chain [33].

Of particular note is the importance of the issue of developing a "green" taxonomy. The EU's Green Taxonomy is a science-based system that identifies for investors the types of activities that will enable the decarbonization of the economy. In fact, the taxonomy is a tool to help plan and communicate the transition to an economy in line with the EU's environmental goals (EU Taxonomy Environmental Objectives - see Supplementary Figure 3). Disclosure obligations in the taxonomy encourage reporting on progress towards meeting selection criteria, as well as reporting on reaching them. The taxonomic regulation of the EU describes the basis for the classification of "green" or "sustainable" economic activities carried out in the EU, previously not clearly defined. For investors, the taxonomy brings clarity to questions about which economic activities can be considered environmentally sustainable for investment purposes, which is one of the factors contributing to this investment gap. In addition, it should provide all market participants and consumers with a common understanding of what economic activities can be clearly considered environmentally sustainable [34-36].

All these requirements are designed to ensure the quality of services and the reliability of their reviews to protect investors and ensure market integrity. The two main objectives of the European Green Bond Regulation are the ensuring the application of uniform requirements for the use of the designation "European Green Bonds", or GBS and the creation of a simple registration system and supervisory framework for external verifiers. The voluntary nature of the European Green Bond Standard was met with controversy during its deliberations, with concerns raised about achieving the first stated goal. On the one hand, issuers are only entitled to use the GBS designation when they fully comply with the requirements of the European Green Bond Standard. At the same time, compliance with these requirements may lead to additional costs and make these financial instruments less attractive to issuers. On the other hand, issuers may label their bonds green if they comply with more lenient guidelines, in particular the ICMA (International Capital Market Association) Principles. This calls into question the effectiveness of the fight against greenwashing - unreasonable positioning of a product or service as environmentally friendly [37].

The taxonomic regulation of the EU establishes a unified classification system for environmentally sustainable economic activities in the EU. The European Commission is entrusted with the task of developing technical selection criteria that will determine whether an economic activity is environmentally sustainable (and to what extent, if so). These criteria are being developed through delegated acts in two tracks: one track will include criteria for climate-related targets, and the other track will include criteria for four other environmental targets [38].

### **3.2 Institutionalization and administration of green finance in the Russian Federation**

Within the Russian national legal regulation of green debt financing, several peculiarities should be highlighted. Firstly, the regulation of green bonds issuance and circulation in Russia is at the initial stage of development. Currently, the regulatory legal array is being formed, primarily aimed at fixing the methods of stimulating the financing of sustainable development (Ecology, Social, Governance).

Experts justifiably note the lack of generally accepted and legislated definitions of "green" investments, criteria for classifying projects as "green", and an effective system for monitoring the compliance of financial institutions with social and environmental standards in practice.

The Ministry of Economic Development of Russia has developed a draft decree of the Government of the Russian Federation "On approval of the criteria for sustainable development projects in the Russian Federation and methodological guidelines aimed at achieving the goals and main directions of sustainable (green) development in the Russian Federation", which should approve:

- criteria for sustainable (green) development projects in the Russian Federation (taxonomy of green and adaptation projects);
- methodological guidelines for classifying financial instruments aimed at financing sustainable (green) development projects;
- methodological guidelines for verification of green and adaptation financial instruments;
- methodological guidelines for maintaining a list of verifiers.

The Working Group on Responsible Finance (ESG-finance), including green finance, under the Expert Council on the Long-Term Investment Market under the Bank of Russia developed:

- a diagnostic note "Green finance: an agenda for Russia" (October 2018);
- The concept of organizing in Russia a methodological system for the development of green financial instruments and responsible investment projects (2019);
- Recommendations on responsible investing (information letter of the Bank of Russia No. IN-06-28/111 dated 2020-07-15).

The report "Impact of Climate Risks and Sustainable Development of the Financial Sector of the Russian Federation" was posted for public consultations (2020), the regulator is working purposefully to update and develop the necessary documents. In particular, the Bank of Russia prepared amendments to the standards of securities issuance. The regulation of green bonds will take into account the first national taxonomy of green projects and national verification of sustainable financial instruments, which will liberalize the terms of green and social bonds.

Separately, it is worth paying attention to Decree of the Government of the Russian Federation of September 21, 2021 N 1587 "On the approval of the criteria for sustainable (including green) development projects in the Russian Federation and the requirements for the verification system for sustainable (including green) development projects in the Russian Federation Criteria for green projects (taxonomy of green projects) (hereinafter - Decree No. 1587 of 21.09.2021, Decree), which regulates a number of important issues in the field of green finance, in particular, approving the criteria for projects of sustainable (including green) development, as well as criteria for verifiers green projects.

The Decree on Criteria for Green Development Projects takes into account national priorities and leading international practices when developing national taxonomy and standards. The taxonomy of projects consists of: a taxonomy of "green" projects, which includes projects that are recognized as "green" in accordance with international practice, and a taxonomy of adaptation projects, concerning projects aimed at adapting the economy to climate change, but not explicitly

recognized as "green" according to international standards. At the same time, "green" projects must simultaneously comply with all the principles for such projects, and the main requirement for adaptation projects is not to contradict the country's environmental priorities and correspond to at least one or several directions of development [39].

In accordance with the Decree, the determination of the achieved environmental effect is entrusted to the project initiator. The initiator monitors the achieved environmental effect from the implementation of sustainable development projects, including at least annually for the preparation of regular reporting on the financial instrument of sustainable development updates information on the achieved (planned) environmental effect from the implementation of sustainable development projects and possible negative factors affecting its achievement [40].

As for the criteria for certification of verifiers, they are also defined by the Decree. To initiate the adoption by the methodological center of a decision on the inclusion of a legal entity in the list of verifiers, the legal entity sends an application to the methodological center with the documents specified in paragraph 33 of the Decree, confirming the compliance of the legal entity with the conditions provided for by this document. Currently, there are 13 legal entities on the list of verifiers [41].

It should be noted that the EU has a similar procedure for selecting a verifier. To become an approved verifier, a company must demonstrate that it has competence and experience in the following three areas: Issuing debt instruments in the capital markets and managing funds in issuing entities; the technical characteristics and performance of low-carbon projects and assets in areas covered by the specific criteria available under the Climate Bond Standard; provision of insurance services in accordance with the International Standards of Assignments, ensuring compliance with the ISAE 3000 standard [42]. The obvious difference is the use of ISAE 3000, a financial assurance standard issued by the International Federation of Accountants.

#### 4. DISCUSSION

As part of the discussion of issues of an organizational and legal nature, it should be noted that the EU has taken the path of creating a national «green» taxonomy and its own system for verifying "green" projects. At the same time, attention should be paid to the existence of a potential problem, the effectiveness of the solution of which will depend on the further development of sustainable financing. In this case, we are talking about the unification of taxonomies at the supranational level and at the level of individual jurisdictions. An accurate classification system is needed to accurately define the criteria that sustainable or green investment products shall meet [43–45]. In this regard, at the level of national jurisdictions, it seems necessary to significantly expand the circle of participants in the discussion, which should not be limited to working groups. The involvement of the whole society in the discussion of this problem is important not only in terms of the approval of political and legal decisions in this area, but also for the formation of environmental awareness among the majority of the population [45]. For Russia, at present, this problem is not so relevant, since the national legislation currently uses its own taxonomy. At the same time, as it can be noted, for the Russian

legal regulation, one of the important issues in the discussion of environmental payments is the existing discussion about their legal status. It is necessary to refer to the legal nature of the environmental tax (fee), since this issue is key to improving the economic regulation of environmental activities [8, 46].

Raising the question of whether the essential features of the environmental fee correspond to the essential features of the tax, it is permissible to give an affirmative answer. In support of this opinion, it should be noted that the environmental fee is a monetary form of alienation of property based on the law (Law No. 89 FZ) in order to ensure the costs of public authorities (for environmental protection measures) on the basis of obligation, irrevocable, individual gratuitousness, while the corresponding funds go to a special budget fund. At the same time, in Russia, it is not planned to introduce new taxes and ways of their administration [47, 48] on greenhouse gas emissions. Moreover, the Russian government intends to communicate to its trading partners in the EU that carbon neutrality can be achieved through the recognition in Europe of those technologies and measures to reduce greenhouse gas emissions that can be successfully applied in Russia, when calculating the carbon footprint [49–51]. The presented position is reflected in the Federal Law dated 2021-07-02 No. 296-FZ "On limiting greenhouse gas emissions", coming into force from 2021-12-30, which aims to create conditions for sustainable and balanced development of RF's economy by reducing greenhouse gas emissions. At the same time, tax measures are being developed to stimulate the development of green finance instruments. In particular, the Central Bank of Russia proposes to introduce subsidies on green bond coupons and verification subsidies as measures to support the nascent market for green social instruments [52].

While the green bond market is expanding rapidly, there is no international standard for sustainability. The lack of standards in the green bond market is worrying investors. Since assessing the real environmental impact of green bonds is a difficult task for investors, they have to rely on information that issuers disclose voluntarily. Thus, disclosure, transparency and accountability are fundamental in the green bond market [15].

Turning to the discussion of the formation of the green bond market, one should first of all pay attention to the fact that the EU documents have developed in sufficient detail the key concepts related to green financing. Despite a number of individual potential shortcomings, the significance of which can only be determined over time, European green finances regulation is currently quite holistic. On 2021-07-06, the European Commission published a new European Green Bond Standard, prepared as part of the implementation of the Green Deal strategy. Europe's green regulatory package includes: Sustainable Finance Strategy, the European Green Bond Standard, the Delegated Act on the disclosure of information by financial and non-financial companies on the sustainability of their activities. The new Sustainable Finance Strategy aims to support financing the transition to a sustainable economy by proposing a set of measures in four areas: financing the transition, increasing the inclusiveness of small and medium-sized enterprises and consumers, increasing the sustainability and contribution of the financial system, and developing international initiatives and standards for sustainable finance, along with support for EU partner countries.

According to the European Commission, such regulation would help avoid greenwashing and set a "gold standard" for



how companies and governments can use green bonds to raise funds in capital markets. The standard would be open to any issuer of green bonds, including issuers from outside the EU. The proposed framework includes four key requirements:

- the funds raised from the bonds must be fully allocated to projects that comply with the EU Taxonomy;
- there should be full transparency in how bond proceeds are allocated through detailed reporting requirements;
- all EU green bonds must be reviewed by an external expert to ensure compliance with the Standard and consistency of financed projects with the Taxonomy;
- external experts providing services to EU green bond issuers should be registered with and supervised by the European Securities and Markets Authority to ensure the quality and reliability of their services and reviews to protect investors and ensure market integrity [28].

Speaking about the Russian regulation of green finance, there are currently a number of shortcomings that have their own specifics. First, it is important to note that green regulation in Russia does not apply to a specific issuer, but to a specific project in the field of green financing ("green project"), which limits the investor and blurs the circle of responsible persons [45].

Besides that, Russia has an active role of the government in the development of green debt financing. Thus, while in foreign countries the market itself (responsible investors) gives a premium to the placement of green bonds, in Russia the issuer relies on benefits from the state. A striking example is the activity of VEB.RF (Russian state development corporation, state investment bank that finances economic development projects), which is developing a methodology for green financing and PJSC "Russian Railways", one of the first to issue green bonds. The Bank of Russia also develops recommendations for the Board of Directors. Recommendations in the field of sustainable development are discussed at meetings of the Bank of Russia's Expert Council on Corporate Governance [52].

Discussions on taxonomy, both in the EU and in Russia, clearly demonstrate the impact of the chosen responsible investment strategy on the development of the national economy. Based on the analysis of foreign experience, Russian researchers point out the difficulties of finding a balance between environmental responsibility and the development of the national economy [45, 53]. That is why in the Russian taxonomy, along with "green" projects, adaptation projects are highlighted. Unlike "green" projects, adaptation projects are not required to comply with the goals of international documents in the field of climate and sustainable development. They must comply with Russian priorities in the field of ecology, which are determined by the goals and main directions of sustainable (including "green") development of the Russian Federation. Adaptation projects are, in fact, of a transitional nature and are aimed at gradually attracting funding for improving efficiency in the oil and gas industry, utilization of associated petroleum gas, processing coal to produce cleaner fuel and other projects [53].

In addition to the above, it should be noted that, access to the green bond market is linked not only to compliance with current Russian legislation, but also with the rules and principles of international green finance organizations such as the International Capital Market Association (ICMA), which helps avoid greenwashing. In Russia, the previously mentioned VEB.RF, which has developed a methodology for green debt financing, is called to become such an institution

(Green Finance, n.d.), in particular, one of these documents is the Standards for Classification of Financial Instruments Aimed at Financing Sustainable (Green) Development Projects. In this respect, the approximation to the international rules seemed to be quite a far-sighted step [54].

It should be noted that the Central Bank of the Russian Federation shares this position. Modern initiatives of the central bank related to changes in the standards for issuing green bonds are aimed at harmonizing with international approaches to the definition of sustainable development bonds, for example, verification of not only a specific project, but also the issuer's policy, which provides for approaches to selecting projects for financing, in cases where a specific project at the pre-issuance stage has not yet been selected [54]. The same applies to the issue of creating a national green bond verification system, the creation of which was announced in 2021 [41].

Speaking about the European experience, it should be noted that the fundamental difference between European rules and foreign ones is the mandatory appointment of an accredited verifier by the issuer to confirm the compliance of the structure of green bonds with the EU standard, as well as to confirm the final report on the distribution of revenue. Representatives of third countries can also act as an external verifier, subject to special requirements. External preliminary and subsequent checks of the issuer will increase investor confidence. As the researchers note, external verification is a reliable marker of bonds that actually have environmental or climate benefits, so verified and certified bonds are more attractive to green investors than those securities that are simply called "green" by the issuer itself. The assignment of supervisory functions to the European Agency for the Securities Markets is aimed at the same, which is designed to ensure uniformity in the application of the common standard, as well as equal conditions for external verifiers in terms of compliance with the requirements for their registration and supervision of their activities [45, 55].

Considering the status of external verifiers, it is important to note that their main role is to provide independent opinions by verifying that green bonds comply with a certain framework or green bond standards [15]. At the same time, the current policy of the Russian Federation in the profile direction obviously does not consider this issue as a priority, since today there is no data on the involvement of external verifiers on official resources. Based on the information provided on the official WEB resource, at present all verifiers are represented by purely national legal entities [41].

At the same time, the opinion is expressed in the research community that the Russian green bond policy is not sufficiently adaptive to the requirements of foreign investors. In particular, the opinion is expressed that in order to promote green projects to the international market, to form national standards as close as possible to international requirements, which are constantly updated and improved, especially with regard to green bond standards. National specificity does not contribute to integration into the international market, although it has certain advantages and logic. In addition, there is no main legislative act on the system of responsible financing, and there is also no single conceptual apparatus [53].

Of great importance for the development of the green finance sector both in the Russian Federation and in the EU is the development of systems and standards for assessing the impact of green finance on achieving environmental goals, primarily on reducing greenhouse gas emissions. Without such



standards, it is difficult to prioritize projects, assess needs, attract financial resources to the most important sectors that give the maximum impact, and then monitor the achievement of strategic goals [6].

However, there is currently no legal institutionalization of such standards, which takes the issue beyond the legal norm. As it can be noted, in the Russian Federation such tools are currently absent at the regulatory level. Currently in the EU, legal regulation in this respect is being replaced by technical regulation, which is handled by the Sustainable Finance Technical Expert Group (TEG). The Group's activities are aimed at assisting in the development of such standards in accordance with the legislative proposals of the European Commission. However, the TEG developing corporate sustainability and climate-related disclosures, including green taxonomy disclosure guidelines, climate change investment benchmarking guidelines [56]. At the same time, TEG documents, in particular those relating to EU climate benchmarks and disclosures for benchmarks, are presented in the form of recommendations.

Based on the current experience of the EU in policy and legal regulation in the field of green finance and investment, a number of key aspects can be identified that seem relevant to Russia. These are: the need of unification of the conceptual and terminological apparatus related to "green" finance; insufficient experience in linking the goals and objectives of sustainable growth with investment policy priorities, including in the field of infrastructure; issues of adequate interpretation of external challenges in order to prepare a uniform response; the absence of the necessary regulatory framework governing the actual sphere of "green" financing; inconsistency of financing instruments with the needs of the implementation of long-term projects in industries directly related to sustainable development; inefficient selection of "green" infrastructure projects due to insufficient quality planning and forecasting. In addition, one can note the presence of information asymmetry in the capital market and the high risks of implementing "green" projects and the lack of adequate analytical tools for their evaluation [57]. In addition, one can note the presence of information asymmetry in the capital market and the high risks of implementing "green" projects and the lack of adequate analytical tools for their evaluation [57-60].

At the macro level, it is necessary to develop a detailed mechanism of state support for issuers adhering to the principles of sustainable development. Such methods should include the availability of subsidies and reimbursement of costs for verification, certification and audit of green finance activities. Herewith, at present, such a mechanism is absent both at the level of legal regulation and at the program-strategic level.

At the same time, there are some concerns that the possibility of a green transition may become a so-called a victim of their own success. The concern is that as the industry's interest in environmental issues grows, the result could be too much capital involved, potentially pursuing too few opportunities.

Despite the start of work towards the development of a legislative framework for green finance in the Russian Federation, it is currently difficult to say that in the Russian business environment these mechanisms will be fairly assessed in full. Clearly, additional advocacy work will be needed for business entities explaining that ESG instruments can be an attractive and affordable financial tool that allows

companies to raise money on favorable terms for environmental or social projects (Awareness of Russian entrepreneurs about the role of ESG principles in business - see Supplementary Figure 4). In other words, companies raise money on the best terms, gain competitive advantages and solve important problems for society. In the environmental part, one of the main directions of ESG in Russia may be the rejection of certain types of fuel. This will help reduce the burden on the environment, reduce human diseases, and at the same time reduce the cost of energy and fuel. At the same time, by reducing transport and logistics costs, an obvious positive effect will be created for business. At the same time, investors seeking to invest in emerging clean technology companies will need to scrutinize claims about the potential of these technologies and the potential for future earnings.

The review of the existing regulation and political initiatives of the EU and Russia in the field of green finance showed the similarity of approaches in the establishment of regulatory rules. The main problems lie in the need to create a taxonomy of green projects adequate to climate challenges and a system for verifying green financial instruments. The political initiatives undertaken in the Russian Federation related to the expansion of the climate and ESG agenda in the world have led to the rapid growth of the green finance market. However, the underdevelopment of tools, unsettled issues of investment activity, lack of awareness and low incentives from the state significantly hinder the transformation of the Russian economy on the way to sustainable development. An additional factor that complicates the transition to a green economy is insufficient awareness of the population and investors about environmental problems, possible ways to solve them, the proposed opportunities, benefits and prospects for green financing.

In order to remove existing obstacles to the development of green finance, Russia should consider applying a systematic, coherent and coordinated approach. This includes the following main elements, which are the basic building blocks for implementing broader measures. In particular, this implies the need to expand the powers of state development institutions and the inclusion of ESG principles as a necessary element in public procurement procedures, to create a system for assessing and accounting green financial flows, and tracking progress in achieving goals. Modern Russian legislative regulation at various levels related to the administration of green finance requires a revision of obligations in connection with international climate initiatives and the climate agenda in general, a revision of environmental targets and targets for specific industries, and an assessment of financing needs by industry branches. In addition, it is considered important to determine the national agency responsible for green finance. This agency should be provided with the appropriate authority and develop a national strategy, action plan for the development of green finance, advocacy and implementation of ESG principles at the level of business structures, the industrial sector, the service sector, taking into account existing in Russia organizational and legal forms of the latter.

The argument is often made that only large industrial enterprises can reduce the negative impact on the environment through ecological modernization, which, in turn, bear the main tax burden. However, in this context, it is obvious that it is not necessary to simply increase the environmental tax, but to stimulate enterprises to invest in environmental measures. Instead of the fiscal principle "polluter pays" the incentive

principle "polluter invests" should be used. Among investors, it should be noted the need to enshrine in the current legislation mandatory investment shares for credit and insurance organizations. The purchase of green bonds should be a legal fact for lowering mandatory reserve ratios as well as preferential risk-weighting, or for exempting both the entities issuing green bonds and the entities transacting in green bonds for profit from income tax.

## 5. CONCLUSION

For today it is obvious that the transition to "green" economic growth, "green" economy is a global trend, while the introduction of the "green" financing mechanism is one of the leading conditions for sustainable economic growth, its goal is to attract financial resources for the "greening" of the economy by creating and development in the financial markets of special institutions and financial instruments for sustainable development, including green bonds. The study gives reason to say that both Russia and the EU are characterized by the lack of unified definitions in the framework of green investment regulation, which creates additional obstacles for potential investors as well as for bond issuers. Of particular importance for the development of the green finance sector is the development of systems and standards for assessing the impact of green finance on the achievement of environmental goals. However, there is currently no legal institutionalization of such standards, which takes the issue beyond the scope of direct legal regulation. Essential for the development of the green finance sector is the development of systems and standards for assessing the impact of green finance on achieving environmental goals, primarily on reducing greenhouse gas emissions. Russian legislative regulation, among other things, faces the issues of the need to unify the conceptual and terminological apparatus related to "green" finance, insufficient experience in linking the goals and objectives of sustainable growth with investment policy priorities, including in the field of infrastructure. This particularly is linked with the need to identify a national authority responsible for green finance, review climate change commitments, environmental and sector-specific targets, assess funding needs by sector, and develop an action plan to develop green finance. Considering the role of external verifiers, it is important to note that their main role is to provide independent opinions by verifying that green bonds conform to a specific framework or green bond standards. At the same time, the current policy of the Russian Federation in the profile direction obviously does not consider this issue as a priority. Besides that, the Russian legislation doesn't contain generally accepted and legally-fixed definitions of "green" investments, criteria for classifying projects as "green" and an effective system for monitoring compliance by financial organizations with social and environmental standards in practice. In addition, there can be noted the absence of a mechanism for state support of issuers adhering to the principles of sustainable development fixed at the regulatory level. The final solution of the issues of the legal nature and systematization of environmental payments, their administration will also contribute to the solution of the tasks set for the implementation of the environmental agenda of states. In order to ensure sustainable development, the possibilities of international regulatory cooperation and the harmonization of legislation are becoming important.

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**Supplementary Figure 1.** Green financing stakeholders' interaction

Source: UN Environment program [58]

	Issuer *	Investor	Verifier **	NGO	Market Infrastru cture provider ***	Intermedi ary	Other ****	Total
Austria	2		1	1		1	1	6
Belgium		3	2	1	2		8	16
Denmark	1	1					2	4
Finland	2			1			3	6
France	7	4	1			1	3	16
Germany	4	2	3	2			6	17
Ireland							1	1
Italy	2							2
Luxemburg			1					1
Netherlands		1	1	1			2	5
Norway			1					1
Poland	1							1
Portugal	1							1
Romania	1							1
Spain	4			1				5
Sweden	3							3
Great Britain		6	2			1		9
USA	1	1	3		1			6
Other		1	1				1	3
<b>Total</b>	<b>29</b>	<b>19</b>	<b>16</b>	<b>7</b>	<b>3</b>	<b>3</b>	<b>27</b>	<b>104</b>

\* Incl. Corporates, financial institutions, public sector issuers, government backed agencies and development banks

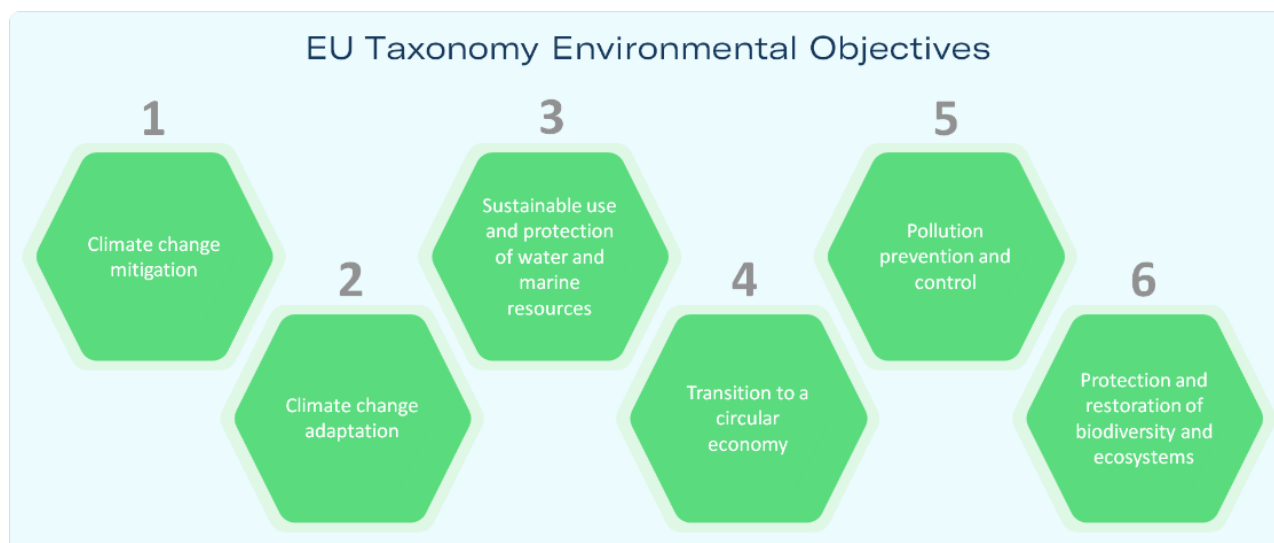
\*\* Incl. auditing/assurance firms, index providers, and sustainability consultancies

\*\*\* Incl. stock exchanges, financial data providers

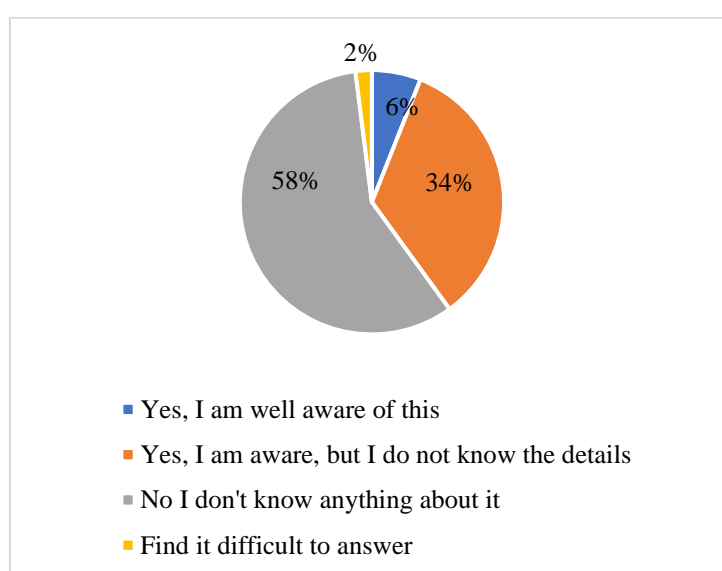
\*\*\*\* Incl. supervisory authorities, business associations, and other interest groups

**Supplementary Figure 2.** EU legal entities involved in the circulation of green bonds

Source: EU Technical Expert Group on Sustainable Finance [56]



**Supplementary Figure 3.** EU Taxonomy Environmental Objectives  
Source: EU Taxonomy Info [59]



**Supplementary Figure 4.** Results of a survey of Russian entrepreneurs on awareness of ESG principles

Source: Based on materials from PwC and the National Financial Research Agency (NAFI) Analytical Center [60].

Note: Distribution of answers to the question "More and more attention in the world is attracted by the observance of the principles of ESG, which implies the introduction of the best practices in the fields of ecology, social policy and management into the strategies and business processes of companies. Are you aware of these principles?" in % of all respondents (The All-Russian Survey of Entrepreneurs was conducted by the NAFI Analytical Center in 2021 using the CATI method (telephone survey). Managers of 1001 Russian companies were interviewed).