



Climate Action Network (CAN) Europe is Europe's leading NGO coalition fighting dangerous climate change. With over 200 member organisations active in 40 European countries, representing over 1,700 NGOs and more than 40 million citizens, CAN Europe promotes sustainable climate, energy and development policies throughout Europe.

CAN Europe input to consultation:

Methodology guidance for the Application of the 'Do No Significant Harm' Principle in the 2028–2034 EU Budget

Introduction

The European Commission's initiative to develop unified methodology guidance for the 'Do No Significant Harm' (DNSH) principle across the 2028–2034 Multiannual Financial Framework (MFF) represents a critical and long-overdue step toward coherent environmental governance in EU public finance. This consultation input draws on the accumulated evidence from the 2021–2027 programming period to identify the structural deficiencies that any forthcoming guidance must overcome, and to propose a concrete architecture for a more robust framework. Indeed, along with other Civil Society Organisations, CAN Europe has been documenting the [flaws](#) of DNSH implementation in 2021-27 [Recovery and Resilience Plans](#), the [RepowerEU window](#) of the RRF, as well as developing recommendations on [DNSH implementation both in the Social Climate Fund](#) and for the [2028-34 MFF](#).

The central argument of this submission is that the implementation failures observed across the 2021–2027 instruments are not isolated administrative shortcomings but are, in significant part, the product of a deliberate and progressive structural fragmentation - a 'salami-slicing' of the DNSH principle that has progressively diluted its ambition from its original formulation in the EU Taxonomy to its application in public funding. Nowhere is this more visible than in the treatment of fossil fuel investments: the EU is formally committed to phasing out fossil fuel subsidies, repeated energy crises have demonstrated that continued fossil fuel dependency is itself a threat to European security and sovereignty, and yet the 2021–2027 budget frameworks permitted EU public funds to flow to gas boilers, gas distribution infrastructure, LNG terminals, and other fossil fuel assets through a combination of explicit exemptions and ill-defined case-by-case assessments. This must not be repeated.

Correcting this trajectory requires not merely improved guidance, but a reconception of the DNSH principle as a binding, uniform, and operationally precise standard - supported by mandatory exclusion lists, sector-specific technical guidance, and a coherent approach to external action.

1. Lessons from 2021–2027 DNSH implementation

1.1. A variable structure paving the way for harmful investments

The trajectory of the DNSH principle across the 2021–2027 programming period reveals a pattern of progressive dilution that this submission terms 'salami-slicing'. Each successive transposition of the principle from one regulatory context to another involved refinements that, individually, could be presented as proportionate adaptations to the specificities of the instrument in question. Cumulatively, however, they produced a landscape in which the same underlying principle - grounded in [Article 17 of the Taxonomy Regulation](#) - operates in fundamentally different and mutually inconsistent ways across the EU budget.

The [2023 JRC study on the implementation of the DNSH principle across selected EU instruments \(JRC135691, Beltrán Miralles et al.\)](#) confirms this diagnosis systematically. The study maps divergences across the EU Taxonomy, the Recovery and Resilience Facility (RRF), the European Regional Development Fund (ERDF), the Cohesion Fund (CF), the Just Transition Fund (JTF) and the InvestEU Fund - divergences covering practical aspects (assessment tools and checklists), conceptual considerations (guiding principles for the assessment), and legal implications (whether the principle constitutes an eligibility condition). The JRC concludes that while all instruments draw the legal definition of DNSH from the same source, the ways in which they operationalise it bear insufficient resemblance to one another to ensure consistency in outcomes.

The political economy of this fragmentation deserves explicit acknowledgement. The shift from the Taxonomy's precision-based framework to the RRF's 'comply or explain' logic (and to cohesion policy's programme-level approach) was not forced by objective differences in the nature of the instruments. It was shaped by Member State negotiating preferences, with each successive guidance document introducing new flexibilities, simplified pathways, and sector-specific derogations that, taken together, hollowed out the principle.

A particularly serious dimension of this fragmentation is the treatment of **fossil fuel investments across 2021–2027 instruments**. The EU has committed, through [several](#) international commitments, to phasing out fossil fuel subsidies. The [European Green Deal](#) explicitly frames DNSH as ensuring that EU budget spending does not undermine climate and environmental objectives. Yet in practice, direct and indirect investment subsidies for fossil fuel infrastructure - gas boilers, fossil fuel-based district heating systems, LNG terminal capacity, and gas distribution networks - were admitted into the 2021–2027 budget's DNSH framework through case-by-case exemptions rather than excluded at the outset. This was not merely an environmental failure; it was a strategic failure. Russia's invasion of Ukraine, the subsequent energy crisis and the current energy crisis, demonstrated with brutal clarity that European dependence on fossil fuel infrastructure entails acute security risks and economic vulnerability. The DNSH framework for 2028–2034 must internalise this lesson: eliminating direct and indirect EU budget subsidies to fossil fuel investments is simultaneously an environmental obligation, a legal commitment under the EU's fossil fuel subsidy phase-out pledges, and a precondition for genuine European energy security.

In this context, the forthcoming guidance must make clear that **any reform that increases explicit or implicit fossil fuel subsidies - whether through government-owned financial institutions, state guarantees, or budget transfers - is presumptively non-compliant with DNSH**. The 2021 RRF DNSH guidance (C(2021) 58/01) itself stated this principle, noting that a reform leading to increased fossil fuel subsidies "could be considered to risk causing significant harm to the objectives of climate change mitigation and pollution prevention and control." The forthcoming guidance must convert this statement from a non-binding observation into an operational prohibition.

1.2. Evaluation of the technical guidance in the RRF

The RRF constitutes the most advanced application of the DNSH principle to EU public funding to date. Its original guidance (C(2021) 58/01) and the revised 2023 version (C(2023)6454) established that DNSH compliance is an ex ante condition for the positive assessment of Recovery and Resilience Plans (RRPs), with the Commission unable to approve any plan containing non-compliant measures. This represented a materially stronger legal backstop than anything available under cohesion policy.

Several features of the RRF guidance represent best practice such as the requirement to conduct a DNSH assessment at measure level and the development of a sector-specific exclusion list.

A crucial lesson for the forthcoming guidance concerns the **simplification benefits of robust exclusion lists versus case-by-case assessment for high-risk sectors**. The original RRF DNSH guidance provided a worked example of waste-to-energy incineration as a category of investment that, when used to increase capacity, is presumptively non-compliant because it is likely to "lead to a significant increase in the generation, incineration or disposal of waste," threatens the transition to a circular economy, and locks in infrastructure inconsistent with waste prevention and recycling objectives. This categorical treatment produced clarity and administrative simplicity: managing authorities did not need to conduct expensive and time-consuming project-level assessments to reach the correct conclusion.

By contrast, the treatment of **fossil fuel-related investments under the RRF** illustrates in detail why the absence of a robust exclusion list imposes heavy administrative costs and produces unreliable outcomes. The original guidance (C(2021) 58/01) established that measures related to power or heat generation using fossil fuels "as a general rule should not be deemed compliant under DNSH," but then created case-by-case exceptions for natural gas where Member States face "significant challenges in the transition away from more carbon-intensive energy sources." When REPowerEU was integrated into the RRF in 2022, the Commission went further, creating explicit DNSH exemptions for specific fossil gas infrastructure deemed necessary for energy security - a decision [challenged by civil society](#). These exemptions created a structural inconsistency: fossil gas projects in REPowerEU chapters of RRPs were exempt from DNSH assessment, while the same type of project in standard RRP chapters was subject to it, and State aid review bodies were uncertain whether to apply DNSH criteria at all to the exempted projects. The result was inconsistency, legal uncertainty, and administrative burden that exceeded anything that a simple, well-defined

exclusion would have generated. **Simplification demands clearer and broader exclusions, not weaker ones.**

The RRF guidance contains other structural weaknesses that must not be replicated. The Taxonomy's Technical Screening Criteria (TSC), the most rigorous and science-based operationalisation of DNSH available, are explicitly stated to be non-mandatory. Member States are not required to demonstrate alignment with TSC thresholds, meaning compliance claims cannot be audited on the basis of quantifiable benchmarks. The revised 2023 guidance retained insufficient operational precision in defining 'lock-in effects', enabling investments in hybrid heating systems, low-emission vehicles, and fossil fuel-adjacent infrastructure to claim compliance without robust substantiation. The 2023 guidance ([C\(2023\) 6454](#)) acknowledges that "activities and assets compliant with the DNSH principle should not lead to lock-in effects inconsistent with EU climate objectives," yet leaves the definition of lock-in sufficiently open that fossil gas distribution infrastructure and inefficient biomass boilers were permitted through the system.

1.3. RRF implementation

The gap between the RRF guidance's formal provisions and their actual implementation has been documented in multiple assessments. The European Court of Auditors' 2024 examination of DNSH application across four Member States found that while some consistently conducted substantive assessments, others systematically opted for simplified approaches - including for measures posing a manifest risk to climate or environmental objectives - without adequate justification. Both approaches were found to be methodologically flawed.

[CEE Bankwatch Network's 2024 analysis](#) of six RRF case studies confirmed these systemic shortcomings in Central and Eastern European Member States, identifying three recurrent failures: (i) blanket self-certifications invoking the absence of significant harm without substantive engagement with the activity's environmental profile; (ii) the disaggregation of otherwise harmful projects into smaller components falling below analytical thresholds; and (iii) the treatment of the energy security derogation as a broad licence for fossil fuel-related expenditure.

A joint CAN Europe and Bankwatch [report](#) on National Recovery and Resilience Plans equally identifies several harmful measures in a sample of 10 Member States.

An [analysis](#) by Poland's DNSH Principle Task Force within the Partnership Agreement Committee for 2021–2027 entails similar findings: unclear and incoherent guidance, poor coordination among managing authorities, and limited training produced DNSH assessments that varied arbitrarily in ambition and method. This is not an isolated national failure; it reflects a systemic under-investment in the administrative capacity needed to implement a technically demanding horizontal principle. The forthcoming guidance must incorporate a dedicated capacity-building architecture, including standardised training materials, digital assessment tools, and peer-review mechanisms.

A further concern relates to the absence of robust ex post verification. Milestones and targets related to DNSH compliance were nominally subject to standard RRF disbursement conditions,

but in practice Commission assessment at payment stage relied predominantly on Member State self-reporting rather than independent verification - a fiduciary gap identified by the Court of Auditors that must not be perpetuated.

1.4. InvestEU

The DNSH principle as applied under InvestEU is materially weaker than its RRF counterpart. The [InvestEU Sustainability Proofing Guidance \(C/280/2021\)](#) establishes a three-dimensional sustainability proofing process covering climate, environmental, and social dimensions. In practice, however, there is a fundamental structural imbalance between the three: while the **climate dimension** is operationalised through quantitative GHG footprint methodologies, carbon pricing, and compatibility testing against EU climate neutrality objectives, the **environmental dimension** is addressed through a largely qualitative checklist covering natural capital components (air, water, land and soil, biodiversity) rather than through structured, objective-by-objective assessments mapped to all six Taxonomy objectives. Critically, two of those six objectives - the transition to a circular economy, and pollution prevention and control - are not systematically addressed as discrete analytical categories in the InvestEU proofing methodology. The guidance thus functions, de facto, primarily as climate proofing with supplementary natural capital screening, rather than a comprehensive DNSH assessment in the full sense of Article 17 of the Taxonomy Regulation. This structural omission means that investments with significant negative impacts on circular economy objectives (e.g. long-lived single-use plastics infrastructure) or pollution prevention objectives (e.g. diffuse chemical emissions from industrial facilities) can pass InvestEU sustainability proofing without those impacts being specifically assessed or mitigated.

The InvestEU Regulation does not make direct reference to Article 17 of the Taxonomy Regulation as a binding eligibility criterion; instead, it establishes the 'sustainability proofing' requirement, with implementing partners - predominantly the EIB Group and the EBRD - applying their own institutional environmental policies as a proxy for DNSH compliance by Commission Notice. This constructive equivalence rests on no independent technical assessment. The EIB's Climate Bank Roadmap and the EBRD's Environmental and Social Policy were designed for different purposes than DNSH assessment and do not map systematically to all six Taxonomy objectives.

Furthermore, the Sustainability Proofing Guidance exempts operations below €10 million from full sustainability proofing. Given that a significant portion of InvestEU's portfolio falls below this threshold, this de minimis exemption creates a material blind spot for small-scale investments in fossil heating, land use change, or chemical waste management. The forthcoming guidance should phase out de minimis exemptions, replacing them with simplified but substantive risk-based screening tools calibrated to the environmental sensitivity of the sector, not the financial size of the operation.

1.5. Cohesion Policy

The application of the DNSH principle under cohesion policy (ERDF, CF, JTF) has been the weakest link in the 2021–2027 framework. Unlike the RRF, cohesion policy does not require a measure-level DNSH assessment. The [Explanatory Note on DNSH for Cohesion Policy](#)

establishes that compliance is to be ensured at the level of 'types of actions' defined in programmes, rather than at the level of individual projects. While this approach reflects the programmatic nature of cohesion policy, it creates an accountability gap: compliant programme-level definitions are routinely satisfied by project-level investments that cause significant harm in practice.

The Commission's abandonment of plans to publish dedicated DNSH technical guidance for cohesion policy - a decision noted by the [Polish Green Network](#) - removed the primary mechanism by which Member States might have received the operational clarity needed to apply the principle consistently. In the absence of such guidance, managing authorities across the EU applied divergent interpretations, with consequent distortions in competitive neutrality across programming areas.

As with the RRF, in the energy sector the cohesion policy approach to DNSH has allowed fossil fuel-related investments to pass programme-level DNSH assessments in Member States where such investments were framed as coal displacement measures. The same logic that produced the RRF's energy security derogation was applied informally at programme level in cohesion policy, without any of the conditions that nominally applied in the RRF context. This is a direct consequence of the absence of a robust exclusion list.

A further cohesion policy-specific concern involves the interface between DNSH and the Strategic Environmental Assessment (SEA). The Explanatory Note establishes that SEA completion does not automatically imply DNSH compliance, and that a dedicated DNSH assessment is necessary. In practice, managing authorities frequently conflate the two, treating SEA completion as a proxy for DNSH compliance. The forthcoming guidance must explicitly prohibit this conflation and provide a methodological bridge between SEA findings and DNSH requirements.

A [Bruegel analysis \(Darvas and Sekut, 2025\)](#) confirms wide variation in the rigour of DNSH assessments across countries and programmes, even within the same intervention categories. The ECA's assessment of 24 measures across four countries found that while some always conduct substantive DNSH reviews, others consistently opt for simplified approaches even where the investment poses a clear environmental risk. The horizontal guidance for 2028–2034 should therefore incorporate differentiated support arrangements, including mandatory DNSH assessment reviews for high-risk investment categories in programmes where monitoring data indicates persistent non-compliance.

1.6. Global Europe

The DNSH principle has been conspicuously absent or inconsistently applied in the 2021–2027 external action framework, creating a fundamental asymmetry: EU public funds directed at third countries through blended finance and guarantees under the European Fund for Sustainable Development Plus (EFSD+) can support investments in activities - including fossil fuel infrastructure, extractive industries, and road capacity expansion - that would be excluded or heavily conditioned if financed within EU borders.

The external action instruments in the current budget take inconsistent approaches to excluding harmful activities. This ranges from specifying the 'do no harm' principle in the context of the SDGs and climate and environmental mainstreaming, and setting out some criteria for excluding activities in the [Neighbourhood, Development and International Cooperation Instrument \(NDICI-Global Europe\)](#), to no specific guidance about excluded activities in the [Instrument for Pre-Accession Assistance III \(IPA III\)](#) beyond its general objectives to deliver on environmental protection and climate mainstreaming. There are also significant gaps in the application of DNSH to the EFSD+, which, given it channels an increasing proportion of external funding through blending and guarantees, is highly concerning.

The NDICI Regulation's general principles (Art. 8) set out that programmes and actions "shall mainstream the fight against climate change, environmental protection... They shall be guided by the principles of 'do no harm'..." - an important commitment that, in principle, goes beyond mere DNSH. However, when it comes to the specification of 'excluded activities' (Art. 29), the regulation lacks the clarity and robustness needed to prevent harmful spending. The regulation provides that EU funding shall not support actions that "promote investments in fossil fuels, or that, according to the environmental screening and impact assessment, cause significant adverse effects on the environment or the climate, unless such actions or measures are strictly necessary to achieve the objectives of the Instrument and they are accompanied with appropriate measures to avoid, prevent or reduce and, if possible, off-set these effects." This formulation is deeply problematic for several reasons. First, it makes fossil fuel exclusions conditional on the absence of an override justified by the instrument's objectives - a carve-out broad enough to justify almost any fossil fuel investment in a country with energy security concerns. Second, it places the operative threshold at what "partner countries' Nationally Determined Contributions" permit: different partner country NDCs vary widely in ambition, and some permit continued deforestation and fossil fuel extraction, processing, and combustion that would clearly fail an EU-level DNSH test. Third, the environmental screening and impact assessment tools referenced in the regulation are systematically inadequate to prevent harmful spending: screening determines only which form of assessment (SEA, EIA, or Climate Risk Assessment) is triggered, not whether a harmful investment is excluded.

In the case of investments under the EFSD+, the applicable environmental and social standards and safeguards are those of the **lead financial institution**, rather than the NDICI framework itself. The EIB is a major EFSD+ guarantee beneficiary, but the facility is also open to other development finance institutions, which may not have robust energy lending policies or appropriate environmental and climate screening tools equivalent to those applied at EU level. This structural reliance on institutional policy substitution for DNSH compliance - mirroring the InvestEU approach - means that the stringency of DNSH under EFSD+ is ultimately determined by the most permissive institutional policy among the implementing partners.

The practical consequences of this gap are visible in the EU's own annual reporting. Reports on external action implementation from NEAR and other DGs for financial years 2022, 2023, and 2024 continue to show disbursements of EU funding to energy generation from non-renewable sources in partner countries, including in neighbourhood regions. Similarly, Multiannual Indicative Plans for Neighbourhood Regions have included support for the use of liquefied natural gas (LNG) in shipping and fossil gas-powered transport - investments that would face significant DNSH obstacles if proposed within the EU's internal funds. This is not a coherent position for a Union that presents itself as a global standard-setter on climate and environmental

governance, and that demands of its own Member States a higher standard of environmental conditionality.

This inconsistent approach should be remedied in the next budget to ensure that the same high environmental standards are applied inside and outside the EU, helping to maintain the coherence and credibility of the EU's external action. The forthcoming DNSH guidance must extend meaningful and substantive application to all instruments under the Global Europe architecture, calibrated to context but not hollowed out by it.

2. Proposals

2.1. Tightening exemptions through precise definitions

The proliferation of exemptions and simplified pathways within and across 2021–2027 DNSH frameworks has been a primary vector for the dilution of the principle. The forthcoming guidance must adopt a restrictive and precisely defined approach to exemptions, grounded in the following principles.

Materiality thresholds as eligibility gates, not analytical shortcuts. De minimis exemptions (such as InvestEU's €10 million threshold) should be replaced by risk-based screening tools that assess the potential for significant harm as a function of the environmental sensitivity of the intervention and the sector involved, rather than the financial size of the operation. A relatively small investment in a wetland area or a chemical processing facility carries risks that an exemption based solely on financial scale is structurally blind to.

Precise definition and strict phase out of “energy security” derogation. The RRF's energy security derogation - which permitted fossil fuel infrastructure investments to bypass full DNSH assessment under conditions that were never rigorously defined - exemplifies the systemic risk created by open-ended exemptions. For example, as the [ClientEarth legal analysis of the REPowerEU regulation](#) documents, exempting fossil gas projects from DNSH in REPowerEU chapters while maintaining the assessment requirement in standard RRF chapters created irreconcilable inconsistencies, additional State aid complications, and an overall administrative burden that exceeded what a simple, well-defined exclusion would have generated. Such derogations should be permanently scrapped.

Fossil fuel subsidy phase-out as a DNSH floor. The forthcoming guidance should embed the EU's fossil fuel subsidy phase-out commitments directly in the DNSH framework. Any EU-funded investment - whether a direct grant, blended finance arrangement, or guarantee - that finances a capital investment in fossil fuel assets, extends (directly or indirectly) the operational life of fossil fuel assets, reduces their operating costs, or increases their economic attractiveness must be presumed fully non-compliant with the climate change mitigation objective of DNSH.

No self-certification without substantive documentation. Member State self-declarations of DNSH compliance must be accompanied by a minimum set of technical documentation that can be subject to audit by the Commission, the Court of Auditors, and civil society. This

documentation should follow a standardised template developed by the Commission, differentiated by sector and investment type, and should be publicly available in accordance with transparency requirements.

2.2. Development of an exclusion list

The [JRC's recommendation](#) for a 'common exclusion list' - an idea [supported by environmental CSOs](#) - requires elaboration regarding its content, scope, and differentiated application across instruments and geographic contexts.

Rationale: simplification through clarity. As the waste-to-energy example from the original [RRF DNSH technical guidance \(C\(2021\) 58/01\)](#) illustrates, a categorical exclusion is administratively far simpler than a case-by-case assessment for activities whose harm is self-evident and structurally inherent rather than contingent on project design. The construction of new waste incinerators was flagged in that guidance as an example of non-compliance - illustrative of an activity that, at scale, threatens the circular economy objective through overcapacity creation. Managing authorities did not need to conduct elaborate project-specific DNSH analyses to reach this conclusion: the harm was categorical and the exclusion was appropriate. The same logic should apply, among others, to investments in new fossil fuel extraction, combustion, and distribution infrastructure. The case-by-case exception for natural gas under the original RRF guidance, by contrast, generated precisely the kind of inconsistency and administrative burden that simplification is meant to prevent. Extending the exclusion to all fossil fuel investments for which low-carbon alternatives are commercially available would yield a net reduction in compliance costs across the system, while eliminating the risk of inconsistent outcomes. It would also give full legal expression to the EU's fossil fuel subsidy phase-out commitments.

An exclusion list is not an innovation but a consolidation of existing good practice. The RRF embedded exclusion lists in Council Implementing Decisions for specific measures. InvestEU implementing partners maintain exclusion lists under their institutional policies. The value of a common, cross-fund exclusion list is to make this logic explicit, consistent, mandatory, and publicly accessible.

Categorical exclusions. Drawing on the analysis in the [environmental CSOs Technical Reference Document](#) on Annex 1 of the performance regulation t, as well as on 2021–2027 implementation experience, the exclusion list should cover among others the following activities for the 2028–2034 MFF:

- Production of low-carbon (blue) hydrogen and derivatives based on natural gas feedstocks, given significant methane leakage and the existence of renewable alternatives (Intervention field 235)
- Nuclear fission energy, given environmental risks including waste management impacts (Intervention field 248)
- Airport terminal capacity expansion and runway investments that enable uncontrolled growth in air travel inconsistent with sectoral decarbonisation pathways (Intervention fields 491, 492, 493)

- Purchase, manufacture, or leasing of latest-generation conventional aircraft framed as 'best-in-class,'
- Low-emission personal road vehicles , whose real-world emissions are documented to approach those of conventional combustion vehicles (Intervention field 528)
- Construction of new or upgraded road infrastructure in EU Member States, given the documented relationship between road capacity expansion and induced demand (Intervention field 529)

This indicative list represents only a sample of activities that should be excluded from positive climate or environmental tagging under Annex I of COM 2025/454 and further exclusion lists should be developed for all sectors financed through MFF instruments.

A variable exclusion list for external action contexts. The application of a uniform exclusion list across all contexts where EU funds operate requires differentiation. A tiered architecture is necessary due to the specific characteristics of third countries.

Tier 1 - EU Member States: The full exclusion list applies without derogation. No carve-outs are available for listed categories.

Tier 2 - EU accession and pre-accession countries (IPA beneficiaries): The full exclusion list applies without derogation. No carve-outs are available for listed categories.

Tier 3 - Non-accession third countries (Global Europe instrument beneficiaries): The exclusion list applies with a transitional schedule. Categories generating irreversible harm with no transition rationale (e.g. fossil fuel investments) are excluded immediately. Activities that may serve legitimate development function such as facilitate poverty reduction, tackling inequalities, improved access to essential services in specific country contexts, while ensuring policy coherence for sustainable development (e.g. road infrastructure may remain eligible where connectivity gaps are severe and the investment is integrated into a sustainable transport strategy), may remain eligible for a defined transitional period.

2.3. Technical Guidance for Activities Outside the Scope of the Exclusion List

For intervention fields that fall outside the exclusion list, the forthcoming guidance must provide actionable technical support. The current guidance architecture - characterised by generic checklists and narrative descriptions leaving 'significant harm' undefined in quantitative terms has been shown repeatedly to be insufficient. The following structural elements should be incorporated.

A hybrid quantitative indicator model for DNSH assessment. A central challenge for the forthcoming guidance is identifying a standard of DNSH verification that is both technically credible and administratively workable across the full diversity of EU funding instruments and beneficiary types. Two poles bracket the design space. At one end, the EU Taxonomy's Technical Screening Criteria (TSC) represent the most scientifically grounded and objective operationalisation of DNSH available, providing quantitative thresholds and activity-specific criteria developed through structured expert panel reviews. At the other end, the generic

checklists and narrative descriptions used in most 2021–2027 instruments have demonstrably failed to produce consistent or auditable DNSH assessments.

The Taxonomy's TSC cannot, however, be straightforwardly transposed into the DNSH guidance for EU public funds as a universal standard, for two structural reasons.

First, the Taxonomy's DNSH criteria are only developed for sectors classified as substantially contributing to one or more of the six environmental objectives — i.e. sectors engaged in 'green' economic activities. They have not been designed to cover the full universe of economic activities financed by EU public funding, which includes conventional agriculture, general public infrastructure, and many other sectors that are environmentally relevant but not Taxonomy-classified. A mechanical requirement to apply TSC to activities outside the Taxonomy's perimeter is impossible.

Second, even within Taxonomy-covered sectors, the full TSC apparatus — with its detailed quantitative thresholds, lifecycle assessment requirements, and activity-specific boundary conditions — is calibrated for large financial institutions and corporate reporters subject to Article 8 Taxonomy Regulation reporting obligations. Applying it uniformly to small and medium-sized project promoters or to regional managing authorities in lower-capacity Member States is likely to prove administratively impossible.

Third, the EU Taxonomy has [greenwashed](#) gas and nuclear investments through complementary delegated acts, hence contravening directly the DNSH principle and the need to fully excuse harmful investments from the 2028-34 MFF. This means that any Taxonomy criteria used should be based on the [adjusted independent science-based taxonomy](#) technical screening criteria developed by civil society organizations.

The forthcoming guidance could therefore establish a three-tier hybrid model structured around the nature of the beneficiary and the availability of Taxonomy criteria:

Tier A: Large entities subject to CSRD and Taxonomy reporting, receiving ECF, InvestEU, or other direct management funding: For these beneficiaries - companies already subject to Article 8 Taxonomy alignment reporting - the [independent science-based Taxonomy TSC](#) should serve as the mandatory DNSH reference standard for the investment activities falling within the Taxonomy's perimeter. These entities already generate the data and conduct the assessments required to substantiate TSC compliance; requiring alignment with TSC for funded activities creates no new systemic burden and ensures that DNSH compliance can be externally verified through the entity's own sustainability reporting. For activities outside the Taxonomy perimeter that these entities undertake, bespoke quantitative criteria developed through the process described in Tier B below should apply.

Tier B: Activities outside the Taxonomy's perimeter, and all beneficiaries under shared management (cohesion policy, CAP): For the large majority of EU-funded activities not covered by Taxonomy-developed TSC, the guidance should establish a system of simplified quantitative indicators for the most common risk scenarios in each sector. These thresholds should be quantitative where the underlying harm is measurable (e.g. GHG emission intensities for energy and industrial investments, phosphorus and nitrogen load thresholds for water-related investments, habitat surface thresholds for biodiversity-relevant activities). Those quantitative

indicators should be developed through a structured technical review process involving the European Environment Agency, the Joint Research Centre, and relevant sectoral experts, producing a set of sector-specific 'DNSH indicator sheets' for each priority funding area. These sheets should specify: (a) the relevant environmental objectives to assess; (b) the quantitative threshold for each objective above which significant harm is presumed; (c) the data sources and methodologies for calculating the indicator; and (d) the documentation required to substantiate compliance or rebut the presumption of harm.

Tier C: Exclusion list activities (as aforementioned in previous section): No DNSH assessment is conducted; the exclusion applies automatically regardless of project design, mitigation commitments, or beneficiary type.

This architecture produces a workable simplification: most managing authorities deal exclusively with Tier B; the additional rigour of Tier A applies only where the beneficiary already has the institutional infrastructure to support it; and Tier C removes the most harmful activities from the system entirely without administrative cost.

Sector-specific technical guidance documents. Sectors with the highest risk of significant harm and the greatest volume of EU co-financed investment should be addressed e.g.: (i) construction activities; (ii) energy; (iii) transport infrastructure; (iv) agriculture and land use, including the interface between income support conditionality and DNSH obligations; (v) waste management; and (vi) water management and biodiversity, integrating the requirements of the Water Framework Directive, the Habitats Directive, and the Nature Restoration Law. Each sector-specific document should provide: (a) a non-exhaustive list of always-compliant activities; (b) a list of activities requiring a full DNSH assessment; (c) minimum documentation requirements; and (d) rules for compliance rejection in the most common scenarios.

Standardised monitoring and public disclosure. The forthcoming guidance should establish a mandatory, standardised digital template for DNSH assessment documentation, applicable across all instruments with appropriate adaptations. This template should be publicly accessible in machine-readable format through a central EU repository, enabling civil society, researchers, and the Court of Auditors to conduct cross-fund comparability checks. Payment conditions for EU funding should include an explicit requirement for the managing authority or implementing partner to confirm that the DNSH documentation on file is consistent with the assessment conducted and that no material changes to the investment profile have occurred since the assessment.

2.4. Entity-level DNSH implementation through environmental conditionalities

For instruments that are expected to channel substantial volumes of EU public support directly to large industrial entities, such as the European Competitiveness Fund, activity-level DNSH (under general the general guidelines) should be complemented with [entity-level DNSH or “environmental conditionalities”](#). The distinction is fundamental: activity-level DNSH (the focus of the 2021–2027 framework) assesses whether a specific funded investment or measure causes significant harm to environmental objectives. It is, by design, agnostic about the broader environmental conduct of the entity receiving the support: a company with a heavily polluting asset base can receive EU funding for a single green investment and pass DNSH assessment

for that investment, while simultaneously expanding its overall fossil fuel activities. As such, we consider that large entities receiving EU funding should be required, as a condition of eligibility, to have adopted and be implementing a credible climate and environmental transition plan, consistent with the EU's 2040 climate target and the sectoral decarbonisation pathways implied by the European Climate Law. This requirement draws on the CSRD's transition plan disclosure requirements for companies above the revised CSRD thresholds (>1,000 employees, >€450 million turnover). Where a beneficiary is already in scope of these reporting and due diligence obligations, its transition plan as disclosed under CSRD should serve as the evidentiary basis for ECF conditionality compliance, avoiding duplicative documentation requirements. Where a beneficiary does not fall under the scope, such a plan should be developed in exchange for accessing EU funds, based at minimum on CSRD requirements.

3. Other governance recommendations

To maximise the effectiveness of the horizontal DNSH guidance, the following institutional arrangements should accompany the guidance.

A permanent inter-DG coordination body should be established to manage consistent application of the DNSH principle across instruments, with the mandate to issue binding interpretive clarifications and update sector-specific criteria in response to new scientific evidence, legislative changes, and implementation experience. This body should include representatives of civil society and Member State managing authorities in an advisory capacity.

The forthcoming guidance should establish a DNSH 'compliance assurance' mechanism, under which managing authorities are required to maintain a contemporaneous record of DNSH assessment decisions, including documentation of dissenting views, waiver decisions, and cases where simplified assessment procedures were applied. This record should be subject to Commission review and, in cases of non-compliance, to financial corrections.

Finally, the Commission should commit to a mid-term evaluation of the DNSH guidance by 2030 at the latest, with the explicit mandate to assess whether implementation has produced measurable improvements in the environmental profile of EU-funded investments relative to the 2021–2027 baseline. This evaluation should draw on comparable data from all instruments covered by the horizontal guidance and should be conducted in consultation with the European Environment Agency and independent scientific experts.

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