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## **COMMISSION NOTICE**

**Technical guidance on applying the ‘do no significant harm’ principle under the Social  
Climate Fund Regulation**

## Commission Notice

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## Commission Notice

### Technical guidance applying the “do no significant harm” principle under the Social Climate Fund Regulation

*The purpose of this technical guidance is to assist national authorities in the preparation and implementation of their Social Climate Plans, in line with Article 6(5) of Regulation (EU) 2023/955 of the European Parliament and of the Council<sup>1</sup>. Only the Court of Justice of the European Union is competent to authoritatively interpret EU law.*

*This document draws on feedback received during the call for evidence on the initiative (from 30 April to 28 May 2024) and the targeted consultation on the draft guidance (18 June to 23 August 2024).*

Article 7(3) of Regulation (EU) 2023/955 of the European Parliament and of the Council<sup>1</sup> (the SCF Regulation) provides that the Social Climate Fund shall only support measures and investments which comply with the do no significant harm (‘DNSH’) principle<sup>2</sup> within the meaning of Article 17 of Regulation (EU) 2020/852 of the European Parliament and of the Council<sup>3</sup> (Taxonomy Regulation) (‘significant harm to environmental objectives’). The SCF Regulation explicitly refers to Article 17 of the Taxonomy Regulation, but it does not mention the subsequent delegated acts and technical screening criteria to implement the Taxonomy Regulation. Instead, the SCF Regulation states that the Commission should issue technical guidance tailored to the scope of the Fund to guide Member States and explain how the measures and investments are to comply with the DNSH principle<sup>4</sup>.

The present guidance sets out the conditions under which the Commission considers that the measures and investments financing activities and assets eligible for support under the SCF comply with the DNSH principle. This guidance sets out common foundations, under the SCF, to define the DNSH principle (Section 1.). It also sets out tools and approaches to apply the common foundations in practice (Section 2.). The guidance contains sector-specific annexes targeted to the activities and assets that are eligible under the SCF, with the objective of providing upfront clarity for its application.

The technical guidance is without prejudice to the application of the DNSH principle under the Taxonomy Regulation, the Recovery and Resilience Facility, cohesion policy and other EU programmes and instruments.

The present guidance does not pre-empt the Commission’s assessment of the compatibility of State aid measures and is without prejudice to the State aid rules. For measures and investments constituting State aid under Article 107(1) of the Treaty on the Functioning of the European Union (TFEU), Member States must ensure compliance with the compatibility conditions of the applicable State aid instrument<sup>5</sup>. Many but not all State aid instruments contain a reference to the DNSH principle. On the one hand, there may be instances where an activity or asset does not comply with the DNSH principle under this guidance, but State

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<sup>1</sup> Regulation (EU) 2023/955 of the European Parliament and of the Council of 10 May 2023 establishing a Social Climate Fund and amending Regulation (EU) 2021/1060, OJ L 130, 16.5.2023, p. 1.

<sup>2</sup> As stated in Article 6(1)(l) and Recital 23 of the SCF Regulation, national measures providing temporary direct income support to vulnerable households and vulnerable transport users in line with Article 4(3) are considered as having an insignificant foreseeable impact on environmental objectives and, as such, should be considered to be compliant with the principle of ‘do no significant harm’.

<sup>3</sup> 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, OJ L 198, 22.6.2020, p. 13.

<sup>4</sup> Article 6(5) of the SCF Regulation.

<sup>5</sup> As indicated in recital (40) of the Social Climate Fund Regulation, Member States should ensure that such support is granted in compliance with the EU’s State aid rules, where applicable.

aid for the same or a similar activity or asset can be found compatible with the internal market, subject to fulfilling the conditions of the applicable State aid rules<sup>6</sup>. On the other hand, State aid rules may set more stringent compatibility conditions than those set in this guidance as regards the environmental conditions for the supported activity or asset. This could be the case, for instance, where State aid is granted to contribute to an environmental protection objective, in which case demonstrating that the activity or asset does no significant harm to the environment is not sufficient, and a positive contribution to environmental protection is required<sup>7</sup>.

This guidance also takes account of the SCF's aim to provide financial support to Member States for measures and investments to support vulnerable households, micro-enterprises and transport users particularly affected by the inclusion of greenhouse gas emissions from buildings and road transport within the scope of Directive 2003/87/EC of the European Parliament and of the Council<sup>8</sup> (the ETS Directive).

## **1. COMMON FOUNDATIONS**

### ***1.1 Definition of the DNSH principle under the SCF and implementation of this guidance in time***

For the purpose of this guidance, DNSH is defined within the meaning of Article 17 of the Taxonomy Regulation. This article defines what constitutes 'significant harm' for the six environmental objectives listed under Article 9 of the Taxonomy Regulation.

An activity or asset<sup>9</sup> is considered to do significant harm to:

- climate change mitigation if it leads to significant greenhouse gas (GHG) emissions;
- climate change adaptation if it leads to an increased adverse impact of the current climate and the expected future climate, on the activity or asset itself or on people, nature or assets;
- the sustainable use and protection of water and marine resources if it is detrimental to the good status or the good ecological potential of bodies of water, including surface water and groundwater, or to the good environmental status of marine waters;
- the circular economy, including waste prevention and recycling, if it leads to significant inefficiencies in the use of materials or in the direct or indirect use of natural resources, or if it significantly increases the generation, incineration or disposal of waste, or if the long-term disposal of waste may cause significant and long-term environmental harm;
- pollution prevention and control if it leads to a significant increase in emissions of pollutants into air, water or land;
- the protection and restoration of biodiversity and ecosystems if it is significantly detrimental to the good condition and resilience of ecosystems, or detrimental to the conservation status of habitats and species, including those of Union interest.

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<sup>6</sup> For example, the acquisition by a Member State of diesel passenger rolling stock with a view to making it available to a public service operator as part of a public service contract could be compliant with State aid rules, provided the conditions laid down in Regulation 1370/2007 of the European Parliament and of the Council of 23 October 2007 on public passenger transport services by rail and by road (OJ L 315, 3.12.2007, p. 1–13) are fulfilled and irrespective of the qualification of 'T21. Railway or tramway rolling stock that is not zero-emission or is not bimodal locomotive' under the Transport annex to this technical guidance document.

<sup>7</sup> For instance, the Climate, Environmental protection and Energy Aid Guidelines (CEEAG) require that either hydrogen refuelling infrastructure deployed or upgraded with State aid supplies exclusively renewable or low-carbon hydrogen, or that the Member State demonstrates a credible pathway to the phase out of hydrogen that is not renewable or low-carbon by 2035, which is different from the Transport Annex to this guidance, deeming the construction and modernisation of hydrogen refuelling stations compliant with the DNSH principle irrespective of the carbon intensity of the hydrogen supplied.

<sup>8</sup> Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC, OJ L 275, 25.10.2003, p. 32

<sup>9</sup> The SCF Regulation refers to measures and investments, which eventually, support activities and assets. Therefore, the Guidance consistently refers to activities and assets.

Only activities or assets assessed as not significantly harmful to any of these six environmental objectives can be considered compliant with the DNSH principle.

### *1.2 Interlink between environmental legislation and the DNSH principle*

Compliance with applicable EU and national environmental legislation is a prerequisite to prevent significant harm to the six environmental objectives. Therefore, in the interest of simplicity, this guidance and its annexes do not repeat the applicable EU environmental legislative requirements. The guidance and its annexes set out principles and targeted criteria that build on EU environmental legislation and complement it, when necessary, to ensure that an activity or asset does no significant harm to any of the objectives listed in Section 1.1. The application of the principles set out in this guidance and the criteria listed in the annexes should be proportionate to the significance of the harm caused by an asset or activity.

Environmental impact assessments (EIA), strategic environmental assessments (SEA) and sustainability and climate proofing can be used to demonstrate compliance with the DNSH principle in the following ways:

- For projects that require an EIA<sup>10</sup> in accordance with Directive 2011/92/EU of the European Parliament and of the Council<sup>11</sup> (the EIA Directive), the EIA procedure and the conclusions on the environmental impact of a project can be used to help demonstrate compliance with the DNSH principle as operationalised in Section 2.
- For projects carried out under plans or programmes that require a SEA<sup>12</sup> in accordance with Directive 2001/42/EC<sup>13</sup> (the SEA Directive), the procedures carried out for the purpose of the SEA might contribute to demonstrating compliance with the DNSH principle as operationalised in Section 2. Demonstrating compliance with the DNSH principle requires that the assessment of impacts under the SEA procedure, including a meaningful public involvement in decision-making<sup>14</sup>, covers all the environmental objectives listed in Article 9 of the Taxonomy Regulation.

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<sup>10</sup> According to the EIA Directive (Directive 2011/92/EU), major building- or development projects in the EU must first be assessed for their impact on the environment. This is done before the project can start. The EIA Directive applies to a wide range of public and private projects, which are set out in Annexes I and II to the Directive:

- Mandatory EIA (Annex I): all projects listed in Annex I (for example long-distance railways, motorways) are considered as having significant effects on the environment and therefore require an EIA; or
- EIA subject to discretion of Member States based on screening (Annex II): for projects listed in Annex II (for example urban or industrial development projects, roads, tourism development and canalisation and flood relief works), the national authorities must determine whether the project shall be made subject to an EIA. This decision is taken through the ‘screening procedure’, which assesses the effects of projects on the basis of thresholds/criteria or a case-by-case examination. To this end, the national authorities must consider the criteria set in Annex III to the EIA Directive and the information provided by the developer based on Annex II.A.

<sup>11</sup> Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment (codification) (OJ L 26, 28.1.2012, pp. 1-21).

<sup>12</sup> The SEA Directive an environmental assessment for plans and programmes that are likely to have significant effects on the environment (for example for plans and programmes that concern land use, transport, energy, waste and agriculture). The following four criteria should be met to decide whether a plan and programme falls under the scope of the SEA Directive:

- be subject to preparation or adoption by an authority at national, regional or local level;
- required by legislative, regulatory or administrative provisions;
- prepared by any of the sectors listed in Article 3(2)(a) of the Directive;
- sets the framework for future development consent of projects listed in Annex I and II to the EIA Directive.

<sup>13</sup> Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment (OJ L 197, 21.7.2001, p. 30).

<sup>14</sup> It means that the public is given an early and effective opportunity within appropriate time frames to express their opinion on the draft plan or programme and the accompanying environmental report before the adoption of the plan or programme or its submission to the legislative procedure (Article 6(2) of the SEA Directive).

- The results of the sustainability and climate proofing<sup>15</sup>, required under the Regulation (EU) 2021/523 of the European Parliament and of the Council<sup>16</sup> (InvestEU Regulation), envisaged under Regulation (EU) 2021/1153 of the European Parliament and of the Council<sup>17</sup> (Connecting Europe Facility Regulation) and deemed relevant to Regulation (EU) 2021/1060 of the European Parliament and of the Council<sup>18</sup> (Common Provisions Regulation), might contribute to demonstrating compliance with DNSH as operationalised in Section 2.

The EIA and SEA can help to assess whether significant harm to any of the six environmental objectives is likely, and to demonstrate compliance with the DNSH principle. Under the EIA and SEA Directives the relevant authorities need to take account of the results of the EIA and SEA. However, they may still decide to carry out a project or a measure that causes significant harm. By contrast, the DNSH assessment outlined in Section 2 requires removing from the SCPs the measures and investments that would cause significant harm to one or more of the six environmental objectives.

As compliance with the EU environmental legislation is a prerequisite for complying with the DNSH principle, the EU budget cannot fund activities or assets the legality or regularity of which is directly affected by a Commission decision to issue a reasoned opinion in accordance with the infringement procedure under Article 258 of the TFEU. If an activity or asset is affected by a Commission decision to issue a reasoned opinion, it should still be considered to comply with the DNSH principle provided that it complies with applicable EU legislation on its own merit. For instance, a new construction could fall under the scope of the EIA Directive, but the Member State where the construction takes place might have improperly transposed the Directive. In this situation, the Member State should ensure that the project complies with the EIA Directive as a prerequisite to demonstrating DNSH compliance.

The inclusion in a SCP of any activity or asset that are affected by preceding steps initiated under Article 258 TFEU (i.e. a letter of formal notice or ongoing investigation) is without prejudice to any further steps taken by the Commission under the infringement procedure, as defined by the Treaty. The activity or asset remains subject to the DNSH criteria provided in the sector-specific annexes to this guidance or, where the activity or asset is not listed in the sector-specific annexes, to the DNSH assessment detailed in Section 2.2 of this guidance document.

An activity or asset impacting Natura 2000 areas relying on compensatory measures under the scope of Article 6(4) of Council Directive 92/43/EEC<sup>19</sup> (the ‘Habitats Directive’) can be DNSH compliant, provided

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<sup>15</sup> C(2021) 5430 final Commission Notice Technical guidance on the climate proofing of infrastructure in the period 2021-2027.

<sup>16</sup> Regulation (EU) 2021/523 of the European Parliament and of the Council of 24 March 2021 establishing the InvestEU Programme and amending Regulation (EU) 2015/1017.

<sup>17</sup> Regulation (EU) 2021/1153 of the European Parliament and of the Council of 7 July 2021 establishing the Connecting Europe Facility and repealing Regulations (EU) No 1316/2013 and (EU) No 283/2014.

<sup>18</sup> Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021 laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy (OJ L 231, 30.6.2021, p. 159).

<sup>19</sup> Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ L 206, 22.7.1992, p. 7). Further specifications on the interpretation of Article 6(4) of the Habitat Directive are set out in the Commission Notice (2021/C 437/01) ‘Assessment of plans and projects in relation to Natura 2000 sites – Methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC’.

that the compensatory measures achieve net biodiversity gains<sup>20</sup>, have a local link to the project<sup>21</sup> and include robust and transparent monitoring systems<sup>22</sup>.

### *1.3 Guiding principles under the Social Climate Fund*

For the purposes of this guidance, activities and assets will be considered compliant with the DNSH principle, if they meet the following guiding principles: consider life cycle impacts (1.3.1); take into account direct and indirect impacts (1.3.2); prevent lock-in effects (1.3.3); adopt best available levels of environmental and climate performance (1.3.4); and ensure consistency with overarching climate and environmental objectives in the EU legislation (1.3.5). Importantly, attention should be paid to ensure that the application of the DNSH criteria is proportionate in the sense that only significant harm is avoided.

These principles are the basis for the criteria set out in the sector-specific annexes to this guidance (Section 2.1.) and they also apply to activities and assets not covered by these annexes (Section 2.2). These principles are consistent with the requirements of the EU Taxonomy (Section 2.3.); and the specific conditions explained in Section 2.4.. Finally, they also apply to measures beyond investments (Section 2.5.).

#### *1.3.1 Life-cycle impacts*

The environmental impacts throughout the life cycle of the activity or asset should be considered. Based on Article 17 of the Taxonomy Regulation, ‘significant harm’ in the context of this guidance should be assessed by taking account of the environmental impacts of the activity or asset itself and the environmental impacts of the products and services provided by that activity throughout their life cycle in particular by considering the production, use and end of life of those products and services.

Applying life-cycle considerations rather than carrying out a full life-cycle assessment suffices for the purposes of this guidance. In practice, this means that full-scale (attributional or consequential) life-cycle analyses are not required (e.g. including the indirect environmental impacts of technological, economic or social changes due to the activity or asset). However, evidence from existing life-cycle analyses or life-cycle assessment could be used<sup>23</sup>, if needed and applicable. The scope of the DNSH assessment should encompass all the life-cycle phases, such as the production or construction, use or end-of-life phases – wherever most harm is to be expected.

For instance, the consideration of life-cycle impacts explains the inclusion, for multiple measures detailed in the sector-specific annexes (e.g. B3.1, B4.1, T17), of criteria requesting that a certain share of the non-hazardous construction and demolition waste generated is prepared for re-use or recycling. This is based on scientific analyses demonstrating the environmental benefits, from a life-cycle perspective, of preparing

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<sup>20</sup> A measurably positive impact (‘net gain’) on biodiversity, compared to the situation before the development of the project. The specific compensation ratios for each project are set on a ‘case-by-case basis’, following Commission Notice (2021/C 437/01) ‘Assessment of plans and projects in relation to Natura 2000 sites – Methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC’.

<sup>21</sup> The area selected for compensation should be within the same biogeographical region (for sites designated under the Habitats Directive) or within the same range, migration route or wintering area for bird species (i.e. sites designated under the Birds Directive) in the Member State concerned. Economic operators cannot contribute to a global compensation fund that would not ensure concrete, effective and measurable actions related to the biogeographical region affected.

<sup>22</sup> The implementation of compensation measures should be overseen by trained scientists, based on a methodology for assessing progress and results, which should be communicated openly to members of the public and the relevant authorities. Monitoring should happen for the whole duration of the project.

<sup>23</sup> Such as the Eco-Management and Audit Scheme life-cycle analyses/life-cycle assessment (Regulation (EC) No 1221/2009 of the European Parliament and of the Council of 25 November 2009 on the voluntary participation by organisations in a Community eco-management and audit scheme (EMAS) (OJ L 342, 22.12.2009, p. 1).

waste for re-use or recycling instead of other waste management alternatives such as incineration and landfilling.

### 1.3.2 Direct and indirect impacts

Both the *direct* and *indirect* impacts of an activity or asset should be taken into account<sup>24</sup>. Direct impacts are effects of the activities or assets at project-level (e.g. the construction of a building) or at system-level (e.g. railway network, public transport system), that occur when the project is implemented. Indirect impacts are effects that occur outside of those projects or systems and may only materialise after implementation but are reasonably foreseeable and relevant.

For instance, in the sector-specific annexes, the DNSH criteria for the protection and restoration of biodiversity and ecosystems under measure B4.1 ‘*Construction of residential and non-residential buildings*’ requires the new building to follow the mitigation hierarchy by:

- First, minimising land take and land use, loss of urban green spaces and soil sealing through the project design, for instance by using existing building space more efficiently to provide high-quality housing, reactivating vacant, underused or unused areas and prioritising the use of brownfield land over greenfield land, land recycling and nature-based solutions;
- Second, adopting mitigation measures, for instance integrating green infrastructure, the use of native species, permeable materials, or other measures to improve water infiltration;
- Third, as a last resort and in case of residual impact that cannot be mitigated, implementing restoration measures to compensate for loss of urban green spaces and ecosystem services. Restoration measures have to be implemented locally and generate at least equal ecological value.

The DNSH criteria therefore combines actions to address both the direct (e.g. minimising land take and land use, loss of urban green areas and soil sealing) and the indirect impacts (e.g. by adopting measures to improve water infiltration and reduce the potential impacts of the building on the hydrological cycle, such as higher runoff and reduced infiltration).

### 1.3.3 Prevention of lock-in effects

Activities and assets compliant with the DNSH principle should not lead to lock-in effects inconsistent with the EU climate objectives (e.g., carbon lock-in relating to the use of fossil fuels) or effects that undermine long-term environmental goals, considering the economic lifetime of those activities or assets.

For instance, in the sector-specific annexes, this explains why measure B8.3 ‘*Equipment powered solely by fossil fuels, including the installation of stand-alone boilers*’ is considered not compliant with the DNSH principle.

### 1.3.4 Best available levels of environmental and climate performance

For economic activities or assets for which there is a technologically and economically feasible alternative with low environmental and/or climate impact and/or high climate resilience, the assessment of the negative environmental and/or climate impact and/or low climate resilience of each activity or asset should be carried out by assessing whether it does any significant harm in absolute terms. This approach involves considering the environmental and/or climate impact and/or climate resilience of the activity or asset, against a situation

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<sup>24</sup> This approach follows Article 17 (‘*Significant harm to environmental objectives*’) of the Taxonomy Regulation, which requires taking into account the environmental impacts of the activity and of the products and services provided by that activity throughout their life cycle.



with no negative environmental and/or climate impact and/or no change in climate resilience. The impact is not assessed against the impact of another existing or envisaged activity that the activity or asset may be replacing.

For activities and assets where there is no technologically and economically feasible alternative available with a low environmental and/or climate impact and/or high climate resilience, DNSH compliance should be demonstrated by adopting the best available levels of environmental and/or climate performance in that sector<sup>25</sup>.

The DNSH criteria set for different measures in the transport-specific annex illustrate the application of this principle.

- Measure T11 *‘Motor vehicles running on fossil fuels’* states that those mobile assets *‘capable of running exclusively on fossil fuels’* are considered not compliant with the DNSH principle. For these products, the assessment of the impact on absolute terms permits to consider even the most efficient vehicles running on fossil fuels as not compliant with the DNSH principle. This is because technologically and economically feasible alternatives with low environmental and/or climate impact exist, which are also included in the annex (e.g. zero-emission vehicles in different categories).
- However, measure T11 also indicates exceptions, which are included as measures in the annex (e.g. T9, T10). These exceptions consider low-emission vehicles of different categories to be DNSH compliant *‘when zero-emission vehicles are not an affordable or deployable solution’*.

### *1.3.5 Consistency with overarching climate and environmental objectives in EU legislation*

The activities or assets supported should be consistent with the overarching climate and environmental objectives laid down in EU legislation. This entails being consistent with the EU climate-neutrality and climate adaptation objectives<sup>26</sup> and with the objectives laid down in EU environmental legislation<sup>27</sup>.

For instance, this principle explains why the sector-specific annexes do not include DNSH criteria for climate change mitigation for several activities considered consistent with the EU climate neutrality objectives, such as T18. *‘Zero-emission railway, metro or tramway rolling stock, including its components’* or E3. *‘Generation of power or cogeneration of heat/cool and power from solar energy systems or photovoltaic thermal hybrid solar collectors in the renewable acceleration areas’*.

## **2. APPLYING THE COMMON FOUNDATIONS**

Compliance with the DNSH principle can be achieved in different alternative ways:

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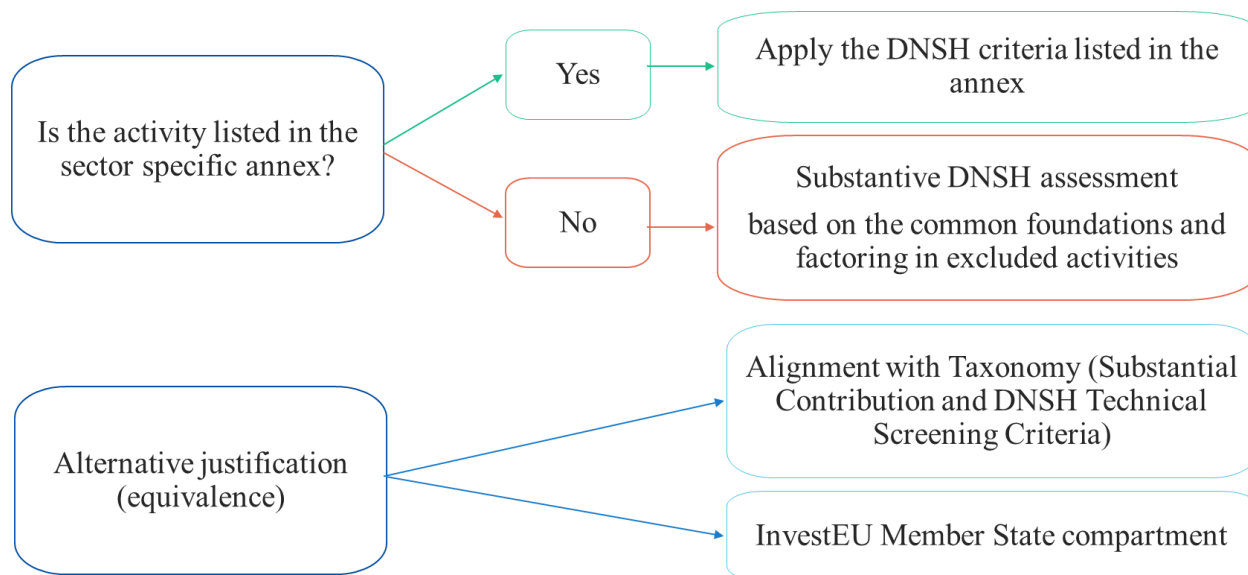
<sup>25</sup> Where appropriate, the specific situation of small islands and outermost regions may be considered when identifying the best available levels of environmental and/or climate performance within a sector.

<sup>26</sup> As laid down by Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 (the ‘European Climate Law’), in the case of DNSH to the climate change mitigation and climate change adaptation objectives.

<sup>27</sup> See for instance Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (OJ L 327, 22.12.2000, p.1) (‘Water Framework Directive’), Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312 22.11.2008, p. 3) (‘Waste Framework Directive’), Regulation (EU) 2024/1991 of the European Parliament and of the Council of 24 June 2024 on nature restoration and amending Regulation (EU) 2022/869, PE/74/2023/REV/1, OJ L, 2024/1991, 29.7.2024, ELI: <http://data.europa.eu/eli/reg/2024/1991/oj> (‘Nature Restoration Law’).

- activities and assets included under the sector-specific annexes (2.1.) should comply with the description and the DNSH criteria;
- activities and assets not included under the sector-specific annexes (2.2.) should comply with the DNSH principle by demonstrating compliance with the guiding principles and by using the list of excluded activities and assets set out in the sector-specific annexes where relevant;
- activities, whether in a sector-specific annex or not, can demonstrate compliance with the DNSH principle by showing alignment with the EU Taxonomy technical screening criteria for substantial contribution and for DNSH, if applicable (2.3.);
- financial products implemented under InvestEU Member State compartment must meet specific conditions (2.4.);
- the application of the DNSH principle to measures beyond investments is addressed in a specific section (2.5.).

The decision tree below should be considered for each measure or investment covered by the SCP.



For all approaches, when relevant, specific DNSH condition(s) should be included in the milestones and targets related to the measure or investment to ensure compliance with the DNSH principle, in line with the Social Climate Fund Guidance for the SCPs (C(2025)881).

### 2.1. When an activity or asset is included in a sector-specific annex

The sector-specific annexes to this guidance describe potential activities or assets (non-exhaustive) that fall under the scope of the Social Climate Fund, and, when relevant, list DNSH criteria that should be applied to comply with the DNSH principle. The sector-specific annexes apply the common foundations included in Section 1, in particular the guiding principles. The annexes offer illustrative evidence that can be used to demonstrate compliance with the DNSH principle. The annexes contain three categories of activities.

- **Activities and assets with no additional DNSH condition.** For activities or assets that are considered compliant by their nature, or that have low, negligible or no effective or foreseeable impact on the six environmental objectives of the Taxonomy Regulation, complying with the activity or asset description in the annex is sufficient to comply with the DNSH principle. No additional DNSH criteria are defined in the sector-specific annexes for those activities or assets and

compliance with EU legislation, when applicable, ensures compliance with the DNSH principle for the six environmental objectives. It includes for instance activities or assets with a very low or negligible environmental impact, which by nature, put a low risk on the environment, such as some social and education activities. Some activities or assets with a very low or negligible environmental footprint may require performing related activities with an environmental footprint. In such cases, the DNSH conditions associated to the activity with an environmental footprint should apply (see categories below). For instance, if delivering an awareness campaign (low or negligible environmental impact) requires purchasing a vehicle, the purchase of the vehicle should fulfil the DNSH criteria detailed in the transport annex for the relevant activity.

- **Activities and assets with DNSH conditions.** This category includes assets or activities for which significant harm to one or several environmental objectives can be expected if the DNSH criteria are not met. For the remaining environmental objectives without DNSH conditions, it is considered that EU legislation is sufficient to ensure compliance with the DNSH principle. To ensure that those activities and assets are compliant with the common foundations (Section 1.), meeting the DNSH criteria is required. The DNSH criteria and possible accompanying actions are provided in the sector-specific annexes to this guidance..
- **Excluded activities and assets.** The assets or activities considered to do significant harm to any of the six environmental objectives of the Taxonomy Regulation should not be deemed compliant with the DNSH principle. These activities or assets are considered to generate lock-in effects or have an impact which is inconsistent with the EU climate and environmental objectives (see 1.3.3).

Depending on the measure or investment and the Commission decision on the respective plan, the Commission expects most of its verification to be carried out in the first milestone or target<sup>28</sup>. The sector-specific annexes, where necessary, also provide an indicative list of evidence for each DNSH criterion to demonstrate compliance with the principle. However, it is not mandatory, as the beneficiary can demonstrate DNSH compliance by providing similar or equivalent pieces of evidence, including the results of an EIA, SEA or the climate/sustainability proofing (see Section 1.2.), as long as it effectively demonstrates compliance with the DNSH principle.

## 2.2. Activities and assets not included under any sector-specific annex

Activities not listed in the sector-specific annexes should comply with the common foundations set out in Section 1.

In practice, Member States should demonstrate compliance by providing a DNSH assessment, using the structure in Table 1 when submitting their SCP. Firstly, the assessment should confirm that the activities or assets are not in the list of excluded activities and assets from the sector-specific annexes. Secondly, the assessment should lead to the conclusion that ‘no’ significant harm is done to any of the environmental objectives in the central column and should provide an explanation and justification of the reasoning in the third column. To ensure that activities and assets are compliant with the common foundations in Section 1, Member States may use accompanying measures and investments.

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<sup>28</sup> See further clarifications on how the DNSH conditions are assessed in the SCP Guidance (C(2025) 881).

Where necessary, further analysis and/or supporting documents should be provided to substantiate the replies to the list of questions in the table<sup>29</sup>. If the absence of significant harm cannot be justified and verified by the Commission, the activities or assets cannot be deemed compliant with the DNSH principle.

Table 1. Checklist for DNSH assessment

Question	Yes/No	Justification of the absence of significant harm, taking into account the foundations set out in Section 1.
<i>Excluded activities and assets:</i> Is the activity or asset in the list of excluded activities and assets of any sector-specific annex?		<i>If the answer is yes, this measure would not be considered compliant with the DNSH principle under the SCF.</i>
<i>Climate change mitigation:</i> Is the activity or asset expected to lead to significant GHG emissions?		
<i>Climate change adaptation:</i> Is the activity or asset expected to lead to an increased adverse impact of the current climate and the expected future climate, on the measure itself or on people, nature or assets?		
<i>The sustainable use and protection of water and marine resources:</i> Is the activity or asset expected to be detrimental: (i) to the good status or the good ecological potential of bodies of water, including surface water and groundwater; or (ii) to the good environmental status of marine waters?		
<i>The transition to a circular economy, including waste prevention and recycling:</i> Is the activity or asset expected to: (i) lead to a significant increase in the generation, incineration or disposal of waste, with the exception of the incineration of non-recyclable hazardous waste; or (ii) lead to significant inefficiencies in the direct or indirect use of any natural resource <sup>30</sup> at any stage of its life cycle which are not minimised by adequate measures; or (iii) cause significant and long-term harm to the		

<sup>29</sup> This process builds on the process used under the Recovery and Resilience Facility as described in the Commission Notice Technical guidance on the application of ‘do no significant harm’ under the Recovery and Resilience Facility Regulation. C(2023) 6454 final.

<sup>30</sup> Natural resources comprise energy, materials, metals, water, biomass, air and land.

environment in respect to the circular economy <sup>31</sup> ?		
<i>Pollution prevention and control</i> : Is the activity or asset expected to lead to a significant increase in the emissions of pollutants <sup>32</sup> into air, water or land?		
<i>The protection and restoration of biodiversity and ecosystems</i> : Is the activity or asset expected to be: (i) significantly detrimental to the good condition <sup>33</sup> and resilience of ecosystems; or (ii) detrimental to the conservation status of habitats and species, including those of Union interest?		

The justification can for instance draw on any of the following references:

- a) the activity or asset has, by nature, no or an insignificant foreseeable harmful impact on the environmental objective following the guiding principles listed in subsection 1.3., and as such is considered compliant with the DNSH principle for that objective;
- b) the activity or asset is tracked, as supporting a climate change or environmental objective with a coefficient of 100 %<sup>34</sup> and as such is considered compliant with the DNSH principle for the relevant objective;
- c) the activity fulfils the technical screening criteria laid down in the delegated acts supplementing the Taxonomy Regulation for ‘substantial contribution’ to one of the six environmental objectives, and as such is considered compliant with the DNSH principle under the Social Climate Fund for the relevant objective;
- d) the results of EIA, SEA, sustainability or climate proofing as specified in Section 1.2..

The justifications above can be used for one or several objectives, as relevant. If they do not cover all objectives, a justification of compliance with the DNSH principle must be provided for the other objectives.

### 2.3. Activities aligned with the EU Taxonomy substantial contribution and DNSH technical screening criteria

For the purpose of this guidance, an activity is considered compliant with the DNSH principle under the SCF if it complies with the technical screening criteria for substantial contribution and do no significant

<sup>31</sup> Please refer to Recital 27 of the Taxonomy Regulation for more information on the circular economy objective.

<sup>32</sup> Pollutant means a substance, vibration, heat, noise, light or other contaminant present in air, water or land that may be harmful to human health or the environment as defined in article 2(10) of the Taxonomy Regulation.

<sup>33</sup> In line with Article 2(16) of the Taxonomy Regulation, “‘good condition’ means, in relation to an ecosystem, that the ecosystem is in good physical, chemical and biological condition or of a good physical, chemical and biological quality with self-reproduction or self-restoration capability, in which species composition, ecosystem structure and ecological functions are not impaired”.

<sup>34</sup> The methodology set out in Annex I to Regulation (EU) 2021/1060 of the European Parliament and of the Council should be used to track the expenditures of the Social Climate Fund (Recital 23 of the SCF Regulation).

harm under an EU Taxonomy delegated act<sup>35</sup> under the following articles of the Taxonomy Regulation<sup>36</sup>: Article 10(3) for climate change mitigation, Article 11(3) for climate change adaptation, Article 12(2) for the sustainable use and protection of water and marine resources, Article 13(2) for the transition to a circular economy, Article 14(2) for pollution prevention and control, and Article 15(2) for the protection and restoration of biodiversity and ecosystems.

#### *2.4. Financial products implemented under InvestEU Member State compartment*

For the purpose of financial products implemented under the Member State compartment pursuant to the InvestEU Regulation referred to in Article 11(4) of the SCF Regulation, the Commission considers the application of the Technical guidance on sustainability proofing for the InvestEU Fund (2021/C 280/01) in combination with the application of the relevant implementing partner's policies related to implementing the InvestEU Fund (notably the EIB Environmental and Social Sustainability Framework, EIB Group's 'Climate Bank Roadmap 2021-2025' and the EBRD's '2019 Environmental and Social Policy' and 'Methodology to determine the Paris Agreement alignment of EBRD) sufficient to prove the absence of significant harm as per Article 7(3) of Social Climate Fund Regulation.

Guarantee agreements for implementing partners, other than the EIB Group and the EBRD, must include provisions, where applicable, to align with the technical screening criteria set out in the Taxonomy Delegated Acts for the relevant environmental objective or have similar criteria to the EIB Group policy mentioned above or apply the overall provisions of the "Do No Significant Harm" Technical Guidance for the Social Climate Fund.

#### *2.5. Distinction between measures and investments supported by the SCF*

In line with their definition in the SCP guidance, measures have specific features compared to investments. For some measures, it can be more difficult to quantify their direct and primary indirect impact. On the one hand, measures in some sectors, including housing, transport and energy, have the potential to significantly contribute to the green transition, but they can also entail a risk of significant harm to a number of environmental objectives, depending on how they are designed. On the other hand, measures in other sectors (e.g. information, education, awareness-raising, and advice activities, accessibility for disabled) are likely to have a limited risk of environmental harm, independently of their potential contribution to the green transition.

Therefore, the DNSH principle should apply, on a case-by-case basis to measures funded by the SCF, in line with this guidance. When a measure can replicate the expected impact of an activity/asset subject to DNSH (e.g. the setting up of a fiscal incentive for the purchase of electric vehicles), the sectoral annexes should apply (see 2.1.). In the absence of coverage in sector specific annexes, the table provided in Section 2.2. should be filled in, even if the measure is not expected to give rise to any significant harm. It is also always possible to apply the EU Taxonomy criteria in line with Section 2.3.

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<sup>35</sup> Delegated Regulation (EU) 2021/2139 of 4 June 2021 (OJ L 442, 9.12.2021, p. 1) (Climate Delegated Act) and Delegated Regulation (EU) 2023/2486 of 27 June 2023 (OJ L, 2023/2486, 21.11.2023, ELI: [http://data.europa.eu/eli/reg\\_del/2023/2486/oj](http://data.europa.eu/eli/reg_del/2023/2486/oj)) (Environmental Delegated Act).

<sup>36</sup> 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, PE/20/2020/INIT, OJ L 198, 22.6.2020, p. 13 ELI: <http://data.europa.eu/eli/reg/2020/852/oj> (Taxonomy Regulation)